

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

3 JOINT LEGISLATIVE HEARING

4 In the Matter of the
5 2014-2015 EXECUTIVE BUDGET ON
6 PUBLIC PROTECTION

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

10 February 5, 2014
11 10:00 a.m.

12 PRESIDING:

13 Senator John A. DeFrancisco
14 Chair, Senate Finance Committee

15 Assemblyman Herman D. Farrell, Jr.
16 Chair, Assembly Ways & Means Committee

17 PRESENT:

18 Senator Liz Krueger
19 Senate Finance Committee (RM)

20 Assemblyman Robert Oaks
21 Assembly Ways & Means Committee (RM)

22 Senator Patrick M. Gallivan
23 Chair, Senate Committee on Crime Victims,
24 Crime and Correction

25 Senator Michael F. Nozzolio
26 Chair, Senate Committee on Codes

27 Assemblyman Carl E. Heastie

28 Assemblyman Michael Montesano

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3 PRESENT: (Continued)

4

Senator Diane Savino

5

Assemblyman Phil Steck

6

Senator Elizabeth O'C. Little

7

Assemblyman Keith L.T. Wright

8

Senator Kathleen A. Marchione

9

Assemblyman Al Graf

10

Senator Malcolm Smith

11

Assemblyman Clifford Crouch

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Senator Velmanette Montgomery

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Assemblyman Jeffrion L. Aubry

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Senator Ruth Hassell-Thompson

15

Assemblyman Raymond W. Walter

16

Senator Thomas F. O'Mara

17

Assemblyman Felix Ortiz

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Senator Gustavo Rivera

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Assemblyman Gary Pretlow

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1 CHAIRMAN DeFRANCISCO: Pursuant to the
2 State Constitution and Legislative Law, the
3 fiscal committees of the State Legislature
4 are authorized to hold hearings on the
5 Executive Budget proposal. Today's hearing
6 will be limited to a discussion of the
7 Governor's proposed budget for the Office of
8 Court Administration, Division of Homeland
9 Security and Emergency Services, Division of
10 Criminal Justice Services, Department of
11 Corrections and Community Supervision,
12 Division of State Police, Commission on
13 Judicial Conduct and the Office of Indigent
14 Legal Services.

15 Following each presentation there will
16 be questions for a limited time, seven
17 minutes. But that person can question again
18 at the end of the rotation if they have other
19 questions.

20 With that said, I want to recognize
21 that Senator Liz Krueger is here, the ranking
22 member of the Finance Committee, as is
23 Senator Malcolm Smith from the Senate.

24 CHAIRMAN FARRELL: Good morning. We

1 have been joined by Assemblyman Heastie and
2 Assemblyman Oaks.

3 ASSEMBLYMAN OAKS: We also have
4 Assemblyman Montesano and Assemblyman Graf.

5 SENATOR KRUEGER: And we've just been
6 joined by Senator Ruth Hassell-Thompson and
7 Senator Kathy Marchione.

8 CHAIRMAN DeFRANCISCO: Very good. The
9 first speaker is Judge Gail Prudenti, chief
10 administrative judge of the New York Office
11 of Court Administration.

12 And I know in the audience, to express
13 their support, are the five chief
14 administrative judges throughout the state.
15 There may be other judges here as well, some
16 are waving to me. And I think we have the
17 chief judge of the Court of Claims, if I'm
18 not mistaken.

19 This must be an important
20 presentation, Judge. You're on.

21 CHIEF ADMIN. JUDGE PRUDENTI: Thank
22 you. Thank you, Senator DeFrancisco --
23 Chairpersons DeFrancisco and Farrell.

24 And I understand that Senator Bonacic

1 and Assemblywoman Weinstein are not here;
2 please express to them my understanding and
3 also send them my regards. I understand,
4 under the weather conditions that presently
5 exist, why they aren't here with us.

6 But I'd like to extend my heartfelt
7 thanks to all of the other committee members
8 who are here, the staff, and ladies and
9 gentlemen, thank you. And I have to thank
10 you for this opportunity to discuss the
11 Judiciary's request for the upcoming fiscal
12 year and address any questions that you may
13 have.

14 But I would also be remiss if I did
15 not publicly thank you for the courtesies,
16 assistance and guidance that you have given
17 me during the past two years working with
18 you. I look forward to our candid
19 discussions and will be available to meet
20 with you in Albany this session. But I would
21 also like you to remember that I am always
22 only a phone call away.

23 I am not going to read from my written
24 statement this year, in fairness to you and

1 in fairness to the speakers who come after
2 me. I would like to highlight some important
3 factors for you to consider during the budget
4 cycle, and I would like to answer any
5 questions that you may have.

6 Our proposed budget's main objective
7 is to keep the courtrooms and the courthouses
8 open and to meet the needs of all New Yorkers
9 who come to us at some of the most difficult
10 times in their lives, while ensuring the
11 public safety of our communities.

12 The Judiciary is requesting a
13 2.5 percent increase in its budget. I want
14 to assure you that we did everything we
15 possibly could within our power to submit a
16 budget with the smallest possible increase
17 while ensuring sufficient resources to meet
18 our many obligations. The 2.5 percent
19 increase will allow us to keep the courtrooms
20 and the courthouses open whenever necessary;
21 operate under a non-attrition budget, meaning
22 that when someone leaves due to retirement or
23 for any other reason, we will be able to fill
24 those positions. We will also be able to

1 fill critical positions, and we will be able
2 to provide civil legal services to ensure
3 equal justice for all with regard to the
4 essentials of life.

5 This is not a wish-list budget. There
6 are many, many worthy programs we would like
7 to fund. And there are many existing worthy
8 programs to which we would like to give
9 additional resources. This budget does not
10 allow us to do that. The Judiciary does not
11 live in a vacuum. We have worked diligently
12 to be good partners with both the executive
13 and legislative branches of government and
14 share the pain during the past fiscal years
15 of austerity.

16 As a separate but equal branch of
17 government, the Chief Judge and I are very
18 sensitive to the fact that all three branches
19 of government are interdependent upon one
20 another. Toward this end, the Judiciary's
21 budget has essentially been flat over the
22 past five years.

23 But I must tell you, we are at a
24 crossroads. The vast majority of next year's

1 budget is for court staff. Staffing levels
2 are at their lowest in a decade. Over the
3 past five years, the Judiciary has lost more
4 than 1900 employees despite processing 4
5 million cases per annum. I know that you are
6 well aware that we need court employees to
7 keep the courts open, and I am sure that you
8 are aware that just four years ago the court
9 system was the only branch of government to
10 have layoffs.

11 The judges and nonjudicial staff have
12 done an amazing job staying the course, and I
13 would publicly like to thank them for their
14 extraordinary efforts day in and day out.
15 Because for us, it is more than just meeting
16 a minimum mandate, is it about families and
17 children in crisis, victims, victims of
18 domestic violence, the elderly, the infirm,
19 the injured -- while never losing sight of
20 the public safety of our communities.

21 As the Chief Judge constantly reminds
22 us, the courts are the emergency rooms for so
23 many in crisis. The emergency rooms must
24 stay open. We need your support and this

1 budget to fulfill this mission.

2 But as far as the consequences of a
3 problematic budget, I would ask you to please
4 consider and to please remember that we would
5 have increased difficulty in staffing all
6 court parts and courthouses; that there would
7 be further delays in processing judgments,
8 motions and orders; that we would have loss
9 of court officers.

10 And we do have real security concerns.
11 We have learned many lessons, especially from
12 the fatal shooting in 2012 at the Middletown
13 Courthouse. There would also be many, many
14 other delays if we did not have enough court
15 officers.

16 And there are many other consequences.
17 And you will find those consequences in our
18 submission, which I know and your staff will
19 carefully review.

20 But most importantly, what we have
21 heard loud and clear from the community that
22 we serve is that the courtrooms and the
23 courthouses need to remain open until 5 p.m.

24 I could now talk to you about all the

1 wonderful innovations and efficiencies and
2 other great things that we have done over the
3 past few years to do more with less, but I
4 will only ask you and your staff to review
5 our submission.

6 You will see in this budget that we
7 have requested 20 Family Court judges as
8 a stand-alone supplemental appropriation.
9 This appropriation was put into our budget to
10 jump-start discussions over need and the
11 districts where they are most needed. I
12 understand that this is your prerogative,
13 that it is your decision, along with the
14 executive branch, about where these
15 judgeships should be and how many
16 Family Court judgeships there should be.

17 But I promise you that I will give you
18 the information that you request and that you
19 need, and I will assist you when you make
20 your final decision.

21 Very briefly, though, over the past
22 30 years our filings are up 90 percent in the
23 Family Court. Family Court judges during
24 that same period, few and far between. I

1 think we can all agree we need more
2 Family Court judges.

3 We commend the Governor for submitting
4 two budget requests this year of an
5 additional 4 percent over last year, for
6 education and healthcare. But I submit to
7 you and I ask you to consider that the
8 Judiciary as well provide for children and
9 provide for the infirm.

10 Under the Governor's leadership, the
11 state budget has operated the past three
12 years at a 2 percent cap. But please keep in
13 mind that one factor to consider is that the
14 Judiciary has operated over the past five
15 years with essentially a no-growth budget. I
16 hope you will understand that 2.5 percent is
17 as close to 2 percent as we could come and
18 provide equal justice for all, all day long,
19 in all our courthouses.

20 Under the Governor's and the
21 legislative leadership, as our state economy
22 is recovering and making strides, I submit to
23 you that our proposed budget puts the
24 Judiciary on the road to recovery.

1 Thank you for listening to me. If you
2 remember nothing else of what I have said
3 today, or if you remember nothing at all,
4 what I would urge each and every one of you
5 to do is not only to speak to judges or court
6 personnel or the legal community in your
7 district, but speak to your very own
8 constituents, who I'm sure call you each and
9 every day about the needs of their community.
10 I would ask you to speak to them about the
11 needs of the courts.

12 Thank you very much, and I will be
13 very happy to answer any of your questions.

14 CHAIRMAN DeFRANCISCO: Thank you. I'm
15 going to ask a few questions at the start
16 and --

17 CHAIRMAN FARRELL: Before you do that,
18 we've been joined by Assemblyman Jeff Aubry
19 and Assemblyman Phil Steck.

20 CHAIRMAN DeFRANCISCO: And we're also
21 joined by Senator Little. I believe we
22 already introduced Senator Marchione, if I'm
23 not mistaken.

24 And Senator Nozzolio is somewhere --

1 he's on the wrong side here. I hope that's
2 not a message to anybody.

3 CHAIRMAN FARRELL: No, no, no. He
4 looks good there, though.

5 (Laughter.)

6 CHAIRMAN DeFRANCISCO: Let me just ask
7 a couple of questions.

8 The 2.5 percent increase is a total of
9 how many million dollars?

10 CHIEF ADMIN. JUDGE PRUDENTI: My best
11 understanding is that it's approximately
12 \$9 million. If you're talking about the
13 increase from 2, Senator, to 2.5 percent.

14 CHAIRMAN DeFRANCISCO: I'm sorry?

15 CHIEF ADMIN. JUDGE PRUDENTI: If
16 you're talking about what would the increase
17 be from 2 percent to 2.5 percent, it would be
18 approximately \$9 million.

19 CHAIRMAN DeFRANCISCO: Okay. Okay. I
20 was going to get to that, but I asked a
21 preliminary question; I was going to go
22 backwards. But it's \$9 million, the
23 0.5 percent, that were the issue here.

24 CHIEF ADMIN. JUDGE PRUDENTI: Yes.

1 Yes, thank you.

2 CHAIRMAN DeFRANCISCO: Now, with
3 respect to that number, are there things that
4 the courts are providing right now, like
5 civil legal services, that traditionally were
6 funded in other ways through the budget?

7 CHIEF ADMIN. JUDGE PRUDENTI: You
8 know, Senator, it's once again my strongly
9 held belief and my understanding that with
10 regard to civil legal services, this is an
11 issue of the essentials of life for many,
12 many people who --

13 CHAIRMAN DeFRANCISCO: Excuse me,
14 Judge, I don't mean to interrupt you, but I'm
15 trying to help here. I'm trying to help
16 here.

17 CHIEF ADMIN. JUDGE PRUDENTI: Yes.
18 Thank you.

19 CHAIRMAN DeFRANCISCO: Traditionally
20 the civil legal services was funded by other
21 parts of the budget. And when they weren't
22 funded by other parts of the budget, the
23 courts took on this additional
24 responsibility.

1 CHIEF ADMIN. JUDGE PRUDENTI: Correct.

2 CHAIRMAN DeFRANCISCO: Okay. And that
3 amounts to about \$15 million; is that
4 correct?

5 CHIEF ADMIN. JUDGE PRUDENTI: Correct.
6 An additional \$15 million this year, correct.

7 CHAIRMAN DeFRANCISCO: Okay. So
8 without breaking the cap, if the Legislature
9 saw fit to provide that \$15 million for civil
10 legal services in the other part of the
11 budget, you would be in a position to stay
12 under the 2 percent cap, is that correct?

13 CHIEF ADMIN. JUDGE PRUDENTI: It would
14 be very, very difficult for us to do that and
15 to keep the courthouses open and to keep the
16 courtrooms open and have the staff in the
17 courthouses that we need in order to operate.

18 CHAIRMAN DeFRANCISCO: But if we're
19 removing \$15 million from your
20 responsibilities, and the number that is
21 breaking the cap is \$9 million, wouldn't you
22 be able to stay under the budget if we
23 provided the funding for civil legal services
24 elsewhere?

1 CHIEF ADMIN. JUDGE PRUDENTI: Yes. If
2 the funding was provided elsewhere. Keeping
3 in mind that this funding has be
4 institutionalized, meaning ongoing from year
5 to year to year, and just not a one-time
6 provision.

7 CHAIRMAN DeFRANCISCO: No, I
8 understand. I understand.

9 CHIEF ADMIN. JUDGE PRUDENTI: Thank
10 you.

11 CHAIRMAN DeFRANCISCO: Do you know of
12 any other things that maybe were funded in
13 other parts of the budget recently that the
14 Judiciary has taken over since they were not
15 funded and the Judiciary feels --

16 CHIEF ADMIN. JUDGE PRUDENTI: The only
17 things that I could point out to you,
18 Senator, and I'll give you one example that I
19 think will help everyone, is with regard to
20 the CASA funding, which is in our budget this
21 year with a very slight increase for cost of
22 living. But that used to be a member item.
23 The CASA funding used to be a member item.

24 CHAIRMAN DeFRANCISCO: And how much is

1 that?

2 CHIEF ADMIN. JUDGE PRUDENTI: My
3 understanding is I believe at this time it's
4 \$1.1 million.

5 The other thing, there are dispute
6 resolution monies in our budget. Again, with
7 a small increase, a small cost of living
8 increase as well, which has been taken on the
9 by Judiciary, which is approximately
10 \$5 million, a little more than \$5 million.

11 CHAIRMAN DeFRANCISCO: Okay. So if
12 the Legislature assumes some of these
13 responsibilities that we assumed before for
14 the other parts of the budget, then you would
15 be able -- as long as there was a constant
16 funding stream, you would be able to do what
17 you have to do under the 2 percent?

18 CHIEF ADMIN. JUDGE PRUDENTI: That's
19 correct. We very much would appreciate that.

20 CHAIRMAN DeFRANCISCO: Okay. Number
21 two, you mentioned keeping the courts open
22 till 5 o'clock. Are they open till 5:00 now?

23 CHIEF ADMIN. JUDGE PRUDENTI: Let me
24 tell you exactly what we're doing right now.

1 CHAIRMAN DeFRANCISCO: Could you just
2 answer that quickly?

3 CHIEF ADMIN. JUDGE PRUDENTI: Yes, the
4 courthouses are open till 5 o'clock.

5 CHAIRMAN DeFRANCISCO: And if there's
6 a trial going on and it's --

7 CHIEF ADMIN. JUDGE PRUDENTI: What
8 happens at 4:30 in the courtrooms -- the
9 difference between the courtrooms and the
10 courthouses, what happens in the courtrooms,
11 there are many trials going on that stop at
12 4:30. Many people have complained that these
13 should continue, but what we have said, that
14 there's only another hour, an hour and a half
15 to finish, whatever, and what we have told
16 them is that we must contain our overtime
17 budget and unless we can finish up a
18 witness -- and again, trying to be very
19 reasonable about it -- unless we can finish
20 up a witness, unless we can do something
21 else, if the trial is going to go on for many
22 more hours, then it would adjourn until the
23 following day.

24 It takes approximately, Senator, one

1 half-hour for the paperwork that has to be
2 done for members -- you know, for our court
3 staff to complete that paperwork and to get
4 ready to leave the courthouses for 5 o'clock
5 and not be entitled to overtime.

6 CHAIRMAN DeFRANCISCO: What is -- how
7 many hours do the employees work before
8 they're entitled to overtime?

9 CHIEF ADMIN. JUDGE PRUDENTI: Thirty-
10 five hours.

11 CHAIRMAN DeFRANCISCO: Per week?

12 CHIEF ADMIN. JUDGE PRUDENTI: Per
13 week.

14 CHAIRMAN DeFRANCISCO: That's seven
15 hours per day?

16 CHIEF ADMIN. JUDGE PRUDENTI: Yes.
17 Taking a lunch break of one hour, yes.

18 CHAIRMAN DeFRANCISCO: Okay, so six
19 hours a day. Now, can't the employees --

20 CHIEF ADMIN. JUDGE PRUDENTI: No, it's
21 seven hours and one hour.

22 CHAIRMAN DeFRANCISCO: So seven hours
23 a day.

24 CHIEF ADMIN. JUDGE PRUDENTI: Yes.

1 CHAIRMAN DeFRANCISCO: Five times
2 seven is 35, correct? Okay. All right. In
3 any event, now that we've got the math out of
4 the way, what is the normal time frame in
5 which a trial takes place?

6 CHIEF ADMIN. JUDGE PRUDENTI: You
7 know, Senator, we have seen more and more
8 complex matters come before the court. Many
9 judges, you know, judges handle their own
10 cases in their own way. And it really is
11 about case management. Some judges try cases
12 in the afternoons and handle that their
13 calendars in the morning. Others start
14 trials at 11 a.m. It's very hard for me to
15 tell you that answer.

16 CHAIRMAN DeFRANCISCO: Let me put it
17 this way. Isn't there a way to regulate the
18 number of hours of employees so that you can
19 be in court trying a case from 9:30 to 5:00?

20 Because thank heaven I don't try cases
21 anymore, but there's so many instances where
22 witnesses are called from out of state,
23 expert witnesses come in and the like. And I
24 know the courts, at least in my area, are

1 very good -- at least they used to be, and if
2 you have to go a little over to get an expert
3 in, fine, they'll do it.

4 But isn't there a way to regulate
5 that?

6 CHIEF ADMIN. JUDGE PRUDENTI: Yes, in
7 a sense, and I think we have addressed that.
8 I mean, we do have specific trial parts in
9 different parts of the state. In different
10 parts of the state it operates a little bit
11 differently. But there are places that just
12 are trial parts that try cases day in, day
13 out, day after day.

14 CHAIRMAN DeFRANCISCO: Okay. But what
15 I'm saying is there's a way to regulate it so
16 courts could be open for trials six hours a
17 day, for the actual trial of the case?

18 CHIEF ADMIN. JUDGE PRUDENTI: A little
19 less than six hours, yes, sir.

20 CHAIRMAN DeFRANCISCO: Okay. Could we
21 make a deal, that if you get what you're
22 looking for in this budget, will you keep the
23 courts open till 5 o'clock?

24 CHIEF ADMIN. JUDGE PRUDENTI: Yes.

1 Yes, we could make that deal.

2 CHAIRMAN DeFRANCISCO: Okay, thank
3 you.

4 CHAIRMAN FARRELL: Thank you.
5 Assemblyman Heastie.

6 ASSEMBLYMAN HEASTIE: How are you,
7 Judge? And let me say hello to you and a
8 special welcome to two of your people with
9 you who I adore very much. The first is
10 Fern Fisher, and then also Judge Richardson-
11 Mendelson, who's a constituent, so I want to
12 say hello to them.

13 I noted there's been a lot of
14 discussion about the necessity of the judges
15 in Family Court. Can you just give us a
16 clearer picture of the need? You know, as I
17 read in your testimony it says that we
18 haven't had any new Family Court judgeships
19 pretty much since 1990. So can you give us a
20 clear picture of what it's like, particularly
21 in New York City, and give us some framework
22 of what the caseloads may be for some of the
23 Family Court judges?

24 CHIEF ADMIN. JUDGE PRUDENTI: Well,

1 caseloads can range from 400 to a thousand.
2 But what's happened is that the cases have
3 become very complex, okay, with families that
4 are in crisis, who need a lot of time and
5 they need a lot of attention.

6 And years ago when we didn't have as
7 many filings as we have today, I think the
8 typical amount of time that a judge would be
9 able to spend with a family in crisis was
10 between one and two hours. At the present
11 time, when I look at the time that judges are
12 spending with each family, it looks like
13 approximately 19 minutes.

14 We have also heard that there are a
15 number of children that are in foster care,
16 okay, that are brought to us, you know,
17 either very, very late in the day and
18 attention is needed to be given to those
19 cases so the judge can at least make an
20 initial determination of whether the child is
21 in jeopardy and the child should either stay
22 where they are or be placed in other places
23 with nonrelatives.

24 So what's happened is with the

1 decrease in the number of Family Court
2 judges, less time has been able to be spent
3 with families in crisis. And with the number
4 of filings increasing, that it is taking
5 longer and longer for trials to take place
6 and for trials to be completed. And as I
7 know from being a former presiding justice in
8 the Appellate Division Second Department,
9 that when I would look at these records on
10 appeal, what would strike me is by the time
11 that these families -- their cases were
12 tried, and then by the time that they would
13 go through the appellate process, they had
14 suffered and they had suffered for many, many
15 years.

16 So I think it is very, very clear to
17 us that have had the ability and the time to
18 take a good hard look at what's gone on in
19 the Family Court system to tell you that not
20 only do we need more Family Court judges, but
21 we also need the staffing to go along with
22 those Family Court judges.

23 ASSEMBLYMAN HEASTIE: And I'm sure
24 it's an issue statewide, but it's

1 particularly a large issue in the City of
2 New York, is that correct?

3 CHIEF ADMIN. JUDGE PRUDENTI:

4 Statewide, I have to tell you it is an issue
5 statewide. Because the first, second, third
6 busiest Family Courts, not all of them are
7 within the City of New York. Very busy
8 Family Court in Suffolk County, very busy
9 Family Court, you know, in upstate New York.
10 So I think it is a statewide issue.

11 ASSEMBLYMAN HEASTIE: Thank you.

12 Thank you, Mr. Chairman.

13 CHIEF ADMIN. JUDGE PRUDENTI: You're
14 welcome.

15 CHAIRMAN DeFRANCISCO: Senator
16 Hassell-Thompson.

17 SENATOR HASSELL-THOMPSON: Thank you,
18 Mr. Chairman. Good morning, Judge.

19 CHIEF ADMIN. JUDGE PRUDENTI: Good
20 morning, Senator.

21 SENATOR HASSELL-THOMPSON: Again, I'd
22 like to thank you and your supporting cast
23 that are with you this morning.

24 Some of the questions have already

1 been answered, but there's one I would like
2 to continue to explore. Assemblymember
3 Heastie began to ask you the question about
4 what is a day like in the life of a
5 Family Court judge. And so I realize that
6 you have asked for an increase in the numbers
7 of judges.

8 And if we were to, for instance, raise
9 the age, which would imply that there would
10 be a greater need for Family Court judges and
11 for a realignment of the courts in order to
12 accommodate this, how would that impact this
13 budget? And has that possibility been built
14 into your budget for this year?

15 CHIEF ADMIN. JUDGE PRUDENTI: Senator,
16 there's a number of ways that that can be
17 done. The original bill that was submitted
18 on behalf of the Chief Judge really set up a
19 youth part which was in the superior criminal
20 courts, which took the best, really, of the
21 Family Court and the criminal court positions
22 and put them together.

23 But at the end of the day, the
24 resolutions would be very, very close to

1 that, if not identical to those that were
2 seen in the Family Court, so that there would
3 not be a criminal record. You know, so that
4 judges would be granted further leeway with
5 regard to sentencing, with regard to
6 alternatives to incarceration. You know, but
7 it's yet to be seen.

8 We have also heard that there is
9 discussion and we have heard those
10 discussions that possibly these cases should
11 go to the Family Court. Within this budget,
12 no, that is not considered to take those
13 cases into this budget at this time.

14 This budget would allow for the youth
15 parts to continue in the superior courts. It
16 would allow for adjustment at the
17 probationary level. It would allow for some
18 of those criminal safeguards that exist under
19 the Criminal Procedure Law to be put into
20 place. And then at the end of the day, it
21 would allow for the adjudications to take
22 place in accordance with the Family Court.

23 SENATOR HASSELL-THOMPSON: If you had
24 the ideal, how many -- you're asking for 20,

1 but what's the ideal in terms of we need?

2 CHIEF ADMIN. JUDGE PRUDENTI: Senator,
3 that is a great question. Because really
4 when we ask for 20, as I told everyone, it
5 was to jump-start discussions to see what you
6 thought. You know, many years ago there was
7 a request for 70-something Family Court
8 judges, you know. If you were to ask me what
9 I personally thought, I think we need
10 substantially more than 20 Family Court
11 judges.

12 But as I've said during my
13 discussions, we are sensitive to the times
14 we're living in. We are sensitive to the
15 pressures that the executive branch as well
16 as the legislative branch is under. And we
17 are sensitive to the costs that go along with
18 every time that a Family Court judgeship is
19 created.

20 So keeping that in mind, to be fair
21 and reasonable, we thought that to start off
22 the discussion with 20 additional
23 Family Court judges was a reasonable request
24 in a supplemental appropriation form. As I'm

1 sure everyone is aware, this is a
2 supplemental appropriation in our budget. It
3 is not included in our budget. We would need
4 additional funding for these judgeships.

5 SENATOR HASSELL-THOMPSON: Senator
6 DeFrancisco gave you what he thought was a
7 remedy for how to bring your budget in
8 alignment with the recommendations of the
9 Governor by taking civil legal services out
10 of your budget. What would that do to civil
11 legal services, in your opinion, because of
12 the reason that civil legal services was
13 added to OCA in the first place?

14 CHIEF ADMIN. JUDGE PRUDENTI: I think
15 that maybe there is a misunderstanding with
16 regard to civil legal services. And I think
17 that Senator DeFrancisco was saying don't
18 take it out of your budget, maybe fund it a
19 different way.

20 But having said that, civil legal
21 services is the provision of direct
22 representation to those who are indigent and
23 cannot have representation themselves. So
24 they come to us -- and believe me, it's not

1 easy for them to come to us, I am sure. But
2 when they come to us, it's because that they
3 need a roof over their head, whether it be in
4 the Housing Court, whether they're victims of
5 domestic violence, whether they are in need
6 of substantial assistance for their children
7 in crisis.

8 So to take civil legal services out of
9 our budget would be to take away our mission
10 of equal justice for all. The Chief Judge
11 feels very strongly about it. We have
12 institutionalized civil legal services into
13 our budget through a competitive bidding
14 process, which is done by an RFP and is
15 governed by the Comptroller's office. And I
16 believe that to take civil legal services out
17 of our budget is to take away our
18 constitutional mandate at this time.

19 SENATOR HASSELL-THOMPSON: How much
20 does the Governor wish OCA to cut from its
21 budget? And if this were necessary, how do
22 you see yourself achieving that? Or what
23 programs would be lost?

24 CHIEF ADMIN. JUDGE PRUDENTI: The

1 first thing that I would like to say is I
2 think that the Governor has done an
3 outstanding job with regard to management of
4 his budget, and I understand his role and I
5 appreciate him and I commend him for the many
6 difficult decisions that he has had to make.

7 But with regard to the Judiciary in
8 this particular budget and the questions that
9 you are asking me today, what would happen
10 if, let's say, we were to cut our budget from
11 \$2.5 million additional -- from the
12 2.5 percent cap, which is approximately
13 \$9 million, to 2 percent? What it would
14 really do is it would put us in a place where
15 we would still have an attrition budget.

16 What that means is that we would not
17 be able to fill positions. Every time
18 someone would leave, just as it is happening
19 right at the moment, we would not be able to
20 fill those positions, whether they are
21 low-level backroom positions and clerical
22 positions or whether they're court officer
23 positions, court interpreter positions, court
24 reporter positions, we would not be able to

1 fill those positions.

2 It would cause a further delay in the
3 times that things are taking in the
4 courthouses. It would cause a further
5 restriction on overtime spending, which would
6 not allow us to keep the courtrooms and the
7 courthouses open to 5 o'clock.

8 SENATOR HASSELL-THOMPSON: My time is
9 ticking away, but I would just like to say
10 that when the mic was not on you were talking
11 about what the case cap numbers were, and I
12 thought you said 400 to a thousand cases.
13 Was that correct?

14 CHIEF ADMIN. JUDGE PRUDENTI: Yes, it
15 was.

16 SENATOR HASSELL-THOMPSON: Okay, thank
17 you. Thank you, Mr. Chairman.

18 ASSEMBLYMAN OAKS: We've been joined
19 by Assemblyman Crouch and Assemblyman Walter.

20 CHIEF ADMIN. JUDGE PRUDENTI:
21 Wonderful, thank you.

22 CHAIRMAN DeFRANCISCO: And we have
23 been joined by Senator O'Mara.

24 CHIEF ADMIN. JUDGE PRUDENTI:

1 Wonderful. Good to see you.

2 CHAIRMAN DeFRANCISCO: And Senator
3 Rivera.

4 CHAIRMAN FARRELL: Assemblyman
5 Montesano.

6 ASSEMBLYMAN MONTESANO: Thank you,
7 Chairman.

8 Judge, just if I could revisit for a
9 moment the indigent legal services. So this
10 year you're asking for \$15 million more than
11 last year's budget. Could you tell us what
12 has occurred in this past year that a
13 \$15 million increase is needed?

14 CHIEF ADMIN. JUDGE PRUDENTI: Yes,
15 thank you, Assemblyman, I would be happy to
16 do that.

17 You know, there's a task force report,
18 and I'd be very happy to send it to you or
19 anyone else who would like a copy of it --
20 please just don't hesitate to contact my
21 office -- which shows that even with all of
22 the efforts that we have made with civil
23 legal services and representing the indigent,
24 that 20 percent, only 20 percent of those

1 needs are presently being met.

2 What does that mean in real terms?

3 That means that the foreclosure crisis in our
4 courthouses still continues. That means that
5 the crisis in the Housing Courts still
6 continues. Really for all of us, whether
7 it's the orderly management of the court
8 system, believe me, justice is properly
9 served when everyone is represented. I think
10 even representative parties would ask you to
11 please have the other side represented so
12 they don't have to come back to the
13 courthouses so many times to get their
14 matters taken care of.

15 ASSEMBLYMAN MONTESANO: So, Judge, but
16 right now the new rules in effect by OCA is
17 for attorneys that they all have to do
18 50 hours a year of pro bono service. And we
19 know the bar associations run pro bono
20 programs and everything else that goes on.

21 Does that not help fill in the void
22 for the indigent level services?

23 CHIEF ADMIN. JUDGE PRUDENTI: You
24 know, two things I'd like to say. And,

1 number one, that helps fill in the justice
2 gap. It doesn't meet the justice gap.

3 And the other thing I'd like to say
4 about civil legal services that have been
5 institutionalized that I was remiss for not
6 mentioning to you was that we have found --
7 and that's why the task force is so
8 important, and I'd really appreciate it if
9 you would look at the latest task force on
10 civil legal services -- that for every dollar
11 that is spent on civil legal services in our
12 Judiciary budget, \$6 is saved for the State
13 of New York.

14 You may say to yourself, well, how is
15 that done? It's done because when people are
16 represented by counsel they then know, you
17 know, what type of federal benefits they are
18 entitled to, whether they be Social Security
19 or veterans benefits. And we have had a
20 great increase in those benefits come back to
21 our state because of civil legal services.

22 ASSEMBLYMAN MONTESANO: Judge, if I
23 could just direct your attention for a
24 moment to personnel issues, you had indicated

1 earlier about the layoffs, which many of us
2 are aware of. And then you said, I see in
3 the transcript of your testimony, there was a
4 reassignment of some people from OCA into the
5 courts.

6 CHIEF ADMIN. JUDGE PRUDENTI: Yes.

7 ASSEMBLYMAN MONTESANO: But in your
8 layoffs I know there were court clerks, there
9 were court officers, people of those types of
10 titles. Could you tell us which function the
11 people you transferred from OCA itself into
12 the courthouses are filling?

13 CHIEF ADMIN. JUDGE PRUDENTI: Yes, of
14 course I can.

15 What we really tried to do very
16 hard -- and I'd like to say to you that over
17 the last three to four years, the Office of
18 Court Administration and its staff is down
19 approximately 33 percent. What we tried to
20 do very -- you know, not to make it too
21 difficult on our employees, and also pursuant
22 to our collective bargaining agreements to
23 live up to those agreements, which we always
24 try to do, is we assigned many individuals

1 back to, as close as possible, the
2 courthouses where they lived.

3 So many were court officers that were
4 stationed at -- whether it would be Beaver
5 Street, or here in Albany, or at other places
6 where the Office of Court Administration had
7 offices, and they were put back into
8 courtrooms. And many of them were court
9 officers. We also had some court clerks as
10 well, some back-office staff. But that was
11 the vast majority of the assignments.

12 ASSEMBLYMAN MONTESANO: Thank you,
13 Judge. Thank you, Chairman.

14 CHAIRMAN DeFRANCISCO: Senator
15 Marchione.

16 SENATOR MARCHIONE: Thank you.

17 Thank you, Judge. I just have just a
18 couple of quick questions.

19 CHIEF ADMIN. JUDGE PRUDENTI: Sure.

20 SENATOR MARCHIONE: You had stated
21 that throughout the court system there are
22 over 4 million cases a year.

23 CHIEF ADMIN. JUDGE PRUDENTI: We have
24 approximately 4 million new filings each and

1 every year.

2 SENATOR MARCHIONE: Each year. Is
3 that number up from previous years?

4 CHIEF ADMIN. JUDGE PRUDENTI:
5 Actually, it is approximately the same. It
6 approximately has been a stable level.

7 But what we have found, Senator, is
8 that the matters are so much more complex,
9 and I think it has to do with the times in
10 which we're living. You know, that people
11 have found themselves under some of the most
12 difficult times that they have ever imagined
13 in their lives. I, you know, personally
14 speaking, even, you know, my own friends have
15 told me how difficult it is even in the
16 suburbs -- and I live in the suburbs -- even
17 in the suburbs, you know, to make ends meet.

18 So that what we've found when they
19 come to us is that their matters aren't as
20 simple as possibly they once were years ago.
21 So we have found the complexity and the needs
22 of the judges for their time and attention
23 has grown substantially.

24 SENATOR MARCHIONE: And I do

1 understand that. Coming from a county clerk
2 position, our files 10 years ago were half an
3 inch thick, and now they're 5 or 6 inches
4 thick. So I get the complexity of the case.

5 Where I really wanted to focus is if
6 the case numbers are the same, assuming some
7 of these are criminal cases as well --

8 CHIEF ADMIN. JUDGE PRUDENTI: Yes, of
9 course they are.

10 SENATOR MARCHIONE: -- as civil cases,
11 do you keep a log of the outcome of the cases
12 and the sentencing of the people who are in
13 front of you?

14 CHIEF ADMIN. JUDGE PRUDENTI: Yes, we
15 do.

16 SENATOR MARCHIONE: I would like that
17 information. And I'd like a five-year report
18 to say how many, if these are criminal cases,
19 in which correctional facility, what
20 maximum/minimum/medium security facilities
21 that these people were sentenced into. And
22 I'd really appreciate that information.

23 CHIEF ADMIN. JUDGE PRUDENTI: Senator,
24 I would be happy to forward that to you in a

1 very timely fashion. And I will give you
2 whatever information that we do have.

3 SENATOR MARCHIONE: Thank you.
4 Because we're being told that the prisons
5 are -- there are many less people. I'd like
6 to know the sentencing of these people, from
7 your level.

8 CHIEF ADMIN. JUDGE PRUDENTI: I
9 understand.

10 SENATOR MARCHIONE: Thank you.
11 Thank you, Chairman.

12 CHAIRMAN FARRELL: Thank you.
13 Assemblyman Aubry.

14 ASSEMBLYMAN AUBRY: Good morning,
15 Judge, how are you.

16 CHIEF ADMIN. JUDGE PRUDENTI: Good
17 morning, Assemblyman.

18 ASSEMBLYMAN AUBRY: I'd like to return
19 back to the Family Court issue. You
20 indicated that the average -- or there was a
21 range of caseloads from 400 to 1,000. Is
22 that per judge?

23 CHIEF ADMIN. JUDGE PRUDENTI: You
24 know, Assemblyman, one of the reasons that I

1 asked our administrative judge of the
2 Family Courts of the City of New York to be
3 with us is because she is on the front line
4 each and every day. And Judge
5 Richardson-Mendelson is here with us today,
6 so I am going to defer for just a few minutes
7 so she can specifically answer that question
8 for you. Okay?

9 ASSEMBLYMAN AUBRY: We may have to
10 stop my clock.

11 CHIEF ADMIN. JUDGE PRUDENTI: Yeah,
12 okay. My understanding is we have about six
13 minutes left.

14 ASSEMBLYMAN AUBRY: But I have a lot
15 of questions.

16 CHIEF ADMIN. JUDGE PRUDENTI: We'll be
17 happy to meet with you as well.

18 JUDGE RICHARDSON-MENDELSON: Good
19 morning. Thank you.

20 ASSEMBLYMAN AUBRY: Good morning.

21 JUDGE RICHARDSON-MENDELSON: It is per
22 judge. The range is 400 to over a thousand
23 for pending cases in the judge's docket.

24 ASSEMBLYMAN AUBRY: And that's in the

1 City of New York?

2 JUDGE RICHARDSON-MENDELSON: That is
3 in the City of New York.

4 ASSEMBLYMAN AUBRY: And do you
5 calculate the number of cases that are young
6 people who are in protective custody or in
7 some way are removed from their family, as
8 opposed to those who may be with their family
9 at the time? Do we have any numbers?

10 JUDGE RICHARDSON-MENDELSON: Yes, we
11 do. We have a responsibility to address
12 cases where children are removed from their
13 home as well as those where children are
14 under allegations of child abuse or neglect
15 but are able to remain home with their
16 families. The law requires that we
17 prioritize children who are away from home,
18 but we do have the data on those cases.

19 ASSEMBLYMAN AUBRY: So with an
20 increasing period of time that a trial may go
21 on, have we ever calculated the amount of
22 money being spent by other government
23 agencies, based on the fact that we don't
24 have swift justice in this particular court

1 because of these large caseloads?

2 JUDGE RICHARDSON-MENDELSON: We in the
3 court system have not made those
4 calculations, but there are entities like the
5 National Council of Juvenile and Family Court
6 Judges and our court's Child Welfare Court
7 Improvement Project that have initiated
8 studies of that sort, and the cost is quite
9 high.

10 ASSEMBLYMAN AUBRY: And wouldn't that
11 information help us argue for the increase in
12 the amount of judges that we have? If
13 those -- you know, there may be those who are
14 more budget-oriented who would understand the
15 cash issue relative to what we spend when we
16 don't provide adequate services in this way.

17 JUDGE RICHARDSON-MENDELSON: Yes.

18 ASSEMBLYMAN AUBRY: So I would suggest
19 that if we can get those numbers, it might
20 help this body to help understand and put a
21 number on what it costs not to have adequate
22 representation and adequate judges in our
23 courts, and that might be helpful. I
24 certainly would request that.

1 And then the next issue I'm concerned
2 about is the issue of boutique courts, drug
3 courts, all of those things. If I'm not
4 mistaken, last year there was somewhat of a
5 retrenchment relative to the provision of
6 those services, either you melded them in --
7 because I know we started to have mental
8 health courts and veterans courts.

9 And I'm interested in what that means,
10 particularly drug courts, as we seem to be
11 again looking at maybe some potential rise in
12 substance abuse and how we're handling those
13 issues.

14 Also, what are the services that are
15 being provided by outside agencies to the
16 court to help them do that? Whether training
17 is still going on for judges who are coming
18 into that, and is that training adequate to
19 assist them in handling that?

20 CHIEF ADMIN. JUDGE PRUDENTI: That's a
21 very good question.

22 Well, we still are very committed to
23 our drug courts. And yes, all our drug
24 courts are still in existence and we have not

1 cut our drug courts.

2 What you do refer to is that sometimes
3 in different districts -- and every district
4 handles it a little bit different -- is that
5 one judge might be handling, on one day, a
6 drug court, on another day a veterans court,
7 on another day a mental health court, and
8 whatever.

9 But yes, we still do have our drug
10 courts. We are committed to them. We have
11 seen a 44 percent graduation rate from the
12 drug courts.

13 Our training, we do try to have
14 training for our judges and their staff. But
15 I'm telling you, Assemblyman, it is getting
16 extremely difficult to take people out of the
17 courthouses to get that training because we
18 don't have the adequate personnel to
19 substitute for them. So it is getting more
20 and more difficult. While we have the
21 training, we're committed to the training, we
22 are finding it more and more difficult to
23 have the training.

24 ASSEMBLYMAN AUBRY: Is that training

1 mandatory or discretionary based on a judge?

2 CHIEF ADMIN. JUDGE PRUDENTI: It's
3 discretionary training.

4 ASSEMBLYMAN AUBRY: So a judge may be
5 in a drug court but choose not to go to the
6 training?

7 CHIEF ADMIN. JUDGE PRUDENTI: What I
8 have found, from my personal experience, is
9 that the judges that are in the drug court
10 are very, very dedicated to their mission. I
11 have yet to have heard of a judge who has
12 refused to go to training.

13 ASSEMBLYMAN AUBRY: But it could
14 exist, it's just we're not aware of it if it
15 did?

16 CHIEF ADMIN. JUDGE PRUDENTI: It
17 could. It could.

18 ASSEMBLYMAN AUBRY: And the last issue
19 for me -- and I have a minute 30 seconds --
20 we provide services to individuals who are
21 incarcerated through a program called
22 Prisoners' Legal Services. Is there any
23 reason why that is not included in the
24 Judiciary as civil legal services has been?

1 CHIEF ADMIN. JUDGE PRUDENTI: I can't
2 answer that question for you, but I can find
3 out and get back to you for it. At the
4 present time, we have not had that request,
5 you know, in front of us.

6 But I have to tell you we are
7 stretched to the limit. And as I said in my
8 presentation, there are many, many, many
9 organizations that would help the community
10 we serve that we would like to give
11 additional funding to or that we will like to
12 take into our budget, but at this time we are
13 unable to do so.

14 ASSEMBLYMAN AUBRY: Thank you.

15 CHAIRMAN DeFRANCISCO: Senator Smith.

16 SENATOR SMITH: Thank you,
17 Mr. Chairman.

18 Good morning, Judge Prudenti. Good to
19 see you again. It's always good to be in
20 your company.

21 I want to just get some clarity on the
22 budget numbers. When Senator DeFrancisco
23 asked you the question about the increase,
24 the entire 2.5 percent increase is

1 \$44 million; is that correct?

2 CHIEF ADMIN. JUDGE PRUDENTI: That's
3 my understanding.

4 SENATOR SMITH: And then that
5 0.5 percent is the \$9 million that you
6 expressed to Senator DeFrancisco, of the
7 total?

8 CHIEF ADMIN. JUDGE PRUDENTI: Excuse
9 me, I'm sorry. I didn't hear you.

10 SENATOR SMITH: You expressed that
11 \$9 million --

12 CHIEF ADMIN. JUDGE PRUDENTI: The
13 \$9 million is the difference between the
14 2 percent and the 2.5 percent.

15 SENATOR SMITH: Okay, thank you.

16 The civil legal services, that
17 department, you talked about the \$15 million
18 number.

19 CHIEF ADMIN. JUDGE PRUDENTI: Yes.
20 Yes.

21 SENATOR SMITH: Within all those
22 services there is a foreclosure department
23 within there as well, foreclosure. You
24 handle foreclosures under civil legal

1 services.

2 CHIEF ADMIN. JUDGE PRUDENTI: Yes,
3 exactly right.

4 SENATOR SMITH: Is there going to be
5 any integration with what your department
6 will be doing along with the AG as it relates
7 to the Governor and the JPMorgan money? Is
8 it going to be a horizontal relationship,
9 vertical?

10 CHIEF ADMIN. JUDGE PRUDENTI: That's a
11 very, very good question. And I have
12 contacted the Attorney General's office to
13 start some discussions with them with regard
14 to that funding.

15 And the funding could be very helpful,
16 because the amount of foreclosure conferences
17 that we're holding and foreclosure filings
18 that we're seeing are still going up, still
19 adversely affecting the communities in which
20 we all live, there is no doubt about that.

21 And it could be very helpful, as well,
22 in representation in our housing courts --
23 which I tell you, Senator Smith, most of the
24 individuals who appear in our housing courts

1 are not represented, and that could be also
2 very helpful.

3 I know there are constraints on those
4 funds, and I know those funds can only be
5 used for certain purposes. And those are the
6 discussions that we should be having with the
7 Attorney General's office as well as the
8 Executive's office. But I thank you for
9 bringing it up, and I have thought of it
10 myself. Thank you.

11 SENATOR SMITH: I couldn't concur with
12 you more on that, as many people in Southeast
13 Queens are sort of ground zero for the
14 foreclosure crisis that we face, and that
15 could help you with that.

16 You still have JHOs? And what type of
17 cases are they handling?

18 CHIEF ADMIN. JUDGE PRUDENTI: Yes, we
19 have a limited number of JHOs. Outside of
20 the City of New York they're almost
21 exclusively used in the Family Courts for
22 custody and visitation proceedings.

23 Inside the City of New York they are
24 used mostly in the Family Courts, but they

1 are also used in the Supreme Court and
2 helping out in the criminal courts as well.

3 SENATOR SMITH: Okay. In your
4 testimony you talked about in the Family
5 Court you're using what you call
6 quasi-judicial staff. Just explain to me
7 what that means.

8 CHIEF ADMIN. JUDGE PRUDENTI: Thank
9 you. Yes, I understand.

10 Sometimes, you know, those of us who
11 have worked in courtrooms -- I myself in the
12 trial court for 10 years and the appellate
13 court for 11 years -- what we find ourselves
14 really more referring to is like court
15 attorney referees, individuals that we have
16 found that have the knowledge and the respect
17 of the legal community where they will
18 consent to use these individuals in certain
19 types of proceedings.

20 You know, some people say it's a
21 stop-gap measure. Some people just want to
22 appear, Senator, in front of a judge, they
23 really don't want to appear in front of
24 anyone else. But that's what I mean when I

1 say quasi-judicial officers.

2 SENATOR SMITH: Okay. Well, let me
3 thank you for your presence here today in the
4 inclement weather. Obviously it tells us how
5 important in the issue is.

6 Insofar as the foreclosure area, as
7 much as we can do to be helpful, we will be.

8 CHIEF ADMIN. JUDGE PRUDENTI: Thank
9 you. And just to mention to you, Senator
10 Smith, we do have a pilot project, which I
11 think you might be interested, in
12 foreclosures in Suffolk County at the moment
13 dealing with abandoned property.

14 Now, the abandoned property, some
15 people have cause for concern because these
16 abandoned properties really have been a
17 blight on certain communities. So what we've
18 done is worked with local governments and let
19 the supervisors of the town set forth what
20 are abandoned properties and expedite those
21 proceedings and try to get those communities,
22 you know, back on the right track where they
23 can once again thrive as they once did.

24 So once we know how that is working

1 out, I hope to be able to expand that in
2 other communities where it really would help,
3 where these properties truly are abandoned
4 and being vandalized. And there's no one to
5 talk to on the other side even if we had a
6 conversation -- those homeowners are nowhere
7 to be found. So I appreciate your concerns.

8 SENATOR SMITH: Thanks so much, Judge,
9 for your leadership.

10 Mr. Chairman, thank you very much.

11 CHAIRMAN FARRELL: Thank you.

12 Assemblyman Graf.

13 ASSEMBLYMAN GRAF: I have to go
14 through a few things here.

15 When we slow down the process in the
16 courts, what happens is in the long run we
17 wind up stepping over a dollar to pick up a
18 dime. And there are certain things -- you
19 know, there's an old saying, justice delayed
20 is justice denied. And some of my problem is
21 they've cut you on different areas or they've
22 encouraged you to cut back.

23 So in Suffolk County, court officers,
24 for instance, right now it's a dangerous

1 condition because there's not enough court
2 officers. And the court officers are
3 responsible to, number one, bring the
4 prisoners up or, if somebody goes in custody,
5 to bring the prisoners down to the cells.
6 And what's happening is the shortage of court
7 officers, I don't know if you've heard of
8 this, has actually -- they close the
9 courtroom.

10 CHIEF ADMIN. JUDGE PRUDENTI: Yes.

11 ASSEMBLYMAN GRAF: And so the judge is
12 not hearing any cases and we're just kicking
13 the can down the road in a lot of cases.

14 So that has a disparate impact on your
15 budget also, would you agree with that?

16 CHIEF ADMIN. JUDGE PRUDENTI: What I
17 would agree with is that we definitely have a
18 dire need for more court officers, I do agree
19 with you, and court staff to keep those
20 courtrooms open.

21 And as you rightfully pointed out,
22 there are many, many other trickle-down
23 effects of not having enough court officers.
24 You know, from security of walking in the

1 door or long lines at the front door of
2 courthouses to the transport of prisoners to
3 making sure that our courtrooms are fully
4 staffed.

5 ASSEMBLYMAN GRAF: And then the other
6 measure that we've put in place because of
7 the constraints on your budget was we're
8 putting in, instead of stenographers, we have
9 audiotapes going in the courtroom, which take
10 forever to get the transcripts to move the
11 case forward again.

12 So, I mean, that's affecting your
13 budget also, would you agree with that?

14 CHIEF ADMIN. JUDGE PRUDENTI: Well,
15 I'm really sorry, I did have a hard time
16 hearing you. But if you're talking about
17 court reporters, there is no doubt that court
18 reporters are our preferred means of
19 transcription. You know, that we would like
20 to have more court reporters. And there is
21 no doubt that our budgets have not allowed us
22 to fill court reporter positions that we
23 would like to fill.

24 This budget, being a non-attrition

1 budget, would allow us to fill a limited
2 amount of positions, all positions -- and
3 when I say "limited," and the reason I say
4 it, because I want to be straightforward with
5 you and honest with you at all times, is that
6 it's not a wish budget. It's not going to
7 solve all the ills in one day. I call it a
8 road to recovery budget because it is the
9 start of what I believe that we have to build
10 upon.

11 But yes, we need more court reporters.
12 And as far as I am concerned, they are the
13 preferred means of transcription.

14 ASSEMBLYMAN GRAF: Okay. Now, I'm
15 limited to seven minutes, but your answer
16 isn't, so I'm going to ask you two questions
17 quick for you to address.

18 Number one, the trials in Suffolk
19 County, the trials actually start at 2:30 a
20 lot of times and end at 4:30.

21 CHIEF ADMIN. JUDGE PRUDENTI: I agree
22 with you; different counties operate
23 different ways, no doubt about it.

24 ASSEMBLYMAN GRAF: So in two hours

1 we're getting one witness, we're adjourning
2 and coming back for another witness. So I
3 want to know if that has a detrimental
4 impact.

5 The other thing that we have right
6 now, too, is Sagamore Children's Hospital. I
7 mean, we're proposing closing that. And
8 that's another thing. So even if we give you
9 this raise, right, that you're asking for,
10 which I believe we should, we're going to
11 take it away by closing Sagamore. Because
12 right now I believe Sagamore has 184 kids
13 that are getting treatment there. And half
14 of that, 92 children from the courts, that
15 are remanded from the courts, that need
16 psychiatric help.

17 And what they're proposing is sending
18 them to the Bronx or -- and that's 184 beds
19 that children in the City are going to lose.
20 And we're going to have to pay for the
21 transportation costs. And it's going to slow
22 down our process, too. If I'm not mistaken,
23 the probation officers are the ones that
24 transport.

1 So the extra cost for you is you're
2 going to have to cut off more probation
3 officers who aren't going to be available to
4 work in the courts, which is going to delay,
5 again, different areas of litigation when it
6 comes to Family Court or even criminal court.

7 So can you comment on what would
8 happen if we close Sagamore and how it would
9 affect your budget or eat up the raises that
10 you have there?

11 CHIEF ADMIN. JUDGE PRUDENTI: Let me
12 answer both your questions.

13 With regard to your first question
14 with regard to trials in Suffolk County, I'd
15 be happy to speak to our administrative judge
16 from Suffolk County, who is here, with regard
17 to that question. But I know and I can tell
18 from how strongly you feel about Sagamore how
19 important that issue is to you.

20 Number one, I would like to state that
21 you know, and I know you know this, that
22 Sagamore is not part of our budget. Okay?
23 But number two, I also think you know this,
24 that being a Suffolk County resident myself

1 and being the former administrative judge of
2 Suffolk County, I have worked closely with
3 the supervising judge of the Family Court in
4 Suffolk County, Dave Freundlich, and I have
5 visited Sagamore on a number of occasions.
6 It provides a great service to the Family
7 Courts of Suffolk County, there is no doubt
8 about that.

9 And again, I know you know this, but
10 we do not employ the probation officers. But
11 I am a believer that we are all in this
12 together, so I am sensitive to the fact that
13 probation officers would have additional
14 burdens. And I believe that Sagamore is very
15 important to the welfare of the children who
16 appear in the Family Court. That has been
17 substantiated to me by the employees of the
18 Family Court as well as my firsthand
19 observations.

20 It's my further understanding that
21 there is a bill pending, and you would know
22 better than I will on this score, where that
23 bill is going, to save Sagamore.

24 And I understand from our discussions,

1 and I thank you for your candor, that a
2 number of family members have been helped by
3 Sagamore, and I'm not surprised, because they
4 have done some wonderful work helping the
5 children in Suffolk County get on the right
6 road.

7 And also, as a resident of
8 Suffolk County and someone who has family and
9 friends who they love and care about very
10 deeply, to see them transported to locations
11 hundreds and hundreds of miles away when they
12 are in crisis and in need of assistance, it
13 bothers me as well.

14 So I thank you for taking on that
15 cause, and I agree with you with regard to
16 Sagamore. And I hope that it does stay open.

17 ASSEMBLYMAN GRAF: Thank you.

18 CHAIRMAN DeFRANCISCO: Senator Little.

19 SENATOR LITTLE: Thank you,
20 Judge Prudenti.

21 Obviously the Family Court issue has
22 been discussed quite a bit up here, and the
23 need for an increase in Family Court judges
24 was documented with legislation in 2008,

1 which created 39 new Family Court judges
2 throughout the state, one of which was in
3 Warren County, which there is a tremendous
4 need for.

5 So I would hope that you continue to
6 advocate, and maybe the number 20 is not
7 quite sufficient.

8 CHIEF ADMIN. JUDGE PRUDENTI: You may
9 well be right.

10 You know, Senator, we're really trying
11 when we craft these budgets to be sensitive
12 to the balance that is going in our state at
13 the present time, the balance of making sure
14 that we have the resources, all of us, all
15 three branches of government, to meet our
16 mandates, but also being sensitive to what we
17 hear day in and day out from the communities
18 that we serve. You may well be very right.

19 SENATOR LITTLE: Thanks. And I do
20 have legislation would create a Family Court
21 judgeship in Warren County. But, you know, a
22 lot of people are being hurt by the delay
23 that takes place and the difficulty of
24 getting on the docket and all of that.

1 One question that I've always wondered
2 about, I know a couple of small counties will
3 combine, in a divorce case, the Surrogate
4 Court proceedings and the Family Court
5 proceedings all under one judge. And the
6 person then goes and has the divorce handled,
7 the custody, the visitation, all by one judge
8 who is looking at all sides of it. And of
9 course the people that come to us never
10 really come in and say how wonderful their
11 court experience was --

12 CHIEF ADMIN. JUDGE PRUDENTI: Of
13 course not. It's not a happy place to be.

14 SENATOR LITTLE: Right. These are
15 very difficult situations, and unfortunately
16 they continue.

17 But what are your thoughts about
18 allowing or requiring that those cases -- or
19 even allow a case to be requested that it be
20 handled all in one so there's better
21 communication and a real total picture being
22 looked at this family.

23 CHIEF ADMIN. JUDGE PRUDENTI: I think
24 your question raises two factors to me that

1 are very important.

2 Number one is that there is not a good
3 understanding by the community we serve of
4 where they should go when they're in need:
5 Do I go to Family Court? Do I go to criminal
6 court? Where do I go?

7 What we have done and what we have
8 been able to accomplish is I know you know
9 about domestic violence courts and I know you
10 know about integrated domestic violence
11 courts. Domestic violence courts deal with
12 one separate issue at a time, that issue of
13 domestic violence that has occurred.
14 Integrated domestic violence courts take
15 cases that are in the Family Court or in the
16 matrimonial part or in the criminal part and
17 brings them together, one judge for one
18 family.

19 SENATOR LITTLE: But when there isn't
20 an instance of domestic violence, just a
21 regular divorce case with children, custody,
22 visitation and financial distributions, could
23 they? Is there an efficiency, is it better
24 for them to be handled with one judge?

1 CHIEF ADMIN. JUDGE PRUDENTI: Yes, I
2 believe, most important, there is a benefit
3 to the family. That's what is most
4 important, I believe.

5 And what I do know, that different
6 districts handle those cases differently.
7 Many districts transfer their family matters
8 to the matrimonial parts -- especially
9 districts like Nassau County and
10 Suffolk County, where they have dedicated
11 matrimonial parts and whatever -- but some
12 districts don't.

13 But yes, I think there are great
14 benefits to be gained from doing that. And I
15 think that we have to continue, as all our
16 work is a continuum, I think we have to
17 continue to be able to do things better. And
18 I'm sure there are many ways we can do things
19 better.

20 SENATOR LITTLE: Thank you. And
21 hopefully we can accomplish that at some
22 point. But thank you very much.

23 CHIEF ADMIN. JUDGE PRUDENTI: You're
24 welcome.

1 CHAIRMAN FARRELL: Assemblyman Steck.

2 ASSEMBLYMAN STECK: Good morning. I
3 have to control myself and not address you as
4 "Your Honor," as I normally would.

5 CHIEF ADMIN. JUDGE PRUDENTI:

6 (Laughing.) You can call me Gail, that's
7 fine.

8 ASSEMBLYMAN STECK: I have to say that
9 in the district that I represent, which is
10 Albany and Rensselaer Counties, the
11 perception of the bar is quite different from
12 what you've been describing in this hearing.
13 And while in my brief experiences in
14 Family Court I do realize that there's a need
15 for additional Family Court judges, but we
16 recently had an article in our local bar
17 journal by a former president of the bar
18 locally which I think expressed the
19 sentiments of the bar in the communities I
20 represent very well. And so I'd just like to
21 read a portion of it and get your reaction.

22 It says -- and I'm quoting from him,
23 these are not my words. Michael Friedman was
24 the author -- "In 1997, the economic reality

1 was a budget of \$952.2 million. So I guess
2 it's hard to make ends meet on a mere
3 \$2.3 billion. Let's see what we get for
4 that. In 1997, the Appellate Divisions
5 handled 11,676 appeals. In 2012 they handled
6 9,693 appeals. Our own Third Department
7 declined from 2,205 to 1,821.

8 "Okay, but how about the trial courts?
9 In Supreme Court, the new filings in 1997
10 were 184,829; in 2012, 174,424. Much to my
11 dismay, uncontested matrimonials" -- he's a
12 matrimonial lawyer -- "declined from 50,254
13 in 1997 to 46,201 in 2012.

14 "Now, was 1997 just an anomaly?
15 Thankfully, the bean counters at the OCA give
16 us the answer. In 2008 there were 4,671,000
17 filings in our Civil Courts; in 2012,
18 4,058,000, a decline of over 13 percent."

19 Every year has declined since 2008,
20 and I know locally, as a member of trial bar,
21 there are less and less trials every year in
22 the Third Judicial District.

23 So what it suggests to me is perhaps
24 the Governor is not out of line with his

1 budget, and perhaps some of the needs that
2 you're speaking of could be best served by
3 the reallocation of existing resources rather
4 than pouring additional money into the
5 system.

6 CHIEF ADMIN. JUDGE PRUDENTI:

7 Assemblyman, first of all I would like to
8 tell you that having been the chief
9 administrative judge entering my third year
10 now, I can tell you that we have had a
11 top-to-toe good hard look at the Office of
12 Court Administration and each and every
13 function that it processes. We have made
14 many, many changes, and we have renegotiated
15 many contracts.

16 With regard to the quotes you that
17 read me from the article in question, I have
18 no idea where this gentleman -- I do not, you
19 know, doubt his veracity. I have no idea
20 where he gets his numbers or what he is
21 seeing. And I'm sure it is very different in
22 Albany than it is in Manhattan than it is in
23 the Bronx than it is in Suffolk County, all
24 those things considered.

1 And I also have learned -- and this is
2 from somebody who has worked in this court
3 system for many, many, many years, in good
4 days and in bad days, okay, that, you know,
5 the Office of Court Administration, as I
6 often put it when I speak, the only
7 organization that I can think of that's
8 disliked more than the Office of Court
9 Administration is the IRS. Okay?

10 So having said all those things, what
11 I can tell you -- and I truly believe this
12 in my heart of hearts -- that people of
13 goodwill are doing the very, very best they
14 can.

15 It would be very, very easy for me to
16 write an article that could be critical of
17 almost any organization, any large
18 organization, especially. And maybe things
19 are different in the Third Department. I can
20 tell you from running the Appellate Division
21 Second Department, one of the busiest
22 appellate courts in the country -- depending
23 on the year, the first, second or third
24 busiest appellate court in the country --

1 that there is no doubt that we could not
2 handle, you know, much more work and get it
3 done in any anywhere near of a timely
4 fashion.

5 I am sure that just as there are many
6 governors, there are many chief judges, there
7 are many speakers of the Assembly who might
8 do -- many chief administrative judges who
9 might do their jobs differently, I can assure
10 you that the people that I work for and with
11 are of the highest caliber and doing the very
12 best they can. Are we perfect? No. Are
13 there better ways to do things? Probably and
14 yes.

15 And I would be happy to have a copy of
16 the article in question, and I would be happy
17 to take a good hard look at it.

18 ASSEMBLYMAN STECK: Yes, the article
19 is on the website of the Albany County Bar
20 Association. It's from the December 13,
21 2013, newsletter.

22 One more question, and that is what is
23 the Office of Court Administration doing to
24 address a problem -- and maybe it's not a

1 problem in other parts of the state, but in
2 terms of inordinate delay by the courts in
3 issuing decisions? I can give you one
4 example. We waited four years for a decision
5 in a case that was not complex at all, it
6 involved literally how much rock was taken
7 out of a hole. And four years, it -- the
8 problem we deal with when that occurs is the
9 public has absolutely no confidence in the
10 judicial system.

11 CHIEF ADMIN. JUDGE PRUDENTI: Yes.
12 Yes. Trust and confidence is eroded, there
13 is no doubt about that, and I agree with you.

14 And what we do have is every 60 days,
15 each and every judge in the State of New York
16 must tell their administrative judge what
17 matters they have pending, how old they are,
18 and what time period they can expect these to
19 be resolved. So if anything were to
20 happen -- again, and a lot of people have
21 mentioned to me, "Gail, I don't want to go to
22 the AJ because the next thing I know, you
23 know, that this could or might be held
24 against me."

1 So my suggestion is, and we've been
2 successful with it, is please don't hesitate
3 to contact us at the Office of Court
4 Administration, because we can do it
5 anonymously. But judges realize, every judge
6 in the state realizes that they are supposed
7 to issue determinations in 60 days. If there
8 is a reason why not, that's why the
9 administrative judge is there, to give those
10 individuals the additional resources they
11 need to get done what they have to get done.

12 I totally agree with you, public trust
13 and confidence in the Judiciary is what I
14 work for, I can tell you, each and every day
15 to try to instill, and I know that my
16 administrative judges do as well.

17 ASSEMBLYMAN STECK: But that occurs --

18 CHAIRMAN DeFRANCISCO: Excuse me a
19 minute. Do you see that clock?

20 ASSEMBLYMAN STECK: I'm done, then.

21 CHAIRMAN DeFRANCISCO: You can come
22 back again at the end.

23 ASSEMBLYMAN STECK: Thank you, I
24 didn't realize I was taking so long.

1 CHAIRMAN DeFRANCISCO: And Judge,
2 would you do me a big favor?

3 CHIEF ADMIN. JUDGE PRUDENTI: Sure.

4 CHAIRMAN DeFRANCISCO: Would you try
5 to tighten up your answers a little bit? Or
6 we're going to be here till midnight.

7 CHIEF ADMIN. JUDGE PRUDENTI: I'll
8 try. I'm going to do my very best.

9 CHAIRMAN DeFRANCISCO: Very good,
10 thanks.

11 Senator Nozzolio.

12 SENATOR NOZZOLIO: Thank you,
13 Mr. Chairman.

14 Good morning, Judge. For the last
15 hour and a quarter you've been tightening up
16 your answers to questions that maybe needed
17 to be tightened up a little bit.

18 And I just want to say your candor and
19 directness is appreciated, as is the great
20 work you've done over the past few years, you
21 and your staff. I include in those numbers
22 the team that you put together of
23 administrative judges from across the state.

24 And I especially am grateful for the

1 work of the administrative judge from the
2 7th Judicial District, who braved the
3 snowstorm today and drove all the way in from
4 the greater Rochester area to be with you to
5 discuss these matters.

6 And I appreciate that work that you've
7 done. You've always been willing to find a
8 solution to a problem, whether it be a
9 budgetary issue or a non-budgetary issue, and
10 I for one am very appreciative of that.

11 A clear example of that is your
12 beginning the open budget negotiations a
13 little early in your direct negotiation with
14 Senator DeFrancisco. And now you've got the
15 issue of the court time settled, that was
16 great to see, in open budget process
17 discussions. Congratulations on that score,
18 as well as Senator DeFrancisco.

19 To the budget. Last year you heard
20 from a number of Senators regarding the
21 reinstatement of the CASA program, and it was
22 your good work that helped us get it
23 reinstated. I note in the budget this year
24 that there is a line item for the CASA

1 program. Would you expand on that, discuss
2 what the intentions are here?

3 CHIEF ADMIN. JUDGE PRUDENTI: Yes,
4 absolutely. And I'll try to be as brief as
5 possible, Senator DeFrancisco.

6 Yes, there is a line item for CASA.
7 Yes, there is a modest 1 percent cost of
8 living increase over what they had last year,
9 so same amount with 1 percent. And yes,
10 there are hard budget decisions that have to
11 be made when you have to cut programs in
12 budgets.

13 SENATOR NOZZOLIO: We, working
14 together, reinstated those funds, and --

15 CHIEF ADMIN. JUDGE PRUDENTI: And
16 again, we were able to do that, but at a
17 cost, Senator. And that was my point. At a
18 cost, because it was taken away from
19 someplace else. We couldn't, you know, hire
20 another court reporter or a number of court
21 reporters, or we couldn't hire a number of
22 courtroom interpreters, or we couldn't give
23 the district something else they asked for.

24 SENATOR NOZZOLIO: But it was a

1 priority question. And frankly the children
2 who are unfortunate users, if you will, of
3 Family Court, are affected certainly by
4 Family Court decisions, this was an important
5 focus on their priorities. An I thank you
6 for the work last year. I'm glad it's a line
7 item this year, and we may even work to try
8 to expand it.

9 CHIEF ADMIN. JUDGE PRUDENTI: Thank
10 you.

11 SENATOR NOZZOLIO: Judge, thank you
12 for your work.

13 And, Mr. Chairman, thank you for the
14 opportunity to discuss that issue.

15 CHIEF ADMIN. JUDGE PRUDENTI: Thank
16 you, Senator.

17 ASSEMBLYMAN OAKS: Mr. Wright.

18 ASSEMBLYMAN WRIGHT: Good morning,
19 Your Honor.

20 CHIEF ADMIN. JUDGE PRUDENTI: Good
21 morning, Mr. Wright, how are you?

22 ASSEMBLYMAN WRIGHT: How are you?
23 Good.

24 CHIEF ADMIN. JUDGE PRUDENTI: Good.

1 ASSEMBLYMAN WRIGHT: Thank you for
2 making it up here in all this inclement
3 weather.

4 And I'm sorry I'm late, but I'd be
5 remiss, before I ask my question, I just want
6 to say thank you for the great work that the
7 Honorable Fern Fisher certainly does. We've
8 worked together well over the years.

9 I just have one question. I want to
10 talk to you about a legislative concept
11 that's been gaining traction, I guess, in the
12 last year, at least the last year. The
13 Governor has spoken about it in the State of
14 the State and such. And I believe New York
15 would be probably one of the last states to
16 go forth and what we call raise the age, I'm
17 sure you're familiar about it.

18 CHIEF ADMIN. JUDGE PRUDENTI: Very
19 familiar.

20 ASSEMBLYMAN WRIGHT: And I don't know
21 if that question's been asked, and certainly
22 I want to get your thoughts on raising the
23 age. I want to get how you think it would
24 impact both positively and negatively not

1 only on the Judiciary but certainly on the
2 budgets of the court system.

3 CHIEF ADMIN. JUDGE PRUDENTI: Thank
4 you. Thank you, Assemblyman.

5 Number one, I think that years ago the
6 Chief Judge in his State of the Judiciary
7 speech brought up raising the age of criminal
8 responsibility for 16-and-17-year-olds. And
9 I think that it is a much-needed change in
10 the law of the State of New York.

11 I think it would be a positive effect
12 on the communities that we serve. I think it
13 would give many, many individuals an
14 opportunity in their future so that they
15 could be gainfully employed, so that
16 decisions they made and consequences they
17 didn't realize would come from those
18 decisions -- because we all admit we make
19 different decisions at 16 than we make at 60,
20 okay -- would, you know, especially with
21 regard to nonviolent offenses, would allow
22 them to go on and lead productive lives and
23 be productive citizens in the State of
24 New York.

1 I think we could easily fit into our
2 budget and into the way we do business a
3 provision, a new provision under the law that
4 raised the age of that criminal
5 responsibility. I commend the Governor, I
6 commend him for, you know, hearing what the
7 Chief Judge has had to say with regard to
8 raising that age of criminal responsibility.
9 And in order to keep my answer short, I can
10 tell you I can only see good coming of it.

11 ASSEMBLYMAN WRIGHT: Why do you keep
12 your answers short just for me?

13 (Laughter.)

14 CHIEF ADMIN. JUDGE PRUDENTI: Because
15 Senator DeFrancisco -- because I think
16 Senator DeFrancisco would very much
17 appreciate it if I did that.

18 ASSEMBLYMAN WRIGHT: Well, I'll deal
19 with DeFrancisco. But anyway --

20 (Laughter.)

21 CHAIRMAN DeFRANCISCO: But everyone in
22 the audience would appreciate it as well.

23 ASSEMBLYMAN WRIGHT: My last
24 question -- I'm sorry, go on, continue.

1 CHIEF ADMIN. JUDGE PRUDENTI: The
2 other thing I would like to say to you, and I
3 mean this to each and every person who sits
4 here today, that I would be happy to visit
5 you and visit you personally and come to see
6 you and answer any questions up close and
7 personal. So please don't hesitate.

8 And following up, of course I will
9 follow up with regard to this hearing and
10 contact your office as well.

11 ASSEMBLYMAN WRIGHT: Well, I think
12 it's great. And it goes to my next question,
13 my next question being that I know that the
14 Judiciary does not involve themselves in
15 politics at all. We all know that. But
16 would there be a push from the Judiciary,
17 possibly, for this concept of raising the
18 age?

19 CHIEF ADMIN. JUDGE PRUDENTI: Yes,
20 very much so. It is part of our legislative
21 agenda. And I'm sure I'll be visiting each
22 and every one of you.

23 ASSEMBLYMAN WRIGHT: Look forward to
24 it. Thank you.

1 CHIEF ADMIN. JUDGE PRUDENTI: Thank
2 you.

3 CHAIRMAN DeFRANCISCO: We're joined by
4 Senator Montgomery.

5 And the next questioner is
6 Senator Savino.

7 SENATOR SAVINO: Thank you,
8 Mr. Chairman.

9 Thank you, good to see you again,
10 Gail.

11 CHIEF ADMIN. JUDGE PRUDENTI: Thank
12 you.

13 SENATOR SAVINO: And a lot of the
14 questions that I have have been asked by
15 other people, so I'm not going to repeat
16 them -- Family Court issues, we all know we
17 need more resources.

18 In your testimony, though, you
19 indicate that over the past five years, as a
20 result of participation in the early
21 retirement incentive program, targeted
22 layoffs, hiring freeze and other measures,
23 the nonjudicial workforce of the court system
24 is down by more than 1900 employees to the

1 lowest level in more than 10 years.

2 CHIEF ADMIN. JUDGE PRUDENTI: Exactly
3 correct.

4 SENATOR SAVINO: And other people have
5 asked you the effects on attrition rates on
6 court officers and court reporters, and you
7 very clearly said you need more staff. And I
8 know in the budget you're asking for more
9 money than the Governor is recommending for
10 the Judiciary.

11 CHIEF ADMIN. JUDGE PRUDENTI: Yes.

12 SENATOR SAVINO: With the money that
13 you're requesting in addition, does that
14 include the hiring of more staff? And will
15 you be asking for a lifting of the hard
16 hiring freeze that's been imposed on OCA?

17 CHIEF ADMIN. JUDGE PRUDENTI: Okay.
18 What it will do exactly is the following.
19 When an individual leaves the court system,
20 we will be able to fill those positions. If
21 an administrative judge would feel that
22 another position might be more appropriate,
23 the administrative judge, of course I listen
24 to them very carefully, and we would fill

1 those positions.

2 What it also allows us to do is fill a
3 number of other targeted positions. But I
4 can't sit here, Senator, and tell you it is
5 going to open the floodgates and allow us to
6 fill, you know, all the positions that we
7 need. It's not going to allow us to do that.
8 This is a first step. You know, this is a
9 step to ameliorating problems that are now
10 existing and adversely affecting the
11 courtrooms and the courthouses.

12 SENATOR SAVINO: Well, I would like to
13 do everything possible to help you take the
14 next step after the first step, because I do
15 think that the hard hiring freeze and the
16 reductions in staff have led to some of the
17 other issues that have been addressed by some
18 of the members who practice in the courts.

19 The courts close at 4:30 because you
20 don't have enough staff. I've said this a
21 million times: Just because the workers go
22 away doesn't mean the work does. And this
23 creates backlogs.

24 Finally, on a more parochial issue --

1 or, actually, no, two more things. On raise
2 the age, we've worked on this for one or two
3 years now. In the previous budget, though,
4 Judge Lippman tried to budget the creation of
5 youth courts. So I'm curious, is he
6 suggesting he would do this this year? Or is
7 he relying on the commission that the
8 Governor is recommending as a first step?

9 CHIEF ADMIN. JUDGE PRUDENTI: I think
10 he's -- as you know, he's a man of goodwill
11 and he's a man willing to work with others.
12 And I think that he feels if the Governor
13 feels that a commission is necessary, that
14 when we talked about crafting this budget,
15 Senator, we talked about the fact that
16 obviously the money wouldn't be needed this
17 year. So that's why it's not in the budget.

18 SENATOR SAVINO: Thank you.

19 And finally, on a parochial issue, as
20 you know, we're waiting patiently for the
21 opening of the new Staten Island Courthouse.
22 It's been 10 years in the making. And I was
23 just curious, do we have a date yet that it
24 will be open?

1 And has any decision been made about
2 keeping the Targee Street courthouse open?
3 Because we already are over -- we're not
4 going to be able to handle all the work in the
5 new courthouse. We're already -- you know,
6 we've outgrown it before we open the doors.

7 CHIEF ADMIN. JUDGE PRUDENTI: I don't
8 have a hard date for you. You know, every
9 time we ask for a hard date we're told
10 there's some other things that have to be
11 done. And I know you're well aware of this,
12 you know.

13 And with regard to the request to keep
14 open some of the other court facilities on
15 Staten Island, you have a very able
16 administrative judge who does an excellent
17 job in advocating, and those determinations
18 have not been made.

19 SENATOR SAVINO: Thank you.

20 CHAIRMAN FARRELL: Thank you.

21 I had a couple of questions myself.
22 The 20 judges that would be put in, what's
23 the breakdown as to where they're going?

24 CHIEF ADMIN. JUDGE PRUDENTI: Thank

1 you, Chairman Farrell, for asking that
2 question. We specifically did not put that
3 in our budget request, and I want to tell you
4 why.

5 Very briefly, we see that as a
6 legislative and an executive prerogative. We
7 see that as your prerogative, and that we
8 will leave it to you. We did not want to be
9 presumptuous. But I want you to know and I
10 want your colleagues to know that we are here
11 to help and assist you to give you any
12 information you would need with regard to
13 statistics or how busy these courts are, able
14 to work with you, but thought that that was
15 something that the executive and legislative
16 branches would want to work out and would not
17 want the judiciary to dictate that.

18 CHAIRMAN FARRELL: I'm going to ask
19 some questions that go back 40 years, because
20 I just get a little annoyed and every now and
21 then I like to raise it.

22 I think back in the 1970s while I was
23 still in the courts, or maybe after, you had
24 the acting Supreme Court judges. And it was

1 an emergency. We did it because all of a
2 sudden, crack, and everything was exploding,
3 and we were putting people in the courts.
4 And they had a reason that needed acting
5 Supreme Court judges.

6 We're now 40 years later, and we're
7 still in that emergency climate. I think the
8 decisions, when people asked could you do it,
9 it was probably a court decision that said
10 during emergencies. And I don't know we
11 define that, being in an emergency.

12 But right now we're in the situation
13 where we in Manhattan elect Civil Court
14 judges. And when we elect them, we have to
15 tell them, don't practice up on your civil
16 court, practice up on your criminal court,
17 because you're going to end up in Brooklyn or
18 the Bronx in the criminal court.

19 And I say to them, if you want to get
20 into the criminal court in the Supreme Court,
21 you have to be an appointed judge by the
22 mayor. And once you become an appointed
23 judge, then within three or four months you
24 become an acting in the Supreme Court.

1 Meanwhile, the Civil Court judges are taking
2 their place. And that has gotten very
3 annoying.

4 Plus the tendency for the judges that
5 were going to the Supreme Court were they
6 tended to be former DAs. Nothing wrong with
7 that. But when you have all of them out
8 there, you begin to wonder what's happening.

9 Do you think we will ever reach a
10 point where the emergency is over and we come
11 up with a plan to create a system that works
12 that doesn't require us to do this phony
13 emergency?

14 CHIEF ADMIN. JUDGE PRUDENTI: There
15 are two parts to the question. And what I
16 can say to you, which I hope will give you a
17 comfort level on one end or the other --

18 CHAIRMAN FARRELL: That's going to be
19 hard.

20 CHIEF ADMIN. JUDGE PRUDENTI: It's
21 hard. But let me just say to this to you.
22 We do need acting Supreme Court judges in
23 order to man all the parts in the City of
24 New York, there is no doubt about that. We

1 truly need acting Supreme Court judges.

2 On the other hand, Judge Fisher,
3 Judge Coccooma and our counsel from the Office
4 of Court Administration, John McConnell, have
5 put together a report, a report that looks
6 statewide, outside and inside the City, at a
7 way to appoint acting Supreme Court judges
8 based upon need, based upon Supreme Court pay
9 for Supreme Court work, and based upon a
10 protocol for their appointments.

11 We have sent those reports out to
12 judicial associations. We have gotten many,
13 many comments back. And this year we will be
14 setting up a new protocol for the appointment
15 of acting Supreme Court judges.

16 CHAIRMAN FARRELL: The word is
17 "appointed." Supreme Court judges are to be
18 elected. When do we go back to electing
19 Supreme Court judges?

20 When the mayor selects a criminal
21 court judge and they become the Supreme Court
22 judge in the criminal cases, that is not
23 really following what the Constitution had
24 said we should do. And if a report tells us

1 .how to continue that, I'm not taking that as
2 an acceptable thing.

3 I want to see a report that says how
4 do you get the judges elected who are sitting
5 in those courts.

6 CHIEF ADMIN. JUDGE PRUDENTI: I
7 understand what you're saying, and I wish I
8 could be sitting here telling you I have the
9 solution to that problem, but I can't do that
10 this morning.

11 CHAIRMAN FARRELL: I'm going to start
12 making this a yearly question. And I don't
13 want to be light about it, because it really
14 is annoying, as I said, to have Civil Court
15 judges immediately put into criminal courts.
16 They were elected to Civil Courts, they
17 should be in the Civil Court.

18 CHIEF ADMIN. JUDGE PRUDENTI: I can
19 understand your --

20 CHAIRMAN FARRELL: And we should also,
21 while we're at it, be making sure that those
22 Civil Court judges become Family Court
23 judges. They should be the ones that move
24 up. Because the Family Courts you're putting

1 in now are actually -- you know, they're on
2 the same level as the Supreme Court. So they
3 should not be able to -- you cannot go the
4 Supreme Court immediately, as you know. You
5 should not go, you have to go into the Civil
6 Court and then go up.

7 Well, they should be the same thing,
8 that you have to go to the Civil Court to
9 then get to the Family Court.

10 Now, they elect out of the state, but
11 in New York City they don't.

12 CHIEF ADMIN. JUDGE PRUDENTI: I hear
13 you.

14 CHAIRMAN FARRELL: Okay. Thank you
15 very much.

16 CHAIRMAN DeFRANCISCO: Senator Krueger
17 to close.

18 SENATOR KRUEGER: Thank you.

19 Most of the questions have been
20 answered, but I just want to highlight from
21 your testimony, you said that you've absorbed
22 \$300 million in increased costs for expenses
23 such as mandatory salary increments, mandated
24 increased funding.

1 CHIEF ADMIN. JUDGE PRUDENTI: They're
2 listed there, yes.

3 SENATOR KRUEGER: Yes. But if I'm
4 correct, you also during this time period
5 took a \$170 million cut to your court budget.

6 CHIEF ADMIN. JUDGE PRUDENTI: Senator,
7 yes, we did.

8 SENATOR KRUEGER: If we hadn't cut
9 \$170 million three years ago, I believe, what
10 would be the actual increase you would need
11 just to get back to where you were?

12 CHIEF ADMIN. JUDGE PRUDENTI: You
13 know, that's a very good question.

14 And I'm going to make a long story
15 short. And I've thought about it over the
16 last two years, and I've looked at it over
17 the last two years. And I've said what
18 position would we have been in, where is that
19 fine line -- and it is a fine line -- where
20 we could have sustained X amount of dollars
21 and we would be able to meet our
22 constitutional mission?

23 I think it is somewhere, if we would
24 have done what we have done with regard to

1 our cost-saving measures and our different
2 way of doing business, I think it would have
3 been somewhere -- if you would have asked me
4 could we have sustained cuts of \$100 million
5 to \$120 million, possibly. But that
6 difference to \$170 million has made all the
7 difference, Senator Krueger. From my
8 perspective. There may be others who feel
9 differently.

10 SENATOR KRUEGER: I come from New York
11 County, that's the county I represent. And
12 the New York County Lawyers Association had
13 held a hearing in December -- excuse me, I
14 think they held the hearing in December and
15 then they released a report in early January,
16 and they submitted it to me along with a
17 number of the people who testified at that
18 hearing.

19 And what I am hearing at home is
20 enormous delays, not just in the Civil Court
21 system, in the Family Court, which so many
22 people have gone over today, in the Housing
23 Court system. And it's fairly appalling to
24 me -- not your fault, but appalling to me

1 that this state, even while we discuss --
2 even though we debate the number -- surpluses
3 to be returned, that we are not recognizing
4 that we as a state flunk the test if we don't
5 have courts that can address the needs of our
6 people throughout the entire State of
7 New York.

8 So I don't know the story in each and
9 every county. I think I understand the story
10 for New York City overall. But particularly
11 after hearing many of my colleagues with
12 their questions today, I simply would suggest
13 that the court needs more than a 2.5 percent
14 increase, which should not be seen as an
15 increase but rather a recognition of
16 attempting to get back to where you would be
17 if we hadn't had to take an enormous cut from
18 your budget during the years when we were
19 facing \$10 billion deficits.

20 CHIEF ADMIN. JUDGE PRUDENTI: I
21 understand.

22 SENATOR KRUEGER: And that again,
23 because it was debated a little bit, indigent
24 legal services and legal services for Housing

1 Courts and other courts absolutely should be
2 part of your ongoing budget. But we as the
3 Legislature have to recognize that those are
4 year in, year out costs, and those are
5 actually new costs to your budget because of
6 the way you have taken on responsibility for
7 making sure those programs are funded also.

8 So it's mostly not a question, I
9 suppose, it's a plea to my colleagues who are
10 here today who are listening that we need to
11 make sure that New York State has the best
12 court system we possibly can. And it won't
13 happen unless we fund you adequately.

14 So I thank you all very much for your
15 service.

16 CHIEF ADMIN. JUDGE PRUDENTI: Thank
17 you, Senator.

18 CHAIRMAN DeFRANCISCO: Thank you very
19 much. You are completed, you're done.

20 CHAIRMAN FARRELL: Thank you.

21 CHIEF ADMIN. JUDGE PRUDENTI: Thank
22 you. Thank you. I appreciate you all
23 listening to me this morning.

24 CHAIRMAN DeFRANCISCO: The next

1 speakers are Andrew Feeney, deputy
2 commissioner for special projects, and
3 Michael Perrin, deputy commissioner for
4 administration and finance, for the New York
5 State Division of Homeland Security and
6 Emergency Services. The commissioner had a
7 medical problem in his family and was not
8 able to attend today.

9 Thank you very much. We must
10 continue; the snow continues to fall.
11 Whenever you're ready.

12 Excuse me. Please keep the
13 conversation outside, please. Please. Thank
14 you.

15 You're on.

16 DEP. COMMISSIONER FEENEY: Chairman
17 Farrell, Chairman DeFrancisco, distinguished
18 members of the Senate Finance and Assembly
19 Ways and Means Committees, good morning. My
20 name is Andrew Feeney, and I am deputy
21 commissioner for special programs at the
22 New York State Division of Homeland Security
23 and Emergency Services. I'm joined today by
24 my colleague Mike Perrin, deputy commissioner

1 for administration and finance.

2 I'm pleased to appear before this
3 joint session today on behalf of Commissioner
4 Hauer and the Division of Homeland Security
5 and Emergency Services to highlight some of
6 the work and accomplishments of the agency
7 over the past year while looking forward to
8 the next fiscal year as we fulfill
9 Governor Cuomo's commitment to strengthen our
10 state's infrastructure, help make our
11 communities more resilient, and protect our
12 citizens from future emergencies and
13 disasters.

14 From the inception of his
15 administration, the Governor has made
16 strengthening emergency management in the
17 State one of his highest priorities. In his
18 State of the State, the Governor outlined a
19 roadmap detailing his vision for enhancing
20 the state's collective capabilities in the
21 coming year. With support for new
22 initiatives within the division,
23 Governor Cuomo has laid out a creative and
24 thoughtful roadmap for ensuring that the

1 state will be better prepared and responsive
2 to future disasters such as those we have
3 experienced over the past three years.

4 These investments include:

5 \$15 million for a state-of-the-art
6 weather detection system that will increase
7 the number of weather stations across the
8 state from 27 to approximately 125 and
9 provide an accelerated and improved weather
10 reporting network, which will enable first
11 responders to prepare better and react more
12 effectively to extreme weather events;

13 \$15 million to establish the SUNY
14 College of Emergency Preparedness, Homeland
15 Security and Cybersecurity, which will be a
16 truly groundbreaking and comprehensive
17 institution that will bring together academic
18 and professional disciplines to cultivate the
19 very best in law enforcement, security,
20 emergency management, counterterrorism,
21 cybersecurity and other related disciplines,
22 thereby reinforcing the state's leadership in
23 national and international security;

24 \$3 million for the development and

1 implementation of a statewide citizen
2 preparedness training effort, which will be
3 coordinated jointly by DHSES and DMNA;

4 \$75 million for further expansion of
5 the state's interoperable communications
6 capabilities, which has already been
7 developed over the last several years with
8 \$200 million in grants to counties;

9 Expanding the nation's first
10 state-based strategic fuel reserve. There
11 were many lessons learned from superstorm
12 Sandy, and the availability and accessibility
13 of fuel for emergency responders was perhaps
14 one of the most prominent among them. The
15 Governor responded very aggressively by
16 establishing such a strategic fuel reserve on
17 Long Island and, with this wise investment,
18 the system will now be expanded across the
19 state;

20 Installing back-up power capacity at
21 an estimated 241 upstate gas stations located
22 within a half-mile of exits on critical
23 highways. This expands the Governor's
24 initial investment for such back-up power

1 capabilities at similar locations downstate.

2 Each disaster or emergency presents
3 challenges that provide opportunities for
4 improving how we do what we do, integrating
5 these lessons into our operations, and
6 implementing them for the safety of all
7 New Yorkers. The Governor has been clear in
8 his message: Get out there sooner, and do it
9 faster. And this is exactly what the state
10 has done.

11 As we all know and have witnessed very
12 graphically, there is a new normal for
13 extreme weather. To meet the challenges
14 presented by these extreme weather events,
15 the state is committed to strengthening its
16 emergency preparedness capabilities, and we
17 look forward to making this a reality with
18 your support.

19 Some examples of actions directed by
20 the Governor to prepare for recent storms
21 have included closing impacted roadways --
22 again with today's storm -- redeployment of
23 state assets to affected areas, and extending
24 the Public Service Commission's hotline

1 hours.

2 As we move forward to plan and prepare
3 for future events, we can never lose sight of
4 our continued responsibility to manage the
5 aftermath of past storms, including Sandy,
6 Irene and Lee. We cannot forget that many
7 counties are still in the midst of recovery.
8 DHSES has been in full motion pushing dollars
9 out the door to fund these recovery efforts.
10 To date, DHSES has disbursed \$2.2 billion in
11 infrastructure funding, and FEMA has approved
12 \$1.2 billion in individual assistance funds
13 to the communities affected by these storms.

14 Those impacted include our families,
15 neighbors, and many are your constituents.
16 Having said that, I want to take a quick
17 moment to thank each of you for your support
18 in doing everything we can to bring a sense
19 of normalcy back to the lives of those so
20 severely impacted by these storms.

21 In addition to disaster funding,
22 counterterrorism and all-hazards preparedness
23 funding also continues to be invested in all
24 areas of the state. In 2013, New York State

1 received almost \$67 million in State Homeland
2 Security Grant funding and over \$174 million
3 in Urban Area Security funding for the
4 New York City area.

5 In addition, 11 New York State law
6 enforcement entities received an additional
7 \$1.7 million in Operation Stonegarden funding
8 and will be working with the U.S. Customs and
9 Border Patrol on federally approved
10 operations. Additionally, we received over
11 \$3 million in funding for 46 nonprofit
12 organizations in the New York City urban area
13 to make their facilities more secure.

14 A percentage of these funds were
15 awarded for specialized, targeted purposes.
16 Some of these purposes included law
17 enforcement tactical teams, urban search and
18 rescue, hazardous materials response teams,
19 bomb squad development, explosive detection
20 canines and critical infrastructure
21 protection.

22 This past year, DHSES continued its
23 practice of holding regional workshops to
24 provide up-to-date information and discuss

1 trends with local grantees and solicit
2 feedback to ensure that the state is doing
3 everything it can to support local
4 counterterrorism and emergency preparedness
5 efforts. Most recently, DHSES initiated the
6 process of revising the state's Homeland
7 Security Strategy, which is currently
8 published for statewide review and comment.

9 Homeland Security preparedness funding
10 for federal fiscal year 2014 is yet to be
11 finalized, but we do know that the House
12 passed a \$1.1 trillion budget which,
13 nationally, includes \$466 million for the
14 State Homeland Security Grant Program,
15 \$600 million for the Urban Area Security
16 Initiative, and \$55 million for Operation
17 Stonegarden.

18 The good news is that the proposed
19 2014 figures would represent a net increase
20 in national funding of approximately
21 \$110 million across the three programs, which
22 will likely translate into an increase in
23 dollars for New York State and in the grants
24 we provide local governments for planning and

1 preparedness needs.

2 In terms of state-funded grants,
3 during 2013 DHSES conducted two additional
4 solicitations under the State
5 Interoperability Communication Grant program,
6 for which there was widespread participation
7 from counties. The grant supports the
8 critically important development of
9 intergovernmental regional communications
10 partnerships throughout the state. Ninety
11 percent of the state's counties participate
12 in a regional consortium, and our goal this
13 coming year is make that 100 percent.

14 To date, \$206 million has been awarded
15 to 54 counties through this program. DHSES
16 hopes to release the final public safety
17 answering point grant application soon.

18 Further illustrating his commitment to
19 strengthening the state's emergency
20 preparedness capabilities, the Governor this
21 past October convened a Conference on
22 Emergency Preparedness during which he
23 unveiled a statewide Emergency Management
24 Certification and Training Program. This

1 initiative established the state's first-ever
2 uniform disaster response protocols for first
3 responders and local officials, with the goal
4 of establishing a more effective and
5 streamlined emergency response at all levels
6 of government. The initial four-day training
7 session took place in November in Albany at
8 no cost to local government elected officials
9 and emergency management professionals.

10 In addition to this important new
11 initiative, DHSES continues to expand and
12 enhance its training programs in communities
13 across the state as well as at the State Fire
14 Academy in Montour Falls and the State
15 Preparedness Training Center in Oriskany.

16 In 2013, DHSES trained over
17 64,000 emergency management and emergency
18 response professionals, representing an
19 overall 11 percent increase from 2012. Much
20 of this growth occurred in programs and
21 activities associated with the State
22 Preparedness Training Center, with an
23 increase of over 6,000 trained, which
24 represented an 83 percent increase in its

1 utilization from 2012.

2 Also, at the Governor's direction,
3 DHSES assisted in the development of Rapid
4 Response Support Teams that will align with
5 the new response areas to promptly deploy in
6 emergency situations and coordinate state
7 support with local governments. The teams
8 will include representatives from the State
9 Office of Emergency Management, the State
10 Police, National Guard, and other agencies.

11 The transformation for the division
12 over the last several years has not been
13 without its challenges and complexities, but
14 the integration of the state's homeland
15 security, emergency management and emergency
16 services into a single enterprise has
17 advanced the strategic position of the state
18 to respond more effectively to all hazards.

19 Again, I want to thank you,
20 Chairman Farrell, Chairman DeFrancisco, and
21 members of the joint committee for the
22 opportunity to testify today. I and my
23 colleague are happy to answer any questions
24 you may have.

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CHAIRMAN DeFRANCISCO: Senator
Hassell-Thompson.

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

And thank you, Mr. Feeney. I have a
couple of quick questions.

The Civil Air Patrol has been called
upon by numerous state agencies and local
governments throughout the state to assist in
responding to floods, hurricanes, Homeland
Security missions and lost-children rescue.
During that time, the Civil Air Patrol has
assisted in every county for an estimated
savings of a million dollars to the state in
both emergency and non-emergency situations.
They are now calling on us to add \$200,000,
because this has eroded all of their
resources.

Can you tell me why they haven't been
included in your budget because of the
ancillary services that they provide to your
agency?

DEP. COMMISSIONER FEENEY: I wasn't
aware that they were looking for funding. I

1 know that we've had a long relationship with
2 them through the Emergency Management Office
3 and often would reimburse for expenses, but
4 they did not have a regular allocation in our
5 budget or other state budgets. But we have
6 paid for things like gas when their planes
7 would go up.

8 SENATOR HASSELL-THOMPSON: Many years
9 ago they used to be in the state budget, and
10 at some point, like everything else, they
11 were deleted from the budget. And now
12 they're requesting that amount of money. I
13 would like to ask you to give some
14 consideration to incorporating their agency
15 into their budget.

16 I'd also like to go back and just ask
17 you a couple of questions about the College
18 of Emergency Preparedness. Where is it going
19 to be located, and when will it open?

20 DEP. COMMISSIONER FEENEY: Well, right
21 now SUNY is looking at site selection,
22 working with former NYPD Commissioner Ray
23 Kelly and ourselves. So that's a process
24 that's currently underway.

1 SENATOR HASSELL-THOMPSON: Okay. And
2 can you outline the details of the weather
3 detection center? For instance, have the
4 major state universities such as Cornell and
5 SUNY at Albany, are they participating, have
6 they been consulted? And if not, when and
7 why?

8 DEP. COMMISSIONER FEENEY: That was a
9 question on the weather detection system?

10 SENATOR HASSELL-THOMPSON: Yes, on the
11 weather detection.

12 DEP. COMMISSIONER FEENEY: Yes, we're
13 work with SUNY at Albany, with their
14 environmental folks who do weather, to
15 actually work with them through the program.

16 SENATOR HASSELL-THOMPSON: I didn't
17 get the impression, from something that I had
18 read, that they were involved. And so that
19 was the reason I asked that question.

20 DEP. COMMISSIONER FEENEY: They are,
21 yeah.

22 SENATOR HASSELL-THOMPSON: Okay.
23 Thank you, Mr. Chairman.

24 ASSEMBLYMAN OAKS: Assemblyman Crouch.

1 ASSEMBLYMAN CROUCH: Yes, thank you.

2 Good morning.

3 After the floods of 2011, I became
4 aware that during the -- I forgot now, I
5 think it was Irene that went all the way up
6 into Plattsburgh. There was two swift boat
7 teams that were deployed out of Watertown to
8 Albany but ultimately were rerouted up to
9 Plattsburgh for recovery. The problem was
10 that they literally spent about 10 hours on
11 the road, much of the time -- because they
12 were basically traveling in the storm, much
13 of the time they spent pulled over to the
14 side of the road with flashlights and maps
15 and trying to determine what road was open.

16 And I brought this up in prior years,
17 and actually I brought this up at some of the
18 meetings we had immediately after the flood.
19 But the opportunity to have these swift boat
20 teams that are out there, emergency
21 responders, real-time information,
22 coordinated with DOT's information, which
23 ultimately would have to be coordinated with
24 counties. You know, so if they had real-time

1 information when they're on the road to find
2 out what roads are open, what roads are
3 closed, it would save a tremendous amount of
4 time of our emergency-response talent and
5 possibly their safety.

6 I was told last year that you were
7 working on it, and I'm just wondering where
8 it is and if it's a fact at this point in
9 time.

10 DEP. COMMISSIONER FEENEY: Deployment
11 of resources during emergencies is obviously
12 challenging. You know, we work closely at
13 OEM, the operation works closely to assess
14 weather information and to get that out
15 through the agencies to their responders as
16 well as in the case of many swift water
17 teams, which are local resources working
18 closely with the emergency managers in those
19 counties and at the agency level to provide
20 as much weather information as possible.

21 It's a very dynamic type of situation,
22 but we certainly have structure in place that
23 enables that kind of information to get out.
24 Essentially when you're in a situation where

1 you have, you know, three or four inches
2 falling an hour, in some cases, in some of
3 the storms, you can't really mitigate delays
4 as effectively as you would like to. But
5 again, we have a system in place that
6 provides that information to folks, and we
7 look for ways to improve it, always.

8 ASSEMBLYMAN CROUCH: Well, if they
9 were deployed immediately into another area
10 that they weren't even familiar with, are
11 they able to access information on their
12 cellphones or their laptops that they're
13 carrying with them, are they able to
14 ascertain what roads would be closed just
15 immediately in front of them so they can
16 avoid delays in having to turn around?

17 DEP. COMMISSIONER FEENEY: Again, a
18 very dynamic situation. They do have access
19 to publicly released information on those
20 devices, depending of course on where they
21 are in the state, depending on the cellular
22 network and those sorts of things. But they
23 do have that kind of access generally.

24 Again, for very specific instances,

1 it's a very dynamic situation when you're in
2 there.

3 ASSEMBLYMAN CROUCH: Because I know it
4 was a couple of days later, I was talking to
5 our New York State DOT and talking to them,
6 they could tell me immediately a route to
7 take to get to where I needed to go, because
8 obviously there was a lot of roads closed.
9 And I just, you know, want to try to make
10 sure that our emergency services, when
11 they're out on the road, it could be
12 life-saving many times, and avoid delaying a
13 lot of expensive equipment and talent to get
14 to the site.

15 DEP. COMMISSIONER FEENEY: And that's
16 really the intent of a lot of our efforts in
17 improving preparedness, improving
18 relationships at the more local level, which
19 the Governor has been, you know, advancing
20 over the last years since Irene and Lee and
21 Sandy.

22 ASSEMBLYMAN CROUCH: Thank you.

23 CHAIRMAN DeFRANCISCO: Senator
24 Gallivan.

1 SENATOR GALLIVAN: Thank you,
2 Chairman.

3 Good morning, Commissioner.
4 Ironically, you're testifying on a day when
5 the Governor has declared a statewide
6 emergency.

7 DEP. COMMISSIONER FEENEY: Yes.

8 SENATOR GALLIVAN: Somewhat ironic.

9 But let me just take the time to thank
10 you and your agency for your past efforts,
11 the recovery efforts and your ongoing
12 prevention efforts in assisting communities
13 statewide. You've really done a tremendous
14 job and I think in the last couple of years
15 come a long way.

16 I'm not sure you're aware, my
17 background is in law enforcement emergency
18 services and response like this, so I watch
19 with keen interest.

20 I do want to talk about assistance
21 with recovery efforts, and that's where my
22 question is. Specifically, aid, disaster
23 assistance, aid to local communities, local
24 residences. And we've seen much in the news,

1 much in other hearings about response and
2 assistance to communities with Hurricane
3 Irene, Tropical Storm Lee, Superstorm Sandy.

4 We've had issues in other parts of the
5 state, out in Western New York and Niagara
6 County in particular, that then became part
7 of the 2003 Upstate Recovery Plan that was
8 initiated by a Governor's Executive Order.
9 And ultimately funding was made available in
10 some of those communities where funding was
11 not available through FEMA, through
12 insurance, things of that nature.

13 In this past year's budget, our
14 current budget, there was a \$200 million
15 appropriation to assist localities that had
16 suffered from natural or manmade disasters.
17 Can you talk, if you know, about how that
18 money has been spent or how it has been
19 allocated and how much of it may be left?

20 DEP. COMMISSIONER FEENEY: I'm not
21 aware of the state providing direct
22 assistance to the communities for
23 infrastructure repair. Again, currently for
24 both -- for the three storms that you

1 mentioned, Sandy, Irene and Lee, we reimburse
2 and provide state's share that would be --
3 the state allocation for those infrastructure
4 repairs would be the state's share.

5 But essentially those funds are
6 provided 75 percent on the dollar, 90 percent
7 on Sandy through the federal government,
8 through FEMA.

9 SENATOR GALLIVAN: There was another
10 one, though, and it came about as -- I don't
11 know the specific name, flooding in the
12 Mohawk Valley and different disasters were
13 prepared for. Now, people can make
14 application. And then again, there was the
15 separate \$200 million appropriation.

16 We can follow up later; I'll just give
17 you a reference. It's on page 731 of this
18 year's State Operations Budget. We can
19 follow up specifically.

20 Part of the reason I asked is we have
21 a community out in an area I represent,
22 West Seneca, 70 homes flooding. I know that
23 there's been communication. They don't
24 qualify for FEMA assistance because there's

1 not a hundred homes. And certainly we are
2 looking for assistance for that out of this
3 year's budget.

4 But my question going forward is, with
5 your proposed budget, some proposed pieces of
6 legislation dealing with assistance to
7 communities, can you explain what the funding
8 structure would be like for future disaster
9 assistance, whether it's aid to the local
10 municipalities or to individuals?

11 DEP. COMMISSIONER FEENEY: Let me just
12 reflect back on West Seneca. I don't know if
13 you're aware of this; yesterday we had the
14 Small Business Administration meeting with
15 the local officials there to assess. So that
16 is certainly an issue that's on our radar in
17 terms of knowing about the problems that are
18 being encountered there and trying to get
19 some assistance for those folks.

20 You referred back to Mohawk Valley.
21 In that situation we did receive a Federal
22 Disaster Declaration for the infrastructure
23 damage, but the Governor made available
24 assistance to homeowners because the federal

1 government denied our application. So that's
2 an ongoing program that we made available
3 because there was such an urgent need in that
4 regard.

5 Going forward, we're aware of the
6 different legislative proposals that are
7 advancing about individual and public
8 assistance, essentially what we call
9 infrastructure repair. But we have not taken
10 a position on those at this time.

11 SENATOR GALLIVAN: If we could
12 separately, then -- we'll follow up on this
13 past year's appropriation, if we may. I'll
14 follow up with correspondence asking, if I
15 can, just for a detailed accounting of the
16 \$200 million. Unless you have it now.

17 DEP. COMMISSIONER PERRIN: We don't
18 have it in front of us right now, Senator,
19 but we're happy to track that appropriation
20 back and give you a report.

21 SENATOR GALLIVAN: That would be
22 fine. Thank you.

23 Thank you, Chairman.

24 CHAIRMAN FARRELL: Thank you.

1 Storm Recovery.

2 And like I said, I'm going to be
3 talking to Jamie Rubin later today. I can
4 certainly talk to him about getting you a
5 briefing, you know, on the program and what
6 you need for the questions you just asked.

7 ASSEMBLYMAN GRAF: Okay, I appreciate
8 that. And you can just tell Jamie I'm not
9 happy. Okay? Thanks.

10 DEP. COMMISSIONER FEENEY: Sure.

11 CHAIRMAN FARRELL: Thank you.

12 Senator?

13 CHAIRMAN DeFRANCISCO: Senator O'Mara.

14 SENATOR O'MARA: Yes, thank you. Good
15 afternoon. Only an hour and a half off
16 schedule already, and you're the second
17 witness, so I'll try to be brief.

18 My district includes Schuyler County,
19 the home of the Montour Falls Fire Academy.
20 And you mentioned in your testimony here
21 today expanding and enhancing the training
22 programs at the Fire Academy as well as the
23 State Preparedness Center in Oriskany.

24 Now, my concern relative to

1 Schuyler County and the Fire Academy is all
2 the discussion around relocating the Montour
3 Falls Fire Academy to Oriskany. I have a
4 memo from November of 2013 from Bryant
5 Stevens that talks about "DHSES will be
6 engaging in a master site plan study of the
7 Oriskany site to identify issues and decision
8 points that need to be made in developing a
9 sound facility plan relocating the Montour
10 Falls operation to Oriskany."

11 And, you know, my concern in that is
12 that the Montour Falls Fire Academy is like
13 motherhood and apple pie in this state. It's
14 a historic site. It has provided services
15 fantastically over the years it has been in
16 service. There have been significant capital
17 investments in that facility over the years.

18 And I want to know where, at this
19 point, does DHSES stand in planning a study
20 of the Oriskany site, and what is being done
21 to look at the Montour Falls site for
22 improvements there that may be needed to get
23 to where you want to be?

24 DEP. COMMISSIONER PERRIN: Senator,

1 you may be aware that the state has made a
2 significant investment at its facility in
3 Oriskany. At this point the state is leasing
4 that property, so we feel that we have an
5 obligation to look at possibly purchasing
6 that facility and then, together with that,
7 the feasibility or the cost-effectiveness of
8 consolidating the fire training facility from
9 Montour Falls to Oriskany.

10 So we have taken two steps. We're
11 conducting an appraisal of the property in
12 Oneida County where the SPTC is currently
13 located, and at the same time we're
14 conducting a feasibility study that would
15 look at creating a world-class fire training
16 capability either at Montour Falls or at the
17 SPTC to see which would be more
18 cost-effective.

19 So what the Governor has asked and the
20 Division of the Budget has asked is for us to
21 study both the cost-effectiveness and the
22 feasibility of creating a world-class fire
23 and police training facility, either
24 consolidated SPTC or continuing with Montour

1 Falls and SPTC separately. No decisions have
2 been made. These studies are outstanding.

3 SENATOR O'MARA: The same memo that I
4 referred to says that "All parties involved
5 agree that the Oriskany site, in its current
6 configuration, does not possess the capacity
7 or the necessary facilities to accommodate
8 residential fire training, and therefore a
9 significant investment in this facility would
10 be needed as well."

11 Are you committed to evaluating both
12 Montour and Oriskany to compare the costs
13 associated with the plans to determine which
14 way to go?

15 DEP. COMMISSIONER PERRIN: Yes, sir.

16 SENATOR O'MARA: And I just want to
17 state for the record that, to your
18 understanding, that Schuyler County is the
19 second-least populated county in this state.
20 It's among the poorest in per-capita income
21 in this state. And the economic impact
22 generated from those fire service training
23 forces, the visiting firefighters that come
24 in, is a tremendous economic impact for that

1 entire community that would be impossible to
2 overcome with the closure of that facility.
3 And I hope that that comes in and weighs in
4 part of your decision-making process in where
5 we're going to go with this.

6 Because I do not support the moving of
7 the Montour Falls Fire Academy. I understand
8 in this year's budget there's something like
9 \$8 million allocated for the purchase of land
10 at Oriskany?

11 DEP. COMMISSIONER PERRIN:

12 Potentially. That is pending the outcome of
13 the appraisal at the Oriskany facility. It
14 may be cost-effective just in and of itself
15 to undertake the purchase of the property
16 instead of continuing to rent it. Again, the
17 state has made a major capital investment in
18 the property, so since that investment has
19 been made, again, we feel an obligation to
20 take a look at simply purchasing it from the
21 County of Oneida.

22 SENATOR O'MARA: Has this study
23 started yet, comparing Oriskany and Montour?

24 DEP. COMMISSIONER PERRIN: It has just

1 gotten underway. Part of that feasibility
2 study on the financial side will depend
3 largely on the outcome of the appraisal, as
4 you might imagine.

5 SENATOR O'MARA: Excuse me?

6 DEP. COMMISSIONER PERRIN: Part of the
7 feasibility study and the cost comparisons
8 will depend on what the ultimate purchase
9 price would be of the Oriskany property
10 should the state decide to go that route.

11 SENATOR O'MARA: Okay. And what is
12 the cost of this study, if you know?

13 DEP. COMMISSIONER PERRIN: I believe
14 the comparison, the feasibility study between
15 the buildout or the consolidation, is in the
16 neighborhood of \$300,000.

17 SENATOR O'MARA: And is that money
18 already appropriated or is that in this
19 year's budget as well?

20 DEP. COMMISSIONER PERRIN: We'll using
21 capital appropriations from previous years'
22 budgets.

23 SENATOR O'MARA: Thank you.

24 DEP. COMMISSIONER PERRIN: You're

1 welcome.

2 CHAIRMAN FARRELL: Thank you.

3 Assemblyman Steck.

4 ASSEMBLYMAN STECK: Good afternoon.

5 Mr. Perrin is probably aware of this from our
6 prior service together in Albany County, but
7 the sheriff of Albany County has been
8 acquiring a large number of Humvees and even
9 more intensely militarized vehicles. And
10 assuming we're not going to invade Rensselaer
11 County, my question is, is this pursuant to
12 some organized disaster preparedness plan of
13 the State of New York or is this something
14 that the sheriff is basically undertaking on
15 his own?

16 DEP. COMMISSIONER PERRIN: I believe
17 that the sheriff, among other law enforcement
18 agencies, are taking advantage of surplus
19 opportunities in military equipment. So to
20 my knowledge, the state has no involvement.

21 ASSEMBLYMAN STECK: So that's just
22 what they're doing and it's not something
23 that is supervised in any way by the state;
24 is that correct?

1 DEP. COMMISSIONER PERRIN: That's my
2 understanding, Assemblyman.

3 ASSEMBLYMAN STECK: Thank you.

4 CHAIRMAN DeFRANCISCO: Senator
5 Nozzolio.

6 SENATOR NOZZOLIO: Thank you,
7 Mr. Chairman.

8 Commissioners, I'd like to follow up
9 on the comments of my colleague
10 Senator O'Mara regarding the Montour Falls
11 Training Academy, named after a former
12 Senator, Fred Warder, who represented much of
13 the area where I now serve.

14 This is certainly an issue for
15 Montour Falls, but it's also an issue for
16 Western New York and those firefighters from
17 Western New York who are using their own
18 time -- and these are primarily volunteers
19 who are there to train on basically their own
20 expense, to travel and to participate in the
21 appropriate services provided at that
22 academy.

23 Which academy came first, Montour
24 Falls or Oriskany?

1 DEP. COMMISSIONER FEENEY: Montour.

2 SENATOR NOZZOLIO: So we decided

3 unilaterally to beef up Oriskany, for

4 whatever reason. That's not a bad thing.

5 I'm saying that the resources deployed in

6 Oriskany could have otherwise been deployed

7 at Montour Falls.

8 Let me just say from the outset that

9 this study will be scrutinized to the nth

10 degree, and we will ask you if we have to

11 have appropriate hearings through our

12 oversight or Homeland Security Committee,

13 whatever necessary, to scrutinize this

14 decision. It is not taken lightly. It is

15 not acceptable to close the facility at

16 Montour Falls. So the options that you've

17 outlined are troublesome. Either/or, and it

18 wasn't both. If you said both, it wouldn't

19 be so troublesome. But you indicated,

20 Mr. Commissioner, that it's either/or. That

21 that's a concern.

22 DEP. COMMISSIONER PERRIN: Just to

23 clarify, Senator, the study will look at

24 creating a state-of-the-art fire training

1 facility at both locations. And a decision
2 based on the cost feasibility and some of the
3 operational issues, such as geographic
4 location, will ultimately be part of the
5 decision.

6 So again, we're looking at, again
7 because of the significant investment we've
8 already made at Oriskany, that the -- you
9 know, the idea of purchasing the site and
10 then ultimately consolidating the training
11 functions into one facility is something we
12 feel an obligation to review.

13 SENATOR NOZZOLIO: Well, you may feel
14 an obligation to purchase the site. I guess
15 the question is why is this -- and I guess to
16 open the air and clear the air and to make it
17 very clear, that the question of expenditures
18 of those funds on a site that wasn't owned by
19 the State of New York could be a questionable
20 situation in and of itself.

21 We can't have enough training
22 available to our dedicated first responders,
23 and particularly the volunteers. And I'm
24 sure we all share that objective. I'm not

1 suggesting that cutbacks be made in Oriskany.
2 I'm only saying that the Western New York
3 facility needs to be analyzed in a way that
4 is just not simply on the dollars and cents.

5 I mean, every cent that had gone to
6 Oriskany could have easily gone to expanding
7 the operations at Montour Falls Health.
8 Since Montour Falls was up and running first,
9 it was a facility -- I believe it's owned by
10 the state.

11 So please know this is not simply
12 going to be decided by a study, it's also not
13 going to be decided by -- or analyzed in a
14 way that -- studies always make certain
15 assumptions, and that those assumptions are
16 going to be scrutinized to the nth degree.

17 So thank you for laying it out today.
18 I think we understand each other. And that
19 we'll be reviewing, as you review it, this
20 measure as it comes forward.

21 Could you just expand on the
22 timetable? What do you look to in the
23 development of the study, what kind of
24 parameters will there be for reporting to you

1 and to the Legislature?

2 DEP. COMMISSIONER PERRIN: Well, with
3 respect to the timetable of the study itself,
4 we're working with OGS on updating the
5 timetable now. So I don't have any anything
6 to report at this time.

7 SENATOR NOZZOLIO: But you're taking
8 money out of already deployed funds, already
9 appropriated funds, and making that study.
10 So if you could advise the Legislature as to
11 what the status of the study is and when it
12 will begin and when it will end, and when you
13 would begin to analyze, those parameters
14 would be appreciated to have.

15 DEP. COMMISSIONER PERRIN: Understood,
16 Senator.

17 I might just add that the Governor and
18 Commissioner Hauer share your concern about
19 increasing the levels of training that are
20 available to first responders, and some of
21 the statistics cited by Mr. Feeney indicate
22 some specific progress on those lines.

23 CHAIRMAN DeFRANCISCO: Thank you very
24 much.

1 CHAIRMAN FARRELL: Thank you.

2 Assemblyman Aubry.

3 ASSEMBLYMAN AUBRY: Good afternoon,
4 gentlemen. Good to have you here and
5 testifying.

6 Three quick questions. What is the
7 total amount of money that your agency
8 handles, both expense and capital? And how
9 many FTEs do you have?

10 DEP. COMMISSIONER PERRIN: Well, I'll
11 address the FTE question. The current year's
12 budget has 396 targeted FTEs, and the budget
13 as proposed by the Governor includes an
14 additional 17.

15 ASSEMBLYMAN AUBRY: And the expense
16 and capital?

17 DEP. COMMISSIONER PERRIN: On the
18 capital side, I'm going to have to get back
19 to you specifically. I know there were a
20 number of capital appropriations that go back
21 into prior years, so I'll have to get back to
22 you with the sum total of capital
23 appropriation.

24 ASSEMBLYMAN AUBRY: And the expense?

1 DEP. COMMISSIONER PERRIN: Well, we
2 just discussed the \$7 million appropriation.
3 And we also continue to buildout some of the
4 facilities at SPTC using capital dollars. So
5 I think I'll have to get a full accounting
6 for you and report back.

7 ASSEMBLYMAN AUBRY: Good, I'd
8 appreciate that.

9 The \$15 million for the potential new
10 college of emergency preparedness, that is a
11 dollar amount you expect to expend in this
12 fiscal year?

13 DEP. COMMISSIONER PERRIN: No, I don't
14 think necessarily. I think depending on the
15 work of the State University, together with
16 former Commissioner Ray Kelly as advisor, and
17 with DHSES as advising, will determine both
18 the location of where those capital dollars
19 will be spent and then subsequently what the
20 time frames would be. So we don't have a
21 timeline for you, Assemblyman.

22 ASSEMBLYMAN AUBRY: And that 15 is
23 capital, not expense?

24 DEP. COMMISSIONER PERRIN: Correct.

1 ASSEMBLYMAN AUBRY: It is capital.

2 Okay, thank you.

3 CHAIRMAN DeFRANCISCO: Senator
4 Krueger.

5 SENATOR KRUEGER: Following up on my
6 colleague Assemblymember Aubry's questions
7 about the emergency services preparedness
8 college, is the assumption that this will be
9 a degree-granting institution with a full set
10 of academic as well as specialty training as
11 part of it?

12 DEP. COMMISSIONER FEENEY: Well, I
13 think I'd defer to the State University as
14 the academic experts in program developments.
15 So we expect DHSES to have a role in perhaps
16 curriculum development, in providing subject
17 matter experts, you know, as needed. But I
18 think the reason why the State University is
19 the lead is because of their demonstrated, of
20 course, academic expertise in developing
21 programs.

22 SENATOR KRUEGER: So the assumption is
23 that this will be a new program within an
24 existing SUNY campus somewhere?

1 DEP. COMMISSIONER FEENEY: I'm not
2 certain it would be on a SUNY campus.
3 However, yes, the intent is they would be a
4 new program.

5 SENATOR KRUEGER: So is it intended to
6 look something like John Jay College does for
7 us in New York City with CUNY?

8 DEP. COMMISSIONER FEENEY: I couldn't
9 comment, Senator. I'm not sure what the
10 outcome of SUNY's work would be.

11 SENATOR KRUEGER: Switching to the
12 state-of-the-art weather detection system,
13 also \$15 million, to expand from 27 to 125
14 weather stations, what do these individual
15 weather stations allow us to know sooner than
16 the satellite information we're getting from
17 the National Weather Service?

18 DEP. COMMISSIONER FEENEY: So it's
19 a -- the actual word for the stations is
20 they're on a mesoscale, which means a very
21 finite scale.

22 So when you watch a satellite, it's
23 actually giving you a very gross view of
24 what's going on, mostly atmospheric. These

1 will actually measure very specific
2 conditions at the 125 stations around the
3 state and provide, you know, precipitation
4 information, temperature information. And
5 essentially what they do is enable a
6 microforecast.

7 That data, once those stations are
8 established, will be available to the
9 National Weather Service and they will be
10 able to, for example, determine the amount of
11 rainfall that you have, which can vary
12 greatly in certain areas of the state,
13 especially the more hilly areas where you
14 might have 5 inches here and 15 inches here.
15 That enables, again, emergency responders to
16 better predict the outcomes on a very
17 specific scale.

18 So they do provide basic weather
19 information, but by saturating the state we
20 create a more comprehensive picture on a
21 very, very granular level, you might say.

22 The other issue is that as that data
23 is collected over time we have the ability
24 then to understand on a more deep level the

1 impact, the trends that are going on in the
2 weather. So it's, again, much more
3 information on a much smaller scale.

4 SENATOR KRUEGER: And can I assume
5 that each of these sites does not require a
6 staff person, but rather the data is then
7 brought back centrally to some kind of GPS
8 mapping room?

9 DEP. COMMISSIONER FEENEY: Did you say
10 each location would require --

11 SENATOR KRUEGER: I was saying I
12 assumed each location didn't require a human
13 being to be there.

14 DEP. COMMISSIONER FEENEY: No, no, no,
15 that's correct. They're basically a
16 20-by-20 fenced area with the instrumentation
17 on-site.

18 SENATOR KRUEGER: And it's been
19 brought to my attention that one of the
20 issues that much of the state has in
21 emergencies is the inability to know in
22 advance whether the rivers are going to
23 overflow and flood. Can these be used to
24 also evaluate the level of rivers

1 particularly in areas that are known to flood
2 during certain weather patterns?

3 DEP. COMMISSIONER FEENEY: Yes.

4 Again, it's going to give a much more -- we
5 have rain gauges now, we have modeling that
6 enables you to translate precipitation into,
7 you know, a rise in creeks, streams, rivers.
8 This will again give you a much more finite
9 view of what's going on on a very small scale
10 in order to better estimate that in more
11 specific locations.

12 SENATOR KRUEGER: And can this be done
13 within a one-year period, this \$15 million
14 will be spent right away?

15 DEP. COMMISSIONER FEENEY: Right now,
16 again, we're working with SUNY to develop,
17 you know, the next steps, which really
18 involved procurement and scoping procurement
19 and those activities that are customary for
20 any project.

21 SENATOR KRUEGER: Thank you.

22 CHAIRMAN FARRELL: Thank you.

23 Assemblyman Walter.

24 ASSEMBLYMAN WALTER: Thank you. On

1 the citizens' preparedness training, do you
2 have specifics yet on who's going to be
3 conducting that training?

4 DEP. COMMISSIONER FEENEY: A
5 combination of the Division of Military and
6 Naval Affairs, DMNA, and DHSES.

7 ASSEMBLYMAN WALTER: Will there be
8 specific military occupational specialties
9 engaged in the training? Do you know who's
10 going to be specifically doing it? Will it
11 be the National guard on weekends, will -- I
12 mean, what's the -- do you have that kind of
13 specific plans yet?

14 DEP. COMMISSIONER FEENEY: I don't
15 have the details on it, sir. I can get that
16 for you.

17 ASSEMBLYMAN WALTER: That's fine.
18 How does that training differ from
19 what, say, the Red Cross would provide?

20 DEP. COMMISSIONER FEENEY: It's more
21 extensive. You know, the Governor's goal is
22 to have tens of thousands of people trained
23 very, very quickly in terms of citizens, made
24 more aware, understanding what their needs

1 are and what they can expect their needs to
2 be during disasters.

3 So again, it's a much more
4 comprehensive effort and a state effort.

5 ASSEMBLYMAN WALTER: How will you be
6 publicizing this, promoting it to people to
7 sign up to get the training, that type of
8 outreach?

9 DEP. COMMISSIONER FEENEY: We'll be
10 working in specific local areas similar to
11 what the Governor announced over the weekend
12 on Staten Island. And we also have a website
13 obviously that, you know, again, is available
14 for people to go and find that information on
15 preparedness.

16 ASSEMBLYMAN WALTER: Well, I would
17 encourage you to take advantage of each of
18 our offices as well in order to promote that
19 program.

20 DEP. COMMISSIONER FEENEY: Absolutely.
21 Sure.

22 ASSEMBLYMAN WALTER: Thank you.

23 DEP. COMMISSIONER FEENEY: Thank you.

24 CHAIRMAN DeFRANCISCO: Thank you.

1 I just wanted to point out about this
2 homeland security college. I know you don't
3 have much information because nothing has
4 been decided. And I just want to point out
5 that we have been discussing this, trying to
6 put this thing together for some time. And
7 Bob Farley behind me is an expert in this
8 area and has done a ton of work.

9 And what the intent was in bringing
10 this up to the administration was that a
11 program build on a program that Syracuse
12 University Law School has that has been
13 giving certificates for various programs that
14 they have for homeland security, and that the
15 concept was to work with a joint
16 organization, including SUNY, a joint effort,
17 to have a homeland security college that will
18 give degrees, even graduate degrees. And
19 it's at its infancy. The Governor mentioned
20 the fact that we would like to have such a
21 degree-bearing college.

22 And no decisions have been made at
23 this point, but I would hope that those that
24 have already started in this area and have

1 some expertise, and that Homeland Security
2 would agree, after it's kind of framed out a
3 little, to look at what you need and what you
4 think, your department thinks about what's
5 the best structure.

6 And obviously it's an academic issue
7 as much as it is a Homeland Security issue.
8 But the point is to make this practical and
9 to have in the State of New York a
10 degree-bearing, probably the only
11 degree-bearing Homeland Security college, so
12 that we're leading the nation in this area.

13 So that's what I know about it. And
14 as I said, Bob Farley behind me has been
15 unbelievable in his preparation on this.

16 Thank you.

17 DEP. COMMISSIONER PERRIN: Thank you
18 for your support, Senator.

19 CHAIRMAN FARRELL: Thank you.

20 CHAIRMAN DeFRANCISCO: You're done.

21 CHAIRMAN FARRELL: Thank you very
22 much.

23 DEP. COMMISSIONER FEENEY: Thank you.

24 CHAIRMAN DeFRANCISCO: Next speaker,

1 Michael Green, executive deputy commissioner
2 of the New York State Division of Criminal
3 Justice Services.

4 Whenever you're ready.

5 EX. DEP. COMMISSIONER GREEN: Thank
6 you. Good afternoon, Chairman DeFrancisco,
7 Chairman Farrell, and distinguished members
8 of the Senate Finance and Assembly Ways and
9 Means Committee. I'm Michael Green,
10 executive deputy commissioner of the State
11 Division of Criminal Justice Services. Thank
12 you for inviting me to appear before you
13 today.

14 Governor Cuomo's proposed budget for
15 fiscal year 2014-2015 builds on the success
16 of the last three years by continuing our
17 fiscal discipline and spending restraint
18 while taking our commitment to accountability
19 and results to the next level. Simply put,
20 this budget will allow DCJS to continue our
21 mission to enhance public safety and improve
22 criminal justice.

23 Under Governor's Cuomo's leadership,
24 crime in New York State has remained at

1 historically low levels, with reported
2 murders declining more than 20 percent
3 between 2010 and 2012. Additional reductions
4 are expected when data are finalized for
5 2013. The FBI reports that New York
6 continues to be the safest large state in the
7 country. And in 2012, we moved ahead of
8 South Dakota to become the third safest state
9 overall, behind only North Dakota and Idaho.
10 At the same time, New York's prison
11 population has declined steadily since 1999,
12 from a high of more than 72,000 inmates to a
13 current population of 54,142. New York also
14 has the lowest imprisonment rate of any large
15 state in the country.

16 In his State of the State message,
17 Governor Cuomo described the three tenets
18 that will serve as the foundation of the
19 State's public safety platform: New York is
20 tough, smart and fair. Today I'll talk to
21 you briefly about how those themes drive our
22 work at DCJS and outline key initiatives for
23 the coming year that build on those themes.

24 At DCJS, being tough means addressing

1 existing and emerging public safety threats
2 by supporting local law enforcement with
3 cutting-edge technology, resources and
4 support. For instance, DCJS funds four
5 regional Crime Analysis Centers that were
6 recently recognized by both the Center for
7 Digital Government and Digital Communities
8 and the International Association of Crime
9 Analysts for their innovative contributions
10 to public safety.

11 Being smart means using the best
12 expertise, evidence, and data available to
13 fund effective programs that will reduce
14 crime and recidivism. We just awarded
15 \$5 million to 23 alternative to incarceration
16 and jail-based programs, using data to target
17 high-need areas and populations with the
18 highest rates of recidivism.

19 We used our new Results First
20 cost-benefit model to support this process,
21 which estimates the costs and public safety
22 benefits of different program options and
23 provides guidance on how to most effectively
24 reduce crime and costs.

1 Being fair means enhancing the
2 integrity of our criminal justice system by
3 supporting reforms that increase our ability
4 to exonerate the innocent and hold the guilty
5 fully accountable. Our DNA technology allows
6 us to do exactly that. Eighteen months ago,
7 the Legislature enacted a major expansion of
8 the DNA Databank, giving New York one of the
9 most comprehensive DNA statutes in the
10 country.

11 This year, under the leadership of
12 Governor Cuomo, DCJS will continue to build
13 on the progress we have made in recent years.
14 I'd like to briefly talk about two new
15 efforts that we believe will further improve
16 our criminal justice system here in New York.

17 The first is the GIVE initiative. For
18 the past decade, Operation IMPACT has been
19 the state's key grant program for supporting
20 local law enforcement in the 17 counties
21 outside of New York City that account for 86
22 percent of the violent crime. Since it
23 began, overall crime in IMPACT jurisdictions
24 has declined 20 percent, with violent crime

1 down 11 percent.

2 IMPACT provided jurisdictions with
3 resources they wouldn't otherwise have had to
4 develop tough new approaches that allowed
5 them to target crime as it emerged and hold
6 individuals accountable for their criminal
7 behavior. The program strengthened
8 partnerships among federal, state and local
9 law enforcement, and promoted the use of
10 data-driven decision making and
11 intelligence-led policing.

12 It is now time to refine this
13 initiative and the support it provides by
14 leveraging evidence-based approaches to
15 further reduce gun violence. Governor Cuomo
16 announced the transition of IMPACT to GIVE,
17 the Gun Involved Violence Elimination
18 initiative, in his State of the State
19 message. GIVE will build on the success of
20 Operation IMPACT by requiring the
21 17 participating counties to focus their
22 efforts on additional reductions in
23 firearm-related crime, shootings, and
24 homicides.

1 Evidence shows that in order to
2 effectively combat gun crime, law enforcement
3 must use analysis to identify and target the
4 small number of people and places that drive
5 the majority of violence in their
6 communities.

7 The GIVE initiative will be supported
8 by the regional Crime Analysis Centers that
9 I've already mentioned, which are located in
10 Albany, Broome, Erie, Monroe and Onondaga
11 Counties. These centers are uniquely equipped
12 to support this new approach. Their services
13 will be instrumental in helping local law
14 enforcement develop person- and place-based
15 strategies to better target, prevent and
16 solve gun-related crime. This will allow
17 jurisdictions to continue to work smarter,
18 not necessarily harder.

19 It is essential that all members of a
20 community are committed to reducing gun
21 violence. Law enforcement cannot do it
22 alone. Our overall approach to GIVE
23 recognizes this and complements important
24 programs already operating in several

1 communities in the state, including programs
2 modeled after "Cure Violence," known as SNUG
3 in New York. SNUG relies on the use of
4 outreach workers to detect and resolve
5 conflicts before they lead to shootings, or
6 to respond to shootings to prevent
7 retaliation and interrupt the cycle of
8 violence.

9 DCJS currently funds two SNUG programs
10 and recently issued a competitive request for
11 proposals to establish other programs.
12 Awards were announced this week to establish
13 programs in five new locations.

14 To ensure that these programs are true
15 to their evidence-based models, intensive
16 training, technical assistance, evaluation
17 and support will be provided to localities.
18 DCJS will be there with them every step of
19 the way. In this time of scarce resources,
20 it is more important than ever to ensure that
21 our taxpayer dollars are being invested
22 wisely and that we support our programs with
23 training and assistance to make sure they
24 succeed.

1 The second effort I want to mention
2 briefly is the Commission on Youth, Public
3 Safety, and Justice. New York State's
4 juvenile justice system has taken significant
5 transformational steps under Governor Cuomo's
6 leadership. Yet there is one critical area
7 where New York continues to lag behind other
8 states. All youth arrested for a crime at
9 age 16 or 17 are currently processed in the
10 adult criminal justice system regardless of
11 their offense. Only North Carolina and
12 New York draw this hard line of criminal
13 responsibility at age 16.

14 This policy denies the reality that
15 the adolescent brain is not fully developed,
16 inhibits the delivery of appropriate and
17 effective interventions, and places the
18 personal safety of the small percentage of
19 youth who end up in adult jails and prisons
20 at risk. At the same time, a small number of
21 young offenders pose serious risks to public
22 safety in communities across New York State.

23 Governor Cuomo is therefore poised to
24 establish the Commission on Youth, Public

1 Safety and Justice to develop a roadmap for
2 New York to become the national leader in
3 youth justice policy. By creating a
4 realistic plan for raising the age, tailoring
5 a system to improve outcomes, and taking
6 explicit care to address the problems of
7 violence among the small number of serious
8 youthful offenders, the commission will
9 provide all of us the detail we need to
10 ensure safe communities and successful youth.

11 In sum, the Governor's budget is
12 designed to continue the historic progress
13 that we have made, recognizing that when we
14 invest in initiatives that drive crime down,
15 there is a significant return on that
16 investment. Thank you.

17 CHAIRMAN DeFRANCISCO: Senator
18 Gullivan.

19 SENATOR GALLIVAN: Thank you,
20 Chairman.

21 Good afternoon, Commissioner. You
22 testified about the transition, if that's the
23 appropriate word, from Operation IMPACT to
24 the GIVE initiative. And while I laud the

1 focus on reducing gun violence, getting guns
2 out of the hands of criminals, dealing with
3 everything around the illegal use of
4 weapons -- I think it is a very appropriate
5 effort to do that, but I want to talk with
6 what we might lose when we're moving away
7 from Operation IMPACT. That has been very
8 successful. You've testified to some of the
9 reduction of violence across the state as a
10 result of the efforts of Operation IMPACT.

11 My question is, as we focus on the gun
12 violence and the state support moves away
13 from those other areas that IMPACT focused
14 on, what are communities to do? Do they just
15 forget about those other things? They are
16 very stressed, of course, with property tax
17 caps, tight budgets, things of that nature.
18 And for a significant number of years they
19 have relied on the state support to focus on
20 those other areas of violent conduct. How do
21 we account for that loss?

22 EX. DEP. COMMISSIONER GREEN: I think
23 it's a very good question. Thank you,
24 Senator.

1 First of all, I'd say that I think
2 it's important for people to understand that
3 we are not in any way abandoning or getting
4 rid of IMPACT, we are building on and
5 improving IMPACT. I firsthand saw the
6 benefits of IMPACT as the district attorney
7 in Monroe County for eight years, and we
8 relied on that program. I think I know the
9 strengths of that program, and that's one of
10 the reasons why we're not abandoning it,
11 we're building on it.

12 But the other reality is that IMPACT
13 was designed 10 years ago. It was designed
14 at a time when we didn't have Crime Analysis
15 Centers. It was designed at a time, you
16 know, when we had different issues and
17 different problems. And it hasn't been
18 significantly changed in 10 years.

19 I went around the state personally, I
20 met with police chiefs, sheriffs, district
21 attorneys, probation directors in Rochester,
22 Buffalo, Syracuse, Albany, Nassau, Suffolk,
23 Newburgh, Poughkeepsie to get input with
24 regard to GIVE and to talk to them about what

1 their challenges were and how we could help
2 them.

3 And GIVE is an enhancement of IMPACT
4 based on our evaluation of what's happening,
5 based on the feedback we've gotten from
6 partners. And frankly, in every one of those
7 places where we went, the feedback I got from
8 the police chiefs and the sheriffs was that
9 they welcomed the enhancement that this is
10 going to bring. In every one of those
11 communities they talked about the challenges
12 that they have in terms of shootings, in
13 terms of homicides. They talked about how --
14 you know, that's what their communities were
15 focused on, young people -- mainly young
16 people, and in many cases young people of
17 color -- are dying, and they felt the need to
18 do something about it.

19 So we're taking the strengths of
20 IMPACT, the partnerships, the relationships,
21 the intelligence-based policing, and we're
22 taking it to the next level by making sure
23 that those efforts are tied more closely with
24 the Crime Analysis Centers that we didn't

1 have when IMPACT was designed, by narrowing
2 the focus so that we're dealing with
3 firearm-related crime, we're dealing with
4 shootings and we're dealing with homicides.

5 While crime was down in the IMPACT
6 jurisdictions, last year murder was up, and
7 up significantly, up about 14 percent.

8 So while I understand your concerns,
9 we were very careful to make sure we got
10 input from the people on the ground. And I
11 don't think this program will in any way
12 abandon their efforts, but I think it will
13 help each and every one of them to address
14 the concerns that their communities have and
15 that they have.

16 SENATOR GALLIVAN: Thank you.

17 My next question also deals with the
18 localities; specifically, a proposed decrease
19 in Aid to Localities funding by
20 \$10.7 million. And again, it's really the
21 same thing; not focused on the same area, but
22 everybody has these challenges.

23 That \$10.7 million decrease, you might
24 have accounted for it in increases in other

1 areas, I don't know. But could you talk
2 about the decrease and the rationale behind
3 it?

4 EX. DEP. COMMISSIONER GREEN: Sure.
5 If we're talking about the same thing, I
6 believe that the decrease comes from a number
7 of places. I think there was \$2 million
8 within that large pool of money that had been
9 set aside to see whether or not there were
10 additional costs from the DNA expansion that
11 came about. Those costs never materialized.
12 I think that \$2 million was taken out.

13 I think CARP was changed or reduced by
14 \$1.7 million. That's the Crimes Against
15 Revenue Program. And that reduction doesn't
16 take any funds away from localities, it's
17 simply putting the appropriation in line with
18 what was actually given out the last several
19 years.

20 I think there was a \$1 million
21 reduction in a one-time fund that was put in
22 last year's budget as a seed program for some
23 crime prevention programs that I don't
24 believe was ever designed to be reoccurring.

1 The rest of the \$10 million was, as I
2 understand it, in programs that were one-time
3 or non-reoccurring programs that were in last
4 year's budget that are not in this year's
5 budget.

6 SENATOR GALLIVAN: One other reduction
7 in funding has to do with a \$600,000 item for
8 the indigent parolee program. That's a
9 little different than the indigent legal
10 defense. Local communities in areas where
11 there are state prisons, when there is
12 somebody -- when they have a parole issue,
13 have been denied parole, there's an appeal,
14 the local communities had been forced at
15 times to pick up the tabs for the defense of
16 those inmates.

17 We have funded it the last number of
18 years. Specifically, last year it was
19 \$600,000, and that has been cut as well.

20 Can you comment on that?

21 EX. DEP. COMMISSIONER GREEN: And
22 again, if I'm not talking about the same
23 thing, I apologize. But I believe that's an
24 area of the budget where historically it's

1 been a legislative add that's been put in
2 that hasn't always been carried in the
3 Executive's budget. And I think it's the
4 same model, at least preliminarily, in the
5 Executive Budget this year.

6 SENATOR GALLIVAN: Finally, for the
7 sake of time, while there will be much
8 discussion on the Commission on Youth, Public
9 Safety and Justice that you had talked about,
10 it's not a significant budget item this year.

11 I'd be remiss if I didn't point out
12 that we have to think of victims as well, and
13 think of communities. And the 17-year-olds
14 that are in gangs that are committing very
15 violent acts, some of which the new GIVE
16 initiative is focused on, for gang activity.
17 But 16-year-olds have murdered people,
18 17-year-olds have murdered people, they have
19 raped, committed many violent acts.

20 And while I believe very strongly we
21 should be doing what we can to reduce,
22 prevent recidivism and properly rehabilitate
23 offenders, we still have to at the same time
24 think of community safety, think of victims,

1 and look at that entire large picture as
2 we're aware considering any different public
3 policy initiative.

4 Thank you.

5 ASSEMBLYMAN OAKS: Assemblyman Aubry.

6 ASSEMBLYMAN AUBRY: Good afternoon.

7 Thank you.

8 You just indicated that there was a
9 14 percent increase in homicides. Is that in
10 IMPACT areas?

11 EX. DEP. COMMISSIONER GREEN: Yes, in
12 IMPACT jurisdictions.

13 ASSEMBLYMAN AUBRY: Not statewide, but
14 specifically in areas that were IMPACT?

15 EX. DEP. COMMISSIONER GREEN: Correct.
16 New York City I believe had a 20 percent
17 decline.

18 ASSEMBLYMAN AUBRY: Right. And you
19 also indicated, and I'm trying to understand
20 that, that the new program, the gun program
21 will build on top of IMPACT. Does it
22 financially build on top of IMPACT? In other
23 words, will there be additional dollars going
24 to every IMPACT area in order to implement

1 the new gun interdiction program?

2 EX. DEP. COMMISSIONER GREEN: It will
3 financially build on IMPACT, but not in terms
4 of dollars going to jurisdictions. The
5 dollars going to jurisdictions will remain
6 the same. The same jurisdictions will be
7 eligible. But in terms of building, what we
8 are bringing to the table is technical
9 assistance, technical assistance from
10 national leaders to help jurisdictions shape
11 proven, effective strategies that both engage
12 communities and address gun violence.

13 ASSEMBLYMAN AUBRY: But no new money
14 relative to this particular effort.

15 EX. DEP. COMMISSIONER GREEN: No new
16 money that's going to go to the partners.
17 The same pool of money that's gone to the
18 partners in past years will go back to them.

19 ASSEMBLYMAN AUBRY: Okay. You also
20 propose a Council on Community Reentry and
21 Reintegration, and that is funded at
22 \$100,000, if I'm not mistaken. Is that --

23 EX. DEP. COMMISSIONER GREEN: The
24 Governor did propose that council, and my

1 understanding is that there is a \$100,000 I
2 think raise I think in the DCJS cash ceiling
3 in connection with that effort.

4 ASSEMBLYMAN AUBRY: And what does
5 that -- that's sort of less than a single
6 guard at Coxsackie, if I'm understanding.
7 That's about what the amount of money would
8 be.

9 So who will be on the council
10 specifically?

11 EX. DEP. COMMISSIONER GREEN: I don't
12 believe that those details have been released
13 yet. It's anticipated that it will include
14 leaders of state agencies, state officials,
15 it will involve leaders of community agencies
16 that work with reentry, it will involve local
17 partners. There will be a broad-based
18 consortium of the people and individuals that
19 are important for the reentry issue.

20 ASSEMBLYMAN AUBRY: There are federal
21 dollars that have been committed to reentry
22 councils around the country that the
23 Department of Justice has been administering
24 and giving out. And to my knowledge,

1 New York State has not competed for those
2 dollars, is that true?

3 EX. DEP. COMMISSIONER GREEN: I don't
4 know the answer to that. But I can certainly
5 check and get back to you.

6 ASSEMBLYMAN AUBRY: And we don't know
7 whether it's intended to compete, use this
8 money as a part of a match to compete for
9 federal money relative to that kind of a
10 council?

11 EX. DEP. COMMISSIONER GREEN: No, I do
12 not.

13 ASSEMBLYMAN AUBRY: It would be
14 helpful for me to know exactly what that
15 means.

16 And relative to the implementation of
17 another commission, a group that is going to
18 study the raise the age, who will be on that?

19 Raise the age has been around for a
20 while. It's not new. We've had several --
21 we've had the Chief Judge, we've had former
22 judges, experts over the last four or five
23 years, and I believe even legislation that
24 has proposed the changing of that. What

1 makes this effort different as opposed to
2 simply building on the knowledge that is
3 already out there?

4 EX. DEP. COMMISSIONER GREEN: I
5 believe that as the question or statement I
6 got from the last Senator points out, this is
7 a very complex issue. It's incredibly
8 important to our youth, it's incredibly
9 important to the state in terms of public
10 safety.

11 And I think that the reason that the
12 Governor proposed the commission is to make
13 sure that New York State gets this right,
14 that we don't simply take a step of raising
15 an age without looking carefully at how do we
16 raise that age, how does it get implemented.
17 You know, how is it applied, how does it
18 apply to violent crimes and people who are 16
19 to 20 years old who account for 41 percent of
20 the robbery arrests right now and 28 percent
21 of the violent felony arrests. And how do we
22 do that in a way that both gets results that
23 are better for our youth and protects our
24 community.

1 And to do that and to do it right, I
2 believe the Governor has indicated, and I
3 agree, that a broad-based commission is
4 necessary --

5 ASSEMBLYMAN AUBRY: You made mention
6 before about the plight of victims relative
7 to the commission of crimes. And most
8 studies, particularly studies that I've seen
9 in and around New York City, is that the
10 victims of crimes tend to be the same age
11 range as the perpetrators of crimes. And yet
12 I think when we look at how victims' services
13 money is spent in this state, it rarely goes
14 to those young people of color and their
15 families in their effort to recover from
16 crime.

17 Is there any particular reason for
18 that? Has that been studied? And are there
19 any proposals to try to change the way those
20 monies are spent, given who tend to be the
21 real victims of crime in this state?

22 EX. DEP. COMMISSIONER GREEN: And I
23 can't speak for the Office of Victim
24 Services, they're not part of DCJS.

1 But I can tell you that, first of all,
2 your observation, particularly with regard to
3 murders, is true, that there are significant
4 number of victims of murders, particularly
5 gun-involved murders, that are young and that
6 are people of color.

7 I can tell you that at DCJS we do fund
8 agencies who is specifically work with young
9 people who have been both system-involved in
10 terms of being arrested but have also been
11 victimized, and try and work with them to
12 address the trauma that may have put them in
13 the system in the first place. So I do think
14 it's an important issue, and it's something
15 that we are focused on.

16 ASSEMBLYMAN AUBRY: I find that
17 interesting, because through the Legislature
18 we provide funds for a group that deals in
19 restorative justice that's out of Brooklyn,
20 and yet the Executive has never picked that
21 up nor encouraged it nor tried to expand it
22 statewide. And it is one of the few programs
23 we know that tries peer-to-peer work for
24 individuals who have been victims as well as

1 perpetrators.

2 And so from a policy point of view, I
3 can't quite understand why such an effort
4 would not be embraced by an executive agency
5 who is charged with the kinds of
6 responsibilities you guys are.

7 Thank you.

8 CHAIRMAN DeFRANCISCO: Thank you.

9 Senator Hassell-Thompson.

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

12 Commissioner, I have to tell you that
13 this is probably one of the first times that
14 I've attended a budget hearing in 14 years
15 and was prepared to compliment the
16 commissioner and can't find fault with his or
17 her presentation.

18 And I'm very appreciative, I believe,
19 of the fact that there appears to be, in my
20 impression, an understanding by you, and
21 hopefully your full department, as to how we
22 really need to approach criminal activities
23 and align it with justice in this state.

24 Many of the projects and programs that

1 have been announced and that you're going to
2 have responsibility for are things that many
3 of us have fought for for many years to
4 ensure that we look at not only alternatives
5 to incarceration, but that we adjudicate
6 these cases in the proper courts.

7 That's why earlier I asked
8 Judge Prudenti about whether or not her
9 budget really reflected what you've designed
10 and what you've laid out in terms of what is
11 going to happen with raise the age and some
12 of the other projects that you propose.

13 The State of New York has a real
14 opportunity not only to look at its
15 correctional facilities as we close prisons,
16 but as we look at alternatives to how we deal
17 with our prison population. But it
18 definitely is creating an opportunity to do
19 something with our youth courts and how we
20 deal with juveniles in this state.

21 I do not pretend to be soft on crime,
22 but I do admit to being what I hope is smart
23 on crime. And I think that if we look at
24 criminal activity in its reality, put our

1 resources appropriately where they need to
2 be, use some of the innovative things that
3 Brooklyn and other communities have been
4 doing successfully, and tie them together so
5 that they have some uniformity in this state,
6 I think we will go a long way towards getting
7 a rein on criminal activity.

8 We look at the heroin -- this week,
9 with the death of Actor Hoffman, it just
10 highlighted a serious issues that both
11 upstate and downstate has been wrestling
12 with, with the return of heroin to our
13 communities. And heroin for the first time
14 is affordable. It's in the hands of
15 everybody, \$5, you know, the availability of
16 it. And yet the potency of it is something
17 to be deeply concerned about in terms of a
18 health community.

19 So you've got a lot on your plate.
20 And I would like to believe that the role of
21 this Legislature would be to ensure that
22 while we may not be ecstatic about every
23 single thing, that we do recognize that your
24 department has done an extraordinary job in

1 designing and redesigning what criminal
2 activity -- how we address criminal activity
3 in this state as well as how we do justice in
4 our state. And I thank you for that.

5 EX. DEP. COMMISSIONER GREEN: Thank
6 you.

7 CHAIRMAN FARRELL: Assemblyman Graf.

8 ASSEMBLYMAN GRAF: As far as raising
9 the age to 19, I believe it is, I'm looking
10 at -- there's supposed to be a deterrent.
11 I'm retired from the police department. And
12 here's one of the problems that I see, is we
13 constantly had like 14-year-olds,
14 15-year-olds back in the '80s that would be
15 on the street, right, selling the drugs,
16 they'd work for somebody. And they'd get a
17 slap on the wrist, because it wouldn't really
18 be criminal activity, it would be a youth.
19 Then once they hit 16, okay, and they kept
20 selling, then they'd go in as an adult.

21 And believe it or not, what we would
22 find is though they kept repeating that
23 behavior in the same precinct where they were
24 getting arrested all the time, once they hit

1 16 and they went through the adult part of
2 the criminal justice system, we didn't see
3 them anymore, because now there were
4 consequences.

5 And I do have some concerns -- I mean,
6 we've had recently the knock-out game that
7 they're playing. Some people may think
8 that's kids being stupid. But at the same
9 time, there's real consequences to those
10 actions.

11 We have a heroin epidemic, and it's
12 all over the place. And we have kids dying,
13 we have families being destroyed. And I'm
14 looking at this as part of it too, where if I
15 raise the age, now that child that gets the
16 slap on the wrist can keep doing it till he's
17 19 years old. I have some concerns about
18 that.

19 We do have some models, though. I
20 mean, you have the drug court and you have
21 veterans court right now. And I think that
22 the criminal justice system or the judges can
23 actually -- I'm trying to see what the need
24 for this is. . Because if you have that, they

1 can come into court and like in the drug
2 court, they'll sign a contract, they'll plead
3 guilty, right, to whatever the charge is,
4 they'll be in a highly supervised program for
5 a year or whatever it may be, on an
6 interim-probation-type thing. Then it can
7 get reduced to a violation, which is not a
8 crime.

9 I mean, I'm just looking -- wouldn't
10 that be a better way to control behavior --
11 or not control behavior, but to keep an eye
12 on the individual? I mean, if they go from a
13 misdemeanor right down to a violation where
14 they're not being charged as an adult, I'm
15 trying to figure out what kind of impact is
16 that going to have on crime in our state.

17 The other thing is getting back to the
18 heroin and oxycodone. And what I've seen,
19 and you can correct me if I'm wrong, the
20 oxycodone, they're buying those and after a
21 while seeing that it's \$50, \$60 a pill, and
22 basically how they're getting hooked is
23 they're saying, okay, look, you can get the
24 same high with heroin by snorting it. And

1 then what happens is they can't get the same
2 high, they get them to shoot it, and then
3 they're done. All right?

4 And a lot of that is being brought in
5 by -- they're actually organizations. So
6 there's one guy sending out people to sell,
7 and they're going to be recruiting children
8 into that. Can you address what are we doing
9 with trying to work with the federal
10 government or form a task force, okay, to
11 start really taking a hard look at the heroin
12 problem that's -- you know, I'm hearing about
13 it in Saranac Lake, I'm hearing about it on
14 Long Island, all parts of the state. This
15 isn't, you know, just one area -- and going
16 after RICO prosecutions to really break this?
17 And, you know, I'm just wondering what are
18 you doing there.

19 Are we looking at forming a task
20 force? Would the money be better spent
21 forming a task force where we can bring in
22 the State Police, city police and everyone
23 else to form a task force and bring in the
24 feds and start doing RICO prosecutions where

1 there's real punishment for those actions and
2 there's a real deterrent for it? Because
3 right now it's out of control. And what are
4 you doing to address the heroin problem
5 that's going on throughout the entire state?

6 EX. DEP. COMMISSIONER GREEN: Two
7 questions. As to your first question, I
8 share your concerns.

9 I spent 25 years as a prosecutor
10 before I came to DCJS and handled every type
11 of case, spent 22 years trying murders. You
12 know, handled more than my share of cases
13 involving 16- and 17-year-olds who either
14 killed someone or got killed. So it is a
15 very real and a very legitimate concern.

16 I also look at the statistics, though,
17 that say currently 41 percent of robberies in
18 2012 were committed by 16-to-20-year-olds, 28
19 percent of the violent felonies in our state
20 were committed by 16-to-20-year-olds in 2012.
21 And when I look at the system, I say that I
22 think that there has to be a way we can do
23 better. I think there has to be a way we can
24 do better for our youth, and I think there

1 has to be a way we can do better for our
2 communities in terms of making our
3 communities safe.

4 And in response to a previous question
5 from the Assemblyman, I think that is the
6 reason for a commission, because this is a
7 complicated issue. I don't believe it's a
8 simple issue. I don't believe it's a
9 question of changing labels, I think it's a
10 question of taking a real and hard look at
11 what it is we're doing and what we can do
12 better to get better outcomes for our youth
13 and get better outcomes for our communities.
14 So I think your concerns are valid, and I
15 share them.

16 As to your second point, I absolutely
17 agree. We're hearing from our partners
18 across the state that heroin is increasingly
19 becoming a significant and very real issue.
20 At DCJS one of the things we do is training,
21 and we're looking at what we can do in terms
22 of law enforcement training to help support
23 our partners.

24 We are not a front-line agency, DCJS.

1 You mentioned a task force and you mentioned
2 police and State Police --

3 ASSEMBLYMAN GRAF: If you can hold on
4 for one second, I'm sorry --

5 EX. DEP. COMMISSIONER GREEN: Well,
6 just if you can just let me finish --

7 ASSEMBLYMAN GRAF: No, because I have
8 36 seconds. And you have plenty of time to
9 answer, and I get stuck with the clock.
10 Right?

11 The bottom line is the RICO
12 prosecution. Because you have to break the
13 back of the people that are bringing it in
14 here. So that is so important. I mean, and
15 it's been shown when they're trying to break
16 the organized crime in the City, the RICO
17 prosecutions are what broke the back of
18 organized crime. Okay?

19 This is no different. We need to turn
20 around and partner up with the feds in order
21 to have a real deterrent. And the best way
22 to have that deterrent is through a RICO
23 prosecution. So I want to know about a task
24 force and forming a task force to get this

1 done with all law enforcement throughout the
2 state. Because this is not -- we're not
3 looking at a heroin epidemic coming, it's
4 here. We have it. And it's a giant problem,
5 it's one of the biggest problems in the
6 state. And that's leading to more crime in
7 this state. And if we don't deal with it, we
8 have a problem.

9 EX. DEP. COMMISSIONER GREEN: And as
10 you know and I know from our experience on
11 the ground, those RICO decisions are made
12 between federal and state prosecutors as they
13 look at their cases.

14 Certainly from our perspective as a
15 support agency, we support cooperation
16 between the federal and state agencies. Part
17 of IMPACT was to grow that cooperation, and
18 part of GIVE is to continue that. So I
19 certainly agree that that's an important part
20 of the solution.

21 CHAIRMAN DeFRANCISCO: Senator
22 Nozzolio.

23 SENATOR NOZZOLIO: Thank you,
24 Mr. Chairman.

1 Commissioner Green, good afternoon.

2 EX. DEP. COMMISSIONER GREEN: Senator.

3 SENATOR NOZZOLIO: What your comments
4 were a few times back and reiterated this
5 time regarding percentages of
6 16-and-17-year-olds making up the violent
7 crime statistics, Commissioner, are those
8 convictions or are they arrests?

9 EX. DEP. COMMISSIONER GREEN: They're
10 2012 arrests.

11 SENATOR NOZZOLIO: Do you have any
12 sense of those 16-and-17-year-olds in terms
13 of their conviction rate and their deployment
14 as a youthful offender status even for those
15 types of felonies?

16 EX. DEP. COMMISSIONER GREEN: I don't
17 have the entire breakdown in front of me, but
18 I do know that when you're looking at
19 16-and-17-year-old arrests in the criminal
20 justice system, I believe in 2012 about
21 95 percent of those arrests resulted in
22 non-criminal dispositions, or dispositions
23 that didn't leave someone with a criminal
24 record; whether it was a youthful offender

1 adjudication, whether it was an adjournment
2 in contemplation of dismissal, whether it was
3 a plea to a non-criminal offense, roughly
4 5 percent in mainly very serious crimes --
5 robberies, homicides, rapes, things
6 like that -- resulted in actual criminal
7 convictions which left someone with a
8 criminal record.

9 SENATOR NOZZOLIO: And I know in your
10 prior responsibilities as the Monroe County
11 district attorney, I've seen you prosecute
12 those who have committed those types of
13 crimes, or even more serious in terms of a
14 young person actually committing murder, I
15 know your office prosecuted aggressively
16 those crimes and were successful in those
17 prosecutions.

18 The question that we have is that
19 there is -- although no line item in the
20 budget for this, the courts have been talking
21 about and some of our colleagues have been
22 taking about establishing in effect an
23 amnesty for those who are convicted of very
24 serious youth crimes.

1 The statistics that you're showing I
2 think say a couple of things. They showing,
3 first of all, a wide variety of arrests. We
4 have a youth violence problem out there with
5 robbery and other serious violent felonies.
6 In terms of conviction, most have been
7 convicted, but you're not -- I don't know if
8 you can elaborate today, but if you can it
9 would be helpful. How many are actually sent
10 to state jail in those categories, the
11 16-and-17-year-olds who have committed an
12 enumerated violent felony?

13 EX. DEP. COMMISSIONER GREEN: I
14 believe it was 746 were sent to state prison
15 in 2012. I'd have to double-check to make
16 sure that's accurate. And the overwhelming
17 majority of those, again, for things like
18 robbery, murder, rape, significant crimes.

19 SENATOR NOZZOLIO: The more serious of
20 the violent felonies.

21 Well, I appreciate your presentation
22 today. You give us a lot of food for
23 thought. And we'll be working with you on
24 this in the months ahead. Thank you.

1 EX. DEP. COMMISSIONER GREEN: Thank
2 you.

3 SENATOR NOZZOLIO: Thank you,
4 Mr. Chairman.

5 CHAIRMAN FARRELL: Thank you.

6 We've been joined by Felix Ortiz and
7 Assemblyman Gary Pretlow.

8 Next is Assemblyman Oaks.

9 ASSEMBLYMAN OAKS: Commissioner, thank
10 you for being here.

11 You talked about the prison population
12 and its reduction over the last decade plus,
13 going from 72,000 to 54,000. Do we have a
14 sense of 2013 crime figures yet? You know, I
15 know we're only a month into 2014, but where
16 the state was in its crime rate overall? Are
17 we seeing flat figures continuing down? Are
18 we seeing an uptick? And what is our
19 expectation? For what we know now of the
20 prison population, is that trend anticipated
21 to continue as it has?

22 EX. DEP. COMMISSIONER GREEN: In terms
23 of crime, we don't have final figures for
24 2013. But I do anticipate we're going to see

1 an overall statewide reduction in indexed
2 crime for 2013.

3 Preliminarily, it looks like New York
4 City is going to come in relatively flat in
5 terms of indexed crime for 2013 but,
6 significantly, about a 20 percent drop in
7 homicides. It looks like the rest of the
8 state is going to come in with roughly a 7
9 percent drop in indexed crime, but
10 unfortunately an increase in homicides,
11 potentially I think about a 14 percent
12 increase in homicides.

13 But overall I think it will result in
14 a slight overall reduction in crime statewide
15 for 2013.

16 I don't have 2013 prison population
17 numbers, but -- I hate to pass the buck here,
18 but I think Acting Commissioner Annucci might
19 be able to help with that.

20 ASSEMBLYMAN OAKS: The 20 percent
21 homicide reduction in New York, that is in
22 2013 from 2012?

23 EX. DEP. COMMISSIONER GREEN: Correct.

24 ASSEMBLYMAN OAKS: And was there an

1 uptick in 2012, or --

2 EX. DEP. COMMISSIONER GREEN: No,
3 there's been an incredible, incredible
4 decline. They went from a high of well over
5 2,000 homicides a year to last year below 400
6 homicides a year.

7 ASSEMBLYMAN OAKS: Thank you,
8 Commissioner.

9 CHAIRMAN FARRELL: Thank you.
10 Senator?

11 SENATOR KRUEGER: Thank you.
12 Senator Velmanette Montgomery.

13 SENATOR MONTGOMERY: Thank you,
14 Madam Chairperson.

15 And good morning, Commissioner. I
16 want to start by saying how much I appreciate
17 the time that you took to talk a little bit
18 about the SNUG program. And I'm so pleased
19 to know that you are adding to the allocation
20 that they received some technical assistance,
21 which will help them to become even more
22 professionalized and expert and are able to
23 continue to compete in terms of the work that
24 they do, because they're extremely important

1 to certain areas, especially like mine.

2 I want to ask you, though, a couple of
3 other questions. And a couple of questions
4 have been asked or sent to me from someone
5 who is at the Fishkill facility, and so --
6 since I visit the facilities and talk to
7 people a lot and get a lot of information.
8 So I would like so just pose several of those
9 to you, but I think I'll do it in writing so
10 that you can write back to me; that would be
11 very helpful.

12 But one in particular that I'm
13 interested in, of course, is he -- and this a
14 Mr. Robinson at Fishkill. And he is
15 interested in knowing what can we do to bring
16 back some of the activity related to higher
17 education in facilities. It's been so
18 successful and it's so important as it
19 relates to reducing recidivism, as well as
20 giving people, you know, an opportunity to be
21 much more productive once they leave prison.
22 So I'm hopeful that we can begin that
23 dialogue with you, as well as I know some of
24 my colleagues have been very much involved.

1 We'd like to see if you could be helpful in
2 any way in giving us some guidance along
3 those lines.

4 EX. DEP. COMMISSIONER GREEN:

5 Certainly. To the extent that I can, I will.

6 I'd also suggest -- and again, I
7 always hate to pass the buck, but I know you
8 have Acting Commissioner Annucci from the
9 Department of Corrections on as well, and he
10 would be a very important partner in
11 discussing those issues.

12 SENATOR MONTGOMERY: Absolutely. I
13 will.

14 And in relationship to the Alternative
15 to Incarceration, I don't see in the budget
16 where the programs that you are extending the
17 funding for, where they are, so I'm not able
18 to judge so ably. But I would like to know
19 because I know that there are a number of
20 programs that I'm familiar with.

21 But then I'm always confronted by the
22 problem that is raised when I talk to women
23 in particular, that we never seem to have the
24 same amount of support in terms of both

1 inside, but certainly alternative to -- the
2 ATI programs that are targeting for the women
3 in particular.

4 So I'm very curious to know where they
5 are and how you see those either expanding or
6 making them much more available for women,
7 because they usually are the people who, once
8 they return home, have families to worry
9 about in addition to their own issues. So
10 I'm interested in knowing where we are with
11 that.

12 EX. DEP. COMMISSIONER GREEN: We
13 certainly share your view with regard to the
14 usefulness of good evidence-based Alternative
15 to Incarceration programs. Last year there
16 was roughly \$11 million in the budget which
17 included us to fund a significant number of
18 programs. And my belief is that that same
19 \$11 million is in the budget this year to
20 continue that funding.

21 And that funding was put out both as
22 performance-based contracting to existing
23 ATIs, and also part of it put out through a
24 competitive proposal to make sure that the

1 Alternative to Incarceration services were
2 aligned both geographically and in terms of
3 need where they needed to be across the
4 state.

5 SENATOR MONTGOMERY: And I certainly
6 appreciate and respect the issue of the
7 programs that you're looking at being
8 evidence-based. I'm not sure how that
9 matches up with programs that do have some
10 regional or some particular social uniqueness
11 that may or may not be reflected in your
12 standard of evidence.

13 So that's why I would really like to
14 see, because sometimes -- first of all, I'm
15 not sure who is making the judgment as to
16 what the evidence is, what the standard is.
17 And there very often is a need to have some
18 mediation in terms of what is your standard
19 or what is your evidence versus what really
20 reflects a uniqueness in programs and in
21 outcomes.

22 So I would like to be able to work
23 with you very much more closely on that and
24 to be able to know what is it you are

1 actually determining to be evidence and to
2 make sure that women who return to districts
3 like mine are truly able to come and be
4 assisted in their reentry to the same extent
5 that men are. Not that we have enough ever,
6 but some programs may fit better than others.
7 Some programs may be judged differently than
8 you would. And we can talk about that, if I
9 know what's happening and what you're
10 thinking and what you're doing along those
11 leans.

12 EX. DEP. COMMISSIONER GREEN: And just
13 to give you a very brief answer, we've tried
14 to focus on reducing recidivism and making
15 sure that programs are programs that are
16 cost-effective in that regard. And we are
17 certainly happy and look forward to working
18 with you as we go forward in this area.

19 SENATOR MONTGOMERY: Thank you.

20 SENATOR KRUEGER: Assembly?

21 CHAIRMAN FARRELL: We pass.

22 SENATOR KRUEGER: Senator Kathy
23 Marchione.

24 SENATOR MARCHIONE: Deputy

1 Commissioner Green, thank you for all the
2 information today.

3 I have a few questions on the decline
4 in inmates. Your testimony states that in
5 1999 it was 72,000 inmates, and the current
6 population today is 54,142. My question is,
7 are there less people going into the prisons?
8 Is the number -- in fact, I asked the judge
9 today, what's the number of people going into
10 the prisons? Has that decreased or are they
11 getting out of prison quicker?

12 I guess I'm just interested to know is
13 the amount of people going into prison less
14 now than it was in 1999 or two years ago or
15 five years ago.

16 EX. DEP. COMMISSIONER GREEN: I don't
17 have the breakdown with me, but the answer is
18 yes, there are less people going into prison
19 per year now than there were in 1999.

20 SENATOR MARCHIONE: Can you get me the
21 information of how many from your statistics
22 are actually entering prison today in
23 comparison to those numbers, by maybe a
24 five-year period?

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EX: DEP. COMMISSIONER GREEN:

Certainly, either from our staff or maybe more appropriately from the Department of Corrections staff. I'm sure that one of us can get you the information.

SENATOR MARCHIONE: Okay. I'll ask them as well, then.

My second question -- and I believe this was a program that came through your department last year. I believe it was already established, but it was the program where if you turn your neighbor in that they have a gun that they're not supposed to have, the hotline went from just a turn your neighbor in to turn your neighbor in and get \$500. I believe that program is run through DCJS.

My question is on the heels of a very controversial new gun law where I had about 130,000 people in New York State sign a petition on my site against the gun law, with all of this opposition to new gun regulations and concerns about a new registry, why did DCJS at this time, if I'm correct, add the

1 bounty of \$500 to turn in your neighbor?

2 EX. DEP. COMMISSIONER GREEN: First of
3 all, the program you referred to was started
4 in -- I started at DCJS in March of 2012, and
5 that program was started a month before I
6 started. I never, in connection with
7 anything that DCJS or the state did, heard
8 the word "neighbor" associated with that
9 program.

10 That program was a program, from every
11 discussion that I was ever involved in, it
12 was designed to get information for law
13 enforcement with regard to people who shoot
14 and kill people, people who commit crimes
15 with guns, that terrorize our community, that
16 kill our young people, that kill our sons and
17 daughters. That was the purpose of the
18 program. In every conversation that I've
19 ever been in regarding that program, it's
20 always been the purpose of that program.

21 DCJS's role in that program is that if
22 and when there's a reward, we are the
23 mechanism through which that reward would be
24 paid out.

1 SENATOR MARCHIONE: So is there a
2 reward? And so what you're telling me -- and
3 I think it's terrific what you just told me.
4 So what you're telling me is that if you know
5 that your neighbor's gun isn't registered,
6 that's not what the hotline is for; it's only
7 for people who have killed people with guns.

8 EX. DEP. COMMISSIONER GREEN: I
9 believe I said shot, used guns in a violent
10 crime. My understanding is that's what the
11 hotline was for. I've never been in involved
12 in any conversation where it was contemplated
13 that this would be involved in paying rewards
14 to someone who gave information about someone
15 who didn't register a gun on time.

16 SENATOR MARCHIONE: Thank you very
17 much.

18 Thank you, Chairman.

19 SENATOR KRUEGER: Senator Smith, to
20 close.

21 SENATOR SMITH: Thank you very much,
22 Madam Chairwoman.

23 Good morning, Commissioner.

24 EX. DEP. COMMISSIONER GREEN: Good

1 morning -- good afternoon.

2 SENATOR SMITH: Good afternoon, that's
3 right.

4 And again, thank you and the Governor
5 and legislative colleagues, legislative
6 leaders, for the SNUG program.

7 Could you share your thoughts on the
8 program and exactly -- if there are some data
9 or statistics on the effectiveness of it,
10 could you share that as well?

11 EX. DEP. COMMISSIONER GREEN: I think
12 that, as all of your questions have pointed
13 out, the issue of crime and keeping our
14 communities safe is complex. There's no
15 single -- you know, if there were one single
16 magic answer, we would have found it a long
17 time ago and used it.

18 I think that SNUG or the "Cure
19 Violence" model can be one piece of a
20 successful crime prevention program that
21 would help make a community safer and in some
22 areas has.

23 In terms of data in New York, I think
24 that's one of the, you know -- I hate to say

1 weaknesses, but it's one of our areas of
2 challenge in the past. And one of the things
3 that we did with this round of SNUG
4 allocation is to build money in for an
5 evaluation, so that going forward with the
6 programs that we fund out of this allocation,
7 we will have an independent evaluation which
8 will be able to help us answer those
9 questions in terms of how did the programs
10 run, were they run with fidelity, what
11 effects did they have on the neighborhood,
12 what effects if any can be traced in terms of
13 crime.

14 So right now I can't give you that
15 information with regard to past programs.
16 But I can assure you that we're doing
17 everything we can to make sure we can measure
18 that with regard to the programs we fund now.

19 SENATOR SMITH: Okay. Well, let me
20 again thank you, the Governor, legislative
21 leaders, my colleagues here as well. The
22 SNUG program has been very significant
23 throughout the city and throughout the state.

24 We did a small analysis of the SNUG

1 program from 2009. I'd be happy to share
2 that information with you. It may not be as
3 scientific and extensive as what you could
4 prepare and have the wherewithal to do. But
5 we found it has been tremendous in
6 neighborhoods right down to the core.

7 And so today's announcement, as
8 Senator Ruth Hassell-Thompson has stated
9 earlier, Senator Velmanette Montgomery, is
10 good news for all of us. And I just want to
11 congratulate you, the Governor, again, my
12 legislative leaders, colleagues, on
13 supporting a great model and a successful
14 program.

15 EX. DEP. COMMISSIONER GREEN: Thank
16 you.

17 SENATOR KRUEGER: Thank you very much
18 for your testimony.

19 Our next speaker is Anthony Annucci,
20 acting commissioner, New York State
21 Department of Corrections and Community
22 Supervision.

23 ACTING COMMR. ANNUCCI: Good
24 afternoon, Chairman DeFrancisco, Chairman

1 Farrell, and other distinguished chairs and
2 members of the Legislature present here
3 today. My name is Anthony J. Annucci, and I
4 am the acting commissioner for the New York
5 State Department of Corrections and Community
6 Supervision. It is my honor to be here today
7 to briefly sketch some highlights of the
8 department's proposed budget and then answer
9 any questions you may have.

10 As was the case for the three prior
11 fiscal years, the department's proposed
12 Executive Budget for fiscal year 2014-2015
13 again advances Governor Cuomo's vision to
14 change the culture of state government and
15 transform all state agencies so that, with
16 pride and integrity, they will focus upon the
17 performance of core responsibilities in an
18 effective and cost-efficient manner, on
19 behalf of the people of this state. The
20 measure of success can be summed up
21 succinctly as what results have been
22 achieved, and what results will be achieved.

23 The budget for this agency is driven
24 in large part by the overall criminal justice

1 picture for the state. Today New York is the
2 safest large state in the country. Because
3 crime rates have plummeted, there has a
4 steady reduction in the demand for prison
5 capacity. As the inmate population has
6 continued to decline, prisons that are no
7 longer needed can close. By pursuing
8 policies that are tough, smart, and fair, we
9 can maintain and even improve public safety
10 while delivering savings to New York
11 taxpayers.

12 When I first started with this agency
13 in 1984, and for many years thereafter, the
14 landscape was vastly different. There was
15 extraordinary pressure to expand. We could
16 not build new prisons fast enough, and we had
17 little lead time to develop those alternative
18 programs that were approved by the
19 Legislature, such as earned eligibility,
20 shock incarceration, CASAT, expanded
21 temporary release, Willard, merit time, and
22 early parole for deportation.

23 The upward trend in prison growth
24 continued until December of 1999, when the

1 inmate population reached an all-time high of
2 71,600. This was followed by a steady
3 downward trend that continues to this day.
4 Presently, there are approximately 54,200
5 inmates confined in our institutions.

6 No metric is more compelling than the
7 changing demographics on the number of
8 incarcerated drug offenders. At the end of
9 1996, there were more than 24,000 drug
10 offenders in state prison. At the end of
11 2013, there were less than 6,700.

12 Consequently, last July I set in
13 motion the one-year notification procedures
14 in the Correction Law to close four
15 facilities effective July 26th of this year.
16 The total savings for taxpayers annually will
17 be approximately \$30 million.

18 An immediate department priority is
19 the welfare of the staff at these four
20 facilities. We have previously closed a
21 number of other facilities and have
22 successfully transitioned 97 percent of the
23 staff impacted to other facilities, other
24 state agencies, or retirement.

1 Our central office personnel and
2 staffing units continue to refine the ongoing
3 process to carefully advise affected staff of
4 their rights and options for employment at
5 other facilities, as well as elsewhere in the
6 state through our collaborative efforts with
7 Civil Service. On the day the closures were
8 announced, there were 673 employees at the
9 four facilities. As of February 3rd, there
10 were 368 staff remaining.

11 With regard to the surrounding
12 communities which have hosted these four
13 prisons over the years, the Governor's
14 Executive Budget allocates \$24 million in
15 economic development money for the affected
16 communities.

17 As for the inmate population, they
18 have been naturally attriting out of the four
19 facilities. Furthermore, these closures will
20 not in any way diminish the department's
21 ability to continue to house the inmate
22 population in facilities based on their
23 appropriate security classification.

24 The department is also focused on our

1 ongoing priority of the delivery of
2 evidence-based programs that will reduce
3 recidivism by reliance upon the risk, needs
4 and responsivity model. For this purpose the
5 department uses the COMPASS risk and needs
6 instrument at both reception, initial
7 facility placement, and just prior to release
8 to assign programs of treatment and levels of
9 supervision.

10 To facilitate the successful re-entry
11 of offenders into the community, there are
12 three important areas of focus: education,
13 employment, and healthcare.

14 All of our academic education programs
15 will continue to play a key role in the
16 upcoming year, but we are particularly
17 pleased with the continued growth of our
18 privately funded college programming that is
19 offered at 19 different facilities.

20 Approximately 1,200 inmates are presently
21 enrolled in college courses that are taught
22 by educators from approximately 15 different
23 institutions of higher learning from across
24 New York State.

1 Two other initiatives worthy of brief
2 mention are our Work for Success and Pay for
3 Success programs. The former serves recently
4 released low-risk parolees with low
5 employment needs. Parolees will be referred
6 by their parole officer to Department of
7 Labor Career Centers for services to
8 supplement the work search effort they would
9 undertake on their own. The services
10 provided include resume assistance, job
11 leads, and training referrals to match
12 parolees with appropriate job openings.

13 Pay for Success serves recently
14 released higher-risk parolees who are
15 randomly assigned to treatment and control
16 groups. The project is supported by a
17 \$12 million federal grant from the U.S.
18 Department of Labor. Job training and
19 transitional employment interventions are
20 provided by CEO, the Center for Employment
21 Opportunities.

22 Over a four-year period, the project
23 will serve over 2,000 parolees in New York
24 City and Rochester. Recidivism outcomes will

1 be carefully monitored.

2 Another important reentry-related
3 initiative is our inmate Medicaid enrollment
4 program. Upon release, the former inmate
5 will have Medicaid coverage for healthcare
6 needs in the community, resulting in a
7 continuity of care which should lower
8 recidivism and thus result in taxpayer
9 savings. This initiative also ties into the
10 Affordable Care Act.

11 In terms of other important
12 initiatives planned for the upcoming year, to
13 implement new policies and procedures
14 pertaining to our special housing units and
15 to also comply with the PREA standard
16 requiring the separation by sight and sound
17 of 16-and-17-year-olds, we will invest
18 \$3.8 million for the implementation of our
19 plan to designate general confinement housing
20 units at Coxsackie, Woodbourne, and Greene
21 for their separate placement. If disciplinary
22 segregation over 30 days is required, we will
23 ensure that they are offered five hours per
24 day of out-of-cell time, Monday through

1 Friday.

2 At Sullivan Correctional Facility, a
3 new initiative called the Correctional
4 Alternative Rehabilitation Program will be
5 established as an alternative to SHU, to
6 address the special needs of certain inmates
7 with intellectual or adaptive deficits who
8 receive SHU sanctions in excess of 30 days.
9 Following an orientation phase, participating
10 inmates will be offered four hours per day of
11 out-of-cell programming. This 64-bed unit
12 will be located where Phase II of the
13 Behavioral Health Unit had previously
14 operated.

15 Similarly, we will continue to advance
16 our PREA-related work to combat sexual abuse
17 and harassment of offenders in our care and
18 to comply with the national PREA standards.
19 We recently began the process of hiring PREA
20 compliance managers for designated clusters
21 of facilities.

22 In conclusion, there are many
23 challenges and expectations as well as
24 opportunities for the department in the

1 upcoming fiscal year. The Governor's
2 proposed budget nicely positions the
3 department to advance the interests of public
4 protection for all New Yorkers in a sound and
5 fiscally prudent manner, while simultaneously
6 developing new initiatives to lower
7 recidivism and achieve better outcomes.

8 Thank you for your time, and I now
9 would be happy to answer any questions you
10 may have.

11 CHAIRMAN DeFRANCISCO: The chair of
12 Crime and Corrections in the Senate, Senator
13 Pat Gullivan.

14 SENATOR GALLIVAN: Thank you,
15 Chairman.

16 Good afternoon, Commissioner.

17 ACTING COMMR. ANNUCCI: Good
18 afternoon.

19 SENATOR GALLIVAN: Let me first thank
20 you for providing a significant amount of
21 information that we had requested back in the
22 fall, shortly after you had announced there
23 would be closings.

24 I'd like to touch on some of those

1 things, and I likely will have to come back
2 because we'll run out of time.

3 First, how did you determine which
4 prisons to close?

5 ACTING COMMR. ANNUCCI: Well, let me
6 backtrack a little bit. I became acting
7 commissioner on May 1st, and I had to wrap my
8 arms around this very large agency with
9 29,000 employees and 54,000 inmates and
10 35,000 parolees.

11 There are a lot of issues going on at
12 the same time. But at some point the
13 recognition was made that the Governor, to
14 protect his options, had to go forward with
15 the closure plan. And as acting
16 commissioner, it was incumbent upon me to
17 survey the entire system, which consisted of
18 60 facilities, although two were already
19 slated for closure, and decide which ones
20 would have to be closed.

21 I can tell you that there are a number
22 of factors that we consider, and I assembled
23 a team of experts to come in and look at all
24 of these different factors. The drug

1 demographics drove a lot of this.

2 First of all, I wrote the shock
3 incarceration legislation actually in 1986,
4 passed in 1987. I am very fond of that
5 program. I still believe in it. The number
6 of drug offenders fed the shock facilities
7 for many years. The demand has drastically
8 been reduced, so we can safely house and
9 accommodate all of the demands for shock at
10 Lakeview and at Moriah. So it became obvious
11 that we could no longer continue Monterey.
12 So that was one decision.

13 Butler and Chateaugay, as you may
14 recall, were originally created in 1989 as
15 alcohol and substance abuse treatment
16 correctional annexes. They're small
17 facilities. The whole purpose was to provide
18 intensive drug treatment services. We were
19 overwhelmed with the crack epidemic at that
20 time. We had thousands and thousands and
21 thousands of individuals coming to state
22 prison.

23 That was part of a multifaceted
24 response to the drug epidemic. That purpose

1 no longer existed at Chateaugay or Butler,
2 and we also looked at those programs that
3 could be provided elsewhere. The same thing
4 for Mt. McGregor.

5 Let me also say this. I think we have
6 the finest Department of Corrections and
7 Community Supervision in the entire country.
8 And it's not because of the money we invest
9 in our buildings, it's not because of the
10 computers we buy, it's because of the staff
11 we have. They are such a valuable asset. It
12 is my sincere hope that every one of the
13 staff at those four affected facilities
14 remain employed with this department and
15 continue on doing the wonderful job they do
16 for us. They did nothing wrong. This is
17 entirely changing demographics; we have to
18 keep pace with it.

19 SENATOR GALLIVAN: You talked about
20 the classification system. And we have heard
21 anecdotally, with some data to back it up,
22 about how the medium-secure facilities are
23 becoming populated with more violent people
24 than the system looked like perhaps 10 years

1 ago.

2 So my question about classification --
3 and I know many factors go into classifying
4 somebody for maximum housing, medium,
5 minimum, and so on. And in the information
6 taken from your last annual report to the
7 Legislature didn't include totals, so if my
8 addition is off, correct me.

9 For the sake of discussion, you've got
10 roughly 24,000 maximum-security beds, roughly
11 33,000 medium-security beds. Do you have
12 exactly 24,000 maximum classified prisoners,
13 or is there more than that? I mean, does the
14 classification -- if the maxes become
15 overcrowded, does the classification move to
16 fit the bed?

17 ACTING COMMR. ANNUCCI: No, we have
18 not changed our classification standards
19 since I arrived here in 1984. All of the
20 individuals that need placement in a
21 maximum-security facility end up in maximum
22 security.

23 As you know, we no longer need the
24 minimum-security bed space that we had in

1 existence years ago, and we have less demand
2 for the mediums. Not only that, but I'm very
3 happy to report that we're actually seeing a
4 decrease in the demand for maximum-security
5 bed space, and I have continued the process
6 that was actually started under former
7 Commissioner Fischer of taking down the
8 double cells in the 13 male maximum
9 facilities where in 1995, because there was
10 such a demand, we had to have these
11 13 facilities identify 5 percent of their
12 cells -- these were cells that were
13 originally built to just house one inmate,
14 and we put two in there. And it was a lot of
15 stress and a lot of pressure on the system.

16 I am taking them down, continuing that
17 process. About a week ago we took down all
18 of the double cells in Great Meadow. I will
19 continue to do that because that is not a
20 good situation to have. The drop in demand
21 for capacity is allowing me to do that.

22 SENATOR GALLIVAN: I'm glad you
23 mentioned it. That's one of the areas that I
24 remain concerned about is the idea of double

1 cells, double-bunking. I know that they're
2 different. But very often they are cited --
3 well, first of all, that idea of the double
4 cells or double-bunking, you've got
5 facilities that were built to house a certain
6 number of inmates, and now you have more
7 inmates in there, which can create
8 potentially unsafe situations for staff as
9 well as the inmates.

10 I want to focus just a little bit on
11 the safety, what double-bunking might have to
12 do with it, but safety overall. There are
13 accounts time after time -- this morning's
14 paper out in the Buffalo area reports an
15 assault in Wyoming Correctional Facility.
16 We've got, just a couple of months ago,
17 double-bunking blamed in an account in the
18 Rochester area over at Groveland for six
19 incidents. Each case, of course, where both
20 inmates and staff were hurt.

21 And when we see certain reports that
22 indicate, coming from DOCCS, that -- my
23 semantics might be off, but that violent
24 incidents are down -- let me just cite one

1 incident. Back in November of 2011, out in
2 Orleans Correctional, a correction officer
3 was attacked, multiple stitches, concussion.
4 Fortunately, others came to his aid. And
5 when we wrote to then-Commissioner Fischer,
6 it was classified as an unusual incident so
7 it's not listed as an additional act of
8 violence.

9 So could you just comment on that in
10 general? We don't have time to explore it
11 and go greatly into it, because I am out of
12 time. But I remain just concerned about the
13 double-bunking, its contribution to the
14 atmosphere for inmates.

15 ACTING COMMR. ANNUCCI: You've raised
16 a lot of different things, and it's going to
17 take me a little bit to try and sort it all
18 out.

19 SENATOR GALLIVAN: I won't ask a
20 follow-up, because I'm out of time.

21 ACTING COMMR. ANNUCCI: So first of
22 all, to be clear, the term "double-bunking"
23 has meant a couple of different things over
24 the years. When we were overcrowded and

1 there was a lot of pressure, we used to fill
2 every cookie-cutter dormitory which when it
3 was built we originally put 54 inmates in
4 there, we put 90 inmates in there. And we'd
5 have to get authorization from the State
6 Commission of Correction. We generically
7 referred to that as double-bunking.

8 All of those variances came down. We
9 no longer have to go to the State Commission
10 of Correction for a temporary variance to put
11 inmates over and above what those facilities
12 were built for. The standard that the SCOC
13 sets -- and they have the constitutional
14 authority to do this -- the minimum standard
15 they set is for a multiple-occupancy unit you
16 can have no more than 60 inmates. And I
17 believe I sent a letter with pictures to
18 Senator DeFrancisco and you where you can see
19 it's 50 bottom beds and the back row in the
20 dorm has 10 bunk beds.

21 SENATOR GALLIVAN: And I have visited
22 some of those facilities as well, so I've
23 seen that.

24 ACTING COMMR. ANNUCCI: So we've been

1 doing that for many, many, many years. And
2 we do not see a cause and effect with
3 anything we're doing housing-wise with any of
4 the increases that we are seeing -- there's
5 been an uptick in violence, but it's been a
6 trend for a little bit of time. It's been
7 declining for some time.

8 First let me say this. When we look
9 at an assault in the state correctional
10 system, it's very different than the
11 definition that's in the Penal Law. If you
12 look at the Penal Law, every assault offense
13 has as an element the infliction of physical
14 injury. Right? Physical injury defined as
15 causing substantial pain or impairment of
16 physical condition.

17 Any attack by an inmate in a
18 correctional facility is considered an
19 assault and treated as such. So if an inmate
20 deliberately shoulders an officer or throws
21 an object at him, it's counted as an assault.

22 Notwithstanding that, there are
23 serious incidents. When I took over this
24 job, the first thing I said is what's

1 paramount is everybody's safety, the safety
2 of every staff member working in a
3 correctional facility, the safety of every
4 community supervision working in the
5 communities. This is a dangerous business.

6 I have assembled a task force of
7 people. They are going around to every
8 facility where there's been an uptick in
9 assaults. We are going to follow a similar
10 approach that was taken by outside law
11 enforcement. They look at hot issues, hot
12 places, hot people. We're going to be
13 looking at security protocols, we're going to
14 be making changes as warranted.

15 Just a quick anecdotal story. We have
16 some issues with the phone home program
17 because now we have the cheapest rates in the
18 country. So it's a valuable commodity. And
19 sometimes different groups within a
20 population will vie for control over the
21 phones. So we had an incident recently at
22 Auburn, and we figured the way to solve that
23 is now we will totally control who gets to
24 use the phone, what time, and there's a

1 process involved.

2 And that's one way that you can take a
3 positive step to try and bring down potential
4 violence in the institution and control for
5 commodities that have value.

6 SENATOR GALLIVAN: Thank you.

7 CHAIRMAN FARRELL: Assemblyman Aubry.

8 ASSEMBLYMAN AUBRY: Good afternoon,
9 Commissioner. Good to see you always.

10 And so when do you lose the "acting"?

11 (Laughter.)

12 ACTING COMMR. ANNUCCI: When do I lose
13 the "acting"? Let me say this. I am very
14 happy to be part of Governor Cuomo's
15 administration and helping him fulfill his
16 vision for New York, and I am very happy in
17 the current item I am in.

18 (Laughter.)

19 ASSEMBLYMAN AUBRY: I understand what
20 the item means, yes, I do. Thank you.

21 Lots of issues. While we have
22 decreased the number of inmates that are now
23 in our institutions, what has happened to our
24 staffing level, both security and

1 central office are now carefully reviewing
2 everything, even our medical staff, and
3 making sure that we're plugged into our
4 telemed to determine whether or not is an
5 outside medical trip actually needed in this
6 particular situation.

7 So we're going in the right direction.
8 But my ability to really manage this will
9 increase once everything settles in and the
10 system becomes one and everybody knows where
11 they're at.

12 ASSEMBLYMAN AUBRY: I also noted that
13 you have new SHU proposals that are a part of
14 this budget. Those are being enacted by
15 regulation, not by law?

16 ACTING COMMR. ANNUCCI: Where we're at
17 is this. It's part of a lawsuit settlement.
18 As we speak, there is a comprehensive interim
19 settlement that we have entered, the lawyers
20 have signed this. This was the lawsuit that
21 was brought by the New York Civil Liberties
22 Union. We have been meeting with them for a
23 number of months. The stipulation has been
24 signed. It is being discussed with the

1 clients. And assuming they approve, from the
2 plaintiff's side, it will next be presented
3 to the federal judge. If she approves, then
4 it will take effect.

5 And the things that I described are
6 part and parcel of it. The program for the
7 16-and-17-year-olds is a part of it, the CARP
8 program is a part of it. There are a number
9 of other elements that are part of it. There
10 will be more central office control, there
11 will be a lot of training involved, there
12 will be extra privileges involved for a
13 number of our SHUs.

14 And more importantly, the interim
15 settlement recognizes that this is only
16 dealing with a portion of the lawsuit. The
17 litigation will be stayed. We will continue
18 to negotiate with them. They have an expert,
19 we have an expert. They are actually working
20 collaboratively with us. We're doing site
21 visits, we're reviewing a lot of different
22 things.

23 We've worked under confidentiality,
24 but I can tell you that it's been a very

1 positive, very cordial relationship. We
2 really have the same goals. We want to only
3 put the right inmate for SHU for the right
4 time, we don't want them to decompensate.
5 There are a lot of different possibilities.
6 This is a very important, very meaningful
7 step for the State of New York, and we look
8 forward to continuing to work with them.

9 Again, it's not a done deal. I'm very
10 hopeful that we'll get the approval. This
11 snowstorm might actually affect their ability
12 to get to the facilities and meet with their
13 clients, but we're hopeful that they will
14 approve, and then we'll present something to
15 the federal judge for her approval.

16 And we welcome the partnership with
17 the Legislature, and hopefully you'll approve
18 our request there and let us go forward with
19 this.

20 ASSEMBLYMAN AUBRY: You know I'm
21 always looking.

22 My time is up, and so I will come
23 back. The parole board, are you testifying
24 for them or are they going to come

1 separately?

2 ACTING COMMR. ANNUCCI: The parole
3 board chairwoman has not been invited to this
4 hearing. I am not in a position to speak on
5 her behalf. I know there's been a lot of
6 discussion about the recent proposed change
7 in the regulations.

8 What I will say about is it is this.
9 I know her, I know her counsel for many
10 years. They are both people who are
11 extremely conscientious, extremely
12 professional. I'm sure they will look at the
13 comments that have been submitted, I believe
14 they were due this past February 1st, and
15 then decide where to go from there on the
16 regulations that are in flux.

17 ASSEMBLYMAN AUBRY: I'll come back,
18 thank you.

19 CHAIRMAN DeFRANCISCO: Thank you.

20 Before we go on, I want to digress,
21 because Assemblyman Aubry made a very
22 interesting observation that may have been
23 lost on the audience. Is it fair to say that
24 if you accepted the title of commissioner you

1 would take a pay cut?

2 ACTING COMMR. ANNUCCI: Let me say
3 this. It would be very difficult for --

4 CHAIRMAN DeFRANCISCO: A yes or no
5 would be --

6 ACTING COMMR. ANNUCCI: -- that I
7 would be making \$30,000 less than what I'm
8 currently making.

9 CHAIRMAN DeFRANCISCO: So the answer
10 is yes.

11 ACTING COMMR. ANNUCCI: Yes.

12 CHAIRMAN DeFRANCISCO: And the reason
13 I bring it up at this time, a commissioner
14 that testified yesterday actually took the
15 position and got a pay cut. And my partner
16 in crime here, Assemblyman Farrell, we passed
17 a bill last year to try to rectify that. And
18 it was vetoed on the grounds that it should
19 be done in the budget.

20 I just want to make an editorial
21 comment. We're in the budget now, and I'd
22 really like to see it get done. Because this
23 is ridiculous, quite frankly.

24 So thank you. With that said, Senator

1 Hassell-Thompson.

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

4 Good afternoon.

5 ACTING COMMR. ANNUCCI: Good
6 afternoon, Senator.

7 SENATOR HASSELL-THOMPSON: I want to
8 go back for a minute to the discussion about
9 the dramatic increase in the number of
10 assaults since 2009. And even looking at the
11 percentages, you know, sometimes when you
12 look at numbers from a numerical, there's one
13 thing. But you look at it percentages, the
14 percentages are really way off. But in this
15 case they're just bad overall.

16 And a couple of questions that
17 occurred to me is, do you have any idea --
18 and I was listening, but I could have missed
19 it. But what do you think accounts for this
20 increase?

21 ACTING COMMR. ANNUCCI: I have to look
22 deeper into the bigger picture. I can tell
23 you that the demographics of who's coming to
24 state prison have changed. It is an

1 increasingly violent population. I believe
2 65 percent of our population are serving
3 violent felony offense -- have been convicted
4 of violent felony offenses.

5 I also know that over 10,000 have
6 sentences with maximum life terms, which
7 means they're either convicted of an A-1 and
8 sentenced, or an A-2, or they were sentenced
9 as persistent felony offenders or persistent
10 violent felony offenders. But we've always
11 had a significant portion of our population
12 that has been serving time for those
13 offenses.

14 We're starting to look beneath what's
15 going on. I don't have a great answer for
16 some of the violent proclivities that we're
17 seeing. There used to be more authoritarian
18 gangs, but now there's subgroups within gangs
19 that seem to be independent. I would almost
20 analogize to what happened when we saw the
21 fall of the Iron Curtain. We previously had
22 the Iron Curtain, we previously had Russia in
23 control of everything, and when that fell we
24 saw a lot of different ethnic groups coming

1 forward with their own vendettas.

2 So we're seeing a lot of different
3 things. One of the things I'm going to do,
4 as part and parcel of my initiative, is reach
5 out to outside law enforcement, develop
6 working liaisons with the New York PD, with
7 the DAs Association and district attorney's
8 offices and get better intelligence
9 information -- who's coming into the system,
10 what are they doing, why.

11 SENATOR HASSELL-THOMPSON: The other
12 part of the question, would you think -- and
13 it's always interesting over the many years
14 I've had the opportunity to talk back and
15 forth to your predecessor and to you on some
16 good policy stuff. But I've also talked with
17 NYSCOPBA and some of the other organizations
18 representing officers. And somehow there
19 seems to be this nebulous kind of discrepancy
20 about how many officers there are in
21 relationship to how many there should be.

22 Would you believe that the numbers of
23 officers would make a difference in terms of
24 some of this, or they wouldn't have a role at

1 all?

2 ACTING COMMR. ANNUCCI: No, I don't
3 believe it's a question of the number of
4 officers. It's a question of behavior by
5 some inmates that are more challenging and
6 more problematic.

7 It's obviously important to keep every
8 needed item filled. And a day like today,
9 you know, and the snowstorm hits, a lot of
10 officers don't make it into the institution,
11 so that would affect what we can do. And
12 then we'll grant permission to run a limited
13 program so that we don't compromise anything
14 at the institution.

15 But I really think it goes to the
16 individual inmate. It's not a question of
17 not having sufficient staffing resources at
18 any of our institutions.

19 SENATOR HASSELL-THOMPSON: I'd like to
20 have spent more time talking about the
21 behaviorals, but that clock is dramatically
22 ticking. And I'd like to get an update, if I
23 can, on the closure of both Beacon and
24 Bayview, where are we with that. And

1 somewhat of a distribution of the economic,
2 you know, transformation monies that impact
3 the population by these closures.

4 ACTING COMMR. ANNUCCI: They did close
5 in the fall, both of those institutions. I
6 think an RFP was recently let out insofar as
7 Bayview is concerned, that I think might be
8 due responses sometime in February for an
9 alternate use. And I think ESD is doing
10 another study on Beacon. And that's what I
11 recall at this juncture.

12 SENATOR HASSELL-THOMPSON: We've
13 talked a lot about the Close to Home programs
14 with the closure of our medium and minimum
15 facilities. You know, how does the
16 department balance this? And volunteer forms
17 have recently been amended by adding language
18 soliciting information about passports,
19 history outside the U.S. Why is this
20 information being collected and why is it
21 necessary?

22 ACTING COMMR. ANNUCCI: To answer your
23 second question, I think that was something
24 that was recommended to us in the wake of

1 9/11. As you may know, we treat all
2 volunteers -- they're given the same status
3 as unpaid employees. They get into the
4 insides of our institutions, they perform a
5 very valuable service. But they're given
6 access that no other person is given within
7 our institutions.

8 So I think that was something that we
9 did in the wake of 9/11 so we have a better
10 idea of who's coming into our system. I can
11 relook at that, but I think it was put into
12 place as a result of 9/11.

13 SENATOR HASSELL-THOMPSON: And my
14 first question?

15 ACTING COMMR. ANNUCCI: I'm sorry,
16 what was the first question?

17 SENATOR HASSELL-THOMPSON: (Laughing.)
18 It's okay, I'm out of time.

19 I'd like to reserve the opportunity to
20 speak again, though.

21 CHAIRMAN FARRELL: Assemblyman Crouch.

22 ASSEMBLYMAN CROUCH: Yes, thank you,
23 Commissioner.

24 Talking to some of my sheriffs,

1 they've indicated that a state prisoner who
2 gets released on parole, if he violates
3 parole, he ends up back in the county
4 facility and that's where he seems to stay,
5 the state doesn't take him back.

6 In other instances when I've talked
7 the Governor's office, I would mention about
8 this, but the Governor's office seems to be
9 sensitive of pushing costs down to the
10 localities. That's what he indicated.

11 Could you comment on this? Why aren't
12 they going directly back to state prison if
13 they violate parole?

14 ACTING COMMR. ANNUCCI: Well, let me
15 say this. This administration is very
16 initiative to anything that impacts
17 localities and incurs costs. Parole
18 violators are a complicated issue. By law
19 right now, they're to be housed locally where
20 the violation is. That's where the evidence
21 is. The hearing has to be conducted there,
22 and then they get returned to state prison.

23 Notwithstanding that, I have had a
24 very positive meeting recently at the request

1 of the Sheriffs Association, who brought a
2 number of sheriffs to the table, where we're
3 really going to try and provide relief
4 wherever we can, expedite the parole
5 revocation process.

6 And I will also add that any time
7 there has been an exigent circumstance --
8 where, for example, a parolee has been
9 severely injured and may require intensive
10 medical care, the sheriff has reached out to
11 us, we have exercised our authority as a
12 substitute jail provision under the
13 Correction Law to transfer that individual
14 into state custody. We've done that on a
15 number of occasions, and the local jails have
16 been very appreciative of that.

17 I also have as one of my things on the
18 to-do list, because I have a very big to-do
19 list, but one of them is to take a global
20 look at how we're doing with technical parole
21 violators. It's a big issue. We have about
22 40 percent of -- a 40 percent recidivism
23 rate. But 29 percent of that are people who
24 are returned to state prison for having

1 violated parole in a significant respect.

2 There's a lot of research out there,
3 there's a lot of good things that can be
4 done, there's a lot of support for a swift
5 and certain sanction, not necessarily a long
6 sanction, to get the same change in behavior
7 that you were seeking.

8 So we have a lot of plans to look at
9 this carefully, to work with a lot of outside
10 partners. And to the extent we are
11 successful, we are confident that we'll be
12 bringing some relief to the jails. But we
13 recognize that this is a concern for them,
14 and it is an expense, and we want to provide
15 as much relief as we can.

16 ASSEMBLYMAN CROUCH: Thank you for
17 looking at that. My background was in county
18 government, and I'm very sensitive to pushing
19 the costs down. And it's just a little here,
20 a little there, whether it's parole or jails
21 or something else, every time it's another
22 hit to the counties. So I appreciate you
23 looking at that.

24 Level 3 sex offenders, you know, we

1 passed the law back a few years ago, I think
2 it was 2007, that Level 3s had to be civilly
3 confined. And at that time there was about 8
4 to 10 sex offenders being released every
5 month, of which about 10 to 12, 13 percent
6 could have been repeat offenders very easily,
7 they have a propensity for that.

8 Where are we with that process at this
9 point in time? Are they still being analyzed
10 if they're going to be offenders?

11 ACTING COMMR. ANNUCCI: We still
12 follow the Sex Offender Management and
13 Treatment Law, whereby any individual leaving
14 prison who is within that cohort is examined
15 by the Office of Mental Health to determine
16 if a SIST petition should be commenced. And
17 then that's filed in court, the AG presents
18 the case, and the individual, one of three
19 possibilities could happen. They could
20 either be sent as a civil person to a mental
21 health hospital that is operated by the
22 Office of Mental Health; they could end up
23 being supervised by our parole officers under
24 strict and intensive supervision.

1 That is still happening. I don't have
2 updated numbers as to the raw number of
3 individuals that are still in hospital by the
4 Office of Mental Health.

5 We do supervise these individuals very
6 intensively, not just the civil ones, but the
7 ones that are under regular community
8 supervision. Their rate of committing crimes
9 is very, very low because we do such an
10 effective job of intensely supervising them.

11 It is a challenge because -- not that
12 there was ever a good time to be a sex
13 offender, but now is the worst possible time
14 to be a sex offender. There's so many
15 residency restrictions, you can't live
16 anywhere near a school, and you have the
17 ability to look up these people and track
18 them down. So getting them into outside
19 communities when they require nursing home
20 placements -- and a lot of them do, some of
21 them are very sick, they've been in prison
22 for so long, an enormous challenge for us to
23 try and find placements for them.

24 ASSEMBLYMAN CROUCH: Under the

1 previous commissioner there was some
2 criticism about the number of vehicles that
3 were being purchased for prison
4 superintendents whether or not they were
5 actually needed.

6 So have you looked at the vehicles
7 that Corrections now owns and done anything
8 about the total number, whether your
9 superintendents have vehicles or a need for
10 those vehicles?

11 ACTING COMMR. ANNUCCI: I didn't get
12 the complete question. Have I looked at
13 something with the superintendents. The
14 homes?

15 ASSEMBLYMAN CROUCH: If they were in
16 charge of a prison, they always -- they might
17 have lived right next door, but they had
18 access to a state-supplied vehicle.

19 Oftentimes they were SUVs. And this was a
20 real question at that time, it was even on
21 the news, of whether or not they actually
22 needed to have that type of vehicle or a
23 vehicle at all.

24 ACTING COMMR. ANNUCCI: The vehicles

1 have been pulled, Assemblyman. They have to
2 commute in their private vehicles.

3 They were originally assigned vehicles
4 many, many years ago. It was a different
5 era. And the thinking at the time was that
6 the superintendent, if he needed to, had to
7 go to his correctional facility. We didn't
8 want anything interfering with that.

9 This is a different era now. There's
10 a lot of people hurting economically. And I
11 felt that I needed to make a change, and so I
12 set that in motion a few months ago.

13 ASSEMBLYMAN CROUCH: Good. Thank you.

14 CHAIRMAN DeFRANCISCO: Senator Little.

15 SENATOR LITTLE: Thank you.

16 And thank you, Commissioner.

17 Appreciate you being here and also appreciate
18 your accessibility and the ability to work
19 with you, as I have in the past.

20 I have a few questions, four, so I'll
21 try to be brief and get them all in.

22 I know there is an effort for savings.
23 And any time we see a reduction, we would
24 like to have some savings economically in

1 these facilities. But I believe that we
2 ought to be looking at some other areas of
3 savings rather than the closures, obviously.

4 A number of years ago we passed
5 legislation that the mentally ill inmate
6 should be treated differently, and I voted
7 for that. But I was told at that time, in
8 different times meeting with the commissioner
9 at that time, that the legislation when it
10 went to regulation became really overly
11 regulated and that there was a lot of
12 duplication taking place between the Office
13 of Mental Health and Corrections.

14 That there would be savings -- and I
15 visited one of these programs, so I know
16 they're very expensive per inmate. But have
17 you looked at savings or even asking for
18 relief from some of the regulations in the
19 care of the mentally ill inmate?

20 ACTING COMMR. ANNUCCI: Well, this
21 state has committed a lot of resources to the
22 care and treatment of mentally ill
23 individuals. This is a challenge to every
24 correctional system in the entire country.

1 The raw number of individuals with mental
2 illness committed to state prisons has
3 increased dramatically, for a lot of
4 complicated and complex reasons.

5 We, as you know, first settled a
6 complex lawsuit called DAI. Then the
7 Legislature passed the SHU Exclusion Law.
8 And we had to build programs to accommodate
9 the individuals who otherwise ended up in our
10 SHUs. We had to provide out-of-cell
11 treatment and programming. You can't do that
12 cheaply. Those programs require a lot of
13 staff, they required a lot of investments.
14 And we're doing a good job.

15 In fact, because of these other
16 tangential programs that we have -- the
17 Tri-ICP, the IACP -- the number of
18 individuals who are caseload inmates don't
19 end up in our SHU, they're able to be
20 maintained safely. And because we've been
21 successful there, we're able now to take a
22 program that had been at Sullivan, was
23 intended as Phase 2 for the mentally ill, we
24 can now use that for a different vulnerable

1 population, individuals whose IQ is 70 or
2 less. These are the people that would
3 otherwise be in our special-needs units.
4 Some of them can be aggressive, hit on the
5 other inmates. Now we'll have a program for
6 them.

7 SENATOR LITTLE: But the expense is
8 all I'm looking at, and seeing if you have
9 been able to maybe adjust or moderate some of
10 your costs. Because I know it was well over
11 \$100,000 per inmate in the beginning.

12 ACTING COMMR. ANNUCCI: Which
13 particular --

14 SENATOR LITTLE: The mental health
15 programs.

16 ACTING COMMR. ANNUCCI: You're saying
17 that our mental health programs are a hundred
18 thousand per inmate?

19 SENATOR LITTLE: That's what I was
20 told.

21 ACTING COMMR. ANNUCCI: Well, if
22 you're taking into consideration all of the
23 different programs, the answer is yes, that
24 sounds like a reasonable figure for me. It's

1 very expensive.

2 But the outcomes are very important.
3 To the extent that we can keep these
4 individuals from coming back after they're
5 released back into the community, I think
6 it's worthwhile.

7 SENATOR LITTLE: My fear is that it
8 just eliminates some of the work-release
9 programs. They have been reduced in numbers,
10 and -- but that's one question. And I just
11 hope you continue to look at the mental
12 health programs.

13 The properties. I mean, there are so
14 many properties that DOCCS owns around
15 facilities. And one year we were able to get
16 some of the rental money to repair them and
17 upgrade some of them. We need to sell some
18 of these. I mean, some of them are used for
19 nothing but junk and storage. And, you know,
20 people in the community could buy those homes
21 and whatever and fix them up. So another
22 idea.

23 The third question I have is I've
24 proposed -- and I haven't really had a

1 definitive answer that I liked, of course.
2 But trying to do, when we have two facilities
3 that are really near each other, and with
4 today's technology, to have a joint
5 administration. So that you would have the
6 superintendent -- and there's a number of
7 deputy superintendents and directors of
8 programs and facilities and all that -- would
9 operate two facilities. And there would
10 always be some in one and some in the other.

11 We're asking our schools to do it. I
12 really would hope that we could try something
13 like that in a pilot program. That way, keep
14 a couple of the small facilities open, which
15 are, you know, easy to work with the inmates
16 in smaller facilities and try to help with
17 the recidivism so that they don't come back.
18 So I continue to ask for that.

19 And my last question, because I know
20 I'm running out of time, is the money for
21 economic development. I've had two
22 facilities and an annex already closed. Are
23 they eligible for some? We finally have
24 someone looking at Camp Gabriels, that they

1 have bought it in an auction. It hasn't
2 closed yet. Can they get some of this money
3 for economic development to create activity
4 and jobs in our area?

5 ACTING COMMR. ANNUCCI: My
6 understanding is that for this particular
7 appropriation, the 24 million is for the
8 facilities that were just announced. I don't
9 believe that the other facilities will be
10 eligible.

11 But I don't also know whether there's
12 something remaining that they might be
13 eligible for. I'll certainly check that out
14 for you and get back to you.

15 Let me say this as to your earlier
16 suggestion. I respect your suggestion, and I
17 can see where someone on the outside might
18 think it's worthwhile. I'm in my 30th year
19 now with this agency, and I learned under
20 people like Tom Coughlin and Phil Coombe and
21 Glenn Good and Brian Fischer.

22 And what's absolutely paramount, what
23 I tell every single new superintendent, we
24 bring them into central office, they meet the

1 entire executive team and we discuss with
2 them what our expectation is. I say:
3 Listen, while we have come very far with our
4 technological abilities and emails and our
5 ability to stay in touch, certain
6 fundamentals never change. What you need to
7 do as a superintendent, and your executive
8 staff, you need to make regular rounds
9 throughout that institution.

10 And as you know, when you come to any
11 of our facilities, a lot of them are very
12 big. There's a lot of walking involved.
13 There's no way to be an effective
14 superintendent, to prevent potential trouble,
15 unless you're making regular rounds, you're
16 talking to the population, you're talking to
17 staff, you're staying in touch with your ILC,
18 your IGRC. That's very labor-intensive,
19 time-consuming. And these --

20 SENATOR LITTLE: Right, in a large
21 facility. But I'm talking about the smaller
22 facilities. We're asking our school
23 districts to do this, and towns and counties
24 and everyone to. I just still think it's a

1 possibility.

2 ACTING COMMR. ANNUCCI: I just don't
3 think they can fulfill all their
4 responsibilities. There's a lot we're
5 putting on their plate right now, Senator,
6 and whatever you might think we'd save
7 financially, you'd risk more by not having
8 the finger on the pulse. It's critical the
9 superintendent know his institution inside
10 and out.

11 And trust me, I've seen it, trouble
12 can happen at any time, in any place. You
13 need to be prepared for it.

14 SENATOR LITTLE: Thank you.

15 CHAIRMAN FARRELL: Thank you.
16 Assemblyman Felix Ortiz.

17 ASSEMBLYMAN ORTIZ: Thank you,
18 Mr. Chairman.

19 Good afternoon, Commissioner. Nice to
20 see you again.

21 ACTING COMMR. ANNUCCI: Good
22 afternoon.

23 ASSEMBLYMAN ORTIZ: I was trying to
24 follow up with some of the questions

1 regarding mental health issues in the prison
2 system, but I'm going to change that topic to
3 something else.

4 What has been the impact of
5 undocumented immigrants in the state prison?

6 ACTING COMMR. ANNUCCI: I'm sorry,
7 what has been the impact of --

8 ASSEMBLYMAN ORTIZ: Undocumented
9 immigrants in the state prison.

10 ACTING COMMR. ANNUCCI: I'm sorry, I'm
11 still not getting it.

12 ASSEMBLYMAN ORTIZ: We have a lot of
13 undocumented immigrants that are waiting for
14 deportation. Just I would like to know what
15 has been the impact of the undocumented
16 immigrants in the --

17 ACTING COMMR. ANNUCCI: Okay. Okay.
18 I'm sorry, I didn't quite get it, but now I
19 understand from you're going from.

20 Approximately 10,000 individuals, I
21 think, are foreign-born in our state prison
22 system. And there is an arrangement we have
23 in effect with the Bureau of Immigration and
24 Customs Enforcement. They do have a

1 presence. Individuals that they identify as
2 potentially being deportable, we make them
3 available to interview so that they can
4 determine their alien status, we give them
5 the records.

6 We have immigration courts within our
7 institutions for the cases to be tried. It
8 is a civil proceeding. This actually goes
9 back to the era of the first Governor Cuomo.
10 We actually sued the INS at the time because
11 they were slow in responding to our needs.
12 It was the first time and the only time in my
13 entire life I will be a plaintiff. But it
14 brought them to the table, and we got some
15 relief and we have a very good process now
16 that works.

17 We have a statute that allows for
18 early parole for deportation, so some
19 individuals convicted of a nonviolent crime,
20 after they serve half their sentence, they
21 can be deported to their country of origin.

22 I also have to make sure that my law
23 libraries have all the materials that they
24 need. And I've worked collaboratively with

1 outside legal organizations to actually bring
2 materials in, bring DVDs in so that these
3 individuals can learn what their rights are,
4 how to protect themselves so if they want to
5 challenge a possible deportation proceeding,
6 they can.

7 So it is a dynamic process, it's
8 ongoing. And the numbers from years ago I
9 know have gone down. I can get you the
10 latest statistics with their countries of
11 origin as well.

12 ASSEMBLYMAN ORTIZ: They are part of
13 the general population?

14 ACTING COMMR. ANNUCCI: Yes. Oh, yes.
15 They're part of the general population.
16 There's absolutely no reason to segregate
17 anybody based on the fact that they're an
18 alien or foreign-born individuals or any
19 other reason.

20 ASSEMBLYMAN ORTIZ: And then do you
21 work closely with the consul generals of
22 these --

23 ACTING COMMR. ANNUCCI: Yes, we do. I
24 periodically get requests from consulate

1 offices to provide to them the names of the
2 individuals that are from their country of
3 origin, whether it's Colombia or any other
4 country.

5 We also, incidentally, we have a
6 program that allows us to transfer inmates to
7 the prison system of foreign countries to
8 complete their sentence there. Which is
9 different from deportation. And so we do
10 work with them. If the individual applies,
11 he's eligible after he's served half his
12 sentence.

13 We solicit the opinion of the
14 sentencing court and the district attorney.
15 If they don't object, the person can be
16 transferred to the Justice Department to
17 finish serving his prison sentence in his
18 country of origin.

19 And we do give them access to their
20 consulate. We give them visits the same that
21 we give a legal visit. They can have
22 confidential visits with the embassy
23 representatives.

24 ASSEMBLYMAN ORTIZ: Now, two quick

1 questions. One has to do with cost.

2 Do you identify how much it's costing
3 the state when you have the undocumented
4 immigrants in prison, in the jail system?
5 And if you have identified how much it's
6 costing us, do you get a reimbursement from
7 the federal government as a result that you
8 have identified X amount of undocumented
9 folks that are going to maybe get deported or
10 some of them will be transferred to some
11 other facility?

12 ACTING COMMR. ANNUCCI: Yeah, the
13 general figure we use is an annual cost of
14 about \$42,000. It's not differentiated as to
15 whether someone is foreign-born or not.

16 But clearly there has been money saved
17 to the taxpayers from those individuals that
18 were granted an early parole for deportation
19 in the years when we had significant numbers
20 of drug offenders. Particularly like from
21 countries such as Jamaica and Colombia, there
22 were a number that did get that relief.

23 I don't think we ever quantified the
24 dollar savings. And I don't think we ever

1 quantified the dollar savings for the
2 individuals that are transferred to the
3 prison systems of foreign countries. It's
4 not big numbers, but there's some numbers.

5 The primary reason we do that is
6 obviously we care about the Americans that
7 are imprisoned in foreign countries. So to
8 the extent that we cooperate and allow
9 foreigners here to transfer home when
10 appropriate, and there's no objection,
11 there's reciprocity involved. So it works
12 for both.

13 ASSEMBLYMAN ORTIZ: And my last point,
14 very quick, is about how the immigration
15 reform, as we're talking about immigration
16 reform probably to happen in Congress, do you
17 be paying attention to how the immigration
18 reform will impact in the future regarding
19 whatever movement we might take in Washington
20 as we speak?

21 ACTING COMMR. ANNUCCI: It's hard for
22 me to predict exactly how it will play out.
23 I do know that -- in one of my prior roles,
24 when Governor Paterson was governor, I served

1 on a pardon panel. And I was one of several
2 individuals that reviewed these individuals
3 and their case histories and whether or not
4 the governor should grant a pardon so that
5 they could avoid deportation.

6 Each one is a very human story. A lot
7 of these individuals, even though they may
8 have committed crimes, they do have ties to
9 this country, they do have children in this
10 country. And a lot of them we felt would be
11 law-abiding citizens if they didn't have to
12 face deportation. So we submitted a lot of
13 recommendations for him to grant pardons for
14 a lot of these cases at that time.

15 ASSEMBLYMAN ORTIZ: Thank you. Thank
16 you, Commissioner. My time is up, but I
17 would like to add that you've been very kind
18 to address this issue, and this is a very
19 critical issue for all of us.

20 And I also would like to add to the
21 record that if it's possible that you can
22 identify and give to the chairman and us
23 where do these individuals come from
24 throughout the 62 counties. Thank you very

1 much.

2 ACTING COMMR. ANNUCCI: You're
3 welcome.

4 CHAIRMAN DeFRANCISCO: Senator
5 Montgomery.

6 SENATOR MONTGOMERY: Thank you,
7 Mr. Chairman.

8 And hello, Commissioner.

9 ACTING COMMR. ANNUCCI: Good
10 afternoon, Senator.

11 SENATOR MONTGOMERY: It's good to see
12 you, and I want to thank you for all the
13 support that you've provided. As you know,
14 we have lots of issues from my district, and
15 thank you for being helpful.

16 I just want to associate myself with
17 my colleague who talked about the problem
18 that I've raised over the years with such a
19 high rate of recidivism related to technical
20 parole violations. And so hopefully -- and
21 I'm happy to hear that you are going to be
22 looking at that and trying to figure out what
23 we do can do better than we've been doing.

24 But in reference to your statement

1 here, you talk about successful reentry,
2 thankfully. That's obviously something
3 that's so very important for us. But you say
4 three areas of focus: Education, employment,
5 and healthcare. And of course I'm assuming
6 you were including mental health and drug
7 treatment and all that.

8 ACTING COMMR. ANNUCCI: Absolutely.

9 SENATOR MONTGOMERY: But I just want
10 to also ask you to add to your list the issue
11 of housing.

12 ACTING COMMR. ANNUCCI: Absolutely.

13 SENATOR MONTGOMERY: It is so
14 critical. And I have two armories in my
15 district that are full of men. Most of them
16 are formerly incarcerated people with nowhere
17 else to go. And then of course there's all
18 of these other various and sundry
19 arrangements that they figure out to make for
20 housing.

21 So I guess I would wonder if you have
22 been able to speak to some of the other
23 agencies that do have housing money so that
24 we can -- you can hone in, if you will, on

1 some of those developments where we can put
2 more focus on housing the people who return
3 from you to communities.

4 ACTING COMMR. ANNUCCI: Absolutely.
5 That's also on my to-do list.

6 SENATOR MONTGOMERY: Okay, great.

7 ACTING COMMR. ANNUCCI: I will be
8 reaching out and trying to harness as many
9 resources as we can.

10 Your points are well taken. To
11 release an individual from state prison and
12 have that person end up in a homeless shelter
13 is not the ideal outcome.

14 SENATOR MONTGOMERY: It's horrible.
15 It is so horrible, yes.

16 ACTING COMMR. ANNUCCI: We're trying,
17 we're trying to have successful outcomes as
18 much as we can. Housing, you're quite
19 correct, is an important consideration in the
20 equation.

21 SENATOR MONTGOMERY: Thank you.

22 And I wanted to just follow up a
23 little bit on the question of Bayview being
24 closed and Beacon being closed, a couple of

1 things related to what happens to the women
2 in particular. Since Bayview was -- it was
3 my understanding that Bayview really
4 functioned as a reentry program, so women
5 going there were able to engage in certain
6 activities related to work.

7 ACTING COMMR. ANNUCCI: Right.

8 SENATOR MONTGOMERY: Where are those
9 women going now?

10 ACTING COMMR. ANNUCCI: The reentry
11 unit has reopened at Taconic.

12 SENATOR MONTGOMERY: At Taconic. So
13 are you then directing women from New York
14 City in particular to Taconic, as opposed to
15 sending them all the way across the state,
16 nine hours away from their home in the City
17 to -- what's the one, Albion?

18 ACTING COMMR. ANNUCCI: Albion.

19 SENATOR MONTGOMERY: Are you sending
20 women from New York City to Albion?

21 ACTING COMMR. ANNUCCI: Well, there's
22 no question that a number of female inmates
23 in Albion are from New York City. Reentry
24 targets an offender as they get closer to

1 their release. So you might start off with a
2 longer sentence, you might even start off at
3 Bedford Hills if you're a maximum-security
4 classification. Then at some point when
5 you're declassified to medium, you might
6 going to Albion and then eventually the
7 reentry unit at Taconic for release back into
8 New York City.

9 SENATOR MONTGOMERY: Well, I
10 respectfully request that we can somehow work
11 with you on making sure that the women whose
12 homes are in the New York City region, that
13 they be directed to at least Taconic. It's
14 not even as easy to get there as it is to
15 Bayview, but at least it's more rational,
16 more reasonable. And I would hope we could
17 begin to do that.

18 And women coming from other parts of
19 the state, they can go to Albion, and we
20 would all be happy.

21 I visited women in the Bedford Hills
22 facility, and there were many issues. But
23 obviously one of them is that they do not
24 have the number of activities. So places

1 where there's lots of activities, especially
2 with -- usually it's the men's facilities
3 that I go to. And the busier the men are,
4 the less violence there is.

5 So now in the women's facility they
6 had no activities. And they said to us that
7 there was all kinds of violence there.
8 Because even what they had the year before
9 had been eliminated somehow, I don't know if
10 it was for budget or for whatever reasons.

11 So my question, I guess, and request
12 is that we put more emphasis and focus on
13 making sure that we're doing at least as much
14 support for the women as we do for the men.

15 ACTING COMMR. ANNUCCI: I agree with
16 you wholeheartedly, Senator. There's no way
17 that I want to be even perceived as
18 shortchanging female offenders. They deserve
19 equal treatment, equal access to programming,
20 equal opportunity to leave prison as
21 law-abiding citizens.

22 I know we have a lot of very good
23 programs at Bedford Hills, I've seen them:
24 Puppies Behind Bars program, we have

1 parenting programs. There's a lot of good
2 activities that are there. But I'll sit down
3 with my deputy commissioner for programs and
4 the superintendent and make sure that if
5 there are programs where items need to be
6 filled that haven't been filled, that we take
7 care of that right away.

8 SENATOR MONTGOMERY: That's much
9 appreciated.

10 And they also need a differential
11 allowance, because there's personal needs
12 that women have that the men don't have. So
13 now, you know, it's equal, but it's not
14 equitable, because the women really need
15 more. So I'm hopeful that you can look at
16 that as --

17 ACTING COMMR. ANNUCCI: I will. I'll
18 look at that as well.

19 SENATOR MONTGOMERY: Okay. Thank you.
20 Am I out of time?

21 CHAIRMAN DeFRANCISCO: Yeah, a little
22 while ago.

23 (Laughter.)

24 SENATOR MONTGOMERY: I'm out of time.

1 Thank you, Commissioner.

2 ACTING COMMR. ANNUCCI: You're
3 welcome, Senator.

4 CHAIRMAN DeFRANCISCO: And I will just
5 ignore the sexist remark that women need
6 more, because I think that was a slip of the
7 tongue. Thank you.

8 (Laughter.)

9 SENATOR MONTGOMERY: We do need more.
10 We need more.

11 CHAIRMAN DeFRANCISCO: Okay, just the
12 Senators are left to question at this point;
13 Senators Marchione, O'Mara, Nozzolio and
14 Savino at the present moment. And we'll come
15 back to Ruth Hassell-Thompson because she's
16 got several other questions.

17 SENATOR MARCHIONE: Am I up?

18 CHAIRMAN DeFRANCISCO: You are.

19 SENATOR MARCHIONE: Oh, thank you.
20 Thank you very much.

21 I have a lot of questions, Acting
22 Commissioner. I heard you say earlier that
23 there were a team of experts who helped you
24 select which prisons should close. I don't

1 expect you to be able to name them as you sit
2 there, but I would like a list of the experts
3 that were part of your team.

4 Secondly, I wondered if there was
5 advanced planning of these closures. When
6 did this process start from where you're
7 sitting?

8 ACTING COMMR. ANNUCCI: There was no
9 advanced planning. I became acting
10 commissioner on May 1st, and shortly
11 thereafter I learned that we needed to make a
12 plan.

13 SENATOR MARCHIONE: So there was no
14 planning from a previous commissioner --

15 ACTING COMMR. ANNUCCI: No. No.

16 SENATOR MARCHIONE: -- this was just
17 we're going to close these prisons.

18 Okay, I have a question as to we've
19 been hearing all day here trends in prison
20 population going down since 1999. These
21 trends -- if stated, they must be true --
22 we're seeing a decrease in population, but
23 we've done no advanced planning on prison
24 closures, we just all of a sudden are going

1 to close prisons without advanced notice?

2 ACTING COMMR. ANNUCCI: Well, Senator,
3 what we've said is the population since 1999
4 has steadily been going down. And since that
5 period we didn't suddenly close prisons, we
6 were gradually reducing the double-bunked
7 dorms that we had, we took down annexes.

8 We took down a lot of capacity, and
9 when we reached a certain level, that is when
10 we started closing prisons, the first one
11 being --

12 SENATOR MARCHIONE: And I understand
13 that. And I don't mean to be rude, but I've
14 got such a little bit of time and so many
15 questions.

16 This is going to be 15 prison
17 closures. So in my thought, you know you're
18 going to be closing additional prisons, that
19 there should be some advanced indication of
20 where you're going to be going.

21 And I have Mt. McGregor in my
22 district. I visited, I saw scaffolding on
23 the outside of the buildings, you're in the
24 middle of a \$2.8 million restoration project

1 for windows in a place that now has been
2 decided to close. To me, that is a complete
3 waste and misuse of taxpayers' dollars,
4 because we're not planning. We don't run our
5 finances that way in our personal businesses.
6 If we know we're going to be closing -- and
7 this is No. 15, so we know we're going to be
8 closing -- there needs to be some advanced
9 planning so our taxpayers' dollars aren't
10 wasted.

11 And is it also true that that prison
12 is under an order from the Department of
13 Health that they must boil their water?

14 ACTING COMMR. ANNUCCI: I'm not aware
15 of any order by the Department of Health.

16 Senator, I have a complete breakdown
17 of every project that was done at the four
18 facilities. I can give you a few pages' worth
19 of detail as to what was planned, why it was
20 planned, when we got approval. There's a
21 five-year capital projects plan for the
22 system. Facilities require a lot of work.
23 You have to put these plans into place years
24 before you actually put a shovel into the

1 ground.

2 SENATOR MARCHIONE: Oh, so there was
3 some advanced planning in the closures. You
4 have been planning this for five years, which
5 ones are next.

6 ACTING COMMR. ANNUCCI: Yeah, but I'm
7 separating the capital rehab requests. Once
8 the decision was made and we knew it was
9 final, then we could take steps to either
10 stop those things that could be stopped, but
11 we also had to preserve the integrity of
12 buildings. We don't know what future use
13 there might be. There's a lot of
14 possibilities.

15 One example I'll give you. When we
16 closed the camp several years ago, Summit,
17 there was not a lot of possible reuse. But
18 after the hurricane, the county was desperate
19 to provide temporary housing for individuals
20 that had been flooded out. They came to us,
21 and we had actually been able to enter an MOU
22 that they would have been able to house
23 families there temporarily if needed.

24 If you don't take steps to preserve

1 the infrastructure, the integrity of
2 buildings, you won't even have that
3 available.

4 SENATOR MARCHIONE: I understand what
5 you're saying. But I also know in commercial
6 development many, many, many times you tear
7 the buildings down. And the idea of spending
8 \$2.8 million on windows because it may be
9 preserved, to me -- personal opinion,
10 Acting Commissioner -- is a waste of money.

11 And if it's true that there's a
12 boil-water order right there, Saratoga County
13 has a water line right outside the prison.
14 What danger are we putting inmates as well as
15 guards in if we have a boil-water order, if
16 it's true and it's out there?

17 So you also said that our prisons were
18 for drug and alcohol and a drug epidemic.
19 We're hearing today that there is a heroin
20 epidemic on the horizon. And with the
21 closure of all of these prisons, what will
22 happen -- and actually my question is
23 rhetorical, what will happen if all of these
24 prisons close? And those of us have been out

1 there for drug and alcohol and rehab -- and I
2 think our prison does much more than that --
3 I just wonder where will we house those
4 prisoners at that time.

5 The question I do have, sir, is where
6 have the upticks in assaults been. You
7 mentioned to someone else that they have
8 occurred. In which prisons is that
9 happening?

10 ACTING COMMR. ANNUCCI: Okay. Well,
11 let me see if I can sort this out one at a
12 time.

13 SENATOR MARCHIONE: That's the only
14 one I want you to answer, sir, is the one on
15 the assaults.

16 ACTING COMMR. ANNUCCI: Okay. You
17 don't want me to talk about the heroin
18 concerns or the drug treatment programs in
19 the prisons or --

20 SENATOR MARCHIONE: No, I do not. I
21 just wanted to let you have that -- not at
22 all. I only have seven minutes with one
23 minute left.

24 ACTING COMMR. ANNUCCI: Okay, so your

1 question, I didn't quite get it on assaults.

2 SENATOR MARCHIONE: The assaults, you
3 had said previous, sir, that there are
4 upticks in assaults at certain prisons.

5 ACTING COMMR. ANNUCCI: Correct.

6 SENATOR MARCHIONE: Which ones?

7 ACTING COMMR. ANNUCCI: In certain
8 prisons? Mostly in the maximum-security
9 prisons, but some mediums as well.

10 So we're going to focus on our
11 maximum-security prisons. That's where you
12 get placed if you have the longest sentences.
13 And we're going to start there, but we'll get
14 to some mediums as well.

15 SENATOR MARCHIONE: Okay. Sex
16 offenders, we've heard a lot about this. And
17 I have 45 seconds, so I can ask a question
18 and you can respond. The sex offenders --
19 are we looking to house sex offenders in one
20 prison? Has that been discussed? I know we
21 put on 21 new positions, administrative, to
22 handle sex offenders. Has it been thought of
23 that our sex offenders could be located in
24 one location and maybe not have to have so

1 state-readies. I know that we have to take
2 them within the requisite period of time, and
3 I believe it's 10 days from the date someone
4 is declared state-ready.

5 It would have to be something out of
6 the ordinary, some medical situation that
7 might cause a temporary problem. But I
8 wasn't aware of any backlog in our acceptance
9 of state-readies. If you know of any
10 specific case, please bring it to my
11 attention and I'll look into it.

12 SENATOR O'MARA: I will. Thank you.

13 In regards to the prison closures, I'm
14 sure you were here for my comments earlier
15 with Homeland Security and the fact that I
16 represent Schuyler County, where the Monterey
17 Shock Facility is, and what a detrimental
18 impact that is going to be to the community
19 in light of their prospective possibility of
20 concerns at the Montour Falls Fire Academy.

21 You know, it was just a year ago -- in
22 September of 2012 -- that I was at Monterey
23 Shock Camp celebrating their 25th
24 anniversary. Governor Cuomo provided a

1 Governor's proclamation commending the Shock
2 Incarceration Program, and in particular
3 Monterey, as having been the home of shock,
4 the model for shock incarceration in New York
5 State and in fact the national model for
6 shock incarceration.

7 And at the time then-Commissioner
8 Brian Fischer was at the ceremony that I was
9 at, and he stated this in his comments that
10 you have talked about: "Over time, our
11 prison system has changed and evolved. The
12 number of inmates in our system has declined.
13 The type of inmate entering has changed. The
14 age of the population has shifted, and we
15 have witnessed similar changes in those who
16 have entered shock, which has created a wider
17 pool of applicants."

18 Now, that seems to be counter to what
19 you're saying, if just in September of 2012,
20 nine and a half months before you announced
21 the closure of shock, that the changes in the
22 demographics of prisons have created a wider
23 pool of candidates for shock.

24 And we have made certainly changes to

1 shock-eligible crimes and raised the age
2 limit for individuals who are eligible for
3 shock. So why, in a nine-and-a-half-month
4 period now, that we no longer have a
5 sufficient pool of candidates to fill the
6 three shock facilities that we have?

7 ACTING COMMR. ANNUCCI: I can tell
8 you, you're quite correct that we have
9 changed the eligibility criteria about six
10 different times. When I wrote the statute in
11 '86, the cut-off age was 24. Then it got
12 raised to 26, then 30, then 35, then 40. Now
13 you can't have reached your 50th birthday.

14 We then also made a big change, it
15 used to be that if you were previously
16 convicted of a felony and got a state prison
17 sentence, you couldn't come into the shock
18 program. That was qualified to say only if
19 your prior conviction was for a violent
20 felony offense and you went to state prison
21 are you now disqualified from shock. So that
22 was a huge change.

23 But the most significant change was it
24 used to be that you could only recruit a

1 shock-eligible inmate from a reception
2 center. So if you came in with a four-to-12
3 sentence on a drug offense, you had to be
4 within three years of your eligibility for
5 parole date when you were in a reception
6 center. Four to 12 puts you out of the mix,
7 you went to general confinement, you could
8 never go back into the shock program.

9 That was a big change when we said you
10 can now recruit eligible inmates from general
11 population. It opened it up. And when that
12 change in the law happened, we had a surge
13 and we had a big demand for shock capacity.
14 But that was like one big wave. It then
15 settled down. Now we have empty beds in our
16 shock system.

17 I can't justify to the taxpayers three
18 facilities. I am very sentimental to
19 Monterey. This was the first shock facility.
20 I was at the first graduation. I think the
21 program is terrific. The staff are
22 phenomenal. The reality is the demand is not
23 there.

24 SENATOR O'MARA: Well, I don't want to

1 get into a dispute between why Monterey over
2 Moriah, they're exactly the same-size
3 facilities. And I don't want to get into
4 that argument.

5 But when we have a shock program that
6 as of September 2012 had saved the state over
7 \$1.34 billion, that has a recidivism rate at
8 half or less than the other population -- and
9 the Governor has a great concern over
10 recidivism rate. Obviously we want to have
11 productive corrections programs. And the
12 shock program seems to be extremely
13 successful, when the three-year rate for
14 shock recidivism is 26 percent and then all
15 DOCCS releases are 42 percent. Which
16 includes that 26 percent, so the rest of them
17 are even higher than 42 percent recidivism
18 rate.

19 Do you have any other ideas or
20 concepts on how we can make changes to the
21 shock-eligible inmates to have -- because
22 this is a program that seems to work. And it
23 seems to work to the assistance of localities
24 too. And as you mentioned before, the

1 Governor and his administration at least say
2 they're very concerned about impacts to
3 localities. The Monterey facility provides
4 over a million dollars of community services
5 in their platoon work crews that go out
6 providing services to local governments,
7 not-for-profits, to DOCCS itself at Elmira
8 and Southport, to the state parks in a
9 six-county region, to DEC in helping with
10 stream-bed maintenance and flood recovery
11 efforts.

12 And this is going to have an impact on
13 all these taxing entities as well as a cost
14 to the state to make up for those work crews
15 that are doing this work. And why not have
16 these work crews spread out around the state
17 to be able to provide these services in three
18 areas rather than just two distant areas of
19 the state?

20 ACTING COMMR. ANNUCCI: Your
21 points are well taken. All of those things
22 are positive aspects of the program.

23 I frankly don't have any more ideas
24 how to expand eligibility so that more

1 individuals are eligible. You can't go into
2 the program if you're convicted of an A1 or a
3 VFO or criminally negligent homicide or any
4 sex offense. I think really those kind of
5 exclusions are really integral to the
6 program's integrity.

7 SENATOR O'MARA: I agree with the
8 limiting of those significant violent felony
9 offenses.

10 So I'm out of time, I may come back in
11 a few minutes. Thank you.

12 CHAIRMAN DeFRANCISCO: Thank you.
13 Senator Nozzolio, then Senator Savino. And
14 that will be done with our first round on the
15 Senate side.

16 SENATOR NOZZOLIO: Thank you very
17 much, Senator.

18 Commissioner, always good to see you.
19 Thank you for your testimony. And yes, you
20 have been around the barn and done a lot of
21 good work for Corrections through your
22 career.

23 ACTING COMMR. ANNUCCI: Thank you.

24 SENATOR NOZZOLIO: Twelve hundred

1 college inmates. I'm more interested in how
2 many GEDs. How many GEDs are out there,
3 Commissioner, under the tutelage of the
4 Corrections Department?

5 ACTING COMMR. ANNUCCI: You know,
6 preparing for my testimony, I reviewed four
7 binders of information. I did have that
8 number --

9 SENATOR NOZZOLIO: That's all right.
10 Get it back to me. I'm much more interested
11 in GED than college.

12 ACTING COMMR. ANNUCCI: I was actually
13 surprised. It's higher than you think. I
14 was pleasantly surprised. But I'll get you
15 the number, as a percentage and a raw number.

16 SENATOR NOZZOLIO: Let me focus on
17 Butler, tying in with what Senators Marchione
18 and Little and O'Mara have already indicated.
19 It's tough to explain to our constituents why
20 \$60,000 worth of new windows are put up this
21 fall when we're announcing closure. Anything
22 further you could add and tell them why this
23 was being done?

24 ACTING COMMR. ANNUCCI: Again, it goes

1 to something that preserves the integrity of
2 the buildings. We don't know what ultimate
3 reuse there might be. We hope that it's
4 economically viable for the community.

5 I've been around a long time, as you
6 know, Senator, since 1984. I was around when
7 we couldn't build prisons fast enough. And I
8 certainly appreciate over the years the
9 communities that have welcomed us, and yours
10 is one district that certainly has worked
11 with us. And we appreciated that
12 relationship. Times have changed right now.
13 I never thought 15 years ago we'd see this
14 kind of downward trend. It has happened.

15 The one thing I will say in terms of
16 possible reuse, and this goes to McGregor as
17 well, we previously closed your camp and the
18 one at McGregor for possible reuse. It
19 becomes a lot easier if the whole place is
20 for reuse. It's very hard to have just a
21 part of a parcel that's adjacent to an
22 operating facility for a viable reuse.

23 So closing this aspect of it in your
24 district will at least increase the chances

1 of a viable reuse down the road.

2 SENATOR NOZZOLIO: As you indicate,
3 you know that Eastern Wayne County always
4 welcomed Butler with open arms. It's been a
5 great community host.

6 It developed a sewer system upon the
7 recommendation of the Corrections Department.
8 It's benefited the community, certainly, but
9 it benefited the prison more than the general
10 population. There is an outstanding sewer
11 district debt. That will be disputed.
12 Assemblyman Oaks and I had corresponded with
13 you that -- and you corresponded back to us.
14 We disagree. That this may be decided in the
15 courts. That certainly that's something we
16 need to be aware of.

17 And in terms of savings, it may not be
18 as cost-effective because of, let's say, a
19 third party, a judge, a court decides
20 otherwise. But we'll be back for that
21 discussion another day.

22 Surveying the state agencies. Did the
23 Corrections Department do that in review for
24 potential reuse? Let me ask you more of a

1 specific question. Your stats indicate that
2 there were 24,000 drug offenders in state
3 prison fewer than 18 years ago, 17 years ago.
4 Today, 6700.

5 On the front pages of the New York
6 City papers on Monday we didn't see the
7 Super Bowl, we saw Philip Seymour Hoffman's
8 death over an apparent drug overdose. The
9 person that sold him that heroin, Philip
10 Seymour Hoffman that heroin, should be in
11 jail. What's happening, I cannot believe
12 that with the drug culture in America -- and
13 particularly in New York -- still being a
14 significant problem, that we have so fewer
15 offenders in state prison.

16 ACTING COMMR. ANNUCCI: It's very
17 difficult for me to speak to what's happening
18 at the law enforcement end of things. I can
19 only react to what comes into our system and
20 what happens as a result.

21 I can say that I was there when the
22 crack epidemic was ravaging our communities
23 and also creating a lot of tangential
24 violence and creating health problems that

1 fed the AIDS epidemic and the hepatitis C and
2 everything else.

3 That has waned for a lot of different
4 reasons a lot on its own. I think a lot of
5 people recognized that that drug would lead
6 to death. And I also think, even though
7 we've had the Rockefeller Drug Laws, even
8 before the last round of Rockefeller Drug
9 Laws, a lot of DAs were stepping away from
10 the traditional strict enforcements. And you
11 had district attorneys embracing drug courts
12 and embracing DETAP programs and embracing
13 treatment for addiction as opposed to
14 incarceration.

15 So there's a lot of different things
16 that are at play. Drug addiction is a
17 problem and we see it manifested in many
18 ways. We see people dying from drugs in
19 their medicine cabinets too.

20 SENATOR NOZZOLIO: But they're not
21 selling it on the streets and that they're
22 not committing crimes. And that's something
23 that's a big concern to all of us.

24 Thirteen hundred inmates are going to

1 be taken out of the system of potential
2 closures that you're suggesting, is that not
3 correct? It's 1300?

4 ACTING COMMR. ANNUCCI: Thirteen
5 hundred beds?

6 SENATOR NOZZOLIO: There's 1324
7 inmates --

8 ACTING COMMR. ANNUCCI: Yeah. Yeah.

9 SENATOR NOZZOLIO: -- in effect taken
10 out of the mediums or minimums and put
11 into -- they have to go somewhere. So
12 they're going to be put into vacant --
13 assuming vacant mediums in other places.

14 My point is this. You and I worked
15 together when the mediums in our state became
16 tinderboxes, when the riot potential was at
17 an all-time high and the riots actually did
18 occur particularly in one medium-security
19 facility, I believe it was Mohawk. We cannot
20 go back to that, Commissioner.

21 And that's what I think the concerns
22 we have is those closures could be creating a
23 new round, maybe at a smaller scale, but a
24 new round of tinderboxes in our mediums.

1 What's your view of that?

2 ACTING COMMR. ANNUCCI: Well, let me
3 just correct one thing. When you say 1300
4 inmates, we didn't have 1300 inmates in those
5 beds. There were 1300 beds, but we had a lot
6 less inmates in those beds. They've been
7 gradually attriting out.

8 Some of the money from the closures
9 will reopen a small number of dorms. We've
10 opened about four of them, a dorm that holds
11 60 inmates, throughout the system. So that's
12 not going to impact, from where I'm sitting,
13 our ability to run safe institutions. It's
14 not driving overcrowding, it's not going to
15 increase congestion, it's not going to
16 increase tension.

17 The individual inmate who may be more
18 problematic, it's a different issue. Why is
19 it problematic? It's a different issue. It
20 has nothing to do with these closures from
21 where I'm sitting.

22 SENATOR NOZZOLIO: Thank you,
23 Commissioner. Thank you, Mr. Chairman.

24 CHAIRMAN FARRELL: Assemblyman Oaks.

1 ASSEMBLYMAN OAKS: Thank you,
2 Commissioner.

3 Actually, Senator Nozzolio just
4 touched on a number of things with Butler.
5 And the fact that we share that, I echo
6 number of his comments.

7 Your expectation right now for 2014 is
8 you're looking at expectation of prisoners
9 coming in and whatever, that it still
10 warrants the closures?

11 ACTING COMMR. ANNUCCI: Yes. Yes.
12 I'm looking at basically a flat population
13 for this year.

14 ASSEMBLYMAN OAKS: And if there's an
15 uptick -- I mean, you know, I'm not
16 suggesting we're going to be back to '84 as
17 you were talking earlier. But if there's an
18 uptick, what plan --

19 ACTING COMMR. ANNUCCI: We have other
20 space that we could fill if we can have the
21 staff.

22 Don't forget, we have closed thousands
23 of beds from years and years ago when we
24 started this downward process. It's simply a

1 question of staffing them again if, for some
2 unknown reason, there was suddenly an influx
3 of demand for capacity. Which we don't
4 foresee, but I need to have that ability,
5 obviously, should something unforeseen
6 happen.

7 For example, if there's, you know, a
8 complete destruction, a catastrophic event at
9 another prison, you know, that we have to
10 abandon it, we have to have the capability to
11 absorb those inmates. We can do it.

12 ASSEMBLYMAN OAKS: I know others
13 talked a little bit about the parole
14 violators and the issues around that. One of
15 the things -- I missed a little bit of that
16 presentation, but we are -- the Commission of
17 Correction has been mentioned before. In
18 certain counties they are being encouraged to
19 add to facilities or replace existing
20 facilities because they aren't sufficient or
21 they have too many people in them, at the
22 same time that we have the parole violators
23 out there.

24 Has there been any thought over

1 looking at -- I know the Governor has done
2 some positive things with trying to look at
3 regional approaches to certain other things.
4 Has there been any thought of looking at
5 regionally handling those types of inmates?
6 Perhaps instead of building facilities here
7 and closing them over here, does it make
8 sense to look at this in a bigger picture and
9 perhaps work with the counties, work with the
10 state and the whole system to try to make
11 this -- perhaps not close all that we might
12 have being proposed?

13 ACTING COMMR. ANNUCCI: Well, I can
14 tell you that under former Governor Spitzer
15 they did float a bill as part of an Article 7
16 I think where they were going to transfer an
17 alleged parole violator into our institution,
18 right, so that the actual final revocation
19 hearing could be done while we were housing
20 him. And it would be done by televideo; the
21 lawyer would be at the jail where he was
22 originally at, and the parole revocation
23 specialist. So that the relief would be on
24 the locality.

1 But there was so much objection to
2 that bill by the defense bar -- and
3 understandably so. If you're sitting next to
4 a client, you can consult with him and then
5 ask questions of a witness. If the client is
6 at a remote location and you have to
7 communicate with him through a separate
8 telephone line and then go on the record,
9 that made, I believe, that suggestion
10 impractical.

11 So whether or not a regional concept
12 would work, whether or not some localities
13 can get together and share resources, I'm not
14 sure if it can be done, practically speaking,
15 because you always have that other issue of
16 the parole violator needing to be physically
17 near where the violation occurred because
18 that's where the evidence is and other
19 issues.

20 But we're willing to look at anything
21 to try and provide some relief. I'm
22 encouraged by the connections we have with
23 the outsiders that are going to come in and
24 give us some advice and do things better and

1 bring those numbers down.

2 ASSEMBLYMAN OAKS: When you talked
3 earlier about closures, you ended up
4 mentioning that you do a review, look at
5 things, you have a team that -- is a part of
6 that looking at the disproportionate impact
7 that -- you know, we've done some other
8 closures around the state. How does this
9 closure --

10 ACTING COMMR. ANNUCCI: Yes..

11 ASSEMBLYMAN OAKS: -- maybe go along
12 with a prior one? Is there a policy which is
13 trying -- you know, and again, if this trend
14 continues, you're going to be here again next
15 year or a future year perhaps talking about
16 this as well.

17 Is there a policy which says no one
18 community or one specific area should be
19 disproportionately impacted?

20 ACTING COMMR. ANNUCCI: Well, I think
21 it's fair to say that we've looked at where
22 the other closures have taken place. We look
23 at where the inmate population is from. We
24 look at close-to-the-home issues, we look at

1 the programming that's available, what can be
2 duplicated elsewhere, what the long-range
3 infrastructure demands are for that
4 institution, how many staff are there, is it
5 sufficiently staffed.

6 We've had a lot of places that we've
7 taken on that weren't originally constructed
8 as correctional facilities -- former
9 psychiatric centers, halfway houses, what
10 have you. Those aren't the most efficient in
11 terms of correctional facility use. The ones
12 that we built as correctional facilities
13 obviously are the most efficient. But
14 there's a whole host of things we look at
15 when we make our decision.

16 And again, it's a recommendation, and
17 the administration may approve it, may not.
18 There's a lot of things that go into it.

19 ASSEMBLYMAN OAKS: Thank you,
20 Commissioner.

21 CHAIRMAN DeFRANCISCO: The last
22 first-rounder, Senator Savino.

23 SENATOR SAVINO: Thank you, Senator
24 DeFrancisco.

1 I've been sitting here so long I
2 almost forgot what I wanted to talk to you
3 about, but then I remembered.

4 Earlier in the testimony
5 Assemblyman Aubry asked you about the trend
6 on overtime, and I believe you said that you
7 felt that the department was going in the
8 right direction. So it's a little curious,
9 we might have a different definition of the
10 right direction. Because according to the
11 Comptroller's most recent report on overtime,
12 the Department of Corrections is leading the
13 way with a 20 percent increase in overtime,
14 topping out at \$121.9 million this year.

15 ACTING COMMR. ANNUCCI: Yeah. Well,
16 the dollars are driven in part by the
17 increase in contracts. But I'm measuring
18 overtime by looking at the hours, the actual
19 number of hours.

20 The number of hours are going down.
21 I'm carefully monitoring that. I have a lot
22 of different controls in place. And the most
23 important thing is once everything else gets
24 sorted out, once all of the staff are out of

1 the closure facilities, I'm able to fill
2 where they're needed and realign things, I
3 think I will make a lot more headway than
4 where I am right now.

5 SENATOR SAVINO: But you're not being
6 able to close the overtime gap or overtime
7 hurdle, I guess, by increased hiring because
8 head count is going down, correct?

9 ACTING COMMR. ANNUCCI: Oh, no, we're
10 going to have more hiring. We have classes
11 in the pipeline, and we're hoping to have a
12 number of classes approved in the upcoming
13 fiscal year.

14 SENATOR SAVINO: And with respect to
15 the closures, as you know, Arthur Kill was
16 closed on Staten Island in 2011. To date
17 there has not been a decision made about what
18 to do with that property.

19 So for those who have prisons in their
20 district that are scheduled to close, keep
21 that in mind. Three years, and it's still
22 vacant. And not only is it vacant, it is
23 incredibly overgrown. You know, there are
24 local auto repair shops that are used using

1 part of it as a place to store their cars.
2 It is an eyesore, and it is not -- it's
3 certainly not doing anything -- any of that
4 economic development money that's been
5 proposed is not coming back in.

6 The closure of Arthur Kill took
7 \$35 million in direct payroll out of the
8 community of Staten Island which generated
9 almost \$300 million in economic activity.
10 That has not yet been replicated. So we
11 really are concerned about that. And for
12 those of you who represent other areas, I'm
13 equally concerned about the effect that it's
14 going to have on their communities.

15 Do you have any idea when we can
16 expect Arthur Kill to finally be developed
17 into something, anything? And we can we
18 maybe take care of the property?

19 ACTING COMMR. ANNUCCI: My
20 understanding is that there were four
21 responses to submitted to the most recent
22 RFP, that they are currently being evaluated,
23 and that there might be a decision made in
24 the very near future.

1 SENATOR SAVINO: We hope so, because
2 three years is a long time.

3 Finally, you guys handed out a fact
4 sheet of your own back in January, a DOCCS
5 fact sheet, and I'm a little perplexed about
6 some of the numbers on here. So it talks
7 about statewide assaults in the system.
8 Assaults on staff statewide, they've gone up
9 from 567 in 2009 to 645 in 2013. But when
10 you look at the numbers that are being
11 reported as injuries, it says that there are
12 no injuries -- 95 percent of the assaults
13 resulted in no injury, 3.6 percent in minor,
14 0 percent in serious.

15 I don't understand. We have all these
16 assaults happening, and they're all
17 non-injuries occurring in these assaults?
18 What kind of assaults are these?

19 ACTING COMMR. ANNUCCI: I don't know
20 if you were here for my earlier explanation,
21 Senator, but what I pointed out is that in
22 the Penal Law when you are found guilty of an
23 assault, the necessary element is physical
24 injury, which is defined as substantial pain

1 or physical impairment of condition,

2 In our system, any attack by an inmate
3 is considered an assault. So if you
4 deliberately brush up against an officer or
5 elbow him -- and I'm not downplaying that.
6 It is a serious matter -- it would never lead
7 to an assault in the Penal Law, but it is
8 counted as an assault for us. And it doesn't
9 result in any injury.

10 SENATOR SAVINO: Would it be more
11 accurate, then, for you to report the number
12 of lost days due to injury on the job,
13 numbers of workers' comp cases that have been
14 filed, to reflect that a staff member was
15 assaulted but not under the penal code? You
16 know when you're assaulted.

17 So I think it might help us understand
18 the real effect of staff injuries on the job
19 if we were to see how many people were off
20 work as a result of an injury, filed a
21 workers' compensation case, was out for an
22 extended period of time.

23 ACTING COMMR. ANNUCCI: We can do
24 that. We can get that for you.

1 SENATOR SAVINO: Thank you. And with
2 that, I yield my time. Thank you.

3 CHAIRMAN FARRELL: Thank you.

4 Assemblyman Aubry, second go-round.

5 ASSEMBLYMAN AUBRY: Back again.

6 Just one follow-up on Senator Savino.

7 If somebody in fact assaults somebody, under
8 the criminal code they will be prosecuted, is
9 that not true?

10 ACTING COMMR. ANNUCCI: We will
11 definitely seek that.

12 ASSEMBLYMAN AUBRY: So you could tell
13 us how many individuals were prosecuted for
14 assault, and that would tell the difference
15 between something that was viewed inside the
16 system as an assault as opposed to what was
17 criminally considered an assault.

18 ACTING COMMR. ANNUCCI: We can
19 definitely get you the statistics on outside
20 prosecutions. It is an important initiative.
21 We do have relations with outside district
22 attorneys. But district attorneys do have
23 discretion, and not every single case
24 necessarily gets prosecuted even though we

1 might refer it. But we can get that
2 information as well.

3 ASSEMBLYMAN AUBRY: Then you could
4 clearly also let us know how many were
5 referred and how many weren't prosecuted.
6 Which would be interesting, I think, to
7 individuals who have facilities in their
8 district.

9 ACTING COMMR. ANNUCCI: Right.

10 ASSEMBLYMAN AUBRY: You are also now
11 responsible for the Division of Parole.

12 ACTING COMMR. ANNUCCI: That's right.

13 ASSEMBLYMAN AUBRY: And that happened
14 over -- I know you're happy about that. And
15 I know that happened over a period of time.

16 I don't see any report as to what's
17 going on in the division, how they are faring
18 now that they've been joined with DOCCS, what
19 the caseloads are there, any special
20 initiatives relative to net performance.

21 ACTING COMMR. ANNUCCI: Well, I
22 think -- I didn't come out and point-blank
23 say it, but anything to do with reentry is
24 very important. The Work for Success, the

1 Pay for Success, those all involve our
2 community supervision staff and referring the
3 parolees to the appropriate job situations,
4 the high-risk parolees, the low-risk
5 parolees.

6 There's been quite an adjustment, and
7 I think overall we're fulfilling the
8 Governor's vision to have a seamless
9 transition from the moment an individual is
10 accepted in our front door to the moment
11 they're discharged from supervision in the
12 community. There's a lot of room for
13 improvement naturally.

14 I'm very positive on the results thus
15 far, and the COMPAS risk and needs
16 assessment, but I also intend to pay a lot
17 more attention to the community supervision
18 aspect of things going forward. I've learned
19 a lot of things as acting commissioner.
20 We've had a transition. Our first deputy
21 commissioner for community supervision, very
22 capable individual, Angie Jimenez, she
23 retired, so I have a new individual
24 overseeing that area. But we have a lot of

1 good ideas to really go forward with. And
2 it's a very, very important part of our one
3 agency now.

4 ASSEMBLYMAN AUBRY: Do we have
5 lawsuits relative to their use of COMPAS?
6 I'm made to understand that there's a lot of
7 concern that COMPAS has not been implemented
8 in the way that the Legislature indicated it
9 should be, that there were starts and stops
10 of different instruments. Have we resolved
11 those, and are there lawsuits out there now?

12 ACTING COMMR. ANNUCCI: I can't speak
13 definitively as to whether there is any
14 pending lawsuit. I haven't heard of any.
15 That's not to say that there couldn't be an
16 Article 78 somewhere that we don't know about
17 that's questioning something. But it's still
18 a work in progress, as everything is, and
19 we're continuing to go forward.

20 ASSEMBLYMAN AUBRY: So could we get
21 the information relative to the caseloads at
22 the different levels in --

23 ACTING COMMR. ANNUCCI: Sure. Sure.
24 By supervision levels, yeah, absolutely.

1 ASSEMBLYMAN AUBRY: By supervision
2 level, that will be good.

3 And let me say only this, and I'll end
4 with this. I don't want anyone watching us
5 to today to think that it wasn't a combined
6 effort, Senate, Assembly and Executive, to
7 pass the drug law reform. And that crime has
8 gone down is something that we all celebrate
9 here, because that means there are more
10 people who are safe and less people who are
11 incarcerated. So there's equal benefit on
12 both sides of that.

13 And so the discussions that we engage
14 in relative to size of prisons, size of
15 population are issues that are important, but
16 I don't want anyone to believe that we're in
17 a position where there's an intentional
18 position relative to let's incarcerate more
19 whether we need to or not.

20 ACTING COMMR. ANNUCCI: Thank you.

21 CHAIRMAN DeFRANCISCO: Thank you.

22 Just before we continue on with round
23 two, we've had -- this is our fourth speaker.
24 We have about 25 more. And I know the

1 commissioner would answer letters for
2 additional information --

3 ACTING COMMR. ANNUCCI: Absolutely.

4 CHAIRMAN DeFRANCISCO: That he's very
5 knowledgeable, obviously. I don't mind
6 staying here till midnight, but midnight is
7 my limit. Midnight is my limit.

8 So with that said, Senator Gallivan.

9 SENATOR GALLIVAN: Well, with that
10 said, Chairman, maybe I'll curtail my
11 questions.

12 I actually was going to cover some of
13 the same areas regarding the parole merger
14 that Assemblyman Aubry did. So I'll pass on
15 that for now other than just to comment -- no
16 need to answer now, because we can follow
17 through separately -- that I'm led to believe
18 that there's continued bumps in the road with
19 the transition of the facility parole
20 officers to, I think -- is it a correction
21 counselor? Is that the right title now?

22 ACTING COMMR. ANNUCCI: Offender
23 rehabilitation coordinator.

24 SENATOR GALLIVAN: Okay. But in the

1 preparation of files for the actual parole
2 hearings -- problems with information, the
3 timeliness, things of that nature that then
4 of course leads to subsequent problems. So
5 that's something that I would ask that you
6 take a look at and try to help that out.

7 ACTING COMMR. ANNUCCI: I will.

8 SENATOR GALLIVAN: The other point I
9 would want to make is a number of different
10 legislators up here talked about violence and
11 assaults and the classification, whether it's
12 an incident assault.

13 I think what's clear is somewhere
14 there is a little bit of a disconnect in the
15 way that things are reported. Nobody's
16 fault, but it might make sense to work with
17 the respective committees in the Senate and
18 the Assembly, and the way that you report.
19 And when we see the unions speak up publicly
20 on -- and I believe they're testifying
21 today -- on all of the incidents, and all the
22 numbers don't seem to match.

23 But it would seem to make sense that
24 we get on the same page with definitions and

1 the way things are reported so that we can
2 really take an accurate look at it and try to
3 attribute some causation to it and help where
4 we can.

5 And then, finally, prison closings,
6 obviously a very significant issue that I
7 would anticipate we'll have much more
8 follow-up. But thank you for your time.

9 ACTING COMMR. ANNUCCI: Okay, Senator,
10 thank you.

11 CHAIRMAN DeFRANCISCO: Senator
12 Hassell-Thompson.

13 SENATOR HASSELL-THOMPSON: Thank you
14 again, Mr. Chairman.

15 I think it's very interesting that all
16 the second-rounders are in the same ballpark.
17 We're all concerned. My office has been
18 receiving a plethora of letters complaining
19 that the administrative appeals of parole
20 decisions are backlogged by a year in some
21 instances.

22 Two questions. Do you have any idea
23 how many administration appeals are pending?
24 And lastly, how many lawyers or staff are

1 available to respond to these appeals, and
2 should you be increasing that number?

3 ACTING COMMR. ANNUCCI: To answer your
4 question, we are aware that there is a
5 backlog.

6 And I just took steps to work -- as
7 you may know, there's an independent cost
8 center for the Board of Parole and their
9 legal staff and the administrative law
10 judges. When you did the merger, you wanted
11 to ensure their independent decision-making.
12 And there's an independent cost center. It's
13 within my agency, but my job is to make sure
14 they have all the resource that they need.

15 And I just worked with the chairwoman
16 and the counsel to clear up a little
17 confusion. They do have the authority to
18 fill a present attorney item. They're taking
19 steps to fill that as we speak, I believe, so
20 that they can try and tack into that backlog.

21 And we'll look to help them in another
22 way. We realize that's important. Backlogs
23 like that shouldn't exist. So I will follow
24 up with additional help if I can.

1 SENATOR HASSELL-THOMPSON: I had some
2 questions about the MWBE, but I'll waive the
3 rest of my time so that Senator DeFrancisco
4 can get on the road.

5 CHAIRMAN DeFRANCISCO: I'm not going
6 anywhere; I'm here tomorrow.

7 Next and final, to close, Senator
8 Nozzolio.

9 SENATOR NOZZOLIO: Thank you,
10 Mr. Chairman. I'm going to take every second
11 of the seven minutes that I'm allowed.
12 Maybe.

13 Commissioner, this is the first
14 experience of prison closures that I can
15 recall that the department and Executive has
16 had to comply with the legislation that
17 Assemblyman Aubry and I sponsored and got
18 through the houses a few years ago with a
19 12-month notice provision.

20 ACTING COMMR. ANNUCCI: Correct.

21 SENATOR NOZZOLIO: And that's a
22 different dynamic, in the sense that you have
23 put on notice the Legislature but also the
24 employees of the facilities. Could you

1 explain to the committee as we get into these
2 budget discussions what has been the
3 experience? The numbers I took from your
4 testimony, out of the 673 employees, 368 have
5 made a decision to be transferred. That's
6 about 54, 55 percent.

7 What's the experience and what is the
8 schedule for the employee options over the
9 next few weeks?

10 ACTING COMMR. ANNUCCI: Well, it's
11 actually until the end of July. Those
12 facilities officially stay open until their
13 closure date, I think it's July 26th.

14 And we will continued to do exactly
15 what we're doing. We're having regular
16 meetings with the facility staff. We're in
17 the midst of a second round of meetings to
18 advise everyone of their rights. We're
19 recommending --

20 SENATOR NOZZOLIO: Excuse me,
21 Commissioner. When is the schedule to do
22 that?

23 ACTING COMMR. ANNUCCI: We're doing it
24 now. We're having -- this is the second

1 round. We've had one round of meetings in
2 the fall. This is the second round of
3 meetings now.

4 We're sending our central office staff
5 out from our personnel units to meet with
6 them, to take the time to explain to them
7 what all of their options are going forward.
8 And it's our hope that everyone ultimately
9 will be placed. But they have the right to
10 stay at that institution right up until the
11 day it closes, which is at the end of July.

12 We've also just had the reports under
13 the statute that were put out by ESD. And I
14 just quickly looked through them, it just
15 went out this week. They're very
16 comprehensive reports. They list all the
17 history of the institution, they give
18 descriptions of the property, potential
19 reuses. So that this is a major step for
20 ultimately transitioning them into some kind
21 of other use.

22 So the statute was put together for a
23 purpose, to allow a gradual phaseout of these
24 facilities to try and get people a year's

1 time to get themselves into another job and
2 to slowly close the facility, or slowly
3 downsize it as we get toward a closure.

4 SENATOR NOZZOLIO: Will there be the
5 673 items available in corrections or the
6 other appropriate units?

7 ACTING COMMR. ANNUCCI: Not all of
8 those items. Some of them. Some of them are
9 reinvestment, but not all of them. And as I
10 said, we've already used some of them to open
11 about four or five different 60-man dorms at
12 other facilities to absorb some of the
13 deficit from the closing beds.

14 SENATOR NOZZOLIO: Do you anticipate
15 that there will be no layoff as a result of
16 those closures?

17 ACTING COMMR. ANNUCCI: It is our
18 expectation that we'll be able at least to
19 offer everyone the opportunity for employment
20 elsewhere.

21 SENATOR NOZZOLIO: Commissioner, in
22 the last minute or two, talk, please, about
23 the double-bunking in the maxies. You
24 mention in your testimony, for the Auburn

1 Correctional Facility, do you have the
2 numbers in terms of what the double bunks
3 have been reduced or eliminated?

4 ACTING COMMR. ANNUCCI: Yeah. Again,
5 back in '95, 13 male maximum facilities were
6 told double cell 5 percent of your cell
7 capacity. I think at one time we had about
8 769 cells up. And I've been, and it started
9 under Brian Fischer, taking them down. We
10 started with our downstate facilities:
11 Sullivan, Sing Sing, Eastern and a number of
12 others. Most recently, Great Meadow.

13 We took -- I think Auburn had
14 something like 86 double cells. We took all
15 of the general confinement double cells down.
16 There are only 31 left in the depot unit.
17 That's where inmates who are in transit from
18 a different facility stop at Auburn
19 overnight, they stay there one or two nights
20 and then they're to another facility.

21 So we're still keeping that in effect
22 for now, but my game plan now is to go
23 facility by facility. At some point Attica,
24 which I believe has 107 double cells, Clinton

1 has them. I would like to take them all
2 down, with maybe a few exceptions for these
3 exigent circumstances.

4 SENATOR NOZZOLIO: So you were at 800,
5 thereabouts --

6 ACTING COMMR. ANNUCCI: Right.

7 SENATOR NOZZOLIO: -- you're down
8 now --

9 ACTING COMMR. ANNUCCI: About 360 now.

10 SENATOR NOZZOLIO: About half?

11 ACTING COMMR. ANNUCCI: Less than
12 half.

13 SENATOR NOZZOLIO: And you have a plan
14 for the rest of the half.

15 ACTING COMMR. ANNUCCI: Correct.

16 SENATOR NOZZOLIO: Well, Commissioner,
17 thank you.

18 Mr. Chairman, thank you very much.

19 CHAIRMAN DeFRANCISCO: I lied, we have
20 more second-rounders. Senator O'Mara and
21 then Senator Marchione, and that is it from
22 the Senate side.

23 SENATOR O'MARA: Thank you, Chairman.
24 Commissioner, out of the prospective

1 \$30 million savings from the prison closures,
2 how much of that savings is attributable to
3 administration out of Albany?

4 ACTING COMMR. ANNUCCI: How much
5 savings from the prison closures themselves
6 are attributable to something in Albany? I
7 don't think they're factored into the dollar
8 amount.

9 SENATOR O'MARA: So you're going to
10 end up with four less prisons and no less
11 administration in Albany?

12 ACTING COMMR. ANNUCCI: Well, I can
13 tell you this, Senator. When Brian Fischer
14 was commissioner and he convened an executive
15 staff meeting, there were 15 people sitting
16 at the table. When I convene an executive
17 staff meeting now, there's 12 people sitting
18 at the table. I'm doing my old job and my
19 current job. And with two retirements, a
20 transfer, I asked other people to take over
21 their job.

22 And if you look at the number of
23 central office staff we had in 2008, which
24 was pre-merger, and what we have today, our

1 percent of decrease was something like
2 30 percent, whereas the whole workforce
3 decrease was in the neighborhood of
4 10 percent. I'll get you those exact
5 numbers. But trust me, the central office
6 oversight staff are going down faster than
7 the facilities.

8 SENATOR O'MARA: I would appreciate
9 those numbers, because that's not what I hear
10 from the officers' point of view.

11 Out of that \$30 million, how much of
12 that is attributable to the Monterey Shock
13 Camp?

14 ACTING COMMR. ANNUCCI: I'll get you
15 that number. I don't have it off the top of
16 my head.

17 SENATOR O'MARA: And do you know, out
18 of the \$24 million of economic development
19 money, how much of that would be attributable
20 to the Monterey Shock Camp?

21 ACTING COMMR. ANNUCCI: I can't answer
22 that. I think everybody will have a fair
23 shot at applying for it.

24 SENATOR O'MARA: Thanks.

1 CHAIRMAN DeFRANCISCO: Senator
2 Marchione to definitely close.

3 SENATOR MARCHIONE: Thank you.

4 I had a previous question that I don't
5 think you answered for me. And you said
6 there was an uptick in assaults, but you
7 didn't tell me where.

8 And I ask the question because I'm
9 hearing as well that there is a lot of
10 problems within the prison. And just if you
11 know there's upticks, where are they? Where
12 is it occurring?

13 ACTING COMMR. ANNUCCI: Most of the
14 uptick is in our maximum-security facilities.
15 There's been a number of upticks, though, at
16 other medium facilities as well.

17 It can happen anywhere. I can get you
18 the breakdown. I can go facility by facility
19 and get you that breakdown. I don't have it
20 memorized now where exactly they've been.
21 But I can get you that.

22 SENATOR MARCHIONE: And you have said
23 that the maximum and medium-security
24 prisoners are not being combined. Is that

1 what you said?

2 ACTING COMMR. ANNUCCI: Are not being
3 combined, yes, that's correct.

4 SENATOR MARCHIONE: Okay. Now, I know
5 you said that that process is a slow process,
6 but you need to take a look at it from where
7 we're sitting. For the first time -- and
8 this will be prison 15 that's closing -- for
9 the first time the notification on closure of
10 the prisons came out in July instead of
11 during budget time when legislators are here
12 to respond and mobilize.

13 Tell me why you felt the need, when
14 you hadn't met since May, to talk about
15 closures, that that notification needed to
16 start in July when we were out of session.

17 ACTING COMMR. ANNUCCI: I'm not sure I
18 got the last part of the question. I
19 followed you where you were explaining that
20 this was the first time we followed 79A, we
21 put the notice out in July. Obviously this
22 is the administration, you know, preparing
23 its options. We saw this as a need. And I
24 know that there's been some reticence in the

1 past to deal with it as part of the budget.

2 There's a lot of pluses that come
3 about when you follow the statute, a full
4 one-year process. It's less stressful. I
5 mean, I know people are very aggravated that
6 a prison is closing. But when you do it as
7 part of the budget, you have a much shorter
8 time frame. In 2007 when we had to close
9 seven prisons, we had to close them in very
10 short order. That was a really dramatic
11 impact on the system.

12 Now we follow the statute, a one-year
13 notice, beginning to end, allows a lot of
14 gradual changes to be made with staff and the
15 inmate population. So there are pluses to
16 the system for that approach.

17 SENATOR MARCHIONE: So are you saying
18 that it couldn't be taken up in the budget
19 season to discuss this starting now and then
20 close next year? I mean, if we closed in
21 February it's still the same budget process.
22 You'd have to put money in the budget to keep
23 things open.

24 But we're here during this time. We

1 can mobilize better. We can talk with our
2 workers better, get better information, have
3 more conversation as a group. We were not
4 afforded that. And due to that, I actually
5 have legislation that says that the
6 Legislature should to be able to vote on this
7 as well. Do you have any thoughts on that
8 legislation?

9 ACTING COMMR. ANNUCCI: I don't think
10 I can really comment. Except I respect your
11 opinion, Senator.

12 SENATOR MARCHIONE: Okay. Well, it
13 makes it difficult.

14 Also you talked about double- and
15 triple-bunking. It's been a concern -- at
16 least given to me, it's been a concern for
17 some months. How come we waited until just
18 last week to start addressing this?

19 ACTING COMMR. ANNUCCI: Well, first of
20 all, you mentioned triple-bunking? We don't
21 have triple-bunking in our system.

22 SENATOR MARCHIONE: Well, I've been
23 told that you had some.

24 So let's just go into double-bunking.

1 How come -- and again, I'm giving you
2 information I've heard. You can certainly
3 tell me if I've heard incorrectly. But I've
4 heard about concerns now for quite some time.
5 Why did we wait -- when it's a concern for
6 the safety of the inmates as well as the
7 guards, why did we wait until just last week
8 before we started doing something about it?

9 ACTING COMMR. ANNUCCI: We didn't wait
10 till last week. Are you talking about the
11 task force I created?

12 SENATOR MARCHIONE: I thought at the
13 beginning of your testimony you said
14 understood there was a problem with
15 double-bunking and last week you started to
16 take care of care of that.

17 ACTING COMMR. ANNUCCI: We've been
18 looking at assaults for several months now,
19 we've been looking at them going up. I
20 created a task force approximately two months
21 ago. Now they're ready to actually hit the
22 ground running and go to different
23 institutions and fulfill the mission I've
24 charged them to do. They're going to look at

1 a lot of things. This is getting off the
2 ground, but it's in the works for several
3 months now.

4 SENATOR MARCHIONE: Okay. Because
5 from what I understand, it really is a
6 serious problem.

7 So thank you, Commissioner. I
8 appreciate your response.

9 ACTING COMMR. ANNUCCI: Thank you,
10 Senator.

11 CHAIRMAN DeFRANCISCO: Thank you. I
12 just want to say, having sat through
13 questioning of your predecessor, you were
14 very thorough, to the point. The only thing
15 negative I can say, you're not as good a
16 dancer as he was. He was a very, very good
17 dancer.

18 (Laughter.)

19 CHAIRMAN DeFRANCISCO: So thank you
20 very much.

21 We now have the superintendent of
22 State Police, during a state of emergency,
23 here sitting with us all morning. And he's
24 coming down to testify.

1 And just so you know, and I apologize
2 for this, we neglected -- and it's my
3 fault -- to add the Office of Information
4 Technology, Brian Digman, who usually
5 testifies right after State Police, so he's
6 going to be next. I apologize.

7 Thank you, Superintendent, and I know
8 you will be very succinct in your answers.

9 SUPERINTENDENT D'AMICO: Good
10 afternoon. Thank you, Chairman DeFrancisco,
11 Chairman Farrell, and distinguished members
12 of the committees for the opportunity to
13 discuss with you Governor Cuomo's budget for
14 the Division of State Police.

15 I'd like to take this opportunity to
16 thank the Legislature for its past support of
17 the New York State Police. Because of your
18 support, the State Police continues to enjoy
19 its well-deserved reputation as one of the
20 best law enforcement agencies in the nation.

21 Since its inception nearly a century
22 ago, the State Police has consistently
23 provided service through its core missions:
24 to prevent and detect crime, to apprehend

1 criminals, and to cooperate with any other
2 agency whether federal, state or local
3 authority. Our mission priorities include
4 reducing the number of deaths, injuries and
5 property damage caused by motor vehicle
6 accidents through vehicle and traffic
7 enforcement and education; reducing violent
8 crime on a statewide basis, providing support
9 to local law enforcement agencies and serving
10 a crucial role in the state's
11 counterterrorism efforts working with our
12 federal, local and other state partners to
13 ensure the continued safety of the people of
14 New York State.

15 New York is the safest large state in
16 the nation, and the State Police remains
17 committed to keeping New Yorkers safe. We
18 fully support the Governor's proposal for a
19 new law to stop repeat drunk drivers by
20 suspending or revoking their licenses. And
21 for youth texting and driving, we support the
22 proposal for a new law doubling the
23 suspension period for any person under 21
24 convicted of texting while driving. The

1 State Police will support these and other
2 laws to curb dangerous driving through
3 targeted enforcement efforts that are
4 consistent with our core mission of promoting
5 highway safety.

6 The State Police also remains
7 committed to continuing to reduce violence
8 and crime through cooperative efforts working
9 with federal, local and other state agencies.
10 Working side by side with partner agencies
11 and enhancing their enforcement and
12 investigative capabilities, particularly in
13 our large cities, is the most effective way
14 to be successful at crime reduction.

15 Accurate and timely information is at
16 the core of today's effective policing, and
17 up-to-date technology tools are needed to
18 deliver that information efficiently. Over
19 the next three years, the state will invest
20 \$10 million in shared technology for the
21 State Police and local law enforcement. By
22 making a single records management and
23 mapping solution that's available to all law
24 enforcement agencies, the state will increase

1 crime-fighting capabilities, eliminate
2 barriers to effective public safety
3 information sharing, and support coordinated
4 responses across all jurisdictions.

5 As local law enforcement agencies join
6 the system over the next four years, these
7 participating agencies could show up to
8 \$12 million annually in savings for the
9 locals.

10 We will continue to look for
11 additional efficiencies through our
12 partnerships with other law enforcement
13 agencies throughout the state and through
14 coordination of government services wherever
15 practical and possible.

16 An emerging area of concern in public
17 safety at all levels, from federal agencies
18 to local government, is cybersecurity. This
19 was recognized last year in the New York
20 State Cybersecurity Initiative. The New York
21 State Intelligence Center, known as NYSIC,
22 which is led and managed by the State Police,
23 was established in August 2003 as an
24 "all-crimes" fusion center responsible for

1 gathering, analyzing and disseminating
2 information and intelligence to a wide
3 variety of state, local, territorial and
4 tribal governments. This includes the growing
5 number of cyber intrusions that we see
6 regularly.

7 As part of the initiative, a new
8 facility that brings together monitoring of
9 both the cyber and physical aspects of
10 critical infrastructure in our state and
11 provides the capability to receive, analyze
12 and share classified intelligence
13 information, was stood up and is now fully
14 active. The center will include New York
15 State Police, Department of Homeland Security
16 and Emergency Services' Office of
17 Counterterrorism, Division of Military and
18 Naval Affairs, and other state, local and
19 federal law enforcement partners.

20 The New York State Police Forensic
21 Laboratory System provides services to a
22 majority of the counties within our state.
23 We perform over 60 percent of impaired
24 driving toxicology criminal casework that's

1 performed in the state. Of those cases,
2 approximately half are for agencies other
3 than the State Police. The laboratory also
4 provides certification of breath testing
5 reference materials for every law enforcement
6 agency in the state.

7 The State Police Lab also serves as
8 the sole data entry point in the state for
9 the FBI Combined DNA Index System, known as
10 CODIS. The success of DNA in the
11 identification and exoneration of suspects in
12 criminal investigations is well-documented.
13 In the past year, the State Police Lab has
14 met the increased demands for service in
15 implementing the requirements of the recent
16 legislation to collect DNA samples for all
17 crimes. DNA helps prevent crime, exonerate
18 the innocent, and convict the guilty.

19 During the last accreditation cycle by
20 the American Society of Crime Laboratory
21 Directors, known as ASCLD, which was
22 conducted in 2013, the State Police Lab
23 recommended improved efficiencies. We
24 received approval from ASCLD and made a

1 transition from a system of four individual
2 labs to that of a single lab system with
3 satellite facilities. This change permits
4 improved flexibility to move staff and
5 scientific analyses to different sites within
6 the system without the need for prior
7 notification or approval of ASCLD. In
8 addition, it allows the lab to make timely
9 adjustments to conduct analyses at sites that
10 we deem appropriate to meet the needs of our
11 clients.

12 The State Police is unique as the only
13 law enforcement agency in New York State with
14 the ability to deploy large numbers of
15 professionally trained, sworn police officers
16 anywhere in the state on short notice,
17 generally in response to an emergency or
18 natural disaster. The State Police is also
19 available for large-scale deployments to meet
20 a particular, immediate need for law
21 enforcement services in any community.

22 The Governor has identified the
23 experiences from disaster responses such as
24 Superstorm Sandy, Hurricane Irene and

1 Tropical Storm Lee as good opportunities for
2 improvement in disaster preparedness and
3 response readiness, and the State Police are
4 active participants in this effort through
5 our partnership with the Office of Emergency
6 Management and through the assignment of
7 dedicated staff resources.

8 My first and foremost priority
9 continues to be the safety of the public and
10 the safety of our troopers who protect them.
11 Toward that end, we will continue to provide
12 our troopers with the necessary equipment and
13 other valuable resources to achieve the best
14 levels of safety in the performance of their
15 duty. Additional patrol rifles and Tasers
16 have been deployed over the last year to our
17 troopers to provide an increased level of
18 personal safety during the performance of
19 their duties.

20 This past year, an entrance exam for
21 new troopers was held for the first time in
22 several years. We continue to conduct
23 academy classes so that adequate staffing
24 levels are maintained to perform our core

1 mission priorities. This has been done in
2 conjunction with making reasonable and
3 prudent staffing decisions so as to maintain
4 levels of service while ensuring the safety
5 of our members.

6 We continuously assess and evaluate
7 our deployments to maximize provision of
8 police services by prioritizing staffing
9 levels of our troopers on patrol. The
10 Governor's budget recognizes that in order to
11 maintain necessary levels of quality service,
12 there must be new recruits trained this year
13 for the next generation of troopers, and we
14 appreciate his support on that.

15 New Yorkers have come to expect
16 service by a stable, well-deployed and
17 adequately resourced State Police. I am proud
18 to say that New Yorkers can be confident
19 their expectations are being met. It is the
20 integrity, knowledge, dedication and quality
21 of our men and women that distinguishes the
22 New York State Police. I'm honored and
23 privileged to be a part of this premier
24 police agency and its great traditions and to

1 serve alongside these men and women.

2 Again, I thank you for your support of
3 the State Police and for this opportunity to
4 address you today.

5 CHAIRMAN DeFRANCISCO: Thank you.

6 Senator Gallivan.

7 SENATOR GALLIVAN: Thank you,
8 Chairman. Good afternoon, Superintendent.

9 SUPERINTENDENT D'AMICO: Good
10 afternoon.

11 SENATOR GALLIVAN: I would agree with
12 your comments, and concur that the quality
13 and dedication of its men and women do make
14 the State Police one of the premier agencies
15 in the country. And you very correctly talk
16 about how proud you are of the agency, and I
17 congratulate you for leading it in the right
18 direction.

19 And thank you for the work that you
20 do. You're here, we're in a state of
21 emergency, no doubt there's troopers out and
22 about in dangerous conditions across the
23 state, and their efforts are appreciated.

24 You talked about staffing. And if I

1 read the budget correctly, there's provisions
2 for one class for this upcoming fiscal year?

3 SUPERINTENDENT D'AMICO: Yes, we're
4 gearing up for a class in July, based on the
5 new test that we just gave. Any day now
6 we're going to be certifying a new
7 eligibility list. We're gearing up to put in
8 a class that will keep us ahead of attrition
9 in July, yes.

10 SENATOR GALLIVAN: How big will that
11 class be?

12 SUPERINTENDENT D'AMICO: We anticipate
13 a minimum of 135, plus adjustments to make up
14 for attrition at that time.

15 SENATOR GALLIVAN: I was going right
16 there; I was going to ask about attrition.
17 So it will keep you ahead of attrition, but
18 up to what point in time?

19 SUPERINTENDENT D'AMICO: Well, up
20 until the time that the class graduates, we
21 will be ahead of attrition. I've had some
22 conversations with the chamber about the need
23 for possible additional classes.

24 SENATOR GALLIVAN: Do I remember

1 correctly -- I mean, you're pulled in all
2 directions; different challenges come
3 forward. Do I remember correctly in this
4 past year an additional effort or an
5 increased effort regarding emergency services
6 and emergency response? And I don't know if
7 it is a new detail or what it might be, but
8 quite a large assignment of members over to
9 that area?

10 SUPERINTENDENT D'AMICO: Earlier this
11 year we added 11 people to the Office of
12 Emergency Management to work alongside the
13 DHSES personnel in the regions. Our people
14 are basically doing planning, training,
15 drilling, preparedness, communications with
16 the locals, mostly on the law enforcement
17 side. It's been very effective for us. It
18 allows us to get real-time information from
19 the field on what's occurring. I think
20 they're a tremendous asset for the Department
21 of Homeland Security's OEM, and I think it's
22 successful.

23 SENATOR GALLIVAN: Let me ask in a way
24 you may be able to answer. I agree; you

1 talk, in your words, about a stable,
2 well-deployed, adequately resourced
3 State Police.

4 Of course the most important resource
5 is your people. Do we -- do I, in this
6 position as chair of the committee -- do we
7 need to be advocating for more than one class
8 in the next fiscal year?

9 SUPERINTENDENT D'AMICO: Well, I think
10 over the last couple of years, you know,
11 we've started with the hiring back in 2012
12 after three years without classes, and we've
13 done a good job of building back from a low
14 number of people.

15 And we're at a good point now. I
16 think it's important to stay ahead of
17 attrition. So I think the classes in July
18 will allow us to stay there. And as I said,
19 we're in discussions with the chamber about
20 the need to continue on with another class
21 after that.

22 SENATOR GALLIVAN: All right, thank
23 you.

24 One SAFE Act question. Tremendous

1 amount of discussion about it over the past
2 year, but one point in particular. It goes
3 along the lines of some of my questions of
4 the other presenters, and that's the impact
5 on local governments. It was stated time and
6 again the SAFE Act was not supposed to cause
7 any additional costs to local governments,
8 yet it is, county clerk offices in
9 particular.

10 Is that taken into account at all in
11 your budget? It may be somewhere else, and
12 it might be outside of your purview, but
13 anything there to offset the costs that are
14 incurred now because of the SAFE Act to the
15 local governments, county clerks in
16 particular?

17 SUPERINTENDENT D'AMICO: Well, as far
18 as the State Police budget, there's nothing
19 in there that supports the county on their
20 role.

21 For a lot of the pieces of SAFE Act,
22 the State Police or other state agencies are
23 performing a lot of the background work, a
24 lot of the legwork, a lot of the IT work.

1 You know, I personally am not aware of
2 exactly what the costs are to the locals, but
3 it's not in my budget, no.

4 SENATOR GALLIVAN: All right, thank
5 you.

6 And then finally, you talked about the
7 Governor's call for the three strikes and
8 you're out, the license revocation, which I'm
9 very supportive of. And obviously it's
10 something that works to keep our streets safe
11 and keep drunk drivers off the road.

12 My question, though, to you is, in
13 your opinion, should we also at the same time
14 be seeking to increase criminal liability for
15 the repeat offenders?

16 SUPERINTENDENT D'AMICO: Yeah, I think
17 that anything we can do to keep the repeat
18 offenders out from behind the wheel and off
19 our roads would be a good thing. I think
20 what the Governor proposes in regulation is a
21 good first step, and I personally would
22 advocate for anything that makes our roads
23 safer or keeps these people from driving
24 cars.

1 SENATOR GALLIVAN: Thank you,
2 Superintendent.

3 CHAIRMAN FARRELL: Thank you.
4 Assemblyman Ortiz.

5 ASSEMBLYMAN ORTIZ: Good afternoon,
6 Super. How are you?

7 SUPERINTENDENT D'AMICO: Very good,
8 thank you.

9 ASSEMBLYMAN ORTIZ: I do have a
10 couple. First of all, I would like to
11 commend you and your troopers for your
12 continued effort to ensure that our safety is
13 being the first thing in our state,
14 especially where people are driving and
15 talking and texting. I think that is very
16 important.

17 As you probably know, I was the
18 originator of the first cellphone ban in
19 New York State, which said that we make a
20 deal to have a earpiece. Which I still
21 believe is still instructive.

22 As technology continues to advance and
23 to move forward, my question is now regarding
24 the famous Google glasses that are coming out

1 and people are driving using Google glasses
2 as we speak. California has a model program
3 right now where they have some of the Google
4 individuals carry their Googles, and some
5 people have taken the risk to drive at the
6 same time. Would you support a ban on Google
7 glasses while driving?

8 SUPERINTENDENT D'AMICO: I think we
9 have to be very careful about the technology
10 that is built into the cars and available to
11 drivers. I mean, everything in the cockpit
12 of an automobile could be a distraction,
13 whether it's Google glasses or it's the GPS
14 or it's, you know, texting or any kind of new
15 technology that's built into the dashboard.

16 So I think we should do everything we
17 can to reduce distractions to our drivers.
18 So if that's what it takes, then yeah, I
19 would.

20 ASSEMBLYMAN ORTIZ: Now, it was
21 mentioned before by you and you stated that
22 135 new officers are coming probably to the
23 force for training. Has any effort or any
24 consideration has been made in order to

1 ensure that some of those 135 people can
2 probably look like me? Maybe don't speak
3 like me, but maybe look like me?

4 SUPERINTENDENT D'AMICO: Over the last
5 couple of years, in between exams, we did an
6 extensive recruitment campaign. We did it
7 all around the state, we did it in colleges,
8 on our military bases, and particularly in
9 our inner cities.

10 We did a very good job in some of our
11 bigger cities like New York City. And we had
12 a tremendous response for the test, and we
13 had a tremendous showing to sit for the test.
14 I don't yet have the results of our test,
15 we're waiting to get them back so that we can
16 certify them. But I hope so. I hope we have
17 a diverse list that represents cultures all
18 across our state.

19 I mean, for us in law enforcement,
20 that's very useful, to have people that can
21 speak various languages, that understand
22 different cultures. And, you know, for many
23 aspects of law enforcement, just the
24 diversity is helpful.

1 ASSEMBLYMAN ORTIZ: Well, you came
2 from the City, and I appreciate that you will
3 take that a lot more seriously as a result of
4 my next question. Are you aware of whether
5 or not, whether it's your troopers, the
6 sheriffs, and others are stopping individuals
7 that they look like me in the Western and
8 Central New York, and as a result that they
9 look like me and they're being stopped and
10 being arrested and then sent to the
11 Corrections Department to be deported?

12 SUPERINTENDENT D'AMICO: Right. I
13 mean, the State Police -- as the State
14 Police, we don't enforce immigration or
15 naturalization or status issues. We're very
16 careful not to. I mean, people that we
17 arrest for criminal offenses who may be
18 undocumented or may have status issues go on
19 through the process and are handled by the
20 appropriate agency. We don't go out and
21 interrogate.

22 You know, we're always doing a careful
23 balance, particularly at the northern border,
24 because to do enforcement on the smuggling

1 and the crime and everything else that comes
2 across, you do have to have interaction with
3 people. So we're continually telling our
4 members to be respectful. And basically we
5 leave the naturalization issues up to the
6 federal government and Customs and Border
7 Patrol.

8 ASSEMBLYMAN ORTIZ: I just would like
9 to bring to your attention that there has
10 been some phone calls -- I'm the chair of the
11 Hispanic caucus -- that has been received
12 from parts of Amsterdam, New York, as well as
13 Rochester, and Batavia, that Hispanic people
14 have been stopped with no reason. They look
15 for any reason. So I just want you to keep
16 that in your mind in case you get across
17 these situations. And we would love to work
18 very closely with you to ensure that we can
19 minimize any kind of controversy, if you
20 will, as a result of the comments that are
21 coming out of the Western and the Central
22 New York. Okay?

23 SUPERINTENDENT D'AMICO: Sure. Yeah,
24 I will.

1 ASSEMBLYMAN ORTIZ: I have a few more
2 minutes, so my other question is regarding
3 this 11 staff that you sent to the emergency
4 preparedness. From those 11 people that you
5 selected, are any of those 11 folks Hispanic,
6 Asian, speak different languages as well?

7 SUPERINTENDENT D'AMICO: Out of the
8 11 people, it was actually a very diverse
9 group, including Hispanic, including females.
10 You know, we did an interview process to find
11 the most qualified, and the diversity fell in
12 naturally. So yes, they are.

13 ASSEMBLYMAN ORTIZ: Okay. Because,
14 you know, when Sandy happened -- I represent
15 the area of Sunset Park, Red Hook, Park
16 Slope, and Borough Park and Bay Ridge in the
17 City. And we find out that in the Red Hook
18 area we have 2900 units in about 52
19 buildings, and from that we have a total of
20 92 Asian people that live there.

21 And they do not speak English, they
22 only speak Mandarin and Cantonese. And there
23 was no one in the department able to -- I'm
24 talking from a Homeland Security

1 perspective -- able to communicate with these
2 people. I was lucky enough that I have a
3 staff that speaks three or four different
4 dialects that communicated with them.

5 So I hope that in the future, whenever
6 decisions get made through the department,
7 that we will be able to be sensitive, as you
8 stated in your comments before, as you, an
9 individual who came from New York City,
10 understand why we need this kind of
11 diversity. We cannot have a better
12 superintendent who can understand that
13 diversity than you at this point, and I will
14 tell you that I feel proud that you're there,
15 because you do understand where we're coming
16 from.

17 Thank you very much.

18 SUPERINTENDENT D'AMICO: I can assure
19 you that we did extensive recruiting in the
20 New York City area, in the Hispanic
21 communities and the Asian communities
22 particularly, because that is an area where
23 we lack as an agency.

24 And when it comes to the people that I

1 have assigned in the City of New York, most
2 of them are investigators, we have very
3 little uniform representation, but they're
4 very heavily represented by our Hispanic
5 troopers.

6 ASSEMBLYMAN ORTIZ: Thank you,
7 Mr. Chairman.

8 CHAIRMAN DeFRANCISCO: Thank you.
9 Senator O'Mara.

10 SENATOR O'MARA: Thank you,
11 Superintendent. I as well would like to
12 commend you and the entire State Police for
13 the great work that you do, and in particular
14 your troopers and BCR investigations in our
15 more rural communities. Their efforts and
16 their coordination with our local police
17 departments and sheriff's departments goes a
18 long way to help towards shared services and
19 the overall costs of law enforcement.

20 I have a couple of questions on the
21 SAFE Act, of which I am not a fan, not a
22 supporter, didn't vote for it, and am looking
23 to repeal. What can you tell me is the
24 current law of the state with regard to.

1 whether you can have seven rounds in your
2 10-round magazine or whether you can have
3 10 rounds in your 10-round magazine?

4 SUPERINTENDENT D'AMICO: Well, I'll
5 speak on the State Police policy.

6 As a result of the court decision in
7 the Western District, we are presently not
8 enforcing the seven-rounds provision of the
9 SAFE Act. I've heard conversation across the
10 state by various prosecutors who interpret
11 the Western District decision in various
12 ways. But as far as us, we have statewide
13 jurisdiction, we need a statewide policy as
14 an agency. So there's pending litigation
15 which could change it, but as of today we're
16 not enforcing it.

17 SENATOR O'MARA: With regards to the
18 budget and the SAFE Act, are there any
19 particular line items in your State Police
20 budget to implement the SAFE Act? And if you
21 could describe them for me.

22 SUPERINTENDENT D'AMICO: In this
23 year's budget, I believe it's \$3.2 million.
24 In last year's budget it was \$3.2 million

1 also, for personal services. There was an
2 additional \$27.7 million in capital which was
3 for IT services. That money went to the
4 Office of Information Technology to do a lot
5 of the development required by SAFE Act.

6 Out of the 3.2, we've hired 19 people
7 so far, civilian employees. They're
8 supported by a number of other sworn
9 employees who are doing other jobs in
10 addition to SAFE Act jobs. But most of those
11 people are working on the various elements of
12 it, whether it be the mental health
13 provisions, backlogs, assault weapon
14 registration, ammo seller registration, those
15 type of items.

16 SENATOR O'MARA: With regard to
17 ammunition sales and the prospective
18 background checks that the law provides for,
19 can you give us an update on where you stand
20 in the development of that and the
21 feasibility of the development of that
22 background-check system for ammunition
23 purchases?

24 SUPERINTENDENT D'AMICO: Right. The

1 part of the SAFE Act that calls for the
2 background checks for ammo sales has no
3 effective date. What the legislation says is
4 that once the superintendent of State Police
5 certifies that a system is in place for
6 collecting the data and databasing, that it
7 will go into effect.

8 We've been working on that. My
9 concerns are just this, that to do the record
10 checks at a point of sale has to be seamless.
11 It can't be an inconvenience to the customer,
12 you know, to the buyer of the ammunition. It
13 can't be an inconvenience to the retail
14 seller. It can't bring the transaction to a
15 halt.

16 So we're looking at technology. We've
17 had a number of vendors come in, we have
18 others scheduled, looking for an option
19 that's absolutely seamless and instantaneous
20 at the point of sale. And until such time as
21 we can come up with that, we're not ready to
22 do it. When we are, we'll give ample notice
23 to everyone that we are going to be
24 implementing something, but it's not ready

1 today.

2 SENATOR O'MARA: Is there money in the
3 budget for that particular purpose?

4 SUPERINTENDENT D'AMICO: I believe the
5 money in there would come out of the IT
6 money, the capital money. It's got to be a
7 technology solution, no doubt. We have money
8 for personnel to support the other side of it
9 for the checks, should that come into place.

10 SENATOR O'MARA: And the \$27 million
11 that was budgeted last year for capital, that
12 was for general IT purposes and not
13 specifically for this ammunition background
14 check, is that correct?

15 SUPERINTENDENT D'AMICO: Yeah, 27.7
16 was allocated for all IT services, yeah.

17 SENATOR O'MARA: And finally, do you
18 know what the road conditions are on I-88
19 going back to Binghamton?

20 (Laughter.)

21 SUPERINTENDENT D'AMICO: Well, today I
22 haven't heard I-88. I-90 might be a problem,
23 and parts of I-81. So you should check
24 before you hit the roads.

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(Laughter.)

SENATOR O'MARA: All right, thank you.

CHAIRMAN FARRELL: Assemblyman Aubry.

ASSEMBLYMAN AUBRY: Certainly,

Superintendent, let me add any
congratulations to you and the department for
the work that you do.

I have one question relative to you
indicate in the testimony the increased use
of Tasers by State Police. Do you have a
particular training program relative to that,
and standards of how that should be used?

Because in other instances we seem to
find diversity from around the state around
how they use, sometimes misuse -- they are a
weapon, and they can cause severe and
significant damage to the individuals who may
be -- who that Taser has been used against.
Can you explain that to me? Or if there's a
protocol, can you send that to me?

SUPERINTENDENT D'AMICO: Well, we did
an extensive pilot project on the Tasers
before implementing them as a piece of our
equipment over two years. And we did

1 extensive training before giving them out.
2 We altered our direction as we went and we
3 found discrepancies or deficiencies, and we
4 came up with what we think is a good policy.

5 The training continues on it as an
6 in-service once you're out there. We don't
7 have Tasers assigned to everybody, but
8 everybody has access to the Tasers.

9 One of the things that we did find
10 with the Tasers was it was a very effective
11 tool on reducing the use of lethal force by
12 our troopers, whether it was not having to
13 get into physical altercations or not having
14 to resort to lethal force for people. It's
15 hard to put a number on it, but no doubt
16 there are lives we saved that we didn't have
17 to use force on and injuries to not only
18 civilians but our members that didn't occur.

19 I just think it's an effective program
20 if it's applied properly.

21 ASSEMBLYMAN AUBRY: The results of
22 your study or your pilot and the policies
23 that you've implemented around that, is that
24 available to other police forces around the

1 state?

2 SUPERINTENDENT D'AMICO: Yeah, I think
3 that -- I'm also a member of the state's
4 Municipal Police Training Council, and I know
5 that we had looked at putting out a model
6 policy for other agencies. I don't know that
7 it ever went out. But we would make it
8 available, yes.

9 ASSEMBLYMAN AUBRY: Okay, thank you.
10 I'd certainly like to see it if that's
11 possible.

12 And then the last thing I have to say,
13 it occurs me that 10 years ago, almost close
14 to this time, I had a heart attack in the
15 State Police Training Facility. And were it
16 not for your officers, I wouldn't be sitting
17 here. So I'm only here to say to them,
18 through you, thank you very much. Because
19 I'm happy to be here.

20 SUPERINTENDENT D'AMICO: Thank you.

21 SENATOR KRUEGER: We're happy too.

22 CHAIRMAN DeFRANCISCO: So are we.

23 (Applause.)

24 CHAIRMAN DeFRANCISCO: Senator

1 Nozzolio.

2 SENATOR NOZZOLIO: And let me add,
3 for the record, we're all very happy that
4 you're here too, Jeff.

5 (Laughter.)

6 SENATOR NOZZOLIO: I appreciate,
7 Superintendent, your frank responses to the
8 questions that have been posed.

9 I also want to associate myself with
10 the remarks that compliment you specifically
11 on your professionalism. That we've worked
12 together for a number of years now, three
13 years full, and I do appreciate that.

14 Also, in the area where I represent,
15 the Central Finger Lakes, along with
16 Assemblyman Oaks, Troop B does a very
17 thorough and remarkable job, actually, with
18 the resources they have available.

19 Not to plow old ground, I want to plow
20 some new ground question. The Governor's
21 proposal regarding Stop Repeated Drunk
22 Drivers, focusing on licensure and
23 suspensions, that's important.

24 What I have seen in the area I have

1 the honor of representing is a growing number
2 of cases where serious accidents, in some
3 cases even deaths, have occurred at the hands
4 of a drunk driver because of a drunk driver's
5 irresponsible behavior compounded by the fact
6 that the license has already been suspended
7 or revoked and that he's driving illegally,
8 totally without any license.

9 The implementation of that and the
10 special punishments for that behavior, could
11 you address the issue generally? Do you see
12 it as a growing trend? As I see it in my
13 region, there's a similar trend across the
14 state. And what are your general comments on
15 that issue?

16 SUPERINTENDENT D'AMICO: I don't see
17 it as growing any more than it's existed over
18 the last couple of years. It's an ongoing
19 problem, you know, the DWI issue. You know,
20 complicated now by distracted driving, which
21 is coupled with it.

22 I think that the Governor's
23 regulations are a great start. You know, is
24 everyone going to comply with it? No. Would

1 I like to see more strict legislation? I
2 would. If that answers your question.

3 I just think that, you know, anything
4 we can do to take them off the road. The
5 interlocks that were put in place are very
6 effective. And any other technology solution
7 or any legislative solution would be helpful.

8 SENATOR NOZZOLIO: I understand the
9 frustration. I've got a lovely couple from
10 my district who lost their son because of an
11 individual who had his license already
12 revoked, long since revoked, a repeat
13 offender. How do we stop that type of
14 person?

15 SUPERINTENDENT D'AMICO: I mean, one
16 of the things that we talked about when we
17 were doing the research or when research was
18 being done on the amount of people who had
19 multiple convictions, you know, we had
20 discussion about kind of finding the worst of
21 the worst of the DWI people and making them
22 proactive cases to look after.

23 You know, we try not to -- you know,
24 we try to balance it with not violating

1 people's rights by tracking them or anything.
2 But I think it could be effective to get
3 people who are the worst offenders when it
4 comes to DWI and give them some additional
5 enforcement attention.

6 You know, it's a problem that it's
7 been around for a long time. I think
8 education has done a lot to reduce it. I
9 think that, you know, some of the awareness
10 programs have helped people realize, you
11 know, where people would have got in cars
12 before after drinking, there's a lot more
13 people who say, you know, "I have to stop,
14 I'm going to drive home." I hear it all the
15 time.

16 I think there's a culture change.
17 It's kind of like seat belts. It took us a
18 lot of years to get to a 90 percent
19 compliance level. This is an area where we
20 just have to stay focused and continue,
21 especially with the education pieces, until
22 we get better compliance.

23 SENATOR NOZZOLIO: I appreciate those
24 comments. Think about, though, what we do

1 with the person with nothing left to lose,
2 regarding the drivers, and how we can get to
3 them.

4 But I'd appreciate working with you in
5 the present and future, and thank you,
6 Superintendent, for your good work.

7 SUPERINTENDENT D'AMICO: Thank you,
8 Senator.

9 CHAIRMAN FARRELL: Assemblyman Crouch.

10 ASSEMBLYMAN CROUCH: Thank you,
11 Superintendent.

12 Again, just my personal comments on
13 the professionalism of the troopers that I've
14 had contact with and had to work with on
15 issues or whatever. They've always been
16 top-notch, and I commend the State Police for
17 that.

18 SUPERINTENDENT D'AMICO: Thank you.

19 ASSEMBLYMAN CROUCH: On the
20 implementation of the background checks for
21 ammunition, is there an anticipated cost for
22 the local dealers to be able to comply? Is
23 it something that's going to be seamless with
24 equipment that they've already got on-site?

1 SUPERINTENDENT D'AMICO: I think the
2 intention when the legislation was passed was
3 for there not to be a cost to the local
4 dealers. You know, it would be premature to
5 speak about, you know, what costs have to be
6 borne by someone at the local level or at the
7 state level for the dealers, because we don't
8 have the solution yet.

9 I mean, I think it's going to be a
10 technology solution. I don't see any other
11 way to make it seamless. I just think it's
12 premature to speak about the cost when we
13 don't have a solution.

14 ASSEMBLYMAN CROUCH: Okay. I heard
15 rumors after the implementation of the
16 SAFE Act that some of the small I'll call
17 them mom-and-pop dealers, not the box stores
18 or anything like that, but some of them had
19 heard there was rumors that there were phone
20 taps, assuming that the small dealers would
21 be the ones to violate the law.

22 Can you speak to that? Was there
23 phone taps that were put on some of these
24 small mom-and-pop dealers?

1 SUPERINTENDENT D'AMICO: I can assure
2 you that there are no phone taps. There is
3 no monitoring, there is no proactive efforts
4 by law enforcement to find people who are
5 violating the SAFE Act.

6 When it comes to the ammunition sales,
7 the people who sell it, the sellers is what
8 we're talking about, the majority of people
9 who sell in our state are already licensed as
10 either federal firearms licensees or state
11 dealers, and they go through rigorous
12 background checks. You know, they were very
13 easy for us, because we just grandfathered
14 them in and notified them that they were
15 already approved.

16 So the small group of mom-and-pops are
17 the only population that we are looking for
18 to come in. We have no information on how
19 many there are. We have no database. We
20 don't know who they are. I mean, there are
21 places like local hardware stores that I
22 would have thought would have been the
23 mom-and-pops, turn around and find out
24 they're FFL holders.

1 So it's difficult. I don't know what
2 the population is. I think it's probably a
3 very small number statewide are mom-and-pops.
4 But I can assure you that there's no effort,
5 you know, to identify people and surely not
6 to violate anybody's rights.

7 ASSEMBLYMAN CROUCH: Thank you.

8 CHAIRMAN DeFRANCISCO: Senator
9 Marchione.

10 SENATOR MARCHIONE: Thank you.

11 And I also want to say thank you for
12 your clear responses that you're giving. I
13 very much appreciate it.

14 You talked about that there is money
15 in the budget for 19 enforcement different
16 personnel. Are any of those monies for
17 police officers that actually will be
18 enforcing the SAFE Act?

19 SUPERINTENDENT D'AMICO: No. Out of
20 the -- and it was \$3.2 million that we talked
21 about. That's for the civilian administrator
22 staffs that it takes to implement the act.

23 As I said, for our people, they're
24 working in our licensing section, they're

1 working on things like the backlog. We had a
2 tremendous backlog, and we continue to have
3 somewhat of a backlog. So we all address it.
4 Issues related to assault weapon
5 registration, issues related to the mental
6 health provisions that we've been doing for a
7 year. You know, just the parts of ammunition
8 sellers and the registrations coming in.

9 There's no money in SAFE Act for sworn
10 members, investigators or troopers.

11 Everything that we do related to SAFE Act is
12 from existing and current staff.

13 SENATOR MARCHIONE: Okay. You also
14 talked about, of course, the \$3.2 million,
15 the \$27.7 million in the IT budget. Last
16 year those monies were not marked SAFE Act.
17 Are those monies in this year's budget marked
18 SAFE Act or are they in General Fund as well?

19 SUPERINTENDENT D'AMICO: There are no
20 additional funds in my budget this year for
21 SAFE Act other than the 3.2. The 27.7 from
22 last year, the capital money, was last year.
23 It doesn't repeat this year. I wish it did,
24 but it doesn't repeat this year.

1 SENATOR MARCHIONE: So in order for --
2 because I'm understanding the database is not
3 complete, is that correct?

4 SUPERINTENDENT D'AMICO: Excuse me?

5 SENATOR MARCHIONE: The database is
6 not complete, is that correct?

7 SUPERINTENDENT D'AMICO: The
8 technology projects are ongoing. They're
9 everything from the ability to register your
10 weapon online to doing some of the background
11 work on the mental health checks to
12 ultimately recertifications that have to be
13 done by 2018. It's just a very big package
14 of IT.

15 SENATOR MARCHIONE: And sometimes in
16 the budget, you know, you have the monies
17 from last year that haven't finished with yet
18 on capital projects. That was my question.
19 Is the IT money there from last year -- if
20 you know -- relative to the SAFE Act
21 database, and if you know, has that been
22 completed?

23 SUPERINTENDENT D'AMICO: For the
24 capital money that we had last year, it was

1 shifted over to IT. I can't speak on its
2 current status. I understand that we'll be
3 able to implement the provisions of SAFE Act
4 under that money. But as I said, I don't
5 have it this year. And I don't see the
6 IT bill, so I don't know.

7 SENATOR MARCHIONE: Okay. Shifting to
8 a different subject, the Rivers and Stewarts,
9 the folks who lost their children that
10 terrible car accident in Clifton Park, are in
11 my district. They have been talking with us,
12 we're going to be meeting again.

13 What happened is that the young man
14 was getting a ticket a week, actually
15 literally a ticket a week for about eight
16 weeks straight, but none had gone through the
17 court system that showed on his license.

18 My request is, is there something that
19 can be done that you can show a ticket that's
20 been issued but not yet completed? He just
21 had so many tickets outstanding that had not
22 gone through the system yet. If something
23 could have been done, this tragedy may not
24 have occurred.

1 SUPERINTENDENT D'AMICO: I think that
2 that issue is probably more of a Department
3 of Motor Vehicles issue than us, because you
4 could have tickets issued by multiple
5 agencies in multiple jurisdictions that, you
6 know, aren't accessible to other law
7 enforcement agencies.

8 But there is sometimes a lag from the
9 time the summons is issued till the time it
10 gets to the court. But obviously within a
11 very short time, DMV would have those type of
12 records. I could have a conversation with
13 them but --

14 SENATOR MARCHIONE: I come from DMV as
15 a previous county clerk. It's not put on the
16 record until it's either suspended or gone
17 through the process. And that could take a
18 number of months.

19 So in that time you've got a person
20 out there who's driving erratically and it
21 doesn't hit the license.

22 SUPERINTENDENT D'AMICO: I think that
23 it would be good information for an officer
24 stopping somebody.

1 But, you know, we also have to be
2 careful to make judgments on unadjudicated
3 violations that haven't gone before the
4 court.

5 SENATOR MARCHIONE: Understood. Thank
6 you.

7 SUPERINTENDENT D'AMICO: Sure.

8 SENATOR MARCHIONE: Thank you,
9 Mr. Chairman.

10 CHAIRMAN DeFRANCISCO: We've got one
11 more on the Senate side: Senator Krueger.

12 SENATOR KRUEGER: How are you, sir?
13 Thank you.

14 Just one question. You talked about
15 the DNA database and some modernization
16 you're doing there. I was advised that if
17 you have already gone through the DNA
18 database, meaning we've taken your DNA on one
19 arrest, that in future arrests -- which we
20 hope don't happen, but they do -- you also
21 have your DNA taken again and there's a new
22 \$55 charge every time. Why would we need to
23 keep doing the DNA test on the same people?

24 SUPERINTENDENT D'AMICO: Well, I've

1 got to tell you, I can't speak on the
2 DNA-taking end of the process or how it's
3 charged or who it's charged by.

4 I do know that when a profile comes in
5 and there is already a profile on file, the
6 records are compared so that there isn't
7 duplicative work done on it. As far as, you
8 know, the cost for it, that's just not a
9 State Police issue, ma'am.

10 SENATOR KRUEGER: So you get the
11 information perhaps after something has
12 happened, and you don't --

13 SUPERINTENDENT D'AMICO: Right. I
14 mean, the process has some quality assurance
15 pieces built in, including DCJS. What
16 happens is the sample comes -- you know, the
17 sample comes to us but the actual information
18 goes to DCJS, the accompanying identifying
19 information. They determine, as they've done
20 in the past, whether it's an offense that
21 qualifies for DNA, first of all. And at the
22 same time, they would find out whether there
23 is a current sample on file that has
24 previously been taken.

1 So we hold the samples until we
2 receive information from DCJS that yes, it's
3 a qualifying offense or no, we don't have
4 anything on file and you need to do the
5 analysis.

6 SENATOR KRUEGER: Thank you.

7 SUPERINTENDENT D'AMICO: Sure.

8 CHAIRMAN FARRELL: No further
9 questions.

10 CHAIRMAN DeFRANCISCO: Thank you,
11 Superintendent. And I'm a big fan of yours,
12 you're doing a great job, and I just hope you
13 are going to be here for a long, long time.
14 Thank you.

15 SUPERINTENDENT D'AMICO: Thank you,
16 Senator.

17 CHAIRMAN FARRELL: Thank you very
18 much.

19 CHAIRMAN DeFRANCISCO: The next
20 speaker, as I mentioned, was inadvertently
21 left off the original list. Brian Digman,
22 New York State Office of Information
23 Technology Services.

24 STATE CIO DIGMAN: Good afternoon,

1 Chairman DeFrancisco, Chairman Farrell, and
2 distinguished members of the Legislature. I
3 am --

4 CHAIRMAN DeFRANCISCO: Excuse me. I
5 know, I know you're not going to read this
6 single-spaced thing. I know you're going to
7 summarize it because you're so familiar with
8 the topic. Am I correct?

9 STATE CIO DIGMAN: Yes.

10 CHAIRMAN DeFRANCISCO: I thought so.
11 Okay, thank you.

12 STATE CIO DIGMAN: I'll speed up even
13 more. Okay, I'll jump right into the meat of
14 it. But there are pieces that I'll have to
15 read just to be accurate.

16 The Office of Information Technology
17 Services was created on November 22, 2012, to
18 consolidate information technology services
19 within the state. Historically, technology
20 decisions and systems were decentralized,
21 which caused inconsistent, incompatible and
22 overlapping technology systems that were
23 inefficient, costly to maintain, and
24 difficult to use. Centralizing the state's

1 information technology within ITS has enabled
2 the state to view for the first time its
3 entire IT investment.

4 ITS recently celebrated its one-year
5 anniversary. Over the past year, our
6 collective strength and scale have enabled us
7 to deliver significant value to our customers
8 which we will expand upon over the coming
9 year.

10 As part of our ongoing consolidation
11 of ITS, the Executive Budget increased its
12 appropriation by \$268 million. The 2013-2014
13 budget included about half of the personal
14 service funding needed to support the staff
15 which transferred to ITS. The Governor's
16 Executive Budget transfers the remaining
17 personal service funds to ITS and reduces the
18 host agencies' budgets by a corresponding
19 value.

20 The budget also transfers non-personal
21 services funding to support expenditures that
22 were previously billed by ITS for agencies'
23 regular operations that are now managed by
24 ITS centrally.

1 This budget will allow the state to
2 leverage its technology investments and
3 advance technology best practices to the
4 benefit of New York citizens and the state as
5 a whole.

6 The foundation of the Governor's IT
7 Transformation Initiative is four IT
8 consolidation projects which are aimed at
9 streamlining the government's IT
10 infrastructure and saving taxpayers money.
11 These projects are data center consolidation,
12 email consolidation, telecommunications
13 modernization, and enterprise identity and
14 access management. Allow me to highlight the
15 accomplishments from last year and some of
16 our plans for the coming year.

17 Data center consolidation. We are now
18 occupying our new state-of-the-art data
19 center at the SUNY College of Nanoscale
20 Science and Engineering, CNSE, where we are
21 consolidating over 50 state-run data centers
22 into one.

23 Email consolidation/cloud-based
24 collaboration tools. Last year I referred to

1 this project as email consolidation. As we
2 explored consolidating email, we uncovered
3 opportunities in rolling out a full
4 cloud-based collaboration suite. The selected
5 tool, Office 365, allows access to email,
6 documents, calendars, and a statewide address
7 book, from desktops, laptops, tablets, and
8 mobile phones.

9 This productivity suite, which has a
10 user base of over 40,000 state and local
11 users that grows almost daily, will
12 revolutionize collaboration between state
13 agencies while also increasing their
14 productivity.

15 Telecommunications modernization. We
16 are overhauling the state's
17 telecommunications services. In the past
18 12 months, ITS has built a new
19 telecommunications hub with a secondary
20 fail-over site, made critical upgrades to our
21 telecommunications network, and deployed over
22 20,000 Voice-over-IP telephones.

23 The modernization effort goes beyond
24 standard phone services. The new state

1 telecommunications service will also provide
2 employees with additional collaboration tools
3 such as instant messaging, audio and video
4 conferencing, and desktop sharing.

5 Enterprise identity and access
6 management. The enterprise identity and
7 access management initiative will provide
8 citizens, businesses, and employees with a
9 single sign-on to access state services and
10 applications. For example, this past year
11 components of ITS's enterprise identity and
12 access management service has been used to
13 register and authenticate approximately
14 330,000 New Yorkers who registered for the
15 New York State Health Benefits Exchange. Our
16 citizens and businesses are relying more
17 heavily on the web as part of their daily
18 lives, including for interacting with the
19 state.

20 These four core technology initiatives
21 reflect the Governor's direction to ITS:
22 Leverage technology to make government work
23 smarter for citizens, to spur economic
24 growth, and to make the state more accessible

1 to business. ITS has and will continue to
2 leverage technology for those purposes.

3 For example, last year ITS enabled the
4 Governor's newly-created Justice Center to
5 start serving the most vulnerable
6 New Yorkers. Using the technology systems
7 ITS implemented, the Justice Center can
8 consistently and effectively collect, track,
9 investigate, and act on allegations of abuse
10 and neglect.

11 ITS, with its partner agencies,
12 launched the new online License Center, which
13 serves as a one-stop shop for citizens and
14 businesses to buy and manage their
15 professional and recreational licenses. This
16 online shop offers hunting, fishing, game and
17 trapping licenses, and park permits, among
18 others.

19 The New York State License Center also
20 offers a "Business Wizard," a product that
21 walks a business step-by-step through the
22 process of becoming licensed in New York
23 State.

24 ITS designed and implemented eFINDS, a

1 system that tracks the location of vulnerable
2 patients as they are transferred to
3 alternative locations during an emergency.
4 Citizens can rest assured that their loved
5 ones are removed from harm during an
6 emergency and that they are being cared for
7 and are easily located.

8 ITS helped launch the I LOVE NY app,
9 where people find places to visit in New York
10 State and learn about New York State history,
11 events, and attractions.

12 ITS developed the New York State
13 School Tax Relief program registration
14 application to enable citizens to
15 conveniently register for a Basic STAR tax
16 exemption.

17 ITS enhanced the DMV website so
18 citizens may renew and replace their drivers'
19 licenses at home or on the go.

20 These and other accomplishments from
21 the last year serve as the foundation for how
22 ITS will deliver and use technology in the
23 upcoming year. This fiscal year ITS will
24 focus on the needs of local governments by

1 making technology services available to them
2 as an option for generating efficiencies.
3 ITS expects to do this in several ways, such
4 as using the state's data center at CNSE to
5 provide secure and robust storage and
6 application hosting.

7 This Executive Budget supports the
8 development of the New York State Protection
9 Cloud, which will enable state and local law
10 enforcement to use the same system to support
11 police response and investigations. This
12 system will be supported and maintained by
13 the state and offered to local law
14 enforcement.

15 ITS also expects to work closely with
16 local governments to take advantage of
17 cloud-based email and collaboration tools
18 using the contract the State intentionally
19 negotiated to make sure these tools are
20 available to all levels of local government.

21 ITS will also be concentrating on
22 transformation of the state's online
23 presence. Currently the web presence is an
24 overly complex, static, siloed maze of

1 websites, and transactions. This
2 transformation effort will turn the state's
3 web presence into one that is simple and easy
4 to use. This includes making sure that our
5 websites and services are mobile-ready.

6 Governor Cuomo has charged ITS with
7 using technology to deliver government
8 services more efficiently and effectively,
9 giving local governments options to relieve
10 their administrative and fiscal stress,
11 making it easier for citizens to interact
12 with government, and ensuring that businesses
13 start and stay in New York.

14 Thank you for the opportunity to speak
15 today. I welcome your questions and
16 comments.

17 CHAIRMAN DeFRANCISCO: Thank you.

18 Any questions? Kathy Marchione.

19 SENATOR MARCHIONE: Thank you.

20 I'm going to ask the same question
21 that I asked the gentleman previous. You
22 have money in your budget this year, through
23 IT Services, to continue working on the SAFE
24 Act? Because I see nothing in your proposal

1 here.

2 STATE CIO DIGMAN: Yes, we do. We
3 have the remainder of the capital prop to
4 continue the IT systems development work.

5 SENATOR MARCHIONE: And how much is
6 that, sir?

7 STATE CIO DIGMAN: The original
8 capital was 27.7. We have used about
9 \$7 million.

10 SENATOR MARCHIONE: So your system is
11 not ready to use at this time?

12 STATE CIO DIGMAN: There are initial
13 aspects, as the superintendent mentioned,
14 that are up and running, but we still have
15 more to go.

16 SENATOR MARCHIONE: Which are what
17 again? If you would tell me, please.

18 STATE CIO DIGMAN: Which ones are
19 online now?

20 SENATOR MARCHIONE: Yes. Relative to
21 the SAFE Act, yeah. Which part of the
22 database is ready?

23 STATE CIO DIGMAN: Give me just a
24 moment so I make sure I get this correct for

1 you.

2 The assault weapon registration, the
3 mental health reporting, the ammunition
4 dealer registration, automation and
5 collection of background data for State
6 Police investigations are the pieces that
7 are, from an IT perspective, up and running.

8 SENATOR MARCHIONE: Are ready. But
9 there's still money left in this budget to
10 continue working on the SAFE Act database?

11 STATE CIO DIGMAN: We will continue
12 working, yes.

13 SENATOR MARCHIONE: Okay, thank you.

14 STATE CIO DIGMAN: You're welcome.

15 SENATOR MARCHIONE: Thank you,
16 Chairman.

17 ASSEMBLYMAN STECK: Senator, I have a
18 question.

19 CHAIRMAN DeFRANCISCO: Yes.

20 ASSEMBLYMAN STECK: Thank you.

21 There was mention of facial
22 recognition software. Exactly what is that,
23 and in what context is that going to be used?

24 STATE CIO DIGMAN: The facial

1 recognition software, as I understand it,
2 will be used -- and this is a better question
3 for the superintendent. But in general, it
4 will be used in the course of investigations
5 to determine -- to identify people that were
6 at a scene or may have been associated to an
7 event.

8 ASSEMBLYMAN STECK: Do you know
9 whether they have to compare this to an
10 existing image, or do they compare it to an
11 artist's rendering? How does this work?

12 STATE CIO DIGMAN: There's a database
13 that we can access, I believe it's federally
14 provided. It's something I can provide you
15 more information on if you're interested.

16 ASSEMBLYMAN STECK: What about
17 driver's licenses? Is that part of that
18 database?

19 STATE CIO DIGMAN: I'll have to check
20 to be sure exactly what the sources are.

21 ASSEMBLYMAN STECK: It's not Google
22 Images, I suppose.

23 (Laughter.)

24 STATE CIO DIGMAN: No, it's not Google

1 Images.

2 CHAIRMAN DeFRANCISCO: Thank you very
3 much.

4 CHAIRMAN FARRELL: Thank you.

5 STATE CIO DIGMAN: You're welcome.

6 CHAIRMAN DeFRANCISCO: The next
7 speaker coming down is Robert Tembeckjian.

8 On deck is Jeffrey Kayser.

9 Just for those who are keeping score,
10 the 2:40, Children's Defense Fund, has
11 submitted and they won't be testifying. And
12 the 3:20, Legal Aid Society, has submitted
13 their testimony and will not be testifying.

14 Okay, Mr. Tembeckjian, I've got a
15 great idea.

16 MR. TEMBECKJIAN: What's your idea?

17 CHAIRMAN DeFRANCISCO: My idea is that
18 what you submitted for your budget was not
19 approved by the Governor's Budget
20 Department --

21 MR. TEMBECKJIAN: Correct.

22 CHAIRMAN DeFRANCISCO: -- and it was
23 \$270,000 more that you want this year than
24 you got last year.

1 MR. TEMBECKJIAN: Correct.

2 CHAIRMAN DeFRANCISCO: And there's a
3 good reason for that, is that correct?

4 MR. TEMBECKJIAN: There's several very
5 good reasons for that.

6 CHAIRMAN DeFRANCISCO: Okay, well,
7 give us those several very good reasons and
8 maybe we can get to the point.

9 MR. TEMBECKJIAN: Okay. And frankly,
10 if you just want to commit to giving it to me
11 now, I'll just say thank you and leave.

12 (Laughter.)

13 CHAIRMAN DeFRANCISCO: If it was up to
14 me, I would, but let's go through the
15 process.

16 MR. TEMBECKJIAN: In 2007 the
17 Legislature, led by you, Senator DeFrancisco,
18 and Assemblywoman Weinstein, increased the
19 commission's budget for the first time in a
20 generation, recognizing that the work of
21 judicial ethics enforcement is very important
22 and essential to public confidence in the
23 judiciary and the court system.

24 Since then, I have been in agreement

1 with the Executive Budget every year. We
2 have essentially had a flat budget for the
3 last six years, while our caseload has risen
4 by 23 percent and my staff has been reduced
5 by 16 percent. We had 55 full-time employees
6 authorized back in '07 when you gave us the
7 big increase, and I'm now able only to employ
8 46.

9 The costs of flat budgeting for a very
10 small agency like mine are significant.
11 Because as our fixed expenses go up, rent and
12 other contractual obligations, as our
13 caseload goes up, we obviously need the staff
14 and the resources to be able to keep abreast.

15 We made an enormous reduction in our
16 backlog back in 2007 because of the
17 commitment that the Legislature made, and now
18 we're beginning to backslide on that. And
19 that's unfair both to the public and to the
20 judiciary.

21 So while usually my budget is one that
22 is negotiated with the Executive, this year
23 the Executive mandate was for flat budgeting
24 again. And I declined to go along with that

1 because of the effects that six years of flat
2 budgeting have already had on us. And it
3 struck me as particularly ironic, if not
4 disappointing, that in an Executive Budget
5 that already makes a commitment to additional
6 funding for other ethics enforcement entities
7 enforcing ethics laws on parts of the
8 government other than the judiciary, that
9 ignoring the very real needs of the judicial
10 conduct commission was incongruous. And so
11 I'm appealing to the Legislature for help.

12 And this is a bare-bones request. I
13 mean, I could have rounded it up to 300,000
14 and 350 and hoped that you might give me the
15 270, but the budget that I submitted to DOB
16 laid out -- and 270 is a rather unusual
17 number, but it is the real number that we
18 need to meet our fixed expenses and to be
19 able to bring on at least two more staff so
20 that I can get up to 48, where back in '07 we
21 had 55.

22 CHAIRMAN DeFRANCISCO: So without the
23 \$270,000, the cases brought relating to
24 various judges would take much longer to

1 adjudicate, either leaving a judge who's
2 ethically challenged without appropriate
3 review and those that are wrongfully accused,
4 vindicated.

5 MR. TEMBECKJIAN: Right. Exactly so.

6 CHAIRMAN DeFRANCISCO: I think that's
7 an excellent argument.

8 MR. TEMBECKJIAN: I couldn't have made
9 it better myself, Senator, thank you.

10 (Laughter.)

11 CHAIRMAN DeFRANCISCO: Okay. Does
12 anyone else want to ask any questions?

13 ASSEMBLYMAN STECK: Denny, I have a
14 question.

15 CHAIRMAN DeFRANCISCO: After that
16 exchange, you have a question?

17 (Laughter.)

18 CHAIRMAN FARRELL: Assemblyman Steck
19 to question.

20 ASSEMBLYMAN STECK: Surprising as it
21 may be.

22 I have a question regarding what
23 jurisdiction does the Commission on Judicial
24 Conduct have, say for example, over extreme

1 delays in issuing decisions, such as
2 decisions that take four years to be issued?

3 MR. TEMBECKJIAN: The rules on
4 judicial conduct which we enforce require a
5 judge to dispose of the business of the court
6 efficiently, fairly and promptly. And over
7 the years, we have enforced that provision
8 until the Court of Appeals 20-some-odd years
9 ago, in a decision called Matter of
10 Greenfield, severely limited our ability to
11 enforce the delay provision.

12 Two years ago we brought another case
13 before the court, Matter of Gilpatrick, in
14 which the court effectively undid the
15 Greenfield decision, effectively giving us
16 the green light again to pursue cases of
17 delay.

18 I know your interest in the subject
19 and the legislation that you've proposed on
20 the subject, but in the last two years,
21 because the Court of Appeals, in recognizing
22 that 19 years under Greenfield hobbled us
23 from enforcing the delay provisions,
24 reversing that decision has opened the door

1 for us to be able to do it again. And we've
2 had a couple of disciplines in the last
3 couple of years on delays.

4 Typically, if it's a relatively
5 isolated situation, we would give the judge a
6 confidential warning first, as we did in
7 Gilpatrick. And if that warning is not
8 heeded, if the judge continues to engage in
9 delay, public discipline comes next. And
10 that's what's happened, and in the last two
11 years we're beginning to look at that area
12 again because of the legal victory we won in
13 the Court of Appeals.

14 ASSEMBLYMAN STECK: Well, thank you
15 very much for your efforts in that area. And
16 I certainly have more confidence that your
17 efforts spur the judges to promptness than I
18 do in OCA's.

19 MR. TEMBECKJIAN: Well, thank you.
20 And I do appreciate that, I think the
21 judiciary does, that the very presence of the
22 commission is an incentive for judges to be
23 more aware of and careful to abide by the
24 ethics rules.

1 CHAIRMAN DeFRANCISCO: Excellent
2 question.

3 Senator Nozzolio.

4 SENATOR NOZZOLIO: Thank you,
5 Mr. Chairman. Your testimony indicates that
6 you average 20 actual disciplines per year --

7 MR. TEMBECKJIAN: Twenty public
8 disciplines a year, yes.

9 SENATOR NOZZOLIO: And of those all
10 involving commissions of crime, have there
11 been actual convictions commensurate with
12 those? Or how many would you say, of the
13 20 average, would be actually a criminal
14 conviction?

15 MR. TEMBECKJIAN: Ordinarily, none of
16 our disciplines involve criminal behavior.
17 The commission enforces ethics rules. There
18 are certain violations of ethics rules that
19 may also be a crime. We don't have
20 prosecuting authority, but we do make
21 referrals to district attorneys, whether it's
22 a judge or someone else who has come to our
23 attention in terms of having --

24 SENATOR NOZZOLIO: About how many of

1 those a year?

2 MR. TEMBECKJIAN: We probably make
3 about 15 or so referrals. Most of them are
4 not judges. We might become aware of other
5 individuals, we might get in touch with the
6 State Police, for example, when there's a
7 threat to a judge that is made through us.

8 But in terms of actual prosecutions
9 that have resulted from cases that originated
10 from the commission, it's probably one every
11 five or six years. It doesn't happen all
12 that often, I'm happy to say.

13 SENATOR NOZZOLIO: Thank you very
14 much. Thank you, Chairman.

15 CHAIRMAN DeFRANCISCO: Thank you very
16 much.

17 MR. TEMBECKJIAN: Thank you. Always
18 nice to see you. Thank you.

19 CHAIRMAN DeFRANCISCO: The next
20 speaker is Jeffrey Kayser, president of
21 New York State Police Investigators, to be
22 followed by Thomas Mungeer.

23 PRESIDENT KAYSER: Good afternoon,
24 Chairman DeFrancisco, Chairman Farrell,

1 esteemed members of the Senate and the
2 Assembly. My name is Jeffrey Kayser, and I'm
3 the president of the New York State Police
4 Investigators Association. We're the labor
5 union that represents 1,100 investigators and
6 senior investigators in the New York State
7 Police assigned to the Bureau of Criminal
8 Investigation, more commonly referred to as
9 the BCI.

10 First of all, it's an honor for me to
11 represent the brave men and women of the BCI,
12 and it's also an honor for me to be here in
13 front of you today to represent their
14 concerns. Let me thank you for affording me
15 this opportunity to testify. I know it's
16 been a long day; I'll try and be as brief as
17 I possibly can.

18 The New York State Legislature has
19 always been a friend to the BCI investigators
20 and the work that they do. On behalf of the
21 membership, I'd like to thank you for your
22 friendship and your continued support to the
23 BCI.

24 Although we are not as visible as the

1 uniform force or the State Police, there's a
2 lot of things that we do that the general
3 public doesn't understand. So if you'd just
4 bear with me, I'd like to take a few moments
5 to explain to you the unique and challenging
6 aspect of the BCI work, because we perform a
7 broad spectrum of duties for the State Police
8 that most people don't even realize.

9 The BCI is the plainclothes and
10 undercover arm of the State Police. Some of
11 the assignments that we carry out are
12 extremely dangerous, especially when it comes
13 to undercover assignments. When you're an
14 undercover operative, anything can happen in
15 a matter of seconds that can become a
16 life-threatening situation. And a
17 significant portion of the BCI investigators
18 in the State Police are assigned to narcotics
19 enforcement. These members assigned to the
20 narcotics units deal with all levels of drug
21 enforcement, from street buys to dismantling
22 major drug trafficking operations that result
23 in huge financial seizures for the State of
24 New York.

1 The BCI is responsible for seizing
2 millions and millions and millions of dollars
3 each year that are brought into the state
4 General Fund through our efforts at
5 dismantling criminal organizations.

6 The BCI members assigned to the
7 Community Narcotics Enforcement Teams,
8 otherwise known as CNET perform undercover
9 work on the streets of villages, towns and
10 cities all across this state, from Massena to
11 Montauk, from Buffalo to Albany and
12 everywhere in between. These members are
13 face to face, hand to hand, on the street
14 with drug dealers, and it should go without
15 saying that many of these drug dealers are
16 armed.

17 Our BCI members that are assigned to
18 the Drug Enforcement Task Force partner with
19 federal and local law enforcement
20 authorities, and they handle major drug
21 trafficking investigations that take months
22 and sometimes years, and these undercover
23 investigators are sometimes taken overseas
24 into foreign lands to complete their

1 undercover operations.

2 These brave men and women of the BCI
3 performing undercover operations are in
4 extremely perilous environments, and we've
5 had members shot and killed while operating
6 as undercover investigators.

7 There's a significant number of
8 investigators in the BCI that are stationed
9 in State Police installations all across the
10 state, and we refer to them as station
11 backroom investigators. These investigators
12 are tasked with all types of felony-level
13 investigations, from larcenies to burglaries
14 to robberies to rapes, to any form of sex
15 crimes as well as homicides.

16 These are the men and women who deal
17 with the horrific cases of physical and
18 sexual abuse of children. And let me tell
19 you firsthand that these investigators carry
20 scars from the work that they do. Those are
21 very difficult cases to take, and there's not
22 an investigator out there that doesn't take
23 part of that home with them.

24 They deal with grand larcenies against

1 people as well as corporate fraud, and they
2 deal with every type of identity theft
3 imaginable. We deal with every type of death
4 investigation that the State Police deals
5 with, from unattended deaths to accidental
6 deaths to suicides and to homicides. These
7 investigators in backroom units are the
8 backbone of the State Police.

9 We also have a special investigations
10 unit, the SIU. They deal with undercover
11 surveillance, they deal with organized crime
12 investigations, they deal with auto theft,
13 gambling, smuggling, human trafficking
14 investigations, and they're also assigned to
15 federal assignments in the Joint Terrorism
16 Task Force.

17 We have members assigned to our
18 violent felony warrant units across the
19 state. They team up with federal and local
20 authorities, and they hunt out and apprehend
21 the most dangerous criminals on our streets
22 today.

23 We have members that deal with every
24 form of forensic investigation that there is.

1 And let me be the first to tell you that
2 their talents and their investigative
3 capabilities are simply extraordinary. The
4 work that they do has led to convictions in
5 the most serious crimes all across this
6 state.

7 We have members assigned to the
8 violent crime investigative teams. They team
9 up with BCI units and local authorities all
10 across this state to investigate the most
11 violent crimes against people, predominantly
12 but not limited to homicides.

13 We have a computer crimes unit where
14 these investigators, their work is second to
15 none. And just one of their tasks is to
16 actively target sex offenders who prey on the
17 children in New York State. Every day,
18 across every part of this state, CCU
19 investigators execute search warrants and go
20 through darkened doors to apprehend these
21 sexual predators.

22 And then we have several other
23 specialty units in the BCI, such as casinos;
24 our financial crimes unit, who does financial

1 auditing and forensic accounting; our
2 electronics unit that performs all sorts of
3 electronic surveillance; and our CALEA unit
4 that's responsible for wiretaps.

5 The arm of the State Police that deals
6 with intelligence and counterterrorism is of
7 course the BCI. We have units dedicated to
8 gathering intelligence on terrorism, border
9 security and smuggling operations on our
10 northern border with Canada, crime analysis,
11 and gang organizations.

12 And every one of those BCI units that
13 I just described to you, they perform not
14 only State Police case investigative
15 caseload, they also assist local agencies,
16 whether they're village, town, cities, or
17 sheriff's agencies. They assist them with
18 investigations that they're not equipped or
19 staffed to perform. We stand side by side
20 with our brothers and sisters in law
21 enforcement all across the state to
22 provide them with the special expertise that
23 our BCI possess.

24 And then finally, there's other

1 members of the BCI that you are probably more
2 familiar with from being here at the Capitol,
3 and that's our protective services unit who
4 protect dignitaries. I'm sure each and every
5 one of you here has seen our men and women
6 surrounding the Governor, the Lieutenant
7 Governor or other specific dignitaries from
8 time to time.

9 So as you can see, the BCI arm of the
10 State Police is very diverse, and the
11 missions that we fulfill are nevertheless
12 extremely important to the people of the
13 great State of New York.

14 We have three major budgetary concerns
15 this year that I'd like to express to you
16 here today.

17 Our first concern is manpower.
18 Several of you had questions for the
19 superintendent, and as he explained, there's
20 another class set for this year. But that's
21 not enough. The manpower in the BCI is down
22 over 200 positions since June of 2008. In
23 June of 2008 there were 1316 members of the
24 BCI, and today there's 1103. We're down over

1 200 investigators.

2 And that trend just can't continue.

3 We are not keeping up with retirements. It's
4 simple math, the BCI is one-fourth of the
5 force in the field. And if we're losing 50
6 to 60 members a year to retirements, do the
7 simple math: 180 more troopers this year is
8 not going to keep up with the attrition. And
9 this is a pattern that has to be addressed.

10 Now, I should say that staffing levels
11 today wouldn't be as good as they are if it
12 were not for the steadfast efforts of
13 Superintendent D'Amico. I have a great deal
14 of respect for the work he's done as the
15 leader of our organization, and he has
16 continually endeavored to lobby the
17 Governor's office and Budget for classes for
18 the State Police Academy.

19 Thankfully the Governor heard
20 Superintendent D'Amico's pleas and he
21 recognized the desperate need for increased
22 to classes in the State Police. And although
23 we've had classes in 2011, 2012, and 2013;
24 that's just not enough. We have to continue

1 that.

2 And for there to be new BCI
3 investigators, there has to be an adequate
4 number of uniformed troopers to draw from.
5 And if we don't have those troopers out on
6 the road to draw from, the ranks of the BCI
7 will suffer. So staffing is not just an
8 issue for the uniform force, it's a very
9 important issue for the BCI force. I hope
10 that you each recognize how important
11 staffing is to the mission of the State
12 Police and how we provide our service to the
13 citizens of this great state.

14 Our next cause for concern is
15 equipping the BCI with simple and basic
16 equipment needs that we need to perform our
17 mission safely. I can show you each notes of
18 meetings with State Police officials dating
19 back to 2006 on equipment issues that have
20 yet to be addressed. And these aren't
21 pie-in-the-sky issues, these are simple
22 safety needs for our members. And every year
23 we're told that there's not enough money in
24 the division budget to provide you this

1 equipment.

2 I'm talking about EMS trauma bags in
3 our vehicles. It shouldn't take eight years
4 to get EMS equipment in a State Police
5 vehicle -- it's completely unacceptable.
6 We're asking for collapsible batons for all
7 the members of the BCI to be able to protect
8 themselves during physical confrontations.
9 We're asking for adequate, just simply
10 adequate emergency lighting on our vehicles.

11 These are issues that year after year
12 we've asked for and they've gone unaddressed.
13 And as I explained earlier, the BCI is
14 responsible for bringing into this state
15 millions and millions of dollars. The most
16 recent seizure money that the State Police
17 received on one of our cases was well over
18 \$10 million for one case. I'm explaining to
19 you that we bring in millions of dollars, yet
20 we can't get half a million dollars worth of
21 equipment in the course of eight years.

22 And I find it perplexing that the BCI
23 does not get to enjoy the fruits of their
24 labor with basic safety equipment. And quite

1 frankly, on behalf of my members, when it
2 takes eight years to get simple safety
3 equipment, it's hard for them not to feel
4 that they're not respected for the work that
5 they do, and their safety is important. And
6 that's one of the main reasons that I'm here
7 today.

8 The final issue I'd like to express
9 relates again to the safety of our members,
10 and that's the fleet of State Police
11 vehicles. State Police vehicles, whether
12 marked or unmarked, operate en route to
13 emergencies every day at high speeds, and
14 that vehicle fleet should be maintained in
15 accordance with that dynamic.

16 Our members are operating vehicles
17 that are older and have higher mileages than
18 the State Police fleet has ever had before.
19 I'm talking about rotted-out holes in
20 floorboards. I'm talking about rotted-out
21 brake lines and all sorts of maintenance
22 issues due to rot and corrosion attributed to
23 the age of these vehicles, some well over 10
24 years.

1 Now, I believe Governor Cuomo made a
2 good choice when he chose Superintendent
3 Joseph D'Amico to lead the men and women of
4 the State Police. He's a dynamic leader, and
5 I support him wholeheartedly.

6 I am in my 28th year with the State
7 Police, and during that time I've been here
8 for several superintendents. I've seen them
9 come and I've seen them go. And also in that
10 time I've been a union representative for not
11 only the Investigators Association, but the
12 PBA, dating back to the Pataki
13 administration, and during that time I've
14 dealt with several superintendents directly
15 and all of their administrative staffs. And
16 I can tell you and I feel qualified to tell
17 you that Superintendent D'Amico is doing an
18 excellent job leading the State Police. But
19 he's one man.

20 He's been willing to listen to our
21 concerns as a union, and he's been quite
22 responsive to our issues. He has depth, he
23 has vision, and he demonstrates a clear
24 understanding of what the men and the women

1 in the field for the State Police need to
2 perform our mission. He's a strong leader and
3 he advocates very well for the State Police,
4 but yet he's one man and we're talking about
5 budgetary issues here.

6 Having said that, a continual process
7 of academy classes is imperative and
8 paramount to the safety of the citizens of
9 New York, and I'm hoping that you will all
10 support Superintendent D'Amico in securing a
11 second class this year -- one class is not
12 enough. And we need classes every year, not
13 just this year. It has to be a continual
14 process. We went several years without
15 State Police classes, and years from now we
16 will have to bear that burden while there's a
17 hole in our membership and staffing falls.
18 And it has to be a continual process.

19 Additionally, I would hope that you
20 would recognize and consider the concerns
21 that I've to each of you here today on behalf
22 of the men and women of the BCI. This is
23 issues relating to the safety of their work
24 environment and how they do their job, and I

1 respectfully ask for your assistance in
2 helping us earmark some funding specifically
3 set aside for State Police BCI equipment
4 issues.

5 In closing, I'd like to say that the
6 Investigators Association is eager to work
7 with each of you on this budget and any
8 issues important to you or our members.
9 We've always enjoyed a positive and
10 cooperative relationship with both houses,
11 and we look forward to continuing these
12 relationships in the future.

13 Once again, Chairman DeFrancisco,
14 Chairman Farrell, members of the Legislature,
15 I appreciate the opportunity to testify here
16 today, and I'll be happy to answer any
17 questions that you may have.

18 CHAIRMAN DeFRANCISCO: Thank you.
19 Senator Gallivan.

20 SENATOR GALLIVAN: Thank you,
21 Chairman.

22 President Kayser, welcome. First let
23 me start by thanking you and your membership
24 for the work that you do on behalf of the

1 citizens of New York State. And also I
2 concur, I've enjoyed our relationship, and I
3 believe it is a good one as we work together
4 to advance the interests and safety of the
5 citizens.

6 Let me address two areas. The first
7 is manpower. The superintendent did testify
8 about manpower and about keeping up with
9 attrition. And right at the very end of your
10 testimony you advocated for a second recruit
11 class in the upcoming budget.

12 PRESIDENT KAYSER: Yes, Senator.

13 SENATOR GALLIVAN: Did you analyze the
14 numbers, or are you just calling for that? I
15 mean, does having two recruit classes of
16 sufficient numbers fully keep up with
17 attrition?

18 PRESIDENT KAYSER: I believe two will
19 keep up with attrition. But only having one
20 in July will not keep up with attrition. It
21 will keep up with attrition up to the point
22 of July, but every year at the end of the
23 year we get a mass exodus of retirements. In
24 December, the retirements go through the

1 roof. And that happens -- it's a continual
2 process all year long. But as I say, I know
3 the BCI loses 50 to 60 members a year, and
4 that's spread out during the course of the
5 year.

6 SENATOR GALLIVAN: Is that two classes
7 of 180 or --

8 PRESIDENT KAYSER: I'm sorry, sir?

9 SENATOR GALLIVAN: Two classes of what
10 number? How many in a class is the preferred
11 number?

12 PRESIDENT KAYSER: Well, I don't have
13 the exact numbers that the superintendent is
14 dealing with, but I believe it was 180 to
15 190. And quite frankly, I don't think that's
16 anywheres near enough.

17 SENATOR GALLIVAN: So the BCI ranks
18 are down over 200 positions. You may not
19 know the answer to this, but the uniform
20 ranks, are they fully staffed right now or
21 are they down as well?

22 PRESIDENT KAYSER: I can't answer for
23 the uniform ranks. I'm sure President
24 Mungeer will be able to give you the

1 specifics. But I know that we're not.

2 SENATOR GALLIVAN: Thanks.

3 Let's move on to the equipment,
4 specifically the trauma bags, collapsible
5 batons, emergency lighting. Do you know what
6 the cost would be to fully equip everybody,
7 or a cost per unit for each of these things?

8 PRESIDENT KAYSER: I cannot give you
9 the specific costing out, because the
10 division, we never got far enough in our
11 conversations to get that far where they
12 costed each one of those factors out as if
13 they were going to do it in a budget year.

14 But in our last discussions I think
15 \$470,000 would probably take care of the EMS
16 bags and the lighting for the vast majority
17 of the BCI fleet.

18 SENATOR GALLIVAN: Would you, is it
19 possible for you to try to obtain a number
20 for us and forward it to me for all of them?

21 PRESIDENT KAYSER: Yes, I'll be happy
22 to endeavor to do that.

23 SENATOR GALLIVAN: Now, so let's
24 assume that there's money in the budget for

1 this. Has the division agreed to equip you
2 with these things? Or would there be a
3 potential obstacle? If we said, okay, we've
4 magically found money for these things, would
5 the division say, Well, that's really good,
6 we'll issue that, or would they say, Well,
7 we're not sure we want them to be equipped
8 with A, B, or C?

9 PRESIDENT KAYSER: Well, no, we meet
10 with division on a regular basis for
11 equipment committees and vehicle committees.
12 And it has been agreed that we should have
13 those EMS trauma bags and that we should have
14 better emergency lighting. But
15 unfortunately, as the budget dwindles away,
16 it's never high enough on the list of
17 priorities. And I've spoken to the
18 superintendent, and he supports the need for
19 these issues, but there's just not enough
20 money.

21 And several years ago our union
22 approached the Legislature, and we were given
23 money for portable radios just for the BCI,
24 or else we would have never had portable

1 radios. It was the consideration of the
2 Legislature that got us portable radios years
3 ago.

4 And I find that -- I've tried to
5 mitigate this. This has been going on for
6 eight years, and I don't know what else to
7 do. That's why I'm here on bended knee.

8 SENATOR GALLIVAN: So finally -- same
9 topic, though, of funding for this specific
10 equipment -- any discussions at all of trying
11 to obtain Homeland Security money for it?
12 Or, part two of that question, to your
13 knowledge, have any of your members and/or
14 uniform members been the recipient of
15 equipment provided by Homeland Security
16 Funding? If you know.

17 PRESIDENT KAYSER: Not to my
18 knowledge, Senator. I have no direct
19 knowledge of that.

20 SENATOR GALLIVAN: All right. Thank
21 you.

22 CHAIRMAN DeFRANCISCO: Thank you very
23 much. Appreciate it.

24 PRESIDENT KAYSER: Thank you.

1 CHAIRMAN DeFRANCISCO: The next
2 speaker is Thomas Mungeer, president,
3 New York State Troopers PBA, to be followed
4 by Manuel Vilar.

5 PRESIDENT MUNGEER: Chairman
6 DeFrancisco, Chairman Farrell, members of the
7 Legislature, I'm going to make this real
8 quick.

9 I will echo my counterpart in the BCI
10 about Superintendent D'Amico. The Governor
11 got it right by picking him, and I appreciate
12 you confirming him. He's been a great
13 partner in working to further the interests
14 of the State Police.

15 It's manpower. I mean, I could sit
16 here, we need rifles, we need Tasers, our
17 cars, we need new cars. But that's in my
18 written testimony. I want to talk about
19 manpower.

20 I have analyzed the numbers, Senator
21 Gullivan. We are down. I agree with
22 everything Superintendent D'Amico said up to
23 the point where, you know, we are good until
24 July with the attrition numbers.

1 We have a class in here right now from
2 last year's budget, 180 troopers. Once they
3 graduate, the uniform forces, we will be
4 pretty much where we want to be, but then
5 attrition starts taking over. We lose, on an
6 average, 250 troopers a year, retirements.

7 And I don't even have to go into the
8 dangers of the job. We lost four members in
9 the line of duty last year. The last
10 10 years, we lost 17. So per capita I think
11 we're probably the most dangerous job in the
12 country. So we definitely are the most
13 visible unit out there on the roadways.

14 But that 250 number, the retirements,
15 if you put just simple math -- I agree with
16 Jeff Kayser, just simple math. You put that
17 135 members in an academy, you're still going
18 to be at least 135 short. And that's giving
19 you like 20 buffer. And Senator Gallivan
20 perfectly knows that if you put 135 in an
21 academy, you might not have 135 once you
22 graduate, because it is a tough academy.

23 But no, it does not keep up with
24 attrition, just that single class of 135.

1 You would need two classes of 135 just to
2 keep ahead.

3 We are still -- we're up to the point
4 if we do have those two classes, we would
5 have finally dug ourselves out of that hole
6 from the three and a half years of not hiring
7 anybody. But now I feel we're taking two
8 steps forward and then three back if in fact
9 we only have one class of 135.

10 But I'm open for any questions,
11 because I know we need to keep moving along
12 here.

13 CHAIRMAN DeFRANCISCO: Senator
14 Gallivan.

15 SENATOR GALLIVAN: Thank you,
16 President Mungeer. And the same words of
17 appreciation for your work and the work of
18 your members across this state.

19 One question about the 250-per-year
20 attrition. Is that just the uniform force or
21 all members?

22 PRESIDENT MUNGEER: That's overall.
23 And again, without a crystal ball, I can't
24 give you an exact number of who's leaving

1 this year. But that's been an average --

2 SENATOR GALLIVAN: That's both your
3 groups?

4 PRESIDENT MUNGEER: Yeah, both groups.
5 That's overall in the State Police. And
6 that's about what it's been for the last
7 three or four years.

8 SENATOR GALLIVAN: All right, thank
9 you. Thanks, Chairman.

10 CHAIRMAN DeFRANCISCO: Thank you. And
11 the lack of questions has nothing to do with
12 the importance or lack thereof of your the
13 issues. And we'll read everything carefully,
14 and we appreciate your service.

15 Next is Manual Vilar, followed by Donn
16 Rowe.

17 And for those keeping score, we have
18 another submission. Legal Aid Society, Steve
19 Banks has submitted.

20 PRESIDENT VILAR: Thank you,
21 Mr. Chairman. To save a little time, I'm
22 going to cut my presentation a little short.

23 My name is Manuel Vilar, and I'm
24 president of the Police Benevolent

1 Association of New York State, a labor union
2 representing the interests of the agency
3 police services unit. I'm also an active
4 sergeant in the New York State Park Police.

5 On behalf of the PBA in New York State
6 and its 1200 uniformed police officers, I
7 want to thank you for allowing me this
8 opportunity to testify this afternoon. I
9 have the honor to appear today before you
10 representing the dedicated uniformed police
11 officers working in the State University
12 Police, State Environmental Conservation
13 Police, State Park Place and State Forest
14 Rangers. These hardworking men and women are
15 on duty 365 days a year, 24/7, protecting our
16 SUNY campuses, environment and natural
17 resources, and more than 60 million annual
18 visitors to our world-class state parks and
19 state forest preserves. We respond to every
20 peril ranging from natural disasters to
21 dangerous felons.

22 Each year the New York State budget
23 has a significant impact on the work we do
24 and our ability to carry out our mission.

1 Over the past several years, we have been
2 routinely asked to do more with less, and we
3 have. Deep and consistent cuts to three of
4 our units -- Environmental Conservation
5 Police, State Park Police and State Forest
6 Rangers -- has gotten to the point where we
7 are concerned with our ability to respond
8 quickly to emergency calls.

9 There are many sentence the
10 Legislature can take, such as addressing our
11 top priority of high attrition rates at the
12 State University Police, to mitigate the
13 issues members face as we struggle to meet
14 our mission.

15 I'm here today to urge the Legislature
16 to prioritize our funding needs so we may
17 better serve and protect the residents and
18 visitors of New York State.

19 We urge the Legislature to increase
20 nonpersonal services lines for the Division
21 of Law Enforcement and forest rangers in the
22 Department of Environmental Conservation and
23 for the State Park Police in the state parks
24 budget. Our units are in desperate needs of

1 supplies and critically needed equipment.

2 For example, while we recently
3 graduated a new academy of forest rangers,
4 the graduates did not receive winter coats,
5 ATV helmets, gloves or flashlights. New
6 environmental conservation officers were not
7 given rain gear, and their radio equipment is
8 as inadequate that it cannot communicate with
9 the Division of State Police. Only a portion
10 of state park police officers have Tasers or
11 radiation detection devices, while others go
12 without.

13 All of our units need vehicles. And
14 while we are pleased the Governor is
15 allocating funding to purchase vehicles for
16 DEC, we must confirm that we have the
17 necessary equipment to equip those vehicles
18 and our members. A few hundred thousand
19 dollars added to each unit would go a long
20 way to mend our needs.

21 Over the last several years, New York
22 State has seen more than our fair share of
23 natural disasters, from Hurricanes Irene and
24 Sandy, Tropical Storm Lee, winter blizzards,

1 record-breaking deep freezes, severe winters,
2 and natural disasters today. Whether we face
3 acts of nature of horrific crimes, including
4 terrorism, our officers are increasingly
5 called upon to perform many aspects of the
6 state's response and rescue efforts.

7 PBA members are not only police
8 officers, but are highly trained with unique
9 special skill sets that they apply regularly
10 in the daily performance of their duty. When
11 a manmade natural disaster strikes, such as
12 the state of emergency today, it will be our
13 members out on snowmobiles aiding the
14 citizens and your constituents in the State
15 of New York. For us, those are regular,
16 day-to-day skill sets that we apply on a
17 regular basis, but they're the special skill
18 sets that we provide when a moment's notice
19 calls and we respond.

20 Thank you for this opportunity to
21 speak to you. If you have any questions,
22 I'll be happy to answer them now.

23 CHAIRMAN DeFRANCISCO: Senator
24 Gullivan.

1 SENATOR GALLIVAN: Thank you,
2 Chairman. Good afternoon, President.

3 Question in two areas; I think your
4 testimony might have cleared up one. But you
5 talked about the nonpersonal services lines
6 and some specific equipment and then cited a
7 few hundred thousand dollars would go a long
8 way to meeting the needs.

9 Are you able to be more specific about
10 that? And if not today, would you be able to
11 provide figures and numbers, costs and the
12 numbers of those items needed?

13 PRESIDENT VILAR: Yes, absolutely.
14 Not today, but I could provide you the exact
15 to-the-dollar amount that we would
16 specifically need between the agencies for
17 vehicles, equipment.

18 I have to say the agencies have been
19 very, very good. Commissioner Martens,
20 Commissioner Harvey have been very good in
21 working with us trying to do the best they
22 can with what they have. But, you know, to
23 mirror my counterparts in the Division of
24 State Police, it's a lean budget. And we

1 have an aging fleet of vehicles, we need
2 necessary equipment. We're trying to get by
3 with a lot less.

4 SENATOR GALLIVAN: You spoke of high
5 attrition rates as being your top priority.
6 Why are your attrition rates high?

7 PRESIDENT VILAR: There's a
8 combination of unique factors that deal with
9 attrition rates. And they tend to do with
10 compensation. Our members earn substantially
11 less than the Division of State Police.
12 They're very highly trained, unique special
13 skill sets that quite frankly you don't get
14 at a regular police academy, you only get
15 them coming out the door -- when our members
16 come out the door they're ready for rope
17 rescues, marine patrol, fighting forest
18 fires, rescuing -- such as the plane crash up
19 in Lake Placid where our members spent
20 overnight hiking up an icy mountain to rescue
21 the survivors -- forest fires.

22 Those are all very, very special skill
23 sets. And quite frankly it's not something
24 that a police officer, a regular uniformed

1 municipal police officer has. So when our
2 members come out of the academy, they're a
3 hot topic. And if they can woo them away,
4 they will. And normally that happens with --

5 SENATOR GALLIVAN: Are they eligible
6 for transfer to other agencies?

7 PRESIDENT VILAR: Yes, they transfer
8 out, they take other civil service exams.
9 The attrition rate, I can tell you in the
10 Park Police, is roughly about 25 people a
11 year. For a police department that right now
12 has currently over 215 active members and
13 35 members in the Police Academy.

14 SENATOR GALLIVAN: What retirement
15 similar system are you in?

16 PRESIDENT VILAR: Park Police are in
17 the Police & Fire. Park Police,
18 Environmental Conservation and Forest Rangers
19 are in the Police & Fire. University Police
20 are in the Employee Retirement System.

21 SENATOR GALLIVAN: What's the
22 different -- in the years that they serve
23 before they're eligible to retire, what's the
24 different? I'm not clear on that. If you

1 know.

2 PRESIDENT VILAR: The current P&F
3 system, we're all in a 25-year plan. And the
4 Employee Retirement System is like everyone
5 else.

6 SENATOR GALLIVAN: And who is in that
7 one?

8 PRESIDENT VILAR: University Police.

9 SENATOR GALLIVAN: And the University
10 Police, they're police officers, go through
11 the Police Academy, eligible for the
12 transfer, those things?

13 PRESIDENT VILAR: Oh, absolutely.
14 Absolutely. Highly trained, specialized,
15 incredible unique set of skill sets.

16 SENATOR GALLIVAN: All right, thank
17 you. All set, Chairman.

18 CHAIRMAN FARRELL: Assemblyman Aubry.

19 ASSEMBLYMAN AUBRY: Thank you very
20 much for testifying.

21 Just a question. Would you have
22 information related to the amount of revenue
23 that Parks and Environmental Conservation
24 would generate for the state?

1 PRESIDENT VILAR: I can't give you the
2 exact dollar amount, but I can follow up.
3 The Department of Environmental Conservation,
4 through their enforcement efforts and civil
5 restitution, it does bring in a substantial
6 amount of revenue to the state. In the case
7 of State Parks, as we all know, State Parks
8 is a giant economic engine that generates --
9 you know, I believe the Rockefeller Center
10 quoted somewhere around a billion dollars a
11 year.

12 So keeping people safe in our state
13 parks and state forest preserves, state
14 waterways, snowmobile trails, is in and of
15 itself a huge economic generator to the
16 state.

17 ASSEMBLYMAN AUBRY: And so State
18 Parks -- I asked this because we had had
19 further discussions -- I was told generated
20 \$83 million a year, just State Parks. And
21 the laundry list of what you indicate would
22 be required to bring these departments up to
23 some level of proficiency relative to
24 equipment, you said you don't have an

1 estimate of what that cost might be?

2 PRESIDENT VILAR: No, I'm sorry, I do
3 not have an exact dollar amount. And I can
4 get that exactly to you.

5 We're working very closely with the
6 agencies. Like I said, Commissioner Martens
7 in DEC and Commissioner Harvey, they've been
8 wonderful. We've been working very closely
9 with them. The Governor's office has been
10 good. But we're trying to --

11 ASSEMBLYMAN AUBRY: Well, who's the
12 villain? Somebody has to be a villain,
13 right? I mean, everybody can't be good and
14 you don't have equipment necessary to do your
15 job.

16 PRESIDENT VILAR: It's a flat-line
17 budget, and it's been a flat-line budget for
18 several years. So we're not replacing
19 vehicles at the rate we normally do. And
20 we're not purchasing new equipment at the
21 rate that we need to keep up with new staff
22 and turnover in personnel.

23 ASSEMBLYMAN AUBRY: You're a good
24 soldier. Thank you.

1 PRESIDENT VILAR: Thank you, sir.

2 CHAIRMAN DeFRANCISCO: Thank you very
3 much.

4 PRESIDENT VILAR: Thank you.

5 CHAIRMAN FARRELL: Thank you.

6 CHAIRMAN DeFRANCISCO: Donn Rowe,
7 New York State Correctional Officers PBA,
8 followed by Jack Beck and Gabrielle
9 Horowitz-Prisco, a duet.

10 PRESIDENT ROWE: Good afternoon,
11 Chairman Farrell, Chairman DeFrancisco,
12 members of the Legislature.

13 I thank you for roughing out a long
14 day, and I'll keep my remarks brief. But I
15 do believe I have some significant words to
16 say here today, and I would rather also keep
17 myself available to any questions you have
18 today or in the future. I believe in quality
19 in our information, not quantity, and I hope
20 to keep it that way.

21 One thing I do want to touch on that
22 was touched on earlier -- and I know my
23 purpose here is not to rebut the
24 commissioner's testimony or anyone else's

1 testimony. But to say that prison violence
2 is at an uptick is quite the underplay. What
3 we face today is a five-year high on every
4 measure of violence within our prison system,
5 whether it's assaults on inmates, assaults on
6 staff, contraband, so on and so forth.
7 Lockdowns, medium and maximum. To underplay
8 that there is not an issue in the medium
9 facilities is quite an understatement.

10 I've never seen, in my 32 years -- I'm
11 three years ahead of the row as far as the
12 acting commissioner -- I have not seen this
13 type of violence, especially in
14 medium-security facilities. And this is what
15 we're facing today.

16 The uptick or expansion of violence
17 within this system has grown by over
18 120 assaults on staff within one year, from
19 2012 to 2013. That is unacceptable. And I
20 can only point to one thing that has caused
21 this over five years, and that's the
22 consolidation and closure of facilities --
23 with, I believe Senator Marchione pointed out
24 very clearly, without a plan.

1 I've been sitting here for six years
2 as president of this organization testifying,
3 talking about taking a step back and looking
4 at rightsizing the system. We need to do
5 that. We're at a crisis. Many of you know,
6 many of you have been here, you know that in
7 1990-1999, we never had enough cell space or
8 bed space for 72,000 inmates. Never
9 happened, never would have happened in this
10 state.

11 We had inmates stuck in gymnasiums,
12 double-bunked. As Acting Commissioner
13 Annucci stated, 90 inmates in a 60-man dorm,
14 inmates stuffed in every nook and cranny,
15 inmates on draft buses without beds for them.
16 And those members, all correctional
17 personnel, did a heroic job during those
18 times, and we got through them.

19 Today I believe we're creating that
20 same crisis by consolidating this system to a
21 point where this violence obviously has shown
22 an increase. We have a more violent offender
23 within the system, and they're in more
24 cramped quarters. This isn't Oz, Donn Rowe

1 isn't sitting in a pod with 30 cells in front
2 of him. This is interaction, whether it's in
3 a maximum-security facility or a
4 medium-security facility, every single day
5 with individuals, and some of them becoming
6 very violent.

7 The acting commissioner spoke about
8 Auburn and an issue with Auburn. I toured
9 Auburn immediately after the lockdown. Those
10 officers do a hell of a job there, and they
11 react to incidents very quickly and defuse
12 incidents. The ones that caused this
13 lockdown were one of those. But you know
14 what they said? They said to me, "We had
15 four perpetrators in the yard that
16 immediately ate up all of our resources, and
17 we were worried about everybody else still
18 running the facility."

19 Those are the issues that are facing
20 this agency. It's underfunded, whether we
21 talk about overtime, unfunded mandates,
22 whether it's mental health, heater trips,
23 hospital trips. This is an underfunded
24 agency that has been squeezed to the point of

1 this zero-growth, cut spending -- those are
2 great buzzwords, but when we're talking about
3 public safety and safety of public servants
4 who perform the most dangerous job in law
5 enforcement, I think we have to take a closer
6 look and not take a hatchet approach to
7 something we should be using a scalpel on.
8 I'll be more than happy to answer your
9 questions, whether it's about double-bunking
10 or overtime, whether it's now or in the
11 future.

12 CHAIRMAN DeFRANCISCO: Senator
13 Gallivan.

14 SENATOR GALLIVAN: Thank you,
15 Chairman.

16 Good afternoon, President. Welcome.
17 Thanks for hanging in there.

18 I'm very intrigued. You've talked
19 about the violence at a five-year high, and
20 very concerned about it. But as soon as you
21 testified about that, my note to self was,
22 What do you attribute the causes to? And you
23 talked about the larger picture, a big
24 picture -- consolidation, closure, the idea

1 of rightsizing and looking at it. Can you
2 elaborate on that?

3 PRESIDENT ROWE: What I've seen in the
4 system and I think what every member has seen
5 in the system, over the years obviously we
6 don't have the nonviolent offenders anymore.
7 Most of our offenders within the system are
8 violent offenders. And when you consolidate
9 that kind of inmate in a concentration,
10 whether it's in a maximum-security facility,
11 and double-bunking plays into that, and
12 medium-security facilities, you've got a
13 recipe for disaster. And I've seen this
14 system deteriorate.

15 I work in a program facility for the
16 past almost 20 years. I've seen this system
17 deteriorate to the point where your
18 medium-security facilities, you're getting
19 the gangbangers in there who are there to
20 cause trouble and continue their violence.
21 And whether an inmate wants to do his time,
22 wants to be productive and look at his
23 release, I think we're creating a tough
24 situation for that to happen with the

1 violence.

2 SENATOR GALLIVAN: When you're looking
3 at the system, the facilities across the
4 state -- and if my data is correct, there's a
5 significant number of open beds. Are you
6 suggesting that those beds not be filled or
7 that they be filled differently?

8 PRESIDENT ROWE: Well, obviously when
9 we talk about opening beds we talk about
10 opening general population beds that we see,
11 and DOCCS talks about open beds in general.
12 Meaning so inmates are going to reside in
13 special housing units, so many inmates are
14 going to reside in infirmaries, so many
15 inmates are going to be out to court, so
16 they're going to count them as open beds.

17 There's also, in the medium-security
18 facilities, there's roughly 3400, 3500
19 double-bunks, which causes, again, 6800 to
20 7,000 just in mediums in double-bunk
21 situations. We believe there's adequate
22 space to give that wiggle room within a
23 facility to make it appropriate housing and
24 have appropriate staffing. I mean, obviously

1 we've grown over --

2 SENATOR GALLIVAN: Right there. What
3 is appropriate housing?

4 PRESIDENT ROWE: I believe appropriate
5 housing is probably an 85 percent population
6 in your general population. Because you need
7 enough wiggle room, as the acting
8 commissioner said, if you have issues you
9 need to be able to move those inmates.

10 If you're stuffed to the gills in
11 these medium-security facilities -- certainly
12 some of you have toured them -- you're asking
13 for nothing but trouble. Even if an inmate
14 would like to do his time, he's forced in a
15 situation, whether it's gang activity or
16 extortion or pressure. And with the staff
17 that we have at this point, these
18 facilities are staffed a bare minimum.

19 SENATOR GALLIVAN: You mentioned
20 double-bunking. Would you comment on that,
21 elaborate on that? Good, bad, creates
22 problems, helps with problems? Your
23 thoughts.

24 PRESIDENT ROWE: I'll again use the

1 acting commissioner's words --

2 SENATOR GALLIVAN: And let me jump in.
3 Please define what double-bunking is for us,
4 for you.

5 PRESIDENT ROWE: Double-bunking to me
6 is either double-bunking an inmate in a cell
7 or in a cubicle. So if I've got a dorm
8 that's built for 50 cubicles in an open-dorm
9 setting, I'm going to house 60 inmates
10 through double-bunking, by DOCCS's approach.

11 This is something, as the acting
12 commissioner testified, that I believe it was
13 around 2000, 2001, DOCCS continued to get
14 variances for some 5,000, 5500 beds. And
15 magically, the Commission on Corrections
16 said: Now they can house two inmates in a
17 cubicle, and that's fine with us. So they
18 changed the rules and regs so they didn't
19 have to get variances. There was no, you
20 know, big study about 60 inmates opposed to
21 50 inmates.

22 SENATOR GALLIVAN: Are you able to tie
23 safety or the increase in assaults, whether
24 we call it safety or unsafe conditions, are

1 you able to tie that to double-bunking?

2 PRESIDENT ROWE: Again, I don't think
3 I can tie it to double-bunking. But
4 double-bunking is an initiative that was
5 expanded widely in 1990 by then-Governor
6 Mario Cuomo, who nine months earlier
7 regretted double-bunking inmates in
8 gymnasiums, and he said, his administration
9 said, We regret to do this, but we're out of
10 time, we're out of space, so we're going to
11 expand it.

12 And it's perceived, it's part of the
13 mixture, whether it's staffing,
14 double-bunking or a more violent offender.

15 SENATOR GALLIVAN: Your belief, all of
16 them contribute, including the
17 double-bunking?

18 PRESIDENT ROWE: Correct. And I think
19 it would be wrong for me to sit here or the
20 commissioner to sit here and say
21 double-bunking didn't or did cause this. We
22 have -- the fact sheet is DOCCS's fact sheet.
23 It's not my running assault list, because I
24 think that would even conflict a little bit.

1 This is DOCCS's numbers.

2 SENATOR GALLIVAN: You mentioned being
3 underfunded. Could you be more specific?

4 PRESIDENT ROWE: I really -- you know,
5 I think that's obvious from whether it's the
6 Comptroller's overtime report to what happens
7 daily at a facility. I believe nobody has
8 taken a look, this system has been run by a
9 crisis, whether it was in 1999 or today.
10 Nobody has took a step back and taken a look
11 at appropriate staffing levels, whatever it
12 may be.

13 You passed a SHU bill, a mental health
14 bill. Appropriate, not appropriate,
15 whatever. The issue is the funding has got
16 to be behind it. And the staffing has got to
17 be behind it.

18 SENATOR GALLIVAN: Last question. Has
19 NYSCOPBA ever taken up its own independent
20 study, brought in an expert or done any of
21 that stuff on your own and produced a report?

22 PRESIDENT ROWE: As far as staffing
23 levels?

24 SENATOR GALLIVAN: As far as staffing,

1 yes.

2 PRESIDENT ROWE: Again, I don't know
3 what kind of effect that would have. I
4 believe the best place to deliver it is here.
5 It has to be with funding. It has to be
6 directed funding.

7 SENATOR GALLIVAN: All right, thank
8 you. Thanks, Chairman.

9 CHAIRMAN FARRELL: Assemblyman Aubry.

10 ASSEMBLYMAN AUBRY: Good afternoon.
11 Good to see you.

12 PRESIDENT ROWE: Good afternoon.

13 ASSEMBLYMAN AUBRY: Good evening,
14 right, I'm sorry.

15 (Laughter.)

16 ASSEMBLYMAN AUBRY: Just following on
17 Senator Gallivan's questions, the number of
18 security staff has remained constant or gone
19 down in the last four years?

20 PRESIDENT ROWE: Obviously we've lost
21 probably 2100 items over the whole prison
22 closure expansion.

23 ASSEMBLYMAN AUBRY: So in a five-year
24 period there are 2100 less --

1 PRESIDENT ROWE: Yeah. That would be
2 from approximately '09, yeah.

3 ASSEMBLYMAN AUBRY: Less security
4 officers that are in place at this point in
5 time.

6 And what about program staff? What
7 have you lost in that?

8 PRESIDENT ROWE: I wouldn't have those
9 numbers. They're not available to me.

10 ASSEMBLYMAN AUBRY: But nothing that
11 I've seen from the department seems to
12 indicate that. They seem to indicate that
13 the number of staff stays flat. New classes
14 have been brought in in that period of time.
15 And so how many new officers have we brought
16 in?

17 PRESIDENT ROWE: Well, I think as the
18 acting commissioner stated, we attrit out
19 roughly 50 officers every two weeks out of
20 the system. So they have to be filled, of
21 course. But, I mean, I think what you've
22 seen is a decrease in the number of plot-plan
23 posts within the facilities.

24 ASSEMBLYMAN AUBRY: Explain plot-plan

1 posts.

2 PRESIDENT ROWE: Well, I think our
3 plot plans don't reflect actually what we do.
4 Take a regional mental health unit at Marcy
5 Correctional Facility, one of the first in
6 the country. Tough place to work, difficult
7 area. We staff it at a shoestring; they draw
8 out of the resources of a small
9 medium-security facility. And when I say
10 small, I mean 1100, you know, not one of our
11 bigger ones. And they draw on the resources
12 out of there.

13 And that causes a strain on the whole
14 approach, whether it's budget fill levels,
15 plot-plan posts, which are posts that DOCCS
16 has determined are needed but they may close
17 in certain circumstances.

18 ASSEMBLYMAN AUBRY: Do you think that
19 the reduction in programs that seems to have
20 occurred in the last five years adds to
21 making the system unsafe?

22 PRESIDENT ROWE: The programs? No.

23 ASSEMBLYMAN AUBRY: You don't think
24 so. So programming --

1 PRESIDENT ROWE: The mental health,
2 the SHU mental health, it's a difficult
3 system. I believe there's duplication and
4 there needs to be some more work between
5 DOCCS and mental health as far as the two
6 entities coming together.

7 But I think it hasn't made it more
8 unsafe, but it's a difficult approach.
9 You're taking a violently, severely mentally
10 ill inmate out of a segregation area to a
11 program area, to programming.

12 ASSEMBLYMAN AUBRY: Is that where you
13 see the increase in violence? As you define
14 violence.

15 PRESIDENT ROWE: No. No. That's
16 something we've taken on, and certainly some
17 of these assaults may come from that.

18 ASSEMBLYMAN AUBRY: Relative to
19 there's an increase in staff requested based
20 on new programming around the SHUs, how do
21 you see that? Were you aware that that was
22 being proposed or --

23 PRESIDENT ROWE: I heard about it last
24 week, as you heard about it today. And

1 obviously it's an interim settlement, it's
2 not totally finalized. The finalization of
3 it, it's going to have its issues, especially
4 the segregation of the 16, 17-year-olds. How
5 that works, we'll see.

6 ASSEMBLYMAN AUBRY: Let me go back to
7 the relationship between programming, and I
8 mean all educational training, all of these
9 things that are offered. We're made to
10 understand there are long waiting lists for
11 getting into those programs.

12 And so my question again goes back to
13 the issue as to whether or not you have an
14 inmate who is involved in programs and all of
15 the implications that that might be, as
16 opposed to those who may not be in programs.
17 And does that contribute to an institution
18 being safe or unsafe?

19 PRESIDENT ROWE: I believe it could
20 contribute. You know, again, we've had
21 issues with programmed inmates and
22 nonprogrammed inmates. Obviously an idle
23 inmate is not a good thing when it comes to
24 whether it's forcing gang activity or their

1 own gang activity, whatever it may be.

2 ASSEMBLYMAN AUBRY: Thank you.

3 CHAIRMAN DeFRANCISCO: Senator
4 Hassell-Thompson.

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

7 I'm going to ask some of the same
8 questions, but only because I've been trying
9 to follow this and I'm trying to get clarity,
10 so forgive me if I sound redundant. But I
11 have a set of statistics in front of me that
12 says that statewide, assaults on staff are up
13 13.76 percent. And maximum versus medium
14 facility is up 33 percent medium, 10 percent
15 maximum.

16 Those are really significant numbers.
17 And they're not just -- you know, not just
18 percentagewise but numerically they're
19 significant. But yet I can't understand,
20 from what you're saying or from what the
21 commissioner's saying, how do you attribute
22 it.

23 The commissioner's response to me was
24 the type of inmate coming into the prison;

1 it's a behavioral issue, not a staffing
2 issue. Yet I hear you saying or I think I
3 hear you saying that it is a staffing issue,
4 and it's double-bunking. Help me with that.

5 PRESIDENT ROWE: Well, certainly the
6 type of inmate we have coming in the system
7 is a contributing factor. But we started to
8 get -- and I'll use the word "uptick" -- we
9 started to get an uptick of violent offenders
10 back in 2001, 2002, where we released the
11 nonviolent offenders and with presumptive
12 release, merit time, and some changes in the
13 laws, we started to get a more violent
14 offender. So that has gone on for at least a
15 decade.

16 SENATOR HASSELL-THOMPSON: Okay,
17 because you were weeding out some, and you
18 had some that were going into work release,
19 you had some going into sort of a variety of
20 different programs as they headed out. But
21 now are the terms longer?

22 PRESIDENT ROWE: You know, I don't
23 know how much the terms have changed over the
24 past decade. It's something we really don't

1 follow. But again, it's you're in for a
2 violent offense, you're not in for a drug
3 offense, the majority of them.

4 So I think what I'm saying here is
5 what has happened over the past five years.
6 Yes, we've seen an increase in violent
7 offenders coming in. We saw more mandates on
8 our facilities, on our agency to do the whole
9 more with less. Which my members, just like
10 every other public servant, carried on their
11 back, whether it was in negotiations or
12 through this budget process. And --

13 SENATOR HASSELL-THOMPSON: What kind
14 of more? How do you constitute more? You
15 said "more with less." What kind of more?
16 What is the more that you're asked to do?

17 PRESIDENT ROWE: I think we're asked
18 to deal with post closings, whatever it may
19 be. Rather than, you know, escorting them to
20 chow, you're going to let them walk, because
21 we don't have anybody to staff in between.
22 And again, that comes back to staffing.

23 But again, with these closures over
24 the past four or five years, I think this is

1 a showing of where we're going with the
2 system.

3 SENATOR HASSELL-THOMPSON: So you're
4 saying even though the reasons or the
5 justification for closures have been because
6 of a significant decrease in inmate
7 populations coming into prison, shorter
8 terms, Rockefeller Drug Law, a variety of
9 things that have occurred over the last five
10 years, you're saying that there is not really
11 a significant decrease in the numbers of
12 inmates, and you're still double-bunking. Is
13 that what you're telling me?

14 PRESIDENT ROWE: There was never
15 adequate space for --

16 SENATOR HASSELL-THOMPSON: I
17 understood that. But you're telling me in
18 the last five years. What happened in the
19 last five years?

20 PRESIDENT ROWE: In the last five
21 years we've closed 11 correctional
22 facilities, we've consolidated dormitories
23 and other facilities, and we've caused a
24 condensed system.

1 SENATOR HASSELL-THOMPSON: Okay.
2 That's not what's being reported everywhere
3 else, and that's what I was trying to get at.

4 Okay. All right, no further
5 questions. Thank you.

6 CHAIRMAN FARRELL: Thank you.
7 Assemblyman Walter.

8 ASSEMBLYMAN WALTER: Thank you.

9 Thank you for being here. I
10 appreciate your testimony.

11 Some of the numbers in your testimony,
12 in your written testimony here, kind of go
13 along with this theme. Even though there's
14 been a decline in inmate population, you say
15 here that the overall system is still at
16 101 percent of capacity, based on the
17 closures and everything that has gone on, and
18 115 percent of capacity with the
19 maximum-security facilities.

20 And what you're saying is for an
21 optimal level, I think -- and correct me if
22 I'm wrong -- really we should be closer to
23 85 percent capacity in order to --

24 PRESIDENT ROWE: You know, again,

1 talking to some previous administrators in
2 this department and talking to staff, you
3 know, I think that would be adequate.

4 You've got to remember our reporting
5 as far as the percentage does not include
6 temporary space, does not include SHU space,
7 does not include infirmary space. Because
8 those are segregated areas. They're not
9 areas where you could just stick any
10 general-population inmate.

11 ASSEMBLYMAN WALTER: Can you put some
12 of those percentages in context? Like say
13 for the past five years, going back to before
14 the closures started happening, where you had
15 a higher percentage capacity, lower, and
16 what's the --

17 PRESIDENT ROWE: I believe maximums
18 were at 122 percent. So it has decreased.

19 ASSEMBLYMAN WALTER: What effect will
20 the next four that are proposed now -- I
21 mean, looking at all of the numbers, the
22 incoming -- through attrition and the number
23 of officers that you have now, what are those
24 four closures going to do?

1 PRESIDENT ROWE: As far as the inmate
2 population?

3 ASSEMBLYMAN WALTER: Yeah, your
4 percentages. I mean, are you going to --

5 PRESIDENT ROWE: Obviously your
6 percentages are going to remain roughly the
7 same, because those beds are going to come
8 offline. So if you have 500 beds at
9 Mt. McGregor, they're going to come offline.

10 But there could possibly, with the
11 inmate population leveling out at this time,
12 there could be a little bit of an uptick.

13 ASSEMBLYMAN WALTER: Along those same
14 lines, you say that the average
15 inmate-to-officer ratio in housing unit areas
16 remains over 44 to 1. That's systemwide?

17 PRESIDENT ROWE: Yes.

18 ASSEMBLYMAN WALTER: And what's the
19 historical context of that number?

20 PRESIDENT ROWE: Well, I think what
21 DOCCS reports in their fact sheets and what
22 other states do, they report a 1-to-3 ratio.
23 That would mean that you and I work every
24 day, every hour, you know, 365 days a year.

1 That certainly isn't reasonable.

2 Obviously you have -- in different
3 facilities you have different types of
4 security, you need different kinds of
5 coverage. And obviously you need a relief
6 factor, because even correction officers get
7 days off.

8 ASSEMBLYMAN WALTER: And as compared
9 to your historical ratios, are you higher,
10 are you trending up, trending down? What's
11 the --

12 PRESIDENT ROWE: We've remained
13 roughly the same over the years.

14 ASSEMBLYMAN WALTER: Okay. But now
15 you have a more violent offender that you're
16 dealing with in a more --

17 PRESIDENT ROWE: And dependent on the
18 expansion of -- we had an expansion of
19 maximum-security space back in 2000, which
20 obviously brings the ratio way up. But you
21 have to remember the coverage in a
22 maximum-security facility compared to a
23 medium-security facility.

24 ASSEMBLYMAN WALTER: Okay. Thank you

1 very much.

2 CHAIRMAN DeFRANCISCO: Senator
3 Nozzolio.

4 SENATOR NOZZOLIO: Thank you.

5 First and foremost, I want to thank
6 all law enforcement who testified today, the
7 investigators, the troopers, the PBAs. They
8 do great work in analyzing crime, arresting
9 those who are responsible, having them work
10 through the criminal justice system, and then
11 sending them to you, Donn, and your members.
12 All that time for the appropriate arrest and
13 prosecution shouldn't be negated by
14 situations that call for a diversion from
15 appropriate punishment and potential
16 rehabilitation.

17 You and I and Assemblyman Oaks stood
18 tall against the proposed closure of Butler.
19 I couldn't help but remember, as these
20 discussions unfolded today, people do not
21 realize that the medium-security facilities
22 in our state house the most dangerous of
23 criminals possible. That many of our mediums
24 have in them those who have committed very

1 serious violent felonies.

2 There's just no room at the maxies, so
3 they have been deployed to the mediums. And
4 maybe their conduct in prison is not
5 incorrigible, maybe they qualify for that,
6 but nonetheless, they're still very
7 dangerous.

8 We saw in the mid-'90s the mediums
9 explode. I mentioned it to the commissioner
10 today. He remembers too when the biggest
11 threats were in our mediums because of the
12 dormitory-type settings. In many cases those
13 are for the new mediums, we have reasonable
14 sight lines. But for those that were
15 retrofitted, did come from other buildings to
16 become mediums, were more difficult to
17 manage.

18 From what you're saying today is that
19 there is becoming a greater concentration of
20 inmates who have demonstrated and in many
21 cases even been convicted of the most violent
22 of acts. Now, seeing that grow in the fewer
23 and fewer mediums that are existing today,
24 where does this go?

1 PRESIDENT ROWE: I really think that's
2 the question, where does this go. I think we
3 have to take a step back and we have to take
4 a look at this. We need to take a breath and
5 say what is appropriate housing.

6 As you said, we retrofitted buildings
7 over the years, cost savings to the taxpayers
8 rather than building new prisons. They have
9 to be handled delicately. You're not talking
10 about an open bay setting, you're talking
11 about dormitories. And with violent
12 offenders, we've had some very violent acts.
13 We've had a murder at Mid-State. We've had,
14 whether it's maximum security -- we had an
15 attempted murder of a correction officer this
16 year, the first time in my time that really,
17 really stood out there. We had one just a
18 couple of weeks ago.

19 SENATOR NOZZOLIO: We fully support --
20 not all of us, but many of us support the
21 rightsizing of the correctional system. When
22 two maxies were built in the late '90s and
23 early 2000s, those were appropriate. We
24 can't -- it's a fiction to think that the

1 number of maximum-security beds across our
2 system is exactly what we need, because
3 that's not the case.

4 I applaud the commissioner for
5 reducing the double-bunking, something that's
6 been in existence now for almost 15 years --

7 PRESIDENT ROWE: In maximums. In
8 maximum-security facilities only.

9 SENATOR NOZZOLIO: In maxies. In
10 maxies.

11 PRESIDENT ROWE: Only. Only.

12 SENATOR NOZZOLIO: But nonetheless,
13 that still stretches. And where does that
14 violent inmate go? Sooner or later, they
15 trickle into the mediums, as we see.

16 And what I fear is history repeating
17 itself with a concentration of most dangerous
18 within our mediums. That's a story we read
19 in the mid-'90s. That's the situation that
20 occurred with the near riots in some of the
21 facilities. And I think that's something
22 you're trying to prevent. That it's
23 something that we don't ever want to see that
24 happen, of course. But we ask the correction

1 officers to work under difficult conditions,
2 we don't want to see those conditions get
3 even more stridently in danger.

4 In terms of the year that is given
5 because of the notice provision that we
6 enacted working with NYSCOPBA a few years ago
7 to get that provision, the Governor has
8 complied with that law. What is your sense
9 of what's being done for the employees now,
10 whether or not there will be jobs for those
11 45 percent that have yet to declare? What's
12 generally your observation of that condition?

13 PRESIDENT ROWE: Well, it's a very
14 difficult process and it's a very personal
15 process. And I've gone out to these
16 facilities, whether it was at the original
17 announcement or at the recent meetings that
18 are going to be conducted -- have been
19 conducted and are still being conducted.
20 It's a very difficult time. It's a personal
21 decision. Do they wait it out and see if the
22 facility might stay open, might not stay
23 open?

24 So I believe the department is doing

1 everything they can under the budget standard
2 of this. But I think under the personal
3 standard, I think the Governor -- what he did
4 with his announcement in the middle of the
5 summer, two weeks, three weeks after you
6 people left session and announced this, I
7 think it would have been better served if he
8 announced it in January, allowed open
9 dialogue and committee dialogue on the issue,
10 and the one-year notification the way it was
11 meant to be. To do it by Executive fiat is a
12 disservice to those communities, and it's
13 certainly a disservice to my members.

14 SENATOR NOZZOLIO: Thank you very
15 much, Mr. Chairman. Thank you, Donn.

16 CHAIRMAN DeFRANCISCO: All right,
17 we've got a couple more in the first round.
18 Senator O'Mara, then Senator Marchione.

19 SENATOR O'MARA: Thank you, Chairman.

20 Thank you, President Rowe, for being
21 here today. To follow up on your last
22 comments there about this being done by
23 Executive fiat under the one-year notice
24 requirement, now, we went through a round or

1 prison cultures I think two years ago where
2 we closed seven facilities. And my
3 recollection is at that time everybody came
4 to the table and worked on it together, the
5 Legislature, NYSCOPBA, the administration,
6 and that hasn't even been attempted here this
7 round, has it? Have you been brought into --

8 PRESIDENT ROWE: No. The last time
9 that you're talking about, you know,
10 obviously we were in a \$10 billion deficit
11 and it was done very quickly. There wasn't
12 the one-year notification, but at least it
13 went through the budget process, at least it
14 went through the public process.

15 This, to me, I believe, you know, the
16 timing of it was not a very good approach to
17 people who perform a very difficult service
18 for the state.

19 SENATOR O'MARA: Absolutely do. And I
20 have, as you know, a number of officers
21 throughout my district and they do great work
22 and I applaud them and your organization for
23 all you do.

24 I appreciate you summarizing your

1 written testimony here today, but in going
2 through it I just wanted to pick out one line
3 here in particular that says: "Closing
4 Monterey Shock, which has a special program
5 and a recidivism rate well below the state
6 average, is an especially bad idea." From
7 your written testimony.

8 Can you expound on that a little bit,
9 on why you consider that to be an especially
10 bad idea?

11 PRESIDENT ROWE: Well, I think -- and
12 again, I hate to point back at him, but -- I
13 like the guy. And that's Acting Commissioner
14 Anthony Annucci. The acting commissioner was
15 a proponent, he helped write the laws for
16 shock incarceration. It gave us great relief
17 when we put shock incarceration into the
18 system to get rid of nonviolent offenders.

19 To take this down in certainly
20 Monterey, which was not only a model in this
21 state but a model in the nation, I think
22 is -- it's a blow to where we're going. I
23 really believe, as we take down the work
24 release facilities, the minimum-security

1 facilities and some of these -- I don't want
2 to say loose, but light mediums, what we're
3 ending up with is we're just going back to
4 institutionalize, warehousing inmates.

5 SENATOR O'MARA: Do you have any
6 recommendations from your perspective and
7 years of experience on ways that we could
8 continue to expand the eligibility of inmates
9 for the shock program, given the high
10 effectiveness of it, the low recidivism rate
11 that we've seen over the years?

12 PRESIDENT ROWE: You know, I'm not
13 real familiar with how we could expand it
14 legally. But again, I think there's enough
15 room with what we have out at Lakeview --
16 again, Lakeview is packed full. And to give
17 Lakeview a little bit of wiggle room, they
18 have platoons waiting to go into their
19 session. Why wouldn't you just move those to
20 Monterey?

21 Again, I think it's a shell game.
22 We're going to stuff Lakeview full, because
23 it's a bigger place, and we're just going to
24 run the sessions through slower and say, Oh,

1 we don't have enough inmates.

2 SENATOR O'MARA: Now, to follow up on
3 that, and it was going to be my next point, I
4 have numbers from DOCCS that we received as
5 of January 31st that shows between 250 to 300
6 shock-eligible inmates in the system waiting
7 to be assigned to a platoon.

8 Monterey's capacity is 300 inmates. I
9 believe Moriah is at capacity. And as you
10 talked about Lakeview being where they are,
11 it seems to me we have the need for this
12 facility and the readily available inmates to
13 be able to put in that facility.

14 And I hear anecdotally from your
15 membership that those numbers, they feel, are
16 on the low side and there's actually more of
17 a backlog of inmates that could be ready for
18 the system that, you know, maybe the numbers
19 are being played with to make it look like
20 there's not so much of a need -- even though,
21 as I agree and as you said, with the numbers
22 that they document themselves.

23 And the capacity of the facilities at
24 the two remaining facilities, there is that

1 need without that right now. Would you agree
2 with that?

3 PRESIDENT ROWE: Yeah, I would
4 definitely agree with that. At any given
5 day, I can shuffle their numbers. Mike's my
6 numbers guy. He can shuffle their numbers
7 just like they can shuffle their numbers.

8 And again, it comes down to available
9 space and how you use it.

10 SENATOR O'MARA: I have also heard
11 anecdotally that there is some capital
12 improvement work going on at Lakeview that
13 would expand the capacity of that facility.
14 Have you been picking up on anything like
15 that?

16 PRESIDENT ROWE: Not that I've been
17 privy to. But I just found out that they
18 took down the double bunks in Great Meadow,
19 so That's where I started off.

20 SENATOR O'MARA: Thank you.

21 CHAIRMAN DeFRANCISCO: Senator
22 Marchione.

23 SENATOR MARCHIONE: Thank you,
24 Mr. Chairman.

1 First of all, I would like to also
2 start off by thanking all of our police
3 agencies in the state. And, Donn, I
4 certainly want to thank you for your
5 dedication and your principled leadership at
6 what I look at as a very difficult time in
7 NYSCOPBA's history over the last five year.

8 You know, that's almost five a year
9 that you have been facing in the membership
10 that you represent. In your expert opinion,
11 what's been targeting public safety -- some
12 have called it, you know, a war on public
13 safety -- can you tell me -- I mean, we
14 should know, but I do want to ask the
15 question, how is the morale of your public
16 safety professionals at this time?

17 PRESIDENT ROWE: Well, I'm not going
18 to lie to you. As far as DOCCS is concerned,
19 the correction personnel, it's very low. And
20 I believe public servants all over the
21 country, and certainly in this state, it's
22 very low.

23 But when you do a difficult job like
24 we do -- I don't pretend we're any different

1 than any other. We go about our business
2 behind walls, behind fences every day. But
3 as we talked about in 2011, when we were
4 talking about a \$10 billion deficit, it's a
5 little easier to stomach, to do more with
6 less and put your neck on the line, and even
7 at the negotiating table. But at the end of
8 the day, when we're in a budget session that
9 is going to produce some miracle \$2 billion
10 surplus next year or the year after, and
11 we're taking these kind of cuts in public
12 safety, it has a severe impact on morale.
13 And morale is all you got when you're working
14 behind a wall.

15 SENATOR MARCHIONE: That's right.

16 Some of your membership I'm sure have
17 already been shifted to another site. Are
18 they being asked to travel a great deal in
19 order to keep their jobs?

20 PRESIDENT ROWE: At this point they're
21 moving voluntarily, they've been moving
22 voluntarily.

23 You know, it's a sad day when I've got
24 to walk into a correctional facility, which I

1 did last summer, and see people I started
2 with, worked with say, Look, you know, what
3 should I do? What should do I? And I tell
4 them, Mike tells them, the rest of our
5 executive board tells them, you know, This is
6 a personal decision for you, whether you want
7 to stay -- it's all about keeping employment.
8 If you need to keep employment, if you're not
9 going to retire or whatever, you need to make
10 some tough decisions.

11 And again, we're not talking about
12 moving people from Agency Building 1 to
13 Agency Building 2, 9:00 to 5:00, weekends and
14 holidays off, we're talking about somebody
15 that's going from maybe a day-shift,
16 weekend-off job to another facility, and now
17 he's going to have to work afternoons or
18 whatever. And we're talking about childcare
19 and disruption and travel.

20 SENATOR MARCHIONE: Yeah, I caught
21 just a quick glimpse of that when I was at
22 Mt. McGregor and people were there in the sea
23 of the orange shirts, and their faces just
24 told me everything that you're verbalizing to

1 me at this time. A very, very difficult time
2 for --

3 PRESIDENT ROWE: It brings you back to
4 your human reality real quick.

5 SENATOR MARCHIONE: It absolutely did.
6 I'd like to just talk about
7 Mt. McGregor for just a few minutes.
8 Mt. McGregor has an infirmary on-site, and I
9 know that there are not many infirmaries.
10 What's the loss of that infirmary to the
11 prison system?

12 PRESIDENT ROWE: Well, it causes
13 different travel patterns as far as facility
14 transportation when it comes to infirmaries.

15 SENATOR MARCHIONE: Does it add to the
16 cost if you're not able to get to a
17 facilitate, you have to hit a hospital and --

18 PRESIDENT ROWE: You know, there would
19 obviously be a cost factor in there depending
20 on what facilities were serviced there and if
21 they'll have available space at the other
22 facilities.

23 SENATOR MARCHIONE: Just one more
24 question. I want to step back to the idea

1 that do we need to step back on this.

2 And we heard the acting commissioner
3 tell us that he was told in May that this
4 needed to occur by July, they made the
5 decision. And this will be prison closure
6 No. 15. It just seems to be -- and I'll ask
7 your opinion of this, it just to be that
8 there needs to be some planning beyond fixing
9 prison windows in two of our prisons, mine up
10 to \$2.8 million, and now closing the
11 facility.

12 It just doesn't seem that there's a
13 lot of planning or any planning. And I
14 doubt, if there's planning relative to
15 buildings, what kind of planning has there
16 been in personnel and just the human side
17 of -- and inmates as well. Can you comment
18 on that?

19 PRESIDENT ROWE: I really can't
20 comment on that because we weren't asked to
21 participate in that, and you would think we
22 would be. But again, I think it's this zero
23 growth, cut spending. I'm a taxpayer, I love
24 those words. But let's do it correctly.

1 And I believe it was a budgetary
2 approach, and it was done that quickly. And
3 whether the department feels they can pull it
4 off or were told to pull it off, that's where
5 we are today.

6 SENATOR MARCHIONE: I'm a conservative
7 as well, President. But boy, you really need
8 to look at the full scope of what we're doing
9 here for the amount that we're going to be
10 saving. So thank you very much.

11 Thank you, Mr. Chairman.

12 CHAIRMAN DeFRANCISCO: Thank you.

13 To close, Senator Gallivan. To close
14 expeditiously, Senator Gallivan.

15 SENATOR GALLIVAN: And I will.

16 You spoke about -- Assemblyman Walter
17 brought up your written testimony about the
18 system at 101 percent capacity, max
19 facilities at 115 percent capacity, which you
20 explained very well. Could you provide my
21 office with that data?

22 PRESIDENT ROWE: Certainly.

23 SENATOR GALLIVAN: Secondly, you had
24 talked I think it might have been about an

1 incident at Auburn; it may not have. But
2 you've got correction officers on the various
3 posts, some incident takes place in the yard
4 or wherever that requires a response.

5 So you've got the correction officer
6 that is working that particular post, first
7 responder, obviously numerous inmates
8 involved. Others are assigned to respond.
9 Do I understand correctly that they are
10 pulled off different posts to respond? Or is
11 there a team that's available to respond to
12 the emergencies?

13 PRESIDENT ROWE: Without getting very
14 public with how we respond to emergencies --

15 SENATOR GALLIVAN: Understood.

16 PRESIDENT ROWE: -- what we don't have
17 is we don't have a goon quad sitting around
18 waiting to respond as, you know, the movie
19 critics might say.

20 SENATOR GALLIVAN: Well, let's put it
21 in a more professional -- that's really what
22 I wanted to know, but with an emergency
23 response team or something to that effect?

24 PRESIDENT ROWE: We have emergency

1 response posts. But you have to realize that
2 they vacate posts to respond. It isn't like
3 that's their sole function.

4 SENATOR GALLIVAN: Did it used to be?
5 Well, let me ask it --

6 PRESIDENT ROWE: No.

7 SENATOR GALLIVAN: Is there a need for
8 a team like that to be available?

9 PRESIDENT ROWE: I believe at this
10 point in a maximum-security facility you
11 should have a certain amount of staff that's
12 flexible enough to respond without causing
13 coverage issues or whatever it may be. And
14 also in a medium-security facility.

15 SENATOR GALLIVAN: All right, thanks.

16 And finally, thanks to you and your
17 membership for the work they do.

18 PRESIDENT ROWE: Thank you.

19 CHAIRMAN DeFRANCISCO: Thank you very
20 much.

21 CHAIRMAN FARRELL: Thank you.

22 CHAIRMAN DeFRANCISCO: Correctional
23 Association of New York, two speakers for
24 that group, Jack Beck and Gabrielle

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Horowitz-Prisco.

On deck is Patrick Cullen. And if the next speaker that's on deck could move forward, we'd appreciate it.

MR. BECK: There's only one of us testifying today.

CHAIRMAN DeFRANCISCO: Okay, which one are you, Jack Beck or Gabrielle Horowitz?

(Laughter.)

MR. BECK: Yes, I am.

CHAIRMAN DeFRANCISCO: Oh, Jack Beck, okay. Go ahead.

MR. BECK: Okay, it's almost good evening. I want to thank you all for giving us this opportunity to talk today about it.

I will not read any testimony, I'm going to try to summarize it very quickly and I hope we can actually have discussion on some of the topics that we've been discussing today.

At the Correctional Association we have legislative authority to actually go into the prisons. We actually see what's going on inside and we write reports about

1 what we observe. We also work on large
2 issues that affect the incarcerated
3 population.

4 Myself, I've been there almost
5 10 years. I've gone to 40 of the prisons or
6 more in the state. I get to see all these
7 areas and get to talk to the individuals,
8 both staff and the incarcerated population.

9 I want to talk about four things
10 today. Overall, I think there are some
11 positive things in the budget -- which often
12 we don't talk about, but I want to mention
13 them -- but also some areas of concern.

14 The four areas are one is about
15 funding for healthcare, second is about
16 funding for programs, third I want to talk
17 about the Council on Community Reentry and
18 Reintegration, and finally I want to talk
19 about some of the developments about solitary
20 confinement.

21 The bottom line of a lot of the talk
22 today has been about security staff and those
23 concerns. But I can tell you, and we have
24 done detailed analysis in our testimony, that

1 in fact where we're seeing much greater
2 cuts are actually on the programs and other
3 services. In fact, for the medical staff
4 that are inside the prisons there's been
5 almost a 15 percent reduction in the last
6 four years.

7 And let's put this in perspective.
8 During those last four years there's been
9 about a 7 percent reduction in the prison
10 population, and we have double that amount
11 for the medical staff. If you also, because
12 you've been comparing that, if you look at
13 what's going on for security staff, they've
14 had about a 6.8 percent reduction. So they
15 have been matching the reduction in the
16 population, and we're taking areas like
17 healthcare and programs, and we're seeing
18 twice that much.

19 And if you look at the percentage of
20 the budget, of what is the percentage of the
21 budget that looks for programs and
22 healthcare, those percentages of that budget
23 are declining. In other words, this doesn't
24 have anything to do with the population is

1 declining. Let's take the amount of money
2 and what is the percentage for these various
3 other services; those are declining. And
4 that's a very serious concern.

5 Let me deal with healthcare first.
6 There is real impact with these reductions,
7 and we see it all the time when we go into a
8 prison. The latest data we have for 2012,
9 there was a 28 percent vacancy rate for
10 physician and clinical providers. You have a
11 single-digit rate, a low single-digit rate
12 for security staff. We have a 28 percent
13 vacancy rate. And there's also a substantial
14 vacancy rate of 18 percent for nurses and
15 30 percent for pharmacists.

16 In other words, there are slots that
17 are supposed to be there for healthcare, but
18 they're not being filled. And what happens
19 is from year to year all they do is these
20 temporary vacancies become permanent because
21 they cut the staff. And that's very serious.

22 And we also have to look at is that
23 the situation -- we're talked about many
24 characteristics of the prison population, but

1 you haven't really talked about the
2 characteristics medically. And what we're
3 doing is although our population is going
4 down, there's one set of the population
5 that's increasing, and that's the elderly
6 population.

7 Those that are 55 and older, they have
8 increased in just the last decade by
9 two-thirds. Now they represent 16 percent of
10 the population. And they cost two to four
11 times greater than the other population.

12 Finally on the healthcare issue, we
13 have some new developments that are positive,
14 but I don't think we're going to be able to
15 realize them. And what that is is that we
16 have more than 6,000 people with hepatitis C.
17 And there's been almost a miracle in
18 hepatitis C that there are new medications
19 that can actually cure people of this very
20 serious injury. More people are dying from
21 hepatitis C than are dying from AIDS.

22 And we did is we have 6,000 people or
23 more that have hep C, and as of 2009 we are
24 we are only treating, with the medications,

1 89 people. Well, I can say I'm a lawyer -- I
2 don't do any litigation -- but as these cure
3 rates that are some of the latest data
4 suggest that 90 percent of the people with
5 this illness could be cured with medications,
6 I don't think the state is going to be able
7 to treat such few numbers. And these are
8 very expensive drugs.

9 Now, I do give credit that they've
10 increased the budget for medications this
11 year. They've been cutting it and cutting
12 it. We're still down from where we were four
13 years ago. But I don't think it's going to
14 match that need, and I think the state is
15 going to be very vulnerable to litigation for
16 hepatitis C once we have these cure rates.

17 Let's jump to programs. In some
18 respects programs has even been more serious
19 in this way. We've seen about the same
20 reduction, 13.25 percent reduction in program
21 staff just in the last four years. Again,
22 that's double the amount that the population
23 has gone down. We're seeing programs like --
24 everyone talks about substance abuse

1 treatment, which is essential. We have a
2 very large population with those needs.
3 We've gone to many places where they've cut
4 those programs in half. In one prison we
5 were at, Sullivan, it's been closed for six
6 months; no one is getting treatment.

7 We're seeing educational departments
8 in various prisons where they have 25 to
9 50 percent of the vacancies. It's not across
10 the board, but there are substantial ones.

11 This is a real issue. And I hope
12 maybe we can have a discussion about the
13 violence issue they've been talking about.
14 But I can tell you, everywhere I go, when I
15 ask how do you reduce violence, you reduce
16 violence by keeping people engaged. And when
17 you don't have programs, you have an idle
18 population that tends to be more problematic.
19 So we need to do something about that.

20 And finally there's even been
21 non-personal services reductions,
22 particularly in the vocational programs and
23 the like, so that they don't have the
24 supplies that they once had, substantial

1 reductions.

2 So there are some negative pieces, but
3 let me do -- there's a few good positive
4 pieces in this story. One is that the
5 Governor has proposed -- there's this
6 initiative about the Affordable Care Act and
7 Medicare redesign, and they've created a task
8 force to really look at how can you integrate
9 the incarcerated population when they come
10 home into the new healthcare systems. And
11 they are proposing putting in \$5 million to
12 make sure that works.

13 I've been part of that task force.
14 This is a huge number of agencies and others.
15 But I really say this is government at its
16 best. They're really being careful and
17 thoughtful of how can we create the
18 infrastructure that we need to get these
19 people with care when they come home.

20 I strongly urge you -- it's not part
21 of the corrections budget, but the health
22 budget -- those \$5 million would be money
23 very well spent. It's not only going to help
24 the immediate group, but it's going to help

1 the communication home. I think that's an
2 important piece.

3 Also I think there is some additional
4 monies I said in medical supplies that are
5 for medications, and I think that's very
6 important that that happens.

7 Next I want to go to the Council on
8 Community Reentry and Reintegration. This is
9 not a lot of dollars in the budget, but I
10 think this is very important. This is very
11 important for the things that Tony Annucci
12 was talking about: How can we really get
13 people inside to come home and be effective
14 when they come home? Because that's public
15 safety.

16 The concern that we have is I don't
17 think you can just look at jobs, but you have
18 to look at a multiphase consideration. And
19 what that is is all people in corrections say
20 reentry starts the day you enter a facility,
21 not the day you leave. You have to make
22 assessments about what services people need,
23 you then have to provide them and get them
24 prepared so they get the skills that they

1 need while they're in inside. You need a
2 discharge plan so you know how to integrate
3 them. There has to be services in the
4 community. And the last piece is that you
5 really do need to remove some of the barriers
6 that exist, legal barriers for that.

7 What we're saying is I hope the
8 Legislature will be engaged on this Reentry
9 Council to make sure that they're really
10 looking at a comprehensive set of services
11 and evaluations so we can identify them.

12 Finally, lastly, I want to talk about
13 solitary confinement. I think this is
14 wonderful news, what the department was
15 talking about a settlement. I will give real
16 credit to the acting commissioner that
17 they're taking this litigation seriously and
18 they didn't wait, you know, five years of
19 litigation, they got to look at it right
20 away. I think they're on the right track,
21 although I think a lot more is needed.

22 But what I really urge, what we think
23 is needed is that you have to change from a
24 model that is isolation that is totally

1 ineffective -- I've been doing this,
2 everyone's talking about -- I've been in
3 New York doing work in prisons for 31 years.
4 And I started out, when I first started, it
5 was a case about solitary confinement.

6 I can tell you, isolation solves
7 almost nothing. It even doesn't solve
8 safety, because people get very upset and
9 deteriorate inside that, and there's more
10 violence.

11 What you have to do is you have to
12 treat people. You can separate them, but you
13 have of treat them. I think the department
14 is acknowledging that, so I urge you to fund
15 the 66 positions. But I think there's a lot
16 more to do. And I have to compliment
17 Assemblyman Aubry and Senator Perkins for a
18 bill that has just been introduced that would
19 even be more comprehensive remedies for that.
20 But I think we're on the right track.

21 So in summary, I think we need to
22 increase the programs that are inside.
23 That's how you deal with safety. I think we
24 have be careful in evaluating, and I hope we

1 can talk a little about the violence, because
2 I deal with that violence question all the
3 time. It's not a simple one, it's not about
4 overcrowding, there are many other things.

5 But I think we're on a track to try to
6 get away from just warehousing people to
7 treating them. But if we don't have program
8 staff to do that, we're all going to lose
9 out.

10 Exactly on time.

11 CHAIRMAN DeFRANCISCO: That was pretty
12 impressive. Right on the minute.

13 CHAIRMAN FARRELL: Assemblyman Aubry.

14 ASSEMBLYMAN AUBRY: Hi, Jack.

15 MR. BECK: Hi.

16 ASSEMBLYMAN AUBRY: Good to talk to
17 you, as we have for many years.

18 So you had some interesting answers
19 relative to cuts in programs that appear to
20 be going on. The first thing I'd like to ask
21 you: Cuts in programs, when you shrink the
22 system, also means cuts in employment to
23 areas where institutions are located, right?

24 And it's not just security staff, but

1 there are a whole host of staff that go on
2 that provide these services in the
3 institutions. And we hear a lot about
4 security staff, but we hear very little about
5 nurses and teachers and, you know,
6 instructors relative to their loss of
7 employment and their loss of services to the
8 system.

9 Does that work, as far as you're
10 concerned?

11 MR. BECK: Yeah, I think there is a
12 real issue about this. What we're seeing is
13 actually a lot of the people that do service
14 work inside, in programs, have actually
15 worked in those systems a very long time.
16 There's not a lot of turnover, necessarily,
17 there. But as people retire, they're not
18 filling the positions.

19 So we see vocational program after
20 vocational program, when people retire, they
21 don't fill BFL levels. That's what we hear
22 all the time, they can't fill it.

23 We also see nursing staff and
24 physician staff overtaxed. We have a case

1 where in one facility there was one provider,
2 doctor, for almost 1100 inmates. Where the
3 typical ratio is 1 to 450, which is still a
4 lot of patients to be seen. We see others
5 where there's 1 to 600.

6 We see these problems where we're not
7 filling those staff. If somebody leaves,
8 they're not being filled. And there are
9 consequences when you don't have those
10 services.

11 ASSEMBLYMAN AUBRY: I asked a
12 question -- and I'm glad you raised the issue
13 about hep C, because I asked the health
14 commissioner relative to their oversight of
15 what goes on inside the facilities, and the
16 health commissioner just a couple of days ago
17 indicated that he was the responsible party.
18 First he thought he was the responsible
19 party, and then he amended it to say "I'm the
20 responsible party."

21 And I asked him about hep C, and he,
22 like you, announced that there were these new
23 protocols that would now allow people with
24 hep C to be treated, but wasn't sure as to

1 whether or not these protocols would be used
2 inside the correctional facility.

3 If I'm not mistaken, I remember in the
4 past years people went untreated because it
5 was so expensive. So they wouldn't treat
6 them until they were about to be released.
7 Which of course by that time I'm not so sure
8 what the treatment would mean; people would
9 have been ultimately so sick as to not be
10 able to -- so is there any estimate of the
11 cost to provide that kind of treatment to
12 individuals? And what does that mean
13 relative to the transmission of hep C when
14 them come back into the communities?

15 MR. BECK: Well, hepatitis C, very
16 briefly, not everyone that has hepatitis C is
17 sick right away. I mean the interesting part
18 of it, it takes a very long time to develop,
19 you know, serious symptoms. So there is a
20 window when you can treat.

21 But originally the cure rates for that
22 were started at 20 percent, then 30, then 40,
23 then 50. So there was a logic to saying
24 we're not going to treat everybody right

1 away, let's focus on the people that are the
2 sickest, so that we'll intervene with them
3 and solve that problem.

4 What has changed now is that there are
5 medications where they're finding a
6 90 percent cure rate, that someone could
7 actually be on this -- and it used to be for
8 a whole year. Within the next 18 months
9 there are going to be drugs that are
10 available that don't involve as serious side
11 effects as the current regimens, which are
12 very difficult because they have interferon.
13 These don't have as many side effects.

14 However, there's a huge hook. The
15 latest thing, Gilead, they are charging
16 \$84,000 for a three-month supply of these
17 medications. The other drug is \$66,000. I
18 saw an evaluation that said their real costs
19 are in the hundreds to a thousand dollars,
20 but now there's gouging.

21 And so it is very -- but this is not a
22 problem just for the state correctional
23 system, this is a problem for our state.
24 However, you have an obligation inside of

1 prison, it's called the 8th Amendment, cruel
2 and unusual punishment.. You can't ignore
3 serious medical conditions when the only
4 source of your care is the state. So I
5 believe that there is real risk out there
6 that if you only treat, as they're doing,
7 2 percent of the population, that eventually
8 a court is going to tell you that's
9 unconstitutional.

10 So I think there is work that needs to
11 be done to prioritize who you're treating to
12 have the most effective treatment, but look
13 at it seriously. But this is going to cost
14 you money, there's just no way around it.
15 And we have to be responsible in how you
16 expend those funds, but it can't be we're
17 just going to wait until everyone gets out.
18 Because the problem is if you wait too long
19 for hep C treatment, you can't treat them at
20 all and you're talking about liver cancer.
21 And so it's not everyone, but it's a very
22 realistic problem.

23 Why we're coming here to tell you is
24 that a lot of thought has to go into this so

1 that you prioritize who you're treating, how
2 you're going to develop those budgets. They
3 are using new therapies that are about two
4 years old now, but the latest drugs that have
5 just been approved are much more effective
6 but also very expensive.

7 ASSEMBLYMAN AUBRY: In the history of
8 us ignoring certain issues such as
9 healthcare, mental health care, results in
10 lawsuits, almost always. And we do react to
11 lawsuits in the corrections system more than
12 we do in a progressive movement because we
13 recognize it. And what does that end up
14 costing us as a state if we wait until we're
15 being sued?

16 MR. BECK: I think, you know, then
17 you're having the courts run your systems
18 rather than good administration.

19 I believe the commissioner was very --
20 I have to say I thought he was very
21 responsive to you today and being very
22 thoughtful about his responses. I think he
23 wants to solve problems. But if there are no
24 dollars in his budget, he can't solve those

1 problems.

2 So this is going to have a partnership
3 between the Legislature and the commissioner
4 and also the health commissioner. Because
5 there is a law called the DOH Oversight Law
6 that requires that the Department of Health
7 look at HIV and hepatitis C care in the
8 prisons, and they are going to come together
9 and develop protocols. We have to look at
10 those protocols, figure out what are the
11 resources needed so you can implement them.

12 ASSEMBLYMAN AUBRY: Is that a federal
13 requirement?

14 MR. BECK: No, the DOH oversight is a
15 law that you folks passed a few years ago
16 that requires this State Department of Health
17 to take a look at healthcare inside the
18 prisons.

19 ASSEMBLYMAN AUBRY: Thank you.

20 SENATOR KRUEGER: Senator Velmanette
21 Montgomery.

22 SENATOR MONTGOMERY: Yes, thank you.

23 Good afternoon. Thank you for waiting
24 so many hours.

1 MR. BECK: My pleasure.

2 SENATOR MONTGOMERY: I just sort of
3 have one question for you. And you probably
4 maybe really have not thought about it a lot,
5 but I'm just curious.

6 I thought that I saw someplace, and I
7 can't find it quickly, where we're looking to
8 save about \$30 million based on the recent
9 proposals for closings. And so that's fine.
10 However, there's another program that several
11 people have spoken about in the last couple
12 of days, and I see a press release talking
13 about it. And it's just curious to me. It's
14 something that the state is launching, it's a
15 new initiative. It's called Pay for Success.

16 So I don't know if you've looked at
17 it. I would be very interested in seeing how
18 that strikes you. And that's one thing, it's
19 just -- it's a throwback to something that I
20 think was like the dark ages in the U.S. But
21 anyway.

22 So if we are talking about having
23 people invest in the success of the formerly
24 incarcerated but we're actually not investing

1 anything in making it possible for them to
2 succeed, I'm just very curious as to how that
3 actually is going to work. Because my
4 understanding is that it only benefits, I
5 guess, the state if people are successful.
6 If they're not successful, then what happens?
7 And, you know, who loses and what do we lose
8 and why don't we just use the \$30 million and
9 reinvest it in making people successful, as
10 opposed to this sort of a -- it looks like a
11 chess operation to me.

12 MR. BECK: Well, you know, I have two
13 comments about it. First is that I am not
14 opposed to people having some level of
15 accountability for whether their
16 interventions work. And so some of this is
17 saying if you're going to have an
18 intervention, get people working, let's do
19 it, you have to show that your program is
20 working. That's part of what this Pay for
21 Success is.

22 But the problem that I see with
23 it is -- that's why I talked about the
24 Reentry Council. If you don't give people

1 education when they're inside, if the
2 vocational programs are ones that don't
3 really go to what the jobs are that are on
4 the outside but, rather, teaching you skills
5 that are no longer needed because they've
6 been doing the same work inside for 20 and
7 30 years, if you haven't given them what it's
8 really like to really do employment, then
9 you're letting them out and saying, okay, go
10 out and here's this job, but we haven't given
11 you the set of skills that you need to be
12 successful.

13 So we're saying in the Reentry Council
14 what they should be concerned about is this
15 has to be a partnership between what happens
16 inside prison as well as what happens on the
17 outside. Only if you're really preparing and
18 getting people ready for that will that
19 program ultimately be successful. Or you're
20 just going to cherry-pick people that are on
21 their own have done it.

22 We think most people inside -- I know
23 those people, I talk to them, I have
24 thousands of interviews. They want to

1 succeed outside, but often they don't have
2 the tools. What we have to do is give them
3 those tools. Then when they come outside,
4 you connect them with programs and they'll be
5 more successful.

6 And finally about that is that a
7 program that's just about jobs -- and that's
8 why I thought the Reentry Council is
9 brilliant, is not just about jobs, as you
10 know so well. If you don't have a home, if
11 you don't have care, if you have problems
12 reintegrating with your family, you're not
13 necessarily going to be successful at that
14 job. And I think what this Reentry Council
15 is about is looking at the whole person for
16 success, let's deal with all the barriers,
17 and then jobs is an important one but it's
18 not the only one.

19 SENATOR MONTGOMERY: Thank you.

20 SENATOR KRUEGER: Any Assembly? Any
21 other Senators?

22 Then we're going to say thank you very
23 much.

24 MR. BECK: Thank you for this

1 opportunity.

2 SENATOR KRUEGER: The next testifier
3 is New York Supreme Court Officers
4 Association, Patrick Cullen. And next on
5 deck after Patrick is Jonathan Gradess,
6 New York Defenders Association.

7 Good evening.

8 PRESIDENT CULLEN: Good evening.
9 Thank you, Chairman DeFrancisco, Chairman
10 Farrell, members of the Legislature.

11 I'd also like to thank Chief
12 Administrative Judge Gail Prudenti for her
13 frank and candid testimony regarding the
14 financial state of the Judiciary earlier.

15 Thank you very much for granting me
16 some time before you today so that I might
17 share some information with you regarding the
18 State Supreme Court Officers. I have the
19 privilege of representing 2400 active and
20 retired court officers in Supreme Courts in
21 New York City and the Ninth Judicial District
22 as president of the New York State Supreme
23 Court Officers Association.

24 I'd like to use this opportunity to

1 bring to light some of the difficulties our
2 membership has encountered in the past number
3 of years. For the past several years the
4 Office of Court Administration has submitted
5 reduced or zero-growth budgets in order to do
6 its part in helping New York State through
7 the financial woes we have all endured.
8 Regarding our members, the Office of Court
9 Administration initiated title rollbacks,
10 layoffs, and promotional and hiring freezes
11 in order to reduce costs and maintain an
12 austerity not seen in decades.

13 Of course, the importance of these
14 measures is understood on many levels.
15 However, it has taken its toll on the state's
16 judicial system. The courts have been gutted
17 of key personnel level at all levels. As per
18 OCA's own 2014-2015 proposed budget, current
19 staffing is the lowest it has been in more
20 than a decade, despite a significant increase
21 in workload during that time.

22 What this means to the men and women
23 of my organization is multifaceted. The main
24 result been the reduction of safety

1 throughout the Supreme Courts statewide.
2 Because our public workforce has been drained
3 of resources, public areas are no longer
4 patrolled; entry searches are performed by
5 far fewer officers, delaying entry to
6 facilities; trials are being conducted with
7 one, two, and sometimes three officers fewer
8 than acceptable staffing standards.

9 Additionally, the lack of manpower
10 causes a constant redeployment of officers,
11 delaying in some form every daily calendar in
12 the courts we represent.

13 All of these factors are complications
14 in and of themselves, yet occur as the Office
15 of Court Administration has, in the same time
16 frame, placed its focus on efficiency
17 initiatives geared toward speeding up the
18 process of adjudicating a tremendous backlog
19 of felony cases. OCA readily admits these
20 problems in its proposed budget, and I quote:
21 "Employees who, in the face of overwhelming
22 workload and reductions in personnel and
23 resources, have redoubled their efforts and
24 are working harder than ever."

1 We are glad to hear of this
2 recognition. However, what is not included
3 is the real impact it has had upon the safety
4 of those citizens that the courts serve. An
5 increase of violent activities in both
6 criminal and civil terms, a substantial
7 uptick in gang presence, and the inability to
8 assign officers to the protection of jurors,
9 litigants and judges who require it but
10 suffer because of our massive understaffing.

11 It is my belief we are already past a
12 breaking point and it is just a matter of
13 time before we see a devastating toll on the
14 safety of New Yorkers inside our courts, as
15 evidenced by the tragic fatal shooting in
16 Middletown City Court in February 2012, as
17 referenced earlier by Judge Prudenti.

18 The public has a reasonable
19 expectation to be protected while in our
20 courts, and at our current staffing levels
21 this is just not possible. Our individual
22 court officers have been doing jobs
23 traditionally done by two or three officers
24 under similar circumstances in the past.

1 Additionally, the ramifications of
2 these occurrences have a tremendously
3 detrimental result for the men and women who
4 courageously don our uniform every day. We
5 have seen a marked increase in injurious
6 events to our uniformed forces. These
7 officers have been hurt and some even
8 disabled responding to violent incidents.

9 You may be aware of our intent to
10 introduce legislation during this session
11 which would serve to equalize our officers to
12 the levels of other state law enforcement
13 agencies with regard to worker's compensation
14 and disability retirement. The necessity for
15 this bill exists due to the upsurge of
16 injuries to our members, augmented by the
17 mandate of doing more with less.

18 My report to this committee of the
19 alarming status of the safety of the public,
20 as well as my members, as the result of OCA's
21 previous draconian austerity program. I wish
22 to point out, OCA's pointed commentary as to
23 the current status of my members, from their
24 own budget documents: "These challenges are

1 exacerbated by the frequent need to deny
2 annual leave requests to ensure coverage,
3 affecting staff morale and well-being."

4 It is widely known that it is vital
5 for law enforcement officers to maintain a
6 high morale and mental acuity to ensure that
7 complacency remains at bay. For if it does
8 not, safety disintegrates from within.

9 I am sincerely grateful for the
10 opportunity to offer some facts about the
11 consequences these recent budgets have had on
12 our professional lives and, of course, the
13 trickle-down effect it has at home and in the
14 communities we serve and live in. I am
15 heartened by the ability to report directly
16 from the front lines on behalf of the people
17 I represent, the people that you also
18 represent. Ultimately, the reason all of us
19 are in this room is to represent our fellow
20 New Yorkers, to help make their lives a bit
21 better, to make New York a safer place to
22 live.

23 And thank you again for your time and
24 consideration.

1 CHAIRMAN DeFRANCISCO: Thank you.
2 Senator Gallivan.

3 SENATOR GALLIVAN: Thank you,
4 Chairman.

5 Thank you for your patience and your
6 testimony today.

7 My questions have to do with your
8 testimony outside of the incident in
9 Middletown. Your testimony included a
10 comment about an increase in violent
11 activities in the courtrooms and commented
12 about protection or inability to protect
13 jurors and other people associated with the
14 courts.

15 Do you have any statistics on that
16 that you would be able to provide, if you
17 don't know off the top of your head?

18 PRESIDENT CULLEN: I would be able to
19 provide it. It's difficult. OCA is a
20 wide-reaching and massive organization and
21 it's very difficult to get some of that
22 statistics directly from them, as they
23 require incident reports be submitted
24 directly to Beaver Street. But I certainly

1 have been trying and as soon as I can --

2 SENATOR GALLIVAN: And if you're not
3 able to, if you can point us in the right
4 direction, I would appreciate that.

5 PRESIDENT CULLEN: Certainly, Senator.

6 SENATOR GALLIVAN: Thank you.

7 PRESIDENT CULLEN: Thank you.

8 CHAIRMAN FARRELL: Assemblyman Steck.

9 ASSEMBLYMAN STECK: Thank you. I know
10 this may be a difficult question to answer,
11 but -- and if you have to punt, I understand
12 it. But if you were to look within the OCA
13 budget and say what could we do less of that
14 might result in more resources being
15 transferred to serving your members, where
16 would you look?

17 PRESIDENT CULLEN: I think that the
18 idea of attorney pro bono work and the civil
19 service litigation that was spoken about
20 earlier is an area that perhaps some monies
21 could come to train and hire more court
22 officers. In the areas I represent, in the
23 last three years 63 court officers have been
24 hired. We have lost hundreds just in the

1 area that I represent, and that does not
2 include the entire State of New York.

3 ASSEMBLYMAN STECK: Just one short
4 follow-up. What did you mean by the civil
5 service work? The attorney pro bono I
6 understand.

7 CHAIRMAN DeFRANCISCO: Civil legal
8 services.

9 PRESIDENT CULLEN: The legal services,
10 right.

11 ASSEMBLYMAN STECK: Thank you.

12 CHAIRMAN DeFRANCISCO: I had a
13 question, but I forgot, so I'll have to ask
14 you another time.

15 Any other questions? Thank you very
16 much.

17 PRESIDENT CULLEN: Thank you.

18 CHAIRMAN DeFRANCISCO: The next
19 speaker is Jonathan Gradess, executive
20 director, New York State Defenders
21 Association. William Leahy is next on deck.

22 Excuse me. The stenographer here, are
23 you okay? You want a quick break? Keep
24 going. She wants to keep going.

1 MR. GRADESS: Chairman DeFrancisco and
2 Chairman Farrell and members of the joint
3 committee, thank you for your patience. I
4 want to talk to you about four things, and
5 one of them is the Backup Center, which I
6 will be brief; our needs are detailed in the
7 written testimony.

8 Two years ago, this Legislature looked
9 at our near demise and raised us to a number
10 which has been removed from the budget. For
11 each of the succeeding two years, you have
12 added it. I'm here to ask you to do it
13 again. We were cut 48 percent. I hope the
14 Legislature will restore it.

15 But I want to talk to you today about
16 a bigger picture and a larger issue and
17 something that impacts directly and
18 particularly upstate New York and the rest of
19 the state in this specific respect. There is
20 a gigantic need in front of you, and I think
21 we're at a perfect moment to talk about it
22 and deal with it, to have the state step up
23 to the plate for its responsibility with
24 reference to public defense services.

1 To get us a little bit down the road,
2 I'd like to just refresh your recollection
3 about the last 15 years of experience trying
4 to lift unfunded mandates off the back of
5 localities in this area. In 1999 you will
6 recall that the Chief Judge spoke to you and
7 said there was a crisis in assigned counsel
8 fees. They hadn't been raised in 17 years,
9 lawyers were leaving the panels. She sought
10 to raise the funds and the fees, the rates.

11 It took four years, but in 2003 you
12 created the Indigent Legal Services Fund.
13 And I warned at that time that if there was
14 not more done, there could be a crisis in the
15 state. More was not done. We recommended an
16 oversight body, and county after county after
17 county created Conflict Defender Offices.
18 They were designed specifically to save
19 money, but they were ruled illegal in 2009.

20 In 2009, Senator DeFrancisco, you will
21 recall that there was an initiative for
22 New York City to deal with the crisis in
23 caseload. And on the floor of the State
24 Senate you said, "Well, what about upstate

1 New York?"

2 Two months ago the office that you
3 created and that was created in 2010, the
4 Indigent Legal Services Office, issued a
5 report that said in order for upstate
6 New York to have met national caseload
7 standards in the year 2012 it would have
8 taken \$111 million.

9 I can't find that in the Governor's
10 budget. But I recall 1999 when we were in
11 crisis, and 2003 when you thought you were
12 going to solve that crisis. In 2006 the
13 Chief Judge of this state issued a report in
14 which Judge Kaye said the state system was
15 unconstitutional and needed to be repaired.
16 In 2007, the Civil Liberties Union filed a
17 lawsuit which is still pending and is moving
18 towards trial, and five counties are
19 implicated in that lawsuit. And within those
20 five counties, 245,000 cases have passed
21 through those unconstitutional systems in the
22 time that New York has taken to solve the
23 problem.

24 On the backs of each of the counties

1 of this state, the constitutional right to
2 counsel was embedded by the Rockefeller
3 administration. I've said this to you
4 before, but I'm saying it again, because
5 we're at a perfect moment. And I want to
6 call on you to help with that moment. That
7 caseload problem in upstate New York isn't
8 going to go away without your engagement.

9 And this lawsuit that is going to
10 trial, Hurrell-Harring, which implicates not
11 only the five counties that are defendants --
12 Onondaga, Schuyler, Ontario, Washington and
13 Suffolk -- but all the counties in New York
14 State. The Court of Appeals in 2010 held
15 that there was a right to counsel at every
16 arraignment in the state. Four years later,
17 we are still violating that constitutional
18 obligation.

19 It's time to engage on this issue once
20 again. Some of you will recall that on
21 June 9, 2009, the day of the dustup over
22 there in the Senate for some of you, we had
23 86 members of the New York State Assembly on
24 a bill to create an independent public

1 defense commission overseeing a state-funded
2 defender system. That was Judge Kaye's
3 recommendation. I stood there when the
4 entire Democratic Senate that I was trying to
5 see to sign on that bill walked out.

6 But that was a year when something
7 could have been done. It didn't happen.

8 A year later you compromised and
9 created the Office of Indigent Legal
10 Services, which is struggling. It's almost
11 like you created a boat and you put it out on
12 the river and you drained the river. It
13 doesn't have enough money to do its job. It
14 hasn't been staffed fully to do its job. It
15 only got completely staffed with half of its
16 staff a year ago last January.

17 It is struggling valiantly. But it is
18 a compromise. And it's time, after these
19 15 years, for you to stop compromising.

20 In every single locality represented
21 by the people before me, there is a crisis in
22 trying to deliver this service. Senator
23 Gallivan spoke this morning about the cut to
24 the Indigent Parolee Representation Program.

1 And year in and year out, counties have taken
2 the brunt of it. That used to be a nearly
3 \$2 million program. It has shrunk. The Aid
4 to Defense Program has shrunk. Dick Brown,
5 when he stands here, gets an applause from
6 you, the DA from Queens. But 20 years ago he
7 said the Aid to Defense and Prosecution
8 Program should be \$20 million.

9 In cut after cut after cut -- my
10 48 percent, the Aid to Defense Program, the
11 Indigent Parolee Representation Program, the
12 Indigent Legal Services Office -- we are
13 quickly seeing the slow demise of due process
14 of law. And yet we talk about mandate
15 relief, we talk about the Constitution, we
16 talk about justice, we have wonderful
17 speeches. We talk, some of us across the
18 street, about consolidation and efficiency,
19 but none of it's happened.

20 So here's what I'm here to ask you to
21 do. I want to ask you to engage on the issue
22 of settling the Hurrell-Harring lawsuit. I
23 think it is something, just as Mr. Beck was
24 talking about before, and Mr. Annucci this

1 morning, settling that lawsuit is a moment in
2 time, and it's right before your eyes, in
3 which we could create a model public defense
4 system for this state.

5 It is a state, not a local
6 responsibility. When Gideon vs. Wainwright
7 was decided, the United States Supreme Court
8 did not say Otsego is responsible. They did
9 not say Genesee County was responsible. They
10 didn't say Seneca was responsible. They
11 didn't say Onondaga was responsible. They
12 said New York is responsible.

13 Now, that was a quick one that
14 Governor Rockefeller pulled, but it's long
15 ago, and it is time for us to take a look at
16 the state responsibility to follow
17 Judge Kaye's recommendation, to come up with
18 a state defenders system, to find the
19 financing to do it. And I suspect when you
20 get through with this year's dustup over
21 taxes, there will be money available to at
22 least handle this caseload relief.

23 I ask you to really engage on this
24 issue and to engage our Governor on this

1 issue. When all of you work together, you
2 get things done, and it's time to get this
3 done.

4 I know that we seem to sound, or I
5 sound perhaps like a broken record. But I'm
6 going to continue playing this tune for you.
7 Your counties are in trouble. The clients in
8 your counties are in trouble. The nearly a
9 quarter of a million people in the counties
10 that are being sued by the Civil Liberties
11 Union are in trouble.

12 This is not rocket science, this is
13 something that you can do. We stand ready to
14 help you to it. And I ask you to engage on
15 it this year, and I welcome your questions.

16 CHAIRMAN FARRELL: Questions?

17 CHAIRMAN DeFRANCISCO: Senator
18 Hassell-Thompson.

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

21 There's a lot of things that I would
22 like to recall, but that's not one of the
23 dates I would like to recall was that June
24 date.

1 But how would you implement this
2 program of public defenders, and through what
3 state agency?

4 MR. GRADESS: Well, the Public Defense
5 Reform Act of 2009 created an independent
6 state agency. I think we have now seen for
7 four years the impact of housing the Indigent
8 Legal Services Office within the executive
9 branch. Some of you will recall that
10 Governor Spitzer, during his tenure, and
11 about a month before that tenure ended,
12 proposed an office that was uniquely under
13 his responsibility or his thumb, housed in
14 the Secretary of State's office in which he
15 controlled every aspect of it.

16 You've got to have an independent,
17 principled office. The 2009 act, which many
18 of you supported, was an act which created a
19 public authority. It needs insulation.
20 There are many models for that insulation.
21 But insulation and independence are key.

22 The second thing is that the
23 localities, in my opinion -- and this is
24 based on 33 years of working to do your

1 bidding through the Public Defense Backup
2 Center to improve things -- really can't
3 carry this service out. They shouldn't have
4 to carry it out, they can't afford to carry
5 it out, and they're not equipped to carry it
6 out.

7 So whatever the ultimate model -- and
8 Judge Kaye's model is an independent public
9 defense commission that contracted with
10 existing programs that worked and started
11 programs where they did not work. Wherever
12 you do that, there has to be the ability to
13 deliver services that are not currently being
14 delivered. In the North Country, in the
15 Southern Tier, on a broad band of counties,
16 22, from Chautauqua to Clinton, where day in
17 and day out there are struggles. And those
18 struggles mean that clients are not being
19 served.

20 And this little office that you have
21 created, and this little backup center that I
22 hope you will restore, can't solve those
23 problems, it simply is a half -- I said it
24 was a half-loaf in my testimony, but it's

1 more like a slice.

2 SENATOR HASSELL-THOMPSON: How would
3 the Hurrell-Harring suit, the resolution of
4 that suit, solve your issue?

5 MR. GRADESS: Well, I think the reason
6 I ask you to engage in creating settlement is
7 that I think you will be ordered to do things
8 that you could do in your own way, in a
9 creative way with the Legislature, over a
10 period of time with the Governor. But if it
11 doesn't happen, I think they will prevail, I
12 think they will win, and I think you will be
13 ordered to do what many of us have been
14 asking you to do for a long time.

15 This is a defective system. The clear
16 holding that everybody agrees to is that
17 we're not implementing the right to counsel
18 at arraignment. But the court also held that
19 if there is the functional equivalent of
20 nonrepresentation going on, if there are
21 situations where lawyers don't show up, or
22 when they show up they don't function, or
23 when they show up they're not equipped, that
24 is going to be held in this court, it's going

1 to be tried in this court, it's going to be
2 shown in this court, and they're going to
3 win. And the time to deal with it is between
4 now and September when that case is up for
5 trial.

6 I have written to the Governor on
7 this. You've seen a lot of press on it. It
8 was just in City and State by Susan Arbetter.
9 The Democrat & Chronicle has editorialized on
10 it, the Times Union has. This is a moment
11 for you. It's like a perfect storm. Except
12 what you want to do is not sink.

13 SENATOR HASSELL-THOMPSON: Well,
14 June 9th was a perfect storm for me. I'm
15 just not sure how many more perfect storms
16 I've got left.

17 MR. GRADESS: Well, let's have one
18 more, and this time let's win.

19 (Laughter.)

20 SENATOR HASSELL-THOMPSON: Thank you.

21 MR. GRADESS: Thank you all.

22 CHAIRMAN DeFRANCISCO: Thank you very
23 much.

24 CHAIRMAN FARRELL: Thank you.

1 CHAIRMAN DeFRANCISCO: The next
2 speaker is William Leahy, director, New York
3 State Office of Indigent Legal Services.

4 And he's probably going to waive
5 speaking because it was just taken care of by
6 Mr. Gradess, right? No? Okay, I was wrong.

7 MR. LEAHY: Thank you, both chairmen
8 and members who still remain. I'm glad
9 you're all here.

10 Let me first, after thanking you for
11 the support -- to the extent that my small
12 office, 10 persons including myself, to the
13 extent that we've been able to accomplish
14 some things in these first three years of our
15 existence and the first one year of having a
16 10-person staff, it's due to legislative
17 support. I will be frank and say that we
18 have not received at any point the kind of
19 vibrant support from the executive branch
20 that the accurately stated history by
21 Mr. Gradess would call for.

22 Now, we have been able to do some
23 important things. We have first of all, for
24 the first time in the 50-year history of the

1 18-B program, we have established an
2 expectation that the state agency which
3 provides funding and the county governments
4 and the providers of services within each
5 county will all communicate with one another.
6 Now, that may not sound like much, but it's
7 revolutionary. People are talking to one
8 another, people are putting requests for
9 state funding together that actually address
10 the issue of quality.

11 Mr. Gradess did not exaggerate when he
12 said how poor the system is in New York. I
13 not only come from the state of
14 Massachusetts, which has a very good
15 statewide system, but I have long experience
16 in national organizations, and so I know a
17 lot about systems in other states. And it is
18 shocking to everybody I talk to in other
19 jurisdictions that in the State of New York,
20 with its reputation as a forward-thinking and
21 progressive state, that counsel is not
22 provided at the arraignment of a person whose
23 liberty is immediately at stake. People
24 cannot believe this. They've all read about

1 New York City, and they think that that's
2 New York State. And of course in New York
3 City, one does have counsel at arraignment.
4 Not in the rest of New York State, not
5 routinely.

6 And we are working on that, with your
7 support. We have started programs now or
8 we've contracted with 25 counties to start
9 providing counsel at arraignment in at least
10 some of the courts. Most of those counties,
11 all the courts are not covered.

12 The other grand failure in New York
13 has been, as the Kaye Commission abundantly
14 reported, the excessive caseloads in
15 virtually all institutional providers. And
16 if you recall the Kaye Commission report, the
17 big focus of that was on the upstate
18 counties. And the only response, prior to
19 the creation of my agency, was a program
20 confined to institutional providers in
21 New York City, which didn't address the
22 upstate issue at all.

23 And as I tell you in my written
24 testimony, we have 45 counties out of the

1 57 upstate counties that have applied for a
2 total of \$12 million over three years just to
3 begin the process of addressing those
4 excessive caseloads, and I must add to that
5 the complete lack of support and oversight by
6 the assigned-counsel component of the county
7 programs and the eight or nine counties which
8 rely exclusively on assigned-counsel
9 programs.

10 So it is a god-awful mess that we
11 inherited. I think of our little office as
12 the little engine that could. We are doing
13 some pretty amazing things. We have garnered
14 and maintained the support of NYSAC. We have
15 made tremendous inroads with county
16 governments and county officials.

17 Joe Wierschem -- my counsel up here in
18 the audience -- and I just attended a meeting
19 of about 20-some county managers and
20 administrators in Syracuse a couple of weeks.
21 And, you know, the complaints would not
22 surprise you, but the communication was
23 excellent. And what we said to them and we
24 say every time we do one of these meetings is

1 that we have yet to fail to come to terms
2 with a county, cash-strapped, and here we
3 come in and say here's the state funding, but
4 you have to improve quality. We have yet to
5 fail to come to agreement with a county over
6 100-plus contracts.

7 And so we are very grateful that the
8 Legislature has got this. Both the Senate
9 and the Assembly have understood this. Both
10 Republicans and Democrats have understood
11 this. Both urban upstate counties and rural
12 upstate counties have understood this. And
13 we're working not at the pace we need to work
14 at -- Mr. Gradess is quite right about
15 that -- but we're working at a quiet
16 revolution here. And things are changing.
17 More has to change.

18 And so the one piece of good news that
19 I can say about the executive branch is that
20 for the first time this year the Executive
21 Budget did not remove what the Legislature
22 had added the previous year. You added
23 \$4 million last year so that we could
24 actually get an RFP for upstate caseload

1 relief out the door, and you added \$300,000
2 so that our 10-person staff could function as
3 a staff needs to function.

4 In other words, we can travel, as I'll
5 be traveling at 6 o'clock tomorrow morning
6 out to Buffalo to see Senator Grisanti and to
7 see the providers out there and to see our
8 Senate-designate member of the Indigent Legal
9 Services Board, Vince Doyle, former state bar
10 president, whose appointment has been
11 awaiting gubernatorial action for about four
12 months now. And all of those things will be
13 on the agenda out there. And that is we do.
14 This is what I do and what my staff does.

15 So there's a lot of time between now
16 and September in terms of the Hurrell-Harring
17 lawsuit. And believe me, at every
18 opportunity I have advocated to the executive
19 branch that this is a lawsuit that must be
20 settled, it must be settled in a way that
21 honors the right to counsel and honors the
22 independence of the agency that oversees that
23 counsel.

24 And while we do not have all the

1 enforcement powers we ought to have and I
2 hope one day will have in terms of approving
3 county assigned-counsel plans and conflict
4 defender plans, which currently reside in
5 OCA, we are ready, with your support, to make
6 advances.

7 There's a lot of time before
8 September, but there's not a lot of time
9 before April 1st. We need your support now.
10 Any one of you whom we have not yet visited
11 with, we would like to.

12 And I also want to emphasize that we
13 are working on -- we have already promulgated
14 standards for criminal cases and trial-level
15 cases. We are working on standards for
16 appellate litigation, for parent
17 representation in Family Court. And I really
18 urge all of you to go on our website or
19 request a copy, which we'll be happy to
20 hand-deliver.

21 This report we put out in December and
22 we delivered to the Executive, it really goes
23 into the details of this \$111 million upstate
24 need. And it establishes that many counties

1 upstate actually need more additional funding
2 than they are currently spending, and their
3 costs are going up every year.

4 And it's just not right that this
5 state responsibility -- Gideon vs. Wainwright
6 was a Florida state case, and the state of
7 Florida had the responsibility and every
8 state has the responsibility to honor the
9 Supreme Court's words that are at the bottom
10 of our letterhead: "The right to counsel may
11 not be deemed fundamental and essential to
12 fair trials in some countries, but it is in
13 ours." Proud words which the State of New
14 York has never fulfilled.

15 And so I'm happy to answer any
16 questions you may have. I think I've taken
17 up quite a bit of time, but I've observed
18 over the course of the day that members have
19 their prerogative.

20 CHAIRMAN FARRELL: Thank you.

21 CHAIRMAN DeFRANCISCO: Thank you.

22 SENATOR HASSELL-THOMPSON: Thank you.

23 MR. LEAHY: Thank you very much for
24 your past and continued and future support.

1 We appreciate it.

2 CHAIRMAN DeFRANCISCO: Arthur Siegel,
3 president of the board of directors of the
4 New York State CASA Association, followed by
5 Anne Erickson.

6 Thank you all at the tail end of this
7 for your patience and your fortitude. I
8 could name of all you honorary Syracusans in
9 this weather to still be here. Thank you.

10 (Laughter.)

11 MR. SIEGEL: Well, thank you for
12 helping me avoid rush hour.

13 (Laughter.)

14 CHAIRMAN DeFRANCISCO: That's the
15 positive spin.

16 MR. SIEGEL: I am actually here to
17 thank you on behalf of our program directors,
18 our volunteers, and the children we serve
19 throughout the state, for your ongoing
20 support of CASA programs statewide and
21 specifically for your support during last
22 year's budget session. Ultimately,
23 100 percent of CASA funding was restored to
24 the OCA budget. Due to this restoration, our

1 20 local CASA programs across the state have
2 continued to assist Family Court judges and
3 advocate on behalf of abused and neglected
4 children in foster care.

5 All CASA programs strive to achieve
6 the same goal, to ensure that every abused
7 and neglected child be placed in a safe,
8 permanent home while taking into
9 consideration each of their emotional,
10 educational, and physical needs.

11 CASA volunteers are screened, trained
12 and supervised in their activities. They
13 come from a variety of professional,
14 educational and ethnic backgrounds. By being
15 assigned one or two cases at a time, the CASA
16 volunteer can dedicate a sufficient time to
17 fully explore the history of each child,
18 engage in a dialogue directly with the child,
19 the parents, foster parents, family members,
20 attorneys, caseworkers, neighbors, school
21 officials and others involved in the child's
22 life.

23 After this process is completed, the
24 volunteer typically submits a report to the

1 Family Court judge. This report is
2 instrumental in helping the judge determine
3 whether the child should stay with his or her
4 parents or be placed in foster care or freed
5 for adoption. These are critical
6 determinations in a child's life.

7 Studies have shown that children who
8 have been assigned CASA volunteers spend less
9 time in the foster care system than those who
10 do not have CASA representation. Judges have
11 observed that a child assigned to CASA will
12 also have a better chance of finding a
13 permanent home than when a child has had no
14 such assignment made. I think this is
15 interesting to note because accomplishing
16 this goes a long way toward making these
17 children not one of the statistics in our
18 criminal justice or corrections system, by
19 finding such a permanent home.

20 In 2012, of the 103 Family Court
21 judges in the state who handled abuse and
22 neglect proceedings, 94 judges, or
23 91 percent, assigned CASA volunteers. As
24 Judge Prudenti recently noted in the New York

1 Law Journal, over the past three decades,
2 while Family Court filings have increased by
3 an astonishing 90 percent, the number of
4 Family Court judgeships have increased by
5 8.8 percent.

6 CASA volunteers help to relieve this
7 enormous burden by actively assisting
8 Family Court judges to effectively and
9 compassionately address the physical and
10 emotional needs of the many children for whom
11 they are responsible. For this reason alone,
12 CASA should continue to be supported and
13 nurtured.

14 Also, since the lion's share of CASA
15 work is performed by dedicated volunteers,
16 CASA programs cannot be any more efficient.
17 In 2012, 769 volunteers in 31 counties served
18 2,727 children. Together, volunteers in 2012
19 contributed 73,619 hours. Based on the
20 independent sector's 2010 calculation of
21 \$27.32 per hour for a volunteer in New York
22 State, this amounts to over \$2 million a year
23 in donated time.

24 With your continued support, we will

1 continue to serve this very vulnerable
2 population of children in New York State and
3 continue to build on the success of the
4 programs already in existence.
5 Court-appointed special advocates are and
6 must continue to be critical partners with
7 all other civil legal service providers in
8 the Family Courts to ensure that, for these
9 seriously at-risk children, justice is fully
10 served and public protection for these
11 children is assured.

12 And if there are any questions? Thank
13 you.

14 CHAIRMAN DeFRANCISCO: Thank you very
15 much.

16 CHAIRMAN FARRELL: Thank you.

17 MR. SIEGEL: Thank you.

18 CHAIRMAN DeFRANCISCO: We're very
19 familiar with your organization and the
20 issue, so hopefully things will go good this
21 year.

22 MR. SIEGEL: Thank you very much.

23 CHAIRMAN DeFRANCISCO: Okay, Anne
24 Erickson, president and CEO of Empire Justice

1 Center, to be followed by Karen Murtagh.

2 MS. ERICKSON: Good evening. Hello.
3 Thank you so much, Senator DeFrancisco,
4 Assemblyman Farrell, members of the panel. I
5 am well aware of how long this day has been,
6 so I will do my best to summarize.

7 And we've been hearing a lot today
8 about the operations of the court, the
9 operations of the criminal justice system.
10 And I'm really here representing the civil
11 legal services side of the justice system.
12 These are the folks that are coming into
13 court every day with issues of, as
14 Judge Lippman calls them, the essentials of
15 life. And as Judge Prudenti testified this
16 morning, we are now seeing about 2.3 million
17 litigants come into Civil Court in New York
18 State every year without representation.

19 There is a reason we have a legal
20 profession. The systems are pretty
21 complicated, the issues are extremely intense
22 and critical, and folks need representation
23 when they walk in those court doors.
24 Unfortunately, we are not where we need to be

1 in New York State. In the best of times
2 across this country, we have met less than
3 20 percent of the civil legal needs of
4 New Yorkers.

5 Chief Judge Lippman in 2010 appointed
6 a task force to expand access to civil legal
7 services, and I am honored to be a member of
8 that task force. And as you have heard this
9 morning, part of the role of the task force
10 is to help organize hearings throughout the
11 state that have been held for the last three
12 or four years, where we have heard from the
13 providers, from the judiciary, from the
14 business community, from the education
15 community, from the health community that the
16 role of civil legal services is critical to
17 all of them in terms of making their systems
18 work effectively and efficiently.

19 We have also looked at the unmet need
20 across the court systems and we have found
21 that 90, 95, 97, 99 percent of people going
22 into court on issues around eviction, around
23 consumer debt issues, around child support
24 issues -- critical economic issues -- walk

1 into those courts unrepresented. We need to
2 try to stop that.

3 In New York State we basically have
4 three core funding streams for the delivery
5 of civil legal services. First -- not first
6 among equals, but -- is the Interest on
7 Lawyers Account, and that was created by
8 Legislature in 1983. And it draws from
9 interest held by attorneys in their escrow
10 accounts and used to support the delivery of
11 legal services.

12 In 1993 that fund took a nosedive due
13 to the interest rate changes. At that point
14 the Legislature stepped up and for the first
15 time provided General Fund support for the
16 delivery of legal services. That state
17 funding has ebbed and flowed over the years,
18 but you did create the Legal Services
19 Assistance Fund a number of years ago.

20 Last year that stood at \$14 million,
21 and about \$3 million of it, about
22 \$2.9 million of that entire fund was
23 dedicated for civil legal services, the rest
24 going to aid to prosecution, aid to defense,

1 a loan forgiveness program.

2 In this year's budget the Governor
3 puts \$8.6 million in for the Legal Services
4 Assistance Fund, and none of that dedicated
5 to the civil legal services side. So we
6 would urge again your support of restoring
7 those funds.

8 Likewise, the Legislature in both
9 houses, both sides of the aisle, have
10 supported legal services funding for domestic
11 violence issues to the tune of about
12 \$1.2 million. Again, that is not in the
13 Executive Budget. We would urge its
14 restoration.

15 And then obviously the big news is the
16 Chief Judge's funding. When he was appointed
17 in 2010 he made as one of his critical issues
18 improving access to justice on the civil side
19 and has put money in his budget, has become a
20 champion of those issues. And we would urge
21 you to support his budget this year and his
22 recommendations for civil legal services,
23 which also includes a \$15 million rescue fund
24 because IOLA interest rates, near zero

1 continuing, and that fund has been decimated.
2 And he has helped try to stem the loss of
3 that a little bit. We've lost about
4 \$25 million out of that, and there's been a
5 \$15 million restoration, which has certainly
6 softened the blow.

7 The other issue that we are now
8 supporting as well is the call for expanded
9 Family Court judges. And we would look
10 forward to working with you to try to make
11 that happen in New York. It's a desperate
12 need. It's a court of critical concern. And
13 we support the OCA recommendation to expand
14 the number of judges across the state.

15 And with that, I will thank you.

16 No questions? I've answered it all.

17 CHAIRMAN DeFRANCISCO: You've answered
18 every one. And believe me, it's not because
19 of lack of interest, it's just the hour.
20 Thank you very much.

21 MS. ERICKSON: I know. Thank you so
22 much.

23 Karen Murtagh, Prisoners' Legal
24 Services of New York, followed by Tracie

1 Gardner.

2 MS. MURTAGH: Good evening, Chairman
3 DeFrancisco, Chairman Farrell, members of the
4 committee. Thank you all for staying.

5 Oddly enough, I think this is the most
6 members that have ever been present when I
7 testified. Maybe it's the snow that's
8 keeping everybody in.

9 CHAIRMAN DeFRANCISCO: They don't
10 want to go out.

11 (Laughter.)

12 MS. MURTAGH: Before I begin my
13 testimony -- which I will not read, I'm just
14 going to highlight a few things -- I would
15 like to first thank all of you for your
16 continued support of PLS for over the past
17 actually more than three decades.

18 I would especially like to thank you
19 for your generous support last year in adding
20 \$1.05 million to the Governor's appropriation
21 for PLS of \$1 million, which resulted in an
22 operating budget for PLS of \$2.05 million.

23 This year the Governor has once again
24 appropriated \$1 million for Prisoners' Legal

1 Services, and I am here to ask for an add of
2 \$1.5 million, which is \$450,000 more than the
3 Legislature awarded last year.

4 Before I lay out the reasons why, I
5 would like to briefly discuss why PLS was
6 created in the first place. And this is
7 where, if John Dunne was here, Senator Dunne,
8 he would tell you that he was at Attica, and
9 he would reach into his coat pocket and pull
10 out a 3-by-5 index card where he had listed
11 the top 10 reforms that the prisoners
12 requested would occur.

13 And one of those top reforms was the
14 creation of an outside legal services
15 organization that could address the needs of
16 prisoners, act as a safety valve or a
17 pressure valve, and listen to the grievances
18 and bring them to light. As a result, PLS
19 was created and has been funded by the state
20 for over 37 years.

21 Now I would like to focus on three
22 specific reasons why we are asking for the
23 additional add of \$1.5 million. They are the
24 need to adequately staff our offices, the

1 need to cover increased expenses, and because
2 such funding will allow our organization to
3 continue to partner with the state on very
4 important cost-effective and cost-saving
5 measures.

6 With respect to adequate staffing,
7 we -- like a district attorney's office, the
8 Attorney General's office, a public
9 defender's office -- we have no control over
10 the number of cases that come into our office
11 every year. Last year we had 10,000 requests
12 for assistance. But our Buffalo and our
13 Plattsburgh office, because of our limited
14 funding, only have two attorneys in each of
15 those offices. Those offices are
16 collectively responsible for covering 20
17 prisons with over 20,000 prisoners. There's
18 just no possible way that they can do the job
19 that the state has tasked us to do with only
20 two attorneys in those offices.

21 In addition, we had the tragic
22 incident this past December of losing one of
23 those attorneys, a 32-year-old staff attorney
24 who passed away unexpectedly. So our

1 Plattsburgh office is now one attorney
2 handling hundreds of intake letters and all
3 of the open cases.

4 I would propose that a law office that
5 has the demands that Prisoners' Legal
6 Services has and is required to do what the
7 state has tasked it to do should have no less
8 than four staff attorneys in each of their
9 regional offices. So part of my budget
10 request to is to add two staff attorneys to
11 Plattsburgh and two staff attorneys to our
12 Buffalo offices.

13 What is the work that all of these
14 attorneys do? I think most of you know in
15 general what we do. I'd just like to
16 highlight three areas very quickly: Solitary
17 confinement, medical and mental health care,
18 and jail time and sentencing.

19 We've heard a lot of talk about
20 solitary confinement today, but I'd like you
21 to think about it in terms of what we don't
22 do with respect to representation or due
23 process.

24 Solitary confinement is an incredibly

1 severe penalty. We lock people in a cell
2 that's the size of a parking space for
3 23 hours a day, and they don't receive any
4 counsel at the hearing that they have prior
5 to being sentenced to solitary confinement.
6 They also lose all of their privileges --
7 phone, commissary, packages. And at those
8 hearings they have incredibly limited due
9 process rights.

10 In 2013 we received over 1200 requests
11 from prisoners who had been sentenced not to
12 days, not to months, but to years in solitary
13 confinement. We don't have the staff to take
14 all of those cases, but we do respond to
15 every single request we get. That is part of
16 our charge as an Attica reform, to let
17 prisoners know that we're there, we hear
18 them, and if we can't accept your case, we'll
19 at least send you educational information so
20 you can proceed on your own.

21 Of the 1200 cases, we accepted for
22 investigation, deep investigation, 220 of
23 those. That requires getting the tape of the
24 hearings, reviewing all the documents, going

1 out to the prisons that are hundreds of miles
2 away in some instances, interviewing the
3 accused and his witnesses. And of those
4 220 cases, we decided that 111 them warranted
5 either administrative advocacy or litigation.
6 And out of those 111 cases, we won 75, or 68
7 percent of them.

8 What does that tell us? It tells us
9 that due process protections are not being
10 afforded in our prisons and that
11 regulations are being violated and, if the
12 PLS is not here, the tensions will rise even
13 more than they are. And we already heard
14 testimony today from both Commissioner
15 Annucci and from Donn Rowe that violence is
16 up, that problems in the prisons are up. You
17 need PLS more than ever now.

18 In addition, with respect to the
19 solitary confinement cases that we handle,
20 last year we saved 89 years of solitary
21 confinement. That's what we were able to
22 have expunged from people's records.

23 Since statistics show that there's a
24 23 percent increase in recidivism for people

1 that are released directly from the box to
2 our communities, and since 2,000 people were
3 released last year from DOCCS, from solitary
4 directly to our communities, this is a huge
5 public safety and security issue. And PLS
6 helps resolve that issue by the cases that it
7 handles.

8 With respect to adequate medical and
9 mental health care, I just wanted to note
10 that those cases have risen. In 2012, we
11 received 649 requests for assistance, and
12 last year it was 755, more in the mental
13 health area.

14 Jail time and sentencing, we do a
15 number of those cases. Last year our
16 advocacy resulted in 64 years of jail-time
17 sentencing and good time being restored to
18 prisoners.

19 I also ask for additional money
20 because of our own internal rising
21 operational costs. All of you know that
22 there are rises in rent and medical insurance
23 and travel and postage. All of that needs to
24 be accounted for. But there's also

1 infrastructure issues at PLS that we have not
2 been able to tend to for the past 10 years
3 because we've either had stagnant or
4 decreasing budgets.

5 And our phone system is over 20 years
6 old and does not work. If you call me, I
7 will not get your voicemail. Our computer
8 system and case management system needs to be
9 upgraded; it is also incredibly old.

10 And finally, I'm asking for this add
11 to help promote the beneficial partnerships
12 that PLS has had with the state and continues
13 to have, and it continues to grow. And I
14 list a number of them in my testimony, but
15 I'd like to highlight one.

16 This past December the Executive
17 contacted us and said, "Can you help us reach
18 out to prisoners on the Medicaid issue?
19 DOCCS is doing all it can, but a lot of
20 prisoners don't trust DOCCS's motivation.
21 DOCCS is encouraging them to sign up for
22 Medicaid, but prisoners are wondering why."

23 And we took that request very
24 seriously. I wrote an article in our *Pro Se*

1 magazine encouraging prisoners to sign up for
2 Medicaid, not only because it will save the
3 state millions of dollars annually, but it's
4 also a continuity of care issue. If they
5 have Medicaid when they're released, there's
6 no interruption in their medical or mental
7 health care.

8 So that type of partnership is what
9 PLS has been doing for the past several
10 years, working closely with DOCCS, the
11 Judiciary and the Executive to promote public
12 health and public safety and performing the
13 mission that we were tasked to do after
14 Attica. And I request that you seriously
15 consider our request for the add of
16 \$1.5 million.

17 And I thank you for your time and
18 would be happy to answer any questions you
19 might have.

20 CHAIRMAN FARRELL: Thank you very
21 much.

22 CHAIRMAN DeFRANCISCO: Were you
23 rewarded for your efforts to get people to
24 sign up for Medicaid in this budget?

1 MS. MURTAGH: We don't have the
2 figures yet. The information just went out,
3 so I don't know. And we were not rewarded
4 monetarily for doing it.

5 CHAIRMAN DeFRANCISCO: Well, what I'm
6 asking is -- I'm very serious about this --
7 if you can give us sort of an estimate what
8 it would translate to save, that you saved
9 the State of New York by your efforts, that
10 would be helpful in advocating.

11 MS. MURTAGH: I would be happy to keep
12 track of that.

13 CHAIRMAN DeFRANCISCO: Well, okay.
14 You wouldn't have any that were completed yet
15 that you could say "Last year we saved the
16 state X dollars"?

17 MS. MURTAGH: Well, that would be
18 difficult to do because what the signing up
19 for Medicaid does is it then pays -- the
20 federal monies pay for any outside hospital
21 visit that a prisoner goes on, which is not
22 currently paid for by the federal government.

23 CHAIRMAN DeFRANCISCO: Okay.
24 Assemblyman Aubry.

1 ASSEMBLYMAN AUBRY: But that process
2 also saves the counties money, because we
3 have a three-way pay, right? We have county,
4 we have state, and then we have the federal.
5 So obviously we save both counties and the
6 state money engaged in that process. That
7 has been an effort that the department
8 continues to do.

9 The only thing I can -- it's not an
10 ask as much as having worked in this field, I
11 understand very well that you are a release
12 valve for the pressures that exist in
13 prisons. And that is something that can't be
14 done by the institution of the Department of
15 Corrections, you need someone external to be
16 able to do that so that the population has
17 some faith and trust.

18 And just theoretically, we cannot
19 contain those human beings if they don't
20 consent to be contained. We learned that in
21 Attica. When the people that are
22 incarcerated decide they don't want to be
23 incarcerated anymore, then things happen that
24 are bad that all people suffer from.

1 And so to the extent that we don't
2 provide the kinds of services that you
3 represent, we endanger both those staff and
4 those inmates. And that seems to be hard to
5 impress on folks. They think that what we do
6 is coddle inmates, and it's not. It's about
7 the safety of everybody who's behind those
8 walls whether they go home at the end of
9 their shift or they don't.

10 And I think that's a real important
11 part. And the amount of money you ask for
12 and beg for year after year after year is an
13 investment in the safety of those facilities.
14 And if we lose those facilities relative to
15 the issue of safety, it's going to cost us a
16 whole lot more.

17 Thank you.

18 CHAIRMAN DeFRANCISCO: Ditto to what
19 he said. I agree completely.

20 Thank you very much, and thank you for
21 waiting.

22 MS. MURTAGH: Thank you.

23 CHAIRMAN DeFRANCISCO: Tracie Gardner,
24 Legal Action Center. Is Tracie here? She

1 left, okay, last train to the City.

2 The next is Families Together in
3 New York State, Paige Pierce. Okay, she's on
4 the same train. The Legal Aid Society left.

5 NYPIRG, Blair Horner. Blair has
6 changed his looks. Blair is going incognito
7 today.

8 (Laughter.)

9 CHAIRMAN DeFRANCISCO: To be followed
10 by Barbara Bartoletti.

11 And you are?

12 MR. MAHONEY: My name is Bill Mahoney.
13 I'll be delivering the testimony on behalf of
14 NYPIRG today.

15 I'm joined by our legislative
16 associate, Robbie Sheikh. I'll be speaking
17 in regards to some of the Governor's campaign
18 finance and ethics proposals that he's
19 included in his Public Protection and General
20 Government Budget this year.

21 I'm sure most of you are familiar with
22 NYPIRG's positions on campaign finance, so I
23 won't go into the details at this hour. I'd
24 just like to take a few minutes to speak to

1 specifically what the Governor has proposed.

2 In terms of campaign finance reforms,
3 we think that he has some good suggestions in
4 there --

5 CHAIRMAN DeFRANCISCO: You're saying
6 that's in the Public Protection portion of
7 the budget?

8 MR. MAHONEY: It is, yes. In the
9 Article 7 bill there's Board of Elections
10 funding and the other -- and in the
11 appropriations bill as well.

12 CHAIRMAN DeFRANCISCO: Okay, thank
13 you.

14 MR. MAHONEY: The Governor has
15 proposed lowering contribution limits
16 significantly. We would still have some of
17 the highest contribution limits in the
18 country, but we're talking about levels that
19 are much more within realistic amounts that
20 people could actually imagine. They're less
21 than people actually make in a calendar year
22 for the most part now, so I think that is a
23 step in the right direction.

24 And he has taken some steps to close

1 some of the loopholes we've seen in the law.
2 For example, housekeeping, where right now
3 political parties can receive checks of
4 unlimited amounts if it's sent to their
5 housekeeping funds, he's limited it to
6 \$25,000. Which is certainly a step in the
7 right direction. We'd like to see that
8 eliminated entirely, but we're moving
9 forward, certainly, with this proposal.

10 The LLC loophole. Right now limited
11 liability companies are treated as
12 individuals and this has allowed some donors
13 to seriously abuse the intents of campaign
14 finance law. One individual alone has given
15 Governor Cuomo \$800,000 this election cycle.
16 Cuomo's proposal would limit this to \$1,000
17 per LLC. He would still treat them
18 separately, so based off of what we've seen,
19 he'd still be able to get about \$80,000 per
20 donor. But this is obviously a lot better
21 than what we have now.

22 The Governor has also proposed a
23 public financing program, which we think is
24 very strong and we'd encourage you all to

1 accept. I'm sure you've heard a lot about
2 public financing in the past couple of years,
3 but what he's proposing certainly is a
4 comprehensive step in the right direction.
5 And this is something that really will
6 increase the dwindling amount of small donors
7 we see in New York State.

8 In regards to Election Law
9 enforcement, we're a little bit less cheery
10 about what he's proposed. The Board of
11 Elections, as we've seen repeatedly over the
12 years, and especially with the findings of
13 the Moreland Commission, we've seen that
14 they're a sinkhole and they really don't
15 accomplish a whole lot in terms of their
16 oversight of Election Law.

17 They've created new loopholes in the
18 law, such as the LLC loophole and the ability
19 of super-PACs to avoid disclosure in New York
20 State, and they've also completely failed to
21 enforce Election Law. When we looked at this
22 last year, there were over 100,000 campaign
23 finance violations that the board had simply
24 sat on and not acted on over just a two-year

1 period.

2 When the Moreland Commission looked
3 into their activities, they found anecdotes
4 such as an employee who was playing solitaire
5 on his time and begging his supervisors for
6 more work because he really wanted to enforce
7 campaign finance law because that's what he
8 was hired for, but he was told to just sit
9 back and continue playing solitaire.

10 Unfortunately, the Governor has
11 proposed increasing the funding for the Board
12 of Elections, which we think is a move in the
13 wrong direction. They've proven to be a
14 sinkhole of state resources. Governor
15 Spitzer tried this back in 2007, and they
16 didn't, even bother hiring most of the
17 employees who they had the power to hire, yet
18 they've continued to complain about a lack of
19 resources.

20 So we think the Governor's proposal to
21 dump millions of dollars into the Board of
22 Elections is, quite frankly, a waste of
23 taxpayer resources, and that's not something
24 that will really do a whole lot to fix

1 campaign finance in this state.

2 As Moreland and many others have
3 suggested, we really need an independent
4 agency that's wholly separate from the Board
5 of Elections and isn't caught up in their
6 partisan gridlock, if we really want to be
7 serious about enforcing campaign finance and
8 making the most of the laws that we do have
9 on the books.

10 Finally, I'd like to take a quick
11 minute to speak to his ethics proposals.
12 Governor Cuomo has suggested some changes in
13 this law, such as empowering district
14 attorneys. Unfortunately, he doesn't give
15 them the resources that are really needed to
16 actively enforce ethics law. We've seen for
17 years that they've had the power to oversee
18 campaign finance law, but they haven't really
19 done anything to take action to actually do
20 this, partially because district attorneys
21 have many other concerns, as I'm sure you've
22 heard throughout the day today.

23 So while that's probably a step in the
24 right direction, I don't think that can

1 really accomplish much unless there's a equal
2 increase in resources for the district
3 attorneys as these new tasks are handed to
4 them.

5 Finally, the budget really needs to
6 look at improving ethics at the level of the
7 state, such as JCOPE, which we've seen
8 numerous examples over the year about how
9 they're not working as well as people hoped
10 they would. There is significant gridlock
11 due to the power of certain legislative
12 conferences to veto any investigations. And
13 at the same time there are some suggestions
14 we include in our written testimony about
15 improving financial disclosure forms, which
16 I'd encourage you to take a look at.

17 In the interests of brevity at this
18 hour I'll leave it at that unless any of you
19 have any questions. And thank you for the
20 opportunity to testify today.

21 CHAIRMAN FARRELL: Thank you very
22 much. Just one thing. I'll get myself into
23 trouble. You know, some of the things you
24 say sounds good, but unintended

1 consequences -- if you're not careful, you'll
2 make it so that only people who have money
3 will be able to run.

4 MR. MAHONEY: That's one of the
5 beauties of a public financing system.

6 CHAIRMAN FARRELL: But what you end up
7 doing is make it that the people who need to
8 go out and raise money can't, and the people
9 who have money will just come in and do it on
10 their own.

11 MR. MAHONEY: I fully agree that
12 that's something we need to be cautious of,
13 which is why we're not saying just lower
14 limits by themselves.

15 What we saw in Connecticut recently,
16 for example, is when they established a
17 public financing system, it became a lot
18 easier for average people who made maybe
19 middle-class incomes who lived in districts
20 where they didn't know a lot of wealthy
21 donors, they were able to run for office
22 competitively in increasing numbers that we
23 had not seen before.

24 So that's why public financing is so

1 important, because it really provides an
2 opportunity. Whereas right now, most people
3 can't run for office unless they're a
4 millionaire themselves or unless they're
5 comfortable asking interest groups for money.
6 So I think that public financing will really
7 go a long way towards addressing those
8 concerns.

9 CHAIRMAN FARRELL: With public
10 financing, though, you create another
11 problem. I've always said if I have one
12 opponent, I want five. Five or none. And
13 that guarantees you get your five. You then
14 have to put in where you can't have everybody
15 running forever. I've been here 40 -- this
16 is my 40th year. You wouldn't be able to do
17 that. Or you wouldn't be able to do it much
18 easier than the other way.

19 Whatever, we can talk about it when we
20 have more time.

21 MR. MAHONEY: Sure.

22 CHAIRMAN DeFRANCISCO: I have one
23 question that no one's been able to answer
24 for me about the disclosure forms.

1 Can you tell me, by disclosing the
2 amount of your assets, what that tells about
3 the ethical values of an individual? If I
4 have a lot of assets, does that tell the
5 public that I'm a crook and I made it
6 illegally? And if I have a little number of
7 assets, does that mean I'm more susceptible
8 to being a crook because I need the money?
9 What does it tell you, the amount of assets?
10 Tell me the social value of disclosing that.

11 MR. MAHONEY: I think it can certainly
12 help raise red flags in certain instances.

13 CHAIRMAN DeFRANCISCO: Which way?
14 Which way? If you had a lot, what's the red
15 flag?

16 MR. MAHONEY: I'm not an investigator,
17 but let's take Senator Kruger, for example.
18 If we saw that he was making hundreds of
19 thousands of dollars a year for a vaguely
20 defined consulting job, perhaps federal
21 investigators would have been alerted to his
22 activities years before they were.

23 CHAIRMAN DeFRANCISCO: He was
24 required to disclose his number of -- the

1 assets on the old forms.

2 MR. MAHONEY: But those were censored
3 and the media didn't get a chance to look at
4 those and maybe bring attention to the fact
5 that he was making so much money for a job
6 that --

7 CHAIRMAN DeFRANCISCO: How about if he
8 was making a little bit of money? Weren't
9 there some people that got in trouble that
10 had a little assets?

11 MR. MAHONEY: Yes, there certainly
12 were. But --

13 CHAIRMAN DeFRANCISCO: So how does the
14 little assets -- where is the relevance?

15 MR. MAHONEY: Well, the disclosure
16 forms don't require much detail for the
17 little assets. If you're making below
18 \$20,000 or something, you don't need to
19 disclose anything specific in terms of dollar
20 amounts.

21 CHAIRMAN DeFRANCISCO: I can state
22 unequivocally that no one yet has an answer
23 that's satisfactory, including what you just
24 said. But thank you.

1 MR. MAHONEY: Sure, thank you.

2 CHAIRMAN DeFRANCISCO: Barbara
3 Bartoletti, League of Women Voters, to be
4 followed by the last and featured speaker,
5 Terry O'Neill, Constantine Institute.

6 SENATOR KRUEGER: I feel obliged to
7 say John DeFrancisco was referencing a
8 different Senator Kruger.

9 (Laughter.)

10 CHAIRMAN DeFRANCISCO: I didn't say
11 Kruger, he did.

12 SENATOR KRUEGER: Bill Mahoney was
13 referencing a different Senator Kruger.

14 MS. BARTOLETTI: Yes, he was. I can
15 pick that up immediately, Senator Krueger.

16 Good evening.

17 CHAIRMAN DeFRANCISCO: Good evening.

18 MS. BARTOLETTI: It's very nice that
19 several of you have actually stayed here to
20 listen to probably what you have heard from
21 me, at least -- and my name is Barbara
22 Bartoletti. I'm legislative director for the
23 New York State League of Women Voters --

24 CHAIRMAN DeFRANCISCO: Excuse me.

1 before you start, I thought you were
2 retiring. Did I miss that?

3 MS. BARTOLETTI: No, I keep talking
4 about it, and the League keeps saying no, no,
5 no, not yet.

6 CHAIRMAN DeFRANCISCO: Okay. All
7 right, just curious.

8 MS. BARTOLETTI: But I will tell
9 you -- is that something you're hoping for,
10 perhaps?

11 (Laughter.)

12 CHAIRMAN DeFRANCISCO: No, there would
13 just be someone after you saying the same
14 thing.

15 (Laughter.)

16 MS. BARTOLETTI: I'm that much of a
17 thorn in your side, Senator. I don't know if
18 that's something I should relish or be
19 embarrassed by.

20 SENATOR KRUEGER: Thank God there's a
21 long list of women voters in New York State
22 we can count on.

23 (Laughter.)

24 MS. BARTOLETTI: Thank you, Senator.

1 No, actually I do have -- and if it
2 wasn't a snow day today that was so bad in
3 the City of Albany, my young -- I do have a
4 young assistant now who is, shall we say, in
5 training. She will be certainly an asset.
6 She is a phenomenal writer. She was a fellow
7 at the Center for Women in Government. Her
8 name is Sarah Podber, and actually she wrote
9 much of this testimony that you see before
10 you.

11 I am not going to bore you, and I'm
12 afraid that's what I do after 30 years of
13 saying the same thing over and over and over
14 again. And be I think all of you could
15 recite the League's mantra when it comes to
16 comprehensive campaign finance reform.
17 Whether it is public financing, which we have
18 done over three decades and we think perhaps
19 the time is coming soon when that will be a
20 reality here. It is now in the budget, in
21 the Article 7 bills, as well as lowered
22 contribution limits, closing of loopholes.

23 But actually what I wanted to talk
24 about tonight, aside from what we usually

1 talk about -- and if my colleague Aimee
2 Allaud was here, we would be talking about
3 the agency, the State Board of Elections, on
4 election administration. And we are asking
5 that you do look carefully at that budget
6 because the state board now has three federal
7 mandates that must be covered: The MOVE Act,
8 HAVA and the NVRA. And they are federal
9 mandates that the county boards of elections
10 and the State Board of Elections must
11 accomplish. And therefore we do think that
12 this agency needs more money on that side of
13 the agency, the election administration.

14 On the other side of the agency, which
15 deals with campaign finance, it has been
16 shown and I think I could tell you -- I don't
17 know, did everyone read the Moreland
18 Commission report? I'm sure some of you did.
19 I think the Moreland Commission devoted about
20 35 pages to the State Board of Elections as
21 far as their campaign finance enforcement was
22 concerned.

23 So what I am going to just add tonight
24 to what my colleague already said is that is

1 in the appropriations bill with an amount of
2 \$5.3 million. Probably to do it what we
3 would consider adequately, you might need
4 double that amount. However, that is what
5 the Executive put in the budget.

6 And I will say for the first time this
7 year, the Executive, in his Executive Budget,
8 did make his commitment known to the
9 Legislature that he is intent on campaign
10 finance reform. It's in the -- the Board of
11 Elections enforcement is in the Article 7
12 bills as well as in the appropriation bill.

13 So we are asking that you take a very
14 close look at that, that you pass that as is,
15 that you don't slash it, to be perfectly
16 blunt, and that we actually do have robust
17 and independent -- and that's the word that I
18 would like to stress as I finish this for
19 my -- I think I've been going this in front
20 of this committee for about 15 years now, in
21 this particular committee.

22 But I would like to say the League
23 wants an independent entity. Whether it is
24 within the Board of Elections or whether it

1 is its own entity, it must be independent, it
2 must be headed by an enforcement officer who
3 the League would prefer to have prosecutorial
4 experience. It would be done, the hires
5 would be unassociated with any party
6 politics.

7 Right now -- I don't think I'm telling
8 you anything you don't know -- the Board of
9 Elections is a gridlocked bipartisan agency
10 which the Moreland Commission, as you read,
11 certainly did find that it absolutely is
12 incompetent in the role it has taken on as
13 far as enforcement.

14 So what we are saying is we want an
15 independent, robust, nonpartisan agency that
16 will enforce what we also consider the rather
17 feeble campaign finance laws that we have in
18 this state.

19 But also in the Article 7 bills are
20 lowered contribution limits, LLC loophole --
21 and I agree with Bill that could be better.
22 There are many things that if we were all
23 kings and queens for a day we might,
24 including yourselves, might want to improve,

1 especially Mr. DeFrancisco with disclosure.
2 If you could write a disclosure form, yours
3 perhaps would be a very good one to follow.
4 And we would encourage you to make that
5 suggestion and deal with this in a dialogue
6 that we could make campaign finance laws in
7 this state the very best that they can be.

8 Because right now -- and if I can find
9 it in my testimony. You can see it in the
10 testimony -- there is a report that was done
11 that literally ranks New York as the
12 second-worst state in the nation on public
13 corruption -- on its ability to not have
14 public corruption because of the way it
15 administers its campaign finance laws. I
16 don't think that's a reputation we want to
17 have for a very long time. So I think our
18 score, on one to 100, our score was 10.
19 Which made us second in the nation as far as
20 our public corruption, so to speak.

21 I don't think I have to tell anyone
22 sitting up there that you as legislators have
23 been embarrassed over the last several years.
24 And I don't ever -- when I go and speak to

1 the public, I don't ever miss the opportunity
2 to say that most of the 213 members of this
3 Legislature come to Albany to represent their
4 constituencies in the very best way they can.

5 So I would think that being tainted
6 with a broad brush, as most of you, many of
7 you have been over the last several years,
8 would make your ability to change this system
9 as passionate as our ability is to see
10 New York have the most robust and the most
11 independent and the best campaign finance
12 laws in the nation.

13 So my message to you, my ask to you is
14 that you look at this budget appropriation,
15 you look at the language that's in the
16 Article 7 bill and the appropriation bill,
17 and you make it a reality.

18 Thank you very much. I'll take any
19 questions you have.

20 CHAIRMAN DeFRANCISCO: The New York
21 City public financing law.

22 MS. BARTOLETTI: Yes. It's been in
23 effect for 20 years.

24 CHAIRMAN DeFRANCISCO: And do you

1 think they effectively enforce the law?

2 MS. BARTOLETTI: Well, we have heard
3 the -- they came before the Moreland
4 Commission and talked about their successes
5 as well as their problems. And I have heard
6 from many legislators, all of them downstate,
7 because they're the ones that have lived
8 under this, that their auditing process is
9 overzealous, shall we say. That I think
10 maybe Mr. Farrell or Mr. Aubry could deal
11 with perhaps better than I can.

12 I just know that the people who came
13 before the Moreland Commission who have run
14 under it did talk about the fact that they
15 were able to have public dollars, and two or
16 three of them were minority members who were
17 able to get elected in districts where they
18 never thought they could be competitive but,
19 because of the public financing unit in New
20 York City, they were able to run and they are
21 now sitting councilpeople.

22 So the anecdotes would tell you that
23 it is working. I think we at the state could
24 probably learn from some of their mistakes

1 and do it better.

2 CHAIRMAN DeFRANCISCO: Okay, you might
3 want to check to see what's really going on.
4 Because we had a Senate hearing last year,
5 and the head of that organization indicated
6 that they were still auditing some campaigns
7 that happened four years earlier.

8 MS. BARTOLETTI: Yes, we're very well
9 aware. And as I say, we could make it
10 better --

11 CHAIRMAN DeFRANCISCO: And that
12 doesn't trouble you?

13 MS. BARTOLETTI: Yes, it does trouble
14 me. Yes, it does trouble me.

15 CHAIRMAN DeFRANCISCO: Okay, should
16 they have an independent commission?

17 MS. BARTOLETTI: I'm sorry?

18 CHAIRMAN DeFRANCISCO: Should they
19 have an independent group outside of them
20 actually viewing their actions?

21 MS. BARTOLETTI: They are set up as an
22 enforcement unit. Do they need another unit?
23 I think maybe we at the state can do that,
24 and perhaps they can learn some from us. But

1 I don't think that keeps us from going ahead
2 and having an independent entity. Because we
3 know the one we have, Senator, isn't working.

4 CHAIRMAN DeFRANCISCO: This is one
5 state. So are you saying that New York City
6 and upstate should have the same independent
7 enforcement unit?

8 MS. BARTOLETTI: Yes, because -- for
9 state, for state. For state legislative. We
10 can't -- you're asking me if we could govern
11 the City Councilpeople as well?

12 CHAIRMAN DeFRANCISCO: Correct.

13 MS. BARTOLETTI: No. No, we have
14 actually not given that much thought. But
15 why -- I think that that system perhaps needs
16 some tweaking, but I don't think we need to
17 reinvent the wheel. It seems to be working
18 at least for the people that --

19 CHAIRMAN DeFRANCISCO: That win.

20 (Laughter.)

21 MS. BARTOLETTI: Well, in New York
22 City, if you're a Democrat, that may not be
23 difficult.

24 (Laughter.)

1 CHAIRMAN DeFRANCISCO: Okay. Thank
2 you very much.

3 MS. BARTOLETTI: You're very welcome.

4 CHAIRMAN DeFRANCISCO: And I don't
5 want you to retire. I would miss this every
6 year.

7 MS. BARTOLETTI: Well, that makes me
8 feel a little better at 7:30 in the evening.

9 (Laughter.)

10 MS. BARTOLETTI: Thank you, Senator.

11 CHAIRMAN DeFRANCISCO: Thank you.

12 And the featured speaker, Terry
13 O'Neill, Constantine Institute.

14 MR. O'NEILL: Thank you very much,
15 Mr. Chairman.

16 CHAIRMAN DeFRANCISCO: Who has the
17 most staying power of anyone.

18 MR. O'NEILL: And Chairman Farrell,
19 good to see you again this year.

20 I have some prepared remarks I'm going
21 to read into the record because all of my
22 supporters think I'm going to say this.

23 CHAIRMAN DeFRANCISCO: You're going to
24 read this in the record?

1 MR. O'NEILL: No, I'm not, actually.

2 CHAIRMAN DeFRANCISCO: Oh, okay.

3 Okay. Because --

4 MR. O'NEILL: Well, you said you'd be
5 willing to stay till midnight if you had to.

6 CHAIRMAN DeFRANCISCO: Okay, good.

7 Because if you read this entire thing in the
8 record, you'll be the only one here.

9 MR. O'NEILL: As in prior years, my
10 written testimony sets forth at length and in
11 detail a full program of issues affecting the
12 safety and security of all New Yorkers. On
13 some I believe we're starting to get through.
14 Governor Cuomo's budget contains, for
15 example, \$3 million for Operation SNUG, the
16 anti-gun violence program Senator Montgomery
17 has been such a vocal supporter of, and our
18 friends in Albany who like SNUG are very
19 appreciative of your kind words.

20 And also the Governor has kicked in
21 \$2 million for our Spinal Cord Injury
22 Research Program. You may not think of that
23 as a criminal justice program, but because
24 it's funded by a surcharge on moving

1 violation fines, it is. And it also attempts
2 to undo the damage caused by drunken and
3 neglectful drivers.

4 We take great satisfaction in that,
5 and for that I thank the committees for your
6 patience and indulgence in hearing what I
7 have to say. So this being late in the day
8 and all, I'm only going to address two of the
9 initiatives that are in our program.

10 The first is community policing. Just
11 last night in Troy there was a protest march
12 and a public hearing of the Troy Common
13 Council Public Safety Committee. These
14 actions were prompted by a recent incident in
15 a city tavern caught on videotape of Troy
16 police officers subduing a subject with what
17 appears to be excessive force. The facts of
18 this incident will come out through formal
19 investigations, but the sensibilities of the
20 people of Troy must be addressed in another
21 manner.

22 Since the late 1980s, I've been an
23 advocate for community policing as the best
24 means of improving public satisfaction with

1 public forces of all levels of state and
2 local government. Declining crime statistics
3 alone do not make people feel better. Never
4 during in my three decades in public affairs
5 has the state assumed any leadership in
6 promoting its progressive philosophy of law
7 enforcement. Governor Cuomo again offers
8 nothing of this nature in his budget
9 proposal.

10 Since my experience in the early 1990s
11 working with the State Police and the
12 St. Regis-Mohawk Indians on developing an
13 indigenous policing entity, and my colleague
14 Tom Constantine's extraordinary service to
15 the British government in restoring public
16 trust in the police service of Northern
17 Ireland, I have had my faith in community
18 policing renewed time and time again,
19 especially since my town, Albany, has emerged
20 in the past four years as New York's first
21 truly community-policed municipality.

22 We can give our police agencies modern
23 management methods, technology, forensic
24 scientific capabilities, and even manpower --

1 as we have -- but unless we guide them toward
2 adopting a goal of full and respectful
3 proposal and collaboration with members of
4 the community, it will all be for naught.

5 Events unfolding in Troy offer an
6 opportunity for making decisive change in the
7 status quo. I urge you to use this budget as
8 an opportunity to task the Division of
9 Criminal Justice Services with the creation
10 of a program that provides funding and
11 technical assistance to municipalities that
12 seek to implement the community-policing
13 philosophy.

14 Now, of course you'll wonder where the
15 funding would come for establishing that.
16 And I heard this morning when Commissioner
17 Michael Green spoke, he says that the
18 Governor has decided after 10 years to
19 rebrand the Operation IMPACT program, which
20 has been the totality of our local assistance
21 to local law enforcement since the Pataki
22 administration. And when he was asked "How
23 did you come up with the concept for how
24 you're now going to spend that money?" he

1 said, "Well, I went all around the state and
2 I talked to the police chiefs, the sheriffs,
3 the district attorneys, the probation
4 officers."

5 Well, I talked to all the other people
6 who would be affected, and I know that their
7 voices have not been heard in all the years
8 that we've had IMPACT. In fact, the last
9 time we had any kind of a statewide crime
10 prevention initiative was at the very
11 beginning of Governor Mario Cuomo's
12 administration. At that time fully half the
13 people employed in the Bureau for Municipal
14 Police were running a community crime
15 prevention grant program providing technical
16 assistance all over the state. That abruptly
17 ended the year I went to work for DCJS in
18 1986, and the state has not never shown any
19 leadership in bringing this whole concept of
20 empowering communities to work in partnership
21 with their law enforcement agencies.

22 So as you consider what Governor Cuomo
23 is proposing to do with Operation IMPACT, I
24 would suggest that we take this opportunity

1 to get him to make at least as much of a
2 priority of what people in the community
3 would like to have done with these state
4 dollars as we do to the professionals -- the
5 sheriffs, the chiefs, the district attorneys.

6 My second point is first in my written
7 testimony. It recites the former Ways and
8 Means Committee chairman -- or he wasn't the
9 chairman, but he was here more often than
10 anybody. Ed Griffith, of East New York in
11 Brooklyn, set me to the task in 1999 of
12 developing a uniquely New York response to
13 the problems of transnational organized crime
14 and world terrorism, and the story of how he
15 came to that objective is set forth in there.

16 It's very interesting. It has to do
17 with the fact that he was born and brought up
18 in Panama. But he had great faith in our
19 higher education, especially our great State
20 University system, and we came up with a
21 concept that's set forth in my written
22 testimony which is in fact a tribute to the
23 accomplishments of the State Police in this
24 area.

1 Now, one thing I heard this morning
2 that I was very gratified by, Senator
3 DeFrancisco, were the kind things you said
4 about Bob Farley and the work that he has
5 done with the Senate Republicans on
6 developing some kind of a concept in this
7 area.

8 In fact, when Mr. Griffith asked me to
9 start working on this in 1999, I developed
10 and he sponsored a bill, and the first person
11 I thought of in the Senate to go to and talk
12 to about sponsorship was Bob Farley. Because
13 the year before, 1998, I had worked very
14 effectively with him on the Spinal Cord
15 Injury Research Program, which is a bill that
16 in the years since has been such a success
17 that we've raised and invested over
18 \$70 million in advanced research.

19 So I knew if I was going to work with
20 someone over on the Senate side to develop a
21 proposal and get it moving forward, it would
22 be him. So I'm very glad to hear that you
23 have such confidence in him.

24 I'm also glad that -- and I hear that

1 Governor Cuomo has proposed \$15 million for a
2 related concept and that you said that a lot
3 of thought that has already been given to
4 something of this sort.

5 So I think you've got a lot of people
6 working on a converging track here, but it
7 all relates to going to our public university
8 system and using, harnessing its intellectual
9 resources to work on some of the most serious
10 problems we face today, global organized
11 crime, terrorism, and certainly all the
12 natural disasters that we've been caught
13 unsuspected by.

14 So this appearance marks my 30th
15 Public Protection budget hearing before these
16 or at these joint committees. And the first
17 one, back in 1984, I sat way up in back,
18 Mr. Griffith was up there, and sitting beside
19 him was Deputy Speaker Arthur Eve. And
20 sitting here was the late Tom Coughlin, the
21 Corrections commissioner. And at my first
22 one of these meetings I heard the two of
23 them, Coughlin and Eve, begin a dialogue
24 about what the Governor had proposed that

1 year in the way of prison expansion.

2 And we all know that over the next
3 decade we grew from a population of
4 17,000 prisoners up to the number I heard
5 today of 72. I know that during those years
6 that all of this was going on, I thought a
7 lot of that money could be better spent, and
8 I know that Mr. Griffith did too.

9 Today, however, is another day. And I
10 hope that you will listen, if not to me, to
11 your colleague Ed Griffith, for whom I speak,
12 even though he's long retired, and to the
13 people of Troy, who last night gathered to
14 give voice to their needs, concerns and
15 sensibilities on the future direction of
16 public safety policy and services in their
17 community.

18 I thank you again for this opportunity
19 to put my comments into the record in these
20 proceedings. And as I said last year, I
21 presume to speak for the people to whom
22 Governor Cuomo does not appear to listen.
23 You obviously do. Thank you very much.

24 CHAIRMAN DeFRANCISCO: Thank you

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again. Thank you for your patience. It's a long day for you.

CHAIRMAN FARRELL: Thank you for coming.

CHAIRMAN DeFRANCISCO: And to the stenographer, kudos again.

SENATOR KRUEGER: Thank you.

CHAIRMAN FARRELL: Thank you very much.

We're adjourned to 9:30 tomorrow.

(Whereupon, the budget hearing concluded at 7:43 p.m.)

