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Testimony of Terry O'Neill, Director
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INTRODUCTION

The Constantine Institute, Inc. has been organized to promote the highest constitutional, legal, ethical and professional standards in law enforcement; to encourage innovation in public safety strategy, tactics, training and education and to foster a seamless continuum of cooperation, support and mutual respect among public safety agencies and organizations.

As most of you know, our eponymous patron Tom Constantine, former New York State Police Superintendent, Drug Enforcement Administration chief and Oversight Commissioner for the Reform of the Police Service of Northern Ireland, died unexpectedly and untimely on May 3, 2015. His many admirers miss him and are resolved to cement and pay forward his extraordinary legacy of achievement in law enforcement.

In addition to bringing down the leaders of the largest and most powerful criminal syndicate in history and ending more than three decades of terrorist violence in Northern Ireland, among Mr. Constantine's accomplishments was to have made the New York State Police a powerful force in

combating the ravages of the crack epidemic of the 1980s in the state's most distressed and neglected communities -- our inner cities. He did this by redoubling the NYSP's efforts to recruit minorities into the ranks. The result was his signature program the Community Narcotics Enforcement Teams that swept the streets of inner city neighborhoods of the very people that residents all knew were the drug dealers and violent criminals who were making their lives miserable. He did this without indiscriminate stopping and frisking or other heavy-handed policing practices that have come to be so resented by communities of color.

We believe that our effort to hold up Tom Constantine as the paradigm of a police leader who could fight violent crime and drug trafficking so effectively while remaining respectful of the needs, concerns, rights and sensibilities of communities of color is especially timely and uniquely meaningful.

CRISIS IN POLICE/COMMUNITY RELATIONS

Conflict that erupted across the nation over recent years between police agencies and communities of color brought to light the execrable state of police/community relations that has evolved over the past two decades. The Black Lives Matter movement was catalyzed, as is well known, by the Ferguson MO and Staten Island deaths of young men of color at the hands of police officers. Similar cases have occurred in communities across the nation with depressing regularity.

Based on my experience, including several years as a criminal justice advisor to the administration of the late Governor Mario Cuomo, I have five recommendations to make regarding criminal justice reform in the State of New York that would address this situation in a sweeping and meaningful way that befits its status as the most urgent civil rights issue of the day.

First, over the past two decades, a once vibrant movement toward community policing -- police service founded on true partnership with community stakeholders -- has been all but totally eclipsed by the kind of data-driven policing that former NYPD Commissioner Bill Bratton debuted in New York City in 1994. I am a witness to the fact that this style of numbers-driven policing was aggressively promoted throughout the nation and has been hugely influential. It has fundamentally changed the relationship between municipal police agencies and the public they serve and not for the better.

While many credit Bratton's COMPSTAT and other policing tactics that are descended from it for the historic reductions in crime nationwide, this style of policing has driven a wedge between police and communities of color. Crime may be going down, but public dissatisfaction has been skyrocketing. That is what protesters across the nation are saying. That is what New York City voters were saying when they elected Mayor Bill de Blasio. Their complaint is both legitimate and urgent. Whomever is tasked as the state's primary responder to this phenomenon should be given a clear mandate to reignite the community policing movement. That belongs in this Budget. Sadly, Governor Cuomo has proposed nothing dramatic to respond to this crisis.

Second, former Governor Mario Cuomo, may he rest in peace, signed into law Chapter 55 of the Laws of 1983, the Neighborhood Preservation Crime Prevention Act (NPCPA). This DCJS-administered program was intended to foster the creation of an infrastructure of community-based nonprofit organizations that could access new resources and collaborate with police and other

municipal agencies to improve quality of life in neighborhoods that otherwise would slide into decay and criminality. That there would be a state program to promote this purpose would give it a sense of order and purpose that would benefit communities all over the state. This inspired piece of legislation would have empowered neighborhoods and their residents to have a major impact on the quality of life in their communities. Unfortunately, for whatever reason, NPCPA was never funded, staffed or implemented.

Recent scholarship based on data gathered over several decades has increasingly established that distressed communities that received the kind of empowerment and support contemplated by NPCPA experienced the most dramatic and long-lasting and positive change. It is never too late to do the right thing.

The kind of community-based infrastructure NPCPA would have created would have helped neighborhoods and police agencies work together in productive partnership. This law is still on the books. As the Legislature and the administration of Governor Andrew Cuomo move forward in developing its response to the police/community relations crisis, I would strongly suggest taking up this piece of Mario Cuomo's legacy and fulfilling its promise at last. I urge you to fund the program and to give DCJS a clear and unambiguous directive to make it happen.

Third, we must find a way to assert state leadership in promoting the style of community policing that is responsive to the needs and concerns and respects the sensibilities of those segments of our communities who have historically reason for serious dissatisfaction with law enforcement.

You will have heard that NYPD Commissioner James O'Neill has made what he calls "Neighborhood Policing" the centerpiece of his public safety strategy for New York City. Based on my personal experience in promoting community policing in communities as varied as Albany, the St. Regis Mohawk Reservation and Northern Ireland, there is no way that Commissioner O'Neill could bring about so profound a change in police culture by fiat and within a year of his appointment as commissioner. In fact, we are hearing that this initiative has been resisted by many veteran supervisors. They have been invited to put in their papers.

Over a span of quite a few years now, I have established a network of police, local officials, academics and community activists in any of the state's municipalities. What we need is for the state to take up responsibility for bringing all these players together to develop widely acceptable methods of promoting community policing. I believe that can be accomplished at very little cost.

In the year 2000, the people of Albany after some six years of intensive public discussion adopted a local law that created a way to process public complaints against city police officers. A key component of our law was the creation of a unique role for the Government Law Center at Albany Law School. GLC undertook to train prospective appointees to the Police Complaint Review Board in applicable constitutional and legal principles in order to carry out their duties. GLC also undertook to develop training for investigators whose services the board retained from time to time to carry out its function. This was quite an innovation and it offers a model for moving forward in bringing together interested parties from across the state to develop a program of recommendations for the Legislature and the Executive for the creation of a new program to encourage and assist communities throughout the state in moving toward the community policing model. This could be

done through a legislative grant to Albany Law School to plan and organize a conference on the subject.

Fourth, though New York has shown vigorous leadership in responding to the problems of terrorism and preparation and recovery from natural and manmade disasters, notably through the establishment of SUNY's new graduate school of Disaster Preparedness, Homeland Security and Cybersecurity here in Albany, we have placed less and less emphasis on an old problem with which New York has a long and pioneering history – organized crime. When I use the term “organized crime,” I emphatically include the street gangs that draft so many young people and have been the bane of many of our distressed and mainly minority communities. You will read below a description of legislation we have proposed that would launch a high profile international effort to create a global center for the exchange of ideas and the development of policy recommendations on how to combat the global menace of organized crime.

Fifth, with the sudden advent of the opioid/heroin addiction epidemic, substantial new resources and, more importantly, new thinking have been brought to bear on this metastasizing problem. Inexplicably, our panoply of prevention and treatment programs has long had in it a gaping hole – the lack of a recognized program targeting an audience of high school aged kids. Young people at that age are invariably exposed for the first time to the presence of drugs of abuse in their environment. Didactic health education curricula that cover this problem are neither persuasive nor effective with this population. We have been introduced to the concept of a peer-to-peer approach to it that is far more attractive to youth. Like the NPCPA program referenced above, it empowers the very people who are most at risk of becoming victims of the problem.

COMMUNITY POLICING

The concept of community policing has been widely known for nearly three decades. It is based on a police agency's building and working in partnership with community stakeholders to identify and solve problems that degrade quality of life and create an environment in which crime thrives. It has never been systematically promoted by the state of New York. Governor Cuomo's budget proposal offers nothing explicit to suggest that will change.

The epidemic of drug-fueled violence that took hold in the 1980s resulted in the lion's share of public safety resources being invested in prison capacity during the administration of Governor Mario M. Cuomo. The Pataki years saw the emergence of Operation IMPACT as the state's primary local assistance program for law enforcement derived from the widely influential, statistics-driven, technology-based policing made popular under the administration of New York City Mayor Rudolph Giuliani and his first Police Commissioner Bill Bratton under the name COMPSTAT in the mid-1990s.

The popularity of this style of enforcement nationwide has effectively driven police agencies apart from the communities they serve and stymied the growth of the community policing movement. More recently, the “controversial “stop and frisk” practice that was the hallmark of NYPD Commissioner Ray Kelly's long tenure evolved into a serious irritant in police/community relations. It has also, as research first published in 2010 by Dr. Eli Silverman Professor Emeritus of John Jay College and Dr. John Eterno of Molloy College has indicated, resulted in downgrading of felonies and discouraging victims from filing complaints by commanders who are under relentless pressure

to report steadily declining rates of crime. (See: *The Crime Numbers Game: Management by Manipulation, Advances in Police Theory and Practice*, Eli Silverman and John Eterno, CRC Press, 2012.) (See also: *The NYPD Tapes: A Shocking Story of Cops, Cover-ups, and Courage*, Graham A. Rayman, Palgrave MacMillan, 2013)

Leading figures in contemporary policing have been saying loudly and clearly that police/community partnership has become severely attenuated. We have turned police cars into rolling high-tech offices. Now, officers won't get out of the "office" and interact with the public. Bernard Melekian, former Director of the US Justice Department's COPS program has noted that while the numbers show that cities have grown safer, opinion polls confirm that Americans still fear crime -- an unfortunate perception that the Trump administration in Washington has embraced.

Even more emphatically, we have seen the New York City Police Department finally brought to heel with respect to that most egregious and widespread abuse of the data-driven policing tactics that debuted under former Mayor Rudolph Giuliani -- i.e. "Stop-and-Frisk". I have characterized Judge Shira Scheindlin's landmark decision in *Floyd v. City of New York* as the most significant court decision affecting police management, supervision and training since the 1978 US Supreme Court ruling in *Monell v. Department of Social Services of the City of New York*.

At this writing, critics of the NYPD and the tactics that characterize the now global "Bratton Brand" of policing have turned their focus toward "Broken Windows", a policing tactic that uses the full force and power of the police to discourage minor public order offenses that are thought to give rise to more serious crime. That assertion remains far from proven.

One would say that the unchallenged assertion by proponents of the Bratton Brand that the combination of COMPSTAT, Stop-and-Frisk and Broken Windows is primarily responsible for declining rates of crime over the past two decades are guilty of the logical fallacy of *post hoc ergo propter hoc* in a very big way. They are also forgetting the historic intervention made by this Legislature with the 1991 Safe Streets/Safe City Act that reversed the decimated condition in which the NYPD and other agencies of NYC government had been left by the fiscal crisis of the mid-1970s.

In Albany, recent years have seen an extraordinary community discussion on the direction we want our police department to take. This was catalyzed by a number of tragic homicides involving victims and perpetrators of a very young age. These kids are not statistics. In a small city like ours, they have names. The kids in our neighborhoods and schools know them. For nearly four years, however, we had a chief of police who was addicted to the flashy technology we got through Operation IMPACT, created a "strike force" and responded to expressions of public dissatisfaction with the department's service and performance by citing statistics from DCJS indicating a decline in reported crime.

In 2010, Albany went through a very public process of searching for and selecting a new police chief. The people had the opportunity to tell the search committee empaneled by the mayor what kind of chief they wanted. At the same time, the interim team managing the Albany Police Department worked closely with the Common Council to develop a framework for designing and implementing a community policing plan. That plan is now in place. It has as its most visible component the establishment of Neighborhood Engagement Units that have divided the city into

eighteen police beats with permanently assigned officers who have a community policing mandate. Fully ten percent of the department's manpower is committed full-time to this program. Officers in these units are in constant communication with patrol and investigative units making theirs a most valuable contribution to our innovative practice of Intelligence-led Policing.

What we need to do in this year's budget is to take a good hard look at the local assistance we send to local law enforcement. Governor Cuomo re-branded Operation IMPACT to focus on gun-related crime where it heretofore emphasized subsidized police overtime and acquisitions of pricey technology. We should respond to his willingness to sharpen the program's focus and his funding for the non-police Operation SNUG anti-violence program that existed during one budget cycle during the Paterson administration by opening the door even wider. We should be providing leadership from the state level that encourages local law enforcement to move in the direction of community policing and partnership with neighborhood stakeholders. Communities with a healthy sense of trust and partnership with their law enforcement agencies are attractive to home-buyers, business investment and tourism. There should be a strong state program to encourage it as a essential component of our economic development efforts in all our distressed communities.

Over a span of quite a few years now, I have established a network of police, local officials, academics and community activists in any of the state's municipalities. What we need is for the state to take up responsibility for bringing all these players together to develop widely acceptable methods of promoting community policing. I believe that can be accomplished at very little cost.

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THE NEIGHBORHOOD PRESERVATION CRIME PREVENTION ACT

Since 1983, there has been a statutory framework in New York to promote a type of community-based problem-solving that focuses on neighborhood preservation and renewal. It is the Neighborhood Preservation Crime Prevention Act (NPCPA) (Chapter 55, Laws of 1983). It was intended to promote the creation of an infrastructure of community-based nonprofits that would partner with local police and other municipal agencies to preserve and renew neighborhoods and

thereby reduce crime. DCJS was charged with administering the NPCPA and tasked with awarding small grants and providing technical assistance to the nonprofits encouraged by the program.

This forward-looking legislation, which Albany County District Attorney David Soares has called “one of the most brilliant pieces of legislation ever drafted, empowering neighborhoods and empowering people,” was never implemented. In fact, early in the Mario Cuomo administration, DCJS’ entire community crime prevention program was abruptly terminated. But neighborhood deterioration, specifically the abandoned building problem, continues to be a major criminogenic problem in all of our in all of our cities. We should, if not activate the NPCPA, at least come up with a program that fully integrates neighborhood preservation into our overall crime-fighting strategy. See: **“The Unsung Role that Ordinary Citizens Played in the Great Crime Reduction”**. *New York Times*, 7 November 2017.

(<https://www.nytimes.com/2017/11/09/upshot/the-unsung-role-that-ordinary-citizens-played-in-the-great-crime-decline.html?hpw&rref=upshot&action=click&pgtype=Homepage&module=well-region®ion=bottom-well&WT.nav=bottom-well>.)

THE CONSTANTINE INSTITUTE

In 1999, then Assemblyman Edward Griffith, a longstanding member of the Ways and Means Committee celebrated for his conscientiousness and his ethical punctiliousness, paid his first visit in many years to his native Panama. On his return, he told me that he had been shocked and appalled to see the war damage still evident in Panama City from the military incursion that President George H. W. Bush had ordered to effect the arrest of Panamanian strongman and drug trafficker Manuel Antonio Noriega ten years earlier. I explained to him that United States had had to take action because Noriega had basically allowed Colombian and Mexican drug cartels use his country’s financial institutions as piggy banks and money laundries. (See: ***Our Man in Panama***, John Dinges, Random House, 1990) In fact, sovereign governments of many small nations in the Caribbean Basin were and remain vulnerable to this phenomenon. Mr. Griffith wanted to do something.

At Mr. Griffith’s request, I developed a legislative proposal that would mobilize the intellectual resources of our state’s great public university system to develop recommendations to guide the state and the nation on confronting transnational organized crime. In its current iteration, this proposal was introduced last Session as a bill sponsored by Senator George Amedore and Assemblymember Patricia Fahy. (See: Assembly Bill No. 6862/Senate Bill No. 5311) I offer it to the committees for your consideration and we would be happy to work with any and all of you. What Mr. Griffith wanted to do in 1999 is still as well-considered and even more timely today that it was then.

It has been my ambition for twenty-five years now to make New York a center for research and development on cutting-edge ideas in public safety, tackling problems ranging from youth gangs and street crime to transnational organized crime and terrorism. These difficult times challenge us to be resourceful in finding the means to create and sustain new programs and initiatives. We must be creative in looking at resources we possess of which we have not realized their maximum value. We do, in fact possess a unique and untapped resource of great value in the unique and pioneering record of the New York State Police and our eponymous (i.e., the person our organization is named for) patron the late Tom Constantine himself.

In 1957, the NYSP made history when it exposed the existence of organized crime in an incident known as the Appalachian organized crime meeting. That incident sparked a historic engagement on the part of the federal government and law enforcement agencies all over the nation to confront and combat what has today grown into a global network of criminal enterprises. (See: ***McMafia: A Journey through the Global Criminal Underworld***, Misha Glenny, Vintage Books, 2009; *McMafia*, AMC television series: <https://www.imdb.com/title/tt6271042/>) The United Nations estimates that criminal organizations worldwide profit over \$2 trillion a year, twice what all the nations on earth spend on their annual military budgets.

In 1991, under the leadership of then State Police Superintendent Tom Constantine, the operations of Colombia's Cali Cartel were exposed in New York after a six-year investigation that began with the 1985 discovery of a cocaine processing lab in rural Montgomery County. Four years later, as head of the Drug Enforcement Administration, Constantine presided over the dismantling of the cartel and the capture, extradition, sentencing and imprisonment of its leaders and the forfeiture of some \$8 billion of their criminal assets. The Cali Cartel is acknowledged to have been the largest and most powerful criminal conspiracy in history. (See: ***Drug Lords: The Rise and Fall of the Cali Cartel, the World's Richest Crime Syndicate***, Ron Chepesiuk, MILO Books Ltd., 2003) An alumnus of our New York State Police took it down. And the New York State Troopers who exposed the old Mafia in 1957 dragged the New Mafia out into the light of day in 1991.

Between 2000 and 2003, Constantine, serving as Oversight Commissioner for reform of the Police Service of Northern Ireland, played a major role in ending more than three decades of terrorist violence in the British Isles by giving the people of the province a police service that is committed to the highest legal and ethical principles, excellence in professionalism and the philosophy of community policing. Though "The Troubles" of Northern Ireland were political and sectarian at heart, it is well known that the factions involved supported their activities through a variety of criminal enterprises – enterprises that continue in the years since the era of violence subsided. This is a remarkable achievement and it stands as a model of what needs to be achieved in many areas of the globe that do not have so trusted an institution to maintain public order.

This unique and internationally acknowledged legacy of pioneering achievement is an asset of considerable but unrealized value for purposes of developing a privately-funded and ultimately self-sustaining endowment to support research, development, training and education in the struggle against transnational organized crime and terrorism. What is needed to realize this goal is a one-time infusion of funding by the state to open an office and launch an endowment campaign.

The Constantine Institute proposed for the SUNY system bill will marshal the intellectual resources of our great public university system and serve as a focal point for research and deliberation on the control of transnational organized crime and terrorism. Modeled on the prestigious Nathanson Centre for Transnational Human Rights, Crime and Security established in 1997 at York University in Toronto (<http://nathanson.osgoode.yorku.ca/>), the institute will sponsor a diverse research program that will reflect a balance among the issues relating to legal, operational, social, political, and economic aspects of responding to these threats. It will organize conferences and symposia that will bring together the best minds among academics, law enforcement professionals, the military services, the intelligence community, lawmakers, the diplomatic corps and the business and financial sectors to develop strategies, tactics, relationships and legal and diplomatic frameworks for more effective international cooperation.

Since its inception in 1987, the Lt. Col. Henry F. Williams Homicide Investigation Seminar hosted by the New York State Police has brought together thousands of what have become known as Williams Associates, a powerful network of professional colleagues from all over America and a growing number of foreign nations. We envision an even more expansive global network of Constantine Fellows composed of alumni of our future series of annual conferences on transnational organized crime and global terrorism.

YOUTH DRUG ABUSE PREVENTION: A PEER-TO-PEER APPROACH

At every level of government, recent years have seen a renewed commitment to addressing the deadly problem of drugs of abuse fired by the opioid/heroin addiction emergency. I would be remiss were I not to bring to the attention of the Legislature the most promising and imaginative concept I have seen that addresses the complete lack of a well-regarded prevention program targeting the audience of high school-aged kids. As you know, the governor has proposed an interagency group to review and standardize health education programs – his Prevention Blueprint -- addressing instruction in chemical dependency in our schools. We believe that this would be very positively augmented by encouraging a peer-to-peer approach to the problem bringing young people into active involvement in preventing drug abuse.

In 1988, I had the pleasure of meeting John Heritage, a career New York State Trooper, when he was appointed by Governor Mario Cuomo to head the Bureau for Municipal Police at the Division of Criminal Justice Services. One of John's top priorities was to bring the Drug Abuse Resistance Education Program (D.A.R.E.) to the schoolchildren of New York. This program, which had been pioneered by the Los Angeles Police Department a few years earlier, marked a positive new departure in our society's struggle against drug abuse and addiction. It was all the more historic because it came at a time of raging urban violence fueled by the crack cocaine epidemic of the 1980s. John succeeded in achieving his goal within a very short time. It wasn't long before successive cohorts of D.A.R.E. officers from police agencies around the state were being trained, certified and deployed in classrooms across the state. In its time, D.A.R.E. was a true innovation and a hopeful new approach to the problem of youth drug involvement.

As the years have gone by, much has changed in our knowledge of and attitudes toward the epidemic of drug addiction. Indeed, much about addiction has changed, as well. Today, abuse of prescription drugs is on the rise and the problem has moved from inner cities to suburbs and rural communities. We are re-thinking many of the harsh penal policies we adopted at the height of the crack epidemic. We have also increasingly come to view the problem of chemical dependency as a public health, rather than a public safety, issue. To that end, many of us involved in the process of making public policy on drug abuse prevention have been looking for a next generation of strategies for reaching young people with an effective anti-drug abuse message. I am convinced that we have found one.

In 2010, at the invitation of His Excellency Jonas Hafström, then Ambassador of Sweden, I was introduced to Mentor International. (See: <http://www.Mentorfoundationusa.org>) Her Majesty Queen Silvia of Sweden established Mentor International in 1994 in collaboration with the World Health Organization. Since then, the organization has grown to provide support to youth in over 80 countries reaching more than 6 million children. Mentor International, together with Mentor Foundation USA and the other affiliated Mentor organizations around the world, is today the

leading international not-for-profit network empowering youth and preventing substance abuse. Its mission is to prevent drug abuse among youth while helping them identify and pursue their goals. Mentor views drug prevention and the success of our youth as a collective civil responsibility. Therefore, it partners with the business community, government agencies, schools, and parents to create healthy and productive pathways for youth. Since opening its offices in Washington DC in 2010, Mentor Foundation USA has reached more than 140,000 youth across the United States.

For the past four years, with funding from the Rip Van Winkle Foundation, an organization dedicated to promoting preventive medicine headquartered in Hillsdale, Columbia County, Mentor was debuted in four Columbia County high schools. (See: <http://www.rvwfoundation.org/>) Some 1,300 students participated. Mentor Foundation USA subsequently announced a grant from the Conrad N. Hilton Foundation to support the research efforts of “an innovative new substance misuse prevention program (i.e.; Mentor) in Columbia County, Hudson Valley, NY, that builds on the power of positive peer-to-peer messaging and peer driven community initiatives.” The research has measured how Counter Marketing Prevention through positive peer-to-peer messaging can help offset the negative messages that youth are influenced by on a daily basis.

Mentor is taking a profoundly new direction in youth substance abuse prevention, one that is very much in line with the positive and progressive view that society’s problem with drugs is a public health issue, not a criminal justice issue. Mentor has wrapped up its pioneering effort in Columbia County. We are gratified that its innovative approach made a tremendous impression on policymakers who had opportunity to observe it. Efforts are currently underway to adapt what was experienced and learned to the continuing needs of the county’s youth. We strongly believe that peer-to-peer approaches to drug abuse make abundant sense especially in reaching a high school aged audience. I would strongly recommend that this year’s budget contain funding for evaluating what has been achieved in Columbia County in fostering this innovative approach. As with the Neighborhood Preservation Crime Prevention Act described above, the peer-to-peer approach empowers the very people and communities most affected by the problem of drug abuse. It is time that our resources be put at their disposal to accomplish what they think best for themselves.

CONCLUSION

I thank you once again for this opportunity to appear before you and share some thoughts about the public protection aspects of this most challenging year of budget-making.

I first sat through one of these hearings in 1984. At that hearing, on the dais sat Deputy Speaker Arthur Eve. Sitting where I now sit was Corrections Commissioner Thomas A. Coughlin, III. The two engaged in a memorable colloquy about the prison system budget at the very inception of the vast prison expansion we engaged in over the following decade. All the history I have witnessed since then has impressed upon me the great work that this Legislature undertakes to give form to the society we live in and rise to meet its ever-evolving challenges. It has always been a privilege to participate in this process. The result of your hard and diligent work has always worked out to the benefit of the state and people of New York. Steep declines in rates of crime in recent years has been the result. You are to be congratulated on this achievement.