

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

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3 JOINT LEGISLATIVE HEARING

4 In the Matter of the
5 2024-2025 EXECUTIVE BUDGET ON
6 PUBLIC PROTECTION

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

10 January 25, 2024
11 9:36 a.m.

12 PRESIDING:

13 Senator Liz Krueger
14 Chair, Senate Finance Committee

15 Assemblyman Jeffrey Dinowitz
16 Chair, Assembly Committee on Codes

17 PRESENT:

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

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

22 Senator Brad Hoylman
23 Chair, Senate Committee on Judiciary

24 Assemblyman Charles D. Lavine
Chair, Assembly Committee on Judiciary

Senator Jamaal T. Bailey
Chair, Senate Committee on Codes

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

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3 PRESENT: (Continued)

4 Assemblyman Erik M. Dilan
Chair, Assembly Committee on Correction

5
6 Assemblyman John T. McDonald III
Chair, Assembly Committee on Governmental
Operations

7
8 Senator Kristen Gonzalez
Chair, Senate Committee on Internet and
Technology

9
10 Assemblyman Steven Otis
Chair, Assembly Committee on Science and
Technology

11
12 Senator Zellnor Myrie

13
14 Senator Shelley B. Mayer

15
16 Assemblyman Alex Bores

17
18 Assemblywoman Jo Anne Simon

19
20 Senator Jessica Ramos

21
22 Assemblyman Philip A. Palmesano

23
24 Assemblyman Michael Tannousis

25
26 Senator Anthony H. Palumbo

27
28 Senator George M. Borrello

29
30 Assemblyman Michael Reilly

31
32 Senator Rob Rolison

33
34 Assemblywoman Monica P. Wallace

35
36 Assemblyman Michael Durso

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4 Assemblywoman Latrice Walker

5 Senator Daniel G. Stec

6 Assemblyman Chris Burdick

7 Assemblywoman Marcela Mitaynes

8 Senator Dean Murray

9 Assemblyman Brian Manktelow

10 Assemblywoman Dana Levenberg

11 Assemblyman Phil Steck

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1 CHAIRWOMAN KRUEGER: Good morning,
2 everyone. Hi. I'm Senator Liz Krueger, the
3 chair of the Senate Finance Committee and
4 cochair of today's budget hearing.

5 Today is the third of 13 hearings
6 conducted by the joint fiscal committees of
7 the State Legislature regarding the
8 Governor's proposed budget for the state
9 fiscal year 2024-'25. These hearings are
10 conducted pursuant to the New York State
11 Constitution and Legislative Law.

12 Today the Senate Finance Committee,
13 along with the Assembly Ways and Means
14 Committee, will hear testimony concerning the
15 Governor's proposed budget for the following
16 agencies -- a long hearing today; everybody
17 get comfortable seats. We have Judiciary,
18 State Commission on Judicial Conduct, the
19 Office of Indigent Legal Services; New York
20 State Division of Criminal Justice Services,
21 the New York State Department of Corrections
22 and Community Supervision; the New York State
23 Division of State Police; the New York State
24 Division of Homeland Security and Emergency

1 Services; and the New York State Office of
2 Information Technology.

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

6 Before I just go and start to
7 introduce my colleagues joining us today, I
8 want to just do a little housekeeping. This
9 is a redesigned, improved budget conference
10 room. There is -- obviously there are new
11 sites that you can read things off of. We
12 have technology where you can read whatever
13 anyone's saying on the mic. Which also means
14 be very careful your mic is on when you want
15 it on and off when you don't want it on.
16 Because not only will you be heard by people
17 throughout the State of New York, they'll be
18 reading whatever you said.

19 And in fact we have a new microphone
20 system. And it's actually much better in
21 sound quality. But particularly for
22 legislators -- but also for anybody
23 testifying later during the day -- you have
24 to press the push button quite hard to move

1 it from red to green or green to red. So
2 just letting everyone know, when you want to
3 be speaking into the mic, you press that push
4 button until it turns green. And you will
5 see some people trying over and over again,
6 but we're working that out.

7 We also have new, stronger WiFi in
8 this room, so you can be on Senate Guest or
9 Assembly Guest or, as legislators, be on the
10 regular Senate or Assembly WiFi from this
11 room.

12 I'm trying to think of other
13 procedures. For everyone who's here who's
14 asking questions, during the time where we
15 are interviewing or listening to testimony
16 from the government reps, the chairs of the
17 relevant committees get to have 10 minutes to
18 ask questions. The rankers have five
19 minutes. Everyone else has three minutes.

20 The clocks are visually available in
21 all directions. I want everyone to
22 understand the rules -- and this is the
23 Legislature I'm speaking to. If the clock is
24 five minutes, that is for you to ask and

1 whoever to answer. Some people -- and we're
2 in politics, I get it. Some people have
3 five-minute questions. You'll have no chance
4 to hear an answer. You have to leave the
5 person time to answer the questions you're
6 asking.

7 And so we are going to cut you off at
8 the time limits, whether or not the question
9 has been answered. But if it hasn't been
10 answered, we will ask our guests to please
11 submit their answers in writing to both
12 committees, Ways and Means and Finance, and
13 we will make sure all legislators get those
14 answers. All right?

15 So -- and we understand, sometimes we
16 ask stump-you questions and you may not
17 sincerely know the answer. "I'll get back to
18 you" -- and then get back to us, please -- is
19 a perfectly acceptable response.

20 Okay, with that -- and again, after we
21 complete the government panels -- and that
22 will be many, many hours from now. So if
23 you're planning your day, just realize
24 government panels take longer and it will be

1 many, many hours to get through this many
2 government agencies.

3 But there's only three minutes, when
4 we get to those panels, and that's three
5 minutes whether you're a chair, a ranker, or
6 just a member of a committee, both three
7 minutes for asking and answering.

8 All right, I would now like to
9 introduce members of the Senate, because I
10 know it's texted to me, one second. Sorry,
11 here we go. And other members of both the
12 Senate and Assembly may come and go during
13 the day, and then we'll try to make sure to
14 announce them when they get here.

15 So we have Senator Gonzalez, we have
16 Senator Salazar, Senator Hoylman-Sigal,
17 Senator Bailey, Senator Mayer and Senator
18 Myrie.

19 And I will ask Tom O'Mara, the ranker
20 on Finance, to introduce his members.

21 SENATOR O'MARA: Thank you.

22 Good morning, everyone. We have,
23 joining us on our side, Senator Rolison,
24 Senator Borrello, Senator Murray.

1 CHAIRWOMAN KRUEGER: Great, thank you.
2 And now I'm going to ask my friend and
3 today's chair of Ways and Means for the day,
4 Jeff Dinowitz, to introduce his members.

5 ASSEMBLYMAN DINOWITZ: Good morning,
6 everybody. I'm Assemblyman Jeffrey Dinowitz.
7 I chair the Assembly Codes Committee, but in
8 addition to my role as Codes chair, today I
9 am also filling in as cochair of the hearing
10 for Assemblywoman Helene Weinstein, who is
11 the Ways and Means chair. She would
12 ordinarily be chairing, but she is presently
13 recovering from knee surgery. And she'll be
14 back hopefully in a couple of weeks. We
15 certainly look forward to her return.

16 So I will introduce the Assembly
17 Majority members that are here today. They
18 include Assemblymember Lavine, who chairs the
19 Judiciary Committee; Assemblymember Dilan,
20 who's chair of the Corrections Committee;
21 Assemblymembers Bores, Burdick, Mitaynes,
22 Levenberg and Wallace. And I think that's
23 everybody.

24 Would you like to introduce the

1 Minority members?

2 ASSEMBLYMAN RA: Good morning. We
3 have with us today Assemblyman Tannousis, who
4 is the ranker on the Judiciary Committee, as
5 well as Assemblymembers Reilly, Durso and
6 Manktelow.

7 CHAIRWOMAN KRUEGER: Thank you. All
8 right. So I also, just for the record, have
9 to welcome the entire list of state
10 representatives who will be with us.

11 So we're starting out with the
12 Honorable Joseph Zayas, Chief Administrative
13 Judge, the Office of Court Administration;
14 Robert Tembeckjian, administrator and
15 counsel, New York State Commission on
16 Judicial Conduct; Patricia Warth, director,
17 New York State Office of Indigent Legal
18 Services; Rossana Rosado, commissioner of the
19 New York State Division of Criminal Justice
20 Services; Daniel Martuscello, acting
21 commissioner of the New York State Department
22 of Corrections and Community Supervision;
23 Dominick Chiumento, acting superintendent of
24 the New York State Division of State Police;

1 Jackie Bray, commissioner of the New York
2 State Division of Homeland Security and
3 Emergency Services; Dru Rai, chief
4 information officer of the New York State
5 Office of Information Technology Services.

6 I just also -- before we start, I want
7 to remind all of my colleagues here, because
8 there are so many chairs of so many
9 committees, when the guest is actually within
10 the purview of your committee, you have the
11 10-minute chair rights. If you are not the
12 chair of the committee that has oversight of
13 that specific guest, I would hope that
14 everybody will follow the rules of just being
15 three minutes, as if they're not the chair
16 for that purpose. And a couple of the
17 committees have overlapping oversight, and
18 we'll just deal with that.

19 So -- but for example, I'm quite sure
20 that our first speaker, Honorable Judge
21 Zayas, Chief Administrative Judge of the
22 Office of Court Administration, will have
23 Judiciary being the chairs, although
24 obviously Codes and Crime Victims also

1 overlap to some degree, particularly Codes.
2 So perhaps we'll see Codes and Judiciary as
3 the two 10-minute chairs for the Chief
4 Administrative Judge.

5 And now I'm going to ask you to start
6 and also -- sorry, one more thing. You have
7 the 10 minutes. Some people's testimony is
8 two pages long. No problem. Some people
9 like to send 20 pages of testimony. We love
10 getting more materials. And everyone's
11 testimony is up online for legislators and
12 the public to read. But encouraging you, if
13 you know that you have testimony you can't
14 possibly get through in 10 minutes, just
15 bullet-point what you think are the most
16 important issues. And we have your
17 testimony, and we can read the full 20 pages.

18 So with that, nice seeing you, Judge.

19 CHIEF ADMINISTRATIVE JUDGE ZAYAS:

20 Thank you, Senator.

21 So good morning, Chairpersons Krueger,
22 I guess Acting Chairperson Dinowitz -- and
23 Chairperson Weinstein, who couldn't be here
24 today -- Hoylman-Sigal and Lavine, and all

1 other committee members who are present
2 today. I am, as you heard, Joseph Zayas, the
3 Chief Administrative Judge of the New York
4 State Unified Court System. And it is my
5 pleasure to appear before this body today to
6 discuss the Judiciary's budget submission for
7 the 2024-2025 fiscal year.

8 I appear today on behalf of
9 Chief Judge Rowan Wilson, our outstanding
10 leadership team, and the over 16,000 judges
11 and nonjudicial employees of the Unified
12 Court System. Collectively, we are more
13 committed than ever to ensuring that the
14 judicial branch has the resources it needs so
15 that all New Yorkers have access to the fair
16 and expeditious administration of justice in
17 our courts.

18 During our conversation this morning
19 about what New York courts are doing now and
20 what we hope to be doing in the future, I
21 think it's likely that my perspective, my
22 unique perspective, will differ in some
23 noticeable respects from some of my
24 predecessors. The reason for this is that I

1 have spent most of my career in courtrooms
2 rather than at the Office of Court
3 Administration -- trial courtrooms and
4 appellate courtrooms. Therefore, our courts'
5 extraordinary workload has never been an
6 abstract concept to me.

7 Before I was an appellate justice in
8 the Appellate Division, I served as the
9 administrative judge in Supreme Court
10 Criminal Term. I was serving in that role
11 when the pandemic struck in March of 2020.
12 Almost overnight, our amazing IT staff was
13 able to implement virtual court proceedings
14 so that our judges could continue to resolve
15 emergency applications and essential matters,
16 including motions brought jointly by
17 prosecutors and defense attorneys to release
18 pretrial detainees from Rikers Island.

19 I was also the administrative judge as
20 the courts began the painstaking process of
21 slowly, deliberately getting back to doing
22 the critical things that courts need to do to
23 dispose of criminal cases -- basically
24 conducting hearings and trials -- while

1 significantly modifying our procedures to
2 comply with the latest public health
3 guidance. I therefore fully understand how
4 much the peak pandemic years contributed to
5 the backlogs that we're currently seeing in
6 our criminal courts.

7 My tenure as the Queens administrative
8 judge also coincided, coincidentally, with
9 the enactment of transformative criminal
10 justice legislation, which I personally
11 implemented in our courts. Significant
12 reforms of our bail, discovery and speedy
13 trial statutes, raising the age of criminal
14 responsibility, including the new sealing
15 provision, decriminalizing marijuana
16 possession and then legalizing it, and the
17 expungement provisions for prior marijuana
18 convictions. The breadth of these changes
19 would have been unimaginable to me when I was
20 a trial lawyer, appellate practitioner, and
21 death penalty attorney at the Legal Aid
22 Society in the late 1980s and 1990s.

23 Going all the way back to my judicial
24 career, I spent my first seven years on the

1 bench in New York City's lower criminal
2 court. I presided over arraignments and made
3 more bail determinations and arraignments
4 than I could ever hope to estimate, even in
5 ballpark accuracy.

6 But my criminal court experience
7 consisted of much more than that. I served
8 as the presiding justice of the Queens
9 Misdemeanor Court, the Mental Health Recovery
10 Court, the Felony Domestic Violence Court,
11 and Youth Court, just to name a few. I also
12 previously served as a law clerk to Justice
13 Rolando Acosta in Lower Civil Court and at
14 the Harlem Community Justice Center. So I
15 know firsthand the life-changing work that is
16 done each and every day in our hundreds of
17 problem-solving courts, and I'm fully
18 supportive of efforts to greatly expand their
19 reach and impact.

20 All of this introduction is to say
21 that if we begin to talk this morning about
22 criminal justice reforms or fundamentally
23 changing the existing mental health and
24 treatment court models, or the importance of

1 virtual proceedings, or how we train our
2 judges, or the need for increased funds for
3 civil legal services, I will not be answering
4 those questions for you as an administrator.
5 I will also be answering or drawing upon my
6 36 years of on-the-ground experience in our
7 courts, and upon my personal, lived
8 experience growing up in public housing
9 projects in Manhattan and Harlem, the
10 Frederick Douglass Housing Projects, with a
11 father who had a serious mental illness --
12 schizophrenia -- and with a mother, God bless
13 her, who almost single-handedly had to raise
14 five unruly sons with the occasional help of
15 public assistance when my father was in
16 psychiatric hospitals.

17 Now, I have only been in my new role
18 as chief administrative judge since May of
19 last year. But Chief Judge Wilson and I
20 agreed very early on that it was incredibly
21 important, one of our first priorities, for
22 the judicial branch to reset our relationship
23 with the Legislature. Since my appointment,
24 I've had the pleasure of meeting with many of

1 you and your colleagues, including several
2 productive meetings I've had over the past
3 couple of days.

4 Many of you have told me what you want
5 to see the courts do more of, or what you
6 want to see the courts do differently.

7 What's become plain to me is that we
8 share, the judiciary and the legislative
9 branch, we share many of the same goals. We
10 want more criminal defendants to receive the
11 substance abuse treatment and mental health
12 services they often so desperately need. We
13 want to have the best-trained judiciary in
14 the country. We want the public to have
15 ready access to our courtrooms so that they
16 can see what we do and have confidence in the
17 outcomes. We want our family courts to be
18 less backlogged and more compassionate
19 places. We want more of our litigants in
20 civil court to be represented by counsel.
21 And we want our judiciary and our workforce
22 to reflect the beautiful diversity of our
23 great state.

24 In my view, our visions of what the

1 justice system should look like are largely
2 aligned with yours, and we want to
3 collaborate with you and your colleagues to
4 make our shared goals a reality.

5 To achieve these goals, our budget
6 this year will not only enable the Judiciary
7 to continue its ongoing work, but also
8 address historic access to justice funding
9 gaps. It calls for 2.7 billion in spending,
10 reflecting an increase of 131.2 million, or a
11 5.2 percent increase over the current year.

12 To maintain core operations and meet
13 required statutory obligations, this funding
14 more specifically will support the cost of
15 new judgeships added by the Legislature in
16 2023; negotiated pay increases for
17 nonjudicial employees which essentially
18 matched what the executive branch offered to
19 their employees; judicial pay increases
20 recommended by the 2023 Salary Commission;
21 cost-of-living adjustments for legal services
22 providers; and critical technology upgrades
23 for the courts.

24 Our budget also includes a further

1 increase of 50.8 million, or 2 percent, which
2 will be used to implement much-needed
3 operational enhancements, including
4 additional judgeships and staff in our Family
5 and Housing court.

6 I see my time is depleting here, so
7 let me close quickly.

8 In closing, I want to suggest that
9 this year's judiciary budget be seen as an
10 attempt to catch up, to restore the courts'
11 resources we have been deprived of in recent
12 years because of the periodic fiscal crisis,
13 and to secure funding for crucial programs
14 that have up until this point been beyond our
15 means to implement.

16 CHAIRWOMAN KRUEGER: Thank you, Judge.
17 Appreciate it.

18 Our first questioner will be the chair
19 of Judiciary in the Senate, Brad
20 Hoylman-Sigal, 10 minutes.

21 SENATOR HOYLMAN-SIGAL: Thank you,
22 Madam Chair.

23 It's good to see you this morning,
24 Judge.

1 CHIEF ADMINISTRATIVE JUDGE ZAYAS:

2 Good to see you.

3 SENATOR HOYLMAN-SIGAL: Let me just
4 first say I really appreciated your
5 introduction, because you have been meeting
6 with members and -- but it's good to learn
7 more about your background and your
8 on-the-ground experience.

9 And I want to also commend you and the
10 Chief Judge for your desire to turn the page,
11 as you said, and reset the relationship with
12 the State Legislature. I think we all have a
13 great deal more confidence in your
14 administration just in the first, you know,
15 year of it being launched, so thank you for
16 that.

17 And also wanted to acknowledge the way
18 you break down your budget request is very
19 helpful, kind of a menu of different expenses
20 and, you know, what it will be providing to
21 the people of the state, and that's also very
22 much appreciated.

23 My first question regards Family
24 Court, and a number of my colleagues and I

1 have had concerns over the backlog, the
2 treatment of litigants, the time delays that
3 families suffer because of the existing
4 conditions. And we had a hearing with my
5 colleague Senator Brisport, and I was
6 wondering, since the Chief Judge was there --
7 it was an honor to have him there for part of
8 the hearing -- what you and your colleagues
9 learned from the testimony at that hearing in
10 the early part of the year.

11 CHIEF ADMINISTRATIVE JUDGE ZAYAS:

12 Sure. Sure. So one of our first orders of
13 business when I took this position as chief
14 administrative judge and met with the Chief
15 Judge was to prioritize Family Court. So we
16 certainly were familiar with the Williams
17 report, which had pointed out a number of
18 things. And we knew that we were going to be
19 making it a priority to begin to resource
20 Family Court.

21 So immediately, within months, they
22 were the ones who received most court
23 employees. If they lose a position, they get
24 that position filled quicker than any other

1 court in our courthouse.

2 We then immediately appointed -- we
3 never had a statewide coordinating judge for
4 family matters, but we had one for
5 matrimonial matters, we had one for drug
6 treatment courts. And we thought that it was
7 important to appoint someone who can oversee
8 statewide and come up with concrete plans to
9 reduce the backlogs -- all the things that
10 you talked about, Senator -- then we'd have
11 an extraordinary administrative judge
12 downstate as well.

13 So Richard Rivera just got elected to
14 Supreme Court in the Third J.D., and so we
15 appointed him. First time we appointed a
16 Latino to a statewide position like that.
17 And so they are working together to address a
18 lot of the concerns raised by the
19 Williams Commission.

20 But in addition, we have -- we feel,
21 and I'm not -- I hope I'm not sounding
22 defensive on this but we want to,
23 desperately, change the culture of
24 Family Court, the way -- the backlog in

1 Family Court. And so, for example, we were
2 very supportive of the hiring and the raising
3 of the 18-B rates. We cannot move cases
4 along unless lawyers are getting paid
5 adequately and are willing to start taking
6 those cases.

7 And so with that, with respect to the
8 sort of culture of the lack of compassion and
9 the way folks were treated in Family Court,
10 their supervisors and the administrative
11 judges are addressing that where they're
12 meeting with the stakeholders more often and
13 having conversations with the judges and
14 overseeing that, and listening to the
15 audiotapes so that they can monitor that
16 progress.

17 And there's all sorts of other things
18 we're doing to -- it's really -- it is our
19 top priority, as you've probably heard us say
20 in the press, that court consolidation is not
21 necessarily a priority for us, but that's not
22 to say that Family Court is not the priority,
23 because that has become the priority. Maybe
24 we'll revisit consolidation at some future

1 time. But from my perspective, every time I
2 consider the consolidation plan, the real
3 issue is Family Court. How do we elevate
4 Family Court to be the court that it needs to
5 be?

6 And believe me when I say we are doing
7 everything in our power to do that. You
8 know, we increase the number of support
9 magistrates, we increase the number of court
10 attorney referees, we're dealing with all of
11 those issues and we're going to continue to
12 do the best we can to make that work.

13 There's one area that we have a
14 problem with, and that is the Bronx Family
15 Court and the facilities there. So -- and I
16 say this to all of my Bronx legislators, that
17 Queens County got a brand-new courthouse,
18 Staten Island got a brand-new courthouse,
19 Brooklyn got a brand-new -- I'm talking about
20 Family Courthouse, and Manhattan, it's a
21 little older, but they too got a new
22 courthouse that's been refurbished. And the
23 Bronx has not.

24 So I've been talking to leaders about

1 why that's the case. Now, as you know, we
2 don't -- those are not our buildings. And so
3 we can't build that. That can't be the
4 Judiciary's job, as much as I want it to be.
5 But from my perspective, it's time for the
6 Bronx to have a new Family Court courthouse
7 that can meet the needs of the growing
8 population.

9 SENATOR HOYLMAN-SIGAL: I don't know
10 if you heard Senator Bailey cheering your
11 comments on, but I think he is. And I
12 appreciate that.

13 You know, one of the things we heard
14 at the hearing was Family Court -- you know,
15 I think it was the Jeh Johnson report that
16 said that it was viewed as a second-class
17 court by many of its participants, including
18 some of its judges, and it's kind of in a
19 black box where people don't know what's
20 happening inside that court. If they did, I
21 think they'd be appalled, like you and others
22 are.

23 What do you think about cameras in
24 courtrooms at this point? That was something

1 that was raised by families, that if someone
2 actually saw or was able to check the
3 activities of the court, maybe change would
4 even come more quickly.

5 CHIEF ADMINISTRATIVE JUDGE ZAYAS:

6 It's a great question. And Senator Mayer has
7 also -- Family Courts are supposed to be
8 open. Anybody should be able to go in. And
9 Senator Mayer's bill is a bill that we
10 support in principle, maybe some language
11 changes, et cetera. So -- especially in
12 Family Court. There's confidentiality issues
13 in Family Court, so we can't be totally open.
14 And judges have to exercise some discretion
15 to make sure that the names of young people,
16 et cetera, are redacted.

17 But we are in favor of -- we met with,
18 as you may know, the Fund for Modern Courts,
19 long discussions with them. We've had a lot
20 of discussions with other advocates of
21 opening up the courtrooms to cameras. And we
22 are in favor of cameras in the courtrooms.

23 The bill that has been proposed,
24 however, wanted the court system to foot the

1 multi-multi-multi-dollar bill to livestream
2 whatever's happening in every courtroom in
3 the state.

4 Now, if we -- if you gave us a billion
5 dollars, we could do that. But so we --
6 here's our position right now. And I work
7 with a collaborative team. I don't decide
8 anything anymore. I gave up a lot of my
9 power when you enter a collaborative team
10 with the chief and -- so it's a team, and we
11 meet with the judicial associations who might
12 have some things to say.

13 But our position at this point is as
14 long as the journalists, the media companies
15 are bringing in their own camera, we're
16 willing to have them come in and do away with
17 the prohibition. And we think it's a good
18 thing.

19 And there might be cases in which we
20 can actually stream live. I had an
21 exoneration case back at some point, and we
22 streamed -- and it was an exoneration case
23 with prosecutorial misconduct, so this was a
24 critical piece. I allowed the livestreaming,

1 and it actually got livestreamed to not, you
2 know, Good Morning America, but Good Morning
3 Britain. That's where our livestream went.

4 So I am all for livestreaming, but I'm
5 not sure we --

6 SENATOR HOYLMAN-SIGAL: Well, we'll
7 work on that bill together. It's a bill I
8 carry with Assemblymember Weprin. Look
9 forward to further collaboration.

10 And thank you again for your diversity
11 initiatives, which I know my colleagues will
12 be asking you about as we continue our
13 conversation this morning.

14 Thank you again, Judge.

15 CHIEF ADMINISTRATIVE JUDGE ZAYAS:
16 Thank you, Senator.

17 SENATOR HOYLMAN-SIGAL: Thank you,
18 Madam Chair.

19 CHAIRWOMAN KRUEGER: Assembly.

20 ASSEMBLYMAN DINOWITZ: Good to see
21 you, Judge. First of all, thank you for
22 bringing up the issue of the Bronx Family
23 Court building. If you didn't, I would have.
24 It has to be a top priority. The Bronx all

1 too often is in the back of the line when it
2 comes to things like this. But it's my hope,
3 and I'm sure we can count on everybody here
4 today to push real hard to get the Bronx a
5 new facility, a facility that it deserves and
6 a facility that the people who it serves
7 need.

8 I just wanted to ask you one question
9 regarding the \$100 million that's being taken
10 away from the IOLA account. That seems to me
11 to be a big mistake. It's a lot of money.
12 And I realize maybe in the past year or so
13 interest rates have been higher than has been
14 the case in many years, but, you know, what
15 goes up will come down, especially given the
16 likely prospect that the Fed is going to
17 lower interest rates.

18 I was just wondering if you have any
19 thoughts on that, how it can impact civil
20 legal services.

21 CHIEF ADMINISTRATIVE JUDGE ZAYAS:
22 Sure. So obviously it is concerning. As you
23 know, the IOLA monies are used to fund civil
24 legal services. And there's a huge, huge

1 unmet need for those services throughout the
2 state.

3 Indeed, the Judiciary proposes an
4 increase -- we have, in our budget -- both in
5 the funds we provide to civil legal providers
6 and the amount we allocate directly to IOLA.
7 So we need -- we need to be increasing
8 funding for these services, not decreasing
9 them.

10 That said, I know that IOLA currently
11 has a large fund balance and there will be no
12 impact on the funds allocated this year. And
13 I give the Governor credit for proposing to
14 increase the amount that IOLA can spend each
15 year from 50 million to 60 million. But the
16 Fed has made it clear that it intends to cut
17 interest rates in 2024, which will decrease
18 the revenues going into the IOLA fund. So
19 having a strong fund is important to ensure
20 that we will be able to continue to increase
21 civil legal services funding in the coming
22 year.

23 And it's important to us because our
24 backlogs will be difficult to address if we

1 don't have lawyers in the courtrooms. So the
2 AFC lawyers, the lawyers who are appearing on
3 behalf of criminal defendants, et cetera. So
4 we are against anything that will lower legal
5 services providers funds. So.

6 ASSEMBLYMAN DINOWITZ: Okay, as am I.

7 So I thank you for that answer. And I
8 just want to say, generally speaking, I
9 believe that when money is earmarked in a
10 particular way -- I never thought it was a
11 great idea for the federal government to be
12 grabbing money out of the Social Security
13 fund, for example. It was always outrageous
14 when various governors took money that was
15 earmarked for the MTA and put it into the
16 General Fund. That's, to me, not good fiscal
17 practice. So I hope and I urge that this
18 proposal in the budget be rejected.

19 Before I --

20 CHIEF ADMINISTRATIVE JUDGE ZAYAS:

21 Chair, can I just say one other thing?
22 because the same was done with ILS, the
23 Indigent Legal -- well, maybe I'm getting the
24 acronym now, but the head of that is Patricia

1 Warth. And the same thing was done there as
2 well.

3 So there's a -- it's been done in --
4 two separate funds have been swept (air
5 quotes) -- I'm not sure what that exactly
6 means -- and our view applies to them as
7 well.

8 ASSEMBLYMAN DINOWITZ: Okay, thank
9 you.

10 Before I stop, I just want to
11 acknowledge that we've also been joined by
12 Assemblymembers Walker and Steck.

13 And you'll notice there's about six
14 minutes left, and I'm not using my time. I
15 hope that serves as an example --

16 (Laughter.)

17 ASSEMBLYMAN DINOWITZ: -- to everybody
18 here, except for those who would prefer to
19 stay here till midnight.

20 Thank you.

21 CHAIRWOMAN KRUEGER: Thank you.

22 And Jamaal Bailey, who does not get
23 Jeff Dinowitz's extra time.

24 (Laughter.)

1 SENATOR BAILEY: I thought I would be
2 yielded the time, Madam Chair -- but thank
3 you, Madam Chair.

4 Thank you, Judge Zayas. And let me
5 just start on the same note that
6 Senator Hoylman-Sigal said; this is a breath
7 of fresh air in the last eight months. This
8 is refreshing. There are a lot of questions
9 that I may not have to ask you because we've
10 actually been in constant communication and
11 there's been a level of responsiveness by you
12 and this administration, you and the
13 Chief Judge, to keep us abreast of
14 developments that are happening. So I'm
15 greatly appreciative of that.

16 I will start off on the same note that
17 my Bronx colleague mentioned, and we're
18 excited about the Bronx Family Courts, that
19 the prospect of getting a new building where
20 it is a -- the most dilapidated courthouse
21 that I have ever been to or, once upon a time
22 when I practiced, practiced in, and it
23 desperately needs an overhaul.

24 But something about Family Court that

1 I wanted to ask you is about a law
2 department. Other Civil Supreme, they have a
3 law department pool of attorneys, for those
4 who may not know what law department is, that
5 can assist judges with some of the backlog.
6 Have we contemplated possibly adding a law
7 department to Family Court so that some of
8 the backlog of the cases could be alleviated?

9 CHIEF ADMINISTRATIVE JUDGE ZAYAS:

10 Yes. Thank you, Senator, for that question.

11 So in our -- what Chairman
12 Hoylman-Sigal referenced, there's a menu of
13 items. And in -- we have allocated funds to
14 address basically higher court attorneys in
15 these courts. So there is -- that's part of
16 our budget. I think it's 50 court attorneys,
17 so that Family Court judges, criminal court
18 judges who sit in lower court, could also
19 have a court attorney. They -- sometimes
20 they currently share court attorneys, and
21 that would certainly help.

22 As I said earlier, that we've
23 increased the number of support magistrates
24 and court attorney referees to help out in

1 those matters as well.

2 SENATOR BAILEY: That's great to hear,
3 because in speaking to a number of Family
4 Court judges, they just need that little bit
5 of extra help. So it's heartening to see
6 that there is help on the way for these
7 judges in Family Court and other courts.

8 You mentioned 18-B. That, you know,
9 we're excited about the 18-B raise, and that
10 was truly a bipartisan lift that most people
11 here were supportive of to make sure that
12 assigned counsel got a rate increase.

13 Have we seen an increase in
14 representation yet? Has the rate increase
15 spurred more folks to start participating
16 again in the pool?

17 CHIEF ADMINISTRATIVE JUDGE ZAYAS:
18 Yeah, I regret -- as much as we are trying,
19 and we have -- this comes out of the
20 Appellate Division, because they control the
21 First, Second Department, at least in
22 New York, they sort of oversee the 18-B
23 program. And there has been a negligible
24 increase, but a lot of reach-out on both the

1 criminal side and the attorney for child and
2 attorney for parent side.

3 So they're working on it, they're
4 advertising it, they're recruiting, they're
5 converting, they're trying to get all sorts
6 of people to join the panel. Because that
7 too is a bottleneck for us, because you'll
8 have an 18-B lawyer who has a lot of the
9 serious cases, and obviously he can -- or she
10 can only try one case at a time, which means
11 that person's other eight cases get delayed.

12 SENATOR BAILEY: Again, I'm heartened
13 by that, any increase now -- it's been less
14 than a year since it's been in effect --

15 CHIEF ADMINISTRATIVE JUDGE ZAYAS: I
16 think there's been a negligible increase but
17 I'll have to get back to you on the
18 particular numbers.

19 SENATOR BAILEY: Even any increase at
20 all I think is worth being happy about,
21 because it shows that there's going to be an
22 increase moving forward.

23 And you talk about efforts in terms of
24 advertisement and recruiting, and there's a

1 recent quote that you said that "It's more
2 Phil Jackson than Bobby Knight." Which as a
3 basketball fan, that truly speaks to my heart
4 and the beauty of the triangle offense. If
5 anybody wants to Google what that was, it was
6 a --

7 CHIEF ADMINISTRATIVE JUDGE ZAYAS: I
8 included that for you because of the sneakers
9 you wear, Senator.

10 (Laughter.)

11 SENATOR BAILEY: I truly appreciate
12 that.

13 But it speaks to the new
14 administrative style in what you're doing.
15 Could you speak a little bit more about your
16 philosophy, your commitment to diversity in
17 the courts, and especially non -- diversity
18 in non-judicial positions. Could you speak
19 to us a little bit about that?

20 CHIEF ADMINISTRATIVE JUDGE ZAYAS:
21 Right, sure. Sure. So, I mean, I really
22 think that -- and this is part of the reason
23 why I thought it was important to give you my
24 history, right? Because I graduated Columbia

1 Law School in '88, so I've been practicing
2 since those days. And I don't want to take
3 up too much of your time, Senator, but -- I
4 mean, in those days, and anybody who
5 practiced in those days, there was not a
6 single African-American judge in these
7 courthouses, or Latino judge, or Asian judge.

8 So that's the history that I look back
9 to and see the world of difference. Not that
10 we've come as far as we need to be, but it
11 certainly is something to celebrate. And I
12 think that we have to recognize the
13 historical moment that we're in right now.
14 Can you imagine that we have, today, the
15 first African-American chief judge in the
16 history of New York. We have the first
17 Latino chief administrative judge in the
18 history of New York. I got appointed on
19 May 18th. On May 19th I appointed the first
20 African-American first deputy chief
21 administrative judge. And so that's our top
22 leadership.

23 And many of my other appointments have
24 been historic. I appointed the first Asian

1 appointed to, you know, upstate. He has some
2 difficulty given his population, and so
3 diversity in a lot of the courts up there, a
4 little hard, but we're getting better. We
5 saw Judge Cuevas get elected in the Fourth
6 Judicial District, we saw Richard Rivera get
7 elected in the Third, and Christine Ryba.
8 But just recently I appointed the first Asian
9 appointed as an administrative judge outside
10 New York, in the history of -- and that's
11 Kris Singh, in the Fourth Judicial District.
12 The Fourth Judicial District is a district
13 that is basically North Country.

14 And so there are -- I could go on and
15 on and on about the recent appointments. I
16 know folks have been asked previously about
17 acting Supreme Court judges and how -- and
18 the lack of disparity in those appointments,
19 because those are a chief administrative
20 judge's appointment. And the stats I just
21 recently got was that out of the 36
22 appointments that I made, 22 had diverse
23 backgrounds. Our -- our top administrative
24 team is made up of 31 people. These are all

1 our statewide or DCAJs, and there are 15
2 people of color out of the 31 there. You
3 know, not sufficiently broadly diverse -- we
4 don't have enough Latinos and Asians in that
5 group, and we're working on that -- but even
6 our top team is extremely diverse.

7 And I know, Senator, that you're also
8 interested in non-judicial employees. And so
9 we've been doing all sorts of things to
10 attract -- basically going into schools. I
11 sent you a video of -- it was a recruitment
12 video that's going to -- I mean, any Senator,
13 any legislator that wants me to send them
14 that to send to their constituents. But it's
15 basically explaining -- and it was done by
16 young people in Albany, that talks about all
17 the different positions that we're offering
18 in our courts. Because we desperately need
19 more employees, so -- I'm sorry I took up so
20 much of your time.

21 SENATOR BAILEY: No, I think it's
22 excellent, because it shows again the clear
23 commitment and the contrast when we only
24 spoke about diversity via the LEO program in

1 years past, and that was what was pointed to.
2 Anytime I asked about diversity: Well, we
3 have the LEO program. Well, we need more
4 than a LEO program, however phenomenal it is,
5 and I thank you for that consistent
6 commitment.

7 The last question I have is about
8 foreclosure. And I would just encourage that
9 we look to fund the appointment of a counsel
10 that -- that -- in the CPLR 3408 about that,
11 if we can look to -- as the budget process
12 goes further, if we can make sure that there
13 are specific funds allocated towards that.
14 Because foreclosure is a major problem,
15 specifically in the Northeast Bronx and the
16 City of Mount Vernon, I know in Southeast
17 Queens and many other areas throughout the
18 state.

19 So I just hope that we can put some
20 real funding for that access to counsel in
21 that, because when homes are on the line,
22 we're talking about housing and the right to
23 housing and housing being a human right,
24 it's -- all of those things are proper. We

1 want to make sure we encourage people to be
2 able to stay in their homes, and getting them
3 counsel is critically important. So I would
4 urge that we allocate some extra funding
5 there.

6 CHIEF ADMINISTRATIVE JUDGE ZAYAS:

7 Yes. Yeah, I mean it's an interesting
8 question, and I know that there are some
9 groups out there that do that, the homeowners
10 who appear for their settlement conferences
11 are getting advised about counsel, and
12 they're being referred.

13 I'm not sure there's a lot of folks
14 out there who do this work. But we will
15 certainly look into that to see if we can
16 find some lawyers who want to do this work.

17 SENATOR BAILEY: Certainly. Thank
18 you, Judge.

19 And like Jeff, I will yield the
20 remaining 20 seconds of my time.

21 (Laughter.)

22 CHAIRWOMAN KRUEGER: Wow.

23 Assembly.

24 ASSEMBLYMAN DINOWITZ: Assemblymember

1 Ra.

2 Oh, let me just say we've been joined
3 by Assemblymember Simon.

4 CHAIRWOMAN KRUEGER: Oh, we've also
5 been -- sorry, if you don't mind -- Senator
6 Shelley Mayer, Senator Ramos, Senator Stec.
7 Thank you. Thank you.

8 ASSEMBLYMAN RA: Good morning, Judge.

9 CHIEF ADMINISTRATIVE JUDGE ZAYAS:
10 Good morning.

11 ASSEMBLYMAN RA: Thank you to you and
12 your staff for the meeting yesterday. I
13 think it was certainly informative in
14 preparation of today.

15 And I just wanted to go through a
16 couple of the items we had discussed, one of
17 which was if you can provide that breakdown
18 regarding the additional \$22 million in
19 capital and where that's planned to be
20 utilized.

21 CHIEF ADMINISTRATIVE JUDGE ZAYAS:
22 Yes, sure.

23 So the -- so it's at Second
24 Department. One of the things that happened

1 when Cuomo was governor is there were not
2 quick appointments to the appellate divisions
3 in the First and the Second Department. So
4 I'm not criticizing him, I'm just saying
5 sometimes positions were open for five years.

6 ASSEMBLYMAN RA: I wouldn't mind you
7 criticizing him.

8 CHIEF ADMINISTRATIVE JUDGE ZAYAS:
9 What's that?

10 ASSEMBLYMAN RA: I said I wouldn't
11 mind you criticizing him.

12 (Laughter.)

13 CHIEF ADMINISTRATIVE JUDGE ZAYAS: And
14 then in the First Department there was sort
15 of this malaise in appointing judges to the
16 Appellate Division -- the Third Department
17 and the Fourth Department too.

18 I think this might be the first time
19 in my memory that there is a full slate of
20 judges in all four of the appellate
21 divisions. I mean, that takes away judges
22 from the trial courts. Right? So -- which
23 has caused, you know, a little consternation
24 because we're losing our trial court Supreme

1 Court judges. But the backlogs are happening
2 up in -- especially in the Second Department,
3 where there's not enough judges. Right? So
4 the -- as a result of that, and as a result
5 of just issues happening, things breaking,
6 the capital improvement is to help the
7 landmark building there get some work done.

8 And in the First Department, it's
9 related to the court attorney pools and the
10 additional judges and creating space for them
11 to work.

12 So, you know, on -- other than the --
13 we don't -- we're not responsible for any
14 capital projects in our trial courts. But in
15 our appellate divisions, that's the only
16 place that we actually have to request
17 capital improvements for that.

18 ASSEMBLYMAN RA: And one of the other
19 things we discussed that I think came across
20 very clearly that you were very passionate
21 about is the Mental Health Court expansion.
22 And I know there's a budget request for
23 \$1.3 million to support that expansion. If
24 you can elaborate on what the department

1 would be doing with those funds.

2 CHIEF ADMINISTRATIVE JUDGE ZAYAS:

3 Sure. Sure.

4 So, you know, our Mental Health Court
5 budget, if you look at it, it doesn't sound
6 like a lot of money. But what we do in our
7 Mental Health Courts, we already -- that
8 money that we allocate doesn't apply to the
9 judges, because they're already there, to the
10 staff, the court officers, et cetera.

11 What that money goes to is the
12 resource coordinators and the case managers
13 who are liaisoning with the programs to which
14 we send the defendants, whether it's an
15 inpatient or outpatient. So that's -- we
16 have been talking to a lot of legislators
17 across the state who have wanted us to expand
18 mental health treatment courts. And you
19 might know that I recently appointed a Mental
20 Health Task Force headed by D'Emic and an
21 upstate judge, Sisson.

22 And that's basically -- just to take a
23 detour there, that's what we have been trying
24 to do in a lot of our appointments. Because

1 we're a big state and when we make
2 appointments on these commissions, we like to
3 put someone from downstate, put someone from
4 upstate.

5 And so the money that's allocated is
6 really for the case managers which will help
7 facilitate the -- making sure that these
8 folks are found qualified.

9 Some of the money that really needs to
10 be necessary to expand the Mental Health
11 Court is that the city and the counties who
12 fund the programs to which we send these
13 defendants need to basically allocate
14 additional funds so that we can have more
15 beds and more places for them.

16 ASSEMBLYMAN RA: Thank you.

17 CHAIRWOMAN KRUEGER: Thank you.

18 Senator Borrello.

19 SENATOR BORRELLO: Thank you,
20 Madam Chair.

21 Thank you for being here, Your Honor.
22 Appreciate it.

23 You mentioned in your opening comments
24 some of the things that you couldn't have

1 imagined before. One of them was Raise the
2 Age. The timing is interesting, because
3 there's an article in my local paper how the
4 city of Dunkirk in my district is being
5 terrorized by a 16-year-old kid who's been
6 arrested 16 times in about a month and a
7 half. He's destroyed hundreds of thousands
8 of dollars worth of material. He mentioned
9 being a Latino. His latest victim was a
10 Latino-owned small business in the City of
11 Dunkirk, which by the way has a large Latino
12 population.

13 This is a problem. He's not been sent
14 to juvenile detention. So what do you say to
15 those local businesses and those folks that
16 are suffering because of Raise the Age? And
17 how do we address this? How does this kid
18 get treatment? Because clearly he has
19 issues. He was literally dancing in front of
20 a security camera as he broke bottles in a
21 bar that he broke into. So how do we address
22 that in this new world of Raise the Age?

23 CHIEF ADMINISTRATIVE JUDGE ZAYAS:

24 That's a very good question. Obviously if

1 that's happening in that court, I'm not sure
2 how the judge is handling the securing order.
3 It sounds like you're suggesting that he's
4 allegedly committing crimes and then getting
5 released and committing more crimes.

6 SENATOR BORRELLO: Yeah, exactly
7 what's happening. And, you know, I spent
8 10 years in county government. I know
9 juvenile detention centers in Western
10 New York, the beds are limited, the cost is
11 about a thousand dollars a day -- and trust
12 me, they're not staying at the Ritz Carlton
13 at a thousand dollars a day.

14 So how do we address this? How do we
15 get this kid help and stop him from
16 destroying business after business, released
17 again and again and again?

18 Also, Raise the Age has become the
19 gang recruitment program. They're now
20 recruiting younger and younger kids. How do
21 we address this from a judicial standpoint?

22 CHIEF ADMINISTRATIVE JUDGE ZAYAS: So
23 obviously every judge has to exercise his or
24 her own discretion on these cases. Right?

1 Some judges might have decided that upon the
2 third or fourth alleged commission of a crime
3 that detention is appropriate. Or a program
4 is appropriate to whom this child should be
5 sent.

6 But definitely the county can -- it's
7 the county's responsibility to create
8 programs to which these young people are
9 sent, and to monitor their progress in the
10 program.

11 SENATOR BORRELLO: You think there's
12 enough funding for that? Because honestly,
13 that is the problem. It's very expensive for
14 rural counties like ours to -- you know, at a
15 thousand dollars a day for detention, plus
16 the cost of treatment, do you think there's
17 enough funding? Do we need more funding if
18 we're going to have this Raise the Age?

19 CHIEF ADMINISTRATIVE JUDGE ZAYAS: I
20 mean, yeah, I think clearly there needs to be
21 a renewed investment in especially the
22 detention facilities. In New York City there
23 are 2 pretrial, you know, detainee facilities
24 that, you know, qualify as appropriate. They

1 keep them away from the adults, et cetera.

2 SENATOR BORRELLO: And I agree with
3 you, that we need more funding.

4 CHIEF ADMINISTRATIVE JUDGE ZAYAS: You
5 present, you know, a problem that is --

6 CHAIRWOMAN KRUEGER: Thank you, Judge.
7 I have to cut you off. Thank you.

8 SENATOR BORRELLO: Thank you.

9 CHAIRWOMAN KRUEGER: Assembly.

10 ASSEMBLYMAN DINOWITZ: Assemblymember
11 Judiciary Chair Lavine.

12 ASSEMBLYMAN LAVINE: Thank you, Chair
13 Dinowitz.

14 And Judge Zayas, good to see you.

15 Over the years, last years, when I've
16 been privileged to serve as Judiciary chair,
17 the Senate and the Assembly have worked very
18 closely with the executive branch to provide
19 sufficient funding and needed funding for our
20 courts. And certainly there are certain
21 aspects of that proposition that require a
22 little more funding. And I'm glad that
23 someone brought up the Raise the Age
24 question.

1 I don't think anyone wants to see
2 children in adult criminal courts. You and
3 I, who were both public defenders -- and you
4 were a prosecutor as well -- have seen what
5 happens to children who are exposed to the
6 criminal courts and children who are jailed
7 in adult courts. That is not humane. And it
8 makes no sense, and it's counterproductive.
9 However, we will work together to provide
10 sufficient funding, I am sure, for the Raise
11 the Age program. But I have a couple of
12 questions for you.

13 But before I do, I just want to say
14 how much I appreciated you describing your
15 background. And I think that in your
16 position it is tremendously important that we
17 have someone who has this well-rounded
18 background and understands from a granular
19 level how our courts function.

20 So speaking of Family Court, we have
21 provided for funding for new judges in the
22 Family Court. And for this year the
23 Judiciary is looking for -- or seeking is a
24 better way to put it -- 11.6 million for its

1 budget to implement 28 new Family Court
2 judges, and that's effective a year from now.
3 But that 11.6 isn't simply for the salaries
4 of the judges, it's for the court personnel
5 who have to support the important work of
6 those judges. So this 11.6 million provides
7 partial-year funding. Do we have a sense --
8 meaning do you have a sense of what the
9 full-year funding total is going to look
10 like?

11 CHIEF ADMINISTRATIVE JUDGE ZAYAS: You
12 know, I contemplated bringing my budget
13 person to sit near me so I could find that
14 out, but that's something I'd have to get
15 back to you on.

16 ASSEMBLYMAN LAVINE: I would
17 appreciate that.

18 CHIEF ADMINISTRATIVE JUDGE ZAYAS: I
19 would like to -- I think you said that I
20 previously -- not that there's anything wrong
21 with being a prosecutor, but I was never a
22 prosecutor.

23 ASSEMBLYMAN LAVINE: Oh, I'm sorry, I
24 thought that you had worked in Melinda Katz's

1 office in the --

2 CHIEF ADMINISTRATIVE JUDGE ZAYAS: No.

3 No.

4 ASSEMBLYMAN LAVINE: -- unjust

5 conviction --

6 CHIEF ADMINISTRATIVE JUDGE ZAYAS: No,

7 I was exonerating people with -- Melinda Katz

8 developed a conviction integrity unit, and I

9 was the judge who handled most of the

10 wrongful conviction cases.

11 But like I said, not that there's

12 anything wrong with being a prosecutor, I

13 just didn't want the record to --

14 ASSEMBLYMAN LAVINE: Judge, I didn't

15 mean to insult you.

16 (Laughter.)

17 ASSEMBLYMAN LAVINE: And I want to

18 just make clear that while I was never a

19 prosecutor, but I did serve for many years as

20 a criminal defense attorney, I have more

21 convictions than any prosecutor you'd ever

22 want to meet.

23 (Laughter.)

24 CHIEF ADMINISTRATIVE JUDGE ZAYAS: And

1 although I was never a prosecutor, I always
2 worked very closely with them. And my
3 special counsel's a prosecutor. And I love
4 prosecutors.

5 ASSEMBLYMAN LAVINE: As do I. As do
6 I.

7 CHIEF ADMINISTRATIVE JUDGE ZAYAS: And
8 I'm speaking -- I was actually -- even though
9 I was a long-time public defender, I'm
10 speaking on Friday at the Association of
11 Prosecutors, on Friday they're having their
12 conference in Manhattan. So maybe I'll see
13 some of you there.

14 ASSEMBLYMAN LAVINE: I also want to
15 mention how much I, for one, appreciate your
16 collaborative way of interacting with the
17 Legislature and the enhanced communication
18 that we have seen. It is truly, truly
19 appreciated.

20 So just a couple of things on the
21 Family Court, and then I want to ask you a
22 question about the Governor's judicial
23 security provision. Let's start with the
24 security provision.

1 Certainly committed to doing that. We've
2 actually put together a team of -- from
3 counsel's office that are going to be working
4 as hard as we can to collaborate with you
5 early on in the process, not just wait till
6 we get the two bills passed.

7 But we want to know what's out there,
8 and we want to start working on it ahead of
9 time and begin the collaboration part earlier
10 on than previously.

11 ASSEMBLYMAN LAVINE: Thank you. It is
12 absolutely necessary. We will not function
13 as a democracy if we can't provide sufficient
14 protection for our institutions.

15 And lastly, while I don't live in the
16 Bronx, I can -- to paraphrase another
17 politician, I can see the Bronx from my
18 house, but that requires that I stand on the
19 roof. But I have worked, when I practiced
20 law, in the Family Court in the Bronx. And I
21 just want to assure you that those of us who
22 have -- who have experience working in the
23 Family Courts will do our best to make sure
24 that the Family Court -- critically,

1 critically important -- in the Bronx and in
2 all the other counties has the facilities it
3 needs.

4 Thanks so much.

5 CHIEF ADMINISTRATIVE JUDGE ZAYAS:

6 Thank you, Assemblyman.

7 ASSEMBLYMAN LAVINE: And I yield

8 two minutes and 46 seconds.

9 CHAIRWOMAN KRUEGER: Well, I think
10 it's great if we're starting a competition
11 today on who can be the shortest. So keeping
12 track of the numbers.

13 The next questioner is Zellnor Myrie,
14 from Brooklyn.

15 SENATOR MYRIE: Thank you,
16 Madam Chair.

17 And I want to echo the sentiments of
18 my colleagues. You know, we are never
19 reluctant to take folks to task when they are
20 not collaborative, when they're not doing
21 the --

22 CHAIRWOMAN KRUEGER: (Mic off;
23 inaudible.)

24 SENATOR MYRIE: It is. Is this

1 better? As I spill water all over my desk.

2 We're never reluctant to take people
3 to task when you don't do the job; it's
4 important to give credit when you do. So
5 kudos to you and your team.

6 I have one question, and it is --
7 hopefully will be informed by your opening
8 statement, your professional experience as an
9 attorney, as a judge, and now certainly as an
10 administrative judge. We're considering
11 expanding after-school programming. And I
12 was hoping that you could speak to whether
13 you think, as a public safety measure, that
14 after-school programming could be an
15 effective tool.

16 We know that from the hours of 3 to
17 6 p.m., that is when our young people are
18 most at risk of getting in trouble. And so
19 I'm hoping you can speak to whether you think
20 this would be an effective public safety
21 tool, with a goal of every student, every
22 young person who wants the opportunity being
23 able to take advantage of it.

24 CHIEF ADMINISTRATIVE JUDGE ZAYAS: I'm

1 not an educator, but my fervent belief is
2 that judges, courts, court employees,
3 judicial associations should do everything in
4 their power -- and this is -- the chief and I
5 are aligned on this -- to go into schools,
6 into after-school programs, into high
7 schools, into colleges, and do everything we
8 can to not only connect and talk to and
9 motivate young people to -- just them meeting
10 us would be a wonderful thing for them.

11 So -- and to the extent -- we are in
12 the process, we have a posting right now of a
13 civic engagements coordinator. It's a
14 statewide position that we're going to hire
15 somebody to -- we basically have these
16 coordinators in every judicial district
17 across the state, but we're hiring a
18 statewide one to basically facilitate and
19 organize all of these events. Because we
20 earnestly believe that bringing young people
21 into our courthouses and bringing our judges
22 into their schools and their high schools and
23 even in their colleges -- there was an
24 article recently written about the

1 Chief Judge spending two full days with the
2 students at John Jay College. I'm constantly
3 at Columbia Law School talking to students
4 and other folks, mentoring young people.

5 The judicial associations are very
6 active in that as well. They're doing
7 community service and all sorts of things
8 like that that --

9 CHAIRWOMAN KRUEGER: Thank you.

10 Sorry, Senator Myrie.

11 CHIEF ADMINISTRATIVE JUDGE ZAYAS:

12 Thank you, Senator.

13 CHAIRWOMAN KRUEGER: That worked.

14 Assembly.

15 ASSEMBLYMAN DINOWITZ: Assemblymember

16 Bores.

17 ASSEMBLYMAN BORES: Thank you.

18 Good to see you again.

19 I appreciate in your testimony your
20 support for the No Cap Act to reduce -- to
21 get rid of the constitutional cap on
22 Supreme Court judges, a bill that I carry
23 with Senator Hoylman-Sigal and the Governor's
24 put in her budget and has broad support from

1 Democrats and Republicans on this panel.

2 But I wonder if you could just expand
3 a little bit on how that will enable you to
4 have sort of rational decisions on where
5 judges are needed most and what you think
6 that might be able to do to the backlog of
7 cases.

8 CHIEF ADMINISTRATIVE JUDGE ZAYAS: So
9 we are in -- let me just clarify. We are in
10 full support of lifting the caps. Okay?
11 That to me is the easy part. It's arbitrary,
12 and they should be lifted.

13 As a Queens person, however -- so the
14 caps have been -- right. Right, Judge
15 Ramos -- I mean Senator Ramos.

16 (Laughter.)

17 CHIEF ADMINISTRATIVE JUDGE ZAYAS: So
18 there are folks across the state whose caps
19 haven't, you know, been used yet --
20 Westchester, Queens, and Brooklyn. And so
21 the caps should be lifted, but the harder
22 problem, the political problem, which I'll
23 stay out of, is why should Manhattan -- if
24 you base it on filings, right, Manhattan's

1 going to get 20 more Supreme Court judges
2 even though Manhattan has like a tiny
3 population compared to Queens, which is the
4 second-most popular borough in the state, or
5 Brooklyn. And our caps haven't expired yet.
6 Only yours has -- no, I'm just kidding.

7 (Laughter.)

8 CHIEF ADMINISTRATIVE JUDGE ZAYAS: Or
9 the Bronx, not that I got anything against
10 the Bronx.

11 (Laughter; overtalk.)

12 ASSEMBLYMAN BORES: Or Staten Island.

13 (Inaudible overtalk.)

14 CHIEF ADMINISTRATIVE JUDGE ZAYAS: Or
15 Albany --

16 ASSEMBLYMAN BORES: I'm not going to
17 ask you to get into the politics of it.

18 Just would that enable you to have the
19 conversations about where --

20 (Overtalk.)

21 CHIEF ADMINISTRATIVE JUDGE ZAYAS: I
22 think the difficult, you know, hard labor on
23 this is going to be, okay, now how do we
24 figure out -- how do you figure out where

1 these judges should go.

2 But we are in support of it
3 completely, that the caps should be lifted.

4 ASSEMBLYMAN BORES: Thank you.

5 And then lastly you mentioned new tech
6 and modernization for the court system. Some
7 courts have digitized; some still run on
8 paper. I think last time I was in
9 arraignments in Manhattan, there were
10 beautiful computers there but everything was
11 done by paper.

12 CHIEF ADMINISTRATIVE JUDGE ZAYAS:

13 Yes.

14 ASSEMBLYMAN BORES: What are you
15 targeting in terms of digitizing or not?
16 What does that look like --

17 CHIEF ADMINISTRATIVE JUDGE ZAYAS: So
18 one of the -- one of our OCA bills is trying
19 to -- you folks have sort of -- I don't mean
20 this critically, but you have -- the bill
21 that exists now requires me to get
22 permission, the chief administrative judge to
23 get permission from the Legislature every
24 time we want to do a new filing in a

1 different court.

2 And so we have a bill that asks the
3 Legislature to just give us the authority to
4 do them in the courts that we want to do them
5 in. And so I've talked to folks -- should I
6 just stop talking when that red light goes
7 on?

8 (Laughter.)

9 CHAIRWOMAN KRUEGER: Sorry. Nope,
10 you're it, thank you. You can follow up
11 afterwards, and again in writing, because I
12 think these issues apply to all of us.

13 CHIEF ADMINISTRATIVE JUDGE ZAYAS:

14 Yes.

15 CHAIRWOMAN KRUEGER: Thank you, Judge.

16 Assembly. Oh, no, I'm sorry, that was
17 the Assembly. Excuse me.

18 Let's try Senator Salazar.

19 SENATOR SALAZAR: Thank you, Chair.

20 And thank you, Judge Zayas.

21 As you are well aware, New York State
22 law provides a mechanism for judicial
23 resentencing. However, current law limits
24 judicial review --

1 CHIEF ADMINISTRATIVE JUDGE ZAYAS: Can
2 you just repeat that? I'm having a little
3 trouble --

4 SENATOR SALAZAR: Oh, sorry.

5 CHIEF ADMINISTRATIVE JUDGE ZAYAS: I'm
6 getting a little old. It's not you, it's me.

7 SENATOR SALAZAR: Can you -- are we
8 better now? Great.

9 So as you are well aware, current
10 state law in New York allows for a mechanism
11 for judicial resentencing. However, under
12 current law --

13 CHIEF ADMINISTRATIVE JUDGE ZAYAS:
14 This is the adult survivors of domestic
15 violence statute you're talking about?

16 SENATOR SALAZAR: Oh, I'm saying a
17 mechanism for judicial resentencing. So
18 under current law, judicial review is limited
19 solely to the question of whether the
20 original sentence is illegal. You know, it
21 doesn't matter how much the individual who is
22 sentenced may have changed or if the
23 prosecutor who prosecuted their case thinks
24 that resentencing would be appropriate, or

1 about that now as, like, that's atrocious.
2 Like how could somebody spend four and a half
3 years for a single drug sale, typically to an
4 undercover cop. Right? And I think it's
5 maybe common knowledge now that that was --
6 that this is why this body did away with the
7 Rockefeller Drug Laws.

8 But there's also a lot of evidence
9 that -- I mean, the best evidence you have of
10 someone's unlikelihood of recidivism is what
11 they have done since they were sentenced. So
12 that is empirical proof that that person has
13 recidivated. Jeez.

14 (Laughter.)

15 CHAIRWOMAN KRUEGER: Oops.

16 CHIEF ADMINISTRATIVE JUDGE ZAYAS: I
17 think you get my point.

18 SENATOR SALAZAR: Thank you, Judge.

19 CHAIRWOMAN KRUEGER: Thank you.
20 Assembly.

21 ASSEMBLYMAN DINOWITZ: Time flies when
22 you're having fun.

23 (Laughter.)

24 ASSEMBLYMAN DINOWITZ: Assemblymember

1 Tannousis.

2 ASSEMBLYMAN TANNOUSIS: There we go.

3 Thank you.

4 Judge, thank you so much for being
5 here today. Before we start, I just want to
6 say I was proud to be an assistant district
7 attorney.

8 (Laughter.)

9 ASSEMBLYMAN TANNOUSIS: And I was even
10 prouder to have worked for the great Rob
11 Johnson.

12 CHIEF ADMINISTRATIVE JUDGE ZAYAS:
13 Some of my friends are district attorneys.

14 (Laughter.)

15 ASSEMBLYMAN TANNOUSIS: There we go.

16 CHIEF ADMINISTRATIVE JUDGE ZAYAS: My
17 special counsel back here was a district
18 attorney.

19 ASSEMBLYMAN TANNOUSIS: So I just want
20 to say, you know, based on certain
21 conversations that I have had with members of
22 the judiciary and members of district
23 attorney's offices, it's my understanding
24 that there has been a backlog that has been

1 caused by the discovery laws that were passed
2 back in 2019.

3 So I wanted to ask you, is that indeed
4 the case? Has a backlog been caused? And if
5 so, what has been the cause of this backlog?

6 CHIEF ADMINISTRATIVE JUDGE ZAYAS: So
7 let me start out by saying there's a lot of
8 things that cause backlogs, right? COVID and
9 all sorts of things. Type of case,
10 et cetera.

11 But one of the sort of premises of
12 enacting the discovery reforms -- which I was
13 100 percent in favor of, because I've had
14 enough cases, including the many exoneration
15 cases that I had to handle, where Brady
16 material was not turned over and men and
17 women spent many, many, many years in jail as
18 a result of that. So I'm completely in favor
19 of the discovery laws.

20 One of the premises was that if you
21 give the defense over everything they need,
22 they're going to see that maybe their client
23 is on video committing the crime and that
24 that would result in a quick resolution.

1 Right?

2 But in practice what has happened is
3 the district attorney's offices are having an
4 extremely difficult time in getting all of
5 the discovery material together on time. So
6 it takes them a few months. That means the
7 speedy trial clock is ticking against them.
8 And sometimes they don't get everything
9 they're supposed to get.

10 And even if they do, the next thing
11 that happens is -- and this was also
12 unintended -- that the defense has every
13 interest, because they need to be zealous
14 advocates, are now challenging the discovery
15 that they were given as inadequate. So now
16 you've got these challenges to the
17 certification and to the readiness. And so
18 it has added months and months and months and
19 months of litigation, motion litigation even
20 before the omnibus motion gets filed.

21 And so I know into that body has
22 allocated some funds for the district
23 attorney's offices across the state to help
24 them with their discovery. But we have to

1 figure out -- this is causing a backlog
2 problem, that's why I'm interested in it. We
3 have to figure out how the district
4 attorney's offices can get that discovery
5 done much more quicker so that -- I don't
6 fault the defense attorneys for challenging
7 the certification. That's their job. And if
8 they feel like they didn't get something,
9 they're going to litigate it.

10 But it has caused a bottleneck that we
11 didn't anticipate. And I think with
12 intuition you would think, well, if the
13 defense got something that shows clearly
14 their client was guilty, but that lawyer also
15 got thousands of other pages, and body cam,
16 that that lawyer now has a constitutional
17 obligation to go and look at every single
18 piece of paper that he or she received.

19 So it's a complicated problem with a
20 lot of nuances, but it's something that has
21 been a problem.

22 ASSEMBLYMAN TANNOUSIS: Thank you.
23 Thank you very much.

24 CHAIRWOMAN KRUEGER: Okay, thank you

1 very much.

2 Next is Senator Ramos.

3 SENATOR RAMOS: Thank you.

4 All right, well, good morning,

5 Judge Zayas.

6 CHIEF ADMINISTRATIVE JUDGE ZAYAS:

7 Good morning.

8 SENATOR RAMOS: Let me begin by saying
9 that you make Queens very proud. You clearly
10 bring our spirit of diversity and that big
11 Queens energy everywhere you go, so thank you
12 so much.

13 I wanted to delve a little deeper on
14 mental health courts. And I know you're not
15 talking numbers today, but alas, this is a
16 budget hearing. And I do want to talk a
17 little bit about numbers. Because although
18 we've heard so many big value statements from
19 the Governor, from OCA, about how important
20 mental health courts are, they actually
21 aren't funded in the budget. We haven't seen
22 in the Executive Budget that's being proposed
23 any real numbers to increase the investment
24 in mental health courts, and that I think is

1 very worrisome to many people in the
2 community. Because even when you do the
3 basic math of how much it costs to hire one
4 caseworker at around \$75,000 a year for
5 62 counties, we're starting to talk about
6 almost \$5 million.

7 And I'll say that the previous
8 administration, before you and Chief Judge
9 Wilson came on, often said that they weren't
10 really willing to use the judges and existing
11 staff for this endeavor, and clearly that's
12 a -- what you're telling us today is a clear
13 departure from that that is very welcome.

14 But I do think that the advocates --
15 with the Treatment Not Jails bill that I've
16 been carrying now for a little while, for a
17 few years, we actually estimate that a true
18 expansion, accounting for the previous
19 administration's mentality, would actually
20 cost around \$16 million.

21 So I do want to know if, like other
22 state agencies, whether you have the
23 discretion to use any of your general funds
24 to expand mental health courts, or what this

1 would look like if the Governor ends up not
2 increasing the amount of money that would be
3 allocated for that purpose.

4 CHIEF ADMINISTRATIVE JUDGE ZAYAS: So
5 my understanding is that the Governor has
6 allocated -- I can't get -- we'll get you the
7 exact number, Senator. But for OMH and beds,
8 which is precisely the type of thing that
9 we're somewhat interested in.

10 So our funds are related to court
11 operations and -- but once we approve a
12 defendant for mental health treatment court,
13 we then send that defendant to a program.
14 We, unless this body wishes to give us that
15 money --

16 SENATOR RAMOS: I wish.

17 (Laughter.)

18 CHIEF ADMINISTRATIVE JUDGE ZAYAS: If
19 you give me a hundred million dollars, we
20 will help to fund the programs to which these
21 defendants go. That is really what needs to
22 happen.

23 Right now it's not generally
24 considered a court expense, it is the

1 county's expense. So if the mayor of New
2 York City -- jeez. Okay.

3 SENATOR RAMOS: We'll continue.

4 CHAIRWOMAN KRUEGER: Thank you.

5 SENATOR RAMOS: Thank you.

6 CHAIRWOMAN KRUEGER: Thank you very
7 much.

8 Assembly.

9 ASSEMBLYMAN DINOWITZ: Assemblymember
10 Walker.

11 ASSEMBLYWOMAN WALKER: Thank you.

12 In New York, 98 percent of convictions
13 come through guilty pleas, not trial, making
14 a mockery of our system of justice and
15 constitutional right to trial. What role do
16 mandatory minimums play in reducing access to
17 trials, and what policies or potential
18 changes in law --

19 CHIEF ADMINISTRATIVE JUDGE ZAYAS:
20 Assembly --

21 ASSEMBLYWOMAN WALKER: -- does OCA
22 think would help address this crisis?

23 CHIEF ADMINISTRATIVE JUDGE ZAYAS: I'm
24 really having trouble hearing you. Please

1 forgive me.

2 CHAIRWOMAN KRUEGER: (Inaudible.)

3 ASSEMBLYWOMAN WALKER: Okay.

4 In New York, 98 percent of convictions
5 come through guilty pleas, not trial. What
6 role do mandatory minimums play in reducing
7 access to trial, and what policies or
8 potential changes in law does OCA think would
9 help address this injustice?

10 CHIEF ADMINISTRATIVE JUDGE ZAYAS: I
11 understand, yes. Yes.

12 So you're absolutely right about most
13 cases end in pleas and trials are somewhat a
14 rarity. There are bills -- we are -- we have
15 offered program bills which would eliminate
16 the second felony offender statute where the
17 district attorney consents. So instead of
18 going to trial, it might result in a plea
19 that the defendant can take that will reduce
20 his exposure. Because the mandatory minimums
21 sort of encourage defendants to say, I'm not
22 taking that, that minimum is too high, I'm
23 not going to jail for that long. And so --

24 ASSEMBLYWOMAN WALKER: Thank you.

1 My second question is with respect to
2 3408(b), the requirement that counsel be
3 provided in foreclosure proceedings. How
4 much is included in your budget this year in
5 order to fund that requirement?

6 CHIEF ADMINISTRATIVE JUDGE ZAYAS: You
7 know, I'm not -- I'm not -- there's so many
8 numbers running in my budget, so it's
9 something that I have to get back to you.

10 ASSEMBLYWOMAN WALKER: Well, I believe
11 that that number may be zero.

12 Is there any funding of this
13 particular initiative in previous budgets?

14 CHIEF ADMINISTRATIVE JUDGE ZAYAS:
15 This is -- this is a -- to do what? To --

16 ASSEMBLYWOMAN WALKER: This is to
17 provide access to the right to counsel in
18 foreclosure proceedings, sir.

19 CHIEF ADMINISTRATIVE JUDGE ZAYAS: I
20 mean, we're doing a lot of work along those
21 lines, so I would be surprised that it's a
22 zero budget, because we -- that's an issue
23 that's actually in litigation in terms of
24 advising those who appear on foreclosure

1 proceedings that we have a duty to inform
2 them that they have the right to counsel at
3 these settlement proceedings.

4 ASSEMBLYWOMAN WALKER: Okay, thank
5 you. I just was wondering where it was
6 included in the budget, because I was looking
7 for it and I was not able to actually see it.

8 Are you aware that there is presently
9 a lawsuit with respect to this issue in the
10 court system?

11 CHIEF ADMINISTRATIVE JUDGE ZAYAS:
12 Yes. I just said that, yes.

13 ASSEMBLYWOMAN WALKER: And I believe I
14 heard you say that there were no attorneys,
15 though, that you were aware of who actually
16 could represent these individuals. Are you
17 aware that there is a New York State
18 Foreclosure Defense Bar?

19 CHIEF ADMINISTRATIVE JUDGE ZAYAS:
20 There certainly is. And there are attorneys
21 that will be willing to take these cases.
22 There's just not that many.

23 ASSEMBLYMAN DINOWITZ: Thank you.

24 ASSEMBLYWOMAN WALKER: Thank you.

1 ASSEMBLYMAN DINOWITZ: Next is Senator
2 Stec.

3 SENATOR STEC: Thank you very much.

4 Good morning, Judge. Thanks for being
5 here today.

6 I'm encouraged by the Chief Judge's
7 desire to expand Family Court, and I've been
8 listening to your testimony and a lot of
9 questions about Family Court around the
10 state. Seems like a lot of interest, in
11 particular in the five boroughs.

12 I represent six counties in the
13 North Country. I'm worried about my kids and
14 my Family Court. In 2018, then-Senator
15 Little and I in the Assembly put in
16 legislation looking for a Family Court judge
17 for Essex County. For six years I've been
18 chewing on that tree. Now I'm in the Senate,
19 and Assemblyman Simpson has the bill. We've
20 written letters to OCA; most recently I wrote
21 a letter to Kris Singh. And, you know,
22 letters to my colleagues here, you know, in
23 the budget process.

24 If you'd just entertain me, the most

1 recent letter that I wrote, I'll just read
2 the relevant part: "We are writing to
3 request funding for the creation of an
4 Essex County Family Court judge in this
5 year's budget.

6 "Essex County has a population of
7 about 38,000, and a single judge presides
8 over its Family, County and Surrogate's
9 courts. This person also oversees four
10 specialty courts: Integrated Domestic
11 Violence, Drug Treatment, Mental Health and
12 the only Veterans Treatment Court in the
13 entire judicial district.

14 "Recently Essex County Family Court
15 has seen nearly 1,000 new Family Court cases
16 and 3,000 court appearances each year. This
17 has made ensuring swift due process
18 incredibly challenging and highlighted a need
19 for a county Family Court-specific judge."

20 Again, this is a six-year-old request
21 for a North Country county. One judge is
22 doing everything up there. My people and my
23 families matter too. I've got all the
24 relevant players in the room here. I'd love

1 to see this included in the budget. If you
2 could please take a sharp look at
3 specifically Essex County, and let's try to
4 do the right thing by their Family Court
5 system.

6 CHIEF ADMINISTRATIVE JUDGE ZAYAS: I
7 believe that the statute that created the 20
8 judgeships, we did not weigh in on where
9 those judges should be assigned. Right? So
10 what you're raising is a question of once
11 judgeships are created -- and we're
12 requesting 28 new Family Court judgeships. I
13 don't want to blame your colleagues, but they
14 kept you out of --

15 SENATOR STEC: I do a lot of that.
16 And most of the time, they deserve it.

17 (Laughter.)

18 CHIEF ADMINISTRATIVE JUDGE ZAYAS: But
19 in other words, my understanding is that
20 the -- when we received the statute about the
21 28 Family Court judgeships, they are telling
22 us where they are assigned. We're not
23 deciding that. So I don't want to say your
24 argument is with them, not us, but --

1 SENATOR STEC: Well, there's just --
2 there's always -- you're always involved in
3 the conversation, right? None of this
4 happens in a vacuum. And like I said, I'm
5 just thrilled that the chair of Finance and
6 the chair of Judiciary are sitting to my left
7 here today, as they often are --

8 (Laughter.)

9 SENATOR STEC: And if we could,
10 though, let's all get this done, all right?
11 Essex County, Lake Placid, the place of
12 miracles. Thank you.

13 (Laughter.)

14 CHIEF ADMINISTRATIVE JUDGE ZAYAS:
15 You're welcome.

16 ASSEMBLYMAN DINOWITZ: Next --

17 CHIEF ADMINISTRATIVE JUDGE ZAYAS: And
18 I'm happy -- we have our own formula, which
19 would be based on filings. And if --

20 ASSEMBLYMAN DINOWITZ: Assemblymember
21 Simon.

22 CHIEF ADMINISTRATIVE JUDGE ZAYAS: I'm
23 sorry. Yes.

24 ASSEMBLYWOMAN SIMON: (Mic issue.)

1 It's a delicate dance up here.

2 So thank you very much, Judge, for
3 your testimony. I have a couple of questions
4 I wanted to ask you. One is -- and just a
5 reflection on your testimony about diversity
6 on the bench. And I am from Brooklyn, I'm a
7 civil rights lawyer. I'm one of those
8 people that I think you can achieve both
9 goals, right, racial and ethnic diversity --
10 but also diversity of background.

11 I think on the federal level they're
12 doing a much better job at making sure that
13 people who sit on the bench are people who
14 come from various areas of expertise. And I
15 know how hard {mic out; inaudible} -- on the
16 federal bench years ago. And he's been an
17 outstanding, you know, judge.

18 So I just wanted to ask what if
19 anything you're doing about that, and to
20 encourage you to do more.

21 I also wanted to just say, with the
22 civic engagement, great -- but younger, young
23 kids. I was in grad school before I ever met
24 a lawyer. Right? And that's only because I

1 went to grad school -- my roommates were law
2 students.

3 So if you could just address those two
4 issues.

5 CHIEF ADMINISTRATIVE JUDGE ZAYAS:

6 Sure. So, I mean, one of the things that we
7 noticed right away was that there has to be
8 also demographic diversity.

9 So we have made great efforts to make
10 sure that when we are making appointments --
11 one of the things we have is committees that
12 advise the chief administrative judge on all
13 matters of Family Court, Civil Court. And so
14 we have -- I have diversified those
15 committees not only based on ethnic
16 background and race, but on -- I appointed a
17 lot of folks from outside of New York City on
18 it.

19 And one of my first things that I did
20 is the -- Deputy Chief Administrative Judge
21 St. George, who was from Long Island, was the
22 DCAJ for the whole upstate. And I wanted him
23 down with me at Beaver Street, but I also
24 understood that the folks upstate wanted one

1 of their own, so to speak. And I appointed
2 Judge Murphy to be that DCAJ.

3 And we're doing that in every respect.
4 You know, we had a great Family Court judge
5 who knew a lot about Family Court in New York
6 City, and when we wanted to appoint a
7 statewide Family Court coordinating judge, it
8 meant a lot to us to appoint someone from
9 Albany, someone from upstate.

10 I'm not sure if I'm answering your
11 question. Did I miss your question?

12 ASSEMBLYWOMAN SIMON: Well, I was
13 talking about diversity of background of
14 legal experience --

15 CHIEF ADMINISTRATIVE JUDGE ZAYAS: Oh,
16 I see, right.

17 ASSEMBLYWOMAN SIMON: -- as well.

18 So yes, obviously there's geography.
19 But it's also people on the bench who are not
20 just, you know, prosecutors -- no offense --
21 although some of our best criminal defense
22 attorneys were prosecutors. But that's not
23 the only enchilada, right? So it should
24 be --

1 CHIEF ADMINISTRATIVE JUDGE ZAYAS:

2 Yeah, absolutely. Yeah, I appreciate it.

3 ASSEMBLYWOMAN SIMON: Thank you.

4 CHAIRWOMAN KRUEGER: Thank you.

5 Next is Senator Gonzalez.

6 SENATOR GONZALEZ: Hi. Good morning.

7 CHIEF ADMINISTRATIVE JUDGE ZAYAS:

8 Good morning.

9 SENATOR GONZALEZ: Can you hear me?

10 CHIEF ADMINISTRATIVE JUDGE ZAYAS:

11 Yes.

12 SENATOR GONZALEZ: All right. So I
13 wanted to dig in a little bit more today on
14 technology spending. OCA's budget request
15 includes 93.4 million for technology to
16 support court modernization, an increase of
17 14.6 million. The 14.6 million includes
18 6.6 million to support general court
19 operations and 8 million in capital funding.
20 So I want to better understand, one, how the
21 upgrades in technology assist court
22 operations and, two, if there are specific
23 court locations that can -- especially in
24 places where we're seeing a need, that OCA

1 intends on focusing on expanding these
2 technology needs.

3 CHIEF ADMINISTRATIVE JUDGE ZAYAS:
4 Sure. It's a good -- I'm glad you asked
5 that.

6 So we developed a courtroom
7 modernization department and appointed a
8 director. And what I did in Queens when I
9 was the administrative judge there is we
10 started a program where every single
11 courtroom was equipped with all sorts of the
12 best modernization in terms of listening,
13 assisted listening devices. So you go in a
14 courtroom in the Criminal Court in Queens,
15 every juror now has a screen, a monitor in
16 front of the juror so that if somebody wants
17 to publish -- if somebody introduces evidence
18 and they want to publish something to the
19 jury, sometimes it would take, you know,
20 20 minutes for the court officer to hand each
21 juror that document, and then just wasted
22 20 minutes.

23 Now it gets put up on a screen, all
24 jurors are able to watch it simultaneously.

1 And so it is modernizations like that. And
2 we're doing that not only in the city and in
3 other parts of the city, but upstate. So
4 that's the court modernization project.

5 With -- I'm sorry.

6 SENATOR GONZALEZ: Oh, no, I said "oh,
7 yes."

8 CHIEF ADMINISTRATIVE JUDGE ZAYAS: So
9 with respect to the upgrades that are
10 necessary, you know, we are engaging, as you
11 know, in a lot of virtual proceedings
12 throughout the state. So we now have to --
13 as well as live-streaming. So some people --
14 and so we're doing -- we're trying to do a
15 live-streaming capability in each of our
16 major courthouses. And so that's where a lot
17 of that technology goes.

18 Technology is getting very expensive,
19 and so what used to cost -- inflation,
20 et cetera, so.

21 SENATOR GONZALEZ: That's incredibly
22 helpful. Thank you for your answer.

23 And would love to get more information
24 on these modernization efforts to see, you

1 know, how the Legislature can support --

2 CHIEF ADMINISTRATIVE JUDGE ZAYAS:

3 Sure. Sure.

4 SENATOR GONZALEZ: -- especially from
5 the accessibility end.

6 CHIEF ADMINISTRATIVE JUDGE ZAYAS:

7 We'll get back to you and send you some more
8 information on that, with more specifics.

9 SENATOR GONZALEZ: I appreciate it.

10 Thank you.

11 CHAIRWOMAN KRUEGER: Assembly.

12 ASSEMBLYMAN DINOWITZ: Assemblymember
13 Steck.

14 ASSEMBLYMAN STECK: Oh, there we go.

15 So I've actually been practicing civil
16 rights law in upstate New York for 40 years.
17 And you could probably count on one hand the
18 number of lawyers in the Northern District of
19 New York who do that full-time.

20 For many, many years, we always went
21 to federal court under Title VII because it
22 was more favorable than the New York Human
23 Rights Law. And in the city, of course, they
24 had the city human rights law, but now the

1 Legislature has made the New York Human
2 Rights Law and the city law pretty much the
3 same.

4 So I think what I'm going to ask
5 about, and I'll tell you why in a second, is
6 what -- what is being done to train judges,
7 almost none of which have ever practiced in
8 this area of law, as to what the legal rules
9 are?

10 I went before a judge I've known for
11 years, and it was a disability discrimination
12 case, and the first words out of the judge's
13 mouth were, "Well, your client's an at-will
14 employee." Which has nothing to do with a
15 disability discrimination case.

16 So it indicates to me that there's a
17 need for a lot of training in this area.
18 These judges are not familiar with it. And
19 I'm wondering what OCA is doing about that.

20 CHIEF ADMINISTRATIVE JUDGE ZAYAS: So
21 that's an interesting question. And I think
22 for a long time -- and you probably are aware
23 of this -- there was a lot of confusion in
24 even some of -- within our most brightest

1 judges as to whether the state and the city
2 human rights law were one and the same. And
3 you probably are aware that Justice Acosta
4 and then the Second Department had sort of
5 straightened all of that out and said, Wait a
6 minute, the New York City human rights law is
7 completely different because of its terms.

8 ASSEMBLYMAN STECK: Not anymore
9 though. We amended the law.

10 CHIEF ADMINISTRATIVE JUDGE ZAYAS: I
11 understand. But -- but -- I mean, that's
12 more recent.

13 ASSEMBLYMAN STECK: Previous.

14 CHIEF ADMINISTRATIVE JUDGE ZAYAS: But
15 that was a 10-year sort of hiatus in where
16 folks were wrongly -- and good judges. I
17 mean, you're talking about a judge who wasn't
18 trained, but these were very smart analyses.

19 So we do training at the JI two weeks
20 every summer for each of the judges. I am
21 not in a position to defend every single
22 judge. So when a judge makes a mistake,
23 thank the Lord that you have the right to an
24 appeal and those things. We try to train our

1 judges -- webinars; at JI, summer programs;
2 and especially those who are specializing in
3 this. But, you know, sometimes the training
4 doesn't get through.

5 CHAIRWOMAN KRUEGER: Thank you, Judge.

6 Next is Senator Shelley Mayer.

7 SENATOR MAYER: Thank you.

8 And I want to echo my colleagues'
9 comments, Judge. We're so pleased to have
10 what you call the breath of fresh air here
11 and your responsiveness already on a number
12 of issues.

13 You know, I feel passionately about
14 the shortcomings in the Family Court, both in
15 New York City and outside New York City, and
16 appreciate the appointments you've made.

17 In your testimony you say: "We have
18 enhanced the visibility of the system in
19 New York City Family Court that allows court
20 participants to express concerns about judges
21 and non-judicial staff." What is that?

22 CHIEF ADMINISTRATIVE JUDGE ZAYAS: So
23 basically we've created a system where those
24 who have issues in the Family Court can have

1 a voice, somebody to speak to, or -- they're
2 called like monitors, to talk about like what
3 their problem was that day.

4 SENATOR MAYER: How do they know about
5 that? I had not heard that.

6 CHIEF ADMINISTRATIVE JUDGE ZAYAS:
7 There's signage all over the courthouse about
8 this feedback about how you were treated
9 today. We're doing that in a lot of our
10 courthouses, but --

11 SENATOR MAYER: How does that work for
12 virtual court experiences?

13 CHIEF ADMINISTRATIVE JUDGE ZAYAS: I'm
14 sorry?

15 SENATOR MAYER: When there's virtual
16 court experience, when it's not done in
17 person.

18 CHIEF ADMINISTRATIVE JUDGE ZAYAS:
19 Well, that's a good question. That's
20 something that we should look at, right.
21 That's something we should look at in terms
22 of -- I mean, I'll get back to you on whether
23 or not even in the virtual appearance there
24 might be some follow-up. I just don't know.

1 SENATOR MAYER: Okay. Thank you.

2 The second question is about these
3 other kinds of courts, including in -- I
4 think you may know, in New Rochelle we have
5 the Opportunity Youth Court with Judge Rice,
6 which has been an extraordinarily successful
7 model, which at the court's expense, as
8 opposed to what you were describing at the
9 not-for-profit's expense, they're reaching
10 these particularly young men earlier in the
11 process.

12 Is there any plan or consideration of
13 increasing the number of these Opportunity
14 Youth Courts to other city courts and other
15 places where they have proven to be
16 effective?

17 CHIEF ADMINISTRATIVE JUDGE ZAYAS: I
18 mean -- and I may have misspoke, because we
19 do fund CIJ, or the Center for Court
20 Innovation, right, and they do run one of our
21 programs in Brooklyn. So there are some.
22 And this is -- the one you mentioned is
23 another one.

24 It's something that we certainly

1 should be looking into. We sort of think
2 that this is something that the counties
3 should be doing, because once it's our
4 employees, there is at least a potential for
5 a conflict of interest. So if we appoint
6 the -- we have the case manager and the
7 resource coordinator interacting with the
8 program. And if the program are now hired by
9 us, at least the -- and then they sort of
10 agree, that defendant might think that, Wait
11 a minute, these are just people.

12 So we've tried to keep sort of the
13 wall in between that. But I recognize we
14 haven't always done that.

15 SENATOR MAYER: Thank you.

16 ASSEMBLYMAN DINOWITZ: Assemblymember
17 Mitaynes.

18 ASSEMBLYWOMAN MITAYNES: Thank you.

19 I'm concerned about what appears to be
20 a clear pro-bank bias among some judges in
21 New York State in mortgage foreclosure
22 actions -- more than just a cozy relationship
23 between banks, lawyers and the courts. In
24 one particularly glaring example, a lower

1 court's judge's foreclosure rulings were
2 overturned 32 times by the Appellate Division
3 over a three-year period -- 32 out of
4 54 total foreclosure cases -- and in each one
5 the decision was reversed in the borrower's
6 favor. In not a single one of any of his
7 reversals had the lower court judge ruled for
8 the borrower. Every time was for the banks.
9 He has gone so far as to state explicitly in
10 a decision that he will refuse to apply
11 Appellate Division directives, given his
12 apparent special knowledge that the Court of
13 Appeals would accept and reverse the
14 Appellate Division.

15 Does a record like that concern you?
16 And is that something that the Office of
17 Court Administration can address, or do you
18 need additional tools and directives from the
19 Legislature?

20 CHIEF ADMINISTRATIVE JUDGE ZAYAS:

21 Thank you. No, thank you for the question.

22 I -- we meet -- we meet with virtually
23 every advocate that wants to. Not about
24 their case, obviously. But the chief and I

1 are meeting with virtually any advocacy
2 group. And we have met with an advocacy
3 group, Assemblymember, who has raised that
4 question directly with us, someone who I talk
5 to and confer with.

6 And we investigated that, determined
7 that in fact that is not the case, that the
8 lawyer -- the judge that he had claimed was
9 always ruling in favor of the banks was not
10 true at all.

11 And as I said in the beginning of my
12 testimony, I was an appellate judge for many
13 years, and I know for a fact that that judge
14 was affirmed even when the judge ruled in
15 favor of the homeowner.

16 And so we also brought that to -- so
17 when a litigant, an advocate comes to us
18 about criticizing a judge, we generally reach
19 out to the judge, we report what the person
20 has said, and say, Can you respond?

21 And so that is my memory of how far
22 that went down. And I know from personal
23 knowledge, because I sat -- I sat -- the
24 Appellate Division hears probably four

1 foreclosure cases every time we sit,
2 especially in the Second Department. And I
3 know for a fact that I have affirmed that
4 judge's rulings.

5 But I appreciate you bringing it up.
6 We did -- I guess I should stop.

7 CHAIRWOMAN KRUEGER: Thank you.

8 Senator Hoylman-Sigal for the chair
9 three-minute follow-up.

10 SENATOR HOYLMAN-SIGAL: Thank you.

11 Thank you, Judge. I wanted to ask you
12 two quick questions in my follow-up three
13 minutes.

14 The first is about Midtown Community
15 Justice Center. Thanks for the amazing work
16 for the group that I know you're familiar
17 with, the Center for Justice Innovation, and
18 for your commitment to problem-solving
19 courts. As I understand it, that court had
20 been scaled back to one day a week. We now
21 have two days a week in my Senate district.
22 And it deals with a lot of quality-of-life
23 issues in the neighborhood, and Judge Wang
24 does a terrific job. And the Chief Judge

1 visited recently.

2 Do I understand correctly that the
3 budget will allow that court to open five
4 days a week if we approve your request?

5 CHIEF ADMINISTRATIVE JUDGE ZAYAS:

6 Yes. Yes. I mean, we're opening it -- we're
7 opening it five days a week, I think. I
8 mean, we're moving towards opening it now.
9 We think it's a community -- I worked in the
10 Harlem Community Justice Center. They're
11 wonderful courts, wonderful neighborhood
12 courts.

13 SENATOR HOYLMAN-SIGAL: That's
14 terrific news.

15 CHIEF ADMINISTRATIVE JUDGE ZAYAS:

16 Perfect judge in there, and we're very
17 supportive of that.

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

20 And then I carry a bill with
21 Assemblymember Lavine to expand the
22 Commission on Judicial Conduct's authority to
23 allow you to continue or begin investigations
24 into judges even after they leave their post.

1 We see this as a crucial step toward ensuring
2 that jurists who engage in misconduct aren't
3 able to evade investigations simply by
4 retiring or resigning.

5 Do you support that approach?

6 CHIEF ADMINISTRATIVE JUDGE ZAYAS:

7 Yes.

8 SENATOR HOYLMAN-SIGAL: Thank you.

9 I yield my one minute 25 seconds.

10 ASSEMBLYMAN DINOWITZ: Thank you.

11 Assemblymember Wallace.

12 ASSEMBLYWOMAN WALLACE: Hi. Thank you
13 so much, Judge, for your testimony today.

14 First I just want to associate myself
15 with the chair's comments earlier about the
16 sweeping of the IOLA fund. As you know, they
17 provide essential services. And if we were
18 to not have that funding available, we would
19 increase the number presumably of pro se
20 litigants, which would then increase the
21 burden on the courts because it takes more
22 time, the judges have to explain what the
23 process is and so forth.

24 So I think we would be penny wise and

1 pound foolish to do that. So thank you for
2 your support of putting that money back in.

3 And I guess I just want to talk a
4 little bit about the Family Court crisis.
5 First of all, obviously, I support
6 increasing --

7 CHIEF ADMINISTRATIVE JUDGE ZAYAS: I
8 didn't hear that. About --

9 ASSEMBLYWOMAN WALLACE: The Family
10 Court crisis.

11 CHIEF ADMINISTRATIVE JUDGE ZAYAS:
12 Yes.

13 ASSEMBLYWOMAN WALLACE: Obviously I
14 support increasing the number of judges,
15 Family Court judges. I think that will go a
16 long way. I note you mentioned the Fund for
17 Modern Courts, and I know in the past there
18 have been discussions about elevating and
19 expanding jurisdiction of the Family Court
20 and how that would help alleviate -- I don't
21 think that's part of this current budget.

22 But, you know, we're talking about
23 eliminating the cap on Supreme Court judges.
24 I think we really need to stay focused on

1 Family Court judges and addressing that
2 issue.

3 And I'm wondering -- you know, I spent
4 a lot of my career in federal court, and I
5 know that when there's a backlog and there
6 aren't more judges to handle things, there is
7 an increase in the number of lawyers and law
8 clerks to try to help those judges, because
9 they can really streamline those cases.
10 Every time you add a new judge, you have a
11 new courtroom, you have a whole new staff of
12 people.

13 Whereas if you add more law clerks and
14 more attorneys, they can really help move
15 that case along and help the judge streamline
16 and address more cases.

17 So I'm wondering, have you made
18 efforts to try to address that in lieu of the
19 judges, and how can we help you in that
20 regard?

21 CHIEF ADMINISTRATIVE JUDGE ZAYAS:
22 Sure. Right. So one of the parts of our
23 budget is to hire 50 law clerks for the lower
24 courts, for Family Court and other courts.

1 And so that will absolutely be helpful.

2 With respect to hiring the lawyers who
3 are going to represent the litigants --

4 ASSEMBLYWOMAN WALLACE: No, no, that's
5 not what I meant. More lawyers for the
6 courts.

7 CHIEF ADMINISTRATIVE JUDGE ZAYAS: Oh,
8 yeah, so court attorneys -- law clerks, yes.

9 ASSEMBLYWOMAN WALLACE: Yes.

10 CHIEF ADMINISTRATIVE JUDGE ZAYAS:
11 Yeah, so we're doing that. That's in our
12 budget, to -- we think that the more law
13 clerks that we hire will help the
14 Family Court judges reduce their caseload and
15 reduce the backlog. And that's in our
16 budget.

17 ASSEMBLYWOMAN WALLACE: Okay. And
18 referees and other --

19 CHIEF ADMINISTRATIVE JUDGE ZAYAS: And
20 referees, yeah. I mean, that's -- I mean, as
21 soon as we get a request for a support
22 magistrate, we approve it and move it right
23 away.

24 There's some -- you know, there's

1 some -- you have to interview, you know --
2 we're a good government operation, so
3 everything we post, and that process does
4 take time. But when somebody leaves the
5 bench or leaves the court attorney position
6 or a support magistrate gets elevated, we
7 immediately get someone else in there.

8 ASSEMBLYWOMAN WALLACE: Okay. And I'm
9 running out of time, but I just want to also
10 mention Erie County Surrogate's Court is one
11 of the most backlogged in the entire state,
12 and so if we could look at maybe addressing
13 that in some way as well.

14 Thank you.

15 ASSEMBLYMAN DINOWITZ: Thank you.

16 Assemblymember Burdick.

17 ASSEMBLYMAN BURDICK: Thank you.

18 I first want to join my colleagues in
19 warmly welcoming your collaboration with the
20 Legislature.

21 And you mentioned -- this is a
22 question about access to counsel.

23 CHIEF ADMINISTRATIVE JUDGE ZAYAS:

24 About a --

1 ASSEMBLYMAN BURDICK: About access to
2 counsel. And you mentioned a huge, huge
3 increase in the need for funding
4 representation for civil litigants, that IOLA
5 has a large fund balance, and that the
6 Governor has proposed increasing to
7 60 million from 50 million funds which IOLA
8 can spend in this area.

9 Now, I recognize that there are other
10 sources of funding for legal service
11 organizations that are in this area and in
12 the Executive Budget. My concern is that
13 even taking that all in the aggregate, it
14 still isn't sufficient. And given the dire
15 need, particularly migrants requiring legal
16 representation in deportation hearings, would
17 you be amenable to increasing above the
18 60 million level?

19 CHIEF ADMINISTRATIVE JUDGE ZAYAS: So
20 I'm going to -- I talked to you about
21 transparency, which is what our
22 administration wants to do. And as I -- we
23 prepared our budget on December 1st when we
24 had understood that there was austerity and

1 maybe not a balanced budget. Right?

2 So I would love -- I keep thinking
3 about this as I read everything every day,
4 and I keep thinking I made a mistake and we
5 should have requested 200 more million
6 dollars for civil legal services. That is
7 honestly what I've been thinking over the
8 last few days. And so that's on me. The
9 buck stops with me. And I feel like I should
10 have asked for much more than we did.

11 But to the extent that you have the
12 power to do that, I will gladly accept that
13 into my budget. I don't know if that answers
14 your question.

15 ASSEMBLYMAN BURDICK: It answers it
16 very nicely.

17 (Laughter.)

18 ASSEMBLYMAN BURDICK: Thank you so
19 much.

20 CHIEF ADMINISTRATIVE JUDGE ZAYAS:
21 Next time I come here I'll do a little better
22 and do my homework a little more.

23 ASSEMBLYMAN BURDICK: Well, listen, it
24 was shifting sands. There's no way to be

1 able to predict these things. But I would
2 welcome working with you on trying to get
3 that number up.

4 CHIEF ADMINISTRATIVE JUDGE ZAYAS:

5 Yeah, and it's not only because, you know,
6 the poor need this help, but it helps the
7 operations of the courts. Because that is a
8 thing that bottlenecks our courts, that
9 there's not enough lawyers, there's not
10 enough 18-B lawyers to try all the cases that
11 need to be tried. And so adjournments have
12 to be granted sometimes, because one lawyer
13 is representing a defendant on an old case or
14 a Family Court litigant on an old case, but
15 that lawyer has already had his trial
16 scheduled -- you know, two or three trials
17 scheduled. So now I've got to --

18 ASSEMBLYMAN DINOWITZ: Thank you.

19 ASSEMBLYMAN BURDICK: Thank you.

20 (Laughter.)

21 ASSEMBLYMAN DINOWITZ: Assemblymember
22 Reilly.

23 ASSEMBLYMAN REILLY: Thank you,
24 Mr. Chair. Thank you, Judge.

1 One of the things I want to talk about
2 is the 3030 speedy trials. So ever since the
3 law changed, in 2019 there were 12,000
4 dismissals. That increased in 2022 to
5 31,000, almost a 250 percent increase.

6 So given your remarkable professional
7 experience that you laid out for us -- and
8 I'd really be interested in this -- do you
9 have any recommendations for the Legislature
10 to address that and maybe practical
11 implementation to address the increase in
12 technical dismissals?

13 CHIEF ADMINISTRATIVE JUDGE ZAYAS: So
14 my view of this is that these dismissals,
15 this increase in dismissals of these cases,
16 is invariably due to the difficulty that the
17 prosecutors' offices are having in getting
18 discovery. And if you don't get discovery by
19 a particular time, the case is getting
20 dismissed. And that is happening all across
21 the city, and it's happening all across the
22 state.

23 I am not criticizing the discovery
24 reforms. I am 100 percent behind, behind

1 them. But somehow something has to be done
2 on -- and I'm not criticizing the
3 prosecutors, because I'm not saying they're
4 dropping the ball.

5 But there has to be -- and this may be
6 somebody asked me a tech question before.
7 There has to be an effort to develop a
8 program that makes it easier for district
9 attorneys' offices to provide that discovery
10 to the -- to certify. Because if it's not
11 certified and the time passes, the case is
12 going to get dismissed.

13 So my understanding from where I sit
14 is that a lot of those dismissals are the
15 result of prosecutors not being able to
16 certify that they provided all of the
17 necessary discovery.

18 ASSEMBLYMAN REILLY: So to expand on
19 that, is there any specific training for
20 judges when it comes to the speedy trial
21 conflicts, so delays that have to do with
22 production beyond the control of district
23 attorneys? So in other words, is there an
24 ability for a judge to grant the extension?

1 CHIEF ADMINISTRATIVE JUDGE ZAYAS:

2 Good cause extension, right.

3 Yeah, there is training. There's
4 training at the institutes. I mean, anybody
5 who is -- exercises criminal jurisdiction,
6 this is the topic. You know, bail -- and I
7 sat at -- even though I was the
8 administrative judge, I sat through these
9 hearings, even though I've been a
10 practitioner for many years. And I'm still
11 learning things. But there certainly is all
12 sorts of training with respect to discovery.

13 You know, bail has occupied the
14 discussion for the last few years, and very
15 few people have been talking about discovery.
16 So I'm glad -- I'm not saying the bail
17 discussions are over, but I'm glad that we
18 can move on to talk about some of the other
19 reform legislation. Which, again, I say I am
20 completely supportive of.

21 ASSEMBLYMAN REILLY: So do you see --
22 one last question. Do you see any -- do you
23 have any specific recommendations for us that
24 would help expedite and close that gap, that

1 250 percent increase of technical dismissals?
2 And how can we help offer improvements to the
3 training for judges?

4 CHIEF ADMINISTRATIVE JUDGE ZAYAS:

5 Yeah, I mean, I -- like I said, I was never a
6 prosecutor, but maybe the prosecutors can --
7 I think the prosecutors' offices have to come
8 up with a tech-savvy way of getting this
9 done. I mean, I wish I had some suggestions.
10 But to me, it's an internal process in the
11 district attorneys' offices as to how they're
12 going to produce -- you know, you can't
13 even -- there's so much documents that a
14 lawyer will come in, the defense attorney,
15 and say, here, here's my thumb drive, put it
16 all on my thumb drive so I'll have the
17 discovery, and that thumb drive doesn't have
18 enough -- what is that called, BTUs or
19 whatever that is --

20 (Laughter.)

21 CHIEF ADMINISTRATIVE JUDGE ZAYAS: --
22 the kg --

23 (Laughter.)

24 CHIEF ADMINISTRATIVE JUDGE ZAYAS: It

1 doesn't have enough room. I mean, how could
2 a thumb drive not have enough room? So
3 you're talking about video cameras, audio
4 proceedings, et cetera, et cetera.

5 So I wish I had a recommendation for
6 you. To me, it's -- the solution is tech,
7 because that -- there has to be some way
8 where the police departments are in an easy
9 way getting that information to you -- thank
10 you.

11 ASSEMBLYMAN REILLY: Thank you, Judge.

12 CHAIRWOMAN KRUEGER: And for the
13 record, Judge, your staff can order you
14 bigger thumb drives that absorb that --

15 CHIEF ADMINISTRATIVE JUDGE ZAYAS: Say
16 that again?

17 CHAIRWOMAN KRUEGER: Your staff can
18 get you bigger thumb drives that take more
19 data.

20 (Laughter.)

21 CHAIRWOMAN KRUEGER: One of those
22 people behind you knows what I'm talking
23 about.

24 CHIEF ADMINISTRATIVE JUDGE ZAYAS:

1 Yes. Yes.

2 CHAIRWOMAN KRUEGER: Thank you.

3 We have one more Senator, Senator
4 Rolison.

5 SENATOR ROLISON: Thank you, Chair.

6 And good morning, Judge. I love the
7 BTU comment.

8 (Laughter.)

9 SENATOR ROLISON: I also thought it
10 was that at one point in time.

11 (Laughter.)

12 SENATOR ROLISON: On the discovery, as
13 my colleague Assemblyman Reilly was talking
14 about, I have heard over a period of time and
15 we've talked about, you know, the amount of
16 discovery that has to be supplied to the
17 defense, and I understand that.

18 But that some members on the
19 prosecutor side have said that things were
20 being sent over that aren't even being looked
21 at, because emails aren't being opened up, so
22 they know they're not being looked at.

23 You know, is there a way -- and have
24 you thought of this at all, when we talk

1 about discovery reform and maybe some reform
2 to the discovery reform, that some of those
3 things that just aren't absolutely necessary,
4 that are not really going to be looked at and
5 used in the defense of an individual -- and
6 I'm not trying to take away any of those
7 rights that have been granted to the defense
8 and the individual accused -- could be, say,
9 removed from that, where it would expedite
10 getting it over, you wouldn't see as many of
11 the technical dismissals?

12 Is that something that anyone on your
13 side in OCA has thought about, reviewing that
14 from a access issue.

15 CHIEF ADMINISTRATIVE JUDGE ZAYAS: So
16 I am not familiar with anyone who's reviewing
17 that. It sounds to me like the defense bar,
18 prosecutors, and members of this body might
19 want to do that. I mean, I think it's more
20 appropriately a legislative function, in
21 collaboration with both the defense bar and
22 the -- yeah.

23 SENATOR ROLISON: Sure, understood.

24 And one more question, Judge. I

1 attended, I participated in the hearing in
2 Manhattan last year on Family Court. Kind of
3 an eye-opening hearing for sure, and great
4 testimony and discussion on both sides, both
5 from people who have been in Family Court and
6 ones who practice in Family Court.

7 With that said, is Family Court, would
8 you say, the area with the largest backlog
9 in -- statewide in the system?

10 CHIEF ADMINISTRATIVE JUDGE ZAYAS: I
11 mean, it's --

12 SENATOR ROLISON: It sounds like it in
13 New York, but --

14 CHIEF ADMINISTRATIVE JUDGE ZAYAS:
15 Yeah, there's a huge backlog there. But it's
16 either between that and criminal, you know,
17 felony -- serious felony criminal term.

18 And it's in New York City. I mean, we
19 don't really see the criminal cases being
20 backlogged too much outside of the city. And
21 I think the same is probably true for
22 Family Court. So it's the high-volume courts
23 that have the problem. And I attribute it to
24 a lack of sufficient number of defense

1 attorneys.

2 SENATOR ROLISON: In my last 16
3 seconds, how is OCA staffed up? Shortages in
4 those courts as well?

5 CHIEF ADMINISTRATIVE JUDGE ZAYAS:
6 Yes. So, I mean, the -- as soon as there is
7 a vacancy, we fill that vacancy. I mean,
8 even in Housing Court. I appoint Housing
9 Court judges.

10 SENATOR ROLISON: Thank you, Judge.

11 Thank you, Chair.

12 ASSEMBLYMAN DINOWITZ: Chair Lavine.

13 ASSEMBLYMAN LAVINE. Talk about
14 electronic difficulties -- I can't even turn
15 this on.

16 (Laughter.)

17 ASSEMBLYMAN LAVINE: I just wanted to
18 mention that on the subject of discovery,
19 issues involving problems with the delivery
20 and the digesting and review and analysis of
21 discovery don't seem to be very prevalent on
22 the civil side of our litigation experience.
23 But we know it's difficult on the criminal
24 side.

1 And for those of us who have engaged
2 in actual electronic discovery, as you
3 mentioned, it's a matter often of reviewing
4 hour after hour after hour of video, much of
5 which is completely inconsequential. So it's
6 a difficult experience, and it's also a very
7 expensive experience to review and analyze
8 voluminous discovery provided by prosecutors.
9 It very often requires hiring agencies and
10 companies that can do that sophisticated
11 research in order so that we can learn what
12 is actually important and what's not.

13 But we did provide in last year's
14 budget -- when I say "we," this is the
15 state -- provided \$80 million to the
16 prosecutors, to our district attorneys, to be
17 able to gear up to do this. And I'm
18 confident that over time they'll be able to
19 use that funding and that we will get there.
20 This is our modern world, and -- but you may
21 not want to trust me so much as someone who
22 can't even figure out how to turn on the --
23 the microphone here. But we're heading in
24 the right direction.

1 And thank you.

2 CHIEF ADMINISTRATIVE JUDGE ZAYAS: I
3 forgot who asked me about training on this.
4 But there is -- there is ways in which this
5 type of thing can get fixed, with training on
6 tech. So ...

7 ASSEMBLYMAN LAVINE: No further
8 questions.

9 CHAIRWOMAN KRUEGER: Thank you.

10 And Senator Jamaal Bailey, chair, for
11 a three-minute follow-up.

12 SENATOR BAILEY: Thank you,
13 Madam Chair. I just want to -- you spoke
14 about the good cause shown exception. So I
15 just want to make sure I put on the record
16 that there are exceptions to discovery law
17 for voluminous records and good cause shown
18 then to the judges so that it's not --
19 because it seemed like it was kind of being
20 presented that there's a wall that if you hit
21 a clock and then automatically you run out of
22 time. And that's just not the case. I
23 wanted to make sure that we cleared that up
24 for the record. I just want to say --

1 CHIEF ADMINISTRATIVE JUDGE ZAYAS:

2 Yes, absolutely. Yeah. And judges do grant
3 those, right.

4 SENATOR BAILEY: I just wanted to make
5 sure that was clear for the record.

6 And I wanted to talk about -- you
7 mentioned these things, and I concur with
8 Assemblymember Lavine that, you know, the
9 money that we gave to prosecutors they will
10 use in good faith to update their systems.

11 But I just had a question. Would
12 you -- and maybe you can get back to me at a
13 later point in time. But if there was a bill
14 that created a comprehensive electronic
15 discovery system that allowed prosecutors,
16 the Division of State Police, the NYPD,
17 larger state agencies to be able to be more
18 efficient in the sharing of discovery, so
19 that the delays between, you know, law
20 enforcement and prosecutor -- which is
21 sometimes an unspoken conversation -- if that
22 were to be something that we would do, would
23 OCA -- could OCA potentially consider
24 supporting that?

1 CHIEF ADMINISTRATIVE JUDGE ZAYAS:

2 Yes, absolutely.

3 Let me say one other thing about
4 training, because there are no interlocutory
5 appeals in -- there are interlocutory appeals
6 in criminal cases. So the Court of Appeals
7 just sort of clarified the standard by which
8 these cases can get dismissed, where
9 discovery is not. But that took, because of
10 how long it takes to go on the Appellate
11 Division appeal, et cetera, so we finally do
12 have some guidance. And that's the best
13 training that you could get, because the
14 Court of Appeals is saying this is how this
15 situation needs to happen. And that
16 decision, written by Judge Halligan
17 recently -- Bay, People v. Bay -- set that
18 forth.

19 So we're getting clarity, but on the
20 criminal side it takes a little more time
21 sometimes to get an appellate ruling.

22 SENATOR BAILEY: Thank you, Your
23 Honor. Nothing further.

24 Thank you, Madam Chair.

1 CHAIRWOMAN KRUEGER: Thank you. I'm
2 just double-checking.

3 I believe you have completed your
4 assignment today with us, Judge.

5 CHIEF ADMINISTRATIVE JUDGE ZAYAS:
6 Hallelujah!

7 (Laughter.)

8 CHAIRWOMAN KRUEGER: Thank you very
9 much.

10 CHIEF ADMINISTRATIVE JUDGE ZAYAS:
11 Thank you very much. I appreciate it.

12 CHAIRWOMAN KRUEGER: Appreciate it.
13 And I know there was some follow-up you need
14 to respond to people because we just didn't
15 get to everything.

16 CHIEF ADMINISTRATIVE JUDGE ZAYAS:
17 Yes, ma'am, we'll do that. Thank you.

18 CHAIRWOMAN KRUEGER: Thank you very
19 much. And as you leave with your team,
20 remember, everyone, you take your
21 conversations you're trying to have with them
22 outside so that we can continue with our next
23 panel, which is the New York State Commission
24 on Judicial Conduct and the New York State

1 Office of Indigent Legal Services.

2 (Off the record.)

3 CHAIRWOMAN KRUEGER: It is still
4 morning. This is very good news. Good
5 morning, both of you.

6 And do you have a preference with
7 whoever goes first? Okay, thank you. And
8 you have to press the button till it turns
9 green, and it's a challenge. You have to hit
10 the sweet spot. There you go.

11 Thank you. Good morning.

12 DIRECTOR WARTH: Good morning. I'm
13 Patricia Warth. I'm the director of the
14 New York State Office of Indigent Legal
15 Services. And I want to thank you for this
16 opportunity to talk to you about the ILS
17 budget. But I also want to thank you for
18 your ongoing support of the Office of
19 Indigent Legal Services as we work to improve
20 the quality of public defense, which includes
21 not only public criminal defense but also the
22 representation of parents in Family Court
23 matters.

24 My written testimony compares our

1 budget request to the Executive Budget
2 request. So I'm not going to go over my
3 written testimony, but instead I'm going to
4 talk to you about the two most salient points
5 that I want you to be aware of.

6 First is the crisis in the quality of
7 representation provided to parents in
8 Family Court matters. And this is a crisis
9 that must be addressed. And there was a lot
10 of discussion about this earlier. For that
11 reason, ILS is requesting \$50 million in our
12 Aid to Localities budget for improved-quality
13 parent representation.

14 Second, I'm urging you to reject
15 efforts to sweep money from the Indigent
16 Legal Services Fund, which is earmarked for a
17 special purpose, into the General Fund. The
18 Indigent Legal Services Fund must be used for
19 the purpose for which it is earmarked, and
20 that is to improve the quality of public
21 criminal defense and the representation of
22 parents in Family Court matters.

23 I'll start with the representation of
24 parents in Family Court matters. Since 2016,

1 because of the Hurrell-Harring settlement,
2 the state has made a significant fiscal
3 investment in improving the quality of
4 representation provided to people in criminal
5 matters. But Family Court has been left
6 behind. And the data that we get from
7 providers across the state shows what this
8 means.

9 The data we get shows that
10 Family Court attorneys on average carry
11 weighted caseloads that are 50 percent higher
12 than their criminal court counterparts. And
13 on average they spend less than half of what
14 their criminal court counterparts spend on
15 cases.

16 Now, viewed through a criminal lens,
17 this is sort of good news, ironically,
18 because it shows what can happen when there's
19 a state investment in improved quality:
20 Attorneys have manageable caseloads and are
21 spending the time and resources needed to
22 provide competent representation.

23 But when viewed through a Family Court
24 lens, it shows what happens when the state

1 hasn't made a similar commitment. Family
2 Court attorneys feel like second-class
3 citizens -- and there was some discussion
4 about that feeling earlier. Defense
5 attorneys work under overwhelming caseloads
6 with few resources needed to do their job.
7 Their parent clients face a higher likelihood
8 that their children will be taken from them
9 and placed in foster care. And because we
10 know that the child welfare system has a
11 disparate impact on families of color, what
12 this means is Black and brown families being
13 torn apart.

14 And of course having overburdened
15 attorneys running from court to court means
16 that any effort that the judiciary and the
17 Legislature makes to improve the functioning
18 of Family Court and reduce caseloads, that
19 there's going to be a significant barrier
20 because you're not going to have the defense
21 attorneys with the caseloads, manageable
22 caseloads, needed to do that.

23 Now, there's a solution to this
24 crisis, and we all know what it is. It's one

1 that we learned from experience from the
2 Hurrell-Harring settlement and its extension
3 statewide. We must do the Hurrell-Harring
4 settlement model in Family Court, just as
5 we've done in criminal court. And the core
6 of that model is caseload relief -- in other
7 words, making sure that there's enough
8 attorneys so that attorneys have manageable
9 caseloads.

10 And so this past summer, at the
11 request of our board chair, ILS conducted a
12 study of all the family defense providers
13 across the state to determine just how much
14 it would cost the state to bring Family Court
15 defense providers into compliance with ILS
16 caseload standards. And we determined that
17 at a minimum, that would be \$150 million.
18 And that's less than the 273.8 million that
19 is currently being devoted to doing the same
20 thing in criminal cases.

21 Like the statewide extension of the
22 Hurrell-Harring settlement, we propose that
23 the \$150 be phased in over three years. So
24 that is why our budget request for fiscal

1 year '24-'25 is 50 million, with the goal of
2 reaching 150 million by budget year '26-'27.

3 Now, based on last year's enacted
4 budget, I know that I don't have to convince
5 you of the importance of this initiative.
6 Because of you, last year's enacted budget
7 included 14.5 million for improved family
8 defense. Ten million of it came from you.
9 Thank you.

10 But even with this legislative
11 support, that 14.5 million wasn't enough for
12 us to disburse to every county that needs it.
13 And so we had to engage in a competitive
14 process, and all the money that we've gotten
15 over the past three years for Family Court
16 defense, none of it has been enough to
17 disburse to counties statewide.

18 And so currently, as a result, only
19 about a third of New York counties are
20 getting some additional funding for
21 Family Court representation. And even that's
22 not enough. And most of your districts have
23 been left behind.

24 And then this year's Executive Budget

1 proposal worsens the problem, because this
2 year not only did the Executive Budget not
3 honor our request for \$50 million for
4 improved Family Court representation, but
5 they also didn't honor the legislative add of
6 10 million from last year -- so this year the
7 Executive Budget proposal for improved-
8 quality family defense is only 4.5 million.

9 So my ask of you today is that over
10 the next several weeks you make it a priority
11 to include in the final enacted budget the
12 full 50 million that we are requesting for
13 improved Family Court defense, with the goal
14 of reaching 150 million by fiscal year
15 '26-'27. And importantly, the funding for
16 this should not come and need not come from
17 the General Fund. Rather, it should come
18 from the Indigent Legal Services Fund, which
19 is specifically earmarked for
20 improved-quality criminal defense and parent
21 representation in Family Court matters.

22 Which of course is a segue to my
23 second point, which is that the proposal to
24 sweep money from the Indigent Legal Services

1 Fund to the General Fund must be rejected.
2 And here the Executive's Budget proposal
3 includes language in the Public Protection
4 and General Government Article 7 bill
5 proposing to sweep \$234 million from the
6 Indigent Legal Services Fund to the
7 General Fund.

8 Now, based on last year's enacted
9 budget, we think that 114 million of this is
10 to fund the increased costs associated with
11 increasing the assigned counsel rate, the
12 18-B rates. And that's a relevant fund
13 purpose. But that means 120 million of the
14 234 million is not related to improved public
15 defense. It's not related to the purpose for
16 which the fund is earmarked.

17 As background, the ILS fund was
18 established in 2003 with the enactment of
19 State Finance Law 98-b, as a special fund
20 earmarked to assist counties and New York
21 City in, quote, improving the quality of
22 public defense services. To date, the fund
23 has been used almost exclusively for
24 improvements in public criminal defense.

1 Very little of the funding has been used for
2 improved parent representation.

3 In 2017, legislation was enacted to
4 increase the fund's receipts, and that
5 legislation has worked well. Right now the
6 fund is vibrant, and it is capable of both
7 fully supporting the Hurrell-Harring
8 settlement and its extension statewide. And
9 based on the fact that the Executive is
10 proposing to sweep the fund, it's clear that
11 the fund can do more. But this more has to
12 be improved-quality parent representation,
13 not bolstering the General Fund.

14 So therefore I urge the Legislature to
15 reject the proposed sweep and to ensure that
16 the money is used for improving the quality
17 of public representation of parents in
18 Family Court matters.

19 And I look forward to answering any
20 questions that you may have about these two
21 issues as well as anything from my written
22 testimony.

23 CHAIRWOMAN KRUEGER: Thank you.

24 Good afternoon, Robert.

1 ADMINISTRATOR TEMBECKJIAN: Good
2 afternoon, Senator. And to you and all of
3 your colleagues, thank you once again for
4 this opportunity.

5 A judiciary which is both independent
6 and accountable is essential not only to the
7 rule of law, but to public confidence in the
8 courts. In New York, as in all 50 states,
9 there is a mechanism to ensure that
10 accountability. Here it is enshrined in the
11 Constitution, which creates an independent
12 Commission on Judicial Conduct that is
13 responsible for receiving and investigating
14 and, where appropriate, publicly disciplining
15 judges for engaging in ethical misconduct.

16 I think it is fair to say that the
17 New York commission is the leader nationally
18 in this field, not only by the number of
19 public disciplines that we render each year,
20 but by the fact that the procedures that we
21 have developed in New York have been adopted
22 by other states which recognize how
23 sophisticated and appropriate they are to the
24 task at hand.

1 As we all know, so much attention is
2 being paid nationally to the role of the
3 judiciary, to the importance of judges acting
4 in a manner which is ethical, and the degree
5 to which they will be held accountable when
6 they are not. Only recently the U.S.
7 Supreme Court became the last court in all of
8 the United States to adopt an ethics code,
9 but there is significant discussion as to the
10 significance of that, because there's no
11 means to enforce it. There's no independent
12 federal entity equivalent to what New York
13 has in the Commission on Judicial Conduct or
14 that all the other states have throughout the
15 United States, which is a recognized and
16 effective means of enforcing judicial ethics
17 on the judiciary.

18 And that task is growing by leaps and
19 bounds. Last year we processed over 2800
20 complaints, which is a record exceeding by
21 almost 400 the record that we set in 2022
22 when we had 2400. Now, given that there are
23 approximately 3400 judges throughout the
24 New York State Unified Court System, that

1 number of 2800 complaints is astonishing.

2 But lest anyone think that it means
3 that the judiciary in New York is running
4 amuck, that's not true. We publicly
5 disciplined 17 judges last year, including 13
6 who were either removed from office or who
7 entered into voluntary stipulations of
8 resignation publicly committing themselves
9 never to return to office again.

10 And the significance of that is that
11 in the New York Constitution, a judge who is
12 removed from office is barred from ever
13 returning to judicial office.

14 But processing those 2800 complaints,
15 engaging as we did in approximately
16 550 initial reviews and inquiries and over
17 200 full-fledged investigations -- which
18 ultimately means that roughly one in four of
19 the complaints that we received last year
20 significantly indicated potential misconduct
21 and required significant attention from the
22 commission and its staff -- means that we
23 really need to pay attention to the degree of
24 appropriate funding that is called for for us

1 to be able to meet this daunting and growing
2 challenge.

3 And I'm sorry to say and I'm
4 disappointed to say that in this Executive
5 Budget the recommendation falls short. Our
6 current budget is 8.1 million, and we asked
7 for an increase in round numbers to 8.9. But
8 the Executive Budget only recommends 184,000,
9 which is barely -- it's actually not enough
10 to cover the mandatory statutory increases in
11 the salary to our existing staff. It makes
12 no provision whatsoever for us to implement a
13 case management system, for us to pay for our
14 increased rent, our increased software
15 licenses. All of the tools that we need to
16 efficiently and effectively meet this
17 burgeoning challenge are unaddressed in this
18 budget.

19 There has been some public attention
20 to that fact in the last several days, and I
21 must say that I am heartened beyond measure
22 by the public expressions of support that
23 have been made by Senator Hoylman-Sigal and
24 by Assemblymember Lavine, both of whom chair

1 their respective Judiciary Committees and are
2 intimately associated with and familiar with
3 the work that the commission does.

4 It was my hope -- it is my hope that
5 when the amended Executive Budget comes out,
6 the so-called 20 or 21-day amendments, that
7 this shortfall will be rectified. But for as
8 long as I've been doing this work, which is
9 for over four decades, the process by which
10 the Executive Budget and the Division of
11 Budget come up with these numbers is almost
12 as mysterious to me now as it was 40 years
13 ago, because there's simply no explanation.
14 And notwithstanding the fact that we are
15 available for conversation, we submit a
16 detailed request.

17 I am happy to say that I have had
18 fruitful conversations with the Governor's
19 executive staff, particularly the counsel's
20 office, with whom I have very good relations
21 and which is which I think is very aware of
22 the commission's unique and independent
23 constitutional status.

24 But still, somehow, when the Executive

1 Budget comes out, the numbers are wanting.
2 And so I come to you. Over the years I'm
3 more than gratified to say that the
4 Legislature has made up for the shortcomings
5 in the Executive Budget. Just in my tenure
6 as the administrator of the commission,
7 you've increased our budget to the tune of
8 \$3 million over what the executive has been
9 recommending. And that has significantly
10 supported the work that we have done and that
11 we have to do and that is showing no signs of
12 diminishing as time goes on.

13 As people become more and more aware
14 of the importance of judicial ethics, as they
15 become more sophisticated with gathering
16 information and learning where to make their
17 complaints, as they become aware of the
18 public disciplines that we do impose -- and
19 by the way, in our history we have imposed
20 945 public disciplines, every one of which is
21 available on our website, which is a
22 guidepost not only to the judiciary in terms
23 of what kind of behavior to avoid so that
24 they don't come into the field of view of the

1 commission, but also to the public, to
2 reassure them that when public officials such
3 as judges who wield enormous power over their
4 lives and in the system of our government,
5 when they do stray, there is an effective
6 mechanism to hold them accountable.

7 But we can only do the job if, with
8 your continuing support, the relatively
9 modest request that we made for an increase
10 of \$770,000 -- which in an Executive Budget
11 of \$233 billion, where the total expenditures
12 of all of the agencies has been increased by
13 \$2 billion, somehow it doesn't seem to me
14 unfair to expect that what we need to
15 continue the high level of efficiency and
16 effectiveness that we've demonstrated,
17 \$770,000 is not so much that the
18 Executive Budget couldn't have found a way to
19 make it happen for us. And which I hope that
20 all of you, when the final budget is enacted,
21 will be able to achieve.

22 As always, I thank you for your
23 support throughout the year, particularly
24 during the budget season. And as always, as

1 I am to each of you individually, available
2 to answer your questions either today or in
3 the future.

4 CHAIRWOMAN KRUEGER: Thank you very
5 much. Appreciate it. Our first questioner
6 will be Senator Brad Hoylman-Sigal.

7 SENATOR HOYLMAN-SIGAL: Thank you,
8 Madam Chair.

9 Thank you both for being here. And
10 I'm really distressed to learn about the cuts
11 that you both face. Let me just ask both of
12 you, in each instance did the budget
13 representatives reach out to you and discuss
14 what they were going to do in terms of the
15 sweep, or not funding you as you requested?

16 ADMINISTRATOR TEMBECKJIAN: No, not
17 with us.

18 DIRECTOR WARTH: Not with us either.
19 The sweep was a surprise for us. And the
20 reduced funding for parental representation,
21 I can't say it was a surprise, but it was
22 deeply disappointing.

23 SENATOR HOYLMAN-SIGAL: I agree. I
24 mean, to think that we would be attempting to

1 balance the budget on the backs of folks who
2 are underrepresented in our court system, or
3 at the expense of the integrity of our
4 judicial system, is frankly unacceptable and
5 outrageous. And I think you have heard from
6 my colleagues already that we will fight to
7 resist those cuts in both instances.

8 Could I ask you, Mr. Tembeckjian,
9 about the number of complaints that you
10 mentioned in the previous year, 2800?

11 ADMINISTRATOR TEMBECKJIAN: 2800, yes.

12 SENATOR HOYLMAN-SIGAL: And the trend
13 line seems to be indicating that you're
14 having more complaints. Is this the most
15 complaints in recent memory?

16 ADMINISTRATOR TEMBECKJIAN: It's the
17 most in any year in our history, and the
18 trend line is definitely on an upswing. The
19 only year in the last 10 where we had a dip
20 was 2020, when because of COVID the courts
21 were closed and there was so much downtime.
22 And yet in that year we still received
23 1500 complaints, which is really a large
24 number given that the courts were closed.

1 And of course our ethics enforcement
2 responsibility is not limited to on-the-bench
3 misconduct. Judges can fall astray of the
4 judicial conduct rules by off-the-bench
5 misbehavior, throwing the weight of their
6 office around for personal gain, conflicts of
7 interest, and so forth. There are other ways
8 in which judges can commit misconduct other
9 than literally while they're presiding.

10 But the trend line is definitely on
11 the upward. For 10 years it's been going up,
12 and last year was a record. And it smashed
13 by almost 400 the number of complaints we
14 dealt with the year before.

15 SENATOR HOYLMAN-SIGAL: So while the
16 number of complaints has increased, your
17 staffing has decreased. Back in 1978 you had
18 63 full-time staff. Now how many do you
19 have?

20 ADMINISTRATOR TEMBECKJIAN:
21 Forty-nine.

22 SENATOR HOYLMAN-SIGAL: Forty-nine.
23 It makes no sense to me.

24 But if I could also ask you about the

1 legislation that Assemblymember LaValle and I
2 carry. Those judges who resigned based on, I
3 guess, an agreement that you had with them,
4 they walk out the courthouse door, they're
5 free of any further investigation or inquiry
6 into their conduct on the bench?

7 ADMINISTRATOR TEMBECKJIAN: Yes.
8 Under current law, once a judge leaves
9 office, our jurisdiction effectively ends.
10 So even if they've committed misconduct that
11 wasn't removable, we can't -- we can't
12 conclude the proceeding. And because all of
13 our proceedings are confidential until there
14 is a discipline imposed, we're not even at
15 liberty to inform the public that a judge who
16 left office did so under an ethical cloud.

17 It is a relatively limited number of
18 judges with whom we enter into what for them
19 is the voluntary resignation in exchange for
20 our stopping the inquiry. But they publicly
21 have to acknowledge that they will never come
22 back to office again, which is the most we
23 could do under any circumstance. That's the
24 greatest power that we have -- removing a

1 judge, which bars them from ever coming back.

2 SENATOR HOYLMAN-SIGAL: I'm curious to
3 know, do local district attorneys ever reach
4 out and say "we'd like to follow up on this
5 matter" if it's ended at the commission's
6 doorstep?

7 ADMINISTRATOR TEMBECKJIAN: I would
8 say that the -- next to judges, who make up
9 that type of complainant from whom we hear
10 least often, lawyers, whether they're
11 prosecutors or defense attorneys, are far
12 less likely to file complaints with us or
13 notify us about what they are in a very
14 unique position to recognize, unethical
15 behavior by judges, because they're in a very
16 difficult spot.

17 I mean, they essentially have to deal
18 with the judiciary and the court system, and
19 there is a sense that if they become
20 identified as complainers or whiners or those
21 who are going to identify misconduct, that it
22 might come back to hurt them or their
23 clients. And so I think that that tends to
24 inhibit lawyers from making complaints.

1 Not their clients, however. And the
2 majority of complaints that we receive are
3 from civil and criminal litigants. Which is
4 really not so much of a surprise.

5 SENATOR HOYLMAN-SIGAL: Well, I think
6 you should be heartened by what we heard the
7 chief administrative judge say in terms of
8 his stated support for our legislation that
9 might fix some of this.

10 ADMINISTRATOR TEMBECKJIAN: Well, I
11 was gratified by that, and frankly I was
12 heartened by his very crisp "Yes" without
13 hesitation, without context, without
14 equivocation, and certainly without
15 qualification.

16 It really was very, very reassuring to
17 me, as it will be to the commission, to --
18 when I report that he very firmly and
19 affirmatively responded to your question.

20 And this reflects the sort of
21 conversations that I've had with you and with
22 Chairman Lavine on the Assembly side. And
23 it's certainly my hope that this bill will
24 pass and that the Governor will sign it.

1 SENATOR HOYLMAN-SIGAL: And you
2 think -- I'm going to turn to Ms. Warth in a
3 second. But do you think that cameras in the
4 courtroom would improve scrutiny of our
5 judges, and accountability? Or do you have a
6 position on that?

7 ADMINISTRATOR TEMBECKJIAN: Well, my
8 sense is that it would improve the behavior
9 not only of the judges, but of all the
10 participants.

11 And let me give an analogous example.
12 In 2007, as a result of hearings held by the
13 Legislature, the Office of Court
14 Administration essentially equipped all of
15 the town and village courts with audio
16 software on laptops, and by rule required
17 that they audio record all proceedings in
18 town and village courts. And we saw a
19 dramatic decline in demeanor-related
20 complaints against judges.

21 Now, maybe it's because they knew that
22 they were being recorded and that we would
23 have access to those recordings, or maybe
24 they were just improving their behavior with

1 the benefit of a history of the commission
2 imposing discipline for judges for
3 inappropriate demeanor. But it made a
4 significant difference, I think. And it also
5 turned out to be an enormous tool for us to
6 exonerate judges who were falsely accused of
7 not affording defendants of their rights,
8 such as the right to counsel. The audio
9 captured everything that was going on, and it
10 was an enormous benefit.

11 SENATOR HOYLMAN-SIGAL: Thank you.

12 And I think, again, we should be heartened by
13 the chief administrative judge's crisp
14 response to the question about cameras in
15 courtrooms too. Thank you.

16 Ms. Warth, funding for your office and
17 the resources it provides counties to support
18 improved quality of public defense comes
19 about almost entirely from the Indigent Legal
20 Services Fund. What are your top-line
21 concerns about the proposed sweep of
22 \$234 million from the ILS Fund?

23 And by the way, "sweep" seems like a
24 euphemism, doesn't it?

1 DIRECTOR WARTH: Yeah. The technical
2 term is "budget transfer."

3 SENATOR HOYLMAN-SIGAL: Yes, yes.
4 thievery might be more accurate.

5 DIRECTOR WARTH: Yeah. I mean, the
6 concern of course is that the funding won't
7 be there when it's needed. And in fact, you
8 know, the fact the Executive is proposing to
9 transfer funding to the General Fund that is
10 needed for improved parent representation,
11 yet reduce the amount of money available for
12 parent representation, I think highlights
13 the -- answers the question, essentially,
14 about the concern of the transfer.

15 SENATOR HOYLMAN-SIGAL: And every year
16 I think we discuss about the Hurrell-Harring
17 specter on parental representation. That
18 still exists, correct?

19 DIRECTOR WARTH: Say that again,
20 the --

21 SENATOR HOYLMAN-SIGAL: The fact that
22 a Hurrell-Harring type of lawsuit might --

23 DIRECTOR WARTH: Yeah. Oh, yes. Oh,
24 yeah.

1 SENATOR HOYLMAN-SIGAL: Could you just
2 describe for my colleagues what that would
3 look like?

4 DIRECTOR WARTH: I mean, all the
5 essential elements are there. We have a
6 commission report from 2019 describing the
7 poor quality of representation, just like the
8 Kaye Commission report from 2006 in criminal
9 cases. We have a Family Court system in
10 crisis, just like a criminal court system in
11 crisis before the Hurrell-Harring lawsuit.

12 And frankly, we have people who are
13 interested in solving this problem, and
14 they're waiting -- they're not going to keep
15 waiting for the Executive or the Legislature
16 to solve it. And if that doesn't happen
17 soon, there will be a lawsuit.

18 SENATOR HOYLMAN-SIGAL: Well, maybe
19 that might be the only route to providing
20 quality representation to these families.

21 DIRECTOR WARTH: I would hope not. I
22 would hope that something happens sooner.

23 SENATOR HOYLMAN-SIGAL: Me too. Me
24 too.

1 ASSEMBLYMAN DINOWITZ: Thank you.

2 CHAIRWOMAN KRUEGER: Thank you.

3 Assembly.

4 ASSEMBLYMAN DINOWITZ: Assembly

5 Judiciary Chair Lavine.

6 ASSEMBLYMAN LAVINE: I think I can
7 speak for everyone here and say how much we
8 value and appreciate what each of you does
9 for the people of the State of New York.

10 So, Ms. Warth, let me follow up on the
11 Hurrell-Harring issue. As you've said and as
12 is noted in your written testimony, state
13 funding for Hurrell-Harring settlement -- for
14 the Hurrell-Harring settlement and its
15 extension statewide has been flat for years.
16 How has that impacted public criminal defense
17 providers and their clients?

18 DIRECTOR WARTH: The best example is
19 just this contract I signed yesterday
20 extending a previous contract that was
21 supposed to fund seven attorneys for a
22 provider. But there was only enough
23 funding -- because it was the same amount as
24 in previous years -- to fund six attorneys.

1 So we're going backwards. You know,
2 the -- you cannot maintain the same number of
3 staff people and you cannot maintain the same
4 programs, the same technology, the same
5 space -- you know, as Mr. Tembeckjian said --
6 when you have the same funding. And
7 inflation has gone up in the past three years
8 between 3.5 and 7 percent every year.

9 And we've requested for the
10 settlement, its extension statewide, and for
11 the ILS program that is the foundation to
12 both of those, only a 3 percent COLA
13 increase. And we think that's a modest
14 increase, but it would go far in making sure
15 that the programs that have been established
16 and the staff people who have been hired,
17 that the providers can maintain them.

18 ASSEMBLYMAN LAVINE: Thank you.

19 And Mr. Tembeckjian, there have been
20 some positive signs over the last days that
21 one way or another, the commission is going
22 to be funded.

23 ADMINISTRATOR TEMBECKJIAN: I'm very
24 happy to hear that.

1 ASSEMBLYMAN LAVINE: I want to ask you
2 a question, though, about your proposal that
3 the commission be able to continue
4 investigating and reporting on judges who
5 have resigned.

6 ADMINISTRATOR TEMBECKJIAN: Right.

7 ASSEMBLYMAN LAVINE: Now, given that
8 there are quite a few judges who negotiate a
9 voluntary resignation with a stipulation that
10 it's over, it's over at that point, how will
11 that affect your ability to continue to
12 investigate and report on those judges?

13 ADMINISTRATOR TEMBECKJIAN: I should
14 say that the 40-year figure of judges who
15 have resigned while under investigation by
16 the commission is almost 700. It's about
17 675. We have negotiated 131 public
18 resignations of judges. So there is a
19 substantial number who over the years have
20 left office without agreeing to a discipline,
21 probably because we weren't close enough to
22 the end of the proceeding to meet our current
23 statutory limitation. So that number I think
24 would be redressed by the legislation.

1 There would be less of a need for us
2 to negotiate a resignation if we had the
3 authority to continue. But there would also
4 be a greater incentive for those judges who
5 previously were able to escape consequences
6 by resigning because they would know that we
7 would continue.

8 Now, I should point out that for other
9 public officials in the executive and the
10 legislative branch both, under current ethics
11 procedures you're subject to continuing
12 discipline for two years after you leave
13 office. That's not the case with judges. It
14 stops at 120 days. Only if we're going to
15 remove the judge, not for lesser misconduct.
16 And 120 days if you count up all of the
17 statutory and rules, time requirements, is
18 almost impossible to go from start to finish.

19 So this legislation would go a long
20 way I think to improving the behavior overall
21 of the judiciary by indicating to them that
22 they can't necessarily escape by leaving
23 office. And I think it would go a long way
24 to assure the public that very powerful

1 public officials will be held accountable for
2 their wrongdoing.

3 ASSEMBLYMAN LAVINE: Thank you both
4 for fighting for our constitutional
5 protections.

6 No further questions.

7 ADMINISTRATOR TEMBECKJIAN: Thank you.

8 CHAIRWOMAN KRUEGER: Thank you very
9 much.

10 Next we have Senator Ramos for three
11 minutes.

12 SENATOR RAMOS: Thank you so much,
13 Chair.

14 Hi. My question this afternoon is for
15 Ms. Warth. I, you know, get on average a
16 handful of letters from Rikers to my office
17 every week, mostly folks who are incarcerated
18 and wanting better representation. And I
19 think when you do a deep dive into what the
20 life of a public defender is like, it's not
21 very easy. There are very high caseloads and
22 actually many public defenders work part-time
23 jobs in order to make ends meet because the
24 salary is pretty low, considering the cost of

1 living in New York State.

2 In fact, of the student loan
3 reimbursement programs in our state, it's the
4 public defenders who receive the least. It's
5 a measly \$3400 per year. I actually have a
6 bill to increase that to \$8,000.

7 But overall, I wanted you to talk a
8 little bit about what the impact on the
9 current attrition rate is like. We know that
10 in 2022 Legal Aid Society lost 200 people.
11 Queens Defenders lost 17 attorneys. Bronx
12 Defenders lost 18. Brooklyn Defenders lost
13 40. Can you talk about what the existing
14 attrition rate is and what the proposed
15 cuts -- what impact those would have?

16 DIRECTOR WARTH: Thank you. It really
17 varies from county to county. But it is true
18 across the state, all of our public defense
19 providers are experiencing problems both in
20 recruiting new attorneys and keeping the
21 attorneys, retaining the attorneys that they
22 have.

23 And so, you know, we did in our budget
24 request a 3 percent increase for our

1 foundational criminal defense programs. And
2 a significant portion of that is going to
3 have to go to salary increases. If it
4 doesn't go to salary increases, then we
5 know -- and if we don't get that 3 percent,
6 then we know that the attrition and retention
7 problem is going to persist and get worse.

8 And then there's some other funding
9 things that the funds can be used for,
10 including work on developing an office
11 culture that keeps people engaged. And we've
12 had some promising results with some of our
13 providers who have done that. But again,
14 that takes funding. And so it's critical
15 that we get the additional funding that we've
16 requested in our budget.

17 SENATOR RAMOS: Thank you. I hope
18 we're able to deliver.

19 CHAIRWOMAN KRUEGER: Okay, thank you.

20 Assemblymember Steck.

21 ASSEMBLYMAN STECK: Yes,

22 Assemblymember Steck.

23 First of all, I'd like to thank
24 Mr. Tembeckjian for the important work of the

1 Commission on Judicial Conduct. As indicated
2 in a previous question, I've been practicing
3 40 years in civil rights law in upstate
4 New York, and I have observed a tremendous
5 decline in the temperament of the judiciary,
6 which I think is consistent with the number
7 of complaints that you're seeing.

8 So I want to ask you, how do we -- how
9 do we address these issues, with a particular
10 example. So it's a very well known rule of
11 law that if the plaintiff calls the defendant
12 as a witness, the plaintiff is entitled to
13 lead the witness and use the
14 cross-examination style. I guess it's okay
15 if a judge doesn't know that fundamental rule
16 of law, but the worst thing is what happens
17 when the plaintiff's lawyer files a
18 memorandum of law and then gets yelled at by
19 the judge to have -- having the temerity to
20 file a memorandum of law, which is what
21 lawyers do. Doesn't that indicate that
22 there's an underlying temperament problem
23 that needs to be addressed and may rear its
24 ugly head later on in other cases?

1 ADMINISTRATOR TEMBECKJIAN: Yes. And
2 I would say it also is indicative of an
3 education and training issue as well.

4 There is a rule of judicial conduct
5 that says a judge has to be faithful to the
6 law, competent in the law, respect and comply
7 with the law, and afford all of the litigants
8 and their attorneys the full opportunity to
9 be heard.

10 That rule is breached by the example
11 that you gave, and it is the type of conduct
12 that we can investigate. And we can
13 discipline a judge for it, but it will not
14 address the underlying issue of how did a
15 judge who is so uninformed get there in the
16 first place, and what steps are being taken
17 to appropriately educate and train the judge
18 so that they know the -- at least the
19 fundamentals of appropriate courtroom decorum
20 and law.

21 That's an issue which I believe that
22 the Office of Court Administration does
23 attempt to tackle through the Judicial
24 Institute, but clearly more can be done. The

1 perfect world would be one in which we get
2 2800 complaints a year and not any of them is
3 justified or substantiated, and they're all
4 dismissed because the judges throughout the
5 state are all behaving to the highest
6 standards.

7 That will probably never be the case.
8 But I think more can be done at all levels to
9 ensure that judges are more appropriately
10 schooled in the law. And that's especially
11 so for the nonlawyer town and village court
12 justices.

13 ASSEMBLYMAN STECK: Thank you.

14 CHAIRWOMAN KRUEGER: Thank you very
15 much.

16 Next is Senator Salazar, chair. Oh,
17 I'm sorry. I apologize. Senator Bailey,
18 chair of Codes.

19 SENATOR BAILEY: Thank you.

20 So thank you both for all of your
21 work. And I just really want to take the
22 opportunity to thank you for being in the
23 literal and figurative trenches in terms of
24 the work of the judges and also family

1 representation.

2 So 18-B. You know, we got the
3 increase. Have you seen an increase in
4 interested parties, people that want to --
5 that are interested in coming back into the
6 pool?

7 DIRECTOR WARTH: So what we're
8 hearing -- and we did a deep dive into the
9 five Hurrell-Harring settlement counties, and
10 we're, you know, surveying the other
11 counties. It does vary from county to
12 county. But the two major themes we're
13 hearing is that, one, it was necessary in
14 that it stanchd the flow of attorneys
15 leaving the panel for economic reasons.

16 So for example, when we looked at the
17 five settlement counties, they had no
18 attorneys leave for economic reasons, you
19 know, since the rate increase, which is very
20 different from before the rate increase.
21 Now, attorneys are still leaving because of
22 other reasons, including they're aging out,
23 they're retiring.

24 There's been some success in bringing

1 new attorneys to the panels. But it varies
2 from county to county. It's not been a
3 deluge of new attorneys; it's been a trickle.
4 And, you know, the ACP leaders, the Assigned
5 Counsel Program leaders across the state are
6 working really diligently on leveraging the
7 rate increase to try to bring in new
8 attorneys.

9 SENATOR BAILEY: Okay. Because,
10 again, I think, in speaking with Chief
11 Administrative Judge Zayas, it's not
12 something that we're going to be able to see
13 the effects until like at least a two to
14 three, maybe five-year period when we get
15 to -- when we look back at the numbers. But
16 any -- I guess to correct the -- to fix the
17 dam so that the water doesn't go all the way
18 out. We've fixed the levees, now it's about
19 rebuilding the levees, so to speak.

20 DIRECTOR WARTH: Right. It was a
21 crisis 19 years in the making. And so it's
22 not going to, you know, be solved right away.

23 But I can tell you that the trend is
24 moving in the right direction because of the

1 rate increase. So I thank you for that.

2 SENATOR BAILEY: So I would also want
3 to -- I want to align my comments with
4 Senator Hoylman-Sigal, in that we certainly
5 think that the sweep, transfer, whatever
6 language you want to use, of \$234 million,
7 quite frankly for the people who can least
8 afford representation, we can least afford
9 that sweep. So I just want to make sure I
10 concur with that.

11 I want to talk about parental
12 representation. I wanted to give you some
13 time to talk about what it is. Because
14 people that are listening may think it's
15 simply right to counsel. It is way more than
16 that. The services that are provided, it is
17 a wraparound type of services that can do a
18 lot more for families. Could you I guess
19 provide a greater context as to what parental
20 representation actually is.

21 DIRECTOR WARTH: Sure.

22 I mean, I think the best way to say it
23 is it's the right to counsel in the matters
24 that affect the most intimate and important

1 part of your life. And so the model of
2 quality representation is not only having an
3 attorney, but having that attorney able to
4 access social workers, case managers, parent
5 advocates, people who can come to terms with
6 what is going on in the life of the family,
7 and help address some of the issues that may
8 have brought the family into the court
9 process or into the child welfare system.

10 And so a good example is if you're in
11 a child welfare investigation, a person has
12 access to a counsel who has a social worker
13 working for them. That counsel can work with
14 the social worker and the parent to help the
15 parent identify what is the whole -- what's
16 going on with this investigation. Often help
17 the parent connect to much-needed services --
18 identify an individualized approach to what
19 those services are, and then help the parent
20 access them and then follow up with the
21 parent.

22 When that type of representation is
23 delivered, chances are that child welfare
24 investigation is not going to lead to a

1 Family Court petition being filed. The
2 problem's going to be solved.

3 And so that's the value of having, you
4 know, funding for improved quality parent
5 representation, is it really helps parents
6 solve the problems that -- you know, again
7 with aspects of the most intimate part of
8 their lives.

9 SENATOR BAILEY: So it's fair to say
10 that it's well beyond the scope of just the
11 courtroom or the proceeding, that this is
12 something that can help, again, not just stop
13 the proceeding but can help to improve the
14 lives and provide direction for individuals
15 in that. Would that be fair to say?

16 DIRECTOR WARTH: Yeah, and for the
17 families. So think about it. So in that
18 child welfare matter that I gave the example,
19 the child stayed with the family. The child
20 stayed with a parent. A child wasn't
21 needlessly removed from the parent and put in
22 foster care.

23 And so you're not only reducing public
24 spending on needless foster care, but you're

1 having a significant impact on the lives of
2 families and lives of children.

3 SENATOR BAILEY: So the \$50 million we
4 spend up front that you want and that I agree
5 that we should have, is -- the value that
6 we're getting for that \$50 million is well
7 beyond the \$50 million. Would that be a fair
8 assessment to say?

9 DIRECTOR WARTH: Yeah. Not only value
10 in saved costs, you know, in foster care
11 costs and things like that, but also, you
12 know, for those of you who were at the Senate
13 hearing in November, listening to people talk
14 about the Family Court system is
15 fundamentally unfair -- well, it was
16 fundamentally unfair to them because they
17 didn't have an attorney, sometimes no
18 attorney, sometimes an attorney with
19 overwhelming caseloads who couldn't help them
20 navigate the system in a way that they
21 understood it.

22 So I think it also is a huge
23 investment in increased sense of fairness of
24 our systems.

1 SENATOR BAILEY: And speaking of
2 caseloads, we know that in criminal defense
3 there are case caps. In thinking about --
4 you know, you mentioned in your testimony or
5 in your operating remarks, I should say, that
6 certain attorneys get overburdened. Would
7 you be supportive of -- is there a way to
8 implement an informal case cap? Because I
9 know that contextually you don't want to
10 necessarily limit it at X amount of cases
11 because we have a representation problem.

12 Would there be something that you
13 would support in terms of trying to limit the
14 amount of cases so that these attorneys
15 aren't overburdened?

16 DIRECTOR WARTH: So we have
17 established case caps for both criminal cases
18 and we've established case caps for Family
19 Court cases. And our board has approved both
20 sets of those case caps.

21 The Family Court cases we don't have
22 the state money to implement them. So right
23 now they're purely aspirational. And
24 attorneys across the state are exceeding

1 those case caps because there isn't the
2 funding.

3 In the criminal realm, because of the
4 Hurrell-Harring settlement and its extension
5 statewide, the providers are working towards
6 meeting those case caps.

7 But to answer your question, we look
8 at it at a provider level, so there's some
9 discretion within the provider that some
10 attorneys can handle more, some attorneys
11 shouldn't. Right? So --

12 SENATOR BAILEY: And that's a -- it's
13 a case-by-case contextual decision --

14 DIRECTOR WARTH: Yeah. Right.

15 SENATOR BAILEY: -- because no two
16 cases are alike. And maybe that Attorney X
17 may have the ability to handle more cases
18 based upon their experience.

19 DIRECTOR WARTH: But the provider
20 overall has to have the funding so that on a
21 provider level they're within the case caps.

22 SENATOR BAILEY: And on a wish list --
23 I don't even know if this is in your --
24 included within that figure of \$50 million.

1 In order to make it a workable system so that
2 these case caps were able to go into effect
3 and that the state was providing the money,
4 do you have a rough estimate of how much
5 money that would cost?

6 DIRECTOR WARTH: A hundred and fifty
7 million.

8 SENATOR BAILEY: A hundred and fifty
9 million.

10 DIRECTOR WARTH: Yeah. And so that's
11 why the --

12 SENATOR BAILEY: Over time, or phased
13 in?

14 DIRECTOR WARTH: I'm sorry, what?

15 SENATOR BAILEY: Phased in, or at one
16 time?

17 DIRECTOR WARTH: Phased in --
18 50 million, you know, at one time. So that's
19 why we're proposing 50 million with a
20 three-year phase-in. So 50 million this
21 budget year, budget year '25; 100 million
22 budget year '26; and then 150 million budget
23 year '27.

24 SENATOR BAILEY: Okay. And again,

1 these are investments that if you are an
2 investor, you would say that they would pay
3 for themselves.

4 DIRECTOR WARTH: Yes. That's a sound
5 fiscal investment.

6 SENATOR BAILEY: I have no further
7 questions. Thank you.

8 CHAIRWOMAN KRUEGER: Thank you very
9 much.

10 Assembly.

11 ASSEMBLYMAN DINOWITZ: Assemblymember
12 Simon.

13 ASSEMBLYWOMAN SIMON: Thank you very
14 much.

15 I have a couple of questions. One,
16 Mr. Tembeckjian, thank you for your
17 testimony.

18 You know, we just had a conversation
19 with Judge Zayas about judges not
20 understanding, for example, disability rights
21 in the law. And I have had a number of
22 lawyers reach out to me because judges have
23 denied their request for accommodations. So
24 these are not litigants, but they are lawyers

1 who had just had cancer and wanted to do
2 something remotely, or need large print and
3 can't follow the transcript as quickly and
4 would like an extension of a day or so. And
5 some have even had cases dismissed, and of
6 course they can't appeal that, there's no
7 record.

8 Is that the kind of thing that
9 somebody would bring to the attention of the
10 Commission on Judicial Conduct?

11 ADMINISTRATOR TEMBECKJIAN: It is. It
12 has. One of the important tools that we have
13 is a confidential letter of caution, which is
14 a way for us to give confidential advice,
15 suggestions, recommendations to a judge where
16 we find not egregious misbehavior, but
17 shortcomings in the managing of the
18 courtroom, in the decorum of the courtroom,
19 and in the accommodations to individuals.
20 Best practices advice, so to speak.

21 And we do that quite often. I mean,
22 we are in some ways, as you point out, the
23 only resource to someone who can't take up on
24 appeal something that is certainly within the

1 judge's discretion to handle in the
2 courtroom, but we can certainly make the
3 judge sensitive to the need to be a little
4 more accommodating, where people have a
5 health issue, a disability limitation or some
6 other such issue.

7 But absolutely, yes, we're a place
8 that people can come for that.

9 ASSEMBLYWOMAN SIMON: Thank you.

10 And Ms. Warth, with regard to indigent
11 legal services, I totally support your
12 request to not sweep that money.

13 But, you know, I've been working with
14 a number of legal services attorneys on the
15 loan reimbursement program that we have in
16 New York State, to increase its availability
17 to people for a longer period of time, but
18 also increase the amounts that are available.

19 And this also would apply to
20 prosecutors, because they're losing -- DAs
21 are losing employees as well.

22 Can you address that issue, the need
23 for loan forgiveness for those attorneys
24 working in indigent legal services who have a

1 mountain of debt and aren't earning very
2 much?

3 DIRECTOR WARTH: I mean, very quickly,
4 you know, two parts to it. One, they need
5 it, if only because they just don't have
6 enough money, because their salaries are so
7 low, to live day to day.

8 But two, having that loan forgiveness
9 is incredible incentive to stay doing public
10 defense work. And so from that perspective
11 it's also a really important recruitment and
12 retention mechanism.

13 ASSEMBLYWOMAN SIMON: Thank you.

14 CHAIRWOMAN KRUEGER: Thank you.

15 Chair Senator Salazar, Crime and Crime
16 Victims.

17 SENATOR SALAZAR: Thank you, Chair.

18 And first I want to associate my
19 comments with Senator Bailey regarding the
20 position on the proposed transfer of funds
21 from the ILS Fund account to the General
22 Fund, and appreciate your position on that.

23 Wanted to ask you about an issue that
24 is relevant to ILS clients and also

1 potentially to ILS funding, the End Predatory
2 Court Fees Act. So essentially fines, fees
3 and surcharges in our court system can become
4 a regressive tax on defendants and people
5 interacting with the court system. The
6 revenue is not even centrally tracked.

7 Previously, a couple of years ago when
8 Senator Bailey and I cochaired a hearing on
9 the End Predatory Court Fees Act, you
10 testified in full support, even though some
11 revenue from these court fees currently goes
12 toward funding ILS. Obviously I want your
13 position to be accurately characterized here
14 on, you know, eliminating fees that burden
15 indigent clients.

16 Would you still support including the
17 End Predatory Court Fees Act in the final
18 budget, for example, if we were able to
19 ensure that it would be included? And would
20 you be able to elaborate on the impact that
21 you'd anticipate seeing if it were law?

22 DIRECTOR WARTH: So, you know, from
23 the perspective of the director who heads the
24 agency with the mission to improve the

1 quality of public defense, ILS supports
2 ending court fees that, you know, burden our
3 clients for the rest of their lives. I mean,
4 we think that's a quality improvement
5 measure, so we support that.

6 When I testified at the hearing
7 before, you know, I commented that the impact
8 on the ILS Fund wouldn't be significant
9 because the court fees are the smallest
10 percentage of receipts into the fund. The
11 major receipts into the fund are from the OCA
12 Criminal History Record that's sold, and also
13 attorneys' biannual registration. So for
14 attorneys here, thank you very much for that
15 contribution to our fund.

16 But I also want to circle back to
17 something Senator Bailey said, because he
18 talked about the \$150 million for improved
19 quality representation being a sound
20 investment. It's not only a sound
21 investment, there's already money earmarked
22 for this investment. And so that's -- you
23 know, that the fund should be used for that
24 purpose, that it's there. And to me, that's

1 what the Governor's proposed budget transfer
2 communicates to us, is that the money is
3 there in the fund to sustain not only the
4 settlement, its statewide expansion, but also
5 what we need to do -- what we all know we
6 need to do to improve the quality of
7 representation of parents in Family Court
8 matters.

9 SENATOR SALAZAR: Excellent. Thank
10 you.

11 I cede my time.

12 ASSEMBLYMAN DINOWITZ: Assemblymember
13 Levenberg.

14 ASSEMBLYWOMAN LEVENBERG: Thank you so
15 much. And thank you, Chair.

16 I appreciate all of your testimony,
17 and certainly I'm right there with you.

18 I had a very quick question about this
19 transfer of funds, because -- and you just
20 spoke about it again. You said the money is
21 there. So once again, is the money not being
22 spent, or it's not currently being allocated
23 to the ILS Fund? That's -- I'm having a hard
24 time understanding.

1 DIRECTOR WARTH: That's a very good
2 question. Like I said, there was legislation
3 enacted to increase receipts at the fund.
4 And so that's part of why the fund keeps
5 building up.

6 The expenditures for the settlement
7 and its expansion statewide, in large part
8 because the implementation happened during
9 the pandemic, there was -- they were slow to
10 both start the implementation process, which
11 has started, but also many counties and
12 New York City have not been claiming in a
13 timely fashion. But over the past year they
14 have caught up.

15 And so just by way of example, in 2022
16 ILS processed 1,036 claims totaling
17 \$82 million in value. In 2023, we processed
18 1,500 claims totaling \$210 million in value.
19 So that's an exponential increase of money
20 now coming out of the fund.

21 We also sent to over 45 counties, you
22 know, payments for the state's share of the
23 increased assigned counsel rates. And then
24 there's also an automatic 40 million that

1 goes to New York City every year.

2 And so, you know, it's starting to
3 tick up. But the fund is currently flush
4 enough to handle that tick-up in expenditures
5 and still support the additional need to fund
6 Family Court representation.

7 ASSEMBLYWOMAN LEVENBERG: So again,
8 that 50 million per year that you're looking
9 for would be coming out of the 236 or --

10 DIRECTOR WARTH: Well, the fund right
11 now has more than that, yeah. Yeah.

12 ASSEMBLYWOMAN LEVENBERG: Okay, but
13 out of the -- in other words, if it wasn't --
14 you mentioned the sweep as, oh, it's okay if
15 it's going to underwrite the 18-B additional
16 funds --

17 DIRECTOR WARTH: Yeah.

18 ASSEMBLYWOMAN LEVENBERG: -- but not
19 so great, you know, just for anything else.

20 But again, I'm just not clear if
21 that -- if we did nothing but not have that
22 sweep happen, then the money would be there
23 for you beyond --

24 DIRECTOR WARTH: So the money would be

1 there and it wouldn't be being spent the way
2 it should be spent.

3 ASSEMBLYWOMAN LEVENBERG: Got it.

4 DIRECTOR WARTH: So, you know, to me
5 the Governor's proposed transfer shows that
6 even the Governor's office thinks that the
7 fund is sufficiently -- you know, has enough
8 money in it to support ongoing settlement
9 implementation extension and more.

10 But our view is the more needs to be
11 parent representation, not putting money in
12 the General Fund.

13 ASSEMBLYWOMAN LEVENBERG: Okay. I
14 don't know if I have enough time -- no, I
15 don't think I do.

16 CHAIRWOMAN KRUEGER: Thank you.

17 Senator Palumbo, five-minute ranker.

18 SENATOR PALUMBO: Thank you,
19 Chairwoman.

20 Good afternoon. Good to see you
21 folks. And, you know, just to comment
22 again -- and it's not lost on anyone up here
23 about the important work that your two
24 agencies do just generally for the profession

1 as a whole. As many of you know, you know,
2 as a private attorney, as an ADA for years,
3 after 16 years of practice, which was now
4 about 10 years ago, I realized people don't
5 like lawyers. So I got into politics, and
6 here I am.

7 But -- and we usually do these panels
8 with the two of you together, because
9 obviously maintaining ethics on the bench and
10 providing legal services not only makes it a
11 more efficient system, it's supposed to be
12 fair and reasonable. So I just thank the
13 both of you for the work that you do. And as
14 far as the budget's concerned, it's extremely
15 important that we fund you folks.

16 Mr. Tembeckjian, you know, \$9 million
17 is your budget and, you know, we have
18 \$233 billion. That's about 630 or 40 million
19 dollars a day. So as far as adequate funding
20 for you folks, we need to make sure that we
21 find it.

22 So again, I just wanted to say that
23 from the 30,000-foot level, that what both of
24 you folks and your agencies do is extremely

1 critical to having a nice, reasonable and
2 maintaining some sense of order in our
3 system.

4 So that being said, I just wanted to
5 ask -- and a lot of the questions I had were
6 already asked. But I think, you know, Bob,
7 if you -- as far as -- and I don't even know
8 how this would work. But when someone
9 resigns currently, under current law, that
10 investigation is closed, I presume, and it at
11 least lightens the caseload a little bit.

12 ADMINISTRATOR TEMBECKJIAN: Correct.

13 Under current law, if a judge resigns
14 while under inquiry, we have 120 days to
15 conclude, but only if the result is going to
16 be removal. And 120 days, when you count up
17 all the statutory and rules time factors, is
18 almost impossible to meet. So effectively
19 we're done if the judge leaves office.

20 SENATOR PALUMBO: Got it. So -- and
21 the legislation that Chairman Hoylman-Sigal
22 and Chairman Lavine have been carrying, I
23 think -- I may have even -- and I think we
24 all support it. I certainly support it. But

1 there was such a budgetary issue there, I
2 think I may have even voted no on that
3 legislation previously because that would
4 almost make the caseload untenable, is what
5 it seems like, if -- not untenable, but at
6 least we'd now have -- people have been
7 removed from the bench, retired, maybe even
8 resigned pursuant to stipulation. Is that --
9 would that be a closed case or --

10 ADMINISTRATOR TEMBECKJIAN: Yes. They
11 do that now. And I don't believe that there
12 would be any significant budgetary impact if
13 this legislation were to pass, because we're
14 already investigating these cases. And in
15 fact there have been a number of cases most
16 frustrating where we've investigated, we've
17 formally served with charges, we've taken
18 then all the way through to a hearing, they
19 get an adverse referee's report, and then
20 they resign.

21 So we've already put in the work, and
22 the only thing that is left is the
23 denouement, the conclusion. And we can't
24 render it because they leave office. So

1 there's no additional funding that would be
2 required; there's just the statutory
3 inhibition on us from completing the process
4 that has already been spent.

5 SENATOR PALUMBO: I'm glad you
6 clarified that. Thank you very much.

7 CHAIRWOMAN KRUEGER: Thank you.
8 Assembly.

9 ASSEMBLYMAN DINOWITZ: Next is
10 Assemblymember Walker.

11 ASSEMBLYWOMAN WALKER: Okay. Good
12 afternoon.

13 So I was looking through your
14 testimony; I did see the need for an increase
15 in resources for attorneys' salaries. I was
16 wondering, does this also include paralegals
17 and other support staff that would be
18 necessary?

19 ADMINISTRATOR TEMBECKJIAN: Is that
20 addressed to the commission?

21 ASSEMBLYWOMAN WALKER: ILS.

22 DIRECTOR WARTH: Oh, I'm sorry.

23 For parent representation, the
24 \$150 million was for attorney caseloads.

1 That's why we consider it to be a
2 conservative investment. Of course, if we
3 get the funding, we're able to meet with
4 every provider, figure out exactly how much
5 they need based on our caseload standards,
6 and work with them on how best to use that
7 funding. But it -- but that's -- the
8 \$150 million is frankly a conservative
9 estimate.

10 ASSEMBLYWOMAN WALKER: Oh, okay. And
11 most of those, I would imagine, would be
12 operating expenses.

13 So I was also wondering, with respect
14 to technological infrastructure needs, does
15 the proposal also include sort of capital
16 requests for what may be required in the area
17 of technology?

18 DIRECTOR WARTH: Not the \$150 million
19 we're requesting for improved parent
20 representation. Like I said, it's a very
21 conservative request.

22 The additional 3 percent that we're
23 requesting for the settlement --
24 Hurrell-Harring settlement, its expansion

1 statewide, and the ILS foundational program,
2 that could include other costs. You know,
3 not only attorney costs, personnel costs, but
4 also other than personnel costs.

5 ASSEMBLYWOMAN WALKER: Okay, great.

6 So also, in my last minute, with
7 respect to the criminal defense resources
8 that you also included in your testimony,
9 does any of that include perhaps
10 technological infrastructure resources to
11 comply with perhaps discovery and Raise the
12 Age, et cetera?

13 DIRECTOR WARTH: Yes, it would. That
14 part would, the 3 percent increase would
15 cover those extra costs. Yes, which are very
16 important.

17 ASSEMBLYWOMAN WALKER: Thank you. I'm
18 sorry. There were also some sort of combined
19 requests with New York City, for instance, as
20 well as the state, as it relates to supplying
21 some of these additional resources. And I
22 know last year there were monies that were
23 put into the State Budget.

24 Can you tell me a little bit about

1 what New York City also did to also support
2 the resources that the state put in its
3 budget?

4 DIRECTOR WARTH: You know, that money
5 was disbursed through the Division of
6 Criminal Justice Services, so I can't respond
7 to how that's been spent.

8 I can say my understanding is that
9 that money that DCJS has issued award letters
10 to providers in New York City, but so far
11 providers outside of New York City have not
12 received award letters yet.

13 ASSEMBLYWOMAN WALKER: Thank you.

14 CHAIRWOMAN KRUEGER: Thank you.

15 Senator Shelley Mayer.

16 SENATOR MAYER: Thank you, Madam
17 Chair. Thank you both.

18 First, Mr. Tembeckjian, first, are
19 there any vacancies on the commission
20 currently, or is every seat filled?

21 ADMINISTRATOR TEMBECKJIAN: No, all 11
22 places are filled.

23 SENATOR MAYER: Okay. Of the
24 945 public dispositions, how many of those

1 were for nonlawyer judges?

2 ADMINISTRATOR TEMBECKJIAN: The --
3 roughly 70 percent of those have been for
4 town and village court justices. And of
5 those, about -- well, clearly the majority of
6 that 70 percent have been the nonlawyers. So
7 overall, the majority of our public
8 disciplines has involved judges in village or
9 town courts who are not attorneys.

10 SENATOR MAYER: The majority of your
11 dispositions.

12 ADMINISTRATOR TEMBECKJIAN: The
13 majority, yes.

14 SENATOR MAYER: Okay. Senator Ryan
15 has a bill with respect to that in
16 particularly busy town and village courts, so
17 this is relevant to that. Thank you.

18 And then, Ms. Warth, I have a
19 question. How many parents were served last
20 year through this parent representation of
21 the ILS Fund?

22 DIRECTOR WARTH: We don't have that
23 number available to us. I'm sorry, you mean
24 how many parents were served?

1 SENATOR MAYER: Yes. You're talking
2 about parent representation. We want to
3 support that. But how many parents were
4 served last year?

5 DIRECTOR WARTH: We don't -- we don't
6 have data on the exact number of parents who
7 were served.

8 I can tell you that with the funding
9 that has been appropriated to date for
10 improved quality parent representation --
11 which, you know, like I said is not a lot of
12 funding -- we have been able to issue awards
13 to -- with two rounds of RFPs, essentially.
14 With fiscal year '22 and '23 funding, we've
15 been able to issue awards to 20 counties.

16 And then with the last year's funding,
17 we've issued awards to eight counties, eight
18 additional counties. Those procurement
19 records are still being reviewed by the
20 Office of State Comptroller.

21 SENATOR ROLISON: But the counties
22 don't report to you how many people are
23 actually served at the end of the day?

24 DIRECTOR WARTH: At this point we

1 don't have that data. We're trying to -- for
2 those awards, we're working with the counties
3 on trying to get that data.

4 SENATOR MAYER: And do you know the
5 income level for who -- does each county
6 determine their own income eligibility?

7 DIRECTOR WARTH: ILS established
8 financial eligibility standards for financial
9 eligibility for assigned counsel a few years
10 back, pursuant to the settlement. And so all
11 of these people would fall within that --
12 those income levels.

13 Most people are well below the federal
14 poverty guidelines who are eligible --

15 SENATOR MAYER: Is there one statewide
16 number, or is it regional?

17 DIRECTOR WARTH: They're standards,
18 so -- you know, there's like presumptive
19 standards, but you also have to look beyond
20 just somebody's income. You also have to
21 look at liabilities and number of defendants
22 and things like that.

23 So I couldn't give you one number, but
24 I'd be happy to share our standards with you.

1 SENATOR MAYER: Okay, thank you. I
2 think it would be helpful to know how many
3 people we're talking about while we support
4 the additional funds.

5 Thank you.

6 ASSEMBLYMAN DINOWITZ: Assemblymember
7 Burdick.

8 ASSEMBLYMAN BURDICK: Thank you.

9 And this is a question for
10 Mr. Tembeckjian. And I'm wondering whether
11 you have a breakdown of where complaints that
12 are lodged with the commission are coming.
13 Are they defendants, other litigants, the
14 general public? Do you have any kind of
15 breakdown on that?

16 ADMINISTRATOR TEMBECKJIAN: We do.
17 And this is a pretty consistent percentage
18 regardless of the total number of complaints
19 each year. But the majority, about
20 55 percent, come from litigants.

21 ASSEMBLYMAN BURDICK: From the
22 litigants.

23 ADMINISTRATOR TEMBECKJIAN: Yes.

24 And the rest is scattered among what

1 we refer to as concerned citizens, who hear
2 about misconduct or read about it in the
3 newspapers and call it to our attention.
4 Other public institutions. Other private
5 institutions.

6 ASSEMBLYMAN BURDICK: But they're
7 scattered.

8 ADMINISTRATOR TEMBECKJIAN: But
9 they're scattered.

10 ASSEMBLYMAN BURDICK: Can you give an
11 idea about how -- you know, the average
12 length of investigating it and resolving it,
13 settling it? How long does that process
14 take?

15 ADMINISTRATOR TEMBECKJIAN: It's going
16 to vary. We have concluded matters from
17 inception to discipline within a year, and
18 there are some -- because of the complexity
19 of the case, the number of alleged acts of
20 misconduct, procedural issues that certain
21 defense lawyers are pretty good about
22 effectuating -- it can take two to three
23 years.

24 And it really depends. There's no way

1 I can give you an accurate average.

2 ASSEMBLYMAN BURDICK: Sure. Just one
3 last question, if I can.

4 ADMINISTRATOR TEMBECKJIAN: Sure.

5 ASSEMBLYMAN BURDICK: Sorry, because
6 my time is limited.

7 ADMINISTRATOR TEMBECKJIAN: That's all
8 right.

9 ASSEMBLYMAN BURDICK: And apologies if
10 you've already answered this.

11 What's the general caseload on an
12 annual basis?

13 ADMINISTRATOR TEMBECKJIAN: I'm sorry,
14 the --

15 ASSEMBLYMAN BURDICK: The general
16 caseload of these -- of complaints lodged
17 against -- with the commission.

18 ADMINISTRATOR TEMBECKJIAN: We get --
19 last year, 2800 complaints. We had initial
20 reviews and inquiries in about 550 of those,
21 full-fledged investigation in over 200 of
22 those.

23 So one in four of the complaints that
24 we get gets serious attention by the staff

1 and the commission. But they all are
2 processed. And they all require some
3 evaluation and recommendation. And the
4 commission members see every single one of
5 them.

6 ASSEMBLYMAN BURDICK: Great. Thank
7 you so much.

8 ADMINISTRATOR TEMBECKJIAN: You're
9 welcome.

10 CHAIRWOMAN KRUEGER: Thank you very
11 much.

12 I want to thank both Robert and
13 Patricia for being here with us today.

14 And everybody asked my questions, so
15 I'm not going to take any time.

16 We appreciate you being with us and
17 doing such amazing work on behalf of all
18 New Yorkers. So thank you very much.

19 ADMINISTRATOR TEMBECKJIAN: Thank you.
20 And thank you for your support.

21 DIRECTOR WARTH: Yeah, thank you for
22 the opportunity to talk to you about this.

23 CHAIRWOMAN KRUEGER: Thank you.

24 And I'm going to be calling up

1 Panel B: New York State Division of Criminal
2 Justice Services; New York State Department
3 of Corrections and Community Supervision; and
4 New York State Division of State Police.

5 (Pause; discussion off the record.)

6 CHAIRWOMAN KRUEGER: All right. Good
7 afternoon, everyone. Why don't we just go in
8 the order you are on the list, the Division
9 of Criminal Justice Services, Rossana Rosado.

10 Good afternoon. And the buttons have
11 to be pushed really hard to go from red to
12 green.

13 DCJS COMMISSIONER ROSADO: Got it.

14 CHAIRWOMAN KRUEGER: Just letting you
15 know.

16 DCJS COMMISSIONER ROSADO: Thank you.

17 Good afternoon, Chairs Krueger and
18 Dinowitz, legislative fiscal committee
19 members, and other distinguished members of
20 the Legislature. I am Rossana Rosado,
21 commissioner of the Division of Criminal
22 Justice Services. Thank you for the
23 opportunity to discuss Governor Hochul's
24 fiscal year '24-'25 budget, a budget that

1 puts community safety and justice first.

2 With the combined support of the
3 Governor and the Legislature, DCJS continues
4 its work to build safe and strong communities
5 throughout New York. As a multi-function
6 support agency, we advance all aspects of the
7 state's criminal justice system, from
8 preventing crime to assisting
9 justice-involved people as they return home.
10 I am proud to represent more than
11 400 employees who help our law enforcement
12 and community partners keep New Yorkers safe
13 and ensure a justice system that works for
14 everyone.

15 The challenges of the past few years
16 have kept the country, and us all, in
17 crisis -- the pandemic, social unrest,
18 violent extremism, and a surge in shootings,
19 just to name a few. We found our footing by
20 redoubling our efforts to stop the cycle of
21 violence and stabilize neighborhoods. Today,
22 I am pleased to share that these efforts are
23 working. We are using this moment to develop
24 new approaches and innovations that are

1 preventive and that make our state safer and
2 also attempt to make our communities whole.

3 Since 2021, the agency's budget has
4 grown to be the largest in our 52-year
5 history -- a more than \$500 million increase.
6 We have used this funding to better support
7 our local partners and to expand our
8 evidence-informed programs that tackle the
9 causes and consequences of crime.

10 To guarantee that these investments
11 reach the people and places most in need, I
12 toured 20 communities, met with public safety
13 and community leaders, and heard about their
14 local programs and their unmet needs. In
15 several communities, this was the first time
16 they had been brought together by a state
17 agency to discuss what was working, what
18 wasn't working, and also what support was
19 needed to provide more opportunities for
20 those communities to thrive.

21 At every stop we discussed recruitment
22 and retention challenges, pandemic
23 disruptions, justice reform implementation,
24 and growing needs among justice-involved

1 individuals. This outreach strengthened
2 existing partnerships and fostered some new
3 ones, and guided our funding to prosecutors,
4 public defenders, police, probation, and
5 community groups. Our investments addressed
6 changes in the public safety field and
7 brought many of our priority programs to
8 scale, including the GIVE initiative, now in
9 21 counties to help law enforcement agencies
10 adopt evidence-based strategies to drive down
11 crime; the Crime Analysis Center network,
12 with 11 centers serving 49 counties and more
13 than 350 agencies with dedicated intelligence
14 and investigative assistance; the SNUG
15 outreach program, in 14 communities,
16 leveraging more than 200 credible messengers
17 and social workers to interrupt the cycle of
18 violence; the Project RISE community
19 engagement, in seven cities, with
20 99 organizations providing 50 new services to
21 promote safety and expand youth
22 opportunities; the county Re-Entry
23 Task Forces in 20 counties to support the
24 needs of people returning to the community

1 from prison and to foster successful
2 reintegration; and, finally, the Alternatives
3 to Incarceration portfolio of 55 programs
4 that deliver services and treatment for
5 people who can be safely diverted from the
6 justice system.

7 Together, these efforts have made a
8 difference. Our comprehensive approach has
9 curbed the pandemic-era surge in violence,
10 and we are well-positioned to use similar
11 collaborations to curtail the rise in
12 property crimes. Last year, shootings were
13 24 percent lower than 2022, and 36 percent
14 lower than their 2021 peak. This means there
15 were 1,013 fewer shootings and 198 fewer
16 people killed by gun violence in New York.
17 This is a victory.

18 Through the first nine months of 2023,
19 reported crime throughout most of New York
20 State returned to pre-pandemic levels as seen
21 in 2017 and 2018. In terms of trends,
22 violent crime decreased; however, property
23 crimes increased. Outside of New York City,
24 violent crime dropped 5 percent and violent

1 crime involving firearms dropped 13 percent,
2 yet property crime was up 5 percent through
3 September of '23. New York City's initial
4 crime reporting shows similar changes.

5 To further the fight against crime and
6 victimization in 2024, Governor Hochul has
7 prioritized the expansion of domestic
8 violence interventions and targeted
9 enforcement of organized retail theft and
10 property crime. The proposed budget provides
11 DCJS with more than \$35 million to enhance
12 police and prosecution efforts to combat
13 domestic violence where it is most prevalent.

14 We have long supported these types of
15 focused strategies. In partnership with the
16 National Network for Safe Communities at John
17 Jay College, the City of Kingston addressed
18 intimate partner violence through GIVE and
19 successfully reduced the recidivism rate of
20 domestic abuse by more than half. This
21 nation-leading investment will allow partner
22 agencies to use comprehensive strategies to
23 save lives and hold abusers accountable.

24 This budget also includes \$15 million

1 to combat organized retail theft through
2 crime analysis and information-sharing with
3 district attorneys' offices and police
4 departments. This collaboration will build
5 upon the crime intelligence resources that
6 New York has developed in the last 15 years,
7 and will forge new relationships with
8 businesses to identify theft trends and help
9 authorities solve these crimes.

10 Finally, I join you and the Governor
11 in rejecting all forms of hate in our state.
12 DCJS administers the Securing Communities
13 Against Hate Crimes grant program to protect
14 nonprofit organizations at risk of hate
15 crimes. Through this program, we have
16 provided nearly \$68 million to fund more than
17 1,400 security projects since 2021. We also
18 just released a new request -- today -- for
19 applications that is posted on our website,
20 which will provide another round of funding
21 to secure these community institutions.

22 This Executive Budget will allow DCJS
23 to continue to deliver the training, tools,
24 and technical assistance needed by our local

1 partners. It will build upon our solutions
2 to keep neighborhoods safe, and it will
3 promote trust and confidence in our justice
4 system. To me, it also allows us to be
5 proactive and serve the changing needs of our
6 communities. To quote a former police
7 commissioner: "We need to be able to watch
8 the grill and water the flowers at the same
9 time" -- and this budget does that for DCJS.

10 I want to thank Governor Hochul for
11 her outstanding leadership on public safety.
12 I also want to recognize the exceptional DCJS
13 team who make this work possible, bringing
14 humanity and a holistic focus to justice and
15 safety. This team has gone above and beyond
16 to develop an award-winning work community
17 and culture where people are valued.

18 Thank you for your steadfast support
19 and your time today. I look forward to
20 answering any questions.

21 CHAIRWOMAN KRUEGER: Thank you very
22 much. Next along the panel we have Daniel
23 Martuscello.

24 DOCCS ACTING CMMR. MARTUSCELLO: Thank

1 you. Good afternoon, Chair Krueger, Chair
2 Dinowitz, and other distinguished members of
3 the Legislature.

4 I am Daniel Martuscello III, the
5 acting commissioner for the Department of
6 Corrections and Community Supervision. It is
7 my honor to discuss some of the highlights of
8 Governor Hochul's Executive Budget plan and
9 the various initiatives that will benefit the
10 department and enhance public safety.

11 The department continues to implement
12 a multitude of structural changes as a result
13 of shifting demographics and legislative
14 initiatives. The incarcerated population has
15 been on a consistent downward trend,
16 decreasing 55 percent from our high of 72,773
17 in 1999 to the current population of 32,750.
18 This dramatic reduction in the incarcerated
19 population has resulted in our ability to
20 right-size the system with the closure of
21 facilities and consolidation of housing units
22 across the state.

23 While we have been focused on ongoing
24 recruitment and retention efforts, we

1 continue to have critical vacancies
2 throughout the department, particularly with
3 the position of correction officer. This
4 issue is not unique to New York, as
5 correctional systems across the nation are
6 struggling to meet staffing demands.

7 As a result of current staffing levels
8 and excess capacity, the Executive Budget
9 recommends the closure of up to five
10 correctional facilities to ensure the safe
11 and efficient operation of the system. This
12 will assist us in managing the population,
13 utilizing staff more effectively, and
14 operating programs in a safe manner, while we
15 continue to focus on our recruitment efforts.
16 Staff wellness and retention initiatives will
17 be prioritized to ensure the hardworking
18 employees of the department are provided the
19 support and relief they deserve.

20 Facility safety will continue to be an
21 issue of overriding concern. Last year there
22 were 1,671 assaults on staff, a 13 percent
23 increase, and 2,107 incarcerated-on-
24 incarcerated assaults, a 42 percent increase.

1 The rates for both categories of assault were
2 the highest ever recorded. No one should
3 have to endure the threat of violence at
4 their place of work or fear for their safety
5 while residing in any of our facilities.

6 We will continue to work with all
7 stakeholders to enhance safety and security
8 and pursue solutions to drive down assaults
9 within the system, including the deployment
10 of new technology such as body scanners,
11 enhanced staff training, and introduction of
12 new and innovative programs to ensure we are
13 addressing the population's risks and needs.

14 I believe that education, in all of
15 its forms, is transformative in a
16 correctional setting and a key pillar to the
17 department's mission and an individual's
18 success. Building on the Governor's vision
19 to restore TAP eligibility for incarcerated
20 individuals, we will expand college
21 programming from the current 36 facilities to
22 all facilities. This will open additional
23 avenues to higher education for the
24 population so that they may enrich themselves

1 and their peers, while serving as role models
2 for the remainder of the population.

3 We will also seek to enhance existing
4 programs and institute articulation
5 agreements to ensure credits are transferable
6 between facilities and there is no
7 interruption in a college student's
8 education.

9 Understanding that not all individuals
10 are suited for college, it is critical that
11 we address reading comprehension as a
12 building block for further educational
13 advancement. Accordingly, the Executive
14 Budget includes funding to institute a
15 reading remediation program to enhance
16 reading skills among the population. Through
17 these initiatives, the department will expand
18 the availability and quality of education
19 programs so that incarcerated individuals can
20 reach their true potential.

21 Recognizing that the trades are an
22 important facet of our society and an area
23 with tremendous job opportunities, the
24 department continues to implement several

1 programs included in the Governor's Jails to
2 Jobs initiative. These include the expansion
3 of our auto tech and commercial driver's
4 license programs, as well as new initiatives
5 such as heavy equipment operator and coding
6 programs.

7 The department is laser-focused on
8 enhancing employment opportunities for the
9 individuals in our care and will continue to
10 evaluate programs to provide economic
11 security for individuals releasing to the
12 community.

13 In 2022, the Department began piloting
14 the Edgecombe Transitional Housing Program, a
15 first-of-its-kind program for undomiciled men
16 returning to New York City to receive
17 transitional housing and social supports as
18 they seek permanent housing and employment.
19 The program has been a great success and has
20 prevented over 215 individuals from entering
21 the New York City homeless shelter system.

22 This year, building on our success, we
23 will expand this initiative to include
24 undomiciled women who are returning to

1 New York City, with additional financial
2 support for those who secure permanent
3 housing.

4 Among our community supervision
5 operations, working with the Board of Parole
6 we have seen a significant reduction in the
7 number of releasees on supervision, with our
8 current population at 17,730 individuals. As
9 part of the Governor's Jails to Jobs
10 initiative, the department hired employment
11 parole officers that are deployed throughout
12 each of the community supervision regions and
13 are tasked with connecting releasees with
14 employment resources and opportunities in
15 their communities.

16 This initiative, combined with the
17 lower population, has enabled us to focus our
18 efforts more centrally on an individual's
19 needs, employment, and overall adjustment to
20 release and supervision to promote their
21 success, reduce recidivism, and increase
22 community reintegration.

23 Last year Governor Hochul advanced a
24 bold agenda to reduce gun violence and

1 violent crime, which included the launch of a
2 new initiative called SAVE, Supervision
3 Against Violent Engagement, in Albany,
4 Buffalo, Rochester, and Syracuse. SAVE
5 identifies individuals under community
6 supervision who are at the highest risk of
7 reoffending in a violent manner. Since the
8 program began, more than 80 percent of
9 participants have successfully adjusted to
10 supervision. Fifteen percent of SAVE cases
11 resulted in arrest, with more than half of
12 those arrests being firearm-related, as
13 compared to only 9 percent of non-SAVE
14 firearm-related arrests.

15 While the program is still being
16 evaluated, these early indicators show that
17 the SAVE initiative is having an impact on
18 community gun violence.

19 This year, we will establish two
20 specialized versions of SAVE, one for those
21 at high risk of engaging in domestic violence
22 and the second for individuals with a mental
23 health diagnosis, which will better connect
24 them to behavioral and mental health services

1 in the community, in partnership with the
2 Office of Mental Health. The department will
3 utilize advanced supervision tactics,
4 community-based referrals, and information
5 sharing to ensure access to services and
6 enhance overall public safety.

7 Under the previously enacted
8 medication-assisted treatment law, the
9 department is now offering all forms of MAT
10 in our facilities to address substance use
11 disorder among the population. In 2023, we
12 provided lifesaving MAT medication to 5,831
13 incarcerated individuals. Recognizing the
14 Governor's commitment to fight the opioid
15 crisis, DOCCS will continue to work with
16 OASAS to leverage available opioid settlement
17 dollars to enhance services in the
18 correctional setting.

19 The overall safety of our staff and
20 the security of our facilities and area
21 offices remain a top priority for the
22 department, while providing progressive
23 programs and employment opportunities for the
24 population. The department is fully

1 committed to supporting our workforce and
2 recruiting the next generation of corrections
3 and community supervision professionals, who
4 will continue to be our most valuable
5 resource in advancing our mission into the
6 future.

7 The Governor's budget positions the
8 department for success and addresses our
9 staffing issues by leveraging excess capacity
10 to the benefit of the entire agency, as well
11 as the taxpayer.

12 Thank you for the opportunity to
13 appear before you today, and I'll be happy to
14 answer any questions.

15 CHAIRWOMAN KRUEGER: Thank you very
16 much.

17 And our next is Acting Superintendent
18 Dominick Chiumento. And I have a note saying
19 there's a loss of ability to speak, so
20 perhaps someone will speak for you.

21 ACTING STATE POLICE SUPT. CHIUMENTO:
22 I have some loss of voice, so Lieutenant
23 Colonel Christopher West is going to read my
24 statement for me. Thank you.

1 CHAIRWOMAN KRUEGER: Thank you very
2 much.

3 ACTING STATE POLICE SUPT. CHIUMENTO:
4 I'm not trying to sound like Dan.

5 (Laughter.)

6 CHAIRWOMAN KRUEGER: I'll leave that
7 between your two departments.

8 Hello, Chief of Staff. Welcome.

9 ASST. DEPUTY SUPT. WEST: Good
10 afternoon, Chairs Krueger and Dinowitz and
11 distinguished members of the joint committee.

12 Thank you for this opportunity to
13 speak about the essential work performed by
14 the New York State Police and some of the
15 proposals that Governor Hochul has put
16 forward in her Executive Budget.

17 I am Assistant Deputy Superintendent
18 Christopher West, reading this on behalf of
19 Acting Superintendent Dominick Chiumento.

20 I would like to take this opportunity
21 to thank Governor Hochul and the Legislature
22 for your enduring support of the New York
23 State Police. Because of your support, the
24 New York State Police continues to be one of

1 the leading law enforcement agencies in the
2 nation, and a model for reducing crime in our
3 neighborhoods and cities.

4 For more than a century, the New York
5 State Police has provided excellence in
6 public service through the fulfillment of our
7 core missions, while also meeting the
8 ever-changing needs of society and the
9 citizens of New York.

10 The expectations placed upon our
11 agency continue to expand as new and
12 unprecedented challenges arise. Despite
13 this, our members continue to go above and
14 beyond to meet the needs of the people of our
15 state. And while more is demanded of our
16 Troopers than at any other time in our
17 history, we remain steadfast in carrying out
18 the vital undertaking of protecting all
19 New Yorkers.

20 Governor Hochul has made it clear that
21 public safety is her number-one priority, and
22 she has backed that up by providing the
23 necessary funding and resources to help us
24 serve the public by solving and preventing

1 crimes and keeping our roadways safe.

2 In the prior two years, funding for
3 the division increased by 27 percent. Head
4 count increased by 645 personnel, a
5 12 percent increase. The fiscal year 2025
6 Executive Budget continues to support the
7 New York State Police with budgetary actions.
8 Governor Hochul recommended a workforce of
9 6,521 full-time employees, an increase of 101
10 from the previous fiscal year. With the
11 proposed fiscal year 2025 budget, that would
12 be 746 positions in three years.

13 This year's increase is for the
14 creation of a new State Police enforcement
15 unit to combat retail theft. With earmarked
16 funding in the Governor's proposed budget, we
17 can continue to elevate our efforts to
18 protect all New Yorkers.

19 One area of concern throughout the
20 country is the proliferation of hate crimes.
21 With funding provided by the Governor last
22 year we have had success in preventing and
23 suppressing bias-motivated attacks by
24 bolstering the work of the Joint Terrorism

1 Task Force and our counterterrorism
2 strategies. We have been able to dedicate
3 more resources to prevention and education,
4 and increasing our presence in impacted
5 communities.

6 However, international conflicts
7 escalated in 2023, resulting in a significant
8 increase in activity and threats, and there
9 is more work to be done. The additional
10 funding in the Governor's proposed budget
11 will help the State Police expand efforts to
12 combat crimes that target individuals simply
13 because of their religion, race, or other
14 protected classification.

15 With the resources outlined in the
16 budget, we can continue to proactively
17 identify potential threats to our state and
18 most vulnerable communities. And, in
19 conjunction with our law enforcement and
20 Homeland Security partners, we can mitigate
21 these threats to ensure the safety of all
22 New Yorkers.

23 In November, Governor Hochul added
24 five social media analyst positions, and then

1 10 positions to the Joint Terrorism Task
2 Force.

3 Another top priority is addressing the
4 spike in retail thefts. The Governor
5 included funding in her proposed budget that
6 would establish a New York State Police Smash
7 and Grab Enforcement Unit. With the increase
8 in larcenies, our small businesses are
9 feeling the impact of lost inventory and
10 revenue. Additionally, many New Yorkers are
11 uneasy about shopping in certain retail
12 locations, and this unit will help us to
13 expand our strategies to deter and stop such
14 crimes.

15 In the last two years, under the
16 leadership of Governor Hochul, our top
17 priority has been the fight against gun
18 violence and the proliferation of illegal
19 guns. The Interstate Task Force on
20 Illegal Guns has been critical in gathering,
21 and sharing data, intelligence, and evidence
22 to stop the illegal flow of guns into our
23 communities.

24 I want to thank the Governor and the

1 members of this committee for recognizing the
2 importance of our efforts to combat gun
3 crime, and for providing the resources that
4 are essential for getting these guns off the
5 streets and preventing violent crimes in our
6 communities.

7 To highlight some of our work, the New
8 York State Police seized 1,316 illegal guns
9 in 2023. From 2018 to 2023, illegal gun
10 seizures increased by 159 percent. And with
11 your help, we can continue this crucial work.

12 As a designated point-of-contact
13 state, in September of 2023 the Division of
14 State Police launched the New York National
15 Instant Criminal Background Check System,
16 also known as NICS. All background check
17 requests for firearms, rifles, shotguns, and
18 ammunition purchases must now be submitted to
19 the State Police.

20 Since the NICS launch, almost
21 99 percent of the total number of gun and
22 ammunition checks have been approved.

23 Agency staffing remains an area of
24 constant executive-level discussion within

1 the State Police, and ensuring that our
2 agency is at an adequate staffing level is a
3 top priority. Thanks to Governor Hochul's
4 commitment, and the commitment of this
5 committee, in October of this year, we were
6 able to launch another Trooper Academy in
7 Cazenovia to accommodate additional basic
8 school classes. This is vital to ensuring
9 that adequate staffing levels are maintained
10 to perform our new and core mission
11 priorities, without sacrificing the response
12 time or the safety of our Troopers.

13 In addition, the New York State Police
14 remains committed to reaching a diverse pool
15 of candidates, and we have taken the "30x30"
16 pledge to increase our percentage of female
17 recruits to 30 percent by 2030. In June of
18 2023, there were 34 graduating females in our
19 basic school class, and in our December 2023
20 class there were 41.

21 During our July 1 through October 1
22 recruitment campaign, 12,691 individuals
23 applied to take the exam. We saw a
24 significant increase in applications since

1 the Governor approved our request to raise
2 the maximum age to apply to become a New York
3 State Trooper from 29 to 34.

4 To build on that momentum and continue
5 our efforts to diversify our ranks, on
6 October 23, 2023, we reopened the Trooper
7 Entrance Exam application process.
8 Candidates will have until March 4, 2024, to
9 apply to take the exam.

10 We certainly could not provide the
11 high-quality services that we do without the
12 support of Governor Hochul and you, our
13 legislators. Our most valuable asset is our
14 Troopers. With your support, the Executive
15 Budget continues to provide our members with
16 the necessary equipment, training, and other
17 valuable resources to carry out their duties.
18 The men and women of the New York
19 State Police serve each day with integrity,
20 pride, and dedication, and they will continue
21 this tradition of excellence with your
22 support.

23 Thank you for your continued support
24 and investment in the State Police, and for

1 the opportunity to address you today. We
2 welcome any questions you may have.

3 CHAIRWOMAN KRUEGER: Thank you.
4 Appreciate it.

5 Our first questioner will be
6 Chair Senator Salazar.

7 SENATOR SALAZAR: Thank you, Chair.

8 My first question is for DCJS. In
9 last year's budget \$10 million in capital
10 funding was provided for DCJS to award to
11 reproductive health centers' security
12 projects. Do you know how much of this
13 funding has actually been awarded so far to
14 reproductive health centers?

15 DCJS COMMISSIONER ROSADO: The money
16 was moved from DCJS to DOH.

17 SENATOR SALAZAR: Okay. Thank you.

18 And I have a question about -- well,
19 directed to Commissioner Martuscello. Good
20 to see you. And I just want to say thank you
21 for the increased communication that we've
22 seen I think publicly and also -- and
23 otherwise, from DOCCS in the time since you
24 took over last year.

1 The Governor's budget proposes an
2 investment of an additional \$2 million in the
3 Transitional Housing Program. Of course
4 given the high number of people who need
5 housing when they leave state custody or
6 local jails, does \$2 million seem sufficient
7 to support transitional housing when there is
8 currently a sort of prison-to-shelter
9 pipeline, unfortunately, in New York with so
10 many people unhoused or very housing-insecure
11 when they leave prison or jail?

12 DOCCS ACTING CMMR. MARTUSCELLO: Yeah,
13 thank you for the question, Senator.

14 The funding proposed in the budget is
15 specific to the Edgecombe Residential
16 Treatment Facility. You know, last year,
17 again, first of its kind, we changed over an
18 operating correctional facility to house
19 undomiciled males returning to New York City.

20 So the one thing that we found, we had
21 a stipend program where a head of household
22 would take the individual in after their 90
23 days. We would offset that with a \$100 a
24 week stipend, up to 12 weeks, to offset the

1 additional mouth being fed.

2 Because this is a state-run program,
3 these individuals going into Edgecombe do not
4 qualify for housing vouchers in New York City
5 because they're not in the shelter system.
6 So this \$2 million will go to offsetting
7 rents. When they talk to the residents, one
8 of their biggest complaints is that they
9 don't want to be a burden on their families
10 and on their friends, but they actually want
11 to be employed and they want to get housing
12 on their own. And not getting those vouchers
13 was a big deterrent and kind of a setback,
14 and their biggest complaint.

15 So the Governor addressed that with
16 the adding the additional \$2 million so we
17 could offset that and pay directly to the
18 leasee or the landlord a portion of rents
19 depending on where the housing's located.

20 SENATOR SALAZAR: Thank you.

21 And I want to talk about postsecondary
22 education in prison. Obviously it's a
23 critical resource for people in prisons,
24 people who are incarcerated. And people who

1 participate in College in Prison programs on
2 average are four times less likely to be
3 arrested again after they leave prison.

4 But we also know that right now about
5 50 percent of people in New York State
6 prisons are eligible to enroll in a
7 postsecondary education program, but only
8 4 percent are enrolled. Why do you think so
9 few of the currently eligible people in DOCCS
10 facilities are enrolled in these programs?

11 DOCCS ACTING CMMR. MARTUSCELLO: Well,
12 I think it comes down to the access and the
13 partnership, which is why in this budget we
14 will be expanding our college footprint from
15 36 facilities to all of the remaining
16 facilities at the end of the day.

17 Last year we were able to serve
18 approximately 2200 incarcerated individuals.
19 Any given semester it's almost 1700. We
20 awarded over 291 degrees. So with the new
21 TAP eligibility for incarcerated individuals
22 and the expansion of college, we'll continue
23 to work with our college partners, which
24 there's 29 of them, to increase access but

1 also increase the types of degrees that are
2 awarded -- you know, going from associate's,
3 increasing our eligibility for baccalaureate
4 degrees, as well as master's. Right now we
5 only have two master's programs.

6 So I think education is really
7 critical to individual successes, and it has
8 additional benefits. It's calming to the
9 overall institution, but it also allows the
10 incarcerated parents to talk to their
11 children and break cycles of incarceration,
12 which will be immeasurable in the future.

13 SENATOR SALAZAR: Thank you.

14 And wanted to just ask about capital
15 projects across DOCCS facilities. Not a lot
16 of information is publicly available or like
17 easily accessible to legislators even about
18 capital projects at different facilities
19 perhaps in their districts. Would you mind
20 even just sharing -- because I know we don't
21 have a ton of time -- some information about
22 ongoing capital projects that DOCCS has,
23 maybe a sample? And would you be willing to
24 make that information about capital projects

1 and facilities more accessible?

2 DOCCS ACTING CMMR. MARTUSCELLO: Yeah,
3 absolutely. We have -- every facility has a
4 five-year capital plan which we invest.
5 And obviously, depending on initiatives
6 either pushed by the Legislature or pop-up
7 emergencies, we have to shift gears. But
8 certainly we'll make that accessible to you
9 and anyone that's interested in that.

10 A lot of our capital dollars go to
11 upgrades in maintenance and repairing
12 buildings, window projects, roofs. In the
13 last 10 years we've spent over \$600 million
14 in camera projects, in fixed-camera systems,
15 and making sure that we're putting those in
16 our institutions. That's included in this
17 year's budget request as well, so -- and then
18 additionally, some of that funding goes to
19 support the staff that work in our power
20 houses and our maintenance.

21 This budget calls for an increase of
22 \$82 million in our capital allocation, as
23 we've been investing in cameras and
24 infrastructure upgrades to respond to some

1 legislative initiatives that have been
2 pushed, we've had to move some projects
3 around. So we do have increased expenditures
4 this year projected in this budget to cover
5 additional costs.

6 SENATOR SALAZAR: Thank you.

7 I'll pivot to a very different
8 subject, which is on the medical treatment
9 available to incarcerated individuals.

10 The City -- the publication, not the
11 municipality -- published a report recently
12 on how many of the deaths in New York State
13 prisons are preventable and cited examples of
14 substandard medical treatment that had
15 potentially led to otherwise preventable
16 deaths. You know, the -- I think what I want
17 to know is, what is DOCCS doing to address
18 the substandard medical treatment that is
19 available in many facilities that contributes
20 to pretty shocking statistics about deaths in
21 facilities and the life expectancy for
22 someone who is incarcerated in New York?

23 DOCCS ACTING CMMR. MARTUSCELLO: Sure.

24 Appreciate the question.

1 First, I'm not going to agree with
2 that article on the substandard treatment.
3 But I would say that obviously any death in
4 custody really hits home. Anytime somebody
5 dies while in custody, regardless of the day
6 or night, I receive a phone call directly
7 making myself aware of it.

8 Last year we had 107 deaths in
9 custody. It's actually the lowest number in
10 25 years. Of that, it breaks down, based on
11 autopsies currently known, 54 were for
12 natural causes, we had two overdoses -- which
13 is a direct result of our drug interdiction
14 efforts. We had, unfortunately, 10 suicides,
15 which is 44 percent down from last year. And
16 we're still waiting on 40 autopsies.

17 You know, I think it comes down to
18 staffing. You know, the medical staff that
19 we do have, they care what they -- with the
20 treatment they're providing, they want to
21 provide the community level of care. So we
22 have to augment through contracts, through
23 OGS, for nurses. But we also have five
24 regional medical units across the state. We

1 have a network of hospitals. And we also
2 contract with providers, 404 different
3 providers that provide specialty services.

4 So we can really provide the standard
5 level of care that we can get in the
6 community. But our recruitment -- you know,
7 no one goes to nursing school and says, Hey,
8 I'm going to nursing school because I want to
9 work in prison as a nurse.

10 So I think part of our transparency
11 plan of what you've seen from me, in the
12 redirection and kind of taking down the wall,
13 if you will -- no pun intended -- is for us
14 to really show the state-of-the-art
15 equipment, the access to care, and the things
16 that our employees are doing every day for
17 our population, in serving them. And hoping
18 to attract those people into public service
19 and show that we can be an employer of
20 choice.

21 SENATOR SALAZAR: Thank you.

22 And want to ask about OMH and the
23 implementation of the HALT solitary
24 confinement law. Would you -- I think you

1 would agree. But would you agree that OMH
2 uses medically accepted techniques for making
3 mental health diagnoses of individuals in
4 custody?

5 DOCCS ACTING CMMR. MARTUSCELLO: I
6 would agree with that.

7 SENATOR SALAZAR: Yeah, I hope so.

8 (Laughter.)

9 DOCCS ACTING COMMR. MARTUSCELLO:
10 Without being Commissioner Sullivan, I would
11 agree with that.

12 SENATOR SALAZAR: Right. Then why
13 would you say are some people on the OMH
14 caseload still placed in segregated
15 confinement -- in SHU, to be specific -- even
16 though the HALT Law prohibits placement in
17 segregated confinement for someone with, you
18 know, mental impairment?

19 DOCCS ACTING CMMR. MARTUSCELLO: Yeah.
20 So as you're very familiar -- I don't need to
21 educate this body on HALT -- but you're
22 talking about special populations and -- who
23 are deemed ineligible to go to SHU in the
24 first instance. So as it outlines that,

1 seriously mentally ill, those with a
2 disability.

3 I mean, consulting with OMH in
4 reviewing the terminology and the definition
5 under the HALT Law, it was deemed that only
6 individuals with a seriously -- that are
7 seriously mentally ill qualify under that
8 definition. Obviously there's other
9 individuals with a weigh score less than 70,
10 and other diagnoses codes. But it actually
11 did not apply to everyone on the OMH
12 caseload.

13 So we follow that determination. We
14 talk to them quite frequently. I know you
15 have a bill that would change that --

16 CHAIRWOMAN KRUEGER: Thank you.

17 DOCCS ACTING COMMR. MARTUSCELLO:

18 Sorry. Red light.

19 CHAIRWOMAN KRUEGER: That's okay. I
20 have to cut you off.

21 And just for everyone to know -- I
22 recited it earlier in the day -- if people
23 ask questions and there's not time to give a
24 full answer, then we just ask you to respond

1 in writing to both the Ways and Means
2 Committee and the Finance Committee, and
3 we'll make sure everybody gets copies of the
4 letters. So thank you.

5 Next up, Assembly.

6 ASSEMBLYMAN DINOWITZ: Assembly.

7 We'll start with me.

8 So for Commissioner Rosado. So the
9 budget provides an additional \$10 million in
10 funding for DAs to prosecute property-crime
11 cases and \$5 million additional to build the
12 capacity of local law enforcement efforts to
13 combat retail theft, which of course is a
14 huge issue -- I know it is in my district.

15 So will local law enforcement agencies
16 have to apply to receive the funding to build
17 the capacity to combat retail theft? Or will
18 the money be automatically allocated?

19 DCJS COMMISSIONER ROSADO: The money
20 is going to be disbursed through our CACs.
21 And so the local law enforcement are already
22 at the CAC, the Crime Analysis Centers, and
23 so they're going to work together to figure
24 out strategies. And we'll fund, you know,

1 projects as they come up.

2 They're not going to have to apply.

3 That's not the intention. They're going to
4 work together, both in crime solving and in
5 the strategy to -- you know, to implement
6 preventive strategies.

7 ASSEMBLYMAN DINOWITZ: Do you think
8 there are cases where property crimes are not
9 being prosecuted because of just not enough
10 resources?

11 DCJS COMMISSIONER ROSADO: You know,
12 we were out in the community, so we know what
13 we hear. You know, we know what the
14 narratives are. This money allows us to
15 bring all the right people to the table to
16 look at the data and to figure out, you know,
17 what the approach will be.

18 ASSEMBLYMAN DINOWITZ: The Office of
19 Gun Violence Prevention was not provided with
20 the \$2.5 million carveout that had been in
21 previous budgets. Why?

22 DCJS COMMISSIONER ROSADO: The Office
23 of Gun Violence is in DOH.

24 ASSEMBLYMAN DINOWITZ: I'm sorry, say

1 again?

2 DCJS COMMISSIONER ROSADO: But we work
3 closely -- Joe works closely with them.

4 DCJS EX. DEP. COMMISSIONER POPKIN:
5 Hi, Joe Popkin, the executive deputy
6 commissioner.

7 So the \$2 million for the Office of
8 Gun Violence Prevention in DOH was carried in
9 the DCJS budget for the last two years. But
10 as a part of budget-making, we thought it was
11 more appropriate to actually be situated in
12 DOH, because that's where the office is.
13 Versus having to do a transfer every year and
14 then it might jeopardize their funding in the
15 outyears.

16 So it was a budget-making thing.

17 ASSEMBLYMAN DINOWITZ: Okay. Now, you
18 had mentioned that in most areas -- not every
19 category, but in most categories -- crime has
20 been going down significantly in some cases
21 in the past year or so, correct?

22 DCJS COMMISSIONER ROSADO: Correct.

23 ASSEMBLYMAN DINOWITZ: So I didn't
24 want to really bring this up, but as far as I

1 know we didn't repeal bail reform, and yet
2 crime is going down even though we still have
3 bail reform. Now, I know the police are
4 doing a very good job and that's one reason
5 why that's happening. But could it be that
6 as the pandemic has ebbed, so is crime in
7 many cases?

8 DCJS COMMISSIONER ROSADO: You know,
9 there are people in academia looking at that.
10 We're happy to have the results. You know,
11 we're happy about what the data is
12 indicating. And also, as we have more data
13 sets, you know, every six months on the
14 impact of bail reform, it's showing what we
15 said to you last year, which is that there
16 isn't a big difference in terms of people
17 returning to court or, you know, being
18 rearrested. It's -- it's -- we have been
19 able to do both things, right, to implement
20 bail reform and to see historic declines in
21 crime.

22 ASSEMBLYMAN DINOWITZ: Right. And I
23 guess it will take a while to really know
24 what the trends are. But it just seems to me

1 that the decrease in crime and the waning of
2 the pandemic seem to have gone hand in hand.
3 So just an observation. Thank you.

4 I do have a question for the
5 State Police.

6 So it's my -- and tell me if I have my
7 information correct, but it's my
8 understanding -- well, first of all, the
9 training that the Troopers get with regard
10 to -- and this is kind of a sort of narrow
11 question. But in regard to search-and-rescue
12 missions in the 215 state parks, do they get
13 special training different or over and above
14 what the normal training would be for the
15 other functions that they perform?

16 ACTING STATE POLICE SUPT. CHIUMENTO:
17 (Struggling to talk.) So yes, they do. We
18 have specialized units that do swiftwater
19 rescue and rappelling rescue, a special
20 operations team that go in and do those
21 rappelling rescues. And in Letchworth State
22 Park for swiftwater.

23 Is that what you're asking?
24 Specialized units have that specialized

1 training.

2 CHAIRWOMAN KRUEGER: We might ask for
3 that afterwards, I apologize.

4 ASSEMBLYMAN DINOWITZ: It's like when
5 the Zoom has a bad connection and you're
6 getting every other words. But okay, I think
7 I got the gist of it.

8 ACTING STATE POLICE SUPT. CHIUMENTO:
9 (Whispering.) Can you hear me? Or is it
10 just creepy?

11 (Laughter.)

12 ASSEMBLYMAN DINOWITZ: Okay. Yes.
13 Writing would be helpful, though. In
14 addition to that excellent response that you
15 gave.

16 And do the Parks Police get that
17 training also? Or --

18 ACTING STATE POLICE SUPT. CHIUMENTO:
19 Yes.

20 ASSEMBLYMAN DINOWITZ: Okay. Okay.
21 That's it. That's it, thank you.

22 CHAIRWOMAN KRUEGER: Thank you.
23 Our next is Chair Jamaal Bailey.

24 SENATOR BAILEY: Thank you,

1 Madam Chair.

2 Thank you, Commissioner, Acting
3 Commissioner, Acting Superintendent. Thank
4 you all for your service and your
5 responsiveness -- not just today, in the days
6 preceding.

7 The first question that I have is for
8 Commissioner Rosado about discovery. We've
9 had a lot of conversations about discovery
10 every single year, and there's been
11 \$120 million allocated for discovery reform
12 in this budget. We have heard past concerns
13 by prosecutors that, you know, sometimes the
14 funding has gone to the counties and, based
15 upon internal political struggles that you or
16 I have no concerns or subject matter
17 jurisdiction over, the money doesn't get to
18 them.

19 How is the \$120 million that's
20 allocated in this budget going to get to the
21 prosecutors?

22 DCJS COMMISSIONER ROSADO: So thank
23 you for the question.

24 We've worked with the prosecutors

1 through DASNY, the state organization of DAs,
2 and in many cases we've been able to get
3 around the counties and get the money
4 directly to them. And so we're confident
5 that we'll be able to do that with this money
6 as well.

7 SENATOR BAILEY: Okay. Because there
8 were some issues and concerns that there was
9 an application-based process for some of the
10 funding that had been previously allocated,
11 and I see that we've -- since we've
12 implemented discovery reform we've given
13 about \$210 million in total for prosecutors,
14 you know, to be able to effectuate discovery
15 reform.

16 And do you know how much of that is
17 still, I guess, tied up in that
18 application-based process? Would you happen
19 to have that information, or no?

20 DCJS EX. DEP. COMMR. POPKIN: So I
21 would say that the vast majority has -- you
22 know, has been delivered to where it was
23 received.

24 The application-based process, this

1 year we tried to streamline, as the
2 commissioner talked about, to avoid some of
3 the hiccups that we saw before.

4 We also baselined funding for the DAs
5 offices in this year, because we know from
6 their last two years that they were spending
7 roughly 67 percent of their award on the DAs
8 offices, so we kind of made that, you know,
9 kind of a requirement going forward.

10 So I can get you an exact breakdown of
11 where everybody is, but as of right now, to
12 the best of our knowledge, all the counties
13 that have applied, we've made sure that we're
14 processing their payments. And if there are
15 specific counties, we can drill into them.

16 And we provided dedicated funding in
17 last year's budget for New York City as well
18 now.

19 SENATOR BAILEY: Excellent. Because
20 again, we all want discovery reform to work,
21 right? You know --

22 DCJS COMMISSIONER ROSADO: Yes, and I
23 just want to add that DA Flynn in Buffalo
24 also -- they've been allowed to do some

1 innovative stuff, so he hired some nonlawyers
2 to get through some of that discovery stuff.
3 We had a lot of complaints about that last
4 year, but this year they've really used the
5 money.

6 SENATOR BAILEY: Okay. And I would
7 echo the sentiments of my co-Codes chair, my
8 Bronx colleague Assemblymember Dinowitz, in
9 the fact that we've seen a drop in crime and
10 bail reform is still enacted and the world
11 has not -- the sky has not fallen.

12 But I want to talk about assaults on
13 retail workers -- obviously a problem that
14 goes along with retail theft that we don't
15 want to take lightly. What was the impetus,
16 what thought process, who was consulted about
17 determining that retail workers would be
18 covered under this new proposal?

19 DCJS COMMISSIONER ROSADO: Well, I
20 mean, you know, the Governor is out in the
21 community and she hears from both the, you
22 know, retailers and the business owners, and
23 we've been out there. And so what we did,
24 you know, is kind of act on what we're

1 hearing.

2 And this money, the DCJS portion --
3 because as the superintendent mentioned,
4 there's a role for State Troopers, for the
5 Troopers to attack this issue also.

6 But as far as DCJS is concerned, we're
7 using the CACs, where we are already in all
8 of those communities, where we already have
9 at the table the prosecutors, the sheriffs,
10 the police and the analysts, to also, you
11 know, tailor to the community, the individual
12 communities, what are the incidents and what
13 kind of help they need.

14 SENATOR BAILEY: And again, I agree,
15 everybody should be protected in their
16 workplace, nobody should be subjected to
17 violence. But some of the language in the
18 Article VII, it wasn't exactly clear. So I
19 look forward to us having a further
20 discussion about what the intent and the
21 specific elements that would have to be
22 formed in order for something like that to
23 take place.

24 Retail theft. This is one -- this is

1 more for the State Police. And you called
2 it, in your testimony, the Smash-and-Grab
3 Enforcement Unit which it is going to be
4 called -- \$25 million in total, \$18 million
5 for 101 jobs and \$7 million for vehicles.

6 What would those 101 employees do?
7 Are they -- would they be brand-new hires?
8 Would they be law enforcement only? Would
9 they be civilian? Can you talk to me about
10 those 101 jobs that \$18 million is going to
11 be getting us?

12 ACTING STATE POLICE SUPT. CHIUMENTO:
13 I'll work on it. There are 10 of those that
14 are nonsworn. The other 91 are sworn
15 members. They'll be scattered out across the
16 state into the nine troops.

17 With the smash-and-grab, there's two
18 parts to the unit. There's one group that's
19 going to go and actively pull the people that
20 are doing the retail thefts. And the other
21 part of half of the unit is going to building
22 the larger cases with the people that
23 organize these smash-and-grab people.

24 Most of the things we've learned is

1 that they've hired people -- there's an
2 organization that hires people to go and do
3 these, and they return back to them.

4 SENATOR BAILEY: So -- and thank you
5 for your answer. And thank you -- seriously,
6 thank you for your testimony through the
7 voice.

8 The question, I guess -- is that going
9 to be in concert with other local law
10 enforcement agencies? Will there be like,
11 let's say, depending on region and depending
12 on counties, State Police will allocate X
13 amount of members of this enforcement unit?
14 How will that work out?

15 ACTING STATE POLICE SUPT. CHIUMENTO:
16 So it's a new unit, so we don't know exactly
17 how it's going to look across the state, but
18 we will be working in concert with retailers
19 and other agencies.

20 SENATOR BAILEY: Okay, yeah. Because
21 I don't want us to downplay the seriousness
22 of retail theft. You know, nobody likes
23 going to retail stores and having to press a
24 button and waiting 45 minutes for a bar of

1 soap. None of us like that, right?

2 But I just want to make sure that if
3 we're spending taxpayer dollars, that this
4 unit is going to have like a specific and
5 focused purpose so that we can maximize and
6 actually bring the retail thefts down and
7 hopefully alleviate us of those issues and
8 concerns.

9 Back to DCJS for a brief second about
10 gun violence prevention. Twenty million
11 dollars stays for SNUG. Do you think that's
12 a sufficient amount, or should that be
13 increased?

14 DCJS COMMISSIONER ROSADO: You're
15 welcome to add.

16 (Laughter.)

17 DCJS COMMISSIONER ROSADO: You're
18 welcome to add. But --

19 SENATOR BAILEY: It just so happens
20 that as the sponsor of the bill to codify
21 SNUG I would love for us to add more money
22 for SNUG, Commissioner.

23 DCJS COMMISSIONER ROSADO: Yes, thank
24 you. As a steadfast champion of SNUG, as you

1 know, we had increased funding over the last
2 two years. We put the funding to good use.
3 We have hired more SNUG workers. But we also
4 have hired, you know, other folks to work
5 with the SNUG workers, such as the social
6 workers. And also SNUG has been really --
7 the SNUG workers have been key in our Project
8 RISE, which is providing dollars, \$2 million
9 per community -- it was seven communities
10 last year -- for real community folks to come
11 around the table and say, Hey, DCJS, this is
12 how we want you to spend the money.

13 You know, as I said, the first two
14 years we were just pure pandemic, and then
15 last year was bring those shootings down. So
16 this year we have time to be a little
17 innovative, to say, you know, there are
18 programs, there's a guy in Buffalo who's
19 using an after-school program, kids are
20 building -- are making jewelry out of melted
21 guns and -- you know, that have been seized
22 by law enforcement, and other kind of
23 innovative ways to keep kind of youth on a
24 different track. And so SNUG has been very

1 involved in that.

2 We could always use more money, but we
3 feel that we've been -- we've invested the
4 money that we've received, and we're ready to
5 act on the 20 million this year. We have
6 great plans.

7 SENATOR BAILEY: So it would be fair
8 to say that these credible messengers
9 actually are credible in their communities
10 and that it does more than just a pat on the
11 back, it actually provides an insight as to
12 why these individuals are engaging in this
13 activity? Would that be fair to say?

14 DCJS COMMISSIONER ROSADO: They
15 contribute to the stability of a community.
16 I can tell you I was in Buffalo about six
17 weeks after the mass shooting, and our SNUG
18 workers, both from Buffalo and Rochester,
19 just started to do the work. As a result of
20 the shooting, they went house to house, they
21 were credible messengers and they went to
22 kind of gauge what the citizens needed. As
23 you know, it was a food desert, and they
24 basically took a -- they did a whole tally of

1 who needed what. And as a result, the SNUG
2 teams have been working -- for the last two
3 years they've been working on this plan to --
4 which we hope to pilot -- Joe laughs because
5 it's one of my pet projects, is to get --
6 they want a food truck project where they
7 will be able to deal with both the food
8 desert issue but also train their
9 participants in food prep, culinary, and also
10 owning a business. Right?

11 So that all came from the SNUG team
12 and wanting to make the community whole after
13 that shooting that had -- you know, wasn't
14 directly connected to the work they do at
15 night, you know, on the street kind of
16 getting guns off the street. So SNUG as a
17 team, they are a stabilizing force in the
18 community.

19 SENATOR BAILEY: I think it's
20 important to note that, again, you're talking
21 about a whole child, whole person, whole
22 community, and that speaks to that.

23 Last question I want to -- on the
24 second round I'll get to some hate crime

1 questions. But Acting Commissioner
2 Martuscello, really quick, MAT in prisons.
3 What is your perspective? What's the
4 overview? How is it going?

5 ACTING DOCCS COMMR. MARTUSCELLO: It
6 was a long time coming. I mean, we're
7 providing vital services to individuals with
8 a substance use disorder. We have
9 partnerships with 12 OTPs in the community.
10 We provide buprenorphine, injectable
11 buprenorphine, naltrexone as well as the
12 methadone.

13 And, you know, we've had our hiccups
14 accessing buprenorphine at increased levels.
15 As we've ramped up, we've ran into some
16 pharmacy issues that we've been able to work
17 through. But with the DA changing some of
18 the regulations around X waivers, that has
19 really helped us.

20 SENATOR BAILEY: Thank you all for
21 your time.

22 CHAIRWOMAN KRUEGER: Thank you.
23 Assembly.

24 ASSEMBLYMAN DINOWITZ: Assembly

1 Correction Chair Dilan.

2 ASSEMBLYMAN DILAN: Thank you,
3 Chairman Dinowitz.

4 And to Commissioner Annucci {sic},
5 it's been a pleasure working with you in your
6 short time as interim acting. I'll get right
7 into the questions, and I'll go towards the
8 biggest highlights of your budget.

9 In the Article VII language it appears
10 that you are seeking authorization from the
11 Legislature to close up to five prisons with
12 90-day notice, and that authority lasts for
13 about a year. Is that correct?

14 DOCCS ACTING CMMR. MARTUSCELLO: Yeah,
15 that's correct. The Article VII language
16 would authorize the closure of up to
17 five correctional facilities with 90 days
18 notice to the leader and the Majority Leader.

19 ASSEMBLYMAN DILAN: So why this
20 authority over the authority you already have
21 under current law?

22 DOCCS ACTING CMMR. MARTUSCELLO: So
23 right now we are in a critical staffing
24 crisis. Right? We have 3,800 vacancies in

1 the system, of which 1,900 are correction
2 officers.

3 ASSEMBLYMAN DILAN: So the main
4 impetus for the closure of up to five are for
5 staffing reasons?

6 ACTING DOCCS COMMR. MARTUSCELLO: That
7 is the main impetus. But additionally we've
8 seen a 55 percent reduction in the
9 incarcerated population since our high. So
10 we are in a good position with excess
11 capacity. We have 6,000 vacant staff beds
12 and an additional 6,000 beds which we've
13 consolidated to try to alleviate staffing
14 concerns. We can't consolidate anymore. So
15 closures is a way forward so we can make sure
16 we use our staff more efficiently as well as
17 provide the services to the population.

18 ASSEMBLYMAN DILAN: Okay, also the
19 other major highlight of your budget was the
20 elimination of approximately 1500 FTEs. Are
21 these going to be done through attrition, or
22 do you anticipate current employees being
23 laid off?

24 DOCCS ACTING CMMR. MARTUSCELLO: I

1 have 3,800 vacancies. There's going to be no
2 layoffs through this process. We'll work
3 cooperatively with our employees, our unions.
4 I have jobs within the system to absorb
5 everyone. And if they so choose to go to
6 other agencies, they'll have priority
7 placement through the Department of Civil
8 Service if that's the case. I'd rather
9 retain my employees.

10 ASSEMBLYMAN DILAN: Okay. Does the
11 same criteria apply for non-correction-
12 officer staff as well?

13 DOCCS ACTING CMMR. MARTUSCELLO:
14 Correct. Nineteen hundred of the vacancies
15 are correction officers; the rest are within
16 our civilian ranks.

17 Again, I have enough vacancies to
18 absorb anybody that's impacted through the
19 closure process. There will be no layoffs.

20 ASSEMBLYMAN DILAN: Okay. So the
21 Article VII asks for the Legislature to give
22 you 90-day authority. How do you believe
23 this will impact your workforce? Is 90 days,
24 you know, enough time for folks to relocate

1 and --

2 DOCCS ACTING CMMR. MARTUSCELLO: So
3 again, the Article VII requires that we
4 provide 90 days to the Legislature prior to
5 closure. It doesn't mean that we may not
6 take longer. Right? So that's the first
7 thing.

8 Secondly, you know, I've been through
9 a lot of these closures. We've closed 27
10 prisons. I was the HR director, I oversaw
11 the administration, and I've been involved.
12 We have a good relationship with the unions.
13 Once the decision's made to do closures,
14 we'll go out there and meet with the impacted
15 staff. We have a 97 percent retention rate.

16 I find that doing it in a shorter time
17 period where there's certainty, we talk to
18 and effectively communicate and people
19 understand what their options are and
20 opportunities, and we've been successful.

21 So I think that where we are now with
22 vacancies, staff working double shifts,
23 giving up their regular days off, not
24 spending time with their family, it's

1 unsustainable. They need relief. The staff
2 need relief. And I know that this is a very,
3 you know, anxious time when closures -- it's
4 probably one of the worst things that I do as
5 commissioner, to call someone --

6 ASSEMBLYMAN DILAN: Sorry, I just want
7 to stop you short because time will run out.

8 ACTING DOCCS COMMR. MARTUSCELLO: It's
9 good.

10 ASSEMBLYMAN DILAN: But if we take
11 this action, how do you -- how do you expect
12 it to impact your shortage going forward?
13 Like how much of an impact do you think this
14 action will take?

15 ACTING DOCCS COMMR. MARTUSCELLO: So
16 if we look specifically at correction
17 officers, right now our vacancy rate is about
18 12.5. What's anticipated in the budget for
19 the savings associated with the closures,
20 we'll be able to cut that in more than half.

21 And then we have to still do
22 recruitment and retention initiatives, as
23 we've been doing over the course of the last
24 year, and work on the collective bargaining

1 agreement with our correction officer union.

2 ASSEMBLYMAN DILAN: Okay. So in terms
3 of individuals who are under custody, once
4 you decide to transfer them to whatever new
5 facility they're going to go to, how will
6 that process be facilitated? And with these
7 closures in general, is there a cost savings
8 to the state?

9 DOCCS ACTING CMMR. MARTUSCELLO: There
10 is a cost savings to the state in this fiscal
11 year. It's \$77 million.

12 When we move the incarcerated
13 population, each one has a risk and needs
14 assessment that's done upon intake. There's
15 a medical level, a security level, a mental
16 health level. So we make sure that we
17 associate them with a prison that can provide
18 the necessary services and then reengage them
19 in programs to make sure we're providing the
20 services that they need.

21 ASSEMBLYMAN DILAN: Okay, and I think
22 you've answered this question in private
23 conversations, but I want to get it for the
24 record. At this time do you know which

1 facilities you intend to close?

2 DOCCS ACTING CMMR. MARTUSCELLO: We
3 have not identified which facilities will be
4 impacted. Pending the outcome of the
5 Article VII, we will identify prisons moving
6 forward.

7 ASSEMBLYMAN DILAN: Okay. And I have
8 just one question on something that's in the
9 current year -- current year's budget. It's
10 about the approval for the body scanner
11 technology that we authorized last year.
12 Where are you in terms of the process of
13 adding this into operation in your
14 facilities?

15 DOCCS ACTING CMMR. MARTUSCELLO: Sure.
16 So the body scanner legislation required us
17 to promulgate regulations, as well as the
18 State Commission on Corrections. A few weeks
19 ago we adopted it after a public comment
20 period. SCOC adopted theirs last week. We
21 have a contract in place approved by the
22 state Comptroller, and we will be taking
23 delivery and begin training on the body
24 scanners starting the end of this month,

1 going into February.

2 We'll start with eight pilot sites and
3 then expand out to all the prisons across the
4 state will be fully operational.

5 ASSEMBLYMAN DILAN: Okay. And then I
6 just have one question on something that may
7 or may not have been a part of the
8 Clean Slate Act. It just appears that the
9 money was not in the Clean Slate Act, and I
10 wanted to see if it was in this budget. And
11 if it's not in this budget, are there any
12 plans in the works? And that's for the
13 digitization of records of folks under
14 custody for the purposes of the Parole Board,
15 the standing funding.

16 DOCCS ACTING CMMR. MARTUSCELLO: Yeah,
17 there was no funding associated with Clean
18 Slate for the digitization of Parole Board
19 records. I know it's something that Chair
20 Towns is interested in pursuing, so we'll
21 continue to have discussions relative to
22 that.

23 There's no funding specifically tagged
24 for that, but they have their own

1 appropriation. They do have funding
2 associated with this budget in a lockbox
3 which cannot be transitioned to the agency,
4 it's specific to the board. And then we
5 augment that funding.

6 So we'll continue to have those
7 conversations.

8 ASSEMBLYMAN DILAN: Okay, and then I
9 have one other question that I'm not sure who
10 it would be appropriate to at this table. It
11 may be appropriate for DCJS. If not, just
12 tell me.

13 And just -- the question was around
14 some Article VII changes for elevation of
15 crimes for deed theft. Is that something
16 that's in your purview. Or is that
17 potentially at another table?

18 DCJS COMMISSIONER ROSADO: Deed theft?

19 ASSEMBLYMAN DILAN: Yes. Another
20 table? Okay. Thank you.

21 Thank you, Mr. Chair.

22 DCJS COMMISSIONER ROSADO: We'll find
23 out.

24 ASSEMBLYMAN DILAN: Say that again?

1 DCJS COMMISSIONER ROSADO: We'll find
2 out for you.

3 ASSEMBLYMAN DILAN: Okay. It may be
4 in another table. Just for the purposes of
5 our briefing document, it was under this
6 table. And that's fine.

7 Thank you Mr. Chair.

8 CHAIRWOMAN KRUEGER: Thank you.

9 Senator Murray.

10 SENATOR MURRAY: Thank you very much.
11 And thank you all for being here. I really
12 appreciate everything you do. It sounds like
13 I'm losing my voice now too. Stop cheering.

14 For time purposes, I'm going to ask
15 you one question -- this is to Commissioner
16 Rosado. For time purposes, for this question
17 could you just give me a yes or no? As far
18 as crime statistics and data, has there been
19 a major change from last year to this year as
20 to how you collect and compile your data?

21 DCJS COMMISSIONER ROSADO: No. No.

22 SENATOR MURRAY: No, okay. So last
23 year -- and I've heard it mentioned twice now
24 about bail reform and crime being down, skies

1 not falling, et cetera.

2 So we had -- and Chairman Bailey put
3 together last year a hearing on crime
4 statistics right before the budget hearings.
5 So I was in that. We spoke. And in the
6 budget hearings we spoke. And I have the
7 transcripts here from the budget hearings.

8 In your testimony: "So DATs can be
9 issued for certain felonies and misdemeanor
10 charges that require fingerprinting at the
11 time of arrest."

12 Now, we had also talked about that the
13 process doesn't start as far as data
14 collection until the fingerprinting, until
15 they're processed, not when the DAT is
16 issued, the desk appearance ticket is issued.

17 So later on I asked you: "The
18 testimony was that if someone were
19 rearrested, released, rearrested again,
20 released -- and this happened 16 times --
21 they're counted as one rearrest. Is that
22 accurate?" Your answer: "In our data, yes."

23 So how do we say crime is down?
24 That's 16 crimes, not one crime. Yet we're

1 counting it as one crime.

2 So yesterday we were thinking about
3 how accurate are these stats. So one of my
4 staff members, Rick and I got on the computer
5 and we searched "How reliable are the crime
6 statistics in New York State?" And a DCJS
7 chatbot responded to us. We had a little
8 chat.

9 One of the responses was: The
10 reliability of these statistics is subject to
11 the accuracy and completeness of the data
12 provided by the reporting agencies. However,
13 the DCJS has implemented measures to ensure
14 the accuracy and completeness of the data."

15 Can you tell me what are the changes
16 or what are the measures that you've
17 implemented to correct this?

18 DCJS EX. DEP. COMMR. POPKIN: So --
19 thank you for your question, Senator. So
20 there's three different data reporting things
21 that you talked about. One is on crime
22 reporting, which is unchanged from last year.

23 So New York collects crime through the
24 reporting agencies through three different

1 programs. We use Uniform Crime Reporting, we
2 use the New York-based crime reporting, and
3 we use NIBRS, the national one that came in.
4 So all of the state's law enforcement
5 agencies fall under that.

6 The additional analysis that you've
7 talked about is the pretrial analysis that we
8 do and we now publish a supplement file in
9 addition to what OCA does. When we go to
10 generate that file -- I'm going quickly with
11 the 9 seconds. When we go to generate that
12 file, we overlay -- we don't touch the crime
13 data, we're looking at who comes in in terms
14 of fingerprintable arrests, which is where
15 the DAT issue comes in, and then who ends up
16 rearrested during that same period of time.

17 ASSEMBLYMAN DINOWITZ: Thank you.

18 CHAIRWOMAN KRUEGER: Thank you.

19 Assembly.

20 ASSEMBLYMAN DINOWITZ: Assemblymember
21 Levenberg.

22 ASSEMBLYWOMAN LEVENBERG: Thank you.

23 First I want to just thank you all so
24 much for your testimony. And to Commissioner

1 Martuscello, really great news about the much
2 lower rates of incarcerated individuals. And
3 just concerned a little bit, with five
4 facilities closing, if there will be
5 overcrowding. I don't know if you can
6 comment on that.

7 DOCCS ACTING CMMR. MARTUSCELLO: Yeah.
8 And again, it's up to five facilities. So it
9 depends on what facilities are selected.

10 But no, as I previously mentioned, we
11 currently have 6,000 vacant staff beds and an
12 additional 6,000 we have consolidated. So we
13 have no problem with overcrowding. We're
14 lucky to be in this position, to be able to
15 close prisons and to use staff more
16 efficiently.

17 ASSEMBLYWOMAN LEVENBERG: Also
18 grateful for the focus on rehabilitation,
19 knowing that 95 percent of those are going to
20 come out and breaking the cycle of
21 incarceration. I'd love to see that in your
22 testimony, sort of -- we need that.

23 There was a report by the New York
24 State Comptroller that said that the

1 proportion of incarcerated older people
2 continues to increase. Nearly one in four
3 people in New York prisons are older. His
4 key recommendation was that policymakers
5 should continue to look for ways to further
6 reduce the state's prison population,
7 particularly older individuals who pose a
8 reduced risk to society at large.

9 I know the Comptroller can't take
10 positions in most pending legislation and
11 neither can you. But do you generally agree
12 with him that policymakers should further
13 reduce the state's prison population,
14 particularly of older individuals who pose a
15 reduced risk to society at large?

16 DOCCS ACTING CMMR. MARTUSCELLO: So we
17 have about 4,800 individuals that are 55 and
18 older. If you look at -- if you go down to
19 50, we're a little over 9,000. In terms of
20 policymakers, again, I know there's some
21 legislation that's currently pending in both
22 houses which I can't comment on, which that
23 would absolutely have me doing. So I'm going
24 to -- I'm going to hold off on that comment.

1 ASSEMBLYWOMAN LEVENBERG: Okay. So do
2 you believe that expanding case by case
3 release opportunities for older adults is
4 preferable to attempting to retrofit prison
5 facilities into nursing homes?

6 DOCCS ACTING CMMR. MARTUSCELLO:
7 Listen, I believe that people come to prison
8 as punishment, not for punishment, and that I
9 believe in rehabilitation and I believe in
10 transformation.

11 So whatever laws that are on the
12 books, that's what we'll enforce on our side.
13 I have limited ability now under medical
14 parole, in working with the chair of the
15 Board of Parole. But beyond that, if there's
16 a law that passes, we'll certainly adhere to
17 that.

18 ASSEMBLYWOMAN LEVENBERG: Thank you.

19 And I just wanted, with my last 30
20 seconds, to mention that we've had some real
21 success with mobile crisis units in
22 Westchester County going out with police. So
23 I don't know who that goes with, but if there
24 is funding and it be can directed in that way

1 statewide, it's been really successful for us
2 and I'm grateful for that kind of an approach
3 to policing. So thank you.

4 CHAIRWOMAN KRUEGER: Thank you. Thank
5 you very much.

6 Next up we have Senator Hoylman-Sigal.

7 SENATOR HOYLMAN-SIGAL: Thank you,
8 Madam Chair.

9 Commissioner Martuscello, I just
10 wanted to thank for you being so responsive
11 to our office when we asked for statistics
12 regarding LGBTQIA data and gender-affirming
13 surgery.

14 Your office told us that upon our
15 request, that it received 148 requests for
16 gender-affirming housing but approved only
17 52; that it received 21 referral requests for
18 gender-affirming top surgery and completed
19 10; and that you received three referral
20 requests for gender-affirming bottom surgery,
21 as it were, and completed none of those
22 referrals. Can you explain the disparity
23 between the requests and what's been granted?

24 DOCCS ACTING CMMR. MARTUSCELLO: It's

1 a matter of the process. Right? So we have
2 outside providers that we contract with. We
3 fully support any transitional services that
4 are requested by individuals, or refer them
5 to specialists to make sure, just like in the
6 community, they go through a -- talk to a
7 psychologist and go through the full process
8 of working with a clinician.

9 On the bottom surgery specifically,
10 right now we don't have anybody that's
11 currently accessible to perform them. But we
12 have somebody that's expressed interest, and
13 they're trying to get credentials at a
14 hospital. So I am hopeful that here in the
15 coming months that we're going to have
16 somebody that does the bottom surgery so that
17 we can make sure that we can provide services
18 to that population.

19 SENATOR HOYLMAN-SIGAL: Thank you so
20 much. I really appreciate that response.

21 And can you just tell me quickly how
22 many older people are housed in the regional
23 medical units across the state with cognitive
24 impairments or terminal illnesses? Do you

1 have that number?

2 DOCCS ACTING CMMR. MARTUSCELLO: So I
3 can tell you that we have -- I think it's 352
4 beds. And again, it varies. It's not an age
5 thing, it's a diagnosis and what is the
6 actual health of the individual.

7 We can try to drill down if you're
8 interested in that break on age. But it
9 would be at a point in time, right, because
10 that changes, people transition, people go to
11 an outside hospital for a network, or they
12 transition in the GP. But we could pick a
13 date and time and we could do the analysis
14 for you.

15 SENATOR HOYLMAN-SIGAL: Okay, thank
16 you.

17 And, Commissioner Rosado, good to see
18 you. In 2022 we passed legislation requiring
19 that all newly manufactured pistols be sold
20 with microstamping technology. And part of
21 that law was that a study by your office
22 would be conducted within 180 days.

23 It's now been about two years, and I
24 think last budget session you told us it was

1 because of the lack of resources. I think
2 we've provided those resources. And could
3 you give us any timeline on this study?

4 Thank you so much.

5 DCJS COMMISSIONER ROSADO: Yes. We're
6 still in the process of it, so I don't have a
7 specific timeline.

8 I can tell you that we've been in
9 communication with our colleagues in
10 California and New Jersey and we're all kind
11 of head-scratching about how to find, you
12 know, the solution that we're looking for.
13 But we're on it.

14 SENATOR HOYLMAN-SIGAL: So will you be
15 able to report something to the Legislature
16 in the next six months as to progress?

17 DCJS COMMISSIONER ROSADO: Definitely
18 this year.

19 SENATOR HOYLMAN-SIGAL: Okay. Thank
20 you very much.

21 CHAIRWOMAN KRUEGER: Thank you.
22 Assembly.

23 ASSEMBLYMAN DINOWITZ: Assembly
24 Governmental Operations Chair McDonald.

1 ASSEMBLYMAN McDONALD: Thank you,
2 Chair Dinowitz. And thanks to all of you
3 today for your testimony and your hard work.
4 It's not easy by any stretch of the
5 imagination. I know particularly for
6 Corrections and State Police, recruitment is
7 a challenge. And at the same token it's
8 pretty clear by your reports that you're
9 trying to find the right balance going
10 forward to make sure everyone is treated
11 respectfully and that individuals,
12 particularly in Corrections, start to get
13 ready for the next chapter of their life.

14 So thank you for your work.

15 My question is for the State Police.
16 And Chris, I think I'll direct it at you,
17 since the acting superintendent either was
18 impersonating Sergeant Voight from
19 Chicago P.D. or he's got a pretty bad cold.
20 So we'll go with that.

21 So my question's on organized retail
22 theft. It's obviously inching up, and
23 Chairman Dinowitz was referencing some of
24 this. You know, people say, Well, it's only

1 happening in New York State, it must be
2 because of bail. And the reality is no,
3 organized retail theft is happening
4 throughout the country.

5 And I'm very pleased that the Governor
6 has committed resources in the Executive
7 Budget. And Commissioner, you mentioned
8 about \$15 million and where that's in your
9 little bucket of the world over there.

10 But from the State Police perspective,
11 how will the organized retail theft unit
12 within your agency tackle retail theft?
13 Without giving away the trade secrets.

14 ASST. DEPUTY SUPT. WEST: Well, I
15 think the superintendent mentioned earlier
16 that we're still in the process of working
17 out how that's going to be. But we're
18 definitely going to be working with our
19 partners in law enforcement.

20 And we also have units that we have
21 currently that we -- SIU and other units that
22 have already done that type of work
23 previously. So we're just hoping to boost
24 those numbers up, so.

1 ASSEMBLYMAN McDONALD: Do we have a
2 sense of what areas of retail -- have you
3 guys been able to at this point size up any
4 data on what areas of retail are most prone
5 to this or not? Or is that still in the
6 early stages?

7 ASST. DEPUTY SUPT. WEST: It's been
8 large box stores and some bodegas --

9 ASSEMBLYMAN McDONALD: If you could
10 move a little closer to the mic.

11 ASST. DEPUTY SUPT. WEST: Large box
12 stores and some bodegas have been hit pretty
13 heavily. But we have a plan, and there's
14 certain areas that certainly are being
15 impacted more than others. And we'll develop
16 a plan. We can't let you know the whole
17 plan, of course, but we're on top of it.

18 ASSEMBLYMAN McDONALD: One of the
19 other concerns that I have -- and, you know,
20 here in Albany County I work closely with our
21 sheriff, Sheriff Apple. You know, they're
22 doing their own little thing. But they could
23 use resources as well. So I expect that
24 there will be a close working relationship

1 with the local law enforcement jurisdictions
2 that are most prone to this.

3 ASST. DEPUTY SUPT. WEST: Yes. As I
4 mentioned, we are working closely with our
5 partners. I know Craig Apple very well, and
6 we work closely with him on other things, and
7 this will be no different. We'll be right
8 with him.

9 ASSEMBLYMAN McDONALD: I would also
10 think that -- you know, once again, this is
11 not just a New York State issue. This is a
12 Florida issue, it's a Texas issue. I hope
13 that there's some kind of work also with our
14 federal partners in regards to this effort as
15 well.

16 ASST. DEPUTY SUPT. WEST: I think
17 there's some studies that are undergoing
18 right now that are being done. I can't speak
19 for the other states as to, you know, how
20 their numbers are and different things.

21 But certainly we're open to working
22 with our federal partners in finding the
23 solution to help us out here in this state.

24 (Superintendent conferring.) He

1 mentioned that he wants to do federal
2 prosecution if it's large enough.

3 ASSEMBLYMAN McDONALD: Thank you. And
4 I hope that your cold abates itself
5 relatively soon.

6 ASST. DEPUTY SUPT. WEST: Thank you.
7 And I hope I don't catch his cold from him
8 breathing on me.

9 ASSEMBLYMAN McDONALD: If you need a
10 recommendation, I'll see you offline.

11 (Laughter.)

12 ASSEMBLYMAN McDONALD: I'm done.
13 Yeah, we save time around here.

14 ASSEMBLYMAN DINOWITZ: That's the
15 Assembly. Very efficient.

16 Next is Senator Stec.

17 SENATOR STEC: Good morning -- or good
18 afternoon, sorry. I'm going to be as fast as
19 I can, because three minutes to discuss the
20 items that I'd like to discuss with the
21 Department of Criminal Justice, DOCCS and
22 State Police just isn't enough.

23 The -- I've got eight correctional
24 facilities in my district. I used to have

1 10, and I've only been here three years.
2 I've talked to a lot of inmates in my
3 visits on the honor block, I've run into --
4 I've discussed in the honor block, and these
5 inmates on the honor block say that the folks
6 in RRU have more privileges, better access,
7 more freedom within the facility than the
8 general population and, frankly, even the
9 honor block.

10 Have you heard this, Commissioner?
11 And what does that say to you? To me, it
12 suggests that we're sending the wrong message
13 to the inmates that bad behavior is rewarded.
14 And that makes for a dangerous facility.

15 DOCCS ACTING CMMR. MARTUSCELLO: Yeah,
16 I have heard that anecdotally, as well as
17 directly from some incarcerated individuals,
18 and I really think what they're talking about
19 is the phone capabilities on the tablets in
20 the RRU.

21 So just a few months ago I
22 renegotiated a contract. We'll be installing
23 WiFi in all general population areas, which
24 will increase access to phones for all

1 involved. So I think that we will be on a
2 different footing once that happens.

3 SENATOR STEC: If I could interrupt,
4 though, they've also said that they had more
5 time outside the cell than -- the RRU people
6 did -- than the honor block and the general
7 population.

8 DOCCS ACTING CMMR. MARTUSCELLO: Yeah,
9 I don't agree with that. I mean, seven hours
10 out of cell in an RRU, therapeutic
11 programming and recreation, as opposed to
12 being in general population, between going to
13 meals, two program modules and then
14 recreation at some point, depending on what
15 your program schedule is, there's certainly
16 more opportunities. What they avail
17 themselves of, I think that's a different
18 discussion.

19 SENATOR STEC: If I could go on.
20 After HALT and after the closures, we've
21 seemed to concentrate the worst of our bad
22 apples. I've seen the data -- I'm sure you
23 have as well -- in the last six or seven
24 years, assaults on inmate -- inmate on inmate

1 and inmate on staff have both doubled in the
2 last seven years. It has took a spike in the
3 last two years since HALT.

4 The COs are getting stuck more and
5 more, and you're clearly having a hard time
6 recruiting more of them. Why is this? Why
7 can't we hire more COs? Is it because no one
8 wants to come to work there because it's not
9 safe?

10 DOCCS ACTING CMMR. MARTUSCELLO: No, I
11 don't believe that's the issue. I mean, I
12 think that we have a national shortage of
13 correction officers and in law enforcement in
14 general. So we're all fighting over the same
15 candidates, just --

16 SENATOR STEC: If I could interrupt,
17 Commissioner -- I'm sorry, I've got less than
18 three minutes. So in December of 2022 a
19 140-page document, the Prison Redevelopment
20 Commission Report was issued. It says
21 absolutely nothing. It's all fluff. It's
22 140 pages of fluff. It does say that it does
23 not anticipate any more prison closures, and
24 yet 13 months later we're closing five more.

1 I just want to close by saying that we
2 shouldn't close any more prisons until all
3 the closed and abandoned prisons are
4 repurposed, including whatever constitutional
5 amendments are needed in the Adirondacks, a
6 detailed plan for future closures is in place
7 first, and assaults come down out of the
8 stratosphere.

9 ASSEMBLYMAN DINOWITZ: Thank you.

10 Assemblymember Ra.

11 ASSEMBLYMAN RA: Thank you. Thank you
12 all.

13 I just want to go into one of the
14 crime areas that has certainly had an
15 increase over the last few years. And we're
16 very concerned with regard to auto theft.
17 And I know that, you know, there's a big
18 focus on the retail theft in this budget,
19 which is certainly welcome. But I'm just
20 wondering if there's anything going on with
21 regard to trying to find solutions for that
22 particular problem.

23 You know, a lot of the major cities
24 show really double-digit increases with

1 regard to auto theft.

2 ACTING STATE POLICE SUPT. CHIUMENTO:

3 Our community stabilization units that you
4 all approved have been assisting the local
5 PDs with grand larceny of vehicles -- as well
6 as our aviation unit -- setting up details
7 with Buffalo PD, Rochester PD. The CSUs have
8 ended up being very helpful in that arena.

9 DCJS COMMISSIONER ROSADO: I would add
10 with the CACs we saw a surge in the summer,
11 but we've seen a decline since then. And so
12 through the crime analysis centers we're
13 looking at, you know, the ways in which we
14 can support local -- I think in Rochester
15 there was a catalytic converter -- you know,
16 we had some efforts there.

17 We're kind of separating also what's
18 like a teen who steals a car in Niagara to
19 see his girlfriend in Buffalo and then leaves
20 the car, as opposed to the kind of more
21 organized efforts in auto theft. So we're
22 monitoring that.

23 ASSEMBLYMAN RA: And I had the
24 opportunity to talk to Commissioner Schroeder

1 yesterday about that. You mentioned the
2 catalytic converter thefts, and obviously the
3 Legislature had passed some legislation a few
4 years ago regarding tracking to try to really
5 cut down on that secondary market. So from
6 the I guess law enforcement side of it, how
7 is that going with working with the DMV and
8 trying to curtail the market for those types
9 of parts?

10 ACTING STATE POLICE SUPT. CHIUMENTO:

11 We haven't seen as many of them, of the
12 larcenies. We still have them, though.

13 ASSEMBLYMAN RA: Thank you.

14 On the correction side of things, you
15 know, one of the things that I certainly hear
16 a lot from -- I'm down on Long Island, so I
17 don't have quite as much interaction, at
18 least on a constituency level, with a lot of
19 the state prisons. But I know it's a problem
20 there as well with regard to sexual assault,
21 both, you know, between inmates and on
22 correction officers. And there's been some
23 efforts for a piece of legislation to
24 increase the penalties for that crime and to

1 better protect our correction officers.

2 Do you have any data within the
3 department as to, you know, what that problem
4 looks like over the last four or five years?

5 DOCCS ACTING CMMR. MARTUSCELLO: Yeah,
6 we could certainly share some data.

7 I would say in the last year we did
8 see two attempts on sexual assaults of staff,
9 one in Altona, where an incarcerated person
10 came behind a staff person, covered their
11 mouth and tried to take them to the floor.
12 Luckily other incarcerated individuals as
13 well as staff responded, and that was
14 averted. And there was a second instance.

15 I think what I'm seeing more of and
16 hearing from my workforce, as we recruit more
17 women into the ranks in what's predominantly
18 been a male-dominated environment, some of
19 the incarcerated are -- sexual harassment
20 more verbally than actual physical.

21 And again, no one should have to come
22 to work under those circumstances. So
23 anything that we can do to increase penalties
24 to protect our staff, I would absolutely be

1 supportive of.

2 ASSEMBLYMAN RA: And then in terms of
3 when those type of incidents happen,
4 reporting to local law enforcement,
5 follow-through, prosecution, how is that --

6 ACTING DOCCS COMMR. MARTUSCELLO: We
7 have a good relationship with the district
8 attorneys across the state. When it comes to
9 incarcerated prosecutions, we have a campaign
10 where we're educating them, because under
11 Correction Law we can actually reimburse
12 them. So if it comes down to a
13 dollar-and-cents thing, it doesn't have to
14 come out of their budgets.

15 And we also want to, you know, express
16 to them that's a deterrent. So even if
17 somebody's serving 25 years to life, we still
18 want to prosecute that individual because it
19 sends a message to them as well as the rest
20 of the population that that behavior is not
21 going to be condoned. And it really supports
22 our staff.

23 ASSEMBLYMAN RA: Thank you.

24 ACTING DOCCS COMMR. MARTUSCELLO:

1 Thank you.

2 CHAIRWOMAN KRUEGER: Thank you.

3 Senator Myrie.

4 SENATOR MYRIE: Thank you,

5 Madam Chair.

6 And I want to echo the sentiments of
7 Chair Salazar and Chair Bailey with
8 Acting Commissioner Martuscello. Appreciate
9 the open line of communication, and looking
10 forward to that continuing.

11 This question is for Commissioner
12 Rosado. You mentioned both in your written
13 testimony and your oral testimony about
14 programming. You mentioned specifically
15 after-school programming as one of the tools
16 that you guys are using to bring down
17 violence and gun crimes. And you mentioned
18 that the focus should be on preventive
19 measures.

20 Our hope and my hope, certainly, is
21 that on the after-school programming front
22 that we can expand that, and expand it
23 substantially, because it has proven to be a
24 tool to bring down crime.

1 So I'm hoping that you can speak to
2 what the department's experience has been
3 with this and speak to whether this is a
4 worthy endeavor for us to be expanding these
5 types of opportunities for our young people
6 who we know, from the times of 2 to 6 p.m.,
7 are most at risk for being justice-involved.

8 DCJS COMMISSIONER ROSADO: Yes. Well,
9 thank you for the opportunity to answer that.
10 Although it's not fully in my purview, you
11 know, we have the Office of Youth Justice.
12 We also have the Youth Justice Institute.
13 And we staff the J-JAG. And so we do have
14 kind of a pulse on the youth.

15 I want to say that I join you in my
16 concern. Our youth are in crisis, and this
17 is what we found when we went out to these
18 communities, that, you know, you could blame
19 the pandemic, you could blame just being
20 15 years old, you could -- there are a lot of
21 reasons.

22 But we also found, in communities like
23 in Utica, you know, I met with all the law
24 enforcement folks and they were complaining

1 about the kids. And then in the afternoon we
2 met with the community folks, and they said,
3 Well, you know, we used to have after-school
4 programs, but, you know, this mayor
5 discontinued those programs and so here we
6 are.

7 And I was actually surprised. We
8 heard this in Albany, Syracuse, across the
9 state -- Nassau County, where you had such a
10 rich infrastructure in the past of this
11 keeping kids, you know, busy after school.

12 And so in Buffalo there are four high
13 schools that get out at the same time, and so
14 like the downtown is overcome with all these
15 kids. But when we get right down to it,
16 they're just 15-year-olds who just got out of
17 school, and they're boisterous and they're
18 playing music. And sometimes -- the police
19 chief says sometimes they just run the
20 cruisers and turn on the sirens.

21 And so what we heard from our SNUG
22 team is, you know, kids want to be heard and
23 they want to be seen, and we seem as a
24 society not to want to hear or see them. And

1 so I think that's part of the crisis. And so
2 I welcome any partners in that work.

3 This year, I want to say, in '24 we
4 really have a chance beyond the crisis we
5 were in to deal with this. In fact, I said
6 to the police chief -- there was one in
7 Binghamton, the police chief said, I just
8 arrested a 9-year-old with a gun. And I
9 said, Chief, when you arrest a 9-year-old
10 with a gun, there are like 10 adults that
11 should be -- that you should be
12 investigating. That something went wrong
13 along the way.

14 And so I feel -- I believe that to my
15 core. And so my staff, you know, at DCJS,
16 we're really looking at youth well-being as a
17 kind of general topic and how we bring other
18 folks in other agencies to the table on that.

19 CHAIRWOMAN KRUEGER: Thank you.

20 Assembly.

21 ASSEMBLYMAN DINOWITZ: Assemblymember
22 Palmesano.

23 ASSEMBLYMAN PALMESANO: Yes, my
24 question is for Commissioner Martuscello, on

1 corrections.

2 As we know, I believe since 2011,
3 approximately 29 correctional facilities have
4 been closed down. We know the damaging
5 effects it has on employees, families and the
6 community. Now the Governor wants to close
7 five additional facilities with only 90 days
8 notice. The law would require --

9 ASSEMBLYMAN DINOWITZ: Move the mic
10 closer. Move the microphone closer to you,
11 please.

12 ASSEMBLYMAN PALMESANO: Okay. So the
13 law requires 90 days -- one year and one
14 90 days. I really believe this is an insult
15 to the brave men and women who work a
16 dangerous job to keep us safe. You know,
17 90 days to uproot your family, find new
18 schools, find a new home. That's not enough.
19 I know -- I knew employees who worked at
20 Livingston, then Gowanda, then Southport.

21 I mean, these are people with families
22 and lives, and we should be respecting that.
23 One year is bad enough, but 90 days is an
24 insult. This Legislature has the opportunity

1 to reject that. And I think we should reject
2 that.

3 I firmly believe also, Commissioner,
4 that the prison closures that we've had,
5 coupled with not providing tools and
6 resources but probably more so taking away
7 important tools and resources, like the
8 ability to segregate the most dangerous and
9 violent inmates in our facilities, has
10 created a powder-keg environment inside our
11 correctional facilities.

12 Now we're looking to jam even more
13 violent offenders into fewer facilities,
14 including our medium facilities, which have
15 seen a tripling of assaults since the
16 implementation of HALT. And as you said, the
17 prison population has decreased from 56,000
18 to 32,000 -- but over that time, assaults on
19 staff have increased 197 percent; assaults on
20 inmates have increased 217 percent, with no
21 answers or studies of why this is happening.

22 But then to make matters worse, my
23 colleagues and the Executive decided to pass
24 what I believe is the most damaging piece of

1 legislation that I've seen in this body, the
2 HALT Act. And since that time -- and I know
3 you gave statistics from a year ago. Over
4 that two-year period, inmate-on-staff
5 assaults have increased 42 percent, an
6 increase of 500 assaults on our corrections
7 officers and staff to 1600. And maybe for my
8 colleagues on the -- inmate-on-inmate has
9 increased 90 percent, over a thousand in the
10 past two years.

11 Commissioner, we have a powder-keg
12 environment inside our correction facilities,
13 a violence crisis and also a staffing crisis.
14 I've talked to numerous COs around the state,
15 in my district and nearby. The morale is
16 down. Mandated overtime. Uncertainty around
17 prison closures. HALT. Violence. They
18 don't feel like we have their backs. They're
19 resigning, they're retiring, they're quitting
20 the academy.

21 So my question, then, you did say
22 safety is paramount to you and the
23 department, and I believe you. I want to
24 know what are you -- what is the department

1 and the Governor specifically doing to ensure
2 the protection of our staff and even inmates
3 working inside these facilities from these
4 violent assaults? Isn't it time that we
5 should -- wouldn't you agree that we have to
6 reassess HALT and I would say repeal HALT,
7 allow for the segregation of the most violent
8 inmates inside our correctional facilities,
9 invest more resources for more staff, give
10 them better pay, give them better benefits,
11 give them more tools, allow for the use of
12 body scanners and drug dogs -- not just at
13 some facilities, but every facility around
14 the state, because we know that keeps the
15 drugs out and the contraband out in the
16 facilities as well.

17 What are we going to do from that
18 perspective to help address that issue,
19 Commissioner?

20 ACTING DOCCS COMMR. MARTUSCELLO: Yes,
21 so you said a lot there, Assemblymember, and
22 I appreciate your question and your comments.
23 I'll try to dissect it and hit on all your
24 points.

1 In terms of the staff, look, I've
2 talked with the staff myself. They are
3 overworked, they're burned out, they're
4 working doubles, they're giving up time with
5 families, they're giving up their RDOs.
6 Nineteen hundred. That keeps me awake at
7 night. And knowing that that's the impact
8 and they don't have that work/life balance is
9 troubling to me.

10 And it's not an easy decision to close
11 prisons. But because of the excess capacity,
12 this will allow staff to have that balance
13 and reduce our vacancy rate.

14 In terms of violence, you know, our
15 demographics of our population have changed.
16 Right now we are at 73 percent violent felony
17 offenders. And if you look at past
18 convictions, that number jumps to 82 percent.
19 Now, it is a small number. You know, when I
20 say small, probably about 2500 people are
21 involved in violence within our institutions.
22 And we have seen increases in violence. I'm
23 not minimizing any of the assaults on staff
24 or the assaults on incarcerated.

1 But when I look at it through the lens
2 of a national organization, the American
3 Correctional Association, they look at
4 degree-of-injury-associated assaults:
5 97 percent of the injuries of staff are
6 either no injury or minor injury. Again, I
7 don't want to see any assaults. Same thing
8 with incarcerated. Right?

9 So we have a Prison Violence Task
10 Force. We've taken a lot of steps in drug
11 interdiction, rolling out new programs on
12 moderate aggression behavior, advanced
13 aggression behavior. We're engaged with our
14 research team about trying to use our data to
15 do predictive analysis so our staff can
16 intervene early before somebody engages in
17 aggression against an incarcerated or against
18 a staff person. And we're also talking to
19 academia -- I am in a blackout period because
20 of those discussions, but to study prison
21 violence.

22 ASSEMBLYMAN PALMESANO: I'd love to
23 talk to you more offline about some of those
24 subjects.

1 ACTING DOCCS COMMR. MARTUSCELLO: Love
2 to continue the conversation.

3 CHAIRWOMAN KRUEGER: Hello. Thank you
4 very much. Our next is Senator Gonzalez.

5 SENATOR GONZALEZ: Thank you,
6 Chairwoman.

7 My first question, very briefly, is
8 for the New York State Division of
9 State Police. I'd just like a little bit
10 more information on the five social media
11 analysts that you mentioned, what their role
12 and responsibilities are.

13 ACTING STATE POLICE SUPT. CHIUMENTO:
14 So social media analysts are -- we use them
15 for bias crime and school threats and threats
16 to the communities.

17 So what they're doing is they scan
18 social media and if they see something that
19 somebody says "I'm going to go to the school
20 tomorrow and take care of those people," they
21 see something like that -- it's open source
22 is what they're scanning. And once they see
23 that, they let the agency know, or us, and we
24 go look into it.

1 SENATOR GONZALEZ: Right. We'll
2 definitely follow up for more information.

3 I think, you know, it's great to
4 ensure that we are, you know, making our
5 school systems safe, making people feel as
6 safe as possible. But I think in the past
7 we've heard some privacy concerns and also if
8 it's surveilling social media, especially
9 for -- we hear about young people a lot. It
10 can be disproportionately targeted towards
11 certain communities.

12 So curious just like what the
13 distribution is. But we can definitely
14 follow up and talk a little bit more about
15 that.

16 My second question is for the DOCCS
17 commissioner, who I see has been very popular
18 today with questioning. So I'm also chair of
19 Internet Technology, and a priority of mine
20 is expanding personal data protection from
21 government, corporate surveillance. And one
22 thing that had been brought to my attention
23 for the committee is a contract that DOCCS
24 had entered into with Securus Technologies.

1 And so Securus Technologies is --
2 does, from what I understand, a large variety
3 of things for our system, but one thing is
4 recording. And according to the Times Union,
5 in an article last year it stated that
6 Securus records phone conversations between
7 incarcerated individuals and their families,
8 children -- but, most concerning, legal
9 representatives, which sometimes then get
10 passed along.

11 So I'm just curious, you know, are you
12 aware of this? Does DOCCS store these
13 recordings? And aside from the normal
14 security practices, are you using them for
15 any other purpose?

16 ACTING DOCCS COMMR. MARTUSCELLO:

17 Yeah, thank you for your question.

18 So we do contract with Securus. We do
19 record all phone calls. However, different
20 than other systems -- and I think the
21 Times Union article was talking mostly about
22 New York City and the legal calls. We
23 actually have a different process off of that
24 platform. We run our legal calls through

1 legal phone booths, which are on the
2 administrative network, and they are not
3 recorded.

4 Now, obviously I can't control if an
5 incarcerated individual adds their lawyer to
6 their Phone Home program and they utilize the
7 incarcerated Phone Home program. But that's
8 not the intent. We set up legal calls off of
9 that network because we don't want to record
10 that.

11 SENATOR GONZALEZ: Got it.

12 ACTING DOCCS COMMR. MARTUSCELLO: We
13 do have an overlay policy where we are
14 listening --

15 SENATOR GONZALEZ: And -- sorry.

16 ACTING DOCCS COMMR. MARTUSCELLO: --
17 when we listen to -- go ahead.

18 SENATOR GONZALEZ: And briefly,
19 they're also implementing new text technology
20 like AI for the recordings between not legal
21 representatives. I know those are digital
22 prints, so we'd want to follow up with you to
23 know if we're also using digital prints too.

24 CHAIRWOMAN KRUEGER: (Mic off;

1 inaudible.)

2 SENATOR GONZALEZ: Yeah, I heard you.

3 Thank you.

4 ASSEMBLYMAN DINOWITZ: Assemblymember

5 Walker.

6 ASSEMBLYWOMAN WALKER: Thank you.

7 So I'm -- I have a question as to the
8 Governor's proposal under Article VII, the
9 addition of 33 crimes ranging from
10 misdemeanors to felonies. Can someone speak
11 to me about the basis for this proposal? I
12 didn't see it in anyone's testimony, and so
13 I'm a little confused as to who'd be
14 addressing this issue.

15 DCJS EX. DEP. COMMR. POPKIN: You're
16 talking about the hate crimes proposal?

17 ASSEMBLYWOMAN WALKER: Yes.

18 DCJS EX. DEP. COMMISSIONER POPKIN:
19 Yes, I think the Governor included an
20 Article VII expanding penalties for 33
21 different types of penal offenses that would
22 then be applicable for the hate crimes
23 elevator if there were elements of bias
24 indicated by that criminal behavior.

1 ASSEMBLYWOMAN WALKER: So were there
2 any -- can you talk to me a little bit about
3 the perhaps statistics that would support the
4 addition of 33 new crimes?

5 DCJS EX. DEP. COMMR. POPKIN: I think
6 the -- you know, as the commissioner talked
7 about, the Governor has been engaging a lot
8 of communities particularly in the last
9 quarter of the year, when we've seen an
10 increase. I believe NYPD statistics are that
11 their hate crimes doubled from what they had
12 seen in the three months prior.

13 We had seen, in the beginning of last
14 year, a decrease in hate crimes. But we have
15 seen over the last three or four months a
16 significant increase in hate crimes reported.
17 And that's under the current definition.

18 But I know that there are reports
19 coming from, you know, the press and other
20 media outlets about additional types of
21 criminal behaviors that are -- that have a
22 bias motivation behind them.

23 ASSEMBLYWOMAN WALKER: Well, I'm
24 always cautious about the media sort of

1 informing criminal justice, you know, across
2 the State of New York. But I'd love to
3 continue to have that conversation with you.

4 And also I'd like to know about the
5 technological infrastructure with respect to
6 discovery or compliance with discovery
7 requests, et cetera, for our indigent legal
8 services organizations and other legal
9 services groups -- Legal Aid, et cetera.

10 DCJS EX. DEP. COMMR. POPKIN: Yes. So
11 I believe, as ILS testified, DCJS's budget
12 has been expanded to include a tremendous
13 amount of support, over \$200 million for
14 discovery implementation. So last year we
15 did \$50 million in capital funding for
16 New York City to be able to have a
17 data-sharing and centralized case management
18 system. We've long supported NYPTI's DEMS
19 system -- Digital Evidence Management
20 System -- which serves all the other counties
21 throughout the state. We also fund the
22 defenders' discovery management system as
23 well.

24 So really DCJS is trying to fund

1 solutions that tie together technology and
2 information so that both prosecutors and
3 defenders are able to certify readiness under
4 the discovery obligations.

5 ASSEMBLYWOMAN WALKER: Awesome. And
6 is the NYPD also included in these resources?

7 DCJS EX. DEP. COMMR. POPKIN: Yes. We
8 allocated last year \$1 million, \$950,000 to
9 be exact, to the NYPD to do an API, an
10 automated push for information to those
11 systems we talked about.

12 ASSEMBLYWOMAN WALKER: Thank you.

13 CHAIRWOMAN KRUEGER: Thank you.

14 Senator Palumbo, five minutes.

15 SENATOR PALUMBO: Thank you,
16 Madam Chair.

17 I just want to follow up on
18 Senator Murray's question regarding the
19 processing of DATs and fingerprinting.

20 So it's my understanding that -- I
21 guess based on some testimony last year that
22 the -- an arrest, quote, for the purposes of
23 DCJS recording was based upon a
24 fingerprintable offense. Is that accurate?

1 DCJS COMMISSIONER ROSADO: Not DCJS.

2 But local law enforcement, yes.

3 DCJS EX. DEP. COMMR. POPKIN: Yes.

4 DCJS tracks the -- once the fingerprint is
5 taken. But we know that the DATs in New York
6 City, 99 percent of the DATs are
7 fingerprinted the same day. Outside of
8 New York City, over 90 percent are done
9 within five days.

10 SENATOR PALUMBO: Got it. Okay. So
11 on those where they're -- as the example is
12 given by Senator Murray, where they're
13 aggregates, of course. On the NYSIIS it
14 ultimately reads that those, because they're
15 separate offenses on separate dates, do they
16 read as -- they read as separate arrests.
17 Like when you look at the face sheet, it
18 indicates how many arrests, how many
19 warrants, how many convictions, right? Does
20 that -- does it account for them separately
21 in that circumstance?

22 DCJS EX. DEP. COMMR. POPKIN: In a rap
23 sheet or a criminal history, you would see
24 all of the instances of the arrest, correct.

1 SENATOR PALUMBO: As separate.

2 DCJS EX. DEP. COMMR. POPKIN: As
3 separate, yes.

4 SENATOR PALUMBO: Okay, great. Thank
5 you.

6 So -- and my questions are going to --
7 we only have a little bit of time -- are
8 going to ultimately circle around a lot of
9 these statistics that we talk about. Because
10 that becomes, you know, the political
11 football, where we're saying that crime
12 anecdotally is down, or you can say broad
13 strokes, well, shootings are down but
14 larcenies are up an outrageous number year to
15 year. And if you go pre-pandemic to today,
16 these numbers are pretty staggering.

17 And the hate crimes, I saw this in a
18 letter from the Manhattan district attorney's
19 office -- my alma mater many moons ago; I was
20 there for 14 months -- that the hate crime is
21 just soaring right now. And that citywide,
22 crimes -- reported hate crimes from 2015 to
23 2022 doubled. And then in October '23 they
24 more than doubled compared to a year before,

1 October 2022. And I guess that -- and I'm
2 assuming for sure that's why a lot of this
3 was addressed in the Governor's budget.

4 And again, as far as those numbers are
5 concerned, do you have any comments on -- any
6 other suggestions that we might consider as a
7 legislature, as far as from any of the
8 agencies, of course all the law
9 enforcement -- do you have any comments on
10 how you think we could rectify that? Maybe
11 aggregating?

12 And just one more comment -- maybe you
13 comment generally on both of these, because
14 I'm always -- I'm getting low on time -- as
15 far as retail theft.

16 Because I'm just thinking maybe
17 aggregating the amounts, the difference
18 between -- for example, with narcotics, if
19 you have multiple sales on multiple dates of
20 a controlled substance, on the state level
21 you can't aggregate the weight but on the
22 federal level you usually can. So if it's
23 multiple small drug deals, you can aggregate
24 it to increase the penalty.

1 Anything like that have you -- would
2 you consider? Do you have any comments in
3 that regard? I'd really like to hear your
4 input.

5 ACTING STATE POLICE SUPT. CHIUMENTO:
6 Anything that helps us -- you know, we
7 enforce the laws. If the body comes up with
8 something that helps, we definitely would
9 look at that.

10 SENATOR PALUMBO: Understood. And I
11 think, you know, obviously larceny has been
12 an issue since the dawn of man and -- and
13 woman. But obviously we now have these
14 organized groups which are clearly -- and I
15 guess the smash-and-grab task force that's
16 being created will certainly address that
17 more comprehensively. But, you know, people
18 steal for a number of reasons, whatever --
19 you know, drug issues. A lot of them are
20 personal issues to themselves -- poverty,
21 whatever it may be. But when you're, you
22 know, putting masks on, smashing into
23 Louis Vuitton and cleaning all the shelves,
24 that's for economic gain. That's not your

1 typical larceny.

2 So those are the things that I think
3 we should address. And I think I'm just
4 more -- it's more of a comment than anything,
5 that we need to -- those are the crimes that
6 we need to focus on. And we should really
7 consider, if not aggregating the penalty as
8 we increase in value -- you can add that
9 value and get you further up the line on the
10 larceny scale -- or ultimately, although
11 there may not be injury, treat it almost like
12 a robbery in that circumstance.

13 DCJS COMMISSIONER ROSADO: Yes. And
14 the money coming --

15 SENATOR PALUMBO: I don't know if you
16 have any further comments. We have
17 30 seconds.

18 DCJS COMMISSIONER ROSADO: The money
19 coming to DCJS is precisely to look at that,
20 the data, you know, on a region-by-region and
21 to separate what is, you know, poverty and
22 addiction from what is this organized attempt
23 to kind of destabilize a community.

24 SENATOR PALUMBO: Thank you,

1 Commissioner. Thank you all.

2 CHAIRWOMAN KRUEGER: Thank you.

3 Assembly.

4 ASSEMBLYMAN DINOWITZ: Assemblymember

5 Bores.

6 ASSEMBLYMAN BORES: Thank you.

7 My first question is for the State
8 Police. Last year there was a one-time
9 allocation for a forensics lab, \$100 million,
10 which is not in the budget this year. It's
11 great when one-time allocations are actually
12 one-time allocations.

13 Could you just give an update on the
14 lab? Is that already built? Is that
15 working? Does it need future funding?

16 ACTING STATE POLICE SUPT. CHIUMENTO:
17 So we've purchased the building, and now it
18 has to be retrofitted. And that's only for a
19 satellite lab. That's not for the -- to
20 replace the Forensic Investigation Center.
21 That's just to make room for the other things
22 that are going into the Forensic
23 Investigation Center. We're going to take
24 units out of there and put them in the

1 satellite lab.

2 ASSEMBLYMAN BORES: So should we
3 expect future requests in order to finish
4 that? Or is that --

5 ACTING STATE POLICE SUPT. CHIUMENTO:
6 I can't tell you that. I can tell you it
7 takes two to three years to build that out.
8 I think we're in a good area for the amount.
9 But, you know, costs change.

10 ASSEMBLYMAN BORES: Okay. Well, we'll
11 look forward to more on that coming online.

12 And then for Corrections. I
13 apologize, I think this will be a frustrating
14 question. But since 2011-2012 -- and I'm
15 just choosing that date because that was what
16 the correction officers in PBA started their
17 chart on, and I'm rounding here -- the prison
18 population has gone down 40 percent or so,
19 funding has gone up 15 percent or so. Yes,
20 less than inflation, but in raw dollars.
21 Assaults on staff have gone up 220 percent or
22 so. Assaults on inmates have gone up
23 220 percent or so.

24 Obviously you've only been in the top

1 job for half a year, but you've been with the
2 department for quite some time. So first of
3 all, are those numbers roughly correct? I
4 mean, I'm rounding, but is that roughly in
5 line with what you report?

6 DOCCS ACTING CMMR. MARTUSCELLO: Yeah,
7 I mean -- the numbers all look -- we're year
8 to year, but it doesn't sound like they're
9 off. I mean, violence is definitely up
10 amongst -- assaults on staff and incarcerated
11 on incarcerated assaults. And we have
12 decreased prisons over that time.

13 ASSEMBLYMAN BORES: Totally.

14 ACTING DOCCS COMMR. MARTUSCELLO: So
15 in terms of funding --

16 ASSEMBLYMAN BORES: I guess the
17 broader question, then, is, you know, what
18 can you say to give us confidence that we're
19 going to be turning the department around? I
20 mean, those are pretty damning numbers for a
21 decade. And we'd really just love to see the
22 improvement there.

23 So the floor is yours in why should we
24 have confidence in it.

1 DOCCS ACTING CMMR. MARTUSCELLO: Yeah,
2 I mean, listen, you know, we're bringing all
3 stakeholders to the table -- the prison
4 violence task force and superintendents from
5 across the state as well as union
6 representatives, line staff. We're listening
7 to the line staff.

8 As I mentioned earlier, we've also
9 introduced new programs. Programs don't
10 change behavior overnight. Staff have to do
11 a good job in making people believe that they
12 can see transformation in themselves. It's
13 probably one of the hardest jobs we have, is
14 changing the hearts and minds of people.
15 Looking at predictive analysis through my
16 research team so we can identify where
17 somebody may be going down a bad path or may
18 have a trigger. And early intervention I
19 think will be key in leveraging that moving
20 forward.

21 ASSEMBLYMAN BORES: Thank you.

22 CHAIRWOMAN KRUEGER: Thank you.

23 Senator Tom O'Mara.

24 SENATOR O'MARA: Good afternoon.

1 A couple of questions for the State
2 Police relative to the ammunition background
3 checks.

4 What's taking place to increase the
5 efficiency of that? My office is still
6 getting a lot of complaints about delays in
7 that. And representing a district that's
8 along the Pennsylvania border, there's a lot
9 of people going across the border to buy
10 their ammunition there because they don't
11 have the wait lags that they have in
12 New York. And that's impacting the gun shops
13 across the Southern Tier and in the
14 Finger Lakes.

15 And second to that is I have a
16 significant Amish and Mennonite community in
17 the Finger Lakes, and more so the Amish
18 community inability to get photographic
19 identifications for a religious basis. How
20 -- is there anything underway to be able to
21 allow them to get through the ammunition
22 background check without a photo
23 identification?

24 ACTING STATE POLICE SUPT. CHIUMENTO:

1 So I'll take your second one first. I wasn't
2 aware of that, but we'll look into that
3 about --

4 SENATOR O'MARA: We've called the
5 department several times on it.

6 ACTING STATE POLICE SUPT. CHIUMENTO:
7 I don't have anything on that.

8 The first question then. The delays
9 are less than 1 percent, of the people that
10 are getting delayed. Out of 277,000 tests as
11 of today, there's less than 300 people that
12 are still on a delay status. And there's a
13 lot of reasons for that.

14 There were also delays with the
15 federal background check when it came to
16 guns. Obviously there was no ammunition
17 checks, but now we do the ammunition checks,
18 so you would expect ammunition delays just
19 like you would with the guns.

20 SENATOR O'MARA: Is there anything
21 underway to get a better system with regards
22 to the semiautomatic rifle purchases? It's
23 kind of been left up to the counties to
24 figure out what kind of permit process

1 they're going to have. And most of the
2 counties I'm hearing of are just saying,
3 Well, you've got to go through the whole
4 pistol permit process.

5 Do you have anything going on to have
6 a differentiation there for counties to be
7 able to -- because it doesn't -- they don't
8 need to go through that whole process of a
9 handgun license to get the semiautomatic
10 rifle, is my understanding.

11 ACTING STATE POLICE SUPT. CHIUMENTO:
12 Well, you're asking -- talking about the
13 semiautomatic rifle amendment, like the
14 license can get amended to your pistol
15 permit? Is that what you're asking? Is that
16 what you're saying?

17 SENATOR O'MARA: Excuse me?

18 ACTING STATE POLICE SUPT. CHIUMENTO:
19 The semiautomatic rifle license, like for
20 a -- like a 10/22, gets amended to your
21 pistol permit.

22 SENATOR O'MARA: No. If you don't
23 have a pistol permit and you want to go in
24 and buy that semiautomatic .22. The counties

1 aren't coming up with a process that's
2 separate and distinct from --

3 (Overtalk.)

4 ACTING STATE POLICE SUPT. CHIUMENTO:
5 No, they're doing the same process now with
6 the pistol permits.

7 SENATOR O'MARA: Hmm?

8 ACTING STATE POLICE SUPT. CHIUMENTO:
9 They're doing the same process they do with
10 the pistol permit now, is that -- I'm asking,
11 is that what they're saying to you?

12 SENATOR O'MARA: That's what I'm
13 hearing from, from -- yeah, from my county
14 clerks and from purchasers, somebody that
15 wants to purchase a semiautomatic rifle,
16 doesn't have a handgun permit, and they're
17 being told by the counties that the only
18 process they have is to go through the whole
19 full --

20 ACTING STATE POLICE SUPT. CHIUMENTO:
21 Yeah, that's up to the individual counties
22 how they determine to do that.

23 SENATOR O'MARA: Okay. Well, that's a
24 problem that we're looking at.

1 Okay, thank you.

2 For DOCCS. Commissioner Martuscello,
3 good to see you. So you haven't identified
4 the prisons that are going to be closed. You
5 have identified an amount of savings that the
6 state is going to have from closing these
7 prisons.

8 Have you identified what types of
9 prisons are going to make up these closures?
10 And why do we need a 90-day quicker approval
11 process if you haven't even identified what
12 you want to close yet.

13 DOCCS ACTING CMMR. MARTUSCELLO: Yeah,
14 we have not identified the prisons nor the
15 types of prisons. We'll undergo that
16 analysis.

17 In terms of the 90 days, as I
18 previously testified, we are really at a
19 critical shortage of staff. We need to
20 provide staff relief. You know in your
21 district our staff are working doubles,
22 they're working on their regular days off,
23 giving up sometimes both days off.

24 We need to make sure that we --

1 SENATOR O'MARA: So are we closing
2 prisons because of the staffing issues? Or
3 are we closing prisons because of the drop in
4 inmate population?

5 DOCCS ACTING CMMR. MARTUSCELLO: The
6 benefit of having a drop in the incarcerated
7 population allows us to safely close prisons
8 and deal with the staffing crisis.

9 SENATOR O'MARA: Well, what's driving
10 it here? The inmate population or the lack
11 of staff?

12 ACTING DOCCS COMMR. MARTUSCELLO:
13 Well, the lack of staff is of critical
14 concern to me. And where a benefit of
15 decreasing crime over years and having a
16 decreased population, that will allow us to
17 do so.

18 SENATOR O'MARA: Okay. I have three
19 seconds, I'm out of time. I'm not even going
20 to try it. Thank you.

21 (Laughter.)

22 ACTING DOCCS COMMR. MARTUSCELLO:
23 Thank you, sir.

24 CHAIRWOMAN KRUEGER: Thank you.

1 ASSEMBLYMAN DINOWITZ: Assemblymember
2 Burdick.

3 ASSEMBLYMAN BURDICK: Thank you.

4 This is for Acting Commissioner
5 Martuscello. In the interests of time, I
6 have some questions that I'll submit to the
7 chair asking that they be submitted to you.

8 I first want to thank you for the work
9 that you're doing and the emphasis that
10 you're placing on education and reentry
11 programs -- since we I think all recognize
12 that they certainly reduce recidivism -- and
13 for working so well with community-based
14 organizations and providers.

15 I am concerned about the upstate
16 facilities, which seem to have a paucity of
17 these programs, reentry programs, and
18 particularly in connection with what might be
19 on the list for closures. And how that might
20 affect the reentry programs in terms of
21 either getting them established or expanding
22 them.

23 And I have a couple of specific
24 questions regarding facilities that are in my

1 own district. Will you be investing capital
2 into Taconic and renovating the Stewart House
3 at Bedford Hills?

4 DOCCS ACTING CMMR. MARTUSCELLO: Yes,
5 I appreciate your question. Obviously, you
6 know, when I took over as acting
7 commissioner, one of the things I did was
8 establish a provider advisory council to
9 bring people in to provide services, to
10 ensure that we can expand that throughout the
11 state. So that's critically important to me.

12 In terms of the capital budget, every
13 facility has a five-year capital plan,
14 including Taconic and Bedford Hills. Right
15 now we don't have specific dollars set aside
16 for that because we have other infrastructure
17 inside that directly provide services to
18 incarcerated people inside of the
19 institutions, as well as staff. So that's
20 the primary focus.

21 But we've had many discussions over
22 the last year on the Stewart House. I don't
23 think it's off the table to further those
24 discussions. I know there were some private

1 investors that may be interested. But the
2 capital budget is really focused on the
3 internal infrastructure of the institution.

4 ASSEMBLYMAN BURDICK: So Taconic has
5 its own five-year capital budget too, right?

6 DOCCS ACTING CMMR. MARTUSCELLO: Every
7 facility has a five-year capital --

8 ASSEMBLYMAN BURDICK: And -- and
9 expanding the programs upstate, the reentry
10 programs?

11 DOCCS ACTING CMMR. MARTUSCELLO: Yeah,
12 absolutely. I mean, we're under contract
13 negotiations. But like organizations like
14 Rehabilitation Through the Arts and Osborne
15 and things like that, they're really
16 transformative in the work that they do --

17 ASSEMBLYMAN BURDICK: Just one quick
18 one, then.

19 I understand that some of these
20 programs are tied specifically to a facility.
21 Is that going to cause a problem if you have
22 a closure and it can't really be transferred
23 over because you don't have the personnel to
24 administer it?

1 ACTING DOCCS COMMR. MARTUSCELLO: We
2 have flexibility in our contracts to relocate
3 programs and work with our providers to do
4 so. So at this point we don't know which
5 facilities we'll be closing, but anything
6 that we can move, we will be facilitating
7 that movement to continue to provide services
8 to the population and certainly to our staff.

9 ASSEMBLYMAN BURDICK: Great, thank
10 you. And hope to get you to one of my
11 advisory committee meetings.

12 DOCCS ACTING CMMR. MARTUSCELLO: Look
13 forward to it. Thank you.

14 ASSEMBLYMAN BURDICK: Thanks so much.

15 CHAIRWOMAN KRUEGER: Thank you very
16 much. Senate next? Yes.

17 We have one last Senator,
18 Senator Salazar, three-minute second round as
19 a chair.

20 SENATOR SALAZAR: Thank you, Chair.

21 Mr. Martuscello, I'm back with more
22 RRU-related questions.

23 Do you recall the former Merle Cooper
24 Program that existed at Clinton Correctional

1 Facility? It's been a little while, but it
2 existed there for decades and concluded in
3 2013 -- or at least it stopped being offered
4 there in 2013.

5 DOCCS ACTING CMMR. MARTUSCELLO: Yeah,
6 I certainly recall it. How much specificity
7 I could speak to it -- I could certainly get
8 you information. But glad to try to answer
9 any questions.

10 SENATOR SALAZAR: Yeah, sure. I
11 mention it because from everything that I've
12 heard about the Merle Cooper Program, it was
13 really successful for people who were deemed
14 at high risk of recidivism. And it was
15 praised by people who worked in the program,
16 DOCCS staff, you know, incarcerated
17 individuals who went through it.

18 Do you think that it would make
19 sense -- and of course this would rely on
20 resources, and that's why we're here, to talk
21 about it. Do you think it would make sense
22 for the department to operate RRUs in a way
23 that emulates the Merle Cooper Program or a
24 similar program instead of how RRUs are

1 currently operated?

2 DOCCS ACTING CMMR. MARTUSCELLO: Yeah,
3 again, that's a hard question for me to
4 answer without knowing specifics of the
5 program. I wasn't involved in the decision
6 to discontinue it. And at that time when it
7 happened, I was just made the deputy
8 commissioner for admin, so I was the HR
9 director, certainly focused on workforce
10 issues.

11 I'm glad to further discuss that and
12 look into it. I mean, certainly I think from
13 an RRU perspective, we focused on cognitive
14 behavioral therapy with also overlaying the
15 academic need of individuals dealing with
16 impulse control, emotions, self-growth,
17 self-awareness and things of that nature.

18 I've been in almost every RRU, and I
19 have actually run into people in general
20 population that have then said, Hey, weren't
21 you at this facility? And they've commented,
22 you know, positively.

23 The one thing I am exploring is
24 piloting using our incarcerated program

1 assistants to do peer programming inside of
2 RRU. You know, I think we have to be careful
3 in doing it. But I think that that's
4 something that I've heard from the
5 population, I've heard from providers that
6 they're interested in seeing.

7 And as we talk about staffing, you
8 know, that could potentially alleviate, you
9 know, and give a break to somebody having to
10 work overtime to provide a module of
11 programming.

12 So it's something that we're looking
13 into. But how it compares to Merle Cooper I
14 can't really speak to today.

15 SENATOR SALAZAR: Definitely. I think
16 it's in the same spirit of offering
17 therapeutic programming.

18 One last very quick question. Are
19 there -- unrelated. Are there procedural
20 challenges or restrictions that you face that
21 inhibit your ability to discipline or
22 terminate officers who engage in -- who are
23 found to have engaged in abusive behavior?

24 ACTING DOCCS COMMR. MARTUSCELLO:

1 Yeah, I mean, we follow the contract in this
2 regard. I mean, you know, if there's
3 wrongdoing, I have no tolerance for that. We
4 proffer charges and we go before an arbiter.
5 That decision is binding, even though -- if I
6 request for a higher penalty. But that's a
7 current process.

8 SENATOR SALAZAR: Thank you.

9 ACTING DOCCS COMMR. MARTUSCELLO: I
10 don't want to get yelled at.

11 (Laughter.)

12 CHAIRWOMAN KRUEGER: (Mic off;
13 inaudible.) We have completed our
14 assignment, all of you. Thank you very much.
15 Appreciated your work, your time with us. If
16 there are follow-up questions that you need
17 to get back to us in writing, please do so.
18 Don't infect all of the State Police, please;
19 we need you out there.

20 And thank you very much.

21 (Discussion off the record.)

22 CHAIRWOMAN KRUEGER: No, the
23 legislators have no breaks. But we're asking
24 everyone on the panel to move out quickly so

1 that we can have our next panelists come in,
2 which are the Division of Homeland Security
3 and Emergency Services, Jackie Bray,
4 commissioner, and the New York State Office
5 of Information Technology Services, Dru Rai,
6 CIO.

7 (Discussion off the record.)

8 CHAIRWOMAN KRUEGER: Okay, good
9 afternoon. And we're going to have you
10 testify in the order you show up on. So
11 Jackie Bray, commissioner, Homeland Security
12 and Emergency Services first. Ten minutes.

13 Thank you very much.

14 ASSEMBLYMAN DINOWITZ: Up to 10.

15 DHSES COMMISSIONER BRAY: I won't take
16 10 minutes, I promise.

17 Thank you. Good morning,
18 Chair Krueger and Chair Dinowitz and
19 distinguished members of the joint committee.

20 My name is Jackie Bray. I am the
21 commissioner of Homeland Security and
22 Emergency Services.

23 Since I was last here, we have
24 responded to historic floods in the

1 Hudson Valley and New York City, multiple
2 cyberattacks, life-threatening blizzard
3 conditions in Western New York for the second
4 year in a row. We've managed a water
5 shortage in Watertown, of all places, and
6 responded to a rise in online and offline
7 threats to vulnerable communities.

8 In addition, my team has been leading
9 the state's multi-agency effort to support
10 New York City as they manage the humanitarian
11 crisis created by the arrival of tens of
12 thousands of migrants.

13 Regardless of the emergency, we at the
14 Division are the coordinators, the trainers,
15 the facilitators. We're the ones that help
16 support local leaders and partners to keep
17 communities safe.

18 Thanks to the leadership of
19 Governor Hochul, the Executive Budget
20 provides the resources we need to carry out
21 our mission. Our total agency appropriation
22 in the Exec Budget is \$9 billion. As part of
23 that appropriation, the Executive Budget
24 includes \$10.4 million to further strengthen

1 the State Office of Emergency Management. It
2 will help us increase our office's regional
3 presence, add to the volume and availability
4 of planning, trainings, and tabletop
5 exercises for local partners, and build out
6 our analytic and geospatial capabilities.

7 It also includes \$15 million to supply
8 our local and county partners with additional
9 emergency response equipment like high-flow
10 pumps, generators, and temporary flood
11 barriers.

12 Additionally, the Executive Budget
13 includes \$8.6 million to investigate and
14 address the tragic rise in fatal fires,
15 including those caused by lithium-ion
16 batteries. These dollars will allow us to
17 launch Fire Action Teams, which will focus on
18 community risk reduction and community-based
19 trainings to prevent deadly fires, increase
20 our investigation capability for fatal and
21 near-fatal fires, and fund a grant program
22 for local governments for them to invest also
23 in fire prevention efforts.

24 Further, I want to draw your attention

1 to the Governor's proposal to outlaw the sale
2 of uncertified lithium-ion batteries and
3 chargers in New York State. This builds off
4 of both of our chairs' important work on the
5 public safety hazard that's been created by
6 uncertified and secondhand batteries. This
7 legislative change, along with our ongoing
8 efforts to teach the public about how to
9 safely charge these devices, and to teach
10 fire departments on how to manage the fires
11 created by these devices, will be priorities
12 for me and the agency this year.

13 We must also continue to confront the
14 diverse security threats facing us today,
15 most prominently the rise in domestic violent
16 extremism, including and especially racially
17 and ethnically motivated violent extremism --
18 most lethally, white supremacy. We've seen,
19 as part of that same rise, a truly horrifying
20 increase in antisemitism, which has
21 accelerated this fall and winter, along with
22 a disturbing and connected rise in
23 anti-Palestinian and anti-Arab hate.

24 In the immediate aftermath of May

1 2022's racist mass shooting in Buffalo, the
2 Governor signed Executive Order 18. This
3 created the Domestic Terrorism Prevention
4 Unit within DHSES. It also required each
5 county and New York City to develop domestic
6 terrorism prevention plans.

7 The unit, since being created, has
8 focused on three fronts. First, they've
9 focused on the prevention of targeted
10 violence of all kinds. Second, they've
11 focused on understanding the threat of
12 organized domestic extremist groups in
13 New York State. And finally, they are
14 focused on reducing the spread of mis-, dis-,
15 and malinformation.

16 Since launching this effort, all
17 counties have expressed their intent to
18 create a threat assessment and management
19 team. That's a key tool we're deploying to
20 increase the prevention of targeted violence.
21 Thirty-six of the 57 counties outside of
22 New York City have already established the
23 teams. When we launched this work, we had
24 three county-based teams in New York State.

1 In 2024, we're expanding this work to
2 colleges and universities.

3 Cyberattacks are also on the rise.

4 I'm proud to say, with your support, we've
5 rolled out best-in-class end-point protection
6 to nearly every county, plus five cities this
7 year. And this year -- that was last year.
8 This year we're going to roll out this
9 service to the two largest municipalities in
10 every county.

11 Finally, I want to draw your attention
12 to a part of our work that often gets
13 overlooked. DHSES's Office of Disaster
14 Recovery is responsible for administering all
15 FEMA disaster funds. This year that also
16 means administering the at least \$14 billion
17 worth of COVID-19 reimbursement that our
18 hospitals, schools, cities, counties and
19 agencies have begun to and will continue to
20 receive.

21 I'm proud of the work that we do to
22 keep New Yorkers safe. I appreciate the
23 opportunity to appear before you. I am glad
24 to answer any questions you have, both on our

1 division and on the state's response to the
2 influx of migrants into New York City.

3 Thank you.

4 CHAIRWOMAN KRUEGER: Thank you very
5 much.

6 Next, good afternoon. You have to
7 press hard, yes.

8 OITS CIO RAI: Thank you, Chairs
9 Krueger and Dinowitz and honorable members of
10 the Legislature, for the invitation. I am
11 Dru Rai, New York's chief information officer
12 and director of the state's Office of
13 Information Technology Services.

14 Governor Hochul appointed me as CIO in
15 October, and I'm humbled and honored to serve
16 alongside you.

17 As the state's IT service provider,
18 ITS supports nearly 5,000 mission-critical
19 applications for 53 state agencies, and
20 manages 37,000 mobile phones and more than
21 100,000 workstations for state employees.

22 Meanwhile, IT is at the nexus of many
23 of the most important challenges now facing
24 New York State. Our agency is tasked with

1 protecting the state's systems for
2 cyberattacks -- and make no mistake, the
3 threats grow every day. The FBI estimates
4 more than 25,000 New Yorkers fell victim to
5 cyber crimes, totaling \$770 million last
6 year, and cyber threat actors who have made
7 New York a target are better-resourced and
8 more organized than ever before.

9 The good news is we have recently
10 created a number of distinct advantages for
11 our state. We now have New York's first-ever
12 comprehensive cybersecurity strategy in place
13 and are implementing it with our state and
14 local partners.

15 While we continue to need additional
16 resources, Governor Hochul has advanced cyber
17 funding that reflects the risks we face and
18 the opportunities we must seize. I thank
19 this Legislature for supporting critical
20 funding in last year's budget and for
21 recognizing that cyber resilience must
22 continue to be a top state priority.

23 Many of you know about the Joint
24 Security Operation Center, or JSOC,

1 established in 2022, a collaboration model
2 for cyberintelligence gathering and
3 dissemination. We are now working with
4 New York City, the Big 5 upstate cities of
5 Albany, Buffalo, Rochester, Syracuse and
6 Yonkers and nearly every non-New York City
7 county. JSOC is a true New York success
8 story, and we continue to grow its capability
9 every day.

10 Under this model, the state has
11 provided endpoint detection technology to
12 local governments to bolster their security,
13 and we continue to enhance our own defenses
14 in a number of ways -- strengthening our
15 overall policies, enhancing password
16 requirements, and putting multifactor
17 authentication in front of our public-facing
18 programs and applications. In addition, we
19 are building statewide privacy and data
20 programs to better protect our citizens and
21 build public trust.

22 Meanwhile, our ITS team is working
23 closely with the state's first-ever chief
24 customer experience officer to get agencies

1 thinking in a new and different way -- from
2 the customer's perspective.

3 As Governor Hochul has said, it
4 shouldn't be difficult, frustrating or
5 painful to interact with a government agency.
6 Thanks to many of the initiatives already
7 underway, we are improving the user
8 experience and strengthening the bond between
9 this government and the New Yorkers we all
10 serve.

11 Following the pandemic, ITS has
12 accelerated the digitization of state
13 services and continues to assist a number of
14 agencies with major modernization projects,
15 including DOL, DMV, Tax, and others. To
16 reduce fraud and ensure more seamless
17 interactions with government, we have
18 completed the initial stages of an initiative
19 known as One ID, whose end state will result
20 in a single login that can be used to access
21 programs, services and benefits across all
22 state agencies.

23 We are working to support the next
24 phase of what the state is already doing with

1 AI so that New York, with a strong tech and
2 start-up ecosystem, is at the forefront of
3 this evolving technology. At the Governor's
4 direction, ITS recently produced the
5 first-ever comprehensive AI policy, which
6 will serve as a roadmap to help state
7 agencies move forward in a responsible,
8 ethical and transparent way.

9 And finally, we will be seeking your
10 support to grow our IT workforce with
11 resources proposed as part of the Governor's
12 budget. These new resources are a strong
13 first step toward helping us right-size
14 New York IT, boosting our ranks to meet the
15 state's rapidly growing digital needs.

16 It will cement New York as a national
17 leader in delivering first-class IT products
18 and services made in New York. It will more
19 fully secure the state network against global
20 cyberthreats. It will help create a more
21 seamless customer experience for New Yorkers
22 who rely on state services and benefits. And
23 it will populate our ITS workforce with state
24 employees who live, work and have a stake in

1 New York, thereby saving taxpayer dollars.

2 New York can go higher and achieve
3 more if we grow New York IT, and we look
4 forward to working with you to make it
5 happen. By partnering together, I have no
6 doubt we can deliver innovative technology
7 solutions that work for state agencies and
8 all New Yorkers.

9 Technology is changing at such a rapid
10 pace that at times it's almost too difficult
11 to comprehend. However, it is our
12 responsibility to leverage those changes for
13 good, so we can smartly and confidently
14 reimagine what is possible for New York.
15 Thank you, and I'm happy to answer your
16 questions.

17 CHAIRWOMAN KRUEGER: Thank you very
18 much.

19 We're going to start with the ranker,
20 Senator Stec.

21 SENATOR STEC: (Adjusting mic.) There
22 we go. Technology.

23 (Laughter.)

24 SENATOR STEC: Thank you, Madam Chair.

1 Good afternoon. Thank you both for
2 being here.

3 Commissioner Bray, I'm not sure if you
4 recall last year, but I know that we
5 corresponded a little bit, so you probably
6 have an idea where I'm going.

7 DHSES COMMISSIONER BRAY: Yeah, I do.

8 Yup.

9 SENATOR STEC: I'm proud of the work
10 that you have done trying to make our state
11 safer. We've got a lot of people in the room
12 here today that contribute to that mission in
13 many, many ways.

14 And I think the -- something came up
15 in last year's conversation that triggered me
16 -- triggered might be a strong word -- caught
17 my attention and I wanted to pursue. And the
18 point that I tried to make last year and that
19 I've been working on a lot this year since
20 then, is that we can have the best first
21 responders in the world, which I think we do:
22 The most trained, the best-equipped -- which,
23 you know, depending on who you talk to,
24 there's always room for improvement,

1 resources allowing. You could have the best
2 radio equipment, and that's what triggered
3 the discussion last year, is you were talking
4 about, you were asked about and talking about
5 those improvements.

6 But none of that matters if the
7 initiating event in an emergency, which is
8 that outreach to 911, can't happen. And so
9 the discussion we are talking about then is
10 cellular service. And, you know, there's
11 some geographical issues within the
12 Adirondack Park, much of which I represent,
13 that are not relevant to the rest of the
14 state. And I understand that it's an issue
15 everywhere, even in urban areas, just, you
16 know, the demand -- the pipeline is only so
17 big.

18 So I recognize that. And I also
19 recognize that we're still, you know, a
20 market-driven capitalist society and these
21 cellular companies are privately owned and
22 they have a fiduciary responsibility to look
23 out for their bottom line.

24 But I pointed out at the time that I

1 saw an opportunity for a public-private
2 partnership in cellular similar to what we
3 did with broadband. But since then, I wanted
4 to share with you and my colleagues --
5 because I've been trying to ask the second
6 floor, I had heard that there was going to be
7 mention of it perhaps in the State of the
8 State and perhaps in the budget, and I don't
9 see anything in the budget that provides for
10 any work in cellular service.

11 But in the Adirondacks, I did a survey
12 in my district: 99 percent of people own a
13 cellphone; I don't think anyone's shocked by
14 that. What surprised me, even in the
15 Adirondacks, is 67 percent of the people that
16 responded to my survey said that they only
17 own a cellphone, that they do not have a
18 landline. I think the older you get -- my
19 mom and dad, they still have their landline.
20 You know, I think they're going to be the
21 last to give that up.

22 But furthermore, cellular companies,
23 the telecommunications companies, they are
24 not investing in landline technology. So the

1 consumer doesn't want it, and they're not
2 getting invested in it.

3 Then I -- I represent six counties.
4 So, I mean, everyone's got their little slice
5 of local government. I represent a lot of
6 local government. I have six sheriffs, I
7 have six 911 centers. So I got a nice little
8 sample. And I've talked to them, and they
9 all say 70, 75, 80 percent of their 911 calls
10 come in on a mobile number.

11 You know, my point is this is a public
12 safety imperative. It's important
13 economically; of course it's important
14 conveniently. I mean, Lord knows how we used
15 to do it back in the days when everything was
16 tied to the cord in the kitchen telephone.
17 And now, you know, on the fly everyone's
18 changing plans -- which is great, we're very
19 efficient, we never get time off because
20 we're so efficient. But it's a 911
21 imperative.

22 And is -- is this on your radar?

23 DHSES COMMISSIONER BRAY: Yeah.

24 SENATOR STEC: Is there anything in

1 the budget that's going to have it? Where
2 are we going -- you know, in 90 seconds, can
3 you assure me that not just my district, but
4 the whole state -- and I know -- I imagine
5 it's true in the rest of the country as well.
6 But the problem's not going to go away. Just
7 because everyone's got the problem, you know,
8 doesn't mean that we shouldn't jump on it.
9 Everyone's using this to make a 911 call.
10 I've had -- we've had fatalities in the
11 Adirondacks for lack of cell service.

12 Thank you.

13 DHSES COMMISSIONER BRAY: I agree,
14 cell service in the Adirondacks is a public
15 safety issue, full stop.

16 In this budget there are two things.
17 There's, one, an additional \$10 million on
18 top of last year's 20 million to move us
19 towards Next Gen 911. That will pull 911
20 into fiber and out of copper -- believe it or
21 not, it's still there -- and help us have a
22 far more interconnected 911 system across the
23 state.

24 And then there's an additional

1 85 million of capital in this budget also to
2 the address the transition to Next Gen, but
3 really specifically for our counties.

4 So there are big investments in 911 in
5 this budget. I think they're needed. And
6 you and I agree that 911 in the Adirondacks
7 is a public safety issue.

8 SENATOR STEC: And again, everywhere,
9 not just -- I don't want to --

10 DHSES COMMISSIONER BRAY: Everywhere,
11 but we have a particular challenge,
12 obviously.

13 SENATOR STEC: Whatever you can do --
14 you know, I just want to make sure that this
15 issue gets the attention it's due, because it
16 is a public safety issue.

17 And I was surprised with the numbers,
18 that 67 percent said they only have a
19 cellphone. And when my sheriffs are
20 saying -- when I asked them, Hey, how many of
21 your -- what percent of your 911 calls are --

22 DHSES COMMISSIONER BRAY: Oh, yeah,
23 the vast, vast majority.

24 SENATOR STEC: -- cellular, 75, 80,

1 percent. So the vast majority.

2 Thank you.

3 DHSES COMMISSIONER BRAY: Thank you.

4 SENATOR STEC: Thank you.

5 CHAIRWOMAN KRUEGER: Thank you.

6 ASSEMBLYMAN DINOWITZ: Next is

7 Chair Dilan.

8 (Off-the-record discussion.)

9 ASSEMBLYMAN DINOWITZ: Assemblymember
10 Otis.

11 ASSEMBLYMAN OTIS: Thank you, Jeff.

12 And thank you, Commissioner, thank
13 you, Chief. Great that you're here.

14 Reference was made to the very good
15 report that was put out in August by the
16 Governor, the cybersecurity strategy
17 document. What was good about that document,
18 it basically forecasted to have the goal,
19 which is to provide more state resources to
20 smaller governmental entities and also the
21 private sector and beyond --
22 not-for-profits -- on cybersecurity
23 protection, prevention, incident reporting.

24 So I'm curious from each of you to

1 what role -- what roles your particular
2 agencies are playing in that rollout. And
3 special concern, I think, to the Legislature
4 are the smaller governmental entities -- the
5 smaller municipalities and school districts
6 are really in need of some technical
7 expertise that they don't have affordable
8 access to.

9 DHSES COMMISSIONER BRAY: Yeah. So
10 three things.

11 One, we're covering, have covered all
12 the counties. That rollout will be finished
13 within the next couple of months. It will
14 hit about 96,000 endpoints. We promised you
15 100,000, so we'll get there.

16 Two, this year we're going to cover
17 the two largest municipalities in every
18 county. Some of those will actually be quite
19 small. By the time we finish that rollout,
20 we'll cover -- 70 percent of New Yorkers will
21 live in a location where both their local
22 government and their county government are
23 covered by state best-in-class endpoint
24 protection.

1 Finally, there is a federal grant that
2 we are administering this year. I don't know
3 that we've actually announced this fully, but
4 it is going to offer multifactor
5 authentication at no cost to any local
6 government, including any school board. And
7 it's going to offer a particular level of
8 cyber-certification and cyber-training to the
9 IT staff -- again, any local government,
10 including school boards.

11 ASSEMBLYMAN OTIS: That's great.

12 Chief, do you want to add anything to
13 that or --

14 OITS CIO RAI: I think Commissioner
15 Bray answered the question. We partner in
16 this crime, so we definitely help with all
17 the infrastructure, application, integration,
18 development, while the commissioner and the
19 team take the lead in the forefront working
20 with the local governments.

21 ASSEMBLYMAN OTIS: That's great.

22 So now my next topic is one of the
23 Governor's big initiatives in the State of
24 the State and in the budget is Empire AI, and

1 the multifaceted ways that the state is going
2 to get involved with AI.

3 So would be interested to know the
4 role each of your agencies are going to play
5 in that. And also I think there's a need for
6 the Legislature to get more detail about what
7 the Empire AI consortium is about.

8 And I think a special concern, but it
9 was mentioned in testimony that you gave, is
10 the Governor mentioned like responsible AI,
11 ethical AI. And so I think those are
12 probably some of the things that your
13 agencies are providing some of the footprint
14 to guide best practices and safe practices as
15 we get into this Empire concept.

16 So the floor is yours.

17 OITS CIO RAI: I'll speak to we
18 recently announced our AI policy, which
19 really defines how AI should be used. So
20 we'll be working with state agencies creating
21 policies and taking a look at how technology
22 should be used in an ethical and responsible
23 way.

24 As far as the Empire initiative is

1 concerned, I think that's a great initiative
2 from the Governor to really, on economic
3 development, creating an AI economy and
4 ecosystem in the state, which is emerging
5 technology. And I think that policy will
6 definitely be part of that.

7 We are still working with the
8 Governor's office on the details of the plan,
9 and we are ready to help in any shape or
10 fashion.

11 DHSES COMMISSIONER BRAY: We're going
12 to buy a really big and expensive computer.
13 That's part of what we're going to do.
14 Right?

15 So AI takes incredibly specialized
16 hardware, not just software. And that
17 hardware right now is in the hands of very
18 few corporations. It's not yet in the hands
19 of academia or in the hands of public-sector
20 actors. And so what this is is really the
21 first initiative of its kind to put that type
22 of computing power with the capability to do
23 AI, and therefore to spin off economic
24 development and new apps related to AI into

1 the hands of the public sector. And it's a
2 consortium across multiple academic
3 institutions to do that, and a commitment to
4 fund a really large portion of it from the
5 state and then bring in private money to fund
6 the rest.

7 ASSEMBLYMAN OTIS: And so do you see,
8 for some of the technology side of that,
9 using some of the private-sector companies to
10 help partner with us in terms of the actual
11 hardware and software or --

12 DHSES COMMISSIONER BRAY: Oh, yeah.

13 ASSEMBLYMAN OTIS: Yeah, okay.

14 DHSES COMMISSIONER BRAY: Yeah. I
15 mean, we're going to -- you know, this type
16 of machine's incredibly specialized. The
17 last sort of -- you know, the only other
18 public-sector entity that buys machines like
19 this is the Department of Education in the
20 fed. So we're going to have to ask for their
21 advice and help and really get smart about
22 how we buy this level of technology, which
23 just isn't in the hands of public-sector
24 actors right now.

1 ASSEMBLYMAN OTIS: That's great.

2 That's great.

3 So another topic, maybe a briefer
4 topic, is -- relates to, and this is maybe
5 more for the chief -- how we are going about
6 protecting the data privacy of individuals
7 that deal with state agencies. And if you
8 could briefly go through sort of the model
9 that we have to make sure that when people
10 engage with state agencies online that their
11 personal data is protected.

12 OITS CIO RAI: Yeah, that's a great
13 question.

14 Last year we hired a chief data
15 privacy officer. And we take data privacy
16 very seriously. We've started making plans.
17 We have a policy, initial policy already
18 rolled out. And that's the guidance which
19 we'll provide to New Yorkers and all the
20 agencies.

21 We are in the middle of
22 operationalizing those policies, working with
23 each agency, so more to come. But yeah, we
24 are working very hard on that.

1 ASSEMBLYMAN OTIS: Very good. Thank
2 you for that.

3 My last topic is probably a
4 Commissioner Bray topic, which is -- relates
5 to in the budget new money for flood
6 resiliency and response grants, and
7 additional money for emergency preparedness
8 and response for local planning and kinds of
9 metrics.

10 And so interested to know what the
11 plan is on how those services are going to be
12 rolled out to local governments. Certainly
13 with all the natural disasters that we're
14 experiencing, these are important tools and
15 added help from the state. So what can you
16 share about the game plan for rolling those
17 out?

18 DHSES COMMISSIONER BRAY: There's a
19 bunch of different pots in this budget,
20 right? There are programs within DEC that I
21 would encourage you to ask Commissioner
22 Seggos about that are really about leveraging
23 the Environmental Bond Act and leveraging
24 some federal money to think about blue

1 buffers, think about reclaiming land, that
2 type of stuff.

3 And then there's money to do climate
4 resiliency plans really at a neighborhood
5 level. You know, what neighborhood's going
6 to see more rain, what neighborhood's going
7 to see less rain, what do those neighborhoods
8 therefore need now?

9 In our budget there's \$15 million to
10 provide generators, high-flow pumps, flood
11 barrier -- you know, temporary flood barriers
12 for the now, for the immediate. Because the
13 long -- you know, resiliency planning is
14 really good, we need a lot of that, but we're
15 seeing historic rains, you know, every couple
16 of months at this point.

17 So we're going to be purchasing that
18 equipment this year and then distributing it
19 based on need around the state.

20 ASSEMBLYMAN OTIS: That's great. And
21 certainly I've been in contact with DEC on
22 their part of this. Glad you're involved,
23 since your folks are there when we have the
24 emergencies, so might as well help prevent

1 them.

2 DHSES COMMISSIONER BRAY: Me too. I
3 think that there's an acknowledgement in this
4 budget that emergency managers are doing a
5 different job than they were a decade ago
6 because of extreme weather. Right? And that
7 it's just -- there are no more blue sky days
8 for many of us as emergency managers. And
9 that's reflected in this budget with
10 additional funding.

11 ASSEMBLYMAN OTIS: Thank you both for
12 your written testimony, for your answers to
13 my questions, and for your good work. We
14 look forward to working with you.

15 I yield back, Mr. Chair.

16 CHAIRWOMAN KRUEGER: Thank you,
17 Assembly.

18 Senator Gonzalez, our chair.

19 SENATOR GONZALEZ: Hi. Good
20 afternoon. It's good to see you both again.
21 And thank you, Chairwoman.

22 I really appreciate a lot of the
23 comments that you've all said around the work
24 that you're doing for cybersecurity, around

1 data privacy, around improving our state data
2 centers and even creating, I think you
3 mentioned, Chief, design systems. That's all
4 really exciting.

5 But similar to the Assembly chair, I
6 did want to focus in on not only how we're
7 protecting our state's infrastructure, but
8 how we're building it out. And of course as
9 we build new things, with new tech comes new
10 challenges. And in the last decade of course
11 we've struggled with some of the technology
12 and tools that we use that can help
13 perpetuate things like algorithmic bias, when
14 the state uses automated decision-making
15 systems.

16 And so when we talk about implementing
17 a new generation of tools, especially
18 AI-powered tools, you know, we were
19 especially concerned -- and that's why I at
20 the end of last session introduced the
21 LOADinG Act to also create standards for
22 state usage of this technology.

23 And so we were excited to see that, as
24 you mentioned, the Governor has also rolled

1 out an AI acceptable use policy, which ITS
2 was a part of. So I'd love to get a little
3 bit more insight into this policy to make
4 sure that New Yorkers are getting the best
5 possible experience.

6 So with that, just a few quick
7 questions. You know, first, the policy
8 states that systemic computational and human
9 biases should be identified and remediated.
10 So with, again, AI-powered tools. But if
11 remediating bias has been a problem with
12 automated decision-making systems in the
13 past, how are we planning to do this? How
14 are we planning to identify it and then
15 address it moving forward with new rules?

16 OITS CIO RAI: That's a great
17 question. I guess it's a more philosophical
18 question. Even humans are biased themselves,
19 so how can an AI they built be unbiased?

20 I think when we wrote our policy it's
21 very clear that we need to be clear about
22 biases, we need to be careful about the
23 results of those algorithms. So the policy
24 is very clear how to identify them, but what

1 we will see in the future is we have many use
2 cases which we are working on, many agencies
3 are. Some use cases are very mature; for
4 example, a simple process automation, which
5 people have been using it for years, the
6 results are relatively straightforward. And
7 then you have machine-learning-based AI,
8 which is still imperfect.

9 So I think as we see those use cases,
10 we'll work with agencies and we will probably
11 experiment with them and find out what biases
12 and how imperfect they are, and make them
13 perfect as we go forward. And then scale
14 them and apply on a larger scale. I think
15 that's what's happening in the industry. And
16 that's what's going to happen, I think, we
17 working with other agencies.

18 SENATOR GONZALEZ: Yeah, I would
19 definitely agree that these systems are
20 currently imperfect. You mentioned machine
21 learning, but of course, you know, as we look
22 at generative AI, definitely would love to
23 know specifically how you're working with
24 those agencies, how you're identifying it,

1 and then what are the steps that, you know,
2 we can ensure that we're taking as state
3 government to New Yorkers that we're -- that
4 those things are addressed, or those issues
5 are addressed.

6 So just moving on to the next
7 question, the policy also states that use of
8 AI systems should be fair and equitable in
9 accordance with applicable state and federal
10 laws, rules and regulations. Of course, with
11 new technology a lot of the definitions
12 currently used on the federal level are up
13 for debate. There's been a lot of tension.
14 I can say, speaking as a state-level elected,
15 we're also still building out a lot of our
16 policies.

17 So again, you know, I'd love to know
18 how you will be ensuring these systems are
19 fair and equitable, how you're assessing
20 that, and then, again, how you're --

21 OITS CIO RAI: Again, I think it
22 depends on the use case, Senator, each use
23 case. For example, MDL. The DMV is
24 experimenting with, you know, like can we

1 create digital credentials. Each of those
2 comes with a lot of benefit and a lot of
3 risk. We can talk about chatbots. You know,
4 there are accurate chatbots, there are not so
5 accurate chatbots.

6 So I think it will be a use case by
7 use case. And every time we have a use case,
8 we will be working to perfect that. And it's
9 very hard to predict which way it's going to
10 go. From -- there's also a question of what
11 if -- the New Yorkers who don't have access
12 to digital technology, what happens to them?

13 So I think we need to be careful we
14 don't go too far with AI, because it requires
15 a certain amount of hardware and devices --
16 and folks who don't have, how do we help
17 them? So I think it not only applies within
18 the AI but also how do we help the people who
19 are outside the digital divide, to help them?

20 SENATOR GONZALEZ: Yeah, I would
21 certainly agree that we're still working to
22 close the digital divide. And if we can
23 allocate state resources there, that would be
24 incredibly important to support especially

1 marginalized communities in New York State.
2 And of course with new technologies, like you
3 mentioned, not going too far too fast until
4 we can ensure what we mean when we say fair
5 and equitable or unbiased, I think would also
6 be incredibly important.

7 Finally, with this policy it states
8 that if compliance with this policy is not
9 feasible or technically possible, or if
10 deviation from this policy is necessary to
11 support a business function, SEs must request
12 an exception from ITS.

13 There's a concern that these
14 exceptions to the policy could be with some
15 of the, you know, more problematic AI use
16 cases. So just to clarify, who in ITS will
17 be determining what is feasible, technically
18 possible, or necessary to support a business
19 function? And then what is the process that
20 you're building around those exceptions?

21 OITS CIO RAI: So the exceptions
22 generally come in case of emergency or -- you
23 know, we have a migrant crisis, we have other
24 emergencies. Or we have to do, you know,

1 support an agency for a marketing or a PR
2 campaign. Those will be the exceptions, you
3 know, in my mind which comes that -- can you
4 use an imperfect AI?

5 So I guess, again, we will be working
6 with agencies and taking a look at the use
7 case. And if we see the use case as safe,
8 then we'll work with the agency to roll it
9 out. If we find issues and problems, we'll
10 definitely raise and we'll work towards -- to
11 resolve those.

12 SENATOR GONZALEZ: I appreciate the
13 answer.

14 Switching gears in the final minutes,
15 you had also discussed Empire AI -- you know,
16 a significant commitment from the state,
17 \$400 million. We also mentioned we have some
18 other priorities like bridging the digital
19 divide. But I am curious because I don't
20 feel like I've heard enough about the actual
21 specifics of the program that seems, based on
22 what you said, that a lot of it's still being
23 written, right? How this will be used, what
24 exactly this funding will entail. And the

1 private sector could actually gain a lot from
2 the proposal as it stands: New technology,
3 more talent, new use cases, new opportunities
4 to become a government vendor. But the
5 benefits to the state and the people of the
6 state are less clear.

7 So when Empire -- when Empire AI says
8 that it's there to promote responsible
9 research development, create jobs and unlock
10 AI opportunities focused on public good, what
11 are those public goods? What are the
12 opportunities or benefits for New Yorkers
13 that you all are envisioning?

14 DHSES COMMISSIONER BRAY: So, you
15 know, I'm not our IT expert, but when I used
16 to look at machines like this, they were
17 about weather models, right? So really
18 understanding that level of computational
19 power and how we get better weather
20 forecasts. Really understanding that level
21 of computational power and how we eliminate,
22 you know, abuse or waste within state
23 spending. That type of stuff is stuff that
24 our -- that the private sector isn't going to

1 invest in because they're public sector
2 goods.

3 And I think it is a total 400 million,
4 but a 250 million commitment from the
5 government and then a commitment to bring in
6 private funding to offset the total cost.

7 SENATOR GONZALEZ: Right. And
8 appreciate the comments on investing in
9 public goods and public infrastructure.
10 That's something that both, you know, this
11 committee but also just, you know, my office
12 has been really committed to.

13 But I guess, along those lines, you
14 know, the federal government recently created
15 the National Artificial Intelligence Research
16 Resource for \$2.6 billion, which is a
17 six-times investment. For example, if the
18 intent is to create a new generative AI
19 system, a public-sector competitor to
20 ChatGPT, we need a network of universities
21 that are much larger, which is why this is
22 actually being addressed on the federal
23 level. So I'm curious, again, just, you
24 know, with the --

1 (Overtalk.)

2 DHSES COMMISSIONER BRAY: You know,
3 Senator, I think with that --

4 SENATOR GONZALEZ: -- outcomes might
5 be, yeah.

6 DHSES COMMISSIONER BRAY: You know, I
7 think if you saw us put something forward
8 that was just SUNY or just, you know, NYU --
9 we've got the major institutions in this
10 state, and we have serious brain power across
11 all of those institutions. And I think the
12 point is to turn New York into a leader in
13 this new field. And that in order to do
14 that, we're going to need some of that
15 hardware physically here.

16 SENATOR GONZALEZ: Right. Right. And
17 I agree that New York should be a leader.
18 But anytime that we're investing any amount
19 of public dollars, we need to ensure what
20 those public goods are going to be, and then
21 of course hold ourselves accountable to
22 actually achieving them. Which is why we
23 would love to follow up after this to get
24 more information on exactly what that is and

1 how this program is being implemented.

2 DHSES COMMISSIONER BRAY: Let's do
3 that.

4 SENATOR GONZALEZ: Thank you.

5 ASSEMBLYMAN DINOWITZ: Assemblymember
6 Bores.

7 ASSEMBLYMAN BORES: Commissioner Bray,
8 great to see you.

9 DHSES COMMISSIONER BRAY: Good to see
10 you.

11 ASSEMBLYMAN BORES: And CIO Rai, great
12 to see you here for the first time. We
13 usually don't bite, so you're in good hands
14 here.

15 I want to thank both of you for your
16 continued leadership in cybersecurity. New
17 York State is really growing on that, and I
18 appreciate the effort that both of you are
19 putting in.

20 Commissioner Bray, last year in your
21 testimony you talked about the threat of
22 future pandemics.

23 DHSES COMMISSIONER BRAY: Yeah.

24 ASSEMBLYMAN BORES: I don't see that

1 mentioned in the testimony this year. Has
2 there been a shift in budget or priorities or
3 just a shift in what's in the testimony?

4 DHSES COMMISSIONER BRAY: Just a shift
5 in what's in the testimony.

6 ASSEMBLYMAN BORES: Great.

7 CIO Rai, I love the mention of MFAs on
8 public-facing websites. Not that I'm going
9 to hold you to the exact number, but do you
10 have a rough percentage of how that rollout
11 is going, how many customer-facing websites
12 are protected now?

13 OITS CIO RAI: I don't have an exact
14 number. I have to get back to you on -- but
15 we continue to roll out. It's really a
16 program that every time we take a large
17 project, and which is New York-facing, we put
18 that as a basic requirement. And I will get
19 back to you with the number.

20 ASSEMBLYMAN BORES: Wonderful. Yeah,
21 I'd love to just know how that progress is
22 going. It's a really great initiative.

23 Generally across government -- not
24 speaking of New York -- most IT modernization

1 programs fail. They follow a waterfall
2 process, they -- by the time they're done,
3 they're out of date. There's a few
4 modernization requests in this budget. You
5 know, what are we doing to move more to a
6 more iterative process and one that might
7 guarantee more success and lower cost?

8 OITS CIO RAI: I think in some of the
9 programs we are making changes. One of the
10 key things which you are bringing is breaking
11 the programs into pieces. We tend to make
12 programs too large and make it monolithic.
13 We built 40 years ago monolithic systems. We
14 are replacing monolithic systems with another
15 modern technology.

16 One of the things that we are trying
17 to do is break the pieces into modules. That
18 basically requires that you can do a parallel
19 requirement, common design, a parallel
20 development, parallel testing and parallel
21 rollout. That paralleling reduces the time,
22 risk and even the cost of the project. We
23 are working on taking a look at every large
24 program and apply agile methodology.

1 The second thing which we are doing
2 is, you know, putting New Yorkers in the
3 middle. I mean, each time we do the projects
4 we need to put the user experience in the
5 middle, so bringing the UI/UX from a consumer
6 perspective. This -- that's also, you know,
7 what the Governor -- I would commend her
8 for --

9 ASSEMBLYMAN BORES: I think having the
10 first CXO is a wonderful new initiative.

11 So I just want to say we're here to
12 help, and anything you need in order to move
13 New York in that transition, please reach
14 out.

15 OITS CIO RAI: Thank you.

16 CHAIRWOMAN KRUEGER: Thank you.

17 Next up is Senator Salazar.

18 SENATOR SALAZAR: Thank you, Chair.

19 Hello, Commissioner Bray.

20 DHSES COMMISSIONER BRAY: Hello.

21 SENATOR SALAZAR: Good to see you.

22 I wanted to follow up about -- with
23 some questions on details on support for
24 asylum-seekers or migrants. Of the newly

1 proposed assistance funding, are there any
2 new initiatives or programs that you
3 anticipate rolling out?

4 DHSES COMMISSIONER BRAY: I think that
5 we're going to do much more in legal services
6 and case management in this coming year with
7 this money. So New York State, Governor
8 Hochul, her leadership is what has funded
9 legal services for this population. The
10 Asylum Application Help Center is fully
11 state-funded. That needs to ramp up. This
12 budget would let us ramp that up and then
13 grow case management in the actual shelters.

14 SENATOR SALAZAR: Excellent. And what
15 could be done to ensure the continuation and
16 improve coordination of services and
17 assistance with the city, between the city
18 and the state?

19 DHSES COMMISSIONER BRAY: Yeah, I
20 think right now the coordination is actually
21 quite strong, and it has been quite strong
22 for a while.

23 We have to get our arms around
24 data-sharing, which is always a real

1 challenge, particularly given the types of
2 information in terms of immigration status.
3 But we're working hard on that. We've got a
4 data-sharing agreement in place now with the
5 city on employment services, and we'll work
6 on additional ones.

7 SENATOR SALAZAR: Excellent.

8 And what are -- are there major
9 shortcomings that you could identify in
10 services that are provided by the state or
11 the city right now? What could we be doing
12 better to serve the migrants or
13 asylum-seekers who are arriving?

14 DHSES COMMISSIONER BRAY: So I think
15 that the biggest challenge in terms of
16 non-shelter services is that it -- because
17 people are coming at such a fast rate and
18 it's so hard to add shelter to keep up -- and
19 New York City is doing a herculean effort
20 there, but it is really hard -- that the time
21 and attention for other services can get
22 lost.

23 That's why the state has stepped in
24 and been the one funding those services. And

1 I think this budget will allow us to do more
2 on case management, more on legal services,
3 more on employment services and more on
4 resettlement, which is probably a place that
5 needs more attention.

6 SENATOR SALAZAR: Thank you.

7 And to the best of your knowledge, how
8 many migrants remain in the City of New York
9 right now, and how many are currently
10 residing outside of New York City and other
11 parts of the state?

12 DHSES COMMISSIONER BRAY: Yeah. So
13 from a shelter perspective, so there's about
14 67,000 migrants being sheltered in New York
15 City, about 2,000 migrants being sheltered
16 outside of New York City. About 170,000
17 migrants presented over the last two years in
18 need of shelter. We don't know how many of
19 that difference has left the state altogether
20 or has settled in the state.

21 SENATOR SALAZAR: Got it. Great.

22 All right, I'm out of time. Thank
23 you, Commissioner.

24 DHSES COMMISSIONER BRAY: Thank you.

1 CHAIRWOMAN KRUEGER: Thank you.

2 Assembly.

3 ASSEMBLYMAN DINOWITZ: Chair Dilan.

4 ASSEMBLYMAN DILAN: Thank you,
5 Chair Dinowitz. And I'll be as brief as
6 possible.

7 I have questions of Commissioner Bray.
8 This question is around an event that
9 happened last year but affects this current
10 year's budget, and that was in and around the
11 wildfires that happened in Canada.

12 To my knowledge, the Governor deployed
13 Forest Rangers to help put out those fires,
14 which is definitely within the state's
15 interest because we felt the effects here in
16 Albany and as far down as New York City, and
17 it definitely affected air quality.

18 I want to know, for this event, how
19 did it impact your budget, and if there were
20 additional training and resources provided to
21 Forest Rangers so that if this turns like
22 California, you know, that they're prepared.

23 DHSES COMMISSIONER BRAY: Okay. So
24 let me say, we don't have like climate risk

1 of that type of wildfires in New York State.
2 And obviously what we saw in Canada was a
3 historic set of wildfires. But even in
4 Eastern Canada, we're not going to see what
5 they're seeing in both Western -- you know,
6 the Vancouver area or California in terms of
7 climatological models.

8 That said, our wildfire firefighters,
9 our Rangers, are in the DEC budget. And they
10 have mutual aid agreements that allow them to
11 go help fight fires, whether they're in
12 Canada or Utah or California. And so, you
13 know, I would ask Commissioner Seggos --

14 ASSEMBLYMAN DILAN: You're saying
15 training was -- is the responsibility of DEC?

16 DHSES COMMISSIONER BRAY: So our DEC
17 fire -- our Rangers are trained to fight
18 wildfires. They fight the wildfires we have
19 here in New York State. Every year we have a
20 few.

21 ASSEMBLYMAN DILAN: But this was
22 international, so is there --

23 DHSES COMMISSIONER BRAY: Right. And
24 they have mutual aid agreements in place in

1 order to allow them to go fight those fires
2 in Canada too.

3 ASSEMBLYMAN DILAN: Okay. And was
4 there any impact on your budget?

5 DHSES COMMISSIONER BRAY: There was no
6 impact on my budget for the air quality
7 issues, yeah.

8 ASSEMBLYMAN DILAN: Okay. Thank you.

9 CHAIRWOMAN KRUEGER: Thank you.

10 Senator O'Mara, ranker, five minutes.

11 SENATOR O'MARA: Good afternoon.

12 Commissioner Bray, on the migrant
13 issue, since I guess you're the designated
14 hitter on that topic --

15 DHSES COMMISSIONER BRAY: Yes, sir.

16 SENATOR O'MARA: -- for this process,
17 as I've been told.

18 Can you outline for us what New York
19 State taxpayers have paid for already up to
20 this point for the crisis going on, and
21 outline what's proposed in this budget as far
22 as taxpayer spending and on what specific, or
23 general, areas?

24 DHSES COMMISSIONER BRAY: Yeah, of

1 course. So there's really -- in terms of
2 what we've already spent and what is in this
3 Executive Budget, there's really four
4 buckets, is how I'm thinking of it.

5 There is a shelter bucket, it's the
6 largest bucket. To date, we have advanced
7 New York City about half a billion dollars in
8 shelter money for the FY '24 enacted. And
9 the FY '25 proposed has additional shelter
10 money to offset New York City's shelter
11 costs. And that's by far the largest amount.

12 There is money to fund and pay for
13 health services, including the Medicaid
14 coverage that the asylum-seekers receive in
15 New York State -- additional vaccinations,
16 additional health screening. And that's
17 about 160 million in this year.

18 There is about 260 million this year
19 to fund the National Guard. We have about
20 2,000 National Guard members deployed to
21 New York City. They are the sole staff, at
22 about 25 percent of the city's hotel --
23 migrant hotel shelters. And so there's a
24 bucket in there to continue to fund the

1 National Guard mission.

2 And then, finally, there's money in
3 the budget to fund the other types of
4 services that Senator Salazar and I were
5 speaking of -- case management, legal
6 services, employment services.

7 You know, the Governor has said from
8 day one here the answer to shrinking our
9 shelter responsibilities is jobs and
10 employment. In order to do that, we need the
11 legal services to get folks work
12 authorization and then the employment
13 services to connect them to jobs.

14 SENATOR O'MARA: You had some progress
15 with getting I think a group of Venezuelans
16 in particular --

17 DHSES COMMISSIONER BRAY: Yes.

18 SENATOR O'MARA: -- work
19 authorizations. What's been the success of
20 placement into jobs of that group, how many?

21 DHSES COMMISSIONER BRAY: So we have,
22 along with the city, gotten over 9,000
23 temporary protected-status applications
24 filled out, and the corresponding work

1 authorization applications filled out.
2 Thousands of that group have gotten jobs. I
3 don't have that specific number because we
4 have to call everyone back and say, Okay, you
5 submitted it 45 days ago, did you get the
6 card in the mail sort of thing.

7 But we have succeeded at getting well
8 over 8500, almost 9,000 temporary
9 protected-status applications filled out for
10 Venezuelans and then a similar number of work
11 authorizations.

12 SENATOR O'MARA: We've heard a lot of
13 anecdotal stories, at least news reports of
14 certain criminal activity either within the
15 shelters or in the surrounding communities,
16 and also seems to be an increasing number of
17 complaints regarding panhandling or begging
18 around these same areas. What is the state
19 doing in regards to those issues, and
20 specifically the quality of life around these
21 shelters?

22 DHSES COMMISSIONER BRAY: Yeah. So a
23 pretty significant portion of the shelter
24 budget is security. And all of these

1 shelters are required to have security. They
2 all have security on-site. I've visited many
3 of them. I've seen that security. And so
4 they all have security on-site.

5 There are a couple of shelters -- and
6 we've spoken to the NYPD about it, we've
7 spoken to the city about it -- that have a
8 truly significant number of people, and when
9 you put that many people together, you end up
10 seeing interpersonal conflicts that spill out
11 and spill over. That's some of what's been
12 in the press most recently.

13 In terms of street conditions, or
14 panhandling, I would go back to jobs. That
15 what we need is the legal services to get
16 folks work authorization to get folks
17 working. These are able-bodied people who
18 came here to work and want to work, and we've
19 got jobs available.

20 SENATOR O'MARA: They're still
21 impacting the quality of life in those
22 communities.

23 And with the 45 seconds I have left,
24 what is in the planning stages right now for

1 the migrants that are ultimately denied
2 asylum? What will the role of the state and
3 the activities be in deporting those
4 individuals?

5 DHSES COMMISSIONER BRAY: Well, I
6 think as you know, as I know, the state
7 doesn't take a role in deportation or in, you
8 know, immigration law in that way.

9 But that said --

10 SENATOR O'MARA: Is the state planning
11 on cooperating with immigration services?

12 DHSES COMMISSIONER BRAY: So these
13 asylum cases will take between seven and
14 10 years to adjudicate. And at the end of
15 which, most people leave. And they leave on
16 their own. And I think we need congressional
17 action in order to shrink the timeline that
18 it takes to adjudicate these cases.

19 You know, I am hopeful, I hope that
20 the Senate deal and the Biden administration
21 get to that action.

22 CHAIRWOMAN KRUEGER: Thank you.

23 ASSEMBLYMAN DINOWITZ: Assemblymember
24 Burdick.

1 ASSEMBLYMAN BURDICK: Thank you. Oh,
2 sorry, let me turn this on. That'll help.

3 For commissioner Bray, you mentioned
4 the grant program for local governments to
5 help them increase fire prevention efforts.
6 And I'm wondering if you can explain how this
7 would work, since fire departments mainly
8 handle that function -- what the estimated
9 amount would be and funding source.

10 And for CIO Rai, please advise whether
11 you are involved in the implementation of
12 state agencies having the requirement to make
13 their websites accessible for people with
14 disabilities.

15 So I guess about a minute each.

16 DHSES COMMISSIONER BRAY: All right,
17 I'll be quick.

18 It's a new \$3.3 million program. It's
19 within the \$8.6 million add in terms of
20 addressing fatal fires. It would allow local
21 fire departments or county fire coordinators
22 to either increase their investigative
23 capability for fatal or near-fatal fires or
24 to engage in things like community risk

1 reduction, community trainings about smoke
2 detectors and sprinklers and that type of
3 stuff.

4 ASSEMBLYMAN BURDICK: And that would
5 be on a competitive grant basis?

6 DHSES COMMISSIONER BRAY: It's a
7 competitive grant, that's right.

8 ASSEMBLYMAN BURDICK: And when do you
9 expect to roll that out?

10 DHSES COMMISSIONER BRAY: Well,
11 assuming your support --

12 ASSEMBLYMAN BURDICK: If it's
13 approved.

14 DHSES COMMISSIONER BRAY: -- yes,
15 we'll roll it out as quick as we can in the
16 first, you know --

17 ASSEMBLYMAN BURDICK: Super. Great.
18 And CIO Rai?

19 OITS CIO RAI: We are working very
20 hard for all new websites are going to be
21 double A, to make sure that they are
22 accessible for people in need. So that
23 process is already in place.

24 We now are looking at the legacy, and

1 we have to make a plan and address that. So
2 we are working on that too.

3 ASSEMBLYMAN BURDICK: And are you
4 working with the Chief Disability Officer in
5 that effort?

6 OITS CIO RAI: Yes.

7 ASSEMBLYMAN BURDICK: That's super.
8 Great. Well, I encourage you in those
9 efforts, because I think that so many of the
10 agencies really have a long way to go on
11 that. And I had authored a bill to require
12 that, and I -- the chapter amendment for
13 which I think is coming up. But I think it's
14 a very, very important function for the
15 agencies to do.

16 Thanks so much for your work.

17 CHAIRWOMAN KRUEGER: Thank you.

18 Senator Brad Hoylman-Sigal.

19 SENATOR HOYLMAN-SIGAL: Thank you.

20 Good to see you, Commissioners.

21 DHSES COMMISSIONER BRAY: Good to see
22 you too.

23 SENATOR HOYLMAN-SIGAL: And thank you,
24 Commissioner Bray. I wanted to thank you

1 publicly for being so responsive to my
2 constituents. Even though we're on the
3 West Side of Manhattan, many of them own
4 property on Fire Island, as you know, and
5 after the recent storms you sprang into
6 action and toured the location.

7 And I just wanted to know if you could
8 update us on efforts to protect the beach,
9 particularly on the eastern side, which has
10 borne the brunt of most of the incoming
11 water, putting a lot of vacation rentals and
12 permanent homes at risk.

13 DHSES COMMISSIONER BRAY: So I should
14 say I didn't tour it, my staff toured it. I
15 headed out to Buffalo for yet another
16 blizzard. But right.

17 So those protective dunes basically
18 have been washed away at this point. The
19 beach work that was done after Sandy held for
20 10 years; it is not holding any more. The
21 Governor has advocated with the Army Corps to
22 get emergency repair of that area.

23 In addition, and I don't want to break
24 any news, and so we should check with

1 Commissioner Seggos. But in addition, we
2 were working at finding state funds that
3 could help the county and the locality move
4 the sand that they're able to move.

5 You know, I think that unfortunately
6 we're going to have a lot of painful storms
7 as sea levels rise and as the intensity of
8 storms increase, and a lot of tough
9 decisions. But for now, the hope is to get
10 emergency Army Corps repair to those areas.

11 SENATOR HOYLMAN-SIGAL: So the hunt
12 for additional resources is still on, or you
13 think you may have found a pot of money?

14 DHSES COMMISSIONER BRAY: I've got to
15 come back to you, because someone knows the
16 answer to that question, but it's
17 Commissioner Seggos.

18 But we'll come back to you today.

19 SENATOR HOYLMAN-SIGAL: Okay. Thank
20 you very much.

21 DHSES COMMISSIONER BRAY: Yeah.

22 CHAIRWOMAN KRUEGER: Thank you.
23 Assembly.

24 ASSEMBLYMAN DINOWITZ: Assemblymember

1 Ra.

2 ASSEMBLYMAN RA: Thank you.

3 To Commissioner Bray, I just have some
4 additional questions regarding the migrants
5 spending.

6 DHSES COMMISSIONER BRAY: Absolutely.

7 ASSEMBLYMAN RA: As you know, I know
8 we ultimately got up to 1.9 billion in the
9 financial plan for this budget year that
10 we're closing out. But originally the
11 allocation in last year's budget was 1
12 billion, and my recollection is that there
13 was a requirement at the time that a plan be
14 submitted by New York City and be approved by
15 the Office of Temporary and Disability
16 Assistance and the Director of Budget.

17 I'm just wondering, you know, was that
18 submitted, what exactly it asked for, and if
19 any parts of it have been or can be made
20 public in terms of what the parameters of
21 that plan were.

22 DHSES COMMISSIONER BRAY: That plan
23 was submitted. It included recording
24 requirements, it included things like what

1 type of shelter, you know, would be provided.
2 It included information about vacancy and
3 those types of requirements. I will have to
4 check about what can and cannot be made
5 public or provided to you, but it was
6 submitted last year.

7 ASSEMBLYMAN RA: Okay. And do you
8 know if it included anything with regard to,
9 you know, New York City when there -- I mean,
10 this was a big issue back in the spring, you
11 know, when they were resettling migrants to
12 other parts of the state, in terms of
13 coordination with local governments and --
14 you know, and following of local laws. I
15 know that was an issue with regard to length
16 of stays in a couple of instances.

17 DHSES COMMISSIONER BRAY: It did
18 include notice requirements. And as we've
19 been really clear, we think any time anyone
20 is moved from New York City outside of
21 New York City to be sheltered, there should
22 be coordination with that local government
23 and that local government should be brought
24 in to what's happening.

1 ASSEMBLYMAN RA: Okay. And you went
2 through some of the breakdown of the spending
3 from the last year. In particular with
4 regard to your agency, what spending went
5 within your agency during this budget year
6 for the --

7 DHSES COMMISSIONER BRAY: On the
8 migrant challenges?

9 ASSEMBLYMAN RA: Yes.

10 DHSES COMMISSIONER BRAY: There is no
11 spending in my -- inside my agency on the
12 migrant challenge.

13 So we are the coordinator, we are the
14 leader on any emergency. And so we've been
15 coordinating on all of government response
16 with about a dozen other agencies. But for
17 our emergency response, that's self-funded.

18 ASSEMBLYMAN RA: Okay. And if you
19 wouldn't mind going back through -- you said
20 500 million, shelter; 160 million, health
21 services?

22 DHSES COMMISSIONER BRAY: Yeah, sure.
23 Let me go back through.

24 So I just want to be clear. This

1 isn't -- if you look over four fiscal years,
2 it's about 4.3 billion, right, if you start
3 in FY '23 and go to FY '26.

4 There was an initial billion for
5 sheltering in FY -- sort of spread between FY
6 '24 and FY '25, but in the FY '24 financial
7 plan. We've increased that by about a
8 billion -- half a billion this year, half a
9 billion next year -- explicitly to offset
10 New York City's costs.

11 In addition, we've added money to
12 fully fund three very large shelters, Floyd
13 Bennett Field, Randalls Island, and Creedmoor
14 Psychiatric Center's parking lot.

15 And then we've added money for the
16 National Guard for Medicaid and health
17 services and for ancillary services, case
18 management and legal services.

19 ASSEMBLYMAN RA: Okay. Just with
20 regard to as, you know, these contracts are
21 coming online. Because there have been some
22 that have been I would say alarming in the
23 amount of money that it seemed like these
24 contractors or -- whatever you want to call

1 them, these vendors, whatever you want to
2 call them, were making off of the contracts.

3 So I know, you know, emergency
4 contracting is always a challenge because,
5 you know, you need the things yesterday. But
6 what is going on in terms of, you know,
7 auditing and oversight to make sure that
8 those contracts are being given out
9 responsibly?

10 DHSES COMMISSIONER BRAY: Yeah. So
11 those are city contracts. I believe that the
12 city comptroller has revoked the emergency
13 contracting authority for the city at this
14 point.

15 From the state perspective, we are --
16 we go through the right financial and
17 procurement rules and regs. Even when we're
18 under an emergency, those still apply.

19 ASSEMBLYMAN RA: But am I correct -- I
20 know there was an issue in the city between
21 the comptroller and the mayor, but there was
22 basically, even despite -- I know there was
23 one contract, even despite revoking the
24 approval, the mayor was still able to push

1 forward with it.

2 DHSES COMMISSIONER BRAY: I think
3 there are existing contracts in place that
4 are actively providing shelter, which you
5 might -- you know, might be what you're
6 talking about.

7 But I can certainly follow up with
8 additional information.

9 ASSEMBLYMAN RA: Thank you.

10 DHSES COMMISSIONER BRAY: Thank you.

11 CHAIRWOMAN KRUEGER: Hi. I think I'm
12 the last Senator. I'm going to take my time.

13 Since we're on migrants, apparently, I
14 don't know that it would be your agency, but
15 has anybody in the state been evaluating
16 research that shows that new Americans end up
17 quickly becoming taxpayers and grow our
18 economy? And there are examples of
19 communities around the country of states and
20 cities who have not only welcomed migrants
21 and asylees but are actually now offering
22 \$15,000 per head, so to speak, to come to
23 their cities.

24 So as a counter to costs -- and of

1 course there are costs now -- has anybody
2 been evaluating the wins?

3 DHSES COMMISSIONER BRAY: I haven't
4 been evaluating the academic research there.
5 What I can tell you is we have hundreds of
6 thousands of vacant jobs in New York State
7 that are desperate for workers and for
8 laborers. And if we can -- and I believe we
9 can -- get folks through the work
10 authorization process, this can be a win/win
11 for New York State, because we really need
12 workers right now.

13 CHAIRWOMAN KRUEGER: Thank you.

14 And for the record, my family came
15 over, they were asylees, they didn't have
16 papers, and I got to be the chair of the
17 Finance Committee in the New York State
18 Senate. Just saying.

19 DHSES COMMISSIONER BRAY: Mine too.

20 CHAIRWOMAN KRUEGER: Thank you.

21 Sorry, let's go on to the commissioner
22 of ITS.

23 When Andrew Cuomo become the governor
24 in 2011, one of the first questions I asked

1 him was when are we going to fix the OTDA WMS
2 system, which didn't work when it was started
3 in like 1988. I believe I brought a lawsuit
4 at that time pointing out it didn't work --
5 in my previous life, not as a legislator.

6 Are we fixing anything that's been
7 like waiting around for decades to finally
8 get fixed? Even though we're busy talking
9 about AI and the future now, can we just have
10 systems in our agencies that work? I will
11 add Department of Housing to that also.

12 OITS CIO RAI: I can definitely speak
13 on WMS replacement, which is an ITS project
14 which we started a couple of years ago. We
15 have made some progress on that project, a
16 couple of modules are being developed. We
17 have made progress on building a data model.

18 We are in the process of accelerating
19 the project by, as I said, breaking the
20 project into modules so that we can do
21 certain parallel development. And last year
22 I will say we have put in knowledgeable
23 internal ITS resources, along with OTDA and
24 other agencies, to accelerate the work. As

1 you know, the contractors, they definitely
2 don't have all the knowledge, and internal
3 knowledge really helps.

4 So with these efforts, we intend to
5 accelerate the project. The project is
6 scheduled to go live in 2027. So I'm hoping
7 that we can hit the original charter date.

8 CHAIRWOMAN KRUEGER: Did you say 2027?

9 OITS CIO RAI: Yes.

10 CHAIRWOMAN KRUEGER: Did I hear you
11 right?

12 OITS CIO RAI: Yeah, that's the
13 charter.

14 CHAIRWOMAN KRUEGER: I'm really hoping
15 we don't need another governor to come in and
16 not get this done. Just saying.

17 Back to Homeland Security, I know
18 there were some questions about fires and
19 firefighters. But a number of questions we
20 have is how are we doing with enhanced
21 preparedness for storms and floods and
22 snowstorms and other natural disasters
23 compared to previous years? Do we feel that
24 we are more equipped to handle the unforeseen

1 natural and manmade disasters that just seem
2 to be speeding up in frequency?

3 DHSES COMMISSIONER BRAY: They do,
4 don't they. They are.

5 Yes, I think that we are -- I think we
6 learn from literally every single storm. And
7 I think one thing this Governor is incredibly
8 good at is not getting defensive when we have
9 a storm where we think we could do better,
10 but forcing us as her team to learn from it.
11 And so we've been doing that.

12 I also -- this budget is a huge
13 investment in State Office of Emergency
14 Management, and I think it's an incredibly
15 important investment because it's an
16 acknowledgment that, you know, a
17 thousand-year storm is happening every couple
18 of years, 500-year storms happening every
19 couple of months. So I think both of those
20 things are happening. We're learning every
21 time we're going through this, and we're
22 making a big investment this year.

23 CHAIRWOMAN KRUEGER: And have we
24 improved our system for communicating with

1 counties and localities when we know
2 something's happening or something does
3 happen? Because I remember a few years ago a
4 discussion where the state couldn't help
5 unless they were invited in to help. But
6 they might not even know what they were
7 walking into. And we, in theory, were in a
8 better position to help them prepare.

9 DHSES COMMISSIONER BRAY: We've made
10 real strides and real investments in our
11 State Watch Center. Our State Watch Center
12 managed 21,000 incidents this year. They
13 triaged about 230,000 different emails and
14 pieces of information.

15 So we don't wait for people to call
16 us. We're watching social media, we're
17 watching the news, we're watching river
18 gauges, and we're calling them. A.

19 And then B, when there is a predicted
20 event, we are deploying immediately. Nine
21 times out of 10, people invite us in. And
22 when they don't, I smile and show up anyway.

23 (Laughter.)

24 CHAIRWOMAN KRUEGER: And the Governor

1 puts into her Executive Budget proposal
2 providing you 65 more FTEs in order to
3 bolster state disaster response. Can you
4 tell me what these people will be doing for
5 you?

6 DHSES COMMISSIONER BRAY: Yes,
7 absolutely.

8 So first we're going to increase our
9 field staff by 50 percent. That will allow
10 us to show up -- in a multicounty event it
11 can be hard to staff all the county EOCs
12 24/7, so that gives us the capacity to do
13 that and to spend more time with our county
14 partners.

15 Number two, we're going to more than
16 double our capacity to hold trainings, to
17 engage in planning and hold tabletop
18 exercises with localities and counties.

19 Number three, we're going to add a
20 geospatial team. Emergency management is
21 done a lot on maps, and we're not very good
22 at it in New York State yet, and we need to
23 get good at it.

24 And number four, really inspired by

1 the failures, frankly, in Ida and in the
2 Buffalo blizzard, the Christmas blizzard,
3 we're adding a vulnerable communities
4 outreach team -- not to do the outreach
5 ourselves, we're the state, but to get really
6 good at advising our localities what they
7 need to do in vulnerable communities to warn
8 people early.

9 CHAIRWOMAN KRUEGER: Thank you.

10 So I recently woke up to be called by
11 people in my district saying "We just had an
12 earthquake." Now, I never expected that
13 sentence in Manhattan or Queens. Roosevelt
14 Island is mine, and they definitely felt it.

15 So do we have a whole new division
16 going to be working on possible earthquakes?
17 Because I had absolutely nothing I could say
18 to them about what might be happening next.

19 DHSES COMMISSIONER BRAY: Well, no, I
20 don't have a whole new team to work on
21 earthquakes. We do have some seismic
22 activity in New York State, it tends to be in
23 the northern part of the state. But we do
24 have a team that pays a lot of attention to

1 earthquakes. And when that happened, I also
2 got a call that said, "Hey, there's an
3 earthquake," and I said, you know, in Canton?
4 And they said, "No, in Astoria." And I said
5 oh-kay. Yeah.

6 CHAIRWOMAN KRUEGER: So I started
7 reading about earthquakes after that
8 incident, and I learned that even though
9 New York is still not considered a major area
10 for seismic activity, water table rising and
11 more flooding underground -- of course those
12 both are happening -- triggers landslides
13 underground where there are fault lines. I'm
14 acting like I know what these words mean, by
15 the way. And that that makes --

16 DHSES COMMISSIONER BRAY: Keep going,
17 you're doing good.

18 CHAIRWOMAN KRUEGER: -- that makes
19 earthquakes more likely. And it turns out
20 there are many fault lines in New York State.

21 DHSES COMMISSIONER BRAY: There are.

22 CHAIRWOMAN KRUEGER: So again, I'm
23 just still practicing learning the
24 terminology. But I'm afraid that's one more

1 thing we need to start learning about and
2 preparing for, particularly in areas with
3 water tables rising quickly. And we know in
4 New York City the water tables are rising
5 much more quickly than we expected.

6 DHSES COMMISSIONER BRAY: I will add
7 it to my list.

8 CHAIRWOMAN KRUEGER: Okay, I
9 appreciate that. So then I will be able to
10 say, We will call Homeland Security to learn
11 about the earthquakes.

12 DHSES COMMISSIONER BRAY: Yes. When
13 there is an earthquake, we are the right
14 people to call.

15 CHAIRWOMAN KRUEGER: All right. I
16 cede the rest of my time, thank you.

17 Assembly.

18 ASSEMBLYMAN DINOWITZ: Not only did I
19 think about earthquakes, I'm concerned about
20 volcanic activity.

21 (Laughter.)

22 DHSES COMMISSIONER BRAY: You know,
23 Assemblyman, if there is a volcano in
24 New York State, I don't know about it.

1 CHAIRWOMAN KRUEGER: Just wait.

2 ASSEMBLYMAN DINOWITZ: There's a
3 gigantic volcano under the national park,
4 Yellowstone --

5 DHSES COMMISSIONER BRAY: Yes, I am
6 aware of --

7 ASSEMBLYMAN DINOWITZ: So large that
8 it could destroy the whole continent if it
9 erupted.

10 DHSES COMMISSIONER BRAY: Yes, if it
11 were in our lifetime to go, that is true.

12 But, you know, we would not then have
13 to have a hearing about it, because we would
14 not be here.

15 (Laughter.)

16 DHSES COMMISSIONER BRAY: There would
17 be no -- you know, I would not have to know
18 much about it because I would -- you know.

19 ASSEMBLYMAN DINOWITZ: And on that
20 note, Assemblymember Palmesano.

21 ASSEMBLYMAN PALMESANO: Commissioner
22 Bray, my question is for you.

23 I've been a very vocal critic against
24 the EV mandate for a number of reasons, but

1 today I'd like to focus on EV fires. We see
2 the e-bike fires in New York City, the deadly
3 results that's happened. We see electric
4 vehicle fires. And last year even the
5 battery storage fields -- we had three
6 battery storage fields catch on fire.

7 We've had numerous discussions with
8 fire departments, both paid and volunteer,
9 who are very concerned about the issues of
10 lack of equipment, training, and capacity to
11 fight these EV battery fires. And as you
12 know, often when a lithium-ion ignites, it
13 will burn hot and it will burn long, many
14 hours, and sometimes it can even reignite --

15 DHSES COMMISSIONER BRAY: Yup.

16 ASSEMBLYMAN PALMESANO: -- days after
17 being extinguished.

18 So with this EV mandate fast
19 approaching and the concerns being raised by
20 our local departments and the problems of
21 these vehicles growing, are you okay with or
22 believe our state emergency services are
23 currently equipped to meet the safety
24 requirements necessary to deal with this

1 volatile technology?

2 And can you provide examples of the
3 type of training and funding that will be
4 available to help prevent these deadly
5 lithium-ion battery fires and help prepare
6 our local fire departments to help deal with
7 these types of fires?

8 DHSES COMMISSIONER BRAY: Yes. Okay.
9 So let me say that is a scenario in which, as
10 a public safety professional, we have to walk
11 and chew gum at the same time. Because
12 lithium-ion batteries are essential for our
13 future, but when they are uncertified, they
14 are dangerous.

15 So the most important thing about
16 lithium-ion batteries to know is that the
17 certified batteries are by and large very
18 safe. And that the vast majority of -- I
19 will address the three other fires. But the
20 vast majority of fires that we have seen, 267
21 in New York City this year, the highest
22 since -- on record, 40 outside of New York
23 City, are from uncertified batteries and
24 reconstituted secondhand batteries.

1 This Executive Budget proposal bans
2 the sale of those in the state, which I think
3 is incredibly important. Blah, time.

4 Okay, we have trained 2,850 first
5 responders and firefighters this year alone
6 in how to put out lithium-ion battery fires.
7 We launched that training only 12 months ago.
8 We're going to increase the number of
9 people -- this budget has money for us to
10 increase the number of firefighters we can
11 train in how to put these fires out.

12 In terms of the big-scale ones, those
13 three solar farms, those -- we did
14 investigations into those. We are updating
15 the code to respond to those investigations
16 and updating the requirements for how those
17 local departments are resourced.

18 ASSEMBLYMAN PALMESANO: Okay, one more
19 quick question since I have 20 seconds.

20 As you know, last year I talked about
21 Montour Falls Fire Academy. Still -- you
22 said it was a very vital part of your
23 operation for training.

24 DHSES COMMISSIONER BRAY: It is.

1 ASSEMBLYMAN PALMESANO: Is that still
2 the case today?

3 DHSES COMMISSIONER BRAY: It
4 absolutely is, and we're building a new
5 building thanks to money from last year's
6 budget at that site. We're not leaving that
7 site.

8 ASSEMBLYMAN PALMESANO: Great. Thank
9 you, Commissioner.

10 DHSES COMMISSIONER BRAY: Thank you.

11 ASSEMBLYMAN DINOWITZ: It would be
12 excellent if the Krueger-Dinowitz bills
13 regarding lithium-ion batteries became law.

14 DHSES COMMISSIONER BRAY: I agree.

15 CHAIRWOMAN KRUEGER: (Mic off;
16 inaudible.) Thank you for joining us today.

17 DHSES COMMISSIONER BRAY: Thank you.

18 CHAIRWOMAN KRUEGER: We will have more
19 questions; we will follow up. Thank you.

20 DHSES COMMISSIONER BRAY: Okay, thank
21 you.

22 CHAIRWOMAN KRUEGER: Okay, we are now
23 shifting the day to the nongovernment panels.
24 So for everyone in the audience and on the

1 daises, it becomes a three-minute day.
2 everybody testifying gets three minutes.
3 Everybody asking questions, even chairs, gets
4 three minutes. Picture our lives for the
5 next couple of hours as sort of a, I don't
6 know -- what's that called where they do the
7 rapid response?

8 ASSEMBLYMAN DINOWITZ: Oh, I don't
9 know.

10 CHAIRWOMAN KRUEGER: I know how to do
11 it. Lightning round. The rest of this
12 hearing are just lightning rounds.

13 Okay, even though my colleague doesn't
14 love our lightning round, that's how it's
15 going to work.

16 So our next panel, the MACADEMY School
17 of Science and Technology; Vera Institute of
18 Justice; Immigrant ARC, and the New York
19 Immigration Coalition.

20 (Pause.)

21 CHAIRWOMAN KRUEGER: Good afternoon,
22 everyone. Nice to be here with us. Okay,
23 why don't we start with Nile-y or Nile
24 Anderson. And then we'll just go down the

1 table, if that's okay.

2 And you have to press the button until

3 it turns green. Hi. You need to push your

4 finger
really hard -- there you go, you're

5 on. How are you today?

6 MS. ANDERSON: Good.

7 CHAIRWOMAN KRUEGER: Good.

8 MS. ANDERSON: Greetings.
My name is

9 Nile Anderson. I am 12 years old. I'm in the
10 eighth grade at MACADEMY School of Science
11 and Technology.

12 Thank you, members of the Legislature,
13 for giving me the opportunity to testify
14 and
support the Stop Addictive Feeds

15 Exploitation Act and the New York Child Data
16 Protection Act.
These bills are important

17 to
show that children need to be
monitored on

18 social media to reduce the algorithmic
19 dangers to our young developing minds.

20 One of the reasons the suicide rate
21 for children is so high is children are
22 killing themselves over the internet.
23 Children get addicted because of the dopamine
24 released in their brains. Dopamine makes you

1 feel pleasure and makes you want
more of it.

2 The algorithms on the internet affect our
3 brain's neocortex, amygdala and hippocampus
4 by using optogenetics, which cause the
5 brain
to overproduce dopamine.
This

6 degenerative effect on the
brain makes
7 children's easy to steal and
use.

8 This exposes children to people who
9 are mendacious about their identity as they
10 pretend to be children. This is dangerous,
11 because bad influences and disturbing
12 conversations result in death. Children have
13 committed suicide, and according to the CDC
14 over 100,000 children have killed themselves.

15 In our current times children get
16 addicted to the internet and have their
17 personal information shared online. Children
18 are targeted because of their innocence and
19 lack of knowledge about how their friends and
20 families can be easily victimized.

21 For example, recently in the news an
22 adult man was communicating with a child on
23 social media. He lied to the child by
24 telling her that he was her age, but he ended

1 up being a grown man. The devastating
2 experience that happened to her after meeting
3 him led to possible anxiety and depression.

4 But our Governor Kathy Hochul and our
5 Attorney General Letitia James are passing
6 bills to protect children like me in the
7 State of New York to stop children from being
8 addicted to the internet and to stop children
9 from sharing information to the public.
10 These bills may inspire other states and
11 countries to adopt these policies to assist
12 the world to become more algorithmically
13 clear for children.

14 CHAIRWOMAN KRUEGER: Next?

15 MS. GALAZ: Good afternoon. My name
16 is Marlene Galaz. I am the
17 director of
18 immigrant rights policy with the New York
19 Immigration Coalition.
20 We are an umbrella
21 policy and advocacy organization of about
22 200 members across
23 the state that work with
24 immigrants and refugees, many of which are
25 legal
26 service providers.

27 Actually, this past week we had about
28 300 of our members
29 walking the halls of the

1 LOB demanding that we expand access to legal
2 services. We appreciate the New York State
3 Legislature for the opportunity to
continue
4 to advocate for our communities here today.

5 As you know, our
immigrant neighbors
6 do not have the guarantee to legal rights for
7 a
court-appointed attorney or for
8 representation when they are going through
9 the
U.S. immigration system. Currently
10 180,000 individuals in the state are
11 facing
the threats of deportation and family
12 separation by themselves without
13 any
professional guidance.

14 And the statistics really show how
15 important
representation is for people
16 detained -- they are 10.5 times more likely
17 to
secure a successful case if they have
18 representation than if they don't.

19 So today I'm here to ask the
20 Legislature to, one, pass 150 million
for
21 legal services for immigrants and, two, pass
22 the Access to Representation Act.

23 And I want to be very clear: This is
24 not a new ask. This is not a new
need.

1 Immigrants and advocates have been asking for
2 expansion of legal
services and appropriate
3 infrastructure for these legal services for
4 years, as
well as retention of legal
5 professionals. In the Executive Budget the
6 Governor
proposed 44.2 million for
7 immigration legal services. However, that is
8 a cut of
20 million from last year's
9 investment of 63 million. And this is in a
10 time of
growing need that doesn't really
11 cover the short-term nor the long-term
12 needs
that we're seeing.

13 That is why we're asking for
14 \$150 million that would be
comprised of
15 \$62 million for deportation defense services;
16 \$65 million for
recruitment, retention,
17 training and infrastructure expansion; and
18 \$23
million for programs and outreach
19 connecting immigrants to services.

20 We are also urging the passage of the
21 Access to Representation Act, which would
22 guarantee that no New Yorker faces
23 deportation alone because they
cannot afford
24 representation.

1 So I thank you for your time.

2 MS. ROSADO: Good afternoon. My name
3 is Oriana Shulevitz Rosado, and I
am the
4 policy and advocacy strategist at
5 Immigrant ARC.

6 Immigrant ARC is a
coalition of over
7 80 member organizations that provide legal
8 services across
the State of New York. Our
9 mission is to increase access to justice and
10 access
to legal counsel for immigrant
11 New Yorkers by mobilizing New York's
12 legal
service providers.

13 Last December, more proceedings were
14 initiated in immigration courts
around the
15 country than in the entire last fiscal year.
16 A large number of
those facing deportation
17 will go through this process alone with no
18 one to
explain their rights, what is expected
19 of them, and/or to help them advocate
for
20 themselves.

21 This lack of access to legal help has
22 dramatic consequences. The data
shows that
23 when New Yorkers do not have access to

24 representation
during their immigration

1 proceedings, they are putting their lives,
2 families,
and economic stability at risk.

3 Currently, Governor Hochul is only
4 allocating
\$44.2 million in the Executive
5 Budget to fund immigration services, which is
6 a
drastic \$20 million cut from last year's
7 budget. This cut is a huge divestment
in
8 critical services when immigrant New Yorkers
9 need it most.

10 New York should
allocate \$150 million
11 in the 2025 New York State Budget to meet the
12 immediate
and long-term legal needs of
13 immigrant New Yorkers. This year-to-year
14 funding
battle and the possible reductions --
15 such as what we are facing this year --
16 harms
the ability to get these critical
17 services to the most vulnerable communities.

18 Immigration cases take years to
19 resolve, but without the assurance of
20 steady
funding, providers are reluctant to
21 hire or implement long-term programs.

22 The
inability to provide assurances to
23 prospective hires, the net decrease
24 in

available funding, and the lengthy

1 contracting delays with State agencies
2 often
put organizations in precarious
3 financial positions making them reluctant
4 to
hire. As a result, more and more
5 experienced lawyers are leaving the field
6 and
it is becoming harder to attract new
7 talent.

8 To address these structural issues, we
9 call for the passage of the Access to
10 Representation Act, which, if passed, would
11 establish the right to
representation for
12 immigrants facing deportation in New York.
13 This would secure
the essential funding
14 required by providers trying to meet the
15 urgent demand
for immigration services, since
16 legislation would ensure that individuals who
17 lack
the means to afford representation are
18 not left to face a trained government
lawyer
19 alone. Instead, it would guarantee the right
20 to legal counsel,
enabling them to safeguard
21 themselves and their families from
22 deportation.

23 Thank you for your work on behalf of
24 immigrant communities and for the

opportunity

1 to testify today.

2 MS. DÁVILA: Good afternoon. My name
3 is Fabiola Dávila, and I'm a
senior program
4 associate with the Vera Institute of Justice.
5 I'm here on
behalf of Shayna Kessler, our
6 associate director of advocacy, who could not
7 be
here today.

8 I'm testifying in support of two
9 issues: Legal representation for
immigrants
10 and criminal legal system investments and
11 legislation.

12 Regarding
immigration, we urge the
13 Senate and Assembly to ensure that New York
14 invests
\$150 million in immigration services
15 this year. Governor Hochul included
16 \$44.2
million in her Executive Budget for
17 immigration legal and social
18 services
administered by the Office of
19 New Americans, but this amounts to a cut of
20
million from the 63 million invested last
21 year, at a time when this support is
more
22 critical than ever.

23 We also call for the passage of the

24 Access to
Representation Act sponsored by

1 Assemblymember Cruz and Senator
2 Hoylman-Sigal, which would establish a right
3 to representation for people at risk
4 of
deportation in New York.

5 Specifically, in our \$150 million
6 proposal we ask for
62 million for
7 deportation defense to help provide full
8 representation for New
Yorkers facing
9 deportation; 23 million for education and
10 integration to support
existing services such
11 as naturalization and english learning; and
12 65 million
for rapid response services as
13 well as training, recruitment and retention
14 to
support long-term legal services
15 infrastructure.

16 This funding is needed now
more than
17 ever to enable more community members,
18 newcomers, and long-term
residents alike to
19 remain with their families. It will allow
20 people who are
eager to work and settle into
21 stable lives to enter the workforce at a
22 time
when our state is facing a labor
23 shortage.

24 By passing the ARA and

1 increasing
investments in these services, we
2 can set our state up to welcome
3 newcomers,
protect long time residents, and
4 promote prosperity. We call for the Assembly
5 and Senate to invest a combined \$106 million
6 in
their one-house budgets, for a total of
7 \$150 million in immigration services
8 for
fiscal year '25.

9 Separately, regarding the Governor's
10 criminal justice
proposals, we applaud the
11 small but important increases to last year's
12 record
funding for essential mental health
13 and criminal legal services. Despite
these
14 important investments, we are concerned that
15 the Executive Budget continues to
prioritize
16 punishment over evidence-based solutions that
17 address the root
causes of crime.

18 We are especially concerned about the
19 Governor's proposed
punitive responses to
20 retail crime, hate crimes, and drug offenses.
21 I urge you
to review the written testimony of
22 my Vera colleagues which detail why
23 these
proposals are harmful and proposes

24
passage

evidence-based alternatives including

1 of Assemblymember Anna Kelles' pretrial
2 services bill, A08242.

3 Thank you very much for your time and
4 support with these two issues.

5 CHAIRWOMAN KRUEGER: Thank you.

6 Assembly?

7 CHAIRMAN DINOWITZ: Assemblymember
8 Walker.

9 ASSEMBLYWOMAN WALKER: Awesome.

10 I want to say, first of all, that I'm
11 so very proud of you and you did a great,
12 great job and hopefully now that you've
13 learned so much about social media, you will
14 go to bed on time so that you can wake up on
15 time for school.

16 (Laughter.)

17 ASSEMBLYWOMAN WALKER: Because we
18 don't want those algorithmic diseases
19 affecting you.

20 Can you tell me a little bit about the
21 effect of the internet on proper brain
22 development for children?

23 MS. ANDERSON: Can you reask the
24 question?

1 ASSEMBLYWOMAN WALKER: Can you tell me
2 a little bit about how the disease of the
3 internet affects proper brain development for
4 children?

5 MS. ANDERSON: Well, it affects proper
6 brain development for children because --
7 mainly with the dopamine. It affects like
8 the part of your brain that you use to like
9 think.

10 So once your brain is focused on one
11 thing, it cannot focus on different other
12 things like getting your school work done, or
13 going to bed on time, getting to work on
14 time, things like that. It like prevents you
15 from moving forward with your life, because
16 it has you stuck in that place of where you
17 want to enjoy whatever you are doing.

18 ASSEMBLYWOMAN WALKER: Awesome. Thank
19 you. Thank you so very much. We're all very
20 proud of you. Thank you.

21 CHAIRWOMAN KRUEGER: Thank you.

22 Senator Jaamal Bailey.

23 SENATOR BAILEY: Thank you.

24 So the first point about access to

1 representation -- as an attorney, a formerly
2 practicing attorney, access to legal
3 representation is critical. And I applaud
4 you for making sure that you are stepping up
5 to the plate to advocate for individuals who
6 may have language barriers.

7 Language access is something that we
8 speak often about in our chambers and
9 something that we should definitely consider
10 when we are thinking about access to
11 representation, that there will be ways to
12 make sure that we have interpreters who
13 properly interpret. And that we should be
14 doing a better job of recruiting
15 interpreters, which is something I will say
16 to OCA about making sure we have more
17 language-based interpreters.

18 But, Ms. Anderson, I just want to say
19 thank you for coming here. I want to say we
20 are proud of you. We are proud of your
21 growth here, and it is incredible to see an
22 eighth-grader testifying before the State
23 Legislature. When I was in eighth grade, I
24 would not have been doing this. I would not

1 have had the courage, knowledge, or ability
2 to do so.

3 So I know public service is in your
4 blood, but you should be very proud of what
5 you have done today and what you will do in
6 the future. We are all excited to see it.

7 Thank you.

8 MS. ANDERSON: Thank you.

9 CHAIRWOMAN KRUEGER: Thank you.

10 Assembly.

11 CHAIRMAN DINOWITZ: In about six years
12 you should consider running for the Assembly.

13 (Laughter.)

14 CHAIRMAN DINOWITZ: Against the
15 incumbent even.

16 (Laughter.)

17 CHAIRMAN DINOWITZ: Next is Chair
18 Dilan.

19 ASSEMBLYMAN DILAN: Yeah, she's in the
20 city, so they tend to do those swaps.

21 (Laughter.)

22 ASSEMBLYMAN DILAN: So it'll be fine.

23 I just want to say to Nile, tell me
24 about your experiences with your classmates

1 and what the school offices and support
2 services -- when they see a child who has
3 been negatively impacted on things that they
4 see in social media, what does the school
5 system offer?

6 MS. ANDERSON: Well, personally, in my
7 school system, they address it,
like,
8 straightforward -- so they don't, like --
9 once they hear about it,
they're able to like
10 come to the classroom say, like, okay, like
11 everyone --
what happened. They're able to
12 like sit down and actually talk about it.
13 Right?

14 And what happens is, like, they'll
15 like ask you, like, tell them why. So they
16 like are able to actually understand instead
17 of just trying to get you in trouble.

18 ASSEMBLYMAN DILAN: So these are the
19 guidance counselors?

20 MS. ANDERSON: No, it's mainly just
21 like the teachers.

22 ASSEMBLYMAN DILAN: The teachers? So
23 do you think there should be more support
24 services in the budget for things like this

1 that impact kids? And how many of your
2 friends at school have been negatively
3 impacted?

4 MS. ANDERSON: Well, I actually do
5 think that this should be included in like
6 more schools.

7 ASSEMBLYMAN DILAN: Right.

8 MS. ANDERSON: And -- how my friends
9 think?

10 ASSEMBLYMAN DILAN: Yeah. How have
11 your friends been affected? What have you
12 seen?

13 MS. ANDERSON: They have been affected
14 by -- because sometimes they like -- like me,
15 sometimes, they stay up past like what
16 they're supposed to.

17 ASSEMBLYMAN DILAN: Yeah.

18 MS. ANDERSON: They're like -- they
19 like to, like, do certain things that are not
20 directly okay because of what social media
21 has brought into their lives.

22 ASSEMBLYMAN DILAN: I got it.

23 So now I've got to cut you off because
24 of time, but I want to say that, you know,

1 public service is in your blood on both sides
2 of the family, and I know that both of your
3 grandmas would be proud of you.

4 But I had the privilege to represent
5 and serve with your grandma Joyce Anderson,
6 who was a big-time public advocate in
7 Brownsville and a tenant leader in the
8 Ocean Hill houses in Brooklyn. I no longer
9 represent that area, but I can tell you she
10 would be very proud of you, and you are a
11 chip off the old block.

12 So we're proud to see you here. Thank
13 you.

14 MS. ANDERSON: Thank you.

15 CHAIRWOMAN KRUEGER: Senator Brad
16 Hoylman-Sigal.

17 SENATOR HOYLMAN-SIGAL: Thank you.

18 And again, congratulations for -- and
19 thank you for your testimony. I have an
20 eighth-grade daughter too, as the
21 Assemblywoman knows, and we have been talking
22 about you and my daughter for the last, you
23 know, decade or so. So it's really good to
24 see you. And it's very important that you

1 share this information.

2 On the Access to Representation Act --
3 and thank you for your support and
4 information about this issue -- how might it
5 have become even more important with the
6 number of asylum-seekers in New York State at
7 this point? And what percentage -- do you
8 have any idea what percentage of
9 asylum-seekers are able to secure
10 representation at this point of the new
11 immigrant population?

12 MS. DAVILA: Hi, Senator Hoylman.

13 Thank you for that question.
14 I'm not able to

15 provide that number at this point, but I did
16 want to speak to your first question.

17 I think what the Access to
18 Representation Act shows us is that New York
19 was not very prepared to welcome new
20 immigrants.

21 And this is not a new issue that we've
22 seen. Immigrants have always been a part of
23 New York State, have always contributed to
24 the economy, to the culture, to everything.
We wouldn't be the state that we are without

1 immigrants.
and so I think we need to think

2 about this issue holistically and think very
3 long-term, because immigration is always
4 going to be a part of our state.

5 So I think what is really important
6 about the Access to Representation Act is
7 that it would slowly build up, efficiently,
8 over the course of six years, the
9 infrastructure that we need to be able to
10 actually give those people lawyers.

11 So I think that's -- I don't know if
12 anybody wants to add more to that, but I
13 think that is what I would really like to
14 highlight, that if we had passed the Access
15 to Representation Act years ago, we might be
16 in a very different situation.

17 I mean, I know that we would be in a
18 very different situation, because we would
19 have built up that infrastructure. We would
20 have had more lawyers. We could have had
21 more clinics at law schools, trainings for
22 paralegals, for DOJ-accredited reps.

23 So I hope that answers your question.

24 MS. GALAZ: Yeah, the only thing that

1 I would add is while we pass the Access to
2 Representation Act, which is crucial that we
3 do, we are asking this year for 65 million
4 for exactly what my colleague was describing,
5 for capacity-building initiatives and
6 investments, and for legal services.

7 SENATOR HOYLMAN-SIGAL: Thank you.

8 CHAIRWOMAN KRUEGER: One more Senator,
9 Senator Salazar.

10 No, it wasn't Senator Salazar. It was
11 Senator Gonzalez. I'm just losing my mind, I
12 apologize.

13 (Laughter.)

14 CHAIRWOMAN KRUEGER: Press hard.

15 SENATOR GONZALEZ: There we go. Thank
16 you, Brad.

17 I just wanted to say thank you to all
18 of the incredible folks on the panel today,
19 and then a special shout-out to our youngest
20 member of the panel, Ms. Anderson. It is
21 nice to have someone participating in this
22 who is younger than me at this point.

23 (Laughter.)

24 SENATOR GONZALEZ: But I really do

1 want to say that your voice is needed, and so
2 are the voices of so many of your classmates.
3 So definitely want to say thank you for being
4 here. You did an incredible job, and I'm
5 excited to look more into the bill.

6 With that, I do want to spend a little
7 bit of time asking questions of our other
8 panelists because, as you've heard today, you
9 know, obviously there is an incredible need
10 to support our immigrant New Yorkers and a
11 deep gap in legal services.

12 But in addition to legal services,
13 with the asylum-seeker crisis, I want to know
14 what else you believe is the responsibility
15 of the state in order to support folks who
16 are going through that process and then also,
17 you know, really rise to the growing need in
18 this crisis.

19 MS. GALAZ: I can begin answering
20 that, and then my colleagues can fill in.

21 As you mentioned, legal services are
22 crucial and life-saving. However, we also
23 see a need for social services. So part of
24 the investments that we're talking about

1 today also include social workers being
2 integrated into the infrastructure of the
3 existing legal services so people can help --
4 you know, people who are trauma-informed can
5 support asylum-seekers as they navigate the
6 immigration system, not only through a legal
7 way, but also supporting them in adapting to
8 a new country, facing a lot of the trauma
9 that they have endured.

10 MS. ROSADO: And I would like to add
11 that another thing that is important to note
12 is that while rapid response services are
13 incredibly crucial as we see folks arriving
14 in the State of New York, it's somewhat like
15 a Band-Aid to a long-term problem, right?

16 So what often ends up happening is you
17 have these kind of singular clinics, where
18 folks will do one or two applications, right?
19 So, for example, Immigrant ARC, in
20 partnership with the New York Immigration
21 Coalition, did a work-authorization clinic,
22 which was great. We did several thousand
23 applications.

24 But the problem is, you know, as

1 important as that is, they are only getting
2 one application. And think of an asylum
3 application. Those can take up to 10 years
4 to go through the system. There is going to
5 be follow-up. Inevitably, in the best-case
6 scenario, they might go to their
7 community-based organization to, you know,
8 follow up on that application. And they have
9 the cultural awareness. They have the
10 language access.

11 SENATOR GONZALEZ: Thank you all so
12 much. I appreciate the work that you're
13 doing.

14 CHAIRWOMAN KRUEGER: Thank you.

15 I think we've covered everyone. So
16 all of you, thank you so much for being with
17 us here.

18 MS. GALAZ: Thank you.

19 CHAIRWOMAN KRUEGER: I will get my
20 voice and brain back working soon -- thank
21 you.

22 And I want to call up the next panel,
23 which is the UJA-Federation of New York; the
24 Orthodox Union Project Protect; and the

1 New York State Council of Churches.

2 (Pause.)

3 CHAIRWOMAN KRUEGER: Assemblymember
4 Dinowitz will handle this.

5 CHAIRMAN DINOWITZ: Choose amongst
6 yourselves. One of you should start.

7 MS. SAVRANSKY: My name is first.

8 (Laughter.)

9 MS. SAVRANSKY: Hi. I'm Ariel
10 Savransky. I'm the senior advocacy and
11 policy advisor at UJA Federation. Thank you
12 for the opportunity to testify today. I know
13 it's been a long day, so I will just
14 summarize my testimony.

15 Since October 7th we have seen a huge
16 rise in hate crimes throughout the country,
17 and in this critical moment UJA has really
18 taken steps to mobilize our community and
19 take a very strong stance against anti-Jewish
20 hate crimes

21 We have also strengthened the work of
22 the security initiative by allocating funding
23 to bolster security at 400 under-resourced
24 Jewish communal institutions. We've

1 supplemented Hillels on college campuses to
2 support Jewish students. We've taken the
3 lead on implementing the White House's
4 national strategy to counter antisemitism,
5 specifically with education efforts, and we
6 have also worked with DEI and HR
7 professionals to support Jewish individuals
8 in the workplace.

9 In addition to our work, we are very
10 grateful for your partnership and we urge you
11 to take the following actions. One, the
12 Securing Communities Against Hate Crimes
13 initiative. We were appreciative of the 35
14 million that was included in the Executive
15 Budget, but we'd like to see that increased
16 to 100 million -- just given the huge rise
17 that we've seen in hate crimes.

18 We would also like to see that the
19 uses of that funding be expanded and would
20 also like to see applicants be able to be
21 reimbursed for already-incurred expenditures.
22 We also would like to see funding for the
23 non-profit school safety equipment program
24 increased from 45 million to 90 million so

1 that students and families can feel safe on
2 their school campuses.

3 And in addition to those two programs,
4 we also are very supportive -- thank you to
5 Senator Hoylman-Sigal -- for the two bills
6 that you have proposed, S7737, which expands
7 the list of crimes eligible for prosecution
8 as hate crimes, and S895 and A6789, also by
9 Assemblymember Lee, which will hold social
10 media platforms accountable for proliferation
11 of hate speech that we see on the sites.

And

12 we've just heard from a middle-schooler who
13 has really seen the impacts that these
14 programs can have on individuals and young
15 people.

16 Thank you for the opportunity to
17 testify. We urge your consideration and
18 support of these vital investments to protect
19 communities from hate and keep New Yorkers
20 safe.

21 CHAIRMAN DINOWITZ: Okay.

22 Ms. Greenfield.

23 DR. GREENFIELD: Good afternoon,
24 Chair Krueger -- who just stepped out -- the

1 legislative fiscal committees and other
2 distinguished members of the Senate and
3 Assembly, and Assemblyman Dinowitz, who
4 represents me in the Bronx. Thank you for
5 the opportunity today to discuss the safety
6 and security of our communities. And I'm
7 humbled to be sitting here next to the
8 Christian Coalition and the UJA. These are
9 issues that affect all of us, and I'm proud
10 to be working together with them.

11 My name is Dr. Nava Greenfield. I am
12 a community advocate for Project Protect, but
13 more importantly I'm the mother of four small
14 little boys, I'm a daughter, and I'm a
15 concerned constituent.

16 Since the October 7th attack of Hamas
17 on Israel, there has been a 330 percent
18 increase in hate crimes -- that's according
19 to the NYPD data. Just two miles from here,
20 someone fired a shotgun outside of a Jewish
21 temple. And my four-year-old Jonas, who goes
22 to a little preschool in the Bronx at a
23 Jewish temple, also receives threats.

24 So I'm here today with two requests.

1 One is to increase the Secure Communities
2 Against Hate Crimes Grant programs to
3 \$100 million, and the second one is to
4 include security personnel inside that grant.
5 The grant is vital to securing our
6 communities against hate crimes and
7 communities that are most at risk. We're
8 talking about daycare programs, our schools,
9 community centers, cultural museums, places
10 that are very meaningful for us.

11 We appreciate Governor Hochul for her
12 dedication for securing our communities and
13 her \$35 million proposal in her Executive
14 Budget. But considering that the hate crimes
15 increased by 330 percent, we feel that that's
16 just not enough.

17 I also want to pay attention to a gap
18 in the program. Right now security personnel
19 are not included under the grant. Project
20 Protect recently conducted a survey and found
21 that in the past few months since
22 October 7th, there has been a 50 percent
23 increase in security expenses in nonprofit
24 organizations. Sixty-six percent of that

1 goes to security personnel.

2 Security personnel is not like buying
3 a door or an alarm system. It's recurring
4 expenses, months over months, years over
5 years, and is by far the most expensive thing
6 in security that we are spending on. It
7 outweighs any other expense in security.

8 We also know that security personnel
9 is the first line of defense against any
10 threat. They're there to stop a threat, to
11 deter it from happening. They're there when
12 the threat happens, and they're the first
13 responders. And they're vital to ensuring
14 that our environment is safe.

15 So I'm asking you to please be
16 proactive rather than reactive in this.
17 Let's not wait for another hate crime to
18 happen or for anyone to get hurt. Let's make
19 sure that the infrastructure is in place.

20 Thank you.

21 CHAIRMAN DINOWITZ: Reverend Ketcham.

22 REVEREND KETCHAM: Yes, I'm Jim
23 Ketcham. I serve on the board of the
24 New York State Council of Churches.

1 As people of faith, we emphasize that
2 grace and forgiveness have been shown to us
3 and we give witness to renewal and
4 restoration as they occur in our midst. We
5 believe we are called to choose these
6 qualities over mere vengeance and punishment.
7 We support the concepts of restorative and
8 repairative justice, rather than relying
9 solely on retributive justice.

10 We oppose punishment not in proportion
11 to the crime, such as mandatory minimum
12 sentencing. We critique systems that impact
13 people of a certain race unjustly. And we
14 would submit that the fact that over
15 70 percent of the residents of New York State
16 prisons are people of color is neither an
17 accident nor a coincidence. It is indicative
18 of systemic racism that must be addressed.

19 In this spirit, we support the
20 following legislation: The Second Look Act,
21 to relieve the injustice of extreme penalties
22 that were imposed in the various
23 tough-on-crime eras and the Rockefeller
24 Drug Law era. We also support the

1 elimination of mandatory minimum sentences,
2 because this often forces even innocent
3 defendants to plead guilty to avoid longer
4 sentences.

5 Something like 95 percent of the
6 guilty verdicts are the result not of a trial
7 or a judge's determination but of the
8 defendant taking a guilty plea to end -- to
9 put an end to the not knowing and the torture
10 of not knowing.

11 We support Daniel's Law and urge the
12 full funding and rapid completion of that
13 task force's work. We support the Treatment
14 Not Jails bill. Those struggling with
15 addiction or mental health issues are not
16 best served by uniformed policemen with
17 weapons or best served by prisons.

18 New York State is spending literally
19 billions of dollars to criminalize those with
20 mental health issues and addictions. We're
21 doing the same thing over and over and over
22 again expecting a different result. Which,
23 as you know, is the definition of insanity.

24 We support the No Slavery in New York

1 Act, the Fair and Timely Parole bill to
2 increase transparency, and we do not support
3 efforts to roll back the Raise the Age law.
4 We would rather provide services than
5 sentences.

6 CHAIRMAN DINOWITZ: Thank you very
7 much.

8 Let me start. I know in the past
9 several years there have been dramatic
10 increases in anti-Asian hate crimes, and I
11 like to think that we took action in terms
12 of -- certainly in terms of funding. And
13 there has been a rise in other types of hate
14 crimes, including anti-Muslim, anti-Arab hate
15 crimes. But as far as I know, the dramatic
16 and shocking increase in anti-Jewish hate
17 crimes is unprecedented. It is much higher
18 than any other category. To me, it's
19 shocking.

20 You know, I'm a student of history,
21 and when I hear some of these things going on
22 in the college campuses or even in some of
23 the schools or on the streets, you know, you
24 think to another era across the ocean.

1 But I was wondering if you know if
2 there has ever been this magnitude of
3 increase in anti-Jewish hate crimes and
4 antisemitism in general.

5 DR. GREENFIELD: I don't know the
6 answer to that. But just knowing that this
7 is happening in New York and in America --
8 I'm only 38 years old, so I don't -- I don't
9 know what happened before my time.
But it's
10 unimaginable. It's shocking to know that
11 this is happening now.

12 It's shocking to my parents and
13 grandparents, and we all feel the burden of
14 it and we also -- we have a task. We have to
15 pay more money to protect ourselves. And
16 that's why I think we're asking that the
17 government step in and help us with that.

18 CHAIRMAN DINOWITZ: Well, I just want
19 to -- I know in my neighborhood -- in our
20 neighborhood, I mean -- we do see an
21 increased police presence at some of the
22 shuls and at some of the other institutions.
23 We have Jewish schools. All that costs
24 money. But the fact is -- and tell me if you

1 disagree -- it's not enough. You know,
2 getting cameras, getting other security
3 presence, everything costs a lot of money.

4 And I think we have a model for
5 dealing with this stuff based on things we
6 have already done. So I for one agree with
7 what you're saying, and I hope that we can
8 move in the direction of trying to snuff out
9 this hatred. I personally think the best way
10 to stop hatred is for people to learn and be
11 educated, but unfortunately we are in a very
12 difficult time where the victims of the most
13 savage terrorist attack we have seen in
14 memory are now being, themselves, blamed for
15 it and are the victims of antisemitism around
16 the world.

17 I don't know that I have anybody who
18 said they wanted -- Assemblymember Ra.

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

21 CHAIRMAN DINOWITZ: Oh. I -- well, no
22 one said anything. And they're not usually
23 shy.

24 CHAIRWOMAN KRUEGER: Senator Jamaal

1 Bailey.

2 CHAIRMAN DINOWITZ: Okay.

3 SENATOR BAILEY: Jeffrey, we wanted to
4 let you -- you know, it's your constituent,
5 and we wanted to give you the courtesy.

6 So I just want to say thank you for
7 the work you're doing and for -- at this
8 point I want to thank everybody that -- and
9 I'll say it again, thank you for staying late
10 to testify, because your voice and what
11 you're saying does truly matter.

12 UJA, I want to thank you all for not
13 just having conversations about the hate
14 crimes but partnering with my office and many
15 other offices around the holidays, partnering
16 with other individuals of other faiths. That
17 speaks to what Assemblymember Dinowitz was
18 saying, is that the way that we truly combat
19 hate is that we unlearn what has happened and
20 we start to teach younger generations about
21 that.

22 And I've been to SAR in Riverdale with
23 Rabbi Krause, I've been there. And I think
24 it's important for those of us of different

1 faiths to go to different places of things
2 that we don't know, to truly learn more about
3 what's happening.

4 So the points about Raise the Age and
5 the last one, Reverend Ketcham, I stand with
6 you. I think that we should have more
7 funding for it. I did an op-ed to that
8 effect a couple weeks ago.

9 And as far as the funding for the hate
10 crime -- as the Assemblymember also said --
11 anti-bias, anti-Jewish, anti-Muslim, these --
12 there is a spike, and we have to figure out
13 the scourge, how to -- how to result in
14 that -- is it more money, is it going back to
15 a baseline of \$35 million -- I believe so.

16 For the increases, we should
17 definitely make sure that it's proportional
18 and that all communities that are affected
19 are receiving their fair share of this
20 funding. But in this time, you know,
21 especially since October 7, as you mentioned,
22 there has been a precipitous increase --
23 precipitous -- the other way -- stark
24 increase in hate crimes and bias and I just

1 want to say again thank you for coming up and
2 testifying and as the budget process
3 continues, we will continue to heed the words
4 that you've all said.

5 Thank you.

6 MS. SAVRANSKY: I just want to say
7 thank you for your partnership, and we really
8 appreciate that and are very grateful to be
9 working with other faith communities to
10 really fight anti-hate {sic}.

11 CHAIRMAN DINOWITZ: Assemblymember Ra.

12 ASSEMBLYMEMBER RA: Thank you. And I
13 just want to thank all three of you for being
14 here. I thank our faith leaders, and our
15 faith-based organizations always have an
16 important role to play in policy and
17 budgeting. So we thank you for being here.

18 But I do want to in particular ask
19 about -- I know your organizations have
20 partnerships with our -- with student groups
21 and on our campuses, and just in terms of --
22 I think the funding, absolutely.

23 We need those enhanced grants. We
24 need to be able to provide security upgrades

1 and all of that. But what are you hearing
2 from, you know, Jewish students on our
3 college campuses about what their experiences
4 have been these last few months? And what
5 else should we be looking at from -- more on
6 the policy side to provide a safe atmosphere
7 on our campuses for those students?

8 You know, you mentioned we're in
9 New York, if we can't provide it here in
10 New York for Jewish students, then I don't
11 know where they would be able to feel safe.

12 MS. SAVRANSKY: So I haven't directly
13 had the conversations with college students.
14 A number of my colleagues are working on
15 those programs and I can definitely bring
16 back more information.

17 But I would say that just from what
18 I've heard, like students are fearful and a
19 lot of them are scared to go to classes. You
20 know, scared to like be out in the world and
21 really experience what you're supposed to
22 experience in college. And I think that, in
23 terms of solutions, funding is helpful with
24 providing like mental health support, any

1 legal support they might need on campus to,
2 you know, help them get through any
3 antisemitic incidents that they may be
4 suffering from.

5 But also, just generally, we need more
6 overarching education, and I think the
7 colleges really need to be very firm in their
8 condemning all acts of hate. And I think
9 that would really go a long way toward at
10 least making students feel like they're being
11 protected.

12 DR. GREENFIELD: Yeah, I think the
13 issues are very deep. When presidents
14 resign, it's just a symbol of the depth of
15 the issue. And I think just starting with
16 defining what antisemitism is and what hate
17 speech is and having certain rules of conduct
18 on campus, that's definitely a way to begin
19 to address those issues.

20 But again, like, the education and
21 what they're teaching in the classroom and
22 how they conduct, these are all things that
23 would be addressed on all college campuses.

24 ASSEMBLYMAN RA: Absolutely. I'm sure

1 you have seen the alarming statistics about,
2 you know, the knowledge of our youth about
3 the Holocaust and antisemitism. It's -- I
4 mean, it's unbelievable that children are
5 growing up that don't know the simple facts
6 of that. So I thank you all for your --

7 DR. GREENFIELD: We've all seen it.

8 CHAIRWOMAN KRUEGER: I want to thank
9 all three of you for being here and for the
10 work you're doing.

11 And I just do want to reemphasize this
12 Legislature is very aware of the -- almost
13 the poison of hatred that is growing in our
14 state and our country and the necessity to
15 come up with new models to help people
16 understand the damage that can be done, even
17 by statements, and the fear that it is
18 generating throughout our communities, and
19 this is of all religions and races and we
20 need to come together and address these in
21 effective ways.

22 So thank you very much for being here.

23 DR. GREENFIELD: Thank you.

24 MS. SAVRANSKY: Thank you.

1 REVEREND KETCHAM: Thank you.

2 CHAIRWOMAN KRUEGER: Our next panel is
3 the New York County District Attorney's
4 Office, Brian Crow; New York State Defenders
5 Association, Susan Bryant; New York Legal
6 Services Coalition, Tina Foster; Empire
7 Justice Center, Kristin Brown.

8 So good evening. Why don't we start
9 at my left, your right, and let's go down the
10 table. Oh, yes, practice pushing the button.
11 You have to push really hard when it's your
12 turn to talk. Thank you.

13 MR. CROW: Thank you. Good afternoon,
14 everyone. My name is Brian Crow. I'm the
15 executive assistant district attorney for
16 policy, the New York County District
17 Attorney. It's my pleasure to be here.

18 And I am here today not to ask for
19 money for our office -- we are funded largely
20 by the city -- and I'm actually here to ask
21 for money for our partners in the work that
22 we do, our partners in achieving both safety
23 and fairness every day, starting, number one,
24 with our partners working in the

1 problem-solving courts and alternatives to
2 incarceration upon which our office and our
3 system relies so heavily every day.

4 Under our administration, we have
5 increased our referrals and our placements in
6 our problem-solving courts by roughly
7 200 percent. The contracts under which those
8 courts are working and those providers are
9 working are based on an old system, and the
10 system as it currently stands is being
11 strained to a breaking point. Our current
12 wait times for a person who is incarcerated
13 being -- just to get an evaluation for an
14 alternative to incarceration -- is roughly
15 two months. For someone who's not
16 incarcerated, it's even longer. That does
17 not achieve either justice, fairness, or
18 public safety. Increased funding for these
19 courts and these providers will allow us to
20 more efficiently deliver justice and do the
21 public safety service that we're trying to do
22 every day.

23 Related to that, one of the most
24 important mechanisms that we use to keep our

1 communities safe and to provide fairness for
2 the people who are charged with crimes is to
3 use community-based mental health services
4 like ACT teams, Assertive Community Treatment
5 teams. These ACT teams are essential for us
6 to decarcerate safely, to get people from
7 Rikers Island back into the communities but
8 with the support systems that they need.

9 We are very pleased to see the
10 \$9.8 million in the Executive Budget towards
11 those ACT teams. And we are also pleased to
12 see, speaking of the problem-solving courts
13 and alternatives to incarceration, the
14 proposal I heard earlier this morning from
15 Chief Administrative Justice Zayas that he
16 had requested \$50 million, part of which was
17 going to go towards problem-solving courts.

18 We encourage that number to be as high
19 as possible. We are -- by our projections,
20 we project that the state needs at least
21 25 million just for problem-solving courts.
22 I'm hoping that roughly half of that
23 50 million that he requested is for that
24 purpose.

1 I will briefly say that our system is
2 also constrained in our need for more
3 housing, particularly justice-involved
4 housing. The justice-involved supportive
5 housing program in New York City has been
6 successful, but it has been underfunded.

7 Briefly, I will talk about
8 legislation. We are very supportive of the
9 bill that is in the Executive Budget
10 expanding the list of hate crimes -- thank
11 you to Senator Hoylman-Sigal and
12 Assemblymember Lee for working with our
13 office on that -- because it's our office who
14 identified the 31 crimes that we proposed to
15 be added to the statute that is based on the
16 work of our hate-crimes prosecutors every day
17 who see these kinds of cases that are
18 clearly, by any commonsense definition, a
19 hate crime but simply cannot be charged as
20 such.

21 Thank you.

22 CHAIRWOMAN KRUEGER: Thank you.

23 Next?

24 MS. BRYANT: Hi. Good afternoon. And

1 I'm thrilled to say "afternoon," because this
2 is the first time I've been here before about
3 6 or 7 o'clock. So thank you all.

4 (Laughter.)

5 MS. BRYANT: And thank you to the
6 Legislature, particularly for all you have
7 done for public defense and for the New York
8 State Defenders Association, my organization.

9 I'm Susan Bryant, the executive
10 director. Our Public Defense Backup Center
11 and Veterans Defense Programs are vital to
12 quality representation of people in criminal
13 court and parents and other adults in
14 Family Court.

15 I refer you to my written testimony
16 for details about our extensive services that
17 we offer, as well as to the Indigent Legal
18 Services Office testimony that speaks about
19 our budget request.

20 Again, we need the Legislature to
21 restore our backup center funding. The
22 Executive put in \$1,030,000, which is less
23 than one-third of what we need to do the
24 baseline work that we do every day. So that

1 is \$2.1 million that would restore our
2 funding.

3 But I'm also here to ask for an
4 additional \$1,792,000, which would expand our
5 Discovery and Forensic Support Unit that you
6 so wonderfully helped us create by providing
7 funding a couple of years ago. I'm pleased
8 to say it's a success -- we're not surprised
9 by that, but it means that we need more
10 staff, because we're getting calls every day
11 for help.

12 So our centralized support makes
13 fiscal sense and improves efficiency for
14 public defense, and we ask you for your
15 support of that additional request.

16 The other thing I want to talk to you
17 about is the Veterans Defense Program.
18 Unfortunately, despite being in its
19 10th year, the Governor has never provided
20 support. It's only been the Legislature.
21 And despite the fact that we've saved the
22 state more than \$126 million in incarceration
23 costs by the work that we've done, we can't
24 even get into the Executive Budget.

1 We need \$720,000 to be flat-funded for
2 that program. And we are asking for an
3 additional \$230,000 to focus on Central and
4 Northern New York, which we have not gotten
5 many requests from, and that's because we
6 haven't had somebody with boots on the ground
7 in that area of the state. And it makes a
8 huge difference, the services, in making sure
9 people know about what we do and the
10 mitigation and peer-to-peer mentoring we
11 provide.

12 I'm just going to throw in at the end,
13 we support a lot of the things that ILS
14 already spoke about this morning. We reject
15 the Governor's sweep of the Indigent Legal
16 Services Fund. Family Court funding is an
17 absolute necessity this year. We cannot have
18 it go on any longer without being funded at
19 an appropriate level of \$50 million.

20 We also support the Indigent Parolee
21 Program and loan forgiveness expansion.

22 Thank you very much.

23 CHAIRWOMAN KRUEGER: Thank you very
24 much.

1 Next.

2 MS. FOSTER: Thank you. Thank you
3 very much for the opportunity to testify.
4 Good evening. My name is Tina Monshipour
5 Foster. I'm the executive director of
6 JustCause and the board chair of the New York
7 Legal Services Coalition.

8 Our coalition represents collectively
9 people all over the State of New York. Our
10 member organizations provide legal
11 representation to low-income New Yorkers in
12 non-criminal matters. And these are
13 including a lot of the topics that you talked
14 about today in areas of family law, domestic
15 violence, immigration, housing, public
16 benefits, consumer issues, elder law,
17 veterans, LGBTQIA, class rights, victims of
18 hate crimes, and other civil legal matters --
19 so anything non-criminal.

20 The coalition and our members are
21 driven by one core mission, which is
22 advancing access to justice. This means
23 ensuring that all New Yorkers, particularly
24 low-income populations and communities of

1 color, have legal representation when they
2 need it.

3 But across the state, our
4 organizations are struggling to hire
5 attorneys and staff. The primary reason for
6 this is that our attorney and staff
7 compensation is a fraction of market rates
8 for similar public-interest positions. For
9 example, the starting salary of a new
10 attorney in the New York State Attorney
11 General's office in New York City is \$90,000.
12 The same position at one of our civil legal
13 services organizations, according to our
14 internal surveys, is \$69,000. And that also
15 does not include a substantial benefits
16 package that government attorneys receive and
17 we do not.

18 After 10 years that gap in New York
19 City turns to \$134,000 per year for a
20 government attorney, and a 10-year veteran of
21 our organization would only be making
22 \$92,000. The rest-of-state gap is even
23 worse. The gap between an AG in
24 rest-of-state after 10 years is 131 for the

1 state attorney and 74,000 for our attorneys.

2 Without pay equity, our available
3 workforce will continue to dwindle, and
4 vulnerable New Yorkers will be left without
5 vital services. We ask you to act now to
6 ensure that the vital funds that we need to
7 achieve pay equity are not denied to
8 historically underserved communities.

9 I now know our positions on the 2025
10 Executive Budget. We support modest
11 increases for civil legal services through
12 the Office of Court Administration budget,
13 specifically a 6 percent increase in civil
14 judicial legal services, a 3 percent
15 cost-of-living adjustment -- and in addition,
16 we are asking for a \$2.5 million -- sorry, to
17 redirect \$2.5 million of the revenue from the
18 Legal Services Assistance Fund.

19 MS. BROWN: Good afternoon. My name's
20 Kristin Brown. I'm president and CEO of
21 Empire Justice Center, and I'm co-vice
22 president of the New York Civil Legal
23 Services Coalition, and I serve as cochair of
24 the coalition steering committee.

1 My written comments cover in detail
2 the many items in the budget that we support,
3 including the items that Tina just mentioned.
4 But I want to focus my comments today on what
5 you have already heard about, which is the
6 proposed sweep of \$100 million in IOLA funds,
7 because it's essential that you all know
8 about this and reject it for reasons that may
9 or may not be obvious.

10 I think at this point you -- at the
11 beginning of the day you heard a great deal
12 about this in the discussion with
13 Judge Zayas. I just want to be clear that
14 there are multiple sweeps we've discussed
15 today, and I am talking about the IOLA Fund,
16 which funds civil legal services.

17 Empire Justice is deeply concerned
18 about this action because it undermines
19 IOLA's planning to support our vastly
20 underresourced community's efforts to
21 increase salaries, as Tina mentioned, and
22 services so we are able to fulfill our
23 promise of providing civil legal services to
24 our client communities.

1 It also sets a dangerous precedent.
2 New York's Interest on Lawyers Trust Account
3 Fund was established in 1983 for the sole
4 purpose of funding civil legal assistance, as
5 the legislative intent that's included in my
6 testimony clearly states. Using these funds
7 for any other purpose is unconscionable, and
8 it sets a dangerous precedent, as I noted.

9 We urge you to reject the proposal
10 outright. IOLA supports essential legal
11 services for low-income New Yorkers with
12 civil legal problems and their most basic
13 needs, and the top five areas of service from
14 2003 from IOLA grantees are housing,
15 immigration, family law, education and
16 health.

17 IOLA relies on fluctuating interest
18 rates to generate funds for civil legal
19 services. In the early days, this resulted
20 in dramatic swings in funding for our
21 community, causing uncertainty and financial
22 crisis for providers and loss of services for
23 client communities. I remember that very
24 well.

1 To guard against this, IOLA shifted to
2 a rainy-day approach that creates a reserve
3 of funds to be used when rates are down and
4 earnings are low. This has created funding
5 stability and has been a godsend.

6 Now is not the time to raid IOLA. The
7 access-to-justice gap, as you've already
8 heard, which is the space between the civil
9 legal needs of low-income New Yorkers and the
10 resources available to meet those needs, has
11 now been assessed by the Permanent Commission
12 on Access to Justice at \$1 billion over what
13 is currently in the system.

14 This is an effort that I was proud to
15 be a part of as a member of the permanent
16 commission, and I can say that notably this
17 analysis focuses only on those earning up to
18 250 percent of poverty and does not include
19 immigration civil legal services.

20 CHAIRWOMAN KRUEGER: I just have one.

21 So down in New York City, and some of
22 you represent that, there seems to be a
23 shortage to even get legal-service attorneys
24 to -- or people to apply to be legal-service

1 attorneys. And sometimes I notice and hear
2 that we are almost competing against each
3 other. So somebody will have a job doing
4 housing law, and then they'll see an
5 application where, for whatever reason, the
6 contract for asylee indigent immigrant law is
7 paying a little more, so then they -- and I
8 understand. But they sort of jump ship and
9 take the other job, or vice versa.

10 Like is there a way for us to help
11 produce more lawyers? Because I feel very
12 strongly that we desperately need them in all
13 of these jobs in, you know, legal service and
14 civil work.

15 I'm sorry, do you want to leave your
16 job?

17 (Laughter.)

18 CHAIRWOMAN KRUEGER: Oh, he's
19 volunteering to work, I think I just heard
20 him say.

21 (Laughter.)

22 CHAIRWOMAN KRUEGER: Some people think
23 there are too many lawyers. I actually
24 don't. Not to do the legal-services kind of

1 work.

2 So are you all talking about that
3 also?

4 MS. FOSTER: Oh, absolutely. That is
5 one of the -- I think for everyone in this
6 day and age, it's recruitment -- retention of
7 talent is important in every industry, but in
8 our industry we have a major lawyer shortage.
9 In some parts of the state we have legal
10 deserts where there are absolutely no lawyers
11 in certain areas to serve people in need.

12 So I think our coalition is trying to
13 get more pipeline type of education to
14 law students and law schools to encourage
15 public interest work and specifically in
16 legal services for people who need the help.

17 We have an opportunity to make a
18 difference there. But I think the key piece
19 that we need is, you know, a lot of our
20 attorneys, they're very dedicated. They want
21 to work for people who are low-income and,
22 you know, primarily our clients are people of
23 color, people who are, you know -- they don't
24 have all of the advantages. So they want to

1 work in public service.

2 But not everybody is privileged enough
3 to be able to turn down a \$50,000 pay
4 differential to be able to do that.

5 CHAIRWOMAN KRUEGER: And then just a
6 quick follow-up. So let's say healthcare --
7 we spent all day in a health hearing. There
8 has been more growth in expanding scope of
9 practice so there are people who are health
10 professionals, but not doctors, taking on
11 more of the responsibilities that were only
12 for doctors at one time.

13 And is there a model like that for
14 legal services where paralegals could somehow
15 have a broader scope of practice, or you can
16 be triaging for when absolutely a lawyer is
17 needed and when there are others that could
18 do the work and expand services?

19 MS. FOSTER: Yeah, absolutely. I
20 think that there is a lot of thought going
21 into what -- how much can we ethically ask
22 people who are not attorneys to do. But
23 frankly, the paralegals in our offices really
24 are the front-line staff. And they're the

1 people that are dealing mostly with our
2 clients.

3 CHAIRWOMAN KRUEGER: Thank you.
4 Assembly?

5 CHAIRMAN DINOWITZ: Well, first, I
6 want to thank the three of you for the work
7 you do. And I want to thank you (to
8 Mr. Crow) for the work that your office does.
9 All very important.

10 But I do have some specific questions
11 for the New York State Defenders. First, you
12 had thrown out a number of figures, you
13 wanted additional money for this and that.
14 And while normally I would be adding things
15 up, I didn't.

16 So can you -- you threw out three or
17 four different figures. Do you have a grand
18 total?

19 MS. BRYANT: Well, there is actually a
20 chart in our budget testimony that outlines
21 it. So for the Public Defense Backup Center,
22 it's just under \$5 million total and that
23 includes the Governor's \$1 million. And then
24 for the Veterans Defense Program, it's

1 \$950,000 total.

2 CHAIRMAN DINOWITZ: Okay. So let me
3 ask you a different question.

4 I know that you're you and the Bronx
5 Defenders are not you. However -- and I've
6 always supported the New York State
7 Defenders, I've circulated letters, and I
8 continue to do that.

9 But I am very concerned, and I was
10 wondering if you can comment -- very
11 concerned that the Bronx Defenders has been
12 mired in controversy for some time now
13 involving charges of antisemitism, and more
14 recently -- I think I'm correct in saying
15 this -- the union that represents a very
16 large portion of their workers voted
17 overwhelmingly, by I think a 2-to-1 margin,
18 to support a resolution which I believe says
19 or takes a position that I would interpret as
20 being very much pro-Hamas and condemning
21 Israel.

22 And this is right after the -- right
23 after the October 7th attacks. And that has
24 caused a tremendous amount of concern. And I

1 know that they do a lot of good work in that
2 organization. I know that. But some of the
3 people there obviously, at least in my
4 opinion, do a lot of bad work as well. And I
5 would like to feel comfortable knowing that
6 monies that you may get from the state don't
7 get into their hands.

8 MS. BRYANT: Well, I can say this,
9 that the money that comes to the New York
10 State Defenders Association is for our staff
11 of approximately 30 people. So we're
12 certainly not getting enough money to assist
13 other defender offices. They get funding in
14 other ways.

15 CHAIRMAN DINOWITZ: Right.

16 MS. BRYANT: We -- it's our position
17 that every client that walks into a courtroom
18 gets the same level of representation no
19 matter who they are, what they believe in,
20 what they look like. So our position and
21 what we train people on is client-centered
22 representation.

23 And that client could be any
24 particular religion or ethnicity, race -- and

1 they're taken as their individual client, and
2 that's who they represent. And that's what's
3 NYSDA's position is.

4 CHAIRMAN DINOWITZ: And I agree with
5 that position. I'll follow up with you.

6 CHAIRWOMAN KRUEGER: Thank you.

7 Other Senators?

8 Jamaal Bailey.

9 SENATOR BAILEY: I thought my mic
10 wasn't on.

11 So thank you all for your work, for
12 your testimony. I reviewed it previously. I
13 guess I just have one question in terms of, I
14 guess, pipelines and access to justice --
15 like a conversation, right?

16 Are you finding it increasingly more
17 difficult -- and I heard a snippet of it as I
18 walked back into the room -- to attract folks
19 into public service type of legal work? Is
20 that something that is being -- is incredibly
21 difficult?

22 MS. BROWN: I can speak for my
23 organization, where we serve the areas
24 outside of New York City. And it's getting

1 increasingly difficult, absolutely
2 increasingly difficult to attract folks to
3 public-interest law.

4 We have -- when my board of directors
5 adopted our 2024 budget, it included
6 18 vacant positions for a staff of 80. Our
7 salaries are at a level that we have hired
8 people to come in and work for us, and they
9 have left very quickly for positions that pay
10 \$20,000 more working for the government.

11 So it's very difficult, when you come
12 out of law school with massive loans, to be
13 in a position to be able to take a job
14 working for an organization whose starting
15 salary is under \$60,000 when you're upstate.
16 And that's what most of our organizations --
17 that's where most of our organizations
18 outside of New York City are. It's a huge
19 challenge.

20 And so, yes, there is a lot of desire.
21 Some people are interested in our work. A
22 lot of times people will apply for a
23 position, they'll find out what the salary
24 is, and they'll withdraw. And in particular,

1 it's particularly challenging in our
2 Rochester office. We have had a civil rights
3 position open for over a year and we've had,
4 you know, three or four viable candidates,
5 none of whom could take the position because
6 of our pay.

7 So pay equity is a huge issue for our
8 community in New York City and outside of the
9 city, and we have a vast need for services.

10 SENATOR BAILEY: I'd like to
11 brainstorm with you offline about that. I'm
12 a graduate of a public-interest law school
13 myself, and I think we can come up with a
14 creative strategy for being able to do that.

15 And I just want to say thank you for
16 the work, and I know how hard it is that you
17 do work through you. And the district
18 attorney's office, I know how hard it is to
19 be the attorney general -- to be the attorney
20 for the people -- so I appreciate all the
21 work that you do on a daily basis.

22 Thank you for testifying.

23 CHAIRWOMAN KRUEGER: Thank you.

24 Any Assemblymembers?

1 Assemblymember Ra.

2 ASSEMBLYMEMBER RA: Thank you.

3 Thank you all for your patience today
4 and being here before us.

5 Mr. Crow, I'm just wondering if you
6 can give me a little bit of information on
7 the issue of retail theft. Obviously there's
8 been a lot of talk of retail theft,
9 particularly in your borough. So what is the
10 office's current approach when it comes to
11 prosecuting retail theft and using the tools
12 in current law at your disposal to try to
13 alleviate this problem?

14 MR. CROW: Thank you for the question,
15 Assemblymember.

16 This has been a major focus of
17 District Attorney Bragg's since he took
18 office. I can say that in Manhattan in
19 particular we have a significantly higher
20 rate of retail theft than any of the other
21 four boroughs. Retail theft cases compromise
22 roughly 15 percent -- one, five -- of our
23 total overall docket. None of the other four
24 boroughs exceed 5 percent.

1 So recognizing that, District Attorney
2 Bragg at the beginning of his administration
3 created the Small Business Alliance, which is
4 a group of small business owners that meet
5 regularly with staff at our district
6 attorney's office to discuss the kind of
7 issues that they're facing so that we can
8 respond.

9 In response to that, and in response
10 to a lot of the patterns and things that
11 we're seeing in the work that we do every
12 day, we have started a program in which we
13 identify the most frequent recidivist retail
14 thieves -- and I can say that we know from
15 the data that it's a very small number of
16 people who do a significant portion of these
17 thefts -- and we do a kind of targeted
18 prosecution of those individuals.

19 We hear a lot about precision
20 policing. For us, it's about precision in
21 our prosecutions as well. What we've found
22 is that in almost all of these cases, the
23 individuals involved are not part of a
24 large-scale organized hyper kind of, you

1 know, foresightful, well-thought-out
2 practice. They steal to support a drug habit
3 and they sell it within, you know, minutes,
4 hours, to somebody kind of nearby. It's not
5 some necessarily well-organized ring.

6 And so for those individuals, what
7 we've tried to do is -- it's actually the
8 first thing I mentioned in my testimony -- is
9 try to address the underlying needs. Because
10 we don't believe that the individuals are
11 likely to keep stealing if we can stabilize
12 them with their housing, stabilize them with
13 their drug and alcohol issues and with their
14 mental health.

15 And part of the problem that we do
16 have with that is because we have such a
17 backlog in our problem-solving courts and in
18 the service providers there, and particularly
19 the -- as I mentioned earlier -- the ACT
20 teams --

21 ASSEMBLYMAN RA: I apologize; I'm
22 going to run out of time. So I do want to
23 bring up one other thing.

24 One of my colleagues has a bill that

1 would basically allow, in a short period of
2 time, you know, if somebody was repeatedly
3 getting picked up for petty larceny, that --
4 to combine the value of those charges. Is
5 that something that your office would be
6 supportive of, to give the DA an additional
7 tool?

8 MR. CROW: I'm happy to look at that
9 bill and get back to you.

10 CHAIRWOMAN KRUEGER: Thank you.

11 Anyone else in the Senate?

12 Well, then, I want to thank you all
13 very much for your work every day on our
14 behalves and for your coming and testifying
15 for us. It's still afternoon.

16 (Laughter.)

17 CHAIRWOMAN KRUEGER: Thank you.

18 Our next panel is Panel G: The
19 Firefighters Association of New York State;
20 the PBA of New York State; the PBA of
21 New York City; the New York State Police
22 Investigators Association; and the New York
23 State Correctional Officers & PBA
24 Association.

1 Good late afternoon to you all. It's
2 still not evening -- we're not counting it as
3 evening yet, even though it's dark outside.
4 And why don't we start from my left, your
5 right, and we'll just go down the table,
6 okay? Thank you.

7 MR. HENDRY: Good afternoon, Senators
8 and Assemblymembers. I'm Patrick Hendry,
9 president of the Police Benevolent
10 Association of the City of New York,
11 representing 21,000 rank-and-file members of
12 the NYPD. Our members not only do the work
13 to protect New York's communities, we have a
14 personal stake in the outcome. A majority of
15 our members are New York City residents, and
16 all of us reside in New York State.

17 Public safety is essential for our
18 city's and state's success. However, none of
19 our public-safety goals are attainable
20 without adequate police staffing.
21 Unfortunately, current NYPD staffing levels
22 are grossly inadequate. The NYPD currently
23 reports a headcount of 33,612 uniformed
24 members. That is nearly 7,000 police

1 officers short of our peak headcount, and the
2 lowest level we have seen in more than
3 30 years.

4 Our members have made progress in
5 curbing the surge in violent crime that began
6 in 2020. However, that progress has come at
7 a cost of extreme workloads that have driven
8 many police officers to seek other
9 opportunities. We have lost more than
10 6,500 police officers to resignation or
11 retirement over the past two years.

12 We must incentivize our current police
13 officers to remain on the job. To further
14 that goal, we respectfully request your
15 support for the following initiatives during
16 the budget process.

17 Among the major factors hampering the
18 NYPD's retention and recruitment are the
19 grossly inequitable pension benefits
20 available to our members hired since 2009
21 under Tier 3. Senate Bill 7714 and Assembly
22 Bill 7791, sponsored by Senator Chu and
23 Assemblymember Pheffer Amato, restore the
24 20-year service retirement for NYPD police

1 officers hired since 2009, putting them on a
2 more equal footing with their peers across
3 the state.

4 Another bill, Senate Bill 2148 and
5 Assembly Bill 5202, introduced by
6 Senator Addabbo and Assemblymember
7 Pheffer Amato, would incentivize our most
8 experienced members to remain on the job by
9 enhancing benefits for those who stay past
10 their minimum retirement date.

11 We must also support our veteran cops
12 with a pipeline of qualified new recruits.
13 We are seeking legislation to allow police
14 officers hired since 2009 to buy back pension
15 credits for their time served in certain
16 civil service titles within the NYPD,
17 including traffic enforcement agents, school
18 safety agents and cadets, as well as New York
19 City Department of Corrections.

20 We look forward to working with you on
21 solutions to the NYPD staffing crisis that
22 will pay dividends for both our city and
23 state. I thank you for your time and
24 attention to these important issues, and I am

1 happy to answer any questions that you have.

2 CHAIRWOMAN KRUEGER: Next?

3 You have to press the buttons really
4 hard.

5 MR. SUMMERS: Good afternoon. My name
6 is Chris Summers, president Of NYSCOPBA.

7 As you know, the Governor has proposed
8 the closures of up to five prisons, and DOCCS
9 says that this will help infuse the staffing
10 for short-staffed facilities.

11 This is not the answer to addressing
12 staff shortages at all. We have been through
13 this time -- this before. When the
14 facilities close, it always results in
15 front-line staff, COs and sergeants, leaving
16 the department earlier than they normally
17 would have.

18 This time we anticipate that more
19 staff will choose that option and leave.
20 Those that are eligible to retire will
21 retire. Those that have been through the
22 closures before have had enough, and they
23 will seek other employment.

24 Who can blame them on that? Some of

1 them are still trying to get home from
2 closures five years ago. Our current
3 staffing levels are horrible. Attrition
4 rates are at all-time highs, while
5 recruitment is at an all-time low. Our
6 members face unprecedented levels of
7 mandatory overtime to fill staffing
8 vacancies, even being ordered to work up to
9 16 hours on their scheduled days off.

10 They see the inside of the prisons
11 more than they see their families. They're
12 married to the job. They face -- they are
13 faced with choosing the job over their
14 families.

15 Assaults on inmates and on staff have
16 skyrocketed since implementation of HALT, and
17 the jobs of our front-line staff have become
18 more dangerous.

19 Our membership used to be the
20 department's best recruiters. Generations of
21 family and friends have recommended this job
22 for years -- that is no longer the case. Now
23 our members tell -- now that our members get
24 asked, they say don't bother. They tell them

1 this job is more dangerous, the pay isn't
2 good. The benefits in retirement have
3 eroded, and you are going to have to
4 relocate. It just isn't worth it.

5 The bottom line is that our front-line
6 staff feel like the budget is being balanced
7 on their backs. And that's their opportunity
8 to have their long career come at a cost to
9 their health, their safety and their
10 families.

11 Thank you for letting me address you
12 today.

13 CHAIRWOMAN KRUEGER: Thank you.

14 Next?

15 MR. NOLAN: Good afternoon. My name
16 is Kurt Nolan, and I'm the executive director
17 and counsel for the Police Benevolent
18 Association of New York State. I have the
19 honor of representing over 1,100
20 police officers and the New York State
21 University Police, the New York State
22 Park Police, New York State Environmental
23 Conservation Police, and the New York State
24 Forest Rangers.

1 On behalf of my members, I would like
2 to thank you for this opportunity. Today I
3 will illustrate how the underfunding, pay
4 disparity, and lack of pension parity impact
5 recruitment, retention, and public safety.

6 Each of our core law enforcement
7 agencies that employ my members are severely
8 underfunded. I believe that this is a direct
9 result of the fact that law enforcement and
10 public safety are not the primary mission of
11 these agencies.

12 Investment in public safety is often
13 overlooked when times are tough. To address
14 these funding issues, our law enforcement
15 agencies need fiscal autonomy. This autonomy
16 would ensure that our police officers receive
17 the training and equipment that they need.

18 The current budget for the Department
19 of Environmental Conservation's Division of
20 Law Enforcement is approximately 48 million.
21 The hard work of DLE's 23 investigators,
22 however, generated approximately 46 million
23 in civil penalties last year. This
24 demonstrates the DLE is a revenue-neutral

1 division within DEC. The current
2 DLE-authorized strength is 342 positions.
3 However, only 264 of these positions have
4 been filled.

5 DLE is currently recruiting for the
6 upcoming academy class, and although there is
7 no official start state, DLE has been
8 authorized to hire 45 new EnCon police
9 officers. Unfortunately, because of pension
10 and pay disparity, we have already lost
11 several candidates to the New York State
12 Police and New York City Police Department.

13 There are currently 121
14 Forest Rangers, 16 lieutenants, and
15 11 captains in the Division of
16 Forest Protection. They're responsible for
17 patrolling over 4 million acres of forest and
18 conservation easements. This equates to
19 approximately 35,000 acres per Forest Ranger.

20 Unfortunately, lack of funding in the
21 division has led to the establishment of the
22 Forest Ranger Foundation, a not-for-profit
23 organization dedicated to providing our
24 rangers with training, equipment, and

1 support.

2 Our Forest Rangers are saving lives
3 and protecting natural resources each and
4 every day. They should not need a nonprofit
5 organization to provide them with basic
6 training.

7 As you know, SUNY is decentralized.
8 Our police officers across the State of
9 New York wear different uniforms, drive
10 different cars, carry different guns, and
11 wear different body cameras. This system is
12 extremely inefficient and fiscally
13 irresponsible.

14 As you can imagine, at a time when
15 SUNY faces fiscal crisis it's difficult to
16 ask a college or university to spend money on
17 ammunition, ballistic vests, vehicles,
18 uniforms, and training. SUNY needs a
19 centralized budget for our law enforcement
20 agency.

21 The New York State Park Police have
22 frequent issues obtaining new vehicles for
23 their police officers. And because of the
24 way the funding is handled when you earmark

1 funding for the parks administration, this
2 doesn't necessarily go directly to our
3 police officers. We're down to approximately
4 179 police officers, and now we are currently
5 back up to 205.

6 The most important issue impacting our
7 members today is the lack of salary and
8 pension parity. We lose members to the
9 New York State Police and other agencies
10 consistently. The base salary for a New York
11 State Trooper after one year of service is
12 82,000. By contrast, my member, eligible for
13 retirement, makes 86,000.

14 Thank you.

15 MR. DYMOND: Good afternoon. My name
16 is Tim Dymond, and I'm a senior investigator
17 for the New York State Police and the elected
18 president of the New York State Police
19 Investigators Association, representing
20 roughly 1,150 senior investigators and
21 investigators across the state in the BCI.

22 My members handle the most serious
23 crimes. They handle the murders, the rapes,
24 the robberies, the child kidnappings -- which

1 hit home up here in Albany -- and most
2 recently they helped crack the Gilgo Beach
3 serial killer case.

4 Our members are in highly specialized
5 units: forensics units, computer crime
6 units, counterterrorism units -- the units
7 that you see on TV.

8 I'm here before you today to speak for
9 NYSPIA members but also to shed light on the
10 slow death of the law enforcement profession.

11 Police agencies around the state are
12 struggling to fill the ranks. The
13 State Police are no different. We had a
14 record low turnout for our last exam during a
15 time when we are mass hiring. I recognize
16 civil service spots are open all over the
17 state and there is a workforce shortage.
18 These jobs are different. Police have
19 immense power and are given the ability to
20 take someone's freedoms away. We must
21 maintain high standards and get the best in
22 these spots, or the people in this great
23 state will suffer.

24 Please do not believe the hype that

1 things are good and that a record number of
2 applicants are coming out. The truth is
3 things are bad. Interest in this job is
4 dwindling, and our most experienced members
5 are leaving. Of my 1,150 members, over 470
6 can retire this year. Another 200 are
7 eligible by 2026. These numbers are
8 staggering. Statewide, we are down 150 spots
9 already.

10 It takes approximately five years to
11 get the experience necessary to join the BCI.
12 There are not 150 people ready as of today.

13 Last year the Governor and Legislature
14 allotted millions to expand our Community
15 Stabilization Units, units targeting guns all
16 over New York. These units have not
17 expanded. You allotted money to expand the
18 CCU units across the state, Computer Crime
19 Units. We've seen about half of those spots
20 filled. And you allotted money to expand
21 federal task force spots. Not filled. You
22 allotted money for hate crime investigators.
23 Not filled. Most recently, in this year's
24 budget, 90 million to combat organized retail

1 theft. I am fairly certain these spots will
2 also go unfilled.

3 This work will fall on the same 1,150
4 investigators that are already here, the same
5 group that is handling the 1100 percent
6 increase in TERPO applications statewide.
7 The same group that's handling the lion's
8 share of discovery forms in upstate New York.
9 Ladies and gentlemen, these folks need help,
10 NYSPIA members and law enforcement members
11 statewide.

12 I was taught early in my career that
13 you don't bring a problem without bringing a
14 solution. Recruitment. We need to fix
15 Tier 6, and we need to change the negative
16 rhetoric around this great profession.
17 Retention. We need to consider a deferred
18 retirement option plan for all police members
19 in the State of New York.

20 Thank you.

21 CHAIRWOMAN KRUEGER: And last?

22 MR. TASE: Good afternoon, and thank
23 you for the opportunity to provide this
24 testimony today. I am Ed Tase, a volunteer

1 firefighter with the South Lockport Fire
2 Company and president of the Firefighters
3 Association of the State of New York.

4 FASNY is the voice of New York's
5 80,000 volunteer firefighters and EMS
6 providers. We are honored to add our voice
7 to the important conversations taking place
8 on matters affecting public safety in this
9 year's budget.

10 My written testimony reviews all the
11 measures included in the Executive Budget
12 that the volunteer fire service is in favor
13 of. The association supports the Governor's
14 attention to reducing fatal fires and the
15 dangers of lithium-ion batteries, first
16 responders' mental health, and the
17 recognizing of EMS as an essential service.

18 The most critical issue facing the
19 volunteer fire service is recruitment and
20 retention. Notably absent from the budget is
21 the increase in our tax credit. The
22 Volunteer Firefighters and Ambulance Workers
23 Income Tax Credit was enacted 18 years ago.
24 At the time it was \$200, and was viewed as

1 the appropriate recognition by the state for
2 the sacrifice that these volunteer
3 firefighters and EMS providers provide.

4 We buy our own gas, we often buy our
5 own equipment. We deserve the dignity of an
6 increase. Volunteer firefighters save the
7 State of New York \$3.8 billion in tax savings
8 and salaries every year. While we understand
9 raising the income tax credit has a cost, our
10 state, our counties and our communities
11 cannot afford to lose more volunteers.

12 No matter how many missed family
13 dinners, birthdays, weddings, or restless
14 nights, our volunteer firefighters and EMS
15 providers will never say no to their
16 neighbors in need. It is my duty to make it
17 clear, this tax credit must be increased this
18 year.

19 In April, firefighters and fire
20 departments across the state will open their
21 doors during the Recruit New York campaign.
22 Announcing an increase to the tax credit
23 would be a powerful tool for recruitment and
24 retention of volunteer firefighters.

1 In addition, the zero cost change to
2 help volunteer firefighters and EMS providers
3 would be allowing volunteers to claim the tax
4 credit and the local real property tax
5 exemption. We ask that you remove the
6 prohibition to enable municipalities to
7 reward the volunteers to stay fit. Thank you
8 to Senator Martinez and Assemblymember Thiele
9 for carrying this legislation and raising the
10 income tax credit and making this a real
11 property tax fix.

12 Lastly, New York is number one in the
13 nation again for residential fire deaths.
14 FASNY supports the addition of sales-tax
15 exemptions on smoke alarms, carbon monoxide
16 alarms, and fire extinguishers.

17 CHAIRWOMAN KRUEGER: Thank you very
18 much, all of you.

19 Our first questioner, Senator Salazar.

20 SENATOR SALAZAR: Thank you.

21 And my question is for Mr. Tase,
22 channeling Senator Michelle Hinchey. We are
23 deeply proud that New York State in last
24 year's budget created the first-ever

1 \$25 million fund for -- to help volunteer
2 fire departments with capital and equipment
3 needs, now called V-FIRE.

4 DHSES is still accepting applications
5 to this fund. However, what would you say is
6 roughly the total anticipated financial need
7 for infrastructure for volunteer firehouses
8 statewide? And how would additional funding
9 such as the V-FIRE funding -- but in this
10 year's budget -- impact volunteer fire
11 departments?

12 MR. TASE: That's a great program.
13 FASNY totally supports it. The only caveat
14 that we have found in that piece of
15 legislation is that the departments have to
16 spend the money first. It's a reimbursement
17 program.

18 The volunteer fire service does not
19 have an abundance of cash to make these
20 programs. And that why we fought for that
21 piece of legislation, but we did not fight
22 for it to be a reimbursement.

23 I would ask you to look at that piece
24 of legislation and maybe modify it for the

1 benefit of volunteer firefighters.

2 SENATOR SALAZAR: Thank you. And do
3 you know roughly -- I know that it would
4 probably be difficult to estimate, but
5 approximately what -- and I imagine it's more
6 than 25 million -- but what the total
7 infrastructure needs are for firehouses
8 statewide?

9 MR. TASE: I'd ask the Council of
10 Canada. It's tough to put a dollar value on
11 it. Every department's different, okay? But
12 it's well over -- to build a new fire
13 station, to fit the apparatus today is well
14 into millions of dollars itself.

15 You know, because -- you look at a
16 fire truck today and it's -- they're pretty
17 large.

18 (Laughter.)

19 MR. TASE: And they're pretty
20 expensive.

21 SENATOR SALAZAR: Thank you.

22 MR. TASE: Thank you.

23 CHAIRWOMAN KRUEGER: Assembly.

24 CHAIRMAN DINOWITZ: Assemblymember Ra.

1 ASSEMBLYMAN RA: Thank you.

2 Mr. Nolan, I just have a couple quick
3 questions for you, but I do want to note, I
4 know that you guys announced yesterday the
5 loss of a member due a 9/11-related illness,
6 so I want to recognize that. And we're
7 thinking of Lieutenant McShane and his family
8 and all of your members and certainly his
9 service in the aftermath of 9/11.

10 MR. NOLAN: Thank you.

11 ASSEMBLYMAN RA: So can you elaborate
12 on the types of situations that your
13 members -- our Forest Rangers, our
14 Park Police, our DEC Police and
15 SUNY Police -- find themselves in even in the
16 last few years?

17 MR. NOLAN: Sure, absolutely.

18 Forest Rangers are constantly going
19 out of state. I believe I heard testimony
20 earlier about the wildfires in Quebec. They
21 go to California, they fight fires in the
22 state of New York, and that's in addition to
23 their law enforcement duties.

24 Environmental Conservation Police are

1 constantly encountering hunters. They're all
2 armed. Our EnCon police officers are
3 consistently dealing with people who are
4 armed almost 100 percent of the time. I
5 believe a few years ago one of them was shot
6 in the hip and almost died.

7 Park Police respond to State Police,
8 numerous calls for service. Our parks are
9 scattered throughout the state. They're
10 often a supplemental agency. They've backed
11 me up on calls before. They perform the same
12 exact services that every other law
13 enforcement agency does, as does the
14 State University Police.

15 If you look at Cobleskill right now,
16 my understanding is that almost their entire
17 police department has quit, so SUNY
18 Cobleskill police officers are responding to
19 the calls for service in that village.

20 And my coworkers, when I was at the
21 University of Albany, responded to the
22 shooting at the Crossgates Mall, and I spent
23 the rest of my shift patrolling Guilderland
24 because all of the Guilderland Police

1 Department was actively sweeping the mall for
2 threats.

3 We do the same job as everybody else;
4 we just have specialized skills of training
5 that make us uniquely qualified to handle
6 each one of those agencies' additional
7 missions, including law enforcement.

8 ASSEMBLYMAN RA: So it's fair to say
9 your members put their lives on the line when
10 they go out and do their jobs?

11 MR. NOLAN: Yeah, that is correct.

12 ASSEMBLYMAN RA: So I think that just
13 reinforces the need for the pension-parity
14 bill that so many of us supported which was
15 unfortunately vetoed, and I know you're here
16 each year talking about this.

17 So thank you for your continued
18 advocacy on behalf of your members.

19 MR. NOLAN: Thank you.

20 CHAIRWOMAN KRUEGER: Thank you.

21 Senator Jamaal Bailey.

22 SENATOR BAILEY: Thank you,

23 Madam Chair.

24 Point of personal privilege. My kids

1 have returned home from school and they are
2 watching. Hello, Giada and Carina.

3 (Laughter.)

4 SENATOR BAILEY: They turn to the
5 Legislator channel, and we should be
6 encouraging that.

7 But I really want to thank you for all
8 of your work, all of your hard work and your
9 willingness to sit down at the table even if
10 we may agree on certain issues. You've
11 always answered the call to have a
12 conversation, and I truly appreciate that.

13 To Mr. Nolan, I want to ask you a
14 question about the Park Police. There's
15 certain portions of jurisdiction in New York
16 City that you have. Could you talk about the
17 parts in New York City that your officers
18 have jurisdiction over?

19 MR. NOLAN: Yeah, I think a
20 misconception is a lot of people don't
21 recognize my members because our uniforms are
22 so similar. In many cases the -- when I was
23 a SUNY police officer, we wear almost the
24 same uniform as a Trooper, same thing as

1 Parks Police.

2 I know NYPD is the dominant agency in
3 New York City, but our Parks officers respond
4 to calls in buildings right across the street
5 from the parks that they patrol. They're
6 answering domestic violence calls and they're
7 answering gun calls.

8 I think one of our EnCon police
9 officers ended up apprehending someone
10 off duty who was later charged with the
11 murder of a 13- or 14-year-old kid. I think
12 this was two or three months ago.

13 So our Parks Police officers are
14 active in New York City. We have a zone.
15 They are assigned to New York City. I think
16 they just don't have the same visibility
17 because we don't have the numbers, because we
18 can't recruit and retain enough people. But
19 they're actually down there supporting NYPD
20 and the State Police in their missions.

21 SENATOR BAILEY: Mr. Dymond, you
22 mentioned there was an issue with recruitment
23 and you were talking about, like, the money
24 is there but the positions may remain vacant.

1 I understand that some of the fixes
2 that have been asked for by each of you were
3 pension reform and to make it more
4 economically sustainable.

5 Are there other ways for recruitment?
6 How wide is the net being cast in order to be
7 able to recruit officers? Can you expound a
8 little bit on that?

9 MR. DYMOND: The State Police have
10 really done a push in the last year or two to
11 recruit. They are in every part of the
12 state. They've made easier access for
13 military personnel and for out-of-state
14 applicants to come on board.

15 We need to change the rhetoric around
16 policing, and we need to encourage our young,
17 successful people in our communities that
18 these are good jobs. This is a good
19 profession. You can make a difference.

20 When we make those changes, I think
21 you're going to see the recruitment swing
22 back to where, Hey, I want to get on. I want
23 to help out. I want to police in my
24 community.

1 SENATOR BAILEY: Okay. And again --
2 and I've spoken with Mr. Hendry and
3 Mr. Summers in the last week, so we've had
4 conversations. But I guess to specifically
5 New York City, Mr. Hendry, your
6 recruitment -- I would ask you the same
7 question. What are some ways that -- is
8 there a wider net being cast in terms of
9 recruitment?

10 MR. HENDRY: So I believe the NYPD is
11 doing a big recruitment. The issue is, you
12 know, salary. We're still underpaid for
13 those who work the same streets as us -- MTA,
14 Port Authority, State Troopers -- and we have
15 inferior pensions to everyone else, every
16 police agency in the state.

17 SENATOR BAILEY: Thank you all for
18 your time and for your service.

19 CHAIRWOMAN KRUEGER: Thank you.
20 Assembly?

21 CHAIRMAN DINOWITZ: Assemblymember
22 Palmesano.

23 ASSEMBLYMAN PALMESANO: Good
24 afternoon, or good evening.

1 First, I just wanted to say thank you
2 to all of you and your members for what they
3 all do each and every day to keep us safe and
4 what they sacrifice for us. I know you don't
5 hear that enough, we don't say it enough, but
6 I want to say it here today. So thank you.

7 But for the purposes of my question,
8 this is for Mr. Summers. Mr. Summers, I
9 wanted to follow up on a comment my
10 Senator -- Senator Stec made to the
11 commissioner earlier about the HALT Act and
12 its implications.

13 We know about the violence it's
14 caused. But he said that he's heard from COs
15 that since the HALT has been implemented that
16 the violent disruptive incarcerated
17 individuals, those in RRU, the small
18 percentage are really getting most of the
19 attention, the resources in the program.

20 But he had mentioned honor block.
21 I've heard from COs in my district that said
22 the same thing as a result to the general
23 population. Now, the commissioner seemed to
24 disagree with that, and he mentioned

1 something about providing WiFi.

2 From your perspective, what you are
3 hearing and seeing from your members as to
4 how the HALT Act and its requirements has
5 affected the incarcerated individuals in the
6 general population?

7 MR. SUMMERS: Yes. I'd be more than
8 happy to answer that, thank you.

9 So the general-population inmate right
10 now feels like they have been neglected,
11 they're being punished for the bad actors
12 when they go into the RRU.

13 We have to close their programs down
14 and take that staff and put them into the RRU
15 programs for the HALT. They have to be out,
16 per the law, seven hours -- where up in our
17 RRU programs, they get to see everybody every
18 day. They get to see the administration, the
19 clergy, MHU staff, the nurses, they do rounds
20 every half-hour.

21 So populate -- the general population
22 suffers from that. So now they sit idle,
23 which causes more violence on my members.
24 And then they also feel like if they assault

1 staff they can go and get the WiFi, like you
2 just said, in the RRU program.

3 ASSEMBLYMAN PALMESANO: The other
4 thing I want to ask you about -- you know,
5 I've been a very vocal critic, and many of
6 us, about the staggering assaults that we see
7 inside the facilities.

8 I know the commissioner addressed
9 that, and one of the comments I took away
10 with what he said is he seemed to say that
11 very little injuries are resulting from the
12 assaults on our corrections officers. Do you
13 agree with that?

14 And what is your understanding and
15 what are you experiencing and your members
16 experiencing from the assaults that are going
17 on on your members inside the correctional
18 facilities?

19 MR. SUMMERS: I do not agree with that
20 at all. My members are facing horrible
21 injuries every day. They are getting
22 stabbed, they're getting sliced, spit on.
23 They are getting broken bones.

24 That is reality. That's what's

1 happening inside right now. There is no more
2 repercussions anymore. Thank you.

3 CHAIRWOMAN KRUEGER: Senator Tom
4 O'Mara.

5 SENATOR O'MARA: Thank you, Senator.

6 Good evening, gentlemen. Thank you
7 all for being here and thank you for your
8 service and certainly the service of all your
9 membership throughout the state for the great
10 work that you do.

11 President Summers, with regards to the
12 prison closures, I really didn't get a
13 straight answer from the commissioner earlier
14 today when I asked whether the bigger driving
15 force on the prison closures is lack of staff
16 or lack of inmate population.

17 What is your perspective on the prison
18 closures?

19 MR. SUMMERS: We don't agree with any
20 prison closures. We think that they should
21 consolidate the prison more and spread out
22 the inmates. Don't stack them up. It just
23 causes more violence with them closing.

24 We're just going to -- it's only a

1 short-term, Band-Aid fix. It might help for
2 six months, but then we're going to be right
3 back to where we are right now, if not worse.

4 SENATOR O'MARA: To what extent do you
5 believe your retention and recruitment
6 efforts are hindered as a result of the lack
7 of discipline in the prisons resulting from
8 the HALT Act?

9 MR. SUMMERS: Can you repeat it?

10 SENATOR O'MARA: Yeah. What's the
11 impact on your recruitment and retention
12 resulting from the HALT Act? The lack of
13 discipline in the prisons, how is that
14 affecting your recruitment and retention?

15 MR. SUMMERS: Our members don't want
16 to -- why would you want to go into work
17 where you're going to get not only stuck for
18 16 hours, but get in there and get beat up
19 every day? Or get talked -- saying that they
20 don't -- they're going to come after you,
21 they're going to kill you.

22 There's no more respect for the
23 officers by the inmates at all. So why would
24 you want to join the Department of

1 Corrections?

2 SENATOR O'MARA: Thank you. Thank
3 you.

4 President Tase, can you comment
5 briefly, in the minute we have left here, on
6 the readiness of our firefighters to deal
7 with electric vehicle battery fires?

8 MR. TASE: That's a good question.
9 Training every day, as Commissioner Bray
10 spoke earlier, we've extended statewide
11 lithium-ion battery training. We educate our
12 firefighters about the safety of
13 firefighters. We're training every single
14 day for it.

15 And I would say the volunteer
16 firefighters spend hours and hours on
17 training and understanding -- the initiative
18 of the electric batteries in these cars is
19 amazing. It takes an awful lot to put them
20 out. And we're learning every day the
21 different attitudes to do that. And it's
22 a --

23 SENATOR O'MARA: What type of
24 different equipment or apparatus do you need

1 for dealing with these battery fires that you
2 may not have right now?

3 MR. TASE: There's a new technique out
4 there now that we're evaluating. We have
5 got a blanket or a tarp to smother the fire.
6 Water -- it takes a lot of water to put an
7 electric battery fire out.

8 CHAIRWOMAN KRUEGER: Sorry, we have to
9 cut you off. I think we have no more
10 Senators or Assemblymembers.

11 So I will thank you gentlemen all for
12 joining us tonight, and appreciate your
13 sitting here perhaps all day waiting to
14 testify.

15 MR. TASE: Thank you.

16 MR. SUMMERS: Thank you so much.

17 MR. HENDRY: Thank you.

18 MR. DYMOND: Thank you.

19 CHAIRWOMAN KRUEGER: Okay. And we are
20 now on Panel H: New York State Dispute
21 Resolution Association, the Center for
22 Justice Innovation. And the New York Justice
23 Peer Initiative had to be excused, so it's
24 just two on this panel.

1 Okay. Good evening. So it's a
2 quarter to six, it's still not quite -- I'm
3 going to call 6 o'clock evening. So if we
4 start on my left and go down the table, that
5 would be great.

6 Hi.

7 (Inaudible exchange.)

8 CHAIRWOMAN KRUEGER: I don't know,
9 because we have two organizations, but I see
10 three people.

11 You're sharing three minutes? Go for
12 it. Absolutely.

13 MS HOBBS: Yes. Sharing three
14 minutes.

15 Hi. Good evening, Senate Finance
16 Committee Chair Krueger and Acting Assembly
17 Ways and Means Committee Chair Dinowitz and
18 distinguished members of this joint
19 committee.

20 My name is Theresa Hobbs, executive
21 director of NYSDRA, the New York State
22 Dispute Resolution Association. We are a
23 member-based organization and a contract
24 program administrator for dispute resolution

1 services.

2 Joining me today is Sarah
3 Rudgers-Tysz, executive director at Mediation
4 Matters, which is one of the 20 community
5 dispute resolution centers, or CDRCs, that
6 have been our members since 1985.

7 For over 40 years, the CDRCs have
8 provided low- to no-cost dispute resolution
9 services to New York's communities, ensuring
10 access to justice for tens of thousands of
11 people, including some of our most
12 underserved community members. Last year
13 alone, the network served over 50,000 of your
14 constituents, resolving over 20,000 cases
15 using proven processes such as mediation,
16 arbitration, and restorative practices to
17 manage and resolve conflict and prevent harm.

18 This highly effective program,
19 however, needs your support, which is why
20 NYSDRA calling on this legislative body to
21 allocate \$3 million in the fiscal year
22 '24-'25 state budget by way of a legislative
23 line item and the Aid to Localities
24 appropriation bill section under DCJS, an

1 agency with whom we partner that fully
2 supports our funding request.

3 Currently the CDRC program
4 depends on a grant from the judiciary
5 alone, a grant that partially funds CDRC
6 programs and services. However, this
7 program by design was never intended to
8 be solely funded by one agency, as
9 public protection is not just a business
10 of the courts.

11 CDRCs do have strong partnerships
12 with the courts, but also with schools,
13 law enforcement, various state agencies,
14 businesses and other community
15 organizations.

16 This \$3 million in funding would
17 help stabilize the CDRC program and
18 maintain this critical infrastructure
19 for the courts and a vitally important
20 resource for your constituents. I
21 firmly believe that with each life that
22 the centers touch, the potential for
23 conflict, hate and harm decreases.

24 Again, we urge this esteemed body

1 to support the CDRC program through a
2 legislative line item.

3 MS. RUDGERS-TYSZ: And I'll just
4 share a couple of examples of those
5 services.

6 We are providing services to all
7 community members, including the young
8 and the old. We have young people that
9 have approached us expressing pride that
10 they've stopped in the moment and
11 reengaged using the skills that we've
12 taught them to avoid escalation.

13 And the adults in their lives are
14 noticing that, too. Our families are
15 recognizing the quickness with which we
16 can reach the point of mediation to
17 avoid the long lag that exists in family
18 court.

19 Thank you.

20 MS. NOLASCO: There we go. I had
21 to press really hard.

22 Thank you, Chairs Krueger and
23 Dinowitz and esteemed members of the
24 committees for hosting today's joint

1 legislative hearing. My name is Hailey
2 Nolasco, and I'm the director of
3 government relations at the Center for
4 Justice Innovation.

5 And I appreciate the opportunity
6 to testify today. It's my first state
7 hearing -- thank you, and happy to be
8 here.

9 So New York City continues to
10 face a pressing need for mental health
11 resources, with more than half of our
12 incarcerated individuals flagging for
13 mental health concerns. And because of
14 this, I would really like to focus on
15 this population today.

16 Individuals with complex mental
17 health challenges who come in contact
18 with criminal legal systems can be kept
19 out of jails and prisons, while keeping
20 our communities safe, with adequate
21 support and treatment plans. The center
22 appreciates the recognition of the role
23 of mental health detailed in the
24 Executive Budget, especially the

1 continued investment of \$6 million in
2 mental health courts specifically.

3 However, to best match the need,
4 we are asking that there be an
5 investment of \$15 million instead,
6 because this would really allow for a
7 thoughtful expansion of mental health
8 courts with real adequate resources and
9 services.

10 Many individuals who come into
11 contact with the criminal legal system
12 have been exposed to significant trauma
13 and have had mental health conditions
14 that have both been stigmatized and
15 ignored. Mental health courts are
16 crucial because they work with high-need
17 individuals suffering from mental
18 illness and charged with crimes,
19 offering meaningful support to prevent
20 further involvement in the justice
21 system.

22 These courts play a vital role in
23 connecting individuals to supportive
24 services such as housing, job

1 opportunities, and treatment. While
2 almost 40 mental health courts currently
3 exist around the state, they are often
4 underfunded. They're undertrained and
5 underappreciated in their jurisdiction.

6 And these courts, however, offer
7 such a powerful foundation to build
8 stronger, more resilient, and
9 game-changing responses to the
10 crosscutting crisis of mental health and
11 public safety.

12 The center itself, we operate
13 three mental health courts in Manhattan
14 and Brooklyn addressing both program
15 participant needs and community public
16 safety concerns. The courts help people
17 with mental health issues and
18 co-occurring disorders to engage
19 meaningfully in social services to help
20 clients build their relationships with
21 family, friends, and community
22 organizations, and relationships that
23 help clients avoid further justice
24 system involvement.

1 The truth is that traditional
2 responses to crime such as incarceration
3 often fail to address the underlying
4 issues, resulting in high rates of
5 reoffending and recidivism.

6 Participants in our Brooklyn Mental
7 Health Court see a 46 percent reduction
8 in the likelihood of a rearrest and a
9 29 percent reduction in the likelihood
10 of a reconviction, versus a comparison
11 group.

12 Through our work in these courts
13 and many other problem-solving courts,
14 we know that early intervention is best.
15 Offering help and support early builds
16 safety, restores lives, and and saves
17 money. We have seen this firsthand with
18 the work that we have been doing.

19 And we thank you so much for your
20 time, and we're really looking forward
21 to working with the state together on
22 this issue. Thank you.

23 CHAIRWOMAN KRUEGER: Thank you
24 very much.

1 Any questions from the Senate?

2 Jamaal Bailey.

3 SENATOR BAILEY: Good evening.

4 Thank you for coming, and thank you for
5 testifying. We truly appreciate it.

6 One question for each group.

7 First question, about the Dispute
8 Resolution Association. In the scope,
9 do you work with other credible
10 messengers and any violence prevention
11 organizations that do this sort of
12 dispute resolution specifically in
13 schools?

14 MS. RUDGERS-TYSZ: Sure. Yes.

15 In fact, we frequently are -- we see
16 ourselves as a hub to be able to work
17 together with the other nonprofit
18 organizations, particularly within the
19 schools.

20 Several of our colleagues across
21 the state actually have programs,
22 credible messenger programs within their
23 community dispute resolution center
24 itself.

1 SENATOR BAILEY: I was going to
2 say it's a very important thing in terms
3 of violence remediation, for lack of a
4 better term, is to understand the
5 genesis of it and how to stop it before
6 it even gets to the level where the
7 credible messengers are involved. So I
8 thank you for that work.

9 And so, Ms. Nolasco, you
10 mentioned a \$15 million ask, up from the
11 six. What would the extra funding be
12 utilized for?

13 MS. NOLASCO: Thank you so much
14 for asking, Senator.

15 So the budget would include
16 misdemeanor health courts in all five
17 boroughs, additional services to
18 Brooklyn Mental Health Court, statewide
19 misdemeanor health courts, technical
20 assistance services, and expansion in
21 the felony ATI citywide supportive
22 services.

23 Also, Community First being
24 expanded to all five boroughs plus

1 Syracuse.

2 Also, a statewide misdemeanor
3 mental health court evaluation as well
4 would be included.

5 And then there'll be a
6 high-utilizers pilot that's also in all
7 the five boroughs and Syracuse as well.
8 And of course the felony ATI statewide
9 expansion.

10 So that would be everything that
11 would be involved -- covered under the
12 \$15 million ask.

13 SENATOR BAILEY: Okay, excellent.

14 Again, thank you all for your
15 work and for your testimony, and I
16 appreciate your time.

17 Thank you, Madam Chair.

18 MS. NOLASCO: Thank you.

19 CHAIRWOMAN KRUEGER: Thank you.

20 SENATOR HOYLMAN-SIGAL: I just
21 wanted to say congratulations.

22 MS. NOLASCO: Thank you.

23 SENATOR HOYLMAN-SIGAL: You heard
24 the chief administrative judge.

1 And thank you for all your work
2 at Midtown Community Justice Center. It
3 is such a ray of hope for the community
4 and for those hundreds of clients you
5 see every week.

6 I saw an attorney who said to me
7 it's the only courthouse where his
8 client leaves better than they arrived.
9 So thank you for that.

10 MS. NOLASCO: And thank you so
11 much for your staunch advocacy.
12 Appreciate it.

13 CHAIRWOMAN KRUEGER: Thank you
14 for joining us. We appreciate it.
15 Thank you for staying this late.

16 And we have a last panel, which
17 is the Correctional Association of
18 New York, Worth Rises, and the
19 Center for Community Alternatives.

20 Apparently the Osborne
21 Association had to get on the train, so
22 they won't be joining us.

23 And this is our last panel.

24 It's still not quite evening, so

1 good late afternoon. We'll start from
2 my left, your right. If you'd
3 introduce yourself and please start.
4 Thank you. You can say "good evening."

5 (Laughter.)

6 MR. GANT: Thank you. No. I got
7 it. Thank you, ma'am.

8 Thank you, Senators and
9 Assemblymembers. I'm Thomas Gant. I am
10 a community organizer for Center for
11 Community Alternatives, CCA, and I'm
12 also formerly incarcerated.

13 While in prison I helped author a
14 package of legislation to end racist and
15 unjust sentences called Communities Not
16 Cages. I came here two years ago, and
17 my successful reintegration is evidenced
18 by my very presence before you today.

19 But do not make a mistake or have
20 me as an exception or an anomaly. I am
21 not the only one.

22 Our Communities Not Cages bill is
23 comprised of three parts: The Eliminate
24 Mandatory Minimums Act, which would

1 remove mandatory minimums and empower
2 judges to consider individual factors in
3 each case while sentencing. Secondly,
4 the Earned Time Act, which will
5 strengthen and expand good-time and
6 merit-time laws to encourage personal
7 transformation in prison and reunite
8 families. And lastly, the Second Look
9 Act. This would allow judges to review
10 and reconsider excessive sentences.

11 Right now, over 30,000 people
12 like me are warehoused in New York's
13 prisons. Three out of four of them are
14 Black or brown. Our prisons are filled
15 with people who are more than ready to
16 be reunited with their families and
17 begin working in their communities just
18 as I do. But instead, they languish for
19 decades with all their gifts and
20 transformation and rehabilitation
21 withheld from the outside world.

22 The trio of Communities Not Cages
23 bills will change this. I know
24 firsthand that Communities Not Cages

1 bills have the power to transform the
2 entire culture of prison and reduce
3 violence by giving people hope that they
4 can earn time off of their sentence and
5 possibly be re-sentenced. More
6 importantly, these laws will support
7 transformation and bring our loved ones
8 home.

9 I want to make it clear that in
10 CCA we stand strongly opposed to the
11 Governor's budget proposals to expand
12 criminalization, mainly because crime in
13 New York is down. But economic
14 inequality in New York State is amongst
15 the worst in the nation. We have a
16 wider racial wealth gap than in the
17 United States as a whole. The
18 Governor's misguided efforts to further
19 criminalize our communities is a
20 dangerous distraction.

21 We also support No Price on
22 Justice. We need legislation like the
23 End Predatory Court Fees, which would
24 abolish New York's predatory court fees

1 and mandatory fines and the possibility
2 of incarceration based on inability to
3 pay. And lastly, stop the garnishment
4 of incarcerated persons' accounts.

5 We need to make meaningful
6 investments -- that's why we support the
7 expansion of College in Prison and
8 transitional housing for people
9 returning from incarceration. The
10 Governor's budget falls short of making
11 a meaningful impact. Two million
12 dollars for transitional housing is
13 simply not enough. A more reasonable
14 goal is \$5 million, which would fund
15 400 transitional housing units
16 upstate -- and \$7 million could fund
17 560 units.

18 Lastly, last year New York State
19 passed the Clean Slate Act, a historic
20 step towards ending perpetual
21 punishment. Now, lawmakers, you have a
22 great opportunity to build on that
23 success by advances further reforms to
24 address unjust and archaic sentencing

1 laws and, more importantly, helping to
2 foster rehabilitation and contributing
3 to a safer and more just New York.

4 Thank you.

5 CHAIRWOMAN KRUEGER: Thank you.

6 Next?

7 MS. SCAIFE: Good evening. My
8 name is Jennifer Scaife. I'm the
9 executive director of the Correctional
10 Association of New York, which under
11 state law has the authority to provide
12 oversight over the state's 44 prisons
13 operated by DOCCS.

14 We are a nonprofit organization
15 based in Brooklyn, founded in 1844, and
16 so that makes this our 180th year of
17 service to New York State.

18 I want to highlight CANY's
19 request for a \$500,000 central budget
20 allocation, which is detailed in our
21 testimony. This support would allow us
22 to carry out monitoring of the state
23 prisons, promoting transparency, lifting
24 up examples of good practice -- many of

1 which were cited by the acting
2 commissioner earlier this afternoon --
3 while also calling attention to harmful
4 practices in the prisons. Thank you for
5 considering that request.

6 I also want to address the
7 proposed closing of prisons in the
8 Governor's budget. First, as we've
9 heard, the prisons have 12,000 empty
10 beds, which means that they're only
11 about 73 percent full. And there are
12 more than 3,000 vacant staff positions,
13 which is about a 13 percent vacancy
14 rate, not including staff who are out on
15 worker's comp, leave, or absent for
16 other reasons.

17 The highest vacancy rates,
18 according to our data -- the data that
19 we've gathered from DOCCS -- are among
20 civilian staff. But -- and so these are
21 doctors, dentists, nurses, clerical
22 staff. But security staff vacancies
23 affect all operations of the prison.

24 And so at Green Haven, for

1 example, last fall we learned that the
2 program building was closed seven days
3 out of 10 because of security staff
4 shortages. So if you don't have COs in
5 the positions, then the programs that
6 are also proposed in the Governor's
7 budget can't operate.

8 I also want to address the
9 capital needs in the Governor's proposed
10 budget, \$80 million in additional
11 capital funding, which would bump up
12 DOCCS capital budget to greater than
13 \$560 million. I'm not in a position to
14 evaluate whether that's the right
15 hundred -- hundreds of millions of
16 dollars, but infrastructure improvements
17 are sorely needed across the state in
18 the correctional facilities.

19 Take, for example,
20 Auburn Correctional Facility in the
21 Finger Lakes, the oldest operating
22 prison in North America. We were there
23 in 2019, where housing blocks had broken
24 windows that caused such horrendous

1 indoor conditions that people were
2 describing it like sleeping outside
3 without a campfire.

4 We were there this past fall.
5 The windows have still not been
6 replaced.

7 Closing, so the state has an
8 obligation to keep people incarcerated
9 and working in these prisons warm
10 through the winter, and closing prisons
11 is one way to focus limited resources.

12 Thank you.

13 MR. LAMA: Good evening. My name
14 is Andrew Lama, and I'm the government
15 affairs specialist from Worth Rises, the
16 New York City-based national nonprofit
17 focusing on ending the exploitation of
18 the prison industry.

19 I am also a resident of Assembly
20 District 73, and it's really great to
21 see my Assemblyman Bores on the
22 committee there.

23 I'm going to ask you to imagine
24 yourself as a woman from St. Lawrence,

1 Franklin, or Clinton counties. If you
2 are convicted of a felony in these three
3 counties, you will be incarcerated
4 300 miles from home at the very least,
5 given where the three women's prisons
6 are in New York State.

7 Proximity to community is
8 critical for the rehabilitation of
9 incarcerated individuals, and the
10 strength of community is important for
11 that. I'm here to advocate for
12 \$10 million to be included in the budget
13 to support free phone calls for
14 incarcerated people in New York.

15 It's critically important that
16 women of St. Lawrence, Franklin, and
17 Clinton counties are able to continue
18 speaking with their loved ones and able
19 to build strong community and ensure
20 that their children are able to speak on
21 the phone with their parents at night
22 without facing an economic barrier to
23 saying "I love you."

24 Families in New York State

1 currently pay about 53 cents for
2 15-minute phone calls, or \$21.5 million
3 in total every single year. Eighty-five
4 percent of this \$21.5 million annual
5 burden is imposed upon women, due to the
6 significant amount of the incarcerated
7 population which are men. Most of the
8 people paying for these phone calls are
9 the wives, girlfriends, mothers, and
10 women in the lives of incarcerated men.

11 And it's important to understand
12 that when we make phone calls expensive
13 for incarcerated people, the real people
14 that we are harming are the women in our
15 communities.

16 New York City, thankfully, was
17 the first jurisdiction to address this
18 problem and make phone calls free in
19 2018. Since then, California,
20 Minnesota, Colorado, and Massachusetts
21 have adopted the same legislation. What
22 we're asking for is that New York State
23 follow the lead of New York City as well
24 as the five other states which have

1 implemented this legislation.

2 Again, we ask that \$10 million be
3 included in the budget in order to
4 support free phone calls for
5 incarcerated people and their loved
6 ones. This is more than the
7 \$4.1 million which we estimate is
8 required to implement this policy.

9 I will also finally note that the
10 Assembly -- last year the Assembly
11 one-house budget did include this ask,
12 and that we've had productive
13 conversations with both DOCCS and the
14 Governor's office. If this ask is in
15 the budget, they will not oppose it.

16 Thank you. And again, I ask that
17 we ensure that there is no economic
18 barrier between reading your children a
19 bedtime story at night, joining a
20 parent-teacher conference on the phone,
21 or saying "I love you."

22 Thank you.

23 CHAIRWOMAN KRUEGER: Thank you.

24 Yes, Senator Jamaal Bailey.

1 SENATOR BAILEY: I echo your
2 sentiments. As the Senate sponsor of
3 the bill, along with Assemblyman Harvey
4 Epstein, I concur with your conclusion
5 that we do in fact need to do something
6 about that. So that is something that
7 I'm acutely aware of, and thank you for
8 bringing it to the forefront.

9 As far as CANY's ask for
10 \$500,000, have you been funded in the
11 budget previously?

12 MS. SCAIFE: Not in the Executive
13 Budget. We get an annual appropriation
14 from the Legislature at 127,000. It's
15 been that way for a decade, probably,
16 and at this point represents just about
17 5 percent of our annual expenses.

18 SENATOR BAILEY: Okay, thank you.

19 And last but not least, Mr. Gant,
20 I just want to thank you for your
21 consistency in being up here advocating
22 for Clean Slate and a number of other
23 things. Thank you for your work and for
24 your -- and for bringing up those bills.

1 And I have nothing further,
2 Madam Chair.

3 CHAIRWOMAN KRUEGER: Thank you.
4 Assembly?

5 CHAIRMAN DINOWITZ: Nope.

6 CHAIRWOMAN KRUEGER: Then we want
7 to thank you very much for staying with
8 us all day, being the last panel,
9 bringing a new perspective to this
10 discussion.

11 CHAIRMAN DINOWITZ: They didn't
12 just arrive?

13 CHAIRWOMAN KRUEGER: No, they
14 didn't just arrive. They've been
15 listening the whole time.

16 And for everyone else in the room
17 who may be listening, we are now
18 officially ending this hearing.

19 And we are not going to have a
20 hearing tomorrow, Friday, for those of
21 you who just live for every day to be
22 here with us. Come back next Tuesday.
23 That's when our hearings are scheduled
24 to start up again -- Tuesday, Wednesday,

1 Thursday next week.

2 Thank you very much. Thank you
3 to all the staff for all your help.

4 (Whereupon, the budget hearing
5 concluded at 6:08 p.m.)

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