1. Hearing On Criminal Justice Reform

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NASSAU COUNTY LEGISLATURE

Hearing on
Criminal Justice Reform

AGENDA

February 13, 2020
11:00 AM

| 1. | Patrick Ryder |
|  | Commissioner  |
|  | Nassau County Police Department |

| 2. | Jed Painter |
|  | Counsel to the District Attorney |
|  | Nassau County Office of the District Attorney |

| 3. | PUBLIC COMMENT |
NASSAU COUNTY LEGISLATURE

RICHARD NICOLELLO
PRESIDING OFFICER

LEGISLATIVE SESSION

County Executive and Legislative Building
1550 Franklin Avenue
Mineola, New York

Thursday, February 13, 2020
11:10 A.M.
APPEARANCES:

LEGISLATOR RICHARD J. NICOLELLO
Presiding Officer
9th Legislative District

LEGISLATOR HOWARD KOPEL
Deputy Presiding Officer
7th Legislative District

LEGISLATOR DENISE FORD
Alternate Presiding Officer
4th Legislative District

LEGISLATOR KEVAN ABRAHAMS
Minority Leader
1st Legislative District

LEGISLATOR SIELA BYNOE
2nd Legislative District

LEGISLATOR CARRIE SOLAGES
3rd Legislative District

REGAL REPORTING SERVICE
516-747-7353
LEGISLATOR DEBRA MULE
5th Legislative District

LEGISLATOR C. WILLIAM GAYLOR III
6th Legislative District

LEGISLATOR VINCENT T. MUSCARELLA
8th Legislative District

LEGISLATOR ELLEN BIRNBAUM
10th Legislative District

LEGISLATOR DELIA DERIGGI-WHITTON
11th Legislative District

LEGISLATOR JAMES KENNEDY
12th Legislative District

LEGISLATOR THOMAS MCKEVI TT
13th Legislative District

LEGISLATOR LAURA SCHAEFER
14th Legislative District
LEGISLATOR JOHN FERRETTI, JR.
15th Legislative District

LEGISLATOR ANDREW DRUCKER
16th Legislative District

LEGISLATOR ROSE WALKER
17th Legislative District

LEGISLATOR JOSHUA LAFAZAN
18th Legislative District

LEGISLATOR STEVEN RHOADS
19th Legislative District

MICHAEL PULITZER
Clerk of the Legislature
LEGISLATOR NICOLELLO: Ladies and gentlemen, I would like to get started. I'm going to ask Legislator Bill Gaylor to lead us in the Pledge of Allegiance.

(Whereupon the Pledge of Allegiance was recited.)

LEGISLATOR NICOLELLO: Thank you very much for attending today's hearing on the criminal justice reform and its effects on Nassau County and our residents. We would like to get to our speakers as quickly as possible so I will offer just a few brief remarks. It has been apparent for months that criminal justice reform would have significant effects on our county, on our law enforcement, on our residents. Most of us did not realize that the effects and impacts would be as immediate and as severe. Everyone agrees that low level offenders who pose no risk to the community and who do not have the means to pay bail
should not languish in jail. That is simple justice. Everyone supports that reform. However, the criminal justice reform goes much farther than simple reform. This drastically changed law enforcement in the county and it's taken away the discretion of judges to assign bail to the vast majority of crimes.

Over the last month or so, we have seen drug dealers caught with massive amounts of fentanyl and other illegal substances being immediately released. We have seen bank robbers who are repeat offenders being released. Home invaders being released and the list goes on. Cashless bail. Repeat DWI offenders being immediately released and the list goes on.

Cashless bail and the new discovery rules place enormous burdens on our county, on our law enforcement professionals, on our district attorney. We need to know more about
what they are doing, how they are handling and how they are planning to handle the effects of this criminal justice reform.

We also need to hear from our representatives of our law enforcement, the actual men and women who keep this county safe and we need to hear from the public.

Now, we know from the newspapers that there are discussions and proposals in Albany to revise the criminal justice reform, to change it, to do away with some of the more negative impacts. And one of the purposes of this hearing is to keep the focus on this issue to give momentum to those in Albany who seek to change the criminal justice reform.

Having said that, I would like to offer to Minority Leader Abrahams the opportunity to say a few words.

LEGISLATOR ABRAHAMS: Thank you Presiding Officer. First and foremost,
I think everyone on this dais agrees that there needs to be some level of reforms. I think when the announcement of the provisions in the bail reform came out our caucus reached out to those in the state that were actually a part of the enactment of this law and expressed our concerns. However, today's hearing is built on what we believe is a farce. By no doubt, and no stretch of the imagination, we believe that there needs to be reforms. But on December 16th the Republican majority decided to call on the county executive as if she had some debate, discussion, some enactment, some responsibility with the bail reforms that were passed in the state. And I quote, "They called on the county executive to oppose the crime reform law." The county executive, all she did was implement the law but suddenly she has been thrown into the thrust and the fire by the majority by insinuating
that she had something to do with more than following the law.

Furthermore, let's be clear. By passing the bill reforms that occurred in the state, the Republicans are politicking and fear mongering more than anything else. Let's stay in our lane. The bottom line is we should be expressing our concerns and I would have taken a little less exception if they expressed their concerns to their state representatives. However, they have taken the tack to try to loop in the county officials that are a part of this. Now, we should hear from our police commissioner on how he's going to deal with the law and we should hear from our district attorney just the same. But when I saw the story that appeared December 16th that called on the county executive to denounce, why aren't we calling on denouncing the SALT tax that was passed by the federal government. Why haven't we called
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hearings in regards to NUMC. We have no business at all, other than fact gathering at this hearing, than anything else.

The bottom line is very simple. We have a responsibility to our public to ensure that we give them fair and balanced information. That's where this begins and that's where this should end. The bottom line is very simple for us. The county did not pass, did not have debates or discussion. They had nothing to do with enactment of this law. No Democrat, no Republican in this legislature had anything to do with this law but today we find ourselves holding a hearing basically which starts with the premise of calling on the county executive to denounce the law, which to me is just trying to link her to something that you believe -- that you gain some type of political advantage on and to me is wrong. That
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to me ties into everything that is more fear mongering than anything else.

And as I said before, let's be clear, we believe that there needs to be changes to this law and we believe that we have seen some of those changes that were announced the yesterday by the senate majority leader in New York State. However, I just want to say it again and emphatically that the bottom line for us is very simple. That this legislature by some of its members' actions have taken irresponsible reckless actions by trying to deceive the public that the county executive or Democrats as a whole are in favor or in are in support of any of the measures of the Criminal Justice Reform Bill.

We believe, yes, as presiding officer said and one thing I will agree, low level crimes that folks that are nonviolent should not be languishing in jail for periods of time when they should be able to have some
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type of fairness and balance and
justice that should be applied to them.
But today and violent criminals should
have the discretion of judicial review
before they proceed or get out of jail.
But let's be clear today. Today is all
about the Republicans trying to use
this issue to further their politics.
That's it. If it was more built on
fact gathering, if it wasn't built on
accusations and insinuations, then they
would have restored some more
credibility. But the fact remains that
that news story that goes back to
December 16th was very clear. It
called on the county executive who,
again, had no debate, no discussion to
our knowledge. Had no enactment, did
not vote on any bills and all she did
was try to comply with the bill. But
somehow she got tied and linked into
it. Thank you.

LEGISLATOR NICOLELLO: I'm more
than a little bit surprised that there
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would be any sort of controversy of the
fact that we're having this hearing. I
would assume that all the legislators
would be speaking with one voice on
this issue. In fact, urging all
legislators in Albany to change the
bill. County Executive was called upon
in mid-December to implement a plan to
deal with the criminal justice reform
and she did several days after the
press conference. More importantly,
the county executive since that time
has been consistently calling on the
state to remake this law. So she is
not the subject of this hearing.

I disagree with the Minority
Leader however that with the premise
that we have nothing to do with respect
to criminal justice reform since it was
adopted by Albany. It is our police,
it is our police officers, men and
women, it is our district attorney who
have to enforce this, the laws in this
county. Who have to deal with this.
It's our judges in Nassau County who are being restrained from keeping dangerous suspects off the street. And it's our residents, ultimately, who are in danger if there is a threat to public safety as we believe there is. So to argue that there is some reason we should not have this hearing is wrong. As I said, one of the reasons we're doing this is to keep the pressure on Albany. They are feeling the pressure. There are proposals now to change this law. But things have a way of getting shelved so we want to make sure that our representatives in Albany continue that momentum, get this changed, reform this law. Having said that -- yes, go ahead.

LEGISLATOR ABRAHAMS: So I disagree with a couple of things the Presiding Officer just said. One, first and foremost, we agree that there should be a hearing but not built on the premise of denouncing the county
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executive.

LEGISLATOR NICOLELLO: Where did you see us --

LEGISLATOR ABRAHAMS: I did not cut you off when you spoke.

LEGISLATOR NICOLELLO: Sure. Go ahead.

LEGISLATOR ABRAHAMS: Your actions that were presented in the December 16th story, and I could quote you and quote Mr. Ferretti just the same but I didn't want to go down that road. Your story talked about denouncing, asking the county executive to denounce as well as the six democrats in the state senate that represent Long Island, you were calling on them to denounce the bail reform bill. That's almost like me saying to you that we should call on our members of Congress that happen to be republicans to denounce the SALT tax. That is -- and then furthermore to hold hearings on it.
So from that standpoint, I am in support. We have indicated we are in support of the police department providing data to this body to ensure that we are making the public safe. But your premise from day one on this bill has been politics and you may have some good points in regards to serving the public, that part we don't disagree with and that's why we're here today. However, it's been clouded by politics and fearmongering more than anything else.

Furthermore, I will say this, the bottom line is if we're going to start holding hearings on items that do not originate from this body, that's all well and good, I would like to hold a hearing on the SALT tax as well because I see my residents being hurt by thousands of dollars by something that was implemented by a republican president. So if we want to start doing that kind of stuff, let's go
right ahead. Let's call a hearing on the Nassau University Medical Center. I've been asking for a hearing on that. That actually impacts Nassau County residents, just as this does, and has a financial impact on them as well. I've been calling for hearings on that since April of last year. Let's do it. So from that standpoint, I don't see why. I'm not saying you shouldn't have a hearing. I'm saying your premise for building the hearing up until where we are today started with denouncing someone that had no debate, no discussion, no vote, no ability to impact change other than calling on it from a bully pulpit for this particular item that's in front of us today. That's what I'm asking for. Is that your premise in that story to me resonated of more politics than good government and the best interests of the people of Nassau County.

LEGISLATOR NICOLELLO: It's
apparent that the minority somehow feels pressure on this issue but I can say this: Who cares what happened in a press conference two months ago? The county executive has done the right thing since then, she has repeatedly called on the state legislature to amend this bill. So she has nothing to do with this hearing. This is about exploring what this law is doing to our communities and so the fact that there was a press conference two months ago is completely irrelevant. Let's finally hear from the people.

LEGISLATOR ABRAHAMS: The point of the press conference --

LEGISLATOR NICOLELLO: Let's move on with the debate. Let's talk to the people.

LEGISLATOR ABRAHAMS: The point of the press conference is it was so -- it was so --

LEGISLATOR NICOLELLO: I'm going to call the witness which is Mr. Victor
Legislator Abrahams: So as I said before --
Legislator Nicolello: Mr. Victor Maldonado, would you please come forward.
Legislator Abrahams: So you're going to cut off the debate? Look, we want to be able to --
Legislator Nicolello: Stop.
Legislator Abrahams: We want to get to the --
Legislator Nicolello: No. We want to hear from the people.
Legislator Abrahams: We would like to hear from the people as well but the people should also understand that you have --
Legislator Nicolello: Would you please let Mr. Maldonado proceed.
Legislator Abrahams: Mr. Presiding Officer, you have created this premise and now you want to take
it back. You want to hit the reset button after you called on somebody that had no jurisdiction in the actual bill.

LEGISLATOR NICOLELLO: Would you please let Mr. Maldonado speak.

LEGISLATOR ABRAHAMS: That's what you decided to --

LEGISLATOR NICOLELLO: Let's let Mr. Maldonado speak.

LEGISLATOR ABRAHAMS: So as I said before let's start to call hearings --

LEGISLATOR NICOLELLO: You'd rather speak to Mr. Maldonado, is that right?

LEGISLATOR ABRAHAMS: No. No. That's not what I'm saying.

LEGISLATOR NICOLELLO: Then stop speaking. Would you let the gentleman speak.

LEGISLATOR ABRAHAMS: Mr. Presiding Officer.

LEGISLATOR NICOLELLO: You're out
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of order.

LEGISLATOR ABRAHAMS: You said --
no, I'm not out of order.

LEGISLATOR NICOLELLO: You're
completely out of order.

LEGISLATOR ABRAHAMS: You made a
remark in regards to my statement and
now I'm responding to your remark. I
never cut you off and now you're trying
to cut me off, which I don't understand
the logic of that unless you are -- you
understand that you made a mistake a
month ago --

LEGISLATOR NICOLELLO: What are
you talking about?

LEGISLATOR ABRAHAMS: -- when you
actually --

LEGISLATOR NICOLELLO: It's about
bail reform hearing. Who cares what
press conference existed two months
ago.

LEGISLATOR ABRAHAMS: Well, the
public should care because this is --
you're using this vehicle after
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galvanizing politics --

LEGISLATOR NICOLELLO: Why are you concerned about listening to the -- understanding this issue?

LEGISLATOR ABRAHAMS: No, no, no.

LEGISLATOR NICOLELLO: You think it's a bad issue for you. Let's join together and get this changed. That's all we want to do.

LEGISLATOR ABRAHAMS: Well, if we were really sincerely trying to join together, you and I would have written a joint letter not just to the county executive's.

LEGISLATOR NICOLELLO: Okay. Let's write a joint letter.

LEGISLATOR ABRAHAMS: The county executive would have joined with us. We should have written a joint letter to the state.

LEGISLATOR NICOLELLO: I agree with you. Let's do it.

LEGISLATOR ABRAHAMS: You're saying that now two months after the
fact after you attacked the county executive.

LEGISLATOR NICOLELLO: Who cares? Who cares? It was two months ago. She's done the right thing since then.

LEGISLATOR ABRAHAMS: I know. I know. I know.

LEGISLATOR NICOLELLO: How many times do I have to say it. She's done the right thing since then.

LEGISLATOR ABRAHAMS: I get that.

I get that.

LEGISLATOR NICOLELLO: All right.

LEGISLATOR ABRAHAMS: But you've decided -- but your hearing is based off of a false premise.

MR. MALDONADO: Guys, I think you made your point. Thank you.

LEGISLATOR NICOLELLO: Let's go. Mr. Maldonado.

MR. MALDONADO: Thank you for having me here to speak on bail reform. I wrote a speech I'm going to follow it verbatim. I'm here to lend a voice to
the many of us who innocently and
unwittingly have become victims of bail
reform and cannot be here today. I am
here to speak out about an egregious
law passed in our great state of New
York that does not take into
consideration the consequences
affecting the public safety of its
constituents. It is with a broken
heart, a broken heavy heart that I
stand before to show the reality of
what Albany has created.

Our reality. Our own personal
reality is as horrible as they come.
Our reality is not based on
sensationalism. It is not based on
media hype. It is not based on
exaggeration. It is based on fact.
The most relevant one is that my son
Jonathan Flores-Maldonado has lost his
life as a direct result of the
enactment of this law. Sadly I am here
today because Lillian and I have lost
our son. Rebecca has lost her
soulmate. Victor, Matthew, Jack, Ashley and Justin lost a beloved brother. And the community lost a good caring law abiding young man at the beginning of his promising life with a bright future in front of him.

Who was Jonathan Maldonado.

Jonathan Flores-Maldonado was an intelligent caring young man who in the early hours of Sunday morning of January 12, 2020 while driving for Uber and getting people home safely was killed in a tragic car accident by the accused. He had been working extra shifts on the weekends so he could do something special for Valentine's Day for Rebecca. We believe he was saving some money to buy her an engagement ring and propose. It was something he had been talking about for quite some time. Valentine's Day is tomorrow. And because of the law, we will be grieving the loss of an incredible young man when we should be celebrating
the engagement of one of the most
wonderful partnerships I've ever seen.

Last May we got to see Jonathan
graduate with a degree in biology from
Buffalo State University. Instead of
heading back to Long Island, he decided
to stay in Buffalo with his beloved
Rebecca and support her while she was
finishing her school.

Jonathan started driving Uber to
make ends meet while also saving for
his life together with Rebecca.
Together they had plans to move to
New York close to me in the Bronx, he
always gravitated towards family.
Jonathan and Rebecca had plans to get
married and have three children. They
even planned a cruise for Rebecca's
parents who are going to be celebrating
their 30-year anniversary. We were so
excited to officially Rebecca into our
family and vice versa and while we will
always be family, things will never be
the same without Jonathan. Jonathan
was the son that drove eight hours to

go check on his grandparents then drove

another two hours to check on his mom

and on his way back to Buffalo he will
come by to see me. Sometimes we'll

play 18 holes of golf at Van Cortland

or 9 at Mosholu. We would talk about

life, current events and how to get

better at golf. Jonathan would drive

his little sister Ashley to Baltimore

whenever we had a family event. He

would drive his sister to Baltimore

before he went to Buffalo. He always
cared for everyone. He knew, he always

saw the good in people.

Jonathan signed up to be an organ
donor, he was also a blood donor and he
donated often wit the New York blood
center. They were always asking for

Jonathan to come to donate because he

had a very high platelet count.

Sometimes that's quite rare in a

person. He has precious blood and he
donated it to save other people's
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lives.

And then there's the flip side.

The man responsible for taking my son's life. The accused is no stranger to the criminal justice system. The accused has been arrested multiple times for DWI's and tampering with an ignition interlock device. He has multiple DWI convictions and multiple felony convictions. He didn't care that he drove intoxicated. He didn't care that he did it often with absolutely no regard for the safety of himself or others and Jonathan paid the ultimate price. The accused on January 1, 2020 was arrested and released under the new bail reform law for interfering with his ignition interlock device. This device was ordered to prevent this man from drunk driving as he has done before many times. On January 10th, the accused appeared in court for this charge and was released without bail.

Why? I heard it was because he had not
been fingerprinted. Really? Multiple felonies, DWI convictions and you still need his fingerprints? Not even two whole days later the accused got behind the wheel of a car while drunk three times over the legal limit, rear ended my son at 135 miles-per-hour killing him.

The police arrived soon enough to see him trying to escape as he fought off the officers. He told them that it didn't even matter because the law changed on January 1st and I will be out tomorrow. Does anybody see anything wrong here? Anybody?

Political parties fighting each other while they should be working together to bring justice to my son. The bottom line nothing has changed. The fact of the matter is all of this could have been prevented. A young life, a good soul, a man that had aspirations to help others by studying biology and pursuing a career in
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medicine has been lost. Bail reform has to happen. Bail reform allowed this to happen. Excuse me. It is an egregious law period. No thoughts have gone into this law. Public safety was not considered. A judge's discretion, professional discretion was left out and the history of the accused could not be used to make an informed decision. There are many things wrong with this law that need to be amended before more lives are lost and more families are shattered.

And so I have a lot of questions. The law emboldens career criminals that will take advantage of us all. How many times can a person commit a crime be arraigned and released? Who has decided what is and what is not a violent crime? What of the law enforcement's moral who knows that an arrest will only lead to a release of a person accused of a vicious crime. Why even bother arresting a criminal if the
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judges can't hold them. Jonathan's
death is on the hand of the legislative
body who passed the bill into law that
gives the judge no discretion.
Fingerprinted offenses should apply to
any crime where public safety is
concerned, including drunk driving or
tampering with the ignition interlock
device regarding of what county you
live in. Those are violent offenses.
They resulted in the loss of my
beautiful son. Any time a drunk person
gets behind the wheel of a car they run
the risk of killing someone. It needs
to be changed and it needs to be
changed now. The family of victims
don't want flowers. Don't want
condolences. Don't want to hear I am
so sorry for your loss and they sure as
hell don't want their information given
out to the defendants. We want justice
and we want to heal. Here are just a
few of the crimes where the accused can
walk right out of jail and maybe just
pay you a visit. Third degree assault, reckless assault of a child, stalking as a hate crime, vehicular manslaughter, aggravated vehicular manslaughter, promoting a suicide attempt, aggravated vehicle manslaughter, third, fourth and fifth degree arson. Bail jumping, escape, endangering the welfare of a child, promoting a sexual performance by a child. Criminal possession of a firearm. Criminal possession of a weapon on school grounds. Obstruction government services with a bomb.

If you're a victim or a witness to any of these crimes I just mentioned, guess what? The accused will have your information. Let's look at the criminal and what it's like on the inside of the criminal justice system. Career criminals don't stop once they're on the inside. When they're released where do they think they will look for their next victims
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and where their victims will be living?
To the same communities that they live
or are released to, that's where.
Albany, you are not doing anyone any
favors by treating this very
complicated situation with a sledge
hammer. This law has to be changed so
that it applies to the right people.
People who have for the first time have
made a mistake, have shown remorse in
an effort to rehabilitate. People who
have a loving family and need to work
to support others and give love.
People make mistakes but career
criminals don't make mistakes. And
they are going to take this law and
turn it into their advantage by
committing more crimes with the
knowledge that they will be released.
These people or career criminals
are being given event tickets and gift
cards as incentives for showing up to
their court hearings. We are rewarding
the criminals that just robbed your
grandmother, burglarized your home, 
sold your child into prostitution, 
kidnapped your daughter or sold drugs 
to your child that resulted in their 
death. This law should not apply to 
these criminals. Repeat offenders and 
career criminals who have no regard for 
humanity or human decency. Any judge 
would have seen that but that doesn't 
matter with this new law.

So much has gone wrong and all of 
it could have been prevented by taking 
into consideration five things. Public 
safety, history or pattern of the 
accused, alternative solutions such as 
rehab, halfway houses for people in 
need of rehabilitation and/or housing. 
Recommendation of law enforcement and 
criminal correction personnel who have 
firsthand knowledge of the person being 
released. And most importantly the 
judges discretion.

In closing, our family 
appreciates that all of you have done
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are advocating. We are very grateful. I would like to thank all of the legislators, law enforcement and judicial personnel who are fighting to get this law amended. I also want to thank the media and the investigative reporters who have covered this tragic event and other tragic events related to this egregious law. We have a lot of work to do and we must not give up. We must bring justice to Jonathan. Jonathan, I believe that you are in the loving grace of Almighty God. We miss you so very much all. Our hearts are broken but I will take comfort in knowing that your death will not go in vain. Our lives were changed forever because of the person you were and what you meant to all of us. I will fight to get this law amended so that the people who deserve it and want a second chance will have one and so that career criminals and repeat offenders do not. I just want to say to you that your
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family and friends love you. We miss
you so very much and you will never
ever be forgotten. See you in heaven.
Save me a tee time. We love you.
Thank you everyone and may God bless us
all.

LEGISLATOR NICOLELLO:
Mr. Maldonado, all of us up here are
parents. All of us up here feel -- our
hearts go out to you and your family in
this time and I cannot image how much
courage it took to do that. As you
said, we all will be advocating that
this law will be changed to prevent a
tragedy like this from happening going
forward. Does anyone else want to say
anything?

LEGISLATOR ABRAHAMS:
Mr. Maldonado, I don't know if he had
left or is sitting down. I can't see
him behind the camera. I'm sorry.
Again, we just would just reiterate
what the presiding officer indicated.
I know it doesn't -- there's no words
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that I can express on behalf of this
caucus or myself that would give your
family the comfort that it needs at
this time. We pray that with God's
help you'll be able to find your way
through this very difficult situation.
And as you said before, we will find
justice for your son, as well as all of
those that have been hurt over the last
several weeks in regards to getting
changes to the bail, reform bill.

LEGISLATOR NICOLELLO: Would
anyone else like to add anything?

Legislator Ford.

LEGISLATOR FORD: Mr. Maldonado,
also my condolences. Nothing is worse
than the loss of a child and to lose
your son in such a way just is so
heartbreaking and I applaud your
courage to be able to come here and
speak about this and, you know, to
fight for what needs to be done and to
restore justice back into our system.
Please extend our condolences to your
family, to all of you. I just -- I don't know what to say but God bless you.

LEGISLATOR NICOLELLO: Legislator Rhoads.

LEGISLATOR RHoads: Thank you, Mr. Presiding Officer. Mr. Maldonado, I just want to say thank you. I want to say thank you for your courage in coming forward and doing honor to your son. This situation that your family is involved in and what happened to Jonathan is an absolute tragedy and the fact that you're coming forward provides an opportunity for all of us to turn the tragedy of your son's story into a cause for good, into an opportunity to be able to correct an injustice that was done through criminal justice reform and particularly through cashless bail. I just -- I can't applaud your courage enough for taking an unimaginable tragedy and turning it into an
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opportunity, hopefully, to do good for others by pushing for repeal and for sensible amendments to this bill. So I just want to say thank you for taking the time for coming down and for sharing your story with all of us.

LEGISLATOR NICOLELLO: So we have two speakers who would like to make a presentation at this time. Our commissioner of police, Patrick Ryder, and Assistant District Attorney Jed Painter. Gentlemen.

COMMISSIONER RYDER: Kind of loss of words right now after hearing Mr. Maldonado speak, and our prayers are with him and his family. And the earlier exchange here on the floor shows the passion of everybody involved. Everybody involved wants to see change. There are two victims here. There are victims that are victimized again because of the change how extreme that it has been. And then there are the victims of the kids that
are sitting in jail because they can't afford bail and because they don't have an income to get them out and get a better attorney. So I have been called that I am politicizing the issue. I'm not politicizing the issue. I don't have an agenda, except for this. I speak for the victims that can't speak for themselves. I fight for the victims that can't fight for themselves. We take an oath in law enforcement to protect and serve the people, all the people no matter what race, no matter what religion or no matter what side of the law they're on. We always treat them with respect and we treat them with professionalism and that's what our police department wants to continue to do.

I will speak with the data. I will give you the truth. I will give you the facts then you make your own interpretation. I said that last week and it came around against me. But we
live in the safest county for its size in the country, the crime has never been so low. We're down 30 percent in crime. Our overdoses are trending in the right direction. Our homicides have been record lows. Our robberies and burglaries have extremely dropped over the last several years.

Now I'll give you some crime numbers but I want to make a point to that. It's too small of a data set to really jump one way or the other. It's only been 40 something days and to the credit of Jack Maple, the creator of COMPS that will tell you that crime is affected in the short term by weather. We've had a very mild winter so I can't make a direct link to anything at this point regarding crime, except for that I did say early and I'll say it again that quality of life crimes do increase when there is no -- and I don't want to use the word penalty but some kind of answer to someone that breaks the law
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and how we can help them. Whether it's
put them in the right court, putting
them into recovery or putting them into
jail. All of that process and the
points of which we'll bring up today.

But if you look at our crime numbers,
all of our violent crime is actually
down. Our robbery commercials are
down, 13 from 20 last year. Our street
robberies are down 24 from 30. But our
assaults, they went up a 52 over 34.

Our residential burglaries went up 48
over 33 and our commercial burglaries
went up 42 over 36.

Major crime is up six and a half
percent, but again, I will emphasize
the data set is too small to make that
comparison yet. But our total crime
number, which includes those small
level crimes, has gone up five percent.

We were asked to form a committee
to look at the -- how justice reform
will affect us here in Nassau County.
The report was completed today, they
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will be sent to all of you here in the legislature, both the majority and the minority and it will be also sent to the committee members that sent me all of their ideas and presentations. But as I read through it, I will tell you many of them are addressed today in Newsday. And again, that's how it's being proposed, how it comes out I don't know. But Albany has been listening. Albany has been looking to make those changes.

The issues presented the new legislation limits the cases of qualified offenses for which a judge has the option to set cash bail. Our recommendation is that you do not limit the ability to set cash bail based on the crime charged. Again, I believe that's being addressed according to the Newsday article.

Issues presented: The new legislation has limited the factors of which the court can consider.
determining the defendant's custody status pending trial. We've seen cases where they've walked out. We've seen our recent robbery subject which was arrested for a bank robbery was given the ankle bracelet. We gave the controls, he cut the ankle bracelet off, he committed two more bank robberies, he has now been remanded as he was arrested the other night.

Ramifications for violating nonmonetary bail conditions such as electronic monitoring are not significant enough to deter a defendant from violating these terms. Many people will fit into electronic monitoring but not all will fit into electronic monitoring. Many should be released without bail but not all should be released without bail.

Issue presented: Pursuant to the new legislation the court cannot immediately issue a bench warrant. We've taken the control out of the --
our judges hands to determine, depending on that background of that individual, that history of that individual, if he should immediately issue that bench warrant so that we can go out as law enforcement and execute that warrant. The new legislature limits judicial discretion when considering applications before the court. Again, a judge should have, and always has, the opportunity to see that person's past history. There are many kids that sit in jail first time offenders for a low level drug charge that should be there because they couldn't afford bail, they didn't have the right attorney. I agree with that and I agree with that part of justice reform but there are many people that are arrested again for small or even larger drug cases that are now going to get out because of justice reform. We need to look at that. We need to look at the history and the circumstances
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behind it what put us there. What put that child there. What put that kid there or that man or woman there that we can then make the right decision. Again, that's why we have a justice system in place.

Issue presented: Pursuant to the new legislation the district attorney cannot enter into a plea bargain until discovery has been produced. I'm going to let district attorney Jed Painter speak on that.

Issue presented: The discovery reform also includes provisions that witnesses must provide their names and addresses. This is the one that is close and dear to me. Our victims that did get brutally beaten and killed by MS13 in the New Cassel area, I went to the wake, I spoke to his sister, I met the family. It's a horrible horrible crime that no one should go through. And the people in Westbury deserve better, that witness deserved better.
I never said there was a direct link. Never said there was a direct link to justice reform, I just gave the facts and I left the interpretation up to the people. And again, I'll say, I don't believe, I don't know that there is a direct link. Our homicide guys have been working day and night to make that arrest and make sure that they answer because he was a hero, this man. He stood up against MS13. He's willing to testify against MS13 and he died at the hands of MS13. And I said and I'll say it again, we -- and we is all of us -- need to do more for our victims. All of our victims. That 16-year-old that sits in jail for marijuana that shouldn't be there. And the victims that have been brutalized and beaten and threatened by MS13 or any other person in this county.

So as the police department, we've been asked to start to tally the data which we have most of this data.
and will continue to collect that data. Some of that data in the new proposed law is given to us -- we'll have to get from the courts and we'll work with the district attorneys to provide it. The data will speak for itself and hopefully it speaks for our victims.

Thank you.

LEGISLATOR NICOLELLO: Legislator Ford. I guess we'll have some questions for commissioner and then we'll go to your presentation. Okay?

LEGISLATOR FORD: Good morning, sir. I think it's a sad state that you have to sit here after you testify in regard to this bail reform legislation to explain yourself after the murder of somebody who was in -- that witnessed something and was going to be a witness toward the MS13 to explain your remarks, you know, that may have been said in the spirit of being hurt by this murder, this senseless murder of an innocent person that you have to,
like, defend, you know, perhaps, the way that people maybe interpreted it. I think you are an excellent police commissioner, you're a great leader and I think you have every right to say what you have to say without any fear of retribution or anybody coming out against you and I applaud you for your courage. Because I think all too often, you know, and I'm tired. I'm tired of political rhetoric with all of this. When we look at this and we all say well, they're politicizing this whole thing because it's maybe the republicans. I heard it early in December when all of a sudden this started, you know, coming out as to what was going to happen to our communities here in-- and our neighborhoods here in New York state. You know what may happen to people that are witnesses, people that can be victimized. And more so, more importantly to me as well, we always
forget about our police officers, our officers that their morale is being challenged. That when they turn around and they go to arrest somebody and they realize they're only going to go inside and wash their hands and the person's like already out walking the street creating another -- committing another crime. When we see that people have no fear of attacking police officers, even go into a precinct to shoot them up. I think this is a disgrace but I urge you to keep it up, to make sure that you speak what you have to say because you are our law and order here in Nassau County and I appreciate the hard work that you do for all of us.

But I would like to know something, because I know that we say well, why don't we all get together and maybe write letters and reach out to the democrats in the senate in New York State. Before they took that vote last year, did they reach out to you? Did
they reach out to all the police commissioners throughout New York State and ask them what impact this legislation will have on your ability to do your job to make sure to keep out communities safe and to make sure that our police officers are protected as well?

COMMISSIONER RYDER: I can't speak for everybody in the state but I can speak for myself, I was not conferred at all on this issue.

LEGISLATOR FORD: So they made this change, this progressive change, you know, and we all understand and I think that you are right, Kevan, when we talk about having open discussions. Let's talk about things more often. But when we look at this, you know, we all know that the justice system needed reform. We all know that our legal aid lawyers who are the ones that represent the people that are indigent, that can't afford high priced attorneys,
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that need to make, that can't afford to have any bail, that these legal aid lawyers are underpaid and they're overworked. They have too many cases, they can't probably always maybe defend these low level crimes, so a lot of times, probably, they may end up having them to turn around and maybe plead out, maybe do two or three days in jail when these people should not be in jail.

Prior to this vote, they should have brought all of us in to talk about this and say to everybody, what do we need to do because it is unfair. It breaks my heart when I have parents that called me up because their children were in Nassau County jail and they were worried about their medication, were they getting fed. And the kids weren't really bad criminals, you know. But this is what happens. This is -- the discussion should have taken place last year. Now we have
poor Mr. Maldonado who had to bury his son too soon. We have families that are living in fear that because there are criminals walking out amongst us, because of this disastrous and ill conceived legislation on the part of the senators and the assembly people in the New York State government. I think this is in itself is a crime against the good people here in Nassau County and New York State. I think that we all have to stand up and it doesn't mean just because it's not just Republicans that are fighting against this. I happen to be a Democrat and I'm proud to be in this party but I am damn tired of what is going on. When I look at this and I have to worry, when you can make -- turn around and dismiss it that because you feel bad that these -- some of these Republicans came out and spoke at -- maybe asking Laura Curran to join them. But I find that Laura Curran to be a capable and good
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leader here in Nassau County. I respect her as our county executive and I think that she's a strong independent, strong-willed woman that can stand up to any criticism and to be able to speak her mind on the issues that she feels is important to her without any fear or retribution from anybody else, whether or not it's in New York State or the government. But I think all of us, we should be allowed to say what we have to say. And to me I'm very emotional. I'm sorry about this but I happen to be -- when I have family that are in the New York City Police Department, when I look our officers patrolling each and every single day, and we have to worry about this, when we allow people, this gang to go through the subways, to break up equipment, to be able to call upon to go against the police, you know, I think this is terrible. And I think this anarchy has to stop and think that
all of us must join together to bring common sense legislation back into New York state and let's start taking this state back so all of us will want to stay, want to live here and be able to live here. Thank you and I'm sorry.

LEGISLATOR NICOLELLO: Thank you, Denise. Commissioner, I want to echo something that Denise just said. You do speak your mind and it's refreshing and it's what you should do as the chief law enforcement officer in this county and we've had individuals who are closer to politicians in the past. I would much rather have somebody who speaks his mind, as you do. We may like what you say this week and next week we're not going to like it but it doesn't really matter. You're just speaking what it is that's important to public safety and to the men and women that you represent.

Just in terms of what changes are you making to the police department as
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a result of the criminal justice reform?

COMMISSIONER RYDER: So the biggest lift for us, you know, obviously going back and reinvestigating cases that somebody's been arrested for makes it harder, more time consuming and you'll hear from ADA Painter is the discovery. The amount of people that I have now doing discovery -- and what people have to realize, it's retroactive. There's cases that are ongoing from '19 and '18 that we still got to turn over blotters and finding memo books of cops that are retired and that we can't go forward until that information is there. So I have all of my analytical people that normally do analysis so I can get ahead into the patterns and do predictive analysis on crime fighting, are now doing discovery. They're all pulling data, pulling videos, pulling GPS data, 911 calls, CB transmissions back and
forth. It's a lot of work. A lot of work that we didn't even realize would ever have to be turned over and now it is. So the resources that we're expending from both -- and our court overtime has increased, our overtime for processing has increased, but it's work that we'll do, that's what we're paid to do. We'll be professional. It will increase my budget at the end of the year and we'll get it done as best as we can. We do sometimes -- and there's going to be a failure going forward because it's almost impossible to keep up with discovery on a 15 to 30-day period.

LEGISLATOR NICOLELLO: You mentioned you've got to shift resources from the area of predictive analysis into complying with discovery responses; is that accurate?

COMMISSIONER RYDER: That is correct.

LEGISLATOR NICOLELLO: And our
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police, our DA, our law enforcement
have had tremendous success here in
Nassau County in reducing the crime
rate. Is that in part because you had
resources to put into the predictive
analysis to anticipate where the crimes
are going to be?

COMMISSIONER RYDER: Our success
since 2010 has been the fact that we
built our intel center and we do things
like predictive analysis, intelligence
led policing. And again, I'm not going
to throw it all at the wall right now
because, yes, crime has gone up, but we
had a mild winter. We had a mild
winter last year also. So again, I'm
factoring all that in. The data said
it's too short to make that
determination. I think the quarterly
report will tell you more. We are now
starting to catch up on some the older
cases and that will now start to move
some resources back to doing our intel
led policing model and predictive
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analysis.

LEGISLATOR NICOLELLO: Okay.

That is a concern to the extent that you're taking resources away from something that's had such success in order to make sure that -- I think the onerous discovery requirements are met.

Anyone else have any questions for the commissioner? Legislator Ferretti.

LEGISLATOR FERRETTI: Good afternoon, Commissioner.

COMMISSIONER RYDER: Good afternoon.

LEGISLATOR FERRETTI: Thank you for your testimony and thank you for your continued leadership on this issue. I want to speak a little bit about the DMV database. Is it true that New York State required the county to agree in writing not to share information from the DMV database with the federal police or federal agencies?

COMMISSIONER RYDER: That was
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part of an agreement that we had -- we
had signed recently so that we can
continue to access data through the DMV
system.

LEGISLATOR FERRETTI: So it true
then that if we didn't sign that
agreement we would not be able to
access that data?

COMMISSIONER RYDER: That was the
way the agreement was written; that is
correct.

LEGISLATOR FERRETTI: Now, if we
didn't agree to that -- and maybe this
is a question for Jed or somebody else
-- but is it legal for New York State
to lock us out of that database, that
information?

COMMISSIONER RYDER: I can't
answer that. I'm not an attorney.

LEGISLATOR FERRETTI: Did we at
any point, we being the county,
consider a lawsuit to compel access if
we were not to sign that?

COMMISSIONER RYDER: That would
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be a conversation for the
administration.

LEGISLATOR FERRETTI: How is this
type of information contained in the
database?

COMMISSIONER RYDER: The
information for normal DMV is entered
into a database and if we need to run a
-- on a car stop an individual or his
license plate, it would go through that
database.

LEGISLATOR FERRETTI: We did sign
the agreement, right?

COMMISSIONER RYDER: That is
correct.

LEGISLATOR FERRETTI: And so what
federal agencies are we prohibited from
sharing the information with?

COMMISSIONER RYDER: They
directly referred to HSI if I remember
correctly.

LEGISLATOR FERRETTI: What
reasons would a federal agency need to
access a database?
COMMISSIONER RYDER: I'm sure -- the concern was that we are not turning over data to HSI to go after those that are undocumented.

LEGISLATOR FERRETTI: Does the Nassau County Police Department work with these agencies regularly?

COMMISSIONER RYDER: We work with all our federal partners.

LEGISLATOR FERRETTI: In what capacity?

COMMISSIONER RYDER: Most of them in money laundering cases, most in human trafficking, prostitution, white collar crimes.

LEGISLATOR FERRETTI: And the ban on sharing this information, are there any exceptions to that ban or is it carte blanche ban?

COMMISSIONER RYDER: I don't have that bill in front of me and I'm not as --

LEGISLATOR FERRETTI: Any that you're aware of?
COMMISSIONER RYDER: None that I'm aware of. I did believe it was just at the HS.

LEGISLATOR FERRETTI: Now my understanding is that federal law enforcement officials have indicated that this ban puts public and federal law enforcement officials at risk. Do you agree with that?

COMMISSIONER RYDER: The data that's coming from the system, providing the information of the person that has in front of me, I have. The data not being shared with HSI I can't say it puts them at risk. Their process of those going after those that are undocumented is an HSI issue that we don't work with them on. We just focus on the other crimes that we do work with them on.

LEGISLATOR FERRETTI: Well, in the past, has information that we're now not providing led to investigations into terrorism, sex trafficking, any
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drug smuggling?

COMMISSIONER RYDER: Well, if I may, I believe -- my guys that still work in the task force have the access to that data but are prohibited to share it if they're going to be used for immigration purposes. We still do share and use it when we are looking at money laundering, counter terrorism type investigations.

LEGISLATOR FERRETTI: So we still share that type of information.

COMMISSIONER RYDER: When we have a money laundering and specific investigation like that, yes, but as a blanket sharing and running names for immigration, we do not do.

LEGISLATOR FERRETTI: What if that type of investigation involves someone who's here illegally, do you share that information?

COMMISSIONER RYDER: You know what, I honestly can't answer that question. I don't have that document
in front of me exactly what was restricted from it or not.

LEGISLATOR FERRETTI: Well, in the past -- in the past would we share that kind of information?

COMMISSIONER RYDER: Yes. Yes, we would.

LEGISLATOR FERRETTI: And today you can't say that we still do.

COMMISSIONER RYDER: If it was for a counterterrorism investigation and the person happens to be undocumented, of course we would share that.

LEGISLATOR FERRETTI: In the past.

COMMISSIONER RYDER: In the past.

LEGISLATOR FERRETTI: But in terms of today --

COMMISSIONER RYDER: We would still share that and do that investigation with our federal partners. It doesn't matter what the status is if the criminal activity is
there, we would still work with them and willingly so.

LEGISLATOR FERRETTI: Thank you.

LEGISLATOR NICOLELLO: Anyone else have questions? Legislator Gaylor.

LEGISLATOR GAYLOR: Sure, couple questions. Thank you, Commissioner for your presentation, your honesty in the work that you do to make the county a better and safer place to live, work and play. And special thanks to all of the officers in law enforcement for what they do as well.

I sit on the village, town, city committee as well and there hasn't been much discussion on the additional work load maybe that the county police department is experiencing having to work with the villages. Many times, although the villages may have their own police departments, the County takes the lead on many of the more significant crimes. Crimes involving
guns and drugs and threatens the society as a whole come under the county's purview. So my question -- the next few questions are directed at the interaction between the village, the city police departments and the county. So what level of coordination does the department have with the village and city police departments to ensure that we are complying with these new criminal justice reforms?

COMMISSIONER RYDER: Any assistance that the village uses, if they use our P1 system, that's our case management system. If they use that system to process their arrest, that is all generated and sent to the district attorney's office through ECAP. If it has to do with bail -- or I should say not bail -- but if it has to do with evidence and so forth, we will assist them on it. So we have always worked with our 18 villages and two cities.

They're all struggling with the
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discovery issue, not so much the
processing part but the fact of what
has to be turned over. But villages
for the most part outside of the larger
ones of Freeport, Hempstead, you know,
Glen Cove, Rockville Centre, their
arrest is not as high level. We
average 50 arrests a day here in Nassau
county. That's 50 people that we have
to turn over that data and a lot of our
-- some of our bigger villages do have
that many. But some of them are more
up to date with their technology and
it's been able -- it's because they're
a small village and able to process
that quicker.

LEGISLATOR GAYLOR: My
understanding is the district attorney
and Mr. Painter might have to jump in
on this one, even though he hasn't
presented yet, but there are certain
guidelines within 24 hours there has to
be initial turn over of records and
what not to the District Attorney's
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Office, to their early case assessment bureau. Then within, what, five days, and then again at ten days and then again every 24 hours thereafter, if a new record is created. So is the Nassau County Police Department charged with ensuring the villages meet those time lines or are they on a direct, you know, a coordination link with the district attorney directly?

MR. PAINTER: I can speak to that. I'm sitting next to a great police commissioner but I've had to deal with a lot of different police leadership. We have 25 local law enforcement agencies, we got the NYPD. We have Suffolk we've dealt with. We have the New York State troopers we've dealt with. So we are building relationships with each and every single one and working on discovery exchange protocols with each and every single one. I'll cover some of that in my presentation.
LEGISLATOR GAYLOR: Then we'll hold off and wait for that. You mentioned that you share a platform, a computer platform with the villages or is that something that we provide them or is it -- it's a standard piece of equipment every police department purchases in to provide this kind of information to the District Attorney's Office?

COMMISSIONER RYDER: That is the record management system used by the police department in Nassau County. Many of the villages do opt in to take a license from us. We pay for that license through the headquarters tax.

LEGISLATOR GAYLOR: All right. Do you see any issues that are developing because of these new reform laws between the villages, the towns and cities and our police department?

COMMISSIONER RYDER: The biggest issues is that the coordination effort, that you know, we've always worked
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together when a crime scene occurs and we jump in, everybody does their part.
But when it comes to gathering data because we all have different data sets and different ways that we collect data, that's a problem. We ventured into a software company that has been approved by the legislature moving forward called NICE and we're hoping that NICE can alleviate some of these problems and coordinates sitting like a spider with many different legs reaching out and pulling that data up to where it needs to be.

LEGISLATOR GAYLOR: Very good.
You mentioned the quarterly report that -- that was the one where the legislature asked for some information on a quarterly basis. Will we be tracking crimes committed by people who are released with no bail and then recommit crimes? Is that part of the data you'll be collecting?

COMMISSIONER RYDER: That is one
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of the data sets we will have to collect, correct.

LEGISLATOR GAYLOR: I have no further questions. Thank you Presiding Officer.

LEGISLATOR NICOLELLO: I think the Minority Leader had questions.

LEGISLATOR ABRAHAMS: Actually just to piggyback on Legislator Gaylor's question, that's where my questions are tied to and then I wanted to talk a little bit about the contract the legislature passed in regards to helping with the discovery and the software, you can talk a little bit -- elaborate a little bit more on how you're finding that working or has it been implemented or implemented fully.

Commissioner, I really just wanted to dive into the merits of the bill and your ability to comply with the bill that has been proposed by the legislature. Obviously, it's asking for quarterly data statistics, which we
agree any time we can provide
information to the public it's
imperative. I've never found your
office not to provide me information.
You just provided me some ticket
information upon request, which I was
able to provide at a public meeting, so
I appreciate that as well. But if we
want to codify it with the law, I guess
that's the prerogative, obviously, of
the legislature. But in regards to the
piggyback on what Legislator Gaylor
said, the police department is tracking
some level of data and statistics as
pertains to the current bail reform
bill of individuals who have committed
previous crimes and be able to compile
that data and provide it to the
legislature on whether or not they've
recommitted those -- recommitted other
crimes or any other crime?

COMMISSIONER RYDER: So we kind
of knew that was going to be coming as
one of the, you know, looking at data,
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our analysts do that. That's what they project problems and issues. Part of the think tank, so we have been collecting it. It's not an easy data set to collect and the reason why it's -- and it's not going to be 100 percent accurate because I don't know the village arrests. I don't know sometimes if the state took that arrest. I don't know what the -- that agency that took it what's the outcome. So it's going to be work to search it and get it but every data can be gotten once we put the effort into it.

LEGISLATOR ABRAHAMS: So like say for example if someone was arrested in the village of Hempstead or city of Glen Cove, you don't have that information accessible to be able to determine or compile their criminal history to provide it to the legislature to determine whether or not you've captured all of their activity or -- if I'm understanding you
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correctly.

COMMISSIONER RYDER: No, if we're
talking about criminal history that's
one thing. We can access criminal
history on anybody when we have the
right reasons to access that data.

LEGISLATOR ABRAHAMS: Okay.

COMMISSIONER RYDER: But if we're
talking about those that have been
arrested and then released because of
the new bail reform, that data, to
track that, is work, there's a lot of
work involved because the -- like I
said, we do 50 arrests a day for the
police department itself. Then I have
my villages and my cities and as you
just heard, the state police are also
in here. And we also have federal
agencies that come in. But if they
process them on a federal level, it's
not my issue. But if they do it on a
state level, the I got to track it.

LEGISLATOR ABRAHAMS: I guess
what I'm driving at is, is there a way
for us to look at the data whether
they're released after January 1 or
before. Is there a way for you to
provide data with us that -- we agree
that when many of the reforms came in
place, you want to give it to people
that obviously, as described,
nonviolent or people who as you
admitted, many that are sitting in jail
that don't deserve to be there because
they can't pay the bail. But I think
what we're trying to also take a look
at, in the situation of Mr. Maldonado's
son, this -- allegedly this gentleman
committed several crimes leading up to
this crime, which devastatingly took
his son's life. Do you have the
ability to provide to this legislature
statistics, not by name of course, but
statistics that would give us some
level of idea the activity of the
individual that is being released or
multiple times released until there's
revisions to this bill?
COMMISSIONER RYDER: Yes, sir, we can.

LEGISLATOR ABRAHAMS: I'm asking this question I guess to the majority, is that encompassed in your bill in terms of some of the data gathering?

LEGISLATOR NICOLELLO: We'll look at it. We're trying to gather as much data as possible.

COMMISSIONER RYDER: It is. Section C of the bill, the number of crimes charged against the defendants while such defendants have been released without bail on previous criminal charges are charged including the charges against said defendants and a brief narrative description of crimes allegedly committed while released without bail. So yes, it will be part of our tracking.

LEGISLATOR NICOLELLO: If there's an area that's not covered, we'd be happy to consider amending the bill to cover that.
LEGISLATOR ABRAHAMS: Okay. I'm glad you're able to compile that data, Commissioner, and at the same time, glad it's actually covered in the bill.

The next area I wanted to dive into -- I mean, you alluded to it a little bit but I know the legislature passed a contract which would help the police department as well as the district attorney in being able to manage and be able -- with the discovery process, is that software up and running totally or is it still in the process of being up and running?

COMMISSIONER RYDER: It's still a couple of months away from being up fully running and the reason being, the procurement process takes time to get them online. They are part of Motorola, so they came in, they do know some of the programs already, they've expedited a lot of the things that we need to do for us to make it more electronically. And we still have a
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lot more to go forward with them and
are still working with us as we speak.

LEGISLATOR ABRAHAMS: So when do
you envision being able -- I mean, I
know procurement is difficult but --

COMMISSIONER RYDER: The
procurement process is all done.
They're in so --

LEGISLATOR ABRAHAMS: I guess
when you implement the system will be
up and running, that's what you're
saying?

COMMISSIONER RYDER: I think
we're a three to six month window is
what we're looking at right now.

LEGISLATOR ABRAHAMS: Okay. Once
the system is in, do you believe that
will address some of the lack of
personnel needs to be able to address
the reforms to bail?

COMMISSIONER RYDER: Any time you
add technology into something it's
going to make my game faster,
absolutely. It will alleviate a lot of
people sitting behind machines manually pulling data that we never thought we would have to pull. And we've done our own changes in the system to make our blotters, trying to make them electronic, trying to make our police officers memo book electronic. So in one aspect it's changed the way we do policing, that's for sure, some good some bad.

LEGISLATOR ABRAHAMS: Thank you, Commissioner.

COMMISSIONER RYDER: You're welcome.

LEGISLATOR NICOLELLO: I have a couple of follow-up questions and I think Legislator Rhoads has some questions. Has the new law changed the way your officers gather information or prepare the information in light of the fact that it has to be turned over within 15 days in the first instance? Any change in the procedures of your cops on the street or detectives for
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that matter?

COMMISSIONER RYDER: And we

changed the memo book. To the memo

book is what the cop is, their bible, if you will, it's how they gather their

data, they put it into this memo book where they go when they take their

breaks, when they stop somebody, the plate data. We've taken that out from

a written form and we've made it electronically, so a little learning curve for that. And then also, will

there be reluctance to put in as much data. Yeah, I assume so. But again, the memo book was always subject to be

brought into court when asked for, so again, it's one of these catch 22 type things. It -- yes, it's changed the way we do it. Yes, eventually that memo book may have been called in by the time of trial.

LEGISLATOR NICOLELLO: But it has to be done in a more expedited basis at this time?
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COMMISSIONER RYDER: Absolutely. Everything completes -- we try to complete by the end of tour, which extends our time of working.

LEGISLATOR NICOLELLO: Next question is more of an anecdotal nature. Are your officers finding that suspects are aware of the new law?

COMMISSIONER RYDER: I really can't answer that. I don't -- look, you heard from Mr. Maldonado a minute ago that's what that subject said. I have not specifically asked that question or heard anybody say it to me. But they do quickly learn about the laws pretty quick out there.

LEGISLATOR NICOLELLO: I know it's still early, are your officers indicating whether there's any change in the willingness of victims and/or witnesses to cooperate?

COMMISSIONER RYDER: We are seeing that attorneys are jumping in much earlier, and we are seeing that
our cooperation -- it depends, you
know, on the case and the charges. If
they know they're going to be walking
out on a minor drug charge, they're not
going to cooperate against their drug
dealer. That's -- we look at our
victims again and that's what we speak
for. When you look at an overdose
victim and you're trying to deal with a
very upset family and that information
of hey, who's your dealer, let us work
to go after the dealer. Keeping them
out of it and trying to work on the
data phone records and so forth, that
reluctance -- we're concerned that they
may rise. Have I seen a concern? It's
too short of a data set to tell.

LEGISLATOR NICOLELLO: It's too
soon. I think more I was focusing on
a victim of a crime or somebody who's
witnessed a crime who may be concerned
to have their information disclosed
immediately. But as you said, it's too
soon to really tell.
COMMISSIONER RYDER: Way too soon to tell.

LEGISLATOR NICOLELLO: Legislator Rhoads.

LEGISLATOR RHOADS: Thank you, Mr. Presiding Officer. Just a couple of follow-up questions. There was an indication, you had made an indication there was an uptick in crime by about five percent, not at the hearing today but a previous statement that you had made. Do we know over what period of time that is? Is that just from January 1st?

COMMISSIONER RYDER: So the numbers still -- the total crime has been -- is up 5.5 percent, it's from January 1st to as of this morning, so it's the most up-to-date data compared to that same period last year.

LEGISLATOR RHOADS: Is there a breakdown between violent crimes, property crimes, are we able to break that down any further?
COMMISSIONER RYDER: Yeah, so actually our violent crime has seen a decrease, not an increase. But our property crimes and quality of life type crimes have seen an increase.

LEGISLATOR RHOADS: Do we have any idea what the reason for that might be?

COMMISSIONER RYDER: Most of the individuals that we do arrest, if you look at the quantity of numbers. To give you an example, our grand larcenies are at 432 for the year but if you look at our robbery it's only at 13 for the year, so it's a different type of the crime, we get more people that commit grand larcenies, petty larcenies, stealing property, shoplifting, so that number has started to climb.

LEGISLATOR RHOADS: Those are the crimes for which obviously there would be no bail.

COMMISSIONER RYDER: That's
 LEGISLATOR RHOADS: Prior to January 1st of 2020, would there have been bail for those crimes previously?

COMMISSIONER RYDER: I'm going to say probably not. Most of our shoplifters they may not -- they have gotten bail, $100, $200 at the station house. But the problem is it's not the one crime. So the person we concern ourselves -- and look, here's the difference of what we're talking about, that discretion that needs to be put back in there. I break into a car and I steal somebody's money out of the car and I commit it one petty larceny. I break into a car and then I do 20 cars tonight. That person should not be going home on bail. That person should be staying in to see the judge the next morning to make sure that maybe, just maybe, we can get him -- he's got a drug problem and we can get him in front of diversion court or he's got a
health issue and we can get him into some kind of substance abuse program. The system was built on us learning from our mistakes that we know how to work and treat our subjects and our victims better. So again, it's that discretion. It's not a blanket answer one way or the other. First time shoplifter in Roosevelt Field almost always going to get an appearance ticket. Some that has multiple and has a history of shoplifting and we know that person is a career shoplifter probably not going to get bail and going to be remanded. Then when it goes down to court, then it's up to the court what the court's decision was.

LEGISLATOR RHOADS: Obviously larceny, grand larceny, vehicular manslaughter, these are things that typically would have received some type of bail in the past.

COMMISSIONER RYDER: Grand larceny we would have always taken bail
and we would have probably mostly sent it to court.

LEGISLATOR RHOADS: In terms of -- well, actually if I can ask: What crimes do you keep track of statistically as of today? What levels of crimes?

COMMISSIONER RYDER: We keep track of all crimes. Any crime that is committed in Nassau County we have a number for. But what we report and we're required to report to the state are our major crimes and the major crimes go from murder, rape, criminal sex acts, sexual abuse, robbery, commercial robbery, street level assault felonies, burglary residents, burglary commercial, stolen vehicles and grand larceny. They're our major crimes. And then when I give a number of our total major crimes, I give you that number and then I give you total crime report. That includes all others. So to give you an example, so
far this year there's 677 major crimes committed in Nassau County. All other crimes, which are the smaller crimes, there's been 2,216, so you see the volume of what we're talking about. They're the ones that go out and if we don't put them into some path, if you will, they go out and commit more crimes and that number will grow. That number is up as we -- up almost two percent.

LEGISLATOR RHOADS: And to the point that you made, for example, if someone is arrested on a drug crime and they may themselves be a user, in the past you'd be able to get them into some drug interdiction program, obviously you can't do that, you're releasing them right back into the same environment that they came from so it actually, in theory, does harm to that prospective criminal defendant.

COMMISSIONER RYDER: We like to think that the system has been working
to take care of those and get them in the right path. I know we've worked very closely with Judge Sullivan over in diversion court and the DA's office on our opiate issue and getting those kids into diversion court is very important.

LEGISLATOR RHOADS: Can you tell me in advance of January 1st, how many people were released from jail in anticipation of the criminal justice reforms? I know because there's been some dispute about that number. Initial projections were somewhere in the neighborhood of around 300 but then some that -- some were not receiving bail before January 1 in anticipation of the reforms. Do we know what the total number -- and apparently they were also released over a period of time not just on December 31st. Do we know how many were actually released from the jail?

MR. PAINTER: I'll just jump in
on that. It's a complicated situation but I'll give you the answer. So there was three or four spot checks by the sheriff's office throughout the year since the enactment of the law to gauge how much of the inmate population would be mandatory released as of January 1. So it always hovered around 300 to 400 and September was a good reading of what would have been the differential of overall jail population. My office realizing inevitability started changing bail requests, also in line with judges, realizing inevitability, stopped granting bail requests. Because eventually we get to the impossibility or the ludicrously of a situation where if you ask for bail on December 30 for them to get out January 1, you've just caused a bunch of pieces of paper, possible liability for the county, unnecessary prison transport things like that.

So you would see, of course,
because of the preparations, the tapering from September to January gradually, not suddenly. That's why there's no big release on December 31, because that would have been irresponsible. The jail always has people coming and going. It is a temporary detention facility. It's for only misdemeanor sentences or definite sentences of one year or less. It's not a prison. So there's a natural release pattern to that jail of people who have completed sentences, whatever they might be. That's what you would see released and as less people were coming in, and the same number of people were coming out, that's what led to a gradual decline from 300 to, I think on the night of, there was around, you know, a few dozen. It was as a result of preparation.

LEGISLATOR RHOADS: I'm assuming that the inmate population is made -- the numbers of the average inmate
population are maintained on a, I would assume, a monthly basis, right?

MR. PAINTER: You would get the most accurate information from the sheriff how often they audit their jail population.

LEGISLATOR RHOADS: Do we know what the average inmate population was before the release and what it is today?

MR. PAINTER: My recollection was that it was over -- in the low thousands. My estimation would be about 1,100, 1,200 at a given time.

LEGISLATOR RHOADS: Do we know what it is today?

MR. PAINTER: I do not.

LEGISLATOR RHOADS: Incidentally, for the numbers of individuals that either were not retained on bail in anticipation of the criminal justice reforms taking effect on January 1st and those who were actually released in anticipation of January 1st from the
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jail, are we keeping statistics on
those individuals and whether there
have been any incidents of recidivism?

MR. PAINTER: The sheriff --

COMMISSIONER RYDER: We'll be

looking at all that data. Again, the
sheriff's office would know more and
should comment on that but we do track
a lot of the recidivism. We do track,
you know, what comes back around at us.
Again, we're working out percentages
and stuff, that's not what we normally
do, that number usually comes from a
state level but again...

LEGISLATOR RHOADS: I would
imagine, you know, we know the
individuals that were actually released
in advance of criminal justice reform,
right?

MR. PAINTER: Again, so much of
it wasn't about release. So I guess
maybe I wasn't clear before. It wasn't
as if there was a bunch of applications
between September and the end of the
year and people consented to release. What actually happened is, the bail applications at the outset of a criminal case and the determinations at the outset of new cases for September to December, were impacted. So rather than people getting released, they just didn't go in at the same rate. And then the natural attrition of the jail from September to December you saw drive it down. Judges were also instructed in the final months that any time a case came up before them to give a hard look at that person, maybe do a bail app before, some were bail apps on the spot, some were signing bail commitment release postdating them to December 31. So there were some people that the courts were not willing to release early. But your release population was a small factor of the reduction. It was actually entry that decreased. Does that make sense?

LEGISLATOR RHOADS: No it
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absolutely does.

MR. PAINTER: It's impossible to
track the people that we never put in,
so to speak.

LEGISLATOR RHOADS: Right.

Completely understood. However, there
is a subset of that population that
actually was released.

MR. PAINTER: That is correct.

LEGISLATOR RHOADS: For the ones
that were released, and I guess we
don't know the exact number, for the
ones that were released, have we
already begun to track whether those
individuals were picked up on other
crimes while awaiting their trial?

MR. PAINTER: I'm aware of a few
examples but I don't have the full
statistic. I'm of course aware of a
few examples where we've gone after
people who released, absconded and we
had to pick them up again.

LEGISLATOR RHOADS: Now in
anticipating, I don't if it's -- I
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guess it would be ADA Painter. In
anticipation I think you indicated that
there was a policy decision between the
judges and between the district
attorney's office that we would not be
seeking bail on certain crimes because,
again, what's the point of putting
somebody in jail on December 30 only to
turn around and release them on January 1st. Was there coordination of those
policies between the -- were there
conversations between the DA's office
and the judiciary? How did that work,
exactly?

MR. PAINTER: I would say that's
one of those things that occurred
organically. You had a lot of honest
and good and rationale argument from
the defense bar to the judges saying
judge, this is not even a qualifying
offense in three months or two months
or one week so why. And you had a lot
of judicial reception to that. Again,
which would be rational. So then when
you have those factors organically, the ADA at the beginning of a calendar will know what to ask on, what not to ask on, what the judicial proclivity of the day would be. So you'll see that just happened organically. As far as a top down policy, it wasn't really even -- wasn't even really necessary. There was a few lower level cases, we're talking very, like, B misdemeanors and violations where we pretty much said, okay, we should not be asking for bail on this anymore because there's no point, they're getting out. But again, a tiny fraction of what I would consider was more organic construct.

LEGISLATOR RHOADS: I know Presiding Officer Nicolello had asked Commissioner about the affects of the new reforms on witnesses being willing or victims being willing to cooperate. I believe you indicated it might be too early to tell?

COMMISSIONER RYDER: It's a hard
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stat to collect because if they don't
come forward I don't know who they are.
I guess, you know, look at all -- if we
have willing witnesses that come
forward, they help us solve crimes and
they help us reduce our numbers. So I
guess we'll be looking at the number --
the only number that I can confidently
give you is our crime numbers, that's
what we collect. We watch and gauge
how they work. But again, and I do add
that Jack Maple statement that crime is
affected on the short term by weather,
we've had a very mild winter, which bad
guys do not like the cold, so crime
goes down in January and February.
This time it's gone up but look out,
it's another warm day here in the
Nassau County.

LEGISLATOR RHOADS: Sure. Sure.
I guess what I'm trying to get to is,
you know, in the example that ADA
Painter gave to us during our budget
hearings where you had a victim
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unfortunately of a rape and under the
disclosure requirements the prosecutors
would be required to turn over the
victim's name, the victim's contact
information, and could, if the victim
did not make the -- did not answer the
phone when there was an attempt to
contact them by the defense,
potentially they would be able to
receive their home address.

MR. PAINTER: I'm covering this
in my presentation.

LEGISLATOR RHOADS: Okay. Not a
problem. I guess the question -- the
question that I had was: Do we see a
reluctance on the part of -- in these
particular instances over the course of
the last month, do we see a reluctance
on the part of someone who has reported
a crime then finds out what has to be
disclosed and then says hey, you know
what, I want no part of this. Have you
seen that yet?

MR. PAINTER: I'll leave it to
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the discretion of the Presiding Officer if he wants me to answer that now or go into my presentation because that's -- I'll cover --

LEGISLATOR RHOADS: If you're going to cover it anyway then don't even worry about it.

LEGISLATOR NICOLELLO: I know the Commissioner has to leave by 1:00, correct?

COMMISSIONER RYDER: I'm good as long as James is there, so yes, I'm okay. I'm good until he speaks.

LEGISLATOR RHOADS: Last couple of questions for Pat, then I'm going to break it off and we'll -- unless no one else has questions and we'll -- you'll be off the hook, so to speak.

Has the police department considered any strategies to give witnesses some level of comfort as to their security and protection while the criminal defendants or prospective criminal defendants are awaiting trial?
COMMISSIONER RYDER: So always working with our district attorney, we've always taken great lengths to protect our witnesses. Whether we're going to put them up in hotels or move them out of the area or relocate them, that's always taken into consideration. And again, many times the victim says no, I want to stay, this is my home, I'm not leaving. And we understand that and then we try to intensify our patrols and stuff. You can't watch a victim all the time, unfortunately, unless you've got them in a controlled environment. We do our best to do it. We coordinate with the district attorney's office and that has continued to be our plan going forward.

LEGISLATOR RHOADS: I'm hoping that we'll receive some sort of update. As you know, the legislature passed in advance of criminal justice reform here in Nassau, it passed a bill calling for the creation of the Office of Crime
Victim Advocate, which is actually going to serve as an advocate on behalf of crime victims that can actually go into court and either oppose applications or at least be heard on applications where information concerning victims and access to victims is going to be requested by the defense. Do you know if there's any update with respect to that and has the police department been asked to coordinate with the office of crime victim advocate?

COMMISSIONER RYDER: I'm going to leave the administration answer that because I am not in that process. Maybe some of my members are working on it, but I don't have firsthand knowledge.

LEGISLATOR RHOADS: I appreciate that. And I know you indicated that you hadn't been contacted, I guess, by anybody at the state level in advance of criminal justice reform being voted
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on and presumably being implemented. Have you been contacted since while we've been talking about reforms to criminal justice?

COMMISSIONER RYDER: So I've had numerous conversations with many of our state senators and all constructive trying to understand the ramifications of this. And I also understand their argument on their side of what they're looking for. So yes, we have and I think that many of those items that you see in Newsday today are similar to what we've been talking about as our committee.

LEGISLATOR RHOADS: If I can ask, what recommendation would you make to the existing criminal justice reform and cashless bail reform?

COMMISSIONER RYDER: So we would ask to present that, put together a committee, present our issues both from many different groups, that document will be sent to all of you today. I
read it off before earlier.

LEGISLATOR RHOADS: I appreciate that. Thank you very much, Commissioner. One final question, I apologize. We see down the pike potentially Cannibis legislation coming down from the state. Sort of similar to the discussion we were having with regards to legalized marijuana for nonmedicinal uses. Has anybody from the state contacted you for input with respect to that potential legislation coming down the pike this year?

COMMISSIONER RYDER: Yes, there have been conversations regarding and discussions about it. I can't go into those conversations as of yet but I will tell you that there are concerns on both sides and I think I'd just rather leave it alone today, if you didn't mind.

LEGISLATOR RHOADS: Understood. Thank you, Commissioner.

LEGISLATOR NICOLELLO: Legislator
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Drucker.

LEGISLATOR DRUCKER: Thank you, Presiding Officer, Minority Leader, and as often happens when I follow Legislator Rhoads, my questions were already asked, and for the most part answered, but I do have a couple follow ups. Thank you, Commissioner. You have no greater fan than me in terms of what you do in Nassau County in terms of protecting us and keeping us safe. I just wanted to piggyback on Legislator Rhoads, and also just to comment. I agree with Presiding Officer Minority Leader Legislator Ford, we all agree that there has to be changes to this law. But in the mean time, though, we have to deal with what we have. I just had a question to follow up on Legislator Rhoads with regard to the increase of five percent you said regarding petty offenses. So, you said that there are about 50 arrests per day. What percentage of
those 50 arrests are for petty offenses, would you say?

COMMISSIONER RYDER: The majority, I'd say 70 to 75 percent.

LEGISLATOR DRUCKER: 70, 75 percent. And would you agree, because it's been my experience, that prior to January 1st a suspect arrested on a petty offense, property damage, etcetera, would ordinarily be given a desk appearance ticket anyway?

COMMISSIONER RYDER: Again, it would go into that discretion and that volume looking back, you know, how many did he do tonight, did he do seven or eight of them, he's a persistent offender for us, he's causing us that problem that continues in the community so we would hold him down to court. Down at court he'd probably be offered bail and if not bail, he would be remanded.

LEGISLATOR DRUCKER: Right. But I'm referring more or less to the
person who's maybe done it once.

COMMISSIONER RYDER: First time offenders almost always, on a low level, like, larceny from a vehicle, would probably get an appearance ticket.

LEGISLATOR DRUCKER: Right. So the new law really had no affect or has no affect on those types of circumstances?

COMMISSIONER RYDER: No.

LEGISLATOR DRUCKER: The rest of my questions were asked and answered. Thank you, Commissioner.

COMMISSIONER RYDER: Thank you.

LEGISLATOR NICOLELLO: I think we're set. Thank you, Commissioner.

Mr. Painter, go ahead with your presentation.

MR. PAINTER: Thank you very much. Again, I'm Jed Painter, I'm the NCDA general counsel. Since April it's been my main responsibility to ensure legal and policy compliance with the
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criminal justice reforms. I wanted to use this time -- when we received the invitation I was trying to think how to use the time productively and then understanding the body I was in front of, what the body was capable of. I want to actually open by saying that you all been very good to the Nassau County DA's office and we really appreciate that. You have always asked for our input, you have always acted on that input. We've come here many times, you know, with different budgetary requests, not just now but in the past and no matter what disagreements there might be, you've always made rational decisions, so we really do appreciate that and appreciate your support and also appreciate you listening today.

I did want to start by mentioning some positive effects of the criminal justice reforms. One thing that was negotiated on the way in to these
because we knew we had to offload a lot of cases early on is we negotiated with the administrative judge earlier court dates. More frequent court dates, misdemeanors are now heard at seventh day and the 14th day. Felonies are the third and fifth day and then adjournments to follow. But that up front action on a case, that will pay dividends as far as total cases in the system down to the road. It's an ancillary effect but a good one that I would have wanted with or without these reforms and we're happy we're seeing that and hopefully by December you see a lot less cases just held up month after month adjournments.

Second thing that probably would not have happened, but I count it as an ancillary effect, is we built and deployed an electronic discovery system and it did not crash on day two. It has now over 4,000 successful downloads from it. It's had over 300 registered
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users. So that was also a thing. We were very concerned about adopting by the judiciary, by the defense bar, but now opting out has become harder and harder, and again, this was something that the DA's office made, the court system didn't make this. We made it. It cost money but we made it. Very happy that now we do have an electronic system of fast exchange. We've acquired data management software that would not have otherwise been urgent enough ever to be done. But we have many modes of transferring data between the various police departments that I mentioned. Like I said, I sat next to Commissioner Ryder, the NYPD is responsible for 79 percent of our reactive volume at the DA's office, but we work with 25 other law enforcement agencies; NYPD, federal partners, so we do have a myriad of sources that we have to work with and we have to have data platforms for each and every
single one of them.

And the final thing is, I believe throughout this process, because it has been arduous, we have had a shared experience and I do see police and prosecutors actually understanding one another's work better, understanding our procedures better, which I think organically makes a better criminal justice system. So I just want to mention those for things that were positive.

That having been said, we have major practical issues with the deployment and implementation of these reforms. I'm going to cover a few of them and try to give them a little bit of a face. We will be trying our best and we have been trying our best and -- with the resources we have.

The first thing I wanted to point out in any discussion in the ether we see a lot of suggested amendments and whatnot. I want to draw a sharp line
at the beginning between content versus
timing of discovery. The process by
which these reforms came about I have
found could have benefitted from a lot
of substantive input because it's very
very hard. The criminal justice system
has a lot of workings and saying terms
like discovery and bail and securing
orders. They're easy. But I think
that were I to design a car I would
know that it needs wheels and a hood
and an engine and seats and seat belts
and things. I could probably design
something but it would not know at all
how to start, it would not work very
well. So that's the kind of, you know,
without input that's the kind of result
you're going to have.

And now I fear there's been a lot
of easier solutions, like, well, we'll
just make 15 days turn to 30 or to turn
to 45 or turn to 20. That's actually
not the main issue. The main issue is
the content of discovery. I will show
some examples of the types of data that we need to acquire. They are not stacks of paper. They are technological sources. They are body worn cameras and GPS records, thousands upon thousands of memo books, surveillance video systems, it goes on. It has proven extremely difficult to file certificates of compliance with our discovery requirements on major cases. Having personally interviewed most of litigation staff and discovery compliance staff I can tell you this: Major offense bureau; homicides, pattern criminals, in the six weeks it's been one of those ADA's has been able, with her case load of 30, has been able to certify one.

From whom we need to secure documentation. Videos, detective reports. On pattern cases you have that problem exponentially. The harder the case, the more important the case, much harder it is to certify and, like
I said, it's not necessarily the DA's fault ultimately. They're the end user of a huge -- that are a huge funnel for information.

Ancillary documentation is holding up our certificates of compliance and I'm talking about the eighth, ninth and tenth officers who showed up to a scene, just probably for traffic control. Right now the judicial trend that we're trying it reverse is we have to secure their memo book entries to say certain hours they went and secured a traffic scene. Blotters of where evidence was moved or when a detective signed in or out. Very ancillary. We'd probably never inform a plea, would never really -- a plea decision or really come up at trial but because the way the law was written is all items and information that relate to the subject matter of the case and then has a list of illustrative factors, and we're
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responsible for police records. The
actualization of that constructive
possession is almost impossible. And
what's holding up things is very
immaterial and that can be very
frustrating to the ADAs who have about
200 cases.

Another thing is the lack of
governing case law. It's too early.
We see a bunch of lower level decisions
and they're all disagreeing with each
other right now. It'll be about six
months to a year before we see
appellate guidance on what terms like
relates to the subject matters cases
and where the limitation of victim
visitation go and all these other
issues that don't give us too much
comfort in what we're as a practice is
right. We can try to do our best in
good faith, we'll see where that leads
us. But because it's a new law and
there's no court interpretations of
that law, the default is grab or the
default on the judiciary is don't let them certify until they have everything. So content versus time of discovery is amazing.

The biggest issue with the police departments, every single one, not just Nassau County or the villages but across the state are these radio transmissions and electronic records.

I would go so far as to say -- and I absolutely will say -- body cameras strongly discouraged now. Again, not by anybody in particular but because the data, the storage, the transmission and the technology, as far as the acquisition is too vast. There was a decision in the city where the metadata behind the actually cameras also had to be provided. I don't know. I wouldn't expect to see -- I thought that was a good direction to go in for accountability purposes, body cameras. Only one department has them; Freeport. I wouldn't see any immediate expansion
of that until things cool down.

Radio transmissions we've had to do in a completely different way.

Police communications used to have a steady stream and to identify what relates to the subject matter the particular case would have to listen and edit and cut and put together the transmissions that relate to that case. That very first abandoned. Now we'll just give the whole one hour unredacted from beginning to end. And because that can't even be done on the transitional case load of 7 to 8,000, plus the incoming, they have a staff of four or five. I've met with all of them. They can't do it. So we had to file an affidavit with the courts that we still do to this day, signed by Jane Gaddis, the communication supervisor, that outlines the impossibility to comply. But the alternative is if you come in you can listen to it. So we established a listening station at
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police headquarters for that to happen. And even that is a heavy lift and even that may not be judicially accepted but it's all we can do to preserve our cases from being dismissed for speedy trial grounds -- or speedy trial grounds. I apologize.

GPS data. We've had lot of arguments about that. Every patrol car, another good thing, is tracked, so we know for officer safety where they are and if something's gone wrong. Stationhouse video is another thing for security, very important. But to accumulate that data on every single case, like a traffic stop where somebody's brought in and processed, you know, for aggregated unlicensed to get the stationhouse video, I mean, it's something that we never would have even considered. And we're of course going to be making legal arguments that shouldn't be considered but, again, until there's a lack of the study of
Case law, we are compiling a lot of information or attempting to. Memo book entries is a huge issue. Officers don't carry one memo book, they carry sometimes multiple a month. And because the discovery is retroactive to all cases that were pending, identifying those memo book entries and pulling them in for those transitional cases, we sent a list of the -- it was a computer compiled list of the memo books that we knew about, as far as the officers assigned to cases, that list was 26,000 entries that cannot be pulled by the police. Absolutely not. They will do their best but we will be eating sanctions on those and taking different tacks on those legally, making legal arguments where we can. That's just retroactive.

Blotter entries are the same. There are six different blotters that possibly could exist for any given case. Scientific and technological
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data, of course, is a major issue. As far as you don't ever want to be put in a position where you're ignoring science its discovery is voluminous.

I wanted to show one example. It is very difficult to explain to a non practitioner what I mean when I say our ADAs are really struggling. So I'm flashing this in but I will zoom it a little faster in a second. But this is one portion of a defense request on a case. One portion. This is the portion of their defense request that pertains to forensic science. Okay.

Controlled proficiency results for each analyst and technician responsible for preparation analysis, including raw data reported results, target values, acceptance ranges, copies of traceability, documentation during analysis, copies of tactile procedures in effect at the time the test was performed, including sample preparation -- I'm sorry, it's on the
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slide. I don't want to read it so slow that everybody falls asleep -- but sample preparation records, including dates and conditions of preparation, procedural reference, purity, extract volume, bench notes, log books, measurements regarding testing, instrumentation run logs, run sequence, origins, times of analysis, records of instrument operating conditions and criteria for variable. Gas chromatograph column, instrument file identification, tuning criteria. Instrument performance checks. Records of instrumentation maintenance at status and activities. We also have raw data. Down here you see the description of the library and reference spectra. Then you have copy of records documenting computation of laboratories theoretical production yield, operation of calibration checks, results of calibration checks and mass traceability. Boom boom boom. I'm not
going to read all of this. It ends
with and the procedures manual and the
training manual.

I just want to highlight if that
was at all boring for any of you, our
ADAs still have to read it. Okay?
They still have to read it. They
forward it to me, I still check with
the director to see what can we get
because we have a presumption of
openness, we have a due diligence and
good faith requirement. I highlight,
highlight, highlight. This is one
nugget of discovery that relates to the
forensic. Doesn't relate to the body
cams yet, or the stationhouse video or
the GPS or the police reports or the
witness statements or anything else.
It is one nugget of a much bigger case
of collection. That's part of one case
of which that ADA -- this will take
long to load -- has 90.

I want to say at this point it's
been six weeks. Every ADA who is in
the front line of this reform right now who is in court as I'm talking here, who has worked to modernize their caseload, they're an absolute hero. They did not deliver babies. I know there is legislative recommendation for such things where -- none of them delivered a baby in the backseat of car or stopped a robber or ran into a burning building. But, every single ADA who works at the Nassau County DA's office who gutted it out under extreme adversity and still continues to do so, absolute hero.

As far as public safety issues. Our witness protection expenses, we have received more requests for witness protection this month. It's been double this month than all of last year. So that will be adjusting our budget accordingly.

Protective orders. The thing that would stand between the rapist knowing the victim because you still,
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Protective orders. The thing
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have to file it. It's not
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presumptively protected, you still have
to have that conversation with the rape
victim about I can try. I can't
promise you anonymity. I can try. Try
through a protective order. I remember
last year I saw the debates in the
state level. If you read the
transcripts, the state was under the
impression that prosecutors tried to
project that protective orders were
easy to get. And to credit, I've seen
the transcripts where they meant for
this to be a low bar. You can see that
in the transcript. A very low bar to
get a protective order. We said I
don't care what you write, it's not --
no. It's going to be that easy. It's
that easy.

We had two -- I'm trying to give
small examples for time -- but I want
to mention two protective orders should
have been no brainers. One was a
homicide, very violent homicide. The
other -- sorry attempted murder. The
other one was an MS13 beheading, okay, as a violent murder. Protective orders sought, granted at the lower court level, expedited review goes to the presiding justice of the second department, vacated them both and sent them back for the defense to have input in those protective order hearings.

Protective orders are not easy to get. And when talking on those -- that line of questioning before about, you know, how's it going communicating to witnesses, it is a change in communicating. Our prosecutors guide them through the process and tell them come to grand jury and come to the hearings and come to the trial. It is a different conversation in 2020 than it was in 2019. In 2019 you said we will protect your identity until you testify. No witness list. You know, if it was that type of case. If it was the type of case where we had fears, the prosecutors could use their
discretion. It wasn't trial by ambush, it was discretion and there could be a protective order if something came up. 2020 the conversation is much different. It's like we'll try. We'll try our best. I don't know, we have cases coming back on very violent things. Those conversations get shakier and shakier but they are, again, had by the ADAs every day.

Forensic unavailability. These discovery issues are not what people are talking about right now. I see a little bit of chatter on it, most of it's about bail because you can see some more immediate affects of securing order reform. Forensic unavailability is a huge issue. We are about to lose all ballistic testings. All ballistic testing. Gun crimes, we're about to lose them. The state is down to I think their last analyst and we've knocked on every door.

Drug chemistry, again, our
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turnaround times are becoming abysmal. Again, I want to combat a situation. We're in the 21st century. I want to combat a situation where forensics are nuances. It would be very easy to go to trial on a burglary with a confession and three witnesses and, you know what, because of the discovery burden, I'm not going to test the latent print on the window. Okay. Or maybe a DNA sample at scene because I've got -- my case is going to get dismissed if I wait for that evidence. So I'm going to go to trial, possibly have a wrongful conviction because I didn't wait. That's a horrible thing. And believe me, we're counseling our ADAs no, you're going to wait. But I'm just pointing that out that you don't want a situation where science is the enemy. Okay. Otherwise, you know, 20 years from now there'll be another person in this chair from the DA's office talking...
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about a $40 million settlement. I'm sorry. Okay.

There's been a lot of talk about some solutions. These are limited solutions because, again, content versus timing is two different things, as I hope I've illustrated. NICE investigate is a -- meeting benchmarks. February, this month, they'll be starting to take some of the NCPD data into the cloud. By April, we'll start seeing mechanisms of exchange but they have meetings with us every week as far as implementation and I would agree with the Commissioner, three to six months is a reasonable go live date.

We've uploaded all calibration records to a website, so that way instead of disclosing volumes of information, we can direct defense counsel simply just saying hey listen, this is okay to be public, just go to this website. We had that inspection station for the radio transmissions and
we've developed technologically cancellation platforms. The cancellation platforms are that every single time our case management system -- again, something a credit to our IT department -- every time a case is now entered as disposed of, at the end of the day, the computer will do a run and transmit that to the police so they stop producing discovery because they are so on fire that getting cancellations would help them. Same thing with the lab. Actually, that hasn't been finalized yet but we're hoping to get the tech to finalize that. Any bit helps.

We have ordered 60 scanners. One bright side I will say is that our copying is down and our ink is down 65 percent because of electronic discovery. I'd like to get that number even lower. Digital storage costs are going to go up. We have terabytes of data now.
There's a contract. Boy, I wish -- I think it's been signed, it's just about moving it forward. Well, maybe it hasn't been signed. It's the P1 JustWare integration where data won't have to be reentered as soon as the PremierONE system. The police one inputted. Our system will automatically -- the names and the DOBs, it'll save us a lot on data entry. We're waiting for that. And we're trying to hire more discovery expediters. Our core, we lost one so we're down to nine. We have nine discovery expediters, a senior ADA in discovery compliance and a bureau chief. That's something we didn't have last year. We are trying to -- because case files are going to be a thing of the past. We are putting so much into the digital files now, that a case file is almost why do we even need it. The only reason why we need it is because we don't have WiFi in the courtrooms or
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tables but I would absolutely see --
because when you're sending an ADA into
the courtroom now with a case file,
you're sending them with nothing.
Their case file is back on the
computer, so we have to update that.
And data entry enhancements.
Support staff hiring. Those
cancellation lists that I talked about,
only get produced timely is if we have
no backlog, zero backlog in data entry
of dispositions. Because if we're not
up to date, if it takes us a month to
enter the dispo's from last month, the
cancellations don't work, the discovery
gets overloaded and people are wasting
their time.

We've also been forced, because
of the volume of all those exchange
systems, to come up with a system of
priority requests with the PD. That's
your memo books and blotters and
ancillary documents, we're actually
taking on water. We have to wait until
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50 percent of speedy trial has gone.
So we are jeopardizing the cases in
order to achieve an ultimately positive
resolution because it's one of those
where the good of the many outweigh the
good of the few.

Other solutions, of course, is
doing the right legal arguments about
impossibility. We've advanced many
legislative solutions. I tell my staff
that we shouldn't hold out hope to
anything. We should try to adapt to
things as they are now. More
immediately is policy based solution
such as plea offers, and yes, that
might force us to go lighter faster.

It was mentioned before about
marijuana. Marijuana is actually a
nonissue. I don't know if people know
this, the Public Health Law was
amended. Public Health Law was amended
to include hemp. Hemp has a quantity
of THC that has to differentiate from
marijuana. As of March 8th, the lab
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will not be able to test marijuana
because they have no ability to quant
marijuana, so it doesn't matter if it's
a felony, a misdemeanor, drunk driving
or drug driving, it doesn't --
practically, they don't have the tools
and will not get the tools back until
September if they order them, the
re-agents necessary to test marijuana.
So whether or not the legislature acts
on anything further with marijuana
because of the hemp amendment, the
Public Health Law that already has
happened as of March 8 marijuana cannot
be tested.

Other issues. Phoenix
alternative sentencing. We had a
robust alternative sentencing platform,
you know, it's good to get people
appropriate treatment for mental health
issues or drug treatment issues. The
future of that is a little shaky as
well as things like communications,
investigative -- we're spending all of
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our labor force on reactive, the proactive might be forced into the back seat just as the NCPD explained, their resource issue we might eventually encompass support staff, line assistant, other resource issues.

I wanted to flag this as just an odd thing; opioid litigation. The county is part of many counties suing opioid manufacturers. I don't know, I'm not privy to how many millions we're suing for or what our settlement prospects look like or anything, but what I do know is, the DA's office is required to comply with their discovery in civil land. And the standing order right now is production of all heroin files from 1995 to present on an order that I've gone personally to court to say to the judge there's absolutely no way, with present case loads, present discovery obligations in the criminal context I can. I don't know what that does to the county attorneys suit but
if pressed between a situation where I'm doing production for a judge in civil court that's off our main constitutional missions and fulfilling our constitutional mission to prosecute crime and to do discovery, that's going to go. Constitutional obligation comes first. I credit our county's outside counsel for working with me on that and understanding and trying to fight as hard as they can. It's not their fault that this was sort of the wrong year to do that but I raise it because that's another ancillary issue of discovery production.

The biggest thing that I wanted to spend the most time on is recruitment and retention. Staff morale is absolutely walloped if you're an ADA. Just absolutely -- what a case was to do before is ten times that amount. If you had a case load of 50, you might as well have a case load of 500 or 1,000 now. Every case prep --
because you can't plea anything,
universal discovery, the grabbing is
just way too much. We have ADAs
completely burning out. In Brooklyn,
if you notice the article, they lost
over 40 in one month, the previous
record was 17. Okay. We know people
are looking. These are talented,
talented attorneys. I want to point
out that they're not easily replaceable
either. This is the recruitment
statistics for the district attorney's
office for the past seven years. There
has been, as you can see, an 80 percent
decline in applicants. 80 percent. If
I lose them, I can't get them back.
Just because 100 apply, by the way,
doesn't mean I get 100 people. Those
same 100 are applying to the Bronx,
Brooklyn, Manhattan, Westchester,
Suffolk. Okay.
So say 20 percent of that number,
then we have to like that 20 percent of
the number and say they're competent.
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The DA actually has to exercise
discretion and say I trust you to
represent my name in court. Okay. We
are in a recruitment crisis. And it's
-- while we've dropped 80 percent, I
know other offices, because it's part
of my job to survey, they've gone down
but in the City it's more like 30
percent loss of interest. We are
specifically hit. Okay.

I want to point out this unlike
-- when the last time we hit a big
collapse, that was during 2010 to 2014
where it was a bad economy. Okay.
People were leaving because of the pay
freezes and whatnot. This is a good
economy. We have lost two ADAs who
were poached for double their salary.
We cannot stop that. We can stop
people from looking if they enjoy their
work, if they love their work, if they
find nobility in their work. This
moral crisis is very real and it's
caused directly by the workload and the
abuse, quite honestly. There's a lot of negative perceptions right now with the profession that I resent.

As far as the ABA standards, we're mindful that we're not supposed to assign our ADAs a workload that by reason of its size or complexity interferes with providing quality representation or endangers the interest of justice. It's dangerous for wrongful conviction. It's dangerous from a financial standpoint, as far as liability when things get reversed. It's danger for the lawyer's individual ethics that can be individually sanctioned. They can have grievances taken about them, and every single one of them is aware of that.

And when we took a caseload of 90 to 200 cases and made the work associated with that caseload multiply tremendously with the discovery burden, we have to reassess what a caseload looks like. Now, ideally, I would come
before this body and say, so we need to hire a lot more prosecutors to bring down caseloads. But as you can see, that's actually not why I'm here because our recruitment we couldn't hire if we wanted to. Even if you gave us the money, we couldn't hire. We have a recruitment crisis. We have to focus more on retention.

This is what I'm doing right now. The chief prosecutor on behalf of the chief prosecutor for our jurisdiction, inform governmental officials of the workload and request funding and personnel that are adequate to maintain the criminal caseload. The bottom sentence is a scary one. If we can't recruit, then we have to notify the jurisdiction and seek judicial relief and I don't even know what that would look like. I don't know if it's ever happened.

So I have surveyed many offices for what we're doing different. I've
surveyed our own offices. I conduct
the exit program and I have for the
last three or four years. One of the
major problems that we have in Nassau
County, which we should be morally
ashamed of anyway, is we have no paid
childcare leave. New York City has
minimum six weeks and they go up to 12
weeks. When given the choice between
those two jurisdictions, you're one of
those hundred applicants, you're going
there. But even more importantly,
because we rely so much on lateral
hiring or you might cut your teeth in
the Bronx or Queens, we're seeking to
recruit you here, this the practical
situation of what happens. You're 24
years old when you get out of law
school, you work for three or four
years in the Bronx, you're now 27, 28,
29, whatever, you start looking to have
a family, maybe move out to the
suburbs, join the Nassau DA's office.
You're told that you're leaving 12
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weeks paid leave for nothing. We have absolute anecdotal evidence that that is a complete bar to our lateral recruitment. We cannot replenish if we do not have that competitive edge.

I'd also highlight that in -- under our rules for the ADAs it would take three years of working here to accrue 12 weeks of vacation and personal time and that's without taking anything over the course of those three years. So if you wanted to move, have a baby, raise a family in Nassau County and join our team, you have to postpone those plans for a minimum of three years. You're not allowed to take any time for Jewish holidays or anything else that you might have to take along the way, you have to work straight.

The NCPD houses approximately 45 percent of all ordinance employees and our current gender spread is 65 percent female to 35 percent male. And the female cohort 57 percent are between 24
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and 35 years old. So now you're
starting to see what's happening.
Right now they're using accrued
vacation and personal time to
accommodate childcare leave.

Before I make my next point I
just want to point out, take a moment
for myself here. I supervise an ADA.
I've supervised her since she was my
intern in corruption bureau. She lost
her mother in her third trimester. She
was worried she could not take off time
to grieve her mother because she barely
had enough stored vacation and
personal, barely actually didn't,
doesn't still, to take maternity leave.
She'd have to go unpaid. She's now out
on leave. I couldn't even donate her
time because the rules of donating time
in this county require her to exhaust
everything before she could accept that
time. And then if anything happens for
the rest of this year; flu, sickness,
has to take any other day off to take
care of a sick child, which is not impossible to consider, she just has nothing left because you're forced to give up your personal and vacation. Horrible situation. If I ever wanted to put my head on my desk and, you know, lament I didn't bring this up sooner, that was the time.

Moving on. This actually doesn't cost anything. It doesn't. As of March 1, 2019, because of some termination pay issues, this body, with, I believe, our input and support, capped termination pay for exemptions at 30 days. Fair and reasonable. Absolutely. Anybody hired after that time can't leave with more than 30 days banked. Paid leave, paid childcare leave costs you nothing during a budgetary year. We always budget for the entire salary point to point. Okay. What paid leave does is instead of going to your bank, you use some time that's awarded to you. Meaning
that at the end of your career, when you seek termination, you might have that exact 12 weeks still sitting there, hypothetically, because you didn't have to use it during one given budgetary year. But because this legislature has already capped the termination pay at 30 days, you do not have that fear of having the banked time at the end. They can't accrue more than 30 days.

So I would ask that as one mechanism to improve recruitment because, again, I was struggling to figure what I would be -- I should never come here without a proposed solution, if I'm mentioning a problem with recruitment, I think besides the moral, the moral benefits and the morale benefits, I think it's just long time to be competitive with New York City. Okay.

As an alternative, like I said, the accrual of time is very slow. So
if you want to move here or accept a lateral appointment, it'll take you three years before you come to anything close to 12 weeks. And again, six weeks is the minimum in New York City anyway, without taking anything. Perhaps up front accommodations could be made or at least in the discretion of the executive of a department.

Other things that we have to consider when we're talking about morale and retention is retention bonuses or re-signing commitments. You know, when they hit their three-year commitment, maybe throwing something at them. We haven't decided anything. These are just, you know, ideas.

Retention focused salary modeling. Westchester is very good at this. They just decided we're going to be a retention focused office. We don't want classes progressing. Let's hold what we have, pay higher. When we lose a body, we get a body because we pay
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higher.

And ECAP stipends. There's going to be a bill coming through this legislature soon. I hope it's noncontroversial. We have an early case assessment bureau. I testified here a while back talking about how one of the biggest impacted fields was going to be our intake operations that was going to have to take on discovery compliance operations and you did take action on that. You awarded us some money to enhance our intake operations. This is a way that we want to deploy it. Our ECAP stipends have not been adjusted since 2017. They didn't allow for a supervisor differential, so it's a bill that we can afford because you have given us the money that we just need to deploy now. Again, early case assessment bureau being in discovery compliance, that's the main functionality that we need to improve in the short time. And also as a plug
for the bill, it's cheaper than hiring people because when you give out stipends you're flat feeing it. Whereas if you hire a body, you're paying them pension and health costs. That having been said, I'll take any questions.

LEGISLATOR NICOLELLO: First off, that was an excellent presentation. Thank you very much for the presentation.

Also please extend our thanks to all of the ADAs that you are referring to today for the work that they're doing to protect our residents of our county and thank the DA. She's running an office that is a model in terms of being proactive to deal with these issues. I know in particular that the DA was able to get grants for the -- for crime victim advocates in the office. So that truly will be helpful. I'm kind of shocked with your description of what our ADAs are going
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through and what their workload looks like and I'm sure we're all deeply concerned about that. That in and of itself would be enough for a full hearing. We will explore the paid childcare leave, there's a way that we can do that. But I did want to get into the lab results, that is a deeply concerning area also. In this age, obviously the forensics, as you said, often times determine whether or not you can prove a case or not. What can we do to improve that situation? It's an immediate issue, as far as I know. But what can we do to improve that situation?

MR. PAINTER: We are fortunate to have our own crime lab, north of New York City they're all using the state troopers. They're all using the state troopers and that is calamity waiting to happen. You'll see those articles in another month or two when cases start getting tossed. For a while I
believe they're only testing A felony weight, nothing else.

We have our own force with the new facility. We have outside contractors with NMS that we've tried to pull back on -- go back to NMS to help. We've tried to on a policy level limit what we send. This fact that the marijuana is becoming practically impossible to test regardless of -- I take no position -- but regardless of what the legislature does later, they've already forecast that there's no point in sending marijuana after March 8th.

Other decisions like vaping, THC, things to hold back, things that might be more minor, they might be entitled to a very favorable disposition, very up front with those earlier court dates. We can do policy based solutions but ultimately the laboratory needs staffing up, significant staffing up. You would have to get that
testimony as to specifics from the lab. I can only relate anecdotally that we are trying to give them a break with, again, adhering to a 50 percent speedy trial goal. Something that we might have to shove up to the 60 percent or 70 percent but we are trying to control when we submit.

When I say 50 percent speedy trial, I guess I should explain that. On a felony case, you have six months before the case is tossed. So we are willing to take on three months of water, so to speak, before we even request. For a misdemeanor, it's 90 days. So 45 days. We have the benefit of a desk appearance ticket for most drug cases. Now actually that kicks up to 55 days. So you have 110 if you could have the 20 days of DAT time with the 90 days. So 55 days, that's the turn around we're looking for. I do not believe they are fully able to meet those targets and things will only get
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worse. And when it comes to case validating, we need it because the district attorney will not -- the district attorney will accept a plea on a criminal possession of controlled substance case but before the sentence we will verify that it was a controlled substance. That's, I think, a fundamental policy against wrongful conviction that we want to know that you actually had crack not sheetrock. So there's not much we can do there. So every single controlled substance case where the state can take a controlled substance plea, we will be seeking testing on.

LEGISLATOR NICOLELLO: Legislator Ford, has already taken the initiative with respect to the crime lab and it's something that we will be following up on, whether staffing or whatever requires, it would have been a crisis situation in any event, but with the new disclosure laws it just make it
more acute than ever. Legislator Ford.

LEGISLATOR FORD: Thank you very much for your presentation.

Is it possible to get a copy of it?

MR. PAINTER: Of course.

LEGISLATOR NICOLELLO: I appreciate it. I think all of us would like it because you had a lot of --

MR. PAINTER: This is not my laptop, I'll just leave it on the laptop, whoever --

LEGISLATOR FORD: Okay. Because it was a lot of information. I think there's stuff that we would like to look at more closely.

Just a quick thing, when you talked about discovery. With the proposed changes that they're considering now with the bail reform up in the state, will they -- I'm going to say this wrong. Will they keep with the practical issues -- will they help with the practical issues that you
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outlined regarding discovery?

MR. PAINTER: I don't know. I would hope so. I don't know their frame of mind on it.

LEGISLATOR FORD: Oh, okay. When you talked about body cameras with, you know, I guess, whatever data they get, like, you know, from the actual films and stuff like that that are recorded, like, the actions that are record by a body camera, I got a little confused. You talked about metadata. I don't -- what is that?

MR. PAINTER: Well, think of your phone. When your phone takes a photo, the photo not only is -- you can see the photo but sometimes geographic location of where the photo was taken, the time it was taken. Okay. And even further behind that there's plenty of stuff that -- you know, comparative data so that sometimes your phone might accumulate albums based on face.

LEGISLATOR FORD: Right.
MR. PAINTER: Or time. So there are various software solutions where
the metadata is important. It jives body cameras together so you can
actually view on a split screen one single incident. The point I'm trying
to make is, it's sometimes not just the image, it's a lot of associated data.

We have a similar issue with wires. The amount of data is not just what you hear on the phone call. It's a lot of stuff behind it. A lot of GPS and other things. It can go fairly infinitely if you let it. I mean, you can get to a situation where you're looking for the calibration records of the satellites in space.

LEGISLATOR FORD: That was something that was brought up in the hearing with the labs and they were talking about like this calibration, I'm not an attorney so I may say the wrong terminology. But like when they were discussing about the calibration
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and there's like, I guess, you have to -- when you're prosecuting somebody, the defense will ask to make sure that the -- whatever the measurements are actually accurate and based on previous testing and as well as the person who actually did the calibration, they need to have information. So it seems that now they have to add more information because they have to go back farther in regard to providing some information in regards to the people, as well as the instruments.

Are they now -- are you as a DA or ADA compelled to then also even add more background information in regard when you are prosecuting or going to charge somebody?

MR. PAINTER: As far as our preparations on that, the lab also was technically brilliant and was able to produce a portal called the Beast Portal, which we use. The Beast Portal has preloaded everybody's curriculum
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vitae's, because we need that. It's preloaded proficiency test results of those individuals dating back to the time period required by statute or as far as the records go back. We have accreditation standard on there. They are basically pre-populated with the generic data and the calibration records and that was not a heavy lift but they did it.

That having been said, the document that I showed on screen and then broke down.

LEGISLATOR FORD: Yes.

MR. PAINTER: Doesn't cover any of that. I still have to e-mail the lab and see what's feasible with that and get various responses like we could possibly produce this, we could possibly produce this, no we can't produce that. And some of the answers to the questions we can produce that but you would need proprietary software to read it and they do not have the
proprietary software. They'd have to buy a license for it to even just view the DNA profile.

LEGISLATOR FORD: Would that be the county would have to buy that software?

MR. PAINTER: No. Some of this -- I don't know how much of this is testing the system, how much of this is genuinely interested. I don't know. But if it came push to shove where a judge said no I find the defense attorney can hire an expert to review the raw data behind the blah blah blah, then you can arrange -- you can have a court order to go to a viewing station at the lab that has the proprietary software, taking, of course, chemists off the floor to sit with you while you do it, you know, and view the program.

LEGISLATOR FORD: I appreciate your testimony and bring to light the challenges, you know, faced by your department, as well as the ADAs. Yes,
they are -- they are heroes to be able -- and the fact is that you all have basically worked with this and put like a bit of a positive spin, to a certain degree, on something that seems to be so enormous, you know, for all of us to comprehend. I really appreciate even some of the steps that you've already taken, and please let our DA, Madeline Singas, know of our gratitude, you know, for her foresight, you know, in doing this.

So is there anybody else?

Legislator Gaylor.

LEGISLATOR GAYLOR: Thank you, Mr. Painter, for your testimony today and I appreciate your honesty and forthrightness in sharing with us. I know Commissioner Ryder mentioned diversion programs. I think you touched upon it. I just want to ask a couple of questions in that regard initially here. So my understanding is before the bail laws
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were implemented, individuals charged
with drug possession were eligible for
bail, would that be a correct
statement?

MR. PAINTER: Yes.

LEGISLATOR GAYLOR: Often in lieu
of bail these folks were offered an
opportunity to a drug treatment
diversion program. Would that be a
correct statement?

MR. PAINTER: Yeah, there's a lot
of different vehicles to get somebody
some additional treatment. Could be
done on an outpatient basis. A judge
could make a condition of release of
conditionally release to the probation
department who would recommend
outpatient treatment and then the
person would have to abide by those
terms of release. And if not, the
hammer over the head was bail. So it's
either go to treatment or -- basically
a short form of go to treatment or I'm
going to have to put you in to control
LEGISLATOR GAYLOR: All right.

And in many cases those drug treatment programs were successful and in some cases they weren't as successful for that offender. But now we're in a situation where judges are given a choice of diversion program or -- and I should say the defendant or the principal or whatever the correct term nowadays would be or I'm not sure we can call them defendants anymore, from your previous testimony. But whatever they're called, they're given a choice now of a drug diversion program or it's no bail so you're out anyway.

MR. PAINTER: The only other way we can remedy that gap is doing what's called a contract plea. The contract plea would be where you plea up front but the case is adjourned and if you comply with various things in your contract, it could be treatment focused, whether it's mental health or
LEGISLATOR GAYLOR: But that comes down the road, right?

MR. PAINTER: It comes down the road and then you can vacate it.

LEGISLATOR GAYLOR: Initially, you get arrested and, you know, you get to that first resolution part, I guess, after arraignment. And you can go to diversion or you can go to diversion or you can be released and come back whenever. Are you seeing or are we starting to see is where I'm going, with the number of cases going to diversion program plummeting because people are just saying I don't want to do that, I'll just come back -- maybe come back the next court date or whatnot. How are the numbers looking on diversion programs?

MR. PAINTER: I'm going to say it's too soon to tell. But that having been said, you are right that there is a gap in immediate treatment because
the application of DA focused diversion cannot happen as quickly. We are in a post contract world, mean post plea, which also means post discovery. So there will be a delay between possibly a person's need and the criminal justice system being able to do something about it. That having been said, they can always -- you know, maybe the arrest itself can -- I don't want to speculate, all I can tell you is what we can control and what we can't control. There is no ability pre plea now to have a consequence for noncompliance with treatment alternatives.

LEGISLATOR GAYLOR: I know recently the county executive in one of her press conferences mentioned that the number of folks going in the diversion program are plummeting, I think that was her word, and that there was -- she was seeing or the county was seeing an increase in the number of
drug overdoses. Do you have a comment towards that?

MR. PAINTER: I believe that was the commissioner's fear last year, that drug overdoses would go up. My only comment is it is harder for the criminal justice system to mandate treatment now than it was. I'll leave it at that.

LEGISLATOR GAYLOR: Okay. So you know, I think in today's paper I read that the Manhattan district attorney, Mr. Vance, indicated 40 ADAs have resigned since January 1 because of the increased workloads associated with these discovery reforms. Do we have a specific county ADAs that have resigned since January 1st because they're just overwhelmed by the work and said screw this? I'm not coming back tomorrow?

MR. PAINTER: As a -- you see me smiling -- it's sort of a badge of honor that Brooklyn lost over 40, Manhattan lost whatever number, that
the heros we have in the Nassau County DA (end of Tape 2, Side 1) pales in comparison. So I really -- they have my full respect for gutting this out. Two of them were facing much higher salary offers. That is not to say more will come but I'm hopeful that we continue to give our ADAs the support, the morale boost, the legal arguments, the policies and the resources that will keep them encouraged and doing jobs that they love. And as somebody who does the exit interviews for the office, nobody ever seems to want to go. They're usually enticed to go for something else. All I'm going to say is that we have a really good crew and I want to keep that really good crew together.

LEGISLATOR GAYLOR: So are we working on a plan, is the district attorney or maybe you working on a plan where we foresee in the very near future we're going to defer or decline
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prosecution because of these increases
and can't meet the 14 pages you showed
us of having to provide all that
technical data? So are we starting to
think about declining prosecution in
certain types of cases?

MR. PAINTER: I am aware of
you're talking about in other
jurisdictions where they are deferring,
which can be -- which can be sometimes
an only option. We have not had any
policy discussions to go that route.
We are only focused, you know, where
those shorter court dates, which we
advocated for, that's what we wanted.
We knew something was going to have to
get cut but we wanted the court system
to be involved and so the pressure is
on our supervisors to make faster
decisions to remove volume. Add
arraignments, if possible, at the 7-day
mark if possible, at the 14-day mark if
possible, that's where the volume is in
district court.
And so our strategy has not so much been deferring, our strategy has been more very fast decision making to date.

LEGISLATOR GAYLOR: Again, thank you and I thank all the members of the district attorney's office for the work they do.

LEGISLATOR FORD: Legislator Ferretti.

LEGISLATOR FERRETTI: Good afternoon, Mr. Painter, and thank you for your testimony. Just like in October, it was very informative, fact based and very impressive, so thank you very much for that. I really want to just focus on kind of two lines, two issues here. The first is electronic monitoring. How often is electronic monitoring used now and how often was it used prior to the new criminal justice reforms taking effect?

MR. PAINTER: So electronic monitoring. There has been a
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tremendous increase. Probation has requested a lot more devices at $800 each, they leased them from a company. We received a memo from OCA that permitted our modeling of monitoring to work where we can outsource the actual technology but have to in-source decision making about the monitoring. So we were able to move forward thankfully with use of it. I do see requests for that going up because sometimes it's the only alternative on felonies that are nonqualifying.

LEGISLATOR FERRETTI: Do we have the infrastructure in place as a county to track those who are issued these monitors?

MR. PAINTER: I would have to direct you to the probation department to see exactly what kind of staff they have looking at the screens. We have the hardware. We have made the request where we felt it was an appropriate alternative. And we've seen one or two
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noncompliances, we had that example of
the guy who cut off the strap. So it
is a tool or a safeguard but we try to
use it only where appropriate.

LEGISLATOR FERRETTI: Let's talk
about the person who cut off the strap
and, you know, what -- do you know how
the police department is alerted if
somebody cuts of a strap?

MR. PAINTER: Yeah, you get
what's called a strap alert. It's not
the police department's that's
notified, it's the probation department
that's notified of the strap alert and
that specific case, because I
participated in that one of the early
ones that I wanted to be personally
involved with as one of the first flash
points of electronic monitoring meeting
reality. In that specific case, the
defendant was charged with
nonqualifying offense bank robberies.
He had to be released. He was not.
The judge in district court set bail
regardless. It was very early days. Legal aid took a 5-30 appeal to the supreme court judge. I appeared for that 5-30 hearing myself. I did consent to the application because it was illegal and the judge granted the application because it was illegal to have him on electronic -- on bail. I requested in the alternative, because the only legal option was electronic monitoring. He was fitted with electronic monitoring, released from the jail. His court date was set for a few days from then, he missed the court date. At the same time of that -- him missing the court date, probation notified me that they had received a strap alert. I went down to court. I informed Judge Berkowitz that there was a strap alert. Regrettably, it was too late. The case had been called and the warrant could not be issued. It was postponed for 48 hours, because that's the law. I went back on the Friday,
the two days later and then requested the warrant for his return.

LEGISLATOR FERRETTI: Are you saying that the strap alert came in and you couldn't even request a warrant for his arrest for 48 hours?

MR. PAINTER: It came in after the case had been called, so it came -- we'd probably have to tighten up our procedure of where probation sends the strap alerts when they occur.

LEGISLATOR FERRETTI: What's the punishment for someone cutting off one of these devices?

MR. PAINTER: What we would -- there's two possible penalties under the law. One is you can be charged with criminal mischief. In the case of the valuation of that property, it would be appear an E felony, soironically a mandatory desk appearance ticket. But concurrently with that consequence you would have a possibility of being held in contempt.
of court, which you might have seen from My Cousin Vinny. The court could hold you in contempt and jail you for up to 90 days for a violation like that, because they've ordered you on electronic monitoring so -- and I did do a hearing like that on a related case myself with a person who kept on committing crimes and we went for a contempt because she failed to report for electronic monitoring and she was held for ten days just on that violation, so that is available too.

LEGISLATOR FERRETTI: All right. But that's -- so if you're charged with that E felony, that's not a bail eligible offense, correct?

MR. PAINTER: On its own, no. What you would have to do is -- okay, so besides the immediate consequence of a criminal charge or possible contempt, and I say possible because it's only been used to my knowledge once --

LEGISLATOR FERRETTI: It can be
used on anything, can't it?

MR. PAINTER: -- I've only seen judicial contempt used once in a decade.

LEGISLATOR FERRETTI: But that could be used on any?

MR. PAINTER: Could be used but I just never -- it's a very rare thing.

LEGISLATOR FERRETTI: Right.

MR. PAINTER: The other option under the law is because you've committed an additional felony by cutting off the bracelet, you could go back to the judge on the underlying case, the underlying bank robbery and say under 5362(b) of the criminal procedure law, look, they've committed an additional felony and you have to do a hearing before the old judge demonstrating by clear and convincing evidence the commission of the new felony. You have to -- it's got to be a non hearsay thing so you have to have like a mini trial on it. So I'd have
to produce the probation department, the GPS records, et cetera, before the old judge. If I satisfy before the old judge at that hearing that they have committed a new felony while out on liberty on the existing felony, I then have the right to ask for bail.

LEGISLATOR FERRETTI: This is a good segue to my next series of questions because it sounds like you're doing what a responsible ADA would do in looking for somebody like this who keeps cutting off their device to be held, that's common sense. So it brings me to my next line of questioning which is the new Senate Bill 7723, Criminal Circumvention of Bail Reform. Are you familiar with that bill?

MR. PAINTER: I believe it was pulled.

LEGISLATOR FERRETTI: Are you familiar with the bill when it was filed? Have you had a chance to review
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it?

MR. PAINTER: Yes, I did.

LEGISLATOR FERRETTI: This bill applies to police officers, judges detectives and prosecutors, correct?

MR. PAINTER: It would have, if it weren't pulled.

LEGISLATOR FERRETTI: Right. My understanding of the bill was that if charges are inflated against an individual that the person, any of the ones we just listed, the police officer, ADA could be charged with a criminal offense; is that your interpretation?

MR. PAINTER: The bill, as I understood it, would make it a Class A misdemeanor for a prosecutor or a police officer to inflate charges, or possibly deflate charges -- I think if it was only inflate charges, to circumvent bail reform.

LEGISLATOR FERRETTI: And now bail reform --
MR. PAINTER: Basically up charge somebody.

LEGISLATOR FERRETTI: But when we talk about bail reform, correct me if I'm wrong, written within bail reform is that judges must take all proper measures to err on the side of no bail, correct?

MR. PAINTER: That's correct.

LEGISLATOR FERRETTI: All right. So to your knowledge, has anyone in your department ever intentionally overcharged an individual so that bail could be imposed on them?

MR. PAINTER: Never.

LEGISLATOR FERRETTI: Would you have supported this legislation, this bill?

MR. PAINTER: That's a hypothetical question but I'd rather just not answer. The bill's been pulled so there's no reason to comment on it.

LEGISLATOR FERRETTI: Okay. I
mean, you know, just the idea that a bill like this could be proposed, knowing the limitations that you've outlined so eloquently today, everything that's going on, it's really disturbing that a bill like this could even be drafted in the first place and submitted. So I am happy that it has been removed but thank you for your answers. I appreciate it, Mr. Painter.

MR. PAINTER: Thank you.

LEGISLATOR FORD: I know that you have a time constraint, how much more time do we have?

MR. PAINTER: I could stay for another 20 minutes.

LEGISLATOR FORD: Thank you very much. Legislator Rhoads and then Legislator Drucker.

LEGISLATOR RHOADS: Then I will try and limit mine to about six minutes out of that 20.

First off, I want to say thank you. The fact that you -- and separate
and apart from the DA's office -- that you personally have been so upfront and forthright and sort of taking the lead in informing us as to the practical implications of a criminal justice reform, even before it went into place. I know that you have taken heat from a number of different sources throughout the state for being one of the first ones to actually articulate the practical effects and impacts of what would happen. We should never be afraid to tell the truth. I appreciate the fact that you have and that I think it speaks volumes about those who would criticize you for telling the truth about their motivation. So I just wanted to start off by saying thank you. And that ate up 90 seconds of my six minutes.

Public safety committee heard testimony from the medical examiner on Monday when she was speaking about delays of 60 days, 80 days, the backlog
that continues to grow as they have additional evidence that's to be submitted for testing and production. I know you spoke about felonies having 180 days speedy trial and misdemeanor speedy trial has to be within 90. But there are other sanctions according to that bill for the failure to provide the disclosure within the 15 days that were set forth in the law.

Has the county had to pay any sanctions yet or do you even know what those sanctions might be?

MR. PAINTER: It would not be financial sanctions, we would never pay them, but the 45th day is coming up soon so we'll be having that conversation very shortly. I remember the January 1 effective date -- you're looking at my math -- you're looking at tomorrow to start beginning, you know, looking at what we don't have. It would still be premature to even assess sanctions at that point. We would say
to the judges because what would happen, on a practical sense, is we would get something on say, March 2, some memo book or blotter or something, turn it over at that time. At that point in time, a defense attorney would have to say, oh my goodness, if I only had this memo book 14 days ago I could have done something --

LEGISLATOR RHOADS: Hired an expert.

MR. PAINTER: -- and I'm prejudiced. Yes, something like that. And that's the time to discuss sanctions. It's actually upon the late disclosure that the dialog can start to ensure. We're not there yet.

LEGISLATOR RHOADS: Is there a prejudice component to it --

MR. PAINTER: There is absolutely a prejudice component and we'll be arguing that the sanction has to be proportionate to the level of violation. Not turning over a witness
statement of the accuser would be punished much more highly, of course, than the traffic control cop's memo book.

LEGISLATOR RHOADS: Right. For example, you could be, in theory, precluded from using the memo book or precluded from offering that officer's testimony, just in theory.

MR. PAINTER: Yeah, I mean, we would be arguing for the most minimal sanction.

LEGISLATOR RHOADS: Right. Well, of course. When you're talking about the 90-day misdemeanor. 180 day felony speedy trial restrictions though. If you blow that -- if you blow the 90 days or blow the 180 days based on the felonies, you're talking about somebody walking.

MR. PAINTER: Yes. So that's why while securing order reform is taking up a lot of the chatter right now, I can absolutely assure people -- I can
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prognosticate that in April or May there'll be a different round of stories about -- I'm not talking about Nassau County, necessarily, I'm talking about around the state where things are starting to be dropped.

LEGISLATOR RHOADS: Understood.

Now we are fortunate in having our own medical examiner's office and having our own crime lab and we have systems in place but it seemed as though, based on the testimony on Monday, that even they were short staffed for the volume of work that they actually have and it sounded as though the plans were to add a couple of people here, a couple of people there but it didn't sound proportionate to the backlog that they had. Do you have any opinions or insights to offer as to what we need to be doing with respect to the crime lab and the ME's office to help them get up to speed?

MR. PAINTER: Again, those
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questions are best directed to the ME's office. I can only answer that I know -- I have heard, I don't have firsthand knowledge that not only the number of staff but the recruitment for them is also an issue for a different reason. I believe their recruitment is issues of the pay of forensic scientist is disproportionately low when compared to other job titles.

So I've heard in the past, and seen in the past, that you'll have somebody come into Nassau to sort of go to the academy here, so to speak, and then they get a very high paying job at a lab somewhere else.

LEGISLATOR RHOADS: No, I appreciate that. And the reason for the question -- obviously, we did hear from the ME's office and from the crime lab on Monday. I wanted the perspective of somebody that has a close working relationship with them but is not inside their office as to
other things we might be able to do to assist in proving. But I appreciate that response, we can certainly follow up. I know we're limited on time.

MR. PAINTER: I -- from the DA's perspective, we never want to be afraid of burdening the lab. That should not be a fear. We want the accurate, fair just results. We want as much forensic science as possible. We want to marshal it as quickly as possible and the danger of even some institutional hesitation of overburdening the lab, is a problem.

LEGISLATOR RHOADS: I appreciate that. Is it still too soon to tell whether we have incidents of individuals not appearing for their appearance tickets? One of the big concerns that was raised, and, in fact, the appearance tickets sort of adopted the unofficial moniker of disappearance tickets in some cases. Have we seen large numbers of people not appearing
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for their court appearances at this
point or is it still too soon?

MR. PAINTER: It's too soon to
tell for a couple reasons but the main
one because the desk appearance ticket
mandates came in on January 1, there
was a whole gap where those cases
weren't even called until January 20.
So you're not talking about six weeks
of data, you're talking from January 20
to present, which is only about 15 --
you know, it's not a lot of data.

LEGISLATOR RHOADS: With respect
to the crime victim advocate bill that
the legislature passed. Do we know
where we are in terms of we've heard
that the county executive is
interviewing candidates, I guess, to
sort of head the department. Have
there been any discussions with the
district attorney's office as to how
that's actually going to be implemented
and how the relationship between the
DA's office and the crime victim
advocate's office is going to develop?

MR. PAINTER: None that I've attended.

LEGISLATOR RHOADS: Okay. Is that some -- I mean, assuming that you have a crime victim advocate in the very near future to sort of start that department, because we have victims every day that are being subject to these disclosure requirements, without a mechanism to be able to address them necessarily because obviously the DA's office, even though you are very much concerned about the rights of the victim, you're there to represent the people of the state of New York not necessarily the victim, right?

MR. PAINTER: We'll be seeking justice for all parties, absolutely.

LEGISLATOR RHOADS: Of course. Of course. Are there any plans to start those discussions or there hasn't been any conversation whatsoever?

MR. PAINTER: I'm not privy to
them in a sufficient place to even have those discussions yet. Once we have an idea of what the architecture of that department will look like we'll have those discussions. So the pressing issues for us, of course, that we're handling through our own CVA staff right now is, like I said, the witness protection requests, without divulging too much about what those entail, are double in one month what they were last year. There's a lot of -- so relocation and things like that, temporary housing, very big things to coordinate. But also, as I said last time, right now the DA is doing one of three parts of crime victim advocacy. The DA touches solved adult crime. The gap in service would be unsolved adult crime because it wouldn't be forwarded to us for prosecution. That's like, you know, somebody's who's had their house vandalized or somebody murdered but not solved yet. So that requires
different servicing that the DA wouldn't necessary see. And the other aspect is solved or unsolved juvenile crime which would be in the purview of the family court system, which the DA wouldn't have coverage over.

LEGISLATOR RHOADS: And one of my last questions is, and it's a topic that was actually raised with Commissioner Ryder, but it has some implications, obviously with the district attorney's office as well, green Light Law. For example, has the restriction that we're not able or that the federal government or federal law enforcement authorities are not able to access -- I'll flip that. That Department of Motor Vehicles, for example, is not able to share information with federal authorities as a result of the green light law. We have a similar restriction in place precluding us, by agreement, precluding us from sharing information with
federal authorities, at least it's my understanding, that's garnered through the Department of Motor Vehicles if we want to be able to access that information.

Has that -- what is the relationship between the district attorney's office and federal authorities like ICE?

MR. PAINTER: That I'm not sufficiently prepared to answer right now. I didn't prep on that and I'm way too unfamiliar with the subject material to give you any sort of education comment.

LEGISLATOR RHOADS: I appreciate that. Thank you for your testimony.

LEGISLATOR FORD: Legislator Drucker and then Legislator Birnbaum.

LEGISLATOR DRUCKER: Thank you, Legislator Ford. Jed, Mr. Painter, do you know -- with respect to the protective orders, at arraignment is it possible for the DA's office to hand up
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-- when you hand up all your statutory
notices at arraignment, can you at that
point hand up an immediate motion for a
protective order just to start the ball
rolling at the outset?

MR. PAINTER: Almost impossible.

LEGISLATOR DRUCKER: Why is that?

MR. PAINTER: Under the case law
that's come up, we need to be as
particular to that case as possible.
Most of the cases you're talking about,
which are violent crimes, they were
arrested and held overnight. We don't
have the benefit of say, 20 days lead
time of a DAT, which means that, you
know, because if a violent crime
happens at 11:30, somebody's robbed or
their home is broken into, they're
locked up at 11:35 and then by 7
o'clock they're on the bus. For the
ADA at the arraignment at 10:00 in the
morning to have a fully prepared
customized memo -- or I'm sorry --
motion to apply to the court, and if
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you get that wrong, it just gets
bounced back on expedited review, which
we've seen happen. It's not good
practice of law. It's not practically
feasible. It's going to be legally
sustainable.

LEGISLATOR DRUCKER: I understand
that. Thank you. I'm just trying to
conceive of ways that your office could
expedite preparing and filing these
motions for protective orders for the
reasons that we're all concerned about
today.

MR. PAINTER: I completely agree.
And I think as I emphasized during my
presentation, if there was one thing
the prosecutors were clamoring about
last year, it was that protective
orders were not as easy to get as you
think they are. And we were told just
get a protective order. Just get a
protective order. We were right.
They're not easy to get. And so while
I would love a form application, that's
not the way the law works. We need particularly.

LEGISLATOR DRUCKER: Okay, great. Thank you. One last question. I just wanted to clarify: Is it fair to say that your objection to the body cameras is the difficult task of gathering all of the data, the ancillary data associated with it and preserving it for evidentiary purposes?

MR. PAINTER: I don't have any objection to body cameras. I think body cameras are a great --

LEGISLATOR DRUCKER: I'm saying the difficulty of having that for the evidentiary purposes under the new statute.

MR. PAINTER: I would say, from the conversations I've had with many police officials across the state, the common -- a common refrain is like, well we were -- why would we get body cameras now. It's not for my judgement to say. I could just only report to
you that it seems to be a -- not a
laughable notion but it's just as far
as the undertaking of getting body
cameras right now with what's going on
with discovery being unsettled, I don't
see much growth in that enterprise for
a while.

LEGISLATOR DRUCKER: It's just
surprising because I don't think the
public knows that. I think the public
now feels that giving law enforcement
body cameras is a great idea. It
provides for accountability and
accuracy and things like that but --

MR. PAINTER: Protects everybody.

LEGISLATOR DRUCKER: Now if it's
becoming burdensome, I guess, is what
you're saying, it becomes burdensome to
have. It becomes burdensome to gather
it, to maintain it. It's kind of an
unwitting problem from the statute,
too.

MR. PAINTER: It is. We would --
the burden was not in essence on the
DA. We would love body cameras. We love the Freeport department's use of them and we download them all or upload them all and we use them. It's, again, a great investigative tool for lots of reasons. I mean, in a world where everybody can take out an iPhone and record your activity, the officer can't have his one hand tied down by recording right back, the body camera allows the officer to have their hands free for a lot of reasons. But the DA would never have an objection to it. It's a matter of whether or not a department wants to take on that individual -- if they find it to be a burden. So you'd have to -- I'm sure if I called in 25 different police commanders right now they might give you 25 different answers. But all I can tell you, with everything going on in the culture moment, I don't think it's going to be a growth enterprise.

LEGISLATOR DRUCKER: Thank you
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very much for your presentation today.

LEGISLATOR BIRNBAUM: Thank you so much for sharing with us the wealth of information that you have about the workings of the district attorney's office. I know it's been enlightening to most of us, if not all of us, and everybody here.

A few things I would just like some clarification on. When you were talking about the backlog in discovery. I want to know how does the early case assessment bureau play a role in that?

MR. PAINTER: So early case assessment has now two physical locations. We've put our intake operations -- early cases and arraignments are linked, so you're going to have some data entry at the police headquarters hub and you're going to finish off at 99 Main because we're going to keep on working on the intake and discovery compliance processes all the way through the point
of arraignment and even sometimes after the arraignment. There’s where all the initial witness contacts are, you know, you caught on the phone. That’s where 24 hours a day when the police make an arrest and they ship the paperwork to the DA’s office. We will receive it electronically. We will put their case management records into our case management system.

If it's big file sizes, besides the direct share capabilities, we have lateral what you would call dropboxes for larger files. And we’ve worked out these protocols with now every single police agency that does business in Nassau County. So basically, if they get an arrest, they will call, they will notify ECAP of the arrest, ECAP will say great, send us everything, because nowadays it's send everything. If they have any trouble or have any questions, ask the officer right then and there. They will ask the officer
right then and there, they'll take down
what statements did they make, what
kind of property was recovered, is
there surveillance from Target, can you
get that surveillance from Target or do
we have to go out and send somebody out
later. So we stage the case right then
and there so have the best possible
package within 24 hours of arrest.

That having been said, not
everything on the discovery end is
capable of being recovered within 24
hours of arrest. There will be lots of
things that go down like radio
transmissions, GPS data, memo books of
associated officers. Because remember,
you're talking to one officer, not the
whole eight person crew who was at the
scene. So -- and they're not going to
hold all eight to talk to ECAP and
exchange discovery with ECAP that
night. So there might be you get
something from one but you still have
to hunt down seven more. That's
generally what happens. That communication will happen, we'll find out witnesses names, victims names, reach out to them, see how they're doing. You know, how you been, you've been through a traumatic experience. We'll get information from them. Maybe they have a home surveillance system. So we get to work on that as well.

The function of ECAP used to be one of assessing things for legal sufficiency. We want to make sure the charges were good for filing. Now I got to tell you, that's an ancillary function. Now the main thing is acquisition. It's about acquisition and induction into our case management system so they can be prepared for electronic discovery as soon as possible. We at the DA's office would like to send, ideally, an initial package -- and we have been -- to the defendants within 15 days. Whatever we have. It could be complete, it could
not be complete. But whatever we have
we're going to send to them in 15 days
and then we'll try to work within the
extension period if we need it. And a
lot of that comes from ECAP.

LEGISLATOR BIRNBAUM: Thank you.
You also mentioned that there's a
problem with ballistics and forensics.
You said ballistics, it's very hard to

MR. PAINTER: We don't have any
forensic examiners. There's a dearth
of forensic examiners. And we had
been outsourcing some of those
responsibilities and those who we
outsource to are now also experiencing
the same dearth. So gun crimes and
anything that requires ballistic
evidence, is in serious jeopardy, not
through any fault of what the DA is
doing, that's system shock. It was in
trouble before this. It's now in
severe trouble.

LEGISLATOR BIRNBAUM: And lastly,
it's very upsetting to hear about the lack of morale and what's happening with the ADAs and in particular you talked about the paid family leave policy.

MR. PAINTER: Yes.

LEGISLATOR BIRNBAUM: Now, is it the same policy that all Nassau County employees have?

MR. PAINTER: No, I'm not aware. I'm saying Nassau County has not taken a step forward in this regard and I would encourage, because this is where I am, I would encourage that you look hard to, you know, it is the 21st Century and New York City is a major recruitment competitor for at least my department and there is no reason for my department not to do it because my department is 45 percent of the exempts. The exempts, I'm aware, have that termination pay cap of 30 days. We -- just like every other department -- gets salary end to end. So no
matter what is happening during the course of the year; sickness or whatever, we always have budgeted for somebody's full year salary as if they took every single day. Where the budgetary impact of any sort of paid leave comes into play is twofold; managerial, can I afford to lose somebody for 12 weeks? Of course. And the second one is are you inflating, perhaps, their termination package because if they don't take the 12 weeks in a year, then hypothetically four years down the road, if they decide to leave the DA's office, they'll have 12 weeks of time waiting for them because they didn't have to take vacation personal. They wouldn't have drawn down from their bank of time.

But because, specific to exempts, this legislative body capped us at 30 days after 2019, there's no possibility of them banking the 12 weeks. There's no possibility of doing it. So you run
almost no financial risk from just saying okay, for the DA office you can have paid child leave. It is a major major recruitment issue. Again, New York City's minimum is six weeks, and many of the offices of Manhattan, Brooklyn, they're 12 weeks.

LEGISLATOR BIRNBAUM: I just thought last year that the state made, I thought, more liberal paid family leave possible for the counties and I thought there was a change. There's no change?

MR. PAINTER: We do not have it and we really could use it because I think you saw the statistics I flashed on the screen about our percentage of staff, mostly female, majority of female, and majority of those that female cohort, are between the ages of 24 and 35.

LEGISLATOR BIRNBAUM: Thank you.

MR. PAINTER: Okay.

LEGISLATOR FORD: We just have
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two more legislators. Legislator McKevitt and then Legislator Bynoe.

LEGISLATOR MCKEVITT: Could you just explain the significance of March 8 as far as the marijuana testing is concerned.

MR. PAINTER: Yes. One second. I can be very specific.

LEGISLATOR MCKEVITT: I'm just curious as to why that date is -- you already have it marked out.

MR. PAINTER: That's the effective date of the legislation. Just give me one second, if you don't mind. I'll just -- okay.

There were changes to Public Health Law 3302, the definition of marijuana in 3302 underwent a significant change, it included a definition for hemp. Cannabinoid hemp and hemp extract. As of March 8th, marijuana shall not include hemp. I'll spare you. Shall basically not include hemp. And essentially, in order to
differentiate marijuana from hemp, the sample must now have a THC content greater than .3 percent. Current laboratory procedure is qualitative and can thus only identify the presence of *Cannabis* sativa, in addition to the presence of THC. It cannot -- quantitative to determine whether or not the THC content present is greater than .3 percent. So as of March 8th, not our lab, all labs, will not be able to differentiate between marijuana and hemp and cannot conclusively identify one over the other.

There are DEA validated technologies available but they will not be able to be deployed in Nassau County until September 2020. So what I said was, there will be a gap in practical enforcement of any marijuana at least between March and September.

LEGISLATOR MCKEVITT: Thank you.

LEGISLATOR BYNOE: Thank you, Madam Chair. Hi, ADA Painter, how are
MR. PAINTER: I'm well, thank you.

LEGISLATOR BYNOE: Good. I wrote down two questions at the very start of your presentation. I'll start with the body cams because I know you've been speaking about those with Legislator Drucker. Could you explain the metadata because I understand that to be the encumbrance of -- that's what you're concerned about that would be delaying?

MR. PAINTER: Again, I have no concerns.

LEGISLATOR BYNOE: You listed it as a --

MR. PAINTER: Yeah, I'm saying with the -- in New York State, I believe it was out of Manhattan, there was a lower case law discovery decision that said in addition to turning over the body cams of the NYPD, they also had to turn over the metadata, which
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was one example of some things the ADAs are going through over in that neck of the woods. It's not binding on us yet but if those trends continue that it's not just -- you know -- sending a video from, like, one iPhone to the next, think of it that way is easy. If you have to then, like, all of a sudden download the whole phone to hand it to the next, it's a little bit different. We would be texting a lot less often if that were the case for every single transmission of video or photo.

Even before that though, the storage cost of body cams and the preservation, it's a phenomenal expense. I think some people get confused when they think about -- we even had a presentation on resolutions. There is a chart that will show that if you're recording something in, say, 4 ADP --

LEGISLATOR BYNOE: I'm sorry.

But I'm trying to understand the link
between the discussion about body cams in your presentation to bail reform.

MR. PAINTER: It's not bail reform, the body -- yeah.


MR. PAINTER: Yeah.

LEGISLATOR BYNOE: You indicated that it was actually the metadata when you have to provide the metadata that it then kind of slowed down the process for being able to meet the time frames.

MR. PAINTER: Absolutely.

LEGISLATOR BYNOE: If you could explain --

MR. PAINTER: If NYPD --

LEGISLATOR BYNOE: -- what metadata is for me, because I really don't know what that is.

MR. PAINTER: Sure. Again, when you take a photo with a phone -- I'm just trying to put it into -- if you take a photo with a phone, the photo is
what everybody sees but your phone knows when it was taken, where it was taken, you usually have geographical data. It might have other data in there that can link that photo with other faces in your photo album. That's why your iPhone can curate and put all the faces together. So it's that background encoding on the image that travels with the image that -- so that's one photo. So the body cam's not going to have the same --

LEGISLATOR BYNOE: That data does travel with the image or it doesn't so you have to do a separate download?

LEGISLATOR BYNOE: Not necessarily. So yeah, there could be a separate download. So if the body camera, you know, disclosure was just a video, that's one thing, which has its own things. If all of a sudden now you have to go the corporation to get the metadata as well to travel with the video, and now you not only increase
the burden of collection, but you've also increased the amount of storage. All these files are gigabytes upon gigabytes.

LEGISLATOR BYNOE: And it's a very complicated process to download the metadata? It slows it down that much?

MR. PAINTER: I'd be speculating. Corporation to corporation, I'd be speculating because there's various different vendors of --

LEGISLATOR BYNOE: So on the case that you were referencing that you just stated just earlier during our discussion, and you referenced in New York City, how long -- do you have any understanding of how long it delayed the process?

MR. PAINTER: No, I'll have to reach out to my colleagues in Manhattan for that. We don't have the same issue because we only have Freeport here who had body cameras. We have not
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experienced that issue.

LEGISLATOR BYNOE: Okay. All right. And then so we also talked about the crime labs and a whole bunch of other stuff during your presentation and we had a presentation here at the legislature just this past Monday about the significant time that is required to give the results of certain testing. And so -- and then there're a whole bunch of other discovery items that have to be compiled and then submitted and certified, right? And so we're saying 15 days, the initial 15 days is not reasonable. And then we're stating that you can get -- it's my understanding you can get a 15-day extension.

MR. PAINTER: 30-day.

LEGISLATOR BYNOE: So -- it's a 30-day extension. So now we're at?

MR. PAINTER: 15 to 45.

LEGISLATOR BYNOE: To 45. And if that's still not enough, then in your
opinion, could you tell me what we should be, you know, lobbying for, advocating for in terms of an appropriate time frame to be able to extend that period to be able to really be able to certify discovery and be within compliance?

MR. PAINTER: Yes. So again, I don't want to reach the simplest solutions because as I put on my slides, timing versus content. I'm much more troubled by content. When I say I'm much more troubled, I think the office is much more burdened by content versus the timing. So extending -- like you're extending from 15 to 45 days is standard. Okay. But that does not help with the -- acquisition issues of still these various courts. The 15 to 45 has some diverse opinions in Nassau County Court so far. Sometimes it's automatically granted. Other times judges have said, no, you have to apply for it, it's not automatically
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granted. So we even have different
distinctions of how you actually get
that -- we have some people invoking
it, some people applying for it.

But after the 45 days has run,
you could theoretically file a motion
for greater extension of time. That
might even have some different legal
interpretations, we'll see what
happens, as far as the validity of a
motion to extend time, or you just eat
the sanctions. Why extension of time
on its own is not necessarily a
solution is because they did not
coequally amend speedy trial. So I'll
say it in a different way. 45 days,
let's pretend that's the standard on a
misdemeanor case that I need 45 days to
get something together. By the time I
have certify -- I have to certify
before I can be ready for trial. So if
I certify by day 45 and state ready for
trial, I've burned half of my speedy
trial clock anyway, and the biggest
sanction is the case being thrown out.
So if you said, oh, we'll give you an
extension to 90 days, I'd say well,
thank you but really, I'm going to
certify and the case is going to get
tossed.

So until speedy trial is
coequally extended or discovery
excluded from speedy trial
calculations, the extensions don't
really make prosecutions more at ease.
The big stress is the case getting
thrown out.

LEGISLATOR BYNOE: So speedy
trial would need to be amended.

MR. PAINTER: Coequally amended
in some way.

LEGISLATOR BYNOE: I know that
our DA is in conversations or with
state senate or there was some
committee that was put together that
was going to talk about some of these
reforms, so I hope that that is part of
the discussion.
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MR. PAINTER: I don't want to overstate any of my office's role --

LEGISLATOR BYNOE: I'm not asking you to.

MR. PAINTER: -- no --

LEGISLATOR BYNOE: This is a statement more than a question.

MR. PAINTER: But as far as a committee, my boss is not on any committee --

LEGISLATOR BYNOE: She's not?

MR. PAINTER: -- and has not --

LEGISLATOR BYNOE: -- I understood that there was -- is it a regional -- no, so let me change that. It may not be with the senate --

MR. PAINTER: So that's why I'm --

LEGISLATOR BYNOE: -- it's regional here between Nassau and Suffolk?

MR. PAINTER: I am not aware of any committee that my boss is on right now. Nor am I aware of any legislative
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draft that my boss has reviewed.

LEGISLATOR BYNOE: I thought
there was a task force set up -- I
thought it was for bail reform. Maybe
I'm mis -- I'm sorry, I thought it was
for the bail reform.

MR. PAINTER: So I just want to
make sure that my boss is not on any
committee, that I'm aware, nor has she
seen any legislative drafts.

LEGISLATOR BYNOE: So there's no
committee that's set up at all to start
talking about this locally regionally
between our local police departments
and our --

MR. PAINTER: I am aware --

LEGISLATOR BYNOE: -- I would
even extend it to say the DA's office
and we should have something I suspect
then started.

MR. PAINTER: I am aware of
people calling my boss --

LEGISLATOR BYNOE: As well as
legal aid.
MR. PAINTER: -- calling my boss for input. My boss, to my knowledge --

LEGISLATOR BYNOE: Okay, I've heard you and I understand that.

MR. PAINTER: -- is not part of any committee or --

LEGISLATOR BYNOE: I heard you and I understand that.

MR. PAINTER: Okay.

LEGISLATOR BYNOE: I'm just --

MR. PAINTER: I just want to make sure the record was clear.

LEGISLATOR BYNOE: There's so many task forces being created across this region but this would definitely be one of those times where I think we get the right people in the room and start talking if we're going to be advocating for some level of change that we have. Legal aid should be in there. We should have our prosecutors and our police departments and some other advocates that are looking to make sure that we're not unnecessarily
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holding the wrong -- you know, holding
folks that ideally should be released
and that we're holding folks that
should be held.

MR. PAINTER: Perhaps the
confusion -- if I may?

LEGISLATOR BYNOE: Uh-huh-huh.

MR. PAINTER: My boss, DA Singas
does sit on the Justice Task Force, the
New York State justice task force and
that is a consortium of academics and
defense attorneys and prosecutors and
police officials and victims advocates
and they meet and discuss issues -- in
fact, a meeting was this morning but
they issued a report --

LEGISLATOR BYNOE: No.

MR. PAINTER: -- on bail and --
bail. They issued the report on bail
on February 2019.

LEGISLATOR BYNOE: So I have to
give a shout out to my staffer Andrew.
He must be listening somewhere. He
actually just sent me something from
January 21st, it says Nassau and Suffolk counties team up for common sense bail reforms. All right. So I'm going to read through this and I don't want to do it while I'm on -- taking up time. I believe the public has an opportunity to speak after me but I'll look through this. Thank you.

MR. PAINTER: Thank you.

LEGISLATOR FORD: Thank you very much. I really appreciate your patience and your answering all these questions. And actually, even starting this out with a positive spin. I think it was really good and we want to partner with you to make sure that we heed the concerns that you have, especially with maternity and whatever. So you're doing a yeoman's job and we appreciate it so we want to make sure that we show appropriate respect.

MR. PAINTER: I'll end with a positive spin. We're going to get through this and think everybody is
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going to be a lot happier. In three
years hopefully we can look back and
say look at all the preparation we did
and all the improvements we made, you
know. There will be some bumps along
the way, but my biggest concern right
now, and my boss' biggest concern right
now is the morale of our staff because
we want to make sure that we have the
right people in the room working
through these issues.

LEGISLATOR FORD: I think they're
very thoughtful that they have you.
And DA Madeline Singas, I have to say
too.

MR. PAINTER: Thank you very
much.

LEGISLATOR FORD: Okay. Thank
you. Mayor Kennedy, if he's still
here.

MAYOR KENNEDY: Good afternoon.
How are you. Thank you for having me
here today.

If I could just start by saying
my name is Robert Kennedy. I'm the president of the US conference -- the New York State Conference of Mayors, consisting of about 700 cities and villages throughout New York. I'm also the mayor of the Village of Freeport.

NYCOM is here to discuss specifically the discovery aspect of this legislation only. In fact, we haven't taken a stand on the bail reform at all but do recognize some changes are required.

I am not an attorney but I have had in-length conversations with our village attorneys and state attorneys with regards to discovery package. I would just like to say a little background. The Village of Freeport has approximately 1,100 arrests a year. And of those 1,100 arrests a year we would be required to provide about 50 sets of discovery because the DA would probably plea bargain most of the cases down and come back to us and ask us for
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50 cases.

Now with the terminology used in the legislation, which says accusatory instrument, the Village of Freeport would then now be required to provide discovery on 6,500 building department violations, including the electric violations, plumbing violations, water, structural, even a dog violation, if it was issued a violation, we would have to provide discovery, in addition to 20,000 vehicle and traffic regulations and 35,000 parking tickets. That's the addition now of about 52,000 discoveries that we're required to provide because it is an accusatory instrument involved here. This has been discussed through NYCOM. It's also been discussed with Mayor de Blasio who didn't understand it at first, who agrees with me now that these -- the way the law was written, these issues are a problem.

The Village of Freeport does
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discovery. Now, you know that the
Village is the first one in New York
state to mandate the use of body
cameras. Every police officer in the
Village of Freeport, who is out in the
field, wears a body camera. So picture
you have nine police officers on an
emergency crime scene, and then they're
taken from that crime scene and
possibly going to a family dispute or
maybe an automobile accident and then
they come back and then they're sent
out. (End of Tape 2, Side 2) that was
uploaded into the cloud, which costs
monumental amounts compared to what it
did four years ago. We have to pay
somebody to sit there -- and it has to
be a police officer -- to go back
through that cloud and deduct every
portion of those police officers' time
attributed to that crime, which is a
significant amount of time considering
a crime that maybe they're there for an
hour or two, and you have ten different
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officers. So by having these body cameras, it really increases the time for discovery to be provided.

We also have memo books on every police officer. Radio communications from every police officer to police officer from the desk to the police officer. We have 911 requirements for discovery. We don't get 911 calls, 911 goes to the county and then the county will call the village. So we don't have a record of the 911 but we have to secure that from the county.

We also have LPR program, which many of you are familiar with where we surrounded the village with license plate readers so every one of those LPR cameras are going to have to be downloaded out of the computer relating to this crime and then stored again with the discovery package.

Then we're working with different agencies, Nassau County or the state. We have a lot of state police and, you
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know, bringing all of those together for discovery does not take five minutes to do one discovery, and if we're increasing the load from 50 to almost 40 to 50,000, it's a significant more amount of time required.

You know, our budget is due in February. Last year this law was enacted in May. So when we adopted our budget, we had no idea that this legislation in New York State would affect our budget. So last year I have built in a $1 million hole in our budget because the state adopted this after we adopted our budget. This year we have the time to look into and estimate what our costs are going to be and realistically I to look at worse case scenarios. Worse case scenario for me, we estimated $2.7 million. I just want to go back got give you a little background on Freeport.

You know, we're rebuilding from Super Storm Sandy, 3,500 homes under
six feet of salt water. We lost the entire industrial park, $10 million to the Department of Public Works, the entire nautical mile. We've rebuilt probably 96 percent of Freeport since Super Storm Sandy. But we had a reserve at that time of 1.2 million. We now have a reserve of 21 million. We had a debt of $160 million, we now have a debt of $92 million. We got upgraded by Moody's twice over the past six years. We put on 25 additional police officers and reduced crime by 56 percent in the village of Freeport.

We've done 86 roads. We absorbed every increase in workman's comp, liability, disability, medical, retirement, PBA, labor increases and CSEA labor increases and we haven't had a tax increase for six years. There's not much money left in the Village of Freeport to absorb a $2.7 million unfunded mandate, which we just incurred. We've increased taxes by 5.7
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percent this year in its budget already. First time we've pierced the cap and increased the budget by 2.7 million for the residents of Freeport. It's directly to the costs of the discovery.

This legislation was put into a budget without having been properly analyzed or reviewed by the various police department or district attorneys throughout the state. And now what we've done, we're steering the horse by the tail trying to find out what we can do to correct this legislation that was done. Ultimately, we have to eliminate the inclusion of vehicle and traffic laws, building department violations and parking violations. There's no reason for that and I don't think that was the initial intent of this law. I think if you were to provide 60 days, we'd probably go down as low as 30 days for discovery since the individual is not incarcerated anyway, that's why
we're doing these desk appearance
tickets. If they're not incarcerated,
give me 30 to 60 days on discovery. We
can save the Village of Freeport
residents $2.7 million.

We've been told that the Village
will save money because we're not
incarcerating the individuals. We'll
save on the costs. We don't
incarcerate individuals. We take our
prisoners to Nassau County. We're not
saving anything. If Nassau County
releases them, it doesn't give me any
benefit. I don't get released. My
taxes aren't lowered by Nassau County,
there's no benefit to the Village of
Freeport.

We haven't had an increase in AIM
funding, CHIPS funding, snow removal or
sales tax in 11 years. Please don't
even remind me about sales tax because
we don't get it to start with, I'm in
litigation about that. All I can say
is this is an unreasonable, unfunded
mandate to the residents of the Village of Freeport and the rest the residents in New York State and that's on behalf of the New York State Conference of Mayors. I'll be glad to answer any questions.

LEGISLATOR FORD: Legislator Mule.

LEGISLATOR MULE: Yes, thank you. Mayor, you are my mayor and I was also on the board of trustees prior to taking this position and so I know that everything you're saying is absolutely true. And I think it's important that we do understand the implications of the state law on not just the county but also the villages and the cities because, again, this is a state law and it's important for the representatives of the state to have a full understanding of this and this is, I guess, one more avenue for that to happen.

When we first heard about the
law, when we were doing the budgetary
and we will, of course, had concerns
about it. You know, one of the first
things I did was go to my state
legislators and I think it certainly
behooves all of us to speak out and you
bring up some important points that
perhaps we wouldn't have considered
prior to that, so I thank you for your
advocacy on behalf of the other
jurisdictions.

MAYOR KENNEDY: Thank you. We
miss you in Freeport, come on back.

LEGISLATOR FORD: Legislator
Rhoads.

LEGISLATOR RHOADS: Thank you,
Legislator Ford. Mayor, first off
thank you for coming today. I
appreciate your presentation very much
and as Legislator Mule indicated, the
reality is that this just does not have
to do with Nassau County and the Nassau
County Police Department. Every
village, every township that actually
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processes building department violations has to deal with the same issues with respect to discovery, and I appreciate you raising that important topic.

Just to give us an idea, and I know you mentioned -- you mentioned body cameras and the Village of Freeport is the first to implement body cameras with its police officers. Can you describe for us -- you heard the testimony of the police commissioner, Pat Ryder, and of Jed Painter as well from the district attorney's office, speaking about metadata. Can you go into what's actually involved in the actual maintaining of the data that comes from the body cameras, preserving that. What are the challenges with that, what are the costs associated with that to a municipality like the incorporated Village of Freeport.

MAYOR KENNEDY: First, I'd like to thank Nassau County, and especially
the DA's office who provided financing for the first order of body cams that we utilize in the village. But this is going back three and four years and there's been upgraded models since. There's battery damages, there's equipment damages, so we've really upgraded our equipment two or three times at the cost of the Village of Freeport taxpayers. As I said, the original purchase was great but now to maintain it. When you store all of this equipment, I mean we can't even store all of this on-site so we have to store some on-site and we have to back it up offsite and we have to have enough data availability. This digital is astronomical when you look at the location, the detailed cameras, lighting and such like that. It's tremendous the financial burden we have for storage onsite, offsite and then to have to, again, transpose all of this into a criminal case for discovery.
LEGISLATOR RHOADS: So we can comprehend what would have to be turned over out of that body camera footage. I know you gave the example of a police officer responding to the scene of a crime but then getting diverted to different calls, having to leave the scene, come back. What would actually have to be turned over?

MAYOR KENNEDY: Well, we have to have a supervisor go through every one of those police officers body cams that were in attendance there and then take any applicable video applied to that case and remove anything else. If you went to a call for a family dispute or another arrest or if there's a car accident or bodily injury all of those, because they'd be using body camera doing all of that, that would all have to be deducted out and limit the individual videos to, pertaining to that case itself.

LEGISLATOR RHOADS: And so if you
had ten officers responding to the scene of a multi vehicle accident, let's say, where there was a DWI, you would wind up having to preserve and then turn over the body camera footage for every one of the ten responding officers, right?

MAYOR KENNEDY: Yes, and it could take approximately between four and five to six hours to take it all apart and provide the proper discovery package. And remember, it's not just the body cameras. You have cameras in every police car. So everyone of those police car cameras, it's uploaded to the cloud and has to be taken out. So it's quite time consuming and a financial burden to the village to do that many in that short a period of time.

LEGISLATOR RHOADS: Now have you had to increase staff as a result?

MAYOR KENNEDY: Yes, we have and, you know, unfortunately the staff
becomes another issue because I can't hire civilians and I have to hire through civil service and then by the time you can hire through civil service and review them and they have a preference for village employees and then send them back to civil for approval, then through an academy and come back to move people up the ladder. It's time consuming. It's very, very expensive.

LEGISLATOR RHOADS: I can only imagine. I know you indicated that the short term budget costs made through the conclusion of your fiscal year were somewhere in the area of $1 million that came as a sudden and unexpected hit on your budget which created a gap.

MAYOR KENNEDY: Yes, we probably would have had a million dollar surplus this year. Now we have a flat budget for last year.

LEGISLATOR RHOADS: And it's now resulted in a 5.7 percent tax increase
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just for the 2.7 million that you now have to raise that's approximated it will cost the village to comply with criminal justice reform.

MAYOR KENNEDY: I would like to clarify. You know, the village can have an increased budget every year but it doesn't mean the tax levy has gone up. Because if we bring in more revenue that's not a levy that can compensate for a larger budget. In fact, this year, because of the additional economic development we had, we probably would have had a one percent reduction in the levy in the village. But based on the mandated increase here, we're up at 5.7 percent increase.

LEGISLATOR RHOADS: So in reality, it's a 6.7 percent increase when you factor in that it probably would have been a one percent tax cut. Now, obviously, this was presented as a sudden and unexpected challenge. Now
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you're trying to anticipate your needs for the next year now that you have had a chance to see what some of the results are. But that 2.7 million is just an approximate.

MAYOR KENNEDY: Well, you know, I have to say that we consider the worst case scenario. We hope we're correct. But a village is not allowed -- it's against the law for a village to run a deficit. Many cities, counties and the state can run a deficit. It's against the law for a village to run a deficit. Therefore, I have to be extra sure that we have enough prosecutors, we have enough backup in the buildings department, have enough backup in the parking portion of the village staff. Judges, we've applied for -- we're only allowed to have two judges, one full time, one as appointed, so now we need a third judge, a part time judge. So I went to New York State to request approval for a third part time judge.
We're the second most active courtroom in New York State. So I really can't -- you know, elasticity of demand, you can't stretch it any further or -- we had a court the other day, it went for seven hours. It was the largest continuous night for court cases that we've had so far.

LEGISLATOR RHOADS: And I was going to ask, have you seen any increase in the volume of work that your judges and your courts have to --

MAYOR KENNEDY: Yes, this was retroactive. As of January of this year, any outstanding cases from before required the discovery to be prepared. So there's a lot of work that wasn't estimated that's now included in this year's budget that we had to work on prior to January 1 this year.

LEGISLATOR RHOADS: And I did not know, and I appreciate you for raising it, I did not know that that included building department violations and that
included traffic infractions as well, I'm shocked by that.

MAYOR KENNEDY: 6,000. Minimum 6,000 building department, 20,000 vehicle and traffic and parking tickets. So if you plead not guilty on a parking ticket, I have to provide discovery.

LEGISLATOR RHOADS: I think I know the answer because I've asked this question a few different times to different witnesses and the answers seem to be the same. I'm assuming that the incorporated Village of Freeport, certainly yourself as head of the New York Conference of Mayors, were not consulted at any point in time during the pendency of this cashless bail reform and criminal justice reform before it was passed in Albany, correct?

MAYOR KENNEDY: That's correct. In fact, I've subsequently after learning it, I called together all the
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chiefs of the police departments in Nassau County, many of the mayors. I called NYCOM to sit and review this with them. And Mr. Painter, I sat with just to review all of the reality of this, the impact of this legislation to come in and we did discuss parking tickets, we did discuss vehicle, we did discuss, you know, accusatory instruments because we had to make sure that what we were anticipating in doing our budget. And again, my budget, I have to adopt a budget in January of this year for next year. So I don't have the liberty of waiting until after the state adopts their budget and possibly makes a change.

LEGISLATOR RHOADS: And of course, I'm assuming this mandate from the state is unfunded to the village, correct?

MAYOR KENNEDY: That's correct.

LEGISLATOR RHOADS: So even though you have -- you're going to
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spend $2.7 million this year, you expect to comply with this. Has there been any indication from any of our state legislators, and I believe we're covered in the village of Freeport by Senator Kaminsky, Senator Brooks, any indication of any assistance coming from the state to help local municipalities who can't run a deficit as you've indicated, to provide any assistance?

MAYOR KENNEDY: I'm cautiously optimistic. I've been up in Albany for four days. I've been with at least six or seven senators, many representatives in the assembly and I think after discussing all of the facts, I'm cautiously optimistic that some changes will come to fruition and I would hope that it's in the next budget so that's not an item that can be debated, put it in the budget, let's get it over with and make these corrections now. I'm also concerned with, you know,
Cannabis. I mean, if we follow the same path that we did with the discovery without seeing the rippling and the affects of this and you put the Cannabis into a budget and approve it, are we going to be back here next year discussing all of the problems that we have that we didn't anticipate with the legalization of Cannabis. And I think, again, we need to spend more time before we legislate or adopt these legislations.

LEGISLATOR RHOADS: Has anyone reached out to you from the state with regard to that to discuss the topic?

MAYOR KENNEDY: I mean, yes, I've been up in -- I've been discussing it with all our representatives, the senate, the governor's office, one of his representatives, the budget director and some of our assembly people up there.

LEGISLATOR RHOADS: Has there been any indication that it's going to
be considered a standalone legislation, as opposed to what happened with criminal justice reform where we're sort of wedged into the budget and there really was no opportunity for debate or discussion?

MAYOR KENNEDY: I can't really answer that question. That's the assembly and the senate and the governor's office.

LEGISLATOR RHOADS: Of course, of course. Just if you can educate me, with respect to Nassau County medical examiners and the Nassau County crime lab, how does the Village of Freeport and the Village of Freeport police department rely on our ME and our crime lab? What activities are performed by the village and what do they rely on our crime lab to do?

MAYOR KENNEDY: Our law enforcement and Nassau County's law enforcement work very close together. The felonies are generally taken by
Nassau County so they would be responsible for the crime lab or analysis of scientific evidence.

LEGISLATOR RHOADS: Have you seen any increase in the ways that you attribute to increase volume from criminal justice reform in terms of processing items for the village through our crime lab?

MAYOR KENNEDY: That I can't answer.

LEGISLATOR RHOADS: Too soon to tell?

MAYOR KENNEDY: Yes.

LEGISLATOR RHOADS: And just in terms of -- because obviously you're -- you have many hats, one of which is president of the New York Conference of Mayors, have you heard feedback from other mayors throughout the state?

MAYOR KENNEDY: Oh, yes.

LEGISLATOR RHOADS: Are they facing similar challenges to you?

MAYOR KENNEDY: Absolutely. We
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have probably several million residents
and representatives petitions out there
opposing the discovery portion of this
legislation.

LEGISLATOR RHOADS: Can you speak
to the crime rate in the incorporated
village? I know there had been a
steady decline, over 50 percent I
believe you had indicated over the last
several years. Since January 1st has
there been any change in that rate?

MAYOR KENNEDY: That I don't have
the results in yet, normally we get a
-- every month I'll get a preliminary
report but it is confirmed that we've
had a 56 percent reduction in crime
over the past six years and we believe
it's attributed to the LPR program, to
the additional police that are out
there.

LEGISLATOR RHOADS: And that's
the license plate readers, right?

MAYOR KENNEDY: Yes.

LEGISLATOR RHOADS: Just for
those that are listening that don't know what LPR is.

MAYOR KENNEDY: Yes.

LEGISLATOR RHOADS: Mr. Mayor, I appreciate your time and your testimony. Thank so much for your insight.

MAYOR KENNEDY: Thank you for having me here.

LEGISLATOR FORD: Thank you very much for your testimony. You really gave us a lot of information. A lot of things that we didn't even consider.

MAYOR KENNEDY: Right.

LEGISLATOR FORD: My last question to you, sir, will be this: Would you ever consider coming to run the City of Long Beach?

MAYOR KENNEDY: That's a great city, I love it.

LEGISLATOR FORD: So do I. So? But thank you very much. I appreciate it.

MAYOR KENNEDY: Thank you so
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much, everybody, for having me here
today. I greatly appreciate it. Have
a great day. Thank you.

LEGISLATOR FORD: Frank, do you
need a break at all?

(A recess was taken.)

LEGISLATOR FORD: We're going to
resume our hearings. And I don't know
if Brian Sullivan, president of COBA is
here or not?

MR. SULLIVAN: Good afternoon,
ladies and gentlemen. Brian Sullivan,
Nassau County Corrections Office
Benevolent Association. It was a much
more fuller room before.

Legislator Rhoads asked the
question earlier about the head count
in the Nassau County jail. Just to
clarify, I got some information as of
November 1, 2019, the inmate head count
in the jail was at an all time low of
1,115. That was the lowest in my
31-year career. 1,115. Normally it
would be around 1,600, the bulk of my
career when it was I hear when I first started in 1988 was when crack and AIDS was big. I've said that before here several times that the head count in a much smaller jail was over 2,000. It's been around 1,600 to 1,800. But over the last several years, because of all things I've talked about here before with the precursors to bail reform, our head count has been dropping precipitously and November 1st it was 1,115. As of today our total inmate head count is 759. That's a reduction of 356 inmates, the rolling tally in the jail since November 1st. That is a startling number of people that have left our facility, that have left the system.

Like I said, I've been here countless times before over the last few years warning of what's been going on in New York State, both here and in Albany, talking about what's been going on, particularly at arraignment courts.
I'm sure everybody remembers that I've been talking about how we've been letting people go on heavy duty drug charges, assault charges, you know, robbery charges and burglary charges. This stuff has all been going on for several years that brought our head count down to, like I said, 1,115. This was prior to what went on here in the last year with bail reform. People have -- that can get out have gotten out. Now we've just gone precipitately over the edge.

Myself and countless other law enforcement organizations have been pounding the floors in Albany and here, obviously, since we realized last year what's been done under the cover of last year's budget. One or two of the legislators said earlier that, you know, a lot wasn't done here and a lot of people didn't really know what was going on and that's true because even some of our local law enforcement
unions, the police department and the DA's office and things like that, didn't realize what was going on. We noticed from our end of the criminal justice system in corrections, and in the courts and the judges and things like that. We saw the writing on the wall of what's been happening here. That they just don't want people in jail anymore.

Just had a couple of different notes here that I wanted to make sure. Going back to the hearings of last year, there were no public hearings. Again, the stakeholders were not involved in this. Police organizations, sheriffs, police chiefs organizations, unions, nobody was involved in this. This was all done behind closed doors, nobody saw what was going on until there was a product put out. We saw what was happening and I have certainly annoyed, PO'd a lot of our local state legislators because
I've been exposing the hypocrisy of what's been going on here. Since this debacle was put in place, I've been a very vocal opponent of this. Like I said, our local New York state senators, particular on the democrat side, are not very happy with me because I've been exposing the hypocrisy, particularly that this has created a public safety crisis problem, not just in general, the general public, but more so in high crime and low income neighborhoods, communities. The very communities that these advocates for these bail reforms are claiming to be advocates of. And Monica Martinez who is a senator out in Suffolk County, I've had numerous conversations with here where she has actually spoken about how these bail reforms and discovery reforms are going to affect her neighborhoods and her communities the worst. Of course, you know, she was one of the ones that
signed on and voted for this because the way everything goes on in Albany is, if you want your school district money and you want things for whatever, you're going to vote yes for the budget. So everybody kind of had a gun put to their heads. Meanwhile, I'll give her some credit now, she has been a vocal critic of bail reform and discovery reform and has been behind the scenes trying to get things changed, as far as I think she's annoying the master's voice up in Albany also because there's a lot of infighting going on there.

The only community that these bail reforms and discovery reforms are advocating for is the criminal community. Jed Painter spoke before about drugs. Drugs and what do you call it? The court, the diversion courts, things like that. That's 100 percent correct. They're not even being diverted to diversion courts and
in the Nassau County jail. Where we have detox programs and drug programs, they're not being able to avail themselves of this. So what goes on is you have people that are arrested for crimes that are either high on drugs or they're selling drugs. They're addicts. They're not being put into programs. They're not being put into diversion programs. They're not being held in our jail, they're not being detoxed. They're not being put into drug rehabilitation programs to help them that are coming from a lot of these low income and crime ridden communities, they're kicked back out into the street again. And what are they going to do when the first thing they get back out in the street again? They're still addicted, they're going to be looking for the next high, they're going to be committing another crime. I've said that numerous times. 

In conjunction with several of
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you here and other organizations, including the down state correction coalition, we've on an information tour educating our residents on exactly what has gone on in New York State completely under the radar until it was implemented last year.

Going back to 2013 one of the things that I key on is a lot of people aren't familiar with the Littman Commission. Jonathan Littman, who used to be the head judge in New York State.
The New York City counsel put together the Littman Commission to study criminal justice reforms in New York State and with the laughable premise at that time of how do we close Rikers Island. Rikers Island had 15,000 inmates on it at the time. The idea was how do we close Rikers Island.
Where exactly were all of those prisoners going to be going? I also have spoken numerous times about the myth of mass incarceration. I know a
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lot of people have been talking about this. The United States has so many people incarcerated. Over the last ten years, the incarceration rate in the United States has dropped precipitately. There is no mass incarceration anymore in this country. Just talking -- and especially in the state. Just talking about the numbers that I've had before. Our inmate head count just in Nassau County, our own local community here, should be between 1,600, 1,800 inmates. It's down to less than 1,200, 1,150. It was 1,050 before bail reform and then we ended up losing another 350.

Also the fact that prior to bail reform, over 70 percent of all people that were arrested in New York State prior to these reforms, were either released on their own recognizance or bailed out. 70 percent. That left 30 percent of all people that were arrested for crimes in New York State
under the discretion of a judge who
even at that point there was no
judicial discretion about public safety
but there was a lot of other avenues
the judges could have.

One thing that I could say
without a doubt, from my perspective,
and I know a lot of other people
probably won't bring it up, is that
there's a lot of agendas at play here;
money, real estate. They had on the
Littman Commission, there was 27
different people on it, I believe it's
14 that were on that are in law firms
that their specialty is real estate.
These are the people that were on the
Criminal Justice Reform Commission in
New York City about what to do with
Rikers Island and more than half of
them were real estate law firms. If
that's not eye opening to a lot of
people, I don't know what is.

The other part of it is not
wanting to pay the cost of
incarceration by municipalities. And now, if you speak up against these reforms, and against the fact that these things were shoved down everybody's throats, you're a racist. You're a fear monger because they just cannot accept the fact that there is a true public safety crisis going on in New York State, so you're a fear monger, you're a racist thinking they're going to shut people up. You're not shutting people up when every single day, even on this -- pardon my language -- this liberal rag, the Daily News, is talking about a menace to society who should be in jail. If this is on the front page of the Daily News, imagine what's really going on. That's probably about as left as you get.

Just a couple more quick things. I've been here before and the heart wrenching thing that we got this morning from Mr. Maldonado, he went
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through the list of crimes and all of that. I'm not going to go through it again, you've all seen this. Four pages of all the crimes that are absurdly not under bail reform. The heart wrenching story. I mean that speaks for itself. I don't know what else you could possibly add to that.

Today and every day at arraignment court people are released. Criminals are released for every manner of crime. I follow the statistics, I have it in my office. People are being released for strangulation charges, for heavy duty A and B and C felony drug charges. All kinds of assaults, weapons charges. The whole nine yards. Jed Painter talked about the Brooklyn DA's office that they had 40 people quitting because they were just completely overburdened and they can't get anything done. Cy Vance in the city, the DA in the city is talking about how they're just not going to
prosecute crimes because they can't keep up with it. That's insanity. How does anybody not -- even advocates of this see that that's not -- that that's a problem. Again, we talked about it several times before, no funding was included in any of this from the state, these are all unfunded mandates. No training, no guidance on monitoring. The people that do get ankle bracelets, there's no restrictions on their locations, they're not restricted to their homes. They could travel all around the world and cut the bracelet off and nobody cares.

Drug felonies I talked about. They can't issue bench warrants for 48 hours, no judicial discretion. Where is the -- I've talked about this several times, where is the constitutionality. One judge up in Cohoes, I believe, brought it up about the constitutionality of the separate of powers in the state; judicial,
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legislative and executive. How does the legislature take away the powers of one of the other branches of government? It's insane to me.

Dave McAndrews is a district court judge in Nassau County, in Hempstead. He spoke out and said that one of his -- the people in front of his bench was a menace to society. I'm not letting that guy out, similar to this. I'm not letting him out. This is insane what's going on. It was on the front page of -- story in the Post, I know it was in Daily News and Newsday. They ended up going above his head to the next judge above him and, of course, the inmate was -- the police prisoner was released. What happened to Dave McAndrews the next day? Nobody ever ran a story about this. Dave McAndrews was taken off the bench in district court and given small claims court. He was punished for speaking his mind. That's insane to me. I
don't know where the judges, why the judges aren't jumping up and down about this, whether they're muted or muffled or their master's voices are doing whatever. I hear talks about ethics. This is in not an ethical problem for judges to stand up and say that the legislature took my job away from me. How does a judge get disciplined for speaking his mind and saying that this is wrong and they kick him out of district court that he was elected to serve in and put him in small claims court. That's a punishment. That needs to be looked into.

Lastly, just on my end in the jail, our sheriff retired. We have a new sheriff coming in. From what I understand, a guy from outside, I've heard very good things about him and I'm hopeful that we can change the mindset here of what's gone on. He's got a big correctional experience, he's got a lot of credentials, he's supposed
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to be the real thing, I'm hoping that
we can do something here but I know a
lot of things are going to wait now
until next month when he's brought in.

But speaking of discovery, I've
had some conversations with the county
and the DA's office about this that
inside the correctional facility,
crimes happen in the jail. You have
all the criminals -- well, you sued to
have all the criminals in the jail,
they're still committing crimes in the
jails; assaults, weapons charges,
stabbings, drugs, all kinds of things.
Assaulting our correction officers. I
have just a handful of officers working
in our criminal investigation unit. We
are also subject to all these discovery
restrictions. So I fought like hell to
get a fingerprint machine brought into
the Nassau County jail. We got it,
it's together, it's hooked up. They
haven't trained anybody in it yet,
surprise, surprise. So when an inmate
assaults an officer, we don't lose the case. In the past, I've talked about it here where the inmate's in jail, we don't have to run and get it too fast. You know, we'll get them a week, a month or two down the road and they end up losing track of it and the guy walks out the door. A guy that was on my board, one of my delegates actually went out on three quarters, he blew out two disks in his neck fighting with an inmate and because of speedy trial restrictions, it took so long to charge this inmate, and I've been here before banging on the podium, they had to drop the charges. The guy's out on a disability and the inmate walked away with assaulting a correction officer.

So now we have this other burdensome thing put on us about discovery. We don't have the wherewithal in the jail. We don't have enough people doing these cases, going inside -- I mean, the DA's office is overburdened, the police
department doesn't do our internal investigations, aside from when there's an assault and these things are done, they send it over to the Third. Then they take it over. But attention has to be paid inside the jail, too, because there are crimes committed all the time in the Nassau County jail.

Like I said, assaults, drugs, weapons. We need funding, we need staffing. Funding has to go into this. We just had our budget hearing and they cut the budget for the sheriff's department. I'm still fighting for everything else that goes on. Now we have all of these other discovery programs and stuff that has to be taken care of and we have less staff.

The state legislative proposals that are up there, I'm hopeful that we'll see something productive come out of it. I've spoken to several people obviously over the last year in state government. Some, unfortunately, were
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disingenuous to me and my colleagues as
we were speaking to them that this was
never going to go through, even if it
was in the budget last year unless
there was judicial discretion. And
judicial discretion was specifically
carved out of it. So you know, I have
a lot of people that are annoyed with
me that I'm speaking about the truth
about this stuff. But hopefully we can
start turning this stuff around. If
it's just cherry picked and we'll just
put a couple more crimes under bail and
we'll let the judges have some
discretion over these other things.
That doesn't help. The judges need to
have full discretion over what goes in
front of them. And if you want to get
rid of bail, you know, I don't have any
say in that. I think it's absurd that
you have to have some sort of a bail
system. There has to be some way to
assure the people are going to come
back to court. We can't just say we're
throwing everything out and the
system's going to work wonderfully.
It's just absurd. There has to be --
to me, this whole system should be
repealed. Repeal it and start all over
again. In New Jersey, they keep
talking about how wonderfully it's
working in New Jersey. It took them
three years to phase it in in New
Jersey. They have judicial discretion
in New Jersey. Now we're talking about
going with the federal system. That's
it for me. I appreciate the time. If
you have any questions, I'll definitely
take them.

LEGISLATOR FORD: Thank you very
much and you have always been alerting
us about this. One quick question
though, I know that you're working with
Assemblywoman Martinez or is it
senator?

MR. SULLIVAN: Senator.

LEGISLATOR FORD: Have you
discussed with her the possibility of
the discovery, you know, maybe changing that so that like even Mayor Kennedy said, that if we can have it increase from like say 15 days to 30 days or even 60 days, this will help, you know, all of us.

MR. SULLIVAN: I have been more on the bail end of it than the discovery because a lot of the discovery has to do with the police department and the DA's office but I have been involved in it and I have spoken my mind about the discovery that has to go on inside my department because we can have -- we've had inmates stabbed, drugs, the whole nine yards, officers assaulted, that all pertains to us here and I have had that conversation with them.

Up until recently, the main focus, from what I understand, of the people that are trying to rework these laws, is that they were just going to focus on bail first and then look at
discovery later until we had that MS13 murder and then all of a sudden everybody was going, uh-huh oh, we got to do something with discovery. So now they went back to work and allegedly -- I mean, not allegedly, there is some sort of a package that's supposed to be coming out. It's under wraps because I'm sure they're expecting that the left is going to go out of their minds. They don't want anything done with this, it's great to have everybody running free. But cooler heads have to prevail here and somebody with a brain has to take over and figure out that this is not working. This is broken and people are getting hurt. Mr. Maldonado was up here, people have gotten killed over this. How anybody can stand up and say it's fear mongering and racism is absurd.

LEGISLATOR FORD: I know Newsday wrote that that we shouldn't be fear mongering, whatever. So but, remember
don't let them silence you because we need people with courage to speak about this.

MR. SULLIVAN: The only way they're going to do that is if they hit me over the head with a bat and I'm expecting that to happen one of these days.

LEGISLATOR FORD: I'll protect you but I have Legislator Ferretti who has a couple of questions.

MR. SULLIVAN: Thank you very much.

LEGISLATOR FERRETTI: Brian, don't leave yet. I want to thank you for your testimony and thank you for diving so deep into this. We've hosted community meetings on bail reform in Levittown -- well, actually at Hicksville at Levittown town hall but the community is very appreciative for your involvement in this and I'm very appreciative for everything that you're doing.
I do have two very specific and short questions for you and it goes back to kind of how we opened this meeting with the Minority Leader referring to a December 16, 2019 press conference, which we jointly held.

MR. SULLIVAN: Right.

LEGISLATOR FERRETTI: Prior to December 16, 2019, had the administration reached out to you about any type of implementation of this bail reform?

MR. SULLIVAN: No.

LEGISLATOR FERRETTI: After December 16, 2019, did the administration come forward with a plan and if so, when?

MR. SULLIVAN: There was no plan that I know of. All they did was release inmates because of these bail hearings and whatever else. And whatever was left, I think we discussed it a little bit, people that got out, whatever was left on New Year's, they
were let out and I was there and took
note of all the people that were
leaving, but there was no plan.

LEGISLATOR FERRETTI: What I'm
referring to is the NICE bus.

MR. SULLIVAN: Oh, yes. Yeah.

LEGISLATOR FERRETTI: Do you
remember an announcement that came
after the December 16, 2019 --

MR. SULLIVAN: I thought you
meant the sheriff's department itself.

LEGISLATOR FERRETTI: No, no, I'm
talking about the administration. Did
d they come out with a plan after the
December 16, 2019 press conference?

MR. SULLIVAN: There was a plan,
yeah.

LEGISLATOR FERRETTI: Thank you.

MR. SULLIVAN: Thank you.

LEGISLATOR FORD: Thank you very
much. And now Kevin Black, please.
And everyone, thank you all for your
patience.

MR. BLACK: The temptation at
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this point is to say it's all been said
but I waited this long so I'm going to
say it. The biggest thing about this
whole reform package, in my opinion, is
judicial discretion. We elect judges,
judges who have been sitting in the
courts for years and suddenly they
can't make a decision.

Thank you very much for moving
over. It's makes it much easier now.
You're all in like central view, I
appreciate that.

The fact -- look, nobody here
wants people who are arrested as first
time offenders or for low level crimes
or marijuana crimes be stuck in jail
because they can't come up with the
bail. That's not what this is about.
This is about serious criminals who are
being released because a judge can't
take into effect their criminal
history, their flight risk, their
danger to the victim, witnesses or the
general public at large. This is
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absurd. How can you not take somebody who's been arrested 15 times for doing street robberies. The judge should be able to look at that and say you know what, as Judge McAndrews said, this guy is a menace. He needs to go to jail and wait for trial. To have these people just consistently released because according to somebody's definition, it's not a violent crime. It makes no sense at all. And that's probably the biggest thing about this whole reform. There's no common sense in it. Nobody sat back and said if we do this, what's going to happen?

Discovery, the 15 days. You've heard from Jed Painter, you heard from the commissioner, you heard it from Brian, with all the electronic advances we have to be able to collect this information and put it into a package and have it ready to go in 15 days when speedy trial requires 90 days for a misdemeanor and 180 days for a felony,
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what are we talking about? Why does it have to be there in 15 days? Why are we releasing witness and victim information to a defendant's attorney 15 days later. Now, nobody can draw a direct line between what happened to the gentleman in New Cassel would was prepared to testify, but really, would it take a lot of imagination when this was being set up that somewhere down the road something like this might happen. That a witness would be assaulted much less murdered. I mean, and oh my, how could this happen? You give the information. It's happened.

Lastly -- well, I just did that. The question came up earlier about what -- did anybody reach out and speak to the commissioner or this or that, and nobody did from the state. But last year, as members of the police conference in New York and the New York State Association of PBA's and the sheriff's conference, we were all up in
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Albany when this started to get out and we were all lobbying against this and we were all ignored. You know, I understand that you as a county legislature don’t get to vote on these things. But you know, you just as well as I can call Albany and speak to my state rep, you can do the same and we should all be doing it. That’s all I have to say.

LEGISLATOR FORD: Thank you very much. You know, to be quite honest with you, and I guess maybe it could be our fault, but we weren’t truly aware of the full impact of what was going to happen until we had our budget hearings in public safety and Jed Painter was the first one to get up and talk about this. We had inklings but we never really -- I for one, I’m speaking for myself -- I for one never really truly realized the full impact. Nothing was ever sent out by the state what the changes were going to be until he
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brought it up and it's been a nightmare ever since.

MR. BLACK: I think that even the people who expected problems from this, didn't expect the level of problems that have become. It's a revolving door. I mean, the commissioner spoke earlier about a guy that robs a bank, walks in, gets printed, walks out. Three days later robs the same bank. I mean, if you work in the bank you got to be sitting there going how long is it before this guy comes in with a gun or does something to one of the employees when they're leaving.

LEGISLATOR FORD: Right. I have a woman who contacted me because she doesn't know what to do. She's living in fear. She has this neighbor, you know, that is just very -- he's like being very threatening and so forth and so forth and she refuses to call the police because she said he's going to have my information. He's going to
know I'm the person that called him and I'm afraid he's going to come after me. So this is what's happening. It's like people are afraid now to even report any type of crime and they're going to have to let themselves either put up with it or move away. I don't know what the solution will be. So let's hope that there will be changes and hopefully -- I agree with Brian, I think the whole thing should be scrapped and finally bring everybody in, you know, that understands the need for reform and how to best achieve it.

MR. BLACK: This has gone from reform to turning the system upside down favoring the criminal offender.

LEGISLATOR FORD: And put our police at disadvantage. But no, first Rose and then you.

LEGISLATOR WALKER: Thank you, Denise. And thank you Kevin and Brian, and certainly everybody who's spoken and the other union leaders that are
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go to speak. But when we were over
at Levittown hall there happened to be
a-- and I'm going to say a gentleman
because he really did turn his life
around. All right. There was -- well,
to me a young man, but a lot of people
are much younger than I am -- but he
spoke and he said, you know, he goes, I
was bad. I was bad. He was drug
involved and he goes I did a lot of bad
things. I did a lot of bad things.
And you know, I was arrested and I was
in jail and all I thought about was
getting out of jail and whoever made me
get into jail I was out to go get them
and whatever. And then he said I ended
up doing something really bad -- he
didn't tell us how it happened -- but
he goes, you know, I killed somebody.
He spent time in jail and -- but while
he was there seven years in jail, he
did get his life together and now he
does counseling and really tries to
help people get on the right track.
But as he said, you know, the real -- I'm going to say bad guys, okay -- you know, they're in jail. All they're thinking about is getting out. And he goes, and I want to tell you something, he goes if those discovery laws were like that when I was in jail, he goes there's not one doubt in my mind that I would have gotten out and killed whoever got me in here in the first place. He was very emphatic about it. I mean, he -- I mean, it broke your heart to think that he wasted so much of his life but where he turned his life around, but it made everybody in that room (End of Tape 3, Side 1) for so many people and it worries me. It worries me that people, you know, women that are attacked, maybe they're not even going to report their attacks because they're afraid. They're afraid to give out their information. They're afraid that now somebody's going to come back. You know, you have somebody
in your home who's been attacked, who's been raped and now that person could possibly be brought back to the home to the scene of the crime. You know, what if now her husband gets a gun out and kills that guy? That guy -- now the husband's in trouble for something that shouldn't even be happening. It's just -- it's just a sad state of affairs that we're even -- that we even have to discuss this. It just doesn't even seem real. When we had our first press conference, I said, you know, if this was a movie script, we would think this is not believable but yet, this is how we're living life today. And it's very very scary. And we wouldn't know as much, except from the meetings that we've had, our community, our residents wouldn't know as much if we didn't have those public meetings and get that word out and -- you know, it isn't to spread fear, it's so people know. People have to know what's going on. You know, and
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we do. We do reach out to our state officials and say what the heck, what are you thinking. You know, they have families. Where are their heads. What if this is your family that's involved. It's just not good.

MR. BLACK: It's a sad state of affairs.

LEGISLATOR WALKER: It's just a very sad state of affairs. So I'm just going to leave it at that. I don't know -- I know other people have something to say but I just want to thank you for being here today and thank you for continuing to do everything you can possibly do to keep our residents as safe as they are.

MR. BLACK: Thank you.

LEGISLATOR DERIGGI-WHITTON: I want to say that I think I'm not being part of this process obviously, but I think that what you started out with was probably the intention of this bail reform which is, you know, if someone
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has a small amount of -- I don't know, if someone makes a mistake, you know.

MR. BLACK: A low level offense.

LEGISLATOR DERIGGI-WHITTON: A low level offense, and you know, it can happen. We were all young once, the brain doesn't develop which I really believe now after having kids of my own, until you're 25. But anyway they're all good kids. But anyway, I have to think that was the intention and I do believe that there's no reason that someone should be sitting in jail for so long. And even -- I don't know how the other side, but even hearing about how long some of the discovery takes, you know, there has to be adjustments to a few things. But I really think, unfortunately, this was possibly rushed and done quite dramatically where maybe it should have been implemented slower and we should have had more input before it went.

And I have told our state
representatives exactly what I'm saying now. I'm the former wife of a chief of police and a daughter of a criminal judge, you know, they know that I had no ruling on it, but I hear -- I've lived the criminal, you know, justice life. I've heard so much about it for years and I think taking away a judge's discretion is something that, you know, honestly, I really have a problem with as well not just because I'm a daughter of one but --

MR. BLACK: I was going to say, that must lead to some interesting dinner conversations.

LEGISLATOR DERIGGI-WHITTON: There's a lot of political -- I should say republican judge. So you know, that's what I'm trying to take from this. You know, maybe there is some good and some positive that can come from this but it has to be really examined, in my opinion, scaled back and I -- the people I'm speaking to in
our area, I think see that now and that's good. But, you know, it's going to be a question of how quickly they can fix it to the point where we can maybe benefit from some of these aspects, you know. So it's happened in a couple of times since I've been an elected official that I've seen, like, a good intention maybe go wrong. You know, we've seen a couple of other instances of that around here, also. Something that should be well intentioned and it would be a good goal to have but there are other ramifications that happen that we might not have planned for or anything else. So, you know, that's how I personally believe. I agree with much of what I heard today and I don't think it's going on deaf ears, it's just, unfortunately, the way the state works. From what I understand, there's a lot of influences in areas other than Long Island even that might be curtailing
this a bit. But I don't think that
you're discussion or Sully's or anyone
else's went in vain. I think that the
message is getting across to our local
electeds and I just hope they can do
something to correct it. So I just
wanted to let you know about that.

MR. BLACK: Thank you.

LEGISLATOR FERRETTI: Thank you, Kevin. Just real quick. Just we're
talking about a lot of judges
discretion and rightfully so. That's a
key missing part of this law. But just
going to something Legislator
DeRiggi-Whitton was just saying. I'm
not going to speculate as to the intent
of the legislators who passed this but
their intent aside, in black and white,
they passed what they passed and part
of that, aside from the judges
discretion being taken away, is how
they've somehow redefined what a
violent crime is. So if their intent
was to make this low level crimes, they
failed miserably to do so, I mean miserably because this is anything about that. So their intent aside, if somehow they missed the mark of what their intent is, we know that the senate, New York State Senate has recently proposed a change to this. They should have absolutely no problem passing that. But from what I've read, there's going to be a problem passing that. So I don't know what the heck their intent was, if their intent was to make this only about low level crimes, then they really need to get their reading comprehension checked because that's not what the bill said. And if their intent was something other than that, well, then we have a bigger problem than their reading comprehension.

So again, I want to thank you for all the efforts you've done so far and what we're all going to continue to do to work as one voice to get this
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insanity changed. Thank you.

MR. BLACK: I would leave you
with an old comment. The road to hell
is paved with good intentions.

LEGISLATOR FORD: Thank you.

James McDermott, please.

MR. MCDERMOTT: I'm joined at the
podium with Kenny Cortez, he's the PBA
chairman of Board of Trustees and who
else we got. I got my whole crowd
here. I got Frank Archariot [phonetic]
and Brian Quade, delegates.

I had good morning written down,
it's almost good evening, right? Good
afternoon. I'd like to thank you for
allowing me to speak today on such an
important issue and I'm sorry if I'm
going to be repetitive but I just got
to get on record. I'm going to speak
to you today not only as the PBA's
president and a police officer, but
also as a Nassau County resident, a
lifetime New York resident, a father, a
son, a brother, a neighbor, an uncle
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and a friend. All of these jobs I take very serious.

I'm just going to give you a little history on bail reform from what I know. Criminal justice reform was enacted into law in New York State in the 2019/2020 budget. The reform started January 1, 2020 it includes no cash bail and no remand for misdemeanors and nonviolent felonies in most cases. Violent felonies, cash bail and remand can be applied but the judge must use the least restrictive means. The release on appearance tickets and on certain crimes are now mandatory, not officer's discretion. In crimes such as resisting arrest, the subject has to be released on an appearance ticket. My members will be required to issue appearance tickets for all petty offenses, misdemeanors and most class E felonies unless the following circumstances exists. The arrestee has one or more warrants or he
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has failed to appear in court in the
last two years. Or he is unable to --
or unwilling to verify his identity or
in certain domestic cases. Or the
victim is seeking an order of
protection against the subject. Or if
the crime that involved possibly having
the defendant's license suspended or
revoked. Or if the subject poses a
danger to himself mentally or
medically.

And this is very important, I
know we've spoke about this over and
over again but pretrial discovery
evidence. This new law places an
unreasonable burden to turn over all
evidence to the defendant within 15
days, including names and contact
information of victims and witnesses.

From what I understand, the
reform was enacted because the
legislature felt that there was
systemic inequity of who are held for
trial. They felt that people with
money were freed and the poorer subjects who committed the same crimes were remanded because they didn't have the means. Discovery changes were made because they felt the defendant was not given all the information in order to defend himself or take a proper plea.

Issues we feel we need to address in the bail reform are judges discretion to remand. Defendants getting released and committing the same crimes over and over again. Subjects being released that may pose a danger to others. All subjects being treated similar. People are different and releasing them into general population should not be a cookie cutter approach. Some defendants, not all, are just a flat out danger to society. We need to add more crimes to this list. And finally, give judges discretion in all cases.

Issues that we need to address in the discovery laws. Currently, all
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evidence must be handed over to the defendant, like I said, in 15 days after arraignment. That has to change, it's just not enough time. This includes victims and witnesses identities and contact information. Prior to this, defendants only got that info prior it trial. The new system is causing witnesses to hesitate to get involved and possibly put the witnesses and the victims in further fear of their safety. This system is placing criminal cases in jeopardy and the prosecutors cannot turn over the evidence on time.

What we see what some of the solutions are: Give the evidence to the defendant as soon as reasonably possible and on a staggered basis. Evidence immediately in the district attorney's hands given over, test results such as blood evidence, DNA, et cetera, should have a reasonable time frame so that the test results are done
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properly, not hurriedly in order to have a proper case against the defendant, as well as protect his or her rights for a fair trial.

However, victims and witnesses identity should not be released unless absolutely necessary and the burden should be on the defendant to prove why he needs this information before a trial or plea bargain. Cases should not be put in jeopardy just because of time restraints.

I ask all of you, both sides -- both sides of the aisle, to have your voices heard in Albany. You're our voice. I got to know all of you, you're all good people on both sides, you know this is wrong, you know this has to be reformed and it has to be reformed now. Remember, it's never too late to do the right thing. Thank you.

LEGISLATOR FORD: Thank you very much. I know that we -- you know, Jed talked about the morale with the ADA's
in regard to this. Do you feel that this is having an impact on the morale of your officers?

MR. MCDERMOTT: Oh, of course. You know, it's turnstile justice. New York City takes a little bit longer to book somebody and, you know, I was a New York City cop in Brooklyn 32 and a half years ago, but just the sheer numbers alone in there. The guy's out on the street before you're finishing the paperwork. You know that's, you know, what am I doing? What are we doing here? You know, it definitely has a negative effect. Our guys are professional, and girls, and they're doing whatever they have to do, so we're doing what we have to do. This is our plea to have Albany listen to you. I heard Kevan say that let's put a letter together, let's put a letter together. Whatever you guys have to do together, do together and let's get this thing done and done right. Thank
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you. Anybody else?

LEGISLATOR FORD: I think that's it. Thank you so much.

MR. McDERMOTT: Thank you so much.

LEGISLATOR FORD: Keep it up, the advocacy. Joel Berse, please.

MR. BERSE: My blood sugar seems to be dropping and being here this long since it started is --

LEGISLATOR FORD: No need to apologize. You have a lot of patience and thank you for waiting so long.

MR. BERSE: Well, from what I originally wrote here it said morning, so now good afternoon, Legislators. I'm used to being an extemporaneous speaker in this type of an element but because of the gravity of this and the people that I've spoken to or that I made a prepared statement that may repeat some of what's been said but it also should help people maybe realize that it's not just the ones who are
working in a police department or the sheriff's department or the DA's office. Also the people out in the streets, in the neighborhoods, the ones who live in Nassau County know what we're talking about. Let me get on with my statement instead of babbling now.

My name is Joel Berse. I am the immediate past president of the Northwest Civic Association in Hicksville. Also immediate past president of the Hicksville Community Counsel. During my career I have been a member of the chambers of commerce in Hicksville, Levittown, Wantagh, Farmingdale, East Meadow, Lindenhurst and the Long Island Association. I currently serve as an appointed member of both the Nassau County bus transit committee and the police commissioner's community counsel. I hold memberships in the Nassau County Police Reserves Association and in New York State
Fraternal Order of Police. In my youth I served as an auxiliary police officer in the Jericho unit.

I made this introduction to demonstrate that I believe myself to have an accurate feel for the pulse of my fellow county residents with regards to many matters, especially the bail reform laws implemented by our state officials this year. There are also concerns regarding our police being able to remain as effective as they always have been.

Last September, Senator Anna Kaplan came to introduce herself to Hicksville at our Northwest Association meeting. At that meeting, she spoke of all the wonderful items she voted for during her first few months in office. However, she omitted these new bail reform laws from her accomplishments.

In October, our POP officers from the second precinct came to the next meeting we held to inform the community
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about the upcoming changes to our
criminal justice system in 2020. It
was really a show of horror and shock
that people didn't know what was
coming. The very next morning I
appeared before the Oyster Bay Town
Board and implored them to communicate
with state officials that their
constituents were seriously concerned
about quality of life issues with these
changes.

Assemblyman Mike Montesano spoke
at our November meeting and brought
with him the list of offenses that no
longer would require posting bail. One
that sticks out in my mind was for
carrying a gun on school grounds. He
also spoke of the new discovery portion
the law that effectively gives more
rights to the suspect than the victims.
Main points being disclosure of
personal information and visiting the
scene of the crime even if it's inside
of the victim's home. It is public
knowledge that immediately after being arrested and released several individuals committed additional crimes. Often suspects are released before their arrest paperwork is completed. A cop off the street for making an arrest is terrific but the cop still off the street performing the associated duties to the arrest while the alleged perpetrator is back on the street committing offenses is horrific. Therefore, it is incumbent on all elected officials at any level within New York State to insist that these laws be revisited, revoked or revised for the safety of the residents in their constituency.

I now challenge all of you in our legislature to act accordingly for the quality of life in Nassau County. A lot of you have a pipeline to these people that created the situation and I hope you do speak to them loudly and clearly because it does sound like the
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legislature is in tune and is on our side to try to cure this situation.

LEGISLATOR FORD: Thank you very much for your comments, sir. It really is important to hear, especially with your background, you know, so -- and you're spurring us on to make sure that we get to that state and make these changes.

MR. BERSE: Have a good day.

LEGISLATOR FORD: Okay. Jeffrey Gross, Detective's Union. And I'm sorry, I didn't -- my eyesight isn't -- even with glasses it's not that good, so I apologize.

MR. GROSS: No apology necessary. It's Jeffrey Gross, I represent the detectives of Nassau County. I want to thank you guys for having the hearing today and I want to thank all the prior speakers. I wrote about 11 pages of notes. I don't like to reiterate what's already been said so I've been crossing it out here and there.
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I am one of the representatives who goes into Albany almost every day that they're in session. I'm up there with Ed Perkins from the PBA and Pete Patterson from the -- I'm sorry, the PBA and Eddy Perkins from the SOA. But we deal with this bail reform and we've been talking about it for since March or April of last year when we knew it was coming down the pike, as has been explained to you already. I don't think any of us knew how bad it was going to be. But I do have to say when you tuck it into the budget and you don't allow people to vote on it as a stand-alone and you don't allow it to mature on its own, that's when we have these problems. I think that was done on a -- even though we don't want to keep political or say it's political, it's political just by them doing that. It wasn't a natural progression of the law or the changes. The laws change every year. Every year new bills come
in, they're addressed, they're appealed
and that's how it goes. You don't
change the entire landscape of the
criminal justice system in one sweep
where you hold people really as Brian
said earlier, with a gun to their head.
New legislators up in Albany didn't
know that they could vote no on the
budget. They felt that they had to do
that for their constituents to keep it
going. I spoke to many of them up in
Albany and that's how something like
this was able to exist. It's also
something that you're likely to see,
and I don't have any firsthand
knowledge, but that's how they're going
to roll out the marijuana bill.
They're going to put it in the bill --
I mean, in the budget, and they're
going to roll it out. And those
ramifications, we're going to spend a
long time figuring it out.

But as much as you may be able to
fix bail reform by judicial discretion
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and review, those seemed to easy fixes.
I think the bigger problem we have is
discussed by the ADA before is the
discovery reform. Discovery reform,
it's not as much as we let the guy go
and now the detectives have to go out
and find the guy because he's got a
warrant, and that's a big issue for us.

But with the discovery, you're talking
about dismissing a case where there was
a victim and it could be a serious case
or whatever, and you're going to
dismiss the case. It's not that we
have to go get the guy, it's going to
be dismissed and he's going to leave.

And what I want to point out is
you have this 15-day discovery that
they mandated but yet when we send out
subpoenas as being a detective for
phone records or bank records or
whatever, we allow those entities 30
days to comply with the subpoena. So
if I'm sending phone record out and I'm
allowing AT&T or Verizon to give me 30
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days to get it back, how am I supposed
to keep up with the speediness of
trial, which is already 15 days. It's
already -- it already is set up to fail
right from the beginning. They didn't
change any of that.

So anyway, it's a huge issue, I
don't want to reiterate and waste your
time but I will say that how can they
say that they can't trust the judge on
the amount of bail or the seriousness
of the crime or the history of the
defendant when we trust him later on to
make the sentencing. It's the same
judges. You don't trust him on bail
but in the end you're going to trust
the same man. It doesn't make sense
and a lot of it is just trusting in our
system the way it's always been. Any
time you have sweeping reforms, but now
we're going to take us years to fix is
not a good thing. But thank you for
your time.

LEGISLATOR FORD: Thank you very
much for your patience. Let's hope that the state legislature has learned their lesson. And we will send a letter and also to remind them, don't make the same mistake twice, you know with the marijuana legislation. Take it out and vote on it independently. But really bothers me most about all of this is that they were aware of some of the impact, the negative impact this was going to have in law and order here in New York State. Even when you listen to that interview with Senator Kaminsky and Power and Politics, News 12 or whatever, and he admitted that he met with people in law enforcement and DAs prior to his voting on this and he still voted for it even though they told him, please don't. So I think that all of them, they may, you know, they may say, well, we shouldn't have but I really wish that some of them who are more seasoned should have shown some restraint and to put the halt on
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this so that we wouldn't be going
through this at this point. But I
thank you very much. Because I know it
undermines our detectives as well. I
mean, and we're trying to give you
support.

MR. GROSS: I agree and it's very
frustrating for our detectives, our
police officers who work on these
cases, they're important to us and then
they're not even going to be able to
get into court, they're likely to get
dismissed beforehand.

LEGISLATOR FORD: Right.

MR. GROSS: And you know, I have
to say for our own district attorney,
you know, Madeline Singas ran up to
Albany from the beginning and she
recognized this and she brought it to
the governor's attention and he told
her in sum and substance, whatever, not
to quote it, but he said that I don't
think you fully understand what the
legislation is and she said no, I do
and she was right. She knew it was going to be a problem, she addressed it, she went up to Albany, she's continued to go up in Albany as an advocate for -- you know, we're not against change, but we don't want change just to have change, it's got to be common sense. It's got to go the normal evolution of the legislative process. You can't just roll something out where it changes everything, where it costs, you know, these small municipalities millions of dollars and we haven't seen the problem. As ADA Painter said before, if you wait until July or August that's when all the bottom is going to fall out on a lot of these cases when they're going to be held to task and they're going to have to let these cases go. You know, I heard this story, if you don't mind, for two seconds. New York City woman, elderly woman, she had 30 something thousand dollars stolen from her from
her home care aid. She went to the police, she called the police, they made the arrest. The DA refuses to prosecute the case because they have to get the bank records, which they know is going to take over 30 days, they can't do the 15 days. And the problem with that is, the woman's not able to get the order of protection so she's not able to prevent the home care aid to come to her house and beg her not to press charges that she'll pay back -- and harass the woman because it's not an active case so they won't give the order of protection. So now the DA there is waiting for this bank records to come back so they can start the clock. I don't think that's the intent the law where we're always going to be doing this stuff and we can't protect our citizens. We say it's for public safety but you can't give this elderly woman in her 80s an order of protection until the bank records comes back. And
the banks aren't held to the 15-day discovery rule. You know, they're held -- when they get the subpoena from the Nassau County judge, it says you have 30 days to comply, that's the minimum. So how can we possibly go in 15.

LEGISLATOR FORD: Exactly. And I think to myself now with, like, with DA Singas being on that justice panel, you know, if all of those people were first brought into the room to say to come up with a model of changing the justice reform system to make it more -- make it fair for some of the people who really shouldn't be in jail, what a different story we'd be telling today, you know, rather than trying to --

MR. GROSS: I agree. We don't want one single person in jail more than they have to be.

LEGISLATOR FORD: Right.

MR. GROSS: Or an innocent person -- we don't want that even one time but we're paying for it by having tens of
thousands of cases that are going to
thrown out because we wanted to protect
that one person from being in jail.
And I get it, it's got to work itself
out. This way is not going to work.
And you know what, it's only -- the
problem is when the bottom falls out in
July and August, the legislators are
not going object to be up in Albany,
they're going to be on break and
there's no way they're going to address
it. They don't come back until January
the following year.

LEGISLATOR FORD: They'll be
campaigning.

MR. GROSS: Correct, they'll be
campaigning, so it'll be a very
interesting fall.

LEGISLATOR FORD: Interesting,
yeah. But try to be safe, please.

MR. GROSS: Thank you very much
for your time.

LEGISLATOR FORD: Thank you.
Pete Gaffney. He left? Okay. Susan

MR. ROCHESTER: You're welcome. My name is Ron Rochester. I am a retired federal agent. I was criminal investigator for over 25 years. In addition to that, I was -- I had clerical duties as an undercover agent, a tech agent, which was body cameras and GPS's and such like that and I was the field office two-way radio communications officer. And I came here to -- you know, I've been discussing this with my community and people out in the community for some time regarding the bail reform and I won't go over a lot of the other things that people have gone over with, but the discovery that is really an important and a very -- I want to call it -- I find it to be very -- there's a
word for it -- anyway. I find a problem with that issue.

One of the things that we haven't been discussing, I think people are missing the issue is, we have a lot of undercover agents, we have confidential informants. I mean, you talk about witnesses but that information is going to be disclosed to defendants and defendants' attorneys. You're going to put the lives of undercover agents at risk. I spent many years in undercover agent and for my information to get out there and for someone to now have my home information, my family's at risk, something like that, it's really troubling. The fact of the matter what hasn't been discussed is that there is a tremendous amount of task forces that have federal, state, local agencies working together. Now you have to have -- their information has to be discovered. You're going to have to go to these federal agencies -- nobody's
discussed that -- and get information from that that has to be disclosed to defendants, so in cases that might be put on a state level.

You're going to have -- you have undercovers who their information may be disclosed and they might be working on a federal case and now what? What happens? Now you got a problem with a big federal case that's out there because they're working on that case with federal agents. This has got wide ranging ramifications that people haven't even discussed yet. And how does that work? When you go -- like the radio system you have the county has radio system, well that's recorded. Or many federal agencies do not record the radio information. Defense is going to ask for that in discovery. You know what, if they can't provide it, that case will probably get thrown out.

These are all things that should
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have been discussed and thought about
well before this ever came and put into
effect. It's wide ranging and this is
really really important. Now we're
going to try to backtrack and try to
fix this and I have a real problem with
that. I think we really need to talk
to our legislators, people in Albany to
say hey, you need to look at this in
complete detail. You can't, you know,
give a whitewash to this thing. It
goes well beyond what a lot of people
are talking about right now and we need
to make sure that we put something in
place that is not going to come back
and shoot us in the foot. And you
know, it's really important that we
take a look at all. We need to bring
in some of the federal AUSA's involved
in this and say, how is that going to
affect our joint task force and our
joint investigations with this law.
Nobody's looked at that. That's the
reason I'm here. I thought it was
important for me to stay and discuss that and make everybody aware that this is something that we need to look at.

LEGISLATOR FORD: Thank you for your patience. And you actually brought up some issues that we never even thought about, like, you know, whether or not -- what impact it does have with CI's and undercover --

MR. ROCHESTER: I've been on the other side of this as a federal agent so I know what we're talking about. I've had many state undercovers, I've worked on, you know, city and state investigations myself, and I've had guys work with me on federal investigations and they do cross.

LEGISLATOR FORD: It's frightening.

MR. ROCHESTER: It's very frightening.

LEGISLATOR FORD: We're hoping that the state will finally listen to the residents and say, you know, we
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need to back pedal on this and make
some changes to protect all of us.

MR. ROCHESTER: Thank you.

LEGISLATOR FORD: And thank you
very much. I really appreciate your
comments. Manmohan Kaur, K-A-U-R.

That was our final slip and I
thank everybody. Steve will close up
our meeting. Thank you.

LEGISLATOR RHOADS: I just wanted
to thank everyone that took the time to
appear today. Everyone that may have
been watching at home. And I want to
thank everybody for their comments. I
think there was a lot of information
that was provided today. There was a
lot of insight that people provided,
particularly in our law enforcement
community, our community members who
spoke about the practical impacts of
cashless bail of criminal justice
reform. I've got to say though,
government has no more important
responsibility than to protect the
safety of the public. From where I sit at least, I think that this has been a complete failure of New York State government to do that. And I know a lot of people got up today to kindly offer a pass to the state legislature as to why these reforms came in place. The simple fact of the matter is we heard from many of our police unions that were up in Albany prior to this bill being passed alerting state legislators to the fact that there would be consequences and that there would be problems if criminal justice reform and cashless bill was passed. The problem isn't that they didn't hear -- it's not that they did not hear what would take place. The problem is that it seems as though they did not care and they simply passed it anyway.

You know, I had a conversation with my own state senator at a public meeting who explained well, you know, it was passed at the last minute as
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part of the budget, and I didn't even
know that it was there. Honestly, not
an excuse. If you're complaining about
the process, you control the process.
Marijuana legislation that they're
talking about being passed as part of
the budget this year. It was supposed
to be passed as part of the budget last
year but it wasn't. Why wasn't it
passed as part of the budget last year?
It wasn't passed as part of the budget
last year because legislators in Albany
got together and removed it from the
state budget. So the notion and the
concept that maybe freshman legislators
didn't understand, maybe the folks that
are supposed to be representing us in
the state senate from Nassau County up
in Albany didn't know that they didn't
have to vote for the budget. That is
absolute nonsense. And the thing that
frustrates me most about this is that,
yes, this may have started off with
great intentions trying to make sure
that a low level criminal, a first offender, wasn't going to sit in jail because they couldn't afford to pay bail. You look at the list of crimes; burglary of residence, using a child to commit a controlled substance crime, injecting another person with a controlled substance, manslaughter, possessing a weapon on school grounds, solicitation of a minor for prostitution, assault as a hate crime. These are not low level criminal offenses and they're in black and white. Everyone had the opportunity to see them and it was ignored.

Mr. Maldonado who testified earlier today and was our first witness, he's the one that's paying the brunt. He's the someone that's suffering the consequence and his family and his son who will never come back because our state legislators didn't take the opportunity to listen to what was being said. And what has
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to happen here, and I hope we do send
that letter up to Albany, I know I've
reached out to my local legislator on
multiple occasions to share my
thoughts, I hope we do send that letter
but what needs to happen here is not
tinkering around the edges. What needs
to happen here is a complete repeal of
this legislation and then we can sit
down and have a bipartisan conversation
with law enforcement, with the ACLU to
talk about sensible criminal justice
reform that actually accomplishes what
we think the good intentions of this
legislation started out to be. That is
is not what's happening today. Every
day that we delay it is another day
when there's the chance that there may
be another family just like Victor
Maldonado and Jonathan Maldonado, his
son, that there will be another family
like that victim of MS13 in New Cassel
or any of countless examples that are
in our papers every single day.
They're the ones that are being put at risk and they continue to be put at risk every day that we delay this. And my fear is, that even though the legislators that we have here in Nassau County are now saying we want to walk this back, there are elements up in Albany, including the leadership, I think, in the state assembly specifically --

LEGISLATOR FORD: And the New York City people --

LEGISLATOR RHOADS: -- that does not want to walk it back. You know, and that's the problem with doing something and thinking that you're going to be able to fix it later is because you have to get the votes to be able to fix it and you might not. So the only way that that's going to happen is through hearings such as this, through conversations that we're having in our own districts and from each and every person that's listening
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to this today reaching out to their state legislators and letting them know that the failure to act is going to bring pain. Whether that turns out to be at the ballot box, whether it turns out to be in public meetings, whatever that turns out to be, action's not going to happen until they realize that there are consequences.

I appreciate everybody being here today and sharing their thoughts but the message to take away from this today is that there are a lot of issues that are created by cashless bail and criminal justice reform and that we need to stand up and we need to speak out together to make sure that the right action is taken up in Albany to protect public safety.


(Hearing concluded at 4:10 p.m.)
CERTIFICATION

I, FRANK GRAY, a Notary Public in and for the State of New York, do hereby certify:

THAT the foregoing is a true and accurate transcript of my stenographic notes.

IN WITNESS WHEREOF, I have hereunto set my hand the 6th day of March 2020.

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FRANK GRAY