

JOINT BUDGET HEARING
OF THE
ASSEMBLY WAYS AND MEANS
COMMITTEE
AND THE
SENATE FINANCE COMMITTEE
ON THE
PUBLIC PROTECTION BUDGET
FOR FISCAL YEAR 2010-2011

Hearing Room B
Legislative Office Bldg.
Albany, New York

February 8, 2010
9:44 A.M.

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A P P E A R A N C E S:

ASSEMBLYMAN HERMAN D. FARRELL, JR., Chair, New York State Assembly Ways & Means Committee

SENATOR CARL KRUEGER, Chair, New York State Senate Finance Committee

ASSEMBLYMAN JAMES P. HAYES, Ranking Member, New York State Assembly Ways and Means Committee

SENATOR LIZ KRUEGER, Vice Chair, New York State Senate Finance Committee

SENATOR JOHN A. DEFRANCISCO, Ranking Member, New York State Senate Finance Committee

ASSEMBLYWOMAN HELENE E. WEINSTEIN, Chair, New York State Assembly Committee on Judiciary

ASSEMBLYMAN JOSEPH R. LENTOL, Chair, New York State Assembly Committee on Codes

ASSEMBLYMAN JEFFRION L. AUBRY, Chair, New York State Committee on Corrections

ASSEMBLYWOMAN ROANN M. DESTITO, Chair, New York State Committee on Governmental Operations

SENATOR ERIC SCHNEIDERMAN, Chair, New York State Senate Committee on Codes

SENATOR RUTH HASSELL-THOMPSON, Chair, New York State Senate Committee on Crime Victims, Crime and Correction

SENATOR ERIC ADAMS, Chair, New York State Senate Committee on Veterans, Homeland Security and Military Affairs

ASSEMBLYMAN MARCUS MOLINARO

ASSEMBLYMAN CLIFFORD W. CROUCH

ASSEMBLYMAN WILLIAM L. PARMENT

ASSEMBLYWOMAN TERESA R. SAYWARD

ASSEMBLYMAN TONY JORDAN

ASSEMBLYMAN FRED W. THIELE, JR.

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SENATOR ELIZABETH O'C. LITTLE

SENATOR VINCENT L. LEIBELL, III

SENATOR DALE VOLKER

SENATOR DARREL J. AUBERTINE

ALSO APPEARING:

HONORABLE ANN PFAU, Chief Administrative Judge, NYS
Office of Court Administration

HONORABLE FERN FISHER, Oversees Courts in NYC and
Access to Justice Program

HONORABLE THOMAS COCCOMA, Deputy Chief
Administrative Judge, Courts outside of NYC

THOMAS DONLON, Director, NYS Office of Homeland Security

DENISE O'DONNELL, Commissioner and Deputy Secretary, NYS
Division of Criminal Justice

ANDREA W. EVANS, Chairwoman & CEO, NYS Division of
Parole

MARK MANTHEI, Executive Director, NYS Division of Parole

HARRY J. CORBITT, Superintendent, NYS Division of State
Police

BRIAN FISCHER, Commissioner, NYS Department of
Correctional Services

DR. MELODIE MAYBERRY-STEWART, Chief Information
Officer & Director of Office of Technology, NYS Chief Information
Office & Office for Technology

DONN ROWE, President, NYS Correction Officers PBA

THOMAS MUNGEER, President, NYS Troopers PBA

STEVEN BANKS, Attorney in Chief, Legal Aide Society

DEBORAH WRIGHT, President, Legal Aide Society

KAREN MURTAGH-MONKS, Executive Director, Prisoners'
Legal Services of New York

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JOHN DUNNE, Board Member, Prisoners' Legal Services of New York

G. ROBERT WITMER, Former President, NYS Bar Association

JONATHAN GRADESS, Executive Director, NYS Defenders Association

ROBERT TEMBECKJIAN, Administrator, NYS Commission on Judicial Conduct

ELIZABETH GAYNES, Executive Director, Osborn Association

ANNE ERICKSON, President & CEO, Empire Justice Center

TRACIE GARDNER, Director of NYS Policy, Legal Action Center

LARRY EVANS, Legislative Chair, NYS Probation Officers Association

WAYNE D'ARCY, Past President and Co-Chair, NYS Probation Officers Association

TOM LABELLE, Executive Director, NYS Association of Fire Chiefs

ANDREW SCHERER, Executive Director, Legal Services for NYC

EDWINA MARTIN, Director, Communications and Government Relations

ALAN S. HARRIS, President & CEO, Legal Services Funding Alliance

CHRISTOPHER O'MALLEY, Executive Director, Interest on Lawyer Account Fund of the State of New York

TERRY O'NEILL, Director, Constantine Institute

RYAN MOSHER, Deputy Director, Corporation for Supportive Housing

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CHAIRMAN HERMAN D. FARRELL, JR.: Good morning. Today we begin the ninth in a series of hearings conducted by the Joint Fiscal Committees of the Legislature regarding the Governor's proposed Budget for Fiscal Year 2010-2011. The hearings are conducted pursuant to Article 7, Section 3 of the New York State Constitution and Article 2, Section 31 and 32A of the Legislative Law.

This morning the Assembly Ways and Means Committee and the Senate Finance Committee will hear testimony concerning public protection issues at this Budget Hearing.

I will now introduce some of the members of the Assembly -- all of them, as a matter of fact. We are joined by Assemblywoman Weinstein, Assemblyman Aubry, Assemblyman Lentol, Assemblyman Bill Parment, and Assemblyman Hayes, Ranking Member.

ASSEMBLYMAN JAMES P. HAYES: Thank you, Mr. Chairman. On our side we're also joined by Assemblyman Cliff Crouch and Assemblyman Tony Jordan.

CHAIRMAN FARRELL: And now Senator Kruger, Chairman of the Senate Finance Committee, will introduce members from the Senate.

CHAIRMAN CARL KRUGER: Good morning. And thank you, Assemblyman Farrell.

Firstly, just as a brief statement, the Executive

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proposes a number of agency and program consolidations into the Division of Criminal Justice Services and into the new Division of Homeland Security and Emergency Services. These consolidations and mergers will impact both personnel in each program and the services provided by those agencies to the public. We will continue to discuss these issues as part of our 2010-2011 budget process.

At this time I'd like to introduce the Vice Chair of the Finance Committee, Senator Liz Krueger, and our Ranking Member, Senator John DeFrancisco, who I guess will introduce the members from the Minority.

SENATOR JOHN DEFRANCISCO: Dale Volker, Vince Leibell, and Betty Little, the Senators from the Minority.

CHAIRMAN KRUGER: Thank you very much.

CHAIRMAN FARRELL: Thank you, Senators.

First will be the New York State Office of Court Administration, Honorable Ann Pfau, Chief Administrative Judge.

Good morning.

JUDGE ANN PFAU: Good morning, and thank you. I appreciate the opportunity to appear before you this morning to discuss --

CHAIRMAN FARRELL: Is your red light on?

JUDGE PFAU: Now it is. Thank you.

We in the Judiciary very much appreciate the opportunity to appear before you this morning to discuss the Judiciary's Budget request for Fiscal Year 2010-2011.

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Joining me are the Deputy Chief Administrative Judges for the operations of the courts. To my left, the Honorable Fern Fisher, who oversees the courts in New York City and our Access To Justice program. And on my right, Michael Coccoma, who is the Deputy Chief Administrative Judge for all of the courts outside of New York City.

We in the Judiciary fully recognize our obligation to join the other branches of government in responding to our State's grave economic problems and achieving cost savings whenever possible. At the same time, as a separate, coequal branch of government that performs constitutionally mandated nondiscretionary functions, we must secure the resources necessary to meet our institutional needs -- to do justice for all New Yorkers.

Our mission under the State Constitution is to hear and decide each and every case that is filed in the courts. We do not have the option of picking and choosing which cases we'll hear, of turning people away, of cutting programs and services.

And yet we are keenly aware that we do not live in a vacuum. That is why over the past two years we have taken concrete steps to cut spending. Last year we submitted a zero-growth budget request and in the process absorbed significant mandatory cost increases. We undertook a program to encourage targeted nontraditional employees to leave State service. We established employment ceilings in the courts. And we are now into our second year of a strict hiring freeze on administrative positions. Vacancies in

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the Office of Court Administration remain unfilled, allowing us to direct scant resources to the courts where they are most needed.

As a result of these efforts, we have reduced the court system's nonjudicial workforce by several hundred positions during the current fiscal year. We have also streamlined our administrative structure, reducing the number of the deputy chief administrative judges and administrative judges. In addition, we have included a ban on all but essential travel, restrictions on purchase of equipment, very strict controls on overtime, and an increased reliance on online rather than print legal materials.

We are committed to finding more efficient and effective ways to resolve the millions of cases commenced annually in the New York State courts. For example, the court system convened government agencies, legal services providers and others involved in child protective cases to jointly develop and implement a comprehensive plan to expedite and improve the handling of these important cases. Similarly, we took the lead in bringing parties together to improve the criminal arraignment system in New York City, eliminating downtime and other unnecessary delays in that important stage in the criminal process.

In connection with improved case management, I particularly want to thank the Legislature for authorizing further expansion of electronic filing, including, for the first time in New York, three mandatory e-filing pilots in Supreme Court civil cases. This offers significant benefits and efficiencies for everyone who uses

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it.

And lastly, we have made significant efforts to improve operations and enhance the efficiency of the justice courts, which play such an important role in our legal system. Key accomplishments include enhanced training for local justices, greater automation support and, for the first time, a requirement that the justice court's proceedings be recorded. Again, I want to thank the Legislature for their support of this important program.

That is what we have been doing. Now we must look forward. Next year the Judiciary will be confronted with extraordinary mandatory cost increases over which we have no control. Among these is an \$85 million increase in the Judiciary's pension contribution, triggered by the decline in the stock market over the last two years. Other mandated increases include \$7.5 million for health insurance and other fringe benefits, \$58.4 million for contractual nonjudicial salary increases, and \$10 million to implement criminal case caps pursuant to Chapter 56 of the Laws of 2009.

We simply cannot absorb these cost increases -- not of this magnitude, not at a time when we are experiencing record-level caseloads. In 2009, new filings hit an all-time high of 4.7 million cases, as illustrated in the chart that's attached to my testimony. The sharpest increases came, not unexpectedly, in those categories that are particularly sensitive to the economy.

A recent article in the New York Times confirmed what New York judges and court staff experience every day -- the

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State courts are the emergency room for society. When the economy collapses and families are unable to pay their mortgages, consumers default on credit card payments, businesses go badly, it is the courts that are called on to sort it all out.

Among the case types that have grown especially quickly are foreclosure filings, which have more than doubled since 2006, contract disputes, which are up 23 percent over the same period of time, and family violence cases, which are up 30 percent in just two years.

From 2001 to 2009, the Judiciary's caseload grew by more than three-quarters of a million new cases every year, an increase of 20 percent. The economic downturn has fueled only the latest surge in the courts' workload. Yet while growing caseloads are nothing new for New York courts, these are pushing us to the limit.

Over the years, the growth in the court system's resources lagged behind the steadily mounting caseload. Again, between 2001 and 2009, during this period of 20 percent caseload growth, the combined number of judges and nonjudicial employees increased by 8 percent, with much of that increase attributable to the post-September 11th enhancement of court security.

Year in and year out, the demands on judges and nonjudicial employees have grown continuously, without a commensurate increase in resources. Moreover, just the statistics do not tell the whole story. At the same time that the number of cases is increasing, the work of the courts is becoming more complex and

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labor-intensive than ever before.

There are many reasons for this. One is a growing number of the unrepresented litigants, another reflection of the economic downturn. It has been estimated that the number of unrepresented litigants appearing in New York courts increased from 1.6 million in 2005 to 2.1 million in 2009, an estimate that we fear is significantly understated.

A second factor is the expansion in drug treatment and other problem-solving courts. While these courts have been enormously successful, producing better long-term outcomes for the parties, reducing recidivism, and saving the State and local governments untold millions in incarceration, social services, and other costs, they required a significant investment of the court's time and attention.

There also have been legislative enactments that have added to the court's work, invariably without provision for additional resources. We are not complaining. We recognize that they serve very important public interests. But the truth is that each demands more time and effort on the part of judges and staff.

Examples include legislation that mandates heightened judicial monitoring of children in foster care and has doubled the number of permanency hearings; legislation that requires court involvement in settlement of foreclosures and is expected to generate more than 150,000 settlement conferences this year; and custody record-checking legislation which has been carried on for

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more than 1.5 million persons involved in custody disputes, with a total of over 5 million searches.

In the face of continuing increases in court workloads, the judges and staff of the court system have redoubled their efforts. Between 2001 and 2009, the number of dispositions per year increased by 16 percent. However, the cumulative effect of years of steady increases in workload without a comparable increase in resources has stretched the Judiciary to the limit.

A typical New York City judge hearing child protective cases now has a docket of 2,100 cases, up from 1,600 in 2005. In the Rochester City Court, there are almost 8,000 new filings each year for each judge, up from 6800 in 2001. Every judge in every courthouse in the State can tell a similar story.

Unlike Executive branch agencies, the Judiciary does not run programs or undertake projects. There is nothing to defer, consolidate or cut. Our constitutional obligation is to decide cases. More than 90 percent of our budget is for people, the dedicated staff and judges who process and decide these cases. If our budget is cut, there is no option except to further reduce our workforce.

If that is done, what cases should we defer? Do we stop providing assistance to the unrepresented litigants who come to Housing and Family Court? Should New York follow other states and close courts one day a week? Whatever the choice is, the ultimate impact will be felt by the families, businesses, crime victims, and countless others who rely on New York courts to do justice.

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From the perspective of court operations, our request is, in effect, another zero-growth budget. Despite record level caseloads, there are no additional funds for enhanced support for the courts. Virtually the entire increase is for mandatory cost increases over which we have no control.

The single discretionary increase we seek for the courts is \$6 million to increase the judicial supplemental support fund to assist judges with professional expenses. This modest amount represents less than one-quarter of 1 percent of the Judiciary budget request. After more than 11 years without any adjustment in judicial compensation -- longer than any other state -- during which the Judiciary has been called on to do more and more, we believe this supplement is more than appropriate.

With respect to judicial compensation, our budget request again includes language that would raise judicial salaries as well as reappropriation of funds for that purpose.

Finally, we are requesting \$15 million for civil legal services. This amount, included at the request of the justice community, is intended to offset the precipitous decline in IOLA revenues. Nothing is more fundamental to the court system's mission than ensuring equal justice for all. This funding is particularly critical at this time when so many of our most vulnerable citizens are at risk because of the economic downturn.

We believe that the Judiciary's 2010-2011 budget request balances our obligation to join the other branches of

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government in addressing the serious fiscal challenges facing New York State with our obligation to secure the minimum resources necessary to carry out our constitutional mission. This budget is being submitted at an already difficult time for the Judiciary, with court dockets at record levels.

Even in the face of these challenges, New Yorkers can rely on our judges and court staff to continue to work hard and deliver justice fairly and efficiently, just as they have been doing year after year, meeting each and every challenge with great professionalism and dedication.

I thank you for the opportunity to share with you the concerns about our budget, and I will be pleased to answer any questions you may have. Thank you.

CHAIRMAN FARRELL: Thank you very much.

JUDGE PFAU: Thank you.

CHAIRMAN FARRELL: First to question, Assemblywoman Weinstein. But before that, Senator, you have --

CHAIRMAN KRUGER: Yes, we're joined by Senator Eric Schneiderman, as well as Ruth Hassell-Thompson.

CHAIRMAN FARRELL: And we've been joined by RoAnn Destito.

Helene?

ASSEMBLYWOMAN HELENE WEINSTEIN: Yes, thank you, Mr. Chairman.

Thank you, Judge, for being here today.

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I know you talked about the increasing numbers of individuals coming into the court with new problems related to the economy, many unrepresented. I wonder if you could just expand on how the declining economy has increased the need for civil legal services to middle-income and lower-income New Yorkers and the impact that does have on the costs and the impact of reduced funding for civil legal services agencies -- the impact the reduced funding would have if we did not come forward with additional dollars.

JUDGE PFAU: I mean, we are seeing not only increased numbers of those who are unrepresented, we're seeing it across all case types and we're seeing it in a different demographic. Traditionally, you'd see it in Housing Court, with consumer credit cases. Clearly we're feeling it with all the foreclosures, feeling it in Family Court, where the families who are affected by the economy are having their house foreclosed. Then the same family is going to even Supreme Court, with consumer credit cases, because they're in default. They're then going into Family Court on child custody and support issues.

So the breadth of what we're seeing with unrepresented litigants is certainly wider than ever. And it takes more and more court time to, unfortunately, deal with people who just don't know their way around the court system, to explain the process to them.

We have had -- I'll ask Judge Fisher to talk a little bit about the Help Centers that we've opened up to provide assistance.

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But again, that's a resource that we're trying to provide to make sure that the judge in the courtroom can continue to handle the caseload, that the judge in all of these different courtrooms isn't spending all of their time trying to just explain procedures to unrepresented litigants.

But I would like Judge Fisher, who heads our Access To Justice program, to give you a few specifics.

JUDGE FERN FISHER: Yes, thank you. Judge Pfau is correct, the demographics of the unrepresented litigant that's coming into the courthouse is changing, from just low-income to working poor, straight into middle-class litigants. And as the court system, we have an obligation of meeting the needs of all of those litigants who do not have lawyers.

It is a new phenomenon for our court. And there certainly have been increases in what I call the bread-and-butter cases, and that is housing, consumer credit, family, and foreclosures.

What we are attempting to do is to meet the tide of people who are coming into our court with beefing up our Help Centers, formerly known as the Offices of the Self-Represented. We've changed the name to Help Centers. We do not have them throughout the State, but we do have them in New York City and Buffalo, and we should be increasing them in the future. Given our limited resources, that may not be likely.

But on a given day, a Help Center in Civil Court will see more than 90 people with problems, either with consumer credit or housing. And I think part of the story is not just that they have a case,

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but they are dealing with emotional crises as well. And so that emotional underlay of the case creates more stress for the litigant and puts more stress on our staff and judges to deal with what I call the human condition. It's not just a legal problem, it's a legal problem and human crisis at the same time. And that is putting additional pressure on us.

We've increased our programs through the Access To Justice program so that we have a number of Volunteer Lawyer for the Day programs. We've done that with existing resources and with partnerships throughout the City and throughout the State to increase the numbers of volunteers that we have coming into the courts. But it's just barely meeting the needs of the litigants that are coming in.

Civil legal services funding is clearly important. We barely meet 20 percent of the need as it is. Without the funding we will see more evictions. Evictions in the City of New York are up 2,000 from last year. That's a significant number. And I don't have to tell you what the toll on that is to the City of New York in terms of the homeless population. And we do not expect this phenomenon to change. It's a national phenomenon, it's a national crisis.

ASSEMBLYWOMAN WEINSTEIN: And just to confirm my understanding, the \$15 million for IOLA, that would pass through to IOLA, would just maintain the system at the current state that you described, with many people still being unrepresented. It wouldn't be addressing the current situation, it would just be maintaining this level of lack of counsel for many of these people.

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JUDGE FISHER: Exactly. It would meet probably under the 20 percent that we've been meeting in the past. And of course the numbers of low-income individuals have changed. And it will not meet the needs of the moderate-income individuals that come into the court and who are easily going to be a tragic story if we don't meet their needs.

ASSEMBLYWOMAN WEINSTEIN: And in terms of access to justice, I wonder if you, Judge Pfau, or one of the others could comment on the foreclosure settlement conferences, how they've been working -- the new law is in effect -- and whether the difference of someone having counsel, a homeowner having counsel with them helps that process, the settlement conferences.

JUDGE PFAU: Yes, we have now some significant experience with the foreclosures, and soon we will start having the conferences for the nonprime mortgages. And having a lawyer makes all the difference in the world.

Usually what happens -- and nationally, everyone is struggling with the same issue, with having, you know, a level playing field between the homeowner and the bank or the servicer. And when the homeowner comes and doesn't even know what paperwork to bring, doesn't even know how to have the conversation, doesn't understand the language, that automatically just means an adjournment for a second conference for them to get the information. So that's a time issue.

But also just the doing-justice issue. You know,

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there's just no equity between the two parties. So, you know, it is imperative that some kind of financial counseling -- the difference between having legal services available and not makes all the difference in the world for foreclosure conferences.

And we would very much hope that additional funding can be found to help with the homeowners who are having to deal with the foreclosures.

ASSEMBLYWOMAN WEINSTEIN: And just, lastly, also an issue that touches on access to justice in the courts. As part of the Governor's Budget, there are increased filing fees, most notably index filing fees and motion fees. In fact, there's some language that talks about the increase with reduced frivolous litigation.

I wonder if you could comment on the impact, potential impact on litigants, in particular on the motion fee, which has a dramatic increase. What impact do you think those fees, if we were to adopt them as is, would have on litigants' experience in the courts?

JUDGE PFAU: We're very concerned about fees, as we call it, you know, on the way in at the front door that really would affect access to justice. It's a little ironic to, you know, affect in a negative way access to justice by limiting who gets to come into the system, who can afford to come in the system, in order to fund access to justice for representation.

So we think that the kind of fees that are being

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discussed, whether it's, you know, the motion fee or the filing fee, really are not an appropriate way to proceed to fund access to justice programs.

ASSEMBLYWOMAN WEINSTEIN: Thank you.

Thank you, Mr. Chairman.

CHAIRMAN FARRELL: Thank you.

Senator?

CHAIRMAN KRUGER: Thank you, Assemblyman.

Before I move on to questions, I just wanted to slide in a little comment, Judge Pfau.

The issue of local courts, civil local district courts -- a throwback to a long, long time ago; consolidation removed them. There's so much sentiment in support of local courts. What's your opinion?

JUDGE PFAU: Are you talking about like the town and village courts?

CHAIRMAN KRUGER: No, I'm talking more like the city civil courts, traffic school claims, bringing it back into the communities.

JUDGE PFAU: We have found that when you do bring like the community courts that we do in Red Hook and Syracuse and in Midtown Manhattan, there is a sense of local justice that comes when members of the community can see the courts in action and can see that, you know, justice is being done in their community, it's something that's tangible for them.

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You have to balance that with the efficiencies of scale you get when you do have larger courts that are more centralized. So I think it's a balance. But I think you always have to remember that the courts are there to serve the community. That's what we do. We provide justice. So we have to do it in a way that works for the community.

CHAIRMAN KRUGER: Notwithstanding the issue of centralization, are local courts an efficient use of manpower and dollars?

JUDGE PFAU: They are efficient in the sense that you can put a lot of services, you can pull together a lot of the different pieces of the justice system into one place, and so you get a lot of efficiencies that way. You can also get more efficiencies if you consolidate, let's say, all the arraignments at 100 Center Street as opposed to arraigning in the community.

But again, I think it's a balance between what you get from efficiencies as far as just the magnitude of it versus the social services and the other services you bring to the litigants who need them in the local community courts.

CHAIRMAN KRUGER: Is there a sentiment to advance that concept and do more of it? Or is it budget constraints that would stop it or just the administrative red tape of making it happen?

JUDGE PFAU: I think it is primarily -- it is something that we know works locally. If you ever visit the Red Hook

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Community Court --

CHAIRMAN KRUGER: I have.

JUDGE PFAU: -- you will see that the community that was resistant to having a court in it now is very welcoming and takes advantage of all of the different services offered in them.

Certainly that would be a budget issue. To try to replicate a kind of Red Hook, you know, in many other places I think would be primarily a cost issue.

CHAIRMAN KRUGER: We would be interested to know, if we were to take that model and move it over to, let's say, East New York, the old Pennsylvania Avenue court, and see how that could work going back into the communities, that we would open up the process and we would get people to be desensitized as to what the system really is.

And I think it would -- we know that they would make themselves more available to it. And I think that would make a stronger bond between the court system and the local community.

JUDGE PFAU: And we know that with the first community court, which was Midtown, up on 57th Street in Manhattan, that the community understood what the courts do, they understood justice. It related to them because they could see all of a sudden the things that were happening in the streets that they didn't like, things were changing because of the court being in their community.

So I think from the point of view of public trust in the

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justice system, it is a wonderful, wonderful approach, I agree.

CHAIRMAN KRUGER: Unbeknownst to most, we still have that district court electoral process still in play. So many of our civil court judges are elected out of those old local district courts, it seems.

JUDGE PFAU: Right.

CHAIRMAN KRUGER: Okay. Thank you very much.

At this time, questions? First, Senator Schneiderman.

No?

Senator Thompson.

SENATOR RUTH HASSELL-THOMPSON:

Hassell-Thompson.

Thank you. Good morning.

JUDGE PFAU: Good morning, Senator.

SENATOR HASSELL-THOMPSON: Judge, can I ask you to just raise your mike a little? Sometimes part of your presentation disappears. I don't know if anybody else misses it, but I do.

JUDGE PFAU: Thank you. Thank you for telling me.

SENATOR HASSELL-THOMPSON: Thank you. Just a couple of quick questions.

The Executive Budget proposes the Office of Indigent Defense within the criminal justice system services. Does

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this proposal include sufficient resources for Statewide oversight of indigent defense in New York State, in your opinion?

JUDGE PFAU: I think it's a good start. You know, I think the landscape is a little unknown as to what we would roll out as far as indigent defense needs. We know in New York City last year you passed legislation requiring a case cap. Actually, it's up to us, the courts, to determine the case cap, and we do have funding in for that.

That's a good experiment to see if the case-cap concept is what works. And the oversight also, I think, is a good experiment outside the City as a first step to see how we get control of this. It's hard to know what the cost would be. Again, I think this is a good start.

SENATOR HASSELL-THOMPSON: Thank you.
One other question.

There's also the proposal to increase the court fees to fund this indigent defense service -- oh, my mike? The Executive is also proposing increasing court fees to fund this indigent defense services and civil legal services.

JUDGE PFAU: Right.

SENATOR HASSELL-THOMPSON: Can you provide us with your assessment -- I don't want to say your opinion, because that's not appropriate -- but your assessment of how raising these fees, what issues they may cause as a backdrop? If you can.

JUDGE PFAU: Yes. As I mentioned before, the idea of having kind of in-the-door fees raised that in order to get

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through the courthouse door, you have to be able to pay more money -- or if you want to make a motion, you have to pay more money -- we think that is fundamentally in opposition to the idea of access to justice and what that means.

There certainly may be fees that should be explored as far as enhanced revenues. We certainly understand the situation the state is in. But this kind of fundamental access issue, to raise the fees on that -- again, in order to gain access to justice -- we just think doesn't make sense. We don't think it's a good way to go. And we think it's going to be problematic for people who just can't pay.

And then if you have to have a hearing every time to find out if you can pay, then, you know, you've only increased the work of the court, which I think would be much better used to be determine the needs of individuals.

SENATOR HASSELL-THOMPSON: I had a couple more, but I will -- I think I've explored a lot of this with you as we've progressed to put this together. And I just personally want to thank you for the help and support that you've given, and ideas to how do we come to this point. And thank you.

JUDGE PFAU: Thank you.

CHAIRMAN KRUGER: Thank you, Senator.

CHAIRMAN FARRELL: Thank you, Senator.

We've been joined by Assemblyman Thiele.

Next, a question from the Chair of the Codes Committee, Assemblyman Lentol.

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ASSEMBLYMAN JOSEPH LENTOL: Good morning, Your Honors.

JUDGE PFAU: Good morning.

ASSEMBLYMAN LENTOL: Just to follow up on the question that Senator Carl Kruger asked -- I think it's an important one -- about community courts. But I thought about it over the last several months with respect to the juvenile justice system and the juvenile institutions within our State and whether or not we might make a dent in that system by creating juvenile community-type courts in order to get to the kids when they're very young and maybe hopefully turn them around in a local court. And whether you have any ideas about that.

JUDGE PFAU: You know, it's a topic we talk about constantly -- and not only when the Department of Justice report came out, but before that. Because every Family Court judge is dealing with the issue of what do you do with the juveniles that are before them that don't have family support and that clearly are troubled and you can't send them home.

We're looking at all of that very carefully. We're open to explore any ideas with you. For example, in Queens we're working on an alternative to incarceration program that would deal with mentally ill troubled youth who are acting out, as a way to keep them out of going to prison.

So we would be delighted to work with you on anything that will improve the outcomes for children. And it's just

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such a difficult area.

And I think Mike Coccoma, Judge Coccoma would like to respond to that as well, dealing with this so much outside of New York City.

JUDGE MICHAEL COCCOMA: Yes, I sat as a Family Court judge for 13 years in Cooperstown, New York, in Otsego County. And I can tell you the biggest problem or the biggest challenge in dealing with the juveniles is the availability of services to provide for them. And so it falls upon the Family Court judge to look within the community. If there's not services there, then they have to go outside the community. It can be extremely frustrating.

But programs such as juvenile drug treatment courts are now starting to develop in our Family Courts, and other programs dealing with the mental health issues of these juveniles are developing.

But increasingly the Family Court judge is the one that's responsible for dealing with these acute social problems. And as Judge Pfau said, the Family Court in particular is the emergency room of our society.

ASSEMBLYMAN LENTOL: And I guess what I envisioned was a community-type Family Court setting instead of just having a community court that's -- I guess it's a criminal court in Midtown Manhattan?

JUDGE PFAU: Primarily. Although Red Hook does have a Family Court component to it.

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ASSEMBLYMAN LENTOL: Good.

Next, if I may, I have -- I was very heartened to see the effort put forth by OCA with respect to civil legal services. And I saw that you're struggling with the caps that have been imposed on criminal cases. And I wonder if you thought, when you infused the money into IOLA, whether or not there should be an infusion of funds into criminal defense.

JUDGE PFAU: Well, in New York City we will be able to infuse some money into criminal defense for the case caps, because we do have \$10 million in our budget for that purpose in the City. So I think that's the first of the four-year rollout that's part of the statute. So this would be a good indication of the kind of funding that's necessary to really make those case caps meaningful.

And certainly on the civil legal services side, we know it's just a desperate situation. That if the \$15 million is not included in the IOLA funding, that literally civil legal services will stop. And that's something that is really an anathema to us, and it's something we can't live with as a justice community.

ASSEMBLYMAN LENTOL: And last but not least, and maybe most important, Rockefeller Drug Law reform and the courts.

There have been rumors that it's become specialized, that only certain judges are able to hear drug cases. And that the regular judges, if you want to call them that, are not allowed into the system. Maybe they're being trained, but it's being left only to the

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experts, quote, unquote. Can you comment on that?

JUDGE PFAU: Sure. I would be happy to. And I know Assemblyman Aubry spoke about that already, this issue. When we implemented the Rockefeller reform, we did do it in a way that -- again, it was an efficiency issue -- of specifying specific judges to hear these cases, either because the judges self-selected and that's the kind of thing they were interested in doing, or we could use case managers most appropriately and have them work for a limited number of judges.

I don't think there are any judges who have wanted to do Rockefeller that we have said they shouldn't be doing it. We've certainly opened it up. It's similar to a drug court; it's not as efficient to have every judge be a drug court judge, just because of all the services that are affiliated with it. So we did try to monitor it in a way, to manage it administratively.

It's my understanding that any judge who is interested in doing Rockefeller cases is certainly doing them. But I'm happy to speak to our judges and see if there are more that would want to do it.

And I don't think this is to the detriment of the litigant at the other end. I believe that Drug Court and Drug Court alternatives are being offered to Rockefeller defendants.

ASSEMBLYMAN LENTOL: Thank you.

Thank you, Mr. Chairman.

CHAIRMAN FARRELL: Thank you.

Senator.

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CHAIRMAN KRUGER: Thank you, Assemblyman.
Senator DeFrancisco? Okay, we'll move on to

Senator Volker.

SENATOR DALE VOLKER: Yes. I'd just like to
make a comment, and this has no reflection on you.

I've been here a few years, and something has
happened here in this last year that I think is very, very disturbing.
You know, the media has accused the Legislature of being
dysfunctional, and some people have accused the administration of
being dysfunctional. But I would like to say that the Court of Appeals
maybe should be termed dysfunctional.

The decision in the case on the Lieutenant Governor,
I would have to say that 95 percent of the lawyers who are in the
Legislature look at that case as possibly the worst case decided by the
Court of Appeals in our time.

The whole spirit of the constitution is that elected
officials run the government. That is, that we don't appoint people to
responsible positions unless obviously they're under the
administration.

I admit to you I wrote a personal, confidential letter
to Gene Piggott, who happens to be my close friend. I did it personal
and confidential for good reason. And I have to say that my
confidence in the Court of Appeals has been greatly reduced with that
case. And this has nothing against Ravitch. I think Mr. Ravitch is a
very good guy. But I have to tell you, I think it flies in the face of the

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Constitution, it flies in the face of everything that this State has stood for.

And I would appreciate it if you would tell Judge Lippman that -- although he knows that. I've already relayed that to him. This has nothing to do with you.

But I want to tell you that it has, in the Legislature, to a certain extent harmed the Judiciary, in my opinion, and the confidence in the Judiciary when decisions such as this, that seem to fly straight in the face of the Constitution -- because the Constitution is something that is sacred.

And I just want to say to you, as I say -- and this is not, obviously, your problem. Except that it is your problem, in a way. And I thought it was a terrible decision. And now as we sit here, well, there's rumors of the possibility of another situation, which is really ridiculous to think of, a governor, an unelected governor can appoint an unelected somebody else governor, whatever. It's exactly what the Constitution was trying to avoid.

And so I just felt I had to say that. This is not directly your problem, but I just want you to know.

JUDGE PFAU: Thank you. I will pass on your comments and appreciate it. Thank you.

CHAIRMAN KRUGER: Thank you.

CHAIRMAN FARRELL: Assemblyman Aubry.

ASSEMBLYMAN JEFFRION AUBRY: Good morning.

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JUDGE PFAU: Good morning.

ASSEMBLYMAN AUBRY: Back to the Budget.

Just a question about whether or not the resources that were provided for the Rockefeller reform have been adequate. And are you projecting any expansive needs of money based on the implementation of Rockefeller?

JUDGE PFAU: Thank you. Well, we were very grateful, of course, because with the Rockefeller Drug Laws we were the recipient of some of the funding that provided for case managers. And that has been very, very helpful. They've been put to excellent use throughout the State in the Rockefeller area.

That money will run out whenever the stimulus money runs out, and therefore it is going to be an issue for us as far as maintaining that level of staffing using State funds.

So at this point it's, you know -- certainly they're doing a wonderful job. We have a sufficient number. We're very pleased with it. But I think in the coming years it's going to be a budget issue for us as to how to continue to support that without Federal funding.

ASSEMBLYMAN AUBRY: You sort of touched on this question when you were responding to Assemblyman Lentol. We had envisioned in Rockefeller that judges would be broadly trained around the issues of substance abuse. And we're hoping that there would be some larger training program so that all judges would have access to that kind of information in terms of how they handle these

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cases.

It seems to me that you're saying that you would rather have judges who are interested in the Rockefeller cases and drug sentencing as opposed to a broad training. And if that's the case, could we not find areas of the State where you might have judges who have no particular interest in this and therefore we have litigants who might not have access to the benefits that we offer?

JUDGE PFAU: You know, we have, certainly throughout the State, in all of the areas, we certainly have judges who have been trained and are handling all of these cases.

I think we generally would not say that every judge handles every case type. Just like in Family Court, not every judge handles a custody case. There is a certain degree of specialization that happens.

But we have done a great deal of drug training, we'll continue to do more. And, you know, like I hope any good managers, we try to make sure that judges are pleased with the work that they do and assignments they have, as opposed to asking them to do things they would rather not do.

But I think we do have a balance and a good number and certainly welcome the opportunity to train more judges and make sure that they're all conversant and comfortable with all of the drug issues.

ASSEMBLYMAN AUBRY: Thank you very much.

Just switching issues, two areas: Prisoners' legal

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services and the Innocence Project funding. Is that something that you might envision should come under the Office of Court Administration, and is that an area that should be outside of your purview and your funding and done separately? How do you look at that?

JUDGE PFAU: Starting with the second, certainly we are starting to look at the issues with regard to innocence. As you know, the Chief Judge has a wrongful death task force that has been working very hard and addressing these issues. So I think it will be interesting to see how the task force unfolds and what its recommendations are with regard to The Innocence Project. But it is very important work that we take extremely, extremely seriously.

As far as prisoner legal services, you know, we have never had that in the Judiciary. I don't know that many states do. I think we certainly would be comfortable maintaining the status quo.

ASSEMBLYMAN AUBRY: Thank you.

CHAIRMAN KRUGER: Thank you.

Senator Leibell.

SENATOR VINCENT LEIBELL: Thank you. And thank you, Judge, for your testimony today.

A somewhat local issue, but it may have an impact and probably does in other areas. Last year we passed legislation for my home county, Putnam County, allowing for video arraignments. That's a tremendous cost for us when we have to take police officers and deputy sheriffs to transport prisoners. And frankly, most of the people, law enforcement say, the prisoners like to leave the jail, it's a

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day out. But it's very costly and represents a significant amount of overtime dollars. As it's currently set up, my understanding is it's optional for the prisoner whether they're willing to do this or not. Is there a way around that?

JUDGE PFAU: Well, I believe that's what the legislation provides for.

SENATOR LEIBELL: Is there any reason why the legislation couldn't provide otherwise? Could we say that it is not optional, it would be mandatory?

JUDGE PFAU: I think we'd have to -- I mean, we would be happy to talk to you about this. I think we'd have to think about -- again, there is a constitutional right to be in the court. And I think it's a question of what does being in the courtroom --

SENATOR LEIBELL: Can you designate a part of a facility as a courtroom? As, for instance, a jail facility?

JUDGE PFAU: Again, I think we'd have to look at this very carefully.

But we agree with you. We think that video arraignments and video appearances are very, very effective. And they're more efficient for the court because, you know, you don't have the vagaries of when somebody will show up.

But again, I think it's a balance between the constitutional right of the defendant -- and again, I think we'd have to pursue together what does it mean to be in the courtroom, what is a courtroom, depending on where the judge is. A lot of issues we'd look

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at together.

But in general, we very much favor video appearances -- not just in arraignments, but video appearances throughout.

SENATOR LEIBELL: What I've been advised is that in my small home county, this represents a very, very significant expense.

JUDGE PFAU: As it does Statewide. And again, I would be just delighted to continue to talk to you about it.

SENATOR LEIBELL: As a follow-up to that, if you had a courtroom or part of a facility that was designated as a courtroom, is it possible for local judges to travel to that facility outside of their own jurisdiction?

JUDGE PFAU: Generally, yes. I mean, it depends on how you define their jurisdiction. If it's a county-level judge, the whole county is the --

SENATOR LEIBELL: Yes, but if it's a town judge, can a town judge do that, go to, say, a county seat which is not necessarily his town or her town?

JUDGE PFAU: Not necessarily. I'm going to have to defer to -- okay, I'm being told by people smarter than me that it's the county or the adjourning county in which they reside. But it would have to be specifically authorized by the Legislature.

SENATOR LEIBELL: Okay. Judge, I'm going to ask for you to work with us on this.

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JUDGE PFAU: I'd be delighted to.

SENATOR LEIBELL: Because obviously we want to preserve everyone's rights. But in a time of great austerity, if dollars can be saved here, it would be very helpful. So I'm going to ask you if you would respond to me on this issue.

JUDGE PFAU: I would be delighted to. Absolutely.

SENATOR LEIBELL: Thank you.

CHAIRMAN KRUGER: Thank you, Senator.

CHAIRMAN FARRELL: Thank you. Next, Assemblyman Parment.

ASSEMBLYMAN WILLIAM PARMENT: Yes, good morning, Judge. Thank you for being with us. I have several questions about the Budget, and my comments and questions are based on the presentations that the Unified Court System has presented to the Legislature over the last decade.

I've read this with interest, and I've also read the presentation made by the courts 10 years ago and five years ago, in trying to determine what in fact is taking place with the financial circumstances surrounding the courts.

That said, I will tell you that the presentations do not submit an easy understanding, and it's very difficult to develop metrics based on the data presented. I believe that's a condition that is somewhat prevalent throughout State government. I don't think any agencies present us with data that is particularly helpful in trying to understand their circumstance.

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But that said, I may ask questions or make statements that you might differ with because of my inability really to understand the presentations that have been made.

In your testimony you indicated that starting in I think the year 2000 to present, there's been an 8 percent increase in employees. Now, if you ratchet that back one year and you take the presentation that was given to us when 1999-2000 employee levels were stated as actual as 16,243, and then you fast forward to this year's presentation where the indication is that there are 18,811, that's an increase of 2,568 employees in a decade. And by my arithmetic, that's a 15.8 percent increase, nearly double what you've indicated over the 10 years that you referenced.

And I just wanted to bring that to the attention of my colleagues, that the judicial system, based on your presentations of that date, have shown an increase in employees of 2,568 employees, on a base of 16,243.

Now, in your statement you indicate that most of these increased costs are mandatory: Salary, healthcare benefits and pension costs. Well, obviously if you hire 2,568 new people, you have to pay them, you have to pay their healthcare benefits, and you have to pay for their pension. So I think that the argument that your hands are tied because you suddenly have this mandated requirement is, to say the least, not too convincing to me.

Now, I did want to ask just a couple of questions, one on I think it's page 320 of your presentation. You indicate that the

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City of Niagara Falls converted from a contractual-provided security detail to a State employee detail. And the question I would have for you, is that cost-neutral?

JUDGE PFAU: I have to find out. The Budget Director's answer is that it is almost cost-neutral. There's a slight increase when we take over the personnel and bring them over to the court system.

ASSEMBLYMAN PARMENT: Only a slight increase?

JUDGE PFAU: That's what I'm advised.

JUDICIAL BUDGET DIRECTOR: A slight increase, yes.

ASSEMBLYMAN PARMENT: That type of detail would be useful to us in the presentation. Obviously, that's a concern of ours, is how much it costs to do these conversions. And it seems to be a program that the court has had for some time and wants to in fact continue.

JUDGE PFAU: We do not have plans to continue it at this point.

ASSEMBLYMAN PARMENT: Let me give you an example of some of the problems in trying to basically get into a metric to measure what's going on. I took a look at the public safety area of the Budget, which is two-thirds of the way through this presentation. And based on the population of the judicial districts and the public safety personnel noted in the presentation, I attempted to

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create a metric of how much public safety there is per hundred thousands of citizens.

I did it in two ways. I decided, well, if one security person is a guy at the courthouse, how many citizens in that jurisdiction does that person have to guard against?

Interestingly, to me, in Kings County -- Brooklyn -- the individual would have to guard against 8,000 citizens coming in and disrupting the circumstance. However, in Nassau County, the individual would only have to guard against 4400 individuals. Or in Suffolk County, only 4200 individuals.

Now, there are a lot of things you can draw from this. You can say, well, maybe it's twice as dangerous in Nassau County and Suffolk County as it is in Brooklyn, which I tend to dismiss. Or you might say that in Suffolk and Nassau County they've done a better job of padding the payroll, which I hope isn't the case. Or you might say that these numbers mean nothing.

But it points out that there's no way that we can, as legislators, develop a metric that tells us why in fact in Queens County the rate of security personnel is 11.21 per hundred thousand of population whereas in Suffolk County it's 23.81 security personnel per hundred thousand. Could you tell me why there's such a variance?

JUDGE PFAU: We generally start with security for the courtroom. And the number of court parts, the number of judges, often doesn't bear a direct relation to the population. For example, in Manhattan, in New York County, you probably have the least

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population within the major boroughs of New York City, but you certainly have many, many more cases per resident, let's say, than you might in other places.

So it's caseload-driven, and it's the number-of-judicial-personnel-driven, primarily. It can also be specifics with regard to the courthouse design, how modern the courthouse is, what some of the security issues are, the proximity of the courthouse to other areas that might have dangers associated with them.

So the metric that we use is not particularly related to the number of citizens as far as protecting against citizens. The job of security is to protect the court from other things that may happen, people that may come in, what other kind of weapons might be available. And it can depend on court type. I would say a Family Court is probably much more prone to violence and people acting out in a violent way than a Civil Supreme Court. So there are a lot of different variables with regard to security, not just the population.

ASSEMBLYMAN PARMENT: Okay. Let me turn to -- you mentioned the courthouse. I noticed in your presentation that you indicated that there's been \$4 billion committed to new courthouses and improvements to courthouses across the State. And I assume -- and I may be wrong -- that the vast majority of that cost falls on real property taxpayers in the form of debt service for paying the obligations necessary for this construction. Is that accurate?

JUDGE PFAU: They are locally funded courthouses,

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that's right.

ASSEMBLYMAN PARMENT: And that was induced in most cases by the Office of Court Administration?

JUDGE PFAU: Under the statute, every locality comes up with a plan that is approved by the Court Facilities Board that includes members of the Legislature. They approve the plan and then the locality, with our assistance, develops the plan and either builds or refurbishes the courthouse.

ASSEMBLYMAN PARMENT: My observation on this would be if we were to place on the ballot a \$4 billion initiative for borrowing for courthouses, it would be soundly defeated by the public of the State. But it wasn't on the ballot, and so they didn't have anything to say on it.

Let me just turn to the overall size of the Budget. Again, relying on the documents that you've presented, in the year 2000-2001 the court requested of the Legislature a \$1.14 billion total All Funds request. This year the request is \$2.7 billion, a growth of \$1.56 billion or 137 percent. That basically, by my arithmetic, comes to nearly 14 percent a year.

The State Budget overall, according to the Governor's presentation, grew at 7.5 percent a year during that time, and inflation was less than 3 percent. How is it that the court budget is growing at twice the rate of the State Budget and nearly, what, five times the rate of inflation?

JUDGE PFAU: The budgets are not in a straight line.

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There are years when there is additional funding. And certainly after September 11th there was an infusion of funding for security into the courts. Last year we put in literally a zero-growth budget where we absorbed all of the collective bargaining costs within our existing budget.

So I think it is variable depending on the circumstances. There have been years that the drug court program and the problem-solving courts have been something that was particularly compelling, and funding had been put in for that.

So I think it depends on the year, it depends on the programs, again, that the Legislature thought were worth funding, security needs, other things that we see on a year-to-year basis. And certainly the costs of collective bargaining, pension costs. And the pension cost again is in our budget and the Executive Branch agencies do not have that in their budget. And that's something that's reflected in a year-to-year basis as well.

ASSEMBLYMAN PARMENT: In your memory or in your experience, has the Legislature ever reduced the Court Administration's request for a budget?

JUDGE PFAU: Yes.

ASSEMBLYMAN PARMENT: What year was that?

JUDGE PFAU: I can't remember the year because I'm getting very old.

But certainly there were years where the budget was reduced.

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ASSEMBLYMAN PARMENT: Well, let me just say that during the last budget crisis, which we're still in, my understanding was there was a zero-based budget last year adopted by the Legislature for the courts -- therefore, no reduction -- where other agencies and programs across the spectrum were in fact reduced by 10, 15, 20 percent.

Again, the deficit reduction package that the Legislature dealt with in December of last year had reductions, in total, of over \$600 million, but the court system was not involved in that deficit reduction package. Now, I'm correct in that, aren't I?

JUDGE PFAU: We were involved, but in the direct way you're speaking about. We had met with the Budget Director and during the course of the year had achieved significant savings, up to the tens of millions of dollars, that was already reflected in the lower budget that we put in last year, the flat budget.

ASSEMBLYMAN PARMENT: Let me just get back to the personnel, because there is a thing that's bothering me. In your introduction you indicate that there's been a reduction of 200 positions through attrition, and yet on page 6 of your presentation it indicates that the recommendation for UCS is 18,820 employees, an increase of nine employees.

Which one of those statements should I put my reliance upon?

JUDGE PFAU: And I would be delighted to follow up with you, I just don't have at my fingertips the number you're

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talking about. I can ask the Budget Director.

Oh, this is what they're telling me, that the larger number you're referring to is the schedule of authorized positions as opposed to the actual filled positions. Many of those positions are vacant because they're not funded.

And the 8 percent increase that we speak about from 2001 to 2009 is the increase in the number of filled positions, not necessarily the authorized positions. And so the decrease you have that I spoke about in my testimony is the decrease in filled positions, positions we're leaving vacant but they are still authorized positions.

ASSEMBLYMAN PARMENT: Let me suggest to you that in future presentations, that type of detail would be very helpful to the Legislature in understanding what the court is about and whether or not they've in fact increased by 2,568 employees or haven't. It's very difficult, just reading the documents, to be clairvoyant and say, well, okay, they've got the positions but they probably didn't fill them. My suspicion is you probably did fill them.

But that said, the Governor this year submitted to this Budget, your budget, a commentary which I thought was most unusual. And I just wanted to read from it. It says that "The Judiciary budget appears to lack initiatives to restrain spending or consolidate operations." Further, the Governor says: "I send the submission along with a strong charge to the Legislature to evaluate the request carefully. I also call upon the Chief Judge to revisit this request and offer suggestions for how it may be reduced."

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Now, I take that charge seriously, and I hope that the court does as well.

JUDGE PFAU: Well, we're a little confused by it, quite frankly, because when they talk about consolidating operations in the court system, we don't know quite what he means. If they're saying to combine Family Court and Criminal Court to one court, that's not something we can do. We can't combine functions. We can't send people away to say you can't come into our courthouse today, we don't have any money to support your case. I'm not quite sure what he means.

We are always looking at ways to save money. I think we have done a very good job of doing that over the last year, and we will continue to do that and continue to work with the Budget Office and with the Legislature to save money. But we do have a constitutional obligation to submit a budget that allows us to perform our function for the people of the State of New York.

ASSEMBLYMAN PARMENT: I appreciate that, Judge.

I would just say, based on the history of last couple of years, at least, with no cut to this agency last year and a general adoption of the Budget and no cut to this agency during the deficit reduction package, and the fact that this agency's budget has grown at twice the rate of the growth of the State Budget, I would strongly recommend to the chairs of this committee that this agency have a reduction of at least 10 percent from the request that's been submitted

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to us.

Thank you.

JUDGE PFAU: Thank you. If I could just respond that we are a branch of government, we're not an Executive agency. We did put in a budget that we think is very responsible. We do understand the fiscal crisis facing the State, but we do have our own constitutional obligation that we have no choice but to uphold. Thank you.

ASSEMBLYMAN PARMENT: Well, Judge, I have a Constitutional obligation as well to present to the people of this State a balanced Budget, which I'll have to say we've failed to do for many, many years in this State, but not for lack of trying on my part.

And I would like to see us at least be able to present a balanced Budget this year, and part of that balance could come from a reduction in the Unified Court System of 10 percent of their request.

JUDGE PFAU: Thank you.

CHAIRMAN FARRELL: Thank you.

Senator.

CHAIRMAN KRUGER: Thank you. Senator DeFrancisco.

SENATOR DEFRANCISCO: Judge, in your remarks on page 10 you indicate "The single discretionary increase we seek is \$6 million to increase the Judicial Supplemental Support Fund to assist judges with professional expenses." When was that fund first implemented?

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JUDGE PFAU: Two years ago.

SENATOR DEFRANCISCO: And is it fair to say that it was first implemented two years ago in response to the Legislature's continuing failure to provide increases in salaries to judges?

JUDGE PFAU: Yes, it was done at a time when there had been obviously many years gone by without salary increases, and judges were facing more and more pressure to fulfill their professional obligations as far as --

SENATOR DEFRANCISCO: In other words, it was a way to get more money in the judges' pockets.

JUDGE PFAU: It was a way to help them support their professional expenses.

SENATOR DEFRANCISCO: And in response to a direct determination by the Legislature, right or wrong -- I happened to sponsor and support a judicial increase. But that was clearly what it was for; correct?

JUDGE PFAU: Yes, it is to --

SENATOR DEFRANCISCO: Now, how much -- you're looking for a discretionary increase of \$6 million to increase the Judicial Supplementary Support Fund. What is the cost presently without an increase?

JUDGE PFAU: Six million dollars. It is currently a \$5,000 fund that costs about \$6 million.

SENATOR DEFRANCISCO: And so you absorbed

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it in the past; now you're asking for it to be actually a line item in the budget?

JUDGE PFAU: We're asking for the increase. We are seeking to -- we are increasing it from \$5,000 to \$10,000. So it's the extra \$6 million we're seeking.

SENATOR DEFRANCISCO: So you absorbed \$6 million, and you want \$6 million for an additional increase to increase it to \$10,000. Is that true for every judge, that they'll get \$10,000 if this is passed, every judge in the system?

JUDGE PFAU: Every State-paid judge, yes.

SENATOR DEFRANCISCO: Now, there's a case pending before the Court of Appeals for a judicial pay raise, whether or not somehow the Legislature violated the -- I don't know all the issues, but violated the separate branch of government and that the judicial is a separate branch of government.

Let's suppose the courts determine that there was a violation of the Constitution by the State Legislature by not providing the increase. Does this discretionary fund, does that Judicial Supplementary Support Fund, does that go away? Is that no longer necessary?

JUDGE PFAU: We would certainly look at it and take that into consideration. The idea was to provide judges extra support during the absence of a summary increase.

SENATOR DEFRANCISCO: And let me just ask you a theoretical question. Assemblyman Parment asked several

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questions about the issue concerning the growth of the budget of the Judiciary, and your response was that you're a separate branch of government and you have a responsibility to perform your functions, which I happen to agree with.

Along the same theory that this judicial pay increase is being determined by the Court of Appeals, does that same theory apply if the Legislature decides not to provide the funding that you believe you're entitled to under the Budget? Does that lead to the possibility of another lawsuit to be determined by the Judiciary that there was a violation of some constitutional provision that we can't adjust or in any way determine the amount of dollars that the Judiciary should be receiving?

JUDGE PFAU: That's never been our position. And certainly, you know, in response, I do remember years past in which our budget was modified by the Legislature.

SENATOR DEFRANCISCO: Yes, but back then there wasn't lawsuits going to the Court of Appeals about judicial pay increases. And it seems to me the logic behind that argument would equally apply to a separate branch of government for the Budget. But right now you have no plans of doing that?

JUDGE PFAU: No.

SENATOR DEFRANCISCO: The other issue -- there's a couple of other issues.

I don't know whether this number is correct, but I'm looking at just this year's Budget. And you're talking about the

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increases this year pertain only to things like pension funds and increases that are required. Am I correct that the increase that the Judiciary is looking for is 7.4 percent?

JUDGE PFAU: That's correct.

SENATOR DEFRANCISCO: Now, how -- school districts -- and I'm a lawyer, and I appreciate the problems in the Judiciary. How could a legislator ever justify providing that kind of increase when school districts and local governments have the same pension problems and they're getting cut, and just about every part of government who's been cut in the past year or so has had those same automatic increases?

How do we, as legislators, justify that the Judiciary should be placed in a different category and receive the full funding they need to take care of these increases that everybody else has to take care of?

JUDGE PFAU: The Judiciary alone, there is no place else that people can go to get justice. It's not like a program where you can, say, go a private provider who will give you the same service. If you're a citizen and you need an order of protection at 4 in the morning, there's only one place to go, and that's the court system. And --

SENATOR DEFRANCISCO: There's only one place to go to get an education.

JUDGE PFAU: Well, certainly there are at least alternatives of going to a private school. There are alternatives to that.

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But there isn't a private justice system.

Again, it is to me a unique Constitutional obligation that we have that we take every single case that comes to us. We have no choice. And it's justice that we have to provide to our citizens.

SENATOR DEFRANCISCO: And I'm not so sure everybody in the State of New York has a choice of going to a private school --

JUDGE PFAU: But there are alternatives.

SENATOR DEFRANCISCO: If you are incapable of paying for that alternative, how do you gain access to that alternative?

JUDGE PFAU: But there's not even any alternative to the justice system.

SENATOR DEFRANCISCO: All right, now you indicate in your presentation also that the increase in judges -- your caseload went up 20 percent, and there was an increase of I think it was 8 percent --

JUDGE PFAU: That's right.

SENATOR DEFRANCISCO: -- in the staff through nonjudicial as well as judicial-type positions.

As far as the increase in caseload, that is based upon the number of filings; correct?

JUDGE PFAU: That's right.

SENATOR DEFRANCISCO: Now, we talked about this before this meeting, and it seems to me that if the number of trials are going down -- which really take most time of anything in the

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judiciary. You can have a week trial, a three-week trial, and so forth. At least I think in Upstate New York, the number of trials are going down.

Many times these filings -- do you include motions as filings, every single motion?

JUDGE PFAU: No, no. These are new case filings.

SENATOR DEFRANCISCO: Okay. It seems to me that many case filings, many in Family Court take one court appearance. Other courts may take one court appearance. Some get dismissed after two or three court appearances or are withdrawn. Is the number of filings really the true measure, or the amount of court time that the system has to deal with? Isn't that a fairer way of determining the burdens on the courts?

JUDGE PFAU: It's another measure, you're right, that we look at. And certainly appearances would be another measure. And again, those are significantly increased as well.

What is often happening is within a case, in a family case, you do have more appearances. If it's a permanency issue, there have to be two permanency hearings where there used to be one. What we are finding is there are more cases and more appearances in cases. Trials are down, dispositions are up. So many cases are being disposed of without trial, but not before a significant number of appearances and certainly motions on the civil side.

SENATOR DEFRANCISCO: Well, let me turn to the -- that's the workload. And I probably shouldn't say this, but I'm

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going to anyway, because it's sort of amusing to me. And I'll probably get in trouble for it.

But when people were calling us, the judges were inundating us with calls and personal appearances to our chambers looking for a judicial pay raise. And there was one Senator who will remain nameless who indicated to me that he saved all the calls till 5:01 to return the phone calls, and then he never had to speak to any judge because no one was ever there at 5:01. Whereas there was some, you know, various organizations in the State of New York, different agencies, many of whom are really stressed for people, they were able to get calls in.

Now, there will probably be retribution for that comment, but it was an actual conversation that I had. But I think it makes the point that I tried to make by the workload as opposed to the number of filings being a more accurate measure.

On the other end of it, the 8 percent. Now, 8 percent is on top of whatever the number of employees are over last year. Okay? Eight percent, is that what it is?

JUDGE PFAU: It's 8 percent since 2001.

SENATOR DEFRANCISCO: Eight percent increase since 2001, as opposed to the 20 percent workload. And this is another area that -- there was a period of time when the Office of Court Administration, at least in my jurisdiction, was the administrative judge and one employee. Now, I believe that it's substantially more than that in every jurisdiction.

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And I imagine a lot of it had to do with the court system being taken over by the State, and a lot had to do with regulations and the number-counting, like the number of filings and the various speedy trial issues, to try to maintain some type of handle over the caseload and so forth. And I understand that. And I understand how it could grow.

Has there been any study -- and I'm very, very serious about this -- as to what of those things that the Office of Court Administration does on each local level, what are really -- maybe not unnecessary, but that could be done without?

And I'll give you one example. The Fourth Department used to have a rule that you had to file a contingency fee statement when you started a case as a plaintiff's attorney. And at the end of the case, you would have to explain what the result was, the fees, the expenses and so forth. Which you already provide to the client when you sign any case up.

And I asked why -- at my first Judiciary Committee hearing, I asked, "What is the point of that? What do you do with these things?" And then what happens is if you fail to file it, you used to get a letter that you get to file an affidavit why you failed to file it. And when you file the affidavit as to why you failed to file it, it gets filed by somebody in one of these places. And then what happens? Nothing.

And I guess my point is -- and in order to try to get that done, I was amazed to find out that it was decided by each of the

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presiding judges in each of the appellate divisions. And when Judge Piggott learned of it, and he found out he had the power to get rid of it, he got rid of it. And you know, the world has not changed one bit.

But the amount of paperwork that was required for that -- has there been any study to see if there's any stuff like that that truly is unnecessary, especially when taking into account that every other agency is cutting like crazy under this current budget crisis?

JUDGE PFAU: I mean, we're looking at all of that. But some of the things that happen -- and I want to turn it over to Judge Coccoma, as far as an Upstate district office, because he was formerly administrative judge Upstate before he became the deputy.

But there are things we do at the district office level that quite frankly we didn't do before. A lot of the town and village court issues as far as helping the town and village courts with training, helping them with improving the state of their courthouse, all of those things happen at the district court level.

The custody and record-checking issue that happens in Family Court and in matrimonials, much of that is consolidated at the district court level to take the work off of the courts.

The foreclosure program, the conferences that we have to do, we're required under the legislation to send mailings out to the homeowners about the conferences. Again, because that's a lot of work for the courts, much of that work is done at the district office -- again, to save the work from the courts. So it is a combination of things.

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Judge Coccoma?

SENATOR DEFRANCISCO: And I know you're going to speak about Upstate, but -- I don't know about Downstate, but I can imagine that it's even more pronounced in the Downstate courts, what I'm expressing right now. But go ahead.

JUDGE COCCOMA: Well, what I would like to say, Senator, is that the district administrative offices are able to tap into the issues that are specific to the geographic area that they service, and work more closely with the judges and the nonjudicial personnel in the geographic areas that they service.

If you did it all centrally from Albany, we would lose track of and lose touch with the issues that are particular to those particular courts. When you travel around the State and you go into the particular counties, you will find that even though it's a uniform and a unified court system, that there are cultural issues in the way matters are done procedurally, practicing law, that are dealt with better at a local level.

And with the justice court initiative, it is the district administrative offices that are spearheading those in those local communities. So, you know, the district administrative office plays a vital role in the day-to-day operations of the courts in the various counties within that district.

SENATOR DEFRANCISCO: You know, I understand what you're saying. But when it really comes down to it, a judge is going to hear a case, hear advocates on that case and make a

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decision. And all the other supervisory responsibilities and all the stuff that you're talking about I'm not so sure is as important as having more judges move the cases. And that's all I'm referring to.

Let me go one other area.

JUDGE PFAU: Okay. If I could just say one thing.

SENATOR DEFRANCISCO: Yes.

JUDGE PFAU: If you took, for example, the foreclosure conferences, if the back office of the court or the judge's staff had to be responsible for all the notices and all the calendaring that has to go on with that, that would be a full-time job for them. And someone has to do it. So that's the kind of thing we've done there.

SENATOR DEFRANCISCO: Right. And I agree with you. We imposed that burden, which I think I voted against, because the foreclosure process in the State of New York before that changed was the longest foreclosure process in the United States and no doubt the world, if they have mortgages in other parts of the world. And adding this additional layer that has to be -- to me, that made little sense. But you're absolutely right.

One last point. And you don't need to provide me with the answer now, but it's something maybe you can look into. And that is part of your prepared remarks dealt with other -- "Unlike Executive Branch agencies, the judiciary does not run programs or undertake projects."

Now, under Judge Kaye there were many, many

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commissions studying many, many things leading to many, many programs that turned out to add to the cost of the judiciary, whether they're good, bad, or indifferent. Those commissions that are appointed to study various things, are there costs associated with those commissions? Do people get paid? If not salaries or stipends, do they get paid expenses and that sort of thing?

JUDGE PFAU: Two things. One, the only commission I can think of that exists at this point is the Wrongful Death Task Force that the Chief Judge has appointed, and no one receives any stipend for that. And there's very little travel. Usually they consult by video, so there are minimal, minimal costs associated with that.

SENATOR DEFRANCISCO: How about programs like running -- where is the -- I should know this, and I did know it at one time. But where is the judges' school down in the Hudson or down --

JUDGE PFAU: The Judicial Institute?

SENATOR DEFRANCISCO: The Judicial Institute. What does the Judicial Institute do?

JUDGE PFAU: It's part of the Pace University Law School. It's right on that campus. And it's one building that is a permanent site for judicial education, and it runs programs year-round for judges, or it broadcasts programs.

SENATOR DEFRANCISCO: And is that at the cost of the judicial budget?

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JUDGE PFAU: Yes, that's in the Judiciary budget.

SENATOR DEFRANCISCO: And what is that cost to educate judges?

JUDGE PFAU: I'd have to follow up with you on the exact cost of that. I don't know off the top of my head.

SENATOR DEFRANCISCO: Are there programs -- since everyone else is cutting, are there educational programs or educationally seminars or education conferences or educational -- I know judges have to be up-to-date on education. But lawyers do too, and you know what they have to do, they have to go to CLE courses and pay for them.

But as far as judges are concerned, when they go to these conferences and so forth, that's all part of the Judiciary budget; correct?

JUDGE PFAU: Generally, there is one probably three-day program that we put on during the summer. Last year, it was three days that we did -- we actually did them regionally as a way to save money. And there are ongoing programs at the Judicial Institute that usually either judges will just travel for the day to attend or they'll be videocast.

SENATOR DEFRANCISCO: I guess I'm just scrambling for examples that since everyone else has to do something, and none of these things -- and I don't know to what extent these have been curtailed. You mentioned they'd been curtailed. But I'm just asking if there's those types of programs that maybe judges could do

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something online instead of going to a conference, like CLE courses are online. But somewhere that you can demonstrate that there's actually something that you're participating in what everyone else is doing here in State government.

JUDGE COCCOMA: Senator, we have eliminated any out-of-state travel for CLE unless the program the judge is attending will pay for the judge to attend that.

And as Judge Pfau indicated, we're doing a lot of our CLE online or we're doing it regionally, at the local courthouse, trying to eliminate the need for traveling down to the JI. Because it is a considerable distance if you're coming from Buffalo, so you couldn't do it in a day down and back.

SENATOR DEFRANCISCO: Just a word of caution, with all this ethics legislation. If someone else is paying for it, you may be --

JUDGE PFAU: It's usually a Federal grant.

SENATOR DEFRANCISCO: I understand.

But I appreciate it. And I sound like I'm being facetious, but I'm really being serious. It's very difficult for me to look at the superintendents of schools that come in here and have to do the same thing, cut even though they've got those same reoccurring expenses -- it's very difficult not to treat everybody the same way.

Thank you very much.

JUDGE PFAU: Thank you.

CHAIRMAN KRUGER: Thank you, Senator.

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ASSEMBLYMAN HAYES: Thank you, Senator.

On this side we've been joined on the dais by Assemblywoman Sayward and Assemblyman Molinaro.

And the next to question on the Assembly side is Assemblywoman Destito.

ASSEMBLYWOMAN ROANN DESTITO: Thank you.

Thank you, Judge. I just have two questions.

In the line of the revenue generated by the Executive proposal, the civil fee increases -- which I happen to agree with you are a little bit questionable at this time -- but they have set aside some of that reimbursement for local governments for facility maintenance projects.

Do you have in your budget any additional money besides this money that is earmarked from these additional fees? Because I look at the Upstate courts and the maintenance facilities and some of the security problems at some of our local courts. So will there be resources for those projects? And could you tell me where there may be priorities for those projects?

JUDGE PFAU: Well, certainly the resources for the local courts for the town and village courts, those are not part of the fees. Certainly that's something that has been in our budget and we would hope to continue. Particularly the justice assistance grant program has been particularly beneficial to the town and village courts as far as making sure they have appropriate security and giving them

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the resources they need to have more professional courthouses.

So, those are very important to us, and they are in our budget.

ASSEMBLYWOMAN DESTITO: They are in your budget. Can you tell me in what amount?

JUDGE PFAU: \$143 million for the local assistance.

ASSEMBLYWOMAN DESTITO: Okay. And there was a demonstration program begun by Judge Lippman at the time with regard to security in some of our local courts, especially the Upstate courts, the towns and villages. Will that continue to be funded through the dollars that you already have allotted?

JUDGE PFAU: Yes, that was a very limited experiment, but certainly that kind of thing would continue. It's very important.

ASSEMBLYWOMAN DESTITO: Okay. I wanted also -- my committee is Governmental Operations, and we have worked with the Executive agencies and some of the other agencies with regard to purchasing information technology on a Statewide basis, making sure that online materials are used instead of some printed.

I see in your prepared remarks that you talk about using more online instead of print. But really looking at our information technology in an enterprise way -- instead of having each maybe judicial district purchase something, purchase things on a Statewide basis -- is that something that your Budget Director and the

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procurement people have looked at? Have you spoken with the Statewide Office for Technology with regard to savings in that area?

Because I believe that in the area of information technology, especially with legal materials and databases and information that I'm sure our courts use on a Statewide basis, that there is savings to be had if we in fact do it on a more Statewide basis and use our dollars more frugally.

JUDGE PFAU: We do have centralized contracts that we've negotiated with Westlaw, Lexis, the different legal information providers that is very, very, very cost-effective for us. Sometimes it's just a matter of weaning everybody off of the books, which is difficult for some of us who went to law school a little while ago.

But it is something we've been doing more and more each year. And again, the centralized contracts that we have negotiated are very cost-effective. But we're always looking at ways to enhance them.

ASSEMBLYWOMAN DESTITO: Well, we have anecdotal stories where, you know, our State librarian has worked with agencies just on an anecdotal basis where someone was purchasing a database and he was talking with another agency who was purchasing the same database for \$300,000 each. And they were able to stop the purchases on an individual basis and use it as a joint purchase for both agencies.

So I think there's savings to be had. And I would

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hope that the Judiciary would join the Executive agencies in looking at some cost effectiveness on that area.

JUDGE PFAU: Absolutely. We will look at everything that can be helpful as far as cost-effectiveness and making sure that the courts and the judges have the resources they need.

ASSEMBLYWOMAN DESTITO: Well, the Office for Technology is consolidating e-mails, consolidating servers. There's a lot of enterprise IT that really could in fact build in some savings to the entire State.

JUDGE PFAU: We would be very open to looking at that, absolutely.

ASSEMBLYWOMAN DESTITO: Thank you.

JUDGE PFAU: Thank you very much.

SENATOR KRUEGER: Thank you.

Senator Ruth Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you. I thought I had exhausted my questions, but I missed one.

Judge, if we can go back to the indigent defense services for a minute. An opinion, perhaps, about indigent services being under DCJS versus OCA. Do you see a problem with this setting conflicts because DCJS oversees law enforcement and crime victims?

JUDGE PFAU: That's inherently a conflict?

SENATOR HASSELL-THOMPSON: Yes.

JUDGE PFAU: I think there are a number of

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different models out there, all of which can work just fine. And there are some places where there is an independent commission that oversees the delivery of indigent defense services, which is a very good model, and I think it's something that we've all been talking about. Having it under DCJS, under an Executive branch agency, where there are other legal services that are under Executive branch agencies. Within the court system, we have the contracts for the lawyers for children under the court system.

So I think there are different models that can work, and they can all work just fine.

SENATOR HASSELL-THOMPSON: We've been in the process of discussing for a lot of years no-fault and should we pass it. There's been a lot of discussion this morning about the increase in the Budget. But I also recognize that there have been an increase in responsibilities to the courts. So I'm not quite as convinced as my colleague perhaps that the cuts that they're proposing make sense to me. Particularly when we look at Rockefeller and some other things.

But if we pass no-fault, for instance, what impact would you see that having in cases being moved sufficiently?

JUDGE PFAU: No-fault divorce?

SENATOR HASSELL-THOMPSON: Yes.

JUDGE PFAU: I mean, if it -- you know, we have always said that the unfortunate situation we have now often requires people to say things that aren't necessarily true just to get through, to admit to fault when fault may not be there as a way to get through the

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system.

Certainly we know that in no-fault states that the divorce process is an easier process and something that has less pieces to it.

As far as what the impact is going to be on the court system, I think it would depend on what the no-fault was. As far as issues relating to attorneys' fees, those kinds of things might still come back to the court.

But in general, it makes a great deal of sense that there would be no-fault as an option for a divorcing couple in addition to fault.

JUDGE FISHER: And may I add that the majority of the individuals that come into the Supreme Court Help Centers now come in for divorce or foreclosures. And they come in for divorce because our divorce laws are so complicated and it's so difficult to get a divorce. And so a substantial amount of our time is with unrepresented litigants who are trying to get divorced. And if our laws are simplified, it would certainly decrease the courts' work, both in the Help Centers and in the clerk's office.

SENATOR HASSELL-THOMPSON: Thank you.

SENATOR KRUEGER: Thank you very much, and thank you for your cooperation this morning.

JUDGE PFAU: Thank you. Thank you for having us.

SENATOR KRUEGER: Our next is a panel, New

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York State Office of Homeland Security, New York State Division of Criminal Justice, New York State Division of Parole, New York State Division of State Police, New York State Department of Correctional Services, and the New York State Chief Information Officer and Office for Technology.

Good morning. Thank you for all being here.

I think there's just one correction. You are now deputy secretary, Denise O'Donnell, correct, not just the commissioner?

DEP. SECRETARY DENISE O'DONNELL:

Correct.

SENATOR KRUEGER: So just a correction for anyone who has our legislative materials.

Welcome. I know that there's a full panel. Each of you has provided written testimony, and I am going to urge everyone not to actually read their full testimony but, rather, summarize the key points so that our very involved panel has the chance to ask you lots of questions.

And I assume, Denise, you are going to lead us off.

DEP. SECRETARY O'DONNELL: Okay, thank you very much. Good morning, Senator Krueger and Chairman Farrell and distinguished members of the Committee.

As you know, New York remains in the throes of the most serious economic crisis many of us have witnessed in State government. We are confronted with the grim and daunting reality of

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an \$8.2 billion deficit and long-term structural deficit as well. Accordingly, the Public Protection Budget Governor Paterson presented reflects extraordinarily difficult choices and a very careful balancing of public interests.

I am going to summarize my testimony for you today, and I'll try to keep it as brief as possible.

We have done an extraordinary job of reducing crime in our State over the last 20 years. The crime rate in New York has declined 62 percent, while nationwide it has declined less than 35 percent. And while our crime rate has plummeted, so too has our prison population. While the nationwide prison population increased 16 percent between 2000 and 2008, New York's decreased 14 percent. In fact, New York is the only large state whose prison population has declined since 2002.

We have no intention of giving back any of the hard-fought ground we have won in New York. At the same time, we must be very mindful of the State's fiscal crisis.

To that end, the Governor's Budget imposes a 10 percent across-the-board reduction on all local criminal justice programs. The Governor believes that we simply must change the way we do business. His Budget proposes a number of mergers and consolidations of State agencies, including consolidations of both public safety agencies in the criminal justice side and in the homeland security side.

First, the criminal justice proposal. DCJS currently

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provides administrative support for and shares many of the same functions as the Crime Victims Board, the Office for the Prevention of Domestic Violence, and the Division of Probation and Correctional Alternatives, including data collection and analysis, administration of Federal and State criminal justice funds, training, grant-making, and support of local criminal justice programs.

The Budget recommends consolidating these agencies under the DCJS umbrella to create operational efficiencies, foster coordination of policies and programs, and provide for more efficient and cost-effective delivery of services. The proposal would create separate offices under DCJS headed by a deputy commissioner who would continue the important mission and function of the hosted agency. It is anticipated that the merger would yield savings of \$1 million in 2010-2011 and \$1.9 million annually thereafter.

These consolidations are an important way to achieve additional savings, but that is not all. We have implemented a strict hiring freeze and tough budget-control measures at DCJS. Over the past two years, the DCJS personnel target has been cut by 83 positions, a reduction of 11 percent. Additionally, the Governor's Budget includes a \$6.4 million across-the-board reduction in agency operations for DCJS, on top of \$2 million in cuts imposed in 2009-2010.

Governor Paterson's Budget addresses long-standing concerns that our current system of funding indigent defense must be fixed. The Budget proposes the creation of an Office of Indigent

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Defense at DCJS. The office would be governed by an independent board of stakeholders chaired by the Chief Judge, tasked with identifying ways to improve the delivery of indigent defense services in partnership with counties. The Governor's Budget includes \$3 million to establish the office. Another \$7 million would be available to supplement the \$70 million currently distributed from the Indigent Legal Services Fund.

A second major consolidation is proposed for the homeland security and emergency services agencies. Given the ever-present threat of terrorism and a variety of manmade and natural disasters, it's critical that our efforts to prevent and respond to such threats be highly coordinated, that we eliminate duplication of efforts, and that we eliminate silos wherever they exist.

Consistent with the all-hazards approach adopted in New York, the Governor's Budget proposal proposes to merge the Office of Homeland Security, the State Emergency Management Office, the State 911 Board, the Office of Cyber Security, and the Office of Fire Safety and Control into a single State agency, the Division of Homeland Security and Emergency Services. This new agency will preserve the key missions of the existing organizations and will provide greater support to first responders, improve coordination of a wide array of grant programs, and advance the vision of a county-driven Statewide communication network.

The office will support a 25-member board that will replace the current 911 Board and the SWN Board and oversee the

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distribution of grants -- \$50 million in 2010-2011 and \$75 million going forward -- to support interoperable communication and 911 centers. We anticipate a savings of at least \$1.5 million annually as a result of that consolidation.

One of the most exciting and innovative proposals in the Budget is the investment of \$42 million in bonded capital over five years to transition the State Preparedness Training Center at Oriskany into a Statewide high-tech training center for first responders.

An initial component of that plan is to construct a state-of-the-art "Cityscape," which will include prototype stores, businesses, classrooms, streets and city-style apartments. This true-to-life training environment will offer a rare opportunity for police, fire, and EMS personnel to train together, developing a unified response to emergency situations, and also improve safety for our first responders.

Operation IMPACT provides funding to 17 counties in Upstate New York and on Long Island that report the highest volume of crime outside the City of New York, assisting those jurisdictions in their fight against violent and gun crime. IMPACT supports technology, crime analysis, assistant district attorneys, field intelligence officers, and specialized units and programs that these counties simply can't afford on their own. The IMPACT counties herald it as the most comprehensive State crime-reduction program in New York's history. Governor Paterson's Budget commits \$15.7

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million to IMPACT. That is approximately \$1 million more than was allocated in 2006 and \$1 million less than was budgeted last year.

The Budget also continues funding for state-of-the-art crime analysis centers in Erie, Monroe, Onondaga and Albany Counties. DNA is clearly one of the most effective crime-fighting tools available to law enforcement. It is also an extremely cost-effective way to solve crimes. Yet currently we are only allowed to collect DNA from 46 percent of the offenders who are convicted of a Penal Law crime. We are neglecting to collect DNA from those convicted of 453 misdemeanor offenses.

Over the past several years, three governors of two different political parties have urged the Legislature to expand the DNA Databank to include samples from everyone convicted -- mind you, convicted, not arrested -- of any Penal Law offense. The Governor has included an all-crimes DNA proposal as part of the 2010-2011 Budget, and I urge you to support it.

Finally, time does not permit me to discuss implementation of Rockefeller Drug Law reform. I look forward to an opportunity to do so in a different forum, and did recently attend an Assembly hearing to discuss the State's plans for spending \$67 million in Byrne stimulus funding to support Rockefeller Drug Law reform. That plan will again be updated and has to be approved by the Division of Budget and provided to the Legislature this year, because we said last year that we would reevaluate it in light of the information we have encountered this year.

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We plan at DCJS to be able to release statistical information that we've collected thus far on implementation of Rockefeller Drug Law reform before the end of February. That information will be available to the Legislature and will be provided on the DCJS website.

So in conclusion, the extraordinary fiscal crisis confronting New York State demands leadership and courage. The budgetary decisions that you, in partnership with the Governor, make this year will not be popular and will not be easy. But you have it within your power to institute key reforms to put New York on the road to fiscal and economic recovery.

I thank you for the opportunity to outline the Governor's public safety budget, and I would be happy to answer any questions you have or defer them until after my colleagues have made their presentations.

Thank you.

CHAIRMAN FARRELL: Thank you. Next?

CHAIRWOMAN ANDREA EVANS: New York State Division of Parole. Good morning. I'm Andrea Evans, and I'm the Chairwoman and the CEO of the division.

Our fiscal situation required Parole to look at even more effective ways to allocate our funding to make the most of the division's dual responsibilities of both protecting public safety and helping the formerly incarcerated successfully return to their communities. The back-to-basics approach to pre-release planning

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and corrective field supervision that we launched last year proved to be especially timely as the economy continued to dictate further reductions.

Concentrating specifically on our core mission enabled us to continue our important relationships with local law enforcement and community-based organizations.

We met our financial goals by postponing new initiatives, suspending our new recruitment classes, and eliminating all discretionary purchases. We expanded our video-conferencing capabilities, reduced overtime, significantly lowered travel expenses, saved money through green initiatives, and delayed the rollout of non-mission-critical technology projects.

The division has maintained its commitment to Operation IMPACT and other local law enforcement task forces, and we continue to work closely with the Division of Criminal Justice Services.

During 2009, the average number of technical warrants issued monthly to parolees for alleged violations of the conditions governing their release declined by a whopping 38 percent, and new arrest warrants have minimally increased. In 2009, 2264 fewer parolees began violation proceedings than in 2008.

It's of interest to note that 7 percent of the parolee population is female. At Bayview Correctional Facility, there's a full-day reentry program that's planned to address the needs of up to 40 women, including employment, education, healthcare, substance

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abuse and family reunification. Two caseloads were established in New York City that participate in the pre-release planning meetings.

In Fiscal Year 2010-2011, we will continue our focus on evidence-based parole supervision to mitigate the risk of recidivism and to promote an offender's successful reentry into the community. The Division of Parole has adopted the National Institute of Corrections' transition from prison to community initiative model which focuses on supporting released offenders so they remain arrest-free and become competent, self-sufficient members of their communities and criminal justice agencies.

The division has begun a pilot program in Buffalo with 1,000 parolees that uses a risks and needs assessment instrument to determine supervision methods. Developing a better understanding of parolee risk factors and graduated responses that work will allow parole officers Statewide to identify parolees who require less intense supervision, so that high-risk parolees will receive the most intensive supervision.

This Committee and the public can be confident that we will remain vigilant in our efforts to closely monitor these parolees. Efforts are also underway to expand this project Statewide.

As one example of the alternative to incarceration efforts this year, there were 968 enrollments in the Edgecombe Diversion Project. At the established cost of \$30,000 per bed in doubles, parole success in reducing technical warrants has saved the State of New York approximately \$22.5 million this year.

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With the enactment of the Electronic Security and Targeted Online Predators Act, the division's efforts to protect the public from sex offenders online was enhanced. The Board of Parole was authorized to impose certain limitations on the use of the Internet by all Level 3 sex offenders and other offenders who victimized a minor or who used the Internet to facilitate the commission of their sex offenses.

Governor Paterson has also proposed a reduction in the number of Parole Board members due to a reduction in their workload. Since 1995, there has been a 32 percent drop in the number of parole interviews conducted by board members, due in large part to the introduction of determinate sentencing for violent felony offenders. This would result in savings of \$600,000 next year.

The Division of Parole realizes the next fiscal year will present similar challenges to those of this year. Efficiencies achieved in personal services, a 40 percent reduction in overtime, reduced equipment and travel expenses will be continued in 2010-2011 fiscal year and are reflected in the Executive Budget. We will continue to pursue new strategies to better prioritize how we spend our allocated funding.

Thank you. I'd welcome any questions you may have of us.

SENATOR KRUEGER: Thank you.

COMMISSIONER BRIAN FISCHER: Good morning.

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CHAIRMAN FARRELL: Good morning.

COMMISSIONER FISCHER: My name is Brian Fischer. I'm the Commissioner of New York State Department of Correctional Services.

And I would like to do a summary through some visuals. But before I do that, I'd like to suggest that there are three themes that affect the Department of Corrections and the Budget.

The first theme is the obvious one, the drop in the number of offenders in the past three years and the projection that another at least 1,000 more offenders will not be in the system next year.

The second theme is the mandated and necessary treatment programs that have been enhanced and restructured due to offender needs, resource availability, and the changing offender demographics.

And lastly, the fiscal realities that require me to continue to reduce the cost of incarceration.

Chart 1 shows you the drop in the number of offenders that has and will continue to be a key factor in impacting Corrections. You will note that the chart starts in 2007 and projects through the calendar year 2011. I no longer want to talk about what happened in 1999 and 2000, but this is what's going on today.

While we all watched the numbers go down in the past few years, I don't think anybody, including ourselves, anticipated how quickly the numbers have gone down. Last year, on average, we

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saw a reduction of about 143 offenders per month. Next year I project anywhere between 100 and 125 per month will be reduced -- partly because of the impact of early release programs, lower rates of convictions, post-release supervision court decisions that have occurred, resentencing under the Rockefeller Drug Law, and the role that Parole has played in assisting us.

Chart 2 demonstrates where the population has changed in terms of who has been released. You will note, obviously, the greatest number is in the minimum security facilities. Primarily, these were the drug offenders who have been released on early release and are now being supervised and hopefully will not return, based on parole and the diversion of Rockefeller Drug Laws. The smaller number obviously is the medium, and the least amount of people who have reduced would be the maximum security.

Chart 3 really talks about treatment. This chart is meant to demonstrate what the agency has done to meet the challenge of treatment while maintaining a high level of security for both staff and offenders alike. What you see now is what we call restricted beds and cells. These are beds and cells designated for particular facilities for particular offenders.

You will note that we have isolated out such program areas as special housing, reception, mental health, medical care, and many others. These beds are so designated because only those offenders in need of such programs are placed there. These beds are considered separate from the other beds that you all will hear called

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general confinement beds.

Two critical comments I must make about this new configuration. The first is that this approach, this segregation, if you would, of programs where they belong, has been highly effective both for security and for treatment. The second is that it has helped redefine our agency.

Correctional systems across the country have become the major provider of mental health services in the past few years. Currently, in DOCS, 13 percent of our population is on the OMH caseload, equating to about 2,345 people. To provide meaningful treatment to them, to meet court-approved requirements, and to be ready for the demands of the upcoming SHU exclusion law, resources had to be developed.

Mental health services are located in all 17 maximum-security facilities and 18 of our 37 medium-security facilities, as designated in the chart. As the map indicates, we have clustered the services around areas in the State that can support our need.

This chart summarizes the issues I've just spoken about. By consolidating dormitories in most prisons, by closing three camps and six annexes, we have redefined the agency, in addition to saving over \$31 million in recurring dollars.

What you have in front of you and what you see is a chart that demonstrates how we fill our beds, where our staff is, and where our vacancies are. The beds on the bottom, 58,520, are filled

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and staffed. Beds above that we call available. It says general confinement, restricted, unstaffed. This means these beds are available for use if I had staff, if I needed the staff.

Above that is restricted, the treatment beds I just spoke about in the previous charts. These are beds that are available today in staffed areas that I can place an inmate in special needs immediately.

And the last top one is 2,158 general confinement vacant beds in staffed housing. Which means any inmate who shows up today, if he needs a restricted bed or a general confinement bed, I can place him in there without any problem.

Let's just go back one second. I know there was a lot of argument that we're overcrowded and we're not properly lined up. But I think these numbers basically speak for themselves. We are not overcrowded.

This is the most important change that we have seen. This chart speaks directly to the changing demographics. While the total number of offenders has dropped, primarily in the nonviolent, the number of violent offenders have proportionally gone up. The blue line that runs straight down represents nonviolent drug offenders. The red line that's going up represents violent offenders in the system.

If this trend continues represented by the chart continues -- and I suspect that it will -- all indications are that this agency will have to move now to ensure that we have the right facilities in the right place to deal with the change.

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This leads me to the most critical and clearly the most sensitive area in the Budget, the closing of three prisons and part of one other facility, for an annual recurring savings of about \$45 million.

I take no pleasure in the recommendations that I have made, knowing the heavy personal price tag to both staff involved and the local communities around the prisons. Every facility is important, and every facility has done more than its share of work. The fiscal reality says we can no longer support the existence of every facility, given the drop in the offender population, the cost of specialized treatment, and things of that nature.

That said, I reluctantly chose facilities based on several factors. Was it built as a prison or retrofitted after being taken over by Corrections? Are their programs in those facilities unique, or do other facilities provide the same services? What's the distance from where the offenders come from? What's the distance from and to other facilities in the area? The size, the cost, and -- unfortunately for me and the impact on the community -- the most important one is what's the overall impact to the agency if they do close. We must remember that these closings do not take effect until January 31 and March 31, 2011, some 12 and 14 months away.

This brings us to the chart and the issue of where the savings will come from. Keep in mind that in fiscal year 2008-2009 the department saved \$150.5 million and will save additional \$141.9 million this fiscal year. Next year our savings are projected to be

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\$283 million, \$87 million in actual dollars and \$196 million less because that amount was put in this year's Budget to pay for the pay raises negotiated by NYSCOPBA for prior years, and will not reoccur.

You will also note that every area will be reduced, including administration, which I know is a sensitive area for everyone.

Thank you.

SUPERINTENDENT HARRY CORBITT: Good morning, Senator Kruger, Assemblyman Farrell. I'm Harry Corbitt, superintendent of the New York State Police. And as you requested, I'll keep my comments brief.

The State Police primarily has three missions. One is obviously a very robust highway safety program. The second mission is to reduce crime. And the third mission would be to work collaboratively with other law enforcement agencies.

To that end, we have returned to core values. So in order to meet the financial objective, we will not have any classes for the current year. We will participate in Operation IMPACT, which is a program that exists in 17 Upstate counties to reduce violent crime in those counties. We utilize Troopers, investigators to work in those counties. And we also work very, very collaboratively with other local law enforcement agencies.

We also have a pretty large footprint in homeland security. This involves working with several other law enforcement agencies that impact 70,000 other law enforcement agencies.

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As we move to reassign personnel because we are not having classes, one of the programs that we had to look at, unfortunately, was the School Resource Officer Program. We will continue to evaluate redeployment of members. And no particular troop or location has been spared. And therefore we will try to concentrate on our core missions.

The Governor also proposed a program in cooperation with the 2005 Work Zone Safety Act. And this is a photo monitoring equipment program to combat speeding in a work zone. This, again, is consistent with our mission concerning highway safety. And so certainly anything that we can do as an agency to save lives, to slow traffic, we are in favor of.

Finally, I think that when you look at the NYSIC Center, our Fusion Center, which is one of the best if not the best in the country, we will continue to maintain a very active role. We service 16 counterterrorism zones in the State, and our partnership with Homeland Security is probably unparalleled compared to anywhere in this country.

Thank you.

CHAIRMAN FARRELL: Thank you.

DIRECTOR THOMAS G. DONLON: Good morning. Thank you, Chairman Farrell, Chairman Kruger, and all the members of the joint committee for the opportunity to appear before you today. My name is Thomas G. Donlon, and I'm the director of the New York State Office of Homeland Security.

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I want to take this opportunity to provide a brief overview of the evolving terrorism threat we face, as well as our ability as a state to counter those threats. While addressing the ever-growing budget deficit that New York State continues to face, we must continue and will maintain the integrity of counterterrorism and emergency service capabilities. The most critical aspect of the Governor's proposal is that the merged structure will allow the Office of Homeland Security to maintain its counterterrorism focus and to effectively protect and prepare our citizens for the risk we face on a daily basis.

OHS's mission is to direct and coordinate a comprehensive counterterrorism and all-hazards prevention, preparedness, and response strategy for the State of New York. This framework guides all of our efforts to address the threats we face, and we appreciate the Legislature's steadfast support for all these efforts. Therefore, it's critical that we continue to work with our Federal, State and local partners to collect and share information. This can only be accomplished when we continue to remain proactive in our approach to the current threat environment.

In looking back at this past year, it is very, very clear that we must recognize that we cannot rest on our past successes, nor can we become complacent. The terror plots uncovered in 2009 have yet again served to remind the residents of New York State and of course the nation about the threat we continue to confront.

This past year our nation witnessed the largest

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number of domestic terrorist plots in a single year since 9/11. On Christmas Day we witnessed a terrorist who attempted to detonate an explosive device on board Flight 253, a Northwest flight en route from Amsterdam with 300 passengers aboard. We were incredibly fortunate that he was unsuccessful in accomplishing his mission and the quick response of courageous passengers restrained this individual and prevented him from causing any further harm.

Additionally, this past year a counterterrorism operation led by the New York City Joint Terrorism Task Force, code name Operation Red Eye, resulted in the arrest of four individuals who attempted to place explosives in front of a synagogue and the Jewish Community Center in Riverdale, New York. They had also planned to shoot down military aircraft at Stewart Air National Guard with a stinger missile. Since the inception of the Operation Red Eye case, the Joint Terrorism Task Force was fully aware of this plot, which underscores the outstanding efforts by the Federal, State and local law enforcement agencies who continue to proactively address emerging threats.

We also recall the arrest by the New York City Joint Terrorism Task Force of Najibullah Zazi and two others in September 2009 over an alleged plot, code name Operation High Rise; linked to Al Qaida targeting New York City.

We also witnessed in November 2009 the shooting in Fort Hood Texas by an individual identified as Maliq Nadil Hasan, which resulted in the death of 12 soldiers and the injury of dozens.

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more.

While home-grown terrorists have become an ever-increasing concern, the impact of international terrorism is clearly just as significant. It's been reported that the Christmas Day bomber was trained in Yemen by Al Qaida operatives. We now fully understand the significance that Yemen plays in the current threat environment as one of the main training grounds for Al Qaida, and has for many, many, many years.

Make no mistake. These examples reveal that New York State faces a threat from both international and domestic terrorist organizations. No one person or agency can counter these threats alone.

In 2009, OHS updated the State Homeland Security Strategy and solicited feedback from over 600 representatives from State and local law enforcement, as well as fire, EMS, and emergency management personnel. Many of these suggestions were incorporated into our strategy. This strategy, disseminated to all our State and local partners, provides guidance on where to dedicate resources employed in our homeland security funding.

Homeland security funds have long provided the resources for our State and local partners to prepare and to respond to the needs of our residents. We're happy to report that we have recently benefitted from an increase in two of our most significant Federal funds, State Homeland Security funding and the New York City Urban Area Fund. For 2010, New York State expects to receive

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almost \$275 million from these two grants alone, and over \$455 million is expected to be provided to New York State localities and the New York City metropolitan area under various Federal grant programs. Both the 2010 State Homeland Security Grant Program and the New York City Urban Area Security Initiative allocations are by far the highest in the country.

To ensure that OHS has the necessary level of receive and spend authority, we're legally required to distribute Federal funds to our local partners. You will notice an additional \$100 million in local assistance appropriation in the 2010-2011 OHS budget. I want to emphasize that this \$100 million increase represents an increase in Federal spending authority only and not actual dollar increases in our agency budget.

With the support of the members of this panel, another major initiative being led by OHS is the ongoing development of the State Preparedness Center near Oriskany. In 2009, we trained over 5,000 students from more than 400 State and local first-responding agencies.

A milestone we are particularly proud of also is that the training center has officially become accredited by the Commission on Accreditation for Law Enforcement Agencies in 2008, a distinction achieved by only 22 public safety academies in the nation. For your information, the only other accredited agency in the State is the NYPD Police Academy.

When fully operational, the State Preparedness

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Center will be centrally located, it will be a state-of-the-art facility that serves and strengthens the capabilities of our State and local law enforcement, fire services, emergency medical services, and emergency management communities. We at OHS, in conjunction with the New York State Police and the 22 agencies assigned to the New York State Intelligence Center, provide on a daily basis information from 16 counterterrorism zones -- information such as intelligence and critical infrastructure information.

We have experienced numerous attempts, attempted attacks of terrorism against our country since 9/11. We must therefore continue to remain proactive in our fight against terrorism and continually stress to our New York State residents the importance of, if they see something, say something, as outlined in our Operation Safeguard Program.

I'm proud of the work that has been accomplished thus far, and I thank each of you for your leadership, support, and dedicated efforts to the people you serve. Chairmen Farrell and Kruger and members of the Joint Committee, I thank you for the opportunity to testify today, and I'll be happy to answer any questions.

SENATOR KRUEGER: Thank you.

CHAIRMAN FARRELL: Thank you.

DR. MELODIE MAYBERRY-STEWART: Good morning. I'm Melodie Mayberry-Stewart, chief information officer for the State of New York and director of the Office of Technology.

Chairmen Kruger and Farrell and members of the

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committee, it is an honor to come before you today to talk about the many technology initiatives in the Budget for this year. In Governor Paterson's Executive Budget for 2010-2011, during this challenging fiscal time we must seek innovative ways to become more efficient and effective while lowering our costs to deliver those service.

CIO/OFT responded to the Governor's call for reduced spending in the current fiscal year. The 2010-2011 Budget includes an additional 11.5 percent reduction representing a \$3.7 million cut in our General Fund spending. Operationally, we continue to lower our total cost of information technology ownership by aggressively implementing the strategies and goals outlined in the New York State Enterprise IT Strategic Plan.

The Enterprise IT Strategic Plan includes the following three key strategic initiatives designed to improve operational efficiencies and drive down costs: First, streamlining Enterprise IT operations for greater efficiencies and service delivery. In the Governor's Executive Budget, he unveiled plans to streamline technology operations through the Office of Taxpayer Accountability, or OTA, and CIO/OFT. OTA and CIO/OFT are working together to implement several shared IT service initiatives regarding enterprise IT operations.

Second, making necessary capital and infrastructure investments. Securing a consolidated enterprise technology multiplex to consolidate our aging data centers, and a disaster recovery site, are necessary to upgrade our mission-critical IT infrastructure.

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And third, developing a talented and innovative New York State IT workforce while reducing consultant costs and usage.

To minimize the cost of IT consultants the State uses, last week CIO/OFT announced the award for the State's first enterprise staff augmentation contract. By aggregating the current agency procurements for IT staff augmentation contracts into an enterprise contract, we can now leverage the State's buying power to standardize rates and reduce costs.

So to achieve our cost-savings targets, we will focus on four major goals. The first goal is to migrate all executive agencies to a single e-mail system. CIO/OFT is working with OTA to consolidate onto a single platform over 40 agencies representing approximately another 100,000 e-mail users. We are migrating these agencies to the CIO/OFT-operated NYSeMail system, and expect completion within the next 18 months. This project is projected to save \$4 million annually when fully implemented, and will also improve operational efficiency.

Last week we hosted the enterprise NYSeMail migration kick-off meetings with executive agencies to provide an overview of the project and the type of support that they can plan as we go through this migration. We are very excited to take on this challenge and eager to work with OTA and the agencies on other long-term initiatives.

Our second goal is to transform our IT service delivery model to achieve greater operational efficiencies through

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further IT consolidations.

When the Office for Technology was created in 1997, its mission was to serve as the State's central IT organization. While the State's mainframes were consolidated, the majority of other IT assets were not. In cooperation with OTA, CIO/OFT will develop a new business model to jump-start the further consolidation of IT services. A charter between OTA and CIO/OFT will require a reduction in Statewide technology costs and will focus on customer-driven business relations. Agencies will be required to utilize CIO/OFT services and adhere to Statewide technology policies and principles.

The first slide I'm showing, in Figure 1, the top is in addition to the new business model with OTA, we will also implement what we call this three-tier approach. This approach designates CIO/OFT as the central entity for enterprise infrastructure and IT shared services. While promoting collaboration between agencies sharing common constituents and IT needs, this three-tier model will allow agencies to forego mundane or duplicative IT operations and focus on their mission-critical applications.

At the lowest tier, Tier 1 is the infrastructure tier. And with this tier we will focus on cost efficiencies to support data center operations, telecommunications, networks, desktop support, and other enterprise back-office operations.

At the Tier 2 level is where we will focus on mission-critical applications of the agencies. These agencies have

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been grouped together in our IT Strategic Plan to form strategic clusters. And these mission-critical applications will be developed and supported by the respective lead agency, which will be working in a cluster.

We've developed seven IT strategic clusters, which are labor, health and human services; financial regulations; public safety and security; economic development and infrastructure; education; energy and environment; and government operations and oversight.

This gives us the ability to start to look at common applications and to be able to leverage our buying power by procuring those applications which concern several agencies.

And finally, the top tier are for special purpose applications, which are self-sufficient. And the lead agency would be responsible for acquiring, maintaining, and supporting that application.

This three-tier approach will enable CIO/OFT, working with OTA, to develop a new service delivery business model that cuts our costs. We plan to transform our service delivery by enhancing our infrastructure to allow for innovative procurements, as well as working with service-level agreements with each of the respective agencies.

Our third main goal is to upgrade the State's IT mission-critical infrastructure. And what type of initiatives in the Executive Budget are outlined to achieve this goal? We must secure

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the enterprise disaster recovery site to not only keep mission-critical State operations safe from disruption but also serve as a staging area for infrastructure upgrades and cost reduction consolidations.

CIO/OFT is currently awaiting lease approval from the Office of the State Comptroller for the data center space outside of the Capital Region to offer disaster recovery services. Through expanded shared services and IT centralizations, we can further reduce costs to operate the Disaster Recovery Center. Our budget includes \$6.4 million within the data center appropriation to lease this space.

In addition, CIO/OFT looks to consolidate its remaining mainframe data centers into the enterprise technology multiplex. Today, three concurrent challenges exist -- to replace and consolidate the State's aging data centers, to recruit and retrain an innovative and talented workforce, and to establish a permanent program for training and technology refreshment.

In order to maximize the \$99.1 million reappropriation for a consolidated data center, the State is looking to forge strategic collaborations with academic and private partners. This will ensure we meet mutual goals, within available resources, on an aggressive timetable.

In December, academic leaders from Cornell University, Columbia University Medical Center, and New York City University submitted letters of intent to CIO/OFT to work collaboratively preparing recommendations for the development of a

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shared world-class IT enterprise technology multiplex. This work is underway, and together we hope to establish a world-class public/private partnership similar to that that is done by the State of Massachusetts with MIT, Boston University, and UMass.

We will also fast-track our ability to utilize Voice Over Internet Protocol, or what you have heard referred to as VoIP, across the State enterprise. And this telecommunications technology will offer for audio and data transmission over the Internet and other digital networks.

These efforts have already begun with the Department of Taxation and Finance. This core telecommunications modernization initiative will replace our aging legacy equipment, and it is expected to take place in 18 months for it to be complete.

Through the Governor's economic recovery cabinet, the Broadband Program Office continues to assist New York State agencies, businesses and citizens competing for Federal broadband stimulus grant dollars. New York State applied for nearly \$800 million in the first round of funding. Award announcements began in November 2009 and are continuing. To date, two New York State broadband development projects received \$44 million in Federal stimulus funds. We currently have almost another \$500 million that are continuing to go through the Federal government's due diligence process.

The Broadband Stimulus notice of funds availability for Round 2 applications has been issued. Round 2 grants are due

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March 15. We will continue our efforts to maximize funds to the State through public/private partnerships.

In 2009, CIO/OFT and public safety agencies collaborated to develop a common strategy to streamline functions and reduce costs. The unfortunate termination for default of the M/A-COM contract for the Statewide Wireless Network provided an opportunity for the State to restructure the State's "public safety grade" strategy, and Commissioner O'Donnell has already commented on that. So we will continue to work with the strategy in order for that to move forward.

In addition, Governor Paterson's proposed Division of Homeland Security and Emergency Services will award up to \$50 million annually in new grants for those county consortiums that we are working with.

Our final goal is to reduce our reliance and costs for IT contractors. IT workforce-related issues have been important since I became State CIO. We have continuously advocated for actions to reduce both the reliance on contractors and the cost. As shown in Figure 2, we are starting to achieve success in reducing our utilization of contractors.

Figure 2 highlights the top 10 State agencies with the highest spending on technology last year. These 10 State agencies collectively represent approximately 70 percent of the State's total IT spend for executive agencies. An analysis of IT consultant spending for those agencies reveals a 14 percent overall reduction in IT

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consultant spending for the first half of this fiscal year compared to the same period last fiscal year. We are very pleased with this result, but we are not resting on this progress.

One of the major factors contributing to the use of IT staff augmentation contractors is the pressing need for skills in newer technologies which are currently lacking within our current workforce. This situation will only be exacerbated by the retirement of baby boomers over the next few years, when nearly 20 percent of the IT workforce is eligible to retire. So we must pursue more innovative approaches to solve this problem.

Last year, with the adoption of the bill in the Senate and the Assembly which was signed into law as Chapter 500 of the Laws of 2009, this law authorized up to 500 term IT appointments for up to five years each. And we thank you for the passage of this because it is a critical component of our ability to continue reducing the using of IT consultants for staff augmentation purposes. These positions will be established at the entry level through Grade 27, enabling agencies to appoint staff at higher levels, commensurate with their skills. Existing State employees can apply for these positions as well, and agencies will be required to eliminate a consultant for each position filled, thus dropping down our costs.

To minimize the cost of IT consultants the State uses, on January 28th CIO/OFT announced a contract award to Tapfin Process Solutions to deliver IT staff augmentation management to State agencies. By aggregating the current agency procurements into

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a single enterprise contract, we can reduce costs associated with staff augmentation. We view this unprecedented and transformational procurement as an opportunity for small, minority- and women-owned businesses to have access to the dollars traditionally spent by New York State for IT staff augmentation.

In summary, in a time of severe resource constraints, not all of this is possible immediately, and it is a goal we must continue to work towards if we are to lower our total cost of IT ownership and attract and retain the IT workforce we need today and tomorrow. So in conclusion, CIO/OFT recommends the following actions be considered to address the current fiscal and workforce challenges.

First, to transform the delivery of IT services by enhancing the IT shared services model for executive agencies.

Second, to foster academic partnerships to support innovative capital investment and educational curriculum development.

Finally, with your strong commitment to continue leveraging technology for delivering better government, I believe we can and will achieve these cost-saving goals for the benefit of New York State and our taxpayers.

Thank you for the opportunity to speak today, and I look forward to your questions.

CHAIRMAN FARRELL: Thank you very much.
First to question, RoAnn Destito, Chair of the Governmental

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Operations Committee.

ASSEMBLYWOMAN DESTITO: Thank you.

Thank you all for being here.

Denise, Commissioner, Deputy Secretary O'Donnell, I am interested in the merger of the homeland security agencies. And my only concern is with the Office of Fire Prevention and Control having duties in both the Department of State as well as in the homeland security and disaster preparedness area. How will you deal with those issues. And I guess you could also argue that they currently have responsibilities in both areas. But how about that in fact be dealt with? And do you still envision the Office of Fire Prevention and Control moving to the Department of State?

I am, in concept, supportive of your merging, and I believe that this is something that we've talked about for a number of years with Disaster Preparedness and the Office of Homeland Security overseeing those efforts in the State.

DEP. SECRETARY O'DONNELL: I appreciate that very much. And we look forward to coming and briefing you and giving you a more thorough briefing of the proposal.

We did meet with the volunteer fire community after this merger was proposed, and they were generally supportive. But a concern has been raised about leaving behind individuals -- I think there's approximately 12 positions that do primarily code enforcement. And there is somewhat of a disagreement about that. And we're still in discussion.

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The rationale for leaving them behind is that we understood that they were doing primarily building and code enforcement. From the point of view of fire prevention folks, they see them as doing prevention. So we still can discuss that particular wrinkle in the proposal.

ASSEMBLYWOMAN DESTITO: In the other areas, where the crime and the victims services would be combined, I have a concern and I have a question.

We call it the Department of Criminal Justice Services. And I think my colleague Helene will expound upon this area, but there's a little bit concern among the advocates and ourselves, and myself particularly, along with some of my colleagues, that we're putting advocate and victim services into a criminal justice service.

Is there anything that stops us from changing the name of the Division of Criminal Justice Services to something that actually describes victim services in it? I really do have an issue with putting victim services and advocate services to people who have been victims of crime into a criminal justice service. And I know that that might be semantic, but I think it does send a message to the victims themselves.

DEP. SECRETARY O'DONNELL: Well, that issue has been raised.

First of all, I know proposals have been floated previously, maybe even drafted previously. But I think this one was

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different, because we were very careful to make sure that the Article 7 bill language preserved the mission and responsibilities of offices.

So there's no reason why -- and this was raised, I think, when we did a budget briefing -- that we can't emphasize the office of victims of crime in dealing with crime victims in terms of claims and how we deal with claims.

But the missions -- it really is more of a Justice Department model, I guess, that you have an umbrella, but one of the offices is the Office of Sex Offender Management, another office is the Office of Police Services, another office deals with crime labs. I mean, there are different offices now within this umbrella agency at DCJS that have unique functions and roles and responsibilities. And that's not going anywhere. We didn't merge those functions and say they're all done by everyone; we preserved the integrity of those offices within the DCJS umbrella.

So I think that those concerns can be addressed. I don't know that we want to change the name of the agency, but certainly these proposals are out there for us to discuss going forward. But I can assure you that we will continue the mission and goal of these agencies with full vigor and, I think, can enhance them in many respects.

The crime victims system that we have of paying claims to crime victims is the last board remaining in the country for paying claims through what is a convoluted process of having claims investigated and researched and then have a commissioner located at

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different parts of the State actually having to decide whether that particular's victim's claim can be paid or not.

There are much more efficient ways of doing that. And that should free up resources to advocate for crime victims, to promote crime victim legislation, to be much more involved in the crime victim community. And that's what I hope we'll see as a result of this proposal.

ASSEMBLYWOMAN DESTITO: I agree, and I think that the details will need to be looked at. I think if you maintain the funding to the advocacy programs, I think we should at least pursue it a little bit further with regard to the merger.

But I think that putting crime victims into a criminal justice system, I think we're going to have to be explicit as to how we're providing these services and whether or not the integrity of the funding of those services will remain.

And I understand you're moving something from Health into the area of DCJS with regard to the Rape Crisis Centers, and I can assure you that the advocates were not happy or pleased with what the Department of Health had proposed. So I don't know if you're continuing that.

DEP. SECRETARY O'DONNELL: Yes. And I think that the community has been supportive of that moving to DCJS, which administers the Violence Against Women Act funding.

One of the reasons behind the merger proposal as well is that several of those agencies fund the same programs. So

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CVB, DCJS fund many of the same providers. And to some extent DPCA as well.

So, you know, I think the economies that can be achieved in processing those grant applications under one umbrella can be beneficial to the provider community as well.

ASSEMBLYWOMAN DESTITO: With regard to workforce, does the division rely on contracted temporary workers. And if so, how many? And how will you be moving towards, you know, eliminating the contract workers, especially under this merged situation?

DEP. SECRETARY O'DONNELL: Well, with respect to -- are you talking about temporary contract workers?

ASSEMBLYWOMAN DESTITO: Yes. Yes.

DEP. SECRETARY O'DONNELL: DCJS did employ some temporary workers in the last budget year for a particular project. And that was DCJS's undertaking of a huge IT project to develop a new fingerprint, automated fingerprint system. And as part of that project we had to essentially convert over 20 million paper documents into scanned documents.

And in order to achieve that project, DCJS hired temporary workers both to prepare the documents for scanning and then to scan the documents. That had a sole-purpose life span. It's over, the project was done. We didn't have the personnel to do it, and it didn't make sense to be able to hire State employees to do a distinct project.

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So that's the only use that we have. There are a few temporary workers at the Crime Victims Board that we do not feel we will need to continue after the merger.

ASSEMBLYWOMAN DESTITO: Throughout the State agencies there is a savings that is indicated by the Governor, that he will achieve savings through collective bargaining. Can you explain, I guess with the deputy secretary hat on, how those savings will be achieved?

DEP. SECRETARY O'DONNELL: No, I can't explain that. I don't know what is being proposed.

ASSEMBLYWOMAN DESTITO: Okay, so is that through the Division of Budget or --

DEP. SECRETARY O'DONNELL: Yes, I'd have to refer you to the Division of Budget.

ASSEMBLYWOMAN DESTITO: Okay. Thank you. I'll go on to another.

With the State Preparedness Training Center, Director Donlon, you're including a \$42 million capital appropriation and other dollars. This particular agency has been unfortunately criticized in the past in local media as well as capital media here in Albany. It was envisioned that it would become some type of national training center as well as a Statewide training center.

Is this the vision that you currently hold? I understand through your testimony that that's what you're intending. Could you please elaborate on that?

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DIRECTOR DONLON: Yes, it is. As a matter of fact, the day after I was confirmed, my first official visit was to the Oriskany Training Center, because I did see there was a need to train the State and local first responders throughout the State. And we traveled to Oriskany, and we did a site assessment. And it was quite evident that this facility could become one day a state-of-the-art facility. Tremendous amount of potential.

Right now we have a project that's ongoing right now, \$2.5 million, which is renovating classrooms and the front part of the entrance. We're looking at also "Cityscape," as the Dep Sec mentioned, a weapons training complex, an EVOC course, and other front-office or front-entrance improvements.

I think it's one of the best facilities that we have in the State to conduct training for our officers. As I mentioned before, the NYPD is the only other State-accredited facility in the State.

And I've talked to many people not only in the State and local government, but the Federal government, and they're anxious to one day send trainees and officers to the facility.

ASSEMBLYWOMAN DESTITO: Mr. Donlon, as far as the merger itself, with all of the different agencies, could you comment from your professional standpoint as to the benefits and if you believe there are any liabilities?

I understand you probably were in the planning stages. But do you foresee, with SEMO and the Office of Fire Prevention and Control, do you see any problems occurring? And

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again, I guess we could probably have a more detailed briefing on that. But with all of the employees coming over, will it be a smooth transition?

DIRECTOR DONLON: I believe it will be.

ASSEMBLYWOMAN DESTITO: And let me just add, I'm sorry, with the Federal dollars that we do get, will there be more of a planning process where those dollars will go further and impact our ultimate goals?

DIRECTOR DONLON: I believe it will. Myself and Chief of Staff Jim Sherry and others from the Office of Homeland Security have met with John Gibb and his staff over the course of many, many months. And we have gone over many of our dual responsibilities. And I believe it will be, you know, a seamless integration not only with his agency but also the other ones, the 911 Board, the Cyber, and the Office of Fire Prevention. They all have outstanding reputations.

I called a number of people throughout the State, from both Federal, State, and local -- and the private sector -- and they were all in favor of this merger. And many individuals who are involved in this merger, I can tell you they're looking forward to this merger.

ASSEMBLYWOMAN DESTITO: And the ultimate question that stands out in a lot of my colleagues' minds is who would be in charge. Who would be ultimately in charge?

DEP. SECRETARY O'DONNELL: Well, maybe I'll

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answer that. I think we left a lot of details unanswered because we wanted to have negotiations, certainly with the Legislature, about various aspects of the proposal.

But the answer is we will look for a person who is ultimately in charge, and our current managers can be part of that process for consideration for that position as well.

ASSEMBLYWOMAN DESTITO: So you do envision that there will be one person in charge of all of the agencies that fall under this new merged entity?

DEP. SECRETARY O'DONNELL: Right. Right. And that person would still report then to the deputy secretary for public safety.

ASSEMBLYWOMAN DESTITO: Thank you.

Let me just go on to our OFT/CIO office. I've worked with Melodie Mayberry-Stewart on a number of projects. And my understanding is that the staff augmentation, from your testimony, has been awarded?

DR. MAYBERRY-STEWART: Yes. We awarded it to Tapfin, and it was awarded January 28th.

ASSEMBLYWOMAN DESTITO: So is it put into place now?

DR. MAYBERRY-STEWART: No. We have just started -- the contract negotiations have started in earnest now. And we're hoping to be able to deliver a contract for the State Comptroller's approval we hope within 45 to 60 days.

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ASSEMBLYWOMAN DESTITO: Would you expound on the Statewide Wireless Network and how you've transitioned it into a new entity and how that will in fact impact our local responders, our first responders? That was the problem with the SWN in its original form, is that it never really responded to our first responders. And could you please give us your vision as to how now our local first responders will be treated?

DR. MAYBERRY-STEWART: Yes. As you know, the M/A-COM contract was terminated at the end of 2008. So we've spent all of 2009 developing a transition strategy going forward. And we have worked very closely with the deputy secretary and as the commissioner in terms of transferring their various functions from the original Statewide Wireless Network office. We felt that the role of the CIO/OFT was really to focus on the technology standards, and the work of the first responders should really be appropriately a place with those public safety agencies.

So our strategy going forward is still to provide Statewide interoperability, but to take a different approach. And that approach, instead of trying to develop one single technology solution, one size fits all, we're taking a local approach where we're looking at networks within these county consortiums and being able to connect those networks together.

So from the technology side, we think that this will empower the local first responder to have the ability to select solutions that meet their local needs while still following Statewide technology

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standards and protocols, while at the same time it accelerates the ability to do that and drives down the cost.

In addition to that, our strategy going forward also transitions certain functions that previously existed within the Statewide Wireless Network into this new agency. So for instance, the Public Safety Grants Program will transition into this new agency. The vehicles that were developed will also go along that in terms of maintaining and supporting those.

So there are certain functions, the Statewide interoperability coordination function, which was also funded with the Federal grants, will also be transitioned into that. So we view, going forward, that the original Statewide Wireless Network will just focus on interoperability and will be a much smaller group. That group will be reduced in size. For instance, we have 36 individuals in that group. We're transitioning eight of those into this new agency. Also, as a result of the retirement offer that was made, we've reduced it.

So we'll continue to have a small core group, but I think it will be more appropriately working on technology strategy as well as overseeing providing a certification in terms of the local grants that will be made available through the use of the cellular surcharge account.

ASSEMBLYWOMAN DESTITO: And I appreciate what you're saying. The Statewide Wireless Network was years ago intended to help the State Police -- and, Superintendent, if you want to comment, you certainly may. But it was to connect the State Police

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and all I think 23 agencies that deal with disasters. But as we know, disasters are all local. And we need the locals to be able to also be connected.

So the question always was would the locals have the proper radio and communication devices to actually be able to respond. So are we now solving all of the problems of the State Police, the other 22 agencies that need to communicate with each other as well as the local first responders?

I understand you're transitioning into this new agency. But will we in fact be able to provide all of the resources for all of the agencies with the dollars that we have appropriated?

DR. MAYBERRY-STEWART: Yes. The expectation is that we will still address the needs of the State agencies while addressing the local needs as a part of the overall plan.

ASSEMBLYWOMAN DESTITO: So I guess my question is for the superintendent of the State Police.

Are you satisfied with the issues, and will our rank-and-file State Troopers have the interoperability that they need throughout the State with who they need to communicate with on the State agency side as well as the locals?

SUPERINTENDENT CORBITT: Yes, I'm very satisfied. I actually was a proponent of the change. And I think that our connection with the locals is critical.

Earlier, in my testimony, I talked about the importance of us working together. I am often in collaboration with

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the Chiefs Association, the Sheriffs Association, and we're working hand in hand to get to the objective.

ASSEMBLYWOMAN DESTITO: And I guess as we all listen to our locals, the dollars -- what Melodie has indicated is that we are going to set aside some dollars to help our locals become interoperable with the Statewide system; correct?

SUPERINTENDENT CORBITT: Correct.

ASSEMBLYWOMAN DESTITO: Okay. Thank you.

Melodie, I have one more issue. You talked about the new chapter that we passed with regard to temporary workers in State agencies. Has anything occurred, have you had any action with regard to that statute? Have we seen any savings? Have we done anything up to this date as far as --

DR. MAYBERRY-STEWART: Yes.

Assemblywoman, if you recall, part of that was once the bill was passed was to put in place a procedure and a process in terms of how to identify as well as to be able to recruit and hire those consultants.

There is a work group that is now actively engaged, and it involves the Comptroller's office, CIO/OFT, DOB, as well as Civil Service. And they are working on the process and procedure in order to be able to start implementing this.

So we're anticipating being able to go forward and start in earnest to implement that. I think they're finalizing how the process is going to work, how we're going to identify -- one of the key

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activities that they had to look at at first were the skill sets in terms of what are those jobs, what are those skills, ensuring that we appropriately classify them with the civil service. Now that that piece of work is done, we can now start to move forward.

ASSEMBLYWOMAN DESTITO: Okay. And last but not least, could you expound upon the data center? The original appropriation of \$99 million for the consolidated data centers dates back to 2006. Are you planning to develop a data center? Are you including a competitive process? And have you set any deadlines with regard to the data center? And the backup center, I believe. If you could comment on both of those.

DR. MAYBERRY-STEWART: If I can take the disaster recovery site first, as I mentioned before, we are just waiting to get the approval from the State Comptroller's office to move forward and lease that. Once we're able to lease that facility, we will start the work and the other consolidations, which is real critical to that. We have provided for the \$6.4 million in the Budget in order to be able to do the disaster recovery site.

Now, going to the consolidated data --

ASSEMBLYWOMAN DESTITO: How much? Excuse me. Could you say the amount again, please?

DR. MAYBERRY-STEWART: For the lease, we put the \$6.4 million in there in order to be able to secure the new disaster recovery site. You will see that in the Budget.

ASSEMBLYWOMAN DESTITO: Okay, thank you.

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DR. MAYBERRY-STEWART: The bigger challenge we have is the consolidated data center. The original appropriation for \$99.1 million, after we did the feasibility assessment, we realized that that amount fell very short of what we would need in order to consolidate.

Therefore, in order to move forward, we wanted to solicit other partners that also had a need for a new data center. So our proposal includes those letters of intent with the universities that find themselves in the same situation that we are in with an aging data center -- they're out of space, out of capacity, out of environmental. And so in terms of moving forward, since we all have the same need, we wanted to do this in a collaborative way.

So the \$99.1 million reappropriation in there is to support our portion of that. There is still work that has to be done to nail down the additional requirements. But in order to get the new data center done, which we need badly, we felt that we had to solicit these other partners.

So we're working now to nail down their requirements. And our goal is to move forward to look at either building a new facility or leasing an existing one. So that determination has not been made.

As you know, also this summer OGS issued an RFI for a data center looking at space within the Capital Region. We received some 17 responses, of which there were about six that were viable. We still want to be able to pursue those of existing space. So

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we're looking at whatever combination will help us reduce the cost. If there is an existing space that has the space that meets our requirements, we certainly want to pursue that first.

ASSEMBLYWOMAN DESTITO: And what is the number that you're looking at? If \$99.1 million is not enough, was it in the range of \$140 million? Is that --

DR. MAYBERRY-STEWART: Based on the responses that we got from the RFI, it was close to \$150 million, which meant we were still short about \$50 million based on our appropriation.

ASSEMBLYWOMAN DESTITO: And so my understanding, to recap what you said, is that you're looking for partners outside of executive State agencies to partner with.

DR. MAYBERRY-STEWART: Correct.

ASSEMBLYWOMAN DESTITO: And those agencies would be other government agencies or private agencies? I mean, how would you --

DR. MAYBERRY-STEWART: The universities --

ASSEMBLYWOMAN DESTITO: State University?

DR. MAYBERRY-STEWART: Cornell, Columbia, NYU that we're talking to right now.

The model that we are looking at that was used in Massachusetts also involved even private partners. And so we have not ruled that off the table as well. Which would probably result in some kind of procurement. But right now we're looking at what --

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ASSEMBLYWOMAN DESTITO: Would it still allow it to be a public procurement? I guess that's what I'm asking.

DR. MAYBERRY-STEWART: Yes.

ASSEMBLYWOMAN DESTITO: Even if you were partnering with private-sector agencies or organizations?

DR. MAYBERRY-STEWART: That is a plan that we are anticipating doing. It would still have to be a procurement.

ASSEMBLYWOMAN DESTITO: It would remain a public procurement.

DR. MAYBERRY-STEWART: Correct.

ASSEMBLYWOMAN DESTITO: Okay, thank you. I'm sure I have other questions, but I will -- in the interest of time, I will ask those at another time. Thank you.

Thank you, Mr. Chairman.

CHAIRMAN FARRELL: Thank you.

Senator?

CHAIRMAN KRUGER: Thank you. Just before we go to our next question, Superintendent Corbitt, in the Budget we always see these speeding cameras. What's your position?

SUPERINTENDENT CORBITT: Well, my position is highway safety. Any footprint that we can utilize to save lives. Certainly there are people who work in the work zones that have been killed. And we right now deploy about a hundred Troopers in work zones throughout the State -- not a hundred at one time, but we have a hundred dedicated Troopers.

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What this would allow us to do is to take some of those Troopers and put them back on patrol. So it's a dual purpose. It's the purpose of slowing down people who drive through work zones -- and obviously that will create a better safety platform for those workers. And in addition, it would allow me to redeploy some Troopers.

CHAIRMAN KRUGER: It would also be revenue-generating.

SUPERINTENDENT CORBITT: I don't deal with the revenue, Senator. We don't write tickets based on revenue. We write tickets based on highway safety.

CHAIRMAN KRUGER: So in your eyes, it's revenue-neutral. Okay, let's do that for a moment. Now, we're talking about these cameras only in work zones.

SUPERINTENDENT CORBITT: I think in the Governor's proposal there were 10 other sites for cameras to be placed, to be determined, the location to be determined as --

CHAIRMAN KRUGER: So it would be like Trooper ATMs, I guess.

SUPERINTENDENT CORBITT: I don't know if Trooper ATMs was part of the program.

My research has shown that in other areas of the country where they have used these cameras, there have been some successes and there's been some failures. Quite frankly, if we are to move in this direction, we need to learn from the failures and employ

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a system that will be void of any mistakes.

So again, I go back to highway safety. Slowing down drivers is critical, especially through work zones, and this could be a help to do that.

CHAIRMAN KRUGER: They also present safety issues in the opposite, too, don't they, where people will be jamming on the brakes or slowing down rather abruptly because they feel that they're close to the camera or they see the camera or --

SUPERINTENDENT CORBITT: They do that when they see troop cars.

CHAIRMAN KRUGER: Well, not to that degree. But, you know, the red-light cameras have caused some rear-end collisions. And many folks, if you look at the material in the studies, also point to some abrupt accidents because of these speeding cameras as well around the country.

SUPERINTENDENT CORBITT: I don't disagree with you.

CHAIRMAN KRUGER: Okay. And one other quick question. In the Budget, automatic weapons in Troopers' cars, rifles, is that appropriated in the Budget?

SUPERINTENDENT CORBITT: No, it is not.

CHAIRMAN KRUGER: Is it the position now of the -- of you that they can be used in Troopers' cars effectively?

SUPERINTENDENT CORBITT: We have approximately 280 rifles right now in the field. And we have specific

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riflemen. It is my intention to train every Trooper and investigator that's in the field how to use that rifle. So we are recognizing that, along with many other police departments, the time has come to be able to utilize automatic weapons.

CHAIRMAN KRUGER: If there was an appropriation in the Executive Budget to put rifles in all of your vehicles, would you do it?

SUPERINTENDENT CORBITT: Yes.

CHAIRMAN KRUGER: And how much money would that take?

SUPERINTENDENT CORBITT: Probably \$950,000.

CHAIRMAN KRUGER: So there was not a million dollars somewhere sandwiched into this Budget to offer that level of security and protection not only to the public but the Trooper as well?

SUPERINTENDENT CORBITT: There's no appropriation in this Budget to secure --

CHAIRMAN KRUGER: I guess mine was a rhetorical question. Thank you.

Senator Betty Little.

SENATOR BETTY O'C. LITTLE: Thank you.
Thank you very much.

I'd like to direct my questions, if I may, to
Commissioner Fischer.

And certainly when we're looking at the figures, we

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all understand that there is a reduction in inmates and in crime in New York State. And I'm not proposing that we create inmates in order to have facilities. But what I am asking is a big why, and why the North Country.

I'd like to explain for a moment just how my Senate district, the 45th, which is 7,800 square miles -- larger than Connecticut and Rhode Island -- as of 2009 had 12 State correctional facilities in it.

Number one, the property in the North Country is less valuable. Number two, we have a very able and capable workforce. We have less private-sector competition for jobs. And we have very accepting communities willing to host facilities in the North Country.

And at that time, the distance from New York City was considered to be a positive in that it brought people to a different part of the State, away from what got them into difficulty in the first place.

But the first three, I think, the less valuable property and the workforce and all, really made this area suitable for these facilities. And then the question comes, did we build an economy around correctional facilities in the North Country. And my answer is indeed we did.

I certainly, in the last census, had over 13,000 inmates, over 5,000 correctional officers living in my district. And also the district that I represent is mostly made up of the Adirondack Park, and there are strict regulatory rules for construction,

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development and land use within the park. The North Country has had higher rates of unemployment than the rest of the State, and much of the employment is seasonal. And we've had many, many areas of vacant housing and vacant facilities.

So this area became suitable for these correctional facilities. And the two -- well, first of all, as of 2009 we lost Camp Gabriels, we lost the two farms, and we lost the 200-bed annex at Washington Correctional, who are empty at this current time. The two that are slated for closure this year, one is at Lyon Mountain and one is Moriah Shock. Let me address how these facilities were built in the first place and why they came to be there.

In 1967, Republic Steel, which mined iron ore in that area, closed. There were 300 jobs, 300 families affected by that closure. And then in 1971, in the town of Moriah, the mine belt, Republic Steel also closed the mines there. The 600 workers took their three-week summer break, which they always took, and were never called back. Six hundred jobs lost in an area where there wasn't a huge population.

So the State created correctional facilities in these areas. In Lyon Mountain, we currently have 84 jobs. This facility has been accredited nine times. They have many vo-tech programs. They have drug and alcohol programs. They have a work release program. And they are a transitional facility that has really helped many of the inmates transition to go back into their community.

The facility at Moriah, Moriah Shock, has been

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labeled as one of the best shock-treatment facilities in the State if not in the country. They've graduated over 8,000 inmates. They have a high percentage of those getting their GED. They have a very low recidivism rate. And they have saved the State millions of dollars in this six-month shock program.

And just as an aside, just last week a fellow in Port Henry was getting a furniture delivery and the truck driver had driven up from another state to deliver. And since it was so cold last week, he said to him: "Wow, you must be freezing up here." And he said, "No, no, I'm not cold." He said, I'm used to this. I was at Moriah Shock for a while." Not a lot of people say, "Well, I was in prison for a while." But the fact that he was at Moriah Shock he was proud of, because he now has a job, he is a contributing citizen, and he certainly benefited from his time at Moriah Shock or he wouldn't be so willing to say so.

These are facilities that together include 198 current jobs. And I would say that even if you can move those 198 jobs to other facilities, that will leave 198 jobs that will never be available in an area where the economy has been dependent upon government jobs, where we don't have other companies coming in looking to take up this workforce. We lost Gabriels, with 135 jobs; the youth detention facility, 24 jobs. And in the private sector, we're now facing Pfizer purchased Wyeth and it's closing down 592 jobs in the North Country.

Add to that those 198 jobs. Why the North Country?

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Why an area that has taken care of the inmates and the facilities so well, has worked hard to see that the people that went through these facilities came out better than they were when they went in? We have had a great reputation in the North Country for these facilities. And to just start closing them one after the other is just a disaster.

I attended two community meetings, and they're heart-wrenching to listen to the families. These are families where being in corrections has been a generational thing -- parents, uncles, cousins, everyone has relied on these jobs. And to say now that we're going to pull the rug out from under the North Country I just find unacceptable.

And in some way we have to start looking at other areas of the State where there are more opportunities, where there's more opportunities to reuse the facilities -- as we close these facilities, they're empty. Nothing happens here. And it's also less expensive to rent a facility in the North Country than it is in another area of the State.

So my question is why the North Country? And I'm sure that that's something that you probably don't want to get into right now, but I'm sure that we can discuss it. And I hope I've made my case.

The second question that I have is in your testimony you talk about the mental health facilities. And I have visited them. And I visited one of the Level 1 mental health facilities at Great Meadows, in my district. And also the sex offenders programs.

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These are expensive. But the expense of these programs, is it taking away from the programs and the drug and the alcohol and the transitional programs that we have provided for the other inmates.

COMMISSIONER FISCHER: Let me answer that question first. No. The answer is they're not taking away any treatment programs elsewhere.

And I think that's probably the key, for me, in everything we're doing. And that is what we can do, given the limitations of my finances, not to impact on treatment. We have not curtailed or diminished treatment. In fact, in most cases we've actually increased treatment across the board.

Mental health services are very expensive, there's no question about it. So is the SOMTA programs. Both are mandated by the Legislature. In order to meet the requirements, by law, we have to basically do what we've done.

The key for me, particularly for mental health, is why I tried to put that graph up. It has to be at a facility where the services, all the services are available. And basically we're talking about maximum-security facilities, where I've got mental health programs funded and basically run by the Office of Mental Health, as well as secure facilities for -- unfortunately, we have a higher rate of problems with the mentally ill, which is expected, and they have to be in facilities that are very secure.

So what I am required in so many ways is to redefine

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the facility as to where the services can be delivered -- mental health services, sex offense services, reentry services under the new concept of reentry, closer to the environment where they could go home. And that's really kind of dictated a lot of things that we've and will do.

In the response to the first part, you're absolutely right. When we needed facilities to be built, they were built in the North Country, for all kinds of reasons. And that was almost 20 years ago. I basically have to tell you that things have changed. Our needs have changed. Our desire to bring inmates closer to home has become a major issue for us. Reentry is now very important.

The facilities are excellent. Don't get me wrong, they are excellent facilities. I don't need them. And I guess the problem for me is I can't have it all, so what am I willing to give up.

I also have to argue or at least put this on the table a little bit -- and it's not for me to decide. That's really for the Legislature and the Governor to decide: Should a prison basically support a community as opposed to supporting the entire State?

I'm told, and I have no argument about it, that Moriah, for example, assists the local community by a couple of hundred, \$300,000 worth of workforce. But in effect we substituted the community workforce, civilians, with inmate labor. And the question I have to ask myself -- and I guess ask you -- is, is this really the way we want to do it? If it is, so be it. If the decision is that we will support a local community with the use of a prison, then so be it.

But I must tell you I disagree with your concept that

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prisons have in fact helped the economy or developed the economy. This is a national study. Where prisons have gone into rural areas, the economy has not been, shall we say, enhanced to the degree that everybody hoped for. It helps a little bit, but more often than not it replaces workforce rather than supports the workforce.

SENATOR LITTLE: Well, just between these two, 198 jobs certainly means something in a rural area. More than that.

I have just two comments. In the area of mental health, you say the Legislature legislated it. Should there be a modification of some of the requirements in the care of mental health inmate right now? Because your budget, if it's going up for the mental health, or if it's staying flat and mental health is expanding and increasing costs, then it's going down on the regular inmate.

COMMISSIONER FISCHER: At the risk of being yelled at by Assemblyman Aubry, yes, we have argued that we don't necessarily -- we have other programs -- STP, what we call STP, GPT. We are in the basically building stages of another 60-bed residential treatment facility. We want to stop there.

And there has been some discussion last year and this year regarding the implementation of the special housing exclusion bill. We believe in Corrections that there are a number of mentally ill persons who simply do not fit into a treatment modality for all kinds of reasons -- escape risks, suicidal risks, violence. And this is something that we've been talking about.

But the law is every inmate who is seriously mentally

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ill has to be removed and placed in a treatment modality. Even those are very expensive.

SENATOR LITTLE: Right. Well, if there's a way to modify it, I would be willing to support that.

The second thing is the work release programs. I always understood they weren't for the benefit of the community, they were for the benefit of the inmate. The inmate got to leave the facility, to learn to work, to learn responsibility and earning a little bit of money -- not a lot. But certainly rather than sitting in a cell and just being warehoused, he is out learning some kind of a trade.

At Gabriels, they got a certificate just for working in the water treatment facility, in the wastewater treatment facility, to go out and get a job afterwards. Many of these things they learned in the community.

And so despite the fact that the community has a benefit from it, I don't think they were created for the community or to replace private-sector jobs. They were created for the inmate.

COMMISSIONER FISCHER: Well, you used the word "work release" when you really mean community service, community crews, where I send an officer out with five, ten inmates to do some work.

A work release facility is mostly in the New York City, Buffalo, and Rochester area. And that was designed and still is designed for an offender to go out and get a job, pay taxes while he's working, and basically transition from prison to the community.

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The community service program at Lyon Mountain, at Moriah, at Ogdensburg, any other place, basically provides free service, free work, if you would, to the community.

I've always argued that community service work by an offender is not equivalent to a reentry program or a substance abuse program, in part because we dictate what he will do when he will do it. As opposed to a work release facility, where he's got to actually -- he or she actually has to get involved.

So there is a distinction between a community crew and a work release crew.

SENATOR LITTLE: Well, I think I told you that in Alabama they have regular work jobs where half of their pay goes to Corrections and half they get to keep themselves. And they work in the private sector. But I don't think we've done that in the North Country.

The other thing that you mentioned is the change in the reentry program to having people closer to where they came from. You know, in today's technology, with video and everything and phone and everything is so much easier, I don't see this having to be so close to the City or close to where you came from in order to transition back to it.

The other thing is that should this cycle change and should we need more inmate space, I doubt that you could ever build another correctional facility close to the City. And pulling the rug out from the North Country is just -- I just find it unbelievable.

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But I know there are many other questions, and I don't want to occupy the whole time. Thank you.

CHAIRMAN FARRELL: Thank you very much.

CHAIRMAN KRUGER: Thank you, Senator Little.

CHAIRMAN FARRELL: Next is Assemblyman Joe Lentol.

ASSEMBLYMAN LENTOL: Thank you, Mr. Chairman.

This question is for Secretary O'Donnell. And I guess I should say in your hat as commissioner of Criminal Justice Services. And it's actually a follow up to Ms. Destito's question regarding the Office of Victim Services as well as domestic violence.

And I think the charge of the Division of Criminal Justice Services, those categories could well fit within it. When you talk about its mission to support district attorneys, promote effective prosecution, provide training to district attorneys through the operation of NYPTI, operate police accreditation programs, coordinate law enforcement efforts through programs like IMPACT, and now indigent defense.

DEP. SECRETARY O'DONNELL: Well, you forgot reentry. Because I think that --

ASSEMBLYMAN LENTOL: Well, I'm just trying to paint a picture here as to whether or not indigent defense fits within all of those categories.

DEP. SECRETARY O'DONNELL: Well, I'm sure

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that there will be quite a bit of discussion about the proposal. But the language of the proposal really defined a very unique office. Because the language is very clear that the office is under the administrative authority of DCJS for work rules and administration and budget, but that the office is independent in terms of policy, in terms of setting any kind of standards or best practices for indigent defense, and reports to an independent board.

So the question is, if you set up that kind of an office, where are you going to put it? I think the reason that DCJS is selected for that purpose is because it's a well-recognized, highly functioning agency, has a robust IT department, has a robust research component, a very effective administrative and budget component. So that, you know, it's a well-functioning agency.

So if you're putting this office someplace for administrative support, DCJS makes more sense than anyplace else.

The issue -- and I think, you know, this will be the subject of negotiation -- is do we get it right in terms of the language that states very clearly that this office reports to the board on matters of policy issues. So it's not reporting to me as commissioner of DCJS, it's reporting to an independent board. The Legislature has quite a few appointments to that administrative board. It's chaired by the Chief Judge. And the head of that office reports to that board.

ASSEMBLYMAN LENTOL: I'm just a little bit concerned, having sponsored the bill that provides for a panel, an independent panel for the provision of indigent defense services, that

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to move away where there seems to be an apparent conflict of interest within an agency that's mission is not merely to provide defense services but to provide prosecutorial-type services, really smacks me in the face with the possibility and the glaring possibility of conflict of interest.

DEP. SECRETARY O'DONNELL: Well, most of the funding for indigent defense actually comes from DCJS at the present time. So the aid-to-defense appropriation comes through DCJS, the discretionary funding that we provided through Byrne grant funding comes through DCJS that funds many of the programs already operating in many of the indigent defense organizations.

So it is an issue. I think, in these difficult budget times, to create a freestanding agency with all of those components -- budget, administrative staff, separate research component, separate IT component -- is not feasible. And I think here there's a real desire for the limited funding that is made available, an additional \$10 million in funding, that that go to actual defense services instead of the infrastructure of an independent organization.

So I'm told historically that both functions existed at DCJS. There is a commitment. And much of this depends on the people. Who's going to head this up? Is it someone from the indigent defense community that individuals have a great deal of confidence in in terms of their leadership and their ability, the staff that they hire for that office?

And who's on the board? The representatives on the

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board, which is made up of representatives from the defense community, from the courts, from the legal community, the bar associations, can they provide that kind of oversight and independence for the agency?

I think it can be done with the right people. And certainly the attitude I have as commissioner of DCJS is that indigent defense services are critically important and that we have to make this work.

ASSEMBLYMAN LENTOL: All right, we can talk about that. I'm not going to take up the whole time in talking about that issue. And I'm not going to take up a lot of time anyway. But there is one question that occurred to me as I prepared for this morning's hearing. And that is -- you know, it stems from Operation IMPACT and it stems from Rockefeller Drug Law reform and my thinking about criminal justice issues from the point of view of our conducting a war on drugs for the last I don't know how many years of this country, that really hasn't materialized into a victory for the United States of America.

And I see many cities around the United States -- and many states, as a matter of fact -- that are shifting the emphasis from a war on drugs to a war on illegal guns and getting the guns off the street. Because that's where the damage occurs, in murder, in mayhem. And in a city, for example, like Baltimore, they have decreased tremendously the amount of violent crime as well as murder by having their police force in Baltimore concentrating on eliminating

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and arresting the bad guys and targeting those bad guys with guns.

And I wonder if -- I don't know if it's for you to answer or for the superintendent. But I wonder if that's a strategy that New York State can employ. Because we've been the leader, I thought, in proposals like this, and we should be again.

DEP. SECRETARY O'DONNELL: Well, you know, part of Operation IMPACT actually is firearm enforcement. And part of the strategies that the various IMPACT counties need to come up with is strategies to go after crime guns and illegal guns on our streets. Part of the IMPACT funds go to fund special gun task forces.

The State Police can also respond, because they've been very active in some of the task forces.

But I agree with you, we've proposed legislation that also can improve our ability to go after guns. And I think that's a direction that we should still move in.

But I do want to comment on your impression of the Division of Criminal Justice Services. Because I can tell you, over the past three years one of our number-one priorities has been reentry -- in fact, providing support with the other commissioners who sit at this table -- to really change the entire way we transition people from prison to the community.

We partnered from the very beginning with OCFS to take a unique new look at the juvenile justice issues in this State. We've created and in fact really invigorated the Juvenile Justice Advisory Council at DCJS that now contains some of the leading

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experts on juvenile justice in our State who are planning with OCFS on juvenile justice issues.

We hosted a series here that brought the leading proponents of progressive juvenile justice programs to come to New York so we could learn from them.

So in many ways, our mission is to reduce crime. But we see that mission in many ways. And I think providing robust indigent defense fits in that mission as well. Servicing crime victims, providing for victims of domestic violence.

So it's a different vision than maybe what you had years back about DCJS or about Operation IMPACT. Operation IMPACT has evolved many places. Many of the Operation IMPACT families actually have community partners. We fund Pathways to Peace in Rochester that works with Strong Memorial Hospital to reduce gun violence among youth.

We have university partners other places. We started the Drug Market Intervention Program with David Kennedy at John Jay College and four of our Operation IMPACT communities.

So it is a much broader view, I hope. And I'd be pleased to talk with you more about it. That really is a multifunctioning agency to address reducing crime in a whole variety of different areas other than strictly law enforcement.

ASSEMBLYMAN LENTOL: Thank you for pointing that out. I didn't mean to leave reentry out in my presentation; I just wanted to compare some of the functions to

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indigent defense.

DEP. SECRETARY O'DONNELL: Okay. I understand that.

ASSEMBLYMAN LENTOL: Mr. Chairman.

CHAIRMAN KRUGER: Thank you.

Senator Adams.

SENATOR ERIC ADAMS: Thank you, Mr. Chair.

First, I would be remiss if I didn't say to Secretary O'Donnell, Dr. Stewart, Superintendent Corbitt, Commissioner Fischer, Director Donlon, and Chairwoman Evans, if we could just pause for a moment and just really thank you.

You're representative of, I think, probably what's bipartisan on both sides of the aisle, and I know in my committee with Senator Leibell. You keep us safe. And if there's one area of the State that we can't cut corners on and we can't play with and it can't become part of the political jargon, it is in public safety.

And I'm pleased to chair Veterans Affairs and Homeland Security. And when we look at the things that are taking place and what is called on you to do daily, from our State Troopers to those who are incarcerated, it's an admirable job. And I know I appreciate you, and I know the people of the State appreciate you. And although the Saints may have won the Super Bowl, we got the best darn team in the country here in the State of New York, and I thank you for that.

Just a few quick questions and I'll turn it back over.

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Dr. Stewart, you have one of the best MWBE programs going. Can you just give us your overview on how we can go about making sure that this is also put throughout the State in some of our other agencies that appears to be moving at a snail's pace on dealing with MWBE?

DR. MAYBERRY-STEWART: Yes, Senator, I'd be happy to.

In late 2007 CIO/OFT established a very aggressive goal for improving MWBE participation. At the time that I came on board -- Lieutenant Governor Paterson at that time also had it -- it was moving forward in terms of how can we improve the participation level of MWBEs. So we took it upon ourselves at CIO/OFT to focus on the technology sector. We established a goal in late 2007 that we wanted to go from less than 1 percent, which is a dismal level, to 20 percent by the end of 2010. We wanted to be at an 8 percent level at the end of 2008 and 15 percent at the end of 2009.

To do that, we knew that we would have to solicit the participation of our agency CIOs as well as the technology community, because they are part of that. So working in partnership with them, we established what we called our Jump-Start Technology Sector Program. And that program enabled us to bring together current or potential technology prime companies with a small -- and particularly women and minority-owned businesses.

We held three events -- you can think of them as a sort of a matchmaking event, if you will -- in Albany, Buffalo, and New York City. And as a matter of fact we did the one in New York

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City in partnership with the New York City Department of IT.

As a result of that, we were able to secure voluntarily -- 28 global companies voluntarily pledged to help us achieve that 20 percent goal. And we worked very closely with Michael Jones-Bey and the Division of Minority Business Development in hosting these events, focusing on bringing together the core needs that the technology companies needed with these companies.

As a result of that, we also were able to develop a database that had not existed in the past. And we took that database from having zero in it to over 1200 companies that we were able to reach out to. We developed these 28 global companies -- we call them our MWBE champions -- we brought them in to do a little appreciation and recognition, because they are voluntarily doing this.

To show the efforts of a combination of the events -- the reach out to the vendor community, working with Michael Jones-Bey and his group in terms of mentor/protege programs and just putting a focus on it -- we also wanted to get that information out. So three months ago we launched our MWBE Infielder Newsletter. And that newsletter now goes out to that database that we have created. I cosponsor that newsletter with Michael Jones-Bey and his group.

And as a result of that, at the end of 2009 we wanted to be at 15 percent, as I said before, going from less than 1 percent. And we exceeded that. We're over 16 percent participation level. And so we're on track to hopefully achieve that 20 percent this year.

And if you were to translate that into technology

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spend, the State of New York spends approximately between \$1.5 billion to \$2 billion a year on technology. And if 20 percent of that are going to small and MWBEs, we feel that we're moving in the right direction and making a significant impact.

The recent contract that Assemblywoman Destito was just referring to for the enterprise staff augmentation, that has a goal of 24 percent in that contract. And the winning bidder, Tapfin, has committed to achieving that 24 percent. So already, as a result of just announcing the award, they already have commitments of 30 firms. They're in discussions with another 100 technology firms, small and minority. But in addition to that, that 100 represents the 600 technology firms that they will be working with.

So we certainly would not be able to achieve this without the strong partnership that we've had from the business community.

In addition to holding these events, we also changed our language of all the procurements that go out. We do not issue an RFP or an RFI without having these MWBE goals in it. And we establish a very high bar in terms of those that respond to the proposals. They have to show a best-case effort in order to include MWBEs. In order to get that waiver, we changed the policy so that only the State CIO can grant that waiver for CIO/OFT.

So those are just some of the components that we've put together in order to try and move the agenda forward. And as you know, it is a high priority for this Governor.

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SENATOR ADAMS: I didn't want to put you on the spot. But if you can, why are you successful and why are other areas in our State government, why are they falling short?

DR. MAYBERRY-STEWART: Well, Senator, I can't speak for any other agency, but I do know that it's a focused effort. We made it a priority. We established a target that we wanted to achieve, along with my senior team. We were able to, as I said, partner with Michael Jones-Bey, bring in the vendor community and learn from them in terms of what works in the private sector. As you know, many of them have diversity programs or supplier diversity programs, so we tried to learn from that.

And I think the fact that we try to recognize success stories. So in our newsletter that we've started to distribute, we try to highlight those to reinforce what's working and to learn from that.

SENATOR ADAMS: Thank you.

Superintendent Corbitt, I share your belief in arming our State Troopers with long guns. And I believe we need to find the money to make sure our Troopers are given the best equipment to do their job. They are the first line of defense. And to believe that the bad guys are not carrying artillery or weapons that are just making the product of what our State Troopers are carrying is wrong. It's wrong. It's wrong for many, many reasons.

Can you just briefly share with us how attrition will impact your numbers, and just briefly tell us about how the failure of bringing any class, not having the money to bring any class, how

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would attrition impact on this and bring down the numbers?

SUPERINTENDENT CORBITT: Last year at this time we had 4,939 sworn personnel. What that means is that we had uniformed Troopers and investigators. Currently, we have 4,797 sworn personnel. And we lose about 2.5 people a pay period.

Fortunately for the State Police, we have a very robust footprint in New York State where we are able to move people from place to place. In dealing with attrition, we're going to have to redeploy about 90 school resource officers. That will replace more than 50 percent of what we lost through attrition this year, which is 136 people.

We also have some other what we call non-core missions that we will be able to move Troopers to work, at least in the interim. The interesting thing about becoming a Trooper is if you said today that I wanted you to have a class, it would take one year before I can put a Trooper on the road. So I believe in the short term we'll be able to do the job and we'll be able to meet our core values. As time goes on, we will not be as robust in other areas.

With the School Resource Officer Program, we're not really abandoning those young people, because I think it's important. So we have a plan in place to still use liaison people. And of course we can respond to any emergency that might develop in the school.

But we have to move forward in this time to do the best we can. And right now, we'll be okay. I am worried about the future, however.

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SENATOR ADAMS: You're extremely optimistic. How long would it take to be able to arm our Troopers with long guns? How long would it take, turnaround time, to train 50 percent individually, 100 percent of the force?

SUPERINTENDENT CORBITT: It would take six months to train 100 percent. We have already engaged in training, with the idea being -- the incident on I-90 was particularly telling of our lack of capability to respond. During that incident there were several hundred civilians whose lives were put in jeopardy. It took over forty minutes for us to get a rifle person to the scene to terminate that situation. Yet we had a station five minutes away.

If we currently looked at what's planned and what's hoped for, we certainly would have been able to terminate that situation in seven to 10 minutes.

We also, as Donlon described dealing with terrorism in the State, certainly we have to be capable of responding with force. And our enemy is well-armed, so we are concerned about the safety of not only the members but the safety of the people we've been vested to protect.

SENATOR ADAMS: Thank you.

And finally, Secretary, can you just go over the merger? Are we going to create new heads, or is everyone going to fall under one umbrella?

DEP. SECRETARY O'DONNELL: Well, it's one umbrella agency. But the offices keep their mission within that

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agency.

We have a terrific team of leaders, as you pointed out. So John Gibb and SEMO will continue within the Homeland Security umbrella. So we can merge operations in terms of grants, in terms of planning, in terms of training, but we will keep an office within Homeland whose mission it is to respond to emergencies.

And that's true of the other components as well. Homeland has an important mission in terms of intelligence-gathering, in terms of working with the counterterrorism zones, in terms of our grant operations. And so we will keep the State functions but merge wherever we can in terms of legal, IT, grants, et cetera.

So we did cover this before, that there will be a head of the new agency. That will be open. We have good leaders in-house that can apply for that. That hasn't been determined.

We also, in both merger proposals, did keep the proposals general because we want to work with you. We want to hear what concerns you have about how these agencies should function.

But the idea is to merge operations wherever we can to both save funds but also to help us be more user-friendly to all of the constituents and to have more robust planning of operations within the various components.

SENATOR ADAMS: Commissioner Fischer, I just want to quickly allude to what you were raising about the location of correctional facilities. And I want to first state that I believe that we

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should make sure that we have adequate housing. And I believe that you're doing an excellent job in doing that.

There's a by-product of having correctional facilities located long distances away. We are punishing the innocent. Family members do not commit the robberies. And when you have grandmothers and wives and sons and daughters going through the daily rituals of buses lined up in my district and spending eight and nine hours to go visit their family members, family members start doing time with those who are incarcerated. And that's wrong. And we can't continue to punish innocent family members that are merely visiting those who did time or who did a crime.

So I share the belief that the facilities should be located within a reasonable amount of time from the communities that the person is coming from. And I also share the belief, as Senator Schneiderman has raised, of when a person commits a crime, they punish the community that they came from. To double penalize that community by taking the census numbers and putting it another community, then you're penalizing that community twice. I think that's wrong.

If a person commits a crime in Bedford-Stuyvesant, Bedford-Stuyvesant should not lose the resources of census data, they should not lose the resources of whatever resources should come to that community because of that individual. I believe we should ensure that we provide the resources to the correctional facility, but we should not be double penalizing communities. And that's what

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happens. When you look at the correctional facilities in our State, the overwhelming number of people in those facilities are coming from communities such as mine. And I think our policy is incorrect on that.

Again, I want to thank the six of you for your dedication to the State of New York and for continuing the importance of public safety. I want to thank you, and I'm sure my colleagues appreciate what you're doing as well.

Thank you, Mr. Chair.

CHAIRMAN KRUGER: Thank you, Senator Adams.

CHAIRMAN FARRELL: Assemblyman Aubry.

ASSEMBLYMAN AUBRY: Well, we started in the morning, and we're here in the afternoon. So let me add to what was just said my appreciation for the work that all of you do on a daily basis. I think the Senator was absolutely right; we should laud you for that.

However, we still have tasks to take care of.

Deputy Secretary, the inclusion into DCJS of the Department of Probation, DPCA, how are we assured that this agency, which is almost always under attack in that our reimbursement to counties for probation is always diminishing -- what does that do in that regard? How are we to look at it in regard to trying to ensure there's some equity in the provision of funds to the counties as well as the perseverance of the ATI program that it operates?

DEP. SECRETARY O'DONNELL: Well, it should

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not be affected. All of the criminal justice local assistance programs, be they at DPCA or DCJS, do have a 10 percent budget reduction in the Budget. As you know, in the Byrne stimulus money for Rockefeller Drug reform, we did allocate about I think it was \$9.5 million for probation. So that's almost a balance. There were \$2 million allocation for ATIs.

But, you know, I don't believe the merger should impact the current funding situation. As part of everything that we do, we're in partnership with Probation. I mean, they are vitally important to the criminal justice system, as is the ATI community.

So I don't think there's any reason that that support and that recognition of the important role that they play should be lost as a result of this consolidation. The Article 7 bill explicitly leaves all of those current duties and responsibilities with the head of that office within DCJS, so the office that Bob Maccarone would occupy. So I don't see any effect.

ASSEMBLYMAN AUBRY: And I guess my concern is that the individuals that head those offices, somewhat as Assemblywoman Destito said, we could lose the champion's voice for some of these programs that aren't often popular or fall out of political favor. And sometimes being folded into a larger agency, you lose the capacity for them to stand out and to speak in an independent fashion about the needs of their agency.

And so I guess while I understand the economic benefit to doing that, and I also understand the economic costs to

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changing the agency's name -- for example, I think of the Department of Social Services and all that we went through -- I am concerned that down the road someplace we don't have that same leadership that steps up and says, All right, no matter what the larger situation is, this is my agency, this is what the impact of your cuts mean, and on a day-to-day basis I'm less capable of doing this or that.

There's an instance right now even in the current situation because of where that agency stands. For instance, Bob Maccarone doesn't testify at these hearings. So it bothers me as if we're trying sweep these things into, you know, a larger place. And that may not be the intention, but I'm concerned that it may end up being the result.

DEP. SECRETARY O'DONNELL: Well, you know, in the past there were proposals that did fold all of those functions within DCJS. But that's not how this proposal was written. And so it was written with that purpose in mind, that there still is a director of Probation, that he still has these duties, he still has these responsibilities, he still has his mission within DCJS.

So all I can say is I understand your concerns. And I think we're very fortunate to have the kind of leaders that we have in each of the three agencies that we're talking about here. They're outstanding, they're strong leaders, they're knowledgeable leaders. And we need to keep them in these positions. And as all of us transition other places, we have to make sure that we can get the same caliber of individuals to head up those offices.

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But it's also very difficult for small agencies to continue to survive with the kind of budget cuts that we've had and to maintain three different grant shops and do the kinds of things that we're doing. So there is some balancing that has to take place.

But I'd like to talk to you about the language that's in that Article 7 bill and see if you think we should be doing more than we're doing to protect the integrity of those offices within DCJS.

ASSEMBLYMAN AUBRY: I'd be happy to enter into that discussion.

In regard to Operation IMPACT -- and I know we've had lots of studies and reports -- do we currently have a vision or data related to the crime statistics, the reduction of crime based on IMPACT funding over the years that we've provided it? And is that information available?

DEP. SECRETARY O'DONNELL: Well, we have all of the crime stats that are carefully maintained for all of those jurisdictions. But, you know, it's very hard to tie spending to crime reduction. So, I mean, we try to do it by requiring counties as they apply for IMPACT funding to address certain critical areas like gun violence, tell us their strategies, measure are they spending money on these strategies, and then look and see if crime is being reduced accordingly. So we look at that as part of the process and the funding.

And, you know, we have considerable crime data available on our DCJS website. We measure other things: Are crime guns collected and submitted for tracing? Is information put into our

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systems for determining and protecting officer safety? So we measure a lot of other indications about whether people are using the funding for the intended purpose.

We're seeing reductions in crime. This year, you know, in the IMPACT sites there was about a 3 percent reduction in crime. And we know that the communities that we're dealing with are the communities with the pockets of violent crime in our State. So any reduction in crime we think is a very good thing in these IMPACT communities.

ASSEMBLYMAN AUBRY: I was alarmed by the recent reports in New York City of the potential of underreporting crime intentionally to make the statistics look good. How do we protect ourselves from that kind of manipulation of data that makes it look like we're doing things that in fact we may not be doing?

I particularly asked that because I was meeting with the district attorney in Queens, and his statistics shows indictments were up and had constantly gone up. And yet we see less crimes, more indictments . . . Hmm?

DEP. SECRETARY O'DONNELL: Well, I think one way that we deal with it is to expose it for those individuals who were responsible or accused of manipulating crime statistics.

We do a number of classes and reporting on how to report crime. We just did a webinar to make sure that it's accurate. Sometimes it's underreported because individuals don't know how to report it. We see that in the hate crimes area, where we've tried to do

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a lot of education to make sure it's properly reported.

But I also noted that there were two independent audits done of NYPD crime statistics that found that it was being properly reported.

So the fact that you can have a few people who manipulate crime statistics is very unfortunate, but we do everything we can to make sure it's reported accurately.

ASSEMBLYMAN AUBRY: Okay. Thank you very much.

Commissioner Fischer, thank you so much for the credit of personally passing the SHU bill. I really -- I thought that both sides of the Legislature had voted on it and the Governor signed it, but now I listened to you and it was me all along. So thanks a lot. That's given me some power.

COMMISSIONER FISCHER: You're welcome.

ASSEMBLYMAN AUBRY: The closure process is what I'd like to maybe kind of talk about for the moment. We closed several facilities in the past year. Are these facilities now currently closed?

COMMISSIONER FISCHER: Camp Pharsalia and Camp Gabriels are physically closed. Those are free-standing facilities. Everything else -- the farms were a piece of it and the annexes were a piece of other facilities. So those two were free-standing prisons that no longer are used.

ASSEMBLYMAN AUBRY: And all the personnel

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have been relocated?

COMMISSIONER FISCHER: Correct.

ASSEMBLYMAN AUBRY: Were there staff members who chose not to relocate?

COMMISSIONER FISCHER: We lost 11 people out of all of the closures of annexes and whatnot, people who were offered a position but chose not to go for distance reasons or economic reasons or personal reasons.

ASSEMBLYMAN AUBRY: And how do you address the community concerns regarding prison closure?

COMMISSIONER FISCHER: With great difficulty.

ASSEMBLYMAN AUBRY: I'm sure.

COMMISSIONER FISCHER: It is a difficult situation because there is a negative impact on a local community, there's no question about it. And I don't want to make light of it, because it does have an impact.

From my point of view, my first priority, frankly, though, is what's good for the system given the dollars I've got. The second priority, obviously, is the community.

Again, I look for facilities where, at best, I can move staff out to other facilities so there's employment for the staff. I look at what facilities basically do -- not that I don't need them, but given the realities, I can't have them all. So which ones have the least negative impact on the department?

But in some cases -- like Moriah, particularly -- it has

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a serious impact on the local community and I can't get around it. We will look for reuse plans. It's not likely. Many of these places that we're closing we took over after they were abandoned by previous administrations and agencies. So the location does not help either me or the local community in terms of reuse.

ASSEMBLYMAN AUBRY: Again, I'm sure this may be another one that you blame me for. However, I've been looking at and thinking about proposing that the economic development entities that work for the State become lead agencies after you've made your decision to close, and in the process to work with the community to try and reshape a reuse plan, a rededication plan, a new economic development plan in communities where it's feasible. Is that something that you think the administration can support?

COMMISSIONER FISCHER: We do support it, and we have been speaking to them.

Gabriels is a good example where economic development and us have been looking at other systems, we've been -- a local provider who wanted to do, what do you call it --

DEP. SECRETARY O'DONNELL: Drug treatment.

COMMISSIONER FISCHER: No, I just can't think of the name right now. But there was a private enterprise who was interested in Gabriels. The military and naval affairs is looking at it. The Federal government looked at it.

These facilities that are closed are not done. We are

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always looking at it. We are talking to economic development.

Historically, though, I think the problem has always been those who want to take over have the same problem. Where do they get the funding? And economic development doesn't simply give them all the money, it's usually a grant or a supplement.

And given the nature of where these sites are, there's now a lot of workforce, so there's a reluctance on the part of private people to enter that area. But we are always working with them.

ASSEMBLYMAN AUBRY: Okay, thank you.

That's good. And also, the Executive proposal indicates that you will consolidate several medium-security dormitories at your own discretion. What factors will you take into consideration in deciding which dormitories are to close?

COMMISSIONER FISCHER: We'll look at the facilities by attrition rate, both by staff and offender. We basically -- and we've done this the last two years -- we try and match the offender reduction with the staff reduction, and basically close a dormitory that is not necessary.

The easiest example is you've got a cookie-cutter with a number of dorms. You have two dorms in one building. Each has 60 inmates. When it gets down to 30 inmates in each of the dorms, it's just not logical to keep them. We move the 30 from one dorm into the other dorm, and now we have a 60-man dorm, and we frankly allow the officers to redeploy or bid other jobs.

I'll select the facilities based on attrition rates and

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inmate reductions.

ASSEMBLYMAN AUBRY: There's been a lot of discussion about what seems to sound like, when I read the papers, double-bunking. And your definition of double-bunking and double cell, is that different?

COMMISSIONER FISCHER: Absolutely.

ASSEMBLYMAN AUBRY: Okay. And could you explain that difference?

COMMISSIONER FISCHER: Sure. A double cell is two persons in a cell that was designed for, in some cases, one person, and in other cases designed for two people.

I'll give you an example. There are, if you want to count them, 2,576 double cells. However, of that, only 811 out of that whole group are in maximum-security facilities that there's two inmates but it was designed for one. But those cells also are used on a temporary basis, through orientation. Of the others, 1365 max cells were built for two people for which two people can be in them. In addition, we have the S200s, for discipline. They were built for two people. Each one has 200 beds.

So the reality is we only really have 811 in the entire department that are double cell designed for one.

Double bunks is in dormitories. And double bunks, again, we are talking about, in effect, the top bunk, the bunk above somebody. That, there's 5,000 of them. Almost 1,200 of them are in minimum security and work release facilities, which really create no

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problem. Three thousand are placed in the prototypes. These are the -- originally the dorm was built for 50. We at one time were up to 70, 80. It's down to 10, 10 extra. So each --

ASSEMBLYMAN AUBRY: Down to 10?

COMMISSIONER FISCHER: Down to 10 extra. So each dorm built for 50 carries 60, the back wall. And the rest are in non-prototype buildings. And these are the facilities that we took over from Mental Hygiene, Mental Health and OMRDD and everybody else. Those are double-bunked in various areas. And those facilities, frankly, are not as cost-effective as the prototypes. And of those, there's only 1,053 of those.

ASSEMBLYMAN AUBRY: Okay, thank you.

You also have closed farms. Have all farms been closed that were run by --

COMMISSIONER FISCHER: Unfortunately, yes.

ASSEMBLYMAN AUBRY: All have. And are those farm lands now made available to the local community? Have you sold them? I mean --

COMMISSIONER FISCHER: We deliberately did not sell them. We are basically leasing them through OGS cooperatives. So many of them are being used by private groups. And almost all the equipment and all of the cows, the milk cows and steer cows went over to the universities, Cornell University and Agriculture. So we basically have saved some money to the other agencies by basically diverting our resources to them.

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ASSEMBLYMAN AUBRY: Okay. Now, back to maybe my favorite subject. How many inmates in our system are deemed to be in need of mental health services?

COMMISSIONER FISCHER: Thirteen percent.

And --

ASSEMBLYMAN AUBRY: Thirteen of 57,000?

COMMISSIONER FISCHER: Close to 59,000.

But I would like to tell you, because I know it's a big issue, it's an important issue, the number of SMIs in special housing has dropped by 14 percent, from 225 down to 193. I think, more importantly, the numbers in keep-lock, another group of offenders, has dropped by 32 percent. We're now at 85 out of originally 125.

But the best comment I can make is that those who are in special treatment -- not in SHU, not in keep-lock -- has gone up 35 percent. We now have 828 in special programs, ICPs and double ICPs. So we're moving in the right direction.

ASSEMBLYMAN AUBRY: And you and I have talked about this, and we both agree that you're providing these services, you are probably largest mental health system that we have. In many cases, in terms of numbers, it's probably something that maybe we should never have engaged in as a State. However, you have them, as we often say, and you have to provide services to them. When will the court-ordered settlement go into effect that was entered into with disability advocates?

COMMISSIONER FISCHER: The exact date? Two

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more years.

ASSEMBLYMAN AUBRY: Two more years.

Okay. All right, thank you.

Thank you very much.

CHAIRMAN FARRELL: Thank you.

Senator?

SENATOR KRUEGER: Thank you.

Senator Darrel Aubertine.

SENATOR DARREL AUBERTINE: Thank you, Madam Chair. Thank you, Mr. Chairman, as well.

I certainly want to recognize everyone for their candor and participation here. It's very helpful. I would like to, however, direct my comments, questions at this point to Commissioner Fischer, with some of the concerns that I have surrounding the closure of some of the facilities Upstate.

In the Executive proposal, it would eliminate open beds. Could you elaborate, tell us where the open beds are within the system that will allow for the closure of the facilities?

COMMISSIONER FISCHER: They're basically all over the department. That was the chart, at least 2500 vacancies in general confinement status.

But because we have a year to go, through attrition, one option I have -- and I've considered it -- is rather than move anybody, by simply not placing offenders into Ogdensburg, which is in your territory, we would actually reduce the population by attrition,

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by time, without having to physically move anyone. Other than, as things go by, an officer will have the right to bid out and transfer elsewhere.

But I have more than enough vacancies today that, in an emergency, I could easily basically move everybody out of Ogdensburg and put them in beds someplace else.

SENATOR AUBERTINE: So -- and again, going back to what some of Assemblyman Aubry was just talking about, the special housing units in the infirmaries and so forth, State-ready inmates, are they counted in the beds that are filled?

COMMISSIONER FISCHER: Yes and no. But for the purposes of vacating Ogdensburg, I would not -- they do not need to go in those special beds. They would go into what we call open general confinement beds. Those are staff beds available throughout the system. I think it was 2,500 or thereabouts that are available today.

A person in Ogdensburg does not have to go to special housing, does not have to go to a mental health program. That's one of the issues I have with that facility. It is basically a very good facility. But because of its location, I do not place medically ill or mentally ill individuals there.

So they could be moved into any facility, preferably -- and that's another issue that we've been trying to do, and that has to do with what we call the area of preference: Offer moves from the North Country closer to Buffalo, if they live in Buffalo, or closer to

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the City as they get closer to the time to be released.

SENATOR AUBERTINE: But again, I guess my question is more that if I have the -- if I understand the numbers correctly, there are about 4900 inmates in SHU units in infirmaries, another roughly 500 inmates State-ready. That's about 5400 inmates. Is that included in what is perceived as empty beds at this point?

In other words, if all those inmates were released back into the general population, would there be enough beds to accommodate all those inmates?

COMMISSIONER FISCHER: I wish I could say that would happen, but the reality is those that would go into the special population, there would be those in the population that would become medically ill or disciplinary problems.

So I probably could do an analysis for you, but I can probably absorb all of those as well.

Reception guys, those in State-readies -- remember, now, on average 120 people net loss to the department each month. So as we get new offenders in, we're basically -- this is unique to New York right now. We're losing faster than they're coming in. So the issue is there will always be additional vacancies for them, particularly in the general confinement space.

SENATOR AUBERTINE: So that if those 5,400 inmates suddenly turned up on your doorstep tomorrow, there is room enough for them in general population?

COMMISSIONER FISCHER: Yes, I believe so. By

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various machinations, if you would, I would find space for them.

SENATOR AUBERTINE: Okay. The numbers -- and again, these are DOCS numbers. Alluding to the Ogdensburg facility, it's at 97 percent capacity with 474 prisoners, 492 staff beds, and that was as of December 31st. Some of the other numbers that I didn't see in the same area that I found this was the fact that the Ogdensburg facility in particular had very high accreditation scores, 99 out of 100 the last two; extremely low numbers of inmate complaints, violence and things of that nature. Also, the facility, since 2007, has returned to DOCS \$1.5 million in facility's operating budget. And I'm sure you're aware of that.

COMMISSIONER FISCHER: I think everybody paid a little bit.

SENATOR AUBERTINE: So it seems to me that this would certainly be a well-rounded facility based on those numbers.

But also, you've alluded to the fact here that one of the criteria you used was to look at a facility when it was initially brought online, whether it was built as a prison or not. Can you tell me, after retrofit, are you aware of any facilities that didn't comply with code after they were brought online?

COMMISSIONER FISCHER: They all comply with code, and they were all evaluated by the State Commission on Correction.

SENATOR AUBERTINE: So even though some of

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these facilities didn't start out life as a correctional facility, once they were retrofitted they most certainly were in compliance with code and they would be looked at as a correctional facility; is that fair?

COMMISSIONER FISCHER: Yes. Except that because they weren't designed for a prison in terms of staff ratios to inmates, they've become a little more expensive in terms of cost-effectiveness, as compared to a facility that we designed for prisons.

SENATOR AUBERTINE: And you've touched on the expense of running a facility, which is one of the things I wanted to touch on as well.

Again, the facility at Ogdensburg, as I'm sure you're fully aware, is certainly in a part of the State that requires heat. When I rolled out of bed up there this morning, it was damn near zero. I'm sure that there was a lot of heat required there. But the heat that's required in that particular facility comes from a former co-gen plant, and it shares its heat run with the psych center, which is on the same grounds as the correctional facility.

Would that not offset some of the capital costs that were proposed to be offset, the \$9 million, if you did not have to invest that \$9 million and continue to use the co-gen plant.

COMMISSIONER FISCHER: Well, as you know, that seems to be tied up in a lot of litigation and confusion as to whether or not that generation plant will stay in effect, will it renegotiate a contract. As I said, that was not the deciding factor, but

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clearly it is a deciding factor.

In fact, two years ago when we started talking about closure, the generation plant even then was threatening to basically shut off and walk away. So we've always been -- in fact, we've worked with OGS to design, in case of an emergency, what would occur, along with OMH.

OMH has a plan that they have not implemented to basically build freestanding heating systems. We came up with a plan, if necessary, to basically build a whole new generation powerhouse. Right now neither of us has to move on it. But the reality is that particular generation plant has some financial issues that cannot be ignored.

And ultimately, I suspect that if we keep it, meaning the State, there would be an increased cost. And whether or not they could actually do it and we're willing to continue with them is another issue that basically has to be considered.

SENATOR AUBERTINE: All right. And I agree.

And again, alluding to one of the statements that Assemblyman Aubry made is the fact that ESD, which is working with Alliance and the Psych Center to work on keeping that plant open -- in fact, expanding it as long as there's a tenant there to use the steam.

And again, that goes to the synergy that's created in that region with the Department of Correctional Services, with Alliance Energy, with the Psych Center. And also the SVP unit that's

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located on the same site as well.

And you mentioned several times as you were speaking here this morning, or this afternoon, the fact that you're looking to -- my word, not yours -- but to collaborate, to the extent you can, with other agencies and organizations to provide some of the expensive services.

You've said that 13 percent of inmates roughly are connected in some fashion or other with OMH. Clearly the Psych Center is collaborating with OMH; it's part of it. Also, the SVP unit that's again all on the same grounds, along with the Alliance Energy, providing some of the energy for both you and the Psych Center.

Wouldn't it be worth looking into to see what kind of synergies, what kind of relationships could be further developed right there in that region to preserve?

COMMISSIONER FISCHER: I'm always willing to talk and look at it. But what you're suggesting would probably cost money, while I've been asked basically to save money.

So what you're asking is to keep Ogdensburg, and it would probably increase the cost should we get into a contract with the energy company, which is reasonable. I go back to -- an unfortunate statement I have to make is that I could frankly manage without Ogdensburg by placing these inmates elsewhere.

So my question for myself is do I want to invest more money while I can actually save money by closing the facility.

SENATOR AUBERTINE: Might we not be further

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ahead to have the discussions before we make that decision, if in fact there is the ability to make those collaborations and possibly save money?

COMMISSIONER FISCHER: We could. But then it comes back to me talking to both you and the Governor's office that how do I save the \$9 million -- or actually the -- Ogdensburg is, I'm sorry, the \$23 million that is basically put in the budget primarily for 2011-2012 budget time.

SENATOR AUBERTINE: And again, and it's been alluded to here and several of my colleagues have tried to address this, the location of the prisons with the proximity to New York City.

Many of these facilities were located there because of the proximity to New York City, not despite of it. When did that policy change?

COMMISSIONER FISCHER: I think we -- well, going back to the '80s and early '90s, we built them basically where we could. And in that case, in Ogdensburg particularly, we simply took over a facility that already existed and retrofitted it.

The building or the facility across the street, Riverview, was actually built for New York City. And we used to bring offenders from New York City, Rikers Island, by plane up to Riverview. When New York City no longer needed it, basically the State took it over because we built it to our specifications.

So location was there because it was available. It has been more economic to build in the North Country and elsewhere

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outside of New York City. But you're talking 20 years ago, when decisions were made for all kinds of reasons at that time which I'm not sure exist today.

SENATOR AUBERTINE: And that decision changed when?

COMMISSIONER FISCHER: It's never really changed. But if you asked me -- well, it has changed in our thinking. If someone were to ask me that there's a need to build new prisons, I would be very opposed to building far away from Rochester, Binghamton, Buffalo, and the New York City areas because of the whole concept of -- there's reentry, and there's another major initiative that's coming across all of us, and it has to do with children of incarcerated persons.

We can't get around it. It's becoming a legitimate concern. Statistics are indicating that children of incarcerated persons have a higher rate of incarceration themselves. Whether there's a real correlation is unknown. But it is a factor that we just have to consider down the road in future times.

SENATOR AUBERTINE: And if enacted as has been proposed, what kind of impact would that have on overtime?

COMMISSIONER FISCHER: Which proposal?

SENATOR AUBERTINE: In other words, if the Governor's proposal were enacted as it's being proposed in the Budget to close all four facilities, how would that impact overtime?

COMMISSIONER FISCHER: It should reduce it, in

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the sense that I can place officers and civilian staff into vacancies right now that are probably costing me overtime, particularly in security ranks.

I am down -- this department is 1,000 under target. So our overtime is considerable. We're having difficulty filling our vacancies. Anytime I can move somebody from a facility that I don't need them, so to speak, in terms of population going down, to a facility where there is a need, my overtime is going to go down.

SENATOR AUBERTINE: Is the department down as far as management? Have any of those items been filled in the last two years that were open prior to that?

COMMISSIONER FISCHER: We have a lot of management positions empty. I have deliberately kept many positions, central office and the facilities, empty for savings, really against my own better judgment. I've kept superintendent titles empty far longer than I should. But it is a necessary factor for me, and we're watching it very carefully.

I keep as many vacancies as I feel I'm comfortable with without jeopardizing safety.

SENATOR AUBERTINE: And again, I guess my question was in the last two years, are there more items filled than unfilled than there were two years ago?

COMMISSIONER FISCHER: No. I have far more vacancies today than ever before. We're talking about filled, paid positions -- way, way down. Statewide, across the board.

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SENATOR AUBERTINE: But I'm talking about just the upper echelon of management here in Albany.

COMMISSIONER FISCHER: We are down from -- I will get you the figures exactly. But we are down from a year ago. However, at the same time we're going down, we've added 23. There's a total net loss. But since in the last two and a half years we've added about 23 positions to handle our mental health, our SOMTA, our resentencing requirements and others -- but we have in fact reduced, primarily through attrition and by vacancies, central office.

SENATOR AUBERTINE: So the payroll in central office today is smaller than it was two years ago?

COMMISSIONER FISCHER: In actual dollars, I believe it is. Certainly from last year. I won't go for two years ago.

SENATOR AUBERTINE: Okay. Thank you.

Thank you, Mr. Chairman.

CHAIRMAN FARRELL: Thank you.

Next, Helene Weinstein, Chair, Judiciary.

ASSEMBLYWOMAN WEINSTEIN: Thank you, Mr. Chairman. Just a couple of short questions building on what some of my colleagues have asked about.

And in particular, I share the same concerns about some of the merger of the victim-based agencies into DCJS. And I did note that the savings seemed to be attributed to -- it's a small, relatively small amount of savings in light of the total Budget, but that

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savings primarily seem to be associated with moving the Crime Victims Board members and the costs associated with it.

And my particular concern relates to merging OPDV within the agency, within DCJS. And I know others have asked about the cost savings, and we'd like to really know what those cost savings are, whether it's now or in the future, before we enact the Budget, to know what the cost savings are intended.

And also, one of the concerns I have along with the merger is the removal of the DV and Sexual Assault Hotline from the Coalition Against Domestic Violence, which has been operating it for 25 years, to come within the agency.

So, I wonder if you had a comment on those changes, Commissioner.

DEP. SECRETARY O'DONNELL: Well, in terms of OPDV overall, first of all, I think Amy Barasch is a tremendous leader of that office and that agency. But it is such a small agency, and it's very heavily impacted by Budget cuts.

But DCJS does a considerable amount of work in the domestic violence field. DCJS is now building and constructing the DIR database. DCJS administers the VAWA funds, a substantial portion of which funds DV programs. So there's a great deal of synergy there between OPDV and DCJS. And in terms of grants and the grant program, all of that is pretty much administered through DCJS.

So I think -- I've heard everyone's concerns. We don't

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like change. It is easier for agencies to have a singular mission. But I also think that this is a program that fits very well under the DCJS umbrella.

In terms of the sexual assault funding coming to DCJS, I think that really is welcomed by the sexual assault community because so much of the VAWA funding comes through DCJS anyway. So, you know, I think that that is something that we will be able to work out very well in terms of what is proposed.

ASSEMBLYWOMAN WEINSTEIN: My question related to the hotline itself, the DV Hotline, which has been run by NYSCADV since its inception for 25 years. And I understand they've been told that it will then become an agency function.

DEP. SECRETARY O'DONNELL: Mm-hmm. And that was a proposal distinct from anything to do with the merger. But I think it's based on some of the data in terms of the hotline and its utilization. And Amy and I will be happy to sit down with you and go through that and see if it can be better managed at DCJS or not.

NYSCADV got substantial funding through DCJS, through the VAWA stimulus funding as well. So we're very, very supportive of that organization. It's right up there in terms of organizations that we care about. So in this particular case with the hotline, we'd be happy to sit down with you and with them as well and talk about it.

ASSEMBLYWOMAN WEINSTEIN: And then Chairman Lentol raised some issues with the changing of the Indigent

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Legal Services funds to this commission base, and I'll associate myself with some of his concerns.

In terms of the cap on New York City at \$40 million, is it anticipated -- I guess I'd like to know the rationale of that. And it is anticipated that the cap would stay \$40 million -- that the amount would be \$40 million even if that fund increased, as has fund increased?

DEP. SECRETARY O'DONNELL: I may have to direct you to DOB, because I'm not entirely familiar with the cap in the Judiciary budget. But it's not intended to impact --

ASSEMBLYWOMAN WEINSTEIN: No, it's not in the Judiciary, it's -- the ILS, that fund caps at \$40 million the amount for New York City, and then the commission, this new commission on ILS at DCJS would deal with the communities outside of New York.

DEP. SECRETARY O'DONNELL: Yes, right. So what I was saying was that the funding in the indigent defense proposal at DCJS is independent. It's my understanding of the cap that that's in the Judiciary budget.

So the DCJS proposal is for the other indigent defense programs that are funded under the 18-B funding, essentially. And that's an additional \$10 million appropriation on top of the fund that's administered through the Comptroller's office: \$3 million to fund the office, \$7 million in a kind of grant program to be administered by that board for indigent defense.

So, you know, it's not what everyone is looking for in

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terms of the investment in indigent defense. But I think in terms of this Budget, it's a good-faith commitment to get some new money, a new office that can really focus on developing an indigent defense program. And it's my understanding that's separate from the money under the cap in the Judiciary budget.

ASSEMBLYWOMAN WEINSTEIN: Thank you.

CHAIRMAN KRUGER: Thank you very much.

Senator Ruth Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Yes, thank you.

Good afternoon. I apologize, I had to leave to conduct a committee meeting, and I had hoped to have gotten to you earlier while you were fresh. If you've answered these questions, I apologize. But I need the answers. So I hope that in repeating the questions you'd be able to phrase the answers a little smaller.

I want to go back to -- my question earlier to Judge Pfau was about the Indigent Defense Office. And if this office is to be administered by, in your own words, an independent stakeholder, would it not have been more prudent to have put it in OCA? And it was probably not appropriate for me to have asked the question of the judge about her opinion about somebody else's proposal, but after I had asked it I couldn't pull it back. But I would think it's appropriate, in your design, to ask that question.

DEP. SECRETARY O'DONNELL: Well, a decision was made that it would fit better in the Executive branch than in the

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courts. So, you know, I think that can be debated.

There is an argument also that it's difficult to be independent in terms of indigent defense if you're in OCA.

So the idea that it's set up administratively in DCJS but from a policy perspective reports to an independent board, and that board is headed by the Chief Judge, I think was intended to achieve the best of both worlds -- not giving criminal justice any policy control over the agency, allowing a board that represents a number of different parts of the indigent defense and bar, legal bar communities, would be the best way to proceed.

SENATOR HASSELL-THOMPSON: For two independents, why not then the creation of a not-for-profit board?

DEP. SECRETARY O'DONNELL: Well, it's an independent board. I don't know that the State is interested in funding a not-for-profit agency to oversee indigent defense. So I don't think there was any interest to --

SENATOR HASSELL-THOMPSON: As a quasi. As a -- I mean, we have authorities, we have creations already that are not dissimilar to what I'm describing.

DEP. SECRETARY O'DONNELL: Well, we're not really looking to create more agencies, we're looking to downsize government. So a lot of that thinking was present in this proposal. We're not interested in creating another free-standing agency when we already have agencies who do many of the administrative functions.

So we're really trying to give them independence to

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set the policy, allow all the stakeholders to have a voice in the policy as well as the grants, but allow an agency that already exists to administer their budget and their funding and personnel, et cetera.

SENATOR HASSELL-THOMPSON: And you still think that would give them the independence that you think is so important?

DEP. SECRETARY O'DONNELL: I think it will. If we pick the right people on the board, if we pick the right people to run the office, I think they'll be independent in terms of their policies, yes.

SENATOR HASSELL-THOMPSON: Moving to another question, this is a kind of cooperative and collaborative question. Last year we spoke about creating a bridge between Parole, DOCS, and DSS for the purpose of obtaining Medicaid cards for inmates upon reentry.

My understanding -- and I could be wrong, but from what's reported I think I'm correct -- in that this has not yet happened. Consequently, persons with HIV and AIDS, hepatitis C, are being returned to communities without coverage and may not be able to continue their treatment modality.

What can we expect -- or when can we expect progress in this area?

COMMISSIONER FISCHER: Last year's Budget required that we create a pilot project. And you funded me for it, but we didn't need the money because DOCS and Parole have worked

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together.

You will get a report at the end of next month which will basically, as required, lay out what the real issues are on how we do it from a point of view from DOCS and Parole. The problem will be -- and we will point this out -- that we don't control the actual final decision. That's under basically the local and State Departments of Health.

But just to give you some numbers right now, currently 3,879 offenders have had their Medicaid suspended or currently in the system. Based on the new law, when they leave, those cards or those applications will be automatically reinstated. So those almost 3,900 people will have their Medicaid card within days of their release.

Interestingly enough, though, of that group, 7 percent, or 172 of them, are mentally ill, which is a category all by itself.

You will also see, next month when we talk about it, that there are basically four parts to our attempt to get Medicaid for all participants, all offenders leaving. One is for the medically ill, for which there is a process that works reasonably well but not in every case. There is also a process for the medically ill which does allow them to leave with prescription and some medication and then go to a pharmacist to get their medication. It works really well, but again it's not a tight knit.

The third would be our efforts, at Hudson particularly, to try out our own process of getting applications

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approved while the person is still incarcerated.

And then last will be what problems the offenders are having when they actually leave us, with or without the Medicaid card -- the delays, the obstacles, the identification problems. Basically we're talking about a time factor: How long does it take for those who are eligible to leave the prison to get a Medicaid card?

I will say that not only are we interested in it too, but the providers of drug treatment are on our side also asking for can we speed the process up. As of I believe next month, that the law has been changed historically. One of the handicaps was that the DSSs required a physical meeting, a face-to-face evaluation. That has been removed. What has not happened, what has not been removed -- and it's something that we really have some needs to collaborate with some other State agencies -- and that has to be why can't an application that we create, Parole and DOCS, be sent to DOH, local or New York City, and be accepted until such time as they showed up and then within a day be evaluated and give out the Medicaid card. We still have that time factor at the end.

But I think you will see, as required, a layout of what the problems are and what our solutions could be for the foreseeable future.

You also probably are aware that DOH is creating a centralized clearinghouse, electronic clearinghouse. But that's in only really basically the initial stages. And that's designed basically to control those applications already approved.

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The next step, obviously, would be to take an application electronically and to preapprove it so that when the offender leaves, he or she would have that. We're probably talking on that level two years from now.

SENATOR HASSELL-THOMPSON: I'm sorry that when Dr. Mayberry-Stewart was doing her report, I had to leave, and so I couldn't ask her questions.

But one of the things that fascinates me about this whole issue of IT is how effective will that be in terms of helping him to facilitate the problem that he has. We've been talking about IT in terms of continuum of care through our health facilities. It seems that we need to have that same kind of cooperation between our DOCS agencies and our DCJS agencies as well.

DR. MAYBERRY-STEWART: Yes, Senator, I'd be happy to speak to that.

Commissioner of CIO Tom Herzog works very closely with us. One of the things we did with the IT strategic plan that is published on our website, we created these clusters of agencies that work together. There was already an existing roof for the criminal justice group that looked at common needs in terms of continuum of health, infrastructure, those types of applications that can be shared for all of those in public safety.

We intend to continue building that out. We call it a cluster of these groups working together where there are common needs. Tom works as the agency CIO, along with about four other

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CIOs that work together in terms of developing a technology plan that is specifically geared just for public safety and criminal justice.

We have seven of these clusters. So there's one for public safety, one for health and human services. In some cases you will have agencies and health and human services also working with public safety.

So we're trying to facilitate that process through the plan and look at what those common needs are and then try and develop a technology plan that supports that.

SENATOR HASSELL-THOMPSON: Thank you. That will also help me, I guess, with the question about DMV, but I'll leave that one for another day.

I'd like to go back to you, Madam Secretary. How does the dissolution of the CVB board and the creation of the new board save money? And answer that in this context so maybe I understand it better. How many positions exist now? And when the merger is complete, what will be the number of positions remaining and what positions will they be?

DEP. SECRETARY O'DONNELL: Well, let me just talk about the CVB board. I explained previously that New York is the only state that still uses a board format to actually process crime victim claims. So it's a very cumbersome procedure. We have very highly paid commissioners throughout the State that are paid to essentially approve crime victims' claims.

I think that's an old-fashioned way of processing

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claims that can really be eliminated and save money, and we can look at the best systems available in other states for paying crime victims' claims that don't involve very high-level commissioners who earn very large salaries. So a portion --

SENATOR HASSELL-THOMPSON: How much?
What are those salaries?

DEP. SECRETARY O'DONNELL: I'd have to check. I think it's \$90,000, \$95,000 a year.

And so part of the cost savings of a million dollars a year comes from eliminating the Crime Victims Board commissioner positions. We do keep the chairwoman position to oversee a board to hear appeals of the claims that are denied. There's currently, I'm told, between 100 and 120 of those appeals that are done every year, and that would be done by a board. And the chairwoman would be maintained to oversee that process as well the Office of Victims of Crime.

So the positions --

SENATOR HASSELL-THOMPSON: Help me again, because originally the description that I was envisioning was that the Crime Victims Board members came together and reviewed the applications --

DEP. SECRETARY O'DONNELL: No.

SENATOR HASSELL-THOMPSON: I mean reviewed the cases and made determinations. Who will now, then, be responsible for that process if not the board?

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DEP. SECRETARY O'DONNELL: We will design an administrative system to pay crime victims' claims just like we pay other kinds of claims in various State agencies. That will be a professional administrative function performed by the people who currently do it now at CVB. Without having to have a commissioner approve the final payment of the claim.

So the idea -- and that's how it's done in many, many other states. It's done as an administrative function in order to pay the crime victims' claims. And then the office would be maintained at DCJS both to process claims as well as to give grants to crime victims' organizations as well as to advocate on behalf of crime victims, do training, propose legislation, all of the other functions that the Crime Victims Board currently does.

But it's really a way to bring the Crime Victims Board into the current century and to modernize it and save money in the process.

SENATOR HASSELL-THOMPSON: How many board members are there now?

DEP. SECRETARY O'DONNELL: Now I believe there's five.

SENATOR HASSELL-THOMPSON: There's five? Okay. And you would save the salary of those five. But in the employment of this administrative structure, what would that cost?

DEP. SECRETARY O'DONNELL: Well, there's no additional funding allocated to the agency. So there is a cost savings

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of achieving a savings through attrition, because we would share a common grant program. Right now CVB gives out grants, DCJS gives out grants, DPCA gives out grants. We'd have one office giving out grants and administering grants, so we'd try to do it more efficiently and more effectively.

So there are some positions that are eliminated through attrition as a result of these consolidations.

I just wanted to add to that I think we can actually enhance the office and the mission by focusing more on crime victims' programs, crime victims' organizations, and crime victims' advocacy much more than we're doing right now, focusing more on claims.

SENATOR HASSELL-THOMPSON: Was any consideration given of a proposed merger between the Office of the Prevention of Domestic Violence and the Crime Victims Board to form a single agency.

DEP. SECRETARY O'DONNELL: We didn't seriously consider that. I know that's been proposed before. Because we're trying to downsize agencies, and so -- and the view that the Crime Victims Board is not the most efficient way to pay crime victims' claims didn't really lend itself to merging those two agencies without looking at a larger merger with DCJS.

SENATOR HASSELL-THOMPSON: Okay. I have a couple more questions, but I'll let you rest a minute.

I think a lot of my questions for Commissioner Fischer have been answered, but there were one or two that I still

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would like to pursue.

The Executive Budget proposes the elimination of community work crews at Butler, Moriah, and at Ogdensburg. Are there plans for those inmates that were in those work crews to be placed in other work crews?

COMMISSIONER FISCHER: I'm not sure I understand the question. The community crews will go away as the facilities close.

SENATOR HASSELL-THOMPSON: The concept will go away.

COMMISSIONER FISCHER: Yes. As we've done in the last two years, I have in fact removed the community crews from just about every facility that had them, with the exception of our camps, Moriah and a couple of other small ones.

And I will tell you, like I said last year, it's a deliberate decision I made very much like the annexes and the farms. I do not and I have not touched the staffing and the needs of the big facilities. If I'm required and I have been required to reduce my costs and work within basically the limits of staffing that I've been allowed to, my priority, obviously, is to staff and maintain security and safety and programs at the big facilities, at the expense of removing community-type programs.

In effect, I'm shrinking from the outside in. And it's what I did last year, what I did the year before, and I will continue to do that this year, because that's where the safety of the agency, the

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safety of the offenders, the safety of the staff come into play.

SENATOR HASSELL-THOMPSON: How does that then fit with the request, the program bill that we just considered for allowing inmates to work for not-for-profit corporations?

COMMISSIONER FISCHER: That I believe was designed primarily for the county jails.

SENATOR HASSELL-THOMPSON: Only for county, not for prisons?

COMMISSIONER FISCHER: Right. We don't have -- well, I shouldn't say that. On work release a person can work and be paid for in a not-for-profit organization. But as a policy, we do not send offenders from inside a prison to work outside for private enterprises, even the nonprofits. It was never intended that way --

SENATOR HASSELL-THOMPSON: But how did they work for the farms? What was the difference?

COMMISSIONER FISCHER: The farms worked for us. The produce that they created -- the milk, the meat, the vegetables -- we used first. And whatever was left over, we gave it to cooperatives on the outside.

SENATOR HASSELL-THOMPSON: I see.

You've explored this, but just help me with it, because I just keep needing to hear you say it till I figure it out.

Under the closure plan that's offered by the Executive, there's also a consolidation of dorms. According to the Division of Budget, you have yet to formulate a plan for this

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consolidation. How much time do you need? When will this plan be done? And do you have a sense of what it's going to look like?

COMMISSIONER FISCHER: Yes. We've been doing this for basically the last two years.

As I said earlier, I look at a facility that actually has lost a number of offenders and I can consolidate within the facility. That's my first priority. You have two dormitories, each carrying 60. When each only carries 30, I would simply close one dorm and move them over to the other dorm and save staff.

So the plan is to follow the attrition of both the offender and the staff. And I look at it systemwide.

SENATOR HASSELL-THOMPSON: Okay. Thank you.

The Executive Budget proposes that the Division of State Police establish a photo monitoring enforcement of speed limits. And so, my question was I know that -- I think that you covered the criteria for where you locate, but how long is the time frame for the vendors' contracts in relationship to the cameras? And what will happen - this is the other piece - when revenues decline as a consequence of motorists realizing the location of the photo monitoring devices?

SUPERINTENDENT CORBITT: Well, first of all, this is really not a State Police project. It's a civil project in nature. These types of systems are used in about 75 countries. And there are four different systems and if we were to engage in utilization of the

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system we'd have to look and probably merge whatever would be the idea. Two attended systems have police officers that would work in a van. The difference is that a police officer would not leave the work zone to go and apprehend the vehicle.

And so, what you have is a civil penalty, and you'd have to deal with a vendor. And many of the questions that you ask would have to be worked out. I think that would be the critical part of this program is implementing a program that has not -- does not have the pitfalls of some of those that have been tried in this country. So, it's difficult to talk about now because you're really going to have to put out RFI to get the proper type system.

So, when you say putting them in a work zone -- and as I said earlier, if a motorist sees a troop car on the side of the road, the motorist is going to slow down, and people going in either direction will probably warn motorists by flashing their lights that there is a Trooper up ahead. So, any type of -- you know, the fact that they will see a sign that says there is a camera up ahead, to try to measure the impact of that is pretty difficult to do. And some of the research I've seen that speeds have been reduced somewhere between 2 and 3 percent.

How long that will happen, I don't think anyone knows; it's anybody's guess. When Troopers work on the Thruway and they have special spots, people who travel the Thruway constantly come to that spot and they just slow down because they expect a Trooper. So, reality is the data is probably not real sound because we

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haven't done it in this State. I think each state is different. I know they've done it in Arizona, and their driving pattern is certainly much different than New York State.

So, there is a lot of unknowns at this point.

SENATOR HASSLE-THOMPSON: Okay. I guess I'm asking the question in this fashion because when we were talking about taking measures that will generate a certain revenue base and if the questions are -- if the responses are that unknown, I'm not clear how we can project dollars on an unknown. So, that's really not your question -- that's not a question for you, but that's what motivates the question from me.

SUPERINTENDENT CORBITT: I think it would be a question for Budget. But certainly, the amount of the civil penalty and some expectation of how effective the enforcement would be drives that number. I really don't know how the number -- what my comment earlier was, that anything that we do in the traffic safety arena that saves lives is something that I have an interest in. And so, that's why the program on the surface is appealing.

SENATOR HASSLE-THOMPSON: I appreciate your response. I'm just -- the question, I just think, is critical to be answered at some point and I guess we will wait until the results come in. Thank you.

Commissioner Evans, can you tell us how you think the reduction in the number of board members affects the workload of the remaining board members?

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CHAIRWOMAN EVANS: Well, the reduction has already taken place, because over the last ten years we've seen a decrease in the number of hearings by board members. So, basically we've already seen where the reduction has taken place. We have 2,000 --

SENATOR HASSLE-THOMPSON: Do board members get a -- how are they paid, by stipend, by salary by --

CHAIRWOMAN EVANS: No, the board members are salaried.

SENATOR HASSLE-THOMPSON: They're salaried, so --

CHAIRWOMAN EVANS: Yes.

SENATOR HASSLE-THOMPSON: -- it doesn't matter the number of meetings?

CHAIRWOMAN EVANS: No, not at all.

SENATOR HASSLE-THOMPSON: You increased the number of meetings, increased the workload but they get the same amount of money?

CHAIRWOMAN EVANS: I think that the workload is less now than it has been before. And don't forget that we also now have video conferencing in it least 27 prisons.

SENATOR HASSLE-THOMPSON: Okay. So that's a piece of work.

CHAIRWOMAN EVANS: That's right.

SENATOR HASSLE-THOMPSON: I think that's

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really what I'm asking, is how are you handling what -- even though the case load, per se, may not be -- if you decrease the number it still means that fewer people are working a little bit differently, if not harder. So, your answer to my question about the video helps me to at least understand the need not to necessarily travel to the meetings, but video conferencing allows them to be at the meeting without physically leaving their sites; is that correct?

CHAIRWOMAN EVANS: That's right. And those video conferences are currently taking place in four counties and we expect to expand that program to ten different prisons in two other counties.

SENATOR HASSLE-THOMPSON: Good.

CHAIRWOMAN EVANS: So, a total of 37.

SENATOR HASSLE-THOMPSON: Okay. You know, part of what I think you were getting ready to answer when you said that numbers have gone down, I was going to ask has the ratio between parolees and parole officers increased or decreased, and I think that that was part of what you were answering.

CHAIRWOMAN EVANS: That's right.

SENATOR HASSLE-THOMPSON: Thank you.

Director Donlon, the Executive's proposal attempts to provide a comprehensive approach to preparedness in a single, consolidated department for local first responders. What impact will this merger have on the local first responders?

DIRECTOR DONLON: Well, we work very closely

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with the first responders throughout all the 16 counter-terrorism zones, people are taking quarterly calls with them, also daily calls with some of the zone commanders. And we work very closely with the State Police and we work very closely with John Gibb and his agency also.

So, we're very mindful of the first responders. We know that they're the ones that would arrive at the scene after an incident occurs. So, we work very, very closely with them.

SENATOR HASSLE-THOMPSON: How much funding is provided in this Budget to ensure that the local first responders have sufficient resources?

DIRECTOR DONLON: We have -- let me just get the figures here. We have a total of \$113 million State homeland security programs, the UASI fund is \$151 million plus another \$10 million that goes to the other UASI members and --

SENATOR HASSLE-THOMPSON: I'm sorry, your voice is going down. The \$10 million would go where?

DIRECTOR DONLON: That other \$10 million would go to the other UASI members.

SENATOR HASSLE-THOMPSON: Okay.

DIRECTOR DONLON: And we also have number of different programs throughout the State. A couple of examples are the buffer zone protection programs and metropolitan medical response systems. But a total of \$455 million has been allocated this year to all of our departments throughout the State.

SENATOR HASSLE-THOMPSON: Under this

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proposal, who would be in charge if a threat occurred to the State?

DIRECTOR DONLON: Well, when a threat occurs at the State, we immediately work with the State Police and also the Joint Terrorist Task Force. We have an excellent form of communication with all different agencies throughout the State. And when a threat does occur, I can tell you that all the different agencies work together to resolve that particular threat.

So, all threats do get resolved and are immediately handled. And we receive communication from whether it's the FBI, the NYPD, State Police or local or State agencies throughout the State, or even outside the State.

SENATOR HASSLE-THOMPSON: They said they don't think your mike is on, that's why your voice keeps sort of disappearing.

DIRECTOR DONLON: It's on.

SENATOR HASSLE-THOMPSON: Okay. Just a final question. How will the directors of each of the proposed consolidated agencies collaborate to improve on receiving additional Federal funds?

DIRECTOR DONLON: Excuse me, ma'am?

SENATOR HASSLE-THOMPSON: How will the directors from each of the proposed consolidated agencies collaborate to improve on receiving additional Federal funds?

DIRECTOR DONLON: Well, as I stated before, I think we have an outstanding relationship with all the agencies, and I

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work with very cooperative individuals throughout the State and we never had a problem with them since I began with the Homeland Security about a year ago. We've always been able to sit down and resolve any issues, problems and we will come up with a, you know, an operational plan or ways of spending the funds.

SENATOR HASSLE-THOMPSON: Okay. Thank you.

Thank you, Madam Chair.

CHAIRMAN FARRELL: Thank you very much.

To close, I hope, Mr. Giglio.

ASSEMBLYMAN JOSEPH GIGLIO: My questions are for Commissioner Fischer and I will try to make these brief. The first one is that prior to Rockefeller, the Shock was voluntary, and now it isn't. So, why would you close a Shock facility when you know it's going to be expanded? And I think those were your own words in August of '09.

COMMISSIONER FISCHER: Pretty much the same idea of years ago when we first started "Rocky" - Rockefeller Drug Laws - we created KSAT facilities and Shock facilities and freestanding KSAT facilities. And through evolution, through changes, the bottom line, in terms of Shock, it's a great program. We had thousands of beds. We're down to basically enough beds in the three remaining facilities that I have that I do not need the fourth. It's a question of economics. I'm not giving up Shock, obviously. We have the other Shock facilities. There is enough capacity in those

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facilities.

So, basically, I no longer need four Shock facilities; I can use three. Years ago we had three or four KSAT facilities; we're down to one freestanding KSAT facility.

So, by evolution, basically, we are reassessing our needs based on what we can and what we need.

ASSEMBLYMAN GIGLIO: Okay. In your testimony you said that when these cuts were fully effective, you would cut \$45.8 million. How long is it going to take to be fully effective?

COMMISSIONER FISCHER: I'm sorry, what was that?

ASSEMBLYMAN GIGLIO: In your testimony you said that when the cuts that you're making in this Budget are fully effective that you will save \$45.8 million dollars.

COMMISSIONER FISCHER: That's based on the two closures which are really designated for full-year annualization in year 2011-12. So, there will be some savings, some small savings, by attrition, but the true savings on those two closures -- actually, three closures will be in next year's budget.

ASSEMBLYMAN GIGLIO: Okay, so that's a projected savings that won't be this year?

COMMISSIONER FISCHER: Yes, that's correct.

ASSEMBLYMAN GIGLIO: One of the things that you talked about earlier was reuse, reuse of the facilities. So far, of

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the facilities you've closed, there has been no reuse; correct?

COMMISSIONER FISCHER: That is correct.

ASSEMBLYMAN GIGLIO: Whose responsibility is it to maintain and secure those facilities right now?

COMMISSIONER FISCHER: Right now it is mine. I have security in place to watch the facilities. We basically decommissioned them in terms of physically; boarded up, drained the tanks and that. We are in the process now, by law, of turning them back over, one to OGS and the other one, Camp Pharsalia, belongs to the DEC; it's their land. It gets a little complicated because some of the facilities are on State property, but not necessarily usable, like Pharsalia. There are some restrictions on what can occur at Pharsalia because it sits on DEC property. Gabriels is pretty freestanding and we're working on, hopefully, basically transferring them to other agencies.

ASSEMBLYMAN GIGLIO: But that will still cost the State no matter who maintains them, though. Right now until we find a reuse, either by the State or by a private entity, it's costing the State of New York is to maintain them and secure them; correct?

COMMISSIONER FISCHER: Yes.

ASSEMBLYMAN GIGLIO: All right. Thanks.

Another quick question I have in regards to the closing of the minimums. I believe I read in your mission statement that the minimums are used to transition inmates back into reentry. And with the closing of these, are we having any problems finding

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spots for inmates that are about to reenter society to get the services they need as they transition out of incarceration?

COMMISSIONER FISCHER: No, because we've converted certain, even medium facilities like Orleans. We've created two housing units just for reentry for the Erie County area. We created a unit at Hudson for the Albany-Rensselaer unit; Bayview is for females for the five boroughs. Little by little we are identifying space within existing facilities to do that transition. And, of course, we've got the big one in Queens, Queensboro on Van Dam Street that basically holds 400 offenders, and we turn that over almost every 90 days. So, we have that transition system.

ASSEMBLYMAN GIGLIO: Okay. And one last question. When it comes to budgeting, last year there were 53 deputy superintendents that weren't part of your budget, the question you've been asked a lot. This year -- and you guys called it a glitch, an accounting glitch. Are there any accounting glitches this year?

COMMISSIONER FISCHER: Are there any --

ASSEMBLYMAN GIGLIO: Is there anything that we -- those budget fills were not there last year. You've identified it as a budget glitch. Are they filled this year?

COMMISSIONER FISCHER: They are filled and they were always filled. That's one of the problems I'm working with the Division of the Budget. Where we place items has been chaotic, to say the least, and that's why there is a lot of arguments - and rightly so - criticism about the level of administration items. Not everybody

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in administration actually works in administration, not everybody in support and programs works in support and program. We look at the bottom line: What am I required to maintain in terms of filled items? That's my guideline.

But the 53 simply existed in another cost center, and hopefully this year, with the Division of Budget, we're going to clean up the cost center because the question that always comes up - and rightly so - what does it cost to incarcerate an offender and where are those costs allocated? Right now it's not a very clean assessment. And then part of it is, also, we centralize a number of accounts, particularly medical accounts. So, we're working on it. But no, we did not create 53 new positions.

ASSEMBLYMAN GIGLIO: My final questions regarding the deps, are any of them left vacant in this Budget?

COMMISSIONER FISCHER: Excuse me?

ASSEMBLYMAN GIGLIO: Are any of them cut or left vacant on this Budget?

COMMISSIONER FISCHER: Many are vacant.

ASSEMBLYMAN GIGLIO: Vacant.

COMMISSIONER FISCHER: Yes.

ASSEMBLYMAN GIGLIO: Do you have a number?

COMMISSIONER FISCHER: I can get that number. Those are security deps. I'll probably talk half a dozen right now.

ASSEMBLYMAN GIGLIO: All right. Thank you very much. Thank you.

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SENATOR DEFRANCISCO: Denny, a real quick question.

CHAIRMAN FARRELL: Yes, Senator.

SENATOR DEFRANCISCO: I have a series of questions for Eric Chris in the front row that I've been meaning to ask him for many, many years. Oh, never mind. We don't have enough time.

COMMISSIONER FISCHER: Go ahead. Go get him, go get him.

SENATOR KRUEGER: We're censoring him.

CHAIRMAN FARRELL: Thank you very much.

CHAIRMAN KRUGER: We're up to 12, noon.

CHAIRMAN FARRELL: Ladies and gentlemen, everybody's going to leave us now. Folks, the quicker you move the -- I would ask you to leave the auditorium as quickly and quietly as possible.

And the first person to testify next is Donn Rowe, President of the New York State Correction Officers PBA.

CHAIRMAN KRUGER: Could we please take the interview outside?

SENATOR DEFRANCISCO: Excuse me. People have been waiting all day long. Can you move the news conference, please? Thanks.

CHAIRMAN FARRELL: President Rowe.

MR. DONN ROWE: Good afternoon, Chairman

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Kruger, Chairman Farrell, the members of the Legislature. My name is Donn Rowe and I'm the President of the New York State Correctional Officers and Police Benevolent Association, NYSCOPBA. Each year at this time, NYSCOPBA's president reads his detailed statement outlining the union's concerns about DOCS' proposed budget for the next fiscal year. A copy of this year's statement is before you, but I'm not going to read the entire statement this year because I want to spend what little time I have with you today conveying the anger and outrage felt by my members of NYSCOPBA.

I came to this budget hearing last year, sat before you and told you that the prison system is operating well in excess of 100 percent capacity. We provided a detailed breakdown of the actual number of inmates within the system and explained how the Department spins those numbers to make you and everyone else think that New York's prisons are virtually empty. I have to ask: How can this Commissioner report to the Federal Bureau of Prisons that New York State's prison system is operating in excess of 100 percent capacity and he reports to you that we have thousands of vacant beds?

I explained that there are thousands of inmates living in double-bunk conditions, cells and cubicles which are designed for one person. I explained to you that this is not only a danger to the brave men and women who work behind the walls, but also to those incarcerated inside. I explained how important the minimum prison system setting is to prevent recidivism among those incarcerated. And

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I explained that by doing away with these vital camps and minimum annexes, the Department is placing officers and inmates alike in a no-win situation since vital transitional programs would be lost and these minimum security inmates would be warehoused in higher security space.

The State was in a financial peril last year, and I told all of you that NYSCOPBA understood that it needed to bear some of the financial pain, but that we believe strongly that the pain needed to be shared throughout the Department of Correctional Services. Despite our efforts last year, the Commissioner closed prisons and annexes, reduced the number of correctional officer positions but left administrations within the Department untouched.

I look at what Commissioner Fischer is proposing in this Budget and it not only appalls me, but it infuriates my entire membership. He is, once again, proposing the closure of correctional facilities at a time when the prison system, as a whole, is operating at 102 percent capacity, with the maximums operating at over 122 percent.

Not only will more inmates be jammed into less space, but there clearly is no plan to address the 15,000 inmates who are currently living in double-bunk conditions.

Commissioner Fischer is proposing, once again, to do away with vital programs designed to help inmates assimilate back into society. Are we to assume that programs contained within minimum facilities and Shock incarceration programs were

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meaningless and useless? The Commissioner seems to think so.

And most problematic to me as president of this union is that the Commissioner is, once again, proposing to reduce the number of line-item correction officer positions within the Department without reducing a single administrative position. By now, everyone should be familiar with the Department's waste at the administrative level. We at NYSCOPBA have been touring the State in recent months in an effort to finally shed some light on where real and significant cost savings could come from. Several members of this Body have joined our fight, and we thank you for taking up our cause, but more needs to be done.

Take a look at those charts. How is it possible that the number of people on those charts has actually increased in recent years while the number of correctional officer positions has decreased by more than 2,000? How can this type of operating plan possibly be viewed as promoting safety? Can you honestly sit here and say the proposed budget is fair and equitable to the rank and file members of the Department who provide safety and security within the prison system?

I am sure you can sense my frustration, but please understand I need to explain to my membership some rationale for the Commissioner's proposal and, frankly, there isn't any. But what I can tell my membership is that we will, once again, turn to the governing Body of the people of this State and ask the honorable members of this Legislature to protect the interests of those performing the

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responsibility of day-to-day supervision and care of New York's inmate population. We ask for nothing more than fair and equitable treatment, but we demand nothing less.

Thank you, and I would be happy to answer any questions you may have now or during your budget deliberations.

CHAIRMAN FARRELL: Questions?

Yes, Mr. Aubry.

ASSEMBLYMAN AUBRY: The Commissioner indicates to us that this year he will reduce administration by 1.8 percent and will reduce security by 1.2 percent; programs by 4.6 and support by 8.6. What do those numbers mean to you?

MR. ROWE: Other than the numbers in security, as far as administration, I think if you look at the Executive Budget there is no change in administrative items. Certainly, there is 17 managerial items that are addressed in the closing of those facilities which are very small facilities.

ASSEMBLYMAN AUBRY: And from the closure of facilities last year, your indication is that no managerial levels were reduced from the system, either by attrition or by direct action?

MR. ROWE: As you listened to the Commissioner's statement here, he maintains vacancies. So to me, that means -- and when we follow the administration charts, it shows a Captain's item vacant for a period of time and then someone's promoted into that item. And then we see deputy superintendent of security items vacant, and then there eventually is a promotion into that item.

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Now, maintaining vacancies and cutting administration, I think, are two different things, so, no, there are no cuts.

ASSEMBLYMAN AUBRY: And how many full-time employees do we have in security?

MR. ROWE: In security? Overall, I believe it's right around 30,000, but that would be with some managerial.

CHAIRMAN FARRELL: Further questions?

CHAIRMAN KRUGER: Questions?

CHAIRMAN FARRELL: Thank you.

MR. ROWE: Thank you.

CHAIRMAN FARRELL: Thomas Mungeer, New York State Troopers PBA President.

MR. THOMAS MUNGEER: Chairman Kruger, Chairman Farrell, members of the Legislature, thank you for allotting me this time. My name is Thomas Mungeer, I'm the President of New York State Troopers PBA. I represent over 6,000 active and retired Troopers throughout the State. Of those numbers, 3,600 are active Troopers and of that number, 2,700 are rank and file uniform Troopers; that's who I want to speak to you about today.

They're the men and women who wear the uniform every day, got the big hats, the purple ties, ride around in the marked patrol cars and the ones you see on the roadway. They are ones who answer the 911 calls, the ones that help the little old lady change a tire on the side of the road, the ones that respond to your house if there is a

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burglary or a larceny or any other thing.

What disturbs me in this Budget is that we do not have a class allocated for this Fiscal Year 2010-2011. As of right now, as per the Governor's numbers, we will be down 269 people in April of 2011. Those are rank and file people. Given that you can't just put an ad in the paper and expect to hire a Trooper within two weeks, it takes a year to make a trooper; that's three months getting the academy going, six months academy and then there's three months of training after that. So, we will not see people on the road until middle of 2012.

Now, as a direct result of this with the manpower shortages and attrition is remaining steady at 4.6 people per pay period, and my superintendent misspoke, he said it was two-and-a-half people per pay period, but it's 120 a year and that is going to remain steady. What's disturbing is that they want to now reallocate. A direct result is that the school resource officers and other programs such as this are being cut.

School resource officer, I do have a couple figures that jump out at me, since its inception of 2001. They made 1,215 felony arrests, they've investigated 798 sex offenses and probably most -- you know, what jumps out at me most is they've had suicide counseling for 1,208 students, that is either students that threaten suicide or there was a report that they wanted to commit suicide. This is direct interaction with these kids in the school.

Another thing in this and I've got to say, is selfish on

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my end, I have four children that attend a school that's patrolled by an SRO, and as a father it's very comforting to know that one of my Troopers is there at that school at all times.

I just found out today also that without the money and the training, our school in Cooperstown for K-9 is being shut down. As of right now, I have 65 dogs on the road, eight need to be replaced and I'm short 15 handlers. I've heard a lot of people today talk about terrorism, how we were the front line and that when you take a bio-sensor dog - which is a bomb dog - off the streets it puts us all in danger, I think.

You know, these cuts -- and, again, it's a direct result of not having enough people on the road. We've been hit hard here in the last couple of years. In under four years, I've lost nine Troopers in the line of duty. It's a dangerous society out there. I've had 11 Troopers that were shot, but luckily survived, since 2002.

So, by taking Troopers off the road, it puts us all in danger, it puts the public in danger and it also puts my Troopers in danger since we do not have adequate backup. Our patrol areas sometimes are 30 square miles or more.

Thank you.

CHAIRMAN FARRELL: Questions?

Yes, Senator.

SENATOR DEFRANCISCO: Could you just clarify something for me? Do you represent the individuals who actually are the security around the Capitol?

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MR. MUNGEER: The security? No. The Troopers that you see around the Capitol in uniform, I do represent.

SENATOR DEFRANCISCO: Okay. Now, the people that provide security, they're State Police officers; correct? Or are they not?

MR. MUNGEER: The civilians are not State Police officers.

SENATOR DEFRANCISCO: The uniform people that greet you at the door through the security are not --

MR. MUNGEER: The uniform people in the purple tie in our uniform are Troopers; the other people are civilians. They are not represented by my union.

SENATOR DEFRANCISCO: Okay. All right.

One other question. You're talking about taking Troopers off the road. There were articles over the last few weeks about the Governor's detail, the number of Troopers that are assigned to the Governor and the thrust of those articles - and I just want to find out what your thought is, whether it's true or not - was that there's more security around the Governor now by far than there were in prior Governors, and that obviously takes people off the road or off key positions. What's your perspective of that, representing these officers?

MR. MUNGEER: I was simply pointing out that -- you took the Governor 's detail, for instance. I have no idea how many people it takes to guard the Governor; maybe it's 500, I don't know. But what I'm saying is you can't take away from the road patrol

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and not replenish the road people. That's --

SENATOR DEFRANCISCO: No, no. I didn't know you were the one who said it, quite frankly. But I was reading about it.

MR. MUNGEER: Yes, that was me.

SENATOR DEFRANCISCO: But my question is: What are the numbers now in relation to -- whoever's got the right numbers to what's adequate, how are the numbers now compared to the last Governor, Governor Spitzer and the Governor before that, Governor Pataki?

MR. MUNGEER: They have gone up. I do not have specific numbers. I'll have to get that to you, but they have gone up.

SENATOR DEFRANCISCO: Okay. Could you get that to me, because it's one --

MR. MUNGEER: Absolutely, sir.

SENATOR DEFRANCISCO: -- thing to say it, like you said, the numbers would speak for themselves, I think. Thank you.

MR. MUNGEER: You're welcome.

CHAIRMAN FARRELL: Thank you.

CHAIRMAN KRUGER: Assemblyman Aubry.

ASSEMBLYMAN AUBRY: How many officers do we lose a year to retirement, attrition?

MR. MUNGEER: It's 4.6 average, per pay period, about 120 a year.

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ASSEMBLYMAN AUBRY: And those are not being replaced this year either? There's no replacement provision for them.

MR. MUNGEER: Yes, there's no slated replacement. As of April 2011, they say, the Governor's numbers say we're going to be 269 down from last year. But then you have to add for what it takes to train a Trooper, you have to add another 120 Troopers. We're going to be 400 Troopers down by the time I can get bodies on the road that can patrol by themselves.

ASSEMBLYMAN AUBRY: Thank you.

CHAIRMAN KRUGER: Quick question. When Superintendent Corbitt testified earlier, I asked him a series of questions; maybe we can get another perspective to it.

MR. MUNGEER: Okay.

CHAIRMAN KRUGER: Firstly, the issue of speed cameras. He was talking about it being a reallocation of manpower, taking manpower away from construction sites and more effectively using existing manpower. I tried to make the point that in looking at other states around the country it's a little different; different in terms of what manpower means and what the safety issues are. How do you see it?

MR. MUNGEER: Well, to be honest with you, by taking, you know, replacing Troopers, so-to-speak, with speed cameras, I think you take away my Troopers' discretion. And also, I have seen statistics, I believe it's from Arizona, where fatalities and

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serious accidents actually went up in areas where there were speed cameras.

That being said, you know, of course I believe revenue did go up. But to be honest with you, growing up I was always taught that if you do something wrong, all right, you should take the punishment. By speed cameras it's a civil penalty. You're putting the fine on the registered owner so the person actually speeding, possibly, might not be the one who is receiving the fine.

CHAIRMAN KRUGER: My point to him was, as well, you know, you have a speed camera, you go through it. Ultimately, 30 days from now you're going to get a ticket in the mail; you pay the ticket. The interchange of the Trooper stopping the vehicle, talking to the driver, there's a certain sense that's instilled that may last a lot longer than the use of a camera just as a quick money grab.

Moving also to the issue of automatic weapons, rifles in cars, he said that the policy change is a policy change that now they're supportive of it; is that the case?

MR. MUNGEER: I believe so. We've had -- it's been a little more than a year removed from the I-90 shooting in January of last year, and we are moving forward. We have, I believe, 264 rifles in the field. It is -- you know, again, we are the front line on terrorism and it's something my people do need. I think if we had a patrol rifle in each car, my Troopers would be a lot safer. And again, it took 40 minutes for us to get a Trooper with a rifle out to that scene.

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And, you know, it was only the grace of God that a civilian or a Trooper wasn't hit or killed.

CHAIRMAN KRUGER: And he gave us a dollar amount of \$950,000 to basically supply a rifle for each vehicle; does that sound right?

MR. MUNGEER: Give or take, I believe that's in the ballpark.

CHAIRMAN KRUGER: So, we're talking about around a million dollars that was not allocated in the Executive Budget to do that.

MR. MUNGEER: Correct.

CHAIRMAN KRUGER: In terms of Trooper classes, when was the last class?

MR. MUNGEER: Last class went into the Academy in December of 2008.

CHAIRMAN KRUGER: 2008. And that's going to put a Trooper in the field ...

MR. MUNGEER: And that put Troopers in the field who could ride by themselves in the fall of 2009.

CHAIRMAN KRUGER: And there is no class currently scheduled?

MR. MUNGEER: There is no class currently scheduled and there won't be one scheduled if this Executive Budget goes through the way it's written.

CHAIRMAN KRUGER: Is there normally one class

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a year?

MR. MUNGEER: Usually two.

CHAIRMAN KRUGER: Two classes.

MR. MUNGEER: Usually two -- yes, two classes, average 100 people will keep up with the attrition and any other possible details or anything that they do.

CHAIRMAN KRUGER: So, we're certainly going to lag further behind because we're not talking in this Budget about one class, but we're talking about a minimum of two classes?

MR. MUNGEER: One class would curb, so-to-speak, the attrition for that year. But we're already behind the eight ball and, to be honest with you, given this trend in what's going to happen, it will take us years to dig out of this hole.

CHAIRMAN KRUGER: Even assuming we're able to pick up with classes in the out years?

MR. MUNGEER: Yes, we're still going to be behind.

CHAIRMAN KRUGER: Okay. Thank you very much.

CHAIRMAN FARRELL: One question. They used to have what I called a recycle in 2001, one night after September.

MR. MUNGEER: Yes.

CHAIRMAN FARRELL: Are all those officers now away, gone, or do you have any --

MR. MUNGEER: No, that ended, I believe, at least

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two years ago, the Trooper rehiree that was initiated by Governor Pataki after 2001.

CHAIRMAN FARRELL: Okay. Thank you.

MR. MUNGEER: Thank you.

CHAIRMAN FARRELL: Steve Banks, Attorney in Chief, Legal Aid Society.

From here on in, folks, we're going to move as quickly as possible. I would ask everybody to be as succinct as they can be. We will be going to a second hearing in approximately an hour.

Steve.

MR. STEVEN BANKS: Good afternoon. We will be very brief. You have our written testimony. I want to just make really three points and then Deborah Wright, who is President of the Association of Legal Aid Attorneys, is going to talk a little bit about the staff impact.

First as an introductory matter, you passed a law last year enacting case caps for criminal defense attorneys in New York City. That has become a national indication of New York's focus on this issue. The U.S. Attorney General has cited that law as one of only two bright spots nationally in indigent criminal defense. So, you deserve a tremendous amount of credit, this Legislature, for passing that law.

It comes none too soon because we see that when we were here last year we said that our case load had gone up from

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210,000 to 225,000, and then to 227,000 cases last year. This year it's now 232,000 cases. So, even as crime is down, arrests, somehow, are up and we have an incredibly increasing case load. But your law and the dollars that Chief Judge Lippman and Chief Administrative Judge Farrell put into the Judiciary Budget begin the process of addressing those case loads. However, in the criminal area there are three actions in the Governor's Executive Budget that would negate and undercut the landmark law that you passed that Attorney General Holder has cited.

First, even as the Governor is proposing to add \$10 million more in the Executive Budget - not the OCA Budget, but in the Executive Budget - for unspecified improvements in indigent criminal defense, the Executive Budget proposes to cut aid to defense yet again, including nearly a million dollars for the Legal Aid Society. And this is occurring even as you've taken the step to recognize caseloads need to be controlled.

We would urge you not to -- we are not here to urge you to put more money into the Budget, but to simply take some of the \$10 million that the Governor is proposing to give to DCJS for unspecified improvements in criminal defense and reallocate some of that money to State aid to defense that the Legal Aid Society is using currently to represent clients. It makes no sense to be improving indigent defense even as that cut is occurring.

Secondly, in the proposals in the Executive Budget, the Article 7 language that would cap the indigent legal services

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funding for New York City and also make changes in the way that the effort is measured for the indigent legal services funding in the City, it would result in a diminution of dollars that the City has for indigent defense. The City itself has testified that as a result of these actions in the indigent legal defense fund, that there will be less money available in New York City. That makes no sense at a time when the State has enacted a landmark law to control indigent defense case loads.

Last, but not least, in the indigent defense area, there are dollars that both the Assembly and now the Senate have put into the Budget. These are critical dollars to continue to be provided. They are being used now to provide direct representation to clients; a total of \$1.1 million from the Senate for indigent defence and approximately \$800,000 from the Assembly for indigent defense. These dollars are critical because they're part of the base on which the Office of Court Administration is working to bring down the case loads.

In the area of parole, I've been here how many years talking about the need to ensure that people can be diverted and all the cost savings that occur? The Assembly has a terrific report that the Speaker put out showing that the contrasts in costs are \$15,000 to divert somebody and \$45,000 to reincarcerate somebody, yet every year - and this is no exception - the dollars that the Assembly puts in for our indigent parole are cut. We urge you to restore them.

In the area of civil legal services, you all are preaching to the choir. The \$15 million that the Judiciary has put in is

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critical to preserve the IOLA funding, as well as the dollars that the Assembly and now the Senate put in for the provision of civil legal services, a total of about \$3 million. The Senate money has gone to civil legal services, including about \$572,000 for the Legal Aid Society. And the Assembly has been a longtime supporter of these funds, as well. They're critically needed now more than ever.

We have gone through, in prior hearings, the exponential increase in the numbers of clients seeking our assistance. You can see it in our testimony, the numbers speak for themselves: 29 percent increase in clients seeking help with unemployment, benefits; 40 percent increase in clients seeking help with health care; 12 percent increase in clients seeking help with food stamps and other public assistance benefits; 16 percent increase in clients seeking help with domestic violence; 15 percent increase in clients seeking help with earned income tax credits; 21 percent increase in evictions; 800 percent increase in foreclosures.

This is the background of the Judiciary's proposal to bail out the IOLA fund. It's only for one year. There needs to be a permanent solution. I know that the Assembly and Senate are working on this. We stand ready to continue to work with you, but would urge you to make the changes that we're suggesting for the indigent legal defense area and to provide the dollars that are needed from your existing Assembly and Senate funding to maintain those services, as well as parole and civil legal services.

MS. DEBORAH WRIGHT: Good afternoon. As

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you know, UAW Local 2325 represents the 800 members who are the staff attorneys at the Legal Aid Society who are struggling to provide the quality services and representation to their clients every day due to the high case loads that we have.

In the interest of time, I completely agree with what Mr. Banks has just testified to and the critical need for this funding, not only for our criminal defense division but also our civil legal services division. We will not be able to continue to operate if we have any reduction in funding.

One thing that concerns me quite a bit is I hear, oftentimes, that because of our size it may be thought that we can actually absorb additional cuts. I'm here to tell you that we cannot. At this point, because of years of having our funding chipped away at consistently on both sides, we have been forced, quite frankly, to eliminate many of the vacant positions that we have had open for both staff attorneys and also support staff who are represented by 1199, which would have helped already understaffed offices.

At this point, we actually are looking at layoffs. If layoffs do occur, obviously, in these divisions, you're going to have an immediate crisis in the courts because there's not going to be trained professionals to be able to service those clients which will also, then, in turn, create a crisis for the State. So, it is absolutely vital that this funding is put in place.

The other thing that I would like just to say at this point is our Local, for years now, has been doing what many of my

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brothers and sisters in labor are being forced to do this past year. We have been sacrificing the very few benefits that we have ever had in order to keep the doors of the Legal Aid Society open, and so that way we can continue servicing clients. Years ago back in 2000, we started contributing to our health care. Every year that we come to the bargaining table, we face increased costs and increased contributions on our side, again, on salaries that are very low in comparison to what we could earn in the private sector.

We don't have a defined benefit pension plan; we haven't had that in decades. And the very few wage incentives that we ever had, we already gave up, actually, five years ago. The only thing that we have left are our salaries. They're not the greatest, but they're our salaries and they have to be protected at this point because there is nothing else, quite frankly, for my members to make a living on. And they're living in an expensive city, they're also trying to pay off really high educational loans. And so, it becomes imperative at this point that that has to be protected. It's the only way, actually, we'll be able to survive.

And so, I just urge that these proposed cuts by the Executive are not adopted by the Legislature, because otherwise we're not going to be able to continue servicing our clients.

SENATOR KRUEGER: Just one quick question. So, the Governor is proposing \$10 million for indigent legal services through the Department of Criminal Justice, but cutting for New York City, a million. Do you know what the plan is for the \$10 million?

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MR. BANKS: There is no specificity in the Budget for what those dollars will be used for. Some of the dollars implicitly would be used to operate the board, the indigent legal services board to oversee State indigent defense that's proposed to be created within DCJS. Their issue is about having that within DCJS that others have spoken about that we agree with.

But, essentially, you're right in saying that State aid to defense, some of which goes to the Legal Aid Society and some of which goes Upstate, it's about another 10 percent cut coming on top of the 10 percent cut last year. It's about another \$1.2 million that's being cut even as new dollars are being put on the table to enhance criminal defense - which just makes no sense - which puts us in the rare position of coming to you and saying -- we're not asking you to restore out of new money, we're just asking you to redirect the dollars that are already on the table in order to preserve this service which is the baseline that the Case Cap Law assumed. The Case Cap Law is being implemented on a base of our operations in the current fiscal year. And in the next fiscal year if we sustain cuts, it undoes the law.

SENATOR KRUEGER: Thank you.

CHAIRMAN FARRELL: Thank you.

MR. BANKS: Thank you very much.

CHAIRMAN FARRELL: Prisoners' Legal Services of New York, Karen Murtagh-Monks, Executive Director and John Dunne, former Senator, Board Member.

MS. KAREN MURTAGH-MONKS: Good

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afternoon.

CHAIRMAN FARRELL: Good afternoon.

MS. MURTAGH-MONKS: Chairman Kruger, Chairman Farrell, members of the Committee, my name is Karen Murtagh-Monks, I'm the Executive Director of Prisoners' Legal Services and with me is former Senator John Dunne, a member of our Board of Directors. It is a privilege to testify before this Committee today. I will rely on my written testimony because I would like to offer Senator Dunne the opportunity to testify about PLS. But I would like to say to the members of this Committee who have supported PLS in the past, thank you. Thank you so much.

Since 1996, Prisoners' Legal Services has not been included in the Executive Budget and, once again this year, we were not included. But thanks to members of the Assembly and the Senate, our funding has been restored every year since that date. I would urge this Committee to restore our funding this year. We're asking for \$2.285 million, which is the same amount of money that we've received since 2001.

So, on that note, I'd like to turn this over to Senator Dunne.

MR. JOHN DUNNE: Thank you very much, Ms. Murtagh, and thank you for the opportunity to be here.

Mr. Chairman, I will -- just a very brief statement.

Providing State funding for Prisoners' Legal Services is both good public policy and a sound economic investment for New

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York State as outlined in more formal remarks already filed with you. PLS is a Statewide agency that was created in 1976 in response to what historians have described as the bloodiest prison confrontation in U.S. history, the Attica Uprising. And on a personal note, I was there in that prison for those four days, and I can tell you it was not pretty.

For the past 34 years, PLS has worked tirelessly to address the issues that we found had led to the riot. As a Statewide agency, PLS listens and responds to the concerns and grievances of all those incarcerated in New York State prisons. It is a voice for prisoners who have no voice. Our advocacy and representation helps calm the fears of our clients, which translates into a reduction in tension within the prison population and a resulting decrease in the likelihood of another Attica.

In terms of public safety, because of our work many of our clients now receive the mental health care, medical care, programming and education they need to succeed in life once they are released. Our work instills in prisoners the sense that the criminal justice system in New York State is fair and it is just, and that when released from prison, they are more likely to successfully adjust to life outside the prison walls and reenter society as law abiding, productive, taxpaying members of society.

To enhance the prospects of success for those adjustments, PLS has been assisting the Department of Correctional Services in its reentry program and makes presentations on employment, parole and family law issues and on various legal issues

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associated with reentry. As our executive director pointed out, last year PLS was not included in the Executive Budget, but the funding of \$2.285 million was subsequently restored by you. And yet, PLS had saved the State over \$4 million by obtaining reversals in Tier 3 disciplinary hearings, resulting in the expungement of 36 years of solitary confinement and restoration of 29 years of lost good time and correcting jail time and sentencing errors that had resulted in a total of 79 years being credited to prisoners' sentences. And every less day a prisoner is in a prison, that means a saving for New York State.

But for PLS, it is unlikely that these savings to the State would have occurred, but PLS does much more than that. By engaging in extensive education efforts, PLS prevents hundreds of unnecessary lawsuits annually.

But more important than the measurable savings, however, is the immeasurable benefit PLS has provided to New York State in helping to prevent another riot. The cost of another Attica would be astronomical, not just in dollars, but in lives and in a threat to the future stability of our criminal justice system.

With adequate resources, PLS can continue to investigate meritorious cases and monitor the serious problems experienced by the prison population. With adequate resources, PLS can maintain the trust and respect it has earned throughout the prison population and continue to act as a safety valve.

With adequate resources, at a time when everyone is looking for ways to reduce the cost of government, Prisoners' Legal

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Services can be part of the solution. For 34 years its' work has helped to reduce tensions in the prisons and has increased the likelihood that when released, prisoners will be able to successfully reintegrate into society. PLS is a critical, it is a necessary and it is an economically-sound component of New York State's public protection efforts, both inside prison and, ultimately, outside for the communities to which virtually all incarcerated individuals will return.

Thank you very much.

CHAIRMAN FARRELL: Thank you very much,
Senator.

Questions?

Thank you.

SENATOR KRUGER: Thank you very much for
your time today.

CHAIRMAN FARRELL: G. Robert Witmer, former
President of the New York State Bar Association, from the New York
State Bar Association.

MR. G. ROBERT WITMER: Good afternoon,
Chairman Krueger, Chairman Farrell.

CHAIRMAN FARRELL: Good afternoon.

MR. WITMER: I am Bob Witmer, as you've
mentioned, former president of the Association. I am here because
our current President, Michael Getnick, is in a previously scheduled
meeting of the ABA. We appreciate the opportunity to appear before
you on behalf of our 77,000 members.

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As one of the three fundamental branches of government, an independent, well-functioning judicial system accessible to all is a bedrock principle of our democracy. The courts, more than any other arm of government, are a bulwark of liberty.

I would like to take, in the few minutes that I have, make three points and then a conclusion.

First point is to support the Budget that's been submitted on behalf of the Unified Court System. We heard Judge Pfau this morning. I will not repeat what she said, except to emphasize that last year the Judiciary submitted a zero growth budget, and I think that shows their efforts to try to accommodate the very serious economic problems that we, in this State, face. They cannot do that again this year. They, with a very small exception, the increase that they have requested is all from mandated expenses.

In the face of an economy that is sending more and more people into the judicial system, 27 percent increase in family offenses that were filed, family court offenses that were filed. I was struck, since I am from Rochester, that she mentioned that there are -- each city court judge has essentially 8,000 new filings a year. You take five days a week, 50 weeks a year - we know you're not going to expect to work 50 weeks a year, but it's easy for me to do the math - and if you do it that way that's 32 cases a day that each judge - new cases, new filings - that each judge has to deal with. That's an extraordinary number within a system where we are obligated to provide justice for our citizens.

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I submit it's beyond dispute that we have a system that needs its support, judicial system, in a time when more and more people are coming before who are scared, who are frustrated, who are, in a sense, ignorant of the procedures that are necessary for them to obtain justice. We support fully the Court's request, budget request, for this year.

Point two: It has long been the position of this association that it's the obligation of the State to provide a stable funding mechanism for civil legal services. It does no good to have a legal system within our system where we depend upon an adversary system. We need lawyers who can help the people who come before that system. Over 80 percent of the poor do not have access to a lawyer.

Now, what has been requested of the Legislature this year will not change that. What has been requested is a \$15 million appropriation to partially make up the shortfall from IOLA. IOLA, in 2008, awarded grants of \$25 million; it's now estimated that it will be \$6.5 million. That's a quarter of what they had before. Yet, at a time when we already have more than what we did have, 1.6 million pro se litigants in the court system that has now increased to 2.1-

In terms of the efficiency of the system, it's very inefficient for the courts themselves to deal with pro se applicants who are not represented by attorneys who know the system. It would make the system more efficient to fund the civil service that's required. That's what the effort is with this \$15 million.

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Unfortunately, the Governor's Budget provides that that \$15 million will come out of fees that will be increased to provide access to those courts in the first place. I thought the Judge was gentle when she said it was ironic that the funds that will provide these services then, for the poor people who must come to court, will have to be paid for by the access fees that the clients do not have in the first place.

What's happened is that this Budget creates a threshold to enter the courts. It's a threshold that the poor people in this State who are unrepresented already cannot afford. That's a threshold that turns into a barrier.

The Bar in this State has worked hard to provide pro bono services to assist. Pro bono services are not the answer, but they help. And the Chief Judge has put in place a system asking retired lawyers to provide for pro bono services. Two years ago the State Bar initiated a system requesting our members to provide pro bono services, and the State Bar has come up with the idea of *cui prae*, where we have trusts that are -- the purposes for which they can no longer be served, to ask the judges in the *cui prae* proceeding to apply those proceeds towards legal services.

Point three: The commission on the future of indigent defense services declared that there's a crisis in the delivery of defense services of the indigent throughout New York State. And the State Bar Association supports the establishment of an independent indigent defense commission. The Executive Budget

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proposal provides for an office with oversight responsibility, and we feel that that's a good first step in support. We are concerned with the potential systemic conflict that exists where this office is housed within the Division of Criminal Justice Services, but that's something that we should be able to talk about; we should, hopefully, be able to work through.

In conclusion, access to justice has been the primary focus of my remarks. It's the centerpiece of the Association's legislative priorities. The fair and impartial administration of justice is a fundamental responsibility of government, one upon which the vitality of our democracy depends. We submit that the court system should be adequately funded to ensure access of justice to the poor, the weak and the vulnerable. We urge you to remain committed to protecting access to justice and to ensuring the public's trust and confidence in our justice system.

I would be happy to respond to any questions.

CHAIRMAN FARRELL: Thank you very much.

CHAIRMAN KRUGER: Thank you.

SENATOR KRUEGER: Thank you.

MR. WITMER: You're welcome.

CHAIRMAN FARRELL: Jonathan Gradess,
Executive Director, New York State Defenders Association.

After him will be Robert Tembeckjian, Administrator and then after that, Elizabeth Gaynes. If they come down closer to the stairs, we can move quicker.

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MR. JONATHAN GRADESS: Good afternoon.

CHAIRMAN FARRELL: How are you?

MR. GRADESS: I'll be brief. I want to talk to you about a few things. First of all, I'm very excited that this year I come before you and we are, for the first time in many, many years, talking about an Executive proposal to try and do something about the crisis in public defense services. I think many of you on this dais know how many times I have whined before you that this day would come.

I am concerned, as others before me, that at the same time that we look like we're taking a step forward, there seems to be a side step on some of the traditional programs that have been Executive items such as -- and they haven't been for a long time, and as Karen Murtagh-Monks said you've restored them, but the indigent parolee representation program is not here; the neighborhood defenders service of Harlem is not here; the Legal Aid Society is not funded; aid to defense is cut and PLS is not here.

My own office, which in many respects -- New York State Defenders Association Public Defense Backup Center -- in many respects the glue that holds what little we have left of this public defense system together, has been cut \$300,000. It's really not a 10 percent cut from last year's budget. Last year's budget was \$1.5 million dollars; that's the same budget that was present in the year 2000. It's the number we need. It's a 22 percent cut from the final budget last year and we would ask you to restore it.

I want to direct my attention, however, to the Article

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7 bill and I want to make it clear that we are very happy that the Governor has put this forward. It looks like a recognition that there is a crisis in public defense services at the local level, and it clearly is a statement that New York needs to play an oversight role and do something about that crisis. And we're willing -- ready, willing and able to work with all of you to make that happen.

That said, it's a proposal that needs some work. And I've heard for several hours sitting here - and I am pleased to see that there are some of you still sitting here - about the conflict of interest with DCJS, and I want to remind this panel that there's a lot of options that are present. Fifteen years ago you created the Capital Defender Office, somewhat suspended between the Judicial and Executive branches; that's a model for you. Seven years ago you created a program very similar to this in the Comptroller's office; that's a model for you. Two years ago Governor Spitzer proposed an office of indigent defense services and placed it in the Secretary of State's office.

I think we can work out the problem, but there was raised earlier today from the Commissioner seated where I am seated a statement that the history reflects a time when DCJS handled both these offices. I'm preparing now a memorandum at the request of your staff on this issue, because history also reflects that there was a time when DCJS's own internal auditors said that that conflict was intolerable. There was a time when there was a bureau of prosecution and defense services in DCJS, and it is because that office could not

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handle both functions that you funded us in 1981. History reflects that there was a time way back then that DCJS tried to do both these functions, but it was found to be impossible.

And as I share that data with you, I will remind some of you who were there at the time that when Mario Cuomo became the Governor, he had a first-time criminal justice director who came in and also recommended our office close and they take over the function in DCJS. So, you revisited that question as a Legislature and you concluded, once again, in 1984, that you couldn't house a defense function in DCJS.

So, we've been down this road on a number of occasions, and I would ask that you not let that problem impede the development of this in an appropriate place. I think we are all together on this journey, finally, and I don't think that the technical drafting details of the problems that do exist in this bill should deter us. The Governor has made it very clear that he would like this to be done. I want to make clear that we would like it to be done. In doing it together I think that the Governor's also made clear that he's open to dialogue with you, and I hope that all of us together can be in that dialogue and come up and fashion an office that will be independent, that will be structured, that will do what the Governor would like it to do, but will be protected from conflict of interest and begin us on the long road toward fixing things.

One last statement I want to make: There is a part F, an Article 7 bill, that would make an effort at fixing the problem that

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emerges from the decision in *Goehler v. Cortland County*, which is the decision that ruled conflict defender offices in the State illegal. I think that it would be wise as we go about building this office that we give that task to the office, as well. There isn't much point in doing as the Article 7 bill suggests that this board be established to look at the types of systems we have and examine the future, and then put our emptor mater on, on conflict defender offices.

There has been some fear that the sky is falling; I'm here to tell you it isn't falling. Conflict defender offices were created in 2003. The sky didn't fall for many years, hasn't fallen yet. The Cortland decision came down. There have not been suits in all the other jurisdictions and if there were, they wouldn't be solved by this Article 7 bill, because some of those offices are low-bid contracts with individual lawyers, some of them are housed in county attorney offices. There's a whole bunch of problems that this bill doesn't address and I would urge you to commend that to the office that you create.

I'd also be very, very happy to answer any questions that you have or to repeat, if interested, that we need \$1.5 million at the Defenders Association.

Hearing none, I thank you for your time.

CHAIRMAN FARRELL: Hearing none, thank you very much.

SENATOR KRUEGER: Thank you.

CHAIRMAN FARRELL: Robert Tembeckjian, New

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York State Commission on Judicial Conduct. Anne Erickson and Kristin Brown Lillie, Director of -- we'll move forward.

MR. ROBERT TEMBECKJIAN: Thank you, Mr. Chairman, and ladies and gentlemen.

In 2007 the Legislature, in an effort that was largely spearheaded by Assemblywoman Weinstein and Senator DEFRANCISCO, with very important support from the Chair, from Assemblyman Lentol and from Assemblywoman Destito, for the first time in a generation increased the budget of the Commission on Judicial Conduct, recognizing that it was an independent office of State government created in the Constitution, purposefully separated from the court system because of the role that it plays in disciplining judges.

And the Legislature at that time reversed what had been the practice for some years in the Executive Budget - which is where our budget is presented to the Legislature - of cutting the Commission whether the times were lean or full. And I'm happy to say that that was the result of hearings that were held by the Assembly Judiciary Committee, by the Senate Judiciary Committee, and it made a great impression on the Executive branch.

And since then, because the Legislature has stuck with it, I am happy to say that I've been very pleased with the cooperation of the Division of Budget and the Governor's office in fashioning a budget for the Commission that recognizes its independence, makes sacrifices, as we are all making sacrifices in

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these times, but that still gives us the resources to fulfill our Constitutional function while remaining independent.

Some of our cases are low-profile, some of them are higher-profile, but we're able to do the appropriate thing because of the independence, not only in the way the Constitution structures the Commission, but in the way the Legislature has seen fit to fund it.

So, although it would have taken -- after two years in which a 5 percent absorption from our budget of funds that were supposed to be met by other agencies, and last year a 2 percent reduction. While it would have taken 7 percent just for us to stay even, I agreed with the Governor's office not to ask for that full 7 percent but, recognizing the sacrifices of the last couple of years, to ask for a 4 percent increase, which is basically \$206,000. We are not talking in the scheme of a \$130 billion budget with something that is undoable.

Even with that, we have kept our staff at 10 percent or 11 percent under its allocation. When we have departures, we defer the replacements so that we can save money. We've cut back on our -- completely eliminated our annual training and education programs. We've cut back on some of our physical plant. We had done any number of things to make economies to do our part in these difficult economic times while simultaneously fulfilling our function in an era when complaints are rising annually and our workload is expanding.

So, with that said, I hope the Legislature will approve the Executive Budget's proposal for the Commission which, while not

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as much as we need to stay even, is doable and we will make the sacrifices to make it work.

CHAIRMAN FARRELL: Thank you very much.

CHAIRMAN KRUGER: Thank you.

CHAIRMAN FARRELL: Questions?

MR. TEMBECKJIAN: Thank you.

CHAIRMAN FARRELL: Thank you.

Elizabeth Gaynes, Executive Director, Osborn
Association.

MS. ELIZABETH GAYNES: Thank you for staying alive. I set forth in my written testimony, in nauseating detail, the important reasons why you should continue to fund the ATI and reentry programs. I think you're familiar with them; Tracie Gardner is here. I want to thank you for the past support. But having now spent as much time here today almost as you have, I do want to address some other - quickly - issues around prison closures.

First of all, I just want to point out that I am very sympathetic that the North Country needs jobs. Transferring the problem from the urban poor to the rural poor seems to be unfortunate. I just don't see how it's the job of the Department of Correctional Services to deal with the economic development of the North Country. And the people in those prisons don't live there. They are being held there against their will, and we have a gift in a Corrections commissioner who got the words families and children of incarcerated parents out of his mouth at a public hearing as something

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that is important; and it is.

Our initiative for children of incarcerated parents has, as an advocacy agenda what we call a "hub near a home." The costs of foster care of incarcerated parents having their rights terminated in part because they are held so far away from their families that they can't see them goes outside of public protection. But much of what we're talking about today, workforce development and health issues, are not going to look like they're in the Public Protection Budget, but what people coming out of prison need are those things that are connected, just like the people in the North Country need.

In fact, I don't think we should be releasing anybody from any of the maximum security prisons and an opportunity to both right-size or prison system and make a huge difference in the success of people leaving prison would be for the Legislature to reconsider who is eligible to go into our underutilized work release facilities. This would enable us to free up more beds that are far away and of no great use to people who transition.

I was imagining when they were talking about it, you know, when my mother was growing up, when you had Tuberculous and some of those lung diseases, they would send you up to Saratoga and to the North Country for the cure. And then the medicine changed, and I was sort of imagining hearing people complaining to the doctors and hospitals that they were refusing to send people for their TB cures to the North Country. Things have changed. We now know that people who stay connected to their families while they are

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incarcerated are six times less likely to return to prison.

So, the idea that you can transition home and reconnect to your families from far away in communities that do not provide services for the people that reside in those facilities and, frankly, they don't provide any services for the people who visit them. It should be a basic requirement for prisons to make prison communities, if they wish to call themselves, serving the public and have public representatives based on the Census to at least provide affordable transportation so that people who have loved ones who are in prison could reach them.

I actually think that -- addressing the parole issue quickly, as well. I understand the logic of closing the minimum facilities because I saw the charts that said we have all these violent people in them; they're people that are convicted on violent crimes, they are not necessarily violent. And holding them in maximum security prisons for the entire time of their incarceration is probably neither necessary nor very smart. In fact, I don't know why we would release anyone from a maximum security prison. If we know people are coming home in a year or two years, we should be transitioning them into lower-security facilities, and if you want to really save some money, close one of those little max prisons like Sullivan, 500 beds, and utilize some of the other ones.

The parole recommendation scares me. I sometimes -- Assemblyman Aubry knows I'm sort of schizophrenic - I think you should either reduce it by 19 or none. But right now, parole

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continues, despite the lower number, they spend about 20 minutes with each person they see. Video conferencing is terrifying to me because they obviously can't even make their case. You have one parole commissioner reading the file of the next person while the current parole commissioner is interviewing the person. So, I would be very concerned about reducing that further so that people -- and it is only going to be A1's eventually who are being considered for parole.

I have a lot of colleagues here who will probably shoot me if I take any more time, so I'm not going to do so. I want to just continue to thank you for your support and hope that you back up this Commissioner on the prison closures. He really needs it. Thanks.

CHAIRMAN FARRELL: Thank you very much. Just one question, one thing. I worked for a judge back in the '70s and he had a rule. If the parents showed up twice in the case, he made sure they ended up in Rikers and no place else.

MS. GAYNES: That would be a good rule.

CHAIRMAN FARRELL: But that's the problem. I mean, it's how many people go to visit.

MS. GAYNES: But parents would like to visit their kids, so keep them close.

CHAIRMAN FARRELL: Not enough parents like to visit their kids.

MS. GAYNES: Yes, I'm one of them.

CHAIRMAN FARRELL: That's a different problem.

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Anne Erickson, President & CEO, Empire Justice Center.

MS. ANNE ERICKSON: Good afternoon and thank you. My name is Anne Erickson, I'm President and CEO of the Empire Justice Center. We are also a member of the Legal Services Funding Alliance. And I just want to thank you so much for taking the time today to listen to these critical issues.

You've heard a lot today about access to justice and the fact that access to justice really is a core, fundamental value of our democracy. It is not something to be taken lightly. It is something that this State really needs to get its full force behind. I want to thank the Assembly leadership for their many years of support and leadership on the issues, and to the new Senate Majority we welcome you to the table. And, of course, now to Chief Judge Lippman who has come to the table in a very important way.

As you guys know, I have been at this a long time, and this year we really are facing a triple whammy. And it is one of the most critical years that I have seen. We are confronting, once again, the elimination of all State funding out of the Executive Budget. We are confronting a dramatic downturn in IOLA, the interest on lawyer account, which provides a tremendous amount of support to legal services, and we are facing an unrelenting increase in need for our services.

And just for a moment, to remember why we need legal services. You know, for most of us, our need for attorneys are

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few and far between, maybe to close on a house, maybe to put our wills and estates in order. But for people on the economic edge, they're up against the law all the time in the most fundamental of ways: Are they going to get their health benefits? What are their rights to unemployment? What are their rights when they're facing eviction or foreclosure, the loss of the very roof over their heads? What are their rights when they're denied benefits and food stamps, food on the table? These are critical issues and they're up against them all the time. And as you know, in the best of times throughout this country and certainly in this State, we've never met even 20 percent of the legal needs of the poor.

So, once again, extremely critical. These services, as you know, are also very cost-effective and they're very stabilizing. If we can keep a family in their home, that home stays on the tax rolls, that neighborhood doesn't go into a downward spiral. If we can keep health care front and center for a family, for kids, they're not going to be in the emergency room. But as you know, these systems are legally complicated. Denial of Medicaid is just unbelievable and on and on, you know.

So, it's absolutely essential that we, once again, come to you urging your restoration of all the State funding in the Budget. We are looking at the elimination of over \$13 million out of the Executive Budget that had been in last year's final budget. We urge you and we know you were behind helping make this happen, but really holding on to the \$15 million that Judge Lippman has proposed

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for the rescue of IOLA. This simply let's us stand still. It does not even begin to allow us to address the increased need.

On the issue of fees, I know there's concerns about limiting access at the front door, but at this point we don't think anything should just be off the table automatically. We think we should take a look at what revenues might be raised, what, if any, impact it might have on the front door to the courts and do a balancing act, because we just need to really take a look at all available options.

I would also ask this year, is there a way that we can create a more permanent solution, so that access to justice, funding for civil legal services becomes part of the core Budget? We really can't live this way anymore, that we're wiped out of the Budget every year to come back to be restored every year. We really need to create some way of being part of the base Budget.

And then just finally, more in your role as monitors of State budgets, we have yet to see a penny out of last year's budget. It is February 8, 2010. We just received, last week, our Department of State contracts for the funding in the 2009-10 Budget. I know the State is managing its cash flow, but it's doing it on our backs. And not just us, but the not-for-profit community generally. We can't do it. Already in our line of credit, we're at the bank asking for an increase in that line of credit, we have frozen salaries, we are not doing pensions, we have increased cost sharing on our staff. We are at breaking point.

So, if there's anything you can do to move last years

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contracts, that would be great, and we looked forward to working with you to make sure that funds are restored this year, as well, so we can avert disaster.

And again, I thank you for your support. Any questions?

CHAIRMAN FARRELL: Thank you very much.

Tracie Gardner, Director of New York State Policy, Legal Action Center. Next would be Robert Iusi, President, and then Larry Evans, New York State Probation Office. If you come down closer, the better.

Good afternoon.

MS. TRACIE GARDNER: Good afternoon. I've done this before a couple of times so I know how to make it quick. I'm Tracie Gardner and I'm from the Legal Action Center. We are the only public interest law and policy organization in New York City and in the United States whose sole mission is to fight discrimination against, to protect the rights of people in recovery from drug dependence or alcoholism, living with HIV and AIDS and people with criminal records.

In New York, we work very closely with the Coalition of Alternative to Incarceration and Reentry Programs. I list the kind of services that the Coalition provides in my remarks. I'll jump right to the point that we would like to ask the Legislature's attention and action on, which is a restoration of cuts to probation alternative to incarceration and reentry-related programs.

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I've been here since early this morning, as well. I am -- not dismayed, would be too strong, but that there were no questions about Rockefeller implementation thus far were a little surprising to me, it just passed not too long ago, and the ATI and reentry-related programs sustained a 12.5 percent cut during the deficit reduction plan, and then an additional 10 percent cut resulting in almost a \$1. -- that should actually be a \$1.6 million loss to the field, which includes the ATI 200 percent of poverty project that's run through DCJS and DPCA.

We urge the Legislature to restore funding for ATI programs to enable us to do our cutting-edge work, and it doesn't make sense at a time where the State is just in the process of creating a number of initiatives to continue reducing its prison population, including through diversion of individuals into drug treatment as part of what was called in the Budget documents, "Paterson Drug Law reforms." And we know that the State has also been successful in its efforts to reduce the number of people being reincarcerated due to technical parole violations.

So cuts to reentry and ATI programs, now in the beginning stages of implementation of drug law reform, is like building new houses on the floor at the same time as having the foundations pulled out. Additionally, we would ask you to please stay alert to the needs of the ATI programs who were funded by burn funding. In effect, some of those programs have been completely wiped out, like the Center for Community Alternatives and its

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Crossroad program. We, too, have relied a great deal on burn funding and hope that that can be rectified.

Finally, we also support the initiative to close the prisons and consolidate dorms. We would also ask that at this time though, that the Legislature could provide some leadership in helping our State catch up to other states around the idea of justice reinvestment. And that idea, I think it also speaks, as well, to what Empire Justice Center was talking about that we are able to capture some of the savings to invest in community corrections, public safety services, legal services that people need as they're returning home.

The final thing I would ask is in September, the Governor signed legislation, A.903, which calls for the monitoring of Department of Correctional's health services on HIV and Hepatitis C. We are very pleased that the Legislature passed it and that the Governor was able to sign it. There are \$686,000 in Department of Corrections Budget buried somewhere near the goodies that should, we think, be in the Department of Health since the Department of Health is doing the monitoring.

Thank you very much for your time.

Any questions?

CHAIRMAN FARRELL: Thank you, Ms. Gardner.

MS. GARDNER: Okay.

CHAIRMAN FARRELL: Next, Robert - I'm messing that name up - New York Council of Probation and Administrators. Is that person here? Okay. He got mad because I'm mispronounced his

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name.

Just for the record, the members of the dais have had to leave to go to an override procedure that's occurring in both the Assembly and in the Senate at this moment. We will try to continue but I, too, will have to leave, as will the Senator.

Larry Evans, Legislative Chair, New York State Probation Officers Association.

MR. LARRY EVANS: Thank you for the opportunity to speak before the Committee. I am Larry Evans. I'm the Legislative Chair of the New York State Probation Officers Association. And we're here today because the New York State Probation Officers Association has long supported the idea of a front-to-back criminal justice correctional system, starting with probation, going through DOCS and through parole. But we look at the proposed Executive Budget this year and it really looks like it's going in the opposite direction, potentially.

Three major points would be that the Probation Officers Association's opposed to would be the merger of the Division of Probation and Correction Alternatives into DCJS, the distribution of aid to localities and certain ATI's and block grants and the overall reduction of funding for probation services by 10 percent.

Probation represents the largest single component in the criminal justice system. We are responsible for supervising over 120,000 adult offenders, both misdemeanors and felons. We do all the investigations for all the courts. In the juvenile side, we have

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somewhere in the area of is it 10-, 14,000 on probation and another 80,000 in intake at any given time. It's responsible for the largest component of the criminal justice system, and we only get 5 percent of the funding.

Summing up very briefly, because it's in the testimony, the merger for the Division of Probation and Correctional Alternatives to the New York State Probation Officers Association, we don't view it as a rightful type of merger. The major point is that being the largest component of the criminal justice system, we feel -- and it is a regulatory organization. That's a major point. It regulates the various different counties. There are 58 different jurisdictions around the State and it has regulatory responsibilities.

When it comes to the idea of the grants, it's in the testimony, but the major issue there is when you take probation funding and put it in to one lump of money, we see the risks that the -- and then reduce it by 10 percent, we see the risks to the counties. Instead of looking at the criminal justice system as a whole, due to budget restraints in the localities and at the State, that the county probation departments will forego what they've been doing all along, which is a lot of prison diversion and diversion out of the juvenile detention system. If that occurs, any savings that could be seen in the short term by the merger and putting the large block grant could go away because some of these people that are being diverted at the front end of the system may very well eventually be going into the prison system. So, that's a major problem we see in this whole thing.

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The other thing is with another 10 percent drop, probation through the '90s has gone down and the rate of reimbursement from the State from about 50 percent -- it was 46.5 in 1990. It's approximately 15 now and with another 10 percent, we're talking down maybe a high of 10 percent to the counties. It may very well result in probation officers being laid off, and there is a direct correlation between the number of probation officers and the size of case load and the amount of accountability on the offenders. It would be a pretty simple equation: There would be more criminals roaming the streets without anybody supervising them.

Probation has the capability, with the proper case load, to take an offender before they commit a new offense and with what we call technical violations, we can incarcerate them. The other aspect to probation is that being in the front end of the system we have -- and with the proper resources we can actually prevent from committing crimes which would put somebody in prison. We can help them with some of the stuff that has been discussed today. They referred to it at the back end of the system as reentry. Probation has always done that right in the communities all along.

The best preventive tool is to keep them at home, if possible, if safely, and have them with the families and have the resources in the communities, because once you take them out of the community and put them in DOCS and parole, that's when all those reentry issues arise.

I would just like to sum up, the Probation Officers

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Association sees it going away from a front-to-back correctional system to the possibility you might see in the future, 58 different probation departments operating quite separately.

So, I would like to thank you for listening to me and I would like to defer to Wayne D'Arcy.

MR. WAYNE D'ARCY: Just one quick thing. I'm Wayne D'Arcy. I'm a past president of the Association and I'm also Larry's co-chair in the legislative group. I've been doing this for 33 years. I've been roaming the halls over here for probably 20 or 25. I've been to many of the offices.

I would like to agree with what Assemblyman Aubry said before. I have some concerns about the idea of not being an independent agency and just becoming a smaller operation than DCJS. I've watched those things happen over the years and we could easily disappear. And from my point of view, we lose a direct connection to the Governor's office, not having a director who can go directly to the Governor's office to advocate for us.

But more importantly, I've watched -- it has frustrated me, and still does -- in 44 days I'm retiring so I won't have to worry about this too much more, but the one thing that's always frustrated me is the same thing I've said every time that I've come over here, is I'm amazed at how all the focus is at the back end of the system, it always has been. The big thing for the last couple of years is reentry. In Rensselaer County where I work, we have a model reentry program that people all over the country are looking at, so I have nothing

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against that. But that's where all the funding goes, toward the back end of the system. I think with if we started and go back to where we were in 1990 with adequate funding for probation, we could eliminate a lot of these problems.

So, I would ask that you give some serious consideration to this merger. Thank you.

CHAIRMAN FARRELL: Thank you.

CHAIRMAN KRUGER: Thank you.

CHAIRMAN FARRELL: Tom LaBelle, Executive Director, New York State Association of Fire Chiefs. Andrew Scherer, Executive Director, Legal Services next, and then Alan S. Harris, Legal Service Funding Alliance.

MR. TOM LABELLE: Good afternoon. I'll be brief.

CHAIRMAN FARRELL: Thank you.

MR. LABELLE: In 1992 I sat in this room as a member of Legislative staff and talked about consolidation of the Office of Fire Prevention and Control into a new agency, as is suggested in the Governor's Budget. It was a good idea 18 years ago. It's a good idea today. However, there are some conditions that we would like to make sure are addressed.

One, the Governor's Budget has no connection between Homeland Security and emergency services and the EMS planning. There's no relationship with the State EMS Council; one should exist. There's also not a strong enough relationship between code enforcement and the new HSES. The purpose of building codes

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is to make sure that when the hurricane hits, when the bomb explodes, when the building's on fire, that there's some continuity for police, fire and EMS agencies arriving on scene. We need to make sure that that policy continues to exist and has support there.

And finally, the 911 funding, as managed under this new proposal, takes the \$10 million that currently goes to counties, puts it in to a lump sum that takes away any initiative whatsoever for counties to continue to upgrade their existing systems. That \$10 million needs to remain for that purpose.

Also, currently, many folks within our community are purchasing trac phones and similar services. Those phones do not have the same emergency 911 capabilities as the phones that the rest of us purchase. And we need to make sure that that is no longer the case. If you dial 911 on the phone that I have right now, the dispatcher will know where I am. If you have one of those other systems, they will not know where you are.

CHAIRMAN FARRELL: What about the cell phones?

MR. LABELLE: The cell phones that you purchase on those monthly plans most often do not have the same capabilities for 911 systems. Which means, quite often, people who have the least financial ability are given much less service in the 911 system than those who have greater resources.

CHAIRMAN FARRELL: Are you saying that even with the cell system that you don't get into the system by dialing it?

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MR. LABELLE: You will call the system, but they won't be able to find you. As a matter of fact, Assemblyman Koon has a bill on the issue.

CHAIRMAN FARRELL: So you can get it, but they just can't locate you physically?

MR. LABELLE: Correct.

CHAIRMAN FARRELL: So you have to tell them where you are.

MR. LABELLE: If you can.

CHAIRMAN KRUGER: You said the monthly plans?

MR. LABELLE: There are certain systems right now where you can go into many places like a Wal-Mart and simply purchase a phone for a month.

CHAIRMAN FARRELL: One month, yes.

CHAIRMAN KRUGER: A phone with a number?

MR. LABELLE: Yes, right.

CHAIRMAN KRUGER: And they're not trackable?

MR. LABELLE: Correct. Which obviously --

CHAIRMAN FARRELL: They're not trackable?

MR. LABELLE: No, they're not.

CHAIRMAN FARRELL: Then we don't require those to have the requirements like the other ones that they must be triangulateable?

MR. LABELLE: Not yet. Not yet.

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CHAIRMAN FARRELL: Not yet, okay. We'll get around to that. We'll get them.

Thank you very much.

MR. LABELLE: Thank you.

CHAIRMAN KRUGER: Thank you.

CHAIRMAN FARRELL: Andrew Scherer, Executive Director, Legal Services for New York City.

MR. ANDREW SCHERER: Good afternoon and thank you very much for this opportunity to speak. We are going to be extremely brief this afternoon. I think you're very well versed in the issue that we're here to speak about, which is the need for funding for civil legal services. You heard the testimony of Steve Banks and Anne Erickson. This is Edwina Martin, our Communications and Government Relations Director. She'll say a few words after I'm through.

Legal Services NYC is the largest organization devoted to providing civil legal services. We have 18 offices throughout New York City's five boroughs, we handle about 60,000 cases a year with a staff of about 400. We keep families in their homes and in their communities, we keep families together. We secure income. We help people with consumer issues, education issues, immigration issues.

This, both the Assembly and the Senate are now strong supporters of Legal Services. The Assembly has been a long-term supporter. It's great to have the Senate leadership, as well,

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in the Senate supporting Legal Services with funding. We want to thank you for what you have done over the years and in recent years.

Judge Lippman's addition of an additional \$15 million to deal with the shortfall in IOLA needs to be supported, as well as the funds that the Assembly and the Senate has appropriated for Legal Services, those funds need to be restored.

As you know, in our great recession, the need is exploding. We, ourselves, have seen our unemployment insurance cases double in the last couple of years, and our foreclosure matters that we've handled. In 2007, we handed 41 foreclosure matters. In 2009 we handled close to 1,700 matters. Consumer filings are up, bankruptcies are up. The need for civil legal services is growing enormously as the economy has been declining.

You know how critical our work is and how important it is to society and to our clients. We need you now more than ever. We need all of the current funding restored, the \$4.2 million that the Assembly has been providing for years, the \$4.4 million that the Senate added last year in the Legal Services Assistance Fund and the domestic violence funding that has been provided by both sides.

We need you to continue to vigorously support the addition of the \$15 million in the Judiciary budget to address the IOLA shortfall. And we need you to continue to work together with the courts, the Executive branch and with us to really look for a long-term solution to the problem of funding for civil legal services,

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some form of permanent funding and a home for civil legal services so we don't have to come every year begging to get money that gets taken out of the budget restored for such an important need.

MS. EDWINA MARTIN: Hello. My name is Edwina Martin, I'm the Director of Communications and Government Relations for Legal Services NYC. You've heard from Andy, from Anne Erickson earlier, from Steve Banks, from Judge Pfau about the critical situation that we're facing right now. Anne referred to it as a triple whammy. I call it the perfect storm because this confluence of incidences, the great recession, the incredible increase in need our clients are facing, the foreclosure crisis, the 75 percent decrease in IOLA are all creating a horrible storm for our clients right now.

I'm going to just direct your attention to page 8 and above of our testimony. I'm not going to read any of it, but those are examples of cases that we did in the past year that were either partially or fully funded by State money. These are people that we helped out of terrible situations keep their homes, out of eviction or foreclosure, escape from domestic violence situations that were very dangerous.

And we look forward to working with you to think of ways in which to retain our funding so that we can continue to do this important work. I want to thank the leadership of both the Assembly and the Senate, once again, for the wonderful support that we have received from you through the years.

I will just end with a quote from Eleanor Roosevelt, a great New Yorker and visionary: "Justice cannot be for one side alone

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but must be for both," and we know that you will work hard to make sure that funding is restored fully for civil legal services for the poor in New York State. Thank you.

CHAIRMAN FARRELL: Thank you very much.

SENATOR KRUEGER: Thank you.

CHAIRMAN FARRELL: Alan S. Harris, President and CEO, Legal Services Funding Alliance.

Barbara Bartoletti, Legislative Director, League of Women Voters, next, and Christopher O'Malley, Executive Director after that.

MR. ALAN S. HARRIS: Good afternoon.

CHAIRMAN FARRELL: Mr. Harris, good afternoon.

MR. HARRIS: I'm Alan Harris, I'm the President and CEO of the Legal Aid Society of Rochester. I'm appearing on behalf of the Legal Services Funding Alliance, which actually is all of the civil legal services providers outside New York City. Anne Erickson's organization, Empire Justice, is a member.

I want it to reiterate what Steve Banks said, I want to reiterate what Anne Erickson said, I want to reiterate what Andy Scherer said: It's all in the testimony. But we cover - the Legal Services Fund Alliance - there's six of us in Buffalo, three of us in Rochester, three in Syracuse. We cover Utica, Albany, the North Country, Plattsburgh, we cover all of the rest of the State and through a quirk of some politics, Nassau and Suffolk County is part of our

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alliance, as well. So, everything outside of New York City is covered by the Legal Services Funding Alliance. We do urban, suburban, rural; we do family law, we do housing, government benefits, consumer, UIB; everything.

Same issues for us in the rest of the State. We need you to fund the \$15 million in the IOLA crisis. That will mean jobs across all of Upstate New York if that \$15 million is not put into the Budget. And then there's another \$13 million that was in the Budget in the current year and in previous years that has been taken out.

I also want to reiterate what Anne Erickson said about not having received that money. The contracts are there. I've actually received some of the contracts, as most of our colleagues, but we haven't received any money. It's pretty difficult to run a not-for-profit when you don't have cash, even though you have a contract. Try and explain that to your auditors when they come in for your annual audit.

And finally what I'd like to say is, I think as part of my testimony you received a copy of Judge Lippman's speech that he gave just this past Friday night called the Jethro Shebat lecture. Jethro was Moses' father-in-law; I didn't know that before I went to the lecture. Please read Judge Lippman's speech, pages 4, 5, 6 and 7. He lays out why it's so important that you fund the \$15 million. He lays out why it's so important that the Legislature think about extending the rights of *Gideon V. Wainwright* in the Civil area. Judge Lippman's speech was terrific. It was very illuminating for me. I got a copy of it

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over the weekend and you have it. Please read it.

Thank you very much.

CHAIRMAN FARRELL: Thank you.

SENATOR KRUEGER: Thank you very much.

CHAIRMAN FARRELL: Next is Barbara Bartoletti.

I don't see her. Okay.

Moving right ahead, Christopher O'Malley.

MR. CHRISTOPHER O'MALLEY: Good afternoon.

My name is Christopher O'Malley, I'm the Executive Director of the IOLA Fund. I, too, will keep my remarks very brief.

Over its 26-year history, the IOLA Fund has distributed over \$285 million to support civil legal services for the poor in New York State. Not a single amount of that money was taxpayer money. All of the money came exclusively from interest generated from lawyer escrow accounts. As you are well aware, there is currently a crisis in IOLA funding which was precipitated by the historic plunge in interest rates. Our income will be down more than 75 percent. You've heard the figures that we had in December of 2008, approximately \$32 million. To distribute for our current funding cycle, we'll have \$6.5 million to distribute.

We are very grateful for the support that Judge Lippman put in the OCA Budget for IOLA and, of course, we're very grateful for the support that the Senate and Assembly has given for that proposal and we hope that support will continue.

A number of other people testified today very

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eloquently about the impact that the cuts on legal services will have on their clients and their organizations, and also as an issue of justice. I, of course, concur with those arguments. I thought I would also bring up, though, the total economic impact in New York from civil legal services, which is nothing short of astounding. In 2008 alone the figure totalled over \$428 million. I've attached my testimony with the data that supports this figure.

In sum, \$253 million came in to New York as a result of Federal funds primarily in the form of social security benefits and Medicaid funds. Nearly another \$111 million came in the form of awards and settlements in unemployment compensation, consumer cases and other benefits.

And then there were the savings by the State and local governments as a result of civil legal services. For example, the data indicates that in 2008 alone, \$49 million was saved in emergency shelter costs with 8,722 people avoiding homelessness. In addition, the clients of civil legal service providers gained nearly \$8 million in child support payments, and the victims of domestic abuse realized over \$7 million in savings from protections afforded them through legal representation. Adding all these savings and benefits together from 2008 creates the \$428 million figure.

My hope is that these figures will underscore that supporting civil legal services in New York is not only a matter of justice that benefits the New Yorkers most in need, but it is an investment that benefits all New Yorkers by bringing in desperately

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needed funds to the State while saving State and local governments substantial costs, thus providing a significant return on any monies invested in the form of funds to support these services.

Thank you.

CHAIRMAN FARRELL: Thank you very much.

SENATOR KRUEGER: Thank you.

CHAIRMAN FARRELL: Terry O'Neill, Director, Constantine Institute. Ryan Moser, Deputy Director, Corporation for Supportive Housing and Kathleen Master for LEAP.

MR. TERRY O'NEILL: Good afternoon, Chairman Farrell, Chairman Kruger and the other members who are still here. I will be very brief. Chairman Farrell will remember that I started my career here working for a former member of this Committee who was known as "old iron pants" --

CHAIRMAN FARRELL: "Old iron pants", that's right.

MR. O'NEILL: -- I recall, Assemblyman Griffith.

I would just like to mention one of the things that I cover in my testimony because it means so much to us here in Albany. There was a lot of talk this morning about Operation IMPACT, the DCJS program that provides local assistance to 17 Upstate and Long Island counties that account for a lot of the crime in the State. For many years now I've been an advocate for what we call community policing, and I'm sad to say that as a result of the initiation of the CompStat program in New York City by Mayor Giuliani's

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administration, community policing has been pretty much blown out of the water all over the country. It's been replaced by the statistics and technology-driven style of law enforcement.

Here in Albany over the past four years, we've had a very lively community debate that was occasioned by a series of homicides involving very young perpetrators and victims, and we have a gun violence task force that worked out two years and several other community-based groups that have been very much engaged with telling our police department what kind of service we want. And what our people are asking for is community policing, not Operation IMPACT and all of this technology that it's been buying.

A few months ago, a police chief we had who was here for about four years and who was addicted to Operation IMPACT finally left, and we are not sad that he did. And the next police chief that we get is going to come in with a very clear message from our community that we want community policing, not technology and not statistics. Thank you very much.

CHAIRMAN FARRELL: Thank you.

SENATOR DEFRANCISCO: Excuse me.

SENATOR KRUEGER: One question.

CHAIRMAN FARRELL: Question.

SENATOR DEFRANCISCO: I'm looking at your prepared remarks. Your patron is Tom Constantine?

MR. O'NEILL: That's right.

SENATOR DEFRANCISCO: And he's the patron,

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the way you describes it is an eponymous; is that how to pronounce it?

MR. O'NEILL: What's that?

SENATOR DEFRANCISCO: The adjective as far as the patron, E-P-O-N-Y-M-O-U-S.

MR. O'NEILL: Eponymous, it's a --

SENATOR DEFRANCISCO: Can you tell me what that means?

MR. O'NEILL: Sure. If something is eponymous it's named after a particular person. So, he is the eponymous patron of the Constantine Institute.

SENATOR DEFRANCISCO: Very good, because you've got to understand that we don't know words that long in some instances, so we've got to be able to follow it.

MR. O'NEILL: Well, I've never seen that word in a statute, so...

SENATOR KRUEGER: Thank you.

MR. O'NEILL: Thank you.

SENATOR DEFRANCISCO: You probably will.

SENATOR KRUEGER: Thank you.

CHAIRMAN FARRELL: There's Constantinople, so you know --

Next, Ryan Moser, Deputy Director, Corporation for Supportive Housing.

MR. RYAN MOSER: Thank you very much, Chairman. I'll jump right in. I appreciate your stamina and sticking

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around for the end of the day here.

I'm here to talk about one thing very specifically so I'll jump through a lot of the stuff, except to say that I also would like to echo the points about the importance of prison closures, but not just prison closures for the sake of closure and reduction of deficit, but also for the sake of closure in investment in community resources that keep those prisons closed and keep people out of prison and jail. If you do not build it, they will come back. This is what we learned from mental health, the institutionalization in the '80s and in the '60s and we are at the precipice of walking right over the cliff again, where we end up with a system where we did not invest in the public health infrastructure that is required to help the most vulnerable people that will be affected by things like Rockefeller Drug Law reform.

So, reentry supportive housing is a concept that moves towards -- it's been popularized through mental health and homeless services, but has recently been adopted to focus on people with special needs coming out of correctional institutions at risk of homelessness. It is effective, it sees massive reductions in jail and shelter and prison recidivism rates. We also know that people that come out without safe, stable housing end up going back at much higher rates than otherwise anticipated.

We heard from Commissioner Fischer about the importance of mental health services and the unmet need there. We heard from Denise O'Donnell a little bit about Rockefeller reform, but we didn't hear about OASAS's efforts, so that's what I would like to

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address.

When we look at the pass-through money from DCJS that is going into OASAS - roughly about \$50 million being administered - \$18 million of that is going towards residential drug treatment. Early stats are showing that about 20 percent of diversion cases from Rockefeller are actually being diverted into residential drug treatment. The resource simply does not match what is needed. We are encouraging a repurposing of a portion of that. We think that between 10 and 30 percent of people leaving through Rockefeller reform as well as being diverted would be appropriate for reentry supportive housing, that long-term mental health needs, histories of homelessness, they type of institutional cycling and bouncing that it's sort of created to address. You'll get better outcomes and you'll get stronger public safety and public health.

So, we would like to see \$5 million of that, which is roughly 10 percent, be repurposed - 10 percent of the overall funds - be repurposed for reentry supportive housing. The vast majority of that could go towards an expansion of OASAS's first 12 beds that they're piloting currently; they could get it out in about six months. A portion of that could also be used in conjunction with the Office of Mental Health to deal with people with co-occurring disabilities and to work with people that have severe mental illnesses and may or may not have substance abuse issues.

So, those are the primary key points. The last thing to say also is that over the next couple of months I think we're going

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to see an increased focus on families and youth, and we heard a little bit about that today. But as the State continues to explore Rockefeller, continues to explore the "Paterson Drug Law reform" effort, I think we need to really focus on how are we dealing with reunifying families, how we are creating flexible resources that can address these issues and are you looking at criminal justice and youth and looking at some potential diversions for that incredibly ineffective and overly costly system.

So, that is my key points. Thank you very much.

CHAIRMAN KRUGER: Thank you very much.

SENATOR KRUEGER: Thank you very much.

CHAIRMAN KRUGER: Thank you. Okay. This closes our morning session and opens up the afternoon.

(Whereupon, at 4:35 p.m., the Joint Budget Hearing on Public Protection was adjourned.)

