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NEW YORK ADVISORY COMMITTEE

TO THE U.S. COMMISSION ON CIVIL RIGHTS

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2 Court Square
Long Island City

March 20, 2017
9:11 a.m.

REPORTED BY: Olga Raptis, a reporter and Notary Public within and for the State of New York.

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A p p e a r a n c e s:

Bryanne A. Hamill
Christine Trent Parker
Alex S. Vitale
Gertrud Lenzer
Vivian S. Louie
Barbara De Laviez
Johnny Perez
Roy Cosme
Kevin Thomas
Earl S. Ward
Tom R. Wahl
Iris Y. Chen
Seven B. Raga
Shoshanna Brown

Panel One: Low-Level Enforcement/Broken Windows

Dennis Flores, Founder, El Grito de Sunset Park

Robert Gangi, Founder and Director, Police Reform Organizing Project

Joo-Hyun Kang, Director, Communities United For Police Reform

Tom Krever, Chief Executive Officer, Hetrick-Martin Institute

Lynn Lewis, former Executive Director, Picture the Homeless

Panel Two: Low-Level Enforcement/Broke Windows

Jenn Rolnick Borchetta, Deputy Director of Impact Litigation, The Bronx Defenders (Not present)

Brett Stoudt, Professor, John Jay College of Criminal Justice

Steve Zeidman, Professor, Director of the Criminal Defense Clinic, CUNY School of Law

Panel Three: School Policing Practices and Accountability

Nancy Ginsburg, Advocacy Director, The Legal Aid Society of NY

Johanna Miller, Advocacy Director, New York Civil Liberties Union

Rohini Singh, Project Director, School Justice Project, Advocates for Children

Elizabeth Sullivan, Education Campaigns Director, National Economic and Social Rights Initiative

Panel Four: School Policing Practices and Accountability

Zion Agostini, Youth Leader, Make the Road NY (Not present)

Cami Anderson, Founder and Managing Partner, Third Way Solutions

Kesi Foster, Coordinator, Urban Youth Collaborative

Maryanne Kiley, Executive Director, New York Educators for Excellence

Claudia Whittingham, Special Education Liaison, New York City Department of Education

Panel Five: School Policing Practices and Accountability

Kathleen DeCataldo, Exec. Director, NY State Permanent Judicial Commission on Justice for Children

Daniel Dromm, Council Member, District 25, City of New York

Panel Six: Low-Level Enforcement/Broke Windows

Vanessa Gibson: Council Member, District 16, City of New York

March 20, 2017.

MS. HAMILL: My name is Bryanne Hamill, and I'm a member of the New York State Advisory Committee to the U.S. Commission on Civil Rights. Before we begin, I would like to invite Dean Mary Lu Bilek to make some opening remarks.

MS. BILEK: Good morning. Welcome. As Judge Hamill said, it is my privilege to be the Dean of the City of New York School of Law. And I want to welcome you all here to Long Island City and to our auditorium.

In 1985, a courageous group of law professors said, what would a law school look like if its goals were to increase access to legal education and diversify the professional on the one hand, and to create excellent, ethical, competent, creative public interest lawyers on the other?

And so they deconstructed legal education and they reconstructed legal education, and today the fruits of their

labor and our continuing labors in that direction is this law school.

The work that we have been doing here since 1985 is work that we have continually seen the benefit of in the work of our graduates on the streets, on the bench and at the bar. We couldn't be prouder of any of our graduates than we are of Judge Hamill for her work on the Family Court, her work with the Department of Corrections Committee, and now her work on this committee.

We couldn't be prouder of any of our faculty than we are of Professor Zeidman, who you will hear from later today, who, for over twenty years, has been leading our criminal defense clinic and working on both individual representations and projects related to promoting more fairness and more quality in the way our criminal justice system is administered.

We couldn't be prouder of any of our graduates than we are of Jonathan Darshan, who you will hear from later over these

two days, who is the Executive Director of the Civilian Complaint Review Board of the City of New York.

I think it's not an accident that I have -- and we could be prouder of Shoshanna Brown, our 3L student who has been interning with Judge Hamill for this semester.

It's not an accident that I have these people to introduce you to at this moment. U.S. News says that CUNY School of Law is the number three law school in the country for clinical and practical training. They say that we're the number two law school in the country for diversity, beat only by the University of Hawaii, for the diversity among our student body and for the diversity among our faculty. And we are the number one school in the country on three different surveys for public interest law. We graduate every year a higher percentage of students going into public interest law than any other law school in the country.

I tell you this because I'm very proud to be the dean of this law school. And I think this law school is already making the kind of difference that most of you would like to see in the world.

I am certain that over the next couple of days you will hear about proportionate representation on police forces, representing the communities they serve and making connections with the communities they serve.

On a parallel path, we at CUNY have been for thirty-five years taking students from communities that are underserved by the profession and ensuring that those communities have lawyers who come authentically from the community, who understand the way life works in those communities, who see the law through the lens of the people in those communities, and who understand how the law plays in the real world.

For me, it couldn't be more fitting for you to be here than anywhere else. I

am very proud of the work that our Civil Rights Commission has done and that you are doing on this advisory committee. You are attacking an issue that couldn't be more important to the continuing rule of law in the country and the further growth of the United States as a civil society. Thank you.

MS. HAMILL: Thank you, Mary Lu. We appreciate CUNY Law School, a premier national law school dedicated to educating public interest lawyers, for hosting this most important briefing.

I also understand we are being joined by Catherine Lhamon, the Chair of the Civil Rights Commission.

MS. LHAMON: Hi all. This is Catherine Lhamon. I am the Chair of the U.S. Commission on Civil Rights and I so appreciate you allowing me to join you briefly to help kick off these two days.

This advisory committee is itself incredibly important to justice in the country, and this set of two days of

briefing on policies and practices of the NYPD is also incredibly important to justice. So I appreciate all of you for what you're doing today and tomorrow and what you do every day to help make sure that we live up to our civil rights ideals.

I understand that Commissioner Cradney (phonetic) is with you in person. I'm jealous, and I hope to join you some other time, even though he gets to be with you now. I really want to just say to each of the experts who are with us for the briefing that we so much appreciate your bringing your expertise and your experience to us so that we can benefit from your knowledge, and also think about what more needs to be done.

I am also so deeply grateful to every member of the New York State Advisory Committee for your service to New York and for your service to the nation through the work on this advisory committee. This topic that you all are

bringing forward these two days is obviously enormously important and has had salience that has persisted over decades.

And it's going to be terrific for all of us to know the experiences right now today in New York and what, if anything, is needed for change and what, if anything, is going well and needs to see continuation. So I look forward to information to be shared, to participating through live stream and also to the report that will follow. And to thinking together with the State Advisory Committee about what next steps may be necessary.

So thank you to Barbara, thank you Ivy, and all of our regional staff for supporting the ideas and the talent of the New York State Advisory Committee. I got to witness a little bit of the flurry of activity leading up to today and tomorrow, and I look forward to witnessing the terrific deliverables that will follow.

Good luck with these next two days thank you for letting me participate

briefly at the beginning. Hope you take care.

MS. HAMILL: Thank you, Catherine. Now I would like to ask my colleagues to also introduce themselves as well.

If we can start all the way down to the left of the panel, please.

MR. RAGA: Good morning. My name is Steven Raga. I am currently Chief of Staff at New York State Assembly and a member of Community Board 2. So it's great to actually be here as well.

MS. CHEN: Hi, my name is Iris Chen and I am from New York City.

MR. WAHL: I'm Tom Wahl from Rochester, New York.

MR. WARD: Good morning. My name is Earl Ward and I'm from New York City as well.

MR. THOMAS: Kevin Thomas, from New York City as well.

MR. COSME: Roy Cosme, also from New York City.

MR. PEREZ: Johnny Perez, also from

New York City.

MS. LOUIE: Vivian Louie, also from New York City.

MS. HAMILL: I'm going to ask everyone to use the microphones. We have microphones for the panelists. If you'll use those instead of the set ones that are on the seating. And then for the Commission members to please use the microphone as well. Thank you.

MS. LENZER: I'm Gertrud Lenzer from the City University.

MR. VITALE: Alex Vitale, from New York.

MS. HAMILL: Also with us are Barbara De Laviez from the United States Commission on Civil Rights. Joining Barbara from the Commission are Ivy Davis and Evelyn Bohorn and David Mussatt.

I want to take a moment to thank several people here today before we get started.

First, I want to thank Alexandra Korry. Alexandra is the Chairwoman of the

New York Advisory Committee. Unfortunately, she's not able to join us here today at our briefing due to a medical emergency. Her excellent leadership is missed, but her hard work and dedication to the work of this Advisory Committee is reflected in the quality of the briefings today and tomorrow.

I also want to thank Christine Parker who is sitting down at the end here, who has provided invaluable support to the Advisory Committee. And Shoshanna Brown, sitting next to the dean, a 3L law student at CUNY Law for her support of the work.

I also want to thank the New York Police Department. In the past month, members of this Advisory Committee have been given incredible access to the New York Police Department, meeting with many officials who have provided invaluable information on the work that they do.

This information learned during

these sessions will be reflected in our report. The U.S. Commission on Civil Rights is an independent, bipartisan, fact-finding agency established by congress to collect information relating to discrimination or the denial of equal protection under the laws under the Constitution, based upon race, color, religion, sex, age, disability, national origin or in the administration of justice, to inform the development of national civil rights policy and to enhance the enforcement of federal civil rights laws.

The Commission has created State advisory committees to advise about the civil rights matters in their states, and that's the fifty states and the District of Columbia.

The purpose of today and tomorrow's briefing is to gather information on the policies and the practices of the New York Police Department that may have racially disparate impact. We are looking

particularly at school policing, low-level enforcement or Broken Windows, drug enforcement, gang intervention and use of force.

We will also gather information about the current structure and effectiveness of the internal and external oversight of members of the New York Police Department. This will include the role of the Civilian Complaint Review Board, body cameras, and officer training.

We are particularly interested in best practices and proposed solutions to any problems that are identified. As many of you know, there has been litigation regarding stop-and-frisk and other discriminatory policing practices that have resulted in consent judgments and consequently progressive police reform.

There still remains the question as to whether there are other New York Police Department practices that have a disparate impact on communities of color, especially youth of color.

To help us better understand the issue, we have invited knowledgeable persons with a wide variety of experiences and viewpoints to share information with us.

We also have an open session at the conclusion of the panels today for anyone who wishes to make a brief statement to us for two to three minutes on the topics for today and tomorrow.

At the outset, I want to remind everyone present of the ground rules for this briefing. The meeting is open to the general public and to the media. In addition, we have a court reporter who is recording these proceedings, thank you very much, and the proceedings are being live streamed.

We have a very full schedule today. And in order to accommodate all of the presenters, each presenter will have twelve minutes to make their opening statements. Unfortunately, because of time constraints, I may have to enforce the

twelve-minute rule regardless of the importance or the tenor of the statements that are being made.

After all the presenters on the specific panel have made their opening statements, I will recognize each Advisory Committee member for one question. And depending on the time remaining, members will be recognized for additional questions.

There are three panels this morning. After which, the Committee will break for a short lunch, about forty-five minutes. And when we return, we have three afternoon panels today.

The open session will begin immediately following the final panel. If you wish to speak in the open session, please put your name on an open session sign-in sheet and speak with a member of the Commission staff, that's Barbara, Evelyn or Ivy.

We understand that the viewpoints presented today are neither exhaustive nor

all-inclusive. And though some of the statements today may be controversial, we want to make sure that no person or organization is defamed or degraded during this process.

We expect that all opinions will be welcomed and the presenters treated with dignity and respect. Anyone present who feels defamed or degraded by statements made during the proceedings should inform our Commission staff so that there is an opportunity for a public response.

Alternately, such persons or organizations may file written statements for inclusion in the proceedings.

We are very grateful to our presenters for their willingness to share their views, their experiences and their expertise with the Committee. So on behalf of the Advisory Committee members, I thank the panelists and the members of the public for your engagement in our review.

Your willingness to participate in

this briefing speaks to the importance of the observance of civil rights in our society.

The record of this meeting will remain open until April 21st, 2017 for anyone who wishes to submit a written statement. And with that, I welcome our first panel and begin with our first presenter.

We're going to start with Mr. Flores.

MR. FLORES: Good morning.

My name is Dennis Flores. I am co-founder of El Grito De Sunset Park. I am born and raised in Sunset Park, Brooklyn, of Puerto Rican descent. And what I would like to present to you all today is really an agenda put together by the Coalition To End Broken Windows, which is many organizations from the five boroughs, community grass roots organizations led by people of color.

As this debate continues over how to deal with Broken Windows policing,

grassroots community groups that have spent the past few years protesting and advocating for an end to Broken Windows Era, have come together to put forward a blueprint for doing so.

This three-part, twenty-two-point agenda, has been crafted by groups, some within Coalition To End Broken Windows network to ensure that so-called reforms would not fall short of actually ending the destructive footprint that quality-of-life policing leaves in poor communities of color.

This is an evolving document, and will be updated with more community input throughout the year on how to end Broken Windows, the people's agenda. In order to end Broken Windows, we must roll back the power and size of the police, provide new and better resources for poor communities of color and also increase protections from abuse.

The following agenda relies on three pillars, each of which contains a number

of specific demands as outlined by several grassroots community groups, end quality-of-life criminalization and divest from police, invest in poor communities of color and strengthen community power. End quality-of-life criminalization and divest from police. Reduce the NYPD head count.

The New York City Council and the mayor came together in 2016 to increase the NYPD head count adding 1,297 extra police officers to America's largest police force during historic lows in crime.

This, despite protest in the City Council's chambers and the campaign, Safety Beyond Policing, that demanded the City instead use the funding and the budget that would go to more cops, a price tag that is now known to be around $200 million a year, to instead fund other, more vital needs.

The City should work to drastically reduce the NYPD head count, starting with nearly 1,300 extra cops hired through the

fiscal year 2016 budget. Through attrition, the number of police officers can be reduced by the thousands with no effect on crime levels. Beginning in 2001, the size of the NYPD went down from 42,000 to 35,000 as the crime continued to decline. The City should move to reduce the size of the department to 30,000 by 2025 and by 20,000 by 2030. The amount of money saved would amount to billions that could be spent elsewhere.

No more quality-of-life arrests ever. Approximately 50 percent of the nearly 300,000 arrests in New York City in 2016 were resolved at the first court date, many with dismissals, adjournments of contemplations of dismissals or other non-jail dispositions. These numbers suggest that there are not significant public safety justifications for arrests.

In the Broken Windows Era, the NYPD has arrested literally millions of people as a result of behaviors that do not even rise to the level of what most New Yorkers

would consider a legitimate crime.

Quality-of-life arrests should be eliminated in favor of non-punitive interventions like service referrals or at most, warnings.

No more quality-of-life summonses, criminal or civil. Being given a summons can be just as punitive as an arrest. Summonses are not the answer, and in fact, create a connection to the criminal justice system that is often hard to break.

Worst of all, summonses represent financial sanctions inflicted on poor communities of color who cannot afford to pay them. Imagine being given a $100 summons for not being able to pay a subway or bus fare when you're living paycheck to paycheck or don't have any income at all.

Civil summonses, though avoiding criminal implications at first, inflict the same types of punishments on people and can also result in lost work hours as they mandate people to appear in court or

to perform community service.

Worse yet is that neither the City nor the State is not required to provide legal representation in civil court. In fact, civil summonses oftentimes mean higher fines that are, on average, harder to beat in court. There should be no criminal or civil summonsing for nonviolent quality-of-life infractions.

Clear all summons warrants now. Lawsuits and research reports have proven that summons practices of NYPD have resulted in disproportionate harm to communities of color. In a recent federal lawsuit settlement, the City of New York agreed to pay up to $75 million as a result of nearly 1 million criminal summonses issued between 2007 and 2015 that were given out despite there being no legal basis for their summonses.

It is inappropriate for the City to continue to threaten people with summons warrants given this history.

Recent announcements by elected

officials and City prosecutors that they would work to clear summonses that were at least ten years old and do not solve the full scope of the problem. The primary targets of police harassment and enforcement of black youths ages sixteen to twenty-four, no one in this demographic would be helped with a warrant-clearing effort for summonses from ten or twenty years ago.

End Operation Spotlight. Throughout the city, district attorney offices heavily penalize people who have been accused of multiple misdemeanors. New Yorkers are accused of three misdemeanors during a single year, including charges related to quality-of-life policing and arrests made to fulfill quotas, are often forced into jail by high bail amounts and the prosecutor's refusal to offer a plea deal during the early phases of a case. This is a Citywide policy known as Operation Spotlight and must be ended completely and immediately.

Remove street vendor permit caps entirely. Neighborhood group Queens Neighbors United or Queens Barrios Unidos, has fought for the rights of street vendors, many of whom are often the targets of the City and the NYPD. They have tied the enforcement efforts against vendors to the push for privatization of public spaces and the gentrification of communities of color.

Queens Neighbors United believes that no vendor, almost all of whom are immigrants, should be arrested or ticketed. They also demand that public spaces not be privatized, which is often the end goal of Business Improvement Districts, BIDS. Completely removing, and not simply increasing, the City's nonsensical cap on vending permit stickers would remove the criminal stigma against vendors and allow them to work legally. Instead Queens Neighbors United says, provide legal and business resources for vendors in a way that would help them

flourish.

Remove activity zone restrictions in Times Square and allow public plazas. Last year, the City Council approved legislation that allowed the Department of Transportation to create so-called, activity zones in Times Square in order to restrict the actions of costume performers, most of whom are immigrant workers.

Performers are not allowed to work for tips except in certain zones which raises a number of constitutional questions. The move would allow the DOT buoyed by the enforcement power of the NYPD to control the movements of performers under threat of arrest or summons. This legislation should be repealed and the freedom to move freely in a public plaza should be immediately reinstated.

Disband NYPD Vice and Peddler Units. The NYPD's Vice Unit was doubled last year despite long-held concerns over its

abusive and discriminatory reputation among sex workers and the public. Similarly, the NYPD Peddlers Unit has often been the tip of the spear in harassing and arresting vendors, sometimes even confiscating their belongings.

The Police Reform Organizing Project, PROP, has, for years, called for the disbanding of these units, which do more to preserve the harmful effects of Broken Windows than to actually improve public safety.

Change the City's first responder protocols.

When someone dials 911 or 311, far too often police officers are the first to arrive. This often leads to terrible outcomes for vulnerable people like homeless New Yorkers and those who may have mental health issues.

The Police Reform Organizing Project, PROP, says that removing the 911 unit from the NYPD and providing dispatchers with a list of mental health

and social service organizations and community involved in clergy for every neighborhood in the city. Professionals with years of training and preparation would arrive on the scene. The decision that physical restraints are needed would rest with them. Such a considered approach would save lives rather than take them.

Abolish the quota system. The NYPD continues to pursue a quota system, requiring the nearly 23,000 patrol officers to make particular numbers of arrests and summonses whether there are issues in particular or not. Police officers use Broken Windows policing to meet these quotas set by the department as performance goals, since they do not admit to these quotas by name since it is against New York State law to have a quota system. Groups like PROP and ANSWER Coalition in New York City, point out that these quotas are most often met by predatory policing practices in

2 communities of color. Over the years, a
3 variety of whistle blowing cops have
4 expressed their concern about this type of
5 enforcement.
6 The outcome of the quota system is
7 disproportionate negative impact on people
8 of color. It is no secret that the NYPD
9 already takes a hands-off approach when it
10 comes to publicly intoxicated Yankees fans
11 on the subway or white residents drinking
12 wine during picnics in Central Park.
13 MS. HAMILL: Mr. Flores, I'm sorry
14 to interrupt you. I just want to let you
15 know you have two minutes left.
16 MR. FLORES: No cops in schools.
17 The philosophy of zero tolerance often
18 begins for New Yorkers of color when they
19 are in school. What can be described as a
20 Broken Windows approach to public
21 education has been pointed out and
22 criticized by educators.
23 This is made worse when so many
24 public schools in the city have police
25 officers stationed within the school to

2 enforce rules and, in some cases,
3 physically restrain and even arrest
4 children. Similarly to Broken Windows for
5 the greater public, there are no
6 correlative relationships between
7 enforcement and crime within public
8 schools. And also, like Broken Windows,
9 most enforcement targets black and Latino
10 students.
11 I'll make sure that the rest -- I'll
12 give everyone copies with you today.
13 Hopefully you guys will read through it.
14 Thank you all.
15 MS. HAMILL: Thank you very much.
16 Just before I call up Mr. Gangi, I do want
17 to inform you that one of our U.S.
18 Commissioners is present with us now,
19 David Kolodny. Thank you so much.
20 Okay, Mr. Gangi.
21 MR. GANGI: I don't know who decided
22 on the order of speakers, but I deeply
23 resent following Dennis.
24 I agree wholeheartedly with
25 everything you said Dennis, except that

2 slap at Yankee fans because not only am I
3 a lifelong New Yorker, I think -- this is
4 actually true. I grew up in Brooklyn, but
5 since my father and older brother were
6 Yankee fans, I knew I was a Yankee fan
7 before I knew where I lived. And so
8 again, the basis of my objection to your
9 criticism of intoxicated Yankee fans.
10 Dennis did, in laying out the
11 remedies and the steps that City
12 government should take, did address some
13 aspect of what I wanted to present. Part
14 of what's interesting about the issue of
15 Broken Windows policing is that there is
16 no question that Broken Windows policing
17 as applied in New York City is racist.
18 And it is almost admirable the way our
19 politicians and leaders of the police
20 department deny it.
21 Bill Bratton was famous for saying,
22 we do not target communities of color, we
23 target behavior. So then I fantasized
24 having the opportunity to raise questions
25 with him like, okay, so you don't target

2 communities of color so how do you explain
3 that 92, 93 percent of the arrests for
4 possession of small amounts of marijuana,
5 involve New Yorkers of color when all the
6 research shows that white people use and
7 sell the drug in equal or greater amounts
8 to African-Americans and Latinos?
9 How do you explain that, for
10 example, the arrests for marijuana
11 possession used to be the most numerous
12 arrests, now that award goes to arrests
13 for fare evasion. The legal term for it
14 is theft of service. Every year, the NYPD
15 makes 25 to 30,000 arrests for fare
16 evasion. 90 to 92 percent of the arrests
17 are of New Yorkers of color.
18 Another point about the fare evasion
19 issue is most people jump the turnstiles,
20 not for the thrill of it, but because they
21 are too poor to afford the fare. The fare
22 is actually a financial burden for them.
23 So one way to think about this issue is
24 from a larger public policy standpoint.
25 Although the De Blasio administration

2 claims that its principal purpose, they
3 actually say this, its principal purpose
4 is to eliminate social and racial economic
5 inequities in New York City.
6 Here's an example where they can
7 take a step to either reduce the fare or
8 eliminate the fare for low-income people
9 so that poor people can use the subways to
10 get to school, to get to training
11 programs, to get to job interviews, to get
12 to healthcare appointments, but instead
13 what the City does is, in fact, is assign
14 the NYPD to take a punitive step against
15 poor people who are attempting to sneak on
16 the subway.
17 We know also, because of the quota
18 system, and Dennis laid out the ill
19 effects of the quota system very
20 effectively, but one of the effects of it
21 is that some cops engage in bogus arrests.
22 They're under pressure to make their
23 numbers so they will arrest people for no
24 good reason. One of my favorite perverse
25 stories having to do with fare evasion, a

2 fare evasion arrest, is a story I heard
3 from a middle-aged black man as he was
4 coming out of court.
5 One of PROP's projects is to monitor
6 the arraignment courts in the City's four
7 major boroughs. And sometimes when we see
8 a case where somebody refuses to plead, we
9 follow that person out of the courtroom
10 because maybe there's a story. Most
11 people, as you guys know, plead at
12 arraignment to whatever. And even if,
13 because we've talked to people, they say
14 this to us, I wasn't guilty what I was
15 charged with, but I pled because my public
16 defender advised me to plead or I pled
17 because I just didn't want to keep coming
18 back to court.
19 So in this case, the man refused to
20 plead so I was thinking maybe there was a
21 story. So I followed him out. I said, I
22 saw you were charged with theft of
23 services. This man had been locked up,
24 held in a prearrangement court cells
25 overnight before he appeared before the

2 judge. And I said, why did you refuse to
3 plead? He said, because I did nothing
4 wrong. I said, what's your story? So
5 this was at 116th Street and Lexington
6 Avenue where the NYPD concentrates its
7 officers to arrest people for fare
8 evasion. One of the stations where the
9 NYPD concentrates its officers.
10 So the man tells me this story. He
11 helped somebody coming down the steps of
12 the subway who had a walker and was
13 struggling to get down the steps. So then
14 the man goes to the subway station. He
15 swipes himself in and then he turns and
16 sees that the same gentleman, same
17 handicapped gentleman was having trouble
18 getting his walker over the turnstile. So
19 he helped the man by -- the man had swiped
20 but he couldn't get through the turnstile.
21 So he helps the man go through the, you
22 know, the emergency gate, and then cops
23 arrest him for fare evasion.
24 One of the problems with the quota
25 system that isn't focused on frequently

2 enough, is the police officer gets credit
3 for the arrest or the stop or the summons,
4 gets the notch on his or her belt as soon
5 as they take the action. So even if it's
6 a bogus arrest or a false summons, they
7 will get credit for it. Even if the
8 person successfully sues the City on the
9 basis of a false arrest, nothing happens
10 to that police officer. That person wins
11 a settlement, nothing happens to that
12 police officer. Nothing happens to the
13 NYPD because all the money the City pays
14 out for settlements does not come from the
15 NYPD budget. It comes from another part
16 of the City budget.
17 Incidentally, in 2016, the City paid
18 out, and I'm not making up this number,
19 it's a shocking number, nearly $280
20 million in settlements based on police
21 misconduct, $280 million. And the City
22 has -- this is the highest number in any
23 fiscal year that the City has ever paid
24 out. And the City consistently pays out
25 those kinds of numbers. It's almost like

2 the City and the NYPD think this is the
3 price of doing business.
4 And one of the challenges for us
5 advocates to eliminate Broken Windows
6 policing is that no mainstream politician
7 in the City right now supports the
8 elimination of Broken Windows policing.
9 It's again, shocking is probably too
10 strong a word for people who are so
11 cynical about politicians, but to see what
12 is a blatantly racist practice be defended
13 by politicians from Mayor De Blasio on
14 down, is unsettling. And it's a challenge
15 to us to continue to fight for the kind of
16 things that Dennis was talking about, the
17 kind of changes that Dennis was talking
18 about in order to eliminate discriminatory
19 and abusive policing.
20 The work of this commission, this
21 committee, becomes very important because
22 you're a credible institution and agency.
23 And it is very important that you
24 recognized how deeply inhumane and how
25 consistently harmful these practices are

2 too vulnerable communities in New York
3 City, to low-income communities of color
4 in New York City, to mentally ill people
5 in New York City, to homeless people in
6 New York City, to sex workers in New York
7 City, to street vendors in New York City.
8 The NYPD only targets vulnerable
9 groups. Many of the kinds of arrests that
10 the NYPD makes under the banner of Broken
11 Windows, arrest low-income people of color
12 for engaging in activities that are
13 virtually decriminalized in well-to-do
14 white communities.
15 We know from talking to police
16 officers that the quota system is
17 essentially in effect only in low-income
18 communities of color. Police officers
19 have told us that in white communities
20 there is no quota system. There is no
21 expectation to meet a certain number of
22 arrests.
23 Another point about how mainstream
24 politicians address these issues, they may
25 recognize that there's a problem --

2 usually they characterize the problem as
3 being a lack of trust between the police
4 and our communities of color. As if they
5 -- they are basically establishing a false
6 equivalency. That the lack of trust is as
7 much the fault of the communities of color
8 as of the police department. When in
9 fact, the lack of trust is based entirely
10 on the history of abusive and
11 discriminatory policing conducted by the
12 NYPD and probably conducted by police
13 departments in every large urban area of
14 our country.
15 The way to eliminate the lack of
16 trust is to eliminate abusive and
17 discriminatory policing, is to eliminate
18 the quota system, is to abandon Broken
19 Windows policing. And then, perhaps,
20 there can be an establishment of trust
21 between the community and the police
22 departments like the NYPD.
23 One of the problems again with
24 mainstream politicians is they'll propose
25 things like, well, we need more dialogue

2 or we need more training or we need more
3 diversity or we need body cameras.
4 Now, something like a body camera
5 will be helpful in certain situations, but
6 none of the things that mainstream
7 politicians propose are going to address
8 the deep heart of the beast, are going to
9 address the problem of discriminatory and
10 abusive policing carried out under the
11 banner of Broken Windows and quota-driven
12 policing.
13 The only kind of steps that are
14 going to eliminate the abuses, are the
15 kinds of steps that Dennis spoke about.
16 And the reason why those steps will be
17 effective, one way to think about the NYPD
18 and police departments across the country,
19 they are these enormously powerful
20 institutions and their power is unchecked.
21 The Civilian Complaint Review Board, the
22 Inspector General's Office and the
23 Department of Investigation in New York
24 City do not have any kind of significant
25 power to check the activities of the NYPD.

2 So you have unchecked power and it's
3 a power to deprive people of their
4 liberty. It's a power -- and power may
5 not be the right word -- to treat people
6 in an abusive way without any
7 accountability, without any pushback for
8 what you did.
9 Remember, all the officers engaged
10 in the excessive use of force that led to
11 Eric Garner's death, they all still work
12 for the NYPD. Every one of them works for
13 the NYPD. Eric Garner is dead. The man
14 who filmed the video is in prison. And
15 all the officers who inflicted that arrest
16 on Eric Garner that led to his death still
17 work for the NYPD.
18 So the kind of steps that hopefully
19 come out of this commission -- I realize
20 my time is up -- follow very much along
21 the lines of what Dennis laid out, because
22 those are the steps you need to take to
23 reduce the power of a police department.
24 And just remember the old saying power
25 corrupts, and absolute power corrupts

2 absolutely, and the NYPD has absolute
3 power. Thank you very much.
4 MS. HAMILL: Thank you. Mr.
5 Krever.
6 MR. KREVER: Good morning. My name
7 is Thomas Krever. I'm the CEO of what is
8 called the Hetrick-Martin Institute or
9 HMI. We are the nation's oldest and
10 largest LGBTQ.
11 You're familiar with the acronym and
12 Q simply means questioning. So we provide
13 a supportive environment for young people
14 between the ages of thirteen through
15 twenty-four, so their twenty-fifth
16 birthday.
17 The young people that we serve are
18 roughly 3,000 young people a year from
19 over 350 zip codes, sixteen states located
20 here in New York and HMI New Jersey as
21 well. 96 percent of them are youth of
22 color, and over 82 percent are Title I.
23 So we know that we're working with those
24 most in need of services.
25 I'm going to approach this

2 conversation a little differently. I want
3 to talk about my entire career prior to
4 this half of it, fifteen years was gang
5 intervention work. The new fifteen years
6 now at HMI is LGBTQ. What I want to talk
7 about is the striking similarities between
8 the two and for adolescent development, I
9 think something that we're gravely
10 missing. And that is the recognition of
11 culture and the recognition of what
12 happens when the premise or tenets on
13 culture fail to be there or are there and
14 ill-equipped, misinformed and not
15 understood between parties.
16 So I want to talk first about the
17 elements of a culture. I want to talk
18 about when the culture doesn't work. And
19 then ways that HMI work has hopefully
20 mediated between the two.
21 In terms of culture, first I want to
22 focus on LGBTQ is the one population or
23 one of the few where being who and what
24 you are separates you immediately from the
25 family of origin. Right? Unlike

2 immigrants or even disabled or people with
3 disabilities, this is the one population
4 where you're separate. And so the trauma,
5 the isolation, the fear, et cetera, all
6 manifest at an incredibly early age. And
7 the first element of a successful culture
8 in adolescent development for LGBTQ youth
9 is family.
10 So the core system of support. Lots
11 of stats that you can -- I believe you're
12 all really readily -- you can access the
13 stats. I have them in my presentation.
14 I'm going to focus a little less on that.
15 But I have them for questions, et cetera.
16 So the second after family, that
17 core institutional support, economy.
18 People need a way to make money.
19 Education. People need a way to
20 learn, to experience and ultimately teach
21 others in their culture.
22 Mental, physical and emotional
23 health. For obvious reasons, people need
24 a way to be self-actualized, be for
25 themselves.

Laws, codes and ethics. Young people, especially, there has to be common morays, values and beliefs. Remember the word, common, that bind us together as a people.

Geography. Where you hang your hat is critically important for any culture. To be around those that look like you is paramount to your survival, to your identity.

Morays, values and beliefs in the terms of history, rites of passage, all those kind of soft qualities or skills that we learn from one another when we are of common people. These alternative practices create threads, threads that tie and bind a community together. They're also the very things that separate us from other people when we are not of similar history, values, morays and beliefs.

So those are the tenets. Those are what I want to focus us on for healthy adolescent development. I also want to just draw attention as I speak that

nothing here today, there will never be, from my lips at least, conversation around special needs. LGBTQ youth do not have special needs. I firmly stay in the space that we have the same needs as every other population. A roof over our head, a hot meal in our belly, the need to be with one another in communities, those are not different needs. It's when we think they are that we become impotent, inert and lack focus. I've seen some incredibly smart people do stupid things because they thought they didn't know how to handle special needs of the LGBTQ population.

So what does it look like when the culture manifests wrongly or does not manifest at all? And so for an LGBTQ community, again the stats are all there, they're in my sources as well, but it's the overall repression and a historic breakdown of culture, fundamental rights of passage that are never heard, seen or met.

And so for LGBTQ youth, think of

common things like sexual adolescent development, things that many take for granted, are not there in the lives of LGBTQ young people. And why I'm staying in that space is because they're going to manifest with law enforcement, right? When needs go unmet, unheard, the energy has to go somewhere. And unfortunately, ultimately can also often lead to negative consequences in the lives of young people, particularly LGBTQ youth and youth of color.

I'm not going to keep saying youth of color only because you've heard who we serve. It's assumed you understand that's who I mean, for brevity's sake. So LGBTQ youth, young people, what every culture does, for better or worse, it finds a way to survive. It finds a way to thrive. And the quicker we can understand what those tenets are, the better we can address and meet those unmet needs, those unmet challenges.

And so for young people of LGBTQ

origin, their common core principles are not there. They're missing. So as juvenile justice employees and workers not understanding family, not understanding that for LGBTQ youth, their family is often not kin, right, not biological. And so for LGBTQ youth in the year 2017, roughly 30 percent of all young people who come out will be evicted from their homes. Remember every number I tell you is frankly long and a lie. Because these are only the numbers the adults know and hear of. We can all think of those young people that thinking back was like, oh, maybe it was something else that mom, dad or guardian didn't let on to.

And so homelessness and the lack of common family is critical and missing in early LGBTQ adolescent development. And as a result, homelessness, the single largest reason for evicting from core families, nuclear families in 2017, is sexual orientation and gender identity.

Youth create alternative families.

1 And when we don't recognize them and don't
2 understand that those families are not
3 always negative and actually serve to meet
4 the unmet needs, we're missing huge
5 opportunities.
6 And so particularly youth of color
7 in the ballroom communities, if you've
8 ever heard or seen Paris is Burning or
9 Madonna's Vogue video, the vogueing, the
10 dance community serve as their families.
11 Not recognizing that is a huge missed
12 opportunity because families really can
13 support and help young people to thrive.
14 Economy. Young people will earn
15 money. Whether we like it or not, they're
16 going to earn money in ways that maybe we
17 wish they did not. And so focusing on
18 young people, how they're experiencing
19 homelessness and how they're trying to
20 earn that money, it's often reported by
21 our young people that survival crimes such
22 as sex work is perceived very differently
23 among heterosexual young people versus
24 transgender or LGBTQ young people. And
25

1 yet, the reasons are often similar, but
2 there's a negative connotation when the
3 young people are LGBTQ.
4 Trans youth report
5 disproportionately higher rates of sex
6 work. Our studies show that the top two
7 ways to generate revenue for trans adults,
8 number one is sex work and trafficking and
9 number two is drug trade. And so we have
10 to recognize that this is the economy that
11 they are being pulled into because they
12 lack other opportunities.
13 We still live in a country without
14 equal rights in the workplace. So to
15 teach young people to be loud and proud of
16 who they are is irresponsible when you
17 cannot do that in more states than you
18 can. I can be fired in more states right
19 now for being openly gay than not.
20 Education. So we do a lot of work
21 and focus on school safety agents. But we
22 have to remember, particularly for people
23 of color, these are young people missing
24 education altogether. Highest rates of
25

1
2 absence and truancy. And so young people
3 are missing those vital, where did you
4 learn safe sex, where did you learn proper
5 biology and sexual health, in school, the
6 same place young people are missing that
7 educational experience.
8 The next area is mental, physical,
9 and emotional health. This is a group of
10 people constantly under trauma and siege.
11 And when you are the victim, that energy
12 again has to go somewhere. And so the
13 highest rates of suicide ideation, the
14 highest rates of depression, of anxiety,
15 can be experienced among LGBTQ youth of
16 color. We have all the isms and obias of
17 race, gender, class and creed as well as
18 the LGBTQ stigma.
19 The physical health is well
20 documented, HIV, STD, STI. Pregnancy
21 rates. So we're showing pregnancy rates
22 two to three times higher than young
23 straight women, because young people who
24 are lesbian or bi-identified, again
25 missing those rights of passage like

1
2 education and safer sex and health. And
3 think of all the people who think in their
4 lives, doctors and nurses included, myself
5 as a former gang intervention worker, that
6 young lesbians didn't need condoms, they
7 don't need that education because they're
8 never going to sleep or experiment with
9 young males. But we know that that's not
10 the case. Sexuality is fluid.
11 So we need to ensure that these
12 elements of culture are met. When they
13 are not, we experience them as
14 quality-of-life convictions and crimes.
15 One of the things that we fail to
16 notice is that we talk about whether it's
17 turnstile jumping or loitering or
18 urination and open containers, these are
19 things when you're homeless you have very
20 few options and choices. And yet those
21 warrants, if you will, when you don't show
22 up at seventeen or eighteen years old to a
23 court date, I was one of them as a kid --
24 they're terrifying, didn't show up and
25 suddenly you have a bench warrant. We

talk about how you can't get a City job. We talk about how you can't get a State or federal job with that. What we don't talk about are the hundreds of thousands of other opportunities because I can't hire you as a nonprofit worker contracting with a City, State or federal because I also have to do fingerprints. So it's that secondary and tertiary that we forget to look at for this population.

Now I want to talk really quickly about solutions. And so understanding the elements of a culture, what we have been able to do with our law enforcement partners, and I recognize the short -- the limitations with them, et cetera, is we have at a systemic level begun to effect change with leadership. So for instance, working with the DA's office, Clean Slate, if you're familiar with that, being able to remove bench warrants, Cy Vance from Manhattan was the first DA in the United States to work directly with me and my team to actually target LGBTQ communities

of color so that culturally appropriate information went out to them.

I personally led twelve young people through the process that day, all of them of trans-experience, so that they can have their warrants removed. Huge opportunities there.

The other thing is trainings.

So New York City is the only city where you go from 0 to 60. Other school systems, you're let out, sent home, you know, for suspension. In New York, you're led out in handcuffs. When you're fifteen and seventeen years old, science already knows you don't have frontal lobe to think about how to rationalize. And so we have to ensure training for NYPD. Two years ago was the first time they even had adolescent health in their curriculum. I helped personally write it.

How to be a straight ally. We focus so much on those 10 percent, what about the 90 that want to support them? Very little, if any, training for NYPD. We

need to keep expanding that. I'm happy to say that we're working deeply with them.

Training around what trauma-informed care looks like. How does victimization manifest? Where does that anxiety and anger go? Why young people are acting out the way they do. Continuing to build those relationships. Bringing NYPD into our spaces. Having NYPD attend community meetings at community level organizations as a requirement. Making them a part of the fabric of our planning. And in turn, inviting us into their homes as well, the precincts and other spaces.

Funding. Making sure that funding for adolescents -- only a few years ago, and sadly I think we might go back to this, less than 1 percent of all federal funding was aimed at LGBTQ youth. Making sure that we allow funding to keep supporting the work that we are doing. Prioritizing LGBTQ young people as a population with unique challenges, not needs. And understanding that the CBOs,

the community organizations, are powerful ways to dispel mythology, to build relationships and trust. We're talking about teenagers, so trust, those codes, those morays, those values of culture are critical.

And then finally standardizing care. So New York City/State lacks a common space for LGBTQ service providers, particularly juvenile justice, in that world, and those juvenile justice employees to gather, to talk, to share best practices, dispel mythology, build relationships. When you're a child, it's all about healthy adolescent development and relationship building.

And lastly, we've created what's called a Prism Scan, the positive realization of a youth service model, which is an actual -- finally -- rubric, a standard that goes across State agencies or City agencies because there is none right now, on how to provide standards of care in healthy adolescent LGBTQ youth

2 development. And so looking at policies,
3 procedures, practices, professional
4 development and physical environment, the
5 five P's, and requiring all OCFS down to
6 NYPD to follow the same rubric, the same
7 measurements, being accountable to the
8 same standards.
9 Thank you.
10 MS. HAMILL: Thank you, Mr. Krever.
11 MR. KREVER: Twelve minutes goes
12 very fast.
13 MS. KANG: So I think I'm going to
14 try and do a PowerPoint if I can figure
15 out the technology on this. As I'm trying
16 to get the PowerPoint up, thank you very
17 much for having me. I'm really humbled to
18 be here with the other panelists. And my
19 sincere apologies for coming late.
20 So my verbal remarks are a little
21 bit different from my written remarks.
22 I'm going to focus the verbal remarks on
23 some context, who's most impacted by
24 Broken Windows policing to compliment
25 what's already been said and some

2 recommendations.
3 But first, what I think is
4 incredibly important is that my guess is
5 that this commission planned this hearing
6 in a different time. We're in a different
7 moment right now. I want to acknowledge
8 that. My guess is you didn't plan this
9 hearing just one month ago. And the
10 current national moment, I think is
11 incredibly important to understand right
12 now because it's the context in which your
13 recommendations will be made.
14 So part of what I wanted to say is
15 that this moment of what I'm going to call
16 Trumpism, really elevates and relies on
17 promoting some false narratives in
18 relationship to crime. So one, it relies
19 on the idea and the false narrative that
20 violent crime is increasing.
21 Secondly -- and we know that that's
22 not true in New York or nationally.
23 Secondly, that law enforcement is under
24 attack constantly, which is also not true.
25 Third, that law enforcement should

2 be supported unconditionally. And what I
3 mean by that is without accountability.
4 What we have seen is that there's a
5 blanket tendency towards criminalization
6 in various communities with this new
7 presidential administration. And
8 secondly, that there is increased
9 authority and embodiment of law
10 enforcement to actually abuse their power,
11 unfortunately.
12 So I'm going to run through this
13 really quickly. We don't have to talk
14 about the Muslim ban because I'm going to
15 assume everybody knows about the Muslim
16 ban. But one of the executive orders that
17 did not get significant attention was
18 right before the first Muslim ban. And
19 that executive order was about immigration
20 enforcement.
21 That executive order in particular,
22 did a few things. One, not only
23 prioritized enforcement of immigrants who
24 had criminal records, but also included in
25 the priorities of enforcement those who

2 may have been charged with something, but
3 there's no resolution to the charge, and
4 those who may have committed an act that
5 would quote/unquote constitute a
6 chargeable offense. So what we have is a
7 moment where due process is completely
8 thrown out the window. And that part of
9 the executive order is yet to be
10 challenged in the courts.
11 Secondly, in February, what we saw
12 in early February was the Trump
13 administration throwing out three
14 executive orders at the same time all
15 around promoting law enforcement. One of
16 them was called Preventing the Violence
17 Against Law Enforcement. So again,
18 relying on this false myth that crime is
19 increasing and that violence against law
20 enforcement is increasing.
21 There are other issues in
22 relationship to that, those executive
23 orders, but the big reason why I'm sharing
24 that is because it comes back into our
25 context of where Broken Windows comes out

of, in New York City but also out of the country.

So I am not going to go back to the articles. We all know who the Broken Windows authors were. I'm going into the mid '90s -- early '90s we've got the Mollen Commission looking at police corruption and police brutality.

Then we have Giuliani as the mayor and really the rise of this notion of something called Broken Windows policing, which other people have already defined, zero-tolerance policing, and quality-of-life policing. Now, they're not all the same thing, but they all come from the same mother, is what I would describe.

Thirdly, we've got, at that time, a series of young men of color who have been killed or brutalized by the police without any kind of accountability. And so that includes young people at that point like Nicholas Heyward, Jr., it includes Yong Shin Wan (phonetic), Anthony Baez, Anthony

Rosario, Hilton Vega, the names go on. Many of you know them.

On May 26th of 1999, I believe it was the last time the U.S. Commission actually did a series of hearings around the country on the issue of police brutality. And the May 26th was actually in New York City. I'm starting with that in part because that's the context that we're coming out of.

Late '90s, early 2000s, we're seeing continued organizing because of the rape and torture of Abner Louima, the killing of Amadou Diallo in a hail of forty-one gunshots. Then after 9/11 -- and what's happening during that time period, actually, is nationally there's a growing consensus, that racial profiling is not a good thing, ethically, but also that it doesn't work. So there's a huge national consensus on that. There's a world conference against racism in Durbin. And then after that, when 9/11 happens and the tragedy of so many lost lives, part of

what accelerates is this idea of a permanent war on terror. And unfortunately, that relies on the idea of mass detentions, deportations, but more importantly a bigger concept of people, certain groups of people are inherently criminal. And so the criminalization of communities and the hyper-militarization of local law enforcement is part of what gets accelerated during that period.

The local anti-police brutality movement doesn't actually gain steam again at that point until after the murder of Sean Bell who was killed in a hail of fifty gunshots by the NYPD.

If we move ahead, in 2011, that's around the first time that we start to be able to access statistics really on this expanded program of stop-and-frisk. To be clear, stop-and-frisk has always existed as part of police practice in many ways. But what we saw since Giuliani and beyond into the Bloomberg years was really an expansion of stop-and-frisk as a major,

what we used to call the primary racial profiling program in the country. And so in 2011, close to 700,000 stops, we were also seeing, just quantitatively, there were more stops of young black men than there were young black men living in New York City, according to the census. So again, more stops of young black men than there were young black men living in New York City. And that's just reported stops.

I'm going to keep going because I know I'm going to run out of time soon.

One of the things I did want to mention as part of the backdrop and the political context of this is the late Richie Perez who, I don't know how many of you knew, used to be an activist, a mentor, a teacher and used to work with the Community Service Society in New York City. In any case, he testified in 1999 in front of this commission. And one of the things he really spoke about was the fact the egregious killings by police are

only the tip of the iceberg.

And unless we deal with the humiliation, the daily civil right abuses, the daily human rights abuses and dehumanization, those egregious killings will always continue, that there's no way to stop them unless we deal with the daily, the mass criminalization of communities.

So low-level enforcement and Broken Windows policing, other folks I'm sure before me have already talked about some examples, which we've heard including arrests for turnstile jumping and other kinds of examples. I would say in terms of LGBTQ communities, we see still, young trans women of color being subjected to quote/unquote gender checks where officers unlawfully will actually conduct a quote/unquote search of their bodily parts to assign gender which is illegal, but they do it anyway.

So what we see is really a hyperaggressive enforcement of minor,

nonviolent offenses targeting certain communities. It relies on criminalizing groups of people and includes all these different kinds of tactics and more.

What we also see is that young people of color in the many ways young people of color exist in this world, and certainly in New York City, are particularly impacted. Young trans women of color, not only through gender checks, unlawful searches, the assumption that if they have condoms that it is actually evidence of criminal activity, black and Latins, homeless young people, including LGBTQ young people in public space, simply because they're in public space, and I know Lynn will speak more to that, immigrant youth who continue to be profiled, immigrant youth, but also other youth of color who continue to be profiled as criminal in and of themselves just through social circles and what the NYPD would claim are crews or gangs that are violent and oftentimes are not.

Muslim, Arab and South Asian young people who are profiled as terrorists and actually consistently stopped even on streets in New York simply to ask for their IDs, sometimes entrapped. And we've got young women and gender non-conforming people who are unfortunately, and not only them, unfortunately subject to sexual harassment and abuse.

We've got a series of recommendations which include big picture recommendations. One which is really to strengthen accountability structures. So I know that every single commission, not only the New York Commission on Civil Rights, but pretty much every commission on policing always includes in its recommendations some kind of recommendation around training.

I would really like to implore you to not include any recommendation on training unless you are also including a recommendation around zero tolerance for police brutality and actually holding

police accountable for every abuse of authority, because otherwise training is actually meaningless. There is formalized training in the academy or the quote/unquote re-training that the NYPD is going through.

But the real training happens on patrols. The real training happens during the course of a police officer's career. And if they see themselves and others are not be disciplined or held accountable for abuse of authority on a daily basis, what they're being trained is that they're above the law, they're being trained that certain communities can be targeted without consequences. That is the actual training. So I would implore you to not do any formal training recommendations unless you're also calling for strengthening accountability.

Defend the rights of affected communities to observe and monitor misconduct. I know that Dennis and others around the city, including many members of

our coalition, conduct what we call cop watches, but basically it's just observing and documenting police misconduct.

Broken Windows policing, that should not be a surprise that that's what we've been calling for. But that would certainly be one of our recommendations.

And increasing investments in communities. So infrastructure services and so forth.

These are just some photos.

Lastly, a few specific policy recommendations. One is mandatory reporting of enforcement of minor offenses. There is actually a bill right now that's carried in the assembly by Assembly Member Lentol and in the senate by Senator Squadron called Police Stat Act which would actually require reporting Statewide of minor offenses and the demographics in terms of enforcement of minor offenses as well as police killings. So both ends of the spectrum.

End unnecessary arrests and

summonses of minor offenses. There is actually a State bill carried by Assembly Member Aubrey right now to end unnecessary arrests for nonviolent offenses that are minor and oftentimes violations.

There's New York City bills, two bills called the Right to Know Act which is discussed more in the written remarks I've got. And I know that I'm running out of time, and I want to be respectful of that, so the last thing I'm just going to say is to end the NYPD secrecy which is really covered not only in Section 50A of the New York State Civil Rights Law, so repealing that should be a recommendation, but also the fact that the current De Blasio administration has actually turned the clock back decades in terms of this reinterpretation of that law to prevent any information about individual officers who may or may not be getting disciplined for police brutality or other abusive authority.

And with that, a few movement

photos. Thank you.

MS. HAMILL: Ms. Lewis.

MS. LEWIS: Good morning. My name is Lynn Lewis and I am the former director of Picture the Homeless. And thank you for inviting Picture the Homeless to provide testimony to this panel.

Homeless New Yorkers are experts on Broken Widows policing. You've heard my co-panelists who I'm honored to sit here with how homeless folks are targeted by the NYPD.

Picture the Homeless was founded by two homeless men after an escalation of targeting of homeless, particularly African-American homeless men, after an attack on a woman on the streets of New York City. The collusion of the media, media stereotypes and stigma and Broken Windows policing is something I'll address in a moment.

The goal of Broken Windows policing is not law enforcement, but the regulation of who has access to public space based on

their status. This includes a selective enforcement of quality-of-life violations and zero-tolerance policing.

It's often accompanied by abusive language, and in and of itself is an abuse of authority. Being awakened with a nightstick or the heel of an officer's shoe, being told to move on, being told, I don't want to see you when I come back this way, taking someone into a precinct or a hospital and either letting them go hours later with a ticket that a homeless person can't afford to pay or putting them through the system to see a judge for a noncriminal violation is abuse.

The harm caused to the individual and the disparate impact to homeless communities generally is devastating. This is not a question of police being mean. Broken Windows is illegal police practice as applied to homeless folks and other persons because it's simply based on their status.

Indeed how Broken Windows shifted to

2 putting homeless people in its cross hairs
3 because of an increase in homelessness
4 during the Giuliani administration which
5 was a result of failed housing policies,
6 not a result of increases in crime.
7 I'm going to quote one of the
8 panelists here, Alex Vitale here.
9 "Removing the homeless by restricting
10 access to and activities allowed in public
11 parks, using the police to forcibly remove
12 homeless people from shopping areas and
13 criminalizing sleeping, panhandling,
14 sitting on the sidewalk are very different
15 from consistently enforcing existing laws
16 against drug dealing and violent crime."
17 As homelessness increased, Kelly was
18 repeatedly asked to help cities and police
19 departments apply this theory to
20 homelessness.
21 The most important example of this
22 is when Kelly was hired in 1989 to work
23 with William Bratton who was then chief of
24 the NYC Transit Police to develop new
25 rules designed to remove homeless people

2 from the subway system. Bill Bratton was
3 our current mayor's first appointment when
4 he became mayor. Bratton quickly retained
5 Kelly again as a paid consultant. And one
6 of Bratton's very first actions less than
7 a month after becoming police commissioner
8 under De Blasio was to attempt to remove
9 -- use the NYPD to forcibly remove
10 homeless people from the E train simply
11 based on them looking homeless, not
12 whether they paid their fare or any other
13 conduct. Picture the Homeless and our CPR
14 partners organized a successful pushback
15 and prevented this from happening.
16 My background, and you'll get more
17 of this in my written testimony, but I
18 have spent almost thirty years
19 documenting, organizing the impact of
20 Broken Windows and abusive policing on
21 homeless people in New York City as
22 director of Picture the Homeless for
23 seventeen years as a member of the
24 National Coalition for the Homeless Board
25 of Directors. What happens in New York

2 City actually affects the rest of the
3 country. New York City is relevant
4 because there's a pattern and practice of
5 local communities with New York City as a
6 national leader restricting access to
7 public space through the criminalization
8 of life sustaining activities. This
9 happens through the creation of new laws
10 like no sitting, no lying down as well as
11 selective enforcement of existing laws and
12 regulations which is what makes this
13 illegal and unconstitutional.
14 But rights on paper, even our
15 Constitution, must be defended. Yet the
16 burden of proof is on the person suffering
17 discrimination. It is a heavy lift to say
18 the least to expect a homeless person to
19 file lawsuits proving selective
20 enforcement against the police department.
21 Yet here, we have folks in this audience
22 from Picture the Homeless who have
23 successfully done that.
24 What happens here impacts the rest
25 of the country. Local police departments

2 import practices from other communities
3 and New York is often the testing ground
4 for many of them. Indeed, at Picture the
5 Homeless for almost two decades we've
6 gotten calls from other cities saying, our
7 elected officials are going to do what
8 your mayors have done to clear the
9 homeless from the streets. And so we want
10 to learn what you all have done.
11 Intersectionality, homelessness and
12 discriminatory policing. 98 percent of
13 homeless families in the shelter system
14 are black and Latino in New York City.
15 The intersections of homelessness, extreme
16 poverty, race, disability, unemployment,
17 gender, sexual identity orientation are
18 well documented. And so the impact on
19 homeless communities, particularly, also
20 reverberates throughout other targeted
21 communities, not only in New York, but
22 particularly in New York City.
23 The regulation of homeless bodies in
24 public space predates Broken Windows. The
25 creation and enforcement of laws, rules

2 and regulations, the quasi law enforcement
3 entities such as Business Improvement
4 Districts goes back to Jim Crow, to the
5 Black Codes, to Sundown Towns, to
6 Anti-Okay laws, to Operation Wetback to
7 ugly laws that prohibited the presence of
8 people with visible disabilities in public
9 space. All of these laws have been struck
10 down as unconstitutional.
11 Broken Windows and the specific
12 impact on homeless New Yorkers. Because
13 it can be seen as no, it's an
14 inconvenience you got a ticket. It's
15 devastating and I'm going to give some
16 concrete examples.
17 Picture the Homeless filed a lawsuit
18 against the NYPD in 2003 and the mayor at
19 the time, Michael Bloomberg. And they
20 immediately reached out and settled out of
21 court because police officers were willing
22 to testify that they were being forced to
23 target homeless people, and in some cases
24 were unwilling to do so. Yet this
25 practice continues because it is not

2 enforceable.
3 Unpaid tickets turn into warrants
4 which result in jail time. Arraignments
5 often result in community service or
6 adjournment in contemplation of dismissal.
7 However, when an ACD is offered, it
8 includes an amount of time arbitrarily set
9 by the judge between one and six days
10 where you're not allowed to have police
11 contact. Yet to quote Jean Rice, sitting
12 behind me, homeless people sleep where the
13 police do their work, and it's almost
14 impossible to avoid police contact. So
15 when you violate your ACD agreement that
16 you're forced to sign, you end up doing
17 fifteen days, thirty days, sixty days in
18 Rikers Island for an original charge that
19 would carry no jail time because it's
20 noncriminal.
21 The types of charges that homeless
22 folks get ticketed and arrested for are
23 things like disorderly conduct which is
24 impossible to defend. It's subjective.
25 Who determines what's disorderly? Misuse

2 of park's property, which basically means
3 lying down on a park bench, being in a
4 park after curfew, trespassing, aggressive
5 panhandling.
6 Move-on orders have been used for
7 the past couple years by the NYPD under
8 this current mayor. These and other forms
9 of verbal abuse are used by the police to
10 intimidate homeless people. Yet, when we
11 filed, Picture the Homeless, filed a
12 complaint with the Human Rights
13 Commission, the police responded saying
14 move-on orders are not law enforcement
15 action.
16 If a police officer or officers come
17 up to you in uniform with a gun and you're
18 homeless and you're sitting on a piece of
19 cardboard, because this often happens at
20 night, and they say, you need to move, you
21 don't have a lot of options. And so it is
22 a law enforcement action. If you're in
23 uniform, you're acting as a law
24 enforcement agent. You're getting paid to
25 be a cop in that moment.

2 So we currently have this complaint
3 with the Human Rights Commission that the
4 police are denying that they are acting as
5 law enforcement officers.
6 The NYPD and Department of
7 Sanitation have been proven to collude in
8 removing homeless people and destroying
9 their property. In the case of the NYPD,
10 it was caught on tape and the Department
11 of Sanitation physically assaulting
12 sleeping homeless men on 127th and Park
13 Avenue. Floyd Parks was one of the
14 homeless men who filed a complaint with
15 the Comptroller's office. The City
16 offered to settle. They were paid for the
17 loss of their property. No pain and
18 suffering, even though they were still
19 sleeping on the street after they filed a
20 complaint. Known to the 25th Precinct by
21 name. So there is proof that the police
22 destroyed their property illegally. There
23 is videotape of this which we can share.
24 Bogus tickets are used as a form of
25 harassment. The police will write tickets

to people on 125th Street citing their address as 600 East 125th Street which is a New York State psychiatric hospital. Loss of property occurs when the police force people to move and they're not able to take all of their belongings with them or their belongings are thrown in the garbage by the police or the Department of Sanitation.

Arrests and tickets for noncriminal offenses make you ineligible for public housing for a period of two to six years. So City-level policy change, Picture the Homeless and CPR Partners have requested that the Inspector General investigate Broken Windows policing of the homeless by the NYPD. We hope that your findings will support this.

We have a current Human Rights Commission complaint. Your findings will be a tool that grassroots organizations can use to move public policy. Your findings will not sit on a desk. We will use them to make sure that City government

listens. We have an election next year. Bill De Blasio ran on police reform. We need evidence, not just from our communities, to say that what he ran on, he's actually violating.

The Police Stat Act and State legislation to end arrest of violations has to be changed in the criminal penal code at the State level. That's what gives the police 100 percent discretion to, as a white woman, tell me, oh, miss, you're in the park, it's a little late, maybe you should go home, and to arrest Gene Rice behind me because he looks homeless. So right now, the police have the discretion to do that and they don't have to justify why they arrest one person and give another person a warning.

These are noncriminal offenses. People should not be arrested for them. That's a law at the State level. We will send you more information about that. It's crucial that it's passed.

We have other recommendations, and

I'm done and I'm grateful for your listening to us.

MS. HAMILL: Thank you all for your excellent presentations and participation.

We have about twelve minutes for questions and answers.

Let me ask whether we have any committee members that have questions, if you can raise your hand and then I will call on you accordingly.

We'll start with one question each, and then if we have additional time then we'll go around.

Mr. Thomas, are you going to wish to ask -- one moment. Let me just see what other questions we'll have to make sure.

Mr. Thomas, we'll start with you, please.

MR. THOMAS: Hi everyone. My name is Kevin Thomas. I am a legal services attorney and I would like to offer my gratitude for all of you being here and being able to testify about police accountability and what needs to change.

Given the amount of time that I have, maybe one question with three different parts.

MS. HAMILL: Try to limit it to one question. You can either ask the entire panel or if you wish to ask a particular panelist, you're welcome to do so.

MR. THOMAS: So I'll focus in on our current political climate which is Trumpism. What can be done to change Broken Windows policing because of the current immigration consequences attached? Any of you can answer.

MR. GANGI: The NYPD should end it. Under Trump's edicts, arrests, actually even getting a traffic ticket can lead to deportation. It's not something, I guess all us as prison reformers are focused on, but last year, for example, the NYPD gave out, 1,040,000 tickets for moving traffic violations. It's a form of Broken Windows policing that we have not focused on. And when I say we, I mean prison reformers. 75,000 tickets, by the way, for something

2 called tinted windows. So those kind of
3 practices and the other kinds of arrests
4 that we've talked about, actually all of
5 us on the panel have talked about, for
6 these low-level infractions, all of them
7 can lead to deportation. And De Blasio,
8 as you people probably know because
9 there's criticism has been raised, and
10 community groups and others, including
11 City Council people, have raised the issue
12 that Broken Windows makes the New York
13 immigrant population more vulnerable to
14 deportation. But De Blasio has doubled
15 down on Broken Windows policing saying
16 we're going to continue to do it because
17 he thinks it makes New Yorkers safer.
18 So one thing that the NYPD should do
19 in the face of Trumpism is to eliminate
20 quota driven Broken Windows policing.
21 MS. HAMILL: Thank you. Let me call
22 upon Alex. Alex Vitale, please.
23 MR. VITALE: I have a question for
24 Mr. Krever.
25 In your experience in New York City,

2 are there certain police practices in
3 recent years that have made your efforts
4 at outreach or the programmatic work
5 you're doing with young people more
6 difficult, the particular challenges those
7 young people face as a direct result of
8 NYPD practices?
9 MR. KREVER: It's what you're
10 hearing. It's the enforcement of
11 low-level crimes, the quality-of-life
12 things that are tripping up young people
13 who lack access. And so, you know, we all
14 tend to lump -- so there's lots of
15 mythology and lack of information out
16 there. So for instance, jumping a
17 turnstile, my understanding, it's not
18 something removable at Clean Slate. It's
19 federal, right, because it's trade,
20 commerce. So it actually doesn't even
21 qualify in this conversation.
22 So focusing on those things that do,
23 so focusing on the loitering -- I have a
24 whole thing in my report you can read
25 around re-gentrification. If you're

2 familiar with Greenwich Village, Hell's
3 Kitchen in Chelsea, those used to be gay
4 meccas, right? Now you're sitting on
5 someone's stoop. So we're seeing huge
6 jumps in loitering, public urination, all
7 things linked to poverty, all things
8 linked to race, lack of access for the
9 LGBTQ community. So the condoms as
10 evidence, we were actually able to sway
11 and move -- and the other thing is how we
12 were able to move, not fully, but where we
13 were able to move for our work because we
14 stopped short of trafficking for our work,
15 it's still used.
16 But where we stopped it though was
17 around -- we have federal mandates. So
18 for instance, hundreds of millions of
19 dollars given to community organizations
20 across the country to throw condoms, as
21 many as a young person can catch, and then
22 when NYPD and other law enforcement
23 entities see those condoms, for them it's
24 prostitution.
25 So we have federal mandates that are

2 not in line with on-the-ground City
3 mandates. And so they are not talking.
4 So young people won't take condoms. So
5 for LGBTQ young people of color with the
6 highest rates of STD, STI and HIV
7 infection, that's counter to what the
8 government is actually telling us to do.
9 So lack of information, lack of clarity.
10 Immigrant populations right now
11 refusing MUNI ID because they think that
12 database will be seized and used against
13 them. And for us, when you're already
14 invisible as LGBTQ young people, you can
15 imagine exponential challenges that
16 presents.
17 That was a lot. Sorry.
18 MS. HAMILL: Johnny Perez.
19 MR. PEREZ: My question is also for
20 you, Mr. Krever.
21 I'm curious to know if you're aware
22 of any other jurisdictions or parts of the
23 country where the police have actually
24 adopted any policies that have
25 successfully been able to recognize the

2 culture of LGBTQ youth.
3 MR. KREVER: So San Francisco has
4 some extremely progressive policies. It's
5 not a coincidence they also have that
6 around homelessness.
7 They also have -- you know, so it
8 really is about culture, particularly
9 around adolescent development. But that's
10 absolutely another space to look at. And
11 then our own, but staying with our own
12 City Council, under the current City
13 speaker, I have to say we've made light
14 years of advancement in communities of
15 color, particularly LGBTQ youth and the
16 work that we are doing in those
17 communities for youth to focus on what we
18 call co-existing or co-factors.
19 So looking at the challenges
20 affecting LGBTQ communities of color,
21 young people in particular, and then
22 looking at the intersections between
23 homelessness, poverty, race, employment,
24 family, neglect and things like that. So
25 San Francisco would be one, LA might be

2 another. But really, San Francisco and
3 New York jump out off the top of my head.
4 MS. LEWIS: Not San Francisco on
5 homelessness.
6 MR. KREVER: For LGBTQ, probably for
7 what you can imagine why, but that jumps
8 out at me for LGBTQ community work.
9 MS. HAMILL: Thank you. Roy Cosme.
10 MR. COSME: This is a general
11 question.
12 We heard from some of the
13 commissioners that some of us spoke to
14 from the NYPD, new implementation of
15 neighborhood policing where a team of
16 police officers are assigned to certain
17 sectors or neighborhoods within a precinct
18 to enhance more engagement with the
19 community.
20 Have any of you seen the
21 implementation of that new police
22 practice? How do you see it working and
23 what recommendations might you have to
24 enhance that?
25 MS. LEWIS: Well, I live in East

2 Harlem. I've lived in East Harlem for
3 eighteen years now which is in Manhattan
4 at the highest numbers of stop-and-frisk
5 and that's why we were one of the four
6 pilot body camera neighborhoods. It's a
7 neighborhood undergoing gentrification.
8 I live about seven blocks from 125th
9 and Lexington which had, you know, was
10 ground zero for move-on orders and
11 removing homeless folks from public space.
12 The 25th Precinct has among the highest
13 number of abuse complaints in the city.
14 We had attempted, at Picture the
15 Homeless, to engage in dialogue with
16 members of the 25th Precinct. We offered
17 to, you know, find out, what are the
18 rules? There was a new plaza created, as
19 Dennis referenced, by the Department of
20 Transportation, so homeless people were
21 suddenly being told they couldn't be there
22 even though it's public space.
23 We tried to find out from the
24 precinct captain what are the rules,
25 right, so we can educate people about

2 their rights, or even find out if these
3 new rules are legal. We were told he
4 didn't have to tell us anything.
5 There is a toxic relationship
6 between the precinct and many communities
7 in East Harlem, not just homeless
8 communities. We have been told by police
9 officers, community affairs officers, as
10 well as street beat officers that they get
11 complaints from homeowners and business
12 about people being loud, about people
13 hanging out, about homeless people. And
14 so that's what they respond to. They're
15 responding to businesses.
16 There's an organization called,
17 NHEMA, the New Harlem East Merchants
18 Association. I don't know what's wrong
19 with the old Harlem, but they're called
20 the New Harlem East, and it's kind of in a
21 Business Improvement District and they
22 work very closely with the NYPD in terms
23 of complaints. So this isn't just about
24 homeless people. You know, people play
25 dominoes on the street, they play cards on

the street. In the summer, people hang outside.

And so these are the kinds of complaints that the New Harlem, which is a code for gentrification, doesn't want to see. And so that's who the NYPD works for. That's the community in their community policing.

Otherwise, you walk up Third Avenue between 116 and 125th, you see gangs, talk about gangs, of police officers, ten, twelve, fifteen cops rolling, walking down the sidewalk. Not saying hi, how are you, good afternoon, none of that. And we have other issues in East Harlem, like a problem with sanitation and garbage removal and stuff. They don't want to have anything to do with that. Broken Windows, if you live in a community that's underserved is really about, you know, decay and garbage and things like that. The cops are not there for that. They're there to work for gentrifying interests in these communities and it's very clear.

MS. HAMILL: Ms. Kang, I wanted to give you a moment to respond.

MS. KANG: And thank you, Lynn. Just to add to what Lynn said.

There's a few things to keep in mind about the neighborhood policing program right now. Less than 1 percent of officers are assigned to it, just several hundred. We are not talking about a massive sea change right now. But even once it's fully implemented, the big question we have is whether or not this is PR or whether or not this is policy change. Right now, we see it as PR.

And here's the reason, part of it is what Lynn just said. Who gets to define what's disorder in a community or what needs community policing attention? And that is usually going to be business owners. It's going to be folks who are not seen as the other in that community, not normally those who are targeted by hyperaggressive enforcement of low-level offenses.

The second thing is that the goal of neighborhood policing again and again we hear is to improve relationships between communities and police. What we would say is that's the wrong goal. The goal is to end police abuses and police brutality and hold officers accountable when there are police abuses and abusive authority. When that does not happen or when it does happen, the byproduct is increased trust and increased police-community relations. But the goal in of itself should never be just to improve relationships. The marker by which people and the NYPD is trying to assess whether or not there's improved relationships, one marker is whether or not neighborhood folks know the names of officers.

Eric Garner knew the names of many of the officers who attacked him. It's not an issue whether or not you know the officers. It's whether or not officers are going to be held accountable to treat all human beings, all New Yorkers with the

same civil rights and the same human rights.

The last thing I just want to say is that the implementation of neighborhood policing could very well be the expansion of Broken Windows policing. There's nothing that's contradictory about the two. So I just want to have us be aware of the idea of something new called neighborhood policing, which is actually not new, and secondly, the implementation of it right now is not necessarily showing us that it's going to improve accountability or decrease violence in communities by police officers.

MS. HAMILL: Thank you very much. Let me call on Tom Wahl. I understand we can go a few minutes over.

MR. WAHL: I just have a couple quick comments. I object to the term Trumpism. Let's call it De Blasioism. I don't think Donald Trump runs the City, to be fair. This is Bill De Blasio doing this. That's fine. That's my opinion.

I'm entitled to it.

Secondly, I wanted to ask Mr. Gangi a specific question. If the quota system doesn't, in effect, exist, how do we get the police to acknowledge it so they can stop doing it?

MR. GANGI: The police deny the quota system that exists. They call it productivity goals. I mean I think we should just treat it with the cynicism that it deserves. You know, Bill Clinton said he didn't have sex with that woman, what did George Bush say, we don't torture in the United States. So politicians, not only politicians I think it's fair to say, but certainly politicians lie and Bratton lied about this, O'Neil lies about it.

And they, even to sort of not seem so cynical just to accuse them of lying, they may think they need something like the quota system in order to make sure cops are productive.

I had a conversation with Bratton, actually before he took office, and he

defended the quota system by saying, our problem is -- and when he said, our problem, he meant like police officials, police brass, is that we see 30 percent of the police force as being conscientious objectors. I'm using his words. They object to doing work. So unless we have a quota system in place to show that they are productive or to put pressure on them to be productive, we're going to see, again, he used the figure 30 percent, and I think in New York City that would mean 15,000 cops, would take the lazy way out. They would find some shady street in their precinct and park under that tree and take a nap.

So that is how they, I think, they think to themselves that we need this as a personal management tool. But what they obviously do not take sufficiently into account is just the damage that the quota system does in terms of, not only the problems it creates with the community with unnecessary arrests and bogus

summonses, but the problem it creates for police officers.

The one area, and it may be the only area where we agree with Pat Lynch, who is the head of the PBA, is he takes a vigorous position opposed to the quota system claiming that it damages the relationship between the community and police officers and it puts police officers in harm's way.

So my view, to answer your question, we ignore the defense of the police brass, we know they're going to say that, we know there's a quota system. And that we should be putting pressure -- I agree with your point about De Blasio and I also agree with Joo-Hyun's point about Trumpism. But De Blasio was, in fact, while he's taking these public stances of championing immigrant rights, when he embraces Broken Windows policing, he's undercutting his stance as a champion of immigrant rights.

And we should all be, and I think we

all do, put pressure directly on the De Blasio administration to abandon quota driven Broken Windows policing, and to become a true defender and champion of all New Yorkers, including immigrant New Yorkers at this time. Thank you.

MS. HAMILL: Final question, Earl Ward.

MR. WARD: Thank you. This question is for Dennis Flores.

Dennis, as someone who has been involved in the criminal justice system for over thirty years representing clients in the criminal justice system, I've always been amazed by the number of bogus arrests and summonses that are issued. And when we met with the police department they emphasized that there was this new civil summons option. I thought, sounds good, it's going to keep people out of prison, it's going to keep people out of court, no fingerprinting. But in your comments you mentioned that you thought that the civil summonses were, in some

ways, just as bad as the old summonses. Tell us about that.

MR. FLORES: Well, it gives the cop the discretion to give out a civil summons. So it's not like automatic. So again, if you put the discretion on the police officer, you know, they can just ignore it and take someone in and fingerprint them. And that's the problem, when they get fingerprinted and if it's for a minor quality-of-life crime, those fingerprints get shared with the FBI, who in turn shares that information with ICE. For undocumented people, that could begin the process --

MR. WARD: But in the event someone's not fingerprinted and it's a civil summons, is there a difference between, a sort of practical difference between someone who's given a civil summons and someone's who's given a criminal summons.

MR. FLORES: I'm not 100 percent sure what you mean.

MR. WARD: In other words, you had some criticism with regard to the civil summonses, and I'm talking about a civil summons where someone is not fingerprinted. Do you see that as a problem? I'm not sure if any of you are familiar with the process.

MR. GANGI: The problem is what people are given summonses for is not a criminal act. So to say you are going to give the cops more discretion to be less punitive, our point is there should be no punishment. There should be no punishment for carrying an open alcohol container. There should be no punishment for riding a bike on the sidewalk. If you're riding the bike on the sidewalk and you're endangering pedestrians, then you should be ticketed or arrested for physically endangering pedestrians.

I've talked to people who tell me stories, they're riding a bike on the sidewalk with their child and there's no pedestrian on the sidewalk -- it's more

dangerous to ride at that time in heavy traffic with their child, but they've still gotten a ticket because they had the bike on the sidewalk.

So the aggressive application of Broken Windows style policing, whether it's through arrests, criminal summons or civil summons is just inappropriate and uncalled for and it continues to target certain communities. And the police department, I think, in response to the bad publicity and the response to the pressure that organizations like ours are bringing, they're coming up with things like, well, neighborhood policing and we're going to do civil summons instead of criminal summons, they're still maintaining the authority and the power to apply the sanctions, whatever form they take, and inevitably, given the amount of power they have and given the pressure of the quota system, they're going to abuse that power and authority and the harm will fall disproportionately, almost

exclusively, on the backs and the lives of low-income people of color.

MS. HAMILL: I'm afraid we're going to have to leave it here, I believe; is that correct?

MS. LEWIS: Can I add something specific to your question?

The civil summons, you don't get the same level of legal representation. So if you go to summons court, you don't have a legal aid assigned to you and you can still get an ACD. If you can't pay the fine, it still turns into a criminal warrant. And so the outcome is the same for the person. I guess it's okay if you got the money to pay a fine and it's civil, it's better for you. But for the communities that are most likely -- that are being targeted, you get even less legal representation. So it can result in greater harm.

MS. HAMILL: Thank you.

I'm informed we have to end this panel now. Thank you very much for your

excellent presentation and your participation.

And we look forward to reading any additional written testimony you'd like to submit to us. The record will remain open for another thirty days.

We are going to change panels. We'll be calling up panel 2, please. Thank you.

Panel 2:

MR. ZEIDMAN: Thank you for holding this hearing, providing me the opportunity to speak. My name is Steve Zeidman. I am a professor here at CUNY Law School.

I am, obviously we all have different experiences with Broken Windows, but I am very familiar with policing in New York City. I was a supervising attorney with the Legal Aid Society Criminal Defense Division here in Manhattan. I then taught a criminal defense clinic at NYU Law School for a number of years, teach a similar clinic here at CUNY where students, under my

supervision, represent people facing charges in the criminal court. So I have seen the impact of Broken Windows policing in our criminal court, sort of the end product in a manner of speaking, for the past twenty-five years.

I wrote about this back in 2004 in an article called Policing the Police, and frankly have only seen things get significantly worse for a number of reasons.

You've already heard this morning about the disproportionate, multifaceted brutal impact, and I believe my colleagues are going to speak more about that, that summonses and arrests pursuant to Broken Windows have on communities of color. So I'm going to focus on two other issues regarding Broken Windows policing.

First is the evidence that hyperaggressive policing is wholly unnecessary to reduce crime. And second, it's the failure of the criminal court to police the police. When we ask where's

external review, one place I don't think we look carefully enough at is the criminal court which is where the arrests all end up.

So in May of 2015, then Commissioner William Bratton, issued a report extolling the virtues of Broken Windows policing and promoted what he termed a peace dividend. A peace dividend of nearly 1 million fewer enforcement contacts like arrests and summonses. He explained further in a letter to the New York City Council that there's been a drastic reduction in law enforcement contacts between police and citizens, a benefit that I call, this is Bratton, the peace dividend. He then clarified the dividend is the diminished need to use enforcement tools for every problem.

Let me suggest that we're still operating under this notion of the peace dividend in the current administration. The use of the term is troubling and revealing and I think it's important just

to see where it comes from. The term was frequently used at the end of the Cold War when many nations cut their military spending and money that was originally intended for the military became available for other purposes.

And while as far as I can tell, and I checked, the commissioner's notion of a dividend has not corresponded to additional government funds allotted to badly needed social programs in the affected communities, it does seem to have at least left some people in those same communities a little bit more at peace.

And then to further make the point about this peace dividend, several months later, the commissioner noted that arrests were down by about 10 percent and he explained that police were making, quote, fewer arrests for minor offenses. We are trying to reduce the number of contacts we have with the public that is not necessary.

Just roll that statement over in

2 your head for a moment and I'm going to
3 come back to it. We're trying to reduce
4 the amount of contact with the public that
5 is not necessary. And this candid
6 acknowledgement of necessary versus
7 unnecessary contacts, like arrests, even
8 runs through the NYPD's rank and file.
9 Back in December of 2014 when police
10 officers engaged in a slowdown to express
11 unhappiness with Mayor De Blasio's
12 handling of Eric Garner's death at the
13 hands of Police Officer Pantaleo, an
14 email, circulated from the Police
15 Patrolmen's Benevolent Association,
16 instructed officers to, quote, make only
17 arrests that are necessary. Arrest
18 numbers dropped precipitously, I mean
19 thousands and thousands, precipitously is
20 probably an understatement -- over the
21 next few weeks leading to the recognition,
22 if you just stop and think about it, that
23 the NYPD's standard operating procedure
24 included an awful lot of arrests that
25 nobody believed were absolutely necessary.

2 It goes hand in glove with what the
3 commissioner was saying about necessary
4 versus unnecessary arrests.
5 Significantly, in the time frame
6 when arrest numbers just plummeted,
7 reported crime continued to drop.
8 The acknowledgment that many
9 police-citizen contacts are unnecessary
10 begs the question of just how many
11 unwarranted, unnecessary interactions
12 there were, and still are, and upon whom
13 are they inflicted. And while decreasing,
14 and this is the main point I want to make
15 about what's necessary, while decreasing
16 unnecessary interactions is obviously a
17 worthy goal, the NYPD must eliminate,
18 rather than reduce contacts that are not
19 necessary. It seems crazy to have to say
20 that, that the goal wouldn't be just
21 eliminating, eradicating unnecessary
22 police-citizen interactions.
23 The problem is, we know how hard it
24 is to repudiate sanctified policing
25 policies. Stop-and-frisk is just one

2 example. And I know we've talked some
3 about this already, but let me just
4 mention this.
5 If you go back in time when we look
6 and see how then Mayor Bloomberg and
7 Police Commissioner Kelly repeatedly and
8 defiantly argued that the ever rising
9 number of stops and frisks, which peaked
10 at almost 700,000, they kept arguing it
11 was necessary for public safety. And when
12 a federal judge ruled the stops were
13 unconstitutional, the mayor excoriated the
14 judge. This was the quote. This is a
15 very dangerous decision made by a judge
16 who I believe does not understand what
17 good policing is. However, we know that
18 crime has continued to drop. As reported,
19 stops and frisks went from a high of
20 almost 700,000 to 23,000 in 2015,
21 providing powerful evidence that hundreds
22 of thousands of stops were not only
23 illegal, as determined by a federal judge,
24 but wholly unnecessary. The parallel with
25 arrests is, it's identical.

2 Crime continues to decline even as
3 we have this so-called peace dividend,
4 where misdemeanor arrests are decreasing.
5 That fact puts the very underlying premise
6 of Broken Windows into a great debate, to
7 put it mildly.
8 And I also think it bears noting,
9 from my perspective as an academic, every
10 time I hear the phrase, Broken Windows,
11 and it's referred to as a theory -- you
12 know, we should be clear. It's a
13 five-page article in a news magazine, The
14 Atlantic, from thirty-five years ago. It
15 wasn't a theory that was tested, analyzed
16 with data, researched, subject to peer
17 review. It's a magazine article. And for
18 some reason it still holds such power that
19 we can't seem to get rid of it.
20 And if we are talking about a peace
21 dividend which I do believe we are still
22 operating under, why not at least apply it
23 more robustly? Let me just give almost a
24 ridiculous example.
25 We know that summonses for riding a

2 bike on a sidewalk are coming down. We do
3 know in the recent past there are about
4 1,000 issued per year in East New York.
5 What would happen if not a single summons
6 was issued in East New York for riding a
7 bike on the sidewalk? Let's say the
8 precincts involved did that and somehow
9 crime and homicides did not spike, which I
10 think it's safe to say it wouldn't. Then
11 perhaps we could apply this so-called
12 peace dividend to virtually every other
13 similar type of offense, whether a summons
14 or arrest, until we get to a place where
15 this type of policing is eradicated.
16 I do want to be clear, though, this
17 notion of a peace dividend, we've gotten
18 to a place where we're talking millions,
19 millions of quality-of-life arrests, the
20 peace dividend is not the way to go.
21 Ultimately, and people who spoke before, I
22 just want to second it, the only solution
23 is to fully abandon Broken Windows
24 policing.
25 My second point, it's critical to

2 keep in mind that Broken Windows arrests
3 end up as Broken Windows prosecutions.
4 With all the associated taxpayer costs of
5 prosecutors, defense lawyers, judges,
6 court reporters, court officers and more
7 and not to mention the toll on the
8 individual who has to go through this
9 particular system.
10 And while the tactics of the NYPD
11 have been subject to debate, the criminal
12 court, the entity entrusted with reviewing
13 all these arrests, the entity that sets
14 bail, that metes out sentences, that takes
15 pleas, has somehow been remarkably free
16 from any scrutiny. And the question is,
17 what is its role with Broken Windows
18 policing?
19 With these arrests still flooding
20 the courts, is the criminal court
21 carefully evaluating the constitutionality
22 of every single arrest? Is it evaluating
23 the police? Is it providing the external
24 review we're looking for? So we know that
25 in 2015, this number came up before but I

2 just want to put a different slant on it.
3 315,000 people were arraigned in New York
4 City's criminal courts. More than 90
5 percent were black or Latino. Owing to
6 the devotion of Broken Windows, about 80
7 percent of the 315,000 cases, 250,000 were
8 classified as misdemeanors or violations.
9 And about 60 percent of those misdemeanors
10 and violations ended at the very first
11 appearance before a judge, a time when the
12 judge knows virtually nothing about the
13 facts of the case, the individual charged,
14 the police officer, any potential victim.
15 Same with the prosecutor, same with the
16 defense attorney. It is hard to imagine
17 the word justice occurring to anybody
18 observing the court in action.
19 The reason I think that's so --
20 well, there's an obvious reason it's
21 important, but if we do want to go back to
22 Broken Windows, the magazine article, the
23 authors actually flagged their concerns
24 about due process and the need for
25 judicial oversight. These are quotes from

2 the Broken Windows article.
3 When describing the actions of one
4 officer, maintaining order on the street,
5 the authors wrote, "Some of the things he
6 did probably would not withstand legal
7 challenge." In another example they said,
8 "none of this is easily reconciled with
9 any conception of due process or fair
10 treatment." These are their words.
11 Finally, perhaps even more
12 troublesome, it's the recognition of the
13 Broken Windows authors of the facts that
14 order maintenance policing can
15 disproportionately impact communities of
16 color. Let me give you the quote.
17 "The concern about equity is more
18 serious. We might agree that certain
19 behavior makes one person more undesirable
20 than another. But how do we ensure that
21 age or skin color or national origin or
22 harmless mannerisms will not become the
23 basis for distinguishing the undesirable
24 from the desirable? How do we ensure, in
25 short, that the police do not become the

agents of neighborhood bigotry?" In response to what they term a serious question, here's their answer.

Quote, we can offer no wholly satisfactory answer. And we are presently living with this.

The lack of adversarial testing of the charges, I want to be clear, it's not just an academic concern. Every study ever done of the so-called consumer perspective, the person who has to go through the court, the accused point of view has found that the defendant's greatest objection to the process is the lack of an opportunity to be heard, a feeling of being rushed through an assembly line, no one paying any attention to what they had to say and how they were treated. The cynicism and mistrust that begins with arrest and now infects and pervades communities of color is exacerbated in the very court that's supposed to evaluate the constitutionality of their arrest.

Ironically, almost fifty years ago, in Terry versus Ohio, the stop-and-frisk case, the court said the following: It is imperative that trial courts retain their traditional responsibility to guard against police conduct which is overbearing or harassing or which entrenches upon personal security without the objective evidentiary justification which the Constitution requires.

I'll stop with one other quote. Federal Judge Jack Weinstein has written about the vital function trial courts must play to police the police. It's lacking. There's a role for the court to play. There's a role for this commission using its bully pulpit to shame the criminal court into actually doing something.

My final point, the Broken Windows article, it's thirty-five years old and I ask you this: Would anybody seriously suggest using a five-page article from 1982 to dictate education, housing, energy or any kind of important policy in 2017?

If, as many have said, if a Broken Window is a problem, the appropriate solution is to fix the window. Build some affordable housing and disband Broken Windows policing. Thank you.

MS. HAMILL: Thank you, Professor Zeidman. Professor Stoudt.

MR. STOUDT: My name is Brett Stoudt. I'm a faculty member at John Jay College of Criminal Justice and Graduate Center at the City University of New York, and I'm really thankful to be here today.

For the last eight years, I've been conducting research with university colleagues and community members of color across New York City. Each of the seven studies explore the human impact of order maintenance, Broken Windows policing on communities of color.

The results we found, and continue to find across five boroughs and more than 6,000 New Yorkers represent a similar set of aggregated patterns that are further supported by a larger body of social

science literature.

For the sake of time and clarity, I'll use this presentation to focus most closely on a project we call Researchers for Fair Policing. I didn't know how this setup would be, so I put up some images of our team.

Researchers for Fair Policing is an inter-generational research collective with youth and staff from Make The Road New York. We came together in the summer of 2012 to study young people of color, ages fourteen to twenty-five and their experiences with and attitudes towards the NYPD. Going on nearly five years now, we created, disseminated and analyzed a large scale survey of over 1,000 young people collected in high school classrooms, analyzed public NYPD data sets, filmed documentary shorts and collected over twenty interviews.

I'll go to another slide which reveals some of our quantitative findings. I also have video testimonials that I

2 won't have time for, but would love to
3 submit in the future.
4 In very intensive and extensive
5 ways, young people of color must endure
6 the challenging realities of growing up
7 policed in New York City. Almost everyone
8 who took our survey had contact with the
9 police at least once or more often,
10 multiple times. Many reported persistent,
11 unhelpful, disrespectful, aggressive and
12 even violent police encounters. Their
13 experiences at policing were ambivalent at
14 best and often quite traumatic.
15 The majority of the young people
16 that we interviewed or who took our survey
17 expressed mistrust, fear and anger towards
18 the NYPD. Youth described the heavy toll
19 aggressive policing had taken on them as
20 individuals and on their communities.
21 Young people reported fearing involvement
22 with the criminal justice system every
23 time they stepped foot outside their
24 apartment, whether it was to go to work,
25 spend time with loved ones or run an

2 errand to a store or bank.
3 As expected, our study revealed that
4 police frequently targeted young men of
5 color. They were, for example, more than
6 twice as likely to report violent police
7 encounters involving force ranging from
8 being pushed, kicked or punched, being hit
9 with a baton, tased or having a gun
10 pulled.
11 However, our research also
12 demonstrated that police reform must
13 consider closely how other identities,
14 bodies and standpoints intersect with race
15 to produce their own particular patterns
16 of disparate police contact.
17 This includes people who identify as
18 LGBTQ, gender nonconforming or
19 transgender, people who are homeless, or
20 precariously housed, undocumented
21 immigrants, women, people with psychiatric
22 disabilities or mental health issues and
23 religious groups.
24 For example, young women of color
25 who were more than six times as likely to

2 report experiencing sexual contact from
3 police; whistles, cat calls, sexualizing
4 stares, asked for their phone number and
5 even being asked for sexual favors. Those
6 who identified as LGBTQ plus were
7 similarly far more likely to report these
8 types of police encounters.
9 This is a massive betrayal. No
10 person, zero percent, should experience
11 sexual attention or be asked for sexual
12 favors from the NYPD, and yet, just in
13 this one study alone, fifty-five young
14 people reported that they had. And in
15 every other study that I've conducted we
16 found similar results.
17 Our research demonstrated intense
18 police presence in everyday intimate
19 spaces. For many young people of color
20 they wake up and the police are in their
21 hallways and in their courtyards. They
22 walk to school and the police are in cars
23 and are standing on street corners. They
24 enter school and police or school safety
25 agents greet them with metal detectors and

2 are involved all day in school discipline.
3 After school, police presence and
4 surveillance is pervasive from the moment
5 they leave to the moment they get home.
6 Our research has also documented the
7 harmful impact of policing upon family
8 members, mothers who worry about their
9 sons, little brothers and sisters watching
10 their big brother handcuffed, grandmothers
11 answering the door to police.
12 This type of policing can sever the
13 fabric of community relationships and
14 create unwarranted insecurity in people's
15 lives. As a psychologist, I have to
16 wonder what this all means for the growth
17 and development of young people of color
18 in New York City.
19 The punitive environment that young
20 people of color must navigate represents
21 an assembly line of punishments that
22 accumulates throughout the criminal
23 justice process. Broken Windows policing
24 is a collective punishment on poor
25 communities of color.

This whole process of which police play a principle role must be understood in order to recognize its full impact. Sometimes its punishment is enacted by controlling space and restricting movement in streets, schools and homes through heavy surveillance and proactive policing tactics like being asked to move, showing ID and stop-and-frisk.

Other times this punishment comes by way of how police encounters can escalate and then deteriorate. They can escalate from a stop to a frisk to a search to finding a small amount of drugs, and they can deteriorate from getting threatened to pinned on the ground to needing medical attention or worse.

Punishments can also come by way of how one feels and lives with dignity in heavily surveilled environments. Police encounters are personally experienced and frequently witnessed by many. They are often frightening, humiliating and upsetting in the short term and unsettling

to a sense of safety in surveillance in the long term.

And sometimes the punishment, as Steve and I'm sure Jen will discuss, is the process of going through the criminal justice system while innocent. So many of the people charged with low-level offenses or misdemeanors are ultimately innocent or their case is dismissed, but they have to endure all the personal, social and economic costs of navigating the criminal justice system.

And of course, sometimes the punishment is the conviction and/or admitting of guilt. These more traditional punishments can range from paying a ticket, to getting probation, to serving jail. But they each come with that mark that closes doors, produces obstacles and makes young people cumulatively vulnerable.

The severe collateral consequences of Broken Windows policing imposed on young people in whole communities of color

cannot be understood as unintentional and unfortunate byproducts of safer neighborhoods. These broad costs are, in fact, part of the point.

This ongoing and pervasive process of police surveillance and contact with the criminal justice system for small things is, by design, a punishment, forms of punitive social control designed to discipline and contain poor communities and especially poor communities of color.

Whatever negligible impact Broken Windows policing may have on reducing crime, if any, our data suggests that the costs to communities of color, especially young people, are too great. Broken Windows policing has turned social and economic problems into criminal justice problems. It has turned neighborhoods into symbolic and actual jails where the everyday experience of just living becomes criminalized because of the assumed potential to commit crime.

It exacerbates mistrusting

police-community relationships, makes vulnerable many to police violence and harassment and diminishes other more sustainable efforts for comprehensive community safety and effective crime fighting.

The NYPD needs to abandon, completely end, the theoretically shaky, and empirically unjustified Broken Windows policing. New York City can't even begin to call itself a sanctuary city until it does.

This is a structurally entrenched issue in need of extensive and fundamental change. This is not predominantly a matter of a few bad apples in the police force or a few racist cops, though unfit officers should be fired.

It is not mainly a matter of more training or even better training through a procedural education about community engagement. The law and topics, such as race and transgender issues are necessary. It is not only a matter of community or

2 neighborhood policing. The respectful
3 community oriented police officers that
4 are incentivized to deescalate rather than
5 use of force as necessary.
6 It is not particularly about a more
7 diverse police force. Officers of color
8 also use deadly force. Though it is
9 imperative that police departments go out
10 of their way to diversify.
11 It is certainly not about a larger
12 police force. Adding more cops and more
13 of the same in communities of color, more
14 of the same heightened surveillance, more
15 of the same focus on minor offenses and
16 misdemeanor arrests, more of the same
17 increased opportunities for entries into
18 the criminal justice system.
19 We need the NYPD transparent and
20 accountable to those they serve through
21 real community representation and
22 independent oversight. I will provide
23 more detail in what I submit.
24 We need fundamentally to re-imagine
25 the role of police in neighborhoods,

2 especially in neighborhoods of color. The
3 expanding role of the NYPD should be
4 substantially reduced, shifting funding
5 priorities towards greater investment and
6 restorative resources, programs, services
7 for poor and marginalized communities.
8 I'll end with this. Our original
9 project name, Researchers for Fair
10 Policing, reflected where we were back in
11 2012. We wanted, in good faith, to think
12 through just what fair policing might look
13 like for youth of color. However, as the
14 years have unfolded, the young people, my
15 co-researchers, now see our project
16 differently. This year they voted to
17 change our name, and after discussion over
18 several weeks, we now call ourselves,
19 Researchers For Radical Alternatives to
20 Policing.
21 So I leave you with a provocative
22 set of questions that young people want
23 you to hear. In our survey we asked, what
24 would you like to tell or ask the police
25 who patrol your neighborhood? We took the

2 641 responses, systematically coded them.
3 Here are four composite questions that
4 emerge from our analysis.
5 Dear NYPD, what might our city look
6 like to have a police department with much
7 less responsibility, much less proactive
8 engagement, much less presence, a much
9 smaller budget?
10 Dear NYPD, what would policing look
11 like if you assume that most people in the
12 neighborhood are innocent?
13 What does community safety look like
14 beyond police, incarceration and larger
15 criminal justice system?
16 And finally, what would police look
17 like if the goal was to create the most
18 nurturing and developmentally healthy
19 environment for young people?
20 Thank you.
21 MS. BORCHETTA: Good morning. My
22 name is Jen Borchetta, and I'm honored to
23 testify this morning for you on behalf of
24 the Bronx Defenders.
25 We thank you for the opportunity to

2 shed light on police practices in New York
3 City from our perspective as a public
4 defender that holistically represents
5 indigent people in the Bronx.
6 The Bronx Defenders is a
7 client-centered model of public defense
8 that uses interdisciplinary teams to
9 address both the underlying causes and
10 collateral consequences of criminal
11 justice involvement.
12 We serve around 35,000 Bronx
13 residents each year who are trapped in
14 family, criminal, housing and immigration
15 proceedings.
16 Our dedicated attorneys, social
17 workers, investigators, advocates and
18 support staff work together to try to help
19 clients reach a better life, whether by
20 fighting eviction, reuniting parents with
21 their children, preventing deportation, or
22 defending the accused.
23 The Bronx is New York City's poorest
24 borough. Its congressional district is
25 the poorest in the country. In the nine

zip codes immediately surrounding our office, half of the residents live below the poverty line and half of our clients are unemployed and lack a high school diploma. 40 percent struggle with addiction, which is over three times the citywide rate. One out of four has been homeless.

We operate across multiple dimensions beyond individual cases, from community education and partnerships to affirmative litigation and legislative reform, to remedy the underlying problems that drive our clients into the criminal justice system.

At the Bronx Defenders, we bear witness to the impact of NYPD policies and practices on low-income people of color as we work with clients to break the cycle of poverty and criminalization.

We have had the opportunity to speak with people of color about their encounters with the NYPD. We have heard from young people who were stopped and

frisked while walking home, who were arrested on their way to the local bodega, or who were detained and then questioned about their friendships.

These encounters share common characteristics. NYPD officers approach abruptly and without identifying themselves. They use force without provocation. The young person is often confused and scared. And their encounter is a result of the NYPD's commitment to the Broken Windows policing tactic, which is the aggressive policing of certain people, in certain places, for low-level crimes and offenses.

Aggressive enforcement against low-level offenses requires officers to go after people in certain neighborhoods for misdemeanor arrests, criminal court summonses and violations.

The offenses are objectively minor, as people have mentioned today; turnstile jumping, being in the park after dark. They also include offenses for which

officers have a great deal of discretion, either in deciding whether the conduct constitutes a crime, such as in the case of disorderly conduct, or in deciding whether to arrest the person or to issue a civil penalty, such as in the case of subway fare evasion.

Calling these encounters low-level enforcement is misleading because of the grave effects that flow directly from them. Of course it's true that this tactic targets enforcement at low-level crimes. Necessarily though, this enforcement tactic when it is prioritized by a department as it has been in New York City, is not isolated. It is not a single incident, but hundreds or even thousands or even hundreds of thousands of police encounters.

And although misdemeanor arrests might be effected and cease summonses might be issued all over the city, the brunt of this enforcement is targeted at neighborhoods that are predominantly

low-income and predominantly people of color like the South Bronx.

We at the Bronx Defenders see so clearly how this enforcement tactic can rip through the fabric of a community, with particular pernicious burden placed on the community's young people.

We see tears as they extend into family, home, employment and the basic necessities of life. The encounter itself is experienced by many as humiliating and degrading. We often see evidence of excessive force used against our clients who are arrested for misdemeanors.

One client of mine, a person I represented prior to coming to the Bronx Defenders, had an experience that is not uncommon among those we represent.

Crossing the street one day after school, he exhibited truly teenage judgment, when an NYPD officer driving a van cursed at him and he volleyed back with his own expletive. NYPD officers jumped him and then threw him through the

glass wall of a bank on the corner. They arrested him for disorderly conduct, resisting arrest and obstruction of governmental administration. Those charges were all dismissed, but not before his terrified mother arrived on the scene to see the smashed bank wall and her son's blood on the ground.

We see too that the encounter does not end on the street where it began. A person who is arrested is held in the precinct and sometimes sent to jail. Even those who are released relatively quickly after arrest, face months and often years of court appearances while they await trial. That means time off from school or work, that means the cost of Metrocards and childcare. For our clients who are paid hourly wages, who rely on seasonal jobs, these appearances mean money and opportunity lost and sometimes lost jobs. For young people, this is a disruption at the starting line of employment.

We also know the encounter does not

end with the person the police targeted. A young person arrested as a result of aggressive low-level enforcement tactics might face exclusion from public housing and his family might even face eviction.

This is the reality for many of our clients. A young person is arrested for smoking marijuana in the hall of a New York City Housing Authority building, and as a result, his family's government housing tenancy can be terminated. It's hard to see how putting families on the street can be an answer to crime.

Or still, low-level enforcement can divide families. We receive reports of children who are traumatized after witnessing the violent arrests of their parents. And when a parent is arrested, even for a low-level offense, the NYPD has a practice that is contrary to formal policy, but a persistent practice nonetheless, of bringing children to the precinct and then turning them over to the Administration for Children Services even

when family members or neighbors who know the children are available. These kids often spend time in an overcrowded children's center.

We have seen this case play out time and again. And these encounters with the criminal justice system have immigration consequences too that people have discussed this morning. Relatively benign charges can be interpreted under federal law as a removable conduct and arrests for low-level offenses can trigger notification to federal law enforcement authorities.

Even marijuana violations can subject people to removal proceedings that can and do lead to the permanent separation of families. Because of the president's immigration policies, the NYPD's commitment to Broken Windows policing will mean more families torn apart.

When multiplied by the hundreds and thousands, these so-called low-level

enforcement tactics, sew vast and lasting damage in communities like those in the South Bronx.

The NYPD has said that it wants to build public trust, to advance this laudable goal. It says it wants to make people feel better about police encounters as though public trust is a public relations issue. At the same time, the NYPD continues to encourage and require aggressive low-level enforcement tactics. It does this, even though no honest research proves Broken Windows reduces crimes, and to the contrary, jailing people increases the likelihood of future criminal justice involvement.

The NYPD promotes this policy through a narrative that creates a Hollywood-style binary of victims and villains with officers cast as the heroes. In this fiction, certain people in certain neighborhoods are immutably criminals who must be vanquished.

This fiction brings me to three

2 recommendations that we respectfully
3 submit to the Commission today.
4 First, police departments must not
5 design tactics that classify whole swaths
6 of the community as villainous. This
7 framing is and always will be a shorthand
8 for race and class. And it will continue
9 to result in racial profiling no matter
10 how the department might dress up the
11 tactic in other names.
12 Policing strategies must begin with
13 the premise that every person on the
14 street is an important member of our
15 community with a family and fundamental
16 rights no matter if the street they are
17 walking on is in the West Village or in
18 the South Bronx.
19 Second, building on this premise,
20 police departments must create permanent
21 mechanisms for community input into
22 policing strategies with the intentional
23 inclusion of the community members most
24 affected by policing tactics. These
25 should not be loose town hall meetings,

2 but an elected or appointed group of
3 people representing a cross-section of the
4 community. This is a necessary precursor
5 to trusting the police and it
6 appropriately requires those who are
7 advancing police policy to address the
8 possible collateral consequences of their
9 policies before irrevocable damage is
10 done.
11 Third, police departments must
12 document everyday investigative encounters
13 with the public to create a complete and
14 transparent accounting of how low-level
15 enforcing plays out on the street.
16 The experiences of our clients that
17 I have shared today are not historical.
18 They represent today's reality. Based on
19 what we know from representing tens of
20 thousands of indigent people in the Bronx,
21 investigative street encounters in New
22 York City are not as decreased as the
23 documentation of stops might suggest.
24 Indeed, internal NYPD auditing suggests
25 that the decrease in stops is attributable

2 to the decrease in recording stops rather
3 than a meaningful change in activity.
4 To fully understand and address
5 low-level enforcement, police must be
6 required to document these encounters.
7 And by low-level I mean what in New York
8 is a technically legal matter, are level
9 one and two encounters, something less
10 than a stop as a technical matter.
11 And the The Police Stat Act that
12 some people have mentioned today,
13 legislation currently pending at the New
14 York State level is an example of a policy
15 that would advance this recommendation.
16 I recently attended a public forum
17 in the Bronx as part of the joint remedial
18 process in Floyd versus the City of New
19 York, the case that proved in 2013 the
20 NYPD stop-and-frisk practice was
21 unconstitutional.
22 As a lawyer for the plaintiffs in
23 Floyd, I was there to listen. An
24 African-American woman turned to me and
25 told me about her sons, two teenage boys

2 who were sitting next to her. She said
3 that she worried about them because of
4 crime, yes, but she also worried about
5 them because of police, that her sons
6 might be targeted, wrongfully arrested,
7 brutalized or even killed by the NYPD.
8 She worried when they left for school in
9 the morning and when they came home from
10 football practice at night. She brought
11 up the recent wave of nationalism that has
12 attended the rise of the American
13 president, and she said to me, I was
14 afraid for my sons before, now with this
15 election, I'm even more afraid. You're a
16 lawyer, tell me what to tell my sons that
17 will protect them, tell me.
18 This commission can issue a report
19 and recommendations that protect young
20 people of color in low-income communities
21 like the Bronx from racial profiling,
22 police brutality and the criminalization
23 of poverty. On behalf of our clients,
24 thank you.
25 MS. HAMILL: Thank you all.

We have about fifteen minutes for members' questions because we did get started late with this panel. What I'm going to do is take down some names because I want to make sure that people who didn't get asked before are covered.

Can I just see by a show of hands other members that want to ask? I know Iris had wanted to and I wasn't able to get to her last time.

MS. LOUIE: I'm Vivian Louie and I wanted to thank you so much for just your wonderful presentations, so thoughtful, both this panel and the first.

I guess I'll start off with what I've learned a little bit and then I'll have a question. So what I've learned is about how Broken Windows has been used to propel policy without, as I'm hearing, much of an empirical or theoretical base, but yet it's kind of driven policy. That's what I'm hearing.

So my question is, what would fair policing look like? You've made some

recommendations. And I'm particularly interested in Brett, although I welcome from all the panel. What would it look like, and also, what has been the impact on youth outcomes.

MR. STOUDT: When you say youth outcomes, you mean anything?

MS. LOUIE: Academics, socio-emotional, mental health.

MR. STOUDT: I can start there. In every study, and there's a brand new one that I'm conducting with the New York Chapter of the ACLU, and there we're specifically looking at some of the things brought up here, like level one, level two stops and whether you know your rights, whether you feel free to leave.

And even as recent as last year, you know, young people just consistently report traumatic, often traumatic symptoms, intrusive thoughts, removing yourself from public space or feeling very wary ontologically insecure in public space, not feeling always comfortable, one

person in a story, but represented by a fairly substantial percentage, you know, said they don't go over to see their girlfriend anymore simply because of the risk.

So growing up policed like that is awful, I think, and it's the young people of color who bear that burden. And then of course the constant -- I guess there's two other parts about that I think -- you know, one thing the last couple years has been coming up more frequently is the fear of being online; Facebook, Twitter. Not only is it in school and on the street and in housing, now they're feeling surveilled just in their own private technological space which we know to be true. So that level of constant, you know, insecurity is just not good developmentally. So that's the impact, which has been consistent.

I should also say that while we're in our preliminary findings, we're in South Bronx, East Harlem and Brownsville, and the far majority of people when we

asked to think about last year and give a grade, the far majority gave a D or F. So even with neighborhood policing or whatever is, you know, happening, it doesn't seem to be affecting the feelings.

In terms of fair policing, you know, for me -- I will speak on behalf of the conversations that I'm having with young people, we've changed. And it doesn't feel like fair policing is possible without fundamental change at this point. And that fundamental change includes just a re-imagining of what the punitive criminal justice system looks like, a re-imagining of the role of policing in neighborhoods, from, you know, sort of flooding constant surveillance -- but also, the criminal justice system and policing, their tentacles keep expanding. So the police are in schools, the police are in housing, the police are part of Child Services.

We're turning, you know -- fair policing or a start at fair policing would

be a much more diminished role and a sort of re-investment in the other things that cause community safety; better schools, more jobs and so forth.

I'll just end with this. When we think about public safety, we give the police too much credit for reducing crime. So I think it's the wrong -- fair policing we now think might be the wrong question. It's really about a more expansive understanding of where community safety comes from.

MS. HAMILL: Wish to address either one of those questions, what does fair policing look like as well as the impact on youth?

MR. ZEIDMAN: Fair policing, let me just pick up on Brett's idea about thinking grand thoughts, and so let me kind of start with something that may seem a little bit too unattainable. But I'm always struck by when I've gone to community meetings with the police this idea that we exist to protect and serve,

which obviously makes sense, except we exist to protect and serve you. Your tax dollars pay for me, yet I'm going to dictate how I police you, which is a strange way of thinking about it. It's almost as if, you work for me, that's true, but I'm going to tell you how I'm going to do things in your neighborhood as opposed to thinking what is very serious community engagement, what is the role of the community as opposed to tinkering with things like training or cameras and the like, that's all well and good, but there's a larger fundamental problem.

Speaking of fundamental problems, I think fair policing, we would finally do away with this outgrowth of Broken Windows, this notion of maintaining order, which is a troubling term, but that's if you want a nicer, more subtle way of referring to Broken Windows, you'll hear about the police exist to maintain order. And why, and what does that mean? And then suddenly we had this proliferation of

massive arrests for minor crimes because they decide what is appropriate order. So I would kind of approach fair policing at that level, much greater community involvement.

And the third piece that I don't think that we've really figured out yet and I do understand how hard it is, is how do we evaluate the performance of a police officer? What is a good police officer? That gets back into the issue that was raised earlier about quotas. How do I determine if someone is doing their job while you've made fifty arrests and this person's made ten? Who's the better police officer? Can we have much more thoughtful nuanced ways to evaluate individual police behavior?

MS. BORCHETTA: I can offer a very brief addition to that, which is that I think it's a lot easier to think about what fair policing would look like if we just simply say, what does policing now look like for white people? Because white

children in predominantly white schools don't go to jail when they act out. White people in Central Park with wine don't go to jail. So I think policing, if it looked a lot more like what it looks like for white people today in predominantly low-income, predominantly black communities, it would be a lot fairer.

MS. HAMILL: Johnny?

MR. PEREZ: Professor Stoudt, I'm curious, the statistics are very disturbing. My question is, do you have or have you found, I guess any data around actual reporting of some of these instances? You mentioned sexual harassment by police officers on some of the youth. I'd be curious to how much of that was actually reported by the youth and how much of it was not. And if so, either way, do we know why it was or wasn't reported.

MR. STOUDT: Well, in this most recent survey we began asking, and so I don't have the full findings yet, but we

2 started asking about have you reported
3 things, have you needed to report
4 something, have you felt comfortable
5 reporting something, do you know what the
6 CCRB is?
7 Largely right now what we're finding
8 is either people don't really understand
9 the CCRB or they don't trust that it's
10 independent enough or that it's really
11 going to work on their behalf.
12 I can say that of the five
13 individuals, not the fifty-five that were
14 part of the survey that were anonymous and
15 I don't know who they are, but five
16 individuals that I know who have
17 experienced these incidents, none of them
18 have felt comfortable, you know, reporting
19 it to someone.
20 I think that's, in terms of fair
21 policing, I think, you know,
22 accountability and independent oversight
23 and having places that one could go is
24 really important. I also think it's
25 important to note, again not only in this

2 study that I spoke about, but others,
3 including this most recent one with NYCLU,
4 people don't feel comfortable. They don't
5 know what level stop they're at. They
6 generally don't know their rights. If
7 they do know their rights, they don't feel
8 like they can exert those rights.
9 And you know, I think there's a
10 difference in power so large, that knowing
11 which avenues to kind of seek, who to seek
12 help from is difficult.
13 MS. HAMILL: Thank you.
14 Kevin, I believe you had a question.
15 MR. THOMAS: Once again, thank you
16 for your service to New York. I have a
17 question.
18 In 2013, we saw police
19 accountability in the courtroom and in the
20 legislature with the creation of the
21 Office of the Inspector General and in
22 combination with the court decision in
23 Floyd.
24 Are you saying that you haven't seen
25 any changes in the way the police interact

2 with the community.
3 MS. BORCHETTA: First, there's two
4 categories of where you might see changes,
5 in the police policies and then what's
6 happening in practice on the street.
7 In terms of policies, as part of the
8 Floyd case, obviously there's tremendous
9 effort to change what is written on paper,
10 to change trainings, all of that. So
11 there's certainly changes being made in
12 that category.
13 In terms of what's happening on the
14 street, what we hear from clients is their
15 experience has not changed. And we do
16 know, even as part of the Floyd case, that
17 one enormous piece of the reforms will
18 have to be how do you ensure that if, in
19 practice, we really are opposed to racial
20 profiling, how do we make sure in practice
21 there is no racial profiling? As someone
22 said earlier today, there's a lot more
23 training when you are on patrol than there
24 ever could be in a classroom.
25 So that's something that is still

2 ongoing within the Floyd case itself. And
3 it's something that, again, in speaking to
4 clients and speaking with a whole lot of
5 people from the public who are targeted by
6 stop-and-frisk, they report that they do
7 not experience a difference.
8 MR. ZEIDMAN: If I could add as
9 well. It's a well-intentioned idea and
10 hopefully full of promise, but just
11 recognize this: We have about 40,000
12 police officers. And if we had a random
13 sample of fifty of them and asked them how
14 many times have you been called to testify
15 about what you did on the street, why did
16 you stop this person, what did you do,
17 they would tell you, I've never testified
18 in courtroom.
19 So we look at it through this macro
20 lens, but there are these police officers
21 out on the street who, it's opaque, they
22 operate and they know it, with impunity.
23 Whether you're good or bad, you never get
24 called to swear in public, subject to
25 cross-examination, about what you did and

2 why you did it.
3 Unless and until that changes and
4 that becomes more transparent, I don't
5 know that we're going to see any effective
6 change.
7 MR. STOUDT: Also, I'd just like to
8 add, you know, I think there's some things
9 -- this level one, level two, level three
10 police encounter needs to be looked at
11 because I have no doubt that potentially
12 stop-and-frisks as reported by the NYPD
13 are down to some extent. I'm very
14 skeptical as to whether it's down to the
15 extent that we see for the reasons being
16 that only level three stops get recorded.
17 And so level two, level one, they're not
18 recorded. And also, you know, I showed
19 some of the results of the young people
20 who were searched, 82 percent were
21 nonconsensual. So if I ask you, you know,
22 can I search you and you implicitly say
23 yes or you say yes, you don't know your
24 rights or whatever, that's also not
25 recorded.

2 So there's a lot of IDs, being asked
3 to move, there's a lot of police
4 encounters that feel uncomfortable but
5 might not be officially needing to be
6 recorded by the NYPD.
7 MS. BORCHETTA: And if I can add
8 just briefly something to what Brett just
9 said.
10 This is an area that I think
11 policies are particularly helpful because
12 our courts have bungled it a bit, with all
13 due respect to the courts, in trying, as
14 courts often do, to make things easier for
15 officers to have some guidance. The
16 courts in New York have articulated these
17 categories of stops that we're talking
18 about.
19 People don't experience categories
20 the way the courts currently apply those
21 categories, and people experience as
22 intrusive what courts might not,
23 appropriately under court precedent, deem
24 invasive.
25 So this is an area in particular

2 where the courts might not be so helpful
3 because of the way the law has developed,
4 but where policy can say it's affecting
5 people in a certain way, we need to
6 address it in that way, regardless of how
7 the courts characterize it.
8 MS. HAMILL: Thank you. Do we have
9 any other questions?
10 MR. COSME: Professor Stoudt, I find
11 the information from your study incredibly
12 useful to the work that we're doing in
13 terms of its impact on youth.
14 Just a point of clarification for me
15 because I may have missed it at the
16 beginning of your introduction. At what
17 stage are you in your study, when do you
18 have the final results from your study,
19 and to what extent is your study supported
20 by public funding, let's say.
21 MR. STOUDT: In all of the different
22 six or seven studies we're basically,
23 except for the new one with NYCLU, we're
24 done. We have various forms of
25 publications. This one, you know, I do

2 research and collaboration with community
3 members and so writing things up
4 collaboratively and analyzing
5 collaboratively takes some time. So we
6 have a 200-page report on this. And these
7 are accurate, but going through all the
8 revisions with young people takes some
9 time.
10 But I'm happy to share any of these.
11 I have also a study on unnecessary arrests
12 that relate to the State-level bill. That
13 was your question, what stage?
14 MR. COSME: And how are you funded.
15 MR. STOUDT: This type of work is
16 not easily funded. I think this,
17 Researchers for Fair Policing, got $10,000
18 from a private group. It's a lot of sweat
19 equity. So we need more funding.
20 MS. HAMILL: I'm going to ask the
21 final question.
22 Professor Zeidman, we all hear about
23 the overburdened courts and judges, and I
24 know you were talking about how the court
25 should really be held accountable.

Do you have any specific recommendations for how to hold the court accountable, be that judges or court administration?

MR. ZEIDMAN: It's not that long ago that there were mandatory hearings. There were preliminary hearings in every case, misdemeanor and felony. They were just sacrificed on the altar of efficiency. That was just a determination that we didn't need police officers to come and testify about what they did and why they did.

And having started my career in that era, it was very, very different. First of all, it was a smaller police department. But it was an opportunity for the person who was arrested to at least have a, if they wanted to speak, if they wanted to say something, so we did it. And the court system is so malleable, this idea that it's overburdened.

Let me give you a very specific example. One of the issues that's going

on in New York City right now, people are focused on the fact that nothing goes to trial. So we've heard about 315,000 arrests. In Queens Criminal Court last year do you know how many jury trials there were? Ten, ten, all of ten.

So what you hear from the City is the response, we need more judges, we need more courtrooms. Well, thirty years ago there were 150,000 fewer cases and there were still no trials. It's much more about what the court expects, why is this court here, what is it supposed to do? And if judges, we're talking about how we evaluate police, if we evaluated judges, not on how many pleas they get and how quickly they resolve cases, which we know court administration is very concerned about, but how many hearings and trials did you hold? I think things would change accordingly.

MS. HAMILL: Thank you very much. Alex you have the last question. I know we're running a little bit late.

MR. VITALE: Professor Stoudt, in your last slide, you had questions directed to the NYPD, but it seemed to me those are really questions that should be directed to the mayor and/or City Council.

And this leads to my question about has your research uncovered other specific recommendations for improving community safety that involves shifting the focus from something the police do to something that some other part of City government should be doing.

MR. STOUDT: That's a complicated -- that's great question. I guess I'll say that one of my co-researchers, Darian, will be here tomorrow and I believe he will be talking about that. But I have to admit nothing fully comes to my head right now, but I will continue to think about it.

Thank you.

MS. HAMILL: And on that end, we're going to end with this panel. Thank you so much for your excellent presentations

and participation. We really appreciate it. We're going to take a five-minute break and we'll resume at 12 o'clock with panel three on school policing. Thank you.

Panel 3:

MS. HAMILL: Good afternoon, everyone. We're going to call the briefing back to order.

We're now commencing with our third panel on school policing practices and accountability. Thank you so much for being here with us.

Let me call initially on Nancy Ginsburg.

MS. GINSBURG: Good morning, everyone. Thank you for having me here today. The Legal Aid Society is the nation's oldest and largest not-for-profit legal services organization. The Society's criminal practice is the primary public defender in the City of New York. During last year, our criminal practice represented over 230,000 indigent New

Yorkers accused of unlawful or criminal conduct on trial, appellate, and post-conviction matters.

We represent thousands of school-aged youth each year in criminal and supreme courts in all five boroughs of New York City. These young people enter the court system after an arrest or a summons. If arrested, the student is held in police custody, transferred to central booking and is usually arraigned by a judge twenty-four hours after being placed in custody. A summons requires a student sixteen years of age or older to appear in criminal court to respond to a criminal charge.

Students, many of whom are compulsory school-age under New York State law, are required to miss a day of school to attend a court proceeding for behavior that occurred in school.

The court proceeding is overseen by a judge who knows nothing about the student or the school he or she attends.

And whatever punishment is meted out, if any, as many of these summonses are dismissed, is completely disconnected from the school setting.

Because New York is still one of two states in this country that prosecutes all sixteen and seventeen-year-olds as adults, these students face adult criminal sanctions, permanent convictions with all the collateral consequences, deportation, eviction, monetary fines and surcharges, negative impact on financial aid and work opportunities.

We represent a large number of adolescents who are arrested for theft of service, or failure to pay subway fare. Many of these arrests occur after school. In fact, if you go to any subway stop that is frequented by local high school students after school lets out, you will see a disproportionate number of police officers.

I have been told by principals that they expend tremendous effort to ensure

that students in their schools have photo school identification and, sometimes, actual letters verifying that they are current students to help mitigate any contact with the police at the subway stations. Students who look older than high school age are at particular risk of being stopped and questioned.

Last calendar year, the Legal Aid Society represented approximately 1200 adolescents, aged sixteen and seventeen, who were arrested for failure to pay subway or bus fare. Of the 1200, 39 percent were sixteen and 61 percent were seventeen years old. 53 percent of those cases were dismissed at arraignments or shortly thereafter. An additional 13 percent are currently pending dismissal. In short, of the 1200 sixteen and seventeen-year-olds who were arrested for fare beating in New York City in the last calendar year, two-thirds of those cases were dismissed. That means we took two-thirds of 1200 and we brought them

into court, they missed days of school, some of them were held for twenty-four hours and then their cases were dismissed.

Sixteen and seventeen-year-old adolescents should not be criminally charged for failure to pay subway or bus fare. They are required to attend school and cannot hold anything more than a part-time job. Subway fare is expensive in New York City, as of today, even more expensive. The Department of Education has moved away from the neighborhood high school model and many students have to travel long distances, some hours, to and from school, requiring the use of public transportation.

Approximately 72 percent of New York City's public school students receive free or reduced price lunch. Simply, New York City considers students' economic status for eligibility for lunch, but not for eligibility for arrest. Teenagers, students, really any student, should not be arrested or issued a summons for

2 failing to pay subway fare.
3 This exposure to law enforcement is
4 representative of what many of New York
5 City's students face in their communities
6 on a regular basis. Approximately
7 three-quarters of our school children are
8 classified as living in poverty and
9 two-thirds are African-American or
10 Hispanic.
11 It is well documented that the vast
12 majority of police interactions in New
13 York City are in our poorest neighborhoods
14 and affect communities of color the most.
15 This pattern continues in our schools as
16 well, as black and brown students bear
17 disproportionate exposure to a referral to
18 the court system.
19 The NYPD continues to stop a
20 disproportionate number of youth of color.
21 Black and Latino youth from underserved
22 communities all throughout New York City
23 are aggressively stopped, frisked and then
24 questioned by police officers. The fact
25 that these stop-and-frisk encounters are

2 not reported does not mean that they do
3 not systematically occur, or that the
4 Floyd litigation actually ended this
5 tactic.
6 On the contrary, clients and
7 community members at large from
8 predominantly minority communities such as
9 East New York, Far Rockaway, Harlem, South
10 Bronx, and Stapleton inform us that the
11 NYPD continues to engage in
12 stop-and-frisk.
13 Some of the stories we have heard
14 particular to youth include, police
15 officers throwing black and Latino youth
16 against walls and cars, demanding to know
17 information about guns in their
18 neighborhood, and in some instances,
19 destroying their identification cards so
20 that another police officer just blocks
21 away can conduct the same search only this
22 time with a basis to make arrest, because
23 they no longer have identification.
24 Our clients also tell us that
25 marijuana enforcement, which the police

2 department claims to have decriminalized,
3 remains focused on black and Latino youth
4 giving officers another pretext to engage
5 in unlawful stops and frisks.
6 Through our work in our Community
7 Justice Unit, we were able to join our
8 community partners in sessions with the
9 Floyd Joint Remedial Process where the
10 facilitator, retired Judge Ariel Belen,
11 met with youth and young adults in
12 neighborhoods throughout the city. In
13 every single session, black and Latino
14 youth expressed their frustration with the
15 NYPD's racially disparate practice of
16 stopping and frisking them. Black and
17 Latino youth repeatedly expressed feeling
18 dehumanized, abused, and afraid of the
19 very same people who took an oath to
20 protect and serve them.
21 Black and Latino youth who
22 identified as LGBTQ were especially
23 fearful for their safety because many of
24 them had been particularly targeted.
25 There are other, more organized

2 methods of police intervention in the
3 lives of young people. The New York
4 Police Department has created a
5 specialized unit in 2007 known as the
6 Juvenile Robbery Intervention Program or
7 JRIP. It was expanded in 2009 and again
8 in 2015 to reach teenagers throughout the
9 city. The program assigns detectives to
10 adolescents, aged fourteen to twenty-one,
11 who are suspected of or have been charged
12 with committing a robbery. These
13 adolescents are tracked by these units
14 until they turn twenty-one years of age.
15 The program claims to be able to
16 connect teens to services, but our
17 experience indicates that outside of the
18 most basic services provided in the
19 community, not much has been offered.
20 Instead, the program serves as a
21 surveillance unit with no exit for youth.
22 In fact, despite an internal NYPD audit of
23 the program demonstrating a lack of
24 impact, the program has been continued and
25 expanded.

We believe that assigning police officers to serve as quote/unquote social workers is not an appropriate service delivery system. Additionally, police officers are not trained to detect and address mental illness, family fracture, substance abuse and special education needs, just to name some of the most significant issues with which court-involved youth often present.

If funding is to be allocated to support youth in underserved neighborhoods, those dollars should support therapeutic services, supportive housing, after-school programming and special education services, among others.

We would also suggest that adolescents who are identified by NYPD's Operation Crew Cut, particularly the very youngest, as involved in illegal street activity be referred for services. Police officers are now tracking the social media activity of teenagers and some children who are quite young, ten or eleven years

old, possibly younger. Often, these young children and older adolescents affiliate with neighborhood crews in the belief, sometimes accurately, that these groups will protect them from other negative forces in their neighborhood.

Some affiliate for purely social reasons. Not all are gang members in the traditional sense and some of them need supports. For those who need supports as outlined above, referrals to appropriate service providers should be made to support these identified youth, many of whom are truly at risk. Serious caution should be taken to limit the labeling of children and adolescents as gang members simply on the basis of their social media contacts.

I would like to share an example of actual reform in New York City, in the schools. It is a process that started over ten years ago. It was an outgrowth of a grassroots movement of community-based organizations, legal

advocacy groups, many of whom you are going to hear from today. It garnered the attention of a small number of City Council persons, eventually winning the support of the entire City Council and the mayor when the Student Safety Act was signed into law. Mayor Bloomberg I might add.

We have now had the benefit of the transparency that the Act permits for approximately six years, requiring public reporting of the number of school suspensions, arrests and summonses by school safety officers. Last year, the Act was amended to include the number of summonses and arrests of students by precinct and uniformed task officers.

The School Safety Division of the New York Police Department has reduced the arrest and summons rate of students by almost 65 percent since 2011. It is an accomplishment that demonstrates that true reform can occur where there is political will. A remarkable amount of effort and

resources has contributed towards this transformation. NYPD, the School Safety Division, has committed to training the school safety agents in collaborative problem solving, a method developed at Massachusetts General Hospital grounded in improving communication skills and reducing conflict.

Other training in adolescent development, conflict de-escalation and alternatives to punitive response has been implemented. Both the incidence of law enforcement response and the crime rate decreased.

Six years ago, an alarming number of students were being prosecuted throughout the city in adult courts for felony assaults against school safety agents, incidents that began as minor conflicts that were often escalated unnecessarily by the agents. Today, the number of such cases is almost nonexistent.

There is still work left to be done. The effort to keep schools safe while

maintaining a supportive process, but it is well underway and a robust demonstration that where there is political will, change can occur.

Reform is often supported by transparency in government, and we are hopeful that now that we and the broader public have access to the numbers of arrests and summonses issued by precinct officers and uniformed task force officers in our schools, that we will see a similar reduction in those incidents.

Currently, it is these very officers that are responsible for the vast majority of the arrests and summonses of New York City's public school students. It is critical that the precinct and the uniformed task force officers who are assigned to schools receive the same training and oversight as the school safety agents. Students should not face a criminal response for normative adolescent behavior which forms the basis of most arrests made and summonses issued by

precinct and the uniformed task force officers in schools.

Additionally, the schools and the police department are functioning under an MOU that is almost twenty years old. Work is underway to update the memorandum of understanding, in order to clearly delineate the respective roles of law enforcement and educational staff. Over the years, we have seen an overuse of school safety agents to carry out traditional roles of teachers and administrators.

A clear understanding of the roles is necessary in order to properly train staff and avoid confusion among the adults in a school building as to which staff members are responsible for the functions that affect students. The Mayor's Leadership Team on School Climate and Discipline made such a recommendation last year in its report. It is imperative that an updated MOU is adopted as soon as possible.

The Legal Aid Society joins in the analysis of our colleague organizations of the recent School Safety Act reporting as well as their recommendations which address the other issues of students in schools.

Thank you very much.

MS. HAMILL: Thank you, Ms. Ginsburg.

Ms. Miller.

MS. MILLER: Good afternoon. My name is Johanna Miller. I am the advocacy director at the New York Civil Liberties Union. We are the State affiliate of the ACLU with more than 200,000 members and eight offices across New York State.

As Nancy said, New York City happens to have some of the best data on school policing. And so I'm going to use New York City examples, but we do work, the NYCLU works in all the major population centers around New York State and can tell you, anecdotally, although there is not as robust data collection, that these

problems are repeated across the state. It is not unique to New York City.

Thank you so much for the opportunity to testify today on police and schools. This subject is deeply important in any investigation of accountability and oversight of police departments and police functions as school police tend to exist in this strange gray area, particularly where it comes to accountability and training, in between the school district and the police department. And it often means that it's nearly impossible to achieve either systemic reform or individual accountability for complaints or misconduct of the officers.

As you probably know, it was our then-Mayor Giuliani who imported the NYPD into our public schools in New York City. And that program was greatly expanded by Mayor Bloomberg. This is a direct reflection of those two mayors' commitment to Broken Windows tactics.

Broken Windows has now been largely

2 discredited. Stop-and-frisk being
3 probably the most predominant example of a
4 failed Broken Windows tactic that served
5 only to introduce hundreds of thousands
6 black and Latino New Yorkers into the
7 criminal justice system with very little
8 measurable gains in safety. This is
9 exactly true in the schools as well. The
10 vast majority of police activity in
11 schools concerns noncriminal disorderly
12 conduct, decriminalized possession of
13 marijuana, low-level possession and
14 fighting, school fights.
15 Those three things, the number of
16 police in school arrests for things like
17 weapons possession is less than 10
18 percent. I think it was 6 percent last
19 year.
20 So it's tiny amount of interventions
21 that actually a bearing on immediate
22 health and safety of students and lots and
23 lots of interventions that have a huge
24 bearing on the success that students can
25 have, that pull them out of school,

2 subject them to police tactics and create
3 a criminal record for them, some of them
4 as young as seven years old.
5 There is no direct oversight of this
6 police force by the education system in
7 New York City. So the Department of
8 Education will neither receive a complaint
9 about a school safety agent nor act on it.
10 Nor do they maintain any data about the
11 activities of police in schools.
12 Currently, New York City has the
13 fifth largest police force in the nation
14 just for our schools. The number of
15 school safety officers in New York City
16 schools is larger than the entire police
17 forces of all but five cities in the
18 country. We have more police officers in
19 our schools than they do in the entire
20 city of Las Vegas, Washington, D.C.,
21 Miami, and these are enormous cities. So
22 the amount of resources that are being
23 spent to police disorderly conduct,
24 low-level marijuana and fighting is really
25 unbelievable.

2 And while those police work
3 full-time in schools, there's 5200 of
4 them, work full-time in the school system,
5 the Department of Education has no
6 oversight, they cannot take or act on
7 complaints against officers and they
8 maintain no records of the officers'
9 activities in schools, no data whatsoever.
10 So the data that Nancy mentioned,
11 which has been invaluable to us, is
12 maintained solely by the New York Police
13 Department. And that's a problem for one
14 major reason which is that the Police
15 Department is not an educator. And so
16 they're not collecting the type of data
17 that we need to really understand the
18 impact on the school environment.
19 Some of the big, big things that are
20 missing from their data is, in fact,
21 whether or not the person arrested in the
22 school was a student of the school. That
23 is not something an arrest report
24 typically captures, and of course, the
25 NYPD has not seen in its wisdom to create

2 a special form for arrests specifically of
3 students. We can't monitor what grade
4 level the students are in who are being
5 arrested which creates a huge gap in our
6 understanding of how students who are
7 overage and under-credited are
8 specifically impacted by the system.
9 And probably most glaringly, there's
10 no record whatsoever of whether a student
11 who was arrested in school has a
12 disability. Students with disabilities
13 are protected by several bodies of federal
14 law. There's procedural protections to
15 make sure they aren't being pushed out of
16 their classrooms, they're being evaluated.
17 And most importantly, that they're not
18 being subjected to restraints and
19 seclusion which can be extremely dangerous
20 for students with certain disabilities.
21 None of those protections apply
22 against police in schools. In fact, the
23 NYPD has said repeatedly that it's
24 irrelevant to them whether a student has a
25 disability or not because that's not their

job.

So we actually have no idea what the impact is of the 5,000 police officers in New York City public schools on students with disabilities. And this is almost the exact same in every other school jurisdiction in New York State. Most schools are working with their local police department to bring police into the school to do this function. They're not specialized school security guards or educators who also play a security function. This gap exists almost everywhere we look.

As you probably know, and as Nancy said, black and Latino students are vastly overrepresented in this system. They are more likely to be the subject of force in New York City public schools, they are more likely to be handcuffed and they're more likely to be handcuffed, in fact, I think in about 99 percent of cases students who are handcuffed in a what's called a child in crisis situation, which

indicates that a child is having an emotional crisis, needs mental health support.

Nearly 99 percent of the students who were actually handcuffed in that situation were black and Latino, meaning that when white students go into emotional distress, they're far less likely to be met with a police response. And even if the police do respond, they're not being restrained. And a black or Latino almost overwhelming is being restrained in that situation. That is deeply, deeply troubling. It really reveals a problem in the way that the police department views students based solely on their skin color.

A note about the data issue. Data is really hard to come by in this area. And one of the tools that people around the country have relied on -- we are very fortunate in New York City to have this very robust local law that requires reporting. But across the country, we really rely on the U.S. Department of

Education Office for Civil Rights. They have a program called the Civil Rights Data Collection. They send a survey out to schools. I think at this point it's like 7,000 school district. Complete that survey and send it in. There is an incredible wealth of data available online for free, easily accessible, charts and lovely things for people who don't do math like lawyers, like myself, to just be able to see these statistics. And that has been an incredible tool that was expanded greatly under the Obama administration.

There's deep and I think justified concern among advocates now that we will lose that tool under the current U.S. DOE. And so it's really important that we find a way to preserve and protect that. I know that people have been encouraged to download their local data and save it, but in two years when the next data is supposed to go up, there's a big question mark for us about whether we will even have access to that information. And in

most jurisdictions outside of New York City, that's the only data there is.

I can talk a little bit about oversight. The NYCLU is not a direct service organization, but we do represent students occasionally in different complaints and issues with the School Safety Division. We brought a lawsuit against the City of New York that was settled two years ago, called BH versus the City of New York. That was a punitive class action on behalf of students who had been subjected to force or unlawful arrests for misbehaving in school. And we also have represented students in complaints against individual officers.

Because School Safety Division officers are not subject to oversight by the Civilian Complaint Review Board and they're not subject to oversight by the Department of Education, the only way to file a complaint about the conduct of an officer is by reaching out to the NYPD's Internal Affairs Bureau which is run by

2 police officers, it's internal. I mean
3 the entire reason for the creation of the
4 CCRB was a recognition that the IAB may
5 not be an adequate or comfortable place to
6 bring a complaint about a police officer
7 to another police officer.
8 But that is what you have when it
9 comes to school safety officers, for this
10 5,000-person force, you can only bring a
11 complaint to the IAB. And in our
12 experience, the IAB is extremely hostile,
13 particularly to young people. We have
14 represented students in complaints to the
15 IAB where investigators showed up at their
16 homes unannounced, demanding that they
17 answer questions.
18 I mean, these are not people that
19 are being charged with any crime, these
20 are people who are bringing a complaint.
21 To have officers show up like that and not
22 to contact their attorneys was really
23 shocking and really hostile and very
24 intimidating for these young people.
25 So we would like to see an

2 alternative path for someone to bring a
3 complaint about a school safety officer.
4 And we would like for the Department of
5 Education to have some accountability for
6 the conduct of officers as well and some
7 mechanism for educators to be involved in
8 that oversight.
9 So I'll talk a little bit about our
10 recommendations. We have basically five
11 that I want to share with you today.
12 The first one is to prohibit police
13 intervention in incidences of student
14 misbehavior. In other words, we have
15 learned -- the City has essentially
16 abandoned stop-and-frisk as a tactic,
17 starting to move away from this use of
18 Broken Windows, although it still exists
19 in a big way. We need to learn that
20 lesson in the schools, and we need to
21 learn it a little faster.
22 The school is a special environment.
23 It's a place where kids are supposed to be
24 able to mess up. We're supposed to be
25 able to catch them in school. It's also a

2 place where there are alternative
3 structures to correct misbehavior. You
4 don't have to use the criminal justice
5 system because the school has a lot of
6 tools in the toolbox for correcting
7 misbehavior.
8 So there should be a prohibition on
9 police getting involved in student
10 misbehavior. That needs to be very clear,
11 as Nancy said, in a memorandum of
12 understanding between the agencies that
13 delineates in a transparent way that
14 students and parents and teachers can rely
15 on, that you won't be arrested for running
16 in the hallway, as one of our clients was,
17 writing on a desk, as several of our
18 clients have been. You know, all these
19 small, dress code, insubordination
20 violations that police should never be
21 involved in.
22 The second one is to prohibit the
23 use of handcuffs or other restraints
24 unless there is a threat to physical
25 safety, an immediate threat to physical

2 safety. The police department caught a
3 lot of flack about ten years ago when they
4 handcuffed a five-year-old for having a
5 tantrum. You may remember that case. The
6 student's name was Dennis Rivera. He
7 worked with the NYCLU after that case and
8 we brought a lot of attention to what
9 happened. And the police department's
10 response was they introduced a special
11 kind of handcuffs for younger kids.
12 They're Velcro, soft handcuffs.
13 That's true. That real fact.
14 That's the world we're living in. They
15 have Velcro handcuffs. And even now in
16 the data, they delineate, was the student
17 handcuffed with metal, plastic or Velcro
18 handcuffs. So that's they're kinder,
19 gentler approach to elementary school
20 students. We think there should be a flat
21 prohibition on handcuffing of students at
22 all unless there is an immediate risk to
23 physical safety.
24 The police department claims that
25 they have to handcuff anyone when they're

1 under arrest. But, in fact, they're only
2 handcuffing in about 91 percent of cases.
3 So there's some exceptions there. They're
4 clearly using them already. So we should
5 be creating a rule to eliminate that even
6 further.
7 The third thing is to eliminate the
8 use of criminal summons in school. Nancy
9 touched on this. A criminal summons is
10 both too harsh and too lenient when it
11 comes to punishing a student in school for
12 misbehavior. It's too harsh because it's
13 a criminal penalty. They have to go to
14 court, they have to spend a day there, pay
15 fines and fees. If they miss their court
16 date they will have a warrant issued for
17 their arrest, and that could be as young
18 as sixteen years old. And it's too
19 lenient because it doesn't happen until
20 two months, maybe longer, after the thing
21 happened. I mean it's weeks before you go
22 to summons court. You miss the
23 opportunity completely to use this as a
24 deterrent for the student or an immediate

1 response to misbehavior by having that
2 huge window.
3 Psychologists who study things like
4 punishment and deterrent will say, the
5 longer you wait, the less effective it is.
6 So a summons is a completely useless tool
7 in schools.
8 New York City has made big strides
9 to eliminating summonses. They have not
10 eliminated them, but they have replaced
11 them with a warning system in some
12 schools. We would like to see that
13 expanded and actually completely take the
14 place of the criminal summons.
15 The fourth one is to adopt robust
16 transparency requirements. I mentioned
17 this. Protecting that federal database of
18 school data is really important, but also
19 localities, including school districts,
20 should be responsible for maintaining
21 accurate data on police activities in
22 schools.
23 And then the fifth is to ensure
24 effective accountability and oversight.

1 Too often, school police are poorly and
2 inadequately trained and supervised by
3 both entities that they are putatively
4 working for. And there's no clear
5 mechanism to get any accountability for
6 individual misconduct.
7 And so creating a system that is
8 transparent, that's friendly for students
9 and parents to access and ideally that has
10 some connection to the Department of
11 Education so that the schools could say,
12 you know, this officer shouldn't be in
13 schools anymore, that an educator can make
14 that determination or at least have some
15 say in it is really essential.
16 So creating that accountability
17 mechanism could we think really help to
18 reduce some of the complaints of excessive
19 use of force and officers arresting
20 students for the most minor things,
21 including over the objection of
22 principals, which we have had clients that
23 that's happened to and the principal said,
24 don't arrest this kid and the cop said, I

1 don't work for you.
2 And that is true, they don't work
3 for them. That continues to be a problem.
4 I just want to mention, in New York City,
5 the 5,000 officers do not carry guns.
6 We're very fortunate in that sense.
7 That's not the case in most places across
8 the state and across the country.
9 In Syracuse, we recently settled a
10 lawsuit with the City of Syracuse for
11 inappropriate use of tasers on students in
12 schools. So I'd be happy to follow up or
13 answer any questions about that as well,
14 and about the issue of school safety
15 officers being armed in other
16 jurisdictions.
17 Thank you so much for your time.
18 MS. SINGH: My name is Rohini Singh
19 and I'm a staff attorney in the School
20 Justice Project at Advocates for Children.
21 AFC provides a range of direct
22 services including free individual case
23 advocacy, such as assisting students who
24 are excluded from school through

suspension, arrest, summons, or inappropriate referral to the emergency room due to unaddressed or unsupported behavioral and mental health needs. AFC also works on institutional reform of education policies and practices through advocacy and litigation and advocates for positive, restorative, and trauma-informed alternatives to exclusionary, punitive discipline.

So we submitted detailed written testimony to the committee and I just want to take this opportunity to highlight our main points today.

The overreliance on police to address disciplinary matters in schools throughout the country has resulted in a disproportionate number of students of color and students with disabilities being pushed out of school. The use of harsh, punitive, and exclusionary discipline, including law enforcement, creates the potential for significant, negative educational and long-term outcomes. Our

written testimony, as well as the testimony of the other panelists here today, details that harm caused by over-policing of students in schools. New York City is not immune to this issue.

As a result of the amendments, the New York City Student Safety Act which Johanna and Nancy spoke of before, beginning in 2016, the NYPD has been required to report more robust information related to arrests, summonses, and handcuffing of students in school. The data in our experiences reflect the disturbing national trend that students of color, particularly black students, are disproportionately policed in school. The racial disparities are particularly troubling because they have not changed despite New York City's promising downward trend in school crime and the number of students arrested and issued summonses in school over the last five years.

In the 2016 calendar year for arrests, 97 percent of the 1,263 arrests

in school were made to students of color. 62 percent of the arrests were made to black students even though black students comprised only 27.1 percent of students enrolled. Only 3 percent of the arrests were made to white students even though white students comprised 14.8 percent of students enrolled.

For summonses, 97 percent of the 907 summonses issued in school were issued to students of color. 56 percent of the summonses were issued to black students and only 3 percent of the summonses were issued to white students.

For juvenile reports, 95 percent of the 923 juvenile reports issued to students in school were issued to students of color. 52 of those reports were issued to black students and only 5 percent of the juvenile reports were issued to white students.

Black and Latino/Hispanic students were substantially more likely than white students to be handcuffed when receiving

juvenile reports. 101 out of 484 black students issued juvenile reports were restrained. Sixty-six out of 360 Latino/Hispanic students issued juvenile reports were restrained and only five out of forty-six white students issued juvenile reports were restrained.

Black and Latino/Hispanic students were both more likely than white students to be handcuffed during mitigation interventions by law enforcement. Mitigation means that NYPD officers handcuffed students, but did not arrest, issue a summons, issue a juvenile report, or remove the students to a hospital for psychiatric evaluation.

As Johanna mentioned earlier, for a child in crisis interventions, which is defined as students who were handcuffed by NYPD in school and then removed to a hospital for psychiatric evaluation, 99.7 percent, nearly all of the 303 children in crisis, were students of color. 69 percent of those children in crisis were

2 black students and only .3 percent of
3 those children were white students.
4 This racial disproportionately
5 reflects many years of AFC's own client
6 experiences. For example, just this
7 school year, we represented a
8 fifteen-year-old Hispanic girl shot in
9 school by a police officer with a taser
10 gun, even though she was already lying on
11 the ground handcuffed and surrounded by
12 several NYPD officers. Since she began
13 attending the school in the fall, her
14 mother had repeatedly requested positive
15 behavioral supports and interventions and
16 an Individualized Education Program, an
17 IEP, due to her mental health condition.
18 However, the school never provided the
19 supports and an IEP. By contrast, her
20 previous school had successfully
21 implemented specific positive behavior
22 intervention practices that helped her to
23 manage her behavior and avoid problems.
24 Early in the winter, the student
25 became agitated and upset during lunch

2 when another student, who had been
3 bullying her for three months, threw food
4 at her head. Even though the school knew
5 she had a significant mental health
6 history, they failed to reach a trained
7 mental health professional to deescalate
8 the situation and help her calm down
9 during the emotional crisis. Instead, an
10 administrator contacted school safety
11 agents and NYPD precinct officers who then
12 violently restrained her with handcuffs.
13 Upon being restrained, she became
14 more agitated. Then an NYPD officer shot
15 the student with a taser gun, even though
16 the student was already physically
17 restrained. To make matters even worse,
18 the police officers hauled her off to a
19 local precinct and gave her a juvenile
20 report for disorderly conduct.
21 Traumatized by the experience, the
22 student was subsequently diagnosed with
23 post-traumatic stress disorder and
24 transferred out of the school. Instead of
25 responding to her as a student in crisis

2 in need of behavioral interventions and
3 supports, the police treated her as a
4 criminal. We serve numerous clients in
5 similar situations, and some of which are
6 also included in our written testimony.
7 We have two recommendations to
8 reduce racial disparities in police
9 interventions that will also help create
10 healthy, safe, and inclusive school
11 communities where students and educators
12 can thrive and hold students accountable.
13 Nancy mentioned earlier the Mayor's
14 Leadership Team on School Climate and
15 Discipline. We believe that New York City
16 should revise its policies and procedures,
17 including the memorandum of understanding
18 between the City, NYPD, and DOE, to
19 clarify and significantly limit the role
20 of law enforcement in schools.
21 As outlined in the Leadership Team
22 report, the MOU should clearly delineate
23 the roles of school administration and
24 staff and school safety agents and
25 precinct officers to clarify that school

2 administrators are the ones that have
3 primary responsibility for intervening in
4 and addressing student misbehavior and for
5 ensuring consistent application of school
6 rules and policies. And school safety
7 agents and precinct officers are only
8 responsible for responding to serious
9 criminal matters where there is a real and
10 immediate threat of serious physical
11 injury to a member of the school
12 community.
13 It should also create a system-wide
14 ladder of referral, graduated response
15 protocol, or diversion protocol to ensure
16 that students are not subject to summonses
17 or arrests for lower-level offenses and
18 normative child and adolescent
19 misbehavior.
20 And finally, the MOU should ensure
21 that revised policies and practices are
22 clearly and consistently reflected in the
23 revised MOU, NYPD policy guides, and DOE
24 Chancellor's regulations.
25 Second, New York City should invest

in a long-term plan and funding to develop and expand positive and inclusive alternatives to arrest, summons, handcuffing.

Research demonstrates that positive student behaviors and academic achievement increase when students and staff feel safe, connected, fairly treated, and valued.

The approaches should be positive, preventative, restorative, and trauma-informed and must be implemented with fidelity by trained school and mental health professionals, along with regular data tracking, evaluation, and monitoring for effectiveness. Examples of these approaches, which can be used in combination include restorative practices, collaborative problem solving, enhanced mental health services, therapeutic crisis intervention, and positive behavioral interventions and supports. These approaches are outlined in more detail in our written testimony.

While the City has piloted some of these approaches on an ad hoc basis and the number of school-based summonses and arrests have been decreasing significantly, it is imperative that the City commits to making strategic investments in building capacity across the school system in order to reduce racial disparities and make real and lasting change in the ways that schools deal with student behavior.

As an initial important step towards increasing mental health supports for all high-need schools, the City should implement the recommendation of the Mayor's Leadership Team to launch a pilot program providing a comprehensive mental health service continuum in high-need schools, including using hospital-based clinics and providing whole-school collaborative problem solving.

Collaborative problem solving helps children and the adults with them learn to resolve problems in a collaborative,

mutually satisfactory manner by teaching skills to address deficits and flexibility, frustration tolerance and problem solving.

The proposed pilot would create a network of mental health services in addition to already existing hospital and social service programs for students and their families in these communities. It would also provide training in multi-tiered systems of support for school staff, with the goals of developing the skills needed in evidence-based practices to support students and connecting students and families to services in and out of school.

As a second step, the City's administration should adopt and fund the expansion of the restorative practices pilot program that is now in twenty-five high-need schools, which was initially funded by the City Council.

The funding should allow for a full-time school-based restorative

practices coordinator in each school, as well as provide schools with professional development designed to improve school climate and build capacity to implement restorative practices. It should also account for evaluation and monitoring of restorative practices citywide, as well as increased staffing at the central Department of Education office and each borough field support center in order to support these schools.

As a third initial step, the City should also expand and fund restorative practices in high-need school districts. The funding should include at least two restorative practice coordinators and evaluation and monitoring of restorative practices in each targeted district, as well as increased staffing in the DOE's central and borough offices.

Thank you again for the opportunity to testify.

MS. HAMILL: Ms. Sullivan.

MS. SULLIVAN: Good afternoon. I

2 want to thank the Commission for holding
3 this briefing and inviting me to testify.
4 The National Economic and Social
5 Rights Initiative is a human rights
6 organization that partners with
7 communities to build a broad movement for
8 economic and social rights, including
9 health, housing, education and work with
10 dignity.
11 NESRI advocates for public policies
12 that guarantee the universal and equitable
13 fulfillment of these rights in the United
14 States.
15 Today I'm going to share some
16 national data and work being done around
17 the country to help give some context for
18 what's happening here in New York.
19 NESRI is a member of the Dignity in
20 Schools Campaign which is a national
21 coalition of 100 organizations in
22 twenty-nine states that challenge the
23 systemic problem of push-out in our
24 nation's schools and work to dismantle the
25 school to prison pipeline.

2 The Dignity in Schools Campaign
3 builds power among parents, youth,
4 organizers, advocates and educators to
5 transform their communities and support
6 alternatives to a culture of zero
7 tolerance, punishment and criminalization.
8 The Dignity in Schools Campaign fights for
9 the right of every young person to a
10 quality education and to be treated with
11 dignity.
12 Maintaining a safe and supportive
13 environment in schools is critical to
14 successful teaching and learning and to
15 ensuring right to education. Safer
16 schools support higher achieving students
17 and higher graduation rates.
18 Unfortunately, over the past few
19 decades, our nation's schools have taken
20 an increasingly punitive and ineffective
21 approach to school safety and discipline,
22 relying more and more on suspensions,
23 expulsions, police interventions and
24 arrests.
25 These punitive practices do not

2 improve student behavior, but rather
3 increase the likelihood that students will
4 fall behind academically, be pushed out of
5 school and enter the criminal justice
6 system. Furthermore, these punitive
7 practices contribute to an unhealthy
8 school climate affecting all students,
9 teachers and members of the school
10 community.
11 Each year, over 2.8 million students
12 across the country are suspended out of
13 school and over 100,000 are expelled.
14 While data on school-based arrests and
15 referrals to law enforcement is less
16 complete as many school districts continue
17 to underreport student contact with law
18 enforcement, data from the U.S. Department
19 of Education shows that at least 70,000
20 were arrested in the 2013/14 school year
21 and at least 223,000 were referred to law
22 enforcement.
23 Referrals are more common than
24 arrests and are defined as anytime a
25 student is reported to a law enforcement

2 agency or official. This can include
3 citations, court referrals, and in some
4 cases, arrests. This data is coming from
5 the Civil Rights Data Collection at the
6 Department of Education that Johanna
7 mentioned, and it is critical that we
8 continue to collect and receive that data
9 publicly in order to get these kinds of
10 national statistics as well as data from
11 other school districts and states around
12 the country.
13 The U.S. Department of Education
14 data also documents the number of schools
15 with law enforcement present on campus.
16 In 2013/14, 24 percent of elementary
17 schools and 42 percent of high schools
18 nationwide reported the presence of sworn
19 law enforcement officers on a regular
20 basis.
21 According to state-by-state analysis
22 of the data that the Education Week
23 Research Center conducted, New York State
24 had a significantly higher percentage of
25 schools with sworn law enforcement than

the national average. Nationwide across grade levels, 29 percent of schools had sworn law enforcement compared to 45.2 percent in New York State.

While the presence of law enforcement has an impact on all students, as the other panelists have mentioned, there's overwhelming evidence that students of color, low-income students, students with disabilities and LGBTQ students are disproportionately impacted resulting in increasing numbers of youth of color and youth from low-income neighborhoods being pushed out of school and into prison.

Black students are impacted at the highest rates. They're 2.2 times more likely to receive a referral to law enforcement or be subject to a school-related arrest than white students. While black students made up 15.5 percent of national enrollment, they represented 26 percent of students who were referred to law enforcement and 33 percent who were

arrested.

Nationwide, black boys are at the highest risk, three times as likely to be arrested at school than white male students.

In New York State, the same disparities apply. While black students made up 17.9 percent of enrollment, they represented 27.5 percent of students who were arrested and 44 percent of students referred to law enforcement.

Multiple research studies show that these higher rates of suspensions, expulsions and arrests for students of color is not a result of higher rates of misbehavior, rather students of color are punished more severely for the same behaviors, especially minor, more subjective misbehaviors.

Nationwide, students with disabilities are also impacted at higher rates. In an earlier school year, 2011/12, students with disabilities represented about a quarter of students

arrested and referred even though they were only 12 percent of the overall population.

Black and Latino students are also more likely to attend schools where law enforcement officers are present on a regular basis. At the high school level, for example, 65 percent of white students attend high school with at least one law enforcement officer compared to 71 percent of Latino and 74 percent of black students.

This regular presence of police in schools results in more arrests for nonviolent offenses that would otherwise be addressed by school personnel.

A 2016 study which analyzed the national School Survey on Crime and Safety data found that having a school resource officer at school on at least a weekly basis, increased the number of students referred to law enforcement for offenses like threats, fights, vandalism, and theft even after controlling for other factors

such as State laws that require schools to report issues, levels of criminal activity and other demographic variables. The number of referrals for lower-level offenses, in particular, doubled.

Several studies also show that police and SROs can contribute to overall criminalizing and un-welcoming school environments. Aggressive security measures can produce alienation and mistrust among students which can disrupt the learning environment and create an adversarial relationship between school officials and students.

A study of black girls by the African-American Policy Forum showed that many students felt that zero-tolerance environments are neither safe nor nurturing settings. And it actually seemed to them like educating the students was less important to them than disciplining them. The presence of police and metal detectors made many girls feel like they did not want to attend school.

And some felt sexually harassed when they had to remove their clothes or get patted down.

While data and research like this demonstrate the negative impacts of police in schools, there is no reliable research demonstrating that the presence of law enforcement actually keep schools safer.

According to the Congressional Research Service, despite the popularity of school resource officer programs across the country, there are few available studies that have reliably evaluated their effectiveness. Typically, studies that report positive results rely only on perceptions, not on actual evidence.

One study of the School Survey on Crime and Safety found that for no type of crime was an increase in the presence of police in schools related to decrease in any actual crime rates.

Equally disturbing is that our most under-resourced schools continue to invest more and more in law enforcement.

Nationwide, there are 1.6 million students that attend a school with a law enforcement officer but no school counselor. Black students are 1.2 times more likely and Latino students are 1.4 times more likely than white students to attend a school with law enforcement but no counselor.

In New York City, as folks have mentioned, over 5,000 student safety agents are stationed in our schools but only over 3,000 counselors are.

In response to this crisis, the Dignity in Schools Campaign advocates for more positive and effective approaches to school climate and safety. Researchers across the country, including the Chicago Consortium on School Research, have found that relationships between students, parents and staff are more important in making a school safe than increased security measures. School-wide models for positive discipline, such as restorative practices, give teachers and students the

tools to build a positive school community and to prevent and respond to conflict in ways that address students' social, emotional and academic needs.

Members of DSE have also found that even with better training and stronger agreements that limit the role of school police, students are still being criminalized. As a result, last September the Dignity in Schools Campaign developed a set of policy recommendations for schools, district, states and federal policymakers that call for the end of regular presence of law enforcement in schools as our goal, an implementation of positive alternatives.

Those recommendations were handed out and I'll give a summary of sort of the three main parts of those recommendations.

First, as I mentioned, we are calling for removal of any law enforcement personnel assigned to be present on a regular basis in schools including police, school resource officers and any law

enforcement personnel that have the power to arrest, detain, interrogate, question, fine, ticket or restrain students and are stationed in a school building.

Second, we are calling on districts and schools to invest instead in positive approaches and school staff that are trained to ensure safe and positive climates. This includes hiring community intervention workers, peace builders, transformative or restorative justice coordinators and other support staff who can more effectively create safe and supportive environments.

These staff can help prevent and address safety concerns, monitor entrances, ensure welcoming environment, respond to the root causes of behavior, prevent and intervene to stop conflict, and address students' needs. It is also essential that schools implement positive school-wide approaches like restorative justice with the leadership of students and parents.

Third, while our goal is to remove the regular presence of law enforcement from schools, we recognize that there are rare occasions when it is appropriate for law enforcement to enter a school building. In those cases there should be agreements with police departments that limit the instances when law enforcement can be called into a school with particular safeguards in place to protect students' rights.

School districts should adopt a publicly accessible memorandum of understanding or MOU between schools and local police departments that limits the role of any law enforcement personnel. They should ensure that SROs, police or security officers are not involved in school discipline issues, including prohibiting schools and law enforcement from intervening in particular disciplinary matters like disorderly conduct, insubordination, fighting and other behavior infractions.

MOUs should place strict limits on what law enforcement personnel can and cannot do once called into a school and require that all law enforcement personnel who come into contact with schools receive training. And there's a lot more detail on that in the written recommendations submitted.

In different cities around the country, schools and districts are taking initial steps to find alternatives to police in schools and to limit the role of law enforcement. In San Francisco, California, for example, school resource officers are not stationed in schools every day, but assigned to a group of schools to respond to incidents. An MOU between the school district and police department prohibits law enforcement from getting involved in school discipline. It gives specific guidelines and procedures for when school staff should call the polices, requires police to notify school officials of their presence and give the

purpose, implements a warning system before students are arrested or referred to law enforcement and requires parental notification upon the arrest of a student giving parents the opportunity to be present for any police interrogation.

The MOU also requires extensive data collection and requires yearly training, including in restorative practices, youth development, special education laws and strategies for working and communicating with students.

In Minneapolis, starting in the 2013/14 school year, the Minneapolis Youth Coordinating Board began piloting an effort in a few schools to replace school resource officers with youth outreach workers serving as mediators, mentors, role models and providing classroom support. These outreach workers are also part of a team doing outreach in the broader community.

The workers teach practical skills for stress management and de-escalation

and intervene to prevent and resolve problems. Youth and staff at the schools reported that there were fewer fights and that schools overall felt more safe. The program continues this year at two high schools and one middle school in Minneapolis.

In New York City, the Dignity in Schools Campaign is calling for a memorandum of understanding between the NYPD and Department of Education outlined in greater detail by my colleagues on the panel and for investment in school-wide restorative justice programs.

In our work to introduce restorative justice, we've identified five key elements for supporting sustainable implementation in New York City schools. At the school level, the Department of Education should hire full-time restorative justice coordinators with the job of engaging stakeholders towards a positive restorative climate and approach to discipline at the school.

This approach is being piloted in the high-need schools that Rohini mentioned that the City Council initially is funding, and that we're asking the Department of Education to continue funding for.

Schools should also develop a school-wide strategic plan with participation of all stakeholders in a restorative justice action team consisting of teachers, administrators, other support staff, students and parents in the school community.

Schools should provide ongoing professional development for staff in restorative justice and other positive approaches as well as workshops on addressing racism, sexism, homophobia, transphobia as well as implicit and explicit bias. This is particularly critical for addressing the ongoing racial disparities that we see despite declining numbers in arrests and summonses.

Supporting youth and parent training

and leadership is also critical to this model, both in terms of being on the committees that design the particular interventions in the schools, but also having young people participate directly as peer mediators and in other restorative practices.

And finally, the Department of Education should ensure district-wide coordination and support for schools at all levels of implementation and evaluation supporting recommendations shared by Rohini.

These positive approaches, along with adopting a clear MOU to limit the role of school safety officers in New York City schools is a critical step for New York City toward the long-term goal of ending the regular presence of police in schools. Thank you.

MS. HAMILL: Thank you all very much. We've got about twenty-five minutes or so for questions. Tom Wahl and then Iris.

MR. WAHL: I actually have two question. First is for Nancy Ginsburg. And thank you all for your presentation. It was very enlightening.

Nancy, you said some 1200 people you defended, kids who had jumped the subway. I'm from Rochester, we use school buses, so if the kids miss it, you know, there's no subway they have to worry about. So my question really quite simply is, you said two-thirds of them got off. The other third didn't, about 400. Are the kids told that when they go on the subway without paying they're going to caught? I'm just curious what the process is. And you also mentioned that 72 percent of the kids receive subsidy for food for lunches during the day. Why doesn't the Department of Education, I mean why isn't there some working with the Metro here to make sure that the kids have free passes? So that's my question and I have another one for Johanna.

MS. GINSBURG: If we were queen --

yes, there are prescribed rules in the DOE as to who qualifies for free Metrocards. Most of them do not apply except for special ed students, it's my understanding, and I'm a little bit uncomfortable just talking about this off the top of my head. But I believe once you're in high school, you're responsible for your fare.

MR. WAHL: But obviously to get to school they must have taken the subway illegal to get there to begin with, right? So maybe they got caught going home but not coming in? It boggles my mind from a practical point of view, if the kids know they're doing something wrong, how did they get there in the first place?

MS. GINSBURG: Kids are very creative. I will say New York City kids are very creative in how to access transportation. Sometimes, if there's a nice person working, a Transit officer working at a turnstile, you can ask for permission to go through saying you're

2 going to school and certain times you will
3 be granted permission to go through. We
4 also see, both going and coming, that
5 there are police officers hiding in
6 closets, behind walls, trying to catch
7 people who go through without paying fare.
8 MR. WAHL: How do these kids'
9 parents expect their children to get to
10 school if they don't have the fare to take
11 the subway? Do they just assume that the
12 City school district just pays for it?
13 MS. GINSBURG: Well, you're assuming
14 that all teenagers speak to their parents,
15 which is a big assumption. There is, I
16 think that, even teenagers who have
17 Metrocards, they lose them because
18 teenagers lose things all the time.
19 It is approximately now $6 every day
20 to travel to and from school. And most of
21 the kids who are enrolled in the City
22 schools are poor, by federal definition
23 are poor. And $6 a day is a lot of money.
24 So it just seems to us if that -- and now
25 you can live in Far Rockaway, which is

2 really far, by name and in fact, and you
3 can go to school in the north of the
4 Bronx. We have kids in this city that are
5 on the subway two hours each way to go to
6 school on public transportation.
7 MR. WARD: As someone who has a
8 child in the public school system and who
9 attends high school, I believe all high
10 school students do get the Metrocards.
11 MS. GINSBURG: Only if you're a
12 certain distance away.
13 MR. WARD: Right, exactly. But
14 you're right, kids lose, my son loses his
15 pass all the time. And the waiting period
16 to get another pass is sometimes quite
17 extensive. And so unfortunately, you
18 know, we can pay for it, but there are a
19 lot of parents who can't pay for it.
20 MS. HAMILL: Tom, I believe you had
21 a second question.
22 MR. WAHL: I just have a question
23 now for Johanna. I guess I wanted to ask
24 you if you miss the Sorbonne. I just saw
25 that you studied there.

2 MS. MILLER: Nobody ever gets to the
3 last line in the bio. That's really
4 admirable.
5 MR. WAHL: That was very
6 interesting. If the police ultimately are
7 there working for the Department of
8 Education, why don't they work for the
9 Department of Education, first question,
10 because ultimately responsible, you said
11 the police department themselves --
12 doesn't seem to make any sense. And do
13 these cops have video cameras?
14 And my last question, you've got the
15 DOE, you got the students and you got the
16 police officers. I don't think you talked
17 about parents. Why is it -- this is just
18 common sense. Why isn't there a parent,
19 I'm going to call them DOE cops,
20 Department of Education, I think they're
21 mostly younger, right, cops, whatever new,
22 so DOE cops seems to fit, and then you've
23 got the Department of Education. Why
24 isn't there some group that sort of works
25 --

2 I mean it just boggles my mind why
3 this is so complicated when a simple
4 solution would be to kind of work
5 together.
6 MS. MILLER: So previous to 1998,
7 the school police did work for the, what
8 was then called the Board of Education, is
9 now the Department of Education. So it
10 was Giuliani's proposal to move the
11 responsibility for that to the NYPD.
12 Exactly why he thought that was necessary
13 is complicated. But I will say that that
14 year the City suppressed data that school
15 crime had gone down the previous year
16 until just after the vote was taken to
17 move this responsibility to the NYPD.
18 So you're right, a better system and
19 certainly a more organic sensible system
20 would be to have everyone in the school
21 building reporting to someone at the
22 Department of Education or in the school
23 building, and this is really an outlier in
24 that sense.
25 MR. WAHL: What's hard for me to

2 understand is the parents pay the bill.
3 MS. MILLER: That's exactly right.
4 The Department of Education pays about $20
5 million a year for school safety services
6 to the NYPD. So it's a huge cost, it's a
7 huge administrative burden, and it's not
8 logical. There's a lot of reasons why
9 it's not logical.
10 I will say there are some models
11 around the country where the police work
12 directly for the school district. LA is
13 the biggest one. It's the second largest
14 school district in the country. And their
15 school police work for the Department of
16 Education. I'm not sure, and Liz can
17 probably speak to this better than I can,
18 whether there have been abundant gains in
19 fixing the system by having it that. For
20 us, the major problems is that officers
21 are authorized to make an arrest, issue a
22 ticket, handcuff within their complete
23 discretion.
24 So even if they reported to the
25 Department of Education, as long as they

2 still had that complete discretion to do
3 all of those activities, I think it would
4 still be problematic.
5 MR. WAHL: Do they have video
6 cameras?
7 MS. MILLER: They do not wear body
8 cameras. I think there may be problems in
9 the school system with bringing a body
10 camera into school. Something that the
11 Civil Liberties Union is concerned about
12 that a lot of advocates are not really
13 talking or certainly the police
14 departments are not talking about, is the
15 danger for body cameras to actually become
16 tools of surveillance and not an
17 accountability tool for the police
18 themselves.
19 And in the school environment, that
20 is a sensitive environment. There is a
21 lot of private information. Student
22 records, of course, are protected by
23 federal law. So it's important that there
24 are the right kind of privacy protections.
25 Right now, I think the biggest

2 barrier to us fully endorsing a body
3 camera program is that the police
4 departments have complete control over
5 both the cameras and the footage. As long
6 as they have control over it, that's just
7 a surveillance tool. That's not an
8 accountability measure. And so we would
9 oppose, right now the school safety
10 officers currently as they currently exist
11 just suddenly getting body cameras to
12 record kids all day. I think we actually
13 probably would not like that unless there
14 was some real control mechanisms to make
15 sure the footage could be used for
16 accountability purposes.
17 MS. HAMILL: I just want you to
18 respond to your colleague's issue about
19 LA.
20 MS. SULLIVAN: I would just quickly
21 say in Los Angeles it is a school police
22 department, so it is run by the education
23 system, but many of the same problems
24 still apply. It's still a separate
25 department that is run as a school police

2 department that are assigned to schools
3 rather than having sort of direct control
4 with principals.
5 Although I would say, it may be part
6 of the reason in Los Angeles they were
7 able to pass a memorandum of understanding
8 between the police department and the
9 schools that has improved things.
10 Although many of the same problems that we
11 see in New York City still exist in Los
12 Angeles as well.
13 MR. WAHL: Just curious, real quick,
14 where are the teachers in all of this?
15 MS. MILLER: I don't want to speak
16 for educators, but I think there's a lot
17 of diversity of opinion where that comes
18 in. I think many, many teachers have
19 expressed lots of frustration with the way
20 that the school police system is run in
21 New York City and feeling unsupported,
22 feeling they can't get what they need.
23 We've had certainly cases of teachers
24 getting arrested by school safety officers
25 when they didn't do what the school safety

officer wanted them to.

At the same time, I think the Teachers Union works quite well on that level, you know, not on the level of the individual teachers, but sort of on a systemic level with the NYPD and with the union and has helped to reform some of these systems. So I think it's probably a mix in terms of how they feel about the police being there.

MS. SULLIVAN: I would just add to that a lot of the teachers I speak with who, on a day-to-day basis may be supportive of having the school police say it's because they just need more help in the school, period. And so having the extra person in the building who can help with a student is the main reason that they like having the school police there. Whereas if it was someone else who could talk to a student when they need to remove them from the classroom for a few minutes and help cool them down, that would be fine too.

But right now, the place where the money is going and being invested is in staffing schools with school safety agents instead of, you know, other kinds of staff.

MS. HAMILL: Iris?

MS. CHEN: Do we have time for two questions.

MS. HAMILL: Yes, we do have plenty of time.

MS. CHEN: So my first question is for any of you relating to the MOU. My understanding is that the original MOU, 1998, I think, still in effect, actually included very clear provisions for a lot of the changes that you all have sort of advanced or recommended, including clear delineation of disciplinary matters to the school personnel, not to the school safety officers, inclusion of principles and performance reviews in trainings.

So I guess my question on that is, part A, is my understanding correct that these provisions that are technically in

that MOU actually aren't playing out in practice? And B, if that's the case, what practical function does this MOU really play?

And then C, what safeguarding, if any, is there or any oversight or accountability around making sure the MOU, which it seems like it's truly a large and internal document, is actually going to play out in real life as we look to the next twenty years of this MOU potentially? So should I hold on for my next question until we get --

MS. MILLER: So none of those things are actually in the current MOU. And in fact, the language that the MOU uses is extraordinarily broad to the point of completely being meaningless where it basically just says the police are responsible for enforcing the criminal law in schools.

At some level of abstraction, every time a kid acts bad you could call that a crime and we see that with disorderly

conduct, that being the biggest thing. Anytime a kid acts bad, they're being disorderly getting, they're getting in trouble, insubordination. A lot of these like minor, sort of classroom things turn into police matters when the description is so broad. So what we are working towards, as Nancy mentioned, this work is happening. We are working with the City right now. It's to actually create a list of discipline code infractions, acting bad in school that will not result in you getting arrested or being handcuffed, et cetera. And so actually creating kind of a safe harbor list of like these are just actually just misbehavior and there is no level of abstraction at which we're going to call them a crime.

So that hopefully is coming. A lot of other MOUs around the country have provisions like that, have lists of things that are never to be treated as a crime, tardiness, truancy, dress code violation, smoking cigarette, things like minor

stuff. We don't have a list like that in New York City and it's been extraordinarily difficult to get one adopted. The NYPD does not wish to limit the authority or the discretion of their officers in that way. So it's been really hard to get that and it's something we feel is really important.

MS. CHEN: Just to be clear, the MOU I looked at right here, I'm trying to understand. It sounds like the specifics aren't there, but it literally does say the principal has maintained jurisdiction. It literally says it will make provision for the principal and the evaluation. So it sounds like that, you know, broad brush is there, but you're saying --

MS. MILLER: Yes, it's not meaningful. I mean that language is not meaningful, correct.

MS. CHEN: Actual laundry list of this is what is no discipline, that would be your recommendation.

MS. MILLER: Yes, absolutely.

That's absolutely a recommendation. I think on the evaluation piece that works in some schools and not in others. We've heard really distinctly from principals that they have a really hard time having any kind of say in which school safety officers are in their schools on a daily basis. That they often don't even know if a school safety officer, for example, is getting transferred or even calling in sick, that they have no authority over that and that is tied into that evaluation procedure as well. That they say they will make a provision for it.

As far as we can tell, that's done on somewhat of an ad hoc basis. And when you're talking about a system of 1,700 schools, ad hoc becomes messy really quickly. And in fact, I think that diversity of experience among schools is actually one of the primary problems with the system in New York City, which is that these police officers are assigned to schools and depending on their

relationship to the parents, to the principal, to the school, to the community, their philosophy about what their job is, et cetera, students have a very different experience in school.

And in some schools, it would be unheard of for you to be arrested for drawing on your desk. And in others, kids are getting hauled out in handcuffs for drawing on the desks.

So that is another problem that is created by the vagueness of the MOU and not actually describing student behavior. It doesn't actually give a guide to anyone, to the cops or the teachers or the students about what behavior is going to be considered a criminal matter and when.

MS. CHEN: Super, explicit and precise -- and then in terms of then making sure even that actually gets safeguarded, do you have any suggestions, any of you, for making sure the MOU doesn't just sit on a shelf.

MS. MILLER: I mean one of the

problems with the current MOU is that no one knows it exists. A few years ago there were Department of Education officials who testified under oath at a City Council hearing that there was no MOU. So they don't even know it exists. We've sort of, the advocacy community and the grassroots community on this issue has really brought a lot of attention to it. But this is not a document that a principal pulls off their shelf or that a parent reads at the beginning of the school year. It's just not meant to be that. The language is very legalistic, and it's not made available to people. This isn't published on a website or anywhere.

Unlike, for example, the discipline code which parents get, supposedly students and parents get a copy of at the beginning of every year. We get to have a whole other day on the discipline code, but they're not sort of passing this out or training people on the content of it,

2 including school safety officers are not
3 being trained on the content of it.
4 So making the document something
5 that's usable and workable is really
6 important. We have recommended for a long
7 time, and I know the Dignity in Schools
8 Campaign has as well, I'm sure everyone
9 actually probably has made this
10 recommendation, that the New York City
11 discipline code, which actually does
12 outline what kind of behavior students are
13 going to be held accountable for in school
14 and what consequences they can face, would
15 actually say when a police officer could
16 be called or not.
17 Right now, again, it has this really
18 vague language about the police. It
19 doesn't really give you any notice about
20 what behaviors are going to be treated as
21 criminal and that's because that's totally
22 ad hoc and up to the principal or the cop
23 who sees you doing it.
24 So some kind of standardization
25 there is really essential. And you're

2 right, the more precision with language is
3 definitely something we've been seeking
4 for years on this issue.
5 MS. HAMILL: Alex.
6 MR. VITALE: You mentioned that the
7 school police are not armed, but my
8 understanding is there are over 100 who
9 are full police officers who are fully
10 armed. Is it also the case that many of
11 the other officers do carry pepper spray
12 and do some of them carry retractable
13 batons? And do we have good reporting
14 about use-of-force data? And also,
15 related to this, many of the arrests are
16 actually conducted by precinct officers
17 who aren't even included in this count of
18 officers. And do we know the data of on
19 use of force or threats of use of force
20 for them?
21 I would say just last week, my
22 offices are across the street from Midwood
23 High School, I watched two officers
24 approach a group of black male students
25 with their night sticks out. One of the

2 youth had a snowball. The officer pulled
3 his taser out to threaten the youth who
4 was not menacing him directly in any way.
5 And so these kinds of after-school,
6 slightly-off-campus use-of-force
7 incidents, do we know what that looks
8 like.
9 MS. MILLER: In answer to your first
10 question, there are about 5200 officers in
11 New York City public schools. 5,000 of
12 them don't carry guns and the other, about
13 195 do. So you're correct, the school
14 safety officers, the majority of them
15 don't carry weapons, but there are about
16 200 who do -- don't carry firearms. They
17 do carry a baton and they do carry pepper
18 spray. So you're also correct in that.
19 Use-of-force reporting is very, very
20 bad. It's really sloppily done. We don't
21 have good numbers on it for either the
22 School Safety Division or the NYPD.
23 It's really hard to get good numbers
24 on that. And you're right that the NYPD
25 precinct-based officers make the majority

2 of arrests in schools. Something like 70
3 percent of summonses are written by
4 precinct-based officers who, right now,
5 wouldn't even be subject to the MOU if it
6 was any good.
7 Although, in the revisions one of
8 the things that we're asking for, and Liz
9 talked about this in her testimony, is
10 that if any police officer walks into the
11 school, they then have a different set of
12 procedures they have to go through by
13 walking into the school. And the first
14 stop is to go talk to the principal and
15 have some kind of agreement about what
16 you're going to be doing while you're in
17 the school so they just can't come in and
18 get a kid and take them out of the school,
19 for example.
20 And right now, there's nothing like
21 that whatsoever. And this is a
22 recommendation that the NYPD also strongly
23 objects to because they do not want
24 officers to have to answer to a principal,
25 even though I think the City, most people

2 involved in this, certainly the advocacy
3 community, but I think even the mayor's
4 office acknowledges that the school
5 environment has to be treated differently.
6 There just has to be a different level of
7 decorum in the school. And so having
8 those rules apply to regular police
9 officers is really essential as well.
10 MS. GINSBURG: Can I just address
11 that? Policing school children and
12 teenagers is a continuum that starts in
13 the community, goes to the school building
14 and then goes back into the community.
15 And so this issue of the NYPD can do
16 whatever they want when they are in their
17 house and the DOE can do whatever they
18 want when they're in their house is a bit
19 of a fiction. And the truth is, is that
20 the police officers should not be ever
21 interacting with kids on an arrest or
22 summons kind of level when they have a
23 snowball in their hand and they're not
24 threatening anyone. This movement towards
25 criminally punishing children and

2 teenagers for normative adolescent
3 behavior, it has to stop.
4 And we can say we want it in an MOU,
5 we want it in the discipline code, but the
6 truth is, is that it just has to stop,
7 really in every format. And so we can't
8 have principals calling the precinct
9 because school safety makes a decision not
10 to arrest a kid, which we see often
11 throughout the city. We can't have
12 different agencies working at different
13 points which end up with children and
14 teenagers being funneled into the criminal
15 justice system.
16 It just has to stop. I don't really
17 know how many different ways I can say
18 that, but it has to stop. I would love to
19 be put out of business, really I would.
20 There's some nice beach someplace where I
21 could be sitting. These kids should not
22 be in court.
23 The reality is, is that when you,
24 you have reports that came out recently
25 that talk about kids in underserved

2 neighborhoods having more behavioral
3 problems, it's just an absurd fiction that
4 allows those neighborhoods to be
5 over-policed. Because in neighborhoods
6 that have more resources, the schools and
7 the police departments expect the parents
8 to take care of their kids, and those
9 parents have the resources to do that.
10 They have insurance. They have access to
11 mental health care. They have access to
12 specialized evaluations for special
13 education services.
14 And in the neighborhoods where kids
15 get arrested and policed, their parents
16 don't have those resources. And the
17 schools in those neighborhoods are not
18 good at connecting those children and
19 those families to those services.
20 And so when we talk about as a group
21 these schools need additional mental
22 health services, they need additional
23 mental health services. And when you have
24 police officers as your frontline as
25 mental health providers, then that's what

2 you get. You get Rikers Island filled
3 with people who are mentally ill. You get
4 the juvenile detention centers filled with
5 children who are mentally ill.
6 And those kids do not access mental
7 health services as a preventative. They
8 just don't and they need to. And the
9 schools are responsible under the federal
10 special education laws, under the New York
11 State special education laws to obtain
12 access to evaluations and services. And
13 if they got those evaluations and services
14 from the school end, they wouldn't be a
15 problem from a public safety end. But
16 because they don't get those services,
17 they just get pushed wholesale into a
18 different system because the school system
19 failed them. And it has to be looked at
20 as a continuum.
21 And I know this is a policing,
22 you're looking at policing, but there's no
23 way, particularly with children, just to
24 look at the approach to them just from a
25 policing angle. And I think that's why

there's been so much emphasis from this panel about restorative justice, about positive behavior supports, about mental health supports because if children are not given the tools with which they can grow into healthy adolescents and adults, they will end up in the criminal justice system.

MS. HAMILL: We have a few more questions.

MR. WARD: What is the status of the warning card program? Because my understanding is that it is only being utilized in a few schools.

MS. GINSBURG: So right it's in five campuses in the Bronx. And I believe it was supposed to be expanded this week, but now it's being expanded, I believe the date is now March 27th to seventy-one schools. We would, obviously, like it expanded throughout the city. We would like precinct diversion expanded throughout the city. There needs to be more though. I think we're in agreement

that there needs to be more than just the warning cards. The warning cards are only for disorderly conduct and low-level marijuana possession. We believe that there should be, that list of offenses should be a much longer list.

MS. MILLER: And the Department of Education has really failed to pick up their end of the bargain on the warning cards. So the NYPD has agreed to do this, but there's no established program for basically referring a kid into some kind of school-based system of support if they do get the warning card.

On a first warning, that's what a warning is, but we think the program could be more successful if there was some more buy-in on the DOE side to say, okay, if you get a warning, you know, we'll track them or we'll make sure you're getting the support you need or whatever those things are so that the NYPD doesn't give up on them because they're like nothing is happening.

MS. HAMILL: Kevin?

MR. THOMAS: Thanks again for your service in this field.

I want to know what is your experience like filing complaints against school safety officers and what was the outcome of all that.

MS. MILLER: So we've done this a couple times for students who were subject to use of force in schools. One of our clients, and I wrote about him in our testimony, was sixteen years old. He was beaten so badly by a school safety officer that he had to be hospitalized and ended up having to have surgery on his knee. And the reason the school safety officer jumped on him and beat him is because he thought he was in possession of a cell phone, which at the time was prohibited in New York City public schools. It no longer is. But at the time, you couldn't bring a cell phone in. The officer thought this kid had a cell phone and the kid said I don't have a cell phone. And

so he jumped on him. And we filed a complaint with the Internal Affairs Bureau on behalf of this student. And the experience was a terrible one.

The Internal Affairs Bureau detectives showed up at his house unannounced. They didn't contact us as attorneys ever. They only would go find this kid and basically interrogate him over his, you know, front yard fence about his experience which was totally inappropriate for someone who's a complainant. You don't need to interrogate him. He's not being suspected of anything.

We had asked that they do all their investigation with us there because he's only sixteen, and they completely ignored that. It was very intimidating and hostile for him. And at the end of it, the complaint was substantiated against that officer, but insofar as we could tell, no action. Certainly, the officer was not removed from the school. Maybe he

was docked vacation or something, which is a pretty common punishment for officers, but he was not removed from the school.

In another case, we had a student, we filed a complaint against an officer for slamming a kid's head against the wall because he was skipping class. And we found out in the course of filing that complaint that that officer had been transferred into this, which was a middle school, because he beat up too many kids at the high school across the street.

So as far as we can tell, I mean this is anecdotal. The NYPD takes, I think a very legally incorrect and also really bad from a public policy standpoint position on disclosing officer discipline. And so we can't really know exactly what's happening, but as far as we can tell, very little is happening.

Complaints against school safety agents are substantiated at a higher rate than complaints against regular police officers. I think that's very telling.

Either they're investigating them more seriously or they just tend to be more true. One or the other, they're both important things to know. And if there's no clear mechanism to get those officers out of school, if they're hurting kids, that's a real problem.

MS. HAMILL: One last question.

MR. PEREZ: I had a quick question. So all of these units when they're created by the NYPD, if you can tell me, I'm sorry, Ms. Ginsburg, if you can speak to, if you know exactly why there was this juvenile robbery intervention program expanded.

And also to, you know, if you can speak a little bit about the level of suspicion that will qualify someone to be part of that program. I guess, lastly, as far as tracking, how are the kids actually tracked by the NYPD.

MS. GINSBURG: If only I could answer any of those questions. As you can imagine, the NYPD does not share any of

the information. We became aware of the program because we had clients who were being rousted out of community-based agencies and questioned by police officers while they were represented by counsel on open cases.

It was expanded by the NYPD for reasons that are a mystery to me and many in the legal community. It started in Brownsville. It was expanded to East Harlem. Now it's in Queens and Long Island City and some place in the South Bronx, I'm not sure which precinct. It just started up there.

There was an internal report that was leaked to the New York Times. It's referenced in my testimony, that indicated that it was not working. They expanded it anyway. I think there is a lot of support for it at the top of the NYPD. We do not support it.

It is unclear to us, although we have asked many times how kids are identified. All we have been told is that

if they are suspected for or have been arrested for a robbery.

MR. THOMAS: Out of all the students that are arrested or given summonses to, how many of those are special ed children.

MS. MILLER: There's no information to tell us that. We know that special ed students are way overrepresented in the suspension system so we can speculate. But neither the NYPD nor the DOE tracks that information.

MS. SINGH: That is information that should be tracked according to the Student Safety Act, how many students of the students that are arrested or issued summonses have IEPs.

MR. THOMAS: Do you believe that the school safety officers should know who has IEP, this way they enforce or discipline them in a different way?

MS. SINGH: I think the idea is if a student is misbehaving and it's due to their disability, the school safety agent should not be involved at all. It should

be the trained school personnel that should be involved.

MR. PEREZ: I kind of already know the answer, but I wonder if the data is available, even if you know of the exact racial composition of the people in these programs.

MS. GINSBURG: There is no data available. But I'll just go out on a limb and say there's probably not one white child in that program.

MS. HAMILL: And Roy?

MR. COSME: And it's a follow-up, actually, to the data question. I think several of you emphasized the importance of the continuation of the U.S. Department of Education data. And I believe you referred to that in many of your testimonies.

And Ms. Miller, you referred to the lack of data that is collected by the New York City schools, but I'm assuming that some of the data that is available is from NYPD and not from the schools, right? Or

could you clarify the extent of data not being collected by New York City schools again? And how important is that versus data that might be available from NYPD.

MS. MILLER: So the New York City Department of Education collects zero data on arrests, summons, any what they call police activity in school. So zero. And in fact, the New York City Department of Education reports to the federal government that there were zero arrests in New York City public schools because they don't make the arrests, which is completely as bonkers as it sounds.

There were 1200 arrests last year in New York City public schools. All right, so they report zero because they're like that's not our business, which is crazy. The police are working in the school building. So all that information is coming from the NYPD pursuant to local law, as everyone mentioned, the Student Safety Act, that we all worked on for many years to get passed. And that's being

reported to the City Council by the NYPD. The DOE reports information on suspensions and other things like that, but nothing on police activity.

MS. HAMILL: And on that note, we will have to conclude the panel. Thank you so much for your excellent presentations and participation. We are going to take our lunch break now. We will resume at 2:15 with another panel on school policing practices and accountability.

Thank you.

MS. HAMILL: Everyone, we're going to get started. Take your seats, please. So we are welcoming panel 4 for the New York State Advisory Committee. This panel is focused on school policing policies and accountability. I understand that one panelist, Zion Agostini, will not be with us today, so let's go to Ms. Anderson.

MS. ANDERSON: Good afternoon. Thank you very much for having me to the Committee. Thank you for allowing me to

testify on this incredibly important topic. To my fellow panelists, it's my honor to share the stage with people dedicated to justice. To the public who is here and who care enough about this issue, thank you for coming.

Your advocacy and commitment to change will help us all get better.

I want to start by telling you about Juan, Jasmine, Jamir and David.

Juan is in the sixth grade and after annoying many teachers over many years by being defiant and disrespectful, in a funny, not necessarily confrontational way, finally landed himself in a special class for students who had been suspended for a year for shoving a desk out of the fourth floor window of his school.

Having emigrated from Mexico when he was six and initially struggling to learn English in the first grade, he reads and does math at a high school level and is a remarkable artist whose sketches could appear in any commercial comic book.

On his first day in his new special class, he tells the teacher that he's going to be her worst nightmare to the delight of many of his fellow students.

Jasmine is nineteen but has only amassed enough credits to be a junior. Blunt and argumentative, after becoming actively involved in a gang, she dropped out of school for several years before realizing she needed to graduate if she had any chance at a future.

On her own, with limited support from her family, her struggles led them to basically turn their back on her when she got involved with the wrong crowd, she reenrolled in an alternative high school where she is one Regents test and about a dozen credits away from being eligible to graduate.

After a verbal altercation during the last week of school, Jasmine leaves her school in handcuffs en route to the local police station.

Jamir is about to be a, quote,

emancipated minor. For those of you who are not familiar with this term, it refers to young people who grow up in foster care and are never permanently adopted or reunited with their family of origin. In Jamir's case, he was removed from the home because his mother, a heroin addict, was reported multiple times for neglect.

After being in and out of a short-term foster care, Jamir lost his mom to an overdose, and he was placed in a group home where he kept to himself.

Quiet and shy, Jamir is a solid student who does everything he can not to stand out. One night several kids from the home sneak out to steal some candy and snacks from the local bodega. Jamir is driving the getaway car. All of the boys end up attending school at Rikers Island awaiting trial.

David exhibits little ability to control his behavior. He's easily distracted and can't sit for long without making a joke, blurting something out,

standing up, or bothering another student.

Kind and affectionate, David isn't malicious in his misbehavior. In fact, many kids and adults really like him but he is incredibly disruptive. Eventually diagnosed with ADHD, teacher after teacher tried to find ways to meaningfully integrate David into their classroom with little success.

By age ten David is regularly suspended for long periods of time. When he comes back his behavior is usually worse and he's becoming further and further behind in school, which is also making his behavior worse.

I started telling you about Juan, Jamir, Jasmine and David for three reasons.

First, I am going to use their stories to tell you about the opportunities we miss to redirect and support students instead of pathologizing and punishing them.

Second, I want us all to remember

that this work is hard. Many adults, teachers, administrators, school-based safety agents, and police, tried to do right by these four young people and ultimately the system failed them. This is about deep systemic issues that need to be solved by a comprehensive approach, not just by asking individuals to engage in heroic acts.

Finally, I bet everyone in this room has a family member or close friend they recognize in these profiles. We are here talking about young people; sons, daughters, aunts, uncles, friends, parents, not just statistics or theories. I believe that if we remember our collective humanity we will do more to better serve young people, including those who act out, make bad choices and question authority.

Having said that, let me share some statistics to tell you why as a school reformer for over twenty years I am so passionate about improving school policing

2 practices and moving away from
3 zero-tolerance discipline.
4 Number one, punitive discipline
5 often leads to court involvement long
6 term.
7 A student who has been suspended or
8 expelled is three times more likely to
9 come into contact with the juvenile
10 justice system than one who wasn't.
11 Students who have been suspended, are
12 three times more likely to drop out by the
13 tenth grade than students who have not,
14 and dropping out triples the likelihood
15 that a person will be incarcerated later
16 in life.
17 Number two, punitive discipline is
18 another form of institutionalized bias and
19 racism. Nationally, about 10 percent of
20 high school students were suspended in the
21 school year 2009/10, but for
22 African-American and Latino boys that
23 number is one in three. 30 percent of all
24 students arrested in school are
25 African-American but this group only

2 accounts for 16 percent of enrollment.
3 Two out of three students who are
4 suspended who spent any time detained or
5 incarcerated will never return to school,
6 and dropping out triples the likelihood
7 that a person will be incarcerated later
8 in life.
9 Number three, being involved in the
10 justice system is a lifetime sentence to
11 limit choices and worse. Being
12 incarcerated for any portion of time means
13 that there is a statistical probability
14 that over the course of your life you will
15 make less money than your peers, you will
16 live in poverty, you will die younger
17 including by your own hand, you will spend
18 larger periods of time unemployed and your
19 children will be incarcerated.
20 Further, the majority of young
21 people who are incarcerated are connected
22 to the child welfare system, child
23 services and our foster care, so arguably
24 we are punishing them for circumstances
25 they did not create and cement the cycle

2 for another generation. The two most
3 important factors for people who beat the
4 odds are access to money and obtaining a
5 higher education degree, high school or
6 beyond.
7 Hopefully, this answers the question
8 why someone like me, a lifelong educator,
9 is here testifying about school policing
10 and accountability. All of the systems
11 designed to support young people including
12 education and child welfare and juvenile
13 justice have significant work to do if we
14 want young people to thrive.
15 To keep this brief, I'm going to
16 focus on schools and return somewhat to
17 other agencies at the end. In order to
18 break the school-to-prison pipeline we
19 have to rethink our approach to the four
20 P's; people, practices, policy -- to use
21 the language of the accountability,
22 including accountability -- and
23 partnerships.
24 People.
25 The educational reform community

2 embraced a simple but important truth
3 several years ago, people matter. We
4 maintained a laser-like focus on
5 recruiting, selecting and coaching
6 excellence in the classroom because we
7 know that the single most important
8 school-based factor in a student's success
9 is teacher quality.
10 As was the case in our
11 groundbreaking contract in Newark, we have
12 created incentives to retain and award the
13 best, while fairly moving out those who we
14 would not want teaching our own children.
15 We changed the definition of what it means
16 to be a principal, and embrace the
17 critical role of assistant principal and
18 other administrators and teacher leaders
19 in building excellent schools.
20 But in order to reach all students,
21 we have to make sure we're giving teachers
22 the tools not only to support students'
23 academic outcomes, but also their social
24 and emotional growth. We need to
25 celebrate and develop teachers who build

deep and trusting relationships with their students, who know what motivates and triggers them, and who form true partnerships with the primary person in their family, whether that be a parent, grandparent, neighbor, uncle, foster parent or caseworker.

Great teachers skillfully plan rigorous lessons and know their students as unique individuals and this is really hard to do well. Great teachers believe that supporting students' social and emotional growth, is just as much their job as teaching algebra.

We need an equally deep focus on how we recruit, select and evaluate guidance counselors and social workers. Non-teaching staff, counselors, peer coaches, teaching assistants who help students set and attain personal goals is critical. Adults whose full-time role it is to support the social and emotional growth of students must be experts at developing trust and helping students

reflect openly on their hopes, fears, strengths and weaknesses. They need to be highly skilled, for example, in motivational interviewing techniques to help students persist in the face of obstacles. We need to think of school safety agents as some of our most important hires.

If you consider the statistics above, how could we not? They should be selected for their ability to build authentic relationships with kids and have passion for helping redirect young people when they get off track. They need to be trained and supported in deescalating conflict, seeing patterns in school, intervening before something goes down and modeling the best kind of tough love for students who are acting out. School staff, students and family should see them as an integral part of the community, not just a uniform.

Even the most empathetic and dedicated adults have blind spots about

how students who are struggling experience unconscious bias and low expectations. Recent studies point out teacher bias is cut along racial lines even starting as early as kindergarten. All adults who work with young people need high quality professional development that put them in the shoes of students and see how they perceive authority.

Remember Jamir? None of his teachers knew he was closing in on the date where the court would have thrown him out of care. Can you imagine the stress of knowing that you're about to be an adult without a family? What if a guidance counselor, or perhaps even better a school safety agent, started talking with him about that months before the date?

What if someone at school realized that Yolanda, the foster care's house mom, is the person on which Jamir relies the most? He was certain he would lose her as the primary person when he left home.

Maybe, just maybe, if adults had known these things he would not have been in the car with the stolen Snickers bar that sent him to Rikers, undoubtedly a life-altering event.

Practices. As a reform community we celebrate practices that we equate with high-performing schools. We celebrate carefully planned and purposely reinforced school cultures that have, quote, no excuses for students to operate below grade level.

High-performing schools have rigorous curricula, carefully planned units, meaningful ways to measure progress and time to adjust when teaching is needed. Adults are accountable for upholding school values and continuing to perfect their craft. Leaders sweat the small stuff and create environments that communicate respect and high expectations for families and students.

Effective school-wide practices that result in tightly managed school

instruction data and school culture must be maintained, but they will be insufficient to keep students on track. Teachers need rigorous and engaging lessons that reflect student interest while raising their skills. Exciting and purposeful teaching will help prevent students from getting off task. But educators also need a deep toolkit of strategies to redirect them in non-punitive ways when they disconnect or misbehave. School-wide procedures and rituals must repair trust while helping students learn from missteps and engage in reflection to keep growing rather than simply to remove the problem. And this extends beyond individual classrooms.

Curriculum, standards, lesson plans and quality of assessments focus on teaching productive habits of mind, like anger de-escalation and knowing one's own triggers must be as rigorous, thoughtful and valued as those teaching algebra.

Students support teams should push

adults with different roles including safety agents, guidance counselors and teachers to find new innovative strategies to reach all students well before they're critically off track, behaviorally or academically. When students begin to struggle adults should have structures and protocols to ask themselves and each other what have we missed or what specific strategies and interpersonal approaches would coach the student's peak performance rather than how do we describe what's wrong with this student in greater detail, or how do we punish the student even more?

Therapeutic learning centers can be special places where students engage in one-on-one coaching and clinical services. Student-led groups and activities can provide students with opportunities to lead and see their impact regardless of their personal circumstances.

School teams much have the skill, will, and capacity to operationalize a new set of tasks too many people thought

previously were not my job.

As educators and safety professionals we would never say that student just isn't incapable of learning how to read. We therefore, should not allow ourselves to say that student just cannot learn to manage their behavior. Most often a student is acting out because of circumstances beyond school. Sometimes they are being triggered by something that is happening in school and sometimes they are testing boundaries and sometimes they lack skills.

Remember Jasmine? Jasmine was struggling with how to stay on track in school but also how to stay safe by not severing ties with the gang she credited with keeping her alive while she was on the streets.

A security guard approached her in the hall and demanded she give back her gang beads in front of a rival gang member. Naturally she resisted vociferously. From her point of view this

was a matter of life and death.

What if the security guard knew enough to ask her to talk in private and had a relationship with her so she'd comply? Even better, what if the guard had engaged in a proactive conversation with Jasmine about all that she was managing before she spotted the beads?

Maybe, just maybe, Jasmine would not have climbed all the way back to being within striking distance of a diploma, a life-altering event, only to leave her education in the back of a police car.

Policies. District and State policies particularly around accountability provide powerful incentives and we have to reexamine them from top to bottom.

To start with, all suspension data is self-reported. And this makes it difficult to get an accurate sense of what a baseline is and to accurately measure progress. We can easily create scenarios where we are celebrating false successes

just because issues are going unreported, or more underground tactics exist to cancel out the, quote, undesirable students. We have to proceed comprehensively and strategically.

To start with, districts and states must have thoughtful ways of gathering incident reports that use qualitative low-inference data to describe what happened without judgment. Important details recorded skillfully and fairly will support learning so the incident is less likely to happen again for the particular student and/or at that school.

Teacher support staff and administrators have to be trained on the purpose of incident reports, e.g., not to make a case for suspension but to describe in detail what actually happened and why with as much content as possible.

A standing decision-making team must be in place to receive the most serious of incidents and make decisions, ideally, for no more than anything longer than a

partial day. This group must be led by a chief social and emotional learning officer, not the people who manage principals because there is an inherent conflict of interest.

As part of this process the team must check to see if the student has a special education, an IEP, and if so they must read it. According to federal law students cannot be suspended for a manifestation of their disability, and yet, this happens all the time.

Data must be examined quarterly and has to included and not be limited to qualitative incident reports, the number of student in-school suspensions and the number of lost instructional minutes, the number of students in and out of school suspension and the number of lost instructional minutes, interdistrict transfer requests, school-based police calls and arrests, teacher surveys including perception of safety and consistency, dropout rate.

If only one of these measures is collected and reported, say suspensions, this can simply incentivize people to call the police or push a kid to transfer. There may be longer suspensions that people over-report that students have been suspended and not for how long.

Every city in America should publish a mobility rate overall and by school, so the public can see plainly how many students who start the school year in one school actually finish the school year there.

As educators we often tell ourselves, quote, we don't have what it takes to serve this student, or this student could use a change of scenery, or this student needs to get away from his friends, they're a bad influence. The truth is that every time a student who is struggling moves to another school that student becomes three to five times more likely not to finish school at all and we know what that means for later life

options.

This is not a charter problem, it's not a district problem, it's an education problem. Too many students are moving from school to school, a practice that often makes it more difficult for all kids, including the most vulnerable, to reach excellence. Remember Juan? Juan is an incredibly smart and self-aware student. He was bored to tears.

Further, he was wrestling with his family pressure that had him working two jobs and trying to be the man of the house. This led Juan to become more and more sarcastic and dismissive of authority.

Had Juan participated in due process ideally with his peers he had the capacity to articulate what he needed to change and the capacity to change it.

If Juan had been accountable for his actions in a very real way, maybe, just maybe, he would not have ended up in a special class for students who had been

suspended where he is likely to learn even more ways to act out.

Finally partnerships. Memorandums of agreements should spell out when and how law enforcement, family support, child welfare and probation staff partner with school staff to make sure interagency gaps are not making things worse for our most vulnerable kids.

In some cases districts need explicit MOUs that spell out when, how and under what circumstances law enforcement will intervene during the school day. If such incident occurs, protocol should dictate a transparent debrief about whether or not that intervention was necessary and successful.

In Newark the police chief handpicked, quote, youth officers to coordinate with our safety team. Each high school created a school climate team that included student leaders, teachers, administrators and youth officers. The team spent an entire week together

training on restorative practices --

MS. HAMILL: Ms. Anderson, just try to find a convenient place to wrap up.

MS. ANDERSON: Sure. I got two more paragraphs. Sorry. My bad.

MS. HAMILL: We will look forward to your written testimony.

MS. ANDERSON: Sure.

The team spent an entire week together training on restorative practices and other approaches to deescalate conflict and respond effectively to incidents. With shared language and tactics, school safety went up, staff satisfaction went up and fewer students were out of school.

Remember David? David didn't need to be suspended over and over again. He needed mental health services and a specialized school environment.

While David's misbehavior in class was a thorn in every teacher's side, he was in need of clinical support beyond the capacity of the school.

So now I'm asking you, close your eyes and picture Juan, Jasmine, Jamir and David. In your mind's eye, do you picture them as students of color? The data substantiates that more students of color get in trouble in schools than their white peers, sometimes even for the same infractions.

Juan was a student in a sixth grade class I taught as a young teacher. He stole my heart and after telling me with great detail how he shoved that desk out the fourth floor window, I was lucky to get to know he and his family and to partner with him to tap into his natural talents and intelligence. I'm happy to report he truly enjoyed college.

Juanita was a student in one of the schools where I was superintendent of alternative high schools. In that capacity I oversaw the schools on Rikers Island and second chance high schools for students coming back to schools and New York City's one-year suspension center.

I saw the security guard confront her and demand her beads and escalate the situation instead of deescalate. I followed the police car to the station and demanded they drop the charges. Overcome with emotion, Juanita sobbed that all she wanted to do was graduate and that she couldn't thank me enough.

Jamir is the composite of a kid I met at Rikers. We oversaw the school there and although he usually keeps to himself, once he heard I had nine adopted siblings, told me his whole life story. We had a frank chat about using his time while he was incarcerated to make a list of caring adults, including his house mother, to let in on his struggles before he got out.

David is my brother. Adopted from a children's hospital at age eight, he suffered unthinkable childhood trauma and finally did make it to a specialized therapeutic school where he graduated.

For me, these issues are personal

and these stories are real. All of the Juans, Jasmines, Jamirs and Davids out there deserve adults who have the courage to confront brutal realities and make changes.

If we're willing to take a hard look in the mirror and radically rethink people, practices, policy and partnerships we can keep kids safe and support our most vulnerable students. We have the power to end the school-to-prison pipeline.

MS. HAMILL: Thank you, Ms. Anderson. Mr. Foster?

MR. FOSTER: Yes. Thank you for having me this afternoon.

My name is Kesi Foster I'm the coordinator of Urban Youth Collaborative. It's a coalition of youth-led organizations from the South Bronx, Brooklyn, East New York and Bushwick and we've been working in New York City for over thirteen years.

Our organizations have been in the neighborhoods for over twenty years and

we've been working to dismantle the school-to-prison pipeline.

I apologize, the young person who was supposed to be on the panel today was going to be with us but he wasn't able to make it today, so I humbly hope that I'm able to articulately express their vision and experiences.

Good afternoon, my name is Kesi Foster and I'm the coordinator for the Urban Youth Collaborative. For thirteen years we have been fighting to end the criminalization of black and Latino youth, youth with disabilities and youth that identify as LGBTQ and gender nonconforming within our public school system.

New York City has created two different approaches to discipline. One approach recognizes the humanity of white school children and responds to their behavior with age-appropriate responses managed by guidance counselors, deans, assistant principals and principals.

Unfortunately, for black and Latino

youth there's a different approach in place that fails to recognize their humanity, pathologizes normal youthful behavior they exhibit, and deems them as inherently criminal and forever marks them as dangers to society.

Far too often instead of age-appropriate responses grounded in understanding child behavior and development and managed by school administrators and staff, their behavior is regulated and managed by the NYPD and criminal courts and they are placed into the unforgiving and unrelenting clutches of a criminal justice system that never lets them go.

When the City began to track demographic data on suspensions and arrests in 2011, an explicit and intentional Broken Windows approach to policing young people had shown that there were over 70,000 suspensions a year and more than eleven arrests and criminal summonses carried out a day in New York

City schools.

Just as today, the large majority of infractions that got students suspended, arrested and a criminal summons were for minor infractions. Noncriminal violations continue to make up the majority of criminal consequences for black and Latino people in New York City schools.

On December 23, 2003, our then mayor of New York City, Michael Bloomberg, outlined the City's strategy for bringing law and order into our schools.

Just as black and Latino neighborhoods were identified as so-called hot spots for quality-of-life crimes, the approach to school discipline was going to mirror Broken Windows and identified so-called schools that were hot spots for minor infractions such as cursing or disrupting a class.

In an effort to bring what they called law and order into our schools, the mayor identified bringing down the full force of the NYPD by enhancing

2 dehumanizing and unnecessary metal
3 detectors and scanners, doubling the
4 number of school safety agents and police
5 officers in and around our schools, and
6 further embedding the NYPD into what
7 should be inclusive and supportive
8 learning environments for all students.
9 At the time, then Mayor Bloomberg
10 stated, we will identify problem students
11 and send the message that this order will
12 not be tolerated, whether a student
13 chronically misbehaves or commits a
14 serious crime, they will be dealt with
15 swiftly, appropriately and removed from
16 school when necessary.
17 Dealing appropriately with black and
18 Latino children has always led to them
19 being thrown away or disposed in our
20 society, and we have lost generations of
21 young people to mass incarceration and
22 decades long efforts to tear them away
23 from their communities and lock them away
24 in cages.
25 Criminalizing minor infractions in

2 schools and using harsh discipline
3 measures to suspend students is in line
4 with what is, unfortunately, an effort to
5 get rid of young people who we deem as
6 disposable.
7 Judges and prosecutors are standing
8 in for counselors and social workers as
9 part of a long process to identify
10 students that are deemed as unworthy to
11 continue their education. We don't have a
12 problem with the criminal behavior of
13 black and Latino youth in our schools.
14 Our problem is criminalizing the behavior
15 of black and Latino youth.
16 During the previous administration,
17 black and Latino youth accounted for 90
18 percent of all interactions between young
19 people and police in schools. Under our
20 current administration not much has
21 changed. Efforts to reduce interactions
22 between young people and the NYPD has
23 resulted in a steady reduction of arrests
24 and summonses over the past three years
25 but black and Latino Youth continue to

2 account for 90 percent of all criminal
3 summonses, and 91 percent of all arrests
4 in schools.
5 A change in approach has limited the
6 number of young people unnecessarily being
7 pushed out of their classroom and into a
8 courtroom, but the persistent and alarming
9 high racial disparities is evidence
10 anti-blackness and bias is still prevalent
11 throughout our system. Black students
12 represent only 27 percent of students but
13 account for 54 percent of all long-term
14 suspensions and 61 percent of all arrests.
15 Students with disabilities account
16 for 18 percent of all students but 42
17 percent of all long-term suspensions.
18 In 2016, the NYPD arrested 138
19 students thirteen years old or younger and
20 only one of those students was white.
21 Black and Latino youth make up 92
22 percent of mental health emergencies in
23 which the NYPD responded and 98 percent of
24 all those students who were having a
25 mental health emergency that ended up in

2 handcuffs.
3 Compared to white students, police
4 are nearly more than eight times more
5 likely to intervene in a disciplinary
6 situation if a student is black and three
7 times more likely to intervene if a
8 student is Latino.
9 There is over two decades of
10 research that demonstrates that black and
11 Latino youth do not misbehave more
12 frequently than their white peers or in a
13 more severe manner than white students.
14 Black and Latino youth are more
15 likely to be suspended or more likely to
16 be arrested for the same behavior as their
17 white peers because the approach of
18 punishment and policing are racially
19 discriminatory, and ending racial
20 disparities is going to take more than
21 acknowledging they exist.
22 Police are in schools and have
23 always been in schools to police children
24 and their presence and resources for
25 prioritizing police in the schools will

2 continue to lead us down a path where
3 black and Latino youth have to navigate
4 their schools in the hopes that one wrong
5 step doesn't put them in the criminal
6 justice system.
7 Every year the Department of
8 Education allocates 357,109,809 million
9 dollars to personnel in the NYPD School
10 Safety Division, a division that employs
11 5,511 personnel, including over 5,000
12 school safety agents, compared to the only
13 2800 full-time guidance counselors for 1.1
14 million students in our public schools.
15 In addition, each year we spend nearly $7
16 million to put young people through
17 suspension hearings, where long-term
18 suspension trials are held, 31 million
19 more dollars for alternative learning
20 centers when we remove them from their
21 schools, and at least $2.4 million for
22 every arrest carried out in schools.
23 To dismantle the school-to-prison
24 pipeline, we must fully divest from the
25 resources and systems that hold it in

2 place. Research shows that young people
3 feel safe in their schools when they
4 create strong and trusting relationships
5 with supportive staff members.
6 The Chicago Consortium showed that
7 students in Chicago even barring their
8 social conditions and violence in their
9 schools don't feel more safe when there
10 are police officers and metal detectors at
11 their school, but feel safe when they're
12 able to cultivate strong supportive
13 relationships with trained mental health
14 support staff, educators, guidance
15 counselors and social workers. The
16 Congressional Research Office has found no
17 evidence that presence of police in
18 schools create safer learning
19 environments; however, research continues
20 to demonstrate that their presence makes
21 it more likely for young people to be
22 arrested for minor infractions such as
23 disorderly conduct or disrupting a school.
24 The young people in Urban Youth
25 Collaborative believe that in order to

2 dismantle the school-to-prison pipeline,
3 we should remove police officers from
4 schools and in their place invest in
5 comprehensive mental health supports,
6 increase the numbers of guidance
7 counselors and social workers in schools,
8 go from punitive discipline into
9 restorative practices, and create
10 processes to address racial bias in our
11 school discipline, in our school system
12 and individual schools.
13 We must decriminalize schools and
14 end the arrests and summonses for
15 noncriminal offenses and misdemeanors and
16 cultivate resources across City agencies
17 to develop alternatives for arrests
18 throughout schools.
19 Every February our schools cram in
20 over 400 years of black history in this
21 country into twenty-eight days and
22 continue to tell young people about Rosa
23 Parks and Martin Luther King, Jr.
24 Unfortunately, Dr. King's work and vision
25 is often reduced to one speech and when

2 his memory is invoked it's used to
3 marginalize black communities and youth
4 carrying on the fight for human rights and
5 black liberation.
6 Our youth wanted me to remind the
7 panel that it was Dr. King who asked us to
8 question the morality of a country that
9 continues to spend billions of dollars on
10 war while refusing to house, feed and
11 provide jobs for poor people.
12 We ask this panel and our City to
13 question the morality of a system that
14 spends over $400 million to police young
15 people in schools when many of them still
16 lack access to a social worker, when they
17 have upgraded scanners and metal detectors
18 in their schools but decades old textbooks
19 and technology and they get handcuffs
20 placed on them and walked out of their
21 schools into isolating and damaging
22 environments when they need to be brought
23 closer into an inclusive and supportive
24 learning environment.
25 Finally, I want to share some

stories of our young people to finish. So earlier this year in New York City many young students across the city valiantly and courageously walked out to protest the election.

Many of those young people were white students that attend our selective high schools that you have to test into, and they were applauded and they were cheered on for their ability to express themselves strongly and to stand up when they feel like something is wrong.

We have a young person who attends a school in central Brooklyn who felt policies in his school were racially discriminatory and he and his peers decided to walk out of school to protest their policy. Before they can reach the front door of their school, the local precinct had been called and a swarm of NYPD officers and school safety agents met them at the front door where he was detained for over an hour and questioned without allowing to have his mother in the

room, threatened to be charged for inciting a riot, and finally received a criminal summons and was suspended on top of the criminal summons.

Two months later he had to travel from Brooklyn to Manhattan with his disabled mother to appear in criminal court on a disorderly charge.

And so when we speak with young people about their vision for their schools, about their ideal school in the future, we have yet to hear young people say they would like friendlier police officers and less intrusive metal detectors. That is not their vision for their school, and we hope and question that not only this panel but the rest of the City can question why we believe black and Latino students cannot go to safe schools unless there are people, adults, in uniforms that are armed and empowered to arrest them and take them out of school and into courthouses. Thank you.

MS. HAMILL: Ms. Kiley?

MS. KILEY: Hello. I want to first thank the New York Advisory Committee to the United States Commission on Civil Rights for inviting me to give testimony today and thank my fellow panelists.

It's an honor to be here to discuss such an important topic.

I am Maryanne Kiley, the executive director for Educators for Excellence New York, an organization dedicated to ensuring that teachers have a leading voice in the policies that impact both our students and the profession.

Our mission is three pronged: Empower our students to succeed, elevate the teaching profession, and advance equity in our nation's schools.

Today, I am here to discuss how current school disciplinary policies are impacting those three priorities by disproportionately affecting students of color, and in New York, that is especially true with black young people.

At E for E, we are committed to

ensuring that all students can learn in a trusting and affirming environment and that educators are equipped with all the tools they need to foster that positive school climate.

Regardless of race, gender identity, religion or socioeconomic status or family background, every young person should feel safe and supported at school and be able to succeed both academically and socially.

One of the biggest barriers to achieving that standard is how schools handle discipline. Simply put, traditional discipline methods, detentions and suspensions, are ineffective and counterproductive.

Moreover, they perpetuate a system that is unjust and causes our schools to criminalize students, which has lasting impacts on young people and their communities. It is not uncommon for young people to express their frustration in words or actions. This happens in schools across the country. What we have learned

is that suspensions and expulsions do nothing to address root causes. On the contrary, excluding young people from school disrupts their education and dramatically increases their likelihood of dropping out and losing opportunities to participate in the mainstream economy.

I hear frequently from E for E members in New York City that they are craving alternatives to punitive discipline. However, few schools have resources to explore viable alternatives. Punitive discipline practices, and school environments that lean heavily on them, create a sense of criminality that reinforces the school-to-prison pipeline. Often the students who are most likely to be suspended or expelled are already facing institutional bias. By that I mean that current disciplinary policies do disproportionately target certain communities.

Consider this, student race and student poverty are strong predictors for

whether a school chooses to implement a combination of strict security measures, even after accounting for factors such as school crime, neighborhood crime, school disorder, school location, and school size. Students of color are more likely to walk through a metal detector in their school, which creates a sense of criminality that they feel as they enter their school, and they bring it with them as they continue on to class.

While there are no definitive numbers on the use of metal detectors, WNYC reports that 48 percent of black and 38 percent of Hispanic high school students walk through metal detectors in their schools, while only 14 percent of Asian and 14 percent of white students go through a metal detector. And in New York City, students of color are suspended and disciplined at higher rates than white students.

The Student Safety Campaign also found that black and Latino students

account for 93 percent of school arrests, with more than 1,300 students arrested last school year. Yet black and Latino students only account for about 68 percent of the student population.

In fact, in New York City public schools, the police department is responsible for school safety. By giving the NYPD, instead of principals and school communities, control over school safety, New York City has only exacerbated the sense of criminality that many students feel simply by walking through the door of their school.

Since 1998, more than 5,000 school safety officers and more than 200 armed police officers have been deployed to schools. As long as police, and not educators, are responsible for keeping our schools safe, students will be subjected to schools that are focused on penalties instead of support, and schools will fail to realize their ultimate purpose, which is to be centers of learning.

New York City Mayor's Office and the New York City Department of Education have begun to roll back the use of punitive disciplinary practices, which is encouraging. However, thus far, this progress has created a vacuum. We have ended policies, but we have not widely introduced the supports teachers need to transition to a more restorative and effective approach.

Though many educators don't want to continue to rely on detention and suspension, our system has not invested in the trainings and tools they need to do this proactively. This is where the future of restorative justice policy lies. By giving teachers better training on alternative and restorative disciplinary practices, we can empower our educators to ensure that students of all backgrounds are able to learn in a safe and productive environment.

Similar training for our police officers would make great strides toward

reducing the air of criminality and suspicion that currently permeates in our schools' halls. To achieve this we need targeted funding to provide educators with these necessary tools.

Schools need additional staff to coordinate the transition, and teachers need meaningful and long-term professional development on restorative practices and anti-bias training.

We need to support school leaders to create a vision for their school that supports their students, parents and educators as a holistic school community.

Until we address these challenges with a comprehensive policy vision and allocate the funding necessary to support our educators to implement this vision, we will continue to see our schools perpetuate the school-to-prison pipeline.

All young people deserve an opportunity to have a just and equitable education and I thank you again for having me here this afternoon.

MS. HAMILL: Thank you so much. Ms. Whittingham?

MS. WHITTINGHAM: Hi. Thank you so much for allowing me to be here and serve the communities that have raised me and have raised my son and my father in a different way.

Good morning -- good afternoon. My name is Claudia Whittingham and I'm a special education teacher at P.S. 59 in Brooklyn. I am also a special education liaison for the New York City Department of Education and a member of the teacher-led advocacy organization, Educators for Excellence.

I am honored to have the opportunity to speak before the committee today on an issue that I address in my work every single day, ensuring that students are safe and supported, no matter what their identity.

I'll be honest, it's not easy. On most days, it can feel like my efforts are an uphill battle, because I am fighting

against the consequences of the criminalization of people's identity that have fed zero-tolerance policies and disciplinary policies. These perceptions and projections have led to the disproportionate targeting, suspension and arrest of young people of color and other marginalized populations.

In a given school year, an average of 40,000 students in New York City are suspended, many of whom are in the earliest grades. I understand the impulse to suspend. When a student is fighting, yelling, thwarting school rules or being otherwise disruptive, sending him or her or they out of the classroom can seem like a quick solution to get the classroom back on track. Further marginalizing a student already marginalized from the learning process and cutting kids off from seeing school as a transformative place.

Research shows that overly punitive discipline is ineffective and has long-term consequences. According to the

U.S. Departments of Education and Health and Human Services, suspension in early childhood is a stressful and negative experience that should be prevented, severely limited and eventually eliminated.

The department goes on to cite findings that young people who face suspension or expulsion are ten times more likely to drop out of high school, earn lower grades, exhibit negative attitudes towards school and go to jail when compared to those who have not.

This does not include the loss of cultural currency and community to those who have already shown the scars of historic trauma. You have to see how trauma has become institutionalized.

Most significantly, the data also tells us that we are disproportionately suspending, expelling and arresting specific groups of young people. Last year WNYC found that black and Latino students comprise 94 percent of student

2 summonses although they only comprise 68
3 percent of the student population. And
4 while anecdotally we know that there are
5 other vulnerable populations such as black
6 girls and trans students that are being
7 pushed out, we are missing the systemic
8 nature because we do not track that
9 information as widely.
10 Nationwide we have initiatives like
11 My Brother's Keeper that address the needs
12 of black boys; however, we are not
13 addressing the needs of these other
14 vulnerable populations. For example,
15 black girls and other girls of color are
16 six times more likely to be punished in
17 schools than white girls. That is even
18 higher than the difference between black
19 boys and white boys who are three times
20 more likely to be suspended than their
21 white counterparts. This is a travesty in
22 the loss of hope, which is the promise of
23 life.
24 Zero-tolerance policies do not
25 address the social and emotional

2 experiences of young people who are
3 traumatized by life. A lot of teachers do
4 not know the biases that they hold, and
5 there is no space to explore that because
6 zero-tolerance policies are not
7 reflective.
8 Are we making connections between
9 zero-tolerance policies and how we are
10 addressing social and emotional
11 expression? Zero-tolerance policies are
12 antithetical to learning, because in order
13 to learn, you have to feel safe enough to
14 take risks. How can you feel safe enough
15 to take risks if you are just a number or
16 a test score?
17 Teachers need to talk with young
18 people, not down to them. Excuse me.
19 These are the words of Rachel, a
20 former student I met at an alternative
21 high school I worked in. In her first
22 year of high school, Rachel saw a girl get
23 stabbed in the head. Stunned, she
24 transferred to her zoned school the
25 following year. In her zoned school she

2 was suspended for fighting three times.
3 By her own admission many of these fights
4 were as the result of comments made by
5 males and females about her dark skin and
6 physical appearance.
7 After two years in high school she
8 realized she did not have enough credits
9 to graduate on time. As a result of the
10 third suspension she was expelled from her
11 zoned school and ended up at an
12 alternative school. Rachel scored in the
13 99th percentile in reading and in the 98th
14 percentile in math. For those who don't
15 understand that, only 1 percent read
16 better than her and only 2 percent did
17 math better than her.
18 While at this school she ended up
19 being arrested for robbery and ended up at
20 Spofford, the criminal detention center.
21 It used to be up in the Bronx. At
22 Spofford her family group teacher, Travis,
23 visited her, keeping her on track
24 academically. After she was out, he took
25 her to visit historically black colleges.

2 Rachel stated that it was this
3 exposure to college with her teacher that
4 inspired her to finish school and attend
5 college. When she graduated from this
6 alternative school she was the
7 salutatorian. Rachel said that her
8 biggest challenges have been people
9 wanting to break her down and put her in a
10 box.
11 It was only because a teacher
12 ignored the punitive consequences that she
13 was subjected to that she was allowed to
14 successfully graduate and feel validated.
15 Rachel's story shows what is possible when
16 we do not criminalize identity with
17 zero-tolerance discipline policies.
18 I am not naive. I know that we
19 can't simply remove suspensions from a
20 teacher's toolkit and expect the classroom
21 experience to improve.
22 Every school needs to have a
23 de-escalation plan in place that's beyond
24 just words on a paper, and teachers need
25 other tools to address student conduct and

behavior that might be a call for help so we can keep students in class when learning is disrupted.

We must cultivate schools that transform lives. Teachers are in the classroom to cultivate human promise and not just a test score. Assessment is important, but not at the expense of our humanity. Teachers need spaces to be reflective on the intersection of the pedagogy and their perceptions. This can be accomplished through training, consistent support and restorative practices, such as restorative circles, positive behavior intervention systems, life space crisis intervention, and de-escalation policies and strategies.

By asking what harm a behavior causes to the individual, to the community, we can transform lives.

Teachers, counselors and administrators alike will need a core piece of our dedicated professional development hours to be focused on

deescalating strategies and social/emotional learning. Teachers should also receive helpful feedback on their use of these disciplinary strategies from trained evaluators.

And hiring additional social workers in schools to help young people and their families get the support they can also be a game changer in many buildings.

These are not add-on programs. They need to be woven into the fabric of the school.

Without building-level administrative support, the power of any initiative is compromised. Eliminating suspensions will change the course for a generation of students. Restorative justice is the first step toward addressing the criminalization and marginalization of young people. When schools criminalize identity, they destroy lives. When schools bring hope, they can transform.

There is one thing I need to add,

it's not in my notes but I just wanted to add something. It's something that is very close to my heart. I sat here all morning and I listened to a lot of people talk about mental health and no one talked about access to food.

I will tell you for a fact I have a nine-year-old learning disabled child who told me there is only processed food in my neighborhood and she's absolutely right. The closest supermarket is eight blocks away. If you have an acute or critical illness or if you are concerned about your child going from point A to point B, which most of my parents are, your diet is processed foods, which does not help your physical or mental or spiritual health. So you have to consider that.

You're going right to -- you're jumping over point A and going straight to point B. So I need to mention that, because my son was one of those kids, he got two sweets a day, because he couldn't stay still. And I was fortunate because I

have information so I could put him in a school that can help him. So I'm not just here as a teacher, I'm here as the parent of a student, I'm here as a member of the communities that are the subject of so many of these discussions.

I'm here as the daughter of a man who grew up in Harlem and went to Stuyvesant and he told me there's a black kid in his Latin class who gets 100 on a test and the teacher would always take off one point because he was black. That's why I'm here.

Thank you.

MS. HAMILL: Thank you all very much.

We have about thirty minutes for questions. Let me see who has questions.

Okay, we'll start with you, Tom.

MR. WAHL: I have two questions. First for Kesi.

I was a little shocked -- and by the way, you said honored, we're honored to have you here, Claudia. Thank you very much.

MS. WHITTINGHAM: Thank you very much.

MR. WAHL: Police are allowed to question students without a parent present. Is that law? I'm curious. You mentioned that.

MR. FOSTER: Is that law? I'm not sure if it's law but it happens every day.

MR. WAHL: I mean, there's no recourse then, for the student to --

MR. WAHL: And then secondly, Claudia, I just want to follow up in terms of limiting suspensions altogether, there is no program in place now where if I'm a good student for a semester or something it will come off and the kids are told this so maybe they're worse when they're freshmen versus juniors? It's on the record for a minute?

MS. WHITTINGHAM: Okay. Understand, I've taught K through twelve. I now teach K through five.

MR. WAHL: Okay.

MS. WHITTINGHAM: Right now when a

student acts up or is inappropriate -- because there's a direct relationship behavior and the curriculum.

The Dignity in Schools recently released a report with suspension rates in New York City going up between January and June, yes. A student with an IEP is expected to make the same standards as a gen ed student. Yes, we have modified promotional criteria, but some kids need more help.

I've got kids coming in kindergarten and they don't know the difference between a letter and an alphabet. I'm like, yay, they know their symbols but, I mean, no, you're expecting them to do the same thing but they're starting behind, okay.

There's no -- when a child acts up this is what we got, we got school safety, fortunately common sense does not want us to call the police, and then you got ACS. That's it. You don't have anything. And if the child is only expressing the trauma or the difficulties, as a parent you have

nothing, okay, because if that parent does not want to take advantage of the services -- and when you speak to the parent, guess what, the parent had a bad experience in school.

So you know, it's -- you're dealing with like layers on layers on layers on top of feeling like this is not a safe place to me.

MR. WAHL: So the students coming in with this bias might have existed from their parents in terms that --

MS. WHITTINGHAM: I would not necessarily call it a bias. Would you call it a bias or would you call it like it's like if someone hurt -- you ever hit a cat too much or a dog too much and after a while you raise your hand -- see, I know -- after a while you raise your hand and the cat just flinches or the dog just -- you don't have to do anything, okay, so it's not that.

It's just that you're dealing with generations of, I never did well in

school, school is not a safe place.

I hope that answered your question. Because this is a frustration that we go through. What do we do when a child in the family needs more support? What do we do? Because you don't have anything right now. You got ACS, you got the police department, that's it. And this is elementary school.

MS. ANDERSON: Can I just speak about one point on the system just to answer your question.

MS. HAMILL: Yes.

MS. ANDERSON: Just from a systemic standpoint having been, you know, the big bad superintendent. The challenge on due process is, one, it's often not explicitly laid out. Often there's no student bill of rights or what a student can expect and that is problematic, number one.

Number two, there's often no formal memorandum of agreement that governs that interaction between police, child welfare and school so even as someone who was, you

2 know, operating a smaller system where I
3 can actually call the police chief and say
4 get the police the hell out of my school
5 or else -- but my or else was enough,
6 right. So we actually tried to go the
7 distance in hammering out what is the
8 interaction between our different agencies
9 and how can we make it developmentally
10 appropriate, number one.
11 But that was all an MOU that,
12 frankly, I did not have a lot to uphold
13 but still it was an important step and
14 similarly to the student bill of rights,
15 what can a student know and expect when
16 and if there is some of, you know, sort of
17 interaction with either school safety or
18 police. Obviously, the better answer is
19 to not have that happen but --
20 MR. WAHL: So basically the school
21 almost gives like a cloak of immunity, you
22 know what I'm saying?
23 MS. ANDERSON: All I'm saying is I
24 think to try to bring like a tangible
25 system's piece of solution to the table,

2 you know, having a know your rights and a
3 student bill of rights campaign which is
4 one thing we try to do, because in the
5 absence of that they're trampled quite a
6 bit and there's really not a lot legally
7 that you can do.
8 And two, having a memorandum of
9 agreement that governs the way in which
10 schools interact with other agencies can
11 help or at least gave me something to say.
12 You said if you were going to come to my
13 school with armed officers for whatever
14 reason, you would do X, Y, Z and you
15 didn't do any of it.
16 MS. HAMILL: Iris?
17 MS. CHEN: I just want to ask one or
18 two questions and they're actually
19 related.
20 So the last panel talked a lot about
21 how much we're relying on this new MOU
22 coming out of New York to get a written
23 recalibrate. So I would love to hear, and
24 Cami, you sort of hinted on the MOU
25 doesn't have that much muscle, right?

2 What can be done? Is MOU the right
3 mechanism and what can be done to add
4 muscle to it to ensure whatever is agreed
5 upon will actually, you know, be
6 reinforced?
7 MR. FOSTER: The MOU is a mechanism,
8 it's not the only mechanism we're going to
9 use. I think what needs to be done is --
10 and also, we should be clear.
11 When we say security in New York
12 City schools or when we say school safety,
13 they're police officers, they're employed
14 by the NYPD. So I don't want us to get
15 confused when we think if there's a
16 school-based officer interviewing a
17 student that's a staff member of the
18 school. They're staff members at their
19 local precinct, it's a different division
20 of the NYPD but we should be clear it is
21 the NYPD.
22 And so I think one thing that needs
23 to be done in concern with the MOU while
24 also clearly delineating what school
25 safety agents are able to do, what school

2 safety agents should be doing in schools,
3 we have to also cover NYPD local precinct
4 officers in that MOU because we know it's
5 local precinct officers that carry out
6 almost 88 percent of arrests and summonses
7 in schools.
8 MR. WAHL: So, Kesi, for someone
9 who's not from New York City, there's
10 safety officers and police, so you have
11 two different levels or?
12 MR. FOSTER: It's two different
13 divisions of the same police department.
14 So when you go into a school building of
15 New York City and there's someone sitting
16 at the front desk with a school safety
17 agent uniform on, they are not employed by
18 the school they're sitting in, they're
19 employed by the NYPD. So we should just
20 be clear of the lines there so that we're
21 not confused.
22 MS. ANDERSON: A couple of quick
23 things about that. One, I'm not in favor
24 of that, but I will say that I've seen
25 even when the school safety agents in

Newark worked for the school department, the school system, which is more common and we had some of the same struggles, although, it is certainly more extreme if you fail your accountability to the police then you do to the school system but nonetheless, some of the same patterns existed because you always have some versions of police officer that are involved, right, some just didn't happen to be in the schools. And then you have some folks that are school-based that also have uniforms that work for someone.

I will just say three quick things to your question that I've seen.

Iris, help. Emphasis on help. Note my comments inadequate.

One, is that you have to have ways of norming and training the folks that are charged with upholding the MOU and that exists both at the system level and the school level so for us, and this is harder to implement in a city as big as New York but not impossible, the individuals that

were -- there was an actual sort of council that was responsible for regularly monitoring the fact the MOU has been upheld and that group met regularly and, you know, developed relationships and, you know, by the time we had it in place for over a year there was hard conversations to be had all around. So that is one.

Two, at the school level, we did something similar at big comprehensive high schools in New York that were not in a good space five years ago and people did feel unsafe and our data showed that despite, you know, all the stuff we had, all the, you know, the things that one would think and, you know, they weren't doing any good.

So having joint training where everyone, officers, student leaders, teachers, administrators, PTA heads worked together on a team going through a week-long institute around de-escalation protocols, around restorative circles, together, not separate. And then creating

a school-based de-escalation plan as a team, not only did that help norm the language but also the shared accountability. And it wasn't about the MOU, it was about everyone, sort of a shared vision on how to work together.

And then finally there has to be, in my humble opinion, a way of forcing a debrief around specific incidents going awry, so the best learning -- I mean, we can all talk a good game but if something happens, right, it's life, it can happen everywhere. So you have to have a forcing mechanism whereby, either by individual school that had something significant happen or a student was put out for more than two days, that group has to come together and sort of unpack. And for me, the ritual has to be, what did we miss, not what's wrong with that kid? And so the rubber hits the road when an individual incident occurs and if there isn't a forcing mechanism to honestly unpack what happened then I think an MOU

just sits on the shelf.

But I do think an MOU is important. I think young people also need to be part -- some of the most powerful debriefs I've seen is when you have student leaders at the table and when you have student leaders present in these safety teams and even you can get as far as having student leaders monitoring due process and that changes the conversation in a very powerful way.

MS. WHITTINGHAM: You know, Cami, I want to say something because I think one of the things that's interesting is -- she used to superintendent at one of the schools I worked at because I used to work at Rikers. When you talk about youth involvement, young people in elementary school have a lot to say. They have a lot to say, they're very articulate and a lot of times we think youth involvement should only be teenagers, but sometimes by that time it's too late.

You know, I had a fourth grader say

to me, Ms. Whittingham, why do teachers put so much pressure on us, this is fourth grade with an IEP. And I was like -- and she was actually so articulate, you know, and, you know, it would help them because one of the survival mechanisms that too many students have -- I know I used to have it -- give the teacher what they want. And in that way you teach them to lie to themselves and that's not really good because, you know, eventually it's going to bite you and it's going to bite them.

When I spoke to Rachel, Rachel had moved around, we're talking about moving around. She was going to school in three different states before she was thirteen. And she is unbelievably articulate, unbelievably. And she said, you know -- I said can I use your name and she said yes, she said as long as it helps somebody. And for those of you who know New York, she grew up on Amboy Street in Brownsville, which is a rough

neighborhood.

And this is a girl, she's an environmental scientist. When you talk about the physical nature, her mother had got custody of her when she was thirteen -- her grandmother. She's now taking care of her mother who was diagnosed with schizophrenia when she was thirteen and kicked out of school when she was fourteen in New York.

MS. HAMILL: Thank you.

Do we have any other questions? Vivian?

MS. LOUIE: Thank you. Thank you again for another really fantastic panel. Thank you for your service today.

I have a question about teacher quality and teacher supports because I think that has been a theme across your thoughtful remarks.

We do live in an age of accountability, right, in our public school systems, so based on your expertise how would you say that those supports can

be built in an accountability system?

MS. WHITTINGHAM: I'm going to speak to this really quickly. Well, hopefully not too quickly.

This summer I had the pleasure of doing an internship with OSYD which is the Office of Student Youth and Development here in New York City. They are the ones who run restorative justice programs, PBS, TCIS and LSCI, all those programs, restorative circles. It was amazing to look at who was walking through the door to participate in these programs. Principals. And when I spoke to the principals, I said why are you doing this and she says I'm not going to ask my staff -- you know, most of the time it was a woman but one time it was a man and he said something interesting. He said I'm not going to ask teachers to do something I'm not willing to do.

One principal said to me, my teacher sent me -- because it's a teacher-run program. The thing is you have to -- it's

not necessarily teachers. I've got news for you. You have to have superintendents and principals who support because right now when you're looking at teacher effectiveness if you don't look at how principals are being rated then you missed it because that's what principals are going to focus on when they look at teachers, which is test scores. Okay, they're not like SCL and everything, for some people it's just verbiage, you know, they know what to put in the plan, they know what to say so you think they're doing that and as it's been said throughout this morning is that suspensions are underreported, expulsions are underreported.

Yes, teachers are accountable, yes, we're accountable outside but, you know, most teachers do care.

We may all have different ways of expressing it, we may have different languages and everything else but most teachers got into teaching because we

2 cared, you know, because schools meant
3 something for us.
4 So I'm asking you, are you asking us
5 to be accountable to someone else or are
6 you asking us to be accountable to
7 ourselves so we can be better teachers?
8 Because the first one we'll do it because
9 it's a compliance issue. The second one,
10 we're going to stay in teaching and we're
11 gonna love what we do.
12 MS. HAMILL: Do one of the panelists
13 want to address that? Yes.
14 MS. KILEY: I think it should be
15 about identifying teachers that need
16 support and providing them with the
17 support. I think there are questions of
18 what data are we not collecting right now
19 that can help us identify teachers that
20 need support? So when we think about
21 discipline, right, yes, principals suspend
22 students and it's the teacher's classroom
23 that they get sent from so we think we
24 need to start collecting more data,
25 sharing more data around who are the

2 teachers that are struggling and continue
3 to send young people, whose stories I
4 shared you with today, to the dean and to
5 the principal.
6 And when we identify some of those
7 teachers on a school-based level, then it
8 becomes a question of is this system fully
9 invested in and prepared to provide
10 support for those teachers and not just
11 the stick?
12 And I think we need to really set a
13 tone in which we're trying to identify
14 teachers who need support and not going
15 with the stick first and identifying what
16 is the kind of support they need? And
17 also we have to be able to identify who
18 those teachers are. I'm sure educators,
19 principals know who those teachers are but
20 many districts are going to need to
21 improve the data collection that they're
22 doing about what is happening in
23 individual classes.
24 And on a systems-wide level Every
25 Student Succeeds Act for the first time

2 offers a nonacademic accountability
3 indicator. And each state in the country
4 has the opportunity to select their
5 nonacademic indicator.
6 We did hundreds of conversations
7 with educators across New York City about
8 these accountability indicators so they
9 would understand this new law and survey
10 them afterwards and nearly a thousand
11 surveys revealed that the majority of
12 teachers wanted that additional
13 nonacademic indicator to be a school
14 climate index.
15 MS. ANDERSON: And I just have to
16 add, I think yes, and we have to, you
17 know, what is the expression? The fish
18 stinks from the top? I don't even know if
19 that's right, but it's got to be a
20 systemic approach. I think the evaluation
21 has to be rethought top to bottom.
22 So top, if you do a school quality
23 index I think that's great. If you're
24 measuring suspensions you have to look at
25 the quality of the incident reporting in a

2 quantitative manner as well, we have to
3 look at school mobility records -- I've
4 laid all these out in my remarks. We just
5 talked about suspensions got cut in half.
6 That to me is a red flag for all sorts of
7 badness.
8 So one, at the system level like
9 superintendents like me and others need to
10 be accountable for complex and smart set
11 of measures that include quality and
12 quantity of mixed methods and all sorts of
13 checks because otherwise we're just going
14 to push this stuff underground, we'll just
15 call the police more and we'll say that we
16 cut suspensions, or move kids more, or
17 push kids out more, which literally I have
18 seen. Now that I'm working with multiple
19 superintendents I've seen all of that,
20 it's like a bump in the rug.
21 At the principal level you have to
22 recruit and select people who passionately
23 believe that their job is creating a smart
24 social and emotional environment as much
25 as it is an academic rigor and know how to

do both.

So we created a school self-assessment to articulate very clearly what the responsibilities and expectations were for principals and school teams, because we found that the instructional excellence side of it, there's a lot of consensus that people have of what that looks like, but when it gets to the other stuff it gets real gushy real fast. But the principal has to create that environment. He has to be accountable for creating that environment.

And then at the teacher level, it's interesting. Most teaching rubric have a competency -- like we need to rethink all of that, right -- like there's a competency around student relationships and redirection, et cetera, in every single rubric except usually it's completely underutilized. Everyone completely gets a 1 or a 4 and there's real lack of rigor on how folks are evaluated and coached and trained because

it's just under-appreciated. It's there, it's one-fourth of the school, it's there, Danielson, all the big ones have it. And so, instead of just saying, oh, guess what teachers, here's something new, we just said we're going to embrace that one particular piece and put a hold on it and see what that really means and what it looks like in action.

And then not only take the care approach which is we don't want to shame you but also the accountability approach which is that, like, if you get a zero on that, there are some systems where in the waiting of evals, that bucket is worth like half of what the good objective is. So I don't know, we're gonna double that one. So it's both a way of doing it through support and also an evaluation. The tools are there and I think it's got to be a systemic effect because I don't think we're going to see change if we rely on teachers.

These individual teachers we all

know, and probably some of them are sitting here that are doing these heroic pieces without taking a full systems approach to the eval and coaching piece.

MS. HAMILL: Do we have other questions? Gertrud?

MS. LENZER: I wanted to ask Mr. Foster, do you also have parents involved in the organization?

MR. FOSTER: Not in our organization but throughout the city and really throughout the country there are parent organizations that are involved in forming school discipline. There's actually a parent organization in District 9 -- it's either 9 or 7 in the South Bronx. So New Settlement Parent Action Committee is a parent organization that we work close with which has been advocating for resources to bring peace centers in the schools where the parents and the community would help mediate conflicts between students and help set a tone for a positive inclusive learning environment.

MS. LENZER: Are they in any way involved in the memorandum of understanding who they want to have an impact upon?

MR. FOSTER: One of the pieces of memorandum of understanding that we are recommending is that every year -- you mentioned the council.

I feel that parents and students should be a part of any review, changes of the memorandum of understanding between the Department of Education and the NYPD and so we're hoping to set up a community oversight committee, for lack of a better term, that should be at the table when changes to any memorandum of understanding are taking place.

MS. LENZER: Would that be on an annual basis?

MR. FOSTER: I hope that they would meet and reevaluate it on an annual basis, yes.

MS. LENZER: Thank you very much.

MS. HAMILL: Do we have any other

questions?

MS. CHEN: So we touched quite a bit on changing systems I think with all the incredible data provided changing minds.

One thing that you all touched on is changing hearts, which I feel also needs to be a big, big piece of this. Claudia, you talked about sort of criminalizing identity, and Maryanne, you talked about the feeling that kids get walking through the door every morning.

Kesi, you invoked Martin Luther King and our morality as a nation, and Cami, you talked very personally about young people in your life.

What needs to be done even in a city this big where the system usually becomes the main conversation to make sure that we are also changing hearts in a way that's going to be enduring and support service three-legged stool.

MS. ANDERSON: You know, I did a lot of training for principals and teachers personally because I felt that this was so

important to see that, you know, it was a priority for me as a superintendent as much as algebra was, and I found, just as one example, the foolproof thing of getting young people in a fish bowl and asking them a series of pointed questions about their experience of school and their experience of authority and their experience of what happens when they do some, sort of, misstep, and this is just one example.

I mean, I've tried everything and I feel that that never fails but hearing from young people about their perception on what discipline is supposed to be and what involved with the enforcement agency is supposed to be versus how they experience it, there's nothing like it coming straight from them, how disconnected it is from what they actually are feeling and experiencing.

That's just one thought. In training, I have found that to be probably the most powerful.

MS. WHITTINGHAM: I think the other part that Cami was saying, when you unpack when things don't go well, and it's not punitive. So people have a chance to talk about, well, this is what happened.

Too many times things are punitive or, you know, in the earlier panel someone said, well, give him an IEP. You understand that if a school has a really high rate for kids that are referred for special ed, the principal gets points taken away. You know that, right? It's punitive. So it's got to be both, students and teachers and everyone having these conversations.

And it was really funny, I was talking to one of the teachers at my school and she's a self-contained teacher and it's a K to one class and they were talking about different places where economy takes place, where goods and services get bought and sold in, and one of the kids said trap house. And she said, you're absolutely right, but we're

not going to do that right now, she said, we're only looking for legal things. But she had to validate this kid's experience. This is this kid's world. And he said it not like for the record, he like knows this and this kid is like six years old. But you have to validate their experiences so that you can open hearts, you know.

The same thing with teachers. It can be really difficult when you work with teachers who don't always have the same point of view or the same perspective as you or the same level of skills and try to meet them where they are. You need to meet people where they are without judgment and have compassion and have empathy, because understand, I am not perfect. And neither are you. And we all make mistakes.

MS. HAMILL: I think we have a couple of more questions. Kevin? Johnny?

MR. THOMAS: I have a question about teachers.

Everyone has a bias. Do you see

2 African-American teachers taking it a lot
3 harder on African-American kids than white
4 teachers on African-American kids and vice
5 versa?
6 MS. WHITTINGHAM: Then it becomes,
7 it's intersectionality, it's not race,
8 it's class and there's very little
9 research done on class so I don't know if
10 it's because of race or because of class
11 issues.
12 I'm going to say something, please
13 no one be offended.
14 My mother is from St. Louis, she's
15 way lighter than me, and she used to have
16 this joke, she'd say some people have
17 worked in the big house for so long they
18 think they own it. It's not a race issue
19 anymore, solely, it's a class issue too,
20 it's intersection.
21 Do I think they're harder or not? I
22 can't say. Do you understand what I'm
23 saying? I can only speak for myself.
24 I'll speak for my own biases.
25 When I first started teaching I had

2 a bias towards boys. And I had a really
3 good mentor who is now the senior vice
4 president of UFT, Karen Alford, and she
5 says you know you favor boys and she was
6 absolutely right, and then I had to work
7 on it. Do you understand?
8 So I don't know, you know, if do I
9 know that just because someone's black
10 does it necessarily mean that they have
11 the same value system as another person
12 who is black? Because there is this
13 intersectionality that we often ignore, of
14 class. Where does class fit? And class
15 isn't necessarily determined by money.
16 MR. FOSTER: I think that's a good
17 point but I would say though that there's
18 some research that does point to white
19 teachers specifically are treating black
20 students differently than black teachers.
21 I know that there's a report that
22 just came out in Denver which actually
23 surveyed black teachers in Denver who
24 talked about the biases they face from
25 their colleagues and also the biases they

2 see played out by white teachers towards
3 black and Latino students. So there is a
4 good number of research of how that plays
5 out.
6 I think there is a good point that
7 we had to explore biases within all of us
8 and we can become narrow when we start
9 looking at the individual as opposed to
10 what can we do on a systemic level to kind
11 of curtail the biases that we know are
12 going to play out. But also we should in
13 our approach to school discipline in New
14 York City when we look at our teaching
15 staff, we should absolutely address the
16 lack of black educators in our schools.
17 When we have thirteen-year-old young
18 people from Bushwick and East New York
19 tell us all of our teachers live in Long
20 Island, Staten Island and look at us as
21 soon as we walk through the door as if,
22 you know, we just finished robbing
23 somebody outside. We should not ignore
24 this issue that we do need to vigorously
25 recruit more black educators.

2 I think on top of that, we need to
3 look at all of the schools and education
4 they're coming from and what's being done
5 in pre-service training to provide and
6 explore the biases that we all have and
7 begin to build restorative justice
8 practices with teachers before they come
9 into our school communities.
10 MS. HAMILL: Okay. One last
11 question.
12 Johnny.
13 MR. PEREZ: Thank you all for your
14 testimony this morning. It's really
15 moving.
16 You know, my question is related to
17 -- so we've heard a lot of recommendations
18 this morning about just completely
19 removing the NYPD from the schools, just
20 get them out of there, you know. And, you
21 know, as an advocate I can understand
22 that, you know. But also, you know, as a
23 parent of a young sixteen-year-old teenage
24 black girl in New York who sometimes
25 expresses to me, you know, hey, I don't

2 trust the NYPD, I don't trust the police
3 but there are times that I'm glad that
4 they're there. And I also work with youth
5 in my other life who have expressed to me
6 privately, hey, I'm kind of glad that the
7 cops are there because we don't know
8 what's gonna happen.
9 We live in an age of Worldstar,
10 right, where you get into a fight and
11 you're put on social media and the next
12 thing you know you're like the coolest
13 person in school.
14 So my question is this: Instead of
15 completely removing NYPD from the schools,
16 right, can you re-imagine a world where
17 the police is still in the school, can you
18 re-imagine a world where their role is
19 redefined, and if so, what does that look
20 like?
21 MS. ANDERSON: I'll start. I mean,
22 just because I've had more control because
23 the actual armed officers, the school
24 safety agents that were armed worked for
25 the Newark school system, not the police

2 and so did the officers that were not
3 armed. They were called school safety
4 agents and they also worked for Newark
5 school system. I mean, I think, you know,
6 there's a lot of -- there is a world where
7 we don't need them at all and students and
8 teachers feel safe.
9 I think unfortunately what happens
10 is sometimes we leap to remove them and we
11 did not do all the capacity building and
12 the supports to be able to meet that
13 challenge in proactive ways so that
14 everybody feels good about it, and then we
15 have the situation as we have in New York
16 City where the Manhattan Institute, the
17 conservative think tank, last week just
18 put out a report saying that we do have a
19 school quality index here in New York
20 City, it's actually a pretty good one, and
21 they can show a pretty high correlation
22 between teachers and students in some
23 school reporting they feel less safe with
24 the implementation of less punitive
25 discipline measures.

2 So it's a self-conforming prophesy
3 because -- you know what I'm saying?
4 Because we didn't do all of the conditions
5 for success. So I think that there's a
6 ton of stuff that needs to happen. We've
7 talked about better mindset, better
8 training, better coaching, better support,
9 better data, more accountability at the
10 principal level, all that stuff.
11 I have been to -- there were two
12 high schools in Newark where we got as far
13 as, two notorious high schools in some of
14 the poorest neighborhoods in the country
15 where we ultimately removed the metal
16 detectors and the safety agents but it
17 took us three years to get there.
18 So I think there's partly the
19 proactive piece, right, there's also some
20 of the stuff we talked about in terms of
21 who you recruit, select, train and who
22 they feel accountable to, and so, for
23 example, in New York when it became clear
24 to me that -- I kept advocating, can't we
25 just have more -- new plan?

2 Can't we weigh in on their
3 evaluation, can't we have a formal way as
4 the principal actually in a moment in time
5 can weigh in on how they are evaluated or
6 can't we have, you know, on the school
7 quality index, can't we have them in the
8 mix so that parents and teachers are -- so
9 there's workaround?
10 I guess my biggest thing is we can't
11 just stop doing X without building Y
12 because my big fear about stopping doing X
13 without building Y is I've seen the cycle
14 and I worry that it just cements people's
15 view that punitive discipline is the only
16 way to go and we don't do the capacity
17 building to build the alternative which I
18 believe 5,000 percent not only do I
19 believe it's possible, I've seen it.
20 MS. HAMILL: And on that note, we're
21 going to end this panel.
22 Thank you so much for your excellent
23 presentations and your participation.
24 PANEL 5.
25 MS. HAMILL: Okay. Good afternoon.

If we can get started with our fifth panel, please. Good afternoon everyone. We're ready to hear from our fifth panel on school policing practices and accountability.

We welcome City Council Member Dromm and Ms. DeCataldo. Let's start with you, Ms. DeCataldo, please.

MS. DECATALDO: Sure. First I want to say thank you for this opportunity to address the New York Advisory Committee to the U.S. Commission on Civil Rights.

So for the last ten years I've had the privilege to be the executive director for the New York Judicial Commission on Justice for Children. That commission was created by the state chief judge more than twenty-five years ago with the mission to improve the lives and life chances for children affected by the New York State court system. There's a whole lot of the commission in my testimony but I don't think you really need to hear that right now.

So, anyway, I'll go on to the work that we have been doing around looking at school justice partnerships and looking at the school-to-prison pipeline. In 2012 the New York City School Justice Partnership Task Force was convened by the late former chief judge Judith Kay, longtime chair of the commission.

The ultimate goal of the task force was to develop recommendations for the New York City school and justice systems that would promote safe, respectable and supportive learning environments, reserve the use of punitive measures including school suspension, arrest and summons for the most egregious cases, address the overrepresentation of exclusionary discipline amongst students of color and students receiving special education services, and assist in the entry for those youth involved in the justice system.

When the task force first began meeting, the Student Safety Act first took

effect. This gave the task force the ability to do deep analysis on data never before released to the public. At the time in school year 2012, the New York City Police Department reported that the school safety agents and the police made 882 arrests and issued 1,666 summonses in schools in New York City. Arrest data reported for the School Safety Act at that time only included arrests and summonses by school safety agents and police officers in the School Safety Division, not arrests by precinct officers who can be, and frequently are, called in by school safety officers and by school staff.

With the amendments to the Student Safety Act which took effect this year, we have since learned that the NYPD precinct officers actually were, at that time in 2012, and continue to be responsible for greater numbers of arrests and summonses in schools. So back to 2012. 70 percent of the arrests in 2012 were for

misdemeanors, many for fights, disturbingly many for obstructing governmental administration and resisting arrest, charges that would not occur absent a police presence in the school.

Judges on our task force recounted court filings involving arrests for obstructing governmental administration and resisting arrest where there was no underlying criminal behavior by the student. Charges resulting instead from a confrontation between the student and an agent or officer, those charges were one out of every six reported for school year 2012. From the Student Safety Act data we found that black students accounted for 63 percent of the arrests and only 28 percent of the population, meaning that black students were fourteen times more likely to be arrested in school than white students. Students as young as eleven were arrested, most frequent arrests were those of sixteen and seventeen year olds who were charged as adults and sent to

adult criminal court.

The task force was also able to undertake a study of new juvenile delinquency petitions filed during two three-week periods in the Bronx County Family Court, the busiest court in the state. We found that 26 percent of the new petitions filed were school related. 26 percent of the court's caseload were school-related arrests and those were the young people under age sixteen. Most common charges were menacing, attempted misdemeanor assault, and misdemeanor assault.

We were also able to obtain and analyze data from the Manhattan District Attorney's Office of sixteen- and seventeen-year-olds arrested in schools in Manhattan.

Of the 914 arrests from 2007 to 2011, an overwhelming 79 percent was for misdemeanors. The district attorney's office also documented that 63 percent of those arrest resulted in a dismissal.

We were also able to do some deep analysis of the summonses being issued in school by School Safety Division staff based upon the Student Safety Act data. Summonses issued for violations, activities deemed noncriminal by the penal code, can only be issued to students over the age of sixteen.

During school year 2012 of the 1666 summonses issued by School Safety Division staff, 64 percent were for disorderly conduct which encompasses a wide range of behaviors from causing an annoyance and making unreasonable noise to engaging in a fight. 5 percent were also issued for riding a bike on the sidewalk on school grounds.

To answer a summons a student must miss school and attend summons court, which normally has hundreds of cases on the calendar. The maximum penalty for a violation is fifteen days in jail or fines up to $250, although, generally, most cases end with a fine, community service,

an adjournment in contemplation of dismissal or outright dismissal. If the student fails to appear in court on the date and time of the summons, a bench warrant will be issued for his or her arrest.

I question, still, what a young person would learn from being sent to summons court; the judicial hearing officer does not discuss the student's behavior with him or her, the hearing lasts four minutes, if that, any fine or community service is not connected back to the student's behavior in school.

The data the task force examined demonstrated that the vast numbers of black and brown students receiving a criminal justice response to relatively low-level behavior coupled with emerging research on the effects of arrest on young people was particularly disturbing.

Youth who were arrested for the first time compared to peers who were not arrested for the same offense were almost

two times more likely to drop out of school. Bring that young person to court and the risk of dropout increased to four times more likely to drop out of school.

Another study regarding low-income youth and juvenile court involvement found they were seven times more likely to have adult criminal records compared to youth with the same background and no court involvement.

Our task force made a number of recommendations to improve this bleak picture regarding the interactions between the NYPD safety division/NYPD precinct officers and students in New York City schools. The recommendations are detailed in my written testimony and I will not review them at this time based on time constraints, except for our lead recommendation which was that there be developed mayoral-led initiative that establishes a shared goal among agencies and collaboration with the courts to keep more students safely in school while

reducing the risks and suspensions in school-based summonses and arrests.

Mayor De Blasio did do that, he created the Mayor's Leadership Team in School Climate and Discipline which began to meet in March of 2015. I was appointed co-chair of the School Safety Working Group. My co-chair was Brian Conroy, chief of NYPD School Safety Division.

Since school year 2012 with training, leadership and supervision, the NYPD School Safety Division has achieved remarkable results. Overall there has been a 72 percent decrease in summonses issued and 69 percent decrease in arrests by School Safety Division staff. The reduction is cause to congratulate the NYPD put it is not enough.

The most recent data, as you've heard previously today, has shown the disparities are severe and continue. Students of color continue to be the most likely to receive a criminal justice response to minor misbehavior in the New

York City schools. The new Student Safety Act requirement which requires report of precinct officers' summonses and arrest data demonstrates precinct officers account for more of the school's arrests and summonses issuance, and highlights the need to ensure that precinct officers when called to schools receive the same training as that currently being offered to staff for the School Safety Division, which has contributed to the decrease in the numbers and summonses and arrests made by School Safety Division staff.

There must also be clear guidance to all members of the NYPD that limits their authority to interfere in minor student discipline issues. Police are trained to make arrests. If you want them to respond differently, they must receive adequate training, guidance and supervision to effect the change. Critical to achieving sustainable change is updating the memorandum of understanding between the NYPD and the Department of Education,

which sets forth the expectations for the interaction between members of the NYPD, both School Safety Division and precinct officers, students and school staff. School districts and police agencies across the country such as Los Angeles; San Francisco; Denver; Birmingham, Alabama; Broward County, Florida, have used an MOU to define and limit elusive criminal justice response to student misbehavior, and have shown notable results.

I want to highlight a few given our limited time. Judge Steven Teske, chief judge of the Clayton County Juvenile Court in Georgia is a leader in reform of school-based arrests. In 2003, he convened the Schools Justice System and Police in Clayton County. This group collaboratively created the first MOU entitled School Referral Reduction Protocol, which identified misdemeanor offenses no longer eligible for arrests and referral to the juvenile court. His

impetus was a huge increase in the juvenile court caseload from school referrals that could be traced back to when police were first assigned to the schools. Judge Teske's review showed that most of the referrals from schools were for low-risk misdemeanors.

Over time the Clayton County MOU has been expanded to all school-related misdemeanors, and the county has also created a system of care to respond to at-risk youth.

This two-prong approach of a graduated response protocol and a system of care to provide appropriate supports and services to students has led to a 60 percent reduction in juvenile arrests and 24 percent increase in overall graduation rates.

Adult decisions: Connecticut Rethinks Student Arrests, is a report of three school districts in Connecticut that created a memorandum of agreement to make clear the roles and responsibilities of

2 schools in police and school discipline
3 and a graduated response protocol to
4 respond to student misconduct.
5 I bring it to your attention
6 especially for the title as it illustrates
7 the underlying change that must occur for
8 our students to stop being arrested in
9 schools. The adults must agree to respond
10 differently to normative child and
11 adolescent behavior or misbehavior in
12 schools. Themes that emerge from the
13 three-district setting in the Connecticut
14 report included that schools are safer
15 when arrest is a last resort, and that
16 better support for students means that
17 conflicts are managed before they erupt
18 into violence.
19 There currently exists an MOU
20 between the NYPD and the New York City
21 Department of Education. It contains
22 language that -- and these are quotes --
23 encourages school staff to avail
24 themselves of appropriate NYPD assistance
25 in ensuring student discipline, and

2 authorizes the NYPD to enforce the rules,
3 regulations or procedures of the
4 Department of Education, and requires that
5 when a student is believed to have
6 committed a crime, the police must be
7 summoned.
8 The current MOU also states that
9 students should be arrested or issued
10 summonses for all crimes. Many of the
11 incidents that occur in schools can be
12 determined to be either a violation or a
13 misdemeanor. I often joke that I'm a good
14 lawyer. I can look at a discipline code
15 and make just about anything on there a
16 misdemeanor or a violation, so the
17 question that we have to ask is, is that
18 really how we want to treat our students?
19 If anything on that discipline code could
20 be a violation, why is that the response
21 that we are using to young people,
22 especially when we know the devastating
23 effects that such involvement has on them?
24 So I just want to stop for a second
25 and tell you a little bit about the work

2 of the School Safety Working Group. We
3 spent a year-and-a-half meeting, it was a
4 big group, we had a core of really
5 dedicated people, we had impassioned
6 conversations, some of them were very,
7 very difficult.
8 We made a series of recommendations
9 for the first round in the first report
10 and then the second report and then I did
11 put the footnote or the endnote in my
12 testimony so that you can look at the
13 whole report. I'm just going to highlight
14 some of the recommendations, but the
15 second one was really about the MOU and
16 that was what we met about for the last
17 eight months.
18 We recommended that there be
19 required training for all School Safety
20 Division -- oh, and I should say who was
21 on it. There were advocates on it, Brian
22 Conroy, the members of the NYPD School
23 Safety Division as well. There were
24 Department of Education people on it,
25 there were parents, Kesi Foster was on it,

2 Johanna Miller from NYCLU who testified
3 this morning was on it. We had members of
4 the UFT, we also for a brief time had
5 members from the teamsters who represent
6 the school safety agents. We tried to be
7 as inclusive as possible in putting
8 together the working group.
9 Okay.
10 So we recommended that there be
11 required training for all School Safety
12 Division staff and precinct officers who
13 routinely are called to schools, in child
14 and adolescent development, conflict and
15 crisis de-escalation techniques, conflict
16 resolution, children with disabilities,
17 the effects of trauma, implicit bias and
18 cultural competence, the school discipline
19 code, and best practices for policing in
20 schools.
21 We recommend that training should
22 occur before deployment and through
23 regularly scheduled in-service trainings
24 to ensure best practices of policing in
25 schools continue.

Much of the proposed language we recommended seeks to delineate the role of school administration and staff in dealing with student misconduct so that it is clear that school administrators have primary responsibility for intervening in and addressing student misbehavior, and for ensuring consistent application of school rules and policies as set forth in the discipline code.

The proposed language seeks to limit school safety personnel responsibility in schools to serious criminal law matters where there is a real and immediate threat of serious physical injury to a member of the school community. The proposed MOU language also would limit the instances when Department of Education personnel may request assistance from school safety personnel to when it is necessary to protect the physical safety of students and staff or required by law, and specifically states that certain behaviors such as horseplay, minor altercations,

behaving in a rude, insubordinate, defiant or disruptive manner should not result in a request for intervention by school safety staff for assistance or to effect a classroom removal.

The proposed language would also make clear that when school safety personnel intervene, attempts should be made to verbally engage the student to stop the behavior or employ age-appropriate conflict resolution techniques to deescalate the situation, and that handcuffs or other law enforcement tactics should not be used.

The School Safety Working Group also recommended that the MOU include a list of criminal offenses that should not warrant an arrest or summons, and that the NYPD and DOE work together to create programs in schools for arrest diversion, including community service programs and a graduated response if a student commits the same conduct more than one time.

We also have proposed provisions

regarding the questioning of students and the arrests of students in schools. I don't know if people are aware but the NYPD knows that the best place to find a young person is to go to the school, so they would go to the school and remove a young person from school for something that didn't happen at school. They just know that they can go into the school. We talked a lot about creating protocols where that young person would be called to the principal's office, not taken out in handcuffs, done in a way that it does not cause them the concern that they would have.

We also talked a lot about -- I know that there were questions earlier about the questioning of students. Because it's a very blurred line in school, teachers, principals have a lot of authority, kids talk to them.

When the principal is sitting next to somebody from the NYPD it's not clear if that young person could be arrested as

a result of the comments that they make. What we talked about is having an effective Miranda-type warning that a child can understand, that if they did say something in front of the school safety agent regarding some act that they may have made, that they could be arrested, and also that if their parent couldn't be contacted that they would have the right to ask for another person in the school that they trusted an adult to be with them while they were questioned.

Student misbehavior should be a teaching moment, not an opportunity to push a student away from school and enmesh them in the criminal justice system. Our young people need a safe place to make mistakes.

Schools used to be that. The use of restorative practices, which I know you've heard of today in schools shows great promise in reversing the trend of punitive and exclusionary responses to student misbehavior in schools. Premised upon

building relationships between adults and students and between students, restorative practices used when responding to a wrong, gives voice to both the person harmed and to the person who committed the harm, and invites the offender to understand the harm caused and collaboratively, with his or her community, create a solution to repair the harm.

Use of restorative practices teaches conflict resolution skills and empathy. Compare that to going to summons court for a minor misbehavior.

In closing, I want to reiterate that I applaud the investments in skill development and training and the change in philosophy by the NYPD School Safety Division that has resulted in downward trends in the use of a criminal justice response to student misbehavior in schools. To institutionalize this approach and demonstrate the City's commitment to continue to reduce the use of arrest and summonses in schools and to

begin to address the racial disparities in the treatment of students of color, the City must institutionalize and memorialize this approach so it becomes the norm and survives changes in staff and changes in administration.

Thank you.

MS. HAMILL: Thank you.

Mr. Dromm.

MR. DROMM: Good afternoon. Thank you for the opportunity to speak on school safety and the role of school safety agents in the disproportionate impact of policing policies on youth of color.

As chair of the Committee on Education of the New York City Council, I head efforts to oversee the Department of Education. Before being elected to the council, I had a thirty-year career in education, first as an assistant director at the Grant Houses Daycare in Harlem and then as a teacher at P.S. 199Q in Sunnyside. Nearly all of my students came from economically disadvantaged

communities of color.

I was fortunate enough to receive a firm grounding in progressive education, and I have City College to thank for that.

In my own students I have witnessed the transformative power of a solid education. If public education is going to live up to the role it should play in our democracy as the great equalizer, then we have to examine the ways our schools reproduce and reinforce systems of oppression. The problem of over-policing is not going to be ultimately solved in the jails and prisons and courtrooms of our country, but instead in our homes and classrooms.

The relevant questions then become: Are our school communities being equipped to promote justice, peace and resilience? Are restorative practices preferred over punitive models? Are all staff, including school safety agents, trained on racial, cultural, gender, and sexual orientation competency?

The problem -- and New York City schools are not alone in this -- is that expediency has been emphasized over the hard but rewarding work of instilling in our students the values of love, respect and cooperation. The initial problem is that we are not starting from a blank slate. The very presence of uniformed police in our schools normalizes, from a young age, practices that become ingrained in the consciousness of our students. Extramural interaction with police is inevitably influenced by the dynamic established within school walls.

During Mayor Giuliani's administration, the Board of Education transferred the Division of School Safety to the NYPD in 1998.

The Board of Education is now the Department of Education, but the initial MOU entrenching police in our schools has continued. Now there are approximately 5,000 school safety agents. To put this in perspective, there are only 2,800

fulltime guidance counselors and 1,252 social workers compared to 5,000 school safety agents. The consequences of having large numbers of individuals trained in police tactics in our schools is best illustrated by what happened at Park Slope Collegiate in 2015.

According to witnesses, a student was wearing a pair of glasses that needed repair and was using a pin to hold them together. School safety agents felt that the pin posed a threat to school safety. They stopped him, took his glasses and confiscated the pin. When the student reached to recover his glasses and the pin, officers restrained him. They brought him to the ground, pinned him down and handcuffed him. An officer alleged that the student's elbow hit him in the face on the way down. The student was released to the principal's office and while he was there he was handcuffed, dragged out, placed under arrest and held in a room by the NYPD without parents or

staff present. He was released and there were finally no charges filed.

This student who was so eager to learn despite his poverty that he used a pin to hold his broken glasses together, has now been traumatized by police when what he needed was just a little help from a nurse or a school worker to get him his new glasses.

In this school and many schools throughout the city, metal detectors add to the jail-like atmosphere. According to ProPublica, a WNYC report issued last year, over 100,000 students in 236 schools have to undergo the humiliation of passing through metal detectors. African-American and Hispanic students are three times more likely to have metal detectors at their schools. That means nearly half of all African-American high schools have to contend with them.

The recovery of weapons is miniscule. In one particular two-month period of 3 million scans, only one gun

was seized. Adding to the hostile environment, there have been reports of harassment by both school safety agents and regular police officers.

At a 2014 town hall, Park Slope Collegiate students complained about cops using bullhorns telling them to get out of the neighborhood. Schools set the tone for the dysfunction of our criminal justice system is what destroys lives.

Sadly, New York is one of the leading states in the country in sending our youth through the school-to-prison pipeline.

Besides North Carolina, New York is the only state that automatically treats sixteen- and seventeen-year-olds as adults. The result is that families who cannot afford even modest bail must face the ugly reality of jail for their children.

Our City jails have an average daily population of around 400 adolescents ages sixteen to eighteen, down from 800 when

the Department of Corrections started publicly posting statistics in 2010. The notorious pit of brutality and corruption that is Rikers Island is no place for any human being and especially for a young person whose brain is still in critical stages of development.

According to a scathing 2014 Justice Department report, correction officials have shown a deliberate indifference to young detainees' constitutional rights. I encourage you to watch the new Jay Z-produced documentary on Kalief Browder, who, when he was sixteen, was detained for three years at Rikers Island mostly in solitary confinement. Kalief was never convicted and died not long after his release. I hesitate to call it a suicide since the officers and administration of the Department of Corrections, the lawyers on both sides, the judges, and the politicians -- and I know this is strong language but this is what happened -- all tortured that boy to death.

What makes this all the more chilling is that the apparatus of the State hiding behind the bureaucratic veil, and not some deranged individual, was behind Kalief's ultimate demise.

Although correction officials claim they are no longer placing adolescents in punitive segregation, it is a constant battle to ensure that the department not reinstate the practice under a different name.

The Committee on Education recently held a hearing about programs on Rikers Island. While East River Academy may sound like a lovely name, this Department of Education school is in reality a hellhole of torture, violence, gassing, and forced restraint. While there are individual educators and also outside programs that are attempting to reach these youth, the overall environment is anything but conducive to learning.

Similar problems plague mental health treatment at Rikers, which along

with education is a vital component of reentry preparation. During one fact-finding visit, I saw a young person chained to a pipe during a therapy session.

The problems are tremendous but not unsolvable. The Department of Education needs to step away from responses that reinforce the school-to-prison pipeline. One key factor is proactively helping students who are under tremendous amount of stress in their lives through appropriate social work, psychological and even art interventions.

Another way forward is to employ restorative justice and help young people resolve conflict and learn the values they need to succeed. There are already programs that work in our schools; they desperately need to be expanded to all schools. Where police intervention is absolutely necessary, responding officers need to receive thorough racial and cultural competency as well as adolescent

development training.

In fact, I hope that the Department of Education officials and this committee will pay special attention to specific groups of vulnerable students who bear the brunt of over-policing: Students who are homeless or in foster care, students who have a parent involved in the criminal justice system or come from immigrant families who must contend with cultural or linguistic barriers.

One group that I do want to highlight is lesbian, gay, bisexual, transgender, and questioning youth, who have historically struggled and continue to struggle, in most schools, to receive the basic respect they deserve.

Finally, Rikers must be closed and while the State still mandates that adolescents be jailed, such youth must be in settings where they are not gassed in the classrooms, chained to pipes during therapy and locked up in extreme isolated confinement. Instead, authorities should

rely on evidence-based approaches aimed at preparing these youth for a secure future.

Thank you for this hearing and for hearing this very important issue today. I appreciate the opportunity to speak and, as always, I'm am happy to provide you with more information. Thank you very much.

MS. HAMILL: Thank you. Thank you both. I know you both as a very forceful advocate for youth here in New York and certainly as a former family court judge and a current member of the Board of Corrections I really want to thank you.

I know we're going to have a number of questions for you but I want to start with you, Ms. DeCataldo.

I know from my work with you in the family court that there are often recommendations that judges can lead reform efforts in cities and you gave us an example of a judge in another city that did lead the reform effort in terms of school safety and reform.

Is there anything currently underway, to your knowledge, with respect to judicial-led reforms regarding school policing?

MS. DECATALDO: In New York City.

MS. HAMILL: Yes.

MS. DECATALDO: No. Although Judge Monica Jermaine was on our working group as well, we did a modified approach in that we had representation of the justice system across the board of the working group and because the mayor had taken the lead to create the leadership team, we did not go with the judge-led work.

And it has gone different ways actually across the country. The National Council of Family Court Judges is very supportive of the judge-led approach, they're great conveners.

Judge Teste, we've brought Judge Teste to New York probably ten times over the last few years. My commission has been providing training all across the state for many reasons.

One of the reasons being that many school people and school staff -- and we heard earlier from the special education teacher, they get into education because they want to help kids but they don't realize oftentimes the results of calling in the police officer. They think that they're dealing with a problem but they don't realize the effects.

So we really try to bring together education and justice system people and have them hear the statistics, because they are just so horrible. And have them realize that they need to start thinking of doing things differently although it is difficult and time-consuming.

And there are places, a couple around the state also as well, where there are judges. In Syracuse, there's judges involved. So it depends on where they are. This construct, we had this group so we worked with that.

MS. HAMILL: Okay. And let me just ask one follow-up before I turn it over to

my colleagues.

Is there a role for the family court given where we are right now in terms of bringing about additional reform?

We certainly heard some positive reforms that are taking place from everyone we've heard from today including you on what needs to be done.

MS. DECATALDO: Certainly, I think that when you have the judiciary involved and they're talking about how they don't want these low-level offenses -- the judges don't want misdemeanors. The judges want to deal with the young people who are really committing egregious offenses so that all the system supports that are available are limited. So if we are expending them on kids that are really doing basically normative adolescent behavior, we're wasting those resources and the court's time.

So I think -- and certainly the judges that were on our original task force, Judge Jermaine and -- I'm blanking

his name out. That's terrible. Don't tell him. Anyway.

They both brought in an awful lot, and as I said, I reference how they talked about -- they did not like it and actually one of them brought a decision that you couldn't charge -- dismissed the charge of obstructing governmental administration in the school because a young person who doesn't have any expectation of being charged with something like that in school.

So they certainly had a very strong voice and one of the things that is so important is this graduated response protocol where we just have a list of things where young people don't get arrested and the adults agree and I think that the judiciary could have a strong voice in that.

MS. HAMILL: Thank you. Did you want to --

MR. DROMM: Yes, I just wanted to add my response to that question as well.

MS. HAMILL: Yes, please.

MR. DROMM: You know, New York City Department of Education's budget is about $23 billion. The City Council put $2.4 million into restorative justice practices and I believe that it was matched with the department for about $3 million or so.

So $5 million out of a $23 billion budget goes to training in restorative practices. That's not even really a drop in the bucket.

So while, you know, miniscule changes have occurred in various schools and some schools in the Department of Education system wide, we still see a lot of the abuses that I talked about in my testimony happening on a daily basis.

MS. HAMILL: Okay. Let's do questions. Gertrud, yes.

MS. LENZER: Thank you.

I'm very curious what is happening to the MOU and I heard in the past that there was a meeting in November or December and that some of the members of

the committee were not too happy with it, but where is it going?

MS. DECATALDO: So, as I said, we had really great conversations in making those recommendations but they were only recommendations that were reported in a report that the Mayor's Office released. They then took the recommendations back to the lawyers for the NYPD and DOE and they are not meeting with us, they're meeting together. So they do not benefit from those great conversations that we had about what was really going on in school and why the language that we crafted was so important.

So the first time they came back to us with the MOU we were very disappointed and, in fact, said we wondered why they bothered because actually some of the language that they had come back with was worse than the current language which was really bad. So they listened and they went back to the table again and we have another meeting on Monday where I hope to

see something more like our recommendations.

MS. LENZER: But it's a very crucial development, what happens with this MOU, I think.

MS. DECATALDO: Absolutely. And, you know, I joke, I tend to joke and I always say, you know, it's great that the current NYPD School Safety Division has this philosophy to cut down on arrests and they have invested millions of dollars in training, they brought in collaborative problem solving and trained all 5,000 school safety agents in different techniques on how to deal with the young people when they act out.

But none of it is written in stone and the closest thing we get to written in stone is an MOU that will survive a change in leadership in the School Safety Division, a change in the administration at the mayoral level.

We need something that continues this and then it needs to be public. No

one knew about this, the current MOU, and I finally got somebody -- and I won't name them -- to pull it out of the file cabinet and give it to me because we were talking about an MOU and nobody had a hardcopy. It needs to be public so that the Department of Education and the NYPD are held accountable to what's in it.

The other thing we recommended is that the City continue to bring down together the people that have been on the Mayor's Leadership Team for School Climate and Discipline and specifically start to meet around when the School Safety Act data is released so that we can review trends and we want to get to the trends and get to them on the school level because when you do that type of deep dive into the data, it's not every school.

There are a limited number of schools that are creating the majority of these situations. So as Mr. Donovan correctly pointed out, there has been so little real investment in changing what's

2 going on. And it's not necessarily --
3 it's always offered and it's not required
4 and if you're going to do restorative
5 practices there has to be buy-in, but
6 there are ways to get people to buy in a
7 little bit more and none of that has
8 happened.
9 So, you know, we have strategies
10 where we actually are looking at the
11 school's ability to really do something
12 differently and making sure that they were
13 getting the type of supports they need to
14 do and they start to do the type of work
15 that we'd like to see them doing and
16 cutting down the arrests.
17 MS. HAMILL: Thank you. Alex.
18 MR. VITALE: I guess my concern is
19 you mentioned that they're doing some
20 training with the safety officers to
21 improve their collaborative problem
22 solving, but the risk is that the MOU
23 concretizes that they are the ones doing
24 the problem solving rather than having
25 non-NYPD personnel be the lead agency for

2 doing the problem solving.
3 So that's one of the themes we've
4 heard is that, throughout the days, that
5 we don't just need a little bit more
6 training of the officers; there's some
7 functional problems about relying on the
8 NYPD to be the lead agency in addressing
9 some of these problems.
10 MS. DECATALDO: And that's why I said
11 the MOU recommendations that we made
12 actually specifically say that, trying to
13 cut down on the amount that school safety
14 agents are involved in the day-to-day
15 discipline in the schools and making clear
16 that teachers cannot rely on school safety
17 or make a call to the precinct to have a
18 police officer come -- because that
19 happens as well -- to come and intervene
20 in cases.
21 That it should go up the ladder of
22 referral in the school system itself and
23 we have pages of recommendation, of
24 language around that. And that's part of
25 the MOU as well where you've seen that

2 it's been effective across the country is
3 its use as a training tool so it sets out
4 the guidelines and what's supposed to
5 happen and what everybody's role is and
6 then you have to train on it and you have
7 to train on it every year at the beginning
8 of the school year. This is the
9 discipline code, this is what the
10 educators enforce. And these are the very
11 limited instances where we want a public
12 police response to young people so that
13 everybody understands.
14 And that's the other reason why we
15 need an MOU, so that's clear.
16 MR. DROMM: I have a lot of concerns
17 of the police department and an MOU
18 existing. In my opinion as an educator, I
19 don't think that the police should be in
20 the schools at all. And the way that was
21 prior to that 1998 agreement, the school
22 safety agents were under the supervision
23 of the principals in the building. Right
24 now, those school safety agents are under
25 the supervision of the NYPD and they make

2 the decisions.
3 So, for example, when I spoke about
4 the student whose glasses were broken and
5 he was thrown to the ground, the school
6 safety agents threw him to the ground and
7 the principal tried to intervene, she
8 brought the student to her office to calm
9 the student down, the NYPD was called by
10 the school safety agents without the
11 principal even knowing, I believe, and
12 when they arrived in the principal's
13 office, they placed the student in
14 handcuffs. So the principal had no say
15 over what was going to happen from that
16 point on. And that continues to remain
17 and be the problem in most of our schools.
18 MS. DECATALDO: And we did have one
19 recommendation, and I don't disagree with
20 you on a more pragmatic response we're
21 trying to deal with the situation we have
22 now thinking as a recommendation to get
23 the NYPD out of the schools but we did
24 have a recommendation that would require,
25 except in extreme emergency cases that

there has to be a conference between the school principal and the school safety agent before a summons or an arrest could happen, so. And there was a lot of pushback on that too.

MR. DROMM: But a lot of that may happen between the school safety agent and the principal but it doesn't happen between the NYPD and the principal. So the NYPD just does it.

MS. DECATALDO: And that is one of the things we also tried to address and because there is that -- I don't know what it's called.

MR. DROMM: It's a lack of defining lines as to who's actually in charge. And that happens because of this MOU. And it happens because of the way that it was instituted in the schools. And so until that issue is clearly defined, we're going to continue to hear about these abuses happening even where you have the situations where restorative justice practices have been put into the schools

as well.

And just to go back to what one of the other panelists had said in the previous panel in terms of restorative practices, unless everyone is involved in the training of those restorative practices, they are definitely not going to work and there are various models in the system that they are using, many of which do not have training for all the staff members and some which only include turnkey training. And that is probably the worst that you can do.

MS. HAMILL: Yes, Tom.

MR. WAHL: I was just looking at, you know, Wikipedia. With their $23 million budget, New York City spends about $20,000 per student. The average across the country is about $10,500. So spending choices much -- you seem to have the money, there seems to be great interest in pursuing this.

Who's keeping it from going forward?

I mean, I'm confused here because if

you need more mental health counselors I think we can all agree with that and the memo, to my understanding, at least will provide some direction, Daniel, to your point.

And again, where are the parents? I mean, I asked this question in the earlier session. Where are the parents in this whole process? Because we talk about the police, we talk about the students, we don't talk much about the teachers and we don't talk much about the parents.

I mean, how can this get done? It seems like we have the money, it seems like there's the interest to get it done. Where's the big hesitation? Why isn't the mayor behind this? Why isn't the City Council?

And again, I don't know, I'm assuming that the Department of Education runs separately from the City Council or does the City Council approve the funding?

Daniel, I'll defer to you on that.

MR. DROMM: It's a little bit of a

frustration for me because as chair of the Education Committee I cannot tell the New York City Department of Education what to do. All I can require from them are reports on what they do and in that sense that's how I have oversight over them.

The chancellor and the mayor ultimately are in charge of the school system, and that was a change in the structure from Albany down so they're ultimately responsible for that. So they are also responsible for setting up the budget.

As to your question about why they can't --

MR. WAHL: But if they're responsible, hold them responsible.

MR. DROMM: Right. Well, that's why I'm here, and that's why I do the hearings, is to hold them responsible and I'm sure that I didn't see anybody who is coming to speak here today or tomorrow directly from the administration of the Department of Education, if I'm not

mistaken. So holding them accountable is the toughest part of the job.

Going to the money question that you raised, although it is $23 billion of funding that is provided to them, an overwhelming majority of that money is already spoken for in terms of personnel, retirement, health benefits, et cetera. Very little is actually dedicated to the restorative practices.

So they do have other priorities that go on in the system as well and what we need to do is actually bring in more money so that we can do those restorative practices because all the money that's there is currently spoken for.

MR. WAHL: One thing that was mentioned earlier is the fact that they added so many more police officers recently. And if that money would have gone to mental health counselors that would make a little more sense and if you pull back on the police presence it might be a better situation for the students

versus -- I'm just curious.

If there are some of these other practices that have been tried at other school districts around the country, why wouldn't you take -- we have so many schools in New York City, why wouldn't you take a couple of districts and say -- some responsibility to take a couple of districts and say, okay, we're going to take down the metal detectors, we're going to put some money for a mental health counselor, we're going to get rid of all the policemen that are there or maybe have some plainclothed ones. I don't understand why you won't try to --

MR. DROMM: There are some schools now where the metal detectors are being taken down and they're looking at the numbers in terms of how many crimes have been committed in the school and they're selectively removing some of those metal detectors. It's not happened in the majority of cases but in certain situations it has. It's been an outcome

actually, of your task force at work.

MS. DECATALDO: Absolutely.

They didn't have a process to actually look at the numbers. If you had a metal detector in your school, you just had a metal detector in your school. And even if the principal went back and said we don't want this metal detector, there was no process in place. So the NYPD did commit to a process where they would annually look at the numbers and decide whether it was necessary to continue to do the screening.

Of course they said they would also look at numbers to see if they needed to put in metal detectors in other schools as well, but. We were pleased to get the process.

MS. HAMILL: Iris?

MS. CHEN: Just a quick follow-up on the metal detectors.

Do you know the cost, not just the financial cost and the cost of personnel, the machinery, but also time, the kids

filing through every morning and all that?

MR. DROMM: Well, I'll tell you this much. I don't know the exact cost but when they did move metal detectors to the Bronx High School of Science, kids were kept outside of the building for about three or four hours getting in because they were not accustomed having to go through that first thing in the morning. So it's very interesting how -- because they do claim that they move these around to various schools on certain days so that nobody knows exactly when you're getting them and then you have other schools where they're there all the time. So I don't know but we can probably get you that cost though.

MS. HAMILL: Any other questions? Roy and then Kevin.

MR. COSME: Thank you for being here today and thank you also for your reference to pay special attention to the needs of LGBTQ students.

We've heard a lot from the various

2 people who have testified today about the
3 special situation special needs -- well,
4 not special needs but of LGBTQ students.
5 I recently attended a meeting of the
6 LGBTQ Advisory Committee to the NYPD and
7 became aware of a policy change that they
8 made through a report to the NYPD for a
9 new policy that went into the patrol guide
10 actually for police should engage with
11 members from the LGBTQ community. I would
12 suspect and expect -- I think this might
13 have been in the report too -- that that
14 was followed by training of police
15 officers around that new policy.
16 Do you know if those sorts of
17 trainings automatically go to school
18 officers as well, and if so, once they do
19 receive the training are you aware of any
20 audits on how effective those trainings
21 are and whether they make a difference and
22 how well the officers are adapting to that
23 new policy or implementing that new
24 policy?
25 MR. DROMM: So in some instances, I

2 believe, when they are initially getting
3 training before they go into a high
4 school, LGBT issues may be brought up in
5 that initial training, just as it's
6 oftentimes done with the regular police
7 officers. But beyond that I'm not exactly
8 sure if they get anything at all. It's
9 been a problem.
10 I've had students come to me who've
11 said to me that they were suspended from
12 school for refusing to remove a rubber
13 rainbow wristband that they were wearing
14 and I've heard other stories similar to
15 that as well. I think that in the
16 training that they've done on restorative
17 practices, LGBT issues might be mentioned
18 in that as well and I know that it's part
19 of the task force and that is a concern of
20 theirs as well.
21 So it may be beginning to happen is
22 some of the schools but it certainly,
23 again, is not system wide.
24 MS. HAMILL: Kevin?
25 MR. THOMAS: I have three questions.

2 One is, do you believe school safety
3 officers create more harm than good? Two,
4 if school safety officers were no longer
5 around, what would you recommend for
6 safety in school? Third, would you
7 recommend a group of peers in that school
8 handle matters inside of school that deal
9 with discipline instead of getting school
10 safety and people outside for all this?
11 MR. DROMM: I debate back and forth
12 whether or not they should be in the
13 schools. I certainly think that they
14 should not be in uniform in the schools.
15 There may be a system that we need to have
16 in the schools that, you know, will be
17 people who would be there for safety
18 purposes.
19 I remember when I first started
20 teaching in 1984 there was a
21 seventy-five-year-old woman who sat at the
22 door and nobody did anything wrong, you
23 know, they just didn't get past her. I
24 don't know if that works right now but
25 certainly she was a tough cookie.

2 The second part of your question
3 was? I'm sorry, I'm forgetting now.
4 MR. THOMAS: If school safety
5 officers were no longer around --
6 MR. DROMM: Okay. So, look, you
7 know, I don't want to characterize every
8 school safety agent as being a bad school
9 safety agent. Certainly we have examples
10 of good school safety agents and I think
11 that the overwhelming majority of them
12 are. I think our problem, our issue, is
13 really with them being in uniform and then
14 having the bad apples that seem to
15 characterize the other folks in there and
16 the lack of training. So I think that
17 they really need to be trained more in
18 child development, actually an
19 understanding what the difference is
20 between horsing around and/or committing a
21 crime. And then the third part of your
22 question, I'm sorry.
23 MR. THOMAS: Would you recommend a
24 group of peers handle disciplinary
25 matters?

MR. DROMM: That does take us back to the restorative practices piece. If you institute restorative practices in a school, students are there with each other and the idea that circles is that everybody is held accountable.

How do you feel if you've done this to Johnny or how does Johnny's actions make you feel. And dealing with those issues while initially it may take a longer period of time for teachers to work like that in a classroom -- and I was a classroom school teacher in the public school system for twenty-five years -- you head off the other problems because you make that child feel valued.

And at the end the issues that they bring to school with them, they're not always going to bring issues to school but it's something that they can work on as a group. And these restorative practices actually do work when everybody in the school is trained.

One of the issues that I had is I

would try to use restorative practices in my school, but the kid would go down for lunch and the school aide was not trained in them and after lunch I'd go into the office and there was the kid sitting on the bench because the school aide couldn't deal with a discipline problem in the schoolyard, so. So everybody must be trained in these practices and students are included in that training.

MS. DECATALDO: If I can respond.

As part of being coached in School Safety Working Group, I actually met with the teamsters union that represents the school safety agents a number of times. They weren't very friendly at first but we got much -- we had some really good conversations.

And I can tell you that the folks that I met cared very deeply about the young people. Most of the school safety agents have a high school diploma, many of them are from the communities that they are working in, and many of them are women

and they are looking for ways that they can support the young people as opposed to arrest them.

So I think that overall, I agree, there's always bad apples, you know, there's bad lawyers, there's bad judges and there's bad school safety agents and they do give the rest of them a very bad reputation, but most of them are not like that.

I think part of it is, you add the fact that you have the school safety agents do things like the magnetometers and that is so demoralizing for kids. And they set it so high, it's not like the airport, right. They have to take off their belts, they have to take off any jewelry, they tell girls to take the bobby pins out of their hair. I'm sorry, a teenage girl and you're telling her to take her hair down? It's not -- you know.

You're asking for conflict. And then they're late for class because somebody has to get wanded because they

set off the thing. It's a bad situation overall and I think that leads to a lot of the conflict.

With the appropriate training they can help to deescalate that and that's what they want to do, they do not want to create problems for these kids, at least the majority of them.

The other thing that I wanted to say is that not this summer but the summer before, my commission actually paid for some restorative practices training and we involved the school safety agents and the task force.

So the agents, there's 5,000 agents and then there's 200 of what they call the uniformed task force, so they're police officers assigned to the School Safety Division. And we involved all of them as well as the number two guy in the School Safety Division in the training that we did and they loved it. They absolutely ate it up.

And we did it actually with school

2 principals and with community members and
3 they were remarkable, everybody was. Just
4 that opportunity to be in a restorative
5 setting and to have the type of
6 conversations to talk about what was going
7 on and what was important. I mean, I had
8 principals come up and thank us for giving
9 them the opportunity to sit with people
10 who are in their schools every day that
11 they never had that opportunity to have
12 that conversation with before.
13 So that was part of also our
14 recommendations that we made in the task
15 force, that the school safety agents be
16 integrated into the administration of the
17 school so that the philosophy of all the
18 adults in the school is the same, that
19 they be given opportunities to be part of
20 the same training that teachers get so
21 they are not treated as low-level
22 security, that they are an important part
23 of the school.
24 School safety agents would make a
25 point of telling me that they have better

2 relationship with young people coming in
3 the door than many of the teachers did,
4 that they are the person that the young
5 person would talk to when they had issues.
6 MS. HAMILL: I just have a couple of
7 questions as well.
8 What we're looking at is whether
9 there are any racial or discriminatory
10 police practices that especially affect
11 youth of color and we've heard today about
12 low-level enforcement, Broken Windows,
13 school policing.
14 Many argue that low-level
15 enforcement, Broken Windows, that's where
16 a lot of the school policing has been, and
17 we know and this was raised earlier today,
18 that there's a real concern with the
19 current administration that some of this
20 low-level policing and even school
21 policing can result in summonses and
22 arrests that may, in fact, lead to
23 deportation.
24 Has that in any way been a
25 consideration of those of you working on

2 school safety and school policing with
3 respect to the current times we're
4 operating in?
5 MS. DECATALDO: It has heightened
6 the concern about any type of arrest at
7 school so much more. I mean, I don't
8 think there's any argument for arresting
9 kids for misdemeanor-type -- or giving
10 them a summons for the ridiculous things
11 you can get a summons for in schools, I
12 really don't. But now? Now is when we
13 really need a list of things that the
14 adults agree that we're not going to
15 arrest kids for because the implications
16 for these times it can be so much worse
17 for these young people.
18 That's all we've been talking about
19 is that it needs to reinvigorate the
20 conversation. We've gotten a lot of
21 pushback on having a list of "crimes" that
22 children would not be arrested for in
23 school.
24 I'm hoping that at our meeting next
25 week we can have a much more fruitful

2 conversation given the current concerns
3 that all of us have.
4 MS. HAMILL: Go ahead.
5 MR. DROMM: I just wanted to say
6 that it's been a big concern of mine as
7 well. I used to be the chair of the
8 Immigration Committee of the City Council
9 before I was the chair of the Education
10 Committee and so the issues of our
11 immigrant communities are a major concern
12 to me.
13 We've been raising this issue with
14 the chancellor particularly how it relates
15 to ICE, Immigration and Customs
16 Enforcement, officers can enter school
17 buildings. And I believe that the mayor
18 and the DOE will be coming out with a plan
19 for the protocol for ICE entering schools
20 tomorrow, if I'm not mistaken.
21 So I'm not at liberty to discuss the
22 details of that now but I believe that the
23 announcement will be made tomorrow.
24 MS. HAMILL: And even before ICE
25 entering, though, if these young people

are given summonses we were told today that even the summons, much less than an arrest, could be a basis for deportation of noncitizens and undocumented -- I know I started off my questions asking you about the role of the judiciary and it seems to me this goes way beyond the mayor or agencies of the New York Police Department and the Department of Education and anyone who is involved has some role to play.

So the question that I have for you is, what role, if any, does the City Council have in addition to the oversight? Perhaps, is there any role in terms of legislating what the City Council can be involved in? And also in the role of the prosecutors in bringing these cases and prosecuting them?

I know that Eric Gonzalez in the Brooklyn DA's office has taken the position that he's not prosecuting low-level marijuana or just possession.

So if you can address those

questions in terms of City Council in addition to requiring reporting and the other players here and prosecutors.

MR. DROMM: So we were fighting for a long time and asked the speaker, Melissa Mark-Viverito, on these low-level crimes and reducing them or treating them differently because we believe that any encounter with law enforcement particularly at a young age only feeds that, you know, pipeline to prison.

And we believe that if we can reduce the interaction between young people and law enforcement we would reduce that big number of people that go to prison so that's been a big concern.

In terms of committee oversight, and I think you are going to have my colleague Vanessa Gibson, after me. She just walked in, that's why I was turning around before. She actually has oversight over the way that the NYPD spends the funding because the money comes through the Department of Education and then it's

turned over to the NYPD. We have held joint hearings on this topic and even the last piece of legislation that was written on reporting statistics which we call the School Safety Act, it was done by Council Member Vanessa Gibson. So she may be better equipped to answer that question as well.

But it is a priority for us in the council to reduce the number of interactions with law enforcement officials.

MS. HAMILL: Any other questions for this panel?

MS. CHEN: Only if there's time.

MS. HAMILL: Yes, we can take one more if you'd like to finish up, Iris.

MS. CHEN: There seems that there's such a powerful force and a great content for driving real change, which is, I guess the silver lining of all the challenges.

What are the key remaining barriers to actually driving the top-priority changes through and what would have to be

true to overcome them?

MR. DROMM: Well, my opinion may differ from Ms. DeCataldo's.

See, I believe that the police should be out of the school and actually I would probably like to write legislation to do that and we're examining that. I don't know if I'm going to be allowed to do that; oftentimes they'd tell us that we're preempted from making that decision.

And the memorandum of understanding, the MOU, I think that was a big part of your questioning in prior panels as well, comes into play there. Ultimately what I would like to see is the control of the school safety agents put back under the Department of Education. I think that educators understand best what students need. Police make different decisions for different reasons but these are still young people, they're still minors to a certain extent, probably until sixteen years old we have this whole issue in New York about raising the age, et cetera, and

2 that plays into it, but I ultimately
3 believe that the memorandum of
4 understanding should be ripped up and that
5 those safety agents should be supervised
6 by the DOE.
7 MS. DECATALDO: Well, if you can do
8 it I think that's cool.
9 MR. DROMM: Well, we're looking at
10 it to see if there's a possibility.
11 MS. HAMILL: On that note we will
12 conclude this panel.
13 Thank you so much for your
14 participation and your presentations.
15 Much appreciated.
16 Let's just take a five-minute break
17 and then we'll hear from City Council
18 Member Gibson.
19 PANEL 6.
20 MS. HAMILL: Good afternoon. If all
21 the members can come back and be seated,
22 please.
23 Good afternoon. We're going to
24 welcome as our final panelist, City
25 Council Member Vanessa Gibson.

2 MS. GIBSON: Thank you.
3 MS. HAMILL: Thank you so much for
4 being with us, but before we proceed to
5 hear your opening statement I just want to
6 announce that we will be immediately
7 proceeding with the public comment period
8 as soon as City Council Member Vanessa
9 Gibson is finished with her comments and
10 answering any questions.
11 So if there's any of you who wish to
12 speak, please go into the back to see the
13 commission staff to sign up.
14 So with that, I welcome you, Ms.
15 Gibson. Thank you so much for being here
16 and we're looking forward to hearing from
17 you on any issues you'd like to talk to us
18 about; low-level enforcement, Broken
19 Windows, to the extent you wish to talk
20 about school policing. It's very
21 interesting what we have to hear.
22 MS. GIBSON: Thank you so much.
23 Thank you, good afternoon, everyone. It's
24 great to be here at the New York Advisory
25 Committee to the U.S. Commission on Civil

2 Rights.
3 I am Council Member Vanessa Gibson,
4 I represent the 16th District in the New
5 York City Council. I was elected in
6 November 2013 for a term of four years so
7 that means I'm in my fourth years. And
8 you know what that means moving forward,
9 I'm looking forward to working with my
10 constituents to get reelected to another
11 four-year term.
12 I'm proud to represent a district in
13 the west Bronx which includes Yankee
14 Stadium, Grand Concourse, Highbridge,
15 Mount Eden, Morris Heights, Morrisania,
16 beautiful community that I'm so proud to
17 live and work in and represent thousands
18 of residents.
19 I also have the privilege in the New
20 York City Council of serving as the chair
21 of the Committee on Public Safety thanks
22 to our speaker, Melissa Mark-Viverito. In
23 2014 she appointed me as the chair of this
24 committee.
25 Never in the history of New York

2 City Council has there ever been a woman
3 nor a person of color to chair Public
4 Safety. And I say that with extreme
5 gratitude and appreciation because I want
6 to make sure that when I talk and speak to
7 young people and children across the Bronx
8 and certainly across the City of New York,
9 young people, especially children of
10 color, immigrants, undocumented students
11 can look at me and see themselves. They
12 can see that through hard work and
13 dedication they can rise to the level and
14 certainly serve as a member to the New
15 York City Council.
16 This committee, Public Safety, is
17 proud to work hand in hand with the NYPD
18 and the 36,000 members, both civilian and
19 uniform, that call the NYPD their career.
20 E work with the five district
21 attorneys that represent each of our
22 counties in New York City. We work with
23 the special narcotics prosecutor who is
24 considered the sixth DA and works for all
25 five district attorneys. We work with the

mayor's criminal justice director, also called MOCJ as well as the Civilian Complaint Review Board also known as the CCRB. Under the leadership of the speaker, myself, many of my colleagues in the New York City Council in this administration with Bill De Blasio as our mayor and certainly James O'Neill as our new police commissioner but prior to that William Bratton served as our commissioner, we have had an incredible amount of success.

Through a lot of challenge we have seen historic crime reductions in many of our seven major crime categories including shootings and homicides and violent felonies. While our city continues to grow, we believe that we're on the right track working with the NYPD as one of the stakeholders working with many, many stakeholders, not just the City Council, the NYPD, we have to work with the police union, we have to work with the school safety agents, traffic agents, advocacy

groups, civil rights groups, everyday New Yorkers to really make sure that we can change the criminal justice system.

I think that when you look at criminal justice reform and you look at some of our archaic laws like the recently reformed Rockefeller drug laws, we want to make sure that the system is equal to everyone. We do not want New Yorkers, particularly young men and women of color, to think that the system is against them simply because of their race and their ethnicity. And certainly in the City of New York where they live, the zip code they reside in, the neighborhood in which they live, we don't want that to be a defining factor in how the police work with them.

So we have embarked on many different initiatives, several I will point out to you.

The first one I want to highlight as a point of great success thus far is the neighborhood-based policing program called

Neighborhood Coordination Officer.

We are in thirty-four commands out of the seventy-seven in the City of New York, all nine PSAs which are your housing bureaus, and what this means is we have dedicated members of service, uniformed police officers, that are assigned voluntarily through their commanding officers to different sectors within a precinct. So if you have a precinct -- and I'll give you an example. The 34 in northern Manhattan is divided into four sectors; Sector Adam, Sector Boy, Sector Charlie and Sector David. Each of these sectors you have two assigned police officers whose responsibility it is to work hand in hand with the community. So they are not riding around in a car responding to radio runs but they work hand in hand with the patrol officers and they really address quality-of-life issues.

Their role and responsibility is to work with community advocates, community

leaders, faith-based organizations, community groups of small businesses, everyone who's in a community and to build a relationship.

The challenge that many of us had before we rolled out NCO is that you have officers who are in a precinct for six to nine months and then they get transferred and then we have to break in a new set of officers.

So the difference between NCO and Community Affairs, Community Affairs is responsible for the entire precinct and NCOs have a sector. Each of the precincts that has the NCO program is led by an NCO sergeant that is the supervisor of those particular NCOs.

And we have seen great success so far in our second year. Residents are comfortable talking to their NCO officers, they know who they are, they attend family events and other celebratory events in the community, they really engage and they're not running around in a patrol car

2 responding to 911 calls.
3 I think that's the biggest issue for
4 me, is that you have a level of
5 consistency. And as the program rolls out
6 every three months, they started in,
7 obviously, the commands that have the
8 greatest challenge, that have the greatest
9 number of whether it's complaints against
10 officers, CCRB complaints, lawsuits, they
11 started with the areas particularly in
12 Brooklyn North and the Bronx where you had
13 the greatest challenge in working with law
14 enforcement and the community. I have it
15 in all three of my commands in the Bronx,
16 the 42, the 44 and the 46 and PSA7 and so
17 far it's been a great success.
18 What we are looking at now that
19 we've had this program for two years, is
20 we're looking to have sector-based
21 meetings with many of the residents that
22 live in a particular area, troubled areas
23 where you have a lot of illegal activity,
24 drug activity, violence, lots of things
25 going on with crews and different gangs.

2 So we're looking at sector-based hearings
3 led by Chief Rodney Harrison who works at
4 the chief of patrol's office.
5 And also what we're looking to do is
6 we're rolling out a massive community
7 survey for residents who live in the areas
8 with the NCO program, to get an analysis
9 of what everyday New Yorkers think of NCO,
10 where we can find areas of improvement,
11 where we have areas of great challenge.
12 So far I think it's a good program
13 that started off very good. For many of
14 the New Yorkers that have had a negative
15 relationship with police, this is
16 something that we're doing to change the
17 conversation and change the environment.
18 I have been an incredible supporter
19 of the discipline in our public schools,
20 working with school safety, I've worked
21 with Chief Brian Conroy, Assistant
22 Commissioner Ramon Garcia who are the two
23 leaders of school safety, 5,000 school
24 safety agents we have in about 1700 public
25 school buildings in the city and we want

2 to work to reduce the pipeline to prison.
3 We don't want children to go to school and
4 think that they're in a jail because they
5 have to go through metal detectors every
6 single day that they enter our school
7 buildings.
8 We recognize that in some cases,
9 metal detectors are necessary in some of
10 our schools but they're not necessary in
11 all. So we worked with the NYPD and we
12 passed an amended version of the Student
13 Safety Act that was passed by the City
14 Council in 2013, the same year that I got
15 to the council but prior to my election.
16 And what this report does is it provides
17 additional reporting from the NYPD to the
18 New York City Council on the number of
19 times EMS is called to a school, the
20 number of metal detectors we have in the
21 various schools in the city, how many are
22 permanent, how many are temporary. We
23 have pop-up rotating metal detectors that
24 will show up in a school at any given
25 notice.

2 All of this is determined by the
3 NYPD and for a long period of time we at
4 the council did not understand what the
5 department looks at to determine if a
6 metal detector is warranted, if one that
7 exists should be removed, how often the
8 principal's and the assistant principal's
9 opinions are factored in, what happened if
10 you have a co-located school like I have,
11 Taft and Morris with six high schools in
12 each of those buildings so you have six
13 principals in each of those buildings and
14 you have to work with the building
15 manager? How do you deal with principals
16 that have different positions on metal
17 detectors?
18 We also wanted to identify the
19 students that have the most summonses,
20 arrests and suspensions because there are
21 different levels of suspension at the
22 principal level as well as the
23 superintendent level.
24 So what this reporting will do --
25 and we've already received our first

2 report -- is look at some of the numbers.
3 I will say that in many parts of our city,
4 particularly in my school district,
5 District 9 in the Bronx, in the two years
6 that we've been working with the
7 Department of School Safety we've had a 50
8 percent reduction in the number of black
9 and Latino and students with disabilities
10 that have been arrested, given summonses
11 and suspended in our school system. It
12 was not easy. The only reason we were
13 successful is because we had buy-in from
14 everyone involved; teachers, educators,
15 support staff, parents, students, advocacy
16 groups. Because we wanted to find out
17 what the department was doing to address
18 students' needs for special services.
19 Just because you are an ESL student
20 or an L or a child with a disability or an
21 LGBT student, that doesn't mean that you
22 should be more prone to receiving these
23 harsh systemic summonses and arrests and
24 suspensions which had a disproportionate
25 impact on students of color.

2 So what we have done working with
3 the Department of Ed, we have created a
4 school leadership climate team that is
5 working with the police commissioner,
6 school chancellor and all of the different
7 stakeholders that I described including
8 the local teamsters that represent school
9 safety agents. Because we all know that
10 in many schools safety agents are in
11 danger as well and they are there to do a
12 job to protect the educators, teachers as
13 well as all of our staff.
14 So this commission that we put out
15 over a year ago came out with a series of
16 recommendations on school climate and
17 school discipline reforms because we
18 wanted to make sure that we have resources
19 in place so children do not face these
20 harsh sentences. If we allow this to
21 happen in our schools then we are
22 reinforcing the pipeline to prison and I
23 do not believe in that and neither does
24 this administration.
25 So in my district we have supported

2 and funded -- because you just can't say
3 you support it without any money -- we
4 have given money to school-based health
5 centers like Montefiore, Bronx-Lebanon so
6 we have social workers and psychiatrists
7 in our schools because oftentimes when EMS
8 is called it's because a child is acting
9 up and that doesn't mean they need to be
10 arrested, it means that that child needs
11 some level of attention and assistance.
12 So I'm very proud of the work that
13 we're doing. Are we done yet? Absolutely
14 not. We have a very long way to go
15 because it's not just about practical
16 changes that we make in our school system,
17 it's about policy changes but it's also
18 about the mindset. We want everyone that
19 has a title and whose responsibility it is
20 to effectuate change in our school system,
21 we want to understand that children do not
22 deserve to be penalized, institutionalized
23 for issues that they may have,
24 disabilities, or challenges that they may
25 face.

2 So we've had success but we do have
3 quite a ways to go. I will say that the
4 Student Safety Act in its revised form has
5 been showing us reporting data that is
6 showing us some of the trends and patterns
7 that we are looking at to identify what
8 are the root causes in that particular
9 school district and how can we address it
10 through the budget process.
11 I also want to talk about -- Broken
12 Windows is something that we talk about
13 quite a bit throughout the city. I am a
14 supporter of any effort, any procedure
15 that will keep our streets safe but I want
16 to make sure that any measure we have in
17 place as an administration is enforced
18 fairly across the board.
19 The reason why we overturned and
20 made significant changes to stop, question
21 and frisk when Mayor De Blasio took over,
22 was because we realized that the hundreds
23 and hundreds of arrests that the NYPD made
24 did not result in convictions.
25 These were young African-American

and Latino men and women, because we used to just say men but it's women too, that were just arrested because of their appearance and who they were, where they were located and the fact that they were black or Latino. And that was not right. And I will say that we've seen an upwards of almost 90 percent of a reduction from the beginning of this administration to now. We want to make sure that whatever police procedure we have in place is enforced equitably.

So when you look at a measure like Broken Windows in the concept of why we have Broken Windows in the first place, to stimulate change, it is to stop a low-level offense from turning into a more harsher and violent offense.

In some cases that concept can work. But if you have neighborhoods in our city that are predominantly people of color, low income, immigrants, undocumented New Yorkers that feel vulnerable and you deploy a ton of police into those areas

without enforcing the same measures in other communities, you will get the results of what we have seen with stop, question and frisk.

You will have fractured relationships, you will have a level of mistrust, you will have residents not coming forward to talk about crime that they know is going on in their communities, because these are their children and their grandchildren that we're arresting and putting in the system when they don't have to be in the system.

So we've talked to the NYPD and we've looked at training, obviously, is something that we can never get enough of. Training everyday patrol officers to understand the neighborhoods, the character of New Yorkers, the differences in culture and diversity and language, language access, cultural awareness and cultural competency. We have focused on that. Individuals that have emotional disturbances, we have crisis intervention

training that is now incorporated in the basic training at the academy.

We have 5,000 officers that now have Naloxone kits because we have so many New Yorkers that are dealing with mental illness.

And never before did we think in 2017 that the role of a police officer will constantly be redefined as it has been. We expect police to respond to everything; domestic violence, crime victims, sex crimes, human trafficking, school safety issues. We respond to everything. And we want police to be prepared, we want them to be equipped not just with training, but technology. I cannot tell you how important technology has been for this City down to the smart phones and the tablets, the GPSs that are in all of the RMP police vehicles that we have incorporated in the department. We have replaced all of the outdated bullet-resistant vests the police officers had and now this year in the budget we got

a grant from the State of New York and we're now putting in bullet-resistant windows in all of the patrol vehicles throughout the City of New York.

So I think when you look at Broken Windows, it's something we have talked about, we have tried to make sure that there are policy changes, the NYPD has not been that welcoming of all of our legislative ideas, as many of you may know, it's not always a perfect picture and I get it.

Sometimes the police think we're trying to oversee what they do, we're trying to impede on their police work. We're not law enforcement just like they're not elected officials, but we both have a role and we have to work together.

So where we've found agreement has been the recent passage of the Criminal Justice Reform Act. And I'm so proud of this bill because it took us thirteen months working with the NYPD to get it done. The Criminal Justice Reform Act,

2 looks at five low-level nonviolent
3 infractions; public urination, possession
4 of an open container of alcohol, violation
5 of park rules, loitering and noise. These
6 are low-level nonviolent offenses and they
7 really get on many of our nerves in New
8 York City and we oftentimes don't think of
9 how important it is because we respond to
10 obviously much more violent crimes;
11 shootings, homicides, stabbings, domestic
12 violence. And we have to and we will but
13 when you look at some of these low-level
14 infractions before we passed this act, it
15 was a criminal B summons. So if you were
16 caught by an officer in any of those five
17 infractions you would be given a criminal
18 B summons and you to have to go to
19 criminal court to have that summons
20 adjudicated.
21 Many New Yorkers, particularly young
22 people of color, did not go to court to
23 address it and it remains outstanding.
24 Only if you're stopped again by an officer
25 and your name is run through the system

2 would they see that you have this
3 outstanding summons that needs to be
4 addressed. But what happens if it's a
5 year, two years, three years or five years
6 that this summons remains outstanding? It
7 turns into an arrest warrant. And it
8 turns into a warrant and then it would be
9 in the warrants unit and when the
10 department -- when they go through all of
11 their warrants your name will be here.
12 Now, many young people may not
13 remember that they got caught possessing
14 an open container of alcohol five years
15 ago, right, and they never responded to
16 it. So what this act does is it says that
17 New Yorkers that receive these criminal B
18 summonses if it remains outstanding and it
19 turns into a warrant, you should not go to
20 jail -- because that's what happens now
21 and there's a disproportionate impact on
22 communities of color.
23 Young men and women are sitting in
24 Rikers Island because they got a ticket
25 from five years ago and never got in

2 trouble since then but since this summons
3 was not addressed, they're in Rikers
4 Island. And that happens all too often.
5 It costs more, and we're not talking about
6 violent offenders, we're talking about New
7 Yorkers, young adults that made a mistake
8 and it just needs to be adjudicated.
9 So with the Criminal Justice Reform
10 Act instead of getting a criminal B
11 summons and going directly to criminal
12 court, we want to have it adjudicated in a
13 civil manner. So instead you will go to
14 the City's OATH, which is Office of
15 Administrative Trials and Hearings --
16 that's a long title so we say OATH -- and
17 instead you will get a civil penalty and
18 you would pay a fine just as you would
19 with a traffic violation, you would get a
20 ticket.
21 What we've also put in place because
22 people said, what happened if you're a
23 second offender or a third offender, how
24 do we make sure that there's a graduated
25 penalty so that we can prevent individuals

2 from repetitive bad behavior?
3 So the first offense is one amount,
4 second and third it continues to increase.
5 After the third offense, if you get caught
6 a fourth time, which we don't want to
7 happen but if that happens, then you would
8 automatically get a criminal summons and
9 you would have to go to criminal court.
10 The reason why this is good is
11 because it says that the penalty would be
12 proportional to the actual offense. An
13 individual who is subjected to one of
14 these offenses does not belong on Rikers
15 Island and that's what was happening.
16 It still provides a sense of
17 lawfulness, there is a penalty that
18 matches that particular offense and it
19 also makes sure that people follow the
20 rules.
21 Now, the challenge we also face in
22 this city is that we have a lot of
23 individuals who are on the streets,
24 homeless, who engage in these types of bad
25 behavior and they have absolutely no

ability to pay any fine no matter what amount it is.

So coupled with this act is going to be a component that provides for a level of community service under the direction of OATH and MOCJ where an individual if they have a financial challenge and is not able to make the payment of that fine, they would be able to get community service.

We tried. It took a long time to get the NYPD on board but essentially we're trying to strike a balance especially when you look at communities of color with low-level nonviolent offenses.

We were also able to get a lot of buy-in from many of our small businesses who, as you can imagine, were furious just at the idea of this because many of the times this happens in front of their businesses and as a business owner, they want to makes sure that everyone is following the rules. So we were able to do that.

We're working with the NYPD on the training to make sure patrol officers understand about these low-level nonviolent infractions and I don't know how much time I have but I can talk about two other -- okay, I'll talk about one other effort that we made about summons court.

So summons court is pretty interesting. If you ever had a chance to visit summons court in any of the boroughs, you will see the incredible wave of young people that come in through summons court every single day. And the form that is the summons itself, did not have a lot of information.

So two years ago it did not have race or ethnicity as a category. So we had officers giving out thousands of summonses and we couldn't track who was given these summonses. And we track this data and information for many reasons; we want to find out if there's trends and patterns but we also want to be able to

respond. If we have patterns coming out of a particular neighborhood, a particular ethnicity, a socioeconomic status, we want to be able to say these are the services we can come in to offer.

So what we've done working with MOCJ is we've tried to make it easier for any individual if they have to go to summons court, we want them to understand what their rights are.

There are a lot of collateral consequences if you plead guilty to a summons that many young people are not told because they don't always have legal representation. So we have 18B attorneys, legal service providers like Legal Aid, legal services of NYC Bronx Defenders, et cetera, and many of them work directly in summons court and they work with individuals who have a summons.

We have extended hours through the evening, we have hours now on Saturdays for those that might not be able to get there during the week, and we also have --

which I really like because we're all in the cell phone world -- we have a text messaging campaign.

So when you fill out the summons form or the officer fills it out, there's a part where you put your phone number and it goes into a database and when you receive the summons and it's in the system, the court will send you a text message saying you have a summons and you have to report to summons court on this particular day.

We thought it would be ideal to try to identify many young people that don't have a landline that just may forget about the summons, about receiving it in the first place.

And we're also working with community courts.

We have one in Red Hook, there could be a potential one in Brownsville, Brooklyn. I'm trying to get one in the Bronx because I work with CCI which is Center for Court Innovation and I want to

2 make sure we can have community courts
3 with judges that really understand a lot
4 of what is going on in the community. So
5 I'm very happy with the great success.
6 There's also another NYPD program
7 called Community Partnership Program or
8 CPP for short -- we live in an acronym
9 world. And CPP has the responsibility of
10 working with an incredible amount of
11 community-based organizations, faith-based
12 organizations, clergy and other leaders
13 that meet with the NYPD ongoing to talk
14 about issues in their community.
15 Never before have you seen such
16 engagement from the NYPD. I think when
17 you look at some of the past
18 administrations the answer has always been
19 more police. We have a shooting, we put a
20 police tower in front of that location.
21 We have a homicide, we have more cops
22 patrolling the street. And yes, that's
23 important, but that's not the only answer.
24 Residents don't necessarily want to
25 see more police, they want to see more

2 enforcement of existing rules. They want
3 to see the drug dealers off of their
4 streets, those that may have guns.
5 So what NYPD does is something
6 called precision policing and I like this
7 because it means that we don't just target
8 people because of the color of their skin.
9 It means we go after repeat offenders, we
10 go after those violent offenders that
11 engage in repetitive bad behavior.
12 These are the individuals that New
13 Yorkers do not want in their communities,
14 that are really a danger to themselves and
15 to all of us. And I like it because thus
16 far it has proven to be successful.
17 I have not been happy to see a lot
18 of the massive takedowns we've had in the
19 Bronx last year. We had a takedown of 120
20 individuals in the Bronx that were charged
21 with horrific violent crimes and gang
22 activity and there's obviously much more
23 to come. There's a lot of undercover work
24 that goes on but we want residents to feel
25 safe, we want them to know that they can

2 come forward and not feel like a snitch or
3 not feel like their own safety is in
4 jeopardy.
5 And it's been a real challenge to
6 overcome a lot of those hitches because on
7 the streets of New York if you are
8 considered a snitch, it is not a good
9 association and many families and
10 residents simply do not want to come
11 forward.
12 And so we've tried and through NCO
13 and CPP and other initiatives, we've
14 really tried to make residents feel safe,
15 that they can go to their police officers.
16 We've also hired more officers which
17 was not an easy conversation. I remember
18 the protest in front of my office, because
19 we do not hire and recruit as many police
20 officer as those that retire at the end of
21 the year and with all of the recruits and
22 efforts we have to do better.
23 We struggle with hiring
24 African-American men, African-American
25 women, Asian men and women and Latino men

2 and women. And we want the department to
3 be reflective of the City of New York.
4 And we want to make sure not only do
5 officers know the community, but they're
6 from the community.
7 We want young people to look at a
8 police officer as a career opportunity and
9 we want even despite their own
10 circumstances and their own perceptions
11 and stereotypes, we want them to see the
12 potential good that officers have.
13 So I could talk all day because this
14 is the work that I do, unfortunately, but
15 I will stop.
16 MS. HAMILL: Thank you so much. And
17 what I want to do is open it up for some
18 questions.
19 MS. GIBSON: Thank you so much.
20 Absolutely.
21 MS. HAMILL: Thank you so much for
22 your presentation. We will now have some
23 questions. Thank you so much, you've
24 given us an enormous amount of information
25 but I just want to be able to take a

2 couple of questions.
3 MS. GIBSON: Thank you so much.
4 This is my world every day.
5 MS. HAMILL: Do we have any
6 questions? Alex Vitale.
7 MR. VITALE: Thank you so much for
8 your time and your incredible breathless
9 presentation.
10 MS. GIBSON: I really was breathing
11 while I was talking.
12 MR. VITALE: A number of members of
13 the commission met with much of the top
14 command staff at the Police Plaza about
15 three weeks ago.
16 We spent about two, two-and-a-half
17 days meeting with them, discussing
18 neighborhood policing, precision policing,
19 attending COMSTAT, et cetera.
20 One of my concerns with the
21 neighborhood policing initiative is that
22 in my experience of about twenty years of
23 going to police community meetings here
24 and around New York City, is that the bulk
25 of the problems that community members who

2 participated in those processes raised
3 are, exactly, these quality-of-life kinds
4 of concerns that are so closely tied to
5 Broken Windows enforcement.
6 So how do we ensure that our police
7 response to community demands isn't just
8 more intensive low-level enforcement has
9 produced a lot of counterproductive
10 results that we have been hearing about?
11 And also related to that is, we hear
12 about collaborative problem solving, et
13 cetera, but, you know, we heard testimony
14 earlier about so many young people getting
15 caught up in summonses and arrests jumping
16 the turnstile. How is a neighborhood
17 policing officer going to fix that problem
18 other than just not enforcing it anymore?
19 MS. GIBSON: Great question and I
20 will also add that in the daily work we do
21 with the NYPD a lot of the measures are
22 State law. Jumping the turnstile,
23 unfortunately is vehicle traffic law and
24 in Albany, and as a former member, I
25 served New York City Assembly for four

2 years and it's a great challenge sometimes
3 in making those dramatic changes in State
4 law.
5 It's much easier in the City Council
6 because you have a smaller body of
7 government and you honestly have more
8 democrats that are willing to work
9 together that recognize the challenges
10 that we have faced.
11 One of the challenges that I hear
12 from the public is quality-of-life issues
13 do not always get addressed because some
14 of them are more violent crimes. This
15 comes down to resources in what police
16 officers have in terms of services and
17 tools that they can use.
18 NCO officers, their responsibility
19 is really to address those quality-of-life
20 issues, but it's to be done in a way that
21 is fair and balanced.
22 I think that over-policing in
23 communities of color has being a major
24 factor in a lot of the challenges that we
25 face and we still face them today. If you

2 look at 311 calls, which is what the
3 police department gets, they will tell you
4 that many 311 calls come from
5 neighborhoods across the City of New York
6 and sometimes more so in communities of
7 color, about low-level offenses and
8 quality of life but they don't get
9 addressed.
10 So I think it's a real challenge to
11 try to tackle it, you can't do it in silo
12 and a one-size-fits-all approach. I've
13 said to the department that if you force
14 Broken Windows in Highbridge like you do
15 in other parts of our city that do not
16 look like Highbridge and my community, you
17 would have less problems because people
18 would see that there's equity across the
19 board.
20 And just because enforcement is not
21 going on in many of these particular
22 neighborhoods, it doesn't mean that the
23 infraction is not taking place.
24 So that has been a challenge because
25 parents and grandparents come to us and

2 they say, you know, why are you allowing
3 this to happen? And I think every day
4 we're trying our very best. My goal as a
5 legislator is to prevent young people from
6 engaging in any of this behavior in the
7 first place. I want them to have the
8 least amount of interaction with police as
9 they can.
10 So what we've also done, and there's
11 a huge effort that's based on a model out
12 of Chicago that looks at cure violence and
13 gun violence from a healthcare and a
14 holistic perspective, so we have the New
15 York City Crisis Management System that's
16 run by the Health Department and we've put
17 millions of dollars into antigun violence
18 programs because we believe if you look at
19 the root causes of why youth engage in
20 violence, poverty, hunger, lack of jobs
21 and employment and opportunity for young
22 people.
23 You know, young people don't engage
24 in violence, you know, sometimes without a
25 reason. There's always a reason for the

2 behavior. And if you can flood
3 neighborhood like mine with jobs, with
4 programs, with after-school to keep young
5 people engaged, they would have less time
6 to stand on a corner.
7 And we have believed in this
8 concept. We started in five neighborhoods
9 in the City of New York and I'm grateful
10 that in year four we are in eighteen
11 neighborhoods across the city. And we
12 have anti-gun violence organizations that
13 are grassroots, they do cure violence,
14 hospital responders, violence
15 interrupters, mediators. Their job is to
16 work in communities to quell the violence
17 before it even happens, to deal with
18 Broken Windows, why a young person is
19 being harassed by a police officer.
20 And it's not easy because as we
21 tried to build relationships you have a
22 change of, you know, officers and
23 commanding officers and, you know, things
24 constantly change and new people come in
25 with a new vision, but I will say that we

2 have had some success. But in order for a
3 system like Broken Windows to actually
4 work it has to disprove everything that we
5 believe is wrong with the system, and it
6 has to prove that no matter what
7 neighborhood you live in, we will enforce
8 Broken Windows.
9 It has to prove that Broken Windows
10 could actually prevent an individual from
11 engaging in a more violent crime. And I
12 would say we're not there yet. We're
13 making strides, making progress but we're
14 not there yet where everyone has been
15 brought in to Broken Windows on behalf of
16 the council.
17 MS. HAMILL: Thank you. Kevin.
18 MS. GIBSON: Hi.
19 MR. THOMAS: Hi, Ms. Gibson.
20 Congratulations on chairing the Public
21 Safety Committee.
22 MS. GIBSON: Oh, thank you.
23 MR. THOMAS: I used to work with
24 Peter Vallone, Jr. So my question goes to
25 this neighborhood safety coordinating

2 officers that you've highlighted in your
3 testimony today. You say that they're
4 good but we've heard testimony from
5 advocates today that basically say that
6 they are actually harming the most
7 vulnerable in our society, the homeless
8 people. How would you respond to that?
9 MS. GIBSON: So I would say that
10 there is a level of validity, not just
11 with NCOs but with the NYPD in general.
12 Homeless individuals and street homeless
13 individuals that are living in our city
14 are vulnerable to everything. It's a
15 problem that plagues our city. We have
16 too many individuals every night that live
17 on the street. And what's really alarming
18 is many of these individuals choose to
19 live on the streets because they think
20 they're more safe in the street than in a
21 shelter. And that, for me, is horrifying
22 to think that that's the way many believe.
23 And I say that because I was a part of the
24 new Ho-count that DHS did back in January,
25 we met at a location and we walked around

2 starting at 10:00 p.m. through 5:00 a.m.
3 in the morning and we counted all of the
4 individuals that were on the street.
5 Because it's not a law to mandate and
6 force an individual into a shelter, many
7 of them turned away our services. I have,
8 in my own district, dealt with street
9 homelessness quite a bit.
10 I think it is a challenge and I do
11 think that police officers have a lot of
12 discretion and if they see it too often or
13 if they see it in particular areas, they
14 will try to address it. I have never been
15 of the mindset that addressing street
16 homeless and the answer to that is police.
17 I recently had an issue not with
18 street homeless but I had individuals from
19 a local shelter when the City used to kick
20 you out of the shelter at 9 o'clock and
21 you had to come back by curfew, and you
22 had nothing to do during the day, no day
23 programs, so they would sit on benches
24 across the street from my office and
25 people would start to complain every day

2 because they couldn't walk, they couldn't
3 sit on the bench because of many of these
4 men and women and predominantly men.
5 So instead of calling the local
6 precinct, I called three community
7 organizations that have street outreach
8 and they do street teams, they mobilize, I
9 worked with them, I worked with Parks and
10 I worked with the NYPD. And amazingly we
11 were able to get half of them into a
12 shelter.
13 None of them had a record of any
14 shelter stay and many of them had been
15 living on the street for quite some time.
16 Sad to say a couple of them were veterans
17 too, which is an absolute shame, you know,
18 that we don't do enough for veterans in
19 this city.
20 But to me, the answer isn't just
21 police and we have got to work with the
22 NYPD on better policing of the homeless.
23 They are homeless for a reason.
24 They're not criminals. It's a challenge
25 sometimes because they have a multitude of

2 needs that are not addressed; they could
3 have an illness that's gone undiagnosed
4 and it should not be up to the police
5 officers to address that because I've seen
6 in some cases when police respond, they go
7 to the emergency room and that individual
8 may stay there for a couple of hours and
9 where do they go after that?
10 So what we've done with the NYPD
11 working with the deputy commissioner,
12 Susan Herman, who's the commissioner of
13 Collaborative Policing, we've worked and
14 are still working with DOHMH and we're
15 trying to look at mental health diversion
16 centers.
17 So we want to have hubs in each of
18 our boroughs where an individual may have
19 an illness or substance abuse or addiction
20 but they're homeless, and if they're on
21 the street and police confront them,
22 instead of taking them down to central
23 booking or the local precinct, we want to
24 get them diverted into a program.
25 Staten Island DA Mike

2 McMahon, is doing it very successfully so
3 far. It's called the HOPE program.
4 We're also looking at a
5 new effort in Kings County in Brooklyn
6 with DA Eric Gonzalez that will allow
7 police officers that engage with street
8 homeless, if you can determine or if you
9 know that they may have an addiction, we
10 want to divert them into a program. I
11 think the challenge for us is that you
12 have to recognize that there are
13 individuals that call, that call 311,
14 about individuals living on the street and
15 police have to respond to those calls. So
16 I think when that's done, if police are
17 not equipped with the appropriate training
18 and understanding then the answer will be
19 exactly what we see, over-policing on the
20 homeless.
21 And Coalition for the
22 Homeless -- I work with many of them --
23 Picture the Homeless, and we're looking to
24 work with General Welfare, Steve Banks and
25 HRA, and we're looking to have a hearing

in the near future to talk about NYPD and street homeless. Because what I want to do is couple that with services. I do not want to say we want police to do more and not give them the services.

I want to make sure that individuals that are living on the street get the help that they need so they don't have the negative interactions that they do right now with police.

MR. THOMAS: In terms of people calling 911 or 311 on the homeless, would you recommend instead of the NYPD showing up, a mental professional or a social worker show up instead?

Say I call 311 and say there's a homeless person outside, can you send the NYPD and instead of sending over the NYPD, they send over a mental professional. Would you recommend a policy change in that?

MS. GIBSON: So that is definitely something that I will consider and definitely would want to have more

conversations with the NYPD, we take a lot of guidance and leadership in this effort.

We have done something similar with domestic violence. There was a $27 million contract that was awarded last year to Safe Horizon to provide caseworkers and social workers in every police precinct in the city.

And they have already rolled out several months ago and their job is to work in the precinct with the domestic violence unit.

When a DV officer goes out and does a home visit and does a regular check on their client, they would not go out by themselves, they would go with a Safe Horizon worker.

And the goal around that is to make sure that any victim of domestic violence can feel comfortable confiding in an officer, when they open their door they don't just see a uniform, they see someone that obviously is medically trained to deal with their particular issue. And I

think about something like that and that is an issue, an effort, that the NYPD supported.

We gave them the funding to do so because we wanted to make sure that something so sensitive as domestic violence can get an extra level of attention.

So I agree that for mental health we should make the same effort. I don't know if it makes sense to have a medical professional respond by themselves because they are not police so we do have to have that partnership, but certainly it's something that I believe, you know, myself, City Council and the NYPD would absolutely be willing to work towards.

MS. HAMILL: Johnny?

MR. PEREZ: Thank you for your testimony this morning -- this afternoon. It's been a long day.

So this morning one of the recommendations was that -- we always hear training, training, training, we need more

training, right, and, you know, one of the recommendations which I happen to agree with is that there can't be training without some sense of accountability to go with that. But accountability is hard to accomplish where there's little transparency, because I've been asking questions about data all morning about the NYPD and it seems that there is difficulty getting information out of the NYPD.

So my question to you is what is being done to increase transparency, and therefore, increase accountability outside of just unpaid leave.

Because when I think about Sean Bell, Eric Garner, I mean the list goes on and these family members, you know, are suffering permanently as a result of this officer misconduct, if not misbehavior, whatever.

So again, what is being done right now to increase transparency in the NYPD and therefore also increase accountability outside of just give me your badge and

your gun and come back in two weeks?

MS. GIBSON: Right. And that's a good question and I think it's probably the most challenging part of the work we do next to legislation because the department, as I've said, has not always embraced many of our legislative ideas. They were not on board with the Criminal Justice Reform Act, we recently passed a nuisance abatement because there was a series of articles that surfaced about New Yorkers who were being locked out of their apartments for illegal behavior or perceived illegal behavior, and there were lots of loopholes and we simply cannot allow it for both residential and commercial. That took almost a year to get done. So it's a system where we want to be a complement to what the NYPD does, not a deterrence or a hindrance and it has not always been really recognized.

Legislation is an incredible part of the work we do because legislation can codify in local law. It can take positive

successful measures, pilot initiatives, anything that we do as an administration and can put it in local law. And once you put it in local law it has very little, you know, to be overturned unless someone else comes in.

And while we all have term limits, many of us are in office for several more years and we want to make sure that any good measure that the department or we have actually stays in place beyond our administration.

So I'll reference two things.

I work with CCRB and through the years we've given CCRB a lot more resources and tools to work with the NYPD. If an individual comes for a CCRB complaint, we have sped the process up. On any given time it would take almost a year to get your case heard from the point of your complaint.

Now we have reduced that to a few months, four to five months from when you first file a complaint. We work with

CCRB, many of the council members. We have CCRB hours in our office where staff comes and they do intake cases, because right now CCRB is only located at 100 Church Street and if you live in my district you may not be able to get to 100 Church Street. You can actually do complaints, you can submit applications online, and also through 311. We want to make it easier for individuals if they find themselves in a situation where a police officer has abused their power, we want to make sure that individual has a way to get to CCRB quicker.

Secondly, I will reference legislation and, of course, there are two pieces of legislation that came over from the Community Safety Act that was passed under the previous council and the previous speaker and the Right to Know Act is what it's called. Two pieces of legislation, one looks at identification.

Every patrol officer on the street if they stop a young person or an

individual, whether they arrest them or not, they would be mandated to give that individual a business card that would have their information including their shield number, the number for CCRB, as well as contact information.

We think that's a good measure and it was introduced by Council Member Ritchie Torres, my colleague in the Bronx and it's gotten a lot of support.

The second bill is the Right to Consent Bill and this would mandate that the police officers as they are patrolling would have to inform an individual that they have a right to not consent to a search.

And you may know, there are three kinds of searches, level one, level two and level three and this bill would apply to all three searches.

Those bills, I would say putting it mildly, have had a lot of conversation, a lot of contention and it has not been easy, a lot of support from the council,

from civil rights groups like NYCLU, CCR, CPR, which is Civilians for Police Accountability and many others. Instead of passing the City Council, the speaker made the decision last year to work with the NYPD on an administrative implementation, so that means that the patrol guide would be amended to incorporate some of the terms of the legislation into the patrol guide.

Now, while that's a good effort, it's not the only effort that we should nor will we focus on because patrol guides can be amended at any given time by the Commissioner and the mayor and possibly the City Council. So I go back to legislation and codifying measures in local law. It's something that Council member Ritchie Torres and Antonio Reynoso as the prime sponsors are pushing.

The bills remain in the Public Safety Committee, we don't have a hearing set forth, we had one hearing already and the department expressed their opposition,

of course, and so we're still working with them after the administrative implementation to find other ways.

The challenge for us on accountability are the police unions. The police unions have a lot to do with this. There are union contracts that we cannot, you know, obviously oversee or impact, and when we look at some of the high profile cases, the White House and their task force of recommendations -- I will just bring up body worn cameras.

That's something that we wholeheartedly support, universal body worn cameras, meaning, every patrol officer and because of the agreement with the police contract for patrol officers that was made with Pat Lynch and the mayor we will have every patrol officer by the end of 2019 equipped with a body worn camera.

I'm sure you read and heard about the contract. As I understand, the contract is going to be moving forward and

we're going to begin with the first 5,000 of the body worn cameras for police officers. But to me that's a component and it's a neutral observer that can help police officers and help civilians at the same time.

I'm sorry. I just have a lot to say.

MS. HAMILL: Okay. And on that note we're going to have to conclude this panel.

Thank you so much.

MS. GIBSON: Sorry, I hope I have given you guys a lot of information.

MS. HAMILL: You have given us enormous amount of information and I know we can spend hours with you asking you more questions but I've been given my directions directly from the commission staff that we have to conclude this panel.

Thank you so much for your service to New York and your participation.

MS. GIBSON: Invite me back, please. I promise I won't talk as long.

MS. HAMILL: So we're going to proceed right into the public comments for those of you who want to speak. I have two people that are signed up to speak to us.

If anyone else wishes to speak, please sign up right away.

I'm going to ask those of you who will be speaking to us in this session to please limit your comments to no more than five minutes with the New York State Advisory Committee so please focus your comments. We're focused on New York City, New York City policing, police accountability and we're looking specifically at the practices that may have a disparate impact on communities of color and youth of color in particular.

With that, let me call up the first speaker, Anthony Pappas.

Good afternoon, thank you for being with us.

MR. PAPPAS: Good afternoon, thank you for having me. My name is Anthony

2 Pappas, I've been a professor at St.
3 John's University for over forty years and
4 I endorse all the efforts you are making
5 in terms of justice, transparency and
6 accountability.
7 To some extent you are dealing with
8 the symptoms rather than root causes and
9 I'll give you an example of what happened
10 to me and how I almost became a fugitive
11 from justice.
12 There were two bizarre accusations
13 made against me, one that I had committed
14 a violent class B felony. As you know,
15 class B felonies are manslaughter, arson,
16 rape.
17 Mine was assault in the first degree
18 leading to a permanent disfigurement. And
19 the other bizarre accusation was that I've
20 made thinly veiled threats and the idioms
21 used by the perpetrator of the Fort Hood
22 massacre wherein in Fort Hood, Texas,
23 Nidal Hasan killed thirteen soldiers and
24 wounded thirty-two. Sergeant Francheska
25 Velez was pregnant when she was killed.

2 The fetus died in her womb.
3 These bizarre accusations resulted
4 from the fact that we have a systemic
5 deficiency in our democracy, namely,
6 judges cannot be held accountable because
7 of the absurd doctrine of judicial
8 immunity as represented by the case of
9 Stumphrey Sparkman where a
10 fifteen-year-old girl was sterilized by
11 tubal ligation. She did not have notice,
12 she did not have an attorney representing
13 her as a minor, and she did not have a
14 chance to appeal.
15 Another example of this is that a
16 judge had sexual relations with a litigant
17 in his chambers. When the person harmed
18 went to the U.S. Supreme Court, the judge
19 was given immunity.
20 Now, the problem with this doctrine
21 is that it arises in numerous contexts in
22 the family and divorce courts, and these
23 bizarre situations involving mothers,
24 fathers and children have a devastating
25 effect on families, on grandparents, on

2 cousins, on aunts and everyone else.
3 And the statistics show that it
4 affects children in a variety of ways and
5 that contributes to juvenile
6 delinquencies, teenage pregnancies, poor
7 graduation rates.
8 So when you go into these courts and
9 encounter judges that are total jackasses
10 and you can't hold them accountable and
11 you can't deal with the issues that
12 confront you, people despair. That is why
13 Mary Richardson Kennedy hanged herself in
14 the barn on the Wednesday after Mother's
15 Day in 2012.
16 And we've had numerous situations of
17 police officers taking out their revolver,
18 killing themselves in the courtroom at
19 Foley Square, of killing their children
20 and then killing themselves. And the
21 police have to deal with these problems
22 that come up, either directly or
23 indirectly. So this doctrine of judicial
24 immunity stems from the worst Supreme
25 Court decision of the 20th century. It's

2 comparable to the Dred Scott decision of
3 the 19th.
4 It is nowhere in the Constitution
5 stated that judges have immunity and that
6 they can create a different category for
7 themselves or there's more accountability
8 over the judiciary. So please make
9 recommendations to the Justice Department
10 or to legislators to adopt legislation to
11 establish checks and balances over the
12 judiciary branch of the government. That
13 is a basic principle of our democracy.
14 Thank you.
15 MS. HAMILL: Thank you very much,
16 Mr. Pappas.
17 I'd like to call up Ms. Valentine.
18 MS. VALENTINE: There are a few
19 things that I think is important when it
20 comes to police and I think the key word
21 with police is policy and there's a lot of
22 policies that exist out here, there's
23 civil right policies, there's State
24 policies, City policies, laws, what have
25 you, and it just seems like the police

pick and choose what policies they want to stay for and advocate for, for whatever reasons and those that they do not.

So we have rights, like, we have a right as far as searches go, as far as a lot of things go. So I just think that there's a problem with that as far as policing because we all have rights and they're standing up for the State's rights or the City's rights but what about human rights as well?

I also feel that, yes, I just feel that as a person who has been a victim of domestic violence in the State of New York, there seems to be that whenever a call would come in or police would come to the scene, it seemed like it was like a boys' club, you know, and with my husband being a man I always just felt like I was like an outsider. Men and women communicate differently, we're different genders, we have different brain structures, we're different creatures.

And I just think that when you have

people that are going through something like so extreme in that sort of environment you need to have a woman present period to hear you, to listen to your concerns because in those situations a lot of the times it was geared to what he wanted and I didn't get the help that I needed.

Another thing that I seem to find is that it seems like if you piss a cop off that you will pay for it. It doesn't really seem like, okay, these are the rights and you violated this or you violated that, it just seems like if you piss them off they'll take you down or they'll find some charge or they'll decide, if I don't like you I won't make that guy to go jail for what he did to you, I won't take the report, I won't give you my card or whatever the things are that you need. So I found that to be problematic.

Another issue I have and it's a little bit different is, I'm a New Yorker.

So when you go through different things here -- we live in a melting pot and it's really crowded -- and we go out of state for whatever reason and, you know, you have a problem with the police there, it's a different mindset, it's a different brain like if you go to the south than if you are here in New York City.

So I just think that is there a way that New Yorkers because we are used to a certain mindset when it comes to our practice with the police, how much respect we get, how much fair practice and defense we get in court by Legal Aid Societies and what have you.

So if you're from New York can you get like a kind of immunity from other states like Florida or Texas or these really like southern states that do whatever the hell they want to you, judges included? And, you know, because it's a big deal what the police do to you, it follows you, from the reports they make whether or not it's true or not to the

courtroom, to the crimes, your criminal records for the next ten years of your life.

So these things, I think, are very important and I just think -- I just wish they were addressed.

And I wish that all the crimes were accounted for. The Wall Street crimes are just as important to the turnstiles. And, you know, the domestic violence, we came to this house and this is the eighth time and we came to this house, we're tired of coming to this house. Well, if you're tired of coming to this house, maybe you need to figure out what's going on in this house. You know, it just seems these officers don't have people skills.

I understand that they are a militia, and they carry guns and carry weapons and they have to protect, but you're working with civilians, at the end of today you're working with people who live in a social setting.

So I think these officers ought to

be educated and well versed in a lot of different dynamics that go along with social jobs, with social work, not just big tough guys with an attitude that have a union to back them up and to say we're gonna hide what we want to hide and we're going to do whatever the hell we want because we got guns, and we have a license to use them and we can throw you in jail.

There's just that attitude that's there and I just wish that it was addressed and that they have requirements for social -- social skills and community sensitivities, because a lot of these things would not escalate with the police, if they did understand and if these cops were living in the community. I live in Queens and all the cops, a lot of them are from Staten Island and they look at you through the cars and it's like, oh, my gosh, these people, I'm so glad I don't live here, you know.

So I just wish these things were different and there was someone, even, who

can take my Florida State police brutality case being that I'm a New Yorker. I just wish that if you're a New Yorker and you've encountered police problems even let's say with the Emmett Till case and you go somewhere else but you're a New Yorker in your mind and your body is in another part of the U.S. then you can't experience justice in the same way.

Thank you.

MS. HAMILL: Thank you so much, Ms. Valentine. We have another speaker.

Mr. Burrows? Good afternoon.

MR. BORROWS: Good afternoon, good evening, how are you? It's been a while.

I'm a member of what's called the New York Police Department Commissioners LGBT Advisory Committee. We meet monthly, tonight would have been our monthly meeting, but we suggested that we come to this tonight and see what's going on and listen, and I did listen and I felt perhaps informing you as to what we do.

The advisory committee has been

around with Commissioner Bratton, Commissioner Kelly and now with Commissioner O'Neill. Commission Bratton also had an advisory committee in Los Angeles. I'm a crazy person, I was on both the LA advisory committee and I'm now on the New York City advisory committee, I can go back and forth.

I've also been a juvenile court prosecutor, I've been a juvenile court referee and right now I'm a defender of young people charged with juvenile deficiencies.

The LGBT Advisory Committee works with the police department to improve community relations with the LGBT community and the police. What we've recently done, the community, is to work with the police department rewriting sections of the patrol guide to improve the relationship and the interaction between the police and the transgender community.

I do not know if you've all been

aware of the large numbers of transgender women of color who have been killed, seven so far this year, and so that has been a major focus with the New York City Police Department and what we're trying to work out now is to improve the guidelines and how do we measure how that is working. We set up training, we set up new ways of doing things but how do we measure if that's working or not?

So we're trying to work with the inspector general's office to figure a way of auditing how those trainings work, because you put trainings into effect but how are they working, so that's one struggle we've been having.

The other thing I think you need to be aware of is that there is a disproportionate number of LGBT young people in the juvenile justice system which consequently goes into the criminal justice system. That has to do a lot with families rejecting their children.

Thomas Krever who spoke to you this

morning, I believe, is a member of our Police Advisory Board, Danny Dromm himself, I don't know if he testified to it or not but he had run-ins with the police department as a younger person.

So our committee works very hard with the police department. The police department does have an LGBT outreach staff in their community relations division, we're trying to convince them to add more people particularly LGBT people of color and LGBT transgender police officers.

We are two or three transgender police officers now but we would like to get them on our community relations staff because when incidents occur -- the Stonewall Bar is a national historic site now.

We had a demonstration there following the shootings. And for some reason the police department felt that it was appropriate to have SWAT team officers with long guns standing in front of the

bar and Community Affairs officers who we know up on the roofs of buildings.

We're trying to get them to understand that many gay people do not have a good relationship with the police department and they would rather see people that they know than to see long guns in front of bars that they traditionally have problems with.

So we have this group, we're meeting all the time, we meet with the commissioner quarterly and all his senior staff and the IG's office has been doing a lot of work with us and we continue to work on that.

I just wanted to make you aware of some of those things.

MS. HAMILL: Thank you so much for coming.

At this time this concludes our briefing and we will be resuming tomorrow morning at 9 o'clock.

Thank you all.

(Time noted 6:14 p.m.)

C E R T I F I C A T E

I, Olga Raptis, a shorthand reporter and Notary Public within and for the State of New York, do hereby certify:

That the witness(es) whose testimony is hereinbefore set forth was duly sworn by me, and the foregoing transcript is a true record of the testimony given by such witness(es).

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

OLGA RAPTIS

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