

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

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June 28, 2016
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HELD AT: Council Chambers - City Hall

B E F O R E:
VINCENT J. GENTILE
Chairperson

COUNCIL MEMBERS:
Inez E. Dickens
Daniel Dromm
Costa G. Constantinides
Chaim M. Deutsch
Rory I. Lancman
Helen K. Rosenthal
Jumaane D. Williams
Inez D. Barron

A P P E A R A N C E S (CONTINUED)

Thomas Giovanni
Chief of Staff and Executive Assistant
Government Policy
New York City Law Department

Beth Nedow
Litigation Support Director for
Practice Management
Litigation Support Division
New York City Law Department

Nancy Savasta
Deputy Chief
Tort Division
New York City Law Department

Cynthia Conti-Cook
Staff Attorney
Criminal Practice
Special Investigation Unit
Legal Aid Society

Natasha Merle
Fried Frank Fellow
NAACP Legal Defense and Educational Fund

2 [gavel]

3 CHAIRPERSON GENTILE: This is a meeting
4 of the Oversight and Investigations hearing of June
5 28, 2016. Good morning everyone. And we'll begin
6 our hearing and other members will be joining us in
7 just a few moments.

8 Good morning colleagues and ladies and
9 gentlemen; I wanna thank my committee members that
10 are present and will be present today for this
11 hearing and I wanna thank Council Member Jumaane
12 Williams for introducing this legislation, 0119-C
13 that we have before us today. And I also wanna thank
14 our legal counsel, Josh Hanshaft and Kelly Taylor for
15 all the good work and the hard work that they've done
16 in preparing this hearing today and preparing this
17 legislation. And also I wanna thank representatives
18 from the Law Department that are with us here this
19 morning.

20 I am Council Member Vincent Gentile,
21 Chair of the Committee of Oversight and
22 Investigations; we have gathered here this morning to
23 hear Proposed Int. No. 0119-C, sponsored by Council
24 Member Williams and pending in the O&I Committee.

2 The hearing in the first version of this bill was
3 heard by this committee on May 5, 2014.

4 Amending the Administrative Code of New
5 York City, this bill would required the evaluation of
6 civil actions and other complaints alleging improper
7 police conduct be done by the Inspector General for
8 the Police Department in consultation with the Law
9 Department, the Police Department, the Comptroller,
10 the Civil Complaint Review Board, and the Commission
11 to Combat Police Corruption.

12 The reality is, as we know, lawsuits
13 against the Police Department have dramatically
14 increased in the past decade. According to a report
15 by the Comptroller, the City paid out over \$260
16 million in FY14 to resolve claims involving the PD.
17 The current practice in place is costing the City
18 financially due to the lack of cross-checking and
19 comprehensive analysis by the departments of multiple
20 data across many agencies and administrative units.
21 Int. 0119-C would establish a collaborative and
22 transparent system with appropriate timelines to
23 review information related to allegations of improper
24 police conduct. The bottom line of this proposed
25 modus operandi would be to use this formulized

2 cooperation to evaluate the data collected in order
3 to improve police practices and to identify patterns
4 that can help reform training, procedure and assist
5 in early intervention.

6 Currently the Law Department, the
7 Comptroller, the PD, the Civilian Complaint Review
8 Board and the Commission to Combat Police Corruption
9 all collect information on police misconduct through
10 complaints and litigation claims; however, there is
11 limited coordination and analysis on how to use this
12 information to improve police practices and ideally,
13 reduce costs to the City.

14 This bill would require the IG for the
15 NYPD, in consultation with the Law Department, the
16 Police Department, the Comptroller, CCRB, and CCPC to
17 review information on police misconduct and develop
18 recommendations to the disciplining, training and
19 monitoring of police officers. To facilitate this
20 review the Law Department would be required to
21 publish information on civil actions every six
22 months; then Int. 0119-C creates a system by which
23 the IGPD is the aggregate umbrella data collection
24 point on cross-agency data to accomplish this goal.
25 I believe the intentions of this bill are on target

2 and seek to establish a workable and beneficial
3 system for all parties.

4 Analyzing multiple sources of information
5 on the same core incident can allow for an analysis
6 that makes up for flaws and deficiencies that might
7 exist in any one of the collection databases. Taking
8 this compiled data and using it primarily to create
9 an early intervention system, if data is reviewed
10 regularly it will potentially allow for truly early
11 interventions that can range from the supervisor
12 level to the professional health level and ultimately
13 to a reassignment or relief of duties, if that
14 becomes necessary.

15 Can this instituted system work
16 seamlessly, having never been the practice before?
17 Will these transparent data subject individuals to
18 public outcry? How will this system actually improve
19 police practices and reduce costs to the City? These
20 are some of the questions that we will seek to answer
21 today.

22 In preparation for this hearing, all
23 relevant police and legal entities were invited --
24 the Law Department, the Police Department, Inspector
25 General, the Department of Investigations, the NYPD,

2 the CCRB, and the CCPC -- all with the expectation
3 that they would be here to testify on Int. 0119-C in
4 regard to their role in this legislation.

5 Again, thank you to my colleagues and the
6 members of my committee that are present, and Council
7 Member Williams, my legal counsel, as well as the
8 representatives of the Law Department.

9 With that I will now introduce the
10 members of the committee that are present at this
11 moment and then ask Council Member Williams to make
12 his opening remark. And the one member of the
13 committee that has joined us so far this morning is
14 Council Member Costa Constantinides; thank you for
15 being here, and Council Member Williams, if you'd
16 like to make an opening statement, you can do so now.

17 COUNCIL MEMBER WILLIAMS: Thank you,
18 Mr. Chair and as you mentioned, this was heard back
19 in 2014 and since then you've been supportive of
20 pushing this forward, so I appreciate it.

21 I'm very proud to sponsor Int. 0119-C
22 that would require the Inspector General for the
23 Police Department in consultation with the Law
24 Department, the Comptroller, the Civil Complaint
25 Review Board, and the Commission to Combat Police

2 Corruption to review information on police misconduct
3 and develop recommendations related to the
4 disciplining, training and monitoring of police
5 officers. To facilitate this review, the Law
6 Department will be required to publish information on
7 civil actions every six months.

8 This is our second hearing on this
9 legislation, which has been updated, and was first
10 heard before Chair Gentile in 2014; since then we saw
11 the tragic, unfortunate death of Eric Garner and the
12 need for this Council to continue its efforts and
13 better improve policing. Shortly after Eric Garner's
14 transition [sic], NYPD Commissioner Bratton was asked
15 whether he'd be supportive of an early intervention
16 system where the City identifies officers who have
17 had past problems and he responded that he would
18 consider it, according to the *Wall Street Journal* on
19 July 22, 2014.

20 This early intervention system is
21 critical to ensuring transparency and effective
22 oversight of the New York City Police Department.
23 With reports in recent years showing that claims
24 against the NYPD often result in the highest dollar
25 amounts paid by the City of New York, it is important

2 that City government officials are aware and problem
3 officers specifically and make department changes
4 where warranted. I'm proud we were able to combine
5 this existent bill with Council Member Garodnick's
6 legislation, which together will create the Early
7 Intervention System.

8 I wanna thank him, along with Chair
9 Gentile and his staff, my staff, Nick Smith and of
10 course, essential [sic] staff who worked on this,
11 including Rob Newman, Matt Gewolb, Laura Popa, and
12 Kelly Taylor.

13 I did wanna say; for me, this is about
14 providing assistance to make police officers better;
15 oftentimes when something goes wrong we hear police
16 officers had such and such amounts of complaints and
17 this amount of CCRB and I had no idea what that means
18 in relation to every officer who is on the job; I
19 would assume, if I was a police officer and arrested
20 someone who should be arrested but didn't wanna get
21 arrested, would probably file something against me;
22 wasn't sure what that means in an officer's life and
23 career and my hope is that some of the information
24 that we will get will help put some kind of balance
25 into what that means and help us provide assistance

2 to police officers who need it, before something
3 drastic happens. So thank you Mr. Chair for allowing
4 me the time to speak and I look forward to hearing
5 what the administration has to say.

6 CHAIRPERSON GENTILE: Thank you, Council
7 Member Williams. And we've also been joined by
8 committee member, Council Member Helen Rosenthal --
9 thank you, Council Member Rosenthal. We'll begin
10 with our first panel from the New York City Law
11 Department, Thomas Giovanni, who's the Chief of
12 Staff. Mr. Giovanni; why don't you introduce the
13 other members of the panel there and then we'll ask
14 all of you to take the oath?

15 THOMAS GIOVANNI: Okay. Good morning.
16 I'm joined with Beth Nedow and also Nancy Savasta.
17 It is on -- Beth Nedow and Nancy Savasta from our
18 office are also here. I can give you their titles
19 when I read in the statement.

20 CHAIRPERSON GENTILE: [background
21 comment] Do you affirm that the testimony you're
22 about to give is the truth?

23 THOMAS GIOVANNI: Yes.

24 CHAIRPERSON GENTILE: Thank you. You may
25 begin.

2 THOMAS GIOVANNI: Alright.

3 Good morning; thank you all for having
4 us. We've got a prepared statement that we've given
5 you copies of and I'll read it into the record now.

6 My name is Thomas Giovanni; I serve as
7 Chief of Staff and Executive Assistant for Government
8 Policy at the New York City Law Department. I'm
9 pleased to be here to offer the Law Department's
10 comments regarding Int. 0119-C which is before you
11 today. I'm joined by Nancy Savasta, the Deputy Chief
12 of the Tort Division in charge of risk management,
13 and Beth Nedow, the Litigation Support Director for
14 Practice Management of the Litigation Support
15 Division in our office.

16 Int. 0119-C would require the Law
17 Department to compile and post twice a year on its
18 website a report that lists certain civil actions
19 filed within the prior five years against the Police
20 Department and its individual officers. The report
21 would include information about the date commenced,
22 the court in which it was filed, the law firm
23 representing the plaintiff and the law firm or agency
24 representing the defendant, and whether the plaintiff
25 alleged improper police conduct including the use of

2 force, assault and battery, malicious prosecution,
3 false arrest, or false imprisonment. Finally, as to
4 the actions that have been resolved, the report would
5 provide the date on which they were resolved, the
6 manner in which they were resolved, whether there was
7 a payment to the plaintiff and the amount of any such
8 payment.

9 So as a threshold matter, I would like to
10 mention the work that the Law Department is already
11 doing in this area. Our Risk Management unit was
12 established in 2002 to promote many of the same
13 values that are reflected in Int. 0119-C -- namely,
14 the use of litigation information to help agencies
15 identify systemic problems and develop targeted
16 solutions. Members of our Risk Management team
17 regularly meet with the ten largest and most active
18 agencies, which include the Police Department, to
19 discuss issues identified in civil actions and to
20 strategize ways to address widespread concerns. Our
21 work with the Police Department continues to evolve
22 and we look forward to strengthening our partnership
23 with improved information-sharing and problem-solving
24 practices, the same as we do with other City
25 agencies.

2 Now with respect to this bill, I note
3 that there have been several predecessor versions of
4 proposals dating as far back as 2009 that have
5 ultimately resulted in Int. 0119-C that's before you
6 now. Now I'm pleased to say that the bill we're
7 discussing today represents the culmination of a
8 recent series of collaborative discussions among my
9 office, Council staff and the Police Department. The
10 Law Department agrees that civil suits against the
11 Police Department and its officers are an important
12 source of information that may reveal patterns of
13 misconduct or operational deficiencies. We at the
14 Law Department are in a unique position to discern
15 and report on such trends. That said, our role is
16 also unique because we have an attorney-client
17 relationship with all agencies, including the Police
18 Department, and we must vigorously safeguard the
19 legal privileges that attach to that relationship.
20 As attorneys, we are bound by the Rules of
21 Professional Conduct that mandate the protection of
22 these privileges. The extent to which we can discuss
23 or share information and documents is circumscribed
24 by our professional responsibility. So in our view,
25 Int. 0119-C, as it stands now, strikes an appropriate

2 balance between our operational capability and the
3 mandate to safeguard the attorney-client relationship
4 with the desire of the public to know more about the
5 performance of the City's officers.

6 It's also important to view this proposal
7 in context with other local laws relating to the work
8 of the Police Department. As you know, in recent
9 years, the Administrative Code has been amended
10 several times by adding or amending sections that
11 require the Police Department to post various
12 statistics on its website, including those relating
13 to crime statistics, revisions to the Patrol Guide,
14 stop and frisk actions, firearms discharge, criminal
15 complaints, and arrests categorized by crime, bias-
16 based profiling, school activity, and traffic data.
17 The Law Department shares the Council's goal of
18 transparency regarding information that helps the
19 public understand how the City is addressing the
20 issues and concerns relating to public safety and the
21 men and women who are committed to making our city
22 both safe and hospitable.

23 Thank you for the opportunity to provide
24 comments on Int. 0119-C. My colleagues and I would
25 be pleased to answer any questions you have and we

2 look forward to continuing to work with you on these
3 matters.

4 CHAIRPERSON GENTILE: Great. Thank you,
5 Mr. Giovanni, and any other testimony there? Okay.
6 Great. Thank you.

7 Let me begin, first of all by -- well
8 first of all, thanking you for coming this morning
9 and testifying.

10 When we last spoke about the earlier
11 version of this bill, the Law Department had
12 expressed serious concerns about the data required by
13 the bill, that version of the bill, and also had
14 serious concerns about the resources that you would
15 need to comply with that version. Have those issues
16 now been resolved under this version?

17 THOMAS GIOVANNI: Yeah. Yes, they have.

18 CHAIRPERSON GENTILE: They have. So you
19 have the resources?

20 THOMAS GIOVANNI: We believe we have the
21 resources to comply with the current version of this
22 bill.

23 CHAIRPERSON GENTILE: And you have access
24 to the data that's required under this bill?

25 THOMAS GIOVANNI: Yes, we do.

2 CHAIRPERSON GENTILE: I see. Okay,
3 that's good.

4 Let's take a look at the bill itself; it
5 says that the Law Department shall post on the
6 website certain information on civil actions against
7 the police and it talks about different types of
8 actions, including but not limited to the use of
9 force, assault and battery, malicious prosecution,
10 etc., etc. But with that term "but not limited to"
11 this type of information, what other information
12 might be included in this listing that this section
13 of the bill requires?

14 NANCY SAVASTA: It would include all
15 actions -- naming the Police Department; within those
16 actions there are other allegations beyond just false
17 arrests, malicious prosecution, etc., so this would
18 provide a comprehensive data set of all actions where
19 there is any allegation of police misconduct, even
20 beyond those specifically set forth in the bill.

21 CHAIRPERSON GENTILE: So can you come up
22 with -- would it be bias-based profiling, for
23 example?

24

25

2 NANCY SAVASTA: If a case involved an
3 allegation of bias-based profiling, that case would
4 be solicit [sic] in this data report, yes.

5 CHAIRPERSON GENTILE: Okay. And so the
6 categories may vary from report to report?

7 THOMAS GIOVANNI: It's possible if we
8 develop a new category for some reason as we work
9 with the different agencies that should be included
10 in this as improper police conduct; we wanted to
11 leave the flexibility for reporting in this bill to
12 be there, if there are categories that come up that
13 we all collectively decide need to be reported on.

14 CHAIRPERSON GENTILE: Okay. So the
15 inclusion of "but not limited to" gives you that
16 flexibility?

17 THOMAS GIOVANNI: That's what we believe.

18 CHAIRPERSON GENTILE: I see. Okay. But
19 let me then talk about another portion of this bill
20 where it says "for the matters that are resolved,"
21 this bill is asking you to report on the manner in
22 which it was resolved; for example, the amount of
23 money that was paid out as a manner of resolving the
24 case. Now would you show whether the money that was
25 paid in resolving a case, would you show that it

2 would come from a settlement or would come as a
3 result of a trial verdict?

4 THOMAS GIOVANNI: Yeah... the answer to
5 that is yes. If it was a settlement, we would say it
6 was a settlement and here was the amount; if it was a
7 verdict, we'd say it was a verdict and here's the
8 amount.

9 CHAIRPERSON GENTILE: Okay. But as you
10 said to us last time at the hearing, a settlement is
11 not an admission of liability..

12 THOMAS GIOVANNI: That's correct.

13 CHAIRPERSON GENTILE: so if that be the
14 case; how do we distinguish if it's a settlement,
15 money based on a settlement as opposed to a trial
16 verdict where there has been liability determined?
17 How would you weigh that in analyzing those?

18 THOMAS GIOVANNI: If I understand your
19 question correctly, I think -- as far as the Law
20 Department goes, we don't weigh that in that sense;
21 we settle the case for a certain amount of money and
22 we would report that to you and then if there are
23 trials that we have that have verdicts that are
24 generating damage judgment, we would report that as
25 well. They both would be the event that we are

2 responsible to report to you; how people want to
3 analyze that data subsequently is another issue for
4 our collaboration and for reports that may be
5 generated by us or other agencies, but as far as
6 reporting goes, those are just two columns of
7 reporting.

8 CHAIRPERSON GENTILE: But sometimes
9 settlements are reached because you actually
10 determine that there's liability involved; right?

11 THOMAS GIOVANNI: Well this begins to get
12 back into the discussion of confidential
13 relationships and of the way that the... the nature of
14 the civil system working. When we settle a case, we
15 are explicitly settling it without the admission of
16 liability on any particular part. So although the
17 public might feel that we're settling a case because
18 this or that was done wrong; that's not the legal
19 basis on which the case was settled, so we would not
20 be giving a report that says we settled this case
21 because officer X did a wrong thing and here's the
22 money that went with that case; that analysis would
23 not happen.

24

25

2 CHAIRPERSON GENTILE: Although that is
3 the analysis that you might do in making that
4 decision to settle.

5 THOMAS GIOVANNI: That's possible, but
6 there are other reasons that you might settle a case
7 that have nothing to do with what happened on the
8 street with that officer.. [crosstalk]

9 CHAIRPERSON GENTILE: Okay.

10 THOMAS GIOVANNI: there may be paperwork
11 issues; there may be many other issues that have
12 nothing to do with the facts on the street. This is
13 one of things that we talked about earlier in our
14 previous testimony.

15 CHAIRPERSON GENTILE: So what the report
16 will show is just the settlement, but you're saying
17 you can really draw no inference from that
18 settlement.

19 THOMAS GIOVANNI: That's correct; legally
20 speaking you can't draw an inference from that
21 settlement.

22 CHAIRPERSON GENTILE: So the analysis
23 will have to just be on the fact that there is a
24 money settlement?
25

2 THOMAS GIOVANNI: Correct, as to
3 settlement.

4 CHAIRPERSON GENTILE: And what about
5 small -- we talked I think last time about very small
6 settlements that you settle quickly on small claims..

7 THOMAS GIOVANNI: Yeah.

8 CHAIRPERSON GENTILE: and those would be
9 reflected in the report also?

10 THOMAS GIOVANNI: Yes, every claim; every
11 settlement.

12 CHAIRPERSON GENTILE: And you would
13 actually know the type of claim that was made that
14 caused the settlement?

15 THOMAS GIOVANNI: Yeah, in the paperwork
16 that was filed, the complaint that was filed, we
17 would have that claim **[inaudible]**... [crosstalk]

18 CHAIRPERSON GENTILE: And that would be
19 in the report?

20 THOMAS GIOVANNI: Yeah.

21 CHAIRPERSON GENTILE: That would be in
22 the report. Okay. What about if there is no payout
23 on a claim; would you show that as a result of a
24 trial or if there was a motion to dismiss as a matter
25 of law?

2 THOMAS GIOVANNI: We're responsible under
3 the bill to report on any of the resolutions, so
4 under three, sub one, it would give you the date that
5 we resolved it and the manner on sub two, and the
6 manner in this case would be dismissed on summary
7 judgment motion or the manner would be dismissed
8 defense verdict at trial.

9 CHAIRPERSON GENTILE: Okay. So you would
10 see that in the report... [crosstalk]

11 THOMAS GIOVANNI: Yes. Yes.

12 CHAIRPERSON GENTILE: That's what I'm
13 trying to determine; what you would see in the
14 report... [crosstalk]

15 THOMAS GIOVANNI: Yes. Yeah. We will
16 tell you the manner in which the case was resolved.

17 CHAIRPERSON GENTILE: Okay. So if it was
18 a result of a trial verdict or a dismissal as a
19 matter of law, we would know that from the report...?
20 [crosstalk]

21 THOMAS GIOVANNI: Yeah.

22 CHAIRPERSON GENTILE: Okay, great. The
23 Mayor allocated \$4.5 million to the Law Department on
24 hiring more legal professional staff to defend the
25 City against lawsuits filed by the NYPD more of those

2 lawsuits; where do we stand in the progress of those
3 efforts?

4 THOMAS GIOVANNI: I'm sorry; I didn't
5 hear it; say it again.

6 CHAIRPERSON GENTILE: The \$4.5 million
7 that the Mayor allocated to the Law Department to
8 increase the number of cases you actually try,
9 particularly claims against the NYPD; where do you
10 stand in relation to that effort?

11 THOMAS GIOVANNI: The effort is ongoing;
12 we're hiring staff and we're continuing to move
13 forward with that process.

14 CHAIRPERSON GENTILE: And you are
15 actually trying more of these claims against the
16 Police Department?

17 THOMAS GIOVANNI: The effort was to make
18 sure that we put more attorneys on these cases
19 sooner; at this point in the stream of the new civil
20 cases, obviously it's too soon to say whether we're
21 trying more or not, but the idea is to have more
22 intense analysis of the cases earlier on so that we
23 can get to more efficient resolutions. Some of those
24 will be trials, some of those will be settlements;
25 some of those will be dismissal motions. The entire

2 range of services that we provide will be able to be
3 better provided because we have the staff.

4 [background comments]

5 CHAIRPERSON GENTILE: Do you know how
6 many have been hired, how many additional attorneys
7 have been hired?

8 THOMAS GIOVANNI: I don't have that
9 information with me, but we can get back to you.

10 CHAIRPERSON GENTILE: Do you think then
11 the info that we get as a result of 0119-C become law
12 will actually help the Law Department decide what
13 types of cases either to litigate or to settle, even
14 though you have more attorneys trying these case, as
15 a result of 119 becoming law and the analysis taking
16 place?

17 THOMAS GIOVANNI: At the risk of sounding
18 slightly arrogant, I'm gonna have to say no, because
19 we already do this work and this is the process that
20 we're already engaged in and our Risk Management unit
21 had been doing this since 2002 in certain ways, so we
22 will be participating in a larger effort to make sure
23 the public and Council is better informed, but in
24 terms of our internal work, we were already working
25 very hard at paying attention to the exact same

2 issues here, so I think it's a good information
3 sharing piece, but we were doing this already.

4 CHAIRPERSON GENTILE: So this wouldn't
5 add to that analysis?

6 THOMAS GIOVANNI: No, I don't think so.

7 CHAIRPERSON GENTILE: Okay. Now you did
8 talk about your client-attorney relationship..

9 [crosstalk]

10 THOMAS GIOVANNI: Yes.

11 CHAIRPERSON GENTILE: is there any way
12 that the data would show directly or indirectly about
13 previous claims versus a police officer or police
14 officers; would any of this data be able to do that
15 or can someone search that database to find it?

16 THOMAS GIOVANNI: This bill does not
17 touch on that and there are other avenues which you
18 might use, but that wasn't the subject of this bill.

19 CHAIRPERSON GENTILE: There may be ways
20 to do it, but not under this bill; is that what
21 you're saying...? [crosstalk]

22 THOMAS GIOVANNI: Right. Correct.

23 CHAIRPERSON GENTILE: Okay, but it can be
24 done?

2 THOMAS GIOVANNI: I know that it is done,
3 so yes, I do know it can be done.

4 CHAIRPERSON GENTILE: I see. Okay.

5 THOMAS GIOVANNI: I'm not trying to be
6 coy; I just... we don't necessarily track that
7 information in a way that would be accessible to the
8 public and I don't want to give the impression that
9 we do.

10 CHAIRPERSON GENTILE: I see. But the
11 report wouldn't say something like, in the last six
12 months, 10 police officers have been cited for
13 multiple types of a certain offense; would the report
14 say that in some way -- in the last six months in
15 this report, 10 police officers have been cited for X
16 offense multiple times?

17 THOMAS GIOVANNI: Having never generated
18 this report yet and not knowing what the content that
19 the Council would want other than the categories, I
20 can't give you a definitive yes or no yet, but I
21 think we'd be open to developing that with you; we
22 just haven't done this yet.

23 CHAIRPERSON GENTILE: Uhm-hm. Okay. So
24 you do see it as a possibility under this bill;
25 right?

2 THOMAS GIOVANNI: Yes, and certainly, as
3 Ms. Nedow just pointed out, because the bill
4 ultimately gives you this look-back of five years,
5 you will have something to search for in that context
6 as well to actually look at repeat players in these
7 categories.

8 CHAIRPERSON GENTILE: Right. Okay,
9 that's good. Will you be able to share with the
10 Police Department IG more information than you
11 actually post on your website...? [crosstalk]

12 THOMAS GIOVANNI: Regularly [sic] post..
13 Yes.

14 CHAIRPERSON GENTILE: You will? And you
15 will do so?

16 THOMAS GIOVANNI: We continue to do so;
17 we've had relationships going back to the beginning
18 of their work and also with DOI, even more broadly
19 and the PD.

20 CHAIRPERSON GENTILE: Without telling us
21 specifically, can you tell us the types of
22 information that you share with them that you
23 wouldn't share on the website?

24 THOMAS GIOVANNI: One second please.
25 [background comments] We talk to them about general

2 information about patterns of cases and there may be
3 particulars of a specific case or a specific
4 situation that we'll talk to them about more, but
5 again, without going into any specifics or touching
6 on any confidential information that we may be
7 sharing or non-public information we may be sharing
8 with them, that's about all I can answer.

9 CHAIRPERSON GENTILE: So can you say that
10 the information you share with them but don't put in
11 a public report doesn't affect the analysis that's
12 done as a result of 0119-C?

13 THOMAS GIOVANNI: That's beyond my
14 knowledge; I just don't know what that effect would
15 look like.

16 CHAIRPERSON GENTILE: Okay, so it's
17 possible it might have an affect that we'd have to
18 take a look at?

19 THOMAS GIOVANNI: Yeah.

20 CHAIRPERSON GENTILE: Okay. Okay.

21 THOMAS GIOVANNI: And the record should
22 reflect that I shrugged and said I don't know.

23 [laughter]

24

25

2 CHAIRPERSON GENTILE: The record will
3 reflect the fact that you kind of threw your hands up
4 on that. Okay, thanks.

5 Do you see any issues that might arise
6 from the collaboration that this bill requires?

7 THOMAS GIOVANNI: No.

8 CHAIRPERSON GENTILE: Okay. So you think
9 this is clear sailing from here? Do you think this
10 is clear sailing, in terms of collaboration?

11 THOMAS GIOVANNI: That's a separate
12 question. No, we collaborate and we work closely
13 with all the involved stakeholders all the time; I
14 don't think anything in this bill creates a new
15 hurdle or a new problem or a new situation; there are
16 large agencies that are working on many many subjects
17 in many different areas; sometimes things are
18 smoother; sometimes things are less smooth; this
19 doesn't create a new bump in that road.

20 CHAIRPERSON GENTILE: Okay. But do you
21 think in the end 0119-C in the long run will help cut
22 the litigation costs for New York City?

23 THOMAS GIOVANNI: That's the hope. The
24 more efficient information exchange we have, the more
25 clear we all are about trends, the more we know about

2 what's happening, and the sooner we know that;
3 hopefully more efficient our responses will be and
4 ultimately that means cost savings; that's the goal
5 and we are hopeful and that's why we're participating
6 so well in this process.

7 CHAIRPERSON GENTILE: And if that's the
8 case; how long do you think it would take till we
9 actually see that drop in cost to the City?

10 THOMAS GIOVANNI: The average life of
11 most of the civil cases that we handle is around
12 three years, but then we settle some cases before and
13 some cases are dismissed before; you're looking at
14 least a year pipeline beginning of this system before
15 you'd have some results that you could even begin to
16 speculate on as to measuring and I do say speculate;
17 cases are settled for a lot of reasons and this, as
18 part of an information-sharing program may be very
19 useful as a tool, but in terms of any particular
20 aspect of this bill being the direct result of less
21 or more money in that system, that'll be hard to say
22 and we have to see what the analysis looks like at
23 the end of the day.

24 CHAIRPERSON GENTILE: So you're saying at
25 least a year?

2 THOMAS GIOVANNI: That would be my
3 conservative estimate.

4 CHAIRPERSON GENTILE: A year's time.
5 Okay. Alright, I have some other questions, but I
6 wanna ask Council Member Williams... [background
7 comment] okay... to ask some questions and I do wanna
8 note the presence of our Council Member Dromm,
9 another member of the O&I Committee. Thanks.
10 Council Member Williams.

11 COUNCIL MEMBER WILLIAMS: Thank you,
12 Mr. Chair; thank you, Mr. Giovanni et al. for the
13 testimony and the answers; I'm glad we've gotten to a
14 point where we're in a lot more agreement than we
15 were the last time we had the hearing.

16 I guess just to piggyback on some of the
17 stuff I heard. I mean, what's important for me
18 obviously is I want to make sure that the City
19 doesn't pay out as much, but more importantly, I
20 wanna make sure that people aren't filing and aren't
21 filing because things aren't happening, so... and we
22 wanna make sure that officers get the training
23 **[inaudible]** intervention needed.

24 So on the report, I was glad that we will
25 be able to identify repeat players and train; I think

2 that part is very important to me; I wanted to clear
3 what was gonna be shown in public on the report in
4 terms of repeat players; are there gonna be
5 identifying information; like, officer names or badge
6 numbers; what will be attached to it?

7 [background comments]

8 THOMAS GIOVANNI: The name and a tax I.D.
9 number.

10 COUNCIL MEMBER WILLIAMS: The name and..
11 the officer's name and a tax... [interpose]

12 THOMAS GIOVANNI: The officers who are
13 named in the lawsuit, and some officers are not
14 ultimately, but for those who are named, it'll be the
15 name and the tax I.D. number that is assigned to them
16 by the Police Department.

17 COUNCIL MEMBER WILLIAMS: And when it
18 comes to the settlement, you said that it will say
19 what the accusation was?

20 THOMAS GIOVANNI: Yeah, we'll have the
21 claim and we'll have the amount of the settlement.

22 COUNCIL MEMBER WILLIAMS: And I know that
23 settlement is not necessarily admission of guilt, but
24 how do you utilize information if there's -- and this
25 is maybe not for a specific officer, but if you see a

2 trend of settlement with no admission of guilt but
3 it's the same type of thing repeated; how do you use
4 that information?

5 [background comments]

6 NANCY SAVASTA: We... sorry. So when we
7 analyze the cases looking for trends, we look at
8 similarity of allegations, individuals involved,
9 etc.; that is part of the analysis that we undertake
10 within the risk management program and the
11 information that we share with the Police Department.
12 Settlements happen for a variety of reasons and don't
13 contain an admission of liability, so they can't be
14 in a vacuum used for an indicator of wrongdoing, but
15 they can be an identifier for an area for
16 investigation. So if you see that there's an
17 allegation that the same thing is happening over and
18 over and over in a certain location, whether it's
19 police misconduct or somebody tripping and falling,
20 it's certainly a reason for your eyes to get much
21 more focused on that particular set of circumstances
22 and look beyond to other areas of information, be it
23 complaints and so forth that are in the hands of the
24 Police Department or other entities, to look to see

2 if it is an indicator of some other underlying
3 problem.

4 COUNCIL MEMBER WILLIAMS: Well I
5 appreciate that; I just wanna make sure that these
6 settlements, even when looked at together; you at
7 least have some actionable ability and we just don't
8 let those go just because there was no admission of
9 guilt.

10 NANCY SAVASTA: And we meet with the
11 agency on a monthly basis; I'm actually personally a
12 part of those meetings, and item one on the agenda
13 for discussion is always trials and settlements and
14 what new information we have to discuss, so it is a
15 regular topic point and has been for quite some time.

16 COUNCIL MEMBER WILLIAMS: And so a lot of
17 this work, you were saying, has been done since 2002,
18 although I think we have put together a bill that
19 causes a lot more collaboration and a lot more
20 transparency for the public; I think that
21 transparency is always helpful in helping nudge
22 people do some things that they might not have done,
23 so I think that's important. But have settlements
24 gone up or down since 2002? Not settlements; monies
25 paid out?

2 THOMAS GIOVANNI: Overall?

3 COUNCIL MEMBER WILLIAMS: Yeah.

4 THOMAS GIOVANNI: They've gone up. Yeah,
5 they've increased.

6 COUNCIL MEMBER WILLIAMS: So if we've
7 been doing it since 2002, we haven't had the desired
8 impact, I guess, that we would want.

9 NANCY SAVASTA: We have made changes in
10 some areas, changes that we believe are very
11 effective; change is obviously not overnight and the
12 dollar value of settlements can be affected by a
13 variety of different issues and outliers can cause a
14 spike; we do believe that additional collaboration
15 and additional transparency and information flow,
16 long-term, will lead to greater results that will
17 achieve cost savings and that's always been a goal;
18 we have seen reductions in certain areas where we've
19 made changes and so we think that 0119-C, along with
20 other plans and programs that are in place will
21 collectively work to achieve the desired results.

22 COUNCIL MEMBER WILLIAMS: And what about
23 complaints since 2002; have they gone up or down?

24 THOMAS GIOVANNI: Do you mean filed
25 complaints or do you mean complaints of police

2 misconduct, in terms of... **[inaudible]** complaints are
3 complaints that we get **[inaudible]**... [crosstalk]

4 COUNCIL MEMBER WILLIAMS: The complaints
5 that you've been looking at in your risk management.

6 THOMAS GIOVANNI: Oh. We've had a
7 general trend upwards but not a big spike recently.

8 COUNCIL MEMBER WILLIAMS: I see. Okay.
9 Well whether it was money or complaints, it hasn't
10 gone in the direction we want, even though you've
11 been working on it, so I just wanted to... it was in
12 the testimony, so I wanted to make sure it didn't
13 look like we were doing something that didn't need to
14 be done.

15 NANCY SAVASTA: Where we've had...
16 [crosstalk]

17 THOMAS GIOVANNI: No...

18 NANCY SAVASTA: Where we've added
19 additional resources, and there was a recent -- as
20 the speaker spoke to before -- recent... additional
21 supplement of resources to focus on the police cases;
22 you know, resources are always stretched thin, but
23 where we've added resources we began our focus on
24 police actions commenced in the Bronx and there we

2 have seen a reduction over time; we can provide you
3 with specific figures; I don't actually.. [crosstalk]

4 COUNCIL MEMBER WILLIAMS: Sure.

5 NANCY SAVASTA: have them at my
6 fingertips, but we have seen a reduction in filings
7 with litigation efforts and focused information-
8 sharing on the allegations associated with those..
9 [crosstalk]

10 COUNCIL MEMBER WILLIAMS: Sure..

11 NANCY SAVASTA: with those actions.

12 COUNCIL MEMBER WILLIAMS: I'm glad to
13 hear that..

14 NANCY SAVASTA: Yeah.

15 COUNCIL MEMBER WILLIAMS: but I do wanna
16 make sure we have systems in place that can make the
17 resources as efficient as possible.

18 I did wanna know from you why either the
19 NYPD; particularly the DOI or the IG, was not
20 testifying.

21 THOMAS GIOVANNI: We don't know that;
22 that's obviously their decision.

23 COUNCIL MEMBER WILLIAMS: Does anybody
24 from the administration who's here now know why the
25 DOI or IG is not testifying?

2 THOMAS GIOVANNI: I'm sorry; I didn't
3 hear your question.

4 COUNCIL MEMBER WILLIAMS: If there anyone
5 who is here from the administration can let us know
6 why the DOI... [crosstalk]

7 THOMAS GIOVANNI: Oh...

8 COUNCIL MEMBER WILLIAMS: or IG hasn't...

9 THOMAS GIOVANNI: this is all Law [sic].

10 COUNCIL MEMBER WILLIAMS: Okay. I do
11 have a question about Section F -- Nothing in this
12 section shall be construed to require the Police
13 Department to provide any information or documents
14 pertaining to an ongoing criminal, civil or
15 administrative investigation or proceeding. Does
16 that section take away any powers from any of the
17 agencies, particularly DOI or the IG that they had
18 previously?

19 THOMAS GIOVANNI: That's a section that
20 actually relates to the DOI's responsibilities and we
21 are only here prepared to talk about the section that
22 related to ours and so I can't comment on that and I
23 don't know what their opinion is on that particular
24 issue.

2 COUNCIL MEMBER WILLIAMS: So there's
3 nobody here that can testify on the DOI and the IG's
4 portion of the bill?

5 THOMAS GIOVANNI: The Law Department came
6 to testify about our part.

7 COUNCIL MEMBER WILLIAMS: Okay. Well
8 thank you very much for your testimony; I'm
9 disappointed that no one is here that can answer
10 questions about that portion, 'cause I do have some
11 specific questions about Section F. But thank you
12 very much; thank you, Mr. Chair for your leadership
13 on this bill.

14 CHAIRPERSON GENTILE: Thank you, Council
15 Member Williams. And again, I will state for the
16 record that all relevant entities were invited to
17 testify here today; expected to be here to testify
18 today; the Law Department was the only entity to
19 appear and so be it, but we will move forward, but
20 every police or legal entity was invited to join us
21 here today, in addition to the public and the
22 advocacy groups.

23 Our next questioner will be Council
24 Member Rory Lancman, who's also joined us here on the
25 committee.

2 COUNCIL MEMBER LANCMAN: Thank you. Good
3 morning.

4 THOMAS GIOVANNI: Good morning.

5 COUNCIL MEMBER LANCMAN: Good morning.

6 So I have a couple questions about the bill; it
7 requires a list of actions filed against the Police
8 Department and individual officers or both in a five-
9 year period, etc. So as you understand the
10 Department's responsibilities, you would be providing
11 not just the shorthand caption of Joe Smith vs. NYPD
12 and Officer Jones et al, but it would include all of
13 the defendants individually, so far as they've been
14 named; right?

15 THOMAS GIOVANNI: Yes.

16 COUNCIL MEMBER LANCMAN: 'Kay. In terms
17 of -- I know cases against the PD, civil cases
18 sometimes are brought before the name of the officers
19 are known, so it might say Officers John Doe 1-6 and
20 then in the course of the litigation, those officers'
21 identities are revealed. Do you understand that
22 there is an obligation in the next reporting period
23 to update and keep that information, in terms of the
24 identities of the defendants, current as much as
25 possible?

2 NANCY SAVASTA: To the extent that the
3 captions are amended to reflect the identities of the
4 individually named defendants, that information will
5 be a part of the updated reports as the information
6 is available, absolutely.

7 COUNCIL MEMBER LANCMAN: Okay. And I
8 think this is very important legislation and maybe
9 I'm not fully appreciating it, but it seems like in
10 the information that has to be disclosed there's no
11 information on where the alleged incidents that give
12 rise to the lawsuits occurred and in particular, what
13 police precincts and I think that would be very very
14 valuable. Is that somewhere here that I'm not
15 reading?

16 THOMAS GIOVANNI: No, you're reading it
17 correctly. We discussed this and it's very difficult
18 under the current system to actually track that and
19 it's not a data point that we have in our tracking
20 system, so we couldn't provide that and it's not
21 something that made it into the bill because of the
22 difficulty that would be inherent in that.

23 COUNCIL MEMBER LANCMAN: So that begs a
24 bigger question; the Law Department does not keep
25

2 track of these lawsuits with any reference to the
3 precincts where the underlying conduct has occurred?

4 THOMAS GIOVANNI: That's not quite what I
5 was saying... [crosstalk]

6 COUNCIL MEMBER LANCMAN: Oh...

7 THOMAS GIOVANNI: What I'm saying is; in
8 our systems that we use to track the cases, our
9 reporting systems, we don't actually keep the
10 precinct of the claimant's allegations in the system
11 that way, and so when it comes to reporting out on a
12 routine and regular basis for these 4,000 new cases
13 we have every year with the police, that couldn't be
14 done without the additional resources that we talked
15 about with Council Member Gentile or even hiring
16 additional staff because we'd have to actually change
17 our reporting infrastructure. So it's not that the
18 Law Department and the cases that we have and the
19 attorneys that we have don't know where the precincts
20 are, but the way that the systems are set up, ours
21 and other systems are set up, doesn't track it by
22 precinct **[inaudible]**.

23 COUNCIL MEMBER LANCMAN: Well let me ask
24 you what you do have and what system is... [crosstalk]

25 THOMAS GIOVANNI: Okay.

2 COUNCIL MEMBER LANCMAN: is in place. If
3 we wanted to go and say... let's say the 107th
4 Precinct, the biggest precinct in my council
5 district...

6 THOMAS GIOVANNI: Yeah.

7 COUNCIL MEMBER LANCMAN: and we wanted
8 information as to the last five years, since that's
9 the timeframe we're talking about here, how many
10 lawsuits have been filed alleging some variation of
11 police misconduct arising from incidents that
12 occurred in the 107th Precinct; could you produce
13 that for me?

14 THOMAS GIOVANNI: One of the limits that
15 we have is; we could certainly produce something that
16 would be at least tracking the claimant's allegations
17 of the location; if they said that it happened at the
18 precinct -- sometimes that's accurate; sometimes
19 that's not -- but again, it would be a heavy lift and
20 it would be manual labor more than it would be actual
21 just pressing a button and looking at a category. So
22 it's not an impossible thing to do, but certainly not
23 the same thing as what we're doing in contemplating
24 doing twice a year for DFTA [sic].

2 COUNCIL MEMBER LANCMAN: So that leaves
3 me to be concerned that you are not sharing that
4 information with the Police Department on some kind
5 of regular way.. [crosstalk]

6 THOMAS GIOVANNI: Sharing?

7 COUNCIL MEMBER LANCMAN: Yeah, 'cause I
8 read your testimony; I read testimony -- look, I just
9 got here, so I apologize if I'm miss.. what I'm
10 talking about. But from what I understand, the Law
11 Department has for many years been collecting this
12 information in some way in a way to try to identify
13 any systematic problems that might exist and bring
14 those to the attention of the Police Department so
15 that they could be addressed..

16 THOMAS GIOVANNI: Yeah.

17 COUNCIL MEMBER LANCMAN: but if you're
18 not sharing that information with the Police
19 Department, with precinct information as one of the
20 reference points, how is the Police Department gonna
21 know if, from these lawsuits there might be a very
22 large number of certain kinds of complaints..

23 THOMAS GIOVANNI: Yeah.

24 COUNCIL MEMBER LANCMAN: in a particular
25 precinct? I mean that seems like a..

2 THOMAS GIOVANNI: Yeah.

3 COUNCIL MEMBER LANCMAN: critical piece
4 of information to share with the Police Department
5 and I'm not hearing... [crosstalk]

6 THOMAS GIOVANNI: I think...

7 COUNCIL MEMBER LANCMAN: that you're
8 collecting it that way and sharing it that way.

9 THOMAS GIOVANNI: Perhaps I'm being
10 unclear and I think when Ms. Savasta answered the
11 question more broadly earlier, she touched on trends,
12 patterns; areas of issues that we do bring to the
13 police as we talk to them very regularly; that would
14 be included. If we saw that there was a precinct
15 that had a particular problem, we would be able to
16 deal with that and talk about it, but what you're
17 asking was; do we have a system in place to help
18 augment and be a part of this system of twice yearly
19 reporting on all the cases that would keep the
20 precinct category by itself and the answer to that
21 was no, we don't do that...

22 COUNCIL MEMBER LANCMAN: Right.

23 THOMAS GIOVANNI: but in the course of
24 our risk management work, those and other areas of
25 interest to us are discussed... [crosstalk]

2 COUNCIL MEMBER LANCMAN: So somewhere..
3 somewhere in your risk management operation there is
4 information that can be categorized by precinct so
5 that you could say push a button or whatever... however
6 you do it, [background comment] here are the -- let's
7 get to the bottom line -- In the risk management
8 department, are you able to pull up and identify the
9 number of lawsuits alleging police misconduct,
10 against the Police Department by precinct, and if
11 you're not, that is somewhat shocking to me because
12 we know from experience that sometimes certain police
13 precincts, due to command failures, etc., have more
14 problems than others?

15 NANCY SAVASTA: So I'm gonna give you
16 both a yes and a no answer. The answer -- can I push
17 a button... [crosstalk]

18 COUNCIL MEMBER LANCMAN: Let's go back to
19 law school and say it depends.

20 NANCY SAVASTA: It does depend. No, we
21 cannot push a button in our case management system an
22 come up with a report on 107th Precinct because we do
23 not track the data that way; we do have information
24 about the location of the incident as alleged by the
25 person asserting the claim. Sometimes they allege

2 that this is where I was arrested; sometimes they
3 allege that this is the precinct in which I was
4 inappropriately detained, but it doesn't contain the
5 information about where the original interaction with
6 the police occurred. So it's a bit of moving target
7 and we do track all of those pieces of information to
8 the extent that they're available to us, but the
9 location of incident as provided to us by the
10 plaintiff in our lawsuits is information that we
11 track, so we can draw up sort of a geographical
12 profile based on that information if inaccuracies are
13 tied directly to how someone describes the location
14 of the incident; sometimes you don't even know
15 whether it took place, at first glance, inside or
16 outside, so was it front of this building or was it
17 within council chambers, for instance; you can't
18 always tell that just from the paperwork; we do
19 develop that information and a bit of risk management
20 actually involves full case review, because it's
21 litigation risk management. So an actively litigated
22 case, we will look through all of the information
23 that's available to us to see if we can determine
24 what happened and what factors are important for us
25 to know and we do share that information with the

2 Police Department. So yes, we're sharing all of the
3 information, and the other important factor to note
4 is that police officers get deployed to a variety of
5 locations, so you could have an officer that's tied
6 to a particular location -- that's their precinct,
7 that's their command -- but for purposes of this
8 event, function, etc., they are detailed to another
9 location, so we're very careful about labeling things
10 because you can have someone who works in Queens who
11 is at a particular function in the Bronx for a
12 specific event and you don't wanna be misled by
13 either the location or the officer and that could be
14 sometimes a good thing and sometimes a problematic
15 thing, depending upon the circumstances.

16 COUNCIL MEMBER LANCMAN: I get it. I'll
17 just conclude by saying -- and you know, complete
18 respect for the sponsors of the bill who had the task
19 of negotiating with the City to get us to where we
20 are and it's moving the ball forward, no question
21 about it, but I think that if we pass this and as it
22 gets implemented I think that there will... the lack of
23 geographic identification, which in the city is proxy
24 for so many things, including race, etc., will be a
25 glaring omission that will need to be addressed.

2 Thank you very much.

3 THOMAS GIOVANNI: Thank you.

4 CHAIRPERSON GENTILE: Thank you, Council
5 Member. We've also been joined by Council Member
6 Inez Barron and Council Member Barron has questions.
7 Council Member.

8 COUNCIL MEMBER BARRON: Thank you,
9 Mr. Chair; thank you to the panel for coming.

10 If a person wants to bring a suit against
11 the City, first have to file a notice with the
12 Comptroller's office and then the Comptroller tries
13 to reach a settlement before going to litigation; is
14 that correct?

15 THOMAS GIOVANNI: That can happen, yeah.

16 COUNCIL MEMBER BARRON: Okay. Where does
17 the Law Department get involved; at what point in
18 that process does the Law Department get involved?

19 [background comments]

20 NANCY SAVASTA: The Law Department gets
21 involved once an action is commenced.

22 COUNCIL MEMBER BARRON: And how long
23 between the action being commenced; is that when the
24 notice is filed?

25

2 NANCY SAVASTA: It's when the lawsuit is
3 filed.

4 COUNCIL MEMBER BARRON: It's when the
5 lawsuit is filed. And how long... what's the average
6 time between a person filing for notice of claim and
7 the beginning of a lawsuit?

8 NANCY SAVASTA: Well they have 90 days to
9 file a notice of claim from the date of incident and
10 then they have a year from that to file a lawsuit in
11 State court.

12 COUNCIL MEMBER BARRON: In State court?

13 NANCY SAVASTA: Correct.

14 COUNCIL MEMBER BARRON: Okay. My
15 colleagues asked questions about some of the data, in
16 terms of being able to quantify the number of
17 incidents in a particular precinct to see how that
18 may establish some type of pattern and you said your
19 answer was yes to part and no to part; is there the
20 ability then to create a form which would list all of
21 that information which we're interested in capturing
22 in one form with either a checklist, either being
23 completed by the person making the notice or by the
24 precinct that might be required to submit information
25 to the Law Department -- yes, this person's assigned

2 here; no, he was not on duty; yes, he was in uniform
3 -- all of those kinds of information areas that we
4 might be interested; is there a way to do that or is
5 that a part of the form that you already have? Is
6 all of the information which we at some point
7 ultimately need to understand the patterns and to be
8 able to back-step what's happening by precinct; is
9 all of that information in one document so that we
10 don't have to piece it and pull it as we go along?

11 THOMAS GIOVANNI: That's a very large
12 question. The short answer is no; all of that
13 information isn't in any one form any place that I've
14 ever heard of. Some of that information resides with
15 the Law Department; some of that would reside in
16 other agencies. You know, and I do wanna remind the
17 Council that this is for us a claims-driven set of..
18 [crosstalk]

19 COUNCIL MEMBER BARRON: Right.

20 THOMAS GIOVANNI: said work that we do,
21 so when people make a claim, they are, you know,
22 doing their best to get everything right, but again,
23 as we said about the location of the incident, that
24 may change as facts develop. The questions you asked
25 -- you mentioned about in uniform; out of uniform,

2 those types of things; those things come out normally
3 in the process of discovery, which may be years down
4 the line, so some of that would never be able to be
5 written down in the moment on notice of claim, for
6 instance; the claimant wouldn't know all that
7 information, whether the officer was on or off duty,
8 and as we develop the case, even when we have these
9 John or Jane Doe officers, as they become identified
10 in time, we know more about them. So at that point
11 you can collect this information and certainly I
12 believe you'd probably be aware of some of the
13 projects in the criminal justice advocacy world where
14 they have some of this information where they are
15 building some of these databases with some of the
16 information we're talking about. But in terms of one
17 centralized place that has that comprehensive list
18 that you discussed, there isn't any one agency that
19 I'm aware of and any one group that has all of that
20 for every claim or even the majority of claims that
21 are made.

22 COUNCIL MEMBER BARRON: What is the
23 relationship, if any, that exists between the Law
24 Department and the Civilian Complaint Review Board;
25 is there any interaction; any data that you get from

2 them, and if so, at what point in the claims does
3 that happen?

4 THOMAS GIOVANNI: We're in routine
5 discussions with them; the same as we discuss various
6 cases or issues with the Police Department, they're
7 another part of City agencies and we routinely talk
8 to them about various issues.

9 COUNCIL MEMBER BARRON: How does
10 documentation or cases that they have adjudicated,
11 that they have discussed, how does that impact your
12 decisions moving forward?

13 THOMAS GIOVANNI: We're aware of their
14 reports; we're aware of their investigations; we
15 collaborate with them in the course of our work as
16 well as know CCRB findings one way or the other do
17 impact civil cases and how the case is going to be
18 litigated, so we're very much aware of them and we
19 participate and learn from that all the time.

20 COUNCIL MEMBER BARRON: Are they rated
21 more heavily than other data that's coming in or does
22 it depend on the individual case?

23 THOMAS GIOVANNI: It's mostly case by
24 case.

2 COUNCIL MEMBER BARRON: Okay. And
3 finally, what is the amount that the City has paid in
4 claims, in settlements for lawsuits that have been
5 brought overall for all of the agencies; what's the
6 amount?

7 THOMAS GIOVANNI: For all agencies?

8 COUNCIL MEMBER BARRON: Yeah, all of the
9 claims that have been brought, regardless of Police
10 Department, DOI.

11 THOMAS GIOVANNI: I'm sorry; I didn't
12 prepare to bring the global number; I can certainly
13 get it to you...

14 COUNCIL MEMBER BARRON: Thank you.

15 THOMAS GIOVANNI: we report on it every
16 year.

17 COUNCIL MEMBER BARRON: Thank you. Thank
18 you, Mr. Chair.

19 CHAIRPERSON GENTILE: Thank you, Council
20 Member Barron. And before we go to Council Member
21 Rosenthal, I do want to mention that the many aspects
22 of this bill really come under the umbrella of the
23 police IG and so some of the information that we've
24 been asking about here today that the Law Department
25 does not provide, we anticipate under this bill that

2 the police IG would be able to provide by gathering
3 that information about precincts and police officers
4 and incidents from the other agencies that are
5 required under this bill to report to the police IG;
6 one of the reasons why we had hoped the police IG
7 would be here today to talk about that.

8 Unfortunately, that's not the case and the Law
9 Department is limiting their testimony I suppose to
10 their area of this bill. Am I correct?

11 THOMAS GIOVANNI: That's correct.

12 CHAIRPERSON GENTILE: With that, I will
13 ask Council Member Rosenthal to ask some questions.

14 COUNCIL MEMBER ROSENTHAL: Thank you so
15 much, Chair Gentile; I appreciate it and appreciate
16 the opportunity; just have a few questions; I'm
17 following up on Council Member Lancman's questions
18 about location; the importance of identifying
19 precinct trends. How many settlements; did you say
20 it was roughly 4,000 a year?

21 THOMAS GIOVANNI: No, I said new claims a
22 year, new cases. There are fewer settlements in that
23 area [sic].

24 COUNCIL MEMBER ROSENTHAL: The bill asks
25 for settlements; right? No; am I...? [crosstalk]

2 THOMAS GIOVANNI: Uh the... No; the bill
3 asks for civil actions that are filed every year and
4 then also a look-back for five years of those civil
5 actions, so all the actions that are filed alleging
6 the types of conduct that's in the list **[inaudible]**...
7 [crosstalk]

8 COUNCIL MEMBER ROSENTHAL: Okay. So the
9 longest list is gonna be allegations; yeah?

10 THOMAS GIOVANNI: Yes.

11 COUNCIL MEMBER ROSENTHAL: And that's
12 roughly 4,000 a year?

13 THOMAS GIOVANNI: It's a little less than
14 4,000 a year; this is a subset **[inaudible]**...
15 [crosstalk]

16 COUNCIL MEMBER ROSENTHAL: That's okay;
17 4,000 is an okay number. And I guess... I mean, going
18 back to the yes and no answer, I understand the
19 challenges of some cases in being able to pinpoint a
20 precinct and perhaps the importance of not
21 identifying a precinct in terms of the allegation;
22 like perhaps there's no correlation between the
23 allegation, the officer and the precinct, but it
24 strikes me that, to Council Member Lancman's point,
25 the opportunity to contemplate precinct could be

2 important; I'm guessing that as the risk management
3 team you do already do that in some way, in some
4 shape, but the notion that the amount research that
5 would be required is so large as to make it
6 impossible to do that step without another staff
7 person does not make any sense. I mean surely you
8 could -- if you're seeing a pattern that has to do
9 with precinct -- you know, for 4,000, just to sort of
10 put it bluntly, means 4,000 divided by 300 and some
11 days in a year would be, you know, input as 10, 15,
12 20 cases a day; you don't need another staff person
13 to do it. But the reason that you don't wanna do it
14 is because you're trying to be careful not to, you
15 know, point to a precinct when that might not be the
16 right thing to do. It strikes me that you could very
17 easily, even if you don't have a... you obviously, when
18 you enter the data are identifying what precinct the
19 officer is attached to; there may not be a relevance
20 in that case about the precinct, but you know what
21 precinct that officer is affiliated with; I mean
22 obviously police officers may move around over the
23 course of a year, but it's not irrelevant what
24 precinct they're affiliated with and surely in
25 pulling out the data you could say either the

2 precinct or your could say not relevant in this case;
3 we're gonna pull it out -- I think I'm being asked
4 not to talk about this -- oh. So the IG does that
5 sort of analysis -- okay [background comment] as part
6 of the bill, so it's already happening [inaudible],
7 so I need to stop asking -- [background comments]
8 under the bill they would have to, so it doesn't
9 matter that I'm asking these questions. Thank you so
10 much for all of your help... [crosstalk]

11 THOMAS GIOVANNI: Thank you.

12 COUNCIL MEMBER ROSENTHAL: I really
13 appreciate it. Okay.

14 CHAIRPERSON GENTILE: Thank you, Council
15 Member Rosenthal. And just to be certain about this;
16 it's your understanding that some of the information
17 that you're not able, for whatever reason, to provide
18 will be provided to the umbrella group, the IG's
19 office, through other agencies, whether it be the
20 Police Department, the CCRB, the Commission to Combat
21 Police Corruption; whether it be precinct or officers
22 or multiple offenses, that type of information will
23 be available to the IG to analyze as part of the
24 overall information that is given to the IG under
25 this bill; am I correct?

2 THOMAS GIOVANNI: Again, I can speak for
3 our portion and I can also speak a little more
4 broadly about the collaboration that all the agencies
5 do; almost every aspect of information that has been
6 brought up here exists somewhere through the agencies
7 you just named and we do have the capacity to share
8 this in some way, shape or form and we often do.
9 What shape that takes with the IG we're not here to
10 comment on and I don't know.

11 CHAIRPERSON GENTILE: Okay. Again, we're
12 a little bit at a loss for not having the IG here,
13 but it is our understanding that information that was
14 asked about here would be available to the IG; under
15 this bill, you can't say whether that's accurate?

16 THOMAS GIOVANNI: That's correct, I just
17 cannot speak beyond the limits of what we have
18 jurisdictional.

19 CHAIRPERSON GENTILE: So again, it leaves
20 us at a little bit of a loss without having the
21 parties here to confirm it, but that's our
22 understanding.

23 So I just want to just be clear also that
24 -- so under this bill, the way it stands now, we are
25 not analyzing any... or the IG would not be analyzing

2 any -- [cough] excuse me -- pending criminal matters
3 or claim?

4 THOMAS GIOVANNI: I mean I can read the
5 text, but again, we're not here to comment on the
6 sections about what the IG's responsibilities will
7 be.

8 CHAIRPERSON GENTILE: Okay. Let me try
9 this then. If you... [interpose, background comment]
10 okay. We've also been joined by Council Member Chaim
11 Deutsch; a member of our committee. Once the
12 information is gathered and patterns emerge, does the
13 administration have a plan for how a corrective
14 action plan will be put into place? This is post
15 0119-C being adopted, having 6 months, 12 months, 18
16 months of analysis being done; is there some plan on
17 the part of the administration to, once this
18 information's gathered, for how a corrective action
19 plan will be put into place; i.e., an early
20 intervention system?

21 THOMAS GIOVANNI: I don't wanna speak out
22 of turn and obviously I don't speak on behalf of the
23 entire administration; we came today prepared to talk
24 about our participation in 0119-C and also to
25 generally say that we will participate in whatever

2 efforts are undertaken; clearly, if we do find
3 patterns we hope to address them, but in terms of
4 having the ability to speak for the administration, I
5 do not have that right now.

6 CHAIRPERSON GENTILE: But you do see that
7 as the goal of 0119-C?

8 THOMAS GIOVANNI: Yes, I do understand
9 that's part of the goal of this information-sharing
10 system we're putting together.

11 CHAIRPERSON GENTILE: Right. Okay. And
12 you're obviously a willing participant in that?

13 THOMAS GIOVANNI: An enthusiastic
14 participant in that.

15 CHAIRPERSON GENTILE: Right. Okay. Let
16 me just finish with this. A *Law Review* article from
17 2012 suggested that police practices could be
18 improved if actions were taken, such as aggregating
19 data to identify trends, integrating litigation data
20 into a police database, comparing internal
21 investigations with claims, and soliciting additional
22 feedback from the Law Department, the PD, the PDIG
23 and so forth. Given those parameters that were
24 talked about in this *Law Review* article, how well do
25 you think 0119-C meets those goals?

2 THOMAS GIOVANNI: I think it's a good
3 piece of that picture that you just laid out; I think
4 it's a good start and I think it's something that we
5 should continue to build on.

6 CHAIRPERSON GENTILE: 'Kay. Seeing no
7 other questions -- do you have a question? Okay,
8 yes, Council Member Williams.

9 COUNCIL MEMBER WILLIAMS: Sorry, it's not
10 a question; I just wanna make sure I clarify that I
11 have.. I have an issue as of right now with Section F
12 and it's hard for me to move forward without getting
13 that Section F clarified and again, I just wish the
14 DOI or IG were here to respond to it or someone else
15 from the administration that can address the
16 questions that arise of Section F.

17 CHAIRPERSON GENTILE: Seeing that; we
18 thank you for your testimony today and for
19 participating in this hearing.

20 THOMAS GIOVANNI: Thank you.

21 [background comments]

22 CHAIRPERSON GENTILE: We now call the
23 next panel; will be Cynthia Conti-Cook from the Legal
24 Aid Society and Natasha Merle, with the NAACP Legal
25 Defense and Educational Fund, I think.

2 [background comments]

3 CYNTHIA CONTI-COOK: Good morning.

4 CHAIRPERSON GENTILE: Just go ahead.

5 [background comments]

6 CYNTHIA CONTI-COOK: Yes. Good morning,
7 I'm Cynthia... [crosstalk]

8 CHAIRPERSON GENTILE: You may begin.

9 CYNTHIA CONTI-COOK: Thank you. Good
10 morning. I am Cynthia Conti-Cook, Staff Attorney of
11 the Legal Aid Society's Special Litigation Unit in
12 the Criminal Practice, a specialized unit dedicated
13 to addressing client problems with the criminal
14 justice system. I am joined by Natasha Merle, Fried
15 Frank Fellow from the NAACP Legal Defense and
16 Education Fund (LDF), which is co-counsel with the
17 Legal Aid Society in Davis v. City of New York, a
18 federal class action that was filed in 2010 to
19 challenge the systemic practice of illegally stopping
20 and arresting individuals for purported trespass
21 violations on New York City Housing Authority
22 property (NYCHA) property. This case settled last
23 year, and as a part of that settlement, is currently
24 part of the court monitoring of the New York City
25 Police Department (NYPD) that has been ordered by the

2 federal court to institute substantive reforms in
3 police training, supervision, disciplining, and
4 monitoring cases in the areas of stop-and-frisk and
5 trespass enforcement. For the last several months we
6 have been working in collaboration with the Court-
7 Ordered Monitor, the NYPD, the City Law Department
8 and plaintiffs' counsel in related cases -- Floyd,
9 Ligon -- on developing those reforms.

10 We thank this committee for the
11 opportunity to provide testimony on Proposed Bill
12 0119-C and look forward to providing future testimony
13 on proposed legislation regarding early intervention
14 systems with the NYPD.

15 I'm going to skip the organizational
16 information.

17 Both the LDF and the Legal Aid Society
18 support the amendments to the Administrative Code of
19 the City of New York and the New York City Charter
20 concerning the collection and analysis of civil
21 actions and other complaints alleging police
22 misconduct in order to improve the disciplining,
23 training and monitoring of police officers and other
24 relevant operations, policies, programs and practices
25 of the NYPD. We believe that the collection and

2 evaluation of this information is essential to the
3 fairness and integrity of policing reform in New York
4 City. This bill is an important first step in
5 identifying patterns and trends of police misconduct
6 and has the potential to improve both officer
7 performance and police-community relations. By
8 coupling this data with an Early Intervention System,
9 supervisors and senior officials within the NYPD can
10 identify at-risk officers who may be in need of
11 enhanced training or monitoring. Although this data
12 is not a perfect indicator of police performance, if
13 collected and used properly, it can become a
14 tremendous resource for the benefit of individual
15 officers, the Police Department, community members,
16 and the City at large. To further enhance the
17 benefits and capabilities of collecting this data,
18 however, LDF and the Legal Aid Society suggest the
19 following amendments to the proposed legislation:

20 To expand the type of data collected
21 beyond those enumerated in Proposed Section 7-112(2);
22 to specify not only how the civil action data should
23 be collected, but also how that data should be used;
24 and to ensure transparency of the data collection,
25 analysis, results and consequences to improve

2 legitimacy and trust of the police within the
3 community.

4 We discuss each of the proposed
5 amendments below in more detail. [background
6 comments]

7 Although the types of data to be
8 collected, as enumerated in Section 7-112(2), are
9 essential, they are not enough. As Council Member
10 Lancman already pointed out, the collection points
11 for precinct, and also the collection points for the
12 race of plaintiff and the race of the officer had
13 been removed from 0119-B. So thus, we suggest
14 expanding the type of data collected to include
15 information taken from lawsuit allegations, as well
16 as evidence and testimony revealed during the
17 litigation, including but not limited to information
18 concerning the address where the incident occurred;
19 the date and time the incident occurred; criminal
20 accusations, if any, against law enforcement and
21 their outcome; any racist, sexist, xenophobic or
22 homophobic comments made by law enforcement and their
23 content; law enforcement reactions, if any, to being
24 recorded; allegations of or destruction of property
25 by law enforcement; alleged racial and other biased

2 profiling; detail on any officer use of force,
3 including whether any weapons were used; whether
4 police overtime was used to process the arrest; the
5 precinct or the police service area where the
6 incident occurred; whether the incident occurred on
7 the street, in NYCHA housing, in a private residence,
8 or some other distinctive location; the arrest, if
9 any, imposed on the civilian plaintiff; the response,
10 if any, of fellow law enforcement, including peers
11 and supervisors; and any reprimand or disciplinary
12 action issued in connection with the incident, along
13 with, as I previously stated, the race of the
14 plaintiff and the police officers.

15 We have witnessed first-hand the impact
16 of collecting the additional information. The Legal
17 Aid Society has been extracting the above-listed data
18 points from lawsuits filed in federal court for the
19 past 15 months. The attached report, behind the
20 written testimony, is a sample of the type of more
21 dynamic analysis that would be possible if more
22 specific data was collected. For example, because
23 many of the lawsuits name the precinct where an
24 arrestee is taken, the Legal Aid Society has been
25 able to map, by precinct, where most incidents

2 described in lawsuits originate and how each precinct
3 costs the City in settlements.

4 I will pause in my reading just to say I
5 agree with a lot of the qualifications the Law
6 Department informed us of today; those precincts are
7 named by the plaintiff attorneys in these lawsuits
8 who don't always have the most accurate information
9 about which precinct the officers who are involved in
10 the lawsuit actually came from. For example,
11 oftentimes narcotics officers process someone
12 through, for example, the 81st Precinct, but those
13 officers are not necessarily tied to the 81st
14 Precinct; that is just where the arrest was processed
15 through. So there are qualifications in the accuracy
16 of that data as it regards to the command structure
17 that might be relevant to an analysis of the
18 commanding officers of the people involved in the
19 lawsuit. With that, I'll return to my testimony.

20 Moreover, by analyzing the data regarding
21 what originating incidents become the subject of
22 lawsuits, Legal Aid has determined that the majority
23 begin as street stops and lawsuits filed in late 2015
24 to early 2016 include 25 allegations of officers
25 using chokeholds -- an issue that many entities,

2 including the City Council, have been interested in
3 tracking. With this type of more granular data, the
4 City Council could identify the specific problems
5 that are leading to costly litigation and help
6 develop solutions to prevent future misconduct that
7 may lead to additional waste of resources.

8 NATASHA MERLE: Whether this bill will
9 accomplish its goals of improving policing in New
10 York City depends not only on what is collected, but
11 also what is done with the data that is collected.
12 For this purpose, we recommend that, at the very
13 least, the following steps be taken with the data
14 collected pursuant to the proposed litigation:

15 1. Review of Data by Supervisors: This
16 bill should be used to encourage supervisory
17 involvement in officer development. In addition to
18 collecting data regarding civil actions and other
19 complaints alleging police misconduct, NYPD
20 supervisors should review and analyze the data on a
21 regular basis. Sergeants and lieutenants play a
22 large and important role in the professional
23 development of the officers under their supervision
24 and the establishment of the culture of the entire
25 Department. Thus, the bill should provide clarity on

2 how these critical players should utilize the data
3 for the benefit of the Department, the City and the
4 communities they serve. At a minimum, supervisors
5 should identify officers who raise performance
6 concerns, based on their analysis of the data, for
7 additional instruction, training, monitoring, or
8 other intervention.

9 2. Baseline Standards for Intervention:

10 As already stated, the Department should utilize the
11 collected data to counsel, educate, retrain, and/or
12 discipline officers, as needed. In this regard, we
13 further recommend that more clarity be added to the
14 bill beyond simply authorizing the Inspector General
15 of the Department to "develop recommendations
16 relating to the discipline, training and monitoring
17 of police officers and related operations, policies,
18 programs and practices for the Police Department."
19 For example, there is no specificity as to threshold
20 number civil actions [sic] and other complaints
21 against an officer and what happens once those
22 thresholds have been met. To be clear, we do not
23 suggest that police officers should be automatically
24 disciplined every time they are involved in a civil
25 lawsuit. Allegations, evidence and testimony

2 developed through civil rights litigation should
3 serve to supplement and inform police departments'
4 personnel and policy evaluations, not to substitute
5 them.

6 3. Post-Intervention Monitoring: The
7 Department should perform post-intervention
8 monitoring to promote improvements or identify non-
9 compliance. These assessments should be ongoing with
10 an eye towards steady improvement of individual
11 officers, as well as entire precincts and police
12 service areas that may have had disparate incidents
13 of alleged and/or substantiated misconduct.

14 CYNTHIA CONTI-COOK: The effective
15 collection analysis and use of the collected data can
16 be instrumental in improving police accountability
17 and engendering greater trust in police-community
18 relations when the public is fully informed of such
19 efforts. We therefore recommend that the NYPD be
20 transparent in its data analysis so that the New York
21 City residents can better understand the conduct of
22 officers serving in their community, how the NYPD is
23 using this data to identify trends and potential
24 problems within the Department as a whole, and the
25

2 steps taken by the NYPD to remedy identified
3 problems.

4 Of course, the issue of police
5 transparency and accountability cannot be fully
6 addressed without discussion of reforming the New
7 York State Civil Rights Law 50-a, which, like no
8 other statute in the country, affords police
9 disciplinary data unparalleled secrecy regarding an
10 officer's disciplinary history. For this reason, for
11 example, we continue to have no information about
12 Officer Daniel Pantaleo's history of misconduct and
13 thus, whether some intervention could have prevent
14 Eric Garner's death. The Legal Aid Society's
15 petition for a summary of Officer Pantaleo's CCRB
16 records was granted last year by a judge in New York
17 Supreme Court, and yet this city's administration has
18 appealed that decision, claiming that Section 50-a
19 prohibits absolutely all disclosures, even summaries,
20 of officer misconduct records. Without Section 50-a
21 reform, which we urge the City Council to support, it
22 would be difficult, if not impossible, to fully
23 evaluate the NYPD's accountability to the public.

24 Thank you for our consideration of the
25 Legal Aid Society's and the NAACP Legal Defense

2 Fund's comments to the proposed amendment to 0119-C.
3 I'm happy to take any questions.

4 CHAIRPERSON GENTILE: Thank you, both of
5 you, for your testimony. I'm curious, given your
6 testimony and what we heard from the Law Department
7 about their concerns with attorney-client privilege,
8 I'm just curious where you strike that balance,
9 particularly when you're advocating for reform of the
10 Civil Rights Law 50-a. Where do you see that balance
11 come in with attorney-client privilege vs.
12 transparency, for the purposes of police reform?

13 CYNTHIA CONTI-COOK: Well we don't have
14 an attorney-client relationship with any City agency;
15 are you asking me... [interpose]

16 CHAIRPERSON GENTILE: No, no, I'm saying
17 to you; where do you see the attorney-client
18 relationship between the Law Department and the
19 police officers? Where do you think that should...
20 where should that be constrained in regard to what
21 you're speaking of, in terms of getting more
22 information and more transparency by reforming the
23 Civil Rights Law?

24 CYNTHIA CONTI-COOK: Section 50-a is an
25 exemption from the Freedom of Information Law. When

2 the CCRB refuses to release any disciplinary data
3 from a police officer, they're doing that by invoking
4 50-a itself and not on the attorney-client privilege;
5 the information is public in most other states, and
6 if it's not public, there's usually some mechanism
7 for disclosure upon some sort of finding that it's in
8 the public interest, and New York and California
9 alone uniquely have this confidentiality exemption
10 for police disciplinary data. So it's only because
11 it's confidential under 50-a that it's being invoked
12 in this case; it's not any extension of attorney-
13 client privilege.

14 CHAIRPERSON GENTILE: So you see them as
15 two different issues?

16 CYNTHIA CONTI-COOK: Yes.

17 CHAIRPERSON GENTILE: I see. Because
18 they're claiming it's their attorney-client
19 relationship that keeps them, not so much the
20 exclusion from the public disclosure law, but it's
21 their attorney-client relationship that requires them
22 not to disclose these matters.

23 CYNTHIA CONTI-COOK: As I understood the
24 City's testimony, what they did not feel they could
25 disclose is the legal analysis that went behind

2 decision-making for settlements vs. litigating cases.
3 The details from our report are all from the publicly
4 filed lawsuits.

5 CHAIRPERSON GENTILE: I'm sorry; say that
6 again.

7 CYNTHIA CONTI-COOK: The data from our
8 report, the dataset from our report, were all taken
9 from the publicly filed lawsuits.. [interpose]

10 CHAIRPERSON GENTILE: I see..

11 CYNTHIA CONTI-COOK: and so none of it
12 represents information that's privileged in any way.

13 CHAIRPERSON GENTILE: The report you've
14 done on the federal..

15 CYNTHIA CONTI-COOK: Yes.

16 CHAIRPERSON GENTILE: the federal claims?

17 CYNTHIA CONTI-COOK: That's right.

18 CHAIRPERSON GENTILE: So you don't see
19 any of this regarding releasing a history of a police
20 officer's wrongdoing inactions anywhere impacting
21 police-community relations or having the potential to
22 do that?

23 CYNTHIA CONTI-COOK: I'm sorry?

24 CHAIRPERSON GENTILE: If police officers'
25 actions released by 0119-C, if they allowed 0119-C,

2 would that actually hurt in terms of -- especially if
3 it's a situation where we don't have an early
4 intervention system created; do you see that as
5 potentially hurting police-community relations?

6 CYNTHIA CONTI-COOK: I don't see the
7 passage of 0119-C having any negative impact on
8 police-community relations; I think that there could
9 be much more. All the City Council is really going
10 to learn from 0119-C, as it's currently written, is
11 roughly how many lawsuits are filed, what the causes
12 of actions are in them and how much they settle for
13 and cost the City, and generally that's already
14 mostly known. The more dynamic type of analysis that
15 I think the City Council wants to do is to know what
16 specific precincts, as has already been discussed,
17 are costing the City more than others. And yes, it
18 would take more than just the reading of the lawsuit
19 as filed in order to figure that out, but that should
20 be a part of the public record as well so that people
21 can really see what is reflected in policy-community
22 relations and not just sort of a very binary number
23 of how many lawsuits have been filed and how much
24 some of them have been settled for.

2 CHAIRPERSON GENTILE: 'Kay. So in
3 effect, what it sounds like you would probably
4 support is sort of a throwback to the 0119-B
5 standards of what should be released and what should
6 be reported... [crosstalk]

7 CYNTHIA CONTI-COOK: Okay. That's a much
8 better start, and I think we collect several data
9 points, as you can see from our report; we collect
10 whether there is an allegation that is about
11 retaliation recording, that I know Council Member
12 Williams is interested in, and for example, there
13 have been a handful of lawsuits that have alleged
14 retaliations for recording; on our map you can see
15 where they started and you can see there's more of
16 them in Midtown Manhattan... [crosstalk]

17 CHAIRPERSON GENTILE: Right.

18 CYNTHIA CONTI-COOK: So that kind of
19 analysis, which I think would really inform the City
20 Council in its oversight capacity of the NYPD, you
21 need more data points to collect, and like I said,
22 this is a good start; 0119-B was a better start, and
23 hopefully we can improve the datasets as they become
24 public.

25 CHAIRPERSON GENTILE: Right.

2 CYNTHIA CONTI-COOK: And in the City of
3 Chicago, for example, the Invisible Institute has
4 made officers' disciplinary histories from the
5 Internal Affairs Bureau public and has been able to
6 use that data and display it dynamically so that you
7 can see in what areas most incidents have occurred
8 and in what precinct and in which commands, and you
9 can actually study the data quite -- like there's a
10 dashboard of information and you can change it based
11 on timeframe, based on geography and get a much more
12 clear idea of how each precinct is acting different,
13 and that I think is what is lacking here.

14 CHAIRPERSON GENTILE: Well this could be
15 a function of our limited testimony this morning, but
16 because we only had the Law Department here, you do
17 realize that this bill can provide additional
18 information from other aspects of the law enforcement
19 community that the IG is required to collect under
20 this bill, 0119-C. So some of what we're talking
21 about may, and actually will be collected by the IG.

22 CYNTHIA CONTI-COOK: Right, but it won't
23 be public; right, so...

24 CHAIRPERSON GENTILE: I'm sorry?

2 CYNTHIA CONTI-COOK: It won't be public
3 and that's the difference; right; that... [crosstalk]

4 CHAIRPERSON GENTILE: I see.

5 CYNTHIA CONTI-COOK: the public won't be
6 able to digest that data itself, and what is released
7 about those specific data points will be up to the IG
8 in how its report is written.

9 CHAIRPERSON GENTILE: Okay. So it's your
10 position that if they have it, they should make it
11 public?

12 CYNTHIA CONTI-COOK: That's right.

13 CHAIRPERSON GENTILE: I see. Okay.
14 Okay, I think I am done with my questioning and now
15 I'll turn the questioning over to Council Member
16 Williams.

17 COUNCIL MEMBER WILLIAMS: Thank you very
18 much for your testimony and the work that you do.
19 First, with New York Civil Rights Law 50-a, is that
20 state or city?

21 CYNTHIA CONTI-COOK: That's a state law.

22 COUNCIL MEMBER WILLIAMS: City?

23 CYNTHIA CONTI-COOK: State.

24 COUNCIL MEMBER WILLIAMS: State. I see.

25 CYNTHIA CONTI-COOK: Yeah.

2 COUNCIL MEMBER WILLIAMS: With this law,
3 you don't think we would've had any additional
4 information on Pantaleo?

5 CYNTHIA CONTI-COOK: Because of that law
6 and how the City administration has interpreted we do
7 not have information on Pantaleo, even though a New
8 York State judge has said that we should at the very
9 least have a summary of his prior misconduct.

10 COUNCIL MEMBER WILLIAMS: But with this
11 report they said that they do include officers'
12 information -- names and a tax I.D. number -- on the
13 report, so wouldn't we have at least seen whatever
14 complaints that were there, even if we didn't have
15 the depth of information?

16 CYNTHIA CONTI-COOK: My understanding is
17 that would be reported to the IG only and not in the
18 public report.

19 COUNCIL MEMBER WILLIAMS: That's not my
20 understanding; I mean we should clear up, because
21 it's my understanding is that would also be in the
22 public report; I asked that specifically of the Law
23 Department. 'Cause I mentioned it in the trainings
24 [sic], but I'm also interested in individual
25 officers; particularly I want the emphasis to be

2 intervened with before something bad happens and so
3 it's easy to do that if we have the data, so my
4 information and my understanding is that that
5 information will also be made public, so I do wanna..
6 [interpose, background comments] so I'm being told it
7 will be from civil actions.

8 CYNTHIA CONTI-COOK: That's right, from
9 lawsuits only.

10 COUNCIL MEMBER WILLIAMS: Yeah.

11 CYNTHIA CONTI-COOK: But so, what our
12 lawsuit is about for Daniel Pantaleo; we know about
13 the lawsuits that were filed against him, that were
14 filed publicly against him, but we still don't know
15 whether the City agencies, like the CCRB or the IAB,
16 had any history of complaints of substantiated
17 misconduct, with the exception of one substantiated
18 CCRB complaint that was made public in this past
19 April.

20 COUNCIL MEMBER WILLIAMS: Give me one
21 second, please. Okay. So it sounds like we're doing
22 what we can do as the City, as long as that law
23 exists the way it's currently written.

24

25

2 CYNTHIA CONTI-COOK: Correct, although I
3 do think the City has interpreted 50-a more narrowly
4 than it needs to be.

5 COUNCIL MEMBER WILLIAMS: Well I'd like
6 to see something that has your interpretation; I'd
7 love to see what that is. Thank you for your data
8 points.

9 I did have a couple questions; the first
10 one is interesting; it is only 18%, but 82% of the
11 18% were black or African American, which is
12 atrocious; is there any reason to believe that if we
13 had other data that it wouldn't follow the same
14 trend?

15 CYNTHIA CONTI-COOK: No there's not.
16 Like I said, one thing that we can take away from
17 this is that all complaints are written very
18 differently and that some plaintiff attorneys include
19 the race of the plaintiff and some do not, and based
20 on the locations where they are filed, however, which
21 you can see on Page 2 and 3, most of the communities
22 represented in those are, as we know, black and
23 Latino.

24 COUNCIL MEMBER WILLIAMS: The other thing
25 I'm being told that one of the reasons that race and

2 gender were taken out is because a lot of them are
3 not putting it in and that's kind of corroborated by
4 what you have here...

5 CYNTHIA CONTI-COOK: Okay.

6 COUNCIL MEMBER WILLIAMS: so I'm not sure
7 putting it in would be helpful if people are not
8 identifying themselves [sic].

9 CYNTHIA CONTI-COOK: Well I think if
10 putting... if the City Council was counting it, it
11 would encourage civil rights attorneys to include it
12 more often.

13 COUNCIL MEMBER WILLIAMS: Okay. On Page
14 3; can you just explain -- so I'm being told that
15 precinct will be in the report, so we have to verify
16 that; unfortunately, people who should have been here
17 testifying were not and no one was here that can
18 answer all the questions, but my understanding is
19 that precinct is in there and it should be in there
20 and if it's not, I think it's a problem, but I didn't
21 understand -- I couldn't read your data point
22 properly; it says, "precincts involved with 10 or
23 more lawsuits were..."

24 CYNTHIA CONTI-COOK: Yeah.

2 COUNCIL MEMBER WILLIAMS: I don't know
3 what 47, 19, 16... I don't know what those [inaudible]...
4 [crosstalk]

5 CYNTHIA CONTI-COOK: So there were 47
6 lawsuits...

7 COUNCIL MEMBER WILLIAMS: I see.

8 CYNTHIA CONTI-COOK: from the 75th
9 Precinct.

10 COUNCIL MEMBER WILLIAMS: I see. I see.

11 CYNTHIA CONTI-COOK: So the list of
12 precincts here is not comprehensive; it's only the
13 lawsuits that were involved with 10 or more lawsuits
14 from the end of 2015 to May 2016. So for example,
15 there were 19 from the 73rd Precinct, etc..
16 [crosstalk]

17 COUNCIL MEMBER WILLIAMS: 'Kay.

18 CYNTHIA CONTI-COOK: however, that's only
19 in the lawsuits where precincts were identified and
20 with the caveat that sometimes plaintiff civil rights
21 attorneys might think that their lawsuit originates
22 in the 81st Precinct, but it may actually be a
23 narcotics command that made the arrest.

24 COUNCIL MEMBER WILLIAMS: Okay. Thank
25 you very much for your testimony.

2 CYNTHIA CONTI-COOK: You're welcome.

3 CHAIRPERSON GENTILE: Thank you, Council
4 Member. And our next questioner will be Council
5 Member Inez Barron.

6 COUNCIL MEMBER BARRON: Thank you,
7 Mr. Chair and thank you to the panel for coming.

8 In regards to Civil Rights Law Section
9 50-a, are there efforts going on now in the State
10 that are looking to make some revisions to that
11 section and can you share that with us and..

12 [crosstalk]

13 CYNTHIA CONTI-COOK: Yeah, there are..

14 COUNCIL MEMBER BARRON: how we can be
15 supportive of making sure that that happens?

16 CYNTHIA CONTI-COOK: There are two, so
17 there is one from Daniel O'Donnell, which asks for a
18 complete repeal of 50-a; I believe though that did
19 not make any movement this year; there is another
20 bill inserting the word "solely" into the sentence
21 that reads that "the nondisclosure shall apply to
22 records that are solely used to evaluate an officer's
23 career or promotional ability," and the Committee on
24 Open Government has recommended that subtle
25 amendment, because it believed that the indicator

2 "solely" would make the interpretation more narrow,
3 whether... [interpose]

4 COUNCIL MEMBER BARRON: I'm not a lawyer,
5 but I would think so also.

6 CYNTHIA CONTI-COOK: It would; it's a
7 subtle carve-out and it would give us more
8 flexibility with our arguments in court; however,
9 it's not as clear as a clean repeal of 50-a.

10 COUNCIL MEMBER BARRON: So you support
11 complete repeal of... okay. And has that had a hearing
12 at all in the State; has there been... I know it hasn't
13 come to the floor, but have they had hearings on it?

14 CYNTHIA CONTI-COOK: I forget who
15 sponsored the "solely" language amendment, but it was
16 not moved through the House, and I believe it didn't...
17 it almost, but did not get out of the committee.

18 COUNCIL MEMBER BARRON: Thank you. And
19 just to note -- thank you so much for the addendum,
20 the data that you've given us, which you say you
21 compiled from 966 lawsuits filed in the last six
22 months, from June 2015 through May 2016, and I echo
23 my colleague's horror, but recognition that it's
24 following a pattern that 82% of the 18% of the cases
25 that you looked at were black and Latino and 73% of

2 them were male, and just want to note -- on Page 3,
3 the 75th Precinct, which is within the jurisdiction
4 that I represent, has the most lawsuits filed, with
5 47, which more than doubles the second place, which
6 indicates that there's a huge problem at the 75, and
7 one which has not been addressed. Thank you.

8 CHAIRPERSON GENTILE: Thank you, Council
9 Member, and back to Council Member Jumaane Williams.

10 COUNCIL MEMBER WILLIAMS: Thank you,
11 Mr. Chair.

12 Just to ask about race and gender; this
13 18% is of federal cases or state cases?

14 CYNTHIA CONTI-COOK: Federal cases only;
15 the state case system, if you dig into it ever so
16 slight, you'll realize it's much harder to collect
17 data on state-filed civil rights litigation because
18 the state's electronic filing system is a lot less
19 comprehensive, and so it's much harder to -- so for
20 example, if you search for Officer Pantaleo in the
21 state court docket system, you're not going to find
22 any lawsuits he was named on because they only, in
23 their electronic files, includes the first defendant
24 named, so all City of New York cases are filed under
25 City of New York, and there's no way to search by

2 officer's name for lawsuits about that officer, so
3 it's much harder to find state action cases.

4 COUNCIL MEMBER WILLIAMS: So it may be
5 even less, much less reported on the state?

6 CYNTHIA CONTI-COOK: It's possible that
7 the state actions would change these numbers, yes.

8 COUNCIL MEMBER WILLIAMS: With the
9 gender, it's surprisingly high, so I'm trying to
10 figure out how you're counting. So people are just
11 self-identifying on the lawsuit?

12 CYNTHIA CONTI-COOK: If people are self-
13 identifying in the lawsuits, then we're counting
14 based on how they self-identified. Multiple
15 Plaintiffs is a category that we haven't parsed
16 apart, and so that would be something that could be
17 included. You can infer from the allegations
18 someone's gender, but we've chosen not to do that.

19 COUNCIL MEMBER WILLIAMS: So 73% self-
20 identified in the complaint is male?

21 CYNTHIA CONTI-COOK: That's right.

22 COUNCIL MEMBER WILLIAMS: And 13% self-
23 identified as female?

24 CYNTHIA CONTI-COOK: That's right.

2 COUNCIL MEMBER WILLIAMS: Oh and this is
3 from federal also; not from state?

4 CYNTHIA CONTI-COOK: Federal only, yes.

5 COUNCIL MEMBER WILLIAMS: Okay. Thank
6 you very much.

7 CYNTHIA CONTI-COOK: You're welcome.

8 COUNCIL MEMBER WILLIAMS: Thank you,
9 Mr. Chair.

10 CHAIRPERSON GENTILE: Thank you. And
11 seeing no other questions, thank you for your
12 testimony and thank you for being here today.

13 CYNTHIA CONTI-COOK: You're welcome.

14 CHAIRPERSON GENTILE: So I'd like to
15 thank everyone who came to today's hearing; certainly
16 we have heard hours of public testimony on
17 Int. 0119-C; the purpose of the legislation is to
18 utilize litigation and other information containing
19 allegations of improper police misconduct to improve
20 police practice and procedure. A study that reviewed
21 the policies and practices of five law enforcement
22 agencies around the country that in collaboration
23 with an independent investigator auditor utilized
24 information from litigation in improving their
25 practices; the studies revealed a number of instances

2 which the review of litigation information led to
3 improved police behaviors and potential cost savings
4 associated with such practices, so we in the City
5 Council here hope to achieve the same with
6 Int. 0119-C.

7 And I again thank Council Member Jumaane
8 Williams on his perseverance and hard work on this
9 issue and I would like to thank our committee counsel
10 staff, Josh Hanshaft, Sheila Johnson and Kelly Taylor
11 for their commitment for a strong piece of
12 legislation; to my staff for preparing for today's
13 hearing, and with that I close this hearing.

14 [gavel]

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date July 14, 2016