

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON COURTS AND LEGAL SERVICES JOINTLY WITH COMMITTEE ON PUBLIC SAFETY

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B E F O R E:

RORY I. LANCMAN
Chairperson

VANESSA L. GIBSON
Co-Chairperson

COUNCIL MEMBERS:

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RORY I. LANCMAN
STEVEN MATTEO
VINCENT J. GENTILE

2 [gavel]

3 CHAIRPERSON LANCMAN: Good morning

4 everyone. I'm Councilman Rory Lancman, chair of the
5 Committee on Courts and Legal Services and together
6 with the Committee on Public Safety chaired by
7 Council Member Vanessa Gibson we're here today to
8 examine the operations of New York City's Summons
9 Courts, a critically important but often overlooked
10 component of our court system. The structure of our
11 criminal courts can be confusing for the lay person
12 and policy maker alike. Most serious crimes,
13 felonies are adjudicated in Supreme Court by
14 elected judges. Less serious crimes, misdemeanors,
15 punishable by up to a year in prison are
16 adjudicated in criminal court by judges appointed
17 by the mayor. And the least serious offences, some
18 misdemeanors but mostly violations which aren't
19 technically crimes at all, punishable by up to 15
20 days in prison and a fine of up to 250 dollars are
21 adjudicated in the summons part of criminal court,
22 mostly by former judges serving as judicial hearing
23 officers without even the attendance of the
24 District Attorney's Office. And of course for each
25 of these there are exceptions and nuances as we
will learn later today. In 2013 458 thousand

2 summonses were written in New York City ordering
3 someone to appear in summons court charging a
4 variety of offences. Nearly 88 thousand of these,
5 or about 19 percent, were deemed by the court in
6 its own prehearing screening process to be
7 defective or legally insufficient on their face and
8 thus dismissed before the defendant ever had to
9 appear in court at all. The top five offences for
10 which a summons was issued in 2013 for example were
11 open consumption of alcohol, disorderly conduct,
12 public urination, riding a bicycle on the sidewalk,
13 all violations, and being a park after hours, a B
14 misdemeanor punishable by fines ranging from 25
15 dollars to a thousand dollars and jail time ranging
16 from five to 90 days depending on the offence. The
17 city's new policy of treating open possession of
18 limit amounts of marijuana as a summonsable
19 violation rather than as an arrestable misdemeanor
20 will no doubt add to the court's docket. The vast
21 majority of these summonses are issued by the NYPD
22 but 40 other agencies are certified to issue
23 summonses as well. These include for example the
24 MTA, the Fire Department, the American Society for
25 the Prevention of Cruelty to Animals, the Taxi and

2 Limousine Commission, and the court system itself.
3 Many people ignore the summons, never show up in
4 court, and have a warrant issued for their arrest.
5 Most of those who do show up plead guilty and
6 accept a fine after the briefest consultation with
7 a court appointed lawyer who might council hundreds
8 of defendants a day. And many of those who plead
9 guilty never actually pay the fine they agree to.
10 How are these courts administered? Why are so many
11 defective and legally insufficient summonses
12 issued? How is due process preserved? Are summonses
13 being issued disproportionately in communities of
14 color? What are the collateral consequences of
15 pleading guilty to these seemingly minor offences
16 in terms of immigration status and eligibility for
17 employment, student loans, and government benefits.
18 Indeed given the high rates of summonses that are
19 defective on their face of defendants that don't
20 bother to peer at all or pay the fines they plead,
21 plead guilty to and the extraordinary amount of
22 resources that the courts and the city put into the
23 system the ultimate question might be whether
24 Broken Windows is breaking our courts. These are
25 some of the issues we hope to discuss today and I

2 thank the Speaker, Council Member Gibson, my
3 colleagues, and our witnesses for participating in
4 this important hearing. Let me note that we're
5 joined by Council Member Steven Matteo from Staten
6 Island. And now let's hear from Council Member
7 Gibson, chair of the Public Safety Committee.

8 COUNCIL MEMBER GIBSON: Thank you very
9 much to my colleague who's chairing this, this
10 hearing with me today. Good morning to each and
11 every one of you. I am Council Member Vanessa
12 Gibson of the 16th district in the Bronx, and I
13 chair the Committee on Public Safety and I welcome
14 each and every one of you to this very important
15 oversight hearing of examining the operations of
16 New York City's summons courts. I want to thank my
17 colleague Council Member Lancman, the chair of the
18 Committee on Courts and Legal Services, also my
19 former colleague in the state assembly for chairing
20 this very important hearing, and I want to thank
21 all of our staff for putting this hearing together.
22 I also want to thank my colleague Council Member
23 Matteo for being here and we will be joined by
24 other council members throughout the morning. Last
25 month Mayor Bill de Blasio announced a policy

2 change whereby numerous marijuana cases that had
3 been processed as misdemeanors will now be
4 processed as summons resulting in an increased
5 burden on the summons parts. While I welcome this
6 reform there is still much more work that needs to
7 be done regarding how we address the enforcement of
8 marijuana possession and the disproportionate
9 impact that this enforcement has on communities of
10 color, minority youth, and needlessly in many cases
11 leads them into the criminal justice system and
12 negatively impacts their lives in many far reaching
13 ways. This committee intends to address those
14 policies going forward. However, this new policy
15 will create new challenges to those who create
16 summonses and will undoubtedly impact the
17 operations of our summons courts and is one of the
18 issues that we will be discussing at this morning's
19 hearing. As we examine the summons system I hope to
20 learn more about the process, the court system, and
21 how it has been operating and will operate moving
22 forward. I want to know what resources are needed
23 to ensure the summons system is functioning
24 efficiently and effectively and as part of that
25 discussion I want to hear about the quality of the

2 legal representation that we currently have, how
3 they will be impacted by the influx of cases that
4 we anticipate and how the court will be modified
5 regarding staffing, equipment, and infrastructure
6 to handle these new cases. I am concerned for
7 example about whether or not people who receive
8 summonses are being informed about the consequences
9 of missing a summons date which will result in a
10 warrant being issued for their arrest. I am also
11 concerned whether the court and our attorneys are
12 adequately advising people of the collateral
13 consequences of a guilty plea or a conviction for a
14 summons offence that could have a negative impact
15 on employment housing or even their citizenship
16 application. I hope we come away from today's
17 hearing with a greater understanding of how the
18 city adjudicates summonses and ensures that people
19 are adequately informed and represented. I want to
20 make sure there is a plan in place so the courts
21 have the resources they need to meet its new
22 challenges and I am committed to working with the
23 administration with the courts and all of our
24 stakeholders to make sure that this is a priority.
25 I also want to thank many of our advocacy groups

2 who I've met with over the last several months
3 including the drug policy alliance and communities
4 united for police reform who have really done a lot
5 to help me understand better the, the
6 disproportionate impact that the marijuana reforms
7 and, and issues have had on communities of color. I
8 also want to just acknowledge the staff who have
9 really done an incredible job putting this
10 together, the legislative analyst for the Public
11 Safety Committee Beth Gollop [sp?], our Counsel
12 Ryan Crow [sp?], our Financial Analyst Ellen Aang
13 [sp?], and Iesha Right [sp?]. And with that I thank
14 all of you for being here. I look forward to a
15 fruit fall and productive discussion and understand
16 this is the very beginning of looking at the
17 summons courts from a larger perspective and also
18 getting into the specific details of marijuana
19 reform. There's a lot of legislation my colleagues
20 and I have. And moving forward we know that a lot
21 of changes need to happen in Albany which is a
22 place that I'm very familiar with. And I look
23 forward to working with all of my colleagues and
24 stakeholders to make sure that those changes are
25 necessary so we can provide equity in the system

2 for all of our New Yorkers and many of our minority
3 youth that have been far disadvantaged for far too
4 long. So I thank you for being here and now I'll
5 turn this hearing back over to my fellow co-chair
6 Council Member Lancman.

7 CHAIRPERSON LANCMAN: Thank you very
8 much. Our first panel we're fortunate to have the
9 Honorable Melissa Jackson Justice of the Supreme
10 Court and Elizabeth Glaser from the Mayor's Office
11 of Criminal Justice. So if you would join us at the
12 table and we can administer the oath and, and hear,
13 hear your testimony. We administer the oath sitting
14 down. You can sit. Alright. So if you're, if you're
15 testifying, I don't know Justin if you're
16 testifying or the gentleman with, with Ms. Glaser
17 is testifying, no. Okay so if you're testifying if
18 you can please raise ur right hand. Do you affirm
19 to tell the truth, the whole truth, and nothing but
20 the truth in your testimony before this committee
21 and to respond honestly to council members'
22 questions. Well good morning and, and thank you
23 very much for being with us Judge Jackson and Ms.
24 Glaser. Judge Jackson if, if you want to want to
25 start first, thank you.

2 JUDGE JACKSON: Good morning Councilman
3 Lancman and Council Member Gibson and the rest of
4 the committee. I thank you for inviting me today to
5 speak to you regarding summonses and the way that
6 New York City criminal court adjudicates these
7 matters. Now the term we use summons is a misnomer.
8 The document that we're referring to is actually
9 two things; it is an accusatory instrument, either
10 a complaint or an information that's used to
11 initiate a proceeding in the criminal court and an
12 appearance ticket that's used to instruct a
13 defendant as to what his or her obligations are and
14 how the matter will proceed. Both of these
15 documents are defined by the criminal procedure law
16 and must conform to its requirements. The
17 accusatory instrument part of the summons has the
18 same legal effect as a complaint or an information
19 that is drafted by the Assistant District Attorney
20 and the various complaint rooms throughout the
21 city. The key difference here is that these
22 accusatory instruments are typically written by law
23 enforcement officers on the street during their
24 interaction with the person being charged. Now in
25 2013 as you've already heard from Council Member

2 Lancman over 458 thousand summonses were filed in
3 criminal court out of which almost 350 thousand
4 cases were scheduled for arraignment in eight court
5 rooms. One of the criminal courts' six dedicated
6 summons part or one of our two community courts. To
7 put that a little bit in perspective, these
8 figures, the entire criminal court has 86 court
9 rooms that are devoted to adjudicate the 365,752
10 cases that are filed by accusatory instrument in
11 2013 by the city's prosecutor's offices. Now the
12 cases heard in our summons parts are typically
13 petty offences and often violations of the city's
14 administrative code or other city rules such as the
15 public consumption of alcohol that's already been
16 mentioned, public urination, the violation of park
17 rules, and riding a bike on the sidewalk. We do
18 occasionally hear penal law violations such as
19 disorderly conduct and some vehicle and traffic law
20 infractions such as reckless driving as well. We
21 also have a centralized part that's devoted to
22 building and fire code summonses in Manhattan that
23 handles building and fire code violations charge in
24 the Bronx, Kings, New York, and Queens counties.
25 Now over 40 law enforcement agencies are permitted

2 to file summonses in criminal court. A lot of work
3 goes into preparing these cases before they can be
4 heard and I would like to briefly take you through
5 that process. Summonses from all over the city are
6 delivered to our central receiving unit at 346
7 Broadway where they are separated by county and the
8 clerical staff conducts a defect review looking for
9 mistakes on the face of the document such as
10 missing police officer signature or failure to note
11 the return date or the location. These defective
12 summonses are returned to the law enforcement
13 agency and not filed with the court. Our staff
14 notifies defendants on these cases that they do not
15 need to appear. For those summonses that survive
16 the defect review court staff scan or image the
17 summons into our database. Data entry staff then
18 enter the information contained in the summonses
19 into our database and the matter is docketed and
20 scheduled for the calendar on the return date given
21 to the defendant. In four of our city's five
22 counties, alright that's Bronx, Kings, New York,
23 and Queens prosecutors do not appear in our summons
24 parts. Because of this a summonses from these four
25 counties are sent to a judge weeks prior to the

2 defendant's return date for a legal review to
3 determine whether they conform to the legal
4 requirements of an accusatory instrument as it is
5 defined in the criminal procedure law. If a judge
6 determines that the summons does not conform to the
7 legal requirements the judge annotates this on the
8 document and the matter will be dismissed. Now this
9 is called a facial sufficiency review. Court staff
10 notifies the defendant by mail prior to his or her
11 appearance that the case will be dismissed and that
12 he or she does not need to appear. This
13 prearrest review is not done in Staten Island
14 since prosecutors there appear on the cases and the
15 criminal procedure law allows prosecutors to cure
16 this type of drafting error before dismissing it.
17 For those cases that survive defect and legal
18 sufficiency review the defendant must appear as
19 instructed by their pink slip and that is the
20 defendant's copy of the summons or the appearance
21 ticket. Now most defendants are instructed to
22 appear at 9:30 a.m. but some are also instructed to
23 appear in the afternoon except for the Kings County
24 summons part and our building and fire code
25 violation part the summons parts are located in the

2 county in which the summons was written. The Kings
3 summons part was, was co-located with the Manhattan
4 summons part 13 years ago because of the
5 overcrowding of our Brooklyn court house.

6 Defendants check in with clerical staff on the day
7 of their appearance and are asked whether they
8 agree to have their cases heard by a judicial
9 hearing officer or a JHO who is a retired judge who
10 receives a per diem fee from the court system.

11 Those that agree to have their cases heard by the
12 JHO and the vast majority do they have their cases
13 heard immediately. Defendants are assigned a
14 lawyer, typically an assigned counsel under the
15 section 18-B of the county law and, and their cases
16 are disposed of on the first appearance. Defendants
17 who want to contest the charges have their cases
18 scheduled for trial before a JHO and the police
19 officer that wrote the summons is required to
20 appear and testify. Of course a defendant can
21 testify and call other witnesses. The court held
22 over 1200 summons trials in 2013. In 2004 the court
23 implemented its plea by mail program that allows
24 defendants that are charged with certain non-penal
25 law violations to plead guilty and send a check by

2 mail rather than appear in court. In 2013 almost 21
3 thousand defendants chose that option although that
4 is far less than the approximately 140 thousand
5 defendants that were eligible to participate. In
6 our community courts which are in Red Hook,
7 Brooklyn and Midtown, Manhattan judges preside over
8 summons matters rather than JHOs and where
9 appropriate the judges can fashion dispositions
10 using social service components that have the
11 potential for providing a better outcome for the
12 defendants and for the community. The staff in our
13 summons parts handle a very high volume of cases
14 and yet show a, a remarkable amount of flexibility
15 and commitment to serve court users. Defendants
16 routinely come in weeks before or after their
17 scheduled appearance dates. Our staff will do
18 whatever they can to accommodate any defendant who
19 comes in our busy court houses and their cases are
20 immediately added to a busy calendar. With the
21 hundreds of thousands of summonses that are written
22 each year it is inevitable that certain defendants
23 will not appear. For those that do not appear an
24 arrest warrant is issued. However any defendant can
25 come in at any time to vacate these warrants and

2 virtually none have faced jail time or any
3 disposition harsher than the one that would
4 normally be offered if they had appeared when
5 directed. Moreover the court has participated in
6 numerous well publicized safe surrender events that
7 seek to encourage members of our community with
8 summons warrants to vacate them. In these events
9 the court has moved its entire operation that is
10 the court room and the back office to a community
11 center, typically a church so that we can provide a
12 familiar environment to encourage individuals to
13 vacate their warrants. Chief Judge Johnathan
14 Littman [sp?] has been exploring ways that the
15 court can improve and modernize our summons
16 operation to make the process easier to navigate.
17 To that end he has been discussing the operation
18 with and soliciting suggestions from the mayor's
19 office of criminal justice and other partners. It
20 is critical however to look at any proposed
21 modification carefully and not rush to make changes
22 that on their face may seem convenient but that may
23 have unforeseen consequences. For example some
24 suggestions have been made concerning the expansion
25 of the number and types of charges eligible for our

2 plea by mail program. Pleading guilty by mail is
3 certainly more convenient than showing up in court
4 and possibly missing a day of work or school but we
5 must be careful that we do not encourage
6 individuals to plead guilty to an offence with
7 possible collateral consequences including
8 immigration and housing especially when those
9 charges are ones in which the defendant would
10 receive a more favorable outcome should they appear
11 in court. In some criminal court has for decades
12 provided meaningful justice and due process for
13 millions of New Yorkers charged by summons facing
14 often daunting volumes the court's judges, JHOs,
15 and staff efficiently and fairly adjudicate these
16 cases balancing efficiency, convenience to the
17 defendants, public safety, and due process. Yet
18 using a measured thoughtful approach with our
19 partners in criminal justice including the city
20 council the court system is fully committed to
21 continuing its, to explore in new ways to improve
22 the administration of justice. Thank you.

23 CHAIRPERSON LANCMAN: Thank you. Ms.
24 Glaser.

2 ELIZABETH GLASER: Thanks very much. So
3 good morning Chairpersons Gibson and Lancman and
4 members of the public safety and courts and legal
5 services committees. My name is Liz Glaser. I'm the
6 director of the Mayor's Office of Criminal Justice
7 and I'm joined here by my special counsel Alex
8 Crone. I'm very glad to have the opportunity to
9 speak to you today about summons court and wanted
10 to first just give you a quick word about my office
11 to frame what our role is. My office oversees
12 citywide criminal justice policy and develops and
13 implements strategies really to achieve three
14 goals; to reduce crime, to reduce unnecessary
15 incarceration, and to promote fairness. We, I serve
16 as the mayor's criminal justice advisor and my
17 office is the liaison... the different institutions
18 that make up the criminal justice system in the
19 city and the state. We work together to try and
20 make it run better to implement new initiatives to
21 solve problems. The Office of Court Administration
22 is our very close partner in this, particularly in
23 the issue at hand because of their oversight of the
24 summons court. My office's functions and the
25 Summons Court intersect in two ways. My office

2 participates in the acquisition and improvement of
3 physical space used by summons parts and we also
4 have oversight over the assigned council plan also
5 known as the 18-B panel which provides legal
6 representation to defendants to appear in summons
7 court and cannot afford an attorney. With respect
8 to the physical space my office oversees capital
9 projects for courts facilities in all five boroughs
10 and ensure with our fellow city agencies that we
11 understand the specific needs of the court system
12 and of those who participate in the court system...
13 ranging from assisting the construction of court
14 facilities and upgrading the functions of court
15 houses to meet the needs. With respect to summons
16 court my office is participating in finding space
17 for these parts and improving the existing
18 facilities. As a result of the sale of 346 Broadway
19 which currently houses the summons part for both
20 Manhattan and Brooklyn we're currently engaged in
21 relocation efforts for the Manhattan location and
22 are seeking a spot there. The summons court is
23 often the first interaction that individuals have
24 with the court system and so the quality of justice
25 delivered in these parts are very important to us.

2 And this is measured in part by the court facility
3 itself by, and whether the facility can accommodate
4 the number of defendants appearing on a given day.

5 In this vein I would just note that we are seeing a
6 steady decline in the number of summonses. So over
7 the past seven years the volume of criminal

8 summonses has declined 22 percent. So far this year
9 summonses have dropped a little over 13 percent

10 compared to 2013. With respect to the assigned

11 council plan this is, you know was established in

12 1965 as part of a comprehensive system to provide

13 legal representation to the indigent and criminal

14 cases. The attorneys who participate in this plan

15 are as I said referred to as our 18-B attorneys or

16 the 18-B panel and the appellate division first

17 department from Bronx and Manhattan has oversight

18 over those attorneys who, who practice in Bronx and

19 Manhattan and similarly the appellate division,

20 second department which is Brooklyn, Queens, and

21 Staten Island has oversight over the attorneys who

22 practice in the second department. Those appellate

23 divisions have delegated their authority for day to

24 day operations to the 18-B plan administrators. And

25 my office coordinates with those administrators and

2 the Department of Finance in overseeing the plan's
3 operations. My office is engaged with the plan's
4 administrators to evaluate and where needed to
5 improve those legal services for the clients they
6 serve. Most recently the administration implemented
7 a change in policy regarding possession of small
8 amounts of marijuana instructing the police to
9 issue a violation instead of a misdemeanor in the
10 appropriate case. And so instead of arresting an
11 individual for this offence in most instances the
12 police will, will issue a summons instead. This
13 change obviously has broader implications for how
14 the entire criminal justice system works together
15 to ensure the fair administration of justice. And
16 we are already, judge Jackson noted are engaged
17 with the courts and with prosecutors and with the
18 defenders and advocates in a dialogue about some
19 next steps. And we look forward to working with all
20 our partners and obviously the city council also to
21 improve the system together. So thank you very much
22 for the opportunity to speak and happy to answer
23 any questions.

24 CHAIRPERSON LANCMAN: Thank you very
25 much. Before we get to our questioning let me just

2 welcome some of the other council members who have
3 joined us; Council Member Rafael Espinal from
4 Brooklyn, Ben Kallos from Manhattan, Jimmy Vacca
5 from the Bronx... Council Member Carlos Menchaca from
6 Brooklyn, Robert Cornegy from Brooklyn, Vincent
7 Gentile from Brooklyn, and Vincent Ignizio from
8 Staten Island. I think that's everyone. So let me
9 start the questioning and I, and I, again I do
10 appreciate both of your coming today and, and, and
11 testifying. I, I want to focus on a couple of
12 areas. The first is what seems to me to be a
13 startlingly high rate of deficient summonses, those
14 that have defects that might be called
15 administrative, like the officer doesn't sign the
16 signature or they give the wrong date, but also and
17 what seems to be a larger number of, of defective
18 summonses the ones that are, that are legally
19 insufficient on their face. And for, for OCA do, do
20 you track which offences are generating the most
21 facial insufficiencies?

22 JUDGE JACKSON: I failed to introduce,
23 this is my Chief Clerk of the City Justin Berry
24 [sp?] who I, I'm turning to for, for more

2 information. The answer to that is yes, we do
3 indeed and we send that information to the NYPD.

4 CHAIRPERSON LANCMAN: Do, do you have
5 with you some, any information on, on which
6 offences are, are causing the most facial
7 insufficiencies and, and what's the most commonly
8 insufficient, common insufficiency that's... [cross-
9 talk]

10 JUDGE JACKSON: No it's a good question.
11 No but we can get that for you. In fact we're
12 writing that down right now but yeah we can get
13 that data for you.

14 CHAIRPERSON LANCMAN: Would it, would it
15 be burdensome for, for OCA to include that in its
16 annual criminal, criminal court report?

17 JUDGE JACKSON: No, not at all.

18 CHAIRPERSON LANCMAN: Because I think it
19 would be very helpful for the city and for the, for
20 the council to, to get indication of which, which
21 offences are being written so insufficiently. Do,
22 do, do you pass those along to the NYPD? I mean
23 does, does an individual officer ever learn that
24 the summons that they wrote was, was insufficient
25 or does the NYPD as an organization ever get

2 information either on a, on a, on, some, any kind
3 of regular basis like hey your, your, your public
4 urination tickets are really you know getting
5 dinged here and, and you need to write them better
6 and, and, and from MOCJ's perspective is there any
7 effort to retrain the NYPD so they write their
8 summonses better?

9 ELIZABETH GLASER: I think the PD is
10 always looking for ways to improve and, and ensure
11 that sort of summonses are accurately written
12 whether this, the particular thing that you're
13 addressing is something that they're looking at
14 right now I don't know but could find out.

15 CHAIRPERSON LANCMAN: Right. Well it'd
16 be interesting to, to know whether or not what
17 communications there are to the NYPD letting them
18 know that these particular summonses were invalid.
19 I would think it would be helpful to identify in
20 particular officers are writing a lot of invalid
21 summonses whether they need retraining either in,
22 and how to prepare the summons or where there're
23 other issues involved.

24 JUDGE JACKSON: Just, just to answer a
25 little bit to help Liz on that one.. [cross-talk]

2 CHAIRPERSON LANCMAN: Judge if you could
3 just bring the mic a little... [cross-talk]

4 JUDGE JACKSON: Ah yeah...

5 CHAIRPERSON LANCMAN: ...closer.

6 JUDGE JACKSON: ...sure. Is, that,
7 actually it's a monthly communication that we have
8 with NYPD to let them know which summonses are
9 defective and then I presume they take it from
10 there.

11 CHAIRPERSON LANCMAN: Alright.

12 JUDGE JACKSON: As to whether they
13 discipline the officers, talk to the officer,
14 educate them.

15 CHAIRPERSON LANCMAN: So let me just
16 move beyond presumption and ask Ms., Ms. Glaser do
17 you know what the NYPD does with that information
18 and whether or not it...

19 ELIZABETH GLASER: I don't know.

20 CHAIRPERSON LANCMAN: Alright. If you
21 could find that out and get back to the committee
22 that would, that would be appreciated. Another area
23 I wanted to, to focus on is the, the very large
24 number of people who don't seem to appear for
25 their, their summons date at all. I've heard, we

2 had the opportunity and, and Mr. Berry was very
3 gracious in giving me and my staff a tour of the
4 the Queens summons part and the Brooklyn,
5 Manhattan/Brooklyn summons part last week and I
6 spoke to folks in, in Staten Island on Friday. Do
7 you have hard figures or even good approximations
8 of how many people just don't show up at all?

9 JUDGE JACKSON: We, we have per county..
10 we have a breakdown per county actually since 1999
11 all the way up to a year, up to date of how many
12 people failed to appear.

13 CHAIRPERSON LANCMAN: Could, could you
14 give that to us as, as percentages. I, I've heard
15 it upwards of half the, half the people are not
16 appearing.

17 JUDGE JACKSON: ...percentage of the
18 numbers of people who haven't appeared who are
19 issued summonses?

20 CHAIRPERSON LANCMAN: Correct.

21 [background comments]

22 JUDGE JACKSON: Okay. Alright so there's
23 a distinction here that Mr. Berry's clarifying for
24 me. There's 40, approximately 40 45 percent fail to
25 appear initially but what happens is if it's a one

2 quick failure to appear that warrant is vacated and
3 they show up on the next day. So it's, I don't know
4 how much the figure would be accurate if you, in
5 other words if the person actually does appear but
6 the first time they warrant but as I presume the
7 percentage could be figured out. I mean already Mr.
8 Berry says that it's 45 percent.

9 CHAIRPERSON LANCMAN: So it's about 45
10 percent that don't make that initial appearance?

11 JUDGE JACKSON: Yes yes yes.

12 CHAIRPERSON LANCMAN: And, and would you
13 have any... now intuitively I would think if
14 someone's not making their first experience they're
15 not showing up at all. Let me ask you this if
16 someone doesn't make an appearance are they then
17 notified a bench warrant has been issued for your
18 arrest?

19 [background comments]

20 JUDGE JACKSON: Those who are eligible,
21 who are, with offences that are can be... by plea by
22 mail are notified but the rest they just have the
23 bench warrant and that's it.

24 CHAIRPERSON LANCMAN: The other number
25 that I found startling was that of the people who

2 show up, plead guilty, and agree to pay a 25 dollar
3 fine, a 100 dollar fine. Something like 20 or 25
4 percent of those people across the system never pay
5 those fines. Is, is that a, is that a, a correct
6 approximation?

7 JUDGE JACKSON: That's correct.

8 CHAIRPERSON LANCMAN: So what, what
9 happens to those folks.

10 JUDGE JACKSON: Judgment is entered
11 which is a default judgment. It's basically, it
12 becomes a civil lean, it's a civil judgment,
13 whether or not that actually takes any effect I
14 can't answer that.

15 CHAIRPERSON LANCMAN: Right. And I would
16 assume for economy sake nobody is pursuing a 50
17 dollar or 100 dollar civil judgment?

18 JUDGE JACKSON: Exactly.

19 CHAIRPERSON LANCMAN: So Ms. Glaser if I
20 can, if I can put it to, to you almost half the
21 people don't show up at all. A significant
22 percentage, about a quarter, of people who do show
23 up and plead guilty aren't paying their fines.
24 Isn't that symptomatic of a system that, that's
25 fundamentally broken and not serving the interest

2 of either the public or the people who were getting
3 these summonses?

4 ELIZABETH GLASER: So we're currently
5 working on just these issues with all the folks who
6 are engaged in the summons court process. So the
7 court system prosecutors, defenders, the advocates,
8 and I think that you've put your finger on a number
9 of things. It's not just one issue but there are a
10 number of issues that have cascading effects that
11 we need to address whether it's looking at how we
12 connect with those who are being issued summonses,
13 how we encourage people to come to court which
14 means understanding why they're not coming to court
15 as well as a whole array of other potential
16 solutions. So I think it's an issue that has to be
17 dealt with not just in a one-off way with sort of
18 one, one issue or another but to look at it really
19 in a holistic fashion and that's what this working
20 group that we have now, that it's doing.

21 [background protesting]

22 CHAIRPERSON LANCMAN: Yeah if...

23 [gavel]

24

25

2 CHAIRPERSON LANCMAN: If you can't be
3 seated and be quiet you have to be removed. If the
4 Sargent in Arms would remove the protestors.

5 [background protesting]

6 [gavel]

7 CHAIRPERSON LANCMAN: Where were we? So
8 let me ask one last question and I know my
9 colleagues have, have lots of questions and it's
10 to, to Ms., Ms. Glaser. Just why in the summons
11 court, the 18-B model of representation as opposed
12 to the legal services providers when in, in the
13 criminal court and the, the supreme court the city
14 has, has shifted markedly towards the, the
15 institutional legal service providers.

16 ELIZABETH GLASER: I, I think that it's
17 really a question of sort of history and that this
18 is the way in which the system has operated and the
19 18-B lawyers have served ably in the summons courts
20 and that's sort of been where we've been.

21 CHAIRPERSON LANCMAN: Okay. Alright well
22 those are all the questions I have for now. I might
23 have questions after the, the other members have a
24 chance to, to ask. And just also mention we've been
25

2 joined by Council Member Julissa Ferreras from
3 Queens.

4 COUNCIL MEMBER GIBSON: Thank you very
5 much Chair Lancman and thank you again for your
6 patience. And I appreciate your testimony. I have
7 lots of questions just to try to understand a
8 little bit more of this but I'll, I'll limit my
9 questions for the sake of time. I first want to
10 talk about the 18-B attorneys and I want to talk
11 about staffing on a day to day basis. So when Chair
12 Lancman went to visit the Queens summons there were
13 about 700 cases that were heard starting at 9:30
14 and there were four 18-B attorneys. So I'd like to
15 know in terms of the staffing do you anticipate any
16 changes with some of the cases that will
17 continuously be heard in summons court?

18 ELIZABETH GLASER: So currently there
19 are approximately 10 18-B lawyers that cover the
20 summons courts. As you may have noted when you went
21 to the summons courts these are cases that move
22 relatively quickly through the system. I think that
23 sort of part of the examination of the whole system
24 has to be an examination of how we provide
25 representation and what that representation is. But

2 at this point there are no firm plans to change
3 that.

4 COUNCIL MEMBER GIBSON: Does OCA track
5 the age bracket of those that are being issued a
6 summons, you know the 358 thousand summons issued
7 in 2013 most of them being for open containers
8 there is a part on the form that asks for the date
9 of birth. So does the agency look at the age to see
10 if there's a trend or anything that raises our
11 attention?

12 JUDGE JACKSON: Are you referring to the
13 courts?

14 COUNCIL MEMBER GIBSON: Yes.

15 JUDGE JACKSON: Apparently we have
16 looked at it for various reasons but it has not
17 been published.

18 COUNCIL MEMBER GIBSON: Is that
19 something that could be shared with the city
20 council? And I guess the reason why I'm bringing it
21 up is because we know that with many of these
22 summonses that are issued that there's a
23 disproportionate impact on young people. And so if
24 we are asking for the date of birth we need to
25 really look at that, why are young people getting

2 the majority of summonses for open containers. And
3 I, I think that's something that we really should
4 look at. In addition there was a time as I
5 understand the ethnicity was included on this form
6 and it's no longer here. And in addition there's a
7 part on the form that asks for factual allegations
8 where the officer or the law enforcement person has
9 to indicate and describe that particular occurrence
10 that led to the summons but it's only on the copy
11 that the law enforcement keeps. So the individual
12 doesn't see that information until they
13 actually come to court and respond to the summons.
14 So this form itself we need to revise and I know
15 there are a lot of people that would agree with me
16 because we are looking to make sure that we can
17 track data to find out where these patterns are,
18 why we have these patterns, why more young people,
19 and I would argue and I'm going to say more young
20 people of color are being issued many of these
21 summons.

22 JUDGE JACKSON: Actually we have been in
23 discussion with Ms. Glaser just about that and I'll
24 defer any questions to her as... [cross-talk]

25 COUNCIL MEMBER GIBSON: Okay.

2 JUDGE JACKSON: But absolutely you have
3 some very good points.

4 COUNCIL MEMBER GIBSON: Okay. And any
5 changes to the forms comes out of the state? Is
6 that correct or it can come local?

7 JUDGE JACKSON: It's a city form.

8 COUNCIL MEMBER GIBSON: Okay. Okay.
9 Because there was a time we were, thought, we
10 thought that there was some state oversight. Okay.
11 I'd like to know about when the court issues a sum,
12 when the court dismisses a summons and tries to
13 reach out to the person. I also notice there's no
14 option for a phone number here so even if you
15 wanted to reach out to that person to encourage
16 them to come into court you're not able to do that.
17 So what's the time frame by which when the court
18 decides to dismiss the case that they actually mail
19 that notification and is there a way that the
20 defendant can respond once they receive that
21 letter? How does that work?

22 JUDGE JACKSON: We, I've been informed
23 that we, we do send out notice by mail not... [cross-
24 talk]

25 COUNCIL MEMBER GIBSON: Right.

2 JUDGE JACKSON: ...as you point out not...

3 [cross-talk]

4 COUNCIL MEMBER GIBSON: Mm-hmm.

5 JUDGE JACKSON: ...at least three weeks
6 before the return date absolutely respondents can
7 respond should they choose to do so. And we're
8 actually working with Ms. Glaser on the content of
9 the form and as you pointed out the cell phone or
10 the phone information too... [cross-talk]

11 COUNCIL MEMBER GIBSON: Okay. And I
12 understand and I recognize a lot of this is you
13 know a lot of early conversations. But we have a
14 lot of the data that can really highlight where we
15 have to prioritize. Another factor that many of us
16 talk about, all the collateral consequences right.
17 And so when defendants come into court and they are
18 represented by an 18-B attorney do we know what
19 sorts of conversations are had with the defendant
20 in terms of collateral consequences of a guilty
21 plea, plea immigration, housing, etcetera? Do we
22 know what types of services or programs are offered
23 for many of those individuals?

24 JUDGE JACKSON: So there is a
25 conversation between the lawyer and the person

2 who's showing up to answer the summons. I think
3 that one of the things that our group is discussing
4 now is how to, or deliver in a more systematic way
5 that training to 18-B lawyers about how to advise
6 with respect to adverse consequences particularly
7 you know as you noted the immigration consequences
8 with respect to some of the summonses and housing
9 and employment.

10 COUNCIL MEMBER GIBSON: Right. Okay. The
11 other thing I wanted to bring up and it's very
12 important to me and many of my colleagues is court
13 interpretation, language access, very important in
14 a growing and diverse city. Are there interpreters
15 that are available for attorney client
16 consultations or only for the proceedings before
17 the court and if so are we looking to make changes
18 to language access?

19 JUDGE JACKSON: We have actually just
20 about covered the gambit of the variety of
21 languages that we have here in the city and you
22 know there are many exotic languages too, so called
23 exotic. So, and they actually, those interpreters
24 are available. They are there for both the
25

2 consultation with the attorney and the defendant as
3 well as to interpret during the court proceedings.

4 COUNCIL MEMBER GIBSON: Okay. I think
5 Ms. Glaser you mentioned the, or maybe Judge
6 Jackson the district attorneys have been working
7 with the police department over the years on doing
8 the community events where working with churches
9 people can come in voluntarily which I think is a
10 great opportunity, but absent of that is there a
11 process where people can find out if they have an
12 outstanding bench warrant for failure to answer a
13 summons? Like what process would they have to go
14 through to find out voluntarily?

15 JUDGE JACKSON: There are two options
16 either to come down to the court house or to call
17 the court. There's actually a number that can be,
18 yeah we have a website that can be used.

19 COUNCIL MEMBER GIBSON: Okay. And I
20 guess my last question before I turn it back over
21 to my colleagues is with the recent announcement
22 around marijuana we all know that there will be an
23 anticipated increase in the, the number of summons
24 that are issued. Have you started to have the
25 preliminary conversations with the administration

2 on what any cost factors would be relative to
3 staffing, to capacity. I am greatly concerned when
4 I hear 400 thousand summons. Obviously it's a cause
5 for great concern. And you know I know you know
6 that that can only increase if we're now looking at
7 marijuana reform where many of those cases
8 potentially would be misdemeanors and now there're
9 a summonsable offence. So have we had those
10 conversations yet? I know it's couple of weeks now.

11 JUDGE JACKSON: No. No actually we've
12 been monitoring it very much and, and speaking with
13 Ms. Glaser about this so we're, we're looking at it
14 very closely.

15 COUNCIL MEMBER GIBSON: Ms. Glaser
16 anything?

17 ELIZABETH GLASER: Yeah I mean I, I
18 would just note that you know certainly as you know
19 you know arrests for marijuana have dropped
20 precipitously in the last month we're, it, it's a
21 little soon to tell what the summons impact will be
22 but we anticipate that it's really a, relatively
23 small number compared to the 400 thousand. I think
24 we all share your concern about ensuring that we
25 not further flood the summons court. As I noted you

2 know summonses generally have been really dropping
3 over the past few years. So we'll watch it
4 carefully. It's a little soon to tell right now.
5 You know it's been three weeks with thanksgiving
6 and other things that may have made it not a
7 completely accurate reflection of what the summons
8 numbers are.. [cross-talk]

9 COUNCIL MEMBER GIBSON: Okay. Thank you
10 very much. I'll turn it back over to my colleague
11 chair Lancman.

12 CHAIRPERSON LANCMAN: Thank you. Next
13 we're going have questions from Council Member
14 Carlos Menchaca from Brooklyn.

15 COUNCIL MEMBER MENCHACA: Thank you.
16 Thank you chairs. And clearly we're in a moment of
17 urgency. We've seen it here. We're seeing it in the
18 streets. And so what is in important in just the
19 questions that you're hearing now and you're going
20 to hear later is really sense of connecting the
21 dots. My focus right now and this would be for,
22 actually for the criminal justice office Ms. Glaser
23 if you can tell us a little bit about the
24 immigration component and resources going to the
25 summons courts on immigration, how we're supporting

2 the lawyers to be able to deal with immigration
3 issues at the courts?

4 ELIZABETH GLASER: So right now there is
5 actually a project run out of my office that
6 connects 18-B lawyers and others to lawyers who
7 have particular expertise in immigration matters
8 which can be quite complicated, a lot of ins and
9 outs.

10 COUNCIL MEMBER MENCHACA: So these are
11 lawyers connecting to lawyers?

12 ELIZABETH GLASER: Yeah to advise them
13 on how to advise their...

14 COUNCIL MEMBER MENCHACA: How robust is
15 this program?

16 ELIZABETH GLASER: Hold on one second.

17 COUNCIL MEMBER MENCHACA: Thank you.

18 ELIZABETH GLASER: So in this particular
19 project we have 10 attorneys city side who
20 essentially act as experts and we have a way for
21 any attorney to call and get that, that advice.

22 COUNCIL MEMBER MENCHACA: This is a
23 hotline experience for lawyers?

24 ELIZABETH GLASER: It's actually managed
25 through our office so there's someone in our office

2 who then connects the lawyers to the immigration
3 experts.

4 COUNCIL MEMBER MENCHACA: How often is
5 this used? Is this a, is this a pretty well used...
6 do you see need, are you capturing a sense of need
7 for wanting to increase this program?

8 ELIZABETH GLASER: I think it's
9 relatively new and so I think we're monitoring sort
10 of what the need is and how to publicize it more so
11 that people have access to it.

12 COUNCIL MEMBER MENCHACA: So it sounds
13 like you're bringing, you're connecting to capacity
14 but you're not necessarily increasing the capacity
15 within the summons court itself and you're the
16 liaison to the lawyers, the immigrant... [cross-talk]

17 ELIZABETH GLASER: As far as... [cross-
18 talk]

19 COUNCIL MEMBER MENCHACA: ...immigration
20 lawyers.

21 ELIZABETH GLASER: ...training 18-B
22 lawyers themselves and the ins and outs of
23 immigration...

24 COUNCIL MEMBER Menchaca: Yes.
25

2 ELIZABETH GLASER: ...law... is that what
3 you're saying?

4 COUNCIL MEMBER MENCHACA: Yes.

5 ELIZABETH GLASER: Yeah that, there
6 isn't a formal program right now.

7 COUNCIL MEMBER MENCHACA: There is not a
8 formal program for that. Okay I, I, I'm hoping we,
9 we can expose the need for this. So in, in, in that
10 light I'm hoping we can continue this conversation.
11 We are in short time, about weeks away from issuing
12 about a citywide program that we, that we start
13 here in the city council with the mayor's support
14 for... and so in, in that light where we are
15 promising a new light, a new day for immigrant,
16 immigrant communities but also New Yorkers that are
17 going to be interacting with police in a better way
18 with the... increase in number of summonses with the
19 marijuana policies etcetera etcetera we're going to
20 need that, that, that robust support. And what I'm
21 hearing right now is just a little bit disconnected
22 and so I'm hoping we can really commit to that work
23 and what the, what, what we I think need to come,
24 come to an agreement on is, is how we're going to
25 be able to kind of create that robust program. How,

2 how are you determining the cost for this program
3 that you currently speak of? I don't know, does it
4 have a name necessarily? I...

5 ELIZABETH GLASER: So there's one
6 project called the immigration defense project
7 which is the one I mentioned that is this
8 particular connecting of lawyers to experts.
9 There's also through the, through, on, I need to
10 get the name of it. There's a, there's another..
11 through the Office of Indigent Legal Services which
12 is a state run project. We also have a broader
13 training program or they do for indigent defense.
14 So I think you're right that it's sort of potty and
15 there are bits and pieces here and there and it's
16 something that's worth having a much more focused
17 effort to ensure that this quite complicated part
18 of the law is something that lawyers have, are
19 either able to connect to those who sort of know it
20 well or have the basic outlines that they need to
21 advise their clients.

22 COUNCIL MEMBER MENCHACA: Great. Well
23 again we're, we're getting a lot of, we're getting
24 a lot of requests from advocates, from lawyers,
25 from many on, on this one topic. How, how do we

2 support and, and in this particular conversations
3 the summons process in, in elevating the capacity
4 for immigration issues. This is an incredibly
5 complicated world I, I've only been swimming in
6 really deeply this year but I think it, it warrants
7 our, our focus on it and I'll be working with the
8 chairs and myself as chair for immigration on this
9 as well. So thank you so much.

10 ELIZABETH GLASER: Look forward to
11 working with you on it.

12 COUNCIL MEMBER GIBSON: And I just want
13 to add as well I mean when we talk about language
14 access and I keep emphasizing it even down to our
15 websites I'm trying to look at how we can make it
16 more accessible for all New Yorkers just in terms
17 of language access and, and showing the diversity.
18 I mean many of us are still in the English world
19 which we really shouldn't be in terms of our
20 website capacity but I think it's something that we
21 really should have as a part of the conversation.

22 CHAIRPERSON LANCMAN: Well let me, Ms.
23 Glaser let me just follow up in, on Council Member
24 Menchaca's questions and, and.. You know I, I sat
25 in, in summons court queens and, and the

2 Brooklyn/Manhattan as, as, as I mentioned. The,
3 there's a long calendar call if that's even the
4 term in, in criminal court. The, the 18-B lawyers
5 have seconds. It, it would be inaccurate to say
6 that they have minutes. They have seconds to speak
7 and counsel their clients. Later we're going to
8 hear from some of the legal services organizations.
9 Let me put two questions to you. First is wouldn't
10 it make sense to provide representation by legal
11 services organizations that have experience
12 navigating immigration issues for their criminal
13 defense clients across the, the system and that can
14 do the in-house training and provide the support so
15 that lawyers who are standing up in these summons
16 courts representing people whose immigration status
17 is not secure are not going to lead their clients
18 to pleading guilty to something that might seem
19 trivial at the moment but which could have terrible
20 consequences for their immigration status? First
21 question.

22 ELIZABETH GLASER: So I think.

23 CHAIRPERSON LANCMAN: And, and I'm
24 asking that on behalf of the folks who are going to
25 testify later but you're here now.

2 ELIZABETH GLASER: So I think it's more
3 than just who's trained and what do they know
4 right. That is obviously a critical component and
5 we need to double down and focus on what it is that
6 the lawyers counseling their clients in the summons
7 part... how they're able to best advise them. But I
8 think there's also an issue even before that which
9 is we need to sort of communicate better with
10 individuals coming to summons court in order to
11 flag for them what might be some potential issues.
12 So I think there's sort of an array of things that
13 we need to look at you know in relatively short
14 order and make sure that we tighten up this whole
15 system and that we're addressing each part of it.

16 CHAIRPERSON LANCMAN: Second quick
17 question. Since the consequences can be so dire for
18 a defendant who pleads guilty to a seemingly
19 trivial offence but might actually be very
20 significant for his or her immigration status if
21 you're going to maintain the 18-B model is there a
22 way that you can formalize training for 18-B
23 lawyers who are going to be in summons court as a
24 prerequisite to, to, to handling these, these
25 matters at least on immigration matters or if there

2 are other matters which can have very serious
3 collateral consequences?

4 ELISABETH GLASER: Yep, no I think it's
5 a great suggestion and I think it's something that
6 you know we're looking at.

7 CHAIRPERSON LANCMAN: Thank you. Next we
8 have questions from Council Member Robert Cornegy
9 from Brooklyn.

10 COUNCIL MEMBER CORNEGY: Thank you
11 chairs. And good morning to everyone. I'd like to
12 frame my questions with this context of some
13 statements that you made earlier in relationship to
14 a reported dramatic decrease in marijuana arrests.
15 And I just want to kind of start there. We know
16 that in the borough of Brooklyn from June to
17 November with the policy that was in place from the
18 DA we actually, a thousand people went free for low
19 level marijuana possession arrest and that was a
20 system that was working. Having said that you know
21 the administration's policy for ticketing I'm
22 wondering if you could quote me a number to date
23 since November how many people have received
24 tickets in the city of New York for marijuana
25 possession?

2 ELIZABETH GLASER: So we don't have that
3 number yet as to the summons numbers. What I was
4 referring to is between October, the number of
5 arrests were for marijuana possession were 2386 and
6 at the end of November it dropped to 1264. So
7 that's you know a pretty significant drop.

8 COUNCIL MEMBER CORNEGY: I'm have the
9 displeasure of actually sitting in the summons
10 court in Brooklyn/Manhattan which, which is a
11 tremendous issue for me and a barrier to some
12 people actually even making it to court is the fact
13 that in Brooklyn we have to go to another borough
14 to have these cases adjudicated which obviously
15 presents somewhat of a barrier. I'm wondering what
16 is the turnaround time for, also for tickets
17 issued? Is it, is it, is it 30 days that you have
18 to appear by or what is, what is the actual...

19 ELIZABETH GLASER: So I think it depends
20 borough to borough. I think it's something like...

21 [cross-talk]

22 COUNCIL MEMBER CORNEGY: I would ask, I
23 would ask for Brooklyn. I'll be selfish for a
24 second and ask for Brooklyn.

2 JUDGE JACKSON: Approximately six to
3 eight weeks.

4 COUNCIL MEMBER CORNEGY: I'm sorry?

5 JUDGE JACKSON: Eight weeks for
6 Brooklyn.

7 COUNCIL MEMBER CORNEGY: So I'm a little
8 concerned with the fact that if, it's my
9 understanding that if for some reason you happen to
10 miss that date and that's an illness, that's a job
11 interview, or anything of that nature you're issued
12 a bench warrant right, on your first, on the first
13 time that you miss. I would strongly suggest that
14 we take a serious look at that and on the second or
15 third non-appearance be issued a desk appearance, I
16 mean a, a warrant for someone's arrest. That, and...
17 so somebody, a regular good citizen who
18 unfortunately finds himself in this situation it's
19 my understanding that once a warrant is issued for
20 your arrest the only way that you can do that is to
21 be run, run through the system at that point. So
22 you have to be arrested if you're, if, if, as a
23 routine traffic stop or whatever you have, there's
24 no way that you can even look that up as a police
25 officer saying, say listen hey you've got to

2 report, no you're going to have to be run through
3 the system. So on an already overburdened and
4 overcrowded summons court system I think that an
5 unintended consequence of the ticketing issue will
6 be an over, you know an overburdening of the
7 system. You can't report now because like you said
8 it's early and I, I respect and appreciate that. I
9 think that what we're going to see is an
10 overburdening. I was there and hundreds of
11 defendants were represented by an 18, two 18-B
12 lawyers and I think that my, the chair was very
13 generous in stating that they have under a minute
14 to consult. So actually what I saw amounted to a
15 mil because basically what happened was they said
16 they would you like to pay this fine. If you can't
17 pay it now will you enter into a payment agreement
18 and report to the cashier. So actually I timed it
19 at about 30 seconds chair that they had and not to
20 discuss the merits of their case but to decide how
21 they were going to pay, when they were going to
22 pay, and see a cashier. So it was this kind of
23 constant mil which kind of made me sick to my
24 stomach because the, 90 percent of those offenders
25 were of color, young men in this kind of continual

2 mil based on a new process that the city had put in
3 place. Because I, I actually sat there for the, the
4 marijuana tickets just to see. And, and all,
5 everything else happens there as well obviously. So
6 I'm very concerned with the direction that we're
7 going and I'm big on unintended consequences and I
8 think that we're going to see a tremendous uptick
9 in the use of that system. And that may be an
10 unintended consequence. And so I'd also like to
11 just explore the barrier that I, that you have to
12 travel to another borough, only Brooklyn has to do
13 that right so I take that personal. Only Brooklyn
14 has that as a barrier and it makes us more
15 susceptible to all, all, all the other things that,
16 that, that happen based on that court involvement.
17 So I guess, I guess my question is, I'm very sorry,
18 my questions were about the ticketed and, and about
19 whether or not we could potentially look at
20 changing it to second and third offences before an
21 actual bench warrant is, is issued for your arrest
22 at least on the marijuana ticketing?

23 ELIZABETH GLASER: So I, I think my
24 colleagues from the courts can sort of address how
25 it gets vacated a little bit better than me. I

2 think this issue of sort of, and I think the chair
3 sort of referred to this too of how, how high the
4 numbers are of people not showing up to court is
5 something that we need to focus on and then what
6 the consequences are of someone not showing up to
7 court, how we can best mitigate those consequences.
8 If somebody isn't showing up to court but shows up
9 a week later I think that there is a process in
10 place. People show up earlier but we definitely
11 need to focus on that and figure out with, pretty
12 sharply kind of what some solutions are to this
13 issue.

14 COUNCIL MEMBER CORNEGY: So because
15 there's a disproportionate effect on, on my borough
16 and specifically the, the constituency that I serve
17 which are predominantly young African American
18 Hispanic males I would like to follow up with the
19 administration and I'll certainly stay in contact
20 with the chairs to see about mitigating this. Thank
21 you.

22 ELIZABETH GLASER: Sure. That'd be
23 great.

24 COUNCIL MEMBER GIBSON: Well Ms. Glaser
25 quick question. With the proposed relocation of the

2 Brooklyn/Manhattan are there talks about separating
3 it back so that Brooklyn defendants can stay in
4 Brooklyn and Manhattan would stay or is it still
5 going to be combined? And do you, if it stays
6 combined is there like a long term plan or is that
7 up to negotiations on the location?

8 ELIZABETH GLASER: So right now the plan
9 is, is to keep them together. You know they've been
10 that way for 13 years. You know again I think that
11 there is sort of this broader examination of what's
12 happening to summons courts more generally but
13 right now that is the plan.

14 CHAIRPERSON LANCMAN: We're, been joined
15 by Council Member Jumaane Williams from Brooklyn.
16 Jumaane do you have any questions. We're about to
17 discharge this panel so this is your moment... oh...

18 COUNCIL MEMBER GIBSON: Yes. Well I
19 guess I just wanted to say and you know I know that
20 we're looking at summons court overall in terms of
21 the operation, the capacity, the resources, you
22 know I'm all about prevention. So when I look at
23 these numbers I want to prevent people from going
24 to summons court in the first place. And so I think
25 we have to look at these numbers. I mean why, if

2 you look at a chart of all of the summonsable
3 offences the majority of them are being given
4 summons for open containers. I mean that to me says
5 that there's a broader issue that really doesn't
6 have anything to do with summons court itself but
7 their other policy you know and enforcement issues
8 that we need to deal with with law enforcement and
9 so I'm committed to doing that but I, I really want
10 to focus on the services that are provided for
11 dependents when they're there in terms of the
12 collateral consequences, the immigration, and some
13 of the factors because you know the worse thing we
14 have is dependents that are making decisions that
15 are uninformed where they don't know what a guilty
16 plea really means. They want to come in and they
17 want to leave. Many of them are there for hours at
18 a time you know going in court and they just plead
19 guilty for many reasons. There's no one guiding
20 them there and so you have a guilty plea now and
21 that could lead to all sorts of problems and so as
22 you talk to many young people that are in the
23 situations after the fact many of them would not
24 have plead guilty had they known the ramifications
25 that would happen under that guilty plea so I

2 really want to emphasize to the administration it's
3 extremely important to have those conversations
4 about 18-B attorneys about how we can provide the
5 services, the education that's important for these
6 defendants. While I don't have the numbers but I
7 know the majority of those cases are young people
8 that are getting these summons, I know it, because
9 they're the ones that are probably the most
10 disproportionately impacted by a lot of the
11 policing that's done in this city. And so I want to
12 make sure we understand moving forward that these
13 types of changes are going to have a major impact
14 on young people moving forward. They'll have access
15 to more. They won't fear deportation. And they'll
16 be able to live fruitful productive lives and not
17 have a mark against them. The language act says
18 it's also very important for me so I want to make
19 sure that you understand you know it's important to
20 this council and to please keep us a part of the
21 conversations because with budget season coming we
22 need to have a conversation about how we put this
23 in place. The marijuana reform is very important to
24 me and we're going to talk more in depth about that
25 but we know, we do know that the numbers will be

2 going up. If we're not arresting young people for
3 possessing marijuana then that means we're giving
4 them summons for possessing marijuana so it's
5 almost the same logic, it just keeps them out of
6 jail, but the majority of those that do answer the
7 summons or rather the ones that do not answer the
8 summons it's going to turn into an arrest warrant
9 anyway. And so I'm very concerned about how we move
10 forward in making sure that we have the funding and
11 the resources that are necessary and in place to
12 deal with the capacity that we project and the
13 capacity we're dealing with now.

14 ELIZABETH GLASER: Great. Look forward
15 to working with you.

16 CHAIRPERSON LANCMAN: Before, before we
17 let you go and before Council Member Williams gets
18 a question, his questions together we received a
19 statement from the District Attorney from Brooklyn,
20 Ken Thompson which is very brief and I think worth
21 reading considering the perspective that he has on
22 the, on the system. So just indulge me for about
23 two minutes while I read this two page statement
24 from District Attorney Ken Thompson. Over 450
25 thousand summonses were filed last year. That high

2 number of tickets naturally raises concerns over
3 their issuance and adjudication. Further that
4 number will undoubtedly soon sore with the
5 implementation of the New York City Police
6 Department's new policy of issuing tickets rather
7 than making arrests for the possession of small
8 amounts of marijuana. I commend the city council
9 for holding this hearing to shine a light on the
10 operation of the city of summons courts. As the
11 chief law enforcement officer in Brooklyn I must
12 always ask; are the laws being enforced fairly, is
13 justice being served both in regards to an
14 individual accused of an offence and with regards
15 to the community as a whole, is public safety being
16 advanced. I have asked these questions in the
17 context of the issuance and adjudication of
18 summonses and I'm troubled by the answers that I
19 have been forced to confront. This is from the
20 district attorney. Because, because people of
21 color... this is good you're going to want to hear
22 this. Because people of color appear to be
23 receiving a disproportionate number of summonses
24 the public naturally begins to question the
25 fairness of law enforcement and the criminal

2 justice system as a whole. There is pending
3 litigation, pending federal litigation concerning
4 how the police in the past decided to issue
5 summonses. We have a new mayor and a new police
6 commissioner. The commissioner has publically
7 stated that it would probably, quote probably be
8 appropriate to change close quote the summons form
9 to include a checkbox for the race/ethnicity of the
10 person receiving the summons. It should go without
11 that summonses should be issued in a colorblind
12 manner. Going forward the city council should
13 monitor whether that practice is in fact followed.
14 Summonses can ensnare individuals into the criminal
15 justice system and burden them with direct and
16 collateral consequences in a way that is
17 disproportionate to the petty offences that these
18 individuals are accused of having committed. The
19 assembly line justice on display in most of the
20 summons court parts only exacerbates the problem ad
21 leaves the public doubting the procedural fairness
22 of our system. Arrest warrants are routinely issued
23 for individuals who fail, failed to appear in court
24 irrespective of the reason for any nonappearance.
25 Defendants have little opportunity, often less than

2 36 seconds in view and earshot of the entire
3 courtroom to consult with an attorney and ensure
4 that any guilty plea is truly knowing and
5 intelligent. Convictions even for violations and
6 civil judgments against those who failed to pay
7 fines can have wide ranging and long lasting
8 ramifications. Ultimately the collateral
9 consequences of any conviction for these petty
10 offences can sabotage rather than advance the goal
11 of public safety. Ideally I would like to see
12 throughout the city more community justice centers
13 like the one we have in Red Hook Brooklyn to handle
14 these kinds of petty offences. The Red Hook
15 Community Justice Center processes these cases in a
16 way that has successfully fostered a sense of
17 procedural justice in the community and has reduced
18 recidivism. While the city council is contemplating
19 how the summons court operation might, could be
20 ameliorated I would encourage the council to
21 consider how it might facilitate the establishment
22 of more such justice centers in other neighborhoods
23 in our city. Coming from the Brooklyn District
24 Attorney I thought it was worthwhile to read those
25 statements. And he almost puts in a plug for our

2 own community justice center in Queens which we
3 might be talking about some day in the near future.
4 With that we'd love to hear from Council Member
5 Jumaane Williams.

6 COUNCIL MEMBER WILLIAMS: Thank you Mr.
7 Chair, Madam Chair and the distinguished panel.
8 Sorry that I, I missed most of the testimony so if
9 I repeat some things I'm sorry but actually... the,
10 the actually the Brooklyn DA touched on the things
11 I want to talk about. But the, my first question
12 was and you probably said how many people get
13 summonses in New York City and then I wanted to
14 know how many of those summonses turn into
15 warrants?

16 JUDGE JACKSON: Yeah earlier just to
17 give you the raw, the raw data we, I said that
18 there were over 458 thousand in 200, 2013 that were
19 filed in criminal court and let me just see I'll
20 get, and what was your question?

21 COUNCIL MEMBER WILLIAMS: How many of
22 them turn into warrants... [cross-talk]

23 JUDGE JACKSON: Here we go 73,392 that
24 were issued out of the 450 odd thousand that I gave
25 you in 2013.

2 COUNCIL MEMBER WILLIAMS: 2014... what
3 percentage is that, somebody do that really quick.
4 Anybody.

5 CHAIRPERSON LANCMAN: Well bear, bear in
6 mind also that, that... testimony earlier that about
7 almost 90 thousand of the 458 thousand summonses
8 that are issued are defective on their face in some
9 way. So that 70 something thousand is actually a
10 much larger percentage if you're looking at the
11 actual number of valid summonses that are issued.

12 COUNCIL MEMBER WILLIAMS: That's a
13 pretty large amount of people I guess walking
14 around with warrants for something that probably
15 would not have been arrestable. Also, so there's
16 been a talk and that the, the DA brought it up
17 about whether information includes race/ethnicity
18 and I keep hearing different responses of why and
19 who has the ability to put it back. Do you know...
20 did you bring that up already?

21 ELIZABETH GLASER: Yes, this is...

22 COUNCIL MEMBER WILLIAMS: Okay, who has
23 the power to bring it back? Oh sorry. Just want to
24 know who has the, the power to bring it back.

2 ELIZABETH GLASER: So this is something
3 that actually we're working on now. There's a
4 little group of defenders, DAs, courts, my office,
5 advocates looking at the form and figuring out you
6 know how it can change. So more or less sort of the
7 short version is the city can change it but in
8 conjunction with the courts. So sometimes it has to
9 be a court rule... correct me if I'm wrong here, that
10 then requires approval by the court system for the,
11 for the document to change.

12 COUNCIL MEMBER WILLIAMS: So I have a
13 billing to try to fix some of that so I'd love to..

14 ELIZABETH GLASER: Yeah.

15 COUNCIL MEMBER WILLIAMS: ...join that
16 conversation.

17 ELIZABETH GLASER: That would be great.

18 COUNCIL MEMBER WILLIAMS: Particularly
19 now with Vision Zero there'll probably increased
20 ticketing activity on the roads as well.

21 ELIZABETH GLASER: Yep.

22 COUNCIL MEMBER WILLIAMS: And someone
23 probably mentioned it but the, the bicycle arrest..
24 did you mention? So we've had obviously they try to
25 say the reason that some of, there's more increased

2 activity with police is usually around violence in
3 this communities but even the non-violent summonses
4 shows an amazing degree of not being applied
5 properly. So it just concerns me that we have the
6 data for the, actually for 2000, 2011, we don't
7 have it anymore and we're probably sure that it's
8 still inconsistent. But I don't want to take up too
9 much time because I came late and it seems like a
10 lot of my questions were already asked. But I'm
11 glad that you have, you were here, and I'm very
12 happy this conversation is happening because the
13 city I think is going through a very important but
14 tense discussions about criminal justice system in
15 general. And I think it's very very important that
16 we don't just focus on the police department but
17 many of the institutions that I think kind of do
18 similar things that they don't, they shouldn't get
19 a pass in this conversation right now so I'm glad
20 we're having it, thank you.

21 CHAIRPERSON LANCMAN: Thank you.

22 COUNCIL MEMBER WILLIAMS: Sorry...

23 CHAIRPERSON LANCMAN: Council Member
24 Cornegy...

2 COUNCIL MEMBER WILLIAMS: Sorry... you
3 were going to ask a question? Alright I'll let,
4 I'll let Cornegy ask a question.

5 COUNCIL MEMBER CORNEGY: I just wondered
6 Ms. Glaser or the, or any of the panel are you
7 aware of the safe surrender program that we have
8 in, in, in Brooklyn and we spend..

9 ELIZABETH GLASER: Yep.

10 COUNCIL MEMBER CORNEGY: ...a tremendous
11 amount of money trying to do on a regular basis
12 which helps to mitigate some of the summonses. I
13 want to know if going forward the marijuana tickets
14 will be included in that, in, in, will be able to
15 be included in the Safe Surrender program?

16 [cross-talk]

17 JUDGE JACKSON: Actually I did mention
18 the Safe Surrender a little earlier. Absolutely,
19 it's all tickets that are part of the Safe
20 Surrender program. So going forward it would
21 include the marijuana tickets.

22 COUNCIL MEMBER CORNEGY: I, I do want to
23 say though it seems like an extreme amount of money
24 that we spend within our districts and through city
25 council funding to get the safe surrender programs

2 up and running and it seems like on the front end
3 we would do a little bit more to reduce the number
4 of tickets we wouldn't have to have safe surrender
5 programs. So I mean I'm glad that we have them in
6 my district because they being extremely helpful in
7 putting young peoples' lives back on track in a
8 safe environment that they're accustomed to and,
9 and with their pastors ad with the community you
10 know but it's one of those things where we
11 shouldn't have to have a Safe Surrender program so
12 I really would like to work to make sure that we
13 can minimize the, the issuance of these tickets. So
14 on the back end we're not spending tremendous money
15 to try to mitigate that. Thank you.

16 CHAIRPERSON LANCMAN: Alright that's it.
17 Thank you so much for your testimony this morning.
18 We appreciate it and we look forward to working
19 with you and, and we'll be following up with some
20 of the things we talked about.

21 JUDGE JACKSON: Terrific.

22 CHAIRPERSON LANCMAN: Thank you very
23 much.

24 JUDGE JACKSON: Great, thanks.
25

2 CHAIRPERSON LANCMAN: Okay our next
3 panel will be those who provide legal defense
4 services to people who find themselves in summons
5 court. So I think we have two individuals from the
6 legal aid society; Will Gibney and Justine Luongo,
7 and we have Jeremy Kaplan-Lyman from Bronx
8 Defenders, Alison Wilkey from Youth Represent, and
9 Lisa Schreibersdorf from Brooklyn Defender
10 Services. I think we're going to need a bigger
11 boat. Can we get a second table? Okay. Also if we
12 could hear in this panel Matthew Shapiro from the
13 Street Vendor Project. We're going to make it nice
14 for you. Just be patient. That's nice. Good morning
15 and welcome. If you could each introduce yourself
16 and your organization and then we can take you
17 testimony in, in that order, from left to right.

18 JUSTINE LUONGO: Thank you very much. My
19 name is Justine Luongo and I am the attorney in
20 charge of the criminal practice at the Legal Aid
21 Society and I wanted to thank both you and Council
22 Member Gibson for inviting us to participate today.

23 WILLIAM GIBNEY: My name is William
24 Gibney. I'm the director of the Special Litigation
25 Unit at the Legal Aid Society.

2 JEREMY KAPLAN-LYMAN: Good morning.

3 Jeremy Kaplan-Lyman. I'm with the Bronx Defenders.
4 I regularly take clients from community intake and
5 represent them in summons court in the Bronx.

6 ALISON WILKEY: Good morning. Alison
7 Wilkey from Youth Represent. I'm the director of
8 policy and legal services. Youth Represent provides
9 re-entry representation to youth age 24 and under
10 in New York and we do provide representation in
11 summons court to our clients.

12 LISA SCHREIBERDORF: Lisa Schreiberdorf,
13 executive director of Brooklyn Defender Services.

14 MATTHEW SHAPIRO: Matthew Shapiro, I'm
15 staff attorney from the Street Vendor Project at
16 the Urban Justice Center.

17 CHAIRPERSON LANCMAN: Terrific Tina you
18 want to kick us off?

19 JUSTINE LUONGO: Thank you. So I want to
20 begin Council Member Lancman with answering your
21 original question and that was is the Broken
22 Windows policy causing broken courts. And I think
23 from what we've heard this morning both from OCA
24 and the Mayor's Office of Criminal Justice and from
25 all of you who pose such poignant questions there

2 is no doubt that on behalf of the Legal Aid Society
3 who's the primary public defender of over 230
4 thousand indigent New Yorkers in the criminal
5 justice system that I can see as their chief
6 attorney the answer to that is yes. Not only is it
7 creating a broken court system but as we witnessed
8 this morning and throughout this weekend it is
9 creating a disbelief that we can actually change
10 the system to make it better. And when you sort of
11 look at the disproportionality of where these
12 summonses are being issued in communities of color
13 throughout the city and you couple that with a
14 system where I think Judge Jackson poised it best
15 to remind us that while we may in fact consider
16 these I quote petty offences that these are still
17 the same crimes and violations that are charged in
18 accusatory instruments and litigated fully in
19 criminal court and supreme court by not only the
20 Legal Aid societies lawyers but many of the
21 private, prime, public defenders that are sitting
22 at this table. And so it begs the question as to
23 why in which we have these two systems that
24 actually are supposed to adjudicate people
25 similarly on similar offences be so very different.

2 Legal aid society and many of the public defenders
3 here are actually not charged or contracted to
4 provide any summons relief or representation. We go
5 on behalf of our clients when we have cases but by
6 in large it is a system that is given exclusively
7 over to the representation of the 18-B panel. But I
8 witness and so do my colleagues, and I was at court
9 last week when I witnessed that we were told that
10 on the day that I visited at 346 Broadway there
11 were close to 350 summonses for both Brooklyn and
12 Manhattan for a total of 700. And when I showed up
13 at the court at 12:15 and looked in the audience,
14 if you think about that number it should be packed
15 to the gills and yet there was only a few rows of
16 people still left. So that meant that those cases
17 for that moment, morning were actually done not
18 between 9:30 and 5:00 but between 9:30 and 1:00
19 when the court goes down for lunch. So when we look
20 at the staggering numbers and I think Judge Jackson
21 also pointed this out this morning that there are
22 350 thousand scheduled summonses in the parts in
23 eight court rooms. And when you look at that in
24 comparison to the figure she gave that we all know
25 in criminal and supreme court that it's 365

2 thousand cases, almost exactly the same that are
3 adjudicated in criminal court and supreme court in
4 86 court rooms. You wonder why we have a crisis.
5 Actually you don't have to wonder at all. So it's
6 not a wonder to me that even the 18-B attorneys who
7 are there only have seconds to stand on a record.
8 They don't interview anybody or very few people in
9 advance to find out what happened. They can't
10 advise somebody after they leave after an ACD is
11 given or a fine is paid they're not able to advise
12 a person on the consequences that actually might
13 happen. And while these are petty offences you will
14 hear from my colleagues and Mr. Gibney that the
15 consequences, the life altering devastating
16 consequences for somebody that is a non-New Yorker
17 or in employment or in family or a student could
18 actually devastate a life. So when you see 30
19 seconds on a record and actually I timed it, it was
20 a bit less than 30 seconds it's no wonder that
21 we're here today. So I asked the city council and I
22 did hear this morning that there were reforms but
23 there are important other questions. How many
24 dollars of the city gets resourced for the
25 training, the representation, in, for the 18-B

2 panel? Why is it that we're only actually hearing
3 those cases from 9:30 to 12:00 and not 9:30 to
4 5:00? Why can't we figure out a way to create a
5 system that gives the same representation to
6 clients in criminal court at 100 Center Street two
7 blocks away than at 346 Broadway? There is a role
8 and I will say that we believe the institutional
9 providers can play and should play and we'd like to
10 play but the reality is that the system needs a top
11 to bottom approach. If you want to stop people from
12 warranting start questioning how people can get
13 there between 9:00 and 1:00 when they have family,
14 jobs, or homeless. Many of our clients when a bench
15 warrant is issued is ripped out of their homeless
16 shelter on that bench warrant and brought at 12:00
17 midnight to our criminal courts where our lawyers
18 actually do represent them to get the warrant
19 lifted but I raise this question, how do they get
20 back to their shelter bed? They've just lost it.
21 How do they travel on a train when our homeless
22 clients have no metro cards? Aren't we really..
23 really rethinking this as how do we make these
24 courts accessible but first and foremost and I go
25 back and I will send them to my colleagues, the

2 real question is how do we fix the Broken Windows
3 system on the front end so that we could solve it
4 much better in summons criminal court and supreme
5 court? Thank you.

6 WILLIAM GIBNEY: William Gibney, Legal
7 Aid Society. I was asked to discuss some practical
8 solutions to the problems that we've heard about
9 today so we have come up with a number of ideas. I,
10 I, summons court is where the, the full impact of
11 the Broken Windows policing, the effect of it is,
12 is, is really felt. One of the statistics that,
13 that came out this morning was that open container
14 violations are like five times as many as any, any
15 other violation in the, in the summons court. You
16 don't see those tickets being given out in, in, in
17 white neighborhoods, in suburban neighborhoods. You
18 see those being given out almost exclusively among
19 communities of color in this city. And that, that
20 is just, I can think of no better illustration of
21 the problem about Broken Windows than, than that
22 fact that we see playing out in the summons courts.
23 Some ideas for, for solutions. Some of these, some
24 of the offences that we see returnable in the
25 summons court are, are city offences. And a number,

2 and a number of the collateral consequences occur
3 because right now the city classifies them as
4 misdemeanors and not, not as, as violations. So one
5 thing that the city could control would be to
6 classify some of the, some of the offences that are
7 frequently seen in summons court, riding a bicycle
8 on a sidewalk, park curfew violations, park
9 violations, health code violations, noise
10 violations. Move them down from misdemeanors into,
11 into the summons areas and then you don't see as
12 many of the collateral consequences because for
13 employment purposes if, if you have to answer that
14 you have been convicted of a crime that, that
15 brings an entirely different consequence than if,
16 than if it, you're, you're convicted of a
17 violations. Violations are not crimes under New
18 York law. Ways to avoid unnecessary warrants. In
19 the, in the, in the desk appearance tickets that
20 are issued in criminal court the criminal justice
21 agency sends reminders to people in advance of
22 their court dates that, that you're, you're due in
23 court on a certain day, this is a reminder, please
24 come. We think that has an impact on reducing the
25 number of people who don't, don't appear. We really

2 like the idea of expanded partnerships with faith
3 based and community organizations to encourage
4 their members to, to come to court. Return dates
5 and times and location should be more flexible. If
6 you, if you know you can't make a court date you
7 should be able to call the court and say can I, can
8 I reschedule this and we can't do that right now.
9 We should extend summons court hours to, to hours
10 that are, are more available for people who have to
11 work. The locations. We, we talked about community
12 justice centers earlier. The locations of the
13 return of these, of, of many of these things should
14 be expanded. Is there a reason why if I get a, a
15 summons in Queens that I have to go to the Queens
16 court? What if I work in Manhattan, couldn't I go
17 to the Manhattan court if I have to appear in court
18 at all to, to take care of that? Those type of
19 flexibility in, in times and location should be
20 explored. We should stay warrants for the first
21 non-appearance. First time a person doesn't show we
22 don't have to issue a warrant we could, we could,
23 we could send a reminder and say that, that you
24 missed a court date, if you don't appear again a
25 warrant will issue. We should ask the police

2 department to reconsider the policy of
3 automatically arresting anyone who has a, has an
4 open warrant. We just heard some discussion about
5 the need for proportionality here. If I have a five
6 year old open container violation is there really a
7 need to arrest me and put me through the system you
8 know in that full blown arrest process for a five
9 year old warrant? And we should expand and, and
10 institutionalize community, community based safe
11 surrender programs. We heard a lot about the
12 quality of, of legal representation. I won't repeat
13 all that. We are available to help provide that
14 representation and we have experience in providing
15 quality representation. There is a tremendous
16 problem of, of racial disparity not only in the
17 summons court but through the criminal justice
18 system. One feature that was noted about summons
19 court is that we no longer can collect data on
20 ethnicity and, and, and sex of the individuals. We
21 have to, we have to go back and get that data. So
22 one, one of the things is transparency. If we can
23 provide some transparency as to what's really going
24 on in these courts then we're going to be a lot
25 more, a lot better position to, to cure the

2 problems. With data we can, we can, we can shine a
3 light on what's going on. The, we think this should
4 be a broad plan to, to address the issue of racial
5 disparity in the criminal justice system. That's a
6 problem that is not just I summons court, it's
7 throughout the city of New York. We should stop
8 illegal searches. The council has intro 541 about a
9 consent, a written consent to a search before... We
10 think that's a good idea. It would, it would stop
11 the number of abusive arrests that are going on.
12 And we should institute a plan to dismiss stale
13 warrants. The test we're... on behavioral justice one
14 of the discussions that came up was it really makes
15 no sense to have that five year old open container
16 warrant. We should, we should declare at some
17 point, two years maybe that warrants are stale. You
18 know the criminal justice system no longer has a, a
19 need to deal with this issue, it's just too old,
20 let's get rid of them. Thank you.

21 JEREMY KAPLAN-LYMAN: Good morning. My
22 name is Jeremy Kaplan-Lyman. I'm with the Bronx
23 Defenders. As I mentioned before I regularly work
24 in the summons part as well as representing clients
25 in misdemeanor criminal court in the Bronx. The

2 Bronx Defenders represents about 30 thousand Bronx
3 residents every year. We provide holistic defense
4 both in civil, criminal, and family practices as
5 well as immigration. I'd like to start by just
6 perhaps correcting some inaccuracies from some of
7 the earlier testimony at least as they apply to the
8 court system in the Bronx I was glad to hear that
9 y'all had an opportunity to visit some summons
10 parts and it sounds like what you experienced in
11 those summons part is consistent with what I see in
12 my practice in the Bronx. The first time I visited
13 the summons part in the Bronx I walked into the
14 judge yelling at an attorney, do I have to come
15 down there and tell you to do your job. The reason
16 he yelled at that attorney is because his, that
17 attorney's client did not want to plead guilty to a
18 crime he did not commit. That's a typical day in
19 the summons part in the Bronx. The part handles
20 about 300 cases a day, that's a single court part.
21 As we've heard there's a few attorneys in there,
22 one judicial officer. That extreme volume puts an
23 immense amount of pressure on attorneys and judges
24 alike to force people to plead guilty with minimal
25 consultation. So let me just briefly describe a

2 typical appearance in summons court for individuals
3 that don't have attorneys that they've either
4 retained or attorneys that they might otherwise
5 have through the Legal Aid Society or the Bronx
6 Defenders in their open case already. Your
7 appearance starts by showing up at 9:30 a.m.
8 however you could wait at least in the Bronx up to
9 two hours. I've heard that the wait times are very
10 much longer in other boroughs. When you come to
11 court you often have no idea what charges you are
12 facing. Sometimes there is a code written on the
13 face of your summons if that is legible. However I
14 haven't met a client yet who understands what
15 PL24020 means with, without further explanation.
16 Nor are you notified of the actual factual
17 allegations with which you are charged. So
18 essentially when you walk into that court room you
19 have no idea whether or not you actually, what
20 you're being charged with and whether or not you
21 should be taking your case to trial. Now this is
22 extraordinarily important because of the
23 underlying, the, the underlying poor quality that
24 goes into the writing of these summons in the first
25 place. I would just note that I have had several

2 clients have been accused of, of factual
3 allegations that have no relationship to what they
4 were actually doing on a day. I had somebody who
5 was repairing a car in his out, in front of his
6 house and he was charged with violating a tax
7 section of the administrative code. So without
8 knowing those factual allegations how is a client
9 supposed to make an informed decision? Once you get
10 in front of the judge you have seconds to make up
11 your mind. The lawyer, you may want to ask your
12 lawyer a question or you might want to take the
13 case the trial the judge will often yell at you.
14 Your lawyer might want to ask you a question, the
15 lawyer might try to answer your question, the judge
16 will often yell at the lawyer. I've regular be,
17 regularly been yelled at by judges in the summons
18 part for trying to explain what the offer that the
19 judge has made to them. That, that fast pace
20 continues on trial dates as well. The summons parts
21 in the Bronx routinely handles over a dozen trials
22 in under two hours. So we're talking about a few
23 minutes per trial. Again if you try to make any
24 kind of argument the judge is going to shut you
25 down and start yelling. I just want to address two

2 other things that came up earlier. There's a
3 discussion of the interpreters. My experience is
4 very different from what Judge Jackson represented,
5 the access to language interpreters is in the
6 courts. In the Bronx there's one interpreter, it's
7 a Spanish interpreter. He is, because of the volume
8 of the court and because many of the residents of
9 the Bronx are Spanish speaking he is essentially
10 always in the court part. There's no availability
11 of consulting with an interpreter outside of that
12 court part. If you want another interpreter I
13 suppose that's possible but your clients probably
14 asked, going to be asked to wait all day before
15 they get that other interpreter. Particularly
16 because the criminal court parts tend to have
17 priority in getting access for example to the
18 Arabic language interpreter or the mandarin
19 interpreter. So I don't think there's good access
20 there with that regard. Finally I'd just like to
21 address the facial insufficiency numbers. I think
22 those are vastly understated. I could, about, I
23 would estimate probably 40 to 50 percent of my
24 clients have summonses that are just basically
25 face, facially insufficient... especially true with

2 disorderly conduct summons which you guys can see
3 from the criminal court stats are an
4 extraordinarily high number of summons are being
5 issued each year. In my experience... summons that
6 are being issued most abusively by the police
7 department, by the NYPD which is to address that
8 question earlier. My sense is that if somebody does
9 not give a police officer an attitude they like
10 they receive a disorderly conduct summons for
11 failure to disperse as a result just like my client
12 who asked the officer why he was being pulled over
13 in his car, he got a failure to disperse summons
14 which is hard to see because he was sitting in his
15 car by himself. This assembly line model of justice
16 might not be particularly concerting on its face
17 but as has already been mentioned many of these
18 charges are misdemeanors even violations can have
19 collateral and consequences including loss of jobs,
20 immigration consequences, and loss of public
21 housing benefits. I would just further note as to
22 the warrants... I also would have to correct just,
23 Judge Jackson's representation as to warrants go,
24 as, as far as they go in the Bronx. My clients'
25 experience has been that it's extraordinarily

2 difficult to reschedule their appearances. I
3 regularly represent individuals that are brought in
4 in criminal court and arrested and, and the only
5 charge they're facing now is a summons warrant
6 because as soon as you get that warrant your next
7 contact with NYPD they bring you in in hand cuffs.
8 These are individuals that are, that are facing
9 often times open container violations. I question
10 the moral fairness of that system. I also question
11 whether or not that's a good use of our resources
12 with the NYPD and our court system. Finally I'd
13 just like to briefly address the fact that there's
14 also economic consequences to the summons system as
15 well. Bronx Defenders recently just did, did a
16 study in the desk appearance tickets in the part of
17 the Bronx which operates in a similar manner to the
18 summons parts except there's more consultation with
19 attorneys. We found that 70 percent of our clients
20 that have jobs are missing work and are losing
21 money as a result of their appearance in court,
22 losing well over 100 dollars a day in income,
23 that's not counting the teenagers that come in with
24 their parents whose parents are also missing work
25 nor is it counting childcare costs. So it's another

2 factor that should be considered. I, I think the,
3 the policy suggestions have already been laid out.
4 We would definitely agree with those. I would just
5 add a couple. I think first there needs to be some
6 oversight of the judicial hearing officers in these
7 parts. I can't say that all judicial hearing
8 officers have poor judicial temperament but I can
9 say it is far more frequent than you will see in
10 any other criminal court part in the Bronx. We
11 would also argue that there's some, there are some
12 opportunities for other options of disposing of
13 these. The, there could be an expansion of which
14 offences you could mail in, respond by mailing in
15 your, your guilty plea. However if that, if that is
16 going to be expanded it needs to be done so in a
17 way that avoids a mesh in collateral consequences
18 as a result of those pleas. So if somebody is
19 charged with marijuana they should not be allowed
20 to plead guilty to marijuana by mail because a
21 marijuana violation even has significant
22 consequences. The other thing I would just point
23 out is that with regards to the facial
24 insufficiency the notification system is apparently
25 not working if one exists. That's the pre-

2 appearance review. My clients routinely show up to
3 court only to be notified that their case has
4 already been dismissed. That client is missing a
5 day of work. And lastly as far as showing up,
6 having flexible appearance dates. I just...
7 adjudication bureau has a date certain by a system.
8 So you're given a summons, you can show up by a
9 certain date but you can also show up any date
10 before that day so you can schedule your appearance
11 around that system. I would just like to conclude
12 by pointing out that the summons system both at
13 court and the, the police is now the predominant
14 medium through which New Yorkers are interacting
15 with their police department and their court
16 system. I think that underscores the urgency of
17 addressing these problems. Thank you for your time.

18 ALISON WILKEY: Good morning. Thank you
19 so much for having this hearing and, and on this
20 important topic and for having me here. As I said
21 my office provides representation to youth age 24
22 and under who've been in the criminal justice
23 system and who are experiencing collateral
24 consequences. We began providing representation in
25 summons court in 2008 just based on the high need

2 of our clients. We don't have a contract with the
3 city we just had huge numbers of clients coming to
4 our office who had summons who didn't know what to
5 do or had bench warrants for summonses that they
6 wanted to clear so they could move forward with
7 their lives. So we began providing representation.
8 We are a small office but we are in the summons
9 courts in every five boroughs and are probably
10 there about once a week so we have a pretty good
11 view of what happens in the courts in all the
12 boroughs on a, on a weekly or daily basis. We have
13 grave concerns about what does, happens in the
14 summons court. First of all the racial disparities
15 really can't be ignored according to data from the
16 civil liberties union. 86 percent of summons are
17 given to people of color. When you look at the
18 neighborhoods where summonses are issued and this
19 is data from CUNY School of Law, 12 of the 15
20 neighborhoods with the highest number of tickets
21 for riding the bike on the sidewalk are majority
22 black and Latino neighborhoods and 15 of the
23 neighborhoods with the highest numbers of tickets
24 for disorderly conduct are all majority black and
25 Latino neighborhoods. And in terms of the data when

2 you look at the annual report from the court system
3 it looks like the open container summonses far
4 outweigh all of the other types of summonses but
5 that is partially because they break down the
6 disorderly conduct summonses into their different
7 subsections. So if you look at that chart that's
8 published every year, the bar chart, the disorderly
9 conduct offences are listed in several places. So
10 the disorderly conduct summonses are actually
11 really quite high and that is one of the primary
12 summonses that our kids come to us with and as my
13 colleague here from the Bronx Defenders said they
14 often don't know what the conduct they received the
15 summons for is from. They don't know why they got
16 it. They just know that the police came up, they
17 stopped them, and they said okay I'm just going to
18 give you a summons but they don't really know what
19 they did wrong. So taken together this is a really
20 huge problem that our young people are facing and
21 they really don't perceive this as a fair system.
22 So I'd like to dive into some of the issues that we
23 really see on a weekly basis in our summons courts
24 and a lot of them have been mentioned and I won't
25 repeat though. Particularly the right to effective

2 assistance of counsel there are generally only two
3 attorneys in each part. They don't consult with
4 people before their cases are called or at least
5 it's on a very rare basis. Cases usually last 20,
6 20 to 30 seconds. But one thing that hasn't been
7 mentioned is the attorneys aren't actually provided
8 with a copy of the accusatory instrument. They
9 don't actually see the allegations that the
10 person's being charged with. And this is the 18-B
11 attorneys, this is also my office. When we go in
12 they'll usually give us a copy to scan and we can
13 write down what's on there but we have to give that
14 back to the court. This actually violates the
15 criminal procedure law section 170.10 subsection 2
16 which says the defendant has to be, has to be given
17 a copy of the accusatory instrument and that's not
18 being done. As Judge Jackson said all summonses are
19 scanned into the court central database and they
20 can be printed out. Sometimes when we go in and to
21 check and see if a client has a bench warrant the
22 court clerk will just print it out for us. So
23 they're there in a database they can be printed out
24 and given but that's not being done and that is a
25 recommendation that I would have is that the court

2 start printing those out for attorneys and actually
3 follow the criminal procedure law. You know I, I'd
4 also just like to reiterate what is said about
5 attorneys and clients being yelled at. We see on
6 the daily basis that when people ask questions of
7 their attorneys, when they don't plead guilty fast
8 enough the judicial hearing officers yell at them.
9 And people are often forced to come back for
10 another court date or come back for trial simply
11 because they didn't plead guilty fast enough. And
12 even more concerning that, than that is on two
13 recent dates when staff from my office were at the
14 courts they witnessed the judicial hearing officers
15 calling cases without attorneys present. That was
16 on October 17th and December 3rd at 346 Broadway.
17 There were no 18-B lawyers in the courtroom. In the
18 first instance the JHO was asking people if they
19 wanted to come up without an attorney telling them
20 that it didn't really matter whether they had an
21 attorney or not and taking pleas on cases. In the
22 second instance the JHO began calling cases from
23 the calendar and was also asking defendants
24 questions like why do you smoke marijuana and he
25 was also taking pleas on cases. When the clerk

2 informed the judge that the lawyers were on their
3 way the JHO said he would be done with all of the
4 cases by then. So I think there's a real lack of
5 oversight of what's happening in the, in these
6 courtrooms and how the judicial hearing officers
7 are trained and how they're handling their cases.
8 There's also a lot of due process concerns about
9 what happens. As Judge Jackson mentioned when
10 people sign at the Clerk's Office they're given a
11 form that they have to sign waiving their right to
12 have their case heard by a judge. But they're
13 required to turn that in as soon as they go up.
14 They actually never discuss that decision with an
15 attorney. And waiving a right to have your case
16 heard in front of a judge should be a decision made
17 in consultation with an attorney but that's not
18 happening in the courts right now. Also there's a
19 lack of individualized justice in our courts right
20 now. In some of the summons parts JHOs get up in
21 the morning before they start calling cases and
22 give a little speech saying that if you urinated in
23 public it'll be a 50 dollar fine, if you had an
24 open container it'll, it'll be a 25 dollar fine.
25 Basically expressing to the court that they have no

2 interest in hearing the particularized details of
3 anyone's case. One JHO was witnessed by me actually
4 saying that the longer that your case goes on the
5 worse it will get for you. These are serious
6 problems with what's happening in the court and how
7 people are really perceiving the fairness of their
8 courts. People are also never properly allocated,
9 they're told that you plead guilty to a violation
10 or a fine and their attorney usually says pay today
11 or need time to pay but they're never asked
12 affirmatively if you're pleading guilty, if they
13 understand that they're waiving constitutional
14 rights or if they, or if they're pleading guilty of
15 their own free will. And those are basic
16 constitutional rights that the court of appeals has
17 said over and over again are important and will
18 also invalidate a guilty plea. So all of the pleas
19 being taken in summons court could basically be
20 appealed at any point and overturned on that basis.
21 In addition to that I'd like to talk about the
22 trials very quickly. When a trial is conducted the
23 JHO is usually playing the role of both the judge,
24 the finder of law and fact, and the prosecutor. As
25 the JHO who questions, who directs the police

2 officer in their testimony and then cross examines
3 the defendant if the defendant chooses to testify.
4 But these trials don't last more than a few minutes
5 and usually basic elements of criminal law were
6 missed. In a recent appeal to the appellate... second
7 department the court overturned a conviction for
8 disorderly conduct and in overturning that
9 conviction they cited the disorderly conduct
10 statute and 30 years of case law that talks about
11 how there has to actually be a risk of destruction
12 or public inconvenience or public annoyance or
13 alarm to be convicted of that crime. And in this
14 particular trial in summons court there was
15 actually no testimony or evidence that there was a
16 single member of the public present. So some of the
17 basic elements of criminal law are just being
18 ignored. There's also the procedural injustice and
19 I'd like to talk about the warrant issue just
20 briefly. When a person's given a carbon, the pink
21 carbon copy of the ticket if they fold it up and
22 put it into their wallet or their pocket it
23 actually becomes impossible to read. So we have so
24 many young clients who come in with their ticket
25 that's completely unreadable who don't know when

2 their court date is. They can't find that
3 information. There's no information on the court's
4 website. And I know Judge Jackson said there was a
5 phone number that could be called but we've tried
6 calling that number many many times and no one has
7 ever answered that phone number. So it's pretty
8 impossible without going to the court house to
9 figure out when your court date is if you miss it
10 or if you think you may have a bench warrant. Even
11 if a person is determined to go to their court date
12 there is significant hurdles. The addresses listed
13 on the summonses aren't always where you're
14 supposed to be. So at 346 Broadway the entrance is
15 actually around the corner in an unmarked door at
16 108 Leonard Street and there's no sign on that door
17 that says that it's summons court. At the Queens
18 summons court the entrance is actually around the
19 back of the building, not at the front of the
20 court. So it's pretty find, hard to find where
21 you're going. Also at 346 Broadway once you get
22 into the building there are very few signs telling
23 you where to go and there are often people floating
24 through the hallways and the elevators with no idea
25 where they're supposed to be. And for those with

2 limited English language proficiency these problems
3 become even more difficult. As to the collateral
4 consequences they are severe. They've been talked
5 about a lot but I'd like to point out that the
6 marijuana violation can cause someone's college
7 financial aid to be suspended. And although the New
8 York City Public Housing Authority is no longer
9 considering violations as a bar it can be used as
10 proof of a tenant's undesirability. But I'd also
11 like to tell you a little story about what happened
12 to one of our clients. We had a client who
13 graduated from a job training program, got an
14 interview with an employer, they made her a job
15 offer subject to a background check. They did the
16 background check and she had a summons warrant from
17 when she was 17 years old for being in the park
18 after dark. So they rescinded the job offer.
19 Luckily she had us and she called us and we were
20 able to go and get the warrant cleared up and
21 called the employer and give them proof and within
22 two days we had all of this done and were able to
23 get her the job back but that's not the reality for
24 most New Yorkers who don't have a lawyer on call
25 who can do that for them. So these warrants do

2 cause significant problems for people. If someone
3 has a warrant and they're walking down the street
4 on the way to work and a police officer stops them
5 they will be put in handcuffs and taken to court
6 with no opportunity to call their job and tell them
7 that they're going to be late. And according to a
8 recent article in the daily news there are over 1.1
9 million outstanding bench warrant for summonses. So
10 I agree with the recommendations that my colleagues
11 have said. I also think there should be a grace
12 period for bench warrants, they could stay the
13 bench warrants. There just also needs to be
14 adequate signage in and around court houses so
15 people can tell where they're going. Their staff,
16 clerk phones need to actually be staffed. JHOs need
17 to be trained. And there has to be some sort of
18 feedback or complaint mechanism for the judicial
19 hearing officers. Because they're not judges you
20 can't make an ethics complaint and you also can't
21 provide information to like an appointing or
22 electing body as you would be able to with a normal
23 judge and so there's very little way to, to pursue
24 JHOs who, who cause persistent problems. I would
25 advocate opening a weekend or a evening summons

2 part for people who can't miss work to appear on a
3 summons. And doing more of the amnesty programs
4 that the court does. I also think it's worthwhile
5 to consider working with the state legislature to
6 create an immediately syllable ACD for a summons
7 that could be accepted by mail so people could
8 actually take an ACD by mail. Some of the plea by
9 mail suggestions give me some discomfort because of
10 the collateral consequences that are associated
11 with a lot of the cases that come through summons
12 court because there misdemeanor. But an ACD by mail
13 would be an easy way to take care of a number of
14 these cases. So thank you so much for your time.

15 LISA SCHREIBERSDORF: Hi, my name is
16 Lisa Schreibersdorf. I'm the...

17 CHAIRPERSON LANCMAN: Recognize we've
18 also been joined by Council Member Chaim Deutsch
19 from Brooklyn. Thank you.

20 LISA SCHREIBERSDORF: My name is Lisa
21 Schreibersdorf. I am the executive director of
22 Brooklyn Defender Services. We represent more than
23 40 thousand people who get arrested each year. We
24 also represent about 1,000 parents who are facing
25 accusations by ACS and about three to 400 people

2 through the New York City's NYFA [sp?] project
3 where people who are being deported are represented
4 by us in immigration court. We see people who have
5 summons in their history and also summons warrants
6 in all of those capacities. We also like Bronx
7 Defenders help people if they are already our
8 client or they just managed to find us and we go to
9 summons court with you know plenty of people.
10 Unfortunately our summons court is in 346 Broadway
11 so it's a little harder even to just give somebody
12 an attorney. You know it's not just going to the
13 same building they would otherwise go to but we do
14 do it. I don't want to reiterate what everybody has
15 said because I think they did a fantastic job of
16 really explaining the horrors. So I think I'd like
17 to just fill in maybe a few gaps that I think would
18 be, would just help you know I guess fully
19 understand the issue and maybe a couple of
20 recommendations. The first thing I really wanted to
21 talk about though was the immigration consequences.
22 I just wanted to really put kind of on record what
23 those consequences are because a lot of people
24 obviously in Brooklyn have, are not citizens. And
25 just to give you one example if you received a

2 marijuana possession conviction even for a summons
3 and you were a green card holder it would block
4 citizenship eligibility for five years. The same
5 people could be subject to deportation upon return
6 from a trip. So they could have gone to court on a
7 marijuana case, taken a fine, with limited due
8 processes you heard about, and then they could go
9 visit their family of origin as a green card holder
10 and be refused reentry. The other thing, the thing
11 that's really important to know about citizenship
12 is we assume that because it's a summons it's not,
13 and especially if you plead guilty to something
14 that's not a crime you think that it's not going to
15 matter. But on a citizenship application they ask
16 you about convictions and arrests. And if you lie
17 about the fact that you were arrested in the hopes
18 that they don't find it you will then bar yourself
19 from further, you will definitely not get
20 citizenship and you will be barred for a long time
21 from reapplying. So it's very important. The other
22 thing if somebody's undocumented all the, these
23 amnesty and other type of benefits that could
24 happen... people once you have these convictions you
25 are often barred from receiving any of these

2 benefits in the future. And in fact you can, if you
3 had a marijuana conviction as an undocumented
4 person you will be legally barred from getting a
5 green card forever. So it is very important people
6 not only get good legal advice but that that legal
7 advice be obtained through a conversation where the
8 lawyer has enough time to actually find out if the
9 person was born in the country and if not what
10 their legal, what their immigration status is. By
11 the way easier said than done because people don't
12 even always know what their immigration status is
13 and frankly they're not about to share it with
14 somebody in a two second interview especially in
15 front of the court. So it's very important that
16 whatever attorney is there be in a position to have
17 a private conversation with somebody where they
18 have time to actually find out what the person's
19 immigration status is and give them good advice but
20 not just hey you could be deported for this but
21 actually say... well if the person said well if I can
22 be deported for this what is my option if I don't
23 take this. And that attorney has to be empowered to
24 say well if you don't take this you could then go
25 to court and you could go to trial which is

2 actually what happens. They do do trials downtown
3 at 346 Broadway but in the past and I think they
4 still do sometimes though I'm not really sure when
5 they send those summonses when people want a trial
6 back to criminal court in Brooklyn. I know they
7 were doing that year... they still do right... I know
8 they sometimes do them. So anyway I know Brooklyn
9 defenders for many many years we were the provider
10 for all cases that got sent back from the summons
11 part to Brooklyn court and at that time they would
12 appoint a prosecutor because they'd be in the
13 regular criminal court, they'd get a regular judge,
14 and they would get a defense attorney. And I want
15 to just go back to some of the issues that have
16 been brought up which is when we represent people
17 in that context we almost always find that the
18 summons is deficient. So that means that... and...
19 successful in arguing that. So that means that the
20 person, the judge that's reviewing those summonses
21 for insufficiency is missing a lot of them. That's
22 the first thing that means. The second thing it
23 means is that the people who appear and take these
24 fines do have other options where they can, if they
25 have a good attorney they do have a good legal

2 defense, possibly, I don't want to call a
3 technicality because that sounds rude but... The
4 thing is that those summonses are not written
5 properly because the person probably didn't do
6 enough to actually warrant the crime that they were
7 charged with. So in fact having an attorney who
8 understands the element and can argue you know what
9 you did not allege that there was anybody from the
10 public present as, as Ms. Wilkey explained then the
11 criminal court judge who knows the law well and the
12 prosecutor would say you know you're right and they
13 would dismiss it. And that has been our experience.
14 By the way that's also our experience at Safe
15 Surrender. When we do, we've done many many safe
16 surrenders in Brooklyn which is I think the only
17 place that you do them. And we've represent I want,
18 I want to say thousands of people in safe
19 surrenders in the community. And almost all of
20 those cases are also dismissed. In those cases we
21 do receive a copy of the summons because they print
22 them out with the computer when we walk, when the
23 person walks in and those things are set up to be
24 very friendly to the people that are there and very
25 lawyer friendly and we have plenty of time to

2 actually look over the paperwork, talk to the
3 client, and find out if they have any other
4 consequences. And in fact we've been really
5 successful in arguing to courts in that context
6 that those cases should be dismissed as well. So
7 what I think we realize is that these cases are
8 legally insufficient on the whole but because of
9 the shortage of time that the attorneys have they
10 cannot be properly litigated. Now I, I also agree
11 that the courts, they are overwhelmed and courts
12 are not well suited to providing individual justice
13 when they are not being held accountable for that.
14 JHOs that are appointed and I'll get back, I'll
15 explain that more specifically. Courts are, there
16 are a lot of cases, low level cases, the criminal
17 courts, the summons courts are very overwhelmed
18 with cases. It is very often the attorney, the, the
19 judges are under a lot of pressure to get through
20 the day. They have to shut the court room down by
21 4:30 with the budget restrictions. It is often the
22 attorney in a case where it needs to happen that
23 says to the court judge you need to slow down on
24 this case. This case is important in this context
25 for a certain reason. And without the attorney's

2 knowing you know what judge this guy may have, this
3 particular client has a, a student loan and cannot
4 take a marijuana ACD without losing those loans.

5 For an attorney to be able to stop the process and
6 say stop for one minute on this case, can we get an
7 immediate ACD... on this case. The lawyer has to have

8 the time to do that. And I don't want to say that
9 the judges aren't trying to do the right thing but

10 because of the pressure to move through the

11 calendar it is often, and I think this is true

12 throughout criminal court as well. It is the

13 attorney's knowledge of the problems that can

14 actually say... judge you want to pay attention to

15 this case for an extra 20 seconds. I did a little

16 bit of work, I did a few numbers before I came in

17 here today. I think that somebody told me there

18 were about 600 cases a day. In order to spend five

19 minutes with each client which is all it would take

20 to say you know where were you born, are you in

21 school, where do you live, and do you have a job. I

22 mean those are the four big collateral consequence

23 to just ask those questions and possibly get to the

24 bottom of it a little bit. You would need at least

25 10 attorneys, five minutes a pop right, 600 cases

2 to get them done by 1:00 which is how they do it
3 now. So there are customarily about two from what I
4 understand and may be wrong about the numbers and
5 my colleagues can correct me. But just to put it
6 out there there needs to be 10 attorneys and not
7 just attorneys who can say oh you're an immigrant
8 oh you could be deported and then run in and take
9 the plea but an attorney who could say you're
10 facing deportation for this, I recommend you don't
11 take this plea, why don't we adjourn it, let me get
12 a chance to look into the legal aspects of your
13 case and possibly we can litigate this case. So
14 that, in my opinion, is a good role for
15 institutional providers like myself and the others
16 at this, on this panel. I don't think that 18-B
17 lawyers should be omitted from this process because
18 they also have a lot of expertise but I do think
19 there is a role. I think institutional providers
20 are better at standing up to judges and saying no
21 we're not going to hurry and we're going to not
22 take, you know we're not going to take this plea
23 because they're backed up by their offices. I think
24 we do have a little more ability to go to a judge
25 and talk to the judge and say you know this isn't

2 really suitable, this is not okay, we can make
3 complaints to the court system. I think there are
4 things that are worth complaining about. I feel
5 there is some I guess independence on the part of
6 defender organizations where we can possibly take
7 on a role that might be useful. I want to just make
8 a couple of other recommendations that have not
9 been previously made and I support everyone that
10 was previously made. The first one is I want to
11 just reiterate we need to move Brooklyn summonses
12 back to Brooklyn. It's really unfair to our
13 community. Brooklyn is so vast even just to get
14 from you know Coney Island to downtown Brooklyn is
15 about an, over an hour on the train. To have people
16 go even further and go into Manhattan and it
17 doesn't seem like that big of a deal, it's an extra
18 couple of train stops but many people in Brooklyn
19 they don't know how to go to Manhattan. They don't
20 know where it is. They're not familiar, especially
21 younger clients who've really never been out of
22 their own little neighborhoods. So I would kind of
23 agree with my district attorney that possibly some
24 look at community courts. For this would be helpful
25 but I think that might be a long road to go down.

2 In the meantime there should be night and weekend
3 hours. There's no explanation for why if Nassau
4 County you get a moving violation you go in the
5 evening why that can't happen in, in Brooklyn
6 Manhattan and New York City which is a 24 hour a
7 day city. And I fact we, we do do arraignments in
8 Brooklyn until 1:00 in the morning, they could do
9 it in criminal court. I would also like to
10 recommend that there be, maybe instead of everybody
11 getting a summons to appear at 9:00 possibly that
12 could be broken up during the day. Why couldn't
13 some people come at 9:00 and not have to wait three
14 hours and other people come at 2:00 and possibly
15 break up the calendar or 2:00, 11, you know 11:00
16 and the police obviously are very good at figuring
17 out how many they're allowed to put at each time
18 frame and that might even give the person on the
19 street a chance to say hey can I do it at 2:00
20 instead of at 9:00. I would like to also just talk
21 a little bit about some of the summonses that are
22 actually the administrative code violations and I
23 would like to encourage the city council not just
24 to reduce those to violations which I agree with
25 but also to consider making rules about how

2 summonses on those kinds of cases can actually be
3 issued. And I'd just like to go back to the, the
4 dock laws that have been recently passed by the
5 city council on the issue of how the Department of
6 Corrections interacts with immigration and, and how
7 the police also interact with immigration. And the
8 city council's been extremely effective in
9 legislating how people, you know uniformed officers
10 operate in regards to how they give out summonses,
11 how they give out, how they interact with people in
12 the street. And because many of these
13 administrative code violations are actually.. I'll
14 just give an example. Bicycle on the sidewalk is an
15 administrative code violation written in, it's
16 written by the city council right and, and passed
17 by the council and the mayor a million years ago.
18 But it certainly could say something like the
19 penalty for this is whatever it is. However a
20 person under the age of 18 cannot be issued a
21 summons for this. And I would just you know go to
22 the fact that in family court a 15 year old is not
23 able to be charged with a violation. There's no
24 reason why a 16 and 17 year old could also be

2 immune from being prosecuted for violations that
3 are actually city based violations.

4 CHAIRPERSON LANCMAN: I just need you
5 to, to wrap...

6 LISA SCHREIBERSDORF: Okay.

7 CHAIRPERSON LANCMAN: It's all good
8 stuff but...[cross-talk]

9 LISA SCHREIBERSDORF: Sorry.

10 CHAIRPERSON LANCMAN: ...wrap up.

11 LISA SCHREIBERSDORF: Yes, I'm almost
12 done. So that, actually that's one of the most
13 important things I really wanted to say. We have
14 something, I think there's something like 4,000 of
15 the summonses were given to 16 and 17 year olds and
16 I think it would be really important to look at the
17 ways in which the council can actually legislate
18 for 16 and 17 year olds not to be eligible for
19 summonses. Jut have one more point. Those kids if
20 they do come and they get their fine and they don't
21 pay their fine and a civil judgment is entered that
22 civil judgment then follows them around. They may
23 not ever be enforced where they're going to pay the
24 25 dollars but they will when they try to go to

2 school or rent an apartment that civil judgment
3 will pop up.

4 CHAIRPERSON LANCMAN: ...credit...

5 LISA SCHREIBERSDORF: Right. And I just
6 want to say that we do have a lot of clients who
7 are rejected from schools, rejected from jobs
8 because their credit rating has been impacted
9 before they even started. Thank you.

10 CHAIRPERSON LANCMAN: Got it. Thank you.
11 Just want to recognize we've been joined by Council
12 Member Ritchie Torres from the Bronx. And finally
13 for this panel we'll hear from the Street Vendor
14 Project.

15 MATTHEW SHAPIRO: Good afternoon. My
16 name is Matthew Shapiro and I'm a staff attorney at
17 the Street Vendor Project at the Urban Justice
18 Center. The Street Vendor Project is a membership
19 based organization with more than 18 hundred
20 members who sell food, merchandise, and artwork
21 from trucks, carts, tables across the city and we
22 organize vendors to make their voices heard and
23 also provide legal representation civil and
24 criminal hearings across the city. Most of our
25 representation takes place at the Environmental

2 Control Board which is an administrative tribunal
3 where most street vendor summonses are adjudicated
4 but we also sometimes represent vendors at the
5 summons parts of the criminal court. A lot of what
6 I wrote in the testimony has already been said but
7 I'll, I'll just touch on a few things. The
8 Environmental Control Board is by no means a
9 perfect system. But there are some things that we
10 can take from them and hopefully bring that over to
11 the way criminal court summonses are adjudicated.
12 They talked about how defendants have to wait in
13 the court room for hours. It says everyone has to
14 appear at 9:30 so I agree with staggering the times
15 or setting up some sort of rescheduling mechanism
16 at the Environmental Control Board you can call a
17 number and have your case rescheduled before the
18 date. If you default you have up until 45 days
19 which I don't believe is long enough but you are
20 able to... the default without any questions being
21 asked. Talked about the lack of time that
22 defendants have to meet with their attorneys. This
23 is a, a huge issue. Defendants and their attorneys
24 only have a few seconds to chat before the judge
25 makes a decision. One recommendation that we made

2 is that we try to ask that street vendor summonses
3 all be adjudicated on one day. We ask this at the
4 mid-town community court but they said no. That
5 would allow us to provide more effective
6 representation to vendors at least because we have
7 a lot of expertise in that area. There was a
8 conversation before about attorneys being able to
9 effectively counsel their clients so I think that's
10 one step that we can take. I know they do it for
11 other groups of, other populations at Midtown
12 Community Court. They talked about the, the lack of
13 oversight of the judicial hearing officers in, in
14 these courts. I, I, I agree many of these hearing
15 officers are ill equipped to handle the cases that
16 are before them. I mean the rules and regulations
17 regarding street vending are really complicated and
18 a lot of time the, the judicial hearing officers
19 don't know what the law is, don't know the
20 difference between food vendor laws, general vendor
21 laws... They need to be better trained and needs to
22 be more accountability for these judicial hearing
23 officers. And they also need to show more respect
24 for the attorneys and for the defendants. We heard
25 some crazy horror stories. I don't have ones like

2 that but one time the judge was unable to pronounce
3 the name of an Asian defendant and said that he
4 should change his name to John Smith, whether
5 that's a joke it's disrespectful and judicial
6 hearing officers shouldn't be saying that to anyone
7 let alone defendants that are appearing before
8 them. It shows some of the bias that they already
9 have. And like I said the judges don't seem to be
10 accountable to anyone. Whether or not they dismiss
11 a case depends on not what the law actually is but
12 how they feel about a given case or defendant.
13 There are no written decisions and the judges don't
14 give any basis to the decisions that they make. At
15 least at the Environmental Control Board there are
16 written decisions that can be appealed and
17 eventually appealed up the judicial courts in
18 Article 78 proceeding. As a result many of the
19 defendants at the courts feel pressured into
20 accepting a guilty plea because they don't know the
21 advantages or potential consequences of taking the
22 case to trial. Finally we appreciate that the city
23 council is examining what happens at the court
24 house but it's important to remember that these
25 cases that are heard are primarily low level

2 offences that are enforced by the NYPD on the
3 street disproportionately on immigrants and people
4 of color. Example of these offences are reckless
5 skateboarding, unlicensed vending, being in a park
6 after it's closed, the city council can do its part
7 to change or repeal these laws and pressure the
8 NYPD to end the broken window system of policing
9 that disproportionately affects New York City's
10 most vulnerable communities. Thank you for the
11 opportunity to testify.

12 CHAIRPERSON LANCMAN: Thank you that was
13 very very interesting to hear from all of you. Let
14 me ask just some quick questions and then turn it
15 over to my colleagues. At, it's also very
16 interesting even though I was sitting with the...

17 [background sneeze]

18 CHAIRPERSON LANCMAN: ...with the chart...
19 Bless you. ...of most frequently charged summons
20 offences for 2013 and I saw that consumption of
21 alcohol is completely off the charts. But when you
22 look at all the different disorderly conduct
23 charges there's one, two, three, four, five, six it
24 adds up to quite a significant number. And I'm
25 always suspicious of the disorderly conduct. It

2 seems like the thing they think of you know when
3 they don't know something else sometimes allegedly.
4 So quick question the, one of the things we noticed
5 when we looked at the, the complaint, the
6 information, the, the I don't know if you've ever
7 seen, I guess you have the, the summons that the
8 officers write, you got the, the white ticket on
9 top which the, actually the, the complaint and then
10 the pink one is the one that I think makes it way
11 to the, to the defendant which excludes the factual
12 allegations section. And I, I, I take it that all
13 of you would agree that it would be very helpful
14 for a defendant, especially someone who's showing
15 up at a legal services provider beforehand to be
16 able to say, or to be able to see this is the thing
17 I'm, I'm accused of, of doing. In response though
18 the police officers, I know this was an NYPD
19 request, their view is you hand the person the
20 summons and it's got the factual allegations on it
21 it's going to create tension probably doesn't even
22 describe it, it's going to create an opportunity
23 for the guy to get in an argument with the police
24 officer right then and there and say I didn't do
25 this, I didn't do that. That's what the NYPD's

2 position is. Someone like to, to respond to that? I
3 don't think it's an invalid one but it may not be
4 ultimately the right choice.

5 JEREMY KAPLAN-LYMON: I mean I could
6 just briefly respond as having done an extensive
7 amount of research on procedural justice in my law
8 school days that one of the basic things that
9 experts in procedural justice and policing policy
10 say is that police officers should give a clear and
11 honest explanation to the people that they stop on
12 the street, the reason for the stop. So what the
13 NYPD is saying goes directly against what many
14 policing experts in this country that advocate for
15 procedural justice say about the proper way to do
16 policing that's respectful in, and builds
17 accountability and collaboration.

18 [cross-talk]

19 ALISON WILKEY: Yeah I think... sorry. I
20 think there is an element of accountability here. I
21 mean you just said yourself the disorderly conduct
22 is an interesting because, interesting charge
23 because there's so many things that can be under
24 it. We have clients coming to us all the time who
25 really don't know what the conduct they're being

2 charged with is. And we ask them about it and they
3 have no clue. And this at least would let the young
4 kids who are being brought into these courts at
5 really high rates know what it is that they're
6 supposed to have done that is wrong and at this
7 point many of them don't.

8 WILL GIBNEY: At, at a hearing I think
9 about two months ago at the council the
10 commissioner came in and talked about the de-
11 escalation training for the NYPD. I think, I think
12 there's no need to, really it makes no sense to, to
13 give no notice of the charge to the person. But
14 perhaps training on the interaction of the police
15 officer to people who might get angry would be the
16 way to handle that issue.

17 MATTHEW SHAPIRO: Just a quick follow-
18 up. I'd like to note on the Environmental Control
19 Board summonses which are issued by the police, the
20 full details are written and given to the street
21 vendors so I don't, I don't believe that they say
22 they can't do it for criminal summonses. They're
23 already doing it for the civil summonses so I don't
24 see the difference.

2 CHAIRPERSON LANCMAN: My last question
3 is regarding JHO complaints. We had Justin Berry
4 here, he was here, the chief clerk of criminal
5 court, or I think criminal court. And is, is there
6 a, a mechanism for complaining either to Mr. Berry
7 or to, to Judge, Judge Williams, Judge Melissa
8 Jackson sorry, Judge Jackson about a JHO? Have you
9 ever made a complaint? You were very specific that
10 on such and such date at such and such thing
11 happened did you complain to someone and was it
12 taken seriously?

13 ALISON WILKEY: I mean there's nor, no
14 formal complaint mechanism. I could send a letter
15 to Judge Jackson or, or to Justin if I wanted to. I
16 haven't done that. But there's no formal mechanism.
17 I don't believe the JHOs can be brought in front of
18 the judicial ethics committee. There also is no
19 review process. For sitting judge they have to get
20 reappointed or reelected and they're reviewed by
21 the bar associations, the bar associations
22 broadcast those reviews widely and ask for people
23 to provide you know dockets and instances of
24 unprofessional conduct. And that doesn't happen

2 with the JHOs and so there's no like formal
3 opportunity to provide that type of review.

4 CHAIRPERSON LANCMAN: I know when we
5 went on our tour we were told, we asked this
6 question approximately. And were told that that
7 there were a couple of JHOs who were, I don't know
8 if they were taken off the bench or if they were
9 not reappointed but... alright but that's something
10 that's, that's important.

11 LISA SCHREIBERSDORF: You know I just
12 want to say I think the big problem is that the
13 JHOs are told they have to finish by 1:00. I mean
14 anybody even, I mean I know many of the JHOs are
15 all former judges and I even know the judges that
16 are sitting and a judge that knew in criminal court
17 who was a fine judge, I mean it was inherent to
18 him, I heard recently that he tried to do a trial
19 on a case where the defendant wasn't there because
20 the police showed up. So I mean it's, I think it's,
21 it's the system itself that is causing this
22 problem, maybe more so than just complaining about
23 individual judges. So just think that could be
24 fixed a little bit.

2 CHAIRPERSON LANCMAN: I get it. But
3 there needs to be mechanism where a judge is not
4 acting appropriately to, to complain of it. Any
5 questions. Vanessa do you have anything?

6 CO-CHAIRPERSON GIBSON: Just a
7 statement. Wow thank you to this panel, I really
8 appreciate all of the recommendations that you have
9 raised. It's a lot. I, I guess I'm just so saddened
10 to hear of the everyday experience of what happens
11 when you go to summons court where you have JHOs
12 that are totally just ignorant in making those
13 outrageous ethnically laced comments is, is just
14 not acceptable under any circumstances. I guess the
15 one question I wanted to raise is most of this to
16 me really stems around staffing and mutual respect
17 right? A lot of the perceptions that people have of
18 young people of color plays out on a lot of the
19 decisions that are made and that's certainly not
20 fair. So in all of the work that we're doing, I
21 mean we're sitting young people up for failure
22 because they're coming into summons court at a
23 disadvantage. They're already being judged. And so
24 for me looking at all of the recommendations that
25 you guys have made, I mean these are all valid and

2 make so much sense in terms of breaking up the day
3 in two sessions, maybe a morning and afternoon, a
4 better process by which we can have people notified
5 that the summons, it is adjudicated. This form is
6 going to be changed significantly. We're going to
7 include race and ethnicity on here and I forget who
8 mentioned it but the fact that on the defendant's
9 copy you don't even have the ability to know what
10 the charge is is unacceptable. And then at the very
11 bottom on the last line is when your date of
12 appearance is. And so I can imagine if you fold it
13 up enough times eventually the writing gets smeared
14 and you're not able to see. So that is a, is
15 something that's very concerning to me as well. I
16 guess the one question that I had is about the JHOs
17 and we didn't really get a chance to talk too much
18 about the training. I understand these are all
19 retired judges right. Who has oversight over
20 holding the JHO's accountable? So if you have, I
21 mean how, you mention about your ability of not
22 even filing a complaint but what if you wanted to
23 do that and what type of system do we have? And
24 then I guess my second question is the gentleman,
25 the second gentleman you talked about potentially a

2 warning system. So instead of the, the first
3 offence you being arrested there would be almost a
4 warning system to let you know that there is a
5 violation. I think that's what you were alluding
6 to. And I think that's something that we should
7 consider as well.

8 JUSTINE LUONGO: Can I just talk about,
9 sort of respond about who has oversight of the JHOs
10 and sort of training. Many of us actually have been
11 asked by OCA, so OCA over, oversees the JHOs as
12 well as all of the judges in the courts. And many
13 of us on this panel and many community advocates
14 actually provide training on cultural competency,
15 working with youth, working with LGBT to those
16 judges. And those judges have a judicial college
17 and are doing regular work. For instance through
18 our juvenile rights project we know that actually
19 judges in family court actually have bench cards
20 that bring them through a series of questions they
21 should be asking themselves before sentencing to
22 make sure that there is not implicit bias going on.
23 That stuff we, we would support that change even
24 happening in criminal and supreme courts but
25 certainly the level of training that the judges get

2 on immigration consequences, on working with
3 particular clients, working with young people, how
4 to talk and interact with the community at large,
5 as diverse as this city is should be something that
6 is actually provided to JHOs. And then I'll turn it
7 over to Bill to clarify what he said.

8 WILLIAM GIBNEY: Sure. I think there are
9 two possibilities with regard to the, the, the
10 appearances; one, one is before the court date
11 when, when a reminder can be sent to the person to
12 show up in court. The Criminal Justice Agency does
13 that in criminal court for desk appearance tickets
14 which are very similar to the, these summonses. So
15 that could be replicated in the summons court and I
16 think, we think that would reduce the number of
17 non-appearances in the first instance. And then
18 there's no, no necessity to have to have a policy
19 that a warrant has to issue on the first time that
20 a person doesn't appear. We could, we could again
21 do a, you know a warning that says you did not
22 appear and, and maybe on the second or third non-
23 appearance then a warrant would issue. I think a
24 lot of the, the consequences of the warrants could
25 be alleviated that way.

2 LISA SCHREIBERSDORF: Could I just add
3 one thing to that? At Safe Surrender we asked a lot
4 of people why didn't you come the first time and
5 even though it seems obvious that people just
6 didn't come because they were whatever being
7 irresponsible most of the people said I didn't come
8 because I didn't have the money. So they know it's
9 going to be a fine and they don't have any money to
10 pay the fine so they just don't come to court. So
11 if there were other options and if that was made
12 clear to people before the court date I think
13 adding to that recommendation might be okay you
14 could get one day of community service instead of a
15 fine. And if you just come to court that can be
16 taken care of that way but they don't really do
17 that now so..

18 CHAIRPERSON LANCMAN: Any other
19 questions? Just us? Thank you very very much for
20 your testimony. Our next panel and our last panel
21 are some folks from the advocacy community; Johanna
22 Miller from New York Civil Liberties Union, Michael
23 Oppenheimer from the New York City Bar Association,
24 Robert Gangi from Police Reform Organization,
25 Organizing Project, and Vincent Riggins from the

2 Bright Leadership Coalition. So we have
3 approximately 30 35 minutes which if we are concise
4 we can do. Sound good. Terrific. So if you each
5 would introduce yourself starting with Bob and then
6 we'll do testimony.

7 [off mic comments]

8 ROBERT GANGI: Robert Gangi from the
9 Police Reform Organizing Project.

10 MICHAEL OPPENHEIMER: Michael
11 Oppenheimer. I'm here. Michael Oppenheimer. Alright
12 thank you. Michael Oppenheimer, I'm here from the
13 New York City Bar Association, the Criminal Justice
14 Operations Committee.

15 JOHANNA MILLER: Hi, Johanna Miller. I'm
16 the advocacy director at the New York Civil
17 Liberties Union.

18 VINCENT RIGGINS: Good afternoon. My
19 name is Vincent Riggins founder president of Bright
20 Leadership Coalition East New York.

21 CHAIRPERSON LANCMAN: So Bob we'll start
22 with you. Can we get a clock of five minutes just
23 to try to keep things in order. You're up.

24 ROBERT GANGI: The, the, the panel
25 before us did a very effective job of presenting

2 the summons court as an embarrassment, as a mess,
3 and as a scandal. I'm going to focus on what we at
4 PROP consider to be perhaps even a more essential
5 problem and that's policing tactics in New York
6 City. It's aggressive, quota driven, Broken Windows
7 policing that targets low income people of color
8 who engage in innocuous infractions. The Daily News
9 reported that over 80 percent of the summonses
10 handed out in New York City by the police are
11 issued to black and brown people. People can get
12 stopped and ticketed for walking between subway
13 cars even when the train is not moving, for
14 occupying two seats on the subway even though it's
15 2:00 in the morning and there's hardly anybody else
16 on the train. People get ticketed for something
17 called aggressive begging, for jay walking, for
18 spitting on the sidewalk, for street vendors who
19 will get summonses, for, they're supposed to be 20
20 inches from the curb if they're 18 inches from the
21 curb... People get ticketed for walking in a park
22 after dark even though there's no real danger to
23 that person and they're clearly not engaged in any
24 predatory activity. A statistic that we often site
25 that dramatically demonstrates the stark racial

2 bias of ticketing practices by the NYPD. From 2008
3 to 2011, it's a four year period, the NYPD gave out
4 on an average annual basis eight bike on a sidewalk
5 summonses in Red Hook and in Park Slope. For that
6 same four year period in Bedford-Stuyvesant the
7 NYPD gave out 2,050 bike on the sidewalk tickets on
8 an annual basis. The... want to close by reading from
9 my statement. This kind of policing effectively
10 criminalizing activities that are victimless and
11 seen by most people as harmless, disproportionately
12 charging one group of persons as offenders breeds
13 cynicism, resentment, and resistance and can lead
14 in worst case scenarios to senseless injury and
15 even death. And I guess one point that's not in my
16 statement... One way to think about what's
17 particularly deplorable about summons practices by
18 the NYPD is most of the activities that people of
19 color get ticketed for and sometimes arrested for
20 have been effectively de, been decriminalized in
21 prosperous white communities. And so people in
22 white communities will not be ticketed or arrested
23 for jaywalking, for walking in the park after dark,
24 for riding their bike on the sidewalk, and for
25 similar kinds of infractions. And the, the, the,

2 our judgment is the most effective way to deal with
3 the problems in the summons courts and the most
4 effective way to deal with racially biased and
5 unjust policing is to direct the NYPD to jettison
6 the Broken Windows approach to abolish quotas and
7 to move toward placing an emphasis on what's true
8 community oriented policing where law enforcement
9 and other social service agencies work in
10 partnership with the communities to address the
11 problems in those communities. Thank you.

12 CHAIRPERSON LANCMAN: Three minutes.

13 MICHAEL OPPENHEIMER: Thank you I won't
14 need...

15 CHAIRPERSON LANCMAN: That wasn't... offer
16 brevity not content so...

17 MICHAEL OPPENHEIMER: Well for the sake
18 of brevity I won't need three minutes. I'm here on
19 behalf of the New York City Bar Association
20 Criminal Justice Operations Committee but also the
21 Civil Rights Committee and the Criminal Courts
22 Committee. It is our recommendation that the
23 council not expand moving offenses to the summons
24 part at this time but actually examine the summons
25 parts more closely to figure out what is a more

2 workable method. I would agree with and the
3 committee would agree with the institutional
4 providers with all the problems with the summons
5 part about a year ago the Criminal Justice
6 Operations Committee took on the task of beginning
7 to examine the summons parts. We're still in the
8 process of collecting data. At this time we're not
9 in a position to take a position on Mayor de
10 Blasio's announced plan to move marijuana
11 violations to the summons part but obviously we're
12 concerned by the things that the institutional
13 providers have expressed and which many other
14 panelists have expressed, those things being the
15 fact that there's no data collection on the race or
16 ethnicity for respondents who appear in the summons
17 parts, the large number of cases, judicial haste,
18 temperament, the small number of defense attorneys
19 which we believe creates the real possibility that
20 people who are responding to summonses in the
21 summons parts do not have the benefit of meaningful
22 effective assistance of counsel. And also the
23 collateral consequences that are associated with
24 guilty pleas not excluding immigration, public
25 housing, ability to, to receive federal financial

2 aid. And so the, on behalf of the committee I'd
3 just like to express our concerns and urge the, the
4 council to take further study.

5 JOHANNA MILLER: They're setting a very
6 high bar here so I'll try to talk quickly. So I
7 won't repeat what Bob... [cross-talk]

8 CHAIRPERSON LANCMAN: If you, if you
9 were really audacious you would say that well...
10 [cross-talk]

11 JOHANNA MILLER: They're... [cross-talk]

12 CHAIRPERSON LANCMAN: ...just left you
13 more time for you. But you wouldn't score any gold..

14 JOHANNA MILLER: Yeah.

15 CHAIRPERSON LANCMAN: Point.

16 JOHANNA MILLER: Well I, I don't think
17 I'll need it all but we'll see. So I won't second
18 what Bob said or I won't repeat it but I will
19 second it. I think that it is problematic that the
20 NYPD which is introducing hundreds of thousands of
21 people into the criminal justice system through
22 aggressive enforcement of non-criminal offences is
23 not here today to talk about those practices, to
24 talk about use of force in enforcing misdemeanors
25 and violations which we all are very poignantly

2 aware of right now. Bodily force should never be
3 used to enforce a, a non-criminal offence. The
4 summons courts are clearly not working but the, the
5 street stops are what get you in there and we need
6 to examine as a city whether this kind of
7 aggressive enforcement of non-criminal, and even
8 misdemeanor violations is the way that we want to
9 continue. I think the issue of, of data is really
10 important. It's one that's crying out for
11 leadership. So a couple months ago the NYPD was
12 here and said we would consider changing the form
13 but it's a state form. Today, Judge Jackson said
14 this is a city form. Whose form is it? During the
15 Bloomberg administration they were capturing race
16 in about 30 percent of summons forms. Last year
17 that was four percent. So they're making a
18 conscious decision to not capture that information.
19 You know Stop and Frisk during the Bloomberg
20 administration there were five million Stop and
21 Frisks. There were six million criminal court
22 summonses and the demographics look the same. And
23 the small, small percentage of, of cases, we have
24 about 1.5 million of those summonses we have
25 demographics for. The, the picture looks identical

2 to that of Stop and Frisk. So this should be as big
3 an issue as that was. The other thing I would just
4 mention that, that no one I think has mentioned so
5 far is the issue of summonses being issued by the
6 NYPD in public schools. Last year the NYPD issued
7 more than three summonses per day to public school
8 students in schools. 70 percent of those were
9 students age 16, 17, and 18. 60 percent of them
10 were for disorderly conduct. So you show me a
11 teenager who isn't disorderly and I'll show you a
12 summons court that works. It doesn't exist. Taking
13 a kid out of school eight weeks after they act
14 disorderly to go to court for a day is missing the
15 boat on two counts right. It's too harsh and it's
16 too lenient. It's too harsh, it's out of control,
17 no teenager needs to answer to a judge for being
18 disorderly but it's too lenient because the cops
19 have taken that kid out of the school community and
20 let them not be accountable to their school
21 community for disrupting class and in fact said oh
22 it doesn't matter today but in eight weeks you have
23 to show up in a court. So we need to explore a
24 different system for taking care of discipline
25 issues and not turning them into a summons offence

2 that puts a 17 year old into court with one of the
3 institutional providers... explained you know the,
4 the volume of young people. Finally I would just
5 add some states have adopted what are sometimes
6 called cite and release laws. The city council
7 probably can't do that on its own but we're
8 interested in your leadership in exploring that in
9 Albany. Meaning a person would not be custodial
10 arrested on a non-criminal violation and even
11 sometimes on a misdemeanor. If those things can be
12 issues through a DAT or a summons form and they're
13 not taking and spending a night in jail we think
14 that that would be a good outcome and so we'd like
15 to see the city and the state explore our options
16 for keeping people out of the system in that way.
17 Thanks.

18 VINCENT RIGGINS: Good afternoon and
19 thanks for allowing me to test, testify today in
20 front of you guys. First I'd like to just say that
21 I am so proud of the, of democracy in America
22 today. Even the young folks that was here today to
23 demonstrate it. And I know it was a little out of
24 order but I think we gotta [sic] rejoice in that
25 because that is happening all over America. And I

2 just want to bring to attention that this committee
3 is so important right now and the community is
4 looking for leadership from this committee. And I
5 know a lot of you guys are great at that and you
6 want to do the same thing. So let me just get into
7 it. I had a letter that I was going to submit. I
8 listed to all the great testimony today and they
9 pretty much covered everything. Well let me just
10 try to give you the citizen perspective okay. And
11 they, and a lot of people did great jobs of doing
12 that because they represent citizens in the courts,
13 real life example. Just a little background, I'm
14 going to cover this. I'm a long time resident of
15 the city and founder of, founder president of
16 Bright Leadership Coalition. It's a civic
17 organization, non-tax-exempt which means it's all
18 voluntary. And everybody know the challenges you
19 have building a voluntary army for civic activity.
20 We have, I guess the rare pleasure of being an
21 organization that has sponsored what we call the
22 East New York Father's Day Barbeque for over the
23 last 30 years with no violence, no fist fights, no
24 police interaction. I think that we have something
25 to say about how to stop the violence. And I'm not

2 going to take the time to go through that right
3 now. Even when East New York was the murder capital
4 of the world we had no gun violence. So it's
5 something in there to be captured for people that's
6 interested in finding out. Once again voluntarism
7 community alright. Our members is comprised of
8 long-term residents, civic activists, Community
9 Board 5 members, tenant leaders, directors of
10 programs for at-risk youth, the elderly, block
11 associations, and informed voters. Over the last
12 two years we've been organizing tenant block
13 associations and concerned residents into a
14 cohesive coalition to prioritize our community
15 agenda. The things that we want to see happen in
16 our community, not the things that people want to
17 bring and offer up to us because we know what it
18 takes. And our perspective and vision for the
19 community improvement were derived from these
20 meetings. And I'm submitting this letter basically
21 to take... oh no I'm sorry... and I'm writing to
22 express our concerns about recent tragedies that
23 has taken place throughout the city and nation but
24 more specifically in East New York Brooklyn which
25 is ground zero for... and the mayor's ambitious

2 affordable housing plan. Now how does that have
3 anything to do with summonses? I'm going to get
4 that and you guys probably know myself, tenant
5 leaders, and coalition members would really like to
6 meet with you guys that's in leadership positions
7 and while the police commissioner, the chairperson
8 at NYCHA, Mr. Williams is not here to discuss what
9 we believe is a holistic approach to improving
10 strategies in three critical areas. There has to be
11 a holistic approach. The attorneys really can't
12 affect parentee [sic] with the police interaction
13 with citizens but there's a problem that exists
14 based on what we been saying going on in America
15 alright? First improving relationships between
16 citizens and police, specifically in NYCHA
17 developments in low income areas which everyone on
18 this panel and the panel before have identified
19 that summonses is targeted for these type of areas.
20 So we believe that we have a solution... a practical
21 solution for shelters and to transitional housing
22 for sustainability and alternatives to
23 Commissioner... broken window policing policy which
24 we view as just another form of Stop and Frisk
25 which the courts have already determined

2 unconstitutional. So we are amaze that this... city
3 council is not pushing back on those policies. It's
4 unbelievable. The mayor's plan on the citizen's
5 conscious the, the mayor's play on a citizen's
6 consciousness level by replacing a detrimental pot
7 arrest policy with a equally skewed summons policy
8 in our opinion is a disgrace and insult to the
9 people of New York City. 86 percent of pot arrest
10 this year were black and Latino citizens, a number
11 identical to those posted last year under the
12 Bloomberg Administration. If thousands of summonses
13 are handed out to the same people in the same
14 neighborhoods which will result in unpaid fines or
15 forgotten court dates we will be right back at the
16 same place as the Bloomberg Administration and
17 Bratton Stop and Frisk incidentally some of the
18 young people that's in our coalition was not aware
19 that Bratton is the grandfather of Stop and Frisk.

20 [cross-talk]

21 VINCENT RIGGINS: Warrants... yeah...
22 minutes. I'm only finished.

23 CHAIRPERSON LANCMAN: Okay.

24 VINCENT RIGGINS: Warrants for arrest
25 and victimization of the working class poor will

2 remain the target of such policies. Why we are not
3 pushing back I don't understand. Critics say the
4 main flaw of broken window policing that it pits,
5 pits cops against minorities. That's what's going
6 on in America today. A good friend of mine, Mr.
7 Lynch, you guys know him? PBA? Okay. Right, this is
8 something that he reported and I don't know how
9 this got by you guys, this was last year. He said
10 the next mayor must invest I NY, NYPD staffing and
11 roll back quotas. I'm going to say that again. Are
12 you listening? Lynch, last year, statement, quote
13 the next mayor... which is de Blasio... must invest in
14 NYPD staffing and roll back quotas. No I don't know
15 what that mean to you that mean, that, that tells
16 me that the police department and their policy is
17 encouraging police officers to go out and fill
18 quotas. Now for the people don't think that as a
19 reality... I retire from the New York City Department
20 of Sanitation. At roll call every day get activity.
21 Know what activity mean? Go out and find the
22 citizens that you going to hit with a summons. So
23 this is real. So we gonna [sic] have to drill down
24 on this policy and when you hear people get up and
25 say Bratton must go, we don't have a problem with

2 Bratton, he a nice guy, he got a nice family, the
3 policy gotta go. The policy gotta go. And let me
4 just tell you, I'm going to end right here 30
5 second or less. I just want to emphasize what's
6 going on right now. The reason I'm reading a letter
7 and not a general testimony is because the people
8 are building coalitions all over the place;
9 Coalition to End Broken Window, Parents Against
10 Police Brutality, El Grito de [sp?] Sunset Park,
11 Queens Neighborhood United, Cop Watch Patrol Unit,
12 Bronx for NYPD Accountability, Mothers Cry for
13 Justice, New Yorkers Against Bratton, Bright
14 Leadership Coalition, and other organization,
15 grassroots organizations are coming together not to
16 just ask an appeal but to demand first from the
17 mayor and the commissioner but also the people that
18 we hold dear on the city council to advocate for
19 the people. There are other organization like
20 Operation Power that is being ran by my councilman
21 Mr. Barron. I haven't attended one of those
22 meetings yet but I will. And I want to thank you
23 for that.

24 CHAIRPERSON LANCMAN: Thank you very
25 very much.

2 VINCENT RIGGINS: Thank you.

3 CHAIRPERSON LANCMAN: Thank you very
4 much for your testimony.

5 [cross-talk]

6 VINCENT RIGGINS: [off mic] And because
7 I am the last one, Broken Window. See we are
8 getting organized... rest...

9 CHAIRPERSON LANCMAN: Alright that
10 concludes our hearing. Thank you all very much. Oh
11 sorry.

12 CO-CHAIRPERSON GIBSON: So as this
13 hearing... Good afternoon. We're not done yet. Just a
14 couple minutes. So as this hearing comes to a close
15 I want to thank my Co-Chair Councilman Lancman and
16 all the members who were here today. I want to
17 thank all of the advocacy, legal service providers,
18 community organizations that came out today. Let me
19 be very clear. This hearing was the very beginning
20 of the conversation of reforming summons courts in
21 New York City. But we all recognize that the Broken
22 Court System that we have had has existed for many
23 years. It is only compounded and further impacted
24 by the Broken Windows Policy that is
25 discriminatory, aggressive, unjust, and abusive to

2 communities of color in this city. So let me be
3 clear that my committee, the Committee on Public
4 Safety will be having a hearing on Broken Windows.
5 We will be having a hearing on Broken Windows. And
6 someone mentioned about school safety and the
7 number of students who were suspended and arrested
8 in our school system we're having a hearing
9 directly on school safety. So I want everyone to
10 understand that these conversations need to be had
11 but we need your support because you are the ones
12 that are serving our communities on a grass roots
13 level. Understand that this city council is
14 committed to reforming the process so that all
15 people have fairness and justice. We want to
16 prevent these summons. We don't want thousands of
17 young people going into summons court in the first
18 place. But for those that do go we want them to be
19 treated fairly and given an opportunity. So we have
20 to recognize that this is an opportunity to find
21 balance in a very broken system. And Broken Windows
22 is that, it is broken. And we need to fix it. But
23 we also need to fix some of the other issues that
24 are causing our court system to be broken and that
25 is training, that's education, that's respect,

2 that's resources for our court staff and
3 administrators and making sure that anyone that
4 goes into the court system has a fair shot. So I am
5 committed to that. My colleague is committed to
6 that. I am certainly pleased to have had this
7 hearing today. This hearing started obviously with
8 conversations around the recent marijuana
9 announcement but if that was absent we would have
10 still had this hearing because not just a marijuana
11 issue but all the other offences that are
12 summonsable that there has been a disproportionate
13 impact on people and young people of color in this
14 city. So I want to thank all of you for your
15 testimony, your presence. I want to thank you for
16 the work that you do in trying to find balance and
17 fairness in a broken system. We will continue to
18 have these hearings. We will continue to make sure
19 that the administration comes to the table and that
20 includes the police department because there is
21 data that we need to track the trends that we know
22 are already there. The data is just going to give
23 us evidence to prove what we already know. And I am
24 committed to doing that as the chair of public
25 safety. I want to thank all of the staff Beth

2 Gollop, Ellen Aang, and all of the speaker staff
3 for their support in getting this hearing together.
4 And I want to thank Council Member, my chair, Chair
5 Lancman for his support as, as well as his
6 leadership on making this a critical issue of
7 common mutual priority for all of us. Thank you.

8 [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 December 18, 2014