

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON PUBLIC SAFETY

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December 3, 2009

Start: 11:31 am

Recess: 2:29 pm

HELD AT: Council Chambers
City Hall

B E F O R E:

PETER F. VALLONE, JR.
Chairperson

COUNCIL MEMBERS:

Christine C. Quinn, Speaker
Maria del Carmen Arroyo
Leroy G. Comrie, Jr.
Inez E. Dickens
Erik Martin Dilan
Daniel R. Garodnick
James F. Gennaro
Vincent J. Gentile
Robert Jackson
Domenic M. Recchia, Jr.

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

Susan Petito
Assistant Commissioner of Intergovernmental Affairs
New York City Police Department

Jackie Roe Adams
Co-founder
Harlem Mother Save

Reverend Ronald E. Sullivan
Chairperson
Harlem Mothers Save

Mariella Palomino Herring
Chief of Gang Violence and Hate Crimes Bureau,
Assistant District Attorney
Queens District Attorney's Office

Diana Rodriguez
Chief of the Gang Bureau
Brooklyn District Attorney's Office

Ed Tolti
Chief of the Gang Unit
Bronx District Attorney's Office

Daniel Master
Chief Assistant District Attorney
Staten Island District Attorneys Office

Hazel Dukes
President, Member
NAACP, Community Board 10

Aisha Saiku
Executive Director and Founder
Street Corner Resources

Rebecca Angle
Staff Attorney
Bronx Defenders

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

Kate Rubin
Policy Director
Bronx Defenders

Nancy Ginsberg
Adolescent Practice in the Criminal Practice
Legal Aid Society

Raul Sessina
Legislative Counsel
New York Civil Liberties Union

Robert DiSenna
Founder and President
Council for Unity

Luis Garden Acosta
Founder and President
El Fuente

Daniel Gross
Co-founder and CEO
Pax

CHAIRPERSON VALLONE: Okay.

Welcome everyone to today's hearing of the Public Safety Committee. I apologize for the delay. The Speaker is on the way, will be here momentarily but we'll start off with some housekeeping.

I want to thank the Council Members that joined us today, Dan Garodnick and Inez Dickens from Manhattan, Domenic Recchia, Maria del Carmen Arroyo, Leroy Comrie and Robert Jackson.

I'm sure there'll be more stopping by. Many of these are not even on the Public Safety Committee but are here today because this is such an important topic. Specifically, were going to do oversight over the Police Department's Gang Unit and look at the stop snitching message, which has become s prevalent and what's being done by all the different groups that are here today to stop that.

We'll also be looking at three new bills, all of which are intended to give the police and the district attorneys new tools to combat gang culture ad its harmful effects. The first bill is Intro 183-A, which I sponsored, which would prohibit encouraging someone to join a

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gang or deterring that person from leaving a gang.

Intro 941-A, which I believe is probably Maria's, which would prohibit criminal street gang initiation activity and make that an A misdemeanor. And then 945-A, which is Domenic Recchia's, would make it an A misdemeanor for members of the criminal street gang to solicit another person, whether that person be in a gang or not, to engage in activity constituting a crime.

So this hearing is tragically very relevant today, as we've all seen the recent rise in gang activity. Veda Vasquez, 15 years old, fighting for her life, killed doing nothing but being on the street. Sadie Mitchell, 92 years old, killed in her own apartment, both by bullets fired by gang members. There have been many other instances. I know we have all of the sort of Attorneys Offices here, Staten Island Office is here.

In Staten Island, gang war claimed the lives of four men, all suspected gang members in November. And the list goes on and on but enough is enough. I know that the Police

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2 Department is here and they're doing a stellar job
3 fighting crime, bringing down gang activity.
4 They'll testify that gang activity is down from
5 last year, which is great. But I believe they'll
6 also testify that it's still at unacceptable
7 levels and we need to do more. I'm going to turn
8 now to Maria del Carmen Arroyo, the sponsor of one
9 of these bills, to make a brief opening statement
10 and then to Domenic Recchia.

11 COUNCIL MEMBER ARROYO: Thank you
12 Mr. Chair and it will be brief. I want to thank
13 you for holding this very important hearing to
14 have a conversation that is very disturbing to all
15 of us; more importantly, the fact that we have to
16 have this conversation. The impact of gangs and
17 gang activity in community is devastating.

18 When families have to be mindful of
19 what streets they're walking, what colors they're
20 wearing and what they can and can not say to keep
21 their community safe, it is a problem, a problem
22 that we must address. And one that we hope that
23 the three pieces of legislation that we are going
24 to hear testimony about today can help our system
25 deal with individual who bully, who intimidate and

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who cause great harm in community.

I look forward to the testimony. I certainly hope that we will very expeditiously move these pieces of legislation to be enacted so that we can rise the level of criminality that gang activity is in our community. Thank you.

CHAIRPERSON VALLONE: Thank you.
Domenic.

COUNCIL MEMBER RECCHIA: Yes. Good morning. My name is Councilman Domenic Recchia and I am sponsoring Intro 945. This bill will make it a crime for gang members to solicit someone to commit a crime and it will be subject to a Class A misdemeanor. Too many times I hear from constituents throughout my community, throughout the city when parents come crying for help. How could I stop these people, these gang members from convincing my child to committing a crime?

Now, when they do this solicitation, it's going to be a Class A misdemeanor. Right now it's just a violation. This is just the beginning to address the problem in New York City of gang violence. Prior to

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2 getting elected to the City Council, I spent my
3 many years in gang prevention and working with
4 children throughout New York City in dealing with
5 gang problems. Working with these children I have
6 come to meet many parents whoa re out there.

7 They don't know how to help their
8 child by preventing them joining these gangs.

9 Because these gang members make it seem like if
10 you join a gang, the world is a much better place
11 for you. They'll give you drugs, they'll give you
12 money, they give you a better life. Children, our
13 young children, are being convinced of that. They
14 say in order to become a member you have to go mug
15 somebody, stab somebody, cut someone. This all
16 has to stop. When they do that solicitation it's
17 now going to be a Class A misdemeanor.

18 I want to thank Speaker Quinn and
19 the Chair of the Public Safety Committee for
20 working with me on this bill. I look forward to
21 getting it passed as soon as possible. Thank you
22 Mr. Chairman.

23 CHAIRPERSON VALLONE: Thank you
24 Council Member Recchia. And if some of you are
25 confused as to what some of these bulls actually

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2 do is because it's confusing; it's not you. There
3 are some bills on the books already when it comes
4 to coercion, when it comes to solicitation. But
5 these bills at the end of the day will make it
6 easier for the Police Department and the DAs to
7 prosecute. These bill say, don't even think about
8 it. Don't talk about it, don't do it. Do not
9 even think about joining a gang and don't ask
10 someone else to join a gang.

11 It will be much easier for the
12 Police Department and District Attorney's Office
13 when they go out to our schools and community
14 groups to talk to kids and say, do not even
15 discuss being in a gang because you could
16 potentially be breaking the law. Very complicated
17 bills, which is why it has taken so long to get
18 this package moving. In fact, the bill I put in
19 was put in, in 2003 and they will be
20 groundbreaking as much of what we do here in the
21 City Council is.

22 We're going to hear from a lot of
23 people today on these bills and they'll be even
24 better once we get all their input. We have Sue
25 Petito from the NYPD, we have representatives from

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2 four different District Attorney's Offices;
3 Queens, Brooklyn, Bronx and Staten Island. We
4 have community groups here. I know we have Harlem
5 Mothers Save, we have Million Mums March, the
6 NAACP, we've have El Fuente, we have the Legal Aid
7 Society, Bronx Defenders, NYCLU.

8 And these bills are not in their
9 final form. We are looking forward to hearing from
10 everyone about how we an make changes and make
11 them better, scale them back if we have to, to
12 make them more Constitutional than they are now.
13 We've been joined also by Council Member Erik
14 Dilan. I can't think of anything else to stall
15 with before the Speaker gets here. Can you Maria?
16 I listed everybody who will be testifying. I play
17 guitar. No, that's not going to be helpful at
18 this point. So I think we'll probably start and
19 then when the Speaker comes here, if it's not too
20 much of a problem we'll get an opening statement
21 and just so people don't have to continue to wait.
22 Okay?

23 SUSAN PETITO: Absolutely.

24 CHAIRPERSON VALLONE: Thank you.

25 MS. PETITO: Okay, thank you. Good

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2 morning Mr. Chairman, members of the Council, I'm
3 Susan Petito Assistant Commissioner of
4 Intergovernmental Affairs of the New York City
5 Police Department and I'm pleased to discuss with
6 you the three bills before you today, Intro
7 numbers 183-A, 941-A and 945-A. At the outset we
8 commend the Council for seeking to strengthen the
9 law to curtail the violent and dangerous
10 activities conducted by criminal street gangs.

11 We have for some time sought
12 introduction of a bill with the same goal, which
13 would make it a misdemeanor to engage in what we
14 have called criminal street gang activity, such as
15 soliciting someone to join a gang, attempting to
16 deter someone from leaving a gang and marking gang
17 turf. We are gratified by the Council's inclusion
18 of some of the elements of our proposal as we have
19 worked together in crafting Intros 183-A, 941-A
20 and 945-A and we strongly support the enactment of
21 all three bills.

22 All three bills would provide the
23 city with a comprehensive legislation scheme
24 presenting new tools with which to address the
25 pervasive problems caused by criminal street

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2 gangs. The three bills would define criminal
3 street gang as a group of three or more people
4 that have as one of its substantial activities or
5 purposes, the commission of one or more felonies
6 or misdemeanors from a specified list of articles
7 of the penal law.

8 The consistent use of this
9 definition in all three bills underscores our
10 intention that these bills address only the
11 destruction criminal behaviors engaged in by
12 street gangs rather than covering arguable,
13 innocuous group activities that are beyond the
14 intended scope of the bills.

15 Intro 183-A would create new
16 administration code section 10-168, the offense of
17 engaging in criminal street gang activity that
18 would prohibit a person who is a member of a
19 criminal street gang or who is acting in concert
20 with a member of a criminal street gang from
21 recruiting a third person into such gang or
22 deterring a person from leaving such gang.
23 Violation of this new provision would be a Class A
24 misdemeanor.

25 Intro 945-A would create a new

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2 section 10-169, the offense of criminal street
3 gang solicitation. That would prohibit a person
4 as part of a criminal street gang from soliciting
5 another person to commit any misdemeanor offense
6 from a specified list of articles in the penal
7 law. Similar to the new provision that would be
8 created by Intro 183-A, violation of this
9 provision would be a Class A misdemeanor.

10 The third bill in this sequence,
11 Intro 941-A, would create a new section 10-170
12 entitled criminal street gang initiation activity,
13 which would prohibit a person from placing a
14 person in danger of physical injury in the course
15 of his own or another person's initiation into a
16 criminal street gang. Violation of this provision
17 would also be a Class A misdemeanor.

18 Although Intro 945-A and 941-A
19 share language with penal law provisions relating
20 to criminal solicitation and with menacing and
21 hazing, respectively, the provisions that would be
22 added by these bills create new Class A
23 misdemeanors targeting specific behaviors that
24 have developed in the context of criminal street
25 gangs.

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2 Thank you for the opportunity to
3 express our strong support for the three bills
4 before you today and as always, we remain
5 available to work with you on enacting legislation
6 that will assist in the fight against criminal
7 gangs. Thank you and we welcome your questions.

8 CHAIRPERSON VALLONE: Thank you
9 Assistant Commissioner Petito. Can you tell us a
10 little bit about the Police Department's Gang Unit
11 and the structure, the amount of officers that are
12 now in it and what they do daily to combat gang
13 crime?

14 MS. PETITO: Certainly. Chief
15 Robert Boyce who is the commanding officer of the
16 Gang Division has actually testified before the
17 Council describing the work of the Gang Division.
18 Hey have two elements that both provide specific
19 attention to the gang problem. One is the
20 suppression element, groups of officers who
21 actually go out on the street, the boots on the
22 ground officers, who look for gang activity, visit
23 gang areas and do the street enforcement that's
24 associated with criminal street gangs.

25 The other entity within, the other

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2 function within the Gang Division is the
3 investigative division, which is staff by
4 detectives who work the more lengthy and in depth
5 cases trying to penetrate the gang structure and
6 moving up the hierarchy of the gang to dismantle
7 it. So that's basically two different facets of
8 the work of the gang division. I don't know if I
9 have the current number. I think it's about 220
10 members are currently assigned to the Gang
11 Division.

12 CHAIRPERSON VALLONE: Actually I
13 was going to ask you that because you have
14 testified before, as you mentioned. But that was
15 in 2006 so is the number today, around 220, is
16 that more or less than we had in that unit in
17 2006.

18 MS. PETITO: I think it's about the
19 same. I think it's slightly lower than it might
20 have been at that time.

21 CHAIRPERSON VALLONE: Okay. There
22 was a recent report by the Department of Justice
23 which was in 2007 but for them that's pretty
24 recent. That gang activity was on the rise in
25 most of the country. In 2007, it was actually a

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2 little bit on the rise here in New York City too
3 but not anywhere near as much as the rest of the
4 country. What do you attribute that to? Well, do
5 you agree with that, what do you attribute to
6 that?

7 MS. PETITO: We don't find that to
8 be the case in New York City. Since 2002 we
9 actually show that gang motivated crime has
10 decreased 81% in New York City so we don't think
11 that that national trend holds true in New York
12 City. We have also a rejection in gang motivated
13 incidents. Gang motivated incidents, I should
14 distinguish from gang related incidents.

15 Gang motivated incidents are crimes
16 that are committed to further the interests of the
17 gang or in connection with the gang itself as
18 opposed to a gang related incident, which is not
19 really a bell weather of gang crime. Because a
20 gang related incident is just any crime committed
21 by any member of the gang. So we focus on gang
22 motivated incidents because those are the crimes
23 that the gang, in a sense, is committing.

24 And for year to date for 2009,
25 unfortunately our figures only go to the middle of

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2 October. We saw a 51% drop from 2009 to 2008. It
3 was 188 as of the middle of October in 2009 versus
4 436 in 2008. So I don't know if those numbers
5 hold true subsequent because now we're in December
6 and I can get those updated figures for you.

7 CHAIRPERSON VALLONE: So the
8 Justice Report said these type of gang incidents
9 are going up all around the country. To what do
10 you attribute the difference here in New York
11 City?

12 MS. PETITO: It's hard to say. I
13 think that the work of the Gang Division certainly
14 contributes to what we perceive as a drop or at
15 least certainly not a rise the way that perhaps
16 the national figures indicate. But it's hard to
17 know because some gang activity is certainly
18 unreported but everything that we know about it
19 says that in New York City it is not on the rise.

20 CHAIRPERSON VALLONE: I'm sure,
21 obviously, it has a lot to do with your
22 Department, primarily I'm sure it also has a lot
23 to do with people in this room and the work they
24 do to prevent people from joining gangs in the
25 first place. Obviously, we all need to do more

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2 and that's what this hearing is about. You
3 mention gang related and gang motivated. The
4 incident with Sadie Mitchell and the tragedy where
5 she was killed in her own apartment by a gun has
6 been described by the Police Department as a fight
7 between groups.

8 Has that been qualified as a gang
9 related or gang motivated incident?

10 MS. PETITO: I really can't speak
11 to the specifics of an ongoing criminal
12 investigation. From what you describe, it would
13 seem to be a gang motivated incident.

14 CHAIRPERSON VALLONE: Okay. It's
15 not really anything confidential. I'm asking. Is
16 it classified as a gang related incident?

17 MS. PETITO: I haven't spoken to
18 the Gang Division about that particular incident.
19 But my sense is that it would be gang motivated.

20 CHAIRPERSON VALLONE: Mine too. I
21 also think, from what I've been told, it's not
22 because of the fact that it's two different
23 groups, which I think shows the difficulty in
24 determining what is gang related incident and what
25 isn't. I would agree with you that this sounds

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2 like a gang related incident. But however, not
3 every time that somebody goes and gets their
4 friends and attacks another group of people, that
5 is a gang incident. They may never have worked
6 together before in their lives so it's difficult
7 to determine.

8 We have been joined by Speaker
9 Quinn. And again, this signifies the importance
10 of this issue, not just for this Council but for
11 the Speaker personally. So thank you Speaker
12 Quinn and if you'd like to make a statement.

13 SPEAKER QUINN: Thank you very
14 much. Sue, sorry to interrupt. Thank you very
15 much, Chairperson Vallone and everyone else who is
16 at today's hearing. I'm happy to be at today's
17 hearing, especially because my staff and I have
18 been working on this issue for quite some time.
19 Earlier this year in my state of the city address,
20 I vowed to take steps to stop the economic
21 downturn from allowing gangs to increase their
22 influence and to work with local community
23 activists, the Police Department, my colleagues
24 and the District Attorneys Offices throughout the
25 five boroughs to combat gun violence.

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2 This work followed the appearance
3 in 2008 of Stop Snitching graffiti in Harlem after
4 a series of shooting. This graffiti was a direct
5 threat to those who might come forward with life
6 saving information. In fact, after the summer of
7 2008 began Memorial Day weekend with a young girl
8 being shot in Harlem and ended Labor Day weekend
9 with other children being shot. We saw this
10 incredibly sense of graffiti with rats with nooses
11 around their neck going up to try to frighten
12 people from going forward. But we didn't just
13 take it.

14 In response, I joined with a group
15 of mothers who are here with us today, Harlem
16 Mothers Save; mothers who lost their children to
17 gun violence, including my good friend Jackie Roe
18 Adams who is here with us today. I joined with
19 our majority WHIP, with Inez Dickens, with Council
20 Member Melissa Mark-Viverito, with Hazel Dukes
21 with Reverend Sharpton and others who Council
22 Member Peter Vallone. It was a big group of folks
23 who were there. We went out and we painted over
24 that graffiti. We did that to send a message that
25 it isn't snitching, it's saving the lives and that

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2 we were not going to be intimidated, frightened or
3 silenced as it related to protecting our
4 neighborhoods and most importantly, protecting our
5 children.

6 The stop snitching message has the
7 ability to fuel fear and intimidation within
8 communities and can encourage those who witness
9 violent crimes to stay silent and live in fear.
10 The violence and the culture of silence must be
11 put to an end. Our city has experienced far too
12 many tragedies in the past few months. Too many
13 young people who are being injured or killed,
14 either because they're targeted by gangs or
15 they're just unlucky, innocent bystanders on our
16 streets, sometimes out in front of their home or
17 schools.

18 A couple weeks ago, as it's been
19 tragically mentioned Veda Vasquez, an innocent 15
20 year old girl walking home from school fell victim
21 to a senseless act of violence by a gang who
22 wanted to get revenge on someone else. Luckily,
23 she is expected to recover but there are too many
24 others that are sitting that are not so fortunate.
25 Like Nathan Alsbrook, a 15 year old boy from

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2 Harlem who was killed tragically in June by a
3 stray bullet.

4 But what adds further tragedy to a
5 situation that is already so painful is that few
6 witnesses, as we said, are stepping forward to
7 help the police solve some of these crimes. There
8 may be people who think that if you go to the
9 authorities you're somehow turning your back on
10 your community. But these criminals are not truly
11 members of the community and they don't deserve
12 protection. These young people before, the ones
13 we talked about, they're the ones who deserve to
14 be protected.

15 We understand it isn't always easy.
16 We understand it can be frightening and we
17 understand the stakes. Still with this in mind,
18 we urge anyone with information about a crime to
19 come forward to the authorities. I've heard that
20 plea sadly since becoming Speaker from mother
21 after mother after mother. And just remember,
22 it's not snitching, it's saving a life.

23 By standing together to block out
24 these messages of fear, we can help those who
25 witnessed a crime know that they'll be helping

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2 their community if they come forward and that
3 they'll be saving a life and supporting the
4 families.

5 Today, we're not only here to
6 discuss or to stop snitching message and our
7 efforts around that but also to discuss three
8 important pieces of legislation having to do with
9 direct aspects of gang activity. With these
10 legislations, we aim to increase the number of
11 tools our District Attorneys have by creating
12 tough new penalties aimed at specific gang
13 activity like initiation and solicitation.

14 Gang initiations often involve
15 forcing a new recruit to commit crimes. Right
16 now, the penalty for such activity, as little as
17 15 days in jail, not much of a deterrent at all.
18 Building on the work of our public safety chair,
19 Peter Vallone, and thanks to the efforts of the
20 committee and staff, we're going to increase those
21 penalties so that a gang member who encourages
22 someone to commit a crime could face up to one
23 year in jail. And gang initiations that terrorize
24 or physically threaten others, that will also get
25 you a year in jail. So will recruiting someone

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2 into or deterring someone who has made the
3 important step of wanting to leave the gang.

4 We recognize that the NYPD is
5 working hard trying to keep gang related crime
6 down and we won't let those gains be wasted.
7 We'll act now to keep New York City the safest big
8 city in America. We're not going to take one step
9 back in the fight against crime and we hope
10 everyone in the ways that they can will further
11 join the fight against this and play their part.

12 I want to thank everyone who has
13 worked hard on these three pieces of legislation,
14 who has been part of our efforts against stop
15 snitching. I, in particular, want to thank the
16 community members and family members who are here
17 today who bring their personal stories and
18 personal losses to this hearing. There are no
19 better evidence that knows about the passing of
20 these bills and anything else we can think of as
21 quickly as possible. Thank you and thank you very
22 much Chairperson Vallone and thank you for your
23 efforts as part of this overall work.

24 CHAIRPERSON VALLONE: Thank you
25 Madam Speaker for your leadership on this issue.

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2 I have questions but I'll only ask one more before
3 we get to the Speaker and everyone else because
4 everyone has been waiting patiently. I just want
5 to thank Chair Comrie of the Consumer Affairs
6 Committee because it wasn't too long ago that his
7 committee and this committee had a joint hearing
8 on stop snitching.

9 The paraphernalia that was being,
10 that is still being sold today that have gang
11 logos, gang colors, stop snitching message. So we
12 are trying as hard as we can as a legislature to
13 do what we can. Commissioner Petito, how would
14 these three laws, if passed by the Council, assist
15 the NYPD I their everyday battle against gang
16 violence?

17 MS. PETITO: I think they give us
18 new tools that we can use, not just for actual
19 enforcement, the arrest of people committing these
20 crimes. But also as part of the prosecution of
21 the crimes in which the DAs might be able to
22 leverage additional cooperation from gang members
23 or people seeking to enter a gang. These bills
24 give us powerful crimes to charge as opposed to
25 violation level offenses currently in the penal

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law.

With more enforcement options we have more options to leverage against these criminals and force them to give up people higher in the chain. So I believe that not only for the actual on site enforcement but the future of investigations, these will be very useful.

MS. PETITO: We're going to go to Council Member Domenic Recchia for questions.

COUNCIL MEMBER RECCHIA: Yes. Good morning. Earlier Commissioner you testified that gang violence in 2008 or was that 2009, it went down 51% in New York City.

MS. PETITO: As of October 18th, which is the last data I have, gang motivated incidents decreased 57% from 188 in 2009 versus 436 in 2008. But I can get updated figures for the Council.

COUNCIL MEMBER RECCHIA: Yeah. Now do you have that broken down by precincts?

MS. PETITO: I don't have that with me, certainly. But if--

COUNCIL MEMBER RECCHIA:
[interposing] Because in my district, Coney

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2 Island, Brighton Beach in Brooklyn, New York,
3 there has been an increase in gang activity.
4 There was just an article yesterday in the New
5 York Post web site dealing with that, how gang
6 violence in Coney Island, Brighton Beach is on the
7 upswing. I just wanted to know about your
8 figures, if you have them broken down by precincts
9 or Council districts because I would like to
10 address that issue because this is a problem in my
11 district.

12 MS. PETITO: I will have to get
13 that for you, Councilman, because I don't have it-
14 -

15 COUNCIL MEMBER RECCHIA:
16 [interposing] Okay, can you get that...

17 MS. PETITO: --broken out.

18 COUNCIL MEMBER RECCHIA: ...to the
19 Chairman of the committee and send a copy to my
20 office because I really need to address that.
21 Thank you very much.

22 CHAIRPERSON VALLONE: Council
23 Member Comrie.

24 COUNCIL MEMBER COMRIE: Thank you.
25 Thank you, Mr. Chair and thank you for

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2 acknowledging the work that we're all trying to do
3 to deal with this scourge. I'm in the district
4 where Kevin Miller was shot as he was walking to
5 try to get some nourishment after school by a
6 group of people that are trying to develop a gang.
7 What I wanted to ask you, just to follow up on
8 what Domenic Recchia was saying, how do you define
9 a gang related incident now? Because it doesn't
10 make sense to communities like mine that the
11 numbers are going down. What's your criteria for
12 determining what a gang related incident is?

13 MS. PETITO: A gang related
14 incident is any incident, crime committed by a
15 member of a gang. A gang motivated incident is a
16 crime committed to further the interests of the
17 gang or as part of the initiation or support for
18 gang activity. So it's related to the gang itself
19 as opposed to a crime happening to be committed by
20 a gang member.

21 COUNCIL MEMBER COMRIE: So how did
22 they label the Kevin Miller shooting? Was that
23 gang related or gang activity?

24 MS. PETITO: I don't know that. I
25 don't know. Individual instance I can certain

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find out for you.

COUNCIL MEMBER COMRIE: I'd like to know because we've had three different incidents in the district recently where people that were all affected by gang type activity and this activity happened right outside a high school. From my understanding, the young man was trying to become involved in a gang or get his opportunity to be accepted by a gang. And I'm just wondering how this is labeled because I have to agree with c Recchia that it doesn't make sense that the numbers are going down.

In my district in southeast Queens, I cover 113, 105 and the 103; we're getting a rise of intimidation. Parents that are calling our office concerned because their children are being approached and solicited to be involved in gangs. I just wanted to know what that criteria is. I'm glad that we're putting these bills out. I hope that they can get passed quickly.

I'm also, heartened by the fact that it's talking about specific criminal street gangs as opposed to making any assertion that it may be alleged gang activity because we do have to

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2 separate between what is known and what may be
3 suspicious so that we could protect all of the
4 issues of people being pulled over just on
5 suspicion. So I want to thank all for the bill
6 sponsors and all of NYPD for recognizing that
7 distinction.

8 But I am very concerned about what
9 the--how quickly we can get this out, how quickly
10 we can get the support in. To make sure that the
11 Police Department has the tools to go after
12 specific gangs but I'm concerned with the creation
13 of all of these sub-gangs that are out here that
14 are not necessarily identifiable gangs but gangs
15 which are happening within communities, happening
16 within cliques, happening especially in my Queens
17 high schools where you have different
18 neighborhoods.

19 People are from the south side of
20 Jamaica dealing with Cambria Heights or dealing
21 with just one end of the town and the other. But
22 they're winding up at a school, just the different
23 neighborhood cliques and how we deal with that
24 also. So I think we need to go a little deeper on
25 this to see the activities and the levels and the

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2 socialization, especially with the changes in
3 community.

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I like the bills. I want to see
5 the bills passed. I want to see that the
6 enforcement can be structured and focused on
7 identifying gang activity. But I think there's a
8 new emerging situation that we have to embrace
9 also. And hope that some of the other speakers
10 will talk about it today. Thank you Mr. Chair.

11

SPEAKER QUINN: Thank you. When
12 you of start listing to people you forget people,
13 so I just wanted to add a couple other folks who I
14 should have recognized and thank you have been
15 part of our efforts against stop snitching.
16 Reverend Sullivan who is the board chair of Harlem
17 Mothers Save and I want to thank him for being
18 with and also Aisha Saiku, who is with Street
19 Corner Resources who also participated in town
20 hall meetings so I just apologize. Thank you,
21 guys.

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CHAIRPERSON VALLONE: We've been
23 joined by Council Member Gentile. We're going to
24 go now to Council Member Arroyo for question.

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COUNCIL MEMBER ARROYO: Thank you

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2 Mr. Chair. Your testimony you indicate we seem to
3 be experiencing a reduction in crime at gang
4 activity in the city. But since you were
5 testifying you didn't have an opportunity to
6 notice the body language of the audience. There
7 is, obviously, a very serious disagreement with
8 the numbers that are reported and what we
9 experience in community.

10 So I'm not sure whether we ought to
11 spend some time on trying to estimate the number
12 of incidents that are not reported. I think those
13 far outweigh or outnumber the numbers that are
14 reported. Specifically, what can we do as
15 community, as a city to help individuals who out
16 of fear would not come forward to come forward.

17 MS. PETITO: I think, certainly,
18 the Police Department is very aware of the problem
19 of the fear of reporting, the fear of
20 participating in a criminal investigation. That
21 certainly goes into the area of stop snitching
22 because everybody can sense and understand that
23 people are afraid to report. What we done, and
24 again this is not a new problem, certainly, it's
25 gotten a lot of public attention and has gotten

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2 increased attention because of high profile
3 individuals and development in hip hop culture
4 which seems to push people in that direction.

5 We've had anonymous crime
6 reporting. We've had anonymous reward programs
7 for a very long time in which people can report
8 crime without giving their names. We have crime
9 stoppers, we have gun stop. We have a lot of
10 programs where it facilitates anonymous reporting
11 so that people can give us the information but not
12 identify themselves if they are afraid.

13 We have had tremendous success, for
14 example, with our gun buy back programs. The
15 participation of the clergy and the District
16 Attorneys offices over the course of the last I
17 would say, year and a half two years, we've
18 collected thousands of guns from people who come
19 forward because they don't want those guns in
20 their home. Again, they can do it anonymously.

21 I think there is, certainly,
22 awareness within the Police Department that we
23 need to facilitate anonymous reporting for people
24 who are afraid. If people do come forward and
25 they become witnesses for us then there are

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2 certain--I don't know whether or not it's enough
3 to assuage people's fear but there are additional
4 protective measures that can be taken to assist
5 them to make them feel more protected. The Police
6 Department is very aware of the fear that people
7 have in coming forward to report crime so we try
8 to facilitate taking that step because it will
9 help everyone.

10 COUNCIL MEMBER ARROYO: I think we
11 need to spend some time planning and strategizing
12 around bringing that information and doing
13 outreach into the communities to help individuals
14 know that there are mechanisms in the system that
15 aid them and can assure them, to a certain extent,
16 about safety and not having to be afraid to be
17 labeled whatever that label is in their attempt to
18 help the community.

19 It is the first that I hear that
20 the Department has other mechanisms in place. I
21 think we need to bring that information out to
22 community. And I'm not sure that we've talked
23 enough about it to have a very deliberate plan to
24 come out into the communities. And not the
25 priests and Council meetings because usually those

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2 meetings are attended by the same people every
3 month. We need to have very focused groups out in
4 the community where the Department is bringing
5 that information out and maybe we can do a joint
6 effort with the Council Member's office. So that
7 we can schedule those public forums.

8 MS. PETITO: There are a great many
9 both formal and informal ways in which the Police
10 Department communicates this information. The
11 Community Affairs Division has many participation
12 programs involving youth especially but also the
13 general public and a lot of outreach. Every time
14 we put out a message to the public to help us with
15 a crime investigation, we give out the Crime
16 Stoppers telephone number that they can report,
17 make tips anonymously. I think that, certainly,
18 we can always improve and we can always do better
19 but there is a lot of information that the Police
20 Department puts out, as I said, both in formal and
21 also informally by police officers and the
22 precincts and on the streets, talking to people.

23 COUNCIL MEMBER ARROYO: I just want
24 us to talk a little bit more about the formal so
25 that we can deliberately schedule public forums

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2 where communities invited to hear the information.
3 So pay attention to the body language of this
4 audience ad you will understand that what you're
5 saying is one thing and that what we experience is
6 something else and I'll leave it at that. Thank
7 you Mr. Chair.

8 CHAIRPERSON VALLONE: Council
9 Member Dickens.

10 COUNCIL MEMBER DICKENS: Thank you
11 Chair and thank you Commissioner for your
12 testimony. I want to join in with my colleagues
13 to say that gang activity is not decreasing; it is
14 on the increase. And in my community, it's gotten
15 to the point that people are afraid; afraid to
16 leave their homes at night, afraid to approach
17 into a block where there's a lot of young people.
18 So it's not decreasing. Every time I hear that it
19 just makes me cringe because I can't figure out
20 where the numbers are coming from.

21 But I, too, join in and I strongly
22 support these measures. However, I think that
23 there's something that we're not doing that we're
24 missing. Gang activity, gangs is a big business.
25 And it is run by adults not by children; the 11

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2 year olders that we see joining and the ones that
3 we see doing the shootings. It is run by adults;
4 and those adults represent a positive, if you will
5 and I put that in quotes, a father figure, a place
6 to belong to young kids who are looking for a
7 place to belong. Until we start to address that
8 to try to curb it before they join, to give them
9 an alternative, to show the young children that
10 there is an alternative to that man over there
11 that is heading a gang. That is the one that
12 wants to put a gun in your hand and instead
13 there's a man or a woman over here that says
14 something positive; doesn't have a gun but has a
15 hammer to teach you something, has a screwdriver
16 to show you where you can do something
17 construction. Until we do those type of programs
18 a lot of this is just going to fail. Because when
19 you put the one head in jail, the next one pops
20 up. So I support these measures but I lay on the
21 table that we really haven't decided to get to the
22 root of it. And the root of it is that how do
23 these gangs are able to proliferate in these
24 communities is because they're offering a safe
25 haven, a father figure, a place to belong for

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2 young girls and boys that they're not getting some
3 place else.

4 For instance, there is a Harlem
5 man, not to be identified, but the Brooklyn Group
6 that has been going. Very small group, only about
7 25, and they go into the Polar Grounds, which has
8 been hit so drastically with gang activity that
9 the residents are afraid to come out past dark.
10 And these men have gone into the Polar Grounds to
11 show these people, these gangs, these kids that
12 there's another way. And some of them are men
13 that have been in trouble in the past themselves.
14 It's headed up by Reverend Al Taylor and he's not
15 getting funding, he's not asking for funding for
16 anything.

17 I put him in touch and he has had
18 several meetings with Commissioner Kelly, by the
19 way, because of the work he's done. The residents
20 feel that they have been able to help stem the
21 tide of some of the gang activity that they're
22 having in the Polar Grounds. In fact, when they
23 go out at 4:00 in the morning, when the gangs are
24 just going home, they come out, Man Up comes out
25 in 4:00 and 5:00 in the morning. Parents have

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2 been, mothers have been hollering out of the
3 window, thank you. Thank you for trying to save
4 my child.

5 Until we really begin to get to the
6 root of it, which is to stop the big business
7 because that's what it's about. Then these are
8 just band-aids. I'm not saying don't put a band-
9 aid on but I am saying that we're going to have to
10 do a lot more than just the band-aids. That's why
11 I believe the Commissioner was even will to meet
12 with Harlem Man Up because he had heard from the
13 residents about the job that they were doing.

14 So I just wanted to lay that on the
15 table s something that I think that the Police
16 Department could do to really get to the bottom of
17 this issue. Because these gangs, they don't own a
18 thing and yet they turn around and tell--a kid is
19 from one project development can not cross the
20 line to go to an activity, positive, if it has to
21 cross over for another one. They're prevented or
22 they could get shot. They can't cross from one
23 block to the other for that matter, let alone
24 cross from one development. We've got to really
25 get to the root of it, which is to stop the big

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business because that's what it's about.

CHAIRPERSON VALLONE: Thank you.

COUNCIL MEMBER DICKENS: Thank you.

MS. PETITO: Council Member, if I could respond, I completely agree with you that this issue is a lot bigger than just criminal enforcement or in fact the Police Department. We need to work with and do work with community groups and responsible adults in the communities to help give kids an alternative. The Police Department has a lot of programs with that specific goal in mind, such as Law Enforcement Explorers and the Police Athletic League, Police Youth Liaisons. It is something that we focus a lot of attention on but it is certainly bigger than what the Police Department can do by itself. We acknowledge that and we welcome partnerships with all community groups across the city to help us give kids an alternative and give them a different way of thinking about their lives.

Also on the issue of the turf marking and the preventing someone from being able to walk on public streets where they should be able to walk. The Police Department's proposal,

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2 we had included as one of the crimes, the new
3 crimes that we would like to create, working
4 within a street gang concept to mark turf or to
5 exercise control over particular territory. That
6 particular aspect of the bill did not become part
7 of the bills before you today but we still hope to
8 have some legislation to add that to the toolbox
9 that we can use for people to be at least
10 addressed on that basis.

11 COUNCIL MEMBER DICKENS: Thank you,
12 Commissioner.

13 MS. PETITO: Thank you.

14 CHAIRPERSON VALLONE: We're going
15 to go to one more Council Member for a follow up
16 question because the schedule was supposed to be
17 the DAs next but two of our people that have been
18 mentioned many times, Reverend Sullivan and Jackie
19 Adams have to get on a plane so we're going to put
20 them up. I'm going to cut my questions off to, to
21 the Commissioner because we speak everyday so I'll
22 ask them of you down the road. We'll go to
23 Domenic Recchia for a quick follow up.

24 COUNCIL MEMBER RECCHIA: A quick
25 follow up question, in those numbers that you gave

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to us earlier, do you have numbers for gangs activity the way you define gang activity for schools?

MS. PETITO: I believe we do. I believe we do. I don't have them with me but I believe we do.

COUNCIL MEMBER RECCHIA: Because that is an important issue, the gang solicitation in school that's what made me introduce my legislation. In addition to that, I have a copy of that article to discuss with you earlier about the rising gang violence in my district. Sergeant at arms could you just give her a copy. Thank you very much Mr. Chairman.

MS. PETITO: Thank you.

CHAIRPERSON VALLONE: thank you.

As I said, Commissioner, I have a lot of questions about witness intimidation and those sorts of statistics but we will talk about that on a continuous basis, as we always do as we continue to craft these bills. So thank you for the Police Department for support of these bills, thank you for what you do to combat gang violence every day. We agree completely, there's a lot more to it than

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just the NYPD but you are definitely a big part of it.

Everyone does what they can to deter people from going into crimes and gangs and nobody does it better than the people in this room. I don't believe anybody gives more assistance than the people in the New York City Council. You're not going to deter everyone and that's where the NYPD comes in. You're doing a great job and we're trying to give you as many tools as you can so thank you and we'll be working with you down the road.

MS. PETITO: Thank you.

CHAIRPERSON VALLONE: As I said, we're going to call out of order Reverend Sullivan and Jackie Roe Adams who will testify briefly and then we'll go to the District Attorneys offices. And thank you Council Members for being patient. Whenever you're ready, whatever order, Jackie?

JACKIE ROE ADAMS: Good morning. Now, that sounds better. Well, once again I'm just pleased to sit before the Council on this very, very, very important issue. I am Jackie Roe Adams, co-founder of Harlem Mother Save along with

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2 Jean Corbett Parker. I lost two kids to gun
3 violence so I know the importance of this. But
4 before I turn it over, I just want to take the
5 time to thank our Speaker, Christine Quinn, who
6 works so hard. Also the Chair of Public Safety
7 Committee, Peter Vallone, Jr., thank you and the
8 members of the Public Safety Committee, thank you
9 so much for this great, great issue. And none
10 other than our important lady who has been on the
11 battlefield, Council Member Inez Dickens, you've
12 been there form the beginning and I see Councilman
13 Robert Jackson there who's been fighting with us,
14 thank you.

15 I just want to say, it is important
16 that we recognize our Harlem Mothers, Dorothy, our
17 mothers are out today because they know the
18 importance of this, this stop snitching and these
19 gangs. It's just too many. But I'm pleased to
20 say that I sit beside and proud to sit beside him,
21 our Chairperson of Harlem Mothers Save, the
22 Reverend Ronald E. Sullivan, the pastor of
23 Christian Parish for Spiritual Renewal will
24 testify today. As you hear, I'm a little under
25 the weather so I certainly turn it over to a

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capable voice this morning.

REVEREND RONALD E. SULLIVAN: Good afternoon. Thank you Ms. Adams, Aunt Jackie. On behalf of the Board of Directors, the founders and members of Harlem Mothers Save, I would like to thank Speaker Christine Quinn, the Chair of the Public Safety Committee, Peter F. Vallone, Jr. and the members of the Public Safety Committee and other City Council persons for proposing amendments to the administrative code of the City of New York in relation to criminal street gang activity, criminal street gang solicitation and criminal street gang initiation activity.

Harlem Mothers Save has a vested interest in the elimination of criminal street gang activities. Each member of our organization has lost at least one child to street gun violence and in some cases, more than one child or family member. Unfortunately, our membership continues to grow, as it seems, almost on a weekly basis. And the shootings and ultimate killings in our communities at an alarming rate. So we have personally experienced the destructive impact on our families from criminal activity that is some

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2 cases were strongly suspected to be caused by
3 street gangs. I say suspected because 90% of the
4 cases have gone unresolved and in other cases, the
5 perpetrator was found to be either a 13 year old
6 or other teen holding an illegal hand gun.

7 Recently in the summer, Corey
8 Squire, a young man who wanted to leave the gang
9 was murdered on West 144th Street. This is a real
10 problem for our city and I will go as far as to
11 say, for our nation. We are indeed in support of
12 the enactment of the amendments and believe that
13 they represent a good initial first step in
14 thwarting street gang activities that take the
15 lives of our family members and create fear in our
16 communities.

17 We, however, would like to lift up
18 a few additional issues for your consideration.
19 First, while we strongly agree that the actions
20 described in the proposed amendments warrant
21 penalties as proposed, we want to make sure that
22 the application of the law does not penalize young
23 people who may be imply caught in the middle.

24 For example, being sure that you
25 can differentiate those who are initiating gang

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2 activity and those who like Corey, have gained the
3 courage to exit the gang but can't get out safely.
4 How do we corroborate allegations that may be
5 brought against a young person suspected of gang
6 initiation or solicitation activity. We want to
7 make sure that the language of these bills have
8 more clarity on how these amendments are going to
9 be applied.

10 Second, we advocate strongly for
11 funding programs that offer preventative measures
12 for young people. Additionally, we strongly
13 solicit the support and assistance of the
14 committee in getting illegal hand guns out of the
15 hands of gangs. Again, we thank you for giving us
16 this opportunity to express our support for your
17 efforts, and our desire to preserve our families
18 and the safety of our communities.

19 I think as other people have
20 brought up the additional issues that affect gang
21 violence, the fact that a lot of the violence
22 taken place in the streets are by groups of young
23 people are not organized in a formal gang. The
24 block against block, neighborhood against
25 neighborhood types of activities are an issue.

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2 But I think underlying a lot of the things,
3 especially the core of the stop snitching issue is
4 we have to make our young people feel safe.

5 Painting walls, which we participated in; making
6 phrases and mantras are good but you've got to get
7 the fear out of the heart of our young people.

8 A lot of these people are joining
9 groups and organizations because they're afraid to
10 walk alone. A lot of people are carrying hand
11 guns because they're afraid if they don't, they're
12 going to become the victims of violence. A lot of
13 people are joining gangs for affiliation. You've
14 heard some people mention we want to re-emphasize
15 the fact that we need institutions, we need
16 organizations, we need funding for programs that
17 allow our young people to have positive
18 affiliations. They can be a part of something
19 that's going to preserve their lives, not take
20 their lives. We have to do a strong job working
21 together.

22 The Police Department was speaking
23 about the program and initiatives they have and
24 the Crime Stoppers numbers. However, a lot of the
25 young people feel intimidated and feel fear on the

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2 part of law enforcement. So if they're the ones
3 who have the programs, I'm not going to
4 participate in a program when I feel you're the
5 one that's making me afraid. So the stopping of
6 young people on suspicion, on allegation, is a
7 very big part of this. We have to collectively
8 come up with some tangible ways to make sure that
9 our young people feel safe. That they can be
10 courageous enough to make other choices than join
11 a gang or get beat down by the gang.

12 I think that the City Council is
13 taking steps in that direction. We certainly
14 support the steps that are being taken but some of
15 the Council Members have mentioned we want to see
16 it continue. Council Member Recchia, Council
17 Member Comrie have said the kinds of things that
18 we support. We've got to dig deeper. We've got
19 to address the fact that it's not getting better,
20 it's getting worse but we have to do a better job
21 collectively of making our young people feel safe.
22 Council Member Jackson, we've stood together
23 several times. Himself has experienced gun
24 violence in his own family and knows what this
25 pain is like as well. We want to see these

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2 measure go forward but we also have to get to some
3 of the deeper underlying things that are causing
4 some of our young people to gravitate towards
5 gangs, to become victims. And I think we have to
6 work together on solving some of those issues.

7 CHAIRPERSON VALLONE: Thank you
8 both. Everyone wants to thank you but I'm going
9 to do it on behalf of everybody. We can pass laws
10 and have oversight hearings and we do, probably
11 more than any other legislature and we try to
12 assist as much as we can by providing funding, as
13 you asked, to so many different groups that do the
14 sort of gang prevention you mentioned, probably
15 more than any other legislature in the world. But
16 perhaps nothing is as important as what you guys
17 do out on the streets.

18 MS. ADAMS: Thank you.

19 CHAIRPERSON VALLONE: Every day,
20 every night, at 3:00 in the morning to prevent our
21 youth from being enticed into these gangs. I want
22 to thank you on behalf of everybody up here for
23 the work that you do. I know that you both have
24 to leave so we're not going to ask any questions
25 and we're going to continue to go on. But you

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2 mentioned drafting these bills, we look forward to
3 working with you as we amend the language to make
4 them even better. So thank you both for all the
5 things you do.

6 MS. ADAMS: And thank you for the
7 work that you continue to do.

8 MR. SULLIVAN: Thank you for your
9 time this afternoon.

10 CHAIRPERSON VALLONE: We're going
11 to go with the District Attorneys Offices, whoever
12 is here can come up. From what I hear we have
13 Jesse Jay Sly and Mariella Palomino Herring from
14 the Queens DA office, Edward Tolti from the Bronx
15 District Attorneys Office, Edward Carol and Diana
16 Rodriguez from the Kings County District Attorneys
17 Office and Daniel Master Chief Assistant DA from
18 the Staten Island District Attorneys Office. Many
19 of you have been here in the past, many on this
20 issue. So we thank you for coming down today and
21 taking time out of your busy schedules. We know
22 better than anyone else how understaffed you are
23 so thank you all for being here.

24 I really have no idea what order
25 you should go in. Normally it's with seniority

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2 when the DAs come so Mariella since we've been
3 working with you almost daily, how about you go
4 first.

5 MARIELLA PALOMINO: Thank you very
6 much. Good afternoon. My name is Mariella
7 Palomino Herring and I'm Assistant District
8 Attorney in the Queens District Attorneys Office
9 now for almost the last 20 something years. In
10 any event, I serve under the District Attorney,
11 Richard A. Brown, as the Bureau Chief of the Gang
12 Violence and Hate Crimes Bureau.

13 The Gang Violence and Hate Crimes
14 Bureau as the name suggests, concentrates efforts
15 and resources to combat biased motivated and gang
16 related crime in Queens County. To that end, our
17 Bureau is assigned all hate crimes, gang crimes,
18 violent school crimes--

19 CHAIRPERSON VALLONE: [interposing]
20 Mariella, just pull the mic a little closer. It's
21 difficult with the air conditioning on.

22 MS. PALOMINO HERRING: Also
23 representing our office here with me today is
24 Executive Assistant District Attorney Jesse Sly
25 who has been an Assistant District Attorney for

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2 over 25 years and is currently the head of the
3 special prosecutions division, created by District
4 Attorney Richard A. Brown to identify community
5 crime problems and through strong community
6 partnerships, devise office wide or multi agency
7 solutions.

8 Crime prevention and mentoring
9 programs are also initiated through Mr. Sly's
10 division and he is here to answer any questions
11 regarding the work that is done in the division,
12 which is a critical piece of any discussion on
13 combating gang violence.

14 At the outset, I would like to
15 thank you for your interests and concern on the
16 issue of gang violence in the city. It is
17 certainly an issue that the District Attorney,
18 Richard A. Brown identified very early in the game
19 by the creation of the gang violence and hate
20 crimes bureau. The bureau began its work in the
21 early 90s. The first incarnation of gangs that we
22 began to see were neighborhood gangs. And these
23 neighborhood gangs were fighting other
24 neighborhood gangs.

25 But pretty soon these gangs fizzled

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2 out but in their place we began to see other, more
3 flamboyant gangs like the Nietas, La Familia,
4 Latin Kings and Mexican gangs such as Los
5 Traviesos and Los Pitufos which believe it or not
6 means the Smurfs. But as I mentioned in my
7 written materials, these gangs were quickly
8 snuffed out. Again, new ones emerged and those
9 gangs that we are seeing presently now are gangs
10 such as Bloods, Crypts, MATs, Surenos, Lost Boys,
11 Trinitarios and MS 13, to mention a few.

12 CHAIRPERSON VALLONE: Mariella, you
13 mentioned your written statement, which we do have
14 and it's part of the record. It's ten pages
15 single space so obviously you're going to sum it
16 up.

17 MS. PALOMINO HERRING: Yes.

18 CHAIRPERSON VALLONE: Thank you.

19 MS. PALOMINO HERRING: I'm just
20 going through the gangs, the history. Let me just
21 say, one of the key things that we look at in
22 combating gang violence in our county is joining
23 forces with all sectors of our community. We work
24 with the NYPD Queens Gangs Squad. We talk daily
25 about what's going out on the streets, what gangs

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2 to look out for, the incidents as they arise. We
3 work with the New York City Department of
4 Corrections which has set an outstanding protocol
5 of information sharing. And we've also worked
6 with the federal law enforcement agencies to work
7 together.

8 For example, we've been working
9 with the Eastern District to take down and
10 dismantle MS 13 cliques operating within Queens
11 County. And so it's important to keep those
12 relationships within law enforcement. However, we
13 go beyond that and again, I emphasize, this is the
14 key. We don't stand alone here. We talk to
15 schools. We started reaching out to schools in
16 the early 90s before anyone understood what the
17 beads were that these students were wearing to
18 school. NYPD has been a partner with us in this
19 very early on in the game.

20 Through Mr. Sly's division, we
21 attend town hall meetings and we conduct gang
22 awareness workshops with the community; if
23 necessary, with a bilingual presentation. We send
24 our ADAs out to the Rockaways to participate in
25 the Star Track program. There's various community

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2 programs out there and the network of advisory
3 councils and at the Star Track program, which all
4 foster to create a closer working relationship
5 between young people and law enforcement.

6 Because as the Reverend Sullivan
7 indicated, there is an apprehension between some
8 young witnesses and their interactions with
9 police. As there is, it's significant for us to
10 also understand the interaction between police and
11 their job to keep their eyes open, be aware, use
12 that gut instinct out on the street and their
13 interaction with young people. This is something
14 that we acknowledge in our office and through
15 these programs, through the division we
16 acknowledge that and we are working with that as
17 well. So it's not just the law enforcement, it's
18 the community piece as well.

19 Also, we conduct an annual violent
20 gang conference since the 1990s, way before this
21 hit the front pages. And I have to tell you, the
22 Police Department was on board back then with the
23 creation of gang division units within the Police
24 Department, knowing very early on in the game
25 something was happening. We saw beads. We saw

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crimes being committed by groups of individuals.

I'm proud to say that the Assistants in my bureau have become very adept at dealing with the obstacles that come with prosecuting gang cases. As I mentioned in my written materials, there are challenges but we have learned to coax witnesses to come in, to feel more comfortable. A lot of that is hand holding. It's promising them an amenity perhaps during the initial stages of a complaint. It's going to their homes sometimes and understanding their lifestyle and the challenges that they have. And really coddling witnesses to come forward and making them feel safe and have confidence in the criminal justice system.

If I may just mention now the proposed legislation, I want to thank you for making these efforts to help us have the stronger tools within the court room. But I do want to remind you that, of course, we're coming from the prospective of lawyers. When we do walk into a court room we have evidentiary rules and admissibility requirements when it comes to evidence. That is the prospective that I'm coming

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from when I talk about the proposed legislation.

I would love for someone to say, let's ban all gangs and we can walk in there and put everybody away or send them to probation or programs or whatever it is but it's just not that easy. I am intrigued by the initiation proposed code. It is, I believe, 941-A and I like it because it gives us the ability to perhaps prosecute a case without the cooperation of a victim.

Now in an initiation situation, we all understand that the victim in the case is consenting to the assault. So our experience has often been, and it's not always the case, but for the most part, that victim will not cooperate with us because they went into it on their own. They want to get into the gang and they will not cooperate with us. So we have had instances where we have gone forward without the victim. We have used the hazing statute in those instances.

But it is very difficult for us to prove physical injury and it's usually just physical injury because it's rare that weapons are ever used. The result in an initiation is usually

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2 physical injury, bumps, bruises, swelling, maybe
3 some lacerations. Without the victim, it is hard
4 for us to prove the physical injury. So this
5 proposed statute does give us that by using the
6 language "or places a person in fear of eminent
7 serious physical injury". So we don't actually
8 have to prove the physical injury.

9 The one recurring thing that I've
10 seen in all the proposed codes is the language of
11 criminal street gang. And I definitely understand
12 that we're trying to here set the tone that this
13 is legislation geared towards gangs. However,
14 gangs are very amorphous. They don't keep paper
15 trails. They're out there. Sometimes they don't
16 even know how many gang members they have. So it
17 is very difficult for us to prove before a judge,
18 before a jury saddled with the evidentiary issues
19 that we have, that it is a gang.

20 So I feel that that portion of the
21 language in those proposed codes actually creates
22 the burden of us having to prove two things; one,
23 the initiation and two, the existence of a
24 criminal street gang. It is really hard to do
25 without informants, without someone from their own

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2 gang coming forward and testifying. And without
3 someone who is a historian about these gangs.
4 Again, that is our one reservation with regards to
5 the language, the criminal street gang.

6 With regards to the solicitation,
7 solicitation to commit a crime does not really
8 happen in the first encounter with a non-gang
9 member. The first thing they do is try to seduce
10 that person. Come out with us, let's go drinking.
11 Give them access to money, to girls, whatever is
12 out there to seduce that person to become a member
13 of the gang. Now that person who will be
14 solicited to commit crimes, it's not done until
15 these relationships have been fostered.

16 So it's very unlikely that that
17 person is going to step forward after they've then
18 thrown themselves in this gang. And say, wait a
19 minute, they're soliciting me to commit a crime.
20 At least in my experience, there will be
21 exceptions to this, but for the most part it's not
22 really the first encounter that they have when
23 they're asking the to commit crimes. In other
24 words, they don't do it to a stranger, they do it
25 to another gang member.

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2 The only one that's left, I guess,
3 is the recruitment. As I mentioned in my written
4 materials, I do believe that we are covered with
5 regard to the recruitment under the coercion
6 statute. The coercion statute does not define the
7 criminal street gang in the very limiting way that
8 the proposed legislation describes it.

9 CHAIRPERSON VALLONE: Normally I'd
10 go to the others but I got to ask you about that
11 coercion thing. You bring up some very good
12 points and we understand the difficulties. We
13 don't put these out there as panaceas or anything
14 where they're additional tools, we don't think
15 they're going to solve the gang crisis or
16 anything. We want to work with you to fix the
17 language to put it in a form that it will help you
18 even more.

19 But when it comes soliciting being
20 covered by coercion, I completely disagree.
21 Coercion needs an explicit threat. My bill does
22 not so how are you covered now by coercion for
23 solicitation into a gang?

24 MS. PALOMINO HERRING: I think it's
25 the recruitment that's covered by coercion. Let

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me just check.

CHAIRPERSON VALLONE: Well
recruitment, solicitation.

MS. PALOMINO HERRING: Okay. Just
check my--I actually site the language in the
coercion statute.

CHAIRPERSON VALLONE: My bill would
make it a crime to solicit someone, encourage
someone to join a gang, that's it. You would not
have to prove a threat although one is often
implied. With coercion, there would have to be a
threat, which you then would have to prove which
is often difficult which, as I said is implied. I
think it would make it much simpler if the crime
is just to solicit. As you said, maybe it's
money, maybe it's girls as opposed to a threat.

Coercion exists but misdemeanor
coercion is a threat so I don't know why you don't
think straight solicitation would be much easier
as a prosecutor.

MS. PALOMINO HERRING: Actually my
comments about the solicitation center around the
scenario that we usually see. Solicitation does
not come until the person being solicited is

1
2 already a member of the gang so it would be
3 unusual for that person to report a solicitation.
4 My comments about the coercion referred to the
5 recruiting, the instance when they're trying to
6 bring the person into the gang. Hey, why don't
7 you com.

8 CHAIRPERSON VALLONE: That's what
9 I'm discussing also. Solicitation is actually
10 solicitation to--and that's Domenic's bill, for
11 criminal activity which doesn't have to involve a
12 gang. My bill is recruitment into a gang. You
13 believe that's covered by coercion.

14 MS. PALOMINO HERRING: I believe
15 that we have that as a tool.

16 CHAIRPERSON VALLONE: Absolutely,
17 but it's a much more difficult tool to use. It's
18 like using a sledge hammer when you need a
19 screwdriver or something like that. Again, it's
20 not going to solve the problem, our bills, but I
21 think it's going to be a big help to you to be
22 able to prosecute someone for mere solicitation,
23 mere recruitment, to use the same language, as
24 opposed to using coercion to get someone into the
25 gang.

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2 We all know that's usually what's
3 involved but it's much more difficult for you to
4 prove that threat when it's not as overt. Again,
5 many good points and we're going to continue to
6 work with you on all of this to make sure that it
7 works for you guys because as a former prosecutor,
8 I know how difficult all of this is, especially
9 with the limited resources you have. Let me get
10 to some of the other District Attorneys Offices
11 first.

12 MS. PALOMINO HERRING: Thank you.

13 CHAIRPERSON VALLONE: In whatever
14 order you guys want.

15 DIANA RODRIGUEZ: I'm Diana
16 Rodriguez, I'm the Chief of the Gang Bureau at the
17 Brooklyn District Attorney's Office. We are in
18 our 15th year of existence and having been a
19 career prosecutor for 24 years, gang prosecution
20 continues to be one of the most difficult areas of
21 prosecution to deal with.

22 I want to commend the committee and
23 I want to commend the Council for continuing to
24 want to enact laws that are going to assist us in
25 battling with this situation. I do just want to

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2 say very quickly that I think we're finally
3 beginning to get it right in terms of
4 understanding that this problem is more than just
5 a law enforcement issue, that we do have to
6 partner with community organizations with those
7 community based organizations with other citizens.
8 We need to help empower those communities to take
9 on the gangs that are growing up amidst their own
10 neighborhoods.

11 But let's be clear, we're now
12 prosecuting second generation gang members. So
13 we're prosecuting a whole group of gang members
14 who were born into the gang and whose whole life
15 experience has been the gang culture. Taking
16 that, I think it becomes very clear that we need
17 to, as law enforcement and it's not inconsistent
18 as a prosecutor, to talk about engaging in
19 programs that are alternative to sentencing.

20 I don't know about statistics from
21 the Police Department or anywhere else but the
22 number of cases coming into my bureau has
23 increased. I think part of the problem with why
24 in gang activity, it is difficult to really get
25 substantial and an accurate statics is because you

1
2 don't necessarily learn that a case is gang
3 motivated until well after the arrest.

4 Unfortunately, I think that we all have different
5 definitions of what a gang is and what a gang
6 motivated case is.

7 From my perspective, from the
8 definition of the New York City Police Department,
9 a gang related case in our bureau could be a
10 defendant who is a gang member but it's gang
11 related because the crime that he committed in
12 some way benefits the gang. For example, if you
13 have a gang set that they make their money for
14 their gang by committing robberies in their
15 territory. Then every time one of those gang
16 members commits a robbery the proceeds of that in
17 some way benefits that gang. Our bureau deals
18 with gang related and gang motivated crimes. The
19 other--

20 CHAIRPERSON VALLONE: [interposing]
21 Are you saying in your experience the Police
22 Department would not qualify that as a gang
23 activity?

24 MS. RODRIGUEZ: I'm working from
25 their definition, the definition I heard the

1
2 commissioner give that gang related crime was a
3 crime that was committed by a gang member, that
4 was not necessarily one that was to benefit the
5 gang. As opposed to a gang motivated crime where
6 I would think the obvious or the simple example
7 would be Bloods versus Crypts for territory,
8 there's a shoot out and they kill one of the rival
9 gang members.

10 But the problem also is we're now
11 dealing with a higher number of young defendants.
12 I'm talking about 15 years old that before never
13 showed up in our area of the criminal justice
14 system. Those usually, those were young kids who
15 committed crimes who were dealt with by the family
16 court. They are now committing those seven
17 designated felonies, which now brings that 14, 15
18 year old into the world of adult Supreme Court.

19 When we look at all of those
20 things, I think part of what we have to do is
21 begin to look at is jail the only alternative for
22 them. I work for a District Attorney who believes
23 that programs are very much in keeping with our
24 duties as prosecutors. Because if we can take a
25 kid, get him out of the gang, get him back into

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2 school or going into something that's going to
3 make him a positive person in his society then we
4 just have taken care of a whole bunch of crimes
5 that are never going to happen.

6 We've been dealing in our bureau
7 with Project Redirect, which is our alternative to
8 incarceration program for gang members. One of
9 the things that we've learned in the three years
10 that we've been working for that, we presently
11 have 17 defendants who have opted to come into the
12 program. They are all in high school or college
13 or actively seeking their GEDs. They are learning
14 to re-integrate themselves back into their
15 communities to be contributing members.

16 What we've learned is that there
17 has to be a very strong relationship between our
18 program and communities. If we can get them to
19 leave the gang, we can get them to go back to
20 school but there comes a point where they graduate
21 our program. I want to make sure they have a
22 community to go back to that's going to support
23 them and give them that support system that they
24 need.

25 I really want to talk about the

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2 gang initiation statute, the proposed statute. I,
3 again, thank you for every tool that you give us
4 because there's no such thing as not enough tools
5 that we can use. My main concern with the gang
6 initiation statute really comes from who are we
7 proposing will be the targets of this particular
8 legislation.

9 Gang initiation, by its very
10 nature, is consensual as we all agree. But I am
11 concerned and in dealing with Project Redirect
12 I've learned that young kids who are being
13 initiated into the gang. They're not being
14 initiated by being told the truth of what they're
15 going to sign up for. My concern in the language
16 of this is that it may leave us open to having to
17 arrest and prosecute the initiate, who in many
18 instances may be the only witness we have that can
19 give us the information, this occurred because I
20 was being initiated into the gang.

21 Also we have, in terms of gang
22 initiations, I could see parents wanting to have
23 this particular crime prosecuted because they will
24 learn when their son or daughter comes home with
25 bruises or stuff that it was part of a gang

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2 initiation. But what parent is going to leave
3 their child open to being prosecuted?

4 My concern is when we had the
5 language of a person is guilty of crimes from gang
6 initiation activity when "in the course of his or
7 her own initiation". Just the way I read that it
8 sounds to me like the person who is being beaten
9 up or is being initiated into the gang is somebody
10 who would become either a defendant as a matter of
11 fact or a defendant as a matter of law.

12 I do think we have to make a
13 decision on whether or not we want to use that as
14 a deterrent, or whether or not we want to accept
15 the premise that the kid who is being initiated in
16 is not necessarily really understanding the depth
17 of what they're being initiated into.

18 From a trial lawyer's perspective,
19 it would certainly be much easier for me to be
20 able to call that initiate as a witness to help me
21 make my case. Gangs are very smart; they're not
22 going to necessarily commit that initiation in
23 front of a place that has a camera or unless
24 there's a third party who is outside of the gang
25 that observes this and can testify. Really what

1
2 we are left with is the person who was initiated
3 in. If he is a defendant then I now have to
4 corroborate that person's testimony.

5 So I'm concerned in terms of the
6 evidentiary and my ability to be able to utilize
7 this against the gang members who are already in.
8 Who have every reason to want to initiate new
9 members in and who certainly aren't going to tell
10 new initiates the truth, necessarily, about what
11 life they're going to lead when they are initiated
12 in full blown gang members.

13 CHAIRPERSON VALLONE: Okay, thanks.
14 Just quickly, you seen gang related activity go up
15 in your office in Brooklyn.

16 MS. RODRIGUEZ: Absolutely.

17 CHAIRPERSON VALLONE: In Queens, up
18 or down?

19 MS. PALOMINO HERRING: I would say
20 it's an increase.

21 CHAIRPERSON VALLONE: On the rise.

22 MS. PALOMINO HERRING: The cases
23 that we see, yes.

24 CHAIRPERSON VALLONE: Okay, Mr.
25 Tolti, why don't you go next and include that in

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your testimony. Thanks.

EDWARD TOLTI: All right. I guess it's good afternoon now. My name is Ed Tolti, I'm the Chief of the Gang Unit for the Bronx DA's office. To answer your question first, gang violence in the Bronx is obviously increasing, I think. I think it's obvious to anybody who reads the newspapers that there is a significant problem with gangs in the Bronx.

I thank the committee for its efforts to address this problem. The thin I like most about the legislation, I guess, is it's a public recognition in statutory form that gangs exist. We've never had that before. In fact, it's one of the difficulties when we go into court, perhaps against one defendant who has committed a shooting on behalf of a gang. We have to prove that motive and we therefore have to prove that he's part of a gang. We've never been able to charge anything like this so we've always had that extra burden.

What we hear is that, well you know counselor, that's very prejudicial to the defendant. Bringing out the fact that he's a

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2 member of the gang. But if I can charge it, it
3 will go a long way towards having judges and
4 juries recognize that these are crimes committed
5 in context. It's not one shooting; it's a series
6 of shootings.

7 CHAIRPERSON VALLONE: In my
8 experience as a prosecutor, anything that proves
9 guilt is prejudicial to the defendant.

10 MR. TOLTI: We have tried to point
11 that out to several members of judiciary with some
12 success. I don't want to go over again. I do
13 share some of the concerns about the statutes in
14 terms of trying to prove them. However, I know
15 most of us here have some experience. I used to
16 be Chief of Domestic Violence Prosecutions in the
17 Bronx. Some of those same difficulties about
18 reluctant witnesses and proving cases without
19 witnesses were present in that area. We came up
20 with evidence based prosecutions. Some of those
21 same ideas can be moved to the gang field and
22 we're trying to do that in the Bronx.

23 Our unit is small right now. It's
24 composed of 10 assistants, all who are experienced
25 prosecutors, all who are very comfortable doing

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2 multi defendant cases and dealing with reluctant
3 witnesses. As been said before, the talent in
4 dealing with reluctant witnesses is a prized one.
5 We have to do that in the context of not really
6 being able to protect people who are willing to
7 testify against gang members. That's something we
8 all have to recognize.

9 The best way to encourage people to
10 come forward and to testify is to assure them that
11 they can do so in safety. We all have programs
12 which are designed to try to get to that place.
13 But the fact is they're very expensive. I know it
14 shouldn't always come down to a money thing but it
15 does. We need to relocate people, sometimes
16 entire families. We need to deal with a host of
17 issues, kids in schools must be relocated. This
18 is something that it's not enough to encourage
19 people to come forward unless we can provide a
20 safe place for them to do that.

21 In terms of working with the
22 community, I think it's well known that the
23 District Attorney of Bronx County has been doing
24 that since he was inaugurated. We have programs
25 mostly designed towards fifth, sixth and junior

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2 high school students, mostly to provide them with
3 a way of dealing with life as citizens. In other
4 words, teaching life skills in the schools; how to
5 avoid violence; how to live as a responsible
6 citizen. Giving those kids a view other than the
7 view they get on the street. Sending DAs into
8 schools and creating programs, even entire
9 curriculums.

10 One of the programs that we have
11 been into for the past 18 months is called the
12 GREAT Program, Gang Resistance Education and
13 Awareness Training. We train for 13 weeks and
14 cover a whole series of life skills for junior
15 high school kids. It's a wonderful program and in
16 fact, we just lost our federal funding for the
17 program after 18 months; these are the kinds of
18 things that we need your help with.

19 In terms of the campaign to stop
20 snitching, as I was sitting here listening I
21 couldn't help but think back over the years how we
22 as a community in the city, in the state, even in
23 the country have been able to do this before.
24 There was a time when drunk driving was an
25 acceptable crime. Now because of organizations

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2 like MADD and others, now that crime is seen as
3 the outrage that it is.

4 After 9-11 there was a campaign
5 where people were told if you see something, say
6 something. There's no opposition to that; nobody
7 complains about snitching when you're talking
8 about terrorism or crimes like this. We should be
9 able to get the deaths of our children to that
10 level, when they're being shot on the street,
11 innocent or not, we should be able to mobilize the
12 community to recognize this as a crime equal to
13 terrorism, to drunk driving and create that kind
14 of a campaign.

15 We also have to, I believe, not
16 focus on the word snitching. Snitching has a long
17 history, ever since Judas Iscariot, I believe.
18 This is not really what we're talking about.
19 Snitches are professional informants who are
20 testifying mostly on their own behalf. They are
21 recognized necessary evil but what we're talking
22 about here is people in the community being
23 encouraged not to come forward to report and to
24 testify about what they've seen. This is
25 different than snitching; this is encouraging

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people to make the problem worse.

All of the crimes that we've noticed in the papers, Aisha Santiago, a 25 year old mother who was shot on the street coming out of the laundry, Sadie Mitchell, who was killed while walking in her own home and Veda Vasquez who was shot on the street after school. All of these crimes were committed alleged by people who have had contact with the criminal justice system before.

Everybody wants to know why were those people on the street. In large part they were on the street because in the past, people did not cooperate with law enforcement and with the DAs offices about these prior crimes. The community has to know this, they have to know that there are consequences to not cooperating. Right now the stop snitching people are running the program. They are telling people what will happen if we do cooperate. We need to change the message. We need to let people know that not cooperating, not helping is harming their own communities.

Again, I thank you for this

1
2 opportunity to talk about the stop snitching
3 campaign and I commend you for your efforts. My
4 office will, of course, be available for whatever
5 you need to do in the future on these efforts.
6 Thank you.

7 CHAIRPERSON VALLONE: Thank you,
8 Mr. Master. Will you be testifying? Maybe Mr.
9 Tolti, you can pull up a chair right next to him
10 one the same way Jessie Sly is right there. There
11 may be some questions you came to answer later.

12 DANIEL MASTER: Thank you Chairman
13 Vallone and members of the committee. One of the
14 rare benefits of being the smallest borough or the
15 forgotten borough is Staten Island does not see
16 the same level of criminal gang violence that we
17 see in the other boroughs. Our group violence
18 activities appear to be organized more around
19 neighborhood lines. To be sure gang activity and
20 violence do exist on Staten Island and our office
21 monitors gang activities as closely as we can, the
22 New York City Police Department has done an
23 extraordinary job of identifying most active gang
24 members on Staten Island. This has been a great
25 help to us and our office's gang unit. Some of

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2 our most violent crime is directly or indirectly
3 gang related.

4 With respect to our office campaign
5 to combat the stop snitching philosophy, we have
6 no solution or silver bullet. We believe that the
7 stop snitching mentality is a counter culture
8 phenomenon and one not susceptible to public
9 service campaigns. We further believe that if we
10 continue to offer up meaningful protection to our
11 victims and witnesses and continue to win the
12 trust of the communities in which gangs thrive,
13 that these are the best and most effective things
14 we can do to counter the stop snitching
15 philosophy.

16 With specific respect to Intro 941,
17 10-170 in the administrative code, there is some
18 concern that it may be duplicative in some
19 respects of New York Penal Law Section 120.16, the
20 hazing statute. Both concern intentional or
21 reckless conduct in the course of an initiation
22 with an injury. And both are A misdemeanor
23 offenses.

24 Moreover, as with the limitations
25 we've seen with the anti-hazing statute, the

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2 victims of these rituals are willing victims and
3 rarely, if ever come forward to cooperate as
4 complainants. By way of illustration, our office
5 may have handled a single hazing case in the last
6 decade. More recently, police on Staten Island
7 broke up a suspected gang initiation ritual and
8 charged participants with disorderly conduct.

9 If the person had been a victim of
10 a serious physical injury, we probably would have
11 charged the actor or actors with assault, perhaps
12 hazing. Or in the more extreme initiations, even
13 rape. But again, in the through a looking glass
14 world of reversed values that define gang
15 behavior, the victims of such violence do not view
16 themselves as victims.

17 Another practical limitations of
18 the proposed laws would be the difficulties
19 inherent in proving that a person is a member of a
20 criminal gang. Would this require expert
21 testimony beyond the pale of the amount of law
22 enforcement resources we would want to expend in
23 the prosecution of a misdemeanor case.

24 These concerns notwithstanding,
25 prosecutors should not deny themselves another

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2 arrow for their quiver. New York State as of yet,
3 has not enacted gang specific criminal statutes as
4 have many other states. Without such statutes,
5 the hand of law enforcement can be tied. For
6 example, if we were to enact gang specific
7 criminal laws, as you are proposing here, it would
8 make it easier for law enforcement to seek search
9 warrants for gang related crimes. For this reason
10 alone, the introduction of these gang specific
11 laws should be welcomed by prosecutors and police.
12 And we thank you for proposing them.

13 We have a points and authorities
14 memorandum that we would like to hand out to the
15 committee as well. We think it would be of
16 assistance to committee council.

17 CHAIRPERSON VALLONE: Thank you
18 very much. It's a good point on the search
19 warrants, I hadn't thought of that. Regarding
20 hazing, just very quickly, hazing right now you
21 need an injury, you need a victim. Under this
22 bill you wouldn't need any of that.

23 MR. MASTER: Point well taken.

24 CHAIRPERSON VALLONE: There's some
25 duplicativeness [phonetic] there but again, it's

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another tool. Is crime activity in your borough going up or down?

MR. MASTER: You're talking about gang related crime.

CHAIRPERSON VALLONE: Yes, I'm sorry. I keep saying crime activity.

MR. MASTER: I would say it waxes and wanes, that would be the best way to describe it on Staten Island.

CHAIRPERSON VALLONE: Okay, so in three of the boroughs that we've had here and in yours it fluctuates. Manhattan isn't here today. Can anyone from one of the three boroughs where crime activity is up explain why you see it up but the Police Department does not.

MS. GINSBERG: I think part of it is, again, at what point in the life of a case it's going to be designated a gang motivated case. The Police Department statistics, I'm assuming, are from arrests. Again, gang cases by their very nature it's not always obvious or even though it may be obvious to those of us who have been working in that area.

Until there's that piece of

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evidence that takes it into the world of a gang motivated case, it's that. But the bottom line is this, I don't understand the numbers. I just don't. I don't understand.

CHAIRPERSON VALLONE: That's a good explanation.

MS. GINSBERG: I'm sorry.

CHAIRPERSON VALLONE: It's very honest and it's a good question to ask the Police Department, who normally is still here. As to whether or not they go back and change the designation after the initial arrest. If it's determined to be a gang related activity, whether they go back change their statistics. Maria Arroyo.

COUNCIL MEMBER ARROYO: Thank you M. Chair. As I'm hearing the testimony I asked myself are we defining gang activity the defining gang activity the same way. If you say because you're looking at certain criteria, are you looking at the same and counting those things as the same thing in Staten Island and the Bronx. An I want to thank the representative from the Bronx GA's office. Your wisdom in unbelievable thinking

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2 moving forward about some of the things we also
3 need to look at.

4

As we said, from the very onset of
5 this hearing, this is a first step in a lot of
6 work that needs to be done to deal with this
7 issue. And I think I don't want you to miss the
8 intent here is to address the issue of impacting
9 community not jut on the part of the individual
10 that's being initiated but the individuals who is
11 the activism of that initiation activity, that may
12 not being initiated into the gang.

13

Because to become a member of
14 whatever gang, I'm required t comment two--engage
15 in certain behavior and target a bystander or
16 someone else outside of that organization o these
17 legislative efforts are intended to help you deal
18 with the spill over effect in communities that
19 gang activity brings to our reality. So please
20 don't lose sight of that. This is not only the
21 individuals who are joining the gang but
22 intimidated into committing an act that has
23 someone else who may not rise to the level beyond
24 violation.

25

In many cases, and I said pay

1
2 attention to the body language in the room. What
3 we experience in community is the threatening
4 nature of what these activities bring to the life
5 of the everyday people in our community. So as we
6 look at how we can make the legislation better,
7 let's not lose sight of the fact that we are
8 trying to also help community members who are not
9 seeking to join a gang, who are not seeking an
10 initiation but the victims of that activity.

11 COUNCIL MEMBER RECCHIA: Yes, thank
12 you Mr. Chairman. The first question I have is to
13 the Queens DA. Intro 965-A, which is my
14 introduction. You had a question or some issues
15 with the word solicitation. Could you just
16 elaborate on that? Do you see that as a problem
17 in prosecuting?

18 MS. PALOMINO HERRING: I think my
19 only point with regards to solicitation I that
20 normally a gang member will not approach a
21 stranger or someone who is not part of their gang
22 and say, hey, come and do this robbery for me or
23 go take that person's pocketbook. That is only
24 done, for the most part, after they have
25 established a relationship, after they seduced the

1
2 person into the gang. It's only after they're a
3 member of that gang that they then solicit them to
4 commit crimes. The only point I'm making is that
5 I don't know how many of those people would be
6 reporting that crime.

7 I've just been solicited but wait a
8 minute, you've been in this gang the last six
9 months, last year. And now you're telling us you
10 didn't like the fact they told you to take the
11 purse from that person but you've been sitting
12 around for six months to a year doing other things
13 with this gang.

14 COUNCIL MEMBER RECCHIA: The way
15 this bill came about and the issue that I have in
16 my district, parents come to me. Their child came
17 to them and says this person is trying to convince
18 me to join this gang. I don't know what to do.
19 The parent comes to my office, we deal with the
20 Police Department. The big issue is what could
21 you really charge this person with. The kid who
22 is being asked to go out, join the gang or to go
23 out and commit a crime, then you become part of
24 us. And we'll give you drugs, we'll give you
25 money. It's a brighter day. I think that is an

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2 issue that I think you might be missing. That's
3 what I'm going after because I have many parents.
4 I represent Coney Island and Brighton Beach and we
5 deal with these issues. We have many parents who
6 come to my office looking for help. We work
7 closely with the Brooklyn DA's office who does a
8 great job in this, Joe Hines. Don't you think in
9 that scenario this would be helpful.

10 MS. PALOMINO HERRING: I think
11 that's an area covered more under the recruitment
12 and initiation proposed legislation. Solicitation
13 to commit a crime is, again, there's probably
14 relationship--in other words, the first encounter
15 in our experience because I can't talk about
16 every...

17 COUNCIL MEMBER RECCHIA: Situation.

18 MS. PALOMINO HERRING: ...situation
19 out there. Believe me, it changes every day. The
20 first encounter would be hey, do you want to join
21 a gang, let's go hang out. Not join my gang and
22 let's go rob that person. I think the situation
23 you're seeing is probably covered under the other
24 two proposed pieces of legislation. The
25 recruitment and the initiation. Hey you want to

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join, then you got to go rob someone.

COUNCIL MEMBER RECCHIA: Any other
DAs office want to comment on that? My second
question, if nobody else wants to comment on it,
goes to the Staten Island DAs office. I'm a
little bit puzzled by you're coming here today and
making it sound like you don't have a gang
problem.

MR. MASTER: I don't think I said
that. I think I said--

COUNCIL MEMBER RECCHIA:
[interposing] Well, it comes across that way. You
might not have said that but--

MR. MASTER: [interposing] We don't
have the same qualitative and quantitative
problem, I think, the other boroughs face.

COUNCIL MEMBER RECCHIA: Of course
because you don't have the same population. But
just recently, I'm talking about the last few
days, my investigation. Because I'm really
concerned about gangs, I'm involved for the
Council for Unity with the executive director Bob
DiSenna who works on Staten Island with gang
problems and there are gang problem on Staten

1
2 Island. But you have a rising gang problem
3 between Port Richmond and Marinas Harbor and it's
4 spreading. It is spreading out there. For you to
5 come here today, I am puzzled by that.

6 It is a problem. Wake up! The
7 people on the North Shore are crying out. There
8 is an issue with a gang, I'm not going to mention
9 no names, in Port Richmond and Marinas Harbor.
10 And people are getting hurt and it's spreading.
11 Before you know it, it's going to spread all over.
12 I think we have to address that issue.

13 MR. MASTER: we're fully aware of
14 everything that you said Councilman. That's why
15 the characterization that I made is our group
16 violence activities appear to be organized more
17 along neighborhood lines and in fact I think
18 that's the way you just characterized it yourself
19 when you said it was a battle between Port
20 Richmond and Marinas Harbor.

21 I think that the problems may be a
22 little different among the boroughs and that's
23 what makes ours a little bit different from the
24 other boroughs. But your point is well taken and
25 we do believe we have gang violence on Staten

1
2 Island and we do believe it's a problem. We would
3 just characterize it a bit differently and in
4 fact, in the same way that you just characterized
5 it.

6 COUNCIL MEMBER RECCHIA: No further
7 questions.

8 CHAIRPERSON VALLONE: That's a very
9 good point, though. As I said earlier, if
10 somebody disrespects somebody else's girlfriend
11 and goes back and gets 10 people from his block to
12 fight 10 people from another block. Is it gang
13 activity or is it not gang activity? It's a darn
14 good question and I don't think we can answer it
15 here. Sometimes it's just you know it when you
16 see it, as I say, about pornography. We can get
17 caught up in minutia but I think we're all on the
18 same page here when it comes to fighting this
19 problem.

20 There's a lot of people. We have a
21 lot more questions because you guys are the
22 experts in this and we will continue to work with
23 you in how to craft these bills to make them work
24 as well as they can. But there are a lot of
25 people patiently waiting so I'm going to excuse

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2 you and go to them. We'll be working what you in
3 the future. Thank you all for coming down. We
4 look forward to seeing you again.

5 ALL: Thank you.

6 CHAIRPERSON VALLONE: Now, the next
7 panel is going to be Hazel Dukes from the NAACP,
8 Gloria Cruz from the Million Mom March and Aisha
9 Saiku, who may have had to leave. I want to thank
10 Legal Aid, the Bronx Defenders and NYCLU who were
11 supposed to go next and who deferred because they
12 intend to stay for the whole hearing and hear
13 everybody's testimony so I want to thank them for
14 that. After Legal Aid Bronx Defenders will be the
15 Pax, the Council for Unity and el Fuente. Thank
16 you both, anytime you're ready.

17 HAZEL DUKES: Let me say in the
18 absence of the Speaker and to you Mr. Chairman and
19 to the members of the committee and especially my
20 Councilwoman, I've been sitting for a long time
21 and I dare not to leave although I should be at a
22 luncheon with the Israel ambassador at this very
23 moment. But only last night, I'm not only here as
24 President of NAACP but also as member of Community
25 Board 10.

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2 For the Police Department and I've
3 worked with Commissioner Kelly, the Mayor had us
4 as this home. I see many people that were at the
5 Mayor's at Gracie Mansion last week on this issue.
6 Let me commend you Mr. Speaker and the Council
7 Members for bringing this in this hall. Last
8 night we heard ministers. We had a shoot out on
9 last night was Wednesday night. We had the shoot
10 out Tuesday night at 7:30. Young man going to
11 college, fight was going on. I also live at 135th
12 Street in Harlem so I'm not talking about what I
13 think. I'm talking about what I know.

14 I don't know where the police, the
15 woman who was here, where her head is in the sand.
16 Because her statistics that said it is decreasing.
17 It is increasing as our Councilwoman said, not
18 only at night time but in the day time. Last
19 Thursday a 67 year old woman just a block from
20 where I turn in was shot. So I want to commend
21 you for it. You have my testimony here.

22 I really want you to read it as you
23 go through it, crafting your bill. There are too
24 many other issues out here that I believe that we
25 must also in this same hall and downstairs in the

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2 Mayor office begin to address. These children, as
3 the Councilwoman said, and she didn't help me
4 write this, she didn't know I was going to say
5 it. These children, and the Councilman who left
6 from Coney Island said it earlier also. These
7 kids are looking for affirmation and when we close
8 down community centers in the areas, playground.
9 We said this to the Mayor so we're not laying this
10 just at your feet.

11 We are in a tight economic
12 situation. We understand that. But instead of
13 just trying to increase the law enforcement, which
14 we need, we need these bills, we need these tools
15 but we got to do something else about what is
16 happening in these communities.

17 Last night I was told at Community
18 Board 10, if this was the east side, the Mayor
19 would have come and stood with the community as
20 you have and as Councilwoman Dickens has with us,
21 with family members. We are not seeing the real
22 outcry of the gang violence in the Bronx, in the
23 South Bronx, in some parts of Staten Island. I
24 glad he took him on because I know about Staten
25 Island. I have NAACP branches throughout every

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2 borough here. I know the difference in some parts
3 of the area and in other parts of the area how our
4 citizens are being treated.

5 So thank you. I must run but I did
6 want my voice to be heard. I support the proposed
7 areas, have some concern with them. I know this
8 was for you to get input from us today and I want
9 to continue to work with you, the Council Members,
10 as well as the law enforcement people to try to
11 bring this. Every time we go to a funeral, we
12 have a day of outrage, with mothers standing there
13 with a coffin in Times Square. I've been to
14 several of these funerals. It's heart wrenching.
15 I am a parent, I am a mother, I am an aunt. I
16 don't know because I've never set at their pew or
17 been in their shoes. But I think all of you today
18 as being public servants understand we must do
19 more than just put laws on the books. There are
20 other issues that we must face. And thank you so
21 much. I'm sure when you read this you will call
22 me back.

23 CHAIRPERSON VALLONE: Thank you Ms.
24 Dukes. You go give the Israeli ambassador our
25 best and we'll listen to Ms. Saiku. Thank you for

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the help.

AISHA SAIKU: Thank you. I like to, one, just first start by thanking the Speaker, Ms. Quinn for inviting me to come and speak and to Mr. Vallone for also having this issue out front and again to my Councilwoman, Inez Dickens who has been the support and backbone on this issue in the Harlem community and plays no games about it. So I truly appreciate you.

I didn't have all of the information to respond to but I did respond to the no snitching rule and I just want to add a little something to this paragraph that I wrote. One, I'll just read this briefly and then I'll just add some other things.

The no snitching rule was adopted from the Mafia. Maybe it came about before that but young people adopted that from watching a lot of the Mafia like television programs so I just want people to kind of get an idea of where that started. It became somewhat of a hard and fast rule of the streets in the mid to late 90s. So much so that youth would lay in hospital beds, and still do, near death and would know who shot them

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or who shot a family member and would not tell.

On the streets, this along with other behaviors became a badge of honor. The ability to take a bullet or see a crime--I'm sorry I didn't have my glasses. Or see a crime committed, even when you or your own family member was the victim. This was considered and still is considered good street etiquette. This rule often leaves the victims and their families accessible to more crime because the perpetrator is still at large. In addition the perpetrator is left on the street to commit more crimes.

As a responsible community member, mother and grandmother, working to eliminate gun and gang violence, I am in pain, literally in pain, every time I'm at a crime scene and see the blood and often times brain matter of a young person on the pavement. It is even more painful to see the others and family members as they arrive at the scene, wanting answers and no one has seen anything and no one will say anything.

This no snitching mentality is destroying the moral fiber of our community, leaving us not just with unsolved crimes but

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2 continued violent acts with no repercussions. So
3 I haven't read this entire document. I will but I
4 do want to say that while I support legislation
5 and laws around the no snitching rule and bringing
6 those to justice. I want to caution that we do
7 not create a police state.

8 I do workshops and so does my
9 organization. I'm the Executive Director and
10 Founder of Street Corner Resources so I'm actually
11 out there with young people on a regular daily
12 basis. And we do workshops in public schools and
13 in prisons as a sub contractor on Rikers Island as
14 well as RNDY. Most of the young people that we
15 talk to who are incarcerated are there, I'm
16 talking about young people, I'm not talking about
17 seasoned gang members are there as wanna bes,
18 young people looking for families.

19 This word family has been re-
20 defined in a sense, right up under our noses in
21 our community. So family now means that you give
22 up the family that you have. That young man that
23 was arrested in the Bronx for shooting that young
24 woman, I think her last name was Veda, in the back
25 of her head. A week or two before that, a gang

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2 member had slapped his mother, from what my
3 understanding and this was told to me by a police
4 officer. Again, to prove that the family of the
5 gang is stronger than the family that birthed and
6 raised you.

7 We are dealing with not something
8 that's so easy to incarcerate because we would be
9 incarcerating a whole host of young people that
10 see it is more popular to be a gang member.
11 There's more flamboyance in it. There's more
12 character to it. There's more validation in
13 television and in the music so that that's the
14 thing to aspire to be because that's the thing
15 that gets the press coverage and the honor.

16 So we have to be very careful. I
17 want to caution. I want to say let's be careful
18 at how we look at this because incarceration is
19 not always the answer to everything. I think it
20 is, again, vey much a case by case issue. There
21 are some things that we have to examine that we
22 have allowed as adults to happen in our community.
23 These very children we walked by. I watch people
24 walk by them; I've walked by some of them. We've
25 watched them go what we call bad right up under

1
2 our noses. If we watched them go back then we are
3 just as bad as they are.

4 There are some things as policy
5 makers, as community leaders, as organization
6 heads, as other folk in the community who have
7 lived and walked through this very experience of
8 gang activity and incarceration, we have the
9 responsibility to make change. We have to bring
10 the thoughts, the action, the behavior. We have
11 to bring those things and help change those things
12 and bring new behavior. All of what we see was
13 created from something and it took a process to
14 create this mentality.

15 My grandson will be 13 January 22nd
16 and when he was about two I heard him sing a song.
17 I think it's Ja Rule. And the song has the hook
18 murder in it, murder. I can't sing but that's how
19 it goes and it's a whole rap. It's a whole
20 behavior that goes with it. You do your fingers
21 like this; this is the beginning of the gun sign.
22 He was doing that. It was only because he was
23 hearing his father play this music that was on a
24 CD along with a whole bunch of other songs and
25 didn't think about the impact. Here at two or

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2 three years old he's learning new words and one of
3 his words in song is murder.

4 So we have to also look at the
5 music industry and address that and create policy
6 to bring action towards the music that is feeding
7 the minds, causing them to take the action and do
8 the behaviors and pull the triggers that are
9 causing the deaths on our streets. I'm not really
10 big on just looking at incarcerating our young
11 people. I think if incarceration is the only
12 answer and the only thing we can do is make more
13 hard fast rules to lock them down, let's live them
14 up. Let's uplift some spirit. There is some need
15 for that but we really need to take a real look at
16 what's driving the behavior.

17 What is feeding the spirit, what is
18 feeding the mind and what is lacking in the
19 community. Again, I have a community based
20 organization. We received our 501(c)(3). The
21 name of the organization is Street Corner
22 Resources and we work with young people where a
23 lot of people will walk by. One of the things
24 that we do is work on their spirit. Get them to
25 see that there are some other options and

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2 possibilities. The proof of that pudding, I saw
3 some of it last night, second time I saw a young
4 man who last time this year was running away from
5 the police, Blood related. Had his hands
6 handcuffed, they had just taken a gun from him and
7 he was running down Eighth Avenue away from the
8 police and I thought they were going to shoot him.
9 He was sitting in the community board meeting last
10 night.

11 He sat in their last month and he's
12 trying to figure out ways to help us to make
13 change with young people. That takes a lot to do
14 and we have to validate that spirit and we have to
15 continue to look for the good. Again, my name is
16 Aisha Saiku. I impress upon you to find ways,
17 creative ways to make change with our young people
18 and not just through incarceration. Peace and
19 blessings.

20 CHAIRPERSON VALLONE: Thank you Mr.
21 Saiku. It's a chilling story about slapping the
22 mother, really brings it home. Thank you for
23 testifying. Next panel will be Rebecca Angle and
24 Kate Rubin from the Bronx Defenders, Nancy
25 Ginsberg from legal Aid Society and Raul Sessina

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2 from the New York Civil Liberties Union. Again, I
3 want to thank all of you for waiting and for
4 allowing others to go before you and for your
5 input to this legislation prior today. You can go
6 in whatever order works.

7 REBECCA ANGLE: Good afternoon. My
8 name is Rebecca Angle. I'm a staff attorney at
9 the Bronx Defenders and I'm submitting these
10 comments here today with Kate Rubin, our policy
11 director on behalf of the Bronx Defenders. I
12 thank the public safety committee and the City
13 Council for the opportunity to testify.

14 The Bronx Defenders is a community
15 based public defender service that provides
16 holistic criminal defense, family defense, civil
17 legal services and social services to indigent
18 people in the Bronx. We serve more than 14,000
19 Bronx residents every year. Nearly all of whom
20 are poor and almost all of whom are Black and
21 Latino. Because New York automatically tries all
22 defendants over the age of 16 as adults, our
23 office also defends nearly 1,000 every year.

24 The Bronx Defenders views our
25 clients not as cases but as whole people, caring

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2 parents, hard workers, recent immigrants, native
3 New Yorkers, and students with hope for the
4 future. Our clients are members of the community.
5 And both our experience and research shows that
6 engaging them and not necessarily incarcerating
7 them most effectively breaks the cycle of crime.

8 Today we joined with the council
9 and the public safety committee in searching for
10 ways to keep this city's young people from
11 entering lives of violence and crime. We also
12 appreciate the careful thought that has gone into
13 the drafting and revision of the legislation
14 before the Council, particular the greater
15 precision of language in the current bill and the
16 committee's attention to some of the potential
17 effects to this legislation, non freedom of
18 association and speech.

19 However, as a public defender
20 office locate din the poorest urban Congressional
21 District in the country, we are still greatly
22 concerned about the impact that the proposed
23 legislation would have on the clients we serve.
24 In our written testimony, which we've submitted,
25 we joined others who have expressed concern with

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2 the over broad nature of the proposed laws as well
3 as their potential for selective enforcement.

4 However in our testimony today, the
5 Bronx Defenders would like to focus on one
6 particular issue, which is the wide range of life
7 altering collateral consequences that convictions
8 for these offenses would have on young people.
9 And this is the very same group of people that
10 this legislation is designed to protect. While
11 violation convictions are sealed for civil
12 purposes, misdemeanor convictions, like the ones
13 contemplated by the proposed laws can never be
14 sealed. A plea to a misdemeanor will appear on a
15 client's record for the rest of their life. Every
16 time she applies for a job or seeks to rent an
17 apartment.

18 Among other consequences, a
19 misdemeanor plea is enough to terminate an entire
20 household's tenancy in public housing and render
21 an entire family homeless. For a green card
22 holder that has lived in the United States since
23 she was a small child, many misdemeanor pleas lead
24 to deportation. These civil consequences fall
25 with particular brutality on the adolescent

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2 clients that would be most affected by the
3 proposed laws.

4 Researchers have consistently found
5 that the prevalence of gang memberships drops
6 after the very early teenage years. Gang
7 membership is usually a fleeting experience for
8 these young teenagers. After less than a year,
9 most of them have moved on. However in the short
10 time that they are gang members, these younger
11 teenagers, the recent recruits themselves, they
12 are the ones responsible for recruiting new
13 members. A teenager seeking social acceptance may
14 join a gang one week and by the next week he is
15 the one responsible for soliciting new members
16 from his school or neighborhood.

17 Under the proposed new solicitation
18 legislations, this teenager would transform within
19 a week from a victim to a criminal.

20 CHAIRPERSON VALLONE: I can't find
21 here in the testimony. Did you change it around?

22 MS. GINSBERG: The oral testimony
23 is shortened. This is towards the end.

24 CHAIRPERSON VALLONE: Got you.
25 Thank you for doing that.

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2 MS. GINSBERG: It's under the
3 Staying a Member for Life section, if that helps
4 you locate it.

5 KATE RUBIN: You wouldn't want us
6 to read our entire testimony.

7 MS. GINSBERG: No, I can't read
8 quite that fast. So by placing this gang label on
9 a huge range of social groupings and activities in
10 communities in the Bronx, this law would basically
11 criminalize peer pressure that would never be
12 considered in the city's more affluent
13 neighborhoods.

14 In addition, by ensuring through
15 this label that former gang members will be
16 treated as gang members for the rest of their
17 lives, no matter how they manage to change their
18 lives around, these laws will not deter youth from
19 leaving gangs. They will, however, play their
20 role in initiating a whole new category of
21 teenagers into the criminal justice system.

22 The Bronx Defenders would also like
23 to state its concern about the timing and need for
24 the proposed legislation. In spite of some recent
25 tragic and very high profile events, two of which

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2 did occur in the Bronx. As mentioned earlier by
3 the NYPD, youth crime in the U.S. is at its lowest
4 level in three decades, including in New York
5 City. There is no evidence of any increase in
6 gang membership in New York. Gang experts agree
7 that gang related offenses represent just a tiny
8 fraction of the New York crime scene.

9 In fact, New York is often held up
10 as a model for other large U.S. cities when it
11 comes to anti-gang strategies. In the 1980s and
12 1990s a variety of street work, job training,
13 educational and gang prevention programs helped to
14 bring gang violence in New York to historic lows.
15 Over the past decade the Bronx Defenders have
16 witnessed how these programs have worked for its
17 young people and would welcome the Council's focus
18 on similar strategies.

19 We believe that increased criminal
20 enforcement will only increase gang cohesion and
21 will exacerbate already strained police community
22 tensions in the neighborhoods like the South
23 Bronx. We do not believe that creating a whole
24 new category of crimes as well as a whole new
25 regime of punishment for criminal street gang

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2 solicitation will have any deterrent effect.
3 Especially, as noted by our colleagues at Legal
4 Aid in their written testimony, these laws re-
5 criminalize that which is already illegal.

6 In addition, when it comes to
7 prosecuting solicitation, these new laws will
8 raise a host of potential practical problems,
9 which was mentioned by several of the DAs. How
10 would prosecutors prove that one teenager has
11 solicited another teenager to join a gang and that
12 gang is engaged in criminal street gang
13 activities. What about feuds between young
14 people? What about gang rivalries? This
15 legislation at its best will lead to a host of
16 timed out and dismissed cases in areas like the
17 Bronx.

18 In the end we believe this
19 legislation, the most that it will do is open the
20 door to more selective enforcement, more over
21 charging of minor offenses and more lives ruined
22 by the label of gang member appearing not just on
23 rap sheets but also resonated in young minds.
24 Thank you.

25 NANCY GINSBERG: Good afternoon.

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2 My name is Nancy Ginsberg. I run the adolescent
3 practice in the Criminal Practice of the Legal Aid
4 Society. We have units in every borough except
5 for Staten Island in the city.

6 I'm not going to read my testimony
7 at all. I'd like to respond to the comments made
8 earlier. I think that it's clear that everyone in
9 this room would like to address the issues of gang
10 problems in the neighborhoods, in all the
11 neighborhoods in this city. I think we could
12 debate until the end of time whether gang problems
13 are going up or down in any given neighborhood.
14 The reality is, is that there are problems with
15 gangs all over this city.

16 For 18 years I have sat in a court
17 room, both in family, criminal and Supreme, next
18 to a child. I've sat next to them on child
19 protective cases. I sat next to them on
20 delinquencies, on criminal cases. I have sat next
21 to children that have ended up dead. This is just
22 the reality of what goes on in the city. Almost
23 every child who I sat next to has been black or
24 brown. And the ones who have ended up dead, have
25 ended up dead at the hand of another child who has

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been black or brown.

The truth is, is that we could write laws until the end of time and it is not going to address these problems. I do understand the intention behind writing new laws but the truth is, is that all of the crimes, that all of the Council Members have addressed today, all of the innocent bystanders, murders, terrible, terrible tragedies for the city are fully prosecutable under the penal law as it exists today. All of those crimes are serious, violent felonies. They are not what these bills, what the introduced bills are looking to address.

These bills, essentially, enhance a series of violation offenses to make them misdemeanors. And while it is true they will carry enhanced penalties when they make that move from violations to misdemeanors. I am in the strange position of having to agree with the District Attorneys who testified today. The truth is, is that there is not a District Attorneys office in this city who has the resources to fully prosecute a real gang misdemeanor. The percentage of misdemeanors that get tried overall in this

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2 city are so small that to believe realistically
3 that these cases are going to be prosecuted and go
4 to trial, is completely unrealistic in this city.

5 In addition, the reality is, is
6 that the prosecutors have trouble getting
7 witnesses to cooperate on serious felonies where
8 the defendants are facing decades of sentences, 10
9 years, 20 years, 30 years. Do you think it is
10 realistic to believe that an individual from the
11 community is going to come in and testify against
12 a known gang member who is going to be released in
13 no more than eight months. It's never going to
14 happen. This is not going to address the
15 snitching problem.

16 There are many things that can
17 address gang problems. For all of the time that
18 we are collectively spending here trying to
19 finesse language that will not address the
20 problem, I would seriously urge the Council, the
21 public safety committee, to take realistic steps
22 to approach these issues. You're going to hear
23 from Bob DiSenna, he runs probably the best anti-
24 gang program in New York City, Counsel for Unity,
25 great program. Really, he's the only one who

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2 should have testified today because he is the only
3 one who really knows what's going on and knows how
4 to pull these kids out of gangs. If you really
5 want to do something then do it the right way.
6 These bills, the prosecutors came up here and they
7 told you the truth, they're not going to be able
8 to use them. And they are going to end up
9 prosecuting kids who are getting jumped into
10 gangs, that's what's going to happen.

11 The language, I'm a little confused
12 about why you think that you're not going to need
13 a complaining witness for hazing because the
14 language in this bill mirrors the language in the
15 penal law for hazing. I don't see how the
16 evidentiary issues are any different for
17 prosecution between the two issues.

18 The other thing is, is that all
19 three of these pieces of legislation are going to
20 sweep more and more minority youth into the
21 criminal justice system. It's going to sweep
22 those youth, really, into the family courts
23 because right now children can not be prosecuted
24 for violations. There is a reason why the state
25 legislature made that distinction because there

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2 was an intent not to prosecute children in family
3 court for normative teen behavior. Peer pressure
4 and encouraging your friends to do things that are
5 not necessarily smart things have been going on
6 since the earth cooled. We are not going to stop
7 it by writing a new bill.

8 What is going to happen is we are
9 going to see hundreds more black and brown
10 children coming into a family court that is
11 already over burdened that has almost no resources
12 to deal with the gang problems. The judges
13 repeatedly request that defense counsel place
14 those children into anti-gang programs and we
15 repeatedly tell the judges that there are not
16 anti-gang programs to send them to. Then the
17 judges say to everyone, the prosecutors and
18 defense, what would you like us to do?

19 So they're choices are probation,
20 which has no realistic anti-gang problems or
21 incarceration where they end up incarcerated with
22 kids who are in gangs. If they were just wanna
23 bes to begin with, then they get fully entrenched.
24 The other problem is--

25 CHAIRPERSON VALLONE: [interposing]

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This may actually be longer than your prepared testimony so...

MS. GINSBERG: Well, it may be but it's important. The truth is, is that these kids they need a voice. It's my feeling that their voice has not been heard today because these kids are being over prosecuted for events that kids in better neighborhoods, white kids on the upper east side, on the upper west side, never, ever see a police officer for the same behavior.

The definition that you have as a gang is the definition from the penal law, which is three or more people. That is not going to address the Bloods, the Crypts, the Nietas, you pick it. It's not going to address that. It's going to address any one kid who says to two of his friends, that kid took my backpack yesterday, let's go get them. If the three of them get arrested, that is prosecuted as a gang assault. It's currently prosecuted as a gang assault.

There is no requirement. There is no evidentiary requirement. I'm not sure what the prosecutors were saying because every day they file hundreds of these cases. There is no

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2 evidentiary requirement that they have to prove
3 that there was a gang. The court of appeals came
4 down with a case this week on the 1st, People v.
5 Minor where they said that--

6 CHAIRPERSON VALLONE: [interposing]
7 It does have to be an assault. In this case you
8 don't need the assault, that's the difference.

9 MS. GINSBERG: Okay, it's true.
10 They need an assault but the question is--

11 CHAIRPERSON VALLONE: [interposing]
12 The other where you said you don't know why we
13 need a victim in the hazing case is because this
14 new law says the substantial risk of injury. You
15 don't need the injury so you don't need the victim
16 to prove the injury; you can do that with a
17 witness. You obviously need a witness but you
18 don't always need the victim to prove the
19 substantial risk of physical injury, that's the
20 difference there, too. By the way, you're making
21 some very good points and you have before today
22 also in crafting this legislation. I just wanted
23 to point out those questions you asked.

24 MS. GINSBERG: We appreciate the
25 time you have given us to discuss with you and

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2 committee counsel the issues surrounding these
3 bills. But is it sour tong position that we can
4 finesse this language for months and months to
5 come and it is not going to solve the problem.

6 CHAIRPERSON VALLONE: I agree. We
7 are a legislature; we do what we can, which
8 includes funding great groups like Counsel for
9 Unity which is coming up next. It's part of what
10 we do. But we don't intend to throw up our hands
11 and say we're not going to continue to work on
12 this but we do want to work with you to craft
13 these bills. You're never going to support them,
14 I understand that. So if they do wind up getting
15 passed they're acceptable as they are, as they can
16 be. They pass Constitutional muster; we're all
17 concerned about that obviously.

18 MS. GINSBERG: We certainly don't
19 want to see anyone throw up their hands around
20 this problem but I would encourage the next time
21 there is a real discussion about gang issues that
22 the Department of Education be here. Because as
23 everyone has noted, a lot of this intimidation and
24 a lot of these problems happen in the schools.
25 This issue is very closely related to many

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2 hearings that we have had in past months, in this
3 same chamber that the Department of Education has
4 made a decision, a departmental decision that
5 these issues are NYPD issues.

6 If the schools, if the school
7 personnel took responsibility for addressing these
8 kids' needs and their problems, then they would
9 not be funneled into the justice system. They
10 would not become NYPD kids. The truth is, is that
11 the DOE should stand up and take responsibility
12 for the fact that they have walked away from these
13 kids because if their needs were identified and
14 they were addressed, these kids would not have to
15 go to the streets and look for support and look
16 for community because their school should be their
17 community.

18 CHAIRPERSON VALLONE: I agree about
19 the importance of the schools. We did just have a
20 hearing on the school safety act with the DOE.
21 You were here for that.

22 MS. GINSBERG: I was here.

23 CHAIRPERSON VALLONE: Mr. Sessina.
24 I do want to point out that your first sentence is
25 my name is Raul Sessina and there's a footnote,

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2 which is the footnote I've ever seen that. That's
3 kind of interesting.

4 RAUL SESSINA: Hmm?

5 CHAIRPERSON VALLONE: On your
6 testimony it says my name is Raul Sessina in the
7 footnote. I'm not sure what that is. I'd love to
8 hear what that is.

9 MR. SESSINA: Sorry. I'm often
10 footnoted. I guess I just want to start by
11 thanking the committee for holding this important
12 hearing. I've pretty much been spoken for but I
13 will continue to speak anyways.

14 My name is Raul Sessina and I am
15 Legislative Counsel for the New York Civil
16 Liberties Union. I present testimony today on the
17 three criminal street gang bills.

18 The NYCLU agrees with the central
19 idea upon which these three bills are premised,
20 that is that persons have a right to be secured
21 and protected from fear and harm caused by violent
22 groups and individuals. The recent death of Sadie
23 Mitchell in the Bronx is a painful reminder of
24 what violence, including gang violence, can do.
25 My heart goes out to Ms. Mitchell's family, friends

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and community.

It's not clear whether Ms. Mitchell's death was caused by gang activity. Even if it the NYCLU's position that the proposed legislation is not an effective approach to preventing gang related crime. Our concerns are three fold.

First, as has been stated just before, the state penal code gives police and prosecutors ample grounds on which to prosecute those responsible for what happened to Ms. Mitchell and the many others that have been harmed by street gang violence, through, for example, conspiracy, solicitation, hazing, facilitation laws instead of creating new crimes to get at a problem that can already be adequately addressed through existing laws. What we really need is a smart, creative, preventive scheme to complement the strong criminal laws that already exist.

Second, we believe enactment of the proposed treat gang crimes will lead to unwarranted police actions directed at persons engaged in lawful conduct. With respect specifically Introduce 183-A, the criminal street

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2 gang activity bill, we are concerned that the
3 imprecision of the bill's terminology will create
4 confusion in applying the law. And that this
5 confusion will lead to unauthorized police
6 practices, targeted at low income communities of
7 color.

8 The penal code is intended to
9 establish rules that clearly define prohibited
10 conduct and to give unambiguous direction to law
11 enforcement officials regarding what constitutes a
12 criminal act and what does not. The proposed
13 legislation fails to meet this standard.

14 The bill broadly defines criminal
15 street gang to include any group of three persons
16 who have as one of their substantial purposes or
17 activity, one of the enumerated crimes. The bill
18 then provides that a person who is a member of one
19 of those vaguely defined gangs and who knows of
20 this membership is criminally liable if he
21 solicits another to join the gang for criminal
22 purpose. This language will create, if not
23 encourage, opportunities for misguided and
24 unwarranted police action.

25 Gangs are not discreet, easily

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2 identifiable organizations. They're complex in
3 their structure, in their mission, activities and
4 membership. A person who appears to be affiliated
5 with a gang may not be and to the extent that he
6 is, it may have nothing to do with the gang's
7 allegedly criminal conduct. However the police
8 may not be inclined to make these distinctions.

9 Further, how is the police to
10 determine one's membership in the gang. How is
11 the police to determine when the gang member
12 solicitation of another has an innocent lawful
13 purpose as opposed to one that is not unlawful.
14 The ambiguities these bills present are troubling-
15 -

16 CHAIRPERSON VALLONE: [interposing]
17 I just want to interrupt because if I don't, I'll
18 forget because I'm old. But I just wanted,
19 because of your input one of the things we are
20 going to change is--I agree with you. We don't
21 want two kids who go up to one kid and says let's
22 beat that person up because they disrespected by
23 girlfriend and be a gang. It would be more of a
24 course of conduct we're looking at as opposed to
25 one crime. It's one of the changes we're going to

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be making, I would assume, based on your input.

MR. SESSINA: Okay. I don't know what the changes will look like but I'll continue because I'm under the assumption that--

CHAIRPERSON VALLONE: [interposing]
That's why we have these hearings. We want you to.

MR. SESSINA: All right. The City Council could not ignore the foreseeable consequences of enacting this legislation is the increased surveillance, criminal investigation and arrest of young Black and Latino boys, men and boys, for conduct that is entirely lawful. We have seen an alarming racial bias resulting from selective law enforcement in other areas of the law.

For example, over half a million New Yorkers were stopped by police last year, almost 90% of those people were entirely innocent of all wrong doing and were released without further police action. Of those stopped, almost 90% were people of color. Similarly, although whites use marijuana at least as often as Blacks, the per capita arrest rates of Blacks for

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2 marijuana offenses in New York City between 1996
3 and 2006 was nearly eight times that of whites. I
4 cite these statistics to point out an alarming
5 racial bias resulting from selective law
6 enforcement. We fear that the proposed bills
7 would add to that problem. Almost all police
8 suspects under these bills will be brown and
9 black.

10 Finally my third point, which is a
11 point that has been made numerous times by my
12 predecessors at this panel and by Council Members
13 already today is that these bills do not get at
14 the underlying reasons why young people are driven
15 to criminal activity. If the objective is to
16 steer young people away from criminal activity
17 then the solution requires an examination of the
18 underlying dynamics that lead to such activity and
19 the adoption of strategies that create a dynamic
20 that promotes a more positive outcome.

21 Studies show that relying on law
22 enforcement to deter unlawful gang activity may
23 prove counter productive, this is something that
24 has been said over and over again. A recent
25 report from the Justice Policy Institute points to

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2 the over reliance on police tactics as part of the
3 problem. Heavy handed suppression efforts
4 actually increase gang cohesion and police
5 community tension and have a poor track record
6 when it comes to reducing crime and violence. Not
7 to mention, as was mentioned what happens when
8 people are sent to jail and the proliferation of
9 gang activity that comes out of that.

10 But the report also offers a beacon
11 of hope. One city that has never embraced the
12 heavy handed suppression tactics chosen elsewhere
13 has experienced far less gang violence. That city
14 according to the report is New York City, which
15 has historically taken the preventive, non
16 punitive approach to gang violence.

17 I'm going to just quote about two
18 sentences from the report. It says that "these
19 strategies used by New York City were solidly
20 grounded in principles of effective social work
21 practice that fall outside the realm of law
22 enforcement. They seemed to have help dissuade
23 city policy makers embracing most of the counter
24 productive gang suppression tactics adopted
25 elsewhere."

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2 In closing, I want to urge the City
3 Council Members to continue this important legacy
4 by learning more about innovative approaches to
5 this problem. At the end of my testimony that I
6 gave you, I attached an editorial from the New
7 York Times as well as an article about the new
8 program that the city of Chicago is going to be
9 implementing. I really urge you to look into that
10 program. In that city, they're focusing on
11 helping at risks students by offering them jobs
12 and counseling. Pairing them up with local
13 advocates, local young adults so that they can
14 have constructive adult relationships in their
15 lives and if there are mental health strategies in
16 preventive strategies over policing and
17 punishment.

18 In closing, I just want to urge the
19 members of this community to ask themselves this
20 important question. By allocation police
21 resources to investigate gang recruitment, what
22 effective, preventive, non prosecutorial
23 strategies are being overlooked. Thank you.

24 CHAIRPERSON VALLONE: Thank you
25 all. I agree, we completely understand that this

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2 does not get to the underlying reasons but it's
3 not possible with laws like this. We do other
4 things like provide more funding, perhaps more
5 than any other municipality in the world, to
6 groups that do a great job at getting to the
7 underlying reasons. You're right. I can't argue
8 with you when you all say that most of the people
9 prosecuted will be black and brown but so will
10 most of the lives saved like Sadie Mitchell and
11 Veda Vasquez. But we continue to look forward to
12 working with you on continuing to craft these
13 bills.

14 Some very good ideas you came up
15 with; one we're working on already regarding the
16 problem that you pointed out. And our Council
17 will be in contact. Thanks for staying and thanks
18 again for letting the others go before you who all
19 had some other place to go. In the future, I'm
20 going to make an announcement that I'm not going
21 to be putting people in front of anyone else. If
22 they have to leave, just hand in their testimony
23 and go. But thank you for being so humble to that
24 today. Thank you.

25 Last panel will be Robert DiSenna

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2 from Counsel from Unity as we discussed, Luis
3 Acosta and William Erlana from El Fuenta and then
4 Daniel Gross from Pax, if they're still around.
5 Okay, thank you all. Thank you for waiting until
6 2:00 to testify. This is a very important topic
7 and we know the good work that you do. Mr.
8 DiSenna has been mentioned a few times already and
9 we are well aware of what you do. So I look
10 forward to your opinions on what we're doing today
11 and what else we can do to combat this scourge.
12 Whatever order you have determined.

13 ROBERT DISENNA: Well, I thank you
14 very much for inviting us to be here today. This
15 is a profound problem for this country--

16 CHAIRPERSON VALLONE: [interposing]
17 Just identify yourself for the record.

18 MR. DISENNA: I'm sorry. My name
19 is Robert DiSenna I am the founder and president
20 of Council for Unity. I want to thank Nancy for
21 the kind words that she directed towards us. I'm
22 here to bring a dose of reality and also hopefully
23 by the time I leave, a sense of hope. So I'm
24 going to preface what I say by introducing you to
25 an article that goes to the core of gang culture.

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2 If you're going to test the power
3 of a program then you have to see it in the
4 darkest of places to see what its drawing power is
5 to pull people out of gangs. If you look at the
6 headline in the Independent Watchman it says, New
7 Beginnings for Gang Members. Now the Council for
8 Unity program is in schools, it's in communities,
9 it's in police departments and it's in prisons.
10 This is the back end of it. This is the one place
11 you do not want to see, the reality of gangs
12 because that's where gangs are most violent.

13 If you look at the young men in the
14 picture in that article, they are the leaders of
15 the Crypts, the Bloods, MS 13, Latin Kings, and
16 Aryan Brotherhood who are the founders of Council
17 for Unity in the Suffolk County Jail. Those same
18 constituents are the founder of Council for Unity
19 in Sing-Sing Correctional Facility. What does
20 this mean? The question to be raised is, what is
21 it about a program that would draw murders,
22 members of gangs and leaders of gangs to give up
23 what they do to become part of something else and
24 that's the question that I have to address here
25 today.

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2 While I support the legislation, I
3 think the point has been made that until you
4 address the conditions that lead to gang behavior,
5 you're going to end up increasing the number of
6 Americans in prison. Right now there are 1 out of
7 100 Americans in prison at a cost to this country
8 that is obscene. If we're successful in our
9 legislation, you're very much likely to see the
10 number of incarcerated Americans go up.

11 We have a very close relationship
12 with Dr. David Brutherton who is an
13 internationally renowned criminologist who really
14 offers a lot of empirical evidence on gangs.
15 Gangs have been with us since the 1700s. If any
16 of you have gone to the movies and you saw Gangs
17 of New York, this is not a new phenomenon. It's
18 almost scary to say, what is it about this country
19 that somehow creates vacuums that draw kids to
20 gangs. I think part of it is that we do not
21 create positive peer groups for kids to join.

22 Kids are tribal. And because of
23 that, they're going to be motivated to become part
24 of groups. Gangs offer them what they can not
25 find in society. Kids are starving for family.

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2 Even if you have two parents, we're obsessed with
3 power and greed so our parents are working to make
4 money. They're not putting the time in to their
5 children that is necessary in many cases to get
6 those needs addressed. And our communities,
7 unfortunately, have not come together in ways
8 where they represent for children, the place to
9 go. So this is what happens.

10 A kid wants a family. A kid wants
11 to be safe. A kid wants status. A kid wants
12 money. A kid wants to be part of a group. A kid
13 wants self esteem. Where does that kid go in our
14 culture? Not school.

15 I was in a gang by the time was 11.
16 As I got older I got into something a lot more
17 organized than these street kids. I had first
18 hand opportunity exactly how a successful criminal
19 enterprise operates. If you don't know this, I
20 don't care where you put your money, you're going
21 to lose it. There are four things you have to do
22 to run a successful criminal operation.

23 The first is recruitment. You need
24 to find a source of recruitment; the younger the
25 kid the better because kids in middle school, even

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2 in high school in many cases can't assess
3 consequences. You fund them, you put them to
4 work, you become insulated from prosecution by
5 making these kids do the evil thing that you put
6 them to do. So recruitment is critical.

7 The other thing is what you're
8 addressing today. If I'm involved in a criminal
9 enterprise, I need to function with amenity and
10 impunity. This is, somebody mentioned before
11 about organized crime, you're going to keep your
12 mouth shut and we're going to do what we want to
13 do or you're going to go to Jersey as fertilizer.
14 Today that got changed to snitches get stitches.
15 If I can intimidate the community, I can function
16 without any consequences.

17 The third thing, which is the
18 easiest thing, is to demonize the cops. I don't
19 care what culture you are. The people who are
20 calling you the names you hate to hear the most
21 are the police. It's a snap to convince kids that
22 the cop is a criminal with a badge. He's the one
23 that's calling you the words I can't say here.
24 They're not interested in helping you. Law
25 enforcement is designed to step on you. Never

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talk to a cop.

And the final thing is prison.

They go to prison. You think you're going to stop us from doing business. We run our businesses out of prison. It's a reality today that gang kids have to go to prison to prove their value. I know because I'm in to prisons and it looks like the state is going to fund us and went to four more because of the results of what you see here.

Now if you can't come up with a strategy that interrupts these four components, stopping recruitment, intimidating a community, marginalizing and demonizing the police and preventing the operation of gang activity in prison to the outside, you're done. Whatever program you come up with, it has to be holistic. This is what we do and this is what I'm going to get in to.

We were founded in 1975 and my dear friend Council for Unity member, Domenic Recchia knows all too well. The founders of this program were six gang leaders, who were six racists and hated each other. A miracle happened. I'm a very spiritual person; I don't believe in any

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2 accidents. I believe that this thing was designed
3 to happen.

4 In a span of one year six enemies
5 and six racists became a band of brothers. What
6 they wanted to do was to create a legacy that
7 would meet the deepest needs of kids and prevent
8 them from going through what these six went
9 through and this is what we came up with. Gangs
10 are cultures. You're never going to defeat a
11 culture with a program. Gangs offer you
12 sustenance for life. If you have a program that
13 sits on a shelf after six months you're done
14 because kids are looking for predictability. If
15 they don't have it, they're going to bail.

16 So when we crafted this model, this
17 is what we looked at from our own criminal
18 background, a need for family. I want to join a
19 family so the gangs offer you a family. The
20 problem is you have to commit a criminal act to
21 become a part of that family. The other thing
22 that family does to you is it robs you of your
23 free will. While we think kids love being in
24 gangs, I've got Crypts, Bloods, Latin Kings, MS
25 13, every gang you can think of is in Council for

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2 Unity, thousands. We're not only all over New
3 York City; we're all over New York State, other
4 parts of the country. And we're in Africa and
5 we're in Europe so I know what I'm talking about
6 in terms of these experiences.

7 The other thing that kids want is
8 to be safe. I want to be able to travel from
9 point A to point B and get there in one piece.
10 The gangs promise them safety; they never deliver.
11 Violence produces revenge. The tragedy for our
12 kids is that their children and their great
13 grandchildren are going to be dancing to the same
14 dark dance because they do not know how to
15 interrupt a cycle that is never ending. You heard
16 about kids being born into gangs, that's
17 absolutely right, which shows you the capacity to
18 perpetuate. It also shows you that the violence
19 is never going to stop.

20 The third thing is self esteem.
21 They come from neighborhoods where you got
22 problems at home. You hate yourself. You look at
23 a community that's deaf, dumb and blind. You look
24 at programs that don't exist. Schools that don't
25 touch your deepest needs. You have no self

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2 esteem. The gangs say come with us. You're going
3 to speak a new vocabulary. We're going to dress
4 you differently. You're going to be somebody;
5 you're going to be part of a group. So the kids
6 are drawn to that, except their self esteem is
7 based on two things: how bestial you can be to get
8 reputation and how much of an earner you are to
9 kick up. Those are the two defining things. Look
10 at what we're leaving our kids to.

11 The final thing is a sense of
12 impotence. A kids looks out at the world and says
13 I can't fix what's in my house, I can't fix what's
14 in my community, I can't fix what's in my schools.
15 This is what happens to people that are impotent;
16 they don't care if they live or die. You can
17 threaten them with jail. So what, half of my
18 people are in there anyway. You can threaten them
19 with death. Good, you're doing me a favor. I'm
20 getting out of this stinking life.

21 This is the conditions that we look
22 at. This is what Council for Unity created and
23 this is why this has become a movement. We have
24 four pillars, family, unity, self esteem and
25 empowerment. We took gang culture and flipped it.

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2 When a kid joins the Council for Unity, the kid
3 joins a circle that's committed to the growth and
4 development of that kid. That family also
5 introduces another value, that to be open, to be
6 transparent, to be vulnerable is human and
7 healthy. So the kid is able to live an authentic
8 life.

9 What you have to understand is that
10 when these kids leave home everyday, they're
11 wearing a mask. No one knows the agony they're
12 in. They're paranoid; they're don't know if
13 they're going home tonight. So that mask creates
14 a bottle up pressure that either makes them
15 violent or self destructive. So this invitation
16 to a family focusing around a tomorrow with
17 affection and support; a family that's inviting
18 you to be open about your problems; a family
19 that's going to commit to supporting you until the
20 day you die because when you join Council, it's
21 for life.

22 The other issue that we had to
23 address is safety. How do you produce safety for
24 children? What we found out in that first year is
25 a very profound fact. If you could find a program

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2 that could bring everybody together, there would
3 be nobody left to fight. And if you could find a
4 program that addresses the other psychological
5 damage to children; racism, hatred of immigrants,
6 stereotyping people because of their sexual
7 orientation. If you could find a program that
8 could bring everybody together, there's nobody to
9 make fun of anymore either. So our focus on unity
10 addresses not only violence but it also addressed
11 bias, prejudice and racism.

12 The third thing is self esteem. We
13 have fully developed curriculum that's used all
14 over the country and outside the country. That
15 curriculum starts where a child is functional, not
16 where a child is dysfunctional. So this model
17 engages children at what they do best. With a
18 family and a sense of safety, they excel.

19 We graduate, and this is Department
20 of Ed. statistics, we have been graduating and
21 these are hard core kids that we have, over 90% of
22 our kids every year and almost all of them go to
23 college. Why? Why not? If you have the family
24 you need, if you're free from violence, if you're
25 free from prejudice and you are doing the things

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you do well, why wouldn't you want a tomorrow.

The final thing is empowerment.

Kids feel impotent. We're a democracy. There is no democratic process for children anywhere. They can not represent the thing they are taught in schools. Decisions are made for them. They have no say. Think about how you would feel if you had no say in the decisions that affect you. So it's no wonder that they buy out, that they give up, that they cut, that they fail. So what we do is empower them. They run the program, they're taught how to run the program. They form partnerships with adults, administrators--

CHAIRPERSON VALLONE: [interposing]

I'm going to have to ask you to wrap up soon Rob, only because we have to get to a caucus very soon.

MR. DISENNA: Okay. That's

basically it. Just to conclude and it's in this article. We have a school based model, we have an adult and family partnership for communities, we have a public safety model with police departments and we have a Council for Unity correctional facility model with re-entry programs to keep the men who come out from going back to jail. Thank

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you.

CHAIRPERSON VALLONE: Thank you.

We've been joined by Council Member Jim Gennaro.

I want to thank Council Members Recchia, Baez and Jackson who have been here since. I said Baez, Arroyo. They've been here since 11:00 and it's a very, very rare that you have five Council Members four hours into a hearing but that's just how important this issue is to us. So thank you. I guess you'll go next.

LUIS GARDEN ACOSTA: Thank you Mr.

Chairman. I want to add to that thank you. I'm very impressed to see Council Members stay here so long. It's uplifting to us. My name is Luis Garden Acosta. I'm the founder and president of El Fuente, a human rights driven organization focused on community and youth development, consisting of six sites in Williamsburg and Bushwick. I am accompanied by William Moriana, the director of one of those sites the Williamsburg Leadership Center.

It is hard to believe that Williamsburg today is so called hipster heaven was just 28 years ago defined by the mass media as the

1
2 teenage gang capital of New York City. Just one
3 neighborhood of Williamsburg, the Southside, the
4 community then of a little over 30,000 people, we
5 lost 48 young people in one 12 month period,
6 virtually one adolescent every single week to an
7 epidemic wave of violence. Think about that, 48
8 young people in a community less than half of
9 Yankee stadium in one year.

10 El Fuente led a dramatic change
11 which ended the terror and dissolved all the
12 gangs. 20 years later, the gangs are back.
13 Nowhere near in the number and kind of violent act
14 of days that have faded from memory. That fact,
15 however, is little consolation to the parents of
16 Richard Juran, a 22 year old El Fuente alumni who
17 over a year ago met his death at the hands of gang
18 members, one of whom waits in Rikers Island to be
19 tried for his murder.

20 That young man, Michael Torres, an
21 older teenager did not have the benefit of a
22 family at home or could not find early enough an
23 El Fuente like organization that could have guided
24 him in a different direction. Instead his only
25 family, his only sense of safety and protection

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was the gang.

The three bills before you unfortunately will not prevent or significantly deter the growing gang violence in the Williamsburg and Bushwick. They simply do not get to the root of the problem. No one better than the members of El Fuente understand the need to take direct action. In the past couple of months, for example, we have carefully carved out paths to and from school and El Fuente to prevent our members from becoming victims of a potential gang member's initiation process.

20 years from now we could all be here again. But we will not be here again if we vigorously adopt the following five initiatives. And these are things that we could do immediately that would help substantially decrease gang involvement in Williamsburg and Bushwick. First one is to allow community driven organizations like El Fuente to connect directly with young people at police truant holding centers, very simple. We're not forbidden to do that. What better time to talk to young people than when they're in one of those holding centers where we

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2 can just kind of talk about what the situation is
3 and kind of motivate them to join us.

4 Two, change the regulations for GED
5 programs to allow for adolescents under 19 to take
6 GED classes outside of Department of Education
7 school settings, very practical, very easy. By
8 the way, a lot of these things are what we did to
9 dissolve all the gangs that produced 48 killings
10 in one year. We can do it immediately.

11 Support organizations like El
12 Fuente to engage gang members and potential gang
13 members at stipended participants in much needed
14 year round community service projects. When I
15 talk to gang members and I talk to young people,
16 they're always asking me for jobs, simple. At one
17 time during the Dickens administration, I had
18 those jobs. I had the lead program, I had
19 stipended positions, hundreds of them.

20 Four, support community led
21 organizations to work with young gang members and
22 their potential recruits one on one in the streets
23 or their homes or hang outs in a way that
24 befriends them and supports their taking a more
25 positive direction. There is no substitute for

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2 going where the young people are and working with
3 them and creating a partnership of one on one,
4 creating trust, a bond. It takes time and it has
5 to be carefully done by people who know how to do
6 it but there is no substitute for that.

7

8 Number five, rejuvenate community
9 policing. I spoke to the Commissioner and he says
10 that we have it. I don't see any inkling of
11 community policing going on in my community. Does
12 the 90th precinct? Yes. But there are consistent
13 police officers who are constantly walking the
14 streets, interfacing with young people in a
15 respectful way? No, it's not happening and we
16 need to bring that back. Thank you.

16

17 CHAIRPERSON VALLONE: I really say
18 this. But I agree with all of those point, all of
19 them very good points. I'm one of the leading
20 advocates for the return of community policing and
21 the beat cop who knows the neighborhood.
22 Unfortunately we just don't have them any more.
23 We will end up today with Mr. Gross.

23

24 DANIEL GROSS: Thank you. Good
25 afternoon Chairman Vallone and members of the
committee. Thank you for the opportunity to speak

1
2 today on this critical issue of gang violence
3 prevention and on efforts to combat the insidious
4 stop snitching message. My name is Daniel Gross
5 and I am the co-founder and CEO of Pax, the
6 nation's largest non political gun violence
7 prevention organization.

8 Like too many people, I was
9 introduced to the tragedy of gun violence through
10 personal experience. My younger brother Matt
11 Gross was critically injured in the shooting on
12 the observation deck of the Empire State building
13 in February of 1997. At the time of the shooting
14 I was a partner at the J. Walter Thompson
15 Advertising Agency. I resigned that job to start
16 Pax.

17 Pax stands firmly on the belief
18 that together we can end youth violence in our
19 city and our nation. But to do so, it will
20 require us to change more than our laws. We need
21 to change the individual and cultural behaviors
22 and attitudes that currently help create and
23 perpetuate a cycle of violence. I believe
24 changing laws like the being addressed today can
25 be very important but to be most effective, these

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2 laws must be accompanied by fundamental changes to
3 our social norms.

4 As an example, like many I'm a big
5 fan of the hit TV show Mad Men, especially as a
6 recovering advertising executive. Ironically,
7 I've also found it to be a great source of
8 inspiration for Pax as an example to the extent to
9 which we are capable of changing our social norms.
10 For those of you who have seen the show, set in
11 the early 1960s you know that it's almost
12 unbelievable to see how socially prevalent, even
13 desirable it was to smoke cigarettes in our
14 offices or around children. Or how acceptable it
15 was to drink or drive.

16 I do realize that some of us may
17 even have personal memories of the bygone area.
18 But regardless, you don't need to watch more than
19 a few minutes of Mad Men to see how almost
20 unthinkable social change is possible, how even
21 the most deeply entrenched and dangerous attitudes
22 and behaviors can be reversed. I strongly believe
23 that can include gang violence and stop snitching.

24 To work towards this common goal,
25 Pax creates focused public health and safety

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2 campaigns that work much like Friends Don't Let
3 Friends Drive Drunk or Second Hand Smoke Half to
4 foster public health and safety and to change our
5 attitudes and behaviors on a social level.

6 Pax's campaigns are empowering.
7 They provide simple and specific calls to action,
8 not the whole solution. We don't pretend to be
9 the whole solution but simple and specific calls
10 to action, things that students, parents or others
11 can do to prevent a tragedy, save a life and make
12 their homes, schools or streets safer. They show
13 that we do not simply have to accept dangerous,
14 destructive or violent behavior that we can stand
15 up, speak up and be accountable.

16 Ultimately, Pax's campaigns create
17 hope that youth violence is a problem that can be
18 solved giving everyone an opportunity to say
19 finally enough is enough, as you said Mr. Chairman
20 in the beginning of this hearing. Pax give us all
21 the chance to back up those words with real action
22 and real results. I consider the goals of this
23 hearing and the proposed laws to prevent gang
24 violence and counter the message of stop snitching
25 to be directly in line with the goals and work of

1
2 Pax, particularly with Pax's very successful Speak
3 Up campaign.

4 It is a widely accepted fact in law
5 enforcement and been confirmed by numerous studies
6 that most instances in youth violence, including
7 gang violence, there are young people that know
8 that the violence is going to occur before it
9 does. Teens don't just know about who has
10 committed crimes after they occur, they actually
11 know who is going to commit violent crimes before
12 they occur.

13 On recent and very disturbing
14 example is this article from last Sunday's Daily
15 News about how gangs are even using Twitter to
16 detail and coordinate planned attacks. We have
17 copies of this if any of you are interested and
18 haven't seen it.

19 All this points to a tremendous
20 opportunity to prevent youth and gang violence by
21 providing inspiration and mechanisms for young
22 people to come forward with information about
23 weapons and threats. Inspiration and mechanisms,
24 not just the mechanisms and that's precisely what
25 Speak Up has done very effectively.

1
2 Pax has spent several years and
3 millions of dollars developing messages and
4 resource to make it safe and compelling for teens
5 to speak up about weapons threats. We still have
6 a lot to learn and I look forward to learning from
7 some of the people that we've heard today. But we
8 have been very effective with this program. It
9 includes the national 1-866 speak up hotline, the
10 first and only national hotline for young people
11 to anonymously report weapon threats.

12 A newly launched text messaging
13 reporting platform and national reporting center,
14 not directly to the police but staffed 24-7-365 by
15 professionally trained counselors, 70% of whom
16 have Masters degrees who handle and forward
17 incoming threat reports according to protocol
18 developed in collaboration with young people, with
19 leading experts in law enforcement and education,
20 including the United States Secret Service, the
21 FBI and the Department of Education. And
22 importantly, it campaigns social marketing
23 materials including customizable public service
24 announcement, wallet cards, posters, T-shirts, all
25 that kind of stuff and much more.

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I'm pleased to be able to report today that the Speak Up program has been an overwhelming success with more than 35,000 calls from across the country in eight years and hundreds of confirmed instances where weapons were confiscated o serious threats were averted. There are probably hundreds of kids, more than probably, certainly, hundreds of kids walking around today that would simply not be here if it weren't for Speak Up.

I'm also proud and grateful now to be able to announce that we will be launching Speak Up this coming year in New York City with the support of the City Council. Together we will pilot the program in ten schools, working closely with Speaker Quinn and the Board of Education to launch the program in the first quarter of 2010. Again, I reiterate that I look forward to working with you all and with a lot of people that we've heard from today.

I realize that one of the goals here today is to discuss laws to crack down on the illegal activity regarding gang participation and recruitment. While important, I want to take this

1
2 opportunity also to emphasize that such laws are
3 only one tool that we have at our disposal to
4 counter stop snitching efforts. To focus on these
5 laws allow would not be doing justice to the full
6 opportunity that exists to put an end to youth and
7 gang violence in our city.

8 In the end, if we are going to
9 effectively combat a cultural message like stop
10 snitching, we're going to need to do it on a
11 cultural level. In addition to telling kids what
12 they can't do, we're going to need to tell them
13 what they can do. We must give them alternatives,
14 including the opportunity to do the right thing.
15 We must make doing the right thing, the socially
16 popular and desirable choice. Laws aren't going
17 to do it on their own. To succeed, we're going to
18 need to change social norms.

19 I hope it serves as an example and
20 maybe a source of hope and inspiration. Speak Up
21 has shown how change truly is possible. By
22 creating a safe, accessible opportunity for kids
23 to do the right thing, we have shown that kids
24 will and in droves. This success of Speak Up
25 provides a powerful demonstration that the

1
2 overwhelming majority of kids are good kids that
3 given the right opportunity they will make the
4 right choices.

5 One of the greatest services we can
6 provide as adults is to present young people with
7 the positive alternatives that make the good
8 choices as safe and as easy as possible. Let's
9 not just show them what is wrong but provide them
10 with the opportunities to do what is right.

11 Chairman Vallone and members of the
12 committee, thank you again for the opportunity to
13 address you today, for your clear commitment to
14 prevent gang and youth violence and for your
15 continued support and leadership. Of course I
16 welcome any questions but I could imagine everyone
17 wants to get out of here. I know.

18 CHAIRPERSON VALLONE: Not that we
19 want to so much but we do have to. Again, let me
20 thank Council Members Arroyo and Jackson. They
21 are not even members of public safety committee.
22 They didn't even have to be here today at all,
23 forget for eight hours or whatever the heck we've
24 been sitting here. Council Member Jackson just
25 left.

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I also thank the people in the audience. We have so many hearings and sometimes people yell, scream and have to be removed because they think that's the only way for us to notice them. No, we know exactly as Council Member Arroyo said, exactly how you feel about everything that was said by these witnesses, just by looking at you shaking your head, not shaking your head. And we really appreciate you spending the entire day here to participate in this hearing and give us your feedback in the proper way.

And the four of you waiting all day to be here to give us what probably is the most compelling testimony we've heard all day long. We don't just look forward to working with you, we are going to continue to work with you on these bills and as you said, on things that go well beyond these bills when it comes to funding and when it comes to what you do out on the streets as our shock groups when it comes to this problem. So thank you all and anytime you need us, you know where to find us and thank you all for coming to the hearing. This meeting is adjourned.

C E R T I F I C A T E

I, Amber Gibson, certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature Amber Gibson

Date December 11, 2009