

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON GOVERNMENTAL OPERATIONS

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December 11, 2009

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HELD AT:                   Hearing Room  
                              250 Broadway, 14th Floor

B E F O R E:                   HELEN SEARS  
                                  Chairperson

COUNCIL MEMBERS:  
                              Helen Sears  
                              Inez E. Dickens  
                              Erik Martin Dilan  
                              Simcha Felder  
                              Peter F. Vallone, Jr.

## A P P E A R A N C E S

William Heinzen  
Deputy Counselor  
Office of the Mayor

Christopher Dunn  
Associate Legal Director  
New York Civil Liberties Union

Steven Wasserman  
Legal Aid Society

DeNora Getachew  
Director of Policy  
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Rachel Fauss  
Policy and Research Associate  
Citizens Union

Cynthia Conti-Cook  
Stoll, Glickman & Bellina

Leo Glickman  
Stoll, Glickman & Bellina

2 CHAIRPERSON SEARS: Good morning  
3 everyone. We'll wait until everybody is adjusted.  
4 Good morning. My name is Helen Sears and I'm  
5 chair of the Government Operations Committee.  
6 Before I go any further, we're joined by my  
7 colleagues Simcha Felder from Brooklyn and Peter  
8 Vallone from Queens. We also have Matt Gewolb who  
9 is counsel to the committee and Josh Gerber, the  
10 policy analyst to the committee.

11 Today the committee is going to  
12 consider Introduction 1025, a Local Law to amend  
13 the Administrative Code of the City of New York in  
14 relation to requiring the Corporation Counsel to  
15 submit quarterly reports to the City Council  
16 detailing the number and disposition of civil  
17 actions filed against the New York City Police  
18 Department.

19 Intro 1025 would require the Law  
20 Department to submit quarterly reports to the  
21 Council regarding civil actions filed against the  
22 New York Police Department. The purpose of the  
23 bill is to allow for a better understanding of  
24 whether there are policies and procedures that  
25 could be put in place through legislation or

1  
2 otherwise to help decrease the number of civil  
3 actions and the associated payments by the city.

4 This bill is sponsored by Council  
5 Member Peter Vallone, a member of this committee  
6 and chair of the Committee on Public Safety. I  
7 would like to here acknowledge his hard work on  
8 this piece of legislation. It's really a good  
9 bill.

10 The committee looks forward to  
11 hearing testimony on the merits of the  
12 legislation, particularly on how such a bill would  
13 be useful in improving oversight of the relevant  
14 departments and in helping the people of New York  
15 to better understand the type, quantity and  
16 ultimate disposition of civil actions filed  
17 against the city that involve the New York Police  
18 Department.

19 The committee is hopeful that Intro  
20 1025 will help to identify opportunities for the  
21 Law Department to work together with the New York  
22 Police Department and the Civilian Review Board  
23 and to consider ways to implement more effective  
24 risk management practices and to examine the  
25 processes in place in other jurisdictions.

1  
2                   Additionally, the committee, after  
3 its examination of practices in other  
4 jurisdictions is confident that civil actions  
5 offer significant opportunities to identify  
6 training and policy issues that if appropriately  
7 examined and addressed might improve the safety of  
8 police officers and all New Yorkers and such  
9 opportunity should be welcomed.

10                   Finally, the committee is hopeful  
11 that Intro 1025 might lead to better and more  
12 regular communication between the New York Police  
13 Department and the Civilian Review Board and the  
14 Law Department, a practice that has proven  
15 successful in other jurisdictions.

16                   Before we proceed, I will ask  
17 Councilman Vallone if he would like to say a few  
18 words.

19                   COUNCIL MEMBER VALLONE: Thank you,  
20 Madame Chair. Let me thank you for having this  
21 hearing so quickly and with a minimal amount of  
22 pestering. You and your committee really took the  
23 ball on this and ran with it and I'm very thankful  
24 for that.

25                   This isn't just a bill about the

1  
2 New York City Council getting more information.  
3 We've done a lot of those bills. I've written  
4 many of them when it comes to crime in parks,  
5 crime in schools, you name it.

6 This is a bill that's addressing  
7 two very serious problems right now; number one,  
8 the fact that there are too many settlements by  
9 the city in police cases, and number two, the fact  
10 that too little is learned from those settlements.

11 When it comes to the first problem  
12 of too many settlements, now I'm a former trial  
13 attorney, I know of what I speak here. The word  
14 is on the street it's open season on the city,  
15 it's free money. New York City is like the  
16 armored car careening down the streets with the  
17 doors open and money flying out the back being  
18 followed by trial attorneys, drug dealers and scam  
19 artists of all sorts. It has to stop. It has to  
20 stop.

21 The theory at the Corporate Counsel  
22 now, and I've sat down with him. I like Mike  
23 Cardozo a lot. I think he's doing a great job.  
24 We disagree wholeheartedly on this topic and we've  
25 agreed to disagree. His theory is that you settle

1  
2 these cases to avoid a much larger liability down  
3 the road. I think that's 100% wrong. That when  
4 you start settling these cases, the word gets on  
5 the street that it's easy money and then more  
6 cases get filed and then more payouts are made and  
7 it's a vicious cycle. That's exactly what the  
8 facts are showing right now. That has to stop  
9 number one. Stop with the payouts.

10                   Number two, if you're going to  
11 payout then you have to learn from those payouts.  
12 Action has to be taken as a result of those  
13 payouts. What's happening now is that the city is  
14 paying millions and millions of dollars to all  
15 sorts of people, some legit, some not. I mean  
16 you've got a whole article here about drug dealers  
17 suing the city and making money. But when the  
18 city pays out there has to be ramifications.

19                   Right now what's happening is the  
20 city is paying out. They're saying we're not the  
21 fault, no one is to blame. Then the trial  
22 attorneys and the so-called victims are making  
23 money. Everybody is happy but the taxpayers get  
24 fleeced millions and millions of dollars. Not one  
25 thing is learned from that.

1  
2 Now if you're going to pay out  
3 millions in taxpayers' money, somebody's head  
4 better role. Somebody at the Police Department  
5 was responsible for something wrong. If not,  
6 don't pay the money. It's that simple. If you  
7 are paying millions of dollars in taxpayers'  
8 money, find out why and fix it. Is it a problem  
9 with the system? Is it a problem with that police  
10 officer?

11 Take a look at the statistics. As  
12 of just recently, just a month ago, no one was  
13 looking at the statistics. The Corporate Counsel  
14 was sending over the lawsuits, what was settled,  
15 what wasn't settled to the Police Department. The  
16 Police Department was doing nothing, absolutely  
17 nothing with those statistics.

18 Their position was basically my  
19 position, Corporate Counsel settles for the wrong  
20 reasons so we're not going to learn anything from  
21 those statistics. They are not wrong when it  
22 comes to that. Corporate Counsel settles for the  
23 wrong reasons. But if the Corporate Counsel is  
24 settling on cases brought against one cop 20  
25 times, potentially there is something to learn

1 from that, but nothing was being done.

2 Just recently, as a result of our  
3 bill the Chairwoman scheduling this hearing, the  
4 Police Department did form a committee to look at  
5 these settlements to see if they could determine  
6 any trends, any problems with policies, any  
7 problems with any individual police officers.  
8 That's a good thing and I want to learn about that  
9 committee today.

10 I'm still stalling until you get  
11 ready. Do you want me saying that again? You  
12 didn't hear me the first time. You want to make a  
13 quick opening.

14 Again, I want to thank Helen Sears  
15 for this hearing. The problem is two-fold.  
16 Number one there are too many settlements. It's  
17 free money against the city. Number two, nothing  
18 is being learned from those settlements. No  
19 action is being taken to ensure it doesn't happen  
20 again. That needs to be fixed and that's what  
21 this bill does. So thank you Madame Chair and I  
22 look forward to the testimony.

23 CHAIRPERSON SEARS: Thank you very  
24 much. I think your comments are very timely  
25

2 considering when we do the budget and we look at  
3 many things that we have to do and what we have to  
4 cut. Certainly to have fiscal constraint and have  
5 some wisdom into exactly what we do and how we do  
6 it is very timely. So I thank you for having this  
7 bill come forth.

8 We will now go to Bill Heinzen,  
9 Deputy Counselor for the Office of the Mayor.  
10 Good morning and thank you for joining us.

11 WILLIAM HEINZEN: Good morning and  
12 thank you. Good morning, Chairperson Sears,  
13 Councilman Vallone and Councilman Felder. My name  
14 is Bill Heinzen. I am Deputy Counselor to Mayor  
15 Bloomberg. Thank you for the opportunity to  
16 provide you with the Administration's comments on  
17 Intro 1025.

18 Councilman Vallone I obviously was  
19 here for your opening statement and heard it and  
20 will try to incorporate that as I read this  
21 testimony.

22 The Administration shares your  
23 frustrations over the budgetary hits on our city  
24 treasury that are presented by rampant litigation.  
25 The Law Department specializes not only in

2 defending against litigation but in risk  
3 management to avoid future litigation.

4 While we share absolutely the goal  
5 of reducing the number and amount of settlements,  
6 we believe that the reporting requirements  
7 mandated by Intro 1025 would not contribute  
8 significantly to accomplishing those goals but  
9 would instead impose burdensome requirements for  
10 collecting information that the Law Department  
11 does not currently collect. Additionally, the  
12 types of information sought would not in fact  
13 yield constructive data.

14 Intro 1025 would amend Section 7109  
15 of the Administrative Code which delineates the  
16 role of the Corporation Counsel in representing  
17 agencies and their officers and employees. A new  
18 subdivision B would be added that would require  
19 the Law Department to provide quarterly reports  
20 concerning all civil actions filed against the  
21 Police Department and its police officers.

22 These reports would be required to  
23 include the following information: the number of  
24 actions pending, the number of claims in each  
25 action, the amount of time each action has been

2 pending, the nature of each claim, the resolution  
3 of each claim, whether the resolution was achieved  
4 through settlement or trial and the amount of any  
5 settlement.

6 We do not believe that these new  
7 reporting requirements will further the goal of  
8 reducing the number or amount of claims against  
9 the Police Department or settlements paid on those  
10 claims.

11 The information required by this  
12 bill is not readily available. Although the Law  
13 Department tracks lawsuits as they are served on  
14 the city, it does not compile information about  
15 the number of individual claims contained in those  
16 lawsuits, either as a gross number of claims or by  
17 category of claim. Collecting this information  
18 would require significant additional legal  
19 staffing at the Law Department simply to review  
20 each complaint and to analyze and log each claim.

21 The Law Department has excellent  
22 administrative staff but the data analysis  
23 contemplated by this bill would not be a merely  
24 ministerial task. It would instead require  
25 extensive legal review. Nor would the burden of

1  
2 these reporting duties conclude following the  
3 intake and analysis of the complaint. The bill  
4 would require continued analysis of each claim  
5 within each lawsuit as claims are amended,  
6 abandoned or dismissed.

7 It would also require the updating  
8 of information about the length of time each  
9 action is pending and information about resolution  
10 by settlement or trial.

11 But the data sought would not  
12 further the goals of this bill. Each complaint is  
13 a unique document, varying in length, clarity and  
14 merit. By definition, at least half of the  
15 complaints served on the city are below average.  
16 Many are unusually organized with scattershot  
17 allegations that are poorly pleaded and  
18 duplicative. The actual claims are not always  
19 apparent on first read. Most complaints involve  
20 multiple claims, many of which overlap.

21 As many of you know, or as some of  
22 you know from your own legal practice, the number  
23 of claims in an action reveals very little about  
24 the merits of that action or even the action's  
25 actual scope.

1  
2 To give an example of a lawsuit  
3 against the Police Department, a typical complaint  
4 will generally be based on a single incident, an  
5 arrest. Yet that complaint may allege false  
6 arrest as well as allegations of excessive force  
7 and malicious prosecution. It will likely assert  
8 those allegations under both federal and state law  
9 and it will likely state those claims against both  
10 an individual officer and against the city.

11 Additionally, complaints often  
12 allege these claims against the mayor, the police  
13 commissioner, perhaps a prosecutor and various  
14 unknown or nonexistent John Does. These loose  
15 pleading practices give rise to several claims  
16 within one lawsuit, but they tell little about the  
17 actual merits of the case. Knowing the number of  
18 claims in a given year would reveal nothing about  
19 managing potential litigation risks for any city  
20 agency.

21 For these reasons, collecting data  
22 at intake, that is when complaints are served upon  
23 the Law Department will not only impose  
24 significant staffing burdens and insert another  
25 layer of process into the city's legal defense,

2 the data themselves will not provide meaningful  
3 lessons or trends.

4 There are several reasons for this.  
5 One is simply time, the delays inherent in our  
6 overburdened legal system. Lawsuits are filed  
7 months or years after the alleged wrongdoing.  
8 Cases reach a conclusion through trial or  
9 settlement years later. In the meantime, city  
10 employees, including police officers, are  
11 transferred or retire.

12 Thus, as the police commissioner  
13 has stated, the better source of data concerning  
14 individual officers is often the complaints filed  
15 with the Civilian Complaint Review Board, which  
16 are resolved more quickly than cases filed in the  
17 state or federal courts.

18 Another reason is that the mere  
19 fact of a settlement in any litigation is not an  
20 acknowledgement of wrongdoing or of the truth of  
21 the facts alleged. This is no less the case in  
22 actions involving allegations of police misconduct  
23 than it is in any other case.

24 Similarly, it is important to note  
25 that regardless of how many claims are alleged in

1  
2 a particular lawsuit, settlements are typical  
3 negotiated to resolve all claims alleged in an  
4 entire action rather than just individual claims.

5 A further reason why settlement  
6 data do not provide instruction about potential  
7 litigation risks is simple economics. While some  
8 settlements seem unfair or even outrageous to us  
9 and to the public, the Law Department's decision  
10 to settle a matter is largely separate from the  
11 merits of the litigation.

12 It is a fact in the American legal  
13 system that most cases settle. The decision to  
14 settle reflects a business judgment based on the  
15 anticipated risks and costs of litigation. These  
16 risks and costs include the limited human  
17 resources that the city can commit to defending  
18 against lawsuit. Even with hundreds of attorneys,  
19 they simply cannot afford to fully litigate each  
20 case filed against it.

21 Lawsuits against the city involve  
22 burdensome discovery in which depositions and  
23 document identification, review and production  
24 consume not only huge amounts of Law Department  
25 attorney time but also the time of agency

2 attorneys and agency personnel including New York  
3 City Police officers, nurses and case workers.

4 Added to these facts are the costs of potential  
5 attorneys' fees along with several other strategic  
6 and resource considerations.

7 Nothing I say today is meant to  
8 suggest that the city and its agencies, including  
9 the Police Department are not willing and able to  
10 learn from past litigation history. I believe,  
11 Councilman Vallone, that with the formation of the  
12 PD committee that you referenced in your  
13 introductory remarks, you have in large measure  
14 accomplished the goal of this legislation.

15 Rather, our message today is that  
16 the Law Department simply does not have the  
17 resources to collect the information sought by  
18 this bill and that the information itself would  
19 not further the Council's intent in addressing  
20 frivolous litigation against the city's taxpayers.

21 Again, thank you for the  
22 opportunity to give our views on Intro 1025.

23 CHAIRPERSON SEARS: Thank you for  
24 your testimony. I'll ask a few questions and then  
25 I'll turn it over to Councilman Vallone because he

2 has several to ask. We've been joined by Inez  
3 Dickens from Manhattan. Thank you for being here.

4 I have a couple of questions and  
5 then I'll end on just some comments about your  
6 testimony. Can you describe the process by which  
7 the Law Department communicates with the New York  
8 Police Department regarding civil claims?

9 WILLIAM HEINZEN: I know that the  
10 Law Department and the Police Department are in  
11 constant communication. The Police Department is  
12 a client of the Law Department.

13 CHAIRPERSON SEARS: I know that's  
14 probably a difficult question for you. The Law  
15 Department was asked to come but they have a  
16 policy the only time they testimony for any  
17 committee hearing in the City Council is during  
18 budgetary times.

19 WILLIAM HEINZEN: That's right.

20 CHAIRPERSON SEARS: So I  
21 acknowledge that. You're not able to really  
22 answer for the Law Department. Do you know if  
23 there are regular meetings between the Law  
24 Department and the New York Police Department  
25 personnel? Maybe we might get to that point.

2 WILLIAM HEINZEN: I don't know, but  
3 I assume there would be.

4 CHAIRPERSON SEARS: Other  
5 jurisdictions that we've examined, included some  
6 large cities like Los Angeles, they have more  
7 robust programs in place for examining civil  
8 claims involving the police. Some have been  
9 successful in lowering the number of claims or  
10 amount of money paid out to claimants. We have  
11 cited some of these jurisdictions in our report.  
12 Has this report been reviewed, really? Have you  
13 reviewed any of these practices?

14 WILLIAM HEINZEN: I just received a  
15 copy of the report before I came in here this  
16 morning. So I just was able to glance through it.  
17 I saw that it mentions the city of Portland I  
18 believe.

19 CHAIRPERSON SEARS: Right.

20 WILLIAM HEINZEN: And some other  
21 jurisdictions.

22 CHAIRPERSON SEARS: All right, so  
23 perhaps you will read that.

24 WILLIAM HEINZEN: My understanding  
25 from looking at that is that the review done in

1  
2 those cities is a somewhat more holistic review  
3 for lack of a better term. It's not just looking  
4 at the number of claims filed, number of claims in  
5 a complaint, but it's more of a postmortem on  
6 actions after they've been resolved.

7 CHAIRPERSON SEARS: I think we'll  
8 have to look that. But perhaps you will give some  
9 comments on that report and you can turn it over  
10 to the committee.

11 WILLIAM HEINZEN: I'll certainly  
12 look at it.

13 CHAIRPERSON SEARS: Thank you very  
14 much. Just a comment before I turn it over to  
15 Councilman Vallone is that one other thing, and  
16 you may know this, does the Administration require  
17 a policy within the Police Department that  
18 mandates sensitivity training ongoing and it's not  
19 voluntary that they choose to attend a session  
20 that's given at a lunchtime or whatever. I'm not  
21 going into the details of how you work it out. Do  
22 they have that? Is it something that is really  
23 mandatory and that they do on an annual basis?

24 WILLIAM HEINZEN: Sensitivity  
25 training?

2 CHAIRPERSON SEARS: Yes.

3 WILLIAM HEINZEN: For line  
4 officers?

5 CHAIRPERSON SEARS: Well I think  
6 for the whole department. For instance, I'll  
7 compare it to health care. Nurses are obligated  
8 in hospitals to attend sensitivity training once a  
9 year and the hospital provides that. Because they  
10 are as exposed as the police are, to many  
11 different factors and they are exposed to  
12 different environments and there is no question  
13 that they burn out at certain periods of time. So  
14 my question is, does the Administration require  
15 the agency to have such a thing and that it's  
16 ongoing and mandated, not that they may choose or  
17 have the option to go? That I think is a question  
18 for the Administration.

19 WILLIAM HEINZEN: I will take that  
20 back and I'll have to get back to you on that. I  
21 don't know the answer.

22 CHAIRPERSON SEARS: Because I  
23 happen to think that's most critical. The city is  
24 huge. It's diverse and we have many different  
25 cultural and traditions and there's a great deal

1  
2 that really taxes the emotions of people let alone  
3 the Police Department. I would suggest that if  
4 they don't then I would really suggest to  
5 Councilman Vallone that that is one of the things  
6 that absolutely must be put in place. With that  
7 I'll turn it over to Councilman Vallone.

8 COUNCIL MEMBER VALLONE: Thank you  
9 Madame Chair. I'm very disappointed by this  
10 testimony. The second paragraph, the types of  
11 information sought would not in fact yield  
12 constructive data. You missed the point  
13 completely.

14 Four articles I grabbed this  
15 morning, "Crack Thug Sues City", "Same Dealers  
16 Score Many Times", that's from the news. From the  
17 Times, "Fewer Officers, More Lawsuits". From the  
18 news again, "Police Behaving Badly Costs the City  
19 \$35 million". The Post, "\$5.5 Million Payout to  
20 Injured Crackhead". This needs to stop.

21 The city needs to stop giving out  
22 taxpayer money unless the city is actually liable  
23 for something and that's not what's going on. The  
24 city is paying out money for all sorts of reasons  
25 and no one is keeping track of it. You're giving

1  
2 us all these reasons why it would be tough to have  
3 this information to give to us. You should have  
4 the information right now. That information  
5 should be reviewed every day. There is no excuse  
6 for what's going on right now.

7 Increase in the amount of payouts  
8 from the city and we learn almost nothing from  
9 those payouts and it's a vicious cycle. The  
10 attorneys are out there. They know it's free  
11 money to sue the city so they continually file new  
12 lawsuits. The Corporation Counsel gets many new  
13 lawsuits and says we can't take all these to trial  
14 so they just keep settling the lawsuits.

15 The only person who loses is the  
16 taxpayer. The taxpayer keeps hearing about \$21  
17 million settlements to this group, crack heads  
18 getting this money, other people getting different  
19 money and nothing is learned from it.

20 You tell me that this information  
21 would not yield any constructive data. That's so  
22 wrong. That's why this bill is introduced because  
23 someone needs to look at this. If you're not  
24 going to do it, we'll do it. We don't want to do  
25 it. You're looking at our entire staff up here.

1  
2 We don't have a huge budget. But if you're not  
3 going to learn and make changes then we will do it  
4 for you. That's what this bill does.

5 Now you said that you formed a  
6 committee and that accomplishes my goal. Well  
7 that accomplishes a small part of my goal. That  
8 committee you're talking about, which I want to  
9 hear about right now, is a committee formed by the  
10 Police Department to start looking at these  
11 settlements and learn things. Finally, you would  
12 have thought that would have been done a long,  
13 long time ago. But that's just part of my goal.

14 My goal is to learn from the  
15 settlements, the legitimate settlements. I'm not  
16 saying the city is never wrong and the police are  
17 never wrong that's for sure. When they are we  
18 need to learn and fix it. That's what this  
19 committee I assume would do.

20 The committee has no say and  
21 nothing to do with the ridiculous amount of  
22 settlements against the city and that's a whole  
23 other problem which that committee does not  
24 address. But let's start first with the  
25 committee. When was it formed? Who's on it?

2 What does it do? Tell us about it.

3 WILLIAM HEINZEN: I'm not here on  
4 behalf of the Police Department.

5 COUNCIL MEMBER VALLONE: Can you  
6 have the Police Department come and tell us about  
7 it? The Corp Counsel is not here to answer  
8 questions. The Police Department is not here to  
9 answer questions. You don't know the answers to  
10 the questions regarding the Corp Counsel or the  
11 Police Department.

12 I'm at a loss as to what we're  
13 supposed to ask then. What was the purpose of not  
14 having the Police Department or the Corp Counsel  
15 here then on this bill if you don't have the  
16 answers to the simplest questions like that  
17 committee what does it do?

18 CHAIRPERSON SEARS: Councilman, if  
19 I may just comment that the Police Department was  
20 asked to come and they actually did not respond.  
21 I think you need to know that. The committee  
22 should know that.

23 COUNCIL MEMBER VALLONE: The Police  
24 Department didn't respond and the Corp Counsel has  
25 a policy. Well God forbid we violate that policy

1  
2 that they don't show up except for budget  
3 hearings. So I'm kind of at a loss as to what I'm  
4 supposed to ask you then if you don't know about  
5 the Police Department's policy.

6 WILLIAM HEINZEN: Well, with  
7 respect, Councilman, I was here to testimony on  
8 Intro 1025 and I did. Everything within that I  
9 was here to testify about. Not to say that I  
10 think you're going down the wrong path in terms of  
11 your goal, not to say we don't think settlements  
12 are a problem and that litigation is a problem but  
13 to say that I don't think that collecting this  
14 type of information in this way will actually be  
15 useful to you or to any of us.

16 COUNCIL MEMBER VALLONE: I couldn't  
17 disagree any more. That doesn't get us anywhere  
18 with this hearing. I need to learn about what's  
19 being done with the information now. I've sat  
20 down and had meetings with Mike Cardozo so I  
21 happen to know some of the things already. That  
22 doesn't help the people in the room.

23 When it comes to settlements being  
24 made in a manner brought against a police officer,  
25 do you know if the Corp Counsel discusses that

2 matter with the Police Department before they  
3 settle?

4 WILLIAM HEINZEN: I don't know  
5 specifically. I used to work at the Law  
6 Department. I was a litigator for years before I  
7 worked at the Law Department. I have to assume  
8 that any attorney discusses a settlement with his  
9 or her client.

10 COUNCIL MEMBER VALLONE: I would  
11 have the same assumption. It's not true though.  
12 In many, many cases the Police Department never  
13 even contacted, never even aware that there was a  
14 lawsuit, and even worse, never even aware that  
15 there was a settlement.

16 So some poor cop on the street is  
17 getting more paid out because of something he  
18 supposedly did and he has no say in whether or not  
19 this will go on his record, whether some action he  
20 took is costing the city \$5 million because they  
21 don't even reach out.

22 The unofficial amount where they  
23 handle it on their own, the Corp Counsel is about  
24 \$250,000. This is what we learned in our meeting  
25 with the Corp Counsel which we cannot support at

1  
2 all. It goes to a much bigger problem here, the  
3 lack of communication between the Corp Counsel and  
4 the Police Department.

5 The Corp Counsel says they give all  
6 this information to the Police Department, in  
7 their defense. Every time they settled they do  
8 send it after they settle, not before, to the  
9 Police Department. So the Police Department can  
10 and does have the ability to learn from it.

11 The Police Department has not until  
12 just recently taken any action with regard to that  
13 information.

14 I'm trying to figure out what I can  
15 ask you that would be helpful here. I've got so  
16 many questions but they're for the Police  
17 Department and for the Corp Counsel.

18 CHAIRPERSON SEARS: Councilman  
19 Vallone, what I would suggest, because it's  
20 difficult when they don't come and I realize you  
21 have difficult in answering some of the questions  
22 because you're not here speaking for the Police  
23 Department. One of the ways I can tell you is  
24 getting at anybody is through their pocketbook.  
25 So if the Police Department and the Law Department

2 feel they can only answer things during the  
3 budgetary process I think that is the place to ask  
4 the questions. Because if some part of this bill  
5 relates to increasing staff or having additional  
6 things in place which they aren't able to do now  
7 because they don't have the money, I think it  
8 needs to be attacked in the budget process.

9 COUNCIL MEMBER VALLONE: We will do  
10 that. Your committee will have the Corp Counsel  
11 come before it. My committee will have the Police  
12 Department come before it.

13 CHAIRPERSON SEARS: Exactly, it'll  
14 be a joint committee hearing during the budget  
15 time and we will have all those questions prepared  
16 which they will be obligated to answer. So are  
17 there any questions?

18 COUNCIL MEMBER VALLONE: Chair, let  
19 me just finish with one thought here.

20 CHAIRPERSON SEARS: I'm sorry.  
21 Sure.

22 COUNCIL MEMBER VALLONE: Two areas  
23 that you testified to. Number one, you said that  
24 settlement is largely separate from the merits of  
25 the litigation. You discussed some of these

1  
2 settlements that may seem outrageous to the  
3 public. I agree. Again, I'm a former trial  
4 attorney. I've done defense work. I've sued the  
5 city when it comes to bad police officers. I  
6 don't know if Chris knows that but I have defended  
7 people against bad cops and sued the city when it  
8 comes to bad cops back before I was a Council  
9 Member.

10 So you're right, settlements in  
11 many cases are largely separate from the merits of  
12 the litigation, but they should not be when it  
13 comes to New York City. New York City should only  
14 settle if the police office is liable. If not, if  
15 they start handing out money to people to go away  
16 because the city doesn't want to spend the money  
17 defending it, what happens is more lawyers file  
18 suits. That's what's happening right now.

19 So why don't you tell us a little  
20 bit about what goes into settling a case outside  
21 of the merits of the litigation.

22 WILLIAM HEINZEN: Well, other than  
23 what's in my testimony?

24 COUNCIL MEMBER VALLONE: Your  
25 testimony only says that line. It doesn't say

1  
2 what the settlement is based on that's outside the  
3 merits of the litigation. I'm sorry, it does say  
4 based on the anticipated risks and costs of  
5 litigation. That's obvious.

6           Again, that's a decision that  
7 Allstate can make when defending against in a car  
8 accident. Not that New York City should be making  
9 when it involves a police officer and his actions  
10 with the public.

11           You also mention here that a better  
12 source, according to Ray Kelly, of information  
13 regarding individual police officers is the  
14 Civilian Complain Review Board. I'm not  
15 disagreeing with that. But this is an additional  
16 source. If one police officer is costing the city  
17 20 settlements at \$5 million a settlement, right  
18 now nothing is being done about that.

19           Now those settlements may be and he  
20 may not even be guilty of any of that which is  
21 another problem. But if one officer is being sued  
22 that many times, something needs to be done other  
23 than throwing taxpayer money at drug dealers.  
24 What's being done right now? What are we learning  
25 right now from the amount of settlements against

1 individual police officers if anything?

2  
3 WILLIAM HEINZEN: You know, I can  
4 comment on the Law Department's review of all the  
5 documents. I know that the Law Department  
6 obviously conducts a review of settlements. The  
7 comptroller also compiles settlement data and  
8 reports on it every year, analyzes trends that  
9 they see in settlement data.

10 COUNCIL MEMBER VALLONE: Counsel  
11 was telling me and I wasn't even aware of this,  
12 that many times lawyers tell their clients not to  
13 file CCRB complaints until after the lawsuit so as  
14 not to give any notice to the city of the case or  
15 the existence of the case. Interesting, this is  
16 why we need to look at both the CCRB complaints  
17 against officers and the civil complaints.

18 Nobody knows better than I do that  
19 most of these civil complaints are complete bull.  
20 But many of those ridiculous cases get settled and  
21 shouldn't. The ones that are legitimate need to  
22 be learned from and they're not. We're definitely  
23 not learning anything today. I know it's not your  
24 fault. You were sent here. You're doing what you  
25 need to do. It's nothing personal, it's just I

1  
2 can't learn anything unless the Corp Counsel and  
3 the Police Department are here. Thank you, Madame  
4 Chair.

5 CHAIRPERSON SEARS: Thank you.

6 WILLIAM HEINZEN: May I comment?

7 CHAIRPERSON SEARS: Yes, go ahead.

8 WILLIAM HEINZEN: I just want to  
9 say Councilman Vallone and the entire committee;  
10 we're not saying that we don't share the goal of  
11 learning more about what is in litigation, what  
12 the settlements tell us about patterns in the  
13 litigation. What I am saying is that this  
14 information and collecting this information at  
15 this point in the process, at the intake process  
16 in Corp Counsel, is not going to provide you  
17 useful data. It's going to provide you a lot of  
18 junk. I really believe that.

19 COUNCIL MEMBER VALLONE: That's  
20 only part of what we're requesting the intake  
21 amount of cases. We're also requesting the  
22 settlements that occur after these cases are  
23 taken. We need to know how many frivolous  
24 lawsuits are being filed and why they're being  
25 filed for one purpose. And then another purpose,

1  
2 we need to know why they're being settled, how  
3 many are being settled, why they're being settled  
4 and what we're learning from it.

5 So the fact that the cases are  
6 being filed is relevant because we need to know  
7 the amount of cases that are being filed, why  
8 they're being filed, against whom they're being  
9 filed and maybe we can discover some trends that  
10 you haven't yet.

11 Number one trend, more cases will  
12 be filed when the city settles more cases. It's a  
13 vicious cycle and we're in it right now.

14 CHAIRPERSON SEARS: If I may add to  
15 that for one moment. It might take some looks at  
16 some hospitals because Councilman Vallone I have  
17 learned that hospitals get sued as well and they  
18 get sued very heavily.

19 We know what happens and what the  
20 settlements are but what is very important is that  
21 there are meetings from everyone involved in that  
22 hospital from providing the health care to  
23 administration to counsel that we look at why that  
24 suit was filed, what was the reason and we follow  
25 after that to be certain that such an incident

1  
2 doesn't happen again.

3 I can tell you in the hospitals  
4 that I have run; we have reduced them for the very  
5 reason of what Councilman Vallone is saying. It  
6 is one thing to get a suit, it's another thing to  
7 see what happens and how do you reduce it.

8 Maybe the administration has to  
9 look at some hospitals that are run well and look  
10 at what they do to reduce their suits because  
11 hospitals pay out a lot of money and it's not  
12 based on frivolity and it's not based on  
13 carelessness.

14 But there is a reduction in them  
15 and that reduction is because we have done exactly  
16 what Councilman Vallone is asking for. It's the  
17 only way you can reduce lawsuits is to take action  
18 and that action is with the staff. It's with the  
19 administration. It's with everybody to see that  
20 it doesn't happen again. I think that that's one  
21 of the fundamental of this bill.

22 I, as someone who has run a  
23 hospital, it's fundamental, it's necessary to do  
24 that very thing. I'm really surprised to hear  
25 that that's not done. So I think maybe you need

1  
2 to take that back to the Administration. Thank  
3 you. Do my colleagues have any questions for Mr.  
4 Heinzen? With that I want to thank you very much.

5 WILLIAM HEINZEN: Thank you.

6 CHAIRPERSON SEARS: We're hard but  
7 we're kind.

8 WILLIAM HEINZEN: We thought that  
9 was our motto.

10 CHAIRPERSON SEARS: We expect  
11 answers. Our next panel is Chris Dunn who is the  
12 New York Civil Liberties Union. We should have a  
13 panel I think. We'll call Steven Wasserman to  
14 make up this panel from the Legal Aid Society.

15 [Pause]

16 CHAIRPERSON SEARS: Thank you for  
17 being here. You may decide who speaks first; just  
18 introduce your name for the record.

19 CHRISTOPHER DUNN: I think I'm  
20 going to go first. I'm Chris Dunn with the New  
21 York Civil Liberties Union. Good morning to all  
22 of you.

23 CHAIRPERSON SEARS: Welcome.

24 CHRISTOPHER DUNN: We appreciate  
25 your having us testimony. I want to say a

2 particular welcome to Peter who of course is a  
3 good friend of the Civil Liberties Union. I'm  
4 glad to hear Peter that you have a history of  
5 suing the Police Department. I do take some  
6 comfort in that.

7 COUNCIL MEMBER VALLONE: Is that  
8 sarcasm?

9 CHRISTOPHER DUNN: No, no, that's  
10 not sarcasm. You made a point of pointing it out,  
11 so I want to acknowledge that. Peter, I also want  
12 to acknowledge that you don't often hear this but  
13 we fully support what you are doing here. You're  
14 on to something. Where there is smoke there is  
15 fire and there's a lot of smoke here.

16 I will tell you that we are a  
17 little less interested in the careening armored  
18 car and are a little more interested in the  
19 careening cops who may be engaged in misconduct.

20 While I recognize that you are  
21 particularly concerned about what you consider to  
22 be frivolous payouts, we are more concerned about  
23 the second point that you noted though did not  
24 emphasize which is what if anything is the city  
25 learning from these lawsuits.

2 COUNCIL MEMBER VALLONE: I wanted  
3 to. I asked about the committee but they have no  
4 information.

5 CHRISTOPHER DUNN: I understand  
6 that. That of course points to one of the real  
7 problems. I mean there is a problem in the fact  
8 that they sent witnesses here who cannot answer  
9 basic questions and that's a problem the Council  
10 faces all the time.

11 But there is a large substantive  
12 problem with the absolute lack of information that  
13 the city is collecting about these things.

14 But before I get to that let me  
15 just point out, you had mentioned about the issue  
16 about the CCRB. The reason why it's particularly  
17 important to look at lawsuits is that Peter even  
18 though you think that lawsuits that get filed in  
19 the city, notwithstanding your lawsuits, are all  
20 frivolous nonsense.

21 COUNCIL MEMBER VALLONE: I don't  
22 think that in the slightest. Many are and many  
23 are not.

24 CHRISTOPHER DUNN: I think you made  
25 a number of disparaging comments about the

1  
2 lawsuits. But as you know, to file a lawsuit is a  
3 lot harder than to file a CCRB complaint. You  
4 want to file a CCRB complaint, you pick up the  
5 phone, you call 311, and presto, you've got a CCRB  
6 complaint.

7           You want to file a lawsuit you've  
8 got to find a lawyer, you got through a lot of  
9 process. Lawyers have legal obligations and  
10 ethical obligations about what they can file. I'm  
11 not suggesting all lawsuits are meritorious,  
12 Peter, you know that. But the fact of the matter  
13 is lawsuits are a telling indicator. The city  
14 should be looking at lawsuits. So I think you're  
15 absolutely right.

16           The lawsuits that the city is  
17 facing are costing the city a lot of money, as you  
18 pointed out. The committee's paper talks about  
19 some public reporting about the costs of lawsuits.  
20 I hope that you folks know the Comptroller's  
21 Office reports every year about claims, including  
22 the Police Department.

23           We know that over the last ten  
24 years there have been something like \$400 million  
25 paid out by the city for police misconduct

1  
2 lawsuits plus the cost of defending them at Law  
3 Department and you are getting close to half a  
4 billion dollars over the last ten years. That's  
5 not chump change. That's a lot of money. That is  
6 something that you should be looking at closely.

7 Peter, where I think we are going  
8 to disagree with you somewhat is we don't think  
9 this goes nearly far enough. Basically, and this  
10 is going to your point about the lack of  
11 information, there is no reporting whatsoever now  
12 about these lawsuits. What you get is the claims  
13 report which is a highly aggregated set of figures  
14 that just gives you annual payouts. There is  
15 basically no system in place here in the city, and  
16 Peter you know it as well as anybody, by which--

17 MALE VOICE: [interposing] Excuse  
18 me. I know you like Peter. First of all, I think  
19 it would be better to be called Councilman  
20 Vallone, even by me. Second of all, if you want  
21 to have a private conversation with him, I don't  
22 mind and I'll leave. But we're all here and would  
23 like to hear what you have to say.

24 CHRISTOPHER DUNN: I apologize.

25 MALE VOICE: No problem.

2 CHRISTOPHER DUNN: Let me give you  
3 two indicators of what we see as a factual matter  
4 of the lack of information that the city has and  
5 the lack of any sort of system by which when a  
6 lawsuit gets filed. What happens in the Police  
7 Department when a lawsuit gets filed?

8 We in lawsuits that we file where  
9 we're challenging the Police Department about  
10 policies and practices, we oftentimes depose the  
11 police officers. A standard set of questions with  
12 a police officer is have you been sued before.

13 Frequently the police officer will  
14 say yes. We say, what the allegation was, you  
15 know, someone accused me of hitting them or  
16 falsely arresting them or racially profiling them.  
17 What was the outcome of the case? I can tell you  
18 that in 100% of instances the police officer says  
19 I do not know. They're never told. There is no  
20 connection.

21 From a different perspective, we  
22 recently tried to get from the New York City Law  
23 Department information about the number of  
24 lawsuits that were sued against school safety  
25 agents. There are now about 5,000 school safety

1  
2 agents in the public schools, members of the  
3 Police Department and they generate a lot of  
4 complaints and some lawsuits. We FOIL'd the Law  
5 Department and we then had negotiations with very  
6 high level people in the Law Department about  
7 getting this information.

8           They said we can't get it, we don't  
9 have it. It does not exist. We don't have any  
10 system for identifying these sorts of cases. We  
11 ultimately had to say to them well look, why don't  
12 you just send an email around to your lawyers and  
13 ask them to identify them which they ultimately  
14 did and they then produced to us information about  
15 lawsuits against school safety agents.

16           This is just to give you an  
17 indication. The Law Department has no system in  
18 place whatsoever for collecting information about  
19 lawsuits. It's not like the city of New York  
20 doesn't have systems in place for collecting this  
21 information.

22           So for instance, just to give you  
23 an idea, and I don't often say positive things  
24 about the CCRB, and the CCRB is here today by the  
25 way, I do want to make a little plug for them to

1  
2 give you a sense of what sorts of things you can  
3 be asking for.

4 This is the CCRB's most recent  
5 annual report. It includes detailed factual  
6 information about complaints filed by the CCRB.  
7 It tells you information about who files the  
8 complains, demographics of the police officers,  
9 commands of the police officers, specific  
10 allegations, all kinds of information about  
11 complaints about misconduct by police officers.  
12 This is the CCRB and these are just complaints.  
13 They don't have any financial consequences for the  
14 city.

15 The Council has enacted two laws  
16 recently that have mandated very specific  
17 reporting about the Police Department and other  
18 areas. I think Council Member Vallone I think was  
19 largely responsible for this. This came out of  
20 Public Safety. There was a bill enacted by the  
21 entire Council this January that requires  
22 information about shooting practices by the  
23 department. NYPD shooting practices report for  
24 last year. Incredibly detailed information about  
25 Police Department shootings, and a much smaller

2 number than the lawsuits we're talking about at  
3 the CCRB.

4 COUNCIL MEMBER VALLONE: It didn't  
5 just come out in Public Safety. It was actually  
6 my bill.

7 CHRISTOPHER DUNN: I know it was  
8 your bill. I understand it was your bill.

9 COUNCIL MEMBER VALLONE: I got go  
10 get whatever credit I can here.

11 CHRISTOPHER DUNN: Council Member  
12 Vallone, I am not talking just to you, I'm talking  
13 to everyone. Another area where the Council  
14 passed a very important legislation was about stop  
15 and frisk activity which is a favorite topic of  
16 Council Member Vallone's.

17 Here is a one quarter report about  
18 stop and frisk activity by the NYPD. What are you  
19 getting about lawsuits that are costing the city  
20 \$500 million in ten years? Zero. There is no  
21 reporting. So you're absolutely on the right  
22 path. You need to do something about this and  
23 there are lots that you can do.

24 CHAIRPERSON SEARS: If I may, I'm  
25 going to ask you to sum up because I'd like your

2 comments on the bill.

3 CHRISTOPHER DUNN: I'm sorry.

4 Turning to the bill, we have specific proposals.

5 CHAIRPERSON SEARS: Just summarize  
6 what you think of the bill.

7 CHRISTOPHER DUNN: The first thing  
8 we think you need to greatly expand the types of  
9 information that you are going to require to be  
10 reported. There should be information about all  
11 the particulars about the person who files the  
12 complaint.

13 There should be much more  
14 information on the particulars of the police  
15 officer about who is alleged to have engaged in  
16 unlawful conduct in the complaint, and basic  
17 things like we don't know rank, we don't know  
18 command, we don't know age, we don't know gender,  
19 we don't know race, we don't know where the  
20 incident took place. These are all basic things  
21 you want to know.

22 The CCRB report is very helpful.  
23 The CCRB report has a map of where complaints are  
24 filed in New York City. You will not be hugely  
25 surprised what that map suggests. You might not

1  
2 be hugely surprised to see a map of lawsuits filed  
3 against the NYPD.

4 So we think there should be a  
5 significant expansion of the types of information  
6 that is reported consistent with what you expect  
7 of the city agencies in other areas.

8 Secondly, we think that the  
9 reporting should be broad in terms of who it is  
10 going to. There has been discussion about the  
11 CCRB. They should certainly get these things  
12 because they should be looking at them. The  
13 Comptroller's Office should be getting this  
14 information. They should be looking at it.

15 It's very important from our  
16 perspective that the reporting that you mandate be  
17 as broad as possible, both in terms of the types  
18 of information that you're seeking and who is  
19 getting it so it can be used in a productive way.

20 Finally we have some technical  
21 corrections that are suggested in our testimony.  
22 One thing that I would note in particular though  
23 is the bill only speaks to lawsuits in which the  
24 Law Department makes an appearance.

25 As you may be aware, there are many

1  
2 instances in which the Law Department will choose  
3 not to represent a police officer because it  
4 decides the officer's conduct is so egregious.  
5 It's referred to in the vernacular they cut the  
6 officer loose. They make the officer defend  
7 himself or herself.

8 Those are incidents that certainly  
9 should be included in your reporting because they  
10 may be the situations that suggest the greatest  
11 misconduct because the Law Department at some  
12 level has made a judgment that what's happened  
13 there is so bad they want nothing to do with it.  
14 That is still a problem the Police Department has  
15 and we should not be washing our hands of that in  
16 terms of the reporting about this.

17 CHAIRPERSON SEARS: I think that's  
18 an excellent recommendation. I'm sure that the  
19 Safety Committee will consider that.

20 CHRISTOPHER DUNN: I will just say  
21 in closing, and I apologize for having gone as  
22 long as I have, that we think this is an excellent  
23 first step in terms of developing an  
24 accountability system. But we want to be clear  
25 it's a first step. Given the enormous cost to the

1  
2 city and given the cost and the threat to public  
3 safety and to the integrity of the Police  
4 Department. Lawsuits about police officer  
5 misconduct are a serious matter. There needs to  
6 be a comprehensive system. It needs to include  
7 the U.S. Attorney's Office, the district  
8 attorneys' offices, the Police Department, the  
9 CCRB, the Comptroller's Office and the Council.  
10 There needs to be a complete system.

11 We support this bill as a first  
12 step towards that but it is a first step. Thank  
13 you.

14 CHAIRPERSON SEARS: Thank you very  
15 much. We'll hear from Mr. Wasserman and then we  
16 can have some questions.

17 STEVEN WASSERMAN: Good morning  
18 everybody. I'm Steven Wasserman. I'm with the  
19 criminal practice of the Legal Aid Society. It's  
20 my specific responsibility there to monitor  
21 incidents of police misconduct.

22 We are often the first agency that  
23 encounters individuals that have been arrested and  
24 we are very often the very first agency to observe  
25 and to receive the reports of police misconduct

2 that are causing these staggering expenditures.

3 We certainly welcome and salute the  
4 legislation that's being proposed here. We would  
5 suggest that the Comptroller's Office may also be  
6 a very important source of prompt and detailed  
7 data that you need.

8 One of the things that I do at  
9 Legal Aid is that I help our clients who have been  
10 beaten up or falsely arrested to reserve their  
11 right to sue. There is a requirement that a  
12 notice of claim to commence a civil action against  
13 the city has to be filed within 90 days of the  
14 incident. That notice of claim has to be  
15 reasonable detailed. I mean very often it does  
16 identify officers and commands and locations.

17 I myself in order to help to  
18 monitor police conduct and to gather impeachment  
19 material against police officers for criminal  
20 trials, I FOIL the notices of claim that are  
21 involving the Police Department ever two years.  
22 It has proven for us to be an enormous trove of  
23 information.

24 I would suggest though that above  
25 and beyond the notices of claim, I think the other

1  
2 very important source of information that could  
3 help to really inform for Corp Counsel and the  
4 City Council is the information that is gathered  
5 at the 50H hearings. That after you file a notice  
6 of claim you are contacted fairly promptly, I  
7 would say about two or three weeks afterwards from  
8 a law firm that's hired by the Comptroller's  
9 Office. I have one of these in my hand right now.  
10 They actually do depose the claimants in  
11 anticipation of lawsuits.

12 The first that do this, do a fairly  
13 detailed job and you get a pretty good diagnosis  
14 of the nature and the quality of the claim. I  
15 think a lot of the settlements that take place are  
16 really based upon these 50H hearings.

17 It does seem to me respectfully  
18 that one of the things that you may want to be  
19 looking at is either a digest of these hearings or  
20 some sort of form that could be produced as part  
21 of the 50H process.

22 I do think this would address part  
23 of the problem that was raised by the lawyer for  
24 the Mayor's Office that the actual filing of these  
25 lawsuits, there is often a lag time of months and

2 years and you don't often get a timely and prompt  
3 snapshot of what is actually occurring on the  
4 streets. I think you would do much better to  
5 monitor the notices of claim and the 50H hearings.

6 CHAIRPERSON SEARS: That's an  
7 excellent suggestion. Thank you very much. Are  
8 there any questions from my colleagues? Council  
9 Member Vallone.

10 COUNCIL MEMBER VALLONE: First of  
11 all, you don't need to apologize for going too  
12 long because we learned a lot more from you guys  
13 than we did from the last panel. We look forward  
14 to working with you to make this bill even better.

15 I again want to clarify, Mr. Dunn I  
16 guess, that the reason that I did say that I have  
17 sued the city when it was wrong as a trial  
18 attorney. So, not all trial attorneys are bad. I  
19 helped bring cases to the CCRB on behalf of my  
20 clients. I prosecuted bad cops as an ADA.

21 The reason I said that was to point  
22 out that I know better than almost anyone that  
23 many of these cases are meritorious. So I don't  
24 want you to get the impression that I think  
25 they're all frivolous. They're absolutely not all

1  
2 frivolous.

3 My point is that when they are  
4 meritorious, we need to learn and take action. If  
5 it's a policy problem with the NYPD, fix the  
6 policy. Train better maybe so they understand  
7 that policy and how to implement it. If it's an  
8 individual police officer, take action, whether  
9 it's discipline or whether it's removal. Learn  
10 from the meritorious cases. Don't settle the  
11 frivolous cases.

12 So both goals are very important to  
13 me. Stop the bleeding when it comes to taxpayer  
14 money during a budget and number two, learn and  
15 make changes from the NYPD. So maybe I didn't say  
16 it clearly enough but I agree with you. There are  
17 meritorious cases and there are frivolous cases.  
18 We may disagree as to the extent of both cases.

19 You bring up an interesting point  
20 about the times when the Corp Counsel won't even  
21 represent the police officers outside the scope of  
22 duty. They would be able to report to us I guess  
23 that they refused to represent, but would there be  
24 someplace else that we would be able to get more  
25 information regarding those cases? What do you

1  
2 recommend in that situation?

3 CHRISTOPHER DUNN: I think that  
4 should be included in the cases that are reported.  
5 The way the bill is written right now it would  
6 almost expressly exclude those cases. But I think  
7 that might be a subset of cases you might want to  
8 pay particular attention to. The Law Department  
9 does not do that lightly. They only cut an  
10 officer loose after they make an assessment of the  
11 case and the egregiousness of the officer's  
12 misconduct.

13 If you can think of a category of  
14 cases that you would want to start with, setting  
15 aside what may be the merits of the balance of  
16 them, cases where it's reasonable something went  
17 wrong and seriously wrong, that's where you'd  
18 start because the Law Department has already made  
19 that judgment.

20 COUNCIL MEMBER VALLONE: We'd  
21 assume that in cases like that they're already  
22 learning but again we can't even make that  
23 assumption. That's the low hanging fruit. If  
24 it's so bad that they're not even going to  
25 represent, hopefully some action is being take but

1 we don't know.

2  
3 CHRISTOPHER DUNN: Well I think we  
4 do know that they're not learning. Not only are  
5 they not learning, but they seem to be opposed to  
6 learning. You and I have talked about this. You  
7 have been trying for several years to get them to  
8 do what probably all of us would agree is just the  
9 basic commonsense thing to do.

10 If you're shelling out a half a  
11 billion dollars over ten years and there perhaps  
12 are a lot of people who for instance are the  
13 victims of police misconduct as part of the deal,  
14 most people would say, what are we going to do  
15 about that. It is no answer to say as the Police  
16 Department too often says a lot of these cases  
17 don't have merit. Maybe a lot of them don't have  
18 merit. A lot of them do have merit. I'm just  
19 astonished that they seem to be so adverse to  
20 thinking about this and trying to deal with it.

21 For Mr. Heinzen to come on behalf  
22 of the Administration and basically say in a very  
23 soft way we support your goal but they're not  
24 playing with you, they're not going along.  
25 They're not producing the Police Department.

1  
2 They're not producing the Law Department. All the  
3 signals to you are they are not taking this  
4 seriously. That's just hard to understand.

5 CHAIRPERSON SEARS: We have been  
6 joined by Councilman Erik Dilan from Brooklyn. He  
7 was here just a minute ago. I guess he'll be  
8 back. Councilman Felder has a question.

9 COUNCIL MEMBER FELDER: Thank you.  
10 With regard to those cases where you said that  
11 they're so egregious that they don't even want to  
12 handle, for whatever year you would have that  
13 information, how many cases out of how many cases  
14 are those?

15 CHRISTOPHER DUNN: I don't know  
16 that anybody knows, which, of course, is the  
17 problem. I will tell you anecdotally, I mean  
18 these are not the types of lawsuits that we do.  
19 But I certainly hear from people in the kind of  
20 police lawsuit area that it's not uncommon for  
21 officers to be cut loose. That is a significant  
22 even that people comment on because it is such an  
23 indictment if you will of the officer because of  
24 the fact that the Law Department is making a  
25 judgment not to appear.

2 I will tell you one thing that we  
3 see all the time, the Law Department always asks  
4 for more time at the beginning of a case because  
5 they want to do an assessment whether or not they  
6 should represent the officers.

7 COUNCIL MEMBER VALLONE: Just to  
8 jump in, Simcha, if you don't mind.

9 COUNCIL MEMBER FELDER: Call me  
10 Councilman.

11 COUNCIL MEMBER VALLONE:  
12 Councilman. Maybe I'm wrong but they don't  
13 represent if it's not in the scope of duty. So it  
14 could have been something that happened at a  
15 Christmas party which doesn't mean it's an  
16 indictment of the officer.

17 CHRISTOPHER DUNN: I almost said  
18 Peter, I apologize. Council Member Vallone, as  
19 you know, there are some things the issue is  
20 whether or not the person is completely off duty.  
21 There are also questions about whether or not they  
22 have done something so outside the scope of what  
23 they are supposed to be doing. That's where you  
24 really have problems.

25 But Council Member Felder, to get

2 to your point, the Law Department in every single  
3 case, there is a process by which they assess the  
4 case to determine whether or not they are going to  
5 represent the officer. So this is not a problem  
6 where there is not a process in place by which the  
7 Law Department is not collecting information.  
8 They're just choosing not to aggregate it and  
9 report it.

10 COUNCIL MEMBER FELDER: You  
11 repeated that at least three or four times very,  
12 very well. So I got that point. But on the  
13 question that I asked you, which you don't have  
14 the information presumably because of the same  
15 reasons that we don't have other information, I  
16 would just say that without knowing the facts  
17 those cases are cases you read about in the papers  
18 where a case is so egregious that the Department  
19 doesn't want to get involved with it.

20 I don't know the numbers. I don't  
21 know the information. I may be speculating. But  
22 I would say I doubt very much that there are many  
23 of them. You don't want to speculate but I'm  
24 willing to speculate.

25 CHRISTOPHER DUNN: Okay, I'll

2 speculate also. I don't think there are a lot  
3 either. But in a city where there are thousands  
4 of lawsuits every year against the Police  
5 Department, let's say there are 100.

6 COUNCIL MEMBER FELDER: That's  
7 where I differ. I don't think there are 100. But  
8 in any case, what I wanted to say is that as part  
9 of your testimony and I just want to add to what  
10 Council Member Vallone said earlier, the  
11 information that we need, and I know that this is  
12 critical to you and to your colleague from the  
13 Legal Aid Society, it is not only about getting  
14 information that proves the guilt of the officers.

15 The issue is that if the city in  
16 fact is paying out money to work out a deal which  
17 in the business world makes sense. Or, you know,  
18 sometimes if two cars, if there's a collision or  
19 something like that and two parties say we don't  
20 want to go through the insurance companies, but  
21 even if they do, no one's reputation is really  
22 tarnished as a result of that.

23 The issue with this it works the  
24 other way as well. I think you and Council Member  
25 Vallone made this clear is that when the city pays

1  
2 out money just to make a deal there is clearly  
3 some reflection on this police officer, whether  
4 you like it or not. Somebody paid out a quarter  
5 of a million dollars even if the guy was very  
6 innocent and that's information that we need as  
7 well. Because if we have that information then it  
8 would be clear that sometimes officers are guilty,  
9 sometimes they're not. It's irrelevant. The city  
10 sits down and makes a business deal.

11 If an officer had one case where  
12 something like that was paid out and you have  
13 another officer where it happened ten times or  
14 five times or three times, there's in my mind a  
15 presumption maybe of some innocence whereas if  
16 somebody is a repeat offender maybe not. I thank  
17 you very much for your testimony.

18 CHRISTOPHER DUNN: For instance,  
19 that points to one specific piece of information  
20 you presume you would want to know. For every  
21 police officer who is identified as a defendant,  
22 has he or she been a defendant in prior lawsuits.  
23 So that's an example of the ways in which we think  
24 you could expand the reporting so you actually get  
25 more useful information to allow you to draw

1  
2 judgments, not only about the problems with  
3 settlements but about what's happening with police  
4 officers.

5 COUNCIL MEMBER FELDER: Finally,  
6 you mentioned about the Comptroller's Office, I'm  
7 very curious about that. At this hearing it's  
8 somewhat clear that the information that we're  
9 trying to get we're not able to get. But if the  
10 Comptroller's Office, if the responsibility, it  
11 sounds like a lot of the responsibility that we're  
12 talking about is the audit process, it's the audit  
13 function.

14 I didn't understand clearly. It  
15 sounded like you were not satisfied with what they  
16 provide. Did I read into that? It sounded like  
17 you were just saying that it's sort of general  
18 numbers. If that's the case, would you be  
19 satisfied with the Comptroller's Office given more  
20 powers to be able to get the information that you  
21 want somehow?

22 CHRISTOPHER DUNN: Understand, what  
23 the Comptroller's Office gets right now is they  
24 get this so-called notice of claim. Then they get  
25 something about the settlement at the end of the

1  
2 day. They don't get anything about the lawsuit  
3 that gets filed itself, and of course they get the  
4 50H hearing which give them some information about  
5 the complainant, the claimant. They don't depose  
6 the police officer though.

7 Our position is that the sort of  
8 information you want to have the Law Department  
9 produce which I think has unique perspective on  
10 the lawsuits should also go to the Comptroller's  
11 Office because they're kind of in the business of  
12 doing these audits as you know. Therefore they're  
13 kind of already geared up to look at this sort of  
14 information, as is the CCRB. So that's our  
15 thinking behind that.

16 CHAIRPERSON SEARS: If I may, Mr.  
17 Wasserman also said that when the Comptroller's  
18 Office gets involved in some of the reports,  
19 they're quite detailed and that would be extremely  
20 helpful. I believe you stated that they get into  
21 details as to what we cannot get in this hearing.

22 STEVEN WASSERMAN: Well I  
23 represented quite a number of potential plaintiffs  
24 at these 50H hearings and they are really put  
25 through their paces. They illicit very detailed

2 information about identifying officers and  
3 incidents.

4 CHAIRPERSON SEARS: Can you go into  
5 the detail, just the categories, what are the  
6 specifics that they do when they do the details?

7 STEVEN WASSERMAN: They want a full  
8 narrative of the event. Sometimes they ask me to  
9 supplement with information that's contained in  
10 court papers and arrest data. There is quite a  
11 significant trove of information about each  
12 incident at this pre-litigation stage. It's  
13 available very promptly and they have a certain  
14 protocol that they go through. I'm sure that they  
15 could expand upon it to provide data that might be  
16 necessary for your purposes.

17 CHAIRPERSON SEARS: Do you think  
18 that there's something missing in what you have in  
19 those that you've attended that you would have  
20 liked to have had included or asked in that  
21 process, in that procedure?

22 STEVEN WASSERMAN: Well no, I would  
23 prefer if they ask less frankly. I mean they give  
24 our clients a really hard time over there. And as  
25 long as they're getting a hard time, I hope the

1 city would benefit from it a little bit.

2  
3 CHAIRPERSON SEARS: Thank you. If  
4 there are no other questions.

5 COUNCIL MEMBER FELDER: I have one  
6 more question. I'm sorry.

7 CHAIRPERSON SEARS: That's all  
8 right.

9 COUNCIL MEMBER FELDER: I apologize  
10 to my colleagues and everyone else on a nice  
11 Friday when people including myself would like to  
12 get home. I just wanted to say is it your  
13 understanding just for information about the  
14 process. Someone gets arrested, accused of a  
15 crime, an attorney whether they retain their own  
16 attorney or you provide services, they have to  
17 file something within 90 days if they have any  
18 intention of suing the city. Is that true?

19 STEVEN WASSERMAN: That's correct.  
20 So it's very strict statute of limitations on that  
21 and you are really barred if--

22 COUNCIL MEMBER FELDER:  
23 [interposing] I'm going to ask again because this  
24 is an important point I think. In other words,  
25 any one who is accused of a crime, arrested and

2 then it moves forward. You are providing legal  
3 services or a criminal attorney is providing  
4 services, unless they file something 90 days from  
5 which date?

6 STEVEN WASSERMAN: From the date of  
7 the arrest.

8 COUNCIL MEMBER FELDER: So are you  
9 saying that every time an attorney, whether it's  
10 you or a criminal attorney, the first thing you do  
11 is advise your clients to file with the  
12 Comptroller's Office to protect their rights to  
13 sue the city and they have no rights otherwise?

14 STEVEN WASSERMAN: No, I mean far  
15 from it.

16 COUNCIL MEMBER FELDER: I'm sorry?

17 STEVEN WASSERMAN: Very far from  
18 that. I'm not saying that. We vet every claim  
19 very carefully. If a person says that they were  
20 injured or they were wronged in some way we try to  
21 reserve their right to sue and we even try to find  
22 counsel for them.

23 COUNCIL MEMBER FELDER: I'm just  
24 trying to figure out how it works. I was never  
25 aware of that. It sounds like you're saying that

2 in order to protect their right to sue the city;  
3 somebody would have to file something within 90  
4 days of the arrest.

5 STEVEN WASSERMAN: That's correct.  
6 There must be a notice of claim to commence an  
7 action against the city of New York or the Police  
8 Department.

9 COUNCIL MEMBER FELDER: Do you  
10 agree that that's so?

11 CHRISTOPHER DUNN: That is correct  
12 for state law claims.

13 COUNCIL MEMBER FELDER: What does  
14 that mean?

15 CHRISTOPHER DUNN: Basically there  
16 are federal claims one could have, for instance a  
17 false arrest under the Fourth Amendment which is  
18 not subject to the notice of claim procedure. Any  
19 claim brought under state law, which is the vast  
20 majority of tort sort of action, you know a car  
21 crash and things like that. Under state law the  
22 claimant is required within 90 days of the  
23 incident to file this so-called notice of claim.  
24 Understand in police context there is no reason  
25 that most of the people filing notice of claims

1  
2 have been arrested.

3 COUNCIL MEMBER FELDER: Understood.

4 CHRISTOPHER DUNN: But there can be  
5 many claims for instance where the notice of claim  
6 period will have run. So you will have lost your  
7 state law claims but you have three years to file  
8 a federal claim.

9 COUNCIL MEMBER FELDER: I  
10 understand.

11 CHRISTOPHER DUNN: So there will be  
12 a group of cases where there will be no notice of  
13 claim and the Comptroller will not know about it  
14 until the settlement comes back from the Law  
15 Department.

16 The Law Department however knows  
17 about 100% of lawsuits.

18 COUNCIL MEMBER FELDER: Understood.  
19 But in other words, for those claims that you say  
20 they would lose right if not filed in 90 days. To  
21 then the Comptroller's Office would have a pool of  
22 cases, x number that filed within 90 days and  
23 there would be information as to what the end of  
24 those cases were. That's what you're showing  
25 which doesn't give us enough information that

2 you're looking for.

3 CHRISTOPHER DUNN: Right.

4 COUNCIL MEMBER FELDER: Thank you.

5 CHRISTOPHER DUNN: The claims  
6 report the comptroller does is based on notices of  
7 claim.

8 COUNCIL MEMBER FELDER: Thank you.

9 STEVEN WASSERMAN: We've noticed by  
10 the way sometimes we compare notices of claim with  
11 the Comptroller's report on judgments and  
12 settlements and it turns out that the cases on  
13 which there were notices of claim are actually a  
14 rather small subset of judgments and settlements.  
15 It's really only in the order of about 50%.

16 CHAIRPERSON SEARS: I want to thank  
17 you very much for your testimony today. It's been  
18 very informative and I'm sure that there will be a  
19 follow up. Thank you very much. We'll go to our  
20 next panel, our final panel is DeNora Getachew and  
21 Rachel Fauss from the Citizens Union and Cynthia  
22 Conti-Cook from Stoll, Glickman and Bellina, also  
23 from Citizens Union.

24 [Pause]

25 RACHEL FAUSS: I guess since we

1  
2 were called first we will speak first.

3 CHAIRPERSON SEARS: Any order you  
4 choose, just say who you are and identify for the  
5 record and where you're from, so any order you  
6 choose. We are going to watch the time though  
7 because we have so many committee hearings that go  
8 on and space is very valuable.

9 RACHEL FAUSS: I will make it as  
10 brief as I can.

11 CHAIRPERSON SEARS: Thank you.

12 RACHEL FAUSS: It is still morning,  
13 so good morning Chair Sears and other members of  
14 the Council. I'm here DeNora Getachew who is our  
15 director of policy and legislative counsel. My  
16 name is Rachel Fauss. I'm the policy and research  
17 associate.

18 Citizens Union is an independent  
19 nonpartisan civic organization of New Yorkers who  
20 promote good government and advanced political  
21 reform. We thank you for holding this hearing and  
22 giving us the opportunity to present our thoughts  
23 on Intro 1025.

24 As you know Citizens Union has  
25 weighed in on issues involving political reform

1  
2 and good and effective government. We are  
3 increasingly weighing in on issues that rise to a  
4 level of citywide importance. That includes what  
5 we recently reviewed and released a report on  
6 specifically on New York City's policies and  
7 procedures for handling alleged police misconduct  
8 and the subsequent internal disciplinary action.  
9 We issued a series of recommendations. I'm just  
10 going to go through those briefly as a refresher.

11 We support legislation that would  
12 create a prosecutorial power for the CCRB. That  
13 is one of our chief recommendations in the report.  
14 As you know, there is a bill in the Council  
15 sponsored by Council Member Garodnick and de  
16 Blasio.

17 A couple of the other  
18 recommendations we have are expanding the range of  
19 penalties available to the police commissioner,  
20 reinstating the zero tolerance penalty for false  
21 statements and also creating a permanent and  
22 stronger commission to combat police corruption.

23 Speaking more specifically to  
24 today's hearing, the organization is concerned  
25 about the rising trend of police claims over the

1  
2 last several years, especially the data from  
3 Comptroller Thompson's March 2009 claims report  
4 that was cited earlier today.

5 Just to go over that data very  
6 quickly. In fiscal year 2008 there were 2,863 new  
7 police action claims which was up 15% from fiscal  
8 year 2007 and that totaled \$35.2 million. We  
9 juxtaposed this with the number of complaints at  
10 the CCRB. While it seemed like there was somewhat  
11 of a trend, they did seem to align with each  
12 other. That was something that was a concern to  
13 us.

14 When viewed together, the data may  
15 be indicative of a trend toward increasing claims  
16 filed for both civil and disciplinary actions with  
17 allegedly aggrieved parties believing it's  
18 necessary to pursue civil claims more frequently  
19 as an alternative or in conjunction with  
20 disciplinary claims.

21 I'd just like to briefly say that  
22 as has been the subject of this hearing, we  
23 recognize that not all claims are valid. But we  
24 think that this bill would help to parse what are  
25 legitimate claims and what are not legitimate

2 claims.

3 So obviously we support Intro 1025  
4 because we believe that it will create greater  
5 transparency regarding claims. This requirement  
6 in addition to the five-point plan that we  
7 outlined earlier we believe will create an  
8 opportunity for the Council, Administration and  
9 public to more transparently view trends between  
10 allegations of police misconduct and civil actions  
11 in order to establish best practices for how to  
12 mitigate this important issue and going forward in  
13 a more holistic manner.

14 We thank you for the opportunity to  
15 testimony today and we plan to work to both follow  
16 this bill as well as the bill I mentioned earlier  
17 that would transfer prosecutorial power to the  
18 CCRB. Thank you very much.

19 CHAIRPERSON SEARS: Thank you.

20 LEO GLICKMAN: Good morning. My  
21 name is Leo Glickman. I'm with Cynthia Conti-  
22 Cook. We're from the firm of Stoll, Glickman and  
23 Bellina.

24 Ms. Cook will be reading our  
25 testimony and I promise you that it's short,

1  
2 within two minutes. I just wanted to let you know  
3 that we're a private firm. We're located in  
4 Brooklyn and most of our clients are from Brooklyn  
5 frankly. One of main practice areas is law  
6 enforcement misconduct of police and correction.  
7 So we think we could shed some light.

8 I hope we get some questions about  
9 Corporation Counsel cutting certain officers loose  
10 and the notices of claim. We think we could sort  
11 of clarify a few things. I hope we get a few  
12 questions about that after our testimony.

13 CYNTHIA CONTI-COOK: Good morning.

14 CHAIRPERSON SEARS: Excuse me,  
15 introduce yourself for the record.

16 CYNTHIA CONTI-COOK: I'm Cynthia  
17 Conti-Cook. I work for Stoll, Glickman and  
18 Bellina for Mr. Glickman. As Mr. Dunn pointed  
19 out, unless there are certain aspects of this bill  
20 that are expanded, the City Council is poised to  
21 miss this opportunity to gather the data it really  
22 needs to begin managing NYPD liability.

23 Obviously fiscal responsibility  
24 requires the City Council to act and do something.  
25 There are millions of dollars spent every year on

1  
2 cases involving the NYPD. A fraction of those  
3 claims are the claims settled for over \$250,000  
4 that as we discussed earlier perhaps go  
5 unofficially reported to the NYPD.

6 The majority of claims are repeat  
7 routine misconduct by officers and it's often a  
8 handful of officers in a handful of precincts.  
9 There is no way to know though which precincts  
10 account for the majority of NYPD claims. And  
11 there's no way to know which officers account for  
12 the majority of the lawsuits brought against them.

13 Civil rights attorneys know from  
14 experience that certain officers in precincts have  
15 long histories of liability. This information  
16 while available and on public record in filed  
17 civil rights complaints often in federal court  
18 which are available on the Pacer database. It's  
19 just not reviewed by the NYPD.

20 For example, in our office, I took  
21 a list of 50 officers from one precinct that we  
22 sue often. From those 50 officers, at least 13 of  
23 those officers had been sued at least 3 times or  
24 more. Several had been sued 4 to 6 times.  
25 Without knowing the source of the civil rights

1  
2 lawsuits, the City Council cannot even begin to  
3 act on the cost of NYPD liability.

4 Requiring the NYPD to track this  
5 civil rights liability data and connect it to the  
6 precincts and the officers will be inexpensive.  
7 In addition to that data already being available  
8 in the lawsuits, and as was pointed out, the city  
9 is already taking time upfront at the beginning of  
10 lawsuit to make an assessment about  
11 representation.

12 The technology already exists to  
13 connect the precincts and the officers with the  
14 City Council liability. The Department of Justice  
15 when it sued the City of Los Angeles pursuant to a  
16 consent decree created the training and evaluation  
17 management system that tracks officers and  
18 precincts and connects, track lawsuits, keeps on  
19 file a copy of the complaint and demographics  
20 about the plaintiffs and information about the  
21 officer, the shift he was working on, his  
22 supervisor, the precinct that he's from.

23 Collecting this information is  
24 going to limit future liability by revealing  
25 leadership and training issues at the precinct

1  
2 level, by revealing early at risk behavior of  
3 individual officers which could be addressed with  
4 retraining or discharge. It would foreclose  
5 potential liability on the part of the  
6 municipality.

7 At the moment the city I believe is  
8 potential liable for failing to have a policy  
9 addressing the issue of officers in precincts with  
10 lengthy civil rights violation histories.

11 It would also improve police  
12 practices by supplementing performance evaluations  
13 of precincts and officers. And it would most  
14 importantly give individual members of the Council  
15 a fuller factual understanding of the precincts so  
16 they can have an informed discussion with the  
17 commanding officers.

18 Without this meaningful oversight  
19 mechanism, connecting precincts and officers to  
20 the cost of NYPD liability there is no way that  
21 the City Council can begin to act on the cost of  
22 NYPD liability.

23 CHAIRPERSON SEARS: Thank you very  
24 much.

25 LEO GLICKMAN: Well if we're

1 waiting, Council Member Dilan is here and I  
 2 believe the 79th Precinct. It's not in your  
 3 district? Well I apologize. There really truly  
 4 is a pattern of misconduct from certain precincts  
 5 and certain officers.  
 6

7 We just think that if the  
 8 individual Council Members don't have the  
 9 understanding of what's happening at the precincts  
 10 in terms of civil liability that the idea that  
 11 they can be held accountable for the amount of  
 12 money that they're costing the city, it's still  
 13 almost impossible.

14 The Comptroller's Office does issue  
 15 reports with somewhat comprehensive information.  
 16 But you really as a body or as individual Council  
 17 Members really cannot act on it because the  
 18 information is so macro.

19 If you have a precinct by precinct  
 20 breakdown, the individual members in the course of  
 21 their discussions about policing and public safety  
 22 can also be discussing these issues and put these  
 23 issues on the table. You can do it with some  
 24 data.

25 Very often I think you have to walk

1  
2 in and talk to a commanding officer and it's  
3 anecdotal. You know, somebody tells you  
4 something. They're going to have a different side  
5 of the story. It's a little hard to argue. But  
6 if you have some real data with you I think you  
7 can have some real informed conversations with  
8 commanding officers and start reducing the  
9 liability especially from the problem precincts.

10 CHAIRPERSON SEARS: It's  
11 interesting because it's so difficult to get  
12 information that's needed. I always think that  
13 it's unfortunate when you have to go to  
14 legislation to do it. But in this case it seems  
15 without that it's going to be very difficult to  
16 make things better. So I would agree with that.

17 Are there any questions for the  
18 panel? Councilman Vallone, do you have a  
19 question? Erik Dilan do you have a question? How  
20 about Simcha Felder? You've been very clear.  
21 Yours, I have to tell you, has been about the  
22 clearest that we've heard this morning.

23 LEO GLICKMAN: Can I just clarify  
24 one thing that Mr. Dunn said about the Corporation  
25 Counsel cutting people. I think it would be

2 useful to the committee.

3 CHAIRPERSON SEARS: Go ahead.

4 LEO GLICKMAN: First of all, it's  
5 not really egregious conduct. It's if the  
6 department disciplines an officer. If the  
7 department does not discipline an officer, or is  
8 not about to discipline an officer, the Law  
9 Department does not make an independent judgment  
10 that this guy was so bad that we're not going to  
11 represent him. It's only if the department is  
12 taking disciplinary actions do they start to have  
13 the discussion about whether to represent him.

14 I would say that it's not that big  
15 an issue because most of the time the city and the  
16 Law Department is still in the case even if you do  
17 have one of these officers because you're suing  
18 the City of New York in addition to the officers.  
19 So the Law Department is still involved with the  
20 case.

21 Finally, I will tell you that even  
22 when they cut an officer loose, and there's a PBA  
23 attorney that's representing them, this is the  
24 real result, a \$50,000 settlement and then the  
25 city is arguing with the PBA attorney about how

2 much that officer should contribute to the  
3 \$50,000. I can tell you that the Comptroller's  
4 Office considers \$1,000 of that \$50,000 or  
5 \$100,000 to be a huge win, so they're really not  
6 getting that much from the police officers, but  
7 they're not paid that much. I'm not here to argue  
8 about that. But that's sort of the reality.

9 So really you're not losing that  
10 much by not knowing who the officer who is cut  
11 loose. In every case, and we have dozens and  
12 dozens of these cases, it's never happened that  
13 Corporation Counsel is completely out of the case.  
14 The city is paying 98% of the settlement and the  
15 officer in those cases is paying 1% or 2% at most.

16 CHAIRPERSON SEARS: That's a good  
17 point. I thank you very much. Your testimony has  
18 been excellent.

19 LEO GLICKMAN: Thank you.

20 CHAIRPERSON SEARS: Thank you.  
21 There are no other testimony coming from those  
22 that are here today? I will then officially  
23 declare this hearing closed.

C E R T I F I C A T E

I, Donna Hintze 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 *Donna Hintze*

Date December 21, 2009