

CITY COUNCIL
CITY OF NEW YORK

----- X

TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON PUBLIC SAFETY

----- X

June 29, 2015
Start: 9:42 a.m.
Recess: 2:45 p.m.

HELD AT: Council Chambers - City Hall

B E F O R E:
VANESSA L. GIBSON
Chairperson

COUNCIL MEMBERS:
Vincent J. Gentile
James Vacca
Julissa Ferreras-Copeland
Jumaane D. Williams
Robert E. Cornegy, Jr.
Chaim M. Deutsch
Rafael Espinal, Jr.
Rory I. Lancman
Ritchie J. Torres
Steven Matteo

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

William J. Bratton
Commissioner
New York City Police Department

Ben Tucker
First Deputy Commissioner
New York City Police Department

Larry Byrne
Deputy Commissioner for Legal Matters
New York City Police Department

James O'Neal
Chief of the Department
New York City Police Department

Ayisha Irfan
Policy Analyst
Gale Brewer, Manhattan Borough President

Cynthia Conti-Cook
Attorney
Legal Aid Society and CPR

Candice Tolliver
SEIU 32BJ

Michael Price
Attorney
Liberty International Security Program
Brennan Center for Justice

Shelby Chestnut
Co-Director
Anti-Violence Project (AVP)

Minister Kirston John Foy
National Action Network

Ms. Gwen Carr
Mother of Eric Garner

Joanna Miller
Appearing for Donna Lieberman
New York Civil Liberties Union (NYCLU)

Mark Winston Griffith
Executive Director, Brooklyn Movement Center
Member of Community United for Police Reform

Duane Porter
Vocal New York

Adoka Pimento [sp?]
Appearing for Kishan Harley
Make the Road New York
Communities United for Police Reform

Katherine Beltran
Leadership Committee
Bronx Defenders Organizing Project

Elliott Fukui
Coordinator of Trans Justice
Audre Lorde Project

Jabrill Taray [sp?]
Malcolm X Grassroots Movement

Aber Kawas
Lead Organizer
Arab-American Association

Juan Aguilera
Justice Committee

Gene Rice
Board Member
Picture the Homeless

Brett Stout
Social Psychology Professor
John Jay College of Criminal Justice
Graduate Center at City University of New York

Alyssa Aguilera
Vocal New York

Carl Stubbs
Vocal New York

Veronica Bayetti Flores
Streetwise and Safe

Dante Barry
Executive Director
Million Hoodies Movement for Justice

Chris Ballou
Streetwise and Safe

Nakita Price
Civil Rights Organizer
Picture the Homeless

2 [sound check, pause]

3 [gavel]

4 CHAIRPERSON GIBSON: Good morning, ladies
5 and gentlemen. Welcome to City Hall, and welcome to
6 today's hearing. I am Vanessa Gibson, Council Member
7 of the 16th District of the Bronx, and I'm proud to
8 serve as the Chair of the Committee on Public Safety.
9 I want to thank Police Commissioner William Bratton
10 for being here today to testify for this hearing, and
11 for his leadership in keeping our city safe. I want
12 to thank all of my colleagues who are here, those who
13 have joined us, those who will join us throughout
14 this hearing. I want to thank our Speaker Melissa
15 Mark-Viverito, and all of the Public Safety staff for
16 their hard work and efforts in putting today's
17 hearing together. I truly want to thank my
18 Legislative Counsel Deepa Ambekar, Legislative
19 Analyst Beth Golub, and Laurie Wenn, Financial
20 Analyst Ellen Eng, the Speaker's Staff Faiza Ali,
21 Theodore Moore. My Communications Director Dana Wax.
22 The Government Affairs Division, Matt Gewolb, Rachel
23 Cordero and Laura Popa. Thank you all for being an
24 incredible team in getting us to today's hearing.

2 This morning, we are hearing nine bills
3 that are related to the use of force and quality of
4 life reporting, accountability, transparency and
5 overall reform in the New York Police Department.
6 Police Department. Today's agenda also includes a
7 bill in which I've sponsored with Council Members
8 Torres, Johnson, and Mendez regarding the
9 coordination and allocation of social service
10 resources in high crime areas. Thank you to all of
11 the prime sponsors of the bill we are hearing today.
12 The safety of all New Yorkers in every neighborhood
13 of our city is of paramount importance to all of us,
14 and we depend on the hardworking men and women of the
15 NYPD to protect us everyday. These public servants
16 are entrusted to uphold our laws, respect
17 individual's rights, and serve the public with honor,
18 respect and fairness. The daily sacrifice made by
19 our officers is immeasurable, and we thank the
20 members of the NYPD for their commitment and
21 investment in our public safety. The recent deaths
22 of Detectives Ramos, Lu and Moore are tragic
23 reminders of the dangers that are faced by NYPD
24 officers every day. We continue to keep these
25 families in our thoughts and our prayers. No one

2 should face the unspeakable loss of a loved one. It
3 is essential that we work collectively to strike a
4 delicate balance between public safety and the
5 preservation of the rights of New Yorkers when we
6 feel there are systemic problems that must be
7 addressed. We can all acknowledge the strained
8 relationships that law enforcement has had in our
9 city and in particular in low-income communities of
10 color. For too long there has been mistrust,
11 imbalance, and a practice of aggressive, abusive and
12 discriminatory policing that has left many New
13 Yorkers, young men and women of color, feeling that
14 the color of their skin is a sin, and that they are
15 not safe in their own communities.

16 July 17th will mark one year from the day
17 that our city and the Garner family lost their loved
18 one Eric Garner. On November 20th of this year will
19 mark one year from the day that our city and the
20 Gurley family lost their loved one Akai Gurley. The
21 deaths of these men and the actions of these
22 particular officers involved serve as reminders that
23 we have not addressed the issues that are faced in
24 communities of color. And the need to reform the way
25 that we engage our police and people must be

2 addressed. We continue to keep these families in our
3 thoughts and prayers as well. No one should face the
4 unspeakable loss of a loved one. We are here this
5 morning to continue the conversation on how to
6 improve police and community relations, and consider
7 potential reforms to enhance the public trust by
8 improving police accountability and transparency to
9 the public and the delivery of vital services to our
10 communities. This open dialogue has and continues to
11 have to be done among the NYPD, elected officials,
12 advocacy groups, faith leaders, families who have
13 lost loved ones, and other stakeholders as we move
14 forward. I want to commend Commissioner Bratton for
15 recognizing the need for change in the department.
16 Shortly after the death of Mr. Garner, Commissioner
17 Bratton evaluated his department's training
18 procedures on the use of force, and reordered the
19 training of 20,000 uniformed officers who are on
20 patrol and responding to 911 calls. This three-day
21 in-service enhanced training focused on managing
22 street encounters. How to mediate and de-escalate
23 difficult situations, and how to restrain individuals
24 without using excessive force. The Commissioner has
25 continued to emphasize that a fundamental shift in

2 the Police Department is necessary to enhance police
3 and community relations. While the three-day
4 training is a very important step of progress, we
5 know that we must continue in these efforts.

6 Lastly, our Mayor Bill de Blasio and the
7 Police Commissioner announced One City Safe and Fair
8 Everywhere, a comprehensive plan designed for
9 neighborhood based policing, building community
10 engagement and partnerships to implement initiatives
11 in five key areas: Tactics, technology, training,
12 terrorism and trust. The neighborhood policing plan
13 has already started in four precincts, two in
14 Washington Heights and two in the Rockaways and
15 Queens. So here, we are at the crossroads, ladies
16 and gentlemen, determined to improve relationships in
17 our communities with our police and keeping all New
18 Yorkers safe.

19 Two of the bills to be heard this morning
20 were first introduced as part of the Community Safety
21 Act of 2012. Council Member Torres has introduced
22 Intro 182-A, which would require police officers to
23 identify themselves when they stop, question or
24 search a member of the public and provide the
25 specific reason for the stop. Council Member Lancman

2 is the prime sponsor of three bills, which includes
3 Intro 538, which will require police officers to use
4 only the amount of force necessary to protect
5 themselves or others from eminent harm or death.

6 Intro 539 is known as the Use of Force
7 Transparency Act, which will require officers to
8 complete use of force summary incident reports and
9 make those reports available on the NYPD's website.
10 Intro 540-A would criminalize the use of chokeholds
11 by an officer making or attempting to make an arrest.
12 Council Member Reynoso is the prime sponsor of Intro
13 541, which will require officers to provide notice
14 and obtain proof of consent to conduct search of
15 individuals. This bill along with Intro 182 are
16 commonly called the Right to Know Act. Council
17 Member Williams is the prime sponsor of Intro 606-A
18 and 607. Intro 606-A would require the Police
19 Department to publicly report instances of officers
20 using force during interactions related to quality of
21 life offenses. Intro 607 will create a task force to
22 examine the feasibility and implications of
23 outfitting NYPD officers with body worn cameras.
24 Council Member Rose is the prime sponsor of Intro
25 824, which would require the NYPD to publicize the

2 collective deployment and location of officers with
3 the highest incidence of civilian complaints and
4 lawsuits filed against them. Finally, I have
5 sponsored Intro 809 with my colleagues that would
6 require the development and implementation of a
7 coordinated multi-agency plan to provide targeted
8 social services in high crime areas. Today's hearing
9 is an opportunity to hear the response of the NYPD
10 and the Administration on their positions of support,
11 opposition or no position to all of these bills. We
12 hope to have a fruitful and productive discussion on
13 these bills today and also as we move forward. Once
14 again, welcome everyone. Thank you for being here.
15 Thank you to our Commissioner, to all of the advocacy
16 groups, community organizations and members of the
17 public who are here with us, and will be joining us
18 later in the day. Thank you for your presence.

19 I'd like to acknowledge that we have been
20 joined by my colleagues and members of the City
21 Council, Council Members Rory Lancman, Debbie Rose,
22 Steve Matteo, Mark Levine, Donovan Richards, Antonio
23 Reynoso, and Daneek Miller. And before we begin,
24 Commissioner, thank you for being here, and to you
25

2 and your team, those of you who are testify if you
3 could raise your right hand for the affirmation.

4 LEGAL COUNSEL: [off mic} Do you affirm
5 to tell the truth [on mic]--tell the truth, the whole
6 truth and nothing but the truth in your testimony
7 before this committee, and to respond honestly to
8 council member questions?

9 COMMISSIONER BRATTON: I do.

10 CHAIRPERSON GIBSON: Before you begin,
11 let me also acknowledge that we've been joined by
12 Council Members Chaim Deutsch and Jumaane Williams.
13 Thank you, colleagues for being here, and thank you
14 again Commissioner. You may begin.

15 COMMISSIONER BRATTON: Good morning.
16 Thank you for that introduction. I'm joined at the
17 table by First Deputy Commissioner Ben Tucker, Deputy
18 Commissioner for Legal Matters, Larry Byrne, and by
19 our Chief of the Department James O'Neal.
20 Additionally, there are other staff personnel, senior
21 staff personnel here with me who may be called upon
22 to speak specifically to certain questions that you
23 and your colleagues may ask during our time together.
24 Thank you for the opportunity to discuss the wide
25 variety of issues you've identified contained in the

2 bills before you today. We look forward to the next
3 several hours to discuss those in open session with
4 you. Before we begin, however, I wish to state again
5 for the record that the New York City Police
6 Department is deeply grateful to this Council and to
7 our Mayor Bill de Blasio for the resources allocated
8 to us in Friday's budget. I think Friday's budget
9 is, in fact, a historic document. We are committed
10 to using them well. The expanded headcount you
11 authorized will allow us to implement an
12 unprecedented neighborhood policing model designed by
13 Chief O'Neal and Chief Gomez. We feel it will go a
14 long way toward addressing many of the issues that
15 these bills were intended to address. The model is
16 described at length in our new online Plan of Action,
17 One City Safe and Fair Everywhere for Everyone,
18 including my police officers, which is available at
19 the department's Internet site.

20 By re-establishing, recasting and
21 revitalizing the relationship between the police and
22 the public that we serve neighborhood policing will
23 change many aspects of how cops and community
24 interact with each other. And thereby address many
25 concerns that underlies the bills that we're

2 considering today, many of which have already been
3 addressed. These bills are grouped into three main
4 categories, as you have identified, police use of
5 force, operational methods and guidelines and
6 reporting standards and transparency. I'll discuss
7 each of the bills and its particulars in a moment,
8 but first allow me to comment on each of those
9 categories. Concerning the first, Police Use of
10 Force. I'm happy to report that police use of force
11 is rarer than ever in the city. Police work remains
12 dangerous work, as you referenced citing the
13 assassinations of Detectives Lu and Ramos and the
14 murder of Detective Brian Moore. Recent assaults in
15 my office show it as well, including attacks with
16 hammers, knives and guns. Despite this, officers use
17 their firearms and force less often in New York than
18 nearly every other large American City. This year we
19 are on track to have fewer officer involved shootings
20 than ever before. The chart over to my left will
21 show that. You're familiar with it. I think some of
22 this information we presented it during earlier
23 budget discussions with you and, in fact, the chart
24 shows from 2010 to 2014 instances of force of any
25 kind used during arrests are down by 34%.

2 In 2010, 2.5% of arrests involved the
3 officer using force. In 2014, that figure was
4 further reduced to 1.8%. In other words, for
5 everyone under arrest fewer involved the officer
6 doing anything other than putting handcuffs on the
7 arrestee. The second chart, the Use of Force chart,
8 reflects that. This is a testament to my officers,
9 but also indicative that the majority of the public
10 understand that resisting arrests is never acceptable
11 under the law and, in fact, is prohibited by the law.
12 Anything that diminishes law enforcement's authority
13 is counterproductive to maintaining and encouraging.
14 That understanding continues to keep us--keep all of
15 us safer. But despite these low rates, we want to
16 and will continue to do better. New training
17 developed and overseen by Commissioner Tucker
18 emphasizes de-escalation and communication techniques
19 designed to avoid conflict. I basically was pleased
20 that you referenced that training the, 20-page
21 training. Every cop knows that taking someone into
22 cuffs trumps force every time. But in the 1.8% of
23 instances when force is necessary, the training
24 teaches officers to use the least amount possible to
25 bring the situation under control. We're seeing the

2 positive effects of this also. Through the end of
3 May this year, complaints to the Civilian Complaint
4 Review Board are down 24.7% compared to the same
5 period in 2014. This continues a five-year trend
6 that saw complaints drop 27.4% from 2010 to 2014.
7 That's the third chart over to my left, your right.
8 Furthermore, with resource allocations authorized by
9 the Mayor and you the Council in using our newly
10 promulgated Plan of Action and the Neighborhood
11 Policing Model that is at its core, we believe that
12 positive interactions and new relationships with the
13 public will only accelerate in the coming months and
14 years.

15 Concerning the second category of bills:
16 Operational Methods and Guidelines, I wish to say
17 respectfully but firmly that these are under the
18 purview of the Police Commissioner and the Police
19 Department and not of legislative control.
20 Furthermore, concerns that underlie these bills,
21 particularly Intro 541, the Consent to Search Bill,
22 have been almost entirely addressed over the past 18
23 months by Mayor de Blasio and my administration. And
24 were, in fact, being addressed during the last period
25 of the previous administration. In other words,

2 these bills represent an overreaching solution and
3 search of a problem. Practices have been changed and
4 oversight has been established. There is now a
5 Federal Monitor, an Inspector General, which did not
6 exist before; five district attorneys, the Civilian
7 Complaint Review Board; two U.S. attorneys and the
8 Department of Justice overseeing these issues. More
9 importantly, both reasonable suspicion stops, Stop,
10 Question and Frisk and now marijuana arrests have
11 also been significantly curtailed. Stop, Question
12 and Frisk stops, reasonable suspicion stops as
13 otherwise known, have declined 93% from the historic
14 high in 2011? And have declined an additional 53%
15 year to date compared to the first half of 2014, the
16 fourth chart over to my left.

17 Marijuana arrests have seen similar
18 decreases and are down by half from 2011 to 2014, and
19 like reasonable suspicion stops, are down 53% to
20 date, the marijuana chart, the fifth chart over to my
21 left. In changing our practices and working with the
22 Council on issues such as reporting on crime in the
23 parks and in housing, we show a good track record of
24 collaborating with this Council, and we want that to
25 continue. But the NYPD's operational prerogatives

2 must be maintained for the good order of the
3 department and the city's public safety. Finally,
4 concerning the third category, Reporting Standards, I
5 believe that this department is a model of
6 transparency. CompStat set the country's standard
7 for distributing crime data, and since then the NYPD
8 has created a range of programs and reports that
9 share information with the public. The recent
10 release of parks and housing crime data, at your
11 request, and in collaboration with us are two
12 examples of that transparency and collaboration. Our
13 posting of summons data drill down to the individual
14 offense is another we worked in collaboration with
15 you the Council. And our Annual Firearms Discharge
16 Report, which is the single most comprehensive such
17 document in the nation is a third example.

18 We are also exploring further data
19 transparency initiatives with this Council, as you
20 know. Such undertakings have to be considered in the
21 context of resource strength and the burden on the
22 agency's administrative functions. We welcome
23 discussions with the Council on our new initiatives,
24 and your input as to the direction in which our data
25 release policies may expand. Turning to the bills

2 under consideration by the committee today, we
3 appreciate the significant discussion that has
4 already taken place regarding some of the bills. As
5 well as many of the underlying issues they seek to
6 address. As I pointed out, we have addressed some of
7 these, but so long as we do not compromise public
8 safety or hamper officers as they carry out their
9 duties, we can find ways to address other issues and
10 reach common ground.

11 Indeed, as I have already described, and
12 as many council members here have observed
13 personally, our new training programs provide cops
14 with the tools to engage the community differently.
15 So in that context, I would like to start by
16 discussing two bills that directly address police use
17 of force. Intro 538, the Proportional Policing Act,
18 would create a new Administrative Code provision
19 allowing NYPD members to use injurious physical force
20 as is proportionately necessary to protect themselves
21 or others from the threat of harm, which they
22 perceive to be eminent. Intro 540-A would make it a
23 misdemeanor to use a chokehold in the course of
24 effecting or attempting to effect an arrest. Both
25 bills seek to impose new local standards on the use

2 of force and, therefore, regulate areas that
3 traditionally have been addressed by State law.
4 Penal Law, Article 35, for example sets forth the
5 parameters for the use of physical force and deadly
6 physical force by police officers. Those parameters
7 have historically--have been implemented and refined
8 at an operational level by the Police Commissioner.
9 Setting aside the significant potential legal
10 implications of enacting local legislation on this
11 subject matter, we have very serious concerns about
12 the potential impact these bills would have on our
13 officers and their ability to safely do their duties.
14 Intro 538 would cast a potentially deadly bill [sic]
15 in the mind of an officer who is making the often
16 times split second decision to use justifiable
17 physical force. Reasonableness is the longstanding
18 key to addressing whether the use of force is
19 justifiable in a particular circumstance. But this
20 bill would pose an additional and unfamiliar standard
21 for taking action in such situations. We
22 respectfully but strongly oppose both of these bills.
23 We are, however, currently, as we always do,
24 clarifying and strengthening our policies regarding
25 the use of force in our ongoing effort to always

2 ensure that they stay contemporaneous with the laws
3 under which we operate. With respect to the
4 definition of chokehold, we are already changing the
5 patrol guide definition in a manner that echoes the
6 language of Intro 540-A. As we have fought for--as
7 we have for more than two decades, we continue to
8 prohibit the use of a chokehold as a policy matter.
9 But we firmly believe that this prohibition should
10 remain a policy rather than become on its face a
11 crime. Mayor de Blasio has also spoken very strongly
12 in his opposition to this initiative.

13 Now, I'd like to discuss the bills, which
14 have collectively become known, as you referred to
15 them as the Right to Know Act. [background noise,
16 pause] Intro 182-A would require law enforcement
17 officers to identify themselves, and provide a reason
18 when initiating law enforcement activity. And at the
19 end of the interaction it would require them to
20 provide their business card, including their
21 identifying information and the CCRB's phone number.
22 Intro 541 would require law enforcement officer to
23 provide particularized notice of a person's right not
24 to consent to a search. And obtain proof of intent
25 to search individuals of their property.

2 Historically, State law, in this case the Criminal
3 Procedure Law, has regulated interactions between
4 police officers and individuals. And the Police
5 Commissioner has overseen the preparation of
6 operational guidance on such instructions. Two
7 weeks, at the investiture of Attorney General Loretta
8 Lynch, President Obama noted that the law is our map
9 and justice our compass. That phrase resonated with
10 me. The law is a map, but how we operationally
11 follow that map and use that compass is the decision
12 of the practitioner. Imposing conditions on daily
13 officer conduct at the operational level whether on
14 simple law enforcement interactions or on searchers
15 particularly those conditions that are not otherwise
16 required by state law or by operational codes, raises
17 new and serious legal and operational questions. As
18 a policy matter, we oppose both bills as
19 unprecedented intrusions into the operational
20 management of the Police Department. They seek to
21 legislatively mandate the manner in which police
22 officers perform their functions. Further, enacting
23 these bills could create great uncertainty regarding
24 whether criminal or civil remedies would be available
25 for alleged violations of the standards in the bills.

2 Even where the failure to comply is irrelevant to the
3 issues in the case. In short, local legislation is
4 not the proper vehicle for addressing the detailed
5 standards and operational direction that are now set
6 forth in the Patrol Guide and similar department
7 guidelines. Nevertheless, we understand fully the
8 concerns underlying both bills, and we recognize that
9 similar proposals have been included as policy
10 recommendations rather than legislation in the
11 President's Task Force on 21st Century Policing. This
12 reflects the ongoing national discussion on police-
13 community relations. And we are reviewing the task
14 force's recommendations also.

15 Regarding Intro 182-A, the Patrol Guide
16 requires officers to identify themselves upon
17 request. They wear badges with their numbers, but we
18 actually train our officers to greet the individuals
19 they encounter, introduce themselves and they provide
20 the reason for the stop or encounter. Training
21 that's being significantly enhanced currently and
22 that will be enhanced even further as the policies
23 and guidelines under the control of the Federal
24 Monitor are introduced into our training regimen.
25 And when they are consistent with situational

2 awareness, proper tactics and foremost, officer
3 safety. Our goal is to reinforce every officer's
4 responsibility to treat the public with respect,
5 which, in fact, then will make everyone safer.

6 With respect to the Consent to Search
7 bill, we believe that the primary motivating factor,
8 has been significantly mitigated by positive steps
9 that have already been taken. The proposal was
10 initiated because of the widespread concern that
11 individuals were being stopped, questioned and
12 possibly frisked were being asked to turn out their
13 pockets. Thereby exposing often times marijuana to
14 public view and resulting in an arrest. As we've
15 seen already and as displayed by the charts behind
16 me, the department's reasonable suspicion stops have
17 dramatically decreased. But those stops began with
18 the creation--under my predecessor and have
19 accelerated during my time as Commissioner. And the
20 arrest of individuals for mere possession of a small
21 quantity of marijuana in public view has been all but
22 eliminated. Regarding the documentation of consent,
23 ironically, many individuals might object to a law
24 that requires the Police Department to collect their

2 identifying information for the purpose of complying
3 with the bill's requirements.

4 Another bill on the agenda today is Intro
5 607, which would create a body-worn camera task
6 force. The ten-member task force, as proposed, would
7 be responsible for issuing a report to the Mayor and
8 Council on the feasibility and implications of
9 equipping the NYPD officers with body-worn cameras,
10 including cost, privacy implications, best practices
11 for storage and usage, and evidentiary issues. The
12 department's use of body-worn cameras is being
13 examined by the Federal Monitor, the pilot program
14 that we have initiated, and relates to the
15 department's compliance with the judge's order in the
16 Floyd litigation. A separate local task force
17 charged with essentially the same responsibility will
18 be unnecessary and over-duplicative, and its work
19 would be secondary at all times to the Federal
20 Court's oversight. In light of the Federal Monitor's
21 ongoing work, we respectfully suggest that that bill
22 not go forward.

23 Finally, the Council's agenda includes
24 several reporting bills. The first two require
25 publishing data about the Police Department's use of

2 force on the department's website. Intro 539, the
3 Use of Force Transparency Act, would require the
4 department to publish detailed cumulative reports
5 relating to the use of force, including incident
6 summaries and associated CCRB complaints. Intro 606-
7 A, would require quarterly reporting on the use of
8 force generally, and specifically when used in
9 connection with a range of offenses described as
10 relating to quality of life enforcement.

11 As you know, the department is great--
12 made great strides sharing police data with this
13 Council and with the public at large. My Quality
14 Report to the Council already contains a wealth of
15 information, and consistently respond to a myriad of
16 requests for information from Council staff as well
17 as from you individual council members. Rather than
18 enacting a set of reporting bills that impose
19 information sharing as a mandate, we should sit down
20 together and work out how relevant information may be
21 shared as we have successfully done over these last
22 number of months on the previously identified issues.
23 And we should be taking into account the manner in
24 which the information is collected and maintained,
25 and our available resources. It is worth noting that

2 the Annual Firearms Discharge Report was voluntarily
3 developed by this department, and published by us
4 before being codified and required under the
5 Administrative Code Section 14-150(b).

6 In referencing Intro 809, high crime area
7 social service planning and accountability, it would
8 require the department to compile an annual report of
9 high crime areas at a geographic level of precinct
10 sector or below. The report would include, as
11 proposed, major felonies, weapons possession,
12 shootings, and controlled substance possession and
13 sale. Social service agencies would then use the
14 report to develop a plan to target resources in the
15 35 highest crime areas. Here we have determined that
16 the could provide these crime statistics at the
17 sector level. But because there is no population data
18 available to individual sectors, the per capita
19 analysis envisioned by the bill would be unavailable.
20 Instead, should the Council wish to pursue this
21 proposals, we would suggest drilling down to the
22 level of census tracked, which the department may
23 obtain population data in order to produce the per
24 capita comparison. Other aspects of the bill,
25 however, beyond its data reporting provisions lie

2 outside the purview of the Police Department and will
3 require further discussion with the Administration as
4 a whole.

5 Another reporting bill, Intro 824, would
6 require the department to post an annual report
7 listing the commands to which particular officers are
8 assigned. Specifically, the bill sets forth three
9 categories of allegations against police officers,
10 CCRB complains, substantiated CCRB complaints, and
11 civil lawsuits alleging police brutality. The bill
12 would require that the commands of the 200 officers
13 with the highest number of CCRB complaints and
14 substantiated CCRB complaints be posted as well as
15 the 500 officers with the highest civil lawsuits
16 filed against them alleging police brutality.
17 Separate and apart from the fact that no city agency
18 collects or reports on a civil lawsuit category
19 denominated as police brutality, we question the
20 utility of the reporting contemplated by the bill.
21 At best, the report would be a snapshot of the
22 subject commands, the department's assignments
23 changing daily. Literally tens of thousands of
24 assignment changes each year in the organization. It
25 would also require, for the most part--excuse me--it

2 would also rely for the most part on allegations
3 rather than substantiated cases of findings of guilt.
4 The department is already devoting extensive
5 resources to analyzing complaints and lawsuits
6 through its work with the new NYPD Inspector General,
7 the new--excuse me--the new New York City Controller,
8 the Law Department and the CCRB. We also have
9 created an NYPD Risk Management Bureau tasked
10 specifically with among other functions using this
11 in-depth analysis to address police conduct that may
12 be generating complaints of liability. Again, rather
13 than mandated reporting, as outlined in the bill, we
14 believe that there may be better ways to approach its
15 underlying concerns. And we welcome further
16 discussion on how relevant information may be
17 collected and reported to the Council in consultation
18 with the CCRB and the department.

19 In summation, the position of the
20 department is that many of the bills currently under
21 consideration today would be better achieved through
22 collaboration and dialogue--dialogue between the
23 Council and department, and dialogue among various
24 city agencies and community stakeholders rather than
25 through legislation. Further, while many of the

2 issues that gave rise to these proposals have been
3 addressed, still others are being rectified by the
4 training that we are providing. And may be further
5 resolved through the neighborhood policing and the
6 Plan of Action's prescriptions take root. We suggest
7 that all involved allow for time to see the effects
8 of the plan through your budget is made possible, and
9 the new oversight entities that you advocated be
10 created, the Inspector General, the Federal Monitor,
11 and the recently revamped and re-engaged CCRB. That
12 those entities that have responsibility for much of
13 what's being proposed here do their work. We truly
14 believe that we can achieve a city that is Safer and
15 Fairer Everywhere for Everyone, and I thank the
16 Council for your attention to these matters, and the
17 opportunity to discuss these matters and achieve that
18 goal. I and my executive staff now welcome your
19 questions and thank you.

20 CHAIRPERSON GIBSON: Thank you very much,
21 Commissioner. I appreciate your testimony and really
22 giving thought to all of the bills on the agenda. So
23 I see we're batting 0 to 9 in baseball talk.
24 [laughs] I have a few opposed. I have two that are
25 further discussion. One that you recommend not

2 moving forward, and I believe that's it. So I
3 certainly want to make sure that during the course of
4 this hearing my colleagues and I will simply ask
5 questions that just allow you an opportunity to
6 further expand on some of the remarks that you have
7 made. And I just want to make sure I recognize that
8 we've been joined by Council Member Vincent Gentile,
9 and I think that's it. Okay. So the first question
10 that I had is--it's just a general question. In your
11 testimony you talked about rolling out One City Safe
12 and Fair Everywhere, which is the neighborhood based
13 policing model. The bills that are on the agenda, do
14 you think in your opinion that any of those bills--
15 well, simply the ones that you had a position where
16 you think there could be further discussion? Do you
17 think any of those bills could further complement the
18 work that we're looking to do when you talk about
19 community engagement and partnerships in our city?

20 COMMISSIONER BRATTON: I think we have
21 made it quite clear in that report that is available
22 on the web in our previous discussions with this
23 Council at budget hearings as well as with individual
24 members that what we have attempted to design over
25 this past now year and a half in waiting for the

2 final budget approval that came on Friday is an
3 extraordinary comprehensive approach to address the
4 many issues that I think a number of these bills have
5 sought to address. But, to address it in a way that
6 does not require legislation. That would involve
7 willful involvement of our personnel working in
8 collaboration with you the elected officials and
9 representatives of the public to ensure that their
10 concerns are being addressed with our new policing
11 model, with the new training that Commissioner Tucker
12 has thoroughly revamped from recruit training and to
13 field officer training. Chief O'Neal and Chief Gomez
14 have continued with the NCO and Sector Accountability
15 system that is part of the Neighborhood Policing
16 Plan. With the community partners, the hundreds of
17 those individuals who are now working with us. The
18 Training Advisory Council that Commissioner Tucker
19 has created to involve community effort into our
20 training, community input into our training. In sum
21 and substance, the thrust of our comments this
22 morning are that where you are trying to legislate a
23 mandate, in many instances it is redundant. It is
24 not necessary. It is already in the process, and
25 that the relationship that this Council has developed

2 with this Administration has been one of
3 transparency, open discussion and collaboration. In
4 almost every instance that we find a way to address
5 your concerns without the need for legislation that
6 once put into place becomes very difficult to amend
7 and modify as we move forward. Much more so than
8 policies and procedures or other issues that we might
9 choose to discuss. So in terms of what you're
10 attempting to get, I think there are--there are
11 different courses and paths to get to the same
12 destination. And that's what we are collectively
13 saying this morning. That those other ways, if you
14 will, within the map--I think we're all within the--
15 especially what President Obama laid out in his
16 remarks at Loretta Lynch's Investiture, that
17 democracy addressing the system is bound like a map,
18 by boundaries. We need to operate within those. But
19 how we operate and how we get from one point to
20 another to a destination there can be creative ways
21 to do that. And that's what we're proposing--

22 CHAIRPERSON GIBSON: [interposing] Okay.

23 COMMISSIONER BRATTON: --that further
24 discussion that we engage in that dialogue rather
25 than what you believe is the imposition of

2 legislation. It's not necessary and in some
3 instances would basically put it in conflict with
4 state laws that are already in existence. Or, in
5 many instances involve many other city agencies
6 becoming involved in the issue, which language
7 further complicate the creation of what you're trying
8 to do.

9 CHAIRPERSON GIBSON: Okay. Specifically
10 about one of the bills, Intro 182 that's a part of
11 the Right to Know Act, in the Patrol Guide it clearly
12 outlines that officers are to identify themselves,
13 badge, shield number, et cetera, if requested. Since
14 officers are already required to identify themselves,
15 then I just want to understand the problem with
16 mandating it so that we can be assured that it will
17 happen. And then, in your opposition to this, what
18 would you suggest to members of the public that they
19 can do if an officer does not comply and give his or
20 her business card at the end of a police community
21 interaction? What would you suggest the public does?

22 COMMISSIONER BRATTON: Well, to use your
23 term it already is mandated by the department's
24 policy and procedure. And if an officer is found to
25 not be in compliance with that provision, certainly

2 within our rules and regulations and code of conduct
3 to address that issue already. Our ability to
4 identify officers who do not comply, the idea if a
5 citizen stops a police officer, and they do not give
6 appropriate information, our ability to identify
7 those officers that--beyond the current system are
8 going to be significantly enhanced within the months
9 ahead as the department developers--develops its GPS
10 capability. Which would allow us to identify where
11 every police car is at any time in the city, and most
12 importantly where it was. So if somebody is
13 indicating that they had an incident with an officer
14 yesterday at such and such a location at such and
15 such a time and the officer failed to give
16 identifying information, we would be able to with our
17 new GPS capability identify what car was there, and
18 what officers were assigned there. So again, you're
19 legislating something that the department's own
20 policies, protocols and procedures can more
21 significantly address. And address in a way in which
22 the power of the Police Commissioner to direct the
23 men and women of the department would be more
24 appropriate than legislative oversight as proposed by
25 these bills.

2 CHAIRPERSON GIBSON: You mentioned that
3 in instances where officers failed to comply, there
4 were rules and regulations, and policies that provide
5 sanctions. Is that what you were speaking about?

6 COMMISSIONER BRATTON: That's correct.
7 That's the department's disciplinary system.

8 CHAIRPERSON GIBSON: Okay. One of the
9 other bills, Intro 538 that relates to use of force,
10 in some of the interactions obviously that we've seen
11 with a lot of the movement of social media, that many
12 of us through the public eye have deemed excessive,
13 do you see that there is a problem with use of force
14 and excessive use of force in the city when we talk
15 about community and police relationships? I know you
16 have the graphs back there, and I'm sorry I'm
17 struggling to see some of them. But you said that
18 we're at a low, but we're trying to make sure that,
19 you know, that if you see that there is a problem,
20 this is the legislation that we're looking to get
21 That would provide the reporting so that we have more
22 data on how in many instances use of force is used
23 excessive, rather.

24 COMMISSIONER BRATTON: It's my belief
25 that the perception far exceeds the reality, as

2 indicated by the chart behind me. Even taking into
3 account instances, which might not be reported to the
4 police. If you look at those figures with the tens
5 of millions of interactions we have with a force of
6 35,000, the fact that the several thousand incidents
7 that were reported to CCRB that have gone down so
8 dramatically in recent years are reflective that this
9 department is getting better and better all the time
10 in ways in which it engages with its citizens and how
11 we use force. And in the vast majority of cases in
12 which force is used, it is usually to overcome
13 resistance to arrest, which is illegal under state
14 law for anybody to resist a lawful arrest. So, in
15 terms--this is one of those issues that I refer to as
16 seeking a solution to a problem that not that it
17 doesn't exist, but the existence of it and the amount
18 of it is being addressed by the department. And is
19 being aggressively addressed, and will be
20 successfully, more successfully addressed going
21 forward with the body camera implementation. With
22 the ability of videos that the public might provide
23 independent of our cameras. Last year I think there
24 was something of around 40 some odd incidents in
25 which complaints against officers were buttressed by

2 video. That does allow us to make a more informed
3 decision. So once again, the department even prior
4 to the widespread availability of video both by the
5 public, as well as those that the officers will now
6 be carrying, are moving us further to reduce these
7 types of incidents. And the legislation that you're
8 proposing once again I think is, in fact, not
9 necessary to deal with something the department on
10 its own has already been moving forward very
11 aggressively with.

12 CHAIRPERSON GIBSON: With this year's
13 budget we're making it an incredible investment in
14 technology with Smart Phones and Tablets and other
15 features for police officers. Do you think that it
16 would be easier to comply with some of the reporting
17 that's being asked? And also, some of the proposed
18 reporting because of some of the technology upgrades
19 that we're making?

20 COMMISSIONER BRATTON: Well, as you're
21 aware in my testimony just a few moments ago, some of
22 what this council as elected officials, certainly a
23 lot of what the public had been looking for, has
24 already been implemented. The Inspector General, the
25 Federal Monitor that's a result of the appeals to the

2 Federal Court. The Federal Monitor will, in fact, be
3 the arbiter of what the systems look like that we put
4 into place relative to body cameras. And again,
5 there is already an entity in place, the Federal
6 Court that would make those determinations. We have
7 a pilot program that's up and running that will allow
8 the monitor to expedite--

9 CHAIRPERSON GIBSON: [interposing] Okay.

10 COMMISSIONER BRATTON: --their review of
11 that system. But the bulk of that review is going to
12 already be done by another entity, the federal
13 government that has responsibility for this
14 particular area. The technology funds that are being
15 made available to us a lot of that through the
16 forfeiture funds made available, too. So the answer
17 is very aggressive and successful prosecutions in our
18 pursuit of firms operating illegally. And money that
19 the Mayor has allocated out of the city's portion
20 that this department within a year that there will be
21 no police department in America that has that
22 technological capabilities. And one of the great
23 assets that these technologies will provide to us is
24 the ability to address a lot of the concerns and
25 issues that are referenced in these nine bills. The

2 idea to identify officers who may be misbehaving, who
3 may be behaving inappropriately. And so, that
4 coupled with many of the other things that we're
5 changing in the department reinforces the point I'm
6 making that this legislation at this particular time
7 is really not necessary to meet the goals that you're
8 seeking. That the public is better informed, that
9 the public is much more aware of what we're doing.
10 And that the department is being held to a higher
11 standard of accountability than it's ever been held
12 to in the past because of the increased oversight of
13 the Inspector General, the Federal Monitor, a very
14 recently more engaged CCRB.

15 CHAIRPERSON GIBSON: Okay. I just have
16 two more questions before I turn it over to my
17 colleagues. The legislation 809 where we are talking
18 about the coordination and targeted delivery. So I
19 don't have that as an opposed. I have a further
20 discussion, which means that there's room for growth.
21 I just wanted to find out--this year we are rolling
22 out two models of what I deem as social service
23 intense programs. We're looking at domestic
24 violence, and some of the DV officers in providing
25 them support at a command level. And then in East

2 Harlem we're looking at the Mental Health Diversion
3 Centers for those emotionally disturbed persons that
4 area arrested for low-level non-violent offenses and
5 diverting them to mental health services. So with
6 both of these components where we're looking at
7 providing not just support for police officers, but
8 for services that are really necessary for
9 individuals that need help. This legislation would
10 be working in consort with the Deputy Mayor's Office
11 in coordinating a lot of those social service
12 programs that are available. So that we can allow
13 officers to do their job better, and really have the
14 services that are available. Because absent of that,
15 these individuals that are taken to Rikers Island
16 that truly just need help. So do you think that
17 those two initiatives that you have on the mental
18 health as well as the domestic violence can
19 complement this legislation?

20 COMMISSIONER BRATTON: Well, as it
21 relates to the legislation the issue we have with the
22 specificity of 35 locations, the highest crime
23 locations, that literally changes day to day, week to
24 week. And that in terms of what's a high priority
25 today, Chief O'Neal can tell you that he's constantly

2 adjusting resources through his CompStat analysis
3 that that's specificity of the 35 highest it changes
4 so dramatically. There's no denying that the overall
5 thrust of the proposed legislation is well intended,
6 and something would benefit I think from a
7 collaborative discussion. Because you've referenced
8 two initiatives, but there are others that this
9 Council has approved in the budget. There is the
10 Victim Awareness, individuals that are going to be
11 two in each of our precincts that you budgeted for
12 who will be working as part of the Domestic Violence
13 Unit. So we have two victims advocates that will be
14 strengthening these issues throughout the city. Not
15 just in 35 locations. We have funding also for the
16 training of I believe under a pilot project up in
17 Manhattan, the training of several thousand officers
18 in a multi-day initiative on dealing with emotionally
19 disturbed violent persons. Which are a growing and
20 significant problem with the rising number of service
21 resistant individuals, many of whom are emotionally
22 disturbed on our streets. Mayor de Blasio in recent
23 days has made it quite clear that as an
24 Administration not just the police, but as the whole
25 Administration he's going to very aggressively pursue

2 these issues in the weeks and months ahead. And we
3 have serving on those immediately [sic] planning
4 issues going forward. Additionally, as part of the
5 training that Commissioner Tucker is developing for
6 next year's three-day in -service training cycle,
7 issues involving the emotionally disturbed and some
8 of the other issues addressed in those bills will be
9 part of that training. That's already underway in
10 terms of trying to design that.

11 CHAIRPERSON GIBSON: Okay. And my last
12 question. Intro 607 that talks about the body camera
13 task force, we are looking to expand from the current
14 60-camera pilot by a number of I believ3 1,500. The
15 current task force that you referenced that has the
16 Federal Monitor in terms of oversight, we are trying
17 to understand who's on this task force. And when we
18 first rolled out he pilot, we had concerns about
19 privacy, about the taping of non-police related
20 activity. About storage and other information to
21 make sure we protect the officers, but also protect
22 the public. Do you know if that task force is
23 working on those issues? Have they been addressed,
24 and also are there any clergy or other folks that are

2 on this task force where there is a balance of
3 membership in terms of stakeholder?

4 COMMISSIONER BRATTON: The principal
5 reason for our opposition to the thrust of that piece
6 of legislation is the idea of this ten-member
7 committee is it is an unnecessary redundancy, another
8 entity that would require chewing availability of my
9 office's time to testify before them, provide
10 information for them. When this whole initiative is
11 going to be under the purview of the Federal Courts,
12 that there is no need for it. Federal Courts are
13 taking the controlling interest in this issue. That
14 the 1,500 cameras you referenced will, in fact, be
15 guided by the Federal Monitor's direction. I'm going
16 to ask Larry Byrne, DCLM, who is our principal
17 coordinator with the Federal Courts to briefly
18 describe what's happening as it relates to the
19 cameras. And, the many community groups that the
20 advocates groups, the plaintiffs' groups meet with
21 regularly to ensure that anything that the monitor is
22 doing meets with the awareness and potential approval
23 of the community at large. Larry, if you could just
24 briefly describe for the Chair the--

2 CHAIRPERSON GIBSON: [interposing] And
3 just state your name for the record.

4 COMMISSIONER BRATTON: --the body camera
5 program. [sic]

6 DEPUTY COMMISSIONER BYRNE: Larry Byrne,
7 the Deputy Commissioner for Legal Matters. So when
8 Commissioner Bratton announced the department's own
9 voluntary pilot Body Camera Program in 2014, we
10 deployed 54 cameras in five precincts and one housing
11 PSA. Those were the five precincts that in the Floyd
12 Stop, Question and Frisk litigation had been
13 identified by the judge as the five parts of the city
14 that had the highest number of stops. Those five
15 commands, as an aside, actually no longer are the
16 five commands with the highest number of stops. So
17 when we acquired the technology and began to grapple
18 with the variety of issues that the body cameras
19 present, we needed first to develop a policy about
20 using the cameras, telling our officers how they
21 could and could not use the cameras and when. How
22 information would be used that was recorded on the
23 cameras and for how long would information be stored.
24 We consulted with a larger group of external
25 stakeholders including the district attorneys, the

2 Law Department, the CCRB, the plaintiffs' groups that
3 have bought the Stop, Question and Frisk litigation,
4 and various other advocacy groups. And out of that
5 we developed a policy for our pilot program, which
6 has been made publicly available and discussed in a
7 number of forums. Last week, our Public Advocate
8 Tish James held a seminar--

9 COMMISSIONER BRATTON: [off mic] Could
10 you send somebody out to shut off him running the
11 lawn mower. [on mic] To chop it to basically while
12 the session is underway. It's extraordinarily
13 distracting. I'm having a hard time hearing him.

14 CHAIRPERSON GIBSON: We're working on it.

15 COMMISSIONER BRATTON: It sounds like---

16 CHAIRPERSON GIBSON: [interposing] Thank
17 you.

18 COMMISSIONER BRATTON: --it's somebody
19 trimming our bushes. Thank you.

20 DEPUTY COMMISSIONER BYRNE: So, Public
21 Advocate James held a forum at the City Bar last week
22 on policing and technology where our policy was
23 discussed and I think the general consensus among a
24 wide range of groups who rarely agree on anything was
25 that our policy for the pilot program had struck the

2 proper balance between privacy, public safety,
3 recording of things that should be recorded. And not
4 recording the things that shouldn't be. As we move
5 to the next phase of the body camera program, which
6 will involve at least a thousand cameras, that's
7 pursuant to court order as a result of the settlement
8 of the Stop, Question and Frisk litigations, the
9 court appointed Federal Monitor. And also the court
10 appointed facilitator who are two separate
11 individuals with two separate but important
12 complementary roles will be working to review as they
13 have all pilot program policies. They convene their
14 own working group. They've consulted on their own
15 with various external stakeholders, community groups,
16 advocates, the plaintiff's lawyers, the Police
17 Department, the district attorneys. And as
18 Commissioner Bratton said, for the next phase of the
19 program, which is the 1,000-camera program, that will
20 be under the direct supervision of the Federal Court,
21 and day-to-day supervision of the monitor. I believe
22 that the monitor and the facilitator would welcome
23 input from any member of the community advocacy
24 group, external stakeholder group that would like to
25 be heard further on that issue. And they're engaged

2 in the process in reaching out on that. So I do
3 believe that what the legislation calls for is
4 already, in fact, happening under the supervision of
5 the Federal Court. And we'll work quite effectively
6 as we go forward with a much larger 1,000-camera
7 program.

8 CHAIRPERSON GIBSON: Okay. Thank you
9 very much, and we'll have that noise stopped in just
10 a second.

11 [background comments]

12 CHAIRPERSON GIBSON: [laughs] We've been
13 joined by Council Members Elizabeth Crowley and
14 Robert Cornegy, and now we'll open up to my
15 colleagues for questions, and we will begin with
16 Council Member Rory Lancman followed by Council
17 Member Debbie Rose.

18 COUNCIL MEMBER LANCMAN: Good morning,
19 Commissioner and your whole team. You know, as the
20 Chair indicated, we're 0 for 9 on these bills with
21 the Police Department, and a running theme in your
22 testimony paraphrased is that we're legislation
23 something that is already regulated by the department
24 in many instances in your view. But here we are.
25 Each of us has seen a problem in our neighborhoods,

2 in our communities, in our districts and the city at
3 large that is present, real, and nothing being
4 addressed. And that's why we've put forward this
5 legislation to deal with problems that we seen that
6 aren't being addressed. Let's focus on the chokehold
7 ban, which is my legislation. In 1985, the Police
8 Department, not the City Council, the Police
9 Department adopted its first chokehold ban. This
10 policy failed to deter officers from performing
11 chokeholds. So in 1993, the Police Department, not
12 the City Council, tightened the chokehold prohibition
13 to remove any exemption or any circumstance where a
14 chokehold would be permitted. Quote, "Members of the
15 New York City Police Department will not use
16 chokeholds. A chokehold shall include, but is not
17 limited to any pressure to the throat or windpipe--
18 windpipe, which might prevent or hinder breathing or
19 reduce intake of air." Now this restrictive
20 prohibition was in place during your first tenure as
21 Police Commissioner. It's in place now as your
22 second tenure as Police Commissioner. I just want to
23 understand your position on the current NYPD
24 prohibition on chokeholds without exemption. Do you
25 agree that current NYPD policy prohibiting the use of

2 chokeholds in any circumstances is the right policy
3 for the NYPD?

4 COMMISSIONER BRATTON: As I already
5 referenced, sir, we're in the process of, and we
6 continually do, always reviewing our use of force
7 policies as we investigate the use of force by
8 members of the department to adjust our training,
9 adjust our tactics. And if necessary, adjust our
10 policies that in reference to the chokehold that we
11 have--it would be my testimony that we are moving to
12 adopt the language that's included in the proposed
13 bill. And I'll have Larry Byrne speak more
14 specifically to that--that. So you're correct that
15 the department continues to maintain its focus and
16 emphasis on prohibiting that practice. Always
17 understanding that there may be exigent circumstances
18 in which the officer was expected to speak to in
19 attempting to justify his or her use of force. And
20 those exigent circumstances would then be evaluated
21 in its totality and review what is a violation of
22 department policy.

23 COUNCIL MEMBER LANCMAN: Well, let me--

24 COMMISSIONER BRATTON: [interposing] The
25 legislation as proposed would seek to criminalize

2 that. We clearly do not, and the Mayor clearly has
3 spoken eloquently on this. We believe that is an
4 unnecessary--

5 COUNCIL MEMBER LANCMAN: [interposing] I
6 understand your position on--on the bill, and I
7 though you were doing so well until at the end where
8 you seemed to allow for the possibility that officers
9 in their judgment in circumstances may use a
10 chokehold. And looking at the two--the evolution of
11 the NYPD's own internal policy where 1985 officers
12 were prohibited from using a chokehold unless their
13 life was in danger. To the change in that policy in
14 1993 to eliminating any acceptable use of the
15 chokehold because officers were suing the chokehold,
16 and obviously in the department's judgment were using
17 it in circumstances when it really was not warranted.
18 Are you contemplating going back to something like
19 the 1985 standard where there--where we're actually
20 weakening the NYPD's chokehold ban, and admitting
21 certain circumstances where officers may use it?

22 COMMISSIONER BRATTON: Well, let me
23 emphasize again that we evaluate very closely any use
24 of force by an officer. And one of the things we
25 evaluate is are there exigent circumstances. If an

2 officer were to utilize a chokehold in--basically in
3 defense of his own life or somebody else, that would
4 be an exigent circumstance that I would certainly
5 take into consideration. And again, it's--it goes to
6 the heart of why we are opposed to the idea of
7 criminalizing this.

8 COUNCIL MEMBER LANCMAN: Well, one of the
9 things that--

10 COMMISSIONER BRATTON: [interposing] I'm
11 going to ask Larry Byrne to--as our Chief Legal
12 person, spokesperson in the department to speak in
13 response to the question that you just asked from the
14 legality aspect of the question.

15 COUNCIL MEMBER LANCMAN: Great and--and
16 if you would incorporate in your response an
17 acknowledgement that any person charged with any
18 crime whether it's--it would be a chokehold offense
19 that this Council would enact or any crime could in a
20 court of law in their defense say that they did that
21 thing to save their life or to preserve the life of
22 another person.

23 DEPUTY COMMISSIONER BYRNE: Larry Byrne
24 again. As Commissioner Bratton said, the current
25 policy, which is under review and will be revised

2 shortly prohibits a chokehold. There are no
3 exceptions. What we are doing, and what we found is
4 that the definition of a chokehold for officers and
5 the public needed to be clarified. And so the
6 department after careful review has decided to adopt
7 identically the definition of a chokehold that is in
8 the current proposed bill. And to continue to
9 prohibit that. The department has taken an important
10 second step, which is rather than just publishing a
11 policy and then in the future disciplining and
12 reviewing whether something violates the policy. The
13 department has just put 20,000 officers primarily
14 engaged in our patrol function through three days of
15 training, one day of which--and Commissioner Tucker
16 can speak to this more specifically--

17 COUNCIL MEMBER LANCMAN: [interposing]
18 I'm --I'm familiar with that.

19 DEPUTY COMMISSIONER TUCKER: --the type
20 of that training.

21 COUNCIL MEMBER LANCMAN: I'm familiar
22 with that. I'm not interested in the training
23 portion of it at this point in my question.

24 COMMISSIONER BRATTON: Actually, if you'd
25 let him answer the question, sir. But you had a very

2 lengthy multi-part question. I would appreciate you
3 doing him the courtesy of answering your question.

4 COUNCIL MEMBER LANCMAN: I'm sorry,
5 Commissioner, but I asked the questions here. It
6 wasn't lengthy or multi-part. It was very specific
7 whether or not you're contemplating changing the
8 current prohibition against chokeholds.

9 COMMISSIONER BRATTON: And I let him
10 answer that question.

11 COUNCIL MEMBER LANCMAN: He did, but the
12 answer--but then answering on training is different--
13 it was an answer to a question that I haven't even
14 asked.

15 DEPUTY COMMISSIONER BYRNE: Well the
16 point is, though, that it gives officers tools to
17 understand the policy and to use alternatives to the
18 prohibitive practice. As to legality, New York State
19 law actually does not prohibit the use of a chokehold
20 nor does any other state prohibit the use of a
21 chokehold as a matter of penal law or as a matter of
22 civil liability. So this Council would be doing
23 something in passing this bill that no state or local
24 legislature has done [bell] so far. For the simple
25 reason that when officers are confronted with split

2 second decisions, they have to take reasonable steps.
3 Our policy will prohibit that. Our policy is being
4 trained. Our policy will be carefully monitored.
5 We've adopted the definition this Council has used of
6 chokehold because we thought it was clearer to our
7 officers and to the public. And it will be monitored
8 very carefully going forward with it's published in
9 the near future.

10 COUNCIL MEMBER LANCMAN: Let me ask this
11 final question. We've gone through how the--the
12 first chokehold ban had to be amended because--
13 because officers were still using chokeholds. The
14 CCRB and the NYPD Inspector General have found and
15 documented that even with the current ban officers
16 are still employing chokeholds. And we've seen with
17 our own eyes videos of officers using chokeholds.
18 Commissioner, why has the current NYPD internal ban
19 on chokeholds, which has been in place for many
20 years, failed to deter officers from using
21 chokeholds?

22 DEPUTY COMMISSIONER BYRNE: Again, that's
23 what we evaluate every time we review a use of force
24 including chokeholds, and that's why every case is
25 evaluated on its own merits. That while there is a

2 general prohibition, we will take into account what
3 the officer was facing at that particular time. And
4 if, in fact, the officer behaved inappropriately an
5 intentional violation of our rules and regulations
6 that will be taken into account in terms of
7 punishment that would be utilized against that
8 officer.

9 COUNCIL MEMBER LANCMAN: Is there a reason
10 that--that you think the district attorneys would be
11 unable or inappropriate to evaluate in a circumstance
12 whether an officer appropriately used a chokehold.
13 Because it would be the district attorneys what would
14 enforce this law. Not the City Council and nobody
15 has accused the district attorneys of being over-
16 zealous in their prosecution of police officers,
17 right?

18 DEPUTY COMMISSIONER BYRNE: The district
19 attorneys already do that with every use of force by
20 police officers whether it's a firearm, whether it's
21 deaths in custody through physical use of tactics.
22 The district attorneys do that, and they evaluate it
23 under the current standards of clear law, clear state
24 law. Which is whether the officer's use of force was
25 reasonable under the circumstances given the physical

2 danger that the officer confronted, her partner
3 confronted or the members of the public, which she
4 was trying to protect. So the district attorneys
5 have that authority, and they exercise it all the
6 time not just in so-called chokehold cases. But in
7 any case where deadly force is used, either death in
8 custody or a firearm. They have those tools. We
9 have five district attorneys, a Citywide Special
10 Narcotics Prosecutor and two U.S. Attorneys, and
11 under Governor Cuomo's recent announcement new powers
12 to the State Attorney all to examine every use of
13 force by a police officers, and they routinely do
14 that. So this bill doesn't give them an additional
15 tool that they don't already have.

16 COUNCIL MEMBER GIBSON: Thank you very
17 much.

18 DEPUTY COMMISSIONER BYRNE: Thank you.

19 COUNCIL MEMBER GIBSON: Thank you Council
20 Member Lancman. We will next have Council Member
21 Rose followed by Council Member Reynoso.

22 COUNCIL MEMBER ROSE: Thank you Chair and
23 good morning, Commissioner. In the aftermath of Eric
24 Garner's tragic death in my district, I was really
25 shocked to learn that 7 out of 10 of the most sued

2 officers in the NYPD were assigned to the Narcotics
3 Unit in my district, the smallest Narcotics Bureau in
4 the city. The cases against these officers accounted
5 for a fifth of the civil litigation against NYPD
6 during a decade. I am disappointed that I found that
7 my district has a disproportionately large number of
8 bad actors not from the NYPD but from the New York
9 Daily News report developed from information released
10 base on the FOIL request, and a review of court
11 records. I'd like to know is NYPD aware of or to
12 what extent such actors--bad actors were concentrated
13 in certain areas in the city, and what is your
14 current practice in gathering information the
15 distribution of officers with high number of CCRB
16 complaints in civil suits alleging police brutality?

17 COMMISSIONER BRATTON: I'm going to ask
18 Larry Byrne to speak very specifically to what the
19 department is doing about this issue, and the
20 transparency that will be involved with it, very
21 similar to our Firearms Report that's issued every
22 year. The changes we're making in the department to
23 address this issue, and I believe many other issues
24 that fall under the heading of mismanagement are
25 modeled very closely after the very successful

2 initiatives in the Los Angeles Police Department in
3 response to the largest federal consent decree in the
4 history of the country. That focus very heavily on
5 that department's use of force, its documentation.
6 But as importantly, its early warning tracking system
7 to identify those officers whose performance might
8 tend to indicate that they needed to be more
9 carefully monitored, trained and supervised. And so
10 to that end, we have been committing very significant
11 resources including use of policy advisors from the
12 LAPD to assist in the development of that entity.
13 Which will report to Commissioner Byrne and then will
14 be a very significant part of the Commissioner
15 Tucker's review of disciplinary policies and
16 procedures by the department in the months and years
17 ahead. A lot of this information will be readily
18 available to the Council, to the public because
19 there's nothing to hide as it relates to this
20 particular issue. With that, Larry, if you would
21 just state briefly understanding the time limitations
22 that each council member has, a quick synopsis of
23 that risk management entity.

24 DEPUTY COMMISSIONER BYRNE: Yes. Larry
25 Byrne again. Shortly after Commissioner Bratton took

2 over in January 2014, he formed a new Risk Management
3 Bureau along the lines of what he had pioneered and
4 developed in Los Angeles. The NYPD and, in fact, no
5 large law enforcement organization in the country had
6 this type of risk management bureau. In addition to
7 working collaboratively with the Federal Monitor, the
8 Federal Facilitator and the Inspector General, which
9 was created by statutes by the City Council, one of
10 the most important things the Risk Management Bureau
11 does is it collects for the first time from a range
12 of agencies information that goes not just to the
13 number of civil lawsuits against particular officers,
14 but notices of claim filed against the city with the
15 Controller's Office, CCRB complaints, Internal
16 Affairs complaints that don't reach the CCRB. And
17 the Risk Management Bureau is collecting all of that
18 data. And actually, for the first time analyzing it
19 and using it to look at specific officer conduct, to
20 look by command, to look by assignment to see whether
21 changes in training should be made. Changes in
22 length of service in a particular command. Whether
23 individual officers have a problem with developing an
24 early warning system that assigns points based on
25 lawsuits, CCRB complaints to look at this range of

2 issues. It's being looked at very thoroughly with an
3 eye towards changing policies. I do want to say in
4 the lawsuits, because we've been working very closely
5 with the Law Department and very shortly the NYPD
6 will issue its written response to the Council and
7 the Speaker and Mayor de Blasio about the recent
8 report from the Inspector General about the lawsuits.
9 The filing of the lawsuits and the underlying conduct
10 is something we have to look at. But under the prior
11 administration there was a pattern of settling almost
12 all of these lawsuits without regard to any
13 examination of the factual allegations, any testing
14 of the allegations, any legal challenges to the
15 allegations. One of the things Mayor de Blasio is
16 doing with Corporation Counsel Carter is committing a
17 large number of resources to actually investigate and
18 defend these cases where appropriate.

19 So I think that going forward we probably
20 will see fewer lawsuits filed because of that effort,
21 and we'll probably have a better analysis of the
22 lawsuits that are filed because factual analysis will
23 take place in the lawsuit. So we are taking this
24 data very seriously. We're analyzing it in some
25 places. Where it has been transferred in some cases,

2 it's just a question of training. In other instances
3 there are very clear explanations why an officer has
4 been sued multiple times that has nothing to do with
5 any misconduct by the officer or her colleagues.

6 COUNCIL MEMBER ROSE: And so in the
7 Commissioner's statement, you questioned the utility
8 of using allegations. Which would point to data, you
9 know, would likely show us areas where community
10 police relations are most fractured. Even a report
11 of a abuse could, you know, actually poison the
12 community's trust. Do you not think that these
13 details uncovered would help, you know, all of us
14 work toward what we need to do to repair community
15 relations? And where is this data that you're
16 monitoring clearly [bell] where is it located, and
17 how is it presented to the public? And does it--you
18 stated that you didn't want--you thought that
19 reporting on the deployment would only be a snapshot.
20 But wouldn't that be valuable to --to communities?

21 DEPUTY COMMISSIONER TUCKER: I think
22 there are a couple of important concepts separate but
23 distinct that are being blended there. An analysis
24 of the patterns of lawsuits of the CCRB complaints is
25 very important not just by specific officer, but by

2 command whether it's a narcotics unit, whether it's
3 an anti-crime unit. Actions taken as a result of
4 that analysis is very important. With respect to the
5 deployment as Commissioner Bratton and Chief O'Neal
6 have said, Chief O'Neal's deployment of resources
7 throughout the city changes on a daily basis in
8 response to crime conditions. In response to large-
9 scale events. In response to the terrorist threat
10 that changes on a daily basis. So with respect to
11 the bill that requires the deployment of officers in
12 the 35 highest commands, that's a very difficult
13 thing to do. Because the highest crime areas change
14 everyday in every part of the city depending on
15 what's happening. What we are doing is analyzing
16 this data to look at whether there are concerns for
17 specific officers. And by the way, when I came on
18 board in September, this effort was already underway.
19 This was the first time the NYPD, this was the first
20 time any city agency attempted to collect this data
21 in a methodical way and to analyze it. We actually
22 don't have the data. So we've been obtaining the
23 data from the Law Department from lawsuits. We now
24 have weekly calls with them to discuss the lawsuits.
25 We obtain the data from the Controller who's provided

2 it to us. We've obtained the data from the newly
3 constituted active CCRB, and we're working closely
4 with them. And this is allowing us to collect data
5 that other agencies have had previously, but haven't
6 shared with the NYPD. So that we could use it to
7 make positive changes going forward one of the most
8 important of which will be to continue to help heal
9 relations with communities throughout the city.

10 COUNCIL MEMBER ROSE: [off mic] It
11 stopped? [sic] [on mic] Oh, could just tell me what
12 triggers, you know, an internal audit of those
13 individuals police officers? What is the follow up,
14 and how do you determine where they're deployed?
15 Because it seems strange that we would have seven out
16 of ten of the worst bad actors in our--our precinct
17 when you're saying that these deployments are fluid
18 and they happen quite frequently? How would we wind
19 up with a concentration?

20 DEPUTY COMMISSIONER BYRNE: Well, let me
21 answer both parts of your question. In terms of how
22 people are monitored, we now look at every lawsuit
23 that's filed, every notice of claim that's filed, and
24 notice of claim that's filed against the city. But
25 it has to be based on allegations against police

2 officers, and every CCRB complaint. And we're
3 building a database, an internal database that will
4 allow us for the first time to tie all of that
5 information together specifically by officers, by
6 commands, by precincts, by bureaus. And then we
7 decided whether an officer is a candidate for early
8 intervention for monitoring, for supervision. We do
9 that based on a variety of events. We would call the
10 officer in. We would speak with the officer and make
11 the officer aware of what's triggered it. Discuss a
12 plan going forward, and the monitor and evaluate that
13 officer going forward. As for the second part of
14 your question, there's an assumption of a causal
15 connection that doesn't exist, which is because you
16 have in your district some of the officers who have
17 been most sued in civil lawsuits, that doesn't at all
18 demonstrate that they're bad actors. It simply
19 demonstrates that the plaintiff's lawyers in those
20 particular suits, and we're very familiar with them,
21 have been getting settlements from the City under the
22 prior administration. So they continue to bring more
23 lawsuits, and the suits are settled without any
24 factual investigation, without any legal analysis,
25 without regard to what actually happened. The Law

2 Department under the current administration is now
3 taking a very different approach to those cases.
4 We'll examine those cases on a case-by-case basis.
5 We'll actually conduct factual investigations, and
6 we'll actually assert factual and legal defenses
7 throughout the city to those cases. So the fact that
8 civil lawsuits have been filed doesn't establish that
9 the officers are actually bad actors. Most of those
10 lawsuits are settled without the officers not even
11 knowing that the cases are settled. But without the
12 officers ever having been informed that they were
13 sued, and we are now informing them about that for
14 the first time.

15 COUNCIL MEMBER ROSE: I would really like
16 to have a conversation offline, Commissioner. My
17 time is up.

18 DEPUTY COMMISSIONER BYRNE: I'd be very
19 happy to come and speak with you and your staff about
20 what we're doing at any point this summer.

21 COUNCIL MEMBER ROSE: Okay.

22 CHAIRPERSON GIBSON: Thank you. Thank
23 you Council Member Rose. Next, we'll have Council
24 Member Reynoso followed by Council Member Williams,
25 and we've been joined by Council Member Jimmy Vacca.

2 COUNCIL MEMBER REYNOSO: Thank you,
3 Chair. I just want to off of Debbie Rose's point, I
4 think what they're saying is that in the past is the
5 policies haven't allowed them to address those type
6 of issues. And I do want to say as the City Council
7 all the graphs that we're seeing in front of us, any
8 meaningful change that we've seen in the last couple
9 of years have come either through legislation or
10 court order. And we talk about all these steps or
11 layers of oversight that are now--that are now upon--
12 or that you have the burden of dealing with all come
13 because of the faults or the mistakes that you've
14 made in the past that have been actually rectified
15 through legislation--

16 COMMISSIONER BRATTON: I would refute
17 that categorically.

18 COUNCIL MEMBER REYNOSO: Okay, that
19 should be a City Council poster, not a NYPD poster in
20 regards to the stop-and-frisks. I'm just letting you
21 know that significant changes have been made that are
22 addressing police and community relations through a
23 body like this. So I just want you to be very
24 mindful of that. And now the City of New York will
25 see a significant increase in the number of officers,

2 and specifically I believe in neighborhoods of color.
3 We're talking about the 1,300 new officers that will
4 be coming out, and the 400 or 300 that will be moving
5 from that city or administrative duty because of the
6 civilianization. So we're talking about almost 1,700
7 cops in the streets. And we have to consider what
8 this increase can mean in neighborhoods that have
9 historically fractured relationships with the NYPD.
10 The increase of officers and seeing them in one shot.
11 New Yorkers' Constitutionally protected rights
12 against searches when there is no legal justification
13 continue to not be respected by some NYPD officers.
14 Something we know experience and from highlighted
15 pieces of the report of CCRB. Most New Yorkers are
16 unaware that they have the right to refuse a search
17 when officers do not have any legal justification for
18 the search. Or, they are uncomfortable with
19 exercising those rights because of the power balance
20 and the possibility of escalation with that officer.
21 Officers routinely conduct searches without legal
22 justification often by deceiving New Yorkers into
23 consent by ordering that they empty out their
24 pockets, or simply by searching their belongings
25 without explanation. My piece of legislation,

2 specifically the Consent to Search bill seeks not to
3 necessarily ruin relations or make things harder for
4 the NYPD, but actually to improve police and
5 community relationships. There is a power imbalance
6 in--in that type of encounter especially when there
7 is no legal justification for consent. So my first
8 question, so that we could start the clock, and I
9 don't hang up all the time. My first question,
10 Commissioner Bratton, how are officers trained on the
11 meaning of a consent search? And what is the
12 procedure for conducting a search in the absence of
13 legal justification. And I'm assuming that a consent
14 search would deem that the search itself has no legal
15 justification. How are officers trained to--in that
16 situation?

17 COMMISSIONER BRATTON: Well, I'll ask
18 Commissioner Tucker to speak to that. Specifically,
19 it is an issue that is also part of the ongoing
20 dialogue and discussion with the Federal Monitor as
21 it relates to the reasonable suspicion and Stop,
22 Question and Frisk stops. So they will be providing
23 additional oversight into that process as we go
24 forward. My comment following that comment about the
25 charts behind me, my repudiation of the comment was

2 the idea that what is behind me is the collective
3 work of a lot of individuals, members of this
4 Council, members--predecessors to this Council,
5 activist groups, but also a lot of it is self-
6 initiated within the NYPD. And I certainly can speak
7 for myself as it relates our last 15 months and a lot
8 of what we're self-initiating. So my remark was a
9 clarification of that that results behind us are the
10 results of a lot of collaborative interaction
11 sometimes mandated by legislation. But I believe
12 myself that a lot of it can be achieved more
13 comprehensively, more willingly by collaboration
14 rather than by dictated mandate.

15 COUNCIL MEMBER REYNOSO: Thank you.
16 Thank you for the clarification on that issue.

17 COMMISSIONER BRATTON: Ben, if you can
18 speak to both in terms of what we've been doing, but
19 also some of the going forward on the federal --

20 COUNCIL MEMBER REYNOSO: [interposing]
21 Specifically to consent searches.

22 DEPUTY COMMISSIONER TUCKER: Sure, so if
23 you--if you talk about consent searches in the
24 context of--of stop-and-frisk, you develop--that--
25 that drive--it's driven by a reasonable suspicion

2 searches, and if you're asking about that particular
3 approach. And, of course, that's dictated through--
4 through the law, through the *Terry* case, and in--in
5 New York a couple of other cases that have since
6 changed the way we look at that--that approach. But
7 essentially the way--if you're an officer on the
8 street, you can--you can ask people for their consent
9 to--to search. And people have a right to refuse to--
10 --to allow you to search. A lot of the officers do
11 search their property.

12 COUNCIL MEMBER REYNOSO: [interposing]
13 That is a right that already exists as of now. In
14 cases where there's no legal basis for a search, that
15 they already say I don't want to be searched.

16 DEPUTY COMMISSIONER TUCKER: Well, that--
17 yes if you--if you say a legal basis for a search. I
18 mean you can--if I ask you can I--can I see--can I
19 open--can you--can I search your car, you have a
20 right to say no, you can't--you can't search my car.
21 Now, the officer may have a basis for asking that
22 question. I mean this is a case-by-case and it's not
23 always clear in the--in the abstract what the
24 circumstances are. So I think that's really
25 important to take into--to take into consideration.

2 COUNCIL MEMBER REYNOSO: And I just want
3 to say because I do want you to continue. It's just
4 because of time. I just want to go through how many
5 consent searches does the NYPD conduct? Do you guys
6 have statistical information as to how many consent
7 searches are conducted by NYPD?

8 DEPUTY COMMISSIONER TUCKER: Well, I'm
9 sure we have, but I don't know if we monitor those
10 statistics.

11 COUNCIL MEMBER REYNOSO: I think that
12 would be--that would be an important figure to know
13 when making a decision on whether or not the
14 legislation that I'm proposing is warranted or not.
15 I think you should consider statistics and evidence
16 in regards--when making a statement on whether you
17 support it or not. And so we also don't know how
18 many times people have withheld--withheld consent or
19 have asked the officer and they don't want to be--
20 they don't want the search to happen when they're on
21 a legal basis? This is all information that as of
22 now you guys can present to us? And can't
23 necessarily say whether or not you even attract that
24 information?

2 DEPUTY COMMISSIONER TUCKER: Well, we--we
3 don't rack it on a--on a case-by-case basis.

4 COUNCIL MEMBER REYNOSO: Okay. That's a
5 concern to me. It's an issue that I'm trying to
6 address and there's no statistical evidence or
7 statistical information at all documenting--that can--
8 --that can help me make a more important decision
9 alongside in collaboration with NYPD on whether or
10 not we can address this issue in a more meaningful
11 way.

12 DEPUTY COMMISSIONER TUCKER: Well, we do--
13 --officers do when they make an arrest, we ask them
14 certain questions on--on--on paper as to whether or
15 not--what the search entailed, the decision for
16 making the search and the--the 250 would be an
17 example of that, the UF-250, which is the form that's
18 filled out or completed when--when--when a stop is
19 made. And when a--a search takes place. So those
20 circumstances are documented, and so we can know
21 that. But there are circumstances where it may not
22 be clear whether the consent question was asked, and
23 whether it was complied with.

24 COUNCIL MEMBER REYNOSO: So, my--my--one
25 of my last questions is you--you mentioned in your

2 testimony, Commissioner, that you recognize
3 nevertheless and I quote I guess open quote,
4 "Nevertheless, we understand fully the concerns
5 underlying both those and regarding the Right to Know
6 Act. We recognize that similar proposals have been
7 included [bell] in the President's Task Force on 21st
8 Century Policing." And I left out as policy
9 recommendations rather than legislation. I think we
10 might disagree on that. And this reflects the
11 ongoing national discussion on police and community
12 relations. And when one--I think a common theme that
13 we're going to start hearing from this is 0 for 9,
14 how--how clear a statement you're making that
15 legislation and our input in regard to what we think
16 is effective, meaningful change for community and
17 police relations is not something that you guys
18 necessarily want to hear. So thank you for your
19 time.

20 CHAIRPERSON GIBSON: Thank you very much,
21 Council Member Reynoso, and we have also been joined
22 by Council Member Rafael Espinal and we will next
23 hear from Council Member Williams followed by Council
24 Member Richards.

2 COUNCIL MEMBER WILLIAMS: Thank you,
3 Madam Chair, first for calling this important
4 hearing. Thank you Commissioner of NYPD for being
5 here to talk about these issues particularly as we're
6 coming up on the year anniversary of Eric Garner. I
7 think we could have had some of these earlier, but
8 I'm glad that we're definitely having it now. I
9 think I spent a good amount of my time in the Council
10 actually dealing with gun violence in particular. But
11 if you listen to the media, it's been mostly about
12 police reform. I think those things have
13 intersected. So as a part of that I'm proud that I
14 have two bills here. One dealing with body cameras.
15 Although they're not a cure-all, we want to make sure
16 the Council has some say in what happens when the
17 body cams are put in full use. And also we have 606,
18 which talks about quality of life offenses in terms
19 of use of force. We have questionable knowledge
20 about the frequency chokeholds. We don't know the
21 frequency of which individuals arrested and for what
22 the law considers quality of life enforces--I'm
23 sorry, offenses, including sending loose [sic]
24 cigarettes and we're hoping that we can get some of
25 that data.

2 I always want to give a shout to my
3 commanding officer, 63rd Burke. It used to be
4 Lowell, at 67 Collado, 69 Grant, 70th De Blasio and
5 the new Brooklyn Borough South Chief Powers. And I'm
6 looking forward to continuing a good relationship
7 with them. As I was reading testimony, I'm happy
8 that are few--it seems like negative things that are
9 down in terms of marijuana arrests, which I'm happy
10 about. It's hard to judge the Stop, Question and
11 Frisk numbers because there is--there is no right
12 number. So it's just a matter of whether people are
13 seeing reasonable suspicion or not. So I think,
14 though, from what I've seen in terms of arrests from
15 those stops have gone up. So I think that's a
16 positive amount. But I think the missing point here
17 is that we want to make sure the policing is
18 equitable. So the people who are being stopped and
19 the people who are being arrested for marijuana I
20 don't think we've actually reached that equitable
21 portion yet.

22 If you look at it statistically, who's
23 being targeted. So I'm hoping that that will be
24 changed as well. And then I think your statement on
25 page 2-- And first, I want to say that my hope is

2 and it seems like we have a space where we can talk
3 about police reform without being considered anti-
4 police. And hopefully, we can both together work on
5 that because I think when we confuse it, it doesn't
6 really help anyone. You mentioned I wish to say
7 respectfully, but firmly that these are the purview
8 of the Police Commissioner and the Police Department
9 and not of legislative control. I want to say
10 respectfully, and also firmly that I disagree. I
11 think that legislation has provide the powers that
12 the Police Commissioner and the Police Department
13 have, and so legislating combined with oversight
14 should also have a say in how that works. And I did
15 want to piggyback on something that my colleague said
16 there has been a lot of push that has got us to this
17 point. And perhaps if this Administration and this
18 Mayor were before we wouldn't have had to do that.
19 But the--the fact of the matter is that we did.

20 I am said that with this Administration
21 it seems there is no legislation that the Police
22 Department agrees with. And so, my hope is that that
23 will change. I don't remember the last legislation
24 that dealt with these reforms that the Police
25 Department did agree with. What we've found this

2 legislation this oversight is very much needed. I
3 think you--from what I read, most of the testimony
4 said that you agreed with the policy things we're
5 trying to get at. I just want to make sure that was
6 in agreement. Most of the--while you disagree with
7 the legislation the policy that we're trying to
8 change is something that you do agree with?

9 COMMISSIONER BRATTON: That's an
10 excellent point, Council Member, that while we oppose
11 the need for legislation, we certainly are not
12 opposed to what I think this Council has clearly seen
13 over these last 18 months that we are very willing
14 and very comfortable with the idea of discussing and
15 coming to agreement on a lot of what is contained
16 within these potential legislative acts. And that in
17 the past a number of you have, in fact, proposed
18 legislation which we were able to in discussion with
19 you negate the need for, as we were more than willing
20 to provide the information. Some of what you're
21 looking for that--from legislation we're more than
22 willing to provide in the future. Some of what
23 you're looking for doesn't exist because we're in the
24 process of creating it. The Risk Management Unit for
25 example will have treasure troves of information

2 available not only for us, but for the independent
3 monitor the CCRB as well as the Inspector General as
4 well as yourselves. Understand that the opposition
5 to the legislation aspect of this is the ideal of the
6 need for it. Some of what we have contained in the
7 legislation--we're not opposed to it all. We're
8 interested in working with you on meeting the needs
9 that you have for information, and also just
10 attempting to where possible not put the Council in
11 conflict with State legislation in conflict with the
12 Federal Monitor in the areas in which they already
13 have powers and activities underway to deal with some
14 of what we're trying to address.

15 COUNCIL MEMBER WILLIAMS: I assumed as
16 you mentioned that--that as with some of the
17 President's task force, which include the Right to
18 Know there is also some belief in the policy that
19 they were trying to get at. I did have a question.
20 I think you mentioned the criminal procedure law
21 governing searches. I'm trying to figure out which
22 part because I think from what we understand most of
23 those--most of the statutes cover stops, not
24 necessarily searchers. And is it is now, it mandates
25 that the public be the person to have the knowledge.

2 While we don't do that for the Miranda Rights. The
3 mandate is on the police. So I'm trying to figure
4 out which part covers it, and why would we not want
5 to change it like we did the Miranda Law. So that
6 information is freely given to the public?

7 COMMISSIONER BRATTON: [off mic] Larry.

8 DEPUTY COMMISSIONER BYRNE: Larry Byrne.

9 The law in consent to search in this state and
10 nationally have been pretty clear for a long time.
11 And this goes to a question that Councilman Reynoso
12 proposed as well. In order for a consent to search
13 to be valid, it has to be given knowingly and it has
14 to be given voluntarily. The validity of that
15 consent to search is tested by counts of law and
16 judges and defense attorneys in hundreds of hearings
17 everyday that take place in the city that suppress
18 the fruits of the search where the allegation is that
19 the consent wasn't given knowingly and wasn't given
20 voluntarily. So there's a mechanism to address that.
21 As part of our department policy, and it's in
22 reference to the Commissioner's testimony for certain
23 investigative bureaus, the Detective Bureau, OCCB who
24 are regularly engaged in the searches of residences
25 often businesses, sometimes vehicles. We do have a

2 consent to search form where when practicable, we ask
3 that it be filled out and signed by the individual
4 who is giving the consent. So that's an example of
5 where we already have a policy in place that this
6 legislation seeks to address. In other instances,
7 and I should also say in terms of how officers know
8 what they're supposed to do as opposed to members of
9 the public. A huge part of the training for new
10 recruits at the Academy for new detectives for
11 promotional exams, there's a whole legal nodule that
12 deals not just with search. It deals with arrest, it
13 deals with Miranda, which deals with post-arrest
14 statements.

15 COUNCIL MEMBER WILLIAMS: [interposing]
16 I'm sorry. I only have a few seconds left.

17 DEPUTY COMMISSIONER BYRNE: Sure. So, we
18 do have a policy that deals with consent to search.
19 We do have a form, and we're open to having a
20 dialogue with you about how the use of that form
21 might be expanded in appropriate circumstances.

22 COUNCIL MEMBER WILLIAMS: I appreciate
23 it. Just so you know, that the law now would leave
24 it up to you on how--how you get that consent to
25 search and not to us. So I'm glad that you do have

2 something. And maybe you can just expand it. We
3 really didn't get to why would it not be better to
4 mandate that it's said like Miranda right as opposed
5 to the community know. But I did have a question
6 based on some of the things that were mentioned in
7 terms of agreeing with the policy mission. When is
8 it okay to codify? Particularly, if you go back to
9 the '90s and we see issues of chokeholds not being
10 dealt with as the way we want them to. [bell] When
11 do you think it's right to codify in law some of the
12 procedures that you have correct so that there is no
13 question when new administrations come in of what
14 they should change and what they shouldn't.

15 DEPUTY COMMISSIONER BYRNE: I think as
16 we've said the commissioner recognizes the important
17 role this Council has not just in passing
18 legislation, but in influencing our policy. The
19 number of the issues that you're seeking to address,
20 we already addressed through dialogue with you, and
21 we want to continue to have a dialogue with you
22 whether it's providing more information, whether it's
23 being more transparent in further additions to
24 policies. Much of what this legislation proposed to
25 do and it there have been repeated references to 0 to

2 9, is this legislation seeks to change well-
3 established principles of state, criminal substantive
4 law and procedural law, which have been tested in the
5 courts, tested in the State Legislature. And have
6 been the basis for the training of our police
7 officers in some instances for decades. So I think
8 what we're saying is where State law is clear and
9 where State law is prescribes what an officer can do
10 and can't do, this body shouldn't modify State law.
11 We should always have the discussion with you about
12 modifying our policies to reflect where we are today.
13 And to address the critical issue we all agree on of
14 the need to repair the relationship between the
15 Police Department and communities throughout the
16 city. And we want to work with you to do that
17 without having a law that requires it, particularly
18 when the law conflicts with State law.

19 COUNCIL MEMBER WILLIAMS: Thank you and I
20 think we--the attorneys here have done a lot to make
21 sure that we're not conflicting. I'm not sure if you
22 answered my question of whether we should codify. So
23 I'd still love to hear that, and I do want to just
24 say, you know, I have no issue with the--the
25 neighborhood policing that I think sounds good. But

2 unless we change structurally how we do things, we're
3 going to in a matter of time fall back into the same
4 problems because of a historical theme that's going
5 on. So that's why I'm so concerned--to concern--
6 concerned about changing structurally. Because
7 whatever we overlay in terms of policing is going to
8 fall back to historical norms if we don't really get
9 to that structural change. So hopefully, you can
10 answered some of the questions, a little bit better,
11 a little bit clearer perhaps in a dialogue off
12 record. Thank you.

13 CHAIRPERSON GIBSON: Okay. Thank you,
14 Council Member Williams. A quick question. You
15 alluded that you do have a consent form.

16 DEPUTY COMMISSIONER BYRNE: Yes, we do in
17 certain instances essentially for investigative
18 bureaus, the Detective Bureau the OCCB Bureau. It's
19 usually used when a consent search is used of the
20 residents of a business. We train and we ask our--
21 our detectives to try to record the consent in
22 writing. That's very different. Where that's a
23 controlled setting then where a patrol officer is out
24 on the street he could be responding to any number of
25 911 calls, radio calls, a missing child, weapon

2 fired. He comes upon someone quickly. He asks them
3 to consent the search. The person gives the consent.
4 They don't find a weapon. They continue to
5 investigate it by going to the next lead. So we use
6 a consent to search form when practicable. We're
7 looking at other ways where that or some other form
8 of consent would be documented in a more methodical
9 way. But we do give training on--on the proper
10 searches as well in consent to search procedures in
11 the new recruit training.

12 CHAIRPERSON GIBSON: Okay. Can this form
13 be shared with the Council?

14 DEPUTY COMMISSIONER BYRNE: I don't see
15 why not. We'll provide it to your staff.

16 CHAIRPERSON GIBSON: Great. Thank you
17 very much. So we are going to continue with other
18 colleagues who are asking questions, but I just
19 wanted to share that these were the prime sponsors of
20 the legislation that's on the agenda, Council Members
21 Lancman, Rose, Reynoso and Williams, that you've
22 heard from. So now we are going to begin a real
23 five-minute timeframe. Colleagues, I do apologize
24 but I really have to stick to the schedule. There
25 are several of you that have questions. We will next

2 to go Council Member Richards followed by Council
3 Member Miller. Thank you, colleagues.

4 COUNCIL MEMBER RICHARDS: Thank you
5 Chairwoman and it's very fitting that the time clock
6 is definitely clicking--ticking on me at the five
7 minutes right now. So I'm going to hurry up here.
8 [laughter] First, I just want to start with a few
9 comments. One, you know, I want to be very clear
10 that we would not be here today if there was not a
11 problem between our communities, and particular in
12 the NYPD. One of the reasons we're here is obviously
13 because transparency has not existed on many of these
14 issues prior, and I know that we're moving towards
15 that. But there still are a lot of outstanding
16 issues. There still are a lot of--some bad apples in
17 NYPD. There are more good apples, but we're here
18 because there are some bad apples who--who are
19 ruining it for the good applies. And I think that we
20 obviously have an interest in ensuring that the good
21 apples aren't the ones being painted in the light
22 because of a few bad apples. And I keep saying
23 applies, but it's--but it's the truth. And I think
24 it would be a shame if--and I think it should be in
25 your interest to want to shame some of the bad apples

2 in the department if not--and all of them, to be--to
3 be quite frank.

4 I also want to say that, you know, we
5 keep speaking about cameras, and cameras, as we've
6 seen, are not the one-all solution here. We've seen
7 it across the country. The only way we will see a
8 real shift in the NYPD is if we have a culture
9 change, and with that, I want to run into discipline.
10 Because that's something that seems to be lacking.
11 You know, you said something a little earlier that's
12 a little troubling that, you know, if an officer is
13 sued four or five times it doesn't mean that they are
14 a bad apple. But I kind of tie it to a--outside to a
15 situation if you're--if you're--if you go to apply
16 for a credit card, and you haven't paid the bill
17 three or four times, it's less likely that you'll get
18 that credit card, right?

19 So I think, you know, we have to be clear
20 that if that--if there's a pattern there that we have
21 to follow that and that there should be some
22 disciplinary action there. So I'll start with just a
23 few questions, and I'm very grateful for the pilot,
24 the Policy Community Pilot in the Rockaways, and I've
25 raised this question with the Commissioner and I'll

2 raise it once again. How are we measuring positive
3 interactions that the Police Department is having
4 with the community through this particular
5 initiative? So if an officer meets--and I'm not
6 speaking--necessarily speaking about business owners,
7 but an everyday New Yorker who may be living in
8 public housing. How do we measure that they're
9 actually having positive interactions with the
10 public. Just as we do 250s, and Stop-and-frisk and
11 you write down, you know, we stop this person. Are
12 we doing that the same way for positive interactions
13 through this policing initiatives. [sic]

14 COMMISSIONER BRATTON: There's a
15 multiplicity of ways of measuring. When we would
16 take a look certainly at polling that we now have the
17 capability of doing in the department, very intimate
18 extensive polling capabilities. And we will be
19 polling for example in those four pilot precincts
20 very shortly.

21 COUNCIL MEMBER RICHARDS: Polling the
22 officers or the public?

23 COMMISSIONER BRATTON: Polling the public
24 our constituents. We'll also be polling the officers
25 that participate in this initiatives through focus

2 groups as well as other means to determine how
3 they're responding to the new initiative. Some of it
4 is also independent polling that is done with
5 Quinnipiac and others from time to time. Some of it
6 is certainly feedback for you, the elected
7 representatives of those areas, and many of you are
8 shy about polling your constituents and passing on
9 what they feel is going on. Continual interaction
10 within--actually increasing interaction with the
11 precinct personnel with the public through the normal
12 community councils that we have. With the expanded
13 outreach of officers now going to community meetings
14 themselves to hear first hand, and to respond to
15 public concerns. [bell] Our crime stats, our 911
16 call workload, our 311 call workload, our response
17 time a number of objectives as well as subjective
18 measures. And Chief O'Neal can speak to and expand
19 on those if you so elect.

20 COUNCIL MEMBER RICHARDS: I only have 27
21 seconds left. So I just want to get into two other
22 questions, first. But I will just say that I believe
23 you--your officers should be writing and tallying
24 their positive interactions. The same way you do it
25 with Stop-and-frisk is the same way it should be done

2 for positive interactions with the public. How are
3 you addressing officers with high numbers of
4 allegations of misconduct and then the--the last
5 question is [bell] how many officers since your
6 tenure have been disciplined or been suspended or
7 fired for misconduct?

8 COMMISSIONER BRATTON: For the second
9 question, I'm happy to provide those statistics to
10 you. I don't have them immediately at hand. The
11 first question I'll ask Chief--Chief--Commissioner
12 Byrne to respond to, which I believe has already been
13 responded in my statements and some of the charts
14 behind us. But, Larry, if you want to expand on that
15 again.

16 DEPUTY COMMISSIONER BYRNE: So on your
17 question, we're looking at as I said the full range
18 of issues lawsuits, CCRB complaints and notices of
19 claim filed as well as internal affairs allegations.
20 And when I said the lawsuits alone don't matter, what
21 I meant was the fact that a lawsuit has been filed
22 proves nothing. That's simply an allegation
23 unproven. What matters, and we look at very closely
24 on a case-by-case basis is the underlying conduct in
25 that lawsuit. Did the officer engage in something

2 that's a violation of department policy. Did the
3 officer break the law? Did the officer do something
4 in appropriate? So we're examining the allegations,
5 but we're not simply saying because someone has sued
6 an officer that that officer should be punished.
7 That officer has the right to a defense of that
8 lawsuit just as all of us do. With respect to the
9 activity, we are asking our officers to document
10 their positive interactions with the community.
11 We're developing a new activity report. And to
12 another aspect of the Right to Know bill, the heart
13 of what Chief O'Neal and Chief Gomez has developed is
14 officers who patrol not just in the same precinct but
15 in the same sector to get to know the community and
16 get to know them. So as this program becomes
17 successful, you won't need business cards or shield
18 numbers or nameplates to know who the officer is you
19 just encountered because you will have worked for her
20 continuously over the last six months. And she's
21 been in your sector. She's been to your business.
22 She's been to your church. She's been to your home,
23 and that's how you get to know the officers, and
24 that's how the officers will get to know that part of
25 the community and the concerns of that community.

2 COUNCIL MEMBER RICHARDS: All right, just
3 in--just in closing, thank you all. Thank you for
4 your answer. I still believe that there needs to be--
5 -I don't know whether the commanding officers in
6 particularly are the ones monitoring this, but there
7 needs to be written documented positive interactions
8 that the--that can be reported essentially to the
9 Council. And just going back to patterns, there are
10 some officers who we know, and I know in my precinct
11 who had a pattern, the public knew them by first name
12 even before the Policing Initiative. And they had a
13 lot of negative encounters with the public, and they
14 were never dealt with or disciplined the right way.
15 And it has caused a mistrust between the public and
16 our community. So, we're here today obviously for
17 that very reason, and I'm hoping that as we move
18 forward, that we will continue this dialogue. Thank
19 you.

20 CHAIRPERSON GIBSON: Thank you, Council
21 Member Richards. Commissioner, a quick question.
22 We've talked about the decree since Stop-and-frisk
23 cases. Are there factors that officers use in
24 determining how we actually stop an individual and
25 frisk them. So for instance, those individuals that

2 may be stopped and just simply asked for
3 identification, and it doesn't result in anything, is
4 that also recorded in the Stop-and-frisk numbers? So
5 what factors are we using to determine the Stop-and-
6 frisk data that we get?

7 COMMISSIONER BRATTON: [off mic] Larry?

8 CHAIRPERSON GIBSON: Deputy Commissioner.

9 DEPUTY COMMISSIONER BYRNE: Sure. So,
10 the--all that information is documented. And so as--
11 as I mentioned earlier, the--the circumstances is--
12 are different in every single case. So the officers
13 it depends on what they observe, particularly if
14 they're engaging in a stop based on their reasonable
15 suspicion that the--the individual that they're
16 stopping may have been engaged in or is about to
17 engage in criminal conduct. So that's the driver for
18 it. And that doesn't deal with the frisk at all yet.
19 It just deals with the--the reason that they stopped.
20 And so they may be--it may be just in general inquiry
21 as to whether that individual--why that individual is
22 at that particular location. But it may be--the
23 questioning may change depending on what they--what
24 the officers observe.

2 CHAIRPERSON GIBSON: Okay. So you said
3 all of those instances are recorded?

4 DEPUTY COMMISSIONER BYRNE: When you--
5 when you make the stop yes.

6 CHAIRPERSON GIBSON: Okay.

7 DEPUTY COMMISSIONER BYRNE: Then they'll
8 make--they'll have a record of that stop having taken
9 place. There will be a memo book entry and--and the
10 filling out of the--the UF-250 form.

11 CHAIRPERSON GIBSON: Okay.

12 DEPUTY COMMISSIONER BYRNE: One of the
13 things that's changing is how those are recorded. As
14 part of the remedial process through the settlement
15 of the Stop, Question and Frisk litigation, the
16 Department is revising the 250 form, which is the
17 form that records reasonable suspicion stops. So
18 that in addition to just checking boxes, an officer,
19 every officer who engages in a stop will now have to
20 write out a narrative explaining her or his reasons
21 for stopping the subject. And if it proceeded to a
22 frisk, the reasons for a frisk. That data will all
23 reviewed very closely not only by the Police
24 Department, but by the independent Federal Monitor
25 and his team who will be reporting to the court on

2 the reasons that officers are making stops. And
3 whether those stops are legal and Constitutional and
4 respectful.

5 CHAIRPERSON GIBSON: Okay, the UF-250
6 form is race ethnicity a category on the form?

7 DEPUTY COMMISSIONER BYRNE: It is.

8 CHAIRPERSON GIBSON: Okay. And other than
9 the description of the actual stop, are there any
10 other revisions you're considering for the form?

11 DEPUTY COMMISSIONER BYRNE: Yeah, we're
12 actually--we've been working very closely with the
13 Monitor and with the plaintiffs' counsel to develop a
14 form that will be understandable to the officer that
15 will record more reliable data. And so, we are about
16 to unveil--Commissioner Bratton has just approved a
17 pilot program where we're going to test two new
18 versions of that 250 form in different precincts
19 before we change it department wide. Again, under
20 the supervision of the Federal Monitor, to see which
21 form or a combination of the forms works better in
22 terms of officers actually filling them out. Filling
23 them out accurate, filling them out completely. And
24 the information we learn from those forms so that we
25 can review whether as a police department we're

2 making the appropriate number of stops for the right
3 reasons. That we're stopping the right people for
4 the right reasons.

5 CHAIRPERSON GIBSON: Have you selected
6 the two commands that you're starting?

7 DEPUTY COMMISSIONER BYRNE: I think we're
8 just making a final decision, but I can provide you
9 with that information later this week.

10 CHAIRPERSON GIBSON: Okay. Okay, thank
11 you. Next, we will have Council Member Daneek Miller
12 followed by Council Member Crowley.

13 COUNCIL MEMBER MILLER: Thank you, Madam
14 Chair, and good morning Commissioner to you and your
15 team. Thank you so much for coming out and being a
16 part of this very important hearing. And I know this
17 is time-sensitive so we want to get through this
18 thing. So there's been some talk this morning about
19 policy and procedure that were found and implemented
20 through the patrol guide. Where can--is that
21 available to the public, Council or--and if so, where
22 can it be accessed?

23 COMMISSIONER BRATTON: [off mic] This is
24 one of your issues. [sic]

2 DEPUTY COMMISSIONER BYRNE: We make the
3 Patrol Guide available. I think the Council has seen
4 it in the past. We make it available in response to
5 FOIL requests. There are hard copies available that
6 people can purchase. The Patrol Guide is an evolving
7 document. A number of the procedures in the Patrol
8 Guide are currently being revised under the
9 supervision of the Federal Monitor. Others, as
10 Commissioner Bratton said, like our prohibition on
11 chokeholds is being revised on the department's own
12 initiative.

13 COUNCIL MEMBER MILLER: It is available
14 electronically?

15 DEPUTY COMMISSIONER BYRNE: I'm sorry?

16 COUNCIL MEMBER MILLER: Is it available
17 electronically?

18 DEPUTY COMMISSIONER BYRNE: I don't
19 believe it's available electronically yet. We're in
20 the process of upgrading our website. Our plan of
21 action is now in place. So copies are available to
22 the public, but it's not yet available
23 electronically.

24 COUNCIL MEMBER MILLER: Okay, thank you.
25 Okay. So in terms of consent, and I--and

2 identification, does this--is--is--is the procedure
3 standard throughout assignments? In other words, are
4 detectives held to the same standard as patrol
5 officers?

6 DEPUTY COMMISSIONER BYRNE: There's only
7 one standard of law for a property consent search
8 that's consent by state law. The consent has to be
9 voluntary, and it has to be given knowingly. All
10 officers are trained in the same way whether it's an
11 officer on patrol in her precinct--

12 COUNCIL MEMBER MILLER: [interposing]
13 Okay.

14 DEPUTY COMMISSIONER BYRNE: --or a
15 detective executing the search warrant.

16 COUNCIL MEMBER MILLER: And--and
17 identify--and--and in terms of the officer
18 identifying themselves, would that procedure be the
19 same as well?

20 DEPUTY COMMISSIONER BYRNE: That's
21 another part of the Patrol Guide that requires all
22 officers to properly identify themselves when asked
23 to do so whether they're doing a search or not.

24 COUNCIL MEMBER MILLER: So when--so often
25 when--when there's a dispute in terms of

2 identification that often comes from detectives
3 involved and so forth, I have seen and I think many
4 of us have witnessed people be stopped, cars
5 searched. And--and the police involved jump back in
6 their vehicle and leave and often people don't know
7 who it was that even stopped them. What--and--and
8 you call the precinct, and they won't tell you--their
9 response is that that unit doesn't belong to this
10 precinct. How then do we address that specifically?

11 DEPUTY COMMISSIONER BYRNE: We're doing
12 that a couple ways. As Commission Bratton mentioned
13 now both our vehicles, the Smart Phones that our
14 officers will have or Tablets will have GPS tracking
15 capabilities. So we'll be able to determine which
16 officer's vehicle was in the location at a particular
17 point in time. That's one way that we'll be able to
18 do that going forward.

19 COUNCIL MEMBER MILLER: So, do you think
20 that if they presented a business card that that
21 would undermine their status as a undercover officer?

22 DEPUTY COMMISSIONER BYRNE: Well, your
23 bill specifically carves out undercover officers as
24 not having to provide business cards, and we
25 appreciate that. And we've indicated this is an area

2 where we can have a dialogue with you about this.

3 For the first time in NYPD history all 36,000
4 officers will have an email address, and they'll have
5 a Smart Phone so there are many ways to communicate
6 with the officer.

7 COUNCIL MEMBER MILLER: Okay.

8 DEPUTY COMMISSIONER BYRNE: And we can
9 have a dialogue with you about identification. I do
10 want to point it is an offense, which the CCRB has
11 jurisdiction over and heard about 150 allegations
12 last year of officers failing to identify themselves.
13 Most of those allegations were either unfounded or
14 not substantiated. But one of the remedies any
15 member of the public has when they feel an officer
16 has improperly identified herself is to call the CCRB
17 and file a complaint. And that's within the CCRB's
18 jurisdiction.

19 COUNCIL MEMBER MILLER: Okay. So there's
20 also been a lot of--as it pertains to Intro 540-A and
21 538, it's been--kind of your response and the
22 response of the Commissioner have been there's--these
23 concerns have been addressed through state law. And
24 that by changing this would undermine and impede the
25 officer's ability to--to do their job. In

2 particular, I think that it was testified in
3 particular in the area, which--which required split
4 second judgment decision could--in other words, you
5 couldn't have this law on your mind when making that
6 determination. [bell] So there is--I'm--I'm trying
7 to kind of discern within myself and my mind--I know
8 that the NYPD has been enforcing the recent Right-of-
9 Way Law, which is a State law, which has been
10 superseded here. It also I think that I see
11 similarities I think professionals do on their job
12 making split second judgments. How then would you
13 kind of discern the difference in those situations?

14 DEPUTY COMMISSIONER BYRNE: I think on
15 the Right-of-Way Law, you know, that's a local
16 traffic regulation that clearly is dependent on local
17 conditions. And that's something that every local
18 legislative body has the right and, indeed, the
19 obligation to review as you've done very carefully.
20 When it comes to use of force, that's a statewide
21 concept. It's a well established concept in criminal
22 law. The lawful use of force by a police officer in
23 Buffalo or police officer in North Massapequa in Long
24 Island or Manhattan is not a different standard.
25 It's the same standard. It's based on a reasonable

2 use of force depending up the physical threat that
3 the officer, her partner or members of the public
4 confront. And it's a pretty well established part of
5 the law, which courts and officers understand. I
6 will say there is only one subject in the Police
7 Academy that we require recruits to get 100% pass
8 rate on, and that's on their Use of Force exam.
9 Because we take that part of the curriculum, all
10 parts of the curriculum very seriously. But the law
11 in that areas is pretty clear, and that's why we
12 require our officers to have 100% understanding of
13 that part of the law.

14 COUNCIL MEMBER MILLER: So, in fact, in
15 540-A the position is that state law supersedes
16 anything that could be done here?

17 DEPUTY COMMISSIONER BYRNE: Well, 540-A
18 would modify state law, but also it provides a
19 standard that isn't clear to officers and that leaves
20 them open to second guessing. Proportional has no
21 definition. It has no common sense understanding.
22 It has no legal understanding--

23 COUNCIL MEMBER MILLER: [interposing]
24 Right.

2 DEPUTY COMMISSIONER BYRNE: --where
3 permissible force is well established in state law.

4 CHAIRPERSON GIBSON: Thank you.

5 COUNCIL MEMBER MILLER: And we--you do
6 find the difference in that split-second judgment in
7 that--in the bus operator?

8 DEPUTY COMMISSIONER BYRNE: Split-second
9 judgments are being made every day that have to be
10 made carefully, but correctly for the safety of the
11 officer and the public.

12 CHAIRPERSON GIBSON: Thank you. Thank
13 you Council Member Miller. Next, we will have
14 Council Member Crowley followed by Council Member
15 Cornegy. We've been joined by Council Member Brad
16 Lander and Ritchie Torres.

17 COUNCIL MEMBER CROWLEY: Thank you to our
18 Chair. Good morning Commissioner and to your staff.
19 I have a few questions. First, I'll start with Intro
20 182-A, which is where law enforcement officials are
21 to--if passed would have to identify themselves.
22 There seems to be a willingness on your part to be
23 open, to maybe a modification of this bill. Am I
24 hearing that correctly?

2 COMMISSIONER BRATTON: That's correct as
3 it relates to all of the legislation being proposed.

4 COUNCIL MEMBER CROWLEY: [interposing
5 Right.

6 COMMISSIONER BRATTON: What we sought to
7 do this morning is indicate concern that the
8 legislation that is being proposed may not be
9 necessary in that in many instances with further
10 discussion and collaboration we might arrive at that
11 destination you want to get to, and that we don't
12 have a objection arriving there also. But the way to
13 get there is the issue.

14 COUNCIL MEMBER CROWLEY: With your new
15 training or new technology it--it might be a little
16 easier on the officer to give that type of
17 information with the tools they now have. Being that
18 officers all have the Smart Phones. When somebody is
19 given a summons, it's a ticket, right, with the
20 information about the police officer and where
21 they're supposed to pay the fine or report to? Is
22 that correct? It gets--or it gets mailed to their
23 residence?

24

25

2 COMMISSIONER BRATTON: That's my
3 understanding. Not having issued a summons myself
4 and not having received one, I'm not particularly--

5 COUNCIL MEMBER CROWLEY: [interposing] I
6 haven't received one either.

7 JAMES O'NEAL: [interposing] Can I--

8 COMMISSIONER BRATTON: --familiar with
9 what is on the back of the form.

10 COUNCIL MEMBER CROWLEY: Okay.

11 JAMES O'NEAL: [interposing] Thank you,
12 Commissioner. I'm going to jump in. Yeah, there's
13 identification on the bottom of the summons.

14 COUNCIL MEMBER CROWLEY: So, it could--it
15 could be like a similar type of paper that a police
16 officer gave, be it a business card with information
17 about why that individual was stopped and information
18 about the police officer also in case they wanted to
19 follow up. I--I, you know, I don't think that's so
20 unreasonable. I want to--because partly in the past
21 I felt that, you know, so many of your officers are
22 running from 911 call to 911 call because you've had
23 so few officers, and now we have plan where we're
24 putting on 1,300 new police officers. Which will
25 give your force the ability to have that extra

2 minute, or to be able to explain a little bit
3 further. And to build that type of neighborhood
4 relationship that you have--that you're currently
5 developing in your plan, right?

6 COMMISSIONER BRATTON: That's right.

7 COUNCIL MEMBER CROWLEY: They'll have
8 more time. You know, there was a young 17-year-old
9 recently arrested in my community. I mean he's been
10 arrested like three times in the past two weeks. He
11 keeps on doing the same stuff, breaking into cars
12 that we know of. And then, you know, he's had some
13 drug arrests. And so, I want to get at the heart of
14 your neighborhood policing and see how much of it
15 relates to what it's like, the type of policing
16 you're planning for, monitoring terrorists and known
17 criminals. You were on the radio recently saying
18 that all the gang violence that is increasing, the
19 shootings that are increasing, we as the city, the
20 Police Department knows these individuals because
21 they've known to be arrested so many times before.
22 So in your Neighborhood Policing Model, is there some
23 type of surveillance model that's going to be acting
24 as like a hawk on these known individuals? Because
25 if you keep on getting arrested, be it the kid in my

2 neighborhood who is only 17 or, you know, these gang
3 members that are pushing guns on the street, what is
4 the plan there? So that you're not so much
5 monitoring a whole community through a stop-and-frisk
6 but known individuals who have gotten involved in
7 crime? What way are you going to monitor them?

8 COMMISSIONER BRATTON: The whole focus of
9 what we've been engaged is quality policing, not
10 quantity policing. The idea that, as this Council
11 clearly knows, as this department understands that
12 you cannot arrest your way out of the problem. So I
13 think the peace dividend that I've spoken to, the
14 idea that over the last several years, 800,000 fewer
15 people have been summonsed or stopped by the police.
16 It's a reflection of that increasing focus. What
17 Chief O'Neal has attempted to design with the
18 Neighborhood Policing Initiative is that the officers
19 assigned to a very specific sector get to know the
20 good guys and the bad guys. And that they are
21 informed by the fact that these are people who have
22 been arrested. These are people that we might be
23 dealing with who are probation or parole. These are
24 people that we might be calling in as part of our
25 Cease Fire Initiative if they are known gang members

2 that through interaction [sic] we know who you are.

3 We know what you're up to, and if you continue

4 engaging in it, then we the police, district

5 attorneys, U.S. attorneys, probation and parole. We

6 are going to put the full force and effect of the law

7 against you. [bell] First, the intent is really the

8 idea of prevention, rather than response measurement.

9 COUNCIL MEMBER CROWLEY: Okay, I--just

10 one last question. With the use of force getting

11 100% on the exam is a good think for any graduate

12 coming out of the Police Department. And I

13 understand that we should always have officers using

14 the minimum use of force rather than anything that's

15 excessive. But, how much of the training is really

16 getting at the heart of what is a minimum use and

17 what is excessive? And how much of the current force

18 is getting that training or retraining? And how much

19 is that detailed in the Patrol Guide?

20 COMMISSIONER BRATTON: As it relates to

21 use of firearms, the chart behind me clearly reflects

22 that the emphasis on training two days a year for

23 many years has resulted in a consistent and continual

24 decline in use of firearms in dealing with threats

25 that the officers encounter, including being shot at.

2 In many instances, they don't return fire. The
3 officers have the ability to deal with that force
4 with a less lethal form of force. A major component
5 of recruit training and indeed the in-service
6 training that Commissioner Tucker has created, the
7 three-day training a lot of that will be on
8 administering uses of force to achieve the same
9 result, compliance, prevention. So the thrust of all
10 that we're doing is the idea of understanding the
11 critical importance of police being empowered to use
12 force that they at all times must be conscious that
13 they use it legally and not inappropriately. And
14 also the continuing education of the public about
15 their obligation, the shared responsibility. The
16 shared responsibility being that if the police
17 officer is attempting to arrest you, you have no
18 right under the law to resist that effort. And, I
19 would hope that as that becomes more widely known and
20 appreciated that those two percent of instances in
21 which force is--the use of force arrest is being
22 resisted that that continues to go down as it has
23 been.

24 CHAIRPERSON GIBSON: Thank you.

25 COMMISSIONER BRATTON: Okay.

2 CHAIRPERSON GIBSON: Thank you, Council
3 Member Crowley. Next, we have Council Member Cornegy
4 followed by Council Member Vacca.

5 COUNCIL MEMBER CORNEGY: Good morning.
6 Thank you, Madam Chair and thank you for all of the
7 prime sponsors on these reform bills. Good morning,
8 Commissioner Bratton.

9 COMMISSIONER BRATTON: Oh, I'm looking
10 past you here trying to find out who's speaking.

11 COUNCIL MEMBER CORNEGY: First Dep.
12 Tucker, Commissioner Byrne and Chief O'Neal. So I've
13 been privy to a lot of the new programs that you're
14 initiating plus a visit to the--the new facility for
15 police training, plus just a wealthy round of
16 understanding that there is--there seems to be a
17 commitment of the department to change the culture.
18 However, simultaneously there are opportunities to
19 show the public through so this O for-this whole idea
20 of open mind O for 9 is kind of inconsistent with
21 the--with what you set forward. Which is really a
22 whole wealth of things to show that there is a
23 commitment to changing the culture. I'm---I'm
24 curious as to why especially the Chokehold Bill,
25 which really sets out to codify what your own

2 existing policy is why you would be so averse. Or,
3 what is the aversion to that when you've already made
4 these what I believe to be tremendous strides in
5 changing the culture. Why you would--it seems that
6 your toe is right at the line of really changing the
7 way that the community views the NYPD. And it's
8 going to take a big hairy audacious goal or a big
9 hairy step to really change the perception of the
10 Police Department, and it seems like you're right
11 there. I'm just wondering what the aversion is to--
12 to these reform bills, which would set--which would
13 set that in motion to some degree especially in
14 communities like mine.

15 COMMISSIONER BRATTON: Speaking
16 specifically to your comment about the chokehold, I
17 will ask Commissioner Byrne to reiterate the
18 opposition that we have to what is being proposed in
19 the legislation, which is the criminalizing of that
20 by this Council. As we have already indicated that
21 as part of our constant review and evaluation of our
22 policies that one of the changes that we're making in
23 our Use of Force Policy is that the language that we
24 will be changing will mirror exactly the language
25 that the Council is proposing in reference to

2 chokeholds and their prohibition. But it is the
3 criminalization that you are seeking that I and the
4 Mayor have spoken against. And Larry, if you could
5 just reinforce once again our concern about that as
6 it relates to our officers' feeling [sic] that would
7 be a significant intrusion in their ability to do
8 their job safely.

9 DEPUTY COMMISSIONER BYRNE: In order for
10 officers to use restraint, as much restraint as
11 possible, the department continues to have a ban on
12 chokeholds. We're strengthening that ban. We have
13 put our toe across the line I think by adopting the
14 Council's proposed definition of chokeholds. So
15 that's in--will be in our new policy. But let's be
16 very clear, state law not only does not ban, but it
17 permits the use of a chokehold under appropriate
18 circumstances. We don't believe that the Council
19 should as a matter of judgment contradict state law
20 in this area. If an officer violates the new clear
21 chokehold policy, there are very clear ways to
22 discipline that conduct through our disciplinary
23 process internally through the CCRB oversight. And
24 these cases will be scrutinized carefully going
25 forward. But we don't think criminalizing them,

2 having criminal sanctions on this type of thing where
3 state law actually permits the use of it is an
4 appropriate legislative step at this point. It's as
5 simple as that.

6 COUNCIL MEMBER CORNEGY: So I--I really
7 respect and appreciate your honesty and candor at it
8 relates to that, but obviously as--as not a prime
9 sponsor, but a co-sponsor, I disagree. And in my
10 remaining time I'd just like to ask if you have a
11 record of the old 250s that one box that was checked
12 furtive movement, how many times that was used, and
13 if you could explain furtive movement?

14 DEPUTY COMMISSIONER BYRNE: I don't have
15 that number here. One of the things the court
16 criticized was those types of descriptions to justify
17 a stop, furtive movement, high crime area, high crime
18 neighborhood. Those are no longer a permissible
19 basis to justify a stop, and the new forms will
20 reflect that both in making sure those are not a
21 basis to do a stop. But also in the narrative that
22 officers will now have to describe in their own words
23 the reason every single time they stop a person why
24 they did that. And then we will take that narrative
25 and compare it to the law, and see if that was lawful

2 stop. And we will do that not just on the
3 department, but under the careful supervision and
4 scrutiny of the court appointed Federal Monitor.

5 COUNCIL MEMBER CORNEGY: So, thank you
6 for your answers, and I just want to say to the chair
7 that I got my questions in under five minutes.

8 [laughter] [bell]

9 CHAIRPERSON GIBSON: You're batting 1 for
10 1, Council Member. 1 for 0. Sorry, 1 for 0.
11 Commissioner, you just talked a little bit about the
12 250 form. When is the timeframe of rolling out the
13 revisions? I don't remember if I asked you that
14 question. What's the timeframe?

15 DEPUTY COMMISSIONER BYRNE: I think we're
16 hoping to begin piloting the two new forms in July,
17 and I will get back to you with the commands that
18 we're going to pilot those in. We expect that the
19 pilot will last 90 to 120 days. We'll evaluate
20 during and at the end of that time, the benefits of
21 both forms. We probably will come up with a third
22 form that will inform our experience. One of the
23 issues that we will have and we will be monitoring
24 closely is stops are down so dramatically that we
25 won't have the same large pool of forms that we had

2 when there were 685,000 UF 250s filled out in 2011.

3 But the goal is to get a usable form that our police
4 officers can use that would give meaningful
5 information to the court, to the Monitor and to the
6 department and to the officers to make sure that
7 we're making stops that are lawful and appropriate.

8 CHAIRPERSON GIBSON: Okay. We've been
9 told that there has been an increase in the number of
10 car stops throughout the city while stop-and-frisk
11 cases have gone down. Do you agree? Is that true?
12 And what do you think has contributed to that, and
13 are we doing more checkpoints in certain parts of the
14 city?

15 COMMISSIONER BRATTON: Well, that would
16 be directly attributed to the--attributable to Vision
17 Zero. We put quite a few new officers into Highway
18 Patrol, and so our expectation is those car stops
19 will be going up fairly dramatically.

20 CHAIRPERSON GIBSON: Does that also
21 involve the Collision Unit as well?

22 COMMISSIONER BRATTON: The--I'm sorry,
23 which unit?

24 CHAIRPERSON GIBSON: The Collision, the
25 CIS Unit as well, or is it--are they included in this

2 with some of these car stops. The Collision Unit,
3 that's the Highway Unit.

4 COMMISSIONER BRATTON: The Collision Unit
5 is an investigative entity.

6 CHAIRPERSON GIBSON: Okay.

7 COMMISSIONER BRATTON: The Highway Patrol
8 does the actual stops.

9 CHAIRPERSON GIBSON: Okay.

10 COMMISSIONER BRATTON: The Collision is
11 the--for our practical purposes a detective unit of
12 the Highway Patrol Division.

13 CHAIRPERSON GIBSON: Okay. Next, we'll
14 have Council Member Vacca followed by Council Member
15 Lander.

16 COUNCIL MEMBER VACCA: Thank you.
17 Commissioner, does any of the legislation proposed
18 individually or in total in your opinion restrain you
19 in anyway from doing your job effectively?

20 COMMISSIONER BRATTON: The basis for the
21 voicing of objections to the legislative route is
22 that you've heard me speak of the idea of the Peace
23 Dividend, right. That clearly the department's
24 interactions through Stop Question and Frisk on
25 reasonable suspicion, marijuana focus other than

2 smoking in public, and a lot of other areas that
3 we're seeing declines in police activity that the
4 Peace Dividend referred to. That it has already been
5 embraced by the department or moving in that
6 direction. The second component of this is that
7 there are now very significant new entities with
8 oversight over the department, the Inspector General,
9 the Federal Monitor in areas of concern that these
10 nine bills all touch on. Additionally, CCRB is going
11 through its re-constitution under Richard Emery and
12 it's improvement collaboration with us is bearing
13 very positive peace dividends of its own in terms of
14 the reduced number of complaints. The speed with
15 which we're resolving complaints, which is also of
16 concern to not only the citizens but to cops. So
17 what we are pretty much saying to you is that it's
18 really--some of these bills are just premature. That
19 there is already in place a number of initiatives
20 that the department is undertaking its own. In some
21 instances responding to the increased oversight that
22 let's effectively give these--let's give peace a
23 chance, if you will, peace overtures. Let's see how
24 some of these things work out in the weeks and months
25 ahead, the new 250 form, a whole range of things that

2 were talked about that these nine pieces of
3 legislation are in some instances a piling on into
4 things that are already being addressed with other
5 oversight entities. All of their reports are going
6 to be made available to this Council for evaluation
7 in the spirit of transparency.

8 COUNCIL MEMBER VACCA: So Commissioner,
9 when you mentioned piling on, I did want to ask also
10 do you feel that any of the legislation in your view
11 endangers the crime reductions that we've seen in New
12 York City over the course of the many past years?

13 COMMISSIONER BRATTON: I think what it
14 does is it indicates a significant mistrust of this
15 Council and the men and women of the NYPD. That's
16 why I'm saying that in other words that we clearly
17 saw that the men and women of this department really
18 felt that a lot of these actions were going to be
19 potentially impactful on the careers and their
20 families. We have shown I think over the past 18
21 months that a lot of that was not based in reality in
22 the sense of how it turned out. The legislation that
23 was proposed Stop, Question and Frisk, racial
24 profiling we have clearly shown that the department
25 has been able to address those issues, and hasn't

2 resulted in increased lawsuits. It hasn't resulted
3 in anybody losing their home. So at this juncture as
4 we're seeing and proving to the officers that what
5 has already been put in place is not having an
6 adverse effect on them. I'm still trying to get that
7 message across to them and to their unions that all
8 of a sudden these nine bills coming forward would
9 just stir up that part all over again. And
10 basically, take a workforce that is still dealing
11 with the issues of the last 18 months and once again
12 imply that this legislative body does not trust the
13 New York City Police Department and its officers.
14 And in doing so, it's sending a message that--that
15 they're--that might resonate with them in
16 inappropriate ways.

17 COUNCIL MEMBER VACCA: Commissioner,
18 several months ago I spoke on the floor of the
19 Council and my concern that much of the legislation
20 when it was introduced revolved around
21 micromanagement of an agency. We as an institution I
22 feel should never seek to micromanage an executive
23 agency because basically the legislature is here to
24 do no harm. We're here to do good. I wanted to ask

2 you if you felt that the legislation in any way in
3 your view micromanaged your agency?

4 COMMISSIONER BRATTON: I think I made it
5 quite clear that there are certain prerogatives and
6 powers that I did ensure the managers, not just the
7 Police Commission, but the police commissioners
8 around the city that if the public desired the City
9 Council get involved in the intimate management of
10 those agencies, well, then you don't need police
11 commissioners. Each of you can take over an agency
12 and under the control of the Council. Government
13 cannot function that way in terms of oversight
14 certainly. But significant intrusion into the day-
15 to-day [bell] workings of the department--

16 COUNCIL MEMBER VACCA: [interposing] Yes.

17 COMMISSIONER BRATTON: --can affect the
18 unnecessary impediment to the successful mission.

19 COUNCIL MEMBER VACCA: I thank you for
20 your thoughtfulness, Commissioner, and I know your
21 job is difficult. We look to you because we do have
22 issues here the Council Members have expressed, and
23 we have issues that I hear also about people who are
24 concerned about violent crime. Who are concerned

2 about perception as well as reality, and we look to
3 your professionalism and your leadership. Thank you.

4 CHAIRPERSON GIBSON: Thank you, Council
5 Member Vacca. We have two colleagues left. I know
6 that the Commissioner does need to leave very
7 shortly. We will have Council Member Lander followed
8 by our closer, Council Member Torres.

9 COUNCIL MEMBER LANDER: Thank you, Chair
10 Gibson. Thank you Commissioner to you and your team
11 for being here, and I really also want to thank you
12 for the time that you spend engaging this Council in
13 dialogue. I think having us out to the Training
14 Academy, inviting us to be all in, putting the data
15 forward in the detailed way that you've had, that you
16 have. Putting it up on the web for all to see,
17 engaging us, and New Yorkers in conversation matters
18 a great deal. We are in a very different place than
19 we were in how we can talk about these issues, and I
20 do think that that has helped build a trust that was
21 broken, that was really lacking. So I really do
22 appreciate all those things. I think it makes an
23 enormous difference both in here and out on the
24 streets, and I think that matters a lot. I think you
25 recognize, and we all recognize challenges remain.

2 And, you know, one stat, you know, I want to give you
3 credit for putting a lot of data up on the website
4 when you did last week that speaks to the hard
5 challenges both in opinions and perceptions of
6 officers and in opinions and perceptions of the
7 public. And so one thing that caught my eye was the
8 statistic that only 11% of African-American New
9 Yorkers feel that NYPD officers treat Blacks and
10 Whites equally. And I think to some extent that is
11 the problem that we're continuing to work on solving.
12 That's the context we're confronting, reform in that
13 is a mix of perceptions, reality and history. But
14 it's an issue that we've got, and we're continuing to
15 work on and deal with. And it's in that context that
16 I'm thinking about a lot of the issues here. I'm
17 encouraged by the new Neighborhood Policing Model
18 that you set up, and having officers have time off
19 radio to build relationships. But a concern that
20 I've expressed to you before is that that time could
21 be come net widening time if we're not careful. That
22 the time an officer is walking around, I live the
23 idea of them building relationships, engaging in
24 positive activities, and building more trust. But I
25 worry that what a lot of officers have been trained

2 to do with that kind of time is to do stops and rite
3 summonses. That's just the history of what's been
4 happening in recent years. And so it seems to me,
5 and I know you're trying to change that, but one it's
6 a hard task and two, we've seen directives from NYPD
7 change over time. And so, we're trying to think
8 about the long term as well. So the two things I've
9 been thinking about--one follows on Council Member
10 Richards' issue how do we--how are we going to
11 measure and know what they're doing in that time? So
12 that both those individual officers will know what
13 they're being supervised on? And we'll know in our
14 oversight responsibility what's actually happening
15 there, and that it's not net widening, but that it is
16 building those positive relationships. And then
17 second, is to put some simple protections in place.
18 And that's why the two Right to Know Act bills do make
19 sense to me. I understand you would like things like
20 that in the Patrol Guide, but we have to think for
21 the long-term. The simple requirement that the
22 initial introduction in those non-emergency, non-
23 undercover, non-split second of a moment situations
24 is always a positive interaction with a simple
25 explanation. And the idea that if you're going to be

2 searched you have a right to know what your rights
3 are feel to me like they are basic and simple
4 protections that they're trust building. And that
5 they could go hand-in-hand with the new models of
6 neighborhood policing to get that 11% number far up
7 from where it is, and to build. And I think we're
8 trying to achieve the same thing. This is about
9 peace dividend. But, I just wonder if you can see a
10 way that we can work together to make sure that the
11 next steps you're taking also help us continue to do
12 our work to build more trust in communities and
13 provide those protections that we need.

14 COMMISSIONER BRATTON: Well, quickly,
15 what Chief O'Neal and Chief Gomez have designed meets
16 all those issues. We are talking about we are
17 attempting to through this initiatives see when we do
18 our polling that those numbers increase citizen
19 satisfaction. Not just for the African-American
20 Black community, but throughout the city. Also, the
21 time you're talking about, the concern about
22 measurement of that, Chief O'Neal has built into that
23 structure, and I suggest and offline conversation
24 with him because you have that particular area of
25 interest. About just how that activity is going to

2 be measured and being utilized appropriately. But
3 there's also the opportunity with that activity that
4 for a more intimate collaboration with you the
5 council members that represent those areas. That you
6 getting to know the officers in your areas more
7 intimately than you're allowed to do now because of
8 the area's meetings they'll be attending and that you
9 and some of your staff may attend also. So, this is
10 an attempt to in a sense have a seamless
11 relationship, a measurable relationship and a
12 collaborative relationship across all the spectrum of
13 police, community and political leadership.

14 COUNCIL MEMBER LANDER: And what about
15 just the idea at least in that 30% of time that folks
16 are not on radio making sure that these two--the two
17 provisions of the Right-to-Know Act are followed?

18 COMMISSIONER BRATTON: That's what I'm
19 talking about that at that time will be documented
20 time. What did you do during that time? What--what
21 visitations [bell] did you make? What meetings did
22 you go to? Who did you interact with. That's the
23 same as they fill out memo books for everything else.
24 They'll be filling out memo books. And with the
25 added implementation of the Smart Phones and Tablets,

2 a lot of that information will be much more easily
3 done electronically on those rather than the written
4 memo books that they're so used to.

5 COUNCIL MEMBER LANDER: So not just
6 documenting what they're doing, which I appreciate,
7 but what about the protection side of it and thinking
8 about the Right-to-Know Act protections in the
9 context of the new Neighborhood Policing Model.

10 CHAIRPERSON GIBSON: Okay.

11 COMMISSIONER BRATTON: I guess I'm
12 missing something. I thought I answered your whole
13 question.

14 CHAIRPERSON GIBSON: Clarify that. It's
15 confusing.

16 COMMISSIONER BRATTON: Do you understand,
17 any of you what that last question is about, the
18 Right-to-Know Act? I just don't understand the
19 question. I'm sorry.

20 CHAIRPERSON GIBSON: [off mic] Well,
21 Council Member, you need to [on mic] clarify the
22 question that you're asking.

23 COUNCIL MEMBER LANDER: It seems to me
24 that the protections of the Right-to-Know Act is
25 designed to put in place are precisely to give people

2 more trusting confidence so that if they're
3 approached or stopped or there's an interaction with
4 them at a moment when they don't think they've done
5 anything wrong or--

6 COMMISSIONER BRATTON: [interposing] Or
7 you talking about the Right-to-Know Act that's being
8 proposed with this legislation? Again, I would
9 suggest that because of the very limited time we have
10 left with that conversation I think Chief O'Neal
11 would basically clearly respond to that question of
12 how all of this fits into that. Thank you.

13 CHAIRPERSON GIBSON: Thank you. Thank
14 you Council Member Lander. Council Member Torres.

15 COUNCIL MEMBER TORRES: Thank you, Madam
16 Chairwoman and thank you, Commissioner.

17 COMMISSIONER BRATTON: Did you save the
18 best for last?

19 COUNCIL MEMBER TORRES: We saved--well,
20 not--everyone feels that way. So I often hear the
21 word micromanage, which I think raises the big
22 picture question of what is the proper role of the
23 City Council in relating to policing. I believe the
24 answer to that question is yes. The impression that
25 I get from the NYPD is that the answer to that

2 question is no. You know, as far as I'm concerned,
3 the Council is the legislative body of New York City.
4 We have the right to shape the operations of city
5 agencies, which includes the NYPD. That to me is
6 very different from micromanaging. So on the subject
7 of 182, expecting an officer to identify himself or
8 to explain the reason for an encounter, you know,
9 does that truly rise to the level of micromanagement
10 of the day-to-day operations of the NYPD? It seems
11 to me that it's just setting a general principle of
12 transparency. And how that principle is precisely
13 applied will depend on the discretion of the agency.
14 So I'm--I'm not understanding where the resistance is
15 coming from.

16 COMMISSIONER BRATTON: Well, we thrust of
17 it is the idea the idea that is legislation necessary
18 to meet some of the goals that you have within the
19 responsibilities and powers that we have? Or are
20 there other avenues to arrive at that once again, the
21 same destination, but just taking different ways to
22 get there. What's the discussion on talking about
23 the collaboration that we have a prospective point of
24 view some of which we shared this morning. You
25 clearly with the initiation of the legislation have a

2 perspective or a point of view. And it is the idea
3 of as you know that good neighbors make good fences.
4 Well, in public--in government in matters of public
5 policy, clear lines of authority, power, rights,
6 responsibilities are the best way to, in fact,
7 govern. And so, as we go forward I think whether
8 it's these initiatives or others, that having a clear
9 understanding that when we finally get to it a
10 destination what we agree to do. How we get there
11 staying within our lanes, if you will. You have
12 rights, responsibilities and powers as elected
13 officials. My rights, responsibilities and powers as
14 an appointed official that within the overriding laws
15 that we all have to respond to that the better
16 understanding we have of those fences, if you will,
17 those lanes in the road. So the discussion this
18 morning I think hopefully has clarified that we do
19 have issues with some of this legislation. We think
20 we have potential resolution for a lot of it, and
21 that's what we're encouraging. I think this Council
22 clearly has seen over these last 18 months that we
23 have a prop and it has been very open, very
24 accessible, very transparent. And in many instances,

2 very responsive to the issues and concerns that can
3 ultimately be on the part of your constituents.

4 COUNCIL MEMBER TORRES: Well, I just have
5 a question. Apart from the--I get your point about
6 there are multiple avenues to achieving, although I
7 would argue there is no substitute for legislation.
8 If something is good policy, we should enshrine it in
9 law because there is no telling who is going to be
10 mayor three years from now, eight years from now.
11 You know, it can be overturned at the whim of the
12 next mayor. Whether it has been effective law, it
13 should be enshrined, you know, hopefully in
14 perpetuity. But, do you believe that requiring an
15 officer to identify themselves in a day-to-day
16 encounter is an improper exercise of our law? Is
17 that--?

18 COMMISSIONER BRATTON: We made it, I
19 think very clear some of our concerns about that.
20 That officers already wear name tags, have badges,
21 and in some instances the ability that exigencies are
22 a situation that would preclude having the ability to
23 stop and identify someone and that's what we're
24 talking about.

2 COUNCIL MEMBER TORRES: But excluding
3 those circumstances. So there's and officer who
4 might identify himself upon request, which is
5 provided for by other--your a patrol guy or state
6 law.

7 COMMISSIONER BRATTON: [interposing]
8 Right.

9 COUNCIL MEMBER TORRES: I think we're
10 referring to the ability of an officer to identify
11 himself proactively without prompting as a de-
12 escalating device.

13 COMMISSIONER BRATTON: [interposing]
14 That's the area of--

15 COUNCIL MEMBER TORRES: I think we need
16 to legislate that.

17 COMMISSIONER BRATTON: --discussion we're
18 talking about that does not necessarily require
19 legislation to achieve that accommodation.

20 COUNCIL MEMBER TORRES: Okay, I will
21 respectfully disagree with you. My time is expiring,
22 but I want to press on the Deputy Commissioner on
23 your earlier assertion about the consent to search.
24 I think you believe--you said it was preempted by
25 CPL, if I'm correct?

2 DEPUTY COMMISSIONER BYRNE: I didn't say
3 it was preempted. I said that state law is quite
4 clear that in order for a consent search to be valid,
5 it has to be given knowingly and voluntarily. That
6 is a matter of state law. That is the standard.
7 There's no requirement that it be--the consent be
8 given or documented in writing. The requirement is
9 that consent be given knowingly and voluntarily.
10 That's well established state law for decades.

11 COUNCIL MEMBER TORRES: So I'm not clear.
12 Do you believe that consent to search is preempted by
13 state law?

14 DEPUTY COMMISSIONER BYRNE: Consent to
15 search is defined by state law absolutely.

16 COUNCIL MEMBER TORRES: Do you believe
17 it's preempted?

18 DEPUTY COMMISSIONER BYRNE: Yeah, I think
19 that's the [bell] prerogative of the State
20 Legislature and the courts who have interpreted what
21 the Fourth Amendment requires.

22 COUNCIL MEMBER TORRES: Would you know
23 which provision preempts it?

24 DEPUTY COMMISSIONER BYRNE: It's settled
25 case law that's interpreted this for decades that

2 consent must be known and voluntary. And to change
3 that that's the prerogative of the State Legislature,
4 which controls the Penal Code, not the City Council.

5 COUNCIL MEMBER TORRES: Well, I have
6 unlimited questions, but my time has expired so--

7 CHAIRPERSON GIBSON: Thank you very much
8 Council Member Torres. Commissioner, as you leave, I
9 just want to ask a very quick question. Most of the
10 officers that are patrolling our communities do they
11 have business cards? Not those at the detective
12 level, but officers that are patrolling communities?

13 COMMISSIONER BRATTON: They do not.

14 CHAIRPERSON GIBSON: They do not?

15 COMMISSIONER BRATTON: No.

16 CHAIRPERSON GIBSON: So if they are to
17 provide their information it would be verbal or there
18 would be some sort of a written procedure that
19 happens right now? So there's no business card that
20 is given to any individuals?

21 COMMISSIONER BRATTON: That's correct.

22 CHAIRPERSON GIBSON: Okay, okay. So I
23 just want to go on record just in terms of some of
24 the follow up that we've had conversations about
25 today. The Consent to Search form, we're going to

2 see a copy of that. We're also going to have a more
3 detailed conversation with Council Member Debbie Rose
4 and the deployment of those officers that have high
5 CCRB complaints and/or lawsuits. And just
6 information on how we are deploying many of those
7 officers. And then the changes that we're making to
8 the UF-250 form, rolling that out and the two
9 commands and some of the revisions. If you could
10 share that information with us as well. Okay? Thank
11 you for your presence here today. I hope--I tried to
12 stay on time. I appreciate it, and it and I know
13 that you will leave someone behind. Thank you
14 Commissioner Bratton. Thank you to all of the chiefs
15 who are here, and we will take a five-minute break
16 before we resume with the next part of our hearing.
17 Colleagues, I encourage you to please stay behind if
18 you can. We have lots of testimony for advocacy
19 groups, and members of the public. So please I urge
20 you to stay with us. Thank you.

21 [pause]

22 [gavel]

23 SERGEANT-AT-ARMS: Quiet please. Quiet
24 please.

25

2 CHAIRPERSON GIBSON: Good afternoon
3 everyone. I am Council Member Vanessa Gibson, the
4 Chair of the Committee on Public Safety. I welcome
5 you all back to our hearing on nine bills before the
6 agenda, Intro 182, Intro 539, Intro 539, Intro 540,
7 Intro 541, Intro 606, Intro 607, Intro 809, and Intro
8 824. We have just heard from Police Commissioner
9 William Bratton and his staff and their position on
10 the bills before the agenda, and now we have advocacy
11 groups and other members of the public who have
12 signed up to testify. I also encourage anyone who is
13 here and has not signed up to please do so at the
14 front with our sergeant-at-arms. And also for those
15 of you that may need to translation services, habla
16 Espanola to please see the gentleman in the back, and
17 he will be able to help you. Our first panel is
18 Ayisha Irfan representing Manhattan Borough President
19 Gale Brewer. Cynthia Conti-Cook from the Legal Aid
20 Society and CPR; Candice Oliver representing SEIU
21 32BJ; Michael Print--Price from the Brennan Center
22 for Justice, and Shelby Chestnut from the Anti-
23 Violence Project, AVP. Okay. So we have Ayisha, we
24 have Cynthia, Candice, Michael and Shelby.

25 [pause]

2 CHAIRPERSON GIBSON: Okay, thank you all
3 for being here. Thank you for your patience. And we
4 have a three-minute clock. So if you can or feel
5 free to, can always summarize your remarks or speak
6 off the cuff. We like that, too. But we do have all
7 of your testimony, which will be submitted into the
8 record. Okay, so we'll begin with the representative
9 from the Manhattan Borough President's Office. Thank
10 you again for being here.

11 AYISHA IRFAN: Good afternoon. My name
12 is Ayisha. I'm testifying on behalf of Manhattan
13 Borough President Gale Brewer. Good afternoon. My
14 name is Gale A. Brewer, and I'm the Manhattan Borough
15 President. Thank you Chair Gibson and the Committee
16 on Public Safety for holding this very important
17 hearing, and for the opportunity to testify today.
18 Today's hearing is on nine pieces of proposed
19 legislation most of which aim to increase
20 transparency and accountability in the New York
21 Police Department. The lack of accountability and
22 transparency are I believe at the crux of the
23 challenging relationship between the NYPD and
24 communities across New York City. I care deeply
25 about repairing the strained relationship. As a

2 member of City Council in 2013, I joined many of you
3 in this room to help pass the Community Safety Act, a
4 set of bills that expanded the categories of
5 individuals protected from discrimination and helped
6 establish independent oversight of the NYPD with the
7 opening of the Office of the Inspector General. The
8 passage of these bills was an important first step in
9 rebuilding trust between communities and the NYPD.
10 However there is much more work to be done. Over the
11 past year, my office has worked tirelessly with
12 constituents, police officers, civic organizations,
13 non-profits and youth groups to continue to address
14 these challenges. As borough president, I have been
15 proud to sponsor a series of police community
16 dialogues in Manhattan and I'm holding another one in
17 a few weeks. Each was attended by over 150 residents
18 and police officers. Participants were first asked
19 to describe the current relationship between the
20 community and the police, and to envision what that
21 ideal relationship should be. The resounding answer
22 was a relationship based on mutual respect and trust.
23 Participants were then asked to identify the
24 individual and systemic changes that would advance
25 this vision. The vast majority of their

2 recommendations mirror the goals of the proposed
3 pieces of legislation before the committee today from
4 increased social services in communities of need to
5 requiring police officers to wear body cameras. As
6 our country grapples with the issues of police-
7 community relations, we have a duty to set a positive
8 and constructive tone for improving accountability,
9 transparency and community police trust. I commend
10 the committee and Chair Gibson for holding this
11 hearing today, and look forward to working with the
12 Council and the NYPD to achieve these goals, and
13 strengthen the relationship between communities and
14 the New York City Police Department. Thank you.

15 CYNTHIA CONTI-COOK: Good afternoon.
16 Cynthia Conti-Cook on behalf of the Legal Aid
17 Society. I support on behalf of the Legal Aid
18 Society all of the bills that are being discussed
19 today. I'm speaking specifically about the Right to
20 Know Act today. But before I do that, just very
21 quickly, public defenders have the opportunity to
22 litigate issues of consent. We have almost never
23 seen a consent to search form being filled out in any
24 circumstance other than for the purposes of a
25 litigation whether there was a lawful search in a

2 house. So I just wanted to emphasize that to the
3 extent the Commissioner testified this morning that
4 the Consent to Search form is used in any other
5 circumstance, we have not see that to be true. Also,
6 I just wanted to emphasize that the resisting arrest
7 charges how often resisting arrest charges are
8 launched--are lodged is a more accurate
9 representative figure of how often force is used than
10 self-reported use of force by officers themselves.
11 Moving onto our testimony, we support the Right to
12 Know Act and encourage the Council to pass this
13 legislation. It would be an important step in our
14 community's ability to negotiate the contours of
15 their rights on the street. We support this
16 legislation because we see the kind of improper
17 policing that occurs when law enforcement officers
18 are allowed to remain anonymous, and are allowed to
19 act without informing people of their rights. And
20 assuming and hoping that they don't know them in
21 their actions. Along with Sherman and Sterling we
22 recently filed a case in which two plain clothes
23 officers who have been able to escape accountability
24 for unlawful stop and search because they were never
25 identified. This happened on July 9th, 2013 in

2 Washington Heights. A young Black man in his 20s
3 brought his associates degree to show to his mentor
4 and elder, a retired professional Black man in his
5 60s. They were directly in front of the elder man's
6 home at the corner of Westwood and 42nd Street and
7 Riverside Drive. During that conversation, the young
8 man reached into his backpack and presented a copy of
9 his diploma to his elder to show him proudly. He
10 then put his diploma back into his bag. Shortly
11 after, police officers 1 and 2, who have gone unnamed
12 since, approached the man in the vehicle and--I'm
13 sorry--approached the men from a vehicle and
14 confronted them aggressively, threatened them and
15 forced them to produce identification. An officer
16 went directly into the young man's bag without asking
17 for permission or consent or anything of that nature.
18 When they found nothing but the diploma, they
19 realized they had nothing to stop him for, and
20 quickly ran away before our clients could even ask
21 what their badge numbers were. The officers never
22 identified themselves. Within less that 24 hours our
23 clients went to the precinct, the local precinct
24 where this happened to complain about the conduct.
25 Even in less than 24 hours [bell] those officers went

2 unnamed and the CCRB was not able to identify them
3 through their investigation. For these reasons, we
4 feel like encounters like this would benefit
5 extremely from the Right to Know Act. Thank you.

6 CHAIRPERSON GIBSON: Okay. Thank you.

7 CANDICE TOLLIVER: Good afternoon. I'm
8 Candice Tolliver representing SEIU 32BJ. With more
9 than 145,000 members, SEIU 32BJ is the largest union
10 of property service workers in the United States. In
11 New York City we represent over 70,000 workers. We
12 are a diverse group in every way representing various
13 nationalities, ethnicities and races. Our workers
14 come from all over the city representing every
15 borough. We focus our work on making sure our
16 workers and all low-wage workers receive fair pay and
17 good benefits that bring a good quality of life.
18 Quality of life, however, is not just about the job
19 you have. It's also about living in a safe vibrant
20 community and being treated with dignity and respect.
21 The Right to Know Act is about raising the quality of
22 life for all New Yorkers. 32BJ supports this
23 legislation because it helps promote public safety
24 while ensuring that our members, their families and
25 neighbors are treated fairly and respectfully by the

2 NYPD. This common--these common sense bills
3 comprised of the NYPD Identification and the Search
4 Consent Bill increases the accountability of the NYPD
5 and standardizes everyday encounters between police
6 and the community. Intro 182-A simply requires
7 officers to identify themselves to the public and
8 explain the reason for the encounter. Currently, New
9 Yorkers have the right to ask an officer for
10 identifying information, but often these requests
11 leads to escalation that is unsafe for citizens and
12 the police. This law would change that. By
13 requiring officers to provide this information when
14 they are engaging the public in law enforcement
15 activity, the NYPD would be building better
16 relationships with communities they serve and
17 honoring their motto of courtesy, professionalism and
18 respect. Intro 541 will provide New Yorkers with
19 information about their rights regarding searches by
20 law enforcement. We all have the right to privacy,
21 but all too often that right is violated by officers
22 when they perform searches without informing people
23 of their right not to be searched. Under current
24 law, New Yorkers can refuse a search when there is no
25 legal justification for that search. But again, that

2 places the entire burden on a citizen to deny an
3 officer that permission. Further, many people have
4 no idea that they even have the right to refuse a
5 search. The Search Consent Bill would shift that
6 burden back to the officers making sure he or she
7 provides the citizen with information regarding that
8 search and allow the person to make an informed
9 decision regarding that interaction. This law will
10 also help to build trust between police and
11 communities who feel that officers often abuse their
12 authority. we thank Council Members Torres and
13 Reynoso for recognizing the need to address the issue
14 of police encounters, and how they affect our
15 community. Far too often New Yorkers, mostly people
16 of color, have negative uncomfortable interactions
17 with police. These bills will ensure that all New
18 Yorkers regardless of race, ethnicity or
19 socioeconomic status are treated fairly. These
20 represent--these bills represent the New York that we
21 all deserve. Thank you.

22 MICHAEL PRICE: Thank you, Chair Gibson.
23 Thank you for holding this hearing and inviting
24 public comment. I'm going to speak about Intro 607.
25 My name is Michael Price. I'm an attorney with the

2 Brennan Center for Justice and the Liberty
3 International Security Program. Brennan Center
4 focuses on helping to safeguard our constitutional
5 rights in an age of terrorism. We've worked with the
6 City Council in 2013 to help create the Inspector
7 General for the New York City Police Department. At
8 the same time, part of our work focuses on scholarship
9 and advocacy related to privacy and new technologies,
10 and body cams certainly fall into that category.
11 While body cameras have the potential to improve
12 police accountability, their deployment also requires
13 careful attention to the rules on what information is
14 kept, how long it's kept and who has access to it.
15 So, for example, whether it's available to other
16 government agencies, whether it's available to the
17 public through the Freedom of Information Law
18 requests. We, therefore, support the creation of the
19 task force, and not that its founding would include
20 analyzing the critical privacy implications.
21 However, the bill does not provide for consultation
22 with stakeholders, which we believe is necessary in
23 light of the complex issues presented. The one
24 recommendation we would have is that they build and
25 tweak to implicitly include that requirement. But as

2 I was preparing testimony to day, what I wanted to
3 draw the Council's attention to were the current
4 rules that are in place. As you are aware from the
5 testimony this morning, the NYPD is already operating
6 about 60 body cams in five precincts as a result of
7 the Floyd litigation. Unfortunately, the rules that
8 govern current use of body cams were drafted and
9 implemented I would say unilaterally by the NYPD
10 without the kind of consultation of stakeholders on
11 these important issues. And in going through the
12 NYPD's current rules, which I do in some detail in my
13 testimony. I'll summarize here. There were four key
14 issues that jumped out at us as really requiring the
15 attention of the qualified task force especially when
16 it comes to when officers should and shouldn't turn
17 on the cameras. There's a tension in the policy
18 between turning them on every--for every radio call
19 and then not using them in places where people have a
20 reasonable expectation of privacy like their homes.
21 That would present a problem for example in the
22 context of a domestic abuse call. Somebody who's
23 calling the police for help shouldn't also have to
24 consent to having the inside of their home recorded
25 at the same time. At the same time, there are issues

2 related to retention and access to data. The footage
3 is supposed to be kept for a year across the board at
4 the very least. But on the one hand that is a long
5 time to keep recordings of all of this data. [bell]
6 At the same time a federal civil rights claim takes
7 about--has a statute of limitations of about three
8 years. So, it's important to strike the right
9 balance. In short, the use of body cameras raises
10 difficult questions that haven't yet received the
11 intensive consideration, expert advice and public
12 input they deserve. We support Intro 607 and
13 encourage the Council to require the task force to
14 consult broadly as it moves forward with its mandate
15 to ensure that all relevant issues are considered and
16 addressed. Thank you

17 [pause]

18 SHELBY CHESTNUT: Thank you Chair--that
19 you Chairwoman Gibson. Good afternoon. My name is
20 Shelby Chestnut. I'm one of the Co-Directors of
21 Community Organizing and Public Advocacy at the New
22 York City Anti-Violence Project. AVP envisions a
23 world in which all LGBTQ and HIV affected people are
24 safe, respected and live free of violence. I want to
25 thank the New York City Council for the opportunity

2 to speak with you today, and offer this testimony.

3 As an LGBT organization working to end all types of

4 violence against LGBTQ and HIV affected people and a

5 voting member of Communities United for Police Reform

6 Coalition, AVP supports the passage of Intro 182-A

7 and 541, which is pending before the New York City

8 Council. Which would require law enforcement

9 officers to identify themselves to the public and to

10 provide notice, and obtain proof of consent to search

11 individuals. The 2014 National Report on Hate

12 Violence against LGBTQ people--LGBTQ--LGBTQ and HIV

13 affected people by the National Coalition of Anti-

14 Violence Programs, which we coordinate, documents a

15 number of troubling findings related to the--to the

16 intersections of LGBTQ survivors of violence and

17 their interactions with the police. Transgender

18 survivors were six times more likely to experience

19 physical violence from the police compared to other

20 survivors. Additionally, transgender people of color

21 were six times more likely to experience police

22 violence when compared to other survivors. And Black

23 LGBTQ survivors were almost two times more likely to

24 experience police violence compared to other

25 survivors. These numbers point to the fact that the

2 very people who should be protecting LGBTQ and HIV
3 affected survivors are often times the very people
4 responsible for further increasing survivors'
5 experience of violence. Locally in New York City
6 while data is limited as we are one of the only
7 agencies who formally collects LGBTQ specific police
8 violence data. We routinely hear from LGBTQ
9 community members is that people are profiled for
10 their actual or perceived gender identity and sexual
11 orientation and subject to harassment and violence.
12 Routinely we hear stories where transgender women of
13 color are subject to this very profiling and searches
14 simply for their actual or perceived gender identity.
15 Let me skip ahead. In 2013, the New York City
16 Council made history by passing landmark legislation
17 with a veto proof majority know as the Community
18 Safety Act. And now here's a chance to once again
19 make history and pass Intro 182-A and 541 known as
20 the Right to Know Act. As noted above, police
21 violence and misconduct is deeply impacting LGBTQ
22 and HIV affected survivors of violence nationally and
23 right here in New York City, and the passage of this
24 critical legislation would greatly help us in having
25 safe and trusting relationships with the NYPD. AVP

2 has heard many concerns that Intro 182 and 541 [bell]
3 would hinder an officer's ability to properly do
4 their jobs, and this is just not the case. We at AVP
5 along with many of our coalition members feel that
6 this allows the NYPD to further do their job in the
7 ways that they are supposed to in the first place.
8 And I think as noted earlier today by some of the
9 Commissioner's comments that it just does strengthen
10 what we're saying is not happening in the first
11 place.

12 CHAIRPERSON GIBSON: Thank you all.
13 Thank you for your testimony and for your presence.
14 I just want to make sure I acknowledge my colleagues
15 who are still here with me. Thank you guys, Council
16 Members Reynoso, Lancman and Cornegy and we are also
17 joined by Council Member Rosenthal. And I know my
18 colleagues have questions. So let me just throw out
19 one question to Mike at the Brenna Center about Intro
20 607.

21 MICHAEL PRICE: Sure.

22 CHAIRPERSON GIBSON: The Commissioner
23 talked about the existing task force, right. It was
24 kind of predicated out of the lawsuit, and mentioned
25 that there is the Federal Monitor in terms oversight.

2 So he thought that this bill is duplicative because
3 we already have a task force. What we have been
4 saying, you know, and the reason behind this bill is
5 because we don't know who those members are on the
6 task force. We don't know if all of the stakeholders
7 are involved, you know, in the various parts of
8 dealing with the body camera implementation, the 60
9 we have as well as the expansion. They're looking to
10 expand about 1,500--

11 MICHAEL PRICE: [interposing] Uh-huh.

12 CHAIRPERSON GIBSON: --right? SO he
13 didn't think the bill was necessary, but I want to
14 ask from your perspective in supporting the bill do
15 you think that this legislation if enacted would
16 actually complement the work and it wouldn't be, you
17 know, kind of pushed under a lawsuit. And then we
18 would have a little bit of oversight. The Council in
19 terms of who those members are, the Mayor, the City
20 Council and all the other stakeholders will be
21 included.

22 MICHAEL PRICE: I think the bill would
23 complement that process very well. We, as you noted,
24 have a pilot program now. We have rules, and we
25 don't quite know how we got those rules. And the

2 NYPD testified this morning that there was some
3 discussion of this in an event last week. We were
4 there and people were not holding hands and saying
5 this is the right policy to have in place. We urge
6 consultation so that everybody is really on the same
7 page. With I think a task for like the one the
8 Council is describing especially if it includes in
9 its mandate consultation with stakeholders. It
10 should bring everybody onto the same page, and allow
11 us to establish policies going forward that will work
12 both to increase police accountability and maintain
13 privacy as the program gets scaled up.

14 CHAIRPERSON GIBSON: Got you and then I
15 think it's Intro--I'm starting to memorize these
16 bills--Intro 182, right before the Commissioner left,
17 I asked the question about the majority of police
18 officers not having business cards. And so it makes
19 it a challenge for those interactions where an
20 individual does want to record the information of
21 that officer. I just don't know how, you know, in
22 practical reality how we can do that absent of
23 having, you know, no business card. So what are your
24 thoughts on that? Are you surprised that officers do
25 not have business cards. What would you suggest as a

2 way that we can push this bill, and really make sure
3 that there is an actual exchange of information from
4 the police officer?

5 MICHAEL PRICE: The Brennan Center hasn't
6 taken a position on that bill at this time.

7 CHAIRPERSON GIBSON: Okay.

8 CANDICE TOLLIVER: Yeah, I mean I think,
9 you know, some officers do carry business cards,
10 detectives and higher ranking officers.

11 CHAIRPERSON GIBSON: Exactly.

12 CANDICE TOLLIVER: So I don't think it's
13 so uncommon to believe that, you know, a lot of
14 officers can carry business cards. And we really
15 think that sort of the encounters between people and
16 officers are really intense and that people are
17 nervous and they're scared and they're afraid.

18 CHAIRPERSON GIBSON: Sure.

19 AYISHA IRFAN: So to ask them to sort of
20 make sure they record all the information about that
21 officer without inciting, you know, that officer is
22 really hard to do.

23 CHAIRPERSON GIBSON: Right.

24 AYISHA IRFAN: By mandating that that
25 officer provide that business card at the beginning

2 of the end of the encounter, would take that onus off
3 of the individual to sort of make sure that they're
4 recording everything that happened, and documenting
5 the identification of the officer.

6 CHAIRPERSON GIBSON: Okay. Thank you.
7 Council Member Reynoso.

8 COUNCIL MEMBER REYNOSO: Hello, guys and
9 thank you so much for being here, and your testimony.
10 I wanted to ask I guess three questions. You
11 mentioned that there was no consent--you've never
12 heard of a consent form being filled out for any type
13 of--and I just want to be clear that they talked
14 mostly in homes. So searches that were happening at
15 homes or in apartments I guess in New York. And you
16 don't think you've seen or heard of that happening?

17 CYNTHIA CONTI-COOK: To clarify yes when
18 it is a home search that is in question, that is the
19 only circumstance that we've seen the Consent to
20 Search form being presented. And about that, I've
21 had at least one case where it was very obviously
22 filled out after the search had already occurred. So
23 there's problems within that and how--and how it's
24 actually in practice delivered anyway. But what I

2 wanted to say is that I've never seen it presented in
3 any other circumstance other than in a home.

4 COUNCIL MEMBER REYNOSO: Well, I think
5 that they made mention to that, and what I want to do
6 is expand that form to some degree, and with it bring
7 it forth some oversight and some changes to make sure
8 that we do it right way. With the LGBTQ community
9 recently I heard that because of--and I want to make
10 sure that I get the testimony correct. Actual or
11 perceived gender identity. They're being profiled,
12 and after they're being profiled, they're asked to
13 empty out their pockets. And when they find condoms,
14 that the condoms are being used as their
15 justification for street walking or prostitution.
16 And that--those are the types of things that we're
17 trying to make sure that if, you are stopped, you
18 identify yourself and you identify the reason for the
19 stop and you can't justifiably claim because of
20 perceived or actual gender identity that you are a
21 pros--you're engaging in street walking. Then they
22 won't be able to ask you thereafter to empty out your
23 pockets, and in doing so incriminating yourself for
24 carrying condoms. So I just heard that. I think
25 I've heard it before, but I think there was a recent

2 article that showed that to be the case as well.

3 What other experiences or even that, if you can speak
4 to that experience as to what are the big concerns in
5 regards to the engagement of the LGBT community with
6 the police?

7 SHELBY CHESTNUT: Well, I think the
8 confiscation of condoms is perhaps maybe a separate
9 conversation because we're working on some state
10 level legislation for that. But I think that that's
11 one example that really highlights the ways in which
12 LGBTQ folks particularly trans women are profiled to
13 be engaged in sex work. Whether they are or not is
14 not really point. I mean if you're looking at one
15 who is then having the police interactions solely
16 based on their gender identity or their sexual
17 orientation regardless whether it's actual or
18 perceived. And then sort of looked at as if there is
19 something wrong with their presentation and how
20 they're dressing. You're (1) profiling who they are
21 as people, but then, (2) sort of othering them. And
22 we do find that if you look at sort of LGBT homeless
23 populations in this city or just LGBT folks in
24 general, they're underemployed. Homelessness rates
25 are much higher and, you know, you're making spaces

2 that are already very limited to them that much more
3 unsafe. The services and opportunities to much of
4 what people have spoken about increase that sort of
5 moment where anyone is interacting with a police
6 officer. You're likely uncomfortable. You likely
7 are not remembering your rights as a citizen
8 interacting with the police. And just ensuring that
9 it's happening, and deterring the risk of sort of
10 homophobic, transphobic, anti-LGBTQ slurs or
11 violence, which I noted being used against folks.

12 COUNCIL MEMBER REYNOSO: And I know
13 recently 30 LGBTQ organizations endorsed this
14 legislation. I'm very--very happy to know that
15 they're no board, and that we can have this larger
16 conversation about especially the transgender
17 community. And Bushwick we know has been in--

18 SHELBY CHESTNUT: [interposing] Yeah.

19 COUNCIL MEMBER REYNOSO: --this issue.
20 We're trying to really--we're trying to address it
21 and work together. But I'm glad that you guys are in
22 the fight working with us to make sure that we hold
23 the police accountable. And ensure that police and
24 community interactions are happening more positively
25 through law. The last thing I wanted to ask is I see

2 that Borough President Brewer is generally supportive
3 of the reform movement. I just want to ask is there
4 anyway that we can get her on record as to being
5 supportive of a specific piece of legislation or what
6 ones those are? Which ones?

7 AYISHA IRFAN: I'm happy to continue that
8 conversation.

9 COUNCIL MEMBER REYNOSO: Thank you very
10 much. Thank you, Chair.

11 CHAIRPERSON GIBSON: [off mic] Thank
12 you. [on mic] Thank you Council Member Reynoso, and
13 colleagues do you have any questions? Council
14 Member? Okay. Thank you. That's it. Thank you so
15 much for being here. We have your testimony, and we
16 thank you for being here, and for your testimony
17 today. Thank you so much.

18 MICHAEL PRICE: Thank you.

19 [background comments]

20 CHAIRPERSON GIBSON: Okay, next we will
21 have Kirston John Foy of the National Action Network
22 and he will be joined by Ms. Gwen Carr, the mother of
23 Eric Garner. Thank you both for being here today.

24 [pause]

2 KIRSTON JOHN FOY: Good afternoon, Madam
3 Chair. Good afternoon Council Members Lancman,
4 Cornegy and Reynoso and to the Council at large. My
5 name is Minister Kirston John Foy. I'm the Northeast
6 Regional Director for the National Action Network,
7 and I'm joined by Gwen Carr, the mother of Eric
8 Garner. And we are here to support police reform and
9 accountability philosophically and ideologically, but
10 very specifically, we are here to support the
11 legislation, which seeks to mandate that the police
12 inform us of rights that we already possess. The
13 right to give or deny consent is a right that every
14 American citizen already has. The right to know why
15 they are being stopped and questioned by a police
16 officer is a right that every American citizen
17 already has. The right to breathe and not have the
18 breath of life choked out of is a right that every
19 American citizen already has. And so we are here to
20 say that the City of New York and the Police
21 Department, the New York City Police Department
22 should be mandated not just to respect those rights,
23 but to inform citizens of those rights. We
24 specifically are referring to the Right to Know Act
25 as well as Council Member Lancman's Anti-Choking

2 Bill--legislation. It is clear to us that as we
3 invest another \$170 million in a force that's 13,000-
4 -,300 uniforms larger than that is an investment that
5 many of us do not want to make but are going to make
6 anyway. And since we're going to make that
7 investment, it should be incumbent upon the Police
8 Department to take a step in our direction as well.
9 They asked for trust, but what they are really asking
10 us to do is to trust that we should trust them. And
11 so that's a little bit too much trust without
12 concrete reforms. And so, if they are going to
13 continue to require greater and greater investment
14 from the people of the City of New York, then we have
15 every right to require greater and greater
16 accountability for a larger and larger force. I'm
17 sure everything that can be--can and has been and
18 should have been said, has been said. And so I'm
19 going to pass the mic onto Ms. Carr.

20 GWEN CARR: Good afternoon everyone, the
21 Council Members, Mr. Reynoso, Mr. Cornegy, Mr.
22 Lancman and all of the Council people. As you know,
23 I am the mother of Eric Garner. Eric was the victim
24 of a chokehold from a police officer that caused his
25 death. The chokehold is supposedly to be unaccepted

2 practice of the Police Department. But when a
3 homicide is caused by a chokehold in the Police
4 Department, it seems like the superiors they look the
5 other way and, which to me it gives them--the
6 officers the thumbs up to do what, you know, they
7 want to do. Because there is no accountability for
8 their gross misconduct. There is no penalty. None
9 of the officers that murdered my son lost any pay.
10 They weren't out of work. They go home to their
11 children every night or every morning. My son can't
12 go home to his children, and where is the justice in
13 this. People come up to me and they say, sorry for
14 your loss. I didn't just lose Eric, he was murdered.
15 Let's call it what it is, and he was murdered by
16 Police Officer Pantaleo and five other officers.
17 But, still there's no accountability. And nobody is
18 standing accountable for this action. I don't
19 believe that this justice system is this unjust that
20 they would just let a police officer murder an
21 individuals that's not committing a crime, unarmed
22 and go on about their daily lives. And I call it
23 murder because it is what it is. It's not only my
24 words. There were two medical examiners, and one of
25 the medical examiners was a police forensic examiner.

2 Look and see what they said it was. And so for this,
3 I think that people should--the lawmakers should look
4 more closely into these things. And that's not
5 enough, let's go to the videotape. Now, they're down
6 there taking down the flags--the Confederate flags
7 down in the South. They need to take down the flags
8 that's flying over Staten Island of injustice, and so
9 many other towns. That's why I'm asking for the
10 maximum support from all of you, all of the Council
11 people, and from the progressive Council--Council
12 Caucus. And Mr. Antonio, you are for one. I would
13 like for you to sign onto that bill, and the Speaker
14 of the House, I would like for her--Melissa Viverito,
15 I would like for her to sign onto the bill. Ritchie
16 Torres, James Van Buren. I ask you to stand with us.
17 This will be a step towards police reform and
18 accountability. Thank you.

19 CHAIRPERSON GIBSON: Thank you very much.
20 We're doing that instead of clapping. Thank you
21 Minister Foy--Kirston. Thank you, Mrs. Carr for
22 being here for your support, for your strength
23 through and unspeakable tragedy that no one will ever
24 understand that you and you family-- I know it's
25 difficult to keep retelling the story, and for being

2 here. But know that we hear you, and we are doing
3 our very best to support you to make sure that this
4 type of tragedy does not happen again. It is not
5 easy when you talk about reforms, but everything is
6 possible because I always believe we serve a higher
7 power.

8 GWEN CARR: Yes.

9 CHAIRPERSON GIBSON: And so, I am
10 thankful that God has kept you, and he is going to
11 continue to keep you. And know that this City, we
12 all stand with you and your family during this time,
13 and we will continue to pray for your strength as you
14 being an advocate for not just the memory of your
15 son, but for your grandchildren and for your entire
16 family. All of my colleagues who are here all have
17 questions. And I know we will obviously be very
18 mindful and sensitive because this is a very
19 sensitive topic. So I will begin with Council Member
20 Reynoso and then Council Member Williams, Cornegy and
21 Lancman. Thank you, colleagues.

22 COUNCIL MEMBER REYNOSO: Thank you so
23 much for begin here first and foremost and for your
24 testimony. I really want to say that what you've
25 done thereafter the tragedy that happened in Staten

2 Island, I think we've seen a lot of progress being
3 made especially while we're in it, but we're looking
4 for more progress to be made. But I had a
5 conversation with Council Member Rory Lancman shortly
6 after the testimony of the Commissioner in regards to
7 the Chokehold Bill, and I had told him I was going to
8 sign onto. So I just would like to let the counsel
9 to the committee that I would like to sign onto the
10 Chokehold Bill and Rory Lancman's bill. And I will
11 be supportive of making sure that we can find justice
12 some other way. So thank you.

13 GWEN CARR: I thank you so much.

14 COUNCIL MEMBER REYNOSO: Okay.

15 GWEN CARR: Give me your vote, I'll give
16 you mine.

17 COUNCIL MEMBER REYNOSO: [laughs] Thank
18 you.

19 CHAIRPERSON GIBSON: Thank you council
20 member, and we're just going to switch. So we'll
21 have Council Member Lancman, who is the prime sponsor
22 of the legislation followed by Council Member
23 Williams and then Cornegy.

24 GWEN CARR: Okay.

2 COUNCIL MEMBER LANCMAN: I just want to
3 say thank you so much for your courage, and your
4 willingness to relive the tragedy that befell your
5 son. This bill is for Eric. It was drafted and
6 introduced with Eric in mind.

7 GWEN CARR: Thank you.

8 COUNCIL MEMBER LANCMAN: And I just hope
9 that as we approach the one-year anniversary of his
10 death of his killing--

11 GWEN CARR: [interposing] Yes.

12 COUNCIL MEMBER LANCMAN: --where I'm sure
13 the City's attention will be focused on remembering
14 what happened.

15 GWEN CARR: [interposing] Yes.

16 COUNCIL MEMBER LANCMAN: That we will
17 have something positive and productive to report in
18 terms of making a difference and making a change in
19 the way we handle policing in New York City.

20 GWEN CARR: Yes.

21 COUNCIL MEMBER LANCMAN: So thank you so
22 much for being here today.

23 GWEN CARR: I thank you.

24 CHAIRPERSON GIBSON: Thank you. Council
25 Williams.

2 COUNCIL MEMBER WILLIAMS: Thank you,
3 Madam Chair. Thank you, Ms. Carr also. I just want
4 to extend that I often wonder where the strength
5 comes from--from these families to continue to fight
6 and continue to battle having to keep retelling and
7 seeing videos of your loved one dying and your son.
8 I don't even know kind of what to say to that, just,
9 you know, God bless and hopefully He will continue
10 giving you that strength. I wish that the media
11 remained to see you testify, and it's unfortunate
12 that they decided all to leave when the Commissioner
13 left. I think it's just as important that the people
14 who are feeling this pain, and it does not go away.
15 And you are her battling so that it doesn't benefit
16 you. You want to benefit other families and other
17 people.

18 GWEN CARR: Right.

19 COUNCIL MEMBER WILLIAMS: And you should
20 be salted for that, and I wish that there was more
21 media here that could do that. But thank you so much
22 for being here. Thank you, Mr. Foy for all that you
23 do on this cause. Thank you.

24 CHAIRPERSON GIBSON: Thank you and we
25 will have Council Member Cornegy, and we've also been

2 joined by your Councilman, Council Member Debbie
3 Rose.

4 COUNCIL MEMBER CORNEGY: So, I--I want to
5 thank you, Kirston, and always thank you, Ms. Carr
6 for coming. I remain a proud co-sponsor of the bill,
7 and I've had the pleasure of getting to know your
8 entire family.

9 GWEN CARR: Yes.

10 COUNCIL MEMBER CORNEGY: And I'm proud to
11 say that, you know, we--we claim you in Bed-Stuy as
12 family.

13 GWEN CARR: Yes.

14 COUNCIL MEMBER CORNEGY: And we will
15 continue to stand to fight on the front lines from
16 everything that is right and just in and around not
17 only this, but I want to--I want to thank you for
18 standing to make a difference for those who come
19 after. A lot of times it's easy to retreat into your
20 own sadness and your own sorrow when a tragedy
21 happens. But thank you for being a pillar, and being
22 somebody who really is setting the tone for the way
23 business should be done as it relates to police
24 reform in the city. I don't know if you'll ever know
25 how important you've been to this particular

2 struggle. You've given me a lot of strength to
3 continue on when the Mayor said that there was no way
4 this bill will see the light of day. It was you that
5 I thought about when we continued that fight. And I
6 also want to certainly thank the prime sponsor Rory
7 Lancman for including myself and Jumaane on this very
8 important piece of legislation that will certainly
9 set the tone for the way the city continues to do
10 business. Thank you again.

11 GWEN CARR: Thank you.

12 CHAIRPERSON GIBSON: Thank you, Council
13 Member Cornegy, and now we'll have Council Member
14 Debbie Rose.

15 COUNCIL MEMBER ROSE: Good morning. I
16 just wanted to say that you have become the face of
17 not only police reform but strength, dignity and
18 grace. You have handled this in a manner in which I
19 don't think very many other mothers could have
20 handled a situation like this. I want to thank you
21 for being relentless in terms of pursuing police
22 reform and justice for your son Eric Garner. I am--I
23 was here earlier because I have a bill that addresses
24 the fact that in Staten Island in the precinct where
25 your son was killed, was the--the very officer that

2 your son--whose hands your son died, have had a
3 multiple number of CCRB--

4 GWEN CARR: [interposing] Yes.

5 COUNCIL MEMBER ROSE: --complaints, and
6 was still there. Not--had not been retrained. Had
7 not been taken off the street, but was still there.
8 And my bill is to find out where these consistently
9 bad acting officers-- Because we know that it's not
10 all of them.

11 GWEN CARR: Right.

12 COUNCIL MEMBER ROSE: And we know there
13 are good officers, but there are some that are--have
14 shown to be, proven to be consistent bad actors. And
15 the fact that seven out of ten are located in our
16 precinct 120, was disturbing to me.

17 GWEN CARR: Yes.

18 COUNCIL MEMBER ROSE: And so, I want to
19 thank you for coming here, supporting all of the
20 legislation. And it is my hope that we will never
21 have to revisit these piece of legislation again to
22 ensure that every--all of our children, everyone is
23 safe.

24 GWEN CARR: Yes.

2 COUNCIL MEMBER ROSE: And I--I--I want to
3 thank you for how you've comported yourself and your
4 family in this very unsure trying difficult time.
5 And I just want to say that, you know, I--I love you
6 and I--I wish that through your tragedy no one else
7 will ever have to go through this. Thank you for
8 coming. [bell] And thank you, Mr. Foy.

9 GWEN CARR: Thank you.

10 KIRSTON JOHN FOY: If I may must make one
11 brief remark.

12 CHAIRPERSON GIBSON: Certainly.

13 KIRSTON JOHN FOY: The fact that we still
14 have hundreds of outstanding complaints at the CCRB
15 about chokeholds in the aftermath of a two-decades
16 old policy, means that the policy is not sufficient.
17 It means that it is not working. To have the CCRB,
18 which oh by the way, just makes a recommendation to
19 the Commissioner about how to proceed with a
20 complaint that's been validated. It's not enough to
21 say that oh, our policy is enough when there are
22 hundreds of people who have made complaints. And we
23 know that those hundreds are just representative of
24 the thousands that have had--that have been
25 victimized by chokeholds that have just not gone to

2 the CCRB or made some formal complaint. So we have a
3 scourge here. It's clear that the chokehold has not
4 going anywhere, and that a departmental policy is not
5 sufficient. We must have legislation because
6 otherwise you will continue to have police policing
7 themselves, and not being held accountable. When
8 clearly there is a problem with officers not being
9 able to keep their hands to themselves.

10 CHAIRPERSON GIBSON: Thank you.

11 KIRSTON JOHN FOY: And yes, July 17th--

12 CHAIRPERSON GIBSON: [interposing] Yes.

13 KIRSTON JOHN FOY: --is the first--

14 CHAIRPERSON GIBSON: [interposing] One
15 year.

16 KIRSTON JOHN FOY: --anniversary of
17 Eric's killing. That weekend the family along with
18 the Coalition of--of folks, organizations are going
19 to be planning Eric Garner Weekend. Where we're
20 going to be talking about the outstanding federal
21 lawsuit--the outstanding federal investigation that
22 has to be resolved. You know, Loretta Lynch was the
23 U.S. Attorney that met with Gwen Carr--

24 CHAIRPERSON GIBSON: [interposing] Uh-
25 huh, yeah.

2 KIRSTON JOHN FOY: --when Eric was first
3 killed. Met with Reverend Sharpton when Eric was
4 first killed. There is no more--there are no more
5 buffers. She is the most informed prosecutor in the
6 country as it relates to this case specifically. And
7 so we are asking that Loretta Lynch who indeed we are
8 very proud of make us even more proud of her by doing
9 the right thing and prosecuting--prosecuting this and
10 these officers on the federal level for civil rights
11 violations. Thank you.

12 CHAIRPERSON GIBSON: Thank you very much.
13 Thank you, Minister Foy and thank you Ms. Carr.
14 Thank you for turning your pain into a plan with
15 purpose. Thank you for being strong when you had no
16 other option.

17 GWEN CARR: Thank you.

18 CHAIRPERSON GIBSON: You are a powerful
19 voice in this conversation, and I assure you that
20 your voice will continue to be heard. And so we
21 continue to keep you and your family in our thoughts
22 and prayers. And thank you to my colleagues for
23 being here as well, and thank you for your presence
24 and coming this afternoon. Thank you very much.
25 Thank you.

2 GWEN CARR: Thank you for having me.

3 [background comments, pause]

4 CHAIRPERSON GIBSON: Okay. Our next
5 panel consists of Joanna Miller from the NYCLU, Duane
6 Porter from Vocal New York, Katherine Beltran from
7 the Bronx Defenders Organizing Project; Kishan Harley
8 also attending Aduka Pimento, who will be reading on
9 his behalf from Make the Road New York and CPR and
10 Mark Winston Griffith from Brooklyn Movement Center
11 and CPR. Okay. So we have Joanna, Duane, Katherine,
12 Kisha and Aduka and Mark.

13 [pause]

14 COUNCIL MEMBER REYNOSO: [Speaking
15 Spanish]

16 CHAIRPERSON GIBSON: Okay, Joanna, we'll
17 start with you. You're up.

18 JOANNA MILLER: Thank you. I'm
19 testifying today on behalf of Donna Lieberman who
20 couldn't be here and the New York Civil Liberties
21 Union. I'm pleased to be here to express the NYCLU's
22 enthusiastic support for the Council's efforts to
23 reform the NYPD leading to a city where the
24 department and communities are partners in public
25 safety. Our written testimony includes comments on

2 many of the bills, but since I am restricted on time,
3 I'm just going to talk about two of them, 182 and
4 541, known as the Right to Know Act. And I'm just
5 say although nothing ever is really brief, I would
6 like to make a brief statement that on Intros 539 and
7 606, we believe that they could be greatly improved
8 by including demographic information in the report.
9 There's a huge dearth of demographic information when
10 it comes to Broken Windows policing. And so we'd
11 love to see an amended version of those bills as
12 well. So I'm going to talk a little bit about the
13 Right to Know Act. What we're talking about today is
14 every New Yorkers' right to interact with the police
15 in a way that is dignified, informed and consistent
16 with demographic values. I think it's important to
17 say that despite what you heard by the NYPD today
18 state laws is actually silent on the topic of consent
19 searchers. There is no statutory authority for
20 consent searches whatsoever. So anything you do
21 today or in subsequent days will not be in conflict
22 with law because there simply is no state law on this
23 subject. As you heard, just weeks ago the
24 President's task force issued it's recommendation s
25 that include nearly verbatim endorsements of the

2 principles and the Right to Know Act. You heard
3 Commissioner Bratton say he himself endorses the
4 policies in the Right to Know Act. And would just
5 prefer that the Council not act on that, and that he
6 retain full control over these policies. But I think
7 we have learned that the NYPD cannot police itself,
8 and that the Council's guidance and the Council's
9 leadership on these issues is so, so important. I
10 will talk a little bit about what the Right to Know
11 Act doesn't do. I think it's really important to
12 bust some of the myths that you've heard. This bill
13 does not change the legal standard for questioning,
14 for frisking or even for searching an individual. We
15 believe that what it does do is put the courtesy,
16 professionalism and respect into practice by actually
17 requiring a shift in the burden of transparency and
18 fairness from individuals on the street. Many of them
19 are young people, and people who speak English as a
20 second language or don't speak English at all. And
21 shifting that burden to trained law enforcement
22 personnel. Unfortunately, the mandate that you heard
23 the NYPD representatives refer to earlier for
24 officers to identify themselves is, in fact, a
25 mandate on the public to ask the officer to identify

2 themselves. We need to shift that to a mandate on
3 the officer. It's unfair and it's not workable to
4 require that New Yorkers have the wherewithal to ask
5 for that information in such a stressful situation.
6 Public safety is an endeavor we have to tackle
7 together with law enforcement developing trusted
8 relationships with community members. Trust is not
9 built on buzz words. They can call it community
10 policing if they want [bell], but without real
11 relationships, real transparency and a trust being a
12 two-way street we're not going to get to real
13 community policing. So I hope we can count on your
14 support today and I'm happy to answer any questions.

15 [background comments, pause]

16 CHAIRPERSON GIBSON: Yeah, you can go.

17 MARK WINSTON GRIFFITH: Good afternoon,
18 Council Member Gibson, Chairman--Chairperson Gibson
19 and members of the New York City Council Committee on
20 Public Safety. My name is Mark Winston Griffith. I'm
21 the Executive Director of the Brooklyn Movement
22 Center. The BMC is a voting member of Community
23 United for Police Reform, and has a seat on CPR's
24 Policy and Community Empowerment Working Groups. The
25 BMC is a grassroots membership based community

2 organizing group dedicated to building power among
3 the mostly black and low to moderate income people
4 living in Central Brooklyn areas of Bedford-
5 Stuyvesant and Crown Heights. We mobilize our
6 neighbors to identify issues that are important to
7 them, mutual leadership and build social change
8 campaigns. Most relevantly BMC has also been working
9 to institutionalize measures that guard against
10 abusive policing and the criminalization of Black and
11 Brown Central Brooklyn residents since our founding
12 2011.

13 I'm here today to urge you to support the
14 two components of the Right to Know Act, Intro 541
15 and Proposed Intro 182-A, which the Brooklyn, which
16 BMC and Communities United for Police Reform believe
17 are central to the reconstruction of community
18 policing culture and police community relations. I
19 was born in Crown Heights and have lived there my
20 entire life. I've lived through the crack epidemics
21 of the '80s and '90s when vandalism was an everyday
22 lived experience and gunshots were literally heard
23 almost everyday. I can tell you unequivocally that
24 as a pedestrian, biker, mass transit rider and as a
25 father and Black man, I've always been far more

2 concerned for my safety at the hand of the men in
3 blue than at the hands of men in hoodies. And at the
4 heard of t his concern is the nature of engagement
5 between police and civilians, which currently is
6 unhealthy and unsustainable in its current form. In
7 an incident close to home while jogging in my Crown
8 Heights neighborhood, I was suddenly surrounded by a
9 group of armed men in plain clothes and unmarked
10 cars. Without identifying themselves they put me up
11 against a car, patted me down and searched me without
12 consent. And after finding nothing on me, proceeded
13 to drive off without so much of an explanation, much
14 less an apology. When I asked why I was being
15 searched I was ignored.

16 It was not only demeaning, but frighten
17 because initially for a moment I didn't even know
18 that they were police officers. In fact, in that
19 instance I experienced them as a gang of thug
20 interlopers who had no respect for me or my
21 community. Police officers identifying themselves is
22 the basis for active communication between human
23 beings and a police/civilian encounter. It provides
24 the foundation for mutual respect, helps to
25 preemptively diffuse a situation, and can help to

2 reduce but eliminate the threat and sense of complete
3 vulnerability that civilians feel when confronted by
4 a stranger. Most importantly, police identification
5 introduces an element of accountability and
6 transparency that can help guard against abusive
7 behavior. Similarly, Black and Brown civilians in
8 Central Brooklyn and throughout New York have been
9 conditioned to believe that we have no rights in an
10 encounter with the police. And that officers have
11 complete authority and dominion over our personal
12 property and bodies.

13 Just as in the Miranda warning a verbal
14 acknowledgement that the U.S. Constitution [bell] is
15 mediating the encounter can only be--can be the only
16 thing that places the civilian or police officer in a
17 real world guided by laws and protocol rather than a
18 separate bubble universe dominated by a person with a
19 gun and attitude. In conclusion, we need to create a
20 culture and practice of law enforcement and criminal
21 justice at all levels that can stand up to scrutiny,
22 can command the public's trust and will ultimately--
23 and will ultimately put power--not physical power.
24 But the power of mutual respect and with human
25 dignity into the hands of individual citizens and

2 their communities. Passage of the two components of
3 the Right to Know Act can help accomplish what is
4 right, right now a lofty and seemingly reachable
5 goal. Thank you.

6 DUANE PORTER: How you doin'? My name is
7 Duane Porter. I'm with Vocal New York.

8 CHAIRPERSON GIBSON: Talk into the
9 microphone.

10 DUANE PORTER: Oh, I'm sorry.

11 CHAIRPERSON GIBSON: Is the red light on?

12 DUANE PORTER: Yes the red light--

13 CHAIRPERSON GIBSON: [interposing] Okay.

14 DUANE PORTER: --is on. All right, to
15 say overall first that everybody in the room knows
16 these problems that we're having is--is--is deeply--
17 is real deeply rooted than just the police. You
18 know, we have people who wouldn't even dare to talk
19 about the deep rooted issues, deeper than the police.
20 So, with that being said, I had an encounter with the
21 police. Once again, I'm from Vocal New York. Thank
22 you for the opportunity to provide my testimony today
23 in support of the right--the Right to Know Act. I
24 cam to discuss a personal encounter with the police
25 after I was apprehended by the NYPD in handcuffs and

2 complying with an arrest. I was the victim of police
3 brutality. I was already handcuffed, but the cops
4 became even more aggressive and used pepper spray on
5 me while I was pinned to the ground. This was all
6 because I was exercising my freedom of speech. Now,
7 I must pause because everybody has freedom of speech.
8 An example if I go to--if I go--if I go--if I was a
9 teacher and--and--and--and a child says something to
10 me that got under my skin, no matter what I can't--I
11 have to have a respective responsive. And, of
12 course, I cannot put my hands on that child no matter
13 what. So I mean responsibility is responsibility. I
14 was--I was--I had the right to remain silent, but I
15 also have a right to exercise my rights. I was--I
16 was sentence to three days of community service and
17 fine. So in my mind personally I don't feel that if
18 I--if the--the judge who judged me gave me three
19 days, I don't feel like I--the excessive force was
20 necessary enough to get pepper sprayed. And right
21 now my--the bone in my shoulder cracks all the time.
22 I have a mark that's there, and there's nothing I can
23 do. I don't even know who the cops are, to be honest
24 with you. I don't know who the cops are. So, many
25 police officers in New York City are bringing their

2 biases and their person anguish to the streets and
3 abuse their authority. I want these officers to be
4 identified and properly dealt with, which they won't.
5 The Right to Know Act will ensure the police officers
6 will probably identify themselves so when we are
7 abused, we have the opportunity to hold them
8 accountable. Whether I am Maced, put in handcuffs or
9 if I am being--being used as a test dummy for illegal
10 stops and searches, I have the right to know these
11 officers are, and the right [bell] to know. I don't
12 have to consent to an illegal search. We live in a
13 police state where we are punished for exercising our
14 rights and often the situation gets worse when
15 authority recognizes that we are educated and we do
16 not--and we do know our rights. My mind is strong.
17 There are a lot of young men and women who cannot
18 their emotions at my age, and I often get frustrated,
19 too. But our voices are not heard, the energy that
20 builds up can be dangerous. Thank you.

21 CHAIRPERSON GIBSON: Thank you. Thank
22 you.

23 [background comments]

24 ADOKA: Thank you. Good afternoon. My
25 name is Adoka, and I am representing Make the Road

2 New York and Communities United for Police Reform,
3 and I am testifying on behalf of Kishan Harley who is
4 also a representative of Make the Road New York and
5 Communities United for Police Reform. As a young
6 Black 20-year-old first stopped by the police at age
7 of 13 and stopped and frisked over 100 times since, I
8 know first hand the issues that our communities face
9 with respect to everyday interactions with the
10 police. I have been slammed against a wall, placed
11 in handcuffs, yelled at and questioned by police in
12 my city while doing nothing wrong. For example, one
13 of the most abusive instances I've had with a police
14 officer was one on my way home from school. As I
15 turned the corner to walk my path home, a plain
16 clothes officer abruptly drove his car up to the
17 sidewalk and told me to stop moving. I looked at the
18 officer and said, "What?" To which he responded by
19 slamming me up against the wall and berating me with
20 questions like, "Do you have any weapons on you?" as
21 he started to remove my belongings, which included my
22 book bag and hat. At this point in the interaction,
23 I was very afraid that the officer was trying to
24 incriminate me. So I told him, "What was he doing?"
25 You can't search me. "I have my rights." To which

2 the officer responded, "Shut up. Niggers don't have
3 rights." After emptying my belongings on the street
4 and finding nothing, the officer lets me go, enters
5 his vehicle and drives off with not so much as an I'm
6 sorry. So with experiences like this as I watch
7 closely all over this is happening across the
8 country. It is hard to avoid thinking about my own
9 interactions with the NYPD in neighborhood of
10 Bedford-Stuyvesant, Brooklyn and how these could have
11 been fatal for no justifiable reason. These sheer
12 number of these unnecessary interactions increase
13 that probability. The killings of Akai Gurley, Eric
14 Garner and Ramarley Graham and so many others at the
15 hand of police in New York demonstrates the tragic
16 consequences of system problems with police
17 accountability and a disregard for Black and Brown
18 lives. Black and Brown young people should not have
19 to expect to be stopped by the police simply because
20 of who we are, where we live. And our parents should
21 not have to prepare us for this. For young people
22 like me, the effect of being put on display by the
23 police in our communities and to our neighbors over
24 and over again is demoralizing, humiliating and only
25 serves to fracture our communities. It criminalizes

2 us to our neighbors who many not have the appropriate
3 context that we have done nothing wrong, and actually
4 assume the opposite, stigmatizing us as criminal
5 delinquents in our own communities. The challenges
6 that we face within the NYPD are not those of a few
7 individual bad apples, but are more systemic
8 structural in the way the policing approaches,
9 targets and treats certain communities. For me the
10 Right to Know Act is incontrovertible. This
11 legislation should not be seen as shackles on the
12 police, but as a way to begin to build trust between
13 police and community members that is so clearly
14 absent during interactions. The Right to Know Act
15 means police have to uphold the tenets of courtesy,
16 professionalism and respect or be held accountable.
17 Trick before searches does not bring NYC toward
18 better policing, abusing the rights of people of
19 color, LGBTQ and mentally ill people does not help
20 build trust and safety in our communities. We need
21 the Right to Know Act passed now. Thank you. [bell]

22 CHAIRPERSON GIBSON: Thank you. That's
23 hard to follow. She was dynamic. [laughter] So I'm
24 not putting you on the spot. It's okay.

2 KATHERINE BELTRAN: Good afternoon. My
3 name is Katherine Beltran, and I am on the Leadership
4 Committee at the Bronx Defenders Organizing Project.
5 The Organizing Project is a group of clients, former
6 clients and community members that organized to
7 reform the criminal justice system. In my role, I
8 lead campaigns and recruit members to build the power
9 of the community in the South Bronx and beyond. I am
10 also a single mom of four, and I thank you for this
11 opportunity to testify. I hope that my testimony
12 will show you the need and urgency to pass Intro 182
13 and 541 known as the Right to Know Act. This simple
14 legislation can help prevent the unnecessary
15 escalation of tension starting with civilian and
16 police encounters like the one I had. My son Legend
17 was walking home school one day and stopped by a
18 convenience store. While in the store Legend noticed
19 a group of young boys running out and he felt
20 something was wrong. He tried to leave, but was
21 grabbed and dragged back into the store by a store
22 clerk. Fortunately, a public safety officer from
23 Legend's former school recognized him and called me
24 to let me know what was going on. When I arrived,
25 the officer questioned my parenting skills. I asked

2 the officer for his identity and he replied that
3 wasn't important. He covered his badge and said I
4 should physically discipline my son and publicly
5 humiliate him so he wouldn't do it again. The
6 officer told me that my son was a bad seed, and I
7 felt insulted. This officer has served as the judge
8 and jury as my son even though there was no proof
9 that a crime had been committed. This is an
10 inappropriate way for a police officer to communicate
11 with the people they're supposed to be serving and
12 protecting. The officer's behavior led to a
13 breakdown of communication where I felt I could not
14 speak nor be heard by the officer. Requiring NYPD
15 officers to identify themselves helps to protect New
16 Yorkers' basic right during civilian-police
17 encounters. My son Legend informed me that the
18 officer had his I.D., and that made me feel
19 uncomfortable and vulnerable. The officer would not
20 identify himself, but now he knew where my son lived
21 and could target him at home or near his school. Now
22 is the time for the City Council to pass the Right to
23 Know Act, and help improve communication and increase
24 transparency between police-community interactions.

2 Having access to the identity of the officer is a
3 basic civil right, and I thank you.

4 CHAIRPERSON GIBSON: Thank you all. That
5 was awesome. Also because you told a story that's
6 shared by so many New Yorkers, and I guess also
7 because we know that we still have so much work to
8 do. But I appreciate you being here telling your
9 personal stories and representing your organizations
10 because truth be told we have a lot of work to do.
11 We've had this conversation many, many, many, many
12 times. And so I want to allow the prime sponsor of
13 the Right to Know Act to ask a couple of questions.
14 Council Member Reynoso.

15 COUNCIL MEMBER REYNOSO: And I just want
16 to before I say any comments is just commend the
17 Chair for the amazing work that she's doing here.
18 I'm really grateful that this hearing happened, and
19 that you are chairing. You're doing an amazing job,
20 and I'm really grateful for the testimony that's
21 happening here as well. I'm getting a lot of
22 information I think is valuable and making sure we
23 could move the process forward in getting the Right
24 to Know Act passed hopefully me is my goal. I just
25 want to speak to your experiences of being stopped

2 and frisked, and I just want to let the public know
3 that I've been stopped and frisked as well. And one
4 of those instances happened while I was actually
5 employed a City Council member, the previous the
6 previous Council member, Dan Oreno. [sp?] And when
7 it happened, it happened so quickly and so aggressive
8 that even as an informed person, you know, well
9 educated on a lot of these issues, I was just almost-
10 -I couldn't even move in the flights that I had with
11 four of my cousins. We were walking to our uncle's
12 house when two cops, two cop cars and not plain
13 clothes. They had uniforms on. They stopped us.
14 They scared us. They turned us around. They
15 searched us. Found that we had nothing and just left
16 as fast as they came in. And in doing so, we weren't
17 able to ask who they were, why we were being stopped,
18 and we just had to move forward. We were talking and
19 joking and having--walking to my uncle's house.
20 Thereafter, no one said anything almost the entire
21 time we were walking to finish the rout to get to my
22 uncle's house, and even there, there was like a
23 somber--a somberness to it. And everyone felt
24 humiliated, and we didn't really know how to react to
25 that. It wasn't until maybe a couple of years later

2 that we brought that back up. As I a now a council
3 member, I'm looking to make sure that that encounter
4 that my family had at that moment doesn't happen to
5 anyone else. I just want to say that your experience
6 is ours. It's something that is shared by many,
7 specially mostly young men of color across the city
8 of New York, and we're talking about our real
9 experiences, and we're not just making this stuff up.
10 So I really appreciate your testimony and standing up
11 here and letting us know how you guys felt. Thank
12 you.

13 CHAIRPERSON GIBSON: Thank you. Thank
14 you all for being here today. We appreciate your
15 presence, your testimony and it will be recorded into
16 our record. Thank you again for coming.

17 [background noise, pause]

18 CHAIRPERSON GIBSON: Our next panel
19 before the committee this afternoon is Elliott Fukui,
20 from the Audre Lorde Project. Aber Kawas from the
21 Arab-American Association. Jabrill Taray [sp?] from
22 the Malcolm X Grassroots. Juan Agulea [sp?]from
23 Communities United for Police Reform and the Justice
24 Committee. [background comments] and Jeff Rice from
25 Picture the Homeless. Did I say that right?

2 GENE RICE: [off mic] It's not Jeff
3 Rice, it's Gene Rice. [sic]

4 CHAIRPERSON GIBSON: Oh, Gene. Okay,
5 Gene. Okay. Elliott, Aber Jabrill. Did I say that
6 right? Yes. Got it. Juan and Jean. All right. No
7 problem. Thank you all for being here.

8 [background comment, pause]

9 CHAIRPERSON GIBSON: Elliott? Are you--?
10 Right, you can begin when you're ready.

11 ELLIOTT FUKUI: Thank you. Good
12 afternoon and thank you so much for having me today.
13 My name is Elliott Fukui. I'm the Coordinator of
14 Trans Justice at the Audre Lorde Project. We are a
15 community organizing group led by and for transgender
16 and non-conforming people of color here in New York
17 City, and we work to address the present political
18 issues we face, one of which has been discriminatory
19 policing and Broken Windows policies since our
20 inception 11 years ago. The Audre Lorde Project is
21 an organizing center led by and for Lesbian, Gay,
22 Bisexual, True Spirit, Transgender and Non-Conforming
23 people of color here in New York City. I'm here
24 today not to speak for my community, but to lift up
25 our experiences and express our firm support for the

2 Right to Know Act as members of the Communities
3 United for Police Reform Coalition. Trans and gender
4 non-conforming New Yorkers particularly those of us
5 who are also people of color, disabled, low-income or
6 homeless are often targeted and profiles by police
7 officers here in New York City.

8 We have been subject to unlawful and
9 unconstitutional searches. We have been publicly
10 humiliated and shamed by police officers, and we know
11 that this cannot continue. As Shelby Chestnut from
12 AVP noted earlier, trans and gender non-conforming
13 people of color are six times more likely to
14 experience police violence when compared to other
15 survivors of hate violence. This is clearly and
16 unacceptable numbers, and something needs to be
17 addressed by the NYPD and the City Council. We have
18 found that when people do not understand their
19 rights, it is far easier for the NYPD to abuse their
20 power and use fear tactics to compel our community
21 members into unlawful searches and seizures. When
22 officers do not identify themselves, it makes it that
23 much harder for us to have recourse when we are
24 experiencing discrimination. When the police can
25 violate our rights, dehumanize and cause harm to

2 trans and gender non-conforming people without
3 recourse, why would any other New Yorker believe that
4 they would be held accountable for transphobic
5 violence and discrimination?

6 We are not asking for extraordinary
7 measures. We are asking for something quite simple
8 and necessary for any community to function, and
9 that's accountability. We have seen the impact of
10 Broken Windows policing, and rather than creating
11 trust and building up our communities, it has
12 effectively destroyed the ability for transgender and
13 non-conforming people of color to access safety in
14 our spaces. These abuses of power have created a
15 fear and distrust of the NYPD. Most of us do not go
16 to the police when we experience violence because we
17 have found that the police are not actually here to
18 protect and serve us. They are not here to support
19 us.

20 We have learned that they are here to
21 intimidate, control and violate our rights. They are
22 here to humiliate us, out us publicly and dehumanize
23 us. If the NYPD is actually here to serve and
24 protect the people, then there should be no questions
25 around the importance and necessity of ensuring that

2 our people know their rights. Know the name and
3 badge number of the officer who is questioning them,
4 and know that there are clear channels for recourse
5 in the event that their constitutional rights are
6 being violated by a police officer. I strongly
7 encourage the City Council [bell] to pass the Right
8 to Know Act to create pathways to accountable
9 policing in order for New York City to be a safe city
10 for trans and gender non-conforming people of color.
11 We need to know that there are accountability
12 measures in place that protect our rights, and that
13 there is clear implementation of those measures.

14 CHAIRPERSON GIBSON: Thank you.

15 JABRILL TARAY: Greetings. My name is
16 Jabrill Taray. I'm here as a member--a resident of
17 Bedford-Stuyvesant, Brooklyn and a member of the
18 Malcolm X Grassroots Movement. I've been involved
19 in--with the issue of discriminatory policing for
20 many years, and was a plaintiff in *Daniels v. NYPD*,
21 the first lawsuit against NYPD for its stop and frisk
22 program. I'm here to express support for two bills
23 being considered today, NYPD Intro 182-A, requiring
24 NYPD to identify themselves to the public and explain
25 the reason for routine interactions as well as the

2 Consent to Search bill, Intro 541, protecting New
3 Yorkers against unconstitutional and deceptive
4 searchers when there is no probable cause or other
5 legal justification. This bill would require that
6 these cases with no legal justification for the
7 search that officers inform people that they have the
8 right to decline a search and secure objective proof
9 of informed and voluntary consent if a person agrees
10 to be searched. This is a basic civil right, and
11 something we have struggled for, for a long time. As
12 an activist and community resident, I have many
13 concerns about the way the NYPD officers initiate
14 searches on the street without information citizens
15 of their rights or identity.

16 CHAIRPERSON GIBSON: [off mic] Yeah, I
17 know what you mean.

18 JABRILL TARAY: For example, in my
19 neighborhood it is no uncommon to see officers in an
20 unmarked vehicle telling an individual to come here.
21 In many cases, this individual may not be stopped
22 officially, and has legal protection including their
23 consent as to whether or not they are searched.
24 Often people submit to a search of their personal
25 vehicle without realizing that they have the legal

2 right not to consent. The searches are now
3 considered as consensual searches by NYPD and are not
4 included in UF-250 forms, and are not reported to
5 precinct personnel. This process of getting
6 individuals to consent to sometimes unreasonable
7 searches is a commonplace one in many neighborhoods
8 of color, and lowers the real number of stops that
9 are reported by NYPD. Our hope is that the City
10 Council takes seriously the consideration of 541,
11 Consent to Search as it directly relates to the trust
12 and willingness of many communities who have been
13 victimized to interact with NYPD. This protection
14 against un-consensual searches will increase the
15 ability of individuals to know their rights in a
16 police encounter, and make citizens more confident
17 that they are not being violated by such a search.
18 In addition, the identification of officers is often
19 an issue when people are stopped and/or searched.
20 I've seen and videotaped as a member of Cop Watch,
21 undercover vehicles on duty with their license plates
22 bent in half so that it cannot be read. This should
23 be unacceptable, absolutely unacceptable to a modern
24 police department that wants to win the trust of
25 citizens. But the reality is that it exists. I have

2 also seen [bell] and witnessed officers who refused
3 to identify themselves while on duty, which is a
4 violation of police training. If an individual is
5 stopped and searched and has no way of being--able to
6 identify that officer, how does that help us bring
7 the trust to these communities who have been
8 victimized by discriminatory policing policies in the
9 past? I think we should be clear that these
10 proposals will not make a police officer's job harder
11 or cause them not to stop someone who is a suspect
12 with reasonable information. What these will do is
13 show the public that there are changes going on to
14 benefit them in a police encounter. So the level of
15 fear and mistrust is lessened by policy. This is an
16 important step in building a community where law
17 enforcement is seen as part of the neighborhood and
18 not as an outside occupying force. Intro 182-A and
19 541 are basic steps to rebuilding the trust that all
20 citizens should have with the proper enforcement of
21 the law. Help us build safer communities, and pass
22 these bills into law. Thank you.

23 CHAIRPERSON GIBSON: Thank you.

24 [background comments, pause]

25

2 ABER KAWAS: Good afternoon. My name is
3 Aber Kawas, and I'm the Lead Organizer at the Arab-
4 American Association of New York. We're a social
5 service and advocacy organization serving the Arab--
6 Arab-American and Reform [sic] American communities
7 in New York City. We are here to join our allies at
8 Communities United for Police Reform and New Yorkers
9 across the city in support of the Right to Know Act.
10 We believe wholeheartedly that the Right to Know Act
11 are common sense pieces of legislation. All New
12 Yorkers deserve the right to know who is stopping
13 them and why. We have seen instances both here in
14 New York City and across the country where because of
15 lack of information during stops things can go very
16 wrong in the interaction, sometimes even leading to
17 death. Intro 182-A is a stepping stone for better
18 community and police relations where New Yorkers
19 understand why they're being stopped and receive the
20 name and the police officer--of the police officer
21 that is stopping them in case they need to follow up
22 with complaints. We believe this will ensure smother
23 interactions.

24 Speaking on behalf of the Arab-American
25 Community of New York who has endured trauma and fear

2 due to the surveillance policies of the NYPD, we
3 believe that the Right to Know Act will remove those
4 fears when people are allowed to get the name and
5 badge number of the police officer in order to file
6 any complaints if necessary. Police can still do
7 their job effectively, meanwhile creating a more
8 transparent work ethic within the communities they
9 serve. Intro 541 is a very important piece of
10 legislation and ensures that police officers do their
11 jobs within the confines of the law. Many members of
12 our communities and the communities' representatives
13 under Communities United for Police Reform are
14 subject to illegal searches that are unnecessary and
15 create animosity during police interactions. This
16 bill would require that in these cases with no legal
17 justification for the search that officers inform
18 people that they have the right to decline the search
19 and secure objective proof of informed and voluntary
20 consent if that person agrees to be searched. This
21 is similar to the Miranda warning.

22 We call on the New York City Council to
23 pass new legislations. We are at the crossroads when
24 it comes to policing in our country. New York can
25 lead the way in the nation enacting common sense

2 police reform legislations that create transparency
3 and accountability. We did it before with the
4 Community Safety Act, and we can do it again. The
5 Arab-American Association of New York stands behind
6 the Right to Know Act. Thank you.

7 CHAIRPERSON GIBSON: Thank you. Thank
8 you very much.

9 [background noise]

10 JUAN AGUILEA: Hi. Good afternoon. My
11 name is Juan Agulea. I'm a representative of the
12 Justice Committee, a community based organization
13 that for the past three decades has worked with
14 victims of police misconduct and brutality, as well
15 as families of last loved ones to the NYPD. I'm here
16 today to testify on behalf of the Justice Committee
17 in support of the Right to Know Act because it
18 directly addresses NYPD officers' everyday
19 interaction with New Yorkers. It would require them
20 to be clear with us about our rights, and about why
21 we are being approached or stopped by police in the
22 first place. These are common sense reforms that
23 will go a long way towards ensuring that New Yorkers
24 are safe during interactions with the police. A key
25 part of the Justice Committee's work is to develop

2 cop watch teams, which monitor police activity in
3 heavily police communities throughout the city. One
4 main reason we organize these teams is that the
5 NYPD's interaction with community members all too
6 often unnecessarily escalate because officers are not
7 transparent with or respectful of the right to those
8 they are stopping. I'm part of the Justice
9 Committee' Cop Watch Team in Jackson Heights, Corona
10 area of Queens where some nights we witnessed four to
11 five stops in a two-hour period. In a majority of
12 these cases after an incident has ended, the person
13 who was targeted tells us they have no idea why they
14 were stopped. And we frequently witness community
15 members being subjected to searches during the course
16 of a stop. Almost no one we speak with is aware that
17 they have the right not to consent to a search.
18 These experiences leave community members feeling
19 frightened, confused and unsafe. The Right to Know
20 Act will help remedy this by requiring officers to
21 identify themselves and explain their reason for
22 subjecting New Yorkers to law enforcement activity.
23 The second part of the act will also help in
24 unconstitutional searches by requiring officers to
25 explain New Yorker's constitutional right to refuse a

2 search when no legal basis for it exists except
3 consent. It will also require officer to have proof
4 of consent when a person agrees to a search where
5 there is no legal justification. The Administration
6 has just come to an agreement to put nearly 1,300 new
7 cops on streets relying on exclusive--sorry.
8 Relying exclusively on increasing the NYPD headcount
9 is a flawed approach to address long-term issues of
10 crime and safety in our city. In the context of
11 decades of abusive NYPD practices, the over policing
12 of communities contributed to the erosion of police-
13 community relations. That is why I urge you to show
14 that you care about the rights, dignity and safety of
15 our communities by passing the Right to Know Act.
16 Thank you.

17 CHAIRPERSON GIBSON: Thank you.

18 GENE RICE: Good afternoon esteemed
19 members of the City Council. My name is Gene Rice.
20 I'm a board member of the organization called Picture
21 the Homeless and also one of the leaders of our Civil
22 Rights Committee. The history of my organization is-
23 -you'll find on my website and that numerous members
24 of our organization have similar concerns. And we've
25 taken depositions of their testimonies and given them

2 to your sergeant-at-arms for the record. Having said
3 that, I'd like to touch upon a few major bullet
4 points that concern organization and myself as
5 members of the homeless community of New York City.
6 Homeless is a crisis of record numbers in our city.
7 Disproportionately people of color and unfortunately
8 according to Judge Sarah Cinderman [sp?] communities
9 of color have systemically by pattern of practice
10 been denied Fourth Amendment rights and Fourteenth
11 Amendment rights in this Great City of New York.
12 That's a major concern. When homeless New Yorkers
13 are made-rights are transgressed--transgressed upon,
14 it makes all New Yorkers less free.

15 So because homeless New Yorkers interact
16 with the police on our streets more than any other
17 segment of our population, it's important that we
18 note the Constitutional latitude that's given to
19 homeless people. Because the homeless position is
20 that homeless people have the same amount of civil
21 and human rights and constitutional rights as a
22 person who has residency in our city. Being un-
23 housed and un-domiciled is no reason for your civil
24 and Constitutional rights to be diminished. That's
25 the position of my organization. And the

2 Constitution crisis from our point of view is when
3 you get the Supreme Court to rule in *Terry v. Ohio*
4 that under certain exigent circumstances police are
5 authorized to a constitutional stop and frisk. And
6 then under those circumstances we get an Atlantic
7 monthly magazine article called Broken Windows. And
8 then haphazardly three previous administrations and
9 this Police Department in New York City have mixed
10 the apples with the oranges and thrown Broken Windows
11 into Stop-and-Frisk as if the Supreme Court has ruled
12 on Broken Windows. I've yet to read that decision.
13 My homeless constituents have yet to read that
14 decision. So until the Supreme Court says that
15 Broken Windows is justice as constitutional as Stop
16 and Frisk, I will challenge this City Council to
17 dissect that. And make sure that the people of New
18 York know, housed and homeless alike, that Stop and
19 Frisk has been ruled on by Supreme Court. Broken
20 Windows has not in the in the street of the
21 courtroom. Thank you.

22 CHAIRPERSON GIBSON: That was great. You
23 closed really well, Gene. Thank you.

24 GENE RICE: Thank you very much.

2 CHAIRPERSON GIBSON: That's awesome.

3 Thank you all. I appreciate you being here. I
4 appreciate you sharing your testimony, sharing your
5 story and we look forward to working with you.

6 Thank you so much.

7 [background noise, pause]

8 CHAIRPERSON GIBSON: Okay our next panel
9 is Brett Stout from the City University of New York;
10 Alyssa Aguilera from Vocal New York; Carl Stubbs also
11 of Vocal New York and Veronica Bayetti Flores from
12 Streetwise and Safe. So we have Brett here. Alyssa
13 is here, Carl. Carl is here and Veronica. Veronica
14 is here. Okay.

15 [background noise, pause]

16 CHAIRPERSON GIBSON: You guys ready?
17 Okay, Brett, you can start us off.

18 BRETT STOUT: [off mic] Good afternoon.

19 [on mic] Good afternoon and thank you. My name is
20 Brett Stout. I am a Social Psychology Professor at
21 John Jay College of Criminal Justice and at the
22 Graduate Center at City University of New York.
23 Since 2012, my colleges and I at the Public Science
24 Project have partners with these leaders at Make the
25 Road New York to conduct a large research study.

2 Between 2013 and the beginning of 2014, young people
3 of color between the ages of 14 and 25 were asked to
4 fill out a survey written by and for youth to reflect
5 on their experiences with and attitudes towards the
6 NYPD since 2010. 830 youth of color took our survey
7 and 53% said they were stopped and questioned by
8 police 2010. From the survey there are three
9 important findings on youth--on young people
10 experiences with stop and searches that support the
11 Right to Know Act.

12 Number 1: Many young people of color who
13 took our survey were searched by the NYPD. 57% of
14 those who were stopped said they were searched at
15 least once since 2010. And of those young people 69%
16 were searched more than once. Bottom line, for many
17 young people to be searched by police is not an
18 infrequent part of their life.

19 Number 2: There is a large difference in
20 how the NYPD recorded searches on young people of
21 color as compared to how the young people of color
22 who took our survey perceived their searches. We
23 looked at the NYPD data on young people of color ages
24 14 to 25 between the years 2010 and 2013. We learned
25 that 9% of all of the recorded stops ultimately

2 involved a search. Compare that to our survey data
3 on the same population over the same years. Our
4 survey data suggested that 46% of all of the reported
5 stops resulted in a search. Bottom line, young
6 people feel like they are being searched even if it
7 is not technically a search from the perspective of
8 an officer.

9 Number 3: Nearly all the stop and
10 searches were done without permission. 82% of those
11 young people of color who were stopped and searched
12 were searched without consent at least once since
13 2010. 72% were searched without permission. More
14 than once on average the young people in our survey
15 were searched without permission four times since
16 2010. Bottom line, too many young people do not know
17 their rights or are unable and unwilling to express
18 their rights in the context of a police search or
19 permission was not needed for all these searches.
20 But that's unlikely given the numbers.

21 Taken together, we have a lot of young
22 people of color who have been stopped and searched
23 multiple times, and almost always without their
24 permission. And of all these stops and searches as
25 you know from the NYPD data and our own survey data,

2 very, very little in the way of guns, knives and
3 contraband were uncovered. Young people need their
4 rights before enduring any more police searches.
5 City Council members should support the Right to Know
6 Act, Intro 541. Thank you.

7 CHAIRPERSON GIBSON: Thank you very much.
8 Four seconds to go. [laughs]

9 ALYSSA AGUILERA: Hi, my name is Alyssa
10 Aguilera. I am from Vocal New York and I am going to
11 actually read the testimony of Stephen Edel, the
12 Policy Director at the Center for Working Families.
13 So first, thank you Chairwoman Gibson for the
14 opportunity to provide testimony today. Working
15 Families fully supports the effort to enact the
16 principles of the Right to Act. This bill contains
17 smart targeted reforms requiring law enforcement
18 officers to clearly identify themselves and provide
19 an explanation of their conduct. This bill will
20 protect the rights of New Yorkers and improve police-
21 community relations. Intro 182 simply requires
22 officers to provide basic information such as their
23 name and the specific reason for the stop when police
24 encounters do not result in an arrest or summons. It
25 does not prevent officers from acting when there is

2 an emergency or when there are other exigent
3 circumstances. It does not in any way interfere with
4 an officer's ability to stop someone when they have
5 probable cause and do their job. It does state that
6 an officer must be responsible for their conduct, and
7 tell those they interact with that--their identifying
8 information and why they were stopped. New Yorkers
9 have a right to know the identity of the police
10 offices that interact with them, and the reason for
11 being stopped. NYPD policy already requires that
12 officers provide their name, rank, shield number and
13 command when asked. However, in many instances
14 officers do not identify themselves to members of the
15 public. And many individuals report fear of asking
16 for the identity of an officer for fear of
17 retaliation. This simple common sense measure can
18 both deescalate situations and increase
19 accountability of all participants. This is not a
20 novel requirement. Other jurisdictions have similar
21 policies including New Orleans, which instituted as
22 part of a settlement with the Department of Justice.
23 Communities of color are disproportionately impacted
24 by mass incarceration and aggressive police
25 practices. A 2005 study found that despite being a

2 minority of state's population, Black New Yorkers
3 were almost 10 times as likely to be in jail or
4 prison. This is certainly not just a policing
5 problem. Race in New York is also linked to economic
6 inequality, access to social programs and a variety
7 of other factors. However, we do know that past
8 interaction with the criminal justice system has
9 significant impacts on longer-term employment, access
10 to stable housing and maintaining connections to the
11 community. Decades of history has degraded trust in
12 our Police Department. Now, we have the opportunity
13 to move forward and try to build solutions. How can
14 we expect community members to trust and interact
15 productively with the police officers when those
16 officers are not clearly identifying themselves
17 explaining why they are stopping individuals and
18 ensuring that they are protecting the rights of those
19 they protect and serve? There are no quick fixes,
20 but we do hope that the Council will support the
21 Right to Know Act. Thank you for the opportunity to
22 testify today.

23 CHAIRPERSON GIBSON: Thank you very much.
24 Thank you, Alyssa. You're up Carl.

2 CARL STUBBS: Hello, my name is Carl
3 Stubbs, and I am a Community Leader at Vocal New
4 York, 11 years. Thank you for giving me the
5 opportunity to speak today. A few months ago I was
6 waiting at the bus stop in Queens when the police
7 approached me, asked me questions and put their hands
8 in my pocket. I told them I do not consent to this
9 search. They found some pills in my pocket, but
10 asked me why I have them. The pills are for my
11 health, HIV and I felt my privacy was then violated.
12 When they violated me, I should not have to explain
13 to the police why--about my personal health issues.
14 Commissioner Bratton says that because marijuana
15 arrests are down so are illegal searches. This is
16 not true, but the people--Black people like me are
17 still searched illegally. It must stop. Pass the
18 Right to Know Act now.

19 CHAIRPERSON GIBSON: Thank you very much.
20 Veronica, that's hard to follow. [laughs]

21 VERONICA BAYETTI FLORES: I know. My
22 name is Veronica Bayetti Flores, and I'm a Policy
23 Coordinator at Streetwise and Safe, and I would like
24 to join my co-panelists in thanking you, Council
25 Member Gibson for the opportunity to testify today.

2 Streetwise and Safe is a multi-strategy initiative
3 working to reduce the harms of LGBT and Youth of
4 Color's interactions with the police through our
5 Youth Leadership Development policy advocacy. The
6 use of body web cameras for technology is not only
7 new to the New York City Police Department but to
8 police departments across the nation. As with any
9 new technology to be incorporated into the daily
10 activities of police officers, but perhaps especially
11 when we're talking about video recording technology,
12 it's imperative to review its implications. We
13 believe that the creation of an objective body to
14 review the implications of the addition of this new
15 technology is necessary. The task force implemented
16 by Intro 607 has the potential to be such a body.

17 As it currently stands, Intro 607 calls
18 for the creation of a task force made up of three
19 mayoral entities, two of whom would be NYPD
20 employees, three people appointed by the Speaker and
21 four jointly appointed members. The legislation does
22 not specifically create a process for public input on
23 these issues. Following the Federal Court's finding
24 in *Floyd* that the NYPD's Stop and Frisk program was
25 unconstitutional, the court ordered a court order

2 body cam program as one remedy. The program is
3 supposed to have the input of the *Floyd* plaintiffs
4 before being implemented. The City and NYPD should
5 not move forward on expanding a body worn camera
6 program without the input--the input of directly
7 affected communities, and without a formal mechanism
8 for these two communities to be able to monitor it,
9 and evaluate the effectiveness of any NYPD body worn
10 camera program expansion. There must be explicit
11 processes in place for public input on the issues
12 raised by the body worn cameras.

13 Moreover, any task force charged with
14 developing an analysis of the implications of body
15 worn cameras, should look to the full scope of the
16 issues raised by such a program, and must start from
17 an objective places. Intro 607 requires an analysis
18 on the feasibility and implications equipping NYPD
19 officers with body worn cameras regarding the costs
20 of such a program, its privacy implications, best
21 practices for engaging in recording and storage of
22 required footage, and evidentiary issues associated
23 with video footage recorded by a police officer in
24 criminal proceedings. If such a task force were to
25 be constituted, it's imperative that this body also

2 consider the effectiveness of body cameras in
3 reducing instances of police misconduct and abuse.
4 The issue of notification and consent to recording,
5 access to footage by individuals recorded, the use of
6 cameras that officers interacting with areas to be
7 used at precincts and central booking. Optimal
8 placement of cameras, procedures to be followed, and
9 presumptions to be made following the failure to
10 record interaction.

11 Discipline in the event of failure to
12 follow policies governing the use of body worn
13 cameras, and officers' ability to be review footage
14 before testifying in civil and criminal proceedings.
15 [bell] Perhaps most importantly, we urge any task
16 force charged with developing recommendations on the
17 use of body worn cameras to begin with an objective
18 view of effectiveness of body worn cameras, and
19 decreasing the incidents of police brutality, and the
20 violations of other New Yorkers. An effective task
21 force would be one that considers all possible
22 outcomes for the use of body worn cameras by police
23 officers including the possibility that the
24 significant costs outweigh the benefits.

2 To conclude, as an organization who works
3 with LGBTs of color who are criminalized, we are
4 particular concerned about the use of video recording
5 technology at the hands of NYPD. We've seen the
6 lives and experiences of the young people who make up
7 our constituency sensationalized and misconstrued.
8 And we have real concerns regarding the
9 implementation of body worn camera programs. Any
10 task force charged with developing recommendations
11 for a body worn camera program should include
12 procedures for public input into the development of
13 these recommendations, address the cost of concerns
14 associated with outfitting NYPD patrol officers with
15 body worn cameras, and address the lack of evidence
16 of establishing that body worn cameras reduce
17 instances of police brutality.

18 CHAIRPERSON GIBSON: Thank you all.
19 Thank you very much. I appreciate it. Your
20 testimony, your work, which you do the various
21 organization. We thank you so much, and we certainly
22 will continue to work with you. Thank you again.

23 VERONICA BAYETTI FLORES: [off mic]
24 Thank you.

2 CHAIRPERSON GIBSON: Before I call the
3 next panel, I just want to put on the record that we
4 have received testimony from the Center for Popular
5 Democracy from Marble Saley Butts advocating the City
6 Council Committee with respect Intro 182-A and 541 in
7 support. This is officially going into the record.

8 [pause]

9 CHAIRPERSON GIBSON: Our next panel is
10 Dr. Jack Einheber [sp?], Dante Barby [sp?] from the
11 Million Hoodies Movement and Chris Ballou [sp?] from
12 the Streetwise and Safe, and if there is anyone else
13 whose name has not been called, please sign up to
14 testify. We don't have your name here at the front.
15 Anyone else that is interested in testify, please
16 come forward and sign up. Dr. Jack Einheber. I hope
17 I got your name right, Dante Barby and Chris Ballou.

18 [background comments, pause]

19 CHAIRPERSON GIBSON: You may begin.

20 DR. JACK EINHEBER: Okay. Okay, thank.
21 Okay, I'm a disabled retired police officer. I also
22 have a PhD. I'm a scientist. I used to teach at the
23 University of California at Berkeley. And quite
24 frankly, I'm a little surprised that some of these
25 measures haven't been put into place because when I

2 was working in California a lot of what of what
3 you're talking about has been in place for, you know,
4 at least in my jurisdiction for 25 or 30 years. So,
5 you know, that's one thing surprised me. But what
6 I'd like to say is that I worked in extremely high
7 crime areas, and I understand the problems of--or a
8 lot of problems that police see from first hand--from
9 first hand experience. And there are some thing that
10 really have to be understood from that level. So, I
11 think that there is a lot that needs to be understood
12 from a physiological, psychological, sociological
13 level that is not being taken into account. Now, in
14 order to--to fully comprehend what police work is
15 about, because it's deceptively esoteric.

16 You really need to understand like
17 physiology and a lot of the sciences. I wasn't
18 planning to talk about this, but when I saw the Eric
19 Garner case being brought up, I think that's a very
20 good example. First of all, we don't even call this
21 hold a chokehold. It's not supposed to be a
22 chokehold. It's supposed to be a carotid restraint.
23 So the whole purpose of it is to cut off the blood
24 flow of the carotid arteries, which are located on
25 both sides of the Adam's Apple, to the brain and

2 basically sort of put the person into a gentle type
3 of sleep. Because there's--there's a potential
4 problem with a bone here called the hyoid bone, which
5 is a--which is an immobile bone. I mean it's a
6 mobile bone. It tends to move around, and if you use
7 what it looked like--from what I saw in the pictures
8 unless there's a different angle--if you use a
9 straight arm bar type of hold, you get the results of
10 what happened with Eric Garner. Now the Eric Garner
11 case is also indicative of other aspects here because
12 it's accurate. As I've heard reported that Eric
13 Garner was stopped many, many times before this
14 incident [bell] without--without, you know, without a
15 major injury to him.

16 But that he had just broken up a fight.
17 When a person is involved in that kind of situation,
18 if that's true, then you have the fight-flight
19 response going on. And so, the person is in
20 heightened state of arousal and is not their normal
21 self. So the police need to understand this is--this
22 should be part of training. The police need to
23 understand that when they approach a situation like
24 that. On the other hand, the public also needs to
25 understand that the police are often constantly in

2 this kind of fight/flights situation. And basic
3 instincts and basic learning patterns come into play.
4 And so, it's very important for the public, even if
5 they see misconduct on the part of a police officer
6 not to take a confrontational type of position.
7 Okay. The other thing is that when--when somebody
8 says to police officers like Eric Garner did, you
9 know, I've had enough, that should be a clue to
10 police officers that are properly trained that to
11 back off and let the person express why they're in
12 such a heightened state of frustration.

13 CHAIRPERSON GIBSON: Okay.

14 DR. JACK EINHEBER: The other--Oh--

15 CHAIRPERSON GIBSON: I just need you to
16 wrap up a little bit--

17 DR. JACK EINHEBER: [interposing]

18 CHAIRPERSON GIBSON: --and close your
19 remarks.

20 DR. JACK EINHEBER: Okay, well, the other
21 part of this, too, is that there's a whole lot of
22 hidden Post-Traumatic Stress Order Disorder among
23 police officers, and that--and that's a key aspect
24 that needs to be regarded--

25 CHAIRPERSON GIBSON: [interposing] Okay.

2 DR. JACK EINHEBER: -- in all this stuff.
3 Let me see, what else. Okay, and I think--I think
4 one solution. Okay, one thing that's very important
5 is to have police officers understand biological
6 bases of mental illness. Because a lot of police
7 officers think that mental illness is the fault of
8 the person. Okay, and let's see what else. I'll
9 just say one more thing here that both the police and
10 public one of the key factors for solving a lot of
11 this misunderstanding a specific type of education,
12 which allows--which is taught in graduate schools,
13 but can be taught on a more simplified level to
14 everybody. And that is that there's a difference
15 between causation, and association. If you don't
16 understand that, then you can have all kinds of false
17 conclusions coming up leading to different kinds of
18 conflict so--

19 CHAIRPERSON GIBSON: Thank you very much.
20 Thank you.

21 DR. JACK EINHEBER: All right.

22 CHAIRPERSON GIBSON: Okay, Dante and
23 Chris. Okay. Oh, and before you guys begin, I just
24 want to call up one last person to testify, Nakita

2 Price from Picture the Homeless. Can you come
3 forward so we can add you to this panel?

4 [background comments]

5 CHAIRPERSON GIBSON: Thank you so much.
6 Thank you.

7 [background comment, pause]

8 DANTE BARRY: Thank so much for having
9 me. My name is Dante Barry. I'm the Executive
10 Director of the Million Hoodies Movement for Justice.
11 We're a national racial justice network founded in
12 the wake of the murder of Trayvon Martin to protect
13 and empower young people of color from mass
14 criminalization and gun violence. A receipt to build
15 a safer and more just America by transforming the
16 public narrative on the criminalization of young
17 people of color while providing our members and
18 allies with the tools necessary to protect
19 themselves. In 2012, Million Hoodies created a new
20 tool to help document and track incidents of police
21 misconduct and institutional discrimination tracking
22 over 2,000 incidents of police misconduct in New York
23 City alone. Over the past year in response to a
24 series of high profile police killings and police
25 violence, communities across the country have erupted

2 in massive protest sustained acts of disobedient,
3 demanding an end to police brutality and a
4 recognition that black lives matter.

5 Black people have always had a
6 complicated and violent relationship with the
7 citizenship in this country. There has been a
8 monopoly on who has the right to feel and be safe. A
9 monopoly that is often regulated and enforced by
10 cops. If safety is to be the point, we must not
11 tweak but rather transform every end of policing from
12 recruitment to discipline. That's why it is time for
13 the City Council to make New York a national leader
14 by passing the Right to Know Act. The number of
15 increased officers in our communities only further
16 demonstrates the need for these basic common sense
17 protections of New Yorkers. In order to change the
18 fundamental nature of how communities are interacting
19 with and being treated by police, you must start with
20 everyday interactions and address the communication,
21 transparency and accountability in them.

22 About a month ago I was at a protest here
23 in New York City in Union Square where NYPD came out
24 in full force against the community peacefully
25 demonstrating their right to protest. I stood next

2 to my friend's 7-year-old son whose face and motions-
3 -whose face and emotions I'll never forget. As NYPD
4 violently clashed with protestors, I watched a 7-
5 year-old kid scream for his life. I don't want to
6 die. I don't want to die. I don't want them to kill
7 me. Although this isn't a normal everyday
8 interaction with NYPD officers, it is a demonstration
9 of the kind of intimidation, fear and trauma our
10 young New Yorkers are experiencing and suffering
11 through every single day.

12 I think about the next set of
13 interactions that 7-year-old kid will have with an
14 NYPD officer. In order for our communities to start
15 feeling safer, the very nature of how communities are
16 interacting with NYPD officers must change. And that
17 is why passing the Right to Know Act is the right
18 thing to do, and to prevent further negative
19 interactions from every corner and every aspect of
20 life in New York. Too often New Yorkers have no idea
21 why they're being questioned or stopped by an
22 officer, and it can be intimidating. Let's take the
23 step in leading the country in police accountability
24 and pass the Right to Know Act. Thank you.

2 CHAIRPERSON GIBSON: Thank you very much.
3 Chris, are you testifying, too? [background noise]
4 Your mic is not on.

5 CHRIS BALLOU: Thank you. Good
6 afternoon. Thank you to my comrades. Thank you to
7 Dante, also to hear from Nakita. Thank you all for
8 having us here today and thanks for our CPR in the
9 audience. My name is Chris Ballou and I'm a Campaign
10 Staff at Streetwise and Safe, also know as SAS. SAS
11 conducts real to life trainings across all five
12 boroughs to reduce the harms of police encounters. I
13 am so tired. On Friday evening I marched NY Trans
14 with hundreds of community members known as the Trans
15 Day of Action. We celebrated marriage equality,
16 while mourning record police brutality against our
17 strong communities. Some Queer Youth of Color
18 marched in the name of Marsha P. John, a veteran of
19 Stonewall. Other allies marched in the memory of Mia
20 Hall, a Black trans who was killed by police in
21 Baltimore. I marched in the name of SAS youth leader
22 Trina Baton [sp?]. Trina can't be here today
23 because she was in a car accident over the weekend,
24 but Trina has previously testified passionately
25 before City Council about an incident in which she

2 was standing on the street and talking with some
3 friends.

4 It could have been a normal day until an
5 officer approached her and demanded her ID. She gave
6 it to her. At that time, she didn't have her name
7 legally changed. The officer not only would not call
8 Trina by her real name, but she kept calling Trina
9 man and a faggot. She took a picture of Trina's ID,
10 and sent it to the Sixth Precinct. The dispatcher
11 told her that Trina's record was clear, but instead
12 of letting her go, the officer said she wanted to see
13 inside of Trina's purse. Trina didn't know her
14 rights and thought that she had to show the cop the
15 contents of her purse. When the officer looked
16 inside, she saw two condoms. She called the precinct
17 back and asked for a police car to come. Trina asked
18 her why are me locking me up? I can't carry condoms?
19 The officer replied, You are getting locked up for
20 prostitution. Trina as then taken to the precinct
21 and put in with the men. She was 17 years old.

22 Now, while the NYPD has changed its
23 policy around using condoms as evidence of intent to
24 engage in prostitution and related offenses, it does
25 not go far enough. As a result, what happened to

2 Trina could still happen to anyone of the LGBTQ youth
3 we work with. The protection of the Right to Know
4 Act, which would have required the officer to advise
5 Trina of her rights to refuse consent to the search
6 and offer her an opportunity to exercise them would
7 have cut the entire situation off at the pass. And
8 she would know the name of the officer who violated
9 NYPD policy by refusing to respect her name and
10 gender identity so she could hold her accountable.
11 Trina's story is not unique as documented by Make the
12 Road, Human Rights Watch and harm reduction agencies
13 across the city, condoms are often discovered through
14 consent searches when people are unaware of their
15 right to refuse consent or feel powerless to exercise
16 it.

17 Searches conducted to assign gender based
18 on anatomy are also prohibited by NYPD policy, but
19 yet continue to take place. And many LGBTQ New
20 Yorkers are unaware or feel unable to refuse consent
21 to these otherwise unlawful searches. But I'm here
22 to testify in support of the Right to Know Act
23 because I, too, have been in a position Trina was in
24 on several occasions. When walking home one day, an
25 officer stopped me and insisting on inspecting my

2 bags of clean laundry when they have no legal basis
3 for doing so. Another day in another year an officer
4 demanded to search my bag and those of my friends
5 after they saw us dancing the park to Beyonce. Come
6 on. Again, without any legal basis. The first time
7 I didn't know my right to not consent to the search,
8 and the second time I felt powerless to exercise it
9 because I was surrounded by officers with big guns.
10 Now, the constant threat of being subjected to
11 unlawful searches haunts the day-to-day lives of many
12 LGBT youth of color in a city that is often failed as
13 safe for us especially during this pride season.

14 Due to the ubiquity of this
15 discriminatory practice, many other thousands of LGBT
16 youth we work with at Streetwise and Safe and reach
17 with our Know Your Rights training and outreach,
18 don't visit their friends or family who live in
19 public housing. They don't walk in certain
20 neighborhoods. We don't play in certain parks, wear
21 certain clothes, take certain transit, or even carry
22 condoms because like the small amounts of marijuana
23 sometimes produced when an officer orders someone to
24 empty their pocket or open up their purse without
25 reasonable suspicion or probable cause. Condoms

2 found on consent searches are used against us by the
3 NYPD as evidence of our involvement in criminal
4 activity. Passage of the Right to Know Act is
5 essential to protecting the rights, safety and
6 opportunities of LGBT youth of color like Trina and
7 myself. Trina has the right to know who is stopping
8 her and why so she can enforce New York City's
9 historic ban on profiling based on sexual orientation
10 and gender identity.

11 It is my constitutional right to say that
12 I do not consent to a search where there is no other
13 legal basis. It gets better when we change the
14 dynamic of force, coerce and bully consent. It gets
15 better when we protect the rights of all New Yorkers
16 against abusive policing. The bill does not stop
17 officers from doing their job. It simply prevents
18 abusive policing and improves community relations.
19 And with the hiring of 1,300 more officers, the
20 legislation would help improve accountability and
21 daily interactions between the NYPD and New Yorkers.
22 We have the right to know, and to meaningfully
23 exercise our right to refuse baseless unlawful
24 searches whether to uncover marijuana, condoms or
25 surrenders or to assign us a gender based on anatomy.

2 On Friday, New York City Council passed the budget,
3 which claims to defend the vulnerable and prioritize
4 public safety. If you are truly interested in
5 defending my vulnerability, if you are truly
6 committed to prioritizing my public safety, please go
7 a step further and pass the Right to Know Act today.
8 Thank you and sorry for taking your time, Nakita.
9 Thank you.

10 CHAIRPERSON GIBSON: It's okay. Thank
11 you, Chris. Nakita will have his own time. You
12 ready? You're closing us out.

13 NAKITA PRICE: Thank you very much. I am
14 Nakita Price. I'm a civil rights organizer at
15 Picture the Homeless, and I would like to read
16 testimony of one of our members who unfortunately was
17 unable to give testimony because he had a doctor's
18 appointment due to an injury sustained while in the
19 custody of the NYPD. The individual's name is
20 Douglas Williams, and it states: Good day, members
21 of the City Council. My name is Douglas Williams. I
22 am a member of Picture the Homeless. I am also here
23 to give testimony as to why it is vital you pass the
24 Right to Know Act legislation before you today. I
25 was sitting on the corner of Hancock and Malcolm X.

2 I was throwing away a container into the garbage, and
3 three guys pulled up in a black car and took the
4 container from the trash. They never told me who
5 they were. I pushed to the ground and taken to jail
6 in handcuffs, but never told what I was being charged
7 with nor identifying themselves. They took me to the
8 81st Precinct. I told them constantly that I wanted
9 to go to the hospital to take care of the injuries I
10 sustained at the assault that was given to me. And
11 to find the names of the officers who assaulted me.
12 I was told that I go to the hospital, I would be in
13 the system longer. They told me to be quiet. They
14 gave me two tickets. One was for disorderly conduct,
15 and one for an open container. I was never seen by a
16 judge, and sent out the back door of the precinct.
17 The 81st Precinct has a history of physical abuse.
18 After three or four months, I am just able to use my
19 hand after being diagnosed with temporary nerve
20 damage. Picture the Homeless is a system with legal
21 representation. I have documentation from the doctor
22 and the tickets of the encounter. The summonses are
23 illegible, which is prolonging my legal remedies. I
24 still don't know the names of the officers who did
25 this to me, and with the approval of the Right to

2 Know Act and Bill 182-A, this type of behavior would
3 stop the NYPD from the use--from this use of--from
4 this type of use of daily abusive behavior towards
5 New Yorkers. I would like to go a little farther and
6 thank you, and let it be known that as stated, there
7 are very--many people from color from here, people of
8 certain neighborhoods, who are actually witnessing
9 these types of behaviors on a daily basis. And I
10 don't think we're all telling the same stories over
11 and over and over if they're not happening. So, I
12 urge you please, please to pass this legislation for
13 our sake.

14 CHAIRPERSON GIBSON: Thank you very much.
15 You guys were the very last panel today.

16 NAKITA PRICE: Thank you.

17 CHAIRPERSON GIBSON: So I thank you for
18 closing us out. I thank you for your presence, your
19 testimony and certainly sharing your story, which is
20 a story of many New Yorkers. We appreciate it, and
21 we certainly will continue to work with all of you.
22 We work with all of your organizations very closely.
23 So thank you for being here today.

24 NAKITA PRICE: Thank you. [background
25 comments] So once again, this was the Committee on

2 Public Safety hearing nine different legislative bill
3 before the committee. I want to thank the
4 incredible, incredible team of the Public Safety
5 Division that really put a lot of work and effort
6 into this hearing. Thank you to Deepa to Beth to
7 Laurie, Ellen, Laura, Robert, Faiza, Theo, Matt,
8 Rachel. Thank you to the entire Public Safety Task
9 Force. I want to thank all of my colleagues who are
10 here with us. I want to thank our Speaker for her
11 leadership, and thank you to all of the advocacy
12 groups, community organizations, and members of the
13 public who have come today to testify. All of the
14 testimony has been received. I also want to
15 acknowledge for the record we have received testimony
16 from the Brooklyn Defender Services as well in
17 support of Intro 582 and 182. I think sorry. 541,
18 sorry. 182 and 541. And again, I do thank you all,
19 and thank you to the sergeant-at-arms. My guys,
20 thank you for being an incredible team in getting us
21 through this hearing today. They are the best. They
22 rock. I'm so thankful to have them, and this
23 concludes the hearing on the Committee on Public
24 safety. [gavel]

1 COMMITTEE ON PUBLIC SAFETY

232

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

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



Date July 7, 2015