

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

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 believ<sup>3</sup> 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 0 for-this whole idea  
20 of open mind 0 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 Aguilera [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