

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON PUBLIC SAFETY

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September 15, 2016
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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
Stephen Levin
Daniel Garodnick

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

Robert Messner
Assistant Deputy Commissioner of NYPD Civil
Enforcement Unit

Gregory Sheehan
NYPD Deputy Inspector

Oleg Chernyavsky
NYPD Director of Legal Affairs

Martin Morales
Deputy Chief Executive Officer of Patrol
Services

Felicia Morales [sp?]
NYPD Property Clerk Division

Felix Ortiz
Brooklyn State Assemblyman

Michael and Carmen Ojeda
Parents of Briana Ojeda

Damaris Ojeda
Aunt of Briana Ojeda

Ivelisse Espinal
Redemption Point AHA Instructor

Anca Grigore
Brooklyn Defender Services

Adam Shoop
Bronx Defender Services

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

Thomas O'Brien
Legal Aid Society

Kenneth Crouch
Bronx Defender Services

Chris Alexander
Drug Policy Alliance

Debra Kriensky
New York City Audubon

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2 CHAIRPERSON GIBSON: Good morning ladies
3 and gentleman. Welcome to the City Council Chambers.
4 I am Council Member Vanessa Gibson of the 16th
5 District in the Bronx. I am proud to Chair the
6 Committee on Public Safety, and I welcome all of my
7 colleagues and each and every one of you to today's
8 hearing. I want to acknowledge the members of the
9 Public Safety Committee who have joined us, our
10 Minority Leader, Steve Matteo, Council Member James
11 Vacca, and we also have Council Member Andrew Cohen,
12 and we will be joined by other members of the
13 Committee, and we will start this hearing in just a
14 few moments. Thank you very much, colleagues, for
15 joining us today. And we also have with us member of
16 the Committee Council Member Jumaane Williams. We
17 have several important pieces of legislation that we
18 are hearing this morning. I want to thank each of my
19 colleagues for being here and sharing their thoughts
20 and as well as the Administration who has joined us.
21 Today's hearing will focus on five pieces of
22 legislation and one resolution covering a variety of
23 subject areas. These topics include procedures and
24 reporting relating to civil forfeiture and seizure,
25 CPR certification of NYPD officers, the public

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2 availability of the NYPD patrol guide, and penalties
3 related to the use of all-terrain vehicles or ATV's.
4 In 2010, young Briana Ojeda died of an asthma attack
5 in our City after a police officer claimed that he
6 was not qualified to perform CPR on her. Today, we
7 are hearing Intro 83 which relates to requiring the
8 NYPD to submit reports concerning CPR and AED
9 certification to the City Council and Resolution 1181
10 calling on the State Legislature to pass and the
11 Governor to sign Briana's Law, which will require all
12 police officers to be re-trained in CPR every two
13 years. Both of these pieces of legislation bring to
14 light the important issue of Officers, CPR and AED
15 certification such that we can hopefully prevent any
16 similar tragedies from happening in this city. I want
17 to thank Council Member Steve Levin for sponsoring
18 these pieces of legislation and all of his work
19 around Briana's Law. Council Member Dan Garodnick
20 has sponsored Proposed Intro 728A which relates to
21 requiring the publication of the NYPD patrol guide
22 and to repeal paragraph II of subdivision B of
23 section 14-150 of the Administrative Code which
24 relates to quarterly submission of the NYPD patrol
25 guide. Currently, various organizations have posted

1 excerpts of the patrol guide on their websites and
2 private companies sell it online, but neither of
3 these entities have access to or sell regular updates
4 with frequency. Proposed Intro 728A would require
5 the NYPD to post the entire guide publicly online.
6 While portions of the guide related to confidential
7 information or information that would compromise the
8 safety of the public or the police officer is
9 excluded, New Yorkers will be able to see the
10 policies, procedures and guidelines that officers are
11 required to follow. I thank Council Member Garodnick
12 for this bill. Intro 834 relates to the use of all-
13 terrain vehicles, sponsored by Council Member Andrew
14 Cohen, would prohibit the use of ATV's in our City,
15 and individuals found in violation of the law would
16 be subject to increased civil penalties. The improper
17 use of ATV's continues to be an issue on the streets
18 of our city. This bill will hopefully give the NYPD
19 additional tools to get these vehicles off of our
20 streets. Finally, Council Member Ritchie Torres
21 sponsors two bills on today's agenda, Proposed Intro
22 1000A related to requiring the Police Department to
23 report on seized property data on an annual basis,
24 and 1272 which relates to the codification of the
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2 procedures offering vehicle owners the opportunity to
3 recover possession of a seized vehicle in connection
4 with an arrest. Both of these bills will provide
5 additional transparency regarding NYPD data and the
6 process related to recovering personal property that
7 is seized or vouchered by the Department after an
8 arrest. I'd like to thank all of the sponsors that
9 have introduced these bills for proposing these
10 measures, and I know we have colleagues that want to
11 bring remarks as prime sponsors of the legislation.
12 Before I get to that, I want to recognize all of the
13 staff on the Committee on Public Safety that do
14 tremendous work to make these hearings happen, our
15 Committee Counsel Deepa Ambekar, Legislative Counsel
16 Beth Golub, our Policy Analyst Laurie Wen, and our
17 Financial Analyst Ellen Eng, and on my staff Kaitlyn
18 O'Hagan and Dana Wax. And on this day before I
19 conclude and turn this over to my colleagues, I just
20 want to recognize that after several months of
21 working with us here at the City Council and on this
22 Committee, our Policy Analyst is leaving. Today is
23 her last day. Today is her last Public Safety
24 hearing. I know she's going to miss us and all the
25 work we've done together, but on this day, I want to

1 publicly acknowledge and recognize our Policy Analyst
2 Laurie Wen for all the work you have done. Even now
3 you're still working on your last day, and we thank
4 you so much. On behalf of my colleagues and I, we
5 thank you for your tremendous service to this
6 Committee, to this City Council, to the City, and we
7 wish you well in your future endeavors. Don't forget
8 about us, and thank you for all of your incredible
9 service. Thank you.

11 [applause]

12 CHAIRPERSON GIBSON: And now, I'd like to
13 get to our first prime sponsor of Briana's Law, Intro
14 83, Council Member Steve Levin for remarks.

15 COUNCIL MEMBER LEVIN: Thank you very
16 much, Chair Gibson, for conducting this hearing
17 today. I want to thank representatives from the New
18 York City Police Department who are here today. The
19 measures before the Committee on Public Safety today,
20 Intro 83 and Resolution 1181, would ensure that all
21 police officers in New York City receive high quality
22 and ongoing training in lifesaving skills. I
23 introduced these measures in honor of a constituent
24 of mine, a young 11-year-old girl, Briana Ojeda who
25 died six years ago after a police officer did not

1 perform potentially lifesaving CPR on her as she was
2 suffering from a severe asthma attack with her
3 mother. The officer stated later that he did not
4 know CPR. Intro 83 would require that the Police
5 Department submit reports to the New York City
6 Council concerning cardiopulmonary resuscitation and
7 automated external defibrillator certification for
8 uniformed officers, school safety agents and other
9 civilian employees. Resolution 1181 calls on the
10 State Legislature to pass and the Governor to sign
11 Briana's Law, a bill named after Briana Ojeda that
12 would require police officers to be re-trained in
13 cardiopulmonary resuscitation every two years and
14 demonstrate satisfactory completion of such training.
15 Briana's Law has been introduced each year since 2010
16 and has passed the Assembly in the last four
17 sessions, but unfortunately, the Senate has not moved
18 the bill forward despite having bipartisan support, a
19 Republican prime sponsor and support from police
20 unions. Since 2010, the Ojeda family has advocated
21 tirelessly in honor of Briana, and they have in very
22 moving fashion turned their grief and their pain into
23 action to save others' lives, and the fact of the
24 matter is that these bills and having adequate CPR
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1 and AED training for all police officers would, in
2 fact, save lives. The American Heart Association, the
3 American Red Cross have endorsed these measures, and
4 I thank them sincerely for their support. It is
5 crucial to saving lives that first responders are
6 qualified to perform CPR and that they are regularly
7 retrained. More than 350,000 out-of-hospital cardiac
8 arrests occur at home each year in the United States
9 with almost 90 percent resulting in death. However,
10 if CPR is performed within the first few minutes of
11 cardiac arrest, an individual's chance of survival
12 can be double or even tripled. I want to also thank
13 Melinda Murray who is here with the American Heart
14 Association who lost her son, her only child Domenic,
15 age 17, to cardiac arrest. I hope that my colleagues
16 will join me in honoring Briana and Domenic's memory
17 by endorsing these critical measures, and I hope that
18 the New York City Police Department does as well to
19 ensure that our officers, our New York City police
20 officers whom we have such great expectations of and
21 who bear such an immense responsibility are properly
22 trained and equipped to be the best police officers
23 that they can be. Thank you.

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2 CHAIRPERSON GIBSON: Thank you very much,
3 Council Member Levin, and thank you for your
4 compassion and your commitment to make sure that we
5 honor the life of Briana, and certainly can prevent
6 many cases from ever happening again. Next, we're
7 going to get to my colleague's prime sponsor of Intro
8 834 to amend the Administrative Code of the City of
9 New York in relation to use of ATV's, Council Member
10 Andrew Cohen.

11 COUNCIL MEMBER COHEN: Thank you, Chair.
12 Before I start in my comments, I just wanted to thank
13 you personally for your support in getting this
14 heard. I know this committee always has a very busy
15 agenda, but I appreciate you finding the time to get
16 this bill heard. In 2014, there were nine deaths
17 from all-terrain vehicles or ATV's accidents in the
18 Bronx, two of which took place within two months--
19 within the first two months, and each were just a few
20 blocks from my district office. The NYPD, because of
21 the significant danger to the public, has a "no
22 chase" policy due to--for these vehicles based on
23 danger to nearby pedestrians. These vehicles are
24 capable of creating significant destruction in park
25 lands. In my district, Van Cortlandt Park has been

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2 torn up repeatedly by the illegal operation of these
3 vehicles, parade grounds, picnic areas, totally
4 unusable to the public after late night escapades
5 with these vehicles. New York City is only one
6 terrain, an urban terrain, and it is no place for
7 all-terrain vehicles. Introduction 834 prohibits the
8 operation of all-terrain vehicles in New York City.
9 The legislation creates a civil penalty for first
10 violations at 500 dollars, the second and subsequent
11 violations at 1,000 dollars. The legislation, I
12 think more significantly, allows for civil seizure
13 and forfeiture of these vehicles. I wanted to do
14 something to solve this problem. That is why I
15 introduced this legislation, and while it's not
16 perfect that it does solve-- I hope it will solve the
17 problem of unregistered, unlicensed and uninsured
18 driver who operates these vehicles in a reckless
19 manner. It does at least place a blanket prohibition
20 across the City, putting all on notice that they will
21 not be allowed to operate ATV's in our urban terrain
22 as well as provide the NYPD with another tool in
23 their tool belt to enforce against these illegal
24 acts. I was shocked by the blatant use of these
25 vehicles on our streets. I have a literally a 30-

1 second video or a about a minute video I would just
2 like to show the committee, and that will conclude my
3 remarks. I did want to thank Kelly Taylor for her
4 help in drafting this legislation, and again, I want
5 to thank the Chair for her support.
6

7 [video presentation]

8 COUNCIL MEMBER COHEN: That was Times
9 Square. Thank you, Madam Chair.

10 CHAIRPERSON GIBSON: Thank you, Council
11 Member Cohen. And now we will have the prime sponsor
12 of proposed Intro 728A to amend the Administrative
13 Code of the City of New York in relation to requiring
14 the publication of the NYPD patrol guide, Council
15 Member Dan Garodnick.

16 COUNCIL MEMBER GARODNICK: Thank you very
17 much, Madam Chair, and I appreciate your hearing this
18 bill. I also want to thank Council Member Andy Cohen
19 for raising the game of Council Members in
20 introducing some video technology in an opening
21 statement. That is a first for me in 11 years, and I
22 congratulate him. Also, I'm troubled to see what I
23 just saw, because that also is part of my Council
24 District, and the idea that ATV's would be in a
25 position block of traffic and cause such a disruptive

1 condition is something that I certainly am very
2 concerned about. Intro 728 is a bill that would
3 require the New York City Police Department to public
4 its patrol guide and all subsequent amendments on the
5 Department website. The patrol guide spells out all
6 the rules the police officers must follow in carrying
7 out their duties. These rules cover protocols for
8 school safety agents, bicycle collisions, handcuffing
9 students arrested within school facilities,
10 photography in the New York City transit system, and
11 more. If the average New Yorker wanted to check out
12 the NYPD patrol guide today, they would have to FOIA
13 it, buy a copy for 50 dollars at a private store or
14 download an unofficial and perhaps inaccurate or
15 outdated copy off a third-party website. None of
16 these options is acceptable or necessary. During the
17 past couple of years, there have been many well-
18 publicized instances of supposedly routine police
19 interactions turning harmful or even fatal, including
20 in our own city. Those these interactions are not
21 representative of the NYPD as a whole, they have
22 raised serious concerns about the relationship
23 between Police Departments and the communities they
24 serve, especially communities of color. This bill
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2 would bring increased transparency and accountability
3 to NYPD policies and practices because New Yorkers
4 will be able to know what to expect in interactions
5 with officers and will be better equipped to speak
6 out of procedure is not followed. There's no reason
7 for secrecy here. The rules governing our officers
8 are extensive. They are carefully crafted. They are
9 learned and tested, and the general public should be
10 able to access them. This bill is a simple way to
11 help build the trust some feel is lacking between
12 police and communities, and I look forward to hearing
13 today's testimony and working with NYPD leaders to
14 ensure that this smart new level of transparency is
15 implemented. Thank you again, Madam Chair.

16 CHAIRPERSON GIBSON: Thank you very much,
17 Council Member Garodnick. And I also want to
18 acknowledge we've been joined by Council Member Rory
19 Lancman, and now we will begin with our first panel,
20 which is the NYPD and representatives, our Director
21 Oleg Chernyavsky. We have Inspector Greg Sheehan,
22 Assistant Deputy Commissioner Robert Messner, Chief
23 Martin Morales, and Sergeant Felicia Morales. And if
24 you all could just raise your right hand so we can
25 administer the oath.

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2 COMMITTEE COUNSEL: Do you affirm to tell
3 the truth, the whole truth and nothing but the truth
4 in your testimony before this committee and to
5 respond honestly to Council Member questions? Thank
6 you.

7 CHAIRPERSON GIBSON: Thank you very much.
8 You can begin, and welcome, thank you for being here.

9 ROBERT MESSNER: Good morning Chair
10 Gibson and Members of the Council. I am Robert F.
11 Messner, Assistant Deputy Commissioner of the New
12 York City Police Department's, NYPD, Civil
13 Enforcement Unit. I am joined here today as you
14 mentioned by several of my colleagues who will
15 introduce themselves during today's question and
16 answer session. On behalf of Police Commissioner
17 William J. Bratton, I wish to thank the Council for
18 the opportunity to comment on these bills under
19 consideration today. The New York City Police
20 Department's Civil Asset Forfeiture program is
21 specifically devoted to deterring future criminal
22 activity by removing the economic incentive to commit
23 crimes. Under the provision of the New York City
24 Administrative Code and the rules of the City of New
25 York, the NYPD is authorized to forfeit property used

1 as "the instrumentality of or as the means of
2 committing or employed in aide or in furtherance of a
3 crime." In this way, our goal is to remove both the
4 incentive and the means of committing crime. It is
5 important to note that there has often been confusion
6 about property seized by the Police Department and
7 property subject to forfeiture. There are many ways
8 in which property comes into the custody of the NYPD.
9 Property may be held by the property clerk for
10 safekeeping or to determine true owner. In these
11 instances, the property would not be forfeited.
12 Property may also be seized for investigation.
13 Additionally, at the time of an arrest, property may
14 be taken into custody and invoiced as arrest
15 evidence. A vast majority of the time, this type of
16 property is merely held by the property clerk and
17 returned to the person from whom it was taken or to
18 the rightful owner once its investigatory value has
19 been exhausted, the criminal case completed, or after
20 the District Attorney's office issues a release for
21 the property. However, when such seized property has
22 been used to facilitate the commission of a crime or
23 is the proceeds, substituted proceeds of a crime,
24 then a civil action for forfeiture may be commenced
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1 to forfeit the property. The Civil Enforcement Unit
2 reviews and handles all potential forfeiture cases.
3 A case is viable for forfeiture if it can be proven
4 by a preponderance of the evidence that the property
5 is the proceeds or instrumentality of a crime and
6 that the owner knew or should have known that. If a
7 case meets this threshold, it is opened and either
8 offered a settlement or assigned for litigation after
9 a forfeiture case has been commenced in New York
10 State Supreme Court. If the Supreme Court in the
11 civil forfeiture action determines that the property
12 at issue should be forfeited, the title to the
13 property is transferred to the City of New York. If
14 the property is a vehicle or other tangible property,
15 it will often be auction. The special procedures
16 applicable to the forfeiture of vehicles will be
17 discussed later in my testimony. The proceeds of
18 forfeited currency and from auctions and settlements
19 are deposited into the City's general fund as
20 mandated by the Administrative Code. The goal of the
21 NYPD's forfeiture program is to deter crime. In 2015,
22 the NYPD retained 11,653 dollars in currency and 98
23 motor vehicles for the city after settlement or
24 judgement in civil forfeiture cases. These figures
25

1 do not come close to the expenses associated with our
2 forfeiture program. Rather than attempt to generate
3 revenue, the program is a partnership between
4 department attorneys and their operational colleagues
5 intended to deprive criminals of financial benefits
6 and instrumentalities of their crimes. I will now
7 address the legislation on the consideration today,
8 which cover a number of diverse topics, beginning
9 with Intro 1000A. Intro 1000A would require the
10 Police Department to report on an annual basis the
11 data relating to tangible property and currency the
12 Department takes into possession, releases to
13 claimants and retains as a result of settlements or
14 forfeiture judgements. While the Department is
15 supportive of increased transparency with respect to
16 this issue, the property and evidence tracking system
17 known as PETS software used by the Department to
18 invoice property was not designed to run the type of
19 large searches and reports that would be required
20 under intro 1000A. The system was designed to
21 catalog property at intake and ensure the accurate
22 tracking of property through its final disposition.
23 As a result, attempts to perform the types of
24 searches envisioned in the bill will lead to system
25

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2 crashes and significant delays during the intake and
3 release process in each command utilizing PETS
4 citywide. In effect, the only way the Department
5 could possibly comply with the bill would be a manual
6 count of over half a million invoices each year.

7 While the Department is capable of producing certain
8 types of data relative to forfeited property, PETS
9 does not have the capability to provide the type of
10 aggregate data sought, nor are all of the types of
11 property requested by the bill captured in PETS.

12 Despite that there are concerns about our software's
13 current technological capability to provide the exact
14 information sought by Intro 1000A, the Department is
15 willing to work with the Council to achieve the goal
16 of the bill. Intro 1272: Intro 1272 would

17 essentially codify the procedures offering vehicle
18 owners the opportunity to recover their vehicles in
19 connection with an arrest. These procedures are
20 dictated by the Federal Court Order in *Krimstock*
21 versus *Kelly*. In 2001, the Federal Courts put into
22 place special procedures applicable to the seizure of
23 vehicles where forfeiture is contemplated. These
24 procedures allow the defendant, titled owner, or
25 their legal representative to request a hearing at

1 the New York City Office of Administrative Trials and
2 Hearing, known as OATH, to determine whether the
3 Police Department may retain custody of the vehicle
4 during the pendency of the forfeiture action. At the
5 hearing, the Police Department is required to prove
6 three elements, that probable cause existed for the
7 arrest, that the City is likely to succeed in the
8 forfeiture action, and that it is necessary that the
9 vehicle remains in Police Department custody pending
10 the completion of the forfeiture action. If the NYPD
11 prevails at the hearing, the vehicle will be kept in
12 the Department's possession pending the outcome of
13 the civil forfeiture action in Supreme Court. If
14 OATH rules in favor of the respondent, the vehicle is
15 released to the owner of the vehicle while the
16 Department proceeds with civil forfeiture action in
17 Supreme Court. The Police Department supports
18 efforts to make the public more aware of this
19 process. We do, however, have some initial legal
20 concerns since these procedures were the exercise of
21 judicial power and originated from a court order. We
22 believe this legislation requires further substantive
23 conversations between the Administration and the
24 Council and we look forward to doing so. Intro 834:
25

1 Intro 834 seeks to address the dangerous conditions
2 created by all-terrain vehicles, ATV's, on our city
3 streets. The bill would prohibit the operation of an
4 ATV in the City and would make the operator liable
5 for a civil penalty. In addition, any ATV seized by
6 the Police Department would be subject to civil
7 forfeiture. Out the outset it is important to note
8 that currently the operation of an ATV on the City's
9 streets is illegal. Nevertheless, each year our
10 officers encounter many riders in large roving vans--
11 bans or small groups who operate these vehicles and
12 often disregard traffic control devices and speed
13 limits, drive against traffic, and perform dangerous
14 stunts. Nothing is more dangerous to our communities
15 than using our streets and sidewalks in the reckless
16 manner that some individuals chose to operate their
17 ATV's. Their behavior endangers pedestrians,
18 endangers bicyclists, endangers motorists, and even
19 themselves. The Department has directed significant
20 attention to addressing the dangers posed by ATV's as
21 well as dirt bikes. Due to their ability to out-
22 maneuver cars, it is the Department's policy not to
23 chase ATV's and dirt bike operators through the city
24 streets, given the inherent risk posed to the public.
25

1 Throughout the City we conduct coordinated
2 initiatives using many of our department resources.
3 These operations sometimes run daily, but with a
4 focus on the weekends when this type of illegal
5 behavior is most prevalent. We use our precinct
6 personnel, highway patrol officers and the strategic
7 response group for these operations. We also
8 coordinate with our Aviation Unit, and we set up
9 checkpoints to stop these groups and seize their
10 vehicles. The purpose of these operations to address
11 illegal ATV use is consistent with the Department's
12 commitment to Vision Zero and our pledge to keep
13 dangerous drivers off our roadways. Year-to-date we
14 have made 51 arrests for reckless operation of an
15 ATV, as well as dozens of seizures of ATV's. Our
16 enforcement efforts have yielded real results as
17 well. We have seen a decrease of 65 percent in ATV-
18 related collisions and no fatalities related to ATV's
19 in 2016 as well as recent decreases in 311 and 911
20 calls regarding ATV's. Each arrest and each seizure
21 is potentially a life saved. When enforcement is
22 taken against an ATV operator, they are often charged
23 with reckless driving under the vehicle and traffic
24 law and/or reckless endangerment under the penal law
25

1 in addition to other appropriate criminal or civil
2 penalties. Such charges make the ATV eligible for
3 forfeiture, which is one of the aims of Intro 834.
4 Intro 834 represents a thoughtful means to address
5 the dangers created by ATV's, and we support the
6 goals of this bill. However, we have concerns
7 regarding the creation of a unique seizure and
8 forfeiture procedures based solely on a civil
9 penalty. Nevertheless, we appreciate the Council's
10 efforts to expand the enforcement options available
11 to our officers in the field, and we look forward to
12 further discussions on this legislation. Intro 83:
13 Intro 83 would require the Police Department to
14 prepare an annual report on the number of NYPD
15 employees certified in cardiopulmonary resuscitation
16 and automated external defibrillation, CPR and AED.
17 In the past calendar year, disaggregated by the
18 number of uniformed officers, school safety and other
19 civilian employees. Currently, all entry-level
20 police officers recruits become certified to perform
21 CPR and AED during their training at the Police
22 Academy. They receive their certification by
23 completing the basic life-support course, which is
24 certified by the American Heart Association, the AHA.
25

1 This intensive course pairs classroom instruction
2 with hands-on practical exercises to provide our new
3 police officers with the knowledge and skills to
4 render aide in the event of a medical emergency. The
5 course teaches how to recognize life-threatening
6 medical emergencies, provide effective CPR and AED,
7 identify and treat symptoms of choking and shock, as
8 well as the Administration of Naloxone in cases of
9 opioid overdose. In addition, the Police Department
10 offers CPR/AED refresher courses that our offices
11 attend on a biennial basis with a specific emphasis
12 on retraining officers who were assigned to command
13 that interact with the public on a daily basis. The
14 refresher courses are offered daily at the Police
15 Academy and are taught by AHA certified instructors.
16 The department supports the concept of Into 83, which
17 is to publicly report the number of employees trained
18 to support CPR/AED. We have some technical concerns
19 with the bill such as the need to report the number
20 of civilians receiving CPR/AED as amending the
21 frequency of the report to match our biennial training
22 cycle. Notwithstanding these concerns, we welcome
23 the opportunity to collaborate with the Council on
24 achieving the goal of this legislation. Intro 728A:
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1 the last bill under consideration today is 728A. The
2 bill would require the Police Department to publish
3 its patrol guide online, excluding portions that
4 would reveal non-routine investigative techniques or
5 confidential information as well as any information
6 that would compromise law enforcement investigations
7 or operations or the safety of the public and police
8 officers. The Police Department supports this
9 legislation. However, we ask that an amendment be
10 made to the current draft in order to allow the
11 Department 72 hours to publish any updates on our
12 website. This bill serves as a critical part of the
13 Department's ongoing efforts to increase transparency
14 as well as strengthen our relationship with the
15 communities we serve. We believe that posting the
16 patrol guide with the appropriate safeguards
17 contemplated in Intro 728A will yield tangible
18 results, not only by educating and informing the
19 public of our procedures, but also by increasing
20 trust and confidence in the Department. Thank you
21 for the opportunity to speak with you today and we
22 are happy to answer any questions you may have.

24 CHAIRPERSON GIBSON: Thank you very much
25 for your testimony and for your presence today. I'd

1
2 like to acknowledge the presence of another member of
3 the Committee, Council Member Chaim Deutsch. And I
4 just have several questions about each of the bills
5 and going through your testimony. Then I'll get to
6 the prime sponsors and my colleagues. So, as it
7 relates to Intro 83 and Reso 1181, Briana's Law, I
8 wanted to ask, you talked about the current structure
9 of incoming officers that are graduating from the
10 Academy being trained on CPR and AED, and now
11 recently there's CIT, Crisis Intervention Training.
12 So I wanted to find out in terms of the officers that
13 are already in the Department that are not newly
14 coming out of the Academy, how does that work with
15 CIT, because I know that's still being phased in, and
16 then how does that work with older more senior
17 officers also getting trained as well?

18 GREGORY SHEEHAN: Good morning.

19 CHAIRPERSON GIBSON: Good morning.

20 GREGORY SHEEHAN: Inspector Greg Sheehan
21 from Specialized Training at the NYPD. How are you?

22 CHAIRPERSON GIBSON: Good, good.

23 GREGORY SHEEHAN: So, CIT stands for the
24 Crisis Intervention Team training course that we
25 deliver.

1 CHAIRPERSON GIBSON: Right.

2 GREGORY SHEEHAN: So, recruits coming
3 through the Academy do receive the Crisis
4 Intervention Team training as part of their entry-
5 level training at the Police Academy. Right now
6 we're processing approximately 30 in-service members
7 through the Crisis Intervention Team training that
8 are coming from uniform patrol commands. The
9 commands that we're selecting those officers to come
10 from has been decided based upon where we see the
11 Department of Health have the intention of placing
12 drop-in centers for those with mental health needs.
13 So, the commands that are being prioritized this
14 training are being dictated where we see, you know,
15 numerous 911 calls for people with mental illness
16 interacting with the police and where the Department
17 of Health plans on instituting their drop-in centers
18 in the future.

19 CHAIRPERSON GIBSON: Do you also look at
20 hospital data from emergency rooms in terms of, you
21 know, admissions and other measures?

22 GREGORY SHEEHAN: We do not, but that's
23 part of the Department of Health's overall input.

24 CHAIRPERSON GIBSON: Okay.
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GREGORY SHEEHAN: Guiding us as to what specific precincts we should be prioritizing for the training.

CHAIRPERSON GIBSON: Okay. So, how does it currently work now when officers arrive at the scene and EMS is called? How is it determined if an officer administers CPR or waits for EMS to arrive? How does that process work?

GREGORY SHEEHAN: I'm not sure I--

CHAIRPERSON GIBSON: [interposing] Does that make sense?

GREGORY SHEEHAN: I'm not sure I understand the question.

CHAIRPERSON GIBSON: So, are officers trained to wait for the arrival of EMS to the scene before CPR is administered? So, let's say officers arrive at the scene first before EMS, but it's determined that the individual needs CPR. Are the officers allowed to administer CPR?

GREGORY SHEEHAN: Yes, and they're encouraged to.

CHAIRPERSON GIBSON: Okay.

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2 GREGORY SHEEHAN: The training does not in
3 any way say that the officer should defer and wait
4 until expert medical professional--

5 CHAIRPERSON GIBSON: [interposing] Right.

6 GREGORY SHEEHAN: be that EMS or otherwise
7 arrive on the scene. Officers are trained that if
8 they identify a situation in which they can take
9 action to potentially save somebody's life, that they
10 should do so.

11 CHAIRPERSON GIBSON: Okay. And I remember
12 some time ago with the former Police Commissioner
13 there was talk about every police precinct having an
14 AED equipped in the precinct. Do you know where we
15 are with that, and is that still the case?

16 GREGORY SHEEHAN: I can't speak to that
17 particular concern.

18 CHAIRPERSON GIBSON: Okay.

19 GREGORY SHEEHAN: But I can tell you that
20 the Department has 1,270 automated external
21 defibrillators stations throughout the police
22 precincts and out on patrol in our vehicles.

23 CHAIRPERSON GIBSON: Okay. Okay. And do
24 you know if there will be an increase in that number
25 at some point?

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GREGORY SHEEHAN: My understanding is that the particular unit that runs that program is in the process of attempting to purchase more defibrillator devices.

CHAIRPERSON GIBSON: Okay, okay, great. Thank you. And I know my colleague Council Member Levin will have more questions on that. Regarding Intro 728, the patrol guide publication, you talked a little bit about potential amendments, in terms of the period where there are changes. So, if we have any procedure changes that are added to the patrol guide, you're asking for a timeframe of 72 hours in order to provide those updates on the website. Is that correct?

ROBERT MESSNER: Yes.

CHAIRPERSON GIBSON: Okay, okay. Do you know if there will be any cost measures that would make this bill difficult to implement for you in terms of publicizing the patrol guide online? Would there be any cost that we need to factor in? I have to put my Finance hat on.

OLEG CHERNYAVSKY: Right, we don't believe so, but we'll look into-- we'll look into it further.

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COMMITTEE ON PUBLIC SAFETY

CHAIRPERSON GIBSON: Okay. And I know my colleague will ask more questions about that, but before this bill was proposed, do you know if there was any idea or talk about posting the patrol guide online? Keeping in mind that, you know, we just had the roll out several months ago of CompStat 2.0 where all New Yorkers can go on the website and look at crime reports and crime data. Was that ever a part of the conversation to even have the patrol guide online or accessible to the public?

OLEG CHERNYAVASKY: I'm not aware of any. I wasn't part of it.

CHAIRPERSON GIBSON: Okay. Understand. The bills, Intro 1000 and 1272 that relate to asset forfeiture, I wanted to ask about our FY 2017 Four-Year Executive Capital Plan, there's 400 million dollars in capital funds for a new property clerk (SIC) facility. I believe it's in Queens. Is there any update you can give us on the property clerk facility? It's a big project.

FELICIA MORALES: Sergeant Morales from the Property Clerk Division.

CHAIRPERSON GIBSON: Can you put the mic closer? I can't hear you.

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2 FELICIA MORALES: Currently I have really
3 no information regarding that. I know that there were
4 talks about it, but other than that I have nothing on
5 it.

6 CHAIRPERSON GIBSON: Okay.

7 OLEG CHERNYAVASKY: Council Member, we
8 don't--

9 CHAIRPERSON GIBSON: [interposing] I will
10 definitely reach out.

11 OLEG CHERNYAVASKY: Right. We can get
12 you answers on that after speaking with our Deputy
13 Commissioner of Management and Budget that would
14 probably have that information.

15 CHAIRPERSON GIBSON: Okay. Because it was
16 talked during the budget, so I just wanted to find
17 out if there was any update you could give us. Okay,
18 I think my final question is in the testimony, the
19 amount that you provided in the forfeiture program,
20 "Last year we retained 11,653 dollars in currency." I
21 wanted to find out, in deriving that number, does
22 that also include any individual that failed to
23 recoup any money that was collected? So where--
24 what's factored in to get to this amount?

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2 ROBERT MESSNER: That amount is only
3 forfeiture cases.

4 CHAIRPERSON GIBSON: Okay.

5 ROBERT MESSNER: So that amount is cases
6 where the Police Department affirmatively started a
7 forfeiture case based on the facts that the property
8 was used to facilitate a crime or was the proceeds of
9 a crime, and that the owner knew that to be the case.
10 That would not include monies that a person never
11 came back for. So, if there is money that came into
12 the custody of the Police Department, and that could
13 happen in a large variety of ways, and no one ever
14 comes back for it, that's not included in that
15 amount.

16 CHAIRPERSON GIBSON: Oh, okay. So is
17 there a separate tracking system that accounts for
18 that?

19 OLEG CHERNYAVASKY: Right, so I think
20 this is the point about the software limitations
21 that--

22 CHAIRPERSON GIBSON: [interposing] Okay.

23 OLEG CHERNYAVASKY: Commissioner Messner
24 had mentioned in his testimony, that absent a manual
25 review of-- it's more-- we take in approximately half

1 a million vouchers every year, but to figure out how
2 much money was returned at any particular calendar
3 year, you would have to take a look at the prior year
4 or maybe two prior years to that year, because it's
5 in theory if a voucher was opened in 2013 and money
6 was seized, and then that money was given out or
7 returned to the owner in 2015, we would have to look
8 at the voucher that was opened up a year, maybe two
9 years ago, and the issue-- the issue being that the
10 PET system was built as a cataloging system for the
11 intake of property and the tracking of property for
12 purposes of chain of custody as well as to identify a
13 piece of property when an individual comes back to
14 retrieve it. The system was not built to aggregate
15 data in the manner envisioned in the bill.

16
17 CHAIRPERSON GIBSON: Okay.

18 OLEG CHERNYAVASKY: So, whereas we were
19 able to provide you numbers in the testimony, for
20 example, 98 cars seized last year, 11 thousand--
21 11,000 in change in terms of money that was
22 forfeited. Pardon me, 98 cars that were forfeited
23 last year. The reason we were able to get that data
24 because we were able to get that data directly from
25 the Forfeiture Unit who tracks what they actually

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forfeit every year. If we needed to now put that number in context, we would be unable to because the PET system we can search to see how many cars we have seized last year. We can look up any particular car. So, for example, if we seize the car from a particular individual and they came with their voucher, that car would-- we would punch in the voucher and the system would pull that up and give us the location of the car. We can close out the voucher and so on, but it will not be able to aggregate all the data.

CHAIRPERSON GIBSON: Okay. So, I appreciate that the Department is willing to work with us on this. The bill is calling for an annual report, and so we're hoping that whatever measures that we could entertain and look to, I mean, PET sounds like-- I don't want to sound antiquated, but I know it's a system that's probably not ready for 2016, but whatever we can do to try to make it more operable and disaggregate data based on what we need, I think that would be something that we would certainly want to help you on. And so, you know, I always ask the question of the cost. Everything has a cost, and I know there's a lot of man-power and

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2 hours of labor that go into this operation of this
3 system. so, moving forward, and I'm sure the prime
4 sponsor would agree, that if there are, you know,
5 other factors that we should consider, you know,
6 definitely please let us know and let's keep talking
7 about that so what we can get more information from
8 the system. Make sense?

9 OLEG CHERNYAVASKY: Yes.

10 CHAIRPERSON GIBSON: Okay, great. Thank
11 you. I'm going to go to prime sponsor Council Member
12 Andrew Cohen, but before I do that, let me announce
13 that we have been joined by Council Member Julissa
14 Ferreras-Copeland, Council Member Ritchie Torres, and
15 we will now go to Council Member Cohen for questions.

16 COUNCIL MEMBER COHEN: Thank you, Madam
17 Chair. Thank the Department for your testimony. I
18 also want to thank you for it sound like significant
19 work being done in this area and trying to make the
20 streets safe from the illegal operation of ATV's. I
21 was curious from the testimony, you testified about
22 the seizure of the vehicles. What happens-- under
23 the current regime, what happens after the vehicles
24 are seized?

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2 ROBERT MESSNER: May I? Okay. Council
3 Member, that's actually a comp-- a deceptively
4 complex question because as with all property, as
5 with all vehicles, it's completely dependent on the
6 circumstances of the seizure of the vehicle. For
7 example, many of these vehicle are found with no
8 rider because the rider has run away, because the
9 rider realizes they're about to be arrested by the
10 police, and oddly enough that causes many people to
11 run away. So, when the vehicle comes in and is
12 rider-less, we then end up seizing the vehicle and
13 categorize it as something called "determine true
14 owner" where we're trying to figure out who's the
15 owner of this vehicle and what if any responsibility
16 they may bear, for example any damage caused by the
17 vehicle. So, that could be one process. Another
18 could be if the operator of the vehicle is arrested,
19 now that vehicle is arrest evidence and may be
20 subject to forfeiture if the vehicle was used to
21 facilitate a crime. So, in the testimony we use the
22 example, and I know that Chief Morales would, you
23 know, could expand on this from an operational
24 perspective, but if that vehicle is used in a manner
25 that causes the rider to be charged with reckless

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2 endangerment and reckless operation which are both
3 criminal conduct, then that vehicle could be
4 forfeited, can be subjected to forfeiture subject to
5 all the rules. Another way can be if that vehicle
6 comes into the Police Department's custody as part of
7 an investigation, and now you have another category
8 called "investigation." A vehicle can't be forfeited
9 if it's being held for investigation, but down the
10 road it might be subject to forfeiture if a person
11 was arrested for the illegal operation of that
12 vehicle. So, unfortunately there's no straight-- as
13 with most of these property questions, there's no
14 simple straightforward answer to what happens to the
15 vehicles. But I will tell you that we do in cases
16 where these vehicles are used in a criminal manner,
17 we aggressively pursue forfeiture.

18 COUNCIL MEMBER COHEN: Can I just ask
19 maybe a slightly different way? Under what
20 circumstances do you return the vehicle?

21 ROBERT MESSNER: Well, it would be a lot
22 of circumstances where we'd return the vehicle, but
23 before the vehicle could be returned, first of all
24 the vehicle could not be used in a commission of a
25 crime. Secondly, a person would have to establish

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2 their ownership of the vehicle and that the vehicle
3 complied with all the requirements of the law. The
4 vehicle couldn't be ridden, even if it were to be
5 returned. The vehicle can't be ridden out of a
6 Department facility because it's not a street legal
7 vehicle. So it has to be removed on a trailer. So,
8 if you asked me what would be a-- you know, again,
9 this is all hypothetical, but if an ATV is stolen
10 from someone's yard and recovered by the Police
11 Department, and it turned out that this person was in
12 deed the victim of a crime, they had their lawfully
13 possessed ATV stolen by someone else, we're not going
14 to forfeit that ATV. That would be completely
15 unfair. We're going to return that ATV to the crime
16 victim. That would be an example of when we might
17 return an ATV.

18 COUNCIL MEMBER COHEN: Okay, just one
19 final question maybe, and it's all I guess to the
20 same point. Do you have any idea of how many of
21 these vehicles come into the Department's possession
22 every year?

23 ROBERT MESSNER: Chief?

24 MARTIN MORALES: Yes, good morning. I'm
25 Chief Martin Morales. I'm the Executive Officer of

1
2 Patrol Services Bureau. So far this year we seized
3 1,567 motorcycles, dirt bikes and ATV's.

4 COUNCIL MEMBER COHEN: That's great.
5 Thank you very much. In your testimony you stated
6 some concerns about the procedure of this forfeiture
7 versus other procedures. As I'm perfectly willing to
8 work with the Department so that we can come up with
9 a, you know, a uniform procedure. Thank you Madam
10 Chair.

11 CHAIRPERSON GIBSON: Thank you very much,
12 Council Member Cohen, and we've also been joined by
13 Council Member Vincent Gentile. And next we will
14 have another prime sponsor, Council Member Steve
15 Levin.

16 COUNCIL MEMBER LEVIN: Thank you very
17 much, Madam Chair. I want to ask about how training
18 for police officers differs from other first
19 responders. So, first off, police officers are
20 considered first responders, correct?

21 GREGORY SHEEHAN: Yes, that's correct.

22 COUNCIL MEMBER LEVIN: How does the
23 protocol for CPR and AED training for police
24 officers, new police officers, differ from EMT's or
25 other in place of the Fire Department?

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2 GREGORY SHEEHAN: I'm not sure I can speak
3 to what standards the Fire Department and/or the
4 Emergency Medical Services underneath the Fire
5 Department train to, but what I can say is that the
6 standard in the Department is as far as for our
7 uniformed members, police officers as you asked, is
8 the American Heart Association's course BLS, Basic
9 Life Support, updated as of 2015.

10 COUNCIL MEMBER LEVIN: And is there a
11 continuum of levels of training where BLS falls
12 somewhere in that continuum?

13 GREGORY SHEEHAN: Right. So, all entry-
14 level uniformed police officers attend a one-day
15 training course that the Department has since January
16 of this year termed "BLASTT", Basic Life Support and
17 Trauma Treatment. That's the new version of the
18 course that we introduced in January of this year.
19 Basically, the first half of the course is the
20 American Heart Association's BLS course, the standard
21 one that anyone else could go out and attend at a
22 different organization. It's a standard course.
23 Recruits attend that. Certified AHA instructors
24 deliver it. The second half of the day involves
25 training on trauma treatment, specifically the

1 Department's new piece of equipment that we
2 introduced in January, the belt-worn trauma kit.
3 That's basically a group of devices that address
4 hemorrhage control and traumatic injuries that
5 officers may encounter in the field. So, in that one
6 day of training officers are receiving a number of
7 different pieces of individuals training. The first
8 part is the American Heart Association's BLS course
9 which is infant and adult CPR, infant and adult
10 defibrillation, the administrat-- I'm sorry, the
11 Naloxone is not part of the BLS course. Treatment
12 for shock, choking. Then there's a module of
13 instruction based on the New York State Department of
14 Health Naloxone curriculum, Naloxone being the formal
15 name for the Narcan product that's available for use.
16 Officers are trained how to treat opiate overdoses,
17 and then the last part of the course is the belt-worn
18 trauma kit specifically towards use of a tourniquet
19 and hemorrhage control devices.

21 COUNCIL MEMBER LEVIN: That has-- so, the
22 BLS training was as of January of 2016. What was it
23 prior to that?

24 GREGORY SHEEHAN: The content in the BLS
25 courses prior to the most recent AHA revision, I

1
2 believe the course was previously entitled Basic Life
3 Support for Healthcare Providers. The most recent
4 version of the AHA curriculum dropped the second half
5 of the moniker and now is just called Basic Life
6 Support. So, the course that was taught prior to the
7 most recent update was called BLS for Healthcare
8 Providers.

9 COUNCIL MEMBER LEVIN: But the content of
10 the program was the same?

11 GREGORY SHEEHAN: It's extremely similar.
12 So, the differentiation between healthcare provider,
13 the previous curriculum versus the current one I
14 think is just a matter of semantics as far as what
15 exactly the terminology is used, etcetera. The BLS
16 course has two different tracks within it, first
17 responders and pre-hospital care, and those that are
18 dealing with people in a hospital environment. So,
19 just to give an example, it would be the difference
20 between a police officer or an EMT versus a doctor in
21 a hospital. So, within the BLS course there's two
22 slightly different tracks that you could take.

23 COUNCIL MEMBER LEVIN: And I don't want--
24 I'm not going to ask you about specifics of
25 individual cases, but in two instances that there is,

1
2 you know, publicly available testimony regarding in
3 the manslaughter trial of Officer Peter Liang and the
4 officer who is involved with the Briana Ojeda's
5 death, both testified that they did not feel equipped
6 from their training to be able to perform CPR.
7 Obviously, Briana Ojeda passed away in 2010. The
8 Akai Gurley passed away in I believe 2014. Is there-
9 - can you speak to at least the level of training and
10 whether or not that comports with NYPD standards
11 today and whether it comported with NYPD standards at
12 the time, and if you can kind of speak to that? You
13 know, here are anecdotal instances where it seems as
14 if the training protocol was not measuring up.

15 GREGORY SHEEHAN: Right. So, as far as
16 each individual case that you mentioned, obviously I
17 can't provide specific comments.

18 COUNCIL MEMBER LEVIN: Sure.

19 GREGORY SHEEHAN: I'm not neither
20 specifically informed as to the content of each
21 individual case or any pending disciplinary process
22 or litigation, so I appreciate that. However, to
23 speak to the more broader point, so the Department is
24 obviously committed to ensuring that our officers and
25 especially officers in uniform who interact with the

1 public day to day answering 911 calls are trained to
2 our best ability. The introduction of the belt-worn
3 trauma kit component of our training is an example of
4 the Department's commitment to this. So, currently
5 on patrol right now in New York City there's over
6 8,000 officers that are equipped with this particular
7 device which they could deploy in a situation be it a
8 mass casualty incident such as an active shooter or a
9 simply vehicle accident where someone has some
10 traumatic injury and has an issue with massive
11 hemorrhaging. So, I think that is a great example of
12 how the Department is committed to increasing the
13 level of training, increasing the level of
14 proficiency that our officers have. As to the
15 standard, again, it's not a Department invented
16 course. The content comes from the American Heart
17 Association Course. So, the basic life support
18 course we teach now and previously the basic life
19 support course for healthcare providers was the name.
20 That is the course content. As to, you know, the
21 specific circumstances of the two individuals that
22 you mentioned, I can't comment on that, sir.

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COMMITTEE ON PUBLIC SAFETY

COUNCIL MEMBER LEVIN: With regard to re-certification, as it stands now re-certification is not required. Is that correct?

GREGORY SHEEHAN: So, the--

COUNCIL MEMBER LEVIN: [interposing] As in your testimony, it's strong-- it's offered, maybe incentivized, but it's not required.

GREGORY SHEEHAN: Right. So, there is no official Department policy mandating that every uniformed officer attend CPR and/or AED training on a biennial basis, correct.

COUNCIL MEMBER LEVIN: Is that something that is being considered?

GREGORY SHEEHAN: I can't comment on the deliberations of the policy because that would be a decision that'd be made above my level.

COUNCIL MEMBER LEVIN: Uh-hm.

GREGORY SHEEHAN: But--

COUNCIL MEMBER LEVIN: Is it something-- I'm assuming that NYPD has conversations with the American Heart Association and there are best practices elsewhere in the country, whereas I'm wondering whether that's something that is looked

1
2 upon favorably as, you know, by AHA or other
3 jurisdictions?

4 GREGORY SHEEHAN: So, I would agree with
5 you that best practices is probably as you stated the
6 American Heart Association's recommendation as other
7 organizations recommend a biennial retraining course,
8 yes.

9 COUNCIL MEMBER LEVIN: Because obviously
10 there are a lot of uniformed personal in NYPD who
11 have been on the job for a long time, you know, maybe
12 joined the force 10, 15, 20 years ago, and it-- I
13 imagine that it would be-- that includes a lot of
14 patrol officers, and so--

15 GREGORY SHEEHAN: Right, so the target of
16 our retraining efforts is to ensure that we get as
17 many officers from the, again, the uniform patrol
18 commands that are interacting with people out in the
19 street that are answering 911 jobs and things of that
20 nature, but is there a mandate? No.

21 COUNCIL MEMBER LEVIN: School safety
22 agents? There are 1.1 million school children in New
23 York City in our public schools. Every public school
24 has a school safety agent.

25 GREGORY SHEEHAN: Sure.

1
2 COUNCIL MEMBER LEVIN: That's a lot of
3 kids, a lot of-- it's a lot of chances for things to
4 go wrong. Are school safety agents receiving
5 training?

6 GREGORY SHEEHAN: Yes, sir. So the school
7 safety agent training regimen is slightly different
8 than the uniform police officers. School safety
9 agents are trained in the American Heart
10 Association's course called "Heart Saver." It's a
11 slightly different version of the BLS course. The
12 difference is "Heart Saver" is basically the
13 layperson's version of Basic Life Support. Basic
14 Life Support assumes a higher level of content
15 knowledge. Patrol officers are taught a lot more
16 other techniques besides just Basic Life Support such
17 as belt trauma kit, etcetera, but it is an American
18 Heart Association certified course. The school
19 safety agent themselves are covered under the
20 Department of Education's contract with a vendor
21 called Emergency Skills. So the NYPD does not
22 deliver the training for school safety agents.
23 That's covered under a contract between the
24 Department of Education and this vendor. The vendor

1
2 gives certification training using American Heart
3 Association's Heart Saver course.

4 COUNCIL MEMBER LEVIN: Other NYPD
5 civilian employees, do they receive any training on
6 CPR or AED?

7 GREGORY SHEEHAN: So, the Basic Life
8 Support course is part of the entry-level police
9 administrative aid curriculum. Police administrative
10 aid are basically the people that you would interact
11 with, the civilian members when you would walk into a
12 precinct. They might be answering the telephone.
13 They're taking complaints in the complaint room. So
14 they do have a public interaction. That is included,
15 the Basic Life Support course, in their introductory
16 curriculum. There is no requirement for civilian
17 members to come back and retrain on a biennial basis,
18 but PAA's are given that training as part of their
19 initial introduction in the Academy. However,
20 civilians are not turned away should they come to
21 training. So again, our priority is uniform patrol
22 officers interacting with the public 911 jobs, that
23 type of environment, but civilian members are
24 encouraged to attend as well.

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COMMITTEE ON PUBLIC SAFETY

COUNCIL MEMBER LEVIN: And how many civilian employees are with the NYPD? So, I don't mean to quiz you.

MARTIN MORALES: Seventeen, about 17,000.

COUNCIL MEMBER LEVIN: Seventeen thousand? And uniformed officers?

GREGORY SHEEHAN: The number's thir-- in the low 35,000's, 35,800, 700?

COUNCIL MEMBER LEVIN: Do you know off the top of your head how many school safety agents?

GREGORY SHEEHAN: Yes, total number of school safety agents not including those currently in the academy is 4,872.

COUNCIL MEMBER LEVIN: Do you have a-- if every school safety agent, civilian employee uniformed officer were to be trained and every two years recertified, do you know how much difference in cost that would be from where the NYPD is today? Do you have a sense of how much additional cost would be required?

GREGORY SHEEHAN: I couldn't say. The through-put would move-- again, I'd have to refer back and get back to you an answer on that.

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2 COUNCIL MEMBER LEVIN: That I would be
3 interested to know. I think one of the barriers, and
4 I know you're not here to testify on the Resolution,
5 but one of the challenges that we've run into on the
6 state legislation is a question of they said unfunded
7 mandate. It would be good to know. New York City,
8 obviously, being by far the largest jurisdiction in
9 the state. What type of additional cost that you
10 would see if that bill went into effect? If that's
11 possible to do an analysis of it, it'd be very good
12 to know. With AED's, I know that Chair Gibson had
13 asked about this. In 2003, Commissioner Kelly said
14 that every precinct would be equipped with an AED.
15 Is that-- is every precinct equipped with an AED at
16 this point?

17 OLEG CHERNYAVASKY: Council Member, we'll
18 get back to you on that. We'll double check. I think
19 the inspector gave the total number that we have
20 department-wide, and we'll look into the deployment
21 of the AED's to every facility.

22 COUNCIL MEMBER LEVIN: The training
23 protocol for AED is included as part of the BLSTT, is
24 that right?

25

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2 GREGORY SHEEHAN: Yes, it's included in
3 the Basic Life Support course.

4 COUNCIL MEMBER LEVIN: With regard to
5 Basic Life Support course, is that-- is there a more
6 intensive course that the American Heart Association
7 offers, or is that a standard that there's no
8 departure from?

9 GREGORY SHEEHAN: So, the matrix, of
10 course, is that the American Heart Association offers
11 cater to different types of individuals. Our
12 assessment is that the Basic Life Support curriculum
13 that AHA offers is probably the most appropriate one
14 for the population of people that we're training,
15 first responders. Heart Saver, as I said, is not
16 lesser training. It just minimizes the medical
17 terminology and things of that nature. It just makes
18 it more accessible to a layperson. So the training is
19 not less than. It's just a bit more approachable for
20 someone that doesn't have experience being a first
21 responder. I know that there are lesser courses, you
22 know, below Heart Saver. They teach them at high
23 schools, you know, things like that. As far as what
24 is beyond Basic Life Support, I'm not sure if there's
25 a course that would be more complex above heart--

1
2 above Basic Life Support that American Heart
3 Association offers.

4 COUNCIL MEMBER LEVIN: Has the NYPD been
5 able to- in light of recent incidents, has the NYPD
6 been able to do candid interviews with police
7 officers to find out whether they feel that they're
8 appropriately adequately trained, whether their
9 training is sufficient to be able to deploy those,
10 that knowledge in a high-pressure situation. Are you
11 able to get candid feedback from officers on the
12 ground?

13 GREGORY SHEEHAN: So, when we introduced
14 the belt-worn trauma kit, we did survey the officers
15 that were attending the training, but going back to
16 the question I think that you're asking is that
17 you're asking more of a historical question going
18 back to some of the incidents that we mentioned
19 earlier, whether or not in response to that we gone
20 and queried officers on patrol to assess their
21 current state as to whether or not they feel equipped
22 or not.

23 COUNCIL MEMBER LEVIN: Yeah.

24 GREGORY SHEEHAN: I can't say whether or
25 not that's been done.

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2 COUNCIL MEMBER LEVIN: Okay, it would be
3 good to know. I mean, in these instances where police
4 officers in question have, you know, testified in
5 court proceedings that they did not at the time feel
6 adequately prepared. It would be good to know
7 whether that is a widespread perception among
8 uniformed officers or whether that was isolated cases.
9 And then last question, what is the proper protocol
10 for a police officers if they don't feel that they
11 are adequately prepared or adequately trained in CPR
12 when they're confronted with an individual that
13 requires CPR? Is there-- what is the-- is that
14 reflected in the patrol guide or is there a protocol
15 in place where if they don't feel that they're
16 prepared to address the situation? It's time
17 sensitive. Every minute counts. What is the protocol
18 for those officers?

19 GREGORY SHEEHAN: So, I think this goes,
20 but not back-- not to a specific piece of training we
21 deliver, but if you're an officer out in a patrol
22 command and through our unit training process this
23 cascading training process that we have throughout
24 the Department, if you felt there came a time when
25 you were, you know, ill-equipped or felt that your

1 skills had diminished within that two-year time
2 frame, each individual command has an individual
3 identified as a training supervisor who you can
4 approach and address any deficiencies you may have or
5 any deficiencies that you would like to address to
6 receive additional training.
7

8 COUNCIL MEMBER LEVIN: I mean in the
9 moment, in the moment where they're confronted with
10 a, you know, a very time sensitive circumstance.

11 GREGORY SHEEHAN: So, the first step is
12 obviously to ensure that the appropriate medical
13 authorities are responding in a situation like that.
14 So, your question is if an officer were to encounter
15 an incident in which he felt ill-equipped to respond
16 to the incident.

17 COUNCIL MEMBER LEVIN: And he's the first
18 one there. And he's the first one there.

19 GREGORY SHEEHAN: Right. SO, you know,
20 as always, you know, one of the first things we are
21 trained to do in a medical situation is to ensure
22 that EMS is notified and that they are prioritizing
23 their response in the appropriate manner. If you
24 encounter a situation that you feel you cannot take
25 the initial steps to help treat that individual, that

1
2 might be a piece of information you would want to
3 relay, be it CPR or any other type of medical
4 treatment to advise the dispatcher to prioritize EMS
5 because you as the initial first responder are not
6 necessarily equipped to assist this individual.

7 COUNCIL MEMBER LEVIN: And then-- I'm
8 sorry, Chair Gibson. One thing I want to read into
9 the record here, and you don't have to respond, but I
10 think it is relevant and I want to make sure that
11 it's on the record, that when in the case of Briana
12 Ojeda's death, when the police officer was
13 interviewed following Briana's death, he testified
14 that he had only learned CPR from a textbook and that
15 he was uncomfortable placing his hands on her. So,
16 at the time when she was suffering from an asthma
17 attack, a severe asthma attack, that was what he
18 testified was that he was uncomfortable placing his
19 hands on her and that he had only learned CPR from a
20 text book. This was an officer on patrol in 2010.
21 So, just you don't have to respond. It's an
22 individual case, but I want to make sure that that's
23 read into the record.

24 CHAIRPERSON GIBSON: Thank you very much,
25 Council Member Levin. We've also been joined by

1 Council Member Vincent Gentile and Council Member
2 Robert Cornegy. And just one quick question
3 following up to what the Council Member said, the DOE
4 contract with Emergency Skills that trains all SSA's,
5 does that also include school crossing guards as
6 well? Do we know?
7

8 OLEG CHERNYAVASKY: Well, look into that.

9 CHAIRPERSON GIBSON: Okay, if you can and
10 just let me know. I know it's not mandatory, but you
11 know, just basic entry, school crossing guards coming
12 out of the training, I just would like to know if
13 that's also included.

14 OLEG CHERNYAVASKY: Okay.

15 CHAIRPERSON GIBSON: And--

16 OLEG CHERNYAVASKY: [interposing] One
17 other point. We were able to find out in response to
18 one of the Council Member's questions that every
19 precinct is allocated two or three AED's. So they
20 are allocated to every precinct.

21 CHAIRPERSON GIBSON: All 77 precincts?

22 OLEG CHERNYAVASKY: Yes.

23 CHAIRPERSON GIBSON: Including PSA's?

24 UNIDENTIFIED: Yes.
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COMMITTEE ON PUBLIC SAFETY

CHAIRPERSON GIBSON: Nine PSA's? Just wanted to make sure. Okay.

UNIDENTIFIED: Unless they added one.

CHAIRPERSON GIBSON: Yes. PSA 10. Also, the AHA approved curriculum and content for uniformed police officers at the Academy, is that administered by police officers, or is that AHA staff?

GREGORY SHEEHAN: No, the instructors that teach both recruit and--

CHAIRPERSON GIBSON: [interposing] Right.

GREGORY SHEEHAN: in-service BLS AHA course content--

CHAIRPERSON GIBSON: [interposing] Right.

GREGORY SHEEHAN: is delivered by AHA certified uniformed members of the service, uniformed police officers.

CHAIRPERSON GIBSON: Members of the service, okay. Just wanted the clarification. Okay, thank you very much. Next well have Council Member Garodnick.

COUNCIL MEMBER GARODNICK: Thank you very much, Madam Chair. I just have a couple questions on forfeiture and then a couple questions on the patrol guide. Forfeiture first. You noted in your

1 testimony that proceeds of forfeited currency and
2 from auctions and things are deposited with the
3 City's General Fund. Is there any tacit
4 understanding between the Police Department and City
5 Hall that any of that money is returned back to the
6 Police Department in the City budget?
7

8 OLEG CHERNYAVASKY: No.

9 COUNCIL MEMBER GARODNICK: Okay. On the
10 Property and Evidence Tracking System, if I were to
11 ask you how many cars are in the possession of New
12 York City through the Police Department today, would
13 you be able to answer that question?

14 FELICIA MORALES: Well, due to the PET
15 system being, you know, so antiquated with its
16 reporting we would have to manually get you those
17 numbers, but we can get the numbers. It's just the
18 PET system was created to catalog property not to
19 give us numbers like that.

20 COUNCIL MEMBER GARODNICK: Okay, so the
21 answer is no there's no way to do that today other
22 than counting through a half a million records one at
23 a time. Is that fair?

24 OLEG CHERNYAVASKY: Yes.

25 FELICIA MORALES: Yes.

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COUNCIL MEMBER GARODNICK: Same thing would be true for currency, if I were to say how much money do we have in our possession as a result of confiscation even if it has not yet gone through the official civil forfeiture process? Do we know the amount of that?

OLEG CHERNYAVASKY: Correct. It would be the same. You would have to manually count every voucher to add up the money. In that sense, I think if you're-- the initial feeling would be that okay, you get the monies deposited, so you can count that. However there's a situation in a holding to hold the money in the holding account, but what would happen is if it's a relatively small amount of money that's removed from an individual being arrested and that individual is released and receives that money back and that money never gets deposited. Yes, we vouchered it, but no, it wouldn't have been deposited. It would have been returned. So, absent counting every single voucher and adding it up, you would not get an accurate number.

COUNCIL MEMBER GARODNICK: And for the bigger amounts, is the money deposited into a

1
2 segregated account separate from other police funds
3 or any other property--

4 OLEG CHERNYAVASKY: [interposing] Correct.

5 COUNCIL MEMBER GARODNICK: or belong to
6 anybody? How much money is in there today?

7 OLEG CHERNYAVASKY: I think I would have
8 to get back to you on that answer.

9 COUNCIL MEMBER GARODNICK: Alright, well,
10 that would be an interesting figure for us for this
11 hearing. So if you wouldn't mind, that would be--

12 OLEG CHERNYAVASKY: [interposing] Sure,
13 but with the understanding though that that amount,
14 whatever number it is would be a snapshot in that
15 second.

16 COUNCIL MEMBER GARODNICK: Of course.

17 OLEG CHERNYAVASKY: Because as an
18 individual comes to retrieve their money, we would be
19 issuing the money back. So, you would be getting the
20 snapshot of a second in time.

21 COUNCIL MEMBER GARODNICK: Understood.
22 Understood. And there's a process that you have to
23 go through to be able to permanently secure it, and
24 it was only 11,600 some odd dollars last year. The
25 number 1,567 you all cited as the number of vehicles

1 seized last year, how did you get to that number?
2 Did you guys actually go through the 500,000 records
3 to actually achieve the number of 1,567? Did I hear
4 you correctly?
5

6 OLEG CHERNYAVASKY: Right, I think what
7 the Chief, and Chief you can correct me if I'm wrong,
8 what he was referring to was not vehicles, it was
9 motorcycles, ATV's and dirt bikes, and because these
10 are targeted operations at these things, these
11 operations, the results of these operations are
12 recorded. It's not mere searching of a--

13 COUNCIL MEMBER GARODNICK: [interposing] I
14 see. So, those were vehicles, non-car. So if I were
15 to say cars for the last year, you would say I don't--
16 - we don't know the answer to that other than--

17 OLEG CHERNYAVASKY: [interposing] Other
18 than manual--

19 COUNCIL MEMBER GARODNICK: if you were to
20 sit somebody down and go through 500,000.

21 OLEG CHERNYAVASKY: Right, with the
22 understanding, and I just want to be clear on this,
23 that if an individuals whose car was vouchered came
24 to retrieve the vehicle, we look up that particular
25 voucher, and the vehicle isn't there when we--

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2 COUNCIL MEMBER GARODNICK: [interposing]
3 Understood. Understood. It's a question about the
4 searchability [sic].

5 OLEG CHERNYAVASKY: Correct.

6 COUNCIL MEMBER GARODNICK: I mean, the
7 system sounds pretty useless from the perspective of
8 generating a report and clearly antiquated. So, the
9 question then becomes, have you identified what sort
10 of system you would need to be able to rejuvenate the
11 Police Department's technology here to be able to
12 create such a report?

13 OLEG CHERNYAVASKY: I think Council Member
14 Torres' bill has stimulated that conversation within
15 the Department of what the different options that are
16 available to us, whether it's upgrading the existing
17 system, a new system or figuring out ways in which
18 data can be manipulated within the system which will
19 in effect be an upgrade.

20 COUNCIL MEMBER GARODNICK: Good, because I
21 think we should probably be able to know the answer
22 to that question, and so we're glad you're looking at
23 that and we look forward to continuing the
24 conversation. On the patrol guide, thank you for
25 your general support of this initiative. One basic

1 question, why is the patrol guide not publicly
2 available today?

3 OLEG CHERNYAVASKY: I'm not sure. I'm not
4 sure I could answer that. I know that patrol guide
5 sections are made available whether it be through
6 FOIA requests, through discovery and lawsuits, as you
7 mentioned that apparently it's available online to be
8 purchased. I've heard that. I haven't actually seen
9 that, but I don't think I can answer that. However,
10 what your bill does is actually-- it's a logical step
11 in our drive for greater transparency, and that's why
12 we support it.

13 COUNCIL MEMBER GARODNICK: Do we need a
14 bill to do this? I mean, we'll pass the bill,
15 happily pass the bill, but shouldn't the Police
16 Department just be doing this?

17 OLEG CHERNYAVASKY: Well, I think we're
18 committed at this point. Again, you've stimulated the
19 conversation. We're committed to doing it. If you
20 pull your bill, I think we would still be committed
21 to doing it, but yeah.

22 COUNCIL MEMBER GARODNICK: Okay. The
23 bill says that you're required to publish the patrol
24 guide excluding portions that would reveal non-
25

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2 routine investigative techniques and things like that
3 and confidential information. That's how the bill is
4 drafted by the City Council. Just give a sense as to
5 what sorts of things we are therefore excluding from
6 public review here. I have a sense, but I think it's
7 worth our just identifying that.

8 OLEG CHERNYAVASKY: Sure. I would think--
9 I'm spit balling, and you're right, and that's what I
10 was thinking about is, for example, our response to
11 active shooter. You know, we wouldn't really want to
12 telegraph what is our response is to active shooter
13 is. Maybe situations about safeguarding weapons, you
14 know, how we would safeguard a weapon if an officer
15 finds himself or herself in a struggle, how they
16 would position their body to safeguard their weapons.
17 I don't think we would want to be telegraphing that.
18 I think those are a couple of good examples.

19 COUNCIL MEMBER GARODNICK: I'm not sure.
20 Does that constitute non-routine investigative
21 technique or confidential information? Though, I
22 just want to make sure we get the language right so
23 there's no--

24 OLEG CHERNYAVASKY: [interposing] Right.
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COUNCIL MEMBER GARODNICK: ultimate dispute here between Police Department and the Council as to what you should be putting up there.

OLEG CHERNYAVASKY: Right. I think the vast majority of the patrol guide would fall outside of the exemption that was put in it. I think what we're talking about is the exception, not the norm. I think the norm would be to post it, however subject to information that may endanger, and I think other than compromising investigative techniques and so on. I think there's also a provision in there for the safety of officers and the safety of the general public, and I think those are the examples.

COUNCIL MEMBER GARODNICK: Okay. And lastly, I noted you wanted a little time to be able to update it online. That seems perfectly reasonable. You know, what the precise amount of time is what we should discuss. I know you've asked for 72 hours.

OLEG CHERNYAVASKY: Sure.

COUNCIL MEMBER GARODNICK: That does not-

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OLEG CHERNYAVASKY: [interposing] We--

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COMMITTEE ON PUBLIC SAFETY

COUNCIL MEMBER GARODNICK: That does not feel crazy to me, so we should talk about how to do that.

OLEG CHERNYAVASKY: Sure. We've asked for a little more, but if at a minimum that. I mean, the idea is procedures that we would enact on an expedited basis as a result of a piece of legislation that flies through the Council or the State or a court decision that gets passed down. We would just like to have a little bit of time to review that before we post it, and that's really the basis.

COUNCIL MEMBER GARODNICK: Thank you very much.

CHAIRPERSON GIBSON: Thank you, Council Member Garodnick. Quick question before I get to my next colleague. Do you know how many, the number of uniformed members of the Department AHA certified to administer the BLS CPR training at the Academy? Like is there a number that you have of trainers? Instructors, sorry.

GREGORY SHEEHAN: You're asking about instructors?

CHAIRPERSON GIBSON: Trainers, instructors, yes.

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2 GREGORY SHEEHAN: I don't know the exact
3 number because they reside both in the recruit school
4 training center--

5 CHAIRPERSON GIBSON: [interposing] Okay

6 GREGORY SHEEHAN: And my in-service
7 training center. I could estimate it that it is in
8 excess of 15 or 20.

9 CHAIRPERSON GIBSON: Okay.

10 GREGORY SHEEHAN: Somewhere along that
11 line, but I can give an exact number.

12 CHAIRPERSON GIBSON: Okay, okay.

13 GREGORY SHEEHAN: We could get back to
14 you.

15 CHAIRPERSON GIBSON: Sure, no problem.
16 It's just a number I wanted to be aware of. Okay,
17 next we have Council Member Lancman followed by
18 Council Member Deutsch.

19 COUNCIL MEMBER LANCMAN: Good morning. I
20 just want to clarify the CPR training. Just to be
21 clear, officers-- it's not the policy of the NYPD to
22 train, re-train officers on any kind of regular
23 periodic basis on how to perform CPR. Is that right?
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2 GREGORY SHEEHAN: There is no written
3 policy mandating an officer to come back for the
4 biennial refresher training.

5 COUNCIL MEMBER LANCMAN: Well, so you
6 refer to the biannual refresher training, that leads-
7 - when I hear that I would think, okay, there's
8 biannual refresher training and every officer
9 biannually every two years has to be refreshed. What
10 is the biannual refresher training if it's not a
11 mandate that every officer receives CPR training at
12 least once every two years?

13 GREGORY SHEEHAN: Right. So if you did
14 attend, you would then next be expected to show up
15 after the two-year period. Right? So, if you went
16 in May of this year, two years later from May, that
17 would be the time where you would be expected to come
18 back and attend the refresher training on your
19 previous training. If you're a recruit in the
20 Academy, when you graduate it's two years after you
21 exit the academy. That's when your biennial
22 refresher requirement, you know, would be instituted.

23 COUNCIL MEMBER LANCMAN: So I--
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2 GREGORY SHEEHAN: [interposing] But is
3 there a written policy that says every uniform member
4 is mandated to attend, there answer is no.

5 COUNCIL MEMBER LANCMAN: So, I don't
6 understand the difference between-- you're used to
7 the word expectation, it would be expected. What do
8 you mean that a recruit is expected to get refresher
9 training two years after the--leaving the Academy.
10 What is the expectation beyond after you've left the
11 academy to get retrained every two years? I don't
12 understand the use of the word expectation.

13 GREGORY SHEEHAN: Well, I can't use
14 mandate, because there is no rule mandating that you
15 attend. However, the uniform patrol commands, patrol
16 transit housing, etcetera, they all along with every
17 other unit in the Department have a local training
18 supervisor which is responsible for managing the
19 scheduling of training both where they send officers
20 to the academy and other places, and unit training
21 that they conduct at roll call within their own
22 individual facility with their own individual cops.
23 As part of the program, those sergeants are told to
24 schedule these individuals to come back for training.

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2 COUNCIL MEMBER LANCMAN: So, what you're
3 saying is, I think, there's no uniform NYPD-level
4 rule that the officers will get retrained every two
5 years, but that each command has its own policy, with
6 a lowercase "p", where the officers within that
7 command will get refresher training every two years.
8 Am I understanding it right?

9 GREGORY SHEEHAN: I think that's a good
10 summation of it.

11 COUNCIL MEMBER LANCMAN: So, when did
12 this policy, this practice of refresher training
13 every two years, when did that begin? Is this
14 something that the NYPD has done, you know, for
15 decades now or this is something that, you know, six
16 years ago was-- it became the custom or the practice?

17 GREGORY SHEEHAN: I couldn't tell you
18 historically when either a rule was no longer
19 enforced. My understanding is there was never a
20 rule. As to a date, historical perspective, on the
21 policy as you said with the small "p" I couldn't
22 answer that question, sir.

23 COUNCIL MEMBER LANCMAN: Okay. Well, how
24 long have you been on the force?

25 GREGORY SHEEHAN: Twenty years.

1 COUNCIL MEMBER LANCMAN: Twenty years.

2 So for the 20 years that you've been on the force,
3 has it been the expectation in the various commands
4 that you have served in that every two years you get
5 this refresher?
6

7 GREGORY SHEEHAN: In the uniform patrol
8 command--

9 COUNCIL MEMBER LANCMAN: [interposing]
10 Yes.

11 GREGORY SHEEHAN: yes, sir.

12 COUNCIL MEMBER LANCMAN: For as long as
13 you've been on the force.

14 GREGORY SHEEHAN: Yes, sir.

15 COUNCIL MEMBER LANCMAN: And you know,
16 you're the guy they send here to testify today, so I
17 want to ask you what you are aware of beyond your own
18 personal experience. And so what can you say about
19 whether or not this biannual expectation is being met
20 throughout the various commands in the NYPD? Are
21 people getting their biannual refresher training?

22 GREGORY SHEEHAN: So, within the two years
23 we've trained 19,459 uniformed members of the service
24 in the biennial period.

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2 COUNCIL MEMBER LANCMAN: Within the last
3 two years.

4 GREGORY SHEEHAN: Right.

5 COUNCIL MEMBER LANCMAN: Do you have that
6 data for each two-year period? I assume people have
7 to sign in or attendance is taken. I mean, do you
8 have that data?

9 GREGORY SHEEHAN: Correct.

10 COUNCIL MEMBER LANCMAN: You have that
11 data for each two-year period?

12 GREGORY SHEEHAN: It's not disaggregated
13 by every two-year period. We have it on an annual
14 basis, and then you know, we an obviously go back a
15 two-year period what the compliance rate was,
16 etcetera, yeah.

17 COUNCIL MEMBER LANCMAN: Got it. And
18 just to clarify, has there been any greater attention
19 or emphasis or guidance, direction to the commands or
20 within the commands that, hey, we really need to make
21 sure that we're doing these two-year refresher
22 courses, and if so when did-- if so, when did that
23 kick in? Was there some precipitating event?

24 GREGORY SHEEHAN: So, I think this is
25 something that's always been on the training agenda.

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2 I don't think there's necessarily been a particular
3 incident or two. Obviously as the Department's been
4 in the newspaper for deficiencies that have been
5 noted by your fellow Council Members, these topics do
6 come up during training sessions as far as what
7 commands may be falling behind. We need to pay
8 additional attention to these problems. You know,
9 let's get some additional support for this particular
10 location. They're falling behind. But I do believe
11 it's something that has been on the agenda as far as
12 getting officers into training for as long as I've
13 been in this position.

14 COUNCIL MEMBER LANCMAN: And how long has
15 that been?

16 GREGORY SHEEHAN: Just over two years.

17 COUNCIL MEMBER LANCMAN: And is there
18 anyone-- well, let's look at it this way. What is the
19 highest level within the NYPD, right, you got the
20 Commissioner and then down from there, whose
21 responsibility and who actually is fulfilling that
22 responsibility to see if the various commands are
23 meeting this expectation and at what level and
24 measuring commanders in part based on whether they're
25 meeting this expectation? Like, I know, you know,

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2 CompStat, the commanding officers show up and get
3 grilled on different metrics in their precinct. Is
4 this one of them?

5 GREGORY SHEEHAN: No, it is not. It's not
6 one that's spoken about at CompStat.

7 COUNCIL MEMBER LANCMAN: Okay.

8 GREGORY SHEEHAN: But training and
9 compliance with training directive is something
10 that's a requirement of every supervisor, be it a
11 newly promoted sergeant all the way up to, you know,
12 the chiefs. You know, training is something that
13 every supervisor has a rule in throughout the
14 Department.

15 COUNCIL MEMBER LANCMAN: Okay. Alright,
16 thank you. Thanks.

17 CHAIRPERSON GIBSON: Before I get to my
18 next colleague, I just wanted to say, and I think,
19 you know, the reason why-- and I'm really glad that
20 we're having this hearing, and while there are a
21 different number of bills, but the CPR and AED topic
22 in itself to me warrants further discussion. I
23 think, you know, it's a little concerning when you
24 think about officers that are on patrol in the City
25 and they have received their CPR training, but if you

1 don't use it enough, I mean, and you're not mandated
2 to return for CPR training, I mean, how much are you
3 really going to remember. And so, you know, without
4 that mandate with a strong encouragement, you know,
5 there's nothing that propels an officer unless it's
6 their individual, you know, decision to say I want to
7 take a refresher courses. You know, it's a little
8 concerning. So, I want to put it on the record, and
9 certainly we'll talk to the incoming Commissioner
10 about having further conversation on the training
11 itself and how we can put something in the procedure
12 to make sure that officers are obviously well-
13 prepared, but you know, in those cases where you just
14 don't, you know, administer CPR frequent enough,
15 there-- it could be officers that don't feel
16 comfortable enough to administer that. And I know,
17 you know, contrary to what, you know, my colleague
18 have said, we've seen cases where offices have
19 admitted that, that they just didn't feel comfortable
20 vehicle of the level of training that they received.
21 So, I just wanted to make sure that you all
22 understood that from our perspective, we want to have
23 further conversation about this particular topic.
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2 Moving forward, okay? Next, we're going to have
3 Council Member Deutsch.

4 COUNCIL MEMBER DEUTSCH: Thank you.

5 Thank you, Madam Chair. First of all, I want to
6 express the importance of having the training, CPR
7 training, for officers. I think almost exactly a year
8 ago I honored Officer Shi [sp?] from Transit District
9 34 who was on Sheepshead Bay Road Station and where
10 this 19-year-old teenager collapsed and went
11 unconscious when Officer Shi performed CPR and waited
12 for EMS to arrive. It took EMS a while to attend.
13 So, I want to commend Officer Shi as well as the
14 importance, express the importance of having the CPR
15 training to all officers. So, we did touch upon that
16 school safety officers. Madam Chair spoke about the
17 school safety officers. We spoke about uniform
18 patrol officers out in the street. My concern also--
19 my concern is officers that work in transit.
20 Sometimes you have an issue with communication, and
21 it takes a lot longer for the EMS to get there,
22 sometimes because of the lack of communication or
23 underground communication. Although technology has
24 been upgraded, but going underground is very
25 difficult, and communicating from underneath,

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2 underground. So, the importance of-- you mentioned
3 about there's different types of training for school
4 safety officers, a different type of training for
5 uniformed officers, so I'm-- question is for transit,
6 if that is taken into consideration to give more
7 intensive training for them in case they cannot
8 communicate or because it takes longer for EMS to
9 attend into a subway station?

10 GREGORY SHEEHAN: I can't say that that's
11 something that's being taken into consideration in
12 this particular area of training on CPR and different
13 relation, no.

14 COUNCIL MEMBER DEUTSCH: So, it's not
15 taken-- it's not taken into consideration.

16 GREGORY SHEEHAN: No, they attend the
17 same--

18 COUNCIL MEMBER DEUTSCH: [interposing]
19 It's something that--

20 GREGORY SHEEHAN: [interposing] They would
21 attend the same courses the other uniform members of
22 the service from patrol or housing.

23 COUNCIL MEMBER DEUTSCH: Okay. So, is it
24 something that could be looked at?

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2 GREGORY SHEEHAN: Could certainly look
3 into it.

4 COUNCIL MEMBER DEUTSCH: Okay. I want to
5 get back to the ATV's. So, firstly, if someone
6 drives under influence of alcohol, DWI or DUI, if you
7 pull someone-- a patrol officer pulls someone over
8 who's under the influence of DUI or DWI, what happens
9 to that vehicle?

10 ROBERT MESSNER: We have a program for
11 forfeit vehicles that are driven by people in
12 violation of VTL who are under the influence of drugs
13 or alcohol, and that's been ongoing since 1999.

14 COUNCIL MEMBER DEUTSCH: So, what happens
15 to the vehicle once it's seized?

16 ROBERT MESSNER: Well, the vehicle is--
17 in the case of a person who is arrested for DWI, the
18 person is arrested, the vehicle is seized as arrest
19 evidence, and it's also considered for forfeiture
20 because of the arrest for DWI, and if after review of
21 the circumstances of the case, it is a viable
22 forfeiture case, meaning that, for example, meaning
23 that the vehicle was used to facilitate a crime.
24 Well, that's always the case in a DWI, because you
25 can't commit DWI without a vehicle, but you also have

1
2 to be able to prove knowledge on the part of the
3 owner. So, for example, before I mentioned a case
4 where an ATV is stolen out of someone's yard. If a
5 person is arrested for driving that ATV while
6 intoxicated we wouldn't forfeit that ATV because the
7 owner of the ATV didn't know this person was going to
8 be riding it. It was stolen from the owner. So, it
9 would be unfair and the law would not support
10 forfeiting that ATV. However, if you had a
11 circumstance where a person was driving their own
12 ATV, an ATV that they own, they're the owner, they're
13 intoxicated, then that ATV would be subjected to
14 forfeiture.

15 COUNCIL MEMBER DEUTSCH: So, anytime
16 whether it's a ATV or it's a vehicle, it has to be
17 the owner of the vehicle driving that vehicle or ATV
18 in order for it be-- in order for it to be seized and
19 put into forfeiture.

20 ROBERT MESSNER: That's one circumstance
21 where the owner is driving, but in other
22 circumstances where the owner had actual or implicit
23 knowledge of the person who's driving the vehicle.
24 So, the issue, one of the many issues and this is--
25 there are a tremendous number of different

1
2 permutations of this, but one of the most common
3 situations is people don't always title vehicles in
4 the name of the real owner for a variety of reasons,
5 insurance reasons, liability reasons. People like to
6 ti-- people tend to title vehicles in the name of a
7 straw person owner who's actually not the owner of
8 the vehicle, and in that circumstance the law
9 supports a concept called "Beneficial Ownership." So,
10 a person may not be the owner on paper, but we may be
11 actually able to prove the person's the owner.

12 Another instance would be where we're able to prove
13 that the owner had knowledge that the person was
14 going to use this vehicle in a crime. Now, that is
15 more difficult in the case of DWI, but for example,
16 if there was a close relationship between the owner
17 and the operator of the vehicle, and the operator had
18 been arrested prior for the same crime, then we would
19 take the position that the owner should have known
20 that this person was going to drive the car drunk or
21 the ATV drunk.

22 COUNCIL MEMBER DEUTSCH: So, how does that
23 work? Is it a husband/wife?

24 ROBERT MESSNER: Could be.
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2 COUNCIL MEMBER DEUTSCH: Is this family
3 member--

4 ROBERT MESSNER: Fam--

5 COUNCIL MEMBER DEUTSCH: [interposing] Is
6 that defined anywhere? Is it defined?

7 ROBERT MESSNER: It's defined by case
8 law. there's, you know, hundreds of cases that talk
9 about beneficial owner, but you have to remember that
10 each of these cases is first considered by an
11 Administrative Law Judge at the OATH hearing to
12 determine if the Police Department can retain the
13 vehicle during the forfeiture case, and then each
14 case is individually reviewed by a New York State
15 Supreme Court Judge. So, this isn't the Police
16 Department making a decision when to take someone's
17 vehicle away from them. Two different judges have to
18 decide that the circumstance is appropriate that a
19 vehicle be subjected to forfeiture. And, you know, I
20 hate to prattle on, but you know, you ask the lawyer
21 a question sometimes bad things happen, they talk
22 forever. But you also should know that we were the
23 first jurisdiction in the country to offer
24 settlements in DWI forfeiture cases that is actually
25 linked to the alcohol abuse, the potential for

1 alcohol abuse. So, we have had a settlement policy
2 in the NYPD since the early 2000's wherein cases, in
3 many cases, where there are no aggravated factors
4 where a person who is arrested for DWI is offered the
5 ability to settle their forfeiture case by going to a
6 state-certified alcoholism counselor for an
7 assessment and for following whatever treatment
8 recommendation that alcoholism counselor makes, and
9 we make that the settlement term for the forfeiture
10 case. That was the first time in the country that
11 anyone had ever linked assessment and treatment of
12 potential alcoholism problem to the resolution of a
13 forfeiture case, and we're very proud of that.

14
15 COUNCIL MEMBER DEUTSCH: Thank you. I
16 want to go back to CPR training. So, New York City
17 Police Department does not mandate officers to be
18 trained on CPR. Now, how many months is a cadet or
19 someone at the Police Academy in training before they
20 become a cop?

21 GREGORY SHEEHAN: So, the entry-level
22 recruit training for an incoming police officer is
23 six months long.

24 COUNCIL MEMBER DEUTSCH: Six months, and
25 how long is the CPR training for each officer?

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2 GREGORY SHEEHAN: It's approximately one
3 day.

4 COUNCIL MEMBER DEUTSCH: One day. So, if
5 you have six months, an officer gets trained for six
6 months, six long months, with intensive training.
7 They come out bruised sometimes climbing over walls
8 and all types of exercises. Why is officers not
9 mandated for CPR if it's just going to be six months
10 and one day and it could save even one life?

11 GREGORY SHEEHAN: So, recruit officers in
12 the Police Academy attend CPR and defibrillator
13 training, the AHA BLS course as a mandatory component
14 of the entry-level police academy. There is no policy
15 mandating that after they graduate the Academy that
16 they return on a biennial basis during in-service
17 training, but it is required as part of the entry-
18 level Police Academy training for new officers.

19 COUNCIL MEMBER DEUTSCH: So, why wouldn't
20 it be required for one day after that? How many sick
21 days does an officer get? How many vacation days
22 does an officer get? Why can't they-- why do we have
23 to go through legislation and put in the resolution
24 for the state for one day of training per year or for
25 every two years? I mean, this is why I don't-- I am

1
2 not a supporter of all the reporting bills. I voted
3 against some reporting bills, because the officers
4 need to put-- NYPD needs to put resources into crime
5 reduction and into other crime waves that we have
6 throughout the City, opposed to constantly sitting
7 behind a desk and writing all these reports, but I
8 don't understand why we have to come to a point
9 where we have to send a resolution to the state for
10 one day of CPR training which could save one life.

11 GREGORY SHEEHAN: I'm not sure I could
12 answer that, sir.

13 COUNCIL MEMBER DEUTSCH: Thank you.

14 CHAIRPERSON GIBSON: Thank you, Council
15 Member Deutsch, and as I end this panel, just wanted
16 to ask one more question about the Property Clerk.
17 Could you give me an understanding of where the
18 Property Clerk's offices are in the City?

19 FELICIA MORALES: There's one Property
20 Clerk offices in each borough, and--

21 CHAIRPERSON GIBSON: [interposing] At the
22 borough office or at a separate location?

23 FELICIA MORALES: It's a separate
24 location. There's one in the Bronx, one in Brooklyn,
25

1
2 Queens, Staten Island. So, there's one in each
3 borough.

4 CHAIRPERSON GIBSON: Okay. So, can you
5 just walk me through a scenario of someone's property
6 being seized? Would it go to the local precinct and
7 then it's, you know, invoiced, and then it would go
8 to that location in that particular borough? How
9 would that work?

10 FELICIA MORALES: Right. Well, once the
11 property's in taken at the precinct level, then it
12 will go, if it's a car, it will go to one of our
13 pounds. We have two pounds, auto pounds. If it's
14 general property, it will go to the Property Clerk
15 Office in that borough, but then we also have the
16 warehouses where they intake big pieces of property,
17 huge items of property. So, if it's a small item it
18 can go to a borough office, but if it's a big item,
19 let's just say a refrigerator, that will go to one of
20 our warehouses.

21 CHAIRPERSON GIBSON: So, during the
22 summer I know there's a lot of property seized
23 around-- some of the large speakers for like large
24 parties and things that happen. So would that be
25 considered large-scale as well?

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FELICIA MORALES: Yes, that would go to a warehouse.

CHAIRPERSON GIBSON: Okay. And cellphones or any sort of electronic device, currency, that would go where?

FELICIA MORALES: To a borough office.

CHAIRPERSON GIBSON: Okay.

FELICIA MORALES: So wherever the property was taken, it would go to the borough office.

CHAIRPERSON GIBSON: Okay. So what's the time frame that an item stays at the precinct before it goes to the borough?

FELICIA MORALES: Well, the precincts take property to the borough office on a rotating schedule.

CHAIRPERSON GIBSON: Okay.

FELICIA MORALES: So, I would say that according to the schedule it could be at a precinct location for about seven days.

CHAIRPERSON GIBSON: Okay, and all of this whether it's monetary, electronics, small scale, large scale, auto, is that all tracked under the PET system?

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FELICIA MORALES: Yes.

CHAIRPERSON GIBSON: Okay.

FELICIA MORALES: It's catalogued under the PET system.

CHAIRPERSON GIBSON: Okay. Definitely wanted to understand a little bit more, because there are a number of cases that, you know, sometimes come to our offices of mothers and fathers, you know, loved ones that were, you know, unfortunately killed and they're trying to retrieve some sort of property, and so I was just trying to understand how all of that works, and even in cases where individuals were, you know, not killed, but just how, you know, parents and others can go about retrieving that particular property.

FELICIA MORALES: All of the property can be retrieved at the borough location where it's located. A lot of times the person is given an invoice, and that invoice will say which precinct took in the property, but then they can call-- it's on the NewYorkCity.gov under Property Clerk Division, and each borough office has their information on there. So, you can call the borough office to make arrangements, and we have a special VIP for

1
2 decedent's property and people who are going to pick
3 up decedent's property. We have a certain number that
4 they can call to arrange to pick up property, and as
5 long as they have the proper documentation they can
6 definitely pick up property there.

7 CHAIRPERSON GIBSON: That was my next
8 question, proper documentation. So, is that
9 outlined? Is that shared with the individual
10 beforehand of the proper documentation that's needed
11 before the items can be retrieved?

12 FELICIA MORALES: Yes, it is.

13 CHAIRPERSON GIBSON: Okay, and Property
14 Clerks office in each of the boroughs, the staffing,
15 what does that look like? Is that uniformed and
16 civilian, or what's the make-up?

17 FELICIA MORALES: Yes, it is. It's
18 uniform and civilian.

19 CHAIRPERSON GIBSON: Okay, no civilian
20 staff like PAA's, they don't work at Property Clerk
21 Office?

22 FELICIA MORALES: Yes, I said uniforms
23 and civilian.

24 CHAIRPERSON GIBSON: Oh, both, both, both,
25 okay.

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FELICIA MORALES: Both, yes.

CHAIRPERSON GIBSON: Okay. And then at the precinct level, the Property Clerk's Office is handled by who?

FELICIA MORALES: At the precinct level it's usually a property officer and that office is usually a very tiny office.

CHAIRPERSON GIBSON: Okay.

FELICIA MORALES: They don't keep a lot of property on-hand there, because also property which is currency is deposited into the bank at the precinct level.

CHAIRPERSON GIBSON: Oh, okay, and that's also done on a rotating basis as well?

FELICIA MORALES: Well, the property for the US currency will be deposited the day that they intake it. It will not stay at the precinct.

CHAIRPERSON GIBSON: Okay. So, I'm sure you guys are aware that last year we started the IDNYC program, the New York City Municipal Identification program, and it's our effort to make sure that any New Yorker that is not able to get a New York State issued ID has sufficient identification. Is that something that is acceptable

1
2 to retrieve an item if you're a loved one or a
3 relative and you're trying to retrieve property?

4 FELICIA MORALES: Yes, it is, and it's
5 also on the website that it says it's a very-- it's
6 an acceptable form of ID for property retrieval.

7 CHAIRPERSON GIBSON: And even if you're
8 the person, the owner of the property as well, right?
9 That's still acceptable?

10 FELICIA MORALES: Yes, of course.

11 CHAIRPERSON GIBSON: Okay. And one final
12 question because I know this has happened in cases
13 that came to my office. What happens when the
14 identification is the property that's actually been
15 taken? How do you prove who you are if your
16 identification is in your wallet and you have no
17 other form of ID?

18 FELICIA MORALES: Well, if the property
19 that's there is your ID--

20 CHAIRPERSON GIBSON: [interposing] Right.

21 FELICIA MORALES: the person that is
22 taking out the property from the shelf, they would
23 confirm that that is you, and you would have some
24 kind of other identification on yourself, which it
25 could be a credit card, a-- something from the post

1 office, some correspondence that has your name and
2 address, and as long as that picture is there,
3 they'll give you the ID that was invoiced.

4 CHAIRPERSON GIBSON: Oh, okay. I
5 definitely want to have as we continue to talk about
6 this bill, much more conversation because I do know
7 and I will admit that there are a number of cases
8 where that doesn't happen as smooth as you've
9 described. I think about some people that may have a
10 temporary residence. They may be in a shelter or
11 some sort of transitional housing, and their property
12 is confiscated and they don't have, you know, utility
13 or a cable bill or any other picture or photo ID, no
14 credit cards, so they really don't have any other
15 documentation to state who they are, so it's not as
16 smooth as we all hope it would be, and some of those
17 cases have come to my office. So, I'd love to have
18 further conversation about that.

19 FELICIA MORALES: That's fine.

20 CHAIRPERSON GIBSON: And one last
21 question. I always have questions, I'm sorry. You
22 described an invoice. What is it that's given to the
23 person to retrieve the property? Is it an invoice?
24 What does that look like?
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COMMITTEE ON PUBLIC SAFETY

FELICIA MORALES: It's called the Prisoner Finder Copy, and it's just--

CHAIRPERSON GIBSON: [interposing] What is it called?

FELICIA MORALES: It's called a Prisoner Finder Copy.

CHAIRPERSON GIBSON: Okay.

FELICIA MORALES: The invoice. It's basically the back and it tells you-- it gives you all the information of how to retrieve your property and the numbers of-- your invoice number will be on that also.

CHAIRPERSON GIBSON: And what happens in instances where the individual misplaces or loses that? Is there any other way that, you know-- you have a copy of it, the original, and that person has a copy. So what happens if they just simply don't have it and they come and try to retrieve property?

FELICIA MORALES: The person can either call one of the Property Offices.

CHAIRPERSON GIBSON: Okay.

FELICIA MORALES: And they would look up the information with their-- just with their pedigree information they can look it up in the system.

CHAIRPERSON GIBSON: Okay, okay.

FELICIA MORALES: Again, the PET system is made to track evidence. So, the person's name will be on the invoice, and we can track it just by a name.

CHAIRPERSON GIBSON: Okay. Any other questions? Thank you all. Thank you so much for coming today. We do have a few other panels behind you, but I thank you so much for your presence, for your testimony and giving us some suggestions. So, you know, we will do a lot of follow-up and certainly work with you as we continue to move these bills forward. Thank you for joining us today. Thank you.

ROBERT MESSNER: Thank you.

CHAIRPERSON GIBSON: Our next panel here to speak on Resolution 1181 and Intro 83, we have Brooklyn State Assemblyman Felix Ortiz. We have Michael and Carmen Ojeda. We have Melinda Maure [sp?] from the American Heart Association, and we have Ivelisse Espinal from Redemption Point. And if any of you has any testimony with you, if you could please give it to our sergeant. And anyone else here that still wishes to testify that has not signed up, please do so right at the front and make sure that

1
2 you get your name down on the record so you can speak
3 at an upcoming panel. Thank you. Thank you again for
4 joining us, and Assistant Speaker, my former
5 colleague, Felix Ortiz, good to see you today, and
6 you can begin or if you want to defer to someone
7 else, that's fine as well. But thank you once again
8 for joining us today. Thank you. Make sure the mic
9 is on.

10 MICHAEL OJEDA: Good morning ladies and
11 gentleman of the City Council. I stand before you
12 with a heavy heart to introduce this legislation,
13 Briana's Law which would save hundreds, thousands and
14 millions of New Yorker's lives as time goes by once
15 it becomes law. This legislation is to make sure
16 that our first responders in the greatest city of the
17 world are equipped with this life-saving skill, so,
18 that is so easy to learn in such little time, but has
19 such a great impact on saving a life. Did you know
20 that 90 percent of people who need CPR and receive
21 CPR live? Police officers are usually the first ones
22 at the scene. How would you feel if an officer would
23 have to tell a frantic mother that she would have to
24 wait for EMS in order to start and try to save her
25 child's life while her child is dying? This can be

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2 you, you, you, and even you. This is why I ask of
3 you to make this legislation a law. On August 27th
4 of 2010, I lost the greatest love of my life to this
5 procedures. Briana Amarles [sp?] Ojeda is her name.
6 Briana was an 11-year-old baby girl who happened to
7 run into a police officer who couldn't do CPR, nor
8 did he try to help her in escorting her, and went
9 into hiding and shaved his bald, and only when we
10 found them through a gas receipt was when he was
11 named. Losing Briana has been a life-sentence of
12 depression, anxiety and heartbroken. By the passage
13 of this legislation it would make sure that no other
14 family would have to endure this pain that would
15 never go away, get better or ever be the same. The
16 American Heart Association strongly encourages
17 everyone to learn CPR and especially those called
18 upon during an emergency. This legislation could
19 increase the survival rate in New York, and I
20 strongly urge its adoption. The President of the
21 PBA, Mr. Pat Lynch, has written several letters in
22 support of this training because he knows everyone
23 loses in this situation, the person who passes on and
24 the police officer who fails to save a life. To be
25 human, this definitely has to have an effect on you,

1 so please do the right thing and pass Briana's Law.
2 In the words of Mayor de Blasio, "For One New York."
3 This legislation is imperative to the City and its
4 communities to bridge them together in a time when
5 they are divided. Thank you very much.

6
7 CHAIRPERSON GIBSON: Thank you, Michael.
8 I know that it's extremely hard for you to be here,
9 but I tell you that you are not alone, and your
10 strength lies in the fact that you're here, and in
11 honor of your daughter, we will continue to keep
12 working so that her legacy lives on. I thank you for
13 your strength. I thank you for taking your pain and
14 really turning it into a plan. I served in Albany
15 with Felix several years ago, and you know, I
16 remember the visits, and you know, it still sits on
17 me, and so even hearing you here today, it's painful
18 to hear, but I know that, you know, there's always a
19 light at the end of the tunnel, and I encourage you
20 to please do not give up. Please do not give up and
21 please continue to fight on behalf of your daughter.
22 Thank you for being here and thank you all of being
23 here.

24 CARMEN OJEDA: Hi, I'm Carmen Ojeda, and
25 I'm Briana's mom. It shouldn't take the death of a

1 child for shortfalls like this to come to light.

2 While nothing can change what happened on that day in

3 Brooklyn, the City could use this incident to ensure

4 it never happens again. Please do what's necessary

5 to make these seamlessly simple changes that have the

6 potential to make a huge impact. It is my hope that a

7 child like my daughter Briana Ojeda never again be

8 denied CPR treatment from a member of the NYPD. For

9 this reason, I ask that measures be put in place

10 requiring the biannual recertification of all

11 officers. CPR certification must be tracked by NYPD

12 to ensure all officers have up-to-date credential in

13 this regard. Also, because officer safety is also of

14 utmost importance too, that all patrol units and

15 police vehicles be required to carry mouth guards and

16 protective CPR gear, leaving no excuse for denial of

17 this life-saving act. Thank you.

18 IVELISSE ESPINAL: Good morning ladies

19 and gentleman. I'm here on behalf of the request to

20 pass Briana's Laws-- Briana's Law. The loss has not

21 only affected the immediate family, but the entire

22 community. Being a life-saver educator myself, I

23 come to understand that we can all become a life-

24 saver. As we all know, it takes a village to raise a

1 child. I am here today with the hopes you can get us
2 to pass this bill. I also wanted to give the honors
3 to Redemption Point for the opportunity to be able to
4 train others in our community with this God-given
5 gift in the name of Briana Ojeda. We generally do
6 not see the importance of our profession until it
7 happens in our backyard. This is where it hit home
8 to Mr. Saunders and I, an idea of opening a CPR
9 training center in the community in hopes of
10 educating the community as a whole with this life-
11 saving skill. My name is Ivelisse Espinal and I'm an
12 American Heart Association Instructor.

14 ROBIN VITALE: Good afternoon. I am not
15 Melinda Murray. She unfortunately had to leave for
16 work requirements, but my name is Robin Vitale. I
17 serve as Senior Director of Government Relations for
18 the American Heart Association, and with your
19 permission I'm going to read Melinda's testimony into
20 record. I'll do my best to synopsise. According to
21 AHA science, the most recent heart disease and stroke
22 statistics update, approximately 356,500 people
23 experienced out of hospital cardiac arrest in the
24 United States. Of those patients who were initially
25 treated by Emergency Medical Services, only

1 approximately 12 percent survived. However, in those
2 cases where the cardiac arrest was witnessed by a
3 bystander before EMS arrived, 38.6 percent survived.
4 In other words, if someone in the vicinity of the
5 victim is prepared and able to respond, they are able
6 to practically triple their chance at surviving
7 cardiac arrest. For every minute that passes, once
8 your heart stops beating, your chance of surviving
9 decreases by seven to 10 percent unless someone
10 intervenes. This is why the American Heart
11 Association is so passionate about our chain of
12 survival, making sure that we recognize when cardiac
13 arrest occurs. We call 911 and we begin chest
14 compressions as quickly as possible. It's simply not
15 an appropriate response in any cardiac emergency to
16 wait for the ambulance to arrive. You must be
17 prepared to respond and to respond quickly. It's a
18 clear expectation that our city's first responders
19 should be trained and certified in CPR and the use of
20 an AED. The NYPD's mission statement includes the
21 goal to protect life. Let's save more lives from the
22 devastation of cardiac arrest by making sure our law
23 enforcement is ready to respond. For Melinda, this
24 issue transcends science and protocol. It's
25

1 personal. She wanted to be here today to support the
2 mission of the Ojeda family because similar to them
3 her world was also irrevocably changed by cardiac
4 arrest. On October 5th, 2009, her only child, her
5 son Domenic, was taken from all of us far too soon
6 when his heart stopped during a pick-up basketball
7 game. No one around him knew to start CPR. They
8 waited for emergency services to arrive, but it was
9 too late. Domenic had been in college for just a
10 mere seven weeks. Please help us make sure that no
11 other families in New York City have to suffer this
12 experience. It just makes good sense to make sure
13 that our state police officers are re-certified in
14 CPR and the use of an AED every two years. Melinda
15 and the Heart Association, we look forward to finally
16 seeing this policy fully approved. The Ojeda's
17 deserve this law. The American Heart Association
18 also applauds your additional goal to increase the
19 oversight of NYPD's efforts to certify department
20 employees. This accountability will certainly
21 escalate the focus on CPR certification and thereby
22 help save more lives. The American Heart Association
23 supports both bills, and we look forward to your
24 approval. Thank you.
25

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2 CHAIRPERSON GIBSON: Thank you very much.
3 Thank you.

4 FELIX ORTIZ: Thank you, Madam Chair.
5 Thank you very much for holding this important
6 hearing today. My name is Assemblyman Felix Ortiz.
7 I am the Assistant Speaker of the New York State
8 Assembly. I represent the 51st District in Brooklyn.
9 I also would like to commend Council Member Levin for
10 always being a big supporter and vigilant about this
11 issue, and also I would like to thank him, you and
12 the City Council for also naming a street name on
13 behalf of Briana Ojeda. I think every time that I
14 pass that street, I used to represent that district
15 probably back in 1994 when I first got elected. I
16 don't do it anymore, but that's the street that I
17 always take when I go back to Brooklyn, and I always
18 go that way to my house, and every time that I go I
19 see the name, and I hope everybody that see that name
20 always remember that we still have a fight ahead of
21 us to get the bill done in the New York State
22 Assembly. I also would like to thank Assembly--
23 Council Member Torres for helping here to listen to
24 us all. I will just to get off of my testimony
25 because you have it there, but just a couple of

1 things. I think that your questions to the police
2 officers representatives that was here was right on
3 the money. I used to work for the Office of
4 Management and Budget, changing my hat a little bit,
5 and I used to oversee the Police Department, and it's
6 not so much changed about the way they respond when
7 we used to ask questions to the Police Department
8 about statistics, numbers. How many police headcount
9 do you have? It's not so much different from the
10 answer they give to you today. So, I hope that your
11 perseverance and your persistence it will continue to
12 ensure that not only that they will be able to give
13 to the Council a list of the police who has been
14 trained with the speculation that they will get--
15 they getting the training on CPR. I think that will
16 be something transparency to look into it. There
17 will be something that I might add to my own
18 legislation as a result of what I heard here today. I
19 think that my legislation is very simple, what is
20 asked exactly what everybody's been asking for. Just
21 retrain police officers every two year throughout the
22 state. Our law enforcement should have the necessary
23 skill, very simple skill that we do not need to be
24 sitting in this room again asking for another
25

1 clemency that we need retrain our police officer. We
2 all know that by protecting our families, our
3 constituents, we also protecting our police officer,
4 because their-- if our police officer know how to
5 perform CPR adequately, the bottom line is that they
6 will be able to save their own brothers and sister in
7 the law enforcement. When the lack of services or
8 training happen, this is the kind of circumstances
9 that we have. Lastly, I would like to say that was
10 mentioned and I was trying to make the numbers in my
11 head when I used to work in OMB about what was the
12 headcount with the Police Department as they were
13 talking. So you're talking about 35,000, 36,000
14 police officer, and you're talking about 17,000,
15 18,000 civilian, and you're talking about 4,000,
16 5,000 school safety guard. If you take all those
17 number together, it will give you between 58-59,000
18 good trainers of CPR, and if you take the money out,
19 the amount of money that need to be paid if somebody
20 get-- and I believe they mentioned that they have 20
21 people that may-- 15 to 20 people that they already
22 certify that they can do the training. Well, that
23 training is only 200 to 300 bucks. So, you're
24 talking about-- do the math, 50 times 20. It's a
25

1 thousand dollar. So if you do the math, about 59,000
2 plus five dollar person-- let's make it 10 dollar,
3 just to give the Police Department an advantage.
4 That is too expensive when their budget is probably
5 billions of dollars, the second largest after the
6 Department of Education, okay? Don't tell me that
7 they cannot find 300,000 dollars just to put it into
8 the budget to retrain police officer in the Academy.
9 So if they can go to be trained for firearms every
10 six months or a year, well, why not to put-- why not
11 to mandate that the CPR should be part of the firearm
12 training? And let me just ask-- I think you asked the
13 question. Seventy-seven precinct, how many police
14 officers do we have in every precinct? Well, guess
15 what? Let's then train three or four people inside
16 the police, the 77 precinct, one each, and let's have
17 those four people who has been trained for CPR, they
18 have to do better. Let's do it every six months or a
19 year inside the precinct. Then we refresh them in
20 the Academy. Bingo. I was very happy to be invited
21 to this day [sic] to be here and listen to the folks
22 from the-- the representative from the Police
23 Department, because these numbers are very low.
24 These numbers can be found in the 52 billion, 72
25

1 billion dollar budget in the City of New York as well
2 as the 167 billion dollar budget from the State of
3 New York. So, my presence here today is to support
4 your resolution, to continue to work with you all,
5 and to hope that when we start session, you can also
6 come to the assembly and to the Senate where we're
7 getting stuck and show these people in the Senate
8 that we're only talking about roughly throughout the
9 state, the 62 municipalities and the 62 county,
10 roughly three million dollars to be put in the budget
11 if the other municipality is complaining about
12 unfunded mandate. Thank you, Madam Speaker for
13 allowing me-- Madam Chairwoman for allowing me to
14 speak here today on this important issue, and I hope
15 that at the end of the day we understand that this is
16 about not just saving somebody's life, but it's to
17 saving our own life as well. Thank you very much,
18 and may God bless.

20 CHAIRPERSON GIBSON: Thank you very much.
21 I know, yes, yes, you are Briana's Aunt? Okay, yes,
22 so just please state your name for the record, and
23 then you can begin. Thank you again for coming.

24 DAMARIS OJEDA: Thank you. Damaris
25 Ojeda. I am Briana's paternal Aunt and Godmother. I

1 stand before you today extremely grateful for this
2 opportunity to express how necessary and crucial it
3 is that we get Briana's Law passed. Briana's Law
4 would require first responders to be ready, willing
5 and able to deliver life-saving procedure such as
6 rescue breathing. Let's make it mandatory that first
7 responders carry CPR kits with barrier devices for
8 their protection. This legislation would mandate
9 that first responders do just that, be the first to
10 respond and take concerted action. For the past six
11 agonizing years, my family have been on a relentless
12 pursuit to have this critical bill become a law.
13 Today, we ask that you deeply consider this and that
14 you too become an advocate of Briana's Law. It will
15 literally save the lives of millions. It might even
16 be you or someone you love. Please help us pass
17 Briana's Law.

18
19 CHAIRPERSON GIBSON: Thank you very much,
20 Damaris, and thank you all. Thank you, Assemblyman.
21 And to the family and to American Heart Association
22 and to Redemption Point, thank you, thank you, and
23 thank you. my heart is heavy as well because I want
24 to do everything that I can as a Council Member and
25 as one of your partners to help you because I too

1 realize that just as easily as you sit there, it
2 could be me too, and so I realized that, and because
3 you know, we have an important role to play, it's
4 important to make sure that these conversations are
5 had. And you know, sometimes I can't always explain
6 why we have stalemates in government. I can't explain
7 that, but I do know that the work we're doing is
8 about saving lives, and if we can use our positions
9 with the resources we have to save one life, then we
10 have done a good job. And so I thank you for coming
11 today, and I want to turn this over to my colleague
12 Steve Levin who has been doing a tremendous amount of
13 work working with you, working with the family, and
14 you know, this is really his bill that he's
15 championing, and I want to give him an opportunity to
16 speak. So, thank you once again for joining us, and
17 we also with us Council Member Ritchie Torres, as
18 well. Council Member?

20 COUNCIL MEMBER LEVIN: Thank you, Madam
21 Chair. I want to thank this panel. Assemblyman,
22 thank you very much for your sponsorship of this
23 legislation and for shepherding it in Albany. We
24 look forward to its full passage this year, and you
25 can count on this Council to help you in that

1
2 endeavor, and we're confident that this will happen
3 this year. To Briana's family, to Michael and
4 Carmen, you have-- you have taken this tragedy that
5 has befallen your family and has befallen you and
6 your lives and made it a mission to action to save
7 others' lives, and that's the greatest lesson that
8 you can give to your community and to our city and to
9 humanity, and with all my heart I commend you, and I
10 thank you for not falling into despair, for taking
11 this pain and doing your best to create change and
12 positive change and blessings. And deeply affected
13 me and my life, and you have and you continue to
14 serve your daughter's memory with great dignity. And
15 I want to thank Melinda Murray as well for her
16 actions and the service of the memory of her son.
17 May we not lose any other children so senselessly
18 because of a lack of resources in training. I want
19 to thank you. You can count on this Council's
20 support. God bless you.

21 CHAIRPERSON GIBSON: I just have one
22 question for the Assemblyman. Knowing and
23 understanding how Albany works and the fact that the
24 Democratic-led Assembly has passed this bill more
25 than once, moving into the new legislative session in

1
2 January, are there any strategies that you have for
3 getting the Senate sponsor and getting, you know, IDC
4 and others involved so that we can really see
5 movement? And also, you know, on behalf of my
6 colleagues and I, we certainly want to be of help and
7 support to all of you to make sure that that can
8 happen in the next legislative session.

9 FELIX ORTIZ: Yes. Two things. Number
10 one, IDC has been very supportive of the legislation.
11 So we have them on our side. We only have probably
12 about three or four legislators from upstate New York
13 who continue to believe that this is an unfunded
14 mandate. As a result that we are-- have done some of
15 the most detailed research analysis, if you will,
16 about how many law enforcement do we have in every
17 municipality and in every county, have both the
18 county and the municipalities. We believed and we
19 probably need about three million dollars to be put
20 in the budget just to believe-- assuming that they
21 will continue to believe that it's unfunded mandate.
22 For me, I don't believe it's an unfunded mandate,
23 because I do believe that every law enforcement
24 throughout the state of New York, every municipality
25 and country provide CPR in the Academy. So, if

1
2 they're doing that already, so we are really reducing
3 how much the impact, the financial impact is going to
4 be in the municipalities. So my strategy is number
5 one, is to continue to have a conversation with my
6 Speaker, with the President of the Senate and the
7 Governor, and to push the Governor to ensure that we
8 will be-- we'll probably be able to allocate at least
9 three to five million dollar into the budget in the
10 new budget cycle to cover what they believe we'll
11 spend unfunded mandate at cost, just in case it is
12 the cost, just to protect ourselves. I think that if
13 I do that and I have that allocation into the budget,
14 then we will be able to have the Senate finally to
15 agree to pass the piece of legislation, because no
16 longer it's going to be unfunded mandate, but the
17 justification that I have put in my bill show that
18 it's not a financial burn, if you will, even in the
19 most small municipality in the state of New York
20 because they're still sharing law enforcement in some
21 of the municipalities, and when they share money--
22 when they share that they've been trained already
23 because they do have CPR trainers in their training
24 facility. So, should not be an issue, but they still
25 make it an issue as a result probably because as you

1 probably know-- you've been in the Assembly, you know
2 the deal because they probably want something in
3 exchange. But it's not here, nothing to exchange.
4 We have 150 member in the Assembly, and we had only
5 one Republican who vote against the bill out of the
6 42. So, in reality, they finally last year-- this
7 year, I'm sorry, this year finally we got 40 out of
8 the 41 to vote for the bill for the first time. Last
9 year it was only three Republican who vote against
10 the bill in the Assembly. So now we're getting more
11 and more close to get everybody in the Assembly. So,
12 it's only three members in Senate that really-- from
13 upstate New York who really put in the-- has been put
14 the pressure on it. But again, I think we have
15 something in November happening, so we hope that we
16 can probably have the magic number, and if that is
17 true-- so we probably-- we probably will be able to
18 get it done by February, Madam Chair.

20 CHAIRPERSON GIBSON: Thank you. I'm glad
21 you said that. I was going to say that there were
22 some new faces going to Albany, and I certainly
23 encourage you and everyone on the panel to please
24 make sure you visit them. I think it's something
25 where we have to put the people before the politics.

1 We're talking about saving lives of every New Yorker,
2 and also, I mean, just protecting law enforcement as
3 well and giving them the tools that they need. It's
4 very concerning when you hear in some of the cases
5 we've had recently where officers are admitting that
6 they don't feel comfortable because they're not, you
7 know, certified in CPR enough. I mean, that's very,
8 very convening to us. So, I appreciate the
9 Administration's willingness to talk about it, and I
10 think this hearing obviously propelled and stimulated
11 a conversation, but you know, we at the Council are
12 going to take that discussion obviously to the next
13 level and whatever financial issues we have to deal
14 with. We're approaching a new budget season, so it's
15 important for us to make sure that we can push this,
16 but obviously I'm fighting for New York City, but if
17 we can get it done in the State, that's even better.
18 Getting the Governor on board and making sure that
19 this could be one of the issues that he champions in
20 2017. So, I thank you. You have been a strong
21 leader on this, and I really appreciate all the work
22 you've done, and you know, you have our support,
23 Council Member Levin and all of us, we will do what
24

1
2 we can to help you. If it means a trip to Albany,
3 I'm okay going to Albany.

4 FELIX ORTIZ: We have a good kitchen
5 [sic].

6 CHAIRPERSON GIBSON: Yes, yes, yes, yes
7 we do. Thank you so much. So, I do have one more
8 panel after you, but thank you for joining us today.
9 Thank you for your testimony. Thank you for your
10 strength and the work that you have done, and I
11 encourage you to please remain committed. There are
12 so many voices out there that we may not ever hear
13 that may share your story, and you are a source of
14 strength for many people that you may know and many
15 that you may not even know. So, I thank you for just
16 your work in keeping Briana's memory alive. So,
17 thank you, and may God bless you and keep you. Thank
18 you for coming today. Our next panel is Adam Shoop
19 of the Bronx Defenders, Thomas O'Brien from the Legal
20 Aid Society, Kenneth Crouch from Bronx Defenders,
21 Chris Alexander from the Drug Policy Alliance, and
22 Anca Gregory [sic], I believe, Grigore, from Brooklyn
23 Defender Services here talking about two bills, Intro
24 1000. Thomas O'Brien, Kenneth Crouch, Anca Grigore,
25 Chris Alexander, and Adam Shoop. And before we

1
2 begin, I also want to acknowledge and recognize that
3 for the record we have received testimony from the
4 American Red Cross. Okay, you may begin.

5 ADAM SHOOP: Good afternoon.

6 CHAIRPERSON GIBSON: Thank you. Thank
7 you for coming.

8 ADAM SHOOP: Thank you. Thank you, Madam
9 Speaker and members of the Committee. My name is
10 Adam Shoop. I'm a Staff Attorney in the Civil Action
11 Practice of the Bronx Defenders, and at our office
12 many clients come through our doors because of a
13 criminal case, but it's our Civil Attorneys and legal
14 advocates that represent many of those people and
15 their families who as a result of that arrest also
16 face enmeshed penalties such as police confiscation
17 of property and cash. I want to thank the Council for
18 its attention to this important issue and for the
19 opportunity to testify on Intro 1000. There are
20 lengthy written comments from myself and my colleague
21 Kenneth Crouch who is also here with me. I'm just
22 going to touch on kind of the general overview of the
23 issues that we face and also address a couple of
24 matters that were raised when the NYPD members were
25 testifying on the first panel. The clients that we

1
2 have at the Bronx Defenders, these are mainly poor
3 and working poor men, women and youth of color. They
4 live in communities in the Bronx that are over-
5 policed and disproportionately represented in the
6 criminal justice system, and in almost every arrest,
7 whether that person is ultimately charged with a
8 crime or whether they're ever convicted, the NYPD
9 takes some form of personal property that includes
10 things like cash, phones even cars, as was spoken
11 about earlier. It's a cornerstone of our criminal
12 justice system that there is a presumption of
13 innocence, and yet, in the property retrieval system
14 within New York City, this very notion is turned on
15 its head. The NYPD can take a person's property
16 during the book process and as Deputy Commissioner
17 Messner said, they can continue to hold that for a
18 variety of reasons, whether it be safe-keeping,
19 arrest evidence, civil forfeiture or because they're
20 conducting an ongoing investigation, and the burden
21 falls on the individual to get their essential
22 property back. The laws in New York City around
23 retrieving property that's been seized by the NYPD
24 including but not limited to civil forfeiture laws
25 are incredibly confusing and complicated. They've

1
2 been referred to by scholars and federal court judges
3 alike as bizarrely worded and byzantine. Outgoing
4 Commissioner Bratton actually has openly advocated
5 confiscating cars and cash even for low level
6 offenses, because in his words, "The criminal justice
7 system no longer provides a disincentive," and he has
8 actually praised property seizure and civil
9 forfeiture practices as among the most effective
10 enforcement techniques in Broken Windows policing.
11 As you will hear from my colleague Kenny, these
12 Broken Windows tactics like "Stop and Frisk,"
13 property seizure disproportionately affects low
14 income community's color and the consequences can be
15 devastating. Intro 1000 begins to provide
16 transparency on this issue, and we really thank the
17 Committee, especially Council Member Torres for
18 sponsoring this bill, the bill's 36 other co-sponsors
19 for their leadership on this issue, but we believe
20 that the bill could be strengthened by making several
21 changes that I've outlined in my written testimony.
22 I'd like to take a moment just to briefly focus on
23 one, and that's the issue of unclaimed property.
24 This came up during the first panel. As the bill is
25 currently drafted, it would not report on the

1 disposition of all money and vehicles, just those
2 that are returned to claimants and only these that
3 are kept by the NYPD through civil forfeiture.

4 Earlier, Deputy Commissioner Messner had mentioned
5 that they had seized 11,653 dollars in forfeiture and
6 98 vehicles, but if you take a look at the documents
7 that we received through the Freedom of Information
8 Law Request that we filed in 2014 and that the NYPD
9 belatedly responded to 19 months later, it shows that
10 there's a great-- the great majority of money that
11 they're actually counting as revenue from seized cash
12 is what they consider unclaimed property. The
13 numbers don't match up with what was reported today,
14 but in fiscal year-- or calendar year, excuse me,
15 2013, there was about half a million dollars in money
16 that was seized through forfeiture, about half a
17 million in revenue from automobiles and other
18 property that was auctioned, and five million dollars
19 in unclaimed property. So, I think it's absolutely
20 essential that money that the NYPD is determining
21 that is never going to be returned to an owner that
22 they're keeping and counting as revenue which they
23 report to the City Council every year in upwards of
24 six to seven million dollars of revenue through
25

1 unclaimed cash and property sale, that that become
2 part of this bill. In other words, we need to know
3 the final outcome of how all cash, vehicles and
4 property is disposed of. And we'd be grateful for
5 the Council to work on-- to work with them on any
6 language effectuating the changes that we've
7 recommended, and I'm happy to go into greater detail
8 if you have questions.

10 KENNETH CROUCH: Thank you. Thank you,
11 members of the committee. My name is Kenneth Crouch,
12 and I am a Civil Legal Advocate in the Civil Action
13 Practice of the Bronx Defenders. In that capacity, I
14 assist clients in a variety of civil issues, among
15 those property retrieval. I'd like to provide a
16 window into the experiences of a client I worked with
17 personally to illustrate the magnitude of disruption
18 that claimants face. About four months ago, NYPD
19 officers stormed into the apartment of Anna and Nate
20 Ortiz, a mother and son who live in the South Bronx.
21 They were looking for a friend of Mr. Ortiz's who was
22 allegedly in violation of his parole. Police
23 officers ended up arresting the friend for drug
24 possession, but also arrested Mr. Ortiz and another
25 acquaintance who was visiting the apartment.

1
2 Furthermore, they took over 2,500 dollars in cash
3 that Mrs. Ortiz had saved in the apartment to pay
4 down rent she had fallen behind on. Mr. Ortiz ended
5 up pleading to a disorderly conduct for insisting
6 that police officers produce a search warrant. The
7 Bronx Defenders fought a demand with the Bronx
8 Property Clerk for Mrs. Ortiz's cash and left several
9 messages following up with the Civil Enforcement
10 Unit. None of those messages were returned. A month
11 later when the deadline for the NYPD took-- excuse
12 me. A month later when the deadline for the NYPD to
13 file a civil forfeiture action had already expired,
14 we belatedly received a letter from the Police
15 Department incorrectly characterizing our demand as
16 improper, and when in fact it was. Undeterred, we
17 obtained a DA release. We submitted a new demand,
18 this time to the Civil Enforcement Unit, and only two
19 weeks ago from today, the New York City Police
20 Department finally agreed to release the money as a
21 result of the Bronx Defenders multiple inquires and
22 demands. In July, in the midst of these protracted
23 efforts, Mrs. Ortiz was brought to Housing Court and
24 today is still fighting off an eviction case because
25 she can't pay her back rent. Our efforts made all

1
2 the difference between a measure of stability and
3 devastating homelessness. Mrs. Ortiz's story is one
4 of dozens that I could share today, and our written
5 testimony highlights the specific hardships faced by
6 other clients forced to navigate the process. We
7 submit these comments certainly on behalf of the
8 Bronx Defenders and sincerely thank the Council for
9 its careful intention to this important issue, and of
10 course, for the opportunity to testify. And Adam and
11 I are happy to entertain any question or comment the
12 City Council may have.

13 THOMAS O'BRIEN: Good afternoon. I'm
14 Thomas O'Brien of the Legal Aid Society, and we
15 submitted written testimony, and we enthusiastically
16 support Intro 1000 for all the reasons that my
17 colleague have just stated. And you know, Louie
18 Brandi [sic] said, "Sunshine is the best
19 disinfectant," and that's what we need in this
20 situation. The testimony I prepared though is
21 oriented to the other end of the system, not what the
22 NYPD tells about how it ultimately disposes of
23 property, but the manner in which it gets the
24 property in the first instance and that's a system
25 that is very unfair and subject to abuse, and that's

1 what's happen. So, in the written testimony I detail
2 that there's Krimstock hearing for cars, so I was
3 kind of taken aback to discover that that's one of
4 the-- the 1272 is a bill that is under consideration
5 that would apparently codify the Krimstock ruling.
6 So, I have a special interest in that. I brought the
7 Krimstock case. I argued it three times in the
8 Second Circuit, everything that happened in district
9 courts and, you know, the Krimstock hearing that
10 stands is a result of it. So, I have to say strongly
11 hold off on that because the problem as I show in my
12 testimony, that the Krimstock order from 2007, the
13 last order that is apparently to be codified has been
14 subverted and thwarted by the conduct of police
15 lawyers and OATH judges since that. And so that, the
16 order that would be codified needs itself to be
17 repaired and there are a couple of fixes that can be
18 made before anything final is done. So, I'll show
19 you a few ways in which it's happened that the
20 process has been subverted. You have to remember
21 that this is largely from the point of view of the
22 people whose vehicles are taken. They're without
23 lawyers. There is no right to appointment of civil
24 council in a civil proceeding. So, they are facing
25

1 what is usually two lawyers sent by NYPD, and what's
2 happened is the number of hearings has been
3 drastically reduced because of that. To give you one
4 contrast: In July 2007 there were 20 hearings at
5 OATH in that month alone, and the claimants prevailed
6 in 16 of them. In July of this year there were no
7 hearings. There are-- there's calendar and so cases
8 are put on the OATH calendar and people will come,
9 you know, to litigate their claim, but they're almost
10 all settled or abandoned. So, the actual process
11 that, you know, we think exists is really just a
12 shadow of what it used to be. So, why does this
13 happen? Well, one reason is it's the duty of the
14 Police Department to send the notice to a person
15 whose car is seized when the hearing is. Along with
16 that notice they often send what they call a
17 Discovery Demand. It's about six page, single
18 spaces, demanding your tax returns for the last three
19 years, all receipts involved in paying for the car,
20 your credit card, you know, receipts, all this
21 information, and one of the results of that is the
22 default. So, a lot of people who request hearings
23 end up not showing up. They outnumber the people who
24 actually do get hearings, and you can imagine why.
25

1
2 If someone-- if a police agency is demanding all
3 these, you know, intimate financial details of your
4 life, a lot of people just decide it's not worth it.
5 And so that's-- it amounts to an abandonment of the
6 applicant [sic] to get the vehicle. If they do
7 arrive at OATH, there's a very heavy settlement
8 pressure from the police lawyers and the OATH judge,
9 because the OATH judge who does the hearing, which
10 they don't have much to do anymore and the OATH judge
11 who oversees settlement, and overwhelmingly there are
12 a lot more settlements than actually hearings.
13 Settlements always amount to payment to the Police
14 Department of money. Now, Mr. Messner of the Police
15 Department talked before about proud they are of
16 their Oasis Drug Treatment Program. They still
17 always demand money, and the Oasis Program is now
18 part of the penal law. So, it's really-- it's not
19 necessary, but in drug cases where drugs were found
20 in an automobile, the police lawyers will come in and
21 they will demand 5,000, 3,000, 2,000 dollars. Now,
22 think about that for a moment. They're supposedly--
23 the purpose of the program is to take cars away, you
24 know, that were used in crime, but with the
25 settlement policy, they're basically saying, "Here's

1
2 your car back, as long as you give us some of the
3 money you made, you know, as a drug dealer or
4 whatever." So, that's-- you know, there are figures
5 that Intro 1000 would hopefully produce, but the
6 money gets there in kind of a seemly way. And I
7 would say the third thing that thwarts the OATH
8 process is rather than give people notice of their
9 right to hearing, the Police Vehicle Seizure Unit
10 will send them a letter, and the letter will say we
11 have a settlement program and you can settle the case
12 by sending us money. This is totally outside of any
13 forfeiture process of OATH, of any legal process.
14 This is just sending letters to people and them
15 sending money back to the Police Department, and I
16 really have-- I don't know how much that amounts to,
17 but it's a very regular practice, and the other thing
18 that I would say to urge some amendment of the
19 Krimstock codification is to bring in money into
20 that. Seized money essentially has no due process.
21 You have a theoretical right to a trial. I don't
22 know of a trial for money forfeiture in the past 15
23 or 20 years. It just doesn't happen, and the results
24 from today's testimony indicate that. If the police
25 can say that the entire amount of money that they get

1 from forfeiture is 11,000 dollars, but they're
2 seizing what could be millions of dollars, it just
3 shows that forfeiture is a process. There's a lot
4 wrong with it, but it represents legal process, and
5 so there's almost none of that. So, any codification
6 of Krimstock should also include seized money as
7 well, you know, there should be a ceiling or a floor
8 of maybe 500 dollars or something like that because
9 there are a lot of petty amounts, but that's, you
10 know, that would ensure some type of fairness, you
11 know, which doesn't exist now. They're just taking
12 it, and the process of getting it back is so
13 difficult that people walk away from it.

14
15 CHAIRPERSON GIBSON: Thank-- thank you
16 very much. Thank you.

17 CHRIS ALEXANDER: Chris Alexander, Policy
18 Coordinator, Drug Policy Alliance, New York Policy
19 Office. Thank you members of the Committee on Public
20 Safety for inviting our testimony. Drug Policy
21 Alliance strongly supports Intro 1000 and urges the
22 City Council to support this legislation and moving
23 forward. The Drug Policy Alliance is a nation
24 leading organization working to end the war on drugs,
25 halt mass incarceration and repair the harms that

1
2 have been wrought on families and communities mostly
3 of color as a byproduct of failed drug policy. The
4 Drug Policy Alliance has been examining asset
5 forfeiture for some time, as much as the low-level
6 misdemeanor arrests where property is seized that are
7 made by police departments across the country for
8 drug offenses, usually possession. Our organization
9 has been working now in various states and on the
10 federal level to address the injustices around the
11 practice of civil asset forfeiture and are thankful
12 to the Bronx Defenders and Council Member Ritchie
13 Torres for bringing this issue to light. In our work,
14 we have found that civil asset forfeiture as a
15 practice violates both the due process rights of
16 individuals and exacerbates already problematic
17 policing tactics by incentivizing Police Department
18 with the financial payout as they enforce draconian
19 drug laws. I would also add that civil asset
20 forfeiture is not unique to our state or our city.
21 In fact, every state engages in the practice, but
22 what's worse is the lack of transparency that we have
23 here in our city that people have discussed today.
24 I'll just say brief comments on the bill and why DPA
25 supports it. The bill obviously goes great lengths to

1
2 increase transparency. We believe that the current
3 practice and the lack of information around what is
4 being seized and its characterization is very
5 problematic. We also agree that the bill would begin
6 to reduce the harms of bad drug policies. The Drug
7 Policy Alliance is dedicated to end the war on drugs
8 and repairing the harms it has created. This body
9 and many other elected officials across the state
10 have already advocated for taking a new approach on
11 misguided and racially biased police policies like
12 marijuana prohibition. That advocacy comes in part
13 because the enforcement of the existing law is
14 entirely racially biased, but also because of the
15 glare [sic] of consequences associated with said
16 enforcement. The seizing of property by the NYPD is
17 one of those glare [sic] of consequences, the taking
18 of a cell phone or of a wallet of a person who's been
19 detained can create immense difficulties that we
20 spoke to today as well. And lastly, this bill will
21 be a positive first step in reforming New York City's
22 asset forfeiture laws. Jurisdictions across the
23 nation are already reviewing their asset forfeiture
24 laws and New York City should follow suit. In 2016
25 alone at least 22 states have introduced bills to

1
2 limit civilized forfeiture and reforms have been
3 enacted in eight states. The current red tape
4 surrounding our voucher program and the practice of
5 asset forfeiture itself means that those most
6 vulnerable New Yorkers who we are all committed to
7 serve are the ones who are continuously harmed. We
8 need to take a closer look at the practice and to
9 increase transparency of the NYPD. The violation of
10 due process, the lack of transparency and the
11 prohibition of public accountability undoubtedly
12 contributes to the already deteriorating relationship
13 between police and communities across the city. DPA
14 urges you to move this piece of important legislation
15 forward. Thank you.

16 ANCA GRIGORE: Good afternoon. My name
17 is Anca Grigore. You pronounced it correctly,
18 Council Member Gibson. I'm a Staff Attorney at the
19 Civil Justice Practice at Brooklyn Defender Services.
20 Thank you for this opportunity to address the New
21 York City Council Committee on Public Safety. While
22 BDS supports Intro Number 83, Intro Number 728A,
23 Intro Number 1000, and Resolution Number 1181, I'm
24 going to focus my oral testimony today on civil
25 forfeiture and police accountability. As one of only

1 a few comprehensive indigent legal services
2 organizations, BDS does provide free legal
3 representation to our clients in matters related to
4 civil forfeiture. Just to give a little background,
5 the New York Police Department can effectively take
6 New Yorkers' cash and property at will and hold it
7 for months, even years, and then eventually forfeit
8 it permanently. The vast, as Mr. O'Brien mentioned,
9 the vast majority of civil forfeitures never even
10 reach a hearing. Representation is rare, and
11 forfeiture can occur without any criminal conviction.
12 The absence of meaningful oversight and
13 accountability in this law enforcement practice is
14 critical. This is undeniably a very lucrative source
15 of income for the NYPD and New York City. This
16 encourages policing for profit, reinforces community
17 distrust of the police and disproportionately harms
18 impoverished communities and people of color. In
19 practice, civil forfeiture is even more problematic.
20 First, like has been mentioned, it's important to
21 note that innocence does not mean that the property
22 will automatically be returned to its owner. We often
23 see cases that result in dismissals where the NYPD
24 still pursues forfeiture. This goes towards what the
25

1
2 NYPD panel was saying earlier how he claimed to be
3 concerned with the preponderance standard that is
4 required in civil criminal court, but very often the
5 NYPD will pursue forfeiture despite it being next to
6 impossible to meet this standard. They often require
7 settlement fees anywhere between 500 and 3,000 of our
8 indigent [sic] clients. Even when the NYPD is
9 offering settlement, they're under no obligation to
10 release any information about the allegations, their
11 evidence or reasons for seeking forfeiture. Second,
12 those who are arrested and charged with a crime, even
13 if they do get to the hearing, they're often unable
14 to testify in the civil forfeiture proceedings
15 because it can be used against them in any related
16 criminal proceeding. Instead, they're forced to pay
17 to settle the case or they can wait again months,
18 even years until the criminal case is over. Third,
19 when the criminal case is over or was never
20 prosecuted in the first place, it can be extremely
21 difficult for the property owner to get any
22 information about why their property is being held or
23 how to get it back. This lack of transparency makes
24 it difficult for us attorneys to advise our clients,
25 and even more difficult for owners to decide what to

1 do. To illustrate these points, I have a few client
2 stories as well. The first one is a client who was a
3 passenger in a friend's car. The friend was pulled
4 over for driving with earbuds in. The car was
5 searched, and ultimately an arrest resulted for the
6 sale and possession of marijuana. The car was
7 seized, but the property collection didn't stop
8 there. The cops-- the police officers asked our
9 client if he owned a car as well. They seized his
10 driver's license, found his address on his driver's
11 license, drove almost four miles to his house,
12 knocked on the door, told his younger brother that
13 they needed to seize the car because it was blocking
14 a driveway, and they seized the car and put it in
15 forfeiture proceedings. Again, it's clear that this
16 car had nothing to do with the underlying arrest. It
17 was four miles away at the time of the arrest, but it
18 was seized. The police officers then used this car
19 as leverage against our client in an attempt to get
20 him to testify against his friend. In the end, the
21 client couldn't wait for his criminal case to end, so
22 he ended up paying 500 dollars to get his own car
23 back that was not involved in any arrest. Another
24 client, we were able to help them get their car back
25

1 without paying a settlement fee, but there were other
2 punishments embedded in the process. This client had
3 to pay almost a thousand dollars on rental cars to
4 get a loved on to their regular doctor's appointments
5 while his car was seized. Final and more recent and
6 particularly disturbing example is a client who
7 recently got his car seized, and the NYPD has lost
8 his car. He was given a voucher as they described
9 before. The voucher number does not match with his
10 car. There's nothing that matches his car number or
11 his name in their system. The car is completely
12 unaccounted for. The car remains unaccounted for,
13 and neither the DA's office nor the NYPD has offered
14 any recourse for our client. In conclusion, our
15 indigent clients are being robbed of cash, property
16 and justice. Fighting to protect their own rights
17 means suffering unrecoverable loss of time, wages,
18 missed medical appointments, stable housing and more.
19 Well, fundamental reforms or the abolishment of civil
20 forfeiture must be our ultimate goal. Establishing
21 transparency in the process is an important step
22 forward. With public reporting on the value of cash
23 and property seized, the results of such seizures and
24 the precincts responsible, Intro 1000 shines a
25

1
2 spotlight on a notorious and opaque practice. BDS
3 thanks Council Member Ritchie Torres for his
4 leadership on this issue. We strongly support the
5 bill and urge its swift enactment. We also hope that
6 the Council and the City of New York will go further
7 in protecting the rights of New Yorkers. Eleven
8 states have already passed reforms requiring a
9 criminal conviction as a precondition for all
10 forfeiture cases. Most recently, California required
11 a criminal conviction to proceed any seizure worth
12 less than 40,000 dollars. New York City and State
13 must finally recognize civil forfeiture as an
14 extortion of the poor, an extra judicial punishment
15 that can and destroy lives-- can and does destroy
16 lives, excuse me. Thank you for considering my
17 comments. BDS looks forward to continuing to work
18 with the Council.

19 CHAIRPERSON GIBSON: Thank you, very,
20 very much. Brooklyn Defender Services, Legal Aid,
21 Bronx Defenders, truly appreciate your work and all
22 of, you know, the efforts that you are involved in in
23 making sure that we not only pass sound legislation
24 that really addresses a lot of the deficiencies we
25 have in the system, but I appreciate the partnership.

1
2 After today's hearing-- I mean, some of the cases you
3 described about the lost car and I think there was
4 one that was lost money that was vouchered under a
5 co-defendant. I'd like, you know, the NYPD, I believe
6 we do have representatives that are still here at the
7 hearing, to have a conversation with you in regards
8 to some of those individual cases; ensure that there
9 is some follow-up done. I appreciate the leadership
10 of my colleague, and you have two Bronx colleagues
11 that are still here. So, I just have two quick
12 questions, and then I'm going to turn this over to
13 Council Member Torres who has really done a
14 tremendous amount of work on this issue. Previously,
15 the NYPD testified, Sergeant Morales talked about the
16 Property Clerk Office. So, I want to know from your
17 perspective, the Bronx Property Office in the Bronx--
18 in someone's testimony I saw that there are a few
19 staff, and some of you described some really long
20 situations of going to these locations to retrieve
21 property. So can you describe for me-- and you know,
22 I have to ask just about the Bronx because it's the
23 borough that I represent-- some of the challenges
24 that you face with retrieving property for your
25

1 clients with respect to the Bronx Property Clerk
2 Office.
3

4 KENNETH CROUCH: Sure, so I'm happy to
5 speak a little bit about that. So, for the entire
6 county of the Bronx, there are three officers at
7 three windows in the basement of the Bronx Property
8 Clerk basement that process any seized property.

9 CHAIRPERSON GIBSON: In the entire
10 borough?

11 KENNETH CROUCH: That's correct.

12 CHAIRPERSON GIBSON: Okay.

13 KENNETH CROUCH: I mean, and
14 additionally, many of our clients are indigent,
15 they're homeless, they don't have the official
16 documentation would require even getting safe-keeping
17 property which is presumably the easiest property to
18 obtain.

19 CHAIRPERSON GIBSON: So, when I asked the
20 question before, and that's why I brought up the
21 IDNYC, because I can imagine a client whose wallet
22 was retrieved, was seized, you know, you don't have
23 proper identification. You don't have an extra
24 credit card or, you know, someone that may live in
25 short-term housing. So how do you deal with those

1
2 types of cases, and also cases where a client, let's
3 say they lose their voucher, they lose the invoice
4 and they have no documentation of what was seized by
5 the Department?

6 KENNETH CROUCH: So, if you lose a
7 voucher you have to go back to the precinct of arrest
8 wherever you were processed. It doesn't matter where
9 you're from, you know, or what community you're a
10 part of, you back to that precinct, you get that
11 voucher. If it's a pending case that has been where
12 the Police Department has had your property for maybe
13 two weeks or more, then the Bronx Central Property
14 Office will provide a voucher, but again, it has to
15 be really two weeks into you not having your
16 property. And in regards to property where you said
17 your ID's are taken, one has to prepare a sworn
18 statement and deputize another individual with the
19 proper ID to pick up that property, and that has to
20 be notarized by a public notary.

21 CHAIRPERSON GIBSON: So, the person would
22 have to go a location to get the paperwork notarized
23 and then return?

24 KENNETH CROUCH: That is correct.
25

1
2 CHAIRPERSON GIBSON: Okay. And I had a
3 case last year of a client, I think I sent them over
4 to Bronx Defenders. Her medicine was vouchered and
5 it was seized, and it was some sort of medication
6 that she needed to like every day, right? Maybe
7 diabetic or blood pressure, and it took quite some
8 time even with, you know, stating the medical need
9 for us to get that back. So, do you encounter some
10 of those types of cases where something is seized and
11 it's of an urgent need to return it?

12 KENNETH CROUCH: Oh, yeah, absolutely.
13 Yeah, we have numerous cases, some of which are in
14 our written testimony, where you know they're very
15 important items. Even cellphones, like the modern
16 lifeblood of society, and especially, you know, those
17 certain items that people just can't get access to,
18 right? In one case I can think of specifically, I
19 have a client who due to a clerical error on his
20 voucher was unable to claim his property, even though
21 the voucher claimed that he, you know-- there was
22 only defendant in this case. The actual owner
23 category listed PSNY, which stands for Property of
24 the State of New York, and so despite him being the
25 only defendant in the case and despite the case being

1 dismissed, he had to go through bureaucratic delay in
2 this process just to get his property back.

3
4 CHAIRPERSON GIBSON: Okay.

5 KENNETH CROUCH: And Adam, I don't know if
6 you wanted to speak more to that.

7 ADAM SHOOP: I would just add on the ID
8 thing, if you look at exhibit A, the kind of
9 supplemental package to our testimony, we included
10 actually the list that the Bronx Property Clerk
11 provides of what ID's, what forms of ID are
12 acceptable. the list is both more expansive than
13 what's provided in the NYPD regulations in the RCNY,
14 but also deviates in that the regulations say that if
15 you come in with a New York State driver's license or
16 non-driver photo ID, that's the only identification
17 that we require, but you can see from that list that
18 the Property Clerk requires two forms of ID in all
19 instances regardless of what form of ID you come
20 with, and then in some ways it's just not a sensible
21 approach. You can get-- you can show the DMV if
22 you're applying for a New York State photo ID, prove
23 your name and date of birth by coming in with your
24 birth certificate and a social security card, but if
25 you came in with those two documents to retrieve your

1
2 property, that would not be sufficient, because you
3 need some form of government ID in addition to one of
4 the other forms of ID.

5 CHAIRPERSON GIBSON: Okay, and I see on
6 the list "displaced ID card" from if you're in a
7 shelter or some sort of transitional housing. Do you
8 see those types of cases with residents in shelters?

9 KENNETH CROUCH: We do, and in those
10 cases we have to rely on the sworn statement I talked
11 about earlier where someone else is authorized to act
12 on their behalf.

13 CHAIRPERSON GIBSON: Okay, so this hasn't
14 been updated to reflect IDNYC.

15 KENNETH CROUCH: I believe they do accept
16 IDNYC, but not by itself. There has to be some
17 other--

18 CHAIRPERSON GIBSON: [interposing] Oh, it
19 has to have a second form of ID.

20 KENNETH CROUCH: Yes, that's correct.

21 CHAIRPERSON GIBSON: Okay, okay. The
22 Department has acknowledged with Intro 1000A, Council
23 Member Torres' bill, of the PET system and how the
24 software that they've used is not fully, you know,
25 able to be manipulated to extrapolate the data that

1 we're looking for in the bill. So they have been
2 willing and are willing to work with us. So, I
3 certainly want to work with all of you to make sure
4 that we can try to make as many changes as possible
5 according to the bill to make sure that if we're
6 going to provide some revisions or upgrade, we do a
7 lot of technological upgrades here to make sure that
8 that's something that you are a part of because I
9 didn't understand how PETS operated and didn't know
10 that it was as antiquated, because it's set up for a
11 certain purpose, and you know, if you're trying to
12 change that purpose you can't always make it easily
13 as, you know, manipulative. So, I encourage you to
14 work with us and, you know, through the testimony
15 you've given just provide some input on what we need
16 to do to see if we can get more information.

18 ADAM SHOOP: I do just want to say
19 quickly on that point that I have to respectfully
20 disagree with Deputy Commissioner Messner. If you
21 take a look at the documents that we were provided
22 that I attached to the appendix. The NYPD appears to
23 be able to generate some type of reports that
24 actually provide information--

25 CHAIRPERSON GIBSON: [interposing] Right.

1
2 ADAM SHOOP: that he said would not be
3 available in PETS. So they're able to provide, for
4 example, all of the cash that they have on hand in
5 any given month, and they're able to show how much
6 came in that month and how much went out. They also
7 have what's called a "revenue generated report," and
8 that shows, again, as best I can understand the
9 document, how much they took in through actual civil
10 forfeiture whether through a settlement in the
11 process or an actual lawsuit, how much property was
12 auctioned, and then the rest of it is unclaimed
13 property. So there does seem to be a way, and again,
14 they're reporting to the City Council on budget
15 documents millions of dollars in revenue. It seems
16 to me that that's at the point that they've made a
17 determination that they're never going to give that
18 back to the person because the deadline is expired or
19 for whatever other reason that they've never come to
20 claim or been able to successfully claim the cash
21 that was seized from them. PETS was-- to the best of
22 my knowledge it came about in 2012/2013. If you look
23 online, there are actually-- it was nominated for
24 some sort of an award for how sophisticated it was.
25 This is an electronic tracking system that uses

1 software that was selected because it was supposed to
2 be an industry leading standard, but it's used by
3 Fortune 500 companies. So, I think there is maybe
4 more information to get out of the PET system than
5 what the NYPD has suggested is possible, just based
6 on the sliver of response that we got through our
7 FOIA request, and as I mentioned in the written
8 testimony, we're actually litigating that because
9 they haven't provided any of the other documents that
10 we requested. So we'll see what happens with that,
11 but to the extent that newer or different software is
12 necessary, I think that's a-- that's not a reason not
13 to report on it. There's too much money and property
14 that's being seized, and I think we need to know
15 what's happening. And I think bottom line is we just
16 want the system to operate more efficiently. I think
17 you representing our constituents as clients, I mean,
18 you simply need to make the system, you know, better
19 and more operable so that, you know, a family member
20 or a loved one doesn't have to go through a nightmare
21 just to retrieve property. And I know there's human
22 error everywhere, but you know, vouchers, you know,
23 need to be accurate. We need to make sure that, you
24 know, things are not put in a co-defendant's name or
25

1
2 you have a car that's simply missing. I mean, those
3 types of things I know happen all the time, and so
4 just hearing those types of stories is enough for me
5 to say that we do have to do better, and you know,
6 whether there's a cost or whether there's manpower or
7 hours of labor, I mean, whatever it is it's
8 achievable, because the data is already there, and in
9 this bill we're asking for it on an annual basis. I
10 don't think that's something that's impossible to do,
11 and I think they did acknowledge that. So, we will
12 continue to work with them and make sure that we push
13 the bill along, but also have further conversations
14 around some of the challenges that you face in
15 representing many of our constituents. So, I thank
16 you again, and let me know turn it over to Council
17 Member Torres.

18 COUNCIL MEMBER TORRES: Thank you, Madam
19 Chairwoman. I do have a question about Commissioner
20 Bratton's comment that forfeiture is an element of
21 Broken Windows policing, and his notion that it's
22 been a deterrent against criminal activity. Has
23 there ever been any empirical research done
24 concluding that civil forfeiture reduces criminal
25 activity? That you know of, or?

1
2 ADAM SHOOP: I'm not aware of, and I
3 think, you know, just the general research that's
4 come out disputing the effectiveness of Broken
5 Windows in terms of reducing crime in general seems
6 to dispute that notion. I think the asset forfeiture
7 or property seizure component of that hasn't been
8 specifically examined, but--

9 COUNCIL MEMBER TORRES: So, even though
10 the NYPD claims that the purpose of civil forfeiture
11 is to deter criminal activity, the fact is that you
12 can actually be deprived of your property regardless
13 of whether you were convicted or even committed a
14 crime. Is that true?

15 ADAM SHOOP: That's right.

16 COUNCIL MEMBER TORRES: Okay.

17 THOMAS O'BRIEN: I can also say that the
18 reason, one reason it's not a deterrent, is that
19 hardly anybody knows about it. People are often
20 take, you know, shocked that the car was taken. They
21 got a release from the DA, so it's not needed as
22 evidence, and yet now the police are trying to keep
23 [inaudible]. Lawyers are often surprised to find
24 that, you know, that there's this proceeding now
25 where they're trying to forfeit a car. Very often

1 when cars are stopped and there's an arrest, the
2 police on the scene will let somebody take it away
3 who's not the arrestee. So, again, I mean, the whole
4 Department is not really with the program, but it's
5 like an unfortunate minority who would then end up,
6 you know, trying to get that car back and having to
7 pay money to get it back. So, it's just a-- there's
8 not a uniformity or even type of publicity about
9 this. It was-- when it originally started back when
10 Mayor Giuliani was seizing cars in DWI cases that was
11 a program that people knew about, but since then
12 there's virtually no publicity or, you know, like
13 campaign to, you know, to warn people this is what's
14 going to happen. So, that's why as I said, it's
15 become something that's all about the money.

17 COUNCIL MEMBER TORRES: And I find it
18 strange that probably the most technologically
19 sophisticated police force the world has ever known
20 cannot track property seizures in the aggregate. I
21 just have trouble imaging that that's the case or
22 that this industry led-- this industry standard
23 database cannot produce basic-- I, you know-- so I'm
24 skeptical about the NYPD's testimony. You know, one
25 of the concerns I have is about the criminalization

1 of poverty, and I don't know if you can elaborate on
2 how abuses in civil forfeiture can have the effect of
3 criminalizing poverty, the disproportionate impact
4 that it has on lower income communities of color.
5 Can you discuss that?
6

7 ADAM SHOOP: We have some-- you know,
8 Kenny can speak to other clients that he's worked
9 with. We shared several anecdote in our written
10 remarks. I will just make one important related point
11 which is that the communities we work with in the
12 South Bronx are the most unbanked and underbanked
13 residents in all of New York City. What does that
14 mean? It means that they're more likely to keep
15 their cash wages in cash form whether that be on
16 their person or in their house, and I think there is
17 often sometimes skepticism towards that. Why would--
18 the person must have done something wrong.
19 Otherwise, why would they have such a large-- why
20 would they have such a large sum of cash? And their
21 first suspicion or guess is not that they were-- they
22 get paid in cash wages by their employer, not in a
23 paycheck or that they took their paycheck to a check
24 cashing business and they don't have a bank account
25 to deposit money in, and it can--

1
2 COUNCIL MEMBER TORRES: [interposing] Or
3 in fact there was actually an elderly woman who was
4 just a victim of robbery. She had 600 dollars, which
5 is quite a bit. I don't think anyone thinks she's a
6 criminal or-- so. Can you just walk me through the
7 process? Because I want to have a sense of how
8 onerous the process of property retrieval can be. Or
9 let me actually rewind back. What are the various
10 categories of property seizures within the NYPD? I
11 know there are several categories. Can you explain
12 each one?

13 ADAM SHOOP: One of the recommendations
14 that we made was that the bill should track all of
15 the designations, and so there are-- we go through
16 this in detail in our written testimony. There is
17 safe-keeping property which means that they're just
18 holding on to it until the person is released after
19 arrest. It's just to safeguard their valuable
20 property until they get out of court. Arrest
21 evidence means that the arresting officer is
22 asserting or believes that this property might have
23 some evidentiary value in the criminal case. They
24 simply want to give the District Attorney's Office
25 the ability to review and make a determination. One

1 of the sticking points there is that so in order to
2 get that in addition to the safe-keeping requirement
3 such as ID and having the voucher, then you also need
4 to get the District Attorney's permission in the form
5 of a written release, and it had long been the
6 practice in the Bronx that the District Attorney's
7 Office would simply ignore a request, and there
8 really isn't legal recourse other than filing an
9 Article 78 proceeding in State Supreme Court, which
10 would be onerous and next to impossible for a
11 litigant who didn't have an attorney to do to
12 challenge that, basically a constructive denial of
13 that. We also see property over-designated as arrest
14 evidence. So, in almost every drug-related case,
15 phones and money will be designated as arrest
16 evidence. In very few of those cases do they ever
17 get the required search warrant that they would need
18 to get under a US Supreme Court law to evaluate or go
19 into the phone. So why they're hanging on to the
20 phone for the duration of their criminal case, which
21 even in misdemeanor case can last one, two, three
22 years. The Bronx Defenders is also, of course,
23 involved in litigation challenging the
24 constitutionality on speedy trial grounds of how long
25

1
2 it takes folks to get the case to trial. So, their
3 property can be tied up for the duration of their
4 criminal case if the District Attorney is not willing
5 to provide a release. Then you can put even more
6 complicated and onerous requirements with forfeiture
7 which involves them negotiating with not only the
8 District Attorney because of the Criminal Court, but
9 the sort of parallel civil track, and it may never
10 reach the level of an actual court proceeding, but it
11 does require at the very least negotiating with the
12 Civil Enforcement Unit of the NYPD for them to make a
13 determination either to provide a release if they're
14 not going to pursue a civil forfeiture action, or if
15 they do so, then that'll be a separate case that you
16 would be--

17 COUNCIL MEMBER TORRES: [interposing] Do
18 those cases proceed simultaneously?

19 ADAM SHOOP: They can proceed
20 simultaneously. So, in the--

21 COUNCIL MEMBER TORRES: [interposing] So,
22 if I'm accused of a crime, I'm expected to defend
23 myself against the criminal and civil action at the
24 same time, or?
25

1
2 ADAM SHOOP: That's right. So, using the
3 car as an example, which Mr. O'Brien had described.
4 If you are arrested for DWI or some offense, or the
5 even I guess in unrelated offenses Anca had spoken
6 about in her Brooklyn case, if they connect to your
7 car and their view to forfeiture, you're going to
8 need the District Attorney's release and then you're
9 going to have to make a demand with the Property
10 Clerk, and then they have 25 days to begin a civil
11 forfeiture proceeding, whether you-- you can also go
12 to the Office of Administrative Trials and Hearings
13 if it's a car and not other types of property to try
14 to get your car back while the civil case would be
15 pending which also could take years until it would
16 actually reach a trial if it went that far.

17 COUNCIL MEMBER TORRES: Can a layperson
18 can be reasonably expected to defend themselves
19 against a forfeiture action without legal
20 representation? Like, how complicated are these
21 proceedings?

22 ADAM SHOOP: I don't think a person could
23 reasonably expect to do even the administrative
24 hearing at OATH, let alone litigate a civil
25 forfeiture proceeding in Supreme Court.

1
2 COUNCIL MEMBER TORRES: So, effectively,
3 property retrieval is reserved for those who can
4 afford it. Is that--

5 ADAM SHOOP: [interposing] That's right.

6 COUNCIL MEMBER TORRES: Is that the
7 practical effect of--

8 THOMAS O'BRIEN: I could just add that
9 even for those that can afford it, you need a lawyer,
10 and if they--

11 COUNCIL MEMBER TORRES: [interposing]
12 Those who can afford the attorney, I'm sorry.

13 THOMAS O'BRIEN: Yes, but a lot of people
14 just make a practical decision to abandon it because
15 the amount seized, even a high amount like 2,000
16 dollars, a lawyer would cost a lot more than that.
17 And so you hire a lawyer to get back a 2,000 dollar
18 car or a 2,000 dollar seize, or do you just write it
19 off? So, that's why the unclaimed property line in
20 the police testimony is like so much larger than
21 anything else, because, you know, the rational
22 decision is to give up on it.

23 COUNCIL MEMBER TORRES: And who makes the
24 determination or classification of arrest evidence?
25 Is that the D's office? Is that the police officer?

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2 KENNETH CROUCH: It's the arresting
3 officer.

4 COUNCIL MEMBER TORRES: The arresting
5 officer. And who's scrutinizing that determination?
6 Is it-- like, if I just, as an officer I just make an
7 arbitrary determination this is arrest evidence.
8 Who's evaluating--

9 ADAM SHOOP: [interposing] I believe a
10 supervising officer of some sort reviews the voucher
11 at the time that it's entered. I'm not-- I can't
12 speak exactly to what that--

13 THOMAS O'BRIEN: Actually, I can speak to
14 that. There's a patrol guide section that require
15 the officers to mark it arrest evidence if they mark
16 it forfeiture and vice versa. So, you're almost
17 always-- and in the case of the car, you're always
18 going to have the, like the dual bodies, the District
19 Attorney and the police who want to hold onto it.
20 So, for cars, you actually-- under the latest
21 Krimstock ruling, you can go to the Criminal Court
22 Judge to challenge the DA's claim that something is
23 needed as evidence. For money there's no judge you
24 can go to. They're basically, you know,
25 unaccountable to anyone for that. So that's why, you

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2 know, the police won't release cellphone or money
3 until they get released from the DA, and the DA's,
4 you know, they may just not return phone calls.
5 That's the common way of denying, you know, request
6 for release. And then you're, you know, then you're
7 stuck and the process isn't moving forward, and you
8 give up, and all this money ends up in the police,
9 and they don't have to do any forfeiture action.
10 They just have to be passed [sic].

11 COUNCIL MEMBER TORRES: What's driving
12 the over-designation? Is it just arbitrary
13 determinations on the part of the officers, the lack
14 of guidance in the patrol guide? What's behind that?

15 THOMAS O'BRIEN: I think it's just
16 simpler for them, because a lot of-- often, something
17 that is arrest evidence is so connected to the crime
18 that it can be, you know, hypothetically at least,
19 you know, considered forfeiture, held for forfeiture
20 as well.

21 COUNCIL MEMBER TORRES: Does the patrol
22 guide offer any guidance on when it's proper for a
23 police officer to classify possessions as arrest
24 evidence, or is it?

25

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2 THOMAS O'BRIEN: I don't believe it does,
3 and I recall that in litigating this issue that's
4 part of Krimstock, the lawyers, you know, the DA's
5 said the police officer doesn't really know if-- you
6 know, it's the DA's only who know whether something
7 is evidence or not. So, it's kind of--

8 COUNCIL MEMBER TORRES: [interposing] And
9 so when in doubt, you're interest [sic] inclined to
10 classify it as arrest evidence.

11 THOMAS O'BRIEN: Yes, yes.

12 COUNCIL MEMBER TORRES: So, part of it is
13 a lack of guidance, a lack of clear standards, and
14 effectively the officers who are making these
15 determinations are laypeople or probably ill-equipped
16 to determine the evidence? Is that a fair-- is that
17 a--

18 THOMAS O'BRIEN: Yeah, and usually in
19 money cases, it has no evidentiary value.
20 Cellphones, sometimes you can imagine it, and in that
21 case they should get a warrant if it does, and
22 otherwise, they shouldn't be holding onto it. We
23 shouldn't be treating it as a hostage. You can always
24 get your cellphone back if you plead guilty.

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2 ADAM SHOOP: I would contrast cars with
3 money. And so in the procedures that one of the NYPD
4 officers spoke to on the earlier panel, it made it
5 sound as in many if not all cases the money is
6 deposited into a bank account, and yet they're still
7 purportedly holding onto the actual physical money as
8 somehow relevant or necessary to the criminal trial.
9 If you contrast that with cars, under the greater
10 projections that are provided by Krimstock, the
11 District Attorney in order to hold onto a car without
12 providing a release has to make a showing of why
13 there's no less burdensome means such as taking
14 photographs, for example, if there was an accident
15 and they want to show damage to the vehicle, or
16 forensic testing if you could imagine if there was a
17 shooting or some other-- some other value. That's
18 what they would be bringing into the courtroom,
19 probably not driving the car into the courtroom, and
20 so that's what they're required to-- what they're
21 required to do. But for some reason, even if money
22 is deposited into a bank account and maybe they would
23 bring in a photograph of money if there was some
24 evidentiary value. The money is still going to be
25 tied up for the duration, the entire duration of the

1 case, because there is no standard or requirement
2 that makes them have to do a greater showing. They
3 can simply refuse to release on the basis that it's
4 required as evidence. You can then under the law ask
5 for a review by a supervising ADA, and they can
6 refuse you for the same reason, and again, your
7 recourse would be to file an Article 78 proceeding in
8 Supreme Court where the standard is very deferential.
9 It would be whether the determination is arbitrary
10 and capricious. So, if there is any rational basis
11 for why they're holding onto it, you're going to lose
12 that lawsuit.
13

14 COUNCIL MEMBER TORRES: So, the
15 categories of property seizures as I understand it
16 are safe-keeping, arrest evidence, forfeiture--

17 ADAM SHOOP: [interposing] And I would add
18 to that investigatory, which is property--

19 COUNCIL MEMBER TORRES: [interposing] So,
20 can you-- yeah. Can you explain that distinction
21 between arrest and investigatory evidence from here?

22 ADAM SHOOP: Investigatory property is
23 evidence, as I understand it, and as delineated from
24 the single most important case prior to Krimstock,
25 the McClendon [sp?] v. Rosetti [sp?] case which was

1 ongoing in the district court between the 1970's and
2 1990's, distinguished investigatory property as
3 property that's unconnected to an arrest. Meaning
4 McClendon and the rules under the RCNY, what arrest
5 evidence or arrest property is, whether safe-keeping,
6 arrest or forfeiture means that it's either taken in
7 conjunction at the moment of arrest where they've
8 seized it and they make an arrest at some later
9 point. Investigatory property is property that
10 they've seized without making an arrest, and we
11 provide an example in our testimony of a client who
12 was taken to a precinct for questioning. He was
13 interrogated. He was never released. They had
14 believed that his car or a car that looked like his
15 was seen near a crime or involved at the scene of a
16 crime. He drove home from the precinct, and two
17 weeks later woke up to find that his car was missing
18 from where he had parked it the night before. He
19 called the precinct or called the police to report it
20 stolen and was told that they knew about his car,
21 they had possession of it and that they wanted to
22 speak to him. He was questioned further. Again,
23 released, but not-- he was not allowed to take his
24 car that time. He wasn't given a voucher. He had
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2 several more trips to the precinct inquiring about
3 his car. He was finally provided with a voucher.
4 Some months later he had made his way to the Bronx
5 Defenders. Again, no arrest, right? So he's not
6 provided with a lawyer at any point in that police
7 interrogation or questioning process, because he's
8 not been arrested and booked and gone to court for
9 arraignment, but he came to our office through our
10 community intake, and we agreed to assist him. Once
11 we made inquiries with the Civil Enforcement Unit of
12 the NYPD, after a week or two they had determined
13 that it was no longer needed for any ongoing
14 investigation and that he could pick up his car from
15 the auto pound, which at that point had been in
16 police custody for six months.

17 COUNCIL MEMBER TORRES: So, investigatory
18 and arrest evidence are mutually exclusive
19 categories, but not all of the categories are
20 mutually exclusive. I noticed one of the
21 recommendations that you make is that the reporting
22 should not be non-duplicative. Right? If money and
23 vehicles could be held for more than one reason, for
24 example, as both arrest evidence and for forfeiture,
25 they should only be counted in one category. So

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2 which category should they be counted in? If it's--
3 if it qualifies as both arrest evidence and
4 forfeiture, which category should prevail for the
5 purposes of reporting?

6 ADAM SHOOP: I--

7 COUNCIL MEMBER TORRES: [interposing]

8 Because that's not included in your recommendations.

9 ADAM SHOOP: I guess there are arguments
10 in favor of both, and I'm not sure that I have fully
11 a strong position in favor of one or the other,
12 because as I mentioned there can be problems if it is
13 held as both arrest evidence and forfeiture, that can
14 entail both problems with getting a District
15 Attorney's release, and it can entail problems on the
16 forfeiture side with the Civil Enforcement Unit in
17 terms of the length of time that a person would be
18 deprived of their property. As I understand the PET
19 system, if it is going to be held as forfeiture in
20 addition to arrest evidence, the category on every
21 property voucher that I've seen indicates forfeiture
22 and not arrest evidence. So, again, if we see that
23 it says forfeiture on the voucher, we can presume
24 that it's also being held as arrest evidence, and
25 even if the District Attorney does not wish to hold

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it as arrest evidence, before the property clerk will release it, you still have to provide a District Attorney's release because they want to ensure that there's no arrest evidence interest there.

COUNCIL MEMBER TORRES: They NYPD gave the impression that Muni-ID was sufficient for retrieval of property, but you dispute that that's the case?

ADAM SHOOP: I'm sorry, the--

COUNCIL MEMBER TORRES: [interposing] The NYPD gave the impression to I think the Chairperson that Muni-ID was sufficient for property retrieval, but--

KENNY CROUCH: Not in the Bronx Property Clerk Borough.

COUNCIL MEMBER TORRES: Okay. So, what is the standard in the Bronx?

KENNY CROUCH: It is the two ID's, one a government-issued photo ID of some sort and then another ID, which-- do you know which exhibit that is?

ADAM SHOOP: Exhibit A in the appendix to our testimony shows the types of ID's that they accept.

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2 KENNY CROUCH: So, it's a combination of
3 the two.

4 COUNCIL MEMBER TORRES: And Muni-ID could
5 be one of those pieces of identification, or?

6 KENNY CROUCH: It could be one. Yes, it
7 could be one photo ID. You'd have to provide
8 something else like a credit card or--

9 COUNCIL MEMBER TORRES: [interposing] Two
10 pieces, okay.

11 KENNY CROUCH: a W2, something like that.

12 COUNCIL MEMBER TORRES: Now, is the two--
13 is the-- I'm sorry. Are those requirements
14 inconsistent with the case law? Is it consistent with
15 the procedure delineated in Krimstock?

16 ADAM SHOOP: It's inconsistent with
17 McClendon and the rules that are in the RCNY which
18 just mirror the final order in McClendon that
19 specific the procedures which allow for only form of
20 ID if you can provide a New York State driver's
21 license or non-driver ID, but--

22 COUNCIL MEMBER TORRES: [interposing] So,
23 the NYPD's violating Federal Law by requiring two
24 pieces of identification?

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2 ADAM SHOOP: By not accepting only one
3 form for a driver's license or a New York State ID,
4 yes.

5 COUNCIL MEMBER TORRES: Have you ever
6 gotten an explanation as to why?

7 ADAM SHOOP: None.

8 COUNCIL MEMBER TORRES: And Mr. O'Brien,
9 you mentioned earlier that the NYPD-- because you
10 were-- you seemed to be opposed to the City Council
11 codifying Krimstock, because the NYPD has been
12 subverting it. Can you elaborate on that point, or?

13 THOMAS O'BRIEN: Okay, well, just to give
14 you-- the examples I gave were they send these
15 detailed discovery demands for, you know, tax returns
16 and all that. That's not part of the Krimstock
17 order. They just do that on their own. The
18 settlement letters to people, like totally outside of
19 the Krimstock process, that's not part of the
20 Krimstock order either. And so an amended, you know,
21 codified version of Krimstock would, you know, ban
22 these types of, you know, communications to laypeople
23 outside of the Krimstock process. That's what's, you
24 know, kind of reducing the number of hearings that
25 are actually held. Just to-- also the-- we're just

1 talking about the investigatory versus arrest
2 evidence. OATH won't hear cases. If the Bronx
3 Defender's client went to OATH and said we need a
4 hearing because they're holding onto my car, they
5 won't consider. They won't do an investigatory
6 evidence claim because it's strictly speaking. It's
7 not part of the Krimstock order. That's the type of
8 thing which you could just fix in a codification, and
9 so I think the big, you know, the big changes would
10 add that and would, you know, bar the, you know,
11 outside Krimstock type of communications. The way
12 the order is set up, you know, it's supposed to be
13 the police seize a person's car. They give them
14 notice which includes an explanation of the process,
15 and then the person uses that notice to apply for a
16 hearing. So, now they're-- you know, what they've
17 done over the years if often they don't give notice,
18 or they'll give notice, and then they'll have these,
19 you know, these discovery demands added to it.
20 Anything that would kind of intercept the Krimstock
21 process from going forward as, you know, now there's
22 this overlay of practice, and so that's why the-- a
23 new version of the codification of the order should
24 be aware of that and correct those type of diversions
25

1 from the Krimstock process, and then I think, you
2 know, it would be, you know, much more effective. It
3 would go back to being as effective as it had been.

4
5 COUNCIL MEMBER TORRES: I have a question
6 regarding not on the bills but on-- I remember
7 reading maybe a year ago or two then Attorney General
8 Eric Holder made a series of reforms around civil
9 forfeiture. And I remember-- so my understanding was
10 that even if a state had a law that prohibited civil
11 forfeiture, the local Police Department could
12 effectively collaborate with the Federal Government.
13 The Federal Government would pursue this forfeiture
14 and then split the proceedings with the local Police
15 Department. That practice supposedly has been
16 curtailed, but one of the exceptions was seizures of
17 property by a joint taskforce, and it was not clear
18 how open-ended that exception was. I guess a year
19 later or two years later, do we know?

20 CHRIS ALEXANDER: DPA did a pretty
21 expansive report this year in California, and it
22 looked at these types of joint taskforces and the
23 types of resources that were split. The current
24 federal ruling is like New York City would be in
25 violation of that as it stands, but the current

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2 federal ruling does prohibit the type of distribut--
3 or the type of breaking up of resources that was in
4 practice before, but many municipalities are still
5 doing it with either through ICE or through other--
6 especially California was a look so there was a lot
7 of border issues there. So, you know, either through
8 ICE or through other drug enforcement officials. So,
9 I can send along the report from California that goes
10 into a little bit more in detail.

11 COUNCIL MEMBER TORRES: So there has-- has
12 there been a dramatic reduction since those reforms?
13 Like, I want to get a sense of how substantive those
14 reforms were?

15 CHRIS ALEXANDER: I'm not sure about the
16 current, you know, how much those reforms have
17 reduced the practice, but we can tell you, as I put
18 in my testimony, that a lot of states have been
19 moving to enact those reforms, at least codifying
20 them, but not necessarily don't have the data to show
21 the impact.

22 THOMAS O'BRIEN: Council Member, I think
23 that passage of 1000 might at least put us closer to
24 understanding what's going on--
25

1 COUNCIL MEMBER TORRES: [interposing]

2 Yeah.

3 THOMAS O'BRIEN: since Attorney General
4 Holder's action, because it was the common practice
5 of NYPD to-- it was call "adoption." So, they would
6 seize--
7

8 COUNCIL MEMBER TORRES: [interposing]

9 Right.

10 THOMAS O'BRIEN: you know, a thousand
11 dollars. They'd ship it to the feds and it would
12 come back laundered in a sense that they, okay,
13 here's your portion of the money, and they didn't
14 really do many of their own independent forfeiture
15 actions during that regime. So, I think it's really
16 would be good to know, you know, whether what they've
17 been doing since then, and so that's why I think some
18 type of breakdown as the law would, I think, require,
19 might illuminate that.

20 COUNCIL MEMBER TORRES: And then I have
21 just a question about State Law. I know that
22 obviously the laws on civil forfeiture vary widely
23 from state to state. How does New York compare to the
24 rest of the country? Are our laws more rigorous,
25 more?

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2 THOMAS O'BRIEN: I would say hard to say
3 because nominally it provides more process, and
4 that's the interesting thing here that hasn't been
5 touched on. The state-- we're not talking about a
6 state forfeiture law when you're talking about Police
7 Department seizures. They always operate under the
8 Administrative Code. There are two big state
9 forfeiture laws. There's one in the CPLR, and
10 there's one in the penal law which is oriented
11 toward, you know, drug forfeitures. So, the drug
12 forfeitures, one in the penal law has good due
13 process. So, that's ignored. And so the District
14 Attorneys can pursue forfeiture through the CPLR, and
15 then the counties, other counties of New York they
16 mostly have vigorous forfeiture practices. It's
17 limited to felonies, though. So, the basic breakdown
18 is the prosecutor can go after felonies, and NYPD can
19 go after, you know, property of other sorts as well.
20 So, that's why I mean, it-- I don't know how much we
21 would suffer really if there just were no local
22 forfeiture program, since prosecutors have the
23 authority to forfeit instrumentalities of the
24 proceeds of the crime just like NYPD does, and they
25 also, they have a system of allotment when the amount

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of money they seize has to go to. In one ca-- you know, the authorities, the local authorities. So, to me that is more than enough for the purpose of having some type of deterrent to, you know, to property being used in crime. So, NYPD's is really overkill on that, but it's--

COUNCIL MEMBER TORRES: [interposing] But if I under-- it seems like if I understand you correctly that the NYPD could choose the forfeiture process? Like, there's one in penal law, one in CPR, and then one in the Admin Code?

THOMAS O'BRIEN: I don't know if they have the authority. I think that's just for prosecutors.

COUNCIL MEMBER TORRES: Only for prosecutors.

THOMAS O'BRIEN: Right.

COUNCIL MEMBER TORRES: So, the NYPD is bound only by the local process?

THOMAS O'BRIEN: Right.

COUNCIL MEMBER TORRES: There's no statewide process for law enforcement, for I mean for the NYPD?

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2 THOMAS O'BRIEN: No, but there is as I
3 indicated, there's the-- they would get a portion of
4 the forfeited proceeds done by the District Attorney.

5 COUNCIL MEMBER TORRES: Okay.

6 THOMAS O'BRIEN: Like a certain amount of
7 the forfeited money has to go to the Oasis Substance
8 Abuse Program. So, it's, you know-- the prosecutors
9 can't keep it all for themselves. They have to give
10 some to the localities.

11 COUNCIL MEMBER TORRES: Okay. I could ask
12 you questions all day, but I think that I'll keep
13 that as the extent of it. Thank you so much.

14 THOMAS O'BRIEN: Okay, thank you.

15 CHAIRPERSON GIBSON: That shows your true
16 passion, Council Member.

17 COUNCIL MEMBER TORRES: I just want to
18 say I was late because I literally while texting ran
19 into a pole. So I was disoriented. So, that
20 otherwise I would have been here to question the
21 NYPD, so I apologize.

22 CHAIRPERSON GIBSON: We're glad you're
23 better. Thank you. Thank you all for coming and
24 thank you for your testimony, your presence, and
25 thank you for the work that you do every day in our

1 city. Thank you. We will definitely follow up with
2 all of you. Thanks. Our last panel for this
3 afternoon is Debra Kriensky from New York City
4 Audubon. Thank you. Thank you for your patience.
5 You can begin. Thank you. Thanks again.

7 DEBRA KRIENSKY: Thank you, Council
8 Committee Chairperson Gibson and esteemed members of
9 the Committee on Public Safety for holding this
10 important hearing on the use of all-terrain vehicles
11 in New York City. My name is Debra Kriensky and I am
12 a Conservation Biologist at New York City Audubon.
13 We are a science-based conservation organization
14 dedicated to protecting birds and their habitats in
15 the five boroughs for the benefit of all New Yorkers.
16 Nearly 10,000 people comprise the membership of New
17 York City Audubon. New York City Audubon strongly
18 supports Intro 834, a legislation to amend the
19 Administrative Code of the City of New York in
20 relation to the use of all-terrain vehicles, ATV's.
21 New York City's urban natural areas include beaches,
22 wetland, grasslands, and forests. They provide
23 critical year-round habitat for hundreds of important
24 bird species, including the New York State threatened
25 Common Tern [sp?] and the federally listed Piping

1 Plover and Red Knot. Birds in turn provide New
2 Yorkers with ecosystem services such as seed
3 dispersal, carry and removal, insect eradication, and
4 a deep connection to the natural world. Our concerns
5 about ATV use in the City is the disturbance to birds
6 and their habitats during vulnerable times in their
7 life cycle, breeding and migrating. ATV traffic
8 leads to the soil compaction and subsequent negative
9 effects on vegetation. In a Minnesota study, just
10 eight passes of an ATV caused significant damage to
11 the plants. Driving an ATV through natural areas
12 also creates an opportunity for invasive plant
13 species to encroach. ATV tires provide mechanical
14 transport of seeds from invasive plant species.
15 Impacts to wetland habitat is even greater. ATV
16 passage has been proven to have detrimental
17 hydrologic and physical effects, destroying wetland
18 vegetation. In direct interactions between ATV's and
19 birds, the birds will lose. Piping Plover chicks are
20 especially camouflaged on the sand and will often
21 stand still when a vehicle approaches. Black Skimmer
22 chicks will lie down in tire tracks. Tar at all
23 showed that vehicle traffic had a statistically
24 significant effect in decreasing migratory shore bird
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2 abundance and will cause birds to disperse a given
3 site. Vehicle traffic has also been shown to
4 decrease both the amount of time a shore bird spends
5 on mud flats and the amount of time they spend
6 roosting, all vital behaviors for the survival of
7 long distance migrants. One need only look at the
8 relative wasteland that is the west side of the Salt
9 Marsh Nature Center in Marine Park, Brooklyn where
10 ATV's have free reign and compare it to the pristine
11 marsh and grasslands of the east side where it's
12 protected from ATV incursion to understand what a
13 travesty is the use of ATV's in a wildlife sanctuary.
14 For all these reasons and the safety of park and
15 beach goers, New York City Audubon strongly urges the
16 Committee to give full support to Council Member
17 Cohen's proposed legislation. Thank you.

18 CHAIRPERSON GIBSON: Thank you. You were
19 right on time. Thank you. Thank you so much.

20 DEBRA KRIENSKY: No problem.

21 CHAIRPERSON GIBSON: Just one question.
22 I know you're in support of Intro 834. From the
23 perspective of New York City Audubon, what has been
24 your experience with ATV's? Because I know Council
25 Member Cohen, his passion for this issue is because

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2 it's very prevalent in his district, and you know,
3 the northwest section of the Bronx, Upper Manhattan,
4 Inwood and other places, and you know, obviously
5 working on this bill he really wanted to see some
6 movement in increasing penalties and really getting
7 these dangerous vehicles off, you know, our streets
8 anyway. So, what has been your involvement in terms
9 of enforcement at your local precinct, or how has
10 your organization been involved?

11 DEBRA KRIENSKY: So, I'm not exactly sure
12 what our involvement has been in ATV's. I'm out in
13 the field certain days of the year, and I have not
14 had personally interactions with ATV's, but I know
15 from my experience as a biologist, when we're out on
16 the beach, for example, we have trained biologists
17 walk in front of any vehicles to make sure that there
18 are no birds in the way, and just seeing how careful
19 we have to be and we know what we're looking for,
20 it's understandable that someone who doesn't know
21 what they're looking for, doesn't know what's there,
22 doesn't care what's there, it could have pretty
23 devastating results.

24 CHAIRPERSON GIBSON: Okay. Thank you
25 very much for coming today. We appreciate your

1 presence, and thank you for submitting testimony.

2 Thank you. As this hearing comes to a close, I want
3 to thank all of my colleagues for joining us today,
4 especially the prime sponsors of the legislation that
5 was before us, Council Member Dan Garodnick, Ritchie
6 Torres, Andrew Cohen, and Steve Levin, and certainly
7 want to thank the Speaker and the entire staff of the
8 Committee on Public Safety. Thank you to our
9 Counsel, our Analyst for your work, and once again,
10 we want to congratulate Laurie Wen and wish her all
11 the very best in her future endeavors, and thank you
12 to the Sergeant at Arms for allowing the hearing to
13 run smoothly this afternoon. This hearing of the
14 Committee on Public Safety is hereby adjourned.

15 [gavel]

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COMMITTEE ON PUBLIC SAFETY

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 September 22, 2016