
Committee Meeting

of

SENATE JUDICIARY COMMITTEE

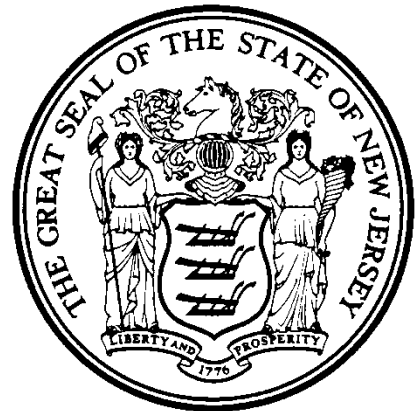
“The Committee will take testimony from invited guests and members of the public on the implementation of the State’s 2017 criminal justice reform measures, including successes, current challenges, and areas in need of improvement. The Committee will also discuss the Judiciary’s Report of the Reconvened Joint Committee on Criminal Justice and the legislative recommendations contained therein”

LOCATION: Committee Room 4
State House Annex
Trenton, New Jersey

DATE: March 7, 2024
10:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Senator Brian P. Stack, Chair
Senator Vin Gopal
Senator Joseph A. Lagana
Senator Raj Mukherji
Senator Paul A. Sarlo
Senator Troy Singleton
Senator Bob Smith
Senator Jon M. Bramnick
Senator Kristin M. Corrado
Senator Douglas J. Steinhardt
Senator Michael L. Testa, Jr.



ALSO PRESENT:

David J. Lorette
*Office of Legislative Services
Committee Aide*

Abbey Harris
Matthew Peterson
*Senate Majority
Committee Aides*

Michael Molimock
*Senate Republican
Committee Aide*

***Meeting Recorded and Transcribed by
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Brian P. Stack
Chair

Nellie Pou
Vice-Chair

Vin Gopal
Joseph A. Lagana
Paul A. Sarlo
Troy Singleton
Bob Smith
Jon M. Bramnick
Anthony M. Bucco
Kristin M. Corrado
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NEW JERSEY STATE LEGISLATURE

SENATE JUDICIARY COMMITTEE

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COMMITTEE NOTICE

&

PUBLIC HEARING NOTICE

TO: MEMBERS OF THE SENATE JUDICIARY COMMITTEE
FROM: SENATOR BRIAN P. STACK, CHAIRMAN
SUBJECT: COMMITTEE MEETING - MARCH 7, 2024

The public may address comments and questions to David J. Lorette, Committee Aide, or make bill status and scheduling inquiries to Nina Riccardi, Secretary, at (609)847-3901, fax (609)292-6510, or e-mail: OLSAideSJU@njleg.org. Written and electronic comments, questions and testimony submitted to the committee by the public, as well as recordings and transcripts, if any, of oral testimony, are government records and will be available to the public upon request. This does not apply to information or remarks concerning the character or qualifications of any person nominated by the Governor which are brought to the attention of the committee considering the nomination. However, oral remarks delivered in a public meeting concerning a nominee are available to the public if recorded or transcribed.

The Senate Judiciary Committee will meet on Thursday, March 7, 2024 at 10:00 AM in Committee Room 4, 1st Floor, State House Annex, Trenton, New Jersey.

The committee will take testimony from invited guests and members of the public on the implementation of the State's 2017 criminal justice reform measures, including successes, current challenges, and areas in need of improvement. The committee will also discuss the Judiciary's Report of the Reconvened Joint Committee on Criminal Justice and the legislative recommendations contained therein.

In addition, the following nomination(s) will be interviewed:

TO BE A JUDGE OF THE SUPERIOR COURT:

David V. Calviello, of Oakland, to succeed The Honorable Keith A. Bachmann, following his retirement, for the term prescribed by law, ending 7 years from the date of appointment.

Natalie R. Capano, of Allendale, to succeed The Honorable Rachelle Lea Harz, following her retirement, for the term prescribed by law, ending 7 years from the date of appointment.

(OVER)

TO BE A JUDGE OF THE SUPERIOR COURT (cont.):

Kelly A. Conlon, of Wyckoff, to succeed The Honorable James J. Guida, following his retirement, for the term prescribed by law, ending 7 years from the date of appointment.

Kevin P. Kelly, of New Milford, to succeed The Honorable Estela M. De La Cruz, following her retirement, for the term prescribed by law, ending 7 years from the date of appointment.

Lina Papalia Corrison, of Upper Saddle River, to succeed The Honorable Bonnie J. Mizdol, following her retirement, for the term prescribed by law, ending 7 years from the date of appointment.

Anthony Merlino, of Toms River, to succeed The Honorable Patricia E. Carney, following her retirement, for the term prescribed by law, ending 7 years from the date of appointment.

Ian M. Silvera, of Teaneck, to succeed The Honorable Mark T. Janeczko, following his retirement, for the term prescribed by law, ending 7 years from the date of appointment.

TO BE THE BERGEN COUNTY PROSECUTOR:

Honorable Mark Musella, of Wood-Ridge, to succeed himself, for the term prescribed by law, ending 5 years from the date of appointment.

TO BE A MEMBER OF THE NEW JERSEY TURNPIKE AUTHORITY:

Ulises Diaz, of Rutherford, to fill a vacancy, for the term prescribed by law, currently set to expire February 14, 2025.

The following nomination(s) will be considered:

TO BE A MEMBER OF THE VETERANS' SERVICES COUNCIL:

Sophia Dmoch, of Little Ferry, to replace Marliese Haemmerle, for the term prescribed by law, currently set to expire March 24, 2024, thereafter March 24, 2027.

TO BE A MEMBER OF THE LEGALIZED GAMES OF CHANCE CONTROL COMMISSION:

Jodi Russo, of Toms River, to succeed Christine Vanek, for the term prescribed by law, currently set to expire March 29, 2027.

TO BE A MEMBER OF THE STATE BOARD OF CREATIVE ARTS AND ACTIVITIES THERAPIES:

Dina Trunzo, of Byram, for the term prescribed by law, ending 3 years from the date of appointment.

Issued 3/05/24

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(This is an excerpt from the Senate Judiciary Committee meeting of March 7, 2024.)

SENATOR BRIAN P. STACK (Chair): Good morning, everyone.

I hereby call this meeting of the Senate Judiciary Committee to order.

Today is Thursday, March 7, 2024.

David, please call the roll.

MR. LORETTE: Committee roll call.

Senator Testa.

SENATOR TESTA: Here.

MR. LORETTE: Senator Corrado.

SENATOR CORRADO: Here.

MR. LORETTE: Senator Steinhardt.

SENATOR STEINHARDT: Here.

MR. LORETTE: Senator Bramnick.

SENATOR BRAMNICK: Present.

MR. LORETTE: Senator Smith -- I've seen him in the room, so he's being marked in as present.

Senator Singleton.

SENATOR SINGLETON: Here.

MR. LORETTE: Senator Sarlo.

SENATOR SARLO: Present.

MR. LORETTE: Senator Lagana.

SENATOR LAGANA: Here.

MR. LORETTE: Senator Gopal.

SENATOR GOPAL: Here.

MR. LORETTE: Senator Mukherji.

SENATOR MUKHERJI: Present.

MR. LORETTE: Chairman Stack.

SENATOR STACK: Here.

MR. LORETTE: Chairman, you have a quorum.

SENATOR STACK: Great; thank you, David.

Today, the Committee will consider nominations and hold a hearing on criminal justice reform.

We will do nominations first. But, before we begin, I would like to invite Governor James McGreevey, Chairman of the Board of New Jersey Reentry Corporation, up to provide remarks on bail reform. I understand the Governor has some time constraints today, so we would like to accommodate him with his schedule.

Governor, if you could please come up and address the Committee.

Governor, still doing everything yourself, huh?

(laughter)

Thank you very much for being here.

G O V E R N O R J A M E S M c G R E E V E Y: Thank you.

SENATOR STACK: Thank you for being with us.

Please begin.

GOVERNOR MCGREEVEY: Thank you very much, Chairman.

I am very grateful for this opportunity to focus on the 2017 Criminal Justice Reform Act -- which was then New Jersey's most comprehensive bail reform initiative to date -- and the importance of it

replacing an antiquated monetary bail system with a risk-based approach to bail.

Under the framework, as you're well aware, senators, the purpose was the court to consider risk factors relevant to whether a defendant will fail to appear or pose a danger to the community when determining whether to release or detain a defendant before trial. And, as a result, a number of defendants detained pre-trial decreased significantly.

What the concern for New Jersey Reentry Corporation was is that recognizing that there were difficulties in gaps remaining during the pre-trial period. And, I would recognize that the administrative office of the courts have taken substantial steps to improve the preentry process for defendants, such as the efforts to make judicial decisions in a timely manner. Yet, while we recognize these important efforts and the AOC for the successful implementation of what CJR intended -- namely to determine release not on a monetary basis but on that risk posed by the defendant. Nonetheless, the implementation of CJR has demonstrated that significant gaps -- if not deficiencies -- remain in its structure, leaving court-involved individuals unaided at a critical juncture.

The New Jersey Reentry Corporation intended to set forth certain evidence-based practices that were built upon that was recognized by both the Chairman of the Senate, as well as the Chairman of the Assembly legislative committees. Currently, New Jersey's pre-trial services agency does not have an existing framework to provide for critical supportive services to defendants released into the community after arrest. The absence of support often has a detrimental effect, since defendants may return to the same environment that drew them into their court involvement. The AOC has

properly recognized and responded to the problem that detention significantly increases the risk of recidivism. Nonetheless, a structure of sequent services, such that NJRC provides to those post-release, must be implemented to assist court-involved persons as they are released into the community during this preentry period.

If only minimal assistance is given, the defendant is unfortunately left at a significantly disadvantaged position. To address the limitation that currently exists, we are most grateful to enjoy the support of Senator Brian Stack and then-Assembly Judiciary Chair Raj Mukherji. And, the legislation was proposed that would establish a pilot program in partnership with the New Jersey courts, the purpose of which was to enhance pre-trial practices and outcomes.

And, if I can, senators, just suggest that was Governor Christie's original vision, such that it was based upon the Federal program, which provided for a robust scope of pre-trial services. The report that I provided for you here today, *Preentry Report: A Research Examination of Best Practices*, I would encourage for your readership. The report summarized both the Criminal Justice Reform Act; highlighted evidence-based pre-trial best practices; and outlined a proposed pilot program which could be expanded, which would link pre-trial defendants to critically needed services during the pre-trial release program -- such that individuals during the pre-trial period would have access to those same services that individuals returning home from prison, jail, addiction treatment, and our veterans would have access to.

Lastly, Mr. Chairman, recidivism decreases and court appearance rates increase when pre-trial service agencies employ a screening process to examine a defendant's needs and provide those specific services to address

those needs. The services and treatment programs target underlying issues -- whether behavioral; addiction; mental health; as well as medical, that contribute to the risk a defendant poses while on pre-trial release. The report which we submitted to you -- which you as well as Senator Mukherji was kind enough to support -- summarized exemplary pre-trial practices employed both in the Federal system as well as in jurisdictions nationally, to illustrate how pre-trial success rates improve when services are offered during the pre-trial release period. The initiatives highlighted in the report are based upon research regarding the factors that contribute to criminal re-offenders, and the message the Justice Department can employ to interrupt the cycle of re-offense.

Respectfully, NJRC hopes this report and the legislation provided for both Senators Stack and Mukherji will help equip the criminal justice policymakers with the requisite information and processes so that we can obtain measurable reductions in inappropriate pre-trial conduct.

Thank you, Senator.

SENATOR STACK: Governor, thank you for your comments.

And, I know that both you and I speak a lot about this, and one of the problems that I've addressed to you when we speak is that many of the people I see coming out will wind up in a homeless shelter. In Union City, we have a shelter, I try to help many of them -- the Committee has heard me talk about this already -- whether it be a job in one of the departments.

But, the problem I see is not a lot of support once they come out. And, it's been a big issue where you have people coming out not making a great deal of money, maybe working a part-time job and not being able to get a job and returning to the same environment again.

And, I would just like if you maybe could just expand on that a little bit more, what you feel on that end.

GOVERNOR MCGREEVEY: Mr. Chairman, that's exactly what the Federal system and what this report evaluates. Because the Federal system provides for that linkage to critical services.

And, so, respectfully, what the New Jersey Reentry Corporation does is that we conduct a bio-psycho-social where the social worker -- trained social worker -- evaluates an individual's criminogenic history; their medical history; their behavioral history; their family history; and their immediate needs. And, so, the goal is to provide that individual with a comprehensive snapshot as to where he or she is at that precise period of time, and what services are required and needed. And, then, to be able to not only delineate those services, but to guarantee in a rigorous way that the individual has access to those services.

The New Jersey Reentry Corporation and the Volunteers of America both volunteered to provide these services at model counties. And, our, respectfully, argument, Mr. Chairman, was that if we provide these pre-trial services, obviously we're going to ensure that people have access to housing; that they're going to have the access to both State and Federal programs, whether it's general assistance; SNAP; temporary rental assistance; Medicaid, which would access healthcare both on the pharmacological side and the medical side and the behavioral side; and, then, long-term -- hopefully. And, Senator Mukherji has been kind enough to be a supporter, as have you, Senator, of long-term training.

So, the goal was-- And, I understand from the AOC's perspective that these individuals were not convicted of any crime. My response to that

was, yes, but what we're providing for them are critically important services that link them to a better quality of life. And, so, whether it's mental health; whether it's addiction treatment; whether it's housing; whether it's financial support; we're putting that individual in a better place.

And, if I can just push back. That was the goal of the Federal system, which operates an extensive and robust pre-trial services program every day in this nation. That was the purpose of the programs, whether in Virginia and other states. And, I would argue this represents a best practice.

New Jersey Reentry does not violate individuals *ever* for the cause of incurring another -- if you will -- another charge. What we try to do is work cooperatively with the court system to leverage responsible behavior to improve the condition of the individual.

So, again, that was the purpose, Senator. There's a purpose, Mr. Chairman, of the original legislation, and then it meanders through the labyrinth of the process. And, unfortunately, pre-trial services were ended. And, then, this is -- selfishly -- I think New Jersey Reentry and VOA does good work, and we volunteer to do this for free of charge for a one-year period. We originally talked about a three-year timeframe, and, Mr. Chairman, you justifiably pushed back and said one year; 60 days if we included Hudson. But, the goal would be to do this quickly and demonstrate those positive results.

SENATOR STACK: Thank you, Governor.

Do any other members have any questions?

Sure, Senator Vin Gopal.

SENATOR GOPAL: Thank you, Chairman.

Governor, we've spoken a lot about Monmouth County, and we're going to ask this to the prosecutors. I know that they're testifying later.

One thing we hear, obviously, as I'm reading through your report, is that services aren't always available immediately. But, I can't tell you over the last seven months how many residents have reached out to me, including many in my town, who have been victims of car thefts, home invasions. I've had neighborhoods where repeat offenders are happening consistently; rings from North Jersey where they're hiring minors, sending them down, and we see the same minor less than a week later. And, it's not just car thefts anymore. Folks are going into peoples' homes. I had a constituent case file on a mental-health case of a young girl whose house was broken into. And, a lot of this -- at least in the law-enforcement community in Monmouth County -- points to changes that need to be done in bail reform.

So, I appreciate all you do; I appreciate all New Jersey Reentry does. But, I have to figure out, at least from my constituents, before going into this summer, how I can assure them that when somebody is arrested they will not be back in their neighborhood literally a week later.

Thank you.

GOVERNOR MCGREEVEY: Or, hours later.

And, if I can, through the Chairman -- just for the interest -- I think I was the only person who wrote an op ed against bail reform, as heretical as that may be. And, I heard from my good friend the Governor-- Because my point was there are no services.

And, so, my interest, bluntly, is not to keep prosecution happy or the public defenders happy. My obligation is to try to do ethically what is right by the people we have the privilege of serving.

And, so, to go to Senator Stack's point -- the Chairman's point - - is if you have individuals, if they're engaging, ostensibly, in this type of behavior, and you place them back in the same conditions-- I mean, what would we expect? No access to housing; no access to drug treatment. There's a terrible situation where an individual was in full-fledged opiate-use disorder who had a teleconference from a judge and then went out on the street and was killed by a 16-wheeler. I mean, there's no effort to determine whether someone is in the midst of a potential detox.

So, it behooves me -- and, to be fair to the Legislature, and to be fair to the Governor -- I think it was a good-faith effort. But, I think the Federal system -- and, I realize some of my dear friends with whom I work every day of the week believe that those services are too onerous. My point is, these are the certain services I would want for my children to provide every measure of access to addiction treatment; to mental health; to safe and secure housing. And, if we return people to the same site, the same locale, the same condition, I don't understand how it's rational to assume they would act any other way but.

So, I appreciate what you said, Senator. I think we've had-- I think we can even improve upon bail reform, and that's what this report sincerely does. And, when I see my friend-- I see a senator here talking about licensing and employment. We've done a lot of good things, but, as we see in reentry, when you wrap somebody after they walk out of prison with services and support and you show them there's an alternative, you can do

that to a young man and woman after they've been arrested and put them in a different place.

SENATOR STACK: Thank you Senator; thank you, Governor.
Senator Bramnick.

SENATOR BRAMNICK: Thank you, Chairman.

First, Governor, good to see you, and congratulations on all the work you've done in the reentry corporation. Really important work.

GOVERNOR MCGREEVEY: Thank you for referring employers for our guys for jobs, Senator.

SENATOR BRAMNICK: And, that will continue, and I appreciate it, Governor.

So, in law school, they used to say what did the criminal system - What was the base of the criminal system? One was rehabilitation, which you've talked about and the other one was deterrents. And, you also mentioned the Federal system.

Are you aware that at the State system, a judge does not have discretion to detain someone unless the prosecutor has made a motion? At the Federal system, a judge can make that decision without the prosecutor making that motion.

Have you in your experience determined-- Because you said you wrote an article actually against bail reform. What were the--

GOVERNOR MCGREEVEY: Yes, and calling for services for people -- exactly.

SENATOR BRAMNICK: OK, so it was based on services, not on the deterrent effect or lack of deterrent effect that our system would have?

GOVERNOR MCGREEVEY: Yes -- it's both, Senator.

This is probably politically incorrect to say, but I had a young man who suffered from opiate-use disorder terribly. He was in recovery and had gone through the State prison system. He was in recovery; he relapsed appreciably. I knew full well he was in the middle of a relapse, and I asked a Superior Court judge -- this is why, by the -- in the interest of full disclosure, I'm not an active pending attorney because I would question what I do -- but I asked the judge to place this individual -- if there was any way to place this individual in a county jail for one night. And, the judge said to me -- and, this was *ex parte* -- "No, I cannot do that." Not because of that decision, I want to be clear, but eventually this young man suffered an overdose.

So, the space that I work with is, God willing, I'm accountable to my conscience and trying to do right by the women and men I work for and with. But, Senator, if there is no leverage -- if there is no ability to secure improved behavior -- that has negative consequences to our ability to move. And, again, I want to be very clear: When I'm talking about 24 hours, I'm discussing 24 hours, frankly, as an opportunity to refocus the individual. I'm not discussing bringing charges; I'm not discussing-- I'm not discussing re-engaging with the criminal justice system. What I'm trying to do is trying to issue a pause so that that person has the opportunity to re-calibrate their sobriety.

SENATOR BRAMNICK: Last question, Mr. Chairman.

Following up on Senator Gopal's position. I don't believe that the citizens of this state are focusing right now on the rehabilitation services. I can tell you that rehabilitation is really important, and pre-trial rehabilitation, I'm not against. But, we have an immediate safety issue in the state, and later today we're going to address -- I think on a bipartisan basis

-- how to make sure bail reform is not something that is pro-defendant and anti-cop, or pro-defendant and anti-citizen. Safety is the first concern in this state, and later on today, we'll be discussing it.

But, once again, Governor, good to see you, and thank you.

GOVERNOR MCGREEVEY: Thank you, Senator.

If I can just say-- And, again, I completely respectfully, Senator, that when bail reform was first instituted, I said without these services we're just expecting a rational outcome.

So, can I argue that bail reform had very positive, great intentions, and that they're laudable but human behavior is such as it is, and that to enable -- for a short period of time -- enable Reentry or NJOC or VOA to provide these services and report back?

So, what happens is, Senator-- It's amazing what happens when we report individuals' behavior and you provide consistency of services; consistency of outcomes; and consistency of expectations. And, I would just respectfully argue that putting someone back in county jail may solve nothing. At the end of the day, when people get out, they need a home; they need food; they need shelter; they need medical. So, give us the opportunity to provide those tools; ask us to be accountable to you, to the State Legislature, to the Governor, and to the board; but to have leverage.

At the end of the day, you just -- God forbid -- my argument here is not to place just people in jail gratuitous, unless so appropriate. But, the overwhelming individuals need services or to have access to those services, but also ought to be accountable for participating in those services -- what we do every day in Reentry. And, now, recidivism numbers are so good because

-- I channel my father's best (indiscernible). So, I don't get as bad as Mukherji, but, you know--

SENATOR STACK: But, Governor, you do agree -- I'm sorry, Senator Bramnick -- you do agree it should go back to the judge's discretion? The judge should have discretion without the prosecutor being involved, you do realize that?

GOVERNOR MCGREEVEY: Oh, definitely -- that one -- yes. Yes, Senator -- Chairman, excuse me.

As to whether or not-- Say, for example, somebody violates a condition, yes, of course. But, I don't think we should throw out the baby with the bathwater and say that now bail reform has been an abject failure, which it has clearly has *not*. But, what we need to do is to go to Senator Gopal's point, is to individuals who go back and commit the same bloody crime -- or, ostensibly, the same crime for which they were originally charged -- provide a network to ensure positive outcomes. And, when that individual fails at the earliest possible time, report back to the courts as to that failure of those conditions.

We need to change behavior.

SENATOR BRAMNICK: Sometimes, we just have to keep the bad guy off the street. *Sometimes*.

I understand the rehab, I understand how we--

GOVERNOR MCGREEVEY: Is there a camera going?

SENATOR BRAMNICK: No, but there are-- (laughter)

I think it's on you, though, the camera. I'm not running until next year.

But, my point is very simple. Sometimes, we just have to keep the bad guy off the street. And, when I met with police officers, they said, "Actually, crime goes down when some of these bad guys are off the street," and that's, I think, the discussion we're going to have later.

Thank you, Governor.

SENATOR STACK: Especially when just a few of these actors are responsible in many communities -- to tie into what Senator Bramnick just said -- for a lot of the crime; not *all* of the crime, but for a lot of the crime. Especially when you're seeing the same person -- as Senator Gopal said -- the same person out there two or three times where they're using juveniles to commit these crimes, also. And, it's become a major issue.

We see it over and over again. The people who are being victimized, Governor, are poor people. They're poor people. In North Hudson, they're poor people who are being victimized over and over and over again.

GOVERNOR MCGREEVEY: But-- Senator--

SENATOR SARLO: And, I think Senator Singleton wants to touch upon this as well -- I'm not sure if he does or not -- but we're just talking here.

I believe there's two different things we're talking about here. There's the reentry programs -- and, definitely something we will support. We've been funding it through the budget to help people who have been incarcerated, and to help them to reenter into society in a positive manner to get them a job.

Bail reform is a little bit different. These are people who have been arrested and are back out on the street the next day robbing somebody's

car. It happened right in my own driveway. I think we're-- Two different things here: Reentry, which we support, is the-- And, I support bail reform too, don't get me wrong. But, we need to tighten it up a little bit, because there's too many people in and out. And, you can hear from-- We're going to hear from prosecutors later, and the frustration from prosecutors later on today.

So, I just want to make sure we're not combining the two here.

GOVERNOR MCGREEVEY: Senator, I agree they are fundamentally different, but if you said to someone -- and, to you, and to Senator Singleton -- if you said to someone, "You have a choice between participating in the reentry program and following or adhering to this catalog of requirements -- whether it's addiction treatments, mental health, housing referral, check-ins -- or going back to court and possibly looking at incarceration at a county facility," overwhelmingly people will -- rational individuals -- will say, "I would rather be free and adhere to these circumstances."

So, I hear what you and, respectfully, my dear friend, Senator Bramnick, said. All that I'm saying is, ultimately, almost everyone is getting released, and I understand that, but the challenges to change behavior and, respectfully, humbly, if you-- The problem now is there is no preentry; there are no preentry services. So, to say to the individual, "If you follow preentry to the letter, jot and tittle, and adhere to this -- and, if you don't, you have the possibility of a reevaluation."

Look at the Federal system. The Federal system works because there's clear levels of accountability and consistency, Senator. And, all that I would ask, respectfully, to move away from services, respectfully, when

we've never implemented services, is to not provide the Federal system blueprint, which was Governor Christie's original -- Governor Christie can well speak for himself, but I believe that was his original template -- so that all that I'm saying is to go from no services to now incarceration. Provide services and replicate the Federal system. And, the Federal system is tough, it's secure, and it's accountable. But, because it has services and that accountability, Senator.

SENATOR STACK: OK, let me just come back to Senator Singleton; he had his hand up first. I'm sorry we jumped off it. Sorry about that, Senator. And, then, I'll come to Senator Testa.

SENATOR SINGLETON: No, that's fine.

Governor, it's always good to see you as well.

It's more-- Similar to what my friend Senator Sarlo was talking about, bail reform absent the services to wrap around the individuals-- Because, as you know Governor, and I think everyone here knows, the overwhelming majority of people who ultimately touch our penal system will come home. And, the question is, what type of person will they come back as, and what that society leads to.

So, that's to me -- services around our incarcerated-- And, I sort of heard a lot of things bandied about. That's a different topic than the conversation around bail reform and what needs to be associated with those individuals who are going through that particular process. To me, they're two different things.

But, there's a lot of talk about New Jersey almost being awash in crime. And, I think when you sort of look at the data that the numbers that associate with that, and the most recent data that was opined by the Attorney

General's office based on the 2022 data, and I'm assuming the 2023 data will be out this month, that data doesn't tell the wild-wild-west sort of depiction that many would like to make New Jersey out to be. Yes, there are instances, and Senator Sarlo was talking extensively about how it touched his own home and his family, and many of us can talk about very similar things.

But, the actual the data around that. I don't want us to lose sight of the fact that New Jersey's statistics, when it comes to the number of shootings dropped in the calendar year 2022, when the data was there, by a significant amount. The number of auto theft reductions and etc. from year over year. We looked at the '21 to '22 data; it dropped as well. And, the work that this Legislature-- Let me be clear, the work that the Senate did to try and continue to put downward pressure on that -- Senator Lagana being a leader in that as well -- would have connection, tangentially, to bail reform because of what we talked about in that was a recognition that even though those numbers, broadly, were going down, there's still some challenges.

The thing that I think we have to be very careful about is, yes, there is ample opportunity for us to look at and add greater controls around bail reform. More importantly, greater services -- which I think, Governor, you know oh so well in the work you do on a daily basis that it's become your vocation. I think it's important, but I don't want us to lose sight of actually what the numbers tell us--

GOVERNOR MCGREEVEY: Thank you--

SENATOR SINGLETON: --so we don't get caught in the misinformation sort of dialogue where we can get lost in actually what the data tells us around that.

I am hopeful that the conversation today will lead to additional measures to tighten it up, but not lose sight of the fact, why we did this in the first place. Because of many of the people I heard Chairman Stack talk about who are victims, also were folks who were sitting incarcerated because they didn't have sometimes even as low as \$100 or \$50--

GOVERNOR MCGREEVEY: Yes--

SENATOR SINGLETON: --for them to be out for non-violent, relatively -- relatively, and this is subjective -- minor offenses.

That's why we started this journey on bail reform, to really get at the root of that. And, I think if we look at it in totality, we don't want to throw it out completely, but we do -- we earnestly do -- need to look at trying to tighten up that system and provide those-- So, I love the idea of those preentry sort of services to a population that we know needs them with many of the violence reduction components that we know have worked all throughout the country and elsewhere.

But, I appreciate not only, Governor, your passion for this, but your commitment, again, to making this your vocation to try and find solutions to this ongoing problem.

Chairman, thank you.

GOVERNOR MCGREEVEY: Thank you. I just want to say thank you, Senator Singleton.

And, if I can, just -- if you could possibly think about a blind study so that, for example, concurrent to whatever you -- concurrent to whatever the Senate Judiciary Committee deems appropriate -- if we could do a blind study, we were suggesting Monmouth and we were suggesting Union, and whether it's Hudson, I think it was -- we were looking also at

Burlington and -- it wasn't Cumberland, but it's Cape May -- Senator Testa. But, the goal would be to do a blind study and to provide these services and to see what happens.

What I make up-- And, I'll just leave it with this. Senator Singleton, thanks to your efforts, the average re-entry employment rate -- we have 21,000 individuals -- it's about 58% to 62% for people who go through our training center, where we have 16 industry-recognized credentials. Senator Sarlo knows that employment rate goes to 91-92%. So, it's providing credentials -- HVAC; phlebotomy; general construction; CDL. For our veterans who are court-involved -- it may interest one out of every four veterans in this nation are court-involved -- their ability to access a CDL dramatically decreases their court involvement.

So, all that I would suggest, humbly, is if we could have a blind concurrent examination to go to the Stack/Mukherji legislation that would allow us to provide these services for a pre-trial basis.

And, to Senator Sarlo's point, talk to Governor Christie, because I think what Governor Christie originally envisioned was doing some level of services in monitoring and reporting back to give these individuals an opportunity.

SENATOR SARLO: I understand, instead of just putting them back out on the street.

GOVERNOR MCGREEVEY: With strong conditions, Senator.

SENATOR STACK: Thank you; thank you, Governor.

GOVERNOR MCGREEVEY: Thank you.

SENATOR STACK: Senator Testa.

SENATOR TESTA: Thank you, Chairman.

And, Governor, you and I have had multiple discussions in the interest of full disclosure about me believing in the reentry program and the wonderful things that you are doing and myself being the Co-Chair of the Manufacturing Caucus, how that can be a pathway for so many of the post-incarcerated individuals when they are coming through reentry. And, Cumberland County has the highest population of incarcerated individuals in the state, so I care about this issue very deeply.

I think you answered what my question was going to be, in that you want to expand reentry services and all the wrap-around services that Senator Singleton spoke about to the pre-trial stage. Is that correct?

GOVERNOR McGREEVEY: Precisely.

SENATOR TESTA: I just want to be clear on the record about that.

GOVERNOR McGREEVEY: You said it far more clearly and succinctly than I did. Thank you.

SENATOR TESTA: OK, and I understand if that was the spirit and intent of what Governor Christie's initiative was with criminal justice reform/bail reform. But, to Senator Sarlo, Chairman Stack's point, Senator Bramnick's point, Senator Gopal's point -- I think everybody agrees that we do have a recidivism rate of people who have PSA scores of five or six, that they're recommitting crimes while they are out--

GOVERNOR McGREEVEY: Exactly--

SENATOR TESTA: --and, the numbers are a little bit disturbing to me. Even when the prosecutor has filed that motion to detain, it's my understanding that 42.1% of those motions to detain have been denied.

So, here it is -- even when the judge is exercising his or her discretion, when you have the prosecutor saying, "Hey, look, this person is very likely to commit a crime and further victimize other people." And, "Hey, look, let's hope it's only a car theft issue where there's no physical harm that comes to someone."

You know, Senator Bramnick made the point: There are very real victims out there of violent crime, and there's some serious issues that are happening, and it kind of disturbs me just as to how high that number is, and we're not really being apprised of the exact number -- and, this is something I'm going to take up with Judge Grant when he testifies here later today of what those recidivism numbers are on pre-trial of those individuals who are given that five or six score, which already tells us in their own algorithm that these individuals are high risk.

So, those are my concerns that I have that I've shared with my colleagues who have already spoken.

SENATOR STACK: Thank you, Senator Testa.

Governor, did you want to add anything to that?

GOVERNOR MCGREEVEY: No, I'm just -- Mr. Chairman, I know how passionate you are as to public safety and second chances and opportunities and trying to achieve the balance that Senator Testa, that Senator Singleton, that Senator Gopal -- Senator Sarlo just described.

I understand, as Senator Gopal said, we're people of good faith. All that I would respectfully ask is that we did not employ -- and, I understand well what everyone has said here -- we did not employ a critical component of the Federal system. And, that Federal system had a provision of services and report back. And, I would just-- Respectfully, we have, actually, the

Federal legislation in this report. And, I know that Mr. Peterson, Matt, can clearly secure how other states have interpreted the Federal system's reentry service program and accountability. That was a critical component. And, that's why I wrote the op ed I did.

And, I would just conclude, I think, to provide better chance with clear measures of accountability would be either a prudent interim step, or, if the Committee deems that not at least to have that concurrent, so we can determine over a period of time whether or not it did succeed and/or failed.

SENATOR STACK: Thank you, Governor.

Any other comments from members of the Committee?

SENATOR STEINHARDT: May I, Mr. Chairman?

SENATOR STACK: Sure, Senator Steinhardt.

SENATOR STEINHARDT: I appreciate a lot of what I heard--
And, first, Governor, thank you; I appreciate the work--

GOVERNOR McGREEVEY: Thanks, Senator--

SENATOR STEINHARDT: --that you do on the reentry.

And, as my colleagues, my concerns are largely with the topic of bail reform, the pre-trial releases.

You don't have any dealing at all with the PSA tool, right? I mean, that's not something you get involved in on your end until well after - - or well before--

GOVERNOR McGREEVEY: Yes, well before.

My only frustration with the PSA tool -- and, I know the AOC has worked to improve it -- but one of my primary concerns for us, candidly, Senator, is that it doesn't measure addiction, mental health--

SENATOR STEINHARDT: Right.

GOVERNOR MCGREEVEY: And, so, just for our records, 78% of individuals enrolled in NJRC have either opiate-use disorder and/or alcoholism. And, there's another 42% with co-occurring mental health disorders.

So, not to grapple with that profound reality.

SENATOR STEINHARDT: Right; I appreciate that.

Something I was going to address with Judge Grant later: I do -- because I heard what Senator Sarlo said, and I agree, as well as Senator Gopal, especially in terms of providing resources for people -- because I'm not sure what's tracked and what isn't tracked, what we verify of people who are on pre-trial and what we don't. And, I wish Senator Singleton was here, because I heard what he said, too.

My only problem with the argument about the data and crime stats: Our stats are only as good as the data that we take. I take exception to some of the data we take.

First of all, a big part of bail reform was issuing summonses and not warrants, which has a big effect on how offenses are monitored. The tool that we talked about is only accurate if the charged offenses -- for instance, we talked about shootings -- is the pled conviction. And, a lot of these instances -- manslaughter, aggravated assault, even attempted murders -- are pled down to possession without a permit, which doesn't have elevated penalties. So, these folks are back out on the street, oftentimes within months.

Back in 2020, I had written an article -- I had actually filed an OPRA request in all 21 counties for information on how gun charges were being handled in New Jersey. And, 12 counties responded to me for records

between 2017 and 2019, and it was fascinating because of the roughly 4,500 gun charges, Chairman, 3,939 of them had been pled down to unlawful possession without a permit, which is the lowest penalty you could assess; 1,645 of them were for unlawful use; and there were others for gang criminality and community gun charges, but they were minor. And, in the article that I had written, I cited a bunch of cases where individuals-- There were shootings in places all around New Jersey where people were charged with aggravated assault; with manslaughter; with attempted murder; but every one of those various instances, the accused were allowed to plead to unlawful possession and were back out on the street.

So, we *are* failing our citizens; we're failing them miserably in many places. And, the data that we're taking is not the data -- collecting -- is not the data that we need to ensure the public's safety.

SENATOR STACK: Thank you, Senator.

SENATOR CORRADO: Thank you, Chairman.

I really just have a quick comment.

I want to thank Governor McGreevey for being here. I actually sit on the Women's Reentry Commission, so I get to see firsthand the work that he does all the time.

GOVERNOR MCGREEVEY: Thank you, Senator, for being such a great champion for our women.

Thank you.

SENATOR CORRADO: Thank you, and thank you for what you do.

And, I think I agree with everything my colleagues have said. There are-- It is two different discussions that we're having, but we can't

have one without the other, and I think it's important as we go forward that we continue to have both conversations so that once we do fix bail reform, that there are services for those who are incarcerated when they come out that they can return and be productive members of society.

GOVERNOR MCGREEVEY: And, if I can, Senator, just on page 26 of the report we provided, you'll see the Federal systems model, and that -- I'm reading it -- imperative to the system's pre-trial success rates is the adoption of an adequate screening mechanism that identifies dynamic need factors. The screening occurs before the court makes a final release determination providing pre-trial personnel with ability. The court imposes release conditions, such as substance-abuse testing; treatment; mental-health evaluation; counseling; to structure the person's activities while on pre-trial release. So, again-- And, then, we also include other models that have been successful, both in the District of Columbia as well as, particularly, Virginia.

So, I just-- And, I know when my time is up. (laughter)

SENATOR STACK: Do any other members have any other questions for the Governor at this time? (no response)

Seeing none, Governor, thank you very much as always.

GOVERNOR MCGREEVEY: Thank you so much.

SENATOR STACK: Thank you.

(EXCERPT ENDS 10:58 a.m.)

(EXCERPT RESUMES 12:33 p.m.)

SENATOR STACK: OK, we'll call the meeting back.

Everyone, thank you for your patience.

Today, the Senate Judiciary Committee will take testimony from invited guests on the State's 2014 Criminal Justice Reform Act, also known as Bail Reform. The law which took effect in 2017 fundamentally transformed the State's approach to pre-trial detention. Prior to 2017, the decision whether to release a defendant pre-trial was based primarily on their ability to post cash bail or bond. This resulted in a disproportionate incarceration of low-income individuals, often people of color.

The Criminal Justice Reform Act restricted the use of bail, and instead provides that a pre-trial release decision is based on the assessment of risk of the defendant who will commit another crime or fail to appear in court. This law sought to ensure that decisions about pre-trial release are more equitable and based on risk rather than financial means, with the overreaching goal of promoting fairness to the Criminal Justice System, reducing unnecessary pre-trial incarceration.

It has been 10 years since we enacted Bail Reform, and over seven years since the law took effect. The purpose of today's hearing is to thoroughly examine the impact of the legislation and deliberate on the law's successes, challenges, and areas in need of improvement.

We recognize that criminal justice reform is a complex and multi-faceted issue. Our Bail Reform Law was enacted with the intention of creating a more equitable system, one that ensures public safety while also upholding the principle that justice should be fair and unbiased. It is crucial that we assess both its intended outcomes and any unintended consequences. While the law has undoubtedly been successful at reducing pre-trial detention, issues such as consistency and risk assessments; the release of

repeat offenders; and a compliance with pre-trial release conditions all warrant our thoughtful examination.

Today, we will hear from a broad range of voices, including Judiciary, prosecutors, law enforcement, defense attorneys, and social justice groups. Our goal is to sift through these varied perspectives and figure out how we can enhance the law's effectiveness and ensure that it meets its primary objectives of fairness and public safety.

With that, I would like to call up the first witnesses. David, if you could call them up in panels, please.

MR. LORETTE: Sure.

SENATOR STACK: Thank you.

MR. LORETTE: The first scheduled panel, representing the Judiciary: Honorable Glenn A. Grant, the Administrative Director of the courts; as well as the Honorable Ernest Caposela, a former Assignment Judge for Passaic County.

HONORABLE GLENN A. GRANT: Good afternoon.

SENATOR STACK: Thank you both for being here.

JUDGE GRANT: Good afternoon, Chairman Stack.

Thank you for inviting the Judiciary to participate in this important discussion.

With me today is former Passaic County Assignment Judge Ernest Caposela. Judge Caposela is now on recall serving in an ambassador role, involved in educating not only our judges and staff but external stakeholders, with respect to CJR.

Nearly a decade ago, a wide range of stakeholders in New Jersey came together to recommend and then implement reforms to our criminal

justice system. Today, that same broad engagement and collaboration is necessary to sustain the strengths of the current system, and consider additional improvements.

With that in mind, Chief Justice Stuart Rabner convened a 26-member committee that included the Attorney General; the Public Defender; the Presidents of the Associations of Chiefs of Police; the County Prosecutor's Associations of New Jersey; Sheriff Association and County Jail Warden Association; the American Civil Liberties Union; and other leaders from the Judiciary, the legal community, law enforcement, state and county government; and civil rights organizations.

This past June, the Joint Committee on Criminal Justice released their report that made recommendations concerning a wide range of issues, including greater consideration of detention for repeat offenders and auto theft defendants and new opportunities to refer eligible defendants for treatment and needed services. Each member of the committee brought a unique perspective that was a consensus -- there *was* a consensus regarding the early successes and ongoing benefits of CJR, as well as current challenges and areas in need of improvement.

The committee agreed that the diminished use of monetary bail, combined with the use of an objective risk-based assessment for pre-trial release, remained a fairer and better system than the former cash bail model. The committee also agreed that we can further improve the current system, but any changes should be grounded in data and evidence.

Consider some key facts: In 2012, before the implementation of CJR, nearly 12% of New Jersey's county jail population -- or 1 out of 8 individuals -- were remaining in custody because they could not afford to post

bail of \$25 or less. By October 7 of 2020, that number had decreased to 0.2%. It has remained consistently low ever since. In 2012, more than half of the jail population was comprised of defendants charged with something other than a violent crime, sex crime, or weapons offense. Today, individuals charged with first- or second-degree offenses comprised two-thirds of the jail population, meaning that most of those detained have been accused of serious crimes. The rate of rearrest for very serious crime has remained around 1% annually since 2018. Defendants released today appear for court more consistently than before CJR.

Chairman Stack, I want to thank you, as well as Senator Pou, Senator Sarlo, and Gopal, for sponsoring multiple bills that would look to implement the recommendations that were in the report that call for legislative changes. This continues to show, in my mind, the great collaboration between the three branches of government. S0279, sponsored by you, Chairman Stack, and Senator Gopal, would amend the Criminal Justice Reform Act to clarify that allows for the temporary detention of an eligible defendant when a prosecutor has filed a motion for revocation of release, and that defendant is in custody. The legislation is currently pending before this Committee.

In addition, S2438, sponsored by Senator Sarlo and Gopal, would amend the Criminal Justice Reform Act to require that pre-trial services recommend revocation of the release of a defendant who has been arrested for a new offense, and had two or more prior arrests with the charges still pending. Prosecutors would then use that pre-trial service recommendation as evidence to support pre-trial detention.

In response to the public safety concerns raised by auto thefts, the Judiciary recently acted on the Joint Committee's recommendation to amend its (indiscernible) and make automobile theft a presumed warrant charge instead of a summons. The Committee also recommended that prosecutors receive additional training to seek detention or revocation of pre-trial release in such circumstances. Violation of pre-trial (indiscernible) of electronic monitoring; home detention; or avoiding contact with a victim are also now presumed on a warrant rather than a summons.

Another important issue that has been raised is domestic violence, and the need for the Public Defender's Office to represent defendants charged with a violation of a domestic violence restraining order. S2437, sponsored by Senator Pou, would address this issue. To provide productive alternatives, the Joint Committee recommended that the Legislature amend the CJR Act to grant courts the discretion to permit a defendant whose release has been revoked to voluntarily enter into a program similar to Judiciary's Recovery Court Program, and would require the completion of a drug or alcohol or mental-health treatment at an approved facility. S2404, sponsored by Chairman Stack and Senator Sarlo, would implement this recommendation.

S2448, sponsored by Chairman Stack, would provide for the addition of a pre-trial coordinator employed by each county, who would work to connect those on pre-trial release to local programs and services. Additional funding is also necessary to ensure the Judiciary has sufficient staff to monitor a high volume of people currently on pre-trial release. From January 2020 to January '24, the number of defendants on pre-trial monitoring in New Jersey increased from 30,000 to 45,000 -- a 50% increase

in the number of people on pre-trial release. In that time, the number of people authorized to provide pre-trial services staff has not kept pace.

I appreciate the opportunity to testify before the Committee today.

Now, seven years later into its existence, it's clear that CJR has worked as intended. The pre-trial detention of high-risk offenders works to protect our communities, while the release of low-risk individuals -- our monitoring allows them to return to their jobs, their families, and to their community as they await trial.

We look forward to continuing to work together to sustain the strengths of CJR while making the necessary adjustments to ensure that the program remains a model for other states to follow.

With that, we are welcome -- we welcome and are more than willing to take any questions that the Committee may have.

SENATOR STACK: Thank you, Judge.

Does anyone have any questions or comments at this time?

Senator Bramnick.

SENATOR BRAMNICK: Thank you, Judge.

With respect to domestic violence cases -- if it's a Friday evening and there is an allegation of some sort of violation of domestic violence, what determines whether or not the police or prosecutor issue a summons or a warrant under those circumstances?

JUDGE GRANT: That's all in the control of the law-enforcement community. There is nothing in the rules, nothing in the statute that precludes police from charging on a warrant or charging on a summons.

SENATOR BRAMNICK: So, that brings me to the next question.

We've had clients who were arrested, and a warrant was issued. When a warrant is issued, they are going to go to the county, they're going to stay in jail for a couple days before they can actually see a judge. Most of the time, those cases are resolved eventually without any jail time, whatsoever. And, actually, in most of the cases, one of the spouses actually doesn't want to prosecute the case.

So, there's a situation where if a summons was issued, then of course they would not get arrested -- I'm sorry, they would not get sent to the county. Do we really want to lock somebody up who, the chances of that person ever going to jail is very small? And, consequently, the chances that these cases get dismissed are probably small. Why wouldn't there be a policy coming out of the courts as to under which circumstances you would even issue a warrant?

JUDGE GRANT: Again -- two responses to that.

Number one, law enforcement makes the decision on a summons or warrant. And, what the Judiciary does with regards to people in our county jail -- Chief Justice Rabner said, although the statute requires people to be released within 48 hours, the overwhelming number of defendants who are in our county jails are released within 24 hours, and, most of the time, less than that. We have our courts operating on a Saturday to ensure that people are processed.

The broader question, though: This Legislature, this Governor - - there was legislation that says we want all branches of government to be solicitous of victims of domestic violence. We collectively -- that is, all

branches of government -- have made a concerted effort to say we don't want to have an unsuccessful incident with regards to a victim of domestic violence. And, so, police officers, courts, and others are going to side -- I would argue - - on the err of protecting that victim to ensure that we don't face those horrific circumstances that many of us have seen.

But, the final decision as to whether that is a summons or a warrant remains with the law-enforcement unit and county prosecutor, etc.

SENATOR BRAMNICK: Why does the system not permit a judge to use their discretion on whether or not to incarcerate someone? It relies solely on the prosecutors' determination to bring a motion for pre-trial detention. Why is-- Why are the judges not permitted to have discretion in those circumstances?

JUDGE GRANT: I will allow the prosecutors to follow up on the question, but the grand design of the program was to say that the constitutional Office of the Prosecutor decides what charges are made, what kind of summons/warrant decision would be made, and we would be taking that constitutional authority away from the Prosecutor's Office.

As you know, there are many cases that are downgraded. There are many cases that are dismissed, based upon the evidence that is presented to the Prosecutor's Office. To simply substitute a judge's assessment of that case, I argue, would take away that strong constitutional foundation that all of us have placed in prosecutors' offices.

SENATOR BRAMNICK: I'm not sure I completely understand the answer, but let me see if I understand this.

A judge who sat in the criminal part sees a situation where he believes that that individual is a threat to the community. At the Federal

level -- and, my understanding is our statute was supposed to mimic the Federal statute -- at the Federal level, the judge *is* allowed to make that determination without the pre-trial -- without the motion.

I am trying to understand why-- Why wouldn't we want a judge, who is the impartial arbiter here, to make that determination?

JUDGE GRANT: Because we want to ensure that simply because a cop charges a case, or charges a defendant with a charge, we place that responsibility of actually prosecuting that case with the prosecutor.

Right now, there is a significant number of cases that are dismissed and are downgraded based upon the proof of the evidence that the prosecutor gets. You place the position of the court in a role where New Jersey's model, while partially placed on the Federal system, is also a grand compromise that included prosecutors, Attorney General, public defenders, and other stakeholders. So, it's not completely based upon the Federal model.

The other thing that I would say is the sheer volume of cases that come into our system would place our judges in untenable positions to decide who gets detained and who gets released. You want to have the Prosecutor's Office -- and, some of them are here, they can follow up -- you *want* to have that prosecutor oversight. Our statute says that the prosecutor is the chief law-enforcement officer in our county; the Attorney General is the chief law-enforcement officer in the state. And, so, from my perspective, you want law enforcement to follow through with that respective role.

SENATOR BRAMNICK: If there is a plea agreement between the defendant's attorney and the Prosecutor's Office, can a judge in this state reject that plea agreement?

JUDGE GRANT: With regards to what--

SENATOR BRAMNICK: To an agreement to lessen a charge. Can the court intervene -- not intervene, but not accept the plea agreement?

HONORABLE ERNEST M. CAPOSELA: The answer is yes. The judge has the discretion to accept it or reject it.

SENATOR BRAMNICK: So, if a judge determined that he did not like a first degree being downgraded to a third degree -- or, should I say, did not agree to it -- the judge could reject it, correct?

JUDGE CAPOSELA: That's correct.

SENATOR BRAMNICK: OK, and that's why I have this question relating to pre-trial detention. It seems as if judges are given substantial discretionary powers, but in this case they apparently do not; that's why I raised the question.

My final question -- and, I appreciate your answer.

My final question involves juveniles. Is there any discussion changing any of the rules, or rules of the road, with respect to juveniles? We've heard today, actually, from some of my colleagues about the use of juveniles in crimes. There is a sense out there that juveniles know what the law is, know that the chances of incarceration are low.

Is there any ongoing discussion as to how to handle the juvenile system -- or, should I say, any suggestion as to changes?

JUDGE GRANT: So, I would argue that there's two different things we're talking about in today's conversation. CJR is unconnected to the juvenile delinquents in statute.

SENATOR BRAMNICK: I understand.

JUDGE GRANT: And, so, the efforts that are made in juvenile are fundamentally based upon rehabilitation. The belief is that a juvenile's brain doesn't fully develop until 25.

There are, however, juveniles who commit serious offenses who are detained without the opportunity for bail -- because it's not subject to CJR -- without the opportunity. And they are sometimes waived up -- they can be waived up and tried as an adult 14 years and older. And, so, that creates a framework by which juvenile (indiscernible), prosecutors, public defenders, can have those cases resolved.

But, to date, there has not been any conversation about changing the juvenile justice statute, or the framework for that.

SENATOR BRAMNICK: And, my final question, with respect to gun charges. If you recall, the urban mayors-- Actually, I joined with them at a press event to try to urge the Legislature to change the rules of the road with respect to pre-trial detention and guns.

Is there any consideration of changing the bail reform statutes to incorporate a presumption of incarceration for those arrested with gun charges?

JUDGE GRANT: Proudly, this Legislature in July of last year passed the bill saying for (indiscernible) offenses, there is a warrant for arrest, and that there's (indiscernible) evidence for that person to be detained. Since that statute was only enacted in July, we don't have full information to determine the success of that endeavor.

But, I would hope to be able to come back to the Legislature and Governor's Office and provide some detail as we get (indiscernible).

SENATOR BRAMNICK: Thank you, your honor.

SENATOR STACK: Thank you, Senator Bramnick.

Senator Steinhardt, then Senator Testa.

SENATOR STEINHARDT: Thank you, Chairman.

Good afternoon, judges; thank you.

I have a series of questions, largely in the beginning, around the PSA -- so, the nine-prong tool.

A defendant receives two points if the current offense is a violent one. Can you tell me what criteria, to your understanding, is used to determine if the offense is violent?

JUDGE GRANT: We have (indiscernible) offenses, Graves Act offenses, sexual assault. If you look at all of the major crime index of the FBI, they would be considered a violent offense.

SENATOR STEINHARDT: Thank you.

A prior conviction adds a point if an individual has -- a point -- if they have priors. If they have 30 priors do they get 30 points, or is it still just one?

JUDGE GRANT: Just one.

SENATOR STEINHARDT: Has any thought been given by you or to anyone with whom you've had discussions relevant to that -- not weighing that factor more heavily in the event that the priors are significant -- there's been a significant number?

JUDGE GRANT: We are constantly evaluating the public safety assessment. In point of fact, I am looking to have some additional information in the next month or so. We are constantly looking to evaluate it because part of the statutory framework says that it should be evidence-

based, as to the accuracy -- the verification, if you will -- of the tool, as we validate the tool.

And, so, we are constantly working with experts, saying, "What do we see?" with regards to the expertise of the prediction -- the validity of the prediction of offense. And, we will continue to do that.

SENATOR STEINHARDT: Thank you, your honor.

If an individual has one or two prior *violent* convictions, he receives one point. If he has three or more, he receives two points -- he or she. If an individual, again, has 20 prior violent convictions, do they receive more points, or is it still just two?

JUDGE GRANT: They will receive a violent flag as well. The violent flag lets the judge; lets the prosecutor; lets the defense know that this individual has a violent history.

SENATOR STEINHARDT: Senator Brannick asked about it briefly; I recall earlier some questions because of the rash of car thefts.

Are an individual's juvenile adjudications included in the scoring?

JUDGE GRANT: No. No, the information about a juvenile's history is included, but it is not in the scoring.

SENATOR STEINHARDT: It's not in the tool; it's not included in the tool.

Does the PSA give points for an individual on probation or parole at the time of their arrest, if there's a subsequent arrest for another charge?

JUDGE GRANT: One of the challenges that we are trying to address with this proposed legislation -- if an individual is on release, that

individual commits two offenses, that recommendation is a warrant, and there's (indiscernible) to support detention.

So, I would really have to do the calculation to determine whether that particular circumstance would create something different.

SENATOR STEINHARDT: So, hypothetically speaking, someone is on parole or probation for carjacking, and they commit another carjacking, is the fact that they were on parole or probation at the time of the second carjacking offense taken into consideration by the PSA?

JUDGE GRANT: I would have to come back and answer that question, I'm not 100% either.

SENATOR STEINHARDT: I don't think it is, for the record.

JUDGE CAPOSELA: You know, Senator, let me just add that the judge could still considerate it. The fact that it's not in PSA, if the judge sees it at a detention hearing--

SENATOR STEINHARDT: Yes, but if the PSA -- with all due respect, sir, the PSA is supposed to, like, realistically capture evidence-based data. And, to me, there is a flaw in the PSA, and it should become the burden of the Judiciary or somebody else.

If we're talking about reworking the system, maybe the point of this colloquy is going to be maybe there's some things that we should be considering, Judge. Thanks.

While the PSA measures risk, New Jersey uses that DMF to help manage that risk. The DMF recommendation, decision making -- I'm sorry, for the benefit of my colleagues, decision making framework -- DMF recommendations to the court are referred to as PMLs or pre-trial monitoring levels. There are three -- three-plus -- if I'm not mistaken. They range from

PML 1, which is like, essentially, an ROR, and then once a month check-in by phone; PML 2; PML 3; PML 3-plus, which refers to electronic monitoring.

Judge, my question is if the-- Is the pre-trial assessment done, first of all, without interview of a defendant?

JUDGE GRANT: The individual-- Yes, pre-trial assessment is done without interviewing the defendant.

SENATOR STEINHARDT: And, do you know how-- Does the court officially monitor and keep track of compliance on pre-trial monitoring? In other words, whether or not they're meeting whatever the conditions were that may have been set at any of the PML levels?

JUDGE GRANT: Yes.

SENATOR STEINHARDT: How is that done?

JUDGE GRANT: We track our system. Remember, the goal of the pre-trial monitoring is two-fold: Number one, to ensure that the defendant shows up for monitoring conversations, and, most importantly, shows up for court.

Number two: To try to engage the defendant in the possibility of services, to the extent that the pre-trial services unit has a relationship with community-service providers in that particular county.

And, the system will automatically give an alert to a pre-trial service officer if a defendant is arrested or otherwise charged with a new offense.

SENATOR STEINHARDT: So, there is a mechanism. It's your understanding, Judge, that there's a mechanism that the pre-trial officers are recording phone call compliance; whatever the PML 2 conditions are;

whether they're showing up in person; whether or not they tampered with their GPS monitor; whatever that may be. That's all recorded, that data?

JUDGE GRANT: That's all detailed into a system, and that information-- If an individual violates any of those terms of conditions, a violation of monitoring will be filed with the court to allow the prosecutors to move forward with a motion for revocation.

SENATOR STEINHARDT: Is that for every individual that is on pre-trial release?

JUDGE GRANT: Every individual is tracked in the system, so every time a person talks to a pre-trial officer, if the individual fails to show up for court, if the individual tries to break their electronic monitoring anklet, that would be also tracked there as well.

SENATOR STEINHARDT: Is that data public? Is that information publicly available?

JUDGE GRANT: It's probably confidential, but I'll see whether -- and, we'll get back to the Committee as to whether--

SENATOR STEINHARDT: And, if I may ask a follow up, Judge, is that-- Are those monitoring conditions verified? So, in other words, if someone provides an address, does the officer verify that it's an actual address and they live there? If they are supposedly going to have a job, does somebody contact the employer, or ask for a pay stub, or a W-2, to make sure they're actually working? If they're supposed to be attending counseling or getting some sort of addiction services, does somebody follow up with a caseworker to make sure they're actually doing those things?

JUDGE GRANT: You asked about six different questions--

SENATOR STEINHARDT: Yes, I know -- any lawyer would have objected, I know. Sorry.

JUDGE GRANT: I can't answer all those questions.

Obviously, given the status of our workforce, when you're talking about 45,000 people and about 390, at best, people, we would not be able to do all of that, which is one of the reasons why we're requesting additional funding for (indiscernible).

SENATOR STEINHARDT: Thank you, Judge.

I think you answered this two questions ago, but I want to make sure it's in the same vein. Is the court keeping stats on pre-trial monitoring, such as non-compliance with reporting; non-compliance with monitoring conditions? And, again, I know it's a compound question -- new arrests obtained; restraining orders; etc.?

JUDGE GRANT: Yes.

SENATOR STEINHARDT: Does new criminal activity while on pre-trial release subject a defendant to a new assessment where additional points will be added, or is this the same assessment as the original charge?

JUDGE GRANT: It depends on the nature of the charge. If a charge is filed and a warrant is issued, a new PSA is run. And, oftentimes, prosecutors will decide to proceed under that new PSA rather than seeking a motion for revocation. But, all of that is tracked in the system.

SENATOR STEINHARDT: You mentioned NERA a little while ago. If a defendant is charged with a NERA offense, the level of recommendation conditions increases one level -- so, from PLM level 1, to PLM 2, etc. -- at least as I understand it.

Are NERA offenses also assessed without the defendant present?

JUDGE GRANT: Yes.

SENATOR STEINHARDT: And, again, regarding NERA offenses. Since there are victims in NERA offenses, how are the victims protected if a defendant is released?

JUDGE GRANT: The no-contact provision in the defendant's release order is a reason for-- It's a justification for having a law-enforcement involvement in those efforts. The pre-trial service officer is not going to be able to provide that role; that really is for law enforcement. When the Judiciary becomes aware of a person violating a terms of pre-trial release -- specifically with regards to contacting a victim -- that is a foundation for that defendant to be detained in a detention facility.

SENATOR STEINHARDT: And, in that-- In the data that you alluded to earlier that is being -- that is compiled -- would that data be readily available to us, too, if we wanted to review it?

JUDGE GRANT: I would have to work with our staff to verify, but I'll get from the Chair--

SENATOR STEINHARDT: To the Chair, please--

JUDGE GRANT: (indiscernible) and we'll be able to answer your questions.

SENATOR STEINHARDT: Thank you, Judge.

Are NERA offenses automatically placed on GPS, if you know, when they're released?

JUDGE GRANT: No, they're not automatically. Candidly, the Judiciary believes that electronic monitoring is a poor substitute for a determination as to whether the defendant should be detained or released.

If you're talking about high-risk individuals, and you're not putting them on electronic monitoring, you're creating scenarios where pre-trial services staff is not in the best position to track and monitor that person.

SENATOR STEINHARDT: So who does it?

JUDGE GRANT: You need a law-enforcement role in that. And, that's why we have a very limited number of people who are on electronic monitoring.

The goal here is to understand that you may know where the person-- You may know that the person is on electronic monitoring and know where they are, but you may not know what they're doing. It is a very limited tool, and, I would argue, not an effective tool to ensure community safety without a law-enforcement component.

SENATOR STEINHARDT: I have some other questions about GPS monitoring, but I'll-- In light of your answer, Judge, I'm going to skip those and move onto something else.

Does the assessment tool -- the PSA -- take into consideration prior compliance with pre-trial and prior compliance with community supervision, such as probation and parole?

JUDGE GRANT: That information can be presented to the court at the time of sentencing, and that's one of the real big values of getting people to services.

SENATOR STEINHARDT: So, the answer-- Sorry, I apologize, Your Honor.

JUDGE GRANT: No, go ahead.

SENATOR STEINHARDT: Please, I interrupted you. So, it's not in the assessment tool then?

JUDGE GRANT: No.

SENATOR STEINHARDT: While on pre-trial, does a defendant have to verify -- I think I asked you that -- his employment, etc.

The presumption against detention is only presumed for murder or for life sentences, right? But, it's--

JUDGE GRANT: That's a possibility of life incarceration.

SENATOR STEINHARDT: But it is rebuttable, correct?

JUDGE GRANT: Yes.

SENATOR STEINHARDT: Do you have an opinion, or do you know why the assessment tool used in pre-trial include a defendant -- doesn't include a defendant's past (indiscernible) history related to, say, like, drug or alcohol use, or anything like that, that might give us a means while they're out on pre-trial, to be able to help or to monitor them better? Would that be a helpful addition to the tool?

JUDGE GRANT: I would argue, no. But, I think that information is helpful to a judge; helpful to the parties who are before a judge about a defendant's mental-health condition, a defendant's substance-abuse treatment. That would be very helpful, but I don't think it should inform whether a person should be detained or released.

One of the things that we met in terms of this Joint Committee, the law-enforcement representatives in the committee, when we came up with (indiscernible) three strikes, was to say that we recognize that many of these people have substance-abuse issues; they need to have treatment rather than being incarcerated. And, what we've attempted to do through this compromise, if you will, is to say balancing the concerns with regards to the community's safety, the impact on a community while also recognizing the

constitutional mandates providing people with the presumption of release, is to say, at certain points in time, that individual should be detained in our county jails.

SENATOR STEINHARDT: Thank you.

Just three more questions, please, Chairman.

Regarding the PSA, I don't see where -- I don't understand it -- to contemplate past contempts of court, is that correct?

JUDGE GRANT: The entire history of that defendant is in that PSA, including civil restraining orders, including juvenile history.

So, if an individual had a contempt of court, that would be not in the calculation of the 6-6 or the 1-1, but that information would be made available to everybody in the case.

SENATOR STEINHARDT: So, along that line of thinking, then, a person's prior violations of restraining order may be available to the court, but they're not contemplated in the 6-6 calculation, or--

JUDGE GRANT: It will be-- They will be available to the court. And, you ought to know that. But, they would not be in the calculation.

SENATOR STEINHARDT: Not showing up for prior violations of probation or parole or anything like that, that doesn't show up in there either? That's something we just present to the court, it doesn't show up in the PSA calculations?

JUDGE GRANT: It's not in the calculations.

SENATOR STEINHARDT: Has the court compiled stats--

JUDGE GRANT: I take that back. Failures to appear are included in the calculations. Remember, there's two questions associated

with the PSA: One is your appearance, and then one is your issue with your criminal conduct.

SENATOR STEINHARDT: OK, I'm not going to belabor this; I'll take your word for it.

Has the court compiled stats on crimes committed while on pre-trial release?

JUDGE GRANT: Yes, which is why we agreed with the recommendation that there needs to be some consequences relative to people who are repeat offenders. A bill that was introduced by Senator Gopal and Senator Sarlo is, in our opinion, a way of addressing those repeat offenders.

SENATOR STEINHARDT: Are those crimes recorded in the form of conviction, Judge, or in the form of charge?

JUDGE GRANT: If a person has a pending case, they're out on pre-trial release, and then they're charged with a new crime, they would -- that would be the basis by which a *prima* -- a second time -- that would be based upon *prima facie* evidence of a person's incarceration, if you will.

SENATOR STEINHARDT: Thank you.

Not exactly my question -- my question is, you say Judiciary is monitoring crimes committed while on pre-trial release. My question specifically -- and, you alluded to it earlier, I think in response to a question from Senator Bramnick -- we talked about it with some of my colleagues earlier today. I alluded to it earlier, especially as it relates to gun crimes, because my research suggests to me that the favorite plea to many gun charges -- agg. assault with a gun, manslaughter charges -- is possession without a permit.

My question to you is, the data that you are tracking, Judge -- does that data reflect convictions of crimes, or charges of crimes while out on pre-trial release?

JUDGE GRANT: See, when you added that last parenthetical, it made it different.

If you're talking about arrests, the tool does not utilize arrests.

SENATOR STEINHARDT: I know it doesn't.

JUDGE GRANT: So, that was deliberate, though--

SENATOR STEINHARDT: Yes--

JUDGE GRANT: --because there is a significant level of unfairness in the system when we're talking about arrests.

But, if you're out on release and you get arrested, that is considered with regards to your release status.

SENATOR STEINHARDT: Come on, Judge, with all due respect, this is sort of a farce, right? You arrest somebody for agg. assault with a gun, and the Prosecutor's Office pleads it down to possession without a permit -- that's the data that's being kept. The fact -- I see some heads shaking in the back, sir, give me a chance to correct me later.

But, my understanding is it's not the arrest that becomes the issue, or that's weighted in the PSA then. The data that you're keeping is the ultimate charge.

JUDGE GRANT: So, two points.

Number one: I can't even imagine a circumstance which you just described, because it's so atypical--

SENATOR STEINHARDT: Why?

JUDGE GRANT: Because what happens is that prosecutor is making that determination based upon the evidence. Simply because a law officer said, “I think the charge should be X,” the prosecutor will determine, “What is my evidence; what can I get an indictment on; what can I go to trial on?” But that defendant should not be penalized because the State has now shown that they’re not able to proceed with that larger charge, if you will.

SENATOR STEINHARDT: This is old news, but I just want to read it, Chairman. Bear with me. This goes back to an article I actually wrote back in 2020.

Unlawful possession of a handgun is the favorite charge -- my opinions, no disrespect to all the prosecutors sitting in the room -- favorite charge of New Jersey prosecutors who plead down everything from manslaughter, agg. assault, and even attempted murder to clear a (indiscernible) case.

The practice is ongoing. In 2017, Bayshawn Jennings was stopped in a car with three handguns and 198 decks of heroin while facing charges connected to an earlier Trenton shooting, but he was sentenced on the charge of unlawful possession of a handgun by carrying without a permit. In 2018, Yashaun Stukes-Williams took part in a shooting between gangs in the middle of the Atlantic City Expressway on a weekday afternoon. Williams was indicted on gang criminality, unlawful possession of a firearm, and conspiracy, but, the case was resolved with a guilty plea to possessing a handgun without a permit. In 2020, Davion Townsend entered guilty pleas to two handgun-related indictments in Cumberland County: One stemming from an investigation into a public gunfight captured on surveillance video. The guilty plea was to unlawful possession without a permit, which allows

him -- and many others -- to legally possess another gun and commit additional crimes in the future without enhanced penalties.

JUDGE GRANT: So, I would defer to the Prosecutor's Office about those cases, because what we see in the Judiciary is it's *very* rare that those kinds of compromises are made, but when they are made, they're based upon the proofs that are able to be presented by the State. That is the role of the prosecutor.

SENATOR STEINHARDT: I understand, Judge, and I appreciate your listening to me.

This is my last question. Money bails had special protections statutorily for victims of domestic violence, prohibiting judges from reducing bails in such cases without prior motion to the county prosecutor and the victim -- as I said, that was statutory. Since there is no money bail with pre-trial release, are the county prosecutors and victims being reached out to by the court prior to considering pre-trial release or actual release, as it relates to those types of domestic violence situations?

JUDGE GRANT: Each prosecutor's office has a victim program. They're here; they can talk about it.

But, I think-- I go back to my earlier comment about the change in the paradigm. Under money bail, those individuals would get out of our jails. What you now see is 66% -- almost 70% -- of those individuals detained in our county jails are detained for first and second degree.

It's hard to demonstrate the success of preventing crime when you have those large numbers of individuals detained in our county jail, but it is a factor that should be considered in the analysis of the success of the program.

SENATOR STEINHARDT: I want to thank Judge Grant for his candor, and for being a gentleman. And, Chairman, for you indulging me for a while.

So, thank you very much.

SENATOR STACK: Absolutely.

Senator Testa.

SENATOR TESTA: Senator Sarlo did have his hand up -- we did go on on our side. I'll yield.

SENATOR SARLO: No, go ahead, Senator Testa.

SENATOR TESTA: OK.

SENATOR SARLO: Two minutes I yield to Senator Testa.

SENATOR TESTA: Senator Sarlo, you are absolutely correct, because Senator Steinhardt took all of the questions from all of us.

Judge Grant, I appreciated your candor in indicating that you would support the amendments to criminal justice reform that have been offered by Senator Gopal, and I believe Senator Sarlo.

But, I have a very simple question: What grade would you give criminal justice reform as it stands today?

JUDGE GRANT: B-minus.

SENATOR TESTA: A B-minus.

JUDGE GRANT: Yes, sir.

SENATOR TESTA: If *you* could author amendments to criminal justice reform, what would they be?

JUDGE GRANT: All of them are reflected in the report except for this idea of providing additional information with regards to a defendant's mental-health status.

The defendant's mental health-- As we know, there are a significant percentage of mental illness in our society. Individuals who hit our county jails undergo a mental-health evaluation. That information is oftentimes not available to the trial judge when they're making that release determination. Creating an ability to exchange that information to the defense; to the state; and, ultimately, to the judge in making determinations about a defendant's needs, I think, would be very helpful.

But, this program -- Judge Caposela and I, and I'll let him just regale you about the number of locations he has visited because of the success of the program.

Judge.

JUDGE CAPOSELA: Yes, so, we have 15 vicinages in 21 counties. Myself and the pre-trial team from the AOC, we visit-- Our plan is to visit every single vicinage. And, when we do meet with that vicinage, we meet with all the stakeholders: the prosecutor; the public defender; all the criminal judges; the presiding judge; the assignment judge; the TCA -- everybody and anybody you could think of. And, so, we meet with them. We're about halfway through right now; we've probably met with eight of the 15 and have a few scheduled -- quite a few scheduled -- between now and June, because in June we want to say at least we visited all 15 vicinages.

And, so, the purpose of those visits are for me to talk to the stakeholders in a very frank and open and informal way. I normally start with a question like, "Well, what do you want? What changes do you feel are necessary to criminal justice reform?" Now, the good thing about it is, everybody's in the room. It's not just me speaking to maybe the prosecutor

at one-- In the end, everyone is in the room, and, so, you get this exchange that's really important and understanding.

So, we're doing that and we're finding-- Look, a lot of the issues that you're raising today, I can say are confirmed in my visits to the vicinages. In other words, the folks that I'm speaking to in the vicinages are echoing a lot of the things that you're saying. But, it's an ongoing process; we'll continue it. The ultimate goal is training, that we're going to put together a training for a lot of the stakeholders. That's really necessary. You know, we're seven years down the road now, and honestly there's a lot of people at all levels -- Judiciary, law enforcement, everywhere -- where people just aren't familiar with criminal justice reform, so that's our ultimate goal to do that.

JUDGE GRANT: Senator Testa, I would say the following. Judge Caposela has visited Missouri; I've visited California. Illinois has extensively relied upon New Jersey. I've had visits from people in Connecticut; I have had virtual conversations with little small counties in Alabama and Georgia and Florida.

Our program is held up as the best program in the state. My comments about giving the B-minus is just that we can always do better. There is no perfect pre-trial release system. Because you are always dealing with human beings, you're dealing with the fragility and the inability to predict how they're going.

But, what we're trying to do here is to balance two important questions. One is: Can we ensure -- not ensure -- but, can we advance public safety to the best of our ability? And, can we also try to advance our constitutional principles of saying, "People generally should be released back into the community rather than being detained."

I think we've done those two things better than any state in the country, and that's why I'm proud of what we've done. But, what we also built into the statute-- The original statute in 2014 says we will periodically be brave enough -- bold enough -- to assess how we're doing and, where necessary, to make changes. And, that's what we're talking about here, is to make changes that are reflecting what's going on in our community and developing that coordination and cooperation.

SENATOR TESTA: And, Judge, I really appreciate your objectivity about the B-minus. I do.

And, I also appreciate what you said about mental health, because I practice criminal defense as my trade. And, I can say in the early days, when it was still called Drug Court, before it was called Recovery Court, the dual diagnoses was a death knell to any applicant to Recovery Court. It meant, "Hey, look, you're barred." And, I think that taking into account someone's mental health status -- provided that there is not a victim who has suffered harm -- is necessary to the ultimate goal of getting individuals rehabilitated and back into society. Whether it's through Governor McGreevey's reentry program -- which we had heard about earlier.

But, the mental-health aspect is absolutely 100% something I'm on board with you, that we need to identify, and I think it would be very helpful because of that dual diagnoses. And, it is a chicken or the egg-- Is it a substance-use disorder that is exacerbated by mental-health underlying issue, or is the mental-health issue being exacerbated by the substance-use disorder? And, that becomes a very difficult question to ask.

You testified earlier, though, that you really wanted the discretion to be in the prosecutor's hands because of their constitutional

position as the prosecutor. And, I just wanted to bring up a statistic that was alarming to me, because I agree with you. If it's in the prosecutor's discretion, and the fact that it's in the prosecutor's discretion to file that motion to detain, and a judge is essentially handcuffed if that motion to detain is not filed.

In 2022, judges denied 43.4% of motions to detain filed by prosecutors, and 42.1% of motions to revoke release based on the defendant's violation of a condition of release or restraining order or the commission of a new offense. How do we get our hands around that? That's a problem, in my eyes.

JUDGE GRANT: So, there's two different questions that you're posing.

Overall, pre-trial motions that are decided -- pre-trial detention motions that are decided -- are above 50%. And, the last number that we have, it was at 56%. Every year it has been growing, from 52%, I think it was about 54%, now it's 56%. We don't have the numbers for '22 yet. So, for motions that are actually decided-- There are a number of motions that are withdrawn or dismissed, so, that's different.

With regards to the second question that you posed is how do we get our handle on it? I believe that there's two aspects to why prosecutors need to be the final decisionmaker on those motions.

Number 1 -- the compromise that was made in this grand design says defendants can be detained without bail. Those cases have speedy trial requirements. The prosecutors should be in the best position to decide which case do I want to engage in that analysis for? It shouldn't really be the Judiciary. So, while one would may not necessarily *like* judges to make that

determination, I think that's really outside of the purview here, and that constitutional and statutory framework, placing that authority in the prosecutor's (indiscernible) -- in my opinion -- is the right one.

SENATOR TESTA: So, this concerns PSA levels at the Level 6. I just want to focus on that, because obviously those are the most egregious offenders in our society.

You, the AOC -- I'm using you personally as the AOC -- reports that a number of defendants have been released pending trial by New Jersey courts, despite triggering the highest possible PSA risk score for the likelihood of new criminal activity. That's a Level 6 score. In 2020, 59.8% of defendants who were assessed as having a Level 6 score but released nonetheless were charged with a new offense while awaiting trial.

That's alarming to me. And, I know that Senator Stack, Senator Sarlo, Senator Lagana, and Senator Gopal have touched upon those issues about committing offenses while awaiting pre-trial after having been released already. When six out of 10 cases in which either prosecutor or a judge or both -- ignored is a strong word; I'm going to use it right now because it's the only thing I can think of -- ignored that Level 6 rating and instead allowed for pre-trial release, the PSA's predictions actually came true.

What can we do to assure that the public understands that they are safe as well? Because, I can tell you that I know all of us in this room on this specific issue get emails, calls, saying, "Hey, criminal justice reform is failing." How do we handle that?

JUDGE GRANT: So, I think the Sarlo-Gopal bill addresses that concern. The converse to that argument is, 80% of the people who don't

have -- who are out on pre-trial release and who don't have a subsequent offense -- successfully complete the program.

So, what you're doing is still trying to empower judges and prosecutors to make those applications. But, we concede -- the committee conceded -- that there needed to be modifications, which is why I want to thank the senators for supporting that bill. Because it will address that concern that you raised.

SENATOR TESTA: Is the AOC keeping track of the statistics of the violent crimes leading up to, even, and including homicide of individuals who were out on release and committed an offense while on release?

JUDGE GRANT: Tracking violent crimes comes in as a case to the Judiciary. We are not law enforcement tracking this, but if someone files a subsequent warrant charging someone with a crime, we would be able to see that.

But, tracking the criminal profile of our counties is not what the Judiciary does.

SENATOR TESTA: And, Judge, the reason I asked that question specifically was because I think it was a week or two ago that happened, unfortunately, in South Jersey. I believe in Senator Singleton's legislative district in Burlington County.

And, again, guess what? We get calls, we get emails, "What's being done?" "This isn't right, something's broken here." And, do you think that the AOC should track that?

JUDGE GRANT: We conduct an investigation every time a incident of significance -- I actually use my colleague to my right -- to conduct an incident engaged in a conversation with the judge.

What I would say to you is this: I've been a lawyer for a long time; judge, lawyer, for a long time. Prior to bail being eliminated, you had similar cases. There is no perfect pre-trial release program, and what you are trying to do with this system is to put the appropriate protections in to give both defendants and law enforcement the best opportunity to do what we all want to have here. Every member of government wants a safe and secure society. I don't care whether you're a public defender, prosecutor, police. Every member wants that. But we also have agreed in this country to say that there are certain constitutional things that we want to embed also in our criminal-justice process: The presumption of innocence; the right to be remained and then released into our communities. Those are also fundamental principles as well.

So, if you are looking to try to get a 100% certainty that no one out on pre-trial release will not commit an offense, the only option is to lock up everybody. We know that's not what we stand for. And, what we're trying to do here in this colloquy and conversation is to say, "What's the right balance?" What's the right balance to advance public safety; what's the right balance to ensure that the defendant's constitutional rights are provided as well?

So, the recognition of this joint committee -- not the AOC, this joint committee of cops and prosecutors and wardens -- says we need to do something to deal with those repeat offenders. Those offenders who are violating the public's trust by being out in the community.

What we've also said is, if there's a motion for revocation and the prosecutor files that motion and you don't -- and you want to take advantage of the opportunity for services -- judges in their discretion can say, "Yes, I'm now committing you to Integrity House to get drug treatment services; to a mental-health treatment provider."

But, this is what this Legislature has done, and this Governor has done, over the last number of years -- to recognize that the societal challenges of crime are not simple; they're complex. We've gotten rid of the marijuana laws; we've gotten expungement laws. But, we've also said, "We want to ensure that the public is safe as well." And, that conflict, if you will -- that cohesion -- is what we're trying to have happen right here.

SENATOR TESTA: And, Judge, you said the only solution would be to lock everyone up. And, certainly that's not my suggestion, nor that I want to.

But, when you get to that PSA score of 6, I think that prosecutors should be given more broad discretion when you have someone who has, in fact, committed some serious crimes in their past -- hence to get to that level of 6. And, you know, as Senator Bramnick had said, have Judicial discretion even in the absence of a motion to detain. Now, I can't imagine an office that would not file a motion to detain on a PSA score of 6, but nonetheless, I think that there needs to be more judicial discretion in that regard.

I just have really one more question, and it doesn't relate to this as we are here today. I also practice DWI law, so this is where this question is going. This was a few weeks ago, we saw that, obviously, this body -- the Legislature -- passed a bill that was signed into law, and then there was that

guideline four. My understanding was you suggested that guideline four still be followed to ignore the law. What happened there?

JUDGE GRANT: There was no memo which said that; there was just the direction of the court. And, I think the court's opinion -- 11-page opinion -- lays it out in significant detail. And, I wouldn't want to go behind what the court indicated in that opinion.

But, that memo did not say what you just said, OK.

SENATOR STACK: Testa, thank you.

And, Judge, also -- over the next couple weeks to next month we'll consider all that legislation at a special hearing here. I was just discussing it with Senator Sarlo and with Matt. We'll set up a special hearing to consider all of that.

At this point, I will turn it over to Senator Sarlo and then Senator Corrado.

SENATOR SARLO: Thank you, Chairman.

And, Chairman, thank you for convening this. And, I know this will go on for a couple more hearings, and some legislation.

I just want to take this to a very high level. It's really not a question -- well, there's one question at the end.

So, if I understand everything correctly-- And, I had conversations with Justice Rabner about reconvening the committee, and I applauded him for reconvening the committee publicly. Thirty-one recommendations, six or seven bills that are now pending before this Committee; I'm a sponsor of a few of them, you've mentioned them, I appreciate that. I am hopeful that that will close some of the loopholes that we had.

But, the question I have is, how do we even-- Law enforcement still feels hampered. And, they still feel hampered, and I witnessed it with my own eyes, the frustration. So, I'm going to give you a real-live example that happened right in my driveway. My wife's car was stolen from the driveway. The individuals back out of the driveway; my son, for some reason, decided to chase after them, almost got hit by the car. The car was taken. Because of Onstar, local police shut the car down; the car was shut down about 2 miles away from my house. Local police did an amazing job.

I am the Mayor of the town, as you know. I am still one of those dual officeholders that you guys, Republicans, get nervous about -- only kidding.

And, I watched, two hours later, the two individuals who robbed the car and wrestled with the police walk right out of the Woodbridge Police Department. Walked right out; they were released. Later on, we apprehended -- there was an apprehension made by -- I don't know all the agencies that were involved, I know the Bergen County Prosecutors had some role in it -- an individual who was sort of the mastermind of it, was a ringleader. Not sure where -- it's in the hands of law enforcement. It's just frustrating for local law enforcement and the Prosecutor's Office to see that happen, right in front of their own eyes. Ten police cars involved in apprehending a car, shutting it down. Thank God nobody got hurt, everything was peaceful.

We're going to do these loopholes; we're going to close these loopholes.

JUDGE GRANT: But, if I may respond to the question that you posed about pre-trial detaining someone -- law enforcement could have pre-trial detained that individual.

What the court has done is to change its rules to say you should issue a warrant. The recommendations in one of these bills is to say that you have issued a warrant. The changes that the Legislature made with regards to now creating an auto theft bill -- as you know, prior to this there was no auto theft bill. We now have seen approximately 800 charges since the bill was enacted on the Superior Court level -- excuse me, on the criminal level - - about another 400 charges on the Municipal Court level.

So, when law enforcement-- This is one of the things that Judge Caposela is about is trying to educate law enforcement on CJR. There is a foundation by which law enforcement can seek to have a person involved in a second-degree auto theft -- \$75,000 or more, and I'm assuming your car was that -- can make that application through the court.

SENATOR SARLO: Judge, I will-- I'm going to leave you with this.

We're going to do these loopholes, and I appreciate the committee. And, we've all supported bail reform; we've all supported it here. Those who were around during the Christie Administration-- And, we're going to close some of these loopholes.

Do you believe that the prosecutors -- and, you heard me speak earlier, I'm a big supporter of our prosecutors here in the State of New Jersey. I think we are blessed to have some of the best prosecutor offices around. We are blessed with a lot of hardworking people. Do you believe they have

all of the tools they have closing these loopholes? Is there more to be done to help law enforcement to continue to close loopholes?

JUDGE GRANT: One of the things I would say to you is prosecutors can speak for themselves. But, when you convene the 26-member committee, we had the President of the County Prosecutor's Association involved in those discussions.

What I also believe is not to drive policy by -- no disrespect -- your single incident. You want to be evidence-based; you want to be able to say--

SENATOR SARLO: Understood--

JUDGE GRANT: --here is what's happening across the community.

SENATOR SARLO: Agreed.

JUDGE GRANT: And, I heard Senator Singleton, I thought he made some wise comments about looking at what is actually happening in our communities as opposed to the narrative that is going on in our communities.

And, what we really want to do is, in a period of time, is to come back to you and say, "Here's what we see based upon the cases being filed. Here's what we see based upon those changes."

I don't think you will ever be done with an ongoing analysis of CJR. That's what we want; we want *all* members of government to say, "How well is it doing? What can we change?" But, we need to give it a period of time to assess its credibility; to assess its effectiveness; and, where necessary, make changes.

As I said to Senator Steinhardt, we are now involved in an analysis of the public safety assessment.

SENATOR SARLO: We've done an amazing job keeping those with mental health and addiction out of jail. That was our Number 1-- We've done a tremendous job on that, and we continue to support it.

I will continue to support Criminal Justice Reform. But I just want to ensure that the Judiciary is going to continue to be open to continue to look at this and, as it evolves, continue to evolve with it. We can't just say, "This is it," and we have to live with it. This is the document, and we have to--

JUDGE GRANT: I, 1,000% -- no one is ever going to say that. I don't think you'll ever be done with--

SENATOR SARLO: OK.

JUDGE GRANT: --the public safety. There's always-- This compromise is about the kind of society that we want--

SENATOR SARLO: Thank you.

JUDGE GRANT: What do we want?

So, we will always have that ongoing dialogue and conversations between all branches of government.

SENATOR SARLO: This can't be the end-all-be-all.

JUDGE GRANT: Exactly.

SENATOR SARLO: This can't.

Thank you; I appreciate your candor.

SENATOR STACK: Thank you, Senator Sarlo. Thank you, Senator.

Senator Corrado.

SENATOR CORRADO: Thank you, Chairman.

Judges, thank you both for being here. It's nice to see Judge Caposela--

JUDGE CAPOSELA: Good to see you, too.

SENATOR CORRADO: --one of our assignment judges in Passaic County.

I am not a criminal attorney; I am an attorney. But, we are talking about pre-trial release and being monitored.

Who is the person actually doing the monitoring?

JUDGE GRANT: We have a staff of a little more than 300-odd people who are assigned in all 21 of our counties, who actually engage in a daily, weekly conversation with a defendant who's been released on a warrant. And, sometimes, as Senator Steinhardt talked about the level of risk, those who have a low risk are released ROR, and the only thing that pre-trial services staff is doing is tracking to see whether that individual stays out of trouble.

Then, you move to Level 1 -- they're coming in either in video or in-person coming in once every other week. Then, a Level 2, it's more frequent. And, Level 3 is the highest interaction with that pre-trial service officer.

It is a demanding job, given the fact that we've got 45,000 people on pre-trial release who are engaged in those ongoing conversations.

SENATOR CORRADO: And, when you talk about that they're members of your staff, what exactly is their title?

JUDGE GRANT: Their title is CSO-1; CSO-2; Assistant Division, Criminal Division Manager. Each of our vicinages assign staff to

engage in that. And, it's really based upon the volume of criminal defendants who are in each county.

Our criminal profile is different; Passaic's criminal profile is different than Essex or Atlantic.

SENATOR CORRADO: And, when you say they're checking in with them, or they're monitoring -- are they *physically* checking in? Are they coming into the office to see them? Are they doing it by phone? Are they-- How are they actually doing it?

JUDGE GRANT: Historically, they were coming in in person. With COVID, we developed the expertise to do some of those things virtually. And, so, depending on the risks, it may be all virtual or it will be other -- one week virtual, one week in person.

SENATOR CORRADO: And, when the committee met, were those who actually do the job -- the actual job of monitoring -- were they a part of this conversation? Did-- Where they talked about what their concerns are, what was working, what isn't working, what recommendations they have?

JUDGE GRANT: The recommendations really relied upon trying to connect people to services and mental-health issues. The recommendation is trying to provide more capacity to provide them with the things that you heard Governor McGreevey talk about.

We have individuals who are struggling in our community, and I think everyone -- from the Public Defender's Office, from the Judiciary, to Governor McGreevey -- everyone recognizes that there is a big service gap for those individuals who come in contact with our criminal-justice system. That's the big piece there.

But, again, the volume of individuals who are on detention is really, really extraordinary. A 50% increase in the number of people who are on pre-trial since COVID; and we only have, I don't know, a 20% increase in staffing.

SENATOR CORRADO: OK, I'm going to get to staffing in a minute.

When they were talking about the PSAs and looking at the full criminal history, we made a lot of changes to the expungement laws in this state. Are their records that are expunged considered? Because it could be repetitive crimes that they're committing.

JUDGE GRANT: The short answer is no. Once the statute says it's expunged, it is not supposed to be considered.

SENATOR CORRADO: So, you can commit the crime multiple times, expungement, and then go back to committing the same crime, and it would never be considered in whether -- your detention?

JUDGE GRANT: It doesn't happen that frequently, because the Legislature created a certain standard by which individuals can receive an expungement. Many of our statutes require a 10-year period of not being convicted of a subsequent crime or offense.

So, I would really push back a little bit about that philosophy.

SENATOR CORRADO: So, one of the issues that we've talked about is staffing. I know it's in the report; the recommendation that there's more training, and more staffing.

Talk to me about the staffing issues that the courts are having, if you would, please.

JUDGE GRANT: The Judiciary, I believe -- like many organizations both private and public in society -- is confronted with what I characterize as “the great resignation.” There is a significant shortage of staff in many of our areas. We have probably doubled our vacancy number pre-COVID to post-COVID. We are engaged in multiple efforts to try to increase our hiring rates, if you will.

But, it’s something that’s not unique to the Judiciary. It happens, of course, in all our communities. And, that’s something that we’re challenged by.

SENATOR CORRADO: One of the things that you talked about as well is the staffing and the training for individuals-- Do you think that remote work is impacting this as well? The difference between meeting the caseworker; meeting with the person one-on-one, in person, versus working remotely and maybe not adding access to the person who’s checking in with them while they’re on pre-trial release. Has that had an impact as well?

JUDGE GRANT: We have not done a formal assessment, but I would say to you that virtual conversations are now part of society. It’s not unique to the Judiciary. All of you are now involved with virtual conversations to conduct a lot of business.

And, what we’ve seen is, in many of our court virtual proceedings, people are showing up more often than they otherwise did, because they don’t have to lose time from their job; they have childcare situations. So, it is an interesting question.

I can’t give you a definitive answer, but in certain aspects of the justice system, virtual appearances can have value.

SENATOR CORRADO: And, I agree virtual works within the court systems, certainly. We talked about this a little earlier, a case management conference instead of having the attorneys and the clients appear in person. So, I am curious to see if having the ability to check in virtually will ensure that the individual checks in when they're supposed to, or if we track that information as well.

JUDGE GRANT: Well, throughout, we count how many times a person fails to show up for court, for example. Because what we do is we text message the individual to say that, "You're before Judge Caposela on March 8," you get a text message on the 7th, the week before.

We track that. If they don't show up, it goes into our case jacket to ensure that that's also recorded.

SENATOR CORRADO: And, many of us here are attorneys, and we respect the process. But, when we sit in this seat, we get a different view. And, it's from our law enforcement; it's from our chiefs; we do hear from our prosecutors; we hear from our residents.

And, I'll disagree with you, respectfully. It's our reality that we're living that our residents feel unsafe, or the impact of the carjackings; the home invasions; the repeat offenders. I'll even go so far as to say juvenile crime is a huge problem, because our criminals have gotten smarter. They are using juveniles to commit the crimes, knowing that there's not going to be consequences. Whether it includes having your streets shut down in your towns because you have 300 ATVs meeting up and closing down the streets and sidewalks.

Those are things that are, unfortunately, happening as we're getting ready to go into the warm weather; we're going to see it more and

more. We've had incidents of ATVs circling police cars and kicking them in. That happened in my own town, and there was nothing we could do. We've had incidents of an armed carjacking with a child in the back of the car -- that happened a week ago, during the day. Our residents don't feel safe.

And, so, I appreciate that we're having the conversation, because I think that's the beginning of moving forward and fixing the loopholes. And, at the end of the day, we all have the same goal. But, what's the immediate relief? Because it's going to take time to pass legislation; it's going to take time to get the legislation signed into law.

What can be done *immediately*, in your opinion, so that we can make these changes to make sure that our residents know that we hear their concerns and we're addressing them?

JUDGE GRANT: So, I am very supportive of your advocacy for the safety and well-being of your community. As I said, every sector of government-- There's nobody who is going to sit here and say that you shouldn't be ensuring the well-being of our communities. You should be trying to stop auto thefts as much as possible.

But, I think you conflated two questions, as I was trying to get to earlier. Juvenile delinquency is *not* connected to CJR or bail. Juveniles who are detained do not even have the opportunity for bail.

And, so, if you're saying you see an escalation in that juvenile delinquency, that is another forum and another conversation. When we talk about bail and CJR, what I would push back just slightly is to say, what do we see from the police profiles? What is the evidence showing with regards to criminal conduct in our state? Because -- no disrespect to Senator Sarlo

-- that should not necessarily be the sole basis by which you drive public policy.

There has always been-- And, I have had the pleasure of working in government for 45 years. I used to run the City of Newark; hired more cops than anybody in the city history. I understand that and respect that. My boss, who was an Assistant U.S. Attorney, prosecuted more cases during his tenure.

What you have is an organization on the Judiciary side, just like we have here. We are all dedicated to public safety; all committed to that. But, what we want to try to do, again, is to balance that mix with ensuring that the defendant's constitutional protections are there.

The juvenile question is -- our cops following-- What we've now said is, you have a right to -- if you can arrest that juvenile -- bring him before the court, and that's detention until the matter is resolved. But, again, how you handle that on the adult side should be a warrant, hitting county jail, and a prosecutor making that motion for detention.

Because we agree that public safety is important. There's nobody who's going to disagree with you on that.

SENATOR CORRADO: I'm going to respectfully disagree with you a little bit and say that I do think the landscape has changed with regard to juveniles. And, I do think it has to be part of this conversation. I understand the separation, and I don't disagree with you, but I don't think we can have a serious conversation about bail reform; crime; public safety without including the juvenile component.

And, it has clearly escalated. I don't think there's any prosecutor or law-enforcement official who won't say it. So, I would hope that at some

point we include that conversation as we move forward, and maybe it's something that we should do on our side.

And, the last question I'm going to ask -- and I appreciate your time -- is: Where are the victims in all of this? Were they included in the conversation? *Will* they be included in the conversation? Because the reality is, we tend to forget about them. And, I think part of my job is to make sure that we never, ever forget the victims of crimes. Their lives are impacted just as much and just as personally--

JUDGE GRANT: I agree with you both -- as to both issues.

I don't disagree with you about a conversation about juveniles. I just don't want to lump it into a conversation about juveniles -- excuse me, criminal justice reform -- because you get distorted realities with regards to what's happening relative to adults committing offenses.

And, the bills that we are talking about introducing here, I believe, will make a substantial improvement in what's happening in our communities.

SENATOR CORRADO: Thank you.

SENATOR STACK: Sure.

Senator Bramnick.

Thank you, Senator.

SENATOR BRAMNICK: I would like to go back to Senator Sarlo's anecdotal situation.

What he mentioned was a stolen car and wrestling with police officers. Those defendants were released. If those are first offenders, it's likely that they will not be incarcerated as a result of those charges -- unless a police officer was seriously hurt. I would also argue that if the same

individuals stole a car three years later, based on just the reality of what I've seen, it's also unlikely that those individuals would be incarcerated; probably a plea bargain the second time.

So, I'm not sure the discussion we should be having anymore is bail reform. Because when I've discussed with judges, the first thing they'll say to me is, "Well, they're innocent until proven guilty." Tough for me to argue with that. But I *can* argue that this Legislature has the opportunity now to place either a higher offense -- a second degree -- or a minimum mandatory jail term.

Now, here's why I say this -- and, I've heard the problems with mandatory jail. But, if we're not going to seriously incarcerate people prior to the trial, then there must be a deterrent effect when someone steals the second car. Because I have heard from prosecutors that that is the reality, and I'm convinced that people who do these crimes are well educated on the risks.

So, the immediate solution this Legislature could do in a day -- they could either raise the level of the offense, or impose minimum mandatory jail time, and then we wouldn't have to discuss the issue of bail reform because it appears to me that, generally, the Judiciary is generally pleased with the bail reform. And, it doesn't look like substantial changes would occur, even if we now had a warrant for an arrest on a car theft. That's still just a few days in jail, because the rules of the road are that individual is going to be released anyway.

So, I think at some point, we need to turn the direction to the actual penalty for the crime. Because police officers are frustrated; they're frustrated because they just don't see people going to jail. And, the reality is

-- as I've seen in my office -- not a lot of people do go to jail. And, we know there's less and less people in jail. So, there *must* be a deterrent effect. If it's not bail-reform changes -- which I don't think, appears not going to be the solution -- let's just make sure bad guys go to jail.

JUDGE GRANT: Well, I would only add this.

The Gopal-Sarlo bill says the third time -- not the second time, but the third time -- warrant, and then it's *prima facie* evidence of the person being incarcerated.

SENATOR BRAMNICK: We're talking about pre-trial incarceration?

JUDGE GRANT: Pre-trial, yes.

SENATOR BRAMNICK: I have to tell you, I'm at the point now where I don't think that that's a deterrent to someone who's going to steal a car because they're going to jail for two days. I have heard that many of these kids are not afraid about going to jail; they couldn't care about going to jail for a couple days.

The real question is, are they going to jail for a substantial period of time after that second offense? And, based on plea bargaining, my belief is they're not, so, therefore, the chances there's real serious penalties under our criminal justice system is probably not significant.

JUDGE GRANT: The Legislature can decide how it wants to sentence individuals.

SENATOR BRAMNICK: Exactly.

JUDGE GRANT: That's different from the question of between the time of arrest and the time of actual sentencing.

SENATOR BRAMNICK: And, this hearing was important for me to come to that conclusion. Even if we put people in jail for a short period of time pending a trial -- and I -- It's not going to create enough of a deterrent effect if that person is not subsequently either incarcerated or a penalty of significance after a serious crime occurs.

But, thank you.

SENATOR STACK: Senator Bramnick, I'm willing to work with you on that, absolutely.

Any other questions? (no response)

Thank you both very much; thank you, Your Honor, thank you very much, Your Honor, for being with us.

JUDGE GRANT: Thank you.

SENATOR GOPAL: Chairman, I was going to, but the three gubernatorial candidates took up all the time, so.

(laughter)

SENATOR BRAMNICK: Excuse me, that's one -- excuse me a moment, that's *one* gubernatorial candidate and two *possible* gubernatorial candidates.

(laughter)

MR. LORETTE: The second panel to be presenting today, representing prosecutors from several different counties in the state.

We have prosecutor Mark Musella, representing Bergen County Prosecutor's Office. He is the Bergen County Prosecutor and also the President of the County Prosecutor's Association of New Jersey. As well as Raymond Santiago, the Monmouth County Prosecutor; and Esther Suarez, the Hudson County Prosecutor.

SENATOR STACK: Thank you for being with us; welcome.

ESTHER SUAREZ, Esq.: I'm not sure who you would like to begin.

SENATOR STACK: Now we can.

MS. SUAREZ: OK.

Good afternoon Chairman Stack, and the honorable members of the Senate Judiciary Committee.

Thank you for inviting me to speak on our experience with the Criminal Justice Reform Act in Hudson County, as well as on behalf of the County Prosecutor's Association of New Jersey.

There is a diverse group of individuals with us here today in this committee room, and while we may disagree in some regard, I think it's fair to say that we share a common goal of improving our criminal-justice system to better serve everyone.

First and foremost, my position regarding the Criminal Justice Reform Act has remained consistent. This legislation helps address inequities in the criminal-justice system, and prevents individuals accused of low-level crimes from remaining jailed strictly because they cannot afford monetary bail. I fully support this.

After speaking with several prosecutors and law-enforcement officers throughout the state, I would like to address some of the challenges we face and offer some suggestions on how to improve CJR in a way that's fair to both defendants, victims, as well as striking a balance with public safety.

CJR relies heavily on a computer-generated public safety assessment -- the PSA -- to determine whether a defendant should be detained or released pending trial. The PSA, under the current guidelines, seemingly

weighs heavier on the extent to which a victim has been harmed, rather than the severity of a defendant's actions. This has been a consistent concern for prosecutors, particularly in terms of violent crimes and firearms offenses. Currently, there is only a presumption of detention for defendants who are charged with murder or may be facing a life sentence, should they be convicted. Individuals who are charged with attempted murder; aggravated manslaughter; death by auto; aggravated assault; most sex crimes; and possessory firearms offenses *do not* carry a presumption of detention.

If an individual is shot and survives, there is no presumption of detention. If an individual is shot and dies, only then is there a presumption of detention -- regardless that the actions of the defendants were the same. It's unfair to the victim; it's unfair to their families; and it's unfair to those who live in the community where these crimes have occurred. Law-enforcement officers have worked tirelessly to get guns off the street. As to not reverse this progress, there should be a presumption of detention for certain firearms possession charges. This is also true for young defendants charged with firearms offenses -- because they're being released as the result of a low PSA score. This is largely due to the fact that, because of their young age, they have fewer offenses on their record.

Statewide, we've seen auto theft cases trending upwards. In 2023, New Jersey recorded over 16,000 motor vehicle thefts, which is a 5% increase from the previous year, according to the New Jersey State Police data. These are alarming trends that the state's largest cities have been grappling with. While there's no one-size-fits-all solution to address these issues, expanding the presumption of detention to include additional crimes

is worthy of consideration -- even more so if it's not the defendant's first offense.

The issue with repeat offenders goes beyond violent crimes. In many respects, some of our toughest cases involved defendants who are repeatedly charged with crimes such as burglary, theft, and harassment. These are often dismissed as petty crimes, but the reality is they are everyday issues that cause the greatest and most frequent quality-of-life disruptions to our residents.

By way of example, the Jersey City Police Department reported issuing 52 summonses to an individual for erratic behavior at the Newport Mall over a two-year timespan. Despite a no-contact order being issued, the defendant reportedly entered the property on at least 25 separate occasions in an eight-month period. The individual was not detained until being charged with a second-degree crime in another jurisdiction. The Hoboken Police Department reported arresting an individual in February on charges relating to theft and drug paraphernalia possession. Six days later, the individual was again arrested on identical charges. Since 2016, this defendant -- in their early 30s -- has been arrested 25 times and charged with 62 low-level offenses, including multiple burglaries, thefts, and drug charges. In these cases, the defendants were released multiple times without the ability to detain or provide them with resources that would hopefully deter future criminal behavior.

When a defendant does reoffend or violate the conditions of their pre-trial release, the State does not have the right -- does have the right to file for revocation of release. I'm going to repeat that: The State *does* have the right to file for revocation of release. Unfortunately, doing so becomes a

weeks-long process, primarily because there's no statutory requirement mandating a timeframe for a judge to hear these motions. Motions to revoke a defendant's pre-trial release should be heard within three days -- the same timeframe in which a detention motion is required to be heard.

One of the biggest flaws in the PSA is that it fails to consider a defendant's out-of-state criminal history. This is particularly troublesome for Hudson County, with all 12 of our municipalities easily accessible to New York. If an individual has been convicted of a violent crime a three-hour drive away, in say, Cape May County, it would be flagged in their PSA. But, if that same crime was committed a 15-minute PATH ride away in New York City, it would not be included in the PSA. It's baffling that someone who may have been convicted of, say, for instance, an aggravated assault in New York -- or in any state, for that matter -- can serve their time; and, should they commit a crime again in New Jersey, our PSA does not take that into consideration.

Crime does not have boundaries. The PSA should be reflective of this, and consider a defendant's entire criminal history -- not merely the defendant's New Jersey criminal record. Including this criteria will, at minimum, allow prosecutors to conduct further research and determine whether pre-trial detention is appropriate.

It's worth noting that a defendant's mental-health history is often not given heavy consideration when weighing pre-trial detention or release. If one's mental health were to be given greater consideration, the court would have the opportunity to offer a defendant pre-trial release under a condition that they seek treatment through an approved program, where applicable. Aside from preventing detention, this measure would connect

vulnerable defendants with life-saving resources. These are just some examples of how we can improve pre-trial services.

Respectfully, pre-trial monitoring has been wildly hamstrung statewide, primarily because local court lacks the appropriate staffing levels and resources to monitor the high volume of defendants on pre-trial release. I would ask the State to consider expanding its funding to better equip the courts with a more robust pre-trial monitoring system that centers on the detriment of crime -- a component missing in the current system.

I understand that my time is limited, and I thank you for inviting me. And, on behalf of the County Prosecutor's Association, please know you have our continued support.

RAYMOND S. SANTIAGO, Esq.: Thank you.

Thank you, Chairman Stack. I know Vice Chairwoman Pou is not here, but thank you as well. And, to all the honorable members of the Senate Judiciary Committee, thank you for inviting me here to appear before you all.

I wanted to share some of my own thoughts and experiences. As most of you know, I did practice both as a prosecutor and a criminal defense attorney. In serving in my current role as prosecutor, one of the things that I also had the experience of in my criminal-justice career was I worked at the U.S. Pre-Trial Services -- which, we're talking about Criminal Justice Reform, Pre-Trial Services is something we're trying to look at. My experiences at the U.S. Pre-Trial Services, and looking at what was happening here, I will say, obviously, I was very excited at the fact that New Jersey was going to move from a cash bail system to the criminal justice system itself. But, looking at what the Federal system is-- And, as Judge Grant said, we are not a Federal

system. But, I do look upon my experiences there to see what worked well and what we could be doing more of here as well.

I want to, Number 1, thank the committee. I know they spent countless hours looking at a very complicated situation, coming up with the recommendations that have been presented in their report, and there are a lot of things that we are all in agreement on. I think one of the things I think we all should recognize -- especially in a time where we have a lot of division -- is that we're not saying that Criminal Justice Reform needs to be thrown out. We all agree that it's a good platform. There are things that need to be worked out, and I'm grateful for the opportunity being here to discuss that.

Some of the things that I'd like to point out, though, just overall: Yes, I believe that Criminal Justice Reform needs sufficient funding to ensure that it can operate in the way that not only provides an alternative to incarceration for the accused, but also affords comprehensive protection to the communities that we serve.

Second, there are some legislative changes -- some of which were mentioned here already today -- that are needed to provide law enforcement with the necessary tools so that we can combat the crimes that threaten our communities, our collective sense of safety and security.

And, lastly, there are some amendments that need to be made to the process in which we do CJR which would be very impactful on how we meet the goals and making sure that CJR is what it was intended to be.

While I do know my time is limited, I do want to expound on this just very briefly. In regards to the funding, as I indicated, one of the things that we at least see here in Monmouth County as well is the underutilization for electronic monitoring. That is because of a lack of

funding for both personnel, as Judge Grant has indicated, as well as a lack of the actual equipment itself. That funding is going to be necessary to make sure that monitoring is actually happening. Additionally, there was a point in time pre-COVID where monitoring actually meant monitoring. And, since we've come to a point of post-COVID, the in-person monitoring doesn't exist anymore. It's telephones. And, that is no way in which we can actually monitor to make sure the people are where they say they are, or that they're actually even in the state. So, having the personnel to do that is a necessity, and that requires funding.

Likewise, knowing that the monitoring actually is going to be more meaningful will also give prosecutors the opportunity to engage in those conversations to make sure that the right people who are going to be placed on monitoring are actually going to be monitored as well.

The report also recommended funding for resources to assist defendants interrupting the criminal-justice cycle instead of merely implementing incarceration. This also obviously promotes recidivism. We agree with that. Resources should be put towards substance abuse, as indicated before; mental-health treatment; domestic-violence counseling; and other valuable referrals to assist someone getting their life back on track, and more impactful suggestions which we agree with.

In regards to legislation, I want to add -- I know it's been mentioned before, so I don't want to be repetitive -- but car thefts have become a grave concern to our residents. The phenomenon has exponentially increased ever since organized car theft rings became emboldened to enter the homes of residents, especially during late night hours when people are present. It's one of the most frequent issues that I'm asked to contend with.

This has been -- and, as I understand, renewed -- there have been calls for legislation to increase the degree for residential burglaries from a third-degree to a second-degree. This is important; this is bill S833. I submit that this increase is necessary, because the rate at which home entries for individuals to break into a home to steal a key or a key fob is increasing the risk of danger and tragedy to happen to a resident, or even to the accused himself or herself. This is increasing daily. On a third-degree burglary, the likelihood is that an accused will be released following a detention hearing -- if it's a third-degree offense. While we have seen-- What we have seen as of late is that those individuals are often part of an organized ring, and they will be out to break into another home in short order. If the crime is of the second-degree, we at least can be in a better position when we need to move for detention or home detention with or without monitoring.

I understand also that S833 has also earned the support of the State Chief's Association, as well as other local law-enforcement associations as well.

Additionally, when someone is released on conditions, the order from the court *must* have meaning and consequences. If a Prosecutor's Office does not file a violation of monitoring, or to revoke pre-trial release, the order of the judge, including any conditions, is rendered meaningless. The court should be permitted to enforce its own conditions. If and when a prosecutor does so move, the presumptions released need to be amended to allow for pre-trial services to recommend revocation on the pending matters, and/or make similar recommendations on the new matter.

Amend CJR to permit the temporary detention of eligible defendants when a prosecutor has filed a motion for revocation and the

defendant is in custody on the new matter. Once again, I know it's been outlined by Judge Grant in the recommendation, also in legislation that's proposed before this body.

Lastly, allow for conditions of release to be placed upon a summons, such as no victim contact; a no return to scene as used to be permitted. Right now, that does not exist. So, much to the point of what was made before, we have a scenario where law enforcement was tasked with making a decision whether to release somebody either on a summons complaint or a warrant complaint, if there's a domestic-violence incident attached to it. The concern of course is the safety of that victim, so that individual would have to be placed on a complaint warrant if we wanted to impose a no-contact provision. Allowing the opportunity for us to do that on a summons could impose that condition so that an individual would not have to be arrested and brought before a jail to have that condition attached to it. The victims are always allowed to, at some point, go before a judge and ask for that condition to be released. But, allowing those summonses to have conditions could also be a benefit to the reform of the CJR.

Again, I thank you for the opportunity, and I will also be available for any questions.

SENATOR STACK: Thank you very much for your testimony.

MR. SANTIAGO: Thank you.

M A R K M U S E L L A, Esq.: Good afternoon. I want to thank the Committee for inviting me here this afternoon to testify on behalf of Criminal Justice Reform from a prosecutor's standpoint.

I want to thank Chairman Stack and Vice Chair Pou and all members of the Committee.

I heard the testimony of Governor McGreevey this morning; I heard the testimony of Judge Grant, Judge Caposela, and my two esteemed colleagues, Prosecutor Suarez and Prosecutor Santiago. And, I agree with most of the comments made by the Committee today, and some of the comments made by the individuals who testified here today -- particularly that Criminal Justice Reform, I believe we all agree, *is* working. However, it does need reform, and it does need tweaking, and it does need maintenance.

And, I think as Senator Sarlo pointed out, I think as Judge Grant agreed this is fluid. It's an ongoing process; it's never going to be perfect, but it's always going to need to be maintained and it's always going to be needed to be tweaked. I think I just have a snapshot of Criminal Justice Reform in Bergen County, because I know Judge Grant indicated that we want this conversation to be data driven. These are the numbers that I've taken in New Jersey, and these are the numbers that were provided by New Jersey courts.

According to New Jersey courts data, we in New Jersey -- we have 5,372 total defendants in Bergen County last year -- that's 23 of those who were placed on complaint warrants -- I'm sorry, of those defendants who were arrested. Of those, 1,784 were placed on a complaint warrant. The rest were on summonses. This represents 33.2% of all defendants arrested in Bergen County were placed on complaint warrants. So, that number again, 1,784 out of 5,372. The New Jersey courts data reveals that Bergen County Prosecutor's Office moved for and argued before the court for detention in 478 cases of those 1,784. So, that would be 26.8% of the time we moved for detention on those complaint warrants. The state average was low. We were lower than the state average, which was 33.7%. And, this shows that there were cases that were pled; there were cases that were withdrawn; and there

were cases that were dismissed. But, those 478 actually represent times that we argued in court before a judge for detention. And, on those 478 detention motions, we prevailed in 329 of those motions. So, that's a 68.8% success rate, which is above the state average of 58%.

So, I think the takeaway from these numbers in Bergen County is that when we do move for detention, we move for detention on the cases that we believe are the most serious cases, the cases that we feel we should move for detention on, and we are successful 68.8% of the time; that's 70% of the time. But, we are also-- What you have to realize is that 30% of the time, then the defendant, we are denied that detention and those defendants are released. And, those are the cases, again, as you can see. We're not moving for detention often, but, when we do, still, 30% of the time defendants are released.

Some of the takeaways that I have in Bergen County -- and, again, I don't wish to be repetitive. I agree with my colleagues, and these are issues that I spoke with Judge -- with Officer, Chief Russo, last night. And, these are some of the issues that concern Chief Russo and the Bergen County police chiefs. And, of course, I spoke with my Intake Chief Dion Findley and I spoke with my First Assistant Prosecutor Heather Suffin. We all agree, again, with the comments of Governor McGreevey this morning; we agree with the comments of Judge Grant. However, we feel that Criminal Justice Reform needs to be -- although it is corrective in its disparage of treatment of defendants -- it does need reforms. The first thing we would like to see is, again-- We would need more and better staffing, resourcing, and monitoring of pre-trial release services. We would ask for rebuttable presumptions for escalating vehicle thefts and home burglaries and for repeat offenders and for

motor vehicle theft networks, and for motor vehicle theft networks that recruit and corrupt juveniles. We are also calling for second-degree for home -- for burglary of a home that is occupied. We're asking that it be a second-degree crime.

I've been an attorney now for 35 years in the State of New Jersey. Like Ray, I was a prosecutor for seven years and I was a criminal defense attorney for 27 years. The burglary statute in New Jersey has, for 35 years - - since I was an assistant prosecutor in 1988 -- has remained a third-degree crime. Bergen County is a heavily densely populated area; we are a residential area; we have 70 towns. Bergen County is a wealthy county, and it is targeted. It hadn't been, but it is targeted for home burglary crews, and it is a target for theft -- for motor vehicle theft crews, because of the high-end houses and because of the high-end motor vehicles that are in Bergen County. It's time that burglary be upgraded by the Legislature to a second-degree crime.

We are also asking that certain theft-of-motor-vehicle charges, such as employing a juvenile or theft rings, also be a second-degree crime. And, that would answer, I believe, what Senator Steinhardt's concern and Senator Testa's concern, that perhaps -- and I think Senator Bramnick's concern -- that perhaps the charges are not serious enough; the charges do not -- although the individual is released, that the individual will not be doing jail time on the back end. And, that's because a third-degree, as you know, there's a presumption of non-incarceration, but on a second-degree there *is* a presumption of incarceration; that presumption is five to 10 years in prison for the first offense. And, that would probably, again, be a deterrent to these individuals who are constantly-- Let's face it, that they are with criminal

enterprises, and they are career criminals. They are individuals who are engaged in theft rings of motor vehicles, and they are individuals who are engaged in the burglary of homes as their occupation.

We're calling for equal care, equal attention, and equal dollars for victims of violent crimes, as pointed out by Senator Corrado; we agree with that. We're asking for electronic monitoring; it has been dwindled. We believe that with proper resourcing, that-- We're asking that electronic monitoring be more effectual. We're asking that there be a non-rebuttable presumption of detention for certain unlawful possession and unlawful possession of a handgun -- for possession of a handgun *and* unlawful possession of a handgun. We're asking that there be better data collection and documentation by pre-trial services relating to mental-health conditions of a defendant, opioid dependency of a defendant, and out-of-state convictions, criminal convictions, of the defendant. And, also, pending charges in out-of-state as well.

And, then -- a conversation for another day, but I agree with Senator Corrado -- perhaps there needs to be a conversation with regard to also reforming juvenile justice reform as well. I will point-- I can speak to Senator Sarlo's case, because it happened in Bergen County, and it happened in Wood Ridge. There were two individuals involved in that incident. The one individual was 18 years old and he had no prior record, so he was released. However, his brother, who was the juvenile, I believe had three charges -- I believe one or two were pending; open charges -- for theft of a motor vehicle, but he was released because he was a juvenile. So, I think what is happening here is the theft rings employ juveniles because they know

juvenile justice reform, juveniles are not charged; juveniles are a frequently dealt with station-house adjustment, or a roadside adjustment.

And, with regard to individuals who are adults, again, if they have no prior record, it's a first offense, a third-degree crime, they're looking at probation and, under the present Criminal Justice Reform, if they have a pending theft of a motor vehicle charge it is a third-degree offense and they commit a second theft of a motor vehicle charge, they will not be detained. So, the criminals -- especially the career criminals -- know this and they're using the system to their advantage. They're using Criminal Justice Reform to their advantage.

I think Criminal Justice Reform is working for the individuals who are not career criminals; individuals who commit a crime once or twice, maybe they have substance-use disorder. But, individuals who make a mistake, they should not be detained, they should be released. But, I believe the problem is that Criminal Justice Reform did not take into account -- and it favors the career criminals -- and it did not take into account the career criminal, and therefore we must tweak it and we must adjust it so that we protect ourselves from these individuals.

And, I am free to answer any questions.

Thank you.

SENATOR STACK: Thank you very much, all three of you.

Senator Steinhardt.

SENATOR STEINHARDT: Chairman, thank you.

I would like to go through that whole list of questions that I wrote-- No, I'm just kidding.

(laughter)

First and foremost, I want to applaud the prosecutors: Prosecutor Musella, Prosecutor Santiago, and especially Prosecutor Suarez. I appreciate your comments in that they resonated with me, and I appreciate the work that you three -- you and your colleagues around the state do every day trying to keep all of us safe. So, thank you very much.

Number 2 -- the only thing honestly missing from the panel today, in my humble opinion -- and, I know we have Chief Russo here from Rutherford, but no disrespect to the Chief. I was an all-college football player; it's kind of like asking my head coach what it's like to be an offensive lineman and banging heads every day, like if the rules are working on the field.

I would have loved to hear from a sampling of police officers from around the state about their frustration level -- when they pick somebody up on a Monday morning, only to have them released on a Monday afternoon and re-arrest them on Wednesday, Thursday, Friday for something else -- as to how it's working or not working. That's a conversation for another day.

Through the Chair, I would respectfully like to request copies of the prosecutors' written statements, if we may, please.

And, last but not least, I humbly agree with all of you on a vast majority of your comments. The presumption of detention I think is flawed; the PSA is flawed in its failure to track -- diligently, at least -- pre-trial release re-offenders. I heard this stat from Prosecutor Musella, and I'm rounding, but the roughly 1,750 warrants out of his 4,000-plus, or 5,000 offenses, whatever it was -- I wrote 329 detentions, so that means roughly 82% of the other defendants were out.

And, my question to you, I'd like to know what happened with them. Were they rearrested? Did they reoffend? What the crimes were?

Where is that data? It was woefully missing from the AOC's testimony today, and it's a stat that I just think we need to track better if we want a better sense of what we're doing. But shifting the burden from prosecutors to defendants on re-offending would be helpful, from my perspective, too.

That's it in a nutshell. I'm just grateful to all of you guys; I appreciated your comments here today. I understand and respect the concept, but, like I said, I think that there are some problems with the rules and Prosecutor Musella summed it up very eloquently at the end, which is, I think, repeat offenders have benefited from a concept that was well-intentioned.

Chair, thanks.

SENATOR STACK: Thank you so much, Senator.

Senator Testa

SENATOR TESTA: Senator Gopal--

SENATOR STACK: I'm sorry, Senator Gopal.

SENATOR TESTA: You got shut out last time, go ahead.

(laughter)

SENATOR GOPAL: It's all right.

SENATOR TESTA: First and foremost, I want thank you for your testimony and honesty.

Were you all in the room when the AOC gave their testimony?

OK, so, you heard Judge Grant indicate when I asked him what would he give Criminal Justice Reform if he were able to give it a grade, and he said B-minus. And, I appreciated his honesty and candor with the court.

I am asking the same question of each of you: What grade would you give Criminal Justice Reform?

MR. SANTIAGO: Do you want us to huddle or do you want us to give you three different grades?

MS. SUAREZ: Prosecutor Santiago and I actually turned to one another when Judge Grant gave you the grade, and the grade he gave was a B-minus. And, we turned to each other and I said, "What do you think of that?" And he said, "I think it's right, too." We both shook our heads saying, "I think that's a fair grade."

MR. MUSELLA: C-plus.

MS. SUAREZ: We're not far off.

SENATOR TESTA: So, obviously, all three of you being county prosecutors, are in agreement, in the same ballpark -- C-plus to B-minus, that's a close assessment.

What improvements would each of you make if you were to make recommendations to the Legislature, as Senator Bramnick said, when it was admitted by Judge Grant that this is really in our hands here in the Legislature? And, we owe it to the public, just as the police officers who Senator Steinhardt referenced. Their job is to protect and to serve; we have to write laws that allow them the ability to protect and to serve, and also allow *you*, in your capacity as county prosecutors and your line APs, to be able to prosecute the individuals who are committing crimes, especially violent crimes, so that people have -- they feel safe in the Garden State.

MS. SUAREZ: I'll go first; I guess I'm bossy like that.

I would say three things -- if you ask me to choose three things that I would change, here it goes.

The rebuttable presumption. Right now, it's very, very limited. I would like to see that expanded. There are very serious crimes that, for

whatever reason -- because they have good doctors in a hospital or they had better access -- a victim of a shooting survived as opposed to not. That should not -- it shouldn't depend on whether or not somebody passes away, it should really depend on what the intention was. I would say expand it to include some of the crimes that I had listed.

I think if there was somebody released on pre-trial -- not detained -- and was released during their pre-trial, I think if they recommit, I think that should be considered in the PSA. And, as I mentioned before, as much as we do know if somebody was arrested or served time or committed crimes in other states -- and we'll get that through the CCH -- it is not reflected in the PSA. And, I think that's extremely important.

I'm going to say one more thing: Give judges a little bit more discretion. You go through such an incredible vetting process and, I mean, we sat through it today and we saw what they went through, and we know what the prior experiences and meeting in terms of the county bar and the state bar -- give them more discretion, they're entitled to it, and I trust them with it.

SENATOR TESTA: Before anybody else answers that question -- and, that is where my concern lies, in that level of discretion -- because my opinion is judges should be granted great discretion. But, it's even more concerning that when they're exercising their discretion -- at least as I see it -- judges denied 43.4% of motions to detain that were filed by the Prosecutor's Office. And, you know, Judge Grant said that the discretion should be in the Prosecutor's Office, in the hands of the prosecutors.

So, once that motion to detain is filed-- I mean, you're not going to file in every case, I know that, I mean, I practice criminal law. So, once

that motion to detain is filed, it usually means that this person either has not-so-good a PSA score, or they committed -- their first time out, they went big and are accused of a very serious crime or a very violent crime, or both. Graves Act offenses doesn't have to have a victim, necessarily, but it's a serious crime when someone possesses a handgun illegally in the State of New Jersey. We know that.

So, how do we get to a resolution there, between giving the Judiciary more discretion on that end, and also, having the prosecutor's motion to detain carry the weight it *should* deserve? And, I'm not saying it should be 100% of the time, but the fact that over 40% of the time judges denied the motion to detain-- And, again, I know your offices are very busy. You're not filing motions to detain frivolously; I'm positive of that.

So, if someone could answer that question for me, I'd really appreciate it.

MR. SANTIAGO: So, if I may, I'll say even in looking at our numbers in Monmouth County, the same is true. We had -- for 2023, we had a total of 1,841 complaint warrants that were filed. Of those, we filed in 679 -- 49.4% of our motions were denied.

SENATOR TESTA: Almost 50%.

MR. SANTIAGO: Almost 50% of our motions for detention were denied.

So, I agree with Judge Grant that part of this is training. And, it's training not just with law enforcement, it's also training with our Judiciary, and making sure that we're all actually being trained the same.

I agree that judges should be given the discretion to look at these initial decisions, but there has to be some uniformity and some training that

goes through so that in one county you're not looking where 50%, your deniability. We're being very selective on our cases that we file, and the reality is that even when we do, we're still losing almost 50% of the time.

SENATOR TESTA: Just a follow up on that -- and, you may not have this statistic, and if you can provide it, I'd ask that you provide it through the Chair.

This one is really important to me. So, you were denied roughly 50% of the time in your motions to detain. How many of those criminal defendants then committed--

MR. MUSELLA: Re-offended.

SENATOR TESTA: Re-offended while on release? Do you have that number?

MR. SANTIAGO: I do not, but I will get back to the chair.

SENATOR TESTA: And, I would ask that all three of you be able to provide that to the Chair. Whether-- The percentage of the time your motions to detain were denied, and when in fact they were denied, how many of those people re-offended while they were on pre-trial release.

I interrupted, so Prosecutor Musella, I think, is next.

MR. MUSELLA: I agree with my colleagues. I think that we need-- I think that we need better monitoring, better staffing, and better resources with regard to pre-trial release. I think that we need to know the mental-health conditions; the opioid dependency; the out-of-state convictions; pending charges. I think we need to know all these things, and sometimes we don't.

I think that it would make a big difference. Again, I think it was Senator Bramnick indicated if burglary is a second-degree offense; if theft

rings are a second-degree offense; through employing a juvenile-- If you're a professional car thief, and you're making a second-degree offense, that's really going to be where the sentence on the back end is going to be jail time; so, therefore, these people will be detained on the front end. I think the judges look at it, it's a third-degree offense, it's another third-degree offense. They're not going to see jail time on the back end, I don't want to detain them upfront. And, that's-- I mean, I think that's where you can really make a difference, by looking maybe at specific crimes and perhaps making them more serious offenses.

SENATOR TESTA: With regard to the amount of car thefts that we've seen in the State of New Jersey -- luckily, in my legislative district, it hasn't been nearly as high as it has been in Monmouth County, and I know Senator O'Scanlon has spoken out about this at length, and I know Senator Gopal has as well.

It was sort of a slap in the face to all New Jerseyans when they were told, "Hey, make sure you lock your cars and keep your key fobs out of visibility of someone who is able to look in your window or look in your door to find out where you may store your keys." I took great offense to that. People are supposed to be safe in their homes, and someone breaking into your home to grab your key fob and steal your car is committing a home invasion. I mean, that's a really-- It's not just now the car theft, it's committing a home invasion. So, I agree wholeheartedly with you. If they're breaching that sacred barrier between the curtilage of your home and the interior of your home, that's a whole other ballgame in my eyes. That's no longer *just* a car theft; it's a car theft and a home invasion, especially if someone is home at that point in time.

I mean, what are your thoughts on that?

MR. SANTIAGO: If you think about it now-- So, the burglary, there is no distinction right now whether it's a residential home where people are home, or whether it's a detached garage, or if it's a vehicle. And, there should be a distinction that's made that a residential home -- particularly when it's at a time when people are home -- it's increasing the chances of an encounter between a homeowner and this would-be thief.

And, that's my concern every day, is that we're going to have a scenario where, with an increase with the amount of guns that now have been applied for, and people are in possession of, we're going to have a scenario where it's just a ticking time bomb that we're waiting-- I'm hoping it never does happen, but that's the fear and concern that I have.

MR. MUSELLA: Certainly when people are home, there's a potential for disaster and tragedy.

But, it should be-- Home burglary should be second-degree whether someone's home or not. It's a dwelling; people live there; you should be presumed there's going to be people in the house, especially when they're kicking in the doors to get the key fobs in the middle of the night.

I don't want to steal the thunder of Chief Russo who is going to testify, but I discussed this with Chief Russo last night. I don't have numbers for you, but I'll get you the numbers. But, I know the applications for gun permits, the carry permits in Bergen County, have tripled at least.

There's going to be a situation where an individual -- juvenile or young adult or first offender -- kicks in the front door to get a key fob and a homeowner is going to respond in kind. We had a case in Bergen County -- it wasn't those exact facts and circumstances -- but there was a juvenile who

was basically trying door handles and just going through cars and looking for change, and it was an individual with a handgun who was in his apartment and saw him out the window and instead of calling the police he ran down three flights of stairs and the juvenile ran and the individual shot him in the back three times and collapsed his lung. And, who went to jail was the apartment owner and the car owner. The juvenile was actually arrested later, again, for breaking into cars. But, in this particular case, we did not charge him.

So, there is going to be an incident where an individual is going to be -- an individual, somebody, is going to-- A home invasion, as you know, is a situation, a volatile situation, where someone can and will probably get hurt. And, it's just a matter of time until we're going to see something like that.

MS. SUAREZ: Just a brief--

SENATOR TESTA: Just so the record is clear -- I just want to make it clear, because some things have been stated on the record, and I'm pretending that I'm preparing the record for the appellate division.

So, to be clear: You three are asking this Legislature -- this body -- to amend our current laws to reflect your wishes? Is that correct?

MR. SANTIAGO: Correct.

SENATOR TESTA: I just want to make sure of that, so nobody is under any delusions here today--

MS. SUAREZ: That is correct--

SENATOR TESTA: --as to what you are asking us to do as a Legislature and to strongly consider so that we can better mold our criminal

laws and the Criminal Justice Reform package that's been in existence now since roughly 2015 or so, correct?

MS. SUAREZ: That is correct.

MR. SANTIAGO: Yes.

MR. MUSELLA: Yes.

SENATOR TESTA: Just making sure.

MS. SUAREZ: I want to point out, also, the bill that I believe Prosecutor Santiago referenced was Senator Bucco's bill, the S833, and that one goes directly to what we're discussing.

I think Judge Grant also touched upon making auto theft presumed detention. I think -- I don't want to speak for him -- but I think what he said was, "Presumed detention and on a warrant complaint." That's something else I could strongly advocate, because we're seeing more and more of this.

SENATOR TESTA: Chairman, thank you for your great leniency on me for the amount of questions that I have.

Thank you very much, and thank you so much for your suggestions.

MS. SUAREZ: Thank you.

MR. SANTIAGO: Thank you.

SENATOR STACK: Thank you, Senator Testa.

Senator Gopal.

SENATOR GOPAL: Thank you, Chairman.

Thank you, prosecutors, for all you're doing.

A couple just follow ups, and then some original questions. And, I apologize if some of these questions are naïve; I'm realizing I am the only

non-attorney, besides Chairman Stack -- sorry. We're the only two. So, if these are not sophisticated, I apologize.

So, just on clarity, prosecutor, you said that -- I know that was anecdotal -- what, the individual who was a juvenile was shot -- yes, shot in the back, lungs collapsed, and then they went and robbed -- they did it again a couple weeks later?

MR. MUSELLA: Well, after he was healed, after he recovered. I don't know if it was exactly a couple weeks later, but he was-- It was brought to my attention that that same individual was charged with similar conduct after -- after he--

SENATOR GOPAL: And, how old was that individual?

MR. MUSELLA: He was a juvenile, I believe it was 16, 17, 18. I can get you the information -- the exact information.

SENATOR GOPAL: Now, just -- more curiosity.

So, 30% released, you guys were saying -- Prosecutor Suarez, you were saying to kind of give more discretion to judges, but the judges are also, if I understand this, 50% of the time letting them go.

MS. SUAREZ: In Monmouth County--

SENATOR GOPAL: In Monmouth.

MS. SUAREZ: --that was the statistic.

SENATOR GOPAL: Do you know what it is in Hudson?

MS. SUAREZ: I don't know what it is. I can get that for you.

SENATOR GOPAL: OK, so that varies. It's up to-- And, for clarity, we're talking just about adults, correct? Because juveniles go back to their home county?

MR. MUSELLA: Right.

SENATOR GOPAL: OK.

MR. MUSELLA: In Bergen, it was 68% of the time we had a success rate.

SENATOR GOPAL: Sixty-eight percent; got it.

MR. MUSELLA: Right -- success rate.

SENATOR GOPAL: So, just -- this is -- I know the topic today is on bail reform. The two topics I'm mostly pretty much concerned about are home invasions and car thefts, because that's all Prosecutor Santiago and I are probably on the phone twice a week about a different situation. My office is literally on a call right now with the police chief because a resident in Ocean Township got hit for the third time. So, this is taking up my time nonstop, and I'm very concerned it's going to take up a lot more of my time this summer. Residents-- Our responsibility is to the 9 million-plus residents, that they feel safe. I think everything else is secondary that we're talking about today.

When I got to the Senate in 2018, I was there 2018, 2019, 2020, '21. I think I got my first car theft call sometime probably late '21 or early 2022. If you had to guess -- and, I keep hearing bail reform is working, and we're not talking about bail reform on this specific question, but every time I bring up a clear answer -- why do you think for five years I never got a call about a car theft or home invasion, and that's all I get nonstop in the last 24 months?

MR. MUSELLA: Well, Criminal Justice Reform went into effect in--

MS. SUAREZ: 2017.

MR. MUSELLA: Then there was COVID.

I think the word is out to the career criminals that you can steal a car and you're going to be released that day. And, you can steal another car, and you're going to be released again. I think they know that.

MS. SUAREZ: And, I'm going to go a step further, also.

I think we blame COVID on a lot of different things. Could that be it? I don't see a connection.

I will say this: When-- There was a time when police departments were not allowed to engage in any police chases with a stolen car. They knew about that right away. When I say "they," I mean the individuals. They knew, especially the juveniles. The juveniles knew, hey-- And, they would say to law enforcement officers, "You're not allowed to chase me, I know that," so, and they would--

SENATOR GOPAL: Prosecutor, wasn't that the case 10 years ago?

MS. SUAREZ: There was a change. I believe there was a change, and--

MR. MUSELLA: There was a change, but now--

MS. SUAREZ: --then there was a change back.

MR. MUSELLA: Right.

SENATOR GOPAL: So, we went back and forth. OK.

MR. MUSELLA: (indiscernible)

MS. SUAREZ: Yes, we've changed--

SENATOR GOPAL: But that does not seem to have had any impact or--

MR. MUSELLA: Authorized motor vehicle chases--

SENATOR GOPAL: --deterrents.

MS. SUAREZ: There have been some. I think since the time it was changed back where a police department can engage in a chase, I think there would be-- There has been some change. I don't think it's been dramatic.

MR. MUSELLA: And, respectfully, Senator -- and, again, we're here to talk about Criminal Justice Reform -- but that may coincide with juvenile justice reform. So, we have to look at the dates of that.

MR. SANTIAGO: If I may, I mean, my understanding -- to answer your question, Senator -- there's been a higher demand for stolen vehicles of late.

I recently went to a conference by the National District Attorney's Association that was supposed to be about criminal violence-- Thinking that I was going to go and hear some solution that was solved someplace else in the United States, only to hear that it's an epidemic that's been happening all over. And, I believe the reason for that is there's been a lot more vehicles which are being shipped overseas, the higher demand for that, and because of that issue you're seeing a higher demand for it.

The use of juveniles, knowing that they don't face the same ramifications, has now expounded that. So, that becomes where we're at, and that's why the demand is higher now than we've seen before. That's my opinion based upon my conversations with--

SENATOR GOPAL: Is that consistent around the country? Are there not states where there are harder penalties on juveniles, and are those statistics -- do you know -- the same or different?

MR. SANTIAGO: As Judge Grant indicated, I know-- We were here today talking about Criminal Justice Reform, I know there's a difference

between our juveniles. We do believe we want to rehabilitate juveniles, and I think we all agree that's something that we all strive for, that we want to give juveniles an opportunity to learn from mistakes, not repeat them, and get the services they need. I think we all agree with that.

There's also something that needs to be discussed, which is, there are individuals who employ juveniles as part of a ring, and those juveniles are aware of that. I can speak in particular. We had a juvenile who committed multiple, multiple offenses within Monmouth County, Ocean County, Middlesex, Union -- an individual who was on record saying that he was going to continue doing this because he knew until he was 18 there was no ramification for him. So, there is that concept where there are people who don't fit into rehabilitation and there's no mechanism in which to really deal with them, because car thefts themselves are not waivable offenses. You can't waive up someone simply for a car theft itself. It's got to be, typically, a violent type of offense for that to happen.

MS. SUAREZ: "Waive up" meaning treat a juvenile as an adult.

I want to touch upon just one more thing, and I know for a fact this is true because while we're having the conversation about car thefts, the State Police had brought this up to us.

As crazy as this sounds, there was a TikTok challenge with Kias and -- was it Hyundais? And, there was a real uptick in theft of those vehicles. I'm sure Chief Russo can touch upon that. But, yes, there's been a tremendous increase when there was that challenge going on with TikTok.

MR. MUSELLA: I just want to add that in Bergen County, we -- although we see many of our stolen cars wind up in Newark -- we also see that many of robbery crews, burglary crews, individuals who commit crimes

in Bergen County use stolen cars to commit those crimes. So, the cars are also used -- stolen, to then be used -- to enact another crime.

SENATOR GOPAL: Generally, what percentage of your cases are adults versus juveniles?

MR. MUSELLA: I did not come here with that information today because--

MS. SUAREZ: The vast majority are adults--

MR. MUSELLA: --we were here for Criminal Justice Reform.

MS. SUAREZ: The vast majority are adults.

SENATOR GOPAL: The vast majority are adults?

MS. SUAREZ: Yes, are adults; yes.

I do want to answer a question that you had, and my colleague Prosecutor Santiago found it.

You asked me the question, in terms of our motions, the percentage of motions that are denied is 59.9% in Hudson County, we're dealing with.

SENATOR GOPAL: Seems kind of high.

MR. MUSELLA: That's 60%.

I just want to understand -- I missed the question. When you said the majority are adults in car theft cases?

MS. SUAREZ: Were you asking specifically for car theft cases?

SENATOR GOPAL: Car thefts and home invasions.

MR. MUSELLA: No.

MS. SUAREZ: Oh, yes, I am going to take that back. I'm going to take that back; I thought you meant generally.

SENATOR GOPAL: No, no, no.

MS. SUAREZ: I would have to get you those statistics.

SENATOR STACK: And, the general number that were denied, Prosecutor Suarez, was how much?

MS. SUAREZ: Sorry, I mixed up issues. But, yes, it's almost 60% -- 59.8%.

SENATOR STACK: Thank you.

SENATOR GOPAL: Still want to give more leeway to the judges?

MS. SUAREZ: I'm sorry?

SENATOR GOPAL: It's a joke.

MS. SUAREZ: Do I still want to give more discretion to the judges?

MR. SANTIAGO: I can say, with regards to the home invasions and the car thefts, the majority of them are juveniles.

SENATOR GOPAL: The majority are juveniles.

MR. MUSELLA: I would have to-- I don't have the numbers; I can get you that, but anecdotally, from the conversations I had with police chiefs and the detectives at my office, I would agree that juveniles either commit the large majority of car thefts or are employed by rings and are committing car thefts on behalf of adults.

SENATOR GOPAL: OK.

So, I at least read through these 31 recommendations on the first batch, and if the Legislature does our part on the six or seven, do you feel that at least on the adult side, that that addresses most of the concerns as it relates to adults and car thefts and home-invasion cases?

MR. MUSELLA: I think if you employ a juvenile in a car-theft ring, or employing a juvenile to steal a car -- a second-degree charge -- you're going to see adults not employing juveniles.

SENATOR GOPAL: OK.

And, who determines that? This is probably an ignorant question. Who-- Is it the AOC that does the PSA formula?

MS. SUAREZ: It's an actual formula. Law enforcement, when they make an arrest, they will live scan an individual--

SENATOR GOPAL: But, you were saying earlier, prosecutor, the formula doesn't take into consideration if they were arrested in another state. Who changes that formula? Who decides how that formula gets changed?

MR. MUSELLA: Pre-trial services, but we don't all-- They don't always have that information. From what I--

MR. SANTIAGO: It's an algorithm, as I understand it. So, the algorithm actually has to be changed in order for those things that are not considered presently to amend that, so they are accounted for. It has to be put into the algorithm itself.

SENATOR STEINHARDT: But, if I understand Senator Gopal's question, the original nine prongs, you're asking where they came from and who would amend them. Right, is that--

SENATOR GOPAL: Correct, it's not us, I know that.

SENATOR STEINHARDT: Yes.

MS. SUAREZ: I think it would be, probably, the AOC or it would be--

SENATOR GOPAL: OK.

MS. SUAREZ: Judge Grant would know the answer to that question, I don't know if he's still here.

MR. MUSELLA: But, I think -- respectfully, I think -- when I was sitting and listening to the testimony, I was saying to myself I think as part of the review of Criminal Justice Reform and some of the reforms we're talking about, perhaps the PSA should also be reformed or tweaked or maintained. You have to find that sweet spot, I think, on all these issues. And, again, it's really up to all of us to try and make it better by constantly monitoring this and constantly addressing this.

It's like the snowblower I have. I start that thing up, but I need to prime it; I need to play with the choke; I need to make sure that I put the STP--

MS. SUAREZ: If I could just say something--

MR. MUSELLA: --gas fluid in it, cleaner fluid in it, to make sure that it's running. And, I think that's similar here.

I'm sorry.

MS. SUAREZ: I feel compelled to say this, because I know, Senator Gopal, that you are interested in car theft because that's what really dominates your county--

SENATOR GOPAL: Prosecutor Santiago wants me to stop calling him.

(laughter)

MS. SUAREZ: Probably not true.

I have to speak up for Hudson County, because inasmuch as we have juveniles there that are engaged in thefts and in rings in other counties -- in Hudson County we have the same problem with adults giving either

community guns to minors, or giving guns to minors, and that's where our violent crime comes from. There's such a problem in Hudson County with respect to minors having, possessing guns, shooting guns. And, we're seeing them younger and younger.

And, not to take away from your car thefts, but I feel obligated to say that.

SENATOR GOPAL: One hundred percent. And, I'm hopeful we don't have that problem--

MS. SUAREZ: Yes.

SENATOR GOPAL: --but it very well could come down South Jersey, Central Jersey as well.

Thank you, prosecutors, very much.

MS. SUAREZ: Thank you.

MR. SANTIAGO: Thank you.

SENATOR STACK: Senator Mukherji.

SENATOR MUKHERJI: Thank you, Chairman.

And, through you, welcome prosecutors. Thank you for your service to our communities and keeping us all safe.

So, just for clarification, the report's recommendation as it relates to amending the act, with respect to broadening the discretion of judges and pending charges and things like that, suggest that the presumption of release will be overcome if the defendant is already out on pre-trial release with two or more charges pending. And, I think that's informed by the data that shows us -- I forget what year they're using, 2021 -- 80% of defendants who were already out on pre-trial release without a -- who were -- sorry -- who were not out on pre-trial release with more than one charge pending without

regard -- or, without charges pending, without regard to their prior criminal history, did not re-offend or were not arrested again while out on bail.

Whereas, more than half of the defendants who had -- who were already out on two or more pending charges at the time of this charge were rearrested during their time of pre-trial release.

My question is, is that -- does that reach the things that you're talking about, in terms of overcoming the presumption of release? Or, are you recommending that we go further than the report's recommendations?

MS. SUAREZ: I'll speak for myself.

I think it helps, certainly. I think juvenile justice reform, if we were to have that conversation, is an entirely separate conversation.

MR. SANTIAGO: I agree. It would help. I'm not saying that we have to go, but I think what the recommendations are is that we start off with the fact that if someone is released, there's a presumption now that they're going to be detained.

I think as senator-- As Prosecutor Suarez said, we should fine the same constraints -- if we're filing a violation of monitoring conditions, that that be done in the same time period in which we deal with the initial stuff, so that it's done in a more quicker manner, as opposed to what's done now. So, if we file a violation now, it can linger for much longer than we'd like it to. We're trying to address an issue where somebody is violating conditions of the judges imposed upon them, they violated -- we don't want to wait weeks or months to try and resolve that. We want to get to it right away, as soon as possible.

So, I think--

SENATOR MUKHERJI: I think that's a recommendation for the Judiciary, though.

MR. SANTIAGO: It is.

SENATOR MUKHERJI: I'm just talking about us and amending the act in terms of the statute implementing Criminal Justice Reform that-- What are the recommendations in terms of setting aside the presumption of pre-trial release?

I heard you mention certain categories of offenses, and, sort of, my question is-- The purpose of bail, obviously, is to ensure that public safety and to ensure that the person, the defendant, shows up to court. And, in many ways, while CJR has been successful in doing that, any number of recommendations, as I'm reading the report, have to do with implementation of CJR. But, there are a few narrowly recommending us amending the statute.

And, that point is well taken, but if we -- but those are narrow, and I'm just trying to figure out whether your recommendations to go father than that are basically suggesting that these wouldn't be enough to sort of address the issues you're talking about today.

MS. SUAREZ: OK, you go first.

MR. SANTIAGO: So, I think the one thing that we are -- that's not contained in the report or committee -- is the thing that Prosecutor Suarez was talking about, that there is no presumption right now for certain other violent offenses. For example: Attempted murder. Sometimes the difference between the murder and attempted murder are the great surgeons who are at these trauma centers, who are able to save peoples' lives.

So, there's no difference in the intent; there's no difference in the victims. So, to that aspect, that's not addressed in the report, that's

something that we are saying would be a benefit to Criminal Justice Reform, to look at those violent crimes that are not presumptions.

SENATOR MUKHERJI: And, do you have, or do you think the Judiciary would be able to furnish us with data showing that offenders charged, let's say with attempted murder, are re-offending while out on pre-trial release, such that they're either posing a risk that the PSA didn't catch for some reason -- because it wasn't one of the factors in the PSA -- or we're seeing lower rates of compliance in terms of making their court appearances, things like that?

MS. SUAREZ: We could see if that data exists. I don't have it certainly with me, and I don't know if we keep that type of data in Hudson County.

SENATOR MUKHERJI: OK.

MS. SUAREZ: Could we gather that if we didn't have it? Yes, we could gather it.

SENATOR MUKHERJI: That would be-- That would be helpful.

MS. SUAREZ: I would like to say something, too, Senator Mukherji.

I think in 2017 when this was first implemented, I don't think we could have envisioned some of the problems that we are having today. I don't think we could have envisioned it, because whether it be COVID or mental-health issues, or otherwise, we couldn't have envisioned the problems.

So, to your question directly, I say let's make some fixes; let's change what we know should be changed; and let's revisit this. I don't think

we're ever going to get it 100% correct, because it is fluid, and I think Judge Grant was saying, it is fluid, it needs to be changing and moving.

SENATOR MUKHERJI: Understood. And, it's-- That's helpful.

I want to make sure that as we're reacting to this stuff, just because the plural of anecdote isn't data, and the changes-- I say when we change the statutes it's permanent, but it's never permanent, because we've changed the statutes.

But, it's an evolution. It's an evolving process, but that we don't throw out the baby with the bathwater. We're cognizant of the successes; we still have a long way to go. We still are seeing 15% of this state's population is Black, and more than half of the incarcerated population is Black. So, somewhere the math isn't mathing.

By the same token, we know that there have been some issues with Criminal Justice Reform that we can fix, and that will make the public safer. So long as it's informed by data, by evidence, which I know some of you (indiscernible).

Last question for all of you is, in terms of-- Because there have been a few times when someone has pointed to what would have been Willie Horton-type moment for Criminal Justice Reform, like, "here's someone who committed a heinous crime that was out on pre-trial release."

And, when we're looking at whether they would have been out pre-2017, pre-implementation of bail reform, or now, it wasn't the instance -- although, clearly, it's there; Senator Testa raised, and Judge Grant testified earlier that the percentage of pre-trial detention motions that are denied by the judges. But, in each of these instances -- close to a dozen that I recall we

were looking at in the counterpart committee to this one in the other house last year or the year before -- that the APs in those cases hadn't requested detention.

So, I noticed the number of times I saw the word "training" in the recommendation section of this report, in those pages, and it was a bunch of times. And, it wasn't just about prosecutors. It was to the Judiciary about the PSAs; about the enumerated risk factors; but, also, the prosecutors; and even to public defenders advocating for their clients.

How far do you think those recommendations, if implemented, will go toward making sure that we're arguing for detention in all the cases that we should be? And then, how much would you put on the courts and Judicial discretion not being afforded the breadth it should be because-- And, that's why they're denying those motions.

You know, but just based on what you're experiencing day to day -- not asking for numbers or percentages or anything like that.

MS. SUAREZ: So, I want to let you know I had the same observation you did, Senator, and I actually did a word search. And, the word "train" or "training" came up about 48 times in the document.

SENATOR MUKHERJI: Wow.

MS. SUAREZ: Because everything seemed like "training, training, training." And, while that certainly is a solution, it was-- We have to trust and believe. And, I trust and believe that my assistant prosecutors are moving for detention every time they should be asking for it.

And, I would go a step further to say that sometimes detention is not appropriate, and you can overcome that presumption, and they're required to go to either me or my first assistant. I know they do that.

So, it's not to say we're 100% and it's not to say we don't make mistakes. I would never say that. But, I will say I *do* trust and believe that every time they're required or able to, they do it.

MR. MUSELLA: And, I was going to say I totally trust in the discretion of my assistant prosecutors and the intake unit. My Chief of Intake Unit Dion Findley has been a career prosecutor. He has been in the office 25 years. Pia Shepard, who argues the detention motions on a daily basis, she's been in the office 25 years. They're two of my most senior people who I have in that unit. That's why, again, when we move for detention we're serious about detention. I think the judges know that, and I think that's why we're successful on 80% of the cases.

So, I think training is good, and I welcome training.

SENATOR MUKHERJI: Sorry, Prosecutor, you're successful on 80% of your detention--

MR. MUSELLA: Eighty percent of the time we move for detention in Bergen. I believe that was the number I gave you, it was--

SENATOR MUKHERJI: Yes--

MR. MUSELLA: I'm sorry, 68% of the time -- 68%.

SENATOR MUKHERJI: That's still-- That's still good, right? That sounds like, in the cases that the PSA should be working, that it's being applied effectively in Bergen County.

MR. MUSELLA: Yes, the state average was 58.7%, but we were successful in 68.8% percent -- so almost 70%.

But that, again-- I think that goes to show the experience of the assistant prosecutors in that unit. I think it also is a credibility. You get to build a rapport with the detention judges as well, and they see, then, the kind

of cases we bring in front of them. And, I believe, again, my colleagues, the same thing, but maybe in the other counties -- especially Hudson, based on just volume, the sheer volume of the matters--

SENATOR MUKHERJI: OK.

MR. MUSELLA: I mean, right?

SENATOR MUKHERJI: It's very helpful.

MR. SANTIAGO: I think some of this also had to do with each of us have different judges in our counties, right? So, it depends. In one county you may have a number of judges who do it. You may have one who -- only one judge does all of the decisions -- good, bad, or indifferent. Just, each vicinage is maybe done a little bit differently. So, in Monmouth, we particularly only have one judge who does all of the detention hearings.

But, there does come a point where, through practice, those APs know, "I've asked for detention 15 times from the judge on these cases; I'm not going to bother asking for it this time because the PSA score is what it is. I've asked for it every single time, and it gets denied." So, there is that kind of give and take where you do learn.

Now, in cases where we-- Again, I agree with my colleagues here, we ask for them on the cases that we believe are ones that need to be detained. I know the public defender will probably disagree with that -- that we probably ask for too much. And, that's OK. That's why we're here for, to have this debate.

In cases where we are not successful, they come to us and we'll make the decision whether we want to appeal. There is a mechanism allowing us to then seek an appeal -- an immediate appeal -- this way another judge in

the appellate division will have a chance to review it, and if there's a circumstance where that's there, we can also ask for Supreme Court.

So, there are some checks within the Judicial system that allows us to do that. But, I just wanted to be on the record that every county is a little different because of how they are structured.

MR. MUSELLA: And, crime is different in every county as well.

And, speaking as, from a defense attorney -- and again, I don't wish to speak for Esther -- but, I know violent crime is more of an issue in Hudson County than in Bergen County. So, maybe the bar is higher--

SENATOR MUKHERJI: You know it.

MR. MUSELLA: --in Hudson County, with regard to who is going to be detained and who is not going to be detained, based on--

MS. SUAREZ: Senator, I also want to say--

SENATOR STACK: The fact that -- I'm sorry, Prosecutor Suarez.

The fact that somebody in Hudson County -- whoever it is in New Jersey -- can commit a violent crime and not be held is just unbelievable to me. It's just unbelievable, the fact that somebody could commit a violent crime in Hudson County -- I'm not saying we don't have violent crime in North Hudson, because we do.

But, the fact that some of the same neighborhoods in Jersey City suffer with crime over, and over, and over again. I understand that everyone has rights, but what about the people who live in those neighborhoods in Jersey City and in different parts of the county who were terrorized day in and day out by drug dealers, by violent criminals? Yes, the rights of the-- I understand, everyone has rights. But, what about the rights of the people

who live in that neighborhood? What about the rights of the children who walk to school every day in those neighborhoods? They try to go to the corner store without getting shot; stabbed; mugged. It's just, it's unheard of.

We had a situation where I had a gentleman -- an immigrant -- back in November in Union City, goes to Dunkin' Donuts at 3 o'clock in the morning. He was going to work. Seventy-eight years old, going to work. He has some interaction, I saw it in the police camera with an actor. The person pushes him; he winds up throwing his coffee at the person; they knock him over. He's a 78-year-old man, and he's stomped on his head, and the man died the next day.

Talk about the rights-- What about the rights of that man and his family who are forever changed, forever? I went to the service for the gentleman when he died. His wife is actually moving back to Mexico. These people worked their whole lives; lived in the United States for 37 years. I mean, I understand, everyone has rights; and I say it again. But, the rights of the victim have to prevail and come above who is committing these crimes.

And, it's usually not-- These aren't the first time they committed a crime. The individual who committed that crime had charges in New York City and everywhere else. And, they come across and they commit a crime here. What do I say to the-- I don't even know what to say to the gentleman's wife and his poor children. I couldn't even talk to them. The grandchildren sitting there crying that their grandfather is gone at a point in his life when he should be enjoying his life.

So, the rights of the victim and the rights of the public have to come first.

And, I'm sorry to interrupt you.

MR. MUSELLA: Thank you, Chairman.

SENATOR STACK: I'm sorry, Prosecutor Suarez.

MS. SUAREZ: I lost my train of thought--

SENATOR STACK: I'm sorry about that.

MS. SUAREZ: I know exactly what case you're referring to, and that was particularly brutal. It was brutal to watch that video.

And, you are absolutely right. I often find myself having to explain to victims how this could happen, why this could be. I understand. We do try to balance it. In that particular case, there was-- There were some complications with that defendant. But, it was very, very brutal, and it was terrible. It still is terrible, and I'm sure the family is still suffering as a result.

SENATOR STACK: And, Senator Testa said it before. When there are no consequences-- When there are no consequences and the juvenile knows they can go out and commit a crime--

I had a situation stealing catalytic converters, so we got a plate. I was super happy when the police department told me, "Mayor, we got a plate." We ran the plate -- stolen out of Manhattan. A Rolls Royce SUV, mind you -- a Rolls Royce SUV stealing catalytic converters. I mean, it's outrageous. The people who they're stealing the catalytic converters from-- I have to help them from my civic association. This is no word of a lie -- may God strike me dead -- to buy a new catalytic converter for their car. And, I'm embarrassed as the mayor that that's happening in *my* community.

So, again, the rights of the victim.

I'm sorry, Senator Bramnick.

Oh, I'm sorry, Senator Mukherji, were you still--

SENATOR MUKHERJI: Yes, just one point, Senator.

SENATOR STACK: I apologize for cutting in.

SENATOR MUKHERJI: No, no, it's all right.

I just think it's worth mentioning to the public that it is not typical for constituent services for senators to replace catalytic converters for their constituents. And, I don't want to mislead the public, Chairman.

(laughter)

SENATOR STACK: I'll be getting calls left and right, "Can you buy me a new catalytic converter?"

MS. SUAREZ: He's worried he'll be getting the calls.

SENATOR STACK: I'll send them down to Senator Testa.

(laughter)

Were you finished, Senator Mukherji?

SENATOR MUKHERJI: Yes, Chairman.

SENATOR STACK: I'm sorry.

Senator Bramnick.

SENATOR BRAMNICK: So, Governor Hochul, who is a Democratic governor, sent state police and National Guard into the subway. I don't think it's a figment of our imagination that crime has increased.

The question sometimes is, "Are we afraid of the political consequences of doing the same in New Jersey?" It seems to me that, at some point in time, not only do you need to increase the penalty, but you need to call upon help for law enforcement.

What is the state of law enforcement's belief in the system? How do they feel as to what they are seeing? Because I'm sure you hear from police officers all the time.

MR. MUSELLA: Chief Russo is here, and I'm sure he's going to tell you, because I have had conversations with him.

I think police are frustrated. I think the chiefs are frustrated--

SENATOR BRAMNICK: So, let me follow up--

MR. MUSELLA: Sometimes, they're frustrated with--

SENATOR BRAMNICK: Let's assume -- I'll stipulate--

MR. MUSELLA: --sometimes they're frustrated with our office.

SENATOR BRAMNICK: --I'll stipulate the--

MR. MUSELLA: But, we're doing our best.

SENATOR BRAMNICK: I'll stipulate that Chief Russo believes that police officers are somewhat demoralized as to what they see.

So, what's the consequences of police officers who feel their efforts are fruitless when it comes to the system? Does that or does that not affect them doing their job day to day?

MR. MUSELLA: I will tell you in Bergen County, Senator, where we have 70 towns, we have 70 police chiefs; we meet with our police chiefs once a month. I go to breakfast with several of them in South Bergen weekly, or bi-weekly. And, I can tell you, although the police in Bergen -- the police chiefs and the police officers of Bergen County are certainly demoralized by some of what we've discussed here today, they are doing their job every day; they continue to do their job; they continue to support my office; and I have nothing but respect for all 3,000 police officers in Bergen County.

And, I'll tell you, they continue to do their job in the face of this, and--

SENATOR BRAMNICK: I'm not questioning whether they're doing their job. I'm sure they are. But it has some effect.

So, now we've had some conclusions here. It's difficult for prosecutors based on -- and, not necessarily bail reform, but basically the law itself and the consequences. We see police officers are frustrated, and we see that the citizens are in fear. That means the State Legislature has to act.

Thank you.

MS. SUAREZ: I just want to touch upon one thing.

I think what we're seeing -- at least in Hudson County -- there's a drain on talent. There are people who no longer want to be police officers when they used to hold that in very high regard, and, I think the same is true for assistant prosecutors. I think it's very unpopular to be a prosecutor, an assistant prosecutor, at this point now, whereas at a time that was an extremely popular position, and something that was very desirable.

SENATOR BRAMNICK: Thank you.

SENATOR STACK: Just to tie into what the prosecutor just said is that we're having a test-- We have a test obviously right now, the statewide test. And, we're actually putting notices under the doors and mailing them out to people who are interested in becoming a police officer.

Most years in Union City, as my time as the mayor, we put out for a police test and we would get 400, 500 men and women. The last time I did a test, I got 41. And, I had 15 openings -- I only got 41 people actually to take the test, which is just unheard of.

I'm sorry -- Senator Testa.

SENATOR TESTA: Madam Prosecutor, I appreciate your comment.

And, I don't want to put words into your mouth, so I want to ask you a question. It sounds to me like you're saying there's a chilling effect in place now, that individuals who are otherwise highly qualified to either be a police officer or an assistant prosecutor are not pursuing that avenue of employment. Is that correct?

MS. SUAREZ: I would use the words "chilling effect" for something else. I would not use it in this case, only because anytime I've used those words, it's been for something very dramatic.

And, it's not to say that this isn't serious. It's to say that we are beginning to see it. And, I am hoping that-- And, I don't know how long Senator Stack, the Chairman, has been seeing that problem. We are seeing it for sure in my office, and I am seeing it within some of the municipalities of late.

I am going to reserve those words, "chilling effect," for a later time.

SENATOR TESTA: So, what do you attribute that to? And, what I mean by "that" is otherwise qualified individuals for law enforcement or for becoming an assistant prosecutor are not pursuing that avenue of work.

MS. SUAREZ: I would attribute it to a number of different things.

I think we're just seeing a drain in talent in general. I don't have nearly the number of people applying to my office that I had once seen, and I am not limiting that to assistant prosecutors. I am expanding that to include also maybe some of the detectives and some of the clerical.

But, along with that, we're seeing it with the police departments in Hudson County as well. I would attribute that, possibly, to the wave. I'm

always-- We discuss waves sometimes, and maybe there was a wave where it was more desirable to be in a prosecutor's office, and I would say that the wave right now is not to be in a prosecutor's office.

And, I don't want to speak for my colleagues in the public defender's office. I would be curious to know if they've gotten an increase in any of -- in any of the resumes that they're receiving. We are receiving far fewer. And, I don't think I'm alone in this. I think a lot of prosecutor's offices in general are seeing more individuals resigning and fewer resumes coming in the door.

SENATOR TESTA: Same question to the other two county prosecutors.

And, I'll be clear on this. I'll say this: From my discussions with either chiefs of police; county prosecutors; chiefs of county prosecutor's detective; there seems to have been, over the past number of years, a vilification of law enforcement in our nation, at least from their perspective. And, there's also been the belief -- and, Senator Stack, I think you've said this in prior hearings -- and, again, I don't want to put words in your mouth either -- that the handcuffs have been placed on law enforcement at times. That they're not able to perform the traditional duties of their job.

So, those are my words, not yours, and we have two other county prosecutors. Do you agree or disagree with what I just said?

MR. SANTIAGO: I mean, I sense there is an enormous frustration in law enforcement. It's across the board.

Similarly, you know-- And, we had the opportunity to go to Congress to ask for particular issues on trying to get funding for retention and recruitment for prosecutors, because it's also -- once again -- not just an

issue here, it's a nationwide problem that I think other offices are experiencing as well.

The numbers are not what they used to be. The number of applicants applying to become police officers are not what they used to be. I've heard many, many chiefs tell me similar circumstances where they've had lists that would go on, and on, and on, and now they can't even fill the list. So, there is certainly a change in the individuals who are seeking careers in law enforcement, and we are looking at what can we do to try and make sure that we can make sure people know that this is a public service. People don't go into this career to make money. They do it because they want to do good. They want to be public servants, but they also have to have the ability to have the resources to pay for their standard of living, to be able to feed them and pay for homes.

So, the financial aspect is certainly one issue that we see. People are not looking to come into the public sector. A lot of it is a lot of demand. I mean, the police officers who we deal with-- There's more on them today than there used to be, and you'll hear that from other officers who have been on the job for many, many years. But, they still, they show up and they say, "What can we do?" Giving them the resources that allows them to not have to deal with everything.

So, the Attorney General did the "Arrive Together" program to try and bring some mental health to law enforcement; to try and take that equation off, because we can't ask law enforcement to be law enforcement and mental health and social workers in crisis. So, giving police officers the resources that they need would be a huge benefit so that they have it when

they need it, so that it's not all on them to make those decisions in those split seconds.

But, I think public awareness of the hard duty that law enforcement do day in and day out, and the split-second decisions they have to make -- I think we try to do a better job of making sure we are their voices and we can say they are doing what we've asked them to, and above and beyond. And, accountability is also a big part of what they're looking at. And, every officer who I've spoken to would agree that holding officers accountable for their actions-- They agree with 1,000%. But, they don't want to be stained with the wrong image, also, that one bad actor who happens to be in law enforcement should now be the distinction for every single law-enforcement officer.

So, I do concede that that's what's been going on, at least in my office as well.

MR. MUSELLA: I will defer to Chief Russo with regard to enrollment among the ranks in the local police departments.

I can tell you I know that -- anecdotally, I don't have numbers -- but again, enrollment is down at the police academy. Within our office, we're down five assistant prosecutors, and I believe we're down about 10 detectives. We-- We get a lot of resumes; we are interviewing. It is down from the numbers that we used to get. I can tell you it may have to do with pay. I know especially among minority candidates we have a very, very difficult time recruiting minority candidates because they can just make much more money in law firms than they can in the public sector.

So, that is one area where we definitely see we are struggling in. But, I would agree with my colleagues. Definitely we used to get many more

resumes than we do get, and we're -- it's -- we're trying to get the law clerks, but we can't talk to the law clerks until September, so that's another-- But, a lot of times they get scooped up by other law firms before then because they're looking for a job as well.

But, I think, certainly-- Again, we have to-- If we can attract them by higher salaries, the benefits is definitely an attractive thing to a young attorney. We have loan forgiveness after 10 years. So, I mean, there are things that are attractive, but it really has to come from them, it really has to be -- they want to be in public service, and that comes from, I guess, the public's opinion of police officers and prosecutors.

And, I think-- Listen, I go to work every day, I love my job. I think we all do. I think the assistant prosecutors in my office are some of the hardest working people, most dedicated people. Same thing with law-enforcement side. And, they're special people, and those people are out there. And, we just have to continue to do the right thing every day and we'll attract them and we'll get them -- you know, the pendulum swings, the pendulum swings, right?

SENATOR TESTA: I certainly hope so, because I know through my local police departments there's been such an effort made with community policing to build back that level of trust--

MR. MUSELLA: Yes, sure.

SENATOR TESTA: --between law enforcement and the communities in which they serve. And, it just doesn't seem like the tide is turning, in my opinion, quickly enough, because we're having those problems with the county prosecutor's office being able to not only have retention of

assistant prosecutors, but be able to attract assistant prosecutors and detectives into the department.

So, it's -- obviously, we have a lot of work to do together. I know we're working in a bipartisan manner, but we also, as Senator Stack said, we have to keep our mind on the victims of crimes in the State of New Jersey. And, you three have been great in all of your answers, but I know what's coming.

So, I'll leave it at that. Thank you.

MR. MUSELLA: So, additional funding for assistant prosecutors and police officers, right?

SENATOR STACK: Do members have any questions at this time? (no response)

Thank you very much; thank you for your testimony.

MS. SUAREZ: Thank you.

MR. SANTIAGO: Thank you.

MR. MUSELLA: Thank you.

MR. LORETTE: The next scheduled panelist is actually just a panel of one. We have, representing law enforcement, John Russo, the Chief of the Rutherford Police Department, as well as the President-Elect of the New Jersey State Association of Chiefs of Police.

You can start.

JOHN RUSSO: Good afternoon Chairman Stack; esteemed Committee members.

My name is John Russo. I am the Chief of Police with the Rutherford Police Department. I am also the incoming President of the New Jersey State Association of Chiefs of Police.

On behalf of the over 500 law-enforcement executives who make up our membership, I would like to thank you for this opportunity to share law enforcement's factual and anecdotal views pertaining to the impact that New Jersey's Criminal Justice Reform Act has had on the state's overall public safety. And, this is from a ground level.

I do believe criminal justice reform has addressed the core concern from the committee's March 2014 comprehensive report, which described a system where defendants charged with less serious offenses and pose little risk of flight or danger to the community too often remained in jail prior to trial, unable to post modest monetary bail amounts, and other defendants who faced more serious charges and had access to funds were able to secure release, even if they are a danger to the community. This is something law enforcement as a whole will firmly agree was a good foundation, and has corrected disparities among our communities.

However, we believe that, as a result of the focus to mitigate the role of financial resources in regards to who stays committed in jail and who is released, a strong obligation to public safety was lost. We also believe there is an over-tolerance towards lower quality of life repeat offenses.

As Senator Testa mentioned earlier, for the past several years we have done all we can to educate our residents to stop leaving their vehicles unlocked, and stop leaving their keys and fobs inside those vehicles. I believe we have made progress with that request. Unfortunately, the market for stolen motor vehicles remains high, and now, with securely locked vehicles parked in driveways, the criminal element is resorting to home invasions to accomplish their goals.

Motor vehicle thefts continue to rise at an alarming rate -- 16,642 in 2023 alone; 2021 saw a yearly increase of motor vehicle thefts of 22%; 2022 saw an additional 10%; and 2023 saw a 5% increase. Home invasions, or occupied-dwelling burglaries, have become more frequent. And, these are directly related to motor vehicle thefts.

As these home invasions become more commonplace, it is only a matter of time before these events turn violent. Whether that is at the hands of the criminal, or at the hands of the homeowner, that is not something that can be acceptable in society. That's not fair to our victims; it's not fair to law enforcement in our communities. It's not even fair to the criminals who are committing the acts. Burglary of an occupied dwelling should not be treated the same as a burglary to a shed or a motor vehicle. We have a duty to do all we can to prevent incidents like this, and that starts with a collaborative, informed, and proactive approach between all branches of government.

Law enforcement would like to see consideration of increased grading and increased presumptions of detention for motor vehicle theft and burglary statutes -- especially burglaries to occupied structures. We would like to see more consistent sentencing and plea bargaining across the state; and, we would also like to see the definition of what constitutes a repeat offender within criminal justice reform enhanced. Taken at face value, these are property crimes. However, we believe that motor vehicle theft and burglary to dwellings specifically represent something more sinister and problematic for our communities.

In closing, I would like to stress that now is a time to act. When law enforcement executives across the state agree that what we are seeing is not trending favorably and will have dire consequences, odds are we are going

to be proven correct. I will offer continued partnership with New Jersey State Association of Chiefs of Police to this Committee, as well as to my fellow speakers here today, to get this right and to make the needed amendments to criminal justice reform that will ensure public safety and quality-of-life concerns are enhanced.

So, Chairman Stack, senators, thank you for allowing me to share law enforcement's perspective, experience, and expertise.

I will stay available and hopefully try to answer any questions you have for me.

Thank you.

SENATOR STACK: Thank you, Chief.

Questions from members?

SENATOR STEINHARDT: I don't have any questions, Chairman, just a thank you.

Thank you from my community to you and your colleagues for the work that you do to protect and keep us all safe, that's it. It's a tough time to be in law enforcement in this day and age, and I agree with your comments.

Thank you.

MR. RUSSO: Thank you.

SENATOR GOPAL: I guess everyone is tired.

Thank you, Chief.

SENATOR CORRADO: Chairman--

SENATOR GOPAL: Oh, I'm sorry.

Senator Corrado.

SENATOR CORRADO: Just a quick question.

Chief, did you have anybody from your association that was part of the review committee?

MR. RUSSO: I believe the president at the time, Chief Tom Dellane, from Stafford, who just retired last week.

SENATOR CORRADO: Do you think that your concerns were included or addressed?

And, I know we're talking almost two different topics at this point -- bail reform and then the penalty enhancements. We kind of transitioned into a separate topic, which we -- is all part of the issue, and we agree has to be addressed.

MR. RUSSO: Well, I know he had a voice at the table.

SENATOR CORRADO: OK.

MR. RUSSO: Whether or not his concerns are addressed, I guess, we will soon see.

SENATOR CORRADO: And, I appreciate what you do, too.

And, I mentioned this earlier, that it's a little bit different from us because we hear from our chiefs almost on a daily basis from all of our communities about their frustrations and what can we do to fix it. And, you've mentioned some of the things that the prosecutors did, and I think that's really important information that we're all looking to do that. And, I think we can all agree, too.

In your experience, are you seeing an increase in juvenile activity as well?

MR. RUSSO: Absolutely. We are seeing an increase in quite a few different areas that are problematic and disturbing to me. I think with some minor adjustments, we can have some tremendous strides forward.

But, hopefully-- And, my colleagues before me, I apologize for reiterating some of the comments that were made, but we're all on the same page, and we're seeing the same thing. I get to hear a little bit more from the ground-level officers, the officers out on the street every day, and it's consistent. From what I'm hearing from my officers, what 500 chiefs are telling me they're hearing from their officers, it's all the same, and there has to be something to that. They get it; we get it. And, I'm hoping that we make some--

SENATOR CORRADO: Thank you again.

MR. RUSSO: --positive things.

SENATOR CORRADO: I know; I do, too. I go to our chiefs meetings in my counties and I talk to our police men and women on a daily basis, what they're dealing with and their frustrations. We've made it tough on them. And, some of it's not us. Some of it is directives from the AG's office. We've never had as many directives over the past few years, if we take a look back in prior administrations. And, it's made it difficult for you to do your job.

So, we appreciate that you continue to serve and protect.

Thank you.

MR. RUSSO: Thank you.

SENATOR GOPAL: Chief, are there more resources from the State, as far as on license plate readers or other things to try to help police departments throughout the state? I know a lot of this right now falls locally; there's some grants available at county and state. But, is there any big discrepancy you're seeing, as far as actual resources to help combat--

MR. RUSSO: No--

SENATOR GOPAL: I know we're not talking about bail reform. We're talking about overall -- again, my obsession with car thefts and home invasions.

MR. RUSSO: So, technology is advancing at light speed, and some of it has been great for law enforcement. Obviously, there is a price tag associated with all of that.

But, if you look at what was done with the shooting incidents in the state last year-- I know the State Police and the Lieutenant Colonel have that under 1,000, UIK initiative, and they came in underneath 1,000 shootings -- significantly underneath. I think that was based on data and technology-specific enforcement. We were looking at what the computer models were showing. We looked at some of these prime candidates -- who their associates were; where they were; and we were getting that information through ALPR readers. And, we were-- We saw the positive benefits to that.

However, shooting incidents are significantly lower than motor vehicle thefts in the state, so that type of approach is going to be somewhat more difficult to do. I think we're going to need-- It's our opinion, we're going to need more support from the courts in terms of sentencing and plea bargaining so we can understand better repeat offenders, what they are.

SENATOR GOPAL: Thank you; thank you, Chief.

MR. RUSSO: Thank you.

SENATOR GOPAL: Next up, New Jersey Public Defender Jennifer Sellitti.

JENNIFER N. SELLITTI, Esq.: Good afternoon, everyone.

So, I was sworn into this position five weeks ago. And, since day one, I have kind of put my foot on the gas and hit the pedal to the metal to

do one thing -- and, that is to make New Jersey a national leader in holistic defense.

In traditional public defense, we are case-centered. In holistic defense, we are client centered, which means that in a holistic model, a client's life goals are prioritized, even when they conflict with legal outcomes. This means they receive not only legal representation in courtrooms, but assistance in addressing the root causes of the harm they may have caused to others and to themselves. And, I believe that this is a model that can get clients access to the services that they need so that we can improve outcomes under the CJRA.

You know, people always think of police and prosecutors when they think of public safety. But, I want you to think of the public defense system as something that can make our public safer. Public defenders meet people as soon as they are arrested. We meet them when they are at moments of crisis; we meet them *right after* an offense has taken place. And, we're able to work with them confidentially to understand their goals and their needs and to serve as guides to the system.

I have reviewed this report. You know that our office voted for the recommendations in the report. And, there are a number of them that talk about moving pre-trial services and service plans out to other agencies, other entities. And, what I want to suggest to you today is that we make some investment in the public defender system. In order for us to be able to provide those services to our clients by constructing release plans with our clients and presenting them to the court.

Before I talk about how that works, I do want to just address some of the things that I've heard this morning and this afternoon about bail

reform, generally. Because it's been a lightning rod of frustration, and I've heard a lot of people say things like, "I feel this is happening," and, "It seems like this is happening," and, "Anecdotally, this is happening." But that is not borne out by data.

The truth is that crime is down. The truth is that more people are reporting to court than ever before. The truth is that people on pre-trial release are not as responsible for violent crime as they once were.

There are some other truths. I heard people, and I saw peoples' faces when they said, when we looked at judges denying detention motions 60% of the time. There are a lot of reasons for that. One of them is that people who are arrested are presumed innocent, and there's an adversarial process where a defense attorney and a prosecutor go into the room and try to convince the judge to hold that person. It's up to the State to make that burden, and, if they don't meet the burden, the judge is not going to hold the individual, because there may be things about that case or things about that person that the judge is seeing.

I've heard people talk this morning about the PSA, and how it doesn't include this or that. That is a scientific instrument; it's a scientific tool that was developed to do a certain thing, and, that is to provide all the parties to the case with a baseline. And, then, prosecutors can present anything they want -- out-of-state records; juvenile history; anything else to the court in order to persuade them to detain an individual. So, this whole notion that there are things outside the PSA is really not accurate. Courts are hearing these things all the time.

So, I do want to kind of go back to this idea of how a new model of public defense delivery can help. Because we know that certain things

don't work, right? We know over-incarcerating people doesn't work; we know holding people pre-trial doesn't work; we know increasing penalties and mandatory minimums doesn't work. I mean, I lived through the '80s and the '90s. Those things don't work.

So, I think it's time for something new -- not something unproven -- but something new in New Jersey. And, that's innovative delivery on defense-led systems; because, the truth is that until issues like housing; physical illness; mental illness; substance-use disorders; and unemployment are addressed, the people we represent will be less able to move away from the criminal legal system.

This year, our office is going to embark on a pilot program of client advocates, embedding non-lawyer advocates working in teams with attorneys in three of our 21 counties. The counties are Hudson, Monmouth, and Atlantic counties, and those will be where the pilots will be. Because the truth is that services exist, but it's no one's job within our office -- and it never has been -- to connect our clients to the services that they need.

And, programs like these work. The defender-led advocate program, it was started in the Defenders Association of Philadelphia in 2017, where bail advocates were added to pre-trial teams. It reduced clients' likelihood of bail violation by 65%, and it decreased the re-arrest rate by 29%. Just by putting two non-lawyers on a team to work with clients and get them the services that they need.

And, why does it work? It works because our clients trust us. They have a relationship with us that is enshrined in full legally protective confidentiality, and it fosters an environment of honesty. They will tell us things they will not tell an external service provider. They will tell us things

that they will not tell a court. We should be the ones constructing these release plans and giving our clients the ability to access all the services in the community -- not just those offered by big corporations, but all the services in a community -- cobble those plans together, present them to the court; plans that would address the client's individual needs and allow our clients to comply with those plans on pre-trial release. It has worked in Philadelphia, and it has worked in 35 different public defender jurisdictions across the state. All of that research is cited in the written materials I've provided to you.

So, I am asking this court to invest. As we're looking at funding police, and we're looking at funding prosecutors, that you look to the public defender's office as an organization that is equally committed to public safety, and that you fund some of these programs. And, we do want to make sure that these programs work, so we are also partnered with Stanford University and the University of Pennsylvania, that is going to be doing a study of our three-county pilot program to show the kinds of numbers that we expect to see and that we have seen in 35 places across the country.

I do very briefly want to mention Recommendation 29, which Vice Chair Pou had written into -- has written into law. I believe the bill is S2437, which mirrors Recommendation 29. This would allow our office to take over criminal complaint cases -- contempt cases, sorry -- violations of restraining orders. But, I would ask you to read my written comments about the amendment that we're suggesting to that bill, because I believe adding social workers and advocates to that program is a comprehensive and holistic solution to problems of domestic violence, and it is one supported not just by our office, but by our partners in the domestic violence survivor

community and elsewhere. And, I think it's a great place for us to come together and show that these holistic programs work.

So, with that, I'm happy to take any questions or comments or -- anything.

SENATOR GOPAL: A couple questions.

MS. SELLITTI: OK.

SENATOR GOPAL: Just to go back, when you say crime is down, what does that mean? What year versus what year are you comparing that to? Are you talking about violent crime, or all crime overall--

MS. SELLITTI: All of it. According to the Attorney General's numbers, according to most reports that were written by all sorts of outlets, but if you look at the Attorney General's numbers that are cited in both my written materials and Alex Shalom, I believe, from the ACLU, has a link to--

SENATOR GOPAL: What's the time period?

MS. SELLITTI: I believe it's the most recent Attorney General data -- 2022.

SENATOR GOPAL: So, are we comparing '22 to '23?

MS. SELLITTI: Twenty-three to '22.

SENATOR GOPAL: OK, what about--

MS. SELLITTI: Sorry, I didn't get backup.

SENATOR GOPAL: Right.

What about, like -- I'm concerned about the last five, 10 years, not the last 12 months. Obviously we've done a lot over the last 12 months, but do you have the data year-by-year, category-by-category?

MS. SELLITTI: I can get you a breakout of category-by-category -- it's the best we can, by categories.

But, since bail reform has been implemented, crime has gone down in the State of New Jersey.

SENATOR GOPAL: Since 2017?

MS. SELLITTI: Since 2017.

SENATOR GOPAL: So, the numbers from 2010 to 2017, you're saying are higher than they are from 2017 to 2024?

MS. SELLITTI: I have to look at the 2010 -- in that range, look at those numbers.

I am specifically referring to the provisions of the report that talk about--

SENATOR GOPAL: OK.

MS. SELLITTI: --from the implementation of bail reform now, we've seen a drop in those crimes.

SENATOR GOPAL: The second area, you said the prosecutors were talking about how they've had -- and, I know you kind of -- I'm not saying defending, I'm not putting words in your mouth -- but defending the 60% or whatever the percentage is in the respective counties. The prosecutors had mentioned that they had a number of folks who were let go in those processes, that *did* go and commit a crime after that.

Do you think there's any tools that can be done in place during that original time to make sure that there's not another victim that happened soon after that?

MS. SELLITTI: So, I think a couple of things.

So, first, yes. There is -- as everybody has said before -- there are always going to be cases where somebody gets out. It will *never* be a perfect system. The only perfect system is to lock everybody up.

However, I do think this gap of pre-trial services is a problem. And, I don't say that as like a fluffy, "I'm a public defender, I want to hug everybody and give them services." I'm saying that because we know that it works when a person has a service plan and there is a lawyer working in a team with someone who is responsible for helping coordinate services for a client that address individual needs. Those clients, those people, are less likely to violate the conditions of their bail; they are less likely to commit a crime -- another crime.

SENATOR GOPAL: I think your plan is great. I think we need to do all that with the mental health. I just think that-- Look, and you know, probably your appointment as State Public Defender is no appointment I worked harder on, and we have a great relationship outside of this.

But, I could never think of talking to a victim who had a repeat offense, and somebody who committed a violent crime somewhere else, and our system in New Jersey, for whatever reason, allows that person to go out and they commit *another* violent crime -- I don't know what I could ever say to that family.

MS. SELLITTI: You're talking about people who have committed a violent crime and then have gotten out and committed another violent crime?

SENATOR GOPAL: Correct.

MS. SELLITTI: Because, we-- What we're seeing, and according to the CJRA report, was that we are talking less than 2%. It was 1% of people released on pre-trial release are committing a violent offense.

SENATOR GOPAL: OK--

MS. SELLITTI: And, look--

SENATOR GOPAL: I've got to go back and listen--

MS. SELLITTI: --I am not minimizing

SENATOR GOPAL: --that's not the understanding I have from the prosecutor's office. It seemed like it was, from when they were testifying -- I don't think they're still here -- but it seemed like it was more often.

That is my concern. I'm not talking about non-violent offenses, I'm talking about, even-- Obviously I know it takes 'till 25, 'till the brain matures. I know all that stuff. But, the concern I have is when we let out anyone who commits a violent crime, just like the example Chairman Stack gave earlier with the 78-year-old individual who, his head got smashed in, and that person had a number of charges prior to that. How we don't-- We have to do a lot of the stuff that you're saying, that 35 other states have done. I think it's innovative; I think you guys will do a great job; and I'm going to champion it to try to get funding for it. I think it's awesome.

But, that said, we have to make sure that the 9 million residents in New Jersey feel safe and feel protected, and I just think that once someone has committed a violent crime, I think that we really have to be very, very careful as a state, in a system, before we let them out into the public again. That said--

MS. SELLITTI: And, absolutely. And, you would think some of the recommendations that are in here-- Our office voted for these recommendations as well. We were part of the committee that is recommending some of these things.

And, while it is very difficult for me as a public defender to say that we should be locking people up, I think things that are smart -- like temporarily detaining somebody, that (indiscernible) temporarily detain

someone so that we can assess the situation and so that we can get in and maybe provide services or, if that's not the case, reassess detention.

I think we have to be intellectually honest, though, and say the only way to prevent all crime from happening is to lock everybody up. Nobody is suggesting that we do that.

SENATOR GOPAL: No, we're not suggesting that.

MS. SELLITTI: And, we are much safer today in a system where, out of every -- for every story we have about the commission of a violent offense on bail, we have 99 stories about people who have successfully completed (indiscernible).

SENATOR GOPAL: Correct. But, not just violent crime. When you have an individual who has robbed -- gone into a house looking for a key fob, there is a mental-health impact on that family, on the kids living in that house. Somebody has now been intrusive in their home. Their lives change forever every time they go into their driveway.

I think we are not collectively as a state looking at those situations as seriously as we should and making sure, when I'm hearing from police chiefs that there are repeat folks coming to the same neighborhoods over, and over, and over again.

So, I look forward to working with you on all this.

MS. SELLITTI: Thank you.

SENATOR GOPAL: Senator Testa.

SENATOR TESTA: Thank you, Mr. Chairman.

I may have misheard you -- and I hope I misheard you -- because I heard you say something about Philadelphia being the gold standard. Did you say something about Philadelphia being the gold standard--

MS. SELLITTI: I did not call Philadelphia the gold standard, no.

SENATOR TESTA: OK, I just wanted to make sure. I thought I heard that you said Philadelphia is the gold standard for what they're doing concerning bail and things of that nature.

Because, I have to tell you, I have good friends in Philadelphia; I visit Philadelphia often; I was born in Philadelphia. It's a disaster. I mean, it really is. And, it should not be--

SENATOR GOPAL: She didn't call it the gold standard.

MS. SELLITTI: No, I didn't call it the gold standard, I was talking about a very specific program, which is their bail advocate program that puts bail advocates into the pre-trial release setting that works with individuals to develop release plans and ensure their success on pre-trial release.

And, that program has resulted in-- Clients involved in that program are 65% less likely to pick up a bail violation, and 29% likely to commit a new offense while on bail.

SENATOR TESTA: So, if we could flesh this out a little bit, because Governor McGreevey spoke similar about really applying the re-entry services that *he* provides at the pre-trial stage much like the Federal system, which we are told -- I wasn't in office at that point in time -- was the spirit and intent of what Governor Christie wanted Criminal Justice Reform to look like, to be modeled after the Federal standard.

To your knowledge, is what's happening in Philadelphia similar to what happens in our Federal court system, with regards to pre-trial services?

MS. SELLITTI: No, it's different there, and it's also different because money bail is very -- still very much a problem there.

So, I am specifically talking about the kind of this linkage of it being -- services being public defender-led.

I understand what Governor McGreevey was talking about, and he has a wonderful organization that provides wonderful services. But, I do think it is a mistake to have court-mandated service providers, because so many of our clients benefit from a constellation of services that don't always come from one place.

The problem with the current system -- and, this is our fault, I'll put it on us -- I mean, I've been the public defender for five weeks; I'm trying to change all this stuff. But, before five weeks ago, our approach was very much case-based. I think the introduction of advocates into our office, and social workers, which every other statewide public defender agency in the country has social workers -- we do not. Integrating that into our office and into our model allows us to be the people working in concert with our client to create a service plan and go to the court and say, "Please release my client in adherence with this service plan." That should not be done by an external provider, that should be something that's done by the client if the client wants to engage in services, because, pre-trial, clients are innocent. They are presumed innocent, and forcing them to engage in services is really counter to some of our fundamental principles. And, I don't think it's best for the client.

SENATOR TESTA: And, I'm familiar with the Supreme Court language that, obviously, a defendant is cloaked in the shroud of innocence.

So, it sounds like you want this -- you said this constellation of services to be available. I'm also on the budget committee, so I'm going to ask this question, because I know myself and Senator Steinhardt and others in this room -- Senator Sarlo is the Chair of the Senate Budget Appropriations Committee -- who is paying for all of these potential "constellation of services," as you described them?

MS. SELLITTI: So, the services wouldn't be coming from our office. That's really up to you. The Governor's Office I know funds some services; the Legislature provides money to fund services. I'm not talking about giving us money to create services, what I'm talking about is advocates working in our office. They meet with the client; they meet with the attorney; and then they create a service plan based on the services that are currently available in that community.

Where those -- the money for *those* services is coming from, I don't know. Some are self-funded; some are grant funded; some are governmentally funded. I'm talking about us accessing the services that are in the community.

SENATOR GOPAL: Regardless of what happens, Senator Testa, I think it needs to be streamlined. I'm sure we're spending money on a lot of this as-is, with a lot of third parties all throughout the state, and I'm sure streamlining it is an important conversation to have.

Senator Steinhardt.

SENATOR STEINHARDT: Yes, just very briefly; Chairman, thank you.

What I heard from Judge Grant in response to my questions, and those of my colleagues on both sides of the aisle, candidly, is that there's only

selective data being tracked. And, when you're only tracking the statistics that feed the narrative you want, then that's the conclusion you get to draw. What I heard from the three prosecutors who were here today and the chief is in stark contrast to what we hear now. And, while I will acknowledge that I'm sure there are other things that we could be doing to help in certain instances, the fact of the matter is there have been glaring examples, including from Senator Stack, of how large sections of the population are being victimized by another section of the criminal community that bail reform is not equipped to address. And, it's going to be incumbent upon all of us as legislators to do what we need to do to tighten that up and fix it.

Thank you.

SENATOR GOPAL: One question I wish I asked the prosecutors, and I know that we did not -- we don't count for this -- but, I talked to Prosecutor Santiago. We probably go through 20 to 30 Ring cameras a month -- none of that gets reported.

MS. SELLITTI: None of it gets reported -- I'm sorry, reported where?

SENATOR GOPAL: None of that is considered a crime. No one's getting arrested; nothing's happening; that's not in any of the data.

MS. SELLITTI: Well, one of-- I don't want to steal the thunder from some of the people who are going to be speaking next, but I know when it comes to car thefts, Alex and I were just speaking about this--

SENATOR GOPAL: Well, home invasions. I've got people who, they ring the doorbell, they try to get in the window, the alarm goes off. That's not in any of the data.

MS. SELLITTI: And, if the police are not making arrests in those cases--

SENATOR GOPAL: Well, they run away when the police get there, but that's an attempted--

MS. SELLITTI: We were talking about the fact that the clearance rate for car theft is 8%. So, the fact of the matter is, when you're asking people who are committing car thefts, who is responsible--

SENATOR GOPAL: I'm talking about home invasions; getting, trying to enter a house through a window. We get Rings texted to us in every WhatsApp group constantly, and none of that gets a police report on it.

MS. SELLITTI: I mean, that's -- I mean I guess that's an issue for the police department, if they want to start -- if they're going to start tracking that. That wouldn't be data that we would be keeping or the Judiciary would be keeping, because there's no case (indiscernible)--

SENATOR GOPAL: Those are not considered robberies, technically, but they were trying to rob. They were unsuccessful and the alarm goes off or a light turns on and the (indiscernible) person runs away and that's not in any police department or prosecutor data.

But, anyway, Senator Corrado.

SENATOR CORRADO: Yes, thank you.

I appreciate your passion. And, there's a lot of things today that we've discussed that we all agree upon. But, I also think we have to be realistic when we talk about the data not being completely accurate.

We don't arrest for a lot of the crimes that we did in 2017. Marijuana is legal, so the drug arrests aren't there. We don't prosecute or arrest -- arrest and prosecute shoplifting crimes like we did. And, some of the

crimes that are being committed on a daily basis throughout the entire state we've talked about ad nauseum today, with the car thefts and the home burglaries and the third-degree versus second-degree. We talked just an hour ago with the prosecutors here about the PSA -- about all the information that's *not* considered when they're doing their evaluation. We talked about the fact that if there's pending charges in other states, or other convictions, we don't even look at that information.

So, there's a lot of things that we can talk about, but to say crime is down and we need to provide services, when we're talking about staffing shortages in the Judiciary as well -- I think you have to have a little bit of a more realistic approach. When you talk about Philadelphia -- because, I also -- I didn't hear you say "gold standard," but I heard you mention Philadelphia -- there was a shooting yesterday. At least 30 bullets fired; they haven't caught the gunman; a 17-year-old was shot nine times; there's nine victims; and the mayor of Philadelphia actually declared a state of emergency in January. So, whatever they're doing in the program in Philadelphia, it's clearly not working.

And, the one thing that you don't talk about -- and, Senator Gopal touched on this -- where is the victim? I appreciate your passion for your clients, I appreciate you advocating. I think we can do better with services upfront. But, at the end of the day, there's a victim here, and no one includes that in the conversation -- certainly not the Joint Review Commission, and certainly not your office, when you're talking about advocating for your client.

And, so, the one question I would ask you: Does anybody ever belong in jail?

MS. SELLITTI: I -- absolutely. I think our support for bail reform was a recognition, an acknowledgment that someone who is too dangerous to be at liberty should be. We were some of the biggest advocates for repealing a Constitutional amendment that said everybody should have bail.

But, to your point -- two quick things to each of your points.

One, when I talk about the PSA, everything is considered by the judge that the parties put in front of the judge. So, in the PSA score -- my lawyers are constantly in courtrooms changing the PSA score, saying, "Judge, we found an erroneous failure to appear. If you remove that, his new PSA score would be 3/3, not 4/3." And, prosecutors do the same thing, they say, "His Pennsylvania arrest isn't showing up; I'm going to recalculate it real quick. He would really be a 5/5." Judges consider that all the time. So, just because it's not calculated in the initial score the PSA spits out, all that information is still going in front of the judge -- both positive and negative information about the person accused of a crime.

And, I do want to say one thing about victims, and I hope that this is something that is refreshing to you, coming from the public defender. And, that is that our office is wholly committed to programs -- to restorative justice programs, and to programs that acknowledge -- and, to the best we can, work to involve victims in solutions to crime.

And, I know that we submitted a lot of written materials, and they're thick. I would really urge you to read my amendment to Recommendation 29, because that was made-- That was created in conversation with domestic violence survivor groups, who said, "If you're going to take over -- if your office is going to take over criminal complaints

and representing people on restraining order hearings -- you have to do that with a victim perspective.” So, we are asking for social workers and advocates who are trained in domestic violence to work not only with our clients to help break the cycle of violence, but to work with our attorneys on how to defend these cases without re-traumatizing victims, and also to work with groups and survivors to do restorative justice programs to end and break the cycle of violence, so we’re not seeing people come back after restraining order after restraining order.

And, I know Vice Chair Pou is the sponsor of that, the first version of that bill, but I ask this Committee to consider our recommendation to amend that bill in accordance with what victims’ groups have suggested. Because, I think that would be a really model program, and one that would show some pretty tremendous results in breaking the cycle of violence.

SENATOR CORRADO: I appreciate you including the victim.

And, I do respect what you do. My uncle was a public defender for Passaic County for many, many years--

MS. SELLITTI: Thank you--

SENATOR CORRADO: --and I know how serious he took his job and how well he advocated for his clients.

I just think-- What is your position -- and, I know this a little off topic, but you’ve heard repeatedly, today as well -- about juvenile crime? And, I don’t know the answer, but we clearly know whether they’re being used or committing crimes because they know there’s not consequences. Any suggestions on how we handle that?

MS. SELLITTI: I mean, I think it’s a much larger conversation.

SENATOR CORRADO: I agree.

MS. SELLITTI: But, I think it's one worth having, and I would be happy to have that with you -- and our juvenile folks, to have that with you.

A couple of years ago, there was legislation passed about post-conviction juvenile representation. And, unfortunately, although it has a significant impact on our office, we weren't funded to have the lawyers who we need to do that. And, I'm not suggesting that this is just an ask for that, but I think there are ways we can be really much more engaged in our youth defense system, and ways that both on the public defense side -- and, working with stakeholders -- that we can come up with some really common-sense solutions to some of the problems that all of you have raised, and that I know your constituents are raising.

SENATOR CORRADO: And, I know one of the bills that we all voted on recently -- I know it's been discussed about -- was providing, ensuring that juveniles had attorneys--

MS. SELLITTI: Yes--

SENATOR CORRADO: --in the court process. And, I know that was bipartisan and it passed, at least in the Senate. So, I'm not sure where it is, but we recognize that they have the right to representation as well.

MS. SELLITTI: And, I think part of that was also to kind of study the impacts of some of the other reforms connected to that bill and we are really eager to participate in that conversation.

SENATOR CORRADO: Thank you.

SENATOR GOPAL: Senator Bramnick.

SENATOR BRAMNICK: I respect your advocacy. But, our question today is, there has to be a balance between the social justice aspect and the deterrent aspect.

There are many who will argue that jail and punishment doesn't change anything. You have to approach everything from a social justice standpoint. We're talking about taking -- trying to assist the defendant prior to trial. Now, we're talking about assisting the defendant after release from prison. There's a lot of energy going into one side of the equation. The other side of the equation that most people are talking about, and most people would probably vote for, is the side of the equation is, "Hey, listen. Do the crime, pay the time-- do the time."

So, I think when you hear the Democrats across the aisle saying the same things, or even more rhetoric than the Republicans, you know the scales have gone too far one side or the other. That doesn't mean that we shouldn't be involved in social justice. But, the residents of this state are focusing on one issue. Somebody tries to break in their house; somebody steals their car; they should be going to jail.

Now, I'm not saying everybody goes to jail. But, the discussion is going to have to start shifting the other way, because the consequences in society are serious.

MS. SELLITTI: And, I do think there are two conversations--

SENATOR BRAMNICK: It's not a question.

MS. SELLITTI: Oh, sorry. (laughter)

SENATOR BRAMNICK: That's what I'm saying, not everything is a question. That's why I like courtrooms. That was my closing argument.

MS. SELLITTI: They're much simpler than this.

SENATOR BRAMNICK: That's my closing argument.

SENATOR GOPAL: Any other questions?

SENATOR BRAMNICK: No questions; closing argument, Your Honor.

SENATOR GOPAL: Thank you, Jen. Excited for your tenure; excited for your leadership; and you're a pleasure. We're very lucky to have you.

So, thank you for being here.

MS. SELLITTI: Thank you.

SENATOR GOPAL: All right, next up: Reverend Eric Dobson, President of United Black Agenda; Alexander Shalom, Senior Supervising Attorney and Director of Supreme Court Advocacy, ACLU-NJ; and, Yannick Wood, Director of Criminal Justice Reform Program, New Jersey Institute of Social Justice.

The three of you want to come up together, please?

Reverend, would you like to go first?

REVEREND ERIC DOBSON: Yes.

Thank you; thank you so much.

Glad to be here today. Thank you for having this discussion.

I am glad you guys brought up Philadelphia. I was born and raised in Philadelphia.

I was wondering, did you see the other story besides the nine shootings that was on the news, also about Philadelphia? There was this gentleman who was jailed for 44 years. Wrongly accused. Forty-four years. He spent -- let me repeat that -- 44 years in jail. He didn't have money to

post bail. You know what he said when they asked him about what he missed most? His two daughters are adults now, and he said, “You know, I don’t know what to do. I just want to grab them and wrestle them, because I didn’t have the chance to do that.” Forty-four years in jail.

So, my colleagues here are experts in this space; so, I’ll let them deal with the data stuff. But, just let me give you just some insight into the victims who you guys haven’t been talking about. I’m talking about the victims who have been wrongly accused; who have been arrested and couldn’t post bail; who lost their jobs. Did you go talk to their families? How it impacted *their* families? I think we should really consider not just talking to one side of the victims, but other victims, too. They are victims, too, of a justice system that presumes they’re guilty before they even have a trial.

It’s astonishing to me that we always talk about one side of a victim, but not about the families who are impacted when their husbands or sisters or brothers are jailed -- and, this guy, 44 years.

My question to you all: Have any of you all been arrested? Anybody ever been arrested on this council? Anybody?

SENATOR MUKHERJI: I’ve been charged, not arrested.

REVEREND DOBSON: You’ve been charged, not arrested?

I got arrested. Police officer assumed that I was doing something. Wrongly accused. Fortunately, I only spent a day in jail.

But we’re victims, too. Yes, of course you can cite incidents of one person who committed a crime got out. Yes, you could do that every day, all day. We also need to talk about other folks who are victims as well. And, talk about-- I talk about this issue of racial, economic, and social integration and segregation, because it’s the larger issue. We have a

segregated society. New Jersey is one of the most diverse states in the nation, but one of the most segregated.

So, these conditions that produce criminology are conditions of laws that are passed to segregate our communities. Policies that intentionally segregate. And, we know this country has a history of that.

And, I heard the prosecutors about, it's hard for them, people are discouraged from going into law enforcement and all that, yada, yada, yada. Everyone has jobs that they like or don't like; so, find another career. We all do it.

But, to just talk one side about the victims and not talk about the families who are devastated by their loved ones being incarcerated -- wrongly accused -- or can't make bail; are losing their jobs, and the impact on those communities. There is a lot of impact in poor-income communities when folks are jailed wrongly and can't post bail and they're stuck there for days and lose their jobs.

So, I just want to give an overall picture about the whole structure of the criminal justice system. You guys know the data. You can look at every report ever produced about police in Black and brown communities, the racial discrimination that exists. Read the comptroller's report; it's there.

So, victims-- Let's talk about all the victims. You want to talk about victims, let's talk about *all* the victims.

So, I'll leave that there and let my friends--

SENATOR GOPAL: Thank you, Reverend.

ALEXANDER SHALOM, Esq.: Thank you, Senator Gopal.

I have prepared testimony, and I submitted it -- written testimony, but I'm not-- I'll let you read that, and I'll try and just answer some questions.

The ACLU is a nonpartisan organization, and I don't want to be seen as endorsing a particular candidate for Governor, so I'm going to go in alphabetical order.

But, Senator Gopal, I'm going to start with you even though you're not first alphabetically, because you're--

SENATOR GOPAL: I'm the only one here who's not running; these guys are all up.

(laughter)

MR. SHALOM: But you're also sitting in the Chair's seat; you're sitting in the Chair's seat, so I'm going to start with you, but I have to read my notes.

I want to be clear: Jennifer Sellitti talked about the "1%." That's the re-arrest rate on violent crime. That is in the AOC's report to the Legislature and Governor. It's in their most recent report. So, I understand the prosecutors said-- They said they didn't have the data, but they sensed it was higher. The data in that report, it's in the 1%--

SENATOR GOPAL: And, just for clarity, violent crime, but we're also talking about entering and breaking into someone's home. There are other crimes that are not considered violent that can have a long-term impact on the victim.

MR. SHALOM: Oh, without a doubt. Violent and serious are not coterminous. I agree with that 100%.

OK, I also want to say, I think we need to just take one second to talk about what Ms. Sellitti talked about with the 8% clearance rate, because there was a lot of talk about car theft -- and it's an important conversation, and figuring out how to deal with it -- but there was a lot of talk about, "We need to increase penalties, we need to do this." Eight percent of cases get cleared. Clearance means there's *an* arrest made -- not the right person, not a conviction -- *an* arrest. So, in only-- That's statewide, it's 8%.

So, there are lots of conversations we should have, but it's hard to say what we need is more deterrence and mandatory-- People aren't getting charged. So, how could they-- I don't think a reasonable person is going to say, "Oh, what I'm worried about is it a seven-year penalty or a five-year penalty?" They're not getting arrested.

OK, I'm going to move on alphabetically. Candidate Bramnick, you're next. You said some things that I think are super important that I'd like to just make sure everyone understood, which is, you talked about this transformation you had in today's hearing from thinking about just the pre-trial justice side, to thinking more holistically about solutions to crime, and kind of disaggregating those, too. And, I think it's really important because bail reform is really often scapegoated for everything. But, it really only deals with one very small part of the thing. It's, "How long are you serving in jail," if at all, "before convicted -- before you're convicted?" It has nothing to do with whether you're getting convicted, what your sentence is after you're convicted. That's important for us to remember in this conversation.

Senator Bramnick, with your indulgence, I'm going to realize that I need to go back to Senator Gopal, because it was you who asked about the crime rates. You were asking Jen, when she said crime was down, "What

do you mean?" So, this is in my written testimony, you can see the numbers, but the Attorney General has-- I think you guys actually mandated this and funded it, but there's a data portal now where you can go on and put a particular crime in -- home burglary, burglaries -- and you can look at it over time; you can look at it by counties.

And, so, here's what we know. The following crimes are down, both between -- from '22 to '23, meaning it's lower in '23 than in '22, but also lower in '23 than in '17, which is the first number that we have on that data. And, it's homicides -- and, just to be clear, that number is *hugely* down. In 2017, it was 563, and it's less than half -- 269 -- last year, the lowest we've had in *years*. Homicides are a pretty good indicator of safety. Kidnappings, down. Robberies, down. Burglaries, down -- again, almost half. Thefts, down by 50%. Gun crimes are down. It's all cited in my thing, but those are real things.

But, I want to-- And, I'm bouncing around, so I promised alphabetical order and I'm lying now. But, Senator Corrado, you talked about your constituents don't feel safe. And, that's true. Both things are true. And, I actually cite to something here-- There's an interesting phenomenon; it's not a New Jersey-only phenomenon. But though safety is increasing, perception of safety is decreasing. So, crime rates are down, and, if you ask the public -- your constituents, the people who are calling your phones -- they're going to tell you it's up. And, that's real, and you have to address that, because there are real consequences from people feeling unsafe. But, we also do have to be guided by the data. And, things like a homicide rate that has been halved are really positive. So, we just need to think about those things.

I'm going to try and get back to alphabetical order here, in fairness.

One more thing that Senator Bramnick said that I think is worth noting: It was your first question, Senator Bramnick, you were talking about on the domestic violence question, folks who get charged on -- whether it's a summons or a warrant. And, you were acknowledging that there's this wide swath of cases where people aren't ultimately getting convicted; the case is getting dismissed, and it's a real shame that they're going to spend a night or two in the county jail. I think that point resonates. We can all understand how traumatic and scarring that would be.

When we think about the State system compared to the Federal system, the Federal system has a conviction rate of around 99%. It's why, generally speaking, people don't like getting charged by the Federal government. It's a bad thing to get charged by the Feds. The State conviction rate is *a lot* lower. So, there are a lot of people not just charged with domestic violence, but charged with robbery and charged with auto theft and charged with all things. These cases ultimately are going to get dismissed. So, we have to think about how the presumption of innocence plays in a case like that.

OK, alphabetical order is a--

SENATOR BRAMNICK: I don't even understand your point. I don't know what you're saying.

MR. SHALOM: That there are a lot of people -- whether charged with domestic violence or not -- who, they're not just presumed innocent, their case will result in them being--

SENATOR BRAMNICK: Mr. Chairman, if you're going to go point by point, let the people respond--

MR. SHALOM: Sure--

SENATOR BRAMNICK: --because no one's going to know-- What I said was, there is no consistency between who is charged on a summons and who is charged on a warrant. And, if you're charging most of these people with domestic violence with a warrant, but they're never going to jail, even if they're convicted, and they can't see a judge immediately, because what the judge said here is not true -- it normally takes a couple days if it's the weekend. I'm saying, why charge him on a warrant? I understand politically it might look -- because it's domestic violence, but that's really still the same concept.

So, what I don't-- What are you saying about the Federal versus the State, and warrants versus summonses? I don't get it.

MR. SHALOM: I may have gotten a little ahead of myself.

I took your point -- which is exactly as you just described it -- and took it to the next step. Which is, in both cases, you're saying, when we think about the pre-trial consequences, part of what we're thinking about is what's going to ultimately happen in the case, right? The fact that they're not going to face jail time matters in--

SENATOR BRAMNICK: That's exactly why I want to raise things to a second-degree.

What my point-- My point is exactly right, because they're never going to a jail, even if they're convicted of a third. The Legislature -- if they want people to go to jail, which we may believe is a deterrent effect -- we better raise the level of the crime.

So, this concept may be backfiring for those people who want to keep people out of jail.

MR. SHALOM: So, two responses to that quickly, Senator Bramnick.

The first is, just to be clear on what the presumption of non-incarceration does in New Jersey for third-degree offenses. It only exists for your first third-degree offense. If you have a second third-degree offense, there is no longer a presumption of non-incarceration.

SENATOR BRAMNICK: (indiscernible) I wasn't talking about the second, I was talking about raising the level of the crime to the second-degree. So, that's what I'm saying--

SENATOR GOPAL: Don't you guys want to get out of here at some point?

SENATOR BRAMNICK: I'll leave him alone on this; I'll leave him alone.

MR. SHALOM: I understand your point, and, let me just say--

SENATOR BRAMNICK: I'll leave him alone.

MR. SHALOM: Going back to the first thing, for which I was praising you, Senator Bramnick, which is-- It's a separate conversation. And, I have lots of responses about whether we should raise the penalty for car theft, but it's different than a question about pre-trial justice. That's the only--

SENATOR BRAMNICK: My guess is you don't want to raise it.

MR. SHALOM: You're probably right, but I--

SENATOR BRAMNICK: OK, good.

MR. SHALOM: --think it's a different conversation, and I think it's one that has to be data-informed, honestly.

Senator, I think-- Oh, no, Senator Steinhardt is before Senator Testa.

First, Senator Steinhardt, let me apologize to you, because I was the one with a bad poker face. And, so, let me explain why I was shaking my head.

There are two separate questions. The first is, what does the PSA count? And, the PSA counts convictions, not arrests. That's what Judge Grant was responding to.

But the second question is, when we're looking at the question of, how are people performing on pre-trial release? So, someone goes through; they have a PSA; they get released; and we're trying to figure out, did they violate-- Did they succeed on pre-trial release, or fail? That, the success or failure, is determined by a new arrest. If they're arrested while on pre-trial release, the AOC data treats that as a failure. Not-- They don't need a conviction for that.

OK, really big picture point that I think is maybe the most important point, because there was a lot of talk about the PSA. Senator Steinhardt, I taught a class at Rutgers on the PSA, and I am sorry to say that all of my students left with less knowledge than your questions reveal. You clearly understand the PSA, and it's-- I wish everyone did. One thing that I want everyone to know is that the PSA is a part of the tool.

So, if you go to -- it is the whole tool, it is a part of the process - - and you go to watch a pre-trial detention hearing, as I'm sure Senator Steinhardt has, because he clearly knows what's going on there. The number

gets mentioned, but it's not the whole thing. Good advocates from the prosecutor's office and from the public defender's office are making their case either for or against detention. And that, Senator Corrado, went to the questions you were asking about out-of-state convictions and juvenile convictions -- those all *should* be brought up, even if they're not part of the quantitative calculation.

SENATOR STEINHARDT: If, I may--

Please understand, I am well aware of this part of the process and what the rest of the process is. Quite frankly, I appreciated Senator Stack for giving me the amount of time that he did, and I did not want to torture my colleagues here by asking the rest of my questions, nor those of you who were sitting in the audience listening. But, I am aware it's a much larger dialogue.

The point I was trying to make I think I did make, and it's something that I'm confident that the Legislature will eventually pick up.

MR. SHALOM: You did, you did make it well.

Senator Testa, let me respond to two of your points. The first is a very quick just amplification of the question you just asked Ms. Sellitti about who pays for the services.

To her point, lots of these services are privately funded services. A church has something, or a community center has something. So, when an advocate finds services, they're finding both public and privately funded drug rehabilitation services, things like that. That's a small point.

The larger point -- you asked a question about grading. And, you know, we've all been to classes where different teachers grade differently. And, I think there are ways in which you could say the system gets a B-minus. I think that, in some sense, is a fair question. But if the question is, "How

does the Criminal Justice Reform Act compare to the system it replaced?” then the answer I think, objectively, is it’s an A-plus. Because the old system was an abject failure.

SENATOR TESTA: I’m going to interject, here, for a second. I’m going to exercise a little senatorial courtesy on this one, Mr. Chairman, if you don’t mind.

SENATOR GOPAL: Senator Steinhardt has to get to Warren County in the next 10 hours, so, take your time.

(laughter)

SENATOR TESTA: The only thing I’ll say is this: We have to be intellectually honest here. I asked Judge Glenn Grant -- the head of the AOC, who administers this program heavily -- what grade he’d give it. It wasn’t a grade that I gave it--

MR. SHALOM: I understand.

SENATOR TESTA: --it was a grade that he gave the system, and why this symposium of individuals came together to make recommendations to change.

We are trending in the right direction; I have no doubt about that. We are trending in the right direction, and certainly, we don’t want to have people who are wrongfully convicted of crimes. And, I don’t want to conflate that, what happened in Philadelphia 44 years ago where a man was wrongfully convicted -- that’s despicable, that’s a failure of the justice system when people are wrongfully convicted. Like I said, I’m a criminal defense attorney. That’s the last thing I ever want to see happen, is someone who is wrongfully convicted. And, it’s my job to zealously represent my client’s interest, that’s the charge of which I am given.

However, we see that there's room for improvement here. It's a B-minus, and to me, that's probably the best grade anybody is going to give it -- not an A-plus. If they're being intellectually honest with this group, it's actually from the champion of this organization who gives it a B-minus. The person who is championing this very program of criminal justice reform said it's a B-minus, it needs to be better.

MR. SHALOM: I don't disagree with that, and, for the record, I was on the joint committee. I agree that there are changes to be made.

And, I'll respond to Senator Sarlo who is not here. I think it has to be a consistent iteration--

SENATOR GOPAL: We got it.

MR. SHALOM: Yes, OK.

I am going to wrap up by just saying it's got to be driven by data, and that's what the--

SENATOR GOPAL: Completely--

MR. SHALOM: --joint committee did--

SENATOR GOPAL: No one's rushing to do anything.

MR. SHALOM: Thank you.

YANNICK WOOD, Esq.: All right, thank you.

My name is Yannick Wood, I am the Director of the Criminal Justice Reform Program at the New Jersey Institute for Social Justice. I am also a former prosecutor in New York City, an area that still uses the antiquated system of bail.

The landmark Criminal Justice Reform Act -- CJRA -- successfully eliminated a bail system where people were detained not based on risk, but based on the amount of money they had or did not have. The

bail system exacerbated racial disparities in detention. Bail resulted in thousands more Black individuals in particular being detained -- being detained for 30% longer compared with the period immediately after CJRA. In an inspiring moment of unity, New Jersey's legislators across the political spectrum rejected this unfair bail system, and, since then, the CJRA has ensured that defendants return to court at a rate as high as 97.1%.

Moreover, the vast majority of defendants who are released are not re-arrested, and less than 1% of released defendants annually have been re-arrested for the most serious offenses, and that data comes from AOC. Furthermore, crime across New Jersey has been falling prior to, during the CJRA, and is currently decreasing. And, the CJRA is a national model inspiring Illinois' new detention law.

Nevertheless, despite the successes of the CJRA and the progress we have made, stark racial disparities in detention and incarceration persist in our state. Here, a Black adult is 12 times more likely to be incarcerated than a white adult -- the worst disparity in the nation. Additionally, our jail population has become more racially disparate since the CJRA was enacted. In 2021, 60% of those detained in New Jersey's jails were Black -- in a state that's just over 15% Black.

The Institute strongly urges legislators to advance measures that will decrease detention and will decrease racial disparities. Simultaneously, we strongly urge legislators to oppose policies that will increase detention. Specifically, we urge the Legislature to make the following amendments to points -- to the points-based public-safety assessment component of the CJRA.

You know, we've spoken over many hours about the public-safety assessment, so I won't go into how it works. It's just that there is the "failure to appear score," and then there's a "new criminal activity" score. We urge the Legislature to eliminate the age-at-current-arrest penalty so that people under the age of 22 would not be penalized solely on the basis of their age and set on a track for incarceration. We further urge the Legislature to establish a requirement that people over the age of 55 have their age be a mitigating factor to subtract one or two points from their failure-to-appear score. We want to modify -- and, we urge you to modify the prior failure to appear over the two years, that specific penalty, so that after a five-year period -- after the resolution of the case -- the failures to appear will no longer be considered in the PSA.

We urge the Legislature to modify the--

SENATOR GOPAL: I'm sorry, those changes are for the AOC, right? You're talking about-- We don't have anything to do with this, the changes you're recommending.

MR. WOOD: Well, I am urging the Legislature to-- You can mandate that.

SENATOR GOPAL: OK.

MR. WOOD: Yes.

And, we've already spoken to the PSA--

SENATOR GOPAL: Gotcha.

MR. WOOD: We've already spoken to the Administrative Office of Courts about this, and, in fact, there's actually a recommendation that is in the report that they're going to be looking at.

SENATOR GOPAL: So, it's a Legislative activity. It's a Legislative action.

MR. WOOD: Well, I mean, that could be Administrative Office of the Courts, but I'm also speaking to you as a Legislature--

SENATOR GOPAL: Got it--

MR. WOOD: --right now--

SENATOR GOPAL: OK--

MR. WOOD: --about these points.

SENATOR GOPAL: OK; got it.

MR. WOOD: And, I think that there might have been a question that legislators had earlier about who could actually do that, but I believe a legislator *can* actually do that.

We urge the Legislature to modify prior misdemeanor conviction; disorderly person conviction; indictable-offense convictions; and prior violent-conviction penalties so that after a seven-year period these convictions will no longer be considered in calculations, because older convictions are less predictive of new arrests.

And, the reason why I'm mentioning all these things right now is because the PSA has to be data-driven, and there is data that shows that in each and every one of these suggestions that -- for example, 55 or older -- that's something that someone who is 55 or older is statistically more likely to show up in court, so why should an older "failure to appear" still be used against them? And, then, also, we urge the Legislature to modify the prior sentence to incarceration penalty, so that it only considers longer periods of incarceration.

We urge the Legislature to increase funding for pre-trial services. And, that was actually a recommendation -- Recommendation 16 -- in the report. And, this funding could provide critical opportunity to address mental health, substance use, and other behavioral health concerns. And, that's going to reduce the chance of recidivism and eventual detention.

It's important that these pre-trial services are not mandatory for the reasons that public defender Jen Sellitti mentioned. If an individual chooses to enroll in services, it makes it more likely that they will be successful throughout the service.

We want to adequately fund the positions -- (indiscernible) adequately fund the positions of pre-trial coordinators -- again, this is Recommendation 15 in the report -- who are trained in social work, who will be able to steer individuals with pending cases to pre-trial services.

And, lastly, we urge the Legislature to oppose measures that will increase detention. Rolling back the CJRA to increase detention will not make us safer, and will only further bolster a racist system of mass incarceration, the brunt of which is felt by Black communities. Over the past several years, there have been multiple legislative attempts to roll back the CJRA by changing presumptions for release, and the (indiscernible) offenses. And, these efforts do not address the root causes of crimes -- of crime. Instead, the Legislature needs to support efforts to provide critically needed services to individuals.

It's important to note that if detention is expanded under the CJRA, in some ways it may make individuals worse off than in the bail system, because more people would be detained with no chance of pre-trial

release. And, New Jersey must hold fast to the principles of the CJRA, and must resist a slippery slope to mass detention.

Thank you for considering my testimony.

SENATOR GOPAL: Thank you, guys, for your testimony and your comments.

Any questions? (no response)

Thank you, guys.

We have four more panels left. I'm joking.

Last two folks: Arwinna Martinez -- Policy Director, New Jersey Policy Perspective; and, Austin Edwards -- Senior Legal Service, Salvation and Social Justice.

AWINNA MARTINEZ, J.D.: Good afternoon.

My name is Arwinna Martinez. I am the Policy Director of the New Jersey Policy Perspective, a nonpartisan think tank focused on state-level policies that advance economic, social, and racial justice.

Thank you for having me here today.

Our stated missions at NJPP is to ensure that all of New Jersey's residents enjoy lives of dignity, opportunity, and economic security. We know the criminal legal system has everlasting and harsh consequences on families and children; financial stability; pathways to education; the workforce; and the fabric of our communities.

It is widely known that interactions with the criminal legal system disproportionately impacts Black and brown communities. Criminal legal system reform should not be taken lightly, but driven by data and research to create policies that promote public safety while ensuring a fair and equitable system.

New Jersey's 2017 Criminal Justice Reform is a policy informed by longstanding research that eliminate cash bail and reducing pre-trial detention to address racial disparities in our system without negatively impacting public safety. An early evaluation of the CJR found that arrests dropped significantly in the year following CJR implementation. Seven years later, New Jersey has become a pre-trial justice leader nationally for significantly decreasing the use of pre-trial detention while maintaining the same or better crime rates.

More than 400,000 individuals are held pre-trial across the country, with most unable to pay bail. It is significant to say that here in New Jersey, we are not contributing to this alarming trend. We have eliminated the debtor's prison that makes up many other places nationwide.

I want to emphasize how important it is for the state to build on the success of our bail reform by investing in better support for the justice-involved individuals, rather than resorting to misguided rollbacks and response to political pressures. There's no evidence linking increases to crime to individuals on pre-trial release.

Our communities are better served by policymakers who focus on strengthening our pre-trial system. First, this means committing to a mission focused on treating pre-trial services separately from all other stages of the criminal legal system. Pre-trial is not probation, parole, or re-entry. American jurisprudence presumes the individuals are innocent until the resolution of their cases otherwise. Adopting proposals to increase the number of people exposed to the harms of pre-trial detention undercuts the work of this Legislature and what the evidence tells us.

Pre-trial's key partners -- judges, defense attorneys, prosecutors, and pre-trial staff -- should operate under the same mission, rather than relying on the harms and pressures imposed by pre-trial detention. Ensuring the criminal legal system upholds the fundamental rights of a presumption of innocence and due process while delivering timely case resolutions is the way to achieve just, fair, and equitable outcomes.

Second, investing in pre-trial services means allocating more funding statewide. In New Jersey, the quality of pre-trial services should remain consistent across all counties, no matter where an individual's case is situated. Consistency ensures everyone receives a necessary support to navigate the pre-trial experience successfully. Compliance with conditions of release and success in the pre-trial phase can be achieved through investments in resources and pre-trial support systems and agencies that already have a touch point with defendants, such as the Office of Public Defender and county-level pre-trial services. Connections to these resources can address an individual's housing, education, employment, and health-care needs.

I want to close by sharing that before joining NJPP, I spent my career focused on criminal legal system reform, focusing on diversion and alternatives to incarceration. For three years, I oversaw a pre-trial services agency entirely staffed by case managers and social workers, whose main goals were to respond to individual needs and provide resources and programming to the public.

Drawing from personal experience, I witnessed the first-hand transformative impact of increased funding on staffing levels, and providing supportive service that -- sorry -- services that did not rely on a law-enforcement approach. We had a compliance rate of almost 90%, even

during the height of the pandemic when operations had to move remotely. We attributed this success to a supportive services model that allowed us to use a wrap-around human-centric approach. These investments enable pre-trial services to offer individualized attention and comprehensive case management, addressing the underlying needs that could hinder an individual's progress during the pre-trial stage.

In New Jersey, we've seen our incarceration rate decrease significantly. This allows individuals to return home; support their families; maintain employment; and ensure some measure of stability while their case is being resolved. But, we know there's more work to do. New Jersey continues to have the worst racial disparities in the country, where a Black adult is 12 more times as likely to be incarcerated as a white adult. Any steps policymakers take in addressing our system should be to make it stronger. Changes rooted in equity and fairness, not informed by what we *think* makes public safety work, but instead, by what we know.

It is critical to understand the data and research and balances with understanding the harms we know occur to individuals, families, and communities when we over-police and over-incarcerate.

Thank you.

SENATOR GOPAL: Thank you.

Mr. Edwards.

A U S T I N E D W A R D S, J.D.: Thank you.

Good afternoon, members of the Committee.

My name is Austin Edwards, and I serve as Senior Policy Council to Salvation and Social Justice, which is a Black, faith-rooted social justice

nonprofit that seeks to liberate public policy theologically by modeling hope and resiliency of the Black faith.

And, I want to do you all a favor and instead of reading the multi-page report that we submitted to you guys, I'm going to keep this testimony fairly short. But, specifically, with my testimony, we wanted to highlight the fact that it's important to reject these proposals to expand pre-trial detention.

This system disproportionately harms Black and low-income communities, punishing them for poverty -- not the severity of the alleged crime. New Jersey, in nationwide data, shows decreases in pre-trial detention and crime rates since the passage of the 2017 Bail Reform. This success proves that we can actually prioritize public safety without its mandated incarceration. Expanding pre-trial detention has multiple detrimental effects, including increasing the jail population; straining the resources; and disproportionately impacting Black communities, which already face systemic inequalities. Denying due process-- I think Reverend Dobson highlighted that-- Innocent individuals, who are unable to afford bail, lose the opportunity to fight their charges, and it disrupts lives. Pre-trial detention leads to job loss; housing instability; fractured relationships; furthering entrenching individuals in a system of poverty and increasing recidivism.

Instead, we can invest in proven alternatives. Community-based programs, like violence-interruption programs and community street outreach teams, offer support in conflict-resolution strategies and restorative justices. These approaches focus on *repairing* harm; fostering accountability; healing; and addressing the root causes of crime.

I will take my SASJ hat off very quickly, and even put on my hat as a member of the Trenton School Board with Salvation and Social Justice pairing with this organization, and our street team that we had here in Trenton. We had them in the schools. We had a large issue with violent crime. Fights were happening; suspension and expulsion -- a lot of issues that we were facing. Literally within the first year of having these street teams in the schools, we saw dramatic reductions in fights; in violence; in drug usage; because we had people who were from the city, know the city, know these kids; know their families; being able to talk to them and provide solutions instead of them going on to a life of crime.

There are multiple evidence-based solutions. We can refine risk-assessment tools and expand access to pre-trial services like mental health, substance-abuse treatment. And, we have these alternatives already. Recently, us, with Salvation and Social Justice, we were able to work on and pass that Seabrooks-Washington Bill. And, that expands a lot of resources not just to Trenton street teams, but the Newark -- let me get the name exactly -- the Newark Collective of -- Paterson Healing Collective, the Newark Community Street Teams, and many other same violence-interruption teams that exist throughout the state. These alternatives are not just humane; they are just, and an effective means of actually prioritizing public safety.

We urge you to continue to hold these public meetings with affected communities, especially those in our urban cores with Black communities, brown communities, and this is the way that we build a safer and more just New Jersey. Focus on the evidence-based solutions that address these root causes of crime, not locking people up just for being poor.

Thank you very much.

SENATOR GOPAL: Thank you very much.

Any questions from any members? (no response)

Thank you, guys.

And, thank you all for being here for a very, very long day. At least on my side of the aisle. But, thank you, and we look forward to reading all of your testimonies, and seeing what we can do as next steps and working with public defender Sellitti on her proposal -- at least, I'm looking forward to working on it.

So, we will be back in touch, unless you guys want to talk about anything else. (no response)

Thanks.

(MEETING CONCLUDED)