



**New Hampshire Commission of Law Enforcement
Accountability, Community, and Transparency**
Remote Commission Meeting via Teleconference
Wednesday, August 19, 2020 at 9:30 a.m.

Commission Members Present: Deputy Attorney General Jane Young, *Chair*; Robert Quinn, *Commissioner of the Department of Safety*; Ahni Malachi, *Executive Director, New Hampshire Commission for Human Rights*; John Scippa, *Director, Police Standards and Training*; Rogers Johnson, *Chair of the Governor's Advisory Council on Diversity and Inclusion*; James McKim, *President of the Manchester NH NAACP*; Sawako Gardner, *Justice of the New Hampshire Circuit Court*; Mark Morrison, *New Hampshire Police Association*; Charlie Dennis, *President, New Hampshire Association of Chiefs of Police*; Ken Norton, *Executive Director, National Alliance on Mental Illness - New Hampshire*; Gilles Bissonnette, *Legal Director, ACLU of New Hampshire*; Julian Jefferson, *Attorney, New Hampshire Public Defender*; and Eddie Edwards, *Public Member*.

Also Present: Maria Eklund, *Operations Program Assistant II, State of New Hampshire, Homeland Security & Emergency Management*; Kim Schmidt, *Legal Research Assistant, New Hampshire Department of Justice*; Annie Gagne, *Paralegal, New Hampshire Attorney General's Office*; Nicole Clay, *Assistant Attorney General, New Hampshire Department of Justice*; and Jake Krupski, *Attorney, Milner & Krupski, PLLC*.

DEPUTY ATTORNEY GENERAL YOUNG: Thank you, Maria. Good morning, everyone. This meeting is being audio-recorded, as Maria just indicated. I am Deputy Attorney General Jane Young. And pursuant to Executive Order 2020-11, I am serving as the Attorney General's Designee.

So, before we do the call to order, I'll remind everyone that Commissioner Johnson indicated that he had a prior obligation today. He may be able to join us later, depending on how long this meeting lasts. And we will announce him, once he attends. And Commissioner Tshiela also indicated that she is not able to attend today.

This meeting of the Commission on Law Enforcement Accountability, Community and Transparency is now called to order. It's taking place pursuant to Emergency Order Number 12 and is being conducted remotely.

I'm going to ask each Commission Member to identify themselves, where they are located, and anyone is with them. As I indicated, I am Jane Young. I am once again at the Department of Justice in Concord joined by Kim Schmidt, Annie Gagne, and Nicole Clay. Good morning, Chief Edwards.

CHIEF EDWARDS: Good morning, Deputy Young and fellow Commission Members. I am at my home in Dover and I am alone.

DEPUTY ATTORNEY GENERAL YOUNG: I do not see Attorney Jefferson on the line. We will loop back with him. Mr. Lascaze is not with us today. But standing in for him is Attorney Bissonnette. Good morning, Gilles.

DIRECTOR BISSONNETTE: Good morning, Deputy Young. Gilles Bissonnette, Legal Director for the ACLU of New Hampshire, pinch hitting for the last day for Joseph. I am at my house in Concord. I am alone right now. But inevitably my four-year-old and wife will be arriving at any moment. So -- and as I said at the outset, there is a very good chance that my four-year-old will chime in at some point during today's meeting. Thank you.

DEPUTY ATTORNEY GENERAL YOUNG: Well, we will enjoy seeing him. So, thank you. Good morning, Director Scippa. How are you?

DIRECTOR SCIPPA: Good morning, Deputy General and fellow Commission Members. John Scippa, Director of Police Standards and Training, I'm at 17 Institute Drive at the Police Academy here in Concord in my office. And I am alone.

DEPUTY ATTORNEY GENERAL YOUNG: Good morning, Director Norton.

DIRECTOR NORTON: Good morning, Deputy Young and Commission Members. Ken Norton from NAMI New Hampshire, the National Alliance in Mental Illness, and I'm on Great Cranberry Island in Maine. There's no one present now. But family will be in-and-out of the house but not in this room.

DEPUTY ATTORNEY GENERAL YOUNG: Thank you. Morning, Chief Dennis.

CHIEF DENNIS: Trying to find the button this morning; good morning, everyone. Charlie Dennis, representing the Chiefs Association, I'm located at the Hanover Police Department in my office, 46 Lyme Road, and I'm alone.

DEPUTY ATTORNEY GENERAL YOUNG: Thank you. Lieutenant Morrison, how are you?

LIEUTENANT MORRISON: Morning, Deputy Young. Good morning, fellow Commission Members. Mark Morrison on behalf of the New Hampshire Police Association, I'm located at the Londonderry Police Department. And I am alone in my conference room.

DEPUTY ATTORNEY GENERAL YOUNG: Thank you. Good morning, Judge Gardner. How are you?

JUDGE GARDNER: Good morning, Deputy General Young and fellow Commission Members. I'm in Greenwich, Connecticut. And there are family members in the home.

DEPUTY ATTORNEY GENERAL YOUNG: Thank you. President McKim, good morning.

MR. MCKIM: Good morning, Deputy Young, and good morning, Commissioners. I am James McKim, representing the Manchester NAACP. I am in my home office in Goffstown. And I'm alone in the room. My wife is in the other room, her office. And just to let you know, I will need to leave at about 12:45, as I'm delivering a debiasing workshop.

DEPUTY ATTORNEY GENERAL YOUNG: Thank you. Good morning, Director Malachi.

DIRECTOR MALACHI: Good morning, everyone. Ahni Malachi at my home in Penacook, I never say my organization. I don't know why I do that. I'm representing the Commission for Human Rights, the first time.

DEPUTY ATTORNEY GENERAL YOUNG: Thank you. Morning, Commissioner Quinn.

COMMISSIONER QUINN: Good morning, Deputy Young and fellow Commission Members. Robert Quinn, Department of Safety, I am at my office, 33 Hazen Drive in Concord. And I am alone.

DEPUTY ATTORNEY GENERAL YOUNG: Thank you. The next order of business is the approval of the Minutes from yesterday. I know that Judge Gardner and I picked up the same sentence that needed completing. And there was email conversation between President McKim and Attorney Bissonnette about filling out a little bit more of the discussion on immunity. Am I correct on that?

MR. MCKIM: Yes, you are correct.

DEPUTY ATTORNEY GENERAL YOUNG: Okay. So, I think it might be easier. We will redo that. If we can send them out after the break, we will do that. If not, we will take up the vote on that tomorrow. Does that make sense to everyone?

(No audible response)

DEPUTY ATTORNEY GENERAL YOUNG: So we will continue where we left off yesterday. And that Commissioner Malachi was having some discussion with Attorney Bissonnette; that will continue. I think, if my memory serves me correct, Commissioner Quinn, did you have your hand up yesterday, as well?

COMMISSIONER QUINN: (No audible response).

DEPUTY ATTORNEY GENERAL YOUNG: Yes, you did. Yeah, okay. Yeah, you had your hand up. And when the questioning and the comments are done for Attorney Bissonnette, we will move to Attorney Krupski, who I indicated waited patiently yesterday and was not able to testify.

And then, I will do the presentation from the Attorney General's Office. That will just, I think, keep things moving at a quicker pace, instead of introducing somebody else from the office. So, that's the plan for the morning. With the plan being laid out, with no further ado, Commissioner Malachi, you may continue your conversation with Attorney Bissonnette. Thank you.

DIRECTOR MALACHI: Thank you. Okay. Hi, Gilles. Okay. So, after we finished yesterday, there was actually a really interesting conversation that I thought a little bit more about. And the comments that -- and unfortunately, they're both not here, but Commissioner Johnson, the comments he made, and then the follow-up comments that Commissioner Tshiela made, and that conversation. And so, for me, the

exchange -- excuse me -- the exchange was really interesting, because it sort of gives a snapshot of the black community, which is a part of what all of this is about.

So, certainly we're -- the black community is not the only minority community in America, in New Hampshire. But a lot of why we're here stems from interactions within the black community with Law Enforcement, etc. And I think we're on the same page on that, maybe, yes? Yeah?

DIRECTOR BISSONNETTE: (No audible response).

DIRECTOR MALACHI: Yeah, okay.

DIRECTOR BISSONNETTE: Yes.

DIRECTOR MALACHI: Okay. And so, with that, it really lays out that the black community's a multifaceted community, like most are, and that it's not monolithic. But just taking the testimony you submitted in totality, when you look at Advocates and national organizations, and College Elites, and Professors like the Professor that testified earlier this week, and even Rena Golthry (ph), who is a Professor from Princeton that was in part of your testimony, if you look at all of that together and include Journalists and other Scholars, etc., it just feels like there's a one size fits all approach to how all of these topics are being considered.

So, if we take in totality the recommendations, the wish list for you, if we take that in totality, I'm just trying to figure out how we make those suggestions, or those recommendations, work. So, if the black community is roughly 14% of the American population -- or a little more than 14%, which gives us over 47 million people, and if we assume that half of that population lives in urban cities, and maybe those -- the folks in the urban cities are having these issues, whether it's with Police, poverty, education concerns.

What happens when -- if the wish list is here and we make all of these changes through legislation or whatever, and what happens to the rest of us that don't have these issues that want more Police interaction in our communities? I mean, obviously you'd want it a certain way. But how do you square that circle?

DIRECTOR BISSONNETTE: Thank you. And that's a great question, one that I don't think I necessarily have a great answer for. And to be clear, I'm a privileged white man, all right? I don't speak for communities of color. I am really here, I think, trying to testify about some of the things that we are hearing on the ground, and also some of the things that we're maybe seeing in the very limited data that we have, with respect to racial disparities.

So, I don't have a great answer, really other than to say that I do think, personally, that it is a problem, based on some of that limited information. And that is really forming the basis of some of the recommendations that I have.

DIRECTOR MALACHI: Understood; so if the data is limited -- and we will move back to New Hampshire now -- so if the data is limited, for whatever the reasons are, and let's just assume that there's nothing nefarious, just people didn't think to do it. So we will just go with that.

So if we are saying that the data is limited, the volume of changes that so many have come before us to testify to make, those are really big changes for limited data. And of the limited dataset, you could drill down and move numbers and statistics. We all know that the statistics that you collect are as good as the

questions asked. They are as good as the Statistician working those numbers, and how far down you drill into any particular dataset to understand.

So if we're just assuming a lot -- it feels like we're assuming a lot of things based on limited data here, looking at larger urban settings, where there's this conflagration of information that's happening. And so, if we're choosing to make these huge, sweeping changes with limited information, the opportunity for there to be a laundry list of unintended consequences is there. So how do we adjust for that?

DIRECTOR BISSONNETTE: I do think data is important and valuable. I do think it provides a snapshot of what's going on, both here in New Hampshire and nationally. And listen, I'll be the first to admit, and I just said it moments ago, I think we have a data problem here.

But some datapoints that we have in New Hampshire do indicate that these problems exist, that New Hampshire isn't this special oasis that is immune from racial disparities and is immune from some of the things that we're seeing nationally, which is some of those datapoints that I put forward in my testimony.

I didn't actually realize that we had more recent Prison data, actually. And I appreciate you raising that. But even some of that data, at least with respect to African-American incarceration rates, at least to me -- and I'm not a Statistician. And I haven't looked at statistical significance, to be clear. I know that that part is important -- but suggest that maybe there is that issue. That issue continues to exist in New Hampshire now, as I think it may have in 2014, when you look at my testimony.

So I think your point is very fair. I'm only responding by saying the limited data suggests that there could be an issue in New Hampshire. And I haven't seen any evidence that we are necessarily immune from some of these national trends, on the flipside. So that would be my take.

DIRECTOR MALACHI: Understood; and then, I mean, I would assume that no place is immune because all places are full of people.

DIRECTOR BISSONNETTE: I agree. I agree. I agree completely.

DIRECTOR MALACHI: And sometimes people are great. And sometimes they just aren't, regardless of skin tone. So if we will just scoot over, so the numbers that I was looking at yesterday, the Prison numbers, so -- and I don't have this answer and I'm asking because you might have the information, or at least an anecdotal -- because there's a lot of anecdotal information. So I get that. And if it's anecdotal, just list that and we can move on.

So, if we look at the June 1st, 2020 numbers and we look at black or African-American -- excuse me -- in terms of race, it has 161 people there. So, we won't try to do percentages of population at the moment. But the question here is: this number, as it stands, I don't believe separates out whether they are Federal Inmates, whether they are State -- like, there's no information there.

So, I think, to be fair, if we're using general numbers, right, so just counting heads at the Department of Corrections, then it wouldn't be fair if we don't separate out Federal Prisoners versus whatever, and then start to drill down. So if they're Federal, move them out. If they're New Hampshire folks in New Hampshire Jail or Prison, then we look at those numbers.

But then, to look at the drill down even more into that to go, okay, so of the percentage that's in the population -- the Prison population, are these people that anyone looking at the story, not knowing what

the person looks like, would have convicted this individual? And if that's the case, then race can easily be removed from the conversation. And then, we find out those numbers.

Then, we're having a separate conversation about some of the other things. You know what I mean, because for me what happens with this conversation is that we end up with word salad. You take a half a word here and a half a word there, and a phrase from over here, and a thought from 1960. And you squish them all together. And now, we have public policy, which is challenging for me. So, kind of what are your thoughts, if I wasn't to ramble (ph) for you? But, what are your thoughts on that?

DIRECTOR BISSONNETTE: No. No, no, I appreciate it. And my understanding of this chart, having conferred with Joseph yesterday -- and if I'm wrong on this, I'll clarify later, of course. This, I believe, is a chart from the New Hampshire Department of Corrections. So this is only reflecting State Prison Detainees. So I don't believe it's reflecting Federal Detainees. I also do not believe it is reflecting Jail Detainees, individuals who are in County Jail, either pretrial or serving misdemeanor sentences.

So, basically we're talking just about folks in the State Prison. So these are New Hampshire Detainees. I would presume that most of them are from New Hampshire. I don't have the data on that. But I'm making an educated guess.

So, I think that is my response. And I will flag. And there are a lot of probably reasons behind this, but that, when you look at that number, the 161 number, over 2,445, that is 6% of the State Prison population where we have, at least according to 2019 Census data, an African-American population of I think it's just south of 2%. So that is a disparity.

I haven't looked at statistical significance. I don't want to testify to it. I recognize my own limitations. I went to law school, not math school. But, there is maybe something there. And I just think that requires some looking into, if that is statistically significant.

DIRECTOR MALACHI: So, help me with that. Looking into meaning why are they there, why are there so many?

DIRECTOR BISSONNETTE: Why is there a disparity? Oh, I'm sorry. I interrupted you. I'm sorry.

DIRECTOR MALACHI: Yeah. No, no, you're fine.

DIRECTOR BISSONNETTE: Yeah. No, why does that disparity exist, right? And I am operating under the assumption -- again, not being a statistician but having read some of the Scholars that I think do a brilliant job on this. Michelle Alexander, *The New Jim Crow*, who says that African-Americans don't commit crimes at greater rates.

All right, so if that -- if we're going to agree with that assumption based on the data she's collected -- and I haven't independently looked at it. But if we're going to agree with that, and assuming we have a statistical significant disparity in New Hampshire, at least with respect to incarceration rates, then what is the cause of it?

Is it how we police? Is it where we police, as a State? Is it implicit biases, because if those two assumptions are true, then it's something that I'm really concerned about and I hope we can do something about, because those are disparities that don't -- if it's significant, that would exist not just in New Hampshire but everywhere else -- or a lot of other places, I would say.

DIRECTOR MALACHI: Yeah, so thank you for that. And I guess the question would also need to be asked and answered. What are they incarcerated for? So, if it's a string of misdemeanors or something, then maybe you could use the information to prove that, yeah, there's an issue here that we need to look at.

But if it's domestic violence, if it's sexual assault, if it's armed robbery or other -- murder, or manslaughter, or other important charges, then I don't know how fair it is to upend the system on a disparity that could have some accuracy in it. You know what I'm saying?

So, we can jump out of here and go to Oz and talk about Chicago. Everybody talks about Chicago. But, if you look at that, for example, because I don't know if there's more black-on-black crime here in New Hampshire relative to the size of the population than there is in Chicago or Atlanta, or somewhere else with a much larger African-American population. I don't know what the crimes are that the folks are incarcerated for.

So, is it fair to say that there's an overrepresentation because people are being over-prosecuted? Or is there an overrepresentation because there's more crime simply being committed? And the assumption of a Scholar is a little different than someone who is in the Criminal Justice System and being able to physically account for those numbers with people that have been arrested, that have been prosecuted, that have been given other forms of other opportunities for a pathway -- a diversion pathway for justice.

So again, I go back to we seem to be making really big decisions on a few pieces of information, without looking at -- and that's part of the problem, right, because there's so many different datapoints and so many things that intersect. So there's poverty. And there's single parent households, meaning fatherless homes. There's lack of education and why is that? So, it feels to me like there's a lot of sweeping suggestions and thoughts on things that need more looking into, if that makes any sense.

DIRECTOR BISSONNETTE: Yeah, I want to be clear, too, that, I mean, our recommendations aren't just based on incarceration rates. It is based on some of the other data that we've talked about. I mean, I want to go back to the notion that African-Americans aren't committing crimes at higher rates, which is not just an assumption. It's based on some of the statistical studies that Michelle Alexander has cited in her book. I could -- happy to send a footnote so everyone could vet it. I think that's important, transparency. We've all been talking about that.

But, if we can assume the validity of that national analysis that African-Americans aren't committing crimes at higher rates, the flipside is I haven't seen any evidence that New Hampshire is exceptional, that New Hampshire is just different than those national -- than that national data. So I think that would be my response, because it seems to me that we have some of these disparities. It also seems to me that there isn't really any data on the flipside that suggests that we are somehow immune from the national trends that white folks are committing crimes at the same rate as other populations.

DIRECTOR MALACHI: Maybe nobody is looking for that, though, because, I mean, the conversation isn't -- that isn't the conversation. So, I mean, maybe just no one's looking for it. Or maybe it hasn't been noticed.

And I guess another question would be: do you think that -- and we will move away from incarcerations after this one. But is there a sense that more African-Americans in Prison is that they're disproportionately caught in a crime, versus disproportionately sentenced for something that was actually done?

DIRECTOR BISSONNETTE: I think the -- that's a good question. And I think the concern that we have is just how individuals are ultimately kind of getting into the system. What is that interaction with Law Enforcement, the nature of that interaction, that ultimately leads then to the arrest, to the conviction, to the sentence, and to the ultimate incarceration?

And if African-Americans and white folks are committing crimes roughly at the same rates, and there are these potentially statistically significant experiences, then I think one of the root causes of that that we are worried about, that go to our recommendations, for example, with pretextual stops, is that initial policing decision, right? That initial policing decision to stop someone, whether it's on the street or whether it's on a motor vehicle through a pretextual stop, and the fact that bias may be implicit within that decision. And then, that creates a cycle of events that ultimately lead to incarceration. And I think that is potentially one of the things that leads to this limited data we have. But also based on -- and I'm going to speak to this, and Joseph may at a later date. But just the personal experiences that he's heard from others about these things, so that would be my response.

DIRECTOR MALACHI: Thank you for that. I know I had another question. But I'll move on. I can't remember what it is. Good, bad, I don't know.

DIRECTOR BISSONNETTE: Sounds like my morning, too, I'm not going to lie. I'm with a four-year-old.

DIRECTOR MALACHI: It does kind of get you off-topic, right?

DIRECTOR BISSONNETTE: I know.

DIRECTOR MALACHI: There -- so -- and I want to go back to your -- specifically in some of the areas of your testimony. So, offhand, so then, would it make sense, in terms of disparities, to have the laws changed, because if the Police are policing based on the law, if the law isn't there, or it's amended, or different, then they're not policing based on that?

DIRECTOR BISSONNETTE: Well, I could tell you certainly, though probably outside the scope of this Commission's work, that the ACLU has a lot of recommendations about how the laws should be changed in order to make policing -- or to deal with particular crimes, sentencing, etc. But kind of setting those aside, I think it's important to note that, embedded within policing, embedded within prosecutorial decision-making, is huge, huge, huge amounts of discretion: when to pull someone over; when to charge; the degree to which you will charge someone; how to charge the person; what the plea offer will be, all of those things.

And so, I guess my response is really every one of those multitude of decision points, given how expansive our Criminal Laws are and the decisions that are embedded within it, there is an opportunity for bias to kind of (inaudible) that lead to some of the incarceration rates that we're talking about. So I would like to see some laws changed. But, setting that side, if we were even not to change any laws, just kind of a recognition that there's all those decision points that could contribute to some of the things we're talking about -- or I'm talking about.

DIRECTOR MALACHI: Yeah, well, would it be fair to state that -- I guess it was the mid-/late-'80s with all the drugs -- that there were a lot of black leaders, community leaders, congressional leaders that were adamant about having the Drug Laws changed in order to keep the communities safer than they were becoming, which sort of put us in the pipeline we're looking at right now, which caused the disparities.

So, you had, for example, crack versus powder cocaine, right? And so, if the law is there and then the information is, these are the people that have crack. These are the people you're arresting. This is from on high that this is to be done. Then, the laws have changed to reflect that. So Congress makes it. President signs it. Here we go. Buckle up. And the whole point of the game is to get these things off the street. You don't want the drive-bys (ph) and the drug wars. You don't want kids being killed. You don't want grandmothers not being able to go to the grocery store, or whatever.

And so, with all of that, which initiates that level of disparity, which is still where we are now, because those laws are still on the books, so I guess it just still feels like we're apples and oranges and not apples and apples with being able to move that forward. And then, the Police are given the various tools that they have in order to be able to stem the tide.

And I think someone spoke eloquently already about the war on poverty and the war on drugs. And all of those, as well meaning as they were, and even dealing with New Deal Policies back in the day, were all disproportionately abusive, we should say, to the African-American community, which I think has set up an incredible nexus for us to still be where we are so many eons after reconstruction. It's time to reconstruct, again, I guess. But, here we are. So, it feels like some of these thoughts are really heavy-handed on the side of this is where we are, so we will fix this. But we won't touch this. I don't know.

DIRECTOR BISSONNETTE: (Inaudible) that this is multifaceted, all of these issues. And I appreciate the discussion of the war on drugs in the 1980s. And we've gone through in the past 30, 40 years, because, in part, of the war on drugs and in Prison population of around a half a million to now 2 million. I mean, you look at the rate of incarceration in the United States because of the war on drugs. It's astounding. And it has had a, in my view, a really awful impact on -- and disparate impact on communities of color, just based on the data alone.

And so, I don't want to put words in your mouth. But, I think that does highlight that, in addition to maybe some of the things that we're seeking here, changes in the law to address those disparities. I totally agree that we could be making substantive changes elsewhere, whether it's sentencing reform, decriminalization of certain offenses to also address some of those disparities.

But this is multifaceted. And I don't think that, alone, will address some of the issues that we have, because, as I said, kind of going back to my remarks just a few minutes ago, embedded within the very decision to arrest, charge, and prosecute someone is a huge amount of discretion that allows biases to seep in. And I think that is -- this is multifaceted -- that is another facet, I believe, to this particular issue.

And I know that frankly because that was what the Commission has been asked to address, at least based on my reading of its Mandate, that's what we have focused on. But I'm not disagreeing at all, frankly, with your view on that.

DIRECTOR MALACHI: And -- yes, and I appreciate that. And then, I think, too, yeah, there has to be some focus, right? I mean, we could go on for days and be all over the place. But I think part of it, as well -- so, if we want to move into pretextual stops, for example, it seems like that's a far reach to get rid of those altogether, because if there is some form of pretext to actually stop someone, to actually stop someone,

then -- well, let's say that it was a biased reason to stop someone. Then, wouldn't it be -- when you recognize that that's an issue, wouldn't it be better -- if it's an actual tool that Law Enforcement can use to actually help in the solving of crime and potentially the prevention of crime, why would we want to get rid of it?

And then, wouldn't it be better to deal with training to work with Law Enforcement to make sure that they are doing a better stop? And I don't mean hiding your bias. But what I mean is that they're taking into consideration the legality of the actual stop. And with some of the other testimony that's been given, with people wanting bodycams and car cams, those tools, if we were to do that, if there's the unlimited amount of money that we can do these things, then wouldn't those tools assist in not only using them as training devices to say, hey, this isn't the way you do this, or this one is really great, to help us with the thought about bias in that?

DIRECTOR BISSONNETTE: I think (inaudible), and I know Law Enforcement believes pretextual stops are a useful tool. I think what I'm just trying to do is at least put out there the idea that there are some consequences, costs, and risks to it that we maybe just aren't internalizing, right?

So, there are no doubt some instances in which pretextual stops will lead to prolonged detentions and which may yield contraband. I would think that there are a lot of other stop -- pretextual stops which don't lead to that. And what do you have there? You have a situation where people, I think, have really been deprived of their rights and liberties.

I have no doubt that, in some instances, it could be viewed as a useful tool. But it would also be a useful tool to stop people without suspicion or probable cause. And we just don't allow that, because that's really not how our Constitution is designed to work. We err on the side of trying to ensure that people aren't interfered with by the Government.

And that's the perspective from which I'm coming to the issue of pretextual stops. And I think, to be blunt, why we have focused so much on it is because it seems to us, just based on Court Decisions, that this is something that's happening with substantial irregularity. And it's not just a matter of necessarily a one-off State Trooper. I'm going to follow this person for whatever reason, whatever implicit or explicit bias may exist, or maybe no bias. I'm going to follow this person until I can come up with a motor vehicle violation, and then try to see if I get into the car.

This isn't necessarily -- this is something that is happening, it seems like, as a matter of Policy. And given the discretion that allows for Law Enforcement to make the initial decision, I'm going to trail that person, that is why we have concern.

I recognize a little bit of a distinction, because they're waiting for someone to commit a motor vehicle violation, right? But that's not the real reason behind it. And that's the only way I could really answer it, because that is the concern that we have.

DIRECTOR MALACHI: So is it a difference between I'm a Police Officer and I'm following someone for whatever the reason, waiting on them to do something incorrect, so that I can stop them, versus I'm sitting over here and I'm getting my -- pardon me, Law Enforcement folks -- I'm getting my coffee. And I happen to see this person, if it's in the evening and it's a bar. And you're across the street at the gas station or whatever. And the people are stumbling out. And then, they get into the car. They crank up. And they leave. I mean, I've watched them do this. So, I -- why -- would that not be a pretextual stop, as well?

So, if that is, then is the difference following someone, waiting on them to do a mistake and now I can stop them, versus I see something and they would need to complete this act in order for me to actually stop them for it? Is that the difference? And if that's the divide, then maybe there's a limitation of some sort, versus a getting rid of.

DIRECTOR BISSONNETTE: Yeah, so a pretextual stop, it was the first example that you gave, right? It's I suspect for whatever reason that person may look suspicious, for whatever reason. That's actually some of the examples that Judge Schulman talks about in his decision, Officers just making a decision about what is and isn't suspicious, based on some very questionable things in my view.

And then, trailing the car, based on that hunch or suspicion; and then waiting for their probable -- waiting for the Officer to accumulate probable cause to believe that a motor vehicle violation has occurred. And then, that triggers the stop. So the stop's really about that suspicion, not the motor vehicle violation. But then you stop the person for the motor vehicle violation.

But it's what happens next actually that is interesting with these stops, right? It's not just the stop, itself. It's then extensive questioning that goes beyond the traffic violation, the requests for consent to then get into the vehicle, things that are not really related to the underlying stop. And then, that ultimately, a lot of people give consent, even though they don't have to. There's a big power disparity in that situation. And then, you're now in a cycle of consequences with Law Enforcement, potentially. So I've lost track of the second part -- or the second thing I was going to say. But that is the (inaudible) response for the moment. I'm sorry.

DIRECTOR MALACHI: The gist of it.

DIRECTOR BISSONNETTE: My wife is in a conference call right next door. It's like, wow, I can't.

DIRECTOR MALACHI: So, then, question; so then, if we all know and can agree that expanding the scope of a search is unlawful, as one of the court cases -- I can't remember if it was Jones or Jamison. I don't remember.

DIRECTOR BISSONNETTE: It was the Perez case is, I think, what you're referring to.

DIRECTOR MALACHI: Perez, okay.

DIRECTOR BISSONNETTE: Yeah.

DIRECTOR MALACHI: So, if -- hold on one second. Let me pull up my notes on that. Okay. So, right, but I guess in Perez, though, the -- was the concern the expanse of the stop? Or was it that -- the suppression of the evidence?

DIRECTOR BISSONNETTE: You're right. It's the expansion of the stop. And in fact, that's how a lot of the -- that's how all of these cases are addressing it. It's they're actually not really necessarily questioning the appropriateness of the initial stop, right?

What they're questioning is the expansion. You're spot on. The reason why they're not actually questioning the initial stop is because of the Whren Decision we've talked about, right, which has said pretextual stops are okay.

So what I'm trying to kind of see if I could get the Commission to think about is, rather than addressing this in a expanding the scope of the stop context, to think about the initial stop and the problems that relate to the initial stop, because that is the triggering event to all of this. And that initial stop, right, is not just going to be implicating individuals who have criminal charges against them, who can litigate the scope issue. It's implicating individuals where they get pulled over. It ultimately doesn't lead to criminal charges.

We don't have data on that, because that's not something that we necessarily collect. But I just feel like there has to be a scenario, given what seems to me to be a pervasive practice, that we have a lot of other individuals who are stopped who aren't going to be going through the court process, necessarily. And I'm concerned about that.

DIRECTOR MALACHI: But I guess, going back -- and if we can even skip back to Whren, though, I mean, how are you going to -- how are you asking us to determine what's in someone's mind when they are making -- potentially making a stop? I mean, if the Court says, hey, Whren's cool, then Whren is cool, right?

But we can further help that by making sure that training is done appropriately, that the initial stop is done properly in the first place so that you don't stumble over yourself and deal with the potential expansion of a search in the second place. And if we look at -- I'll slide into Jones for just one second -- the -- or -- let me not say Jones, because I can't remember now. The information is in there, but all the street addresses aren't there. So, I'll leave the street address alone. But, in one of them, the person was held for about 20 minutes -- or less than 20 minutes, while there was a background check -- that is Jones -- while there was a background check that was being done.

DIRECTOR BISSONNETTE: Yeah.

DIRECTOR MALACHI: So, to you and me, 20 minutes, oh my, gosh, that sounds like a long time. But if the Law Enforcement Officer has to make a call to run a plate to check information and that's how long it takes, then that's just how long it takes. And once they've interacted with someone and they feel the need to run a plate or whatever, we won't necessarily at the moment talk about why. But they ran the information and it came back with something. We've moved into another area now.

And I think Lawyers and Advocates assume that the general population, whatever skin tone they are, knows that if you talk to a Law Enforcement Officer and you don't -- if they come and interact with you, I mean, and obviously you're not committing a crime, that there's this assumption by those who advocate and Attorneys that everyone knows that you have -- you're free to go. I can just say, I'm not talking to you, and leave.

And so, as a legal defense, you're going to say, well, that person was seized and they didn't feel like they could leave. But we're never taught that you have that options, I mean, unless you watch TV a lot, right? And so, at that point, you're in the little room and you're like, I'm not talking until I get my Lawyer. And that's different. That's not someone on the side of the road. So, it just still feels like a lot of this is sliding down this really long, windy, slippery slope.

DIRECTOR BISSONNETTE: I just have two responses with respect to the pretextual stop issue, and doesn't that require us to get into the mindset of Police? I don't disagree that it's hard. But with respect to what seems to be (inaudible) vis-à-vis the State Police right now, we don't need to worry about subjective intent, because it seems, at least according to Judge Schulman and the cases he chronicles, that this is what at least some in the Mobile Enforcement Team are doing. It's not -- it doesn't seem that it's disputed. Or at least Judge Schulman didn't think it was disputed in that case.

So, I don't have that problem, necessarily, because it seems like some Officers with the Mobile Enforcement Team are admitting I'm trailing that person because of a suspicion. And it's not because of a traffic violation. And I'm going to pull them over because of a traffic violation.

So I guess what I'm saying, I agree with you that it could be difficult to get into that subjective mindset. But I don't think, at least with respect to the MET and the information I have, that we actually have that issue.

Point number 2, with respect to Jones, I actually think 20 minutes is a really long time. I don't think that's just how long it takes. Being detained for 20 minutes -- they didn't have any probable cause or suspicion to detain Mr. Jones for that 20 minutes -- is something that I'm concerned about. And I'm glad that I think that the Court reached the right conclusion. I think the Court concluded appropriately that race should be taken into account in the context of determining whether or not a person's seized, because folks can feel differently about whether they're seized, based on their own real-life experiences. And I'll just leave it at that.

DIRECTOR MALACHI: Okay. I guess I would differ with that. But, I mean, I've never been another race. So, I don't know. But I've also never -- I mean, just by training, I guess, and training meaning when you have interactions with Police Officers, you certainly are to be respectful with anyone, right? So, that's the initial groundwork.

And if they're stopping you or asking you a question, then there's some reason, at least in my mind, that they're stopping you or asking you for a question. And any time I've been stopped or asked a question in my vehicle, it's probably taken about 20 minutes for them to do their stuff. So they're in the back. They're doing the thing. They're running the plate, making sure the car's not stolen. I mean, I would want them to do that so they know who I am and making sure my ID matches that. I want them to do that.

And they're respectful when they come and ask me for whatever they're asking me for. I mean, certainly, I have all my paperwork handy. So I'm handing that to the Police Officer. And I think, of the couple of times, I mean, if I think back, it probably took about 20 minutes for that to happen.

So I guess the confusion for me is, if neighbor person in Jones' situation, if neighbor person called and it was suspicious, we can have a deeper conversation offline over coffee what suspicious means. And then, the Police respond. Should the Police have talked to the person that made the call first? I don't know. Maybe, and we wouldn't have this to discuss. But, they went to the car and made the conversation.

And I wasn't there. So, I don't know if the gentleman looked suspicious or if the situation was suspicious, or if that's the only car. If there was a bunch of cars with people in them and they only went to the car with the African-American in it, we could have that conversation. But if that's the only car in the lot and they go to talk to the people in the car, that makes sense to me.

How do we know if there was an issue with the driver? I mean, to me, there's so much subjectivity. And when we get to court cases, we're so far down on the opposite end of what happened in those moments that I think, for me, it just brings up a lot of -- it's so subjective. And if you find a law that fits it,

then you may have a case. And it just worked out on the other end. And I hope Mr. Jones is well and not still in the Criminal Justice System. I hope he's living a happy life and is doing well. So, I guess that would be my only point on that.

And before I wrap up, I do want to move briefly -- oh, before we even -- I was going to talk about qualified immunity. But, before we do that, I think, just to make you really happy, I think we're on the same page on the Laurie List, or the EES List, or whatever. I think most people want that to go away. It just kind of doesn't make sense. And figure out a way to walk through who's doing what, or did what; clear people who need to be cleared; fire people who need to be fired; retrain people who need to be retrained; and then just make it more public and appropriate, as we all go through. I think we can agree on that one for sure.

DIRECTOR BISSONNETTE: Agreed. No, I think we're in a really -- should I respond to that? I don't want to. Oh, okay. And I'll respond briefly. No, I think that that list, not only do I think it's important for an accountability perspective that it be released, it's almost become a symbol, right? Just when you have a list like that that's kept in secret, I think that the current number at least as of April is 275.

I get calls about it every week, actually, from people who have gone through the criminal justice process who just have this wonder that, was the Officer that testified against me or that was on the witness list, is that Officer on the list? And it just creates, I think, some distrust.

And I think maybe we could get rid of the list with greater transparency like what some other States have done, because you just -- you don't need a list when you have increased transparency. And I know that the Law Enforcement have some concerns with the list, as well. And so, maybe that's just something we all can agree on with increased transparency and we can just get rid of the list, at least prospectively.

DIRECTOR MALACHI: Yeah.

DEPUTY ATTORNEY GENERAL YOUNG: So, excuse me. I don't want to rush this along. But this is -- Attorney Bissonnette was held over from yesterday. It's been an hour. And I do have Attorney Krupski, who has waited for several hours. So if we could just maybe wrap this up within the next five-or-so minutes, we need to move on, because I got to keep us on schedule.

DIRECTOR MALACHI: Okay, excellent. And five minutes is really all I need. Just one quick question, and as quickly as you can, I know, right? Qualified immunity; so, Federal, how are you looking to remove, dissolve, get rid of in a State situation?

DIRECTOR BISSONNETTE: Yeah, that's a great question. So, there's nothing this Commission can do about eliminating Federal qualified immunity. That either -- that's something that either needs to be resolved by Congress through legislation, or the U.S. Supreme Court needs to reconsider it in the context of Federal cases in which Federal constitutional violations are brought.

But there is one thing that this Commission, at least, can consider and that's creating a State cause of action for violations of State constitutional rights, which would be like what we can do in Federal Court. But unlike in Federal Court, that new cause of action would remove qualified immunity. So that is the way to do it, if this Commission were interested in it. And I've already explained my view on that.

DIRECTOR MALACHI: Okay. And thank you for that clarification, because I was a little confused on that. Thank you, Commissioner for the day, right? Commissioner Bissonnette?

DIRECTOR BISSONNETTE: I don't know. Yeah. Pinch hitter, yeah.

DIRECTOR MALACHI: Attorney Bissonnette.

DIRECTOR BISSONNETTE: Thank you.

DIRECTOR MALACHI: And thank you, Deputy Young.

DIRECTOR BISSONNETTE: Thank you.

DEPUTY ATTORNEY GENERAL YOUNG: Thank you. So, Commissioner Quinn, I know that you had had your hand up. But I know that we have talked a lot about this one case where there was an Order of Suppressing Evidence. I trust that the State Police have done more than one case, and there have been other instances where suppression issues have been raised, and where the Court has found that the Police action was appropriate. Do you care to comment on that? It seems like we focus on the one case and we lose sort of the sense of the whole.

COMMISSIONER QUINN: Yeah, great.

DEPUTY ATTORNEY GENERAL YOUNG: And I'm sure there's probably other cases. So I get that there's -- those cases get suppressed.

COMMISSIONER QUINN: Sure.

DEPUTY ATTORNEY GENERAL YOUNG: But that's also the system in which we work.

COMMISSIONER QUINN: Sure; if I can have a few minutes, Deputy? And good morning. Good morning, Gilles. I wanted to -- can you hear me okay, Gilles?

DIRECTOR BISSONNETTE: Yes, I can. I hope you can hear me.

COMMISSIONER QUINN: I can.

DIRECTOR BISSONNETTE: With my chaos here.

COMMISSIONER QUINN: I wasn't sure if my mic was on. Well, thanks for your testimony and the opportunity to respond. I briefly want to touch briefly on qualified immunity and just say I'd like to reiterate what's already been said by Chief Dennis and John Scippa, and the rest.

But just to share with you, New Hampshire's already seeing Law Enforcement from other States coming here because of this. So we're already seeing what's happening in other States. And at this time,

where we, as a Commission, are trying to recruit and retain the best, the best to put on the street, I think that that could be a huge step backwards.

And I just wanted to share with you. We're already seeing Officers looking to come to New Hampshire because what qualified immunity could -- the impact in their States. So, just to share that with you, briefly.

I also want to touch in your comments and concerns relative to MET and some of the data you've produced for the record. I believe we have agreed as a Commission that, while data is very vital to identifying misconduct and other trends, we, as a whole, must be sure that data's accurate and we understand the complete story behind the data.

I've tried to understand the unique roles and backgrounds of my fellow Commission Members, yourself and Joseph included, and I hope that we, as a Commission, try to understand those are the men and women who have a very important role in keeping us safe, those that we refer to as the MET Team. To that end, I'm going to try and put in full context a picture as we've focused on just a few isolated cases in a particular venue.

I believe that the data you've supplied goes back 22 years and highlights 24 cases for the Commission, which expanded the scope of a stop. That stated, not all of State Police cases are specific to the MET Team. And for the record, the MET stands for Mobile Enforcement Team.

And just to give you a little -- a background on it, the MET Team was put in place. I believe it was 2015. It was three Troopers. And at the time, we were faced with the overwhelming influx of heroin and addiction, and overdose stats. And quite frankly, there just weren't enough resources focused on that, because the Troopers on the road also had to focus on covering their crashes and responding to calls for service. So, it was started because of a need, a need to support communities, support Drug Units, and support the initiatives that were ongoing based on a Public Health crisis we were facing. And that's similar, Gilles, to those that are out there trying to remove impaired drivers from our roadways. They're highly trained in a specific and unique skillset.

I also want to share this, because I think numbers are important. Let's remember, in an eight-year period, from 2011 to '18, let's remind ourselves 2,594 people died as a result of these illegal drugs. Today, while we focus as a nation on the COVID Public Health crisis and our task at-hand as Commission Members on Law Enforcement reforms, we've seen no major reduction in fentanyl. And as of yesterday, I confirmed with the DEA that fentanyl and methamphetamine together still pose a significant threat to all New Hampshire citizens, us included. And there will be no vaccine to cure this.

Enforcement still has a part in this strategy. And I agree and fully embrace, Gilles, all of the opportunities after arrest for rehabilitation and reintegration back into society. And I know the MET Team does. But they have a specific role to do, just as we all have jobs and unique roles.

I also want to remind. And for the record, Colonel Noyes previously testified, as we've spoken about two specific cases, Hernandez and Perez, we've focused on that quite a bit, as this Commission. The State Police stop approximately 120,000 cars a year and can make in excess of 5,000 case arrests annually. When you multiply that by 22 years, as we go back, there's over a million contacts. Are we looking at systemic, pervasive problems here? Or are we dealing with isolated events?

I also want to share this, because I think the numbers are important. The MET Team was formed in 2015. Since then, they've made over 800 felony-level drug arrests. Some of these can be prosecuted in State Court, some in Federal Court. And I don't have the data on what the outcomes are, all of those cases. Seized over 122 firearms; they have assisted over 4700 unique local cases of Federal Agencies.

And let's just discuss this for a minute, just so everybody understands. And I'm not going to dispute the facts of any of the cases and what the Troopers have testified to in those cases. But I just want everyone to understand that the MET Team is not just sitting out there on the side of the road. They have a mission to support these Drug Units: the FBI Drug Unit, the DEA, the State Police, the Drug Task Force. Many of these cases, the backdrop of these cases prior to the stop taking place were purchases of drugs, extensive surveillance, maybe even, at times, telephone intercepts. So there is more to the story.

The other thing I wanted to share -- and again, going back to the number of deaths -- they've seized over 33 kilos of fentanyl/heroin. And you know, Gilles. You've looked at the numbers here. These -- that is a very, very lethal, fatal drug, could have potentially killed over 1.2 million citizens. So, again -- and lastly, on the MET Team, I think it's fair to say they cannot dictate the color of those in drug trafficking organizations that choose to transport and sell these illicit drugs.

I believe that the other thing you need to understand is the MET Team -- I think the public wants our Officers that are out there to be highly trained and acutely aware, when they stop a car, of all crimes and all hazards, but clearly not based on race. Based on the data we have looked at and shared for recent -- for proximity of time, we do not see the MET Team racially profiling drivers. For the data that we have looked at, the overwhelming number of stops that took place during this period of review were Caucasian drivers.

And in regards to the cases that have been raised where a Judge has suppressed the evidence because the Trooper expanded the scope of the stop, well, it is unfortunate they are isolating. And you will hear what is done as a result of these Orders to make them a learning opportunity for the Division. I also want to highlight, and it's important to note, that there were no credibility issues raised by the Judges, just that the scope of the stop was expanded and the evidence was suppressed.

I want to just touch quickly, and I think it's really important, and Ahni brought it up, on training. And I just want you to understand, and the Commission, what goes on here, because training is vital. Training's vital for the integrity of the entire process.

And you know what, Gilles? You raised a few comments at the end. And I agree with you. And we need to be aware there are consequences, costs, and risks to everything we do, even when we are correct. We all need to be aware of this and be aware of perception.

But I want to go back to training. Again, we're in 2020. We're on a Commission to look at building trust, transparency, reform. And I just want to go back to the history of this, because I think this is important for you to understand and everyone on this Commission.

You pointed to a case that you supplied that took place in 2009. And it caught my eye when I looked at it. It was a Belmont case. And the reason it caught my eye was because I was involved in it. I was a Captain at the time. And I came upon the stop on the side of the road.

And I believe -- and I don't have the Reports in front of me. And I'm going strictly by memory. But I believe it was on the 4th of July. And I pulled up behind the Troopers. And they had a car stopped, 95 and I'm not sure if it was Hampton or North Hampton.

And I get up and I observe them talking to a male driver and there was a male passenger, both white. Eventually, they conducted a search of the -- a consent search, and their attention was focused on the male passenger.

I remember going back to my car, getting in it, as a Captain, trying to help them, trying to support them. It was their case. And I made a phone call to the Attorney General's Office. And I spoke with I believe it was Attorney Brian Graf, who was head of the Drug Unit. And I ran every bit of the case by him. Here's where we're at right now. Do we have enough to detain the passenger? Yes.

So we detained the passenger. We took the passenger to a local Police Department. They applied for a Search Warrant by a Circuit Court Judge. It was granted. We removed a large quantity of cocaine from the passenger that he had secreted on his person.

Well, the reason I bring this up is this. We eventually went to the Grand Jury. The case was -- there was an Indictment that was brought forward and the case went to a suppression hearing. And the Judge, a very experienced Judge, suppressed the evidence.

After the case, we discussed it with the Prosecutor, Mr. Graf. And he said that he wouldn't have done anything different. He thought we did everything right. We looked at it. We did what we were, we believed, trained to do. We asked the right questions.

And I just think it's important for everyone to understand. And again, these two gentlemen were white. But, the reason I bring it up is we're not in it to win it. And we did what we were trained to do. We did what we believed was right. We followed the Prosecutor. We looked for recommendations and guidance after. And it's not as easy as one thinks. And again, the Defense Attorney in that case had a role to do. The Prosecutor had a role to do. The Judge had a role to do. We did our role. And after it was done, it was over.

Moving forward, Gilles, to 2012 -- and again, at this point, I was the Colonel -- we continued to have cases where we were expanding the scope of the stop. And quite honestly, Troopers were just trying to find out, what are we doing wrong? What can we do different? What can we do better? There was no discussion on race. It was more just making sure we got it right.

In 2012, then-Commissioner Barthelmes, Assistant Commissioner Sweeney, I asked the then-Attorney General to come into Concord with most County Attorneys. I can't remember all of them. But we started a conversation on training, training, training, training. And we developed some training to make sure we were doing it right. We expended it out to local Law Enforcement. And today, eight years later, we continue to do that training.

After Hernandez and Perez -- and again, I'm not going to question -- the elements of the case. Clearly the perception does not look well. You've raised the issue. I fully understand it. But I want you to understand we met internally after this was done. The Team looked at it. The Commander looked at it. He's well-aware of these perceptions. And what we tried to do was get better from it, learn from it. Change operations, because, at the end of the day, it does not matter, if you lose the public's trust.

So, today, just to bring you up-to-speed today, we are working with Attorney Broadhead and a Member of the Attorney General's Office assigned to the Drug Unit to look at our current practices, to look at what we're doing, to make sure they do align with all our Policies. They align with the law. They uphold the Constitution. And we don't encroach on someone's civil liberties, specifically based on race. So I think it's important for you to know that we get it. We get it and we're trying to get better. And we are seeking guidance at the highest level.

The other thing I wanted to bring up again is, when you go back and look at these numbers, okay, numbers are just it. I just want to remind everybody. And again, and I know you're aware of it. But I think it's important.

On this day today, today's the 23rd Anniversary of where Troopers were murdered, Les Lord and Scott Phillips. These jobs that we're asking the MET Team to do are very dangerous. They're there to support local Law Enforcement, support Federal Law Enforcement. And they're dealing with drug trafficking organizations and people that can be violent.

Officer safety is their first and primary goal. They want to make an arrest. They would like to see it prosecuted and result, I'm sure, in a guilty finding. But the end of the day, they want to go home safe to their families. And it's not an easy job that they've been asked to do.

And again, when you go back where I started, we're in the throes of a serious fentanyl problem. And there are drug trafficking organizations that use our highways. And they're preying upon our citizens. And the crime that can get committed, the suffering, and the death is just -- it's something we can't ignore. But, again, we also have to be acutely aware of the issues you've brought up and folks' civil liberties.

What I believe we've done to this point, Gilles, all of us on this Commission, we have Prosecutors. We have Defense Attorneys. We have Members of the ACLU. We have the Police. We have the public. Everybody's listening. What we've tried to do to this point is better learn of each other's experience and concerns to improve community relations and built trust. That's our goal: improve relations and build trust; not arrests; not seizures. That's enforcement.

I want to state that I can fully appreciate, understand, and respect your commitment to civil liberties, and wanting people to feel that they can travel freely on our highways, not be racially profiled or illegally detained. We want to continue to work with you and your team, and better understand our unique roles, which are equally important.

I want to end with this, because I think it's important, Gilles. And you're aware of this, but maybe others aren't. I want everybody to know that the State Police worked very closely with the ACLU to build upon a Fair and Impartial Policing Policy that's been in effect since February 11th, 2019. And while we talked a lot about exceeding the scope of the stop, we've talked a lot about perception. I think if I can just read into the record a couple of these -- just a couple of these procedures, I think address what we're all trying to prevent.

And some of our prohibitions, these are very, very descript. Prohibitions on biased policing: "Biased policing of individuals by Members of the Division of State Police is strictly prohibited." That includes the MET Team. That includes all Troopers. They fully understand and embrace this. Every Trooper has to test annually and score 100 on this.

Stops or detentions based solely on race, ethnic background, age, gender, or sexual orientation, religion, economic status, cultural group, or any other prejudicial basis by any Member of the Division of State Police are prohibited. And I also want to add this. The detention of any individual which is not based on factors related to reasonable suspicion of a violation of Federal Law, New Hampshire Statutes, or any combination thereof is prohibited. So, I won't read them all. But I know, Gilles, that you've worked closely with this.

And I guess I'll just end with this. I think we all agree that we want the safest State we can. But I'm aware, Gilles. I'll end with I'm aware of your concerns. The MET Team's aware of your concerns. Leadership's aware. And we look forward to continuing to work with you and better understand what our roles are, so that we can -- like I said to Attorney Brown, we all want to get to the same place. And I think the key is continuing to talk and keep the dialogue open. I didn't want to take anyone's time. And Gilles, I'm happy if you had any questions to that. I hope...

DIRECTOR BISSONNETTE: No, I just have a brief comment. And I just want to say, Commissioner, how much I value our institutional relationships, because I think our organizations have worked really well. And there's sometimes a natural tension in what we all do, which is fine, appropriate, and probably a good thing.

And of course, want to reiterate, as well, a Policy that was put in place with respect to racial bias in policing just a couple years ago. And I would also note, too, that that Policy has really become a model for some other Police Departments in this State. So, it's a credit to the leadership of this State, not only in how State Police is managing its own Officers, but how it's being a model for other Police Departments. And so, I want to appreciate that.

The only thing I would just add to that, and I think training is critical. I think that's probably one thing that we all agree on. I know that I've said that on multiple occasions. I just think it's only part of the equation, right?

And why I keep talking a lot about pretextual stops, and it's not just to pick on the State Police, it's because it creates a -- in my view just creates a decision point where implicit biases can manifest themselves, because the very definition of a pretextual stop is really a stop that's kind of based on a hunch, where you don't have the actual reasonable suspicion or probable cause to stop someone for the thing that you actually want to stop them for, drugs, etc. And so, you wait for that traffic violation.

And I've said it before. But that ultimately is why we're kind of raising these concerns, because creating an environment where you allow Officers to make stops based on hunches maybe allows those -- it creates an environment of a mass discretion that allows biases to percolate, even though you may have a great Policy that says you can't be racist. I mean, this is something that's kind of implicit in that split-second decision that Officers make.

So my own view is let's just take that out of the equation. We also can train. But let's just take that decision out of the equation. That's my view. I know I've beaten a dead horse with it. But I want to just -- we will, of course, keep this conversation going. But I do hope the Commission considers it, as well. Thank you.

COMMISSIONER QUINN: Thank you, Gilles.

DEPUTY ATTORNEY GENERAL YOUNG: And as the Chairman, I get to have the last word. And then, we will move on. I know, Gilles, you are very skilled at tying it to hunches and drug cases, and implicit bias. There's also another avenue for Police to employ this as a tool when they do not have the evidence to make the stop that is not tied to drug cases or hunches, that are tied to solid law enforcement tactics. So, with that, I will close...

DIRECTOR BISSONNETTE: Just get the probable cause, and then you can stop the person.

DEPUTY ATTORNEY GENERAL YOUNG: Well, you'll have to build probable cause, don't you, brick-by-brick? It just doesn't magically appear. With that said, we will move on from Attorney Bissonnette's presentation. We will welcome Attorney Krupski. Good morning, Jake. Can you hear me? It's Jane.

ATTORNEY KRUPSKI: Yes, can you hear me, Madame Chair?

DEPUTY ATTORNEY GENERAL YOUNG: I can. And I would like to thank you for coming back two days. And I would like to apologize for taking your time. Having worked with you, Jake, on a number of cases in the past, I know how busy you are. You are a very hard guy to pin down. So, losing three or four

hours, I'm sure that that has really made your scheduled hectic. So, thank you. And on behalf of the Committee, I extend my apologies. I would note that Rogers Johnson has joined us. Rogers, it looks like you're at home. Could you just tell us? Is anybody home with you?

MR. JOHNSON: There are people who are in the house, but they are not in this room.

DEPUTY ATTORNEY GENERAL YOUNG: Okay, thank you. Good morning, Rogers. And I also see that Attorney Jefferson is on the line, although I don't see him.

MR. JOHNSON: Good morning.

DEPUTY ATTORNEY GENERAL YOUNG: Julian, can you hear me?

ATTORNEY JEFFERSON: Yes, I'm in my office in Manchester, and I am alone.

DEPUTY ATTORNEY GENERAL YOUNG: Okay. Thank you, gentlemen. Good morning. And without further ado, Jake, the floor is yours. Thank you.

ATTORNEY KRUPSKI: Yes. So, Madame Chair and Members of the Commission, thank you for the opportunity to speak to you today. I've been asked to present on behalf of the New Hampshire Police Association in regards to qualified or official immunity.

And I'd like to begin with -- and I know that it's not always helpful for a Commission to hear, but I'd like to read a short statement, because it's succinct and it's eloquent as to the need for qualified or official immunity. And it says:

"Police Officers are trusted with one of the most basic and necessary functions of civilized society, securing and preserving public safety. This essential and inherently governmental task is not shared with the private sector. Police Officers are regularly called upon to utilize judgment and discretion in the performance of their duties. They must make decisions and take actions, which have serious consequences and repercussions to the individuals immediately involved, to the public at-large, and to themselves.

"On any given day, they are required to employ training, experienced judgment, and prudence in a variety of volatile situations, such as investigatory stops, investigations of crimes, arrests, high-speed pursuits to name a few. Even routine traffic stops can be unpredictable and can escalate into dangerous and sometimes deadly affairs.

"Further, Law Enforcement, by its nature, is susceptible to provoking the hostilities and hindsight second-guessing by those directly interacting with Police, as well as the citizenry by large. Police Officers, as frontline Agents for the Executive Branch, are particularly vulnerable to lawsuits, whether the underlying Police conduct or decision was errant or not. "Unbridled exposure to personal liability and hindsight review of their decisions would undoubtedly compromise effective law enforcement and unfairly expose Officers to personal liability for performing inherently governmental tasks. The public's safety entrusted to

Police Officers demand that they remain diligent in their duties and independent in their judgment without fear of personal liability, when someone's injured and claims an Officer's decisions or conduct was to blame.

"The public simply cannot afford for those individuals charged with securing and preserving community safety to have their judgment shaded out of fear of subsequent lawsuit, or to have their energies otherwise deflected by litigation, at times which is lengthy and a cumbersome process."

That comes out of *Everett v. GE*. And I know that I have limited time here and I'll try to go as quickly as I can. But I would like to point out to the Commission we've been talking about qualified immunity. But qualified immunity does not really as has been stated. Qualified immunity only applies to Federal and State -- excuse me, to Federal constitutional torts and § 1983 Actions.

What we're really talking about official immunity. And official immunity does not apply automatically. Official immunity only applies when an Officer can prove that he is acting inside the scope of his employment, that he was not wanton or reckless, or he or she was exercising a discretionary function. All three of those must be present. It is not automatic.

Now, when you're looking at that, that is very -- it's extremely necessary, because as you've just heard, the Officer's personal liability can only be deterrent to him or her being an active participant. We've talked about that if you took that away, an individual still has indemnification. That's not absolutely true.

We have to look at the different levels that we have. On a State level, under 99-D, you do not get indemnification automatically. You have to apply for it and satisfy those elements we just stated. Number 2 is that, on the local level -- county, community, and municipal level -- you only get indemnification if it is voted on by the Elected Officials, only if voted on by the Elected Officials. And they can vote it out. So you don't necessarily get indemnification. That also overlooks the fact that -- and anyone who's been personally sued or engaged in litigation process, it's not just the cost of litigation, but it's the lost productivity, the time, and an emotional strain that litigation can cost.

I would also like to point out to the Commission that if we took away qualified immunity, we'd actually be treating Police Officers disparately. Right now, Prosecutors and Judges, the other two sections of law enforcement for the Executive Branch, when operating under their judicial function, have absolute immunity, a level of immunity even higher than official immunity.

Other individuals also have qualified and/or official immunity, or discretionary immunity, including Selectmen, Teachers, Planning Boards, and a number of other individuals. Under State employment, and all State Employees have official immunity as a result of the adoption of 99-D, which we have talked about already.

So, from the standpoint of the indemnification, it's not necessarily that it happens. And we would implore you to be aware of the Doctrine of Unintended Consequences. We believe that we do have an advantage here in New Hampshire.

We would like to remind the Commission that the -- in a recent survey by St. Anselm's College in June of this year, with the cross-section of the New Hampshire Electorate, found that 85% of the polls -- of the people polled rated their Departments are professional. And 61% rated their Departments as very professional. And only 7% rated their Departments as unprofessional.

In U.S. News and World Report for a number of years, at least the last two, they have rated New Hampshire one of the safest States -- one of the top-three safest States in the United States. Other

magazines and articles have rated New Hampshire some of the finest -- one of the best places to live within the United States. So there is a New Hampshire advantage.

We believe that it would be a mistake to abolish official immunity, because it would put a chilling effect on the willingness of Officers to engage criminals in critical situations, due to fear of litigation which would create a moment of hesitancy, which could be life-or-death for Police and citizens. We also believe, and we know this, that if some -- if Official Immunity was abolished, we are currently facing an attraction and retention problem in New Hampshire law enforcement.

Approximately 10% -- 10% to 15% of all full-time Officers could retire tomorrow. I can tell you personally by talking to Officers, if official immunity was abolished, they would seriously consider that option. Most of them are within what's called the higher ranks, which would leave Police Departments without leaders. That is more dangerous than keeping official immunity.

Just by way of example, Manchester lost 26 Officers last year. They currently can have 21 Officers that could retire, which is approximately 1/3 of their -- above their -- 1/3 of all ranks, Sergeant-and-above. You also have in towns like Londonderry, smaller towns, where with a force of only 67 individuals, approximately seven people could retire tomorrow, cutting their force by 10%.

We also believe that the attraction would be even less so as it is now. Lastly, we believe that abolishing qualified immunity would have the opposite effect of what this Commission is trying to do -- or what we believe it's trying to do: transparency and to try to build bridges over whether it's implicit racism or overt racism, to build bridges to eliminate those types of behaviors, which can be done through education, which we have gone on record and supported. However, if you bring in the adversarial process, that will drive people away, will create polarization, and, quite frankly, only make Lawyers rich, and will not do anything for the betterment of the public.

I think many of the Commissioners, as I've sat and listened, have brought forward a great point. We're jumping right to a solution without trying to figure out, number 1, identifying the problem, which we are doing in this Commission; two, the cause of that problem; and three, then go to a solution. We're dropping off at step 2. We're saying we recognize a problem. We're not trying to find out the basis of that problem. And then, we're jumping to a solution. That is fraught with danger.

With that being said, I know that we are -- I've gone over my time. I do apologize. A lot of information, I'm trying to get in very quickly. But I do want to point out to the Commission that we applaud the work that you're doing.

I want to remind the Commission that we, as an organization, will not tolerate bad Police Officers. We will not tolerate racism. And we have gone on record and supported litigation -- excuse me, litigation -- legislation on a last round where we agreed that chokeholds should be barred. We agreed that there should be more transparency. We agreed to self-reporting to the Police Standards and Training Council. These are things that we are willing to work with, but we have to first identify the problem; two, find the root of the problem; and three, solve the problem. We can't go to three before we know two. With that being said, I'd be happy to entertain any questions that you have.

DEPUTY ATTORNEY GENERAL YOUNG: Thank you, Attorney Krupski. Commission Members have questions or comments for Attorney Krupski, raise your hand and I will call on you in the order in which your hand is raised. Attorney Jefferson?

ATTORNEY JEFFERSON: Good morning, Attorney Krupski. How are you doing?

ATTORNEY KRUPSKI: Good morning, sir.

ATTORNEY JEFFERSON: So, I've heard a lot of testimony about the qualified immunity and I've come to the conclusion that anything we do with it needs to be done very slowly and deliberately. I want to ask you about a related issue.

You talked about that you're in support for transparency and sort of skipping to step number 3 to solve a problem we don't know where the source of the problem is, or the extent of the problem is. And I happen to agree with you on that one. And I think the solution to that is more transparency and accountability so that the public has confidence that when there are allegations made against Police Officers, that they are dealt with in a transparent and open way.

So what are your thoughts on, in order to improve transparency and to remove the appearance of impropriety, or the appearance of conflict, to have allegations of misconduct not investigated by the Police Agencies that employ the people, so the Police policing themselves, but done by an independent body? What are your thoughts on that?

ATTORNEY KRUPSKI: Well, my thoughts are twofold on that. Number 1, it already is reviewed by an independent body, under Police Standards and Training Rules and Regulations. The Officer's Certification is always subject to suspension or revocation by that body.

Number 2, the -- as to the local investigation, it kind of needs to be done that way for a variety of reasons, including that each Department has its own Rules and Regulations in regards to a certain amount of what we will call home rule. And they are the Employer. And as the Employer, they are required to issue discipline in conformance with their Rules and Regulations. So there's actually a twofold methodology that is employed. One is that they are first reviewed on a local level; and two, subject to a review on a statewide level by PSTC.

ATTORNEY JEFFERSON: So, Attorney Krupski, so there's two issues with that. So, do you agree that there is an obvious perception of an issue when a Police Agency is policing themselves? So, that doesn't limit the ability for the Police to discipline an Officer if they violate their Rules and Regulations.

But there should be a universal Code of Conduct. That's one of the recommendations that we've already passed here is that there's a universal Code of Conduct that every Recruit has to sign off on, very similar to the Code of Conduct of the International Chief of Police. So, that's the baseline, very similar to the Rules of Professional Conduct for Attorneys, so that you have this baseline in that every single Police Agency can investigate -- can do their own investigation, but they also have to report the allegation, itself, so that an independent Agency, such as Police Standards and Training or some other Agency, can also investigate and come to its own conclusion, and take any appropriate steps that are necessary. Do you see a value in that?

ATTORNEY KRUPSKI: Yeah, I mean, there's always a value in a review of an -- of behavior or in a review of misconduct. But what we have here is we have to be careful of a variety of rights that are out there.

And what I mean by that is currently, under the Public Employee Labor Relations Law, discipline is a mandatory subject of bargaining and is handled through collective bargaining. On a statewide level, discipline is handled through the Personal Appeals Board under 21-I:58. So any time there's a disciplinary

action, if an individual wishes to appeal that disciplinary action, they have to go through, at least on a State level, 21-I:58, which is a public hearing.

ATTORNEY JEFFERSON: So, let me ask you this. You put on your statement, Policemen, like Teachers and Lawyers, are not relegated to a watered-down version of constitutional rights. And I agree with that.

But the inverse is also true that Police Officers, like Teachers and Lawyers, should be subject to the same transparent and independent investigation of all Police misconduct, and that that information should be public. Teachers, Lawyers, Nurses, Doctors, Judges, they all are subject to being investigated by an independent body.

So if an allegation comes into the New Hampshire Public Defender Office, New Hampshire Public Defender Office cannot say, well, I've looked at Attorney Jefferson. We think he's A-okay. And that's for obvious reasons.

Yet, we don't take that same approach with Police Officers, where the obvious potential bias, whether implicit or explicit, exists. Do you recognize that as a valid concern and as a need for potential reform?

ATTORNEY KRUPSKI: Yes, I do recognize that as a valid concern. And I believe, at least as is currently constituted, there is a review process. Any time that a Officer is disciplined, there's a Form B that is supplied to -- and it's called a Form B. It's supplied to Police Standards and Training, which alerts them that an action has been taken and allows them then to do the necessary review.

As to consistency in regards to application of the law, that's one of the things we have struggled with and fought for, for several years, which means consistency in definitions, so that there's not a, shall I say, disparate review. Like if you look at the EES, okay, and you go down it even with (inaudible), it says untruthful, credibility, lying. Are all those the same or are they different things? We don't know. And so, it's really a matter of we need to have definitions, just like we have for a, shall I say -- in the criminal world, we know what the elements are. They have to meet the elements. And everyone's treated consistently and fairly.

So, yes, I do believe that there is great value in consistency. It's where that is applied, I guess, would create the issue. And we would support -- and we've mentioned this before, I believe -- an Officer's Bill of Rights, which would also have an Officer's Responsibilities, which could be laid out on a statewide basis.

ATTORNEY JEFFERSON: So, Attorney Krupski, though -- and I appreciate your comment about the Police Standard and Trainings [sic] Council getting this Form B. But, to that underlying issue, which is at the heart of the issue, is that it is up to that individual Police Agency to do an investigation, come to a conclusion, and discipline that person. And if and only if they do those things, then that this Form B will be filled out.

So, I want you to go back to the beginning of that equation. Do you think there's potential that deserves consideration of not having an allegation of misconduct investigated by the Police Agencies, itself, and not just by the Police Agencies, themselves? There's nothing to inhibit a local Police Agency from doing an investigation. But should we not treat Police Officers like every other profession and have an independent investigation by an outside Agency? So, do you see the value in that as a potential reform?

ATTORNEY KRUPSKI: Well, I think that would be treating Police Officers -- what I would say is disparately.

ATTORNEY JEFFERSON: Why is that? How? Why is that when every other profession does that? Explain, please.

ATTORNEY KRUPSKI: For example, when you're talking about any other municipal Employee -- Firefighters, Teachers, etc. -- they're disciplined pursuant to the Rules and Regulations under the towns and cities in which they work. On a statewide level, all Employees, including Police Officers, are disciplined in accordance with 21-I:58 and the Rules of the Personal Appeals Board, as well as their Administrative Rules, which are quite lengthy.

So, to take Police Officers -- now, there's a difference in my mind of -- and I understand what you're saying. Professional Employees can be disciplined on a local level and also be subject to a review of their licensure and certification.

Okay. So, for example, even an Attorney, an Attorney can be disciplined within his office and also be disciplined by the Licensing Agency, which is the Supreme Court, through the Professional Conduct Committee. We do have the PSTC, or the Police Standards and Training Council, which operates on that basis for licensure or certification of Police Officers.

ATTORNEY JEFFERSON: Right; but, Attorney Krupski, just to get this question answered, so -- and I agree with you on all of those points. But you said that we'd be treating Police Officers disparately. And I really don't understand that, when you compare them to every other profession.

So, I agree with you that a Police Agency can conduct an internal investigation, do the proper discipline. Do you also understand, going back to your point about other professions, that when an allegation is made, separate and apart from what an individual organization does where that professional happens to be housed, in every other profession there is this mandate. There's this requirement that an independent body also do an investigation, come to their own conclusion, so that there's some transparency in the process.

Now, we can even leave aside the issues with discipline and how they interact with current Collective Bargaining Agreements. But just focus on that part for me that there is value in having, just like every other profession, an independent body, do an independent investigation, and come to a conclusion. Do you see value in that?

ATTORNEY KRUPSKI: Do I see value in that? I think there is some inherent value in there. There's some also inherent dangers.

ATTORNEY JEFFERSON: What's the danger?

ATTORNEY KRUPSKI: And by...

ATTORNEY JEFFERSON: Tell me the danger.

ATTORNEY KRUPSKI: Sure; the dangers are it's always in the details. Who makes up that independent tribunal, or that independent review?

ATTORNEY JEFFERSON: Yeah.

ATTORNEY KRUPSKI: Police Officers are...

ATTORNEY JEFFERSON: Use the Attorney Discipline Office as a model; so if you have a independent body that has the Investigators being relevant professionals, so Police Officers, not as -- but Police Officer obviously that have no conflict the Police Officers they're investigating, so that would be your first review.

Your second review would then be three Committees, where Police Officers would have a slim majority on all of those Committees. And then, you would have non-Police Officers on those Committees. And just like the Attorney Discipline Office, those Committees would have the power to review and reverse the decisions of the initial Investigators.

So does -- in your view, does the Attorney Discipline Office model provide a good mode and where you have the first line of Investigators being the relevant professional community. And then, you have these three Committees that provide for robust due process. And in all of those Committees, the Chair of that person [sic] would be somebody from the relevant profession, here would be Police Officers. And they would hold a slim majority. But the rest of the Commission Members would be members of the public. Do you see that as a workable model to go with? Should we find value in eliminating the disparity of Police Officers not having this independent investigation for all allegations of misconduct?

ATTORNEY KRUPSKI: Yeah; and I'm not trying to avoid. But, I guess, yes, we would look at that and consider that based on how it's laid out. And we're not opposed to that in principle. But obviously the details of it make some difference.

So, for example, just right now citizens can make complaints anonymously in most Departments. Okay? And there's a reason for that. Okay? But if you can make complaints anonymously, it's easier to make vexatious complaints. Okay? So, that's an issue that would have to be addressed.

You heard from the -- or at least I heard that complaints are released after three years. Okay? And they're gone. Here, the recommendation is to keep Police records for over 20 years. So, I think there's some distinction here because if you're going to make it public and keep it out there, then you also have to guard against the -- and I'm going to use the vernacular: don't let the truth get in the way of a good story. Okay?

So if somebody makes an outrageous allegation against somebody in one of these and it's picked up by social media, and it's carried on, even if you exonerate yourself and you're found to be not guilty, there's going to be a segment of the population that says, oh, of course you did that. And that's going to besmirch the name of the Officer.

And we've found, and the Supreme Court has said, that Officers have a constitutional right, a liberty interest, in their good name. So, we would have to balance those constitutional rights with the ability of the public to have transparency and a right to know. And that's the balancing test that I think we have to do.

So, no, as an idea, we're not opposed to it. We would just have to look at the safeguards and see what makes the most sense. And that's why the elimination at this point of 105:13(b), which is the

protection of Police Officers strikes that balance. And the Supreme Court has said that it strikes the balance between the public's right to know and the Police Officer's right to his good name.

And I do point out to the Commission, which hasn't been raised before, in New Hampshire you actually -- we actually have a right to privacy in our Constitution. And it's listed in the Constitution, which is unique for other States. I hope that was responsive to your question.

ATTORNEY JEFFERSON: You were. You were very much responsive and I very much was encouraged by your answer. So I am delighted that you agree, in principle, to the idea. And I also 100% agree with you that details of any process are very important, because just as important as transparency is to the community, 100% equally important is equal due process and a fair process for Police Officers. So, thank you very much, Attorney Krupski, for your testimony.

ATTORNEY KRUPSKI: Thank you.

DEPUTY ATTORNEY GENERAL YOUNG: Thank you. And with that, Attorney Krupski, I do not see any additional questions. Oh.

DIRECTOR BISSONNETTE: No, I had a few, but I forgot to put my hand up. I'm sorry.

DEPUTY ATTORNEY GENERAL YOUNG: Okay. So, hold on, Gilles. You're not on camera.

DIRECTOR BISSONNETTE: Oh, sorry.

DEPUTY ATTORNEY GENERAL YOUNG: No, that's okay. James put his hand up first, and then I will get...

DIRECTOR BISSONNETTE: That's fine.

DEPUTY ATTORNEY GENERAL YOUNG: Thank you.

DIRECTOR BISSONNETTE: Sorry, I was dealing with the kid.

DEPUTY ATTORNEY GENERAL YOUNG: I figured there was something, or the dog, right? James, you can ask your questions. Thank you.

MR. MCKIM: Great, thank you, Deputy. And thank you, Attorney Krupski, for your testimony. I'm going to pull on a thread that Attorney Jefferson was just asking about a minute. And I'm just trying to make sure I understand the current process and the way it works now, and as we think about what changes, if any, we might want to recommend.

I think what I heard was that currently, if an Officer comes under investigation, there is an investigation done in the Agency which employs that Officer, and after that investigation, if there is a notification to PSTC that the investigation has taken place, just, first of all, is that -- do I have that correct?

ATTORNEY KRUPSKI: Yes, in general. I mean, it's a little bit more complicated than that. But, yes. If an Officer is found guilty of a -- or a sustained finding of a violation, which is a suspension-or-more, they are automatically reported under a Form B to the PSTC.

MR. MCKIM: All right, great. Thank you for that clarification. So the timing is those investigations would be sequential, not simultaneous.

ATTORNEY KRUPSKI: Right.

MR. MCKIM: Okay.

ATTORNEY KRUPSKI: Right.

MR. MCKIM: Great; so I think what I also heard -- and I just want to make sure I understand it correctly -- that in that situation, the discipline of -- the disciplining of that Officer, the decision of what the disciplining might be comes from the Law Enforcement Agency, itself, not from PSTC. Is that correct?

ATTORNEY KRUPSKI: What the discipline -- they're subject to what I would call three levels of discipline, an Officer is: one from his Department, which can range from anything from an oral reprimand all the way to termination. And the PSTC can -- Police Standards and Training Council can suspend temporarily, suspend permanent, or revoke an Officer's Certification. And the Officer, if they fit into certain categories, would also be reported to the Attorney General's Office for placement on the EES.

MR. MCKIM: Okay, and thank you. So I think I understand that. So -- and this does get back to what I think Attorney Jefferson was trying to get at -- in terms of transparency and ensuring community trust, it does seem a little bit odd that the disciplining is not necessarily identified and decided upon by the community. It's decided upon by those inside that Law Enforcement Agency, which, in the larger cities, as I think you mentioned, is based on Union negotiations, or whatnot. In smaller cities that don't have Unions, then it really is just the leadership in the Law Enforcement Agency. So, I'm just making sure that that's what I'm hearing is the case. And that really, in terms of the hiring and firing, the community doesn't have really a say in that. Is that correct?

ATTORNEY KRUPSKI: When you say, "doesn't have...a say", I would disagree with that, because, depending on what form of government you're in, okay, whether you're in a city, the Elected Officials for all public Employees make a decision as to the employment status. And they are answerable to the public.

So, the public doesn't have a direct say. But the public doesn't have a direct say in legislation, either. They vote people in who make those decisions on their behalf. If they make bad decisions, they're voted out of office.

MR. MCKIM: Right, so, I think what that says is there's no case, no situation, where a disciplinary action on an Officer that is brought in a Law Enforcement Agency does not have some kind of either direct or indirect influencing by the community and the public. Is that...

ATTORNEY KRUPSKI: No, and I don't want to, just because it is all different. Okay? In some communities, you have Police Commissions, okay, where you would actually have a Commission have an Elected Official in there.

In other places, for example the City of Concord, the City of Concord has what's called a Personal Appeals Board where they have people who are appointed by -- citizens who are appointed by that, and they actually review disciplinary actions. So it is sort of a hodgepodge, if I might, of how review is done.

MR. MCKIM: So, then, would it make sense, then, that recommendations from this Commission around every Law Enforcement Agency having some kind of community review process in place for decisions like this? Would that be something that this Commission might recommend?

ATTORNEY KRUPSKI: Well, I think it might. Nothing's off the table, right? And we have to look. But what we need to do is what I believe is analytically say, number 1, do we have a problem, or is it just anecdotal? Okay? And if you have a problem, what is the source of that problem? And if you go to that source of that problem, then you reach a solution, or a possible solution.

Quite frankly, I will tell you that being involved in the labor field for over 25 years, I find Police Departments to be harsher on their own and more stringent on their own than the general public might be. So there is a point to be made saying, hey, some people -- because if you go certain avenues, Police Departments will not tolerate that and will fire people, whereas I think the general public might have more sympathy. So, no, it's not off the table. I would embrace it, if the appropriate protections were in place to make sure that individuals' rights are preserved, both constitutional and contractual.

MR. MCKIM: Excellent, thank you. And my last question -- and this is something that many industries struggle with. So I'm curious to hear your take on, your approach. You mentioned gathering data. And I'm a data guy. I'm a technologist, a database designer and analyst in my past. So I'm all about the data.

But when it comes to community trust, I struggle with where's the tipping point between having a robust set of data versus if you have several anecdotal stories about something, and there are enough of those anecdotal stories where the community starts to lose trust, where is that balancing act? How do we make that decision about how many anecdotal stories do we have to have before it turns into enough data to actually do something?

ATTORNEY KRUPSKI: Sure; that is not something -- I don't have a crystal ball. I can't tell you. And obviously that's one of those things this Commission is -- but what I can tell you is based on what St. Anselm's did, 85 -- excuse me, 85% of the public say their Departments are professional. I think when you go out and you poll, and if we did do some data gathering, I don't think that the vast majority -- I truly believe the vast majority would say that their Police Department act appropriately and professionally.

Are you going to have some problems in any profession? Yes, you are. I can tell you that, when it happens within Police Departments, it is widely and shall I say publicly announced. It is not hidden away. I can tell you that on certain circumstances, individuals have been accused of certain things, heinous things. Okay? And later on, it's found not to be true. But people will send you the clippings of the heinous actions, saying, well, they just got away with it. And that's something we have to be careful of, particularly when that individual then has to continue to do their job effectively within a community.

So, I don't know what the answer is to when is the anecdote outweigh some of the other issues. But are they true anecdotes or are they merely urban myths that became legend, and now everybody talks about it? So, I don't have the crystal ball for that. But I believe that, through the work of the Commission, we can try to figure it out.

MR. MCKIM: Thank you very much and those are my questions.

ATTORNEY KRUPSKI: Thank you.

DEPUTY ATTORNEY GENERAL YOUNG: Thank you, President McKim. Gilles, and then Lieutenant Morrison, and Judge Gardner.

DIRECTOR BISSONNETTE: Thanks, Attorney Krupski. How are you? It's good to see you again.

ATTORNEY KRUPSKI: Good to see you. What could I do for you this morning?

DIRECTOR BISSONNETTE: Yeah. No, thank you. And this is, I think, a really important discussion. And thank you just for allowing me to ask just a few questions. So, we heard a little bit yesterday from someone from the Attorney who runs the ADO that Lawyers even have non-docketed complaints made public for two years. I wish it was on a database, but it's not. It's publicly accessible. So even false allegations concerning a Lawyer can see the light of day. And of course, with respect to the Lawyers, public discipline -- or formal discipline is made public. Would you support that being the case for Police Officers?

ATTORNEY KRUPSKI: Not necessarily; it would once again depend on the situation and the vetting process. Remember, Police Officers, if I might, are in a unique position. They're required to interact with the public on a daily basis, make certain decisions which may or may not be popular, and cannot have their effectiveness eliminated by frivolous claims, whereas the rest of -- or at least most of other professionals, such as Lawyers, can, to a large extent, pick and choose who they're going to deal with. Police Officers cannot. They're required to go forward.

The other thing that I wanted to mention is that we have no problem with when there is a sustained finding. And that sustained finding finds wrongdoing of making that transparent. We've gone on record saying that.

DIRECTOR BISSONNETTE: Okay. So just to finesse that, so let's say there's an Internal Affairs investigation. I'm going to make Police Department A, okay? A citizen lodges a complaint. The Police Department investigates it and concludes that there was misconduct, and issues any type of discipline internally, whether it's suspension, a letter of warning, that type of thing. It sounds like you'd support that that would become public. Am I right on that?

ATTORNEY KRUPSKI: No, what I'm saying is that it would have to follow through the process that is agreed upon, either by the Parties or by -- it doesn't become final until there is a review of the Chief's decision. So, for example, in the case of a -- an individual who is under a Collective Bargaining Agreement, that decision does not become final until the Arbitrator rules on whether or not the findings of the

Police Chief were accurate or not accurate. And it's usually done by a third party.

So, no, a initial finding -- remember, there's two parts to due process that we talked about. And that is there's pre-deprivation, which is a limited due process. And there's post-deprivation, which is a more fully robust type.

One of the things that we had talked about in previous lives, I think, is allowing some of the information to be disclosed to the public, while other information is kept private. Right now, as a public policy, it's our view that investigations and investigations only are not part of the right to be disclosed under the current statutory framework that we have.

DIRECTOR BISSONNETTE: Okay. So that's helpful to know. So internal investigations, sustained finding, your view is that that should be secret, unless, I suppose, there's a grievance process. If there is a grievance -- let's assume you're right. Okay? Let's assume there's a grievance process. An Arbitrator concludes that there was wrongdoing. Let's say that Arbitrator then issues a formal Report. Would you support the publication of that Report?

ATTORNEY KRUPSKI: In certain circumstances, yes. But once again, we have to look backwards and we have to look forward. Okay? And by that, I mean if we were to change the parameters of how we do things, decisions may change.

So, for example, if someone had a sustained finding of a written warning back in 2010, it's a written warning. They may have chose to do nothing about it. And so, that was the choice back in 2010. Whereas now, if they knew that it was going to become a public record, they may choose to challenge it, because they don't want it to be a public record.

So it can't have retroactive application. But prospective application would make a lot of sense and we would be willing to look at making it more transparent and having some of those records open for review.

DIRECTOR BISSONNETTE: I get what you're saying. I guess I just want to convey my concern, because I think what I keep hearing is we want to be transparent but Caveat A, but Caveat B, but Caveat C. And I think when you kind of, in my view, at least -- and this just may be a respectful disagreement. When you accumulate those caveats, we're creating an environment ultimately at the end of the day where we're not, I think, really being that transparent. That's my view. Certainly, you can respond to that. And I have a few more questions, to be fair.

So, there -- I know that you talk a lot about how Police have unique roles and in your view, at least, that unique roll should maybe enable Police to have even broader secrecy protections than say Lawyers have. A case that I, in my litigation on this, that I cite a lot is one from Wisconsin that says the following: "By accepting -- by an Officer accepting a public position, the Officer has, to a large extent, relinquished his or her right to keep confidential activities directly relating to his employment as a Public Law Enforcement Officer."

And then, the Court went on to say that the -- it dealt with the Police Chief. And this is from Wisconsin in the '80s -- that the Officer can't thwart a public's interest in his official conduct by claiming that he expects the same kind of protection and reputation accorded an ordinary citizen. Do you agree with that? And do you think that that's a valid argument made by that particular Court?

ATTORNEY KRUPSKI: I would say that I'm a New Hampshire Lawyer. And under New Hampshire Law, that is an incorrect statement of fact. I do disagree personally with that, because I believe that all individuals have constitutional rights. And quite frankly, I have to say it kind of surprises me that certain groups would take the position that they have lesser rights -- Police Officers have lesser rights.

In our system of justice, at least in my view, the more responsibility and the greater the impact, the more due process you get, not the less. When we have a parking ticket, you don't get a lot of due process. When you have a felony, you have a great amount of due process. And when you're talking about the constitutional rights that may be deprived by an Officer, there must be a great amount of due process, not less.

So, I do not believe that. And I started my statement with this. Simply because they accept public employment does not mean they have a watered-down right of constitutional rights. They have the same rights as everyone else, and it should be applied equally and consistently.

DIRECTOR BISSONNETTE: Thanks, just a few more questions. I know that you testified that -- well, let's get back to that constitutional issue that you raised. So Police Officers are Government Agents. You'd agree with me on that, right? They work for the Government, when they're engaging in their official duties?

ATTORNEY KRUPSKI: Yes.

DIRECTOR BISSONNETTE: Would you agree with me that when we talk about -- would you agree with me that when we talk about -- or at least when I envision a right to privacy, what I'm envisioning is protecting individuals from the Government and its Actors, not the other way around. Is that a proposition that you'd agree with or disagree with?

ATTORNEY KRUPSKI: Well, I think that's incorrect, when you're talking about Public Officials, because, in the State of New Hampshire, as I said, personnel records are governed by the Personnel Rules. And if you go to the 1500 Series of those Personnel Rules, they list out information that public has access to, and information that the public does not have access to.

And it actually says in those rules that written notice of disciplinary actions that are reversed or overturned through the process of appeal shall be removed from all files at both the Agency and the Divisions. And that when it's -- they're conducting an investigation, that it be confidential, be maintained separately, and not be placed in a file unless there's disciplinary action. That's what all State Employees enjoy, as a matter of privacy. And what I'm hearing is that, well, we should treat Police Officers differently. And I don't believe that that's accurate.

DIRECTOR BISSONNETTE: Okay. Well, we know Lawyers have their information made public, right, even if it's not sustained. So it doesn't seem to me that we're treating Police differently. It seems to me that we may be giving them separate protections. But you can respond to that (inaudible) next question.

ATTORNEY KRUPSKI: I would respond to that.

DIRECTOR BISSONNETTE: Yeah, respond to it. Yeah.

ATTORNEY KRUPSKI: I would respond to that. We, as Officers of the Court, are held to a different standard and should be held to a different standard. However, I point out that we, as Officers of the Court, and individuals who do a prosecutorial function, or a judicial function, or a legislative function, have absolute immunity. What we're talking about is immunity.

At no point does a Police Officer have absolute immunity. They only have official immunity. So, I think that, in many aspects, we enjoy greater protections. When we write litigation and we do that, the Courts have said in regards to Tort Law that we have an absolute immunity for things we submit to the Court. Now, we may be held responsible for the -- to the Professional Conduct Committee. But we can't be held responsible in a litigation. So, when we're saying get rid of official immunity for Police Officers, we're actually creating greater liability on those people who are, by the very nature of their functions, doing things which are going to anger and create hostility amongst people.

DIRECTOR BISSONNETTE: Yeah, and I'm leaving immunity to the side at the moment. What I'm trying to get at is just transparency, that particular issue. I mean, we're Lawyers. I don't have the ability to arrest someone or shoot someone. So why shouldn't Police be held to higher standard than Lawyers?

ATTORNEY KRUPSKI: Well, first of all, if I might, Police Officers -- and I don't want to -- are circumscribed in terms of when they can use force, the same as you're circumscribed in when you can use force, particularly deadly force. For a citizen, it's under 627:4. For a Police Officer, it's under 627:5. And under both of them, it's under an objective reasonable person standard of -- based on the time, place, and manner in which it would happen.

So I think the standards are relatively close. The difference is, is you have no duty to act, where a Police Officer has a duty to act, in order to protect the public at-large. What Police Officers will tell you -- and I've talked to them around the State -- they're willing to put down their lives for the public and for your protection. But they're not willing to put their family's financial security at-risk.

DIRECTOR BISSONNETTE: Thanks, Attorney Krupski. You said that, in many ways, in your experience -- and you have far more experience than I do in this, obviously -- that Police Departments are often harsher on their own. How? That certainly may be true. How is the public supposed to know that? How do they find that out if a lot of this information isn't publicly available? How can they get that confidence? How can they be as confident as you are that that's the case, without full transparency?

ATTORNEY KRUPSKI: Once again, we have to do the balancing and that's what I'm talking about is the balancing of what's the appropriate amount of transparency versus the rights that are being infringed upon by that transparency? And that's the balancing of the rights that have to be done.

I don't know the exact answer. There could be a statewide database without names of what happens. There could be a variety of mechanisms. But, if we determine, collectively, that people do have, in general, a problem and/or distrust the Police Departments, that's fine and we need to address that.

But I'm hesitant to advocate for full transparency, when it will actually hurt the Judicial System by allowing fishing expeditions in certain example -- in certain circumstance. I'm not saying that would happen. I'm saying it could happen. And so, I think it's a weighing test. And we have to identify the

problem. We have to find the problem. Identify the problem. We have to find its cause. And then, we have to fix it.

DIRECTOR BISSONNETTE: Thank you. I know you've talked a little bit about -- a lot about due process. And I want to kind of bifurcate due process here a little bit. There's due process with respect to the ability of an Officer to get notice of a particular accusation, to challenge any disciplinary action, that type of thing. That is due process. Lawyers have it, with respect to the ADO.

But would you agree with me that that's different from transparency? Like, let me give you an example. So, an individual is charged with a crime, hasn't received a hint of due process. But that person's name is out and it's public. And that person is stigmatized. That person suffers reputational harm. That person ultimately could be acquitted in the long run, so even if that person hasn't received due process.

So, I guess what I'm trying to say, or trying to think about here, is to differentiate due process that Officers receive and -- the important due process Officers receive, and then to segregate that from just transparency, which is critical for the public in have, I think, faith and competence in Law Enforcement. Would you agree with that last statement or no?

ATTORNEY KRUPSKI: Well, I would say that it's tied together. It has to be tied together, as the Court said in both Duchesne and Ganter (ph), that your right to your good name and your right to pursue your profession unblemished is a right.

Now, look, I'm not a Criminal Lawyer. So you got it on me on that one, okay, because I don't do Criminal Law. And so, I would say that you probably have more experience. But if the problem is that people are being placed into papers who shouldn't be merely for being charged, that's a different problem. That has nothing to do with Police Officers.

I believe they do get due process, because they can't just be arrested and charged with no reason. They're -- my understanding is -- once again, I'm not a Criminal Lawyer -- but there has to be reasonable suspicion even to stop. And then, they have to fill out to charge an affirmation and it has to be under oath by the Police Officer. And then, when it -- even for just a -- not even in -- and for felonies, there needs to be an Indictment. So, right now, the public can come in and, off the street, do an anonymous complaint against a Police Officer that has no basis, yet that would become public record. And yes, I'm opposed to that.

DIRECTOR BISSONNETTE: And of course, if that happens to me, as a Lawyer, if someone files an ADO Complaint and it's not docketed, that's public, too. My last question is about -- I only have two questions about immunity and then I'm done.

The first is I know that you referenced indemnification. Is it -- I don't have a lot of experience. But am I right that indemnification applies, unless the Officer engaged in wanton and reckless behavior? Am I right? Is that correct? I know Attorney Broadhead talked about that, as well. But I want to make sure that we're speaking the same language on indemnification.

ATTORNEY KRUPSKI: No, that -- I don't believe that's correct, because once again you have State Officials that are covered and State Police Officers that are covered under 99-D:2. They only get that protection if they ask for it. And they don't happens [sic] automatically. They have to ask for the protection. They have other show that it was within the scope of their employment and they were not wanton or reckless, and that they were acting under -- within their discretion. The other aspect of is on a

local level, it's by a vote of the -- a locality or a municipality. If they don't take an affirmative vote to provide indemnification, there is no indemnification.

DIRECTOR BISSONNETTE: So, with respect to State indemnity, though, 99-D:1, you agree with me that it has to be required. But when it's requested, it would only be rejected if there was a conclusion made that the Officer acted wantonly and recklessly, and assuming, of course, the Officer was acting within the scope of his or her employment. Is that right?

ATTORNEY KRUPSKI: Yeah, under 99-D:2. Yeah.

DIRECTOR BISSONNETTE: Okay. With respect, I mean, have you represented Officers who haven't been indemnified?

ATTORNEY KRUPSKI: Have I represented Officers who haven't been indemnified?

DIRECTOR BISSONNETTE: Yeah, has that come up?

ATTORNEY KRUPSKI: Yeah.

DIRECTOR BISSONNETTE: And is this in Civil Rights litigation? I'm just trying to figure out the frequency with which Officers are indemnified. That's what I'm really trying to get at.

ATTORNEY KRUPSKI: Right; well, see, now you're talking about a couple different things, okay? Number 1, if they're on a State level -- and I'll just start with the State level. If an Officer is sued civilly, okay, they may be provided indemnification if they fit the three categories. If an Officer is disciplined, it's a separate process. So, I do not do -- I'm a Labor Attorney. I don't do their civil litigation under § 1983, or that. That's usually handle by the Attorney General's...

DIRECTOR BISSONNETTE: Got it.

ATTORNEY KRUPSKI: However, usually, under the Doctrine of Respondeat Superior, what they'll have is when -- even when an Employee is sued for a company and what happens is when they sue, they sue both the company and the individual, here they would sue the town, city, municipality, and the individual. And that would be brought forward. And they would be covered usually under an insurance policy that is maintained by the city. But they're not required to do that in the county, city, and municipal level.

DIRECTOR BISSONNETTE: That might have been a question for someone else, Attorney Krupski. I didn't realize that you didn't do defense side, Civil Rights. So that -- I get your point, though I can say that Respondeat Superior liability doesn't apply in Civil Rights cases. You can attribute liability to your municipality.

ATTORNEY KRUPSKI: Yeah, I don't know (inaudible). I do Labor Law. I don't do...

DIRECTOR BISSONNETTE: Yeah, no, I get it. I asked a question that -- I get it. My last question, this is just about qualified immunity. So, I just -- I -- the support for qualified immunity seems to -- I think kind of puts the system out of balance, in my view, because we end up becoming so focused on the effect on Police Officers and the impact on Police Officers, even though indemnity implies [sic] in certain situations, as we've discussed, without addressing or even thinking about the corresponding cost, which is actually victims of a constitutional violation and how they won't be remedied. We're just not even thinking about victims in that particular concept. And there is that balancing act. And in my view, immunity is -- immunizes constitutional violations. And so, would you just recognize that as a valid concern?

ATTORNEY KRUPSKI: I think there's always a valid concern when you're weighing and balancing different rights. But, what I can tell you is that, at least in the Everett case v. General Electric, the Supreme Court did that weighing test. And they said, because of the uniqueness that a Police Officer has in our society, and because of the likelihood that they would be inundated with vexatious litigation, that their protections are more important than an errant activity. However, if that individual acts outside of the scope of their authority intentionally or wantonly and recklessly, they will be held responsible.

DIRECTOR BISSONNETTE: Well, you'd agree with me, though, qualified immunity doesn't just apply to vexatious litigation, right? It applies to situations even where a Court may find that a constitutional right was violated, and the Officer will still be immunized. You'd agree with me on that, though, right?

ATTORNEY KRUPSKI: Well, I mean, once again, on qualified immunity, I can't address, because I've never done a § 1983 suit. On official immunity, I think there are times where, yes, there is a violation. But because of a public policy decision by the Supreme Court, and by the Legislature of this State, they have held that immunity is more important than that right in which individuals have for negligent behavior of an Officer.

DIRECTOR BISSONNETTE: Got it. And I think I have this right, but this is just for the non-Lawyers in the group. When we're talking about official immunity, we're talking about an immunity that exists for Law Enforcement when a individual sues a Police Officer for an intentional tort or negligence, some sort of tort liability, right? Am I -- Attorney Krupski, am I right on that, that that's how immunity is used?

ATTORNEY KRUPSKI: Yeah, I believe you're right, also for State constitutional aspects.

DIRECTOR BISSONNETTE: Yeah.

ATTORNEY KRUPSKI: But that applies -- under 99-D, it applies to all State Employees, not just Police Officers.

DIRECTOR BISSONNETTE: Yeah, I got you. I just wanted to clarify that for everyone else. Thank you. I'm done. Thank you, everyone, and my apologies. And Attorney Krupski, thank you very much for giving me some of your time.

ATTORNEY KRUPSKI: Thank you. Thank you very much. And I know I enjoy the discourse and I think it's an important matter that we all need to be heard on.

DIRECTOR BISSONNETTE: Agreed, thank you.

DEPUTY ATTORNEY GENERAL YOUNG: Thank you, gentlemen. Lieutenant Morrison, Judge Gardner, and then, with no other hands raised, we're going to take a break after that. So, Lieutenant Morrison?

LIEUTENANT MORRISON: Thank you, Deputy. Thank you, Attorney Krupski, for being here today, and obviously your patience and extended time. I think a point I'd like to stress, do you think that simply by the function of the job of Law Enforcement, there is, I guess, always the potential to have some sort of criminal involvement?

And what I mean by that is very -- actually no other jobs are really tasked with doing what Law Enforcement does. And just by the function of that job, say taking somebody into custody, wouldn't that automatically, just by its function, expose the Officer to something like a false imprisonment or some sort of a § 1983 charge right off the bat, just by the function of our job, alone?

ATTORNEY KRUPSKI: Yeah, and I think I agree. And I think that's what the Court said in Everett, when I read that statement earlier today, that every single decision that you make, as a Police Officer, has the ramification of litigation if there was not official immunity, every single decision. And quite frankly, the activities that you take usually aren't popular with the person who is being placed into custody, or being told they're going to be charged with a crime. So, yes, it's inherent in the position that you would be subject to litigation on a daily basis, if there was not official immunity.

LIEUTENANT MORRISON: Thank you. And because of the work that Law Enforcement does, in general, do you think that there should be a consideration in these, I guess, internal investigations and everything else, to the victims or the civilians that we interact with?

And I guess the specific example that I would use is if there's some allegation that was made, it will most often be made in conjunction with a criminal investigation that would expose very sensitive information for others involved. And I wonder if that sort of could also play -- or should be considered as a factor in the release of, as some people may have described for me, just having entire Report and everything out there.

ATTORNEY KRUPSKI: Yeah, I -- that definitely is one of the concerns. For example, you would, in any Report or any investigation -- and we've all seen an investigation or a Police Report where you write down the name, the telephone number, the address of each and every person, okay, in a Report, when you're doing an investigation.

And let's face it. Sometimes we're dealing with very dangerous people. And to have your home address and your family's home address, and where your kids go to school open to the public places an individual, whether a Police Officer or not, in an unfair situation which places not only them but their family in danger. And I think third parties also get placed in danger, because they're cooperating with the Police Department. And their names being released would place them in danger, also, or could.

LIEUTENANT MORRISON: Thank you. And I know I've seen it. And I think other States are ahead of us in this area. But, sort of protecting Law Enforcement Officers by passing laws that prevent the personal harassment of them or their families, I know we don't have anything like that here. But, if a sort of body were to be created to, I guess, investigate complaints of misconduct, similar to the suggestions by Attorney Jefferson, where do you think that funding may come from?

ATTORNEY KRUPSKI: I have no idea where the funding would come from. It would have to come from, obviously, the State Government. And let us not forget that there is a provision in our Constitution which is commonly known as Article 28-A, which says the State cannot mandate localities to expend money on a yearly basis without providing the funding.

LIEUTENANT MORRISON: Okay. And one of my last questions; do you think it would be fair to equate an Internal Affairs Investigative Report, to compare that to the work product for the Attorney Discipline Office that they have?

ATTORNEY KRUPSKI: Yeah, the -- I would say that. And I believe that an investigation, until it's vetted, is just that. The law actually makes that distinction. In Povero (ph) v. Largi (ph), for Police Officers, until an investigation is complete, it doesn't go into a personnel file and is not subject to disclosure. Under 516:36, it's actually prohibited from being admitted in any civil proceeding, absent for the discipline of the individual, or the individual, themselves. And quite frankly, I can tell you that I've had Officers who were not disciplined. And I asked for the investigation file. And me, as the representative of that individual, could not get the file.

LIEUTENANT MORRISON: Okay. Jake, thank you, again. I'm obviously spoiled. I get to speak with Jake on a regular basis. But, thank you for your expert testimony in these areas. And I will yield the balance of my questions.

ATTORNEY KRUPSKI: Thank you.

DEPUTY ATTORNEY GENERAL YOUNG: Thank you, Lieutenant. Judge Gardner?

JUDGE GARDNER: Yes, good afternoon. Good morning, Attorney Krupski. Thank you for your...

ATTORNEY KRUPSKI: Morning, Your Honor.

JUDGE GARDNER: I had heard you talk about unintended consequences, and that really kind of is a concern for me. And so, could you talk a little bit more about those unintended consequences? It sounds like there's so many different layers to some of the issues that have been brought up that there are Statutes. There are collective bargaining issues. So, if you don't mind sort of touching briefly upon those points?

ATTORNEY KRUPSKI: Sure, and I always use the terminology of "deduction of unintended consequences" to say we all need to fully think out, or to fully vet out, a situation before we jump to the conclusion. It's also in common parlance called the path to hell is paved by the good intentions, right?

And I believe there's a couple things that are really detrimental to not only Police Officers but also the public. I don't know if any Members of the Committee -- I know early on that Director Scippa had offered to allow people to go to a shooting simulation, and to see what an Officer goes through. I don't know if any Commission Members availed themselves of that.

But what it shows you is if there's a moment of hesitancy, action will always beat reaction, which means that even if there's a moment of hesitancy, that that individual may be killed or members of the public may be harmed or killed. That fear of litigation would put that moment of hesitancy in their mind.

There's also the other attempt [sic] that the Departments would be shut down by vexatious litigation. If people are filing multiple lawsuits in a small Department, I kind of see that -- and I get the people's right to know. But I think it's going to come up that even in 91-As, sometimes you have 91-As that are so prolific. For example, in State Government, it's so prolific that they have low-level Employees doing the 91-A Requests, because they just can't keep up with it. And there has to be a balancing between those interests.

Another unintended consequence is the cost that would be associated. Take indemnity out of it. Take the cost in terms of the individual -- Judge, you know when people get sued, that is a life-altering event. That causes anxiety. It causes family problems. There's a cost to that beyond just what the insurance covers. There's the idea of harm to reputation. And there's the lost productivity at work. That Officer is not going to be an effective Officer while he's being sued, besides the time that he's spending in the litigation, itself.

When you talk about the unintended consequences, one of my big fears -- and I've had it for years -- is we've had an attraction and retention problem since the Legislature found it to be in the best interest of the public to have a bifurcated retirement system. The change to the retirement system caused many people to leave.

I will tell you that people have told me directly, if they abolish official immunity, I will leave. And I have my time in. I can leave. I can get another job. But I'm not going to put my family under that thing. So now, we're going to have less Police Officers.

So it's a self-fulfilling prophecy, right? You have less Police Officers who are ineffective. And then, you say, why do we have these problems? Okay. It's not going to help the problem. It's going to expand upon the problem.

I also have a concern that there may be the attempt to have some of the opposite things. For example, we all know that it's against the Rules of Professional Conduct for an Attorney to say that someone is going to be prosecuted under the Criminal Law, okay, if they're not a Prosecutor. But it's not the opposite. I, as a criminal Attorney, or a criminal Defense Attorney, can threaten civil litigation. How is that going to impede the process?

There is also the idea of it having the opposite effect of, whether implicitly or explicitly, an Officer looking, saying, wow, that individual looks well-to-do. I'm not pulling over that BMW, because there's a lawsuit attached to it. But the person driving the car with different wheels, I could pull that car over because they probably aren't going to sue me and I need to keep my productivity up. So I think it could actually have an opposite effect.

The other aspect is, one of the things I think that I've heard is that we're trying to build trust, eliminate, to the extent that we can, implicit racism, and not have racism involved. And have trust between members of the community and Police Departments.

I think we have that. I think SROs serve -- School Resource Officers serve a big function in that. I think the involvement in the community and community-based policing that almost every Department I deal with conducts.

But what will happen is, if there's going to be litigation -- and Judge, you know more than anyone else -- that separates people. That's the big polarizer. So if we're going to get rid of official immunity, what we're going to do is polarize people. And then, it's going to be we versus them, them versus us. How could they do this to us, which will have the opposite effect of what I believe this Committee is trying to do.

And I believe that it would hurt in overall what I'd call the New Hampshire advantage. And the New Hampshire advantage, to me, is the community that we live in that I think most people are relatively happy with their Police Departments. I think most people are relatively happy with their community, and are happy to live in New Hampshire.

I'm a transplant. I still have a little bit of an accent. I'm from New York. I came up here and decided the best thing I ever did was raise the family up here. I would not go back to New York. It's a great place. Don't get me wrong, but here is better.

And I think that that would be lost, if we jumped without looking. And under the very name it is, those are some things I think of. But the Doctrine of Unintended Consequences is what you don't know that will harm you the most. That's the best answer I can give you, Your Honor.

JUDGE GARDNER: Great, thank you very much.

DEPUTY ATTORNEY GENERAL YOUNG: Seeing no other questions, I will thank Attorney Krupski for his time, on behalf of the Commission. Thank you, Attorney Krupski.

ATTORNEY KRUPSKI: Thank you. May I be dismissed?

DEPUTY ATTORNEY GENERAL YOUNG: You may be dismissed. Thank you.

ATTORNEY KRUPSKI: Thank you.

DEPUTY ATTORNEY GENERAL YOUNG: You may be excused. It is 12:08. We will regroup at 12:20. With that, we will go off recording. Thanks, Maria.

MS. EKLUND: Yeah, I will pause the recording now.

(Off the record at 12:08 p.m.)

(On the record at 12:20 p.m.)

MS. EKLUND: All right. We are now recording again.

DEPUTY ATTORNEY GENERAL YOUNG: All right, thank you. Good afternoon, Commission Members. We are back, after a brief break. And we are, again, being recorded. So, thank you for your time and your opportunity to address the Commission.

I think that probably after watching lots of people do this, I think probably the best way to do this is tell you what our recommendations are, going forward, but then also to give you a little bit of history of what this office does. So I will touch a bit upon public integrity and the EES.

But our recommendations going forward -- hold on. Technical difficulties. Got to go back one. So, our first recommendation is that there be a single, statewide body to receive complaints alleging misconduct regarding all Sworn Officers and Elected Law Enforcement Officers.

So, right now, I think that what we have recognized is that Elected Officers such as Sheriffs are not part of this. So if we have a Sheriff who has committed a crime, or an act, it's very difficult to address their concerns, because that has to be done -- they are Elected Officials -- by a Removal Petition, which is not an easy task.

So, hearing from John Scippa, hearing from Attorney Moushegian, what we realized is that it has to be staffed by fulltime Attorneys, Paralegals, Legal Assistants, and Investigators. There should be a hearing panel membership of at least 23 people to hear the matters. That would be appointed by the Governor. The makeup of those Committees would be community members, current or retired Judges, Law Enforcement Officers, and Attorneys. There would be three-year terms. And initially they would be staggered.

There has to be fairness and due process to all concerned. So, to get this to work, everybody has to understand that they are being treated fairly. So what I'm proposing today is a framework. There is no way that this Commission is going to be able to get every rule or recommendation. You heard from Attorney Moushegian yesterday and the various rules. So this would be the initial framework that would have to be built around.

So there would be statewide, universal definitions regarding that constitutes misconduct. That would have to be finalized through rulemaking. There would be a Notice of Complaint to the Officer and an opportunity to be heard.

The Staff would do an initial screening of the complaints received by the body. They would, then, determine the next steps, based on what would constitute misconduct. If there was an investigation that would follow, it would be done consistent with defined standards.

There would be statewide universal standards to apply with respect to a determination of whether misconduct occurred. That finding would become available to the public. And there would be a right to appeal to the Supreme Court.

Findings must be public. This is paramount. The public has to trust in the system. They have to be able to look and find out if somebody is on a list. There needs to be a statewide databased [sic] managed by that professional body. There also has to be accountability. This team would be able to conduct random audits at Police Departments for internal files to ensure that misconduct has been reported.

Our next recommendation would be that the Attorney General would have a Public Integrity Unit that's established by the legislation. It would need permanent and sustained resources, such as fulltime Attorneys, Paralegals, Legal Assistants, and Investigators.

Our third recommendation would be that there would be implicit bias training for all Prosecutors and Staff in this office, in the County Attorneys' Offices, in State Agencies, Municipal Prosecution Offices, and Police Prosecutors. In the last legislative session, the Attorney General was able to secure a Training Prosecutor. That Prosecutor would be immediately deployed to facilitate trainings that would be facilitated and arranged no later than April 1st of 2021.

We would implement a system where all new hires, as defined in the left-hand column, would receive such training within 30 days of their start date. And there would be a publicly accessible list of those who have attained the training and those who have not received the training.

And lastly, our recommendation would be to establish a position within the Attorney General's Office dedicated to facilitating outreach and communication between State, County, and Local Prosecutions' Offices and the citizens that they serve in the diverse communities throughout the State. Those are our recommendations.

I will give you just sort of a quick overview of the Attorney General's Office and what is currently happening. So, as the Attorney General, when he meets new hires, or when he has the opportunity to go out and speak with people, he tells everyone that he has five jobs.

He is the Chief Law Enforcement Officer in the State. He's also the Chief Prosecutor, Chief Legal Officer for the State, as you heard from Attorney Broadhead. He's part of that Division in the office. And he also runs the State's public protection. And as a fifth, he is a Commissioner. So he gets to run the whole organization.

The investigation of prosecution of criminal misconduct by Government Officials, whether those are State Officials, County Officials, or Local Officials, including Law Enforcement Officers, is essential for the public to understand that its Government is operating honestly, and there is accountability. We currently prosecute public integrity cases. And as Commissioner Quinn is well-aware, we get calls daily on this. We do not have the ability to answer all those calls that come in.

There is a Memo that the Attorney General's Office has sent out that indicates that if it is conduct that is happening at the local level, whether that being at the county level or the town level, that those matters are to be handled by the County Attorney. I can tell you that what we see is that there is inconsistency. And when you're dealing with these matters, you have to have consistency. It's just the nature of the beast.

There are 10 different County Attorneys. There are 11 County Attorneys' Offices. There are multiple local Agencies. We, as a State, should speak with one voice on holding our Public Officials accountable if they commit crime.

The Attorney General's Office is the office to do that. That is why we think that a dedicated, statutorily mandated Public Integrity Unit is what's best for the citizens of the State of New Hampshire. It's also what's best for the people that are brought into the system, so there is some equality and fairness in treatment.

I will sort of now turn to the Laurie and EES issues. So, as I have indicated, I think, in a number of sessions, Prosecutors have a constitutional obligation to disclose favorable evidence to a Defendant. That is an absolute. Favorable evidence includes information that could be used to impeach even a State's witness. The obligation is not limited to what is known to the Prosecutor. That's why we indicated that you have to ask Police Officers, Police Departments, what is in an Officer's file? Those are not only constitutional obligations. It is also an obligation that is in the Rules of Professional Conduct.

What the EES is: the EES was originally -- after the Laurie case came about, there were Memos. And Prosecutors needed to know what was in the Law Enforcement Officer's file to the extent it was exculpatory or could be disclosed. That bumped up against the confidentiality rules in Statute.

So what was to be done? Law Enforcement Agencies would notify the various Prosecutors' Offices throughout the State. Different Prosecutors' Offices had different names. There were questions in one county. Well, I know it in my county. You're the adjacent county. You don't know that this Officer's on my

list. There were no uniformed standards for the decision to put somebody on the list or to take somebody off the list. Officers would call and ask, am I on the list? And we would say, we can't tell you. Go back to your Chief. That is an absurdity.

So the list was meant as a cheat sheet or a crib sheet. It was -- or it is both overinclusive and underinclusive. At best, it was one reference point for Prosecutors to discharge their obligation. And as I indicated to you, my practice has always been, I don't look at the list. I send real-time letters to the Police Departments to ask them if there's anything in your file. I believe an even better practice is to ask an Officer, when you're prepping them, is there anything that I should know? Now, that's a bit of an honor system. But that's at least another step that you can take.

What the EES isn't: it is not a mechanism designed to advance the critically important objectives of transparency and accountability for Police misconduct. And those are objectives that must be advanced for this system to work the way that it was intended. If done so properly, Officer misconduct would be a matter of public record. And there would be no need for this EES, or for this list that is underinclusive and overinclusive.

So, again, our recommendations would be that single statewide body to receive complaints alleging misconduct regarding Sworn and Elected Law Enforcement Officers, ensuring that there is due process and transparency throughout. That there be a dedicated Public Integrity Unit with permanent and sustainable resources to take in the criminal complaints for the local issues, for the county issues, and for the State issues; that there be mandatory implicit bias training for all Prosecutors and Staff at all levels, implemented as soon as possible; and that there be a community outreach position within the Attorney General's Office to facilitate those communications, because when we are out in the communities, when we talk to our partners in the communities, when we understand their concerns and they understand our roles, as we see from this Commission, we will not always agree. That is human nature. But we will understand the job that the other one is doing, the concerns that the other person has. And by that, we can work together to become a stronger State, and that State that people like Jake come to and want to stay, because this is the place to live and this is the place to raise your children. So, with that, if there are any questions or comments -- and we will post this later today.

(Pause)

DEPUTY ATTORNEY GENERAL YOUNG: Mark?

LIEUTENANT MORRISON: Thank you very much. I guess I -- my first reaction is it may have been helpful to have this sooner to really think longer about it. But, who is going to come up with the definition of misconduct? What is that definition going to be? Is it as written in Statute, or what -- where is that definition going to come from?

DEPUTY ATTORNEY GENERAL YOUNG: So that definition will have to be developed, as will sort of the standards for misconduct. You -- I -- and to try to do that now, you saw the Attorney Discipline Rules. I mean, this is a heavy lift. This is a lot of work. But those are decisions that will need to be made.

I think that the way that we envision it, Mark, it's not the Officer who, on inspection, his car is not neat. But if there are allegations, I think that we heard that there's indication that there's Police brutality, that's something that could come to this group.

There would be defined, what is misconduct? And that's what the screening process be, just like you see at the Attorney Discipline Office. Does it fit within the misconduct, as defined? And if not, it would go back to the Police Department, if it's not already there. Certainly, if it's criminal, there would be a referral out to what would hopefully be the Attorney General's Office.

LIEUTENANT MORRISON: Okay, thank -- Director Scippa, did you want to jump in on just that, or you just getting in line? Sorry, I didn't want to cut you off if now's a good time for you to jump in.

DIRECTOR SCIPPA: No, I just have a question. Thank you.

LIEUTENANT MORRISON: Okay. My next question would be, where did the number 23 member panel come up? Or how was that developed? And would there be, as in the Attorney Discipline Office, would there be a majority of Law Enforcement Officers? Or would it be equally spaced?

DEPUTY ATTORNEY GENERAL YOUNG: So, we looked at the number of the Attorney Discipline Office. We also looked at the number that are on the Labor Board. So, yes, that would be the same model that you would have sort of the tip toward the law enforcement.

These are the recommendations, Mark. We tried to get a broad category of individuals. But it certainly is important for Law Enforcement to be there, understanding their role, and what it's like on the street. We can sit here and pontificate all day. None of us are going to know what it's like to roll up on a car at 2:00 in the morning and be the only person out there. So I think that there needs to be a level of education on the Boards as to what that is really like.

LIEUTENANT MORRISON: Okay, thank you. And I'm not taking a position one way or another. I'm just trying to understand how this was developed, seeing that this is the first time that we're seeing it. When you talk about conducting audits of Police Departments, what would be included in that audit?

DEPUTY ATTORNEY GENERAL YOUNG: So, I think ideally, Mark, what that would be, would be that the team could come in. They could ask to look at Police Officer files. I think that we have seen, in recent history, that there have been some Departments that this has not been done.

I think that John Scippa can correct me if I'm wrong. But, John, is it the current Policy that if a Chief leaves, there's some level of auditing done on a retirement, or on a natural leave, just to see what's going on?

DIRECTOR SCIPPA: That is correct, Madame General. And specifically, again, according to the rules that we work under right now, under the POL Rules, we will conduct that audit upon a new Police Chief being appointed.

But we only look specifically at four areas. And those four areas are: background investigations, training files, firearm qualification files, and there's -- I apologize. Oh, hours of work by Part-Time Officers, because those four topics are topics that are spoken to directly in our Administrative Rules. So when we're doing an audit, those are the only four things that we have any authority to look at. So, to look at any kind of disciplinary files is not part of a PSTC audit.

DIRECTOR NORTON: This is Ken. Can I just interrupt? Can you repeat them, Director Scippa, those four?

DIRECTOR SCIPPA: Yes, so we look to make sure that the Hiring Authority, the Police Department, is meeting the requirements of a full background investigation. So we will audit background investigations to make sure that the Officers are being vetted properly, according to our rules.

We look at -- make sure that in-service training records are adequate and that they meet our rules. We will ensure that annual firearms and use-of-force training, those files are adequate and they are meeting our rules. And then, finally, we would audit the hours worked by any Part-Time Police Officer to make sure that they are under the rule that's in our POL Rules with regard to hours of work by Part-Time Police Officers. So those are the four areas that we look into during an audit to make sure that Police Standards and Training Rules are being followed by the Police Agencies.

DEPUTY ATTORNEY GENERAL YOUNG: Thank you. Mark, did you have additional questions?

LIEUTENANT MORRISON: I do. But I'll save them, in case somebody else wants to ask the exact same question. I'll circle back. Thank you.

DEPUTY ATTORNEY GENERAL YOUNG: Thank you. Gilles, you are up next.

DIRECTOR BISSONNETTE: All right. How about this? Can I be heard?

DEPUTY ATTORNEY GENERAL YOUNG: Yes.

DIRECTOR BISSONNETTE: Oh, okay. I was trying headphones that may not have had mic components to them, I suppose. Deputy, I thank you so much for this. This is -- we're obviously still processing these recommendations.

I think Recommendation 1 really is great. And I appreciate it. And I think it may go a long way. Just kind of an initial reaction was whether rulemaking or legislation would be appropriate for filling out some of these details. I don't have a firm opinion on that. It's just something that I'm kind of thinking about, kind of as we go.

With respect to kind of definitions of misconduct, I understand that what you were saying is maybe that would be something that would be addressed through rulemaking or some other process. I have noticed, kind of through my own research, that there may be a couple other bodies like this out there, or there may be at least other misconduct definitions for Police out there. I know Vermont has one. So, maybe there are some standards that whoever goes through this process can rely upon to come up with something that is meaningful and has the benefit of all stakeholders.

I had one or two questions just on that first recommendation, Deputy Young. And the first is a question of how complaints would be treated that are undocketed or un-sustained. That is to say, would they ultimately be made public? And so, I guess my question is: is that part of your proposal? Or is that something that you envisioned would be dealt with through rulemaking or some other process, because I know we've been talking a lot about that in the context of the ADO. So I just didn't know if you had thoughts on that.

DEPUTY ATTORNEY GENERAL YOUNG: So I do. I think that that would have to sort of have further discussion. I can tell you that I was surprised at Attorney Moushegian's position yesterday that, when they come in, they're public but they're in a file. And I also said to you yesterday, I have this tension, right, because anybody can write anything and we have all seen anonymous letters that are beyond inflammatory. What do you do with that?

So I think these are high-level -- this is a framework. I think there has to be thought and discussion on building this out. So I think the simple answer is I think there has to be more discussion, because it could open the floodgates. But you also have to have an eye to weed through.

We have a -- sort of a pretty unique perspective here receiving a lot of complaints on people. And some of the stuff seems a bit outrageous at times. And when you start to use Ahni's phrase, just pull the thread a little bit, you think, oh, there is some accuracy here. How could this be true? So, I think it's case-dependent, as well. I know that's not a great answer. But it's the best answer I have right now.

DIRECTOR BISSONNETTE: Yeah. No, and I'm not critical of that answer. I understand that, just from today's testimony alone, is the subject of a lot of discussion and debate. And I understand your response, and kind of leaving that maybe for -- that question for another day. But it does sound like, from what you're saying, is that if there's a sustained finding, for lack of a better word, that's something that you envision obviously being public on a database, something like that that's accessible really to everyone: the public, Defense Lawyers, etc., right?

DEPUTY ATTORNEY GENERAL YOUNG: Yes, and I think this is a little sort of -- a little off-topic. But I had done some litigation a number of years ago around a Laurie issue. And what they kept saying is, well, Laurie equals liar. And therefore, I'm never going to get a job, because it's the liar list.

That's not what Laurie was intended to be. And there could be something in a Police Officer's file that is fairly innocuous but could play into a case. I think Attorney Melone, when she talked about you wear glasses but you didn't have them on. Could you really see that? That, in a particular case, could become important.

So, I just -- just because there's a finding out there doesn't equate with the fact that you are a liar. You are a bad Police Officer. You're not able to do your job, right? There's -- misconduct doesn't always mean it's an absolute that you cannot do the job. We are all human. We make mistakes. Things happen. You could get -- right, there are many Lawyers who get reprimands who go onto have great careers. So, I don't think that we should look at this as a death knee for anyone career.

DIRECTOR BISSONNETTE: I totally agree on that, by the way. And I think my own view is that that's one of the issues with secrecy, right, is you have a list. And if some are on the list for sustained misconduct but it's really minor, then you just release that, too. Transparency is the best disinfectant. If it's a minor thing, let the public know. Then, the Officer can go about his or her business.

Do you envision, with the transparency part of your recommendation, that there wouldn't need to be a list going forward? That, to me, seems like a good thing. I know your office spends a huge amount of time on the list, because Officers are coming to your office with concerns or grievances, wanting to get removed. So I guess my question is just: do you think this would eliminate the need for a list going forward, and which would address a lot of concerns, maybe, that have been raised?

DEPUTY ATTORNEY GENERAL YOUNG: Yes.

DIRECTOR BISSONNETTE: That's it for me for now. Thank you.

DEPUTY ATTORNEY GENERAL YOUNG: Judge Gardner? So Judge Gardner, Commissioner Johnson, Director Scippa, Chief Dennis, Chief Edwards; so Commissioner Gardner -- or Judge Gardner?

JUDGE GARDNER: Yes, thank you. Deputy General Young, thank you for putting all this together. So, I don't have the screen up that shows your recommendations. But, what I understand is that it would include the County Attorney's Office, any State, Local Governmental Officials. Is that correct?

DEPUTY ATTORNEY GENERAL YOUNG: For which part, Your Honor?

JUDGE GARDNER: I think it was the definition -- the first definition part, criminal misconduct of. And I don't have it. And so, what I understand that it includes Sheriff's as well, Elected Officials?

DEPUTY ATTORNEY GENERAL YOUNG: It would.

JUDGE GARDNER: It would. Okay. And that was obviously a concern, because I think it's been mentioned, but they're left out of Law Enforcement because they're an Elected Official. I think, until now, all Sheriffs have been Certified Police Officers. But it's not a requirement, is what I understand the law to be at this point. So that was a clarification.

Also, there was one of the recommendations being was having training for all County Attorney's Office Employees, basically. And I think that's a wonderful thing, because there are varied experiences for all these County Attorneys' Offices.

I have to indicate that, when I started as a Prosecutor with the Carroll County Attorney's Office, there was actually no training whatsoever. So I would often call the Attorney General's Office for legal advice, because there was really -- it's just a two-person office at the time. So I think that's wonderful. I don't know if you would be able to also include something that would give Prosecutors a little more maybe like a Handbook or a Manual for their obligations ethically and otherwise.

That would contrast to the six- to eight-week Public Defender training. At the time I was a Public Defender, it was only two weeks. But I guess now it's six to eight weeks. So that would really, I think, balance out some of the training issues.

The other question I had was funding. If I understand the math correctly, it's about \$1.2 million-plus to fund the ADO Office. And so, would you need comparable amount of money? And would that be coming from, say, for example, penalty assessment, or some other funding source? Thank you.

DEPUTY ATTORNEY GENERAL YOUNG: So we haven't run the numbers. It would be at least comparable if not more. And no, we have not discussed the funding sources. I mean, I think that we've thought about imposing sort of a fee. But I think that I will -- I would leave that up to whoever was looking at these recommendations.

I will address your concerns about Prosecutors coming into the various offices. They're inundated with work. That is why the Attorney General's (inaudible) position. So we have somebody in this office. He had been deployed to a specific County Attorney's Office for a number of months to help there. And he's in other offices. But I think that we're going to sort of try to refine that position a little bit more, because it was for that very reason, to give some nuts and bolts, just basic training.

But this clearly is a training that has to happen before you hit the ground running, because, as I told you, a lot of this starts and ends with the leadership and the guidance in the individual offices. And we also expanded it, because, as most of you are well-aware, the State Agencies have Attorneys embedded with them. Safety has a number of Attorneys there. The Department of Education; so it has to be a statewide understanding of what these issues are in order to address it, because it just doesn't happen in law enforcement. It happens with everyone that we interact with. And we have to sort of understand where we're coming from and where we should be going to become better.

JUDGE GARDNER: I appreciate the expansive inclusion of all the Attorneys on the State level.

DEPUTY ATTORNEY GENERAL YOUNG: Thank you, Your Honor. Commissioner Johnson?

MR. JOHNSON: Thank you, General Young. It's my understanding that the Public Defenders Office does go through a level of instruction training. I'd like to amend your recommendations to make sure that individuals in the Public Defenders Office also receive implicit bias training, because I'm under no illusion that any individual who's part of the Public Defenders Office is immune to bias.

So I'm just making the suggestion that perhaps we also include them in that process. The only reason is because I have received numerous reports from individuals of the African-American community who were represented by Public Defenders who have complained to me that they felt that their Public Defender did them a disservice, or thought that they weren't properly represented by an individual who didn't understand their needs. So, is it possible to maybe include the Public Defenders Office?

Now, I can't say this for the rest of the Defense Attorney world, because we don't necessarily have any control over them. But I think we may have some ability to control the Public Defenders. Is that a proper statement?

DEPUTY ATTORNEY GENERAL YOUNG: So, I think while we're the Chief Law Enforcement Officer and we can go into any county, we can direct them. We certainly could recommend it. I can tell you that we have an outstanding relationship with the Public Defenders Office. Julian had to leave. I don't know why they wouldn't embrace this, as well.

MR. JOHNSON: Okay.

DEPUTY ATTORNEY GENERAL YOUNG: But I don't think we can -- we can't mandate it. So just when the County Attorney's Office hires an Assistant County Attorney, they have to come here and get approval before the Attorney General will sign off. And it -- it's -- we review the resumes. They have to ensure that they're in good standing with the bar. If there's a criminal record or a motor vehicle record, we would look at that. I think that we will probably add that this training will be completed. So, we have that

level of oversight over the County Attorneys. We don't have the same oversight over the Public Defender. But, again, I don't know why they wouldn't embrace this.

MR. JOHNSON: Okay.

DEPUTY ATTORNEY GENERAL YOUNG: But it's a good recommendation. So, thank you.

MR. JOHNSON: Well, thank you.

DEPUTY ATTORNEY GENERAL YOUNG: Director Scippa, I've tried to take a lot off your plate. So you should be thanking me.

DIRECTOR SCIPPA: I thank you very much. Certainly with the understanding that this is really kind of a -- at the infancy stages here in terms of kind of putting this together and considering this to become what sounds like a separate State Entity; I would ask, and I want to say on the record, that if this is recommended by the Commission and ultimately implemented by the Governor, I imagine another Working Group would be put together. And I would just ask that my Agency be a part of that, because, from a pragmatic point of view, and you so eloquently explained, that oftentimes EES does not equal decertification.

But then there is going to be sometimes when it does. And so, I think that there really is going to need to be some kind of formalized process that allows our two Agencies to interface one way or another. And that may incorporate some changes to our Administrative Rules, based on how we do decertification processes now, and how they might change going forward.

So, I just wanted to kind of put that out there for the Commission and for the record. But I think, ultimately, it looks to kind of mirror-- your thoughts, the AG's thoughts are really mirroring what the Lawyers' process is. I guess that's what I'm understanding. But that's all. I just wanted to make that statement. Thank you.

DEPUTY ATTORNEY GENERAL YOUNG: Thank you. And there are questions. Yes. We will put this up. We worked on it late-last night and this morning. So that's why you didn't get it beforehand. I would also point out that one process would not trump another. So, certainly a Police Department could do their own internal investigation. This Entity could go on. There could be a criminal case.

And so, that's why I had asked Attorney Moushegian yesterday, do you stop your process if there's a criminal case? So I think you have to -- and there will certainly be bugs to work out, right? In an internal case, you can compel a statement. You can't use that in a criminal case.

So, we have to get there. This Committee is never going to get -- this is sort of a monumental task. It's a task that can be done. But it cannot be done by a Commission meeting for 30 days. To do this and to do it right is going to take some time.

But, as I said, this is the framework of which to build around. This is your solid foundation. And then, you will need a lot of people's input on how to do this. And I don't pretend to know a lot. But I know a little that there are -- right -- there are Unions. There are Contracts. There are Collective Bargaining Agreements that you sort of bump into all of that. But I don't think that that should dissuade us from trying to do what's right for this State. I don't think that there's any task that you can't overcome. Chief Dennis?

CHIEF DENNIS: Thank you, Deputy Young. And again, just still trying to absorb everything and that it's not right in front of us again. But, I made a couple notes here. So let me pull that up and see if I can ask my questions here. So, do you envision this panel would be -- even though it's appointed by the Governor, would it be overseen by the AG's Office?

DEPUTY ATTORNEY GENERAL YOUNG: Hold on, Chief. I'm trying to do a couple of things. I'm going to get it pulled up for you. Okay? So hold on for one second.

(Pause)

DEPUTY ATTORNEY GENERAL YOUNG: Okay, Chief. We're going to try to pull it up. It would -- so it would be its own entity, similar to the Attorney Discipline.

CHIEF DENNIS: Okay.

DEPUTY ATTORNEY GENERAL YOUNG: So the Attorney Discipline sort of answers to the Court. But it would...

CHIEF DENNIS: Okay. So it wouldn't be part of the AG's Office, then?

DEPUTY ATTORNEY GENERAL YOUNG: That is correct.

CHIEF DENNIS: Okay. Any idea who would do the investigations?

DEPUTY ATTORNEY GENERAL YOUNG: So they would be hired. I would envision that they would be probably sworn or retired law -- currently practicing or retired Law Enforcement that understand how to do investigations. And when you go into Police Departments, just to understand IMC versus other systems, downloading information from bodycams, you need somebody that is conversant with that.

CHIEF DENNIS: Right.

DEPUTY ATTORNEY GENERAL YOUNG: So they would be Law Enforcement Officers would be what I would envision that to be.

CHIEF DENNIS: Okay. And would you envision this panel also using the same evidence standard that the ADO uses of clear and convincing evidence?

DEPUTY ATTORNEY GENERAL YOUNG: So that is also something else. I think that that would have to be clearly one of the guidelines as to what it is, if that is the correct standard. That would have to be built. There would have to be very clear sort of rules of the road going forward. But that certainly would be a discussion that would be had.

CHIEF DENNIS: Okay. And I know it is hard, since this is only a framework. There's no rules defining the misconduct or anything like this. But this is certainly a question that's popped up in the discussion. But someone makes the complaint that I was stopped for 20 minutes for no good reason, do you see that information coming forward and being looked at, and investigated by a panel like this?

DEPUTY ATTORNEY GENERAL YOUNG: So I think that's going to be fact-specific. You were sitting there doing nothing for 20 minutes. Is there a Police Report that said you were responding to a burglary down the road? I mean, I think it depends.

We looked at a case once where somebody complained and said, I didn't get this ticket. There's no way I got this ticket. And we thought, yeah, sure, you didn't get the ticket, right? And you have to go in. And you look. And you're like, yeah, there's no way. That Officer was giving a ticket 3 miles away at the same time. Could that just be a clock thing? Or could he have been somewhere else and he needs to fill a ticket quota? So, the simple answer is I don't know. I think it depends on the facts and the circumstances.

CHIEF DENNIS: Okay. I definitely like the idea of defining what misconduct is. I know in your presentation you kind of indicated -- and I'm not using the right word, but basically the EES is underused, but it's also overused. And so, I think for Law Enforcement, we are rules people. And I think coming up with some good defining what misconduct is would be helpful for all in Law Enforcement to make sure we are doing what we're supposed to be doing and doing it right.

I think this is a -- an idea worth looking at. I think it would be nice to have something standard, as you said. We have over 200 Law Enforcement Agencies in the State, some small, some large, most of them being smaller. And something like this may be helpful to ensure that we're doing what we should be doing. So, that's all the questions I have at the moment. Thank you.

DEPUTY ATTORNEY GENERAL YOUNG: Thank you, Chief. Chief Edwards?

CHIEF EDWARDS: Thank you, Deputy Young, for this presentation and the work on this. If we could go back to slide 2, sorry? But, no need to pull it back up. I think I got it. I just want to make sure. Okay. Yeah, slide 2, so the -- to Chief Dennis' point a little bit, you're envisioning this being a standalone State Agency.

Now, do you envision this -- I would assume that this Agency would be headed by someone with a law enforcement background, and that there are Subcommittees, or the panels should be chaired by someone with a law enforcement background, very similar to the hearings panels or structure for Attorneys.

DEPUTY ATTORNEY GENERAL YOUNG: Yes, I don't know sort of the best person to run that, if it's a Law Enforcement Officer, if it's a Lawyer, if it's somebody who has other experience running Government Entities. I can't tell you that. Certainly, it's somebody who has to understand what law enforcement is. But, yes, the panels would be consistent with what you saw with the Attorney Discipline Panels.

CHIEF EDWARDS: Okay, the reason I bring that up, because I know we're trying to mirror what the Law Enforcement [sic] Disciplinary Agency Panel has. And as far as I understand that most Lawyers,

Prosecutors, or Defense Attorneys, and Judges, for that matter, there's an opportunity, a window for them to review all of the facts before making a decision in how to defend a case, prosecute a case, or judge a case.

With Law Enforcement Officers, the vast majority of their decisions are made on the spot, with human interactions. So those decisions are viewed sort of Monday morning under bright lights, as opposed to any other profession that we're talking about.

So I think that we have to be very deliberate, if we're going to structure something like this and provide structure to it, because one of the things I found was very fascinating to me yesterday, when I asked a question about unethical behavior, for me integrity, it spins around ethical and unethical behavior. And there wasn't a very clear answer on how unethical behavior is handled with Attorneys. I know he went back to the Code of Conduct. And if it wasn't in the Code of Conduct, then it wasn't really addressed.

And again -- so, I just want us to be mindful, because I think the framework, I guess, was a great starting point if we're going to consider something like this. But if we are going to do it, then I think we should be fair and structure it similar to that, very, very closely to what's the structure for Attorneys, where Attorneys are overseeing Attorneys so to speak, and it's leaning in favor of the Attorneys, these Boards. So I would hope that the same consideration would be given to Law Enforcement. Thank you.

DEPUTY ATTORNEY GENERAL YOUNG: And you're absolutely right. And I'm genuine when I say unless you're a Police Officer, you don't know what it's like to roll up on that car and same way with the shooting training, right?

CHIEF EDWARDS: Yeah.

DEPUTY ATTORNEY GENERAL YOUNG: Action is always going to trump reaction. And you don't really -- you can hear that all day. But until you go out there and you do a simulation, you don't know it. So, (inaudible) perspective of the person who's being judged by others.

CHIEF EDWARDS: Thank you. Okay.

DEPUTY ATTORNEY GENERAL YOUNG: Thanks, Chief. Commissioner Quinn?

COMMISSIONER QUINN: Hi, can you hear me?

DEPUTY ATTORNEY GENERAL YOUNG: I can. Can you hear me?

COMMISSIONER QUINN: Yeah. So, I just have one question. And maybe I -- just so I understand it, and again I couldn't -- I know that you referred to the Public Integrity Unit. And I know that the Attorney General put out some guidance January of 2019. And that's what's we, the State Police, will refer those cases to Public Integrity. I'm not sure if -- that all local Agencies do that, as well, or if they were required to refer them to the county.

But, would this kind of globally handle all of that? Is that your vision is that Public Integrity would be woven in? Or would there still be a separate standalone Public Integrity Union? That's what I was trying to understand.

DEPUTY ATTORNEY GENERAL YOUNG: Yeah, so one recommendation would be for the Law Enforcement. And then, another recommendation for, right, the accountability is that there a Public Integrity Unit that we would look at all criminal conduct here. So now we look at State Police. We look at Commissioners. Any other matter is sent to the county. We would do all public integrity within this office to ensure consistency.

COMMISSIONER QUINN: Which is separate from this standalone Agency on this?

DEPUTY ATTORNEY GENERAL YOUNG: Yeah.

COMMISSIONER QUINN: Okay. And so, the other thing I want to make sure I understand -- and just to share with the Commission, the number, I think it's important as we move forward to look at this, to really quantify on the frontend what we will be dealing with, because I know that we track all of our requests at State Police to handle outside investigations based on conflicts. And we reached a point where we had to decline, because quite honestly we just couldn't keep up with them. We couldn't sustain it. Our Major Crime Detectives had to focus on investigating major crime and the other Detectives in the Troop.

So there is a large number of requests. And I think we need to be clear. And I know the Deputy touched upon it. But they come in from all different venues, whether it's a conflict, whether it's -- and it isn't always just on the law enforcement side. It can be in the Town Government and conflicts come up more often than not.

So I just think a separate conversation, I think everyone on the Commission that might not have that unique experience needs to understand, it isn't just Police misconduct. There are a lot of requests out there from the public. I want this investigated and I want it investigated now. And those investigations are comprehensive. They take a lot of time. They include the review of electronic data, going out doing interviews, social media.

So, it is -- I think anyone who handles Internal Affairs at their own Departments knows the immense responsibility in just keeping up with those cases. So, I just think the point I try to make is we need to make sure that we do ensure whichever way we go there are enough resources adequate, and the right resources, to ensure a fair, impartial, and professional investigation gets done. But I can't give you that number. But I requested how many requests we get outside of the Agency. And the number is significant. So I just share that with everybody, because this is a heavy lift.

DEPUTY ATTORNEY GENERAL YOUNG: Commissioner, on the Public Integrity piece, I can tell you that we sort of have a running joke, like don't answer the phone after 3:00 on Friday, because nothing good happens. But you have to be able to look at that and triage it as to, oh, boy, this is a problem. And we need to at least have an Investigator reach out and figure, do we have to take action right now? What can we do?

A lot of stuff comes in fast and furious. And it runs the gamut from, as I told you, the Police Officer falsifying an Affidavit for an arrest, versus to a Town Official who ran a license plate for somebody because he wanted that license plate. I mean, those are two very sort of ends of the spectrum. But they both fall under public integrity, and they are both criminal conduct.

So you have to have a team that understands what is the issue. What needs to be done right now, and how to continuously juggle, because these cases come in. I don't think that there's a day that goes by that we don't get two or three of these calls in.

COMMISSIONER QUINN: And I think if we reverse-engineer it, there are a lot of things that take place that get dealt with at the Police Departments, that this Committee might not be interested in, whether it's a performance issue. There are minor infractions. There are things that get addressed that would not rise.

But, again, it's clear in your public integrity it's criminal conduct -- criminal misconduct. So I think what Lieutenant Morrison brought up is a good point. It's going to be something that we're going to have to clearly define, because I think if you look back at all the different Memorandums which started with Peter Heed, and then Attorney Foster, and then the updates by Attorney General MacDonald, it has been stated. It's -- but, again, some of those levels of conduct would also rise to loss of Certification. So I think that that is clearly going to be something that needs a lot of time and focus to make sure that we get it right.

DEPUTY ATTORNEY GENERAL YOUNG: Thank you, Commissioner. Director Norton?

DIRECTOR NORTON: Yes, thank you. And I'll say that, when I took the break, my head was swimming and that this really brought a significant level of clarity, and appreciate all the thoughtfulness that (inaudible). I'm still trying to digest it, but I think it provides a good path forward for us. I do have a couple questions. One is, was this based on any existing model from another State or elsewhere? Or is it essentially unique to New Hampshire?

DEPUTY ATTORNEY GENERAL YOUNG: So, I can tell you that I did not look at other States. I think that we understood that the Attorney Discipline System worked well. We've had internal conversations for a long time that we need to do something.

So it was at least with us, Ken, it was the Attorney General sort of just sitting down, putting pen to paper, talking with me, talking with a couple of other people in the office to find out what works best for us, because we know a lot of the partners here. And we try to communicate with people. What will work for New Hampshire?

DIRECTOR NORTON: Thanks; and obviously, the definition of misconduct is really sort of key here. And I'm wondering what -- where does the use of force come into that, or the use of excessive force, or I mean, how do we gauge that piece that is often a concern of the public regarding the "roughing up" that we've heard, and those kinds of things?

DEPUTY ATTORNEY GENERAL YOUNG: So certainly if there's criminal conduct, that would be looked at sort of on the criminal side. But you got to sort of -- you got to build this. And as I said, this Committee can't get down to that granular level. We will never leave here. So I think we have to just start a model and then for others to develop it.

DIRECTOR NORTON: Well, I guess one of the concerns I have is that one of the questions I had asked was to try to understand whether excessive force had ever resulted in criminal charges in the State. And it seemed like the answer to that was no. So, that seems to be part of that, I don't know, threshold that doesn't get crossed, in terms of Police conduct regarding use of force.

DEPUTY ATTORNEY GENERAL YOUNG: So I think that I had answered that sort of in the time, Ken. We have had a number of these cases that we have looked at. We had the Nashua case. We had the case in Seabrook.

I will tell you that I heard that. That's sort of thrown out there. We have clients that are roughed up. Hey, everybody knows our number. Everybody calls. We're not getting those calls. We prosecute these. We prosecute these cases. So it's easy to say that. And as I say to people, then call me and tell me, and show me what they are. So, yes, we have prosecuted the cases that we have known.

We have looked at other cases. There was a Farmington case that we looked at. We put out a 49-page Report that that was not an improper use. The Duchesne case that people talk about, we looked at that Duchesne case. Those were off-duty Officers that were involved in an altercation outside a bar. We looked at that and determined that we could not prove an assault in that case.

They were on the -- I mean, this is public, right? They were on the Laurie List. They didn't want to be on the liar's list. Okay. But you're not on there. It's an excessive force, because there could be an excessive force case down the road. They came off.

There was a recent article done by a Reporter. The City of Manchester paid out \$200,000 for that event. You rectify that. I can't. I can't. And it's all -- it's out in the paper. So if there's a trial, I don't know what a Judge would do. I mean, so, I don't think it's fair to say that there haven't been cases or that people are seeing clients roughed up all the time. Those calls aren't coming here. And we answer our calls.

DIRECTOR NORTON: Thanks. It's just -- it's hard for me, as a member of the public, to kind of grasp all this stuff and to keep it all inline. So I guess one of my other questions is: what? I mean, and related to that would be, I mean, what would be the interface between PSTC? I mean, the question that the Director asked and this Entity.

And I'm assuming that they would make a recommendation to PSTC regarding decertification. And PSTC would -- if that were warranted, and PSTC would be the body that continues to do that. Or they would just turn a file over to PSTC. And then, PSTC makes the determination regarding decertification.

DEPUTY ATTORNEY GENERAL YOUNG: So I think that the way that we currently envision it is that this group would take in the complaint. They would look at it. Certainly if there was a basis for the Certification suspended or to be revoked, that would be the conversation with Police Standards and Training.

DIRECTOR NORTON: And then, what -- I mean, I'm unclear what happens with the existing EES List. I mean, how do we deal with it, or how does it -- I mean, I like what's proposed, in terms of moving forward. But what happens with the existing list, given that you've said that it's over-representative, too? I mean, how do we move forward with that?

DEPUTY ATTORNEY GENERAL YOUNG: So I don't want to get too deep in the weeds on that. There is pending litigation on that. But I think that that would be something that we would have to discuss. Certainly, we would have to determine the name on the list, how you got on the list. Did you get your due process? That would be something that would have to be further discussion on.

DIRECTOR NORTON: Great; and then just last comment, just want to pick up on that piece that the Judge mentioned concerning Sheriffs and their Certification, not for this conversation, but we should track that maybe under the other category that it does not currently require Sheriffs to be Certified Police Officers in the State.

DEPUTY ATTORNEY GENERAL YOUNG: Okay. Yeah, we will note that for the next section. Thank you, Ken. Gilles, you have your hand up?

DIRECTOR BISSONNETTE: Yeah, I just had a question and a comment. I can just say that I certainly hear anecdotally complaints about use of force, particularly among inmates. And I just wanted to flag that it's obviously very difficult for detainees, certainly at our State Prison, to call the Attorney General and voice complaints, just a comment, no need to respond. But that is something. That is a real concern and it's out there. So I wanted to flag that.

With respect to the existing Laurie List, I just wanted to be clear. I'm one of the Lawyers litigating that case, if it was any mystery. That lawsuit, there's oral argument scheduled on September 16th at the State Supreme Court on whether the existing list should be made public.

So, I know that, Deputy Young, you talked a little bit about, well, there should be an evaluation maybe of whether those Officers on the list received due process. And I'm just wondering if you can comment on this. I mean, I've been in the litigation referencing a lot the Attorney General's Memos from 2017 and 2018, a lot of which provide due process, Notice, opportunity to be heard before the Law Enforcement Head. If there's disagreement, an ability even to go to the Attorney General's Office and seek review. The finding needs to be sustained for placement to exist.

And of course, if all of that is to not -- is not to the satisfaction of the Officer, the Officer can file a declaratory judgment action. That's actually one of the outcomes of the Duchesne case is now the ability to seek court relief and argue that you haven't received due process.

So I've always envisioned all of those things is providing frankly pretty robust due process. And so, I just didn't know if -- and maybe you could explain those Memos and what they do, and what they're envisioned to provide for Officers that had concerns with placement on the list.

DEPUTY ATTORNEY GENERAL YOUNG: So I'm not going to wade deep into EES. But what I will tell you is that the Foster Memo came out, because there was questions about the Heed Memo. So to say that it was -- and I think that Commissioner Quinn will tell you that. He would call me many times and say, I don't know what to do with this. What does this mean? So it's a much longer discussion, Gilles. And we have seven minutes left. So I...

DIRECTOR BISSONNETTE: No, that's okay. But I just feel like I need to let folks know that these Memos that we're talking about, in my view, provide pretty robust due process. When people talk about due process on the list, that culminated in the April 2018 Memo from the Department of Justice that talked about sustained findings. So, I just feel like that needs to be out there, because we talk a lot about it with respect to the list. And I think a lot of it's there.

DEPUTY ATTORNEY GENERAL YOUNG: Thank you. Okay. So I think that that exhausts that section. So, I know that there's...

LIEUTENANT MORRISON: And real quick, excuse me. Can I interrupt just a second?

DEPUTY ATTORNEY GENERAL YOUNG: Yeah, go ahead, Mark.

LIEUTENANT MORRISON: I just don't want to have what Attorney Bissonnette said as kind of left unchallenged, because obviously there's a complete disagreement with that characterization for some of these things. So especially where he's an involved Party in this lawsuit, or this court action, or whatever, I just think we should be very careful about leaving that sort of a statement out there to dangle as truth or untruth, or accurate or inaccurate. I just think we should be careful about having comments like that, especially on pending legislation, because there's obviously some people that would have a stark disagreement with that position.

DEPUTY ATTORNEY GENERAL YOUNG: Thank you, Mark. And because there's pending litigation, I'm not going to sort of debate the EES, that we sort of made our recommendation going forward. I think we would have to decide what happens currently. But we're not going to get that deep in the weeds.

So we are ready to move onto public testimony tomorrow. So I would again, one last reminder, any member of the public who'd want to speak should notify the Commission in advance by sending an email to LEACT@doj.nh.gov. Written testimony is strongly encouraged and should be submitted to the same email address.

What we had decided last time was that public members get two minutes. And that if Commission Members want, they can raise their hand. I think that they were limited to three or four questions and five minutes, because we're going to try to move this along.

Today, I know that there's been a number of emails going back-and-forth about the Minutes. So I think sort of the best way is to review the Minutes tonight. We can look at today and tomorrow's Minutes together. And then, move on from there. So, with that being said, do we have any other matters to take care of today?

(No audible response)

DEPUTY ATTORNEY GENERAL YOUNG: Do I have a Motion to Adjourn? Judge Gardner, standard by Lieutenant Morrison, sorry. So, I vote yes to adjourn. Commissioner Quinn?

COMMISSIONER QUINN: Yes.

DEPUTY ATTORNEY GENERAL YOUNG: Director Malachi?

DIRECTOR MALACHI: Yes.

DEPUTY ATTORNEY GENERAL YOUNG: Director Scippa?

DIRECTOR SCIPPA: Yes.

DEPUTY ATTORNEY GENERAL YOUNG: Commissioner Johnson?

MR. JOHNSON: Yes.

DEPUTY ATTORNEY GENERAL YOUNG: President McKim?

MR. MCKIM: Yes.

DEPUTY ATTORNEY GENERAL YOUNG: Chief Dennis?

CHIEF DENNIS: Yes.

DEPUTY ATTORNEY GENERAL YOUNG: Director Norton?

DIRECTOR NORTON: Yes.

DEPUTY ATTORNEY GENERAL YOUNG: Attorney Bissonnette?

DIRECTOR BISSONNETTE: Yes, and thank you, everyone, very much for letting me sit in for the last few days. I appreciate it.

DEPUTY ATTORNEY GENERAL YOUNG: Thank you. Come back any time you want. Attorney Jefferson, I believe, has left us. Chief Edwards?

CHIEF EDWARDS: Yes.

DEPUTY ATTORNEY GENERAL YOUNG: Thank you. Have a good afternoon, everyone. Bye.

(Meeting adjourned.)