

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

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HELD AT: Committee Room
City Hall

B E F O R E: VINCENT GENTILE
Chairperson

COUNCIL MEMBERS:

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Jumaane D. Williams
Rory Lancman
Chaim M. Deutsch
Daniel Dromm
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A P P E A R A N C E S (CONTINUED)

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The National Action Network

CHAIRPERSON GENTILE: Well, good morning on this Cinco de Mayo morning. It is a beautiful, sunny morning, although it may not seem that way in this room. We have the shades down for a reason I'm told, but we'll do the best we can and usually on a Monday morning when council members have busy weekends, we get a slow start, but we're here now and we're going to begin. I am Council Member Vincent Gentile and I serve as chair of the Council's Committee on Oversight and Investigations. Before we proceed, I'd just like to recognize one of the council members, a member of the committee, Council Member Helen Rosenthal and we'll be joined with other committee members as the hearing goes on. We're also joined here today by Council Member Jumaane Williams, who is the prime sponsor of the legislation we'll be discussing and he will be speaking on it in just a few minutes. So we thank you all for being here this morning.

We're here today to consider proposed Intro 119-A, a bill that would require the new Inspector General of the New York Police Department to submit quarterly reports to the Council, the

1 Comptroller and the Civilian Complaint Review
2 Board, CCRB, providing details regarding lawsuits
3 filed against New York City... I guess the New York
4 City Police Department and its officers. When the
5 Council passed Local Law 70 last year, the NYPD
6 Inspector General was given board authority to
7 review and make recommendations relating to the
8 operations, policies, programs and practices of the
9 NYPD. The duties imposed by today's legislation
10 fall squarely within that authority. By collecting
11 information regarding lawsuits filed against the
12 NYPD, the IG would be able to better track alleged
13 violations and possible managerial reforms. With
14 this bill, the IG would be positioned to consider
15 not only individual cases, but to review data in
16 the aggregate so that the IG can determine whether
17 patterns exist that might call for revised
18 practices and procedures. And particularly because
19 the bill seeks to review the cost associated with
20 the lawsuits alleging misconduct, the legislation
21 also fits well within the traditional focus of the
22 Department of Investigations. It will allow the
23 NYPD IG to identify possible waste or inefficiency
24

1
2 in connection with the City's decision making
3 regarding settlements.

4 In Fiscal Year 2012, 9,570 claims were
5 filed against the NYPD, for which the City paid
6 \$152 million in claims. This accounted for the
7 highest cost of settlements in judgments among City
8 agencies for that year. The data that this bill
9 mandates the Inspector General collect would help
10 identify areas where managerial reforms are needed,
11 reduce the number of claims against the department,
12 and could potentially save the City tens of
13 millions of dollars. In addition to providing
14 useful information to the IG, the legislation is
15 also geared to help the Council, as well as the
16 CCRB and the Comptroller to exercise our own
17 oversight functions. So we look forward to hearing
18 testimony on this legislation and I thank you all
19 again for being here at this hearing this morning
20 and before we hear from the administration, the
21 prime sponsor of today's legislation would like to
22 make some remarks, so I will introduce our Council
23 Member Jumaane Williams.

24

25

2 COUNCIL MEMBER WILLIAMS: Thank you,
3 Mr. Chair. You have a wonderful committee with a
4 wonderful staff too.

5 CHAIRPERSON GENTILE: [interposing]
6 Thank you.

7 COUNCIL MEMBER WILLIAMS: Just so you
8 know. And today actually, this is an important
9 bill to me and the Mayor is, at this moment,
10 announcing his Housing Plan, but I have chosen to
11 be here to talk about this bill. So thank you to
12 the Chair and to the colleagues of the Oversight
13 Investigation Committee.

14 I'm very proud to sponsor Intro 119-A
15 that will require the Inspector General for the New
16 York City Police Department, the NYPIG, which I'm
17 very excited about as well, to submit quarterly
18 reports to the Council, the Comptroller and the
19 Civilian Complaint Review Board, providing details
20 regarding lawsuits filed against the New York City
21 Police Department and its officers. This
22 legislation is critical to ensuring transparency
23 and effective oversight of the New York City Police
24 Department. With recent reports showing that
25 claims against the NYPD often result in the highest

1 dollar amounts paid by the City of New York, it is
2 important that City government officials are aware
3 of the number and nature of the claims, including
4 civil claims filed against the department. While
5 the Police Department and the Civilian Complaint
6 Review Board have taken steps in recent years to
7 review in a systematic way the number and nature of
8 claims filed against the NYPD, there must be formal
9 channels by which this information is reported to
10 other entities, charters and oversight, including
11 the City Council and the Comptroller of the City of
12 New York. By requiring the new NYPD Inspector
13 General to report this information, I strongly
14 believe that we will accomplish the goal of
15 transparency, effective oversight and discovery
16 patterns of practices that demands reform. I
17 believe this bill is what the City Council should
18 be doing, which is helping provide oversight to the
19 Police Department and helping find patterns and
20 practices that we can assist in providing
21 suggestions or help the IG provide suggestions that
22 can help the Police Department better police. This
23 is not an assault against the police... this is not
24 an assail, I should say, against the Police
25

1 Department in any way, shape or form. There is a
2 lot of money being spent and we'd like to know if
3 there's a pattern of where, why and how and if
4 there's any ways that we can change that so
5 taxpayers can save their money and people can save
6 injuries and people can feel better policed. As
7 was mentioned, some of this had been starting to be
8 done in a better way. This also could've been done
9 through an MOU, but we wanted to codify it so that
10 it wasn't at the whims of any one person, but
11 something that just has to be done as a regular
12 pattern of practice. I think if these things are
13 done as a way of policing; as a way of discussing,
14 it won't seem abnormal. When it comes up, it'll
15 just be part of the discussion that should always
16 be happening. So Mr. Chair, thank you for allowing
17 me to make brief remarks on the legislation. I
18 look forward to a favorable consideration of Intro
19 119-A. Thank you.

21 CHAIRPERSON GENTILE: Thank you,
22 Council Member Williams and I just want to also
23 recognize that we have been joined today by the
24 committee staff, Jennifer Montalvo and Shannon
25 Manigault and my staff members, Jake Oliver and

2 Michael Bistri [phonetic]. With that, we will
3 begin our testimony and I will ask the members of
4 the administration to come forward first from the
5 Department of Investigation, Susan Pogoda and
6 Michael Siller and joined also by the New York City
7 Law Department, Thomas Giovanni and Celeste
8 Koeleveld. Did I get that name right? Well, we'll
9 find out.

10 [Pause]

11 CHAIRPERSON GENTILE: Okay, so who
12 would like to start, DOI or...

13 DEPUTY COMMISSIONER POGODA: DOI...

14 [crosstalk]

15 CHAIRPERSON GENTILE: The Law
16 Department?

17 DEPUTY COMMISSIONER POGODA: DOI's
18 going to start.

19 CHAIRPERSON GENTILE: DOI will start,
20 okay.

21 DEPUTY COMMISSIONER POGODA: Thank you.
22 Good afternoon, Gentile and...

23 CHAIRPERSON GENTILE: [interposing]

24 Just make sure your mic is on. Just hit the
25 button. It's on? Just move it closer then.

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS 10

2 DEPUTY COMMISSIONER POGODA: 'Kay, good
3 afternoon...

4 CHAIRPERSON GENTILE: [interposing] I
5 think what you're probably going to have to do is
6 just put it a little closer to you, yeah.

7 DEPUTY COMMISSIONER POGODA: Okay.

8 CHAIRPERSON GENTILE: Okay.

9 DEPUTY COMMISSIONER POGODA: Okay,
10 we'll try it again.

11 CHAIRPERSON GENTILE: Okay.

12 DEPUTY COMMISSIONER POGODA: Good
13 afternoon, Chair Gentile and members of the
14 Committee on Oversight and Investigations. My name
15 is Susan Pogoda. I'm the Deputy Commissioner for
16 Agency Operations and Chief of Staff for the New
17 York City Department of Investigation. I am joined
18 by Michael Siller, DOI's First Deputy General
19 Counsel. Thank you for the opportunity to testify
20 here today regarding City Council proposed Intro
21 119-A.

22 As you know, Intro 119-A requires DOI
23 in consultation with the Office of the Corporation
24 Counsel to submit quarterly reports to the City
25 Council, the Comptroller and the Civilian Complaint

1
2 Review Board containing information regarding all
3 civil actions filed against the NYPD and/or
4 individual police officers during the preceding
5 quarter in which the Law Department appeared or
6 agreed to represent any of the parties. As you
7 also know, the information about civil litigation
8 that Intro 119-A mandates DOI to report on is not
9 information that DOI generates, collects or
10 maintains in the ordinary course. Rather, to the
11 extent such information exists, it's maintained by
12 the Law Department. So from that standpoint, the
13 burden of complying with the law here is really on
14 the Law Department and we defer to them on that
15 issue.

16 To the extent that the purpose behind
17 Intro 119-A is to ensure that the DOI Inspector
18 General for the NYPD has the kind of information
19 regarding NYPD related litigation specified in the
20 legislation, DOI already has the power under
21 Chapter 34 of the City Charter and our executive
22 authority to require the Law Department to produce
23 such information. The NYPD Inspector General,
24 Philip Eure, is scheduled to begin n May 27th of
25 this year and at that point, he can evaluate in

1 consultation with Commissioner Peters what type of
2 information of this nature is necessary to fulfill
3 his mandate. I'm happy to answer any questions
4 that members of the committee may have. Thank you.

5 CHAIRPERSON GENTILE: Law Department?

6 CELESTE KOELEVELD: Good morning. My
7 name is Celeste Koeleveld and I serve as the
8 Executive Assistant for Public Safety at the Law
9 Department. I am pleased to be here to offer the
10 Law Department's comments regarding Intro 119-A
11 that is before you today.

12 Intro 119-A would require the DOI
13 Commissioner, in consultation with the Corporation
14 Counsel, to submit a quarterly report regarding all
15 civil actions filed against the NYPD and/or
16 individual police officers. Information regarding
17 the Law Department's representation or decision not
18 to represent would be required and would be
19 accompanied by a multitude of statistics with
20 respect to the lawsuits filed. As you know, there
21 were three earlier versions of this bill dating
22 back to 2009, 2010 and earlier this year. What
23 makes this bill different from previous proposals
24 is that for the first time it would assign these
25

1 reporting tasks to the DOI Commissioner, whose role
2 in this subject area has been established by the
3 recent enactment of Local Law 70 of 2013. That
4 role is integrally related to the Office of the
5 Inspector General for the NYPD, which will be
6 headed by the new IG, Philip Eure, appointed by
7 Commissioner Peters at the end of March of this
8 year. As a threshold matter, this administration
9 supports the goals of Intro 119-A to promote
10 transparency and provide information about the
11 interactions with our police force and members of
12 the public. The data relating to civil lawsuits
13 can be a valuable tool for examining how our
14 officers are performing their jobs and can provide
15 areas of focus for oversight. We, at the Law
16 Department, plan to work hand-in-hand with the
17 newly appointed IG and his staff and maximize the
18 resources available to us in the most efficient way
19 we can.

21 With those fundamental goals in mind, I
22 respectfully submit that it is premature to mandate
23 the collection and reporting of certain data before
24 the new IG and his staff have had a chance to
25 embark upon their challenging mission of providing

1 the very type of oversight contemplated by Intro
2 119-A. While the features of this bill may have
3 been necessary in 2009 and 2010, when it was first
4 proposed, we are in a new era. The enactment of
5 Local Law 70, established as a road map for the
6 kind of comprehensive and systematic review by
7 expert law enforcement professionals of the NYPD's
8 operations, policies, programs and practices that
9 are reflected by this proposal. The new IG and his
10 staff, who will get to work in just three weeks,
11 should be given the opportunity to assess what
12 their needs are. By definition, this will include
13 identifying what kind of information they will need
14 to fulfill their mission. I cannot predict whether
15 it will be the same data that would be required by
16 Intro 119-A, and I would go so far as to say that
17 mandating the reporting of data in this bill might
18 create additional and perhaps unnecessary work if
19 it is not consistent with the analysis of Mr. Eure
20 and his staff regarding their needs.

22 Because the Law Department handles the
23 lawsuits that are the heart of this legislation, we
24 are the primary agency that would be responsible
25 for providing information to the IG and his staff.

1 While some of the data specified in the bill is
2 currently available and readily retrievable from
3 existing databases, the provision of other
4 information specified in the bill would require
5 significant, expensive reprogramming of the
6 software application used by our office to track
7 cases and other matters, as well as additional
8 personnel and hardware to enter and maintain this
9 data. Other information requested is not currently
10 in the possession of the Law Department and given
11 these concerns, we suggest that the adoption of
12 final language await a comprehensive assessment by
13 the newly appointed IG, who will shortly assume
14 office, of the information that will most
15 effectively assist him and the Council. Thank you
16 for the opportunity to provide comments on Intro
17 119-A and I will be pleased to answer your
18 questions.
19

20 CHAIRPERSON GENTILE: Miss Koeleveld,
21 did you provide copies of your testimony for the
22 committee do we know?

23 CELESTE KOELEVELD: No.

24 CHAIRPERSON GENTILE: Alright, thank
25 you. Okay, just a few questions and then let me

2 also recognize that we have additional members of
3 the committee that have joined us. Councilman Rory
4 Lancman and Councilman Chaim Deutsch have joined us
5 and they're members of the committee. Thank you
6 for being here. Okay, Miss Koeleveld, is that it?
7 Is that it?

8 CELESTE KOELEVELD: Yes, it's
9 Koeleveld.

10 CHAIRPERSON GENTILE: Koeleveld, okay.
11 Thank you. You mentioned in your testimony that
12 this legislation may be premature and that you say
13 that you know, back in 2009, 2010, the previous
14 incarnations of this bill may have been appropriate
15 at that time, but it's somewhat premature now. But
16 in 2012, there were more than 9,500 lawsuits filed
17 against the NYPD and the settlements were \$150
18 million, which was the most for any city agency.
19 In view of that, and we're talking about 2012,
20 don't you think that with those kinds of numbers
21 there needs to be some entity that takes an overall
22 procedural and managerial view of what's going on?

23 CELESTE KOELEVELD: Yes, I do believe
24 that that is the case and I believe that that
25 entity for now is Mr. Eure. That is going to be

1 his job to... and when he comes in on May 27th, he
2 will be obviously taking a very broad view under
3 his authority to determine what various areas he
4 will be examining and I would expect that part of
5 his analysis would be the kind of risk management
6 analysis that is contemplated by this type of
7 legislation, which is to look at lawsuits filed
8 against the Police Department and try to see if
9 there are patterns that emerge and ways to address
10 those patterns. And so I believe that that type of
11 oversight is exactly what's contemplated by the
12 Inspector General in legislation that didn't exist
13 in 2009 and 2010. And I just wanted to also
14 comment just for a moment on your statistics. I
15 think 9,500, that sounds like a very high number.
16 That may just be the amount of claims filed
17 against...

18 [crosstalk]

19 CHAIRPERSON GENTILE: Oh, I'm sorry,
20 claims.

21 [crosstalk]

22 CELESTE KOELEVELD: The Police
23 Department.

24 CHAIRPERSON GENTILE: Claims, okay.
25

2 [crosstalk]

3 CELESTE KOELEVELD: I don't think
4 that's the amount of lawsuits.

5 [crosstalk]

6 CHAIRPERSON GENTILE: You're right,
7 claims, yeah.

8 CELESTE KOELEVELD: But I believe this
9 legislation is really focused on police misconduct
10 cases...

11 CHAIRPERSON GENTILE: [interposing] Mm-
12 hm.

13 CELESTE KOELEVELD: And we have
14 approximately between three and 4,000 filed per
15 year that the Law Department receives and then has
16 to litigate, so we could provide you, you know,
17 detailed numbers if you needed to see those, of
18 course, but I just wanted to say that the 9,500
19 number sounds awfully high.

20 CHAIRPERSON GENTILE: [interposing]
21 Right.

22 CELESTE KOELEVELD: And I think the
23 \$150 million number may also include cases besides
24 police misconduct. That may include like traffic
25 accidents and things like that, so some of the

1 numbers I'm a little bit concerned about. I don't
2 want to verify those are the correct numbers.
3

4 CHAIRPERSON GENTILE: But I think in
5 giving the answer, you sort of made the point here
6 that we could have this information if we needed
7 it, but under this legislation we would have this
8 information and so that's the point. We don't...
9 we, as an oversight body, don't now... we do not
10 have this information and CCRB I imagine doesn't
11 have a lot of this information. So this
12 legislation just sort of levels the playing field
13 in terms of information so that the oversight
14 bodies; whether it be the Comptroller or the CCRB
15 or the City Council, can have the information
16 available to us to perform some oversight and the
17 IG obviously.

18 CELESTE KOELEVELD: Well, again, the
19 City Council passed a legislation setting up the IG
20 last year and has put the IG in place to perform
21 oversight, and all we're saying is that before you
22 decide what type of information to collect and what
23 type of information to report, that you allow the
24 IG to take his role and then in consultation with
25 him decide which information to collect and what

1 information to report. We're just saying this is
2 premature. I'm not saying it isn't a good idea to
3 collect it, but I would give the IG a chance to
4 perform that function. That is a very important
5 function that he has been tasked with, among, of
6 course, many others. That's the only point we're
7 making in that regard.

9 CHAIRPERSON GENTILE: You do agree
10 though that the IG was never intended to replace or
11 supplant the City Council oversight of the NYPD.

12 CELESTE KOELEVELD: Of course not.

13 CHAIRPERSON GENTILE: Right.

14 CELESTE KOELEVELD: No, no.

15 CHAIRPERSON GENTILE: So we still have
16 that oversight function that I think this bill
17 seeks to codify I guess is the best way to put it.
18 Let me just ask you about the four corners of the
19 legislation, given what the legislation indicates
20 and either DOI or you know, or the Law Department
21 can answer this. Given what it's asking for, and
22 it indicates in the bill that July 31st would be
23 the first date of submission, is that... oh, I
24 guess two questions. What resources would be

2 implemented to get the data and can you make it
3 July 31st reporting deadline?

4 CELESTE KOELEVELD: Mm... I'm sorry,
5 you're asking what information... what data would
6 we be needed to implement...

7 [crosstalk]

8 CHAIRPERSON GENTILE: What resources do
9 you... obviously you've looked at the bill. You've
10 estimated what kind of resources you would need
11 to... should we implement; should we pass this
12 bill, what kind of resources you would need and the
13 fact is that the bill says that July 31st is the
14 first reporting period, so it's two questions
15 there.

16 CELESTE KOELEVELD: I think it would be
17 very difficult if not impossible to comply by July
18 31st. We currently can give you some of the
19 information that you're asking for and if you know,
20 we can give you the number of actions pending, for
21 example, and we can give you how long the actions
22 have been pending. We can give you the resolution
23 of the actions once it's been resolved, the amount
24 of money that was paid on it, for example, or if no

1 money was paid and we do not track certain
2 information at all that you're asking for.

3 CHAIRPERSON GENTILE: Such as?

4 CELESTE KOELEVELD: We do not track the
5 number of claims in an action. We don't track
6 resolution by claim. These police misconduct cases
7 tend to have the same claims or similar claims in
8 each one and they are all generally very
9 intertwined. A false arrest claim will be
10 intertwined with a malicious prosecution claim and
11 will be intertwined with an excessive force claim,
12 and they're almost always... ACCs will often be
13 present in such an action. So we track the lawsuit
14 as a whole and we don't track by claim and when
15 it's resolved, just the resolution for the whole
16 case is what's tracked in our database. So our
17 database doesn't track by claim.

18 CHAIRPERSON GENTILE: The...

19 [crosstalk]

20 CELESTE KOELEVELD: Our...

21 [crosstalk]

22 CHAIRPERSON GENTILE: The data is
23 there; it's just you'd have to extract it.
24

1 CELESTE KOELEVELD: Well, we could
2
3 analyze the complaint to get the data, but it would
4 be a very burdensome task. We get approximately
5 15... between 3,500 and 4,000 new cases per year,
6 so to extract this information from each of the
7 complaints... some contain you know, very, very
8 many claims, right, so it would be a very
9 burdensome task to extract that data and so that is
10 almost having to have the personnel to extract
11 data, right, and then you also have to have a means
12 of recording the data and our database has no way
13 to record the data. It would require a significant
14 reprogramming of our database to add fields and
15 extra tabs that would record the crate [sic] of
16 information that's... it... just to give you an
17 example of the claims or the... number nine in the
18 proposed legislation has I think five
19 subcategories. Those also are not tracked in our
20 data and not collected by people who would be
21 entering data, right, so you need to actually
22 revise the database and you would also need to have
23 the personnel available to extract the information
24 and record it and it's a very, very significant and
25 expensive reprogramming of our database that would

2 take quite some time; that is my understanding; to
3 actually carry that out; to be able to record that
4 information and also just to be able to collect it.

5 CHAIRPERSON GENTILE: Well, am I
6 correct in assuming then that there may be some
7 significant start-up costs and start-up labor
8 that's involved in getting this data? But once
9 it's up and running, the quarterly recording of
10 what's already in the database and just updating it
11 with new information shouldn't be that burdensome.

12 CELESTE KOELEVELD: I think that's...
13 actually no, I think there's a significant start-up
14 cost and there's also a significant ongoing cost of
15 continuing to enter the data. It's... you have...

16 [crosstalk]

17 CHAIRPERSON GENTILE: How so?

18 CELESTE KOELEVELD: I'm sorry?

19 CHAIRPERSON GENTILE: How so? how
20 would significant ongoing costs?

21 CELESTE KOELEVELD: You have to have a
22 data entry person, right, who would be reviewing
23 these complaints and collecting the information.
24 You have to imagine there are people who would need
25 to be providing the information and people who have

2 to be collecting it and entering it, so if it takes
3 you know, a half an hour or an hour to enter the
4 data from one particular complaint, right, and you
5 multiply that by 3,500 complaints, that's 3,500
6 hours, right, so that's a significant ongoing
7 personnel cost that we currently cannot absorb. We
8 have no people available to enter that kind of data
9 into our system or to collect it. So it isn't just
10 the start-up cost. This is an ongoing cost.

11 CHAIRPERSON GENTILE: But before...

12 [crosstalk]

13 CELESTE KOELEVELD: May I... do you
14 have something to add to that?

15 THOMAS GIOVANNI: This is Thomas
16 Giovanni. I'm Executive Corporation Counsel for
17 Government Policy. I would also like to add that
18 there's... when you look at the goals of this
19 legislation it's a retrospective quality as well.
20 When you want to track the previous claims against
21 officers, we have to look back and find those
22 previous claims. So when we talk about this
23 infrastructure being generated, there's also an
24 investigative piece that has to go back and as you
25 all probably know pretty well, recordkeeping isn't

1 that systematic throughout the five boroughs;
2 throughout the state, so as we build this, the
3 question really isn't about whether we're going to
4 do it, but how we're going to do it and it's going
5 to take a new infrastructure, new procedures and
6 new training and so what we're suggesting is that
7 we get all on the same page because every time we
8 have to reprogram the computer we change the
9 quality of the data for everything that came before
10 it. And so what you don't want to look up and do
11 is have one system that then has to be either
12 changed or scrapped to get another system when the
13 IG comes on when another reporting requirement is
14 put in place. So the only issue here is do we get
15 all the right criteria at one time or do we have to
16 add it piecemeal? And if we have to add it
17 piecemeal, it's going to actually make the data
18 quality much less. So that's the only issue here.
19 There is a significant cost early on and I wouldn't
20 say just start-up. Certainly there's start-up
21 costs, but also in the first year or two as we have
22 to look back and find out for the past claims
23 especially, it's one of the major issues because of
24 course, it's the past claims that generate the
25

1 problem here. And so one of the things that we're
2 asking for is the patience to actually be able to
3 set up a really robust infrastructure that's asking
4 the right questions the right way and the same
5 questions the same way across all of these
6 platforms because each one of these groups; the IG,
7 the monitor, the NYPD is also going to have to
8 change their tracking if the criteria that they're
9 given are different. So as we all get together, we
10 want to be asking the same question the same way so
11 that whatever data comes out of this can actually
12 be compared the right way so that when you, for
13 instance, talk about the number of claims or the
14 number of... the amount of payouts, we're actually
15 talking about the same thing.

17 CHAIRPERSON GENTILE: Let me ask DOI
18 the question then. They see... their department
19 seems to be concerned about the IG coming aboard
20 and significantly coming up with a different
21 structure of review. Do you share that concern?

22 DEPUTY COMMISSIONER POGODA: Well, at
23 this point, I don't know exactly since Phil Eure
24 hasn't started as to what exactly he believes that
25 he would need with regard to this bill, so I can't

1
2 give you specifics, but I would defer to the Law
3 Department with regard to their infrastructure
4 needs.

5 CELESTE KOELEVELD: I just wanted to
6 point out that to reprogram our database would take
7 at least six and possibly up to 12 months. It's a
8 fairly large proposition.

9 CHAIRPERSON GENTILE: So taking that
10 timetable, if we were to pass this bill within the
11 next month or two, you would say that it would be
12 another 12 months before you could actually comply
13 with the legislation?

14 CELESTE KOELEVELD: Yes.

15 THOMAS GIOVANNI: We should say at
16 least before we could fully comply. As Miss
17 Koeleveld said, we have some of this data
18 available. We have some; we don't have some of it,
19 so you could have partial compliance before then
20 with what we have in the database, but for full
21 compliance with what's in the legislation as
22 written, that would be the six to 12 months.

23 CELESTE KOELEVELD: And as Mr. Giovanni
24 said, in terms of compliance, you know, some of it
25 is retrospective, so the program that I'm talking

1
2 about, that's prospective, right, but there's a
3 retrospective issue as well in terms of making sure
4 the data is accurate going backwards.

5 CHAIRPERSON GENTILE: Councilman
6 Williams, do you want to jump in here?

7 COUNCIL MEMBER WILLIAMS: Thank you
8 very much. Thank you very much for your testimony,
9 both DOI and the Law Department. I just want to
10 understand fully the concerns which I think I
11 understand. So what the bill is asking does it
12 make sense to have that kind of information?

13 CELESTE KOELEVELD: I think the answer
14 is yes. I think it is the kind of information that
15 you know, we would expect Mr. Eure to be
16 collecting. It is the kind of information that the
17 Police Department itself is concerned about already
18 and you know, looking at... trying to look at
19 trends from lawsuits is something that is
20 definitely worth examining. So and that is... so
21 yes, the answer is I think what the underlying goal
22 of the legislation is is definitely laudable.

23 COUNCIL MEMBER WILLIAMS: Mm-hm. But
24 it seems that you're saying that it would be
25

1 difficult for you to aggregate that information in
2 a timely fashion. Is that right?

3 CELESTE KOELEVELD: That's correct.

4 COUNCIL MEMBER WILLIAMS: But if it
5 makes sense and the Inspector General asks for it
6 later, wouldn't you have to do it anyway?

7 CELESTE KOELEVELD: Well, I think we
8 could certainly work with the Inspector General to
9 say what information we actually have right now and
10 how... what we can provide and going forward how it
11 is that we could... more information could be
12 collected and from whom. So I think that it
13 takes... it will take some time and some meetings
14 to talk about these issues and to figure out how
15 best to accomplish this goal.

16 COUNCIL MEMBER WILLIAMS: My question
17 was if what we're asking for makes sense and then
18 as you're suggesting, we wait until the Inspector
19 General begins and then the Inspector General asks
20 for the same information, you would still have to
21 do whatever you have to do to collect that
22 information.

23 CELESTE KOELEVELD: Uhm...

1 THOMAS GIOVANNI: I think there's... I
2 think we're missing each other just a little bit in
3 that whatever the Inspector General comes up with,
4 we're going to have to work through anyway. The
5 question is whether or not those two things might
6 be in conflict with or even an augmentation to what
7 the City Council is asking for. We're completely
8 understanding and willing to give whatever
9 information it takes to meet the goals here of
10 tracking this information. It helps us as well,
11 but the only question is...

12 COUNCIL MEMBER WILLIAMS: [interposing]
13 Mm-hm.

14 THOMAS GIOVANNI: Are we going to get
15 two different sets of directions? So for instance,
16 if the Inspector General were to have a broader
17 list of categories that they want after we have
18 already reprogrammed the system... let's say that
19 the City Council just passed this legislation in
20 the month and then we begin to build on this
21 infrastructure and then the IG comes up in another
22 two or three or four or six months and says well,
23 we want this, this and this also, that would just
24 put us 24 months down the pipeline rather than 12
25

1 as we have to reprogram the reprogramming. That's
2 all we're talking about. We're not really talking
3 about whether we do this, but how we do this. We
4 see that there is going to be extremely
5 responsibilities coming down for us and so as we
6 fulfill the responsibilities we're going to do
7 that. But also, to answer your first part of the
8 question, Council Member Williams, some of the
9 criteria in the law makes sense and some of them
10 don't. I think, for instance, the number of
11 claims. Because the claims are so boilerplate,
12 that doesn't actually tell us whether or not
13 particular officers are doing things or particular
14 issues are coming up. The number of claims is
15 always very similar. People just write those
16 claims out and then we settle them, as Miss
17 Koeleveld talked about, and we deal with those
18 cases; resolve them whichever way. That's not
19 necessarily a criteria I would seek coming through
20 for the IG either; however, the amount of money
21 that we settle for there are different things that
22 we would track. Some of the...

24 [crosstalk]

25 COUNCIL MEMBER WILLIAMS: So...

2 [crosstalk]

3 THOMAS GIOVANNI: Things we have to
4 deal with privacy issues also, so we still have to
5 work through some of this, so it's the right
6 framework and absolutely the right idea. It's just
7 a matter of how we do it and what the expense is
8 going to be as we build the infrastructure and how
9 robust that infrastructure will be.

10 COUNCIL MEMBER WILLIAMS: So... well
11 one if... to me, if they're all similar, it
12 probably should be easier to aggregate if they all
13 have similar claims, but...

14 CELESTE KOELEVELT: [interposing] Well,
15 we do aggregate by case, right, the case is...

16 COUNCIL MEMBER WILLIAMS: [interposing]
17 Okay.

18 CELESTE KOELEVELT: Essentially is... a
19 case aggregates the claims.

20 COUNCIL MEMBER WILLIAMS: And I'm
21 saying... just so I'm full... so if I'm thinking of
22 an Excel spreadsheet, you're saying that the
23 columns we're asking for may be different than what
24 the Inspector General's columns would be?

25

1 THOMAS GIOVANNI: Yeah, I think if you
2 want to put that... if you want to make that as
3 simple as we could, yes, that would be right. The
4 IG may add three or four columns to whatever you
5 ask for.

6 COUNCIL MEMBER WILLIAMS: And then in
7 your... what you just said, we should be asking you
8 for more columns now because we don't have enough
9 columns in the bill that we propose.

10 CELESTE KOELEVELD: Well, I don't
11 know... you know, some of the information may also
12 be available from the Police Department eventually
13 directly, so it's a question of working out who
14 provides the information and how... what is the
15 best way to collect it and what infrastructure you
16 build to store it. So I think those kinds of
17 things are still... need to be worked out.

18 COUNCIL MEMBER WILLIAMS: So I am...
19 I'm moved by the argument about making sure we have
20 the right set of columns to be asking for to get
21 what we need, so my hope is that you provide for
22 the committee and for myself what you think that
23 should be if this doesn't get to the heart of it.
24 If we pushed back the start time of this so that we
25

2 can have more conversations with the Inspector
3 General when he starts, is... I don't know about if
4 we push back the passage you know, as far as moving
5 forward, but if we start back... if we push back
6 when the first report is due, is that something
7 that would be helpful?

8 CELESTE KOELEVELD: I think certainly
9 pushing back when the first report would be due
10 would be very helpful and perhaps you know, putting
11 off finalizing the legislation until Mr. Eure has a
12 chance also to join the conversation would also be
13 very helpful, so that would be our suggestion.

14 DEPUTY COMMISSIONER POGODA: Yeah, I
15 think that DOI would agree with that, that Mr. Eure
16 coming in on May 27th certainly has to get started
17 and I think that would produce conversations with
18 the Law Department in order to maybe if there are
19 any extra columns that Mr. Eure might find that he
20 needs to have, I think that pushing it back a bit
21 would be actually advantageous for the legislation
22 as well.

23 COUNCIL MEMBER WILLIAMS: I also want
24 to one, just get... we encourage you if you have
25 additional information that would make the bill get

2 to what we're trying to get at. Please provide
3 that...

4 CELESTE KOELEVELD: [interposing]
5 Absolutely.

6 COUNCIL MEMBER WILLIAMS: Uhm...

7 CELESTE KOELEVELD: Sure.

8 COUNCIL MEMBER WILLIAMS: I do just
9 want to make sure we're clear that the City Council
10 still maintains its authority to have oversight and
11 to ask the Inspector General to do specific
12 oversight, so we're not going to relinquish that,
13 but I do want to make sure that we're asking
14 whatever is best to ask, so sorry.

15 CELESTE KOELEVELD: No and I hope you
16 don't misunderstand my remarks in terms of you
17 know, disagreeing with you on your oversight
18 authority. Of course, we don't disagree. We're
19 just talking about having a conversation, all of
20 us, to make it make the most sense.

21 COUNCIL MEMBER WILLIAMS: But I will
22 say also it is important for me to have it codified
23 because if it's not you know, I think we're moving
24 in a great direction in terms of these kind of
25 conversations, but I don't know how long that

1 conversation would be that good and then there'll
2 be another administration that may have a different
3 set of conversations and then it would not have
4 been codified and everything can start to work
5 backwards, so. Thank you very much for your
6 testimony. Thank you, Mr. Chair, for allowing me
7 the time.

9 CHAIRPERSON GENTILE: Thank you,
10 Council Member and we've been joined also by our
11 colleagues, Councilman Daniel Dromm and
12 Councilwoman Inez Dickens. Thank you for being
13 here. Let me just ask... maybe Mr. Siller can
14 answer this question. Has DOI ever reviewed the
15 practices of Corp. Counsel in terms of areas of you
16 know, inefficiency in regard to how they dispose of
17 lawsuits? Has that... the view of it taken place?

18 MICHAEL SILLER: Good morning.
19 Typically we don't really comment on the types of
20 investigations that we conduct unless we issue a
21 public report. I'm not aware of any public
22 report...

23 CHAIRPERSON GENTILE: Well, oversight
24 more than investigation of the...

2 MICHAEL SILLER: [interposing] I
3 have... I'm actually Inspector General for the Law
4 Department so...

5 [crosstalk]

6 CHAIRPERSON GENTILE: I see.

7 [crosstalk]

8 MICHAEL SILLER: We do conduct
9 investigation of issues within DOI's mandate
10 concerning the Law Department. If an allegation
11 such as that were brought to our attention, then
12 hypothetically we might look into it.

13 CHAIRPERSON GENTILE: Other than an
14 allegation; I mean just an oversight on how they
15 proceed and on a procedural aspect; a managerial
16 aspect; procedural aspect and how they approach
17 several of the lawsuits as an oversight function.

18 MICHAEL SILLER: Again, it's not our
19 practice to comment on specific investigations that
20 we may have undertaken, but I'm not aware of any
21 substantiated allegation of that nature.

22 CHAIRPERSON GENTILE: Alright, okay.
23 Our next questioner will be Councilwoman Helen
24 Rosenthal.

1 COUNCIL MEMBER ROSENTHAL: Thank you
2
3 very much and I just want to congratulate Council
4 Member Williams on this law. I think you know,
5 it's a reflection of all your time in the Council
6 and the frustrations that you've had and the
7 Inspector General should go a long way. You know,
8 what we were just sort of reviewing was I imagine
9 you're looking at this law and that you can pick
10 out a couple of the areas and say oh, yeah, got
11 that, got that, got that and then you're looking at
12 some of the others and you're saying no, we don't
13 have that information; we don't collect it that
14 way; we don't think about it that way and now what
15 you're saying... seem to be saying is let's wait
16 until the Inspector General comes in and let's see
17 how that... let's give them... that person the
18 courtesy of seeing how he's going to contemplate
19 collecting the data. Is that a fair assessment?

20 CELESTE KOELEVELD: Yes.

21 COUNCIL MEMBER ROSENTHAL: It's
22 important to make that distinction because one of
23 your comments was that look, this is just going to
24 cost a lot of money. There's going to be a big
25 database. We're going to need you know, to come up

2 with you know, a platform and a system for this and
3 then we're going to need data entry people and it's
4 going to cost a lot of money. So I'm trying to
5 sort of understand both of those in context with
6 each other, so is there going to be enough money in
7 the IG's budget to have a database; to create a
8 database and to have staff to enter this data? Do
9 you think there is going to be a problem with that?

10 CELESTE KOELEVELD: I don't know about
11 the IG's budget, so I really can't answer that
12 question.

13 DEPUTY COMMISSIONER POGODA: I Thought
14 they were talking about the Law Department's
15 budget.

16 CELESTE KOELEVELD: But our budget, in
17 order for us to reprogram our database...

18 COUNCIL MEMBER ROSENTHAL:
19 [interposing] Okay, thank you.

20 CELESTE KOELEVELD: [interposing] so
21 we'd be able to provide the information to the
22 IG... we don't have that money...

23 [crosstalk]

24 COUNCIL MEMBER ROSENTHAL: Okay.

25 [crosstalk]

2 CELESTE KOELEVELD: To reprogram our
3 database.

4 COUNCIL MEMBER ROSENTHAL: And so do
5 you...

6 [crosstalk]

7 CELESTE KOELEVELD: No, there's no
8 money in our budge for that.

9 COUNCIL MEMBER ROSENTHAL: Right, so do
10 you...

11 [crosstalk]

12 CELESTE KOELEVELD: And it could be
13 very expensive.

14 [crosstalk]

15 COUNCIL MEMBER ROSENTHAL: So you
16 contemplate a problem about that? Do you
17 contemplate there might be a problem going forward
18 if the IG asks you to pull together this data and
19 more or...

20 CELESTE KOELEVELD: I think there could
21 be a problem if we're required to pull the
22 information together and put it into a database.
23 Then we would have to have money to build a
24 database and reprogram our database. We would also

25

2 have to have money to pay for the personnel who are
3 going to be entering the data. So yes...

4 [crosstalk]

5 COUNCIL MEMBER ROSENTHAL: 'Kay.

6 [crosstalk]

7 CELESTE KOELEVELD: I do think that
8 that would be an issue; that we'd have to
9 contemplate the financial implications of that kind
10 of legislation, but I also think that...

11 COUNCIL MEMBER ROSENTHAL:

12 [interposing] Not just legislation that contemplate
13 what this person wants to do, right? Just to be
14 clear, the IG's going to come up with a bunch of
15 ideas.

16 CELESTE KOELEVELD: Right.

17 COUNCIL MEMBER ROSENTHAL: And a
18 component of it is going to be this legislation.

19 CELESTE KOELEVELD: Right and it's
20 possible that the IG... it's also possible that
21 there will be a different database built to collect
22 some kind of information.

23 COUNCIL MEMBER ROSENTHAL:

24 [interposing] Absolutely.

25

2 CELESTE KOELEVELD: And the
3 presumption...

4 [crosstalk]

5 COUNCIL MEMBER ROSENTHAL: But there is
6 going to be a database and there is going to be
7 staff.

8 CELESTE KOELEVELD: Sure and you know,
9 the Police Department also has databases and so the
10 question is what makes the most sense in terms of
11 collecting this information? Who is the most
12 logical person to hold onto it and then provide it
13 to the IG and/or the City Council, right, both. So
14 I think that those... you know, that's the kind of
15 thing that needs to be discussed.

16 COUNCIL MEMBER ROSENTHAL:

17 [interposing] Okay, I just...

18 [crosstalk]

19 CELESTE KOELEVELD: And then what...

20 [crosstalk]

21 COUNCIL MEMBER ROSENTHAL: I smell...

22 [crosstalk]

23 CELESTE KOELEVELD: What makes the most
24 sense and what makes... what would be the most
25 cost-effective and the most efficient and the most

2 productive way to collect this information, and it
3 may be that it doesn't make the most sense for the
4 Law Department all of it in its database. Maybe it
5 makes sense to put it in somebody else's database
6 to be collected more easily by Mr. Eure. I don't
7 know the answer to that question exactly, but I do
8 know that if it were the Law Department that had to
9 provide the information and had to collect the
10 information, that that would be very costly and it
11 also would be... would take a lot of time. That...

12 [crosstalk]

13 COUNCIL MEMBER ROSENTHAL: Right.

14 [crosstalk]

15 CELESTE KOELEVELD: That I can answer,
16 that part.

17 COUNCIL MEMBER ROSENTHAL: I'm just
18 smelling a new need, a need coming from OMB and I
19 guess...

20 [crosstalk]

21 CELESTE KOELEVELD: But that would be
22 something...

23 [crosstalk]

24 COUNCIL MEMBER ROSENTHAL: I trust
25 that's somewhere in the Mayor's Executive Budget if

2 there' going to be a new need that's going to come
3 along with this. Can you go through the bill, the
4 components of the bill? Are there parts of it that
5 you think do not need to be collected?

6 CELESTE KOELEVELT: Well, I think...

7 [crosstalk]

8 COUNCIL MEMBER ROSENTHAL: As we go
9 through the letter...

10 [crosstalk]

11 CELESTE KOELEVELT: That we spent quite
12 a bit of time on the amount of... the numbers of
13 claims and the nature of each claim and the
14 resolution of each claim, so that we don't think
15 needs to be collected. We think...

16 COUNCIL MEMBER ROSENTHAL:

17 [interposing] Wait, wait. I'm sorry, I'm sorry,
18 catching up.

19 CELESTE KOELEVELT: I'm sorry.

20 COUNCIL MEMBER ROSENTHAL: I'm sorry,
21 I'm not aware.

22 CELESTE KOELEVELT: If you look at...

23 COUNCIL MEMBER ROSENTHAL:

24 [interposing] Number one, the number of lawsuits
25 pending...

[crosstalk]

CELESTE KOELEVELT: Number one, the number of lawsuits pending, yes, easy to collect and should be collected. Number of claims in each action, I would say no, not necessary to collect; not collected currently. The nature of each claim: it's not necessary to go into that amount of detail in our view, so I would say no. Number four, the amount of time each action has been pending: we have that information available. We can... our database tracks when an action is commenced so you can figure out how long it's been pending from that, right, so that's not a problem. The resolution of each claim: we can let you know the resolution of an action, so not by claim, but by action, right? So if there was zero money dispensed, we would have that. If there was money paid out, we would have the money paid out. It would be... it might require some additional programming to detail how the matter was disposed. So we can tell you if it was zero dollars versus some money.

COUNCIL MEMBER ROSENTHAL: Sure.

2 CELESTE KOELEVELD: But the zero
3 dollars can be the result of a trial, right, that
4 resulted in a verdict in favor of the Police
5 Department.

6 COUNCIL MEMBER ROSENTHAL:
7 [interposing] Right.

8 CELESTE KOELEVELD: Or it could be a
9 motion to dismiss, so we could've resolved the case
10 as a matter of law, right, before a trial and have
11 a zero disposition and similarly, the money that's
12 paid out could be as a result of a trial...

13 COUNCIL MEMBER ROSENTHAL:
14 [interposing] Wait, I'm....

15 [crosstalk]

16 CELESTE KOELEVELT: So...

17 [crosstalk]

18 COUNCIL MEMBER ROSENTHAL: Sorry,
19 rewind for... you had me at five...

20 CELESTE KOELEVELT: [interposing] Yep.

21 COUNCIL MEMBER ROSENTHAL: And you lost
22 me on six, so...

23 [crosstalk]

24 CELESTE KOELEVELT: Well six is you...
25 the way it's currently phrased might need to be

2 changed slightly because... or we'd have to
3 reprogram our system slightly to track the
4 information; whether it's resolved by trial;
5 whether the money paid out is by trial or by
6 settlement, so we don't track that information...

7 [crosstalk]

8 COUNCIL MEMBER ROSENTHAL: But...

9 [crosstalk]

10 CELESTE KOELEVELD: Uniformly right
11 now.

12 COUNCIL MEMBER ROSENTHAL: The...

13 CELESTE KOELEVELD: [interposing] So we
14 would have to reprogram to actually be clear that
15 we could provide you what the resolution was.

16 COUNCIL MEMBER ROSENTHAL: Got it

17 CELESTE KOELEVELD: Was the money paid
18 out because of a settlement or because of a trial,
19 that kind of thing, so...

20 [crosstalk]

21 COUNCIL MEMBER ROSENTHAL: Sure.

22 CELESTE KOELEVELD: There's some
23 reprogramming necessary there, but then the
24 information that would be able to be provided with
25 some effort.

2 COUNCIL MEMBER ROSENTHAL: But do you
3 think it's worth collecting, number six?

4 CELESTE KOELEVELD: Yes, I do.

5 COUNCIL MEMBER ROSENTHAL: Okay, number
6 seven?

7 CELESTE KOELEVELD: Well, I think
8 that's sort of incorporated by what we were just
9 talking about, the amount of any settlement, so
10 yes, we could... that's worth reporting and that's
11 worth collecting.

12 COUNCIL MEMBER ROSENTHAL: Filed in
13 state or federal...

14 [crosstalk]

15 CELESTE KOELEVELD: Whether the action
16 was filed in state or federal court: we have that
17 information.

18 COUNCIL MEMBER ROSENTHAL: 'Kay.

19 CELESTE KOELEVELD: It's somewhat
20 pertinent, but...

21 COUNCIL MEMBER ROSENTHAL:

22 [interposing] Mm-hm.

23 CELESTE KOELEVELD: Yeah, it's...
24 that's fine to collect. Now, number nine is more
25 complicated because it has these subparts, right?

2 COUNCIL MEMBER ROSENTHAL:

3 [interposing] Yep.

4 CELESTE KOELEVELT: Four subparts. So

5 this where the most... this is probably the most

6 problematic area for us in terms of our database.

7 We don't have this information in our database.

8 The precinct affiliation, the rank and the number

9 of years of service to the department of each

10 police officer and based on the claim is sort of...

11 We do not track that information.

12 COUNCIL MEMBER ROSENTHAL: The police

13 might do that.

14 CELESTE KOELEVELT: The police you

15 know, if you asked them about an officer, they'd be

16 able to go and answer the information for you

17 obviously, but we don't have that and so too in

18 order to track the information and in order to

19 collect the information, that's where I see a

20 significant expense.

21 COUNCIL MEMBER ROSENTHAL: Yep.

22 CELESTE KOELEVELT: Start-up and

23 ongoing.

24

25

2 COUNCIL MEMBER ROSENTHAL: Got it and
3 do you think that it would be worthwhile to collect
4 this information, number nine?

5 CELESTE KOELEVELT: I'm sorry, say that
6 again?

7 COUNCIL MEMBER ROSENTHAL: Do you think
8 it would be worthwhile to collect this information;
9 worthwhile?

10 CELESTE KOELEVELT: Yes, I do think
11 it's worthwhile to collect the information and just
12 to be clear, when you litigate these cases, the
13 individual assistant Corporation Counsel...
14 generally that information will become known at
15 some point about the case and about the individual
16 matter, but I'm just saying it's not tracked in our
17 database.

18 COUNCIL MEMBER ROSENTHAL: Yep.

19 CELESTE KOELEVELT: And entered in the
20 database, okay? Now, the next question is whether
21 the police officer against whom a claim is asserted
22 was on duty or off duty at the time of the incident
23 that is the subject of the claim. I'm not sure
24 that that's necessary to collect. It's fairly rare
25

2 that officers are off duty and even when they're
3 off duty then they may act as a peace officer.

4 COUNCIL MEMBER ROSENTHAL: Yep.

5 CELESTE KOELEVELD: And all of a sudden
6 be considered on duty, right so...

7 COUNCIL MEMBER ROSENTHAL:
8 [interposing] Okay.

9 CELESTE KOELEVELD: This is not really
10 such an important fact for us.

11 COUNCIL MEMBER ROSENTHAL: Okay.

12 CELESTE KOELEVELD: Then whether any
13 police officer against in the claim is asserted has
14 previously been the subject of a civil action or
15 actions. We're reading as civil action or civil
16 actions, so alleging police misconduct and that is
17 something that we... I think it's valuable to
18 collect. I think that... but it is something that
19 we could not... we... our data going backwards gets
20 less and less...

21 COUNCIL MEMBER ROSENTHAL:
22 [interposing] Sure.

23 CELESTE KOELEVELD: At some point I
24 mean you know, there could be gaps going far back.

25 COUNCIL MEMBER ROSENTHAL: Sure.

2 [crosstalk]

3 CELESTE KOELEVELD: So.

4 COUNCIL MEMBER KOELEVELD: You could
5 start today.

6 CELESTE KOELEVELD: You know, going
7 forward is...

8 COUNCIL MEMBER ROSENTHAL:
9 [interposing] Yes.

10 CELESTE KOELEVELD: Better, right, and
11 if so, the disposition of those civil action or
12 civil actions that if we figured out the number of
13 actions then we can figure out the dispositions of
14 them, so...

15 COUNCIL MEMBER ROSENTHAL:
16 [interposing] Yeah and that's also valuable, also
17 valuable to collect...

18 [crosstalk]

19 CELESTE KOELEVELD: Sure, sure and...

20 [crosstalk]

21 COUNCIL MEMBER ROSENTHAL: And...

22 [crosstalk]

23 CELESTE KOELEVELD: Then can I... I'm
24 sorry, go ahead. I...

25 [crosstalk]

2 COUNCIL MEMBER ROSENTHAL: No, no...

3 [crosstalk]

4 CELESTE KOELEVELD: Have some... I...

5 [crosstalk]

6 COUNCIL MEMBER ROSENTHAL: No, go

7 ahead.

8 CELESTE KOELEVELD: Okay. [off mic]

9 Should I mention this?

10 THOMAS GIOVANNI: Yeah.

11 CELESTE KOELEVELD: And going a little

12 forward in the bill or earlier than what we're

13 talking about, you also are asking for whether or

14 not the Corporation Counsel or if his or her

15 assistants appeared or agreed to represent the

16 officer and if there was a declination; a decline

17 to represent the reason for such determinations...

18 COUNCIL MEMBER ROSENTHAL: Yeah.

19 CELESTE KOELEVELD: That information

20 would be problematic to provide.

21 COUNCIL MEMBER ROSENTHAL: It'd be

22 problematic...

23 [crosstalk]

24 CELESTE KOELEVELD: Problematic...

25 [crosstalk]

2 COUNCIL MEMBER ROSENTHAL: To
3 provide...

4 [crosstalk]

5 CELESTE KOELEVELD: Yes.

6 [crosstalk]

7 COUNCIL MEMBER ROSENTHAL: Because...

8 CELESTE KOELEVELD: It's privileged
9 information and so we wouldn't... I mean generally
10 speaking, we follow the general municipal law; it's
11 Subsection 50-K; in deciding whether or not to
12 represent and indemnify police officers and so as a
13 general matter, if we are not representing then the
14 answer is as a general matter under that provision,
15 we would have declined to represent either because
16 it was not within the scope of the employment...

17 COUNCIL MEMBER ROSENTHAL:

18 [interposing] Mm-hm.

19 CELESTE KOELEVELD: Or because the
20 officer was not proceeding in accordance with the
21 rules and regulations of the agency.

22 COUNCIL MEMBER ROSENTHAL: Yep.

23 CELESTE KOELEVELD: But beyond that, we
24 wouldn't want to go into more detail and also, the
25 way it's tracked in our database, there are

2 different reasons for not representing that might
3 not be apparent from the database. For example,
4 what if an officer decided to have his own counsel?

5 COUNCIL MEMBER ROSENTHAL: Sure.

6 CELESTE KOELEVELD: That wouldn't... he
7 would not... our database might say not represented
8 by us, but we wouldn't... it wouldn't be detailed
9 to that extent.

10 COUNCIL MEMBER ROSENTHAL: I mean you
11 might have to refine it, right, to...

12 [crosstalk]

13 CELESTE KOELEVELD: We might.

14 [crosstalk]

15 COUNCIL MEMBER ROSENTHAL: To capture
16 that...

17 [crosstalk]

18 CELESTE KOELEVELD: That's right.

19 [crosstalk]

20 COUNCIL MEMBER ROSENTHAL: Kind of
21 thing.

22 [crosstalk]

23 CELESTE KOELEVELD: That's right and
24 there may... there are, in some circumstances, we
25 have a conflict and so we have...

2 [crosstalk]

3 COUNCIL MEMBER ROSENTHAL: Sure.

4 [crosstalk]

5 CELESTE KOELEVELD: We have conflict
6 counsel, in which case we're not representing the
7 officer, but we're still indemnifying.

8 COUNCIL MEMBER ROSENTHAL: Absolutely.

9 CELESTE KOELEVELD: So that wouldn't be
10 reflected in the...

11 [crosstalk]

12 COUNCIL MEMBER ROSENTHAL: Sure.

13 [crosstalk]

14 CELESTE KOELEVELD: Data either.

15 COUNCIL MEMBER ROSENTHAL: I mean all
16 this... that's refining, right?

17 CELESTE KOELEVELD: Right.

18 COUNCIL MEMBER ROSENTHAL: And then
19 what's missing on here that you think you know,
20 could be really relevant that, you know, would be
21 great to be collecting that's in tracking it?

22 CELESTE KOELEVELD: Well, I think once
23 you have this level of detail, you might think that
24 more information is important if you're trying to
25 look for patterns and you know, you would want to

1
2 dive deeper if you were Mr. Eure, for example, I
3 think, but you know, once you have this list I
4 suppose it's a good starting point.

5 COUNCIL MEMBER ROSENTHAL: That's very
6 helpful.

7 THOMAS GIOVANNI: I can give you one.
8 Certainly you might think about tracking the units
9 that the officer was with.

10 COUNCIL MEMBER ROSENTHAL: That's
11 right. This was some of the stuff that you guys
12 don't necessarily have access to right now.

13 THOMAS GIOVANNI: Right.

14 COUNCIL MEMBER ROSENTHAL: You just...

15 THOMAS GIOVANNI: [interposing] I think
16 that's the confusing part and Miss Koeleveld was
17 trying to be clear about that. In any individual
18 case, the assigned attorneys and the team can gain
19 access to the officer's history. We know a lot
20 about that situation, but the way that that
21 information is carried through the case is slightly
22 different than the way it makes it into the
23 database, and so they may know in their silo a lot
24 about what they're doing, just as any attorney
25 knows about their client, but whether or not the

2 database; the information infrastructure we've
3 generated is robust enough; is full enough to track
4 all that information is the...

5 [crosstalk]

6 COUNCIL MEMBER ROSENTHAL: Right.

7 [crosstalk]

8 THOMAS GIOVANNI: Question, so it's not
9 that the information isn't there to a certain
10 degree. It just isn't there when I say... right?

11 COUNCIL MEMBER ROSENTHAL: It isn't
12 there there.

13 THOMAS GIOVANNI: Yeah.

14 COUNCIL MEMBER ROSENTHAL: No, I
15 understand what you're saying. You're saying...
16 what you're saying is there would have to be a
17 shift...

18 THOMAS GIOVANNI: Mm-hm.

19 COUNCIL MEMBER ROSENTHAL: Right, on
20 your guys' end to what data is called out for the
21 purpose of this database.

22 THOMAS GIOVANNI: Mm-hm and that's what
23 Miss Koeleveld was touching on. I mean that would
24 be... we're talking about a significant increase in
25 how we enter information after even we do the

2 infrastructure change to make the database able to
3 get it. So however long it takes now to enter a
4 case into our program, you're going to add to that
5 with these other details and some of this isn't
6 just...

7 [crosstalk]

8 COUNCIL MEMBER ROSENTHAL: Yeah, it's
9 interesting...

10 [crosstalk]

11 THOMAS GIOVANNI: A check box.

12 COUNCIL MEMBER ROSENTHAL: Sorry?

13 THOMAS GIOVANNI: I just want to make
14 sure... some of this isn't just a check box. Some
15 of this is having to actually pick up a phone, call
16 the precinct, find where a person was, find what
17 this unit was. I mean there is some investigative
18 work that happens in the course of the case, but
19 not necessarily at the same timeframe. So now we
20 have to have perhaps a paralegal assigned to
21 actually find this stuff out in time for the
22 quarterly report. Do you see what I mean?

23 COUNCIL MEMBER ROSENTHAL: Right, but
24 all this... I mean that kind of thing to me you
25 know, it doesn't make me nervous, you know?

2 THOMAS GIOVANNI: It makes us nervous.

3 COUNCIL MEMBER ROSENTHAL: Okay, but I
4 just mean so you don't have that piece for that
5 case right now.

6 THOMAS GIOVANNI: Mm-hm.

7 COUNCIL MEMBER ROSENTHAL: In you know,
8 three months or six months, you're going to have
9 that piece.

10 THOMAS GIOVANNI: Yes.

11 COUNCIL MEMBER ROSENTHAL: Right?

12 THOMAS GIOVANNI: Mm-hm.

13 COUNCIL MEMBER ROSENTHAL: So...

14 THOMAS GIOVANNI: I just hope you
15 remember that when somebody reports that we're non-
16 compliant in these reports. I mean that's the
17 problem because we'll be missing information at
18 times.

19 COUNCIL MEMBER ROSENTHAL: Right, but
20 it doesn't mean you shouldn't try to do it.

21 THOMAS GIOVANNI: Oh, no, we're going
22 to do it. It's about... this is about how we get
23 it done.

24 COUNCIL MEMBER ROSENTHAL: Okay, thank
25 you very much. Thanks for the extra time.

1 CHAIRPERSON GENTILE: Thank you,
2
3 Council Member and now we'll go to questioning from
4 Council Member Chaim Deutsch.

5 COUNCIL MEMBER DEUTSCH: Thank you,
6 Chair. Good morning. I'm looking at the number of
7 NYPD settlements that you had going from 2003;
8 going back from 2003, it's approximately half the
9 cases filed against the NYPD were settled, so how
10 will the IG have oversight to prevent claims from
11 having... that have no substance and in order to
12 send out a message that you can't just file a claim
13 and get paid for it? This is costing the City
14 millions of dollars you know, what I was thinking
15 maybe to go to trial and it might cost the city
16 more money, but in the long run you're sending a
17 message out that if your claim has no substance,
18 you know, don't even think about it.

19 CELESTE KOELEVELD: Well, I think that
20 by collecting this kind of information and
21 analyzing it; seeing what precincts; what kinds of
22 claims. Perhaps there's a particular kind of claim
23 that is filed quite a bit you know and you could
24 say okay, that claim really doesn't have much
25 merit. Let's have a different strategy for

1 attacking that claim and maybe at the end of the
2 day then it will be deterred.

3
4 COUNCIL MEMBER DEUTSCH: So going back
5 to what you just said, that you don't have the
6 database on what type of claims; what type of
7 lawsuits have been filed against the NYPD, how are
8 we going to see which claims and analyze it if we
9 don't have that database?

10 CELESTE KOELEVELD: Well, we still...
11 you can still look at certain groups of cases in
12 certain areas you know, in certain boroughs or
13 certain precincts. You know, the Police Department
14 could do certain data runs perhaps or we could do
15 certain data runs. We just can't provide the
16 information as you have you know, structured it in
17 this bill right now, so which is not to say that
18 there's no attention paid whatsoever to any kinds
19 of patterns or practices already.

20 COUNCIL MEMBER DEUTSCH: Well, I would
21 go back to what we were talking about before, but
22 the database I think we don't have the resources as
23 far as what you had said before.

24 CELESTE KOELEVELD: [interposing] Mm-
25 hm.

2 COUNCIL MEMBER DEUTSCH: But we should
3 put in the resources and we should... the City
4 Council should find the money to have those
5 resources and to have that database...

6 CELESTE KOELEVELT: [interposing] Mm-
7 hm.

8 COUNCIL MEMBER DEUTSH: And in the long
9 run, we will be saving millions of dollars. We
10 could be saving millions of dollars. So this is
11 something I want to recommend to the Chair of the
12 Oversight Investigations...

13 CELESTE KOELEVELT: [interposing] Mm-
14 hm.

15 COUNCIL MEMBER DEUTSCH: And this is
16 something we need to look into and we need to
17 provide that database in order for the Oversight
18 Committee, the members of the City of New York, the
19 residents and as well as the IG to know which
20 claims we need to settle and which claims we need
21 to go to trial. So thank you very much.

22 CELESTE KOELEVELT: Thank you.

23 CHAIRPERSON GENTILE: By chance; you
24 may not know, but has the Law Department had any
25 discussions with OMB in light of this bill of

2 additional resources; asking for additional
3 resources?

4 CELESTE KOELEVELT: No, we haven't had
5 those discussions.

6 CHAIRPERSON GENTILE: Okay. I guess
7 you would... [background voice] [laughter] Our next
8 questioner will be Councilman Daniel Dromm.

9 COUNCIL MEMBER DROMM: And thank you.
10 Just recently, my friend, Robert Pinter, settled
11 with the City for \$450,000. He was arrested in
12 2009... excuse me, 2008 on false prostitution
13 charges, something that it's unbelievable is still
14 happening to gay men in New York City. The
15 previous administration fought him tooth and nail
16 throughout the whole process. He was successful
17 just last week in being awarded that money. The
18 whole time that he was in court, much of the
19 information that he sought, which is information
20 actually that was even going to be included in some
21 of these reports was not given to him and in fact,
22 it wasn't only him. We believe it was about 39
23 other people who were falsely arrested at this
24 bookstore, which ultimately, we believe that the
25 Police Department sought to shut down, but was

1 conducting these false arrests. So having known
2 Robert and having had that experience, and also
3 having known the history of the LGBT community in
4 regard to some of these police actions and the fact
5 that they're still occurring, lends me to
6 definitely want to support this legislation and to
7 encourage you to pass this. I'd like to ask legal
8 counsel to add my name to the legislation, but I
9 would also like to make a suggestion that we
10 include the officer's names so that we can follow
11 who it is and if there's a pattern of civil rights
12 violations as well because this information is
13 vitally important to stop these types of abuses.
14 So would either of you, of the two different groups
15 testifying have an objection to the use of the
16 names of the police officers as well?

18 CELESTE KOELEVELD: Well, some of the
19 information is public that you're asking for. The
20 fact that a lawsuit is pending or has been filed
21 against a particular officer that's obviously
22 public, so there wouldn't be a problem with
23 providing the name to that extent, but some of the
24 information you're asking for...

25 [crosstalk]

1
2 COUNCIL MEMBER DROMM: But the problem
3 isn't with finding the names. It's having the
4 names up front so that it's transparent and so that
5 we can know and that as members of this committee
6 and as members of the City Council can track these
7 things, because obviously they weren't tracked in
8 the past.

9 CELESTE KOELEVELD: Well, I mean the
10 only thing that might be some constraint is you
11 know, personnel records of police officers are
12 confidential.

13 COUNCIL MEMBER DROMM: Mm-hm.

14 CELESTE KOELEVELD: And they're
15 protected by Section 58 of the Civil Rights Law, so
16 we'd have to make sure that whatever information is
17 provided would be... you know, wouldn't tread on
18 that particular problem, so it's just going to have
19 to be balancing those two interests.

20 COUNCIL MEMBER DROMM: So would you
21 agree that that information would be a help on
22 transparency issues regarding tracking if there's a
23 pattern with the same police officer or officers
24 that are involved in these lawsuits?

1
2 CELESTE KOELEVELD: I think that
3 information might be helpful. It may reveal that
4 the officer is assigned to a particular command
5 that is very, very active and engages in a lot of
6 arrests and as a result has a lot of interaction
7 with the public and not necessarily all negative
8 interaction, so I mean I'm saying it could be
9 positive; it could be negative and you would have
10 more information.

11 COUNCIL MEMBER DROMM: Sure. Do you
12 track, as in Robert Pinter's case, the fact that
13 charges were dismissed against the defendant;
14 against in this case Robert Pinter? They were
15 almost immediately dismissed, yet he still had
16 moved forward with a lawsuit; I mean the NYPD
17 recognized that something had gone wrong here. Do
18 you track that?

19 CELESTE KOELEVELD: Well, no, that's
20 not tracked in the database. We would know in the
21 course of defending the lawsuit what had happened
22 and whether the DA had decided, in his or her
23 discretion, not to proceed with the charges and
24 sometimes that has nothing to do with whether the
25 arrest was lawful or not, of course, right, so it

2 could depend. It doesn't really necessarily bear
3 and a lot of cases are dismissed at the... you know
4 at the...

5 [crosstalk]

6 COUNCIL MEMBER DROMM: But when they
7 dismiss...

8 [crosstalk]

9 CELESTE KOELEVELD: Prosecution...

10 [crosstalk]

11 COUNCIL MEMBER DROMM: Whole groups of
12 people I mean arrests that are made of you know, 39
13 others, isn't it clear that a pattern has
14 developed?

15 CELESTE KOELEVELD: Well, I don't... I
16 don't know that we should be talking specifically
17 about cases that have been litigated by the Law
18 Department like Mr. Pinter's because we wouldn't
19 want to go into details about our litigation
20 strategies or what we learned from litigation. The
21 case has indeed been settled and but the settlement
22 is not an admission of liability, as you know so...

23 [crosstalk]

24 COUNCIL MEMBER DROMM: Uhm...

25 [crosstalk]

1
2 CELESTE KOELEVELD: So I think that you
3 know, it's... you could, in general, I would say
4 pick up on patterns or policy issues by looking at
5 dismissals of cases and you could certainly look at
6 them and decide there is actually an issue here
7 either with the pattern of arrests; that maybe
8 these arrests were done in a way that was supported
9 by probable cause or not and it needs to be
10 addressed or you could say let's ask the DA what we
11 can do better to see why these cases are all being
12 dismissed. Is there something we can do to make
13 this... to improve the situation? I agree with you
14 that that is a fruitful area of exploration.

15 COUNCIL MEMBER DROMM: Is there a way
16 to track disciplinary actions against police
17 officers who engage in the... ultimately when
18 somebody wins a settlement with the city to track
19 them or to discipline them if you are beginning to
20 see a pattern?

21 CELESTE KOELEVELD: Right. The
22 person...

23 [crosstalk]

24 COUNCIL MEMBER DROMM: I ask that
25 question primarily because I believe that the

2 police officers involved in this particular case
3 are still on duty and yet, there were 39...

4 [crosstalk]

5 CELESTE KOELEVELD: Well, I...

6 [crosstalk]

7 COUNCIL MEMBER DROMM: Arrests.

8 [crosstalk]

9 CELESTE KOELEVELD: Don't... I don't
10 want to debate with you the individual officers
11 involved here and their actions and so forth. I
12 will say that generally speaking, the Police
13 Department does track lawsuits filed against
14 officers and the fact that the lawsuit has been
15 filed is part of that officer's personnel file and
16 when the officer is up for promotion or monitoring
17 or discipline. The fact of the lawsuit or the
18 disposition of the lawsuit or the facts of the
19 lawsuit may play a role in the decisions that are
20 made about that officer. So to answer your
21 question, generally speaking, the Police Department
22 does track that information, but by officer.

23 COUNCIL MEMBER DROMM: So if a police
24 officer is engaging in illegal activity and making
25 false arrests, how do you respond to that?

2 CELESTE KOELEVELD: Well, if that were
3 the case, right, if the officer were engaging in
4 illegal conduct, the Police Department would
5 address that.

6 COUNCIL MEMBER DROMM: Would what?

7 CELESTE KOELEVELD: Could... would
8 address that.

9 COUNCIL MEMBER DROMM: The Police
10 Department would address that. Well, this is a
11 case that was of vital importance to the LGBT
12 community and I would assume to all communities who
13 believe in justice and it was a total disgrace that
14 this ever had to happen and so I do want to add my
15 name to this legislation, thank you, as is. Thank
16 you.

17 CHAIRPERSON GENTILE: Thank you,
18 Council Member Dromm. We go now to Council Member
19 Inez Dickens.

20 COUNCIL MEMBER DICKENS: Thank you.
21 Thank you, Mr. Chair and thank you for your
22 testimony. I have one or two short questions, but
23 first, I want to preface it by saying that the NYPD
24 officers do a great job. Most of them are charged
25 with... when I say charged I don't mean that

1 negatively, but I mean in their hiring, most of
2 their officers are trying to do their duty to
3 protect the residents of this city, but like in
4 anything else, abuse does occur. One thing and it
5 came to me when my colleague, Council Member Dromm,
6 brought it up and that's about the repeated false
7 arrests. With the information that's included in
8 this data, and frequently repeated false arrest is
9 not a separate charge or complaint, but comes up in
10 the course of a trial. Would that information be
11 able to be a part of that database? And having
12 also raised the issue about the redacting of the
13 names of the police officers, if that is done, then
14 we have no way of really tracking individual
15 officers' abuse of the system and I preface it by
16 saying I know most of the officers are not, but
17 those that are the ones that this legislation is
18 seeking to weed out, if you will, or to at least
19 garner the information so that we are aware of who
20 is doing what. And so this does occur, false
21 arrest, and based upon sometimes false testimony
22 and it comes out in trial and not as a separate
23 claim filed and so I want to know will that be a
24 part because that's what happens. It wasn't a
25

1 separate claim filed, but it comes out during the
2 trial that there was a false arrest.

3 CELESTE KOELEVELD: I just think what
4 would be reflected in the data that the bill seeks
5 to collect is that there was a claim; a lawsuit
6 filed by a particular person who was alleging that
7 he or she was falsely arrested and perhaps
8 prosecuted and that perhaps there was excessive
9 force used in the course of the arrest and that
10 many... so you would know that there was indeed
11 that claim filed, right, that allegation made by
12 the particular plaintiff.

13 COUNCIL MEMBER DICKENS: Mm-hm.

14 CELESTE KOELEVELD: If the case is
15 settled, right, you would know that the case was
16 disposed of by the Law Department for a particular
17 amount of money and there would not be a finding
18 against the officer at that point, right? So the
19 settlement would tell you that money was paid, but
20 it is not an admission of liability, so you know,
21 the only time that you would have an actual finding
22 of a false arrest would be if the case goes to
23 trial and a jury finds against the officer and not
24 that many of our cases go to trial; the vast
25

1
2 majority are settled. So I just wanted to point
3 out that there are some limitations in the data
4 that you're seeking; that the settlement alone
5 doesn't tell you whether or not there actually was
6 a false arrest. You could look at if there were a
7 group of settlements involving a particular
8 officer, you might want to question why it is that
9 this officer is involved in so many of these cases
10 that lead to lawsuits being filed by plaintiffs and
11 you could maybe find... you know, answer that
12 question, but the fact of the settlement alone and
13 the data that you're collecting from the Law
14 Department might not answer that question by
15 itself.

16 COUNCIL MEMBER DICKENS: Because the
17 settlement... a settlement doesn't... someone who
18 is arrested might be falsely arrested on a false
19 claim that the officer did and the case like in
20 this case is settled, but it doesn't prove that
21 there really was a false arrest or that that
22 particular officer that did that arrest does that
23 frequently, does false arrest frequently.

24 CELESTE KOELEVELD: [interposing]
25 That's correct.

1 COUNCIL MEMBER DICKENS: And that's the
2 crux of my question because that's what happens.
3 The same officers usually are involved in the same
4 practices and if we don't have... if the names are
5 redacted we have no way of know... even with the
6 precincts you'll know it comes out of certain
7 precincts, but you don't know the same officers are
8 doing it and so that's a concern for me because
9 that's the only way we're going to be able to weed
10 out those officers that are reflecting badly upon
11 all the officers that are doing a great job.

12 CELESTE KOELEVELD: So you're basically
13 advocating that you... that the names be divulged
14 as well.

15 [crosstalk]

16 COUNCIL MEMBER DICKENS: Yes and I
17 understand the reason for protecting many of the
18 officers. I understand that.

19 CELESTE KOELEVELD: [interposing] Mm-
20 hm.

21 COUNCIL MEMBER DICKENS: And even
22 officers that are working undercover; I understand
23 that, but we have to find a way in order for the
24 public to feel secure in what most of our... 95
25

1
2 percent or 99 percent of our officers are doing a
3 great job. It's those few that we've got to weed
4 out so that the public feel secure in knowing that
5 we have a... and particularly in communities of
6 color where frequently these practices are
7 perpetrated and/or in certain areas; certain
8 communities or in front of certain establishments.
9 It's the same repeated actions that is done and so
10 that's my concern about what's lacking in the data
11 and so that's... I just wanted to put that on the
12 table. I wanted to hear what you thought about
13 that as my reasoning. It's not an emotional
14 reason. It's really in an effort to protect the
15 public.

16 CHAIRPERSON GENTILE: Did you... did
17 anybody want to respond? Okay, okay.

18 COUNCIL MEMBER DICKENS: Thank you.

19 CHAIRPERSON GENTILE: Great, thank you.

20 THOMAS GIOVANNI: I'm sorry. I was
21 going to say one thing to Council Member Dickens'
22 point. When an officer begins at the force, they
23 have a tax ID number. That's... they have a tax ID
24 number.

25 CHAIRPERSON GENTILE: Is your mic on?

1 THOMAS GIOVANNI: Oh, yes, it is. My
2 mouth must not have... okay, when an officer starts
3 at the force, they have a tax ID number. That's
4 essentially a birth certificate and it follows them
5 wherever they go as long as they're there, so the
6 question about the identification of the officer
7 internally and how we can track that for data
8 purposes could be through that rather than just by
9 the name so that when you have these questionable
10 cases or case where, you know, Miss Koeleveld said,
11 the officer just generates a high volume of
12 activity, but he's not necessarily doing something
13 wrong, you don't throw that name out there before
14 it ought to be out there, so we can track
15 individuals. They're not lost. It's just a matter
16 of whether or not our system is robust enough. But
17 I did want to say one other thing as this
18 discussion has evolved, to the extent that you're
19 trying to get at Councilman's Dromm's issue in
20 terms of false arrest, the Law Department really
21 stands on kind of the tip of an iceberg because
22 what makes it to a lawsuit is the vast minority.
23 As a criminal justice public defender previously in
24 state court, the vast majority of the cases that
25

1 you're talking about don't necessarily end up in
2 suits. What you want to do if you're going to find
3 out about those types of officers and that type of
4 activity as early as possible, 'cause I think we're
5 some of the later indicators there, you would want
6 to get the DAs at this table to talk about when
7 they decline to prosecute and why. That's the
8 question when you talk about, Councilman Deutsch,
9 frivolous versus non-frivolous cases, and some of
10 this is just about how much money we have for
11 investigation and how much we put into upfront
12 investigation cases in the Law Department and with
13 the DA's office. And so if you want to know what's
14 going on, go to the ground and that's where the
15 state court cases are and if you want them to know
16 what's going on, speaking of needs, you're going to
17 have to put some more money into the system.

18 [background voice] That's not me. I don't have a
19 checkbook. [laughter]

20 CHAIRPERSON GENTILE: Thank you,
21 Council Member Dickens. Now we'll go to Council
22 Member Rory Lancman.

23 COUNCIL MEMBER LANCMAN: Good morning.
24 I just want to follow up on Councilman's Dromm's
25

2 questioning. As I understand the legislation,
3 this... the reporting requirement only relates to
4 civil actions where the Corporation Counsel has
5 appeared, so any defendants, in particular police
6 officers who have been named in those suits, I mean
7 that's already public record. I don't see anything
8 in this legislation that would in any way implicate
9 privacy concerns or would require the IG or the Law
10 Department or anyone else to disclose information
11 that is not already publicly available. Do you
12 have a different reading of the legislation?

13 THOMAS GIOVANNI: [off mic] Well, we
14 were interpretive in the actions here. I
15 definitely thought that I could touch on privacy
16 concerns, but now these are also actions that are
17 filed. That's why.

18 CELESTE KOELEVELD: Well, if the
19 legislation is directed solely, that's publicly
20 filed and pending lawsuits; civil actions.

21 COUNCIL MEMBER LANCMAN: Right.

22 CELESTE KOELEVELD: Right and...

23 [crosstalk]

24 COUNCIL MEMBER LANCMAN: I mean...

25 [crosstalk]

2 CELESTE KOELEVELD: That's public
3 information.

4 COUNCIL MEMBER LANCMAN: Right. Well,
5 you know, I mean...

6 [crosstalk]

7 CELESTE KOELEVELD: I mean to be honest
8 with you, we had a little bit of a concern and
9 little (ix) (c) where it says a civil action or
10 actions alleging police misconduct. We read that
11 to be a civil action or civil actions plural,
12 right, all civil actions, so in other words,
13 publicly file civil actions.

14 COUNCIL MEMBER LANCMAN: Right. I
15 mean...

16 [crosstalk]

17 CELESTE KOELEVELD: And not internal
18 investigations.

19 COUNCIL MEMBER LANCMAN: Right. Is
20 that... well, I mean civil actions is defined in
21 the bill. "Civil actions filed against the Police
22 Department and/or individual police officers during
23 the preceding quarter in which the Corporation
24 Counsel or any of his or her assistants appeared or
25 agreed to represent one or more of the parties."

2 So I mean my understanding of that civil action
3 means that it's a lawsuit. It's not an internal...
4 a civil action has a particular meaning. I mean if
5 you have a different understanding, you should let
6 us know. Maybe it needs to be narrowed or
7 clarified.

8 CELESTE KOELEVELD: It's fine for us if
9 it says... if you mean civil actions, that's good.
10 I just wanted to clarify it. That's how we're
11 reading it as well.

12 COUNCIL MEMBER LANCMAN: Okay and do
13 you have any suggestions if the bill does move
14 forward, and personally I hope that it does. I'm a
15 very big believer in the role that civil litigation
16 plays in exposing misconduct and wrongdoing and
17 increasing accountability and that's true whether
18 it's policemen's conduct or corporate misconduct or
19 you know, GM not telling people that the ignition
20 switch is defective and people end up getting
21 killed. But do you have any guidance or
22 suggestions? You know, a lot of these lawsuits
23 that are police misconduct cases are brought before
24 the identity of the police officer is known, so in
25 a lot of these cases you'll see police officer John

1 Doe number one, two, three and then at some point
2
3 in the litigation, people will figure out who the
4 proper party is; people will be added; people will
5 be dropped. Do you have any thoughts on whether or
6 not... if this bill moves forward, understanding
7 what it is trying to achieve? I think I haven't
8 heard any testimony disagreeing with what the bill
9 is trying to achieve or the value of the
10 information that it will produce. I understand
11 there's costs and the logistics of it, but do you
12 have any other thoughts on how the bill might
13 address that issue; the fact that at the start of
14 an action when this information presumably would be
15 entered, that you don't always have the names of
16 all the parties that you will eventually in the
17 case?

18 CELESTE KOELEVELD: Well, that does
19 present a difficulty for us; the fact that it's
20 initially a John Doe officer or a Jane Doe and then
21 is later amended because then the amended complaint
22 where the additional officers are named has to also
23 be entered into the database, and that is something
24 that I think our database is better capturing now
25 than it used to, but is still something that is

2 sometimes not captured. So in terms of giving an
3 accurate list of other pending actions against the
4 same officer, that could be a difficulty of the
5 data.

6 COUNCIL MEMBER LANCMAN: Right. So I
7 don't know if at some point the bill would be
8 amended to add clarity there, but for me...

9 [crosstalk]

10 CELESTE KOELEVELD: Mm-hm.

11 COUNCIL MEMBER LANCMAN: Sitting here,
12 I would... if the bill does pass as is, I would
13 understand the obligation to be to update the
14 database every time within a particular lawsuit a
15 new party is identified or in fairness to them,
16 removed. That's just...

17 CELESTE KOELEVELD: [interposing]

18 Right. The removable part...

19 [crosstalk]

20 COUNCIL MEMBER LANCMAN: That's my
21 reading of it.

22 CELESTE KOELEVELD: The removable part
23 is very relatively rare, but yes, I understand what
24 you're saying about that. I just... you know,
25 again, we're talking about an enormous number of a

1 lot of data and so you know, if you're talking
2 about one lawsuit, you know you can yeah, of
3 course, update the information, but you know, as I
4 mentioned earlier, we have between three and 4,000
5 new lawsuits filed per year that'd be handled in
6 state and federal court and so that's an awful lot
7 of data to be collecting and entering, so and if
8 you multiply it all out that just ends up being a
9 lot, that's all.

11 COUNCIL MEMBER LANCMAN: 'Kay, good.

12 CELESTE KOELEVELD: I'm not saying it
13 shouldn't be collected. I'm just saying that it's
14 burdensome.

15 COUNCIL MEMBER LANCMAN: 'Kay, I hear
16 you there. Alright, thank you very much.

17 CHAIRPERSON GENTILE: Some of the
18 amendments you're talking about though would be
19 reported in the next quarterly report. Wouldn't
20 that be the case; that if you had to amend a
21 pending claim?

22 CELESTE KOELEVELD: If you... I don't
23 know that it's exactly... I don't know if that's
24 captured so clearly by your bill, right? The
25 lawsuit is already pending.

2 CHAIRPERSON GENTILE: Right.

3 CELESTE KOELEVELD: Right and now
4 sometime later down the road, a John Doe officer
5 becomes Officer John Smith.

6 CHAIRPERSON GENTILE: Mm-hm.

7 CELESTE KOELEVELD: Right and whether
8 that would be you know, an additional one that'd be
9 added in the quarter...

10 CHAIRPERSON GENTILE: [interposing] Mm-
11 hm.

12 CELESTE KOELEVELD: That's not... I'd
13 have to say that's not so entirely clear from the
14 legislation...

15 [crosstalk]

16 CHAIRPERSON GENTILE: It's not clear by
17 it.

18 [crosstalk]

19 CELESTE KOELEVELD: As drafted.

20 CHAIRPERSON GENTILE: Okay, we'll take
21 a look at that. Councilman Williams?

22 COUNCIL MEMBER WILLIAMS: Thank you.
23 Thanks again. My colleagues brought up a lot of
24 good things. One, I wanted to say Council Member
25 Dromm is not here, but I was moved by his story and

1 his friend and I'm glad he got some restitution. I
2 would be remiss if I didn't say just in the ethos
3 for anyone to hear that Central Park Five is still
4 waiting to get their justice from the City of New
5 York. But also, just on a... and we were talking
6 about repeat offenders, which is... I was hearing
7 some and I'm not sure how we get to... and if we
8 put it in the law or wherever, it's good
9 information to have, I'd want to know also what
10 constitutes a repeat offender. You know, what
11 would be the number we're really looking at. It is
12 a concern of mine too. I remember in my district,
13 Shantel Davis was shot and killed a year before
14 Kimani Gray. She was unarmed and the officer was
15 actually still on that beat a couple of weeks after
16 and the family called me to say the person who
17 killed Shantel was still walking around performing
18 his duties and he had a record actually of other
19 types of aggressive use of force and so that is
20 definitely a problem and something we should look
21 at. I wanted to clarify one thing in particular.
22 It sounds like it's two different things. One is
23 everybody... so from what you're saying it sounds
24 like a good idea and what have you, but a second is
25

1 the capacity to actually fulfill it and so now that
2 from some of the answers you're repeating, it
3 sounds like you feel you may have a capacity to
4 issue, whether it comes from this bill and/or from
5 the Inspector General. So do you have the capacity
6 to fulfill this ask, whether it's through a Council
7 bill or through the IG asking you to do it?

9 CELESTE KOELEVELD: No, no, the answer
10 is no. We don't have the capacity to fulfill all
11 this information.

12 COUNCIL MEMBER WILLIAMS: So...

13 CELESTE KOELEVELD: [interposing] But
14 whether it's... the information's going to the IG
15 or any information's coming and going to the City
16 Council.

17 COUNCIL MEMBER WILLIAMS: So I want to
18 be clear 'cause I don't want to beat around the
19 bush because there's a lot of stuff happening, so
20 you're... so now we're back to the beginning, so
21 even if the IG asked, which is what I clarified you
22 were preferring would happen, you're now saying you
23 don't have the capacity to do it, so how would you
24 get it done?

1 CELESTE KOELEVELD: I just... I think
2
3 we're... this is why we're talking about the
4 importance of having conversations about where the
5 information will be... which information will be
6 collected and what information will be collected,
7 where it will be stored, right, and you know, the
8 Police Department has a lot of the information
9 obviously, right? So if you ask them you know,
10 Officer John Smith, right, what's his precinct
11 affiliation rank, years of service, command, they
12 would have that information, right? So I mean to
13 me, there's some question about where the
14 information is going to be done from and so Mr.
15 Eure may develop a way of tracking lawsuits that he
16 thinks will be proven and efficient and useful that
17 will you know, draw some information from the Law
18 Department and some information from the Police
19 Department directly and you could build something
20 that way. So what I'm saying is it's just a
21 question of what is the best way to collect the
22 information and have it handy for reporting and for
23 analysis and looking for patterns and practices and
24 possible managerial and policy changes. So it's
25 just right now, we don't have it, all this

1 information to provide. That's clear to me from
2 having analyzed what we have and don't have. I
3 know that some of the information you know, it's
4 somewhere, right, and can be pulled together. It's
5 just a question of how you pull it together and
6 where you start.

8 COUNCIL MEMBER WILLIAMS: I see.

9 Alright, thank you.

10 CHAIRPERSON GENTILE: Just to finish
11 up, there have been other jurisdictions: Portland;
12 Los Angeles; Seattle; Chicago that have processes
13 in place to review their claims against their
14 Police Departments. Has anyone, the Law Department
15 or even DOI, taken a look at their processes or
16 been in touch with anyone in those jurisdictions?

17 CELESTE KOELEVELD: Well, I... no, I
18 can't speak for everyone at the Law Department. I
19 think there might've some reaching out going on,
20 but I know that there also has been reaching out to
21 Los Angeles by the Police Department itself, right,
22 in preparation for the monitor coming on board and
23 the IG coming on board and trying to learn from Los
24 Angeles what its experience is and what information
25 it's tracked and how it's tracked and what you

1 know, various compliance and auditing functions
2 that Los Angeles has. So the Police Department
3 itself is actually doing that kind of a reaching
4 out and was reaching out to various Police
5 Departments to get itself in the best position
6 possible to undertake these new responsibilities.

7
8 CHAIRPERSON GENTILE: DOI, do you?

9 DEPUTY COMMISSIONER POGODA: At this
10 point, I certainly can't speak for Mr. Eure, but
11 you know, he's a nationally recognized monitor and
12 he may have this information and may have used it
13 before, but at this point, since Mr. Eure hasn't
14 started then I can't speak for him, but he may have
15 that knowledge from his previous experience.

16 CHAIRPERSON GENTILE: Okay, well, we
17 want to thank both the Law Department and the
18 Department of Investigations for being here and
19 really giving some really substantive things to
20 think about here as we go forward with this
21 legislation. We thank you for your time and your
22 testimony and have a good day and we'll call our
23 next panel. Thank you.

24 DEPUTY COMMISSIONER POGODA: Thank you.
25

2 COMMITTEE COUNSEL: The next panel is
3 Cynthia Conti-Cook; William Gibney; Monifa Bandele;
4 Johanna Miller and Kristen John Foy.

5 [Pause]

6 CYNTHIA CONTI-COOK: Good morning. My
7 name is Cynthia Conti-Cook. I'm a civil rights
8 attorney in Brooklyn, New York. I'm going to go
9 off script here. It seems like I need to do a lot
10 less convincing that tracking police data is a good
11 idea than I did in 2009. I do want to emphasize
12 though that this bill would, in its current form
13 cull only the tip of the information iceberg, as
14 was previously said. Currently, I don't believe
15 that the NYPD reviews any lawsuit that settles for
16 less than \$250,000. There has been a series of
17 *Daily News* articles, which I attached to my
18 testimony from the past year, that basically
19 addressed the importance of knowing this
20 information; officers that were sued over 20 times
21 and that resulted in thousands of dollars of
22 settlements to the NY... I'm sorry, to the City and
23 taxpayers. What I do want to address is the
24 question of what data could be collected and what
25 should be mandated. In addition to the information

1 that was already discussed, there's a lot of
2 information from the DA's office and from criminal
3 courts about what is decline prosecution, for
4 example, when officers have been found incredible
5 by judges as a matter of law; additional
6 information and where the address of where the
7 incident occurred that could be helpful; whether it
8 was in front of the same store several times; the
9 race of the plaintiff and the police officers or
10 other discriminatory aspects of the plaintiff.
11 Whether the officers were in uniform or plain
12 clothes I think would be more helpful than whether
13 they were on duty or off duty; what, if any,
14 weapons were used; whether allegations included
15 flaking or planting evidence or perjury; whether
16 there was overtime. There's been a pattern of
17 overtime being connected to the amount of arrests
18 every year; when there's no overtime cap, there are
19 more arrests. What we often see officers making
20 false arrests at the end of their shift in order to
21 get overtime, and then whether it involved NYCHA
22 housing. These are just examples of the type of
23 data that can be taken through lawsuits in order to
24
25

1 inform the City Council about what the police
2 officers are doing on the street.

3
4 The other point that I wanted to
5 emphasize is that the information should not be
6 culled from the litigation only at the pleading
7 stage. So the pleadings do have information that
8 can be easily entered into a database upon being
9 filed and served with the City, but there is a
10 large source of information that comes from
11 litigation that the ACCs or the Assistant Corp
12 Counsel would have as the litigation develops and
13 this information could be the most valuable to the
14 City Council for making determinations about
15 whether police officers were involved in again,
16 perjury, false arrest. I also do want to emphasize
17 that the nature of the claim would be helpful. It
18 is as easy as a two word description, whether it
19 was excessive force or false arrest, would be very
20 helpful to determining what that officer's pattern
21 is. And I'll leave everything else. I included an
22 article from Professor Joanna Schwartz, who is a
23 professor at UCLA and she, in her article that I
24 attached, surveys the other cities that have been
25 tracking lawsuits and emphasizes the introspection

1 through litigation as being the best way to learn
2 from these lawsuits and improve ability to police
3 and also know how to police our police. Thank you.

4
5 WILLIAM GIBNEY: Good morning. I'm
6 William Gibney, Director of The Legal Aid Society
7 Criminal Practice Special Litigation Unit. I
8 submit this testimony on behalf of The Legal Aid
9 Society. I do want to react to two points that
10 were... two points that were in the testimony from
11 the City. I think it's important to emphasize that
12 all the data that we have right now indicates that
13 what we're looking at is not just a 2009-2010
14 problem, but it is a long-term problem and I can
15 give you some of the data that supports that, and
16 we reacted strongly to the suggestion that you not
17 include information about the nature of the claims
18 and/or the number of the claims. That information,
19 while it may not be in the Law Department, is
20 readily available at the Comptroller's office, so
21 if you just think about different sources of
22 information and that the Comptroller has regularly
23 issued about that data and it would give you a more
24 complete picture about so that the information that
25 you have can act as the early warning system that

1 clearly is one of the intentions of the bill.
2
3 The... some of the data has been mentioned already.
4 I'll try not to repeat that, but from the 2012
5 report, in each of the past five years, the NYPD
6 has had more new claims filed against it than any
7 other City agency. In 2012, the NYPD had more than
8 twice the number of new claims against it than any
9 other City agency. A disturbing five year trend in
10 this summary is that unlike any agency, the claims
11 against the NYPD continued to rise in each of the
12 past five years covered in the 2012 Comptroller's
13 report. Over the course of the past five years,
14 the number of claims against the NYPD rose 52
15 percent and the claims are incredibly expensive.
16 We've heard the \$152 million in the last report.
17 The year before that was an even higher 180... I
18 think it was \$185 million. As an important
19 contrast, in 2002, claims against the NYPD resulted
20 in 15 percent of the total claims against the City
21 of New York. In 2012; ten year difference; ten
22 year time span; claims against the NYPD resulted in
23 31 percent of the dollar claims paid out by the
24 City. Almost one in every three dollars in claims
25 paid out by New York City is a result of actions by

2 the New York City Police Department. The report
3 here and the information that you seek, had it been
4 available earlier, could have made a real
5 difference in terms of the tens of millions of
6 dollars of claims that have been paid out over the
7 course of the past 10 years, but there is an
8 additional cost, of course: the cost of defending
9 the litigation; the cost to the criminal justice
10 system in terms of prosecuting claims that are not
11 valid. There is a considerable cost to our
12 communities that is never going to be totaled in
13 terms of dollar values, but given what we know now,
14 I think it's vitally important that a report...
15 that the information suggested in this legislation
16 be collected and made available to the City
17 Council. Thank you.

18 MONIFA BANDELE: Hi, my name is Monifa
19 Bandele and I am on the steering committee for
20 Communities United for Police Reform and I'm also
21 going to go off script and be brief because much of
22 what I was going to say was covered by earlier
23 panelists and even by the City Council on the
24 previous panel. First, I want to say that CPR
25 urges the City Council to continue to develop

1 strategies for transparency and tracking civil
2 claims filed against members of the NYPD. We
3 believe that uncovering and acting on patterns of
4 abuse and misconduct will keep all New Yorkers
5 safer and prevent future tragedies. This law is a
6 step in the right direction and we feel that... our
7 coalition feels that strongly. Also, we wanted to
8 address what was mentioned in the earlier panel.
9 We do believe that the template for how this data
10 is collected should be controlled and codified by
11 the City Council 'cause it's in the realm of the
12 City Council to determine the data and also to make
13 sure that the process for collecting data is
14 something that will live beyond the current
15 administration and future administrations. And we
16 also think that determining what the pieces of data
17 are should also be within the power of the City
18 Council 'cause the City Council is the voice of the
19 people and so we wanted to really hammer that point
20 home.
21

22 There has been a history of police
23 officers with patterns of abuse and misconduct
24 committing atrocities that have destroyed lives and
25 crippled communities. Awareness of and attention

1 to early warning signs may have saved lives.
2
3 Another thing that was mentioned in the earlier
4 panel was that some claims began without the
5 knowledge of the identification of police officers;
6 you have Jane Doe, John Doe and so I want to take
7 this opportunity to stress another piece of policy
8 that should take place, which is police ID. Police
9 officers should be ID'd on the ground, on the scene
10 and at the time of their interaction with the
11 public.

12 Another thing that we wanted to push
13 back on from the previous panel is that the number
14 of claims and the nature of the claims we do feel
15 is important and in closing, I'm going to highlight
16 some cases that are really close to our coalition
17 that we feel that number of claims, the nature of
18 claims are very important in knowing in identifying
19 patterns. I'll just touch on a few. Officer
20 Francis Livoti, who was responsible for the death
21 of Anthony Baez: 11 prior abuse complaints in only
22 15 years. Officer Michael Davitt, in the shooting
23 death of William Whitfield, was involved in 12
24 different complaints prior to shooting Mr.
25 Whitfield. Officer Paolo Colecchia, in the

1 shooting death of Nathaniel Gaines, Jr., was a part
2 of three previous abuse complaints and actually
3 suspended for 12 days; this was prior to this
4 shooting. Even Officer Justin Volpe, in the
5 assault of Abner Louima, was accused in multiple
6 complaints prior to the abuse of Abner Louima. And
7 finally, officers names in the recent landmark
8 trial Floyd versus the City of New York, admitted
9 on the stand to being subject to numerous CCRB
10 complaints. So we can't stress enough that
11 patterns typically continue to occur and to grow
12 and so by being able to have the City Council,
13 which is the voice of the people; the
14 representatives of the people have this data;
15 determine what the data is will make the people
16 feel safer. Thank you.

18 JOHANNA MILLER: Hello, my name is
19 Johanna Miller. I represent the New York Civil
20 Liberties Union and our 50,000 members statewide.
21 First of all, I just wanted to thank the Council
22 for your work in creating the Office of the NYPD
23 Inspector General last year. The City Council has
24 an obligation to ensure that the current political
25 atmosphere of enhancing oversight and

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accountability of the NYPD outlasts the current administration. We believe that Intro 119 is part of that foundation. We know that different iterations of this bill have been kicking around for a while. The NYCLU has waited on those and we always favor more transparency, but we think in the current political moment we may actually have a chance to get some real change.

So I wanted to just make three points today. The first one, we think it's necessary for the City to engage in a conversation about transparency writ large. I don't think that that is something that can be done through individual legislative proposals. We hope that the City Council will consider these things more broadly and to give enough notice for the public to engage in that kind of creative thinking about how we can reorganize the way that we think about what City agencies owe the public in terms of sharing information, and particularly the culture of transparency at the NYPD, which is something that is often the topic of individual legislative proposals, but rarely gets addressed writ large.

1 Secondly, we hope that the Council will
2 be vigilant in protecting the mission that was in
3 mind when you created the IG. This office should
4 not become redundant of the Internal Affairs Bureau
5 or the CCRB, both agencies that investigate
6 allegations of wrongdoing by individual officers.
7 Creation of the IG signaled the City's recognition
8 that systemic issues were causing real harm to New
9 York communities and were going unresolved by those
10 two agencies that are rarely addressed through the
11 courts or through IAB or CCRB at that systemic
12 level. Investigating and scrutinizing those
13 systemic issues are less politically popular than
14 sorting out sort of good from bad apples, so to
15 speak, among police officers, but even where you
16 had all good apples, if there are systemic
17 failures, the Police Department will fail. And so
18 we must guard against the IG overly narrowing its
19 mission by focusing too much on individual
20 wrongdoing or complaints of individual wrongdoing.
21 We urge the Council to use your oversight authority
22 to seek out those patterns in the reports that
23 would come from the IG under this bill, and to urge
24 the IG to continue in deeper investigations of
25

2 those patterns. Advocates have been urging the
3 City for years to adopt an early warning system
4 about police officers and I think it goes straight
5 to Monifa's point about the officers that had
6 several complaints against them and then many were
7 implicated in serious civil rights issues and civil
8 rights violations. I think this comes... gets a
9 lot... gets us a little bit closer to something
10 that looks like an early warning system, but it
11 will only work if there's action to be taken when
12 those warnings are sounded and I think right now,
13 the transparency is just a first step.

14 Just my final point, I just wanted to
15 highlight I think there are other areas of
16 transparency that are in grave need of
17 investigation by the Council when it comes to the
18 NYPD. One of those is the NYPD's continued non-
19 compliance with the Open Government Law, which was
20 passed by this body in 2012; could make New York
21 City a leader in these open government transparency
22 laws, but the NYPD has completely failed or refused
23 to post most of its data to the online portal and
24 those pieces of data that are posted are often
25 locked behind PDF format, which makes them

1
2 essentially inaccessible through the portal as it
3 was envisioned by sponsor Gayle Brewer and members
4 of the Technology Committee, so we urge the Council
5 to examine that.

6 And then finally, another issue that I
7 think is escaping public scrutiny is the issuance
8 of non-criminal summons by the NYPD to New Yorkers,
9 and these are for things that the legislature has
10 decided are not crimes, but are violations like
11 open containers, bicycles on the sidewalk,
12 disorderly conduct. During the Bloomberg
13 Administration, the NYPD issued six million of
14 these and we do not have any public reporting of
15 the demographic breakdown of who's receiving those
16 summonses. It's something that we hope the City
17 Council will consider while you're thinking about
18 transparency more broadly and we'd love to be of
19 assistance in thinking through those issues.

20 Thanks.

21 COUNCIL MEMBER WILLIAMS: I'm sure
22 those summonses were probably for young white males
23 between 30 and 60.

24 JOHANNA MILLER: I'm sure they are.
25

1 KIRSTEN JOHN FOY: Good afternoon,
2
3 Chairman Gentile; members of the Council. My name
4 is Mr. Kirsten John Foy. I'm here representing the
5 National Action Network, Reverend Al Sharpton. We
6 are here in support of this measure for several
7 reasons. First and foremost, it is critical that
8 we seize the opportunity to build out our
9 transparency infrastructure, given the last several
10 years of trying to engage the Police Department in
11 less than productive ways. It's necessary that we
12 build in triggers so that the Council can access
13 information and have access to information in a
14 statutory manner where there is not political
15 pressure that's required to get information that
16 the City should be entitled to. We also believe
17 that it is necessary to begin to create and build
18 out the accountability infrastructure and
19 information is critical to that. If we are going
20 to do things like create early warning systems,
21 which is a perfect I think phrasing of this; if we
22 are going to start to create systems of
23 accountability for individual officers, as well as
24 be able to gauge trends that we might not be able
25 to foresee or forecast being necessary to look at,

1
2 it's necessary to be able to have all the data that
3 is available as much as possible. We do err on the
4 side of transparency and do believe that there are
5 other measures that are necessary to build out this
6 infrastructure, but this is a good step in the
7 right direction. It is necessary for the people of
8 this city to be able to trust their Police
9 Department again and to be able to rely on the
10 Council to have accountability and to have
11 information and to be able to rely on the Council
12 to act where it is necessary. So for the Council
13 to further empower itself is a necessary step in
14 this direction. Thank you.

15 CHAIRPERSON GENTILE: Well, I first
16 want to thank all of you for coming today and
17 staying past noon to testify and I appreciate it
18 and do we have... if anybody has written testimony
19 that we haven't gotten, I guess we'll get those at
20 the end. Okay, great. Let me just ask, and this
21 is general, anybody who can answer it. The
22 legislation includes a requirement to report data
23 on the Corporation Counsel's refusal to represent
24 an officer, and that's data that would be asked for
25

1 CHAIRPERSON GENTILE: Right? I see.
2
3 Anybody else want to... yeah, okay.

4 JOHANNA MILLER: I would just add that
5 I think it's important that it be considered within
6 the larger context because those cases where the
7 City Law Department is refusing to represent an
8 officer are going to represent the farthest
9 outliers in terms of the conduct of the officer and
10 in some ways those are the easiest cases we have to
11 examine. Not that they shouldn't be examined, but
12 in some ways they are the easiest because those
13 officers are acting far outside of the scope of
14 their duty for the most part. There are some other
15 reasons why they might not be represented, but I
16 think that the cases where Corp Counsel is
17 representing the officer and the officer is
18 indemnified may be more representative of the
19 systemic issues that the IG was really designed to
20 get out and so it's really important that we keep
21 not one of things that's maybe more exciting or
22 more out of the ordinary; takes up too space in the
23 room, so to speak.

24 CHAIRPERSON GENTILE: I see, okay.
25 Before I move to my next question, I do want to

1 note that we have received testimony from the CCRB
2 and they submitted their testimony for the record
3 and their testimony is in favor of the legislation,
4 and that's for the record. In preparing for this
5 hearing, we looked at the transcript of the
6 previous hearing on a similar bill back in 2009,
7 and in that hearing, there are some assertions that
8 the administration at that time made against
9 passing such a bill, a similar bill to the one we
10 have now. One of the things they said in their
11 testimony was that they thought that settlements
12 often involved neither acknowledgment of wrongdoing
13 nor confirmation of the facts alleged. And they
14 asserted that sometimes the economics factor into
15 the decision to settle lawsuits that are
16 independent of the merits of a given case. So I
17 just wanted to give you, as advocates, the
18 opportunity to kind of respond to... it was a
19 previous administration, but certainly those are
20 issues that you might want to respond to.

22 WILLIAM GIBNEY: I think one of the
23 advantages of the data that would be given...
24 gathered under this bill is that you could look at
25 things in the aggregate. You could look at trends,

1 right, and in that sense the trends that are even
2 in the limited data from the Comptroller's report
3 are just so indicative of a real and growing
4 problem within the NYPD. It's true. You know,
5 often a case will get settled with no admission of
6 individual responsibility and that's often the
7 purpose of a settlement from the point of a view of
8 the City, but the City is not paying out \$152
9 million in Fiscal Year 2012 for non-meritorious
10 claims and \$180 million something in the year
11 before that and \$720 million over the five years
12 prior to that for claims that don't have substance.
13 So if you look at the trends, I mean I think the
14 one statistic that I gave was 15 percent to 31
15 percent; just clearly indicates a real problem. In
16 contrast, in 2010, the NYPD passed the Health and
17 Hospitals Corporation as the agency that paid out
18 the most money in terms of claims, and the Health
19 and Hospitals Corporation made active steps to try
20 and reduce the liability that it encountered. It
21 had built an incentive to try and be a fiscally
22 sound operating organization. The NYPD doesn't
23 seem to have had those same incentives. One of the
24 things that could come down the road is how do we
25

2 build in incentives for good policing within the
3 NYPD? Right now, all the money that gets paid in
4 the claims comes from other places you know? How
5 do you build in an incentive for policing to do it
6 well? And that clearly doesn't exist now, but the
7 data is the first step in I think that
8 conversation.

9 CHAIRPERSON GENTILE: And those
10 incentives could be the managerial reform that
11 comes from the data that you...

12 [crosstalk]

13 WILLIAM GIBNEY: Exactly.

14 [crosstalk]

15 CHAIRPERSON GENTILE: Gather here.

16 WILLIAM GIBNEY: I mean an easy and
17 non-controversial example that the former
18 Comptroller suggested in 2011 was look, if you do a
19 study of car chases and you find out that car
20 chases are costing you an incredible amount of
21 money, then with the data and the information about
22 the type of claims that were coming in, you could
23 make some rational judgments about do we want to do
24 as some jurisdictions have done; said car chases
25 are not worth it. We'll track the bad guys in

2 other ways rather than chasing them through crowded
3 streets in a patrol car. You know, you could do
4 rational police judgments just with the data that
5 could come in from here.

6 CHAIRPERSON GENTILE: Okay.

7 MONIFA BANDELE: So I just want to say
8 hear, hear to that, but what we find, like what I
9 said earlier in my testimony, is that what we have
10 is anecdotal, right? The most egregious cases that
11 we know of over the past 15 years that our
12 coalition in various forms have been in existence,
13 there's a pattern that there are police officers
14 involved who had numerous complaints against them.
15 With this data, we could actually look and see is
16 this an assertion that we're making true or are
17 there a whole bunch of people with numerous
18 complaints that you know, they never do anything
19 that you know, as it goes across the line or
20 damages or kills or someone? I mean I think these
21 are the types of things that we really, really
22 need, but we believe, just from looking at all the
23 cases that we've worked with, that there's a
24 pattern present with the officers that were a part
25 of those particular incidents and it's enough of a

2 pattern that should alarm us that we need to get
3 more data and see if there are more patterns that
4 exist. So the data would answer the questions that
5 the previous administration had about whether or
6 not this is... these claims are substantiated.

7 CHAIRPERSON GENTILE: So it's the
8 aggregate data that would answer this...

9 [crosstalk]

10 MONIFA BANDELE: The aggregate data,
11 yeah, because it's to say that whether a lawsuit
12 was successful or unsuccessful doesn't really
13 determine wrongdoing. The point we're making is
14 that someone who has lots of lawsuits against them
15 has something else going on in their practices and
16 needs to be looked at, and so having that aggregate
17 data will help determine that. That'll be their
18 early warning system that we talked about.

19 CHAIRPERSON GENTILE: Miss Conti, did
20 you want to...

21 CYNTHIA CONTI-COOK: Yes, thank you.
22 No one is arguing that officers should
23 automatically be disciplined or anything else upon
24 every filing against them. The idea is only that
25 the allegations and the evidence and the testimony

1 developed through litigation supplements personnel
2 and policy evaluations made by the NYPD, and in
3 Professor Schwartz's article that I attached, she
4 emphasizes that this type of early intervention
5 allows for more personalized interventions with
6 police officers, whether they need additional force
7 training or counseling or whether that precinct or
8 that unit needs additional training or brought a
9 series of lawsuits against one Sergeant and several
10 members of his team. *The Daily News* later reported
11 that that Sergeant and his team together had a
12 combined 58 lawsuits. If those types of actors
13 could be identified and intervened with early on,
14 regardless of the merit of each individual lawsuit,
15 if those types of patterns were identified and just
16 tracked; we're just tracking the information; that
17 would help the enormous cost of the civil rights
18 litigation and it would help us identify early
19 patterns as taxpayers; as City Council people; as
20 even the officers in the precincts; their
21 supervisors would have more information than they
22 do now about the officers' prior misconducts or
23 current; what they're actually doing on the street
24 when they leave the precinct.
25

2 CHAIRPERSON GENTILE: Great, okay,
3 great.

4 MONIFA BANDELE: I wanted to add one
5 more thing is that beyond the costs that this type
6 of legislation will eventually help to curb,
7 there's a priceless amount of community confidence
8 that transparency will produce and I think you
9 can't even put a price tag on as we go down this of
10 greater transparency, open government, the impact
11 that it will have on actual communities and their
12 relationship in all of these matters; there's no
13 price tag on that and how that makes the city safer
14 beyond the litigations and beyond the findings of
15 the litigations. And so I just wanted to make sure
16 to mention that; that this is something that
17 communities really want.

18 CHAIRPERSON GENTILE: So it would
19 improve police-community relations.

20 MONIFA BANDELE: Absolutely.

21 CHAIRPERSON GENTILE: Right.

22 MONIFA BANDELE: Absolutely and there's
23 no dollar amount on that.

24 CHAIRPERSON GENTILE: Right, good.
25 Councilman Rory Lancman.

COUNCIL MEMBER LANCMAN: Thank you.

Miss Conti-Cook, I just was interested in your thoughts on the possibility of maybe making some kind of requirement to spread the burden and put more control in the hands of stakeholders who have an interest in the information being collected and used in the way that we intend, which is not to say that the Law Department or any of the City agencies have any ill intent. I don't think that they do, but they have other objectives; they have their own resource issues; logistics, et cetera. The possibility of maybe creating some kind of a requirement that when these actions are filed that certain information; the information sought in the bill or maybe the information that you would like to see, which I thought was very helpful and interesting; that maybe that be submitted in some kind of separate form or format. I'm thinking you know, how a bill in particular has to be produced at some point and the format for that, at least in personal injury cases, you know, as enumerated in statute and maybe there's some way that we can come at this from putting more power and control in the

2 hands of people who have that information
3 initially.

4 CYNTHIA CONTI-COOK: So I just want to
5 make sure I understand. You're suggesting that
6 like so individual civil rights attorneys and civil
7 rights organizations actually when they file a case
8 that they would be crowd sourcing a database?

9 COUNCIL MEMBER LANCMAN: Yeah, if we
10 were to come up with some kind of uniform format
11 you know, check boxes; what kind of claim is it;
12 false arrest; excessive force, et cetera; the names
13 of the defendants in so far as you know them at the
14 start of the case; you know, some way that that
15 would start getting us that information 'cause I
16 can see with the administration, given legitimately
17 the significant cost and resources that it would
18 take to get this database up and running and the
19 resistance that I think we're going to get on that
20 basis alone, you know, if there's maybe another way
21 to come at that; not that it should necessarily be
22 mutually exclusive, but you know.

23 CYNTHIA CONTI-COOK: I would happily
24 participate in that. I don't know if you could
25 force other attorneys to, which I guess is the

1 problem. Is it mandating... you know, Section 1983
2 allows individual attorneys to bring civil rights
3 actions based on constitutional violations because
4 it fills a gap in the government's ability to take
5 on every small you know, excessive force case and
6 so the idea of all these lawsuits, even lawsuits
7 that are considered like small damage lawsuits, is
8 that individual civil rights attorneys will be able
9 to fill the gap that government can't by taking
10 individual action. So it does continue that
11 purpose, but I think the problem is you'd have a
12 huge gap of the information because requiring... I
13 don't know how you'd be able to get the individual
14 attorneys to be required to do that or police their
15 participation, whereas this information comes
16 directly through Corporation Counsel. Every
17 complaint is served on them and they you know,
18 could take the first crack at getting the basic
19 data from the pleadings into the database and then
20 their individual assistants could, as the
21 litigation develops, contribute to that data as
22 well.
23

24 COUNCIL MEMBER LANCMAN: I don't
25 disagree with you. It's just you know, attorneys

1
2 are when they file a lawsuit... I mean even if it's
3 the cover sheet that you know, you have to file,
4 especially in federal court; I don't have to tell
5 you every detail. If there's another way that we
6 can get that information, that would be helpful.

7 CYNTHIA CONTI-COOK: Yeah, actually
8 using the check boxes in the PACER database that
9 are on the cover sheet would be an easy way for
10 Corporation Counsel or the IG's office to get the
11 retrospective data 'cause that information is...

12 COUNCIL MEMBER LANCEMAN: [interposing]
13 If the... and I wonder now we're getting you know,
14 far... a little far in field, but if the
15 Corporation Counsel were to come up with rules or
16 you know, rules promulgated to where you know, the
17 Corporation Counsel required certain information to
18 be provided in a certain format maybe through a
19 certain medium, whether it's PACER or something,
20 that the attorneys will file. I mean these cases
21 are responsible for themselves entering. That
22 would possibly relieve the Corporation Counsel of
23 the burden in so far as there is one of their
24 attorneys in each of these cases going to some
25 separate data you know, system and whatever it is,

2 the 3,500 hours a year that it would take just to
3 do that work. I'm just kind of thinking out loud
4 and since you're on the other side of those cases,
5 if you have any thoughts. You're not required to
6 have any thoughts on my random thoughts. It's
7 okay.

8 CYNTHIA CONTI-COOK: I mean I'm just...
9 again, I would be happy to enter that information
10 and it would obviously probably be voluntary. I
11 just don't know how it would be enforced.

12 COUNCIL MEMBER LANCMAN: Okay, well,
13 thanks.

14 CHAIRPERSON GENTILE: Thank you,
15 Councilman and we'll go to Councilman Jumaane
16 Williams.

17 COUNCIL MEMBER WILLIAMS: Thank you.
18 Thank you all for the testimony and I want to make
19 sure... a good lot of you are the reason that the
20 community safety and I would conclude the IG is
21 even here with your advocacy and CPR obviously took
22 a lead, so thank you and obviously a shout out to
23 my brother from another mother, Kirsten Foy, who
24 we've gone to junior high school, high school,
25 college and are now causing trouble in the city

1 together, so thank you for being here. Two
2 questions that anyone can answer. How else might
3 we improve or... these are together, so one is how
4 else might we improve Intro 119-A if you had any
5 suggestions and if any of you all are familiar with
6 this lawsuit settlement review practice in any
7 other cities, do you have any recommendations based
8 on those that would help make this bill better?

10 MONIFA BANDELE: I just wanted to
11 reiterate the additional data that was detailed in
12 the testimony of Attorney Conti. I think that...

13 COUNCIL MEMBER WILLIAMS: I thank you
14 for actually.

15 MONIFA BANDELE: Yeah, we cosigned
16 those additions, so I think those would be very
17 helpful in strengthening the legislation.

18 JOHANNA MILLER: I mean we get into
19 this in our written testimony a little more than I
20 did here, but we think it's really important that
21 the gathering more information from the IG that the
22 City Council be prepared to actually act on that
23 information, particularly when it rises above a
24 certain threshold that indicates a pattern. There
25 certainly is a fiscal responsibility. You know,

2 even if you don't attribute sort of unnecessary
3 legal meetings to a settlement, there's a fiscal
4 responsibility in knowing how much money the City's
5 paying out. I think there are ways that the City
6 Council can create thresholds, after which you
7 would meet with the IG or think about recommending
8 certain investigations on the basis of these types
9 of reports.

10 COUNCIL MEMBER WILLIAMS: 'Kay and
11 thank you, Miss Conti, for those. I did have a
12 question or just a thought when the administration
13 was here. But I don't know what is the... if
14 there's a magic number that would say that this
15 is... the officer is doing too much. My assumption
16 is that officers generally are going to get people
17 accusing them of wrongdoing, so if we're looking at
18 either a number of lawsuits or the number of
19 actually having something achieved... you know, the
20 courts saying actually there's something wrong. Is
21 there a number? Like is it if there's 10 lawsuits
22 and three convictions; is it 25 lawsuits and five
23 convictions?

24 MONIFA BANDELE: I would actually
25 suggest that we use the data to determine that; you

2 know, to take a snapshot of a time looked at, the
3 patterns and what skews high and what's low. What
4 is high and what is low from previous years and
5 then pull a number from there, as opposed to trying
6 to in the legislation now set out a number.

7 CYNTHIA CONTI-COOK: I agree with that.
8 I think it's very hard to know what we're working
9 with and know what a precinct... you know, we
10 don't... we have no idea right now whether a
11 precinct has a high number of lawsuits and civil
12 rights violations or a low number other than what
13 the CCRB collects, and a lot of people you know,
14 don't bring their lawsuit or don't bring their
15 incidents to the CCRB. Lawsuits fill in a huge gap
16 of information that the City doesn't know from the
17 CCRB and so starting to collect this data would
18 inform us what we should expect from a precinct and
19 be able to inform Deputy Inspectors what they
20 should expect from their officers in a precinct and
21 whether their lawsuit numbers are high or low. I
22 totally agree. It's a reason to collect this
23 information.

24 KIRSTEN JOHN FOY: I think that's
25 right, that the information is critical, but I

2 think even once you've gotten the information, we
3 have to establish some form of due process for
4 officers. I don't know that it should be a hard
5 fast number or what's right and what's
6 unacceptable. You could have one officer that has
7 various different kinds of complaints against that
8 officer that may require some kind of a... to
9 trigger some kind of a process of review, at which
10 the end of that process there may be some kind of a
11 determination, but I don't know that a hard fast
12 number if an officer has three cases against him
13 that have been settled that that officer is
14 necessarily a bad officer. I think that it raises
15 flags and it should be looked into, but there
16 should be some formal process by which you can
17 contextualize these complaints against the officer
18 and begin to build a more definitive record for the
19 individual officer, but then to be able to build a
20 more definitive database actually.

21 COUNCIL MEMBER WILLIAMS: Thank you and
22 I want to thank CCRB for being here also and
23 listening and providing your written testimony. I
24 thank you all for your answer to that and I just
25 want to make sure we also you know, keeping in

1
2 mind, as Council Member Dickens said, that I think
3 most officers are doing a good job and I think just
4 the nature of the job is going to have people
5 saying that you were overly aggressive, even if you
6 were just in the context of doing your job and I
7 want to make sure that we keep that in mind as we
8 move forward. So thank you again and thank you,
9 Mr. Chair, for allowing me to speak and for even
10 having a hearing on the bill. Thank you.

11 CHAIRPERSON GENTILE: Well, thank you,
12 Councilman Williams and thank you to this panel and
13 to the administration certainly on their very I
14 think thoughtful, substantive analysis of this
15 bill, which will give us some reason to I guess
16 discuss some more. So thank you again for your
17 testimony and I thank you for joining us too. That
18 concludes this hearing of the Oversight and
19 Investigations Committee. The hearing is now
20 closed.

21 [gavel]

22
23
24
25

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.



Date: 05/20/2014