

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON PUBLIC SAFETY

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February 26, 2024  
Start: 10:15 a.m.  
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HELD AT: Council Chambers - City Hall

B E F O R E: Yusef Salaam  
Chairperson

COUNCIL MEMBERS:

Joann Ariola  
Diana I. Ayala  
Tiffany Cabán  
Carmen N. De La Rosa  
Robert F. Holden  
Rita C. Joseph  
Christopher Marte  
Chi A. Ossé  
Carlina Rivera  
Althea V. Stevens  
Kalman Yeger

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

Jumaane Williams  
Public Advocate

Neil Fenton  
NYPD Executive Director of Investigative Support  
and Training

Joseph Kenny  
NYPD Chief of Detectives

Josh Levin  
NYPD Acting Director of Legislative Affairs Unit

Andrew Botelho  
NYPD Executive Director of Special Projects and  
Operations

Bruce Bryan  
Queens Defenders

Jackie Gosdigian  
Brooklyn Defender Services

Sarah Chu  
Perlmutter Center

Cassandra Kelly  
Legal Aid Society

Sergio De La Pava  
New York County Defender Services

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

Ingrid Jean Baptiste  
Child Advocates

Beth Schwartz  
Fordham Law

Andrew

Neil Berry

Celeste Garson

T.J. Cohen

Tanesha Grant  
Parents Supporting Parents

Jan

Christopher Leon Johnson

Carla Rabinowitz

Monique Silverman

Susan Gottlieb

Nadia

Amanda Wallwin  
Innocence Project



1  
2 SERGEANT AT ARMS: Good morning and  
3 welcome to the New York City Council hearing of the  
4 Committee on Public Safety. At this time, can  
5 everybody please silence your cell phones? If you  
6 wish to testify, please go up to the Sergeant at Arms  
7 desk to fill out a testimony slip, even if you  
8 already registered online. At this time and going  
9 forward, no one is to approach the dais. I repeat,  
10 no one is to approach the dais. Thank you for your  
11 cooperation. Chair, we are ready to begin.

12 CHAIRPERSON SALAAM: Good morning  
13 everyone. In my remarks as a public servant, I've  
14 always said may the peace, mercy and blessings from  
15 the owner of all peace, mercy and blessing be upon  
16 you. I'm Council Member Yusef Salaam, Chair of the  
17 Committee on Public Safety. I am joined by Council  
18 Members Joseph, Cabán, Ossé, Ariola, Holden,  
19 Paladino, and by our Public Advocate Jumaane  
20 Williams. Today, we gather for a crucial oversight  
21 hearing to examine NYPD's investigative procedures  
22 and safeguards relating to wrongful convictions. I  
23 want to begin by thanking representatives from the  
24 NYPD for coming in this morning to provide testimony  
25 on this very crucial and critical issue. As some of

1  
2 you may imagine, this topic holds a particular weight  
3 to not only just myself, but also members of my  
4 community and many members of the community that we  
5 represent and many members of the communities that  
6 are represented by our Council Members seated here.  
7 My story is one that has been shared in these  
8 chambers on a number of occasions. Today, we will  
9 hear about the unfortunate stories of individuals who  
10 have been run over by the spiked wheels of justice,  
11 whose stories unfortunately never made it to these  
12 halls. As I know from lived experience, wrongful  
13 convictions cause irreparable damage to the  
14 individuals, their families, and their communities.  
15 These miscarriages of justice also can contribute to  
16 an erosion of the public trust in the criminal  
17 justice system. Research has shown that certain  
18 police practices and investigative techniques can  
19 significantly contribute to the occurrence of  
20 wrongful convictions. In recent years there has been  
21 significant public attention and advocacy efforts  
22 surrounding the need to provide police practices-- to  
23 provide improved police practices to minimize the  
24 risk of wrongful convictions. Communities,  
25 advocates, and legal experts have called for greater

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2 transparency, accountability and adherence to  
3 evidence-based practices within law enforcement.  
4 Whether through the use of line-ups or witness  
5 identifications procedures that are prone to suspect  
6 misidentification, the use of coercive investigation  
7 tactics, or inconsistencies in video recording of  
8 interrogations, there is a moral necessity for police  
9 departments to examine their internal practices and  
10 ensure steps are taken to mitigate the risk of  
11 wrongful convictions. Today's hearing provides us  
12 with a vital opportunity to engage with the NYPD on  
13 its efforts to prevent wrongful convictions and to  
14 promote the use of evidence-based investigative  
15 practices. We also hope to hear from the NYPD on  
16 their effort to improve collaboration and information  
17 sharing with the offices of our city district  
18 attorneys and public defenders. Most importantly,  
19 this hearing serves as a platform for directly-  
20 impacted individuals, legal defenders, advocates, and  
21 other stakeholders to share insight on ongoing issues  
22 within the NYPD that can contribute to these wrongful  
23 convictions, and to propose recommendations for  
24 meaningful reform. I invite our friends from the  
25 NYPD to stick around as members of the public share

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2 their stories and real lived experiences that  
3 necessitates the implementation of these reforms with  
4 us this morning. Thank you again for your  
5 participation in this crucial, critical discussion.  
6 And I'd like to pass the microphone to our Public  
7 Advocate Jumaane Williams.

8 PUBLIC ADVOCATE WILLIAMS: Thank you so  
9 much. Good morning. Peace and blessings, love and  
10 life [sic] to everyone. Mr. Chair, I just wanted to  
11 point out this is pretty momentous. I know you  
12 alluded to it in your statement, but to have you,  
13 Yusef Salaam, formerly of Central Park Five, now  
14 exonerated five, to be chairing a hearing for the New  
15 York City Council Public Safety on wrongful  
16 convictions is simply amazing. I just want to make  
17 sure I put that on the record, and as a person of  
18 faith to another person of faith, allahu akbar. More  
19 simply, God is great. Just want to make sure I put  
20 that into the record. As mentioned, I'm Public  
21 Advocate of the City of New York. My name is Jumaane  
22 Williams. I want to thank Chair Salaam, members of  
23 the Committee on Public Safety for holding this  
24 important hearing, and members of the NYPD for being  
25 here. In June of last year, District Attorney Alvin

1 Bragg, who by the way is the District Attorney of a  
2 county that is much safer than Maricopa County in  
3 Phoenix, Arizona, vacated 316 convictions involving  
4 discredited NYPD officers. These convictions  
5 occurred between 1996 and 2017, and of those 316, 57  
6 of those convictions resulted in incarceration.  
7 This, of course, did not cover everyone wrongfully  
8 convicted in our city as a result of abusive,  
9 corrupt, or discriminatory policing. One of those  
10 people is in the room serving as the Chair of this  
11 committee. I would also like to acknowledge Steven  
12 Lopez, the sixth person wrongfully arrested and  
13 incarcerated for the 1989 attack on the jogger in  
14 Central Park who was exonerated in 2022. There are  
15 many ways that police investigative procedures can  
16 result in wrongful convictions including coercive,  
17 interrogative techniques that result in false  
18 confessions, lying on the stand in court, failing to  
19 return over exculpatory evidence, working with  
20 unreliable informants and displaying outright  
21 prejudice. New York City and the United States  
22 unfortunately has a long history of police misconduct  
23 leading to wrongful convictions, the full scope of  
24 which we are only just beginning to see with the  
25

1  
2 advent of DNA analysis leading to an increase in  
3 exonerations. Wrongful convictions harm entire  
4 communities. Incarceration tears people from their  
5 loved ones, traumatizing not only them, but their  
6 friends and families who may have depended on that  
7 person emotionally and financially, and not to  
8 mention leaving the person who is actually guilty  
9 still out. When a person is released from prison or  
10 jail or even if they were not sentenced to any period  
11 of incarceration, their criminal record follows them  
12 and affects their ability to pursue employment,  
13 education and can affect even where they can live.  
14 Wrongful convictions harm our city financially as  
15 well. For example, Louis N. Scarcella, a former NYPD  
16 detective who was accused of framing dozens of people  
17 for murder has cost tax payers \$110 million dollars  
18 in settlements alone. Derrick Hamilton spent more  
19 than 20 years in prison as a result of Scarcella's  
20 misconduct and persuaded prosecutors to throw out his  
21 convictions, was awarded \$7 million by the City and  
22 has since become an activist working to free other  
23 innocent people. This is money that can be going to  
24 schools, housing and other social services. This all  
25 underscores the need for police transparency and

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2 accountably. At the end of last year, this Council  
3 passed Intro 586, part of the How Many Stops Act,  
4 which requires reporting on low-level one and two  
5 investigative encounters. My hope is that Mayor  
6 Adams and the NYPD will implement this law, and I'm  
7 looking forward to conversations about how we can  
8 best implement further. All interrogations should be  
9 in accordance in state law, and I believe we have to  
10 ask that CCRB be given some additional power in terms  
11 of disciplining officers who engage in abuse,  
12 corruption, discrimination, and misconduct regardless  
13 of whether police truly believe a suspect is guilty.  
14 These safeguards and standards must be followed in  
15 any investigation. What we have found is that  
16 allowing often the Commissioner to be the sole person  
17 that makes the decision makes it more difficult for  
18 there to be accountability when it comes to  
19 discipline. We also must robustly invest in public  
20 defense. Legal services providers called on the  
21 Administration for \$195 million in increased funding  
22 for Fiscal Year 24. The City must fulfill their  
23 contracts on time or entirely the system can suffer.  
24 Lastly, I ask Governor Hochul to sign the Wrongful  
25 Convictions Act into law. This legislation would

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2 provide individuals convicted of a crime with the  
3 opportunity for meaningful review to ensure redress  
4 for wrongful convictions, including in cases where  
5 the individual has pleaded guilty. Wrongfully-  
6 convicted people who have pleaded guilty often have  
7 no recourse for justice, and this law would create a  
8 path for them. Wrongful convictions are a scourge on  
9 our legal system, particularly for a community that  
10 already feels the burden of the overuse of carceral  
11 resources. I remind you of the words of Dr. Martin  
12 Luther King, Junior, "Injustice anywhere is a threat  
13 to justice everywhere." Looking forward to  
14 discussion. Thank you.

15 CHAIRPERSON SALAAM: Thank you, Public  
16 Advocate. I want to also recognize that we are  
17 joined by Council Members Marte and Stevens.

18 COMMITTEE COUNSEL: Thank you everyone.  
19 We'll now turn to the Administration for their  
20 testimony. From NYPD we'll hear from Executive  
21 Director Neil Fenton, Chief of Detectives Joseph  
22 Kenny, Acting Director Josh Levin, and Executive  
23 Director Andrew Botelho. I'm going to swear all  
24 three of you in-- or all four of you at once. So if  
25 you could just raise your right hand and affirming

1  
2 the following. Do you affirm to tell the truth, the  
3 whole truth and nothing but the truth before this  
4 committee and to answer honestly to Council Member  
5 questions? You can say I do. I recognize that  
6 you've all affirmed that. So, go ahead.

7 CHIEF KENNY: Good morning Chair Salaam  
8 and members of the Council. I am Joseph Kenny, the  
9 Chief of Detectives of the New York City Police  
10 Department. I am joined today by Neil Fenton, our  
11 Executive Director of the Department's Investigative  
12 Support and Training Unit, Andrew Botelho, the  
13 Executive Director of Discovery Compliance Unit, Josh  
14 Levin, the Acting Director of the Department's  
15 Legislative Affairs Unit. On behalf of Police  
16 Commissioner Edward Caban, I would like to thank you  
17 for this opportunity to discuss the NYPD's commitment  
18 to ensure integrity of convictions and the practices  
19 and policies we have in place to prevent wrongful  
20 convictions. To be clear, every one wrongful  
21 conviction is too many. It is counter to everything  
22 that we stand for. When the wrong person is  
23 arrested and later convicted, it is a failure of the  
24 justice system, and the consequences for the wrongful  
25 person convicted, the horror, not only for them, but

1 for their family and friends is beyond words. The  
2 Department's mission is to ensure public safety and  
3 achieve justice for victims while working tirelessly  
4 to make sure that the individuals being arrested,  
5 charged, and convicted of the crimes are in fact  
6 guilty of those crimes. For that reason, the NYPD  
7 works hand-in-hand with the conviction integrity  
8 units at prosecutor's offices at the state and  
9 federal level. We deliver evidence and files at  
10 their request and make the NYPD resources available  
11 to support their critical work for what they are  
12 doing. Their efforts have our full support.  
13 Consistent with those efforts, we have taken a  
14 variety of steps over the years to improve  
15 investigative procedures in order to prevent errors  
16 as we build our cases. Every day we rely on  
17 witnesses and victims who come forward to tell us  
18 what they know. Without the accounts of witnesses,  
19 most of our investigations would go nowhere, but we  
20 recognize the human element and that witnesses make  
21 mistakes. That is why we have strict procedures  
22 regarding witness identifications to ensure that a  
23 witness's memory is not unduly influenced and even  
24 inadvertently by our investigators. Photo arrays are  
25

1 the primary way victims and witnesses identify or  
2 exclude suspects during our investigations. These  
3 photo arrays are conducted using a double-blind  
4 procedure. A detective provides a picture of a  
5 suspect and a computer system generates five  
6 additional photographs that look like the suspect to  
7 include in the array. The array is then placed in a  
8 sealed envelope. Next, a second detective who is not  
9 involved in the case administers the array to the  
10 witnesses to by allowing the witness to open the  
11 previously sealed envelope. This minimizes the risk  
12 that the detective will unintentionally influence a  
13 witness and identify the suspect because the  
14 detective administering the array does not know which  
15 photo in the array belongs to that suspect. Language  
16 is also important. Our written protocols demand that  
17 only neutral language may be used, and that the  
18 identification procedure itself be attempted to be  
19 audio recorded, and of course, the photo array must  
20 be provided during discovery so that it can be  
21 scrutinized by both the prosecutor and the defense  
22 attorney. As of today, Monday, February 26, 2024,  
23 two additional line-ups like the ones you all can see  
24 in television and in movies have played a smaller and  
25

1 smaller role in our investigations since the COVID-19  
2 pandemic, but our policies and practices in those  
3 line-ups are designed, again, to minimize the risk of  
4 influencing the witness. Detectives follow a strict,  
5 neutral script when administering the line-up to  
6 prevent bias, to remain consistency across all  
7 investigations. As a further safeguard, the  
8 suspect's attorney is present during the line-up, and  
9 may make suggestions regarding the aspect of the  
10 line-up itself. The collection and use of video  
11 recordings also plays an important role in our  
12 efforts to prevent wrongful convictions. So many  
13 interactions, so many crimes are now caught on video.  
14 That may be video from a business, a bystander, the  
15 victim themselves, or by NYPD cameras. Investigators  
16 draw on video evidence, piecing together footage  
17 taken at different angles and at different moments.  
18 Tracing a criminal's moments before, during, and  
19 after a crime can provide crucial evidence in a case.  
20 It could also help us exclude suspects. There are  
21 times when a witness remembers an event a certain  
22 way, the video evidence tells us otherwise. That is  
23 important for building good cases and preventing  
24 errors. Video evidence is important in another  
25

1 aspect. It captures interactions between the police  
2 officers and suspects. When patrol officers engage  
3 in enforcement activity, they're required to turn on  
4 their body-worn cameras. The circumstances of the  
5 arrest, including the search of the suspect, and any  
6 conversation between the officers and the suspect are  
7 now recorded. When it comes to questioning by our  
8 detectives, state law requires us to video record  
9 interrogations of adults suspected of serious crime.  
10 We impose additional requirements beyond those  
11 required by law, and require video recording of  
12 additional felony interrogations, including all gun  
13 crimes. For juveniles, every interrogation is video-  
14 taped and subject to additional safeguards. We  
15 attempt to notify a parent or guardian in every  
16 instance, and often will wait hours to allow a parent  
17 or guardian to arrive to be present for the  
18 interrogation. If the parent or guardian seek to  
19 discuss the matter with the juvenile, the detectives  
20 provide a private room so they can do so, unrecorded.  
21 If at any point the parent or guardian say they do  
22 not wish for the juvenile to talk with us, the  
23 questioning is over. If at any point the juvenile or  
24 the parent requests and attorney, the questioning is  
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1  
2 over. Safety of the juveniles in our custody is also  
3 critical, and they are not detained together with  
4 adults. So let me end where I began. We care deeply  
5 about preventing wrongful convictions. We have to  
6 get this right. Thank you for the opportunity to  
7 speak with you today, and we're pleased to answer any  
8 questions.

9 CHAIRPERSON SALAAM: Thank you for that  
10 introduction. I'll also like to recognize Council  
11 Member Rivera has joined us. I guess we can jump  
12 right into questions. I want to ask first, after  
13 patterns of wrongful convictions are identified, for  
14 example, with specific types of officer misconduct or  
15 faulty investigative procedures, does the NYPD  
16 conduct broader reviews of investigations conducted  
17 using similar practices or conducted by particular  
18 officers? For example, following the identification  
19 of misconduct by Detective Louis Scarcella, and the  
20 subsequent reversal of convictions arising from cases  
21 he investigated, did the NYPD conduct any review of  
22 the procedures and practices in place at the time  
23 that enabled such misconduct to go undetected? And  
24 have there been any changes to mechanisms for

1  
2 internal oversight of detective investigations that  
3 have since put in place?

4 CHIEF KENNY: So, Detective Scarcella,  
5 those incidents took place years ago and came to  
6 light. He was already retired at that time. the  
7 mechanism we have in place right now, if there is--  
8 we are by far the most scrutinized Police Department  
9 in the country, between internal affairs, the Force  
10 [sic] Investigation Division, professional standards,  
11 Federal Monitors, you know, civilian advocates, we  
12 are constantly being scrutinized and being analyzed  
13 for misconduct. And the majority of the misconduct  
14 that is discovered within the NYPD as far as  
15 testimony comes is by us. We find it ourselves. Our  
16 Internal Affairs Bureau, sometimes while working with  
17 the District Attorneys' Offices who have a Civilian  
18 Complaint Unit, Public Integrity Unit, Law  
19 Enforcement Accountability Units-- Judges also get  
20 involved sometimes where Giglio letters are issued to  
21 certain officers. We will then take all that  
22 information and go back and look, working with the  
23 District Attorney's office and their Wrongful  
24 Conviction Units, to look at all their previous cases  
25 that resulted in a conviction, because like I said

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2 earlier, we want to get this right, and you know,  
3 sometimes where there's smoke there's fire, and we  
4 will look at that particular officer's conviction  
5 rate and we will speak to the District Attorneys that  
6 handle those cases as well.

7 CHAIRPERSON SALAAM: I want to know also  
8 as a follow-up, you know, after a conviction is  
9 overturned, is the NYPD notified, and does it take  
10 steps to audit investigations conducted in similar  
11 circumstances to potentially identify broader issues  
12 within the Department?

13 CHIEF KENNY: Once notified of a  
14 wrongful conviction, you know, we-- you know, quite  
15 often in the NYPD many procedures are created because  
16 of a mistake that was made or because of something  
17 that was done wrong. So if a wrongful conviction  
18 happened to come, you know, based on a procedure that  
19 we didn't follow or wasn't followed correctly,  
20 obviously we would bring that to light and we would  
21 speak to the officers not only involved, but to the  
22 entire job. So we do, you know, follow up if we see  
23 that a mistake was made, there'll be additional  
24 training within the Detective Bureau, and sometimes

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2 it results in additional procedures being added to  
3 our detective guide, things of that nature.

4 CHAIRPERSON SALAAM: I don't know if any  
5 of the other members want to jump in. Yes, yes, yes.

6 COMMITTEE COUNSEL: We're now going to  
7 offer members a chance to ask questions before  
8 returning to the Chair. For member questions we have  
9 Council Members Ossé, Cabán, Ariola, and Holden.

10 COUNCIL MEMBER OSSÉ: Good morning.  
11 Typically, how much time and money does NYPD spend on  
12 interrogations?

13 CHIEF KENNY: I'm sorry, how many-- how  
14 much time--

15 COUNCIL MEMBER OSSÉ: [interposing] How  
16 much time--

17 CHIEF KENNY: per interrogation?

18 COUNCIL MEMBER OSSÉ: Sure.

19 CHIEF KENNY: Each case is different.

20 COUNCIL MEMBER OSSÉ: Okay.

21 CHIEF KENNY: You know, an interrogation  
22 could be simply you sit down and the subject is given  
23 Miranda Rights. They ask for an attorney. The  
24 interrogation's over. It ends right there. Other  
25 interrogations could go on for a prolonged period of

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2 time, depending on the crime, you know, depending on  
3 the circumstances.

4 COUNCIL MEMBER OSSÉ: And since the  
5 implementation of video-recorded interrogations, has  
6 the number of false confessions decreased?

7 CHIEF KENNY: I've not been made aware of  
8 any wrongful convictions-- I'm sorry, confessions  
9 that resulted in a wrongful conviction since we  
10 started video-taping. I'm unaware of.

11 COUNCIL MEMBER OSSÉ: Okay. Is this  
12 potentially data that is publicly available  
13 somewhere?

14 UNIDENTIFIED: So, good morning.

15 COUNCIL MEMBER OSSÉ: Morning.

16 UNIDENTIFIED: A lot of the information  
17 is ultimately reviewed and contained by the DA's  
18 offices. They have Conviction Integrity Review  
19 Units. So after that is handed off to them, they're  
20 the ones who weigh all the evidence and do the  
21 analysis and make determinations about whether it  
22 would be false or not. And so that is data that I  
23 believe they're the custodians of and that they own.  
24 Of course we have conversations with them, we  
25 communicate with them, but in regards to whether they

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2 provide that data in a public-facing fashion-- for  
3 example, we heard about the article about the ones  
4 they dismissed. So I'm uncomfortable talking about  
5 something with 100 percent accuracy.

6 COUNCIL MEMBER OSSÉ: Sure. That makes  
7 sense. I know that you listed some of the  
8 accommodations in your testimony, but can you go into  
9 depth on what accommodations that NYPD provides  
10 children, individuals with intellectual disabilities,  
11 or those who have limited English proficiency when  
12 they are interrogated?

13 CHIEF KENNY: Yeah, so if there's a  
14 language barrier, we reach out to our Operations  
15 Unit, and they will provide us with a certified  
16 trained translator for the length of the  
17 interrogation. You know, we want-- we don't want  
18 there to be a language barrier when we conduct the  
19 interrogation itself. As far as juveniles, we give  
20 every opportunity and chance for a parent or guardian  
21 to be present during the administration of Miranda  
22 and the interrogation itself. If the parent or  
23 guardian is not available, we'll try to make  
24 accommodations to have another community member,  
25 either a member of the clergy, or a coach, or a

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2 teacher, or a neighbor be present. We want to go  
3 through lengths to make sure that the interrogation  
4 is done lawfully and done properly, and we'll make  
5 every effort to assure that the child has an adult  
6 that they trust in the room with them during the  
7 interrogation.

8 COUNCIL MEMBER OSSÉ: And why does the  
9 NYPD not use double-blind identification procedures  
10 if experts have said that that is a method that would  
11 prevent faulty ID's?

12 CHIEF KENNY: We do use it for photo  
13 arrays.

14 COUNCIL MEMBER OSSÉ: Okay.

15 CHIEF KENNY: We changed that procedure a  
16 couple years back. You know, we-- it is administered  
17 double-blind, meaning that, you know, a detective  
18 that's unfamiliar with the case and uninvolved with  
19 the case will administer the photo array. It's-- the  
20 photo array is prepared. The photographs are  
21 selected by a computer, not by a detective based on  
22 similarities of the subject in the photo array. It's  
23 put together randomly. It's then placed in a sealed  
24 envelope and given to the detective that will  
25 administer the photo array itself. So, the detective

1  
2 that's going to administer the photo array has not  
3 seen the array, has not seen the photographs and has  
4 no knowledge of the case. They will then bring that  
5 array or have the person come to them, and it will be  
6 administered by handing the sealed envelope to the  
7 witness who will then open it and given instructions.  
8 It's strict script that is given. That is neutral  
9 language. It's not to be, you know, suggestive at  
10 all, and then they will view that photo array and  
11 make their decision, their determination on whether  
12 or not they recognize anybody from that.

13 COUNCIL MEMBER OSSÉ: If a defense  
14 attorney requests double-blind identification  
15 procedures, that is granted to their client?

16 UNIDENTIFIED: So, just for the record,  
17 right, all photo arrays are double-blind.

18 COUNCIL MEMBER OSSÉ: Okay.

19 UNIDENTIFIED: So, the other place there  
20 might be an identification would be a line-up. At a  
21 line-up-- by the way, the numbers of lineups we've  
22 done have really drastically gone down. There's--

23 COUNCIL MEMBER OSSÉ: [interposing] Why is  
24 that?

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1  
2 UNIDENTIFIED: Well, there's a bunch of  
3 reason. The first is that we have a double-blind  
4 procedure. We have great confidence in that. We  
5 think it's very strong, as you said, a very strong  
6 and best practice to do that. The second reason is--  
7 and if you need to correct me, please do. But during  
8 COVID it was problematic, COVID-19 pandemic. It was  
9 problematic to assemble people and put them next to  
10 each other in a line-up. On top of that, the DA's  
11 offices also often times, and again correct me if I'm  
12 wrong, prefer the photo array. And what was the  
13 last part of the question, I'm sorry? Why don't--

14 COUNCIL MEMBER OSSÉ: [interposing] When  
15 a defense attorney requests a double-blind--

16 UNIDENTIFIED: [interposing] Not to take  
17 anyone else's time, but just to speak on that  
18 quickly. When the line-up identification is done,  
19 the defense counsel is actually present.

20 COUNCIL MEMBER OSSÉ: Okay.

21 UNIDENTIFIED: And they are allowed to  
22 make suggestions, and they can say move this person  
23 there, and can you change the way this person's  
24 seated, or what's obstructing them or what they're  
25 wearing, things like that. So we're trying to bring

1  
2 them into the process so that everything's up front  
3 and they have a say in it.

4 COUNCIL MEMBER OSSÉ: Noted. Thank you,  
5 Chair.

6 CHAIRPERSON SALAAM: Thank you, Council  
7 Member. Next we'll hear from Council Member Cabán,  
8 followed by Council Member Ariola.

9 COUNCIL MEMBER CABÁN: Thank you. Also,  
10 I'm sorry, can I also ask for a headset, because I'm  
11 just having some trouble hearing. Good morning. I'm  
12 going to start by asking some questions specifically  
13 about some of the forensic analyses, practices, and  
14 kind of want to get into some of the forensic science  
15 or science. I'll start with latent fingerprints.  
16 So, recently the NYPD disclosed that in 2015,  
17 detectives from the NYPD's latent print section  
18 mistakenly identified a known individual as a source  
19 of a latent print found at a crime scene in Brooklyn,  
20 and then the NYPD further disclosed that at the time  
21 of the misidentification, the Department conducted an  
22 audit of the cases worked by those detectives and  
23 found no other discrepancies. So I want to ask a  
24 series of questions about this. Starting with what  
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2 entities were informed of the misidentifications at  
3 the time it was discovered by the NYPD.

4 EXECUTIVE DIRECTOR FENTON: Good morning,  
5 Council Member. I'm Neil Fenton. And with respect  
6 to the latent prints issue in 2015, first of all, I  
7 want to say nobody was arrested with respect to that  
8 case. There was an I-card [sic] that was put out  
9 indicating that that person--

10 COUNCIL MEMBER CABÁN: [interposing] But  
11 I'm more concerned about what the practices are--

12 EXECUTIVE DIRECTOR FENTON: [interposing]  
13 Sure.

14 COUNCIL MEMBER CABÁN: and whether an  
15 arrest was made or not.

16 EXECUTIVE DIRECTOR FENTON: No arrest was  
17 made. I want to put that on the record. Once that  
18 incident happened that was related to a Brooklyn  
19 matter, the Brooklyn District Attorney was informed  
20 of that. Thereafter, the NYPD conducted an internal  
21 investigation, reviewed all of those respective  
22 detective's work, found no further  
23 misidentifications. We did not notify all of the  
24 other District Attorneys' offices at that time. We  
25 instituted a considerable amount of retraining with

1  
2 respect to the subject-- two of the subject  
3 detectives. One of them was removed. Furthermore,  
4 we brought in outside national experts to retrain the  
5 entire latent print unit. Furthermore--

6 COUNCIL MEMBER CABÁN: [interposing] So,  
7 I have some questions here, because I want to make  
8 sure I'm getting specific information. So, you let  
9 the Brooklyn DA's office know. You did not let any  
10 of the other DA's offices know. It is possible that  
11 this officer or this detective had cases pending in  
12 the other boroughs, correct?

13 EXECUTIVE DIRECTOR FENTON: That is  
14 correct.

15 COUNCIL MEMBER CABÁN: And you said that  
16 outside of the DA's office that you commissioned a  
17 national organization to do some sort of  
18 investigation.

19 EXECUTIVE DIRECTOR FENTON: The NYPD at  
20 the time-- I wasn't there at the time. The NYPD, the  
21 commanding officer who was head of the latent print  
22 section brought in two national experts. One--

23 COUNCIL MEMBER CABÁN: [interposing] Who  
24 were they?

1  
2 EXECUTIVE DIRECTOR FENTON: Kenneth  
3 Martin as well as Glenn Langenburg [sic].

4 COUNCIL MEMBER CABÁN: So, they were  
5 hired and paid by the NYPD to conduct this.

6 EXECUTIVE DIRECTOR FENTON: Correct.

7 COUNCIL MEMBER CABÁN: Okay, so they're  
8 not independent from the NYPD.

9 EXECUTIVE DIRECTOR FENTON: They were  
10 independent. They assisted with the retraining of  
11 the latent print unit. They also assisted in  
12 developing additional protocols, specifically two  
13 additional protocols that the latent print section  
14 adopted and created more conservative measure.  
15 Moreover, one of those experts, Kenneth Martin was  
16 hired ultimately as a Quality Assurance Director in  
17 2016.

18 COUNCIL MEMBER CABÁN: Now, are there  
19 records of the audit that was performed?

20 EXECUTIVE DIRECTOR FENTON: They are on  
21 the record as far as the paperwork that was turned  
22 over to the respective District Attorney's offices,  
23 and then ultimately defense counsel.

24 COUNCIL MEMBER CABÁN: And are those  
25 records available to the public or this council?

1  
2 EXECUTIVE DIRECTOR FENTON: Yes, and  
3 they've been turned over to the respective District  
4 Attorney's offices. Moreover, they've been turned  
5 over to the New York State Division of Criminal  
6 Justice Services, the Forensic Science Commission.

7 COUNCIL MEMBER CABÁN: And one way that  
8 the laboratories handle major adverse events is to  
9 commission an independent external audit and a root  
10 cause analysis such as the independent review, and  
11 you talked about that saying that you hired this  
12 outside entity. Why didn't that entire process live  
13 outside of the NYPD?

14 EXECUTIVE DIRECTOR FENTON: Because  
15 regularly in forensic labs, root cause analysis are  
16 done by the respective labs themselves. For example,  
17 our forensic labs deal with-- they're accredited,  
18 number one, and the root cause analysis are done in  
19 forensic science all the time. so whether it's the  
20 OCME or NYPD lab, root cause analysis is done in  
21 investigation of the non-conformity, which is what,  
22 it's a mistake, if you will, a significant one. That  
23 mistake was investigated. A thorough root cause  
24 analysis was done. It was turned over to the  
25 respective District Attorneys. Moreover, it was

1  
2 turned over when we realized that there was an error  
3 that all of the District Attorney offices were not  
4 informed in 2015.

5 COUNCIL MEMBER CABÁN: Right. But if it  
6 was a mistake done by one of the detectives in your  
7 Department, why didn't you see fit to have an outside  
8 audit done of all of the cases that that detective  
9 touched in all of the boroughs and inform every  
10 single DA of that?

11 EXECUTIVE DIRECTOR FENTON: Because  
12 normally in forensic science they go to the other--  
13 they assemble bodies of other forensic scientists  
14 within the unit who do investigations. This was  
15 given to the supervisors. This went as far as the  
16 commanding officer. They reviewed all of those  
17 respective latent print examiners [inaudible].

18 COUNCIL MEMBER CABÁN: So you did-- in  
19 like-- to conclude all of that, you're saying that  
20 you did not as a department see it fit or appropriate  
21 to have an entirely outside, independent review of  
22 this and have every single case that that detective  
23 touched reviewed by a completely independent auditor  
24 or let every single DA and every single borough know  
25

1  
2 so that they had the option of opening up every  
3 single one of those cases.

4 EXECUTIVE DIRECTOR FENTON: We adhere to  
5 common practices and Forensic Science Commission as  
6 adhered to by the New York State Forensic Commission--  
7 -

8 COUNCIL MEMBER CABÁN: [interposing]  
9 That's not my question.

10 EXECUTIVE DIRECTOR FENTON: and the  
11 [inaudible]

12 COUNCIL MEMBER CABÁN: My question is you  
13 made the determination that it was not appropriate to  
14 do that entirely independent outside of the NYPD.  
15 That's my question?

16 EXECUTIVE DIRECTOR FENTON: As far as me?  
17 No, but the commanding officer--

18 COUNCIL MEMBER CABÁN: [interposing] You  
19 on behalf of the NYPD.

20 EXECUTIVE DIRECTOR FENTON: I'm sorry, I  
21 didn't hear your question.

22 COUNCIL MEMBER CABÁN: You on behalf of  
23 the NYPD, the universal you.

24 EXECUTIVE DIRECTOR FENTON: I wasn't  
25 working in the-- for the NYPD at that time, but the

1  
2 commanding officer at that time did not make that  
3 decision to turn that over to all respective District  
4 Attorneys. They thought that-- or I assume they  
5 thought that notifying the one District Attorney that  
6 was related to the case was enough.

7 COUNCIL MEMBER CABÁN: Okay, thank you.  
8 I want to sign up for a second round of questions,  
9 and I would just like to conclude by saying that when  
10 people's lives are at stake, and nobody knows that  
11 better than the Chair that's sitting in this room  
12 right now, that's just not good enough, and I'm  
13 looking forward to hearing from Legal Aid Wrongful  
14 Conviction Unit and their testimony, because I think  
15 that they'll bring a lot of good information to  
16 light. Thank you.

17 CHAIRPERSON SALAAM: Thank you, Council  
18 Member. Next we'll hear from Council Member Ariola,  
19 followed by Council Member Holden.

20 COUNCIL MEMBER ARIOLA: Thank you. Thank  
21 you for coming here today. thank you for the  
22 dedication that you have to go out there and catch  
23 people who are committing crimes and to do your due  
24 diligence to make sure that they're convicted the  
25 right way, and for knowing where you errored and

1 where you needed to improve and implementing those  
2 measures. I want to talk about DNA. Why is DNA  
3 legally whether it's consent or by a abandonment, why  
4 is that a sound investigative approach in a crime  
5 investigation?  
6

7 EXECUTIVE DIRECTOR FENTON: DNA is the  
8 gold standard as far as forensic evidence. So we  
9 seek to use DNA for, you know, as many cases as we  
10 can. Primarily it goes with respective felony  
11 investigation. Sometimes it goes to misdemeanor  
12 cases, you know, dealing with sex-related offenses.  
13 DNA establishes a unique identification that is only  
14 held-- we only have our own genetic code with the  
15 exception of my twin, if you would, would have the  
16 same genetic code. What DNA does is that it  
17 attributes that identification to a unique person.  
18 It helps for investigation to prove somebody's  
19 identification, but more importantly, it also helps  
20 to exculpate people. It has been used in wrongful  
21 conviction investigations. It has set the standard  
22 and helped remove people who are not able to have--  
23 you know, who are able to exculpate themselves in the  
24 situation, able to provide information that, you  
25 know, they would not have been able to, you know, in

1 the past. The science is excellent. We are able to  
2 test minimal, minor pieces of evidence now currently.  
3 At least the office of the Chief Medical Examiner is  
4 able to do that. You know, we continue to improve  
5 our standards and practices with that, and it  
6 continues to help and foster investigations, both to  
7 get-- find the guilty and certainly to exculpate  
8 those who have not done anything wrong.

10 COUNCIL MEMBER ARIOLA: Thank you. So  
11 everything that you're talking about here, DNA,  
12 double-blind photos, this is really to either show  
13 the guilt or the innocence of the persons.

14 EXECUTIVE DIRECTOR FENTON: Right, to  
15 find the truth.

16 COUNCIL MEMBER ARIOLA: they're  
17 innocent, presumed innocent before, right, before  
18 they go to court and are found guilty or exonerated.  
19 So with the double-blind photo arrays, when they're  
20 prepared and administered, you've said before, but I  
21 think it needs to be said again, how do you ensure  
22 they are a fair practice?

23 CHIEF KENNY: Just the fact that the  
24 photographs themselves are generated by a computer  
25 and not done by a detective themselves. So they're

1  
2 selected randomly by the computer based on physical  
3 characteristics. So they, you know, are similar in  
4 their appearance so it's, you know, done fairly and  
5 just, but the key is the fact that it's then sealed  
6 in an envelope and handed to another detective that  
7 has absolutely nothing to do with the case, and in  
8 some instances where, you know, with some staffing  
9 limitations, if there is a high-profile case, a  
10 homicide or a non-fatal shooting where the entire  
11 squad is working on a case and entire squad is  
12 familiar with the case, we'll actually have a  
13 detective from an outside squad come in to administer  
14 that photo array just to assure-- you know, so we  
15 have quality assurance that makes nothing suggestive  
16 is being done. There's a strict script that has to  
17 be read at every photo array, even the notification  
18 process when we notify a witness or a victim to come  
19 down or we're going to come bring the photo array to  
20 them. You know, we're not allowed to say, hey, we  
21 have a picture of the guy that did it. We're going  
22 to want you to look at it. We don't even-- we don't  
23 give any suggestion whatsoever. It's almost kind of  
24 like a blank statement, you know, borderline rude  
25 when we speak to them. We give them absolutely no

1 information of what's going on in that photo array.  
2 And then they unseal it themselves, and then they--  
3 the photo array is administered. And often, some  
4 cases it's audio-taped. The review of the photo  
5 array is actually audio taped based on the witnesses'  
6 discretion.  
7

8 COUNCIL MEMBER ARIOLA: And that unsealing  
9 of that envelope happens in front of the person who  
10 was arrested and their attorney.

11 CHIEF KENNY: The photo array is  
12 administered separately. That is done not in the  
13 presence--

14 COUNCIL MEMBER ARIOLA: [interposing] Oh,  
15 I'm sorry, it's to the--

16 CHIEF KENNY: The line-up is done--

17 COUNCIL MEMBER ARIOLA: [interposing] I'm  
18 sorry, the line-up.

19 CHIEF KENNY: Yeah, the line-up itself is  
20 done with--

21 COUNCIL MEMBER ARIOLA: [interposing] With  
22 the--

23 CHIEF KENNY: [interposing] Yes.

24 COUNCIL MEMBER ARIOLA: the person who  
25 has-- the victim, I'm sorry.

1  
2 CHIEF KENNY: Even the line-up procedures  
3 themselves, when rarely done, but when they are done,  
4 same rules apply. No suggestive language. The  
5 suspect actually gets to pick their position in the  
6 lineup. If there's a height discrepancy of the  
7 fillers in the line-up, everybody sits down. If we  
8 have a problem with clothing where we can't have  
9 everybody where the same clothing, a sheet will be  
10 utilized so they're only viewing the line-up from the  
11 head up. We make every attempt to make it as fair as  
12 possible.

13 COUNCIL MEMBER ARIOLA: Yeah, so that  
14 nothing is compromised. And Chair, if you'll just  
15 indulge me for one more moment. So, are there any  
16 other steps that in recent years that you've taken to  
17 improve fairness and impartiality, and what were  
18 these steps?

19 EXECUTIVE DIRECTOR FENTON: Well, besides  
20 the double-blind on the-- you know, on the photo  
21 arrays themselves. In 2010, Police Commissioner Ray  
22 Kelly began a pilot program to where we would begin  
23 doing video interrogations. It was being utilized in  
24 two squads citywide. Based on that pilot program we  
25 went citywide with that in 2012. As you know, we

1  
2 weren't mandated to do this until 2017. So we were  
3 actually almost seven years ahead of the curb in  
4 putting together our interrogate-- making sure that  
5 our interrogations were video-taped. But this is  
6 just one piece of the puzzle, you know, the line-ups  
7 the photo arrays. The other work that we do  
8 forensically, the utilization of technology, the  
9 utilization of video canvases kind of puts the whole  
10 thing together. We don't rely specifically just on  
11 one aspect. You know, the District Attorney's  
12 offices have raised the bar of obtaining probable  
13 cause to be so high. We don't just rely on one  
14 aspect of a piece of evidence. We look for multiple  
15 pieces of evidence that will come during a video  
16 canvas to take into the interrogation to tie into the  
17 interrogation, to tie into the photo array or the  
18 lineup.

19 COUNCIL MEMBER ARIOLA: So, I just want  
20 to end with saying thank you, because you still do  
21 your job even though you're under such scrutiny and  
22 you still do your job and do it well, and the level  
23 of convictions that you have of people who are  
24 wrongfully convicted are much less than those who are  
25

1  
2 rightfully convicted. Thank you for what you do  
3 every day to keep us safe.

4 COMMITTEE COUNSEL: Thank you, Council  
5 Member. I'll turn quickly back to the Chair for one  
6 question, followed by Council Member Holden, and then  
7 Marte.

8 CHAIRPERSON SALAAM: You know, I'm  
9 listening and considering all of the testimony today,  
10 and I can't help but reflect on my personal journey  
11 through the criminal legal system. You know, we were  
12 placed in lineups, and we were not identified by  
13 anyone in those lineups, but yet we still went to  
14 prison for those crimes that we didn't commit. And  
15 one of the worst parts about that case as an example  
16 is that the real perpetrator was out there actually  
17 committing more crimes, ultimately killing-- his  
18 motto from his own mouth was "your eyes or your  
19 life." But he was taking his victims eyes, or if they  
20 wanted to live he would take their eyes, and at the  
21 end of his crime spree he was just killing them. I  
22 believe Amy Goodman was living in the building that  
23 housed Lordes Gonzales [sp?] who was a young pregnant  
24 Latino woman, and you know, our families, the  
25 communities they kept crying out and saying these

1  
2 guys didn't do it. You guys have to look for the  
3 real perpetrator of the crime, and the worst part  
4 like I said is that that perpetrator even though he  
5 was caught months later, he actually killed his last  
6 victim Lordes Gonzalez who could have been alive  
7 today. You know, he killed her and her unborn  
8 children, and his testimony was so disturbing. He  
9 said that, you know, when he went into her home he  
10 brandished a knife, and she pleaded with him and  
11 asked him, can I just put my children-- she was there  
12 with her children. Can I put my children in the next  
13 room, and he said sure. She then put her children in  
14 the next room, and I can imagine-- I'm not a woman,  
15 nor have I ever been raped, but I can imagine that  
16 she probably said to herself this is going to be  
17 absolute worst experience that I've ever had, but I'm  
18 going to get through it. he then raped her, and then  
19 began to stab her to death, and the tenants in the  
20 building that Amy Goodman was in came out of their  
21 homes hearing the cries of Lordes Gonzalez, and they  
22 held him until the Police Department came to get him.  
23 It's one of the most sad examples of why we need  
24 protections, and you know, this lady could have been  
25 alive today. Her husband could have appreciated the

1 fact that he still had a wife and her children could  
2 have appreciated the fact that she was still alive as  
3 well. You know, I wanted to ask as a follow-up in  
4 terms of the testimony that's been given today, does  
5 the NYPD oppose requirements that lineups be  
6 conducted using double-blind procedures, and if so  
7 why? And are you aware of other jurisdictions in New  
8 York State and in the country that mandate double-  
9 blind lineups and recording of statements while in  
10 police custody?

12 UNIDENTIFIED: Chair, I think your point  
13 is very well made. I just want to talk for a second  
14 on lineups. Just to give some perspective, we did--  
15 of 6,000 cases, 7,800 photo arrays in 2023, right?  
16 6,000 cases, 7,800 photo arrays in 23. You compare  
17 that with the lineups, 14 cases, 16 lineups. So, as  
18 I was explaining-- as I mentioning earlier, the  
19 amount of lineups we've done have super plummeted,  
20 because we believe the double-blind standard for a  
21 photo array really is the best practices for doing  
22 it. And I know we said it in the opening statement,  
23 but and I know we're sitting across from each other  
24 on different sides of this dais, but although we're  
25 across from each other, we're on the same page about

1 wrongful convictions for every reason that you  
2 mentioned. Not only because an innocent person goes  
3 to jail, but also because someone else is still out  
4 there in the community. So, we can step back another  
5 year. We can go to 2022: 5,700 cases, 7,200 photo  
6 arrays. Okay, but when you look at the lineups, 17  
7 cases, 24 lineups. So those numbers have been  
8 steadily diminishing. I don't know what they're going  
9 to look like in the future, but in regards to  
10 something like enacting a policy for double-blind for  
11 lineups, we're always willing to have a conversation.  
12 That's why we are here today. We want to be able to  
13 have an open and engaged dialogue about this, and so  
14 that's certainly something we can bring back, but  
15 there's many, many stakeholders that have to weigh in  
16 on something like this, so I can't, you know, give an  
17 official position, but we can certainly talk about it  
18 and bring it back. I hope that answers the question.

20 CHAIRPERSON SALAAM: Absolutely, and I  
21 appreciate the fact that we actually are at this  
22 particular point in time really aligned. What I mean  
23 by that is that, you know, I think about statements  
24 like the Mayor saying we are graduating the next  
25 guardians of society. I take exceptions to that,

1  
2 because for the Department to in many cases utilize  
3 their position to be a position where they add value  
4 to the community, where they are actually trying to  
5 do the work. You know, we heard about other officers  
6 in the past that have done tremendously horrible  
7 work, and of course, we know that the Police  
8 Department has been broad brush-stroked by that  
9 horror. I've also met officers who have done  
10 tremendous work, and I have family members who are  
11 officers as well, and so I appreciate that particular  
12 part. I was wondering what circumstances or  
13 particular procedure would be utilized in terms of  
14 what we're talking about as well?

15 : Just a little bit of clarification.  
16 Can you-- what exactly do you mean? What procedures  
17 would be used during what?

18 CHAIRPERSON SALAAM: Well, we've been  
19 talking about photo arrays, but I'm thinking  
20 specifically about lineups in general.

21 CHIEF HENRY: Like I stated earlier a  
22 little bit, the lineup procedure itself, a detective  
23 can't just decide they got to do a lineup. They have  
24 to get authorization from a supervisor. The  
25 supervisor has multiple steps and layers that they

1  
2 have to go through. They have to assure that it's  
3 done properly. They have to ensure that the correct  
4 paperwork is done. They have to assure that if it's  
5 done in a appropriate facility. They have to keep  
6 the witnesses separated, obtain translators if  
7 needed, and they observe the entire process. You  
8 know, it's-- defense counsel is allowed to be present  
9 and can make suggestions, reasonable suggestions to  
10 the lineup. For instance, you know, the clothing  
11 issue that we spoke about. Maybe the height is a  
12 little bit weird. Can they sit down? Things of that  
13 nature. If there's a discrepancy, we get our legal  
14 bureau involved and they work it out with a lawyer,  
15 and in many cases the Assistant District Attorney  
16 that's handling the case is also present for the  
17 lineup. So, you know, that's some of the steps that  
18 we take to assure that it's done properly. The vid--  
19 the lineup itself, a photograph is taken of the full  
20 lineup to memorialize it. You know, certainly we can  
21 discuss the double-blind procedure that you're  
22 recommending. You know, I-- it falls right into what  
23 we're discussing with photo arrays. It's a very  
24 interesting aspect that I find-- I find that part  
25 very interesting.

1  
2 CHAIRPERSON SALAAM: You know, as I sit  
3 here, I also have many hats in the community. one of  
4 those hats is that I sit on the Board of the  
5 Innocence Project, and the work that we've done kind  
6 of guides me in terms of asking questions, like are  
7 there any procedures that the NYPD is putting in  
8 place right now to review-- I kind of almost want to  
9 say all of the cases that have been adjudicated so  
10 far. And the reason why I say that is because as you  
11 can imagine, as I was sworn into office I also  
12 received hundreds if not thousands of phone calls  
13 from people that are in prison right now. My staff  
14 receives so many letters, and we're trying to figure  
15 out how do we address this. So many people are  
16 telling us, "I like you, I'm in prison for a crime  
17 that I didn't commit." And of course, some it  
18 involves DNA. What I found is that people in prison  
19 who are actually guilty, they say to themselves, man,  
20 I just got caught. But the ones who are not guilty  
21 always maintain their innocence, always echo that.  
22 so I'm wondering is there a process-- and I know that  
23 they have conviction interrogating units and things  
24 of that nature from the DA's office, but from the  
25 patient itself trying to make sure in fact that no

1  
2 one goes to prison for crimes that they did not  
3 commit. And I know that there's things that we're  
4 doing today, and just from, you know-- this is going  
5 to be 35 years later for me, April 19<sup>th</sup>, 1989, and  
6 that's a long period of time in terms of going back  
7 to verify in fact that every single person that is  
8 there is there rightly or those who are not are  
9 released. Because like I said-- and I'll end on this  
10 part. You know, with the Innocence Project work, in  
11 New York City alone there have been hundreds of  
12 people that have been released through the efforts of  
13 the innocence project through DNA evidence, and when  
14 I think about the Innocence Networks around the  
15 nation, thousands of individuals through DNA evidence  
16 have been released.

17 UNIDENTIFIED: So I think we're going to  
18 be saying a lot up here the important part that DNA  
19 plays. I think Innocence Project is at 63 percent or  
20 so cases exonerated by DNA, but also in the role that  
21 it does in helping to make sure that the right person  
22 on God forbid a sexual assault case is brought to  
23 justice. But in regards to your question about what  
24 we are doing, I think there's three prongs. I think  
25 the first prong is the hand-in-hand work that we do

1 with the Conviction Integrity Review Unit of the DA's  
2 offices. They want to review cases, and we want them  
3 to be able to review cases, because we need to make  
4 sure we are on the right side of this. And so when  
5 they ask for records, we could say go get a subpoena,  
6 which you can't get unless there's litigation. We  
7 could say FOIL it. We don't' do that. We work hand-  
8 in-hand with them to make sure they get all the  
9 records they need. Cold case files 20 years ago, we  
10 produce those. We want to make-- this is important  
11 to us. We want to get this right. So that's factor  
12 number one. Factor number two, we have a lot of  
13 mechanisms internally that give oversight to the  
14 investigative process and the work that the officers  
15 themselves are doing. You have supervisors. You have  
16 integrity control. You have higher level chiefs.  
17 Everybody's reviewing. And so there's always eyes on  
18 these things internally. Then I think the third  
19 factor is-- I heard what you said that you weren't  
20 ID'd in the lineup, and yet conviction anyway, and I  
21 do just want to say that I think there has been a C  
22 change in the public understanding, as well as the  
23 amount of scrutiny that the defense, the prosecution  
24 and the bar themselves puts on things now. And so I  
25

1  
2 feel like you have multiple layers of oversight. One  
3 of the most important being the DA's themselves are  
4 going to be like, this-- no. This is not-- the whole  
5 video interrogation is recorded, and so if there was  
6 a mistake or a problem or something wasn't recorded,  
7 that's a basis for saying we're not going to do this.  
8 So, and we welcome the scrutiny. I think it's  
9 because we take pride, and I shouldn't speak--

10 CHIEF HENRY: Yeah, if I may, just going  
11 back to the way that the cases are reviewed. You  
12 know, previously cases were paper. They were kept in  
13 a folder and the lead detective would have that  
14 folder in his desk and it was inaccessible to  
15 anybody. That detective had that case, and quite  
16 frankly could put anything he wanted in there that  
17 was involved in the case. What we have now is an  
18 electronic case management system that's done online.  
19 Everything is done electronically. So there's--  
20 everything is time stamped. Everything is done in  
21 real time. everything is accessible to multiple  
22 layers of supervision in the NYPD, but not only that,  
23 the District Attorney's offices also have access to  
24 our electronic case management system, so they can go  
25 in and look at what the progress of the case is or

1 what steps might have been taken wrong or right.  
2 They can then question. As far as my level, I do  
3 case reviews constantly. The cases are reviewed for  
4 CompStat. The cases are reviewed for BoroughStat  
5 [sic], Spikestat [sic], DomStat [sic]. They're  
6 always being reviewed, and like I said, everything is  
7 timestamped. It's done in chronological order and  
8 it's there to be reviewed by the District Attorney's  
9 office. All video interrogations are forwarded to  
10 the District Attorney via this electronic management  
11 system. All body-worn camera that's added to the  
12 case is forwarded to them. They can watch it in real  
13 time. They don't have to go digging through it. We  
14 have transparency with that. We give that to them.  
15 If we do see that a detective is struggling-- I'm not  
16 just talking, you know, a wrongful convictions, but  
17 in any case we can go back and review the 10, 15, 20  
18 pervious cases to see is there a pattern of  
19 misconduct, or if there's just a pattern that the  
20 detective needs some training, to see what's going on  
21 with it. So we provide all of that. Then add on top  
22 of that, everything that we do once an arrest is made  
23 immediately goes to discovery. The defense attorney  
24 is provided everything that we have.  
25

1  
2 CHAIRPERSON SALAAM: I appreciate-- I  
3 appreciate what you're saying and what you've said.  
4 I'm concerned specifically because as mentioned, the  
5 Central Park Jogger case is a case that was very  
6 front ne center. The video interrogations weren't--  
7 the full [inaudible] video interrogations before the  
8 individuals who actually made those false confessions  
9 were not recorded from the beginning all the way  
10 through, and the most egregious acts, Corey Wise made  
11 multiple false statements. I'm wondering because I  
12 know you've said that these procedures are in place  
13 to do things, but I'm wondering, my-- I guess my  
14 concern is this. The detectives that interrogated us  
15 were members of Manhattan North Homicide Detective  
16 squad. As been said, this detective squad was such  
17 an elite unit that you couldn't even apply to become  
18 one of those detectives unless you had 20 years of  
19 experience eon the job, and I think about 20 years of  
20 experience, that's makes a person an expert, right?  
21 But yet in the Central Park jogger case as the  
22 example that I'm involved in or was involved in, you  
23 know, there was so many things that went wrong. And  
24 I know that these are procedures that we're talking  
25 about that are in place now. My concern is not just

1  
2 also from the now, but also from the past because  
3 there's so many people that are still reaching out to  
4 our office to get, you know, justice if you will.

5 CHIEF HENRY: And we're committed to  
6 helping with that. Like I said, we don't refuse any  
7 requests from any of the wrongful conviction units  
8 from any of the District Attorneys' office, nor from  
9 the eastern or southern district. We're more than  
10 willing to help. We give them every resource that's  
11 available to us to make that happen. I said, we do  
12 not want wrongful convictions. We do not-- we want  
13 to catch the right person. And you brought up the  
14 perfect analogy. If the wrong person's in the jail,  
15 the right person is still out there committing  
16 crimes, you know, against the community, and that's  
17 something that goes completely against our core  
18 values. We're here to protect life. We're here to  
19 protect people from crime today, and if by some  
20 mistake that was made inadvertently on purpose, a  
21 forensic mistake, we have to clear that up. We have  
22 to get this right.

23 CHAIRPERSON SALAAM: Well, you know, just  
24 as an-- for this particular part for me. Worst part  
25 about our story, worst part about the case itself is

1  
2 that many of the laws that related to juveniles in  
3 New York and also throughout the nation were changed  
4 because of the Central Park jogger case. They said  
5 look, these are the poster child of deviants. These  
6 individuals right here represent where we are in a  
7 America, and therefore, we need to change the laws so  
8 that we can adjudicate these individuals as adults at  
9 lower ages. And I know a lot of that stuff is  
10 changing, but much of the laws that were created as  
11 it relates to what happened with us never were  
12 changed. There's a lot of efforts that we're trying  
13 to fix that now. And the worst part is that-- and I  
14 don't want to sound cliché, but you know, there was a  
15 speedy method that convicted us, a speedy method that  
16 sent us to prison. There was no speedy method that  
17 made us whole.

18 COUNCIL MEMBER HOLDEN: Thank you all for  
19 your testimony, and I just want to touch base of the  
20 Department today, detective squads today. For  
21 instance, I'll give you my precinct, the one that I  
22 represent 90 percent of. They used to have 20 squad  
23 detectives in the squad. Now they have nine. So,  
24 Chief, there are a lot-- obviously, with your  
25 testimony there's a lot more to do as a detective.

1  
2 Can you talk about the work load that our detectives  
3 are facing, because that should have been a topic of  
4 this hearing, because I'm hearing some precincts have  
5 five-- one detective might have 500 cases. How in  
6 the world could you investigate on a level, you know,  
7 world class level with 500 cases per year?

8 CHIEF HENRY: It's definitely a citywide  
9 problem. It's not isolated to your command. This is  
10 a-- it speaks to a bigger picture of recruitment and  
11 retention. As we have our experienced detectives and  
12 members on patrol retiring, we're not backfilling  
13 them fast enough with new candidates. You know, the  
14 procedure for itself just to even get into the  
15 Detective Bureau is obviously a strenuous one. We  
16 want the best of the best, but add in to the fact  
17 that the pool-- patrol used to be our pool that we  
18 choose from, and we have a very limited pool now  
19 based on staffing levels, because of recruitment and  
20 retention.

21 COUNCIL MEMBER HOLDEN: So, and again,  
22 what you have to do is probably-- 30 years ago, 40  
23 years ago, we didn't have the technology certainly  
24 that we have now, but now there's more demands on the  
25 individual detective. Like you mentioned, they have

1 to get approval from supervisors to do this, do that.  
2 Especially now, we have to comply with discovery  
3 laws. You know, your testimony, all of you, it's  
4 amazing. You came prepared and it shows in your  
5 answers. But can you discuss how the Department  
6 navigates complex requirements of discovery  
7 particularly with handling or sharing video, metadata  
8 or to ensure transparency and accountability?  
9

10 UNIDENTIFIED 2: Good morning, Chair  
11 Salaam, Council Members. So, over the course of the  
12 last however many years, four or five years or so  
13 since criminal justice reform-- that includes bail  
14 reform and discovery reform-- the Department has  
15 dedicated, you know, a tremendous amount of resources  
16 to meet the burdens and the requirements of discovery  
17 laws pursuant to 245. That's both technological  
18 advances in addition to dedication of resources to  
19 comply with discovery in order to have a viable or a  
20 successful prosecution. So first and foremost, when  
21 we speak about technology, we've automated systems  
22 and it's become a strictly digital transferring of  
23 discovery to our local prosecuting agencies, five  
24 District Attorneys' offices, Special Narcotics, and  
25 the Law Department Family Court Division. What I

1 mean by that is, everything is uploaded centrally to  
2 our system and then transferred over to the relative  
3 prosecuting agency. There's an ongoing dialogue  
4 between NYPD and the local prosecuting agencies with  
5 respect to this. We have met with the IT specialists  
6 to synchronize the systems so that they can receive  
7 it in a timely, effective, and neat matter. Now,  
8 this is primarily how it works. Materials are  
9 memorialized, documented, preserved, and transferred.  
10 Are there scenarios where local prosecutors have  
11 difficulty in obtaining certain discoverable  
12 materials that exist? There are and there are  
13 policies in place with respect with how to go about  
14 this. Department-wide policy is that the arresting  
15 officer is responsible for the transfer of all  
16 discoverable materials. There are scenarios where  
17 the arresting office may be out or the arresting  
18 officer may be on vacation or the District Attorney  
19 or the prosecuting agency may need that material in a  
20 more timely manner than the arresting officer is able  
21 to provide. There are citywide contacts provided to  
22 our local prosecutors within each command as an  
23 escalation method from the arresting officer, and in  
24 addition to designated discovery liaisons within the  
25

1  
2 precincts and commands, there are centralized  
3 discovery liaison units embedded in the local  
4 prosecuting offices that assist with proactively more  
5 complex cases that involve discovery and then also  
6 any request that the DA's have where they were unable  
7 to obtain that discovery in the earlier methods that  
8 I disclosed. So in sum, there are resources  
9 dedicated both, you know, whether it's a uniformed  
10 member of the service or the technological  
11 advancements and the overall facelift of the  
12 infrastructure over the past however many years, but  
13 again, that ongoing dialogue between the District  
14 Attorney's office and the Police Department will  
15 continue to further develop additional enhancements  
16 for more a seamless transmission of discovery.

17 COUNCIL MEMBER HOLDEN: Chair, can I just  
18 follow up on something? Just I had an incident when  
19 I first got elected where somebody threatened to bomb  
20 my house, let's say, and it was, and detective on the  
21 job came over with the computerized lineup or the  
22 photo array. It was too good, because you know,  
23 heavy-set bald man, white man, you know, with a  
24 double-chin let's say. I got every one of those on  
25 the photo array looked identical. It looked like the

1  
2 same person. Now, that could be a problem, because  
3 the way the computer does it, and nobody could do  
4 anything that change that, it could come up with  
5 people that look alike, obviously, and they do that.  
6 That is a problem when you're the witness and you're  
7 looking at somebody from 100 feet away. So, how do  
8 you address that, other than like you said, the real  
9 line up, the traditional line-up? But what do you do  
10 in that case when the computer's too good?

11 UNIDENTIFIED: Well, I mean, here's the  
12 way I would put it. I'm not sure we-- we care about  
13 the integrity of things. We want to get it right,  
14 and so I'm not sure we see it as a problem to make  
15 sure that the witness is able to confidently say  
16 right, that's the guy. We want to have faith--

17 COUNCIL MEMBER HOLDEN: [interposing] I  
18 know, but there -- where the person-- I swore, and  
19 I'm a visual person, I'm in the arts. I thought it  
20 was the same person. You got the same-- you got three  
21 images or four images of the same person here. So  
22 there are cases-- I mean, I did speak to enough  
23 detectives when this system was changed, by the way--  
24 you know, we kind of did away with the traditional  
25 line-up that they were frustrated because the

1 witnesses couldn't really pick out that person  
2 because they looked too identical. So there-- you  
3 know, I know what I saw. I saw, you know, somebody  
4 pulling away from my driveway and I saw it from, you  
5 know, 75 to 100 feet. So I had an idea of, you know,  
6 what he looked like, and I described it. Same  
7 person, it looked like the same person.

9 UNIDENTIFIED: Gotcha [sic]. So, I  
10 guess there's two points to that real quick. Number  
11 one, under the law if there's like a no-hit, which is  
12 where the witness says, I can't tell, you can  
13 administer a photo array again later, number one.  
14 Maybe the witness was having a bad day or whatever,  
15 right? Number two, we also have-- back in the day--  
16 witness ID was very important before the advent of  
17 all this other technology we have, right? So we've  
18 got-- maybe nowadays there'd be five Ring-- there  
19 would be five cameras in the neighborhood, right,  
20 showing the person--

21 COUNCIL MEMBER HOLDEN: [interposing]

22 Yeah.

23 UNIDENTIFIED: pulling away or walking  
24 up. We have cell site technology. We can do search  
25 warrant requests to see where that person's GPS data

1  
2 says. And so even-- ultimately the DA's are the  
3 arbiters of this, but even in the case where the  
4 witness wasn't 100 percent certain, we have all these  
5 other things we can use to build a case and present  
6 it with confidence, and if I said anything wrong,  
7 please, please correct me.

8 COUNCIL MEMBER HOLDEN: Thank you.

9 CHAIRPERSON SALAAM: Thank you.

10 COMMITTEE COUNSEL: Next we'll hear from  
11 Council Member Stevens followed by Paladino.

12 CHAIRPERSON SALAAM: And I just wanted to  
13 recognize Council Member Yeger has joined us as well.

14 COMMITTEE COUNSEL: Thank you, chair.

15 COUNCIL MEMBER STEVENS: Thank you.

16 COMMITTEE COUNSEL: Stevens followed by  
17 Paladino.

18 COUNCIL MEMBER STEVENS: Thank you. I  
19 just-- there was something that was just said a  
20 couple times that I just wanted to say that just  
21 wasn't sitting well with me. It was said a couple  
22 times, like, we are under so much scrutiny as NYPD,  
23 but I also just want to note that you guys are one of  
24 the biggest force, and when it's convenient  
25 transparency seems to be scrutiny, when we're

1  
2 actually just looking for transparency. That's been  
3 said a couple times, but I did want to make sure we  
4 clarify that, because I think these conversations  
5 sometimes get tainted because when it's convenient,  
6 it's like oh, we're getting scrutinized, and that's  
7 not what's happening. It's about transparency and  
8 that's all-- being here together to make sure things  
9 are being done equitably, because we know  
10 historically that has not been the case. So I just--  
11 I needed to say that because I heard that way too  
12 many times today. And I have a couple of questions.  
13 I'm going to start one with-- when computer assemble  
14 the photo array, is this done using AI, and have  
15 identifying biases in using that program, has there  
16 been anything identifying biases?

17 UNIDENTIFIED: So, I would have to  
18 double-check about how the technology exactly  
19 assembles it. What I know is that a human being  
20 doesn't do it so there's no taint, there's no bias,  
21 but how the act-- unless you're--

22 COUNCIL MEMBER STEVENS: [interposing]  
23 Well, we know a lot of the AI technology does have  
24 biases, so--

25 UNIDENTIFIED: [interposing] True.

1  
2 COUNCIL MEMBER STEVENS: even if it's not  
3 human, that doesn't mean there's not biases, so I  
4 just want to make sure--

5 UNIDENTIFIED: [interposing] It's made by  
6 people, right. No, I got you.

7 COUNCIL MEMBER STEVENS: Exactly.

8 UNIDENTIFIED: I get that. Trust me, but  
9 I don't want to speak-- we try to prep a lot of  
10 topics so we can come here and are open. That's  
11 something I need to look into.

12 COUNCIL MEMBER STEVENS: Okay. So, if  
13 you-- when you look into that, definitely if you  
14 could send that to the committee staff so we can  
15 start to deep-- dive a little deeper into that,  
16 because I think that that's one of the things that  
17 needs to be talked about, right? Like there are some  
18 biases, and even thinking about, you know, when we're  
19 talking about facial recognition and all those  
20 things, they've been proving that there's been  
21 biases, especially when it comes to people of darker  
22 hues than others. The next question I have is just  
23 around-- it was said that juveniles that are  
24 interrogated, that there's usually a parent or a  
25 guardian or someone are usually there. What

1  
2 percentage of juveniles that are being interrogated  
3 are done with parents, and what's the percentage of  
4 without parents or guardians, or adults?

5 UNIDENTIFIED: so, we wanted to look into  
6 this. I went back to the system we have which is the  
7 Enterprise Case Management System. Ultimately it was  
8 originally designed as a case management system, not  
9 as like a data aggregation technology. So I tried to  
10 run that, or at least I had the people try to run  
11 that, and it's not easily data mined. There's no way  
12 to just be like, boop, like an Excel and press a  
13 button and it spits out every time a parent or  
14 guardian was present. But here's what I can tell  
15 you, that is memorialized. It is annotated in  
16 different places inside the case. It's just not  
17 something where we can go clickity-clack and out  
18 spits the number.

19 COUNCIL MEMBER STEVENS: We don't think  
20 that this is important information to be tracking,  
21 because I think it is important for us to know how  
22 many young people are having conversations with  
23 authorities without an adult supervision there and a  
24 guardian. So if that isn't something we're tracking,  
25 I think that we need to move in that direction and we

1  
2 should be able to go and click a button and get that  
3 information.

4 UNIDENTIFIED: I have no dispute with  
5 that whatsoever. I would love to live in a world  
6 where any time-- in preparation for this, I would  
7 love to--

8 COUNCIL MEMBER STEVENS: [interposing]  
9 Yeah.

10 UNIDENTIFIED: hit beep, boop, and get it.  
11 So that's certainly something we can look into. But  
12 again, just for record, I don't' want to eat your  
13 time, but it is memorialized. It's just not in an  
14 easily [inaudible]

15 COUNCIL MEMBER STEVENS: [interposing]  
16 No, no, no, I hear what you're saying. No, I  
17 understand, you're just saying like it's not as easy  
18 to aggregate, but I think that that's something we  
19 need to get to a place where we are aggregating that,  
20 because we know that young people who've come into  
21 custody and been in contact with authorities are much  
22 more likely to be coerced. So, and are you aware  
23 that in California, Hawaii, Maryland, and Washington  
24 are all states that prohibit interrogations with  
25 minors without providing them with a lawyer or

1  
2 assisting them with-- during their right to remain  
3 silent?

4 UNIDENTIFIED: So, I would have to-- I  
5 was trying to do some research on that. I'd have to  
6 take your word on that. I do know that some states  
7 have indeed done that.

8 COUNCIL MEMBER STEVENS: And do you  
9 think-- do you understand why we're not moving in  
10 that direction, especially if we are not even-- at  
11 this point, I know you said you're keeping track of  
12 it, but we don't have the information to show that  
13 young people--

14 UNIDENTIFIED: [interposing] So, I  
15 wouldn't--

16 COUNCIL MEMBER STEVENS: [interposing] I'm  
17 just saying, just trying to make the comparison with  
18 like-- because we-- you're keeping track of it, but  
19 you're not able to pull the data around these young  
20 people, but it sounds like maybe we should be moving  
21 in the direction where we're having lawyers present.  
22 Go ahead.

23 UNIDENTIFIED: Yeah, thank you. I can  
24 tell you this, a higher percentage of juveniles  
25 invoke Miranda or the right to counsel, than when you

1  
2 compare it to adults. And so at least according to  
3 the numbers I ask--

4 COUNCIL MEMBER STEVENS: [interposing] Do  
5 you have that percentage?

6 UNIDENTIFIED: Yes. Oh, I'm sorry. Hold  
7 on one second. Okay, approximately 35 percent of  
8 juveniles-- this is just '23. This is just 2023.  
9 Approximately 35 percent of juveniles invoked,  
10 whether it be silence or counsel, and approximately  
11 27 percent of adults, in other words 18 years or  
12 older, invoked. So this is something I flagged,  
13 because I thought it was interesting that more  
14 juveniles actually invoked than adults. So, we take  
15 these things very seriously as the chief said. We  
16 want the parent or guardian to be there. We make  
17 very-- we wait hours sometimes for them to show up.  
18 And in regards to the other thing you said, why we're  
19 not doing that? I can't comment on-- there's a state  
20 bill pending or it has-- I can't comment on what it's  
21 status is or why it's moving or why it's not moving.  
22 I don't know.

23 COUNCIL MEMBER STEVENS: Yeah, I mean,  
24 even when we're looking at 35 percent of young people  
25 are invoking, I'm happy some of them are, but that's

1 still a lot, right? And just understanding that when  
2 young people are there, them not invoking to me is--  
3 it doesn't sit well with me in the sense that a young  
4 person could be easily intimidated and say what they  
5 need to say. I mean, we know this, and so I think  
6 even a-- as we're moving forward, how are we making  
7 sure that young people are protected in this way and  
8 thinking about how we are making sure not only are  
9 parents present, but lawyers are present, because  
10 even parents can sometimes not understand the  
11 processes and say some things. And so thank you for  
12 your time, and thank you--

14 CHAIRPERSON SALAAM: [interposing] Can I  
15 just follow up with that, too? Because one of the  
16 challenges I think that has been identified by  
17 Council Member Stevens is the fact that other places  
18 like Hawaii, California, Maryland, Washington State  
19 they are prohibited, specifically the interrogation  
20 of minors without assisting them with a lawyer or  
21 someone, somebody that's going to advocate for them.  
22 And I'm wondering would the NYPD support a similar  
23 policy in New York?

24 UNIDENTIFIED: So, ultimately our  
25 position on that is this; we are responsible to many

1 parties in the City. Not only are we responsible to  
2 the civil rights as enshrined by the Constitution and  
3 all the case law of the suspect, but also to the  
4 victim and/or the victim's family. So what does that  
5 mean, right? What that means is we're trying to be  
6 the center of the seesaw that's respecting both  
7 sides, and so we feel that's a decision to be best  
8 left to the family, for them to make, for the parent  
9 to come down, and if they want to invoke and waive,  
10 so be it, done, end the conversation. But that's why  
11 we support-- ultimately, at the end of the day, we do  
12 see juveniles do commit some serious crimes, and so  
13 there's that tension, and we're trying to find the  
14 right balance between those two things.

16 CHAIRPERSON SALAAM: I'm concerned  
17 specifically because when I think about again, the  
18 Central Park jogger case, there were parents that  
19 were there in some instances who knew nothing about  
20 the law at all, you know. In one instance, one of  
21 the member's family had to go home because she was  
22 there so long she needed to get her medicine. So she  
23 left her daughter to advocate for her and for her  
24 brother. You know, when she took over-- the worst  
25 part about that particular situation in terms of

1 protection is that she was basically told, you know,  
2 just go along with the process by the brother, right?  
3 Specifically, Kevin Richardson. Kevin Richardson  
4 said, look, they told me I can go home, if I just say  
5 this. I'm just trying to go home. And she said,  
6 what are you talking? You did this? He said, I  
7 didn't do this, but just sign the document so that I  
8 can get out of here. You know, and the worst part  
9 about it is that when it comes to the protections of  
10 the most vulnerable individuals, our young people,  
11 you know, a lot of times we know that there has been  
12 testimony-- I think this may be changing, but there's  
13 been testimony that NYPD is actually allowed to lie  
14 to individuals to get them to pull the confession out  
15 of them and things of that nature. But I think the  
16 advances that places like Hawaii, California,  
17 Maryland, Washington State have done really should be  
18 applied. It should be applied to New York. Because  
19 I don't want a situation where a parent is coming in  
20 and saying we're waiving our rights, or a child is  
21 saying we're waving our rights, right? And I think--  
22 and this is a bit of satire, right? The fact that  
23 it's kind of an order, you have the right to remain  
24 silent, and if you don't remain silent, anything you  
25

1  
2 say can and will be used against you in a court of  
3 law. I think that is-- that's very telling, right?  
4 You have to the right to this, you have all of those  
5 things. If I waive my rights as a child or as an  
6 adult who doesn't truly understand the implications  
7 of why I should never waive my rights, all of the  
8 things should be protected with an attorney or an  
9 advocate who truly understands what's going on so  
10 that we make sure that a person is not convicted, or  
11 you know, as Council Member Holden demonstrated very,  
12 very clearly and profoundly, and unfortunately for a  
13 person with experience, you know, how faulty witness  
14 identification is. You know? So I just wanted to  
15 kind of put that there as a statement.

16 COMMITTEE COUNSEL: Thank you, Chair.  
17 We'll turn to Council Member Paladino, and then we'll  
18 do a second round of questions if anyone has any  
19 additional questions they'd like to ask.

20 COUNCIL MEMBER PALADINO: Good afternoon.  
21 I want to thank you all for being here. I especially  
22 want to thank Joseph Kenny, the Chief of Detectives.  
23 The New York City Police Department and all of you  
24 gentleman sitting here at the dais, once again  
25 completely and ultimately prepared for what was going

1 to be placed in front of you, and I thank you.  
2 Because once again, you've come under scrutiny again.  
3 The year is 2024. It's not 1980. You've made that  
4 very clear. You've come a very long way. Our  
5 department has come an extremely long way. We're no  
6 longer dealing with paper. We are dealing with  
7 electronic filings and everything on a spreadsheet.  
8 You guys know your job. Now, my question lies  
9 within, you know, what about those that are  
10 wrongfully released, that are guilty because we don't  
11 have enough evidence. What happens to those people?  
12 I also have another question about how are we dealing  
13 with the loss of our police department that you guys  
14 have suffered a great loss, a tremendous loss, over  
15 2,000 in the year 2023? I also want to be clear and  
16 I just want to reiterate what Joseph Kenny has said,  
17 to be clear, even one wrongful conviction is too  
18 many. It's a sickening reality when we do find out  
19 that someone has been wrongfully convicted. However,  
20 I think in the year 2024 we have reduced that by a  
21 great number, and if you could supply that with the  
22 then and the now in our figures. Would be helpful to  
23 us as well to understand. Are you able to do that?  
24

1  
2 CHAIRPERSON SALAAM: Can I ask a question  
3 as well. Council Member said wrongfully released,  
4 and I just want to get some clarity on what that  
5 means. Because I know wrongful convictions is  
6 something where a person actually is--

7 COUNCIL MEMBER PALADINO: [interposing]  
8 well, there's a lot of people who are brought in that  
9 are guilty and are released because there's no  
10 evidence to hold them due to the discovery laws. So  
11 I'm just curious. You know, there have been a great  
12 many wrongfully convicted, but there's also been a  
13 lot of people who have been released and they are  
14 indeed guilty. So I just want to know how--

15 CHAIRPERSON SALAAM: [interposing] so, not  
16 that they've been adjudicated.

17 COUNCIL MEMBER PALADINO: I just-- I'm  
18 asking them.

19 CHAIRPERSON SALAAM: Oh, no, I was asking  
20 for clarity, because when I heard--

21 COUNCIL MEMBER PALADINO: [interposing] I  
22 just clarified.

23 CHAIRPERSON SALAAM: the word wrongfully  
24 released, I was--

1  
2 COUNCIL MEMBER PALADINO: [interposing] I  
3 just clarified.

4 CHAIRPERSON SALAAM: I was not-- it wasn't  
5 clear.

6 COUNCIL MEMBER PALADINO: Let the police-  
7 - let who's sitting in front of us clarify that.

8 CHAIRPERSON SALAAM: So let me-- maybe I  
9 can direct this to you all as well, because if this  
10 is actually something that happens, that people are  
11 wrongfully released, I'm wondering what that means.  
12 Because I know wrongful convicted is you've been  
13 adjudicated, you went to prison, something happened,  
14 and they found out, damn, we did-- we got the wrong  
15 person. Whereas, wrongfully released is kind of a  
16 little bit unclear to me, because I thinking about  
17 Kalief Browder [sp?] as an example. You know, goes  
18 to prison, is waiting, years go by. He then is  
19 released, and then you know, a documentary is made  
20 for him to really talk about the issues, but he  
21 ultimately took his own life because of the-- he  
22 couldn't turn the trauma off. I just was-- you know,  
23 in terms of clarity, is there such things as  
24 wrongfully released?  
25

1  
2 CHIEF KENNY: What we see is quite often  
3 what will happen during the course of an  
4 investigation, we will make an arrest. The Police  
5 Department will feel that we have enough probable  
6 cause based on the evidence that we put together,  
7 evidence-based prosecution, along with other things,  
8 using technology, using forensics. We will make the  
9 arrests. There are instances where we will present  
10 the facts of the case to the District Attorney's  
11 office who will then maybe perhaps require one or two  
12 more things and would decline to prosecute the case,  
13 or defer, and then that person would be released. We  
14 work with the District Attorney's office on high-  
15 profile cases. We usually coordinate with them to  
16 decide the threshold of probable cause. We usually  
17 don't make an arrest without their assistance or  
18 their coordination with us. But in cases where there  
19 could be some discovery issues where-- decline to  
20 prosecute will be made by the District Attorney's  
21 office.

22 COUNCIL MEMBER CABÁN: Is it alright,  
23 Chair?

24 CHAIRPERSON SALAAM: Yes, absolutely.

25

1  
2 COUNCIL MEMBER CABÁN: And I just wanted  
3 to add--

4 COUNCIL MEMBER PALADINO: [interposing]  
5 Wait, hold on a minute. Hold on a minute. Hold on.  
6 Reset my clock. Make sure I'm at the proper time,  
7 and no one can talk over me. I won't allow it. This  
8 has happened again, again, and again. Stop. I have  
9 questions here, and I have a Police Department  
10 sitting in front of me that is incredibly credible  
11 and prepared for today. So while they are once again  
12 undergoing what I consider being cross-examined, you  
13 guys have brought us very much up to-date. The year  
14 is 2024. I don't want to hear about the 1980s. I  
15 don't want to hear about 2015. I want to know  
16 present day how you're working and what you guys are  
17 doing to prevent this from ever happening again, and  
18 you've laid it out very, very nicely. So, if you  
19 could please supply me and the panel here with what  
20 we have today and what we have in how many unsolved  
21 cases do we have?

22 CHIEF KENNY: For the number of cases, I  
23 could just speak for homicides last year. We had a  
24 clearance rate of 70 percent of our homicides in  
25 2023. We had a 47 percent clearance rate in our non-

1  
2 fatal shootings, which was the highest clearance rate  
3 since we've been keeping track of that data. So we  
4 are closing our cases with positive results many,  
5 many occa-- more often than not.

6 COUNCIL MEMBER PALADINO: very good. Like  
7 I said, thank you very much. I got thrown totally  
8 off track here, but that's alright. We know the kind  
9 of job you're doing. We appreciate your hard work,  
10 and you can't get any more explicit than what you  
11 laid out here for us today and what you laid out for  
12 the public here today, and I don't think we're going  
13 to see very many more wrongful convicted, because of  
14 the evidence, because of the way you pursue it. One  
15 thing I would like to say, if we could to back to the  
16 lineups and in-person, the sooner the better. That  
17 certainly does help. And that's all I have to say.  
18 Thank you very much.

19 CHAIRPERSON SALAAM: Thank you. I wanted  
20 to just acknowledge also that we've been joined by  
21 Council Member Carmen De La Rosa.

22 COMMITTEE COUNSEL: Thank you, Council  
23 Member. We're now going to have a second round of  
24 questions for the Council Members who want to ask.  
25 We're going to first turn to Council Member Cabán,

1  
2 and then any other members, please make yourself  
3 known.

4 COUNCIL MEMBER CABÁN: thank you. I have  
5 a lot of questions, so I'm going to try to be brief,  
6 and I'm going to ask for y'all to be as direct and  
7 concise as possible as well. You testified earlier  
8 that, like, you want to get it right, correct, and  
9 that you are really good about coordinating with the  
10 DA's office, that you don't require them to FOIL  
11 information, to subpoena, but that cooperate because  
12 you want to get it right, correct?

13 UNIDENTIFIED: Well, because we think  
14 it's important to have a partnership with them on  
15 this important issue, yes.

16 COUNCIL MEMBER CABÁN: SO, you want to be  
17 an open book for them, right?

18 UNIDENTIFIED: I don't know what that  
19 means?

20 COUNCIL MEMBER CABÁN: Well, you're  
21 saying that you cooperate with them because you want  
22 to get it right, and so you don't ask them to FOIL or  
23 subpoena, but when they ask you for things, you give  
24 it to them.

1  
2 UNIDENTIFIED: As I understand it, when  
3 they ask us for the records, we make sure to provide  
4 them with the records, even if it's an old case or a  
5 cold case.

6 COUNCIL MEMBER CABÁN: So you have a  
7 system called Finest [sic]. I think it's also called  
8 Forms, correct?

9 UNIDENTIFIED: Yes, there is a data  
10 management system called Finest [sic].

11 COUNCIL MEMBER CABÁN: Yes. And so when  
12 you have-- and you have arrest reports and other  
13 documents that are put there, there's another data  
14 management system that it contains like, DD5's [sic]  
15 and other things. You have a couple of data  
16 management systems, but I want to focus on Finest for  
17 a second.

18 : Finest is the trunk of the tree, and  
19 the other ones come off--

20 COUNCIL MEMBER CABÁN: [interposing]  
21 Yeah, right, I want to focus on Finest for a second.  
22 So, you don't allow personnel from the District  
23 Attorney's offices to have access to view and  
24 retrieve documents from that Finest system, correct?

25 : So, again, Council Member--

1  
2 COUNCIL MEMBER CABÁN: [interposing] It's  
3 yes or no questions.

4 : The do not have direct access.

5 COUNCIL MEMBER CABÁN: Okay, and so  
6 what's the reason for limiting the DA's availability  
7 to view these internal NYPD systems so that they can  
8 search the systems and provide complete and timely  
9 discovery?

10 : The records management systems which  
11 we maintain where our discovery ultimately lies  
12 before it's transferred to the District Attorney's  
13 offices, are not compartmentalized. So what that  
14 means is yes, there's data and material relating to  
15 an arrest--

16 COUNCIL MEMBER CABÁN: [interposing]  
17 Right.

18 UNIDENTIFIED: that lives on that system,  
19 but there's also a vast amount of materials that have  
20 no relation to an arrest, therefore--

21 COUNCIL MEMBER CABÁN: [interposing] Sure.

22 UNIDENTIFIED: not discoverable under the  
23 law, and therefore--

24 COUNCIL MEMBER CABÁN: [interposing] But  
25 there are ways to put up firewalls. There are ways

1  
2 to do search functions. You just said that you want  
3 to be for-- you want this to happen fast. You want  
4 prosecutions to be taking place. There's all this  
5 talk about how we can't discovery in time, but you're  
6 not letting them in to get this stuff. Does the NYPD  
7 ever redact officer disciplinary records or reports  
8 before they're provided to the DA's?

9 : Disciplinary records?

10 COUNCIL MEMBER CABÁN: Yeah.

11 : There are circumstances where law  
12 dictates that we redact records prior to disclosing  
13 it to an outside party such as the District  
14 Attorney's Office.

15 COUNCIL MEMBER CABÁN: Why?

16 UNIDENTIFIED: Records-- certain records  
17 much be redacted prior to turning over to a third  
18 party?

19 COUNCIL MEMBER CABÁN: Why?

20 UNIDENTIFIED: There's civil rights law.  
21 There's Family Court Law.

22 COUNCIL MEMBER CABÁN: Explain it, why?  
23 Why? What is the basis for doing that, when that  
24 disciplinary record tied to that officer who is  
25 likely the arresting officer, who likely generates

1  
2 the DD5's in all of the evidence that then gets  
3 handed over to the DA that they rely on for  
4 everything from an indictment to a bail request to a  
5 trial, right, to prove a case beyond a reasonable  
6 doubt where a person's liberty is at stake, why?

7 UNIDENTIFIED: Council Member, I'm  
8 hearing you, however,--

9 COUNCIL MEMBER CABÁN: [interposing]  
10 Because that case gets thrown out. I could-- let me  
11 give you a scenario, right? In my almost decade of  
12 practice as a public defense attorney, I had a  
13 situation where I had a client. The client, we got  
14 what we thought was all the discovery. A year later,  
15 this person lost their housing, they lost their kids.  
16 They were facing losing everything. We get to trial.  
17 It's time to do the suppression hearings, and the DA  
18 hands over disciplinary records of the officer that  
19 were held back by the NYPD, and the judge calls us up  
20 and says get rid of this case. There's no way you  
21 can put this cop on the stand. The damage has been  
22 done. Why is it that the NYPD redacts the  
23 disciplinary reports before they're provided to the  
24 DA? Why isn't that given from jump when an  
25 adjudication begins?

1  
2 UNIDENTIFIED: So, that's an unfortunate  
3 scenario.

4 COUNCIL MEMBER CABÁN: Oh, it's a regular  
5 scenario, but I want to know why. I don't want to  
6 know that it's unfortunate or whatever, I want to  
7 know why.

8 UNIDENTIFIED: NYPD's priority is to be  
9 compliant with the law.

10 COUNCIL MEMBER CABÁN: I thought it was  
11 to get it right.

12 EXECUTIVE DIRECTOR FENTON: It's both.

13 UNIDENTIFIED: Those things often go  
14 hand-in-hand, and Council Member just one other  
15 thing. Let's just be very clear. You were a public  
16 defender--

17 COUNCIL MEMBER CABÁN: [interposing] No,  
18 you answer--

19 UNIDENTIFIED: Wait, no, no. You  
20 understand the difference between redacting and then  
21 not providing. In the scenario you gave--

22 COUNCIL MEMBER CABÁN: [interposing]  
23 Timing is everything, and so I'm-- I want to know why  
24 it's redacted from the beginning, why it's not handed  
25 over, why it's not transparent from the beginning.

1 UNIDENTIFIED: So, you started with the--

2 COUNCIL MEMBER CABÁN: [interposing] And

3 I got my answer, so I'm going to move on. Because I

4 only have 45 seconds left. Another question I want

5 to ask is something that the Chair mentioned,

6 different policies that other places have taken up.

7 So there's a policy that was just enacted in Seattle

8 which would prohibit and require approval for

9 officers from knowingly making false statement and

10 ruses, essentially not allowing officers to lie to

11 people to elicit confessions, whatever it might be.

12 Would you consider adopting a similar policy here in

13 New York City?

14 UNIDENTIFIED: We're always willing to

15 engage and talk about anything in regards to what we

16 think would make better investigative techniques and

17 create better products, convictions, arrest packages,

18 and ultimately at the end of the day we want to make

19 sure that what we're doing is lawful, which you can

20 see throughout all of our procedures.

21 COUNCIL MEMBER CABÁN: Chair, may I ask

22 just one additional question? Does your lab still--

23 and I'm jumping around a little bit it. But does

24

25

1  
2 the-- does your lab still do bite mark analysis  
3 testing?

4 EXECUTIVE DIRECTOR FENTON: No, we do  
5 not. Number one, the-- that's the function of the  
6 Chief Medical Examiner, the medical doctor will  
7 review a bite mark, a forensic odontologist.

8 COUNCIL MEMBER CABÁN: Okay. I just want  
9 to conclude by saying and providing for the record  
10 that you all also testified in response to one of my  
11 colleague's questions about DNA evidence and who the  
12 science is excellent. Another frustration I've had  
13 as a litigator as a criminal defense attorney is that  
14 the scientific community is ignored over and over and  
15 over again when it comes to scientific evidence or  
16 forensic evidence that is admitted in court. They  
17 weigh in, it gets ignored, and as matter of science,  
18 at least half of all wrongful convictions that relied  
19 on DNA testing are attributable to the misuse of  
20 forensic science during the investigation and the  
21 trial. Bite mark analysis which I'm glad isn't being  
22 used as before, but even the way that latent print  
23 are being used, a lot of it is junk science. It's  
24 accepted as valid evidence in criminal cases,  
25 allowing experts to come in, but it isn't accepted by

1  
2 the larger scientific community, and so I think  
3 that's something that the NYPD needs to be much more  
4 responsible around before taking in that information,  
5 giving it to the DAs and then selling it in a court  
6 room to a jury as though it is the gold standard when  
7 it absolutely is not.

8 EXECUTIVE DIRECTOR FENTON: Is that a  
9 question or just a statement? Okay.

10 COUNCIL MEMBER ARIOLA: I just want to  
11 ask one question. We're talking about exonerated,  
12 vacated, wrongful conviction. Can you just clarify  
13 the differences between those three?

14 : So, exonerated, wrongful conviction,  
15 and I'm sorry, what else?

16 COUNCIL MEMBER ARIOLA: Exonerated,  
17 vacated, and wrongful convictions.

18 : So vacated is the official mechanism  
19 by which a court dismisses of the case from the  
20 record. A wrongful conviction is a term of art that  
21 I think means a lot of different things to a lot of  
22 people. I don't think-- you can't go to like Black's  
23 Law Dictionary and say this is what a wrongful  
24 conviction means. But a wrongful conviction could  
25 mean a lot of things, specifically, we no longer have

1  
2 credibility and faith in the case that was initially  
3 done, due to a bunch of reason. Either new evidence  
4 came up, a witness recanted-- because by the way, for  
5 the record, often-- I'm not going to say often,  
6 because I don't have the numbers. But it is possible  
7 that there's a wrongful conviction through no  
8 misconduct of NYPD. I hate that-- that does happen.

9 COUNCIL MEMBER ARIOLA: Correct.

10 : Right? You can have witnesses that  
11 make mistakes. Like, that does happen. But long  
12 story short, it's the DA has lost faith or there was  
13 contrary evidence that was presented, so as a result  
14 within the conviction itself was improper, wrongful  
15 conviction. Exonerated, I don't know, these things  
16 kind of Venn diagram a little bit, but exonerated  
17 basically means we have good faith that you didn't do  
18 it, that it didn't happen. Right? There's a  
19 difference between we don't have faith in the  
20 evidence, and we affirmatively don't think you did  
21 it. Right? And does anybody else want to weigh in  
22 on it, see if got it-- I think that's a lay persons  
23 way of describing that, because it's not like they're  
24 literally defined, I hope at least.

1  
2 COUNCIL MEMBER ARIOLA: I appreciate  
3 that. And I appreciate the fact that the one thing I  
4 wanted to really extrapolate was that it's not always  
5 on the NYPD. It could be on the DA. It could be on  
6 the witness. It could be on anybody who came in.  
7 So, it's not always on the NYPD. and the NYPD  
8 always, or maybe most times, works with the District  
9 Attorney's Office when these cases do come up for  
10 exoneration, vacation, or being vacated or wrongful  
11 conviction, and are standing beside the DAs when  
12 those announcements are made. So it is not the  
13 intention of the NYPD to arrest and convict the wrong  
14 person, because as the Chair has stated, as my  
15 colleagues have stated, because that leaves the  
16 person who committed the crime on the street, and  
17 that's not what you do. It is your job to put away  
18 bad actors, and we appreciate you for doing that.  
19 And we're sorry that you were attacked at some points  
20 today, but I'm so proud that you had all the answers,  
21 the right answers, and I'm so glad to see how far the  
22 NYPD has come to make sure that these types of  
23 incidences do not happen at such a frequency any  
24 more. Thank you.

1  
2 CHAIRPERSON SALAAM: I got to tell you,  
3 I'm definitely very, very inspired by the work that  
4 the NYPD is describing today. You know, it offers us  
5 a way forward that perhaps in the past would not be  
6 possible. I'm wondering though, and I'm thinking  
7 about some of the recommendations that have been  
8 passed down from the National Commission on Forensic  
9 Science. You know, they recommended that we, that  
10 the DOJ labs post their policies, procedures, and  
11 other-- in all three Department of Justice crime  
12 laboratories, the DEA, the ATF, FBI have subsequently  
13 published their quality management systems online.  
14 And I was wondering if the NYPD is willing to do so?

15 EXECUTIVE DIRECTOR FENTON: Well, we  
16 already turned over our SOPs, our Standard Operating  
17 Procedures, our quality management procedures, we  
18 turn that over to the District Attorneys' offices as  
19 part of discovery. So, if I needed to find that  
20 information on a case or anything like that, the  
21 actual procedures, they can get it. We turn that over  
22 as part of discovery. It's readily available.  
23 Similarly with respect to reviews of our forensic  
24 evidence, we are accredited labs. Our labs-- our  
25 NYPD lab is an accredited lab. We work hand-in-hand

1  
2 with ANAB [sic], our accrediting body that certifies  
3 our main lab as well as our latent print section, as  
4 well as our crime scene unit. We are accredited. We  
5 report to the New York State Forensic Commission.  
6 They review our work, so and that's public record.  
7 So any-- there was a criticism of the science such as  
8 latent prints or for that matter, any other procedure  
9 the NYPD uses. It gets reviewed and you know, part  
10 in parcel there are standard operating procedures.  
11 They're readily available pursuant to discovery.

12 CHAIRPERSON SALAAM: Well, the reason why  
13 I'm asking that specifically is I know that we spoke  
14 earlier and heard testimony that it's actually turned  
15 over, but I'm thinking about the difference between  
16 that and actually being, like having that published  
17 online itself.

18 EXECUTIVE DIRECTOR FENTON: I definitely  
19 think that's something we can take into consideration  
20 and possibly recommend it and consider that. If  
21 we're able to do that in terms of technology, then  
22 you know, it's something we'll definitely consider.

23 CHAIRPERSON SALAAM: I think it'd be  
24 really, really helpful, especially because we're the-  
25 - you know, as been said by our Mayor, we're the

1  
2 greatest city in the world, we have the greatest  
3 Police Department in the world, and to make sure that  
4 we really keep those same high standards. You know,  
5 I thinking about myself as it related to the criminal  
6 justice system in the past I was told that I was  
7 going to be seen as being innocent until proven  
8 guilty, and the worst part about my case, although  
9 this wasn't the fault as been described as other  
10 Council Members, of the Police Department themselves,  
11 but it was a so-to-speak trifecta of what the Police  
12 Department investigated, what the media reported, and  
13 then ultimately what the DA began to prosecute. And  
14 I go to tell you, the most hate-- and I'm going to  
15 use that word specifically-- it was vitriol that I  
16 particularly experienced, was not from the  
17 department, the Police Department, but it was from  
18 the media then and most certainly from the DA's  
19 office as they prosecuted us. You know, and so I  
20 applaud the efforts that we are trying to make sure  
21 that we get it right, that we fix things that could  
22 be problematic so that folks don't go to person for  
23 crimes that they didn't' commit. You know, and as we  
24 look at all of the testimony and recommendations, I  
25 think one of the best things that I've heard today,

1  
2 although I know we are not necessarily there yet, is  
3 that we're relying on a lot of the technological  
4 advances to move the needed, and I think about that  
5 because we really need to make sure in 2024 and  
6 beyond that we make the process easier, easier for  
7 you all equal there's so much work that needs to be  
8 done. We don't want folks to be committing crime,  
9 you know, but easier also to make sure that the  
10 integrity of the systems that we are representing are  
11 there. So I want to say thank you. Thank you.  
12 Thank you. Thank you for being here today, for  
13 staying. Thank you for this part of the program. We  
14 are going to close this part, and then we're going to  
15 open it up to the public as well. We hope that you  
16 all stick around to listen to what the public has to  
17 say, and thank you.

18 UNIDENTIFIED: Thank you for your time  
19 everybody.

20 EXECUTIVE DIRECTOR FENTON: Thank you.

21 CHIEF HENRY: Thank you.

22 UNIDENTIFIED: Thank you.

23 CHAIRPERSON SALAAM: so, we will now turn  
24 to the public testimony. We will only be allowing  
25

1 testimony that is on the topic. Thank you. I'm  
2 passing this back to--

3  
4 COMMITTEE COUNSEL: Thank you so much,  
5 Chair. So we're going to begin public testimony. If  
6 you want to testify, please sign up at the back of  
7 the room with the Sergeant at Arms. First, we're  
8 going to hear from Sergio Pava from the New York  
9 County Defender Service. Okay. First we're going to  
10 hear-- First we're going to hear from Sergio De La  
11 Pava from the New York County Defender Service  
12 followed by Bruce Bryan. So, if you two want to come  
13 up to this podium, and then we're going to just  
14 continue calling folks from there. Okay, Bruce Bryan  
15 followed by Jackie Gosdigian, Sarah Chu, Cassandra  
16 Kelly. For folks who are up here, just whatever  
17 order.

18 UNIDENTIFIED: I guess ladies first.

19 COMMITTEE COUNSEL: Ladies first.

20 Whoever wants to go first, sorry. We're all going to  
21 get a chance.

22 JACKIE GOSDIGIAN: Want me to start?

23 We're still morning? Officially, afternoon. Good  
24 afternoon. My name is Jackie Gosdigian. I am  
25 Supervising Policy Counsel with Brooklyn Defender

1  
2 Services. I've been a public defender for over 15  
3 years, and I want to thank the Council and Chair  
4 Salaam. It's an honor to be before you, and we look  
5 forward to working with you and the rest of the  
6 Council. As public defenders we see every day how  
7 New York-- the NYPD's practices do not appropriately  
8 protect New Yorkers from wrongful conviction. In our  
9 written testimony we highlight many concerns about  
10 NYPD policies as they relate to evidence, forensic  
11 science, interrogation, racial profiling. However,  
12 in my limited time I will highlight a few key points.  
13 Timely access to discovery is critical in preventing  
14 wrongful convictions. Much of the information for  
15 discovery comes from law enforcement, and New York  
16 enacted comprehensive discovery reforms in 2019.  
17 However, even though NYPD has spent millions of  
18 dollars on document and case management systems, data  
19 collection and storage products, and partnered with  
20 companies like Microsoft and IBM to build systems to  
21 share collected data including police reports, body-  
22 worn camera, videos, and other digitally collected  
23 evidence, turnover of discovery continued to be  
24 inexcusably delayed. You heard NYPD say that  
25 everything is electronic and that DAs have access,

1 but then when questioned further by Council Member  
2 Cabán they admitted that in fact DAs do not have  
3 direct access to their Finest [sic] system. It's  
4 simply not true. I want to point to a recent court  
5 decision from the Bronx in September of last year.  
6 The court in that case characterized NYPD's refusal  
7 to turn over discovery to DAs as akin to NYPD holding  
8 discovery as ransom, and the judge said that NYPD is  
9 requiring DAs to "jump through a series of NYPD-  
10 crafted hoops to receive discovery." That is what's  
11 really going on. NYPD's data systems are designed to  
12 make the collection and sharing of information quick,  
13 straightforward and simple, and yet, NYPD's  
14 fundamental lack of transparency and failure to turn  
15 over the records to District Attorneys continues to  
16 prevent someone accused of a crime from seeing their  
17 evidence. We call on the City Council to investigate  
18 NYPD's lack of transparency and delays of providing  
19 access to records, documents, data, and video  
20 content. And I'll sum up after this last point.  
21 Errors in forensic analysis are one of the leading  
22 factors in wrongful convictions. You heard Council  
23 Member Cabán talk about the latent print scandal from  
24 2015. Additionally, there was a serious scandal  
25

1  
2 involving OCME where a supervisor conducted the  
3 analysis for two junior analysts on a large number of  
4 DNA cases. He did the actual work and then signed  
5 off for the junior analyst, setting this up for a  
6 process where everyone involved would have in fact  
7 been perjuring themselves. We call on the Council to  
8 demand a full-scale audit of the latent fingerprint  
9 lab and of the OCME. Similarly, in Houston and DC,  
10 this full-scale independent investigation was done.  
11 We believe that it's time for New York to do  
12 something similar. And I'll end by just saying that  
13 we look forward to the opportunity to continue to  
14 work with the Council to prevent wrongful  
15 convictions, to ensure that those wrapped up in the  
16 criminal legal system have free access to zealous  
17 representation, and to invest in our communities  
18 instead of policing them. Thank you very much.

19 CHAIRPERSON SALAAM: Thank you for your  
20 testimony.

21 CASSANDRA KELLY: Hi, good afternoon. My  
22 name is Cassandra Kelly and I've worked as a public  
23 defender for over a decade. I'm currently a policy  
24 attorney with the Criminal Defense Practice at the  
25 Legal Aid Society. On behalf of the Legal Aid

1  
2 Society, thank you for the opportunity to testify  
3 today about our concerns with NYPD practices and  
4 policies that increase the risk of wrongful  
5 conviction. We've submitted written testimony that  
6 goes into greater detail about our concerns and our  
7 proposed solutions to address them, but I'll briefly  
8 address them here. Every case we take on in our  
9 criminal and juvenile practices at the Legal Aid  
10 Society begins with a police encounter with a fellow  
11 New Yorker. That initial encounter and the ensuing  
12 arrest, investigation, plea offers, hearings, and  
13 trials stem from the first moment an officer  
14 approaches a neighbor, a father, a mother, a son, a  
15 daughter, a colleague, and a friend. Too often  
16 police are acting as first responders in situations  
17 that stem from a moment arriving from a mental health  
18 crisis, or from drug use, or simply lack of safe  
19 shelter. Too often, the police are using their  
20 widespread and robustly funded surveillance  
21 technology to sweep our young people into their  
22 precincts for interrogation at the threat of arrest.  
23 Too often, it is officer misconduct and abuse that  
24 results in the apprehension and prosecution of  
25 innocent New Yorkers, and too often, once this person

1 has been arrested and charged, the police do not  
2 share all the evidence they collect during the  
3 investigation process with prosecutors, which impedes  
4 the defense attorneys from conducting a thorough  
5 investigation and evaluating the charges levied.  
6 Despite the billions of dollars allocated each year  
7 to the NYPD, despite the ubiquitous surveillance and  
8 technology that is touted by the NYPD, prosecutors  
9 claim that they are unable to expeditiously obtain  
10 discovery on criminal cases because of their  
11 inability to obtain it from NYPD. Meanwhile, when it  
12 serves the interest of the NYPD, these same hard-to-  
13 get materials-- sorry-- body-worn camera footage,  
14 surveillance video, images of evidence will be posted  
15 on NYPD's social media feeds or released to the press  
16 almost immediately. In case after case at the Legal  
17 Aid Society, we don't receive basic pieces of  
18 evidence like memo books, witness statements, body-  
19 worn cameras, 911 calls, and police disciplinary  
20 records for months and sometimes years after an  
21 arrest. We cross-examine officers and expose their  
22 lies in court, but see no disciplinary outcome. As  
23 public defenders we have long recognized the problem  
24 with unchecked police power and see how it devastates  
25

1 whole communities disrupting and destroying lives.

2 We know another way is possible. We must reinforce--  
3 force reform to reign in the misconduct that too  
4 often leads to wrongful convictions. Thank you for  
5 your time.  
6

7 CHAIRPERSON SALAAM: Thank you for your  
8 testimony.

9 SARAH CHU: Hi, Chair Salaam, Council  
10 Members. Thank you so much for holding this hearing  
11 and for the opportunity to testify today. My name is  
12 Doctor Sarah Chu. I'm the Director of Policy and  
13 Reform at the Perlmutter Center for Legal Justice at  
14 Cardoza Law School. Prior to my current position I  
15 spent 15 years building the forensic policy program  
16 at the innocence project, and Chair Salaam, we have  
17 been deeply enriched by your leadership on the board  
18 there. So I wanted to take my time in the oral  
19 testimony to offer some ideas in response to what Mr.  
20 Fenton said about NYPD's response to forensic science  
21 issues. As Chair Salaam aptly pointed out that  
22 posting quality management documents or policies and  
23 procedures, or forensic testing, it's something that  
24 the FBI, the DEA, the ATF does. It is a  
25 recommendation by the National Commission on Forensic

1 Science. It's no longer a best practice. It's a  
2 basic expectation. And I really think that this is  
3 something that we should extend to NYPD. the New  
4 York City Council passed Local Laws 85 and 86 in 2013  
5 to require this of OCME and their DNA testing, and so  
6 I don't see why the rest of our forensic testing  
7 provided in the City shouldn't also adhere to the  
8 same rules of transparency as well as the root cause  
9 analysis recommendation-- law that was passed in  
10 2013. Mr. Fenton mentioned that NYPD adheres to the  
11 requirements of accreditation and forensic science  
12 oversight by the state, and I would say yes, and we  
13 can do better. And do you know why I know we can do  
14 better, because they do better in Texas. So in  
15 Texas, all labs are required to be accredited, and  
16 when something happens, when something goes wrong,  
17 it's called a significant event, that it gets sent up  
18 to the Commission where the Commission can  
19 transparently evaluate it, investigate it if needed,  
20 and report on it to the public. We do have a  
21 Commission in New York State, but it's not  
22 statutorily empowered to conduct investigations in  
23 the same way. And so I think that for us to really  
24 have justice in forensics, that we need systems of  
25

1  
2 repair. Repair is a theory that looks at what  
3 happens, how a system responds when an error is made,  
4 when there's a breakdown. Your values as an  
5 intuition come out in how you fix a problem. And so  
6 to do that, I hope that the City Council could  
7 consider extending those local laws 85 and 86 from  
8 2013 to NYPD and establish some system of duty to  
9 correct and notify. So the duty to correct when  
10 something goes wrong, and the duty to notify all  
11 impacted people. Thank you very much.

12 CHAIRPERSON SALAAM: Thank you for your  
13 testimony as well.

14 BRUCE BRYAN: Good morning, Chairperson  
15 Salaam and members of the Committee on Public Safety.  
16 My name is Bruce Bryan, and I'm a client Advocate at  
17 Queens Defenders. Prior to this role, I was wrongful  
18 convicted and served 29 years at New York State  
19 prisons. And I just thank you for the opportunity to  
20 speak today, but before I begin, I wish to commend  
21 the New York City Council for overriding Mayor Adams'  
22 veto on the How Many Stops Act. Your leadership on  
23 this issue is an important step towards protecting  
24 our city's marginalized communities from over  
25 policing and abuse by law enforcement authorities.

1  
2 I'm here today to offer my story as an example of how  
3 nefarious tactics and police investigations do not  
4 serve public safety. They only create wrongful  
5 convictions and an adverse relationship between the  
6 police and the community. The Innocence Project has  
7 noticed that Black people account for 40 percent of  
8 approximately 2.3 million incarcerated people in the  
9 United States, and nearly 50 percent of exonerees  
10 [sic]. Despite making up just 13 percent of the  
11 United States population. This is in large part  
12 because they are policed more heavily, often presumed  
13 guilty, and frequently denied a fair shot at justice.  
14 From the time of arrest ongoing. My story of  
15 wrongful incarceration for nearly 30 years echoes  
16 these statistics. My life could have and should have  
17 had a different outcome and I'm calling on the New  
18 York City Council to take action to prevent the  
19 practice of NYPD officers being given carte blanche  
20 to lie, to manipulate and deceive people who they are  
21 interviewing. When I was 23 years old, I was  
22 arrested and charged with a murder that I did not  
23 commit. There were multiple things that the NYPD did  
24 during that arrest and investigation that contributed  
25 to my wrongful conviction. When I was arrested I was

1  
2 represented by counsel who specifically invoked my  
3 sixth amendment rights. Despite this, I was still  
4 placed in an in-person lineup without my attorney  
5 being notified or present to protect my rights. As a  
6 result of that lineup, I was mis-identified as the  
7 perpetrator and charged, beginning a 29-year  
8 nightmare that finally ended when I received  
9 executive clemency from Governor Kathy Hochul last  
10 year. In my case, the death of a young person  
11 occurred because of a drug-related shoot-out. This  
12 involved multiple parties firing numerous shots. I  
13 was not one of the shooters and never possessed a gun  
14 that day. Despite this, the NYPD only collected two  
15 shell casing that were used to incriminate me. There  
16 is no doubt in my mind that this was an intentional  
17 and selective act by the investigators who were  
18 intent on pinning this crime on someone. Further,  
19 two of the people who identified me had an extensive  
20 criminal background. They were compensated by the  
21 NYPD to make identification, and there was never a  
22 credible or reliable witness in my case. In fact,  
23 they had strong motivation to please law enforcement  
24 by telling them what they wanted to hear. Now that  
25 I've had this experience, I am horrified to see so

1  
2 many other young Black and Brown young people having  
3 their rights violated during police investigations,  
4 and tragically and irrevocably interrupted through  
5 wrongful incarceration. On the state level, we are  
6 seeing momentum with the Challenging Wrongful  
7 Conviction Act, and the Right to Silence Act which  
8 guarantees legal counsel to juveniles. Here in New  
9 York City we can and must enact meaningful  
10 legislation to ensure that another life is not lost  
11 to a wrongful conviction, and protect the rights and  
12 lives of Black and Brown residents who are so often  
13 victims of deceitful and nefarious police tactics.  
14 Today I'm working as a client advocate at Queens  
15 Defenders, leading innovative youth programming for  
16 our young court-involved clients that helps them make  
17 better life decisions and pursue meaningful and  
18 engaging educational career goals. We also work to  
19 ensure that young people are made aware of their  
20 rights under the fourth, fifth, and sixth amendments,  
21 and understand how to have safe interactions with the  
22 police. Programs like ours can only achieve so much  
23 without legislative action that provides police  
24 accountability and protects against the absolute  
25 injustice of incarceration for a wrongful conviction.

1  
2 I can only hope that we can collectively work  
3 together not protect the next generation to make sure  
4 our system is fair for everyone. Thank you so much.

5 CHAIRPERSON SALAAM: Thank you for your  
6 testimony, and welcome home.

7 BRUCE BRYAN: Thank you.

8 COMMITTEE COUNSEL: thank you all for  
9 your testimony. Appreciate it. And again, anyone  
10 with written testimony, [testimony@council.nyc.gov](mailto:testimony@council.nyc.gov), as  
11 well. So, next panel we'll hear from Sergio De La  
12 Pava, Ingrid Jean Baptiste, and Beth Schwartz. You  
13 may begin.

14 SERGIO DE LA PAVA: Sorry. I've been a  
15 public defender in this city for approximately 30  
16 years. Now, this hearing is rightly about our  
17 immediate present and one hopes our immediate future,  
18 but I do want to shift the focus a little bit to a  
19 reckoning with our past. And what I mean by that, is  
20 a lot of the reforms that have come up during this  
21 hearing are laudable ones, certainly beginning with  
22 discovery reform, the granddaddy of all of this, but  
23 including things like video-taping confessions and  
24 the use of double-blind principles and identification  
25 procedures, and of course, body-cam footage, all

1 these things. It's important to remember that these  
2 are all very recent development in our system. Even  
3 discovery reform has not even had its fifth year  
4 anniversary yet, and these other things that we're  
5 talking about are even more recent and even younger  
6 practices than that. So when I say taking us back to  
7 the past, I want you to think about the decades of  
8 convictions that were secured in the absence of  
9 discovery and the absences of interrogations being  
10 recorded in the absence of body-cam footage and  
11 surveillance footage, things like cell site that  
12 could have established people's innocence. Those are  
13 decades of convictions. I think we can conclude with  
14 amoral certainty that a significant percentage of  
15 those were wrongful convictions. I think we can  
16 conclude with a moral certainty, unfortunately, that  
17 a great many people right now as we conduct this  
18 hearing are rotting in prisons, our prisons, for  
19 crimes they did not commit. Now, our office has been  
20 one of the driving forces behind something called the  
21 Challenge in Wrongful Convictions Act, because in  
22 addition to the decades of, you know, really scary  
23 types of convictions, New York happens to have one of  
24 the most abysmal statutory schemes for addressing  
25

1 wrongful convictions. One, a scheme that our highest  
2 court has said does not recognize innocence as a  
3 basis for relief, a statutory scheme that does not  
4 give those working to challenge their wrongful  
5 convictions the access to an attorney or the  
6 discovery. Challenging Wrongful Convictions Act  
7 would address all of that. This council last year  
8 created a resolution 479 of 2023 during the New York  
9 State Legislature to pass and the Governor to sign  
10 the Challenging Wrongful convictions Act.  
11 Unfortunately, perhaps in a bit of complacency or  
12 over-confidence, because it did pass both houses last  
13 year, that resolution was never passed. So I'm  
14 calling on this body to resurrect that resolution to  
15 put pressure to the extent we can on Albany. As I  
16 said, it passed both houses and the Governor  
17 ultimately gave into fear-mongering at the last  
18 minute and vetoed it. I think this is the year that  
19 we need to not just do what this hearing is doing  
20 which is think about our future and how we can avoid  
21 wrongful convictions, but this is the year New York  
22 really has to get serious about addressing its  
23 wrongful conviction problem, number three in the  
24 nation in wrongful convictions. So this is the year  
25

1  
2 that New York County Defender Services and myself and  
3 we hope this Council can get serious about addressing  
4 this moral injustice. Thank you.

5 CHAIRPERSON SALAAM: Thank you for your  
6 testimony.

7 BETH SCHWARTZ: Hi, my name is Beth-- Hi,  
8 my name is Beth Schwartz. I'm going to be changing  
9 the subject from what most of this hearing has been  
10 about. I have lived in Manhattan for all but 10 of  
11 my years of my life and I raised my visibly Jewish  
12 family on the Upper West Side. My husband and son  
13 wear a Yakama and we have never felt unsafe here as  
14 Jews until October 7<sup>th</sup> when Hamas terrorists  
15 viciously murdered over 1,200 Jews on the Holy Jewish  
16 holiday of Sim Fat Tureh, perpetrating the worst  
17 violence on Jews since the Holocaust. Since that  
18 day, New York City has been subjected--

19 CHAIRPERSON SALAAM: [interposing] I'm  
20 sorry?

21 BETH SCHWARTZ: excuse me?

22 CHAIRPERSON SALAAM: We have to keep on  
23 topic for the

24 BETH SCHWARTZ: Well, this is. It's  
25 about safety. I'm not-- we were told we could.

1  
2 Yeah, okay, Mr. Holden says we can. Okay, so this is  
3 about safety. It's not specifically-- I need to set  
4 up what the problem is. Since that day, New York  
5 City has been subjected to constant aggressive and  
6 threatening protests by anti-Jewish protestors. They  
7 chant slogans that call for the destruction of  
8 Israel, the world's only Jewish state. They chant  
9 for globalized violence against Jews. They destroy  
10 property and aggressively approach people who are  
11 visibly Jewish. Just last night there was one of  
12 these aggressive protests at the 92<sup>nd</sup> Street Y for  
13 the sin of hosting Bari Weiss, a Jew, who like over  
14 90 percent of all Jews, believes that Israel has the  
15 right to exist. The protestors were chanting "murder  
16 Bari Weiss" and called Jerry Seinfeld, a known Jew, a  
17 Nazi as he left the building. These protests have  
18 created a feeling a lawlessness on the streets, and  
19 it feels like it's open season for the Jews in my  
20 neighborhood on the Upper West Side. Last week I saw  
21 a group of high school girls yelling "Free Palestine"  
22 at an older man wearing a Yamaka. I recently heard  
23 from a friend's daughter that she was walking home  
24 with her roommates on a Friday night from a Shabbat  
25 dinner and a man in a mask followed behind them

1  
2 yelling "free Palestine" for 10 blocks until they  
3 arrived at their building. I see posters of  
4 kidnapped Jews being torn down every day. Jews  
5 should not be harassed or worse on the streets of New  
6 York City. These illegal protests need to be shut  
7 down and people who do not follow the law need to be  
8 arrested. The City needs to stop giving these Jew  
9 haters a free pass. I'm calling on the City Council  
10 to please make sure that the New York Police  
11 Department enforce laws at these protests to ensure  
12 public safety.

13 CHAIRPERSON SALAAM: Thank you for your  
14 testimony. And I'd just like to remind the public  
15 that we have to stay on topic with regards to  
16 wrongful convictions.

17 COMMITTEE COUNSEL: Thank you so much.  
18 We're going to continue through folks who've signed  
19 up. We're going to be going through names  
20 alphabetical as well [inaudible]. Okay, thank you.  
21 We're going to take testimony from folks in-person  
22 and on Zoom. So wait to hear your name. First,  
23 we'll hear from Andrew followed by Devra Block [sic].  
24 If you're in-person, please come up. Okay. Then  
25 followed by Neil Berry who will be joining us on

1  
2 Zoom. So Neil, if you're available on Zoom, please  
3 be ready to go after these folks.

4 CHRISTOPHER LEON JOHNSON: Go?

5 COMMITTEE COUNSEL: [inaudible] yourself?

6 CHRISTOPHER LEON JOHNSON: Yeah, my name  
7 is Christopher Leon Johnson. You said open to  
8 anybody come up, right?

9 CHAIRPERSON SALAAM: No, I think there  
10 was--

11 CHRISTOPHER LEON JOHNSON: But I don't  
12 think they're here, I mean.

13 COMMITTEE COUNSEL: Andrew and Devra  
14 Block, if you're available, can you please come  
15 testify?

16 CHRISTOPHER LEON JOHNSON: Oh, sorry  
17 about that.

18 COMMITTEE COUNSEL: Andrew and Devra  
19 Block, if you are not here, we're going to move on to  
20 the next folks. Neil Berry on Zoom, are you present?  
21 Andrew's here. Okay, I'm sorry, Andrew. Andrew,  
22 we'll go to you, followed by Neil on Zoom. Sorry  
23 about that, Andrew. You may begin, sir.

24 CHAIRPERSON SALAAM: Just press the  
25 button to make sure people can hear.

1  
2           ANDREW: Is that good now? First, I want  
3 to apologize what had happened to you and your family  
4 members by being wrongly accused, you know? So, I'd  
5 first like to apologize for that. I'd like to talk  
6 about the NYPD, because the NYPD talked about how  
7 they like to assist people who are wrongly convicted.  
8 Now, I've been terrorized by a couple of people in  
9 law enforcement for years. In Chicago, I was the  
10 assaulted. New York I was assaulted, and for some  
11 reason in both states, they don't like-- they want to  
12 give the police report or the body cams much when  
13 they assault. I applied for it, and they keep  
14 denying me the body cams and police reports, which  
15 shows that they're trying to hide something in two  
16 different states, New York and Chicago. So that's  
17 why I want to ask for an investigation, because I'm  
18 being terrorized every day, and when people getting  
19 terrorized like Kim Rose [sic] when she filed a  
20 complaint against the police, the police had he  
21 executed for filing a complaint against them. So, I  
22 too might be executed by police, because they like to  
23 execute people for no reason at all. There's the guy  
24 name Philando Castile who was executed. According to  
25 the New York Times, he was followed around by law

1 enforcement for 13 years they executed him. So, I'm  
2 asking for an investigation because police, they like  
3 to terrorize people. They like to do bad things, and  
4 since I take pictures of them following me around.  
5 Since 2013, I lost every job I ever had, every job I  
6 ever had since 2013, and the job I had in 2013 I held  
7 over 10 years, but after that, I lost every job since  
8 I take pictures of the criminals that's following me  
9 around. [inaudible] law enforcement. So I'm asking  
10 for an investigation to go on, because you know, I  
11 feel that they're going to murder me too like they  
12 did to Philando Castile and Kim Rose.

14 CHAIRPERSON SALAAM: Thank you for your  
15 testimony.

16 ANDREW: And can you give me the defense  
17 lawyer name? She was saying that the people were  
18 wrongly convicted and they were evicted from their  
19 homes? She's like a defense lawyer.

20 COMMITTEE COUNSEL: You might be  
21 referring to Council Member Cabán, if that's who  
22 you're--

23 ANDREW: Council Member--

24 COMMITTEE COUNSEL: Council Member Cabán  
25 is the former--

1  
2                   ANDREW: Because it's hard to understand  
3 with the mask--

4                   CHAIRPERSON SALAAM: Council Member  
5 Cabán.

6                   ANDREW: Council Member Cabán, okay,  
7 thank you. Thank you.

8                   COMMITTEE COUNSEL: Next, we'll hear from  
9 Neil Berry.

10                  NEIL BERRY: Alright, good afternoon I  
11 should say. Yeah, so I just want to thank the  
12 Council, City Council, and Yusef and a few others  
13 that have done some advocating. I'm part of Vocal  
14 Forces [inaudible] activist meetings. I was directly  
15 impacted by mass incarceration. Yeah, a lot of  
16 things were said that I don't want to repeat. I  
17 don't believe in evaluating [inaudible] racial  
18 technician [sic], racial profiling. So, they a  
19 racist system. You know the history. There's  
20 nothing new. And to say those didn't happen before  
21 1988 or 1980 was an embarrassment to all the people  
22 sitting up there doing time, because what Sergio  
23 said, these processes and these procedures were not  
24 there. In 1988 I was arrested in Brownsville by four  
25 white officers. I was accused of felony robbery with

1 a gun. I had never had a prior history [inaudible]  
2 12 years. I was 32 years old at the time. I never  
3 had a record. I had moved to [inaudible]. I had  
4 succeeded on Wall Street. By the time in 1988 when  
5 that happened, four white officers told me I deserved  
6 what I got just based on my background. I was one of  
7 them niggers that was uppity, according to them, and  
8 that's what they categorized me from the process of  
9 getting me arrested to process of getting me to bail.  
10 They set a high bail which I needed to make. I had a  
11 mother and father who just discarded the fact that  
12 they were family orientated [sic] but any time  
13 [inaudible] law because he was military, Catholic,  
14 decided not to support me. I lost my family. I lost  
15 my apartment. I lost my car, my girlfriend. So my  
16 trajectory changed from zero to zero, zero, zero once  
17 I got incarcerated. I was traumatized for a period  
18 of 20 years and suffered out with all this  
19 homelessness and many other, you know, integrity-  
20 wise. These officers never even attempted to do an  
21 investigation. These officers were promoted. I went  
22 to trial with one witness who was a material witness  
23 who was a drug user, and I blame him. He was a  
24 material witness, that mean that he had to come to  
25

1 court. He came to court on the last day of testimony  
2 for the defense.  
3

4 SERGEANT AT ARMS: Time expired.

5 NEIL BERRY: and I was guilty on a  
6 repugnant [sic] sentence, and that repugnant sentence  
7 could have been reversed by that judge, but at the  
8 recommendations of the police officers and the DA I  
9 end up serving time. So I know these institutional  
10 systems can be better, but don't talk about the  
11 people that have been wrongfully convicted years and  
12 years ago. [inaudible] Wrongful Conviction Act in  
13 Albany just passed twice. They're going to try to  
14 pass it this year. Or once I should say. We need  
15 the Governor to sign on and let's right some wrong  
16 here. Thank you.

17 CHAIRPERSON SALAAM: Thank you for your  
18 testimony.

19 COMMITTEE COUNSEL: Thank you so much.  
20 Next, we're going to invite up Charles Bornscar [sic]  
21 and T.J. Cohen, and Celeste Garson. If you are  
22 present, please feel free to come up. Afterwards,  
23 we'll turn to Tanesha Grant who is on Zoom. So,  
24 Tanesha, please be ready after these individuals  
25 speak. Thank you so much.

1  
2 CELESTE GARSON: Hi, my name is Celeste  
3 Garson. I'm here again to really talk about public  
4 safety and not feeling very safe right now in New  
5 York. I'll try to stay on the topic and be  
6 respectful. I work in the school system, so this is  
7 something that's very close to home for me, and I  
8 actually took time off to be here today, so I hope  
9 you'll give me a few moments to read my testimony.  
10 So, as I mentioned, I've been feeling anxious and  
11 unsafe living in New York City since the Hamas  
12 barbaric attacks on Israel on October 7<sup>th</sup>. I've been  
13 shocked by some of the protests celebrating what  
14 happened calling for genocide for Jews and expanding  
15 their movement as they feel empowered and not held  
16 accountable for their actions. I've lived in New  
17 York City for 53 years and have never experienced  
18 this feeling before. I would ride the trains at  
19 night, walk around the city being proud of my  
20 religion, and now I'm conscious about who's around me  
21 and fearing another protest. I've often felt trapped  
22 in my car when I can't escape when there's a protest  
23 in the area and bridges and streets are shut down  
24 where I'm trying to get my kid off the bus and I  
25 can't get home in time, or when I was downtown Sunday

1  
2 night leaving an event, and all I could hear is loud  
3 drumming and chanting "from the river to the sea,  
4 Palestine will be free." You can hear it from blocks  
5 away because it was so loud. My friend encountered  
6 the crowd with her two young children and they were  
7 petrified.

8 CHAIRPERSON SALAAM: I'm sorry, but we  
9 have to stay on topic for wrongful convictions. I  
10 know you're talking about public safety, but this is  
11 hearing on wrongful convictions.

12 CELESTE GARSON: Yeah, okay. Well

13 UNIDENTIFIED: Mr. Chairman, the  
14 gentleman heretofore who spoke prior to this panel  
15 spoke about his being murdered and executed and  
16 whatnot and got his full two minutes and certainly  
17 wasn't the topic of the day, and I just want to point  
18 that out, Mr. Chair.

19 CHAIRPERSON SALAAM: Oh, understood,  
20 definitely. I know you said public safety, and I  
21 understand exactly what--

22 : Yeah, so I'm not feeling safe in New  
23 York. Can I continue or? Okay, so I remember being  
24 a panic after seeing footage of a pro-Palestinian  
25 rally at Columbus Circle where they were chanting,

1 storming the building and viciously cutting down the  
2 kidnapped signs with knives, and I saw an image of an  
3 older man who was slashed on the face. All I could  
4 think about is my mother who I knew was in the area  
5 at the time, and when I got in touch with her, she  
6 said she just got out and was let out the back door  
7 of the Time Warner building. I witnessed the  
8 aftermath of a protest that led up to the Mayor's  
9 mansion where again kidnapped signs were ripped down,  
10 where spray paints in front of the Mayor's mansion  
11 about freeing-- free Gaza right in front of the  
12 police officers with no respect of consequences.  
13 Plastered stickers everywhere saying Israel is  
14 creating genocide in Gaza and Zionist donor and  
15 trustees, hands off our universities, as we know  
16 Zion-- using Zionist in that term is blatantly anti-  
17 Semitic. If I can quote by Martin Luther King, he  
18 said, "When people criticize Zionists, they mean  
19 Jews. You are talking about antisemitism." My  
20 friend who lives in Westchester won't even visit me  
21 anymore in New York City, because she fears these  
22 protests. I even was on the phone this week with my  
23 insurance company, and the representative said that  
24 she was planning on coming to New York City for the  
25

1  
2 holidays as she does every year, but this year they  
3 cancelled because they see on social media and in the  
4 news these violent protests going on, and they don't  
5 feel safe anymore in New York City. I can't even  
6 escape it. I walked by a closed restaurant storefront  
7 the other day and spray painted in red was "free  
8 Palestine" across the window. Enough is enough  
9 already. We need to empower the police to enforce  
10 the law and not empower protestors who break the law  
11 by not having permits, obstructing traffic, an  
12 inciting violence and hate. We need to protect all  
13 citizens, Jews and non-Jews alike from violence and  
14 disruptive behavior impinging on the rights of  
15 others. Thank you.

16 CHAIRPERSON SALAAM: Thank you for your  
17 testimony. I just want to encourage that this is  
18 hearing on wrongful convictions, and while we do  
19 recognize the terrible things that are going on in  
20 the world, this hearing in particular is about  
21 wrongful convictions. If we could stay on topic,  
22 that'd be perfect. Thank you.

23 T.J. COHEN: Mr. Chairman, thank you very  
24 much. I think your name is appropriate as I've  
25 watched this proceeding for the last three hours,

1 because I know salaam, shalom all mean peace, and  
2 you've proceeded over this committee with just that  
3 aspect. I hope you won't call me out of order or  
4 being off-topics, because ultimately what I will  
5 quickly say comes back to everything that people were  
6 talking about today, that is wrongful convictions and  
7 misinformation about judgments in cases and courts.  
8 I'd like to speak about President Nixon. In the war  
9 in Israel in 1973, the Israelis asked for three  
10 helicopters. It was brought to President Nixon by  
11 Henry Kissinger. Henry Kissinger said the Israelis  
12 need three helicopters, and Nixon said, "How many do  
13 we have?" Kissinger said, "We have 52," and Nixon  
14 said, "Send them the 52." Kissinger said, "Well, why  
15 Mr. President, they only asked for three?" Nixon  
16 explained that Israel was the line in the sand  
17 between democracy and autocracy and despotism that is  
18 represented from the East. When I read the Nixon  
19 transcript, there were a lot of unpleasant  
20 descriptions of Jews and people he was dealing with,  
21 yet he gave the helicopters to Israel to win the war.  
22 Maybe he didn't love Israel so much, but he loved  
23 America, and we knew the line in Israel was the  
24 difference between freedom and despotism that was  
25

1  
2 threatening the world at the time. That issue has  
3 still never been resolved. There are incursions to  
4 Israel from Russia, from Persia, from every country  
5 that has some influence in supplying materials to go  
6 against Israel. I just wanted to say in these  
7 protests, they seem not to have to true background of  
8 what is really at issue and what the cause of the  
9 United States' brotherhood with Israel is. When they  
10 go against--

11 CHAIRPERSON SALAAM: [interposing] So,  
12 while I--

13 T.J. COHEN: Israel, they go against the  
14 United States. The United States and Israel are  
15 united in the idea of keeping a line of democracy and  
16 protection for the western world. I don't have to--

17 CHAIRPERSON SALAAM: [interposing] Sir,  
18 while I appreciate this lesson in history, this is  
19 about wrongful convictions.

20 T.J. COHEN: Well, so is this. Look at  
21 the convictions that they're causing in blaming the  
22 Jews for.

23 CHAIRPERSON SALAAM: If you're able to, I  
24 guess, sum up in terms of time.

25

1  
2 T.J. COHEN: Okay, I would be happy to.  
3 Thank you, sir. I would say that Martin Luther King  
4 said, "No lie shall live forever." The things that  
5 are being told and propagated against the Jews in  
6 these rallies are all lies, all. The idea of, again,  
7 Martin Luther King who said "Truth crushed to earth  
8 will rise again," meaning you can't hold down the  
9 truth, and eventually the things will come up that  
10 have been the basis of these rallies that are anti-  
11 American in the sense that it is forging a great  
12 controversy between Israel and American and the  
13 importance of this union. Finally, I'll say, the  
14 last thing that I learned from Martin Luther King,  
15 "the arch of the moral universe is long, but it bends  
16 towards justice." Well, it can't be much longer if  
17 people are being killed. People have been killed,  
18 and it's time for that arch of the moral universe to  
19 reflect the truth. As far as I've been in the Jewish  
20 community, which hasn't been all that long actively,  
21 in fact, this is the first time I've ever spoken on  
22 behalf of the Jewish community. I would say that  
23 Jews--

24 CHAIRPERSON SALAAM: [interposing] I would  
25 like--

1  
2 T.J. COHEN: aim was never to humiliate  
3 the Islamic world, but to win it's freedom and  
4 understanding. Thank you.

5 CHAIRPERSON SALAAM: Thank you. Thank you  
6 for your testimony. I'd just like to remind the  
7 public that this is a hearing on wrongful  
8 convictions, and that we have a time-- we want to  
9 make sure that the public stays on topic. And we  
10 maintain decorum in the-- so we have a two-minute  
11 time limit for testimony, and the testimony is  
12 specifically dealing with wrongful convictions. I  
13 just want to remind the public that we have to stay  
14 on topic.

15 COMMITTEE COUNSEL: Thank you, Chair.  
16 Next, we'll turn to Tanesha Grant who's on Zoom.  
17 Tanesha, I'll unmute you in just a second.

18 TANESHA GRANT: Hello, thank you, Chair  
19 Salaam, and to the Public Safety Committee for having  
20 this important meeting. So hello, my name is Tanesha  
21 Grant, and I am the Executive Director of Parents  
22 Supporting Parents, New York, and Moms United for  
23 Black Lives New York City. As a community-based  
24 organizer and advocate for criminal justice reform,  
25 too often people in our communities are wrongly

1 convicted. It still happens way too much in 2024. I  
2 speak on behalf of all community members, including  
3 our youth, who have been impacted by wrongful  
4 conviction. Too often our Black and Brown  
5 communities are presumed guilty until proven innocent  
6 when it is supposed to be the other way around. NYPD  
7 officers often lie and are very insidious when  
8 handling police work in our community. We need our  
9 great City Council to create legislation to protect  
10 our community members. The way things are now in  
11 2024, the police have more protection than the public  
12 they serve. When people are wrongly convicted due to  
13 lies and evidence provided by police, there is no  
14 accountability. People are spending lifetimes in  
15 prison while being innocent. I look forward to our  
16 City Council working with the communities to stop  
17 wrongful convictions. It is not enough what is being  
18 done today. The fact that New York City is third in  
19 the nation on wrongful conviction in 2024 tells us  
20 NYPD and the whole criminal justice system has a very  
21 long way to go. We also urge the Public Safety  
22 Committee to support the Wrongful Conviction Act that  
23 we have in Albany. Thank you for listening to my  
24 testimony, and we look forward to working with you to  
25

1 make sure that all wrongful convictions are stopped.

2 Thank you so much.

3  
4 CHAIRPERSON SALAAM: Thank you for your  
5 testimony. Thank you so much.

6 COMMITTEE COUNSEL: Next, we'll hear  
7 from-- I apologize if I've called your name already.  
8 Next we'll hear from Celeste Garson followed by Susan  
9 Gottlieb followed by Madilyn [sic] Gutotoleu. So if  
10 i-- I repeated you, okay. I'm sorry. Okay, sorry,  
11 Celeste. Okay, I lost track of that one. So, Susan  
12 Gottlieb, Madyn Gutotoleu. Jan, if you are present  
13 as well, and the Christopher Leon Johnson. Thank you  
14 everyone.

15 CHAIRPERSON SALAAM: And I'd just like to  
16 remind the public that this is about wrongful  
17 convictions and the NYPD, so that we can stay on  
18 topic, and we have two minutes. Thank you. I'm  
19 sorry, press the button. As soon as you see the red  
20 light, then your microphone is hot. It's live.

21 SUSAN GOTTLIEB: Oh, okay, thank you very  
22 much. Alright, I'm Susan Gottlieb. Thank you.  
23 Thank you for having-- for letting-- allowing me to  
24 speak. I'm a New York City citizen, and I've come to  
25 express my fear about the safety of-- this is a

1  
2 Public Safety Committee meeting-- about the safety of  
3 the Jewish people, and emphasize the importance of  
4 the New York City police.

5 CHAIRPERSON SALAAM: This is a wrongful  
6 conviction meeting--

7 SUSAN GOTTLIEB: [interposing] I know.  
8 I'm--

9 CHAIRPERSON SALAAM: [interposing] about  
10 the wrongful convictions at NYPD.

11 SUSAN GOTTLIEB: New York City anti-  
12 Semitic attacks-- it relates-- attacks spike 214  
13 percent in October after the vicious attacks in  
14 Israel, and continue to be significantly higher than  
15 in previous years. They are nearly double the amount  
16 at this time than they were this time last year, and  
17 the fear felt by members of the Jewish community in  
18 the City are palpable. Many are afraid to wear  
19 Jewish stars, symbols or clothing which expose our  
20 faith. On Martin Luther King Day, of all days, there  
21 was a huge angry crowd. Anti-Israel demonstrators  
22 marched throughout my neighborhood calling for  
23 genocide of the Jews and intifada, which is violent  
24 uprising. It felt like we were in Germany in 1938  
25 instead of New York City in 2024. My neighbors were

1  
2 terrified. We were all terrified of the threat of  
3 violence, and we were pained that our children would  
4 be hearing hateful chants and vicious absolute lies  
5 towards our own people by calling Israel an apartheid  
6 state that is committing genocide, while it is in  
7 reality a democratic country defending itself in a  
8 war that it didn't start. This is not an issue of  
9 free speech. It's anti-Semitic propaganda,  
10 intimidation, and threat against a minority group,  
11 and these anti-Israel demonstrations lead to anger  
12 which can incite more physical violence and hate  
13 crimes against Jews in our city. The demonstrators  
14 are also endangering the city by blocking traffic,  
15 bridges, and airports, and the lawless behavior could  
16 be deadly as it prevents first responders and people  
17 in crisis getting where they need to go.

18 CHAIRPERSON SALAAM: Thank you. Thank  
19 you for your testimony.

20 SUSAN GOTTLIEB: Now, okay. To address  
21 the problem--

22 CHAIRPERSON SALAAM: [interposing] Your  
23 time is up.

24 SUSAN GOTTLIEB: of violent anti-minority  
25 crime and disruptions to critical city

1  
2 infrastructures by agitators, it is crucial to  
3 empower the New York City Police Department with the  
4 necessary tools, resources, and authority to stop  
5 them. The NYPD needs more authority during this time  
6 of crisis, not less. Offenders need to be arrested  
7 and held accountable. If someone breaks the law, they  
8 need to be arrested and stay in jail. Council  
9 Members, please provide oversight through police  
10 activity and strengthening laws to ensure--

11 CHAIRPERSON SALAAM: [interposing] I'm  
12 sorry your time is up. We have to--

13 SUSAN GOTTLIEB: the safety and wellbeing  
14 of all our residents.

15 CHAIRPERSON SALAAM: move to the next  
16 testimony. Thank you. Shalom.

17 JAN: My name is Jan. Thank you for the  
18 opportunity to speak. It is heart-warming to hear--

19 CHAIRPERSON SALAAM: [interposing] Oh I'm  
20 sorry. Press the red button so that--

21 JAN: My name is Jan. Thank you for the  
22 opportunity to speak. It's heart-warming to hear  
23 about the progress that's been made in preventing  
24 unjust arrest and unjust conviction. However, some of  
25 the agreements and rules and changes in policy

1  
2 towards police practice and DA practice have resulted  
3 in more crime, and as you've so skillfully and  
4 convincingly said, Mr. Salaam, convicting people who  
5 really do crimes and preventing crime is the other  
6 side of keeping people who are wrongfully convicted,  
7 not convicted. I ask of the committee members at  
8 this time of threat to the Jewish community to pursue  
9 and protect public safety. Allow the NYPD to enforce  
10 existing laws. Enough is enough. There have to be  
11 consequences for breaking the law. the laws needing  
12 to be enforced include but are not limited to bias  
13 incident laws, hate crime and hate speech laws,  
14 public nuisance laws, civil disorder, inciting others  
15 to riot law, harassment and verbal abuse laws,  
16 Supreme Court exceptions to the first amendment  
17 including but not limited to speech that constitutes  
18 unlawful incitement, true threats, intimidation or  
19 discriminatory harassment, felony charges for  
20 blocking emergency services, domestic terrorist  
21 charges for impeding access to emergency services,  
22 anti-terrorism Act 18, US code 2339B, providing  
23 material support or resources to a foreign terrorist  
24 organization, including suspension of commerce,  
25 endangering motorists, and kidnapping in a car that

1  
2 can't move, and verbal or physical assaults. I ask  
3 you to support overturning agreements and policies  
4 that stop the NYPD from doing their job of protecting  
5 minority communities.

6 CHAIRPERSON SALAAM: Thank you for your  
7 testimony.

8 CHRISTOPHER LEON JOHNSON: Yeah, hello.  
9 My name is Christopher Leon Johnson, and Mr. Chair  
10 Salaam, you should be ashamed of yourself for trying  
11 to sensor all the Jewish people for making their  
12 grievances about the war on Palestine which we need a  
13 cease fire, and we have to support Israel. We have  
14 to support Zionism. So, shame on you as the Chair of  
15 the Public Safety Committee for censoring the Jewish  
16 voices in this panel hearing, while-- wait, wait,  
17 wait--

18 CHAIRPERSON SALAAM: [interposing] Just  
19 for the record, I want to say that I'm not censoring  
20 our Jewish brothers or sisters. I actually-- I  
21 actually recognized them. Shalom alaikum, and I  
22 thank you for your testimony.

23 CHRISTOPHER LEON JOHNSON: Wait, wait  
24 wait.

1  
2 CHAIRPERSON SALAAM: The only thing that  
3 I'm saying is that this hearing right now, this  
4 hearing in particular, is about wrongful convictions.  
5 I was wrongfully convicted.

6 CHRISTOPHER LEON JOHNSON: Yeah,  
7 everybody know, yeah.

8 CHAIRPERSON SALAAM: So we're talking  
9 about wrongful convictions and the NYPD and the  
10 process and the practices that lead to wrongful  
11 convictions.

12 CHRISTOPHER LEON JOHNSON: Yeah, but why-  
13 - yeah, I'll say about that, but why you gave other  
14 guy who saying some non-- that's a different date,  
15 but some nonsense about being attacked by cops.  
16 That's whatever, but you need let your Jewish people  
17 speak, okay? Now, going to this about you, Mr.  
18 Salaam. You know, it was sad that you lied on that  
19 cop. You know, you said you got lied on and you did  
20 time in prison for a crime you didn't commit. Now,  
21 you lied on the cop in Harlem saying that he sent  
22 ABCD, which wasn't true, and you told-- everybody  
23 want to talk about the 80s. Now, what happened then  
24 from the 80s, you did that same as a Council Member,  
25 and you leveraged your rank and you did that. I'm a

1  
2 Councilman, and you leveraged your rank, and that cop  
3 got arrested. Yeah, you, you lied on the guy. You  
4 could have gotten arrested for that lie, and he could  
5 have got convicted for that lie. Now, my question is  
6 why you did that. Why you lied on the cop to try to  
7 push a stupid agenda called How Many Stops Act. And  
8 you said that How Many Stops Act would have saved  
9 you-- saved your butt from being so-called wrongfully  
10 convicted of your crime. That's ridiculous. That's  
11 bullcrap, bro.

12 CHAIRPERSON SALAAM: You know, I don't  
13 appreciate being personally attacked, but thank you  
14 for your testimony.

15 : No, no, no, wait, wait, wait. You  
16 gave--

17 CHAIRPERSON SALAAM: [interposing] His  
18 time is up, so thank you.

19 CHRISTOPHER LEON JOHNSON: You gave them  
20 a lot of time to speak, and I'm going to say this  
21 right--

22 CHAIRPERSON SALAAM: [interposing] Thank  
23 you. Thank you for your testimony.

24 CHRISTOPHER LEON JOHNSON: No, no, no,  
25 you gave them a lot of time to speak, bro. Wait, you

1  
2 gave them a lot of time to speak, and I'm say this  
3 one more time-- wait, wait, wait, before I go.

4 CHAIRPERSON SALAAM: [interposing] It's  
5 only two minutes.

6 CHRISTOPHER LEON JOHNSON: you need to  
7 resign as Chair. You need to resign as Chair of the  
8 Public Safety Committee. You need to resign, bro.  
9 You need to resign as Chair. You need to give it to  
10 Kamillah Hanks, because --

11 CHAIRPERSON SALAAM: [interposing] I don't  
12 appreciate the personal attacks.

13 CHRISTOPHER LEON JOHNSON: No, it's no  
14 personal attacks, man.

15 CHAIRPERSON SALAAM: thank you for time.  
16 Thank you for your testimony.

17 CHRISTOPHER LEON JOHNSON: it's no  
18 personal attacks. You gave them time to speak. Why  
19 you can't give me the time to speak.

20 CHAIRPERSON SALAAM: What you're saying,  
21 and I just want to say this for you to understand.

22 CHRISTOPHER LEON JOHNSON: Yeah.

23 CHAIRPERSON SALAAM: There is something  
24 called beniso juriso bolo so da ie [sic].

1  
2 CHRISTOPHER LEON JOHNSON: What the hell  
3 is that?

4 CHAIRPERSON SALAAM: It means that when  
5 you see something-- like, I'm looking at you.

6 CHRISTOPHER LEON JOHNSON: Yeah.

7 CHAIRPERSON SALAAM: And obviously,  
8 anyone would look at you and say this is a Black man.

9 CHRISTOPHER LEON JOHNSON: Yeah, you're a  
10 Black man, too.

11 CHAIRPERSON SALAAM: What I'm saying to  
12 you is we're talking about wrongful convictions and  
13 the NYPD, and I appreciate the fact that you also  
14 represent the Jewish faith.

15 CHRISTOPHER LEON JOHNSON: I don't-- I'm  
16 not a Jewish guy, but.

17 CHAIRPERSON SALAAM: Well, I'm just--

18 CHRISTOPHER LEON JOHNSON: I support the  
19 Jewish people, unlike you, I mean.

20 CHAIRPERSON SALAAM: And I appreciate  
21 that. What I'm saying to you is I'm looking at you  
22 from your front. I haven't looked at the side or the  
23 top or the bottom to understand more about what  
24 you're saying. You are talking about something that  
25 you saw from the front. You weren't there to see all

1  
2 of the other sides, nor did I provide testimony to  
3 that particular end. So while I appreciate what  
4 you're saying, I do not respect or condone you  
5 specifically trying to threaten me--

6 CHRISTOPHER LEON JOHNSON: [interposing] I  
7 never threatened you.

8 CHAIRPERSON SALAAM: while we're talking  
9 about wrongful convictions.

10 CHRISTOPHER LEON JOHNSON: I never  
11 threatened you, man. Like, now you're lying.

12 CHAIRPERSON SALAAM: So, thank you for  
13 your testimony.

14 CHRISTOPHER LEON JOHNSON: You lied on  
15 the cop and you lied on me. You're-- this is the  
16 thing.

17 CHAIRPERSON SALAAM: Thank you for your  
18 testimony.

19 CHRISTOPHER LEON JOHNSON: That's why you  
20 need to resign as Chair. You lied on that cop in  
21 Harlem.

22 CHAIRPERSON SALAAM: [interposing]  
23 Sergeant of Arms, mute his microphone. Thank you.  
24  
25

1  
2 CHRISTOPHER LEON JOHNSON: Now you lied  
3 on me on camera. Like, so now that's why you need to  
4 resign.

5 COMMITTEE COUNSEL: Next we'll hear from  
6 Elder Miter [sp?], Coral Mell [sp?], and Jerry  
7 Praling [sp?]. So, that's Elder Miter, Coral Mell,  
8 and Jerry Praling. Thank you so much everyone. You  
9 may come up if I called your name. You may go ahead.

10 UNIDENTIFIED: I could start?

11 COMMITTEE COUNSEL: Yes, you may.

12 UNIDENTIFIED: Hey, how y'all doing?  
13 Condolences to the Jewish families and also to the  
14 Muslim families. I was wrongfully convicted on  
15 December 12<sup>th</sup> of-- well, I was arrested illegally  
16 December 12<sup>th</sup> of 2012, the day before the Sandy Hook  
17 shooting, and I was found guilty for assault on a  
18 court officer. This happened at 346 Broadway, and  
19 when this happened at 346 Broadway there were cameras  
20 within the vicinity of where the incident occurred.  
21 The cameras were not given to the DA. The NYPD never  
22 did a full investigation. Court officers just  
23 arrested me, charged with me assault. I was found  
24 guilty for assault, and I didn't even touch the  
25 officer. Now, there was video camera footage that

1  
2 would have exonerated me from that assault, but that  
3 video camera footage happened to be destroyed  
4 purposely, and 'til this day I'm trying to seek  
5 justice pertaining to that incident. I've been  
6 currently fighting against the criminal justice  
7 system, NYPD, for a long time, and I've accumulated  
8 approximately 80, probably 90 cases, and I've beaten  
9 majority of these cases. You could say 85 of the  
10 cases I have beaten. Just recently I was assaulted  
11 by an officer. I have video footage of this in the  
12 Bronx. I was also assaulted by officers trying to  
13 make complaints. My tooth was knocked out February  
14 13<sup>th</sup> of 2021-- I believe 2020. I'm not seeing any  
15 justice pertaining to any incidents that I've gotten  
16 involved with with the law enforcement offices. And  
17 the panel here that was representing NYPD, they were  
18 giving you information that is not actually accurate.  
19 The Internal Affairs, they don't even--

20 CHAIRPERSON SALAAM: [interposing] We have  
21 to--

22 UNIDENTIFIED: investigate the cases that  
23 we bring towards them. CCRB, when you give them--  
24 when you make complaints through them--

25

1  
2 CHAIRPERSON SALAAM: [interposing] sir, we  
3 have to--

4 UNIDENTIFIED: they would find blame on  
5 the officer, but they would forward it back to the  
6 Commissioner, and the Commissioner would get the  
7 final say-so, which means that the CCRB organization--  
8 -

9 CHAIRPERSON SALAAM: [interposing] Sir--

10 UNIDENTIFIED: can't actually--

11 CHAIRPERSON SALAAM: [interposing] Sir, I  
12 would like to speak to you more about your-- what  
13 you're saying, but we have to wrap it up. So we can  
14 be in contact with you. My office is here with us in  
15 the room, and we can definitely take more of your  
16 testimony so that we can assist you in helping you to  
17 find some type of recourse.

18 UNIDENTIFIED: Okay. I just want to put  
19 that-- well, I just found out the Internal Affairs  
20 Bureau, when I went to their actual building-- I've  
21 made approximately 247 complaints. I haven't gotten a  
22 call back from the Internal Affairs Bureau for any of  
23 my complaints. They've been ignoring me. I've been  
24 doing things the right way. I've been creating a  
25 paper trail. I've been also highlighting a lot of

1  
2 inconsistent behaviors on part of the NYPD dealing  
3 with various different issues, various different  
4 individuals that have gotten into confrontations with  
5 NYPD and who were arrested falsely by law enforcement  
6 officers.

7 CHAIRPERSON SALAAM: So, sir, we are at  
8 time. I would like to definitely--

9 UNIDENTIFIED: [interposing] But if I'm  
10 able to possibly speak to you.

11 CHAIRPERSON SALAAM: Absolutely,  
12 absolutely.

13 UNIDENTIFIED: You know, on another  
14 setting, it would definitely be appreciated. I don't  
15 know if I could get some helps from you guys, but I'm  
16 asking for some help. I've been--

17 CHAIRPERSON SALAAM: [interposing] No,  
18 you're in the right place to definitely put your  
19 grievances forward. We're talking about exactly what  
20 you're talking about, wrongful convictions and the  
21 practices that lead to that, and so we want to  
22 definitely talk to you more, but in the sake of time,  
23 we definitely have to move on.

24 UNIDENTIFIED: Alright, thank you, sir.  
25

COMMITTEE COUNSEL: Thank you so much.

Next we'll hear from Carla Rabinowitz, who is online, followed by Sophie Sasson [sp?], and Gady Smider [sp?], and I apologize if I mispronounce that name. So, Carla, I will activate you on Zoom. I see you're present. Just bear with me one second. You may begin.

CARLA RABINOWITZ: I don't know--

COMMITTEE COUNSEL: Carla, we can hear you. You may begin. Carla, if you're having technical difficulties, we can return back to you, but we can hear you and you're able to testify if you so choose.

CARLA RABINOWITZ: No, no, no. I can't testify.

COMMITTEE COUNSEL: Okay, apologize. Okay. Okay, thank you. Next, Sophie Sasson, are you present in chambers? No. Gaddy Schluder [sp?], if you're present? Monipui Silverman? Betsy Smolar? If either of you present, you may come up to testify. Thank you.

CHAIRPERSON SALAAM: Just to reiterate the topic that we're on, wrongful convictions and the

1  
2 practices of the NYPD as it relates to that, and we  
3 have two minutes. Thank you.

4 MONIQUE SILVERMAN: Hi, my name is  
5 Monique Silverman, and I've never done this before,  
6 but it's been so fascinating to see what's going on  
7 here, to hear all the testimonies, and I really feel  
8 for all these people that have been wrongly  
9 convicted. It's just shocking, and I really would  
10 like to actually help out. Somehow with the freedom  
11 that you were talking about, the freedom organization  
12 that you have. I would really like to help out to  
13 see-- you know, to do some reforms, because we need  
14 reforms in all aspects of the court system, the  
15 Police Department. I mean, we need reforms, I feel.  
16 And anyway, look, I've been-- you know, I'm here--  
17 I'm half Jewish, half Catholic, and I was putting up  
18 some signs, some hostage signs, and you know, people  
19 were yelling me at for-- who were protesting, and I  
20 feel that that's outrageous in the sense that this--  
21 we're in a free world here. You know, we're in a  
22 free country. This is one of the few free countries  
23 out there, freedom of speech, and I think that it  
24 should be protected at all costs. And I wouldn't do  
25 that to somebody who said free Palestine. They can

1 do whatever they want. They can post signs all over  
2 the place, free Palestine. It's fine with me. I'm  
3 not going to go attack them, or I'm not going to even  
4 say anything about that, but to do that to people who  
5 are putting up, you know, bring our hostages back, I  
6 think is pretty outrageous personally. And I think  
7 that we have to protect our freedom of speech at all  
8 costs. So, whether it's-- I just saw the movie, the  
9 bob Marley movie which was fantastic, I recommend it  
10 for everybody to see, and he has a message that we  
11 should, you know, live in peace, and it's very  
12 important for us to live in peace and to not be at  
13 odds with each other. What's the purpose of being at  
14 odds? It doesn't make sense. We have to move  
15 forward as a unit in peace. So that's what I have to  
16 say.  
17

18 CHAIRPERSON SALAAM: Thank you for your  
19 testimony.

20 BETSY SMOLAR: Hi I'd like to begin by  
21 thanking you profusely for allowing me and others  
22 here today to speak with you in sharing our concerns  
23 for our beloved New York City. In the interest of  
24 public safety, would very much appreciate a separate  
25 hearing to address the specific concerns raised by

1  
2 myself and others that have been of concern that have  
3 not been exactly on topic. My name is Betsy Smolar  
4 and I've lived in Manhattan all of my adult life. I  
5 went to college here and my husband and I chose to  
6 raise our three children here. Aside from learning  
7 to be a street-savvy New Yorker, I was never fearful  
8 and nor were my children. Sadly, this has changed  
9 dramatically over the past few months and we are  
10 afraid. My son, who's an alum of Cooper Union was  
11 horrified as we all were by the recent situation  
12 where Jewish students were locked into the school  
13 library to keep them safe from anti-Jewish  
14 protestors. My one-year-old grandson's daycare  
15 center is no longer taking the babies to the park  
16 because of threats made against Jewish babies. Is  
17 this our New York, our big diverse apple? I am so  
18 grateful for the police presence and attendance at  
19 protests around the City, and while we may not be  
20 able to eradicate and-- educate and eradicate hate,  
21 the police serve as a deterrent and help us feel more  
22 secure. On behalf of my family, my community, and I  
23 imagine all decent citizens who love this city as I  
24 do, I beseech the City Council to empower the police  
25 to continue to be a presence, arrest perpetrators of

1  
2 hate and violence and ensure that all New Yorkers  
3 feel safe. Thank you.

4 CHAIRPERSON SALAAM: Thank you for your  
5 testimony.

6 COMMITTEE COUNSEL: Thank you so much.

7 CHAIRPERSON SALAAM: Just want to remind  
8 the public that we are talking specifically about  
9 wrongful convictions and the practices that relate to  
10 that. And to your point, I think that has to be  
11 taken into consideration as well. If we are going to  
12 be talking about other things that are not  
13 necessarily on topic for this particular hearing,  
14 then we definitely want to make sure we provide space  
15 and opportunity for the voice of the Jewish community  
16 to be heard as it relates to the protections and  
17 safeties that have been raised in this particular  
18 hearing.

19 MONIQUE SILVERMAN: That would be  
20 wonderful. Thank you so much.

21 BETSY SMOLAR: We would so appreciate  
22 that. That would be very valued. Thank you.

23 COMMITTEE COUNSEL: Thank you everyone.

24 Next we'll hear from Gian Springer [sp?] followed by  
25

1  
2 Abby Volkavich [sp?], and then finally we'll turn to  
3 Amanda Wallwin who is on Zoom. Yeah,--

4 CHAIRPERSON SALAAM: [interposing] Yeah,  
5 just press the button.

6 UNIDENTIFIED: Okay, alright. It's me,  
7 alright.

8 COMMITTEE COUNSEL: Go ahead.

9 UNIDENTIFIED: Thank you so much  
10 Chairperson Salaam and Council Members. And I want  
11 to-- I understand the topic is wrongful conviction,  
12 and I understand what-- why that is so critical, but  
13 I truly feel just as a New Yorker we're so-- the  
14 pendulum has swung almost the wrong way, the other  
15 way. We're so concerned about wrongful conviction  
16 that we're not convicting at all when it comes--  
17 especially when it comes to these protests. And I  
18 pulled together at least 35, 40 people this afternoon  
19 and as you've seen as we've called the names most of  
20 them have left because they couldn't wait all day,  
21 and that shows you that we are saying-- New Yorkers  
22 are saying enough is enough. Enough is enough of not  
23 being protected. Enough is enough of these  
24 criminals, these terrorists, these protests not being  
25 convicted, no consequences for crime because we're so

1  
2 concerned about wrongly convicting, we're not  
3 convicting at all especially when it comes to these  
4 protests, and as a result, public safety, there-- I  
5 don't feel there is such a thing as public safety  
6 when it comes to these protests. One night I  
7 couldn't get to Grand Central. I couldn't get home  
8 because of these protestors, and it was scary, and I  
9 thought I am not in America anymore. And so I'm  
10 asking you, the Public Safety Committee and you  
11 specifically, Chairperson Salaam, that we do hold a  
12 specific hearing about these protests and about the--  
13 and lives are being endangered, how the Jewish  
14 community and other minorities are being endangered,  
15 and public safety is not in existence. We are scared  
16 to go on the streets because of these protests, and I  
17 understand there's been much wrongful convictions  
18 made, but we can't go to such an extreme that no  
19 convictions are made when there needs to be  
20 consequences for lawlessness, and these protests are  
21 nothing but 100 percent lawlessness, and there needs  
22 to be consequences. Otherwise, we are in-- this city  
23 is going to completely collapse, and all of its  
24 residents are under an incredible threat of danger,  
25 and yet, your role is public safety. So please,

1  
2 please think about the public safety of New Yorkers,  
3 and specifically the Jewish community, and please  
4 schedule a hearing specifically on this topic of the  
5 protests and anti-Semitism, and we'll be here as we  
6 were here today, we'll be here in greater numbers,  
7 and we really need this. Please, I am imploring  
8 that--

9 CHAIRPERSON SALAAM: [interposing]

10 Definitely. Thank you for your testimony.

11 UNIDENTIFIED: There's the need and  
12 there's the threat of safety and your role is to  
13 protect us, and I thank you for this time and I thank  
14 you for this meeting.

15 CHAIRPERSON SALAAM: Thank you for your  
16 testimony.

17 COMMITTEE COUNSEL: Thank you so much.  
18 Next we're going to turn to Amanda Wallwin who's on  
19 Zoom and if there's any individuals I have missed,  
20 and I have maybe missed some folks in the room,  
21 please feel free to come up if I have missed your  
22 name so far as well. And I think that's Nadia-- if I  
23 missed your name, I apologize for that. Feel free to  
24 come up as well. Okay, and again, if there's anyone  
25 whose name wasn't called or would like to come

1 testify, please speak to the Sergeant at Arms.

2 First, we're going to go to Amanda, and then we'll

3 wrap it up with the folks present as well. So,

4 Amanda, just one second and I'll unmute you. You may

5 go ahead. Thank you.

6  
7 AMANDA WALLWIN: Alright, thank you so

8 much, and I will try to keep my remarks brief. My

9 name's Amanda Wallwin and I'm a state policy advocate

10 with the Innocence Project. First, I want to thank

11 the Public Safety Committee, especially Chair salaam

12 and all of the committee staff for taking on the

13 question of how police investigative procedures can

14 contribute to wrongful convictions in New York City.

15 This truly is a historic moment for the Council and

16 the Innocence movement, and at the Innocence Project

17 we don't take this opportunity lightly. My testimony

18 today will touch on a variety of ways that police

19 investigations can lead to wrongful convictions and

20 I'll provide concrete solutions that NYPD and the

21 City Council can pursue to reduce wrongful

22 convictions in New York City. Although, I will also

23 note that Council support of the Challenging Wrongful

24 Convictions Act would be enormously helpful in

25 getting this bill done in Albany. My written

1 testimony delves into much more detail about each of  
2 these areas, and I'm happy to follow up with more  
3 information and model policies for each of these  
4 issues as well. According to the National Registry  
5 of Exonerations, there have been 40 wrongful  
6 convictions in New York City that involved false  
7 confessions, including convictions as recent as 2018.  
8 NYPD's interrogation techniques based on what's  
9 described in the Patrol Guide and the Detective's  
10 Guide do not meet the standards that would qualify as  
11 best practices to avoid wrongful convictions, and in  
12 some case directly contradict those standards. NYPD  
13 touted their double-blind photo arrays today, but  
14 that's only one factor needed to conduct an  
15 eyewitness identification consistent with best  
16 practices, which I detailed in my written testimony.  
17 Chair salaam vey rightly targeted the importance of  
18 DNA evidence in revealing wrongful convictions.  
19 However, in order to use DNA evidence in an  
20 exoneration, that evidence must be preserved and it  
21 must be accessible. NYPD must do a better job at  
22 evidence preservation. 22 states and the District of  
23 Columbia have preservation statutes that meet the  
24 Innocence Project's basic requirements, but New York  
25

1 is not one of them. There's no reason, however, that  
2 New York City can't take the lead and enact the  
3 citywide statute that meets or exceeds these  
4 requirements. With or without statutory change, NYPD  
5 ought to convene a taskforce to implement practices  
6 and procedures that will preserve and index all of  
7 the evidence--  
8

9 SERGEANT AT ARMS: [interposing] Time  
10 expired.

11 AMANDA WALLWIN: I appreciate NYPD's  
12 rhetoric on discovery compliance however District  
13 Attorneys across the state including in New York City  
14 have reported that they have had difficulty meeting  
15 their discovery burden because they haven't received  
16 evidence from police partners. The path from poor  
17 discovery practices to wrongful convictions is a  
18 short and obvious one. Discovery compliance is not  
19 an option. It's a legal requirement for the District  
20 Attorney as well as NYPD, and we hope that the  
21 Council continues to use its oversight powers to  
22 ensure NYPD complies with this law. Thank you again  
23 for the opportunity to testify, and I'm happy to  
24 answer any questions.  
25

1  
2 CHAIRPERSON SALAAM: Thank you for your  
3 testimony.

4 COMMITTEE COUNSEL: Thank you so much,  
5 Amanda. We are joined by two folks who are here in  
6 person. I apologize if I missed you. We'll go to  
7 Nadia and then Shelli Scott, I believe as well. You  
8 may begin. Thank you.

9 NADIA: Thank you so much for letting me  
10 speak here. My name is Nadia Vutrova [sic]. I'm a  
11 resident of New York and I'm Jewish, and as a Jewish,  
12 I would like to bring up the issue of how unsafe I  
13 feel in the City for the past four months. And I do  
14 not feel safe to show off my identity, and I have to  
15 hide it. I do feel a lot of Jew hatred toward me and  
16 other people of my community. And as a mother who is  
17 raising a one-year-old boy, I'm very concerned about  
18 his future as a Jewish person. And I would like to  
19 give him a Jewish education, and I would like to know  
20 that my child is safe in the city-- so am I and all  
21 my other members of my community. And I believe that  
22 you can take appropriate actions to remedy the  
23 hateful situation in my city and make everyone feel  
24 safe in the city, not only Jewish but also any other  
25 people. Thank you so much.

1  
2 CHAIRPERSON SALAAM: Thank you for your  
3 testimony.

4 SHELLI SCOTT: Well, I'm not speaking on  
5 wrongful convictions, but since everybody else is  
6 talking about their safety, then I'm like, well, let  
7 me express mine. I live in Harlem, and since we have  
8 this situation going on with a lot of people who are  
9 not citizens committing crimes and being let go, I  
10 don't know if that's considered a wrongful conviction  
11 or not, but I don't feel safe. When I come home at  
12 night, I have to-- I'm guarded. If I see anybody on a  
13 e-bike, I'm scared I'm going to get my purse  
14 snatched, and beside that, now they want to open up a  
15 shelter that is right around the corner from my home.  
16 And since you are one of my representatives, I just  
17 want to let you aware that yes, people in Harlem are  
18 concerned about their safety as well. And I'm a  
19 young woman and I live alone and it's scary, and I've  
20 never felt that way before in my life. Thank you.

21 CHAIRPERSON SALAAM: Thank you for your  
22 testimony.

23 COMMITTEE COUNSEL: If there's anyone  
24 else present who we did not call, please speak up.  
25 And with that, we're going to close up the public

1  
2 testimony section and turn it back to the Chair to  
3 close the hearing. Thank you.

4 CHAIRPERSON SALAAM: well, this has been  
5 a wonderful day of testimony. Thank you for your  
6 testimony, and that concludes this hearing on  
7 wrongful convictions and the NYPD. Thank you.

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COMMITTEE ON PUBLIC SAFETY

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date March 7, 2024