

**Statement of Michael Flowers**  
**Financial Crimes Task Force**  
**Mayor's Office of Policy and Strategic Planning**  
**New York City Council**  
**Committee on Public Safety**  
**April 25, 2012**

Good afternoon, Chairman Vallone and members of the Committee on Public Safety. My name is Michael Flowers and I am the Analytics Director for the Mayor's Office of Policy and Strategic Planning and the Director of the Mayor's Financial Crimes Task Force. I am also a member of Mayor Bloomberg's Task Force on Prescription Painkiller Abuse. I am glad to be joined here today by Inspector James Capaldo from the New York City Police Department. Thank you for the opportunity to speak today.

I want to begin my testimony by thanking the Council and specifically this committee for taking the time to address this incredibly important topic. Prescription drug abuse is a major epidemic that has hit our City.

Last fall, Mayor Bloomberg formed a Task Force on Prescription Painkiller Abuse in response to extremely alarming statistics about our City: Between 2005 and 2009, the rate of prescription opioid-involved deaths increased by 20% to 2.4 per 100,000 New York City Residents. Between 2004 and 2009, the rate of prescription opioid-related emergency room visits doubled, increasing to 110 visits per 100,000 New York City Residents. The Task Force, chaired by Deputy Mayor Linda Gibbs and Chief Policy Advisor John Feinblatt, includes agency heads of many of the City's health and human services agencies, the Special Narcotics Prosecutor, and the Staten Island District Attorney. It also has the director of the New York/New Jersey High Intensity Drug Trafficking Area Program. The Task Force has focused on developing strategies to reduce opioid abuse by improving the education of physicians who prescribe controlled substances and the patients who take them, analyzing data on controlled substances to target our health and law enforcement resources, and effectively arresting and prosecuting people who are abusing the system.

At the very first meeting of the Task Force, the membership agreed that the first, crucial step to fighting the prescription drug epidemic lies in improving the State's system for collecting and tracking data on opioid prescribing and dispensing. After all, if we do not know who is getting these prescriptions, who is

prescribing them, and who is dispensing them, we are clearly hamstrung in our efforts.

As it now stands, New York's Prescription Drug Monitoring Program, or PDMP, is largely inadequate. Doctors have minimal interaction with the system, and pharmacies can wait up to six weeks in some cases before reporting prescriptions. The system is also cumbersome and hard to use. These inadequacies seriously impede the ability of public health officials to identify strategies to prevent addiction and overdoses, of Medicaid oversight agencies to identify fraud, and of law enforcement agencies to find those who fuel the epidemic with their criminal behavior.

Because improving the State's PDMP requires action at the State level, the Task Force sent a letter to the Assembly Speaker, the Senate President, and the chairs of the Health Committee in both houses early this month. The letter sets out recommendations the Task Force members believe should inform any improvements to the State's system. They include making sure that doctors and pharmacists consistently interact with the system, checking and reporting when drugs are prescribed or dispensed. Of particular import to the City, the Task Force recommended that local health and Medicaid agencies gain access to database information for oversight, compliance and program integrity purposes. We believe strongly that adopting these recommendations as part of any improvement to the State's PDMP will save lives.

Beyond improving the PDMP, the Task Force has focused on ideas to bolster prevention and education. Because this epidemic involves legal drugs, educating doctors, pharmacists, and the public about the risk of opioid abuse is imperative. The City's Department Of Health and Mental Hygiene, led by Commissioner Dr. Thomas Farley, has been at the forefront of these efforts. Indeed, DOHMH has issued guidelines to doctors about prescription opioids that will help doctors identify when it is appropriate to prescribe these powerful drugs.

My particular focus on the Task Force relates to using data analysis as a weapon in this fight. What we know is that when we have good data, the sky is the limit in terms of what we can do with it – in the case of prescription drugs, data might be used to target prevention initiatives or identify suspicious patterns at a pharmacy. That makes improvements to the State's PDMP all the more critical, whether in terms of increased reporting into the system or giving access to public health agencies and law enforcement agencies so that they can use data to fight the epidemic. And that's the reason we are advocating so strongly that increased

reporting and appropriate agency access be part of any legislation to improve the State's PDMP.

I applaud the Council for taking this important step toward addressing the issue of prescription drug abuse and look forward to working with it in the future.

I will be happy to take your questions.



**Office of the  
Special Narcotics Prosecutor  
for the City of New York**

**Bridget G. Brennan, Special Narcotics  
Prosecutor**

80 CENTRE STREET, SIXTH  
FLOOR  
NEW YORK, NY 10013  
212-815-0400, GEN.  
212-815-0440, FAX

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Testimony of  
Bridget G. Brennan  
Special Narcotics Prosecutor  
for the City of New York

Finding a Cure: Examining Law Enforcement Efforts to  
Remedy the Prescription Drug Abuse Epidemic

Before the  
New York City Council  
Committee on Public Safety

April 25, 2012  
250 Broadway  
New York, NY

## **Introduction**

I want to thank the City Council's Public Safety Committee and Chairman Peter Vallone for the opportunity to testify on the epidemic of prescription drug abuse and law enforcement efforts to remedy this growing problem. The supply of prescription opioid painkillers in New York City has skyrocketed over the past five years. More and more of these highly addictive drugs are finding their way onto the black market. Increasing public awareness of the dangers of these drugs is vital.

I also want to thank the Public Safety Committee for considering a resolution to support proposed prescription drug legislation that was drafted with assistance from my office. The proposed legislation would greatly enhance our ability to prosecute those who line their pockets by illegally trafficking in non-controlled prescription medicines, such as HIV/AIDS drugs.

As Special Narcotics Prosecutor for the City of New York, my office prosecutes felony narcotics crimes in the five boroughs of New York City. We have citywide jurisdiction over medications such as oxycodone and fentanyl. At present, investigations into diversion and trafficking of these prescription drugs comprise approximately 20% of the caseload handled by my office. Overdose deaths and related crimes, such as burglaries and pharmacy robberies, are on the rise.

## **Prescription Drugs and Violence**

Everyone involved with today's hearing recognizes the seriousness of this problem, but if we needed another reminder we got one just two weeks ago in East Harlem. On April 12th, a pair of armed robbers burst into the RX Center Pharmacy at First Avenue and East 119th Street, demanding cash and opioid painkillers from pharmacy employees as terrified shoppers looked on. Among the drugs the robbers stole were 30 mg oxycodone pills – the opioid painkiller that is presently most in demand on the black market.

A wild gun battle erupted as the robbers fled the scene and one tried to open fire on police. The robber was shot dead by a quick-thinking retired NYPD lieutenant, who happened to be at a gas station across the street.

The retired lieutenant leaped into action and got a clean shot at the robber, stopping him in his tracks and thereby preventing further tragedy. A 19-year-old accomplice who escaped during the chaos was arrested yesterday morning in Rhode Island.

Robberies like this one are prompting fearful pharmacists to remove oxycodone from their shelves. We have seen “No oxycodone” signs posted on pharmacy windows and cash registers around the city.

### **Skyrocketing Supply**

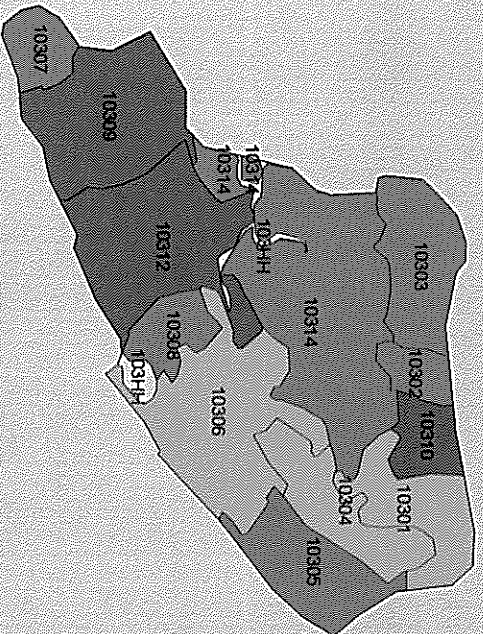
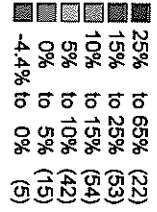
Prescription drug abuse and diversion pose unique problems for law enforcement because, unlike the previous drug epidemics we have faced in New York City, prescription drugs originate from a legal source – the pharmaceutical industry and physicians’ offices. In order to track this growing problem, my office performed a statistical analysis of prescriptions filled by New York City residents, using data obtained from the New York State Health Department through a Freedom of Information Law request. We are stunned by what we have learned. In 2011, nearly two million prescriptions were filled for oxycodone (generic for OxyContin) and hydrocodone (generic for Vicodin), two of the most highly abused opioid painkillers. Two million prescriptions is the equivalent of nearly one prescription for every fourth New York City resident.

Over the past five years, oxycodone prescriptions across all five boroughs increased by a staggering 124%. The largest five-year increases were seen in Brooklyn (158%) and the Bronx (142%), followed by Queens (126%), Staten Island (102%) and Manhattan (88%).

In 2011 alone, the number of oxycodone prescriptions filled by New York City residents increased by 13% for a total of more than 1.2 million prescriptions filled. Across the five boroughs, the numbers of prescriptions filled by residents rose by 17% in Brooklyn, 16% in Queens, and 13% in the Bronx and Manhattan. While Staten Island saw the smallest increase of just 3% it continues to be the borough most inundated with oxycodone. Per-capita, the number of prescriptions filled by Staten Island residents represented 29% of the borough’s population.

# Change in Prescriptions Filled for Oxycodone in 2011

Percent Change in Oxycodone 2010-2011

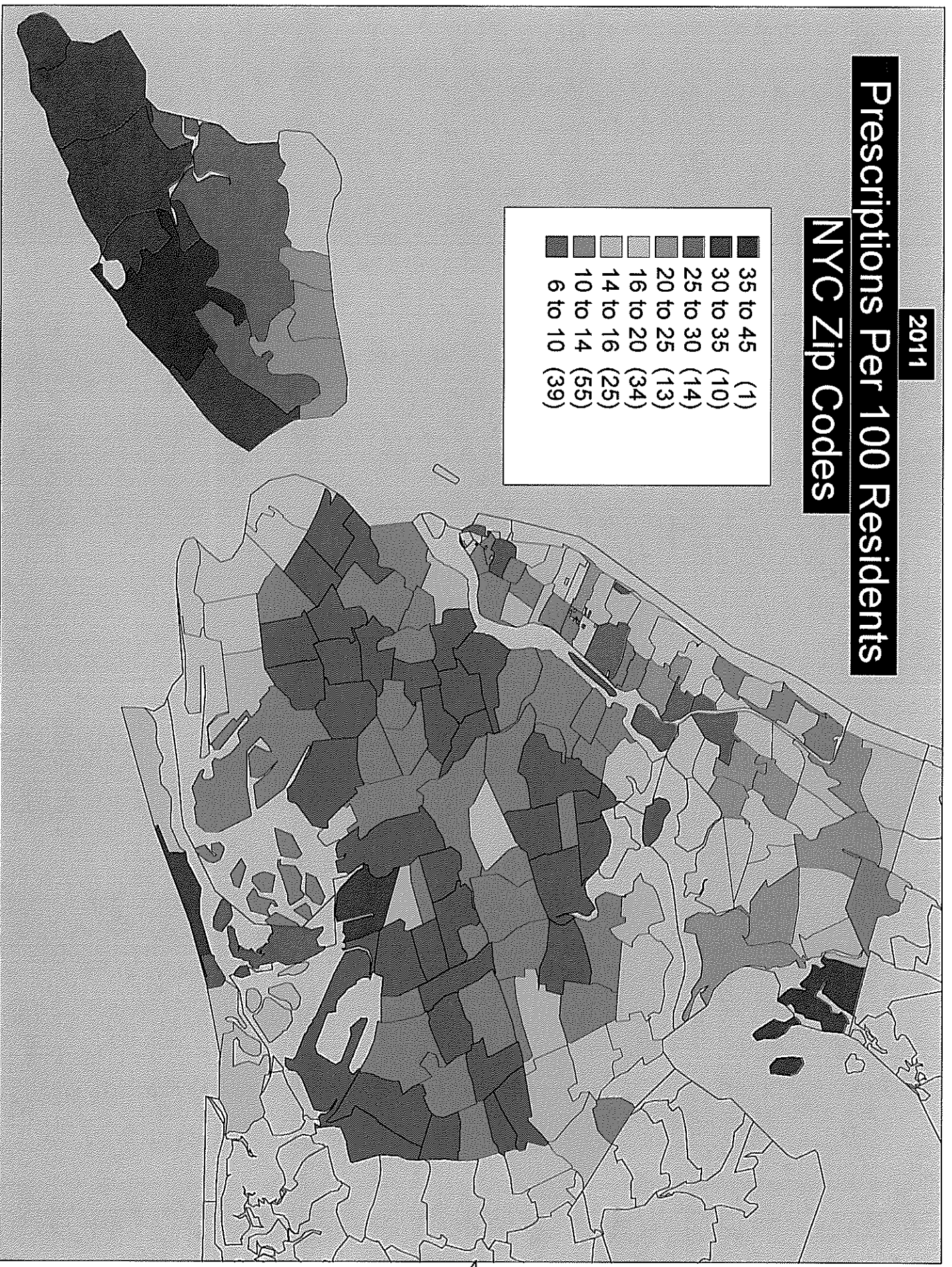
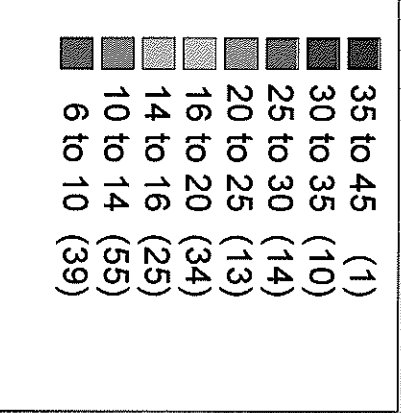




2011

# Prescriptions Per 100 Residents

## NYC Zip Codes





## Prescription Drug Investigation Unit

While my office has been focused on the prescription drug problem for approximately two years, our efforts intensified in 2011. Over the summer, I reorganized my office and formed a new Prescription Drug Investigation Unit with support from the Mayor's Office. My office is working to cut off the illegal supply of prescription drugs to the black market at the highest level possible. These investigations are highly complex and, in some cases, lead us to corrupt doctors, pharmacists and other medical professionals.

One noteworthy investigation by the new unit centered on Dr. Stan Xuhui Li, a physician who operated a pain management clinic in Flushing, Queens. He is charged with illegally selling prescriptions to an addict who ultimately died from an overdose. An ongoing investigation is focused on the circumstances surrounding a dozen additional patient deaths.

An average of 90 patients visited the pain management clinic each Saturday, the only day it was open. More than 17,000 prescriptions – 65% of which were for oxycodone (generic for OxyContin) and other opiate drugs – were written over a two and a half year period. A case of this nature is extraordinarily difficult to put together, given patient confidentiality and other sensitive issues surrounding health care. Our drug laws were not designed to confront the problem of prescription drug diversion, which can be traced back to widespread overprescribing of highly addictive opioid painkillers.

While the vast majority of doctors act in good faith, the unscrupulous few who sell prescriptions for profit jeopardize the health of their patients and the community at large. Building a criminal case against a doctor is no small undertaking. Before a doctor can be charged, a team of prosecutors, investigators and analysts must devote hundreds of hours to reviewing prescription records, interviewing witnesses and conducting surveillance. In the Dr. Li case, investigators determined which of his patients had died by visiting each Medical Examiner in the region, and comparing patient lists to overdose records by hand.

It is no longer unusual for my office to seize prescription drugs alongside loaded firearms and other narcotics, like heroin and cocaine. In one case, a drug trafficker who sold cocaine and prescription drugs maintained a heavily-fortified stash house in a residential area on Staten Island. This drug trafficker was apprehended after federal agents with ICE in Newark observed him conduct a sale in New Jersey. Agents found a 40 caliber pistol in the white Lexus the defendant was driving. A subsequently search of his house on Staten Island yielded two additional guns – an AR-15 rifle and a 9 mm pistol – as well as body armor, ski masks and sophisticated surveillance equipment. Approximately 3,000 oxycodone pills, 30 grams of cocaine, and quantities of alprazolam (the generic name for Xanax) and anabolic steroids were also stashed around the home. Hanging prominently on the wall was a framed poster of Al Pacino’s “Scarface”.

### **Collaboration**

With the continued support of the Mayor’s Office, we hope to further develop expertise in the area of prescription drugs and to serve as a resource for the city and other law enforcement agencies. In addition to the new unit, my office has devoted considerable time and resources over the past year towards developing legislation that would increase New York State’s oversight of prescriptions for opioid painkillers and provide law enforcement with additional tools to combat this problem. My office is participating in several new task forces, including the Mayor’s Task Force on Prescription Painkiller Abuse. We are committed to continuing the important work of combating this crisis, along with our law enforcement partners at the New York State Department of Health’s Bureau of Narcotics Enforcement, the New York City Police Department, the U.S. Drug Enforcement Administration and other local and federal agencies.

### **Non-Controlled Substances**

In the course of prosecuting prescription drug cases, my office came across a startling oversight in the state law when it comes to the sale and resale of non-controlled substances. Non-controlled substances are generally not addictive, and so not the subject of the cases we usually bring. These are highly expensive medications like HIV drugs, asthma and anti-psychotic

medications. Enormous profits can be made by diverting these medications onto the black market.

When I speak of diversion, I am talking about the distribution of these drugs not by pharmacists who have obtained them directly from a pharmaceutical company and maintain them under the conditions carefully specified by the manufacturer. In many cases, criminal organizations send out an army of people – often Medicaid recipients – to get non controlled prescription medications. These drugs are collected, repackaged and stockpiled for shipment to retail outlets and overseas sellers.

The case that demonstrates the glaring gap in state laws occurred in June 2010. Nearly 6,500 bottles of illegal non-controlled prescription drugs carrying a street value of \$4.25 million were seized from a house in Yonkers in connection with a case we were running. The criminal organization was suspected of trafficking in cocaine, but we came to learn it was stockpiling the medications for resale to independently owned pharmacies in the New York area. Many of the drugs that were seized are used to treat HIV patients. Others are prescribed for asthma, depression, schizophrenia and acid reflux. Two defendants were placed under arrest by the DEA. There were no effective state statutes with which we could charge these defendants, so we ended up referring the case for federal prosecution.

We have seen prescription drugs sold in bodegas or storefronts, which maintain them under far from sanitary conditions and resell them. We have seen unscrupulous pharmacies repurchase these drugs on the black market and use them to fill legitimate prescriptions, often billing Medicaid a second time for the same drugs. The diversion of non-controlled substances is so rampant that certain street corners are known spots where people can sell all of the prescription drugs they have collected through a variety of means, including theft and fraudulent prescriptions.

#### **Hannon/O'Donnell Bill: S.5260-C/A.7251-C**

Proposed prescription drug legislation drafted with assistance from my office has passed in the Senate and is awaiting a vote in the Assembly. If

passed, it would create or enhance penalties for the following prescription drug related crimes:

- Diversion of prescription medication, both controlled and non-controlled substances
- Fraudulent prescribing, dispensing and procurement of non-controlled prescription medication
- Unlawful Possession of non-controlled prescription substances

The legislation penalizes physicians and pharmacists who knowingly violate the law, while providing good faith exceptions for medical professionals, good Samaritans and wholesalers.

### **Conclusion**

We thank the City Council for drawing attention to the epidemic of prescription drug abuse and diversion. As the data shows, this problem has not abated. New York City continues to be inundated with opioid painkillers. Violence is escalating, so much so that throughout the city pharmacists are signaling that they don't carry these drugs.

We would also like to thank the Public Safety Committee for supporting legislation that will give us the tools we need to address illegal trafficking in non-controlled substances and enhance our ability to prosecute controlled substance cases.

**THE COUNCIL  
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I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_  
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Name: INSP. JAMES CAPALBO NYPD

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Name: MICHAEL P. FLOWERS

Address: 1 CENTRE STREET, Rm 1012 N

I represent: OFFICE OF THE CRIMINAL JUSTICE COORDINATOR

Address: 1 CENTRE ST, Rm 1012 N

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Name: Bridget G. Brennan

Address: 80 Centre St, 6th Fl, NY, NY

I represent: \_\_\_\_\_

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Name: Philip Anderson

Address: 125-01 Queens Blvd. Kew Gardens NY

I represent: Queens District Attorney

Address: \_\_\_\_\_

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Name: Gregory M. KRAKOWER

Address: 30 120 Broadway

I represent: Attorney General's Office

Address: 120 Broadway

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Name: Paul J. Mahoney

Address: 120 Broadway, NY NY 10271

I represent: Attorney General's Office

Address: 120 Broadway, NY NY 10271

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Name: WESSELN MIPEV, JOHN RAY & ASSOCIATES

Address: RD N. COUNTRY ROAD M.P. N.Y. 11764

I represent: The Estate of Jamie Taccetta

Address: \_\_\_\_\_

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Name: MARC FLIENER

Address: Kings County DAs office

I represent: ↓

Address: 350 Jay Street

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