

PUBLIC SAFETY COMMITTEE

Of the

Suffolk County Legislature

A regular meeting of the Public Safety Committee was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, 725 Veterans Memorial Highway, Smithtown, New York on June 5, 2008.

Members Present:

Legislator Jack Eddington - Chairman
Legislator Kate Browning - Vice-Chair
Legislator Wayne Horsley
Legislator Daniel Losquadro
Legislator Lynne Nowick

Also in Attendance:

George Nolan - Counsel to the Legislature
Barbara LoMoriello - Deputy Clerk of the SC Legislature
Robert Calarco - Aide to Legislator Eddington
Linda Bay - Aide to Minority Leader Losquadro
Paul Perillie - Aide to Majority Leader Cooper
Greg Moran - Aide to Legislator Nowick
James Montalto - Aide to Legislator Losquadro
Bobby Knight - Aide to Presiding Officer Lindsay
Marge Acevedo - Aide to Presiding Officer Lindsay
Kara Hahn - Director of Communications/P.O. Lindsay's Office
Diane Dono - Senior Budget Analyst/Budget Review Office
Ben Zwirn - Deputy County Executive
Brendan Chamberlain - County Executive Assistant
Robert Kearon - Bureau Chief/District Attorney's Office
Dennis Brown - Bureau Chief/County Attorney's Office
Michael Sharkey - Chief-of-Staff/Suffolk County Sheriff's Office
John Desmond - Director/Suffolk County Probation Department
Colleen Ansanelli - Criminal Justice Coordinating Council
Noel DiGerolamo - Vice-President/Police Benevolent Association
John Cowin - Financial Secretary/Superior Officer's Association
Michael Rando - Deputy Sheriffs Police Benevolent Association
Russ McCormack - Suffolk Detective's Association
Patsy Hirschhorn - Smithtown Veterans Youth Bureau
Kevin O'Hare - Smithtown Veterans Youth Program
Louis Raffone - Heckscher Youth Program
Debra Alloncius - Legislative Director/AME
Debbie Eppel - SC Public Information Officer
Hope Collazo - American Red Cross/Community Service Program
Patrick Russell - Resident/Town of Babylon
Bob Cappadona - Resident/Town of Babylon.
Kevin Gershowitz - Gershow Recycling
Rick Brand - Newsday
All Other Interested Parties

Minutes Taken & Transcribed By:

Alison Mahoney - Court Stenographer

*(*The meeting was called to order at 9:58 A.M. *)*

CHAIRMAN EDDINGTON:

We'll start with Legislator Nowick and the Pledge of Allegiance

Salutation

I would like to ask you to remain standing for a moment of silence for all those that served our country and its defense domestically and in foreign seas.

Moment of Silence Observed

Okay, thank you very much. Okay, I'd like to start with the public portion and I have Louis Raffone.

MR. RAFFONE:

Yes, good morning. I would just like to thank you for reinstating the Police Officers for our Summer Youth Program. I'm sure the 825 kids really appreciate the summer program. Again, I want to thank the committee, the Commissioner on reinstating the Police Department. Thank you very much.

CHAIRMAN EDDINGTON:

Thank you, sir. Kevin O'Hare.

MR. O'HARE:

Thank you. Good morning. I also am here to thank you. I want to thank this Legislative body, everybody that worked behind the scenes. Also, Suffolk County Deputy County Executive Ben Zwirn who was helping me there.

I have been in touch with the Police Commissioner four times since the last meeting and everything has worked out. I thank Lynn, my Legislator, who handled the Summer Beach Program at Smithtown at Sunken Meadow. Everything has worked out great. But I think as much as we go back, we yell at people, we get mad at people, I think it's time also to say thank you when it deserves to be thanked. And I want to thank all of you, too. I appreciate it.

LEG. NOWICK:

Thanks for coming, Kevin.

CHAIRMAN EDDINGTON:

Maybe we should stop now, don't you think? Okay, thank you. Noel from the PBA, please.

LEG. LOSQUADRO:

What's the matter, a good Irish boy like you can't pronounce DiGerolamo?

CHAIRMAN EDDINGTON:

Yes.

MR. DIGEROLAMO:

Thank you very much. It probably was -- would have been best stopping right there. I just wanted to take a couple of moments to let everyone know what transpired after my last appearance here and my presentation.

The department decided to initiate an Internal Affairs investigation against me for bringing up issues

here, wanting to know how I got information, what I knew and so forth and why I brought it to this body. Well, once they were denied the right to hold that investigation in Internal Affairs, they decided they no longer needed to speak to me. And they further rejected my invitations to come to the PBA Office, or I would respond out to Headquarters or to the District Attorney, so that we could all sit down and discuss the issue and try and find some remedy to the problems that are going on. Well, I think that refusal to come and sit with us is a clear indication of what the true intent of that investigation was; it was nothing more than a threat and an attempt to intimidate.

This organization is not going to allow the department, or anyone else for that matter, to intimidate us or try and harass us in any way and prevent us from coming here and doing this job that is very important. Sharing information with this body and the public is something that needs to be done on a regular basis so that we can address the issues.

As of today, the summer staffing in the Marine Bureau is still 50% less, 50% less than what was sent last year. Legislator Nowick, you specifically asked about the Huntington boat? The Commissioner sat here and he promised that he would staff that boat.

LEG. NOWICK:

Yes.

MR. DIGEROLAMO:

That's the Marine Bravo Boat in Huntington, so you're aware of the call sign for it. That's been shut down eleven times since he made that commitment, eleven.

You know, the administration comes and they stand here before you and they speak about outside agencies who receive services that they're not paying for, yet they do the same thing. What they do is they tax the public, they budget for 300 more officers and they don't give those services. Why is that? We're budgeted for 2,100, we have less than 1,800; that's nearly a 15% reduction of services. It's the same exact thing that they're accusing the outside agencies of doing.

Now, the County Executive and the Police Commissioner can come and stand before you and they may have a louder microphone than I do, but that doesn't mean what they're saying is accurate. There's a misconception that Police Officers go out and risk their lives every day, and that's not the case. Every day they go out and they give their lives, whether it be a motor vehicle accident, an industrial accident, a homicide scene, a rape, child abuse, neglect.

LEG. LOSQUADRO:

Mr. Chairman?

CHAIRMAN EDDINGTON:

Yes.

LEG. LOSQUADRO:

I wanted to ask a quick question, since his time has expired.

CHAIRMAN EDDINGTON:

Did we want to let him finish?

LEG. LOSQUADRO:

I was going to say, could you elaborate on how they give their lives, sir?

MR. DIGEROLAMO:

I was just -- if you could --

LEG. LOSQUADRO:

Never mind. Just following protocol.

MR. DIGEROLAMO:

All right. These are just words. Those are actual scenes that those officers go to every day and they carry that burden with them for life. The men and women who do this job, they're your friends, they're your neighbors, they're your family. They're human beings; we need to start treating them as such, giving them the resources they need and not treat them like a number on a balance sheet. Thank you.

CHAIRMAN EDDINGTON:

Thank you very much.

LEG. NOWICK:

Thank you.

CHAIRMAN EDDINGTON:

Patsy Hirschorn.

MS. HIRSCHORN:

Good morning. I also am here, I am the Executive Director of the Town of Smithtown Youth Bureau and my reason for coming back this morning is to thank the Legislature and the Police Department for working with us to reinstate the Safe Summer Programs. As we stated when we came to you first, these programs been around for 15 plus years and they do go through their struggles which happen when kids graduate who have been the regular attendees and attendance dips and drops and rumors get out about what's going on. So we've had a little bit of a problem this year getting the information back that the programs are back in the community, but we have met with our Police Officers, they are very pleased to be working with us to make the program work this summer.

We did a little compromise in terms of the hours that we would run and the days that we will run, but we're very pleased with the result. And we do hope that all of you will find the time to come out and take a look at the programs that we run because they really are a good opportunity for kids to stay safe and drug-free during the summer months. And again, thank you very much for your support.

CHAIRMAN EDDINGTON:

Thank you. Kevin Gershowitz?

MR. GERSHOWITZ:

Good morning. Members of the committee, thank you for taking the time to listen to our industry. I represent the scrap metal industry on an important issue in front of you. This issue affects not only law enforcement and our businesses but also affects the local economy, uniform competitive practices, and its most important issue is its environmental conservation.

Our companies understand that something has to be done to send a strong message to stop criminals from stripping churches and homes of copper and other commodities. However, we ask you not to legislate by photo op or media event or personal agendas. Our industry regularly cooperates with law enforcement and we are not opposed to further regulation. Alternatives exist such as giving the Police real punitive tools to have an effect. We support increased fines, we support uniform enforcement, we support giving prosecutors more tools and we support closing loopholes to give existing State legislation real teeth. We don't support legislation that will cost industry more than \$7 million each and every year. We don't support legislation that will not recover stolen goods nor deter the sale of stolen goods.

Currently, there is a new Statewide legislation. We recently had Statewide legislation that became effective on January 14th. There's additional Statewide legislation that has passed the Assembly and is about to pass the Senate, it's being sponsored by local Assembly persons on Long Island and Senators, and that will create a New York State Metal Theft Task Force that will advise on a

Statewide basis regulations that should be recommended.

We're here to support 1437 which is what you're considering today. We think 1437 is very good, it's not a watered down compromise. It's our position that it's more effective than other proposals and it's extremely punitive. It's a hammer and tool that you would be giving to the Police that would be tremendous. 1437 is tough, it's firm, it's stern, yet at the same time it's clear, direct and it's patently simple to comply with and enforce.

I ask you to ask yourself, when has any industry come before this group and said, "We want more regulation. We want more uniform record keeping requirements, we want extremely stiff fines and penalties for noncompliance"? 1437 accomplishes all of this and I stress without an undo burden upon local industry nor the taxpayer. Our clear -- industry is clearly in a recession, our region is in a recession. Our industry is one of the last remaining manufacturing industries on Long Island. We consider ourselves to be vital to environmental and conservation efforts. We ask all of you to work with our industry, not against it. We want to help to solve a problem by participating in a good and tough law and that tough law is 1437 and we respectfully ask that you move it out of committee. Any questions, I'm here to answer them, and thank you.

CHAIRMAN EDDINGTON:

Thank you very much. Chief Varrone?

CHIEF VARRONE:

Good morning. As was mentioned, I think it was, that the Commissioner and the rest of the staff are participating in a promotion ceremony, so I'll be the only representative here from the department.

In regard to the bill, 1437, the Commissioner wanted to state and I'm stating that on his behalf, and also it is my opinion that that bill does not do what the previously submitted bill does in primarily allowing a reporting system to the Police Department; that's the main facet of the initial bill that the Police Department wants. I don't see how much of a greater hammer 1437 presents, to me the fine structure is almost identical. So I'm just here to briefly state that the Commissioner, the District Attorney and the Police Department support the previous version of the scrap metal bill.

LEG. LOSQUADRO:

Mr. Chairman?

CHAIRMAN EDDINGTON:

Yes.

LEG. LOSQUADRO:

Just a quick question. Chief, you are aware of the electronically searchable database provision that's now been added, I know you're aware of that, to the latest version of 1437. But it gives the industry 12 months in which to transition into an electronically searchable database. Because many of the businesses throughout Suffolk County that -- many of the businesses that are in this industry, I should say, do not currently have that technology; some do, but many don't. So in this resolution, giving the businesses a chance to transition into an electronically searchable database I think is something that's very important. And from there, I think we could certainly move towards something that the Police could search.

And I know that a big component of this for the Police Department is to have much more immediate access to those records instead of trying to search throughout a geographically very large County from material that by the time you get your limited staffing availability out to a number of facilities, the material may be long gone and it's very difficult, if not impossible, to identify to begin with, you're really just looking for more volume of a particular material or a particular individual who sold something.

So I think this bill goes a long way towards not only having a more punitive fine structure, which I

believe it does, but giving industry a chance to begin to transition into that model that they can work with the Police Department to address the needs that you have. So I think there is certainly a middle ground to be found here and I think we're actually closer than everyone would think to finding that middle ground and I think the industry has been pretty cooperative along the way.

But as we discussed, this isn't just about the Police Department and their desire for searchability of records. This is also something that this body has a responsibility to do, much as we did with the legislation that we passed regarding contractors. We have a situation where commerce is taking place on an unlevel playing field and we have many members of an industry that are participating in an underground economy and are not paying their fair share, and that puts the folks who are out there doing things on the straight and narrow, on the up and up, paying everything that they're supposed to pay into the system at a severe competitive disadvantage to those who would choose not to. And we have a responsibility as a Legislative body to make sure that all business that takes place in Suffolk County, whether it's contractors hiring people who are not here able to work legally or businesses throughout Suffolk County that some are complying with the laws that are on the books and some aren't. We have a responsibility to make sure that all businesses have a level playing field on which they're doing battle, so to speak, because industry right now, as it was pointed out, we're in tough economic times and everyone is battling just to stay afloat.

So I think that this bill goes a long way towards accomplishing all of those goals. But I really appreciate all of your input personally and the input of the department on this, I think it's been very helpful.

CHAIRMAN EDDINGTON:

Chief, just before you leave. I want you to know that what we're trying to do is take both pieces of legislation and come up with something that will help everybody, which has been my intention all along. If we remember three months ago, Mr. Gershowitz, who is here today, came up and said that there's no way there could be electronic files, it would put people out of business. Although his company does it, it would hurt the industry tremendously and be cumbersome and not cost-effective, and we had DeMatteo come here and say it would put her out of business. So we're now hearing the industry saying that they're willing to do that, and obviously they're going to help each other do that and that's a step forward. And we're talking about adding another step so that we might be able to do something that can help prevent and do early intervention in the crime, which is what my understanding was your concern all along.

CHIEF VARRONE:

Yes, sir.

CHAIRMAN EDDINGTON:

So if we can come up with something that we can really all agree on, that's really the goal and I think that we're making a stride towards that. So I think in the next couple of weeks we may have something that you will find acceptable.

CHIEF VARRONE:

Well, I thank you, Mr. Chairman. I thank Mr. Losquadro and the other members of the Legislature for all your efforts, recognizing the problem that we face in this County. Thank you.

CHAIRMAN EDDINGTON:

Okay, thank you. Anybody else want to address the committee?

Okay, then let's go to **Tabled Resolutions:**

IR 1359-08 - To maintain safe summer programs in 2008 (Losquadro).

LEG. LOSQUADRO:

Mr. Chairman, I'm going to make a motion to table, not table subject to call yet. As we have heard

some of the testimony this morning, as you said, we probably should have ended after those comments. But this resolution was put in in response, obviously, to the cessation of activity of the Police Department in these programs. I want to thank the administration and the Commissioner and the Chiefs of the department for working together to provide the staffing to allow these programs to continue. And really, the intent of this legislation, my hope was that it wouldn't be necessary, that we would be able to find a resolution, and it appears that we have. It opened the dialogue and I think it was successful to that end. So I will make a motion to table and hopefully --

CHAIRMAN EDDINGTON:

I'll second that.

LEG. LOSQUADRO:

-- at the next meeting we'll make a motion to table subject to call because the programs will have started and all will be right with the world again.

CHAIRMAN EDDINGTON:

Okay, I have a motion to table, I'll second that. All those in favor? Opposed? Abstentions? **Tabled (VOTE: 4-0-0-1 Not Present: Legislator Horsley).**

IR 1437-08 - A Local Law establishing crime prevention requirements for scrap metal processors, vehicle dismantlers and junk dealers (Stern).

LEG. LOSQUADRO:

Mr. Chairman, I'd like to make a motion to approve. I would like for both of the competing pieces of legislation to be on the floor at the same time so we can discuss them and as we talked about, continue to work towards a solution that's agreeable to all sides.

CHAIRMAN EDDINGTON:

Okay, I will second that motion. And on the motion, I would just like to say that my intention of seconding that is that there will be two there and there will be a third coming out of that that will be approved by everybody in the industry and the Police, and that's my intention. So we've got a motion and a second. All those in favor? Opposed? Abstentions? **Approved (VOTE: 4-0-0-0 - Not Present: Legislator Horsley).**

Introductory Resolution

1461-08 - Establishing County policy to confirm legal status of persons entering the probation system (Losquadro).

LEG. BROWNING:

Can we have the Commissioner up on that?

CHAIRMAN EDDINGTON:

I'd like to ask the Commissioner to come up and just comment on this before we take a vote.

DIRECTOR DESMOND:

Good morning all. John Desmond, Probation Director. I have two comments on the legislation. I have appeared before you a couple of months ago on the immigration question.

The first comment is on the use of the word *determine* in the resolution. Basically, the only agency in the country that can determine the legal status is ICE, is immigration. We have no legal ability to do that; that was the main point.

The other point I wanted to bring up is the fact that we've had additional cooperation from ICE. I've been in contact with Deputy Director Ed Bauman who's the Regional Division Head for Criminal Aliens and we've now begun forwarding to them on a regular basis a list of all the individuals that are currently on probation that we have any question about their legal status at all. And we're

hoping that that information will be of assistance to them and that this will result in increased work with them to safeguard Suffolk County.

LEG. LOSQUADRO:

Mr. Chairman?

CHAIRMAN EDDINGTON:

Legislator Losquadro.

LEG. LOSQUADRO:

I appreciate that, Mr. Desmond. But you did come before us and tell us that you had 996 people of questionable immigration status and then told us you did a statistical sampling and that your best guess was 225 individuals who were not of legal residence in the United States of America.

DIRECTOR DESMOND:

That we believed.

LEG. LOSQUADRO:

Believed.

DIRECTOR DESMOND:

Yeah, and I indicated then that we can't determine this.

LEG. LOSQUADRO:

Well, you can stop right there because since then, and despite requests from this entire committee, received no follow-up correspondence, nothing telling us what you were going to be doing to rectify that situation. All we keep hearing is that caseloads are too high, staffing is too low, people are being overworked. You know, we have questions of how that's affecting the level of supervision that people have with caseloads as high as they are. And we all understand that throughout the Police Department, Probation Department, everywhere, we have a tight budget and staffing is a really big issue right now.

So when I hear that we could potentially take a minimum of 225 people, perhaps as high as a thousand people, off of our roles, because not -- forget the fact that they came into this country illegally. They have now broken a law and have been convicted by our criminal justice system. Those individuals have forfeited any right, whether or not people think they had a right to be here in the first place because they came here illegally or not, those individuals -- I find it absolutely unconscionable that the taxpayers are paying a red cent to supervise those individuals after they've gotten out of prison. I don't care how you determine it. I don't care if you have to have an ICE Officer sitting with those individuals and walk them out in handcuffs. I don't see any reason why you would come before us and tell us that we had 996 people of questionable immigration status when the Sheriff's Department is supposedly confirming that status through the process as they're going through the courts. How can someone even be arraigned or go through the criminal justice system without confirming who they actually are? Someone could give an alias.

So I don't understand how -- is there a lack of communication between departments or between levels of government? I don't understand how this is happening.

DIRECTOR DESMOND:

This is a lack of Federal resources. Suffolk County does everything they can to cooperate with ICE.

LEG. LOSQUADRO:

So you're telling me that the courts don't know who they're prosecuting?

MR. ZWIRN:

I can answer that. We have somebody from the District Attorney's Office here who could probably

answer that better than I. But having been a former Assistant DA, when somebody is arraigned generally they had been fingerprinted and they do a fingerprint check. If there are no fingerprints on file, that are just not in the system, you have a name-check and it can be problematic as to who you have there. And occasionally you'll read about it in the newspaper, that somebody was released who had a criminal record that was not in the system or in our system. And Bob, is that --

MR. KEARON:

That's correct.

MR. ZWIRN:

So that can happen. And if you have somebody who came in illegally out of the country and is not in our criminal justice system, very likely they could be arrested, give any name with any kind of identification that they have and there would be no fingerprints on record to be able to match that to a warrant or anything.

LEG. NOWICK:

CSI Miami.

CHAIRMAN EDDINGTON:

Mr. Zwirn, would you like anybody else to testify?

MR. ZWIRN:

Well, I --

CHAIRMAN EDDINGTON:

I'd prefer you to ask me before you take charge and call witnesses and stuff.

MR. ZWIRN:

I'm sorry.

CHAIRMAN EDDINGTON:

Go ahead, Mr. Desmond.

DIRECTOR DESMOND:

Okay. Just in terms of the ID question, because this is something that concerns everybody in the criminal justice system. The County is also beginning to use iris scanning, so that when an individual first comes into the system, we identify that person by the use of iris scan as well as the fingerprints. And when he comes in again, if he uses a different name, that will be picked up either between the fingerprints or the iris scan.

LEG. LOSQUADRO:

But that's all dependent on someone coming back into the system, not -- if someone comes into the system for the first time, as Mr. Zwirn just said, we may not have a record on them. I feel that if someone cannot prove their identity, they don't have the right to the freedom. Mind you, there are various levels of freedom -- you may have to report to someone, you may have someone come to your house and do spot checks -- but the point is you're no longer behind bars and to me that's freedom; whether or not you're on probation, you're out of jail. And to have these individuals that we don't know who they are, we don't know their immigration status, I mean, we're hearing -- we may not even know who these people are if there's not a record of them. This has to change, especially in the budgetary situation that we are in.

You testified before us that you were going to be putting together a committee or a commission to work on this problem. Has that commission convened? And my testimony to you was that commission should have one function and one function only and that would be to find a way to hand over to ICE, immediately upon release from prison, those individuals who are not of legal residency status. We heard that there may be components of that that we were looking for housing for

individuals. Has this commission convened and what is its function?

DIRECTOR DESMOND:

You're referring to a work group that I had established? The work group --

LEG. LOSQUADRO:

Whatever the working title of it is.

DIRECTOR DESMOND:

Yeah, the work group has met twice. Basically we're in -- excuse me, abeyance until such time as we work out a comprehensive system with ICE on a regular basis. As I indicated to you, we're now sending out data to ICE, we're hoping that a liaison will be established from ICE. Again, the problem is not on the Suffolk County side.

LEG. LOSQUADRO:

But I --

DIRECTOR DESMOND:

The problem is with the resources available through the Federal government to identify these individuals and to take them into custody.

LEG. LOSQUADRO:

Is ICE not working with the Suffolk County Sheriff's Department right now? Are they not providing resources to them?

DIRECTOR DESMOND:

ICE has individuals at the Suffolk County Jail.

LEG. LOSQUADRO:

Can you dovetail with their efforts?

DIRECTOR DESMOND:

We do in part because --

LEG. LOSQUADRO:

Have you done that?

DIRECTOR DESMOND:

We do in part.

LEG. LOSQUADRO:

What does in part mean?

DIRECTOR DESMOND:

We funnel the information to ICE that comes through the courts from the arrest process. ICE acts on some of that information and processes individuals that they determine are appropriate for them, puts detainers on them and then they are put into the ICE system. ICE also contacts us on a -- well, on a basis of their own whenever, they're interested in taking into custody individuals that are on Suffolk County Probation and we cooperate with them. What we're hoping to do is formalize a more structured relationship so that we can enhance ECE's activities out here. But again, we don't have control over that.

LEG. LOSQUADRO:

Could the Probation Department work with ICE? Those 996 individuals of questionable immigration status, could you work with ICE on those individuals to determine their status and basically do an arrest by appointment? That work with ICE and have ICE go with you when you go do a check on

that person? And they're so used to Probation just coming and checking on them that when someone -- you could have ICE show up with you and basically do arrest by appointment.

*(*Legislator Horsley entered the meeting at 10:29 A.M. *).*

DIRECTOR DESMOND:

What we have done is we forwarded to ICE --

LEG. LOSQUADRO:

No, I asked you could that be done.

DIRECTOR DESMOND:

Well, if I could just explain. You're asking a lot out of a small ICE contingent out here. Because you're asking them to come down, interview somebody without having done prior work-ups of their available information. What we've done is we've forwarded to ICE a listing, a file, a computerized file of all the individuals of questionable status with all the information, identifiers that ICE requested, and we're hoping that based on that, that they will be able to act on more cases in Suffolk County. And we're more than happy to go out with them at any point to any residents and engage in a clarification of those individual status.

LEG. LOSQUADRO:

So to this point, if I'm hearing you correctly, the working group that you formed hasn't accomplished anything, they've been held in a abeyance at the moment and we don't have any further information on the individuals which you came before us a couple -- a few months ago and told us that there's almost a thousand people that we don't know if they're here legally or not.

DIRECTOR DESMOND:

I indicated to you that we have somewhere between 900 and a thousand people of questionable status, but again, a number of those people are probably legally here. I indicated to you that to the best of our ability, since we can't make a final determination, somewhere around 200 to 225 we believe are criminal aliens, but it's a belief and we can't take any action on any of these --

LEG. LOSQUADRO:

I don't know about the rest of this committee, but I find this sort of subjectivity in people who are criminals unacceptable. We have to do a better job somehow in knowing who people are that we're letting out of prison, that we are putting back on the streets. For all we know, these individuals may have murdered 12 people in their own country, we just don't know that. And I find that sort of subjectivity unacceptable in this situation and this bill is an effort to -- and I'm not trying to manage your department, sir, but as I said, I know I'm repeating myself, but I can't accept this sort of subjectivity when it comes to public safety and putting people back on the street, people who are convicted criminals, convicted criminals, and that's what this comes down to. They have broken our laws, they've gone through our criminal justice system. This is not people who have been accused of something, these are people who have been convicted by our criminal justice system and we are now making a decision to put them back out on the street. And we have some sort of ambiguity as to who they are here and I can't accept that in terms of our public safety.

DIRECTOR DESMOND:

The decision to put them back on the street is made by the courts, the courts are aware of their questionable status. My responsibility is to take whatever individuals are referred to me by the courts and attempt to supervise them in an effective process for both community safety and rehabilitation. Again, we're limited by what ICE does.

LEG. LOSQUADRO:

With the amount of money that it costs us to supervise these individuals, additional monies invested in determining who they are so that we can prevent them from even coming into our system to

supervise them I think would be money well spent, because it's a question of spend a little to save a lot.

We always hear about the amount of money that it costs us to supervise individuals through your department, it's not an inexpensive process. And with the size of the caseloads that we have, to be able to take some of those people out of the mix will provide for heightened public safety not only in removing people from the streets that don't deserve to be here in the first place, but also by allowing your officers to be able to more closely monitor the people who are legally supposed to be here. So I think it's a win/win all around.

And I think that your department needs to work with this body and with the Executive Branch to tell us what we resources you need to accomplish that and we need to do that, because the little investment we make there will pay huge dividends.

DIRECTOR DESMOND:

We actually don't need any additional resources. It really comes down to what ICE is able and willing to do. We already have the County Legislature, the County Executive and the State of New York has been very generous in working with us to establish a new computer system which will be on-line in the fall, that will allow us to be even better providing data to ICE. It really is a question of ICE's ability to process people. At this point, they have no place to put additional individuals that they identify as criminal aliens, their holding facilities around the country are full. We have situations where we cooperate with ICE, the individuals are processed and then they're returned to the community for further hearings later on.

Suffolk County -- I appreciate the offer of additional resources, but I can't do any more than we're doing. It's a limited Federal resource and it's impacting heavily on our County.

LEG. LOSQUADRO:

Well, I think perhaps -- well, I'm not even going to get into that.

I think that given the fact that the Sheriff's Department has been more successful than other departments in being able to determine some of these questions, I don't know where the problem lies, but I think it's something that needs to be resolved.

DIRECTOR DESMOND:

I believe that what the situation is is that a determination was made by ICE, in cooperation with discussions with the County Executive's staff, that the highest priority in terms of interventions was to put the additional ICE staff that was made available to Suffolk County in the jail, and I think that was an appropriate decision. And again, if additional ICE staff are made available to us, and I have hopes that they will, we'd be more than happy to work with them.

CHAIRMAN EDDINGTON:

Legislator Browning.

LEG. BROWNING:

I think you responded because when this came up I questioned you as to aren't you doing this already; I believed that you were. And one of the things I vaguely remember, some time ago you testified and said that you have some that are on probation and when they're turned over to ICE, many times they process them and release them without notifying you which means now they're in violation of probation.

And again, I agree and I understand that you're doing everything you can do. The Sheriff was here, he also said the same thing, that too often -- I asked him, they're coming back in again. And just last week when I was talking to Joe Caracappa, the Under-Sheriff, I asked him the same thing, "How many are you seeing coming back," and he says, "Yeah, we see them coming back in again." So even though they're being handed over to ICE, they're not being deported, they're being released and they wind up back in our system again. So I'm -- I know you're doing everything you can do. My concern is is that now they're no longer on probation, they've been given to ICE, they're being

released and now they're out on the streets and nobody is watching them, so it gives them an opportunity to commit another crime.

DIRECTOR DESMOND:

Yeah. Our policy is when we hand them over to ICE, or when ICE places them into custody, even if they're deported, we institute a violation of probation and request a warrant from the courts on the felons, so that if they do come back into the country we will have the documents ready so that we can take them back to court.

LEG. LOSQUADRO:

With all due respect --

CHAIRMAN EDDINGTON:

Well, I wanted to -- can I just let Legislator Nowick and then you can go right back.

LEG. LOSQUADRO:

I was just going to address that.

LEG. NOWICK:

John, I'm trying to understand this just a little bit. From what I'm understanding you have somewhere between 900 and a thousand questionable aliens, maybe not aliens, on probation. You're saying maybe 225, just a feeling, maybe 225 of those actually are here illegally; is that what you're thinking? As a guess, you said it was as a guess.

DIRECTOR DESMOND:

Yeah, I mean it's a sophisticated guess because only ICE has the ability to make a determination about illegal status, we can't.

LEG. NOWICK:

I am also frustrated, like it sounds you are frustrated, how do you identify someone that doesn't have fingerprints, doesn't have identity, doesn't have anything? But perhaps -- and a thousand people, 900 people, that's overwhelming, but perhaps if we started a project and even -- and I know Legislator Losquadro and I know he would like to go all the way, but would there be a way even trying to do 25% of those people, 50%? Would that be more of an obtainable goal from the Probation Department, to find out if out of 250 people, maybe 75 -- we can't fix it all in one year, but would you be able to slowly but surely find your way into a system that could identify people?

And once you do -- just second question, part two -- they can be deported and then we have to deal with the second part, them coming in later. But I think once -- I think maybe we're rushing -- maybe one step at a time. Seventy-five people that I'm not paying for would make me happier. What I'm saying is baby steps.

DIRECTOR DESMOND:

Again, we have --

LEG. NOWICK:

Can that start that way?

DIRECTOR DESMOND:

We have no control over who ICE is going to put a detainer on and who they're going to attempt to remove from the community. We try to cooperate with them as much as we can, we have forwarded to them files containing all the questionables.

LEG. NOWICK:

And they just ignore them?

DIRECTOR DESMOND:

Well, they also have limited resources. In the past what they've done is they've kind of cherry-picked, that they have focused on particular types of offenders; sex offenders, robberies, felonies, assault of felonies, sometimes felony DWI's and they've come down and they've removed some of those. What we would like to do is to develop a better, consistent working relationship with ICE so that we can plan with them, identify these people and move them out in a timely basis.

As I've indicated to the committee before, it's very frustrating, we'll have an individual on supervision three to five years and at that point ICE will step in and remove the individual from the community. It would be much more effective from our standpoint if that could happen early in the process. And again, it's not something we have control over.

LEG. NOWICK:

John, as an aside, Legislator Losquadro said something to me just now, to the committee, we don't know about these people, about their backgrounds. I'm just thinking out loud, the recent murder of, what was it, five people by -- whether it was a legal alien. Was that person on probation, do we know, that did the murder, that committed the murders?

DIRECTOR DESMOND:

Are you referring to the Nassau County situation?

LEG. NOWICK:

Well, I thought it was in Suffolk County. Wasn't there a recent -- was that Suffolk County? I thought it was Suffolk.

MR. ZWIRN:

The plot, the plot to commit murder?

LEG. NOWICK:

I thought there were -- was there a murder? Maybe that was Nassau County.

DIRECTOR DESMOND:

Yeah, that was Nassau.

LEG. NOWICK:

That was Nassau.

DIRECTOR DESMOND:

Central America.

CHAIRMAN EDDINGTON:

That was a TV show.

LEG. BROWNING:

It was in Riverhead?

LEG. HORSLEY:

The whole family was involved.

LEG. NOWICK:

Forgive me, I thought that that was Suffolk County where there was a murder of five people in a family?

CHAIRMAN EDDINGTON:

They were killing each other, yeah, you're right.

DIRECTOR DESMOND:

That was a Central American feud, that was mostly in Nassau County.

LEG. NOWICK:

Nassau County.

MR. ZWIRN:

Yeah, that was a plot that the Suffolk County Police Department --

LEG. NOWICK:

The Suffolk County Police Department uncovered it, that's maybe what confused me.

MR. ZWIRN:

Yes, they had somebody who tipped them off and it was an undercover -- I'm going from the newspaper accounts.

LEG. NOWICK:

So that's why I thought it was Suffolk.

MR. ZWIRN:

But it was a five -- it was from Guatamala, it was five -- in retribution they were going to --

LEG. NOWICK:

They were revenging a murder, yeah.

MR. ZWIRN:

They were going to kill five people on Long Island.

LEG. NOWICK:

I wonder if that person was on Probation in Nassau.

MR. ZWIRN:

But they caught it before it happened.

LEG. NOWICK:

Okay.

CHAIRMAN EDDINGTON:

So I guess you're asking is there any knowledge on their legal status or anything like that?

LEG. NOWICK:

After what Legislator Losquadro said, it did click something in my mind, I wonder.

CHAIRMAN EDDINGTON:

Yeah, which we don't have any information on.

LEG. NOWICK:

We don't have information.

DIRECTOR DESMOND:

You have to understand that we get different levels of information on these different cases, and some people come to us with lots of documentation, birth certificates, educational materials and we can be much more comfortable with really knowing these are people that we have their identify, and others we really have very little concept. That's why the fingerprinting and the iris scanning are so

very useful for the criminal justice system, because at least we can identify the person as the same person that's been to us before, whereas years ago we couldn't

CHAIRMAN EDDINGTON:

Right. So -- and I'm going to turn it over the Legislator Losquadro in a second, but it's just -- I mean, what you're saying is that, you know, it's easy when they're residents and they commit a crime and, okay, that's the issue. The problem is that what we're trying to do is with the people that are not and we're having to rely on another agency. And I think that Legislator Losquadro is trying to come up with some assistance somehow to grease the wheels to make it move faster, but I'll let Legislator Losquadro speak to that.

LEG. LOSQUADRO:

Thank you. Mr. Desmond, basically what you just said was exactly what this bill is trying to accomplish. I think we're losing the forest for the trees here.

This bill, I think people may be getting a little far afield. It says, "The Director of Probation shall develop policies and procedures to follow upon determination," upon determination, "That a person is an illegal or undocumented alien," that probation must notify ICE at that point, you know, to begin the deportation proceedings.

So basically what you just said before about, you know, whether it be in a couple of years or whatever it is, what you just testified before is exactly what we're looking to do. But when you came before us and told us there's almost a thousand people that we don't know who they are and you didn't give us any clear plan as to how you're going to address that and now you tell us that that information has been forwarded to ICE, well, we want a clear-cut plan in place as to how you're going to address that not only now but moving forward in the future so that we don't -- again, we look long-term in this body because anything we do not only effects the here and now but it effects in perpetuity to the future.

DIRECTOR DESMOND:

And again, we intend to plan the same thing. Our problem has been that our relationship with ICE historically has been up and down and that sometimes they've been willing to take our information and cooperate with us and sometimes they've been just too overwhelmed and have not be been able to really establish a collaborative relationship with us.

LEG. LOSQUADRO:

So what's the problem with "upon determination" then?

DIRECTOR DESMOND:

My only problem with the use of the word "determine" in the legislation is any time it says, "The Probation Department shall determine," because we can't; we do not have the legal ability to make that determination, only ICE can.

LEG. LOSQUADRO:

But "necessary steps and practices to determine," that includes working with the agency that can make the determination; those are the steps and practices.

DIRECTOR DESMOND:

We're more than happy to do that.

LEG. LOSQUADRO:

If you develop that policy that says, "The steps and practice shall be to have ICE make that determination and upon that determination to have a procedure in place to turn those individuals over to get them out of our system," that's exactly what the bill is trying to -- that's what the bill wants to accomplish, to have a formal plan in place for how we're going to address this not only now but moving forward. Because when we hear that there is, you know, a thousand people and we

don't get any feedback as to how that's being addressed, going to be addressed and are we going to get another thousand people in and then have, you know, the same thing and then have you give that information en masse to ICE again, or is it going to be something that's going to be done continually and on ongoing basis so we don't get this sort of backlog. Right now, sure, I'm sure it's overwhelming and ICE has limited resources and when you give them a thousand people to try to determine, yeah, that's going to be tough for them. But I want to know that on an ongoing basis as we move forward and we get people in that we have questions about that we have a specific policy and practice in place that you're going to work with the necessary agencies to find out who that person is so if we determine that they shouldn't be here that you can do everything you can to get rid of them.

DIRECTOR DESMOND:

We have always attempted to work with ICE and we have always attempted to provide whatever level of information flow or assistance --

LEG. LOSQUADRO:

Well, I would like to codify it in law. Because I'm sorry, sir, but when we get that type of information and we don't have any information forthcoming as to what's being done to address that or specific policies in place and when you tell us that you've recently turned over all that information to ICE, my question is why wasn't it done before, why did it wait until we had a thousand people that you didn't know who they were?

DIRECTOR DESMOND:

Because ICE was not willing to accept that information previously. It's only been through the intervention --

LEG. LOSQUADRO:

Could we get that -- could you please send me that in writing and tell me the individuals that you spoke to who are not willing to accept that information from the Federal government? Because I think perhaps our newspapers might be interested in that, and that could -- if that is the case, then perhaps that could help us in terms of putting pressure on those Federal agencies. Because if those Federal agencies are working with one agency within our government but refusing to take that information from another agency within our government, that's a big problem and I want to know about that. And that's something that you should be telling us as a committee if someone is unwilling to take information from you about criminals in this country.

So I would like for you to break down that information, tell me who your contacts are within immigration, within ICE, and tell me who was unwilling to take that information from you; I would like that information, please.

DIRECTOR DESMOND:

I will try to provide as much of that as I can. ICE is --

LEG. LOSQUADRO:

Well, I'm going to make a formal request then in writing because as we've seen in the past, much information that's been requested in this committee and others has not been forthcoming. So I'm going to make that request in writing and I will enumerate certain specific points of information that I want as to who is unwilling to accept that information from your department and I'm going to go after those individuals too.

DIRECTOR DESMOND:

INS was the precursor of ICE. It was those individuals that basically were not all that interested in working with us. The County Executive, when he first came in, established ongoing communication with the new ICE organization and things have been improving ever since then. I have no problem going back through our previous records and trying to get the names of the INS individuals that we had attempted to contact and I'll forward that to you.

LEG. LOSQUADRO:

Thank you.

CHAIRMAN EDDINGTON:

Why not extend it, go ahead, you've got something else?

MR. ZWIRN:

No, I just want to say on behalf of the County Executive, we share the frustrations that Legislator Losquadro has and we recognize the bill. Our only feeling was we thought that we were already doing what was in the bill and I think what Legislator Losquadro is trying to codify a procedure that we have undertaken to make sure that it continues.

This has been an ongoing problem for many, many years. And to get the Immigration and Naturalization or ICE to perform -- to perform their duties has been frustrating. Going back, you know, just anecdotally to my days as a prosecutor, when we had a guy convicted of a felony, we called Immigration and Naturalization and said, "Look, the guy is going to be sentenced on such and such a date, will you send somebody out here to pick them and deport them," and they said, "Short of a homicide, don't bother us." I said, "We're going to have to pay for this guy to go to jail now after we went through the entire, you know, criminal justice process at the expense of the taxpayers? He's a convicted felon and we're not even going to deport him?" "We're not interested." And to this day, it's gotten a little bit better but still, all the problems that we have, it is still a very difficult agency to get cooperation from. So I -- we share your frustration. The County Executive and the Sheriff have taken a very proactive role. As you mentioned earlier, they are at the jail, they are picking people up with their warrants on them right away, I've seen it personally. I mean, I know we're doing everything that we can and we understand the purpose behind --

LEG. LOSQUADRO:

And once again, we're losing the forest for the trees here. "Upon determination," and then -- you know, I use that term and I hate to make light of something like this, but upon that determination we do arrest by appointment, that we go out and pick that person up. Maybe they are already being supervised on probation, but upon determination, through the steps and practices needed to determine that, and that's the policy that you'll develop and that policy will obviously be through ICE, because as you said, they're the only ones that can make that determination. But upon that opinion, that we have a formal policy in place as to how we're going to address this. That's what this bill does. And I want to see a formal policy developed to address this now and moving forward, especially in the budgetary times that we have. Motion to approve.

CHAIRMAN EDDINGTON:

I'll second it. All those in favor? Opposed? Abstentions?

Approved (VOTE: 5-0-0-0).

LEG. LOSQUADRO:

Thank you.

CHAIRMAN EDDINGTON:

Thank you, gentlemen.

IR 1481-08 - A Local Law amending Chapter 270 of the Suffolk County Code to expand the use of forfeitures to the misdemeanor crime of reckless driving (County Executive).

LEG. BROWNING:

Motion to table for a public hearing.

CHAIRMAN EDDINGTON:

Motion to table for public hearing.

LEG. LOSQUADRO:

Second.

CHAIRMAN EDDINGTON:

Second by Legislator Losquadro. All those in favor? Opposed? Abstentions? *Tabled (VOTE: 5-0-0-0).*

Okay, motion -- I'll take a motion to adjourn.

LEG. NOWICK:

Can I ask --

CHAIRMAN EDDINGTON:

Legislator?

LEG. NOWICK:

Can I ask a representative from the Police Department, I just want to ask him a quick question.

CHAIRMAN EDDINGTON:

Okay, sure.

LEG. LOSQUADRO:

Chief Varrone.

CHAIRMAN EDDINGTON:

Legislator Nowick would like to ask Chief Varrone a question; if you could come to the microphone, please.

CHIEF VARRONE:

Good morning.

LEG. NOWICK:

Chief, I'm not going to put you on the spot.

CHIEF VARRONE:

Good.

LEG. NOWICK:

Because I understand you're just representing. I'm just going to ask, in preparation of our next meeting, if you could just go back to the powers that be. I just wanted to know when we meet again, I am trying to answer my constituency, as well as my own questions. The many times that I've been reading in the paper about these high-speed chases, I just wanted to know what is the policy, when does it become -- and I certainly understand when you're chasing someone, but when does it become -- if they can come back to us in two weeks, when does it become more important to catch the person, and I have to be honest, than it does to put someone innocent in harm's way. If they could -- you've got two weeks to think about that, but if they could just tell us what their policy is. It just bothers me terribly, and I've had constituents, after the last few newspaper articles, that have asked me the question. Okay? You don't have to answer that now.

CHIEF VARRONE:

Okay.

CHAIRMAN EDDINGTON:

Chief, maybe what you could do is have the department give us a copy of the protocol and procedures that cover that.

CHIEF VARRONE:

Yes, sir.

CHAIRMAN EDDINGTON:

And then we'll have that.

CHIEF VARRONE:

That can be done.

CHAIRMAN EDDINGTON:

Thank you. Okay, motion to adjourn, second by Legislator Losquadro.

*(*The meeting was adjourned at 10:50 A.M. *)*