

PUBLIC SAFETY COMMITTEE
of the
SUFFOLK COUNTY LEGISLATURE

A regular meeting of the Public Safety Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, 725 Veterans Memorial Highway, Smithtown, New York on Thursday, June 16, 2016 at 9:30 a.m.

Members Present:

Legislator Kate Browning - Chairperson

Legislator Robert Calarco - Vice-Chair
Legislator Bridget Fleming
Legislator Kara Hahn
Legislator Monica Martinez
Legislator Tom Cilmi
Legislator Leslie Kennedy
Legislator William Spencer

Also In Attendance:

George Nolan - Counsel to the Legislature
Sarah Simpson - Assistant Counsel to the Legislature
Amy Ellis - Chief Deputy Clerk/Suffolk County Legislature
John Ortiz - Legislative Budget Review Office
Michael Pitcher - Aide to Presiding Officer Gregory
Josh Slaughter - Aide to Chairperson Browning
Alyssa Turano - Aide to Legislator Hahn
Ali Nazir - Aide to Legislator Kennedy
Liz Sutton - Aide to Legislator Fleming
Elizabeth Alexander - Aide to Legislator Spencer
Maria Barbara - Aide to Legislator Cilmi
Katie Horst - Director-Intergovernmental Relations/CE's Office
Jason Hahn - County Executive Assistant/CE's Office
John Marafino - County Executive's Office
James Cerone - Sergeant/Chief of Department's Office - SCPD
Joel Vetter - Fire, Rescue & Emergency Services
Ed Moltzen - Fire, Rescue & Emergency Services
Patrice Dlhopsky - Director/Suffolk County Probation Department
Michael Sharkey - Chief Deputy Sheriff/Suffolk County Sheriff's Office
Joseph Caracappa - Undersheriff/Suffolk County Sheriff's Office
Anthony Papparatto - Suffolk County Sheriff's Office
John Becker - President/Deputy Sheriffs Police Benevolent Association
Dr. James Tomarken - Commissioner of Health Services
Dawn Ruggiero - Police Emergency Unit/AME Unit President
Jennifer Nunns - 911 Dispatcher/Suffolk County Police Department
Matt Porter - Unit President/Suffolk County Probation Officers Assoc.
Sergeant Carissa Cantone - Air National Guard Counterdrug Task Force Specialist Sean P.
Cassidy - Air National Guard Counterdrug Task Force Senior Airman Gabriel Manzueta - Air National
Guard Counterdrug Task Force
Dorothy Johnson - Great South Bay Coalition

Albert Marnell
Jim Barr - Long Island ABATE
Michael McDermott
Stephen Ruth
Lynda Frego
Marie Tooker
Jack McCarthy
Maud Nordwald Pollock
All Other Interested Parties

Taken By:

Lucia Braaten - Court Stenographer

*(*The meeting was called to order at 9:43 a.m. *)*

CHAIRPERSON BROWNING:

Okay. Good morning. We'll start the Public Safety meeting, and we'll start with the Pledge of Allegiance, led by Legislator Cilmi.

*(*Salutation*)*

And a moment of silence for the Orlando victims, and for the men and women who protect our country at home and abroad. And, also, I just learned of the remains of a World War II Veteran will be coming home this weekend. I do not have his name, but prayers for his family and loved ones.

*(*Moment of Silence*)*

Thank you. Okay. We have a couple of cards. I do have some correspondence, but I'd -- I'll do the cards first. The first card is Albert Marnell, I think.

MR. MARNELL:

Hi. I'm always hoarse when I come up here. In fact, I'm always hoarse. You know, I was thinking about the Pledge, and it says, "To the republic for which it stands." It's a constitutional republic. The red light cameras are not constitutional. And I know, Ms. Browning, you were a bus driver at one time. I don't think that can be compared to the stress that a truck driver or somebody that has to make deliveries is under. They don't have the same amount of time to brake. I mean, when you drive a school bus, I know you're going to say you don't extra courtesy, but if you're in those -- if you're a school bus driver, you get extra courtesy, truck drivers don't.

These cameras, they've got to go. I see people, they either -- I don't know how many of you guys got my letter, but I see people either stopping short or hitting the gas and -- is there a timer thing here?

LEG. FLEMING:

It's up on the wall.

MR. MARNELL:

I'm new to this stuff.

CHAIRPERSON BROWNING:

The timer is up here up on your left.

MR. MARNELL:

On the left?

CHAIRPERSON BROWNING:

On the wall.

MR. MARNELL:

Did you get my letter about Bernadette Devlin?

CHAIRPERSON BROWNING:

I don't believe so.

MR. MARNELL:

Okay. I see Stephen as someone like -- to me she was heroic.

And I'm not putting him on exactly the same level, but don't tell me -- don't tell me you were with Ian Paisley way back. But every once in a while somebody comes along that is noble, and I see Stephen Ruth as being very noble, very well-intended. And these issues of safety have to -- have to be addressed.

Again, I've said I've never gotten a ticket. In one of the letters I mentioned that you had -- I caught you on T.V. saying -- and I'm not trying to say like I caught you, you know, like the lights. You had said something to someone about that only the people that get tickets complain and that's not true. I've never gotten a ticket. I've almost been killed, though, maybe a couple of times, but at least once. And, again, people, I see them constantly slamming on the brakes, hitting the gas. These cameras are not the way to go, they're not safe, and people are so distracted, they're not looking at what's going on around them.

And I hope -- I'm wondering, did anybody get my letter on June 11th? Well, so much for that. Okay. Let's see. We scan, scan, scan, scan. Okay. I also -- the Safety Committee I don't feel has -- and I don't want to stereotype, but more men that like are in construction or they have to make deliveries to -- is my time up? Make deliveries and things like that, it's very hard for them to stop.

CHAIRPERSON BROWNING:

Okay. Thank you, sir. I'm just curious, do you have a CDL license?

MR. MARNELL:

Do I have a what?

CHAIRPERSON BROWNING:

A CDL license.

MR. MARNELL:

Do you want to know what it is? I don't even know what's CDL.

CHAIRPERSON BROWNING:

Okay. A CDL license is what a truck driver has and what a school bus driver has.

MR. MARNELL:

Oh. My father, way back, like 10,000 years ago, had a fleet of trucks, so occasionally I would drive a truck, but this is --

CHAIRPERSON BROWNING:

Have you ever driven a school bus with 60 children?

MR. MARNELL:

Have I ever what?

CHAIRPERSON BROWNING:

Have you ever driven a school bus with 60 children?

MR. MARNELL:

No, but I was a child on a school bus and --

CHAIRPERSON BROWNING:

Big difference.

MR. MARNELL:

You need a Valium after they're all screaming and yelling, but a bus driver gets more courtesy. When I see a school bus, I'm like high alert, be careful.

CHAIRPERSON BROWNING:

You're an exception to the rule. There is no courtesy for school bus drivers like -- or any different than a truck driver. School bus driver --

MR. MARNELL:

They should increase the penalties for people that don't respect bus drivers.

CHAIRPERSON BROWNING:

Don't worry, we're working on that.

MR. MARNELL:

Good.

CHAIRPERSON BROWNING:

Thank you. Okay. Next speaker is Jim Barr. Okay. Doc, he needs to move away from the podium, we have another speaker. Thank you.

MR. BARR:

Good morning, Madam Chairperson, Members of the Committee. As you indicated, my name is Jim Barr. I'm a representative of Long Island ABATE. It's American Bikers for Awareness, Training, and Education, and I'm here to speak today because I'm opposed to the profiling of motorcyclists on the -- in Suffolk County, currently, right now by the Suffolk County Police Department.

For the record, we are very supportive of the Police Department. We work very closely, hand in hand with the Police Department, but we are opposed to particular tactic -- excuse me -- called "Motorcycle-only Checkpoints."

I came before this committee December of 2008. I testified before this committee to stop grant funding that was used exclusively to do motorcycle-only checkpoints in Suffolk County. This committee agreed. They held up the grant funding. I met with the Chief of Department at the time, Chief Ponzo. We came to an agreement that they would no longer do motorcycle-only checkpoints. He agreed that it was discriminatory and -- excuse me. He agreed it was discriminatory. So, as a result, I came back here in January of 2009 and testified in favor of the grant money so that the Police Department could receive the grant so they can do functions on overtime, but it would be more of a safety and educational nature, rather than selective enforcement on the motorcycle community. Excuse me.

So then in September, September 28th of 2014, there was a new Police Chief, Chief of Department Burke. And September 20th of '14, Suffolk County Police Department hosted a motorcycle run in their parking lot at Police Headquarters on Yaphank Avenue, and they encouraged all motorcyclists to come down to Headquarters and donate money for children with autism. Long Island ABATE was a big supporter of that event. We recommended all our members to go there and donate. And on our way there, we encountered a motorcycle-only checkpoint on Exit 65 of the Long Island Expressway service area. We were all pulled into there. Our motorcycles were inspected, our paperwork was inspected. We received -- I received a ticket, many other people received tickets, and then we were permitted to go on our way 20 minutes later.

I met with that Chief of Department after, soon after that in October of '14. He understood our position, that that was considered profiling of motorcyclists, considered to be unfair, and we had a

handshake agreement that there would be no more motorcycle-only checkpoints.

Right now, we have another Chief of Department. I apologize, I don't know his name. But May 29th, the Suffolk County Police Department was out in force pulling over every motorcycle they could find, Long Island Expressway, Sunrise, William Floyd Parkway, and issuing multiple tickets, including tickets for not having proper gloves on.

June 12th, they also held a motorcycle-only checkpoint in the same location on the Long Island Expressway. I road in. Minded my own business, ride along, subjected to come into it, received my tickets, as several other people. But, also, one of the motorcycles failed to stop and appeared to continue going straight. My understanding is a pursuit came about as a result, and there was a collision with this motorcyclist. Rumor has it with a police car. I don't know that for sure, but the motorcyclist that didn't pull into the rest area was injured, broken leg and hospitalized.

So I would like this committee -- oh, excuse me. Grant fund -- I know my time's up. Sixteen states have laws for prohibiting motorcycle-only checkpoints. Two states have laws saying you're not allowed to pull over motorcyclists without probable cause. I was just down in Washington D.C. last month with legislation, trying to get nationally. I'd like to submit it to the record for your committee to consider. On a Suffolk County basis, I would like to see a law making it illegal to profile motorcyclists simply because they are on a motorcycle. So I would like you to take that into consideration. But I'd also like to ask you the funding source of this, because in December of 2015, the President of the United States signed a new highway Federal -- the FAST Act, the highway Federal bill. In that, it included language prohibiting NHTSA to send any funds to any states to perform motorcycle-only checkpoints. So I'd like to know if this was grant-funded from the Federal or if it was local funding.

CHAIRPERSON BROWNING:

Jim, I don't know, but I do -- I do want to ask you a question, because I did receive a message from someone about what was going on on William Floyd Parkway -- not on William Floyd, on the L.I.E., I guess about 66.

MR. BARR:

Yes, between 65 and 66.

CHAIRPERSON BROWNING:

That's where it was. Now I heard that there was a helicopter had landed. Was that for that motorcyclist?

MR. BARR:

I believe the Police Department could answer better, but the understanding was it was there for -- as a chase vehicle if a motorcyclist failed to stop.

CHAIRPERSON BROWNING:

Okay. But the Police Department does have a policy not to chase motorcycles.

MR. BARR:

That is my understanding.

CHAIRPERSON BROWNING:

Right.

MR. BARR:

There was a mobile command center set up, a helicopter, eight motorcycle cops, a dozen motorcycle

cars. It was a whole big procedure. And signs on the highway that said if you're -- all motorcycles must exit, and if you didn't, I believe that they went after the motorcyclists.

CHAIRPERSON BROWNING:

So what's New York State Law on profiling motorcycles?

MR. BARR:

Currently, New York State Law -- New York State doesn't have a law prohibiting the profiling of motorcyclists. Washington State in 2011 was the first state to pass it, and Maryland just passed it one month ago when the Governor signed that bill, so there's only two states currently. And this legislation that I'd like to submit to you, understand, this is written on a Federal level, but if you can use the contents of it, this is the legislation that was just passed in two states.

CHAIRPERSON BROWNING:

Okay. Josh will take it from you.

MR. BARR:

And if I may tell you, I also have a couple of hundred signed individual statements of harassment of motorcyclists simply being pulled over because of our motorcycles, not because of equipment, you know, not because of probable cause.

CHAIRPERSON BROWNING:

Okay. And, I mean, understand, there are occasions where -- you know, I can tell you, on William Floyd Parkway, we have a number of problems with the -- certain types of motorcycles speeding, you know, speeding down the road, racing down the road. Generally, I don't see the Harleys doing that kind of stuff, it's the other types of motorcycles. But I definitely will reach out to the P.D. I did see a police report, a press release on the incident and check-in, but I did hear about the helicopter and I was trying to figure out what that was about. So we'll be following up with you.

MR. BARR:

Okay. Thank you. And for the record, Long Island ABATE does reach out to the motorcycle community, motorcyclists, and asks them to please ride responsibly. We don't condone the behavior of some sport bike riders.

CHAIRPERSON BROWNING:

I know that.

MR. BARR:

We're doing everything we can to try to get them to stop, but it doesn't mean that all motorcyclists should be subjected to profiling.

CHAIRPERSON BROWNING:

No, you can't control other people's bad behavior. Thank you.

MR. BARR:

Thank you.

*(*Applause*)*

CHAIRPERSON BROWNING:

Next speaker is Michael McDermott.

MR. MC DERMOTT:

Good morning. I am here once again about the flawed and very dangerous Red Light Camera Program. I wrote it down and my cards are stuck together. That has caused lives being lost. It's no secret that the only redeeming factor is to raise revenue for the County. Our lawyers are reviewing what campaign contributions you have received from the camera company. We'll publicize those findings.

I was present at the last Public Safety meeting where you foolishly voted down Trotta's bill. You had the camera people present to cover your own butts. I could wait, Ms. Browning, if you'd like. But like the program itself, the questions were flawed. You asked the camera people if their cameras caused any deaths, they said no. That's a shocker. Then you asked if they had an engineer's report, they said yes, but you failed to demand a copy of the report. It doesn't exist. You have to ask these people. You don't just ask them. If you want to do something responsibly and not just cover your own butt, you have to ask them for copies of it with stamps from engineers showing that it was reviewed by an engineer. I don't believe that exists.

Also, they admitted to shortening the yellow lights based on a complex formula. These shortened yellow lights caused tickets, more tickets, and accidents. If you increased the yellow to the maximum, there would be far less tickets. I don't know what the maximum is, but three seconds is too short. That's what's causing a lot of these accidents. Now, of course, when those -- when you shorten the yellow lights, more accidents occur, because people jam on their brakes, try to go through.

It's just such a flawed system. I don't know why it's such an issue. Is money that important? I know Suffolk County is so much in debt and you just want to raise funds wherever you can, but, please, you've got to get rid of these things.

And we have a guy here, Mr. Steve Ruth, that I have to tell you is a local hero, because he stands up to you, he fights you. You've tried everything you can to stifle him, to press charges against him. He is frustrated and he's fighting and fighting and fighting.

And I would like you to be rid of these red light cameras, to vote again on Mr. Trotta's bill, to work on looking at the -- all the data on the increase in accidents, and to get the engineer's reports. If you don't ask for signed engineer's reports, then you are complicit in all the accidents and other negative factors that are occurring. So I'm asking you to please get those engineer's report. Thank you.

CHAIRPERSON BROWNING:

Legislator Cilmi has a question.

*(*Applause*)*

LEG. CILMI:

Mr. McDermott, I just have a question for you.

MR. MC DERMOTT:

Sure.

LEG. CILMI:

So you mentioned -- just very briefly. You mentioned the extension of the time that the yellow lights are lit as a possible way to make intersections safer.

MR. MC DERMOTT:

Yes.

LEG. CILMI:

Are you aware that I have a bill that's floating around that's been filed and being debated now that lengthens the length of time that the yellow light is lit, as well as the length of time that two red lights in opposing directions are lit simultaneously --

MR. MC DERMOTT:

Right.

LEG. CILMI:

-- such that before the one light turns green, all of the residual traffic in the intersection, anyone speeding through the yellow, anyone making a left-hand turn while waiting for oncoming traffic is then allowed, based on time, to get through that intersection before you let the right angle traffic come through. Therefore, you, obviously, in my view, make the intersection safer, particularly from T-bone accidents. But I'm curious, we have had testimony that there are studies that show that lengthening the yellow light timings actually make intersections more dangerous. And I would -- I would be appreciative if you have either seen or if you could help us look for studies that show the opposite, that lengthening yellow light times actually make intersections safer.

MR. MC DERMOTT:

Well, I was not aware of that bill. I like the idea about it. If it's floating out there, I hope it would somehow settle down. I don't think you -- I mean, studies are great, you know, and depending on who -- who starts a study, it's designed to -- sometimes they have the answer and they're looking for justification for it, that's my concern. I don't know what the magic number is for yellow lights, but when it's three seconds, it's very hard to stop. And the fact that it's so different at every intersection, drivers don't know what it's going to do. If they could have some consistency, there would be far less accidents, in my opinion. The problem with that is that a bill like that is not going to get passed, because that would actually reduce the number of accidents, and that's not the goal. That might be your goal, and I appreciate that, so I'm not saying anything about that, but they voted down the flawed system with Trotta. They just said suspend it and they wouldn't do it, because it would stop the revenue, because it's all about the revenue. But I would like to -- where can I get a copy of that bill? Is it out there in the public?

LEG. CILMI:

It is. It's -- if you go on to -- if you know how to search through our system on our website, on the Legislature's home page website, just put in my name. And if you don't, call my office, I'll talk you through it, and I can point to you -- point it out to you where it is and you could download it.

MR. MC DERMOTT:

I have had trouble navigating your site, because this meeting was supposed to be help on Thursday, June 15th, which is like -- yesterday was Wednesday, June 15th, so I was a little confused as to when you were actually having a meeting, so it's not exactly --

LEG. CILMI:

The dates are wrong? All right. We'll have to -- we'll have to address it.

MR. MC DERMOTT:

Yeah. But I will call your office. I'd like to get a copy of it.

LEG. CILMI:

Yeah, please do.

MR. MC DERMOTT:

And I will do research on the studies, because we have to stop these accidents.

LEG. CILMI:

Yeah.

MR. MC DERMOTT:

I can't tell how many close calls I've had, and I've seen accidents happen and it's preposterous.

LEG. CILMI:

Right.

MR. MC DERMOTT:

And it's because that -- it's because there's no consistency between the -- and even when there are no lights, people are jamming on their brakes, because they don't know what to expect. So they have to start getting the cameras out of their mind, obey the law and stop at red lights, and at least have a fair chance in being able to do that.

LEG. CILMI:

Right. Thank you.

MR. MC DERMOTT:

Thank you.

LEG. CILMI:

I appreciate your comments.

*(*Applause*)*

CHAIRPERSON BROWNING:

Okay. Dr. Tomarken, I apologize, I didn't realize you were in the room. I'm just seeing your card, and I know you've got something that you have to get back to. So if you -- yeah, sure.

DR. TOMARKEN:

Thank you for allowing me to testify this morning. I'm here to talk about Kratom, and my concerns about this entity is that this has great potential for addiction and this is an unregulated entity. It's used mostly in the form of tea that people drink and it has multiple effects. At a low dose level it acts as a stimulant, and has been used to keep people at work in countries like Malaysia so that workers could be more productive. At higher doses it has a euphoria opiate-like effect and is potentially an addictive -- it's not a medication, but it acts like a medication. And it affects many different organs in the body, and it can cause seizures and respiratory depression, so it's not a benign entity.

And the really key message that I want to get across is that this is an unregulated substance, because it's classified as a food additive and not a medication. And just to give you an idea, the FDA has stated there's no legitimate medical use known for this product, and because it's not regulated, they can do with it as they please. They can add and subtract things and put it in any form they want.

And I'll just give you a brief history of why we have the FDA. In 1937, a company combined an antibiotic with antifreeze. It was legal to do that. One hundred people died as a result. The following year the FDA was given the authority to establish safety for medications, because prior to

1937 they weren't allowed to comment and review medications for safety purposes. As a result of that new law, which FDR implemented, we did not approve Thalidomide in the United States because the FDA had some concerns about it.

So the FDA has been a watchdog over these -- over all medications, and, in fact, it is now required to establish the safety of the medication and its efficacy. And that's why this substance like Kratom should be under the FDA's auspices, because it is not benign, it has addiction potentials, and it can be abused easily. So I support the legislation that would ban it and ban the sale of it. And I think it's something that, just like energy drinks and other things, the FDA eventually will get on board, I hope, with it in the future. Thank you.

CHAIRPERSON BROWNING:

Okay. Thank you, Doctor. I mean, that is one thing. We had a lot of people who came to testify and I know a lot of them are buying it online. So we really -- that will have no impact, we'll not be able to do anything about that, correct?

DR. TOMARKEN:

Right, that's correct. And the -- medicine is full of anecdotal stories of efficacies of medication. It needs to be studied. It needs to be studied in a proper way by the proper authorities and then put in a proper category. But the bottom line is we do not need another opiate in our environment right now.

CHAIRPERSON BROWNING:

And we were at the Perinatal Coalition Awareness event, and I know that that was an issue that came up, that pregnant women using it and probably not knowing the impact. So I -- you know, I'm always about, you know, let people over 21 make their own decisions, but, you know, I'm more likely to support it now based on some of the information that I received at that event. But, again, you know, I think maybe, Doc, we should be doing a little push on the Federal level and sending messages to our representatives to do more about it. So with that, I know, Legislator Cilmi, you have a question?

LEG. CILMI:

Thanks, Madam Chair. Commissioner, good morning, Doctor. So I'm struggling with this, with this one. So the question I'm asking you -- while, believe it or not, sometimes the questioning from this body, including myself, may seem leading, these questions are not leading at all. So I'm just trying to -- just trying to wrap my head around this issue. And I found the testimony on both sides compelling, which is why, I guess, I'm struggling.

You said that the -- that Kratom has certain effects on the body, stimulant, sometime -- depressant sometimes, depending on how much you use. You said it's potentially addictive, no legitimate medical use. And I'm wondering how that -- how those statements or if those statements would apply to something like caffeine, for example.

DR. TOMARKEN:

In a generic sense, it could. I mean, caffeine has multiple effects. It can -- it's questionable how addictive caffeine is, but I think it's potentially addictive. There's psychological and physical addiction.

LEG. CILMI:

Right.

DR. TOMARKEN:

The concern -- the difference between this and caffeine is that this has a potential to be addictive

and be destructive, because it does have much more serious medical consequences than caffeine; seizures, respiratory depression. Other organs in the body can be affected over time, and it has not been studied well to establish its safety and/or efficacy. Caffeine is one of those quantities that, and entities that has been around for many, many years, used by the majority of the public, and very few people get into problems, unless they take enormous amounts of it. But this is a substance that you don't have to take enormous amounts of and you can develop a tolerance and an addiction. So I wouldn't -- although it is similar, I still think it's in a separate category of a much more risky substance.

LEG. CILMI:

Do you think that the -- our exposure to it here in the United States in terms of its use, I would imagine that it's been used for years and years in other places, but do you think our exposure to it here in the United States impacts the risk factor, just because we don't know an awful lot about it?

DR. TOMARKEN:

We don't know a lot about it. Number one, it's unregulated, so we don't know how many people are using it, but the estimates are in the thousands, if not hundreds of thousands, and it is sort of falling below the radar. And I think it's a -- it's been banned in even some of the countries that it began in.

LEG. CILMI:

Well, there are lots of things that are banned, right, so it's --

DR. TOMARKEN:

Right. But I think what the concern is, is that this is so widespread and it's so -- because it's unregulated, we don't know where it is, although we have seen it in some of our tobacco vendor stores when we go in to do our tobacco enforcement. So it's out there and it's out there in large numbers, because it's -- the fact that it's being imported and the FDA has banned it, you know that it's got a large market.

LEG. CILMI:

I guess the thing that interests me is at one of our meetings, we had a number of people come testify, I guess it was during the public hearing process, seemingly very reasonable people who were perfectly capable and willing to speak openly about how it's helped them deal with a number of different things, including addiction. So when folks who are addicted to heroin or other opiates come to me and say, "This is a product that is helping me," you know, it causes me to kind of perk up and ask those types of questions.

You mentioned that you believe the FDA should really weigh in and then control this product, this herb. Does the bill that we're -- that we're presented with, does it ban it completely, or does it just ban the sale to those under the age of 21? It bans it completely, I think.

DR. TOMARKEN:

Right. It says, "No person shall sell, offer for sale, or otherwise distribute."

LEG. CILMI:

Now what if -- what if we were to pass that, and given my -- I have -- despite my questioning, given my proclivity to or my understanding of the addiction problem that we have, I'm more inclined to actually support it than I am not. But I wonder if the FDA does actually rule on it at some point and say, "Okay, you know, we find it to be safe under these circumstances," whatever, would our -- would our prohibition change in any way?

DR. TOMARKEN:

I think that the Federal -- and I'm not a lawyer, I think the Federal situation would override our local.

LEG. CILMI:

Maybe I could just ask Counsel to address that quickly.

DR. TOMARKEN:

And that's exactly what I would like to see happen, is that the FDA step in, do proper studies and put it in its proper category and give it its proper place.

LEG. CILMI:

Right.

DR. TOMARKEN:

If it has value.

LEG. CILMI:

Right. I don't think anybody can argue with that, but I'll let Counsel address the question. Do you have empirical evidence of addiction of this product and/or, you know, ill effects of this?

DR. TOMARKEN:

Only what's been reported. I haven't had any personal contact with anybody that I've known.

LEG. CILMI:

And the struggle there is that it's also been reported to have some positive.

DR. TOMARKEN:

And that's absolutely correct. And I'm sure that it's like most substances, used appropriately and under the right circumstances could have a benefit. But we can't rely on anecdotal information to make that judgment, we need to have scientific basis to that.

LEG. CILMI:

Right, right. Counsel?

MR. NOLAN:

If the question is if the FDA said this was a safe substance, it was legal to use, I think that would -- you know, being Federal, a Federal agency would take priority and supersede our law.

LEG. CILMI:

Well, I appreciate that you think that, but the law -- I'm curious as to the law itself. I mean, we're passing a law that, despite what the FDA has done or not done, we're passing a law that prohibits its sale, I guess, right?

MR. NOLAN:

(Nodded yes).

LEG. CILMI:

If the FDA were to say it's perfectly healthy, that in and of itself in my mind, and you know I'm not a lawyer, but in my mind, that wouldn't negate our law. The law is still the law. I mean, it may force us to repeal it, but it wouldn't negate it outright.

DR. TOMARKEN:

Just to add --

MR. NOLAN:

I think it would supersede, but, you know, we can probably add language to this to make it clear that in the event the FDA takes that action, this law would be null and void upon that action.

LEG. CILMI:

Yeah.

DR. TOMARKEN:

There are several states that have banned it already, so --

LEG. CILMI:

Right.

DR. TOMARKEN:

-- it would be in the same situation. And so -- and if it turned out that it was -- it had a legitimate health care use, then, you know --

LEG. CILMI:

Why not use it.

DR. TOMARKEN:

Use it, and then --

LEG. CILMI:

Under those controlled circumstances.

DR. TOMARKEN:

Yeah, and reverse this legislation. I don't think that --

LEG. CILMI:

Okay. Thank you very much.

CHAIRPERSON BROWNING:

Legislator Spencer.

LEG. SPENCER:

Thank you. Actually, a lot of my questions were comparing Kratom with caffeine. I think that my concerns were really more with the amount of the problem or how widespread it is, and I wasn't really aware. Where would you get information with you? I mean, who would actually give you a sense of how widespread the issue is?

DR. TOMARKEN:

Well, it's -- there's many websites and information we can get. But I think the mere fact that the FDA has banned it from being imported does give you a bit of an idea of the scale.

LEG. SPENCER:

Okay.

DR. TOMARKEN:

You now, if it's being imported, it's got to be valuable, and it's got to be in a quantity to make it

worthwhile to import. So I suspect it's much more widespread than any of us know. I've heard and read that the estimates are thousands, but because it's unregulated, nobody knows, but it's one of those that's fallen under the radar.

LEG. SPENCER:

Thank you.

LEG. CILMI:

Kate, can I just ask one more question?

CHAIRPERSON BROWNING:

Can I give it to Leslie? She's got question, or you want to --

LEG. CILMI:

Just to --

CHAIRPERSON BROWNING:

Okay, she'll defer.

LEG. CILMI:

I appreciate it, Legislator Kennedy. You said -- just to redress something that you just said to Legislator Spencer, the FDA has banned this product from being imported?

DR. TOMARKEN:

Yeah.

LEG. CILMI:

I didn't know that.

DR. TOMARKEN:

Yes, yeah. They can do it as a -- because it's a food supplement.

LEG. CILMI:

And now have other products that are perfectly legal and, you know, widely used here in the United States been banned from import by the FDA that you know of?

DR. TOMARKEN:

I don't know of any specifics, but I'm sure there are, and I can check on that for you.

LEG. CILMI:

If you would, I'd appreciate it. Thank you.

CHAIRPERSON BROWNING:

Okay. Leslie, now it's your turn.

LEG. KENNEDY:

Good morning, Dr. Tomarken. What I really want to do -- you are correct in everything you say. What I really want to do is answer Tom's question by something that I have experienced. I had the brother of an addict come to me two years ago. And in my district, for some reason, a lot of people go out of state for treatment, and they went to another state, which I will leave out. And what was told to them at a treatment facility was, "You've got to go online, you've got to get Kratom." It is being used, similar to Methadone and Suboxone, with no regulations, with nothing. It's dangerous. You said it makes some people feel better. Well, if I took stimulants, I would feel better and

stronger and have more energy, that's just how the drug works. So I am going to vote for the banning of this bill because it makes sense.

LEG. CILMI:

Okay.

CHAIRPERSON BROWNING:

Thank you, Leslie. I believe there are no more questions. Thank you, Doctor.

DR. TOMARKEN:

Thank you.

CHAIRPERSON BROWNING:

Have a good day.

*(*Applause*)*

So we have one more speaker. No, I shouldn't say one more, we have a few more. Stephen Ruth.

MR. RUTH:

Good morning, Ladies and Gentlemen.

LEG. FLEMING:

Good morning.

MR. RUTH:

As God brings me here before you this morning, it's to talk about the mind frame of a politician who thinks it's okay to impose 30 to \$40 million worth of tickets on their constituents annually, mostly from making rights on red.

The camera on Route 112 and Middle Country Road has caused horrific accidents in the past two weeks, two of them. One of them was fatal. I implore you to produce the video of these crashes. Xerox deletes the video liability. I did a video study on this intersection after a car crashed through a building at the same location a few months back.

These cameras are causing accidents all over the County. Brookhaven Town Supervisor has stated there are no cameras on Town roads. However, without doing any research, I know of three locations off the top of my head where Town roads have cameras on them. One of those intersections was where young John Luke passed. That intersection was engineered to make money, not for safety. The yellow lights were extremely short. I have plenty of video evidence to support this.

The whole judicial system thinks that you are corrupt, the officers who know the lights were shortened, the prosecutors and the judges. No one's life is worth the campaign contribution that these cameras bring. How many deaths is it going to take before you people open your eyes? Short -- you would rather side -- take the side of shortened yellow lights for revenue and large campaign contributions, rather than side with the Suffolk Police Officer testimony.

We, as Americans, conscious of our Constitutional rights, know that these cameras are illegal and unconstitutional. They have never been signed off by engineers, and I can simply prove it to you right now. I'm not sure anybody wants to hear this, but I'm going to tell you anyway.

If you have two traffic lights close to one another, it's completely absurd to have a red light camera

at either the first or second one, because if you're -- if there's a red light camera at the first light when you're approaching two lights and the second light is red, you have to be braking as you go through the first light. If you're braking as you go through the first light, you're going to be caught by the camera in a lot of circumstances, as you're braking for the second light. Even though you had a green as you were approaching the first light, you're still braking as you're going through it. So an engineer would never sign off on a camera being installed in that -- installed in that type of location, but, yet, you have this on Middle Country Road at numerous locations. An engineer would never sign off on that. It's not -- this is just common sense. And it's true. If you ask an engineer, they're not going to sign off on it.

They won't show you signatures or license numbers of engineers on any of these cameras or on the signal plans of the lights, because they have been manipulated, and not to mention an engineer would never go for that, a camera on one of two lights that were within a couple of hundred feet of another. That's not -- it's not physically legal. An engineer would never go for that.

So this is nothing more than a systematic form of extortion at our expense. Please exercise the cancellation clause in the contract. From what I understand, there is no penalty in the contract for an early termination. Thank you very much. And, Doc, happy birthday.

LEG. SPENCER:

Thank you, appreciate that.

*(*Applause*)*

CHAIRPERSON BROWNING:

Next speaker is Lynda Frego. And Marie Tooker, you are after Lynda Frego.

MS. FREGO:

God bless America, land that I love, stand beside her and guide her through the night with a light from above. From the mountains, to the prairies, from the oceans white with foam, God bless America, my home sweet home.

*(*Applause*)*

I stand here today in solidarity with my fellow Americans to help guide us in the right direction. The Red Light Camera Program is the wrong way to go and it must be repealed. Decisions made by this Legislature will shape our future and that of our posterity. Long after you and I are gone, decisions you make today will be felt by our children and grandchildren. Those who -- this is not working. Okay. Those who elected you, the public servants, into office believed in you. They trusted that you would lead with integrity. They trusted that you would secure our rights, not allow them to be taken away. What the hell happened? It seems that the servants have breached their fiduciary responsibility to the master. The master of the servant will come on a day when he is not looking for him and at an hour that he is not aware of. Well, we have come into our glory. We know who we are. We are awake.

A couple of weeks ago at the Public Safety Committee meeting, I heard a representative of the traffic engineers state, quote, we are not qualified to speak about the formula for the yellow light timing when he was questioned about it by this Legislature. He stated that he didn't know the formula, and he didn't know the last time it was changed. Well, I'm here to inform you that this is a logical fallacy. It is a logical fallacy to declare that only a traffic engineer can interpret the formula.

Anyone who has taken introductory physics can tell you what the formula means. It does not take

a traffic engineer to tell us what two plus two equals. We know it is four, but the problem is that the traffic engineer thinks it's three. The traffic engineer likes to call his formula the kinematic formula. He thinks that word will impress people. The problem is that the traffic engineer neither knows what kinematic means, nor can express what the kinematics of the formula mean. Ask him and watch his face go blank. And the more he knows of the kinematics of the formula, the more he condemns his own application of the formula.

The traffic engineer also told the committee that a red light camera ticket is civil, but he is not qualified to make that statement. I've informed you before that a Judge in New York State Court of record has already adjudicated red light camera violations as quasi-criminal, and he agreed that the defendant has a right to face his accuser.

CHAIRPERSON BROWNING:

Ms. Frego, you need to wrap up, your time is up.

MS. FREGO:

Yes, I'm almost finished. Thank you. A camera can never be the accuser, and red light camera violations cannot take away our constitutionally protected rights, for this is America, land of the free and home of the brave, and we are her people.

*(*Applause*)*

CHAIRPERSON BROWNING:

Next speaker is Marie Tooker.

MS. TOOKER:

Good morning, everybody.

LEG. FLEMING:

Good morning.

MS. TOOKER:

I just -- the last meeting that I spoke with, I just want to thank the two Sheriffs. They were such gentlemen. They were ordered to remove me from the podium, and Maud, who is 82 years old, and they didn't follow the orders, they stood here, and I just -- I don't know their names, but thank you so much for doing that.

I have a question on Resolution 1430-2016, where you're declaring April 17th as "Animal Cruelty Prevention Day" in Suffolk County. Was this ever signed by the County Executive yet and put into effect?

CHAIRPERSON BROWNING:

We don't answer questions. You'll have to call his office.

MS. TOOKER:

You don't answer questions now, so we don't know if this is --

CHAIRPERSON BROWNING:

We don't have that information.

MS. TOOKER:

Okay. So then, Kate Browning, you're the one that wrote this. If you didn't interrupt my speech last time, you would have known that in April of 2011, SPCA, Riverhead Police, David Reilly, who is

now a Judge, convicted criminals, created a major crime of over 60 animals of cruelty to -- at our farm. After this horrible situation, I realize they had been hurting our animals since 2008. My horse, over 28 years I had, since he was three months old, his name is Joey, died July 12th of 2008 due to people doing terrible things to our animals behind the scenes.

What I would like, if it wasn't signed, or I want to change it, out of respect for what happened to our animals at Abbess Farm that you're choosing April, which is a stab in my heart, is when they raided and the SPCA took possession of our animals and watched them being tortured and locked in stalls. I want the day to be changed to July 12th, and I want to dedicate it to the animals that were tortured in the hands of public officials and convicted criminals.

Judge Spinner, Judge Baisley, Judge Asher, Judge Rebolini, Judge Farneti, they all knew of this crime, and they were protecting their friend, David Reilly, who's now a Judge.

As far as the drug epidemic is concerned, if you would fix the corruption that's happening with public officials and law enforcement, you would not have a problem and epidemic with drugs in Suffolk County. I know firsthand that the police have protected the drugs in Southampton. Thank you.

*(*Applause*)*

CHAIRPERSON BROWNING:

I believe Legislator Cilmi has a question for you.

LEG. CILMI:

Ma'am.

CHAIRPERSON BROWNING:

Ms. Tooker.

LEG. CILMI:

I'm sorry.

CHAIRPERSON BROWNING:

Legislator Cilmi has a question.

LEG. CILMI:

Hi.

MS. TOOKER:

Yes, hi. How are you?

LEG. CILMI:

Good, thank you.

MS. TOOKER:

Tom?

LEG. CILMI:

Yes.

MS. TOOKER:

How do you pronounce it?

LEG. CILMI:

Cilmi. Cilmi.

MS. TOOKER:

Cilmi, okay.

LEG. CILMI:

Chilmi (phonetic) if we were in Italy, but it's Cilmi here.

MS. TOOKER:

Chilmi (phonetic). Well, I would think that would be a chill, right? Should you get a chill when you hear about over 60 animals being tortured?

LEG. CILMI:

Yes. What was the bill number that you asked about?

MS. TOOKER:

That was 1430-2016. It was a resolution number. I don't know if it was --

LEG. CILMI:

Okay. If I may to the -- don't go away. If I may to the Chair ask, did that pass?

CHAIRPERSON BROWNING:

Sorry?

LEG. CILMI:

Legislator Browning, did that pass, that bill?

CHAIRPERSON BROWNING:

Yes, we did pass it at the last General Meeting.

LEG. CILMI:

And if I may, through the Chair, ask our Counsel if it was approved by the County Executive or --

MR. NOLAN:

I'll search. I'll see if I can find it.

LEG. CILMI:

If you could. Unless -- unless the -- oh, Katie is standing there. If I may, through the Chair, ask Katie -- ma'am, could you just slide over just a little bit?

MS. TOOKER:

Oh, yes.

LEG. CILMI:

Thank you.

MS. HORST:

It has been signed. It has not been filed with the Clerk yet.

LEG. CILMI:

Wonderful. Thank you very much. I just wanted to -- I really just wanted to get the answer to your question, that's all. All right.

MS. TOOKER:

Okay. What happens then if it was signed and if it wasn't --

LEG. CILMI:

Once it's filed, then it will be in effect, and whatever the provisions of --

MS. TOOKER:

It hasn't been filed yet?

LEG. CILMI:

It's probably in the process of being filed at the moment.

MS. TOOKER:

So how do we stop that?

LEG. CILMI:

Stop it from being filed?

MS. TOOKER:

Yes.

LEG. CILMI:

You really can't.

MS. TOOKER:

Okay. Then who's the one that was -- who asked for this? If they don't have any idea what's happening with the cruelty to animals --

LEG. CILMI:

I don't want to get a debate with you about it.

CHAIRPERSON BROWNING:

Tom, this isn't the time. We certainly --

LEG. CILMI:

We have a -- you can look and find out who the sponsors were, if it was Legislator Browning or anybody else --

MS. TOOKER:

Well, Kate Browning filed it.

LEG. CILMI:

-- and you can have a conversation with them, okay?

CHAIRPERSON BROWNING:

I have your email address, and we will forward you the information on why that bill was filed the way it was and why that date was chosen.

MS. TOOKER:

I mean, because you talked about them, that people --

LEG. CILMI:

Ma'am, I --

CHAIRPERSON BROWNING:

Okay.

MS. TOOKER:

Okay. That they would abuse children, okay, likely starting to -- including children. That's exactly what happened to my children that day when they came.

CHAIRPERSON BROWNING:

Okay. We will forward you the information.

MS. TOOKER:

Okay? So you can't just make -- I want April to be changed, okay, because that's like a stab in my heart; do you understand?

CHAIRPERSON BROWNING:

I'm sorry. That is a bill that --

MS. TOOKER:

Okay. Well, we're going to change that, because I'm going to fight it, okay?

CHAIRPERSON BROWNING:

That's okay.

MS. TOOKER:

You know nothing about cruelty to animals --

CHAIRPERSON BROWNING:

Thank you.

MS. TOOKER:

-- since you kept me quiet when I tried to tell you what happened.

CHAIRPERSON BROWNING:

Thank you. You have a right to --

MS. TOOKER:

Somebody else wanted to say something? No.

CHAIRPERSON BROWNING:

Thank you.

MS. TOOKER:

Mrs. Kennedy, you --

LEG. KENNEDY:

(Shook head no.)

MS. TOOKER:

Okay. Thank you.

CHAIRPERSON BROWNING:

Okay. Next speaker, Jack McCarthy.

MR. MC CARTHY:

Hello. I am Jack McCarthy and I am the Libertarian candidate for Second Assembly District of New York State, and today I'm here to talk about the red light cameras, and how the shortening of the red light cameras at these intersections, which would raise revenue for the County and not for the safety of the County.

First, I would like to say that red light cameras should be banned based on the fact that they deny us of a proper due process and the right to face our accuser. Second, these cameras have everything to do with raising revenue and nothing to do with safety like you guys claim. There are places in Suffolk County with three-second yellow lights in 45 and 55 mile per hour zones. And this is completely unacceptable when you consider, according to Esurance, a car needs about four to six seconds to come to a full stop at 60 miles per hour, and this is not counting for larger vehicles, vehicles with, you know -- like bad conditions and poor weather conditions. And I'm a mechanic, so I know that. Most cars are not in 100% working order and do not have, you know, the best braking systems, because people do not people them up to standards. And so -- and this can go up to like -- up to 10 seconds, maybe even more in, you know, bad conditions. So I don't know how you can expect people to stop for a yellow light in three seconds. It's going to take a lot longer to stop.

And I think that we should make the yellow lights consistent throughout the County for each speed limit. So like if -- so at a 55 mile per hour zone, we'll have a set speed -- a set yellow light time for each light.

And, yeah. And, also, I just want to add that I was in -- I went to Miller Place High School, where Stephen Ruth talked about John Luke, and I would just like to say that that was a very bad time. Like I was in the grade above him. I did not know him personally, but I knew a lot of people that were really good friends with him. And I would like to say, you know, maybe someone look into more about the cause of the accident, because if someone's making accusations that, you know, it could be because of the red light cameras, there should be someone looking into that to make sure that that is not the problem, if you guys think it's not. Thank you.

CHAIRPERSON BROWNING:

Thank you.

*(*Applause*)*

Next -- okay. Next speaker is Maud Pollock. Good morning, Maud.

MS. POLLOCK:

Good morning. I'm here today because I had read in the paper that Attorney General Spota was going to be speaking and being questioned. And I had written to the -- to New York State, to the Court System, and their reply was about mortgage fraud and all that, is, "Oh, well, go and talk to the Attorney" -- "District Attorney." Now I spoke to or wrote to, in 2008, to Attorney Spota about the fraud in my case, about the identity theft, about the elder abuse, about the whole situation in my case. And shortly after, I wrote a letter to the Vice President of Emigrant Bank and said Attorney General's Office had accepted investigating the case. And shortly thereafter, I got a letter from Attorney General Spota saying that they have decided that it really is a private matter, and that I can -- that there was nothing to investigate, except that nobody ever asked me to come to the office, nobody asked me to show them a document. And, unfortunately, as time passed, and I requested a RESPA request for more documents, I got 250 pages from Emigrant Bank, all the fraudulent documents that they created, all the documents they were supposed to submit to me

to -- when you -- which I didn't realize, when you apply for a loan, there's certain documents that I was supposed to be shown, that I was supposed to have signed. They even had people -- they had a woman who -- how do you say? She verified my signature. I never even saw her. I wrote to the Vice President of the bank and I said, "When was I supposed to have signed this paper?" I said, "What, did I bi-locate from my house to the office there? I never saw this person." I mean, now on top of that, the bank had the nerve to show those same fraudulent documents in the court case.

So I've been thoroughly -- I would like Attorney General Schneiderman to investigate this, and that I am able to show these documents, and that he can see first hand, and request the original signed document from the bank. That's what I'm asking for the -- here today, because I already was betrayed by the D.A.

CHAIRPERSON BROWNING:

Okay. Thank you, Maud. And I know your Legislator, Bridget Fleming, is here. I think she has a question, or I know she's been meeting with you and trying to help you.

LEG. FLEMING:

I just -- hi, Maud. Good to see you again. I'm glad that the community relations Legislative Aide in my office has had an opportunity to spend as much time as he has, and I've certainly reviewed the file and we've discussed it. I'm very glad that you made your appointment at the Hampton Bays Senior Center, and that Adult Protective Services has become involved, because, as you know, I'm very concerned about your situation, regardless of the ongoing litigation.

I'm more than happy to write a letter to the Attorney General. But I just want to emphasize and reemphasize to anybody who has any concerns with regard to security in your housing situation, that you could continue to follow up with Pam Giacoia at Hampton Bays Senior Center, continue to follow up with APS. We'll be happy to continue to, you know, ask the Attorney General to look through this very, very lengthy litigation that has already occurred around your house. But in the meantime, just so that you're -- you know, we'll continue to talk, Maud, but I just want to make sure that everyone understands, if you're concerned about housing security, you need to take action. It's not just, you know, litigating. I don't want to go into the details of your home and the situation of that lengthy litigation, but I do want you to be sure to continue to see Pam Giacoia and Liz at the Hampton Bays Senior Center.

MS. POLLOCK:

Well, I'm there, I'm going there. I'm making an application. But I really do need support with Attorney Spot, because that -- there is just outrageous fraud.

LEG. FLEMING:

Well, I know that Attorney General Schneiderman --

MS. POLLOCK:

And it needs to be -- it needs to be brought to an end. Emigrant is not only stealing from me, but stealing from people all over the County. So it's not just me, it's all the other people that are being abused by a bank that is -- what do you call it? Like a vulture that is taking people's properties without due process. Okay. Thank you.

LEG. FLEMING:

We'll stay in touch.

CHAIRPERSON BROWNING:

Thank you, Maud.

(*Applause*)

And I do -- I do have some correspondence. Is there anyone else in the room who would like to speak? I have no more cards. No? Okay.

I do have a letter. I know that there was a request for the District Attorney to come in. I received a letter, it's pretty lengthy, from the District Attorney. I will read a portion of it. He did ask me to read it into the record, but I'll make sure that our stenographer has it.

It does say, "As you are aware, there is an ongoing investigation by the United States Attorney's Office into matters relating to your request. There has also been a request for an investigation by the Governor. While these matters are pending and for reasons described below, I cannot question" -- "I cannot answer questions related to them at this time. At the conclusion of these matters, and consistent with applicable law, I would welcome the opportunity to address the Legislature."

He also says, "To that end, I include and ask you not only to read but incorporate into the public record of the Public Safety Committee the following correspondence:"

There was four letters. One was June 1st of 2016, a letter to the Editor of Newsday regarding their May 30th, 2016 story, Police, Prosecutors exchange blame in release of gang suspects. There was a letter, March 9th, 2016, statement from Robert Clifford regarding the Newsday article alleging my alleged protection of Ed Walsh. Third is a January 26th, 2016 letter from Robert Clifford to Newsday's publisher regarding the Newsday inquiries about the resentencing of Robert Macedonio. And a January 20th, 2016 letter to the New York Times reporter Joseph Goldstein from Robert Clifford regarding his inquiries.

So I will -- like I said, they're pretty lengthy, so I will make sure that you have a copy to put into the record.

With that, there -- you know, I do have a letter that I received back in January 18th, 2012, which, you know, his -- the victim of Ed Walsh came forward and has identified herself. I did have questions about that letter and dispute some of the things that were said in that, and I will follow up on that one.

With that, I do want to say I apologize. We have our former Legislator Caracappa here. It's nice to see you. You want to come back?

UNDERSHERIFF CARACAPPA:
(Shook head no.)

(*Laughter*)

CHAIRPERSON BROWNING:
So we'll take you any time. I always --

LEG. HAHN:
And former Presiding Officer.

CHAIRPERSON BROWNING:
And former Presiding Officer. I do apologize.

UNDERSHERIFF CARACAPPA:
You're ruining my day.

*(*Laughter*)*

CHAIRPERSON BROWNING:

And it was always a pleasure, Joe, working with you. When I first came into office, you were the guy who sat next to me, and I always appreciated all your support and assistance in the learning process. So with that, I do not believe -- oh, sorry. Bridget, you have something you'd like to say?

LEG. FLEMING:

Right. I just -- if I may, Madam Chair, just with regard to the statements that you were just making and the request that was made, that Mr. Spota appear. I think that Legislator Lindsay's letter was a responsible and legitimate exercise of Legislative duties, which is why I went on record supporting it. The County Charter outlines the powers and duties of the County Legislature, which include investigating the performance of any functions, offices or departments of the government of the County. And specifically, this committee, the Public Safety Committee, has jurisdiction over law enforcement, including the Police Department and the District Attorney's Office.

With all the concerns that are -- have been swirling around the District Attorney's Office, including inconsistent statements by the District Attorney himself or his spokesman, I believe it would certainly be a legitimate undertaking of this committee to put questions to Mr. Spota, and to give him an opportunity at this time to assure not only ourselves, but the public, of the proper functioning of this important and powerful office.

Mr. Spota has declined the request, as you point out, Chairwoman Browning, until the conclusion of the ongoing investigation by the U.S. Attorney's Office and a request for investigation by the Governor without any indication of a timeline on that. And while I appreciate -- you know, I was an Assistant District Attorney for ten years, I was the Chief of a Fraud Unit. I appreciate the reasons Mr. Spota outlines. I don't necessarily agree with all of them, but I do appreciate the reasons he outlines for his refusal to appear at this time. But I believe that the request that he appears was really a legitimate request based on our responsibility to County taxpayers. And the fact that he feels, for whatever reason, that he can't appear is an indication to me at this point that Mr. Spota may be unable to fulfill the basic responsibilities of his position, and I find it deeply concerning.

*(*Applause*)*

CHAIRPERSON BROWNING:

Thank you, Bridget. And I continue to stand by my statement and what I believe in. We do have, I think, a few Commissioners here. Director Patrice Dlhopsky, do you have anything that you need to provide us?

MD. DLHOPOLSKY:

No, I don't no.

CHAIRPERSON BROWNING:

I do want to let you know, I've received some phone calls about -- maybe I'd like to ask you about it, about some policy changes with regards to flex time and employees. I have received a number of phone calls from a number of probation officers regarding flex time and a change.

DIRECTOR DLHOPOLSKY:

You want me to approach?

CHAIRPERSON BROWNING:

Could you kind of explain a little bit on that?

DIRECTOR DLHOPOLSKY:

Good morning.

CHAIRPERSON BROWNING:

Okay. So I have received some communication from a number of -- specifically one employee, but a number of Probation Officers have called in support of that person with regards to a change in the policy on flex time. Now I guess it's -- which allows them to hold second jobs.

DIRECTOR DLHOPOLSKY:

Truthfully, my -- I think this is probably something that could better be explored in a setting other than a public setting.

CHAIRPERSON BROWNING:

Okay.

DIRECTOR DLHOPOLSKY:

However, what I would say is that in terms of flex time, the Department has a very liberal flex time policy. However, we have to make sure that the needs of the public and public safety are served by the flex time schedules that we approve, and for that reason, we made some alterations, relatively minor, to that, in addition to which, obviously, anybody who takes employment as a Suffolk County Probation Officer, that is their primary employment. In terms of maintaining a secondary job, that job is secondary and can only be pursued within the limits of allowing them to meet their duties to the Probation Department.

CHAIRPERSON BROWNING:

Okay. So is that a contractual thing, or is that --

DIRECTOR DLHOPOLSKY:

Contractually, they are of a -- there is an agreement that the Probation Officers can work flex schedules, but those flex schedules are up to the discretion of supervisory staff to determine based upon the mutual needs of the employee and the department.

CHAIRPERSON BROWNING:

Okay. You know, I don't want to get into the personal issue, I'd prefer to speak with you privately on that, but the flex time is still available?

DIRECTOR DLHOPOLSKY:

Flex time is absolutely still available.

CHAIRPERSON BROWNING:

Okay. We'll talk further. I'd appreciate you -- say again.

LEG. HAHN:

(Spoke off microphone).

CHAIRPERSON BROWNING:

Well, I think I've read out the number of Probation Officers that we have from four years ago to what we have today and it's significantly a big drop. And, again, are they being paid overtime? There was another issue that -- what happens when -- let me ask you this one. When a Probation Officer is out on an injury or out on long-term sick, what happens to their probationers? How do

you -- how do you make sure that they are being monitored?

DIRECTOR DLHOPOLSKY:

Well, obviously, it's dependent on the length of time the Probation Officer is going to be out. If we're talking about long term, sometimes we have to transfer and move people into other spots. If you're talking about short term, we cover needed services by overtime.

CHAIRPERSON BROWNING:

Okay. Could you provide us with a list of how many people are out on long-term, how many probationers have to be covered, you know, are being covered by other Probation Officers? Because I'm assuming if it's a long-term leave, then you're now increasing the workload on another Probation Officer, or other -- obviously, you're splitting them up amongst a number of them.

DIRECTOR DLHOPOLSKY:

Right, generally speaking. You know, basically, what we do at any given time is what any manager of anything is going to do, and we look to see where our most pressing needs are, and that is the place to which we apply services. So we make transfers as are appropriate, you know, basically, simple basic management, what anybody would do in any business.

CHAIRPERSON BROWNING:

Right. But we want to make sure that the Probation Officers are effectively doing what they need to do and they have their caseload.

DIRECTOR DLHOPOLSKY:

And this is also --

CHAIRPERSON BROWNING:

They have their caseload. They have their caseload they have to take care of, and now how many more are being added on to them?

DIRECTOR DLHOPOLSKY:

Right. And we are always very careful to make sure that appropriate services are being able to be provided. And if it's something that a Probation Officer can cover during normal duty hours, they do, and otherwise we approve overtime.

CHAIRPERSON BROWNING:

Okay. So we'll follow up. If you could provide us a list of, you know, how many long-term Probation Officer -- how many Probation Officers are out on a long-term basis.

DIRECTOR DLHOPOLSKY:

Okay. It's a very short list, so that would be pretty easy.

CHAIRPERSON BROWNING:

And so what the caseload is as far as switching. Okay.

DIRECTOR DLHOPOLSKY:

It's a short list.

CHAIRPERSON BROWNING:

And Legislator Hahn has a question.

LEG. HAHN:

Of course, the public safety, safety of the public comes first. However, you know, that being said,

flex time is important for working mothers, single parents, people -- you know, we are talking about a unit that's now six years without a contract?

DIRECTOR DLHOPOLSKY:

That is correct, this is the sixth year.

LEG. HAHN:

You know, I'm very interested -- no one contacted me that I'm aware of, but I am very interested in this issue. And just, you know, I want to make sure that folks do need to pursue -- you know, living wage on Long Island is probably not what they're getting paid, and if they do need to -- a single mother needs to pursue a second job, that, you know, we're not unfairly targeting an individual. I don't know the particulars.

DIRECTOR DLHOPOLSKY:

I'm sure that that is not the circumstance.

LEG. HAHN:

We don't need to discuss them here, but I look forward to being part of that discussion, because I think it's very important that we do all we can. Obviously, we need to be protecting the public first and foremost, there's no question about that.

DIRECTOR DLHOPOLSKY:

That is our primary responsibility, but I can assure you, we have a very liberal flex time schedule.

LEG. HAHN:

I look forward to talking to you about it. Thank you.

CHAIRPERSON BROWNING:

Okay. Thank you, Patrice. I do not see anyone else. Joel, I think you -- was there something you were going to come up? Katie? There was something that you were going to give us some information on on a Local Law.

MR. VETTER:

I just want to bring to your attention two Local Law 40s that will be brought up. They're related to our Federal grant system. The first one is a housekeeping one on the UASI 2014 Grant that will be expiring on August 31st. It involves moving \$37,746 from the Fringe category. That was a cost savings associated to less grant-funded overtime, changes in positional accounting aspects. So the rate was made at a higher position calculated, it was performed by a lower duty. So that funding will be -- looked to be reclaimed and budgetarily transferred for some equipment that will be spent down prior to the expiration of August in Communications.

The second one, if you remember last year, we were scrambling. There's newer Federal guidelines or enforcement of the current program directives from the Executive level, and it's -- all it's asking us to do is sign the contracts for our Homeland Security grant, our Urban Area Safety and Security Initiate, and the LEMPG grant.

Last year, when we did this, we had the budgetary numbers all put together. We're not prepared to do that yet. We also felt that this would provide your body greater involvement and insight into it. So we just signed the legal contracts. We'll come back for the full resolution process for the budgets of those contracts. Those contracts and these grants as a whole affect multiple departments. Our other sub-recipients are our co-awardees that receive benefits, the Police Department, the Sheriffs, Health Service, the Medical Examiner's Office, Parks and I.T.

CHAIRPERSON BROWNING:

Okay. Any questions, anyone? No? No questions. Okay. Thank you, Joel. And I do see two union reps in the room who do not have a contract for six years. Anything?

MR. BECKER:

No.

CHAIRPERSON BROWNING:

Are we close? Are we getting close?

MR. BECKER:

No.

CHAIRPERSON BROWNING:

You want to come forward? It's entirely up to you guys if you would like to let us know how things are moving, if they're moving. Whatever you choose. You're right there.

MR. BECKER:

Good morning.

CHAIRPERSON BROWNING:

Good morning.

MR. BECKER:

There's been no -- there has been no new talks since the last time I spoke here. There was a letter that was submitted by Legislator Gregory requesting the costing. This is one of the things that we have requested from the County. It's also one of the issues that we have as part of an improper practice charge that we filed alleging bad faith negotiations on the part of the County. The reason this costing is so important is if we are being asked to provide a certain number of savings, we're asking to get a detailed cost-out from the Police and the Corrections contracts, so that we can understand how this number was achieved and why, you know, for the County to justify this number to us.

CHAIRPERSON BROWNING:

Okay. So I think everybody gets that. And has that -- I don't believe that that information has been provided, and I'll be talking to the Presiding Officer later. I mean, he gave me a copy of the letter. I don't believe that I have received anything as of yet. I was actually telling the Presiding Officer that I still actually have contracts in my house and notes from contract negotiations from -- I've been in office now 10-and-a-half years, so way back to my first contract with -- that I was involved in. So you're talking about more than 20 years ago. I keep records. I would assume that the County Exec's Office would have the records at hand, that they wouldn't have to be digging for them. So I don't know what the delay is. I think it's probably a little over a week, maybe close to two weeks since they received the letter. So I would think that that would be on file and that they could just put their hand in a draw or hit a button on a computer to get that. So I don't know what the delay is.

I'm certain we're going to ask again. Katie is in the room. Maybe you can relay back what the delay is in providing that information, you know, the contracts. It's not that long ago they negotiated those contracts, so they should have the records from those negotiations and all their notes very quickly at hand.

MR. BECKER:

Absolutely. I mean, we agree, it should be a matter of -- the request was made for the costing. It

should just be a matter of sending that over. It shouldn't be something that's being worked on, it should be something that has already taken place.

CHAIRPERSON BROWNING:

Right, right. You don't work on something you already did. Okay, I get you. So anything we hear, I'll be talking to the Presiding Officer later and we'll find out if he's received anything.

MR. BECKER:

Very good. And once again, I just want to thank the -- this committee for all their support and all their help throughout this process.

CHAIRPERSON BROWNING:

Thank you. Probation, do you want to report? Legislator Calarco says, "Yeah, let's just get them a contract."

*(*Laughter*)*

Matt, have you met recently? Any new information?

MR. PORTER:

Until we actually have a signed document, do we really have anything?

CHAIRPERSON BROWNING:

True.

MR. PORTER:

I mean, we talk, talk, talk, and get everything to where it is now. And we've had talks, we've had movement, but until my membership actually has a contract, they still live with the same day-to-day frustrations they've lived with for five-and-a-half years without one.

CHAIRPERSON BROWNING:

So when was the last time you guys met?

MR. PORTER:

We've had several meetings in the last month. We've had several dialogs going on. It's just after five-and-a-half years, how much can you keep talking and talking before something is actually done? It's not on our end on anything that's being waited on.

CHAIRPERSON BROWNING:

Okay. And I -- you know, and I mentioned to Patrice about the flex time issue. I would hope that that would be something that you're addressing for your member.

MR. PORTER:

We just went through an agreement with management avoiding a grievance process with flex that we negotiated together, and it's just going into implementation right now. And our members are being educated about what our agreement is, so there may be a little bit of confusion early on as to what exactly is happening. We're getting that distributed and we're comfortable with where we are in flex right now.

CHAIRPERSON BROWNING:

Okay. And like I say, I can only hope that -- you know, I think it was before Christmas I was hearing, and I've heard it on both sides with the Deputies and yourselves, was, "We're close, we're very close." Well, it's July. So are we looking for Christmas in July, maybe? I don't know. We're

getting to July. Maybe it will be Christmas in July for you. So I can only hope.

MR. PORTER:

We're tired of hoping, we're tired of waiting. Just in talking to all my members, the frustration and the -- you know, since 2010 is the last time a lot of us have seen a raise and appreciation for what we do. And constantly we're being asked to do more with less, both in our duties as a Probation Officer and on our home lives, and the choices we have to make based on what we make, and that is becoming increasingly frustrating. It's affecting, I believe, some people's ability to do their jobs, and it's about time we had action, it really is.

CHAIRPERSON BROWNING:

And I received information about the difference in your staffing numbers from four years ago to today, it's a significant number. And while you guys don't have contracts, it seems like there's people in the Administration are getting nice pay raises. I just read about one, a \$20,000 pay raise, and another one who was -- used to come here all the time got a very significant pay raise. So I would think that there shouldn't be any pay raises going on anywhere in the County, especially when they talk about, "Well, we're trying to protect the taxpayers." Well, if we're going to protect the taxpayers, well, it's do what I say, not what I do, and that's what I keep seeing what's going on here. So out of respect for you, I think that they should not be doing those significant pay raises and should be looking to move that money to accommodate the people who protect and serve in Suffolk County.

So I will continue to stand by what I believe in. You do a great job. We appreciate what you do. Alternatives to incarceration is what prevented us from being able -- from having to build another phase of the jail. And we value what you do and we appreciate it, and we will continue to follow up for you.

MR. PORTER:

It's much appreciated, and we appreciate everybody's support here on the Legislature, and we hope to get the same support from the County Exec's Office.

CHAIRPERSON BROWNING:

Thank you. So with that, I don't -- is there any questions? I hate to say. No questions, okay. So we'll go to the agenda.

TABLED RESOLUTIONS

1042 - Adopting a Local Law, a Charter Law to establish minimum qualifications and screening process for appointment of Police Commissioner (McCaffrey). I'll make a motion to table.

LEG. HAHN:

Second.

CHAIRPERSON BROWNING:

Second, Legislator Hahn.

LEG. CILMI:

Motion to approve.

LEG. KENNEDY:

Second.

CHAIRPERSON BROWNING:

A motion to approve and a second. Okay. On the motion, anyone? Okay.

LEG. CILMI:

I had a conversation with the sponsor and he asked that it be moved, so.

CHAIRPERSON BROWNING:

Okay. I mean, I think at this point in time, I know that this was something that was written before the appointment of the current Police Commissioner. I do agree to some extent that there should be some requirements. I have had some interaction with the current Police Commissioner. I think he has done a phenomenal job, and he has proven some of us somewhat wrong, and I would be the first to say that.

LEG. CILMI:

I have -- I myself have nothing but praise.

CHAIRPERSON BROWNING:

Right. So I think that we should maybe talk further. I would certainly reach out to the sponsor to see what we can do, because does that mean -- is that --

LEG. KENNEDY:

Going forward.

CHAIRPERSON BROWNING:

George, does that mean going forward for any new Police Commissioners, or is that -- would that apply to the current?

MR. NOLAN:

No, it's prospective, so it would only apply to future appointments.

CHAIRPERSON BROWNING:

Okay. At this point in time, I'll continue to support the table, but I'll talk to Legislator McCaffrey. So I know the tabling motion takes precedence. So I made a motion, and there was a second. All in favor? Opposed?

LEG. CILMI:

(Raised hand).

LEG. KENNEDY:

(Raised hand).

CHAIRPERSON BROWNING:

So the tabling motion carries. ***(Vote: Tabled 5-2-0-1-0/Not Present: Legislator Spencer)***

1180 - Adopting a Local Law to prohibit the sale of Kratom in Suffolk County (Stern).

Motion to approve by Legislator Spencer. Spencer?

LEG. SPENCER:

Uh-huh.

CHAIRPERSON BROWNING:

Okay. Second by Legislator Kennedy. Did I -- okay.

LEG. CILMI:

On the motion.

CHAIRPERSON BROWNING:

On the motion.

LEG. CILMI:

Just reiterate -- I'm not sure if -- Dr. Tomarken had to leave, I think.

CHAIRPERSON BROWNING:

No, he had to leave. That's why we got him up.

LEG. CILMI:

Yeah. If -- just through the Chair to the County Executive's staff there, if we could just get the answers to the question or two that I had asked that the Doctor -- the Doctor said he would provide prior to Tuesday's meeting.

MS. HORST:

Sure.

LEG. CILMI:

I would appreciate that. Thank you.

CHAIRPERSON BROWNING:

Okay. So with that, there was a motion it approve and a second. All in favor? Opposed? Abstentions? It's approved. **(Vote: Approved 8-0-0-0)**

CHAIRPERSON BROWNING:

And I want to say thank you to the members of the National Guard Unit. If you would like to do me a favor and come up and let everyone know why you're here, because -- and I know you're here for this particular bill. If someone would like -- you know, come up and introduce yourselves and tell us why you're here.

(*Applause*)

They wear many hats. If you'd like to introduce yourselves. I'm proud to say my son works with you guys and --

SERGEANT CANTONE:

Hi. We're here with the Air National Guard Counterdrug Task Force. My name is Sergeant Cantone.

SPECIALIST CASSIDY:

Specialist Sean Cassidy.

SENIOR AIRMAN MANZUETA:

Senior Airman Gabriel Manzueta.

SERGEANT CANTONE:

So we're here tonight because we work with coalitions throughout Long Island, and I've seen a few familiar faces here that join our coalitions in reducing substance abuse in the area. And today we're just here to see what happens with, you know, the sale of Kratom and also the Social Host Law, because we work with, I believe, thirteen coalitions on Long Island.

SPECIALIST CASSIDY:

We're about to have more.

SERGEANT CANTONE:

And, yeah, we're working on getting more. And they were very passionate about the social host law and the sale of Kratom, so -- and we actually have one of our coalition right here, Dorothy Johnson. She's from the Great South Bay. So it's very important to us.

LEG. SPENCER:

What's your position with regards to -- you know, personally, what do you think about this legislation, and why would it be important? If you could tell us just from your point of view.

SPECIALIST CASSIDY:

In regards to Kratom?

LEG. SPENCER:

Yes.

SPECIALIST CASSIDY:

Well, we actually just attended a training Upstate from a veteran of the NYPD. He was a narcotics and Detective for 29 years, and he touched on Kratom. So Kratom, from what we've been taught, is similar to an opioid. So when like we hear people, you know, state that people use Kratom to help with their heroin withdrawals, that's like, you know, the same people who are using heroin to help with their opioid withdrawals, it's a vicious circle. And the fact that it's not regulated, and you can walk into a smoke shop and buy it, that would mean that an underage individual can walk in and take something that has the same effect as an opioid, and we already have a problem going on right now.

LEG. SPENCER:

And just I always have this personal debate, and you can help me out as someone that's serving this country, and as a young person. It is always balancing between the issue of adults making personal choices, having personal liberties, which you are fighting for, versus our role as government, public elected officials, to protect. Do you feel, for instance, if we pass something banning Kratom and -- are we trampling on the liberties of people who rely on it, or do you think we are being responsible as far as protecting the public? Do you have a -- just a personal position there? Because that's always the balance we're trying to strike.

CHAIRPERSON BROWNING:

You're putting them on the spot.

SPECIALIST CASSIDY:

In regards to that, being the fact that, you know, we're in uniform, I can't voice a personal opinion on the matter, because anything I say is directly reflective of the Counterdrug Task Force and the United States Army and the Air Force. So I can't voice a personal opinion on whether that's the best thing to do or if you're trampling on people's rights.

LEG. SPENCER:

Thank you.

CHAIRPERSON BROWNING:

Well trained you are.

*(*Laughter*)*

So do we have any other questions? No. Okay. Well, we certainly appreciate you coming. And, like I said, I met you at the Post Partum Awareness, and it's great to see that you guys are coming. Clearly, with what's going on these days and PTSD, you know, it's definitely -- it's important for military members also to be involved and participate in the process. So, again, thank you for your service.

SPECIALIST CASSIDY:

Thank you.

CHAIRPERSON BROWNING:

And we always enjoy having you come.

SERGEANT CANTONE:

Thank you.

*(*Applause*)*

However, I hate to do this, being that we just approved the bill. We just got a phone call from the sponsor. I guess there were some issues that he needs to address in the bill.

LEG. SPENCER:

Okay.

CHAIRPERSON BROWNING:

So can I make --

MR. NOLAN:

He wants you to table it.

CHAIRPERSON BROWNING:

Who could -- so I guess we all approved it, so --

LEG. SPENCER:

So I make a motion to reconsider, Madam Chair.

CHAIRPERSON BROWNING:

Okay. He has requested that we table the bill, because he's got some -- I guess there's some issues that he'd like to address in it, and so I guess the bill is just not quite ready. Apologies, guys, for being here. But there was a motion to reconsider and a second by Legislator Cilmi. All in favor? Opposed? Abstentions? It has been reconsidered. **(Vote: Motion to Reconsider Approved 8-0-0-0-0)**

LEG. SPENCER:

May I make a motion to table, Madam Chairwoman?

CHAIRPERSON BROWNING:

Motion to table 1180; the second, Legislator Cilmi. It is tabled. It's --

MR. NOLAN:

Call the vote.

CHAIRPERSON BROWNING:

Say again.

MR. NOLAN:

Call the vote.

CHAIRPERSON BROWNING:

Oh, sorry. Did I not do that? So there was a motion and a second. Did you get the motion and the second?

MS. ELLIS:

Yes, I did.

CHAIRPERSON BROWNING:

Okay. All in favor? Opposed? Abstentions? It is tabled. **(Vote: Tabled 8-0-0-0)**

So I guess maybe next committee it will be ready to go. So we still have the Social Host Law, so it's not wasting their time totally.

1462 - Adopting a Local Law amending the composition of the Child Fatality Review Team (Hahn). Is that ready to go?

LEG. HAHN:

Yes.

CHAIRPERSON BROWNING:

Okay. So motion by Legislator Hahn, second by Legislator Martinez. All in favor? Opposed? Abstentions? It is approved. **(Vote: Approved 8-0-0-0)**

1471 - Adopting a Local Law to increase penalties for violation of social host laws (Cilmi). Legislator Cilmi makes that motion.

LEG. CILMI:

Motion to approve.

LEG. KENNEDY:

Second.

CHAIRPERSON BROWNING:

Legislator Kennedy made that second. All in favor? Opposed? Abstentions? But, actually, can you -- if you'd like to kind of give us a little update on --

LEG. CILMI:

Good, sure.

CHAIRPERSON BROWNING:

-- what the changes are.

LEG. CILMI:

Sure. So very, very simply, this bill changes the, I guess, classification of the first incidence or the first violation from a technical violation to a misdemeanor. So, currently, the first incidence, or first offense, I should say, is a violation. According to the Police Commissioner, who advocated for this change, the definition of violation in the Penal Code apparently is -- or necessitates that a police

officer witness the act, and that was getting in the way of enforcement of this law.

CHAIRPERSON BROWNING:

Okay.

LEG. CILMI:

Because, obviously, if a police officer shows up at -- shows up at a residence or something, and that homeowner doesn't want to let the police officer into the home, there's no visible evidence on the front lawn or anything of the homeowner or the adult in control of the home serving the alcohol, then it's impossible to charge the law. This changes that to make the first offense a misdemeanor. It doesn't change the penalties at all, but it allows the department to charge based on evidence. So that's a brief description.

CHAIRPERSON BROWNING:

Okay, sounds good. Well, we appreciate you working on that. So did we make --

MS. ELLIS:

No.

CHAIRPERSON BROWNING:

Okay. So there was a motion and a second. All in favor? Opposed? Abstentions? It's approved. Congratulations, Legislator.

*(*Applause*)*

LEG. CILMI:

And I want to -- I want to really thank the Police Commissioner. We had a -- Legislators Martinez and I, and Legislator Lindsay and Legislator Barraga assembled a group of folks among which were school Superintendents from throughout the Islip cluster of schools, community advocates, folks in the prevention field, to get together and discuss the social host law and what could be done to improve the enforcement of it. And working together, you know, we came to this very simple solution. And we really hope that not only does it make an impact in terms of our enforcement of the law, but that there's more public awareness of the law as a result, and, therefore, let fewer minors drinking and fewer adults allowing minors to drink in their homes.

CHAIRPERSON BROWNING:

Okay. Thank you. And I apologize, Mike, I didn't quite see you. Was there anything in particular you were here for?

CHIEF SHARKEY:

No.

CHAIRPERSON BROWNING:

Nothing?

CHIEF SHARKEY:

No.

CHAIRPERSON BROWNING:

Okay. No questions for Mr. Sharkey? No. Okay. You're off.

INTRODUCTORY RESOLUTIONS

1512 -- oh, sorry. **1493 - Adopting a Local Law, a Local Law to improve Alarm System Registration requirements (Browning).** I'll make a motion to table for public hearing; second, Legislator Hahn. All in favor? Opposed? Abstentions? It's tabled for public hearing. **(Vote: Tabled for Public Hearing 8-0-0-0)**

1512 - Accepting and appropriating 100% grant funds received from the New York State Division of Criminal Justice Services to the Suffolk County District Attorney's Office, under the Crimes against Revenue Program (Co. Exec.). I make a motion to approve and **place on the Consent Calendar.**

LEG. FLEMING:

Second.

CHAIRPERSON BROWNING:

Second, Legislator Fleming. All in favor? Opposed? Abstentions? It's approved. **(Vote: Approved 8-0-0-0)**

1546 - Accepting and appropriating Federal funding in the amount of \$35,096 from the United States Department of Justice, Drug Enforcement Administration (DEA), for the Suffolk County Police Department's participation in the DEA Long Island Task Force with 79.4% support (Co. Exec.). Motion to approve, Legislator Hahn; second, Legislator Martinez. All in favor? Opposed? Abstentions? It's approved. **(Vote: Approved 8-0-0-0)**

1547 - Accepting and appropriating Federal funding in the amount of \$7,500 from the Department of Homeland Security, United States Immigration and Customs Enforcement (ICE), for the Suffolk County Police Department's participation in the ICE El Dorado Task Force with 79.4% support (Co. Exec.). Motion to approve, Legislator Kennedy.

LEG. KENNEDY:

Uh-huh.

CHAIRPERSON BROWNING:

Second?

LEG. CILMI:

(Raised hand).

CHAIRPERSON BROWNING:

Legislator Cilmi. All in favor? Opposed? Abstentions? It's approved. **(Vote: Approved 8-0-0-0)**

1548 - Accepting and appropriating a grant in the amount of \$153,970 in State funding from the New York State Division of Homeland Security and Emergency Services, for the Public Safety Answering Point (PSAP) 2015 Grant Program with 100% support (Co. Exec.). I'll make a motion to approve and place on the Consent Calendar; second, Legislator Calarco. All in favor? Opposed? Abstentions? It's approved. **(Vote: Approved 8-0-0-0)**

1549 - Accepting and appropriating Federal funding in the amount of \$17,548 from the United States Department of Justice, Drug Enforcement Administration (DEA), for the Suffolk County Police Department's participation in the DEA Long Island Tactical Diversion Task Force with 79.4% support (Co. Exec.). Motion to approve by Legislators --

D.P.O. CALARCO:

Motion.

CHAIRPERSON BROWNING:

Fleming, and second, Legislator Calarco. All in favor? Opposed? Abstentions? It's approved.
(Vote: Approved 8-0-0-0)

1554 - Accepting and appropriating Federal pass-through grant funds from the NYS Division of Homeland Security and Emergency Services (DHSES) in the amount of \$50,000 for "Operation Shield 2016" under State Homeland Security Program (SHSP FY2015) to be administered by the Suffolk County Sheriff's Office in participation (partnership) with the Suffolk County Police Department, the East End Marine Task Force and various other federal, state and local agencies, and to execute grant related agreements with 100% support (Co. Exec.).

LEG. FLEMING:

Motion.

CHAIRPERSON BROWNING:

Motion to approve by Legislator Fleming, and **place on the Consent Calendar**. I'll make that second. All in favor? Opposed? Abstentions? It's approved. **(Vote: Approved 8-0-0-0)**

1559 - Accepting and appropriating State grant funding in the amount of \$50,000 from the New York State Division of Criminal Justice Services for a Precinct Digital Signage Program with 100% support (Co. Exec.). Just do same motion, same second, same vote.

Okay. And I do not believe we have -- do we have anymore?

D.P.O. CALARCO:

No.

CHAIRPERSON BROWNING:

Hold on, second page. Okay. So we have nothing more on the agenda. So I make a motion to adjourn and we are adjourned.

(*The meeting was adjourned at 11:21 a.m.*)

**COUNTY OF SUFFOLK
OFFICE OF DISTRICT ATTORNEY**



**THOMAS J. SPOTA
DISTRICT ATTORNEY**

June 13, 2016

Legislator Kate M. Browning
Suffolk County Legislature
1120 Montauk Highway
Suite G
Mastic, New York 11950

Dear Legislator Browning:

I am in receipt of your June 6th request made on behalf of Legislator Lindsay that I appear at the June 16, 2016 Public Safety Committee meeting of the Suffolk County Legislature. For the reasons outlined below, I must respectfully decline your request.

As you are aware, there is an ongoing investigation by the United States Attorney's Office into matters relating to your request. There has also been a request for an investigation by the Governor. While these matters are pending, and for reasons described below, I cannot answer questions related to them at this time. At the conclusion of these matters, and consistent with applicable law, I would welcome the opportunity to address the Legislature.

Moreover, while the members of the Legislature and the media may not be bound by the very important non-disclosure provisions of the New York State Criminal Procedure Law, I am. Specifically, Criminal Procedure Law, Section 190.25(4)(a) provides that "grand jury proceedings are secret and no grand juror or ... the District Attorney [190.25(3)(a)] may except in the lawful discharge of his duties or upon written order of the court, disclose the nature or substance of any grand jury testimony, evidence, or any decision, result or other matter attending a grand jury proceeding." This prohibition includes any evidence obtained by grand jury subpoena. The unlawful disclosure of grand jury evidence by a public prosecutor is a crime. See, New York State Penal Law, Section 215.70. Furthermore, the rules regarding the non-disclosure of eavesdropping (wiretap) materials are even more restrictive than those prohibiting disclosure of grand jury information. All eavesdropping applications made and warrants

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issued are automatically sealed by the issuing Justice (C.P.L. Section 700.55(1)); immediately upon the expiration of the period of an eavesdropping warrant, the recordings must be made available to and sealed by the issuing Justice (C.P.L. Section 700.50(2)); the disclosure of and use of the information obtained is strictly regulated (C.P.L. Section 700.65(1)(2)(3)(4)) and the divulging of wiretap information to anyone except as specifically provided by law is a crime. See, New York State Penal Law, Section 250.20. Since much of the information relating to the matters covered by your request falls into one or both of these two prohibited categories, I am sure you can understand why I cannot discuss the issues you reference in your letter.

While it appears that you and other members of the Legislature may have accepted what is reported by the media as fact, I do not. Indeed, to the extent lawfully permitted, I have sought to correct the record at every turn. My request of the various media outlets to publish my responses to them in full have been largely ignored. To that end I include and ask you to not only read but incorporate into the public record of the Public Safety Committee the following correspondence:

1. A June 1, 2016 letter to the Editor of *Newsday* regarding their May 30, 2016 story Police, Prosecutors exchange blame in release of gang suspects;
2. A March 9, 2016 statement from Robert Clifford regarding the *Newsday* article alleging my alleged protection of Edward Walsh;
3. A January 26, 2016 letter from Robert Clifford to *Newsday*'s publisher regarding the *Newsday* inquiries about the resentencing of Robert Macedonio;
4. A January 20, 2016 letter to New York Times reporter Joseph Goldstein from Robert Clifford regarding his inquiries.

While there have been many other responses to various media outlets over the last months, I believe the responses my Office has provided presents a far different, and factually reliable, view of the issues presented. I cannot emphasize too strongly that many of the media-reported allegations rely on anonymous sources who in some cases appear to have no direct knowledge of the facts but "were told" or "heard" about something later reported as true. Such anonymity deprives the reading and viewing public of an opportunity to assess the motives, credibility and reliability of these sources.

As demonstrated in attachment #1, the letter to the Editor of *Newsday*, some members of the media have gone so far as to create controversy in cases where none exists. There is no "blame" being exchanged in the gun and drug case described in the referenced *Newsday* article. The members of the Legislature who are lawyers know full well, all crimes contain elements that are defined by law and must be proved beyond a reasonable doubt. Where those elements cannot be established based upon an arrest, additional investigation must take place prior to any further legal action. These standards are not flexible. They apply equally to a gang member or a pillar of the community.

I would also like to take this opportunity to assure the members of the Committee that while the persistent attacks on my integrity and that of my staff have been distressing and distracting, the important work of the District Attorney's office continues.

Over the past month alone, Assistant District Attorneys in my Office have convicted, after trial, defendants charged with Murder in the Second Degree, Narcotics Possession, Robbery (in a case where the defendant may face a life sentence), Domestic Violence (where the defendant was sentenced to over 20 years in prison), Child Sexual and Physical Abuse (in that case, the jury returned its verdict in 9 minutes); Endangering the Safety, Health and Welfare of the Environment (the second "dumping" conviction) and many others. Just last week, one of our newer Assistant District Attorneys convicted a defendant represented by a prominent criminal defense attorney, of Driving While Intoxicated in a very difficult case.

We are working with our law enforcement partners on significant confidential narcotics investigations, and hope to soon be able to report the results of a long term investigation that will return millions of dollars in ill-gotten gains to various municipalities across our County. From January through April 2016, prosecutors have handled over 10,000 new misdemeanor cases in our District and East End Courts and disposed of over 12,000 cases in these same courts. During that same time period, Suffolk prosecutors have presented over 450 new felony cases to the grand jury and disposed of almost 3,000 felony cases by way of plea or trial. We have also provided assistance to the Administrative Judge of the County Court in carrying out New York State's new Chief Judge's "excellence initiative" with the reduction of court calendar backlogs to their lowest levels in years.

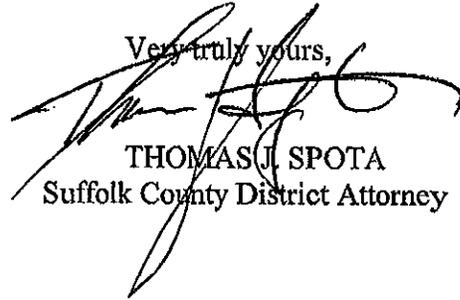
Prosecutors remain on call 24/7 to assist our law enforcement partners by writing search warrants and blood warrants, going to crash and homicide scenes and answering a myriad of legal questions. Our community outreach efforts are particularly significant this time of year as our Vehicular Crimes Bureau prosecutors speak at high schools throughout the County on the dangers of impaired and distracted driving.

Finally, Legislator Browning, you have repeatedly expressed concern and referred to a drug dealer who you claim has gone unprosecuted. The truth is the defendant was indicted and convicted for the sale of heroin in 2009 and was sentenced to 8 years imprisonment. He remains incarcerated with a maximum sentence expiration date of October 2, 2018.

-Page 4-

As Chair of the Public Safety Committee, I urge you to take time to read this letter and attachments carefully. The dedicated public servants in the Suffolk County District Attorney's Office deserve nothing less.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Thomas J. Spota', is written over the typed name and title.

THOMAS J. SPOTA
Suffolk County District Attorney

TJS/dh
Encs.

Cc: Presiding Officer Duwayne Gregory
Suffolk County Legislators

June 1, 2016 letter to the Editor of Newsday
regarding a May 30, 2016 story:

Police, Prosecutors exchange blame in release of gang suspects

COUNTY OF SUFFOLK
OFFICE OF DISTRICT ATTORNEY



THOMAS J. SPOTA
DISTRICT ATTORNEY

June 1, 2016

Letter to the Editor
Newsday
235 Pinelawn Road
Melville, NY 11747

Dear Sir or Madam,

You do a disservice to your readers, the members of the Suffolk County Police Department and the 186 Assistant District Attorney's in the Suffolk County District Attorney's Office, with your anonymously sourced, inaccurate article that announces controversy where none exists. *Police, prosecutors exchange blame in release of gang suspects*, May 30, 2016.

Your readers deserve to know that police officers, detectives and assistant district attorney's work collaboratively to make sure Suffolk County remains a safe place to live and work. What the public may not know is that almost every search warrant executed by the Suffolk County Police Department and the many other police agencies in the County is actually written by an Assistant District Attorney. The search warrants referenced in your article were written by an experienced Suffolk County gang prosecutor. In addition to their work during business hours, prosecutors work without compensation at night, on weekends and holidays to assist the police department in their primary mission. Writing search warrants is just one of the ways they do this.

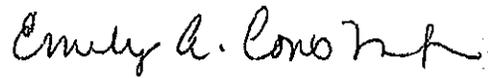
The drafting and execution of a search warrant is often just the first step in building a criminal case involving firearms or narcotics. There must also be some evidence to establish possession of the seized contraband. Possession is defined in the New York State criminal law as having "...physical possession or otherwise to exercise dominion or control over tangible property." Where individuals are guests in a home, make no statements admitting possession, and the guns and drugs are well hidden behind sheetrock walls and in crawl spaces, it is easy to understand why a prosecution may be challenging regardless of the pedigree of the home's occupants.

Despite these challenges, and no matter the case, police and prosecutors work together with the assistance of our outstanding crime laboratory to try and develop additional evidence including fingerprints, DNA and firearms tracing evidence. They attempt to learn the source of both the guns and drugs and often may begin new investigations developed from confidential information.

At the end of the day, even if no prosecutable case is possible, credible law enforcement officers are satisfied that guns and drugs have been removed from our communities. Sometimes, that is just the best that can be done given the facts and the high burden of proof in a criminal case; beyond a reasonable doubt.

Sensational articles serve no purpose other than to demean the important relationships between law enforcement partners that are critical to public safety.

Very truly yours,



EMILY A. CONSTANT
Chief Assistant District Attorney

**COUNTY OF SUFFOLK
OFFICE OF DISTRICT ATTORNEY**



**THOMAS J. SPOTA
DISTRICT ATTORNEY**

March 9, 2016

Response to Inquiry Regarding Edward Walsh:

The Newsday cover story about the alleged protection of Edward Walsh by Mr. Spota is inaccurate and misleading.

Before addressing the timeline that proves this, it must be noted that Newsday did not contact the District Attorney's office until 10:05 p.m. last evening when their reporter emailed looking for comment on his story. These actions were clearly designed to prevent this office from providing a contrary narrative and timeline to their inaccurate reporting. The story was published online at 11:00 p.m. leaving approximately 50 minutes to respond to these serious claims.

The anonymous complaints received about Walsh by the District Attorneys' Office beginning in March of 2010 were immediately forwarded to Sheriff DeMarco because they were complaints about his office and his employee. Sheriff DeMarco never reported the results of his investigation of these allegations: if he indeed conducted one. The appropriate question to ask is if the District Attorney was protecting Mr. Walsh why would he forward the complaints to the Sheriff for action?

More to the point on May 7, 2014, the District Attorney made another referral to the Sheriff based on a third anonymous complaint against Walsh. This fact is omitted from the Newsday article. Obviously it does not fit the false narrative Newsday is attempting to sell. Again if the District Attorney was intent on protecting Walsh why would he make this referral?

With regard to the Walsh employment application issues; the conduct alleged could never have been the subject of a criminal prosecution by Mr. Spota because the statute of limitations had run before he was elected District Attorney. How this demonstrates anything about the District Attorney's alleged protection of Walsh is truly mysterious. Why Sheriff DeMarco did not pursue relief against Walsh based on these alleged falsehoods under Article 50 of the NYS Civil Service Law can only be answered by him.

Walsh's presence as a player in an illegal gambling establishment is not criminal. In fact New York State Penal Law section 225.00(3) specifically provides that a person who is a player cannot be charged with a gambling offense. The claim that Mr. Spota "failed" to charge Walsh with any crime related to this incident when he could have is contrary to New York State law and false. Every competent state criminal law practitioner knows a mere player in a game of social chance cannot be charged with a gambling offense in New York State.

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The timeline of the interaction between Sheriff DeMarco and the District Attorney regarding the substantive Walsh investigation presented by Newsday's story is inaccurate.

Beginning on April 25, 2014 and continuing until early August, 2014 when an Internal Affairs investigator was granted permission by DeMarco to advise District Attorney investigators that the case was in fact being investigated by federal authorities it was the Sheriff and his staff who thwarted the District Attorney's Office, not the other way around.

The facts are that on April 25, 2014 Sheriff Department employee Stephen Compitello was arrested for grand larceny involving false timesheets, not by the Sheriff but by District Attorney investigators. No information was provided about Mr. Walsh at that time. Sheriff DeMarco advised the District Attorney of his concerns about Walsh's timesheets in early May. Sheriff DeMarco provided no information to support a prosecution of Walsh. Additional details were promised but were not provided.

In June, the Sheriff called the District Attorney to advise he was proffering administrative charges against Walsh. Sheriff DeMarco refused to disclose the nature of the charges.

Early in the week of July 14th Sheriff DeMarco called the District Attorney to refer the Walsh investigation to the District Attorney's Office. Sheriff DeMarco promised that an Internal Affairs investigator would call that day to arrange an appointment. No call ever came. Finally, the week of July 21st a meeting was arranged between Internal Affairs and District Attorney investigators to be held on July 24, 2014. On July 23rd a call to confirm was made to the Sheriff's Department and the meeting was confirmed by them for 9:00 a.m. on July 24, 2014. The meeting on July 24th was thereafter cancelled by the Sheriff's Department. The meeting was rescheduled for July 29th. A Sheriff Department investigator promised to call on July 28th to confirm.

No Sheriff Department representative called on July 28th and no one appeared for the scheduled meeting on July 29th. On July 31st a Sheriff Department investigator called again to reschedule the meeting. When the investigator was queried about why no one had the courtesy to call or cancel the previous meeting he said he could not answer. Another invitation was extended for a meeting that day. Again District Attorney investigators were told that the meeting would have to wait for at least a week. When asked why, the investigator provided no explanation.

Clearly and unequivocally District Attorney investigators wanted to speak to Sheriff Department investigators about Walsh and made numerous attempts to do so. That they were unsuccessful is no fault of the District Attorney.

ROBERT CLIFFORD, SCDA COMMUNICATIONS

January 26, 2016 letter from Robert Clifford to
Newsday's publisher regarding the Newsday inquiries
about the resentencing of Robert Macedonio

**COUNTY OF SUFFOLK
OFFICE OF DISTRICT ATTORNEY**



**THOMAS J. SPOTA
DISTRICT ATTORNEY**

January 26, 2016

Gordon McLeod
Publisher
Newsday Media Group
235 Pinelawn Road
Melville, NY 11747

Dear Mr. McLeod,

Over the past months your investigative reporters, Will Van Sant and Gus Garcia-Roberts, at the direction of their editor, Matthew Doig, have been interviewing judges, attorneys and others involved in the criminal justice system. During these interviews Van Sant and Garcia-Roberts have expressed their view that a sentencing proceeding which occurred five years ago regarding attorney Robert Macedonio was unprecedented in the history of Suffolk County. They even went so far as to tell judges and Mr. Macedonio's attorney during interviews that some of their questions were based on "rumors" they had heard and that they were looking for confirmation which they did not get. This, in and of itself, speaks volumes about the motives of Van Sant, Garcia-Roberts and Doig, as well as their supervisor Deborah Henley, demonstrating that they are proceeding with reckless disregard for the truth of the article they are writing.

Indeed, it would behoove Newsday to be as thorough in vetting the motives, biases and credibility of those acting as the "sources" of the "rumors". Rumors are by their very nature stories passed from person to person not proven to be true and with no known source. As a journalistic standard, they are as low as it gets.

On Friday, January 20, 2016 after the close of business, at 6:09 pm, months after the initial interviews, Mr. Garcia-Roberts requested an interview with the District Attorney on the case involving Mr. Macedonio and "related matters" without specifying what they were. Garcia-Roberts gave a deadline of Monday, January 25, 2016 for this interview to occur.

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It is clear that Newsday intends to publish an article alleging and implying that the Macedonio matter is "unique and unprecedented" (to use Van Sant's words to the people he has interviewed) despite the fact that those interviewed have expressed clear and unequivocal opinions to the contrary, and despite the fact that in Suffolk County many defendants both before and after the Macedonio matter have had their felony convictions withdrawn and replaced by misdemeanor and in some cases even violation convictions. Clearly Doig, Van Sant and Garcia-Roberts know this and are choosing to disregard the truth and are acting maliciously. The suggestion that anyone in the District Attorney's Office did anything improper in this case demonstrates a reckless disregard for the truth.

Robert Macedonio, an attorney licensed to practice law in the State of New York was charged by way of Superior Court Information with the class D felony of Criminal Possession of a Controlled Substance in the Fifth Degree on December 9, 2008 and thereafter pled guilty to that crime on April 9, 2009 in full satisfaction of the investigation conducted into his criminal conduct. On May 6, 2009 he was sentenced to a conditional discharge for a period of three years. As a consequence of his plea of guilty Mr. Macedonio's license to practice law was immediately revoked. After a period of more than two years, during which Mr. Macedonio remained alcohol and drug free after completing rehabilitation, his attorney asked the District Attorney to consider allowing Mr. Macedonio to be resentenced to a period of interim probation for a period of one year with continued alcohol and drug monitoring by the Department of Probation. The District Attorney agreed to petition the sentencing court for this relief. The Court granted Macedonio's application and he was so resentenced on July 26, 2011. In addition to the alcohol and narcotic conditions imposed as a condition of the interim probation the District Attorney specifically told Mr. Macedonio's counsel that the District Attorney would not in any way participate in his efforts to restore his client's license to practice law. After Mr. Macedonio's successful completion of the one year period of interim probation, Mr. Macedonio was permitted to withdraw his plea of guilty to the felony of Criminal Possession of a Controlled Substance in the Fifth Degree and plead guilty to the misdemeanor of Criminal Possession of a Controlled Substance in the Seventh Degree. He was sentenced to an unconditional discharge. His license to practice law was restored by the Appellate Division, Second Department sometime thereafter.

Two individuals who were associated with Mr. Macedonio were also arrested as a result of the investigation into Mr. Macedonio. Clyde Ward was charged by way of Superior Court Information with the class B felony of Conspiracy in the Second Degree and the class E felony of Scheme to Defraud in the First Degree on March 1, 2011. On that day he pled guilty to the A misdemeanor of Conspiracy in the Fifth Degree and the A misdemeanor of Scheme to Defraud in the Second Degree in full satisfaction of the investigation into his criminal conduct. On April 8, 2011 he was sentenced to two concurrent terms of 9 months in the Suffolk County Jail. Larry Demetrius was also charged by way of Superior Court Information on September 11, 2009 with the class B felony of Conspiracy in the Second Degree and the class C felony of Grand Larceny in the Second Degree in full satisfaction of the investigation into his criminal conduct. On that date he pled guilty as charged to Conspiracy in the Second Degree and was sentenced to time served. He had been in custody since early in 2008. A pending indictment against Demetrius was dismissed in satisfaction of his plea of guilty. It should be noted that both Ward and Demetrius had prior criminal convictions.

In Suffolk County and in each of the 62 counties in New York State what occurred in the Macedonio case occurs every day of the week. This is also true in Federal Court and in many other State courts. This makes the Macedonio matter common, not unique nor unprecedented.

Countless articles in publications including The New York Times, The New Yorker, many academic journals and even in Newsday have chronicled the creative ways the justice system deals with drug addicted offenders like Mr. Macedonio to keep them out of prison and in treatment so they can move on to lead productive lives.

To that end legislative efforts to reduce and in some instances remove the stigma of a criminal conviction which prevents defendants from obtaining meaningful employment have also been widely covered by the media, including Newsday.

In Suffolk County there exists a Judicial Diversion Program, Felony Drug Treatment Court, Veteran's Court, Mental Health Treatment Court and Youth Court. All of these problem-solving treatment courts allow individuals charged with a serious crime to successfully transition back to leading productive lives through various forms of rehabilitation. Their existence is promoted and in some cases mandated by the NYS Office of Court Administration as a matter of good public policy.

During Mr. Spota's tenure as District Attorney, over 150 defendants have had their felony convictions withdrawn and replaced by misdemeanor convictions. This is so even for individuals who were arrested and convicted by plea to robbery, assault, burglary and serious drug crimes. What happened in the Macedonio case where the court allowed the defendant to withdraw his felony plea with the consent of my office years after Mr. Macedonio entered and successfully completed a drug rehabilitation program, is absolutely no different than the 150 other defendants who have been afforded the same opportunity.

Our partnership with the Courts and Hope House Ministries has resulted in formerly jailed, violent but drug addicted felons pleading guilty, being released from custody and placed under Father Frank Pizzarelli's supervision for years. Upon completion of his program some of these defendants, all of whom faced lengthy prison sentences for their pleas to violent felony offenses, are permitted to withdraw their pleas and replace them with misdemeanor pleas just like Mr. Macedonio. A substantial number go on to complete college, professional and graduate school. Counted among them are lawyers, teachers and CEO's, just like Mr. Macedonio.

In 2012 a defendant who committed a robbery in 1994 when he was 19 and who later went on to earn his bachelors and master's degrees and was enrolled in a doctoral program was permitted by the court at our urging to withdraw his plea of guilty to a felony and thereafter the People affirmatively dismissed the indictment against him. This was done so he could continue to teach in his home state which had recently passed legislation that would have precluded him from doing so. He had no further interaction with the criminal justice system and his application was supported by members of his community.

Recently, President Obama commuted the sentences of 46 drug offenders. In a letter he sent to each of them the President said his power to grant pardons "embodies the basic belief in our democracy that people deserve a second chance after having made a mistake in their lives that led to a conviction under our laws."

In another public policy move that underscores this point just last week Governor Cuomo announced a program to remove the stigma attached to youthful offender adjudications for individuals who had no further contact with the criminal justice system for a period of time.

I daresay were it not for your obvious bias against the District Attorney and his Office you would acknowledge that the actions taken to provide Mr. Macedonio his second chance are exactly what you would expect from a District Attorney who is true to his oath.

I request that this letter be published in its entirety in both the print and online editions of your newspaper. Previously your reporters have promised this but our response has only appeared on line.

As journalists I expect you will follow the Society of Professional Journalists Code of Ethics which require that you take responsibility for determining the accuracy of your work, verify information, remember that speed does not trump the need for accuracy, identify sources and consider their motives, provide access to source material when it is referenced and appropriate and above all else never deliberately distort facts or context. See, Society of Professional Journalists Code of Ethics, "Seek Truth and Report It."

Very truly yours,

ROBERT CLIFFORD SCDA COMMUNICATIONS

January 20, 2016 letter to the New York Times reporter
Joseph Goldstein from Robert Clifford regarding
Goldstein's inquiries

**COUNTY OF SUFFOLK
OFFICE OF DISTRICT ATTORNEY**



**THOMAS J. SPOTA
DISTRICT ATTORNEY**

January 20, 2016

Mr. Joseph Goldstein
New York Times
Via E mail

Dear Mr. Goldstein:

As to the three areas of inquiry in your e-mail:

I. This question has been previously answered.

II. With respect to your inquiry about the "aggressive tactics" used by "ADA McPartland's Bureau";

I disagree with your characterization of the investigative methods employed by the Government Corruption Bureau as "aggressive tactics" clearly implying something nefarious. The Government Corruption Bureau under Mr. McPartland's leadership has been extraordinarily successful in prosecuting and convicting corrupt public officials and members of law enforcement. The use of the same methods to investigate and prosecute official corruption that are used against other criminals, including deploying undercover officers, confidential informants and electronic surveillance is not aggressive but emblematic of a proactive law enforcement agency. While certainly the use of these methods can be unpopular, their use is hardly confined to this office. As you are no doubt aware, the United States Attorney for the Southern District recently convicted a New York State Senator in part based on evidence from electronic surveillance. Furthermore, in an editorial published by your newspaper on October 10, 2015 endorsing Madeline Singas for Nassau County District Attorney, the editorial board said, "Nassau needs a county prosecutor who is willing to enforce the law no matter where it leads. In neighboring Suffolk County Thomas Spota, a Democrat has made a career of bringing down corrupt officials, even in his own

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party". Obviously had the Times' editors quarreled with the tactics employed they would not have held out Mr. Spota and his corruption prosecutions as worthy of being emulated in Nassau County.

The investigation and prosecution of official corruption is challenging and unlike the prosecution of murderers, rapists and drug dealers, it can also be unpopular. There is always someone ready to complain that a favorite politician or official was unfairly targeted or that a complaint of corruption was for political reasons either acted upon or ignored. That is why this office has consistently conducted corruption investigations in a cautious manner, mindful of the impact of false allegations upon the reputation of public officials. Discreet investigative techniques have been employed until a case ripens to the point of arrest, when meaningful discussions with defendants represented by counsel take place to responsibly advance the prosecution. As such the history of corruption prosecutions under DA Spota has been free of complaints of unfair treatment or the wrongful destruction of the reputation of public and elected officials. It is galling that you and your sources do not act in this same ethical manner and with the same concern for the reputations of your subjects.

Mr. Spota has been and remains committed to the investigation and prosecution of corrupt public officials and public employees regardless of political affiliation. It is clear from your questions and the reckless disregard for the truth apparent in your earlier article, that you possess little in the way of actual fact. I believe you need to be educated about the real story of corruption prosecutions under District Attorney Spota. A sample of the cases investigated and prosecuted by the Public Integrity Unit and its successor the Government Corruption Bureau is annexed to this letter for ease of reference.

Almost all of the corruption cases were resolved by guilty pleas. Not one defense attorney complained to the Court or this office about the investigative methods utilized and not one judge ever suppressed evidence obtained by electronic surveillance, including wiretaps.

III. As to the "secrecy" surrounding the Steve Levy settlement;

The resolution of the investigation into former County Executive Steve Levy was resolved by a Confidential Agreement. I will repeat what Mr. Spota said on March 24, 2011 about the matter:

"In my nine years as District Attorney I have prosecuted numerous public officials including town supervisors, county legislators, department heads and others without regard to political affiliation. I believe that my time as District Attorney will be defined by my aggressive and impartial investigations and prosecutions of corrupt government officials.

Today, our County Executive Steve Levy announced that he would not seek re-election and that he was turning his campaign funds over to the District Attorney's Office. This action was taken by him to resolve a sixteen-month investigation conducted by the Government Corruption Bureau which began in the summer of 2009.

I am satisfied that the actions taken by Mr. Levy resolve the investigation in the best interests of the citizens of Suffolk County. Our investigation included the full cooperation of the County Executive. He met with prosecutors and investigators on multiple occasions to answer questions and provide information relevant to our inquiry.

There is no question that while the investigation revealed serious issues with regard to fundraising and the manner in which it was conducted, including the use of public resources, I am confident that Mr. Levy did not personally profit. The forfeiture of his 4 million dollar campaign fund demonstrates his acceptance of responsibility for these failings.

The campaign money will be distributed to those individuals who request that it be returned. The remainder will be donated to charity. To avoid political gain by another person or political party I have determined that no distribution will be made until after the November 2011 election.

The decision to allow Mr. Levy to complete his term was carefully considered and involved weighing his conduct, the need for stability in government in these difficult economic times while affording a smooth transition after the 2011 elections. You can be assured that if I believed that his actions compromised his ability to govern I would have sought his resignation.

Restraint is often more difficult than aggressive action but in this case I know it is more appropriate.

This outcome ends the inquiry into Mr. Levy's conduct. The investigation will continue with respect to the conduct of others."

While it is easy to criticize the confidential resolution of this matter, criticism the District Attorney certainly understands, the resolution was based on his best judgment, using the discretion given to him as District Attorney, as well as persuasive arguments made by Mr. Levy's able defense attorneys, Stephen Scaring and Edward Robertson. Because of your biased attempt to tarnish the reputation of the District Attorney and the reputation of the prosecutors and investigators assigned to the Government Corruption Bureau, you stand ready to ignore counsel for Mr. Levy who specifically told you the resolution of the case was a sound exercise of prosecutorial discretion and that funds had been returned to contributors and further that the District Attorney's Office was not rife with improprieties. You ignored his comments entirely in your first article, there is no reason to believe you will include them in any subsequent piece even though it would be a reckless disregard for the truth to omit them.

There was no ulterior motive to the disposition as some have suggested and efforts were made NOT to unduly effect the County Executive election including resolving

the investigation early in 2011 and not distributing the Levy campaign money until after the County Executive election was over.

Mr. Spota was not prescient and did not know who the candidate for either party was going to be nor the outcome of the electoral contest. To suggest otherwise, as you have, is completely speculative and not based upon one shred of credible evidence.

It is apparent you deem more credible your anonymous sources, one of whom is likely a former Suffolk County Police Department Detective, whose credibility was seriously questioned and his misconduct noted by no less than a Federal District Court Judge, than the parties to the Levy agreement or those involved in the numerous other successful corruption prosecutions in Suffolk County since 2002. It is for this reason I request this entire response be published as an addendum to any articles authored by you in both the print and electronic editions. Times readers deserve the whole story, not one peddled by anonymous sources whose credibility and the basis for their assertions, which you have recklessly adopted, cannot be explored or challenged because their identity is a secret. This certainly falls well below the ethical standards your readers and your newspaper demand.

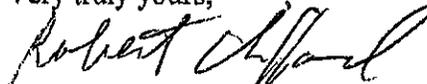
Let us contrast your stories using unnamed, unchallenged sources with the conclusions expressed by Times editors in March, 2006 following a guilty plea from Peter McGowan, the Islip Town Supervisor.

Mr. McGowan lived as if it was Mardi Gras all the time, said Thomas Spota, the Suffolk District Attorney, whose office has bagged political cheats, dirty-dealers and thieves, one after another, with the cool efficiency of a pest-removal company.

As with termites and wood-borer beetles, selfish politicians are part of the Long Island landscape. Removing them usually gives only temporary relief, because others emerge to take their place.....Long Island is lucky to have the relentless Mr. Spota and his anti-corruption squad on the job.

Finally, Mr. Goldstein, your "aggressive tactics" are much more damaging to the personal and professional reputation of the District Attorney and his team than any ever employed by the Government Corruption Bureau against the criminals they have prosecuted.

Very truly yours,



ROBERT CLIFFORD
SCDA

RC/dh

Cc: Executive Editor Dean Baquet

FRED TOWLE (2003)

Pled Guilty to Bribe Receiving and Scheme to Defraud
(scheme: used campaign money for personal use and used county employees to campaign)

Suffolk County Legislator

No eavesdropping

Sentenced, six months incarceration and five years probation

WAYNE PROPECT (2003 arrest, 2006 conviction)

Convicted of Bribe Receiving and Conspiracy

Former County Legislator – Aide to County Executive Levy

State Prison, Sentence commuted by Governor Patterson for medical reasons

STEPHEN BARANELLO (2004)

Pled Guilty to Bribe Receiving and Conspiracy

OTB employee, Aide to County Executive Levy

6/5, community service

MICHAEL HOLLANDER (2005)

CEO of Long Island Convention & Visitors Bureau

Pled Guilty to Defrauding the Government, OFIF, Official Misconduct

Used convention money for personal enrichment

VINCENT DRAGONE (2006)

Town of Brookhaven Chief Building Inspector

Plead Guilty to Grand Larceny by Extortion, Bribe Receiving, Official
Misconduct

2 ½ to 7 ½ years in State prison

HARRY TEW (2006)

Contractor/Excavator

Pled Guilty in Dragone case to Conspiracy to Receive Bribes

Probation

TIMOTHY PENATELLO (2006)

Contractor

Pled Guilty to Conspiracy to commit Bribery in the 3rd degree

PETER McGOWAN (2006)

Town of Islip Supervisor

Pled Guilty to Commercial Bribe Receiving 1st degree

Tampering with a Witness, Grand Larceny 2nd degree, OFIF

6/5 (90 of which was community service)

(took kickbacks from pollster paid by his campaign)

THEODORE RICKMAN (2005)

Town of Brookhaven Zoning Board member
Pled Guilty to Grand Larceny by Extortion, Bribe Receiving
Money for Zoning Board influence
90 days

ALBERT BREUD

Town of Brookhaven Republican Party member
Co-defendant of Theodore Rickman
Pled Guilty to Conspiracy, Grand Larceny by Extortion, OFIF
C.D., restitution

RICHARD THURY (2007)

Town of Huntington Conservative Chairman
Pled Guilty to Bribe Receiving
Took money for jobs in Town of Huntington
10 days/5 years probation (health issues)

CHARLES SULLIVAN (2007)

Town of Huntington Conservative, Town of Huntington Employee
Pled Guilty to Bribe Receiving
1-3 years, co-defendant of Richard Thury

BRIAN TOUHEY (2007)

Town of Huntington/co-defendant of Richard Thury and Charles Sullivan
Pled Guilty to Bribe Receiving, OFIF, Criminal Possession of a Forged
Instrument
60/5

HOWARD ZEIS (2007)

Co-defendant of Brian Touhey and Charles Sullivan
Town of Huntington
Pled Guilty to Disorderly Conduct

CHARLES GALLO (2007)

Town of Islip Public Safety
Pled Guilty to Defrauding the Government
Running private security business
C.D., restitution

JAMES SCHAEFFER

Co-defendant of Charles Gallo
Pled Guilty to Defrauding the Government
4 months jail/5 years probation, community service alternative, restitution

ROBERT BONERBA (2009)

Town of Smithtown Chief Building Inspector
Pled Guilty to Bribe Receiving (money for building department favors)
Sentenced to one year in jail

MARK PALERMO (2007)

Town of Brookhaven Plumbing Inspector
Pled Guilty to Bribe Receiving
(Money for Town favors paid in part through children's softball team)
10 days, 5 years probation

EDMUND LYNCH (2007)

Town of Smithtown Highway Superintendent
Pled Guilty to OFIF
Misuse of campaign funds
Sentenced C.D. restitution

ELIE MYSTAL (2010)

Suffolk County Legislator
Pled Guilty to OFIF
False Documents regarding residency
Probation

ALLAN BINDER (2009)

Suffolk County Legislator
Money for golf issues w/county
Pled Guilty to Bribe Receiving
Probation, Restitution

NEAL TRABICH (2009)

Golf Concessionaire
Paid Allan Binder money
Pled Guilty to Grand Larceny, Forgery, OFIF, Bribery 2nd Degree
4 months/5 years probation

CHRISTINE STULSKY (2015)

Town of Southold Court Clerk
Stole money from Court
Pled Guilty to Grand Larceny 2nd degree
Sentenced 6/5

DONALD RODGERS

Suffolk County Information Technology Commissioner
Falsified contract documents
Pled Guilty to Misdemeanor, OFIE, Official Misconduct
Resigned

GLENN JORGENSEN (2015)

Town of Smithtown Highway Superintendent
Falsified paving records
Pled Guilty to OFIF, Official Misconduct
4 months Community Service/5 years probation

EDWARD HULTS (2010)

Town of East Hampton Fiscal Officer
Falsified Town financial documents/bond documents
Pled Guilty to Misdemeanor Securities Fraud and Official Misconduct
C.D.

In addition to the above cases, please be advised that more than two dozen law enforcement officers have been prosecuted by this Office since 2002 for crimes involving their official position and for crimes involving, among other things, domestic violence and sexual assault.

Some of these cases include:

GUY GIAMMATTEO

A Police Officer who was charged with Bribe Receiving and Official Misconduct. He later pled guilty to multiple counts of Official Misconduct.

RAYMOND MONTEFUSCO

A Police Officer who went to State prison as a result of his role in a series of commercial burglaries.

SCOTT GREENE

A Police Sergeant who was recently convicted of stealing money from unsuspecting motorists he stopped. Greene is in custody pending sentence and trial on pending Indictment.

BRUCE BLANCO

A Police Officer charged with Grand Larceny and Bribe Receiving who Pled Guilty to Grand Larceny.

ROBERT DITO

A Police Officer charged with Computer Trespass, who went to federal prison after a leak investigation by the Suffolk County District Attorney's Office revealed his role in an organized criminal enterprise.

JOHN OLIVA

A Police Detective charged with Criminal Trespass, Grand Larceny and Official Misconduct, for leaking confidential police department information to a reporter. Oliva pled guilty to Official Misconduct.

THOMAS FOLEY

A Police Officer charged with Criminal Sale of Controlled Substances and Conspiracy to Distribute Cocaine. He was sentenced to one to three years in state prison.

Numerous other officers have been charged and prosecuted by this Office for crimes involving excessive force, grand larceny, falsifying documents, narcotics offenses, disability fraud and other offenses.

Please note that approximately one quarter of the Government Corruption Bureau investigations involving corrupt public officials and law enforcement officers utilized eavesdropping warrants.