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PUBLIC HEARING ON THE MORELAND COMMISSION
TO INVESTIGATE PUBLIC CORRUPTION.

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One Pace Plaza
New York, New York

September 17, 2013
6:05 P.M.

Reported By:
Stefanie Krut

1 A P P E A R A N C E S:

2 COMMISSIONERS PRESENT:

- 3 Kathleen Rice - Co-Chair
- 4 Milton Williams, Jr. - Co-Chair
- 5 William Fitzpatrick - Co-Chair
- 6 Joanne Mahoney
- 7 Eric Corngold
- 8 Makau Mutua
- 9 Derek Champagne
- 10 Patrick Barrett
- 11 Nancy Hoppock
- 12 Seymour James
- 13 Gerald Mollen
- 14 Betty Weinberg Ellerin
- 15 Kathleen Hogan
- 16 David Javdan
- 17 Benito Romano
- 18 Kristy Sprague
- 19 Richard Briffault
- 20 P. David Soares
- 21 Peter Zimroth
- 22 Robert Johnson
- 23 Barbara Bartoletti - Special Advisor
- 24 Regina Calcaterra - Executive
- 25 Director

1 MR. FITZPATRICK: Good evening, everybody.
2 Normally when I hold meetings like this, I'm used to telling
3 everybody to sit down and be quiet, but you have already
4 done that. A very respectful crowd. We are looking forward
5 to the testimony at this meeting and our invited guests. We
6 simply ask you that if you have something to say and it's
7 already been said, it would be appreciated if you could
8 shorten your comments, just ever so slightly, and maybe make
9 reference to the people that have said something before.

10 First of all, I want to thank Pace University for
11 sponsoring this event. This is the first meeting of the
12 Moreland Commission. By Governor Cuomo's Executive Order of
13 July 2, 2013, he has empowered this Commission. Our first
14 task is to issue a report on or before December the 1st of
15 this year detailing statutory reforms, and the gist of this
16 hearing today will be to assist us in drafting and
17 eventually writing that report.

18 Once that report is concluded, it is the intent of
19 the Moreland Commission to then move on to an investigatory
20 phase, which has also been authorized by the Governor. All
21 commissioners, with the exception of one, have been
22 deputized as Assistant Attorneys General by Attorney General
23 Eric Schneiderman.

24 Let me introduce my two fellow co-chairs. On my
25 immediate right is Milt Williams. He is with the firm of

1 Vladeck, Waldman, Elias and Engelhard. Milt is a ferocious
2 litigator, is a former federal prosecutor, and with all due
3 respect to Kathleen and myself, he is the voice of reason
4 amongst the three co-chairs. The second co-chair is my
5 very, very dear friend of going on eight years now, the
6 Honorable Kathleen Rice, who is the District Attorney of
7 Nassau County. And, in fact, we think so highly of Kathleen
8 that she is now serving as the president of the New York
9 State District Attorney's Association.

10 I will briefly introduce the other commissioners,
11 some of whom are not here. J. Patrick Barrett is the
12 non-lawyer that I referred to, which probably is a good
13 thing for most people to think of. Although Pat did have a
14 career at Syracuse Law School, after about two weeks the
15 Dean told him that he was never going to amount to anything.
16 20 years later, he was the chief executive officer of one of
17 the largest corporations in the free world. So unlike Dean
18 Mutua, not all these law school deans know what they're
19 talking about. Richard Briffault is a Joseph P. Chamberland
20 professor of legislation at Columbia Law School. He is a
21 graduate of both Columbia and Harvard. Dan Castleman is
22 somebody well known to many of us in the room. He is the
23 long-time Chief Assistant DA to the iconic Robert Morgenthau
24 and is now managing director of the Forensic and Litigation
25 Consulting Practice.

1 Derek Champagne also is a former president of the New
2 York State DA's Association, and Derek is the DA of Franklin
3 County since 2002. Eric Corngold leads the white collar
4 criminal defense and investigation practice of law in his
5 own firm. He is also a principal advisor to the Attorney
6 General, and he has also served as the Chief of the criminal
7 division in the United States Attorney's Office for the
8 Eastern District. Kate Hogan, the DA of Warren County since
9 2002, formerly an Assistant District Attorney in my former
10 hometown of Brooklyn, New York. She has been appointed to
11 numerous task forces throughout the State of New York, and
12 she is also a former president of the New York State DA's
13 Association.

14 Nancy Hoppock is the Executive Director of the New
15 York University Center on the Administration of Criminal
16 Law. She has also served as an Executive Deputy Attorney
17 General for Criminal Justice at the New York Attorney
18 General's Office, and she was the supervisor of the public
19 integrity bureau. Seymour James is the attorney in charge
20 of the criminal practice of the Legal Aid Society in New
21 York, and I would point out that Seymour has been brought on
22 to this Commission to balance the 10 District Attorneys that
23 Governor Cuomo appointed. As Seymour referenced, we thought
24 10 to one was just about fair.

25 David Javdan is Managing Director with Alvarez and

1 Marshall. Prior to that he was General Counsel to the
2 United States Small Business Association. He has also
3 served as Special Counsel to the New York State Senate on
4 Holocaust and healthcare issues. Robert Johnson, my friend
5 friend of a quarter century, has been the District Attorney
6 of the Bronx since 1989. He really needs no introduction
7 for the people in this room. He is a legend in law
8 enforcement in the State of New York, and he also was a past
9 president of the New York State District Attorney's
10 Association. David Jones is the President and Chief
11 Executive Officer of the Community Service Society of New
12 York, a non-profit organization that promotes economic
13 advancement and full civic participation for low income New
14 Yorkers.

15 Lance Liebman is the William S. Beinecke Professor of
16 law at Columbia Law School and is the current Director of
17 the American Law Institute. He previously served as Clerk
18 to United States Supreme Court Justice Byron White. Joanne
19 Mahoney is the County Executive, the first female county
20 executive, of the great County of Onondaga, and amongst her
21 many accomplishments was serving as an Assistant District
22 Attorney for the Speaker. Gerald Mollen is the Broome
23 County District Attorney, and Gerry is one of the longest
24 serving District Attorneys in the State of New York. He has
25 been reelected, I think, seven times since 1987. He is a

1 leader in innovative law enforcement practices, including
2 convincing most of the State of New York for start to finish
3 recording of suspect interrogations.

4 Dean Makau Mutua is the Dean of the SUNY Buffalo Law
5 School. He is also the SUNY Distinguished Professor and the
6 Hilda L. Hurst Faculty Scholar at SUNY Buffalo. Dean Mutua
7 came to us from Nairobi where he attended the University of
8 Dar-es-Salaam, and Nairobi's loss, believe me, was America's
9 gain. He is also a graduate of Harvard Law School. Benito
10 Romano is currently a partner at Freshfields, Bruckhaus
11 Deringer. It is a practice in white collar defense. He
12 previously served as the United States Attorney for the
13 Southern District of New York, and prior to that he was
14 Chief of the Public Corruption Bureau and the Chief
15 Appellate attorney. Frank Sedita is the District Attorney
16 of Erie County since 2008. He has served on numerous
17 positions throughout the State of New York, and in July of
18 2014 he will assume the role of president of the New York
19 State DA's Association.

20 David Soares is the Albany County District Attorney,
21 and amongst the many innovative things that David has done
22 in Albany County since taking office in 2005 is to create a
23 public integrity as well as a financial crime unit. David
24 was just recently reelected to another four-year term.
25 Kristy Sprague is the Essex County District Attorney since

1 2009. Prior to serving as a DA, she was an Assistant DA in
2 Clinton County. She is a graduate of SUNY Albany and the
3 Albany Law School. Judge Betty Weinberg Ellerin is
4 currently a Senior Counsel at the law firm of Alston and
5 Bird, and prior to that she served more than 20 years as a
6 Judge, including the title of Deputy Chief Administrative
7 Judge for the City of New York. She's also served as a
8 Residing Justice on the Appellate Division First Department,
9 and she is a tremendous asset to this Commission,

10 Peter Zimroth, who specializes in white collar
11 matters is a partner in Arnold and Porter. He was the
12 architect of the City's law providing for public financing
13 of elections, and he is, again, a tremendous asset. He's
14 also served as an Assistant US Attorney for the Southern
15 District of New York and as a Chief Assistant District
16 Attorney in Manhattan, and he also was a former Law Clerk
17 for a Supreme Court Justice, in this case A. Horst. Tom
18 Zugibe was elected to Rockland County District Attorney in
19 2007. He has been reelected in 2011. Earlier in his career
20 he worked as a Special Assistant Attorney General, and he is
21 recognized throughout the State as an innovator in criminal
22 justice matters.

23 Special advisors to this Commission include Joe
24 D'Amico, who is the Superintendent of the New York State
25 Police, Raymond Kelly, who is the Commissioner of the New

1 York Police Department, Bob Morgenthau, the legendary DA of
2 Manhattan, and Barbara Bartoletti, who has been a
3 Legislative Director for the Legal Women Voters of New York
4 since 1988.

5 We also have staff present here: Special Legislative
6 Director, sitting behind me, John Amodeo; Chief of
7 Investigations, Danya Perry; Chief Council, Kelly Donovan;
8 and the Executive Director, sitting to my immediate left,
9 and New York Times bestselling author, Regina Calcaterra.

10 As I said several times to my co-commissioners, the
11 mission that we have been handed is daunting. Governor
12 Cuomo certainly didn't take this step lightly. A package of
13 substantive legislative reforms, incidentally supported by
14 all 62 elected DAs, was offered by the Governor and
15 summarily rejected. You might think that if you ran a
16 business where 35 of your employees in a five-year period
17 were indicted, convicted or investigated and led out in
18 handcuffs, that this might invite a period of reflection on
19 your part, a period of self-examination, something along the
20 lines of one business partner saying to the other, who the
21 hell are we hiring here. And sadly, instead of olive
22 branches or pledges of support to this Commission, this
23 Commission has been greeted with comments that reach the
24 intellectual level of two eight year olds arguing about the
25 strike zone in a stickball game in Brooklyn. Oh, yeah,

1 we'll just investigate the Governor, if he investigates us,
2 or one of my most favorite recent quotes, "nothing will get
3 done."

4 Now, I want you to set that in and let that settle in
5 your minds. While millions of New Yorkers are waiting for
6 economic development, educational assistance and pension
7 reform and a whole slew of other issues, the threat that we
8 get is that nothing will get done because we want to ask
9 these annoying questions about outside income and six figure
10 retainers and undocumented campaign expenses, multimillion
11 dollar housekeeping accounts and so on and so on. And as I
12 said, our task is daunting.

13 So let me tell those assembled about this Commission.
14 We are New York. We have scholars, we have a dean, we have
15 private practitioners, we have former federal and state
16 prosecutors, we have a county executive, we have 10 DAs, we
17 have a self-made man and a staff that I will match with any
18 law firm in the City of New York or the State of New York.
19 We also have advisors from the top law enforcement and
20 election law talent in the state. We know that there are
21 powerful interests out there that want us to fail, and my
22 advice to those people is to start thinking about plan B
23 because I've come to know a Commission in the last two
24 months that won't accept or tolerate failure. We love this
25 state and its people too much.

1 You think about the greatness of New York. Where
2 else but New York could a Jackie Robinson break the color
3 barrier and play successfully and win rookie of the year his
4 first year in the major leagues. Where else but New York
5 can a bunch of college kids beat the world's most powerful
6 hockey team and garner Olympic goals. And where else but
7 New York, just a short distance from here, would we have
8 Ellis Island to process the millions of immigrants that came
9 to this country to seek a better life and made New York the
10 Empire State that it is today.

11 New York has been mother and father to presidents,
12 actors, scholars, athletes, musicians and just regular good
13 people. And where else but New York could you have the
14 devastating attack of September 11th and we be sitting here
15 today a lit little over a decade later still thriving, still
16 flourishing, still being the great state that we are.
17 Because we are New York. Now, sure, we grumble about our
18 taxes. We don't want to pay property taxes, we don't want
19 to pay school taxes, we don't want to pay sales taxes, but
20 ultimately we want our streets to be safe, we want our
21 garbage to be picked up, we want our kids educated, so we
22 pay.

23 Well, here's what this Commission's got to put a stop
24 to: We're not going to pay anymore the hidden corruption
25 tax that millions of New Yorkers have to pay every year.

1 The public frustration and anger with corruption has reached
2 the breaking point, and the Governor recognized that. The
3 citizens of New York are fed up with seeing the taxes on
4 their hard-earned money used as political spoils. In our
5 troubled economy, they are no longer willing to tolerate the
6 specter of political payoffs, triumph of their trust and
7 their sweat equity in the competitive effort for simple
8 success in business cannot be determined by who made the
9 biggest campaign contribution. They want a fair shake, a
10 fair chance. They simply want, as was said 150 years ago,
11 about 200 miles from here, when a graveyard was being
12 consecrated, they want a government of the People, by the
13 People and for the People. Is that really too much to ask
14 for? That's what Governor Cuomo has charged us to do, and
15 that's what we fully intend to do; to complete his vision of
16 restoring the political trust of the People in their own
17 government.

18 Now let me have the pleasure of introducing a great
19 American who has done as much to restore that integrity as
20 any other New Yorker. I suspect that sometimes our first
21 speaker must feel like Diogenes walking through the halls of
22 Albany with a lantern looking for an honest man. On May
23 15th of 2009 our President and First Staff nominated Preet
24 Bharara to become the United States Attorney for the
25 Southern District of New York. Mr. Bharara's nomination was

1 unanimously confirmed by the US Senate on August the 7th,
2 2009, and he was sworn in on August the 13th, 2009. Under
3 his supervision, the office has remained at the forefront of
4 prosecuting corruption, not only in New York City, but
5 throughout the State. Notable public corruption defendants
6 include New York State Senators Malcolm Smith, Carl Kruger,
7 Vincent Leibell and Ira Monserate; New York City
8 Assemblymen, Eric Stevenson and Nelson Castro; and New York
9 City Councilmen, Larry Seabrook and Dan Halloran. The
10 office has also prosecuted more than 500 members and
11 associations who are associated with various gangs
12 throughout the Southern District of New York. It is my
13 great pleasure, and I welcome you very, very much, to
14 introduce Preet Bharara, the United States Attorney.

15 MR. BHARARA: Thank you very much. Chairman
16 Fitzpatrick, Rice, and Williams, distinguished members of
17 the Moreland Commission, US Attorney Lynch, US Attorney
18 Vance, and members of the public, it is a real privilege to
19 be here today. I have never testified in a forum like this
20 before, and I must admit I feel kind of outnumbered, but
21 when the Commission reached out to me, I leapt at the
22 chance, because you are engaged in an effort that is dear to
23 my heart, not just as a prosecutor, but as a New Yorker. As
24 I have made clear to the Commission, I pledge the
25 cooperation and assistance of my office with the

1 Commission's vitally important work.

2 Fighting public corruption has been a top priority
3 for my office for a long while, as it has been for my
4 friends Loretta Lynch and Cy Vance and for so many of you,
5 members of the Commission. The diversity of the officials
6 caught up in our probes reflects not only the level of our
7 commitment but also the depth of the problem in our State.
8 Public corruption, based on all the evidence, appears
9 rampant, and the ranks of those convicted in office have
10 swelled to absolutely unacceptable levels. We have had to
11 prosecute state senators as well as state assemblymen,
12 elected officials as well as party leaders, City council
13 members as well as town mayors, democrats as well as
14 republicans. In an age often decry for the reason we fear
15 of partisanship, we can say the public corruption in New
16 York is truly a bipartisan affair.

17 Sometimes we have used exclusively federal statutes,
18 but often we have relied on the travel act, which requires
19 us to prove a violation of existing state law as a
20 predicate. Largely our cases speak for themselves, and a
21 selected summary of those prosecutions is attached as an
22 addendum to my formal testimony and submitted for the record
23 for the Commission. In all of our cases, we have dedicated
24 ourselves to achieving accountability in every aggressive
25 way possible, by using every legitimate tool available.

1 I want to report briefly on one development in that
2 regard, as it potentially raises an issue for this
3 Commission's consideration. Our primary mission is to
4 address and to undue injustice. In the public corruption
5 context, a galling injustice that sticks in the craw of
6 every thinking New Yorker, is the almost inviable right of
7 even the most corrupt elected official, even after being
8 convicted by a jury and jailed by a judge, to draw a
9 publically funded pension until his dying day. That error
10 of state law, partially fixed a couple of years ago, must
11 succumb to common sense. The common sense principle is a
12 simple one. Convicted politicians should not grow old
13 comfortably cushioned by a pension paid for by the very
14 people they betrayed in office.

15 So my office has adopted a new set of policies.
16 First, going forward, we will seek appropriate fines to take
17 into account the money a corrupt official might derive from
18 a publically funded pension so that the punishment fits the
19 crime and so that we can take the profit out of that crime.
20 Second, for those defendants previously convicted and who
21 have failed to satisfy the financial obligations imposed by
22 sentencing, we will consider federal civil forfeiture
23 actions against their pensions to satisfy criminal
24 judgments. And finally, in pending and in future cases, to
25 the extent that any public official has intentionally

1 accrued while engaging in criminal conduct, we will use this
2 federal forfeiture law to claw back an appropriate dollar
3 amount commensurate with that pension, where appropriate.
4 In that vein, we have today filed bills of particulars in
5 two pending corruption cases, the United States versus
6 Malcolm Smith, et al, and United States versus Eric
7 Stevenson, et al, giving notice of our intent to go after
8 the pensions of elected officials convicted of corruption
9 charges.

10 If there is a way for state law to be further
11 modified to accomplish this end with respect to politicians
12 elected prior to 2011, the Commission should consider it,
13 because I think New Yorkers would welcome it. In the
14 meantime, we will pursue this strategy that I have just
15 outlined.

16 As for other issues for the Commission to consider,
17 given the collective experience and expertise of new
18 members, it seems a bit presumptuous for someone like me to
19 offer any advice or counsel, but in the few minutes I have
20 this evening, let me just make three quick observations
21 based on some of our experiences in the US Attorney's Office
22 in the Southern District of New York.

23 First, when District Attorney Rice last month said
24 the Commission would follow the money, New Yorkers had
25 reason to cheer, but it is harder for us to do that when the

1 money trails are purposely hidden. When every state or
2 local official today has a lawyer or accountant and they
3 lawfully withhold the details of that work, prosecutors
4 naturally face substantial challenges, and that's why God
5 made the subpoena. And it is heartening to see its
6 appropriately aggressive use to track the flow of money in
7 politics, so please keep asking those questions you referred
8 to in your opening.

9 Second, public hearings are important and policy
10 proposals are important also, but so are hard nosed
11 investigations and prosecutions, which I hope will be a
12 primary, rather than a tertiary, focus of this esteemed
13 Commission. Nothing shines a light brighter or focuses the
14 public's anger better than the actual arrest and conviction
15 of a corrupt politician. It was a wave of prosecutions that
16 reportedly spurred this Commission's creation in the first
17 place, and worthy prosecutions, I believe, will ratify the
18 importance of your ongoing work and rally support for your
19 ultimate recommendations. As the Commission does its deep
20 dive, my office stands ready to prosecute any appropriate
21 case that you may refer, especially given our track record
22 of success, our access to resources, our tough penalty
23 provisions and our reputation for nonpartisanship, same as
24 the reputation of the Eastern District of New York led by
25 Loretta Lynch.

1 Third, sometimes when dealing with big crime
2 problems, it is important not to overlook the small things.
3 The overlooking of seemingly small things can, over time,
4 breed a dangerous disrespect for the rule of law. As with
5 every category of criminal conduct, too often it is the
6 accumulation of small and seemingly minor things, minor
7 violations that lead to widespread lawlessness. That is the
8 essential insight of the broken window's theory, famously
9 posited by James P. Wilson, and there seems to be a bit of
10 that going on with our campaign finance laws here in New
11 York, unfortunately. Take the case of campaign free files.
12 State election law requires every reticent political
13 committee that receives or spends any money in connection
14 with an election to file a sworn statement with the New York
15 State Board of Elections. These filings require just the
16 most basic information about contributions received and
17 expenditures incurred by the committee. While a relatively
18 basic requirement designed to ensure some level of
19 transparency in state elections, this counts for more than
20 100 campaign committees didn't even bother to file the
21 statement. And what was the consequence? A nominal fine,
22 which in many cases may be impossible to enforce because the
23 committees often disband after most elections. The
24 Commission might do well to begin by focusing on the broken
25 windows all around.

1 Ultimately, the members of this Commission have, as
2 has already been said many times, an absolutely daunting
3 mission. It is your town's amidst high hopes to hold public
4 officials to account, to expose obscure errors of greed and
5 to restore faith in our government. That is a tall order.
6 At the end of the day and all things, toughness and
7 independence will payoff. When people understand that no
8 one is immune from appropriate investigation or inquiry,
9 whether the majority or in the minority, whether in the
10 upper chamber or in the lower, whether in the legislative or
11 in the executive branch, then there will be a measure of
12 respect and fear and perhaps even deterrence. That is true
13 for the prosecutor's office, and it is also true for the
14 Moreland Commission.

15 Of course, as I have said before, public corruption
16 in New York is more than a prosecutor's problem. No one
17 prosecutor can fix it. No one Commission can fix it either.
18 The public and the press have a role to play also, and this
19 Commission, with a bigger bully pulpit than any individual
20 prosecutor or politician, can encourage public engagement.
21 So to repeat a longstanding comment of investigative
22 journalists, I think they have become a dying breed,
23 although there are still a few extraordinary practitioners,
24 some of who I think are here and watching this evening. But
25 with each press outlet that closes or downsizes,

1 opportunities to ferret out fraud and waste and abuse are
2 lost, and that is too bad because, as Edward R. Murrow once
3 observed, quote, "a nation of sheep will beget a government
4 of wolves." But maybe the ranks of investigative
5 journalists will be fortified. Maybe those with purpose in
6 the capital of New York, an infusion of staff and resources
7 will mean more Albany upgrading, maybe Jeff Bezos' purchase
8 of the Washington Post and his recorded interest in
9 rejuvenating a story history of eye popping investigations
10 will prove contagious, and maybe fresh new outlets whose
11 editors are bent on doubling down on political
12 investigations, will provide grist for commissions like this
13 one. We shall see.

14 Meanwhile, in cooperation and coordination with the
15 important work of this Commission, we will continue to
16 prosecute those who perpetuate, continue to perpetuate a
17 show me the money culture in Albany. Thank you very much.

18 MR. FITZPATRICK: Any questions from the
19 Commissioners or staff? Derek?

20 MR. CHAMPAGNE: Thank you. Thank you for coming
21 out tonight, United States Attorney. You spoke about, just
22 a moment ago, the show me the money culture in Albany, and I
23 know you have referenced that in the past. If our
24 Commission ultimately concluded that this culture is
25 essentially unchecked and unfettered by the State Board of

1 Elections and we determine that the agency is further
2 underfunded and understaffed, subject to political
3 manipulation and rampant resources to investigate this
4 conduct, as we have discussed, which essentially requires,
5 unfortunately, federal agencies to get involved, such as
6 yourself, would you have an opinion or a thought as far as
7 could we or should we recommend the Department of Justice
8 open a pattern and practice investigation into the culture?

9 MR. BHARARA: I have certainly said many times that
10 the culture in various institutions is a problem. That
11 culture matters. Perhaps it's premature to make any
12 ultimate conclusion about things because this is the opening
13 ceremony of your Commission. Certainly there is a role for
14 the federal government to play, and I think, you know, I and
15 Loretta Lynch and others have played that role in going
16 after particular cases of corruption and in cases where it's
17 more systemic, we have a role to play there as well. With
18 respect to your mentioning of a pattern and practice suit by
19 the Department of Justice, I am not at this moment aware of
20 the circumstances from which that has been done in the
21 context like this one. Generally speaking, that's the kind
22 of thing the federal government gets involved in when you
23 are talking about a civil or constitutional rights
24 violation, and that's something that certainly the
25 Department of Justice doesn't shy away from, when it's

1 appropriate.

2 I'm not sure it applies in this context, but of
3 course we look at everything. If there is a way for us to
4 be helpful and help protect the federal government, apart
5 from the individual prosecutions, we're obviously open to
6 that.

7 MR. FITZPATRICK: Anyone else? David?

8 MR. JAVDAN: Than you again for being here. As
9 mentioned, the public should rightly be outraged about
10 criminality that happened within its legislature and other
11 elected. I think a lot of times the public is also outraged
12 to find out that things that sound like they should be
13 illegal are not actually illegal or are not illegal under
14 state law. You mentioned penalties, but are there other
15 aspects of New York law that you would say are sort of
16 surprising that things are not prohibited under state law?

17 MR. BHARARA: It's a little bit out of my lane to
18 talk about. We have enough work to do to figure out how to
19 get people doing things that are illegal, and I am not in
20 the legislature, thankfully, so I'm not sure it makes sense
21 for me to comment on where I think policy should go. I will
22 say, as I said before with respect to the pensions, there
23 are some things that make our work a little more
24 challenging. The fact that it's lawful to hide certain
25 details about financing and about contributions and

1 expenditures and about income, because people can have other
2 jobs when they are still in the legislature is something
3 that's surprising sometimes, and if it challenges the people
4 like us, and all of you as well, and there are other states
5 that report more transparency, so it would be sometimes
6 surprising that in an open democracy, in a system that
7 America is supposed, where some others are considered to be
8 good and where public affairs are supposed to be out in the
9 open and not in the back room, that there is so much secrecy
10 surrounding basic things, basic transactions. That probably
11 wouldn't be -

12 MR. JAVDAN: Thank you.

13 MR. FITZPATRICK: I just want to note also that DA
14 Vance is going to be addressing New York State law in that
15 area in a few moments. Anymore questions? Barbara?

16 MS. BARTOLETTI: Thank you again for being here
17 tonight. You talked about changing of the law where, in
18 regards to pensions. We also know that many of the elected
19 officials who then go on to be indicted and go on trial also
20 use their campaign committee funds to fund their legal fees.
21 Is that something that you would recommend that either needs
22 to be changed? And is that something that you have looked
23 at in the course of your indicting and prosecuting these
24 elected officials that jumps out at you as a problem?

25 MR. BHARARA: I have no formal opinion on that

1 because I am not a policy maker, and I will say also that I
2 think everybody who is charged with a crime or is being
3 investigated for a crime deserves and is entitled to a
4 vigorous defense. I guess speaking as a citizen and someone
5 whose office prosecutes some of these cases, it seems fair
6 to say that it is, you know, it is a little bit odd, I
7 guess, that a lot of people give money to candidates who
8 they believe in and they think are going to lead careers of
9 integrity in the government and don't have an opportunity,
10 because they are not aware of it, to opt out of indirectly
11 at some point in the future funding their criminal defense
12 because they have been accused of and often ultimately
13 convicted of engaging in violations of their oath to the
14 very people who sought to support them in the first place.
15 Again, it's a little bit out of my lane, and again, I think
16 everyone deserves a vigorous defense, and if you can afford
17 a great lawyer, more power to you. But I think it's odd
18 that not so many people know how their money can be used.

19 MR. FITZPATRICK: Are we all set? I'm sorry.

20 MR. MUTUA: For the cases that obviously you have
21 prosecuted, what are the biggest challenges in proving those
22 cases?

23 MR. BHARARA: The biggest challenge, first of all,
24 is getting vetted. You know, there's a lot of discussion
25 about proper, and it's a good thing, and there is a

1 discussion that will happen today, it will happen in the
2 future, it happened in the past, it happens in opt-out
3 pages, it happens in legislatures that are paying attention,
4 and it pays attention to how you tweak the law. But part of
5 the problem is finding the evidence of the crime in the
6 first place and that you can prove it beyond a reasonable
7 doubt in our criminal system, whether it's a federal or
8 state system. And so sometimes the challenge is you have a
9 whiff of criminality or you have a whistleblower who has
10 come in and told you about it, but you don't have other
11 witnesses because people haven't reported it and people
12 haven't crossed the line to tell you what they know, and
13 because sometimes documents have been destroyed and
14 sometimes there are other obstacles to finding the evidence
15 as an initial matter. One of the biggest problems you have
16 is trying to get over the threshold of evidence.

17 Another obstacle that I already mentioned that you
18 talked about before, I think you will be talking about it
19 some more, is the difficulty of following the money trail.
20 And when you are talking about a certain kind of corruption,
21 which is often the case, is that you are talking about
22 people lining their pockets with money in order to sell
23 votes in a legislature or to steer a contract in a
24 particular direction, with people lining their pockets in a
25 corrupt way, it's stuff to follow the money sometimes

1 because there is a lot of secrecy and a lot of things that
2 shroud where that money goes. And I think if there was a
3 better accounting of where that money goes and what time
4 period and how it matches with other actions that are
5 engaged in by public officials, that would help enormously
6 as well.

7 MR. FITZPATRICK: Anyone else? Again, thank you
8 very, very much. We know you have another engagement. You
9 are very kind to share your time with us, and it's very
10 comforting to know that the right man is in charge in the
11 Southern District.

12 MR. BHARARA: Thank you very much.

13 MR. FITZPATRICK: We are very fortunate tonight to
14 have, as our second speaker, another legendary name in law
15 enforcement in the State of New York. Our speaker Loretta
16 Lynch had a storied career as a litigator in the Eastern
17 District of New York, United States Attorney's Office.
18 While in the Long Island office, Loretta prosecuted white
19 collar crimes, public corruption cases, and she was the lead
20 prosecutor in a series of trials involving allegations of
21 public corruption in the Long Island Town of Brookhaven.
22 Ms. Lynch also served as the Chief Assistant where she was a
23 member of the trial team in the United States versus Volpe,
24 a five weeks civil rights case that was extremely troubling
25 to most of the citizens in New York City, and she was able

1 to obtain a successful guilty verdict. Ms. Lynch was
2 appointed by President Clinton as United States Attorney for
3 the Eastern District of New York and served until 2001. She
4 then left the office, went into a very, very distinguished
5 career in private practice, and luckily for us she answered
6 the call from President Barack Obama to return as United
7 States Attorney for the Eastern District of New York, this
8 time in 2010 when she took the oath of office. Her
9 jurisdiction involves cases in Brooklyn, Queens and Staten
10 Island, as well as Nassau and Suffolk Counties on Long
11 Island. She supervises a staff of approximately 170
12 attorneys and 150 support personnel. Please join me in
13 welcoming the Eastern District of New York, United States
14 Attorney, the Honorable Loretta Lynch.

15 MS. LYNCH: Thank you and good evening, Chairman
16 Fitzpatrick, Chairman Rice, Chairman Williams. Thank you so
17 much for this opportunity to speak not just to you but to
18 the other distinguished members of this Commission, many of
19 whom I count as friends, colleagues, mentors, all of whom I
20 applaud for your undertaking of this enterprise. This is an
21 important work, in fact, reviewing our State's public
22 corruption apparatus to determine where should you place
23 more leverage, where should you place more deterrent, what
24 should you do to combat the culture of corruption that seems
25 to be prevalent all around us. And we are all hopeful that

1 this Commission's efforts will lead to a greater
2 understanding on the part of the public and the policy
3 makers regarding the nature and the scope of the problem of
4 public corruption. But I would also add that just as
5 important a role for this Commission will be to serve as a
6 mechanism to engage the public as participants in the
7 efforts to stop corruption before it begins.

8 Now, as the United States Attorney for the Eastern
9 District of New York, I am honored to lead an office with a
10 long tradition of fighting public corruption, an office that
11 has brought many of the leading faces of our times, from
12 Abscam, one of the first public corruption cases to utilize
13 undercover agents and secret tapes and the prosecutions of
14 Congressman Mario Biaggi, Party Leader Meade Esposito, and
15 Nassau County Political Boss Joe Margiotta in the '80s, to
16 the bribery prosecutions of New York City building
17 inspectors and the Town of Brookhaven corruption of the
18 '90s, to the more recent prosecutions of City Councilman
19 Angel Rodriguez, Nassau County Legislator Roger Corbin and
20 scores of city inspectors for taking bribes, to the current
21 cases involving bribery and extortion at all levels of state
22 and city governments. Our cases have highlighted the many
23 and varied ways that public officials have sold their
24 offices and their honor for pocketfuls of cash.

25 Our current cases continue our rich tradition of

1 protecting the public fisc and attempting to safeguard the
2 public's faith in the political system. That faith,
3 however, cannot help but be shaken by the latest chapters in
4 self-interest and double dealing that our office and those
5 of our colleagues have uncovered. In recent months, in the
6 Eastern District of New York alone, we have convicted the
7 former majority leader of the United States Senate, and we
8 are prosecuting a state assemblyman, whose family has served
9 in the state legislature since the 1970s. We have convicted
10 nine officials and contractors of the New York City
11 Department of Housing Preservation and Development,
12 including the assistant commissioner who oversaw HPD's
13 construction programs.

14 These cases, present and former, show more than the
15 corruption that has seeped into the corner offices of the
16 state capital and city hall. They highlight weaknesses and
17 oversight and accountability that allow corruption and
18 provide guidance, however, for those of us looking at these
19 issues and insight on principles that we submit can be
20 effective countermeasures as you consider your work.

21 Based on our experience, we have identified certain
22 core principles that can act as effective countermeasures to
23 a culture of corruption. First and foremost, rules that
24 hold politicians accountable for the fiscal decisions that
25 they make with tax payer monies and require their

1 acknowledgment of their responsibilities to certify
2 appropriate use. Second, truly transparent financial
3 disclosure on the part of politicians, along with the
4 beneficiaries of their largesse. Third, a strong legal
5 framework to allow the investigation and prosecution of
6 corruption matters. Fourth, a clear sentencing structure to
7 enhance the deterrent effect. And fifth, but no less
8 important, a commitment from all stakeholders, including but
9 not limited to, law enforcement, the public, the media and
10 other public officials to report wrongdoing when and where
11 they see it.

12 Now, working in conjunction with our valued law
13 enforcement partners, we have brought several cases recently
14 that highlight the pervasive problem of corruption by
15 elected and appointed officials. Now, I, like Preet, like
16 DA Vance, like all of you around this table, are extremely
17 proud of the work done by our teams in this area, but I
18 can't help but be saddened by the fact of so many cases we
19 have seen over the past few years. Now, I'm saddened, not
20 so much by the fall of individuals who could have done so
21 much good, because they in fact brought this on themselves
22 with their choices. I am most saddened for their
23 constituents, many of whom are from historically
24 underrepresented community, who place their faith in their
25 elected officials and believe in the promises of a new day

1 and a brighter tomorrow because their present-day
2 circumstances are challenged and they see their future as
3 shattered.

4 Just last year, as was mentioned, former State Senate
5 Majority Leader Pedro Espada was convicted of stealing funds
6 from Soundview Health Clinic, a federally funded clinic he
7 operated in the Bronx. And as is common in so many of these
8 cases, this case was so much more than double dealing and
9 theft. It was in fact a betrayal of the trust of the people
10 of the Soundview neighborhood and all of his districts, an
11 economically challenged area of the Bronx desperately in
12 need of both quality healthcare and someone to represent
13 their interests in Albany. The tragedy of this case is that
14 in Pedro Espada they had neither. The citizens of the Bronx
15 trusted Espada with their votes and with their health. The
16 federal government trusted him with over one million dollars
17 in funding to take care of some of the neediest citizens
18 among us. But instead of using that money to make sure that
19 medical personnel were paid, that the clinic had needed
20 medical supplies, Espada created a scheme to divert those
21 funds to exposed his lavish lifestyle. Instead of
22 medicines, the money went for luxury cars, extravagant
23 dinners, vacations, parties, spa treatments, to name just a
24 few items. Espada was recently sentenced to five years
25 incarceration this past June for both his theft conviction

1 as well as his federal tax crimes.

2 Now, there were extraordinary challenges in building
3 a case against Espada, which many of you at the table will
4 be well familiar with. Now, they no doubt played a role in
5 his ability to avoid his prosecution over the years, but
6 they do provide insight into the things that could be
7 focused upon as you encounter these issues. Espada
8 controlled Soundview throughout the government's
9 investigation. The Soundview employees, who relied on him
10 for their livelihood, refused to cooperate with, and in many
11 cases, obstructed the government's investigation.
12 Soundview's Board of Directors was packed with friends,
13 relatives and others, whose only qualification appeared to
14 be loyalty to Espada. They also worked to impede the
15 investigation. Further, many of the schemes were complex
16 and hidden behind layers of rubber-stamp approvals by the
17 board and the shifting ownership arrangements of shell
18 corporations. Our team spent more than a year sifting
19 through tens of thousands of documents and nearly one
20 terabyte of data and interviewed hundreds of witnesses to
21 uncover Espada's schemes.

22 Earlier this year, former State Senator Shirley
23 Huntley was sent to prison for her role in stealing funds
24 from a non-profit organization that she established. She
25 funded a group called Parents Information Network (or PIN)

1 ostensibly to help educate and assist parents of New York
2 City public school children in her neighborhood in Southeast
3 Queens. As anyone who's ever tried to gave navigate the
4 waters of the New York City public school system,
5 particularly regarding any issues of special needs and
6 safety, you know that this assistance is vital. But Huntley
7 was able to steer New York funds from her non-profit through
8 the member item process. Instead of providing this
9 assistance to the parents, the organization was used as a
10 vehicle for Huntley to funnel money, over \$80,000, to
11 herself and her family, and this was not the only
12 educational non-profit that she used. Two other women, an
13 aide and niece of Ms. Huntley, operated a non-profit called
14 Parents Workshop. Its stated purpose was also to assist
15 parents in Southeast Queens in securing quality education
16 for their children, and instead, it became just another
17 means for Shirley Huntley to funnel New York money, tax
18 payer money, through this organization to herself and her
19 family.

20 And in fact, when the New York State Attorney
21 General's Office was investigating this organization,
22 Huntley assisted and aided her niece in obstructing this
23 investigation and falsifying documents, ultimately pleading
24 guilty to the obstruction case brought by her partners in
25 the New York State Attorney General's Office.

1 Hardly the finest hours for Espada, Huntley or the
2 New York State Legislature. Yet both cases, we submit to
3 you, illustrate certain weaknesses in both the oversight of
4 non-profit agencies as well as the New York State member
5 item process. In both cases, the boards of the non-profits
6 were packed with the cronies of the corrupt politicians and
7 had neither the expertise to run the organization nor the
8 will to override their political patron. The audit
9 function, properly supposed to be independent, was so
10 lacking as to be virtually nonexistent, and the member item
11 funds were distributed with no requirement that the
12 sponsoring members certify that those funds were in fact
13 used for their stated purpose.

14 We see similar themes in the public information
15 regarding our pending cases against Assemblyman William
16 Boyland and State Senator John Sampson. Boyland, as you
17 know, is charged of soliciting over a quarter of a million
18 dollars in bribes to support certain real estate development
19 projects and was captured on undercover recordings. He has
20 also been charged with submitting over 65 thousand dollars
21 worth of fraudulent per diem and travel vouchers, claiming
22 to be in Albany on official business on days when he was
23 not, including when he was actually meeting with the
24 undercover agents soliciting bribes. Boyland also allegedly
25 used a non-profit organization, this one charged with

1 serving the needs of senior citizens, and he stands charged
2 with funneling over a quarter of a million dollars in member
3 items through this non-profit to cover his own political
4 expenses.

5 State Senator John Sampson, an attorney and the
6 former chair of the New York State Senate ethics committee,
7 stands charged with the embezzlement of funds entrusted to
8 him as a court-appointed referee of foreclosed properties
9 and with obstruction of justice in connection with funds
10 received from a real estate broker but not reported on his
11 financial disclosure forms until he learned of our
12 investigation. These allegations, in particular, highlight
13 the corruption that can easily be concealed within a
14 legislator's outside income. We welcome the greater
15 transparency that should flow from the recent requirements
16 for reporting in this area. The tragedy of these cases and
17 these charges, however, goes far beyond those just under
18 indictment.

19 Constituents who depend on these organizations that
20 have been corrupted do not receive vital services. In the
21 case of Soundview, this was literally life threatening.
22 These cases increase the level of cynicism and distrust of
23 our elected officials, weakening our faith in the political
24 system. And those officials who are truly trying to do good
25 are cast in the same light as those who have engaged in

1 wrongdoing, rendering them significantly less effective.

2 Now, my office, like Preet, like DA Vance, like so
3 many of you are, is committed to vigorously investigating
4 and prosecuting public corruption using all the
5 investigative tools at our disposal. We have a long history
6 of utilizing undercover agents, cooperating witnesses,
7 wiretaps and other audio and video recordings. We undertake
8 extensive document review that may shed light on corrupt
9 activities, and we will continue to use these tools to root
10 out bad actors and bring their crimes to light.

11 But it must be stressed, particularly here,
12 particularly before this group, we are not alone in this
13 fight, nor can we be. We cannot prosecute our way out of
14 this problem. It is not just for prosecutors and law
15 enforcement agents to ferret out wrongdoing. We all have a
16 role to play in promoting transparency and accountability on
17 the part of our public officials. The public must demand
18 more accountability and actual honest services. The media
19 must remain vigilant in its scrutiny. And public officials
20 who see wrongdoing must not turn a blind eye and let
21 corruption continue. And it is to be hoped that this body
22 can recommend substantive changes that will work to prevent
23 the next major public corruption case.

24 We know that this Commission will focus on the
25 specifics of the proposed changes that will seek to do just

1 that. And we note for your consideration certain areas of
2 vulnerability that have been highlighted by the cases that
3 we have investigated. We have seen circumstances where the
4 outside auditors are unfamiliar with the non-profit
5 structure or even manipulated or deceived by corrupt board
6 members. Similarly, we have seen circumstances where
7 non-profit board are themselves ill equipped to resist a
8 corrupt member or politician. The truly independent audit
9 of non-profit agencies by qualified auditors could yield
10 both evidence of corruption as well as serve as a deterrent
11 to those who would seek to manipulate their funding stream
12 for corrupt purposes.

13 A review of both audit and board membership
14 requirements could indeed be a useful step. We have also
15 seen circumstances where our review of vendors used by
16 organizations that receive member item funds, as well as our
17 review of the employees and the salaries of those employees,
18 of those organizations have revealed evidence of corruption,
19 and we note that greater oversight and transparency in those
20 areas could yield both evidence of corruption as well as
21 serve as a deterrent effect.

22 Members of the Commission, I am often asked to
23 describe the greatest difference that I see in law
24 enforcement priorities between my current time as United
25 States Attorney and my prior appointment, and of course,

1 without a doubt, as any New Yorker knows, it is the
2 expansion of the department's national security practice to
3 encompass the goals of not just prosecuting terrorism but
4 preventing the next terrorist event. And although we have
5 not had the same fatal catalyst in this area, we must
6 similarly expand our focus in the public corruption arena to
7 prevent corruption before it occurs.

8 My office remains committed to the important work of
9 rooting out corrupt public officials. We support this
10 Commission as it seeks to fashion rules and remedies that
11 will not only enhance prosecutions but will also provide
12 earlier detection of corruption and ultimately better
13 deterrence. Public officials who have engaged in corruption
14 have not only broken the law, they have broken faith with
15 the public. Their actions siphon off tax payer dollars,
16 they deprive citizens of vital services, and they destroy
17 public trust in our political system.

18 I commend you for undertaking this task, and I
19 greatly appreciate the opportunity to provide information to
20 this Moreland Act Commission in your efforts to focus on real
21 solutions to this intractable problem and to restore the
22 public trust. Thank you for your time and attention this
23 evening.

24 MR. FITZPATRICK: Thank you very much, District
25 Attorney. Any questions from the commissioners? Yes?

1 MR. JAVDAN: I would just ask the same question I
2 asked before, is there anything that, you know, you think is
3 perhaps not illegal or that's a challenge for you under
4 state law that would be helpful for you in federal law that
5 surprises you?

6 MS. LYNCH: Well, I have to echo the comments of my
7 colleague, Preet Bharara, is that often for us the greatest
8 difficulty is obtaining information, and certainly it can be
9 surprising sometimes to learn that certain things that we
10 think should be publicly available information are not. And
11 I think for all of us who are engaged in law enforcement in
12 general, greater transparency is certainly a goal. I think
13 I would have to leave it to for you to design the specifics
14 of what you would change, but I do think that's a very
15 important area.

16 Similarly, I should note that, as I indicated, many
17 of the abuses we have seen involve abuse of the member item
18 process, and I will tell you, as a prosecutor, it is also
19 often surprising that the person who is in charge of
20 dispensing such largesse home organizations does not seem to
21 have a corresponding requirement to certify that those funds
22 have been appropriately used. It's our understanding that
23 the organizations who receive money under the member item
24 process do pass the certify through the pass-through agency,
25 for example, to the Department of Education in the case of

1 Ms. Huntley and others, that they, the organization, have
2 carried out their mandate. But those organizations, as we
3 have seen, are often sadly under the thumb of corrupt
4 politicians. These certifications can't be relied upon.
5 And certainly, if someone is in charge of or has the
6 ability, and I would submit, the grave responsibility of
7 helping to allocate tax payer money to help citizens, many
8 of whom are in grave need of these services, they should be
9 prepared to provide information about how that money was
10 used.

11 But in terms of specifics, I would of course leave it
12 to this Commission to look at those issues and come up with
13 specific solutions.

14 MR. FITZPATRICK: Gerry?

15 MR. MOLLEN: US Attorney Lynch, is there any
16 provision in federal law, I think this topic has been
17 mentioned by both US Attorneys, is there any provision in
18 federal law that would require one public official to report
19 corrupt misconduct when observed by another public official?

20 MS. LYNCH: There is no specific statute that
21 imposes the requirement, frankly, on anyone to report
22 misconduct. There are certain employment related statutes
23 that impose obligations and duties and handling and possibly
24 some OSHA or environmental ones. I would have to withdraw
25 all of that. But certainly there is no requirement that it

1 be reported by a politician. But certainly I think that we
2 have to encourage that it be done. Part of the problem with
3 any organizational corruption, particularly systemic
4 corruption that has existed over the years, is the people
5 who were not involved in it suffer in several ways, as I
6 mentioned. They target the same rush, and people view them
7 as corrupt when, in fact, many of our leaders are trying to
8 do the right thing. But so many don't want to get involved,
9 and in many ways, they're simply trying not to get drawn
10 into a negative situation or problem. So that's not the
11 problem. But I do think there's room for public officials
12 who observe these wrongdoings, who hear these conversations
13 to step up and provide information.

14 MR. FITZPATRICK: Anybody else? Any other
15 questions? Madam US Attorney, thank you for the eloquence
16 of your words, and thank you for your suggestions, and most
17 of all, thank you for answering our President's call and
18 coming back to the public service. The citizens of New York
19 are very lucky that you said yes.

20 MS. LYNCH: Thank you so much for your time
21 tonight.

22 MR. FITZPATRICK: Our next speaker is the District
23 Attorney of Manhattan, our host DA, if you will. DA Cy
24 Vance started out his career in the Manhattan DA's office,
25 as I think about 90 percent of this Commission did, working

1 for Bob Morgenthau. DA Vance handled all kinds of cases
2 when he was in the office and, sadly for New York, he moved
3 to Seattle, but luckily he decided to return and he became
4 the New York County District Attorney on January the 1st,
5 2010. Cy was so impressive to his 61 other elected DA's
6 throughout the state that last year we made him president of
7 our association, and his service was nothing short of
8 outstanding. I could tell you about all the bureaus that
9 he's created. A lot of them have to do with white collar
10 crime prosecution. He also had the foresight to create a
11 blue ribbon panel dealing with issues of white collar crime
12 that, naturally, include public corruption.

13 Cy is joined by Chief Assistant Dan Alonzo. I have
14 known Dan through my association with Cy and through my
15 association with the DA's Association. He is nothing short
16 of outstanding in his service of the people of New York.
17 There isn't a DA in the State of New York, including Cy,
18 that doesn't feel he can pick up the phone, talk to Dan and
19 get some incredibly sound advice. He's had a distinguished
20 career and he's won numerous awards, many of them having to
21 do with his professional integrity as an attorney. He's
22 also been involved in numerous public corruption
23 prosecutions and was very, very instrumental in helping Cy
24 draft the white collar crime task force report. So DA Vance
25 and Chief ADA Alonzo, we welcome you both, and I will turn

1 it over to you, DA Vance. Thank you very much for being
2 here.

3 MR. VANCE: Chairman Fitzpatrick, Chairman Rice and
4 Chairman Williams, I am honored and I appreciate even being
5 asked to speak with Chief Dan Alonzo, and I also just want
6 to thank all of you on the Commission for your service,
7 taking the time out from your professional lives and
8 personal obligations to do the important work that you are
9 doing, and I think all of New York owes you a debt of
10 gratitude. As Bill Fitzpatrick said, between July '12 and
11 this past year, I served as a one-year term as president for
12 the District Attorney's Association for the State, and in
13 that capacity, last October I formed the New York State
14 White Collar Crime Task Force.

15 The task force is co-chaired by District Attorney
16 Frank Sedito, who is a Commission member of yours, and my
17 Chief Assistant, Dan Alonzo, who is with me today and who
18 may be able to assist in answering questions about specifics
19 of the task force's recommendations.

20 Now, the purpose of this task force was to have a
21 thoughtful group of lawyers study our fraud and corruption
22 laws from top to bottom, not thinking politics but thinking
23 substance, to come up with a set of recommendations that
24 could be considered by the legislature in its 2014 session.
25 The task force is not made up exclusively of district

1 attorneys. To the contrary, I brought in the membership to
2 make sure it is reflective of views of a number of lawyers
3 outside law enforcement, the private practice, the bench and
4 academics, and the recommendations of that task force were
5 unanimously adopted by the board of directors of the DA's
6 Association this past July and we will be publically
7 presenting the findings of the task force and releasing its
8 full report next week.

9 In the meantime, I am pleased to give you a summary
10 of our task force's recommendations in the public corruption
11 arena, including procedural reforms that we believe are
12 absolutely crucial to the effective enforcement of the law.
13 Before I turn to several of the task force's specific
14 recommendations, I would like to address why we are
15 recommending these laws to the state.

16 As you just heard from my colleagues, the US
17 Attorneys for the Southern and Eastern Districts, and as
18 everyone in New York government knows well, the FBI and
19 federal prosecutors have been remarkably successful in
20 policing and prosecuting our public officials. That success
21 has led some to suggest that New York does not need criminal
22 law reform in the area of political corruption. Some ask
23 why do we need to do anything at all when federal
24 authorities are doing such a good job. The answer, I
25 believe, is pretty straightforward. Reliance on the federal

1 government to safeguard state and law integrity, I believe,
2 is risking public policy, and I also think it's inherently
3 intention with the federal system of sovereign states.

4 Now to be sure, and let me be clear, in terms of
5 public enforcement, the US Attorneys and United States
6 Attorney General, to say nothing of the FBI, are clearly and
7 actively engaged in rooting out this New York problem. And
8 let me also be clear, I have nothing but the greatest
9 admiration for my colleagues in the Eastern and Southern
10 Districts and their incredibly talented staffs, as well as
11 the federal law enforcement agencies involved. But there is
12 nothing in federal law or politics that requires that they
13 continue to be so involved in the future. So why, in a
14 government that states promising of police power, would New
15 York see this area to the federal government of limited
16 powers whose future resources and attention may be diverted
17 to different priorities.

18 Now, we all know that some high level government
19 officials and many low level ones do, on occasion, so wind
20 up in our state courts. Alan Hevesi, who was described
21 earlier, and also Ms. Huntley. But these successes, a
22 fraction of our federal counterparts, came about, I believe,
23 in spite of the state system, not because of it. Criminal
24 prosecution may be not be the answer to all of our society's
25 problems, but any system of corruption enforcement is doomed

1 without effective criminal sanctions. It is simply time to
2 stop handcuffing state prosecutors and allow them to do the
3 jobs that they should be doing to root out political
4 corruption.

5 And to this end, the task force made seven
6 recommendations that most closely relate to the problem
7 before this Commission. Two are procedural and five are
8 substantive, and I have submitted to the Chairs my written
9 testimony, which I hope will be of use to you. But in my
10 oral testimony, I will only address three of those seven
11 recommendations. Two are procedural and one substantive.

12 First, New York should eliminate automatic
13 transactional immunity. Federal grand juries may use
14 hearsay without limitation, but state grand juries are
15 generally required to hear from each person who has personal
16 knowledge of the events at issue. And under New York
17 current law, which is unique, by the way, in the country and
18 not required by any supreme court precedent, every witness
19 before a state grand jury automatically receives full
20 transactional immunity about anything to do with the matters
21 about which they testify, which means that they can never be
22 prosecuted in state court for matters about which they
23 testify in response to questions. The results, I think,
24 have been abysmal for New York in two ways. First, there
25 have been numerous miscarriages of justice. In the violent

1 crime area, for example, in one case, where a supposed
2 witness who had, unbeknownst to the prosecutor, actually
3 committed the murder was called before the grand jury and
4 thereby absolutely absolved of all liability. In white
5 collar crime, an executive whose company had been victimized
6 was called before a grand jury to describe the company's
7 operations and to testify about a possible extortion.
8 Subsequently, a different prosecutor began investigating
9 that same executive for tax fraud connected to the company,
10 but because the executive had been asked about the company's
11 operations by the first prosecutor, the case against him was
12 dismissed and the prosecution barred.

13 Now, cases like these, Commission members, have been
14 regional over the years, but they pale in comparison to the
15 criminal law's second fatal flaw, the chilling effect on
16 investigations and prosecutions of all kinds and,
17 particularly, of corruption. Now, prosecutors are
18 understandably reluctant to call the very people who know
19 about corruption for fear of giving them a pass for all of
20 their transgresses as a result of transactional immunity, to
21 say nothing about the credibility of issues that a witness
22 must face at trial, having been granted full immunity from
23 prosecution. I believe that all 62 of the District
24 Attorneys in New York State agree that it would be much more
25 sensible for New York to adopt the federal use immunity

1 rule, used in the majority of states, which in practice has
2 a much less chilling effect on corruption investigations.

3 In 1982, state prosecutors, supported by the first
4 Governor Cuomo, former Attorney General Robert Abrams, and
5 every major editorial board in the state tried and failed to
6 get this law changed, and I believe it is time to try again
7 and to succeed.

8 Second, New York should amend the accomplice
9 corroboration requirement. You hear US Attorney Bharara
10 talk about what he thought was the biggest obstacle in these
11 investigations, and what did he say? It was getting at the
12 evidence. The lifeblood of prosecutions of sophisticated
13 crime, which corruption typically is, is the use of
14 accomplices who are in the best position to supply that
15 evidence and information about the inner workings of
16 criminal enterprises. But in New York, even when
17 co-conspirators switch governments, to use the famous words
18 of Sandy Provano, the US corroboration rule makes it
19 impossible to prosecute others without independent
20 corroborating evidence.

21 Now, this is a sensible concept and one that even I'm
22 sure federal prosecutors follow in practice, but its
23 interpretation in New York makes it a poison pill in
24 corruption investigations. Several prosecutors often
25 corroborate the testimony of one corroborator with another.

1 In New York, even nine cooperators corroborating the tenth
2 is not enough. The evidence must be independent. So how
3 about using a tape to prove your case? Maybe, but it had
4 better be non-accomplice that vouchers for its authenticity
5 or it won't be admissible. These accomplice corroboration
6 rules have no place in a system that is serious about
7 cleaning up its government.

8 Corrupt public officials continue to reap the benefit
9 of New York State's outdated and overly restrictive law.
10 Although, clearly, accomplice testimony deserves sharper
11 scrutiny at trial, it's not necessarily untrustworthy. With
12 proper safeguards and selection from the trial court on the
13 inherent dangers on accomplice testimony, such factors, I
14 believe, ought to be for the jury to weigh in assessing
15 credibility. A cell mate who committed assault and is
16 called as a prosecution witness should not be presumed more
17 trustworthy, as he is under current law, than a
18 self-confessed accomplice to a forgery.

19 I recommend, therefore, that New York amend, but not
20 eliminate, the accomplice corroboration requirement of CPL
21 Section 60.22 to allow cross corroboration by a separate
22 accomplice.

23 Third, and finally in my testimony before you orally,
24 New York should amend its public servant bribery law.
25 Although New York State's bribery law, by its terms, is

1 violated when a bribe is merely offered or solicited, the
2 paradox also requires an elicited, I am quoting, agreement or
3 understanding, end quote, in the statute, between the bribe
4 giver and the bribery receiver in order for the crime to be
5 complete. This exacting element is not required under New
6 York's other bribery laws, including public bribery, sports
7 bribery and commercial bribery and the loss of most other
8 jurisdictions, which are subject to the less exacting
9 standards and requirements of an intent to influence the
10 recipient of the bribe.

11 As it stands, therefore, those who bribe public
12 officials in New York are less likely to be prosecuted than
13 those who bribe boxers who throw the match. The task
14 force's proposal would align New York's public bribery law
15 with these other bribery laws. The task force, therefore,
16 recommends replacing the agreement or understanding
17 requirement in New York's bribery law with a requirement of
18 an intent to influence the public servant. This would
19 legislatively overrule the Court of Appeals decision of
20 *People v Bactron* of 1992.

21 I would like to conclude by quoting from the 1987
22 article from the New York Times that followed the New York
23 City Correction scandals of the mid 1980's. That article
24 reported, among other things, that, quote, "half a dozen
25 district attorneys said local officials they believe to be

1 corrupt have gone un-prosecuted because New York laws make
2 it too difficult, more difficult than in other states, to
3 bring corruption cases." That was in 1987, 26 years ago.
4 And ladies and gentlemen, things have only gotten worse. So
5 thank you for the chance to give my thoughts this evening,
6 and Dan Alonzo will be happy to answer the Commission's
7 questions.

8 MR. FITZPATRICK: Thank you, DA Vance. Let me
9 start with the thing that's troubled a lot of us when we
10 have been discussing this. The legislator, for a
11 hypothetical, who takes a campaign contribution and then
12 introduces some obscure piece of legislation, such as tax
13 abatement or some other type of thing, that only applies to
14 the contributor, absent, you know, a type recording of an
15 agreement or an informant or some other type of evidence
16 that isn't very likely to appear, is there anything
17 prosecutors can do about something like that, other than
18 what an average citizen would do, maybe shake their heads
19 that you can't be serious that this is legal?

20 MR. ALONZO: First of all, thank you, Bill and
21 Fitzpatrick, for having me tonight. I appreciate it. I
22 think, like every other corruption case, it turns so
23 explicitly on the facts, and under the current law you would
24 have to have an agreement or understanding, even under the
25 task force's proposal in the case of a campaign

1 contribution, you would have to have an agreement or
2 understanding. Campaign contributions, there's nothing
3 special about them, they are benefits under current law so
4 they can be a bribe, but you still have to have the
5 evidence. So I think just a mere campaign contribution and
6 action that benefits a contributor would not be actionable
7 under current law.

8 MR. FITZPATRICK: Any other commissioners have
9 questions for DA Vance or Dan? Nancy?

10 MS. HOPPOCK: This question is for Dan Alonzo. You
11 have been both a state and federal prosecutor, so you're
12 aware of the tools available to federal prosecutors and have
13 looked at and I know considered the tools available to state
14 prosecutors in the penal code. Does your team have the same
15 statute, when you contrast it to what the feds have in the
16 mail and wire fraud statutes?

17 MR. ALONZO: In a word no. I think your question
18 is do we have an equivalent to mail and wire fraud, which is
19 a key tool that the US Attorneys you have heard from use in
20 their prosecutions, not the only tool of course, but the
21 value of the mail and wire fraud laws are - they are so
22 broad and they encompass schemes that can expand several
23 years, and they can encompass lots of corrupt behavior, not
24 just bribes, but kickbacks, illegal gifts and conversations
25 that don't necessarily go anywhere but they're kind of

1 corrupt, and every sort of vast piece of information,
2 without the requirement that you have an independent
3 accomplice, being able to call witnesses to the grand jury
4 without granting them absolution for everything they have
5 done, and all sorts of other tools - if you're interested, I
6 can talk about - that federal prosecutors have that state
7 prosecutors don't, or better said, hurtles that we state
8 prosecutors face that federal prosecutors do not face.

9 So I think New York could use a scheme crime. We
10 have proposed, in the task force, an undisclosed self
11 dealing law, which deals with course of conduct. That's one
12 way to do it. In 2010 DA Vance and then Senator
13 Schneiderman proposed a scheme law, similar to federal mail
14 and wire fraud. There are a lot of ways to do it. But a
15 scheme law, I believe, would be crucial to combatting public
16 corruption in New York.

17 MR. FITZPATRICK: Thank you, Nancy. Anyone else?
18 Anyone? Any questions? Cy, first of all, I have to
19 compliment you on the very, very diplomatic way that you
20 told Preet and Loretta that we want a piece of the action
21 too, but most importantly, thank you for your leadership on
22 this issue. You are relatively new as the elected
23 prosecutor, but man, you hit the ground running, and this is
24 incredible. And just like all DAs, I hope myself included,
25 you surround yourself with great people like Danny. So

1 thank you both very, very much.

2 MR. VANCE: Thank you.

3 MR. ALONZO: Thank you.

4 MR. FITZPATRICK: I appreciate it.

5 MS. CALCATERRA: I would like to invite up
6 Councilman Eric Ulrich.

7 MR. ULRICH: Good evening, Chairpersons Rice,
8 Fitzpatrick and Williams, and distinguished members of the
9 Moreland Commission to Investigate Public Corruption. My
10 name is Eric Ulrich. I am a member of the New York City
11 Council, representing the 32nd Council District in Queens
12 County. I was elected in a nonpartisan special election in
13 2009 and was reelected in a November general election of
14 that same year. I was also the republican candidate for New
15 York State Senate in District 15 in 2012. And someone who
16 has run for both public and party office at the state and
17 local level, I greatly appreciate the opportunity to share
18 with you my thoughts on the inherent corruption and the
19 appearance of such corruption and political campaigns and
20 elections in the State of New York.

21 We all know that over the past several years New
22 Yorkers have had to endure some of the worst public
23 corruption scandals in recent memory. These accounts,
24 widely reported in almost every media outlet, have caused
25 irreparable harm to what former Mayor Ed Koch once called

1 the noblest profession. Now, more than ever, in my opinion,
2 New York desperately needs a comprehensive reform of the
3 campaign finance laws. The overall lack of enforcement,
4 transparency and accountability has empowered a culture of
5 corruption, which has perverted the political process and
6 shaken the public's confidence in their elected officials.

7 I am convinced that a state-wide system of public
8 financing for campaigns, along with a significant overhaul
9 of the Board of Elections will result in more honest and
10 competitive elections in New York State. The New York City
11 campaign finance law should serve as the model for such a
12 proposal. Under this system, in case you are not aware,
13 contribution limits are drastically lower than the current
14 state restrictions currently allow. Disclosure of
15 contributions and expenditures are more clearly defined, and
16 large corporations and other special interest groups have
17 little influence over an individual campaign or any person
18 who is running for public office.

19 In return, candidates who meet certain thresholds are
20 provided with the resources that they need to mount an
21 incredible campaign. Admittedly, I benefitted from the use
22 of public funds in my two campaigns for City Council, and I
23 am again participating in the program this year. I would
24 not have been able to raise the money that is not necessary
25 to run a modern day campaign if it were not for the

1 availability of matching funds that I had in 2009. This is
2 an equitable system, I believe, and one that has helped
3 nearly every city elected official since the program's
4 inception in 1988. As a result, I am not beholden to any
5 party bosses, I don't need any party's permission to run on
6 the party's line, I don't need the blessing of any special
7 interest group or major support from any large group of
8 donors from any industry. I serve my constituents and I'm
9 able to vote on a budget and make legislative decisions based
10 upon what I think is right for the people that I represent.

11 Running for state senate was another matter. My
12 campaign was able to accept sky-high campaign contributions,
13 and the various party committees and independent expenditure
14 groups that spent on my behalf probably did more harm than
15 good. Many voters were frustrated by the amount of mail
16 they were receiving, while others were simply turned off by
17 the negative mail that I had no control over and I did not
18 see until they arrived in the mailbox. Clearly, something
19 is wrong with the system.

20 It should come as no surprise that many of those
21 currently serving in the state legislature, both the
22 democrats in the assembly and republicans in the state
23 senate, are not in favor of reporting a system or putting
24 into place public financing for political campaign. This is
25 true because they have benefitted from the status quo and

1 not having competitive elections and being able to raise
2 large amounts of money from lobbyist corporations, organized
3 labor and other powerful interests that seek influence over
4 the legislative process.

5 Another one of Albany's worst kept secrets is that
6 compliance with existing election laws is arbitrary since
7 there is ineffective enforcement of the laws that are
8 already on the books. It's a toxic situation and one that
9 breeds corruption. And while city officials are not immune
10 to bribery charges or other criminal acts, the number of
11 state prosecutions far outnumber the city corruption case
12 involving elected officials. This, I believe, disparities
13 further evidence of the use of public funds as an investment
14 for good government. New Yorkers deserve a better campaign
15 finance system, one that diminishes the role of the powerful
16 special interest and actually gives a greater role or voice
17 in the political process to the average New Yorker.

18 And as a result, I believe that candidates will be
19 more responsive to the needs and the concerns of the people
20 that they hope to represent, and the voters will be able to
21 connect in a more direct way with the people who are running
22 for political office. I am not suggesting that campaign
23 finance reform is going to solve all of our problems. That
24 would be delusional on my part. In fact, we need to
25 strengthen the ethics laws and the criminal statutes so that

1 they too can act as a deterrent against corruption and
2 misconduct.

3 However, I believe that fixing the broken campaign
4 finance system will level the playing field significantly
5 and give a greater voice to every New Yorker. We cannot
6 allow a system that breeds corruption and complacency to
7 continue. It's been going on for far too long. I implore
8 the Commission to include some of these recommendations in
9 its preliminary report and use every power and tool at your
10 disposal to help bring about a new era of good government
11 for the people of New York. And I'm happy to take any
12 questions. Thank you for listening.

13 MR. FITZPATRICK: Any questions for Eric? Eric,
14 thank you very much.

15 MR. ZIMROTH: I have one question.

16 MR. FITZPATRICK: Question, Peter?

17 MR. ZIMROTH: So I just want to follow-up with your
18 comments about the way to voice. Maybe you can just explain
19 a little bit about the impracticality running of for office
20 under the New York City system and running - you know, the
21 small donor matching funds and running in the state system
22 now. In other words, how does the - how do you - why does
23 that lead to greater voice of the campaigning?

24 MR. ULRICH: Well, quite frankly, Commissioner, I
25 believe that some of the people in Albany are more willing

1 to listen to people from the real estate industry, for
2 instance, or from organized labor, on the other hand,
3 because they're the ones who are writing \$10,000 checks to
4 their campaigns. They are the ones who are contributing
5 excessive amounts of money to the party housekeeping
6 committees that also spend on behalf of candidates, even
7 though they're not supposed to because there's not enough
8 oversight over those accounts as well.

9 In the New York City program, candidates who run for
10 City Council, for instance, will receive matching funds, \$6
11 for every dollar that they raise, up to \$175. So in a
12 sense, \$175 becomes a \$1,050 contribution. And when
13 candidates were running for Council are able to bundle those
14 smaller donations together, 10 and 20 and 30 individuals.
15 You know, those people are playing a very significant role
16 in that candidate's campaign, because there is also a
17 spending limit that they have to abide by if they're going
18 to receive public money. So the contribution limits are
19 much smaller. The most that a candidate can receive is
20 2,750, not this \$10,000 amount. There is no corporate
21 contributions are not permitted to city candidates who are
22 participating in the program. And really, the role of the
23 candidate to get the attention of the voters and get the
24 support of the voters in their district, you don't just get
25 money for nothing. You have to get 75 of the voters who

1 reside in your district to give to your campaign. You have
2 to raise \$5,000 before you even see any of that money, and
3 there is a very extensive vetting process that candidates
4 have to go through before they receive matching funds.

5 So some people would say that this is money we can
6 spend on better things, and if that's the case, we should be
7 spending the money on those things and we're not. Instead,
8 we're cutting the budgets for education, transportation, all
9 those things, and using that as an excuse to not engage in a
10 conversation of public financing of campaigns. The reality
11 too is that City Council and borough president, the mayoral
12 election, that we have either all participated in or have
13 seen from the outside is much more competitive, is much more
14 robust, and there is much more transparency there than there
15 is, for instance, a raise for state-wide office or for the
16 state legislature where you don't know who is spending what
17 on a particular candidate and pretty much anything goes.

18 And the the whole system at the state level needs and
19 requires significant overhaul, and the first place that they
20 should look to as a model, I believe, is the City of New
21 York. Is it perfect? Absolutely not. Any time there's
22 money involved, you are always going to find people that try
23 to circumvent the law or find their way around the law. But
24 the city, I think, is a much better model, in terms of
25 lowering the campaign contribution limits and providing

1 matching funds, greater accountability, greater transparency
2 and increasing, not only the voice of the actual voters
3 living in the district and the people in New York, but help
4 restoring some confidence that perhaps campaigns are being
5 conducted in a more honest fashion.

6 MR. FITZPATRICK: Anyone else? Yes, Dean?

7 MR. MUTUA: Yes, thank you. You imply that the New
8 York City campaign finance law is almost perfect, although
9 you admit it's not perfect. What, you know - what
10 particular perfections do you see in it?

11 MR. ULRICH: Well, for instance, I would suggest to
12 the campaign and I would submit to the campaign finance
13 board that in their effort to diminish the role of large
14 corporations, they have essentially silenced the voice of
15 the small business community in New York City. So, for
16 instance, pizzeria owners in my district and restaurant
17 owners have a legitimate stake in the public discourse and
18 want to be a part of the political province. They cannot
19 write a check to a candidate who is running for city office
20 because that is considered a corporate contribution. He/she
21 is not on the same level as Walmart or some of the larger
22 pharmaceutical companies or insurance companies that are
23 playing politics in Albany right now. They have the run of
24 the mill in the state capital, but in city hall they don't
25 really have a voice, and I think that is a disservice to

1 that community because they create jobs and they provide tax
2 revenue and they are city residents, many of them,
3 themselves and they deserve to have a voice in the process.
4 So I think taking a look at that is worthwhile.

5 The other - the other criticism that I would have in
6 this, of course, is, you know, one that only I have
7 experienced, at least I hope so, is that sometimes the
8 auditors are a bit over-scrupulous or overzealous in their
9 applying the campaign finance laws. I will give you an
10 example. I received a check from a woman in my district who
11 happens to be a catholic nun, and I am a Roman catholic, and
12 when I see a check that says Sister Anne O'Hara, OP, Sister
13 Saint Joseph, that is not a corporate contribution. Well,
14 the campaign finance board said that it was a corporate
15 contribution because, not only did she have a title and
16 initials at the end of her name, but that the address that
17 was on the check was registered to - it was not a
18 residential address, when they looked it up. Well, that's
19 because she lived in a convent on the church property, and I
20 provided a sworn affidavit from Sister Anne O'Hara, and it
21 did not suffice the auditors, despite the fact that the
22 president of the campaign finance board is a Jesuit priest,
23 Father Joseph Parks. So we decided to return, certified
24 check, that \$50 contribution to Sister Ann so that it
25 wouldn't hold up the matching funds.

1 But, you know, these things are the exception and not
2 the norm. Most of the time they are doing an excellent job
3 auditing campaigns. Sometimes, I think, some of the people
4 that are hired are very aggressive, but that's what they're
5 being paid to do and they're protecting the public's, tax
6 payers' money. I want them to go the extra mile to make
7 sure people are not stealing. And also, by the way, what we
8 spend that money on has to be a qualified expenditure. I
9 can't hire my family members, I can't pay a political club
10 rent and they in turn, you know - it's a building that I
11 own, give that money right back to me. I mean, there is
12 really extensive, extensive oversight over this process, and
13 it's one that the state can learn a great deal from.

14 MR. FITZPATRICK: Anyone else? Eric, I've got a
15 feeling that you probably got a lot more novenas from Sister
16 Ann than would have got you in the 50 bucks anyway.

17 MR. ULRICH: I won the election that year, so we did
18 something right.

19 MR. FITZPATRICK: If you don't mind, I think this
20 Commission may rely upon you again. You are very eloquent,
21 and I'm sure it took a lot of courage for you to come in
22 here. I wish we had more elected officials come in here and
23 tell it like it is. Thank you for your time.

24 MR. ULRICH: Thank you for your time.

25 MS. CALCATERRA: The Brennan Center, Larry Norden,

1 the Deputy Director, and Ian Vandewalker, Counsel. Mr.
2 Norden, thank you.

3 MR. NORDEN: Thank you Co-Chairs Fitzpatrick,
4 Williams and Rice, and thank you to all of the commissioners
5 and the staff for inviting us to speak here today. We're
6 honored to be here. I am joined by my colleague, Ian
7 Vandewalker, who conducted much of the research that I'm
8 going to be talking about today. Much of today's testimony
9 so far has focused on the criminal scandals that have
10 enveloped Albany, and I really don't have too much to add to
11 the distinguished speakers have already said on that score.
12 Obviously, there is a lot to do.

13 The Brennan Center has long argued for an independent
14 board to administer and enforce campaign finance laws and
15 vesting the Attorney General and the district attorneys with
16 the powers to independently investigate and prosecute
17 violations. Punishment of illegal activity is obviously a
18 necessary part of preventing future crime, but as US
19 Attorney Loretta Lynch correctly notes, we cannot prosecute
20 our way out of a culture of corruption.

21 Often what is most scandalous in Albany is what is
22 legal, and simply put, money drives policy in Albany. We
23 need a political system that works for the voters and not
24 for dollars, and until that problem is solved, the culture
25 of corruption, I believe, in Albany will continue. Even

1 when there is no quid pro quo bribe, moneyed special
2 interests dominate our political system in a way that the
3 public views as corrupt. Whether it's jobs at state
4 agencies, retroactive tax breaks or earmarks for big
5 contributors, there is often overwhelming evidence that
6 politicians' need for campaign cash is the key factor for
7 governmental decisions.

8 Voters who can't donate thousands of dollars have
9 little influence over who becomes a candidate, over who gets
10 elected and over what's on Albany's agenda. This inability
11 to meaningfully participate in the system breeds both
12 disaffection and cynicism.

13 Today I'm going to talk about another example that
14 has received somewhat less attention about how our system's
15 broken campaign finance laws have worked policy outcomes in
16 perfectly legal ways. And by comprehensive campaign finance
17 reform of the kind that Councilman Ulrich just discussed is
18 the single most important step we can take to address
19 it. The Brennan Center has identified 14 separate tax
20 credits that have been repeatedly extended over the last
21 several years, and this is detailed more fully in my written
22 testimony that I submitted. Perhaps not surprisingly, all
23 of them, all 14 have been provided to industries that are
24 huge sources of campaign cash in New York State; financial
25 services, gambling, film production, energy and real estate.

1 To be clear, the Brennan Center takes no position on
2 the validity of these tax credits. They may serve, each and
3 every one of them serve a perfectly good public purpose, but
4 if they do, the legislature should make them permanent.
5 Instead, we appear to have, what Rebecca Kysar of Brooklyn
6 Law School has called, the practice effort, makes it easier
7 for politicians to extract campaign contributions from the
8 parties effected by the threatened tax breaks. The repeated
9 sunsets and reauthorizations appear to be more a
10 legislator's need for big donors than about policy. In most
11 cases, the big donors effected by these tax breaks
12 consistently give contributions to both political parties,
13 including just before and just after the tax breaks have
14 been extended.

15 So of course, there are policy justifications, of
16 course making some tax breaks temporary. Like in the case
17 of natural disaster where the government wants to encourage
18 construction during that period of time in an area to test
19 whether a provision works, as it is meant to, before making
20 it permanent. And of course sometimes some provisions are
21 put into the budget to make it seem like they cost less
22 money. That's not a compelling policy justification, but
23 it's a political reality.

24 All of these justifications fall by the wayside,
25 though, when you have a situation, as we have in the 14 that

1 we have identified, where they appear sunsetted over and
2 over and they are reauthorized over and over and over. And
3 I want to say, this is more than just a conflict of interest
4 for politicians, even when the tax breaks are fully
5 justified, repeated sunsets and reauthorizations harm our
6 economy. Experts have noted that while these kinds of
7 sunsets may help incumbents extract more contributions, they
8 make it more difficult for business to plan and they make it
9 less likely for business to invest. This helps explain why
10 prominent business community leaders, such as the Committee
11 For Economic Development, such as members of New York
12 Leadership For Accountable Government have endorsed a small
13 donor public financing system and public campaign finance
14 reform.

15 This is also surely part of the reason why 78 percent
16 of New Yorkers believe that, quote, "reforming New York's
17 campaign finance laws is key to cleaning up Albany, rooting
18 out corruption and improving the work of state government."
19 It helps explain why the Brennan Center, all of the state's
20 major good government groups and editorial boards from
21 around the state have already said the single most important
22 thing that we can do to suspend the corruption in Albany is
23 to make sure that we have comprehensive campaign finance
24 reform.

25 As has already been mentioned, New York City embraced

1 this reform in 1989 after widespread corruption scandals. I
2 just want to point out a few things to add to Councilman
3 Ulrich's testimony. Since its passage, New York City
4 elections have had a far greater number and diversity of
5 contributors to candidates than state contests, and
6 moreover, and very importantly for what I am talking about,
7 special interests play a much smaller role in political
8 giving. In 2012, nearly 70 percent of contributions in
9 state legislative races came from special interests, not
10 from individuals but from special interests. By contrast,
11 in 2013, in New York City candidates received less than
12 seven percent of their contributions from special interests.
13 Over 90 percent were from individuals. So it's 70 percent
14 for seven percent. That certainly makes a difference.

15 Since the enactment of public financing, New York
16 City has not seen another corruption crisis even remotely
17 resembling what we experienced in the 1980's, and of course
18 as, excuse me, Council Member Ulrich has said, any system is
19 still vulnerable to bad actors, New York City is no
20 exception, but the City's reforms have succeeded in making
21 the elections more competitive and allowing candidates to
22 spend a lot more time campaigning as opposed to fund-raising
23 and greatly increasing the influence of small donors.

24 We had a number of speakers talk about how recent
25 scandals have shaken the public's faith in state government,

1 and I am sure you all share my concern that we need to be
2 wary of stoking that cynicism. Comprehensive change to our
3 campaign finance system, starting with small donor
4 financing, is a way to combat that cynicism, and it is the
5 systematic change that we need in our system to combat the
6 culture of corruption. The Brennan Center respectfully
7 urges this Commission to make sure that a focus of your
8 investigations over the next few months, and your
9 recommendations in December, is comprehensive campaign
10 finance reform. Thank you for your time and attention, and
11 Ian and I are happy to answer questions.

12 MR. FITZPATRICK: Thank you very much, and I want
13 to thank the Brennan Center. You have been very, very
14 responsive to us in the two months that we have been in
15 existence. Can I just start the questioning by asking you,
16 do you have a solution to Councilman Ulrich's criticism
17 regarding comparing the pizza shop owner who likes him
18 because he does a great job for the neighborhood as opposed
19 to Walmart - I don't mean to pick on Walmart, just the
20 monolithic monstrosity that wants to tear down six buildings
21 to put up a super store.

22 MR. NORDEN: Ian, you should feel free to jump in
23 with any additional thoughts, but I'm not exactly sure what
24 the problem has been with the campaign finance board and the
25 pizza shop owner. I would say that we have made a series of

1 recommendations, which we have shared with the Commission.
2 One of them is not to ban corporate giving outright. I
3 think the key thing is to make sure that corporations can't
4 form, and this is a big problem in New York State, LLC after
5 LLC after LLC so that there really is no limit. I think
6 more broadly, I would make the point that I think the
7 campaign finance board is an excellent example of a body
8 that is nonpartisan and that works effectively. I do think
9 that if I have any criticism of them, it's that a lot of
10 candidates seem to feel that they could be more of a more
11 customer service oriented. And I do think that that's
12 important, that the job of whatever independent unit might
13 be set up in New York State would be not just make sure that
14 all the rules are followed but also to make it easy as
15 possible for candidates and givers candidates to follow
16 those rules.

17 MR. FITZPATRICK: Any questions? Kate?

18 MS. HOGAN: I want to make sure I understand what
19 you said. I believe you said that 70 percent of funding of
20 the state came from special interests; is that correct?

21 MR. NORDEN: That's right. From legislative - in
22 legislative races, yes.

23 MS. HOGAN: Would you define what you mean as
24 special interests, because it goes to Fitz's comment, is the
25 pizzeria owner considered a special interest because he's a

1 corporation?

2 MR. NORDEN: This is a definition from the finance
3 campaign board, so I am happy to provide you with the source
4 of that. My recollection, and Ian, correct me if I'm wrong,
5 is that it was unions, corporations and tax, I believe, were
6 the three categories.

7 MR. VANDEWALKER: Right, right.

8 MS. HOGAN: So the pizzeria owner would be a
9 special interest.

10 MR. NORDEN: Not if he contributed as an
11 individual, but he might be if he contributed as, you know,
12 Joe Smith Pizzeria Company. If you look at the numbers and
13 the breakdown of the contributions in New York State,
14 they're not coming from Joe Smith's Pizzeria Company in a
15 \$2,000 check. They're coming in \$50,000 checks from big
16 corporations, from real estate interests, from financial
17 services interests, from all the ones I listed, and often
18 with many LLC's behind them.

19 MS. HOGAN: But if we wanted to, we can ferret out
20 the pizza owner -

21 MR. NORDEN: Yeah. I see no reason why you
22 couldn't.

23 MR. FITZPATRICK: Anyone else? Derek?

24 MR. CHAMPAGNE: Larry, it's my understanding that
25 most of the New York City reform was essentially started by

1 a lawsuit, and I'm wondering, has there been any research or
2 look at whether a similar type lawsuit could be brought on a
3 statewide level to essentially force some of the reforms
4 that you propose and spoke about?

5 MR. ZIMROTH: I will just jump in and say that the
6 New York City law was not started by a lawsuit. It was
7 started because of the corruption scandals. I mean, that's
8 what happened in fact. It had nothing to do with any
9 lawsuit.

10 MR. NORDEN: And that is my recollection as well.
11 Peter obviously knows better than I do on that point. And I
12 should say, I haven't thought of any way that the changes
13 that I - and again, in my written testimony it's more much
14 more detailed in terms of what we're looking to see happen,
15 could happen to us, it's got to happen through pressure on
16 the legislature.

17 MR. FITZPATRICK: Peter, you have got to forgive
18 Derek. He doesn't shop at Walmart but he eats a hell of a
19 lot of pizza. Anybody else? All right. Larry, Ian, thank
20 you. Thank you very much.

21 MS. CALCATERRA: This begins the portion of our
22 hearing where the public has the ability to come on up and
23 testify. We do know that we were filled to capacity before
24 and there is a fire code issue, so as the seats are being
25 vacated, we have asked our staff here to also work to try

1 and bring in others outside that are interested in coming
2 in. But what we wanted to do is we have a series of public
3 hearings that are coming up. This is the first one. We
4 have another one in Albany next Tuesday evening, we have one
5 back in New York City on October 29th at the Lighthouse, and
6 we are also looking to set one up in Buffalo as well for the
7 latter part of October or early November, and we want to do
8 our best to accommodate those who are interested in
9 testifying. However, it's important and we want to make
10 sure that folks testify based upon what's in our executive
11 order, and we have put in our press release that, when we
12 announced the public hearings, that we wanted folks to
13 testify on the campaign finance laws, which some are being
14 tonight but some of them will be done next week, on October
15 29th. The same thing with the electoral process, and of
16 course the advocacy of state laws, regulations and
17 procedures involving unethical and unlawful misconduct by
18 public officials.

19 So what we wanted to do to make sure that we are
20 getting pointed testimony that's relevant to the executive
21 order, we had asked those from the public to sign up on our
22 website and they had to sign up by noon yesterday to make
23 sure we could review their testimony to see it was on point.
24 And also we asked they be submitted yesterday by noon, and
25 we do have speakers here that fell into that category and we

1 do have some others that came in from the outside as well.
2 So what I want to do is call up the speakers who asked or
3 complied with what we were asking for to have an organized
4 hearing, and we want to make sure we give everyone an
5 opportunity to be heard. In that fashion, we ask the public
6 speakers to limit their testimony to three minutes. If
7 their testimony goes over three minutes, obviously we
8 received a lot of written testimony that can expand the
9 three minutes, it's already on the record and it will be
10 given to the transcriber to be put in the record as well.

11 But the first speaker I wanted to call up to start
12 this is Dick Dadey from Citizens Union. And then after Dick
13 speaks, what I'm going to do is say who the next set of
14 speakers are so you can be prepared to come up, so we have
15 you on deck after that. The Sharp family, I believe there
16 are three Sharp's, Cie Sharp, Linda Sharp and Michael Sharp,
17 please be prepared to come on up. Thank you so much.

18 MR. DADEY: Thank you. Co-chairs Fitzpatrick and
19 Williams and Rice and other members of the Moreland
20 Commission, my name is Dick Dadey. I am the executive
21 director of Citizens Union, a nonpartisan good government's
22 group dedicated to making democracy work for all New
23 Yorkers. Citizens Union welcomes the creation of the
24 Moreland Commission, and we have long worked on the very
25 issued being examined by the Commission. We are pleased to

1 have already met with your staff to discuss what we believe
2 are the issues and matters that the Commission should
3 examine.

4 As far as today's hearing, we would like to focus us
5 our attention this evening on issues related to corruption
6 and bribery. In 2009 and 2011 we released foundation
7 reports on the turnover in the state legislation, which
8 found that many legislators are more likely to leave office
9 due to ethical and criminal issues than die in office or be
10 evicted out of their seat. In total, since 1999, 22 state
11 legislators, and we are just talking state legislators, had
12 left office due to criminal or ethical issues, some of whom
13 include Castro and Lopez. Given the other complaints
14 against four other legislators, we could see as many as 26
15 legislators depart over the past seven years.

16 The testimony about recidivism shows that not only is
17 there a culture of corruption in Albany but there is a crime
18 wave of corruption and that it is increasing over the last
19 12 years. In looking at measures to stem this crime wave of
20 public corruption, Citizens Union supports many of the
21 initiatives put forth by Governor Cuomo in his public trust
22 act proposal, and we have a couple of discussions that we
23 want you to examine as you consider them. In terms of the
24 bribery provisions, the legislation as drafted would change
25 the statute to no longer require proof in agreement or

1 understanding between parties in order to bring bribery
2 charges, instead changing the standard to intent to
3 influence in whole or in part the public servants, both the
4 judgment, action, decision or exercise. The Governor's
5 memorandum states that this is intended to align state law
6 along with federal law in this area.

7 We would like to make a couple of recommendations
8 about bringing clarity to that. Even though the federal law
9 provides a clear definition of official duties, the current
10 state definition should better align with the federal law.
11 Under the current bribery statute, the actions which are
12 covered include an opinion, judgment, action or decision.
13 Bribery does not appear to be an official act as is the case
14 under federal law. Under current state law the prosecutor
15 has to show an agreement which counterbalanced this broader
16 definition.

17 While Citizens Union supports lessening the standard
18 to not requiring proof of benefit, it could potentially
19 cover a public official's thinking. For example, forming an
20 opinion, which is not necessarily an official act. An
21 example of a criminal defense, is the person is invited to a
22 conference, invited to attend to and the members of the
23 group holding the conference expresses an opinion which the
24 legislator remarks. The group member intended to change the
25 slate legislator's opinion, but the legislator has not made

1 an official act. The specificity the way the current state
2 definition could be improved to more clearly testify what
3 constitutes an official act.

4 Mindful of my time, there are a couple of other
5 recommendations we made that we hope you will consider.
6 Thank you very much.

7 MS. CALCATERRA: Thank you very much. And just
8 like Mr. Dadey, if there are others that are taking
9 advantage of the opportunity that we have multiple hearings
10 and we anticipate hearing from him next week as well. Next
11 up - is the Sharp family here?

12 SPEAKER: Could you read the list please?

13 MS. CALCATERRA: Well, we have Cie Sharp, Linda
14 Sharp and Michael Sharp.

15 SPEAKER: No. Could you read the rest of the list
16 so it's not a surprise for us?

17 MS. CALCATERRA: I will give you two warnings after
18 that -

19 SPEAKER: Could you give us the whole list?

20 MS. CALCATERRA: No. I will give you two more
21 names after that so you can get on deck and hold. If you
22 are in here, that means you are on the list and you will be
23 able to speak. So it's the Sharp's, and then after that is
24 going to be Janice Schacter and Karlene Gordon. Thank you.

25 MR. SHARP: Thank you very much for having us here

1 today. I really appreciate this Commission being the state
2 of existence because it's very sorely needed. I'm here
3 today because my property and sole source of income was
4 taken without my consent. To this day, I have not been paid
5 a penny. This occurred through acts of criminality and
6 enabled by public corruption with consent of New York. For
7 this theft, I provided quality housing to low income
8 tenants, including some subsidized by the ill advantage
9 program. With the closure of that subsidy, it became very
10 difficult to meet our costs. Our problems magnified when
11 the investor hiding behind a shell corporation sued me
12 regarding an alleged sales contract in which no owner of my
13 property signed.

14 When they sued me, they took out a restraining order,
15 which severely interfered with my ability to do business and
16 even prevented me from refinancing my mortgage. The
17 investor also threatened my father stating he had friends in
18 the courts and would take the property. Some days before
19 the hearing, my father had a heart attack. I looked for the
20 best doctor. While this was going on, our attributed
21 attorneys, without our knowledge and consent, said they
22 agreed to hand over our property to our adversaries. My
23 attributed attorney made a sworn statement that he expected
24 to be compensated by my adversary. To bolster his claim
25 that my father consented to the alleged sale, my father's

1 attributed lawyer, who had fraudulently conveyed our
2 property months ago without my knowledge or consent,
3 produced two different copies of what was supposed to be one
4 affidavit. Latent forgeries. The three judges in our case,
5 Judge David Schmidt, Judge Carolyn Demarest and Judge Ann
6 Taddeo had all variations of this forged affidavit, even
7 though all variations had not been put in the court record.
8 Judge Demarest even showed one of the forged documents to my
9 father who has a documented severe learning disability
10 before having the bailiff take it away from him seconds
11 later before he could comprehend any of it.

12 To make matters worse, our adversaries trespassed on
13 our property, harassed our tenants and started rent strikes.
14 Our adversary's law firm also fraudulently represented both
15 my company and my father's former attributed attorney in US
16 bankruptcy court, a blatant act of bankruptcy court or RICO.
17 I did everything I could to report these fraudulent acts to
18 state and local authorities, including the NYPD, the Kings
19 County District Attorney, the New York State Attorney
20 Grievance Committee, the New York State Office of Attorney
21 General, and the New York State Commission on Judicial
22 Conduct. Nobody has stepped up. The only change was that
23 the judges and lawyers were less discreet covering up the
24 crimes being committed.

25 I contend that my adversary and his enablers have

1 found the perfect crime; pick a struggling small business,
2 start a frivolous lawsuit, buy off my attributed attorney,
3 utilize forgery, criminally trespassing and commit acts of
4 enterprise corruption to eliminate my ability to fight back.
5 Who knew that if you wanted to steal somebody's property and
6 business, you could trespass on their property and start
7 rent strikes without so much as admonishment from a
8 policeman or judge. Who knew that you could forge
9 affidavits without someone being admonished -

10 MS. CALCATERRA: Mr. Sharp, can you wrap up?

11 MR. SHARP: Yes.

12 MS. CALCATERRA: Thank you so much.

13 MR. SHARP: - and that US state supreme court judge
14 would look the other way. Judge Taddeo chose to utilize
15 these forgeries to justify taking my property. I think it's
16 far better for the New York State to admit to its residents
17 that they're unwilling and unable to protect them than
18 maintain these useless offices that I just mentioned, as it
19 is a deceptive facade of security and justice. Thank you.

20 SPEAKER: It's called having a license to steal.

21 SPEAKER: Yes, it is.

22 MS. CALCATERRA: Are there any other members of the
23 Sharp family that are going to testify?

24 MR. SHARP: Yes. My name is Michael Sharp. I came
25 into this country 40 something years ago and looking for

1 American dream. I work hard all my life, 40 something
2 years. My first first job was with the Department of
3 Justice. However, I changed career. I'm into Pan American
4 and I've worked as a doorman. I worked so hard to - I made
5 this building. Excuse me. I work hard and I make
6 everything happen, and finally, when I needed it the most,
7 at my age, after two heart attacks and being disabled, they
8 came and they took my property and I just can't understand
9 this. There's no justice in this country. I - I'm still -
10 I'm so upset.

11 MR. FITZPATRICK: Thank you, Mr. Sharp. Listen,
12 you've got to understand that it's a lot for us to absorb in
13 the context of this hearing, but I can promise you that
14 myself, and I know there's other people, that will take a
15 look - we have documentation from you about your struggles
16 and so forth and so on. I promise you we will take a look
17 at it.

18 MR. SHARP: Thank you.

19 MR. SHARP: Thank you, sir.

20 MS. CALCATERRA: Thank you. I just wanted to see
21 if any other members who are on the panel want to testify.
22 Thank you so much for your testimony this evening. It's
23 greatly appreciated. Janice Schacter is next. Thereafter
24 it will be Karlene Gordon, and then Frederick Little. Thank
25 you.

1 MS. SCHACTER: Good evening. My name is Janice
2 Schacter. Upon information and belief, 71 Thomas Street is
3 paid play. Orders are not enforced, laws are not applied,
4 and conflicts of interest are ignored. Deference and
5 preferential treatment are given to wealthy spouses and
6 lawyers of prestigious firms. Judge Laura Drager failed to
7 recognize a conflict of interest and appoints friends as
8 court neutrals. She permits comprehensive family services
9 to leave flyers in their courtroom. It is a money making
10 operation for key individuals. No one disclosed or recused
11 themselves of the following: Brian Felder represented my
12 husband. He hired Judge Laura Drager's law firm privately
13 shortly after the custody decision was issued. The clerk
14 reviewed our e-mails prior to trial. Neutral Collins
15 offered Judge Drager a speaking engagement after she
16 finished testifying. Her partner Fisherman and Drager
17 contributed to Feldman's book. The children's attorney
18 Greenberg contributed to Feldman's book. My husband
19 referred her clients. My friend Hanna Smith and my
20 husband's therapist Kuchov were part of it. Dr. Hyman, the
21 forensic psychiatrist, is evasive on his involvement.

22 My attorney Sloane was the law guardian in the case
23 involving false (inaudible). Sloane entered my house while
24 I was on vacation in Thailand to appraise it for Helock to
25 obtain her fees without my knowledge or consent. This alone

1 violates the SERR. Kuchov has at least three cases with our
2 appointed therapist Mauro, a key witness in the criminal ACD
3 against my husband. Feldman made notions about my husband's
4 fiancée without disclosing he represented her in the
5 divorce.

6 Orders are not enforced. My support is regularly not
7 paid by authorized deductions. Court orders for medical
8 bills are not paid. I have no hot water in my house. There
9 is people - laws are not applied. Judge Drager is
10 vindictive and threatening and uses children as pawns to
11 punish and strong-arm litigants. Orders of protection are
12 not enforced. My husband had criminal ACD from Cy Vance and
13 he still had decision-making for my children. Chapen, my
14 daughter's school, banned him from entering the school for
15 veiled threats and that didn't matter. My daughter is
16 terrorized. I was chest punched in a court hallway. I am
17 regularly called, and excuse my language, a cunt, but I am
18 called this horrific word in a courthouse and I am told that
19 is his right to freedom of speech.

20 And yet when I put it in the press, I am told I am
21 ruining his career and because she has no rights to a gag
22 order she threatens me with financial sanctions in the
23 equitable distribution and maintenance using backdoor
24 censorship. She terrorizes me. She placed me in handcuffs
25 three times. But one time she threatened to send me to

1 Riker's for 20 days. I am still having nightmares from the
2 thought of going to Riker's. I'm an attorney who is retired
3 and a mother. I've never done anything wrong to go to
4 Riker's. It is just incredible. I just don't understand.
5 I have a petition on change dot org. 233 people signed it.
6 More important is the consistency and the issues on the
7 comment section, we owe it to the public to restore
8 integrity for the (inaudible). This has been just horrific.
9 My story has been in the Post, Daily News. I e-mail
10 everyone regularly. The CJC filed 50 to 100 complaints.
11 Nothing has been done. The conflicts of interest are
12 completely ignored.

13 SPEAKER: CJC is what?

14 MS. SCHACTER: Sorry. The Commission for Judicial
15 Conduct.

16 MS. CALCATERRA: Thank you. We have the complete
17 file you have provided us, information on the report -

18 MS. SCHACTER: I am happy to provide any factual
19 backup for any of the statements I made, but I didn't want
20 to bring them.

21 MS. CALCATERRA: Thank you very much. But we do
22 have a substantial amount of it. Karlene Gordon, Frederick
23 Little and thereafter Nora Renzulli.

24 MS. GORDON: When I was separated from my husband,
25 Queens Assistant District Attorney, Stephen Dickson Gordon

1 in 1996, I believed that things were behind me, only to
2 discover that it had taken on a whole different form. He
3 filed for custody of our four year old son and received, in
4 1997, and received it 18 months later. He accused me of
5 medical neglect for taking our son to the emergency room six
6 times within an 18 month period. His petition was endorsed
7 and submitted in its entirety by Mutuka Mohammed of ACS and
8 Paul Sinolovsky, my son's law guardian. Paul Sinolovsky was
9 later convicted of selling custody of children to the higher
10 bidding parent or the more politically or legally connected
11 parent. It was obvious that Paul Sinolovsky committed the
12 same crime in my case, as he had done in supreme court. Yet
13 Brooklyn District Attorney's office declined to litigate my
14 claim, my case, claiming judicial or jurisdiction, that it
15 had no jurisdiction over it, family court.

16 I also brought to their attention that the Queens
17 District Attorney's Office provided my husband with an
18 attorney, Frank Henken. Frank Henken admitted on the record
19 that his - that Mr. Gordon's employer asked him to represent
20 Mr. Gordon pro bono while tried to explain why a
21 fraudulently obtained divorce was void. Mr. Henken claimed
22 he forgot to file the divorce because he was not a family
23 law attorney but a criminal attorney, and that he was able
24 to walk into supreme court, have Judge De Rosa, who was not
25 presiding on the case anymore, sign the divorce and filed

1 the decree. Totally fraudulent. However, nothing was done.

2 I complained to - I made several complaints to
3 everybody, the Committee on Judicial Misconduct, the
4 Civilian Complaint Review Board, the Attorney General,
5 everybody, and to no avail. I have had no contact with my
6 son for many years, and the few contacts that I did have, I
7 had to pay 150 and \$75 per hour to see him. Yet I'm
8 obligated to pay the majority of my monthly disability
9 income in child support, way over the 17 percent required by
10 law. Magistrate Elizabeth Chavez stated that she based my
11 court-ordered child support on my potential earning as a
12 teacher and my husband's stated expense.

13 MS. CALCATERRA: Ms. Gordon -

14 MS. GORDON: I see the time is -

15 MS. CALCATERRA: Thank you so much.

16 MS. GORDON: No, no, no. One second. I just
17 wanted to say that armed with the power and privilege of the
18 Queens District Attorney's Office, my ex-husband was able to
19 continue his history of abuse with total impunity, and part
20 of this was because of this title four federal funding that
21 is being totally abused by everybody that was related to my
22 case. I think that this Commission, in addition to what
23 you're doing, it is important that you take a look at the
24 title four federal funding and see how it has been used to
25 destroy families. Thank you.

1 MS. CALCATERRA: Thank you so much, Ms. Gordon. We
2 do have a long list of speakers. We will do our best to
3 stick to the time as well, and we certainly did get Ms.
4 Gordon's testimony, so I greatly appreciate that. Frederick
5 Little, and then thereafter we have Nora Renzulli and then
6 Elena Sassower. Mr. Little, thank you.

7 MR. LITTLE: My name is Rick Little and my family,
8 and especially my child, has been destroyed forever by the
9 so-called public servants of the Kings County Family Court
10 of Brooklyn, New York and the feminist run cottage
11 industries, public servants of this state, county,
12 municipality and court system. All the media and
13 politicians are supporting the term equality when honestly
14 they should be supporting the law from the US Constitution,
15 equal protection under the law. Equality is, in fact, a
16 feminist or progressive double speak where as the equal
17 protection under the law is the lawful requirement, what all
18 the public officers under New York State public officer's
19 law swear in writing and filed with the state to uphold the
20 New York State Constitution and the US Constitution.

21 They constantly defy these laws, especially in
22 divorce court, family court and domestic violence policy.
23 The public officers have utterly failed, disobeyed, denied
24 and acted against this oath in the public's best interest
25 and the public trust in defying this law in deference to

1 feminist religion or national organization for women
2 policies, Department of Justice policies in the personal,
3 private and state interest of securing tax payer paid
4 federal funds, such as the Violence Against Women Act, the
5 Office of Child Support Enforcement, Security Act Title for
6 D and E funds. It is an evil corrupt state child
7 trafficking industry played out in the judicial branch for
8 the state.

9 In New York State the agency term for families and
10 children has long been code for funding and services for
11 women and women only. Lately the media manipulation has
12 further confused the public by political positioning on gay
13 rights or LGBT rights, piggybacking on the feminist agenda
14 of civil rights for women. All of this tends to mask the
15 pervasive judicial corruption of the state sponsored child
16 abuse along with societal abuse and family destruction. The
17 New York State family courts do not even remotely resemble
18 any other judicial court of law. It is in fact an
19 administrative arm of the state government to criminally
20 racketeer into the state millions of federal dollars. It is
21 segregated generally in closed court and often manipulated
22 to be off the record.

23 Everything is fixed or prefixed to de-father children
24 after exhausting all financial resources of both parents.
25 The New York State court administration hired a radical

1 feminist not-profit law firm called Children's Law Center to
2 represent the party's children as the parents in the legal
3 custody controversy battle it out, and all the attorneys,
4 social workers and psychological -

5 MS. CALCATERRA: Mr. Little, can you work to wrap
6 up? Thank you.

7 MR. LITTLE: - that you should close down the New
8 York State family courts. They are unlawful.

9 MS. CALCATERRA: Mr. Little, you provided three
10 pages of testimony, which is going to be shared with the
11 commissioners. I know you didn't get a chance to read it
12 all, but you started to, so I greatly appreciate it. Thank
13 you.

14 MR. LITTLE: Thank you.

15 MS. CALCATERRA: Next up is Nora Renzulli, and
16 after that Elena Sassower and then Ellen Oxman. Thank you.

17 MS. RENZULLI: Honorable members of this
18 Commission, just as in the catholic church, hierarchy's
19 long-standing tolerance for sexual abuse of children by
20 priests, there is a broader scandal brewing in New York's
21 court systems, tolerance for legally sanctioned judicial
22 misconduct, when judges reward an aggressive and litigious
23 parent with custody and child support who then excludes the
24 other parent from relationship with the children. This was
25 the first sentence in a letter I wrote to the Honorable Anne

1 T. Fow, administrative justice of the unified court system,
2 on July 4th, 2003. It was written in response to the
3 anticorruption campaign trumpeted and allegedly conducted
4 after the Garrisen custody bribery case became public. I
5 was asking Judge Fow to conduct an investigation and make
6 findings into the more systematic extrinsic fraud on and
7 with the court which had taken place in my custody case in
8 1999 in Richmond County family court.

9 I had brought a writ of prohibition against family
10 court Judge Terence J. Mukolrov in 2000 for knowingly acting
11 without subject matter jurisdiction when he ignored child
12 custody and child support orders already in place and
13 conducted repeat initial custody and child support
14 proceedings with the opposite result. He placed my two
15 children with their father two states away at the beginning
16 of the school year before hearing a word of my case,
17 pretending that I did not have the right to be heard. After
18 ignoring the inconvenient orders of custody and child
19 support already in place, issued by the supreme court of
20 Richmond County three years before.

21 Lawful judicial power does not include committing
22 fraud on the court. It strips the court of jurisdiction and
23 makes the order annul. I'm glad I'm talking to all these
24 lawyers because you understand that that is truth, that is
25 fact, but it is not practiced in this state. The court

1 system referred the writ to Attorney General Eliot Spitzer.
2 He quickly dove in to represent this judge. This began the
3 cascading violations of the court system's and of the
4 Attorney General's duty to comply with the constitutional
5 safeguards and their respective roles in creating checks and
6 balances. I only have six seconds left. You have the rest
7 of my documentation. I have gone to the Commission on
8 Judicial Conduct twice, I have gone to Eliot Spitzer as
9 Attorney General in 2006, I testified before a Judge -
10 Senator Sampson's committee in 2009. Obviously misconduct
11 and malfeasance, open and shut. Obvious. I have the
12 documentation. No one has done anything. I'm asking for
13 this Commission to take it seriously and look at the
14 judicial misconduct that took place in my case. Void these
15 orders. Simple. Thank you.

16 MS. CALCATERRA: Thank you so much, Ms. Renzulli.
17 We do have additional documentation. Thank you. Next is
18 Elena Sassower. Thereafter, Ellen Oxman and then Leon
19 Koziol. And I apologize for the mispronunciation.

20 MS. SASSOWER: My name is Elena Sassower. I am
21 director and cofounder for the Center for Judicial
22 Accountability, a non-profit, nonpartisan citizen's
23 organization that documents corruption in the judiciary,
24 involving judicial selection, judicial discipline, the
25 judicial process itself. Cases are perfect paper trails.

1 There is a record. So it's easy to document judicial
2 corruption. Now, I have much to say and three minutes is
3 utterly inadequate, but I cannot present the testimony that
4 I have intended to present without protesting vigorously as
5 to what has taken place here with respect to this hearing.
6 I contacted the Commission to Investigate Public Corruption
7 on July 19th. That was just days after it had announced the
8 public hearings that were to begin today. And I spoke with
9 Bryce Jones, your administrative assistant, and I gave him a
10 tip and a comment. I said your announcement does not
11 indicate any RSVP. You are not requiring registration. How
12 is this going to work? I said in 2009 John Sampson, Senator
13 John Sampson, as chair of the senate judiciary committee,
14 held hearings on the judicial misconduct and the
15 disciplinary system, and there were so many people, they
16 couldn't be accommodated.

17 So let me tell you, if you are going to be holding
18 hearings on corruption, public corruption generally, take
19 this example, take this word for the wise, you need to have
20 a process, a procedure, an RSVP, a registration. I followed
21 it up in a correspondence. And I have to ask, because I
22 don't want to say nasty things that are not deserved, how
23 many of you commissioners are familiar with my August 5th
24 letter?

25 MR. FITZPATRICK: Are you asking for a show of

1 hands or if we've read it? I have read all of your
2 correspondence that you wrote.

3 MS. SASSOWER: Did you not feel it needed to be
4 responded to?

5 MR. FITZPATRICK: I don't want to debate with you.
6 I don't want you to waste your time -

7 MS. SASSOWER: Well, let me tell you what has
8 happened, because after 5:00 p.m. on September 5th, that is
9 about 11 days ago, you suddenly put on your website a
10 registration procedure, but there was no public announcement
11 of that. So there were many people who were aware of the
12 hearings who didn't know that they were going to have to
13 register. And then there was another problem, because there
14 was a - you didn't announce the registration procedure, but
15 there was a lack of clarity because you seemed to indicate
16 that registration was required by 12:00 noon yesterday, but
17 then there was a requirement of a written statement also by
18 12:00 noon. So the question was, was that a twofold
19 requirement, you had to have a written statement in addition
20 to the registration? And I sent an e-mail asking, well,
21 what does this mean? And there was no response. So what
22 has happened?

23 I will tell you what happened today, today you had -
24 I took names - I took maybe 40, 50 names of people outside,
25 and those were just the names that I could get, but there

1 were many, many people who came from very far away, who
2 traveled hours to be here just to have an opportunity to be
3 heard for three minutes, which is an obscenely small amount
4 of time. You didn't have to have a hearing with Preet
5 Bharara and Loretta Lynch and Cy Vance, who can call the
6 press at any opportunity. Nothing they said today you
7 didn't know. We all knew it. We all heard it. They took
8 our valuable time. They took away from those people who you
9 turned away.

10 And - and look at the size of this room. First of
11 all, it's too small, but even still, you could have put
12 twice the number of chairs here, but you didn't choose to.
13 You even called up people this morning, I don't know how
14 many - maybe a reasonable question is how many people
15 registered? And how many people did you call up this
16 morning and say to them no, they weren't going to be
17 permitted to testify, and sometimes the reason was that you
18 claim that their statements were not germane. In other
19 words, you used the statement to sensor -

20 MS. CALCATERRA: Ms. Sassower, actually we didn't
21 do that, and what we are doing - I understand your
22 criticisms. I really do. But I want to make sure that
23 everyone gets an opportunity to testify.

24 MS. SASSOWER: Well, I just want to say, this very
25 institution has an auditorium. You could have held this

1 hearing in the auditorium. You could have held it in an
2 Armory. This is Manhattan. You turned people away, not
3 even giving them an opportunity to sit and be part of
4 something so important. Now, just let me - just before - I
5 promised that I would recite their names, the people whose
6 names I took, but it would fill three minutes just to do
7 that.

8 But let me not leave before saying something further.
9 This Commission is supposed to restore, restore public
10 trust. It's right behind you. You have operated in such an
11 illegitimate fashion, behind closed doors. You have serious
12 and substantial correspondence about your procedures, your
13 rules, and you don't respond, and you put together a hearing
14 where there's hardly an opportunity to speak in three
15 minutes, but let me just say -

16 MS. CALCATERRA: Ms. Sassower, I'm sorry, but you
17 have spoken for seven and others want to speak too.

18 MS. SASSOWER: But I will not leave - I will travel
19 to Albany so I might have another three minutes. However,
20 before leaving, this is - okay. I respectfully submit and
21 ask each member of this Commission to read the
22 correspondence that was withheld from you by your executive
23 director, Regina Calcaterra, and by your three co-chairs,
24 because I think you need to know how they are operating.
25 And also, because, as I'm sure you know, most of you being

1 lawyers, that there are threshold issues relating to
2 conflicts of interest. You are presuming to judge others as
3 to conflicts of others. How are you -

4 MS. CALCATERRA: Ms. Sassower, other people want to
5 testify.

6 MS. SASSOWER: What are your rules? What are your
7 procedures? What is your protocol for conflicts of
8 interest? Now I will leave with you, this is the verified
9 complaints in the lawsuit against the state suing Governor
10 Cuomo and Attorney General Schneiderman, as the first named
11 defendants for corruption, for fraud, for grand larceny of
12 the public fips, involving tens and hundreds of millions of
13 dollars and ultimately billions with respect to the judicial
14 pay raises. This is part of a verified complaints that have
15 been filed with US Attorney Preet Bharara, with US Attorney
16 Loretta Lynch, with US Attorney Richard Hartunian -

17 MS. CALCATERRA: Ms. Sassower, actually, you have
18 almost 10 minutes -

19 MS. SASSOWER: - public ethics, with the Inspector
20 General, and I'm leaving out the last, well, actually there
21 are some that I have not included, District Attorney Soares.
22 District Attorney Soares -

23 MS. CALCATERRA: Ms. Sassower -

24 MR. FITZPATRICK: Ms. Sassower, we have extended
25 you 10 minutes, but I have no -

1 MS. SASSOWER: Let me just -

2 MR. FITZPATRICK: No. I do not need you to
3 conclude. You have been here for 10 minutes. All you have
4 talked about is process, and we have to get to our next
5 speaker.

6 MS. CALCATERRA: We have other speakers.

7 MS. SASSOWER: Process is most important, due
8 process.

9 MS. CALCATERRA: Ms. Sassower -

10 MS. SASSOWER: I cannot leave without saying -

11 MR. FITZPATRICK: Please step aside.

12 MS. SASSOWER: - there are many people coming out
13 of forward in the judiciary -

14 MR. FITZPATRICK: I am going to ask you for the
15 last time -

16 MS. SASSOWER: - judicial conduct of the State of
17 New York. That Commission -

18 MR. FITZPATRICK: I'm going to have to get security
19 to remove you, ma'am, if you don't give up your time.

20 MS. CALCATERRA: You have had 10 minutes.

21 MS. SASSOWER: - the lawsuit, the key lawsuit
22 against the Commissioner -

23 MS. CALCATERRA: Ms. Sassower, you are well over 10
24 minutes. Please. There are many other people who want to
25 speak. Please give them an opportunity to speak as well.

1 Ellen Oxman. And after that, Leon Koziol. Thank you so
2 much for your time this evening.

3 MS. SASSOWER: By Robert Rosenthal -

4 MS. CALCATERRA: Is Ellen Oxman available? Is
5 Ellen Oxman available? Great.

6 MS. SASSOWER: How are you dealing with conflicts
7 of interest and conflicts of interest involving the -

8 MS. CALCATERRA: Ma'am, you have already testified.
9 You have already utilized plenty of time. Thank you for
10 your testimony this evening. Is Ellen Oxman available? And
11 then after that, Leon Koziol.

12 MS. SASSOWER: Shame. Shame. This is corruption.
13 This is public corruption.

14 SPEAKER: Yes. You spent too much time for them.

15 SPEAKER: No. This is for them.

16 MS. CALCATERRA: Is Ellen Oxman available?

17 MS. SASSOWER: It's open and shut. Can be done in
18 a matter of minutes.

19 MS. CALCATERRA: Ms. Oxman. And then after, Leon
20 Koziol.

21 MS. OXMAN: Good evening. My name is Ellen Oxman.
22 I'm lucky that Thomson Reuters Foundation has been invested
23 in a group I founded, Women For Justice in New York Courts.
24 I will leave my cards here. I believe the topics that you
25 all wanted to hear was the unethical conduct by elected

1 public officials. They would be the judges of the courts of
2 this state. They are elected, and they do not serve any of
3 us. I am - unfortunately, this is me. I am a victim of
4 domestic violence at the hands of my husband, Craig Oxman,
5 managing director of aerospace accredited suites. I have
6 been to Cy Vance many times. I have been to everyone in
7 this state, everyone. I was divorced on fraudulent
8 documents by lawyers never admitted into my case, at times
9 where I was not present. I am the plaintiff. I have two
10 children, one is handicapped. They were young when I
11 started this. 10 years have gone by. Their lives have been
12 ruined, as has mine.

13 I must say that if you can be divorced - any
14 litigation, as we heard the first family, I forgot their
15 name -

16 MS. SHARP: Sharp.

17 MS. OXMAN: Sharp, thank you. If you can have
18 litigation in this state, in this country with a judge who
19 accepts forged documents, by lawyers who are not admitted
20 into the case, and you don't even know the litigation has
21 come to pass, then we don't have a democracy. We have no
22 democracy. You can't have public trust. You can't have it.
23 My brother-in-law, here's his memorandum to Bill Clinton
24 when he was the Secretary of State. It looks a little like
25 something's fishy here. If I get before Judge Sarah Lee

1 Evans and then suddenly I find myself divorced without my
2 knowledge, we're not talking a small amount of money, we're
3 talking a million dollars. Guess what? I didn't have it
4 because I am a musician and I married a lawyer, and a family
5 of lawyers. And my husband got two law firms, 10 lawyers.
6 This is wrong. This is wrong. There should be
7 accountability. And when you talk about pulling back money
8 from people like Sara Lee Evans, she shouldn't be on
9 anybody's list to get money from anyone in this state. I
10 don't care if her husband is Norman Siegel. I don't care
11 who the ACRU is. I care about citizen's rights, I care
12 about the constitution of this country, I care about truth
13 and justice.

14 SPEAKER: Which we don't have.

15 MS. OXMAN: And I ought to know because my father
16 testified against - he testified at the McCarthy hearings,
17 for those we believed to be innocent. He was the chief
18 civilian scientist who - I come from a long line of people
19 who stood up for this country. I expect more. I expect -
20 I'm leaving my cards here. I don't think the Oxman's should
21 be ruling the courts of this city or anywhere else. I think
22 the constitution of this state and this country should be
23 ruling. Thank you.

24 MS. CALCATERRA: Thank you so much, Ms. Oxman.
25 Next is Leon Koziol, and after that, Gloria Parker.

1 MR. KOZIOL: Good evening, members of the
2 Commission. I would like to deviate from my text just
3 slightly to commend all of you for what you are doing. This
4 really comes across to me, as a member of the audience, as a
5 dream team of people, of experts and so forth that are up
6 against a very, very difficult challenge, and I respectfully
7 would like to just suggest to you that you may have bit off
8 more than you can chew. But however, the fact that you are
9 doing this, I think, is to be applauded. And I, for one,
10 want to do that before I proceed with my tax.

11 And having practiced law for some 25 years, I think
12 some of what I might have to say here may be of interest to
13 some of you, who are members of the bench. My name is Leon
14 Koziol. I served as the director of the Parenting Rights
15 Institute. It's a private consortium committed to
16 systematic reforms in our nation's domestic relations
17 courts. I am a former school board attorney and chief
18 council for an upstate city two-term councilman. For 23
19 years I secured very large recoveries for victims of
20 government abuse and got a final judgment declaring the
21 largest casino operation in New York unconstitutional.

22 So I've handled some very difficult challenges, and
23 the one that I have most recently undertaken has been the
24 greatest of all, and that's what I'm here to present to you.
25 I am here today because of retributions that I sustained

1 after criticizing and reporting unethical judges and
2 unethical lawyers to proper authorities. Serious misconduct
3 committed on unsuspecting parents in matters of divorce,
4 custody and child support was the common theme. It included
5 exorbitant fees, protracted litigation, needless controversy
6 and money generating schemes that simply shocked the
7 conscience. The retaliation I sustained reads like a John
8 Grisham novel, and some of it can be found on our site at
9 Leon Koziol dot com. My public complaints and civil rights
10 forums were targeted and suppressed because government has
11 turned our children into a trillion dollar industry. Entire
12 families have been reduced to bankruptcy, productivity in
13 the private sector has been compromised, and our prisons
14 fill to capacity not for any criminal wrongdoing but because
15 of civil rights disputes inflamed in these courts.

16 Simply put, parents are being required under the
17 current scheme of laws to fight over their own offspring in
18 pursuit of awards that have little to do with the so-called
19 best interests of children. War veterans and public safety
20 officers, like the responders of 9/11, are coming home to a
21 court system which continued to feature institutional
22 discrimination against fathers. It is nice to know that our
23 Governor has given women 75 percent of the executive
24 composition on this Commission, but men remain 85 percent of
25 the child support population, according to Census reports.

1 It is a problem of ethic proportion, and we see the
2 consequences every day in our schools, streets and homes.

3 The files we have generated cannot be summarized
4 here, but I will provide you with pertinent news stories and
5 a series of complaints filed with Commission on Judicial
6 Conduct. All of them, over a period of years, have failed
7 to reach the investigative threshold, leading the common
8 citizen to logically conclude that such commissions are mere
9 window dressing, which does more to facilitate misconduct
10 than it does to rectify it.

11 MS. CALCATERRA: Mr. Koziol, can we work towards
12 wrapping up? Thank you.

13 MR. KOZIOL: It is one thing to ignore public
14 corruption, but quite another to target and punish the
15 whistleblower in violation of the federal and state
16 constitutions. How can a self governing people become
17 properly informed through qualified attorneys to maintain
18 accountability over their third branch of operations? To
19 bring this all down to earth, how can we stop the first
20 minority commissioner in Utica, New York from attempting
21 suicide in the city lockup after years of successful
22 litigation because I could no longer represent him?

23 Today is Constitution day, and I hope that our rights
24 do not incur further erosion through suppression, inaction,
25 fear or ignorance in the wake of Edward Snowden, the IRS

1 scandals and the Trayvon Martin case. If the public cannot
2 secure rational justice in our courts, where can this
3 Commission go with its findings? Violence and disobedience
4 are the natural byproducts. It is our duty under that same
5 constitution to demand accountability. This may require a
6 lecture about democracy and equality from the President, but
7 I understand that Vladimir Putin is not one of your
8 speakers. Thank you very much.

9 MS. CALCATERRA: Thank you very much, and we do
10 have the remainder of your testimony here as well.

11 MR. KOZIOL: I have a compilation, if I can leave
12 them with you.

13 MS. CALCATERRA: Please do. Gloria Parker, but I
14 believe she may not be here. So I am offering up her name
15 one more time, and if not, I misspoke. Our next speaker
16 will be Zephyr Teachout, and then after that Cynthia Nebel,
17 and after that, Michael Krichevsky.

18 MS. TEACHOUT: Co-chairs Fitzpatrick, Williams and
19 Rice. I'm going to rest mostly on my written testimony, as
20 you all have spent a long evening, and I really appreciate
21 all the work you have done. I am a law professor at
22 Fordham, and as I suggest in my testimony, I am happy to
23 followup with other briefings with staff, to suggest a way
24 of just looking at history of anticorruption laws.
25 Basically I suggest they fall into two categories; one is a

1 prophylactic culture changing kind of anticorruption law,
2 and the other kind is the kind you heard about in the
3 initial testimony today, that many of you have been involved
4 in prosecuting, laws that involve investigating the motives
5 of individual actors. For the most part, those bribery laws
6 that focus on investigating individual motives can work, but
7 in terms of extraordinary crisis, I suggest it may require
8 some of these culture changing laws.

9 New York really took the lead in this, with the
10 Australian ballots, in one of the first states to adopt the
11 Australian ballots in response to concerns about riding
12 voters in the late 19th century. It also took the lead in,
13 well, had a mixed record on civil service reform, and I
14 suggest that civil service reform is an interesting example.
15 However good the prosecutions were, the Boss Tweed died in
16 prison, Tammany Hall persisted until the structure changed.
17 So in short, I support all the work you are doing. I think
18 what the work you are doing is the work of democracy, thank
19 you, and supports the testimony of the Brennan Center and
20 Council Member Ulrich earlier, that supports a radical
21 structural change that moves away from the bribery focus and
22 moves towards the public financing system. Thank you.

23 MR. FITZPATRICK: Professor, thank you very much.

24 MS. CALCATERRA: Our next speaker is Cynthia Nebel,
25 and then after that, Michael Krichevsky, and then after that

1 it's going to be a dual, two people, who are from Americans
2 for Legal Reform, Dale Javino and Carl Lanzisera.

3 MS. NEBEL: Good evening Chairwoman Rice, Chairman
4 Fitzpatrick, Chairman Williams and distinguished members. I
5 am Cynthia Nebel. In 2005 a New York Times expose revealed
6 that regulators were turning a blind eye to reports of
7 rampant fraud, waste and abuse in New York's Medicaid
8 program. The Times found that audits of Medicaid providers
9 were being shelved. As a result of the Times article, New
10 York created the Office of the Medicaid Inspector General,
11 also known as OMIG. In April of 2007, James G. Sheehan, an
12 Associate US Attorney who specialized in healthcare fraud
13 prosecution, was appointed to become New York's first
14 Medicaid Inspector General. James Sheehan began auditing
15 providers.

16 As New York's Medicaid Inspector General, James
17 Sheehan, was tremendously successful, in four years he
18 recovered more than 1.5 billion dollars in improper
19 payments. Then in June 2011 Governor Cuomo fired James
20 Sheehan. Governor Cuomo never said why he fired James
21 Sheehan. According to the Times Union, today at OMIG new
22 audits are rare and investigations are stalled. Ed Koch,
23 the republican party chairman, stated, quote, "if Cuomo
24 means what he says about reforming Medicaid, he made a
25 serious mistake by replacing a junkyard dog Inspector

1 General with a pet poodle," unquote. One of the greatest
2 weaknesses of New York's campaign finance system is the
3 loophole that allows a donor to give unlimited campaign
4 contributions to a party's housekeeping accounts. Two of
5 the largest contributors -

6 MS. CALCATERRA: Ms. Nebel, move to wrap up. Thank
7 you.

8 MS. NEBEL: I just have half a page more. I will.
9 The housekeeping accounts. The Greater New York Hospital
10 Association Management Corporation, a for-profit subsidiary
11 of the New York Greater Hospital Association and the
12 Healthcare Association of New York State, from 2006 to July
13 of 2013, the Greater New York and HANYS gave more than 3.5
14 million and more than 1.1 million respectively. In giving
15 these donations, they get a tremendous voice with elected
16 officials. They get access. The Greater New York Hospital
17 Association made false conceptive statements and they told
18 elected officials -

19 MS. CALCATERRA: Ms. Nebel, can you wrap up?
20 Because we have your testimony here too.

21 MS. NEBEL: Okay. They told elected officials that
22 look, James Sheehan is recovering money from mistakes and
23 errors, but they withheld material information from elected
24 officials. They withheld, I believe -

25 MS. CALCATERRA: Ms. Nebel, we have your testimony.

1 We gave you two and a half minutes over the three minutes.
2 I just want to make sure we give others the opportunity to
3 speak as well. Thank you so very much. Really appreciate
4 it.

5 MS. NEBEL: I e-mailed Kathleen Rice my August 1st
6 letter, the 10 page letter. Does have everybody have it?

7 MS. RICE: Yes.

8 MS. NEBEL: Thank you.

9 MS. CALCATERRA: Up next is Michael Krichevsky. We
10 want to do our best to get to everyone we have on our list
11 who is going to be speaking tonight. So next on our list is
12 Michael Krichevsky. So we are asking that also, let's do
13 our best to see if we can wrap up testimony as soon as we
14 can. Michael Krichevsky, and then afterwards, Americans for
15 Legal Reform, Dale Javino with Carl Lanzisera. Thank you.

16 MR. KRICHEVSKY: I'm here for judicial tyranny and
17 corruption in Kings County Family Court. It operates as
18 nothing more than a huge scam fraud racket used to break the
19 public and control its victims. Women and children, but
20 mostly men, through profitable title four federal funding.
21 In 2008 I was paralegal, raising my son with good paying job
22 and I was driven to by price hunting lawyer (inaudible). I
23 have evidence that he coached my ex-girlfriend Elena Swenson
24 on how to extort money from me, and when extortion failed,
25 how to file false family petition and ask for order of

1 protection. I escape arrest by police standard operating
2 procedure by abandon my apartment and becoming homeless. I
3 paid \$5,000 to attorney to defend me in family court on
4 order of protection hearing. I testified that Swenson was
5 doing everything to provoke the violence on my part after
6 she obtained said order of protection. I testified that she
7 brought my son at my work and demanded that my employer fire
8 me. He immediately left and my testimony and lawyer
9 withdraw the family offense petition.

10 During the child support hearings Officer John Salong
11 and second price standing lawyer conspired to hear this
12 discovery acted in concert again unsuspecting me as con man.
13 When I run out of money, I defended myself pro se. The
14 final hearing was conducted without notice and me present at
15 star chamber court. I was ordered to pay more child support
16 than I was earning or more than I had available in cash.

17 (Inaudible) to the injury was never mailed to me, and when I
18 learned about it and appealed it, it was too late because I
19 filed it late and this appeal was based on subjugated proof
20 of mailing of the order. This final order put me in a
21 deadbeat father registry, forcing my employer to raise my
22 pay, garnish it and pay to the child support registry.

23 To end this continuous harassment, my employer fired
24 me. I immediately asked for a new trial and when the
25 modification of the amount to the fact that I was receiving

1 unemployment insurance, the lawyer filed petition to punish
2 me for contempt of court order which I allegedly willfully
3 violated and suggested to seek my incarceration. As a
4 result of this egregious violation of due process, I suffer
5 due to stress. I became disabled but continued legal fight
6 for my life. And after going through several revolving
7 doors and the court finally updating order, Supervising
8 Judge Paula Hevner that set aside final order of child
9 support. She ordered Salong as conditioned imprisonment for
10 a new trial to issue new order to my motion that he refused
11 to read. Hearing Officer Joe Salong, in contempt, refused
12 to comply without judge's order, started new present and
13 restored this order back. I have been to Inspector General,
14 Commission for Judicial Conduct. It's all revolving doors.
15 No one contacted me. No one suggested, nothing happened.
16 So five years I am fighting not to go to jail because they
17 tried to put me in jail for profit. City is collecting
18 136,000 a year for the prisoner. It's a good business.

19 Who needs tax payer like me, with my 10 thousand
20 dollar payment to state when they can collect, put me in
21 jail and collect \$136,000 a year. That's the business.
22 Thank you.

23 MR. FITZPATRICK: Thank you so much.

24 MS. CALCATERRA: Thank you. Next on the registry
25 is, I believe it's Dale Javino and Carl Lanzisera.

1 MR. JAVINO: My name is Dale Javino. Thank you for
2 letting me be here. This is incredible. I got a lot of big
3 profile people here. I'm very nervous. This is Carl
4 Lanzisera. He's the president of Americans for Legal
5 Reform, and I am just a board member and a member. Carl,
6 would you like to speak first?

7 MR. LANZISERA: I have been doing this for 20
8 years, more than 20 years on a volunteer basis. I spoke
9 before the Greco Commission, and up to 2009, the Sampson
10 hearings. And I'm sorry to hear Mr. Sampson is in trouble,
11 but the hearings were well worthwhile and should be picked
12 up and investigated. To have little fanfare, we have
13 recommended several things to the court that I believe would
14 help. I see many times egregious perjury going unpunished,
15 and the excuse by the District Attorney's Office is you
16 can't stop people from lying. But the old saying is if
17 there's 10 birds on the fence and you shoot one of them, how
18 many are left. It wastes a great deal of time. Our second
19 recommendation is, this is the year 2013, there's no reason
20 the next first day in court you shouldn't be able to push a
21 button and get electronic printouts of all the stock
22 statements, the bank statements, the financial statements of
23 most people. Instead it takes years of litigation of
24 discovery and nothing is ever accurate.

25 I believe that the laws that are in effect are

1 efficient the way they are, but one of the laws is judicial
2 discretion. Judges are appointed or selected or voted in,
3 and many of them have a lower standard than a Home Depot
4 employee. A policeman has to take a psychological
5 examination, a Home Depot employee has to take a urinalysis,
6 and we don't do it for our judges who take our children from
7 us.

8 SPEAKER: They should all go for psychological
9 evaluation before they get appointed or elected.

10 MR. LANZISERA: Psychological testing of the
11 judges, I believe, should be mandatory.

12 MR. JAVINO: We got 33 seconds left or do I get
13 three minutes?

14 MS. CALCATERRA: You have three minutes. Again, I
15 will give you his 33 seconds and then give you three
16 minutes.

17 MR. JAVINO: This is a great thing, tonight, it
18 really is and I'm really impressed. I mean, I'm with the
19 Americans for Legal Reform people and I speak every once in
20 a while, but like I tell people, I can't practice law
21 because I am not a lawyer, but I do all kinds of other stuff
22 to try to help. But when I needed help, I have nowhere to
23 go. And I'll tell you something right now, I've been
24 cheated out of like a million bucks. So today I'm here to
25 voice a serious unfair matter that has happened to myself

1 under the family bankruptcy courts. I don't have the power
2 or political contacts to investigate the matter properly
3 myself, but this office does. And it scares me that, though
4 the Governor's office is very powerful, it's my belief that
5 the corruption I face is much more powerful. And basically
6 it has to do with this setting tonight because there has to
7 be payoffs and all kinds of things going on, because some of
8 the things that happened to me just don't make sense, like
9 unconstitutional orders by the court. Just, you know,
10 anyway, three days before Hurricane Sandy I filed for court
11 bankruptcy. If I knew what was to come, I would have run,
12 and now I've been cheated out of my retirement, life-savings
13 in an amount of over a million dollars. Anyway - and
14 notwithstanding, my livelihood. Trusting Marc A. Pergamen,
15 I'm sure people here know him, and trust me I know I'm going
16 to get body slammed by speaking here tonight but so be it, I
17 am a big guy, I can handle it. Judge (inaudible) highest
18 honor about unconstitutional orders and corruption. I will
19 list a few issues that have been perpetrated upon myself to
20 make it quick.

21 US marshals forced myself to show up and comply with
22 an unconstitutional order. Any attorney I hired was
23 threatened with sanctions and contempt of court for
24 violation and interfering with the administration of the
25 bankruptcy by the trustee, that they would not want to

1 involve themselves in this case. So I went without counsel
2 for seven months. I would call attorneys, they would run
3 the docket number and they would say I don't have to tell
4 you why I won't take the case. I'm on my own, writing legal
5 briefs and writing - because I'm home writing all these
6 things, it's ruining my life, and now I lost all my money.
7 Anyway, threats of being sanctioned \$500 a day. (Inaudible)
8 a lawyer \$100 a day. Why \$500 a day to me? For defending
9 my constitutional rights, due process of law? What happened
10 to me is like what happened to Nazi Germany back in World
11 War II. Property stolen by a corrupt trustee, generated
12 over \$100,000 in legal fees and many other charges to the
13 state and left me bankrupt. I didn't have to file a
14 bankruptcy anyway, with a defective bankruptcy. The
15 bankruptcy was defective of the buyer who resold the
16 property. I lost 800 thousand in equity. My personal
17 property was stolen by the contract people off the street.
18 Police were directed by the trustee that I was not allowed
19 to take my property by court order on the street. When the
20 sheriff puts you out, guess what, I lost \$200,000 in
21 personal property. It was like a nightmare. I couldn't
22 believe it. It was all about money, obviously, right. My
23 purchaser of the property tried to file under bankruptcy
24 rule 2004, it's called, okay. He disappeared. And the
25 testimony was destroyed. Unheard of, and no transcript of

1 that day is available. It was a ploy by the trustee to
2 scare the buyer away. The 341 meeting, done by myself,
3 seven months later was told to change the language of the
4 proceeding, the transcripts are missing, major elements of
5 the proceeding. When questioned, he had no control over the
6 tape-recording when, in fact, it is his recorder. The
7 trustee threatened me. I can commence 1983 in Brooklyn
8 federal court. I'm from Center Moriches. I'm supposed to
9 be in Central Islip. It's to deter me from fighting civil
10 rights acts or whatever. I am a problem, I guess, whatever.
11 Intimidate me, bombarded me with papers. I did a motion and
12 then I did an opposition or whatever, he did a reply, 50
13 pages. I got 250 pages. I forgot what it's called -

14 MS. CALCATERRA: Mr. Javino, will you work to wrap
15 up please?

16 MR. LANZISERA: I would just like to add, I'm only
17 a court observer. In the years of doing this, a woman came
18 in to us who was a divorce. Her husband, a trustee, had
19 over \$1 million in cash in a safe deposit box. I don't know
20 how much you -

21 MR. JAVDAN: She's outside right now. They won't
22 let her in.

23 MR. LANZISERA: Folks keep a safe deposit box.
24 It's to buy the very property that is auctioned off in
25 bankruptcy court. I know that's federal, but I've never

1 seen a trustee that's trustworthy.

2 MR. JAVINO: I know there is a lot of people - I'm
3 just a regular shmuck out there paying taxes, trying to send
4 my kids to college, and I just got wiped out, you know,
5 200,000. I got nothing and I am being sanctioned 37,000
6 bucks right now I'm fighting. All that I ask is this panel
7 investigate the - there's two on the documents I gave you
8 guys, the docket sheets, numbers. There's something wrong.
9 Any retarded person can see that. Just the thought of
10 knowing that this trustee and law firm exists and is allowed
11 to continue to exist for the other poor unfortunates who
12 come up behind me, with the possible corruption from the
13 court itself, because I want to do a civil RICO - there's
14 somebody here that just got cheated. I just happened to
15 meet her and she's right over there. I need help. I need
16 lawyers. I got money.

17 MS. CALCATERRA: You have plenty. Thank you so
18 much.

19 MR. JAVINO: Thank you, thank you, thank you. You
20 guys are great.

21 MR. FITZPATRICK: We have one last group and then
22 we're going to adjourn for the evening.

23 MS. CALCATERRA: There is a group that signed up
24 under ACTNOW, Allison Tupper, Betsy Malcolm, Rich Boatti.

25 SPEAKER: I'm not on the list.

1 SPEAKER: I'm sorry. You said before that anybody
2 in this room, I was told on tape this morning by Bryce that
3 I was going to be testifying tonight, I showed up and what I
4 have to say is extremely important.

5 MS. CALCATERRA: Give it to a staff member. We are
6 going to collect information over there. Thank you.

7 MR. BOATTI: Hi. My name is Rich Boatti, and I'm
8 an attorney and member of the board of Act Now New York, a
9 progressive and good government political action committee.
10 We like to fight corruption at the ballot box, notably
11 getting involved in the race to defeat the piece of human
12 filth otherwise known as Pedro Espada in his last election.
13 This Commission is providing a valuable public service, and
14 first I want to thank all of you for your hard work on this.

15 The very nature of and the need for this Commission
16 is a testament to how flawed the state laws are regarding
17 the enforcement of public corruption. This Commission is
18 doing vitally important work, yet it only exists on an ad
19 hoc basis and its members were both need to be appointed by
20 the Governor and deputized by the Attorney General in order
21 to have a legal mandate with the correct scope to properly
22 investigate public corruption. That this elaborate legal
23 maneuver was even necessary is a testament to how
24 effectively legislative leaders, specifically Sheldon Silver
25 and Dean Skelos, have blocked the creation of a permanent,

1 independent single entity to police public corruption that
2 can investigate all branches of government. Indeed, this
3 Moreland Commission is necessary because of the utter
4 impotence of the permanent enforcement body, the Joint
5 Commission on Public Ethics, or JCPE, that has been imposed
6 by Sheldon Silver. The JCPE can only be described as a
7 joke. When it was tasked with looking into the Vito Lopez,
8 affair Sheldon Silver's appointees on the JCPE blocked it
9 from looking into any wrongdoing by Speaker Silver and his
10 staff, and how the Speaker himself likely violated state
11 ethics laws by having the assembly agree to a confidential
12 settlement with Lopez's accusers, and paying them for their
13 silence with tax payer money.

14 Indeed, Speaker Silver, Leader Skelos, and before him
15 Leader Bruno, have blocked an effective enforcement body for
16 the legislature for years, even decades now. The JCPE is
17 clearly not up to its task. What Albany needs is a
18 permanent body with the same power as this Moreland
19 Commission that has the legal mandate to investigate
20 lobbyists, campaign finance, political parties, municipal
21 officials, and party county chairs, and is also completely
22 independent of entities it is to police. Instead, we have
23 the JCPE, which is supposed to investigate the legislature
24 and executive but has eight of its 14 members appointed by
25 members of the legislature and the rest by the executive

1 branch. On its face, the JCPE is clearly a self-interested
2 boy whose structure alone makes it incapable of policing the
3 legislature and executive branch in the manner that is
4 needed. The JCPE needs to be reformed by having its mandate
5 expanded to be essentially the same as this Commission, and
6 it needs to be comprised of members who are independent of
7 the political branches of government. Perhaps its chair
8 could be can directly elected, or it could be rolled into
9 the judicial branch.

10 It is also vitally important to investigate and
11 ultimately change the law regarding county party chairs,
12 because under current state law, county chairs have too much
13 unilateral power. For example, election law section 6-114
14 gives unilateral power to political parties on how they
15 decide their nominees for special elections. This gives
16 party machines the power to nominate their own machine
17 people for special elections. This has historically been an
18 open invitation for corruption, and this section of the law
19 should be replaced and replaced with -

20 MS. CALCATERRA: Mr. Boatti, just a quick question.
21 Are your two colleagues, Allison Tupper and Betsy Malcolm -
22 are you going to also individually testify?

23 MR. BOATTI: I can - they're shorter than me, so
24 I'm almost done.

25 MS. CALCATERRA: Thank you.

1 MR. BOATTI: This section of the law should be
2 repealed and replaced with a provision that forces primary
3 elections for all nominees, including those in special
4 elections. Other legislative changes that should be
5 proposed by this Commission should include a public
6 financing based on the system currently in operation in New
7 York City, instituting term limits for members of the
8 legislature, the elimination of member items that allow
9 legislators to buy votes with public cash, prohibiting the
10 naming of any park or public asset after any current member
11 of the legislature, creating a jungle primary election
12 system, like that recently created in California, creating a
13 nonpartisan entity to draw legislative district lines, like
14 that exists in Iowa, prohibiting -

15 MS. CALCATERRA: Mr. Boatti, can you wrap it up?

16 MR. BOATTI: 15 more seconds. They will use less
17 time than me. - prohibiting legislators from outside having
18 outside employment, and lastly, aligning state office
19 elections to coincide with Presidential elections in order
20 to increase turnout and dilute the power of county
21 organizations who thrive at electing machine candidates in
22 low-turnout elections. Alternatively, higher turnout can be
23 achieved by instituting a civil fine for anyone who doesn't
24 vote, similar to the system currently used in Australia.

25 MS. CALCATERRA: Thank you so much for your

1 testimony, and I will defer to your colleague sitting right
2 next to you. It's helpful if you identify yourself.

3 MS. MALCOLM: I'm Betsy Malcolm. First, in this
4 highlight, the inefficiency of the Board of Elections, we
5 return to the old lever machines because our new ones are
6 incapable of managing a three week turnaround to a runoff
7 election at any kind of reasonable cost. As if the Board of
8 Elections couldn't possibly anticipate a runoff election
9 when choosing machines. Despite a low turnout, there were
10 lines and confusion because the workers there didn't
11 remember how to use the old lever machines. Now, as I write
12 this, nearly a week after the election, we still don't have
13 an official first tally. At the time we didn't know if
14 there was going to be a runoff. Shouldn't the Board of
15 Elections' job be filled based on competency rather than
16 being parceled out as patronage? I think the mayoral
17 primary showed the advantages of New York City's campaign
18 finance laws. Spending caps and matching funds allowed a
19 candidate without big money support or even editorial
20 support, support from our largest newspapers, to break
21 through and win the most votes. He had a message that
22 resonated with the voters, and given an equal chance to get
23 his message out, was able to win. The system worked.

24 New York has one of the lowest voter participation
25 rates in the nation. In 2010 we came in dead last. We have

1 watched in disgust as our legislators get accused and
2 convicted of ethical and financial irregularities. Why
3 aren't our legislators representing us honestly? Why do we
4 think it's hardly worthwhile to vote? Maybe it's because we
5 suspect our legislators' votes are influenced by big money
6 interests. We know we can't count on them to vote for
7 affordable housing when they keep their jobs through
8 donations from developers. We can't count on them to vote
9 for a living wage for workers when big business donations
10 keep them employed. All the things that matter to us depend
11 upon who represents us, and who represents us depends upon
12 whether their money is coming from big donors or small
13 donors. The New York City system really has worked very
14 well.

15 Finally, our turnout may be so low in part because
16 New York makes it so hard to vote. Other states have early
17 in-person voting, voting by mail and same day registration.
18 Why can't New York? There is no need for long lines at too
19 few polling places. Thank you.

20 MS. CALCATERRA: Thank you so much. Ms. Tupper,
21 correct?

22 MS. TUPPER: I'm Allison Tupper, and I would like
23 to briefly reiterate some of the things that others have
24 said tonight. We need public financing and we also need
25 serious investigation of the judicial system. And

1 certainly, judges should be elected without public financing
2 only. There should not be any contributions to judges. We
3 should - we need to close the LLC loophole, as others have
4 said. There are obviously several LLC loopholes. We need
5 to reduce the maximum contribution that any person or
6 corporation can make and let it be only one person no matter
7 how many corporations they're in charge of. Thank you.

8 MS. CALCATERRA: Thank you so much. I'm going to
9 invite up to the podium Marie Tooker. Marie Tooker.

10 SPEAKER: Yes. This is Marie Tooker. Thanks to
11 this committee. It brought together three different people.
12 Who was your trustee?

13 SPEAKER: Judge Tucker was our trustee.

14 SPEAKER: Who was your trustee?

15 SPEAKER: We didn't get to that point.

16 SPEAKER: All right. Whatever. Ms. Tooker, thank
17 you.

18 MS. TOOKER: Good evening. My name is Marie
19 Guerrera Tooker. I am a single mommy of three young boys,
20 16, 14 and five. I wanted to thank Governor Cuomo for
21 recognizing that New York State has been long overdue for an
22 unbridled examination of incidents of malfeasance
23 perpetrated by public officials under current law for
24 self-gain. Since the wrongdoers need to be exposed for
25 their crimes they committed against Americans like me, the

1 motive to destroy my life has a price tag of over 100
2 million dollars of prime real estate. To the new
3 Commission, I pray to God for you that you stop these crimes
4 that are being committed by public officials working in
5 concert with private actors, constituting a criminal
6 enterprise and release the people of this nightmare that has
7 destroyed our peace of life, liberty and happiness. Since
8 this is now a complete disaster across America that needs to
9 stopped from running roughshod of our rights to fair
10 treatment and justice under the laws of the land. I will
11 tell you these crimes committed against America is a serious
12 radiation flowing in the Pacific ocean and the poison gas on
13 the Syrians. These crimes are known but known and accepted.
14 They are destroying America emotionally, physically and
15 financially.

16 My children are taught to follow their dreams and
17 help those in need. How can they when throngs of people,
18 including public actors came with guns, ejected us out of
19 our home and off our farm when we are still in our PJs with
20 no legal right. We had clear title of our farm. They put
21 falsified documents in, and behind the scenes, actors
22 colluded as a gestapo and executed force like the SS. I
23 owned several properties of substantial value, properties I
24 used for the good of humanity, to some day build an
25 orphanage and help the underprivileged. I had 90 acres and

1 gave up monetary wealth for a dream to help our youth and
2 build an environment to give every child who is deprived of
3 everything and offer them opportunities to see in their
4 lives. Through the years of my life as a philanthropist, I
5 helped hundreds of people, probably thousands from destitute
6 and despair, mostly from being homeless or having no food.
7 My rate of success to those who I help, it was over 85
8 percent. The people I helped got on their feet, they stayed
9 off public assistance and overcame their traumas of their
10 past. All I did was give them a home, food and hope.

11 When I bought the farm, I reached out to the
12 community and bought a portable classroom for my elementary
13 school, who didn't have a music room. The school board
14 refused my donation and the children were left with a music
15 teacher and a cart going classroom to classroom. I offered
16 for free to build the Riverhead High School, and the local
17 authorities chose to put the school on contaminated land.
18 Through intense research, we found out the land was
19 contaminated. We immediately stopped the plan and all the
20 children being exposed to an environment that some day would
21 cause great health problems. Public officials became angry
22 and sought revenge.

23 MS. CALCATERRA: Ms. Tooker, can you work to wrap
24 it up?

25 MS. TOOKER: I'm sorry. This is very important.

1 I'm sorry. I just need a couple of more minutes, please.
2 This is 10 years of pain and suffering for my children and
3 I. They sought revenge. They consummated it by vowing to
4 destroy my life. It finally hit the news, exposing all of
5 the contaminants. In 2005 my elementary school chose to
6 rent our school to a cult, exposing Riverhead School
7 District Elementary School to a cult that had psychic
8 powers, invisible friends and wore superhero suits that
9 looked like the devil. I immediately engaged my concerns to
10 the public and no one listened. This organization had full
11 control over the whole school with no one watching them, and
12 access to our children's personal belongings with no
13 supervision or no security.

14 Through my persistence, I did succeed to get them to
15 only find the cafeteria with security. I told them
16 (inaudible) for church and state because I was told that, by
17 my attorney that I couldn't sue the state because nothing
18 ever happened in America without outside intruder -

19 MS. CALCATERRA: Ms. Tooker, there are other people
20 who want to testify.

21 MS. TOOKER: Wait -

22 MS. CALCATERRA: But we also have your written
23 testimony. Thank you.

24 MS. TOOKER: In 2005 this organization had full
25 control over the whole school with no one watching them, and

1 they had access to our children's belongings with no
2 security. I lost my spot. Okay. July 6, the Suffolk
3 County court dismissed my case and said I didn't have a
4 valid claim to sue even though the school was causing a
5 safety issue for the protection of our elementary children.
6 No one would help me protect the children of our community
7 and I had no more money to appeal. Our public officials
8 were doing wrong. Having no support, I had to let it go.
9 This created more ill will towards me. It gave the public
10 officials another door for open revenge, and I was stopped
11 from doing anything with my farm. The Amish Country School
12 massacre happened. The world has felt the pain for our
13 country when the Shady Hook Elementary School in
14 Connecticut. The local in the town of Riverhead and the
15 local law enforcement ignored my cries for the safety of our
16 children. Throughout the years, I have been badgered by
17 individuals in public office that wanted me to sell my
18 property at way below market value and complain about
19 being -

20 MS. CALCATERRA: I gave you six minutes. If you
21 work to please wrap it up.

22 MS. TOOKER: If you stop interrupting me, I will be
23 done.

24 MR. FITZPATRICK: We know that it's important and
25 we want to hear it -

1 MS. TOOKER: Everybody else needs to hear it.

2 MR. FITZPATRICK: We have a stenographer here that
3 has not had a break in three hours -

4 MS. TOOKER: I haven't had a break, sir, in 10
5 years. I've been homeless three times. I have \$12 left in
6 my bank account. I have need to -

7 MR. FITZPATRICK: Your time is up. I'm very sorry.

8 MS. TOOKER: Well, then that just tells me you're
9 not interested in what the judges have done to me and my
10 children.

11 MR. FITZPATRICK: You can choose to reach any
12 conclusion you want, but we have other people.

13 MS. TOOKER: You let us listen to people that had
14 nothing more to say and now you don't want to hear what one
15 woman has to say that saved the tax payers millions of money
16 when they stole everything from my children and I.

17 MS. CALCATERRA: Thank you.

18 MS. TOOKER: And they put animals on the Long Island
19 Expressway -

20 MS. CALCATERRA: Ms. Tooker -

21 MS. TOOKER: You know what? Don't talk anymore.
22 Okay? Your time is up.

23 MS. CALCATERRA: Great. We have four more speakers
24 tonight and it's going to be in this order: Catherine
25 Wilson, Will Galveston, Margarita Walter and Barbara

1 Stephenson, and then we're done. Ms. Wilson?

2 MS. WILSON: Thank you so much. If I could ask, if
3 you please refrain from texting and pay attention, Derek,
4 while I give this mention, and to the commissioners who
5 left, if you could please return, I would like a full
6 committee hearing. It's my right. Could you ask them to
7 return? I'm sure they were here for the two hours when
8 politicians talked. My name is Catherine Wilson, and if you
9 can't guess, I'm Irish, and I've had machine guns pointed at
10 my head at checkpoints, so believe me, I am not in afraid of
11 any Commission. Senator Sampson can testify to that when I
12 testified for him on behalf of people in surrogate's court
13 who were being abused and violated and how their funds and
14 life savings - excuse me, Derek, could you please pay
15 attention?

16 MR. CHAMPAGNE: I'm making notes.

17 MS. WILSON: And he was so impressed with my
18 testimony that he asked me to participate in further
19 investigation into the court, because to investigate
20 corruption and fraud, you need a trained auditor. I am thus
21 offering my services to this committee, because there are no
22 auditors on it. Kathleen, if you want to pass that out.
23 Thank you. I also testified in front of Senator Hillary
24 Rodham Clinton who was so impressed with me - no texting and
25 pay attention. I'm not going to tell you about the judges

1 who are stealing from the court with raises and behind the
2 scenes deals. You heard that. I will, however, point out
3 the double dipping that's going on. They collect - several
4 members of our court collect both pensions and paychecks for
5 the same job. As an auditor, we call that taking two checks
6 for the same job, payroll fraud. In the court system they
7 call that business as usual. In the 9th district that cost
8 at least three million a year. You attorneys know there are
9 great many young law students out of, graduates out of work.
10 That could put 60 of them to work tomorrow. So if you do
11 nothing else, stop the double dipping.

12 I'm not going to bore you about the deals behind the
13 scenes and the electoral policies in the judicial system. I
14 refer you to Lopez and Torres. In that case, which the
15 supreme court ruled on in 2008, who basically said the only
16 qualifications for becoming a judge was \$80,000 in cash with
17 a backroom political player. If you want more evidence on
18 the dealings in the matrimonial court where spouses and
19 children are battered by legal procedures, rules and
20 statutes, wielded by thousands of attorneys, court
21 employees, in my case my ex was the assistant to Nicky
22 Colabella, the court judges and political players, I have
23 met spouses who went back to their husbands who were beating
24 them to a pulp physically because it was easier than to
25 endure the battering they got in the court system.

1 (Inaudible due to applauding) was in 2004, almost 10 years
2 ago, and we still don't have the changes needed from that.
3 I gave testimony to Senator Sampson about the surrogate's
4 court. One of the most egregious cases I have been involved
5 with is Joe Fisano, who was appointed trustee for a
6 disabled, autistic young woman, even though he was removed
7 from the New York State Senate because he was convicted of
8 embezzlement. The funding for trustees is based on
9 commissions. The laws say that you get the five percent
10 based on the balance. That means that the attorneys who
11 handle the trust are under no incentive to spend the money
12 on the beneficiaries because the more money you spend, the
13 more money you get in commission. In Fisano's case, the
14 young autistic woman had a mental breakdown when her father
15 died. She need psychiatric care. Rather than take funds
16 out of the two million dollar trust, he used Medicaid to
17 toss her in a state mental facility alongside criminals, and
18 yes, she was attacked. She was 22 years old with a mental
19 capacity of a 12 year old. Her mother quickly spent 20
20 hours a day alongside her so she wouldn't be raped, and the
21 person who appointed her, Anthony Scarpiano, you know
22 Scarpiano, the guy who handled the Tom Carvell case in years
23 without seeing a penny. Anyhow, if you want to, I was
24 married to that system for 20 years, and in the 20 years I
25 was there, I never saw an auditor walk into any of those

1 courts. Why? Because the auditors assigned are members of
2 the New York State court. There is no independence. It
3 should be outside auditors. Again, I am volunteering. I
4 know how to do it. And to sum it all up - am I over time?
5 Yes, I am.

6 MS. CALCATERRA: Yes, you are.

7 MS. WILSON: In the board of rush hour too, if you
8 want to fight corruption, follow the money. Better yet,
9 follow the white man with the money.

10 MS. CALCATERRA: Thank you, Mrs. Wilson. After
11 that we have Will Galveston, Margarita Walter and Barbara
12 Stephenson, and then we are wrapping.

13 MR. GALVESTON: Just to guarantee you that my
14 comments are germane, I quote your mandate says "the
15 Commission will examine whether existing state laws and
16 regulations have been fairly and vigorously enforced." In
17 2009 I testified at the Senate judiciary hearings on
18 judicial oversight regarding egregious corruption in the
19 nomination and confirmation of Chief Judge Jonathan Littman,
20 but those hearings were abandoned without information and
21 the testimony of hundreds of courageous New Yorkers was
22 destroyed. No findings, no investigation. I hope you
23 people are going to do a better job. In April of this year,
24 in response to US Attorney Bharara's appeal for tips about
25 corruption, I sent a formal citizen's complaint to his

1 office with similar evidence, under penalty of federal
2 perjury law. The only response I got was an acknowledgment
3 of the letter. It's been six months. Nothing else. The
4 complaint documents that during the nomination process,
5 first, Presiding Judge Littman provided illegal favors to a
6 lawyer, who was a close friend and business partner, owned a
7 building with, was a lawyer partner with, shared an office
8 with, a member of the Judicial Violation Commission, the
9 JVC, the same body responsible for nominating Littman for
10 chief judge. I think everybody here will recognize that's a
11 conflict of interest. Documenting this conflict of
12 interest, their response was - this message was left on my
13 answering machine. Excuse me one moment. (Audio was played
14 and difficult to hear). This is Fred Brewington from the
15 JVC. "E-mail that was serving the JVC. Please send me
16 further information concerning this and the information that
17 you did send me I am going to shred at this point. Thank
18 you." That's one of the deputies of - one of the
19 commissioners of this Commission for Judicial Nomination,
20 and he's telling me that he doesn't want to hear from me. I
21 sent it to all 12 members of that commission. It is a
22 detailed document of this, of my letters to Littman
23 complaining about this lawyer and Littman's absolutely
24 disingenuous illegal favors to this lawyer, who was, as I
25 say, shared an office and buildings and real estate with a

1 member of the commission, Gerald Levcoort.

2 Littman's confirmation process was even more corrupt.
3 The State Judiciary Committee chaired by John Sampson broke
4 the most fundamental rules of procedures in their
5 confirmation hearing. Fact, according to the New York State
6 website all standing committees may hold public hearings.
7 The Senate rules require not less than five days, not less
8 than five days to announce a hearing, a public hearing.
9 Fact, Littman's confirmation hearing was officially
10 announced less than one day before it was held. That fact
11 alone should render the hearing illegal and void. It gets
12 worse. The late announcement did not even mention that the
13 hearing was public, thereby assuring that no critics of
14 Littman would attend.

15 And Mr. Williams, I hope you will listen to me now
16 because this regards you. But dozens of Littman's friends
17 and colleagues were invited well in advance of the hearing,
18 thereby packing the public hearing with Littman supporters,
19 thereby excluding the actual public. Anywhere other than in
20 New York State, that would be election fraud and people
21 would go to jail. And the friends of Littman for the funds
22 for modern court, of which Mr. Milton Williams is the
23 chairman.

24 MR. WILLIAMS: You know I'm right here.

25 MR. GALVESTON: Is that you? Well, shame on you,

1 sir. Shame on you. Sussman not know that the public was
2 not invited when she was invited days in advance. Did she
3 find out that morning at 9 o'clock like the rest of the
4 public in New York? I can assure you that she knew in
5 advance, and that is criminal, sir, and you are complicit.
6 A few actual citizens that actually found out about the
7 hearings from a leak gave the Senate Judicial Council
8 Commission -

9 MS. CALCATERRA: Mr. Galveston, please wrap up.

10 MR. GALVESTON: - including complaints that were
11 pending before the JVC. In violation of their duty, the
12 Judiciary Committee did not even review the evidence about
13 Littman and did not mention it in the report to the full
14 Senate.

15 MS. CALCATERRA: Mr. Galveston, if you can just - I
16 gave you a few more minutes over time.

17 MR. GALVESTON: I - this is very important and it
18 involves you.

19 MS. CALCATERRA: Great.

20 MR. GALVESTON: Sunny Schue will not be testifying
21 here today and I am going to take his three minutes. After
22 publically exposing public fraud by a supreme court judge,
23 Joseph Golia, Sunny was murdered. Sunny was a victim of
24 mortgage fraud and the judge on his case, Judge Golia, was
25 complicit in the mortgage fraud.

1 MS. CALCATERRA: I gave you a few more minutes and
2 a few more people want to testify tonight.

3 MR. GALVESTON: You listened to Mr. Fitzpatrick
4 speak for an hour of the qualifications, which we can all
5 read on the website, but we had to listen to him
6 congratulate all these people here, and at the expense of
7 the people that have extreme convictions about a murder.
8 Madam, I wish you would listen.

9 MS. CALCATERRA: There are also others -

10 MR. FITZPATRICK: Sir, your time is up. Do you
11 understand the basic concept of following the rules? The
12 rules are your time is up. You want to know why nobody
13 listens to you?

14 MR. GALVESTON: Sir, the reason why nobody listens
15 to me is because people like Milton Williams are having a
16 direct conflict of interest with fighting corruption in this
17 case.

18 MR. FITZPATRICK: You have impeded on the time of
19 the rest of the speakers -

20 MS. CALCATERRA: Mr. Galveston, there are two more
21 speakers that we said will come up and speak, and we need to
22 let them speak. Mr. Galveston, I am going to give deference
23 to the two other speakers here so they can speak here
24 tonight as well. Mr. Galveston, we need to wrap this up and
25 we have a stenographer that has been working nonstop without

1 a break. And what is your colleague's name? What is her
2 name? If you are not giving a name, then you weren't
3 listed. Please wrap this up. Margarita, we are welcoming
4 you up to the podium.

5 MR. GALVESTON: Please, I'm going to do this.

6 MS. CALCATERRA: This is now seven minutes.

7 MR. GALVESTON: Yes. Mostly arguing with you.
8 Sunny Schue was murdered. The medical examiner stated on
9 the official report, which I'm going to give to you, that he
10 died of severe blunt force trauma, three days after
11 announcing public financial fraud by Judge Golia. The OCA -
12 I am a reporter for Truth Out and for Black Star News. Both
13 of our organizations have tried to get the financial -

14 MS. CALCATERRA: Mr. Galveston, we have extended
15 your time. We are going to ask Margarita Walter to come up
16 and testify.

17 MR. GALVESTON: The only judge whose financial
18 forms are not available. Are you going to look into that?
19 Is anybody here going to look into that? Or are you cowards
20 or are you corrupt? That's what I'm asking. You are
21 complicit.

22 MS. CALCATERRA: Thank you.

23 MR. GALVESTON: Sunny Schue - I'm going to give you
24 all the documentation. The police say he died of an
25 aneurism. The medical examiner says he died of head trauma.

1 Who do you believe?

2 MS. CALCATERRA: Margarita Walter, and after that,
3 Barbara Stephenson, and then we're done.

4 MS. WALTER: Thank you very much. Thank you very
5 much for allowing me to speak.

6 MR. FITZPATRICK: You're welcome.

7 MS. WALTER: I am going to try to get through this
8 without breaking down. I am Margarita Walter, a disabled
9 mother of three children, of Cuban born, naturalized
10 American citizen and constituent of New York State, whose
11 family fled the communist regime in 1959 from Fidel Castro,
12 seeking freedom and human rights in the United States of
13 America, and we fled directly to New York. Today I live in
14 shock after my children were kidnapped and I was looted of
15 all my assets, orchestrated by a pretextual conspiratorial
16 scheme of fixing in the New York court system arising from a
17 simple matrimonial action in the Westchester County court
18 system in supreme court, index number 1738201. Over the
19 past 12 years I have been subjected to cruel and retaliatory
20 tactics for exposing egregious misconduct and racketeering,
21 collusive references, coverups and ethnic discrimination,
22 gender and ethnic discrimination, record tampering, blatant
23 conflicts of interest, fraudulent activities, including
24 fraud upon the court and obstruction of justice perpetrated
25 by the very officers of the courts and more, resulting in an

1 unlawful order, including my purported judgment of divorce
2 in 2005. The same has occurred to others. I have many
3 footnotes, which I will not read at this juncture. The
4 unlawful withholding of my children with no access since
5 2006 is a devastating outcome, similar to legal abduction by
6 way of forcing a de facto termination of parental rights
7 from me, the biological mother, a disabled litigant that is
8 now torturously nearing seven years. I have been stripped
9 of my fundamental parental rights, due process and equal
10 protection under the retaliation section of the Americans
11 with Disabilities Act, all of which occurred without an
12 impartial full and fair hearing, including but not limited
13 to preclusion of my participatory and testimonial access to
14 the court proceedings and orders issued therein.

15 Many other constituents have made identical
16 complaints since I have made against court and prosecutorial
17 officials. As a whistleblower, I have filed numerous
18 pertinent motions and applications and legal malpractice
19 lawsuits since 2003. I also reported related improprieties
20 to various oversight forums and others, including but not
21 limited to, the US Attorney Bharara and formerly Michael
22 Garcia, the FBI and US Inspector General and other agencies
23 in the US Department of Justice, including the Civil Rights
24 Division and all US and New York State legislators and
25 committees, the New York State Attorney General, the New

1 York State Inspector General, the Office of Court
2 Administration, the Governors, current Governor Cuomo and
3 the former Governor Spitzer. I have contacted the New York
4 State Chief Judge, currently Jonathan Littman and formerly
5 Judith Kaye, the judicial - Commission on Judicial Conduct.
6 The Westchester and Manhattan DAs and many more.

7 My underlying lawsuits have included RICO claims in
8 New York that may be legally related to other New York State
9 supreme court, whistleblower lawsuits, exposing a massive
10 amount of conflicts, obstruction of justice. The lack of
11 responsible oversight is wholly buttressed by my complaints,
12 and court applications filed within the New York State
13 judicial system and the US court in the Southern District of
14 New York. Upon request, I would be pleased to provide
15 further elaboration.

16 The testimonies given at the Senate Judiciary
17 Committee's public hearings on the judicial conduct and
18 attorney disciplinary system on June 8 of 2009 in Albany and
19 in September of 2009 in Manhattan under then chairman,
20 former state Senator John Sampson, reflect a breakdown in
21 the integrity of the courts. I was to have testified at
22 the committee December 16, 2009 public hearing in Manhattan
23 about this hearing and racketeering of certain high powered
24 attorneys working in concert with judges and others in the
25 Westchester County, but after I was scheduled -

1 MS. CALCATERRA: Please wrap up your testimony.

2 MS. WALTER: - the hearing was cancelled. As every
3 system in the country, pervasive conspiracy exists wherever
4 you turn within New York. I look forward to giving further
5 testimony under oath, to answering questions and to furnish
6 documents to substantiate the corruption in my case and
7 others. Thank you very much for this opportunity.

8 MS. CALCATERRA: Thank you very much. The final
9 speaker is Barbara Stephenson. And please, if you can leave
10 your testimony on the table, if you don't mind, a copy of
11 it.

12 MS. WALTER: May I give it to you?

13 MS. CALCATERRA: Barbara Stephenson.

14 MS. STEPHENSON: I feel like I'm running on a
15 treadmill. I know you are tired, as I am. I'm also very
16 hungry. My name is Barbara Stephenson. I am 50 year old
17 educated woman who speaks multiple languages. I have a very
18 long, successful employment with corporations such as
19 Verizon. I would like to enlighten you to my problem and my
20 ultimate attempt to get justice, which comes from the family
21 court, matrimony part of the New York court system. I will
22 try to be as brief as possible, yet this has taken and grown
23 over the last 14 years, and yet let me reiterate 14 years,
24 of which I have been systematically estranged from and
25 denied access to my only child, my only biological child,

1 Samantha Rose Demeri. At the onset of this litigation, my
2 child' father, my ex-husband, Frances Demeri abandoned
3 myself and my child when she was only nine months old,
4 leaving us destitute. I was unsure (inaudible). I was
5 served divorce proceedings some four months later by an
6 attorney named Marjorie Greenberg. We moved forward and had
7 a separation agreement signed in the year 2000, wherein I
8 thought the situation was moving along correctly. At this
9 point I had full primary custody of my daughter, which is
10 appropriate, as the father had abandoned the mother and
11 child. Remarkably, the abandoning father returned seven
12 months later, in 2001, to serve me an order to show cause.
13 He is now seeking to be the primary custodian of the child,
14 even after leaving us both.

15 I was not working and still trying to recover from
16 being abandoned. Due to this I had no choice but to
17 represent myself. Then in July of 2002, I am now almost
18 completely out of money, and yet went out to seek counsel of
19 an attorney, Joshua Kenover, who tells me it's best to keep
20 my pension and my retirement savings to get my child back
21 and he was going to have me appear before the court as
22 Mother Theresa. Joshua Kenover, who was expensive and
23 inexperienced. This is just the beginning of the next 13
24 years, a tragedy for myself and my daughter, in which our
25 bonds have been broken and yet to be repaired. I was told

1 by the attorney to sign on the bottom line. Unbeknownst to
2 me I signed away the custody of my daughter to the father
3 who abandoned us. I was completely beside myself with what
4 steps to take to fix this mistake. Seven months later, I
5 went to pick up my daughter for my weekly parenting time,
6 only to find my daughter with a black eye and a laceration
7 beneath her eye. I brought my daughter to the 13th
8 precinct, who recommended I bring my daughter to the
9 hospital. With the help of a friend, I prepared an order to
10 show cause with all documentation from the physician who
11 treated my daughter's injuries sustained by the father,
12 including the police reports from the officer that brought
13 my daughter and I to the hospital. This is all backed up
14 with photographs and paperwork, including pictures taken by
15 the doctor of the bruises on my daughter's face.

16 The result, I was to blame and placed on supervised
17 visitation with my daughter. This is absolutely outrageous,
18 all of this based on one handwritten letter from a
19 therapist, a person I never met or even spoken to. Ms.
20 Dixon suggests that I make all these allegations against the
21 father, and without due process the court placed me on
22 supervised visits. Since then, this has been a horror show
23 for me and my daughter. I have been subjected to pay \$150
24 an hour for two one-hour sessions each week, that's 300 per
25 week, 15,000 per year for the last 10 years, money of which

1 I did not have. Subtracting two years that the visitation
2 supervisor acting in concert with my husband, interfered
3 with my supervised visits, wherein I did not get to see my
4 daughter for two years. These visits have cost me well over
5 150,000 in visitation costs. I have receipts of everything.
6 Not only is this extortion, but racketeering, because it
7 simply feeds a cottaged industry, a professional to such
8 lucrative system. Supervised visitation is still in order
9 and has been for the last 10 years with no sign of ever
10 coming to an end.

11 Now my daughter has become completely alienated from
12 me with the court's order and hearing, and now my daughter
13 does not even wish to see me, supervised or at all. I
14 continue to fight the courts to have my parenting time with
15 my daughter, whether it's supervised or unsupervised. I do
16 this as it is a right to do, yet I have no luck seeing or
17 even talking to my daughter. I am already past my wit's end
18 entertaining every attorney who ever lied to me and who have
19 taken from me a substantial amount of money. I had one
20 attorney, Thomas Haversham, who, during the litigation, take
21 my retainer of over \$50,000 of borrowed money, to only botch
22 himself during trial for relocation on behalf of the father
23 that, as this attorney, Thomas Haversham, is in court had a
24 vile of Xanax and tells me oo, I just fucked up your case.
25 He was fired immediately and I also lost my 50,000 borrowed

1 money.

2 Amazingly, after losing that 50,000, I was able to
3 borrow another additional \$6,000 to retain another highly
4 recommended attorney, William Sloane. This attorney was not
5 returning my phone calls and, unbelievably, I was only able
6 to find out some months later he is dead and has now since
7 overdosed. I am now in litigation trying to recover my
8 retainer fee, of which I just got a letter from the lawyer's
9 fund saying that the case is now dismissed. Regardless of
10 what court I petition, I'm stonewalled by every judge. I
11 have been before seven different judges, referees and
12 hearing officers, deferring to the one previous who had made
13 a ruling.

14 When I went before the family court, I was turned
15 down, stating by the referee that the family court does not
16 have jurisdiction. I was returned to the state supreme
17 court. This decision was just another procrastination done
18 by the system and certainly is not true. I am unable to see
19 or speak to my daughter. I gave birth to her and suffered
20 through the abandonment of the father. I have been
21 completely estranged from her and God knows where I can turn
22 to. As of today, this injustice still continues with the
23 last ambiguous order of the court stating "defendant's
24 alternative request for appointment of a pro bono supervisor
25 is beyond the court's authority," and it continues

1 "defendant is advised, however, that there may be
2 alternative and charitable resources that may assist her."
3 How does this provide me parenting time with my only child?
4 How is it possible for Manhattan, the nation's most populace
5 and wealthy country does not have state-funded supervised
6 visitation for the children of indigent families caught in
7 the legal system? Is it not important to keep that most
8 important and precious bond between a parent and child?

9 At a previous court date on September 28, 2012, in
10 which I was seeking the court and/or state's funding to
11 provide a pro bono facility and that without court
12 intervention there was no way I could see my daughter.

13 Outrageously -

14 MS. CALCATERRA: Ms. Stephenson, if you can work to
15 wrap it up. Sorry. Thank you.

16 MS. STEPHENSON: The bottom line is I am here today
17 because I have nowhere else to go. I am completely taken of
18 all my money; two pensions has gone, two 401-Ks has gone, my
19 money has been garnered, child support is being paid, and
20 now I found out that I paid over \$22,000 in child support
21 and I was just told by the referee to shut up and go get a
22 job in MacDonald. You tell me, where do I go from here.

23 MS. CALCATERRA: Ms. Stephenson, thank you for your
24 testimony. And this hearing is now concluded.

25 MR. FITZPATRICK: Thank you very much from the

1 commissioners and we will see in you in Albany next week.

2 (TIME NOTED: 9:44 P.M.)

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CERTIFICATION

I, STEFANIE KRUT, a Notary
Public in and for the State of New
York, do hereby certify:

THAT the foregoing is a true and
accurate transcript of my stenographic
notes.

IN WITNESS WHEREOF, I have
hereunto set my hand this 30th day of
September 2013.

Stefanie Krut

STEFANIE KRUT