

MONDAY, JUNE 8, 2020

1:56 P.M.

ACTING SPEAKER AUBRY: The House will come to order.

The Reverend Elia will offer a prayer.

REVEREND DONNA ELIA: Let us pray: Holy and righteous God, we pause to call upon You to thank You for Your presence in turbulent times. Oh, that You would tear open the heavens and come down to help us eradicate the scourge of racism in our land. We grieve the loss of George Floyd, and decry the ways in which people of color have been devalued, denied justice and killed. We grieve the tragic damage to our common humanity. Do not allow us to set aside our commitment to doing the hard work of examining our own hearts.

Thank You for each legislator and staff person, and

for the many ways in which this Assembly strives to work together for the common good. Thank You for all they accomplish, and continue to fill them with wisdom and compassion as they seek to build a just State. When the task seems daunting and the resources stretched thin, empower them to find a way through. When they are weary, strengthen them, and thank You for their commitment to public service. Fill them always with courage and with hope. Pour out Your healing power upon all, upon their families, communities, our State, the nation and the world. Empower us to dismantle racism and give us the strength and tenacity to work for justice. Heal and transform us, O Holy One. Amen.

ACTING SPEAKER AUBRY: Amen.

Visitors are invited to join the members in the Pledge of Allegiance.

(Whereupon, Acting Speaker Aubry led visitors and members in the Pledge of Allegiance.)

A quorum being present, the Clerk will read the Journal of Sunday, June 7th.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, I waive that we dispense with the further reading of the Journal for June the 7th and ask that the same stand approved.

ACTING SPEAKER AUBRY: Without objection, so ordered.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you very much, Mr. Speaker, an historic opportunity we have to be here today. There -- we're, quite frankly, in the middle of three pandemics all at once, they're happening simultaneously: The COVID, although we gratefully hear our numbers are going down, we are still in the midst of that, as well. As you see, we are practicing social distance here in our Chambers. I want to say, and I hate to say, but I think our economy is headed towards a recession, if we're not already there. And we're also seeing people across the globe protest because of the sort of things that are happening and we're going to try to deal with in Chambers today.

So, Mr. Speaker, I want to offer this quote: "One of the most sincere forms of respect is actually listening to what others have to say." Mr. Speaker, that quote is from Bryant H. McGill, he's an author and an activist, and I want to thank our own Karen DeChalus for sharing that with me today.

So, Mr. Speaker, welcome to all who are within our Chambers and those who are participating remotely. Members have on their desk an A-Calendar. Committees have met this morning and have produced an A-Calendar and "a" Calendar. So, sometimes when you say that it sounds you're talking about the same Calendar, but we're not. Members have on their desks a Calendar, and Committees have met to produce a [sic] A-Calendar. At this time, Mr. Speaker, I'd like to advance the A-Calendar.

ACTING SPEAKER AUBRY: On Mrs.

Peoples-Stokes' motion, the A-Calendar is advanced.

MRS. PEOPLES-STOKES: Thank you, Mr.

Speaker. Our principal work for today will take -- be taken up from the A-Calendar, as well as several other bills from the main Calendar. I would like to remind members that we'll be operating under the same procedures as we did two weeks ago. Just to remind members also that those participating by Zoom should utilize their Zoom "raise your hand" function when seeking to be recognized for a debate or to explain your vote. As in our previous remote Sessions, when we are on a fast roll call or a party vote, members wishing to be an exception should make sure that they contact their respective offices of the Majority Leader and/or the Minority Leader.

We're gathered again under extraordinarily -- extremely difficult circumstances. This is an ambitious package that the Speaker puts forth today, one which may stir some passions and some emotions in each of us. As we debate these bills, we must remember that there are Rules of the House. You should debate the bill and talking to the bill only and not to the person who is asking you a question. If you want to say something directly to that person, you should send it through the Speaker, as opposed to using that member's name. Now, I realize we have fallen off a little bit on this, but we were all given a Rules package when we first got here and Rule Section 1, c 3 says that you should use the process that I just laid out. Please do not talk to members directly. Please do not speak to anything except your position on the legislation that is before us.

People don't have to agree with you and you don't have to like what they say, but, again, one of the most sincere forms of respect, and this is an honorable House, the most sincere forms of respect is actually listening to one has to say and directing your comments and response to them to the Speaker.

So, once again, let me just thank you for your cooperation, because I know folks are going to be cooperative. And I ask that, you know, we will continue to be patient as we go through these things, not just from the members on my side of the aisle, but I'm asking this of the members on the other side of the aisle, as well.

With that, Mr. Speaker, I believe we're ready to proceed with considering important business before us. We're going to be going to that A-Calendar that we talked about earlier. We're going to start at Rules Report No. 62, it's by our Member Mosley; followed by Rules Report No. 65 by Member Perry; then we're going to go to Rules Report No. 66 by Mr. Lentol; then we'll end up on this A-Calendar by Rules Report from Ms. Richardson, in that order, Mr. Speaker, and thank you.

ACTING SPEAKER AUBRY: Thank you so very much, Mrs. Peoples-Stokes. And we will start.

The Clerk will read, Rules Report No. 62.

THE CLERK: Assembly No. A06144-B, Rules Report No. 62, Mosley, Heastie, Reyes, Blake, Otis, Carroll, L. Rosenthal, Pichardo, Epstein, Hunter, Niou, Simon, Richardson, Crespo, Rodriguez, Lifton, Joyner, Simotas, Bichotte, Glick, Davila,

Vanel, Ortiz, Perry, Kim. An act to amend the Penal Law, in relation to establishing the crime of aggravated strangulation.

ACTING SPEAKER AUBRY: Mr. Mosley, a [sic] explanation is requested, please.

MR. MOSLEY: Thank you, Mr. Speaker. This act is designated the so-claimed "Eric Garner Anti-Chokehold Act." This bill amends the Penal Law by adding a new Section, 121.13, subsection a. The section provides that a police or peace officer who commits the crime of obstruction of breathing or blood circulation in violation of Section 121.11 of the Penal Law, or uses a chokehold as defined in Paragraph B of subsection 1 of Section 837-T of the Executive Law, or any similar restraint, or thereby causes serious physical injury or death to another person will be guilty of aggravated strangulation.

ACTING SPEAKER AUBRY: Mr. Goodell.

MR. GOODELL: Thank you, Mr. Speaker. Would the sponsor yield?

ACTING SPEAKER AUBRY: Mr. Mosley, sir, will you yield?

MR. MOSLEY: Yes, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Mosley yields.

MR. GOODELL: Thank you, Mr. Mosley. I just wanted to make sure we had an understanding of the background on this. Under first, of course, I think everybody agrees that what we witnessed last week in Minneapolis is -- is certainly unjustified and --

and, as I understand it, the officer that was involved, as well as some of the other officers, have been charged criminally. If that same event occurred in New York State, am I correct that an officer who improperly suffocated a defendant would be facing a manslaughter charge under current law?

MR. MOSLEY: Yes, sir.

MR. GOODELL: And that manslaughter charge would be a Class C felony, correct?

MR. MOSLEY: Yes, a Class C serious felony, yes.

MR. GOODELL: So under current law, an officer who improperly applies the chokehold or otherwise strangles somebody without, you know, improperly, would be facing a Class C felony. So, this law doesn't change that as it relates to causing the death of somebody, improperly using a chokehold, correct?

MR. MOSLEY: Yeah; serious physical injury, yes.

MR. GOODELL: The difference, though, is that if there was no intent to cause the death, and no weapon, right now under current law causing serious injury would not be a Class C felony, correct?

MR. MOSLEY: Correct.

MR. GOODELL: And that would be a Class E or...

MR. MOSLEY: It would just be such a danger (unintelligible) and it would be so designated as that.

MR. GOODELL: So, the concern that's been raised by some observers is that we treat the strangulation death the same as

we treat an injury caused by a chokehold. Wouldn't it make sense to have an injury caused by a chokehold a lower criminal classification than the death of the defendant? I mean, normally we treat death a lot more serious than we treat injury.

MR. MOSLEY: Well, it's already a C classification for -- for civilians, and what I do believe is that what we want to do is we want to try to bring parity to this Penal Law, regardless if you are a civilian or if you're one who's been deputized as a law enforcement agent here in the State of New York, that we want to make sure that we have a level of fairness and equality as the law is applied to all citizens of our -- of our great State.

MR. GOODELL: I -- and I appreciate that analysis. My question, though, really is, why do we treat an improper chokehold that causes injury with the same classification as a chokehold that causes death? Wouldn't it make sense to encourage people to take a less violent role, of course, which is what we all aspire to, if injury were a Class, you know, D, for example, and death would be a Class C?

MR. MOSLEY: Well, as is already stipulated in the Penal Law under 1 -- Section 121.13, Strangulation in the First Degree is the same across the board in terms of being a physical or criminal obstruction of breathing or blood circulation as defined in -- in this section and, thereby, causes serious physical injury to such other persons, and it goes to say Strangulation in the First Degree is a Class C felony. So, that's already stipulated.

MR. GOODELL: Now, in many of our other Criminal Procedure provisions -- or Penal Law provisions, particularly on assaults, they always start out with the phrase, "With the intent to cause injury." But I note that this section of the law does not require any intent to cause injury; is that correct?

MR. MOSLEY: No, sometimes they are classified as reckless, sometimes they're classified with criminal intent, sometimes -- that's inconsistent, but it's clearly so stated in the Penal Laws, as you know.

MR. GOODELL: So my question is, are you aware of any other Class C felony involving an assault that would not also require an intent to cause injury, or death?

MR. MOSLEY: Well, this application is -- we're talking about a very dangerous maneuver, very serious and dangerous activity by law enforcement officers, so we believe that what we're trying to stipulate in this piece of legislation is consistent with the intent of the legislation itself.

MR. GOODELL: But, certainly, there are a number of other techniques used by the police depending on the seriousness of the situation, right, including actually shooting someone. But if they use their service revolver in self-defense or under the enumerated provisions, if it's improper, it still requires intent, correct? And we would all agree a service revolver's -- is probably even more dangerous than a chokehold.

MR. MOSLEY: Correct. But, again, we are not

trying to deviate from what is already in existence. It could -- the intent could be determined based upon the facts that are presented to us, it could be based upon the seriousness of the activity that's being perpetrated by the officer. So, there's a lot of mitigating factors that we can determine in an effort to determine intent.

MR. GOODELL: Looking at the Penal Law, Section 35.30, which talks about the justification for the use of physical force in making an arrest, am I correct that all of those defenses would still apply in this context? In other words, an officer would not be guilty of a Class C felony for using a chokehold if that was applied properly and consistent with the provisions that authorize the use of force?

MR. MOSLEY: Yes. Well, you know -- you know, clear example, that is the strangulation of Eric Garner in 2014, July 2014. That's a clear example of what you just stipulated in your -- in your question, and talked about excessive force beyond a reasonable expectation for someone who is selling loose cigarettes and standing idle while not committing any offense, whether it was a menacing offense or -- or an intimidation offense, or that of physical assault on another officer or citizen. So, I think what this bill speaks to in large part is incidents of this nature.

MR. GOODELL: So, just so we're clear, then, under Penal Law 35.30, the use of physical force is justified in making an arrest or preventing an escape, if, and -- and that includes deadly physical force, if the offense committed by the defendant was a felony: Kidnapping, arson, escape in the first degree, burglary and

escape in the first degree, or was threatening the imminent use of deadly physical force against the officer himself, right? So those are all of the -- or some of the enumerated justifications for the use of deadly force in effectuating an arrest. All of those would still continue to apply --

MR. MOSLEY: Correct.

MR. GOODELL: -- in this situation. So -- so, we're clear here that this statute would only apply in the improper, unjustified use of a chokehold that causes serious physical injury or death.

MR. MOSLEY: I mean, it's almost never available to use the standard that you're talking, but it's possible. But, there's very narrow exceptions to the rule.

MR. GOODELL: And they would continue to apply?

MR. MOSLEY: Correct.

MR. GOODELL: Yes. Thank you very much, Mr. Mosley.

On the bill, sir.

ACTING SPEAKER AUBRY: On the bill, Mr. Goodell.

MR. GOODELL: I very much appreciate the comments of my colleague. I thought they were very helpful explaining what we are talking about in this context. I especially appreciated his comments that all of the justifications for use of physical force would continue to apply. And what this really does is

increases the seriousness if a chokehold, which is very dangerous, results in the death or serious injury of a defendant. And I think that's important to recognize with our law enforcement officials that this is not putting them on a risk of being second-guessed when their life is in danger and they're using this technique to protect their own life, or to stop a kidnapping, or a serious rape or other crime.

And we all recognize here that we're walking a fine line. I am very thankful for the incredible work done by our officers across the State. The overwhelming majority of them are very, very conscientious and very careful, but they're also dealing with an extraordinarily difficult situation because many times they're dealing with people who, to be blunt, are not courteous, kind, cheerful, obedient, or any of the other characteristics of a Boy Scout. Our officers often have to deal with people who are very, very upset in the middle of a domestic violence, for -- for example, or are committing a very, very serious crime, like rape or assault or kidnapping, and they most desperately do not want to be taken into custody because they know that they may be facing years in prison. And we're dealing with people on the streets across our State who are sometimes not on their best behavior. Sometimes they're a lot bigger than any of us. Sometimes they're on drugs. Most times they're very upset and most assuredly do not want to be arrested.

So, we're trying to walk that balance of supporting our officers, recognizing the incredibly difficult job they have while, at the same time, acknowledging that there are certain techniques that

are inherently dangerous, and I think that's the -- the balance that this bill seeks to achieve. I am going to support the bill, but I would note that I am concerned that we don't have any intent provision in here, and I'm concerned that the classification for the injury of a defendant is the same as the death of a defendant, and I would hope that we revisit that, because I think it would make sense from a broader public policy perspective if we had a lower classification if the defendant is injured than if the defendant is killed, because we always value life very highly.

So, again, thank you to my colleague; I appreciate that explanation. And thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. Cahill.

MR. CAHILL: Thank you, Mr. Speaker, and thank you everyone for carrying on this tradition in these very difficult times, and especially for gathering today for this important agenda that we'll be dealing with. I rise today in support of this legislation, Mr. Speaker.

And I know the time for introductions on this floor has passed, that's something we do at the beginning of Session, and that we're on to the important business of debating and voting on bills. Still, I wish I could stand here today and introduce to you and the Chamber a 54-year-old man. I would extoll his many virtues. I would talk about all that he's given back to his community of Ellenville, where Mr. Brian Miller now represents, and I did for a decade. I

would tell you of his civic activism, following the footsteps of his eloquent and soft-spoken mother, Maude.

I think I would share with you that he was a good family man, that he raised his children in the small town of Ellenville, that he gave his mother beautiful grandchildren who participated in the band at Ellenville High School, and school sports. That maybe he got involved in local government or the school board, but surely I would be here to tell you that he stood up for injustice and discrimination, and to promote harmony in his community. I know I would tell you that he was good-natured, well-liked and full of energy.

I would like to do that, Mr. Speaker, but I cannot, because this young man, Jimmy Lee Bruce, never got to see his 20's, his 30's, his 40's or his 50's. He never got to see anything after a fateful night that started out all in fun. In December of 1986, 20-year-old Jimmy Lee Bruce was taking a break from his studies at the Adirondack Junior College and decided to go to the movies with some friends. They went to see the Eddie Murphy classic, *Golden Child*. The group, his small group, was laughing. They were rowdy, probably more rowdy than they should have been. The young man -- this group of young men were approached by security from the theater and asked to quiet down. And for a couple of moments, they did. But then, it cycled up again and they started to whoop it up some more.

As a consequence of the second encounter, the group was ejected from the theater. Some kind of confrontation ensued in the parking lot between the security guards and the young men, and

within moments, Jimmy Lee Bruce was in a chokehold fighting for his life. Before the night was over, this promising 20-year-old college student was dead. In the days that followed, the -- the security guards, who were off-duty police officers, were placed on paid administrative leave. They kept their jobs as security officers at the movie theater.

Jimmy Lee Bruce did not graduate from Adirondack Junior College. He did not get to celebrate Christmas that year or any year. He did not get to raise his family and give his mother beautiful grandchildren. He did not get to be a pillar of his community or stand side by side for three decades with his mom to fight against discrimination and injustice. But that's exactly what his mom did for the next three-and-a-half decades. Almost immediately and ever since, Maude Bruce stood with people all over the Hudson Valley and Catskills to make sure that no mother had to suffer the loss that she did. She was successful in getting the practice known and theoretically banned as a tool of law enforcement, but time and time again since then, she had to experience that dreadful night over and over again as young black men and some women across this country and even here in New York were subjected to this brutal form of enforcement, this unacceptable act of violence.

Mr. Speaker, today we take the first final step in making sure that Jimmy Lee Bruce did not die in vain, that the crusade of Maude Bruce, who though she never raised her voice once in those 33 years, was always the clearest and the loudest. Today, I cannot stand here and introduce Jimmy Lee Bruce to you, but I can

say his name. I know Maude is listening in, and on behalf of all of you, my colleagues, the people of this State and people all over this country, I extend my personal thanks to her, and I think your thanks, as well. And, Mr. Speaker, I thank you and urge my colleagues to vote in the affirmative.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. Carroll.

MR. CARROLL: Thank you, Mr. Speaker. Nineteen hundred years ago, the Roman poet Juvenal wrote, *Who watches the watchers*, making us remember that those who were there to guard the people must be guarded themselves. And they're guarded by civilians, by our Legislature, by our courts, because we do have folks who are charged with guarding us, who break the laws that they are supposed to uphold. That is why we are here today. And even though in the police manual of the NYPD it bans chokeholds, they still happen today. And, of course, less than two weeks ago, we all watched George Floyd die as a police officer choked him to death.

We should make sure that today is a bright line, at least in New York, that this happens never again. That we make sure that we never have to have this conversation again about police officers and those being policed being killed in their custody because indiscriminate violence is done upon them. I thank the sponsor, Assemblymember Mosley for his dedicated work on this subject and I urge my colleagues to vote in the affirmative on this most important piece of legislation. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. Lavine.

MR. LAVINE: Thank you, Mr. Speaker. And perhaps too many years of practicing criminal defense law in the State and Federal courts gives me a -- a little more of a unique vantage point when it comes to analyzing some of these Criminal Law statutes. And I just want to correct one misapprehension that may flow from some of the discussions on this bill that took place a little earlier. And I -- I'm concerned that someone listening might think there is no element whatsoever of intent in this proposed statute, but that is not the case. And it's not the case because the expressed language of this proposed statute involving aggravated strangulation is that someone would be guilty of this when being a police officer, as defined in the law, or a peace officer, he or she commits the crime of criminal obstruction of breathing or blood circulation, which is defined in the law at Section 121.11 of our Penal Law.

And so, specifically incorporated into the new crime of aggravated strangulation is the requirement that all the elements of criminal obstruction of breathing or blood circulation as defined in 121.11 must be proved beyond a reasonable doubt. There is an intent element and that element is clear, and this is the language of 121.11: *A person is guilty of criminal obstruction of breathing or blood circulation when, with intent to impede the normal breathing or circulation of the blood or another.*

So, intent remains an element. I don't think anyone

should draw the conclusion from any of our conversations here today describing this bill that intent has been eradicated or done away with entirely. So, I just wanted to make that point in terms of a clarification, because that is what the state of the law is. And when a judge charges or instructs a jury with respect to this new crime, and hopefully that never, ever, ever has to happen in New York State or elsewhere, element will remain -- intent will remain an element which must be proven beyond a reasonable doubt.

Thank you very much for the opportunity to speak on this particular bill. Thank you.

ACTING SPEAKER AUBRY: Thank you, Mr. Lavine.

Mr. Vanel.

MR. VANEL: Thank you, Mr. Speaker. First, I'd like to thank the sponsor for sponsoring this bill.

About two weeks ago, the world witnessed the horrific crime of what the police officers in Minneapolis did by having a knee to the neck of George Floyd for nearly nine minutes. Nine minutes. And when I looked at that, it was baffling. And I said, you know, that happened all the way in Minnesota, but the namesake of this bill is Eric Garner, which happened right here in New York -- in New York City. Brother Cahill mentioned somebody from his district where it happened.

We have to let folks know that we see you, and we see, we see what's going on. It's very important for us to understand

that we're not answering the police. Many of our community members are police officers. Some of my brothers are police officers. My Assemblymembers, Phil Ramos was a former police officer. We want good policing, but we also understand that we want to make sure that the police respect humanity. We want to also understand that the police respect us; me, as a black man. What did you look at? What did you feel when you saw that happen to George Floyd? Did you see your son? Did you see your brother? Did you see your husband? Did you see a man?

This bill increases the penalty for strangulation, which is already a crime, which is already outlawed. No man, woman, child should have to go through that, should have to experience a strangulation by the hands of people that were sworn to protect and serve. Again, the sponsor was brave to put out this bill, to stand in face of opposition to be able to make sure that we stand to protect not just a group of people, but all folks from this type of unlawful crimes. And I will vote in the affirmative.

ACTING SPEAKER AUBRY: Thank you, sir.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Rules Report No. 62. This is a fast roll call. Any member wishing to be recorded in the negative is reminded to contact the Majority or Minority Leader at the numbers previously provided.

(The Clerk recorded the vote.)

Mr. Mosley to explain his vote.

MR. MOSLEY: Thank you, Mr. Speaker, and thank you for this platform and opportunity. I want to thank our Majority Leader, and I want to thank all of my colleagues. I want to thank members of the Caucus, members of the Hispanic Task Force and the Asian Caucus. And I wanted to thank all of the young advocates who made all of their voices heard throughout New York City, New York State and throughout this nation, and throughout our global community. You took this moment and you propelled it to a movement, a movement where you made the sacrifice of your own health as we deal with this global health care pandemic. But you also took a stance for those who are no longer with us, as well as for future generations. And even in the midst of what we're going through now, you risked your own health through your collective voices and you made sure that the world had to know that Black Lives Matters.

I can't breathe. I can't breathe. I can't breathe. I can't breathe. I can't breathe. I can't breathe. I can't breathe, and, Mama, I cannot breathe. On that summer day on July 17th of 2014, Eric Garner said his last words on this Earth. A son, a father, a grandfather, a brother, uncle, a friend we lost to the world. And before I go any further, I just want to recognize two individuals, two unsung heroes, because if not for them and their brave acts, I don't think we would be here. To Ramsey Orta, the whistleblower who had videotaped -- videorecorded a member of the NYPD who literally choked the life out of Eric Garner. These unsung heroes --

ACTING SPEAKER AUBRY: Mr. Mosley.

MR. MOSLEY: -- who will pay the ultimate sacrifice. And to Darnella Frazier --

ACTING SPEAKER AUBRY: Mr. Mosley, you are explaining your vote. You have two minutes, you're aware of it --

MR. MOSLEY: Yes, sir.

ACTING SPEAKER AUBRY: Please close.

MR. MOSLEY: -- a 17-year-old who took the time to videotape George Floyd on the streets of Minneapolis just a few -- two weeks ago. I add my condolences to all of those who lost a life during this pandemic. But as you -- (mic turned off).

ACTING SPEAKER AUBRY: Mr. Goodell.

Ms. Walker to explain her vote.

MS. WALKER: Thank you, Mr. Speaker, for allowing me the opportunity to explain my vote. I want to speak on how amazingly proud I am of Assemblymember Mosley for having the foresight to bring forth this very important piece of legislation.

And we've heard the terms "I can't breathe" reverberate through each and every one of our systems. But there is another unsung hero that I want to take an opportunity to uplift today, and that's Arthur Miller. And in the '70s, Arthur Miller was killed by a chokehold by the NYPD. After that killing, in Los Angeles, the Los Angeles PD outlawed and banned the chokehold; in fact, New York City banned the use of the chokehold. And we've always called out for there to be criminal prosecution for the usage of where someone

loses their life. And District Attorneys have always said that they didn't have the tools necessary in order to bring the prosecutions that would effect the change that we all seek.

But today, in this history-making moment, the tools are ready, they are available, they are at your service. And we hope that we don't have to cry out any longer for when this unfaithful moment happens again, this modern day form of lynching takes place in our communities, that the individuals who lead to the death will be prosecuted to the fullest extent of the law. Thank you, and I proudly vote in the affirmative.

ACTING SPEAKER AUBRY: Ms. Walker in the affirmative.

Mr. Ramos.

MR. RAMOS: Mr. Speaker, I would like to join my colleagues in thanking the sponsor of this bill. I -- I believe I'm the only member of the Assembly who has spent 20 years as a police officer, and handled many calls of many violent instances. And I will tell you that as a detective, when I would respond to a scene of a murder where somebody was strangled, the first thing that would click in my mind is that this is a crime of anger. This is not your normal theft. It's usually something out of passion, out of hate, out of rage.

The fact that we have to pass a law to tell police officers you should not be strangling anybody, it is -- it just seems strange to me. But we have to, in lieu of what has happened. And I understand. You know, we always hear this chorus of voices saying,

you know, most police officers are good and this is a few bad apples. And it's true. There's no doubt about it. A 20-year officer, I saw heroic things done by officers of all races. But I do not define a good police officer as somebody who stands there with his hands in his pocket while his colleague kills somebody, while his colleague chokes somebody, strangles somebody and the person being choked says, "I can't breathe." The person being choked says, "You are killing me." The person who is being choked is calling out to his deceased mom before he dies. The people standing in the audience -- standing, the observers, are saying, *You are killing him*. And a police officer says to him, *He has no pulse, could you get off his neck*, and he says, *No*, and they still stay there.

So I commend the sponsor and I urge all of my colleagues to vote yes. I will be voting in the affirmative.

ACTING SPEAKER AUBRY: Mr. Ramos in the affirmative.

Mr. LiPetri.

MR. LIPETRI: Thank you, Mr. Speaker. I rise to explain my vote. I understand the gravity of the situations that have unfolded, but we must remember that these heroes who protect our communities from -- day in and day out also put their lives on the line every single day. And it's important to note that in very -- many circumstances of which many of whom are unaware of today in this Chamber and throughout this State that police officers encounter situations that are never published in the media, whether it be the

officer that stops someone from beating a victim, or committing a rape, or potentially murdering somebody. Officers must have all the tools available throughout this State to deter that criminal from hurting law-abiding Americans.

For me, I can't go back to my constituents, those friends, those families, the police officers themselves, who say, *I'm the one that's following the rules here, but the criminal who wishes to hurt me or kill me is not*. At the end of the day, the last thing I want to do, Mr. Speaker, is to disarm our police officers, putting them at a disadvantage against a criminal that wishes to commit such injury and harm on them. For those reasons, Mr. Speaker, I vote in the negative.

ACTING SPEAKER AUBRY: Mr. LiPetri in the negative.

Mr. Colton.

MR. COLTON: Thank you, Mr. Speaker. I want to commend the sponsor of this bill, because I think he has given us something that creates some transparency and some clarity in terms of this legislation. I do not in any way want to do anything that is punitive to the police. I believe we need to support our police to protect us, all of our families. And this bill simply does not act in a punitive way. It recognizes that there must be intent. It recognizes that in a dire circumstance, it may be necessary for a police officer to do what is needed in order to survive if he is being threatened with fatal attack against himself. But, yet, it makes it clear that this is a very dangerous maneuver and it should not be permitted under

normal, routine police activity in order to make an arrest.

So, because the bill has the protections that are required, because the bill has basically -- it has a clarity that it brings to a dangerous situation, therefore, I withdraw my request and I vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Colton in the affirmative.

Ms. Bichotte.

MS. BICHOTTE: Thank you, Mr. Speaker, for -- for allowing me to explain my vote. I first want to thank the sponsor of this bill for introducing this bill that would make it a crime for police officers to obstruct breathing or using a chokehold restraint.

Just last month, the country watched in horror as clips of Officer Chauvin kneeling on George Floyd's neck for nine minutes circulating around the Internet. The people of New York still have not forgotten Eric Garner, who was murdered the very same way in Staten Island in 2014. Garner begged for his life as an officer used the chokehold on him. "I can't breathe, I can't breathe, I can't breathe," he uttered, as the police officer who was later acquitted continued applying force to his neck.

For years, officers have been permitted to engage in the deadly behavior of administering chokeholds when there is no threat of violence, and although there is a formal policy already barring -- barring them in some cities, it is unenforced. If victims have been able to obtain an injunction, the court would have been -- would have

imposed strict sanctions and this would not keep happening. It's inhumane. George Floyd and Eric Garner cases were both tried without a jury. They were guilty of no crime except what the law enforcement accused them of, and that was defined by the color of their skin.

The American people are demanding justice, and we must respond. That is why I am voting in the affirmative today. Thank you.

ACTING SPEAKER AUBRY: Thank you. Ms. Bichotte in the affirmative.

Ms. Richardson.

MS. RICHARDSON: Thank you, Mr. Speaker. I rise today exhausted. It's evident I'm African-American, I'm black. I'm a woman, I'm a mother. And for what is going on in New York State and what is taking place around the country leaves me in a great deal of uncertainty, because I don't know if my son will make it home, and I don't know if the man I love will make it home either, or any other man or woman in my life. Because, unfortunately, there has been a long history between the African-American community and communities in general with law enforcement that has not been so good.

Before I get deep into that, Mr. Speaker, I just want to echo the sentiments that some of my colleagues have expressed. Whereas that we don't think that all apples on the tree are bad, but for the one or two who are there, we are going to hold you accountable.

And so, I commend the Speaker of this legislation today. As we pass legislation making it a Class C felony, a serious Class C felony crime, to cause strangulation and to choke men and women that you're supposed to be serving and protecting.

You know, Mr. Speaker, I wasn't even elected when Eric Garner lost his life in Staten Island. "I can't breathe." So I can stand here today to speak from the point of the civilians from the community who watched that horrific video, who we already knew that the sentence -- we already what the outcome of the sentence would be before the case was held, because far too often, police officers are let go and set free on crimes that they damn sure should be charged for. Excuse my language, I get passionate.

And just last week, Mr. Speaker, now we watched the case of -- of George Floyd. And so, the same neck, the same knee on George Floyd's neck is the same knee that was put on the neck of a young man in Lower Manhattan. The same words he said, "I can't breathe," were the same words Eric Garner said. But today, we let you breathe. Today, we say thank you to the New York State Legislature for creating change. I vote in the affirmative.

ACTING SPEAKER AUBRY: Ms. Richardson in the affirmative.

Mr. Otis.

MR. OTIS: Thank you, Mr. Speaker, and colleagues. We are at a serious moment in our history, a long history of inequality in this country. We made some gains over the years, we've lost some

ground in recent years. We have to do something about it.

I was at a rally yesterday in one of the communities I represent, the Village of Port Chester, I think we had 2,000 people there. It was a rally and a march of love. It was a rally and march of people who want to make this a more just, a more caring society. There was unity. There was heartfelt desire for the community together to make life better, not just on criminal justice issues, but on broader issues of equality in our society.

And so, we have an opportunity today, we're going to deal in this House on some criminal justice issues this week that are very important, but it's bigger than that. And we have a right -- we have an opportunity, the right moment, to make this a more caring, gentle society. I want to leave you with the -- the words of Barbara Jordan that you've all heard, but they meant a lot to me when I heard them the first time and they mean a lot to me today: "What the people want is very simple. They want an America as good as its promise." That's what we're doing here today. I vote aye, and we have a lot of work to do to make America live up to its promise. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, sir. Mr. Otis in the affirmative.

Mr. Reilly.

MR. REILLY: Thank you, Mr. Speaker. I was listening to the debate and I -- I'm satisfied that we were clear during the debate with my colleagues and the sponsor about justification and

if there is a life and death situation, all the facts and evidence will be weighed. Let me be clear, what happened in Minneapolis is an atrocity. That officer stopped being an officer the moment he intended to do what he did. That, as an officer, to me, ripped my heart out, because that's not the uniform I want representing me.

I think we had a time of unity, because we had officers from across the country acknowledging that that was just wrong and murder. I'm very -- I'm very emotional about this, because I understand what it does to the community. I just can't stand how it tears us apart. And I've got to tell you, listening to all the stories and the emotion and the pain, I get it. I understand it. And I hope that the justification part, if it ever has to be when an officer is saving his life or saving someone else's life, that they get the full due process of the law, that that includes justification and defense. But if they do an act that is intentional and causes the death of someone else, then like everybody else, they should be held accountable. I just think that we need to all understand that and for that reason, I'm going to be voting in the affirmative.

ACTING SPEAKER AUBRY: Mr. Reilly in the affirmative.

Mr. Goodell.

MR. GOODELL: Thank you, Mr. Speaker. The following Republicans will be voting no on this bill: Mr. LiPetri, Mr. Lawrence and Mr. Lalor. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you, sir. So

noted.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Rules Report No. 65, the Clerk will read.

THE CLERK: Assembly No. A10608, Rules Report No. 65, Committee on Rules (Perry, Heastie, Walker, Frontus, Fernandez, Richardson, Crespo, Jaffee, Otis, Vanel, Simotas, Hyndman, Gottfried, Weprin, Colton). An act to amend the Executive Law, in relation to requiring a law enforcement officer or peace officer who discharges his or her weapon under circumstances where a person could be struck by a bullet to immediately report the incident.

ACTING SPEAKER AUBRY: An explanation is requested.

MR. PERRY: Thank you, Mr. Speaker. And I am responding and I would like to honor with this response the life of Jayson Tirado who was shot and killed while driving a car on the FDR in 2007 by a New York City Police Officer.

This bill will require police or peace officers who discharges their weapons under circumstances where someone could be struck by a bullet to immediately report the incident. It will not include cases like firing their weapons at official or legal training sites. Thank you.

ACTING SPEAKER AUBRY: Mr. Goodell.

MR. GOODELL: Thank you, Mr. Speaker. Would

the sponsor yield?

ACTING SPEAKER AUBRY: Mr. Perry, will you yield?

MR. PERRY: I will.

MR. GOODELL: Thank you, Mr. Perry. Just a little bit of clarification. When you refer to a -- a peace officer or law enforcement officer who discharges his or her weapon, your reference to "weapon" would mean his service revolver?

MR. PERRY: A gun.

MR. GOODELL: Would it involve a hunter, for example, using a private rifle? Or are you intending it really to be the service revolver?

MR. PERRY: Well, if, Mr. Goodell, the hunter is a person, I think it should and would. It says a person, a police officer.

MR. GOODELL: So, we have, as you know, of course, we have about 600,000 people who are -- who get a permit to hunt, typically deer, and while we're very fortunate that our hunters are remarkably careful and they all go through a safety training class, periodically there are accidents. So, you would think this would extend a special obligation on any hunter who's also a police officer or a peace officer to report the possibility that while hunting wild animals, a bullet may have -- may have been headed in the direction of any other person? It's pretty broad.

MR. PERRY: Mr. Goodell, if you fire a weapon aimed in the direction of a person, it should be reported.

MR. GOODELL: Now this bill, of course, doesn't require that the weapon be fired -- aimed at any person, right, it just says under circumstances wherein a person could be struck by a bullet. I mean that's very -- that's very broad. It doesn't require that anyone actually be aiming at anyone else, right?

MR. PERRY: Well, I think we can get very picky about the language or -- or interpretation. There are thousands of shooting that occur across the State. You refer to hunters are out there with their weapons all the time. They are firing and, certainly, somebody can be shot accidentally. But, we're not talking about those situations. We're talking about shootings that occur where you have the possession and license for a weapon and you shoot at somebody.

MR. GOODELL: So you're really looking at a situation involving what you might refer to as reckless endangerment, where you're discharging a weapon aimed generally at another person, not accidental shootings that would -- might occur, for example, in the context of a hunting accident. You're really looking at a more deliberate act where the gun is aimed at another person; is that correct?

MR. PERRY: That's more like what we're talking about. And I'm sure, like all the bills we pass here, it will be subject to some interpretation based on future situations where someone has to offer a defense for having broken the law.

MR. GOODELL: Now, I -- I see that you provided an explicit exception that would make it clear that an officer, under no

circumstances, would waive his right to avoid self-incrimination, the Constitutional right against self-incrimination, correct?

MR. PERRY: Yes.

MR. GOODELL: Okay. Under the Executive Law, Section 837 of the Executive Law, we already require all police departments to report the discharge of any weapon, any service revolver. Is it your intent that this law would be consistent with Executive Law Section 837?

MR. PERRY: It's similar.

MR. GOODELL: And how would it be different?

MR. PERRY: It's not limited to a pistol. Or is it -- it's not limited to a handgun.

MR. GOODELL: So if it's not limited to a service weapon, why would we have the police officer report it to his police superior?

MR. PERRY: Well, if a police officer shot at somebody you would think it wise, proper and in good accordance with our expectation of responsible behavior that you will be reported to your supervising officer, especially if you fired it in a reckless manner or in an area or in -- where somebody could have been injured. And especially after you have become aware that somebody was actually shot and died that, you know, very well that that was very likely the bullet from the gun you fired.

MR. GOODELL: I see. Thank you very much, Mr. Perry.

On the bill, sir.

ACTING SPEAKER AUBRY: On the bill, Mr. Goodell.

MR. GOODELL: The Executive Law already requires any police officer who discharges his weapon to report that to the police department, and it requires the police department to make that annual report to the Division of Criminal Justice Services. So, that's already in place. And of course, if an officer illegally fires a gun at a person in a road rage situation or any other situation, if he illegally fires a gun at a person outside the scope of his official duties, this bill does not require him to report it. Because this bill is clear that the officer doesn't waive any constitutional right to avoid incriminating himself under the Fifth Amendment. So we have an interesting situation with this bill where every gun that's fired that's a service revolver is already required to be reported, so that part of the bill seems to be already covered. And then the example that was used to justify this bill is excluded under the language of the bill anyway. I'm a little bit confused over the scope of this because it suggests that we're imposing a new duty that is broader than anything that currently applies to any hunter, if you happen to be a police officer who also hunts. And I don't think we need to single out police officers for a different type of duty or reporting than any of the other 600,000 hunters. So while I think the bill has virtually no legal significance because we already require service officers to report if their service weapon is fired, the exception excludes any illegal use of a weapon.

And I guess based on the discussion that it would only be applicable in the context of reckless endangerment, which itself is a crime. It just leaves me a little bit wondering what we're doing with this law. That's all, sir.

Thank you, though. And, again, thank you to my colleague.

ACTING SPEAKER AUBRY: Thank you, Mr. Goodell.

Read the last section.

THE CLERK: This act shall take effect on the 90th day.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Rules Report No. 65. This is a fast roll call. Any member wishing to be recorded in the negative is reminded to contact the Majority or Minority Leader at the number previously provided.

(The Clerk recorded the vote.)

And Mr. Perry to explain his vote.

MR. PERRY: Thank you. Thank you, Mr. Speaker. Thank you for permission to explain my vote. On October 21, 2007, Jayson Tirado was shot and killed while traveling in a motor car with friends on the FDR. Upon arrival at the scene in East Harlem, witnesses informed the police that the incident was a road-rage killing, that Mr. Tirado was shot by an unknown shooter who discharged the weapon at the car after arguing with the young man who allegedly cut him off on the FDR. The shooter fired his gun and fled the scene.

The shooter left an injured young man who died from the gunshot. The shooter had made himself judge, jury and executioner. On October 22nd, more than 24 hours after the incident, police officer Sean Sawyer, an NYPD police officer, turned himself into the police. Sawyer approached a radio car near Central Park and claimed he had chest pains and requested an ambulance. Sawyer then told the Sergeant that -- an officer in the vehicle that he thought he was involved in a shooting while he was off duty in his car 19 hours earlier, and that he was the killer of Jayson Tirado. A Manhattan jury in 2008 declined to indict Sawyer for shooting 25-year-old Tirado, who was unarmed and (unintelligible) the scene.

(Buzzer sounding)

ACTING SPEAKER AUBRY: Mr. Perry, your two minutes are up. How do you vote?

MR. PERRY: Thank you, Mr. Speaker. May I resume the debate so I can finish my statement?

ACTING SPEAKER AUBRY: The only way we can do is withdraw the bill. Withdraw the vote.

MR. PERRY: I move to withdraw the vote.

ACTING SPEAKER AUBRY: You should speak to your Minority Leader -- Majority Leader.

(Pause)

Mr. Perry.

MR. PERRY: Mr. Speaker, thank you for the opportunity to explain my vote. I vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Perry in the affirmative. Thank you, sir.

Ms. Bichotte to explain her vote.

MS. BICHOTTE: Thank you, Mr. Speaker, for allowing me to explain my vote. I first want to thank the sponsor for introducing this bill which we know as today as the New York -- New Yorkers' Right to Monitor Act, which is a -- which will grant civilians who are not under arrest the right to record certain law enforcement activities and the right to maintain custody and control of that recording after the incident.

Mr. Speaker, time and time again we see how individuals are mistreated by law enforcement. And in many incidences, if it were not for a video recording, some of the individuals would not have received any attention or any justice. Just a couple of weeks ago, a recording surfaced of the heinous murder of Ahmaud Arbery, then again of George Floyd, which is because of those video recordings why there's a mass protest across the nation and across the world. Again, if it were not for those video surveillance that was captured by ordinary civilians, we might not have known the real story. And for the loved ones --

ACTING SPEAKER AUBRY: Ms. Bichotte, I don't believe you're speaking to the bill that's on the board at the moment. This is a discharge of weapon bill, not the bill I think you're referencing.

MS. BICHOTTE: Okay. Yes. Thank you. I'm

sorry. Withdraw.

ACTING SPEAKER AUBRY: You're welcome.

Mr. Colton.

MR. COLTON: Thank you, Mr. Speaker. Again, this is a bill which basically requires what should be obvious, that upon a discharge of a weapon that the officer should notify his supervisor. Therefore, I believe that is something that is transparent, is -- is quite clear, and it should be in the law. It may be covered by the Executive Law, but this makes it very clear. I do -- would not want to be in a situation, however -- and I would like to make it clear that it's not my intent to be voting for something that requires any time a hunter who happens to be a police officer fires his weapon at an animal -- I mean, I don't like hunting, I don't basically agree with that, but I don't think that it should be necessary to make that as a report. But I think my understanding of this bill is that in the course of his duty he fires his weapon, he is required to report it to his supervisor, and that is something that is, you know, reasonable to require.

Therefore, I withdraw my request and I vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Colton in the affirmative.

Mr. Garbarino.

MR. GARBARINO: Thank you, Mr. Speaker, to explain my vote. We have debated this bill for years in the Codes Committee. The sponsor has a specific reason why he's putting this

bill in. Unfortunately, after years and years of debate we have given the sponsor amendments to this bill that we think would have addressed his actual concerns. But as we heard in the debate, this bill is overly broad talking about a police officer's weapon. It doesn't say his service weapon, it talks about any weapon. It talks about in a -- in a circumstance where a person could be struck by a bullet, that is overly broad. I don't understand why this bill is being pushed forward the way it is now. It doesn't make sense. It doesn't address the issue that the sponsor wanted it to, and I believe that there are amendments that would have done that. They're not part of this bill.

So therefore, I can't support it and I encourage my colleagues to also -- to vote in the negative. Thank you.

ACTING SPEAKER AUBRY: Mr. Garbarino in the negative. Thank you, sir.

(Pause)

ACTING SPEAKER VANEL: Mr. Goodell.

MR. GOODELL: Thank you, Mr. Speaker. The following Republicans are voting no on this bill: Mr. Barclay, Mr. Garbarino, myself, Mr. Giglio, Mr. LiPetri, Mr. Palumbo, Mr. Ra, Ms. Walsh, Mr. Ashby, Mr. DiPietro, Mr. Fitzpatrick, Mr. Friend, Mr. Lawrence, Mr. Manktelow, Mr. Montesano, Mr. Morinello, Mr. Norris, Mr. Salka, Mr. Tague, Mr. De -- DeStefano -- sorry, Joe -- Mr. Lalor, Mr. Miller, Mr. Byrne, Mr. Hawley, Mr. Blankenbush, Mr. Crouch. I believe Mr. Reilly, Mr. Palmesano. I think that's it for the moment. I should have said and the rest of the Republican

Conference, but that we still have some yes votes on this. So we'll update you if we hear anything further.

Thank you, Mr. Speaker.

ACTING SPEAKER VANEL: Mr. Rodriguez to explain his vote.

MR. RODRIGUEZ: Thank you, Mr. Speaker, for the opportunity to explain my -- my vote. I feel compelled to speak in particular because Mr. Tirado was killed on the streets of East Harlem on the FDR Drive, the area that I represent, and obviously was also a Latino man. But I think most importantly is when we recognize the context. A police officer shooting their weapon is, you know, one of the most serious responsibilities that they have in terms of -- tools that they have with respect to law enforcement. It's not something that should be done lightly or be considered lightly. And there's many in the community that think that any time a discharge of -- of a weapon happens in the line of duty, that should be reported and recorded, and either to ensure that proper training exists, and but also to make sure that something more serious didn't occur. So I think this is a reasonable compromise legislation that allows, you know, quite frankly, maybe a little bit too much flexibility in terms of the use of weapons, but certainly creates some mechanism to make sure that we record it and that some action can be taken to either rectify, you know, behaviors that have resulted in that discharge, and also to make sure that people are safe on the streets.

So as a result, I will be voting in the affirmative and

encourage my colleagues to do the same.

ACTING SPEAKER VANEL: Mr. Rodriguez in the affirmative. Thank you, Mr. Rodriguez.

(Pause)

ACTING SPEAKER AUBRY: Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, would you please call colleague Santabarbara in the negative on this one?

ACTING SPEAKER AUBRY: So noted, Mrs. Peoples-Stokes.

Mr. Goodell.

MR. GOODELL: Thank you, Mr. Speaker. Would you please record the following additional Republicans in the negative: Mr. Stec, Mr. McDonough and Ms. Malliotakis.

ACTING SPEAKER AUBRY: So noted. Thank you, sir.

MR. GOODELL: Thank you.

ACTING SPEAKER AUBRY: Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Rules Report No. 66, the Clerk will read.

THE CLERK: Assembly No. A10609, Rules Report No. 66, Committee on Rules (Lentol, Heastie, Mosley, Darling, Frontus, Perry, Aubry, Quart, Barron, D. Rosenthal, De La Rosa, Epstein, Hevesi, Fernandez, Pichardo, L. Rosenthal, Blake, Taylor,

Reyes, Gottfried, Niou, O'Donnell, Cruz, Simon, Kim, Simotas, Glick, Carroll, Rozic, Wright, Jaffee, Ortiz, Barnwell, Richardson, Magnarelli, Vanel, Otis, Davila). An act to amend the Criminal Procedure Law and the Judiciary law, in relation to functions of the chief administrator of the courts; and to amend the Executive Law, in relation to reporting requirements.

ACTING SPEAKER AUBRY: An explanation is requested, Mr. Lentol.

MR. LENTOL: Sure, Mr. Speaker. This is the so-called "STAT Act" that everybody's been talking about lately, even though it's been passed by our House, the Assembly, four years in a row and it hasn't yet made it through the State Senate. But we're hopeful for this year. So this is a bill that would require police departments Statewide to record and report data on the demographics and geographic location of people apprehended for low-level offenses, and people who die in police custody in order to find accurate data about racial disparities and police responses. It's actually a bill that emerged as a recommendation of President Obama's 21st Century Police Task Force set up after the Ferguson unrest in 2014.

Thank you.

ACTING SPEAKER AUBRY: Thank you.

Mr. Goodell.

MR. GOODELL: Thank you, sir. Would the sponsor yield?

ACTING SPEAKER AUBRY: Mr. Lentol, will you

yield?

MR. LENTOL: Yes, I'll yield.

ACTING SPEAKER AUBRY: Mr. Lentol yields.

MR. GOODELL: Thank you, Mr. Lentol. Always good to see you on the big screen. At least it's a big screen (unintelligible).

Mr. Lentol, this bill would require every court to list for every violation - which would be traffic tickets and minor offenses, as well as every misdemeanor - the race, ethnicity, age, sex and a number of other criteria. I think there are a total of 23 criteria for each defendant. Is that correct?

MR. LENTOL: I didn't count, but I know you did so I'll say you're -- you're correct. I know you can count.

MR. GOODELL: Well, my district is just a little bit different than yours. In fact, I think I'm probably as far from your district geographically and demographically, perhaps, as we can get. But in -- in my district I have 26 towns, 13 villages and two cities. So, we would require every one of those courts to fill out a form that gives data on 23 different items? That's a lot of paperwork for a lot of very small courts. Why -- why do we need to do that?

MR. LENTOL: Well, I think -- I think the answer to that question is it used to be a lot of data. I think under the present situation that we find ourselves in, there are two things going on: First, is that we have computerization. And -- and the way to do this is a lot faster than it used to be by hand, where data can be entered

into a computer. The second thing is, I believe that everyone thinks that it's necessary to compile all this data, whether it's for low-level offenses or even the higher-level offenses to determine whether or not there are racial disparities, just so that we can get to the facts. We don't want to accuse anybody of anything unless we can see it on the record. So this gives us an opportunity to have those police departments that don't now comply with this kind of a procedure that is outlined for them to comply with, even though it's not the law. But a lot of -- a lot of police departments do comply already. But some big departments - I'm not going to name them by name - but there are some that have not complied. And we need accurate statistics from around the State so that we have accurate data and we don't accuse anybody wrongly of -- of doing something that they haven't done.

MR. GOODELL: Well, this bill - while it may require the police to also report that on the arrest records - actually focuses really on all the courts, correct?

MR. LENTOL: Yes, it does. It has -- it has -- it focuses on the courts to compile data on the misdemeanors and the violations that -- on -- on summonses that are written. But, it's -- it's more of a -- a job for DCJS when it comes to police-related deaths where somebody dies in police custody.

MR. GOODELL: Well, I would -- I would point out that under current law, the police are under no obligation, right, on a traffic ticket to report the race, ethnicity, age or sex of the driver, correct?

MR. LENTOL: Yes, that -- that is correct. As a matter of fact, I'm glad you asked that question because at one time there was a requirement of race being placed on every summons that was issued. And somehow, it mysteriously disappeared from -- not only from the law, but from the summons books of officers, I learned, and that it was not -- it was no longer a requirement after a certain time. I don't remember exactly when that was, but it was probably at least six or seven years ago.

MR. GOODELL: And if I -- was it your intent that the report of race and ethnicity, for example, be self-reported by the defendant? I mean, after all -- I mean, sometimes -- taking ethnicity as an example, I'm half Swedish, I'm 1/8th Scotch -- maybe a little more on weekends. But how -- is it up to us to properly identify our ethnicity?

MR. LENTOL: As best as can be determined would be the justification for it. Not -- not to go crazy and try to get exact information to determine whether or not you're Italian or Spanish.

MR. GOODELL: Just as a simple example, the Seneca Nation of Indians is right next to my district, and ironically, that's a -- that system is all based on the mother's identity. So a few years back we had the Chief, or the President of the nation, his own children were not considered Seneca because their mother was -- was not a Seneca, was not an Indian. Would we use the same policy?

MR. LENTOL: No. We would -- we would determine it by the officer's -- we would trust the officer to determine

whether or not the ethnicity of that person were Native American or not based upon the information he got from the subject, as well as from his own observations.

MR. GOODELL: Now last year -- or actually, I think it was maybe even earlier this year, we had a bill that would require all reports to separately list each Asian-Pacific nation. I think there were 30 or 40 different classifications. Would you envision that that type of requirement would apply here as well?

MR. LENTOL: No. We're not -- we're not trying to make this complicated. This is very simple. It's trying to look for racial disparities where they exist. And, you know, sometimes it's not going to be determinable by an officer, so the race will either go blank or maybe it will be recorded erroneously.

MR. GOODELL: As you and I discussed, the current accusatory instruments, a traffic ticket, whatever, they don't identify a person's race. They just specify the alleged activity that would have constituted a crime. Do you envision, then, that every town, village, city, county judge would ask the defendant what their race and ethnicity would be as part of the normal judicial proceedings so that this could be reported accurately?

MR. LENTOL: No. I -- I -- I envision that OCA will try to get it right, and that is the situation.

MR. GOODELL: Now, this also requires a report listing the reasons for dismissal of the charge. Now, most of the time the dismissal is because the court feels that the defendant was

innocent. Many times the dismissal reflects a plea bargain agreement. Do you envision, then, that every dismissal would cite that this is part of a plea bargain agreement for a higher-charge crime?

MR. LENTOL: Not necessarily. I think -- again, it's going to also be on -- it's a judgment call, as best as can be determined, as to what the cause of the dismissal was. I'm not trying to get exact information all the time if we can't get it, but we are trying to get information as opposed to no information.

MR. GOODELL: Thank you, Mr. Lentol.

On the bill, sir.

ACTING SPEAKER AUBRY: On the bill, Mr. Goodell.

MR. GOODELL: I -- I appreciate my colleague's curiosity and his desire to know how every single ticket or charge is addressed, and the race, ethnicity, age and sex of every single defendant, and that all of that information would be reported along with a number of other items. In fact, a total of 23 different items for every single defendant and every single traffic ticket involving every single court, including the smallest municipal courts or town courts. In my county I have town courts that only meet once or twice, sometimes not even -- normally once or twice a month. And they're staffed by a part-time clerk. And quite frankly, a lot of the defendants might be offended if you asked them, *What is your race? What is your ethnicity? What is your age?* And now in today's society I'm not quite sure what it means when you ask someone, *What's your sex?*

That's a whole different category we don't really need to delve into. And so then if you start multiplying this out, 23 different criteria, multiple answers for each criteria, you start to realize that we're asking for millions of data points. And so when we're done with this, what do we achieve? We know it's going to cost a lot of time and effort. We know it's an unfunded mandate on all the local courts. We end up with a massive report that will never be published because it's going to be too massive. Presumably, the data might be searchable by research scientists or somebody else. And I'm not sure what the overall purpose is. We know on serious offenses what the data is, but do we really need to know that on a minor trespassing charge what the ethnicity was of the person? Or a noise complaint or any other violation? A zoning violation would presumably fall within this since it's a violation? It's just way overboard. And unfortunately, because it is so broad, the cost of compiling this will be substantial and its utility will be limited.

When I first got out of law school I used to practice Securities Law. And as you know, our securities law are very, very detailed about the requirement that any stock offering be accurate and honest. And they pursue that accuracy and honesty with unquestioned zeal to ensure investors aren't defrauded. But what's interesting is the SEC has pointed out that you can hide information by providing too much. And so this bill in the past had -- last year had 44 negative votes, I think probably because of the concern over the huge cost and time and manpower and the limited utility. But I would make a

personal commitment that I would be glad to work with the sponsor, with whom I have great respect, to narrow the scope of this bill so we focus on the serious charges, dealing with our superior courts, and not burden every little court with every little infraction with a massive reporting requirement.

Thank you, sir. And again, thank you to my colleague.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. Ramos.

MR. RAMOS: Will the sponsor -- sponsor yield for a -- for a few questions?

ACTING SPEAKER AUBRY: Mr. Lentol, will you yield?

MR. LENTOL: Yes, I will, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Lentol yields.

MR. RAMOS: Mr. Lentol, with the questions that are being asked here, the purpose of this, I assume, is so that we can keep track of any trends or any injustices that are alleged can be backed up by some of the data. Is -- is that correct?

MR. LENTOL: That's right. We don't anticipate them, but we want to put in geographical locations of arrests and places where a police officer might go to make an arrest, in order to determine whether or not he's following some kind of a pattern of behavior that may give us some metrics about who's being arrested and who's not being arrested.

MR. RAMOS: And I have seen that the way things are reported and classified in -- in reports really makes a big difference. And I'll -- I'll -- I'll give you an example. For instance, you have crimes that are classified as bias crimes, but that they kind of blend into other crimes. For instance, if -- if a group of people chase down a person of color and they start using racial slurs and they -- they beat him up because of his race, and one in the group takes his -- takes the guy's wallet and they choose to classify that as a robbery, not as a bias crime, the way things are reported and the data can really be skewed, right? So I -- I assume that this bill goes towards having more accurate raw data that can be analyzed down the road if there are issues.

MR. LENTOL: Correct.

MR. RAMOS: Yes. And Mr. Lentol, we heard it said here that we should limit this and take out, because it's too burdensome, to have minor offenses be part of this reporting.

MR. LENTOL: The minor -- the minor offenses are the most important because that's where we can see a pattern starting to develop that we would like to nip in the bud. We're not -- we don't want to accuse every officer of bad behavior, but maybe some of them are getting into it unwittingly because that's where they're told to go to make the arrest, for example.

MR. RAMOS: That was going to be my next question. Isn't it minor offenses that is used en masse against people of color? The stop and frisk.

MR. LENTOL: Yes.

MR. RAMOS: The loitering. Disorderly conduct.

MR. LENTOL: Thank you, Mr. Ramos. You're exactly right.

MR. RAMOS: So I think that -- that is where we saw the relevance of raw data. Why anybody would be against having raw data, full reporting so that -- full reporting can also exonerate police officers.

MR. LENTOL: Correct.

MR. RAMOS: If -- if we had full reporting and fine details about everything that's going on. Sunshine is the best disinfectant for both protecting police officers and protecting the public.

MR. LENTOL: And most importantly, if we're really interested in improving the police officer lot in -- in -- in our society, that we want to get this information early so that we can either correct it or talk to him. Maybe get him help if he needs it so that we -- we're not looking to attack anybody, but if we have this information we can start to develop better policing practices in all of our departments, and at least know the signs of trouble where they start to exist.

MR. RAMOS: Thank you, Mr. Lentol.

ACTING SPEAKER AUBRY: Mr. Epstein.

MR. EPSTEIN: Will the sponsor yield?

MR. LENTOL: Yes, I will.

ACTING SPEAKER AUBRY: Mr. Lentol yields.

MR. EPSTEIN: Mr. Lentol, can you explain what the Broken Windows policy was in New York City?

MR. LENTOL: I'm not an expert on Broken Windows, but to the best of my knowledge, it's a policy that says that if the windows are broken, then it's a sign that -- that crimes of lower-class crimes like that will begin to breathe into higher crimes (unintelligible) so that you've got to correct broken windows so that you can have better policing to correct the higher crimes happening.

MR. EPSTEIN: All right. Well, thank you very much about that. And -- and so in those times, broken windows could be people getting arrested for, like, people spitting on the street or chewing gum or throwing gum on the street. Have you heard of those instances, Mr. Lentol?

MR. LENTOL: Yes, I have.

MR. EPSTEIN: And so why is that information important to collect if someone's arrested for spitting on the street? Why -- why do you think that's relevant?

MR. LENTOL: Well, I think it's relevant, as I told Mr. Ramos, first of all, because of the geographical location. And -- and also to determine whether or not they are nitpicking in order to make an arrest in a particular situation rather than trying to find people who are actually committing crimes.

MR. EPSTEIN: Thank you.

On the bill, Mr. Speaker.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. EPSTEIN: Thank you. And I just want to applaud the sponsor for introducing this legislation and letting us pass it so many times. I really hope we get it through this year. Clearly this issue we've experienced as New Yorkers for decades disparate treatment for people of color through arrests on these low-level offenses has resulted in people, you know, being connected to the criminal justice system. Race and class matter critically in that information. Racism, as we know, what we've seen this week in the United States in the last two weeks with the killing of George Floyd for minor offenses, who we see are out selling cigarettes on the street, these are issues that have impact on people's lives. And so collecting this data is such a critical piece of information that we need to inform us, as New Yorkers, us, as policymakers.

So I really want to move this legislation forward. I encourage all my colleagues to support this bill because at the end of the day, we need a better system that doesn't judge people on their race and their class. That doesn't judge people for where they come from. That doesn't judge people for who they are which is a fair and equitable system that treats people from all different sorts of backgrounds equally and the same to ensure they have an equal opportunity. Now, equal and separate aren't the same thing. We need to ensure that our laws are fair. We need to ensure that our laws are -- are treated for everyone in the same way, and I think this bill goes a long way of collecting that data that we'll need to use as we move forward as we reform our policing techniques not just here in New

York, but all over the United States. Because what we've learned is our policing system, as it stands today, does not work. The information will help change the system so we will not hear those words, "I can't breathe" again.

Thank you. I urge my colleagues to support this bill.

ACTING SPEAKER AUBRY: Thank you, sir.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Rules Report No. 66. This is a Party vote. Any member wishing to be recorded as an exception to their Conference position is reminded to contact the Majority or Minority Leader at the number previously provided.

(Pause)

Mr. Goodell.

MR. GOODELL: Thank you, Mr. Speaker. The Republican Conference will generally be voting no on this bill. If there's some members of the Republican Conference who would like to vote yes, please contact the Minority office immediately.

Thank you, sir.

ACTING SPEAKER AUBRY: So noted.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. The Democratic Majority will be voting affirmative on this one. If there are some of our colleagues who desire to vote otherwise,

they should either make their way to the Chambers and/or call into the office and we will record them as such.

ACTING SPEAKER AUBRY: Also so noted.

(The Clerk recorded the vote.)

Mr. Colton to explain his vote.

MR. COLTON: Thank you, Mr. Speaker. This is a bill which I think has very commendable intentions, and I certainly, you know, want to commend the sponsor for attempting to introduce a bill like this. But in the circumstances that exist in today's times, I am concerned that this kind of a bill may place a tremendous burden upon police officers and the court system. And it may even raise issues and concerns in the relationship between a police officer and the person that he's stopped, which may create confrontational or negative connotations. Also, I am afraid that the police officer is not able to accurately provide much of the information that this bill is requiring, and that is problematical to me.

So I would hope that we could come up with a -- a better measure to develop the metrics that we're seeking to do, to accomplish the purpose that we're seeking to do. But I think this bill is so over-encompassing and involves so many different compass and requirements that I cannot vote in the affirmative. That I unfortunately, with the way the bill is currently written, I must vote in the negative.

ACTING SPEAKER AUBRY: Mr. Colton in the negative.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, to explain my vote. I -- I do just want to mention that the reason that this type of legislation is so important is that there are a lot of people who feel and believe that the broken window-type policing, the policing on small, nonviolent crimes that may be a nuisance in the community but not necessarily warrant arrest and/or death by an officer is the reason why you want to keep this data. And I do understand that there may be some concern that this may be an overwhelming amount of information for local courts to keep. But in all honesty, most local jurisdictions don't have these issues. These issues only happen when you have officers who, quite honestly, decide to stop somebody because they think that their registration sticker may be wrong, even though it's not wrong. I doubt that -- that -- these numbers will be very large and very -- they'll be small in very large communities. And so I think those people who have concern about the pressure on their local jurisdictions should not necessarily worry about that as much. But they should want to get to the truth. They should want to get -- and facts always will tell you the truth. Facts will lead you to the truth. And the fact that you don't want to collect them concerns me, because there may be some truth that may be a little shattering. And so I think this is important.

I want to really commend Mr. Lentol for sponsoring this legislation for a good bit of time around this Conference, and I look forward to voting in the affirmative. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mrs. Peoples-Stokes in the affirmative.

Mr. Rodriguez to explain his vote.

MR. RODRIGUEZ: Thank you, Mr. Speaker, for allowing me to explain my vote. I want to commend the sponsor for this legislation. You know, on the surface this seems like this is a technical or a technocratic bill where we're just recording data and demographic information. But that -- that wouldn't be farther from the truth. The truth is the only way that we can measure and create policies that make sense and that really treat people fairly is by recording and reporting the data. And this is one of the ways that we're able to do that without putting as much of a burden on the -- on the actual police -- police officers during that reporting process. And I think anecdotally I heard something about a -- a program that was held in -- in -- in Manhattan where they were, you know, self-recording information, particularly about an -- an ATI program and a -- a -- a weapons-related alternative to incarceration program. And, you know, for -- for folks who are arrested who are white -- which only accounts for about 3 percent of -- of the folks that commit those crimes, however, 50 percent of the people who are enrolled in this ATI program were of that 3 percent. We wouldn't have been able to see that kind of correlation amongst demographic data and the folks that are participating in this ATI program if they didn't record it. And they're not required to report it. But as a result of this legislation, we can now begin to see trends and see whether the court system is

administering fairly different programs, and/or if we have to create different programs that help serve and -- and -- and -- and give proper justice to our constituents. But that could not be done unless we created some sort of man -- mandatory reporting system and I'm -- I'm proud that we're going to be doing that today.

Thank you, Mr. Speaker. As a result, I'll be voting in the affirmative.

ACTING SPEAKER AUBRY: Mr. Rodriguez in the affirmative.

Ms. Wright.

MS. WRIGHT: Hello. To explain my vote. Thank you, Speaker. Thank you for -- that you, sponsor, for introducing this bill which will allow us to monitor the activities of police and law enforcement and how law enforcement is executed. Too often we have watched as New York State Police practice enforcement strategies that resulted in over-policing and criminalization of race, gender and poverty. This bill will help us to keep record of it, of the -- of the practices, and it will burden all involved just enough so that they can no longer ignore the impact that their work has on all of our communities, nor will be able to overlook patterns of abuse. I anticipate the reporting, and I expect that we will be able to come up with better policy solutions to serve our communities as a result of it.

So thank you very much for this bill, and I will be voting in the affirmative.

ACTING SPEAKER AUBRY: Ms. Wright in the

affirmative.

Ms. Walker.

MS. WALKER: Thank you, Mr. Speaker, for allowing me to explain my vote. I also want to commend the sponsor for introducing this bill because data collection is very important. For some reason, people like to see on paper that racism exists within our institutions. And it's this type of data that leads us to prove that very point. We're required to show disparate impact in many different occasions, whether it be for MWBE legislation or otherwise. And so this is another example of why it's important for us to be able to show these things, particularly as we're coming up with policies.

One of the things that I heard about the other day was "coins for collars," and that these sort of low-level ministerial acts which take place in communities actually help out a number of individuals as it relates to overtime pay, for example. And it doesn't happen in many communities, but we know that it happens in communities like the one that I represent. And so I need this data to show that this type of omnipresence policing that doesn't lead to any precision policing tactics which actually leads to crime reduction in our communities, to show that it's a -- it's a waste of time. It's a burn on our relationships. It's a burn on the relationship between the community and the police. And we need these numbers to protect not just the individuals who live in our neighborhoods, but quite frankly, also the officers who are patrolling those streets.

So the data is very important. I appreciate it, I look

forward to its passage and I proudly vote in the affirmative.

ACTING SPEAKER AUBRY: Ms. Walker in the affirmative.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, if you could please record Member Gunther in the negative.

ACTING SPEAKER AUBRY: So noted.

(Pause)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Rules Report No. 61, the Clerk will read.

THE CLERK: Assembly No. A01531-B, Rules Report No. 61, Richardson, Heastie, D'Urso, Ashby, Sayegh, DeStefano, Vanel. An act to amend the Civil Rights Law, in relation to reporting a nonemergency incident involving a member of a protected class.

ACTING SPEAKER AUBRY: An explanation is requested, Ms. Richardson.

MS. RICHARDSON: Thank you, Mr. Speaker. You know, this bill will establish a civil right of action under the Civil Rights Law when a person calls 9-1-1 or otherwise summons a police officer or peace officer when there is no reason to believe a crime is occurring. The cause of action would arise when the caller acted because of a belief or perception regarding the race, color, national

origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of the person. This bill addresses instances when a person is motivated by bias, makes a false report or a crime. As we all know, very recently and historically at this point there has been a number of distressing (unintelligible) calls to 9-1-1 and emergency services for individuals engaging in very ordinary legal activity. However, these callers, personal biases with other people, has been the basis for many of those calls and not for any particular threat that, you know, an individual may have presented to them. And so this bill seeks to cure this injustice by providing these wronged individuals with a cause of action, which we hope they will take, to prevent these shameful acts from occurring in the first place. 9-1-1 is for emergencies only, not because you are biased.

ACTING SPEAKER AUBRY: Thank you.

Mr. Goodell.

MR. GOODELL: Thank you, Mr. Speaker. Would the sponsor yield?

MS. RICHARDSON: Absolutely, Mr. Goodell.

ACTING SPEAKER AUBRY: Mr. -- Ms.

Richardson yields.

MR. GOODELL: Thank you, Ms. Richardson. As you know, Section 240.50 of the Penal Law already makes false reporting of an incident a violation of the law, right?

MS. RICHARDSON: Yes, it does, Mr. Goodell.

MR. GOODELL: And that applies to anyone who

makes a false or baseless report or warning of a crime in which it's not likely that there'd be one, or reports by (unintelligible) action to any emergency services a danger to the life or property if it's baseless or false, gratuitously reports to a law enforcement officer the alleged occurrence of any offense or incident which did not, in fact, occur. Reports by word or action an alleged occurrence or condition of child abuse. And the list is fairly extensive. So my -- my question is, since we already have a broad criminal provision relating to false reporting, why do we need this section?

MS. RICHARDSON: Well, Mr. Goodell, I'm glad that you laid that extensive list out. And as we know, it is a misdemeanor, Class A. But, Mr. Goodell, what this piece of legislation seeks to do is to add a civil component so that if someone unjustly calls 9-1-1 on you for simply existing in your current being, you now have the ability to take action against that person in a court of law. And I would have you know, Mr. Goodell, while we do have that law on the books here, we have seen it time and time again, most notably and recently just here in Central Park with Central Park Amy calling 9-1-1 on an African-American man simply because he asked her to put the leash on her dog. And you know, Mr. Goodell, good thing for technology - which is in other legislation we'll take up here today - that it was recorded that evidently she was just falsely calling 9-1-1 on him. But although this is a misdemeanor, she wasn't arrested. But now with this law, this man will have the ability to take action against her in a court of law, rightfully so.

MR. GOODELL: But using that as an example, if it's a false and baseless allegation that falls within the scope of the current Penal Law, isn't -- isn't a better approach to enforce the current law? I mean, wouldn't that address the issue? It sounds like your complaint is that the current law wasn't -- wasn't enforced. It is an enforcement issue?

MS. RICHARDSON: Mr. Goodell, it's a lot of issues combined in one. And what we do here in this House, as you know, is that we strengthen laws so that they are able to be exercised in more than one way, and that's what this piece of legislation will do.

MR. GOODELL: Of course, as you know, all of us are -- are offended when there's a false claim, particularly if the false claim is based on a protected category. But at the same time, we balance that against the desire to have an active and engaged public helping law enforcement solve crimes. And so as a matter of public policy, we want to encourage witnesses, for example, or those with tips to call tip lines to help solve crimes. Wouldn't a civil liability provision have a chilling effect on our desire to have citizens helping solve crimes by calling in tips?

MS. RICHARDSON: Actually, Mr. Goodell, it would not. Because we encourage anyone who justly believes, who is of reasonable sound mind and judgment, to call 9-1-1 if they feel that there is a real threat occurring and to elevate their voice protectively through tip lines and so on and so forth. What we are trying to establish with this bill, Mr. Goodell, is that people don't abuse that

emergency system, as we are seeing it rampant right here in New York State. And so let's be honest, Mr. Goodell. If there was a real threat of danger to you presented, in that moment when you pick up the phone to call 9-1-1 you are not thinking about being sued. You are thinking about emergency services reaching you in a timely fashion so that you can get the help that you were calling for. So if you were actually thinking twice, it might be something going on with your thought process.

MR. GOODELL: Well, I appreciate that -- that concern, but at the same time we've all seen situations where there's a video of an alleged robbery, for example, or a police sketch. And they're rarely high-quality. Yet, if that person felt within a protected category, the alleged defendant, wouldn't we be, under this law, subjecting people who innocently but mistakenly called the police hotline to say, *You know, I saw someone that looks like that individual?*

MS. RICHARDSON: Mr. Goodell, the language in the law says without reason to suspect that the person has committed a crime. So for the scenario in which you are using here, that means that the person reasonably suspected. And so if this was a case because we're adding civil penalties here, the judge would make the determination that the person was just in their action of making the call.

MR. GOODELL: And I appreciate that explanation. It helps define what's meant by this bill, which is very helpful as part

of the legislative history. I would note, though, that this bill would also provide civil liability to a person who calls 9-1-1 if they lack reason to suspect an imminent threat to person or property. Imminent threat means immediate, right? So could a person -- it seems to me that the word "imminent" really restricts the scope of the exception. I mean, if -- if there's a legitimate threat, even if it's not imminent, shouldn't the individual be protected from any civil liability?

MS. RICHARDSON: While I do appreciate your potential descriptions, Mr. Goodell, let's be very clear. We are facing a severe problem here in the State of New York. The imminent threat of a person standing by a car with a crowbar and you suspect that a crime is about to be committed, that they're going to break in the car or you see them, then you should justly call 9-1-1. But to see a person of color or a person of, you know, any cultural background that you so have a problem with, so walking their dog or standing by the car and then you just call 9-1-1 on them justly, that is what we're not going to be tolerating here in New York, and now while we're adding the civil liabilities to it. And so while I see where you're trying to go here, to say that individuals would not call 9-1-1 because they will be deterred by this piece of legislation, I submit to you again, we actually hold people accountable, keep them honest. And the vast majority of New Yorkers are not doing this. We're going to take care of the few bad actors, just as we should.

MR. GOODELL: Is it your view that this standard, which is that a person lacks a reason to suspect, is in some ways a

tighter standard, if you will, than the criminal provision which refers to a person making a statement that they know is false or baseless? In other words, is it possible that a person could have civil liability even though they would not have violated in any way the false reporting statute, which seems to be quite broad?

MS. RICHARDSON: Re-ask that question, Mr. Goodell. I was busy looking at you smiling. Ask the question again.

MR. GOODELL: So the question is, if you're innocent of a charge of false reporting, does that also then mean that you're not civilly liable?

MS. RICHARDSON: Yes.

MR. GOODELL: Thank you very much. That's very helpful.

On the bill, sir.

ACTING SPEAKER AUBRY: On the bill, Mr. Goodell.

MR. GOODELL: Thank you to my colleague for clarifying the intent of this bill. It's interesting because on one hand we most assuredly want to encourage members of the public to call the police with tips. And, in fact, many, many of our most serious crimes have been solved by tips from the public who picked up the phone and said, you know, *I saw a car that I've never seen in my neighborhood before*, and the police were then able to track that vehicle down and locate someone who was in that neighborhood and killed someone else. I mean, the examples are just legend of tips from

the public that help the police solve horrific crimes. Now, when you ask the public to help you, you know, the police know that they're going to get, hopefully, a lot of responses. And sometimes it's a real challenge for the police to sift through all the tips to find the ones that are helpful in solving. And we understand that. And we understand when there's a gruesome crime, a horrific murder, or a kidnap or a rape, that typically the police will interview a lot of potential suspects as they do their job of narrowing it down to the actual perpetrator. We need to be extremely careful that we don't make individuals who call with a tip liable for a lawsuit if the police following up on that tip then interview someone who turns out not to be guilty of a crime. So we need to be very, very careful about imposing civil liability on speech.

Now, this bill doesn't require that the speech be malicious or knowingly false or baseless. And if it said that if a person calls the police and it is baseless and it is knowingly false, or if it was malicious with no foundation and fact, they would be civilly liable. Now, fortunately, my colleague made it clear that while the language of this bill doesn't require that it integrate with Section 240.50 of the Penal Law, she made it clear that if you are not guilty under the Penal Law you wouldn't be subject to civil liability. And I think that's helpful. But I am concerned that this language should be tightened, in my opinion, to make it clear that civil liability only occurs if you know the statement is false, baseless or is made maliciously or intentionally. And without that clarification and that narrowing of this language, we run the risk that we will chill the very

type of assistance we rely on from the general public and create potential First Amendment rights.

So again, I -- I appreciate my colleague's comments and I appreciate the opportunity to discuss this. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you, sir.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Rules Report No. 61. This is a fast roll call. Any member wishing to be recorded in the negative is reminded to contact the Majority or Minority Leader at the number previously provided.

(The Clerk recorded the vote.)

Ms. Richardson to explain her vote.

MS. RICHARDSON: Thank you so much, Mr. Speaker. Today we are adding another layer of protection to individuals' right to exist. And we are here today adding civil liabilities to the false calls of 9-1-1. And this is not something that we are just picking out of the sky, Mr. Speaker. We have a lot of problems happening in the State of New York. As previously stated, just last week Amy Cooper called the 9-1-1 authorities on a young man in Central Park, and given the history of Central Park and the relationship between that happening could have resulted in a very negative outcome for that gentleman. Thank God for technology. But Mr. Speaker, she isn't the only one. I mean, we have Permit Patty in 2018 where a woman called the cops on a little African-American girl

for just selling some water in the park. Or Barbecue Becky in 2018 as well, who called the cops on individuals who were African-American just barbecuing. Or Corner Store Caroline right in Flatbush, Brooklyn, where this Caucasian woman suggested that a little young boy, looking just like my son, touched her behind and when we rolled back the video she called 9-1-1 on and he hadn't done anything to her at all. Or Key Fob Kelly who called 9-1-1 on an African-American man because he was visiting his friend and she thought that he shouldn't be in that luxury building, as though we don't have diversity in our friends. But what about Starbucks Sarah, Mr. Speaker? The white woman that called 9-1-1 on an African-American man and his friend because they were waiting -- they were waiting for their other friend to come before they ordered so they could all order together. I mean, how many times do we all do that? But 9-1-1 was called on them for simply existing.

And so today we add civil liberties. We say, *We are holding you accountable*, and I thank all of my colleagues for voting in the affirmative as well as I.

ACTING SPEAKER AUBRY: Ms. Richardson in the affirmative.

Ms. Wright.

MS. WRIGHT: To explain my vote. Thank you, Mr. Speaker. And thank you to our sponsor for presenting this bill. I'm so happy that our colleagues identified some of the glaring inconsistencies of enforcement during the debate. Yes, it is criminal

to deliberately call 9-1-1. However, we find that whenever the 9-1-1 system is weaponized against black people it is not enforced. It is criminal, it is illegal, but it is not enforced. So we are creating for the people -- so we are creating a remedy for the people who are falsely accused by those who intend to abuse our 9-1-1 reporting system. In this case where our policing has failed us, we will use our courts. We can no longer tolerate the flagrant abuse of our municipal reporting systems to inflict bias-based harm upon our neighbors. Civil liability for knowingly and deliberately filing false claims is the bare minimum that we can do to protect the rights of our innocent neighbors.

I vote in the affirmative.

ACTING SPEAKER AUBRY: Ms. Wright in the affirmative.

Ms. Dickens.

MS. DICKENS: Mr. Speaker?

ACTING SPEAKER AUBRY: Yes, ma'am, we hear you.

MS. DICKENS: Thank you. People of color has been forced and faced structural racism throughout the history of this country and this State. I commend the sponsor for this legislation because all too often, 9-1-1 has been abused, not because of an emergency, as it was intended when 9-1-1 was created, but merely because of fear of skin color when approached by a person of color or in the view of a person of color or in the proximity of a person of color. This legislation will cause a person to stop and think, because

now there -- there will be teeth adhered to the legislation, and it can now be enforced that it is illegal to call 9-1-1 based upon anything other than an emergency.

I vote yes and I am in the affirmative. And thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Ms. Dickens in the affirmative.

Ms. Walker.

MS. WALKER: Thank you, Mr. Speaker. Thank you, Mr. Speaker. There was a -- a song that I remember growing up to where it would say, *Get up, get, get, get down. 9-1-1 is a joke in your town.* And that song was about the delayed responses to emergencies in communities of color. And when we have acts like Central Park Amy take place, it furthers the delays getting to emergency needs within communities across our State. So we are taking the joke out of 9-1-1, because that's exactly what she intended it for. 9-1-1 is intended to be a shield to protect communities in emergency situations. But she, instead, and others like her use it as a sword to act out their implicit biases against black and brown people across our country and across our State. And today we're saying that there will be some accountability to those actions. That you will do this now with a fear of retribution in terms of civil liability for making false claims.

So I, too, want to commend the sponsor for this introduction, and likewise vote in the affirmative. Thank you, Mr.

Speaker.

ACTING SPEAKER AUBRY: Ms. Walker in the affirmative.

Mr. Mosley.

MR. MOSLEY: Thank you, Mr. Speaker. I want to thank you for this opportunity, and I want to thank the sponsor for this piece of critical legislation. As many of you know, so many men and women of color have had 9-1-1 being used as a -- a weapon to criminalize or further criminalize people of color, particularly in New York City. And unfortunately we saw this again with another City resident who wished to use 9-1-1 as a tool to further decriminalize and further enlighten the notion that black and brown people, for merely looking the way they're looking, can be de -- can be criminalized off a -- a minor phone call to emergency personnel. This is outrageous. This is something that should have been taken care of a long time ago, but we're taking care of it now today.

And I want to applaud the sponsor and I want to applaud the Speaker and the Majority Leader for having this bill be a part of this reform package going forward, and it is my honor to be voting in the affirmative. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Mosley in the affirmative.

Mr. Ramos.

MR. RAMOS: Thank you, Mr. Speaker. This bill gives people another tool to be able to deal with this situation of false

police calls. We've seen over and over again how people make phone calls against people of color just as a way to use the police as their personal race soldiers. They know that when the police come there -- they're so used to the police coming there and things not working out well for the person of color, that this has become a common practice. And we saw in this debate how it was said, *Well, we already have falsely reporting is a crime. It's already a crime. Why do we need this?* Well, if you look at the video of Central Park Amy, how did it work out there? Was she arrested? The problem is that the people, the racists who are making those calls against people of color are not getting arrested. So we have taken it into our own hands today in the Assembly, and giving people of color another tool that if it's not -- they don't get justice through the -- the -- their police department, they can now go after the person civilly.

So I commend the sponsor for this bill, and I proudly vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Ramos in the affirmative.

Mr. Ortiz.

MR. ORTIZ: Thank you, Mr. Speaker. Can you hear me?

ACTING SPEAKER AUBRY: Yes, we can.

MR. ORTIZ: Okay. Thank you, Mr. Speaker, for allowing me to explain my vote. I would like to start to say that in 2018 I introduced the same piece of legislation, mandating that this

should be a hate crime, not a civil crime. I think it's very important to recognize that many phone calls on 9-1-1, false reporting should be considered as a hate crime and is something that shouldn't be acceptable. It's racism. It's bigotry. And we have seen year after year after year. In 2018 when I introduced the first bill it was based on the history -- on a story that came from Philadelphia and Minnesota. Two black men was having coffee at -- at a Starbucks, and one of them was -- one white person called the police because they thought that they had a knife, and what they had was a pen.

So this is kind of ridiculous action that they take by falsely reporting, and I am very proud to vote on this bill today. But I hope that the day will come when we really step to the plate and we make this a hate crime. That people who went to pick up the phone and dial 9-1-1 to make the false accusation, they will have to think about this twice or three times. This is a long overdue piece of legislation. I'm very proud to be pushing this bill for a long time, and I'm very proud to support this bill today and the package that is coming ahead of us.

Mr. Speaker, today is a historical moment. Tomorrow will be brighter and the future of our grandchildren and children will be better protected because what we're doing here today. Therefore, Mr. Speaker, I will be voting on the affirmative.

ACTING SPEAKER AUBRY: Mr. Ortiz in the affirmative.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you very much, Mr. Speaker. I rise to commend the sponsor of this legislation. It is critically important. Malcolm X once said the -- *History most rewards our research*. And it's so accurate. We can go back to 1955 when Mrs. Bryant suggested that Emmett Till, a 14-year-old kid said something to her or whistled to her. Her husband immediately went home, drug him out of his bed and killed him. And if not for his mother we wouldn't even know how badly they hurt this young man. Twenty, 30 years later, a young woman pushes her two sons in a car into the water. What does she say? She said it was a black man who did it. That wasn't true. She had some mental health issues, but she weaponized her whiteness to do that. Here we are in 2020, and it's still happening. Mr. Speaker, something has to happen. Something has to stop people from using their race as a weapon against black men.

And so I commend the sponsor for this legislation, and it is my sincere hope that it's held up as high as it can be in making sure that officers, the FBI, every intelligent law enforcement agency that we have in America, will begin challenging people for using their ethnicity against other people as a weapon.

With that, Mr. Speaker, I am super proud to vote in the affirmative on this legislation.

ACTING SPEAKER AUBRY: Mrs. Peoples-Stokes in the affirmative.

Ms. Glick to explain her vote.

MS. GLICK: Thank you, Mr. Speaker. I appreciate the opportunity to explain my vote. There have been an endless series of shocking videos and instances of white people inexplicably being frightened or seemingly concerned about the existence, the mere existence of black people in their space. And using 9-1-1 as a weapon to hurt other people and diverting police from what might, in fact, be a serious situation is inexcusable. This particular piece of legislation and the package before us is a start in our attempt to rebalance, rebalance society, which clearly, clearly needs serious adjustments. And I applaud all of my colleagues who are carrying these measures, and I am particularly proud of this because it is readily at hand. Everybody has a cell phone. Everybody can call 9-1-1. And they have been doing it in the most pernicious and racist and vicious situations, when people are just living their lives. That's all people want to do. They want to live their lives, and we have to take steps to ensure that they can, in fact, live their lives and not be unjustly accused.

I withdraw my request and proudly vote in the affirmative. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Ms. Glick in the affirmative.

Mr. Goodell.

MR. GOODELL: Thank you, sir. The following Republicans will be voting no on this bill: Mr. Giglio, Mr. McDonough, Mr. Ashby, Mr. Barclay, Mr. Blankenbush, Mr. Byrne,

Ms. Byrnes, Mr. DeStefano, Mr. DiPietro, Mr. Fitzpatrick, Mr. Friend, Mr. Hawley, Mr. Kolb, Ms. Malliotakis, Mr. Manktelow, Mr. Salka, Mr. Tague, Mr. Miller, Mr. Smith, and Mr. Lalor.

Thank you, sir. Also Mr. Norris. Thank you, sir.

ACTING SPEAKER AUBRY: So noted.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, if you could please record Member Buttenschon and Member Sayegh in the negative.

ACTING SPEAKER AUBRY: So noted.

And Mr. Goodell.

MR. GOODELL: Also please record Mr. Stec in the negative. Thank you, sir.

ACTING SPEAKER AUBRY: So noted.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you. Mr. Speaker, if we could now turn our attention to the main Calendar and we're going to go to Calendar No. 176, it's on page -- and go to page 30 and we'll take up a bill that's sponsored by Ms. Bichotte. And following that, Mr. Speaker, we'll be going to Calendar No. 70, 7-0, that one's on page 15 and that one is sponsored by Mr. Perry.

ACTING SPEAKER AUBRY: We are now on "a"

Calendar, which is the main Calendar. Page 30, Calendar No. 176, the Clerk will read.

THE CLERK: Assembly No. A04615-A, Calendar No. 176, Bichotte, Heastie, Gantt, Mosley, Gottfried, Blake, Walker, Cook, Perry, Pretlow, Ortiz, Dinowitz, Lifton, Peoples-Stokes, Hevesi, L. Rosenthal, Reyes, Zebrowski, Barrett, Wright, Fernandez, Simon, Simotas, Dickens, Rozic, D'Urso, Barnwell, O'Donnell, Epstein, Colton, Jaffee, Richardson, Hunter, Rodriguez, Seawright, Glick, Williams, Taylor, Vanel, Otis, Niou. An act to amend the Executive Law, in relation to ethnic or racial profiling.

ACTING SPEAKER AUBRY: An explanation is requested, Ms. Bichotte.

MS. BICHOTTE: Thank you, Mr. Speaker. An explanation on this bill: Racial and ethnic profiling occurs when law enforcement authorities target particular individuals based on their behavior, but rather on the basis of -- of personal characteristics, such as race, ethnicity, national origin or religion. Racial profiling is an unjust and ineffective method of law enforcement. It makes us less safe and secure, not more so.

Racial and ethnic profiling is none -- nonetheless pervasive. It has been used by law enforcement authorities at the Federal, State and local level. Under this bill, law enforcement officers, that is State and local police and peace officers, would be prohibited from using racial or ethnic profiling while engaging in their law enforcement duties. This includes when officers conduct traffic

stops, pedestrian stops, interviews, ask questions, conduct investigations, frisk, pat downs, searches of individuals and property, data collection and inspection. This does not include when an officer acts on -- on trustworthy information, reasonable, articulable suspicion to investigate a specific criminal event.

This bill would allow any victim of racial or ethnic profiling or the Attorney General to bring an action for damages or for injunctive relief to stop the agency's improper actions. Current State law does not, I repeat does not provide an individual cause of action for acts of racial profiling. Also note that the Division of Criminal Justice Services would be required to create a forum for law enforcement agencies to use to compile data about investigative encounters and traffic stops with civilians, and a field interrogation report may be filled out. Pertinent data about the investigative report, whether it determines a reasonable articulable suspicion is not on the form. So, the information recorded would include such things like number of people stopped, the race, the ethnicity, national origin or the religion of such persons, whether the person was searched or frisked, whether the stop resulted in an arrest or a citation, and the length of the stop -- and the length of the stop.

Again, just know that this is the same type of information that some police departments are currently required to -- to record. This -- so this would not impede law enforcement officers in their regular duties; in fact, it protects a law enforcement officer against any lawsuit if he has legitimate reasons that it's reasonable to

the investigation of a specific crime event. I'll stop there.

ACTING SPEAKER AUBRY: Mr. Goodell.

MR. GOODELL: Thank you, sir. Would the sponsor yield?

MS. BICHOTTE: Yes.

ACTING SPEAKER AUBRY: Ms. Bichotte yields.

MR. GOODELL: Thank you, Ms. Bichotte, I appreciate it.

Now, I'm correct, aren't I, that under current law the stopping, questioning, frisking or searching of an individual by a law enforcement officer based solely on the individual's acts would precede racial or ethnic status without a reasonable individualized suspicion or other lawful cause to justify the search is already prohibited, right?

MS. BICHOTTE: Yes.

MR. GOODELL: And it's prohibited not only - I love this - not only by statute, but it's also prohibited under both the Federal and the State Constitution.

MS. BICHOTTE: Correct.

MR. GOODELL: I love it when the State Constitution is consistent with what we're trying to accomplish here on the floor of the Legislature. Not always the case, but -- certainly Article I, Section 12 of the New York State Constitution prohibits unreasonable searches and seizures. The Fourth Amendment prohibits it. But in addition to these statutory and Constitutional prohibitions

against racial profiling, there are also already civil remedies on both the Federal and the State level, right? You can bring an -- a 1983 action, for example, in Federal court if you believe you've been the victim of racial profiling by a law enforcement officer, correct?

MS. BICHOTTE: Correct.

MR. GOODELL: And you can also bring an action, civil action, pursuant to the New York State Human Rights Law if you were the victim of alleged racial profiling, correct?

MS. BICHOTTE: Correct, but not a private right of action.

MR. GOODELL: But certainly the 1983 is the private right of action, right, the Federal 1983 action is a private right of action, correct?

MS. BICHOTTE: It's not, in fact. It hasn't been -- it hasn't been followed in our local municipalities.

MR. GOODELL: Well, it doesn't need to be followed in the local municipalities, it's a Federal cause of action and it's not the local municipality that governs whether or not there's a Federal lawsuit brought under 1983, but 1983 was designed specifically to provide for a private of right of action for anyone who's a victim. But -- and I think all of us, by the way, as you may have already guessed, I'm certainly 100 percent on board against prohibiting racial profile, I support the State Constitution and the Federal Constitution and the numerous laws that prohibit it. I'm very much in -- in support of judicial decisions that also prohibit any racial

profiling, and I think it is immoral, unethical and inappropriate in all respects.

MS. BICHOTTE: Correct.

MR. GOODELL: And so, we're all clear on --

MS. BICHOTTE: Yes, we're all clear on that.

MR. GOODELL: -- on that. But the concern I have with this bill is it goes on to require every law enforcement agency to record and retain a lot of information about anyone who is stopped in a traffic -- a traffic stop, interviewed, stopped on the street, who underwent even a consensual search of their person or property, and that requires them to fill out data on all of those groups of people, correct?

MS. BICHOTTE: Correct.

MR. GOODELL: And -- and not only is the data --

MS. BICHOTTE: Well, it's -- it's for -- the data -- it's required for everybody. So, the data will capture who was stopped -- who were stopped, who are the individuals who were stopped. So, it would actually aggregate data to see if it's -- there's a -- is there a disparity in terms of the number of people who -- who has been stopped, which is why we have this bill because, obviously, there's been a disproportionately stop and frisk in communities of color.

MR. GOODELL: But -- you mention stop and frisk, but that's been -- that's been banned since 2003, right, 17 years ago.

MS. BICHOTTE: Well, I mean there's a lot of things that's been banned. I mean, we -- we currently -- we are here putting

laws to certainly uphold the Constitution, right? So, the reason why we're pushing a lot of these police reform is obviously many of the law enforcement have not abide [sic] by the rules. People are being treated inhumanly, people are treating -- being treated with discriminatory practices. So, we want to make sure that we have it in law in our statute that these practices are not continuous, and we want to make sure that we collect data to prove that these practices are not continuous.

I mean, in -- in -- in the United States, in the Declaration of Independence in 1776 it states that, *All men are equal and that they are endowed by the Creator with certain unalienable rights that among these are life, liberty and the pursuit of happiness.* This Declaration preceded by the Constitution -- 1787. So, when we talk about the Constitution, we are implementing laws because racism still exists. Sexism still exists. Religious -- discrimination and practices against religious beliefs still exist. Discrimination against practices of sexual orientation still exists. So, when we're presenting our data to the court to show proof that these discriminatory practices exist, this law would help remedy some of these practices that are currently happening.

MR. GOODELL: Well, as you and I started out this discussion, I mean, there's multiple statutory provisions that prohibit racial profiling, which we support, there are multiple court cases that have banned racial profiling, there are a number of court cases going back to 2003 that said you cannot use stop and frisk, right?

MS. BICHOTTE: Mm-hmm.

MR. GOODELL: Most police departments, if not all of them, banned racial profiling. It's not your argument that even though we have dozens of prohibitions that one more will -- will make all the difference in the world, right? That's not really the position.

MS. BICHOTTE: Well, it's --

MR. GOODELL: This is more about reporting, right?

MS. BICHOTTE: Well, it's about reporting, it's about the -- the procedural aspect of it. You mentioned about Section 1983. Well, Section 1983 has been expanded in application, but it's still procedurally difficult. That's why we want to implement this law so that we can find a way, a tool to get verifiable and quantifiable data. And, in doing that, it will change the behavior of law enforcement when they're specifically are told or just, you know, racially profiling or targeting individuals, communities and housing communities.

MR. GOODELL: Thank you very much. I appreciate your comments.

MS. BICHOTTE: Mm-hmm.

MR. GOODELL: On the bill, sir.

ACTING SPEAKER AUBRY: On the bill, Mr. Goodell.

MR. GOODELL: Well I -- I would hope that our discussion makes it clear that no one in any shape or form justifies

racial profiling. And thankfully, we have Constitutional provisions that bar racial profiling in both the Federal and the State Constitution. We have multiple statutory provisions that ban any racial profiling. We have multiple cases that say it's completely unacceptable. We also have two different civil provisions against racial profiling that already exist. One under the State Human Rights Commission, and one in Federal court under 1983 of the Civil Rights Act. And both of them are important because if you suspect that the local judge, for example, might have some animus, it has never been my experience, but if you thought that, you could go to the Federal court. And so, there's no argument by anybody about racial profiling and how it's been banned and that we have both criminal and civil remedies already in place.

The problem with this bill, however, is it goes on and says that law enforcement officers have to record multiple things whenever they stop and talk with anyone. If they stop a car, they have to collect information on each person that's in the car. That's on line 29 on page two. And the data they have to collect is race, ethnicity and demographic data on every single person in the car even if there's no ticket written. Even if the purpose of the stop was just to say, *Hey your taillight's burned out, you need to get it fixed.* It also requires the same type of data reporting for simple interviews. So, if you're investigating a horrific crime and time is of the essence, you have to stop and fill out a detailed report; pedestrian stops, a simple inquiry, consensual searches. So, the problem we have and the law enforcement community has is that we are overwhelming our law

enforcement with data collection and that takes away from the time they have to solve serious crimes, or stop vehicles that ought to be stopped rather than just giving them a warning.

So, for -- for the reasons I mentioned, and the fact that each stop has to talk about the number of people, the characteristics of race, color, ethnicity, national origin or religion which, to be honest with you, I would find offensive if -- if I'm stopped for a traffic stop and the officer says to me, *What's your religion?*" I'd tell them to go pound salt. Well, actually, I wouldn't. If the officer asked me, I'd invite him to my church because that's, you know, I'd love to have more people in my church. But this requires the officer to ask what's your religion, what's your national origin and record that. Your religion. Your national origin. Your race, your color, on every single interaction. You stop a pedestrian and say, *Hey did you see anything suspicious?* The pedestrian says, *No*, they have to record. Once you're done saying, *Thanks, I'm glad you told me you didn't see anything wrong, by the way, what's your race, color. What's your religion? What's your national origin?* Really?

And this stuff is not cheap. When we impose massive and intrusive data collection on every stop, every traffic stop, every interview, it's a massive unfunded burden, mandate, on our local governments. And the data we collect is so massive it's not useful. Rather than to ask our police officers every time they stop someone to inquire about the person's religion or national origin, or ethnicity, even if all they're doing is saying, *Use your turn signal next time, okay*

buddy? Or, *Slow down*, even though there's no citation and no traffic ticket, and then require the local police departments to collect all this data and send it on, it's a massive burden.

And so while everyone agrees that racial profiling is inappropriate, we all support the fact that it's illegal under the State and federal Constitution, numerous statutes, we all support the fact there's civil lia -- liability if someone is engaging in it. We don't think we need our police burdened by time-consuming data collection that requires them to inquire about a person's religion or national origin for a simple traffic stop or a warning or a simple interview, which is what this bill does. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

MS. BICHOTTE: On the bill, Mr. Speaker.

First of all, just to respond to my colleague, Mr. Goodell, just -- just so you know, this bill will not require the police officer to ask about their -- their national origin or their racial or ethnicity makeup. It's -- will be done by observation, okay? Just so you know that.

And, secondly, you talk about this massive burdensome. You know what's a burden? When black people and Latino people are getting killed for no reason. What we're going through now with all the protests is a burden on all of us. It's a burden on our hearts. It's a -- it's a heavy weight. So, for you to say that data collection, which is something that every profession does, I mean, you know, as part of the health field, we need to collect data, that's not a

burdensome. That is what makes the profession more accurate, in a sense, to provide better health care. Finance, legal, housing, senior citizens, all of that; we always need to collect data. In improving our Constitution, in order to present it to the court, verifiable and justifiable data, we need proof, because the burden of proof will be on the victims.

And as you have seen, even now with the social distancing, we had data showing that police officers were targeting minority communities and arresting black people, 35 out of 40 people get arrested for social distancing were black and brown people. That's why we need to collect data. And let me tell you, stop and frisk is unconstitutional, but it's still being done. Just because a Federal action exists doesn't mean an individual shouldn't be afforded protection and relief under the State law. And, as mentioned, 1983 actions have made -- many different standards including knowledge and systematic impact that may not be analogous in a State action. Also, several municipalities outside of the State have been subject to suit for racial discrimination and lack of the recordkeeping. Many times the suit and -- and pricey settlements at a cost to the departments. We don't want that. This practice intends to reduce these lawsuits and save our State money.

Second, in most recent reports about Chicago and Baltimore Police Departments, the Justice Department cited that the lack of recordkeeping by such departments was one of the biggest issue. New York should abide by standards expected by the Justice

Department.

Now, I also want to tell you that the -- the New York Civil Liberty Union also did a report last year, and let me quote by -- Legal Director said, *That while we welcome the dramatic decline in reports stopped, we remain concerned that the number of actual stops is far larger because officers are failing to document many stops. They don't want to. In addition it shows that -- our report shows that the racial disparities continue to be a stubborn problem, that most stops are of innocent people, and that the police routinely and improperly are frisking New Yorkers.*

So, we have been passing this bill for many years because it's an issue. We've been trying to get the data from the Buffalo Police Department who refuse to release it under the FOIL law. So today, Mr. Speaker, it is -- it is with passion that I sponsor this piece of legislation which prohibits law enforcement officers from using racial and ethnic profiling, to establish collection data on traffic stops, and creates a cause of action based on the racial and ethnic profiling. Even though we have laws in the Federal level of the Constitution that are supposed to protect us, such as the Fourth Amendment, which protects our right to privacy, or the 14th Amendment, which provides equal protection under the law and bans discriminatory acts, the fact of the matter is racism still exists, sexism still exists, discrimination against one's sexual orientation still exists, discrimination against different religion still exists. We need these laws. We need these State law, we need these municipality laws to

protect the citizens and the civilians of the State of our New York.

I want to say that I am -- I am introducing this because today New York demands justice. They demand answers. They want to know why young black men account for only 5 percent of the City's population, but 38 percent of reported stops. It isn't because they are more guilty or deserving; in fact, 80 percent of those stops, these young men were innocent. Frisks are only supposed to be conducted when an officer reasonably suspects the person has a weapon that poses a threat to an officer's; yet, 66 percent of reported stops led to frisks, and 93 percent of those frisks no weapon was found.

The people of New York are marching in our streets. They are demanding justice for themselves and for their loved ones. They want the police to protect them, not to suspect them. During the height of the COVID-19 pandemic when communities of colors were facing the highest death rates, and still are, police were in our neighborhoods arresting black people for social distancing violations. And, as mentioned, in Brooklyn, 35 of the 40 arrests were black people. The City and the State has a long history of racial profiling. In 2013, a Federal judge found that New York City Police Department liable for a pattern of practices of racial profiling, unconstitutional stops in the landmark case of Floyd v. New York. The City subsequently dropped its appeal and began the joint remedial process ordered by the Court. Since that ruling, the NYPD confirmed in 2019 that they've received 2,600 complaints of racial profiling, and as they

investigated themselves, they found all the complaints to be unsubstantiated. The lesson we learned from Floyd v. New York -- City of New York is that the police cannot be trusted to police themselves.

My bill will ban racial profiling by collecting data. Police officers across the State will require to fill out a form every time they stop a civilian. The form will include the reason for the stop, if the arrest was made, whether the -- whether force was used, and the name, age, gender and race of the person stopped. This bill also allows affected civilians the right to file a lawsuit against the police department and seek reasonable monetary compensation in cases where officers employ these discriminatory practices. Eighteen states already require mandatory data collection for all stops, searches, and 15 require analysis and publication of racial profiling data.

Mr. Speaker, New York is falling behind and I have to say as we're voting for all these bills, unfortunately, our colleagues in the other House, the Senate, has introduced a watered-down bill that does not require data collection on stop and frisks by police officers, and takes away the right for a victim of racial profiling to sue the police department. We cannot be throwing a bone to all those who are a victim of racial profiling. Quite insulting. George Floyd, Breonna Taylor, Eric Garner, and so many others whose names are cried out by people across this room, the Senate believes it is too much of a burden to collect data because the police department are saying that. Even though New York is lagging behind, other states, of

course, are in this.

The people are demanding the answers for these victims and I will fight to pass this legislation. We cannot water down justice. And I'm just going to name a few people on this list. These are a list of racial profiling victims. It's long, but I'm going to name some: Eric Garner, John Crawford, Michael Brown, Ezell Ford, Nate Parker, Michelle Cusseaux, Laquan McDonald, Tanisha Anderson, Akai Gurley, Tamir Rice, Romain Brisbon, Jerame Reid, Matthew Ajibade, Frank Smart, Natasha McKenna, Tony Robinson, Anthony Hill, Mya Hall, Phillip Wright, Eric Harris, Walter Scott, William Chapman, Alexia Christian, Brendon Glenn, Victor Manuel Larosa, Jonathan Sanders, Freddie Gray, Joseph Mann, Salvado Ellswood, Sandra Bland, Albert Joseph Davis, Darrius Stewart, Billy Ray Davis, Samuel DuBose, Michael Sabbie, Brian Day, Christian Taylor, Troy Robinson, Asshams Pharoah Manley, Felix Kumi, Keith Harrison McLeod, Junior Prosper, Lamontez Jones, Paterson Brown, Dominic Hutchinson, Anthony Ashford, Alonzo Smith, Tyree Crawford, India Kager, La'vante Biggs, Michael Lee Marshall, Jamar Clark, Richard Perkins, Nathaniel Harris Pickett, Benni Lee Tignor, Miguel Espinal, Michael Noel and Antronie Scott. When does the list end? David Joseph, Calin Roquemore, Dyzhawn Perkins, Christopher Davis, Marco Loud, Peter Gaines, Torrey Robinson, Darius Robinson, Kevin Hicks, Mary Truxillo, Demarcus Semer, Willie Tillman, Terrill Thomas, Sylville Smith, Alton Sterling, Philando Castile, Terence Crutcher, Paul O'Neal, Alteria Woods, Jordan Edwards, Aaron Bailey,

Ronell Foster, Stephon Clark, Antwon Rose, Botham Jean, Pamela Turner, Dominique Clayton, Atatiana Jefferson, Christopher Whitfield, Christopher McCorvey, Eric Reason, Michael Lorenzo Dean, Breonna Taylor, George Floyd.

These are just some of the people who lost their lives. We say all their names, we say all their names, we say all their names. Think about all the men and women who were stopped and addressed by officers on the way to work every day. How often do you see a vehicle pulled over and realize that that driver's black. While white parents tell their children to go to police officers if they get lost, black parents are telling their kids to cross the street and walk the opposite way for fear that their child will be the next Breonna Taylor. We cannot lose one more victim to racial profiling.

Today, this legislation, the most important step we must take forward on police -- on police reform. Without it, our community's relationship with law enforcement will be without repair. Mr. Speaker, again, I'm proud to introduce this legislation and I encourage my colleagues here to vote on this legislation. I also -- I also pray that my colleagues in the Senate will think of all the names and many more on this bill and that we should not be sold out, we should not be thrown a bone. We as black people, we as everybody here whose been fighting, we are asking for all of us to pass this in the name of justice. Thank you.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Rules Report -- Calendar No. 176. This is a Party vote. Any member wishing to be recorded as an exception to the Conference position is reminded to contact the Majority or Minority Leader at the number previously provided.

Mr. Goodell.

MR. GOODELL: Thank you, Mr. Speaker. The Republican Conference will be voting no. If there are Republican members who would like to vote yes, please contact the Minority Leader's office right away. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, sir.

(Pause)

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. This a Party vote in the affirmative. Those colleagues who would like to vote negative should either move themselves into the Chambers and do so, or call the office and we'll be happy cast it for you. Thank you.

ACTING SPEAKER AUBRY: Thank you very much.

(The Clerk recorded the vote.)

No reason for overjoy.

Mr. Ramos to explain his vote.

MR. RAMOS: Mr. Speaker, to explain my vote. I proudly vote in the affirmative. I want to congratulate the sponsor.

Racial profiling, I don't know why anybody would have a hard time with the issue of racial profiling. That somebody should be able to stop me because I'm a Hispanic male without any other actionable information, and anything that makes it easier to actually observe that or to be able to report that, or for the public to see if there's a problem of racial profiling, it just boggles the mind why anybody would -- would be -- why that would be such a heavy lift.

We see over and over again, and this is only what we see on video, is how black and brown people are just walked up to and says, *What are you doing here?* And they'll say, *I'm sitting on the park bench, not doing anything wrong, officer. Is there a problem? Let me have your ID, what are you doing, where do you work?* And the person says, *Look, if I have not committed a crime, please leave me alone.* And it only goes downhill from there. These, you know, this -- and if there's no law that this is not prohibited, an officer who has actionable information from approaching somebody, it really makes a record of that approach so that if somebody feels aggrieved, they can actually look at the statistics and see if -- if this is the case or it isn't. So, I proudly vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Ramos in the affirmative.

Mr. Reilly.

MR. REILLY: Thank you, Mr. Speaker. I actually tried to get my hand up before to go on the bill, but I know I've only got two minutes, so I'm going to explain my vote. I was looking over

the bill, and, listen, nobody wants racial profiling. We want to stop it, of course, and make sure that it does not happen. But the idea of having somebody do a car stop, a police officer doing a vehicle stop and then holding those occupants a little longer so that they can see who's in the vehicle, account for it, think about a nighttime stop, tinted windows, you want to be accurate, you want to make sure you have the right information because that's what this data is about. So, now you're going to ask them to roll down their window and put the light on. And then you're going to guess what nationality and what religion they are. It's not always, right, we don't want to judge a book by its cover. You're asking them to exactly do what you're trying to prevent. You're telling them to identify someone and you don't know what they are really, what race, what -- what national origin they are, what religion they are.

You know, this -- this bill is -- I -- I like the intention and I agree with it, let's also look at if I'm a police officer in the 67th Precinct in East Flatbush, Brooklyn, and I am the summons (unintelligible), where I issue summonses, most of my car stops are going to be someone whose of color, not like me, and you may look at me and think that I'm prejudice, and I'm stopping people that don't look like me. These are things that we really have to think about, and I think we needed a little bit more work on this bill. For that reason, I'm going to be voting in the negative.

ACTING SPEAKER AUBRY: Mr. Reilly in the negative.

Mr. Barron.

MR. BARRON: To explain my vote, Mr. Speaker. You know, it's really absurd that we're at a point where something that's not going to stop police brutality, it's not going to stop police from killing us, like most of these pieces of legislation, but you can't even get a full legislative Body and a Governor to agree to something as basic and fundamental to the Constitution as stop question and frisk being against our Constitutional right to peacefully walk through our communities without being harassed. This is absurd that people cannot support a bill like this. Even if this bill was everything I wanted it to be, it is still not going to stop police brutality because this bill doesn't punish police officers. This bill doesn't have any consequences for police officers, like most of the bills we'll be passing. These are political bills more than effective bills to stop police brutality.

But even something like this, safe, Constitutionally correct, we have to have a one-House bill. I think it's absurd. I think we are in a really bad place. I think people are going to rise up continually when we can't get simple things like this, respecting some basic human rights. I'm voting yes on this bill, but I understand, too, that this bill is not going to have any impact on what happens to us as police continue to beat us and brutalize us. This was talked about after Amadou Diallo, 41 bullets. It was talked about after Sean Bell, 50 bullets. Every case I've been involved in, we talked about stop, question and frisk. And now, they're still doing it, they're just not

recording it. So, if they don't recording -- record it, you think it's not happening, but it is still happening.

So, I'm going to vote yes, but I still think we have to have much more teeth and much more substance, much more power to punish police. They should pay consequences for killing us. They should be prosecuted.

ACTING SPEAKER AUBRY: Mr. Barron in the affirmative.

Mr. Epstein to explain his vote.

MR. EPSTEIN: Thank you, Mr. Speaker. I just rise to explain my vote. And it's pretty clear that the current laws in effect are not working. New York has a long history of racial abuse with our police force. Now, that doesn't mean every police, we have lots of good police officers, but without the data, without the information, without people walking [sic] over someone's shoulders, we're never going to get to a better place. There could be laws on the books, but the actions speak louder than words.

This bill helps us put a spotlight on officers because they're collecting information. Now, I understand collecting information is difficult. I understand that maybe, not knowing exactly the race or the religion of someone is questionable. We're asking people to use their best judgment. And the reality is when we get this data, if we get this passed in the Senate, we're going to be able to make policy decision based on that data. We need to restructure how policing happens in our City and our State. We need a new change

and this bill goes a long way in moving us in that direction. I applaud the sponsor and I vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Epstein in the affirmative.

Mr. Goodell.

MR. GOODELL: Thank you, Mr. Speaker. The following Republicans vote yes on this bill: Mr. Ashby, Mr. Schmitt, Mr. Smullen and Mr. Walczyk. Thank you, sir.

ACTING SPEAKER AUBRY: So noted. Thank you.

Mrs. Peoples-Stokes.

Shh.

MRS. PEOPLES-STOKES: Mr. Speaker, if you could please record our colleague, Mr. Sayegh, in the negative.

ACTING SPEAKER AUBRY: So noted.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Calendar No. 70, the Clerk will read.

THE CLERK: Assembly No. A01360-A, Cal --
Calendar No. 70, Perry, Heastie, Arroyo, Taylor, D'Urso, Fernandez, Rivera, Hyndman, Niou, Barron, Gottfried, Wright, Fahy, Blake, Richardson, Cruz, Epstein, Rodriguez, Mosley, Simon, L. Rosenthal, Ortiz, Aubry, Otis, Gantt, Crespo, Glick, Joyner, Simotas, Carroll, Davila, Vanel, Steck, Kim. An act to amend the Civil Rights Law, in

relation to recording certain law enforcement activities.

ACTING SPEAKER AUBRY: An explanation is requested, Mr. Perry.

MR. PERRY: Thank you, Mr. Speaker. This bill, the New York -- The New Yorker's Right to Monitor Act, would provide a person not under arrest or in the custody of law enforcement the right to record law enforcement-related activities, retain custody and control of such recordings. The bill would create a private right of action for persons who can, one, establish that they exercised or attempted to exercise their right to record law enforcement-related activities, and, two, an officer acted to interfere with such person's attempt to record law enforcement activity by including, but not limited to, intentionally preventing or attempting to prevent such person from recording; threatening a person -- such person for recording a law enforcement activity; commanding such person to stop recording law enforcement activity; stopping, seizing, searching, ticketing or arresting that person because he or she recorded a law enforcement activity; unlawfully seizing or unlawfully destroying such recording or copying such recording without consent of the person who recorded it. And, lastly, the bill establishes an affirmative defense to a civil action for persons charged with certain violations of the statutory right to record.

ACTING SPEAKER AUBRY: Mr. Ra.

MR. RA: Thank you, Mr. Speaker. Will Mr. Perry yield for some questions?

ACTING SPEAKER AUBRY: Mr. Perry, will you yield?

MR. PERRY: I'm quite inclined to do so; and I do.

ACTING SPEAKER AUBRY: Mr. Perry --

MR. RA: Was that a yes?

Mr. Perry, thank you. I just have a few questions about the need for this bill and then some of the provisions dealing with the custody of the information and of the affirmative defense, but just to start off, you know, in terms of the need for the bill, my understanding is that, you know, many of the Federal Circuit Courts have said that there is a First Amendment right to recording these activities. We -- we certainly have seen, you know, plenty of videos over the, you know, the few weeks of, you know, different activities during many of the demonstrations that have gone on. So, do -- do you believe that people don't currently have the right in New York State to record police activities?

MR. PERRY: Say that again?

MR. RA: Do you believe that under current law, New York -- New Yorkers don't have the right to record police activities?

MR. PERRY: I, and many New Yorkers, especially those who have sought to -- attempted to exercise the right, know they have the right. But this is not about you or I knowing, it's affirming this so that the police agencies like the NYPD will know for sure and not just know, but respect that right. And this bill will provide some

kind of action that will hurt the City and their pocketbooks if they continue to allow officers and to cover for officers who violate that right blatantly, totally in disregard of the Constitutionality of the right.

MR. RA: Okay. So, you know, you said it will hurt the City in the pocketbooks. So, let's -- I want to go back to some -- some of the provision of this, but let's go to that piece of it. There's a private right of action, so that would be against the officer or the municipality employing the officer, or -- or both?

MR. PERRY: Well, in most cases, the officers operate under cover of indemnity by the City. I wish that wasn't the case because it would certainly cause more personal respect for the law. But because officers know that they can get away with it and should they face some attempt to penalize them by a lawsuit which, in most cases, if you follow the decisions of the court, they have lost. They would be more observing of the law and be more respect -- the officers more worthy of respect.

MR. RA: Okay. So, let's -- let's go through this. So, the officer is having some type of interaction with a member of the public, I assume it -- it could potentially be the individual who decides to start recording, or they could be recording a third-party that's having some type of interaction with the police, correct? It could be your -- could you record your own interaction with the police, or is this intended to be for, you know, you see something happening in front of you and you start recording it.

MR. PERRY: Well, of course, if it's practical

physically, a citizen, it's not illegal, they could wear a body camera, in which case, they would be able to physically record interactions between themselves and anybody else. It's kind of awkward if you're involved in physical interaction with the police to be videotaping or recording at the same time. It all depends on the type of equipment that you have. But, that's not usually the case. Usually the case is the police officer is arresting someone or performing his duty as a police officer in some manner and a citizen might not, for -- for all kinds of reasons, want to make a record of what the police officer is doing. Often, it's because people observe the officers misbehaving, or they're misbehaving or misconduct is so frequent and people on the streets, ordinary citizen, is so -- so concerned about it so people are on alert at all times. So, whenever you see a police activity, it's instinctive for you to record it because you -- you -- you can't trust that the officer is going to be protecting the rights of the person that they are attempting to enforce the law against.

MR. RA: Okay. So if you see, you know, some interaction between an individual and the -- and a police officer and you now want to start recording it. Is there -- what -- what's expected of you under this bill, you know, if you're exercising this right? Do you, you know, stand in a safe distance? Is there anything regarding how close you're able to get to this interaction?

MR. PERRY: I expect no physical interference from the police officer involved or any other police officer. But, as we know, as we see every day, there are thousands of video -- videos,

thousands of recordings of all sorts that show that the police usually begins the action of interfering and the citizen's right to -- to record their working for the -- the -- the citizens of the -- the City; instead, they seem to think that what they're doing needs to be covered up or should not be public and they avoid or try to interfere with and stop the free -- the freedom of the citizen to record what they're doing.

MR. RA: So if -- if you're, you know, recording and you can have this private right of action triggered, it says intentionally preventing or attempting to prevent the person from recording law enforcement activity. Now, you know, suppose there is an arrest being made and, you know, there's one officer, maybe another officer comes to -- to assist that officer and they are blocking the -- the video while they're affecting the arrest. Would you intend that that would be interfering with -- with the person from recording the activity?

MR. PERRY: It's clear that you do not, and this law does not empower or make that claim that an ordinary citizen, or any citizen, has any right to actively, directly interfere in police endeavoring to do their duty in the proper way. Citizens, however, when they see a police officer abusing the right and the honor that we -- and privilege they have to wear the badge and be police officers, when citizens see that, they feel a personal and moral obligation to do something about it. And what we can do, which is legal under the law and the Constitution is to videotape it, record it so that we can seek justice in another way.

MR. RA: And then -- so after the fact of this, right,

the person now has, you know, today, maybe years ago if we were talking about this there might be a tape or whatever, but we would assume on today, you know, it's going to be a cell phone. People carry phones with very good video cameras.

MR. PERRY: Thank God.

MR. RA: So, the custody of that recording under this sits with the individual. If, say, the police department now knows that that recording was -- was taken and they feel it's going to show criminal activity by the person they were apprehending, can the police get access to that -- that video?

MR. PERRY: I'm sure that there is a process, legal, that would enable the police to do that if they choose to seek that. Evidence of a crime, usually the courts will enforce that the citizen hands that over to the proper investigating authorities. So, we don't have to worry about the videotape -- the video -- the video or recording would be about hiding or holding back information from the police.

MR. RA: Okay. But -- so then on top of this, there's, you know, that police officer, if they are accused on this private right of action for unlawful interference, there is, I believe, one affirmative defense that is -- is given here, and that's when the officer had probable cause to arrest the person recording such law enforcement activity for a crime defined in the Penal Law involving obstructing governmental administration. So, my question is, are there any other affirmative defenses, or it's just that so if, you know, you had probable

cause to arrest the person for some -- for some other crime that didn't involve in -- interfering, you know, there's still -- this affirmative defense would not be available to you, correct?

MR. PERRY: Yeah, I don't -- I'm not sure I understand the question.

MR. RA: So, if -- if you, you know, if you're an officer and you are now -- have this private right of action is now filed against you saying you interfered with this individual's statutory right to record, you know, this police -- their police activity.

MR. PERRY: Oh, yeah, I don't understand where you're going. You're saying if the officer interfered with someone's statutory -- statutory right --

MR. RA: No, I'm saying if --

MR. PERRY: The officer should never interfere.

MR. RA: I'm saying if there is an accusation they interfered.

MR. PERRY: Yes.

MR. RA: If there's a private right of action here, like any other civil proceeding we have in the State, sometimes they're filed rightly, sometimes they're -- they're filed maybe somebody feels they got interfered with, but it doesn't necessarily, you know, meet the statutory criteria. So, I'm saying if that officer wants to defend that claim, we are giving them one affirmative defense, correct, only if the individual had -- he had -- the officer had probable cause that the individual committed a crime involved obstructing governmental

administration, correct?

MR. PERRY: Well, I'm not sure exactly what answer you want, but...

MR. RA: I want the answer of what the bill does.

MR. PERRY: The defense to that -- would be that they did not interfere. And if you have people today, if you have people recording, there's going to be evidence available to prove whether they did or not. But often, unfortunately for the citizen who is just exercising their right, too often the police, during their misconduct and bad behavior, takes possession of the recording equipment and, on occasions, have blatantly damaged or destroyed. There are lots of evidences around to show those blatant misbehavior by the police. That's why we need to assert this Constitutional right and then maybe correct it to make it some kind of a criminal act on its own.

MR. RA: Thank you.

Mr. Speaker, on -- Madam Speaker, on the bill.

Thank you, Mr. Perry. So, I -- I do have some concerns with -- with this, one of which is what I mentioned earlier that, you know, the individual, there's no requirement of maintaining a safe distance. I think it's going to be very easy in any circumstance if, you know, if there's multiple officers involved and somebody blocks the recording. I think it's going to be very easy to file one of these actions saying that your right to record has been interfered with. And -- and I think that, yes, you're going to be able to defend it by saying,

Okay, I was just doing, you know, I was affecting an arrest, I was questioning somebody. I was assisting maybe another officer who -- who needed backup in a situation, but, you know, I think there should be some ability to make an affirmative defense and make a showing that, you know, you were engaged in your routine procedures of an arrest and it happened to block somebody's video.

Now, you know, we're going to talk a lot about video over the next couple days. There's some -- some body camera bills, which -- which are fine. And I think the officers, you know, many support that because they feel it protects them and -- and you're able to have a complete recording of something. Taking something that we already know is a right and making it statutory so that there's a civil right of action which, by the way, now basically has an affirmative defense and the equation is changed by the person being actually arrested. I mean, I don't know, if I -- if we're that concerned that there's such misconduct, I -- I might be, then, concerned that people would be arrested just to have that defense. I think our law enforcement officers, you know, more often than not are -- are there trying to do their jobs in the vast majority of the time, and this is going to create, I think, additional interference with them doing that. I think the better way for transparency is things like body cameras and those type of entities which we're -- we're going to be talking about in some of the other bills. Thank you, Madam Speaker.

ACTING SPEAKER WOERNER: Mr. Reilly.

MR. REILLY: Thank you, Madam Speaker. Will

the sponsor yield?

ACTING SPEAKER WOERNER: Will the sponsor yield?

MR. PERRY: Certainly.

ACTING SPEAKER WOERNER: The sponsor yields.

MR. REILLY: Thank you, Mr. Perry. So, I know that we had a conversation about this bill and coming from the aspect of protecting the public and the officers when they are interacting. I want to make it clear that I -- I definitely believe that they have the right to film, but don't you -- do you think that it would be a -- a good policy for the State to set a boundary, a buffer zone so that there aren't unnecessary interactions on the street when they get -- when somebody's getting too close. I was thinking something like eight feet, ten feet.

MR. PERRY: So, I recall we had a discussion and I gave due consideration to your suggestion. In discussing that kind of amendment or change to the law as it is, it became quite obvious to me that that could be used as some subterfuge to -- or allowing a putting something in the law that would easily enable the police to, by their actions, overdoing it. You asked for 25 feet, and it was quite complicated to determine where would that 25 start and where would it end, and from what angle or area would that measurement begin. The bill, as it is, provides adequate protection to the police officers because it, you know, "Nothing in this subdivision shall be construed

to permit a person to engage in actions that physically interfere with law enforcement activity or otherwise constitute a crime." So, I think that that concern is adequately dealt with in the bill.

MR. REILLY: So if -- so if the police are on the scene and they're taking police action and a crowd forms and they're filming, but they seem to be converging on the scene where there's whatever police activity is being done. If a police officer maintains that buffer, another police officer, and stands there, doesn't touch the camera or anything, is that considered interfering? But they can't -- say they -- they don't have the right angle to film what they want to. Would that be considered under this bill as interfering?

MR. PERRY: Well, I -- I -- I don't think that ordinary action by the police would -- could be -- we could -- we would make that determination based on the -- the language in this bill. But, I might -- you -- you're a former police officer.

MR. REILLY: Correct, in your precinct.

MR. PERRY: And -- that's right. And so, you have some knowledge I accept of what you're talking about. But I have been involved in my community, working, being involved in activities that the police make arrests when citizens are in that kind of a situation. And what I noticed is that on many occasions, and I don't know if that's a tactical training that police receive, but often, especially when they are aware that there's a video camera or somebody is video -- now they seem to be always aware of that. But the police will cover the action or the activity by the police so that it's

sometimes almost impossible to view and to videotape what the police is actually doing, because they form this -- this wall type of barrier around the suspect and usually have police positioned so they will keep any citizen from getting too close. If they do that as lawfully as they can and they do not -- but they do not try to take a person's camera or knock it from their hands, if they think that person may have gotten something, which is my observation and I'm sure that if you've been in these situations, you may have also had that observation.

So, we have to be mindful of the acts and the practical situation that occurs, and this bill is -- is -- the language we have put together in the best way we can to make sure that nothing in it would restrict the police from protecting themselves while they're making arrest, and for being able to enforce freely, not worried about people feeling they have other right to -- to -- to disturb their action.

MR. REILLY: Okay. So one last question. So, I know that we talked about OGA, right, Obstructing of Governmental Administration. So, if someone is filming on the street and we have, you know, unfortunately, a crime scene, a male shot on, say, you know, one of our streets, that since that -- that's a crime scene, they wouldn't be able to film inside a designated area, correct? So, if the police establish a line to maintain that crime scene for the investigation, having them stay behind that line would be permissible; is that correct?

MR. PERRY: There's no language in this bill that

would prohibit the police from being able to do that freely. What we are concerned about as lawmakers and as citizens is abuse, abuse of power, violation of citizen's right, the right to monitor to the greatest extent as long as -- so long as you do not interfere with the police activity. We're not saying, we're not going to condone that and we're not inviting people to do that. What we want to do with this legislation is to make sure that our police departments across the State understand that this right should be respected, and that this right is sacred. And that whatever they do as police officers, they do it in the name of the people. They do it on the word that they're protecting us. And that means they should be doing things that protect us in every way. All our rights should be preserved and protected. That is the greatest authority and challenge to a police officer. And if you don't have the moral compass to make that judgment, you shouldn't be wearing the badge.

MR. REILLY: All right. Thank you, Mr. Perry.

On the bill, Madam Speaker.

ACTING SPEAKER WOERNER: On the bill.

MR. REILLY: So, I agree that the public should have the right to film, absolute -- absolutely. The reason why I asked those questions is because I wanted to ensure that we were all on the same page, because, as often, many times I talk up here in -- in the Chamber, I speak about how the words on paper don't transition to the street as they should. So, this put a little clarification. Of course we do not want police officers grabbing people's cameras when they have

the right to form -- to film them. But I also want to make sure that we were all understanding about the -- the proper safety protocols that have to be in place so that we can protect the public and -- and the police officers, and also this -- the point about crime scenes and making sure that people don't infringe upon those areas where an investigation is taking place.

So, Mr. Perry, thank you for the opportunity to clarify those things, and thank you, Madam Speaker.

ACTING SPEAKER WOERNER: Thank you, Mr. Reilly.

Mr. Barron.

MR. BARRON: Thank you, Mr. [sic] Speaker.

On the bill.

ACTING SPEAKER WOERNER: On the bill, sir.

MR. BARRON: You know, the Black Panther Party in the 1960's, to avoid police brutality, in Oakland, California, in the state that allowed for them to carry weapons, used to patrol the police and stay 25, 30 feet from the police as they arrested a black citizen. And they had their weapons and they said, *We have a right to bear arms*, because of the State of California, they have that right, Sacramento and other places, they had a right to do that. They never interfered with the police and they just said, *You can arrest that black citizen, but you're not beating us. You're not going to beat him.* And a lot of the brutality went down. And then what they did is they changed the law to ban the carrying of weapons because of the Black

Panther Party, and then the police began to attack the party.

In this instance, I noticed the prior speakers had to bring up hypotheticals that don't exist. This bill is not because there's a possibility that we might interfere with police in their governmental processes. You're so into protecting the police that you come up with hypotheticals that just don't exist. What we have happening is that when police see that they are being filmed, they attack those who are doing the filming, like the Copwatch group and so many other groups that are just filming, not interfering, and not crossing no yellow police crime scene, that doesn't happen. That doesn't even happen. That's just because they want to protect and put the focus on the police and not on their brutality and not them attacking citizens.

Now, what we're talking about is we have seen police officers, I've seen them, break cameras, break cell phones and do all kinds of things in order to stop themselves from being filmed. And I want to remind you, filming police officers beating us doesn't mean that they'll go to jail. As a matter of fact, do you remember the film of Rodney King? Those police officers walked. Remember the film for my brother, Eric Garner? Watched them, everybody watched it. They walked. They walked.

So, this bill doesn't mean, unfortunately, that they're going to go to jail because we see it. I believe that this protest wouldn't be on the level that it's on now had people not seen George Floyd being choked to death for over eight minutes and saw the smirk on the officer's face, the arrogance, the insensitivity to life, black life.

The intentionally keeping his knee in his neck even after he was unconscious. That's why I think it's Murder 1, premeditated, he planned on doing it once he saw him unconscious, and it certainly was intentional. They'll do that in court, whatever happens in the racist courts. But for us to have a bill like this that doesn't even guarantee that police will go to jail even when you see with your own eyes, because we have a systemic problem. It is not a few bad cops, it's not a few bad individuals. As a matter of fact, when we show these films, you see any cop -- cop that's watching a bad cop do something bad and does nothing, they are bad, too. If you have a blue wall of silence when they are brutalizing and murdering us and those cops that see it do nothing, then there's no such thing as a good cop. There's no such thing as a good cop that watches a bad cop do something and you do nothing. Then you're acting in concert. You saw that poor old man in Buffalo knocked to the ground, head in a puddle of blood. And how many officers walked by that. Every last one of them should have been charged with assault and concert, just like what happens when they pick up our youth and one of them did something wrong, they say you're all acting in concert. And then you know how they tell our community, if you see something, say something. Well, cops, if you see something, say something. Say something.

So once again, this is a bill to me that's a no-brainer. Not only is it a no-brainer, the nitpicking and the things that you come up with, the hypotheticals that you come up with, do people cross the -- the -- the crime scene sometimes? Sure, that happens, and the

police will put them back away, but people don't jump over the yellow lines so they can, you know, interfere with the police doing their job and put the cameras in their face, that doesn't happen. As a matter of fact, in my beloved East New York and other places, they actually rolled up on people on their stoop in their house, in front of their house, took the camera, broke it or took it away from them when they were recording. This is what this bill tries to get at, so let's get at the spirit and the heart of the bill and not come up with these hypotheticals because you want to protect the police who are not protecting the public. They are attacking the public right now. And these are the kinds of bills that we put forth so that these attacks can be less. And I'm not even sure this bill does that, because a lot of police do not pay consequences, even when we see with our own eyes what they have done. And I'm sure many of you can think of things that you've seen on camera and the police still got away with it because it's a whole systemic system, a court system, DAs that don't want to prosecute and judges that don't want to put them away, even after they're found guilty, they don't get jail time.

So, this is the least we can do. Come on, cut it out, all of these technical things on the police. Protect the people, not the police. The police are not in trouble, the people are.

ACTING SPEAKER AUBRY: Thank you.

Mr. Manktelow.

MR. MANKTELOW: Yes, thank you, Mr. Speaker.

Would the sponsor yield?

ACTING SPEAKER AUBRY: Mr. Perry, will you yield?

MR. PERRY: I will, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Perry yields.

MR. MANKTELOW: Thank you, Mr. Speaker.

Thank you, Mr. Perry. I just have one question on this bill. I'm walking down the sidewalk with my grandson and a car rolls up on the sidewalk, hits my grandson. He's laying on the sidewalk bleeding, and the police officer rolls up to help at the scene. We don't have an EMS or ambulance there at the time. People are now videotaping my grandson on the ground bleeding. Do I have a right to ask the police officer to ask them to stop filming my grandson?

MR. PERRY: You have a right to ask the police officer to do anything that comes into your head. I'd be very sorry that picture you paint for us did include your grandson.

MR. MANKTELOW: Me, too.

MR. PERRY: But this bill does not contribute to any situation like that. And it doesn't handcuff or put any encumbrances on the police to conduct themselves and do their job lawfully. What you -- the incident you made up would have happened in a public space, and anybody have the right to film in a public space. This bill doesn't address that. I don't know if any bill should, or if, you know, that would really -- that's not something I think we could even regulate what happens in a public -- I believe personally if it's in the public eye, it can be videotaped. It can be recorded publicly. There

are cameras all over the place. The police have cameras on -- on -- on roofs and buildings, on lamp -- lampposts, and they videotape me every day whatever I do. You know, you could be fooling around on your wife or your husband, it's videotaped. You don't have anything to do with whether it is or not. It's public space. Anything that happens in public space is subject to being videotaped today. So I hope that nothing like that would ever happen with your grandson, but this bill has nothing to do with that and I don't think we could pass a bill that would even deal with that.

MR. MANKTELOW: All right. So -- so in this situation, the police officer has no recourse to ask someone to stop taping that, correct?

MR. PERRY: The constitutional right to monitor is a sacred constitutional right. And there's no excuses or no reasons that we should try to come up with to take that right from the people. We should not try to fiddle and diddle here to find a reason why the police should be able to step on that right. That is the right of the people. Police officers are hired to protect the people, enforce the law. If it's a right, it's a law. But they don't seem to respect it. So this bill will codify it so that we know for sure nobody have to wait until court to say you have the right or you have the right. We're putting it in the law of New York State, so that if the police transgressed on that right, you have a cause of action to seek redress as a free citizen with the right to freedom of expression, and one of your free expressions is the one to monitor misbehavior by your police department. Thank

God for the good police officers who have moral compass. But if -- as I said before, if you don't have one, you should not wear the badge. And -- and yet, the people who actually swear you in on the oath to protect the people, if they find -- and they should have a test for your moral compass because that's the problem with police enforcement in America. That's the problem with police enforcement anywhere we got police brutality, killing people. Even last year my granddaughter posted that, *For every day last year except for 26 days, somebody was killed by police in the United States of America.* That's the nation we are.

We need to protect people's rights. The rights of all New Yorkers. That's what we're trying to do. And I just call on my colleagues to use your conscience and make sure that we vote for the people who elected you to protect your rights. There should be no infringement of that right, and we should not tolerate it and we should not enable it. We should do nothing to let those who seek to violate to (unintelligible) in comfort.

I'm tired and I'm fed up. Thank you for the opportunity, Mr. Speaker.

MR. MANKTELOW: Thank you, Mr. Speaker.
Nothing else.

ACTING SPEAKER AUBRY: Mr. Perry to close.

MR. PERRY: Thank you, Mr. Speaker. This bill will codify into law and unambiguously affirm by statutory enactment the right of all New Yorkers to record police activity throughout the

State. A quick scan of social media in the past week will have highlighted the benefit and the great need for New Yorkers to be assured that they, indeed, have a right to monitor and record police arrests and other police activity occurring in public spaces on our public streets. These amateur videographers often shine a bright light on police brutality and the abuses of power by those who are sworn to protect us and wear the honorable badge of a police officer, whichever department you work for. However, those who (unintelligible) police activity are often subject to harassment and are false arrests. Indeed, they do so by putting themselves at great physical risk to themselves. And that should never be the case. But the need to codify this right to monitor is paramount.

And I thank my -- the Speaker and those who worked hard for this -- the language together and that we have the opportunity to pass this bill. In so many of the recordings which capture blatant police misconduct, the officers on scene often turn their attention to the individual recording the activity in order to hinder the recording to unlawfully seize and destroy the evidence of their wrongdoing, and ultimately, frequent arrests of individuals on trumped-up charges. They end up doing that. I have seen in countless recordings over the last couple of weeks where police officers approached and impeded citizens who were doing nothing more than exercising this right, in no way interfering with their official duties. I have seen recordings where police officers have shined lights on -- on -- on camera lenses of those trying to record. I've seen where they formed a human wall, a

shield, to block the camera's view. Or worse, I've seen police physically knock the camera out of the hands of the monitor. My personal conviction is that anyone with a badge who goes to such great lengths to avoid being filmed, recorded, needs to have more than one camera shine on them. This bill will codify the right of New Yorkers to film and let police officers know that when they act in disobedience to their oath and someone forfeit that right, they will be breaking the law. While the bill doesn't have a specific penalty, it affirms the right of a citizen to go to court and seek redress from the officer who is often indemnified by the employer. So at the end of the day, we may all end up paying because the indemnity to the officers comes out of our pockets as taxpayers. This is -- this bill will give us the incentive to continue to beat down that wall of blue silence, and send a message to our police officers that, *We want you to be alert when you serve. We want you to remember the oath you take to protect the people, and we want you to respect and honor the rights of the citizens. And you will have the full support and thanks of all citizens who feel free to exercise their right.*

Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: On a motion by Mr. Perry, the Senate bill is before the House. The Senate bill is advanced.

Read the last section.

THE CLERK: This act shall take effect on the 30th day.

ACTING SPEAKER AUBRY: The Clerk will record the vote by -- the vote on Rules Report No. 70. This is a fast roll call. Any member wishing to be recorded in the negative is reminded to contact the Majority or Minority Leader at the number previously provided.

(The Clerk recorded the vote.)

Ms. Bichotte to explain her vote.

MS. BICHOTTE: Thank you, Mr. Speaker, for allowing me to explain my vote. I want to thank the sponsor for introducing this bill, the New York -- the New Yorker's Right to Monitor Act which grants civilians who are not under arrest the right to record certain law enforcement activities, and the right to maintain custody and control of that recording after the incident. Time and time again we see how individuals are mistreated by the police, and if it were not for video recordings, some individuals would have not received justice. Just a few weeks ago, a video recording surfaced of the heinous murder of Ahmaud Arbery and then again George Floyd. If it were not for the video surveillance that was captured by ordinary civilians, we might not have known the real story. And quite frankly, justice would have never been an option to be served. We would not even be here, because we were able to witness the murder of George Floyd. What --this is why we're here today. Surely, we would have been told that they resisted arrest, and those families might not have been able to see what really happened to their loved ones. In an incident that happened in Buffalo just last week, law enforcement

officers pushed a 75-year-old man, causing him to bleed from his ear. They immediately denied responsibility and said he slipped. Then came the irrefutable truth: The video proof. What happens when there's no video? If -- if this is just what we are seeing when it's captured, how many cases like that are there when we don't have the fortune of being video recorded. How many people were forced to stop recording or told to back up like a reporter in Brooklyn this weekend who was also shoved and cornered so she could not tape the arrest of a peaceful protest -- protestor? No one should be able to be afraid to videotape an injustice as it occurs in there.

So I vote in the affirmative. Thank you.

ACTING SPEAKER AUBRY: Thank you so much.

Mr. Ramos.

MR. RAMOS: Mr. Speaker, the people of the United States of America of color have found that a simple device like a cell phone that records video is a life-saving device. And they've opened up that throughout the country. And we have seen video after video of violation of civil rights, and it's become something essential. Anybody who has a young -- black, brown, young person in their home is going to tell them, *Make sure you have your video. If you get stopped by the police, please put it on.* It's a sad state of affairs that we have to tell our children this, that this must be done. This bill affirms that absolute right for people to take a video. To take that video and protect ourselves. We have seen in the many cases of police abuse how in some cases it's -- it has saved lives because police

have backed off because the video was there. In other cases it has brought justice because it has exposed what would have otherwise been a different story, had there not been a video recording there.

So I proudly vote in favor of this bill. Something that brings transparency. And -- and by the way, I want to add that being an officer for 20 years, I welcomed people to videotape. That protects me. As a police officer sometimes you get unfounded allegations against yourself. And if you are doing things right, there should be no reason why you're concerned about somebody standing down the block or standing around the perimeter, outside the crime scene, taking a video. That protects me. That shows that I did my job right if I am doing it right.

So I proudly vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Ramos in the affirmative.

Ms. Walker.

MS. WALKER: Thank you, Mr. Speaker, for allowing me to explain my vote. I used to be that person who walked through the streets and would record law enforcement making arrests, and I would be told, *Stand over there before we arrest you for interfering with governmental administration*. Or they'd tell the person, *Because she's standing here, we're going to have to arrest you*. And -- but I've just recently had an opportunity to see a -- a real benefit in the 73rd Precinct. We were complaining about this officer who was ravaging our communities. And it wasn't until he was

recorded shoving a young protester down at the Barclay Center that his aggression was on tape. And today he has been removed from the 73rd Precinct, to the benefit of all of the people who have complained about him in the past. And we were just notified that he will be arrested.

So, for me, this particular piece of legislation is just as important as every other piece that we're going to be voting on today. I want to commend the sponsor and I proudly vote in the affirmative.

ACTING SPEAKER AUBRY: Ms. Walker in the affirmative.

Ms. Wright.

MS. WRIGHT: To explain my vote. Thank you for the opportunity. And I want to commend the sponsor for this bill. This bill is very important. It is a necessary tool for us in protecting the rights of our neighbors, our friends and our communities. As been identified already, there's absolutely no trust throughout the community for police. This -- our -- the common trust that may have existed before has been eroded, and it's been eroded because of abuse, brutality, violence and murder. Murder that's been able to hide behind the shield. And at this moment we are taking steps so that we can bring some light, shed some light on all of the work that is happening in our community. Those that are doing well, as our -- some of our colleagues have said, they will be proven and shown to be doing well, and those who are doing wrong will be brought forward and -- and

identified for exactly who they are as well. This is an opportunity for us to rebuild bridges, for us to rebuild trust within our community, and to make sure that there is open communication. And we need to protect those who are bringing that information forward for us. Of the entire list of cases that were identified by the sponsor wherein the videotaping person was attacked by police, the one thing that wasn't mentioned that was that oftentimes the person taking the video is later arrested so that they can obtain the -- they can have custody of those videos. They can destroy evidence. They can destroy cell phones. That's part of the problem. We've got to create a system where it is known where that people understand that they are safe monitoring what is happening out in the open. As been identified already, that's a public space. And that we should be able to film what is happening in public space. And we should not be setting up any artificial boundaries for where people must stand (unintelligible) reach from.

Therefore, I am voting in the affirmative and I'm very happy with this piece of legislation.

ACTING SPEAKER AUBRY: Ms. Wright in the affirmative.

Mr. Walczyk.

MR. WALCZYK: Mr. Speaker, Black Lives Matter. I vote yes.

ACTING SPEAKER AUBRY: Mr. Walczyk in the affirmative.

Mr. Reilly.

MR. REILLY: Thank you, Mr. Speaker. I just want to just -- just put it on record, even though I did it during the debate, I am for this bill. I think this is a great opportunity to let people know that everyone is watching. And, you know, I'm not sure if some people misunderstood why I was asking the questions I asked, but I just want to reaffirm everybody and reassure that I am voting in the affirmative. Thank you.

ACTING SPEAKER AUBRY: Mr. Reilly in the affirmative.

Mr. Kim.

MR. KIM: Thank you, Mr. Speaker. I just want to commend the Speaker for this bill, and also remind my colleagues that as we speak there is nonstop unwarranted surveillance of everyday people by the police in the form of sidewalk videos and -- and towers that look over us every single day. And they get to watch us without any kind of oversight. And I don't even know where that data goes. I don't know even know who's looking. But I know they are -- they are breaking the -- our civil rights every single day. And for the first time in our history, everyday folks have some sense of empowerment that, you know, we can push back. That we can have something in our own hands to have an immediate sense of justice. And -- and that's what this bill, to me, is about. And just getting a little piece of righteousness back in our lives every single day.

So this -- this is -- like my colleague had said earlier, this is a no-brainer. We shouldn't even be debating this bill. Thank

you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Kim in the affirmative.

Mr. Mosley to explain his vote.

MR. MOSLEY: Thank you, Mr. Speaker. As much as I -- I give praise to our Speaker and our Majority Leader and to our Conference and to my colleagues throughout the State, this bill, along with probably this package, would not probably -- wouldn't be in existence if not for two people. That was Ramsey Orta, who was the whistleblower who would video record a member of the NYPD strangle Eric Gardner back in 2014. And then Darnella Frazier, a 17-year-old high school student who just two weeks ago had the audacity and bravery to record officers who were literally choking the life out of George Floyd in a public and recorded lynching that spread throughout the nation and throughout the world. If those two individuals did not have the ability -- and may I add, Mr. Orta paid a -- a very dear price for that through the retribution of others in higher places -- but if those two individuals had not recorded those two events, we would not be here passing this package of bills. That's a fact. That's not a belief.

So I commend the Speaker and I -- I commend the bill sponsor for putting this bill and having the foresight to put this bill because sometimes it could be easily overseen how important it is for people to be able to record the activities of law enforcement - whether they're doing the right thing or the wrong thing - but

nonetheless, have the ability to do so in an effort to make sure, one, that officers are doing their jobs correctly; but, two, that those who are not doing their jobs correctly and who are abusing the very people that they've been sworn to protect, to bring them to justice.

So I gladly and wholeheartedly vote in the affirmative. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Mosley in the affirmative.

Mr. Rodriguez.

MR. RODRIGUEZ: Thank you, Mr. Speaker, for allowing me to explain my vote and to echo much of the sentiments in terms of thanking the bill sponsor for introducing this piece of legislation. In a free and open Democratic society we have to affirm this Constitutional right. You may presume that you have the right to take a -- a video, but as we have heard, the repercussions of doing so have -- can be truly, truly devastating to both yourself personally. But we know how important a tool, a life-saving tool this videotaping has become in terms of not just deterring police misconduct, but also uncovering it and to begin national movements to try and change the way that that policing happens. Just to mention some other names, we've heard about Eric Gardner, but to remind people about Philando Castile and Sandra Bland and, most recently, George Floyd. You know, these are instances where time and time again, a videotape or video recording of some tragedy, you know, has reminded us of not just the need to reform, but also the importance of the tools that have

been used to enable this reform.

So I just want to say thank you to the sponsor. It's -- it's -- it's vital that we, you know, that we keep this tool in place to uncover and -- and to push forward, you know, the changes that are necessary in our society, and this all will make sure that those who do that are not penalized as a result.

So as a result, I'll be voting in the affirmative and -- and thank the Speaker for moving this important piece of legislation.

ACTING SPEAKER AUBRY: Mr. Rodriguez in the affirmative.

Mr. Colton.

MR. COLTON: Thank you, Mr. Speaker. I have been voting on bills based upon whether or not they further transparency and whether or not they further make the job of justice more fair and more open and more clear. This bill basically affirms the Constitutional right that everyone has to take a video. And I, therefore, support this bill. I do not believe it is anti-police. I'm a little disturbed by some of the anti-police rhetoric I've heard in the context of discussing this bill. But I think when you photograph, when you take films of something that is going on, it has the possibility of both proving that there was no wrong done as well as proving that there is wrong done. And frankly, the fact that people are aware they're being filmed may make them more careful not to do wrong. To be more careful to comply with procedures exactly.

So I think this bill has a positive effect. I don't think

it interferes with policing. It certainly is not intended to. It's clear that you cannot interfere with -- with an arrest or with an official police action. But I think that it -- it basically affirms the right of citizens to be able to film what is going on, and frankly, I think, you know, people have a right to film, you know, when police are doing things right. Maybe very often that is not happening. Maybe that happens -- film things that police officers do that are very good and protect people and help people. And maybe that needs to be encouraged.

So I withdraw my request and I affirm and vote in the affirmative on this bill.

ACTING SPEAKER AUBRY: Mr. Colton in the affirmative.

Ms. Fahy.

MS. FAHY: Thank you, Mr. Speaker. I, too, rise to speak in favor of this bill. I commend the sponsor, I commend the Speaker, and I commend, by the way, the -- the strong bipartisan support on what I hope will be on this bill as well as on so many bills today. A picture does paint 1,000 words. And in this case, often we have seen a video and -- painting 1,000 -- more than 1,000 words, going back to Rodney King in 1991. That really began to transform the entire movement of really trying to seek some racial justice, really trying to seek some reforms, very necessary police reforms. And we more than know that had we not had that video of George Floyd, we might not be here today. And I think it is that video that really was able to capture a picture, capture a moment that I hope -- I hope in the

end he will not have died in vain because we will make some very true, serious and long overdue reforms.

So, yes, this bill affirms the ability to record actions, and I could not be -- and I do think it's well-intended. Just a couple of days ago in my community up at Stuyvesant Plaza, a lovely video was recorded of a Guilderland police officer talking to a young boy who wanted to see the inside of his police car and talk about how he wanted to dream about growing up to be a police officer. And that was a young African-American man. It was a beautiful exchange. And so let's hope that we'll see more of those types of positive exchanges going forward.

I dedicate my vote today to Mark Frey and Mousa Kanay, two young boys that I have mentored for decades, who have been very moved by the events over the last couple of weeks. And I thank, again, the bill sponsor and so many for all the work that they have done these last couple of weeks, and I hope will make changes for decades to come.

Again, I vote in the affirmative. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Ms. Fahy in the affirmative.

Ms. Cruz to explain her vote.

MS. CRUZ: Thank you, Mr. Speaker. You know, I want us to -- I want to first thank the sponsor of the bill and the Speaker for -- for getting us to the point we're at. It is acceptable to

have these conversations because for a very long time not only were we not being heard as a community, but I don't think we dreamed of the bipartisan support that this kind of bill has now. I think we all understand - not to quote the Fresh Prince of Bel-Air - but one of the things that he said recently was, "It's not that this country is being more racist, it's that it's finally being filmed." And I think there's something to be said about the fact that was it not for the fact that we have cell phones and that we have cameras, lots of what we see today, lots of what we know as murders - because they were murders - would have never been captured. And so think about all those other times where there have been interactions. And I wanted you to think about it in both ways. Interactions between the police and members of the community where folks have been hurt, where folks have been murdered, where folks are -- are making allegations that maybe are not true. I think this is something for both sides to be okay with. Because this isn't about anything other than we need transparency if we're going to get as close as we can to having a more just society. And the idea that I, as a member of the community, or anybody in my community, should have the right to record what a police officer is doing, an encounter should be protected. And so I think my colleagues on the other side of the aisle who are going to be supportive of this because I think it shows -- it shows us that as a community we've come a long way to truly understand that this is not about being against the police, this is about being for the community. Understanding that community members have a right to record and a

right to know what is happening.

And with that, I vote in the affirmative.

ACTING SPEAKER AUBRY: Ms. Cruz in the affirmative.

Mr. Goodell.

MR. GOODELL: Thank you, sir. The following Republicans are voting no on this bill: Mr. LiPetri, Mr. Barclay, Mr. Friend, Mr. Lalor, Mr. Montesano, Mr. Schmitt, Mr. Fitzpatrick, Mr. DeStefano, Mr. Ra and Mr. Palumbo.

Thank you, sir.

ACTING SPEAKER AUBRY: So noted. Thank you.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, would you please call on Mr. Goodell for an announcement?

ACTING SPEAKER AUBRY: Mr. Goodell for the purposes of an announcement.

MR. GOODELL: Thank you very much. Thank you very much, Mr. Speaker. And thank you, Majority Leader, for a productive day on some interesting and somewhat challenging bills sometimes. It was good to see that we had a lot of support in a lot of different areas.

MRS. PEOPLES-STOKES: Yes.

MR. GOODELL: I -- I would like to announce a Republican Zoom conference commencing at 6:35 p.m. In other words, in ten minutes, a Republican Zoom conference. Thank you, sir.

ACTING SPEAKER AUBRY: Republican Zoom conference in ten minutes.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, do we have any further housekeeping and/or resolutions?

ACTING SPEAKER AUBRY: We have housekeeping.

On Bill No. A8091, on behalf of Mr. Magnarelli the Assembly bill is recalled from the Senate.

The Clerk will read the title of the bill.

THE CLERK: An act to amend the Real Property Tax Law.

ACTING SPEAKER AUBRY: Motion to reconsider the vote by which the bill passed the House. The Clerk will record the vote.

(The Clerk recorded the vote.)

The Clerk will announce the results.

(The Clerk announced the results.)

The bill is before the House and the amendments are received and adopted.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, members should be aware that the 7:30 Ways and Means meeting that was previously scheduled has been rescheduled until tomorrow morning at 9:30 a.m., immediately followed by Rules at 10:00 a.m.

I now move that the Assembly stand adjourned until 10:30, Tuesday, June the 9th, tomorrow being a Session day.

ACTING SPEAKER AUBRY: The Assembly stands adjourned.

(Whereupon, at 6:25 p.m., the House stood adjourned until Tuesday, June 9th at 10:30 a.m., that being a Session day.)