

SCREENING COMMITTEE INTERVIEWS FOR
NEW YORK STATE ATTORNEY GENERAL

May 15, 2018

2:00 p.m.

Hamilton Hearing Room B

CHAIRMAN JOSEPH LENTOL: I'm honored to lead this Committee with my legislative colleagues, professional staff and the applicants seeking appointment as Attorney General of the State of New York. Because we want this process to be transparent, it is open to the public and we welcome the public to our meetings. We are also streaming the interviews today live on the Assembly and, I believe, the Senate websites.

I would like to introduce the members of the screening committee and then decide -- and then describe the process and -- and pertinent laws, State laws, we will follow. But before that, I want to introduce my Co-Chair, Assemblyman Kenneth -- sorry, Senator Kenneth LaValle for an opening statement, if you'd like to make one, sir.

CHAIRMAN KENNETH LAVALLE: Thank you, Assemblyman Lentol. I have with me today in the Senate, Senator Betty Little, Senator Terry Murphy, Senator Gallivan and Senator Hoylman.

These are, to say the least, interesting times that we live in in terms of State government. It is not often that a State Attorney General steps down from office. And so, we in the Legislature, are holding these interviews as part of an important process. And it's open to the public and many, as Assemblyman Lentol mentioned, several different venues for the public be -- to see firsthand the questions and answers that those individuals who have

come forth and said they would like to be Attorney General. So, we're going to be asking some questions of the individuals, and that is my opening statement.

CHAIRMAN LENTOL: So, let me introduce the members of the screening panel from the Assembly. To my left is Assemblywoman Crystal Peoples, Assemblyman Matt Titone, Assemblyman Jeff Dinowitz, Assemblyman Brian Curran, and -- I'm sorry, Assemblyman Will Barclay to his left and then Brian Curran.

So as has been reported, this bicameral screening process committee will interview applicants and review the qualifications needed for appointment by the Legislature for the vacant position of Attorney General. As part of the review process, each candidate is encouraged to make an opening statement, and limited to five minutes, I would say, and then we will be asking questions. You will be asked to answer questions from the Committee.

So this process, as most of you, I believe, know, is dictated by Article V, Section 1 of the New York State Constitution, which reads, in part, "The Legislature shall provide for filling vacancies in the Office of Comptroller and the Attorney General." To carry out this mandated provision, the Legislature created a long time ago Sections 41 and 42, as well, of the Public Officers Law. In Section 41 it says, "When a vacancy occurs or exists other than by removal in the Office of Comptroller or the Attorney General or a resignation of either such officer to take effect at any future day shall have been made while the Legislature is in Session. The two Houses

thereof, by joint ballot, shall appoint a person to fill such actual or prospective vacancy. I would like to make two points about the languages of the statute. The first one is, the statute reads, "The two Houses thereof by joint ballot." There is no reference to joint resolution, as some have suggested. The language is clear. Additionally, Section 41 provides that, "The Legislature shall appoint..." This is a mandate, ladies and gentlemen, not an option, carrying out the language in the State Constitution which mandates that the Legislature provide for filling vacancies in the Office of Comptroller and Attorney General. The mandate becomes even clearer when compared to the language in Section 42 of the Public Officers Law, which relates to filling vacancies in the Legislature and members of Congress. In Section 42, subsection 3, the statute reads, in part, "The Governor may, in his or her discretion, make proclamation of a special election to fill such office." Reading the two sections together makes abundantly clear that the Legislature is mandated to fill a vacancy for this Office of the Attorney General.

The Legislature is mindful, like you are, of New York's political calendar. The last three times the Legislature filled a vacancy in the Office of Attorney General or Comptroller, far more time remained in the term of office than exists now. Major parties will select their party's nominees for Attorney General next week.

Designating petitions will be circulated in early June. Primary elections will be held in September. With this calendar in mind, it is reasonable for us to inquire about the plan of each applicant regarding

the interim term, as well as the 2018 election. If appointed Attorney General, will the candidate run for a full term? If not appointed for the interim term, does the applicant intend to run as a candidate for the Office anyway? While the answers might not be dispositive to recommendations by this Committee, it might make -- the responses can offer a fuller view of the applicant's plan and attitude about the Office. We believe the Committee and the public should have the benefit of this information. The matter of -- well, some applicants have already stated their position regarding whether they plan to run or not for Attorney General in 2018, but I ask that each applicant address the matter as part of their opening remarks. If the matter is not addressed by the applicant, I expect my colleagues will ask the question.

Now, Article V in Section 1 of the Constitution provides, "Section 1. The Comptroller and the Attorney General shall be chosen at the same General Election as the Governor and hold office for the same term, and shall possess the qualifications provided in Section 2 of Article IV." Article IV, Section 2 reads, in part, "Section 2. No person shall be eligible except a citizen of the United States of the age of not less than 30 years, and who have -- who shall have been five years next preceding the election, a resident of this State." We may ask additional questions to further ensure each applicant's qualifications.

This Committee, following hearing from all the applicants, may choose to make a non-binding recommendation of one

or more applicants to the entire Legislature. Before formally recommending an applicant, the Committee, with the consent of the applicant, will request the New York State Police to conduct a confidential investigation.

The Attorney General serves all New Yorkers in numerous matters affecting their daily lives. The Attorney General's Office is charged with the statutory and common law powers to protect consumer, investors, charitable donors, the public health and environment, civil rights, and the rights of wage earners and businesses across the State. The Attorney General is the "People's Lawyer" -- as once said by my old friend, Louis Lefkowitz -- and the State's Chief Legal Officer. As such, you would serve as a guardian of the legal rights of New Yorkers and legal counsel to the Executive Branch of the State government.

My colleagues and I know we have an outstanding Attorney General directing an office that some -- conduct most of the challenging and important -- we must have an outstanding Attorney General directing that office that conducts some of the most challenging and important work for our citizens. We will conduct these interviews and reviews with the high level of professionalism and scrutiny that they deserve.

Thank you.

Now I'd ask that, if I may, that we proceed with the first witness, who is Barbara D. Underwood. Would you come up, please? I said witness, but you know I meant applicant.

(Laughter)

We're so used to conducting hearings and not screening committees, and I apologize for that. So -- so, welcome.

MRS. BARBARA D. UNDERWOOD: Thank you very much for the honor of appearing before you today. I want to thank Speaker Carl Heastie, Majority Leader John Flanagan, Senate Democratic Leader Andrea Stewart-Cousins, and Assembly Minority Leader Brian Kolb for the invitation. And I also want to thank Chair Lentol, Assemblymembers Barclay, Curran, Dinowitz, Peoples-Stokes and Titone, and Senators Dilan, Gallivan, Hoylman, LaValle, Little and Murphy for serving on this panel.

I think it's an understatement to say that none of us expected to be sitting here today for this purpose, but we are here after deeply disturbing allegations that stunned me and many others, and that caused the prior Attorney General to resign. The result is that this important office is vacant at a critical time for our State and country, and the Legislature, as you described, has the solemn task of filling that position until a newly-elected successor can take office.

As the Solicitor General of New York since 2007, I have had the honor and duty of representing all of the people of this State and all parts of State government. Sometimes that means defending the laws passed by the Legislature from challenges to those laws. Sometimes it means helping to enforce those laws. Perhaps most important to me, sometimes it means being a shield against discriminatory or otherwise unlawful action by the Federal

government that harms New York and New Yorkers.

I believe that at this critical time, the Attorney General must be a stabilizing and strong voice for the rule of law. I've argued 20 cases in the U.S. Supreme Court, 21 cases before our State's highest court, 33 cases in the Second Circuit, and I've closely supervised the work of other attorneys on hundreds more. I assure you, I can be that voice.

I believe I have the respect of the bench and Bar and of other state Attorneys General with whom we often partner. I know the Department of Law well, including all the divisions and bureaus that do its important work every day. And I am not a politician. Some people joke that the National Association of Attorneys General, NAAG, is also the "National Association of Aspiring Governors." There's some truth to that, but I can assure you that's not who I am. I have pursued the cause of justice in the courts without fear or favor for all of my professional life.

At the start of my career, I had the privilege of serving as a law clerk for two giants of civil rights and social justice; Supreme Court Justice Thurgood Marshall and D.C. Circuit Chief Judge David Bazelon, and they helped form my view of how a lawyer can pursue the public interest. As a woman in a profession long dominated by powerful men, I advocated against discrimination on the basis of sex, race, religion, disability, sexual orientation, from the very beginning of my career. I taught at law -- at Yale Law School for 10 years, and while I was there I litigated several anti-discrimination

cases. In one case, I successfully urged the Supreme Court to hold that Title IX forbids sex discrimination against employees as well as students in Federally-funded educational institutions. When I was Chief of Appeals in the Brooklyn DA's office in the early '80s, I urged the State and Federal courts to hold that striking jurors based on race is unconstitutional. We were ahead of the curve on that one. The Supreme Court eventually reached that conclusion in 1986 in a case called *Batson against Kentucky*, a case in which we filed an amicus brief. And I successfully urged the New York Court of Appeals to strike down the exemption in the rape laws for rape committed on a spouse, an exempt -- an exemption that was based on old sexual stereotypes. In the 1990s when I served as Chief Assistant U.S. Attorney in the Eastern District of New York, I successfully worked to change a system of jury selection that was challenged as racially discriminatory. And in that office with a team that included the late Ken Thompson and Loretta Lynch, we brought civil rights and other charges against police officers after a brutal assault on Abner Louima in the police precinct. In another case in that office, I developed the legal theory for the Federal civil rights prosecution after Yankel Rosenberg (sic) was stabbed to death in Crown Heights. And after the defendant's convictions, I'm proud to say our office was supported on appeal by many other groups, including the NAACP Legal Defense Fund, because upholding strong civil rights laws in one case makes those laws available for everyone.

In the Federal Solicitor General's office during the

Clinton Administration, I had the great honor of arguing two cases of vital importance to women and to everyone who cares about sex discrimination. In one, I argued that Federal law bars a supervisor from forcing women to work under the threat that promotions will be conditioned on sexual favors, even if the supervisor never makes good on the threat. In another, I argued that the Constitution allows states to create reasonable buffer zones around women's health clinics in order to protect women's right to choose.

And for the past 11 years as Solicitor General of the State of New York, I have worked tirelessly with a truly wonderful, dedicated team to advance the cause of justice and protect the rule of law in New York. During the Obama Administration, we fought to defend the Clean Power Plan, to preserve the Voting Rights Act and other civil rights laws, and to resist other states' efforts to impose draconian restrictions on undocumented immigrants. Since President Trump took office, those efforts have become even more important as the cause of justice and the rule of law have come increasingly under threat. We have filed about a dozen briefs, leading the efforts of a group of states challenging the President's travel ban, which has been partly halted by the courts. And earlier this year, our office won a preliminary injunction halting the Trump Administration's termination of DACA, the program of Deferred Action for Childhood Arrivals. We have defended the Affordable Care Act, which has so dramatically increased New Yorkers' access to healthcare, and when the Federal government sought to cut off vital payment for New York's Essential

Plan -- that's the name of a plan that covers hundred of thousands of New Yorkers -- our office challenged that decision and quite recently secured an agreement by the Federal government to pay a \$150 million interim payment to New York with an expectation of more in the pipeline. We've supported public-sector unions against increasing legal threat to their financial well-being. We've protected a woman's right to choose, challenged rollbacks of environmental regulations, and sought to safeguard the rights of transgender students. In short, we have resisted many efforts by the current Federal Administration that we believe violate the law and will harm New York residents and New York institutions. In many ways, I feel this work is the most important work I have ever done, and I assure you the work will continue uninterrupted if the Legislature allows me to serve out the current term.

I hope I have earned your trust that I will faithfully perform the duties of the Attorney General of the State of New York for as long as I serve in that position. I should -- in response to your question -- I should have addressed this earlier -- I will not stand for election to the position. Thank you very much, and I look --

CHAIRMAN LAVALLE: That was my question.

MRS. UNDERWOOD: -- forward to answering your questions.

CHAIRMAN LAVALLE: Were you going to stand for election, and why not?

MRS. UNDERWOOD: I think that the best way that

I can serve the Office and the people of the State of New York is to take this position now, and keep -- lead the Office and keep it going on track. I stand ready to help anybody who wants my help, who might take the position, but I think the -- the important challenge ahead -- the Office is in the middle of a great many important cases, and I feel that I can best serve the Office and the people by keeping that work going.

CHAIRMAN LAVALLE: Thank you.

CHAIRMAN LENTOL: So since -- thank you very much. Your credentials are numerous, and -- but I want to remind everybody else that we do have your resumes, and we'd just like you to talk to us so we can feel exactly -- you -- feel you out --

MRS. UNDERWOOD: Sure.

CHAIRMAN LENTOL: -- to determine whether or not it's -- it's some person that we want to fill an interim position, and you certainly seem to fill that bill. But let me just ask you a simple question --

MRS. UNDERWOOD: Of course.

CHAIRMAN LENTOL: -- right off, and that is, can you tell us -- there are a lot of people in the audience who doesn't -- who don't know what a Solicitor General does, or the difference between that Office and the Attorney General. Maybe you could just explain that summary --

MRS. UNDERWOOD: Sure.

CHAIRMAN LENTOL: -- in a summary way -- kind

of way.

MRS. UNDERWOOD: Well, as Solicitor General, I directly oversee about 50 lawyers doing the appellate work of the office, all -- or virtually all of it; civil, criminal, defensive, affirmative. Everything that the Office does that results in an appeal comes to my shop and I oversee it. In addition, and really arising out of that function, I and my staff provide legal advice to people -- to -- to the Attorney General, to the people who are planning the investigations and the litigations. I suppose it arises out of the idea that everything they do might end up in an appeal, so better to get it right in the first place and make it easier to defend when it comes to an appeal. And I've had similar jobs in all the other offices that I've been in, in which I was essentially Chief of Appeals and in some fashion or other, Advisor, Legal Advisor, to the head of the Office and the people doing the litigation, the trial-level litigation and investigations.

CHAIRMAN LENTOL: So I guess the question might come up as to the ability of somebody to run an office of what -- what I understand to be more than 650 Assistant Attorneys General. More than 1,700 employees, including forensic accountants, legal assistants, scientists, investigators and support staff in locations all around the State of New York. And what experience do you have in supervising a staff with that variety of credentials and expertise?

MRS. UNDERWOOD: Well, I have been sort of the number two person in most of the offices -- or were a number two person in most of the offices that I've described, that I've worked in,

and so I have helped many people do that work. And I have done it when they were unavailable or, you know, busy or out of town or whatever. So while I haven't had the direct supervision of that many people alone, I've been engaged in the supervision of that many people in this Office during these 11 years. You know, I have 50 lawyers who work directly for me who are doing appeals, but I also serve on sort of a -- the Executive Committee, you could call it, and advise on the issues that come to the head of the Office. And I think I've seen pretty much the full range of problems that arise. And of course, the staff -- as long as the staff continues to work together and function, it's the same staff that was helping my predecessor, and I would expect to be able to -- I know already, in the week that I've been in office, that I will have their full support and assistance in doing this job because nobody can do something like that alone.

CHAIRMAN LENTOL: And -- well, the question becomes, to me, can you offer some insight to the Office of Attorney General that comes about as your experience as Solicitor General for all these years? And I guess you were appointed, I noticed from your resume, in 2007 by Governor Cuomo.

MRS. UNDERWOOD: That's correct.

CHAIRMAN LENTOL: And what -- what insight could you offer -- new insight to the Office of Attorney General that may not exist now?

MRS. UNDERWOOD: Well, I -- I -- hmm -- I think I bring a vast experience of State and Federal litigation. I also bring

considerable management experience. When I -- when I first did some management in the Brooklyn District Attorney's Office in -- in 1982, I -- I had to learn what that was all about. But I've now spent quite a lot of time helping people do the very best work they can do, who are helping them conclude that the work they're doing isn't ideal for them and they should -- and -- and directing them to work more suited to their talents. All the things that one has to do as a -- as an office -- you know, as managing a law office. I've been in a lot of public law offices. I think bringing my Supreme Court experience is distinctive in this time when so many important issues, issues important to New York are being decided in the Supreme Court. But I want to say that I've been bringing that to the governance of this Office for 11 years. It's not as if I haven't been doing that already. So, to say what can I bring that's new, I think I bring the same things that I've been bringing, although I would now be, if permitted to continue in that role, the final --

CHAIRMAN LENTOL: So please let me -- let me try a -- a specific question. For example, something that I care about and others, I believe. Do you support the former Attorney General's proposal to change New York's Double Jeopardy Law?

MRS. UNDERWOOD: I think that that bill, if it were passed, would make it possible for the State to prosecute in a case in which -- prosecute for violations of State law that would otherwise be barred by a Federal pardon. I do support that. It is the case, of course, that the Constitution, the Federal Constitution, would

permit state prosecutions after any Federal prosecution. The Federal Constitution has been held to say that there are two sovereigns, and that the State is not barred by anything that happens in the Federal courts. New York, in its wisdom, chose to give more protection against repeated prosecutions than the Federal Constitution does. But it has made some exceptions, and this seems like a worthy exception to prevent serious misconduct from escaping any accountability --

CHAIRMAN LENTOL: Well, I don't --

MRS. UNDERWOOD: -- merely because of what happens at the Federal level.

CHAIRMAN LENTOL: All right. I -- I don't want to monopolize the time of the Committee, because I know there are a lot of people to ask questions. This is my last question, and it's an important one for a lot of us in the Assembly to ask. And it's a broad question, but I know from my experience as Chair of the Codes Committee that the Attorney General chairs the Law Enforcement Council in the State that's made up of many district attorneys throughout the State. And the Assembly in the past few years has introduced an ambitious agenda of criminal justice reform that we think is necessary in light of all of the difficulties in that criminal justice system that play a role in a lot of people staying in jail on bail, for example, and lack of sufficient information involving discovery laws and so forth. And I just wondered if, you know, since most of the district attorneys have pushed back on those pieces of legislation, whether or not you had an opinion on those subjects.

MRS. UNDERWOOD: Well, I'm not in a position right here to speak to each and every item, but I have -- I'm a supporter of criminal justice reform. I think -- I have worked in prosecutor's offices where we have tried to make the system more fair; the long campaign in the Brooklyn District Attorney's Office to end race discrimination in jury selection was one part of that. Efforts at earlier and more complete discovery have been another part of that. There's now an effort to do something about bail, which I think is a very desirable thing to do. I think that mandatory minimum sentences tend to tie the hands of prosecutors and judges who are trying to find a way to do -- to do justice, short of very, very long sentences. So, I think that I have, in my past experience as a prosecutor, been privileged to work in offices that were interested only in prosecuting in a fair and -- in a fair justice system that is fair to victims and fair to witnesses and fair to defendants and --

ASSEMBLYMAN LENTOL: But as you know --

MRS. UNDERWOOD: -- fair to the people of the State of New York.

CHAIRMAN LENTOL: -- in the -- in the Federal system, there's almost true open-file discovery, whereas New York State doesn't have that. And it's kind of like some people call it a "blindfold system." But, you know, I understand that -- that it's a difficult subject because the DAs like to have rules in their favor, and -- but we think that -- some of us on the panel, not everyone -- think that it may be the cornerstone of criminal justice reform to shed a lot

more light than has ever been shown before on the subject.

MRS. UNDERWOOD: I think that's right. I think the challenge is to find a way to open discovery without putting witnesses and victims at risk. And the -- the State courts deal far more with cases -- well, the State courts have many cases where that is a real problem, but there ought to be ways of handling that while opening up more information to make the litigation fairer.

CHAIRMAN LAVALLE: Thank you. We've been joined by Senator Dilan and Senator Little. You have some questions?

SENATOR BETTY LITTLE: I do. Thank you very much. And I think I'm turned on, aren't I? (Checking mic) Is this on? Yes. Okay, thank you. The light is on, so... I truly appreciate your comments and your statement that you would not be seeking election in the fall, because I believe that in the next seven months we need someone who is going to run the Attorney General's Office and not be campaigning at the same time. So, that's very important to me. And I truly am impressed with your background, with your time in Washington, D.C., as well as the years you were here in New York State. And I believe that in one question, your time in D.C. has been beneficial and would continue to be beneficial in New York State. Is that correct?

MRS. UNDERWOOD: I think that is correct. I think that is correct. I think that actually, you know, everything you do helps you do the next job a little better. So my time in district attorneys' offices, my time in both Federal and State offices, my time

doing defensive and affirmative civil litigation in both State and Federal offices, I think all of those -- and my time in Washington, and the people I know and the people who have come to respect me and rely on my work and my sort of straight, honest apolitical judgment, I think all of that will help me do this job very well, and have already done so.

SENATOR LITTLE: Thank you. And on behalf of women, the amount of work that you have done on sexual assault as well as sexual harassment and trying to eliminate sexual discrimination has been very important, and I thank you for that. I also want to thank you for your work on the Essential Health Plan. An extremely good plan for people in New York State, and I'm very pleased that you were able to see that money got here for that to continue.

MRS. UNDERWOOD: We're still working on that, yes.

SENATOR LITTLE: Right. Well, we'll -- we continue to work on that. But the one thing I would ask is, in this transition from being number two to being first and the Attorney General in the State, why do you believe you would be the best candidate to do this?

MRS. UNDERWOOD: Well, I know the work of the Office already. It would be a much quicker and easier transition for me than for somebody who needed to get up to speed on all of that. I know the people in the Office. I know where to go for information if I

need it. I think that all of that -- I -- I have been as -- as the Solicitor General, I have been involved in advising on most -- not all, but most -- of the bigger cases and matters in the Office, and I think all of that experience and the fact that I will not be distracted by any campaign or political activity put me in a very good position to do what I very much hope you will enable me to do, which is to just keep the Office moving forward on all the great work that it is doing.

SENATOR LITTLE: Thank you very much, and thank you for presenting yourself.

CHAIRMAN LENTOL: Assemblywoman Peoples.

ASSEMBLYMEMBER CRYSTAL

PEOPLES-STOKES: Stokes.

CHAIRMAN LENTOL: Stokes. Peoples-Stokes.

Excuse me.

ASSEMBLYMEMBER PEOPLES-STOKES: Thank you so very much, Mr. Chair. And thank you, madam, for being here this afternoon, and thank you for your willingness to serve. As Chair Lentol said, your resume is stellar. You've pretty much been in most areas of the law, particularly as it relates to your department. I understand that there are five separate divisions in your department, and it looks like, from your resume, you've pretty much done a little work in all five of them. Do you anticipate that that same organizational structure will stay in place?

MRS. UNDERWOOD: I'm sorry, the last question was do I anticipate --

ASSEMBLYMEMBER PEOPLES-STOKES: Do you anticipate that the same organizational structure of the Office will stay in place?

MRS. UNDERWOOD: I do.

ASSEMBLYMEMBER PEOPLES-STOKES: You do.

MRS. UNDERWOOD: I do.

ASSEMBLYMEMBER PEOPLES-STOKES: Okay. Are there any specific plans to change anything that could improve operations there?

MRS. UNDERWOOD: I don't have a plan to change anything. My plan -- although if something were to arise, I stand ready to -- to do that. My plan is to keep the work going. I've had a role in formulating it, and I think I'll have my hands full with overseeing the work that we have and the new work that comes out of the work that's been done. Always open to proposals for change.

ASSEMBLYMEMBER PEOPLES-STOKES: What do you think your relationship, the Office of Attorney General, should be with the Legislature, and how --

MRS. UNDERWOOD: Collaborative.

ASSEMBLYMEMBER PEOPLES-STOKES: -- would those relationships improve?

MRS. UNDERWOOD: I think that we make suggestions for laws, proposals that you may -- that you may wish to enact or not or change. I think that we defend the laws. I mean, we

have a separate statutory role to -- even when we're not a party to the case, we are notified -- the Office of the Attorney General is notified when there's a challenge to legislation. It could be in a private litigation, and we defend the laws as enacted. I have quite a lot of experience in doing that. I guess that's it.

ASSEMBLYMEMBER PEOPLES-STOKES: Okay. Well, there's no question that it's a little bittersweet for us to even be at this point.

MRS. UNDERWOOD: Yes.

ASSEMBLYMEMBER PEOPLES-STOKES: What we've been through as a state has been, you know, very difficult for a lot of us, and I'm sure for a lot of people that you work with in your office. Is there some established program that's -- is there to help the employees deal with these sorts of kind of issues? Something like an employee benefits program, counseling, substance abuse support? Is there anything already existing within that agency that supports people who are employed there with their needs?

MRS. UNDERWOOD: There is. I -- I'm blanking at the moment on the name of it, but there is a -- an employee -- I think it's the Employee Assistance Program or something like that. But it's --

ASSEMBLYMEMBER PEOPLES-STOKES: So, is that a separate division?

MRS. UNDERWOOD: -- and we have already invited people to take advantage of that.

ASSEMBLYMEMBER PEOPLES-STOKES: Is that a separate division, and how large is it?

MRS. UNDERWOOD: How large is it? I don't know the answer to that, but I can find out if -- if that's important to you.

ASSEMBLYMEMBER PEOPLES-STOKES: Well, you know, I think in these days and times that those things become more critically important --

MRS. UNDERWOOD: Yes.

ASSEMBLYMEMBER PEOPLES-STOKES: -- to have in place to support people in the workforce.

MRS. UNDERWOOD: I agree with that.

ASSEMBLYMEMBER PEOPLES-STOKES: Both men and women.

I would ask if you are familiar with -- and I'm sure you are -- you the State Bar Association's Lawyer Assistance Committee, and I'm pretty sure you probably have one of those established within the agency as well?

MRS. UNDERWOOD: I'm sorry, I'm having trouble hearing you.

ASSEMBLYMEMBER PEOPLES-STOKES: Okay. The Lawyer Assistance Committee that the State Bar Association has --

MRS. UNDERWOOD: Yes.

ASSEMBLYMEMBER PEOPLES-STOKES: -- that

kind of helps attorneys deal with issues that they're going through. I'm sure you're familiar with that.

MRS. UNDERWOOD: I am.

ASSEMBLYMEMBER PEOPLES-STOKES: I'm just wondering if there's anything like that --

MRS. UNDERWOOD: Well, we have -- we have a robust internal Employee Assistance Program. I cannot, as I sit here, tell you the number of people that staff it, but I know that we have put out information urging people to take advantage of it. And I suppose they could also turn, if they wanted, to -- to programs of the Bar Association.

ASSEMBLYMEMBER PEOPLES-STOKES: Okay. The other thing I think that's pretty important is the State's Minority and Women-Owned Business rules and regulations. How do you think your agency is doing dealing with that, and what's your thoughts on diversity?

MRS. UNDERWOOD: What's what?

ASSEMBLYMEMBER PEOPLES-STOKES: Your thoughts on diversity.

MRS. UNDERWOOD: My thoughts on diversity. I believe in diversity. I've worked for diversity --

ASSEMBLYMEMBER PEOPLES-STOKES: The acoustics in here are not the best. Or the sound system is --

MRS. UNDERWOOD: I have done my best to encourage and create diversity in every workplace that I've been in,

and will continue to do so.

ASSEMBLYMEMBER PEOPLES-STOKES: I'm sorry, I just did not hear what you said, so if you could just --

MRS. UNDERWOOD: You and I are --

CHAIRMAN LENTOL: Pull the mic --

MRS. UNDERWOOD: I have done my best --

CHAIRMAN LENTOL: Pull the mic up closer to you like I did mine because these --

MRS. UNDERWOOD: Is this better?

CHAIRMAN LENTOL: -- these are probably older than this building.

MRS. UNDERWOOD: I have done my -- I have worked hard to increase diversity in every agency that I've worked in, and will continue to do so.

ASSEMBLYMEMBER PEOPLES-STOKES: Thank you. And last question, you said that you would not -- you don't look forward to running for office to keep the position. So, would you go back into your Solicitor General position, number two position, in January '19?

MRS. UNDERWOOD: If the elected Attorney General wanted me to do that, I would be honored to do that.

ASSEMBLYMEMBER PEOPLES-STOKES: I'm sure they will want your expertise around. Lastly, there was a -- an article in the newspaper recently with a lot of ministers who listed their support for you, and I'm wondering how many of them did you

speak to? Who called you about that?

MRS. UNDERWOOD: I didn't see the newspaper article, but I did meet recently -- I believe the -- there's something called the Council of Religious Leaders that has a regular meeting, and I was invited to meet with them, and I did. And it may be that out of that came a statement. And they asked me questions about -- particularly about the work we're doing with respect to immigrants, and I spoke about that with them.

ASSEMBLYMEMBER PEOPLES-STOKES: So, you -- you went through an interview process with them as well? You went through an interview process with the Religious Council as well?

MRS. UNDERWOOD: I don't know if I would call it an interview process, but they asked me -- they have, I believe, a regular meeting and they invite people, government leaders, to come and speak with them and they asked me to do that and I did that.

ASSEMBLYMEMBER PEOPLES-STOKES: Well, I think it's always impressive when citizens, you know, take the -- their role, their right to -- to inquire about who --

MRS. UNDERWOOD: Absolutely.

ASSEMBLYMEMBER PEOPLES-STOKES: -- could be moving forward. But I'm really appreciative of the fact that Chairman Lentol read the Constitution out clearly, is that the responsibility to make the appointment comes with the Legislature, the --

MRS. UNDERWOOD: That's correct.

ASSEMBLYMEMBER PEOPLES-STOKES: --

bicameral Legislature. So, I think it's important for that to be noted, because sometimes we attempt to do what we are sworn to do constitutionally, and we get, you know, chastised for, you know, setting things up and, you know, taking control of things that we shouldn't. And I just think it was a -- a -- a tad (inaudible) -- not on your behalf, but on the behalf of, you know, some of the people in this room -- to assume that we should not be doing something, but somebody else should be making the decision. I think we should make it, I'm glad we are, and I'm glad you're here today to talk us.

MRS. UNDERWOOD: I have enormous --

ASSEMBLYMEMBER PEOPLES-STOKES: Thank you very much.

MRS. UNDERWOOD: -- respect for your role in this process, and I'm happy to be here to talk with you to help you exercise that judgment.

CHAIRMAN LAVALLE: Senator Murphy.

SENATOR TERRANCE MURPHY: First of all, Madam Underwood, thank you so very much for being here today. I've read your resume; it is quite impressive. You've answered the question about whether you would run this November for New York State Attorney General, and your answer is no. I appreciate that. I'll make it short and sweet. How would you make sure that the highest office in New York State, law office in New York State, never becomes another political nightmare for the people of the State of New

York? Any impl -- imp -- how would you -- thank you -- how would you implement anything within your Office over the next six months that -- to make sure that this never happens again?

MRS. UNDERWOOD: I think that everybody in the Office knows that -- and -- and agrees -- well, I don't know if everybody agrees but, that -- that we should bring cases where the law and the facts take us, and not where politics takes us. And they know that about me, and they know that about the Office. And I have really every confidence that I will be able to -- that's one of the things I bring to this position. I have every confidence that I will be able to keep the Office a professional, non-political office that simply proceeds where the facts and the law take us.

SENATOR MURPHY: Thank you. We've seen it with, you know, obviously with former Attorney General Spitzer, now former Attorney General Schneiderman. It's of great concern to a lot of the people in the State of New York, so we would most certainly count on your expertise, after reviewing your resume, if you become the sitting Attorney General that we would make sure that there's equal playing field for everybody.

MRS. UNDERWOOD: You have my word for that. I wouldn't know how to do the job any other way.

SENATOR MURPHY: Thank you.

CHAIRMAN LENTOL: I just had -- I -- I know that Mr. Titone is anxious to ask a question, but I just have one more question that came to me when Mrs. Peoples asked you a question,

and that is, since a lot of people have discussed our authority to make this interim appointment, I wonder if you would discuss -- because I don't really understand the law -- how a resigning Attorney General has the power to make an appointment of who his successor is.

MRS. UNDERWOOD: Well, he didn't make that appointment upon resigning. What his responsibility was -- and this is true of other heads of offices as well -- was to have in place a succession plan, which was created well before these recent events.

CHAIRMAN LENTOL: Is that part of the law, or is it just part of tradition of the Office?

MRS. UNDERWOOD: I believe it is requ -- I'm not sure about the answer to that. I believe it is required to have on file who will -- I mean, you know, documents need to be signed. The minute it happens, the succession plan would govern not only in the case of resignation, but in the case of illness or -- or vaca -- you know, vacation, being out of the country. There has to be something on file that says who has the power to exercise the authority of the Attorney General if the sitting Attorney General is unavailable. And I've actually had that role in a number of other offices as well in the -- I mean, there's no publicity about that. But it's just -- there's a document -- I believe this was filed with the Secretary of State -- that says, *In the absence or disability of the Attorney General*, and then it lists an order of succession. I think there probably were numerous people after me in the event something happens. And that's just something that has to be in place in order that there not be a disability to act. Something

could happen that required a decision or a signature or the authority of the Attorney General, and somebody has to be able to act until the Legislature puts somebody in place. So, I've been in that position for a week, and the sooner the Legislature can act, the better. You -- you can't have a state that -- we have pending cases in which --

CHAIRMAN LENTOL: No, I understand that. I just wondered, because it -- it seems to me that, you know, you're the Solicitor General. It is an order of succession that should be some place in the law or some place at least in the tradition of the Office. But I suppose the Attorney General could have picked somebody else to succeed him, with a letter.

MRS. UNDERWOOD: I believe he could have picked somebody else. But he didn't do any picking in the heat of the scandal. That was all a document on file about the order of succession that was filed -- I believe the particular one in question was filed months ago. It has to be amended from time to time if people come and, you know, leave the Office and join the Office and so forth.

CHAIRMAN LENTOL: Thank you.

MRS. UNDERWOOD: And that's been true in district attorneys' offices that I have been in. It's really -- it's -- it's true everywhere where it may become necessary for the head of the office to sign something.

CHAIRMAN LENTOL: Mr. Titone.

ASSEMBLYMEMBER TITONE: Thank you.

Thank you, Mrs. Underwood, for being here today --

CHAIRMAN LENTOL: And by the way, I'm going to ask the members, including me, to restrict our time to five minutes.

ASSEMBLYMEMBER TITONE: Oh, now we're going to restrict?

CHAIRMAN LENTOL: Now we're going --

(Laughter)

Retroactively we'll do it.

ASSEMBLYMEMBER TITONE: Thank you for being here today. And welcome to our wonderful world of politics. I assure you, we're not having an out-of-body experience. (Adjusting mic.) Is that better? I just want to really go on record. I know many members of the Assembly Majority have done so, but we have had many opportunities to speak to the over 1,700 staff members that you are presently overseeing, and our experiences have been nothing but very good, positive. And I want to commend them and congratulate them on continuing the hard work that they continue to do every day under such trying and difficult circumstances, and just seriously thank you so much.

With that said, this might be kind of new, coming out of the Supreme Court very, very recently, but can you speak to this panel on your thoughts about sports betting? On the one hand, we had the Supreme Court saying that it is legal and it ought to be -- New Yorkers ought to be allowed to place bets on it, but on the other hand you have, for example, Major League Baseball, who -- who is vehemently opposed to it, concerned about the integrity of the game,

as well as other problems that can be associated with betting, gambling in -- in general. Can you speak to any plans by the Attorney General's Office to balance what has been basically thrown in our laps and will come at us very quickly.

MRS. UNDERWOOD: Well, I obviously -- no, I can't speak to any plans, as this decision came down yesterday and I've been working on other matters.

(Laughter)

But I -- I think the important way to understand that decision is simply -- the important aspect of that decision is that it's a states' rights decision, essentially. That the Federal government cannot direct the state legislature in what it can and can't do. It happens to be a decision -- and this is not a trivial thing -- it happens to be a decision about sports betting, but it simply -- the -- the Federal government could have regulated sports betting. It didn't do so in that particular statute. What it chose to do was direct state legislatures in how they should act or not act with respect to sport -- to sports betting. And I think it's a good thing to have a constraint on Federal power and to say that the Federal government can't regulate the states in that particular way. What will come in the wake of that decision remains very much to be seen.

ASSEMBLYMEMBER TITONE: And I --

MRS. UNDERWOOD: We have our own constitutional issue, of course, about, you know, at -- the State Constitution has a prohibition on gambling in it.

ASSEMBLYMEMBER TITONE: That's -- that's right. And talking -- going further about -- and my concern comes from the perspective of consumer protections. And -- and going towards that, one of the challenges that we're going to see, I think, coming down the pipe very, very soon is the manufacture and distribution of cell phones and whether or not there should be back doors, whether or not the encryption code should be accessible to law enforcement with, of course, a warrant. Whether those -- the technology exists where the manufacturers themselves wouldn't be able to access the information on those phones. Where -- and all 62 district attorneys have made it clear that they want to ban phones that they cannot access under the, you know, the proper circumstances. In compliance with the Fourth Amendment, of course. Where is the Attorney General's Office on this, or where -- where would you be on -- on this particular issue?

MRS. UNDERWOOD: I mean, I'd have to say I have not formed a position on that, but would need to consult with the -- the people who are directly involved with such matters and reach the best decision I can.

ASSEMBLYMEMBER TITONE: Thank you. Have you formulated any opinion as to what you would like to do to curb abusive debt collection practices at this juncture? And I know it's still soon, but you have been the Solicitor General for many years.

MRS. UNDERWOOD: Oh, yes. We've -- we've been actually already vigorously enforcing the laws that limit the

practices that can be used in abusive -- that try to control abusive debt collection. We've defended those laws from attack, and I would expect that to continue. I mean, we have a -- quite a vigorous consumer protection effort, and it's one of the -- really one of the jewels of the Office. It's a jurisdiction that nobody else really has.

ASSEMBLYMEMBER TITONE: Okay. And we're also seeing an -- an uptick in something brand-new, the use of cryptocurrency both domestically as well as internationally. Are there any safeguards or -- or recommendations that you as either the Solicitor General or presently as the Interim Attorney General can make to the State Legislature as to how to prevent fraud in the marketplaces, price inflation, the risk of tax avoidance and money laundering and -- and the potential black market uses?

MRS. UNDERWOOD: Well, I know there's work going on in the Office on that problem. I'm not -- I haven't been deeply involved in it, but I agree that it's an important problem and would -- I will very soon know a great deal more about it.

CHAIRMAN LAVALLE: Assemblymember --

MRS. UNDERWOOD: I do know about most of the cases and big cases and investigations going on, but not every one, and especially not things that are simply in the gestation period.

CHAIRMAN LAVALLE: Assemblymember, your -- your time has expired for asking -- asking questions.

(Inaudible/laughter)

Senator Gallivan.

SENATOR PATRICK GALLIVAN: Thank you, Chairman.

CHAIRMAN LAVALLE: Five minutes.

SENATOR GALLIVAN: I'll be quicker than five minutes. Thank you for your time today. We -- we've seen a number of -- of news accounts, people speaking up publicly on your behalf as a professional, and certainly others have commented on your background. Your resume, your experiences both in civil and criminal matters are quite extensive, and I commend you for that and I thank you for your public service. I'm -- I'm interested in the political -- you had talked about being apolitical and working in a -- a professional manner. As you may know, my background is in law enforcement, and my experience has been any time that politics has entered law enforcement, it's problematic. And we've seen it in various offices and in places throughout the State and the country. So you made very clear that you don't have an interest in running for this office in -- in November. We have a clear understanding of that, and that you try to work in an apolitical and professional manner. Does that extend to being involved in anybody else's campaign for this office?

MRS. UNDERWOOD: I'm not -- I will not be involved in any campaign for this office.

SENATOR GALLIVAN: All right. Thank you. Thank you, Chairman.

CHAIRMAN LENTOL: Assemblyman Dinowitz.

ASSEMBLYMEMBER JEFFREY DINOWITZ:

Good afternoon. Time limits, let's talk fast. Given the Trump Administration's recent ban on transgender individuals in the military, how would you, as -- as the Attorney General, use your Office to protect the rights of transgender people in the State of New York?

MRS. UNDERWOOD: Well, of course, the State of New York doesn't have jurisdiction of the military, but I'm -- the State of New York has robust antidiscrimination provisions that we can enforce within -- where our jurisdiction lies, and we have been already filing amicus briefs challenging -- or supporting challenges to bans and restrictions and discrimination against transgender people. We believe that New York has an interest in that issue nationwide, because New Yorkers travel, New York students go to school elsewhere, New York professionals go to meetings elsewhere. And so when there is discrimination in public accommodations, for example, or otherwise, it affects New Yorkers. And we have been really in the forefront of a multi-state coalition that has been speaking out for the rights of transgender people.

ASSEMBLYMEMBER DINOWITZ: Okay. We're going to have to speak more rapidly.

People in New York go to the courthouses for Orders of Protection, protection from domestic violence, tenant issues. But in recent months, ICE Enforcement Agents have made arrests in the courthouses. What are your thoughts concerning courthouse arrests for people who are trying to protect themselves from domestic violence or from evictions?

MRS. UNDERWOOD: I think it's a very bad idea and that it's bad for law enforcement for ICE to be making arrests in courthouses because its immediate effect is to keep people away from courthouses. It makes it hard to get witnesses to courthouses, and victims. Not just in matters of domestic violence or Orders of Protection, but in criminal cases. If victims and witnesses are unwilling to come to the courthouse, we will have trouble engaging in the law enforcement that -- that the community needs. So I think that that is a bad idea.

ASSEMBLYMEMBER DINOWITZ: Okay. As Attorney General, would you continue efforts to overturn the plan by the Federal government to add a citizenship question to the 2020 Census?

MRS. UNDERWOOD: Absolutely. We have filed a suit in -- in regard to that and intend to continue it. And for much the same reason or similar reasons. That is, if you -- if you add a question like that to the Census, you will reduce participation in the Census and will -- with many consequences, including consequences that -- consequences that hurt New York; consequences to funding, consequences to allocation of legislative seats and so forth.

ASSEMBLYMEMBER DINOWITZ: It's my understanding that the Department of Law initiated an investigation --

CHAIRMAN LAVALLE: Assemblyman --

ASSEMBLYMEMBER DINOWITZ: -- initiated an investigation as to whether fossil fuel companies have misled

investors, regulators and the public about its knowledge of climate change and the potential effects it may have on the businesses. Can you discuss whether or not you would continue this investigation as Attorney General?

MRS. UNDERWOOD: My plan is to continue investigations that are in process until they discover -- until they reach their natural conclusion. And that's one such investigation.

ASSEMBLYMEMBER DINOWITZ: And my last question -- it would've been my next to the last, but I think under time pressure -- do you have -- what election related reforms, if any, do you support to make voter registration and voting more accessible to New Yorkers to increase voter turnouts throughout the State?

MRS. UNDERWOOD: I'm not sure I have an answer to that question, but I do think it's very desirable to increase voter turnouts and make -- make voting more accessible and would be happy to defend any such provision that the Legislature might enact.

ASSEMBLYMEMBER DINOWITZ: All right.
Unfortunately, not everybody agrees with you --

CHAIRMAN LAVALLE: Senator Hoylman.

ASSEMBLYMEMBER DINOWITZ: -- but I do.

CHAIRMAN LAVALLE: You're next.

SENATOR BRAD HOYLMAN: Thank you. It's very good to see you, Acting Attorney General. I'm really amazed at your career as a -- as a lawyer. As a recovering lawyer, as I am. Forty-five years, Yale Law School Professor, U.S. Solicitor General,

New York State Solicitor General. I'd describe you as a real lawyers' lawyer. Twenty cases argued before the Supreme Court. What was your win/loss record?

(Laughter)

MRS. UNDERWOOD: You know, it's funny. I don't keep a win/loss tally because I think that --

SENATOR HOYLMAN: With these Justices, it's probably a good idea.

MRS. UNDERWOOD: Yes. I was going to say, I think winning and losing depends on some things that are beyond your control. It depends on the case and it depends on the Justices. So, I value doing the very best work that can be done and then the outcome is in the hands of the judges. But if it's important to you, I can find out.

(Laughter)

SENATOR HOYLMAN: It's of interest. Is -- is there a case that you could cite that you believe represents some of your best legal arguments, or maybe a case that you thought was decided incorrectly that you'd like to point out?

MRS. UNDERWOOD: Well, one case that I'd like to talk about is a case I argued in this Office. It's a case called Cuomo against Clearing House. It was a case in which the Federal government, the relevant Federal agencies, was taking the position that New York State could not enforce its antidiscrimination and consumer protection laws against national banks, and the lower courts here in the

Federal system agreed and we took that to Supreme Court and got it overturned and vindicated New York's right to enforce its consumer protection and antidiscrimination laws against national banks. That's one.

SENATOR HOYLMAN: And -- and -- and I know that you -- you clerked for Justice Thurgood Marshall. Any lesson you'd like to share with the public that you learned from -- from him?

MRS. UNDERWOOD: Well, I'll say two important things that I learned from him: One is that in addition to being interested in broad, lofty principles of law, it's important to know about practical reality. He always asked questions from the bench about what was really going on back in some small town in North Carolina or wherever the case came from, because he said that the cases, by the time they come to the Supreme Court, are so far in time and place from what's really going on that we have to know what was really going on. And I take that lesson to heart in all the work I've done, that the legal principles are interesting but so are the actual impacts of cases on people back -- back home, wherever home is. That's one. And the other is that -- well, it was really more a model than a lesson. He was always determined to -- it was important to him that the -- that discrimination was a terrible problem not just where race was concerned, but also where sex, disability, religion, all kinds of other things were concerned. Although he had spent his career before becoming a justice fighting race discrimination, he told me that it was racist to think only black people need protection against

discrimination. There's a lot more discrimination going on in this country than race discrimination. And he was, in fact -- when I was the fourth woman ever to clerk at the Supreme Court, there were many justices at that time who were saying, you know, women were great but they couldn't have a woman law clerk, and he was eager to dispel that idea.

SENATOR HOYLMAN: Thank you very much. Maybe by the end of this, we can convince you to run for election.

(Laughter)

MRS. UNDERWOOD: I don't think so, but thank you for the vote of confidence.

ASSEMBLYMAN WILL BARCLAY: (Microphone not on.) Do you plan on doing anything different than what Attorney General Schneiderman did in your tenure, in the six months (inaudible)?

MRS. UNDERWOOD: My plan is to carry forward the good work of the Office in the best and most professional way, and I don't look at it as looking at what he did and how I might do something differently. I will -- I have -- I have a great office and a great docket of cases and investigations that may or may not lead to cases, and I plan on carrying them forward.

ASSEMBLYMEMBER BARCLAY: (Microphone not on.) Some commentators said under Schneiderman, the Office could be very political. Do you agree with that?

MRS. UNDERWOOD: That was not my experience.

I -- I -- I don't really want to have an argument with people about that, but my experience was that we did great investigations and brought great cases, and I would like to keep that going.

ASSEMBLYMEMBER BARCLAY: (Microphone not on.) You mentioned in your opening statement two things which you thought were good about the Office. You said you try to protect the rule of law, and then you said you'd also try to promote the cause of justice. Is that correct?

MRS. UNDERWOOD: That is correct.

ASSEMBLYMEMBER BARCLAY: (Microphone not on.) Could you explain what you mean by the cause of justice?

MRS. UNDERWOOD: By the cause of justice. Well, I guess what I mean is that when -- there are many different ways that that can come up. In our affirmative litigation we are protecting people, we are bringing suits to stop various injustices. They are discrimination, they are consumer fraud, they are investor deception, they are environmental pollution. In our defensive cases, we're trying to defend the work of other agencies of the State in their good work in running the government and pursuing justice, and we defend them and thereby assist them in that work. Justice is related to the rule of law.

ASSEMBLYMEMBER BARCLAY: (Microphone not on.) I would suggest that maybe some people's view of the cause of justice (inaudible). I know that under Schneiderman, I think (inaudible) claims were filed against the Trump Administration. Do

you want to continue with every one of those claims? Is there anything that is going to change in that regard if you become Attorney General?

MRS. UNDERWOOD: I don't have any plan to discontinue existing cases, and I don't have any plan to abandon the effort to challenge injustice and lawless behavior that hurts New Yorkers where I find it. Whether the volume will continue really depends on what -- what happens. It depends on events not in my control.

ASSEMBLYMEMBER BARCLAY: (Microphone not on.) I noticed -- and I appreciate your comments about being apolitical (inaudible). I did notice right after you were appointed, you have put out two (inaudible) two press releases; one talking about (inaudible). Is it your opinion that those aren't political?

MRS. UNDERWOOD: Yes. It is my opinion that those are not political. It is my opinion that those -- I mean, those were cases that were in the Office before I started in this role, but I was in the Office when they were, you know, investigated and -- and pursued. I think that there are laws about pollution, there are laws about the way -- about internet access, and what we are doing is seeking to enforce the law to the benefit of New Yorkers. We can only do what the law authorizes, but failing to enforce those laws would, I think, be --

ASSEMBLYMEMBER BARCLAY: So it's your position -- let's take net neutrality, for example.

CHAIRMAN LAVALLE: Assemblyman, your time is --

ASSEMBLYMEMBER BARCLAY: This is my last question. Last question. It's your position that that's not -- what's that?

CHAIRMAN LAVALLE: That's it. Sorry.

ASSEMBLYMEMBER BARCLAY: Thank you.

CHAIRMAN LAVALLE: Senator Dilan.

SENATOR MARTIN MALAVE DILAN:

(Inaudible.)

MRS. UNDERWOOD: I'm sorry. I'm not hearing you.

SENATOR DILAN: Thank you. Thank you very much. And I want to thank you for being here today, and I want to thank you for your position of basically being a caretaker for this position. As Solicitor General, I -- I believe, or assume, that you're pretty familiar with the agenda of the former Attorney General. I just want to know, can you outline some of his agenda that you may be familiar that you could talk about in terms of New York State and maybe some of his Federal agenda? Because he was pretty active on a Federal level; for example, net neutrality. And how do you feel about providing a driver's license to undocumented immigrants? Would you continue some of his agenda? Would you make some changes? And just want to get a feel from the inside of what you know that we don't know that you could share with us.

MRS. UNDERWOOD: Okay. Well, if I could talk about -- I mean, this issue of driver's licenses. I mean, some of these are legislative decisions. The role of the Attorney General is really to defend whatever laws the Legislature enacts. And so -- so I would defend whatever the Legislature enacted.

SENATOR DILAN: I can't hear you.

MRS. UNDERWOOD: And I -- I think it's a mistake to think of some of this litigation as -- as political and policy-driven. We bring these cases when we see laws being violated. And there's been rather more of that lately than before, but there's always been some of that. And I would expect to continue protecting the rights of New Yorkers and the laws of New York and the institutions of New York from unlawful attack, whether by private entities or by the Federal government or anybody else. We represent the people and the government of the State of New York. That's you.

SENATOR DILAN: Yes. Well, the Attorney General represents New York State. But the former Attorney General also had a very high Federal profile.

MRS. UNDERWOOD: Well, those Federal cases were cases that were brought to protect New Yorkers and the State of New York against unlawful behavior that was affecting New York. And I don't see any reason to think that will -- that behavior will stop, and so I don't see any reason to stop the effort to --

SENATOR DILAN: Would -- would you basically change that agenda? What -- if you had to change anything, what

would you change?

MRS. UNDERWOOD: You know, I'm a different person, but I -- I -- I don't foresee a drastic change. I would see my role as continuing to look at the cases that are proposed and the cases that are in process, and evaluate them on the basis of the evidence before me and the legal arguments that are made.

SENATOR DILAN: Okay. I -- I have another question.

MRS. UNDERWOOD: That's the only way I know how to proceed. That's what I would do.

SENATOR DILAN: No, I -- I really appreciate your position and your role and I really respect it. And I have a certain position about this whole process, and that is, let's assume that it's the day after the general election, and if we did not make a decision here in this process, will you be willing to step down the day after and whoever the people selected can assume that role at that time, before January 1?

MRS. UNDERWOOD: I'm not sure why -- if you were to appoint me as Interim Attorney General --

SENATOR DILAN: Well, if we did nothing, you would continue in your current role.

MRS. UNDERWOOD: I would, that's correct, until the commencement of a new term. And if I were to step down, actually, it wouldn't be the case that the newly-elected person would take office. Their term begins --

SENATOR DILAN: That would be the choice of the people.

MRS. UNDERWOOD: -- doesn't begin until January. So if I were to step down, it would -- we'd be once again in this situation.

It seems to me it is not good for the Office to have repeated change in leadership. And the thing that I could do in the -- is -- is provide some stability to the Office and keep it going until a newly-elected Attorney General's term begins.

SENATOR DILAN: Well, that's -- I think we're agreeing. We're agreeing, it's just a matter of the timetable.

MRS. UNDERWOOD: Yes.

SENATOR DILAN: But thank you anyway. Thank you.

MRS. UNDERWOOD: I -- I would just like to say that I have actually had some experience with just this interim kind of caretaker role. I was the Principal Deputy Solicitor General for the last few years of the Clinton Administration, and when the Bush Administration started by agreement between the leaders of the outgoing and the incoming parties, I was appointed as the Acting Solicitor General for about the first six months of the Bush Administration because people thought that I could do just what I'm asking you to let me do here, which is continue to lead the Office and keep it going --

SENATOR DILAN: So -- so the point is that --

MRS. UNDERWOOD: -- in a non-political, professional way.

SENATOR DILAN: You would continue until December 31st?

MRS. UNDERWOOD: That would be my understanding of what an appointment by this Body would --

SENATOR DILAN: All right. Thank you.

CHAIRMAN LENTOL: Assemblyman Curran.

ASSEMBLYMEMBER BRIAN CURRAN: Good afternoon, Mrs. Underwood. Being the 12th person here, you're almost through the tunnel, all right? So, I'm going to be really quick. Let me just first tell you, your work experience and your credentials are excellent and I don't think there's anybody up here that doesn't believe that you possess the work history to immediately step in as Attorney General. So I'm not going to ask you about your credentials or your work experience, but I'm going to ask you about the role of the Attorney General and what you view it as.

So first and foremost, you know, when you become the Attorney General, you take an oath to abide by the laws of the State of New York, but also by the laws of the United States. If you receive an order -- an Executive Order from the President or a law passed by the Congress, a lawful regulation from a Federal agency, even if you don't agree with it, would you have a problem enforcing it?

MRS. UNDERWOOD: The question would be -- no,

I wouldn't have a problem enforcing a lawful order. There would always be the question whether it's a lawful order, and if, for instance, there is an order from the -- there is some sort of -- actually, the President doesn't issue orders directly to State officials. That's what that case was just about, that the Federal government can't direct state legislatures as to how to proceed. But in any event, if there's a conflict between New York law and Federal law, it would be my responsibility to make a legal analysis about -- about how they can be reconciled. If they can't be reconciled, whether one of them is constitutionally deficient or whether it's a case where the supremacy clause governs and what the Federal law says controls. And those are all legal problems that I have had actually quite a lot of experience analyzing.

ASSEMBLYMEMBER CURRAN: Let me ask you: Unfortunately, we have seen several public officials being charged with public corruption crimes. Unfortunately, all of them have been charged under Federal law and not State law. Under your tender as Attorney General, will you bring corruption charges under Article 190 or Article 496 of the State law to pursue corruption here in New York State?

MRS. UNDERWOOD: Well, first of all, I believe there have been some State corruption charges as well over the course of the last few years. But in any event, I think the question generally is who has the evidence and who has the best laws to govern -- to -- to -- to bring -- to make accountable whatever particular crime is -- is alleged. And I would certainly -- we have -- we have a very good

Public Integrity Unit, and I would hope to continue and support its work. But the question whether to, as people say, go Federally or go with a State prosecution depends on -- on evidence and law.

ASSEMBLYMEMBER CURRAN: So, if your office was presented with evidence that demonstrated a violation of either of those two sections, you would pursue it regardless of what office it was, whether it'd be any branch of the Legislature, the Governor's Office or any --

MRS. UNDERWOOD: I would pursue unless I thought a Federal prosecution would be more likely to be effective, in which case I would be collab -- talking with the Federal prosecutors to see whether perhaps they would have a greater chance of succeeding in that prosecution.

ASSEMBLYMEMBER CURRAN: There's also clear delineation between the Attorney General's Office and local district attorneys' office. I think you referenced in one of the other prior questions. Let me ask you: In July of 2015, Governor Cuomo issued an Executive Order, No. 147, which appointed Attorney General Schneiderman as a special prosecutor in instances where a law enforcement officer causes the death of an unarmed civilian or where there is significant questions as to whether the civilian was armed and dangerous. Do you believe that the Governor had the constitutional authority to issue that Executive Order which goes directly against the County Law, Section 700, which actually outlines the duties of a district attorney?

MRS. UNDERWOOD: I'm actually quite familiar with both of those laws from my time as a district attorney and in -- in this Office. I believe the Governor did have the authority to do that. There are two separate mechanisms for displacing a district attorney. One of them is by the -- when -- is -- is for a judge to conclude that the district attorney is disqualified and to appoint either a neighboring pros -- a neighboring DA or a private citizen to be a special district attorney, and the other is -- and that's County Law 701 -- and the other is Executive Law 63.2. The Governor can supercede a district attorney and appoint the Attorney General to supercede the district attorney and does not have to find disqualification. Can do it for any reason or no reason, and they simply are two separate mechanisms that exist in the statutes of this State. So, yes, he did have the authority to do that. There are plenty of debates about whether it was wise or not. I think it responded to a felt need for which people disagree about, but he certainly had the authority to do it.

ASSEMBLYMEMBER CURRAN: I'm being told my time is up, so thank you, Mrs. Underwood.

CHAIRMAN LENTOL: Yes.

CHAIRMAN LAVALLE: Thank you. It is. And I think we have run the course here. Thank you very much, and good luck to you for your term.

MRS. UNDERWOOD: Well, thank you very much for the opportunity to meet with you.

CHAIRMAN LENTOL: Appreciate it. Thank you.

Our next applicant.

CHAIRMAN LAVALLE: All right, if we could move quietly, we'd like to move -- move on.

CHAIRMAN LENTOL: While we're getting ready for the next witness, I want to thank the members of the panel for their restraint. And I promise that I'll try to use my own restraint on myself to make sure that we adhere to the five minutes. And I'm also going to ask all of the applicants to limit their opening statements to five minutes. It's an hour-and-a-half on one witness.

Our next witness is Assemblyman Thomas Abinanti.

MR. THOMAS ABINANTI: I noticed the -- the room has already cleared out. Is it something I said?

(Laughter)

CHAIRMAN LAVALLE: You could start your --

MR. ABINANTI: Comments, yes. Thank you.

CHAIRMAN LAVALLE: -- introduction.

MR. ABINANTI: Thank you for giving me the opportunity to be here with you this afternoon. My name is Tom Abinanti, not to be confused with Michael Avenatti, who I think is much better known than I am. I'm a New York State Assemblyman and a practicing attorney. First, a comment on the previous applicant. I have been practicing law for 45 years, and I've met many good lawyers. She is clearly among the top. And certainly, if this panel and the Legislature decided to keep her, that would not be a bad decision. I think there are reasons why you might prefer a different type of

Interim Attorney General, but as I said, we could do far worse with someone than the person who was just here. She was superb.

I have extensive broad experience in the legal field and in public service. I look at the position of Attorney General as the pinnacle of the intersection of public policy and law. It's a unique position where you have the opportunity to make and enforce public policy by using the legal system. You represent the people of the State of New York. You represent the State as an entity. But all of your decisions have to be informed by some type of public policy, structure and understanding. So, I present myself today in a different light than the previous candidate. I have spent 33 years in elective public office. I've been elected 16 times. I was a town councilman, a county legislator and now an Assemblymember. I think that makes me sensitive to what the needs of the people on the street are. I've also been a practicing attorney for 45 years, and I want to explain to you what my law practice has been. I have not been in the Attorney General's Office or the District Attorney's office, but I think I have an experience that gives me the ability to step into the position of Attorney General and work with the professional staff that is there. Clearly, in my mind anyway, you need to have a practicing lawyer who understands the types of issues that come into that Office so that you can direct the professionals in the Office as to how they should proceed.

A few examples: I tried at the trial level and on appeal a Quo Warranto action against the Attorney General's office. I

think it's the only Quo Warranto action that has been tried in the last 50 years. I think Robert Abrams was the last Attorney General to deal with one. That's an action to oust a public official. I represented the public official.

When I was in the Westchester Legislature, I was the motivating force for a lawsuit by the Legislature against the County Executive to extend the Silver v. Pataki ruling allowing legislators to sue against the Executive to extend it the legislatures, the county legislatures. I brought a lawsuit challenging my own town's zoning practices in one, and changed the way the Town of Greenburgh deals with zoning matters.

I represented a pharmacist, and he was acquitted, in a prosecution by the nursing home prosecutor many years ago.

I was an instigating force in having the Legislature in Westchester intervene in a lawsuit between some unions and the County Executive so that we could protect the prerogatives of the Legislature that were being usurped by the County Executive.

And I set up, after two years of hearings and a lot of effort, a solid waste commission in the County of Westchester similar to what Mayor Giuliani did with the Trade Waste Commission in the City of New York.

Now, the reason I list all of these very diverse matters is an indication that I've had a very extensive law practice that has exposed me to a lot of the different types of issues that the Attorney General's Office has to deal with. Because whoever steps in for a

short period of time has to be able to understand. Not be the ultimate determiner of -- of what the right answer is, but has to be able to work with the professionals in that Office and ask the right questions.

Which court are we going to? Should we make a summary judgment motion or a Motion to Dismiss? What stage of the practice? All of the things that a lawyer would do with a typical client. I've represented individual people, I've represented unions. I've represented for-profit businesses, not-for-profit businesses. So, I have a very expansive country law practice. For the last 45 -- last 40 years or so, I've had my own little law practice, but it's brought me into all of these different areas. And I think that gives me a qualification to be able to be an interim, and that's all I'm seeking to be, to be an interim for a short period of time.

Now, why do I suggest that it's necessary that we have someone other than a straight professional lawyer? I think that there needs to be a person at the top who is making public policy determinations. There are scarce resources in that Office. And you can't take on every matter, so you've got to make a determination as to which matters you're going to do. And you have to be able to explain to the public why you're doing something and how you're doing it. And so you need someone who has the public's confidence. And I'm suggesting someone that has been elected before while not being elected by the entire State for this office, at least comes forward with some kind of mandate --

CHAIRMAN LENTOL: You've made your point,

Tom. Could you yield to questions now?

MR. ABINANTI: Yes. I -- I just want to finish with

--

CHAIRMAN LENTOL: I'll let you make a summary point.

MR. ABINANTI: Yes. The other thing that I think is most important is that the appointee be an independent person. We need someone who's not afraid to conduct ethics investigations, who's not afraid to investigate corruption wherever they find it. And if you're not independent, if you don't have that self-confidence to be able to stand up to whoever it is -- when I was a town councilman, I stood up to the supervisor of the town. When I was a county legislator, I twice sued the County Executive of two different political parties, and people know that I'm not afraid to call out the Governor when I disagree with him. And I think that it is very important that whoever is there for the next six months can generate the public confidence in himself or herself that he will do what's right for the people.

CHAIRMAN LENTOL: Thank you, Tom.

CHAIRMAN LAVALLE: Assemblyman, your time has --

MR. ABINANTI: Okay.

CHAIRMAN LAVALLE: -- run out.

CHAIRMAN LENTOL: You can go first, since I went first the last time.

CHAIRMAN LAVALLE: Okay. Yes. What makes you believe that you're more qualified than Barbara Underwood?

MR. ABINANTI: I'm not suggesting that I'm more qualified. I'm suggesting that I have different qualifications, and that other qualification is having served in public office and that I'm aware of the policy issues: The women's right to choose, climate change, gun violence, discrimination, basically fairness to people, dealing with sexual harassment, dealing with people with disabilities. These are the types of things that I would bring to the Office, and then rely on the professionals in the Office to make sure we did it right. But I think there has to be someone who comes in with this overall view of where the Attorney General's Office is. Let's remember, this is not appointed by the Governor. This is someone who's independently-elected, which is why you're sitting here to name the replacement. This is not like New Jersey where the Governor replaces the Attorney General. This is your job to do this. And we want someone who is going to stand up as an Attorney General, as an independent person, but you have to have the political experience to understand the -- the sensitivities of the public to what they expect from an Attorney General.

CHAIRMAN LAVALLE: So, that fits right in with my question that I want to ask. The selection process is within the exclusive control of the Legislature. The Governor has said that he expects to meet with the candidate. Do you believe that that is appropriate under the Separation of Powers Doctrine to sit for an interview with the Governor?

MR. ABINANTI: I have disagreements with the Governor on many occasions, and I would disagree with him on this occasion as well. I believe this is a legislative prerogative, and as I've said before, I've defended the Legislature against overreach by Executives in the past, and I believe this is the legislative prerogative and that the Governor does not have a role in the selection.

CHAIRMAN LAVALLE: Are you run -- running for reelection to your Assembly seat?

MR. ABINANTI: I would intend to run for reelection to the Assembly.

CHAIRMAN LAVALLE: What's that?

MR. ABINANTI: Yes.

CHAIRMAN LAVALLE: You will run?

MR. ABINANTI: I will run for the Assembly seat.

CHAIRMAN LAVALLE: Okay. Thank you.

MR. ABINANTI: But I would expect here -- you asked the question before if -- if -- I would take this one step at a time. If I'm not appointed, I am not a candidate for Attorney General. If I am appointed, my intent is to not seek a party nomination for Attorney General. I'm interested in being the Interim only. That's my present intent. If I got appointed tomorrow and my party came to me and said, *We'd like you to be the candidate*, I would consider it. But my intention is to serve as the Interim, keep the Office out of the partisan fray, and then come back to the Assembly in January.

CHAIRMAN LAVALLE: Good. Thank you.

CHAIRMAN LENTOL: Thank you, Tom. So now I see from your resume, and I know you very well by now, and you're an excellent advocate for the people. But you have to admit, the Attorney General's Office is a large bureaucracy, as well as a place where you can do substantive work as an Attorney General enforcing the law of the State. Now, what makes you think that you or I or any legislator has the ability to manage an office of that size?

MR. ABINANTI: I would suggest that there's not much you can do to the structure in the space of six months. That whoever the person is is going to have to rely on the structure that the previous Attorney General set up. You may make a few changes here and there, but by and large, you're going to have to rely on a handful of administrators, work with them, supervise them and make sure that they're doing their jobs. If they're not, then you replace them. But I don't think you can at this point try to jump in and rearrange the entire Office. It's basically, as I said, a policy head who will meet with the heads of the different departments, who will respond to what's -- what's needed to be responded to, and explain to the public what the policy behind the legal decision is. I think that's a very important role for the Attorney General.

CHAIRMAN LENTOL: Having thought myself about being a candidate and not a caretaker -- I like to say that a lot -- but I think that I would have a very hard time going from a small Assembly office -- well, my office is a little bigger than yours, but it's still an Assembly office -- in comparison to the Attorney General's

office. It would be a difficult change of lifestyle, of management and managing a large number of employees because it's not only getting out there and leading the charge, it's really making sure that all of the people in that Office are doing what is best.

MR. ABINANTI: Correct. But if we look at history, you will see that several others -- go back to Robert Abrams, who was a superb, a superb Attorney General. He was Borough President and before that an Assemblymember. He did not manage a large staff before he became Attorney General. Oliver Koppell, who I think was an excellent Attorney General for the short period of time he was there, was an Assemblymember before he became Attorney General. So I think that what we have to do is -- is -- I mean, even the woman who was here just before me admitted that her job pretty much is not one of the administrators in the Office. She is a practicing lawyer who is very knowledgeable in the law and quite good at answering, you know, arguments on appeal. So I don't -- I don't see this job as -- as an administrative position. I believe they're administrators in that Office who do that type of work and make sure that the Office functions.

CHAIRMAN LENTOL: Thank you. And I get that. But she had a lot of Assistant Solicitor Generals under her.

Next question.

CHAIRMAN LAVALLE: Senator Little.

SENATOR LITTLE: Thank you very much. Thank you. You certainly have, you know, a lot of background in the Legislature, as well as in local government, as well as an attorney. But

I'm a little bit confused. Do you intend to run in November for the position of Attorney General?

MR. ABINANTI: That's not my intent. I'm intending to be the Interim Attorney General for as long as the term is.

SENATOR LITTLE: But if you were the Interim and they asked you to be the candidate in November, would you run for --

MR. ABINANTI: I would have to consider it. Frankly, it's very hard for someone who has not planned to run for Attorney General in the space of a month to raise \$1 million and put together a Statewide campaign. I think that's a very difficult task. I -- I'm focused on wanting to be the Interim, and -- and being satisfied with doing a good job there. I think it would be very difficult for someone who has not been there for a long period of time to try to run the Office, make all of the decisions necessary and then be out on the street shaking hands with people and raising money. I think there's kind of a conflict there. There's just not enough hours in the day. So I've made the decision that what I would do, frankly, is file my petitions for the Assembly and hopefully be able to be elected while I'm serving as Attorney General. I've been fortunate in the past to not have opponents. Maybe I'll be lucky again to not have opponents this time, and I would concentrate on -- but running for reelection to the Assembly is a much different task than trying to run Statewide for Attorney General, and at the same time be brand-new in running an office.

SENATOR LITTLE: But you do believe that if you

were the Interim, you would then campaign and run for the Assembly at the same time?

MR. ABINANTI: I think that's a very different task and it's --

SENATOR LITTLE: All right. I just want to make sure that's what your intention would be.

MR. ABINANTI: Yes. That would be my intention.

SENATOR LITTLE: Okay. Thank you.

CHAIRMAN LENTOL: Assemblywoman Peoples-Stokes.

ASSEMBLYMEMBER PEOPLES-STOKES: Thank you, Mr. Abinanti, for being here this afternoon. Just a quick question on your thoughts on major criminal justice reform in New York State.

MR. ABINANTI: Well, that's in the policy area.

ASSEMBLYMEMBER PEOPLES-STOKES: I.e., bail, criminal discovery and speedy trial. What are your thoughts on those?

MR. ABINANTI: I -- I -- well, as you probably know, I am a sponsor of the Assembly legislation, and I would support that legislation. As Attorney General, I think my role would be --

ASSEMBLYMEMBER PEOPLES-STOKES:
Which -- which one --

MR. ABINANTI: -- to highlight --

ASSEMBLYMEMBER PEOPLES-STOKES:
Which one did you sponsor?

MR. ABINANTI: I'm sorry.

ASSEMBLYMEMBER PEOPLES-STOKES:

Which legislation do you sponsor? I'm sorry. Which legislation do you sponsor?

MR. ABINANTI: I think it's the Lentol legislation on bail reform.

ASSEMBLYMEMBER PEOPLES-STOKES: Bail reform?

MR. ABINANTI: Yes.

ASSEMBLYMEMBER PEOPLES-STOKES: Okay.

CHAIRMAN LENTOL: Walker.

MR. ABINANTI: Oh, it's Walker's legislation? I'm sorry. It's Walker's legislation.

I think the role of the Attorney General is to work with the district attorneys to try to fashion a reform proposal that -- that meets the objectives of that particular bill, and at the same time gains the support of the district attorneys so that we could actually pass some legislation and make the system work better.

ASSEMBLYMEMBER PEOPLES-STOKES: Are you familiar with the District Attorney in the City of Philadelphia, Pennsylvania?

MR. ABINANTI: Not at the moment, no. I did work with one before he became -- when I worked with the U.S. Attorney's Office -- well, Walter Phillips became the District Attorney of Philadelphia, but that was many years ago. I don't know the current

one.

ASSEMBLYMEMBER PEOPLES-STOKES: Okay. So, what are your thoughts on having employee support within the operation? To support employees who are either having difficulties with substance abuse, relationships, needing counseling, that sort of thing?

MR. ABINANTI: I thought that was an interesting question. I am familiar with the problem that a lot of lawyers are facing now because of the high pressure. And I know the Bar Association has tried to institute some programs to help. I think that that should be a -- you know, a happy workforce is very, very important. And I -- if -- I would have to look to see what's there now. I'm not familiar with what's there now, but certainly, we'd have to make sure that there's an enhanced effort to deal with the pressures because I know the lawyers in that Office work very hard. They're under an awful lot of pressure. More than regular lawyers, you know, just private practice lawyers, because they're under the scrutiny of the press constantly. So, the pressure on them is even greater than it is, in my mind anyway, on the private practitioner.

ASSEMBLYMEMBER PEOPLES-STOKES: Okay, thank you. And I -- I think that that's a critical area that we should, quite frankly, look at more often because if the State Bar Association establishes an operation to work with lawyers on that topic, it would just seem natural to me that we have a whole office full of attorneys, that there should be something in place to support them in this very

high stressful job that they have.

MR. ABINANTI: Right. I agree.

ASSEMBLYMEMBER PEOPLES-STOKES: Thank you.

CHAIRMAN LENTOL: Thank you, Crystal.

CHAIRMAN LAVALLE: Senator Murphy.

SENATOR MURPHY: Assemblyman Abinanti, we know each other a long time. We've worked close together on a number of different issues. I know this is an enormous undertaking, and I just want to wish you the best. No questions.

MR. ABINANTI: Thank you.

CHAIRMAN LENTOL: Assemblyman Titone.

ASSEMBLYMEMBER TITONE: Good afternoon, Tom, and thank you so much for being here and showing interest in this position, as well as -- I think you have over 40 years in public services, so congratulations and thank you for that.

MR. ABINANTI: Thank you.

ASSEMBLYMEMBER TITONE: And, again, I just want you to know that you do have colleagues and staff that don't -- and Assembly staff members who don't want you to get this job because they would miss you dearly.

(Laughter)

Yet, both of them say --

(Laughter)

In all seriousness, Tom, one of my concerns is -- is

that, you know, I've had the pleasure, the opportunity to work with you, and I think your intelligence is spot-on often, and you do bring a perspective that is often needed within the legislative arena. My concern would be that as the Interim Attorney General, that you would be put into a position of having to have to defend laws that you don't disag -- that you don't agree with. So there's the advocacy end of it, as well as the activist end of it. That brings some level of concern. How would you handle something -- that situation?

MR. ABINANTI: I think as Attorney General, I would be required to defend whatever the laws are. But there are various ways -- you've practiced law -- there's various ways. If you see a law, perhaps an old law that's worked, you know, been around, that's outdated, there are ways of resolving issues without going to court. There are ways of trying to accomplish the -- the spirit of the law without necessarily having to defend it in court. And then I think that's -- look, we face this as lawyers all the time. You know, a client comes in, they've done something and they've gotten themselves into a mess. And you look at this and you say, *You know, I really can't defend what they did, but I have to help this client. I've got to minimize the damage to the client. Let me see what I can work out.* And I think that's what an Attorney General has -- has to be able to do, with the professionals in his Office. I mean, clearly, you have to rely on the professionals who've been doing this work for a long, long time, but you've got to direct them. You've got to come with a structure of how you see --

ASSEMBLYMEMBER TITONE: My question is, can you give us a level of comfort that you would be up to the task of actually having to have to defend laws that we've heard you, in conference or on the floor of the Assembly, have disagreement with or a distaste for?

MR. ABINANTI: Once -- once it's the law, it's the law and we have to follow it and we have to enforce it. That's the role that I would have to play.

ASSEMBLYMEMBER TITONE: Thank you, Tom. And then one last question. Very recently, the administration -- the Federal -- President Trump's Administration announced plans to dismantle net neutrality. It's on its last leg unless we act. Do you have any recommendations that either the Legislature should be taking, or the Attorney General's Office should be taking to protect net -- net neutrality for the consumers and the citizens of New York State?

MR. ABINANTI: I am not schooled enough in that subject to be able to suggest how we proceed, but I think we should proceed. I believe that there are -- I believe that there is an interest that has to be protected. The people of the State of New York are being damaged by that, and I think we have to do something. And that would be a priority, because it's a big issue. And I would bring some of the best people in the Office who are familiar with that area, put them together in a work group, and let's try to come up with a -- with an approach.

ASSEMBLYMEMBER TITONE: Thank you very

much.

CHAIRMAN LAVALLE: Senator Hoylman.

SENATOR HOYLMAN: Thank you. Thank you, Assemblymember. It's very good to see you. Just a couple of quick questions. I wanted to know if you had any experience in handling complex white-collar criminal investigations.

MR. ABINANTI: Personally, I have not. I did -- as I said, I have -- I tried criminal cases for about 17 years, personally. Everything from 18B to, as I said, defending against the nursing home prosecutor's prosecution of a client. I have not done complex white-collar crime, but I would rely on the prosecutors in the Office to handle those matters. But again, I'm familiar enough with criminal law that I could have the conversation with the prosecutors to make sure they're going in the right direction.

SENATOR HOYLMAN: And could you describe your experience in constitutional law? Have you ever litigated or advised on a constitutional issue?

MR. ABINANTI: I've -- I've touched on it, but not directly litigated a major matter on -- on constitutional law. The -- the cases that I referred to before were all issues of conflicts between the Executive Branch and the Legislative Branch, and kind of defining the role of -- of the different branches of government. So from that point of view, I've touched on it. And, of course, there have been always issues involved -- for example, I represented an individual voter who was denied the right to vote when her absentee ballot was thrown out,

and I actually brought a constitutional challenge, which the Court of Appeals rejected. We went all the way up to the Court of Appeals of the State of New York, and they just decided not to deal with that issue. So I'm not unfamiliar with it. I have argued before the Court of Appeals myself. I've argued before all three Appellate -- the First, Second and Third Departments. I've argued in Federal court. So I'm not a stranger to the courts, and I'm not a stranger to the types of issues that you're raising.

SENATOR HOYLMAN: And do you -- do you see any changes that you want to make in the Office as -- if you were Interim?

MR. ABINANTI: No. I think I would do just more of the same public policy. We had an electorate choose a man to be the Attorney General for four years. He set a policy direction. I think we have an obligation to continue that public policy direction until the end of the term. If the people want to choose a different direction in November, that's their right. And I think I can carry on the public policy direction that Attorney General Schneiderman was -- was employing.

CHAIRMAN LENTOL: Assemblyman Dinowitz.

ASSEMBLYMEMBER DINOWITZ: Thank you. Let me start by thanking you, because your record of public service and your resume as a -- as an attorney is extraordinary, and I believe that you are very qualified to serve as Attorney General. And I have to push back -- for -- for those who think that an Assemblymember is

not otherwise qualified, well, I believe the other three people in recent years who've been appointed to fill the position of Attorney General or Comptroller were all legislators. They were Carl McCall, Tom DiNapoli and Oliver Koppell, all of whom served with distinction. One continues to serve in their job. The fact that one goes from a legislative position to a larger position, well, a lot of people move to higher positions. But, anyway, I want -- I wanted to ask you one question that I didn't get the opportunity to ask the previous applicant because of the recently-imposed time limits.

(Laughter)

And by the way, I'm glad the news media is here, at least those who have the attention span to stay for longer than one candidate. So, State rent regulation allows landlords, in some circumstances, to significantly raise rents. And I'm asking this of you because this really is a New York City issue more so than other areas, but not exclusively. And I know you're not from New York City, but it's important. They -- it allows them to significantly raise rents when apartments become vacant, and the AG's Office has played an important role in efforts to protect tenants from harassment and other efforts to cause them to vacate regulated apartments. Number one, would you continue those efforts if you were the Attorney General?

MR. ABINANTI: I would continue those efforts, and I see that as the big guys versus the little guys, and I think one of the important roles of the Attorney General is to represent the little guys. If there's a violation of a law, then I think it's the Attorney General's

role to enforce that law. That's -- we just had that conversation before. And tenants, in many situations, don't have the wherewithal to be able to push back themselves, so I think the Legislature tries to craft laws that would help tenants, and I think the Attorney General has to enforce those laws and follow the spirit of what the -- the Legislature is -- is proposing.

ASSEMBLYMEMBER DINOWITZ: Okay. Do you have any thoughts on what can be done to protect tenants and retain and expand opportunities for affordable housing?

MR. ABINANTI: I -- I don't know how -- again, this this is -- this is -- as I said, the pinnacle of the intersection between law and -- and public policy, but it's not a public policymaking position. So, I -- I don't have any suggestions at this point on how the Office could be useful, but certainly it's something that I'd be very concerned about. We do have a housing shortage in Westchester County and, you know, we see unscrupulous practices and we hope for the Attorney General's in -- you know, intervention. But again, I'm confined by the fact that it's not a policymaking position. The policy comes in in the way you see the Office and what you choose to ex -- expend the resources on. But it's up to the Legislature to make the policy and set the law.

ASSEMBLYMEMBER DINOWITZ: I -- I only get five minutes. Somebody else had brought up with the previous witness the issue of the lawsuits that the AG's Office has initiated against the various injustices committed by the Trump Administration.

Do you have any thoughts on that?

MR. ABINANTI: I believe if the law is being violated, even if it's being violated by the President of the United States, it's the obligation of the Attorney General to pursue the interests of the people of the State of New York, and I certainly would do the same thing. And I think that's one of the reasons why you want an independent, strong-minded, formally-elected public official, because there may be more of those situations coming down the line, and you want somebody in office who is going to be able evaluate whether it's of the level that requires the Attorney General's intervention, and whether the Attorney General should be working with other Attorney Generals around the country.

ASSEMBLYMEMBER DINOWITZ: Okay. And finally, I just want to understand. You said that you would seek the interim position through the end of the year, but you would run for reelection --

MR. ABINANTI: To the Assembly.

ASSEMBLYMEMBER DINOWITZ: To the Assembly. If you're appointed, though, would you not have to resign from the Assembly? Therefore, you'd be running --

MR. ABINANTI: Yes.

ASSEMBLYMEMBER DINOWITZ: So, for a period of, you know, seven months, you would not be in the Assembly but you'd be running for the Assembly, correct?

MR. ABINANTI: I would guess so, yes.

ASSEMBLYMEMBER DINOWITZ: Okay. Thank you.

CHAIRMAN LAVALLE: Senator Dilan.

SENATOR DILAN: Thank you, Mr. Chairman.

Assemblyman, how are you?

MR. ABINANTI: Fine, thank you.

SENATOR DILAN: Okay. You and I sponsor legislation, we both co-prime sponsor, in terms of Commissioners or Deputy Commissioners of Board of Elections holding public office to prevent them from --

MR. ABINANTI: You have to get a new sponsor.

SENATOR DILAN: Excuse me?

MR. ABINANTI: You'll have to get a new Assembly sponsor.

(Laughter)

SENATOR DILAN: Well, I wish you luck, but I just wanted your take on voter reform and what do you believe is the role of the Attorney General in that aspect.

MR. ABINANTI: I believe the Attorney General's role is to provide voter protection all year round. So on Election Day, for example, there are special Attorney Generals that are appointed and I think that that should be a very robust program. I think the Attorney General has to look to make sure that there is no corruption of the voter files and the systems in the State. Again, it's not a policy making position, but I think it can be a supervisory position to make

sure that the laws are being followed to the fullest extent.

SENATOR DILAN: If you had one compelling statement that you could make to us as to why you should be the next Attorney General, and I don't know why you're doing that if you're still running for State Assembly --

(Laughter)

-- but we thank you. What would you say?

MR. ABINANTI: I -- I think what I'd say is my years of public service, community activity and legal practice have given me a unique understanding and knowledge of how government works and how to be an effective lawyer on behalf of the people of the State of New York.

SENATOR DILAN: Thank you.

CHAIRMAN LENTOL: Mr. Barclay.

ASSEMBLYMEMBER BARCLAY: Thanks. I'll get this after a while. Thanks for being here, Tom, and I think it's a pleasure to see you as the private practice attorney and I think your legal credentials, certainly, would suit you well as Attorney General. Sorry about that. I have two questions to ask you -- earlier questions. In your cover letter, you say you fully understand how to use the legal system as a tool to achieve public policy goals that benefit New York. Can you expand on what you mean by that?

MR. ABINANTI: Well, I think some of the examples that I gave before where I was able to use the courts. I represented my -- my neighborhood association and challenged a

zoning practice by the town. We won at the Supreme Court, we defended at the Appellate Division and that's just a very simple local example of what you can do all the way up the line.

ASSEMBLYMEMBER BARCLAY: But do you -- do you believe as an interim Attorney General, you would have an active role to, I mean, push public policy, or do you see it more of a placeholder until someone is elected Statewide?

MR. ABINANTI: Well, as I said, I think what I would have to do is carry on the policy objectives of the Attorney General who was elected four years ago, and that means implementing those policies in whatever circumstance comes up.

ASSEMBLYMEMBER BARCLAY: But not expanding what he's done, or adding to it?

MR. ABINANTI: Well, it depends on the circumstances. In six months, you're not going to set up a whole new policy agenda.

ASSEMBLYMEMBER BARCLAY: Fair enough. Just one last question. You may have seen in your local paper, *The Poughkeepsie Journal*, they had an editorial in there today complimenting the Federal prosecutors on what they have done, I think it was as a result of Shelly Silver, but routing out -- rooting out corruption in New York State. In the end, they say, *Well, it's great, the Feds are doing it; it's too bad they have to do it alone, the State's not doing it.* Would you be looking to, I don't know, root-out corruption in your interim position as Attorney General?

MR. ABINANTI: I think the Attorney General is the first line of defense against corruption in government. I applaud the previous Attorney General for working with the Comptroller. I think that partnership should be continued and expanded so that the Comptroller would do his audits and the Attorney General would then prosecute whatever they found to be a problem. I think we have to rely on the Attorney General to do that. I don't know how much you could do in six months, but I certainly would not stop any investigations that are going on and if the investigators in the Office found the need to start new investigations, I would, as my predecessor, as this Chair said, follow the facts wherever they go, and that's the job of the Attorney General.

ASSEMBLYMEMBER BARCLAY: Thank you.

CHAIRMAN LENTOL: Assemblyman Curran.

ASSEMBLYMEMBER CURRAN: Thank you, Tom. Tom, real quick. Based upon listening to your opening statement, I just have a question. Do you believe that the role of the Attorney General is to make public policy?

MR. ABINANTI: No, I think I've said over and over again no, but everything you do in life is informed by what you've done before. I don't want to get too philosophical about this, but, you know, I was a town councilman. I was a county legislator. I've been an Assemblyman. I've seen the problems that people have --

ASSEMBLYMEMBER CURRAN: And I understand that. Yeah -- and -- and I'm sorry to cut you off, because I