PUBLIC HEARING

The Effectiveness of New York's
Restrictions On The Sale Of Ivory

Manhattan, New York
Assembly Hearing Room
250 Broadway, Room 1923, 19th Floor
Thursday, January 16, 2014
11:00 A.M. -- 03:30 P.M.
ASSEMBLY MEMBERS PRESENT:

ASSEMBLY MEMBER ROBERT SWEENEY,  
Chair - Assembly Standing Committee  
On Environmental Conservation  

ASSEMBLY MEMBER STEVEN OTIS  

ASSEMBLY MEMBER BRIAN KAVANAGH  

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(The public hearing commenced at 11:00 A.M.)

ASSEMBLY MEMBER ROBERT SWEENEY, CHAIR,

ASSEMBLY COMMITTEE ON ENVIRONMENTAL CONSERVATION:

Good morning. This is a Public Hearing of the New York State Assembly Committee On Environmental Conservation, on the effectiveness of New York's restrictions on the sale of ivory. I appreciate everybody being here today, especially our witnesses. We are hear today to talk about endangered species and the illegal ivory trade. And the question of whether New York State's existing laws and regulations are sufficient to address what we see as a growing problem of endangered species trafficking.

I'll say right up front, if it isn't obvious, that I do believe that existing laws are inadequate and that we have a problem and that we ought to be acting on that problem. And that the possibility of extinction of species is very real and we are at a crossroads I think in the effort to determine whether that is something we an turn around.
Elephants, of course, which will be a focal point of this Hearing, are only one example and perhaps the more recent example. Although obviously not native to America, they certainly have a special place I think it's fair to say in American culture. Even very young children know elephants and can identify elephants.

And it has been suggested to us and we're certainly going to hear testimony today on the question of whether at the current rate African elephants could be extinct within the next decade. And it's certainly disheartening to many of us to think that a creature that is so majestic, that they are sacrificed so routinely in large part to fund illegal acts of terrorism by groups like Al Shabaab and to feed the demands of the illegal ivory market.

Unfortunately, as one of the leading outlets for the illegal ivory trade, New York has become part of this scenario. And so we're going to try and give with this Hearing today, give this issue the time and attention that it deserves in an effort to prevent that extinction.
from becoming a reality.

So I look forward to hearing from those of you who are testifying today. I'm especially grateful to the nations of Tanzania and Botswana, who have sent representatives here to testify. I also wanted to point out for the record that the auction houses were invited to be here to offer testimony and declined the opportunity.

Just so you all know how this works. We do have a witness list. We will call those witnesses. Hopefully, all or most of them have written testimony that they can give us, that becomes a part of the official record. If you so desire, those of you who are testifying, please feel free to summarize your testimony rather than reading it to us; as that then provides us with some opportunity for more question and answer, which is frequently a very productive part of this process.

If there's anyone here who's not testifying today but would like to weigh in on the subject, you can do so by sending us something in writing. Email or regular mail is
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fine, within the next week to ten days. And that will become a part of the official record of this Hearing. So you are welcome to do that. And with that, I think we are prepared to start. And we will start with His Excellency, Tuvako Manongi, Ambassador and Permanent Representative, Permanent Mission of Tanzania to the United Nations. Please step and have a seat. Thank you so much for being here today.

HIS EXCELLENCY TUVAKO MANONGI,

AMBASSADOR AND PERMANENT REPRESENTATIVE,
PERMANENT MISSION OF TANZANIA TO THE UNITED NATIONS: Thank you. Mr. Chairman, I have written testimony, which I would like to read.

ASSEMBLY MEMBER SWEENEY: Sure.

AMBASSADOR MANONGI: Thank you. Mr. Chairman, distinguished members. At the outset, permit me to thank you for holding these hearings and for inviting us to add our voice to your efforts to strengthen the effectiveness of New York's restriction on the sale of ivory. It has rightly been stated that elephants, the largest remaining land mammoth on earth, are today facing
one of the greatest crises to hit the species in
generations. This is a result of the dramatic
rise in poaching for the ivory.

Efforts such as those being expanded by
this Committee and the State Assembly are
important and necessary; necessary in our global
effort to save the African elephant from
extinction. The scale of the problem is such that
the President of the United Republic of Tanzania,
His Excellency President Kikwete, here in New
York last September called for the international
community to close ivory markets.

In my country, the slaughter of
elephants and the seizure of illegal ivory has
soared in the recent past. Voracious markets,
particularly in Asia, coupled with under-
resourced and under-equipped wildlife protection
units, have placed elephant herds at risk
throughout Africa. We testify to the fact that
illegal trade in ivory is having a devastating
impact on the elephant population in the
Continent. It also poses a threat to people, as
poachers gun down families, including game
According to a recent report by the Secretariat of the Convention On International Trade In Endangered Species, 22,000 elephants were killed in 2012, compared to 25,000 that were killed 2011. The Wildlife Conservation Society estimates that 96 elephants are killed each day in Africa.

It is troubling to note that most of the slaughter is happening in Tanzania and in neighboring Kenya, which like my country is also a source and transit state for ivory smuggled from landlocked countries in the Great Lakes region, including those countries afflicted by conflict. The illicit ivory is mostly destined to black markets in Asia, where it is deemed as white gold. At the African Elephant Summit held early last December 2013, it was observed that the current elephant poaching in Africa remains too high and could lead to extinction if the present killing rates are not reversed. Incidentally, the high poaching levels are mirrored by the ivory trafficking figures tracked
by sites.

These circumstances call for urgent and resolute action at national, regional and international levels to combat the flourishing wildlife trafficking. In addition, they demand a multidimensional approach, ranging from law enforcement, advocacy and stringent trade measures to curb illicit trade in ivory. They also require investments in and transfers of relevant technologies and knowledge on the conservation of endangered wildlife.

Last year, during his visits to the United Republic of Tanzania, President Obama characterized the wildlife trafficking as an international crisis that continues to escalate. The President committed cooperation of the United States with Africa in combating the criminality. In his Executive Order on combating wildlife trafficking, he commits in appropriate cases and upon request to assist to those governments experiencing wildlife trafficking. Tanzania has sought such support with a view to strengthening our own enforcement mechanisms to stop poaching
and arrest the illicit trade.

What is Tanzania doing on our part? We have in place a policy and legal framework for protecting wildlife in the country; namely, a Wildlife Act together with regulations and subsidiary regulations and wildlife policy. However, in spite of this framework, the country is experiencing a rising poaching incidence that has drastically reduced our elephant population.

In light of this extraordinary situation, the government resorted to unprecedented measures by launching a country-wide anti-poaching operation in October 2013. The operation apprehended 1,030 suspects with their cache of around 1,600 military and civilian weapons. It also captured huge ivory stockpiles, including those having reached seaports for shipment to foreign destinations. Some suspects have been arraigned in court, while the investigation is pending for others.

The second phase of this operation will commence soon to address continuing poaching, which in the month of December, 2013 alone
claimed the lives of 60 elephants. The fight must continue as long as the danger persists. And it does.

Our interventions must aim at stopping the massacres being perpetrated against elephants and other endangered species. We must deploy all means at our disposal to achieve the objective. We need to undertake more vigorous and aerial surveillance, putting to use the technologies at our disposals, such as search lights and manned aerial vehicles. We need to scale-up elephant tagging, use of DNA and to strengthen getting more ranger patrols. Most critically, we must scale-up public sensitization to participate and assume ownership and leadership in the fight against wildlife trafficking.

We believe international assistance is vital in enabling African countries to serve their endangered wildlife, which is a common human heritage. We applaud the recent move by the United States to destroy six tons of ivory seized over 25 years. This move sends a clear message to the criminal gangs that the international resolve
to stop the illicit trade is firm and growing. We have seen similar actions by some Asian countries: in China, in the Philippines, as well as in Africa.

I must also say that in our view, we also need to address the main causes of illicit trade in ivory. Poverty is among the chief drivers of the illicit trade. It exposes the poor to criminal networks that exploit the natural resources of the Continent, fueling conflicts and instability to feed the ever-growing demand for ivory in global markets. Needless to say, poor governance and political instability is another contributing factor. Organized criminals flourish in places with fragile or non-existent government institutions; as witnessed in some conflict and post-conflict countries in the Continent.

It is therefore imperative that we must also forge broader efforts to address the root cause of such instability; including through the support of institutions, rule of law and enforcement mechanisms. Finally, we must enhance our efforts combating transnational organized
crimes. Wildlife trafficking is increasingly associated with rebel and terrorist groups such as the Lord's Resistance Army and Al Shabaab, and Al Qaeda terrorist cell in East Africa.

The cocktail of poverty, anarchy and transnational organized crimes is extremely explosive and destructive. Groups such as Al Shabaab should not be allowed to mutate as they have done in the past. These have moved from staging rebellion in Somalia to engaging in piracy and robbery at sea, to supporting armed groups in the Democratic Republic Of The Congo and not into poaching. It is in this regard that President Kikwete regrettably noted that elephants have become the latest conflict resource.

New York City can make a difference in saving elephants. Mr. Chairman, the face of all of these challenges that need to be overcome, there are still rays of hope. Today, there is expanding international cooperation and growing national awareness and apprehension that is paving the way to us in improved law enforcement
and the reduction of demand for ivory. We owe to ourselves to do more to curb the disturbing rise in poaching and illegal trade in ivory and other endangered animals.

This must be our calling and our destiny in the interests of our common heritage. We see the work of this Committee as an important part of the optimism we hold. We also see your work, Mr. Chairman, in enhancing the effectiveness of New York's restrictions on the sale of ivory as yet another reason why we can all claim we love New York. I thank you.

ASSEMBLY MEMBER SWEENEY: Thank you very much. Thank you first of all for taking the time to be here. Would you be able to respond to a couple of questions? It would be helpful to the committee if you could.

AMBASSADOR MANONGI: Yes.

ASSEMBLY MEMBER SWEENEY: Certainly, as I indicated in my opening remarks, we're concerned about the possibility of the extinction of the African elephant within the next decade or so. In your experience, is that accurate? Is
there a reason to be concerned that that might be the case?

AMBASSADOR MANONGI: Mr. Chairman, the concern is real. It is urgent. We, as I said in my remarks, last December in Tanzania we witnessed the death of 60 elephants. It is an alarming trend. Tanzania is a country where in the last decade we have witnessed a reduction of the elephant population; only because this is fueled by the poaching and the illegal trade that feeds markets beyond our borders.

ASSEMBLY MEMBER SWEENEY: You told us many of the things that your country is doing to address the concerns here. There are many laws that we already have in the United States and in New York State too. But obviously there's not working the way that was intended because the United States is I believe the second largest importer in the world of illegal ivory, second only to China. I believe that's the case. And New York I think is probably, in the United States is probably the epicenter of the problem here in this country.
So, what can we do as a State? What are we missing? What more can we do to discourage the use or the demand for illegal ivory or to take past laws or take specific actions that would be helpful?

AMBASSADOR MANONGI: Mr. Chairman, I think this Committee is doing the right thing. We need to ensure that the laws in place are enforced effectively. But we also need to ensure that the public is better informed, aware of the scope and magnitude of the problem and the risks it poses; not only to people in Africa, to communities in Africa, but to the wildlife population that is so equally important to the ecosystems which we equally are a part of.

ASSEMBLY MEMBER SWEENEY: Would Tanzania be supportive if there was a proposal in New York State for a temporary or a permanent moratorium/ban on the sale of ivory?

AMBASSADOR MANONGI: We would be the first, Mr. Chairman, to support that proposal. It is a proposal we ourselves would wish to make. As also I had said, President Kikwete, expressing
our frustrations during his address at the United Nations General Assembly last September, he even dared to suggest that we should close all ivory markets. And that was only speaking to the challenges that we face and the concern we have that indeed markets of trade in ivory has fueled the killings that we see in the Continent.

ASSEMBLY MEMBER SWEENEY: Thank you. I neglected in the beginning to introduce Assemblyman Steve Otis, who's a valuable Member of the Committee and Member of the Assembly from Westchester County. Mr. Otis?

ASSEMBLY MEMBER STEVEN OTIS:
Ambassador, thank you very much for coming and your contribution. And I think that you laid the groundwork in terms of the source of what's going on in your country. Our job is going to have to be to see how we can address the supply and the demand part of this with better, more effective enforcement of New York laws. What's most disturbing and your testimony backs up what we've been hearing from other sources is that this is not a stagnant problem but a growing problem; a
problem that has accelerated.

Do you have a sense of how many years back the rapid growth of poaching and massacre of elephants has been doing on in your country? When did the rise first materialize?

AMBASSADOR MANONGI: Thank you, Assemblyman. Let me give a personal experience. I come from a village in Tanzania, where in my youth I would go to my grandparents residence and I would have to be escorted because of the fear that elephants would somehow stamp on us. And in most cases indeed, the pathways we used to track going to my grandparents house, we could see herds of elephants. And we lived at peace with those elephants. Today, I've taken my children back to my country. And I have to take them to a national park to see elephants; not in the village where I come, not in the village where my grandfather originated. So that is the scale of the destruction that we have wrought up on ourselves. It is, I must say Mr. Chairman, a real serious problem. I've seen it. I've lived it. Thank you.
ASSEMBLY MEMBER OTIS: Thank you, Mr. Ambassador.

ASSEMBLY MEMBER SWEENEY: We have been joined by Assemblywoman Rozic. Thank you so much for being here. We appreciated it. It's an honor to have you here.

AMBASSADOR MANONGI: Thank you. And again, thank you for your efforts.

ASSEMBLY MEMBER SWEENEY: Next, I'd like to invite Nkoloi Nkoloi, Deputy Permanent Representative, Permanent Mission of the Republic of Botswana to the United Nations. Thank you for being here.

MR. NKOLOI NKOLOI, DEPUTY PERMANENT REPRESENTATIVE, PERMANENT MISSION OF THE REPUBLIC OF BOTSWANA TO THE UNITED NATIONS: Good morning.

ASSEMBLY MEMBER SWEENEY: Good morning.

MR. NKOLOI: Good morning everyone. It's a great pleasure to be sitting down here and sharing experiences and lessons about a subject which is very passionate to our country and to our livelihood. First of all, to acknowledge His Excellency, the Permanent Representative Of The
United Republic Of Tanzania; with whom we share a lot in terms of cultural, tourism and historical ties. So, I'm really very proud because we have a common denominator when it comes to these endangered species; the elephants, the wild animals and wildlife tourism.

But I'm also proud to be appearing before the New York State Assembly and to share experiences of Botswana on the elephants. We are home to the largest number of elephants in the world, by far. And of course, let me acknowledge that even while we are very proud of these numbers and this population, we are quick to acknowledge that most of our wildlife population was founded on immigration. So most of our elephants, of course they don't have green cards and they don't have visas, but they come from our neighbors and our friends. They came to share the peace and the sanctity of our territory. And we would like to thank our neighbors and our friends.

Of course, we also know there are circumstances. It was because during the times of
turmoil and conflict in those countries,
elephants found it more convenient to convene in Botswana; especially at a place called the Okavango National Park and of course the Chobe National Park.

We count around maybe 207,000 elephants in Botswana. Probably I'm being modest when I say 207,000. These 207,000 elephants have been counted between 1992 and 2012. The 207,000 represents a 297 percent increase in the number of elephants. Of course, you can imagine what they do the environment. Well, we are all too happy to have them destroy our environment because we know they also bring food to our table. We pride ourselves as the greatest protector of wildlife and fauna. Our wildlife policies, at least as far as we believe, are second to none.

But we remain concerned about the illicit trade in ivory; the poaching and maiming of elephants. All too often we talk about human rights and the protection of civilians, the protection of the child and the free movement of
persons in the streets. Well, animals also have
that; we need to protect the majestic animals
from international terrorists and poachers.

Our strategy in Botswana when it comes
to the elephant population is basically to
conserve and optimize elephant population while
ensuring the maintenance of habitat and by
diversity. We try to promote the contribution of
the elephant to the national development and to
give value to the communities within that range.
That is our main priority and that is our focus.
But also as a country that prides itself as the
largest home to number of elephants, wildlife
tourism comes second to natural resources in
terms of revenue earning.

Also, we know what these animals mean to
us. And we are willing to share experiences and
lessons with the New York State as it tries or it
tries to put regulations and measures to stamp
out the illegal or the illicit trade in ivory. I
don't have a written text here but I will share a
few thoughts with us here.

As I said, between 1992 and 2012, we've
witnessed a rapid increase in the number of elephants to 207,000. We have a place in the northern part of Botswana where we share a border with Namibia, Zimbabwe and Zambia. We would count at least 60,000 elephants in one national park. The Department Of Wildlife And National Parks in Botswana is the sole custodian of wildlife in the country.

But in recognition of the vulnerability of the wildlife population and the threat of terrorism, we've had to step up our game. We entrusted the army. All too often we hear in other conflict countries that the United Nations has deployed a peacekeeping force to maintain peace in some country. We do the same, even with animals, in Botswana at least. So, we have a dedicated military contingent protecting these animals so that we don't give any chance to the terrorists and to the poachers and to the greedy individuals who sell the most prestigious and valuable resources.

We place animal protection and conservation at the core of our national
strategy, as I said. Because we know it earns us revenue and it sends our kids to school; it brings food on the table; it attracts tourists and really it puts us well, in as far as conservation is concerned.

We have been concerned again, especially in the region, about illegal poaching, about the killing of rhino, the killing of other endangered species. And in Botswana, there was a time when we thought we had actually eliminated poaching. But over the last two years or so, three years or so, we have witnessed some kind of terrorism; some poaching in the northern part of the country. And we have had to step up our game.

Beginning this year in January, we have banned the commercial hunting of the endangered species, including elephants. And of course the ban will last for as long as we are confident. We do not have a timeline on the ban. We will maintain it until such time as we are confident that the situation is controllable. But as far as you are concerned, we want to keep it for a while.
We have even started working with our regional neighbors and our friends: Zimbabwe, Zambia and Namibia, South Africa, Mozambique, Malawi, Tanzania, Kenya, Uganda. You can see I'm talking the greatest homesteads of animals. We are working with them to protect cross-border conflicts, to harmonize some of our policies, to share lessons and experiences. So that we have something at the core of our regional strategies: the protection and conservation of wildlife and fauna.

We are also ready to share experiences with the New York State Assembly. And we are delighted to hear that they are willing to step up their game and to stamp out the illicit trade in ivory. We are willing to work with them and to share any experiences we have with wildlife protection. And we will be the first or the second after Tanzania now to support the proposed policy on protection and banning of illicit trade in ivory.

We are also ready to work with the international community. You have always heard
our pronouncements, especially coming from our Head Of State, who is very passionate about wildlife. He is pro-wildlife to the core. And he has been sharing ideas with his counterpart across the world, including even the United Nations as it tries to drum up support for protecting wildlife, endangered species, the sale of ivory and other resources.

And so once the New York State Department picks up its gear to stamp out the illicit trade, we will be there to beg them. So today we are pleased to know that we've been asked to come and share a few words with the State Assembly, to talk about illicit trade in wildlife. But that basically forms the core of our national strategy: the protection of wildlife, the stamping out of illicit trade in ivory and the conservation of fauna. Thank you very much.

ASSEMBLY MEMBER SWEENEY: Thank you. Thank you for being here. I believe it's true that Botswana has joined with other African nations to call for a ban on the ivory trade.
MR. NKOLOI: That is correct.

ASSEMBLY MEMBER SWEENEY: What led you to believe that that was a necessary step in stopping the trade?

MR. NKOLOI: Well, we've been watching news across the world. And we've been seeing things happen across the world. But we also know the value attached to ivory. We are against terrorism. We don't like it. We don't enjoy it. We don't want it visiting our homes or visiting our national parks. Or we don't want to see it visit our neighbors' national parks. We know the value of ivory. But we want it done properly. We are a country that prides itself with the respect to the rule of law and the sanctity of contracts.

And so when we hear the international community voice its concern about the diminishing numbers of endangered species, especially elephants, we know what this means. We don't want to see our future generations dream about ivory when they cannot see it in the national parks. We want to stamp out the illicit trade so that we protect these animals and so that they continue
to live and exist for future generations.

ASSEMBLY MEMBER SWEENEY: And a ban on the ivory trade is the step that you feel is necessary to accomplish that?

MR. NKOLOI: A ban on the ivory trade is what is foiling this international terrorism and poaching.

ASSEMBLY MEMBER SWEENEY: Are there other things we should be doing?

MR. NKOLOI: There are so many other things we can do, such as sharing experiences and working with the international community to protect our borders, to save our animals and to conserve wildlife and fauna. But there is also other things we can do to step up our game when it comes to regional and national structures or international structures or frameworks in the protection of endangered species. We may not have all the answers to all that needs to be done. But when we hear that something has been done towards protecting wildlife or towards stamping out illicit trade, we know it is the right way to go.

ASSEMBLY MEMBER SWEENEY: Thank you. Mr.
ASSEMBLY MEMBER OTIS: I appreciate to hear the word of your increased enforcement in your country and stepping up to the new problems. Has that been effective in terms of intervention, catching people, increased arrests? Are there results there? Are you winning or losing the battle, even with the increased enforcement?

MR. NKOLOI: Oh, absolutely. It has been really very effective. In fact, not just a deterrent but we have caught, sometimes even arrested some of the poachers. And so they know, you know, poachers -- since they are thieves basically; you know thieves know where there is danger. They don't take a chance. Usually with us, they don't take a chance. They take chances with our neighbors and they avoid us. We have been seeing a decline in incidences of attempts to poaching, especially in the northern part of the country. And that has started with the stepping up of our enforcement laws and the enforcement mechanisms.

ASSEMBLY MEMBER OTIS: That's good news,
very good news. Thank you.

ASSEMBLY MEMBER SWEENEY: Thank you very much for being here today. We appreciate it.

MR. NKOLOI: Thank you.

ASSEMBLY MEMBER SWEENEY: Next is William C. Woody, Office of Law Enforcement and Dr. Richard G. Ruggiero, Chief Africa Branch, International Affairs, United States Fish and Wildlife Service.

MR. WILLIAM C. WOODY, ASSISTANT DIRECTOR, OFFICE OF LAW ENFORCEMENT, UNITED STATES FISH AND WILDLIFE SERVICE: Thank you, Chairman Sweeney. If I may, I have two of my agents that have brought some items. I would like to bring them up and show them to you guys?

ASSEMBLY MEMBER SWEENEY: Certainly.

MR. WOODY: Because I need you to be part of what I'm going to talk about here.

ASSEMBLY MEMBER SWEENEY: Sure.

MR. WOODY: And I will show you the problem that we're having here in the United States.

ASSEMBLY MEMBER SWEENEY: Okay.
MR. WOODY: If you would, Paul -- Ryan? Do you guys want to set them on the ledge, so folks can see them? And if they fall, I didn't say that. Again, Chairman Sweeney, thank you for having me testify here at this Hearing. Given the current poaching crisis in Africa, the U.S. Fish and Wildlife Service welcomes your interest in strengthening regulation of elephant ivory in New York State. As Chief of Law Enforcement for the U.S. Fish and Wildlife Service, I am responsible for enforcement of U.S. laws, treaties and regulations that govern the import, export and interstate sale of elephant ivory and other federally listed endangered and threatened species.

As you know the Fish and Wildlife Service has multiple responsibilities with respect to elephant conservation. In addition to interdicting smuggled ivory and investigating ivory trafficking here in the United States, we also represent the United States in seeking action under CITES, the Convention On International Trade And Endangered Species, to
improve global protections for elephants.

We also manage federal grant programs and provide technical assistance to support anti-poaching and other conservation efforts in range, transit and market countries. We also work to reduce demand for ivory and other illegal products in the United States and other consumer countries. My colleague, Richard Ruggiero, who will testify after me, will cover those aspects of our work.

In my comments here today however, I really want to focus on the enforcement challenges that confront my federal agents and inspectors in ivory trafficking. These same challenges will also affect your efforts to regulate ivory trade in response to the elephant poaching crisis.

Let me set this scenario up for you. I've put ivory in front of you. Please take a moment and put yourself in the shoes of one of my law enforcement agents or inspectors. You walk into a store in New York City and you see these items on the shelf and you ask yourself: "Where
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did these items come from?" You're going to ask yourselves that. You're going to ask yourself:
"How old is these items? Is this ivory a hundred years old? Is it 70? Is it from the 70's or 80's or before the import ban took place? Did it come from Africa last week, hidden in a shipping container?" And I know if it came in a shipping container, will agents will ask: "Did it pass through the hands of ruthless poachers; poachers like those who used AK47's to ambush and gun down a team of rangers in Sakuma National Park as they prayed before going out for morning patrol? Did it pass through the hands of groups like The Lord's Resistance Army or Al Shabaab in Somalia?"

But back to the ivory, there is no documentation needed to sell those pieces of ivory on the shelf. There are no records or there are no ledgers that need to be kept. So how do you answer these questions? And let me ask you another question too: What's the worth of the ivory? Is it worth 1,000? Is it worth $2,000 -- 3,000? For me, it comes at the cost of having to write letters like this. And I want to read you a
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A couple of paragraphs on a letter I wrote recently:

"Dear Director Kiprono, we are deeply saddened to learn of the brutal killing of a Kenya Wildlife Service ranger and his unit commander by poachers in the Kipini [phonetic] Conservancy. We join you, your staff and wildlife enforcement officers throughout the world in mourning this tragic loss. The fact that heavily armed attackers gunned down this ranger and then lay in wait for five hours for his commander and comrades to return to retrieve his body, testifies to the tragic realities and very real risk of conservation law enforcement in Africa today. The poachers who prey on the Continent's elephant populations are clearly intent on pursuing their objective regardless of the cost, even the cost of human life. The death of these men only strengthens our resolve to do whatever we can to help curtail the poaching crisis that has taken a horrendous toll on the people and the resources in Africa. This ivory doesn't represent a commodity to be valued. Instead, it's misplaced..."
In my written testimony that we submitted, it goes into more detail on the challenge of law enforcement officers facing the fight in illegal trade in ivory. I welcome your assistance in bridging these gaps so we can make good on my pledge to Mr. Kiprono to do whatever we can to help with the poaching crisis.

And I know more that we can do ourselves. The federal regulatory framework for prohibiting the sale of ivory on an international or interstate commerce has been weakened over the year by policy decisions, interpretations of statutes, or regulations that carve out multiple exemptions or loopholes. This last issue can clearly only be addressed at the federal level. Such action is now under consideration as part of the U.S. government's effort to develop a national strategy for combating wildlife trafficking.

As directed by President Obama's Executive Order last summer, the Service has been working with partner agencies to outline an
overall plan for addressing both ivory
trafficking and other types of illegal wildlife
trade. As part of this undertaking, we are
weighing specific administrative and regulatory
actions that can be undertaken under our existing
authorities with respect to elephant ivory trade
in the United States. All options are on the
table.

Last fall, we took an important symbolic
step to show the global leadership on this issue
by destroying the U.S. stockpile of ivory; a
stockpile that included a ton of ivory seized in
cooperation with the New York Department Of
Environmental Conservation. I believe John
Fitzpatrick and Scott Florence were here that
were in part involved in that case. But what I'd
like to do now is I'd like to show you a short
video that shows what happened on that day when
we crushed the ivory. So, if I may?

[START RECORDING 00:45:54]

We're at the National Wildlife Refuge,
which is where the U.S. Wildlife Service
maintains its warehouse of seized wildlife. So
any wildlife seized eventually makes its way here to the warehouse. Right now with the dramatic increase in poaching you've seen over the last couple of years of elephants and rhinos, we wanted to make a statement that if in fact you're doing this, we will catch you. People really need to understand that this is a species that definitely could become extinct if something isn't done. So they're going to feed this roughly six tons of ivory into an industrial rock cruiser, the same kind that you see on street crews on highways. The main point of this crush is to send a signal to the world, to raise awareness about an international crisis. This is contraband to me. This is ivory that was smuggled into the United States. It was seized by either our agents or our inspectors at the ports. And it was very beautiful carve. But it's worth more on a live elephant. We want Asia to hear this message. We want Africa to hear this message. I specifically want smugglers, the poachers to hear this message.

I give my speech for the elephants and I
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live in Africa. I'm here in Colorado to see the crush. It's incredibly moving and inspiring to me. What I see is people on the other side of the planet joining Africa in a cause to save the species that is roaming in the wild in Africa.

This ivory would never get into commercial market. It has been seized. It's illegal contraband. We have to reduce the demand for ivory. And thereby putting this material into commerce, we would potentially be fueling the demand and sending a signal that only selling this product made from ivory is acceptable. We have to reverse that trend.

Pointing out that we show these pieces, stuffed down in the bottom of some of the tusks are a lot of this type of newspaper. These are [unintelligible] [00:48:28] Hong Kong. It goes into the trail when you look at Africa to Asia to the United States. You can look at those papers inside those tusks coming out.

The balance that is at issue in many ways is art versus animals. The people buying this wildlife are buying it because they love in
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most cases the art. One of the things that we will be considering is the need for the United States to consider a ban on commercial trade of ivory in the U.S. The challenge is: Can we get people to see the live elephant, which in many cases, they will never see. How do we get them to think about a live elephant the way they think about this sculpture that they see is extraordinary?

[END RECORDING 00:49:40]

MR. WOODY: Thank you again for giving me the opportunity to testify. And I'm glad to answer any questions you may have after Richard provides his testimony. Thank you.

MR. RICHARD G. RUGGIERO, Ph.D., CHIEF, AFRICA BRANCH, INTERNATIONAL AFFAIRS, UNITED STATES FISH AND WILDLIFE SERVICE: Thank you very much, Chairman Sweeney and Assembly Members for this opportunity to make some brief comments on what is frequently called the "ivory crisis." My name is Richard Ruggiero and I am the Chief of the Branch of Africa for the U.S. Fish and Wildlife Service. And my testimony is based on
about 15 years with the Fish and Wildlife Service
and an equal number in field in Africa; where my
work focused on protected areas and elephant
conservation.

It's been very well noted that African
elephants are ongoing a precipitous population
decline, once numbering in the millions
throughout Africa. But by 1990, uncontrolled
hunting for their tusks had driven the number of
African elephants to fewer than 500,000. We heard
two examples and very compelling testimony by our
distinguished representatives from Tanzania and
Botswana. I especially applaud their comments.
They were accurate, effective, emotive and I'm
very grateful for that. That represents East
Africa and Southern Africa. If I can also expand
this discussion a bit by talking about Central
Africa, where problems are paramount.

Central Africa is home to the
endangered; some would way high endangered forest
elephant. And they've been particularly hard hit
by the ivory poaching in recent years. Forest
elephant ivory is extremely high quality and
poachers are able to remain undetected in deep Central African forests. This problem is exacerbated by a lack of law enforcement, coupled with corruption, political instability and underlying poverty.

With the increased demand for ivory we've been hearing about, in particular from Asia, this has contributed to a decline of more than 60 percent of elephants in Central Africa between 2002 and 2011. An example of this decline can be seen in the Central African Republic, a country that has been in the news lately, whose elephant population was estimated by early observers to be one million at the turn of the 20th century. They now number only a few thousand.

In the neighboring Democratic Republic of Congo, this decline can also be seen. For example, it was estimated that there were 400,000 elephants in the DRC in the 1980's. Now that's roughly the same number of elephants we think is continent-wide today. However, in the DRC the population has fallen below 12,000. And that's a
very obvious, dangerous trend due to the points we're discussing.

Well, in 1990 following U.S. action to impose an ivory import moratorium, we saw a ban on international ivory trade through the CITES Convention; that's the Convention On International Trade In Endangered Species of Wild Fauna and Flora. And as a result, elephant populations began to recover in some countries. However, a strong resurgence in poaching is again threatening elephants.

It has been stated that if one were to consider the standing population of elephants in Africa today and the current rate of illegal killing, which is thought to be up to 35,000 elephants last year alone; that the proportional rate of killing is at its highest in recorded history. Considering this species slow reproductive rate, this is highly unsustainable.

Well, what are causing the things that we're seeing? Certainly economic growth in traditional ivory markets such as China and other parts of Asia are fueling an increased demand for
elephant ivory and the price of ivory has skyrocketed. Wildlife trafficking was once predominated by loosely organized groups, individuals; basically at a much less lethal level that we're seeing today.

But now due to the price, it has drawn the interest of highly organized criminal organizations that are well-structured and well-financed. Their capable of transporting large quantities of ivory and other illegal commodities, taking advantage of systems that are porous and that do not have the capacity to fully detect and interdict traffic. While it's more complicated than that, in that there are strong indications that insurgent groups are taking part in the illegal trade. And as such, they pose a growing threat not only to wildlife but also the stability of fragile governments, their economies, to human rights; and thus to global security.

I want to also note as was mentioned before that there is a terrible human cost associated with these losses. For example, during
the past few years, hundreds of park rangers have been killed in the line of duty in Africa. In one park alone, Virunga National Park in the Eastern Democratic Republic of Congo, 140 rangers have been killed in the last ten years, including one just this past weekend. That's more than one a month.

I don't have to tell you that the loss of a ranger and a breadwinner has a trickle-down effect to families: to wives, to mothers, to children and therefore the fabric of the society. Insurgent groups also assert their influence in areas containing elephants and local populations are frequently subjected to what they in their own words describe as "terror." The money that can be gained from such a lucrative trade undoubtedly provides sustenance to dangerous rebel and insurgent groups.

Well, to help address this serious issue, the U.S. Fish and Wildlife provides leadership, technical and financial assistance. And for decades we have worked in countries across the globe to conserve imperiled wildlife.
We describe our strategic approach as a four-tiered approach, which works with international partners in law enforcement on the ground including: anti-poaching and that's more or less what we can call the production end; actions taken to stem trafficking, obviously the transport; application of regulations and treaties such as CITES; and fourthly, the demand reduction in consumer countries.

Now Chief Woody spoke a bit about the Service's law enforcement efforts. So, I would like to make brief mention on some of these other aspects. We have a longstanding history in elephant conservation, providing financial and technical assistance to partner countries through for example the African Elephant Conservation Fund, the Asian Elephant Conservation Fund. And we've been able to secure assistance for conservation projects since 2007 alone 188 projects, representing $12 million and about $28 million more in leveraged funds. Through our Wildlife Without Borders program, we also provide assistance that builds on keystone aspects of
conservation, such as: awareness, garnering and raising political will, and the in-country capacity to address issues such as this ivory crisis.

I previously mentioned CITES, which is an international agreement signed by 179 nations and it is designed to control and regulate global trade in certain wild animal and plant species that have become endangered due to commercial trade. The goal of CITES is to facilitate legal, biological and sustainable trade whenever possible. But in some cases, no level of commercial trade can be supported and therefore a global ban may result.

The Fish and Wildlife Service plays an active role in ensuring that CITES is effectively implemented and enforced around the world. Most of our activities have been focused on on-the-ground protection of habitat and populations through enforcement efforts. But being conscious of the role that consumer demand plays in this growing problem, we are also supporting government and non-governmental partners in
consumer nations to help build awareness and demand reduction campaigns. Awareness of the unintended consequences of buying ivory is key; as are improving statutory enforcement and prosecutorial capacity to address lawbreakers.

I think we can say that ivory poachers and traffickers are very rational beings. They function on what may be described as a risk/benefit analysis. These days the benefit is extremely high due to the high prices but risk is still too low; the risk that they may be detected, that they may be apprehended and prosecuted and that they will actually receive a significant sentence. Therefore, deterrence is not now sufficient disincentive. Laws and regulations have loopholes. And at to that, corruption and collusion at various steps in the chain and the problem becomes magnified, unmanageable and global.

In summary, I would like to state firmly and clearly that the roots and motivation for the illegal killing of elephants and trafficking ivory is consumer demand: the market. Ivory is
for sale in many U.S. shops. It can be found locally and elsewhere. It appears ubiquitous and this is staggering in its implications for the future of the species. We collectively need to do more to combat poaching and illegal trade, including the role that U.S. consumers play in that trade.

Now I know these problems sound very daunting and indeed they are. Time appears to be running out. But I don't think it's too late. We must individually and collectively decide if we want elephants to continue to be a part of life on earth. I believe that if we do not do everything possible and if we do not succeed, we will have to answer to future generations and indeed our own consciences. Thank you very much.

ASSEMBLY MEMBER SWEENEY: Thank you. I wonder if you'd be willing to take some questions?

MR. RUGGIERO: Sure.

ASSEMBLY MEMBER SWEENEY: Let's start with the process from the time that the ivory is obtained in Africa. And most of our discussion
has been about Africa. To what extent is the
Asian elephant population a factor here?

MR. RUGGIERO: Asian elephants still
have problems due to hunting for ivory. But it is
much less of a threat to them. Frankly, many of
the bulls and mostly bulls carry ivory in the
Asian species -- females sometimes do but rarely;
frankly, most of the big tuskers that aren't
under really good protection have already been
lost. The biggest problem for Asian elephants is
frankly human elephant conflict more than
anything else. They still are involved in the
trade. They're in even greater trouble due to
their small numbers and large human populations
in areas that elephants have traditionally lived.
But it's quite a bit different.

It's African elephants that are
absorbing the majority of the pressure now.
Delegate Manongi talked very clearly and
emotively about Tanzania. They're struggling very
much with this and fighting gallantly but the
problem is great there. Fortunately, Botswana is
indeed a point of hope. They've been very
successful. But Central Africa right now is receiving tremendous pressure. And it's so difficult to even know what's going on there; that when we get around to doing surveys, the results are almost always very, very depressing.

So it's a bit different between the two species.

ASSEMBLY MEMBER SWEENEY: And the problem is increasing in Africa primarily because probably a combination of poverty and it's a lot of money in the trade and the terrorists, who finance their activities through the trade. So they engage in these activities. They kill the elephant, they get the ivory. Can you kind of take us through the steps from there as to how it ends up in the United States?

MR. WOODY: They kill the elephants. They put it in a shipment. Picture a container or even a number of container shipments that have been seized. They put it in a container. They disguise the elephant ivory, as they paint it to look old as antiques. They hide it in furniture or just put in a container and nobody checks it.

I mean, the issue is really: We do not have
enough law enforcement people to cover the issue.

The way we do it here in the United States is if we are going to work a smuggling ring, it takes long-term, at least a minimum of a two-year undercover operation to get in to the smugglers. So the ivory going from Africa to Asia and coming into the United States; if we happen to have one of our inspectors open a crate and we find smuggled ivory in that crate, say it's disguised as furniture; and then they would turn it over to our agents. Our agents would work with the State. We would set up probably on that, given the number of shipments and everything that came in with the company; we could possibly set up a very long-term undercover operation to get that particular organization.

And you want to do that because you just don't want to take off the people; you mentioned the people on the ground. That isn't the issue. The issue to me is the dollars behind this. If you look at that rhino horn right there, just to speak of rhino horns, I mean for the example on prices. You know, you're looking at that, of
about $45,000 a kilogram is what you're looking on that piece, on that rhino horn right there. You're talking some tremendously high dollars. When I'm having my agents go out and do a buy and I'm spending $200,000 on a single buy on wildlife; I mean, there are six law enforcements in this room. And I can tell you what: none of them have seen the prices that you're seeing on ivory or rhino horn that you're seeing today. So, I direct it more if you have some affluent people that are buying these items right here and right now, I don't see an end to it.

ASSEMBLY MEMBER SWEENEY: So who are these people? Is it just a loose collection of individuals who have an interest in the trade, be it for money or for the ivory itself? Or is there an organized crime effort here at work?

MR. WOODY: Well, there's an organized crime effort in getting it to those people. I mean, you have consumers that buy it. Asia is a big market for ivory. The Philippines is a big market for ivory. The U.S. is a market for ivory.
All of those; it's all of the above.

ASSEMBLY MEMBER SWEENEY: So, it gets to the United States and since nobody can check every single shipment coming in, you have to either rely on I guess these undercover efforts or you get a tip from somebody and that's how you know it's coming in or that's how you know someone's in possession of it?

MR. WOODY: That is correct.

ASSEMBLY MEMBER SWEENEY: And then you have relationships obviously -- you mentioned the DEC; with other law enforcement entities that might be able to provide assistance and so you work with them?

MR. WOODY: We work very closely with them. Let me just -- my outfit, the U.S. Fish and Wildlife Service Law Enforcement, I have 520 folks that work for us; 200 of those are field agents. I have 200 agents. I have many operations going right now, many UC operations going on throughout the United States and the world. I don't have that many agents. I rely heavily on DEC and work very closely with them and other
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State law enforcement agencies, DNR agencies, to work these operations. I would daresay I've probably got half of the operations running right now and they're all state folks that are involved in working with us. We work very closely with them.

In the United States, you have about 8,200 game wardens working for the state agencies; 200 federal agents. We have limited resources. We usually go after -- I mean, we target major operations. But again, those are long-term, very complex investigations. I point you to an operation that we refer to as "operation crash," the smuggling of rhino horns throughout the United States. I mean, we pulled, we had smugglers in Dallas, in Miami, in New York, in Chicago, L.A. And I mean that took 18 months to put that together. And we had over a hundred rhino horns that we're aware of go through towards Asia. And that was before we took down the case.

ASSEMBLY MEMBER SWEENEY: So what are we talking about here? What's your guess either in
dollar value or in tonnage of the -- let's stick with ivory for a moment, of the elephant ivory that's coming into the United States on an annual basis?

MR. WOODY: I couldn't give that to you. I have heard many people speak to the fact that if you seize this much, there's that much illegal out there. I couldn't do that. There's simply is not -- I would be very uncomfortable saying that. I can speak to facts. I'm aware of in Hong Kong right now, there's a warehouse that we know we have 30 tons of ivory in. They are considering whether or not to destroy those 30 tons. I would stay with the facts, sir.

ASSEMBLY MEMBER SWEENEY: Okay. But do you think that's the tip of the iceberg? Is that fair?

MR. WOODY: I'd say, yeah, that's a tip. Yes, I would agree with that.

ASSEMBLY MEMBER SWEENEY: Okay. And when a case is prosecuted; now there was a case prosecuted in Manhattan and I think it was the Manhattan DA who prosecuted that case. Who's
normally the prosecutor? Is it just whoever the
DA is in the jurisdiction where it takes place?
Or how is that determined?

MR. WOODY: Attorneys determine those
things. It depends on the laws. All the
prosecutors are very busy. I mean, they would
look at the case. They would sit down the agents.
The would sit down with the state investigators.
They would make a determination of which laws are
best applicable to dealing with this. And they
would go on that.

It could be a combination, a tiered
approach. For example, I have a number of federal
laws under the Lacey Act, the Endangered Species
Act. If New York State has some significant laws,
why not have a tiered approach and prosecute them
under them all? Or if the U.S. Attorney's Office
tells us: "We're going to decline the case. We're
just too busy. Go see the State of New York." The
State of New York picks up the case and runs it
or vice versa.

ASSEMBLY MEMBER SWEENEY: Is
prosecutorial disinterest ever a problem?
MR. WOODY: We're pretty persuasive.

ASSEMBLY MEMBER SWEENEY: There was a mention of consumer or public education. And I guess that's the first thing that comes to mind when you talk about a subject like this is we have to educate the public. But if there's a lot of people; if a lot of this is a number of people with big money who can buy that rhino horn or, I don't know what this is worth, but I'm going to guess an awful lot; am I wrong to guess that education doesn't matter to them? They know darn well what they're doing and they don't care and they're going to do it anyway? I mean, to what extent do we need to be thinking about the education side of things?

MR. RUGGIERO: Mr. Chairman, that's a very salient question. Awareness is very important but it is only effective with a certain proportion of a population. If you can convince 90 percent of the population of a very large country that buying elephant ivory has unintended consequences that may result in the extinction of the species in the wild, 90 percent is really
good. But ten percent in a large country that is wealthy may also be enough to drive these animals to very serious states due to the number of people that ten percent of a large country and they're buying power would represent.

Point two, while education certainly will work on X percent of a population, sometimes very wise businessmen, realizing that there is still a market going to be there regardless of people's raised consciousness, will look at the predictions of what we hear from conservationists and biologists, saying: "Hmm, if we keep poaching rhinos, they will go extinct in X number of years." Well, they put two and two together and realize given a continued demand and a decreasing supply, the value will go up. Therefore, it may be a good investment.

So, an honest answer is: It works both ways. But it is extremely important because if we don't remove the majority of potential consumers through education, we're dealing with an insurmountable number of potential buyers. So the point being, those who cannot be persuaded by
logic, reason and facts, that's where the long
arm of the law comes in and that's the solution
for that proportion. But we want it to be as
small as possible.

ASSEMBLY MEMBER SWEENEY: Okay.

MR. WOODY: If I mean?

ASSEMBLY MEMBER SWEENEY: Sure, go
ahead.

MR. WOODY: We have -- and I'll point to
rhino and refer back to the operation Crash
operation we ran. As part of that, we did some
search warrants in Los Angeles and we got into
two safety deposit boxes. Okay. Now mind you,
this is wildlife trafficking. Think about this:
One safety deposit box we had over a million
dollars in gold; the other safety deposit box,
over a million dollars in cash. You have never
seen that. You do not see that. I've been in
wildlife law enforcement for 30 years. I have
never seen anything like that that we're seeing
today.

ASSEMBLY MEMBER SWEENEY: Okay. Getting
back to the supply and demand question. Then you
showed us the video where the ivory is crushed.

Why crush the ivory as opposed to doing something else with it? Could an argument be made that now you're just limiting the supply even more and driving up the price of what's existing? Or what's the rationale?

MR. RUGGIERO: First of all, you know, that certainly is another legitimate question that we fielded on a bunch of occasions; it's a question of proportionality. Indeed, six tons represents hundreds if not more elephants and in each of those is tragic story in my opinion. However, looking at the global trade where six tons can be the amount of one seizure in one port in Asia; indeed they've been outstripped in recent years. Frankly, the amount of ivory that we destroyed, I wouldn't say it's a drop in a bucket; but it would not have a significant effect on global supply.

We weigh against this the educational awareness, building value of that exercise; which I firmly believe already has results. Subsequent to our move, which was somewhat -- I wouldn't
call it audacious but I would call it courageous; other countries have begun to do the same thing. To wit, China just recently did it. Some of the members of our organization were present for the Chinese government to take what is an audacious step in their country and then accompany that with a message to the people that we believe buying ivory has unintended consequences of global significance; this will make a difference. And we think other countries will follow suit.

Perhaps Woody wants to speak about our intended use of this ivory since it hasn't vaporized? It's been crushed but it still exists.

MR. WOODY: Let me step back. You have had -- there were two one-off sales. After the ivory ban there have been two one-off sales. The last sale in 2008, correct?

MR. RUGGIERO: '07 I believe.

MR. WOODY: '07 -- and that was a large amount of ivory that was sold. That was meant to drive down the price of ivory. Actually, the reverse happened. It drove the price up. When you were looking back and I mean I can go back to the
70's and you were looking at ivory at 5, 5.50 a pound, low prices. You're looking at fourteen to $1,600 right now for the price of that. So really the reverse. And we had no intention. That was ivory that has been seized the last 20 years in the United States. We had no intention of putting that ivory back on the market. And we wanted to send a message: The United States wants to be a leader with this. We wanted to destroy that ivory. Yes, there is a market value, a high dollar placed on that. But it's meaningless. It really is. And again, we were not going to put the ivory on the market.

ASSEMBLY MEMBER SWEENEY: Okay. So let's talk about laws that exist and laws that should exist. There's laws on this stuff now on the books -- federal laws; there's state laws in New York and in other places. And so I'm going to take a wild guess say it's not working quite the way it was intended to. Why not?

MR. WOODY: Because of the years there have been loopholes that have been unintentionally created. You have some very smart
smugglers, poachers. They exploit those loopholes. If everybody was honest, we wouldn't have an issue. But what you have, we have created a number of loopholes that people work through. And this ivory -- this example that I put up here, if I was the shop owner and you were a federal agent that walked into my room or into my building and you asked me; you're the federal agent and you asked me where that ivory came from, I would tell you that ivory's a hundred years old or I'd tell you that's ivory is pre-man. And you'd be the federal agent walking back out the door.

ASSEMBLY MEMBER SWEENEY: Because you can't really tell the difference?

MR. WOODY: You can't. You would have to get the paperwork behind it. And again, that's where I point you to the undercover operations that we do; what the inspectors seize at the border or find that's hidden, smuggled or smuggled into the United States. Those are the ones that we key on and we take a look at right now under the existing laws.
ASSEMBLY MEMBER SWEENEY: So, could somebody tell you -- somebody who's got a trained eye, not me: This is Asian elephant or this is African elephant or this is a mammoth? I mean, do you get that story once a while? "This is mammoth ivory, this is not elephant ivory?"

MR. WOODY: We get all of the above, that's correct. We do. Really what we do, the forensics lab I have out in Ashland, Oregon; we have to turn it over to scientists and they tell us.

ASSEMBLY MEMBER SWEENEY: And that's the only way?

MR. WOODY: That is the only way.

ASSEMBLY MEMBER SWEENEY: So, the system that exists where there are exemptions for antique ivory or for other things is really essentially never going to work because it's so easy; I mean, are we coming to a day when we can tell? I mean, is the technology advancing so that you would be able to understand?

MR. WOODY: No.

ASSEMBLY MEMBER SWEENEY: No, we're not.
So even down the road, there's not even a prospect that your folks could have a technology that tells you when you walk into a store someplace what it is or how old it is?

MR. WOODY: It's very hard to tell.

ASSEMBLY MEMBER SWEENEY: Okay. So the entire system then that allows for exceptions is simply never going to work because you can't possibly prove it one way or the other?

MR. WOODY: What I'm saying is the individuals, that loophole is exploited. In other words, I'm a smuggler. I'm going to say it's a hundred years old. Now, if it gets into the country and it's sitting in a store and there's no way to tell how it got into the store and it's there; my hands are tied.

ASSEMBLY MEMBER SWEENEY: Is there not a requirement, either federal or state, for the production of some sort of paperwork or proof; whether it be the age of the item or the provenance of the item or anything?

MR. WOODY: No, there is not. And I don't know in the State of New York. The next
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witnesses will have to speak to that on the State of New York.

ASSEMBLY MEMBER SWEENEY: So unless you through your undercover efforts or a tip, catch this stuff coming into the country in a container somewhere; once it gets here and it gets out, you're pretty much out of luck.

MR. WOODY: Yes, we are.

ASSEMBLY MEMBER SWEENEY: So the high money crooks who bring this stuff in, all they have to do is get it into the country somehow and they pretty much got it made.

MR. WOODY: That is correct.

ASSEMBLY MEMBER SWEENEY: So we're talking about a ban, a moratorium, whatever you want to call it, as really being the only effective way; ban or a moratorium on sale? Well, you couldn't do possession I guess because people who have it legitimately; so the ban or moratorium would be on the sale of ivory? If there were a ban or a moratorium, would that be an effective way do you think of dealing with the problem?
MR. WOODY: That would be an effective way.

ASSEMBLY MEMBER SWEENEY: I appreciate the enthusiasm of the people who are present but I'm going to have to ask you to restrain yourselves on both side. You may hear some things you don't like either. Is there some other way?

As a State, not the federal government, what should we be thinking about doing that would be the most helpful? Is a ban or moratorium a start?

MR. RUGGIERO: Can I mention something that was brought to my attention by a colleague just recently? And it will fall into the concept of leadership, of precedent, which obviously is important in anything legal. Back in 1988 or '89, I don't remember this personally, I was still in the bush those days, gratefully; but colleagues from the Fish and Wildlife Service worked with representatives from the State of New York to produce regulations, legislation I should say, to ban the sale of wild caught birds in the State of New York. This came before the federal legislation was passed. That's leadership. That's
path-finding and is a very important thing.

So I can't comment directly or suggest what you should do but there is a precedent for leadership by the State of New York that has had positive effects throughout the country.

ASSEMBLY MEMBER SWEENEY: I anticipate that if we propose a ban or a moratorium, that we're going to hear from some folks, let's say museums. We have a couple of major auction houses in New York City; that they at least should be exempted from that. And there may even be some who argue that: Well, if you're talking about a piano where only the keys are ivory and so it's a tiny percentage of the total product, that that should be exempt too. What would your response be to that?

MR. WOODY: Sir, I work in law enforcement.

ASSEMBLY MEMBER SWEENEY: Well, from a law enforcement perspective, how would that work for you? Does that undercut? Does that then undercut? Because we have exceptions now and that's the problem. So, if we're talking about a
ban or a moratorium but it's one with exceptions, does that just then perpetuate the problem? Or is that a legitimate concern?

MR. WOODY: You spoke to museums before. To me, that's noncommercial. Or you spoke to the possession; to me that is noncommercial. I mean, what you want to look at, as New York reviews this; you want to look at the commercialization. The simple possession, you have that. I mean, you have a lot of people, as you spoke to, with the pianos, the things that have been around; it's the sale, when you get into the sale is what is the issue.

ASSEMBLY MEMBER SWEENEY: So the ban on moratorium should be on the sale? And if there were exceptions to that, it would undercut your efforts from a law enforcement perspective?

MR. WOODY: Again, exemptions to things in law; exemptions to laws are, they have to be very narrow and you have to have specific sidebars on those.

ASSEMBLY MEMBER SWEENEY: I understand. I understand. Thank you. Questions? We've been
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joined by Assemblyman Kavanagh from Manhattan.

ASSEMBLY MEMBER BRIAN KAVANAGH: I wanted to follow up on the question about being able to determine the age of any of these items. It is not possible to do some sort of carbon dating or some sort of thing to basically say: "This existed 50 years ago" or "this existed in an animal ten years ago"?

MR. WOODY: You can. And here's the thing. It's a destructive test on doing that. And the other thing is too, when we talk about it and we get to that point; I mean, I need something else to go along with it. Hence, the undercover operations that we spoke to. I mean, I will do those testings. I'm not going to do testing on if you had this piece of ivory right here and I caught it in your suitcase coming into the country; no, I wouldn't do that. If I had five tons that we know that your shop has had and smuggled those in; yes, we would do the testing on that and we'd be looking at the paperwork. There would be a whole series of things that would lead up to us spending the money for that
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testing and doing that testing.

ASSEMBLY MEMBER KAVANAGH: I assume one of the defenses that is used by people that are trying to exploit the loopholes is they say: "Oh, this item existed before there were any prohibitions, laws, whatever?"

MR. WOODY: Right.

ASSEMBLY MEMBER KAVANAGH: Both Chiefs and all the people that work with you, I want to compliment you on what you do and how important the work is. And we focus on -- there's so many levels because there's the human of level of what's happening to people that are trying to enforce these laws around the world, the human element there. And then there is the wildlife element. And they're both very important. So thank you for the serious commitment you've made in your careers to this important work. And thank you for helping us out.

MR. WOODY: Thank you.

ASSEMBLY MEMBER SWEENEY: If you don't mind, couple more things occurred to me, if you don't mind? So where does New York in terms of
the importation of illegal ivory into the United States; where does New York stand in that by comparison with other states?

MR. WOODY: I do not have that figure with me and I don't know if we have that for the specific ports. What I can tell you, but I would have to get back with you on it; I could tell you the number of seizures that we have seized at the ports, our inspectors have seized at the ports. I can pull those figures for you but I would have to get back with you with those figures.

ASSEMBLY MEMBER SWEENEY: Okay. That's fine. Would your guess be that New York probably has a bigger problem than other places in the country, in terms of that?

MR. WOODY: You have big ports here. Our inspectors here in New York are extremely busy; that is correct.

ASSEMBLY MEMBER SWEENEY: We've spoken mostly about African ivory here. But you've got the Rhino horn, so I'm curious: To what extent do we have significant issues with other endangered or threatened species in terms of importation of
horns or ivory or body parts?

MR. WOODY: That's a good question. Let me give you just a quick example that hit us out of the blue this last year. There is a species of fish on the Sea of Cortez off of California. And it is called a Totoaba. Totoaba, it has a large bladder; a fish bladder, if you will. That particularly fish, and it's an appendix one, CITES listed species. It's an endangered fish. Those fish bladders in the last year, we have seen the prices on those go as high as $10,000 -- a fish bladder. We have seized how many now?

MR. RUGGIERO: Hundreds.

MR. WOODY: We have seized hundreds. In the last year working with customs, we have seized hundreds of those. And it's funny. It comes out of left field sometimes, if I may say. I mean, it's one of those things I can't tell you. You know, fresh water turtles, we're seeing a huge market going towards Asia right now of U.S. turtles in the United States. It's what I see. I mean, it's when we come across them; and it varies. I would say endangered wildlife,
plants; yeah, it's an issue. Those come up often. It just depends on what information we have on those. And the Totoaba examples, it seems if the price goes up on those, it is dollar value and we start seeing it; it gets to be an issue.

ASSEMBLY MEMBER SWEENEY: Do you issue -- I believe you do issue permits for sale or possession; I'm not sure if possession is included, of ivory in the United States? Or do you issue any kind of permits to anybody that allows for the possession or sale of ivory, as one of those exceptions we're talking about?

MR. WOODY: On antiques, yes, that's correct.

ASSEMBLY MEMBER SWEENEY: Okay. And so there's a process; people will make an application to you. That application is reviewed. And if you can't tell the age, what are you looking for, provenance or somebody claims it's an antique so they have to kind of prove the provenance?

MR. WOODY: Yeah, that's correct.

ASSEMBLY MEMBER SWEENEY: Since that's
probably really the only way that you can tell.

Do you get a lot of those applications? Is that a real big deal? Or not too many?

MR. WOODY: We would have to get back with you on the statistics on that. But no, I do not think so.

ASSEMBLY MEMBER SWEENEY: Okay. And you have some sort of written policy or regulation that covers how those permits are issued?

MR. WOODY: Yes, that is correct.

ASSEMBLY MEMBER SWEENEY: Could you possibly provide that?

MR. WOODY: Sure.

ASSEMBLY MEMBER SWEENEY: Whatever information you could provide on that would be --

MR. WOODY: We can get them.

ASSEMBLY MEMBER SWEENEY: Okay, that would be great. Gentlemen, thank you very much. We appreciate your being here.

MR. WOODY: We appreciate it. Thank you.

ASSEMBLY MEMBER SWEENEY: Next, we invite testimony from Major Scott Florence, Acting Director, Division of Law Enforcement, New
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York State Department of Environmental Conservation. Welcome.

MAJOR SCOTT FLORENCE, ACTING DIRECTOR, DIVISION OF LAW ENFORCEMENT, NYS DEPARTMENT OF ENVIRONMENTAL CONSERVATION: Thank you.

Assemblyman Sweeney and Members of the Assembly Environmental Committee, thank you for this opportunity to discuss the State's threatened and endangered species law as it pertains the trade in elephant ivory. My name is Major Scott Florence and I am the Acting Director of Law Enforcement for DEC. Commissioner Martens regrets that he is unable to be here today.

If it's okay with you, Chairman, I'm going to skip a couple parts of my prepared statement that discussed the federal laws and the international laws. It sounds like we've covered that.

ASSEMBLY MEMBER SWEENEY: Sure.
MAJOR FLORENCE: And I'll get right to the State sections of law.
ASSEMBLY MEMBER SWEENEY: Okay.
MAJOR FLORENCE: So since 1972, New York
State has had a law to regulate the trade in endangered and threatened species. This law makes it illegal to possess any raw parts from endangered or threatened species such as ivory, or to sell or possess with intent to sell any article made from threatened or endangered species, such as ivory carvings without a license or permit.

So just to kind of break that up. You have to have a permit to possess raw products. So one of those raw ivory tusks, you would need a permit simply to possess that. But once it's worked, you could possess it without a permit but you would need a permit to sell it. So, DEC established a licensing process and regulations which allows for the possession of raw ivory if the owner possessed it prior to the elephant's being listed under the Endangered Species Act, which goes back to '78 or '76, depending on African or Asian. Likewise, the regulations allow for the sale of ivory items which were possessed before ESA listing.

In 2012, DEC amended their procedures to
strengthen its licensing process and now requires documentation of the provenance of the ivory when applying for the permit. As a result, fewer licenses are being issued since the amended licensing process has been implemented. DEC has denied applications which do not provide adequate documentation of possession and age. However, under current regulations, the sale of ivory by parties who acquired the ivory after listing, it remains legal; if the party submits proof that the ivory piece was worked or carved prior to listing.

This third-person sale of ivory allows storefronts and auction houses to apply for licenses to sell ivory that they did not possess prior to ESA listing. These third-party license applications are often accompanied by appraised or estimated provenance of the items. Applications citing recent dates of acquisition, often within the last five or ten years and accompanied by appraised or estimated provenance, have become the norm.

As we discussed earlier, unfortunately
it's very difficult to determine the age of ivory products, particularly ivory that's less than a hundred years old or not attached to a recognizable piece of furniture or other manufactured products, such as a piano or a chair or a guitar; where you can trace back the actual manufacturer who is now out of business since 1900 and you know that that piece has to be old. Techniques such as carbon dating maybe helpful but can be cost prohibitive for both the applicant and law enforcement. They're also destructive and are not readily available to officers in the field. So despite these laws and the licensing requirements and in light of the outlying challenges, New York continues to have a significant, thriving market for ivory.

While the U.S. Fish and Wildlife Service is primarily responsible for regulating the import and export and interstate sale of ivory, DEC is responsible for regulating the intrastate sale of ivory. To reduce the illegal ivory market in New York, DEC law enforcement officers work to investigate complaints of illicit sales of ivory.
For instance in 2012, DEC seized a ton of ivory from three New York City diamond district businesses with an estimated retail value of more than $2 million. That case resulted in the largest seizure of elephant ivory for a State case in New York's history and included multiple pleas to felonies for the illegal commercialization of wildlife. And in your packet, you have photos of some of the ivory that we had seized.

But more needs to be done. In addition to removing the questionable ivory from the licensing process, strengthening criminal sanctions may help. One limitation of the existing law is that the criminal sanctions for illegal commercialization of wildlife have low penalties with maximum sanctions being an E felony. For example, someone selling millions of dollars of illegal elephant ivory can only be charged with the same level of crime, an E felony, as someone selling a little over $1,500 worth of illegal elephant ivory. Experience has shown that given the statutorily prescribed low
level of crime very few who are convicted ever face jail time, limiting the deterrent effect of criminal sanctions.

With our limited resources, understanding that these same resources are tasked with enforcing all facets of the Environmental Conservation Law, DEC will continue to investigate complaints of illegal ivory sale and pursue criminal cases against those involved in the trade along with State, federal and local prosecutors. Thank you for inviting me to testify. Lieutenant John Fitzpatrick and I would be happy to answer any questions.

ASSEMBLY MEMBER SWEENEY: Thank you much. We appreciate it and appreciate the fact that you're here today. So, following up on the questions that I asked the federal folks, how significant a problem do you see the sale of illegal ivory being in New York or not just elephant ivory again but any endangered or threatened species?

MAJOR FLORENCE: Certainly when we get together with our colleagues, either our federal
agents that we talk with or other state agents
that we talk with, at least anecdotally everybody
points to New York and says: "Everything's
happening in New York. That's where all the trade
is happening." Through the case, like in 2012, we
did see that there was a significant amount of
ivory that is sold in New York, particularly New
York City.

ASSEMBLY MEMBER SWEENEY: So, we have
laws in place in New York State, which does
provide for exceptions.

MAJOR FLORENCE: Right.

ASSEMBLY MEMBER SWEENEY: When you get
an application, a license application for ivory;
how do you evaluate that? What's the process that
goes on in making a determination?

MAJOR FLORENCE: The process within the
Department is two-fold. The permit application
actually goes into our special licensing unit.
And they handle all the different special
licenses for all endangered species and several
other special licenses that the Department issues
that aren't hunting and fishing licenses. So
that's the initial review. They'll look at it --

ASSEMBLY MEMBER SWEENEY: How many people are in that unit right now?

MAJOR FLORENCE: There is six people in that unit right now. There's one person that reviews the ivory permits, along with other parts of their job.

ASSEMBLY MEMBER SWEENEY: Okay.

MAJOR FLORENCE: So they would initially get the application. They would look at it for completeness, you know: Is everything filled out? Are all the forms filled out? Are they signed? And then they'll take a quick look to see if the provenance is good enough to accept. If they view it as complete, everything's signed, they at least have an attached provenance, something spelling out where the ivory came; they'll send it on to law enforcement. And again that's the change that we saw in 2012. We started asking for more specific provenance on the pieces, on individual pieces.

So the permit will then be sent up to law enforcement. We have one officer -- one
investigator, along with all his other duties, will look at that application and review it to see if the provenance or whether the paperwork, the documentation that they gave him is correct, legal, not forgeries or sufficient.

If he feels that the application is sufficient; for example, some of the bigger auction houses, they supply pages of documentation showing that a particular chair, a Louis XIV chair with a little ivory on it, was actually sitting in a mansion in Europe two years ago or ten years ago or 50 years ago and that that has been sold to individual people and here it is right here and it's that particular piece. That's easy to look at and say: "Yup, alright, the provenance of that piece is proven."

But what we do see is a lot of appraisers where they'll look at just listings and listings of ivory. For example, if you look at the pictures that we show, those bangle bracelets or the strings of ivory; they'll look at that they'll say that that's from 1960. This bangle's from 1970. This bangles from 1950. And
they'll just list it down with dates and an appraiser's signature saying: "I've looked at it and this is what I estimate" or "this is what I appraise this from." On those, typically we're sending them back as "incomplete, that the provenance is not sufficient."

ASSEMBLY MEMBER SWEENEY: How many applications would you guess that you get in a year? And what percentage of those are approved or denied?

MAJOR FLORENCE: Before we changed the process in 2012 -- I've got the numbers for you here, we issued 110 licenses. So in 2011, we issued 110 license. In 2012, we basically put a hold on the licenses that we were issuing while we changed the system. Since then we've issued 75. So in 2013, we issued 75 licenses; we denied six. Three were denied straight out; the provenance wasn't good enough. Six were denied simply because they applied for an ivory permit and had no ivory. Prior to 2012, we would receive applications like that, where they would say: "I want to sell ivory," with no listing of any
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pieces. So, six of them were denied simply
because they had no ivory to sell. They just
wanted a permit to sell, openly sell whatever
ivory they had. And 50 were returned as
incomplete.

And typically the incomplete, like I
said, if the provenance isn't sufficient enough
and again there's a fine line on what we, our
individuals that are reviewing the permits
determine is sufficient. If an appraiser looks at
the pieces and swears that this is the dates of
those ivory, it's tough for a regulating agency
to say: "Well, we're going to say that you're
lying and not give that permit." So typically --

ASSEMBLY MEMBER SWEENEY: That would be
the applicant's appraiser?

MAJOR FLORENCE: Yeah, the applicant. If
the applicant hired and appraiser and that
appraiser is a legitimate appraiser and they send
in a list saying: "Yup, this is all pre-Act," and
we make them list each piece; kind of as a
regulating agency we have to look at that and
say: "Okay, we take that as face value. It's
older than ESA listing." So at that point, we either send it back as incomplete or it's approved.

ASSEMBLY MEMBER SWEENEY: And that appraisal would essentially be the main way of supporting or providing the provenance on a piece when they're making an application?

MAJOR FLORENCE: As we heard from other witnesses, it's really difficult to determine the age of ivory. And again, if you look at those pictures that we sent, it's just piles of ivory. I mean, there's not really any discerning features on that ivory at all. And I think, John, you can agree that the experts that we talk to in the field just say: "There's really no good method to look at a piece of ivory without anything attached to it that can age it and say what age it really came from."

ASSEMBLY MEMBER SWEENEY: The same issue that we discussed with the federal representatives?

MAJOR FLORENCE: Exactly.

ASSEMBLY MEMBER SWEENEY: It's the same
concerns and problems that you have?

MAJOR FLORENCE: Exactly.

ASSEMBLY MEMBER SWEENEY: And we talked to them about how they find out about the illegal sale or possession. Typically, how does that work with DEC?

MAJOR FLORENCE: Very similar. We'll get complaints from the public. Our officers in the field may witness ivory being sold. And again in New York, just to kind of back up a little; in New York it's not illegal to possess ivory. So you can walk down Fifth Avenue and see a store that has ivory in its window. If you walk in, if one of our officers walk in undercover and say:

"Boy, I really like that piece of ivory in the window," and the owner says: "No, no, no, no, that's not for sale. I just have it here as a display to bring people in"; they haven't violated any State laws. That would be perfectly legal for them. So we have to do a little bit more. So if we get a complaint: "I see ivory in a window," we may send someone in that's undercover, try to purchase it. But again our
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manpower is limited and we have a lot of other environmental laws that we're responsible for.

ASSEMBLY MEMBER SWEENEY: Okay. So you've talked about the penalties then. So the process is very similar. Your process is very similar to what was described previously by the federal representatives. The issues and concerns you have with attempting to identify the ivory is similar. The permit process -- 110 strikes me as not being an enormous number. So, I'm guessing based on everything we've heard today that there's just a very large number of people out there who don't care about making an application or asking for a permit. And they're doing whatever they want to do because it's a lot of money and you've got to catch with them as best as you can. Is that a fair assessment?

MAJOR FLORENCE: John, you're on the street down here.

LIEUTENANT JOHN FITZPATRICK, NYS DEPARTMENT OF ENVIRONMENTAL CONSERVATION: Yeah. My name is John Fitzpatrick. I'm a Lieutenant with the New York State DEC Police and I
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supervise the New York City Office of the Bureau
of Environmental Crimes Investigations. I've
worked down here in New York City for my entire
career. I'm from New York City. I've kind of done
a lot of these wildlife trade cases. That's kind
of my niche within the larger context of what I
do. And I've made many cases here in New York,
mainly in Manhattan, of stores selling elephant
ivory and other endangered and threatened species
and protected wildlife.

I think that pretty much every single
person that I've dealt with over the years and a
lot of times I would go in first in a covert
capacity; everyone says pretty much the same
thing: "This is pre-ban. This is antique. This is
old." And as our federal counterparts mentioned
earlier, the bad guys will a lot of times use
techniques to make it look old. I've seized some
pieces of ivory that at first blush, if you
really didn't know what you were looking at or
what you were looking for, look like wood. I
mean, they're stained almost as dark as this
table I'm sitting at. So there's a lot of
different tricks and stuff like that they'll do. But yeah, pretty much everyone will always say: "This is old. This is antique."

But really for purposes of New York State law, really what separates the legal trade from the illegal trade is: "Do you have a permit to sell it?" If they don't have a permit to sell it, it's illegal. It really doesn't matter how old the ivory is. Obviously, we're even more concerned about ivory that's being smuggled in recently. But even if the ivory is a hundred years old, if someone hasn't applied for and received a permit, that's in violation of the law.

As our federal counterparts mentioned, it's really impossible, and I've had many conversations with scientists and experts, for us in the field to determine the age of a piece of ivory. There is radioisotope testing. But again, as mentioned, it's cost prohibitive, it's destructive. And really for the purposes of New York law, it really doesn't pertain in a sense because if you look at the regulations for how
one qualifies for a license in New York; you're required to submit to the Department proof that you possessed those items prior to the elephant's listing. And the elephants were listed in the 1970's; the Asian in 1976 and the African in 1978.

So even if we knew when the elephant was killed or I mean short of it being something post-Act, the problem is is that most of the ivory that we've seized, including the ton of ivory that was seized in 2012 and most of the other cases I've worked here; it's stuff that's been mass produced in the 1900's. It's kind of, you know, there are the legitimate antiques out there that have provenance and those are the big ticket items.

But the vast majority of the stuff that you'll find if you're to go into Manhattan today and look at stores selling the stuff and there probably are stores that have it on open display; is stuff that was mass produced in the 1900's and it's virtually impossible for us to tell whether that piece was carved in 1970 pre-Act or 1980
post-Act. Because a lot of it is basically the same kind of stuff.

But I did just want to back up one step. Talking about the law, New York's Endangered Species Law, ECL 110535, that regulates a whole bunch of things, including the sale of articles made from an endangered and threatened species. That is a criminal offense but it's not a crime. That law is a violation. So it means that the maximum penalty is a fine of zero to $250 and imprisonment of not more than 15 days. An example of another violation in the penal law is disorderly conduct. It's the same level of offense. No one's going to jail for, even if they're convicted, of a violation. It's just the reality.

But the strongest law that we have on the books, the law that really gives us our teeth has allowed us to make some of these big cases over the years is the illegal commercialization of wildlife penalty section, ECL 710924. And that section is the only felony in the ECL that pertains to fish and wildlife matters. And that's
really a great statute that we can use and we have used quite a bit. And it pertains not only to elephant ivory but commercial fish cases and bear gall bladders and all the other stuff that we deal with.

As great as it is, as Director Florence mentioned in his testimony, the problem we have is that, like in the case that we had in 2012, we had three different defendants. In one of the stores, we seized $30,000 worth of illegal ivory. In the other store, we seized $120,000 worth of illegal ivory. And in the store, the supplier, that was over $2 million. So you literally have three orders of magnitude; but they were all charged with the same E felony.

And so basically if the value of the wildlife exceeds 1,500 and it's illegal, it's an E felony. But you have other sections, for instance in the penal law, that deal with grand larceny or criminal possession of controlled substances; where you have different levels of offenses: first, second, third, fourth, fifth and sixth degree. And based on escalating numbers of
illegal possession of stolen property or controlled substances, you have escalating levels of offenses and escalating levels of deter­r­ents. And so getting into what exactly would help us fight the trade here in New York, I think we have great laws on the books. But I certainly think that the illegal commercialization of wildlife penalty section is ripe maybe for increasing some of the levels of offense. So that the guy selling $100,000 worth of ivory, maybe he should be charged with a C felony, which is two steps above an E.

And I think that plays not only into the dispositions of these cases, as far as whether someone may get jail or not get jail and the fines they pay. But in reality when we in law enforcement do a search warrant and we arrest someone and they have a huge quantity let's say of illegal ivory. I've been in meetings with prosecutors where we're sitting across the table from the defendant and the defense attorney at proffer meetings. And the defense attorneys walk in and they say: "Look, even if you guys indict
my client and he goes to trial and he's convicted
at trial of the top charge, the E felony; we all
know that he's not going to jail."

And you know what? They're right. In my
almost 18 years of working these cases here in
New York City, I could probably count one or two
hands the number of people who have gotten jail
time. And usually there's other extenuating
circumstances, like other violations of the penal
law. One guy was selling human body parts in
addition to wildlife parts. So certainly that's
an aggravating circumstance.

So I think that again, the laws are
there. But I think certainly they could be
tweaked to give us a better leverage. Because
when you get a guy and you think he has other
contacts and information but his defense attorney
is saying: "Look, you don't have to tell the cops
anything because even if you're convicted, you're
not going to jail," he really doesn't have any
motivation to cooperate with us; perhaps to sign
up as a cooperating witness and share with
information with us. And that's also a key part,
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as our federal counterparts mentioned, as far as we're always going after the big fish and not just the low level distributor.

ASSEMBLY MEMBER SWEENEY: Okay. So strengthening penalties for existing laws. What about changing existing law and doing something like what was previously mentioned with a temporary or permanent ban?

MAJOR FLORENCE: Again, we're law enforcement. So we enforce whatever laws you guys hand us.

ASSEMBLY MEMBER SWEENEY: Well, from a law enforcement perspective, does that make enforcement an easier proposition, given the difficulties that we discussed with the federal representatives of identifying ivory, where it came from, how old?

MAJOR FLORENCE: I mean, certainly what we see now with the applications, where we've sent 50 of them back as incomplete, where they've tried to prove the provenance; I think, John, you had a case where one individual we sent it back as incomplete and their response to us was:
"Well, I can't find an appraiser that will tell me that this is old," because it's not old. Because no appraiser -- not that no appraiser could tell, but there's not a lot of appraisers that might be able to say that. But we actually had an applicant say that.

I've looked around and a couple that I've gone to said they can't tell. So in that sense, the way our laws are set up right now, we do have this system of if you can find an appraiser that feels he can tell or she can tell what date that ivory is, we're basically mandated to issue for it.

ASSEMBLY MEMBER SWEENEY: When you get a permit application -- well, licenses, the Department is authorized but not required to issue a license, correct?

MAJOR FLORENCE: Correct.

ASSEMBLY MEMBER SWEENEY: Has the Department given any thought to the notion of not issuing license?

MAJOR FLORENCE: They haven't talked to me in law enforcement about that aspect of it.
ASSEMBLY MEMBER SWEENEY: If a permit is denied, realistically what do you think the applicant does with the item, assuming there's a specific item involved?

MAJOR FLORENCE: We're not sure. Again, possession of carved ivory is not against the law. So with our limited resources, we haven't gone out and looked at places that have been denied at this point.

ASSEMBLY MEMBER SWEENEY: Okay. If there were to be a temporary or permanent ban proposed, from a law enforcement perspective, is it problematic if there are then exceptions to such a ban, such as we discussed previously for a museum for example or for an auction house?

MAJOR FLORENCE: Speaking not as a representative of Commissioner Martens, but as the Director of Law Enforcement: Certainly any loophole is always problematic for law enforcement. The smaller they are, the easier it is for us. And again when you're dealing with ivory, if you're dealing with a minimal amount on antique pieces, in other words, a piano that you
know the manufacturer went out of business a hundred years ago; that makes it fairly simple for our officers to see without any big science, to say: Yup, okay that piece obviously falls outside of our permitting process or permit that piece fairly easy.

It's just if you allow what we have now, where it's this ivory that's kind of in the market right now, that really nobody knows where it came from or what the date is of it; that's the problematic part for us. So if there was some restrictions on that and they were limited, certainly law enforcement would be able to handle that no problem.

ASSEMBLY MEMBER SWEENEY: Outside of ivory, are there other endangered or threatened species or are there other changes we should be making to the Endangered Species Act in New York State?

MAJOR FLORENCE: I think as Lieutenant Fitzpatrick said, the illegal commercialization section is our section that we use for basically the sale of all wildlife. And that law has been
great for us. It really is good. But again, an E felony is a great tool but it doesn't necessarily get the defendants cooperating very quickly. So any change in that would be helpful.

ASSEMBLY MEMBER SWEENEY: Okay. When issuing permits, is there -- and I had the federal representatives this and they indicated there was a written policy that guides them in what they should be looking for and doing; does DEC have anything similar? Is there a written policy?

MAJOR FLORENCE: I can't speak to the special licensing unit. For law enforcement, our officer that reviews it, he's simply looking for documentations that are proof of provenance so that: they're signed; they're dated; it's a legitimate business; the paperwork's not forged. If they send in a U.S. Fish and Wildlife import document, we would double check with U.S. Fish and Wildlife to make sure that document is --

ASSEMBLY MEMBER SWEENEY: So they're using their own best judgment as opposed to having a check list of things that they have to
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look at?

   MAJOR FLORENCE: Correct.

   ASSEMBLY MEMBER SWEENEY: Okay. Anyone else? Mr. Otis?

   ASSEMBLY MEMBER OTIS: I did have a couple of questions. Back to the documentation. Do people provide or are they required to provide documentation other than someone today, an appraiser making an affirmation that something's a certain age? Is there a requirement or a goal on your part to see dated documents, documents that may show a bill of sale or something from 30 years ago? And do people provide that kind of documentation when they're submitting these applications?

   MAJOR FLORENCE: In the applications that I've seen, there's really two camps of applications. You have the application: "My grandfather got this elephant ivory back in the 60's. Here's a picture of me as a kid standing in front of the fireplace where it hung." And that's provenance, that's perfect provenance for that piece of ivory. And then there's the more
commercial end of it. And then you have the high end commercial end, where you have the Sotheby's or the Christy's, where they supply reams or provenance; where they really do document where the piece came from, who owned it before, you know, where that piece came from. And it's fairly easy to see: Okay, this piece obviously has some solid provenance.

But we do see and we do approve permits where the provenance is an appraiser; look at a piece and, you know, you can see those pictures. That one store had piles of stuff. So the appraiser goes through each piece and says: "Yup, that's from 1950. That one's from 1940. That one's a 1930." And the few that I've looked at, there's no person that actually does the reviews; but the few that I've looked at, there's always a statement at the end that says: "This appraisal is based on my expertise in the field and information from the owner." So, it's like any other appraisal, they're asking the owner: "When did this piece come into the market?"

ASSEMBLY MEMBER OTIS: Are these
appraisers licensed? Or how do we know that
they're qualified to make any judgment at all?

MAJOR FLORENCE: I'm unaware of the
license that an appraiser would hold. But I mean,
they are what we see as legitimate appraisers
that you see over and over again.

ASSEMBLY MEMBER OTIS: And how prevalent
is forgery in terms of documents that you receive
in applications?

MAJOR FLORENCE: Again, an appraiser, I
mean, I think the word "appraise" itself, it's a
guess. So I don't know if you really would be in
the forgery end of it if you looked at it, you
talked to the previous owner and through your
knowledge of the field, you came to a conclusion
that the type of carving, the way it looks; this
is most likely from 1940.

ASSEMBLY MEMBER OTIS: When you deny an
application based upon the fact that they did not
provide adequate documentation, that's the basis
for the denial; you're not confiscating the
items?

MAJOR FLORENCE: No. We would send it
back. Actually, typically if they don't send in enough provenance; and what we'll see is our form has a spot that says: "When did you acquire it? How old is it?" And you'll have someone that says: "I acquired it in 2013. And it's from the Ming Dynasty in 1600." But there's no provenance attached. There's no appraiser attached. There's no evidence. There's no previous owners attached. We would send that back as incomplete and simply say: "You didn't prove provenance for this piece. This is incomplete." And we'd send it back.

Again, we don't send an investigator to take a look at that because it's not illegal to actually possess that piece. It's worked ivory. You can possess that without a permit in New York. And with our limited resources, we just wouldn't have to time to send someone to check and see if the person now is selling it.

ASSEMBLY MEMBER OTIS: So what are the circumstances by which you would confiscate and charge somebody for something that is apparent to you is, you know, arrived in New York State in the last six months?
MAJOR FLORENCE: Again, for New York it's the sale. If it arrived in New York -- and again, New York, you have to kind of divide. If it came from Pennsylvania into New York, there's no federal laws being broken there. If it's coming from out of the country into New York six months ago, then we bring our federal partners in to help us investigate that complaint.

But in New York, again, the possession is not illegal. So if you drove over to Pennsylvania, picked up a piece of carved ivory and put it on your mantle in New York; you're not really committing any New York law --

ASSEMBLY MEMBER OTIS: But people that are coming to you for applications, are coming in for applications for the purpose of selling. So that's what's going to happen. And if they get an application denied, it's logical to think they're just going to sell it without the permit. They're going to go to that market.

MAJOR FLORENCE: That may be correct. And the cases that we've used, we use an undercover person to go in; try to buy the piece
if it's offered for sale. Then we've made cases.

LIEUTENANT FITZPATRICK: I don't think there's any question that there's a legal ivory trade in New York and then there's the illegal ivory trade. And I think the illegal ivory trade, it's very difficult to quantify. But my perception after doing this the number of years I've been doing it, is it's much larger than the relatively small number of people who know who the DEC is and know to apply for a license and go through all the steps.

And so I think that part of the discussion has to be, even if there was some statutory change to the law; we're still going to have the bad guys out there that are doing it for the greed and they're still going to be out there. They're not going to stop just because we maybe increased the levels of offense or changed the language. Because they're doing it now illegally and they're going to be doing it tomorrow illegally because of the demand for it and the high value.

As some of the other people testified,
the risk of getting caught, you know, just doing that risk/reward ratio with the staffing levels; you look at traditional law enforcement versus specialized not for resources wildlife law enforcement. We have I think about 25 of us that cover all of New York City and that includes uniformed officers and plainclothes investigators. And we cover all aspects of the Environmental Conservation Law: hazardous waste, pesticides, everything in the fish and wildlife law. So if you do the math, if you're a bad guy --

ASSEMBLY MEMBER OTIS: You're very busy.

LIEUTENANT FITZPATRICK: Yes.

ASSEMBLY MEMBER SWEENEY: Mr. Kavanagh?

ASSEMBLY MEMBER KAVANAGH: Thank you and thank you to the Chair for holding this very important Hearing. Just a few questions. First about, just starting with the legal trade, just following up on my colleague's questions about these appraisers. Somebody asked about what your qualifications would be. But do you need any formal certification to be an appraiser that DEC
would accept in the course of an application?

MAJOR FLORENCE: Not that I'm aware of. Not that we've seen. It's usually from an appraisal, you know, a formal letterhead that says: "I'm an appraiser of antiques." And they fill out a form attesting that all the information that they're supplying is correct and factual according to their review of; like I said, usually it puts on there review of the piece and discussions with the owner.

ASSEMBLY MEMBER KAVANAGH: And my colleague, Mr. Otis, asked about forgery, which you're saying might be challenging too. Would it be possible as an appraiser to commit a crime in filling out one of those forms?

MAJOR FLORENCE: If we did a reserve operations where we brought ivory to him and said: "Look, this ivory is from 1990 but we need you to say it's from 1960," and they did; yes, that would be a forgery.

ASSEMBLY MEMBER KAVANAGH: What would the crime be?

MAJOR FLORENCE: Well, it's providing a
false document to a governmental agency.

ASSEMBLY MEMBER KAVANAGH: How significant a crime is that?

MAJOR FLORENCE: It's usually a felony level. Yeah, it would be significant. But again, if you're a private business and you have an appraiser come in and he sends it into us and he's taking into account your knowledge of the piece for his appraisal; I would argue that that would be a hard forgery case. I mean, it really wouldn't be. The individual is using all the information available to come to a date in time.

ASSEMBLY MEMBER KAVANAGH: So this is in some sense, it's a bit of a self-certification element to this. To the extent that if I'm trying to sell a piece of ivory, I can go to an appraiser and tell them a range of facts; that if they're not obviously contradicted by the physical object that they're looking at, it's likely that the appraiser would say: "Well, given those facts, this is old and so I'm willing to do an appraisal that says it's old."

LIEUTENANT FITZPATRICK: Especially if
you're getting paid to do that appraisal.

ASSEMBLY MEMBER KAVANAGH: I'm thinking your decision is either: this object is worthless for sale or perhaps worth quite a lot. So, I would imagine if I have an appraiser that frequently tells me things are worthless, I'm less likely to frequent that person in the future.

I want to get to what you said a minute ago; that maybe the majority of this is actually illegal and outside of all of this regulatory structure. But is it possible that creating a regulatory structure that might work would involve focusing more on what it takes to appraise something and what the standards are and making sure that to the extent we're accepting an appraisal; that it's based on something other than the hopes of the seller?

MAJOR FLORENCE: I mean, my personal opinion, again, I'm not really sure what an appraiser needs, what they go through, what training they go through. But I would think the testimony from our federal agents and from us
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would be that, or at least the experts that we
talk to in the field; there's really not a good
way to look at a piece. I mean, you have some
pieces that were up there that you could look at.
There's really no good way to look at a piece
unless it's very unique and very distinct for a
particular period; to really look at that and
appraise that just by looking at it. I think the
appraisers have to take into account what the
person giving it to them is telling them.

ASSEMBLY MEMBER KAVANAGH: As someone
attempting to sell a piece of ivory, could I
violate the law by lying to the appraiser about
what I think I know about it?

MAJOR FLORENCE: Again, for a criminal
charge, for lying like that; we would have to
have all the knowledge of that person knew they
smuggled it in the day before. And they went to
the appraiser --

ASSEMBLY MEMBER KAVANAGH: No, hold on a
second. If I'm the owner of a piece, am I
required in any way to certify to the appraiser
the things I'm asserting about the piece?
LIEUTENANT FITZPATRICK: There's a jurat at the license application, as far as making false statements, you know, being punishable under the penal law. So the applicant, the license applicant, he has to sign: not under penalty of perjury but under a penalty of a Class A misdemeanor under the penal law.

ASSEMBLY MEMBER KAVANAGH: Yes. But aren't the problematic assertions the seller is making, the assertions they make to the appraiser; so I go to an appraiser and I have a conversation and I make some assertions. And then on that basis, the appraiser certifies that this is something that could be sold. And then the appraiser submits that. And as the seller, I'm saying: "Well, here's my appraiser saying this." And the appraiser is noting that they had a conversation with me. But shouldn't we be trying to set up a system where the owner of the piece has to assert things in such a way that if they are falsely asserting things, that that creates a legal problem for them? And are we not basically insulating the seller from that by allowing the
appraiser to sort of, I don't know, sanitize the assertions that the seller is making? And sort of certify that: "If these things are true, this would be old." And then the owner is then saying: "Well, here's my appraiser saying it's old."

MAJOR FLORENCE: I mean, I can only respond within the last two years, since we've tightened our process. We have not made any cases against an applicant. We simply send it back as incomplete.

LIEUTENANT FITZPATRICK: If you're asking us if our sense within law enforcement is that this is problematic; I think that, yes, we believe that is problematic.

ASSEMBLY MEMBER KAVANAGH: That's what I'm getting at. Okay.

LIEUTENANT FITZPATRICK: We haven't actually made any cases because of I think what the Director is saying is that the way the appraiser drafts these letters attesting that they've examined the items and based on their professional experience, they say it was carved in whatever year; the qualifying language at the
bottom of those documents give them enough wiggle room that they could always say: "Oh, well, the guy who brought me this stuff told me that X, Y, Z; He's had it in his attic since 1950." And so it's not the appraiser who's signing on the license application with the statement saying: "False statements made herein are punishable under the penal law." It's the applicant. And they're going to turn around and say: "Oh, well, I brought to the appraiser and they're the expert." And so, yeah, it creates that cycle.

ASSEMBLY MEMBER KAVANAGH: It seems circular and you can't actually hold anybody accountable. I mean, it sounds like an area where you don't have sufficient legal standards to actually enforce anything that would be terribly reliable in assessing this. And it seems like something we ought to look at in terms of either what one needs to assert to the appraiser and in what form or what the appraiser needs to be looking at and asserting. Because it sounds like people are going to assert things, claim that it was in good faith and you don't have any way of
going after it.

To your knowledge, has anybody ever gone after an appraiser and done a sort of sting style operation where you come in and say: "I got this thing. I know it's probably not old but I need you to tell me it is"?

MAJOR FLORENCE: We have not.

LIEUTENANT FITZPATRICK: I can tell you that in some of the cases, again, we work closely with the U.S. Fish and Wildlife Service. Like they assist us with our search warrants and stuff like that, we assist them. And one of the cases that Fish and Wildlife Service had last year as part of their Operation Crash, it was a guy who just recently was sentenced to a little over three years in jail this past December at the federal level. We did the search warrant and basically this is a guy who in the past had a DEC license to sell ivory. And I'm probably speaking a little more on behalf of the feds of what I've seen some of their cases showing.

But I think what we're seeing now is that you have entities that are licensed here at
the State level, who are selling ivory that may or may not be legitimately pre-Act or not. But the bottom line is they're selling it to people here who may be straw buyers, who are getting money from other countries. And they're getting a lot of money to buy up very expensive items. And they in turn are then basically smuggling it out of the country back to China and other areas where the demand is sky high.

So there's certainly demand here in New York but it all kind of ties in. Even where you have the so-called legal trade in New York, it's problematic in that that's still a conduit for people to get their hands on stuff and then illegally smuggle it out of the country.

ASSEMBLY MEMBER KAVANAGH: As mentioned in the testimony that New York is a significant point of entry nationally, New York City is the point of entry from a national perspective. To what extent is that intended to sell stuff that is actually going to a consumer in New York versus as a transit point to other parts of the country or as a wholesaler who might be selling
to somebody who's selling elsewhere?

LIEUTENANT FITZPATRICK: I think the U.S. Fish and Wildlife has shown in some of their previous ivory investigations that certainly New York is a transit point. There have been a number of cases that both U.S. Fish and Wildlife Service and DEC have made going back at least to the 90's; where it was documented that the ivory was being smuggled in through JFK let's say.

And some of it is stored here, where it is in turn then taken out by guys who will walk into these shops in Manhattan, walk in with a sack on their shoulder and they'll have wooden handicrafts and carvings like that. But they also will either have ivory or they can get you ivory if you ask for it. So it's supplying the local market. But then a lot of that ivory also is leaving New York City and going to pretty much all over the country. So, I think the answer is "yes" to both.

ASSEMBLY MEMBER KAVANAGH: Okay. I understand it's illegal to sell ivory that is not of the appropriate provenance. It is legal to
possess ivory that is not the appropriate provenance unless you as law enforcement can show that there's an intent to sell. Is it illegal to purchase ivory that does not have the appropriate certification?

LIEUTENANT FITZPATRICK: ECL110535 doesn't have that specific language. I believe like in the federal Lacey Act, it does cover both the sale and the purchase on the receiving state's end. So we don't have that specific language.

ASSEMBLY MEMBER KAVANAGH: Just to be clear, if I go into a store and purchase a piece of ivory that does not have the appropriate provenance, you would arrest both the -- or charge both the purchaser and the seller? Even just a retail, ordinary purchaser who's purchasing it to take it home?

LIEUTENANT FITZPATRICK: We're almost always because of our resources; we're almost always focused just on the seller -- the smugglers and those who are selling it. We haven't to date gone after people; what I've
found is a lot of the shops that are selling this stuff will recover invoices and stuff from search warrants and that will lead us to other shops that are in turn selling it. But we've to date never gone after Joe Citizen who bought a Netzki to put on his mantel place. No, we haven't pursued it to that length because again, I have three investigators to cover all environmental crime in New York City. And so we focus on those who are selling it because we view that as the base problem.

ASSEMBLY MEMBER KAVANAGH: But if we're talking to constituents or advocates on this issue, we can say: "It is illegal to purchase this and you're violating the ECL." Because it seems to me that to the extent you're trying to go after an illegal trade, getting the message out that purchasing this may actually have some potentially embarrassing and problematic consequences with law enforcement; I guess the whole focus of this is preventing demand that is causing problems in the wildlife. It seems like that's something we might want to consider.
finding ways to focus a little more on. Although recognizing that with three folks you're not going to spend a lot of time knocking on people's doors.

ASSEMBLY MEMBER SWEENEY: Do either of those sections talk about buying? They say: "Offer for sale" --

MAJOR FLORENCE: Without having the law right in front of me, I can't visualize that it says buy. If it says: "Sell, offer for sale," I don't know if it necessarily says "buy." I'd have to pull up the --

LIEUTENANT FITZPATRICK: Yeah, it doesn't mention buying or purchasing. But our Endangered Species Law, basically it prohibits the mere possession of raw parts. So like that tusk, that un-carved tusk that was up there previously, that would be illegal for someone to merely possess unless they first apply for a permit from the Department. And if I saw someone walking down the street with it and they don't have a permit, yes, we could take enforcement action. If I see someone walking down the street
and it's one of the carved pieces, I can't do anything about it because it's defined in the law as an article and it's only illegal if you're selling it or possessing it with intent to sell, offering it for sale.

MAJOR FLORENCE: There's no "buy" in there.

ASSEMBLY MEMBER KAVANAGH: But although I'm hearing you say it's infrequent; but you do charge people for the act of purchasing ivory?

LIEUTENANT FITZPATRICK: No. We focus on the sale.

MAJOR FLORENCE: Again, if we pulled up those sections and I apologize, I don't have them right here in front of me; I think they say: "Sale, offer for sale." I don't think the word purchase or buy --

ASSEMBLY MEMBER KAVANAGH: Not purchase. So it may well be that under current law it's not clear that you're violating the law if you're purchasing?

LIEUTENANT FITZPATRICK: Correct. You guys wouldn't by any chance have that section?
ASSEMBLY MEMBER SWEENEY: I have it right here. I do.

LIEUTENANT FITZPATRICK: Okay. Stay with me for a couple seconds here. So it says: "The sale, possession with intent to sell any article made" -- so it doesn't really say "purchase" as we thought. Yeah, purchase is not part of that.

ASSEMBLY MEMBER KAVANAGH: Okay. So if we wanted to strengthen this and get a message out to consumers that you shouldn't be purchasing this stuff and if you do, there might be consequences; we probably ought to consider changing the law to clarify that?

MAJOR FLORENCE: The illegal commercialization section, the penalty section is a kind of a catch-all; and again I'd have to want to read that section too to see if that had in there "purchase," I'm not really sure if it does or not: 710924. That may have "buy" in that section, but I'm not a hundred percent sure either.

LIEUTENANT FITZPATRICK: No. It has language for instance that if it's being
possessed in a retail outlet that's commonly used for the buying and selling of such items; so if we go into a store, a gallery or an antique store and we've done this a number of times. Let's say we do an undercover purchase of ten pieces for $2,000. That gets us the felony. Well, we don't have to necessarily say that every other single piece in the store that we did a transaction or they individually offered it for sale. It's possessed in a store that's commonly used for the buying and selling of that and so all of it gets seized.

But to the level you're talking about, no. Certainly if someone, and just last week for instance, I helped our uniformed officer seize an endangered fish. So we also regulate the live trade. But when it comes to these worked articles, if I see someone walking down the street and they have alligator shoes and a leopard coat on; the way the law's written right now, there's nothing that we can do about it.

ASSEMBLY MEMBER KAVANAGH: Would a sting operation aimed at attempting to get people
offering for sale; I'm just intrigued by this idea that in spite of all our talk about permits and licensing, that you think most of the sales actually are happening outside that process entirely.

So would it be feasible to do an operation that offers for sale in a circumstance that's clearly not proper, no legally proper and go after purchasers? That's obviously not a question about the current law, given that it's murky. The question of whether one would be violating the law by purchasing is murky. But just given your understanding, if I wanted to sell bridges, I probably couldn't set up a sting operation to do that because nobody would believe that they were walking into the bridge store. I don't know, is this stuff sold in more informal channels: Craig's list, internet?

MAJOR FLORENCE: Yes.

LIEUTENANT FITZPATRICK: It's all over. It's all over the internet. There's retail stores. There's people who do it only by word of mouth. Yeah, it's really anywhere you look,
you're going to find it. And I know some of the conservation groups in the past have done studies where they've documented the volume of endangered species, including elephant ivory, that's available on the internet at any given time.

And to answer your question, yes, it's possible. I mean, what we would need or want in law enforcement is we would want some type of evidence indicating that a particular person was doing it. We don't want to just basically, you know, look in the Yellow Pages and say: "Oh, this guy's an appraiser, let's see if we can get him on a sting." But if we had information indicating that to us made it look like he was doing something inappropriate or basically fudging what he was putting down in writing; sure, it's something we could do.

ASSEMBLY MEMBER KAVANAGH: Okay, thank you.

ASSEMBLY MEMBER SWEENEY: One more follow up, if I could? When ivory is found in a container coming into the Port of New York, is that always a federal crime? Or could that be
something that you guys should be involved in charging a crime?

LIEUTENANT FITZPATRICK: New York law does prohibit the import, if you look in 110535. But again, on its face, import in that section, it's only a violation.

ASSEMBLY MEMBER KAVANAGH: That was my question: what the severity of that crime is? So that needs beefing up as well as other provisions?

LIEUTENANT FITZPATRICK: We would pick up the phone and we would probably work the case jointly with U.S. Fish and Wildlife Service. And a lot of times in these cases, we have done some cases where basically the feds will charge them with let's say smuggling and then we'll charge them at the State level with illegal commercialization of wildlife; depending on the facts of the case.

ASSEMBLY MEMBER SWEENEY: Okay. But the penalties for that are not significant at this point?

LIEUTENANT FITZPATRICK: Compared to the
federal level, no.

ASSEMBLY MEMBER SWEENEY: Okay.

Gentleman, thank you very much. We appreciate you being here.

MAJOR FLORENCE: Thank you.

LIEUTENANT FITZPATRICK: Thank you.

ASSEMBLY MEMBER SWEENEY: Next will be Dr. Elizabeth L. Bennett, Vice President, Species Program, Wildlife Conservation Society; and Brian Shapiro, New York State Director, Humane Society of the United States. Welcome.

MS. ELIZABETH L. BENNETT, Ph.D., VICE PRESIDENT, SPECIES PROGRAM, WILDLIFE CONSERVATION SOCIETY: Thank you very much. Good afternoon, my colleagues are putting up some graphs, which the Panel is going to need to see those as well. They're on the testimony. Okay, thank you. Good afternoon. My name's Elizabeth Bennett. And as you've said, I'm Vice President for Species Conservation for the Wildlife Conservation Society. Thank you for holding this Hearing today and thank you for the opportunity to speak to you regarding the plight of African elephants due to
demand for their ivory; and steps that New York State might be able to take to improve their conservation status.

My background is that I've spent 30 years working in wildlife conservation from long-term field research on wildlife and hunting issues in Southeast Asia, working across Africa and Asia, to multiple publications and policy work on global hunting and wildlife trade.

My organization, the Wildlife Conservation Society, saves wildlife in wild places worldwide through science, conservation action, education and inspiring people to value nature. To achieve this mission, we use the power of our global conservation program in more than 60 countries and the world's oceans and in our five New York City-based wildlife parks, including our Bronx Zoo headquarters. And WCS combines its expertise in the field of zoos and aquarium to achieve its conservation mission.

The African elephant is the largest land animal in the world and a critical part of our natural heritage. African elephants also act as
eco systems engineers. They open pathways through the landscape. They maintain mineral-rich clearings on which guerillas and many other species depend. And they maintain the diversity of their plant communities by their browsing and seed dispersal activities. In addition, they're a major tourist draw for many parts of Africa. So they're important for local economies and jobs.

Yet, as we've heard from many earlier on today, they're being killed at a great rate for their ivory. As Chief Woody and Dr. Ruggiero said, all commercial international trade in ivory has been illegal since 1989 under CITES. Elephants are also protected in the U.S. under the Endangered Species Act and the African Elephant Conservation Act. Following the 1989 ban, illegal killing of elephants declined and populations did start to recover, showing that that was very successful for a while.

But in recent years however, illegal killing and trade have increased greatly. The rise in disposable income in East Asia, together with improved economic and transportation links
between Africa and Asia have been implicated in the recent increases in elephant killing and smuggling of ivory; becoming especially pronounced in 2007 onwards.

As you can see from the graphs there, the left hand one: "illegally killed elephants," which I believe you have in front of you as well; that shows the proportion of elephants that are killed illegally. And once it gets above a certain point, we know that that's the real problem. And as you can see it's really taken off after 2007, with the levels today. And the other graph shows the weight of ivory seizures, which again you can see went down after the 1989 ban and have been increasing dramatically ever since.

In 2012, we estimate that some 35,000 African elephants were killed, which is the mass slaughter of elephants in any year since 1989. African forest elephants in particular have been really devastated by poaching. The published paper last year showed 62 percent declines between 2002 and 2011; and as staff have extrapolated up since and we reckon that that
number is now about 76 percent decline of African forest elephants since 2002. At that rate, African forest elephants could effectively be extinct over the next decade.

Large populations of African savanna elephants formerly thought to be relatively secure are now also experiencing alarming declines in some places. The elephant population in Salaam, Tanzania, according to Tanzania's official figures, numbered around 39,000 animals in 2009 and only just over 13,000 by 2013; a loss of 66 percent in four years. As we heard from the Deputy representative from Botswana, there still are some good pockets but they are few and far between now.

As one of the world's most lucrative criminal activities, the illegal wildlife trade ranks fourth globally in terms of value, behind trafficking in drugs, people and arms. Increasing consumer demand for and markets in carved or worked ivory, particularly in Asia, but also other parts of the world, including the U.S., are causing the price to skyrocket and that's what's
driving the illegal killing.

Today's traffickers, as we've heard, are primarily well-organized syndicates. They operate as transnational criminal networks and they often participate in other illegal activities, including trafficking in narcotics, weapons; and as we've heard, some have links to terrorist networks.

And a major challenge to halting the ivory trade and thereby the slaughter of elephants is the lack of effective law enforcement controls along the whole trade chain; from Africa, along the different trade routes, through to the end consumer markets. And the challenge is compounded by the high levels of corruption at many points along the trade chain. Given the involvement of criminal enterprises along that whole trade chain, from elephant range countries to the main ivory consumer countries; corruption allows illegal ivory to be laundered in, looking as potential legal ivory into legal markets.

Opportunities for this exist and are
exploited at all points in the trade chain: paying local officials to turn a blind eye to poaching or trafficking; switching or altering CITES or other permits along the trade chain, so that through fraudulent paperwork something that starts off as illegal becomes legal.

And of the 11 countries in Africa estimated to have populations of elephants of 15,000 animals or more, nine fall in the bottom half of the world's countries based on their corruption levels as assessed by Transparency International; and two in the bottom ten percent. With elephants occurring at 37 range countries across Sub-Saharan Africa, even if some countries do succeed in controlling their domestic trade effectively and without levels of corruption, corrupt leakage into that trade chain from other countries is almost inevitable; especially given that rangers and other law enforcement officers in many countries are paid extremely poorly.

Within that context, legal domestic ivory markets are an enforcement challenge and often serve to provide cover for laundering of
ivory from illegally killed elephants in Africa. CITES only regulates international trade. And it's up to individual countries to control their domestic markets in protected species. As we've been hearing, once ivory is within a country's borders, it's very difficult to distinguish legal from illegal ivory. And the legal market provides an easy front for laundering illegal ivory into the trade.

Amongst many others, Africa's leaders recognize this and several have appealed to the world's consuming nations to work with them to help save their elephants. As part of a Clinton Global Initiative commitment to save Africa's elephants, in September last year, the leaders of 11 African range countries: Botswana, Burkina Faso, Cote d'Ivoire, Gabon, Kenya, Liberia, Malawi, South Sudan, Tanzania, Uganda and Zambia; they all came together and called upon governments around the world to join them in halting the ivory trade by implementing domestic moratoria on all imports, exports and domestic sales and purchases of all elephant ivory and
ivory products. At least until poaching is controlled and elephant populations are no longer threatened by illegal hunting in all regions of the Continent.

Just yesterday the EU parliament responded to this and passed a resolution calling on its member states to implement ivory moratoria. It's nonbinding but it clearly shows intent and we know that certain countries are hoping to follow up on it.

While the largest ivory consumer country is China, the U.S. has significant ivory markets. And within the U.S., research has shown that New York City has the largest market of any major U.S. city. A 2008 study of U.S. ivory trade showed that there were 124 outlets in the City that sold more than 11,000 ivory products. And this was in Manhattan alone, as the study didn't include the City's other boroughs.

The U.S. is one of many countries with a legal domestic market; potentially providing a loophole for laundering illegal ivory into that legal market. U.S. efforts to enforce CITES, the
Endangered Species Act and the African Elephant Conservation Act are undermined by the domestic trade remaining legal. Furthermore, the presence of potentially problematic domestic ivory markets in this country undermines the U.S.'s leadership role in encouraging other countries to take a strong stance to control their own ivory markets and protect elephants.

As the U.S. works with African countries and reaches out to China and other range consumer and transit countries to crack down on the illegal ivory trade, it's important of the U.S. to lead by example. New York State has an opportunity to lead the way during this critical time for Africa's elephants. By establishing a moratorium on the sale of all ivory and ivory products, New York can eliminate the significant enforcement challenge posed by the legal trade. Such a measure, when enacted and enforced, will reduce the amount of illegal ivory being trafficked in the State, help to reduce hunting pressure on elephants; which is the ultimate aim of course.
In addition, we can raise consumer awareness in New York, across the U.S. and beyond; and set a critical example for other states and federal lawmakers, as well as for other countries. Action needs to be taken now if we hope to save African elephant populations across the Continent for future generations.

Thank you.

ASSEMBLY MEMBER SWEENEY: Thank you.

Brian?

MR. BRIAN SHAPIRO, NEW YORK STATE DIRECTOR, THE HUMANE SOCIETY OF THE UNITED STATES: Thank you, Mr. Chairman, and thank you Members of the Committee. It's an honor to be here today and to be joined by my colleague from WCS. My name's Brian Shapiro. I'm the New York State Director for the Humane Society of the United States, the nation's largest animal protection organization with significant membership and support in New York State. I will present edited testimony, as we've heard some fantastic comments pertaining to the facts of the matter at hand.
Elephants are one of the most iconic and beloved wild animals. Yet today, these magnificent animals are being illegally gunned down and poisoned in unprecedented numbers, reaching nearly 100 killed per day and all for their ivory tusks.

It's the demand for ivory that is driving the elephant massacre. Most of the demand for ivory is in China, where the ivory carving tradition dates back to prehistoric times and where it is still legal to buy, carve and sell ivory. But according to the results of the most recent comprehensive ivory market survey, published in 2008 that was alluded to earlier, the United States is the second largest market for ivory. And within the United States, New York City is by far the largest ivory market.

Again, as we heard earlier, the United States' laws and regulations pertaining to ivory or the ivory trade or confusing and riddled with loopholes that are exploited by those involved in the international and domestic ivory trade. This leads to consumer confusion about what is legal.
and what is not legal. And the result is a flourishing, poorly regulated domestic ivory market in the United States. You'll see in my testimony, it refers to various facts pertaining to the Endangered Species Act and CITES, various dates: 1978, 1975, 1990. It's a hindrance to law enforcement and to the average public as well to keep up with the various ins and outs and loopholes.

These laws do not provide comprehensive control of the ivory trade to ensure that ivory offered for sale in the United States is not coming from recently poached elephants. For example, the United States does not register or license all importers, manufacturers, wholesalers and retailers dealing in raw, semi-worked or worked ivory products; does not have recording or inspection procedures to enable appropriate governmental agencies to monitor the flow of ivory within the United States; does not have compulsory trade controls over raw ivory and does not have a comprehensive and demonstrably effective reporting and enforcement system for
the sale of worked ivory.

To summarize, it is legal to import/export and to sell on the United States domestic market certain types of elephant ivory, depending on the age of the ivory, the date the ivory was acquired or imported, and whether the ivory is from Asia or African elephants. These variables are difficult for the public to comprehend and as mentioned earlier, difficult for authorities to implement and enforce.

The difficulty of enforcing these laws cannot be overlooked. Ivory is a term that can refer to the tusks of Asian or African elephants or extinct mammoths dug up from the frozen tundra or the teeth of hippos, walrus, sperm whale, narwhal, warthog or boar. Only experts using expensive special equipment can sometimes tell the difference between Asian and African elephants or between elephant and mammoth tusks. And even then it is not always possible to tell the difference between ivories of these closely related species.

The fact that ivory carvings can be made
from other mammals, including extinct ones that are not regulated by international or domestic laws, offers an easy means for smugglers to circumvent legal requirements by simply claiming elephant ivory carvings to be those of another species.

An example of enforcement problems: U.S. Fish and Wildlife Service seized ivory carvings being imported from Hong Kong. The subject was importing 56 ivory carvings, mainly netsukes, which are small ivory carvings of animals or people, collectibles -- small collectibles, in his baggage and told the wildlife inspector that they were all mammoth ivory and didn't require a permit. He had receipts from Hong Kong shops where he had purchased the items, stating that they were "mammoth tusk carvings."

The carvings were sent to U.S. Fish and Wildlife Service National Fish and Wildlife Forensic Laboratories to be tested. Of the 55 carvings tested, ten were made from ivory, from African or Asian elephants, and those items were seized. While another six carvings were made from
extinct elephant ivory from mammoths or
mastodons. However, the majority of the carvings
could not be determined with the accuracy to be
either elephant ivory or the ivory from mammals.
In fact, 29 of the carvings were made from
"elephant ivory of an indeterminant source."
Furthermore, ten of the carvings were found to be
carvings made from dentine ivory of an
indeterminant source; presumably meaning that it
could not be determined even which type of animal
the ivory originated from.

In one of the most advanced wildlife
forensic laboratories in the world, it was
difficult to distinguish between ivories and thus
between potentially legal or illegal items. And
it's almost impossible to expect that the average
ivory buyer be able to do so. The only logical
conclusion therefore is that the demand for all
ivory items be curbed in order to halt the
increased poaching of elephants.

A 2002 investigation by HSUS of ivory
markets in the U.S. found ivory sellers who
offered to provide fraudulent documents to
investigators and we've heard a lot about this today; indicating that the elephant ivory was from mammoth ivory, that the ivory was old ivory or that the recently imported ivory was imported a long time ago. My written testimony has further details of that and also the 2008 ivory market study.

More recently, the HSUS examined New York's online ivory marketplace in June and July of 2013. Three major retail types for ivory sales on the internet were identified: auction houses, antique shops and antique piano key vendors; that combined offered more than 300 objects for sale. The most common types of ivory offered for sale were sculptures and statues. Objects offered for sale ranged in price from $50 -- U.S. dollars, to over $219,000. From these studies of the ivory market in the United States, it's clear that the market is thriving and illegally acquired ivory is being offered for sale in New York.

We heard earlier about two ivory busts in 2012 and in 2013 in New York. And I'd like to quote New York State Department of Environmental
Conservation Commissioner Joe Martens. He spoke eloquently and to the point in saying that: "As this case and others show, New York City is still a major market in the country for the illegal wildlife trade. New York has zero tolerance for those who would profit from the sale of endangered and threatened species. Many species around the world are teetering on the brink of extinction due to poaching to supply the illegal wildlife trade, especially elephants; and the DEC is committed to stopping the illegal ivory trade in New York."

The DEC's actions are commendable. And it's clear that given the serious threat to the survival of elephants that is posed by the ivory trade and its connection to international terrorism, more must be done. At the federal level, President Obama issued an Executive Order on combating wildlife trafficking in July 2013, that directs all United States federal government departments and agencies to work together to combat wildlife trafficking and established a Presidential Task Force on wildlife trafficking.
However, it's also important that individual states take action because federal laws regarding ivory trade do not regulate in-state sale of ivory. For example, the Endangered Species Act only regulates interstate commerce in listed species. New York State, as a major marketplace for ivory, must take further steps to dramatically curtail ivory trade. And we're very encouraged by the Committee's Hearing today and what we are hearing.

We have some recommendations we'd like to present: New York State should prohibit the possession of ivory with intent to sell. This prohibition should become effective at a set time in the near future, such as six months. Under two, I would ask that the remainder of that recommendation be deleted as upon further examination, we would not like to put anything undue on the enforcing agency. Again, that prohibition should become effective at a time set in the near future.

The prohibition should include all types of ivory because it will be impossible to enforce
the law otherwise, due to the difficulty in
distinguishing elephant ivory from other types of
ivory. The prohibition should remain in effect
indefinitely into the future with no associated
language contemplating an end to the prohibition;
due to the fact that such language will be seen
by some as a reason to stockpile illegally
obtained ivory until the ban is lifted.

In a nutshell, we support a ban. We feel
that having a moratorium, as was mentioned by the
gentleman from Fish and Wildlife Services, would
create an investment type scenario; where people
could be able to horde these and should those
materials ever come back onto the market, would
create a spike in the prices.

The prohibition should exempt ivory
presents with intent to sell for the bona fide
scientific or educational purposes. But sellers
must obtain a permit from the DEC to sell each
ivory item. And such permits should be granted
only if the seller can demonstrate conclusively
that the ivory item in question was legally
obtained. Each item should have a permit that
will convey to the buyer of the ivory and each item should be uniquely and permanently marked and this item should be noted on the permit. No other exemptions on the prohibition should be provided. However, should other exemptions to the prohibition be provided, these should be subjected to the same conditions as the exemption for bona fide scientific or educational purposes.

I would say at the top of the importance for all of these issues -- you save the best for last: The DEC's Division of Law Enforcement must be provided with all the necessary tools for support and funding needed to ensure that investigators have the means to effectively enforce legislation which would regulate the sale of ivory in New York State. We can go forward with regulations. But as Acting Director Florence just mentioned and Lieutenant Fitzpatrick, the Division and the Bureau of Environmental Crimes Investigation, they don't just cover ivory. They cover other environmental issues affecting New York, other crimes, dumping. And if we want to see success in this area, we have to support the
men and women who are in the trenches enforcing these laws.

As I said earlier, we are very pleased to have the opportunity to present this information. The Humane Society of the United States looks forward to assisting in the legislative process. And I also want to mention that this testimony has been endorsed by at 14 various organizations, including the Animal Welfare Institute, Born Free U.S.A., Defenders of Wildlife, and of course our sister organization, Humane Society International.

ASSEMBLY MEMBER SWEENEY: Thank you very much. So as organizations that are involved in this issue, in many areas around the nation, how did New York's laws compare to other states? And are other states contemplating doing something on this issue too, as far as you know?

MR. SHAPIRO: We're seeing HSUS is involved in Hawaii right now. And as I mentioned earlier, we are not seeing an effective response to this due to these loopholes at the federal level. So it is up to states to step up. And we
do want to be able when it comes to ivory to hang
the sign that just says: "Game over" in 2014, not
2024.

So, as far as actions that are being
taken in other states, what I would like to do
because I don't want to give you information that
is half-accurate; we do have excellent
communication with Counsel, with Mr. Liss, and I
would like to follow up with particulars on that.

ASSEMBLY MEMBER SWEENEY: Sure.

MR. SHAPIRO: I do know that Hawaii, we
are working on that effort.

ASSEMBLY MEMBER SWEENEY: Okay. And
other than the federal actions that you cited
that the President has taken on his own
initiative, are you aware of anything that's
coming down the pike from the federal government
that would deal with this issue in any way?

DR. BENNETT: The Obama Anti-Trafficking
Initiative has set up an advisory task force, who
are drawing up a whole list of recommendations,
sort of as we speak. They're supposed to be
reporting very shortly on that. And so there's
certainly lots of discussions on this happening in D.C. at the moment. We have to wait a little bit and see what they actually say.

ASSEMBLY MEMBER SWEENEY: Okay. And I know it's always difficult to predict what might happen in the future. But it's a little uncertain then as to whether the federal government would actually take action, other than issuing a report in the foreseeable future?

DR. BENNETT: It's hard to say. There are people in this room that understand a lot more about the federal government than I do. They don't seem to taking a lot of action on a lot of things very quickly at the moment. So, the African elephant crisis is acute. So, if New York State can show some leadership, then it would potentially pave the way for others to follow.

ASSEMBLY MEMBER SWEENEY: Okay. Please folks, thank you. So let me just ask you and I'm going to play devil's advocate for a moment: How would you respond to those who say that a ban would make existing cultural, historical objects valueless and put New York at a competitive
disadvantage? Because that's always an argument that is put forward. You both know that very well. The economic argument: "You're going to put us at a disadvantage. You're going to lose jobs. We're going to, you know, this, that and the other thing." How would you respond to that?

MR. SHAPIRO: I think that's something that as elected officials you've heard before when this issue has come up. And it's unfortunate that we don't have representatives from the industry here today to make that case, or at least to begin to engage in a dialogue as stakeholders. What the HSUS would say, as we begin to look at this, we have to hear from all stakeholders. We have to have an opportunity for various sides to be heard. But if we are to truly address this in the most effective way, you can balance jobs being lost against lives being lost through terrorism and the link that's been made there.

I was an elected official for 13 years. So this is the kind of thing where you have to balance. And at the end of the day, I think that
the gentleman from U.S. Fish and Wildlife Services made it very clear: We're at a crossroads and we have to do everything possible right now. It doesn't mean that we're not going to be under pressure from those who have an economic interest. But we do have to listen to these stakeholders and have an open dialogue on this process.

ASSEMBLY MEMBER SWEENEY: And in addition, I'm sure you heard testimony of other people and the discussion that we've had with those folks about taking other actions, like increasing penalties. Mr. Kavanagh had some discussion about purchasing and whether the purchaser should face some sort of penalties; the whole issue over appraisals. Are those all things that we should be contemplating also in addition to perhaps a ban, a moratorium?

DR. BENNETT: Yes. I would say, yes. So certainly for the purchasing side, as long as there is a large outreach campaign and it's very clear that people know what the laws are and why they're then; then purchasing should equally be
an offense to selling. Although I fully understand that if agencies are understaffed, that going for the sellers is the more important priority.

ASSEMBLY MEMBER SWEENEY: And just for the record, I think you both made some reference to it. Brian, you certainly did. Should a moratorium include any provision whatsoever for museums or for auction houses or for items that have a very minimal ivory content?

MR. SHAPIRO: We do support the provisions for museums and for educational institutional facilities of that nature; which was one of the points made in the recommendations. But it would have to be for bona fide scientific or educational purposes and you must have a very thorough permitting record. As far as, we've heard a number of times, the Louis XIV chair; I do think that Acting Director Florence spoke very well to that. You can track it. We would come initially from the point of a ban on all items. We are open to, from our point with the HSUS, to engaging in that dialogue and
to hearing all sides and to be able to make
further divisions, once we have all stakeholders
weighing in.

DR. BENNETT: Yes. And from WCS' point
of view, we'd largely agree with that; certainly
for museums, which are largely noncommercial.
Auction houses is somewhat different because it's
commercial. And bearing in mind that the
provenance is very difficult to prove, as we've
heard, and the corrupt nature of the trade before
it hits these shores; that one would be more
problematic because it's a more difficult
loophole to make sure we fill. And it's that
commercial side which is the real big problem.

For something like the ancient chairs or
old pianos whose provenance is known for de
minimus amounts, then again that's a possibility
we'd certainly be very interested in discussing
and pursuing further. Because that is something
that, as we've heard, it's enforceable to a
reasonable extent if the provenance of the whole
item is known and if it's a de minimus amount of
ivory on it.
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ASSEMBLY MEMBER SWEENEY: Okay. Thank you very much.

DR. BENNETT: Thank you very much.

MR. SHAPIRO: Thank you.

ASSEMBLY MEMBER SWEENEY: Next is Dr. George Amato, Director of Sackler Institute of Comparative Genomics, American Museum of Natural History; and Dr. Kevin T. Uno, Postdoctoral Research Scientist, Lamont-Doherty Earth Observatory of Columbia University. Welcome.

MR. GEORGE AMATO, Ph.D., DIRECTOR OF SACKLER INSTITUTE OF COMPARATIVE GENOMICS, AMERICAN MUSEUM OF NATURAL HISTORY: Chairman Sweeney, Members of the Committee, I thank you for the opportunity to testify before you today. My name is George Amato. I am the Director of the Sackler Institute for Comparative Genomics at the American Museum of Natural History and have been the Director for the last eight years. My 25-year professional career is that of an evolutionary biologist with a focus on endangered species. I am here today in my individual capacity as a research scientist and not as a representative of
to talk about the testing I have done on wildlife products and elephant ivory.

As background, my research for the last 25 years has used an evolutionary biology framework and emerging tools and technologies from molecular biology and now genomics. My objective has been to better understand life history traits and threats to endangered species by loss of habitat.

Research has been conducted in many places, including Cuba, St. Vincent in the Grenadines, Madagascar, South Africa, Tanzania, China and Peru. The technology I have used primarily has been based on genetic markers and DNA sequencing. This technology can be applied to all biological samples, including noninvasively collected samples in the wild and to pieces, parts and other wildlife products.

While the focus of this research has been to design effective conservation strategies, it also has provided tools and information for management authorities tasked with enforcing regulations and laws governing the trade in
wildlife and wildlife products. In recent years, grant-funded research has allowed us to provide technical advice and assistance to a variety of management authorities here in the United States. This included training and assistance for the New York Department of Environmental Conservation, the U.S. Food and Drug Administration, the U.S. Centers for Disease Control and Prevention, the U.S. Department of Agriculture, and the U.S. Fish and Wildlife Service. For example, I have provided a week-long training course in recent years for the eight laboratory heads for U.S. Customs and Border Protection.

Recently we have been working with a few seized ivory samples in collaboration with the New York DEC to test new genetic markers that may provide additional information on the animals from which the tusks were obtained. This information includes: species identification, gender, allelic variation, and potentially specific population locations and even individual relationships.
In my work, I believe that the use of DNA technologies can be an enormously effective tool in many issues involved with the wildlife trade. And in this specific circumstance, I believe that genetic markers using ivory samples can tell us a great deal about the animals in the wild. I don't believe that they are necessarily an effective strategy for reducing the illegal trade in ivory. Kevin?

MR. KEVIN T. UNO, Ph.D., POSTDOCTORAL RESEARCH SCIENTIST, LAMONT-DOHERTY EARTH OBSERVATORY OF COLUMBIA UNIVERSITY: Good afternoon. My name is Kevin Uno. I am a postdoctoral research scientist at the Lamont-Doherty Earth Observatory at Columbia University. I'd like to thank the New York State Assembly Standing Committee on Environmental Conservation, in particular, Chairman Sweeney, for the opportunity to contribute to the discussion today on the African elephant crisis, the illegal trade of ivory and a powerful wildlife forensic tool that can help us address these problems.

My research background is in isotope
geochemistry. I use geochemical fingerprints preserved in hard tissues, such as teeth and tusks, to reconstruct the life history of modern and fossil mammals. One of these fingerprints, radiocarbon, can be employed as a forensic tool to date ivory.

The date of death of an elephant determines whether the trade of its ivory is legal or not. International trade of ivory has been banned since 1989. And in many countries, including the United States, trade is only legal for raw tusks from elephants that died before 1989, with some exceptions. Trade regulations related to the age of ivory have been difficult to enforce for several reasons. The primary reason being that until very recently there was no proven way to determine the age of ivory.

In 2013 my colleagues and I published a paper that validated a previously proposed method for radiocarbon-dating ivory. The method is different from the traditional one that relies on radioactive decay. Instead, the method we use relies on the anthropogenic spike of radiocarbon,
known as the "bomb curve," that was produced in the atmosphere by above ground nuclear weapons testing during the early years of the Cold War.

The radiocarbon measurement provides two key pieces of information. First, it can tell you if the ivory is older or younger than 1955, the year significant above ground testing commenced. Second, for ivory that formed between 1955 to present, radiocarbon concentration data can be used to establish the date the ivory formed to within one to three years of accuracy.

The most robust application of this method is the whole tusks, where the date of death can be established. Establishing the date of death from worked ivory, such as jewelry, hankos and figurines, especially small ones, can be ambiguous or impossible for several reasons, which I will describe momentarily.

But before I get into the science of the method, it's useful to go over the anatomy of a tusk, which is in figure one in the package you have or on one of the boards. Tusks are highly modified incisor teeth that grow throughout the
life of an elephant. The tip of the tusk is the oldest part and the base is the youngest. The interior of the base of the tusk is called the pulp cavity, where new ivory is continuously forming. Ivory is made up of a hard tissue, called dentin, which is the same hard tissue that underlies the enamel coating on our teeth.

Ivory stops forming when the elephant dies. Therefore, a radiocarbon date from the base of the tusk yields the year of death. So I show in Figure 1B some dates that my colleagues and I measured a tusk from a zoo elephant that died in 2008. Each green dot on the center line or tusk access represents the time at which that part of the tusk formed. The oldest ivory at the tip of the tusk formed in 1993.

So how does "bomb curve" radiocarbon dating work? Well, many people have heard of radiocarbon dating as a way to date archaeological material such as the Shroud Of Turin or the Dead Sea Scrolls. Unlike the traditional method, which relies on reactive decay; our method simply utilizes the sharp rise
and steady fall in concentration of atmospheric radiocarbon over the last 60 years, known as the "bomb curve." And that's the blue line on the Panel. You guys don't have color figures, but it's Figure 2B.

So the pulse of radiocarbon comes from above ground nuclear weapons testing from the mid 50's to 1963. The testing nearly doubled the radiocarbon concentration in the atmosphere. The steep rise leading up to the peak of the curve in 1963 was due to increased bomb tests as the date of the partial test-ban treaty approached. After the treaty, the radiocarbon concentration in the atmosphere began to decrease, as it was absorbed by oceans and plants in the terrestrial biosphere. As a result, the radiocarbon concentration in the atmosphere has changed significantly from year to year, beginning in 1955. And because of this, each year has a different radiocarbon concentration than the previous year or the next.

Now the reason we can use the radiocarbon concentration in the atmosphere to
date certain animal tissues is because simply:
You are what you eat. Radiocarbon produced by
nuclear blasts in the atmosphere quickly oxidizes
to carbon dioxide. Carbon dioxide is taken up by
plants during photosynthesis. The plants lock in
the radiocarbon concentration of the atmosphere
when they form. Herbivores like elephants then
eat these plants. This is diagramed in Figure 2A.
And the elephants utilize this dietary of carbon
to build their tusks; and in turn, lock in the
radiocarbon concentration of the atmosphere into
their tusks.

In a recent study we published in the
Journal Of The Proceedings Of The National
Academy Of Sciences, my colleagues and I show
that a variety of animal tissues, such as tusk,
teeth, horns and hair, record the radiocarbon
concentration that was in the atmosphere when the
tissue formed. And we did this by taking tissues
that we had in independently known ages for and
measuring the radiocarbon concentrations in them.
And so all the dots that fall on the bomb curve
in Figure 2B show how close we can ascertain the
As you can see from the bomb curve in Figure 2B, the atmospheric radiocarbon concentration continues to decrease each year. In the next ten to 20 years, the concentration will likely return to background levels pre-bomb, making the dating method less effective. Other bomb radionuclides, such as strontium 90, have been tested in ivory and could replace radiocarbon as a means to identify pre and post-bomb ivory.

The most powerful application of the bomb curve dating is on seizures of raw ivory where samples can be taken from the base of multiple tusks to determine dates of death. So in addition to knowing whether trade is legal or not, several other important pieces of information can come from dating whole tusks. First, we can use the date of death to understand how quickly ivory is moving through illegal markets, through the trade network. For example, my colleagues found in another study using radiocarbon that cocaine takes about two years to
get from the fields of South America to the streets of the United States.

Another important question that must be addressed is: Whether all ivory is from recent killings? Large stockpiles of ivory, consisting of hundreds of tons, exist across Africa. And it is conceivable that not all stockpiles are completely secure. If some of the ivory intercepted today is coming from stockpiles, then current poaching figures in conservation strategies must be revised and most importantly, stockpiles must be secure.

Now I'd like to present two examples that illustrate some challenges of securely dating ivory, particularly small pieces of worked ivory. The first challenge is that for each radiocarbon concentration measured, there are two possible dates. So if you look at Figure 2B, and you draw a horizontal line across the bomb curve, which is what the concentration data enables you to do, that line intersects the bomb curve twice; once on the rising side of the curve between 1955 and 1963 and once on the falling side from 1963
to present. Which is the correct date?

To determine the correct date, two additional pieces of information are required. The first is an additional radiocarbon date from that piece of ivory. And the second is the relative position of the two samples along the tusk. That is, one needs to know which sample is relatively older than the other. This is not a problem for whole tusks but can be difficult or impossible to establish in worked ivory, especially small pieces like a netsuke or a hanko, a stamp.

If taking two samples is not feasible, the result is not always entirely inconclusive. If a small piece of worked ivory yields an age of 1963, the peak of the bomb curve, it is very unlikely it came from an elephant killed after 1989. Now as a caveat to this, I show a complicated or problematic case in Figure 3C, using radiocarbon data from an elephant that died in Kenya in 2006. Now I used the same tusk image as in Figure 1, only because I did not have an image of the 2006 tusk. But this does not affect
the results in any way. So this tusk cannot be legally traded because the date of death is 2006.

However, if the illegal tusk were cut into smaller pieces, worked ivory derived from the left side of the red line -- 1989, would yield a pre-ban age. That's the ivory towards the tip. This example highlights the critical difference between the date of an elephant's death and the possible dates that can arrive from the ivory sampled along the tusk. It's the date of death that determines trade legality, currently.

So there is a solution to the uncertainty of the two examples that I have provided. The basic premise would be to move the cutoff age for legal ivory trade from the current date of 1989 or pre-'89 to pre-bomb or pre-1955; such that any ivory with radiocarbon concentration above background level would be illegal to trade. This would greatly simplify the interpretation of the radiocarbon analysis: If it has bomb curve radiocarbon in it, it's illegal.

This idea that I proposed arises from
discussion I've had about the dating method with policy makers. So, two questions I'm frequently asked and you're probably thinking are: How much ivory do you need? And how much does it cost? The amount of ivory required for a single measurement is about 50 mg, which is equivalent to a pinch to salt.

The easiest way to obtain a sample is to drill a small hole at the pulp cavity of a tusk and collect the ivory powder. The pulp cavity again is ideal because the radiocarbon age from that part of the tusk yields a date of death. Once the powder is collected, we need about a week in the lab to prepare the sample for analysis on an accelerator mass spectrometer. Obtaining a radiocarbon date costs about $500. This cost is trivial in comparison to the estimated five to $20 billion illegal market in animal trade, of which a significant portion is ivory. It also pales in comparison to the street value of an entire shipping container full of tusks or the costs of losing the world's elephants, which a keystone species in their eco
However, the cost may be viewed as prohibitive when verifying the age of a $200 bracelet. We are exploring ways to decrease the costs of the analysis but I do not anticipate it dropping below several hundred dollars for the foreseeable future.

It's clear from the mortality data and the sizes of recent ivory seizures that elephants are in serious trouble. Radiocarbon dating is not a silver bullet for saving this species. But it is a powerful tool for assigning a date of death from whole tusks and in some cases for determining whether worked ivory can be legally traded or not. In my professional opinion, a moratorium or ban on the ivory trade is necessary to save the African elephant.

In lieu of a moratorium or ban on all ivory trade, I strongly encourage moving the cutoff year for legal trade from pre-1989 to pre-1955, with a requirement that all ivory must be radiocarbon dated to verify whether or not it has a pre-1955 age, which would allow for sale. This
would eliminate the current uncertainty related to bomb curve radiocarbon dating and establish it as a gold standard test to evaluate whether trade is legal or not. Thank you for you time. And I'd be happy to take questions.

ASSEMBLY MEMBER SWEENEY: Thank you both very much. So, what happens if you don't have a whole tusk? And so you don't have a pulp cavity to test? You were here before. You saw the worked ivory that was brought up.

DR. UNO: Yes, I was thinking about all of them.

ASSEMBLY MEMBER SWEENEY: First of all, can you test them? If somebody offered that and said: "My valuable piece of ivory" — you don't have to cut it up, right? You can test it in such a way; you would drill a pinch of salt and --

DR. UNO: A millimeter diameter hole and remove literally a pinch of salt, so not very much. The hole might be three millimeters deep. And then people can fill that in — not me; but art dealers, people who are experienced with restoration can back fill it. So there is an
issue of defacing. The smaller the object and more intricately carved it is, is difficult. But many of these, such as the one that was to your right, the carved figurehead at the tip of the tusk; that's sort of a floating date. That gives you the age of the ivory, if you date that. But it doesn't tell you the date of the elephant's death from which that tusk came. Okay? But that particular piece has a huge base that it rests on. So you would just flip it over, drill the hole there and nobody would ever know. Right? It doesn't deface the statute itself.

ASSEMBLY MEMBER SWEENEY: Right. As you pointed out, less expensive items are problematic because it could cost more to do the test than the item's worth.

DR. UNO: Yes.

ASSEMBLY MEMBER SWEENEY: So is there some prospect that testing could be done somewhere down the road; is the technology going to improve or change to the point where that is no longer the case?

DR. UNO: That's one of the main
questions I get. And the answer is: I don't think so. I mean, it's a very difficult measurement to make analytically. You basically need a Ph.D. physicist to run the instrument. They cost money. You need lab people to prepare the samples. That costs money. And you have to maintain the instrument and the facility. The instrument would take up this entire room. Okay. So that's why the cost, I don't see it as falling.

Now that is changing a little bit. But I don't think it's changing to the tune of $50 a sample. I shouldn't say never; but I don't see it in the next five to ten years being something that a field agent could take a handheld device and take it into an ivory shop and zap. That would be great. But currently science doesn't allow that.

ASSEMBLY MEMBER SWEENEY: Is it possible with that test or with any other process to distinguish between Asian and African elephants or to distinguish a mammoth or to distinguish other types of non-elephant ivory?

DR. AMATO: DNA testing can allow you to
test for those questions, yes.

ASSEMBLY MEMBER SWEENEY: Okay.

DR. UNO: And could I just add?

ASSEMBLY MEMBER SWEENEY: Yes.

DR. UNO: You can also use -- I also work on the structure and the patterns in tusks. So you can also use histological methods, looking at patterns in the tusks. But it may be more invasive than the DNA methods. I don't know what -- actually George needs to get you an answer.

ASSEMBLY MEMBER SWEENEY: Okay. And how invasive is the DNA method?

DR. AMATO: At this point with next generation sequencing technologies, which are brand new; we would be talking about the same amount of sample approximately that Kevin spoke about for his carbon test.

ASSEMBLY MEMBER SWEENEY: And you sounded pretty confident. Is that pretty much a universal ability to test and distinguish between different types of ivory? Are there exceptions?

DR. AMATO: There's published studies that demonstrate even with last generation
sequencing technologies and with published
genetic information that you can use this for
species testing. There are some published studies
that demonstrate; well, certainly you can tell
the gender. There's some published studies that
demonstrate that you can associate tusks with
certain populations from certain locations. So,
yes. And with next generation sequencing
technologies, there's an enhanced ability to do
that. But again, I think in terms of the
determination about whether that is pre-ban or
pos-ban, of course Kevin's research speaks to
that more directly.

ASSEMBLY MEMBER SWEENEY: Is there
sufficient information about the DNA of elephant
populations existing now to be able to make those
determinations? Or is there still some work that
needs to be done?

DR. AMATO: There's always more work to
be done. We have a pretty accurate understanding
of the genetic structure of elephants across the
planet. And again, I think that the research that
I've discussed could be very important in
understanding what continues to happen with the animals that remain in the wild. But as a forensics tool to control the trade, I'm less certain that it's as effective a tool as DNA testing is for many other wildlife trade issues.

ASSEMBLY MEMBER SWEENEY: Okay. And what is the status of DNA testing for other types, like the rhino horn that we saw or other types of wildlife that may be endangered or threatened species?

DR. AMATO: We've over the last six years published extensively on the use of one DNA technology called DNA bar-coding, specifically as a useful tool for monitoring the trade in what's called bushmeat; so wildlife being traded in that manner. For what I call our bushmeat here, which is sea food, which is wildlife harvested from the ocean that's turned out to be a very, very effective to know whether a piece of fish is from a protected species or not.

We're working currently with management authorities on things like seized meat products from wildlife for use in traditional medicines.
In these cases, it is almost entirely dependent on DNA testing, to be able to accurately identify these things and control the trade. It can be quickly and effectively. So, I distinguish those issues from the ivory trade issues.

ASSEMBLY MEMBER SWEENEY: Okay. And what was the length of time for a DNA test and result?

DR. AMATO: Today, it's hours.

ASSEMBLY MEMBER SWEENEY: Okay. Is it possible through either of those processes, for an ivory cutter to cut the ivory or to work the ivory in such a way that you can't identify the origin?

DR. AMATO: I don't think so. In terms of species, no, I don't think; we would absolutely be able to tell what species it was. But again, it's not a trivial test. But it would be possible.

ASSEMBLY MEMBER SWEENEY: Dr. Uno?

DR. UNO: And for radiocarbon, no, this is a chemical fingerprint that is literally locked in there. So the only way to carve it away
is to get rid of all of it.

ASSEMBLY MEMBER SWEENEY: Okay, great.

Thank you. Mr. Kavanagh?

ASSEMBLY MEMBER KAVANAGH: Thank you. I appreciate the scientific testimony. I'm actually just going to ask one quick question about the implications of switching the date from 1989 to 1955. You've been spending a lot of time thinking about this and testing ivory. Is this something you've discussed with other people in the field or people in the business of trading in ivory legally or otherwise?

DR. UNO: I haven't discussed it with traders. But I've discussed it with policy makers and people that I'm in contact with. I mean, as I mentioned in my conclusions, I support a moratorium and a ban. And it's if that can't happen, if the issues preclude that, this would make the radiocarbon method less uncertain. Because I presented a couple cases where maybe it's difficult to actually say: Okay, is this pre-'89 or not? Or whether it's '78? We can tell you 1978 as well. Whatever it is, whatever the
date you're looking for; we can tell you in most cases but not all. So if you just slide that date back to the first appearance of the elevated radiocarbon signature in these tusks and say: "Okay, if it has that, then it's illegal." Then all of these sort of like: "Well, which side of the bomb curve are you on?" -- that all goes away. So it would just simplify things.

ASSEMBLY MEMBER KAVANAGH: You're saying you get a virtually certain determination it's pre or post --

DR. UNO: It's not virtually certain. It's certain.

ASSEMBLY MEMBER KAVANAGH: A certain determination that it's pre-1955?

DR. UNO: Yes.

ASSEMBLY MEMBER KAVANAGH: I'm just trying to understand and you may not be able to speak to this. But just what would be the implications in terms of what additional items might we capture? You know, people make the case that stuff that is very old or historic ought to be and to the extent we're going to as
legislators be pressured to exempt certain things and I think even some of our wildlife conservation folks before talked about at least being open to discussing certain things that might be worth considering exempting. I'm just wondering: Is that a conversation you had about what additional things you would capture in a ban if you went back to 1955?

DR. UNO: No, it was more thought up to make the actual test as conclusive as possible. Okay. So there's a concession, you actually roll back or you're pushing back the date at which legally ivory can be traded. You're saying: Okay, this older stuff actually can't be traded any more. So that's going to upset dealers, auction houses and things.

ASSEMBLY MEMBER KAVANAGH: I have doubt.

DR. UNO: That's why we came up with idea is wanted to make the test as conclusive as possible. As soon as you get in past that, which was the objective of what we were doing, you run into problems with policy, problems with enforcement and that's not something that I'm
comfortable speaking to. But there are many problems, as we've all heard today through the previous speakers. So it becomes complicated very quickly.

ASSEMBLY MEMBER KAVANAGH: Good. Okay, thank you.

ASSEMBLY MEMBER SWEENEY: Mr. Otis?

ASSEMBLY MEMBER OTIS: Not really a question. But Uno, I want to compliment you on the science that you've brought to this and maybe there'll be an app for this in a few years and make it easy for everybody on the enforcement level. But this is sort of a question I asked a few hours ago.

DR. UNO: That I was dying to answer at that time.

ASSEMBLY MEMBER OTIS: So glad you're here, but thank you for your great work.

DR. UNO: You're welcome.

ASSEMBLY MEMBER SWEENEY: Thank you very much. Next is Elly Pepper, Policy Advocate; and Richard Schrader, New York Legislative Director, Natural Resources Defense Council; and Catherine
MR. RICHARD SCHRADER, NEW YORK

LEGISLATIVE DIRECTOR, NATURAL RESOURCES DEFENSE COUNCIL: I'll start because I have the least to say. I'm Richard Schrader and I am the Political Legislative Director for Natural Resources Defense Council, New York. NRDC's a national organization in New York. We have 200,000 members and we work on a whole variety of issues regarding environmental protection and public health. I'm going to make some very brief comments and then turn it over to my colleague Elly Pepper, who's here, an attorney from our Washington office that does significant work on endangered species.

Two very quick thoughts: One is, thank you for having the Hearing. Clearly, what's happening in terms of illegal ivory and elephant poaching is an economic and environmental crisis of great, great moral consequence. NRDC institutionally and I personally care a great deal about this and look forward to working with
the Legislature as well as DEC and law enforcement and other stakeholders and other environmental groups to craft as strong a deterrent legislatively as we can that has broad public to make it law. So, we look forward to working with you. And again, thank you for taking leadership on this, Chairman Sweeney.

Two points. Whichever direction the legislation might go, whether it's a ban, a moratorium, etc.; clearly from everything we've heard today and from everything we know and understanding this issue, the issues of public education and the issues in terms of broader, expansive more robust law enforcement are critical. Clearly, it's the illegal trade that is driving so much of the terrible consequences of this.

It's also clear that public education will play a very crucial role, as it has in other endangered species campaigns and programs. If we can get a public education program where a broader public understands this, like we have say with whaling and other endangered species issues;
that provides us both with a cultural as well as a broader political mandate to do the kind of work we're going to have to do on this.

We see a change and we've seen it in terms of whaling and the kinds of issues that have become stronger for us to be able to embrace. Another issue is of course hydrofracking, in terms of public opposition to that has really changed the canvas and changed the landscape of how people look at that technology. So public education is absolutely crucial. It may not change the way that wealthy wrongdoers will commit crime. But it will create circumstances that politically make it tougher for them to continue to do so.

Secondly, in terms of the issues of law enforcement and prosecution; again, just a few thoughts. One, necessary in my mind because of the lack of resources at DEC, who do great work and who we work with on 20 different issues; necessary to have a capacity on DEC's part, both to be able to broaden by resources more of their enforcement capabilities. But at the same time to
work closely and coordinate closely with law enforcement agencies.

And not just the federal agencies but other agencies that may not have a particular mandate or mission right now but who by their own mission and by their own culture are involved in inspectorial and investigative work in New York City, like the Department of Consumer Affairs or the Department of Finance; which go and have regular inspections of stores and businesses as a matter of fact. If they pick up intelligence or information, they could be very, very helpful and in some ways maybe crucial as far as sharing that with DEC or with the federal law enforcement agencies.

One way towards getting DEC's resources more expanded in a very difficult, tough budget situation and climate might be to at least in the next year have a renewed Police Academy, which is always a good first step to see the expansion of the DEC law enforcement staff and resource. So thank you. I'm going to hand it over now to Elly Pepper from NRDC.
MS. ELLY PEPPER, POLICY ADVOCATE,

NATURAL RESOURCES DEFENSE COUNCIL: Hi. Thanks for that intro. I'm not going to touch on the issues that Rich talked about. But I just wanted to say that we, NRDC has over 200,000 members and activists in New York State. And thank you very much for the opportunity to be here.

I saw elephants for the first time in the wild last year and it's incredible. Species extinctions are increasing worldwide. The International Union For The Conservation Of Nature has identified more than 20,000 species of animals and plants as threatened with extinction in the wild. If all these species are lost this century and that rate of extinction continues, we'll be on track to lose more than 75 percent of our species in as little as three centuries. Which might seem like a long time; but geologically, not so long. It would qualify as the sixth mass extinction in the past 540 years, with the last one being dinosaurs.

And New York State has its share of endangered species problems. It has I think 145
species on its State list, as listed as endangered, threatened or of special concern. So like other states, it's experiencing drastic declines.

The international trade in wildlife is a powerful political and economic force that has driven many species to the brink of extinction and some to disappear forever. The rarer a species gets, the more people desire them; due to the economic and psychological values they attach to rarity. This is particularly true for species like elephants, whose parts are viewed as luxury items since the whole point of acquiring them is prestige and status.

And while the general public seems to be aware of the huge role Chinese demand for elephant ivory plays in elephant poaching, many don't realize that U.S. is such a big contributor, as the second largest retail market and that New York is one of the epicenters. As previously mentioned, New York law prohibits the sale of raw-worked ivory unless the seller has been given a license by DEC and the ivory is pre-
Act. And to receive a license, a seller must fill out an application, specifying among other things the date on which they acquired the ivory and must submit documentation verifying this, which is usually a letter from an appraiser.

While this law might appear stringent on its face, it allows illegal ivory to market, which others have mentioned as creating a parallel illegal market in three main ways: First, because it's difficult to determine whether an ivory item is pre-Act; sellers fabricate details on their license applications to disguise the ivory when it's actually from a recently killed elephant. And the effect of the documentation requirement on this practice seems minimal. There's no written policy regarding the qualifications of the appraisers, I think as mentioned, or the process they go through. So it's questionable whether many are doing more than just rubberstamping the sellers list of items. Second, since it's hard to determine whether the ivory is from an elephant or something legal like a mammoth, sellers claim
they're from other species. And third, there's a lot of unsanctioned sellers.

Given the fact that New York's legal market for ivory is facilitating an illegal market, the ideal solution would be a ban on all types of ivory in New York State, perhaps with some sort of limited exception for antiques made of a de minimus amount of ivory, such as mentioned by Officer Florence -- the Louse XIV chair kind of example.

However, since any exception is going to provide room for mischief, I think the appraisal process needs to be thought through and qualification requirements and other requirements might be put in place. In the absence of a ban, a multi-year moratorium on ivory sales might be an option.

As Rich mentioned, DEC has done a great job cracking down on larger illegal sellers. But they need more resources. They simply can't do the job at hand with the amount of sellers on the streets. And we believe that the Legislature should increase the penalties with ivory being
sold for $1,800 per kilogram. The fact that there's no way to differentiate between the penalty for illegal ivory sales of $1,500 and illegal ivory sales of $100,000; I think is a problem.

Unfortunately, few other states have enacted legislation that's very stringent on ivory; which gives you all an opportunity to be the first -- or second. California has some very strict laws. They're the strictest laws in the country. They prohibit the importation, possession with intent to sell and sale, regardless of age or date. However, despite this strict law, they do not seem to have enforced it very well. It doesn't seem to be a priority for California's Department of Fish and Wildlife. And I'm looking to get some more information on that. But it seems that they're basically enforcing federal law. Thank you. And I look forward to answering any questions.

ASSEMBLY MEMBER SWEENEY: Thank you.

MS. CATHERINE MACHALABA, PROGRAM COORDINATOR FOR HEALTH AND POLICY, ECOHEALTH
ALLIANCE: Good afternoon. My name is Catherine Machalaba and I am the Program Coordinator for Health and Policy, representing EcoHealth Alliance. EcoHealth Alliance is an international scientific nonprofit organization, dedicated to the protection of biodiversity and health.

EcoHealth Alliance's staff has over 100 cumulative years of experience working to reduce the negative impacts of the illegal wildlife trade. Working globally and based in New York, EcoHealth Alliance appreciates the Committee's efforts to improve the State's laws protecting endangered species and restricting the sale of elephant ivory. Our team has worked directly with the care and protection of elephants in Africa and Asia for decades and has witnessed the devastating impact of elephant poaching for ivory.

The illegal wildlife trade is a major driver of biodiversity loss, leading to population declines and potential extinctions of species. Elephant populations have been especially impacted by the global demand for
ivory. In addition to direct losses in populations, changes in species numbers can have profound effects on ecosystem dynamics that affect the resources and quality of life for all living creatures, including people.

The global illegal wildlife trade is the fourth largest illicit trade activity after narcotics, human trafficking and counterfeit merchandise. EcoHealth Alliance has shown that the high value of rare species maintains trade pressures and explains why the illegal trade, even at low volumes, is identified as a major threat to a large percentage of threatened and endangered species, including elephants hunted for their ivory. This highly lucrative, often undetected trade activity, similar to other forms of organized crime, will continue with effective enforcement and adequate penalties.

A recent global survey of national governments conducted by the consultancy firm, Dalberg, indicated the need for higher penalties against illegal wildlife trade perpetrators. Unfortunately, the limited fine structure and
constraints on enforcement agencies have allowed
for perpetuation of illegal wildlife trade
activity in New York State.

We are grateful for the Department of
Environmental Conservation's enforcement efforts
to curb the illegal wildlife trade in New York.
New York City is the main port of entry in the
U.S. for the wildlife trade and has a strong
underground market, including trade of elephant
ivory; with one ton of elephant ivory seized in
New York City in just one state level
investigation alone in 2012.

Although New York has State laws
regarding wildlife trade crimes, they fall short
in deterring criminals from illicit activity as
the relatively small fines compared to other
organized crimes are often viewed as merely the
cost of doing business. Fines issued for wildlife
trade crimes in the State have ranged from
hundreds of dollars to tens of thousands of
dollars. However, this pales in comparison to the
value of ivory.

For example, last year one investigation
alone seized more than $2 million worth of illegal ivory. The maximum level of offense for a wildlife trade crime in this State is a Class E felony. And these charges are often lowered to a misdemeanor. Although there are provisions in the law for jail time, those convicted of wildlife crimes in New York State almost never receive jail time. Until the penalty structure for illegal wildlife trade fits the scale of the crime, existing fines must be fully enacted and significantly enhanced to curb as much illicit activity as possible and give this criminal activity the attention it deserves.

Innovative approaches are needed to address these challenges. Solutions must be implemented at both source and destination sites to tackle the global ivory market chain. Legal ivory markets can serve as a cover for illegal ivory trade. And the legal trade fosters the growing demand for ivory, which is not sustainable and is leading to a dramatic decline in the number of elephants on earth. Some nations have enacted bans against the sale of ivory. And
New York now has the opportunity to set a precedent in the U.S. to implement effective laws for combating the illegal ivory trade.

There is an urgent need to reduce the opportunities for the legal trade to mask the sale of illegal ivory. Current New York law forbids the law of any endangered species or product thereof unless a permit or license is granted by the Department of Environmental Conservation.

EcoHealth Alliance calls for three simple steps for New York to help save elephants from extinction. First, we request significantly higher felony charges and penalty structures to deter participation in illegal ivory trade. Second, we urge the State to support enhanced law enforcement capacity and efforts to eliminate the illegal trade in our State and help reduce the flow of illegal ivory from New York to other parts of the U.S., as well as to other countries. Third, we request that the Department of Environmental Conservation utilize the authority under the existing State law to no longer issue
licenses or permits for the sale of elephant ivory; either permanently or for a moratorium period of at least ten years. We hope the Committee will lead New York and the rest of the world in this charge. Thank you.

ASSEMBLY MEMBER SWEENEY: Thank you very much. So, if we were looking for a model, California law is good? The problem is just that it's not enforced?

MS. PEPPER: Yes, I think that's fair to say. I mean, their law is very strict. As I said, it prohibits importation, possession with intent to sell and sale. It is California. So they do have the strongest wildlife laws in the country overall, not just for ivory. However, you know, the law is one thing and I think the enforcement is quite another. I would encourage New York to restrict its law. But if you're not going to increase enforcement capacity, I'm not sure how much of a difference it's going to make. So I think it has to be a multipronged approach.

ASSEMBLY MEMBER SWEENEY: Okay. Do you know if the California law deals at all with
purchasers, penalties for purchasers?

MS. PEPPER: I don't specifically. But I can look into that and get back to you.

ASSEMBLY MEMBER SWEENEY: Yeah, that would be helpful to know. Do they make any exceptions at all, such as for museums or auction houses for example?

MS. PEPPER: I'm not sure about museums. But the law would not make an exemption for auction houses. However, auctions do seem to occur quite regularly in California, despite the fact that it's illegal. There was an enforcement action a couple years ago, where it appears that Fish and Wildlife Service deputized California Fish and Game to seize $150,000 worth of ivory, I think; and it ended up not being illegal ivory. And after that seizure, a lot of auction houses pulled their stock just because they were scared that California was actually going to begin enforcing this law. But overall, I haven't seen any proof of enforcement. If anyone has more information on that, I'd love it. But I'm still looking into it.
ASSEMBLY MEMBER SWEENEY: What you're describing is fairly blatant. I mean, it wouldn't take a lot of research to ferret that one out. So, is that just a lack of desire as opposed to a lack of budget funding for enforcement resources? Or do you know what the issue is there?

MS. PEPPER: Well, I think part of it is lack of resources. Like most other states, I think they're struggling with the scale of the wildlife trade. San Francisco is like New York, a huge market in the U.S. and like Hawaii. And I'm not sure about the desire. I've seen statements from officers just saying that it's not a priority. And so I think lack of resources is part of it and I'm not quite sure what the rest of it is.

ASSEMBLY MEMBER SWEENEY: Do they have a ban or a moratorium? Is it a fixed time or is it permanent?

MS. PEPPER: It's permanent.

ASSEMBLY MEMBER SWEENEY: Okay. The resources end of things, you know, we advocate but I just, given the experience of the past two
years, I'm not overly optimistic that the budget we'll be given next week is going to reflect significant new resources there for DEC. I wish it would and we'll continue to work for that. But just across the board, I mean, they're deficient. They're deficient in resources for many, many areas of enforcement, not just this. And that's something we'll continue to work on and try and enlist the support of the Governor and others who are key to making those decisions.

MR. SCHRADER: If I could just make one more comment in terms of the resource problems? And you know as well as all of us, we're worked together on this for so many years. There's been a long-term decline in DEC funding and resources across the board. And we see it in clean air and clean water and endangered species enforcement generally. So, I would get back to where we can make up the gap in terms of, we're not going to get the money: How do we do something creative? And one of it, as I mentioned, is coordination with other agencies; especially those agencies in the City where the problem seems to be, who do a
great of work in Manhattan and go out and do these inspections anyway.

And then secondly, there may be an opportunity here to be creative and look at other institutional players, like the ASPCA or other organizations like that, some of which have been given law enforcement authority by the State; but in this instance may not need that but at least be there in terms of gathering intelligence and being able to provide information to the existing DEC and federal law enforcement agents. I think that's an important piece.

And good leadership coming from the Legislature, as well as leadership from the Executive Office could help create some of that; at least get the dialogue going. And I think a Police Academy, which is a much bigger issue, that at least can get the beginnings of a discussion in terms of expanding DEC’s specific law enforcement personnel.

ASSEMBLY MEMBER SWEENEY: Yeah, and I don't know what opportunities there might be to provide some resources there. I probably
shouldn't even be saying this but I don't know if it's possible to, if there were fines levied, if you can require that a portion of those fines go back into enforcement? I don't know if that's something that we can do or should be? But maybe that's a possibility. I don't know.

MR. SCHRADER: The City does it.

ASSEMBLY MEMBER SWEENEY: But I think certainly having a law that is in many respects simpler and more straight forward and easier to enforce makes a huge difference, even if the level of the resource isn't there. They certainly described what I thought was a very difficult situation that they're in now -- the DEC, and even Fish and Wildlife to some extent, in terms of their ability to enforce a law that is to a large extent unworkable the way it is right now.

MS. MACHALABA: And I'd just like to reiterate on that point. Because there is such limited enforcement capacity because of resources and the low fines, this trade is really seen as low risk. You know, I mentioned the cost of doing business and it's a really a wide perception that
this is a low risk illicit activity.

ASSEMBLY MEMBER SWEENEY: Sure. If there's big money to be made and not much chance of getting caught, there's lots of people out there who are trying to and take advantage of it, no matter what it is. Mr. Kavanagh?

ASSEMBLY MEMBER KAVANAGH: The Chair asked about other jurisdictions within the United States and California at least on the books is exemplary. Are there other jurisdictions in other countries that have bans or restrictions that are in effect?

MS. MACHALABA: So, Thailand has just pledged to eliminate the domestic trade. They're going to put a ban on. Cote d'Ivoire has had one historically and they recently reaffirmed that commitment. Botswana, Kenya and I think a series of other countries were mentioned earlier. So it's not unprecedented. Other countries are leading this and it's a good model for New York to be involved as well.

ASSEMBLY MEMBER KAVANAGH: Well, the Nation of New York should step up.
MS. MACHALABA: Well, at our local capacities and federally as well. But we can have a role here locally and in the global and local trade.

ASSEMBLY MEMBER KAVANAGH: And I'm from New York City, which we often consider ourselves a sub-nation with the nation of New York. Are there localities in the United States that have looked into this or have enacted restrictions on sale or on purchase?

MS. MACHALABA: To the best of my knowledge, I don't think so. I think New York also is in a unique position because we do have such a high volume. We are -- I know it was mentioned earlier, a corridor in the global trade and potentially a conduit for trade outside of the U.S. and also into the U.S. So, I think we also have a unique position in the global trade that maybe some other parts of the U.S., you know, they may not have the same concern.

ASSEMBLY MEMBER KAVANAGH: And we've talked a bit about the need for sort of public education and public relations around this. Are
there good examples of public relations campaigns
going directly to the public to kind of -- I know
some of the organizations we've heard from today
have some; but sort of public relations campaigns
that you think make the case to potential
consumers, particularly wealthy, that we should
look at?

MS. MACHALABA: I think the recent ivory
crush, you know, and this has happened in several
countries now and it's a really strong message to
the public. And it shows: Wow, we have a problem
here. But I do think that there's really an
underlying issue, where a consumer will go into a
store in Manhattan and see ivory blatantly
displayed in the window. And the consumer has no
consideration, no way to know that this could
potentially be illegal merchandise or the premise
for obtaining this ivory. So, I think there is a
major deficit even on the consumer side, consumer
information. And it makes it all the more
important for the sellers to really have a role
in not contributing to the illegal trade.

ASSEMBLY MEMBER KAVANAGH: And from your
perspective in this field, this is not a case
where people just look; they know it's illegal to
be purchasing it and they're just looking the
other way? You think it's part just if the
message could be gotten out there about the
implications of this, the effect of it in animal
populations and that you might be able to
persuade buyers to think twice before purchasing
it?

MS. MACHALABA: Well, I think someone
mentioned earlier the 90 percent of people that
may know; they may have a very strong
understanding that this is not right, you know,
that this is linked to a larger problem. But I
think in some cases it's just lack of awareness.
You think: "Okay, if it's being sold, it's
legitimate ivory. It was before the bans were
enacted." And I don't think there is that
connection to: "Wow, I'm part of the global trade
and this is what the major impacts are and we may
not have elephants in a few decades from now in
the wild."

ASSEMBLY MEMBER KAVANAGH: Okay, thank
ASSEMBLY MEMBER SWEENEY: Mr. Otis?

ASSEMBLY MEMBER OTIS: I mean, I think the connection, the public education connection is whether it's pre-ban or post-ban. You're contributing to the supply and demand market, that is contributing to all the bad things that are associated with this trade. And so for your not-for-profits and the other not-for-profits, the advocacy entities, groups that were here earlier; one of the messaging components is to communicate that this is part of a fabric of evil that we need to do something about.

MS. MACHALABA: Absolutely. And you know, I think we all feel that we need a very multipronged approach. It has to be very innovative, collaborative. This is a massive global problem and it's not going to be solved overnight. We appreciate the efforts in New York State to really tackle this. I mean, it's a very complicated issue that we've seen over the past decades. And it's just all the more critical now because of the declines that we're seeing and
it's really unprecedented rates of declines. So, I appreciate your interest in making the laws stronger in the State.

MS. PEPPER: And I think DEC also mentioned that they're seeing buyers come in from China to take the ivory back. And I know a lot of the groups who are here are doing public education efforts there as well, which is really important to New York.

ASSEMBLY MEMBER SWEENEY: Thank you very much.

MR. SCHRADER: Thank you.

MS. PEPPER: Thank you.

MS. MACHALABA: Thank you.

ASSEMBLY MEMBER SWEENEY: Next is Cynthia Harcher, Environmental Conservation Investigator, Police Benevolent Association of New York State.

MS. CYNTHIA HARCHER, ENVIRONMENTAL CONSERVATION INVESTIGATOR, POLICE BENEVOLENT ASSOCIATION OF NYS INC.: Good afternoon.

ASSEMBLY MEMBER SWEENEY: Cynthia, welcome, good afternoon.
MS. HARCHER: Assemblyman Sweeney and other Members of the Panel, I thank you for the opportunity to speak to you today. My name is Cynthia Harcher. I am a 26-year police veteran with the New York State Department of Environmental Conservation's Division of Law Enforcement. I spent 20 of those years as a uniformed environmental officer and the last six as an investigator. I'm here today representing my Union, the Police Benevolent Association of New York State. All my comments today are in the capacity with the approval of the Union leadership. And I wish to make it clear I am not speaking in my capacity as a employee of the Department of Environmental Conservation or the State of New York.

There are many parts of my job that I'm very compassionate about. And investigating and arresting those involved in the illegal ivory trade certainly qualifies at the top of that list. In 2012, I was involved in a search warrant here in New York City, along with Lieutenant Fitzpatrick, where we inventoried ivory jewelry
pieces for over 12 hours. It was disgusting to imagine how many elephants were killed to fulfill the illegal market for ivory: carved elephant tusks, hundreds of bracelets, thousands of small charms and pendants piled into boxes and drawers, strewn throughout a small jewelry wholesaler in the middle of Manhattan.

Our investigation discovery of evidence, including recent receipts proved that there continues to be a market for the illegal elephant ivory in New York State. It's not just the ivory that's being traded. Other parts of these beautiful animals are being sold, as well as like matching elephant footstools I recently seized, with a value between $1,750 and $3,500. The criminal involved in these trades have no respect for the law. They have no respect for endangered species and it's all about money. And as you know, these illegal distributors make a lot of it.

I'm very encouraged by this Hearing and I applaud you, Assemblyman Sweeney, the other Members of the Panel and the legislative staff.
that will endeavor to strengthen the laws and take other steps to ultimately stop the senseless slaughter of elephants.

I see many difficulties in accomplishing the protection of endangered species. The mere possession is not a crime but simply a violation of law with a fine of zero to 250. A person would have more problem if they received a traffic ticket than an arrest for an ivory possession offense. The minimal illegal commercialization fines are the cost of doing business for some. Local prosecutors are not always receptive to prosecuting these cases. These investigators are usually lengthy and their cases are added to an already large caseload that most of the investigators carry.

New York State has one of the largest markets for ivory in the United States. Environmental Conservation officers, New York police officers at the State and local level that have the training, jurisdiction experience to conduct investigations and make arrests in the illegal trafficking of ivory; we are spread thin
and investigate a large number of different environmental crimes other than ivory sales.

Early in my career in 1990 and '91, I filled a position in Region Three, which is in the Hudson Valley. As an endangered species officer, this was funded by Return A Gift To Wildlife. There were also two such positions, as well as a lieutenant's position in Region Two here in New York City then. However, I'm sorry to say there are no such positions today.

We do commend Governor Andrew Cuomo and Commissioner Joseph Martens for their support of the Division of Environmental Conservation Law Enforcement and the funding for the first DEC Police Academy in five years. The Academy graduated last year and the new officers have been a welcome addition to the depleted force. Both downstate and upstate regions remain understaffed. The PBA has had promising discussions with the agencies about the future Academies, but nothing has been confirmed. And it takes over a year to hire and train new officers. Meanwhile, attrition continues to take its toll.
Let me make it clear. Without aggressive enforcement, the ivory sales will continue unabated. And without a fully staffed division of law enforcement, there cannot be sustained aggressive enforcement. Even if a new law was put on the books tomorrow banning the sale of all ivory in the State, no exceptions allowed; the Department would still face the daunting task of finding a way to apprehend all those involved in the illegal trade in New York State. Unless and until the changes, we will be fighting an uphill battle.

The only way to stem this trade is more restrictive laws, higher fines, along with consistent enforcement and prosecution. I'm encouraging the Governor and the Legislature to take all steps possible to fully staff the DEC's Division of Law Enforcement; so we can properly investigate these crimes and put the criminals who are ultimately responsible for the continued slaughtering of elephants and other endangered species behind bars. Thank you for the honor of speaking and I'd be happy to take any questions.
ASSEMBLY MEMBER SWEENEY: Well, thank you very much. Thank you for taking the time to be here today. Since you have experience in the field, maybe you can take us a little bit through the process of uncovering illegal ivory activity or trafficking in any endangered species? What's involved? What do you do?

MS. HARCHER: We typically get complaints through the public or other agencies and act on them. Occasionally, we're able to find them on our own but more often it's through complaints from our other agencies that we work with.

ASSEMBLY MEMBER SWEENEY: So someone may call and give you a tip and say: Such and such is happening, and then you go and check that out.

MS. HARCHER: That's correct.

ASSEMBLY MEMBER SWEENEY: And that's generally the way that you discover these things?

MS. HARCHER: Yes, sir.

ASSEMBLY MEMBER SWEENEY: And if you had more resources, that would allow you to do what in terms of uncovering? Instead of just depending
on tips, you'd have the ability to be more proactive?

MS. HARCHER: We could be proactive. We would be able to actually allot a particular amount of time to doing that. As I said, back in 1990 and '92, we actually had specific positions pinpointed for that exact reason; not specifically ivory, but endangered species, which the ivory and elephants would be included in that.

ASSEMBLY MEMBER SWEENEY: Return A Gift To Wildlife still exists. Do you know if that money isn't going for that purpose, do you know where it is going now?

MS. HARCHER: I have no idea.

ASSEMBLY MEMBER SWEENEY: What has happened over the last few years; I know DEC as an agency has experienced significant cuts and what I would see as disproportionate cuts by comparison to other agencies. But in your Division, what's happened there in terms of number of personnel?

MS. HARCHER: We are quite short. If I
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just may use my region? Again, I'm in Region
Three, the Hudson Valley. As far as
investigators, we have three investigators per
region and one lieutenant. We are down one
investigator, one lieutenant. And as far as
uniformed officers, there's approximately 28 and
we are down four. And we just graduated an
Academy, just this past year; so, just in that
region.

ASSEMBLY MEMBER SWEENEY:  Okay. So, in
legislation, if we increased penalties? Do you
have any experience with the application process
on permits?

MS. HARCHER:  I do not.

ASSEMBLY MEMBER SWEENEY:  Okay. The
things that we have talked about: increased
penalties, looking at purchasers, some sort of
standards for appraisals; these are all things
that would be helpful? Not as helpful as more
enforcement personnel, but helpful?

MS. HARCHER:  Some of the things I heard
today I thought would be very helpful, yes.

ASSEMBLY MEMBER SWEENEY:  Okay. Thank
you so much for being here today.

    MS. HARCHER: Thank you. Next is Jen Samuel, Founder, Elephants DC.

    MS. JEN SAMUEL, FOUNDER, ELEPHANTS DC:

    Hi. How are you this afternoon?

    ASSEMBLY MEMBER SWEENEY: Welcome. Good thanks.

    MS. SAMUEL: I have some prepared statement I would like to read and I shall be begin: "The unspoken truth." My name is Jen Samuel and I represent Elephants DC. We are part of the People's Movement For Elephants, calling for a complete ivory ban in 2014. Thank you Members of the New York State Assembly Standing Committee On Environmental Conservation for holding this historic public Hearing on ivory restrictions. Thank you.

    The unspoken truth is that the ivory trade serves no legitimate purpose that justifies sanctioning the torture and suffering of endangered elephants until their extinction. African forest elephants are critically endangered, as mentioned here today. Poachers,
smugglers and buyers are responsible for this wave of extinction. The ivory trade brutally executes elephants and has done so in the hundreds of thousands within our lifetimes.

The unspoken truth is that the continued inaction by the United States to ban the ivory trade is equivalent to sanctioning the fact that approximately 15 elephants have been killed since this Hearing began today. Proponents of the ivory trade justify the slaughtering of elephants in the name of beauty: ivory. The unspoken truth is proponents use beauty as a diversion to hide behind the fact that the ivory trade not only kills en masse but fails to serve the greater good of this planet. It also sanctions and funds terrorism.

The unspoken truth is ivory in all forms, raw and carved, is rooted in death. Elephants, like humans, are a species which like us mourn their dead and cry with salt tears like our own. The unspoken truth is ivory in all forms should be outlawed. The unspoken truth is that the protections embodied in the Endangered
Species Act constitute empty promises to
dangerous species unless the United States takes
action. This can happen with leadership in places
like New York. And I've been so impressed with
your questions today to the witnesses.

Elephants DC encourages this body to
support a complete ban of the ivory trade in this
great State, due to the poaching crisis pushing
elephants to extinction across Africa at a rate
of approximately 96 per day. On behalf of the
People's Movement For Elephants, which is a
global movement -- I myself took the Amtrak from
Delaware today; I am honored to share with you
all that we are working on, proposed legislation
to end the ivory trade in the United States of
America. We know that federal law takes precedent
over state law. And while we encourage New York
State and New York State leaders to declare an
outright ban on ivory here, we also would like
you to know we are fighting to bring this just
cause to the top of the Congressional agenda. It
is a bipartisan issue. And who doesn't want to
save elephants while protecting national
We are presently seeking our Congressional champions -- you know who you are, to back this complete ban, this federal ban; which is called "The Protect Elephants From Extinction Act." And here's an excerpt: "Pursuant to the Endangered Species Act of 1973, the United States of America shall enforce a permanent ban on domestic and foreign ivory trade, including raw tusks of African and Asian elephants, as well as craved ivory products."

Our draft bill is evolving. We are including a grace period and compensation program through the U.S. Treasury for those who opt to turn in their ivory to be crushed. We will also have within this bill several provisions addressing key aspects of the ivory trade: law enforcement, national security, education and the environment. One note: We are pursuing a legislative repeal of a statutory exemption, which today permits the trade of antique ivory into the United States. This statutory exemption has created a plethora of loopholes for illegal
smugglers, sellers, buyers; making America the second largest consumer of ivory in the world, second to China.

Elephants DC extends its thanks to President Barak Obama for his Executive Order this past summer to enact a Task Force. They are tasked with making policy recommendations to his National Security Advisor in how his Administration can best combat illegal wildlife trafficking; a global environmental crime which has run abated for far too long. A dramatic change is indeed needed to save elephants from extinction: the unspoken truth. Children learn: "E is for elephant" when they discover their A,B,C's; not that "E is for extinction."

People around the world urge all New Yorkers to support swift action to protect elephants. Close the illegal loopholes by shutting down the trade. After all, there is nothing glamorous or good about illegal or legal ivory trade. It comes from suffering and death and perpetuates mass acts of extinction. By the end of today, more than 1,500 elephants will have
been illegally poached in Africa since January 1st. When will it end?

New York has a wonderful and groundbreaking opportunity to take a stand against mass acts of extinction of the elephants by outlawing all ivory trade in this State, which would send a clear message to Washington and to those all around the world and for future generations: Elephant survival on this planet is non-negotiable. The people's voice from Hong Kong to London and from Rome to San Francisco and here today in New York City respectfully calls you to appeal to the New York State Assembly, your fellow Assembly Members, and implement a bipartisan measure to outright ban the importation and sale of ivory products within this great State, via the change.

Elephants DC encourages also the federal government to increase funds to the U.S. Fish and Wildlife Service; so its Law Enforcement Agency has more resources dedicated to bringing those who smuggle and poach endangered species to justice at home and abroad. On this note, we ask
that the New York State Assembly increase funds to its own proper authorities to ensure that local law enforcement efforts are able to increase to best tackle the illegal ivory trade. We need more officers searching cargo containers for smuggled ivory. And we need police raiding trinket shops selling suspected illegal ivory products, if possible.

We also ask that this body support by nonbinding resolution an international investigation into the cyanide poisoning of the elephant drinking supply at the Hwange National Park in Zimbabwe this past summer. The U.S. Fish and Wildlife Service reported ahead of the November federal ivory crush that more than 300 elephants were poisoned from this act of eco-terrorism -- 300 poisoned; also, other countless species that lived among them. When the water supply is poisoned on a mass scale in any community, we should as human beings ask and fight for the truth, while bringing those responsible to justice.

It is estimated by the reputable field
organizations, such as the David Sheldrick Wildlife Trust in Kenya, that more than 30,000 elephants were slaughtered in 2012. How many were killed in 2013? The Born Free Foundation estimates as many as 50,000.

Elephants DC respectfully asks this body, you gentlemen, to please question inflated numbers on the remaining elephant population presented by international groups, which manage and consequently benefit from ivory trade, such as the Convention On International Trade For Endangered Species. We urge New York citizens to support the Elephants Without Borders Project, to complete the first aerial census of the elephant population across Africa this February. Let the evidence emerge as to how many elephants truly remain. Indeed, extinction is the true byproduct of the global ivory trade, which runs amuck as the multibillion dollar industry from Africa to China; funding terrorism and destroying ecosystems.

Elephants DC respectfully recommends to the Members of this New York State Assembly...
Standing Committee to urge your legislators back in Albany to end the domestic and foreign ivory trade in New York. We ask you and with the wildlife organizations you champion to be heroic and show the world elephants matter, not ivory. You have done so by bringing us all together today and I thank you for that.

The time for a complete ban and strict prohibition on all domestic ivory trade has emerged before us in 2014: the year of the elephant. Let's act now and unite for national security, for the future of the planet, the future of all people. And move forward to defend the very survival of elephants by permanently ending all ivory trade in the United States of America beginning in the Great State of New York. And an auction house carve out, exempting them from a ban would render that new legislation powerless.

Support a permanent and complete ivory trade ban and history will remember this day. Thank you for addressing this international crisis, gentlemen, by holding today's Hearing on
restrictions of the ivory trade in New York. We need stronger state laws here as we press for federal change in Washington D.C., as the People's Movement For Elephants.

In conclusion, American citizens want a long-term solution, a complete ivory trade ban; not a temporary fix, not a temporary ten-year moratorium. And to exemplify that, tens of thousands of people marched on October 4th around the world: in New York City, in Washington DC, in San Francisco and elsewhere around the world. An estimated 40,000 marched and more supported it virtually. That's because we want elephants protected. We want the ivory trade to end. We want to defend their right to exist on this planet as an intelligent and highly evolved ancient being. And the unspoken truth is a short-term moratorium is a temporary fix that will not end the ivory trade. For every child in New York that has learned "E is for elephant," please support immediate measures to outlaw the ivory trade today. New York, please be the leader the elephants need. Thank you.
ASSEMBLY MEMBER SWEENEY: Thank you.

First of all, thank you taking the time to come from Delaware today.

MS. SAMUEL: Thank you.

ASSEMBLY MEMBER SWEENEY: We appreciate you. As others have pointed out, advocacy is a very important part of this process. And even at a time when many people are cynical about the governmental process, the fact is in my experience it works when people get out and advocate for the things that they believe in. So, thank you for doing that. And I hope that you will continue to do that as we go through this whole process and try to get something accomplished in the State Legislature in the current Session.

Are you familiar at all with the California law that was referred to earlier?

MS. SAMUEL: We had a bicoastal conference call last night with people from California. They are part of "March For Elephants San Francisco." They were responsible for bringing that billboard in Times Square ahead of
the International March For Elephants. They are experts on the policies there. And the problem is they did create a very strict state law and traders, ivory traders in San Francisco appealed the penal code and won based on a technicality.

So, we are working on petitioning lawmakers there, as this is a matter related to national security and an environmental issue as well. And we have received positive feedback about making it stronger. We need states like New York and California to take leadership, to make their local laws stronger; to invest more in their law enforcement agencies, so they can do their job. And we also need a federal ban.

ASSEMBLY MEMBER SWEENEY: I guess my question is: Outside of the enforcement issues in California, do you see the California law as a model?

MS. SAMUEL: Perhaps aspects of it. I think definitely the premise could be. I haven't read it myself. Knowing that there were issues and it was appealed, I wouldn't be comfortable saying to use it as a model per se. But
definitely a strong reference and if I read it, I probably would be inspired by the language.

ASSEMBLY MEMBER SWEENEY: Okay, thank you.

ASSEMBLY MEMBER KAVANAGH: I would just say first of all, again, thank you. You get the official award for longest trip. Although Albany is not really that much closer and some of us make that trip very frequently. I would say on this and many other issues there is a tension between seeking state-level action and seeking federal action. And as state legislators, obviously we're particularly focused on state action. And to the extent your organization has a presence here in New York or supporters here in New York or lists here in New York?

MS. SAMUEL: Yes.

ASSEMBLY MEMBER KAVANAGH: I would say we're early in this conversation for this Session. The testimony today has been very supportive of taking action but there is very little doubt that we will get resistance as we get on that path. So, to the extent you can stay
focused on what's going on here in New York, even as you're seeking national legislation; often states acting is the thing that catalyzes a national approach. And so we're obviously very serious about tackling this and we can see you are as well. But I would just encourage you to stay involved advocating here, as well as back in DC.

MS. SAMUEL: Thank you. We will. We discussed that last night on the bicoastal conference call to end the ivory trade federally. And we are so looking forward to see the leadership in states like New York. And we know it's going to be a domino effect in the end for the elephant species and for every child out there alive and yet to be born; the world's a better place when we have the guardian species alive, roaming and wild.

ASSEMBLY MEMBER SWEENEY: Thank you, Jen.

MS. SAMUEL: Thank you.

ASSEMBLY MEMBER SWEENEY: Next is Cynthia O'Connor.
MS. CYNTHIA O'CONNOR: Well, good afternoon. My name is Cynthia O'Connor. I've been a resident of New York City for 30 years on West 70th Street. And I want to thank you for being one of the people here today to speak on my experience and my views on the illegal trade of ivory. I represent the elephants. As I said, most of the information I have in my testimony, which you have a copy of, has been mentioned times over today. So I'm just going to try to cut to the chase. I have five courses of action that I'd like to recommend to the State of New York in terms of dealing with this situation of the elephants and the ivory.

Number one. Write a law devoted specifically to elephants and ivory. The elephant must stand on its own in a law to be written, to protect it specifically from our State's aiding, abetting, killing, maiming, poaching and the illicit trade of their ivory. This law must be written in plain English; elephant specific and ivory specific. Leave no room for misinterpretation or reinterpretation. The law
can set a definitive precedent for all other endangered species, just as deserving of our protection.

Number two. Define criminality and enforce vigorously. The ivory trade is based on greed and vanity. But now the killing has moved, as you know, from an individual practice to an all-out massive slaughter. Herds are attacked from low-flying helicopters by poachers aimed with AK47's and night vision goggles. Some are shot with paralyzing darts that only immobilize the elephant so that they remain conscious as their tusks are hacked off. For what? Jewelry, carvings, picture frames. Ivory is not a gem. It is not a precious mineral. Ivory is the property of an elephant's tusk. Unless it is attacked by poachers, the elephant keeps its ivory and keeps its tooth. Ivory, as you said, Chairman Sweeney, is a body part.

The ivory industry has reached the level of terrorism and organized crime. Illicit trade, especially elephant poaching and illegal ivory sales, is the third most lucrative international
crime, behind human trafficking and drugs. The 
illegal ivory trade must be fully identified and 
ended in this State. We need proscribed penalties 
for violating our laws, prohibiting the import, 
possession, trafficking and processing of ivory; 
and for all accessory crimes, including providing 
the space, financing or concealment of such 
crime.

Number three. And I know there's been 
some opposing perspectives on this but this is I 
feel very strongly important; that we provide 
education. Information must be provided to our 
citizens, our new immigrants and our school 
curriculum at every level. We must be aware that 
poaching and trafficking directly affects the 
natural order of this planet. Let us set an 
example so that every new generation shows the 
respect due to these animals. How sad would it be 
for our grandchildren to know elephants only be 
seeing them in picture book, the way they know 
dinosaurs. Dinosaurs were eliminated by a natural 
phenomenon: the meteor. How tragic to realize 
that one day elephants were destroyed by another
species on earth, but only for greed. You know, I constantly am amazed and dumbfounded by the number of intelligent, educated, socially conscious adults that I meet that have no idea about any of this. They will say: "Oh, pshh, elephants will be here forever." And I start presenting the facts. As a matter of fact, my husband won't take me to parties with him any more because I get ahold of everybody by the time I leave and sign them up. But it's really tragic, you know, at level the ignorance.

Number four. Promote advocacy and demand accountability. Let New York show the world how we treat an endangered species. How many elephants live in the State of New York? Let us know every elephant by name, age, health condition, location and history. We ought to know as much about our elephants as we know about our automobiles. Any elephant visiting the State of New York must be granted the courtesy that we New Yorkers offer all our honored guests. Restrictions must be placed on the ownership of elephants in this State, especially in circuses.
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and zoos.

The State must be able to seek and demand an absolute guarantee that all elephants are treated humanely. This care must be prescribed by our State's Wildlife Authority and be verifiable under penalty of law.

Number five. Declare 2014 the Year Of The Elephant. Let us declare a day on which New Yorkers can voluntarily surrender their ivory, be it illegal or sanctioned, in order that it be can destroyed in a responsible manner. Let us join together and truly make 2014 the Year Of The Elephant. Let's stop the hideous profiteering, the inhumane treatment of a very important member of the animal kingdom. Let's lead the world on information, education, law enforcement conviction and punishment of violators. As New Yorkers we can do this.

Just a little background. My love for the elephants has been lifelong. And in 1988, I visited Kenya and some of the surrounding areas. And so that means a little more than 25 years ago, I was sailing in a hot air balloon over the
masi mara and the serengeti. And I also visited
the David Sheldrick Wildlife Trust, the elephant
and rhino orphanage. And between being totally
awestruck by the beauty and the majesty of this
unbelievable, special country and world and these
animals and then learning about the devastating
degree of what was happening to them; I committed
myself right then and there to making this my
life effort. So it's fair to say I've been
preparing to speak to you today for about a
quarter of a century.

But now, Chairman Sweeney and Members of
the Committee, I'd like to conclude my
presentation to you today by showing you a pair
of ivory earrings. They were my grandmother's.
Then they were my mother's. And then they were
mine. May I come up just to show you?

ASSEMBLY MEMBER SWEENEY: Sure.

MS. O'CONNOR: Okay. And my intention,
you know, there's a great deal of sentimentality
to these earrings -- there was. But they make me
sad because I know what has to be done to create
this jewelry. And this is the other earring. And
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as you can see, it is smashed and destroyed;
which I intend to do with this one as well and an
ivory necklace that was part of this set that was
passed onto me.

And I wanted to send this back to the
David Sheldrick Wildlife Trust so that it could
return to its homeland and be destroyed or buried
there. And because of the laws and the permits,
you can't export ivory either. So, I'm going to
hang onto this. And I'm waiting for that day in
New York when all of us are called to volunteer
our ivory and let it be destroyed or however,
whatever manner you choose. Please, don't make me
wait a long time.

ASSEMBLY MEMBER SWEENEY:  Thank you,
Cynthia, very much for taking the time to be here
today and again for your advocacy. And as I
indicated earlier, we need advocates. So keep up
the good work and hopefully we'll have something
to celebrate later on this year.

MS. O'CONNOR:  Okay, thank you.

ASSEMBLY MEMBER SWEENEY:  Thank you all
very much. That concludes our hearing. Thank you.
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(The public hearing concluded at

approximately 03:30 P.M.)
Standing Committee on Health, January 31, 2014

CERTIFICATE OF ACCURACY

I, Jonathan Gondelman, certify that the foregoing transcript of the Assembly Standing Committee on Health on January 31, 2014 was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By

[Signature]

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