



**NEW YORK CITY
BOARD OF CORRECTION**

JANUARY 14, 2020 PUBLIC MEETING MINUTES

ATTENDEES

MEMBERS PRESENT

Jacqueline Sherman, Interim Chair
Stanley Richards, Vice-Chair
Robert L. Cohen, M.D.
Jennifer Jones Austin, Esq.
Felipe Franco
James Perrino
Michael J. Regan

Margaret Egan, Executive Director

MEMBERS ABSENT

Florentino Hernandez
Steven M. Safyer, M.D.

DEPARTMENT OF CORRECTION

Cynthia Brann, Commissioner
Hazel Jennings, Chief of Department
Brenda Cooke, Chief of Staff
Heidi Grossman, Deputy Commissioner for Legal Matters/General Counsel
Kenneth Stukes, Bureau Chief of Security
Jean-Claude LeBec, Assistant Commissioner of Strategic Initiatives
Peter Thorne, Deputy Commissioner of Public Information
Lawrence Dail, Deputy Commission for Training and Development
Steven Kaiser, Executive Director of Policy and Intergovernmental Affairs
Fabrice Armand, Director of Strategic Partnerships and Community Engagement
Julia Szendro, Policy Analyst
Latima Johnson, Press Officer

NYC HEALTH + HOSPITALS - CORRECTIONAL HEALTH SERVICES

Ross MacDonald, MD, Chief Medical Officer, Assistant Vice President
Benjamin Farber, Chief of Staff
George Axelrod, MD, Director of Health Information & Risk Management
Giselle Cordero, Deputy Dir. of Communications and Public Affairs
Jennine Ventura, Director of Communication and Public Affairs

OTHERS IN ATTENDANCE:

Charles Parkins, Administration for Children's Services (ACS)
Stephanie Gendell, ACS
Tim Roche, ACS
Rachael Jensen, ACS
Nora Daniel, ACS
Jennifer Parish, Urban Justice Center (UJC)
Urban Justice Center (UJC)
Jamie Hin Hon Wong, UJC
Alexa Adams, UJC
Nikki Torrigny, UJC
Victoria Phillips, UJC/Jails Action Coalition (JAC)
Mary Lynne Werlwas, Legal Aid Society Prisoners' Rights Project (LAS)
Gale Weiner, LAS
Kelsey De Avila, Brooklyn Defender Services (BDS)
Simone Spirig, BDS
Irene Cedano, BDS
Gina Farinaccio, BDS
Claudia F., BDS
Julia Davis, Children's Defense Fund
Daniele Gerard, Children's Rights
Julia Solomon, Bronx Defenders
Jasmine Paez, Bronx Defenders
Alana Sivin, NY City Council
Jack Storey, NY City Council
Vidal Guzman, Just Leadership USA
Brandon Holmes, Just Leadership USA
Harvey Murphy, Just Leadership USA
Sarita Daftary, Just Leadership USA
Nicole Triplet, New York Civil Liberties Union
James Meagher, Safe Horizon
Jason Lerner, Crime Lab
David H., Crime Lab
Mania D., EIEU
Darlene Jackson, CBABX
Roshan Abraham, Independent

AGENDA AND PUBLIC VOTES

1. Approval of November 12, 2019 Minutes (January 14, 2020 BOC Public Meeting Transcript ("Transcript"), at page 1)
 - After the item was moved and seconded, the minutes were unanimously approved with amendments, 6-0 (Interim Chair Sherman, Vice-Chair Richards, and Members Cohen, Franco, Perrino, and Regan).
2. Announcements and Updates (Transcript, p. 1)
3. Body Scanners and Separation Status in NYC Jails (Transcript, p. 1)

4. Vote on Board Vice-Chair (Transcript, p. 7)
 - The Board unanimously elected Stanley Richards as the Board's Vice-Chair, 6-0 (Interim Chair Sherman, Vice-Chair Richards and Members Cohen, Franco, Perrino, and Regan).
5. Public Comment on Variance Requests (Transcript, p. 8)
6. DOC Update on Training and Leadership Development (Transcript, p. 12)
 - DOC's Deputy Commissioner of Training & Development Lawrence Dail gave a presentation which is available here:
<https://www1.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/boc-presentation-nycdoc-learning-strategy-20200114.pdf>
7. DOC Update on Eighth *Nunez* Independent Monitor Report (Transcript, p. 28)
8. DOC Update on Jail Closures (Transcript, p. 50)
9. Limited Variance Request to BOC Minimum Standards § 1-17(d)(2) (Seven-day waiver) (Transcript, p. 54)
 - New Condition Limiting the Variance to Three Months:
 - After Interim Chair Sherman called a roll call vote, the Board approved the new condition with five (5) votes in favor (Interim Chair Sherman, Vice-Chair Richards Members Franco, Jones Austin, and Perrino) and one (1) vote in opposition (Member Cohen).
 - Existing Condition:
 - After Interim Chair Sherman called a roll call vote, the Board unanimously approved the existing condition, 6-0 (Interim Chair Sherman, Vice-Chair Richards and Members Cohen, Franco, Jones Austin, and Perrino).
 - Vote on Variance with Conditions:
 - After Interim Chair Sherman called a roll call vote, the Board approved the variance with conditions, with five (5) votes in favor (Interim Chair Sherman, Vice-Chair Richards and Members Franco, Jones Austin, and Perrino) and one (1) vote in opposition (Member Cohen).
 - The final record of variance is available here:
<https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2020/january/202001-record-of-variance-action-seven-day-waivers.pdf>
10. Limited Variance Requests to BOC Minimum Standards §§ 2-05(b)(2) (i-ii) (Psychotropic medication) and 3-04(b)(2) (i-ii) (Tuberculosis screening process) (Transcript, p. 59)
 - After Interim Chair Sherman called a roll call vote, the Board unanimously approved the variances, 6-0 (Interim Chair Sherman, Vice-Chair Richards and Members Cohen, Franco, Jones Austin, and Perrino).
 - The final records of variance are available here:
 - <https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2020/january/202001-record-of-variance-action-psychotropic-medications-final.pdf>
 - <https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2020/january/202001-record-of-variance-action-tb-testing-final.pdf>
11. Limited Variance Requests to BOC Minimum Standards §§ 1-04(b)(2) (Dry Cells); 1-08(f) (Law Library); 1-11 (Correspondence); and 3-06(e)(5) (Nursery) (Raise the Age) (Transcript, p. 62)

- After Interim Chair Sherman called a roll call vote, the Board unanimously approved the variances, 6-0 (Interim Chair Sherman, Vice-Chair Richards and Members Cohen, Franco, Jones Austin, and Perrino).
- The final records of variance are available here:
 - <https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2020/january/202001-variance-action-dry-cells.pdf>
 - <https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2020/january/202001-variance-action-law-library.pdf>
 - <https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2020/january/202001-variance-action-correspondence.pdf>
 - <https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2020/january/202001-rta-nursery-variance.pdf>

12. Public Comment (Transcript, p. 62)

A video recording of the meeting is available at:

https://www.youtube.com/watch?v=uCsKVMQm7S0&feature=emb_title

NEW YORK CITY
BOARD OF CORRECTION

PUBLIC BOARD MEETING

TRANSCRIPT

125 Worth Street, Second Floor Auditorium

New York, NY 10007

January 14, 2020

9:00 a.m. - 12:36 p.m.

APPROVAL OF NOVEMBER 12, 2019 MINUTES

INTERIM CHAIR JACQUELINE SHERMAN: Good morning and Happy New Year. As this is the first meeting of the year, I just want to remind you that our 2020 meeting schedule is on the Board's website and as a reminder the Board meets on the second Tuesday of every month except for April, August and December. Our scheduled business today we'll start by voting on the draft November 12, 2019 Board meeting minutes, which Board members have received. Will a Board member move for a vote to approve those minutes?

BOARD MEMBER DR. ROBERT COHEN: I have an amendment there. There were several items where my name is left out.

INTERIM CHAIR SHERMAN: Okay and with those amendments can we have a vote to approve the November 2019 minutes?¹

ANNOUNCEMENTS AND UPDATES

INTERIM CHAIR SHERMAN: Before we begin, I have a few updates. First, it's my great pleasure to welcome Meg Egan as the Board's new Executive Director. Meg is an accomplished executive and brings nearly 20 years of experience in corrections and criminal justice reform policy and operations to the position. Most recently Meg served as the Interim Vice Chancellor for Human Resources and Director of Strategic Initiatives for the City University of New York (CUNY) managing CUNY's HR Department as well as a broad restructuring of administrative and academic operations for the university. At the CUNY Institute for State and Local Governance she served as a member of the executive staff and senior adviser to the Independent Commission on New York City criminal justice and incarceration reform, commonly known as the Lippmann Commission and oversaw research on culture change at

¹ After the item was moved and seconded, the minutes were unanimously approved with amendments (Interim Chair Sherman, Vice-Chair Richards, and Members Cohen, Franco, Perrino, and Regan).

the New York City Department of Correction. Meg also served as Assistant Secretary for Public Safety to New York Governor Andrew Cuomo. Beginning last summer, the Board conducted a national search to identify the right person to lead our staff in this critical moment of jail reform we are certain that we've found the right leader in Meg. Welcome Meg, we look forward to working with you and we are so so happy to have you here.

I'd also like to thank all of our staff for the extraordinary efforts they all put in during the Executive Director transition and always. Under the extraordinary leadership of our Acting Executive Director and General Counsel Michele Ovesey, our research, monitoring and legal teams intensified their tireless work to monitor the jails and inform our work for the six months that we had the position of permanent Executive Director vacant. Many thanks go to Michele and the entire staff we really appreciate the work that you did to keep the Board moving forward over those months. Thank you.

DR. COHEN: I just want to add my thanks particularly to Michele because I don't know how many of you have ever been an Acting ED for six months in an organization that didn't stop for a second -- it was a -- you had great support and thank all of you as well and again thank you for making this agency just keep going for a long period of great activity so thank you.

EXECUTIVE DIRECTOR MARGARET EGAN: I just wanted to thank Jackie, the Board, the staff and many others for an incredibly warm welcome. I'm excited to lead this organization at this moment in time and I look forward to working with the Board, the staff, the Department, CHS, various unions, the advocates, and all of the other stakeholders as we move forward.

INTERIM CHAIR SHERMAN: I'd like to remind everyone that the Board is currently accepting written comments on the proposed restrictive housing rule making. We've extended the written comment deadline to January 31, 2020. We've received nearly 40 written comments since the comment period began. In

addition, over the two public hearings we held in December we received comment from 59 people. The videos and transcripts from those hearings along with all written comment received so far are available on the Board's website. The Board is grateful for all of the insightful comments we have received so far. We look forward to reviewing everything that has been submitted and said so far, considering anything that comes in between now and the close of the comment period and considering changes to the proposed rules based on the testimony and comment we've heard.

BODY SCANNERS AND SEPARATION STATUS IN NYC JAILS

ED EGAN: This morning we published on our website a new report on the Department's use of body scanners and separation status. Body scanners are a new security tool that use low-dose ionizing radiation to detect contraband. When someone has a positive scan or refuses to be scanned the Department includes the person possesses contraband and places them in a highly restrictive housing unit called Separation Status. At the November 20, 2019 the Board committed to publishing a report today in order that our findings and recommendations can inform the Board and public discussion prior to the expiration of the separation status variance in February.

While the report outlines findings regarding a chaotic rollout which included unnecessary restrictive conditions and separation status, it also documents strengthened Department procedures over the recent months. The report makes 22 recommendations to the Department and CHS on improvements to the body scanner and separation practice and policy. We will have a more extensive discussion on this at the February public meeting and we will continue to work with the Department to make sure that the scanners and separation status are used in the safest fairest and most effective way possible.

We did want to raise one urgent issue. The Board analysis finds that DOC staff who have not completed the required radiation safety and body scanner operation training are operating radiation equipment creating a risk of radiation

exposure to staff and people in custody and the potential for misinterpretation in scans. False negatives undermine the Department's ability to use scanners effectively as a tool to identify contraband while false positives can lead to unnecessary placement and separation status. When we notified the Department of these findings they reported that they began to take immediate corrective action and we wanted to give the Department an opportunity to detail their response thus far.

KENNETH STUKES, DOC BUREAU CHIEF OF SECURITY: Good morning, happy new year to all. Thanks for the information. So upon the Department being put on notice with staff who had not completed all the formal training with regards to operating the body scanners, we immediately began to do an internal investigation. During the course of the internal investigation, we did verify instances where staff who had not completed all the former training had operated the body scanners. We found staff to have acted in violation of our policy and will be held appropriately accountable for their actions. All facility where body scanners issued a security memorandum which clearly outlying the expectations to staff -- placing emphasis on staff who have receive formal training -- to ensure that once they are trained and they have received law of our credentials that they do not share those credentials with anyone except they must use their own credentials to log on to utilize the body scanner. The Department's training department was also notified. Whereas, we explained and expressed the concern of the structure training to the staff, whereas they were instructed and advised to ensure that during the training sessions -- the trainers advised the persons who are receiving the training -- that they are not to provide their log on credentials to anyone else, only log on with the credentials that were provided to them. Over the coming month, the intergovernmental affairs will continue to do audits to ensure compliance with the policy and the conditions. Immediately after we had put these systems in place intergovernmental affairs did conduct an audit on a random date and we did found -- after we had make these advisements and security memorandum -- that we found that the staff who had operated the body scanners were all formally trained.

However, in one instance we did find one staff member who had operated the body scanner who were not formally trained.

DR. COHEN: Next month we're gonna talk about the body scanners and we're going to hear another variance request and we'll even use the information that the staff has collected, and you'll have your response to it. But I just want to say that the process that the Department insisted on doing here which was to start scanning without discussing with the Board to start a restrictive housing unit without discussing it with the Board and then claiming this was an emergency every time you did it. It's not the way to go forward and I hope that it's in our new rule that the Department cannot set up new extreme solitary segregation units -- as you did -- with no attorney visits, with no bathroom -- you had a bathroom -- with no recreation, with no visits, with no law library, with no reading materials, without discussing this with the Board and asking for a variance from us. Declaring emergency variances as you did was wrong, and it resulted in potential for significant harm, as demonstrated by this report. So, I hope I have the Department's assurance that you're not going to do this again -- there was no emergency, but you created a crisis. I actually want to know that the Department understands that there was no reason to declare an emergency and that you should have worked with the Board to set up a reasonable unit -- as we eventually did.

CHIEF STUKES: Mr. Cohen it is our extreme intention to work with the Board.

HEIDI GROSSMAN, DOC DEPUTY COMMISSIONER FOR LEGAL MATTERS/GENERAL COUNSEL: Good morning. The Department is currently going to be conferring with the Law Department about the conclusion that has been drawn about the emergency declaration process. At this point in time we want to engage further with the Law Department to find out about the appropriateness of declaring an emergency. That's something that we'll be prepared to address by the next Board meeting when we talk about the variances -- so we can address these issues then. I would just note that moving forward we have a variance in place and so we expect to work with the Board on the variances and the different conditions etc.

VICE-CHAIR STANLEY RICHARDS: Chief, in your internal investigation, are you looking at the results of the scans of the 45 scans and whether or not those scans were appropriately read and assessed before they were placed in separation -- so we can determine -- whether or not the people who weren't trained, who did the tests, who made the decision -- whether or not those decisions were valid.

CHIEF STUKES: Yes, good morning. With regards to the process and a person being subjected to the body scanner, the operator is not the final governing authority with placement or transfer into a separation status. There's an executive officer that oversees the Operations Security Intelligence unit, which have access to the actual scan, who reviews the scan at the second layer of confirmation prior to a person being transferred into separation status.

VICE-CHAIR RICHARDS: But in our report it also identified the second reviewer as not trained to be able to read the reports, so I hope that when you report out in February you're looking at the quality of the decision-maker and the basis for those decisions, for the 45 people to be placed in separation.

CHIEF STUKES: Yes.

VICE-CHAIR STANLEY RICHARDS: Thank you.

INTERIM CHAIR SHERMAN: I think I would just add that we do look forward to hearing further the results of your internal investigation and work, to being briefed on any changes to policy between now and February, and overall to working with you as we move forward and leading into the meeting next month where we reconsider the variance.

CHIEF STUKES: I may add that the conclusion of this internal investigation that the documents were forward to our Investigation Division for further review.

BOARD MEMBER MICHAEL REGAN: Don't think that we don't appreciate you. This Board as well as many elected officials and lots of people understand the importance of you having this tool -- So we're gonna get this better, we're have a

meeting in February -- I just don't want to leave you with the opinion that people aren't supportive of that tool.

CHIEF STUKES: I don't have that opinion. I appreciate your support, thank you very much.

VOTE ON BOARD VICE-CHAIR

INTERIM CHAIR SHERMAN: Thank you very much. And now we will move to the election of a Vice-Chair of the Board. The Board of Correction bylaws require an election of a Vice Chair at every January meeting. The Vice Chair serves, based on the bylaws, for a term of one year beginning on February 1, 2020 and ending on January 31, 2021. I'll now ask for a Board member to nominate a Vice Chair candidate.

MEMBER REGAN: I want to start by nominating my colleague Stanley Richard to Vice-Chair. I've said it from time to time -- I think I start my twentieth year as a member of the Board and I've learned that Stan is someone who is available 24 hours a day, he is a leader, he is an expert in this field.

INTERIM CHAIR SHERMAN: Thank you. Do I have a second?

DR. COHEN: Second.

INTERIM CHAIR SHERMAN: I have many seconds. So any further comment?

DR. COHEN: Yeah, I've known Stanley for over twenty-five years. We're so fortunate to have him, most of you know him as well, he represents New York in a very important way today. I'm honored to second and now to vote.

BOARD MEMBER FELIPE FRANCO: I would like to add that Stanley actually was the leader of the institutional review board in the state of New York under OCFS for eight years. When I was a Deputy Commissioner he was a big part of the many of the reforms actually have in the record getting out of a DOA lawsuit in only four years and your leadership and pushing made a big difference in the life of young people. Thank you.

INTERIM CHAIR SHERMAN: Thank you. Okay we're gonna move to a roll call vote.² By an unanimously vote we've elected you to Vice-Chair Stanley. Thank you very much for taking on the position.

VICE-CHAIR RICHARDS: Thank you to all my colleagues for entrusting this critical role ... [inaudible]. I look forward to ... [inaudible] progressive work, good work that New York City will be proud of. So, thanks.

PUBLIC COMMENT ON VARIANCE REQUESTS

INTERIM CHAIR SHERMAN: Thank you so now we're going to move to public comment on the variance request. We will here comment now on the Department and Correctional Health Services variance request. Before we begin the public comment, I will briefly list the variance requests before the board today.

First, there are four variances related to the operation of the Horizon Juvenile Center. These variances concerned dry cells, law library, correspondence, and nursery availability and were first proposed and approved by the Board in July of 2018. They have been in effect since then. There is also a seven-day waiver variance request. The Department requested a variance that would allow them in highly exceptional circumstances that present safety and security concerns to waive the requirement that people be immediately released from punitive segregation for seven days after they have been held in punitive segregation for 30 consecutive days. The Board's proposed rule on restrictive housing incorporates the variance and its condition. The rules enactment would eliminate the need for this variance. The Department has not granted a seven-day waiver pursuant to this variance since October of 2018.

There are also two variance renewals requested by the Correctional Health Services regarding psychotropic

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medication and tuberculosis testing. In both of these instances the Board has renewed these variances every six months for several years. In 2017 the Board voted unanimously to prepare to integrate these variances into the Minimum Standards and we remain committed to doing this as soon as capacity allows. The first variance would allow correctional health psychiatrists to see and evaluate stable adult patients on psychotropic medication in general population at least every 28 days rather than every 14 days. The second variance would allow CHS to use either IGRA or the tuberculin skin test for tuberculosis screening and to exempt from repeat screening those people in custody who have a documented negative test in the six months prior to their admission. I will now call folks who have signed up for public comment. We ask that speakers limit their comments to the proposed variances and to three minutes. I also remind you at this time that there will be an additional public comment period on all matters at the close of today's meeting and the iPad on the stage will tell you how much time you have left in your comments.

BRANDON HOLMES: Good morning, so I'm commenting on the variance for the seven-day waiver and I'm speaking on behalf of Just Leadership USA and the Close Rikers campaign, as a member of Halt Solitary and the Jail's Action Coalition. Today just like every month and sometimes multiple times throughout the month advocates shouted on your doorstep, we packed the room every single month, we show up even during the evening meetings when we have to request them to be scheduled at times that folks can actually attend them, we show up when the DOC feels that they do not need to turnout for meetings, and we know that sort of burden that you each carry as people who sit on this Board. That's precisely why we scream we mobilize and we appear in front of you every single opportunity that we get so that we can make sure that you're very clear as you go home you take these decisions you take these issues home with you to your families to your loved ones that you're very clear that you are not alone in making these decisions or thinking about these issues. This is why it's our work every single day, us and the people we love, we'll pour our hearts out while our community's blood is filled behind those walls

whether our community are the people who are detained or incarcerated or the people who are corrections officers and staff in those facilities and you sit looking down on us while generations of trauma are filtered through this microphone and recorded on your public record and our memories of abuse are forgotten. We demand that the Board of Correction exercise every authority within its oversight role and make use of every ounce of evidence that our communities have provided you to implement the blueprint to end solitary confinement. Torture has no place in this city. Do not be afraid to confront senseless arguments about safety versus torture, we care about the safety of everyone behind those walls. In early 2018 we called for the complete elimination of the Department of Correction before several officers were indicted of sexual assault, before the Nunez report confirmed a 98 percent increase in the use of force, before the agency was operating at a level of nearly two to one staff two people in custody - We were calling for an elimination of this agency. Our communities have evolved and have transformed our position. In December 2018 survivors of Rikers Island released an open letter to corrections officers outlining a just transition recognizing that many of the staff came from the same communities that we came from -- meant much of the leadership -- women of color represent the communities and have been the Vanguard of the communities that we are still trying to protect and save today. I'll read an excerpt from this letter: You may not know it but we're fighting for you too. We know that this system dehumanizes you along with those who are detained because the system that chooses punishment as its main goal and strategy then relies on you as the instruments to deliver that punishment and we know that to carry out that role day after day degrades your humanity. Much like the human beings you guard we understand that you were affected by the toxic environment you spend every day in. It is the failed leadership of the Department of Corrections and our elected officials that have allowed that environment to develop and persist. Any decision to approve a variance which could result in people being in solitary for any extended period of time does not only affect those individuals but the staff who will be the tools of an agency that believes isolation is the

solution. If you do not work to end solitary in New York City jails, you are working to harm the lives of hundreds of thousands of New Yorkers -- those who are detained those who are staff and those who have loved ones behind those walls. Solitary does not create safety because it does not address the root cause of violence and in fact creates more violence and new forms of torture. Today we are asking you to do the right thing. This variance began in September 2015 and you continue to grant exceptions instead of holding people accountable to the rules that have been set. We're in a rulemaking process, we are talking about prolonging or ending the over-reliance on solitary confinement if you grant this variance you are doing the wrong thing.

DANIELE GERARD: Good morning madam chair, Board members, my name is Daniele Gerard, I'm a staff attorney at children's rights, we've been a national advocate for youth in state system since 1995. Our experience with adolescents and young adults in foster care and juvenile justice systems often brings us into contact with young adult and Youth Corrections policy as our clients are disproportionately represented in young adult and juvenile correction facilities. We are concerned about the welfare of young adults and youth at Rikers and horizon and as members of the New York City jails Action Coalition we fully support the remarks that Mr. Holmes just made. The Department again today seeks to renew for six-month limited variances related to horizon. We testified against granting these variances in June 2019 and again in November 2019 and before as well. The variance regarding single occupancy wet cells 1-04(b)(2) should be denied today. We urge you to deny all of the variance requests and the reason on wet cells is because we remain concerned about the use of dry cells at all and the dignity of residents having to ask to use the bathroom particularly in the case of female residents. Regarding the requested variance from Minimum Standard 1-08 we renew our request that the Board require the Department to specify its plans to provide an actual law library for residents of Horizon especially given recent issues with tablets regarding requested variance from Minimum Standard 3-06(e)(5) on a nursery program at Horizon. We urge the Board to deny this variance and require the Department to

provide nursery program services at Horizon. For all three of these requested variances the proposed corrective actions seemed designed as temporary fixes and do not fully address the inadequacies of the physical design and space limitations of Horizon itself. It's not clear with the Department or ACS is considering for long-term solutions which review is critical to meeting the city's obligations to Horizon. Regarding the fourth requested variance minimum standard 1-11 the Department once again does not provide sufficient specific criteria pursuant to which prohibitions on certain correspondents would be based and where the rationale for such prohibitions we believe there needs to be much greater clarity around this issue to the extent it is beneficial to horizon residents at all otherwise the restrictions could very well end up being over broad and punitive. Finally, we reiterate our profound concerns regarding separation status housing and look forward to articulating more fully our opposition to any variance regarding separation status housing thank you.

DOC UPDATE ON TRAINING AND LEADERSHIP DEVELOPMENT

INTERIM CHAIR SHERMAN: Thank you. So that concludes the public comment period on the variance requests and now we are gonna actually change up our order a little bit in the meeting and we have asked for the Department of Correction to provide an update on its training and leadership development program. we will return to the variance requests later in the meeting. thank you.

DEPUTY COMMISSIONER FOR TRAINING AND DEVELOPMENT
LAWRENCE DAIL: Good morning everyone my name is Lawrence Dail. I'm the Deputy Commissioner for Training and Development with the Department of Correction. I believe you may have a handout in your packet we have a couple of slides that we're going to share with you that are very text heavy, but I wanted to give you some detail around what my colleagues and I are doing through the Academy in terms of developing learning programs. I won't cover everything obviously, but the text is there to give you an idea where we're headed and if you have questions

about pieces that I don't mention today then I certainly welcome conversation afterwards.

The slide number two refers to a mandate and our mission through the Academy which Commissioner Brann really established about a year and a half ago when she established my role as Deputy Commissioner for Training and Development. We had at the time seven individual training functions within the Department and the Commissioner's goal was to consolidate them for consistency in approach and how we develop adult learners within the Department around policy procedure supervision and what have you -- but just wanted to be clear so you knew what my role descriptions all about. One of the things that we note through neuroscience and the corrections field in particular is a great deal of the learning, the understanding of our role and function needs to be based on practice so the programs that I'll be talking about in a minute around our pre-service for recruits that we are bringing on board to the Department as well as in-service for the 9,000 uniform members and the roughly 2,000 non-uniform colleagues to help them deeply understand the role the expectation the Department has for them. We're relying on the Kolb learning cycle which was really developed a couple of decades ago and emphasizes practice, reflection of a function, so a lot of our classroom activities are reflecting this learning cycle through simulations through gamification. We're doing a lot more now particularly in our developmental of pre-promotional and our recruits around structured on-the-job learning and what-have-you to take the emphasis off of the chalkboard so to speak and get our employees to really help them deeply understand the policy procedure that we are we're responsible for as corrections professionals. With regard to the two items on the left-hand side, how do we define learning and how do we transform NY DC into a learning organization, I've been having a series of All Hands meetings with our staff at the Academy so that we're all clearly on the same page as to how adults learn in the 21st century. We've come up with some internal ideas around what we need to do in the classroom and how we need to support our colleagues in uniform in the facilities around application continuous ongoing learning. One of the Commissioner's mantras is each

one teach one -- so that our supervisors understand their role in teaching and training the men and women who were entrusted to them. The other piece transformed the organization into a learning organization for the learning geeks in the room this is a trend within the Learning and Development space in the public and private sector lately. As you can imagine that we have a very strong training culture at the academy because of not only the mandates coming from the city around sexual harassment prevention workplace violence prevention and what have you but also around the annual recertification and firearms for all of our personnel and on and on. We have a tradition of coming into the classroom on a regular basis which is part of the reason that our training department is so large but being able to sit and absorb new content and being able to put it into place and change behavior and practice so that we're supporting culture change is a very different thing. So what we are focused on at the academy is really to make the learning experiences more relevant to the day-to-day work, dynamic which is where the gamification and the simulations and role play comes in and it gets to the teaching train our colleagues as well as being conscious about our need to continue to develop ourselves. That's a very easy sentence to share I've been sharing it for about a year and a half since I joined the Department but it's at the root of my piece of the culture change work that the Commissioner and Chief Jennings are pursuing at the Department.

We graduated just about 400 young men and women on July 31 - it was the first battalion that I was really working with in my role at the Department and we had an opportunity to augment their learning experience by reintroducing simulations -- the Department had had a tradition of simulations in our active facilities in the past but we were not consistent in making sure that simulations were available to every new recruit -- so we developed a series three new simulations around the core functions of the officers on a daily basis. We structured a series of four solid weeks of OJT we paired the new employees up with seasoned professionals and the jails on the wheel as it were so they got experience in multiple tours 7:00 to 3:00, 3:00 to 11:00, and then the

midnight, just to give them a better understanding of what a day in the life of the jail looks and feels like. I think we did a pretty good job but the pre-service, the recruit training is constantly evolving with us we have more opportunities to enhance and make sure that the men and women as they graduate and walk across the stage fully understand what's expected of them in the jail -- it's part of the fun of the work actually.

The next two slides I think are of most interest to the Board. I'll emphasize three items there. One the focus of the academy's work is really around -- well it's around probably 12 to 15 things but let me point out three -- the addressing PTSD through a health and wellness program at the academy. The trauma that the gentleman spoke about is experienced not only in the persons in our custody but clearly in the officers and the supervisors and managers in the Department -- there is a factor known as Correction fatigue -- well-documented there's a lot of great content out of the National Institutes of Correction and some other organizations that we're partnering with around to help the officers understand and balance the role that we're asking them to do today -- the 21st century -- you know it's a balance between the human services centered rehabilitation focus of the correction Department and the safety and security role that we play as part of the safety network of New York City. Helping the men and women understand and balance that at all times is part of what we're doing through some trauma-informed work for the officers and I would love to talk to you in more detail about that. You've met Justin VonBujdoss, our head chaplain who launched the GMDC health and wellness center that the Commissioner cut the ribbon alone back in June, so he's an active collaborator with us on that one. At the top of your list is a reference to some mindset work that we're doing we're initiating actually last month as part of the culture change work in as much as all of our behaviors are driven by how we think how we process information, the values that we hold. We are starting the new year with a focus on mindset work with a consultancy that we're collaborating with from Utah - the Harbinger Institute and their outward mindset approach to help men and women understand the perspective to

take into consideration the perspective of their colleagues when making a decision or taking an action. It gets at the accountability factor that has been referenced with the Board in the past, but I do feel as though since they've got a proven track record in hierarchical organizations and correction in particular, that it'll be an important launching pad for us as we get into other in-service and supervision management training.

Last item I'll mention here is something that we're very proud of from the last year -- we launched last March our transfer of learning initiative where we utilize the roll call that occurs at the beginning of every tour and every facility -- we utilize roll call in part as a Learning and Development a training opportunity. I'm sure you've heard about the Transfer of Learning initiative in the past. We started by focusing a 15-minute training around some of the core issues that continue to evidence themselves in our operations -- escort holds and what have you-- and the data that we're collecting shows some clear reduction in the negative behavior that we don't want to see our officers exhibiting on a regular basis so we're really proud of how our tour commanders and our mentor captains and the facilities are using that training opportunity, drilling in during the course of the tour.

So this is the piece I believe that the Board asked the Commissioner, Brenda Cooke for us to focus on today. The leader development programming we have as an organization had a series of leader development programs for our uniformed colleagues for the last hundred years. In the last 18 months we've introduced leader development programs for the non-uniform colleagues - the bottom two on the list there our manager development program and supervisor development program the manager. We are now recruiting for our third cohort which will launch in April. The supervisor development program is going through design and development now and we will launch that first cohort in May. They are both designed around a competency model focus meaning we started off with some data that came out of the Department of Justice and National Institute of Correction about how does the role look,

what is what do we ask the personnel to do on a daily basis and it's broken into managing new initiatives and change into leading other men and women giving direction and feedback and eight different spheres actually that are slightly different for both of those roles and then we did some survey work and some focus groups to understand where the personnel feel as though they need help and where their supervisors feel they need help and have designed some programs that were rather proud of. Supervisor development as I said we'll launch later this spring but the manager were -- we've wrapped up two cohorts and are recruiting for a third. The number one on the list there the leadership development excellence program is something that we're collaborating on with Dale Carnegie that again looks at the strategic responsibilities of our deputy Commissioners, our Wardens, and our Chiefs and what are we expecting them to do visa vie the work of Corrections within the 21st century. Dale Carnegie has been an excellent partner with us, we've now wrapped up two different cohorts -- its a mix between classroom based tactical instruction and a action learning initiative -- which is again learning geek-speak -- around designing specific programs or initiatives projects for teams of colleagues to approach to find solutions for together in a structured reflection and research reflection and research process. In December we had a presentation from three of our action learning cohorts and outcomes from two of those cohorts are actually already in play at the Department -- the Commissioner jumped on them right away -- and the third is being developed that we should have something rolling out within the next 45 to 60 days on that. But the practice again back to Kolb of learning something in class noodling it together with our peers and then thinking about how does this help us advance the work of the organization into the future.

I'm particularly proud of that program and the outcomes of our senior leader participants the other two number two and three there you know we've had pre promotional programs for our assistant deputy wardens who pass the warden exam that DCAS administers and a separate promotional program for captain's once they passed the DCAS administered captain's exam -- both have been highly classroom oriented highly policy driven -- what we found though is what would serve those men

and women in their development better and ultimately the larger Department is taking a different focus on a day in the life, so rather than the academic piece of learning policy again that they really crammed to understand in order to take the test and pass it, both of those programs are being redesigned in a day-in-the-life format which looks at the functions, what we asked the men and women do when a daily basis, how policy and procedure intersect in a given activity and what are the challenges that the men and women face on a daily basis. Within any organization that is going through dynamic change the frontline supervisors and managers end up being really caught in a vise between their desire to help and support the officers and their need to respond to data changes in policy and procedure coming down at them so they're in a very difficult spot and we have a lot of angst within our supervisors and managers really solid people believe in the work and we trust them to do good work but what these programs are really designed to give them the capability is to take a step back, take a breather, understand what's going on how did it work the last time, was it successful or not what do we need to do differently. The use of after-action reviews in daily interactions as well as a focus on their responsibility for developing and coaching the men and women that they're responsible for. We expect the new assistant deputy award promotional program to launch in April after DCAS administers the exam on February 4 and they do the subsequent vetting but the Commissioner's charge is to roll out the soft skill pieces if you will, the human-centered pieces for those programs this spring starting next month so that we are supporting the men and women who are on the line now. So we have the transformational leadership module that has been tested, we're actually bringing several the Chiefs into the classroom to co-facilitate that module with our instructors, we have a coaching and feedback module that we're actually partnering with ACS on so thank you very much Mr. Franco. The coaching module in itself is an opportunity to for the supervisor to make the most of what we call teachable moments an issue happens good or bad and the supervisor has the opportunity to use a minute or two to work through with the office or what went right or wrong how do we do that again

or not -- but feedback is critically important -- it's all part of the accountability matrix -- teamwork communication. Actually, one of the action learning initiatives that rolled out in December one of the outcomes was a peer to peer report -- you know communication is critical in an organization where we have 11,000 plus employees and the vast majority of us don't have email. Roll-call is critical so building up the capability of our tour commanders to be leading role calls effectively, effective communicators is key. Also what happens back in the B Post when personnel are exchanging the keys and information at tour change. So we have a peer to peer report that we're getting ready to roll out that is all part of our communication strategy between personnel. I'm flying through this because I know you have a lot to do if there are any questions I'm certainly available to stop and answer them in the moment. Okay let me say that CUNY has been an important partner for us on development of this content I had a very healthy career CUNY myself before I joined the Department of Corrections and I'm loving my work within the correction environment but the CUNY School of Professional Development has been an additional resource for us in the development of value add course content and developing our instructors to be educators of adult learners -- so SPS has been a wonderful partner.

Mr. Richards you raised her hands do you question in the moment or now you know what - two quick things I'll fly through the next, we're doing a fair amount of reorganization at the academy and the way that we develop content and roll it out we're introducing a technology platform and a learning management system to enable us to facilitate far more online learning - another objective of the commissioners and clearly a goal of any contemporary learning organization. We're taking a lot of ongoing some compliance courses moving them to an online format so that we can utilize the classroom in a more value-add way and then the final slide is something I snuck in. The Commissioner back in January of 2019 gave us authorization to utilize part of the GMDC, the decommissioned jail on the island, as an on-Island Academy a Learning Center. Chief Jennings and I walked this space shortly thereafter and essentially, we've taken over the old high school space and

the Peace Center as well as the gymnasium and our FMRD on the island has done a wonderful job renovating the classrooms. We're using it on a day to day basis with a dozen different learning programs regularly. The piece that I want to mention here is that in every Monitor's report we get a slam around those dark dank rooms that there's men and women go to class in. Every one of these rooms is well lit, they all have a wall of windows, we've got contemporary technology, it's a very welcoming center and it's something that I'm particularly proud of that we've been able to accomplish in the last year for the members because it's just something that is much more welcoming so -- that's it.

VICE-CHAIR RICHARDS: Thank you. So couple of questions. Let me start with what you just ended with -- where is the Department at with locating a new training facility -- in GMDC is nice -- but where is the Academy -- where is the Department with finding a new facility is one question.

CHIEF OF STAFF BRENDA COOKE: Thanks Stanley so that's an issue that we're working closely with City Hall on and so we are working to identify appropriate space -- that's underway.

MEMBER REGAN: So, you know, I know a little but about Randalls Island. I've been to the police academy- their new facility - you've gotta be thinking one of the new jails has to house the academy. Like, don't wait on these things. The commitment that the city had made to the police department, to the fire department and understanding the importance of the Academy is significant and don't lose the opportunity to leverage the new buildings as a place that you have to end up in. Right?

COS COOKE: Thank you and yeah, we'll be at a separate location but certainly the space within the facilities for you know, classrooms, learning and other administrative opportunities is -- it's already been taken account to the program size for the four borough jails but we will still have a separate Academy location and the city is working hard to identify an appropriate space and it's a challenge in a city essentially populated as New York and available properties ...

MEMBER REGAN: But that's the old answer, the new answer is it is critically important for him to get a group of people and train them and retrain them on how to talk to families of people who are visiting family members on Rikers Island right? Training is a huge key here.

COS COOKE: I agree yes and again the city is working hard to identify a space.

VICE-CHAIR RICHARDS: Could you talk a little bit about the culture, like what is the mandate of the officers when they come into the Academy. What are they told their jobs are? I'm asking for a particular reason because I think training and the way that officers go about their work starts and ends at the Academy and when we did the Norwegian trip, what they showed us that was really glaring, they laid out the Department of Corrections Job Description and then they laid out the Norwegians Job Description around how to describe the work of the officers and one was really heavy-handed and sort of institutional and the other one was sort of like Social Work engagement and it was very different in the way that the jobs were seen. So, what are officers told their job is? Is it still the care, custody, control or have y'all reframed that to have officers think about their work in the 21st century.

DC DAIL: The change in how we define the role is all part of this culture change and effort and -- it's going to evolve. I was very impressed with the contact officer role that I believe you're referring to in the Norwegian model and again with the desert waters is a think tank out there within the correction space that's done some very interesting research around how to balance the roles of the human services entered rehabilitation person in the jail as well as the security professional that is a part of the not just on Rikers Island but part of the larger safety network of the city.

DOC COMMISSIONER CYNTHIA BRANN: I just want to jump in here. We have a good opportunity now as we're not hiring any correction officers. We have taken the entire six-month curriculum and we are revising it according to best practices - core correctional practices. So, every part of that

curriculum which has already been reviewed by NIC will be informed partly by the contact officer that we learned about and the role of the correctional officer currently. So, we're not teaching that content anymore to anyone, we are completely revising it.

MEMBER FELIPE: Thank you Commissioner. Last week actually Ms. Eagan and I had a chance to go to our RNDC and we actually were particularly struck by meeting a couple of officers that actually kind of really get it. I mean like they understood that their job was to make sure that they could motivate young people to get to school every day, they were completely thinking outside the box on how to do it, they understood the value of the Peace Center which I was really impressed by it. The question to you may be to answer now or later -- it felt that actually they were doing it because they had the right attitude and aptitude to do the work, it was clear that there's no set training on how to work with young adults. I would love to hear more about how you have been officers or actually I think want to do the right thing to develop the skills to earn such an important part of life -- I mean we all know that 18 to 25 is an important moment in life if that people get the right resources, support, and skills they could try -- and I would love to hear how the Department is building on what they have done in the past with ACM what you have done nationally with target how you build in those initiatives to really develop training for those who work with young adults.

COMMISSIONER BRANN: We'd be happy to discuss that with you, that's a very long discussion and I don't want to take up the time the Board right now, but I would be happy to give you a presentation on that in the future.

MEMBER REGAN: Congratulations on the class of 400. When is your next class -- and your energy is contagious, the city is lucky they hired you -- when is your next class?

COMMISSIONER BRANN: Right now, we have no plans to hire a class as the agency is downsizing and the population is decreasing. We have no date and we're not doing any active recruiting and we have no test scheduled.

DR. COHEN: That makes a lot of sense Commissioner -- I think that's absolutely right. I have a question for the you. You have the Norwegian thing up there several times, you're raising it, they have a principle of normality which I'd like to read but I won't -- very important -- in two years of training.

DC DAIL: I'm sorry?

DR. COHEN: Two years of trainings. What is -- and that makes sense to me. I haven't been to Norway, but I've been to jails all over the world. I've been to the Finnish jails, the Danish jails, and the Dutch jails and two years - that has no relationship to six or nine months. So how do you -- I mean I would like the answer to the question I haven't posed to be that is our plan, you know, to have everybody who's in the Department get trained up to as high level as they can using using CUNY and any other source and when you do train a new class that it is based upon a model of training that takes two years. Do you think it's a good idea and do you think it makes a difference in terms of the way those jails are run?

COMMISSIONER BRANN: so I believe the Norwegians believe that that extended training does make a difference so that two years is six months in the classroom, then they go out to what they call a training prison for a year under the leadership of a field training officer where they're being evaluated as to what they learn in the classroom and how they transfer that learning into actual skills. Then they come back to the Academy for a final six months and that's when their probation ends, and they move forward, or they're evaluated that that's not the job for them. So it's not really two years of training, it's six months of learning and then application of those skills and then back to the Academy for some refreshers and the completion of their training. So we do the first six months of training and then folks are put out into the facilities. We are looking at being able to develop a field training officer program since we have the ability to have more officers at this point in time to manage those new recruits when they do get into the facilities.

DR. COHEN: Thank you and second question is use of force. What is your assessment of the outcome of use of force training that the Department has been engaged in for the past several years. Has it been successful? Is there a change that you're planning on doing it? We'll talk in a few minutes about the eighth report which has a lot to do with the use of force training. Could you comment on what's gone well and what's not gone well -- this gigantic project of use of force training I mean, I appreciate training of ten thousand, eleven thousand officers is an extraordinary -- forget about the cost -- it's an extraordinary effort but what has it accomplished? If there are problems that you see in it, where does the training process -- where is it responsible or where should it change to reflect the outcome so far.

COMMISSIONER BRANN: So I just want to make a remark on that. First of all, the use of force training is developed in concert with and approved by the federal monitors and I think that the discussion on that particular topic is best left to our update on the *Nunez* Consent Decree later on in the meeting.

INTERIM CHAIR SHERMAN: I hear that I guess I want to broaden -- I had a question sort of a long similar but broader lines, which is a little more generally, how are you working within the training and professional development area to evaluate the impact of the work and to use the data that you gained through that evaluation to drive your practice and the development of training moving forward.

DEPUTY COMMISSIONER DAIL: The broader use of force question I think -- the piece of it that we own at the Academy is the way in which we educate the members around the policy -- the policy as you know is written in very technical language by our legal colleagues and is not always interpreted that immediately by our members. So, at the Academy our responsibility is to break it down so that they understand it in black and white and they know how they should be living it, practicing it within the facilities. The broader question -- you know what I'm having a senior moment -- your it was --

INTERIM CHAIR SHERMAN: It was really what data and metrics you're using to evaluate more broadly the impact that training and professional development initiatives has on the Department.

DC DAIL: When I was interviewing for my role one of the eight items on the role description was around developing an effective evaluation plan, not just for the academy itself but for every training program. One of the things we've started doing is collecting data around where people are getting it right or wrong. We had relied on qualitative measures if you will, the instructor debriefing with students afterwards or with other instructors around how that class went well or poorly what I need to do the next time around. So, in the learning of environment there's a four different level evaluations strata around how the class went, what behavior we're seeing it, does it align with where the organization's headed, and fourth is it a return on investment. So, we're building out one two and three around what performance looks like back on the job not just in the classroom because that is just an immediate response around whether or not they passed the test, for example, but the testing isn't the important thing it's what are doing back in the jail. So, developing a mechanism around supervisor engagement is what we call it and feeding us back, all right your employee was in a classroom Tuesday of last week on blank, today's Wednesday eight calendar days later how does this look. So, we are building those tools and we are subsequently working with supervisors and managers to be able to interpret them and provide us feedback. That piece of it is going to be the greatest indicator of where we need to go with changing mindset and practice but it's also in a public sector organization with communication channels that we have is going to be a hurdle. So, we're working on it it's clearly focused on our radar, but I don't know if I'd answered your question.

INTERIM CHAIR SHERMAN: Well I appreciate the comments and I think it's an ongoing conversation between us. We look forward to hearing more as you continue to develop your metrics and your process.

DC DAIL: Sure, happy to report. Also, around the two-year development of recruits within the Norwegian system, from my perspective our goal is really not to necessarily extend from six months to two years the new hire training and preparation for the role but really to look at how we're managing in service because the development and support of our personnel really should look at a 20 year span of their entire career with the Department. That's why we're putting so much emphasis on topics that are covered in in-service how the quality of the training we're delivering whether or not the employees get it and they're practicing it back in the facilities. So, our focus at the moment is much more on the in-service pieces as you heard from the Commissioner, we don't expect to have a recruit class for at least a year.

DR. COHEN: The Norwegians described their curriculum and it is much broader than in-service training. It takes more than six months, so I appreciate your response to it, but I don't think you're engaging the different approach to training than the Academy has practiced to date.

DC DAIL: Well if we look at an active in-service initiative we're bringing all of our members back into training 12 to 15 days a year, not just for the compliance pieces but around defensive tactics and others. I disagree with your perspective and maybe I haven't shared where we're coming from effectively it -- happy to talk to you about it. But I feel as though in-service is the mechanism for the ongoing development wherever they are in their role with the Department.

DR. COHEN: I think that's true for people who were there but when you but when you start with people you really want to spend a lot of time with them which is -- I'm just saying that matters a lot and it's not an in-service issue it's a -
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DC DAIL: It's a development and support issue.

VICE-CHAIR RICHARDS: My question is we're not gonna have a class anytime soon -- your goal is to have 12 to 15 training in-service training days for every officer right now? Because I wanted to understand like with all of this new framework

what's your timing with respect to the officers we currently have going through this entire process, getting trained on this new framework, and being able to implement it and 12 to 15 days a year doesn't sound like a lot of time to do that training.

DC DAIL: Well I'd think if you talk to my peers across the city in other agencies -- if every employee gets one to two days of training they're lucky. I have a mandate to make sure that we cover certain topics, whether they're compliance oriented or developmental or what have you -- and only because of the two different facilities that we have at the moment and the instructor staff that we have are we able to go beyond what a minimum mandate is. I'd be happy to take it offline and talk in detail about what that mapping looks like and what each of those days are structured as. But I think that the proof is in the pudding and I'm happy to sit down with you on that.

VICE-CHAIR RICHARDS: Yeah I'd like to talk to you about it because for me the concern we have as we're going toward - as the Mayor said smaller fairer - so when we get there, we can't get there with the same kind of skills that the Department is using right now, right? And we can't look at what limits the ability of the Department to implement -- we got to look at what it takes to implement it and then there needs to be an investment to make sure that we happen it so when we go to these new institutions these new buildings that we're also going in with a new way of doing business by way of training. So, I'd love to talk to you about this offline.

INTERIM CHAIR SHERMAN: And I think we're interested in continuing the conversation online as well as we move forward and I think what you've heard here from all of us and the level of engagement of this panel in your presentation is an understanding here of just how central what you are all that you are trying to achieve and all the work that you're doing is to the future of the Department and to the city and to the success of the reform initiatives. So, we appreciate your presentation today and look forward to continuing the conversation both in small groups and through this process. Thank you very much.

MEMBER PERRINO: Can I just -- one thing. Just going through - being in the Department you know some of the correction officers had six months of training, some of the captains had maybe three months of training, some of the deputy wardens went to the Academy for three days, spoke with a few people and took them on post, some of the warden I basically took on post ... [inaudible]. I was wondering, are we looking at -- the people running our jails, the people responsible for this big organization -- are we looking at training for them a little more. Like because basically if you get to that level and you know what you're doing, you're picking the right people -- but I think training for them. I know that when the Academy had a leadership institute they used to bring mentors in where the wardens, chiefs, and commissioners, maybe once or twice a month, would give these excellent classes and I learned a lot from that leadership.

DC DAIL: That is the target audience really for the Dale Carnegie work around strategic thinking management and what have you. It is augmented by a number of really outstanding and NIC programs. They have a two-week boot camp for newly appointed wardens and some other programs that we're able to take advantage of. We won't be building everything in-house, we'll be relying on external partners if they've already got it and to preserve our resources, but I think it's a blend of internal structured program like you participated in and then someone going refresher topics if you will which is part of what I need to build out.

DOC UPDATE ON EIGHTH NUNEZ INDEPENDENT MONITOR REPORT

INTERIM CHAIR SHERMAN: Thank you. We're gonna move into -- sort of following from Dr. Cohen's questions and the Commissioner's response -- we are going to move into the Department's update on the eighth Nunez Independent Monitor Report. I'll just start with a little bit of background.

In 2011 Legal Aid filed a class action lawsuit against the city of New York, alleging a pattern and practice of excessive and unnecessary use of force by Department staff. In 2014 the Southern District of New York joined the class

action and in 2015 the case settled with a Consent Judgment. Among other reforms, the Judgment required the Department to: Develop a new use of force policy; Take steps to impose appropriate discipline for staff engaged in excessive and unnecessary use of force; Improve staff training; and Install comprehensive video surveillance. The Consent Judgment also required the appointment of an Independent Monitor to document and report on the implementation of the Judgment's over 300 separate provisions.

The Independent Monitor filed his Eighth Report in October 2019, that report covers the six-month period January to June 2019. The Report concluded that while the Department has taken several steps to advance the reforms required by the Consent Judgment, the conditions that gave rise to the Judgment have not abated since the effective date of November 1, 2015. Among the Report's most significant findings are: (i) from January to June 2019, use of force in Department facilities continued to rise, reaching their highest levels since the Consent Judgment went into effect - during the eighth Monitoring Period, the average use of force rate was 7.41, which represented a 98% increase since 2016; (ii) use of force remains highest at RNDC and GRVC, facilities housing populations with higher rates of misconduct and with special management units - use of force rates at RNDC and GRVC have increased by 174% and 101% respectively, over the past three years; (iii) there is an overwhelming lack of consensus about what constitutes a use or misuse of force across line staff, the Trials and Investigations Division, Training Academy, and Facility-level leadership; and (iv) as a result of staff's inability to reliably identify misconduct, misuse of force often goes undetected, and therefore unaddressed - this has led to a backlog of approximately 6,815 pending investigations of staff misconduct which, in turn, has resulted in delays to appropriate discipline, reinforcement of a lack of cultural accountability, and further misconduct.

At the November 2019 public meeting, the Board asked the Department to update the Board on the current status of *Nunez* reforms and their efforts to address the Monitor's findings. At the meeting, Board members expressed alarm that Department

leadership did not appear to recognize the crisis in the jails documented in the Eighth Monitor's report. The Eighth Report and the Department's November response raised questions as to the Department's implementation of the requirements of the consent decree it signed in 2015 - and, ultimately, the Department's safe management of the New York City jails. We've asked the Department to return today to address the Board's urgent questions.

COMMISSIONER BRANN: Before we begin the second presentation updating you on the progress of the requirements of the *Nunez* consent judgment I want to address that discussion that you just referenced at the November meeting. So two members of the Department's leadership team Assistant Commissioner Marshall Volk and Deputy General Counsel Lisa Richardson, who are experts, experts in the Department's work under the *Nunez* Consent Judgment appeared before you to make that presentation which was titled DOC updates. They began their presentation by avowing that the Department took its requirements under the Consent Judgment seriously and stating that despite the challenges that exist, we remain dedicated to eliminating unnecessary or avoidable use of force within our facilities. They were forthright in their acknowledgement that the Monitor's Report scored several areas of non-compliance and informed the Board that their presentation was going to focus on providing a detailed update with respect to the Department's corrective action plan in those areas. However, because the requested presentation was an update, they also updated the Board on the totality of the Department's work related to *Nunez*, which has resulted in partial or substantial compliance ratings for 85% of the provisions contained within that agreement. Their presentation was never intended to rehash all of the concerns of the Monitor or any of the Department's deficits because we've all read that public report. I believed you asked for and wanted an explanation of what we were going to do in response to that report so I was taken aback by the Board's response which was to reject the presentation and state that our presentation of factually accurate information about efforts that had been successful over the past four years meant that we were reading different reports, that we were

glossing over glaring concerns raised in the reports, and that we were giving an Alice in wonderland presentation. We have worked hard, very hard over the past four years to lay a foundation for our future. Acknowledging this does not take away from the Monitor's finding that there is significant and hard work yet to be done. It simply means that we have positioned ourselves in the best manner possible to tackle the difficult task that remained before us. I was troubled by comments from the Board that our presentation was not perceived as sincere and that it suggested that we weren't intending to implement the reforms necessary to address the issues identified in the Monitor's Report. I'm extremely proud of how my staff maintained their professionalism and composure in response to those statements and they repeatedly reassured you the seriousness in which the Department takes the Monitor's Consent Judgment obligations and the assessments in the Monitor's report and referred you back to their presentation which detailed the Department's efforts over the past several years to address outstanding issues. At the meeting it was stated that I could not have possibly signed off on that presentation. Please be assured I handpick every person who appears before you and I am involved in the message and the information that they present to you. I was fully aware of in an agreement with everything that was presented to you here in November. I am most dismayed however that the Board concluded that two of my trusted staff members who are leading the Nunez compliance effort were not sufficiently qualified to update the Board on these matters because they were quote-unquote just lawyers who were not involved in operations. You could not have been more wrong. You had before you two dedicated talented and knowledgeable people both of whom have been involved with the Consent Judgment since the beginning and one who oversees the internal compliance unit responsible for the Department's operations related to the Nunez Agreement. Both the Assistant Commissioner and the Deputy General Counsel are highly regarded by me, the Federal Monitor, the federal judge as well as the uniform and non-uniform leadership of the agency and so let me be perfectly clear, when those two speak within the agency and make recommendations or provide advice the

leadership of the agency myself included, listens, adopts, and acts. A central focus of my tenure as Commissioner has been on developing strong sustainable leadership and I have worked hard to dispel the long-held belief in this agency that title and rank defines expertise importance and leadership. That outdated mindset is not reflective of the future that we are building for ourselves at the Department because we are working every day to change the way we engage with and see each other as well as the people in our custody. I am disappointed that the rank structure mindset that we have worked hard to move away from was reinforced in this room. Leadership development as is at the core of our culture change and if we are not developing the leaders of tomorrow then any progress we make today will be lost. Staff members who have the opportunity to own their own work are significantly more likely to do their work with precision, personal investment, and care. I view presenting to this Board as a critical opportunity for all our leaders across all ranks and position in the Department and going forward, I would hope that you take that view as well. I hope that with the start of a new year we have an opportunity to reset, re-examine the working relationship between the Board and the Department, and agree that although we may disagree at times we can do so with respect and professionalism in the spirit of collaboration in achieving the common goal of safe and humane jails. Both Deputy General Counsel Lisa Richardson and Assistant Commissioner Marshal Volk are on leave otherwise they would once again be before you to give you this update but since they aren't here, I will now ask that General Counsel Heidi Grossman come to the podium to give another presentation on the updates of the *Nunez* consent decree. Thank you.

GC HEIDI GROSSMAN: Good morning so thank you for this opportunity to appear and present a follow up update from November. I just want to emphasize how the safety and well-being of the people who work and live in our facility is of paramount importance to us, and as noted meaningful reform and cultural change takes time and we are committed to doing whatever it takes to get to that place.

As to the eighth Monitor report, I would like to focus on the four critical areas that were addressed and that relates to the efficiency in addressing investigations and discipline, applying use of force consistently, and addressing incentives for our young adult population. I just want to also note that this process has been very dynamic and fluid with the Monitor so we're not at liberty to go in great detail regarding the discussions but I am able to still provide an update on some of the key accomplishments since November. Before I get to that point, I just want to frame the discussion about where we have come from and where we are right now in terms of our current status of compliance with *Nunez*. As the Commissioner mentioned yes, the Department has achieved compliance with a significant portion of the Consent Judgment 85 percent - but what we need to know, what we need to understand is that the terms of the agreement are all tailored very narrowly tailored to addressing use of force and so that means that accomplishing compliance with all the terms of *Nunez* are important for achieving the goals of the agreement. So when we say we're 85 percent compliant with *Nunez* that's very important it's not where we need to land it is it's a part of what we need for foundational development and this now frees up the department to focus on the last 15 percent and that's where the *Nunez* Monitor's feedback about what we need to do to move forward to get to that last place which is timely investigations, timely discipline, consistency and application of the use of force directive and then addressing the young adult population and making sure we have adequate programming.

I would like to talk a little bit about the problem the operational barriers that we have experienced with respect to the timely closure of investigations and then of course the meeting out of discipline. The Consent Judgment had mandated certain investigative steps and full ID investigations for certain categories of cases that turned out to create a barrier to the timely closure of our investigations. The Monitor noted this in various Monitor reports and the Monitor also noted that not all cases require full ID investigations so the Consent Judgment provision that required ID to complete and conduct full investigations on this category of cases are

something that we're working out with the Monitor. We're not at liberty to go into further discussions right now about all the details but it is something that we are working on. So, let me also address the issue of consistency in the application of use of force. As mentioned in November, we talked about the intake squad that is in the process of being developed and established and all the efforts that the Department are taking to make sure we stand up a unit and that unit is going to be a centralized unit that is designed to centrally handle all use of force investigations. That unit is going to be comprised of experienced ID investigators in addition the Department is in the process of going undergoing recruitment efforts and training. So far, we have through that process been able to onboard an additional eleven investigators, we've trained them up and our goal is to stand up this new intake squad. The beauty of this new intake squad is that what we have been able to do is work collaboratively with the Monitor, the Monitor has been on-site to help the Department in terms of clearing a backlog that we've heard about and has been referenced in the Monitor's report and our goal is to clear the backlog for this cadre of investigators who will be standing up this new intake squad once that process is completed then the intake squad will start taking new case. The expectation is that the caseloads of the remaining investigators will not rise and at that point in time the Monitor can work with us we can use the same model to try to continue to clear the backlog that existed from the remaining investigators. Our expectation is to the point Jackie that you mentioned the question about how do we do training and how do we use the data. What's interesting is that right now because of the backlog of the investigations, we're not really in a place to know which of the use of force was unreasonable, unnecessary, or excessive and so this is imperative for the Department to demonstrate that it is achieving the goals of the Consent Judgment to get to that place that level of transparency so that we can understand what is the scope of the issue here and then to the training, the expectation would be that we can be more aligned and more consistent with the application of use of force across the Department up and down the chain of command. The expectation

is, as we understand, what buckets the use of force falls into we'll be in a better position to target our training to address the consistency and align the Department on how to consistently apply the use of force directive.

The intake squad is not the only answer because that's a big piece of what we need to be working on with the last 15 percent with the last pieces of this compliance with the Consent Judgment but don't forget about all the accomplishments we have achieved so far - all the foundational steps that we have taken to align the Department to communicate with our staff up and down the chain of command. It includes one-on-one counseling sessions, group sessions so let me just go through the other systems we have in place to try to do our best effort at aligning the Department and use-of-force. We have at first, which a Deputy Commissioner Dail mentioned, we do train on use of force, we have start training, act training, we have the refresher training and all the different related training on use of force like cell, extractions, probe teams, etc. We have a rapid review process that is a quick review of use of force incidents that happens at the facility level, so facility leadership are able to see an incident in real time then address that immediately. We have our immediate action review committee that's an Interdisciplinary Review Committee that's made up of people from the Investigations Division, from Trials, from the Academy we have uniformed leadership, the legal division so that meets generally twice a month where we talk about incidents that are problematic and that is an opportunity for Department leadership to align on use of force and whether there's compliance with the use of force policy. We have what's called 5003 counseling and that is when we have staff who meet with the facility leadership, the warden or a designee, to talk about a person who has achieved a certain number of force within six month period, something to talk about going over the use of force one-on-one so that an individual can be made aware of where they could do better. We also have weekly meetings regarding compliance with *Nunez* and that includes high-level officials from the Department who meet and that is also another opportunity to engage and once again aligned on consistent application of the use of

force policy. The Chief of Department also has weekly meetings that she holds when she needs to speak one-on-one with individuals or with facility leadership. DC Dail mentioned our transfer of learning - we have weekly meetings about transfer of learning (a) we identify video that shows incidence of use of force both reasonable and unreasonable because it's not just about the inappropriate use of force, it's also about training staff and showing staff about the proper applications of use of force to reinforce the positive time the positive use of force. And then there are opportunities to plan and develop and establish talking points so that the transfer of learning roll-call trainings can be rolled out and that we try very hard not to repeat what it is that we've used before, we try to develop new content that's relevant to what the Monitor is concerned about and relevant to what the issues are at that moment in time. Then of course we have our teams which is another opportunity when all leadership comes together once a month to talk about how are the facilities performing, what is it that we can all learn from one another so that we can do better and we highlight issues there.

So that is generally an overview of the intake squad, I do want to talk a little bit about the use of force and the increase in in the rates of use of force so we find ourselves asking the same questions that everyone else has been asking which is, why do we have overall use of force numbers and rates of use of force -- why have they increased since the onset of the Consent Judgment -- and I would note it's important to note that the Consent Judgment and the Monitor we all know that use of force is a necessary part of working in the jails use of force is required. For example, when two individuals who are incarcerated in a fight and one person is hurting another person our staff are expected to intervene and use the necessary and appropriate force to prevent that fight from happening and to protect the safety of those involved. So, the question we need to ask is it's not about how much force is the Department -- how much force is the Department -- what are the numbers of the use of force -- it's about what force is reasonable and necessary and if it's reasonable and necessary force that's being used, that would

be meeting the spirit and intent of the Consent Judgment. So, we ask ourselves what are some of the explanations for these increases in use of force. They can be explained by a few various factors. First of all, with the new use of force directive that rolled out, for the first time the Department had a clear definition on what use of force was and that was pretty simple it is essentially when you compel an individual to do something that they don't want to do. An example of compelling someone to do something that they don't want to do may be an occasion where someone is being guided by an officer out of a housing area and the incarcerated person stops and does not want to move and the officer is pushing that person along, or if the officer is pulling that person along, that would be deemed a use of force that needs to be reported. Another example is if someone's passively resistant -- if someone sitting on the floor and some and staff have to remove that person and bring them to a cell area or bring them to from point A to point B, that would be compelling someone to move who does not want to move, that would be deemed a use of force. In the past, it was questionable whether our staff understood whether that constituted to use of force and with this alignment and emphasis over the last four and a half years on what use of force is, we are not surprisingly seeing the reporting use of force increase. The Department is also better at the reporting of use of force. Our staff have to fill out paperwork on incidents of use of force, they have to do prepare it in paper format, they have to send it through the chain of command there are efforts that made at scanning those documents and all have to be done within 24 hours so that we're able to accurately reflect and document what the use of force is -- and that is something that the Monitor noted we've done a much better job with. We also believe that we've caught with some of these explanations in addition we have cameras and the increased coverage with cameras has also we believe, led in part to, the increased reports of use of force. So we believe we've come to a place where this is our new normal in terms of use of force numbers-- it's not about the numbers though -- remember it's about how much of the use of force is unreasonable and excessive because if all the use of force is appropriate and reasonable then that is not what's

at issue in the *Nunez* Consent Judgment it's about what's unreasonable unnecessary and excessive. So why do we believe -- what supports the fact that these numbers right now are leveling and are the numbers that we come to expect, well again better reporting from Department of Correction. What we also find interesting is that the injuries do not appear to be increasing at the same rate as the use of force - that's interesting, that's something that we need to further consider and understand the meaning of that but that tells us initially that if you see inappropriate use of force you would think the injuries are going to be increasing at the same rate, but they're not. Use of force allegations is something that has been a key indicator for the Monitor and for the Department because allegations are incidents where the staff don't report the use of force but an incarcerated person does and that has been something that we pay particular attention to. What we've learned is that the use of force allegations have not increased rather they've decreased. This goes to the veracity of a reporting and that I would submit, is also an indication of culture change that we're starting to see in the Department. In addition, the injuries are not the same as the injuries that gave rise to *Nunez*, in terms of the quality of the injuries. There's been a rise in what's called C use of force, which means an incident with no injuries to the individual that's caused by use of force. So where does that take us now when we think about these numbers, the rates. We as the Department have been focusing with particular attention on how do we avoid uses of force to begin with, what are some of the root causes of use of force, are there procedural violations that if we follow the procedures or didn't make a mistake maybe we wouldn't have been in a position to have to use force in the first place - so that's something we've been calling our avoidables it's for lack of a better term we've been we've been making reference to avoidables. Some of the issues that we've encountered with some of our avoidable uses of force is that we've had issues on occasion with the locks and the gates if we don't make sure that the gates are locked and they're open then sometimes use of force incidents could occur. What we have learned, which is very interesting for us, is that the first six months

of 2019 we identified about 16 to 18 percent of our use of force were avoidable. However, in the second four months so and we've been focusing on that with our staff, with a facility leadership and there's a constant back and forth using all the different systems that I've referenced to have a conversation about how do we address the avoidables. What we have observed is when you look at the second four months of the year August to November, we went down to about nine to ten percent - that's half about half of the use of force avoidables that were referenced at the beginning and we think that's very important and significant and just to further elaborate on that, we've done a little snapshot of the use of force and looked at about 443 use of force incidents in September of this past year and noticed that 92 percent of them, we believe were unavoidable -- which is that's a very interesting development and that's something that we need to really look at and understand and further explore, especially as we stand up the intake squad and we're able to get to a place where we understand what number of cases actually are unreasonable, unnecessary, and excessive -- we'll be in a better place to understand and develop and understand the context in which all this is happening what these numbers mean.

So now, piggybacking off of what DC Dail mentioned, our next focus for 2020 is this outward mindset and the culture change. So now what we're trying to do with this effort is to focus on human relationships and how do we work on with the steady staffing and trying to establish human relationships between the staff and the people who are in our care how do we get to a place where we can actually avoid force altogether. That is something that we're gonna be focusing on in the coming year and is under development and is underway. So ultimately, we need reliable data after investigations are completed so we can have a meaningful discussion on what the data is telling us. Right now until the backlog is closed there's really no way to know at this point in time which force is reasonable or not except on an individual anecdotal basis and that's getting to your point Jackie like how are we going to find our way to use the data we have to help us target where the issues are how do we leverage the data and

figure out a form of training. Our next step in our goals are to continue working with the Monitor on reduction of use of force and further develop this intake squad. The Monitor will be working with us also on what was noted in the last report which is alarms and probe team responses so we're going to be working closely with the Monitor on that.

I also want to note that we have Assistant Chief Barnes who is the assistant chief for strategic partnerships - this is a new part of our organization - he is now going to have oversight over the *Nunez* compliance unit in addition to some other responsibilities so the significance of that is that this brings the uniform and non-uniform staff together and organization together and it ensures that the uniform brands of the Department are also focusing on alignment and consistent application of use of force.

Finally, I'd like to quickly briefly address the young-adult reference in the Monitor's report. So the Monitoring Team is actively working with our deputy commissioner for programming, Deputy Commissioner Beall, on a plan to address the concerns about the young adults in RNDC. It's again a dynamic and fluid process so we're not ready to discuss all the details about that yet but what we can say is we've discussed how to develop a positive incentive program for the young adult population, we continue to work with the Monitor on these details, and the overall effort will include on consistent staffing, integration of direct supervision, meaningful consequences for misconduct, and strategic plans for programming. That is generally the update that I have for you today.

INTERIM CHAIR SHERMAN: I would imagine there are some questions. I wanted to hear you talk a little bit more -- and I understand that you can't go into deep detail -- but a little bit more about the intake squad and particularly what the timeline is for standing that up and also where that sits within the organization. Is that within AC Barnes' area, is what elsewhere and what does that reporting structure look like.

GC GROSSMAN: The intake squad will be under our Deputy Commissioner for Investigations and Trials and let me also add that the intake squad will not only have investigators there will be trial attorneys assigned, there'll be supervisors assigned, there'll be support staff - so it's an intra - it's taking investigations and trials and using the expertise that each offers so that way we can more expeditiously handle the investigations and if necessary, whatever discipline may be appropriate. On the timeline, we are working with the Monitor on that and we're working as if we need to be standing this up as soon as possible so we're working on policy development, we're working on recruitment and that's why I raised with you all the efforts so far that we continue. So we don't know the exact date that this can be stood up but we are treating this as though we're doing everything we can to stand this up because it is it behooves the Department to stand this unit up. This will allow us and position the Department to achieve compliance with the terms of the Consent Judgment which is very important to the Department.

MEMBER FRANCO: Hi Heidi, how are you? You mentioned a little bit about the definition of use of force and how some of your experience has been there actually many times about motivating an individual to get somewhere. And again, going back to the visit last week where we met officers that actually put into practice really good ways of connecting and relating to young inmates and getting them to do what they need to do like go to school. Is that part of the training that is actually being implemented so that actually many of these use of force incidents are actually really about just motivating someone to do what is good for them - is that in place?

GC GROSSMAN: Well we have conflict resolution, crisis intervention training we have the different training -- we also had trained many of our staff on safe crisis management as you know many of our staff were trained and worked closely with ACS at horizon and so we understand that -- but we are developing additional ways addressing the human end of it and relationships with the young people and how to get to a place

-- it's not just about the training but it's the application on the ground level. I mean I think the Monitor has noted that our training is very strong and now it's about how do we dive in and focus and target our efforts on these last pieces so that we can come into compliance.

MEMBER FRANCO: Again, in another moment, we'd love to hear more about how you're using ACM or motivational interviewing to really help motivate young people to do what they need to do without actually having to wait on the use of force is necessary.

GC GROSSMAN: Understood.

MEMBER FRANCO: What about the young people who actually tend to be the drivers of incidents. Could you talk a little bit more about how you're helping them regulate their emotions, their behavior, and helping them stay away from violence.

GC GROSSMAN: I think that on those particular granular conversations I think what I would do is offer that we are able to arrange a meeting with our Deputy Commissioner for programming. She's in the midst of working out those details, that's also in progress with the monitor in terms of how do we incentivize positive behavior, how do we offer programming, how do we bring this next level of engagement to our young people and to the staff and how they relate with our young people.

DR. COHEN: I really appreciate your presentation Heidi and I certainly did not think Commissioner that the presentation last time was not you being represented. I thought it was and that's why we were concerned and you have today engaged the issues that the Board thought then and thinks now are critically important. I do find some of the logic impossible to understand, the notion that eight years after this litigation was brought-- a difficult litigation to show you know to get a federal judge or you know to reach a settlement agreement on excessive use of force and in prison -- and four years after the report started coming out that you do not have any information to know what it is that causes, you know results in use of force, is very

discriminatory. I understand you say you're gonna start getting it now but because you did not complete these investigations you don't have the data to answer the questions that the Board has about what has gone wrong. My question to you and to the Commissioner and to the Department is there's a very serious one about whether or not you have the capacity to carry this out. I mean the next report period is over, the last six months show a substantial increase in use of force. You have defined -- and it's in every area, it's in A's and B's and C's -- and you have you have said well, there is no increase in use of force, we have more cameras, we have people telling on each other or not telling on each other, you know there's more reporting. There's really nothing changed we've just now reached the actual normal on the thing and yet over the past year, I don't know when you reached that point but over the past year it's increased dramatically and over the past six months it's increased dramatically. So you know I think you do know stuff, you say you don't know anything, but I wonder you know -- if you were, you know -- what would you would say to someone who came to you and said four years after you signed them a project and said sorry we just don't you know, just don't know yet, I mean we've had thousands and thousands of cases where we had to investigate this thing and we're about a fundamental issue about increasing use of force that's unnecessary not talking about you -- I mean we all agree on the Board that in a jail there is going to be force because you have to make people do things that they don't want to do and fights break out and worse - but this is about unnecessary, inappropriate use of force, where the Monitor describes force being provoked by the Department. And over and over again describes that, says in the way people are moved and the way they are extracted from their cells and the way they are treated and the way they are talked to, that there is a provocation of force. So, as we go forward into much smaller jails you know, we cannot hear that the smaller the jail the more violence there's going to be. I don't know, I mean I've talked with you and others you know in meetings about the architectural issues of the new jails but what are you going to do to make this change right now and that's why I asked the question which I was not allowed to get an answer

to which is how have you evaluated the training on use of force when it's resulted in no improvements. I mean is there something wrong with the way the training has gone on. Are you going to change it? What are you going to do to and what do you need to have the capacity to make a difference?

GC GROSSMAN: I think the first start we need Bobby is an opportunity to see how it works with this Intake Squad and making sure we're able to timely -- this is a piece of the entire agreement that we have to focus on right now and we are going to focus on the timely closure of investigations and the timely meeting out of discipline. What we need is patience and understanding and collaboration with the Board of Correction.

DR. COHEN: Yeah, I mean, you know that since this consent agreement has come into effect and since you've had the use of force policy and since you've trained 10,000 people in this use of force policy, one non-probationary person has been fired. Since you've started this project and instituted -- you know finally after years -- got a use of force policy written and trained eleven thousand people in the use of force policy and carried out some discipline as a result of this of this whole thing, there has been one correctional officer who has been fired who is not in a probationary status. Discipline is not the key to it - investigations is the key to it - but I just wonder when you're gonna get started.

COMMISSIONER BRANN: So that comment that one officer has been fired is not accurate. So oftentimes that action is taken through a PDR, Personnel Determination Action, and so they're terminated not going through OATH -- so you're talking about someone who's gone all the way through OATH?

DR. COHEN: Right, that's what I'm talking about.

COMMISSIONER BRANN: Their legal rights to take a case all the way to OATH but we also we terminate people while they're on probation, some people resign before the charges so your statement that only one person has been fired for an inappropriate or excessive use of force is inaccurate - it's only part of the story. You can use the word fired or terminated or they've resigned before they had charges, the

ultimate outcome is the same - they're no longer a correction officer for the City of New York based on their actions. So if you want to tell the whole story that's the whole story and I will get you the number of those people who have been terminated or resigned.

DR. COHEN: I know, I was talking about resignations - I mean I was talking about firing.

COMMISSIONER BRANN: One person one all the way through OATH.

DR. COHEN: That's right, that's what I said.

COMMISSIONER BRANN: So that's not the whole story.

VICE-CHAIR RICHARDS: Actually can I ask a question -- because I don't want to get into the personnel because I know you can't really discuss the personnel issue -- but what is the plan as you roll out this intake unit and you start assessing whether or not the use of force was appropriate, inappropriate I know you got disciplinary, but what's the what's the plan to communicate to the entire Department this is how we are going moving forward so that every officer understands that use of force is very serious and that they're gonna be held accountable, whether it's retraining, whether its termination, whether it's whatever. What is the plan to be able to do that so the intake unit assesses and then what happens.

COMMISSIONER BRANN: So, some of that is under underway already. So if you are involved in a use of force you get to see the video and have it discussed with you and I want to back up a little bit about the avoidable characteristics of a use of force. So as Heidi described, if Heidi and I are walking down the corridor and Heidi sees somebody that she knows and she starts to go that way, but we're actually headed this way to the clinic, and I say Heidi we're going this way but she doesn't move, and I just take her elbow right and say no we're going over here, that's a use of force - it has to be written up as a use of force there has to be a full ID investigation and there has to be a determination made. Okay prior to the *Nunez* agreement and the definition of use of

force that was never a use of force. So, you can imagine the numbers that increase when I just take Heidi by the arm and say no we're going this way. Imagine the hours of staff time it takes to do all of that. I'm not saying that's all the use of force because clearly, it's not, but that has increased our numbers significantly. In 2014 we didn't have 14,000 cameras - we do now. There's absolutely no where in a facility that you can take an action against anybody in our custody or against any other staff member and not be seen on camera. Therefore, we now have accurate reporting that has increased our numbers. When Heidi talked about our new normal, we have been consistent in 2019 with where our uses of force have been, landed every month, between 20 and 22 uses of force per day. With a population that has gone from just under 8,000 to now just under 6,000 so think about that. We're also looking at data now in a different way as to not only where the use of force and why the use of force happened but who was involved. Was it the same officers? What time of day was it? Was the same person in custody? What happened on the way to somewhere? What happened during that day? Which day of the week is more problematic for us? So we talk about an avoidable use of force, it doesn't necessarily mean that that used to force was not necessary, we have the Compliance and Safety Center that live monitors every facility all day long, all evening long. Sometimes they will notice a gate has been left open, they'll call the housing unit and say close that gate because if you have anybody trying to get out that's going to cause you a problem, close the gate. So oftentimes we'll have a use the force that was legitimate and it was reasonable, but it was unnecessary because had somebody closed the gate or closed a cell door there wouldn't have been a need for use of force later on in the day and so when we talk about avoidable, it's an avoidable characteristic. The Monitor will tell you that we have had conversations about the total uses of force. They agree that that number doesn't tell the whole story and are not as concerned about that number as the avoidable characteristics in the total number of uses of force and that if we could reduce our avoidable percentage, that's the direction that they want to go in. As Bobby said, in a Correctional Facility there will always be a need for force

- breaking up fight, getting someone to go where they're supposed to go, and so it is a reality of a day in a Correctional Facility. What we're trying to do is get that avoidable rate to a percentage that's acceptable. As we do these transfer of learning roll calls, everybody is watching a video and they're tested by anonymous response using a little counter clicker where the supervisor says okay, what could have been done differently and scenarios are thrown out - the entire roll call is subjected to this and we're seeing over time is they're getting the answers right more often and so people are understanding what a use of force is and what it isn't and what an avoidable characteristic is. I know we asked for patience and I understand that people want results quickly -- culture change in an organization of 12,000 where we have hired half of our staff new within the past four years, is a significant lift to get everybody on the same page. And so now we're going to start retraining people in a different method, so you have to take into account we've trained people one way, we're adding to their learning and their understanding of their job, and then we're going to get them to engage in a way that's completely different than what people have been used to in Corrections. That takes time, it takes resources.

VICE-CHAIR RICHARDS: Agreed, but there is sort of like the results, the response, and implementation right? So in the report it talked about management oversight, consistency, implementation and it sounds like from Heidi your presentation that you have responded operationally to every concern that was in Nunez report with respect to investigations, accountability, staff consistently understanding what use of force is and what's appropriate what's inappropriate. It sounds like the Department has done that?

COMMISSIONER BRANN: Yes. Are we getting the results as quickly as we'd like --

VICE-CHAIR RICHARDS: Right, the results we need to see. Okay thank you.

INTERIM CHAIR SHERMAN: Are there any further questions?

DR. COHEN: I just have one more. The report describes a substantial turnover in wardens in all the facilities - three four or five over the monitoring period. Do you agree with the Monitor's assessment that that is one of the very importantly responsible for the failure of the Department to be compliant with the critical -- what I would consider and what I believe the Monitor I believe you believe -- are the critical elements of the consent agreement which you know are the ones numerated by the Monitor in that report and included in the eight counts that the Southern District of New York and Legal Aid Society have brought the two potential -- eventually perhaps a court hearing.

COMMISSIONER BRANN: A simple answer to your question is, factually, that's correct I don't agree with their conclusion. So we have had significant number of retirements over the past couple of years when we have senior leadership retiring -- and they're all entitled to leaving after 20, 25, 30 years, which some of them had -- you have to move people up and when I first came to Corrections in 2015, it was common practice to move everybody every six months - So you not only moved wardens but you moved deputy wardens just for the sake of moving people to get them experience in different facilities. I put a stop to that and I've been trying to establish leadership teams in the facility where a warden has complimentary deputy wardens who have different skills that can support the leadership team and keep them as long as possible in the facility that their leading. Unfortunately, sometimes people decide to leave while you're in the middle of that transition and so we have had significant turnover in the warden role -- in the warden rank -- and sometimes leadership teams don't work and we have to move somebody out of a facility and move somebody back in and is that ideal? No, because it doesn't give staff time to get to know their leadership team and work together and set a tone for the facility but sometimes it's necessary.

VICE-CHAIR RICHARDS: One final question. So, since you implemented all of the processes you just talked about, is there a way of looking at sort of putting the lines saying we implemented it in you know December 1 and looking at use of

forces and other indicators from December through January to see if some of the changes that you've implemented are bringing about results. Is it possible to do something like that rather than waiting for the next Nunez report to come out and saying things are still the same when in fact you may have implemented something in the interim of the reporting period and may have a smaller slice to evaluate.

COMMISSIONER BRANN: So we never wait for the Monitor's report to come out, we're looking at data every single day and I welcome you to come to my office and see how I -- on the wall we're -- how we're looking at data. We're rolling out a new way of the facilities looking at data rather than just the numbers but in a different way and we'll be happy to present about that in the future.

DR. COHEN: Just one last thing. I think it would be helpful for the Board to meet with you -- some members of the Board -- we have a meeting and to review the tape of those incidents where the Monitor says this is ridiculous and your staff say we don't understand what the problem just so we can understand - the Monitor describes a failure in the management, you know, level of the Department to understand what problematic use of force is. I know that there are differences that are seen by the Monitor and by the staff and I would just suggest that some of us would expertise in this area on the Board meet with perhaps with the Monitor as well and your staff to look at this so we can understand what it is -- because I would like to see that, I would like to understand what it is you're saying because when I read the reports I do not see that - I see a real disconnect between what the Monitor thinks inappropriate use of force and what he says your staff belief.

COMMISSIONER BRANN: I can't speak for the Monitor, so I can't agree to that type of meeting, but I'd be happy to bring it up to them and get back to you.

INTERIM CHAIR SHERMAN: I would like to thank you both for the presentation today and just for a moment to speak Commissioner to your words at the opening, from my personal perspective, I don't for a moment question the value or the

need to have subject matter experts come before the Board and provide the most direct information, the most comprehensive information and response to questions that is possible. So, I don't question the value of having subject matter experts in the room and I think from my perspective, one of the concerns from November was the absence of a framing that made absolutely clear that from your office on throughout the rest of the Department, compliance with the remaining outstanding pieces of the order is a top priority. Which is not to say that the subject matter experts across the Department aren't the -- their input and their responsiveness to our questions is not valued -- it was just to observe that that other piece was lacking in November. I appreciate that you've been here today, and I appreciate the presentation and the openness to working with us moving forward and further communicating moving forward so thank you for that.

DOC UPDATE ON JAIL CLOSURES

ED EGAN: we'll move on to the jail closures update. On November 21, 2019, New York City announced plans to close the Brooklyn Detention Complex and the Eric M Taylor Center. The City reports that the closures will not result in any staff layoffs and that all staff will be reassigned. On December 16, 2019, the Department did close the Brooklyn Detention Complex and the Department plans to close EMTC which as of January 10, 2020 was holding 478 people in custody. The plan is to close EMTC in March of 2020. As of January 10th, the total DOC custody population was 5,696 - that's an overall decrease of 53 percent over the last decade. So, we invite the Department to speak to the closures.

SENIOR DEPUTY COMMISSIONER TIMOTHY FARRELL: Good morning my name is Tim Farrell, I'm the Senior Deputy Commissioner. Echoing in November, the City announced we were going to be closing two facilities the Brooklyn House of Detention and the Eric M Taylor Center on Rikers Island. In mid-December, we completed the transfer of the last individual in custody out of the Brooklyn Detention Center. We were able to do that using existing vacancies at both the Manhattan Detention

Center and the Vernon C. Bain Detention Center in the Bronx to avoid increasing the census on Rikers Island. We established the protective custody units that were in existence at Brooklyn over into the VCBC center, providing dorm and cell protective custody housing and we were able to establish the remaining GP population and the new admission process that was being conducted at Brooklyn into the Manhattan Detention Center. So, moving forward, and the staff were transferred to existing vacancies throughout our agency, both uniform and non-uniform, there were no layoffs as a result. The Brooklyn Detention Center -- we are maintaining the bail window to maintain that access point to post bail for individuals in custody. That will be staffed 24 hours a day, seven days a week until the building finally closes, and we have an alternative bail location window within Brooklyn and we have a skeleton crew of staff at the facility for routine maintenance and to remove equipment property - that sort of thing. Moving forward to where we are today with EMTC, our census as of today is 459 at EMTC. We have established city sentence cohorts in OBCC and RNDC. We have increased our efficiencies in our existing city sentence cohorts at AMKC, VCBC, and MDC. We are in the process of identifying staff transfers again using existing vacancies into other agency facilities both again uniform and non-uniform, and we will be establishing and instituting those transfers as our population decreases - so we're moving at the same pace as the population decreases, staffing transfers will take place. We are on schedule to close EMTC in March of this year and we anticipate being able to do so in a very orderly fashion.

VICE-CHAIR RICHARDS: Monthly attrition rate because you're not having any new classes, right?

DC FARRELL: Correct.

VICE-CHAIR RICHARDS: Is it you're not having any new classes going forward until it comes down or is it -- I think the Deputy Commissioner said for a year?

COMMISSIONER BRANN: So, our attrition rate has been about 100 people per month, now as those folks who have 20 years or more -- I have been reduced to a smaller number we'll have to

give it a couple of months so that we can see what our new attrition rate is.

DR. COHEN: Just, I mean, there are 150 people less in the EMTC than there were a week ago based upon the numbers that the Board staff provided us. Where did they go?

DC FARRELL: We have been using Mod 4 at RNDC transferring the detainee population from those mods and backfilling on city sentenced individuals from EMTC and there were two vacant housing units at OBCC that we are transitioned into city sentenced and parole violator units at OBCC, which constitutes another 100 beds between those two units.

DR. COHEN: If the Department changed its policy and decided to institute a young adult program in RNDC, would there be room in RNDC for all the young adults?

DC FARRELL: At this point, once our maintenance issues and our housing locations are stood up yes, we would, given our current young adult population it would be able to.

DR. COHEN: And I support all these moves but just my last question is, I don't know what's going to happen in Westchester or Albany or any place in the next couple of weeks and I don't know how the judges are gonna act -- you know in the in the city -- but you know things are at a difficult moment you know, in terms of the bail issue in New York State right now. How are you making sure to accommodate what may be a slowdown in the rate of dropping census that's been predicted.

DC FARRELL: Sure, we monitor the census obviously on a day to day basis. Prior to bail reform taking effect on January 1st, we were already down around 25 percent in our overall census from year to date -- and that was prior to the bail reform -- even if there are modifications to the bail reform we're still gonna see a continued decrease in our population. We have seen that population statistic throughout this entire administration the last four years, it has gone down dramatically but we also live in the here and now and we will adjust our bed capacities as needed. Currently we have beds a standard that are more than sufficient to handle our

population without overloading all of our housing units to -
- you know -- max limitations.

DR. COHEN: And you see an average capacity of housing units in RNDC increasing?

DC FARRELL: Well most of RNDC is governed by -- most of our housing units at RNDC are governed by the *Nunez Consent Decree* on setting those limitations, but we do not see increasing our beds of standard in any of those housing units.

VICE-CHAIR RICHARDS: And since bail reform, the census was at 60 something hundred right? Now we're down to 56? And it was -- this just occurred since bail reform happened? Going from 65 is almost like a thousand people -

DC FARRELL: That was over the course of calendar year 2019.

VICE-CHAIR RICHARDS: But wasn't the census at like 60 something hundred in like December?

COS COOKE: So, we had about 800 people in custody who were released on securing orders as a result of bail reform for a future date of release and those about 800 people went out of our custody between the second half of December and the first day of January. So that's about 800 but when we look back at our folks in custody over the course of calendar year 2019 who are in on charges that relate to the bail reform -- related to charges that are now not eligible for cash bail, we had more than 7,000 people in custody released from custody over the course of our discharges in 2018. And so again, to Tim's point, you know with respect to the reduction in our admissions and you know people coming into custody the reduction in the number of folks sentenced to you know a year or less in city jail, those numbers have all been going down independent of the implementation of bail reform and we expect that that support for those criminal justice reforms to continue.

LIMITED VARIANCE REQUEST TO BOC MINIMUM STANDARD § 1-
17(d)(2) (SEVEN-DAY WAIVER)

INTERIM CHAIR SHERMAN: Thank you. so, we are now ready to return to the variance items on the agenda for today. I'm gonna start with the seven-day waiver variance request.

So, in September of 2015, the Board first granted a variance for Minimum Standard 1-17(d)(2) to allow the Department, in highly exceptional circumstances presenting safety concerns, to waive the requirement that people in custody be immediately released from punitive segregation for seven days after they've been held in punitive segregation for 30 consecutive days. The Board has renewed this variance multiple times, each time on the condition that the Chief of Department must approve each waiver and state why placement in a less restrictive setting is not a safe option. As in the past, Board staff published a report on the Department's use of this variance before today's meeting. Since the Board's last approval of this variance, there have been no requests for a seven-day waiver. The Department has approved its last seven-day waiver in October of 2018. The Department has asked the Board to consider renewal of the variance for a six-month period. As I mentioned earlier, the Board's proposed rule on restrictive housing incorporates the variance and its condition. The rule's enactment would eliminate the need for this variance. The Board has received extensive comment so far questioning the seven-day waivers inclusion in the restrictive housing rule. Today's vote, however, is solely on the limited variance request - it is not on the permanent restrictive housing rule that the Board is considering now. So, with that background, would the Department please present their variance request.

CHIEF STUKES: Good morning again. Pursuant to section 1-15(f) of the New York City's Board of Correction Minimum Standards, the New York City Department of Correction requests a renewal of the six-month limited variance sections 1-17(D)(2) of the Board of Correction Minimum Standards which would allow the Department in highly exceptional circumstances, presenting safety and security concerns, waive the requirement of people immediately released from punitive

segregation for seven days after having been held in punitive segregation period of 30 days.

DR. COHEN: Is there any place else on Rikers Island now or VCBC or MDC -- is there any other place where you could keep these men in a non-solitary confinement setting. I mean the comments we've heard before are I think resonant with the Board. We do not want to -- you know -- have people in solitary confinement for 60 days and what you're asking for us for is the right to do that. I actually appreciate the Department is not using it - that can be interpreted in different ways - on one its shows restraint and respect for the problem of solitary confinement on the other hand, you don't need it. you know it's just like an unnecessary thing. I don't think the Board should be expanding - I voted against it - I've voted against this variance ever since it was first proposed - but I don't think the Board should be standing in the capacity of the ability of the Department to keep people in solitary confinement for extended periods of time. So I certainly encourage members of the Board to vote against this but I ask you, is there no other place - is there West Facility is there -- you know like you're gonna have in 2B, you're gonna have air condition capacity for people over there - there are some non-solitary confinement area you could have where you could keep people -- or in the NIC or in Manhattan house rather than keep them in solitary for up to 60 -- or up to 67 days.

CHIEF STRUKES: With regards to the request for the seven-day variance, I think our data supports the fact that we utilize it only when necessary in exceptional circumstances when persons in custody do pose an imminent threat to themselves, other persons in custody. The fact that we have not exercised the ability to use it since October of 2018, of course it could be looked at in two ways. However, in a correctional setting it is a necessary tool to manage individuals in a population who commits as we stated in the language exceptional circumstances which requires the highest-level uniform ranking personnel Department to approve. When persons in custody has the ability or engage in acts of violence that disfigures people, causes serious

injuries, and has the ability to cause death - we as an agency has the responsibility to take immediate action. So, the fact that we have not used it in a while does not mean that it is not a tool that is necessary to manage persons in custody.

INTERIM CHAIR SHERMAN: Thank you. Are there further questions? If not, I will move to ask for a board member to move to vote on the requested variance.³ Now I will open the floor for debate and conditions on the proposed variance.

VICE-CHAIR RICHARDS: So I want to start by saying I have voted for this variance because the Department said we need this tool to be able to manage the jail and I am pleased to see that the department has not used this since 2018 and today after hearing the advocates talk and really reflecting on -- you haven't used it in 2018 do you really need it? And acknowledging the time that we're in and I think the time we're in right now is really to end solitary confinement and to do it smartly right? It's not just to end solitary confinement but to do it smartly because we got to maintain safety for everybody involved and so we have to take advantage of that moment. You have not used this since 2018 we have to take advantage of it and here's how we can take advantage of it - in our rulemaking. So, I'm just gonna leave it there because I think our rulemaking around solitary confinement is the place we bury all of that stuff.

BOARD MEMBER JENNIFER JONES AUSTIN: So, I concur with my fellow Board member that as part of rulemaking we need to be looking very seriously at solitary confinement in steps towards the ending of solitary confinement. Where I think I differ is, I don't want to sit here and start doing rulemaking when we are already involved in that process and so what I would suggest as a compromise is that we not move towards a six-month variance -- because we plan to get through restrictive housing rulemaking well before then -- but maybe move to a three-month variance. The question I do have is, why have you not used it? Is it do you believe this serves as a deterrent -- I mean what have been the conditions that have kept this on the books, but you have not had to use it?

³ Vice-Chair Richards moved the item and Member Perrino seconded.

CHIEF STUKES: I would provide a response to better individuals in custody management -- so we have other models that we utilize as it pertains to managing persons in custody so the it's a criteria for a person to -- and the Chief to -- approve a person going back in punitive segregation without having the seven-day out. So, the instances where the person has been approved on all the occasions we have used it only once since 2018. The persons -- or the times of that it has been approved is 29 times -- so the persons where has been approved for are assaults on staff, possession of a weapon, fighting and possession of a weapon, slashing or stabbing -- which is the highest at 14. So, I say again, better persons in custody management and utilizing that tool only when it is necessary. And I will, for clarity, when we speak about solitary confinement -- our punitive segregation, it differs from solitary confinement as persons in custody -- we allow them to have four hours out of cell time -- that's excluding family visits, attorney visits, trips to medical -- there's a difference between our punitive segregation and we not wanting to use it with the 30-day rule and not wanting to put people in punitive segregation -- that is not our intent is to put people in punitive segregation but we have a right to keep persons in custody safe staff, and members of the public that enters our facility. I think the data is undeniable that we utilize it only when is absolutely necessary.

MEMBER JONES AUSTIN: Thank you for your comments. I just want to make sure that it is appreciated by all that there is a dialogue and there's a debate right now about what qualifies the solitary confinement and what qualifies as punitive segregation. There are people of different minds that just because the rules that are in place in the New York City Department of Correction do not align or go beyond what is required by the United Nations with respect to solitary confinement -- that does not necessarily mean that there is a shared belief that that is the bar that we're seeking to meet, right? And so just because the Board of Correction the Department of Corrections rule meets and exceeds what is required by the United Nations does not mean that we're done -- and I think that is important for everybody to know and to

understand. I hear what you're saying, and I accepted it in this moment but we're not staying there.

CHIEF STUKES: Thank you.

INTERIM CHAIR SHERMAN: So, I believe we have a motion for a condition limiting the term of the variance to three months. Is there a second for that.

VICE-CHAIR RICHARDS: Second.

INTERIM CHAIR SHERMAN: Thank you and now I will move to a vote on that condition, which is a new condition.⁴

INTERIM CHAIR SHERMAN: There is also an existing condition to the variance, which Meg will read.

ED EGAN: The existing condition is: The Department shall approve all waivers in writing approval must specify reason for granting or denying the request, what other housing options were considered, and why each was not a safe option. Immediately after the Chief's decision is made on a request, the Department shall send to the Board the request and the Chief's Decision.

All right and is there a motion to vote on the condition?⁵ Does the Department have any comment on the existing condition?

CHIEF STUKES: Not at this time.

INTERIM CHAIR SHERMAN: Thank you. Are there any comments from the Board on the existing condition? By a unanimous vote the condition passes.⁶

Are there any further proposed conditions? -- hearing none -- I would ask for a Board member to move for a vote on the requested variance with the conditions that have been

⁴ After Interim Chair Sherman called a roll call vote, the Board approved the new condition limiting the variance to three months with five (5) votes in favor (Interim Chair Sherman, Vice-Chair Richards and Members Franco, Jones Austin, and Perrino) and one (1) vote in opposition (Member Cohen).

⁵ Member Perrino motioned to vote on the condition and Vice-Chair Richards seconded.

⁶ After Interim Chair Sherman called a roll call vote, the Board unanimously approved the existing condition, 6-0 (Interim Chair Sherman, Vice-Chair Richards and Members Cohen, Franco, Jones Austin, and Perrino).

approved.⁷ Okay, and we'll move to a vote on the variance with incorporated conditions. By a vote of five in favor and one opposed, the variance is approved.⁸

Limited Variance Requests to BOC Minimum Standards
§§ 2-05(b)(2) (i-ii) (Psychotropic medication) and
3-04(b)(2) (i-ii) (Tuberculosis screening process)

INTERIM CHAIR SHERMAN: Now we will move on to the CHS limited variance renewal requests.

ED EGAN: The next items on the agenda are the two Correctional Health Service various requests. Both variances that the Board has renewed every six months for some years. In 2017 the Board voted unanimously to prepare to integrate these variances into the Minimum Standards again, we are committed to doing this as soon as capacity allows.

The first variance is to allow correctional health psychiatrists to see and evaluate stable to adult patients on psychotropic medication in general population at least every 28 days, rather than every 14 days. This variance was first granted by the Board in 2005 and has been repeatedly renewed. CHS request six additional months. As of December 2019, 34 percent of the people in jail (or 1,970) had psychotropic medication prescriptions. About 25 percent of these people are housed in mental observation units - this is the highest reported rate since the data was first reported in June of 2013, a 2 percent increase from June 2019. Previously, the rate of people in jail on psychotropic medications has fluctuated between 28 and 32 percent -- that's since December of 2013. Of the 1,970 people on psychotropic medication in December 42 percent (or 830 people) were on a 28-day scheduled schedule as allowed by this variance - this is a 13 percent decrease from June. I'd like to invite CHS up to present this variance request.

⁷ Vice-Chair Richards moved the item and Member Perrino seconded.

⁸ After Interim Chair Sherman called a roll call vote, the Board approved the variance with conditions, with five (5) votes in favor (Interim Chair Sherman, Vice-Chair Richards and Members Franco, Jones Austin, and Perrino) and one (1) vote in opposition (Member Cohen).

CHS' CHIEF MEDICAL OFFICER AND ASSISTANT VICE PRESIDENT, ROSS MACDONALD, MD: Good morning, Ross Macdonald CMO for CHS. In the interest of time I think I'll just take any questions on the variance request.

DR. COHEN: Is there any change in the number of people who are in MOs or [Inaudible] -- there's significant change in the 14- to 28-day ratio [Inaudible].

DR. MACDONALD: I don't appreciate a significant change - you know the patient population is changing with bail reform but I don't see any change in the way we approach the care, so this variance is really meant to give our psychiatric prescribers discretion to tailor the follow-up timeframe to the needs of the patient in front of them, and I think the patient population may be shifting, but nothing in our approach.

DR. COHEN: [Inaudible] if you see any change, let us know.

DR. MACDONALD: Certainly.

INTERIM CHAIR SHERMAN: Are there any further questions? Alright, if not, we can move to a vote on the requested six-month variance - which would continue to allow psychiatrist to see and evaluate stable adult patients on psychotropic medication in general population at least every 28 days, rather than every 14 days. Will a Board member move to vote on the requested variance?⁹ Thank you. Does any member wish to propose a condition or wish to comment? There are no existing conditions, so we can move directly to a vote on the variance. By unanimous vote, the variance is approved.¹⁰

ED EGAN: The second variance to allow CHS to use IGRA or the tuberculin skin test for tuberculosis screening and to exempt from repeated screening those people in custody who have a documented negative test in the six months prior to their admission. CHS reports that IGRA is a valuable and effective tool in controlling tuberculosis in the jails. This

⁹ Member Perrino moved the item and Member Franco seconded.

¹⁰ After Interim Chair Sherman called a roll call vote, the Board unanimously approved the variance, 6-0 (Interim Chair Sherman, Vice-Chair Richards and Members Cohen, Franco, Jones Austin, and Perrino).

variance was first granted by the Board in 2013 and has been renewed since. CHS requests an additional six months. Do you have any -

DR. MACDONALD: Again, I think I'll just take questions if there any.

ED EGAN: Okay.

VICE-CHAIR RICHARDS: My apologies for standing but I'm having back spasms, so I need to stand -- but the question I have is the Department going to put forth recommendation on rulemaking on this? Because we've been doing this for -

DR. MACDONALD: So we're certainly happy to engage in rulemaking and I believe as was mentioned we initiated that process.

INTERIM CHAIR SHERMAN: It is on our on our list of priorities.

DR. COHEN: Is the number -- [Inaudible] expecting?

DR. MACDONALD: It's been within that range -- over time it's drifted downward slightly, and we also see a pattern of higher rates of indeterminate in some facilities -- but these are the latest numbers from our new electronic health record and they're consistent with what we had seen in the past.

DR. COHEN: [Inaudible] - that high [Inaudible] published rate?

DR. MACDONALD: Not necessarily higher than the published rate -- there could be elements of technique around that which we've done quality work on but there's also some patient characteristics that may account for some of that.

INTERIM CHAIR SHERMAN: Alright will a Board member move to vote on the six-month requested variance to allow CHS to use either interferon gamma release assays or tuberculin skin test for tuberculosis screening, and to exempt from repeat screening those persons in custody who have a documented

negative test in the six months prior to their admission.¹¹ Would anyone like to propose a condition or otherwise comment.

DR. COHEN: I just want to comment - this is a good procedure [Inaudible] -- tuberculosis control program [Inaudible] so I support this.

INTERIM CHAIR SHERMAN: Thank you. I'll now move to a vote. Approved by a unanimous vote, the variance is approved, thank you.¹²

Limited Variance Requests to BOC Minimum Standards
§§ 1-04(b) (2) (Dry Cells); 1-08(f) (Law Library); 1-11
(Correspondence); and 3-06(e) (5) (Nursery) (Raise the Age)

INTERIM CHAIR SHERMAN: The only remaining set of variances on the agenda for today is the variances regarding Horizon and Raise the Age -- and there are four variances related to the operation of the Horizon Juvenile Center on the agenda for today. Based on the number of Board members who could be present for this vote we are proposing to put the vote of -- the full consideration of the variances over for one month, until our February Board meeting. So, I will put that to the members of the Board for a vote - this would continue the variances that are in place for that month until our February Board meeting when the variances can be considered in full. By a unanimous vote, we'll put those variants requests over until February.¹³

Public Comment

INTERIM CHAIR SHERMAN: Now we will move to public comment. I'll call on Jamie Hin Hon Wong.

¹¹ Dr. Cohen moved the item and Vice-Chair Richards seconded.

¹² After Interim Chair Sherman called a roll call vote, the Board unanimously approved the variance, 6-0 (Interim Chair Sherman, Vice-Chair Richards and Members Cohen, Franco, Jones Austin, and Perrino).

¹³ After Interim Chair Sherman called a roll call vote, the Board unanimously voted to move full consideration of the Horizon Juvenile Detention Center variances to the February Board meeting, 5-0 (Interim Chair Sherman, Vice-Chair Richards and Members Cohen, Jones Austin, and Perrino).

JAMIE HIN HON WONG: Good morning, my name is Jamie Hin Hon Wong. I am a NYU law student currently interning with the Urban Justice Center and I'm here to present a statement from a person who is currently incarcerated at Rikers. I am 56 years old. I was first arrested when I was 10 years old and have been in and out of jail and prison since then -- 1986 is when I first started serving state time and in the 34 years since then, I've only spent three months and one week out of prison. I hope my story can help someone else especially young people who are first coming into the system while I was incarcerated my mom passed away and I almost had a nervous breakdown - I missed the funeral - without her I had no one else in my life. I knew that mentally, I needed help, the only person there for me was a man who wanted to have sex with me. I wish I had a choice back then - I am proud to be gay there is nothing wrong with it - but I wish I could have come out on my own terms. After I served a sentence, I remember asking an official where to go - all they did was give me \$40 and put me on a bus. I went to a church and after explaining my story they pointed me to the rescue mission instead. I volunteered at a place called the living room to help people with HIV/aids before I went back to prison. After I got out I went home to Brooklyn to a 3/4 house, but the neighborhood was hot, violent, and full of drugs. I lasted one month and two weeks before I was back in prison. In 2018 I went back home to Brooklyn, I was then arrested by a warrant squad sent to the homeless shelter I was staying at. In prison there's a silent code where if you keep your mouth shut, it'll be all right. Speaking can get you in trouble, officers don't want to do paperwork, it's easy for them to be found at fault by the BOC if they make a mistake in the report so they turn their head when they see incidents. The officers hate the new laws that are getting people out of prison and they think that they'll lose their jobs because of it. I've witnessed brutality from officers - there's not as much once cameras were installed - but I still see people get sprayed. I've been sexually assaulted in prison and my kindness has been taken advantage of. I am diagnosed with adjustment disorders, with mix anxiety and depressed mood, cannabis alcohol and cocaine use disorders. I'm fortunate enough to get to see my

therapist every two weeks and she helps me feel better but not everyone gets services like that when they should. Restricted housing makes mental health worse. You don't get any communications or contact with other people. Lights are out when the officers want them out and on when they want them on. You can't make noise, but the officers can make as much noise as they want. You have no control over your life. I've asked the court for a program where once people get out, you get a job and an apartment - otherwise there's no choice but to go back to what I'd been doing. Some people don't fear jail because they're used to it but after you're let out, there's fear there. My crimes were nonviolent because I didn't want to hurt anyone else. I felt like I was more scared of other people than they were of me. I know crime is wrong and all I'm saying is I felt like I had no other choice when I was homeless, starving, and needed clothes to wear. It's hard for me to get housing because of my mental health problems. I was once given a voucher to take to a landlord or a broker, but I didn't know who to go to I didn't know any landlords and I couldn't walk into a real estate office - I didn't think they would help someone like me. All that I've asked the court for was help. I've been willing to do the time, but I needed help. I needed someone to show me the way. If I can make two suggestions to the Board on current conditions it is to improve the medical care which I've had bad experiences with, and to make the food more natural and real - improving both which show that people actually care about us.

INTERIM CHAIR SHERMAN: Thank you. Mary Lynne Werlwas?

MARY LYNNE WERLWAS: Good morning and welcome Ms. Eagan to the Board. We've heard a lot today about accountability and that's the word that has been on slides and it has come out of many people's mouths and -- while we have heard the term, I don't think we've seen it demonstrated. In particular I was struck very much by -- well actually let me go back up and in fairness we probably need a change in a process here to talk about use of force, and the violence, the *Nunez* updates -- as you know our office at the Legal Aid Society is *Nunez* Council -- it's simply -- it's probably too vast a topic to expect Ms. Grossman to be able to anticipate all of your

concerns and to have the back and forth. I don't have the time to have the many responses that I have or some of the thoughts about what the Department has told to you that I think would be relevant, and I heard some of the Board members echo some things that I think are misunderstandings of the Nunez process. So let's look for a way to engage that issue going forward, that's different than this. I appreciated very much Dr. Cohen, your question of the Department of whether it had the capacity to implement the Nunez reforms and when you asked what do you need to make a difference. It troubles me deeply to say that I think the evidence-based answer to the question you asked - from eight report seventh or fourth sixth report fifth report - is no. I think at this point in time, we are at a point this far into the Nunez process where we do not have evidence that this Department has the capacity to make the changes that are urgently necessary and that troubles me deeply. Where do we go from there? There are a lot of questions, but it's also in our city governance structure the Department - they run the jails - but we do have the separate charter entity with some responsibility for what happens to people who are incarcerated and that's you. I would also want to turn the question -- I mean it very seriously -- in problem-solving mode not rhetorical mode of saying what do you need to make a difference? Does the Board need -- is it different standards -- do we need to look at standards that address violence? Is it different information? Is it the sitting down and really problem solving with the Department of Correction about so many of these incidents about the insubordination that is described in the eighth report which we haven't heard discussed here, about the provocation, the hostility -- is it about why the Department will stand up and say that the information about the core performance of scanning which we'll talk about next month was just brought to its attention. It's their own performance, it shouldn't be brought to them by external. So the question is though - and I'm not saying I know the answer to what the Board needs but I would say that it's very clear from the evidence now that in our New York City we have a governance failure with respect to our jails and that this Board plays a role in governance of that just as the Department and that if we don't change

the engagement and the expectations of the Department then this Board will be part of the governance failure too. Thank you.

INTERIM CHAIR SHERMAN: Thank you. Alexa Adams?

ALEXA ADAMS: Hi good afternoon, my name is Alexa and I am a Social Work intern with Mental Health Project at Urban Justice Center and I'm here to read a statement today. The following letter is written by a person currently incarcerated at the Anna M Cross Center at Rikers Island. It barely touches the surface of the mistreatment he and many others suffer as a detainee awaiting Court. At the hands of the NYC DOC. The violation of rights and medical negligence he continues to suffer is unimaginable and unacceptable and causes undue pain and suffering - both physically and emotionally. This letter will give a brief glimpse into the daily events that only make a bad, stressful situation even worse. As a loved one who was going through the horrendous experience with him, I am so disappointed and disgusted by the system and its employees - signed a friend. And here's the letter and it states my experience in the custody of NYC DOC has been nothing short of a nightmare with below subpar procedures, standards, and operations. Many and much of my rights as well as the rights of others have been and continue to be violated on a daily basis including gross negligence, violations of DOC's own published policies, procedures, directives and guidelines to proper and adequate health care forcing me to endure severe pain for months up to the current date and repeated harassment by an officer. The behavior of this particular CO has prevented me from going to much-needed doctor appointments which I have waited weeks and even months for and they have stated to other officers and captains that I forged three doctor's notes and my written documentation, even though two captains had personally verified my documentation with medical staff. One of the doctor notes was given to me by the supervising medical doctor in the clinic. I've been denied mental health care which desperately needed; the law library is not properly afforded nor do they have a proper and adequate supplies such as the equipment to type in print; sick call is not afforded to us every weekday as it

should be - often when I sign up to go to the clinic only the first four people to line up are taken. I need a cane to walk and can't get to the front of the line fast enough the CO say that they will come back for the next four people, but they never do. There have been times where I have not been able to get to the clinic for an entire week which causes a lapse in my prescription renewal and leads me in severe pain. We are made to go hours without cold water to drink - nothing that should be so basic and simple to provide. Recently more gang members and problematic people are being placed in my dorm which is supposed to be a medical unit. The people that are being moved do not have medical issues and they attempt to bully handicapped and elderly people. CO's turn the other way and when we call 3-1-1 to report issues, we are targeted by search teams and harassed at least once a month in a medical unit. COs have even used tactics to upset the entire dorm and say it's one person's fault which puts that person in serious eminent danger. I rarely eat the terrible food that is served here and most of what I eat is what I purchase from commissary - I depend on these items however, the majority of items on the commissary list are rarely available. The items on the revised in February 2019 commissary lists are not adequately supplied to us 80 percent of the time and half of the items are never available. In the past seven months there are many items on the list that I have yet to receive when ordered. I have been denied my visits for the past five weeks because I have a medical device that is needed for medical reasons. My medical documentation states that I need this device and am allowed to use it wherever I go however, I am not allowed to bring the device to visitation. For weeks I was denied my visits completely and now I am not even able to bring the device into the booth for a non-contact visit. I am forced to stand which I'm not able to do for very long and this causes even greater pain. We have tried every avenue possible and cannot get help in rectifying the situation. I have exhausted my resources for grievances and getting help - this place is a detriment to the psyche, spirit, emotional, and physical health. I've documented almost every day the I have been in this terrible place there isn't truly enough time to describe all of the mistreatment that goes on in the NYC DOC and how

the city has failed us as their duty - you simply can't make this stuff up.

VICTORIA PHILLIPS: Alexa was reading a statement from one of our Brad H clients. You know I'm Ms. V from the mental health project, Urban Justice Center and some of the work that we do at the mental health project is monitoring the Brad H settlement. So one of our clients - I refuse to state their name or what the medical device was on the record for safety reasons but - I'm very willing to give the Board the name and book and case number and everything else off the record so that y'all can follow up correctly. So Alexa mentioned in that statement that the person was told to have forged medical documentation so we reached out because of course no one should not be taken to court or not have their visits because DOC and HAC is failing to supply them what their medical needs to actually have those rights afforded to them. So in response to our outreach, we was given a response: we are in receipt of the below correspondence concerning inmate such-and-such please be advised as the per facility's HAC medical site director - quote - inmate was never given any medical disposition for such and such medical device. Now I love standing before you with facts and stats you know who I am right -- so today I have in my possession I don't want to put them for pictures on the record, but three medical documentation that clearly states this individual is supposed to have that medical device and the doctors actually signed off on these things. One the documents that I have today for the Board to see is -- they said the letter was taken from them and another officer came on tour and actually took them back to the medical unit to get a new letter, so you have two letters in one day and then you have another letter right in the fall that was updated. So my point to you is there is no and why this person is not given their medical device - there's absolutely no reason that this person has not been allowed to have visits for the last -- well at the time in this letter it was written five weeks but there will be six weeks -- without being forced to stand up for anything and while I have a little bit of time, I want to address some other issues. So Deputy Commissioner Dail pointed out one point five years they've been working on this leadership

training and development, yet many of his answers to you Board today started we're working on it, it was just implemented last month. So my question to you is what the heck have they been doing for the last year and a half -- the funding is there but who have they been training? That's one thing and then the second thing is the Commissioner mentioned that uh and I'm so happy you mentioned this -- that we finally agree on something -- that there's no titles or you know rank when it comes to displaying expertise so now I say that you have no reason to no longer not take the Jails Action Coalition up on our request to meet with you because we're full of expertise in our coalition and we can greatly help you with moving this plan forward. Um I still have time -- Harvey -- he yields his time to me -- so tell the people on the record you yield your time to me -- thank you and he was next in line. Okay so my point to you is there are so many different things that have to be addressed going on and this is 2020 so all y'all need to be here with the 20/20 vision to do the work right? No more excuses no more allowing DOC to shuffle things under the rug and welcome -- I'm big on CUNY too but thank you for joining us -- um so as DC Dail who's no longer here has said, the proof is in the pudding right? So um he did say that - well the Monitor's report is their pudding and my doctor's note today is that pudding and so I would just like to remind you when we talk about accountability and when we speak of what is appropriate uses of force and what is not appropriate uses of force -- so even the federal Monitor's report stated backing up my report since I started testifying in early 2012 while working on Rikers. And then this last report the federal Monitor stated -- and I've actually told you this on the record before I'm gonna remind you this year in this decade -- the federal Monitor report claims the corruption and direct violations of officers misconduct, gang affiliations, and even engaging and causing people to fight all directors of DOC uniformed staff and all reasons I feel one behind the wall might feel back into survival mode and arm themselves. So, on page 12 the federal Monitor's report mentions DOC fails to hold staff accountable on all levels. Page 30 mentions the use of level B probe team alarms that is being used inappropriately used at 83% -- they go on to say

the probe team has been overused and uses needs to be reevaluated and used by supervisor versus a staff member and so you're mentioning of data in the breakdowns pages 36 through 39 stated during this blast monitoring period rapid reviews assessed 3,200 115 of the 3339 uses of force involving 11,085 staff actions - 15% were deemed affordable at 22% were deemed procedural violations. So when we speak of change we must always remember that for true change to occur we must honestly acknowledge the behavior and the conditions that need to be addressed and DOC fails to do that countless times. They come before you they talk about what they're trying to start what they might start, but they don't start anything and I say that it's because years ago I actually sat in City Hall on begging for an increase in their budget to hire investigators and they now they're starting an intake team - almost four years later and the Commissioner made a statement today saying that almost half the force right now have been hired in the last four years. So when we speak about culture change why is it still taking so long for the culture to actually change? If the last four years half the officers brought on the island are new people underneath their new programming leading up to culture change, why is it still so hard to see the type of changes being done -- ask yourself that and make sure you actually hold them accountable this decade -- I'm coming for you harder than ever before. Y'all have a blessed day.

INTERIM CHAIR SHERMAN: Thank you very much and if you would share the particulars of the specific individual you spoke about with Board staff, we will follow up on those circumstances. Nicole Triplet.

NICOLE TRIPLET: Hello my name is Nicole Triplett with the New York Civil Liberties Union also known as the ACLU of New York. I'll try to make this brief -- the New York Civil Liberties Union respectfully submits this testimony to urge the Board to make significant changes to its proposed rules on restrictive housing -- to end all harms of solitary confinement isolation. I'm gonna be very frank and direct, punitive segregation is an affront to civil liberties, New York values, and human rights standards. People are still

dying in solitary despite existing restrictions like the 30-day time limit on punitive seg, the ban on punitive seg for juveniles and for young adults, and the ban on punitive seg for low-level infractions. We are heartened that the Board has acknowledged these irreparable harms -- for the irreparable harm the Department's use of solitary confinement continues to cause but we really want to be clear - we think that the proposed rules still fall short and still fail to close the many loopholes the Department continues to exploit to deny people due process, to subject individuals to months and years of isolation, and to deprive them of the meaningful access to medical care. For years the Department has circumvented compliance with the restrictions that this Board adopted to protect people from abusive solitary practices. We believe that the rules promulgated continue to have loopholes and inconsistencies that allow them to continue to do so. First we believe that the proposed rules continue to allow people to be subject to isolation for months. Second we believe that the biggest thing inconsistency is that in the proposed rules would continue to allow individuals - that we've already said are most vulnerable to the harms of solitary confinement - to prolonged ice forms of isolation. We will highlight the inconsistencies of these proposed rules and further detail in our public comment, but we want to make clear that we believe that the rules fall short. Thank you.

INTERIM CHAIR SHERMAN: Thank you Vidal Guzman.

VIDAL GUZMAN: Happy new year's everybody. I really want to say this right, because it's important for all of us to kind of understand where we at right? We're really split right and when I mean the split is talking about ending solitaire and we haven't somehow got there right? We split because a lot of Board Corrections feel like safety is important right and activists and advocates are saying now is the time because we care about people who are detained - the same way that the Department of Correction are to right? As a person who has spent 905 days in solitary confinement - if you put in hours as 21,900 hours in solitary confinement when I was 19 all the way to when I was 25 - one of the things Department of Correction I'm hearing is because of the gang members or

violence right? One thing, I was a member the Bloods and I also had a lot of influence over Latin Kings, Crips, Trinitarios because of who I was and who I knew and what lifestyle I used to be a part of right. Violence -- violence should be treated as a health crisis. New York has been doing an amazing job with the cure violence incredible messaging work. Getting the people who've been the most harmed front and center to talk about how to exactly your attack violence. One of the most important things that we can be doing in our New York City jails -- now I was a part of was a part of -- this program called AVP - Alternative Violence Program and what it did is put people in a room with different backgrounds to actually build a bridge and ask each other how are you feeling? what's going on? and when I hear that conversation around needed force - it's not. If a person is standing in front of the hall way or something and a correctional officers saying go your cell and he didn't move what happened -- he didn't listen to orders right okay but what happened to let that person to get to that level. That's the real questions -- the questions is it's common sense what leads people to violence, what leads people to violence is the most important conversation we should be having as a collective and the conversation is how do we create and use programs as what I've been through to keep furthering the conversation to end solitary confinement. We're talking about violence and we have the tools of what is violence and how we attack violence and as a collective we could be creating programs that will keep people away from solitary confinement but attack the root from inside. The problem that we're having -- and I'm end this right here -- is that I live in a neighborhood and I live a block that's Bloods, Crips, Latin Kings, Trinitarios and these people were coming back to my neighborhood I have to talk to them not you, not you, not anybody here. If you don't live in an inner city that as people call it the hood they're coming back to our neighborhoods -- the way that you treat them is how they come back to black and brown neighborhoods. So when we talk about creating something different a different vision it's the abilities to attack violence as a health crisis and we all have the the abilities and the knowledge to get us to that bump and ending solitary

confinement has to start by attacking violence in our inner city with programming that actually works but that can only work if we're both working together. We're trying to push an agenda that human beings are human beings. People who are detained are human beings. So when I say and I speak about my experience, I got hands put on me myself from a correction officer - at 16 years old a 300 weight man put their hands on me and I was 5'2 - because I screamed out the window. So when I talk about force not being needed - he could have told me hey man you're new, do not scream out my building, do not scream out my window. That's it. So violence should be treated as a health crisis. This is why every single day I'm like this -- these people individuals like myself or people from my community are coming back into our community. The way that we treat people is the way that they come back to our society so when we put pressure on the Department of Correction it's because we want you to make sure that you're actually making sure that people are returning back to society in a proper way -- and you're hearing this from someone who was a member of the Bloods, someone that you would say this is why we need solitary confinement. Thank you.

INTERIM CHAIR SHERMAN: Thank you very much. That concludes the public comment period for today and that also concludes our meeting, so the Board's next scheduled meeting is February 11, 2020 at 9:00 a.m. back in this auditorium. Today's meeting is adjourned.