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DEPARTMENT OF CORRECTION

PUBLIC HEARING

December 19 2014
9:00 a.m.

455 1st Avenue
New York, New York

TRANSCRIPT OF PROCEEDINGS

BEFORE:

- GORDON CAMPBELL, Chairperson
- JENNIFER JONES-AUSTIN
- DERRICK CEPHAS
- ROBERT COHEN, M.D.
- HON. BRYANNE HAMILL
- MICHAEL REGAN
- STEVEN SAFYER, M.D.

Reported By:

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PRESENT:

The Public
The Press

SPEAKERS:

Joseph Ponte, Commissioner, Department of
Correction

Council Member Daniel Dromm,
New York 25th District

James Dzurenda, First Deputy Commissioner,
Department of Correction

Martin Murphy, Acting Chief of the Department,
Department of Correction

Scott Temple, Commissioner, Connecticut
Department of Correction

Alexandra D. Korry, Esq.,
Sullivan & Cromwell LLP and New
York Advisory Committee to the
U.S. Commission on Human Rights

Wendy Berman, Executive Director of National
Alliance on Mental Illness-NYC
Metro Chapter

Frances Geteles, Psy.D, Campaign for Alternatives
to Isolated Confinement and
Physicians for Human Rights

Prof. Ellen Yaroshevsky,
Cardozo Law School

Sydney Schwartzbaum,
Assistant Deputy Warden/Deputy
Wardens Association

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2 SPEAKERS: (Continued)

3 Daniel Selling, Psy.D.,
4 Former Executive Director for
5 Mental Health and Substance Abuse
6 Treatment, NYC Jails

5

6 Elena Landriscina, Esq.,
7 Staff Attorney, Disability Rights
8 New York

7

8 Jennifer Parish, Esq.,
9 Director of Criminal Justice
10 Advocacy, Urban Justice Center
11 Mental Health Project and Jails
12 Action Committee

10

11 John Boston, Esq.,
12 Legal Aid Society Prisoners' Rights
13 Project

12

13 Sarah Kerr, Esq.,
14 Legal Aid Society Prisoners' Rights
15 Project

14

15 Natalie M. Chin, Professor and Director of
16 Advocates for Adults with
17 Intellectual & Developmental
18 Disabilities Clinic at Brooklyn Law
19 School

17

18 Johnny Perez, Member Jails Action Coalition

18

19 Hans Menos, Director of Youth Services at the
20 Center of Community Alternatives

19

21 Sister Marianne Defies,
22 St. Joseph.

20

23 Mary Buser, Former Acting Chief of Mental
24 Health in the Central Punitive
25 Segregation Unit Rikers Island

21

26 Walter F. Higgins,
27 On behalf of the St. Boniface
28 Pastoral Parish Council's Social
29 Justice Committee

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SPEAKERS: (Continued)

John Brickman, Former Executive Director, NYC
Board of Correction

Jack Beck, Esq., New York City Bar Association, the
Corrections and Community Re-Entry
Committee and also the New York
City Affairs Committee

Deborah R. Hertz, Esq.
Volunteer attorney Urban Justice
Center, Jails Action Coalition

Evelyn Litwok, Former inmate

Scott Paltrowitz,
Associate Director Prison Visiting
Project, The Correctional
Association of New York

Rev. Laura Markle Downton,
National Religious Campaign Against
Torture

Gabrielle Horowitz-Prisco, Esq., M.A.,
Director Juvenile Justice Project
of the Correctional Association of
New York

Dakem Roberts, Founder of The Negation, on behalf
of Eddie Litlock

J.M. Kirby, Youth Justice Project of the
International Womens Human Rights
Law Clinic at CUNY School Law
Office

Beth Powers, Senior Juvenile Justice Policy
Associate for the Childrens
Defense Fund New York

Bandy Lee, M.D., Psychiatry Division, School of
Medicine, Yale University, former
Staff Psychologist Rikers Island

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2 SPEAKERS: (Continued)

3 Steve Zeidman, CUNY Law School

4 Stephen Rizzi, Former detainee

5 Donna Hylton, Re-Entry - Coming Home Program

6 Leah Horowitz, Esq.,
Bronx Defenders

7

8 Ernest Drucker, Ph.D.,
Director of the Academy for Public
9 Health and Criminal Justice

10 Barry Campbell, Fortune Society

11 Elizabeth Mayers,
Jails Action Coalition

12

13 Riley Doyle Evans,
Brooklyn Defender Services14 Prof. Alex Reinert,
Benjamin N. Cardozo School of Law

15

16 Gayle Weiner, Jails Action Coalition

17

18 Norman Seabrook, President, Correction Officers'
Benevolent Association19 Julia Davis, Esq.,
Staff Attorney with Children's
Rights20 Julia Paul, Jails Action Coalition, President
of the Local Social Justice
21 Projection Project on behalf of
Clarissa Carrington

22

23 Munir Pujara, On behalf of Henry Bell, Inmate,
OBCC Central Punitive Segregation
Unit

24

25 Hadley Fitzgerald,
Jails Action Committee

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SPEAKERS: (Continued)

Susan Goodwillie,
Jails Action Coalition

Deirdre Shore, Jails Action Coalition

Amanda Becker, Jails Action Coalition

Myra Hutchinson, Family Member

Gabriel Kilpatrick,
Rikers Action Committee

Victoria Phillips,
Jails Action Committee

Barry Coldwell

Elder Reginald Owens

Terry Hubbard, Jails Action Committee

Five Mualimmak, Director of the Incarcerated Nation
Corporation

Angel Guarino, Former Inmate and Founder for New
Jersey Career Institute, New Jersey
Power Careers

Susan Gottesfeld,
Executive Director, The Osborne
Association

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2 CHAIR CAMPBELL: The Board of
3 Correction welcomes you to the public hearing
4 today, where we hope to hear from all
5 interested parties and members of the public
6 who wish to present remarks.

7 My name is Gordon Cambell. I'm the
8 Chair of the New York City Board of
9 Correction and Id like my colleagues to
10 introduce themselves.

11 And, Jennifer, we will start with
12 you.

13 MS. JONES-AUSTIN: Jennifer
14 Jones-Austin.

15 MR. CEPHAS: I'm Derrick Cephas.

16 DR. COHEN: Bobby Cohen.

17 JUDGE HAMILL: Good morning, Bryanne
18 Hamill.

19 MR. REGAN: Michael Regan.

20 MR. SAFYER: Steve Safyer.

21 CHAIR CAMPBELL: A special thanks to
22 Commissioner Bassett for the Department of
23 Health and Mental Health and her staff for
24 making this auditorium available. And also,
25 to the Board of Correction staff who have

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2 worked tirelessly to pull off this hearing
3 today.

4 Pursuant to the City Charter, the
5 Board of Correction establishes and ensures
6 compliance with minimum standards, regulating
7 conditions of confinement in correctional
8 health and mental health care in all City
9 correctional facilities. The regulation
10 proposed to the Board for its consideration,
11 would create a new, enhanced Supervision Unit
12 and reform the use of punitive segregation.
13 This proposal clearly comes at a time of
14 transition for New York City jails. The
15 Board has been has been working on the
16 punitive segregation issues for
17 two-and-a-half-years, and in that time, the
18 number of punitive segregation deaths in our
19 system has dropped from 1,000 to 578.

20 However, violence, both
21 inmate-on-inmate and officers-on-inmate use
22 of force has continued to climb. This is
23 happening in a time when our incarcerated
24 population is low, in fact, much lower than
25 20 years ago. It is a real problem and one

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2 that we must work together to solve.

3 The board has received written
4 comments, which are available on our website.

5 We look forward to hearing testimony
6 today from City officials and interested
7 parties. Your input and expertise is hugely
8 important to the decisions we must make as a
9 Board and we thank you.

10 And as we stated at our last Board
11 meeting, the rule before us today is not the
12 rule that we will ultimately adopt on
13 January 13th, which makes your input
14 invaluable.

15 Today we have a large number of
16 people, in fact, over 60 who've indicated
17 that they wish to testify. As a result, we
18 are going to be limiting testimony to five
19 minutes each. We have a timekeeper, Jake
20 Park, in the front that will help keep us on
21 schedule, and then following each speaker,
22 Board members will have an opportunity to ask
23 questions. In terms of the order of
24 testimony, its the order in which the
25 individual signed up.

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2 One thing that is really important,
3 we ask that you listen respectfully to all
4 speakers, hold your applause and your
5 commentary. This meeting is being videotaped
6 and the video transcript will be available
7 shortly on our website.

8 I note the restrooms are to your
9 right as you exit the back door. Pursuant to
10 the Department of Health and Mental Health
11 regulations, because this is a public
12 lavatory, no photos or videos can be taken,
13 except for a videographer and the press.

14 I will announce each speaker and
15 also, the speaker immediately following, and
16 that individual could actually sit right
17 there in the third row. And with that we
18 will turn it over to our first speaker, who
19 is Commissioner Joseph Ponte, Commissioner of
20 the Department of Correction to be
21 immediately followed by City Council Member,
22 Daniel Dromm.

23 Commissioner.

24 COMMISSIONER PONTE: Good morning.
25 Good morning, Board, Chairman. it is my

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2 pleasure to be here this morning to kind of
3 restate what I stated at the prior Board
4 meeting as they talked about enhanced
5 supervision of our city jail system.

6 Is the speaker working?

7 MALE SPEAKER: Yes.

8 COMMISSIONER PONTE: I know I have
9 already had a chance to describe enhanced
10 supervised housing to you, but I wanted to
11 speak today because I have heard so many
12 misconceptions about this new unit that I
13 thought it would be helpful to provide
14 clarification. I know the public has a lot
15 to say about ESH and I want to hear all of
16 their concerns. So just briefly, I want to
17 try to help correct some of those
18 misconceptions.

19 Finding effective solutions to the
20 violence that has long persisted in the jails
21 requires innovative problem-solving and
22 comprehensive overhaul in the way we train
23 our staff and manage the diverse needs of the
24 inmate population. With the populace
25 embarking on transformative changes with the

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2 modernization of our inmate management system
3 and program approaches, to date, we have made
4 significant and meaningful reforms.

5 We have implemented a 15-to-1
6 inmate-to-officer ratio in our adolescent
7 units. We are working with Friends of Island
8 Academy to create discharge planning
9 programming for adolescents. In September
10 2014, we began a program in partnership with
11 two non-profit organizations, Animal Care and
12 Control, Instinct Dog Behavior & Training, as
13 well as DOHMH to train dogs at risk of being
14 euthanized. We are in discussions with DOE
15 to expand the career and technical education
16 curriculum. We continue to provide moral
17 recognition therapy.

18 On September 2nd, we created Second
19 Chance Housing, where adolescents in punitive
20 segregation who've behaved well and have not
21 injured staff or other inmates may be moved
22 prior to the expiration of their sentences in
23 order to facilitate their transition back to
24 general population. On December 4th, we
25 ended punitive segregation for adolescents

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2 with the creation of a transitional repair
3 unit. In May, we went from 82 adolescents in
4 punitive segregation to zero in December.

5 We adopted a simple policy change to
6 reduce violence throughout the institutions
7 by early lock-in of 21:00 hours at all of our
8 facilities. To effectuate fundamental change
9 in facility management, the Department
10 evaluated to recruit and training of staff to
11 ensure that every staff at every level had
12 the skills to address the diverse needs of
13 the inmate population. Recently, our
14 Investigative Unit and Internal Affairs Unit,
15 implemented and initiated a full-time
16 five-member unit at RNDC, our adolescent
17 unit. We have also added recently a same
18 five-man guard team to GRVC, the second most
19 violent facility at Rikers Island.

20 As part of our long-term goals, the
21 Department will be implementing full camera
22 coverage throughout the entire island.

23 Violence in our jails is at an
24 all-time high. The goal of ESH is to improve
25 the safety and security in our jails. We

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2 aren't looking to create a backdoor punitive
3 segregation unit. Quite the contrary, our
4 goal has been to reduce the agency's reliance
5 on punitive segregation as a tool for
6 day-to-day inmate management, but we have a
7 responsibility to do this in a way that is
8 safe for all involved, staff and inmates.

9 ESH is in line with our changes to
10 the use of punitive segregation. The
11 Department's punitive segregation reform
12 strategy includes ceasing the practice of
13 enforcing historical time for punitive seg.
14 However, if someone returns to custody with a
15 violent history, he can be housed in ESH. I
16 don't want to have any misconceptions on
17 that. We are also reducing the sentence that
18 can be handed out for any one infraction,
19 from 90 days to 30 days.

20 Punitive segregation is a useful
21 tool for discipline, but best practices from
22 across the country show that for the most
23 violent inmates the best approach is to
24 minimize their contact with general
25 population where the risk for violence is

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2 high and provide evidence-based programming
3 to help modify behavior and mainstream them
4 back to population. To that end, we are
5 planning to implement programs to inmates in
6 ESH that have been generally effective in
7 other correctional systems across the
8 country, like interactive journaling programs
9 that's used in the Virginia Department of
10 Corrections. In fact, the Challenge
11 Journaling Program which we have looked at
12 has been successful in Virginia and its been
13 implemented there for years and has a
14 three-phase, eight-step program that focuses
15 on violence reduction and keeping high risk
16 inmates engaged in pro-social behavior.

17 As I have noted previously, we
18 examined violent indicators and change in our
19 average daily population. We see
20 subpopulations that are driving the violence
21 in our jails. High custody inmates make up
22 16 percent of our average daily population
23 and are responsible for 61 percent of the
24 violent incidents in our facilities. Mental
25 health inmates make up 33 percent of our

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2 average daily population and account for
3 53 percent of the violence in our jails.
4 Gang members make up 50 percent of our
5 population and account for 25 percent of our
6 violent incidents, and inmates who are
7 involved in violent incidents are typically
8 the longer term inmates, inmates that are
9 staying with us on average of 262 days.

10 MR. PARK: Commissioner, one minute,
11 please. Thank you.

12 COMMISSIONER PONTE: The key is that
13 these groups which comprise relatively small
14 segments of the total population have
15 disproportionate incident involvement and
16 require different management approaches.
17 But, I want to be clear that the serious
18 mentally ill will not be placed in ESH. As
19 we already done for SMI that have infractions
20 they will be placed in our CAPS and PACE
21 Units. We will not use ESH for 16 and
22 17-year-olds.

23 Where there are other safe housing
24 options that bring necessary treatment or
25 programming, we will use them instead of ESH.

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2 But, it is incumbent upon us to do what we
3 can to keep our staff and inmates safe and
4 our jails as safe as possible. Data
5 demonstrates that involvement in serious
6 violent incidents is often a good predictor
7 of future violence. Seventy-one percent of
8 our use-of-force incidents, FY-14, involves
9 repeat offenders. That means out of 3,779
10 use of forces, 2,694 were inmates that had
11 been involved in the use of force prior.
12 Similarly, FY-15 we see 64 percent of our use
13 of forces are driven by repeat offenders.
14 These are significant numbers. It is
15 possible that as many as 2,979 incidents
16 could have been prevented had we had a system
17 in place to better manage these assault of
18 inmates.

19 As we know, a relatively small
20 number of only seven percent of our inmates
21 in custody are violent, assault or who
22 present a clear danger to others, and we need
23 to have a way to separate and manage them in
24 a more effective manner. Inmates in these
25 units will have at least seven hours

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2 out-of-cell time per day in a socialized
3 environment.

4 ESH is a necessary tool to safely
5 house violent inmates and it is a
6 non-punitive setting with some common sense
7 restrictions which limit opportunities to
8 cause harm. We will also limit influential
9 gang leaders who direct and initiate
10 assaults.

11 I'll stop there and take questions.

12 CHAIR CAMPBELL: Thank you. I'll
13 open it up to board members for questions.
14 Bryanne.

15 JUDGE HAMILL: I just want to say
16 that there are a lot of people standing.
17 There are certainly seats in here, so if you
18 want to take a moment to slide in and get a
19 seat, I expect this to be a long hearing and
20 you should be able to sit. Thank you.

21 Good morning, Commissioner. Thank
22 you so much.

23 COMMISSIONER PONTE: Good morning.

24 JUDGE HAMILL: First, I just want to
25 say, I really applaud the reforms that you

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2 have made at Rikers on behalf of the youth
3 that are incarcerated there at RNDC, and I
4 know you and I had the pleasure of having a
5 conversation about a week ago when I had gone
6 out to Rikers to confirm that solitary
7 confinement had, in fact, ended for youth.

8 And, as we had discussed, I had
9 learned about a unit that the Board of
10 Correction had not been informed about and
11 thats the unit you all are calling, the
12 Transitional Repair Unit, for 16 and
13 17-year-olds. And at that time we had a good
14 discussion and I just wanted to confirm that
15 with you.

16 With respect to the TRU Unit, is
17 there still no policy directive written about
18 that unit?

19 COMMISSIONER PONTE: So we're working
20 on policy. As I mentioned at the time, we
21 have sent staff to all the locations.
22 Particularly, this program is something were
23 adopting from Massachusetts, so we're looking
24 at their policies and then writing those
25 here. So there is not a policy specific to

1 Proceedings

2 that unit as we speak today.

3 JUDGE HAMILL: O.K. And a week ago
4 when I was there and toured with Deputy
5 B_____ (indistinguishable), I was informed
6 that a lock-out is only four hours a day, two
7 hours in the morning and two hours in the
8 afternoon, and the reason I'm asking is
9 because it's highly related to the ending of
10 punitive segregation, these proposed rules,
11 and whether or not this might be something
12 thats like an adolescent ESHU. Is, in fact,
13 the lock-out still just four hours per day?

14 COMMISSIONER PONTE: I'm not sure.
15 I won't comment as to what it is today.

16 We had in excess of 60 plus kids in
17 punitive segregation in July. We have zero
18 today. When we get down to the final number
19 of those kids in the chute, which I think is
20 seven or eight out of 60, so it is a
21 progressive process to bring those kids back
22 into full -- you know, out-of-cell time and
23 full programming. It doesn't happen
24 overnight, and it is a progression of
25 gradually increasing out-of-cell time and

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2 interaction with staff, and eventually into
3 full programming in school and every place
4 else.

5 So its not intended to be a set
6 hour or number of hours. It is intended to
7 be a step-by-step process that gradually
8 introduces these kids back.

9 JUDGE HAMILL: So I want to just
10 follow-up on it.

11 You are aware that the Board of
12 Correction minimum standards mandate that
13 inmates be locked out 14 hours a day unless
14 they're in a special unit, and the special
15 unit could be adolescents would be in a
16 solitary confinement unit, correct?

17 COMMISSIONER PONTE: Yes.

18 JUDGE HAMILL: And the lock-out, if
19 it were still the 20 hours, or lock-in was
20 still the 20 hours, and according to the
21 proposed rules and even the RHU policy
22 directive, that would essentially still
23 constitute a form of punitive segregation
24 pursuant to the Board of Correction rules,
25 correct?

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2 COMMISSIONER PONTE: I disagree. So
3 it doesn't meet any of the other criteria for
4 punitive segregation. Its a gradual
5 process.

6 I think the Board would be taking a
7 poor position to not allow us a transitional
8 period to get to where we need to go. I
9 mean, were talking about 50 or 60
10 adolescents out of a population of 230 that
11 were in punitive segregation, some of them
12 for hundreds of days. Most of these kids
13 that were talking about still owe hundreds
14 of days of punitive segregation. So the
15 transition of four or five, six hours
16 out-of-cell time, I think is appropriate, and
17 we use that same model, I'd like to remind
18 the Board, our CAPS Unit. So those inmates
19 are put in cell time for periods of time as
20 they misbehave; in this case, were trying to
21 transition kids out, so...

22 JUDGE HAMILL: Yes. Let me just say
23 everything that I've heard about it it sounds
24 like the program will be excellent.

25 My question really is, is it in

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2 compliance with the Board of Correction
3 standards, and if its a lock-out of less
4 than 14 hours, is it essentially either --
5 some form of punitive segregation?

6 Would you be surprised to hear the
7 Department of Health and Mental Hygiene says
8 that this is still operating and as
9 essentially an RHU for adolescents 16 and 17
10 that have mental illness and it needs to
11 be --

12 COMMISSIONER PONTE: I met with Mary
13 Bassett last week, Commissioner Bassett. She
14 made no mention of that. So if it was a
15 concern for DOHMH, I'd be more than happy to
16 have that conversation with her.

17 CHAIR CAMPBELL: So let me open it
18 up for other Board members.

19 JUDGE HAMILL: I just have one or
20 two questions more about it.

21 I understand that the ratio of
22 officer-to-inmate is one officer for two
23 inmates; is that correct?

24 COMMISSIONER PONTE: It will be
25 whatever is needed. I mean, its a treatment

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2 model. Some kids, its one-on-one; some kids
3 its two-on-one; and some kids its four or
4 five. So, my direction to the Warden and
5 Chief Perino (phonetically) is that we need
6 to put the appropriate staffing numbers to
7 manage the behavior outside of the cell. So
8 its a process for them to figure out what
9 works best with the population theyre
10 dealing with. So it could be one-to-one in
11 that unit.

12 JUDGE HAMILL: My last question is,
13 are their selection criteria, due process
14 hearings that these youth are entitled to?

15 COMMISSIONER PONTE: So as pertains
16 to these kids, they've all been adjudicated
17 and sentenced to punitive seg time. Its our
18 process to work out of that.

19 So, you know, I guess I would have
20 to ask the Board's indulgence to say, isn't
21 it better to be working in this direction
22 than to be having hundreds of days of
23 punitive seg time hanging over somebodys
24 head?

25 We have worked to zero. We stopped

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2 sentencing any adolescent to punitive seg
3 months ago. This is the last group. This is
4 a tough group of kids. they've had repeated
5 assaults on each other, repeated assaults on
6 staff. It is a difficult, tough process for
7 staff to get them back to where they need to
8 be, and I think theyre doing a great job in
9 that regard.

10 CHAIR CAMPBELL: Jennifer?

11 MS. JONES-AUSTIN: Commissioner
12 Ponte, you began your testimony by saying
13 that there were several current
14 misconceptions that needed to be clarified.
15 I just want to ask are there any additional
16 points that youd like to make concerning any
17 misconceptions that are out there?

18 COMMISSIONER PONTE: Yes. So, I
19 mean, I've met with a lot of groups this past
20 week and as of last night we had other
21 meetings. So, yes, so this is not a
22 lock-down unit. Inmates are allowed to
23 gather in smaller groups, which is about 24
24 or 25. They can go to showers. They can go
25 to rec. They're not moved in restraints

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2 other than outside the unit.

3 There's a due process to get in,

4 which means that there's a hearing for an

5 inmate who wed like to place in there.

6 We've changed the policy that there were some

7 concern that an officer can take an inmate

8 and place him in this unit. We now require

9 that only a deputy warden can even recommend.

10 There's at the hearing and there's deputy

11 warden in charge of the unit which will

12 review every placement.

13 There's also the ability of the

14 inmate to petition after placement to be

15 reviewed to get out, and we've put into the

16 policy a 60-day review on everybody that's

17 physically in the unit. So those are much

18 different than you would find in a punitive

19 seg setting. Thank you.

20 CHAIR CAMPBELL: Other questions?

21 MR. CEPHAS: I have a question. So

22 the 60-day review, does that mean to say that

23 the minimum stay in EHU would be 60-days? Is

24 that what that means to you?

25 COMMISSIONER PONTE: No. Because

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2 the inmate can petition on their own for a
3 review.

4 MR. CEPHAS: O.K. Absent --

5 COMMISSIONER PONTE: So they can --
6 first, they can appeal the initial placement.
7 Then, if that still happens, they then can
8 petition a review earlier than 60 days, but
9 there will be a 60-day review irregardless if
10 the inmate requests or not.

11 MR. CEPHAS: Thank you.

12 CHAIR CAMPBELL: Bobby?

13 DR. COHEN: I have a couple of
14 questions for the Commissioner.

15 When I spoke with you last week, I
16 was concerned--and I asked you a question,
17 I'm going to ask it again--about the need for
18 the reduction modification of Board Standard
19 1.05, which calls for 14 hour lock-out. I
20 asked you at that time if the staffing was
21 what you had intended, the staffing available
22 to you is what you want to make the ESH units
23 and there were 25, just 25 detainees in this
24 unit, would that be adequate safety for you?
25 And you replied at the time that it would be,

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2 but it was a question of efficiency.

3 I was wondering if you would still
4 say that today?

5

COMMISSIONER PONTE: Yes. I mean,

6 there is -- you know, we are all taxpayers, I
7 think I said that at the time when we met,
8 and the fact that a staffing plan is 25
9 inmates to four officers, all out-of-cell
10 time.

11 And the other issue for us is
12 availability, that we'd have cell blocks that
13 would be half empty. And now I'm not sure we
14 have cell space to even accommodate that.

15 DR. COHEN: As we both agreed at
16 that time, one of the most important
17 solutions to a lot of the problems on Rikers
18 Island would be a substantial reduction in
19 the population of prisoners in New York City.
20 We hope to help you achieve that; it's
21 obviously not completely in either of our
22 hands.

23 I have two other brief questions.

24 One is that you stated in the rule that you
25 presented to us that you were aware that the

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2 nature of neurobiological science suggests
3 that 16 and 17-year-olds are at great risk of
4 medical and mental health harm being in
5 solitary confinement.

6 As of yesterday, according to the
7 Board of Correction staff, there were 53
8 people -- 53 18-year-olds in solitary
9 confinement on Rikers Island out of a
10 population of 200, which is a percentage of
11 around 25 percent of 18-year-olds in solitary
12 confinement. And when I was out in Rikers
13 Island last week, I met a young man who is in
14 solitary confinement in one of the GRVC in
15 the yard (inaudible). He had been there for
16 seven days. He had been transferred from
17 RNDC because he's aged out. He is no longer
18 16, where he'd spent all of his time in
19 solitary confinement, except for the period
20 he was at Bellevue Hospital. When he was 17
21 and he spent his time in solitary
22 confinement, and now that he's 18, he's going
23 to spend his time in solitary confinement.

24 I know that was an issue that the
25 U.S. Attorney raised yesterday. Why is it

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2 necessary to have 18-year-olds in solitary
3 confinement and even 19, 20 and 21-year-olds
4 given their frailty relative to the mental
5 health implications of solitary?

6 COMMISSIONER PONTE: When you say is
7 it necessary? I think there are alternatives
8 as we've looked at the work that we did in
9 RNDC, its was months of work. We did what
10 most systems would take years to do in
11 months. As we looked at the next segment of
12 this population, as everyone is aware, the
13 law in New York changed where 18-year-olds
14 are now adults. So thats a change in the
15 system.

16 What we've done, and we talked about
17 that when we met, is to look at a subgroup of
18 inmates, 18 to 21, and thats about 1200 and
19 then to begin to develop a program very
20 similar to the work we did in RNDC, which
21 eventually eliminates most punitive seg.

22 Now, there is no system in the country
23 that I'm aware of thats working with young
24 adults that has done that. So its
25 innovative. I think its doable. Its just a

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2 much bigger process to happen, and that, as
3 we've talked, we will be submitting to the
4 Board of Correction our plan on how to do
5 that.

6 DR. COHEN: One last question. In
7 the rule that you proposed to us you said
8 that at some time in the future, based upon
9 progress, you would make THE maximum sentence
10 for an infraction of 30 days. Is there some
11 reason why 30 days makes sense to you rather
12 than the 15 days, which is the international
13 standard on solitary confinement for those
14 who are over 21 and not mentally ill?

15 COMMISSIONER PONTE: So I'm not sure
16 if there is an acceptable national standard,
17 and I have heard that come up. When I say
18 acceptable, where in corrections somehow
19 thats happening. I think the 30 day
20 punitive seg limit that were imposing on
21 ourselves is pretty good as most correctional
22 standards, and pretty good is never good
23 enough to me; so we ought to be effective in
24 our management.

25 So if its one day and it works, we

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2 should do one day. If 30 days is too much,
3 we should look at that. But, its all about
4 managing the behavior. And thats kind of
5 why were talking about these units.

6 Were trying to manage inmate
7 behavior safely. So I'm not stuck on a
8 number of days. If violence goes down and
9 our institutions gets safe and our staff is
10 safer and our inmates are better treated,
11 then we'll work to whatever number that is.

12 DR. COHEN: Thank you.

13 CHAIR CAMPBELL: Are there any
14 comments?

15 JUDGE HAMILL: Now, just with
16 respect to that, I know since you've arrived
17 we've been talking about solitary confinement
18 reform, and we had reached some agreement as
19 to what that would look like for you. And
20 you'd agreed, as Dr. Cohen just said, to
21 reduce it down to for any grade one offenses,
22 30 days; grade two offenses, punitive seg,
23 and grade three offenses, no punitive seg.

24 Since there is a proposed rule
25 before the Board that was proposed by DOC

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2 that we had adopted as our own, that only has
3 currently two limitations on punitive seg,
4 that being 16 and 17-year-olds in O time.
5 Are you agreeing that we add these earlier
6 agreed upon and announced reforms to this
7 rule now as we go forward?

8 COMMISSIONER PONTE: As a package?
9 Yes.

10 JUDGE HAMILL: What does that mean,
11 Commissioner?

12 COMMISSIONER PONTE: The EHS Units
13 and the overall reform, I think they all work
14 well together.

15 JUDGE HAMILL: O.K. So, yes you
16 are.

17 COMMISSIONER PONTE: Yes.

18 JUDGE HAMILL: So let me just follow
19 that up with respect to exclusions, and we
20 had a lot of conversation about exclusions
21 from punitive seg as well as exclusions from
22 the ESHU, because right now there is very
23 little in the proposed rule that talks about
24 exclusions.

25 Can you tell us what you are

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2 agreeing to regarding the exclusions in these
3 two units regarding mental illness, physical
4 illness, developmental disabilities and
5 traumatic brain injury?

6 COMMISSIONER PONTE: When you say
7 "two units," I don't understand.

8 JUDGE HAMILL: Well, the ESHU and
9 the punitive seg, 'cause your proposed bill
10 which we've adopted for CAPA is talking about
11 the ESHU and considering exclusions for that
12 unit, as well as punitive seg.

13 COMMISSIONER PONTE: Right.

14 JUDGE HAMILL: And considering
15 exclusions, since you listed two, that we may
16 wish to expand on those exclusions.

17 COMMISSIONER PONTE: Right. So DOHMH
18 still has the same authority and ability to
19 exclude anybody based on medical or mental
20 health concerns. They have the legal
21 authority to do that. So were not -- you
22 know, as far as as we create the punitive,
23 which is much less than any impact that
24 punitive seg has, they still have that
25 ability. So seriously mentally ill is an

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2 easier definition because its pretty well
3 defined, its about 78 percent of the
4 population. We've got good practice here in
5 the City of New York, where when we use our
6 CAPS Units, its very effective and treatment
7 orientative will be going into our PACE
8 Units, which is our prior infractions but
9 higher clinical treatment.

10 All those things are good, so the
11 issue is that they will exclude in the same
12 manner for here as they would anywhere else.
13 I mean, thats kind of DOHMH decision. We
14 are working with them on defining that some,
15 but they still have the legal authority to do
16 that.

17 CHAIR CAMPBELL: Derrick.

18 MR. CEPHAS: Commissioner, what is
19 your current thinking on the availability of
20 contact visits for inmates in the ESU?

21 COMMISSIONER PONTE: All right. So
22 our thoughts are based on inmate behavior.
23 So if its smuggling in contraband, drugs,
24 violence; a lot of violence is driven by
25 other kinds of activities. It could be

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2 strong-arming. It could be drug activity.
3 It could be any kind of an influence in the
4 facility.

5 So our belief is that we start
6 off in these units with non-contact visits
7 and allow inmates an opportunity through
8 good behavior to earn those visits back,
9 even within this unit. So its a process
10 that when we start off we're having the
11 most restrictive environment and allow an
12 inmate to earn their way back to where we
13 would allow contact visits.

14 So many of the incidents that happen
15 where somebody cuts somebody or seriously
16 assaults somebody, thats the outcome of
17 other things. It could be a drug activity.
18 It could be influence. It could be gang. So
19 what we wanted to do is really restrict that,
20 one, until we figure that out and make sure
21 that the inmate is back on track before we
22 start loosening up any of those restrictions.

23 MR. CEPHAS: Well, each inmate would
24 have to sort of earn contact visits as
25 opposed to doing something --

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2 COMMISSIONER PONTE: Right.

3 MR. CEPHAS: -- that would take it
4 away.

5 COMMISSIONER PONTE: Thats correct.

6 CHAIR CAMPBELL: Thank you,
7 Commissioner.

8 JUDGE HAMILL: I'm sorry, I have one
9 or two.

10 CHAIR CAMPBELL: We need to move on.

11 JUDGE HAMILL: I understand.

12 Commissioner, you just said a few
13 moments ago that you would agree to the
14 reform of punitive seg if the ESHU is
15 approved.

16 Can you just explain to me the
17 reasoning for that? I'm struggling to figure
18 it out. I understand theres about 600
19 inmates in punitive seg and, I understand
20 that when we talked last week about the
21 number of inmates that you thought were
22 really dangerous that had to go into ESHU
23 we're talking about 150, maybe 200.

24 COMMISSIONER PONTE: Right.

25 JUDGE HAMILL: Why is one tied to

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2 the other, especially since correctional
3 experts generally agree that the heavy use of
4 solitary confinement contributes to the
5 culture of violence?

6 COMMISSIONER PONTE: O.K. So were
7 tying a couple things together. So this
8 isn't solitary confinement, number one.
9 There is no definition that anyone could pull
10 and say this program is solitary confinement,
11 number one.

12 JUDGE HAMILL: No. I'm talking
13 about the punitive seg requirement. Sorry.

14 COMMISSIONER PONTE: So this is a
15 piece of inmate management. I mean, we don't
16 get all this violence that happens in the
17 jail by accident. So this is a piece of
18 overall inmate management.

19 Today we have a thousand inmates who
20 have been adjudicated through the
21 disciplinary process who are not in punitive
22 seg, yet they owe punitive seg time. So the
23 basic process, and the only one we have right
24 now to manage inmates, just doesn't work,
25 because the idea is you do something wrong

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2 and you go for a hearing and you get days of
3 punitive seg and you go to punitive seg,
4 serve your time, and you come out.

5 We've got a thousand inmates that
6 have been adjudicated that don't go. So part
7 of this reform is to clean that up, so if you
8 do something serious you are going to go to
9 punitive seg. And thats safe for everybody.
10 And if you continue to be dangerous, youre
11 going to go to these units so we can manage
12 you more effectively. Its called, enhanced
13 supervision, which means theres more
14 staff-to-inmate than normal.

15 So the issue is why its tied
16 together is because by separating this
17 dangerous group out we'll be better able to
18 manage the rest. I mean, that's conceptually
19 how it works. So its a piece of inmate
20 management, not like one thing. So that is
21 why its kind of tied together conceptually
22 so...

23 CHAIR CAMPBELL: Michael?

24 MR. REGAN: I just want to
25 congratulate you. I feel that there's a

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2 culture of reform here. I feel that if there
3 are things happening, and I've been on the
4 board a long time. I think that there are
5 things happening. I watched very attentively
6 what the Mayor announced on Rikers Island
7 this week. I feel its a culture of reform
8 and you should be congratulated.

9 I think Bobby is spot-on that the
10 18-year-old population, the 25 percent is
11 unacceptable. But, I'm looking forward to
12 hearing the advocates and others say, but I
13 think theres a culture of reform.

14 COMMISSIONER PONTE: Thank you.

15 JUDGE HAMILL: (Inaudible)
16 Commissioner, don't get me wrong, I agree,
17 but Id like to see what you've done for the
18 group that's fair to all at Rikers.

19 We have been advised --

20 COMMISSIONER PONTE: And I agree
21 with that, also.

22 JUDGE HAMILL: Yes.

23 (Laughter.)

24 MR. HAMILL: Yes. And I know that
25 is what you trying to do, but since you

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2 stated it is the package --

3 COMMISSIONER PONTE: Right.

4 JUDGE HAMILL: -- let me just ask
5 you here. We been informed by corporation
6 counsel that they would be recommending that
7 we have a sunset provision in these rules,
8 that we approve it for a year, but
9 essentially have a sunset provision to
10 reevaluate it based on evidence-based
11 practices and management. Would you agree
12 with that?

13 COMMISSIONER PONTE: Great idea.

14 JUDGE HAMILL: Wonderful.

15 COMMISSIONER PONTE: You know, If
16 this doesn't work, its not good for any of
17 us. If we say this is going to reduce
18 violence and it doesn't reduce it, its not
19 good for any of us.

20 MALE SPEAKER: Thank you.

21 COMMISSIONER PONTE: You know, I
22 think where get common ground with everybody
23 I've talked to is that do we want to make the
24 jail safer? If this helps us do that, I
25 think were O.K. and nobody I've talked to

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2 said, Gee, thats a bad idea; lets leave it
3 like it is.

4 So this is just a piece of that.

5 But, I agree, your Honor, absolutely.

6 CHAIR CAMPBELL: Thank you,
7 Commissioner Ponte.

8 COMMISSIONER PONTE: Thank you.

9 CHAIR CAMPBELL: We are now going to
10 hear from City Council Member, Daniel Dromm,
11 and then following, the next speaker will be
12 James Dzurenda, First Deputy Commissioner,
13 Department of Correction.

14 Council Member, welcome, and you
15 have five minutes, because we now have 90
16 speakers, and there is somebody keeping time
17 right in front of you. Thank you.

18 COUNCIL MEMBER DROMM: Very good.
19 Thank you.

20 My name is Daniel Dromm and I am a
21 member of the New York City Council and Chair
22 of the Committee on Education. Throughout my
23 tenure I have become increasingly involved in
24 efforts to reform our citys jails. Seeing
25 the impact of prolonged and isolated

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2 environment has fueled my passion around this
3 issue.

4 A friend who is struggling with drug
5 addiction and mental health issues found
6 himself at Rikers Island. After being caught
7 with contraband, cigarettes in this case, he
8 found himself in punitive segregation devoid
9 social contact and programming he so
10 critically needed to maintain his sanity and
11 his recovery. The torture he endured took a
12 devastating toll. This young man emerged
13 from these periods of isolation and
14 deprivation, a hollow shell of his former
15 self.

16 Like so many others who have endured
17 extreme and continued isolation, he is now
18 withdrawn, anxious and hypersensitive. He has
19 difficulty with concentration and memory, and
20 he experiences unpredictable fluctuations in
21 temperament.

22 I do not believe the Department of
23 Correction proposal for enhanced supervised
24 housing will adequately address the dire need
25 for comprehensive reform. Instead of heeding

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1
2 the loud cries for reform coming from the
3 Department of Justice, the United States
4 Civil Rights Commission, The New York Times
5 and seasoned advocates, the Department of
6 Correction has proposed the creation of
7 another category of highly restrictive
8 housing that will exist together with the
9 current punitive segregation regime. The
10 Department claims that ESH is not supposed to
11 be punitive; however, the details of plan
12 suggest otherwise. As with punitive
13 segregation, adjudicators will not be truly
14 independent, since they are fellow
15 corrections officers. Independent attorneys
16 and advocates will not be allowed to provide
17 critical representation.

18 In addition to the lack of these due
19 process protections, ESH raises two more
20 serious concerns. First, unlike individuals
21 with a thick punitive segregation sentence,
22 individuals are sent to ESH indefinitely,
23 without any clearly delineated path to
24 release or less restrictive conditions.
25 Second, a specific infraction is not needed

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2 to land in ESH. The threshold is much too
3 broad and low, leaving the process open to
4 abuse.

5 I ask that the Board of Correction
6 seize the opportunity to enact meaningful
7 reform. Perhaps with much revision, ESH
8 could largely replace punitive segregation.
9 It should start as a pilot, be closely
10 monitored along with the appropriate metrics,
11 and be reviewed periodically for outcome.
12 ESH, as well as the minimum standards this
13 Board is drafting, must reign in the rampant
14 abuses in our citys jails.

15 I would like to draw your attention to
16 a recently released report from the New York
17 Advisory Committee to the U.S. Commission on
18 Civil rights which flatly states that
19 punishment of youth under 25, as Member Cohen
20 has mentioned, in jails and prisons
21 constitutes cruel and unusual punishment
22 under the Eighth Amendment. I will repeat
23 that what I stated before this committee
24 about the liberal use of solitary confinement
25 as a management tool. The imposition of

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2 severe isolation for infractions are related
3 to safety concerns seems to serve no purpose
4 other than to brutalize prisoners.

5 The Department needs to reorient its
6 entire model; facilities with well-trained
7 staff to prepare individuals for release from
8 day one; and address safety concerns through
9 methods that are proven to reduce violence.
10 Regardless of the unit, programming and
11 individual treatment are vitally important.
12 Unfortunately, the ESH proposal lacks this
13 key element. CAPS and the Second Chance Unit
14 at Rikers seem to provide a good start and
15 must be expanded.

16 And finally, federal authorities
17 have understandably grown impatient with the
18 city's slow reaction to the uncovering of
19 grave constitutional and human rights
20 violations.

21 I therefore urge this Board to act
22 without delay to put to rest one of the
23 ugliest chapters in our city's history by
24 enacting far-reaching reform, in close
25 consultation with the experts, many of whom

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2 are here with us today.

3 Thank you very much.

4 CHAIR CAMPBELL: Thank you, Council
5 Member.

6 Our next speaker is First Deputy
7 Commissioner James Dzurenda, followed by Mark
8 Murphy, Acting Chief of the Department.

9 COMMISSIONER DZURENDA: Good
10 morning, Chair Campbell and Members of the
11 Board of Correction. My name is James
12 Dzurenda, I'm the First Deputy Commissioner
13 for the New York City Department of
14 Correction. I have been a member of the New
15 York City Department of Correction since
16 October of 2014. Prior to, this I served as
17 Commissioner for the Connecticut Department
18 of Correction under current Governor Darnel
19 Malloy and proudly served in all custody
20 ranks within the Department for 27 years. I
21 also attained a Bachelor of Science Degree in
22 Biochemistry, a Masters in Business, and I
23 sat on many isolation and segregation panels
24 around the country. Most recently, 2014
25 National Sentencing Commission and also the

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2 2014 Lyman Center Colloquium at the Yale
3 University, with many in attendance from
4 around the world.

5 I have visited and studied
6 procedures in over 32 different punitive and
7 administrative segregation units around the
8 country. These included the ADX Supermax
9 Level Correction Institution in Florence
10 Colorado, Carob Colorado Department of
11 Correction, Texas Department of Correction,
12 Pennsylvania Department of Correction, New
13 Jersey Department of Correction, Terre Haute
14 Federal Death Row in Indiana and Florida
15 Department of Correction, to just name a few.
16 I have assisted in partnership with the
17 Connecticut Civil Liberties Union and the
18 Yale University Law School in researching
19 programs and effects of isolation and
20 segregation of incarcerated individuals.

21 The proposed enhanced supervision
22 housing of offenders being allowed out of
23 their cells for seven hours each day is not
24 isolation segregation. The only perception
25 of segregation is the separation of these

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2 violent offenders from non-violent
3 population; hence, allowing the New York City
4 Department of Correction the authority to
5 protect non-violent offenders.

6 The general population cell housing
7 in the Connecticut Department of Correction
8 only allows offenders out of their cells six
9 to seven hours each day for any offender
10 serving time. Those of this violent nature
11 that were proposing only come out in
12 Connecticut two to five hours each day, with
13 very structured and effective programming,
14 preparing them each day for return back into
15 their community.

16 I urge you to understand the safe and
17 structured enhanced supervision housing
18 proposal will not only decrease the current
19 violence throughout the system, but keep
20 these offenders safe from each other. Nobody,
21 including the correctional staff wants to see
22 anymore offenders hurting anyone or
23 themselves. This proposal will just be one
24 step closer to reducing violence and allowing
25 non-violent offenders to be protected and

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2 feel safe in their current and unfortunate
3 environment.

4 The structured proposal is not a new
5 concept throughout the country. It is not a
6 form of punishment or harassment, for it is
7 providing a more secure and safe environment
8 for staff and offenders. We cannot continue
9 our current path of allowing these offenders
10 from threatening, assaulting and extorting
11 non-violent offenders. It will help each
12 other teach them respect and dignity. It
13 will also reward them to return to population
14 for subsequent good behavior and program
15 completion.

16 At this time, I want to thank you
17 for listening to this very important and
18 necessary proposal.

19 CHAIR CAMPBELL: Bobby?

20 DR. COHEN: Welcome to New York.

21 COMMISSIONER DZURENDA: Thank you,
22 Doctor.

23 DR. COHEN: This is a proposal to
24 decrease violence on Rikers Island, and
25 having been on the Board for the past five

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2 years and worked in and around Rikers Island
3 for the past 30, I was surprised that there
4 was nothing in this proposal which talks
5 about violence by the officer staff directed
6 toward the prisoners.

7 It specifically states there should
8 be no training, there's no training necessary
9 in the response that we got from the
10 Department this week. They were again ask
11 the question of that training, we were told
12 theres absolutely no need for any additional
13 training. The Police Department seems to
14 think that they have a need for some
15 additional training on these issues.

16 I was surprised, I was really
17 surprised to see that and would like to know
18 why thats the case.

19 And the second question, if you
20 could, has to do with contact visits that was
21 also raised by Derrick Cephas, that we know
22 that theres lots of contraband in terms of
23 weapons and drugs that are coming into the
24 prison through the officer staff. When I go
25 through -- as of last week, when I walk onto

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2 Rikers Island, and I have been there three
3 times in the past five weeks, things go off.
4 I'm not searched because I offered to put my
5 coat with my metal objects onto the belt and
6 staff said just go through Board of
7 Correction.

8 I really think that when --
9 prisoners, as you know, are strip-searched
10 before and after their visits; family members
11 go through laundering for molecules, they go
12 through metal detectors; they are
13 pat-frisked, if necessary. I've not heard
14 any explanation as to why contact visits are
15 not allowed, and as you know, as the
16 corporation counselors told you, there is a
17 requirement in New York State that people
18 have a right to contact visits and they
19 should not be denied as a policy which is
20 what you're doing.

21 Thank you.

22 COMMISSIONER DZURENDA: I'm glad you
23 brought that up. The weapons of choice for
24 the offender in the New York City Department
25 are different from what I've ever seen around

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2 the country. The choice weapon is a scalpel.
3 I have never heard that in my life.

4 The scalpels that they use in the
5 New York City Department of Correction do not
6 get picked up on metal detectors. We even
7 bought it to TSA. We bought it to other
8 states, bought it to even the company for a
9 metal detector. They do not get detected
10 because if you use a small amount of small
11 amount of electrical tape on a small scalpel,
12 it won't get picked up anywhere. No
13 strip-search in the country is going to teach
14 us to be able to detect these scalpels that
15 are inside the orifices or the anuses of
16 these individuals. Its not going to be
17 picked up. That is one scary thing for these
18 inmates. Now, I'm not talking about even
19 just the staff how scary it is, but the
20 non-violent offenders that have to get
21 subjected to this.

22 When the non-violent offenders get
23 subjected to things like this, they turn
24 violent because they have to. They have to
25 protect themselves. They have to also get

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2 scalpels because theyre going to protect
3 themselves against the violent offenders that
4 have them.

5 When you have visitors that are on top
6 of each other during a visit, literally on
7 top of each other. I don't know if you've
8 ever witnessed the visits that happen. They
9 are not a brief embrace hug and kiss before
10 and after the visit, like I've seen around
11 the country for contact visits. They are on
12 top of each other. They pass things and they
13 put things in their orifices. That's
14 reality. I have incidents after incidents I
15 can show you that this is happening.

16 When that happens, inmates have
17 their own armory. When they have their own
18 armory, they go prepared into these units for
19 war. And what happens is, is who gets
20 victimized are the non-violent offenders,
21 because they have to start protecting
22 themselves or theyre going to be victimized.
23 Things like this and with the non-contacts
24 will prevent that stuff. They will prevent
25 it. The correction officers don't want these

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2 weapons in there; theyre going to be used
3 against them, too. Or even the blood that
4 happens with the transfer with Hepatitis-C,
5 they don't want this stuff. I don't care who
6 or how bad you are of a correction officer,
7 you don't want this stuff to happen.

8 The way you stop that, the contact
9 visits that are bringing these things in.,
10 The visitors that are coming in, they are not
11 even approved; they are not even a
12 pre-approved process. The visitors don't even
13 know half these inmates theyre visiting.
14 They are being threatened and extorted in the
15 community to bring items in for inmates they
16 don't even know. That is so scary to me and
17 so absurd that we allow these things to occur
18 in the Department of Correction that
19 introduces contraband into the facility.

20 We are doing a better job at the
21 entrances for anyone coming in, visitors --
22 and its not just staff, we have a lot of
23 volunteers, a lot of organizations that come
24 through that front door. We are doing a
25 better job. Do we have to do better? Yes.

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2 We need better equipment, better X-ray
3 machines, better metal detectors. Those
4 things will come. We need a better process,
5 better looks and supervision of even the
6 officers doing that at the front door.

7 But the biggest concern right now
8 are these contact visits on how theyre
9 getting scalpels into these facilities. It
10 scares me. It scares those non-violent
11 offenders. It has to be one of our
12 priorities; it has to be.

13 MR. CEPHAS: I just have a quick
14 question to ask.

15 COMMISSIONER DZURENDA: Yes.

16 CHAIR CAMPBELL: Derrick and then
17 Jennifer.

18 MR. CEPHAS: Assuming what you just
19 said is accurate, how do you then, with
20 regard for any member, any inmate who is in
21 ESH, how do you move from no contact visits
22 to allowing some contact visits? What is
23 going to be the process for that, assuming
24 that the situation is as you describe it?

25 COMMISSIONER DZURENDA: Now, I'll go

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2 back to general correctional practices that
3 all of us should know.

4 If you take everything away from the
5 offender, they have nothing to lose. If you
6 give an inmate everything, they have nothing
7 to gain. So what you do is, when you have
8 these units where you have incentives for
9 inmates for behavior to behave, that's when
10 you start correcting behavior. And you have
11 to be able to prove to an inmate when they do
12 something well that they will get something
13 out of it.

14 Denying contact visits, getting rid
15 of it permanently is not a good idea. Giving
16 them incentives to keep getting them or get
17 them is a better idea to me. You behave, you
18 stop the violence, you listen to the
19 officers, you listen, you go to your program
20 that were telling you to, we will start
21 giving you periodic visits. It doesn't even
22 have to be contact visit permanent, periodic.
23 So that the inmate has a reason to continue
24 the behavior and we want that good behavior.
25 Everybody does.

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2 And I'm telling you, even the
3 non-violent offenders will start feeling that
4 when they have these incentives and they
5 could behave, they're watching the
6 non-violent offenders around them start to
7 behave will start to create an environment
8 that is better for even them. And we have to
9 start doing that.

10 What were doing now with having
11 non-violent offenders out in population with
12 the violent ones is dangerous to everybody,
13 and its not going to stop the violence
14 unless we do something about it. I'm telling
15 you, when we do this and we correct some of
16 our visiting procedures, you will see the
17 violence go down. If we don't, we'll go back
18 to the way it is, but were not in a good
19 place right now. We have to start doing
20 something.

21 CHAIR CAMPBELL: Jennifer.

22 MS. JONES-AUSTIN: Thank you.

23 I understand from your testimony
24 that there will be the possibility of
25 step-down from the ESHU to general

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2 population. Can you shed some light on how
3 that would occur? Would that occur with a
4 review (inaudible) day? Would be the
5 assessment criteria? Can you provide some
6 insight on that?

7 COMMISSIONER DZURENDA: First of
8 all, I didn't say anything in my testimony
9 that there will be a step down, but I think
10 there needs to be.

11 MS. JONES-AUSTIN: Well, I inferred
12 that when you said that there is the
13 possibility --

14 COMMISSIONER DZURENDA: For contact
15 visits.

16 MS. JONES-AUSTIN: No. In your
17 testimony, if I understand you correctly, you
18 talked about maybe there being that
19 possibility that you could go back to the
20 general population.

21 COMMISSIONER DZURENDA: Correct.
22 Correct.

23 MS. JONES-AUSTIN: What I want to
24 understand --

25 COMMISSIONER DZURENDA: Correct.

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2 Gotcha.

3 MS. JONES-AUSTIN: -- is what would
4 be involved in that assessment and when would
5 it occur?

6 COMMISSIONER DZURENDA: Now, when
7 you talk about inmate behavior, everything
8 has to be individualized. Every inmate is
9 different on how they behave and how they
10 act.

11 When you individualize a plan for an
12 offender and you give that offender the
13 opportunity for certain periods to behave, to
14 comply with staff and go to the programs,
15 there has to be some type of an award.
16 Giving them just contact visits won't be
17 enough of an award because now if they keep
18 getting contact visits, what do I do better?

19 The better thing is to get you into
20 population safely, back into general
21 population and start getting everything
22 everybody else has, but there has to -- we
23 have to be able to -- you can't, like what
24 the Commissioner was talking about, going
25 right from punitive segregation to general

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2 population is a dangerous thing to do.

3 There has to be step-downs of all
4 these different units we have. You can't
5 just go from one end, to the extreme, to
6 another, expecting offenders to do well.
7 There has to be transitions. There has to be
8 trial periods. There has to be incentives
9 for those inmates to do well in that
10 transition or in the general population
11 status.

12 MS. JONES AUSTIN: And would those
13 step-downs or the consideration thereof be
14 made at the 60-day review?

15 COMMISSIONER DZURENDA: Absolutely.
16 And it doesn't even have to. The 60-day
17 review is just a mandatory review time. It
18 doesn't have to happen at the 60 days.

19 If an inmate is doing really well,
20 behaving really well, listening to staff,
21 finished a program, Oh, you got to wait for
22 your 60 days. No. But that should happen
23 all the time. If someone really is doing
24 well, they should be able to do X, Y and Z
25 for their good behavior. The 60 days is just

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2 a minimum mandatory time that we would look
3 at doing the reviews.

4 CHAIR CAMPBELL: Bryanne?

5 JUDGE HAMILL: Yes. So let me just
6 follow up on some of what youre saying. So
7 like -- and do commend the Commissioner and
8 the Department of Correction on all the
9 programming youre doing for the youth and
10 much of this is anti-violence program, right?
11 And the ESU is designated for those most
12 dangerous inmates.

13 What type of programming are you
14 going to be offering during that seven hours
15 out of cell that would help them? Let's say,
16 community building, some forms of group
17 therapy, cognitive behavioral, anti-violence
18 programming to help them succeed in earning
19 back those privileges and also being able to
20 move out?

21 COMMISSIONER DZURENDA: Your Honor,
22 first of all, youre exactly right. In
23 Connecticut for these type of offenders we do
24 whats called, high risk/high impact
25 programming. Its a programming where it

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2 makes the offender accountable for their
3 actions. It teaches them about consequences.
4 There's all types of programs out there. And
5 I've work with Connecticut Civil Liberties
6 and put these programs into place. Its easy
7 to incorporate into this system.

8 When you start having offenders that
9 are in this population you can't have any
10 idle time. Everything has to be related
11 around programming. The programming is, to
12 me, when youre talking about this high
13 risk -- a little education on high risk
14 impact programming.

15 When you allow programs into
16 offenders that we know have a history of
17 violence, you don't want certain programs
18 that have items they could use for violence.
19 Allowing paintbrushes, to you and I, might
20 not be a big deal, well, they will start
21 using these as weapons. Having things that
22 they can use against themselves as dangerous
23 items.

24 Social skills. The greatest impact
25 they could do for these repeat offenders. How

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2 do you deal with offenders even if they have
3 personality disorders, which were not
4 considering under an SMI criteria? Thats
5 important for the staff and the Department of
6 Health to work on personality disorders on
7 how you socialize with other offenders. You
8 do that in very large groups, youre not
9 going to be successful. If you look at any
10 school system around country, how do they do
11 social skills networking? Small individual
12 groups. It could be one, then it becomes
13 two, and then you work with small groups.
14 Not large groups 'cause it won't work.

15 You can't put someone with a
16 personality disorder in a group of a hundred
17 inmates and expect them to succeed. They are
18 not going to. So the programming will work
19 around that.

20 I have great ideas. I am bringing
21 somebody in thats going to be now the Deputy
22 Commissioner of Programs and Services thats
23 going to bring all these things in that have
24 done exactly what you've already said. so
25 its a good stuff.

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2 JUDGE HAMILL: Just to follow up, I
3 did have an opportunity, and I appreciate all
4 those papers that were submitted to the Board
5 in advance. Of today, I have had the
6 opportunity to read them all, including the
7 letter from COBA, and in their letter and
8 certainly in our meetings with them they told
9 us that they really feel they need a lot more
10 training to be able to deal in this dangerous
11 environment, and especially, in the unit
12 where they will be putting the most
13 dangerous, including crisis intervention,
14 de-escalation, community skill building,
15 being better trained as to mental health.
16 And also, that it would be very helpful to
17 have steady assignments and not be on a
18 wheel, where an officer gets to know the
19 inmates and comes into the unit knowing them
20 and developing a relationship.

21 Can you address those two issues --

22 COMMISSIONER DZURENDA: Amen.

23 Thats exactly what I'm thinking, too.

24 JUDGE HAMILL: -- in terms of
25 training and assignments?

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2 COMMISSIONER DZURENDA: You need the
3 programming piece for -- if we have the
4 correction officers involved in the team
5 programming approach, they have to be trained
6 on how to do that. If we have the correction
7 officer that are involved in a behavioral
8 treatment plans and the process, they have to
9 be trained. They have to understand it.

10 Correction officers have to
11 understand classification, what it means.
12 What is it for -- what is really a behavioral
13 treatment plan. Officers should know all
14 that. All that training is important, and I
15 agree with you; it has to be part of it. You
16 have to work as a team when youre dealing
17 with a specialized population.

18 The correction officer has to work
19 together with a social worker to be able to
20 do this, and everybody works as a team
21 approach to make this happen, and you have to
22 train somebody to do that.

23 CHAIR CAMPBELL: Thank you, First
24 Deputy Commissioner Dzurenda.

25 Now we will hear from Mark Murphy --

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2 MR. REGAN: I think we got the
3 better part of this trade with the State of
4 Connecticut probably.

5 (Laughter.)

6 CHAIR CAMPBELL: Our next speaker is
7 Martin Murphy, the Acting Chief of the
8 Department, and then Commissioner Scott
9 Temple from the Connecticut Department of
10 Corrections.

11 CHIEF MURPHY: Good morning, Chair
12 Campbell. Good morning, Board.

13 My name is Martin Murphy. I'm the
14 Acting Chief of the Department. I'm here
15 this morning to take this opportunity to
16 petition the Board of Correction to rule in
17 favor of the proposed rule change that we,
18 the New York City Department of Correction,
19 seek regarding enhanced supervision housing.
20 The proposed rule change will provide our
21 department the opportunity to effectively
22 manage those individuals committed to our
23 custody who have been validated as
24 influential gang members and those who have
25 been found in possession of smuggled scalpel

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2 blades, along with those who have repeatedly
3 assaulted and caused serious injury to both
4 uniformed and civilian staff, as well as
5 other incarcerated individuals.

6 Enhanced supervision is not punitive
7 segregation. It is not intended for the
8 entire population. Only ten percent of the
9 inmates in custody engage in rule violation
10 and only seven percent commit violent
11 infractions.

12 There will be only 250 beds
13 committed for use for enhanced supervision,
14 which means only 2.2 percent of the average
15 daily population will be eligible for this
16 type of housing at anytime. All enhanced
17 supervision inmates will have at least seven
18 hours of out-of-cell time per day, and all
19 those in enhanced supervision units will have
20 access to both program services as those
21 afforded to the general population.

22 The Commission has identified a need
23 for change in the culture at DOC, along with
24 a need for a fundamental change in the way,
25 we do business. However, we cannot make

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2 substantial change without first having safer
3 jail environments. Enhanced supervision
4 housing is a step toward achieving those
5 goals of a safe jail. Thank you.

6 MR. REGAN: Chief, I have read the
7 Commissioner's multiple responses, including
8 the latest response to our questions and he
9 specifically said in every one of these
10 presentations, and this is going to fall on
11 you because you're the Chief --

12 CHIEF MURPHY: Yes, sir.

13 (Laughter.)

14 MR. REGAN: -- that there will be no
15 additional training, that this is our
16 standard post officers, that there's no need
17 for any additional training for these
18 positions of the staff working here, and I
19 would also to say that based on my experience
20 on Rikers Island for the past five years,
21 your ability to get steady posts is nil.
22 It's very important. I don't know what you
23 need to do to do that, and if there is
24 something that the Board can do to help you
25 achieve that, that would be great.

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2 But I wish you could -- I'd ask you
3 again to respond to this, why there is no
4 need for any additional training, that you're
5 are not asking for any additional funds for
6 training for the -- beyond the eight hours a
7 day that everybody gets, but no additional --

8 CHIEF MURPHY: Well, I don't think
9 that is accurate. As the First Deputy
10 Commissioner just said, as the programming
11 comes in and the training of the staff is
12 absolutely essential for this type of --

13 MR. REGAN: But the Commissioner has
14 told us repeatedly that these are standard
15 post orders from working on these units and
16 no additional training is necessary.

17 CHIEF MURPHY: And the enhanced
18 supervision housing staff --

19 MR. REGAN: Yes.

20 CHIEF MURPHY: -- that are on the
21 posts now receive the training to manage
22 those units as you've described, yes.

23 MR. REGAN: Thank you.

24 CHAIR CAMPBELL: Thank you, Chief
25 Murphy.

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2 Our next speaker is Commissioner
3 Temple, from the Connecticut Department of
4 Corrections, followed by Alexandra Korry.
5 Commissioner.

6 COMMISSIONER TEMPLE: Good morning,
7 happy holidays --

8 CHAIR CAMPBELL: Thank you.

9 COMMISSIONER TEMPLE: -- Chair
10 Campbell and Members of the New York City
11 Board of Correction, my name is Scott Temple,
12 and I am the Interim Commissioner for the
13 Connecticut Department of Correction. I am
14 pleased to appear before you today to discuss
15 the support the concept of enhanced
16 supervision housing.

17 Our experience in Connecticut
18 continues to prove the effectiveness of this
19 type of initiative. In my testimony today, I
20 hope to provide a brief history of our
21 adoption of this type of housing as well as
22 some lessons learned from our implementation.
23 Connecticut's correctional institutions faced
24 significant staff and inmate safety
25 challenges during the late 80s and early

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2 1990s.

3 Like many states, Connecticut
4 embarked on an aggressive program of building
5 infrastructure, which resulted in more than
6 doubling the number of cells between 1993 and
7 1996. At the same time, we expanded our use
8 of various restrictive housing programs. Our
9 incident rates dropped and our prisons became
10 much safer places to work and live. As these
11 conditions improved, we became acutely aware
12 that our one-size-fits-all system of placing
13 troublesome inmates in restriction, may have
14 been exasperated or may have exasperated our
15 problems rather than solving them.

16 We learned that vulnerable inmates
17 often act out to be placed in restrictive
18 housing if they feel they cannot live safely
19 in a general population. We learned that
20 inmates with moderate mental health issues
21 are often utilized by security threat
22 members, gang affiliations to do the bidding
23 of the leader, and we learned that a
24 surprisingly small group of offenders in
25 general population caused disruption that

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2 leads to institutional unrest.

3 As a result of this experience,
4 Connecticut has developed a number of
5 initiatives to address the specialized needs
6 of these vulnerable or otherwise problematic
7 populations.

8 One example is our Youth Development
9 Unit at the Garner Correctional Facility in
10 Newtown, Connecticut. A young inmate,
11 generally one who is under the age of 21, who
12 would otherwise qualify for a very
13 restrictive housing status either because of
14 serious misconduct or as related to gang
15 activity, is instead assigned to the Youth
16 Development Unit, where it within a secure a
17 custodial setting, evidence-based programs
18 and services including education, mandatory
19 education, are delivered in an age
20 appropriate manner, just as they would be in
21 our general population. This arrangement has
22 a dual benefit.

23 First, we remove a small number of
24 problematic and impulsive inmates from the
25 population at our Manson Youth Institute,

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2 located in Cheshire, thus, improving the
3 clients at that institution. Second, rather
4 than strict segregation we continued to
5 target the conduct and problematic
6 interventions that will reduce the
7 individuals likelihood of committing
8 institutional misconduct, and if you do it
9 correctly, we can impact recidivism.

10 Another example of specific
11 targeted intervention is our Mental Health
12 Housing Units, also located at Garner in
13 Newtown. Connecticut, like many other states
14 houses a significant number of inmates with
15 moderate to severe mental illness. In
16 Connecticut, I believe the number -- I think
17 I heard today is 30 percent -- in
18 Connecticut, we marked 18 percent. Not only
19 do these inmates require appropriate clinical
20 care, their behavior is often problematic.
21 In an attempt to meet the needs of this
22 vulnerable population, the Department has
23 created several housing units at the Garner
24 facility which deliver mental health and
25 rehabilitative services in a secure

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2 atmosphere that is not a general population
3 setting. Again, access to programs is equal
4 or better than afforded in population. The
5 limitation is only access to other inmates
6 who may take advantage of the vulnerability
7 of the mentally ill.

8 It is appropriate here to
9 acknowledge several lessons learned. First,
10 as I mentioned, one size does not fit all
11 when it comes to reducing disruption, trauma,
12 and violence associated with prison life.
13 Specialized housing units, like the one I
14 discussed today, are part of a continuum and
15 includes more or less restrictive housing
16 status. Second, when developing housing
17 units and individualized management plans we
18 have found that a multi-disciplinary approach
19 is best. Unit teams include custody, case
20 management, treatment, supervisory management
21 and clinical staff in order to address the
22 needs of the inmate and reduce disconnection.
23 Finally, flexibility is paramount.
24 Often problematic inmates face disciplinary
25 sanctions which may have lost any

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2 relationship to deterrents or behavior
3 modification. We have inmates who have faced
4 loss of visits and other privileges for
5 multiple years. Our specialized units
6 attempts to build a system of incentives for
7 improved behavior by modifying or eliminating
8 sanctions based on positive behavior in
9 compliance with a behavior management plan.
10 Small positive changes are rewarded. Small
11 changes can lead to larger changes.

12 I'm proud of what Connecticut has
13 done to improve the safety of its facilities
14 and reduce associated trauma significantly
15 for its staff and offenders.

16 I'd be happy to answer any
17 questions.

18 CHAIR CAMPBELL: Thank you,
19 Commissioner Temple.

20 Any questions?

21 MS. JONES-AUSTIN: Please?

22 CHAIR CAMPBELL: Jennifer.

23 MS. JONES-AUSTIN: Based on what
24 you've heard about what has been proposed
25 here in New York City, are there any

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2 recommendations that you have concerning the
3 implementation? Anything that you see as
4 necessary to enhance the effectiveness of
5 this, or, any concerns about what you've
6 heard?

7 COMMISSIONER TEMPLE: So, what I
8 tried to influence in Connecticut --
9 corrections in general is usually kind of
10 black-and-white policy-driven initiatives and
11 strategies such as this are grey. So in
12 terms of the time --

13 MS. JONES-AUSTIN: Did you say "great"
14 or "grey"?

15 COMMISSIONER TEMPLE: Grey.

16 MS. JONES-AUSTIN: O.K.

17 COMMISSIONER TEMPLE: It could be
18 great.

19 (Laughter.)

20 COMMISSIONER TEMPLE: But a couple of
21 things that I heard today when you talked
22 about the programs, first, programs are
23 great, and they can be evidence-based and
24 have all the things that go along with that.
25 But it's really about the passion and

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2 facilitation of those programs that makes an
3 impact. It's the connection with the
4 offender that actually makes them make a
5 decision to their betterment.

6 So in terms of the programming, you
7 can list the programs, you can identify the
8 programs, and you can change the programs,
9 but those programs need to come from
10 facilitators who have the capacity to
11 influence that offender to do the right
12 thing. So that is one important thing.

13 What was the other part that you --
14 can you just...?

15 MS. JONES-AUSTIN: I'm just asking
16 whether or not there were any things that you
17 heard that raised any concerns that you want
18 us to pay particular to attention to
19 (inaudible).

20 COMMISSIONER TEMPLE: So I think that
21 what I heard today was a very positive thing
22 in terms of I heard taking a team approach,
23 and I had mentioned some of the
24 concentrations and staff titles that we use
25 for that purpose. I think that that is

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2 absolutely necessary.

3 And what you find is in order to
4 operate programs like this you need to make
5 sure that you have a safe environment, but
6 you also have to have respect for the other
7 concentrations and staff that are necessary
8 for these types of units to be successful.
9 So that team approach and understanding each
10 others disciplines and responsibilities is
11 absolutely valuable for these things to be
12 successful.

13 CHAIR CAMPBELL: Thank you
14 Commissioner Temple.

15 The next speaker is Alexandra Korry
16 followed by Wendy Brennan.

17 THE COURT REPORTER: Are we going to
18 take a break? Well, I can't -- I need to
19 speak to somebody.

20 MS. KORRY: Good Morning. Thank you
21 for the opportunity to testify today. My
22 name is Alexandra Korry. I am Chair of the
23 New York Advisory Committee to the U.S.
24 Commission on Civil Rights. I previously
25 submitted the Committees report into the

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2 BOC's record but I have a copy here if you'd
3 like it.

4 On Tuesday, as you know, the New
5 York Advisory Committee to U.S. Commission on
6 Civil Rights released its report calling for
7 the elimination of solitary confinement or
8 punitive segregation of youth, which we
9 broadly defined as under 25, in all jails and
10 prisons in New York State, including those in
11 the city. The report is a product of over
12 six months of investigation, including a
13 hearing in committee held in July of this
14 year and a visit to Rikers Island in June.

15 The Committee has concluded, among
16 other things, that New York's use of solitary
17 confinement against youth constitutes a
18 violation of their civil rights and that the
19 DOJ should use its enforcement powers to
20 force its immediate elimination. As we know,
21 New York City plans to eliminate punitive
22 segregation for 16 and 17-year-olds at the
23 end of the year, as set forth in Paragraphs
24 1-17 of your proposed rules. We commend that
25 rule, but -- and the other reforms that

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2 Commissioner Ponte has discussed, but we do
3 not think it goes far enough.

4 In the first place, it seems to be
5 conditional on this new ESH Unit, which we
6 ourselves did not look into, so we do not
7 have comment on, but I would note that we
8 would, I think, have some due process issues
9 with it since the type of hearings that are
10 called for are issues that we had with
11 respect to the current hearing process in
12 both the city and the state. But most
13 importantly, it does not address the 18 to
14 24-year-old cohort, which I think Dr. Cohen
15 had mentioned as well.

16 The committee has determined that
17 youth under 25 in solitary confinement,
18 including Rikers, are subject to dehumanizing
19 conditions, which have been encountered many
20 times by many others and do not need to be
21 repeated here. The committee has found that
22 the solitary conditions have devastating
23 effects on youth, including exacerbating any
24 existing mental health problems, increasing
25 the risk of self-harm and suicide, causing

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2 serious deterioration of physical health and
3 stunting social, emotional, and physical
4 development. I note that, as Commissioner
5 Ponte noted a few minutes ago, that those who
6 have mental health issues--and our statistics
7 showed were 48 percent, at least, at Rikers,
8 I think his statistic was 33 percent--had a
9 disproportionate amount of violence
10 attributed to them. And so, I would note
11 that I'm not sure why punitive segregation,
12 which would exacerbate that, would actually
13 help with the violence issue.

14 The detrimental effects are so
15 severe and New York's prisons so obviously
16 indifferent to its effects, which is the test
17 that the Supreme Court has used for cruel and
18 unusual punishment, as to be unquestionably
19 inconsistent with the standards of decency in
20 a mature society. As a result, we believe
21 that this constitutes cruel and unusual
22 punishment under the Eighth Amendment, and
23 since the overwhelming evidence from a
24 medical point of view is that the portion of
25 the brain responsible for impulse control

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2 does not fully develop until somebody is in
3 their early 20s. Imposing solitary
4 confinement as a response to that lack of
5 judgment seems to be particularly cruel.

6 Moreover, the practice of solitary
7 confinement constitutes impermissible
8 discrimination. Black and Latino youth are
9 disproportionately victims of solitary
10 confinement discipline as they are
11 disproportionately represented in New York
12 state, city and county prison systems.
13 Blacks and Latinos make up 88 percent of
14 those arrested and 94 percent of the arrests
15 resulting in incarceration in New York City,
16 and thus, they are disproportionately
17 represented in solitary confinement.

18 Given these findings and the U.S.
19 Department of Justice's mandate to ensure the
20 fair and impartial administration of justice
21 for all, the committee has recommended that
22 DOJ use its statutory authority to commence
23 civil actions to effect changes to the
24 confinement in New York as soon as possible,
25 and obviously Preet Bharara has announced

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2 some litigation yesterday as a follow-up, but
3 there are many other steps we wish the DOJ to
4 take.

5 Most importantly, the committee has
6 recommended that, as I said before, that it
7 use -- the DOJ enforcement powers to require
8 New York City to eliminate the solitary
9 confinement of inmates under 25.

10 The Committee has a host of
11 recommendations in its report that it's
12 submitting to the DOC with respect to
13 alternatives to solitary confinement, and
14 there are many experts who have testified
15 before us and who will testify today who are
16 more expert than we are at that issue.

17 However, I would note a few things that we
18 recommended. As a number of people up here
19 have talked about there needs to be very
20 thoughtful programming associated with any --
21 alternative programming associated with any
22 kind of confinement in a special unit or in
23 cell or whatever. These kids also need to
24 have adequate education while they are
25 confined. They have to have visiting

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2 privileges. They have to be treated with a
3 tremendous amount of intervention, as
4 Dr. Bandy Lee testified to us and he's an
5 expert at Yale in mental health issues,
6 intervention is an extremely important part
7 of getting these youth to be part of our
8 society, and I will end there.

9 CHAIR CAMPBELL: Thank you,
10 Ms. Korry.

11 MS. KORRY: Thank you.

12 CHAIR CAMPBELL: Questions?
13 Michael.

14 DR. REGAN: Why -- thank you --

15 MS. KORRY: You're very welcome.

16 DR. REGAN: -- for that information.
17 Why 25? How do you reach the age?

18 MS. KORRY: Well, the experts in --
19 and again, the experts suggest that, it is in
20 the early 20s when the pre-frontal cortex
21 gets fully developed. So I think that most
22 of the experts who are mental health have
23 suggested that sort of somewhere in the early
24 20s. I don't think it has to be 24, but it's
25 somewhere in the early 20s.

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2 DR. REGAN: Thank you.

3 CHAIR CAMPBELL: Thank you.

4 JUDGE HAMILL: I just have a
5 follow-up.

6 MS. KORRY: Sure.

7 JUDGE HAMILL: You mentioned briefly
8 about the due process concerns and you were
9 listing right now DOC has made a commitment
10 to eliminate solitary confinement for under
11 18 and above.

12 Can you just elaborate on what,
13 having done this investigation and written
14 this report with your recommendation, what
15 your due process concerns are for those who
16 go through the infraction and are --

17 MS. KORRY: Well, from an
18 administrative law perspective, it seems that
19 the individuals who were entitled to a lawyer
20 as a matter of right in New York City when
21 they appeal placement in solitary, the
22 hearing officer is somebody who is usually a
23 former corrections officer, as I understand
24 it. There is no right to witnesses or a
25 right to cross-examination.

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2 And so there are certain
3 infractions, I think, that we would recommend
4 that an individual would have a right to,
5 such as outsiders, outside legal counsel, the
6 right to be heard by some administrative --
7 you know, at the comprehensive manner, an
8 administrative judge of some sort who had no
9 particular bias one way or the other. That's
10 what we are referring to.

11 JUDGE HAMILL: Thank you.

12 CHAIR CAMPBELL: Thank you,
13 Ms. Korry.

14 MS. KORRY: Thank you.

15 CHAIR CAMPBELL: Wendy Brennan
16 followed by, Dr. Geteles.

17 Yes.

18 DR. COHEN: I just want to say that
19 as we get into the non-New York City
20 participants in this hearing, we should note
21 that the Department of Health, although we
22 have the advantage of being in their
23 building, is not here today, that the City
24 has not provided the Department of Health
25 leadership for us to ask questions.

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2 As we have heard from the past
3 speakers, there are some significant
4 health-related issues that the Department of
5 Health and Mental Hygiene should be here to
6 answer, but the City has elected at this
7 point not to provide them for our hearing.

8 Thank you.

9 CHAIR CAMPBELL: And, actually, in
10 terms of all speakers, if they could announce
11 their affiliation I think that would be
12 hugely helpful.

13 Ms. Brennan.

14 MS. BRENNAN: Good Morning. I'm Wendy
15 Brennan. I am the Executive Director of NIML
16 and New York City Metro. I'm here today to
17 thank the organization's unequivocal
18 opposition to the use of solitary confinement
19 for people with mental illness and to oppose
20 the proposal change that would authorize the
21 establishment of enhanced supervision housing
22 units, which, in our opinion, is de facto
23 solitary confinement for inmates in the
24 custody of the New York City Department of
25 Corrections.

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2 It is well documented that solitary
3 confinement can have a highly negative and
4 long-lasting psychological effect on
5 individuals with mental illness. Solitary
6 confinement will cause people with mental
7 illness to experience worsening symptoms,
8 which decrease prospects for recovery and
9 successful community re-entry and
10 reintegration. Not only does solitary
11 confinement cause and exacerbate symptoms of
12 mental illness for those living with mental
13 illness, but can create long-term
14 psychological damages to individuals who do
15 not live with a behavioral health issue.

16 The United Nations and European
17 Court of Human Rights determined that
18 prolonged solitary confinement constitutes
19 torture of all people. The de Blasio
20 Administration is committed to improving
21 outcomes for justice-involved individuals
22 with behavioral health issues. The action
23 plan outlined on December 2, the Mayor's Task
24 Force on Behavioral Health and Criminal
25 Justice contains many effective initiative.

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2 In light of the task force report, we were
3 disheartened to learn that the administration
4 had no plans to reduce the number of solitary
5 units.

6 In addition to continued use of
7 solitary confinement, the Board of Correction
8 is also seeking to institute a new form of
9 punitive segregation, ESH units. Section 116
10 of the proposed EHS rule outlines the
11 criteria for placement. Criteria 5 states
12 that someone can be placed in a ESH unit if
13 he or she otherwise presents a significant
14 threat to safety and security of the facility
15 if housed in the general population. DOC
16 personnel, like the public at large, have
17 discriminatory beliefs about people with
18 mental illness. These beliefs can lead
19 people to assume without cause that
20 individuals with mental illness are violent
21 and dangerous. Given the catch-all element
22 of this rule coupled with the well-documented
23 discrimination and violence against people
24 with mental illness at Rikers, we believe
25 that people with mental illness will be

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2 overly represented in ESH units, just as they
3 currently are in solitary confinement.

4 The rates of violence escalating at
5 Rikers during a time of increased use of
6 solitary confinement is counterintuitive to
7 believing that adding a new form of punitive
8 segregation will make Rikers Island a safer
9 jail for personnel and those currently
10 incarcerated. We are all working to identify
11 effective means to ensure the safety of all
12 people at Rikers and yet the proposed
13 solution sounds like more of the same, a
14 potential means to perpetuate a culture of
15 violence and further reduce safety.

16 We commend the correction officers
17 in their ability to do the work that they do
18 in light of incredibly limited options to
19 establish safety and security.

20 We ask that the Department of
21 Corrections and the Board of Corrections to
22 consider alternative options outside of
23 additional punitive segregation units to
24 achieve our common goal of reducing violence.

25 CHAIR CAMPBELL: Thank you,

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2 Ms. Brennan.

3 MS. BRENNAN: Thank you.

4 CHAIR CAMPBELL: Questions?

5 Thank you.

6 JUDGE HAMILL: I do have a question.

7 As you may have heard me say, the
8 correction officers are asking for additional
9 training with respect to working with the
10 youth population, especially in that so many
11 suffer from mental illness.

12 Do you have any recommendations as
13 to what that training should look like in
14 light of your position?

15 MS. BRENNAN: It is my
16 understanding, but perhaps I am wrong, when I
17 read in the task force report that the
18 administration released that they would have
19 crisis intervention training for Department
20 of Corrections officers. It's also my
21 understanding that that's something the
22 Department of Corrections was interested in.

23 This is an evidence-based practice.
24 I know that it was used in Maine. I know it
25 was in use in the State of Indiana. It

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2 really, gives people information about mental
3 illness. It helps to give people tools they
4 need to de-escalate violent situations. It
5 is known to be very effective and to improve
6 safety, not only for corrections officers,
7 but for people who are incarcerated as well.

8 JUDGE HAMILL: So assuming that the
9 training is an eight-hour training and not
10 40-hour of crisis intervention training, do
11 you think the eight-hour would be sufficient?

12 MS. BRENNAN: I am not an expert in
13 this, but doing the math, I think we are
14 going to -- I think that much more needs to
15 be done. I mean, think that everybody, all
16 the stakeholders would agree that there are
17 cultural issues and that, you know, for, as I
18 said in my testimony, for society at large,
19 and people who work at Rikers are no
20 different, there are cultural issues than
21 basic discrimination issues that I think do
22 need time to be changed.

23 I don't think an eight-hour training
24 would be sufficient. I do know from having
25 spoken to people who have implemented this in

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2 Indiana that is has been very successful in
3 their prison population throughout the state.

4 CHAIR CAMPBELL: Bobby.

5 DR. REGAN: Yes, I want to thank you
6 for your testimony. I think you outlined
7 something that is very important here, which
8 is the stigmatization of mental illness and
9 the attempt link it to violence is very
10 dangerous; although, the City did put forward
11 in the Behavioral Task Force around criminal
12 justice, some of that ends of being blaming,
13 I believe, and I'm particularly concerned on
14 Rikers Island that we have to recognize that
15 the conditions of incarceration enhance
16 violence in everyone and particularly in the
17 mentally ill.

18 So the solution is not programs as
19 much as it is not incarcerating people with
20 mental illness, and getting them out as
21 quickly as possible. Many, many, many of
22 these people are there for long periods of
23 time on very low bails, and it is something
24 that the City did not effectively address in
25 the mental health program, and I'm glad that

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2 you've been here to speak on their behalf.

3 Thank you.

4 MS. BRENNAN: Thank you.

5 CHAIR CAMPBELL: Thank you.

6 Our next speaker is Dr. Geteles,
7 followed by Professor Ellen Yaroshevsky.

8 DR. GETELES: My name is Frances
9 Geteles, and I'm a clinical psychologist,
10 licensed here in New York State, and for many
11 years now, I have been a member of the Asylum
12 Network of Physicians for Human Rights,
13 providing psychological evaluations of
14 tortured survivors. So I think that that is
15 relevant since solitary confinement has been
16 defined as torture.

17 We've already -- you've already
18 discussed many of the implications of
19 solitary confinement, and I would like to
20 support some of the remarks that have been
21 made regarding the way in which it tends to
22 increase despair, depression, anger,
23 aggression, rage, and loss of impulse
24 controls, and that this is not just an
25 increase in the psychological symptoms and

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2 behaviors themselves, but they are also is
3 evidence that parts of the brain that are
4 most affected by isolation are those parts
5 that deal with regulation of aggression,
6 memory and clear thinking.

7 So that, again, I would reinforce
8 the notion that we have to eliminate solitary
9 confinement, and especially eliminate it for
10 those who with severe mental illness and
11 eliminate it -- not just for severe; I think
12 mental illness. 'Cause even moderate mental
13 illness since we know that for those people,
14 there's a strong -- even though we know that
15 solitary confinement can have a deteriorating
16 effect for people who don't have
17 psychological problems prior to admission, it
18 certainly intensifies the problems of the
19 people who do have a pre-existing
20 psychological problems.

21 But I would like to say that in
22 addition to eliminating solitary confinement,
23 you also have to eliminate the culture of
24 punishment, which is a determining factor
25 here. Instead of the guards constantly

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2 reacting in negative ways, with punishment,
3 opposition, force and repression, different
4 modes of interaction with the people that
5 they are caring for must be developed and
6 taught. And this goes, then to the question
7 is what kind of training might be required.

8 We know, for example, that
9 behavioral change can more readily be
10 accomplished by recognizing and rewarding
11 positive behaviors. Instead of an atmosphere
12 that increases stress, tension and hostility,
13 a more peaceful environment must be fostered.
14 Unfortunately, the new proposal does little
15 to address the environment of punishment and
16 hostility at the prisons.

17 The recent study by the U.S.
18 Department of Justice made it clear that
19 violence at Rikers is not only perpetuated by
20 the people incarcerated there but that it is
21 also something that is perpetrated by a staff
22 that is violent and brutal. Yet, the new
23 proposal does not address that at all. The
24 only focus is on a new way to punish the
25 people who are being held as prisoners.

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2 So I would raise the question of
3 what kind of message do you think that we are
4 sending? If there is such an inherent
5 injustice that is built it into that, how do
6 you think it will affect the mind and
7 behavior of the people you are trying to
8 control?

9 It seems to me that there are -- and
10 I would say there are other injustices that
11 are built into this new system. One of them
12 I see in the question of the definition of
13 who is subjected to the new unit. It is
14 overly broad and general, with lots of
15 opportunity for arbitrary and discriminatory
16 enforcement.

17 One of the -- since my time is
18 limited -- I think given this pattern of
19 injustice that is written into the proposal,
20 and by the way, people talk today about
21 reestablishing the right for contact visits,
22 but that's not written in the proposals. The
23 only things you have written in are the
24 restrictions. The more positive aspects of
25 what is being talked about are not even

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2 stated anywhere.

3 Similarly, the response before that
4 someone said, Well, we've always had the
5 right not to put the mentally ill in solitary
6 confinement. If they had that right, why was
7 it constantly done and how do we know it's
8 going to be any different with these new
9 requirements? I don't see that.

10 So the need to -- what we need to
11 foster is a situation where there is a need
12 to heal, and when I talk to tortured
13 survivors, what I often ask about is what
14 helped you to survive? And the things that
15 are mentioned are community, family and
16 religion; and attempting to restrict all of
17 those, that makes no sense. So again I ask
18 you not to approve this policy as written.

19 CHAIR CAMPBELL: Thank you,
20 Dr. Geteles.

21 Any further questions?

22 There's a question, Doctor.

23 DR. GETELES: Oh, sorry.

24 MR. CEPHAS: In your professional
25 judgment, is there any possibility of

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2 reversing the adverse effects of solitary
3 confinement? And, if so, what does that
4 process look like?

5 DR. GETELES: Well, I think I hinted
6 at it to some extent that in the end some of
7 featured things that are needed to heal
8 involve having a safe environment, having a
9 support system and having contact with family
10 and possibly religious groups and community.
11 I think therapy can be helpful as well.

12 But In my experience, sadly, when
13 people have experienced torture or oppression
14 over long periods of time, what happens is
15 even if there's improvement, I very often
16 find that under new stresses the symptoms
17 could be reactivated. And so, I think there
18 tends to be a fairly permanent component to
19 that, and that's something we should be
20 avoiding as much as possible.

21 I recently served as an expert
22 witness on a lawsuit against one of the
23 detention facilities, and I examined the
24 people when the lawsuit was first filed and
25 then five years later, 'cause we hadn't yet

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2 gotten to court, and there was a lot of
3 healing but there were still serious problems
4 that some of the people were encountering.

5 CHAIR CAMPBELL: Thank you,
6 Dr. Geteles.

7 Our next speaker is Professor Ellen
8 Yaroshevsky, followed by Sidney Schwartzbaum.
9 Professor.

10 PROF. YAROSHEVSKY: Good Morning
11 Commissioner. I am the Director of the Youth
12 Justice Clinic at the Cardozo School of Law
13 here in New York City. In the Fall of 2013,
14 Cathy Potler, the former Executive Director
15 of the Board of Correction, requested that
16 our clinic research and prepare a report for
17 this Board on solitary confinement practices
18 for 16 to 18-year-olds in jurisdictions
19 around the country.

20 Our clinic soon learned that because
21 New York is virtually unique in treating 16
22 to 18-year-olds as adults in our criminal
23 justice system. There are few, in any,
24 jurisdictions that had such a Draconian
25 approach to youth confined in its jails. As

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2 you no doubt know, and we've heard this
3 morning from various studies, solitary
4 confinement for 16 to 18-year-olds violates
5 international norms, is extremely damaging to
6 the emotional, physical and mental
7 development of youth, creates conditions for
8 a culture of violence, increases the
9 likelihood of re-offense, is costly and is
10 terrible policy.

11 Our clinic surveyed correctional
12 systems in a number of states and learned
13 that effective policies required not only an
14 elimination of solitary confinement for youth
15 but a more fundamental shift from a punitive
16 correctional model to a cost saving effective
17 therapeutic one. Such a therapeutic approach
18 has been successfully adopted by various
19 jurisdictions, including Maine, Connecticut,
20 Mississippi, and Rhode Island. Its been
21 adopted, as well, in New York by OCFS, that
22 fosters a positive rehabilitative
23 environment, offering a range of mental
24 health, educational, vocational, life skills
25 supports and services. The institutional

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2 concern about safety has been demonstrated to
3 be more effectively addressed as positive
4 behavior and intervention.

5 Our clinic prepared a report and
6 presented it to Cathy Potler for this Boards
7 consideration. I have copies of it with me
8 in case you don't have it. We continued to
9 work with Ms. Potler until her untimely death
10 in September on an anticipated rule-making
11 process to improve conditions at Rikers. Our
12 expectation, especially after the appointment
13 of Commissioner Ponte, was that there would
14 be a necessary move away from ineffectual,
15 dangerous and costly punitive correctional
16 Rikers model to a rule-making that advanced a
17 therapeutic approach, including additional
18 programming for mental health, education,
19 recreation, a range of positive behavioral
20 intervention, and training for corrections
21 officers; and we specifically begin to work
22 on a report CIP training, crisis intervention
23 training.

24 Even though there's been some
25 significant movement that Commissioner Ponte

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2 pointed to, the announcement that the
3 Department of Correction will no longer use
4 solitary confinement for 16 to 17-year-olds,
5 forms of punitive segregation remain in
6 effect for 18-year-olds and certainly for all
7 youths under the age of 25.

8 The new unit that we've heard about,
9 the Adolescent Transition Repair Unit, adopts
10 some programs and it will, but it certainly,
11 as we've heard, it doesn't meet the minimum
12 14-hour lock-out that this Board has as its
13 standard. Youth are locked out for 20 hours
14 a day, better than 23 hours, which we used to
15 have, but it does not comport with modern
16 effective practices. Minor adjustments
17 within this fundamentally flawed model are
18 just that; minor, they'll be damaging,
19 ineffectual and costly.

20 The current proposal for ESHU that
21 affects youth 18 and over is yet another
22 flawed proposal. It may not be called
23 punitive segregation or confinement, but
24 without sufficient programming, lock-out time
25 and specifically training for guards, it will

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2 have a similarly effect upon the mental,
3 physical and emotional development of youth,
4 and it's likely to increase the culture of
5 violence. The ESU, especially for
6 18-year-olds, flies in the face of every set
7 of national standards governing age and
8 developmentally appropriate practices to
9 manage youth in rehabilitative or
10 correctional setting. National standards
11 strictly limit all forms of isolation.

12 The JDAI, the Juvenile Detention
13 Alternative Initiative, creates a
14 comprehensive set of standards strictly
15 limiting the use of isolation for youth up to
16 18. The standards that have been adopted
17 around the country in more than 200
18 jurisdictions and 39 states.

19 Instead of positive intervention,
20 this ESU proposal seeks to restrict services,
21 education, recreation time, religious
22 services, library services, family contact;
23 all of which are likely to increase anger,
24 frustration, acting out and, consequently,
25 altercations and violence. Its wrong-headed

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2 and its dangerous. It's contrary to best
3 practices and current research on ineffective
4 strategies. Instead, effective programming,
5 notably for mental health, education and
6 recreation is essential. We've already --
7 religious programming library time and
8 recreation should be increased. Family
9 contact should be encouraged not decreased,
10 and there are effective positive behavioral
11 intervention programs that have been adopted
12 around the country for gang-related violence.

13 I am told that I have to stop. Let
14 me just add that institutional safety is not
15 enhanced by such a unit. There are studies
16 of correctional systems around the country --
17 illinois, Arizona and Minnesota -- and they
18 have found that by reducing punitive
19 segregation isn't as risky as correctional
20 officials may fear. Some states have begun
21 to rethink their punitive segregation
22 policies and limit its use to extreme
23 circumstances, and these recent advances in
24 other jurisdictions highlight the best
25 practices.

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2 And with regard to mentally ill and
3 adolescent inmates, the Vera Institute is now
4 working with a number of states, including
5 Pennsylvania, Illinois, Maryland, Mexico and
6 Washington State on a database program and on
7 a program-based segregation reduction
8 project. I commend that to you. I also
9 commend to you a report that was prepared for
10 this Board by Professor Elizabeth Panuccio
11 called "Best and Promising Practices on
12 Punitive Segregation," all of which indicate
13 that one can't effectively establish unit
14 like this unless you have sufficient
15 programming and specifically, as Commissioner
16 Cohen and others have pointed out, effective
17 training for guards.

18 CHAIR CAMPBELL: Thank you, Professor
19 Yaroshevsky. I'd like to thank you publicly
20 for your support of you and Cardozo Law
21 students and also for your support of Cathy
22 Potler.

23 Questions?

24 Thank you.

25 PROF. YAROSHEVSKY: Thank you.

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2 CHAIR CAMPBELL: Our next speaker is
3 Sydney Schwartzbaum, followed by Dr. Daniel
4 Selling.

5 Might I add, we have 104 speakers.

6 JUDGE HAMILL: I just want to say, I
7 see that there are people that are still
8 standing. There are plenty of seats, just
9 feel free to move on in and take a seat.
10 Thank you.

11 CHAIR CAMPBELL: Mr. Schwartzbaum.

12 MR. SCHWARTZBAUM: Good morning,
13 Chairman Campbell and Members of the Board.

14 CHAIR CAMPBELL: Good morning.

15 MR. SCHWARTZBAUM: My name is Sidney
16 Schwartzbaum. I am the President of the
17 Assistant Deputy Warden/Deputy Wardens
18 Association. I represent men and women in
19 the titles of Warden Level I and Warden
20 Level II. I am here today to support
21 Commissioner Ponte's initiatives to institute
22 Enhanced Supervision Housing to help curtail
23 the large increase of violence which plagues
24 our jails. This new housing is necessary to
25 address the ever-increasing violence

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2 undertaken by our most violence SRG inmates.

3 SRG is an acronym for security risk group.

4 On an ongoing basis, dangerous

5 inmates who leave punitive segregation are

6 released into general population only to

7 continue to their reign of terror. The

8 Department of Correction is at a cross-ways

9 of attempting to reduce punitive segregation

10 while curtailing violence. Enhanced

11 supervision housing is a viable tool to

12 closely monitor the small percentage of

13 inmates who commit most of our violence.

14 I have handed out some pictures to

15 members in the audience to show you some of

16 the inmates who have been viciously attacked

17 by gang members as a show of power and

18 influence. These inmates who perpetrate this

19 violence are the judge, jury and executioner.

20 So if this -- what do we do with a prisoner

21 who leaves punitive segregation after 30 days

22 who commits these types of acts?

23 ESH as is needed, is in an

24 alternative controlled area with enhanced

25 supervision to minimize the influence and

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2 mobility of our most problematic population.
3 This initiative will enhance security and
4 provide a safe environment for staff and
5 inmates alike. I urge the Board to approve
6 this new housing.

7 A couple of points I want to make.
8 I've heard the term "solitary confinement"
9 over and over again. Solitary confinement
10 conjures up images to me of Shawshank
11 Redemption and James Cagney movies. I ask
12 the Board, is -- and you're all expert on
13 this, maybe I'm all wrong -- is there a
14 terminology in the Board of Correction
15 minimum standards that says "solitary
16 confinement"? Is there any paragraph that
17 delineates "solitary confinement"?

18 Isn't it "punitive segregation"? I
19 know everybody wants to interact -- make it
20 interact. But is there? Is there,
21 Mr. Cohen?

22 MR. COHEN: I don't know if there is
23 anything in the Board, but there certainly is
24 a condition of solitary confinement, which
25 exists at Rikers Island --

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2 MR. SCHWARTZBAUM: I understand
3 that, but they're not minimum standards. Is
4 there terminology?

5 MR. COHEN: Well, the terminology
6 says that you -- segregation --

7 MR. SCHWARTZBAUM: Isn't it called
8 punitive segregation? Isn't that a true
9 fact?

10 MR. COHEN: It's called punitive
11 segregation.

12 MR. SCHWARTZBAUM: O.K. O.K.

13 There are signs in the audience that
14 says ESH is torture. That is a complete
15 fallacy. ESH is not torture. And somebody
16 has a sign that ESH inmates deserve law
17 library. All inmates deserve law library.

18 Except, two weeks ago, there was an
19 incident in the law library, in the George R.
20 Vierno Center, which you can observe an
21 orchestrated hit on an inmate, where three or
22 four inmates in concert set this inmate up,
23 and it is on videotape, and if somehow, some
24 way I wish the people who are against ESH
25 would see this. And you would see three or

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2 four inmates distracting the officers,
3 blocking their way and then slicing
4 somebodys face open. If I may, I would like
5 to give the Board some pictures and let them
6 look at.

7 MR. CAMPBELL: We'll just keep
8 them. Sheree, if you could just hold, them
9 and we won't.

10 Thank you, Deputy Schwartzbaum.

11 MR. SCHWARTZBAUM: My time is not
12 up.

13 I think everybody in this audience
14 is really after the same goal, and that's a
15 safe environment for inmates and staff alike.
16 Safety is paramount and there are many civil
17 rights advocates here. I will end it with
18 this: The greatest civil right is the right
19 to be safe.

20 And a lot has been said about
21 inmates who are mentally ill. A lot of those
22 inmates, I would urge the Board to stop -- to
23 make some initiatives, they don't belong in
24 jail, and correction officers are not trained
25 to deal with some of those inmates. So I

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2 would urge you to come up with some
3 initiative to place these inmates where they
4 belong, and that's a mental hospital.

5 CHAIR CAMPBELL: Thank you, Deputy
6 Warden Schwartzbaum.

7 Question?

8 O.K. Our next speaker is Dr. Daniel
9 Selling, followed by Elena Ladriscina.

10 DR. SELLING: Good morning, Board.

11 Its a pleasure to speak before you today.

12 My name is Dr. Daniel Selling. I am a
13 psychologist and until six months ago, I
14 served as Executive Director --

15 MALE SPEAKER: Louder.

16 MALE SPEAKER: Move the microphone.

17 DR. SELLING: I'll start again. My
18 name is Dr. Daniel Selling. I'm a
19 psychologist and until six months ago, I
20 served as Executive Director of Mental Health
21 for the New York City Jail System. I spent
22 every working day working on Rikers Island,
23 in and out of every jail, and have forged
24 strong relationships with my DOC
25 counterparts. I spent the last 15 years of

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2 my life working in jails as a psychologist,
3 shaping mental health policy in various jail
4 systems. I possess a robust context which
5 understand the current problems of violence,
6 segregation, mental health care, and after
7 care in this jail system. I've been part of
8 the highest-level meetings for the past eight
9 years with both Commissioners of Corrections
10 the Commissioner of Mental Health. My team
11 designed and implemented many of the existing
12 programs in the system, many of which I'm
13 proud to say are operating today.

14 But unfortunately, the majority of
15 the programs that we jointly created and have
16 implemented have been totally perverted by
17 the Department of Corrections. If you allow
18 the DOC to pass this new enhanced provision
19 housing or ESH, it too will become quickly a
20 newly branded version of punitive
21 segregation. There are many in the system.
22 They all have a sexy acronym, all were
23 intended to solve a specific problem and all
24 eventually became an oppressive and abusive
25 system of solitary confinement.

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2 Like Members of this Board, I chose
3 this path to ensure the jail is operating
4 optimally and not conferring harm to our
5 patient population. The Board was originally
6 tasked and agreed to the challenge of
7 rule-making for punitive segregation. On
8 September 9, 2013, the Board unanimously
9 voted to initiate rule-making regarding the
10 use of solitary confinement in the New York
11 City jails. As of today, the Board has
12 failed to deliver on this obligation, while
13 hundred of inmates remain in prolonged
14 solitary confinement.

15 Here we are today, no longer talking
16 about proposed standards, but rather
17 proposing a new form of confinement. I am
18 asking you to vote against the ESH because,
19 as you will see, every joint program on
20 solitary confinement has essentially failed.
21 The Department of Corrections has a solid and
22 lengthy history of promising a lot, but when
23 it comes to delivering, it fails. I can
24 honestly state that over the past eight years
25 of my career I've spent more than 60 percent

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2 of my time with wardens, deputy
3 commissioners, commissioners and chiefs
4 pleading with them to support the fidelity of
5 a program that we jointly created. This
6 would be an exact to the Attorney General's
7 Office has decided to intervene.

8 In order to foreshadow why the
9 perspective failing of the ESH will occur, I
10 offer a few examples. These are all examples
11 of different approaches to punitive
12 segregation the system has implemented. The
13 Intensive Treatment Unit was designed to
14 provide treatment for a challenging subset in
15 the population that were engaging in
16 self-injurious behavior and presented with
17 extreme impulsivity. They were a major
18 management problems for DOC. Both the DOC
19 and the DOH jointly created this program, and
20 within a few years, it started its infamous
21 demise because of pressure from the union to
22 stop coddling dangerous inmates.

23 Another program that failed is
24 MHAUII, an acronym for the Mental Health
25 Assessment Unit for Infracted Inmates. This

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2 was created to house inmates with serious
3 mental illness that were serving punitive
4 segregation time. Both departments agreed to
5 open a 50-bed unit, which in no time
6 ballooned to 200 beds. Rather quickly this
7 turned into a violent and volatile housing
8 unit, and based on large amounts of data, we
9 know that inmates in these housing units,
10 only seven percent of inmate population goes
11 through punitive segregation and that seven
12 percent comprises more than 60 percent of all
13 acts of self-harm in the system.

14 When MHAUII closed, it gave birth to
15 the restrictive housing units. These were
16 designed by myself and other members of the
17 mental health and DOC team. They were
18 designed to create incentives and a program,
19 just as the Department has been illustrating
20 for ESU. The incentives are not adhered to,
21 the inmates are not afforded the amount of
22 lock-out time that they're supposed to be
23 getting, and this is the same thing that will
24 happen with ESH.

25 The Department of Corrections

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2 continues to resort to the easiest jail
3 management agenda by continuing to
4 proliferate segregation, while the national
5 trend is to reduce the platform. The
6 Department is addicted to this response and
7 has been prior to my arrival eight years ago,
8 and will grow increasingly addicted if there
9 is not an intervention. It is the BOC's
10 directive to step in and intervene. This is
11 the reason the Board created the rules in
12 order to stop the abuse.

13 The ESH is a flawed plan for the
14 following reasons. First off, it is
15 increasing the footprint of solitary
16 confinement by 250 beds and not taking beds
17 offline. The policy is too obtuse, casts too
18 wide of a net, and essentially houses any
19 alleged violent inmate with very limited due
20 process. More importantly, the unit lacks a
21 proposed clinical programming, it is not in
22 any of the policy and procedures. While it
23 may be aspirational, it has to be in policy
24 and procedure, and there has to be clear
25 training in order for that to work.

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2 There are enough solitary
3 confinement beds in the system. The last
4 thing Rikers Island needs is another
5 restrictive unit that will expose more
6 individuals to detained to increased the
7 abuse.

8 CHAIR CAMPBELL: Thank you,
9 Dr. Selling.

10 DR. SELLING: Just one more
11 paragraph.

12 I hope I am certainly articulating a
13 trend that will cause all Board members
14 voting today to carefully ask yourself how
15 the DOC can adequately pull of this unit when
16 they have failed miserably with every other
17 prior attempt. I also ask each and every one
18 of your to ask yourselves how you arrived at
19 this day. Only months ago you were on the
20 precipice of creating rules to govern this
21 abusive practice and today you are voting to
22 increase it.

23 I have seen these human atrocities
24 firsthand, and can assure you that this
25 program will not address this intended

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2 mission to reduce violence. To the contrary,
3 it will increase violence.

4 CHAIR CAMPBELL: Questions?

5 Jennifer.

6 MS. JONES-AUSTIN: I appreciate your
7 having been on the inside and being able to
8 offer perspectives that others cannot.

9 Is your concern primarily one of
10 implementation aside from -- well,
11 considering that you spoke to concerns about
12 too wide of a net being cast and no clinical
13 program, is this largely an implementation
14 and monitoring issue for you?

15 DR. SELLING: Absolutely. The
16 programs that I mentioned earlier are all
17 attempts to address the issue of solitary
18 confinement and were all attempts to create a
19 more progressive model. The implementation
20 failed. There would be trainings with
21 hundreds of officers to show face. When the
22 program opened, maybe two to three percent of
23 those officers would ever show up on the
24 review.

25 The programs failed because there

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2 were never steady officers on the view.

3 There weren't enough escort officers in order
4 to get the inmates out of their cell and have
5 lock-out time. As soon as an inmate on one
6 of these units acts up, which is invariable,
7 you're housing a violent population in these
8 units, the whole unit gets shut down. So as
9 far as lock-out, the whole unit gets locked
10 in for the entire day, and this is what's
11 happened in all of these units.

12 So training is essential. It has to
13 be mandated in a policy and procedure and a
14 program has to be implemented, and none of
15 has been part of this policy and procedure.

16 CHAIR CAMPBELL: Bryanne.

17 JUDGE HAMILL: Yes. It's so nice to
18 see you again, Dr. Selling.

19 DR. SELLING: Thank you. It's nice
20 to see you.

21 JUDGE HAMILL: I know I enjoyed
22 working with you when I was appointed to the
23 Board. We had many meetings regarding the
24 reduction of the use of punitive segregation,
25 and I know you (inaudible) when the ESHU plan

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2 came out.

3 So I would just like to just ask
4 you, in light of those conversations and
5 conversations with Health and Mental Hygiene,
6 with senior staff and commissioners there,
7 what are the recommended exclusions you would
8 have to us for purposes of punitive seg?
9 Because we are looking for exclusions for
10 punitive seg, and also have exclusions for
11 this ESHU considering an inmates mental
12 health, mental illness, developmental
13 disabilities, physical illness and even age
14 based on their neurobiology.

15 DR. SELLING: So I'd say that anyone
16 with an Axis I mental health diagnosis should
17 be excluded from one of these units. The
18 policy sets forth that said that while
19 inmates that are housed on mental observation
20 units would be excluded, that people that do
21 have mental health illness would not be
22 excluded just by virtue of the mental
23 illness.

24 So I'd say anyone with a mental
25 health illness, anyone under 25 should be

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2 excluded from one of these units. There
3 should be clear sanctions on how many days
4 somebody could be in one of these units. I
5 would recommend 15 days, 30 days maximum;
6 otherwise, the whole purpose of the intended
7 rule-making was to set forth rules.

8 You know, while the commissioners
9 have said that of course we would like
10 somebody to come out of this unit as soon as
11 they're capable, the system doesn't have the
12 ability to recognize that or the due process
13 and/or meetings to effectuate that. So
14 people with mental health issues, people with
15 history of trauma should be excluded;
16 certainly, people with history of psychiatric
17 hospitalizations should be excluded.

18 I hope I'm answering the question.

19 JUDGE HAMILL: In the event they are
20 not excluded, for whatever reason, are there
21 a treatment programs or programming you would
22 recommend to be in place in the ESH unit and
23 punitive seg?

24 DR. SELLING: Sure. I would
25 recommend there should be clinical

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2 programming, just like the CAPS program, that
3 is a mental health intensive treatment unit,
4 the staff, the mental health staff and
5 support staff ratio to inmates is higher than
6 anywhere else; that they're incentive-based
7 program that ensure the inmate are able to
8 move through the system as swiftly as
9 possible; that there are clearly behavioral
10 programs, cognitive behavioral programs to
11 help the subset that is the violent subset of
12 the population to address their issues of
13 their violence, to understand how to have
14 impulse control in this environment, and to
15 be able to have a reward system in order to
16 incentivize their behavior.

17 We've created these programs
18 throughout the system, where there's
19 incentive-based treatment, and in days to
20 weeks the incentives are lost. They are used
21 against the inmates. They are not used to
22 encourage inmate participation. They are
23 taken away.

24 There aren't systems to properly and
25 adequately ensure that the incentive programs

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2 are adhered to and most specifically with
3 lock-out time. If locked out is what
4 distinguishes somebody from punitive
5 segregation from the regular population, you
6 have to have a system to ensure that inmates
7 will actually be locked for the set forth
8 amount of time. And if you look at the RHU
9 as an example of this, you know, what was
10 told to us in countless meetings was that we
11 don't have enough handcuffs. We can't get
12 the inmates out of their cells.

13 This is a jail. You don't have
14 enough handcuffs? How is that possible?

15 (Laughter.)

16 DR. SELLING: If there aren't enough
17 escort officers to take the inmates out of
18 their cell and get them into group, to say
19 that, you know, I think in the proposal it
20 says that 25 inmates can be out at a time,
21 I've never seen that possible in a unit like
22 that.

23 They are coming out, they're going
24 through metal detectors, they're cuffed.
25 There isn't a procedure to allow this to work

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2 effectively.

3 JUDGE HAMILL: I just have one
4 follow-up question. I don't know if you here
5 when the Commissioner from Connecticut, Scott
6 Temple, spoke to us and offered some
7 testimony, including that in his experience
8 these types of units, ESHU, in particular,
9 will only work if there is a team approach
10 between all those staff that are working with
11 them: The clinical staff, health staff,
12 correction staff.

13 What has been your experience as to
14 whether Rikers was successful in having an
15 integrated team approach in any of the
16 specialty units?

17 DR. SELLING: Sure. So I had the
18 great privilege of starting my career at the
19 San Francisco County Jail, which is the model
20 for a team approach. It's a model where the
21 sheriff's department and the health staff are
22 a team, they're allies, that have the same
23 mission. The health staff are seen as
24 experts within their domain.

25 You know, here there is the facade

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2 of a team approach at a very high level, but
3 when it comes down to implementation, there
4 is not a team approach. That is not to say
5 that there are many officers that have the
6 best intentions and there are stand-outs that
7 you see in every one of these units. But
8 they are not offered the support to make one
9 of these programs work.

10 The support has to come from a much
11 higher level and they have to be actively
12 involved throughout the process in order to
13 create that team.

14 This department was supposed to
15 create an entire mental health team of
16 officers, a cadre that would be a subset of
17 mentally health specific trained officers
18 that would run these units. That never
19 happened.

20 I would strongly urge the Department
21 of Corrections to create such a unit and to
22 have a buy-in at that level, and that those
23 officers should be the ones running any of
24 these programs, and would make it much more
25 effective.

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2 I also need to say and to further
3 what Board Member Cohen said, it's really
4 conspicuous that no member of the Department
5 of Health are in this auditorium. Its
6 shocking to me, and its not an accident.

7 The Department of Health I can't
8 imagine stands behind this policy and
9 procedure. I know that they were asked not
10 to be here, not to offer testimony, and every
11 one of you should ask yourselves, why is
12 that? It's not because they supported this.

13 (Applause.)

14 CHAIR CAMPBELL: Thank you,
15 Dr. Selling.

16 (Applause.)

17 CHAIR CAMPBELL: As I stated at the
18 outset, Id really appreciate everyone being
19 very respectful but Id also ask everyone to
20 hold applause.

21 And also in terms of speakers, its
22 really important that everyone stick to the
23 time limit because we have many speakers, and
24 we want to ensure that everyone is being
25 heard. Thank you so much.

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2 Our next speaker is Elena
3 Landriscina followed by Jennifer Parish. And
4 if you could just introduce yourself and what
5 your affiliation is.

6 MS. LANDRISCINA: Thank you for
7 giving me the opportunity to speak today. My
8 name is Elena Landriscina. I'm a staff
9 attorney at Disability Rights New York.

10 Disability Rights New York is
11 New York States Designated Protection and
12 Advocacy System for people with
13 disabilities, and that means that we have
14 federal and state authority to monitor the
15 conditions in the jails and present in any
16 facility where individuals with
17 disabilities receive services. Part of
18 our work includes acts to see within the
19 facilities ourselves to monitor the
20 conditions and to monitor the development
21 of policies, like the enhanced supervision
22 policy that is being presented today, and
23 discussed today.

24 We are greatly concerned that
25 the proposed rule for enhanced revision

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2 housing will lead to the abuse and neglect
3 of those with disabilities. DOC is trying
4 to move forward with a plan to isolate
5 250 people in an isolation unit, with no
6 concrete plan for how to ensure that
7 people with disabilities receive essential
8 services and receive them in the least
9 restrictive environment, most integrated
10 setting possible. Everything we know
11 about the physical plan and the intended
12 purpose and design of this program leads
13 us to conclude that ESH is punitive
14 segregation by another name.

15 The proposed rule contains no
16 exclusion for individuals with disabilities
17 and no process for diverting people to a less
18 restrictive setting due to a need for a
19 higher standard of care. This means that
20 people with significant disabilities, whether
21 a mental illness, developmental disability,
22 traumatic brain injury or physical
23 disabilities will be placed in the ESH.

24 FEMALE SPEAKER: The mic isn't
25 working.

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2 JUDGE HAMILL: The mic is not
3 working.

4 FEMALE SPEAKER: Can you lift it
5 up a little bit?

6 MS. LANDRISCINA: Lift it up?

7 FEMALE SPEAKER: Yes.

8 MS. LANDRISCINA: Is it working? I
9 don't know if it's -- no.

10 FEMALE SPEAKER: No.

11 MALE SPEAKER: Microphone's not
12 working? Let's see. Hello. Hello.

13 Let's put a new battery in and see
14 if it works. Eventually, it will work.

15 Hello. Hello. Hello. Hello.

16 Let's try another battery.

17 (Whereupon, there is discussion off
18 the record.)

19 MALE SPEAKER: Can we use one of
20 the mics on the table?

21 MALE SPEAKER: Sure. Let me get
22 another battery. We will eventually get this
23 up and running. Thanks for your help.

24 MS. LANDRISCINA: Is that better?

25 FEMALE SPEAKER: Yes.

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2 MS. LANDRISCINA: So yesterday it
3 was a revised draft directive for the ESH was
4 circulated to a small group of advocates
5 which seemed to include or reflect a policy
6 decision to exclude people with serious
7 mental illness from ESH. But as we know,
8 thats just a policy decision; its not
9 reflected anywhere in the proposed rule. So
10 this draft directive doesn't resolve any of
11 our concerns as an organization about how
12 individuals with disabilities will be
13 excluded from the ESH.

14 We are also greatly concerned about
15 the impact that the proposed rule will have
16 on the due process rights of individuals with
17 disabilities. DOC plans to use past
18 disciplinary incidents to determine whether
19 to place someone in ESH. Any decision with
20 respect to housing placement should involve
21 appropriate consideration of whether a
22 disciplinary incident, including past
23 disciplinary incidents, is related to a
24 manifestation of a disability or an unmet
25 need for disability-related services. The

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2 proposed rule provides no procedure for
3 engaging in that kind of review.

4 The draft directive again reflects a
5 policy decision to provide a hearing
6 facilitator to individuals who are
7 illiterate, but the American for Disabilities
8 Act requires accommodations for anyone with a
9 disability who has a need for an
10 accommodation at every stage of the process,
11 whether it's an administrative process, an
12 adjudicatory process or a disciplinary
13 process. And so, the fact that the policy is
14 just providing a hearing facilitator for
15 someone who is illiterate is inconsistent
16 with the ADA.

17 Finally, with respect to mental
18 health services, we are concerned that there
19 is no real time for how to deliver mental
20 health services in ESH and make those
21 services meaningful. Crucial pieces of
22 information about mental health services have
23 been entirely absent from the discussion. I
24 mean, except for today; there's been some
25 discussion about programming, but there has

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2 been nothing reflected in papers or prior
3 conversations.

4 And our concerns about mental health
5 services were magnified when we conducted a
6 monitoring tour on Monday, just a couple days
7 ago. We toured OBCC 1 West, which is one of
8 the locations where the DOC plans to locate
9 the ESH, and we also toured 5 North, which is
10 a restricted housing.

11 Just to put our concerns in
12 perspective, I want to share some our
13 observations about these two units. One West
14 is not operating yet, but its clearly
15 designed for isolation. The doors to the
16 cells are solid. There is a small food slot
17 which is, and I'm short, but its basically
18 at this height (indicating). So you can
19 imagine that that conversations are going to
20 be kneeling on the ground with individuals on
21 the outside. There's no day room in the unit
22 and there appears to be no space for a
23 clinical private interview. We were informed
24 that theres no group activity planned for
25 that unit, which is inconsistent with what

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2 was presented today. But again, were
3 getting mixed messages about that. And
4 today, as I said, there's been no discussion
5 about what the type of group programming
6 would be. It seems that it's still in
7 development.

8 CHAIR CAMPBELL: Thank you,
9 Ms. Landriscina.

10 Questions?

11 Bryanne.

12 JUDGE HAMILL: Yes. In terms of
13 the site visit area, the unit that you went
14 to that you just described where it was a
15 solid door, no day room, no space for group
16 activities, were you informed that that was a
17 unit that was being designed for the ESH
18 unit?

19 MS. LANDRISCINA: Well, it's a unit
20 that was listed in the prior correspondence
21 with the DOC to the Board.

22 JUDGE HAMILL: As an ESH unit?

23 MS. LANDRISCINA: 1 West, 3 West and
24 5 West at OBCC.

25 JUDGE HAMILL: Thank you.

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2 And with respect to the other units
3 that you went and your observations of those,
4 an RHU and anything in RNDC?

5 MS. LANDRISCINA: Sure. At BBC we
6 toured five more, which was recently opened
7 as an RHU, and we decided to tour that unit
8 when we found out that throughout the day
9 fires had been set in the cells at 5 North.
10 When we arrived there, there was an
11 overwhelming stench of smoke, and it was
12 clear that fires had been burning all day
13 long. These fires were set in -- we were
14 told that they were set in response to
15 neglect by the correction staff, and the
16 fires interrupted mental health services for
17 the day, and we were told that for the last
18 several weeks, since this unit has been open,
19 this has been a common occurrence, that fires
20 are set and mental health services are not
21 provided.

22 So the question, I think, for the
23 board is how, given that this is a unit that
24 is supposed to provide some kind of
25 treatment, its clear, I mean, the purpose of

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2 this unit is to provide some illness. How is
3 the ESH going to be any different from the
4 RHU, which we all know, and I think the
5 department agrees, is a failed model.

6 CHAIR CAMPBELL: Bobby?

7 MR. COHEN: Yes. Just a question.

8 You mentioned the food slots. In my
9 experience in units like this, mental health
10 services are often delivered through those
11 food slots because, as was mentioned, theres
12 an inadequate officer staff to escort people
13 to clinical staff, should it even exist.

14 Do you think that's an adequate way
15 to provide mental health services?

16 MS. LANDRISCINA: No.

17 MR. COHEN: And what do you think of
18 about the decision of mental health staff to
19 agree to provide mental health services while
20 kneeling?

21 MS. LANDRISCINA: Well, I mean, I
22 don't know because theres been no
23 information about how mental health services
24 are going to be provided. I don't know what
25 they are going to do.

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2 I think that's something that should
3 be provided to the public so that we can
4 evaluate whether that's an adequate way to
5 provide services. But I think the conclusion
6 that we are left with, given that there's no
7 other opening in the door, is that you're
8 going to be speaking through that slot or
9 through the crack in the door, which is
10 clearly an inefficient way for them to get
11 their mental health services.

12 CHAIR CAMPBELL: Thank you,
13 Ms. Landriscina.

14 Jennifer Parish, followed by John
15 Boston and Sarah Kerr.

16 MS. PARRISH: My name is Jennifer
17 Parish. I'm the Director of Criminal Justice
18 Advocacy at the Urban Justice Center Mental
19 Health Project, and I am a member of the New
20 York City Jails Action Coalition. In the
21 Mental Health Project we monitor the Brad H.
22 lawsuit, which requires the provision of
23 discharge planning services to people with
24 mental illness, and we talk to people
25 repeatedly, week by week about the mental

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2 health care that they get and that they don't
3 get and whats going on in solitary
4 confinement.

5 And I'm here today because so many
6 people are suffering in solitary confinement
7 cells at Rikers Island, thats why I'm here,
8 and thats why so many other JAC members are
9 here as well. Because we know these people;
10 we've talked with them. We have witnessed
11 the torment that they experience in solitary
12 confinement. And you might be thinking, Why
13 are you talking about solitary confinement?
14 Were going to do something about that, but
15 this hearing is really about ESHU.

16 I have lots of concerns about ESHU,
17 and I refer you to our written testimony, as
18 well as the JAC testimony and everything else
19 that advocates are saying to you here. But
20 solitary confinement is the human rights
21 violation thats happening right under our
22 noses, and for us to walk away from this
23 process in January and be left, not with
24 meaningful limits on that practice, but with
25 more restrictions on incarcerated people with

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2 a new form of deprivation of liberty is
3 simply unconscionable.

4 The Commissioner assures you that
5 after ESHU is adopted, then he will limit
6 solitary confinement to 30 days; then he will
7 create punitive segregation light; then he
8 will get to reform. We cannot accept
9 assurances. We need rules. We can't accept
10 insurances; you can't have a handshake
11 agreement on torture. we've had those
12 assurances. In fact, we were told that DOC
13 would end the practice of placing people in
14 solitary confinement for time owed from a
15 previous incarceration. In fact, the
16 previous commissioner told us that. She
17 announced it in public, that she was ending
18 it, but she didn't. Commissioner Ponte also
19 said from the beginning of his tenure here
20 that thats an unreasonable thing to do, but
21 thus far, he hasn't ended it.

22 The Legal Aid Society brought a
23 lawsuit this fall because the practice
24 persists. Only now are we recognizing the
25 rule change that everyone agreed was

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2 obviously needed. Hundreds of people must
3 have suffered in solitary confinement as we
4 waited for the promise of reform to become a
5 reality.

6 With this department, we need
7 more than assurances of reforms to come.
8 Jason Echevarria died in the solitary
9 confinement unit, a solitary confinement
10 unit for people with mental illness. He
11 needed medical treatment but was locked in
12 his cell and ignored. Terrence
13 Pendergrass, a man a jury found guilty
14 beyond a reasonable doubt of causing
15 Jason's death, Terrence Pendergrass kept
16 working for this department, demoted from
17 a captain but still working as a
18 correction officer with people for whom he
19 had utter disregard.

20 You must enact standards that
21 end the torture of solitary confinement,
22 you can't leave it for the future, and
23 then you must provide the oversight of
24 those rules to ensure that the suffering
25 ends. You can spur the culture change

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2 that we desperately need and I ask you to
3 do that.

4 CHAIR CAMPBELL: Thank you,
5 Ms. Parish.

6 Questions?

7 Thank you.

8 Our next speaker is John Boston,
9 followed by Sarah Kerr.

10 Mr. Boston.

11 MR. BOSTON: Good morning,
12 everybody. Thank you for the opportunity to
13 be here. I am John Boston from the
14 Prisoners Rights Project of the Legal Aid
15 Society. We have a little bit of experience
16 dealing with the jails in various ways, and
17 we hear every day from people who are held in
18 them.

19 I am not going to talk so much about
20 the substance of the proposals before the
21 Board, as I am for the way I think the way
22 you should approach your task here. We think
23 that you should vote these proposals down for
24 reasons we've set forth in the written
25 comments that we've submitted and also for

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2 the reasons stated very eloquently by Dr.
3 Selling. And I should, add by the way, I am
4 shocked to hear that the city is not allowing
5 the Department of Health to be here, and I
6 would strongly suggest that you tell the City
7 that you will not vote on these proposals
8 until and unless you have had a candid
9 presentation from the Department of Health.
10 I think, you know --

11 (Applause.)

12 MR. BOSTON: But lets assume for
13 the moment that you're are not going to do
14 what we say, and you're not going to vote
15 these things down. Id like to talk about
16 how you should approach, if thats not the
17 case. You should separately -- you should
18 not vote up or down on this whole package.
19 You should separately consider and vote on
20 each element of the proposed amendments, and
21 you should determine which of them are
22 actually necessary and consider the potential
23 harm done by each element in making your
24 decision.

25 You should not accept broad

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2 exemptions of enhanced supervision housing
3 from standards requirements. You should make
4 sure that each deviation from the present
5 standards that you chose to countenance are
6 spelled out very specifically. And heres an
7 example of the approach I am talking about.

8 The recreation standard, No. 106,
9 proposed revision says only, "Prisoners
10 confined in close custody enhanced
11 supervision housing or punitive segregation
12 shall be permitted recreation only in
13 accordance within provisions of Subdivision C
14 of this section." Well, right away they are
15 saying treat ESH like punitive segregation
16 with regard to recreation. Well, your own
17 staff report issued some months ago
18 demonstrated what a colossal failure a
19 recreation program in punitive segregation
20 is. Do you really want to allow that to be
21 replicated? I would think not.

22 But moving on, the Subdivision C,
23 that is the only thing that is to continue to
24 bind these housing areas, says only,
25 "Recreation periods shall be at least one

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2 hour, only time spent in the recreation area
3 shall count for the hour. Recreation shall
4 be available seven days per week in the
5 outdoor recreation area, except in inclement
6 weather when the indoor recreation area shall
7 be used." You know, that leaves out a few
8 things; a lot of things, in fact.

9 For example, Subdivision B of that
10 section of the standards says that there must
11 be indoor and outdoor recreation areas of
12 sufficient size to meet the requirements of
13 this section, and also an outdoor recreation
14 area must allow for direct access to sunlight
15 and air. Is the Department going to be
16 excused from those requirements for this
17 population? Why is that necessary? There
18 may be a reason, but I haven't heard one.

19 Or the other subdivision, E1, which
20 provides for access to table games, exercise
21 programs, and arts and crafts activities, we
22 understand no paintbrushes; we get that
23 point. But are they not going to be allowed
24 in the free time that they have because of
25 the best of intentions, they're not going to

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2 fill up all the time with programs, are they
3 not going to have any simple ways of keeping
4 people occupied and out of trouble? Why is
5 that needed? Ask that question and if you
6 don't have an answer, you shouldn't allow it.

7 Now what is left out of the proposed
8 amendments is if anything more important than
9 what's in them. There are a number of things
10 that are necessary if DOC's going to expand
11 its world of restrictive housing. For
12 example, exclusion for persons with mental
13 illness, the ability of clinical personnel to
14 divert people from those settings, mental
15 health settings, adequate due process
16 procedures, and a system of programs and
17 incentives so people can get out of this kind
18 of housing, these appear in the belated
19 policy document that some of us received this
20 week, but they need to be in the standards.
21 Why? For the reasons that Dr Selling stated:
22 You cannot expect that the rules will be
23 followed in units that are dedicated to
24 people that the department has declared to be
25 bad actors. This is where there's slippage;

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2 this is where the rules are ignored; this is
3 where the bodies are buried, sometimes
4 literally.

5 And so, you should therefore place
6 all the safeguards that people have been
7 discussing in the standards and you should
8 also go back to your punitive segregation
9 work and address the issue with punitive
10 segregation. don't throw away the work
11 you've done; that should be part of this
12 process.

13 And finally, when you've done that,
14 you'll have something pretty complicated; you
15 should allow another period of public comment
16 so we can all look at it and see if what you
17 have done adds up, if it makes sense, if
18 there are things that are in conflict with
19 other things and you will --

20 CHAIR CAMPBELL: Thank you.

21 MR. BOSTON: And you'll get a better
22 product.

23 CHAIR CAMPBELL: Thank you.

24 MR. BOSTON: Thank you very much.

25 Questions?

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2 JUDGE HAMILL: Mr. Boston, thank
3 you.

4 In terms of the punitive seg, you're
5 right, we've been working on it for a year
6 now and thats sort of been on the back
7 burner, although part of this new rule does
8 have DOCs proposal with respect to two
9 limitations --

10 MR. BOSTON: Right.

11 JUDGE HAMILL: -- on 16- and
12 17-year-olds and ending O time and I know
13 Legal Aid has brought a lawsuit about ending
14 O time and the Feds have (inaudible) lawsuit
15 certainly regarding to adolescents.

16 Can you tell us what your proposed
17 reforms would be? Should we seek to expand
18 the limits on punitive seg which we certainly
19 have the authority to do?

20 MR. BOSTON: I cannot tell you in
21 precise detail. My colleague, Sarah Kerr,
22 can probably give you a better read on that.

23 But I would say generally that all
24 of the things that the Department of
25 Correction has talked about in policy and has

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2 put forth to the State Commission, although
3 not put forward in its presentation to the
4 Board, should be locked into the and
5 standards, further, questions of the length
6 of stay, 30 days or 15 days, there's a good
7 argument for 15 days, those should be
8 considered.

9 And also, I think that the question
10 of delivery of services, whether its mental
11 health services or just getting people to the
12 recreation program, really has to be looked
13 at because operationally your staff showed
14 that the recreation program is a disaster.
15 You heard what Dr. Selling has said about the
16 delivery of mental health services in
17 restrictive housing units. You have also
18 heard what Dr. Selling said about
19 lock-in/lock-out and what the reality is as
20 opposed to the theory.

21 Those are things that I think that
22 you need to deal with in the standards,
23 whether they are going to be punitive seg,
24 punitive light or enhanced supervision.

25 CHAIR CAMPBELL: Thank you,

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2 Mr. Boston.

3 Sarah Kerr followed by Natalie Chin.

4 Ms. Kerr.

5 MS. KERR: Good morning. My name is

6 Sarah Kerr. I am an attorney with the

7 Prisoners Rights Project of the Legal Aid

8 Society. John's my boss. Thank you for the

9 opportunity to offer this testimony today.

10 During this year, we have seen
11 massive evidence of misconducts and the
12 negligence of correction staff. The evidence
13 comes from many sources: The Department of
14 Justice, the press, reports from experts
15 hired by this Board, reports from Board
16 staff, and at Board meeting from members of
17 this Board who witnessed horrific conditions
18 and responses to individuals incarcerated in
19 our city jails firsthand. Yet the rule
20 proposal that this hearing is about does not
21 set standards to improve conditions for
22 individuals in our city jails. Based on the
23 number and validity of recent reports, the
24 Legal Aid Societys contact with thousands of
25 individuals incarcerated in the city jails

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2 and our knowledge through repeated lawsuits
3 of the reluctance to require a reduction of
4 use of force by DOC staff or to hold staff
5 accountable when they use excessive force, we
6 do not believe that the city has based its
7 request for ESH on accurate information or on
8 any valid root cause analysis of violence in
9 our city jails. This Board must acknowledge
10 the pattern and practice of violence, false
11 reporting, lack of integrity, and
12 over-utilization of punitive segregation
13 before relying on DOC data and discretion.

14 Yet this proposal creates new
15 punitive and highly restrictive housing where
16 the boards minimum standards will not apply.
17 This places serious restrictions on the
18 liberty and dignity of individuals in our
19 city jails without factual predicate. The
20 ESH rule proposal is far removed from
21 evolving standards of decency and humanity in
22 jail management, and in fact contains no
23 adoption of standards at all.

24 The question for the Board should be
25 what the Board standards must include so that

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2 ESH, if permitted, and other jail restricted
3 housing settings are humane and incorporate
4 evolving standards of decency in jail
5 management. We think that there are
6 essential elements that need to be put into
7 the standard: Limitations on criteria for
8 placement into any restrictive housing;
9 limitations on time in any restrictive
10 housing; strong due process protections;
11 exclusion of vulnerable populations, and I do
12 mean youth up to 25 and I do mean more than
13 people that are Axis I disorder. I'm not
14 sure thats still correct; the DSM changed.
15 But personality disorders and functional
16 impairments and physical disabilities and
17 people with developmental disabilities are a
18 lot of the proportion of people in our jails
19 who have a difficult time with the
20 environment, and they should not be punished
21 for that disability.

22 Data collection and publication of
23 data, training and competency levels;
24 requiring competency of staff who work with
25 specific populations in need; staffing ratios

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2 should be in accordance with whatever the
3 current standards are; treatment programming
4 and individualized plans that include
5 positive responses, pro-social skill
6 building, earned incentives and enumerated
7 benchmarks for movements to less restrictive
8 housing. And that doesn't mean giving
9 somebody a list of things that you give them
10 no means to accomplish.

11 There should be minimum hours for
12 clinical staff to be present in any
13 restrictive housing in our jails, and there
14 need to be, then, places for clinical
15 interventions to occur. It can't be that to
16 get to treatment you have to be shackled and
17 strip-searched and moved, when we know there
18 is a lack of escort officers. There needs to
19 be confidential settings within the unit so
20 that there is real access to treatment.

21 What was that last one you showed
22 me?

23 CHAIR CAMPBELL: Thank you, thank
24 you.

25 MS. KERR: No. Let me get to the

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2 end.

3 You know, the Board should use this
4 rule-making process to strengthen minimum
5 standards; that's what it should be about.
6 It should not be about removing the
7 standards, which is what's been proposed.
8 There needs to be protection for vulnerable
9 populations.

10 But I want to say something to the
11 Members of the Department of Correction who
12 are here. We share what should be a common
13 goal and that should be to make these jails
14 safe for incarcerated individuals, for staff,
15 and for the community. We are asking that
16 this Board and your Union and the Department
17 and others involved recognize that
18 intimidation, punitive responses, bullying
19 and force make your job less safe and more
20 violent and make our jails more violent. The
21 ESH is punitive and non-therapeutic. It is
22 the wrong response and the proposed rules
23 should not pass this Board. Thank you.

24 CHAIR CAMPBELL: Questions?

25 Bryanne.

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2 JUDGE HAMILL: If I could just ask a
3 question. Your colleague said he'd refer to
4 you --

5 MS. KERR: Uh-oh.

6 JUDGE HAMILL: -- with respect to
7 your proposals for punitive seg reform, the
8 limitations, in particular. The DOC has only
9 proposed two and those are the only
10 limitations in the DOC proposed rules for us
11 to deal with rule-making on it.

12 MS. KERR: Well, I have a whole list
13 in our testimony, but I think that there
14 should be no longer than 15 days if there is
15 going to be segregation, no more than 15 days
16 in any 60-day period, and even in that, in
17 that time, there should be four hours of
18 out-of-cell time during the day. And that
19 should include the kinds of pro-social
20 programming and the ability to move yourself
21 to less restrictive confinement. I think
22 thats a radical change but I think that is
23 in accordance with what we are learning. It
24 is not necessary where Departments have
25 gotten to yet, but it is what the standards

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2 are aiming to do in international community
3 and it is an appropriate, I think, change to
4 include in our standards that but us ahead.

5 I think that we should exclude a
6 vulnerable population. That should be people
7 under 25. we've heard about the brain
8 science that I am definitely not an expert
9 in. I think that also people with physical
10 disabilities and serious injuries should not
11 be housed in restrictive confinement.

12 Due process protections, I think, I
13 would like to see them include the right to
14 counsel. I would like to see them include
15 using law students in the city maybe, under
16 the direction of attorneys, to represent
17 people. We have people in our jails who
18 often have a hard time advocating for
19 themselves. They may not recognize their own
20 mental illness. They may not recognize
21 things that would mitigate a situation. You
22 know, they may be illiterate and
23 uncomfortable in their position. They should
24 not, you know it shouldn't be just a few
25 people that get assistance. It should be the

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2 regular norm that we don't impose punitive
3 segregation and isolation on people without
4 looking at it carefully and providing them
5 with assistance that is valid.

6 I'm going to leave it right there.
7 I do really think that the limitations in the
8 current rule, like that we would limit access
9 to clothing that's already been purchased and
10 is free from your or their family and that
11 people can't drop off magazines to you;
12 that's really not recognizing that this is
13 jail, this isn't prison. This is people who
14 have just been taken off the street,
15 something bad has happened. They may be very
16 upset. They need to see their family. They
17 need to have the ability to gain possessions
18 of things to make being in the jails more
19 comfortable. And the idea that we would
20 limit those things I find kind of outrageous.

21 And I certainly hope that the board
22 does look at those standards individually and
23 says there's really no factual basis for
24 these changes --

25 CHAIR CAMPBELL: All right, thank

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2 you Sarah.

3 MS. KERR: Thank you.

4 CHAIR CAMPBELL: Our next speaker is
5 Natalie Chin, followed by Rabbi Hart.

6 I just want to add, let you know
7 that I personally reached out to Commissioner
8 Bassett about attending this hearing and
9 providing remarks. She indicated that she
10 would not be attending, and I wrote back and
11 said that her voice will be missed. The
12 Board of Correction, you have my guarantee,
13 will be meeting with the commissioner and
14 staff of the Department of Health and Mental
15 Health.

16 Ms. Chin.

17 PROF. CHIN: Good morning. My name
18 is Natalie Chin. I am a professor at
19 Brooklyn Law School and also the Director of
20 the Advocates for Adults with Intellectual
21 and Developmental Disabilities Clinic, also
22 the college's clinic, and the clinic
23 represents low income New Yorkers and their
24 families in a variety of civil legal matters
25 that impact adults with intellectual and

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2 developmental disabilities. The clinic
3 offers testimony today to ensure that the
4 Board of Correction considers the unique
5 needs of persons of intellectual and
6 developmental disabilities who are in the
7 custody of the Department of Correction.

8 Ms. Hamill, you asked earlier today
9 for specific categories of vulnerable persons
10 who should be excluded, and I want to talk
11 specifically to the population who have an
12 intellectual and developmental disability.
13 The clinic strongly opposes categorically --
14 the Board should categorically bar inmates
15 with intellectual and developmental
16 disabilities from punitive segregation and
17 ESH as they formulate changes to the general
18 minimum standards. The proposed creation of
19 a highly restrictive, segregated unit for
20 those designated by the Department of
21 Correction as, and I quote, "the most violent
22 inmates," fails to take into consideration
23 the vulnerable population of inmates who have
24 intellectual and developmental disabilities,
25 placing this particular population at a

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2 greater risk of harm and victimization while
3 failing to address their true needs.

4 There are reported estimates that
5 there are between three percent and ten
6 percent of inmates with intellectual or
7 developmental disabilities and that this
8 population is over-represented in the
9 criminal justice system. There is a high
10 correlation among offenders with intellectual
11 disability with psychological disadvantage.
12 They are more likely to be uneducated,
13 unemployed, poor, have deficits in social and
14 communication skills and suffer from
15 behavioral and psychiatric disorders.

16 The Board must consider the
17 intellectual and developmental impairments of
18 inmates when considering revisions to the
19 standards. The U.S. Supreme Court recognized
20 the mitigating factors that a criminal
21 justice system must consider in the punitive
22 treatment of prisoners with intellectual
23 impairments. The court reasons, and I quote,
24 "Because of their impairment, by definition,
25 prisoners with intellectual disability have

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2 diminished capacities to understand and
3 process information, to communicate, to
4 extract from mistakes and learn from
5 experience, to engage in logical reasoning,
6 to control impulses, to understand the
7 reactions of others," and the court
8 continues, "in group settings they are
9 followers rather than leaders and their
10 deficiencies diminish their personal
11 culpability."

12 The ability of inmates with
13 intellectual and developmental disabilities
14 to remain safe and to exert their right to
15 personal decision making may be compromised
16 as a result of their disability, making this
17 population a vulnerable target for solitary
18 confinement at ESH. Some common responses
19 that may affect the ability of inmates with
20 intellectual and developmental disabilities
21 to protect their rights include the
22 following:

23 The inability to understand
24 explanations at disciplinary hearings; a
25 vulnerability to sexual predators;

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2 manipulation by other inmates; and
3 recruitment for gang activities which
4 specifically this ESH proposal speaks so they
5 would be target for this; waiving rights
6 without understanding; difficulty resolving
7 problems; or seeking assistance when needed.
8 Further, individuals with intellectual
9 disabilities are more likely to be
10 maltreated, psychologically and physically
11 abused, and are at great risk for personal or
12 violent crimes.

13 The Board must reject ESH and the
14 use of the rule-making process to strengthen
15 the general minimum standards and, rather,
16 strengthen the general minimum standards to
17 ensure the health, safety, and security of
18 incarcerated persons with intellectual and
19 developmental disabilities.

20 The Board should consider the
21 following proposals as they formulate
22 changes: Exclude specifically incarcerated
23 individuals with intellectual and
24 developmental disabilities. Implement
25 stronger safeguards to ensure that persons

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2 with intellectual and developmental
3 disabilities are housed in a setting that
4 best ensures their safety and security.

5 Implement habilitation services for persons
6 with intellectual and developmental
7 disabilities. And this has been talked about
8 quite a bit today, strengthen the training,
9 screening and assessment, but I'm speaking
10 specifically to those with intellectual and
11 developmental disabilities so we can identify
12 this population.

13 And in terms of the due process
14 protection, theres a provision in the
15 proposal that requires that a hearing has to
16 be requested in writing, and when you're
17 talking about a population with intellectual
18 and developmental disabilities, that
19 certainly would impose any possibility for
20 them having a hearing. So one suggestion is
21 to eliminate any requirement that a hearing
22 must be requested in writing, and this is to
23 ensure that all persons have a right to
24 request a hearing. Second, if theres any
25 evidence of intellectual or developmental

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2 impairment that the Department of Correction
3 must provide a non-Department of Correction
4 mental health professional to be present
5 during the disciplinary process or during the
6 process including any related meetings and
7 also to provide legal representation. Thank
8 you.

9 CHAIR CAMPBELL: Thank you,
10 Ms. Chin.

11 Bobby?

12 MR. COHEN: Thank you very much.

13 Do you have any ideas of the
14 prevalence of intellectual disabilities in
15 the population that we're --

16 PROF. CHIN: So the greatest
17 challenge in this particular issue is a
18 conflation of mental illness with
19 intellectual and developmental disabilities.
20 So in 1991, this 23 years ago, the state
21 legislature requested that what's now the
22 office that serves people with developmental
23 disabilities to do a really large study on
24 this specific population in the state prison
25 system. That was 23 years ago. At that time

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2 it was found between one to three percent of
3 inmates in the prison population had an
4 intellectual or developmental disability.
5 But I have to stress, and this is in my
6 testimony, that that particular study was
7 always specific to the prison population, and
8 when it was published, and this was 23 years
9 ago, the study said -- in the study it was
10 mentioned, "A comparable study is needed
11 related to local New York City jails and
12 recognizing that there are both more persons
13 with developmental disabilities incarcerated
14 in local jails and that in these settings,
15 there are far fewer protections for
16 vulnerable persons." This is in 1991.

17 New York City has not conducted a
18 single study focused on inmates in the jail
19 system who are diagnosed with intellectual or
20 developmental disabilities.

21 CHAIR CAMPBELL: Thank you.

22 Our next speaker is Rabbi Hart.

23 Rabbi Hart? O.K.

24 Our next speaker is Alex Vitale,
25 followed by Johnny Perez.

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2 Is Alex Vitale here? Johnny Perez?

3 O.K.

4 Our next speaker is Hans Menos.

5 MR. PEREZ: Johnny Perez is here.

6 CHAIR CAMPBELL: Oh, I'm sorry.

7 Mr. Perez.

8 MR. PEREZ: Yeah, how are you doing?

9 Thank you for having me. Thank you for the
10 opportunity to share my experience with you.
11 My name is Johnny Perez. I am the safe
12 re-entry advocate at the Urban Justice
13 Center. I'm also a member of the Jails
14 Action Coalition. I'm also a student at
15 St. Francis College, and I'm also a father.
16 But, more importantly, I'm also a person who
17 was formerly incarcerated, having served
18 15 years in prison, three years in solitary
19 confinement, 90 of those days on Rikers
20 Island at OBCC at 5 South West.

21 I had this great elaborate speech,
22 but I feel the need to just scratch here and
23 kind of talk about some of the things that
24 were spoken of earlier. Talking about due
25 process, what does due process look like? It

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2 looks like you go inside, and theres a
3 hearing officer, and the hearing officer is
4 related to the same officer that wrote the
5 ticket. He tells you that if you don't cop
6 out to this, if you try to fight it, he'll
7 give you the maximum amount of time.

8 There is actually no due process.
9 You'r not allowed to call any witnesses.
10 Youre not allowed to have somebody represent
11 you or anything like that. You can't examine
12 evidence, nothing like that.

13 Mind you, I was 17 years old when I
14 was going through all this. The appeal
15 process looks like, you have 30 days to
16 appeal. We don't have no appeal forms, use a
17 blank piece of paper, except, when you get
18 inside the cell, there is no paper, and then
19 you are not allowed to be given a pen
20 because, quote, unquote, you might actually
21 do something with the pen to hurt yourself or
22 other people. So there is no due process.
23 There is no due process at all.

24 The cell is very, very, very small,
25 very cold, very quiet. Sometimes it gets so

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2 quiet, you can hear your own heartbeat, or
3 sometimes it gets so loud that you actually
4 have to go to sleep to the sounds of other
5 men crying.

6 The visits, the visits are -- you
7 talk about non-contact visits, you know,
8 there were times when I had to go shackled to
9 the visit, and my mom was not allowed to hug
10 me, she was not allowed to kiss me. Knowing
11 the building that I was at that time, I would
12 put my face to the bar and my mom would just
13 caress my face through the bars. She cried
14 at the end of the last visit because after
15 that I was sent to upstate.

16 Like I said, I did 15 years; I was
17 sentenced to 15 years for robbery in the
18 first degree when I was 20 years old.

19 School. School does not look like
20 any kind school that they's got them
21 receiving today. School looks like a piece
22 of paper that is slid under your cell, and
23 the teacher comes back a week later and asks
24 you how you are doing. I don't have a
25 developmental disability or a learning

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2 disability but if I did, I can't imagine that
3 type of schooling having any type of effect
4 on any educational pursuits or goals that I
5 may have.

6 The meals. My last meal was at 4:00
7 in the afternoon, with my next meal at 7 a.m.
8 I have to be on my gate for the meal, and if
9 I happened to oversleep because a light
10 happened to be on all night, 'cause I
11 couldn't sleep, or because I was being
12 awakened every hour on the hour for the
13 officer to make sure I'm alive, then I don't
14 eat. And if you go get that meal, then that
15 meal is cold; most of the time it is cold and
16 most of the time the portions are so small
17 that you end up losing weight. I went
18 inside, I was about 180 pounds. By the time
19 I went upstate and they weighed me at
20 Downstate Correctional Facility, I weighed
21 155 pounds.

22 I want to say something about those
23 paintbrushes, right? There's this notion
24 that people in prison are incorrigible
25 individuals who, you know, who are born with

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2 some kind of criminal gene that can't be
3 changed. The opposite is actually true.
4 Most of the people in prison are people who
5 are disproportionately of color, who lack
6 education, who lack educational
7 opportunities, who are basically just trying
8 to do the best they can with what they have,
9 and as a result, end up applying criminal
10 solutions to their problems. If they give me
11 a paintbrush, I'm not going to stab somebody
12 with it. I might just become an artist or I
13 might just paint with it, a thing thats
14 important to keep in mind.

15 I want to advise you and compel you
16 and even urge you to strengthen the minimum
17 standards and also take into consideration
18 not only, you know, not only -- you know, to
19 look at it from the perspective of someone
20 directly involved and make sure that those
21 people have a voice in the conversation and
22 also listen to the advocates of families who
23 are here today, especially the Jails Action
24 Coalition and all the other advocates that
25 are here.

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2 (Applause.)

3 CHAIR CAMPBELL: Thank you,
4 Mr. Perez.

5 MR. PEREZ: Thank you.

6 (Applause.)

7 CHAIR CAMPBELL: Our next speaker is
8 Hans Menos, followed by Sister Marianne
9 Defies.

10 MR. MENOS: How are you? My name
11 is Hans Menos. I am the Director of Youth
12 Services at the Center of Community
13 Alternatives. Thank you for the opportunity
14 for me to share today regarding the enhanced
15 supervision in housing units.

16 Community Alternatives has more than
17 30 years of experience working in the field
18 of community-based alternatives for
19 incarceration. Our mission is to promote and
20 reintegrative justice and a reduced reliance
21 on incarceration through advocacy services
22 and public policy development in pursuit of
23 civil human rights.

24 So our program primarily serve
25 people who have been involved in the criminal

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2 justice system and are seeking community
3 reintegration and productive law-abiding
4 lives. We have considerable experience with
5 people who have been detained on Rikers
6 Island and have some significant concerns
7 about the proposed rule change. But first, I
8 want to applaud the general climate of change
9 and the attention being given to 16 to
10 17-year-olds, and with the focus on
11 preventing them from spending time in
12 punitive segregation or...

13 In any event, as the Board is aware,
14 these young people who are a particularly
15 vulnerable and should be considered through
16 this lens. However, because of the
17 well-documented negative effects we urge the
18 Board to reconsider these punitive
19 segregation for all people and certainly the
20 people under the age of 25. As the science
21 of brain development shows, these are harsh
22 mechanisms which are harmful, and
23 particularly so for young people. Therefore,
24 the proposed rule which allows for separation
25 of young people over 17 still allows for

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2 harsh and irreparable harm to come to young
3 people over 17 years old.

4 So the rationale for these rule
5 changes seems to focus a great deal on the
6 safety and the problems at Rikers, and based
7 on my discussions with young people who've
8 been out at Rikers and based on my
9 discussions with people who are employed at
10 CCA who have been to Rikers or spent time on
11 Rikers, I think the focus on safety is
12 correct. But despite the report of rampant
13 and unnecessary force by DOC staff and a
14 deep-seated culture of violence, it seems
15 that the rule focuses on how to handle the
16 people who are incarcerated rather than
17 changing the culture and behaviors of the
18 corrections officers who are charged with
19 their safety and their care. I think this
20 paradigm is incorrect, and we need to
21 reconsider how were focusing on the problems
22 that exist within the facilities.

23 I want to focus on some solutions to
24 that. The staff first and fore -- the
25 correction officers, first and foremost, need

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2 ongoing and consistent retraining that
3 refocuses on approaches that do not involve
4 the use of force. Those in leaderships or
5 supervisory positions must hold corrections
6 officers accountable and make it clear by
7 words and deeds that the culture of violence
8 will not be tolerated.

9 Staff should be trained to recognize
10 traumatic reactions that may influence both
11 their behaviors, as well as the behaviors of
12 those incarcerated people. And additionally,
13 it should include discussions on basic human
14 rights, de-escalation, crisis management, and
15 finally, the overall framework should focus
16 on methods to facilitate re-entry in
17 comprehensive social justice. I think that
18 that last point, the facilitation of
19 re-entry, is something that CCA be focused
20 on, and the idea that -- that is often
21 ignored and not considered. The people who
22 are on Rikers are not there for life, but
23 they are damaged for life based on their
24 experience there, or can be damaged for life.
25 And that needs to be considered, because we

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2 need to wonder how will they re-enter, how
3 will they become part of the society again,
4 and it's a major consideration for CCA and
5 for many of others.

6 And other flaws have considered and
7 have been discussed already by the Jails
8 Action Coalition members and others who have
9 already testified, but I do want to reiterate
10 the idea that mental health concerns are
11 often ignored and need to be addressed. We
12 cannot leave -- we cannot continue to lock up
13 people whose largest problem is their mental
14 health and not anything that they have done
15 or any act that they have committed.

16 So in conclusion, I want to give --
17 I want to -- given the findings of the
18 Justice Department, as well as all the
19 investigative journalists, we must thoroughly
20 reform not only the culture and conditions at
21 Rikers but the overuse of detention in
22 general and its disproportionate impact on
23 marginalized, impoverished people of color.

24 Thank you very much.

25 CHAIR CAMPBELL: Thank you for that.

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2 Next speaker Sister Marianne Defies,
3 followed by Juan Perez and Mary Buser.

4 Sister.

5 SISTER DEFIES: My name is Sister
6 Marianne Defies, I'm a sister at St. Joseph.
7 On Rikers Island, where I worked as a
8 chaplain for 23 years, from 1984 to 2007, the
9 term for the solitary confinement unit was
10 known as The Bing. When I asked a
11 correctional officer why it was called it The
12 Bing, he replied, "After a time of
13 confinement a persons mind can go 'bing.'"
14 Bing at the Rose M. Singer Center for Women
15 consisted of a housing unit with 50 cells.
16 The adolescent girls were in a separate unit.

17 The women were locked in their cells
18 for 23 hours and allowed one hour in an
19 outdoor area for recreation. Meals were
20 slipped in the cells through a slot in the
21 door.

22 I recall having to take a deep
23 breath before going into The Bing. The noise
24 level was either deafening due to women
25 yelling to be heard from one cell to the

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2 confinement area, a woman was sitting on the
3 floor, gasping for breath. She had an asthma
4 attack while in her cell and was pulled out
5 to get some air while she awaited the arrival
6 of the medical team. Also around that time,
7 I had learned of a pregnant woman who had
8 gone into labor while in her cell. A
9 captain, making his rounds, avoided a tragedy
10 by getting her out and into the clinic.

11 A woman could be sent to The Bing
12 for minor offenses, such as talking on line
13 in the corridor or for having unauthorized
14 clothing or food in her cell. I had sensed
15 that the discipline in solitary confinement
16 was barbaric and inhumane, but I saw it as
17 the departmental policy and therefore there
18 was nothing I could do to ban the practice.
19 Unlike the Rockefeller Drug Laws, which I
20 worked to reform by enlisting the aid of
21 outside agencies I felt powerless regarding
22 solitary confinement. How does one go about
23 changing department policy?

24 When I retired from this department
25 in 2007, I presumed that my involvement with

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2 the criminal justice system was over. Not
3 so. Three years ago I read a request from
4 the National Religious Campaign against
5 Torture, asking that a petition be signed to
6 prohibit the use of prolonged self isolation.
7 It stated that according to the Geneva
8 Conventions of the United Nations, solitary
9 confinement of more than 15 days is torture.
10 Although we, as a nation, signed the Geneva
11 Conventions, we are presently in violation of
12 them.

13 It is no wonder that I felt so
14 uneasy walking into The Bing. Without
15 realizing it, I was a witness to torture. I
16 also realize now that we can change policy by
17 enacting laws. It is heartening to know that
18 the steps are being taken to educate the
19 public regarding the use of solitary
20 confinement. Some of these steps, or course,
21 include instructional DVDs being circulated,
22 articles and editorials are appearing in
23 newspapers, panel discussions are taking
24 place in parish halls, and congressional
25 leaders have held hearings.

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2 Through the efforts of many
3 organizations, including the American Civil
4 Liberties Union, the Human Rights Watch, the
5 New York Citys Jail Action Coalition,
6 consciousness is being raised about this
7 issue. However, it is distressing to learn
8 that just as many states, including Maine and
9 Mississippi, Colorado, New Mexico, Washington
10 State, and statewide campaigns for
11 alternatives to isolated confinement are
12 working successfully to decrease the number
13 of inmates in solitary confinement and to
14 improve conditions in the unit, the opposite
15 is happening in New York State. Although the
16 census has dropped dramatically on Rikers
17 Island, due in part to the reform of the
18 Rockefeller Drug Laws, more cells are being
19 requested for the creation of an enhanced
20 supervision housing unit.

21 CHAIR CAMPBELL: Thank you, Sister.

22 SISTER DEFIES: Could I just end
23 with this?

24 CHAIR CAMPBELL: Very, very briefly.

25 SISTER DEFIES: Yes.

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2 Perhaps we who pride ourselves on
3 living in the most liberal, progressive city
4 in the world could send a delegation to
5 Mississippi or Maine to learn how to run our
6 detention centers as they do, that is,
7 humanely without resorting to the use of
8 torture. It is my hope and prayer that we
9 will soon end the barbaric practice of
10 solitary confinement in our jails and
11 prisons.

12 We must affirm that every person is
13 made in the image of God, is a child of God
14 capable of redemption and therefore is worthy
15 of our respect, protection, and compassion

16 And I thank you.

17 (Applause.)

18 CHAIR CAMPBELL: Thank you, Sister.

19 The next speaker is Juan Perez. Is
20 Juan Perez here?

21 The next speaker is Mary Buser.

22 Mary Buser is followed by Walter Higgins and
23 John Brickman.

24 Ms. Buser.

25 MS. BUSER: Thank you. My name is

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2 Mary Buser and I worked in the Rikers Island
3 Mental Health Department for five years
4 during the Giuliani Administration. In my
5 final stint on Rikers, I was Acting Chief of
6 Mental Health in the Central Punitive
7 Segregation Unit, best known as The Bing. My
8 experience in providing mental health
9 services to punished inmates was so
10 profoundly disturbing that I wrote an op-ed
11 piece on the horrors of solitary confinement
12 that was recently published in the Washington
13 Post. I have also written a book about my
14 work on Rikers, which is to be released in
15 the fall of 2015.

16 With recent media attention
17 highlighting the inhumanity of solitary
18 confinement, I find it stunning that the
19 Department of Corrections is not only turning
20 its back on meaningful reform to this cruel
21 practice but is proposing an additional
22 modified version of the very same thing.
23 While there have been some concessions to
24 solitary for pregnant women, adolescents, and
25 the mentally ill, I would like to stress that

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2 this punishment is not only inhumane for the
3 mentally ill but for everyone.

4 It was my observation that under the
5 stress of solitary, those with no prior
6 mental health issues developed devastating
7 symptoms very quickly: The bleakest of
8 depression, plunging despair, and terrifying
9 hallucinations. The Mental Health Department
10 was a constant presence in The Bing, doling
11 out antidepressants, antipsychotics, and
12 mountains of sleeping pills. But even the
13 most potent medications reached only so far,
14 and when normal human behavior deteriorated
15 into frantic scenes of self-mutilation and
16 make-shift nooses, as it often did, we were
17 called to a cell door to assess the
18 situation. In doing so, we were in a
19 position to authorize a temporary reprieve,
20 but only if death seemed likely.

21 I would like to read a short excerpt
22 from my forthcoming book that describes a
23 typical cell door scene: "Doctor Diaz, a
24 seasoned Bing psychiatrist, points to a door
25 that's slightly ajar. 'We got a head-basher,'

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2 he says to me. 'His name is Troy Jackson;
3 hes been going downhill for a while now.
4 I've upped the meds, changed them. we've
5 talked to him, but we're out of options.
6 Hes been in for two months now.'

7 "I wince at the length of
8 punishment; two entire months inside a
9 cramped cell with one hour of rec, which
10 amounts to a shackled walk to an outdoor
11 cage, to stand alone and glimpse the sky.
12 Although the maximum punishment for any
13 single infraction is 90 days, theres nothing
14 to keep infraction tickets from piling up,
15 and there are those in this unit who face
16 years in solitary.

17 "'All right. Let me talk to him,' I
18 say with some vague hope of dispensing
19 calming words that might enable him to hang
20 on a little while longer.

21 "The officer pulled open the
22 creaking door. Inside the walls are smeared
23 with blood, and a black youth stands
24 trembling, beads of sweat dripping from his
25 chin, blood seeping through his scalp. Hes

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2 barely out of his teens, 'Please, miss,' he
3 whispers to me, 'Help me.' For a moment Troy
4 Jackson and I stare at one another. As his
5 eyes plead with mine, the blood is running
6 down behind his ear. I feel a clutch in my
7 throat but remind myself that I am not here
8 to get to know him or even to find out why
9 he's in solitary. I'm here to make sure of
10 exactly one thing; that he remain alive. 'I
11 can't,' he whispers, I'm telling you I
12 can't.' The blood is trickling down toward
13 his eyes now; I realize we are well beyond
14 any therapeutic dialog. 'O.K., just give me a
15 minute here.'

16 "As I step out to confer with my
17 colleagues, I hear a loud moan, and we rush
18 back in just as the young mans head thuds
19 against the concrete. Troy Jackson crumples
20 to the floor, the blood freely spilling, the
21 gash in his scalp revealing a wide patch of
22 glinting whiteness."

23 This story continues as our mental
24 health team wrestles with the decision that
25 we must make. Tragically this vignette is

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2 neither isolated nor unusual. It is every
3 day behavior in a solitary unit where blood
4 oozes and agonized shell-shocked faces are
5 the norm. In a civilized society that prides
6 itself as in progressive on human rights, a
7 punishment that induces this level of
8 suffering is simply unacceptable.

9 Having spent several years of my
10 waking life on the inside, I fully appreciate
11 the need to maintain jailhouse safety and
12 punish the recalcitrant, but instead of this
13 regressive proposal, I would challenge the
14 Department of Corrections to lead the way and
15 devise a humane method of accomplishing this.

16 Thank you.

17 CHAIR CAMPBELL: Thank you,
18 Ms. Buser.

19 Our next speaker is Walter Higgins.
20 Is Walter Higgins here?

21 MR. HIGGINS: I am.

22 CHAIR CAMPBELL: Mr. Brickman, who
23 was a former Executive Director of the Board
24 of Correction, and then following
25 Mr. Brickman, will be Jack Beck and Debra

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2 Hertz.

3 Mr. Brickman -- Higgins.

4 Mr. Higgins.

5 MR. HIGGINS: I've been called many
6 things.

7 (Laughter.)

8 CHAIR CAMPBELL: I apologize.

9 MR. HIGGINS: Good morning to you
10 all. My name is Walter F. Higgins, a
11 concerned private citizen. I am here on
12 behalf of the St. Boniface Pastoral Parish
13 Council's Social Justice Committee, a member
14 of the National Religious Campaign Against
15 Torture to express my bewilderment and moral
16 abhorrence of the continuation of the penal
17 policy of solitary confinement in the New
18 York City Department of Corrections.

19 Conditions of extreme isolation for
20 incarcerated human beings are confined and
21 constrained to exist for 22 to 23 hours a day
22 in a six-by-nine-foot prison cell, which is
23 about the size of a Manhattan bathroom in an
24 apartment. Solitary confinement and extreme
25 isolation is harmful and injurious, and has

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2 promptly been describe by the professional
3 cadre during this hearing, representing
4 fields of psychiatry, sociology and
5 psychology, as torture and, as such, is a
6 highly destructive of a person's very
7 humanity.

8 Torture is a very charged word. It
9 suggests of well deserved despicability over
10 those who employ it and equally to those who
11 turn a blind eye to its existence, despite
12 full evidence of its inexplicable
13 continuance. It appears to this observer
14 that there is callousness as to how we treat
15 allegations of torture in the solitary
16 confinement context we are discussing here
17 this morning and afternoon.

18 Professionally, I had been an
19 electronic journalist and news writer for the
20 CBS Morning News with Mike Wallace, and
21 Walter Cronkites anchoring of the CBS News
22 Special Coverage of this countrys Gemini and
23 and Apollo manned Space Programs. I am a pro
24 bono professor at Brooklyn College Lifelong
25 Learning Institute, where I teach retired

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2 executives about American government and
3 history, our Constitution, and the United
4 States Supreme Court, and other courses that
5 I have carte blanche to create especially for
6 them.

7 Speaking from my own faith
8 tradition, the Golden Rule expresses the
9 concept, "Do unto others as you would have
10 them do unto you." So I am compelled to ask
11 if any of today's hearing panel would subject
12 themselves to such a penal policy willingly.

13 In resolving that rhetorical question, allow
14 me to find out that the Executive Director of
15 the Colorado Department of Corrections, Rick
16 Raemisch, gave testimony before the
17 February 25, 2014 Senate Subcommittee hearing
18 on solitary confinement. During his
19 testimony and in a New York Times op ed
20 entitled "My Night in Solitary," Raemisch
21 described his experience of spending over 20
22 hours in administrative segregation: "When I
23 finally left my cell at 3:00 p.m.," he said,
24 "I felt even more urgency for reform."

25 As a person of faith, I join my

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2 colleagues here this morning in calling for
3 the eradication of the use of solitary
4 confinement and its continuance as penal
5 policy. In addition, I call on the New York
6 City Department of Correction not to move
7 forward with the creation of the ESHU,
8 enhanced supervision housing unit, yet
9 another euphemism, in my mind, to torture.
10 Adding additional restricted housing units at
11 a time when we need to be eliminating
12 entirely the practices of isolation in
13 exchange for rehabilitative practices that
14 ensure detainees and staff are safe.

15 Man, to be clear, is made in the
16 image and likeness of God; all people are
17 infused with dignity that cannot be denied.
18 The continued use of solitary confinement in
19 New York Citys jail system is inhumane and
20 must be brought to a halt.

21 Thank you for your courtesy of your
22 attention to my remarks this morning. May
23 your holiday season be a happy and joyous
24 one, and may the New Year be blessed for you
25 and for those important to you and to those

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2 who remain incarcerated.

3 As a postscript, because of the time
4 constraints mandated for this mornings
5 session and testimony, I will submit my
6 fuller written testimony and the op-ed piece
7 I wrote on the subject of solitary
8 confinement and which this published in The
9 Daily News a year and change ago.

10 As a final postscript, please note
11 that I will also send my views on the subject
12 to the Executive Producer of 60 Minutes,
13 which today occupies the hallowed tradition
14 of CBS Reports in matters of documentaries
15 and investigative reporting, so that a fuller
16 light can be cast on our citys horrific
17 policy of penal torture.

18 CHAIR CAMPBELL: Thank you,
19 Mr. Higgins.

20 Our next speaker is John Brickman,
21 followed by Jack Beck and Debra Hertz.

22 Mr. Brickman.

23 MR. BRICKMAN: Mr. Chairman and
24 Members of the Board, I am John Brickman.

25 CHAIR CAMPBELL: Thank you.

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2 MR. BRICKMAN: And from 1971 to
3 1975, I served as your First Executive
4 Director. In the 40 years that followed, I
5 have remained active in the civilian
6 oversight of jails and prisons. So I hope
7 that my experience can add some historical
8 perspective to the discussion today.

9 You, as a Board, are most effective
10 and you have the best chance to bring about
11 change when you maintain your distance from
12 the Department of Correction. There needs to
13 be a tension, a healthy tension between the
14 board and the Department. In the five
15 decades since Mayor Lindsay revitalized the
16 board in 1970, the Boards greatest impact
17 has come when it has asserted its
18 independence from the Department and, indeed,
19 from City Hall, as well.

20 And experience unfortunately shows
21 also that when the Board ceases to serve as
22 an activist foil to the department, the
23 spark -- and that happens over the years --
24 the spark is missing and the Board is
25 ineffective, and that is true even when we

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2 have a commissioner, such as Commissioner
3 Ponte, whose outlook and commitment to change
4 are extremely encouraging, as he is. If the
5 Board abandons its mission to bring
6 progressive change, a right for which we
7 fought so hard when 40 years ago we won the
8 battle to empower the Board to set minimum
9 standards, then if that happens, the Board
10 will fails in its purpose.

11 Now when the Board sets standards,
12 it properly gives great weight to safety for
13 inmates, for uniformed staff, to civilian
14 workers, but here, as everywhere else, there
15 needs to be a balance between security and
16 the humane treatment of people. You Members
17 of this Board have to ensure that balance,
18 because in this context, no one else will.
19 You will lose that balance if, for example,
20 and this is only an example among the
21 proposed changes, you abandon the Boards
22 decades old insistence that inmates and their
23 families and their visitors have contact
24 visits, except under very limited
25 circumstances and with prescribed proof.

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2 The proposal you consider would turn
3 on its head for ESH prisoners, the procedure
4 for contact visits and permit denial of
5 visits, contact visits before any
6 determination that a visit would endanger
7 security, as under the current rule. We
8 don't know if the determination to allow
9 contact visits would be placed in the hands
10 of relatively low ranking personnel, but I
11 suggest that in light of recent history, that
12 might be a process that is not in anyones
13 interest.

14 My point today is not to debate
15 whether the proposed rule change is good or
16 bad, although I believe that it isn't good,
17 because the goal of reducing punitive
18 segregation hardly justifies bad
19 alternatives, but rather to urge you to go
20 about it differently. It doesn't not make
21 sense to put up the proposal in November to
22 talk about it in December and to vote on it
23 in January. That's what lawyers call the
24 rocket docket. Here, you need the kind of
25 analytical development and open debate that

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2 has characterize the Boards adoption of the
3 rules originally in the 1970s and its later
4 decisions regarding rule changes and
5 variances. In 2007, for example, you spent
6 the better part of two years discussing and
7 weighing the issues before you acted on rule
8 changes.

9 Now the debate today is a good
10 start, but if you adopt the present proposals
11 uncritically, you forced to C change from
12 procedure, one that neither elevates the
13 process nor distinguishes the Board.

14 Effective oversight of jails and
15 prisons, in my view, invokes Von Heisenbergs
16 Uncertainty Principle. That is that rule of
17 physics that tells us that subatomic
18 reactions vary simply because the scientist
19 is watching them, and Von Heisenbergs
20 Principle has startling relevance to the
21 closed world of jails. You are the
22 scientific observers and your presence has an
23 impact on what you are watching, but there's
24 much more to your role, simply, than
25 watching. And I mean no offense when I ask

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2 these questions. Why did the revelations of
3 facts about the horrific treatment of
4 prisoners about which the Board had to know
5 come from The New York Times and not the
6 board? Why did a line in the sand get drawn
7 by the United States Attorney, not the Board?

8 This Board has to assert itself as
9 an unfettered voice so there will be no need
10 to ask such questions. You can affect what
11 you see only if you maintain your
12 independence and your willingness to speak
13 the truth as you see it.

14 CHAIR CAMPBELL: Thank you,
15 Mr. Brickman.

16 Our next speaker is Jack Beck,
17 followed by Debra Hertz, followed by Evelyn
18 Litwok.

19 MR. BECK: I want to thank the Board
20 for this opportunity to talk to you. My name
21 is Jack Beck. I am kind of wearing two hats
22 here. I am testifying on behalf of the New
23 York City Bar Association, the Corrections
24 and Community Re-Entry Committee and also the
25 New York City Affairs Committee. I also

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2 can't remove my long experience; for the last
3 33 years, I have been concerned about
4 corrections, I work with the Prisoners'
5 Rights Project of the Legal Aid Society for
6 23 years, and now I am Director of the Prison
7 Visiting Project at the Correctional
8 Association, which means I go into all the
9 prisons upstate and have been monitoring
10 conditions in the jails and the prisons for
11 that length of time.

12 We have submitted detailed testimony
13 from the standpoint as in your City Bar
14 Association that really outlines several of
15 the elements that I think everybody had been
16 consistently critical of the standards, and
17 they go to an overbroad standard. Clearly,
18 what your current rule suggests is much
19 broader than even what the Department is
20 asking for, and I think much broader than
21 what is actually needed.

22 Second, is the problems with no
23 programs inside which I'm going to spend some
24 more detail on, overbroad restrictions, and
25 no mechanisms to get out. But I want to step

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2 back one second, and that is, fundamentally,
3 what is wrong here, are two basic elements.
4 One is that what is needed to deal with
5 violence is a multi-faceted approach, and
6 this is a very limited approach. That
7 multi-faceted approach, and actually I would
8 reflect on what the Board did, I think, it
9 was eight or ten months ago, when had a
10 conference where you brought people in from
11 San Franciscos jail.

12 They talked nothing about an
13 enhanced division. They talked about what is
14 the interaction, responsible interaction
15 between staff and incarcerated population.
16 They talked about a change in culture, not
17 the repressive regime of discipline
18 isolation. And so, what I am saying is the
19 ESH by itself is a failed paradigm. That
20 paradigm has said you can discipline isolate
21 yourself out of violence, and it's proved
22 over and over that it does not work.

23 So what has to be done? Well, one
24 piece is that if you are going to try to have
25 some control on violence, you have to change

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2 the culture and others will be testifying
3 about that. But there is a smaller circle
4 within the larger circle of how you make
5 improvements, is that you might to have to
6 deal with very troubled individuals that but
7 you have to deal with it an effective way,
8 and that effective way is an intervention
9 that is actually going to work. Isolation
10 and separation, even if you let people out of
11 the cell, does not work. There are myriads
12 of studies that kind of demonstrate the
13 problems with that.

14 What is needed? What is needed is a
15 treatment plan that's individualized for the
16 person. Second, there has to be ways to have
17 that plan actually implemented, and there has
18 to be accountability on how that plan is
19 being done; and when that plan is successful,
20 that person has to be rewarded with the
21 resolution of that so that they can be
22 removed.

23 Second is, we have to really
24 diminish solitary confinement, and one thing
25 that has not been mentioned today, I don't

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2 think so far, is there is a proposal before
3 legislature right now for called the Halt
4 Solitary Confinement Act that has all the
5 basic elements of how you could restrict
6 that. I'd urge you to look at it, it's our
7 testimony and others, that will look into
8 those various components, but they are: Far
9 too many people are being put in; they are
10 being put in too long; there is not actually
11 treatment in dealing with them effectively;
12 and there has to be a way to get out, very
13 similar to what we are talking about on this
14 unit.

15 But Finally, I really want to go
16 into a process question, as your previous
17 witness just talked about. You cannot
18 promulgate broad policy rules without knowing
19 the details. My 33 years of doing this work
20 says nothing more than the only way you know
21 if something is going to work is to get
22 everything cleared beforehand. That means
23 you have to see the unit that their saying
24 they're going to put on; you have to see the
25 program space; you have to see the staffing.

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2 Their current proposal has no program staff
3 in it. There's no way you are going to have
4 any meaningful program unless there are
5 dollars and program staff associated with it.
6 You have to see is there a mechanism to
7 enforce it.

8 This testimony that I found most
9 disturbing was from the leader of the Mental
10 Health Unit, who talked about wanting and
11 intending to do progressive work, yet it
12 never came to fruition, and unfortunately,
13 this is when the Board existed, when outside
14 counsel existed. You have to have much
15 greater accountability that involves, I
16 believe, independent, separate monitoring
17 where you are really going to see that they
18 are implementing those rules.

19 This is not an impossible thing to
20 solve. There are other jails, like San
21 Francisco, that have solved these problems,
22 but it needs a comprehensive plan that really
23 addresses violence, and if you are only going
24 to look at solitary and restriction, you're
25 are not going to solve the problem.

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2 Thank you.

3 CHAIR CAMPBELL: Thank you,
4 Mr. Beck.

5 Our next speaker is Deborah Hertz,
6 followed by Evelyn Litwok, followed by Scott
7 Paltrowitz.

8 Ms. Hertz.

9 MS. HERTZ: All right, thank you.
10 I'm a volunteer attorney at the Urban Justice
11 Center, as well as a member of the Jails
12 Action Coalition. And I just want to say a
13 few brief things because everything really
14 has been said so eloquently and I don't want
15 to repeat what's been stated.

16 But, Dr. Cohen, you mentioned
17 training and how that's sort of lacking in
18 all of this, and I think that is important
19 because I recently was at Rikers, where I was
20 in an Hispanic area and a young man was
21 getting very agitated and started sort of
22 becoming almost aggressive. The immediate
23 response was to have about five or six
24 corrections officers surround the individual
25 in full riot gear -- well, not full, but riot

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2 gear with helmets and batons, and so I think
3 there a disconnect as to how we need to
4 deescalate the situations, right?

5 So, yes, there is violence going on.
6 Obviously, we want -- we are concerned with
7 safety, but we how are we going about this?
8 If we put punitive measures, which they are
9 punitive, regardless of what has been said;
10 if you isolate somebody for 17 hours a day
11 and you put them in shackles when they're --
12 there is no other word to describe it other
13 than punitive. And I think we need to move
14 away from this sort of punitive model. It
15 doesn't work and it's also counterproductive.

16 So what you're saying is, O.K.,
17 we're going to have programming, right, that
18 may be helps reduce violent behavior, maybe
19 anger management maybe CBT, DBT, that's
20 great, but then we are going to isolate
21 people for hours and hours and hours, which
22 could sort of unravel all of the work that
23 you have just done, so that doesn't really
24 make sense.

25 And as far as what you mentioned

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2 about the mental health check-in, as far as
3 being in solitary or in punitive segregation,
4 yes, in theory, someone is supposed to come
5 around daily, I believe twice daily, and --
6 or at least once and check in on how are you
7 doing, mental health-wise. But what actually
8 happens, which has been reported to me by
9 many people, is that somebody does come by
10 and whisper through the slot, "Mental
11 Health." Now, if you do not hear it, if you
12 are not, you know, aware enough in hearing
13 that "Mental Health" whisper, you're out of
14 luck because the person has already moved on.

15 So, yes, you may say, well but all
16 of these services -- they're going to have
17 law library, right? Well, law library is
18 going to come around, so that's O.K. But in
19 reality what's happening is maybe somebody
20 comes by and says, "Law Library." That is
21 not an effective way for somebody to be able
22 to prepare for his own defense.

23 And just in closing, I want to say
24 that the fact that we are considering
25 reducing the minimum standards at Rikers,

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2 they're minimum standards, they're bare bones
3 standards, I mean, it's amazing like we
4 didn't it could get any lower, and here we
5 are in 2014, New York City, right? We want
6 to be an example for other cities, and we are
7 thinking the two things the minimum
8 standards, and I'd just like to say again,
9 that is uncomfortable.

10 Thank you.

11 CHAIR CAMPBELL: Thank you,
12 Ms. Hertz.

13 Our next speaker is Evelyn Litwok,
14 followed by Scott Paltrowitz, followed by
15 Reverend Laura Markle Downton.

16 MS. LITWOK: Thanks for the
17 opportunity to speak.

18 CHAIR CAMPBELL: Thank you.

19 MS. LITWOK: My name is Evie Litwok.
20 I was released from federal prison this past
21 August, and prior to that I spent 42 days six
22 weeks in segregated housing, so I am speaking
23 from that perspective. I had prepared
24 remarks, but after listening to the
25 Commissioner and other people speak, I am way

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2 too emotional to read my remarks and hope
3 that I will be able to say what I am trying
4 to say. I am also a member of JAC and write
5 a blog for my own company called Ex-Offender
6 Nation.

7 The 42 days that I spent in a
8 segregated housing, solitary confinement
9 caused a tremendous amount of medical and
10 psychological problems to a point where
11 today, I still feel it and know it and have
12 it; and by the way at 63, I believe that from
13 anybody, putting anybody -- putting a senior
14 into solitary confinement puts them on the
15 endangered species list. And I am not
16 kidding about that. You are challenging
17 their physical ability.

18 You are being asked to
19 institutionalize a jail within a jail, and I
20 do not believe you have the right to do that.
21 This is -- I was convicted of a crime, I lost
22 my liberty; I was put in prison. To have a
23 group of people be allowed to operate a jail
24 within a jail is such a violation, I don't
25 even -- I'm speechless. You are also being

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2 asked to have it be a 250 bed facility. Mind
3 you, there will always be 250 people, 250
4 scalpel-wielding people intent on hurting
5 someone in a law library, because that's the
6 image you are being asked to believe. There
7 won't be 249, there won't be 149; it will be
8 filled because you're creating a layer of an
9 institution that will be permanent, and be
10 prepared to be accountable for that because
11 that's what you will be doing by putting this
12 unit in there.

13 If you believe that the level of
14 violence that those 250 people are the
15 scaffold-wielding things of fear-induced that
16 you've heard this morning, then you also
17 believe that Saddam Hussein has weapons of
18 mass destruction; it is a lie.

19 I am the face of someone who was a
20 security risk. I am the face of the violence
21 that you're being asked to believe is
22 necessary to create this unit. What did I
23 do? A woman, an inmate, went to a medical
24 officer in serious pain and she said, I need
25 to be treated. Instead of medically testing

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2 her, the officer said to her, "You're fat.
3 You need to drink water and walk on the
4 track." Her gallbladder burst and she died
5 two weeks later. I wrote a blog and sent it
6 out through an email. That was considered a
7 security risk. My email, was considered a
8 security risk, a violation of policy, and I
9 was told point blank I put the officer's life
10 at risk by writing the facts.

11 Now, unless everything is defined so
12 that there can be no question on every word
13 of this proposal, unless everything is
14 defined about what programming is being done,
15 you have my word that whatever is in the
16 rules is not followed. What I lived through
17 is no medical care, even though I asked for
18 it every day. No medical care. I suffered,
19 I don't not want to get into that part of it,
20 but suffice it to say, that whatever is in
21 the rules and regulations is not followed
22 now. So for something like this, where
23 you're asked to believe, don't worry, amen,
24 we got you, we're going to do programming,
25 amen we're are going to do this, it's coming.

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2 It's not coming, it's never coming. It will
3 never be there.

4 So before you put in to place more
5 torture, I will ask you to consider another
6 thing, and I use this as an example when I
7 speak. It's not only that you are thrown
8 into a locked, small horrific space where you
9 share a toilet with someone, but even to get
10 a roll of toilet paper is something you have
11 to beg for, and that's not going to be in the
12 rule books. The things that you need to
13 survive, literally, are not going to be in
14 that rule book, and it's humiliating to beg
15 for a roll of toilet paper.

16 And what I will tell you is you can
17 put a hundred million dollars into training
18 of officers, but if you have not measured for
19 character, for even the ability for them to
20 relate to us, then all the training in the
21 world will not matter. They have to be of a
22 certain nature, of a certain temperament to
23 deal with us.

24 Thank you for your time.

25 (Applause.)

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2 CHAIR CAMPBELL: Thank you.

3 Next speaker is Scott Paltrowitz,
4 followed by Reverend Laura Markle Downton,
5 followed by Gabrielle Horowitz-Prisco.

6 Mr. Paltrowitz.

7 MR. PALTROWITZ: Thank you. Thank
8 you for the opportunity to testify. Hi, my
9 name is Scott Paltrowitz. I work at the
10 Correctional Association of New York, and I
11 am also a part of a Campaign for Alternatives
12 to Isolated Confinement.

13 There are moments in history when
14 public servants have an opportunity to stand
15 up and end gross injustices that are taking
16 place. Right now is one of those
17 opportunities for the Board of Correction and
18 the Department of Corrections. The levels of
19 brutality that have been documented over and
20 over again at Rikers Island, and the
21 widespread and pervasive use of solitary
22 confinement that is known to be torture are
23 horrible practices that need to end.

24 And as you can see by today, who is
25 here, how many people are testifying, over a

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2 hundred people coming to testify, the moment
3 is ripe for radical reform to take place, for
4 fundamental reform to take place. The public
5 is behind progressive reform. The media is
6 behind progressive reform. Policymakers are
7 behind progressive reform and it's time for
8 that reform to happen.

9 Unfortunatly, reducing the rights
10 of incarcerated persons and adopting this ESH
11 unit is not the reform that's needed. When
12 people can be held indefinitely under broad
13 criteria and secret evidence in units where
14 there are no guaranteed programs and harshly
15 punitive conditions with respective services,
16 that is not the kind of reform that we need
17 going on.

18 What we need are two major things.
19 One is the end of the torture of solitary
20 confinement. The U.N. Special Repertoire on
21 Torture has said that no person should spend
22 more than 15 days in solitary confinement,
23 and that's not 15 days for one rule
24 infraction; that's spending time of 15 days.
25 Because as we know, but hasn't been mentioned

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2 yet today, people often receive additional
3 disciplinary infractions while they are in
4 solitary confinement. So even though there
5 is a restriction on 15 days for one rule
6 infraction or 30 days on one rule infraction,
7 that can very quickly become 60 days,
8 90 days, a year, two years.

9 As was mentioned by Jack Beck, the
10 Halt Solitary Confinement Act is model for
11 how we can end this torture of solitary
12 confinement, but also creates more humane and
13 effective alternatives, and I ask the Board
14 members to look carefully at that proposed
15 regulation that is before the New York State
16 Legislature, as well as the Jails Action
17 Coalition's minimum standards for how we can
18 end solitary beyond 15 days and create more
19 humane and effective alternatives.

20 The second thing that needs to be
21 done is to fundamentally address violence in
22 a comprehensive manner, and that must start
23 with ending the culture of brutality and
24 staff violence. The comprehensive approach
25 to violence, in our testimony, we outline a

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2 number of different measures. I'm just going
3 to focus on two things for right now.

4 The first is that there must be
5 heightened restrictions that could be in
6 minimum standard's by the Board about when
7 use of force can be used and what are the
8 consequences when you support the excessively
9 used or improperly used.

10 The second yields the violence both
11 by incarcerated persons and by staff, and
12 that is, I think, the bulk of what so many
13 people are saying here today, that the
14 response has to be actually additional
15 support programs, therapy, positive
16 interventions that empower incarcerated
17 persons to help address their issues and be
18 better suited.

19 I just want to read real quickly, I
20 know that Doctors Lee and Gilligan will be
21 testifying today, but I want to just read one
22 excerpt from one of their reports, "If we
23 want to facilitate the ability of violent
24 people to regain their humanity, or to gain
25 it for the first time, so that after their

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2 return to the community, they will behave
3 constructively rather than destructively, it
4 is essential that the setting in which they
5 are temporarily separated from the community,
6 meaning prisons or jails, be as dignified
7 humane and homelike as possible and that it
8 be a kind of microcosmic example of the kind
9 of health promoting and nonviolent community
10 that we would hope they could help create and
11 maintain after they return to the community."
12 That's the kind of unit we need to create,
13 not an ESH unit, but an environment that's as
14 homelike and supportive as possible.

15 So, I urge the Board to rise to this
16 challenge, to take on this moment, and to
17 protect the rights of incarcerated persons,
18 make our jails safer and more humane, and
19 help the people who are incarcerated thrive
20 and be better suited and prepared to turn
21 home.

22 Thank you.

23 CHAIR CAMPBELL: Thank you

24 Mr. Paltrowitz.

25 Our next speaker is Reverend Laura

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2 Markle Downton, followed by Gabrielle
3 Horowitz-Prisco and Eddie Litlock.

4 REV. MARKLE DOWNTON: Thank you. My
5 name is Reverend Laura Markle Downton, and I
6 am grateful to testify today on behalf of the
7 National Religious Campaign Against Torture.
8 We are a coalition of more than 300 religious
9 organizations that are committed to ending
10 torture in U.S. policy, practice and culture.
11 Since our formation in January 2006,
12 representatives from the Catholic,
13 Protestant, Orthodox Christian, Evangelical
14 Christian, Buddhists, Hindu, Quaker,
15 Unitarian, Jewish, Muslim and Sikh
16 communities have joined in NRCAT's efforts.
17 Our member organization include the
18 denominations and faith groups, national
19 religious organizations, regional religious
20 organizations and congregations.

21 Whether we refer to it as solitary
22 confinement, punitive segregation, The Box,
23 The Bing, being denied access to meaningful
24 human contact in U.S. prisons, jails, and
25 detention centers, as we have heard today,

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1
2 rises to the level of torture under
3 international human rights standards and
4 violates basic religious values of community
5 restored in justice, which calls us to
6 address the root causes of harm and healing,
7 and the sacredness of human potential. It is
8 amoral and it serves no rehabilitative
9 purpose.

10 As people of faith, we are deeply
11 disturbed that the Board of Correction has
12 abandoned its plan to issue rule-making to
13 reducing the solitary confinement in New York
14 City. We are gravely concerned about the New
15 York City Department of Correction's requests
16 for approval of the ESH, a highly restrictive
17 housing unit that is punitive and, as we have
18 heard today, is not therapeutic. This is a
19 move in the wrong direction. The faith-based
20 embers that belong to NRCAT are united and
21 opposing treatment that violates our values
22 as people of faith. We join with colleagues
23 across New York and nationwide in our work
24 together to bring an end to the torture of
25 long-term solitary confinement.

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2 Recognizing its consequences are
3 particularly devastating to young people and
4 individuals who enter prison and jail with
5 mental illness, but as we have discussed
6 today, recognizing that no one should be
7 subject to long-term solitary confinement
8 because it is a practice that itself causes
9 mental illness, literally changing the brain
10 chemistry of those who are subjected to it.

11 We are proud to be a member of the
12 Campaign for Alternatives to Isolated
13 Confinement and are strong supporters of the
14 Halt Solitary Confinement Bill that you've
15 have spoken about today and I, too, would
16 urge you to consider the approach and content
17 within that legislation. Highlighting the
18 level of concern to the interfaced community
19 about the use of isolated confinement and the
20 culture of violence within the New York City
21 Department of Corrections, in August of this
22 year, New York CAT and T'ruah, the rabbinic
23 call for human rights, co-sponsored an
24 interfaith delegation in which over 30 clergy
25 and faith leaders went to visit New York City

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2 Rikers Island jail complex.

3 We visited solitary confinement
4 units for men and women at Rikers and also
5 met with then recently appointment
6 Commissioner Ponte to discuss the urgent need
7 for treatment interventions, for therapeutic
8 alternatives and for concrete proposals that
9 will bring an end to the use of isolation at
10 the jail complex.

11 I want to also note that at the
12 December 11th meeting that just took place,
13 the New York State Council of Churches
14 adopted a statement against the practice of
15 solitary confinement as it's currently being
16 utilized in New York State and here in the
17 New York City system, because "they profess
18 that solitary confinement is a moral and
19 humane and again constitutes torture under
20 international human rights standards." With
21 the recent release of the Senate Intelligence
22 Committees report on the CIA torture, the
23 nations attention and conscience have been
24 riveted by the immorality of torture of those
25 held in prisons, secret or otherwise.

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2 At the same time, a culture of
3 violence and the use of torture persists in
4 our prisons, in our jails right here at home,
5 as we've been hearing about today.

6 The lack of a strong proposal to
7 advanced alternative practices curb the use
8 of solitary confinement is something that we
9 just cannot abide. It is time to acknowledge
10 that torture by any other name is still
11 torture and that it is occurring on our
12 watch.

13 As we respond with horror to the
14 details of the CIA torture report, we must
15 acknowledge the torture that is persistent
16 right here in our back yards. Allow me to
17 close with this.

18 CHAIR CAMPBELL: Very, very briefly.

19 REV. MARKLE DOWNTON: We are, as
20 human beings, called to and enabled to create
21 community, create possibility, and in this
22 fundamental denial of that space to grow and
23 that space to become, that space for an
24 alternative reality to come to be, this is a
25 fundamental moral problem --

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2 CHAIR CAMPBELL: Thank you.

3 REV. MARKLE DOWNTON: -- and we ask
4 for your leadership.

5 CHAIR CAMPBELL: Thank you.

6 Our next speaker is Gabrielle
7 Horowitz-Prisco, followed by Eddie Litlock,
8 followed by J.M. Kirby.

9 MS. HOROWITZ-PRISCO: Hello, my name
10 is Gabrielle Horowitz-Prisco. I direct the
11 Juvenile Justice Project of the Correctional
12 Association of New York. We share with you a
13 deep concern about the conditions of young
14 people on Rikers Island.

15 I will focus today on young people,
16 my colleagues have already addressed their
17 concerns also about adults. Although we are
18 relieved to learn the solitary confinement of
19 16- and 17-year-olds have ended and we support
20 the exclusion of 16 and 17-year-olds from the
21 ESHU, we are profoundly alarmed, profoundly,
22 at the conditions faced by young people
23 between the ages of 15 and 25 on Rikers,
24 including the continued use of solitary
25 confinement for 18 to 25-year-olds and for

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2 all people the proposed creation of the ESHU
3 and claims made this week by the
4 U.S. Attorney in court that recent reforms
5 are not reaching 18-year-olds and that more
6 has to be done, including a lawsuit by the
7 federal government against the city.

8 When I was 11, I was in London with
9 my parents and we went to the Medieval
10 Torture Museum, and I remember vividly,
11 vividly saying to my parents, "How did people
12 do this?" People who are accused of crimes,
13 how did we, how did people do this to each
14 other? One day, an 11-year-old girl is going
15 to be on the island that we now call Rikers,
16 maybe it will be a park by then, and she'll
17 be in a museum and she's going to turn to her
18 mother and say, "How did they let that
19 happen?"

20 And I remind you that no one, even
21 people convicted of crimes, deserves to be
22 tortured, but I have also been astounded in
23 this room, that it's barely been discussed,
24 if at all, that the people on Rikers are
25 merely accused, and again, no one, not even

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2 those convicted deserve those conditions.

3 And, I also ask you, what if your child or

4 someone you most loved, an adult or a young

5 person, an 18-year-old or a 20-year-old or a

6 60-year-old was accused of a crime and was

7 facing this Citys prosecution, what would

8 you want for them? And are you comfortable

9 with the rules before you? Do they preserve

10 what you would want for your own child, for

11 the person you love most? For yourself?

12 As you've heard before, we need to

13 do for each other what we would want done for

14 us, and we need to do what we would want done

15 for our own child. That is the standard.

16 What is before you is not acceptable for

17 anyones child, grown or young.

18 I want to focus on the six great

19 recommendations. The first is that you

20 should end the use of all forms of isolation,

21 regardless of their name, regardless of their

22 acronym, and regardless of the age of the

23 people impacted. You heard earlier about an

24 op-ed penned by the head of the Colorado

25 Department of Correction, Rick Raemisch, and

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2 what's profound is that he describes that in
3 less than 20 hours, his mental health was
4 impacted by being in solitary. The man
5 literally had the keys to the jail. It was
6 as if Commissioner Ponte locked himself in
7 solitary, he was the head of it, and he
8 talked about his own mental destabilization,
9 what he was experienced was in less than
10 20 hours. Make no mistake, shorter-time
11 isolation is still isolation.

12 The second recommendation is that
13 you should immediately evaluate the
14 implementation of any reforms that are
15 proposed to be used as alternatives. We are
16 extremely concerned about the -- we've have
17 heard a little bit about the transitional
18 repair unit, the TRU, in which it's my
19 understanding, which is not verified, but
20 that young people may be held for up to
21 20 hours a day, which is even more than in
22 the ESHU. Why are we holding young people
23 for 20 hours a day in the TRU? And that's
24 called repair? What are you reparative about
25 that when all evidence, and you've

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2 heard countless evidence today, shows that
3 that kind of isolation devastates young
4 peoples body, health, spirit, and mind in
5 irreparable ways?

6 The third is that you, the Board of
7 Correction, should immediately issue proposed
8 rules related to the needs of young people on
9 Rikers. We were so heartened when the
10 coalition that I helped coordinate met with
11 the adolescent committee. We were moved by
12 your work. A year you spent doing that work.
13 Where are those rules? We need them. We
14 need you. We need your recommendations.
15 Where have they gone?

16 The fourth is that all children who
17 are detained and incarcerated need to be
18 removed from Rikers Island -- it is no place
19 for children -- immediately removed. The
20 child welfare agency of this city would
21 remove a child from their parents if their
22 parent were doing anything close to what was
23 on Rikers Island. I used to be an attorney
24 for child abuse and neglect cases. Kids were
25 removed from their parents for far less than

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2 what is happening on Rikers Island, and yet,
3 this city is not removing the children using
4 its emergency removal power under the Child
5 Welfare Statute, as it should.

6 The fifth recommendation is that the
7 Department of Correction should move to
8 quickly effectuate separate housing for 18-
9 to 21-year-olds on Rikers. The Commissioner
10 applied to you all for a variance to do so
11 and in the letter that he submitted, he gave
12 fantastic reasons why this should be done.
13 Well, again, what has happened to that
14 variance. It was August 8, 2014. We would
15 really like to see both the Board and the
16 department move on that.

17 And finally -- I'm aware, briefly;
18 briefly, I promise -- that we should look at
19 alternatives to detention and incarceration
20 of children and all people in general.

21 Lastly --

22 CHAIR CAMPBELL: Thank you
23 Ms. Horowitz. I apologize. Lets move on to
24 other people.

25 MS. HOROWITZ-PRISCO: Of course.

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2 CHAIR CAMPBELL: Thank you very
3 much.

4

MS. HOROWITZ-PRISCO: You're welcome
5 so much.

6 CHAIR CAMPBELL: Eddie Litlock,
7 J.M. Kirby and Beth Powers.

8 Thank you.

9 MS. HOROWITZ-PRISCO: Thank you.

10 MR. ROBERTS: Good afternoon,
11 everybody. I'm here to testify on behalf of
12 Eddie Litlock. My name is Dakem Roberts. I
13 am the founder of The Negation, which is an
14 organization that ultimately seeks to repeal
15 the Thirteenth Amendment to the Constitution.
16 The Negation is also a member of JAC, CAKE
17 (phonetically), the Rikers Action Committee
18 and the Stop Mass Incarceration Movement. I
19 would like you to look at a couple of terms:
20 Enhance interrogation technique, enhance
21 security supervision housing unit. Both of
22 these terms bring to mind one thing, torture.
23 Torture has been condemned by not
24 only your own federal government in this
25 prison reform, but internationally as well,

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2 for the U.N. Convention Against Torture. In
3 light of this condemnations, the people
4 demand you not go forward with the
5 Departments plan to introduce torture
6 chambers in New York City. No, I do not
7 refer to medieval torture chambers, employing
8 a rack and screw, waterboarding, the death of
9 a thousand cuts. No, this is 21st Century
10 torture, and it is far more sinister.

11 These techniques deploy sensory
12 deprivation, isolation and psychological
13 torture. The so-called ESHU institutionalizes
14 and systematizes penalization. Do not be
15 misled. By lowering the minimum standards
16 for the treatment of prisoners, you supply
17 Commissioner Ponte with the tools to initiate
18 his program of torture, alienation and
19 psychological abuse, which he clearly appears
20 to be commissioned to disseminate throughout
21 the United States. We therefore petition to
22 the agency's rule-making authority and the
23 creation of Community Review Board predicated
24 on the Thesis of the Seven Hoods.

25 The Thesis of the Seven Hoods holds

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2 that 85 percent of all New York State
3 prisoners come from seven distinct
4 neighborhoods in New York City. The
5 Community Review Board shall act as a
6 counterbalance to the Department of
7 Correctional Services.

8 Sadly, I have a more personal stake
9 in opposing the ESHU. I am a wrongfully
10 convicted child prisoner. Fifty-three years
11 old, I don't look a child, but I am a
12 prisoner to this day, on parole for life.
13 Sixteen years, my imprisonment from the time
14 I was 16 years old until the time I was 40, I
15 was held in state custody throughout the
16 State of New York. As a child prisoner, I
17 fought for live and limb. The center of
18 the universe was the way I stood. I became
19 fearless. I became a child soldier. I'm the
20 person you are talking about. I had to
21 become fearless. I had to fight. I had to
22 defend myself against cell extractions, and
23 why? Because they wanted to take my books.
24 They weren't taking my books.

25 I trained under John Smith, big KO

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2 Smitty. I became a master cell fighter and I
3 repelled cell extractions so they couldn't
4 get me, couldn't come and take my books.

5 Thats right, I did that, and it wasn't all
6 the military arts; it was deception. I
7 trained under the masters and they had to
8 drag them out my cell, and they tried to
9 emasculate me, 15 deep, Abner Louima style,
10 but I fought.

11 You want to see torture? somebody
12 came up here and gave a bunch of pictures.

13 Commissioner Ponte granted immunity to the
14 man who committed this act of torture. This
15 was in a Maine prison where this man was
16 touted as a reformist. This is a per se
17 violation of international law, impunity to a
18 torturer. Your man, Ponte, he was known as
19 the Butcher of Walpole by the prisoner
20 population at Massachusetts. He ran a unit,
21 a special unit that engaged in torture.

22 Senator Backman, he distributed to
23 Amnesty International, a report. On one side
24 of the report, I pasted it; the other side of
25 the report, this is your ESHU. They are

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2 mirror reflections of the same shit.

3 CHAIR CAMPBELL: Thank you sir.

4 DR. COHEN: Thank you for sharing.

5 (Applause.)

6 MR. ROBERTS: I have one last thing
7 to say.

8 CHAIR CAMPBELL: Our next speaker is
9 J.M. Kirby.

10 MR. ROBERTS: On the day I return to
11 the island and disappear into one of their
12 ESHUs, I shall declare "Occupy Rikers!"

13 CHAIR CAMPBELL: Thank you.

14 MR. ROBERTS: And the people shall
15 gather in such numbers that rumble of their
16 feet shall make the earth tremble.

17 CHAIR CAMPBELL: The next speaker is
18 J.M. Kirby, Beth Powers, and Dr. Bandy Lee.

19 MS. KIRBY: Good morning. My name
20 is J.M. Kirby. I'm with the Youth Justice
21 Project of the International Womens Human
22 Rights Law Clinic at CUNY School Law Office.
23 The Youth Justice Project works to remind
24 government officials of their obligations to
25 respect the human rights of young people in

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2 relation of the justice system. We are a
3 resubmitting a report which is attached to
4 this testimony that we have recently shared
5 with the New York City Board of Correction
6 about international human rights standards
7 regarding youth and detention, as well as
8 standards on mental health in solitary
9 confinement.

10 Our testimony today briefly
11 reiterates some of these standards and also
12 highlights standards related to due process
13 and other rights in discipline. We believe
14 the ongoing use of solitary confinement, the
15 proposed new punitive ESHUs and the new
16 transitional repair solitary unit for youth
17 contravene efforts to bring the city into
18 compliance with international human rights
19 standards. While our focus today is
20 primarily on youth, we support the calls to
21 reject solitary confinement and the ESHUs,
22 and to expand human rights for all people in
23 the city jails.

24 It is positive that the Commissioner
25 and Mayor have voiced recognition for the

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2 dire need for the change in the jails, but we
3 believe that the proposed BOC rule is
4 inadequate and largely decrease adherence to
5 human rights standards. In general, these
6 standards call for governments to diminish
7 the use of detention and increased services
8 for youth. And where youth detention is
9 unavoidable, the governments should create
10 conditions of detention that help youth
11 flourish by serving their unique
12 developmental needs and respecting their
13 inherent dignity as human beings.

14 While sentencing policy is outside
15 of your purview, it's relevant to note that
16 the policy, New York Policy of treating some
17 youth as adults in the administration of
18 justice contravenes international human right
19 standards. The U.N. Human Rights Committee
20 has specifically recommended that states,
21 like New York, that automatically exclude 16-
22 and 17-year-olds from juvenile court
23 jurisdictions change their laws.
24 Additionally, juvenile justice policies and
25 programs should apply, at minimum, up to the

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2 age of 18, and international human rights
3 monitors encourage governments to apply them
4 to aged 18 up to at least 21.

5 To begin to meet human rights
6 standards, the BOC should its powers,
7 rule-making powers to ensure that conditions
8 of youth confinement reflect appropriate
9 juvenile detention practices.

10 I'm going to, in the interest of
11 time, skip some of the testimony that I have
12 emailed to you that addresses separation of
13 youth from adults, physical space and
14 visiting, education programming, except to
15 just emphasize I want to recommend the
16 treatment model advocated by Cardozo Law
17 School in its recent report to the New York
18 Board of Correction on alternative treatment
19 for youth at Rikers is very much in line with
20 international human rights standards
21 regarding programming for detained youth.

22 Just moving on to discipline and
23 solitary, the U.N. Human Rights Committee and
24 the U.N. Committee Against Torture have both
25 called for review by an independent body in

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2 disciplinary decisions of all people deprived
3 of liberty and there are other specific
4 standards related to due process for youth in
5 disciplinary decisions.

6 International Human Rights Laws are
7 absolutely clear that youth under 18 must not
8 be subject to solitary confinement, and U.N.
9 human rights bodies have specifically
10 criticized the United States for subjecting
11 juveniles to solitary. Given that
12 international human rights experts encourage
13 expansion of juvenile justice practices to
14 youth older than 18, this would suggest that
15 U.S. should take steps to prohibit solitary
16 for these other young people as well. The
17 provision of the proposed BOC rule that would
18 exclude 16- and 17-year-olds from solitary is
19 a positive step; however, it is our
20 understanding that new transitional repair
21 units for youth entail 20 hours of daily
22 lock-down; there's no written directive for
23 implementation that would describe the
24 standards for placement and the removal from
25 them, or how long they will be held in them,

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2 or for the services that youth in them might
3 receive.

4 Also, language similar to the most
5 dangerous category being used to justify the
6 ESHUs is apparently also being used for TRUs,
7 which may be further belie public promises
8 that youth will not be put to either solitary
9 or ESH-style units.

10 International human rights standards
11 call for the treatment of detained people to
12 emphasize not their inclusion of the
13 community, but their continuing part in it,
14 and to minimize the differences between
15 prison life and life at liberty. As part of
16 this approach, human rights standards call
17 for detained people of any security category
18 to have access to an adequately stocked
19 library, that they are encouraged to make
20 full use of.

21 Regarding discipline, due process
22 and respect for human rights, these are key
23 principles under international human rights
24 standards, and regarding restrictive security
25 measures, the European Court of Human Rights

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2 has found that routine strip-searches before
3 and after each visit as part of a regime of
4 strict control amounts inhuman or degrading
5 treatment, and so --

6 CHAIR CAMPBELL: Thank you.

7 MS. KIRBY: -- I encourage you to
8 visit all of these standards.

9 CHAIR CAMPBELL: Thank you.

10 Our next speaker is Beth Powers,
11 followed by Dr. Bandy Lee, followed by Steve
12 Ziedman.

13 MS. POWERS: Good afternoon, how're
14 you doing? All right.

15 My name is Beth Powers. I am the
16 Senior Juvenile Justice Policy Associate for
17 the Childrens Defense Fund New York. My
18 comments today are going to focus on the
19 potential impact on adolescents of the
20 proposed rule.

21 In the past year, CDF New York,
22 along with other advocates for
23 system-involved youth, have met with the
24 Adolescent Committee of the Board of
25 Correction to discuss the harms of isolated

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2 confinement and age-appropriate alternative
3 interventions for confined youth. We're
4 grateful for the Adolescent Committee's close
5 attention to these issues, and sincerely hope
6 that any rule promulgated at this time limits
7 the use of isolated confinement of any sort
8 for adolescents and young adults age 16 to
9 24.

10 To be completely clear, CDF New York
11 strongly supports the removal of all 16 and
12 17-year-olds from adult corrections. We
13 believe that these young people are better
14 served in the juvenile systems and to the
15 extent this may not be done immediately, we
16 urge the city to initiate a planning process
17 to expedite their removal of this age group
18 from adult jails, while also ensuring they
19 are not placed in isolated confinement during
20 their time in adult corrections.

21 CDF New York strongly supports the
22 elimination of the use of punitive
23 segregation for 16- and 17-year-old
24 adolescents. We applaud the Department of
25 Correction for taking this monumental step in

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2 the treatment of 16- and 17-year-olds and the
3 Board for acknowledging that punitive
4 segregation is a serious and unacceptable
5 threat to the physical and mental health of
6 inmates who are adolescents. We additionally
7 support the exclusion of 16- and 17-year-olds
8 for consideration in the development of the
9 ESHU. We understand that 16- and
10 17-year-olds have begun to be placed in two
11 new units as alternatives to punitive
12 segregation.

13 While we're greatly encouraged by
14 the prospects of the new alternatives to
15 punitive segregation, we strongly urge the
16 Board to monitor the units to ensure they are
17 implemented as intended, with focus on
18 programming and as an alternative to
19 segregation. As we heard earlier, and has
20 been brought to our attention, adolescents on
21 the adolescent transitional repair unit, may
22 be confined to their cells 20 hours a day.
23 We urge the Board to investigate this concern
24 and ensure that youth are not subjected to
25 any form of prolonged segregation.

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2 The isolation of adolescents under
3 any and all names should be ended in New York
4 City jails and age-appropriate positive
5 behavioral responses put in place to ensure
6 their safety. We've heard plenty about the
7 excessive harms of isolation. I am not going
8 to go into that. There's plenty in my
9 testimony.

10 I want to repeat what I heard about
11 the Department of Justice report and urge
12 immediate action in regard to 18-year-olds
13 that have been neglected and also reiterate
14 what has been said about the Department of
15 Correction looking into the special needs of
16 18- to 21-years-olds. At this time, they
17 cited age-appropriate services and
18 entitlement to educational services as a
19 benefit to housing these young people
20 together, were enthusiastic about that, but
21 also encouraged this age group be excluded
22 from punitive segregation or any form of
23 isolation.

24 While our recommendation is to ban
25 the use of restrictive housing for

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2 adolescents and young people, at a minimum,
3 we strongly urge limitations on the use of
4 such housing for this population. All young
5 people should have access to both educational
6 services, should not be limited to cell
7 study. Additionally, all young people should
8 have access to robust age-appropriate
9 services. Family engagement is a important
10 element of appropriate rehabilitative
11 services for adolescents. We are
12 particularly concerned with the limitations
13 in the ESHU would place on contact visits and
14 the impact of this policy on adolescents and
15 young adults. To the extent that young
16 people continue to be placed in isolation, at
17 a minimum, they should be allowed out-of-cell
18 to attend school, mental health services,
19 family visits, and other programming.

20 Additionally, limitations should be
21 placed on the number of consecutive days in
22 which people can be subject to any form of
23 isolated confinement.

24 In addition to our concerns with the
25 conditions older adolescents and young adults

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2 will be subjective, we are concerned by the
3 process in which individuals will be placed
4 in the unit. The broad language currently
5 proposed would allow somebody to placed in a
6 highly restrictive setting for being a safety
7 threat. We ask for the use of concrete
8 indicators that are not reliant on subjective
9 impression of DOC staff when making decisions
10 that would greatly impact the treatment of
11 young people.

12 The Board must ensure that
13 procedures in place to notify an inmate of
14 placement on the ESHU, including the option
15 of a hearing, are clearly and plainly
16 explained to adolescents and young adults and
17 urge the allowance of representation from an
18 attorney or non-ESHU employed advocate.
19 Given the vulnerability of young people,
20 particularly those with mental health
21 concerns, the DOC must ensure that these
22 young people are adequately and fairly
23 represented when there are such deep
24 consequences.

25 It's our hope that the DOC develop

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2 and the Board will enforce age-appropriate
3 interventions for the adolescent and young
4 adult population in New York City jails that
5 will allow for jail safety being maintained
6 and positive programming to be accessed by
7 all young people without the need to expose
8 youth to practices that are known to be
9 detrimental to their well-being.

10 CHAIR CAMPBELL: Thank you.

11 MS. POWERS: Thank you.

12 CHAIR CAMPBELL: Thank you very
13 much.

14 The next speaker is Dr. Bandy Lee,
15 followed by Steve Ziedman and Deborah Hertz.

16 Dr. Lee.

17 DR. LEE: Good afternoon.

18 CHAIR CAMPBELL: Good afternoon.

19 DR. LEE: My name is Bandy Lee. I
20 am a -- I am Bandy Lee, a correctional and
21 forensic psychiatrist at Yale University,
22 specialist in the study of violent behavior
23 and a one-time staff psychiatrist at Rikers
24 Island as well as around a dozen of the more
25 notorious prisons around the country.

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2 The proposed rule as cited in the
3 Department's directive, however, is being
4 aimed at decreasing the frequency acts by
5 inmates by means of locking them up, still
6 for most of the day during which time, they
7 are deprived of almost all contact with other
8 human beings, which is why it is solitary
9 confinement. Programs are the only means we
10 know of for reducing violence in the
11 correctional system, which in the absence of
12 programs generally increases individual
13 violent behavior while in jail and when out
14 in the community and drastically increases
15 violence if solitary confinement has been
16 used.

17 For mentally ill individuals,
18 treatment can also be effective. Solitary
19 confinement substantially reduces the chances
20 for access to both of these services. The
21 main mistake in this proposed new form of
22 solitary confinement, therefore, it attempts
23 to reduce violence by moving in the exact
24 opposite direction of what our understanding
25 is of human behavior and of the effects of

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2 lack of human contact on brain and behavioral
3 functioning. Decreased interaction with
4 other people, rather than moving in the
5 direction of decreasing violence, actually
6 increases violent behavior and the need for
7 more intensive measures. This is because
8 solitary confinement in which people are
9 deprived of human contact, interactions and
10 relationships actually increases the
11 frequency and severity of violence toward
12 others and toward the self. This has been
13 demonstrated in multiple studies, including a
14 recent one specifically done at Rikers
15 Island.

16 In the treatment of violent
17 individuals in the correctional system, it's
18 about time we recognize that the only
19 practices that have been shown to reduce
20 violence in prisons and jails are the exact
21 opposite; namely, maximal interactions and
22 chances of socialization. Neurological
23 evidence shows that social contact may be
24 even more important to survival than food.
25 Just as we can expect that healthy

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2 functioning only in the presence of adequate
3 nutrition, we cannot expect behavioral
4 improvement in the absence of habilitation
5 and socialization, often habilitation for the
6 first time for these individuals.

7 So what alternatives are there to
8 the use of force and solitary confinement as
9 a means of preventing or at least reducing
10 the frequency and severity of violence? My
11 colleague, Dr. Gilligan and I for ten years
12 have worked on a violence prevention program
13 through the jails of the City and County of
14 San Francisco.

15 Since the late 1990s we were engulfed
16 in intensive programming of education and
17 therapy. Inmates, all of whom were in jail
18 because of a violent crime, were in
19 well-designed, constructive group activities
20 12 hours a day, six days a week. The result
21 was that a percentage of inmates who engaged
22 in violence of any sort, including even
23 non-lethal assaults and suicide attempts
24 dropped, from roughly 60 percent per year, to
25 literally zero for up to a year at a time

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2 when we did the studies. Solitary
3 confinement proved to be completely
4 unnecessary. In fact, the program was done
5 in open dormitories, not even cellblocks, of
6 all violent men which quickly became the
7 safest dormitories in the entire jail system.
8 So, this can be done.

9 And even more importantly, the
10 frequency of committing a new violent crime
11 after leaving the jail was 83 percent lower
12 among the inmates who were in this program
13 compared to an otherwise identical control
14 group in the conventional jail. And since
15 then many similar programs around the country
16 and the world have replicated similar
17 programs. So --

18 CHAIR CAMPBELL: Thank you, Dr. Lee.

19 DR. LEE: Yes.

20 CHAIR CAMPBELL: Thank you very
21 much.

22 The next speaker is Steve Zeidman,
23 followed by Debra Hertz, followed by Alberto
24 Rios.

25 MR. ZEIDMAN: Good afternoon to the

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2 stalwarts. My name is Steve Zeidman. I
3 teach at CUNY Law School. I also serve on
4 the Board of Directors of Prisoner Legal
5 Services. Look, there are so many issues to
6 discuss; you've heard them all, so many of
7 them are raw, personal, emotional.

8 I just want to begin by seconding so
9 many of the comments of the advocates from
10 JAC, from the Legal Aid Society and
11 Correctional Association. But what I want to
12 talk to you about for a couple of minutes is
13 about due process. Just one specific very
14 legal issue. The Fifth and Fourteenth
15 Amendments which prohibit government from
16 taking a person's life , liberty or property
17 without due process of law, and really what
18 it boils down to is fundamental fairness,
19 fairness and decency. And we should be very
20 clear, this is a moment in time not just
21 about solitary confinement, but due process
22 is very much in the national discourse these
23 days. We hear it come up in the context of
24 the homicides of Michael Brown and Eric
25 Garner and the ways these people are

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2 recognizing that due process means different
3 things depending on whose due process it is.

4 Due process is also at the center of
5 recent historic decisions in other contexts,
6 right here in New York City, that I believe
7 the Board should take heed of. For example,
8 providing lawyers for poor people in
9 immigration proceedings. Let's be clear,
10 there's no constitutional right to have an
11 attorney but there was a felt need, there was
12 a crisis that people responded to.

13 Similarly, there's now a movement
14 afoot to provide counsel for poor people in
15 housing court. Again, is there a
16 constitutional right to counsel? No. Why
17 are people turning their attention there?
18 Because there's a crisis; there's a need.

19 So, too, with Rikers Island.
20 Whether we refer to solitary confinement,
21 punitive segregation, extreme isolation,
22 enhanced supervision, there is a need;
23 there's a crisis.

24 My colleagues and I, Donnelly and
25 Nicole Smith, at CUNY Law School several

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1
2 months ago had proposed a pilot project
3 whereby law students, and I know this was
4 alluded to earlier, would provide
5 representation for people at Rikers Island
6 facing disciplinary charges, and it was our
7 hope that eventually, when people saw the
8 benefits to such a program, that it would
9 expand into an organization that would
10 provide representation on a regular basis.
11 And we did some homework, we looked backwards
12 to see -- and all over the country, frankly,
13 to see what kind of representation is
14 provided to prisoners. And, in fact, while
15 some states do provide representation, it's
16 usually after the fact; after there has been
17 a finding and someone is appealing an initial
18 determination.

19 And we believe that if people step
20 back and think about it and in particular the
21 Department gets over a knee-jerk reaction
22 that we don't want lawyers involved, they
23 would see that this benefits not just the
24 incarcerated but the Department of
25 Corrections and all concerned about fairness

1 Proceedings

2 and due process.

3 Start with the basic fact that I
4 think we would all agree; one of the primary
5 sources of inmate frustration is the lack of
6 meaningful ways to voice concerns or
7 complaints or, germane to the hearing this
8 morning, to adequately and knowledgeably
9 defend against disciplinary charges. We know
10 in Wolfe versus McDonald, the Supreme Court
11 set the floor regarding due process but the
12 Board has an opportunity now to provide
13 greater due process, to do something
14 innovative, to do something that is real
15 reform.

16 I'll give you two specific reasons
17 why. Much has been written about the concept
18 of procedural justice. This general notion
19 is that if, for example, a criminal defendant
20 was treated fairly during the adjudication of
21 his case he is less likely to harbor
22 resentment, and according to some
23 researchers, even less likely to re-offend.
24 It doesn't take much by way of imagination to
25 think about what goes on in someone's mind in

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2 punitive segregation, all the while
3 festering, thinking about their hearing and
4 what they believed to be a lack of an
5 opportunity to be heard.

6 I should also point out that the
7 presence of advocates would obviously serve
8 to elevate the substantive due process, the
9 fairness of these hearings. As it stands
10 presently, the accused may or may not raise
11 the appropriate objections, cite to the
12 correct standards, or raise valid and timely
13 defenses. I mean, consider this, 95 percent
14 of disciplinary charges are sustained. That
15 is hardly surprising given the fact that
16 there is no legal representation, no right to
17 cross-examine, and the judges are Department
18 of Corrections employees. I mean 95 percent
19 so far surpasses the conviction rates in the
20 criminal court, that really the only
21 conclusion that any objective person can make
22 with that number is that hearings pay lip
23 service to due process; that the result, as
24 everyone knows, is a forgone conclusion, and
25 by allowing for the role of counsel, whether

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2 for punitive segregation or for the enhanced
3 supervision housing units, the Board goes a
4 long way to correcting, I think, that clear
5 problem.

6 If I can very briefly, in a -- well,
7 I think you've heard most of these. I'll
8 just point them out again just to reiterate:

9 What are some of the due process
10 problems with enhanced supervision housing
11 units? Again, there's no right to counsel;
12 again, no right to cross-examine witness;
13 again the judge is not an independent arbiter
14 But one thing, just to highlight the lack of
15 due process, when you consider the
16 classifications or categories that subjects
17 someone to ESH, to say they are vastly
18 overbroad, all you can say is that it's an
19 incredible understatement. Whether the
20 individual is a participant in a gang or
21 "substantially similar group," one can only
22 wonder what exactly that might be. So again,
23 to say it's overbroad is an understatement.

24 Whether called punitive segregation
25 or enhanced supervision housing, it is to the

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2 person affected a deprivation of liberty, and
3 the Board of Corrections should mandate that
4 it cannot, will not occur unless the accused
5 was provided with counsel and a semblance of
6 real due process.

7 FEMALE SPEAKER: Thank you,
8 Mr. Zeidman.

9 MR. ZEIDMAN: Thank you.

10 FEMALE SPEAKER: Next, we'll hear
11 from Debra Hertz.

12 O.K., Mr. Alberto Rios.

13 Stephen Risi? Stephen Risi?

14 MR. RISI: Good afternoon, Members
15 of the Board. My name is Stephen Risi. I
16 was detained in the custody. I was detained;
17 I was never convicted of what I was detained
18 for. The charges were dismissed. But I was
19 in the custody of the New York City
20 Department of Correction on Rikers Island
21 from November 2008 until April 2012.

22 I'm here to testify because I think
23 that the restrictions and the lock-ins are
24 very similar to punitive segregation. This
25 was my first and only time in jail. While I

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2 was in Rikers, I spent some time to in a
3 mental observation house in AMKC and a
4 majority of the time I was in The Bing at
5 GRVC and MHAUII. I spent about two to
6 two-and-half years in The Bing. During the
7 later part of my time I was also placed in
8 (inaudible). You'e familiar with enhanced
9 restraint?

10 When I was in jail, I finally
11 received some mental health treatment. When
12 I was placed in the mental health observation
13 house, I used to go for group therapy and
14 anger management and got regular medication,
15 and it was really helpful. But after
16 spending much time in The Bing, I felt like
17 the mental health symptoms got worse. I felt
18 more aggressive, more angry, and sometimes
19 suicidal, which wasn't like me. It took me a
20 very long time to adjust. And I receive
21 mental health treatment to this day for my
22 time at Rikers Island. It was very
23 traumatic.

24 While I was in The Bing, I was
25 housed in the ITU. Are you familiar with

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2 ITU? That was very helpful for me, very
3 helpful. I got to see a clinician and did
4 lock-out and attend group therapy. Most days
5 I was allowed out the cell for a few hours,
6 including recreation. But I found being
7 locked in my cell for such a long time, like
8 the inmates have to lock in in ESH was very
9 traumatic.

10 Another time I was sent to the
11 MHAUII Bing for the first two days and I was
12 placed on suicide watch even though I was not
13 suicidal. That was the protocol at the time
14 for admitted in MHAUII, and I was not at the
15 ITU at the time, and it was even worse, and
16 the reason for me being on suicide watch is
17 because the medical records takes three days
18 to transfer from my original facility to The
19 Bing. So I wasn't given any medication for a
20 few days because of that, and on suicide
21 watch, I had to be in the cell for three
22 days, three days, having only a (inaudible),
23 having no reading materials, sheets or phone
24 calls, and I felt isolated and disoriented
25 because I was not getting any medication and

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2 because of the total isolation.

3 When I was in the MHAUII, there were
4 no congregant religious services, which I
5 believe you are entitled to in the
6 correctional law, New York State Correction
7 Law. And I was barely afforded recreation
8 because the staff never announced it at a
9 specific time and plus you don't know -- you
10 can't keep track of time when you're in The
11 Bing. You know, and there was also limited,
12 limited cells outside, like cages. So they
13 couldn't afford everybody recreation. Even
14 though it looks good on paper, they couldn't
15 afford everybody recreation.

16 And also, most of the time I
17 remained confined to my cell for 24 hours a
18 day for weeks at a time, except for when I
19 had to go and see my counselor. The mental
20 health care was superficial. I did not get
21 along with the psychiatrist in the MHAUII
22 Bing and felt that my research -- and felt
23 that my mental treatment wasn't as good
24 because of it.

25 I tried to keep busy with legal

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2 research and writing letters to my family.
3 The Bing drove me nuts. I began talking to
4 myself because of isolation, lost time and
5 sense and reality. There was nothing to look
6 forward to because there were no positive
7 incentives to me.

8 I oppose the BSH because the
9 proposed rule is too vague and discretionary
10 to DOC staff, so they could basically put
11 anybody they want that the feel needs to be
12 ESA -- ESH.

13 Also, the long lock-down is almost
14 the same as The Bing, like my time in ITU.
15 The total booth restrictions will hurt family
16 relationships. In jail nobody ever touches
17 you and inmates look forward to contact
18 visits so they could see their loved ones and
19 get positive social interactions, like hugs
20 and handshakes. It makes people feel normal
21 for a little while when they see their family
22 because they could be themselves -- no, I'm
23 sorry. It makes people feel normal for a
24 little while they see their family because
25 they could be themselves and not just inmates

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2 at Rikers.

3 Can I say one more thing? I'll be
4 brief.

5 DR. COHEN: Yes.

6 MR. RISI: There's no positive
7 incentive for full contact visits after
8 they're taken away and the behavior is not
9 related to the visit. Most inmates will
10 behave to see their family.

11 Also with packages, I disagree with
12 the pre-approved vendors list because from
13 that, when my grandma used to come visit me
14 she had no Internet, she didn't know how to
15 use the Internet, and she's poor. You know,
16 I don't know how the prices are going to be
17 on the vendors list.

18 Also, DOC is allowed to read all
19 mail it will also hurt family relationships
20 because it's not going to be -- people will
21 be more reluctant to open communication
22 between them and their family members and
23 their loved ones.

24 And that's it. Thank you for giving
25 me time to testify before this Board.

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2 CHAIR CAMPBELL: Thank you.

3 (Applause.)

4 CHAIR CAMPBELL: The next speakers
5 are Donna Hylton, Claire Deroche, and Leah
6 Horowitz or Vichal Kumar.

7 MS. HYLTON: Good afternoon. It's
8 Donna Hylton. I want to mirror some of the
9 conversations that you heard today. I am a
10 community health advocate for the Coming Home
11 Program at St. Luke's Morningside Hospital,
12 and I work for a program that works with
13 people transitioning out of prison and jails
14 and have been directly affected by the
15 criminal justice system. And so, I speak to
16 my story.

17 I also have been directly affected
18 within the criminal justice system. I spent
19 27 years and I was on duty at Rikers Island.
20 I spent the majority of my time, obviously,
21 in Bedford Hills Correctional facility.

22 Throughout that time, I served some
23 years within solitary confinement and mostly
24 half of my time -- over half of my time on
25 Rikers Island was within the solitary

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2 confinement unit. First, I was placed into
3 it as protective custody. What
4 differentiated protective custody from
5 segregated housing unit or ESH, as it is
6 called now or will be called, or a punitive
7 segregated unit was that the status that I
8 was labeled as depending on whatever
9 happened, whatever week, whatever day, and I
10 am being very serious when I say this. I
11 went in under protective custody due to the
12 nature of my crime and the high profile of my
13 crime.

14 I went to court one day, I came
15 back, and it was amazing to me that 30 years
16 later the scaffolding thing is still an issue
17 because I came back and supposedly there was
18 a straight razor type scalpel in my cell that
19 was found and from that I received an
20 infraction that warranted me to have -- you
21 know, and I was told taken for would be a
22 problem. O.K. So, I took the consequence of
23 the infraction and was placed in a cell
24 immediately across from where I was in the
25 same unit 'cause there is no differentiation

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2 of units, just a name, the labeling.

3 And so with that I watched what was
4 going on around me and I said something is
5 wrong here. What is wrong? Something is
6 wrong. I don't like it I don't like what it
7 stands for. Something is wrong. And as I
8 went throughout the system, I realized that
9 they're all the same thing, and what was
10 missing was that I was placed into a system,
11 through my own accord, but I was still placed
12 into a system that was to rehabilitate a
13 change to help enhance myself to grow to
14 become a productive member of society and it
15 was doing neither of any of that -- nothing
16 like that. So, I said what can I do as an
17 individual, as a human, as a human being, as
18 a person to correct that.

19 So what I did was to help create
20 programs while I was inside, while I was
21 incarcerated to become the person that I knew
22 I was and not the person that society or the
23 system said that I was.

24 And so through that, we created the
25 college program, a family violence program

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2 that dealt with the abuse of people,
3 especially women, but definitely, for men for
4 going through throughout their lives,
5 especially people of color have been
6 subjected to and so also have become more
7 subjected to it when they go through the
8 system, and I said this has got to stop. And
9 so we created a health program. The AIDS
10 program that dealt with the virus. We know
11 that the virus was a problem within the
12 system, and it continues to be and so many
13 other issues. And so I became a co-creator
14 of those programs and continue to do that to
15 this day, because that's what's wrong.

16 We look to penalize and criminalize
17 behavior instead of trying to change the
18 behavior and say what's wrong, what can we as
19 a society as a human race do to change and to
20 enhance, to make it better instead of to
21 penalize and to demoralize and to just
22 criminalize behavior and people. We can
23 change this.

24 The very fact that we are having a
25 hearing of this magnitude today in almost

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2 2015, and I'm going back all the way to 1985,
3 is saying something. We have not progressed
4 in any way. This is the only country that
5 wants to address behavior by penalizing it
6 instead of looking at the problem. We
7 band-aid it. By band-aid, we put things that
8 cause more problems. It doesn't address it.
9 It doesn't fix it. It doesn't bring up any
10 kind of solutions. And so, people like us
11 who have been directly affected by it are
12 telling you it doesn't work. That young man
13 that was just...he was a product of all that
14 abuse. I was subjected to abuse while I was
15 in solitary confinement and when I wasn't,
16 but I didn't allow it to tear me down. I
17 said something had to change. And so, I
18 decided to create programs to change it and I
19 was allowed to do that.

20 But then, everyone has that ability
21 or had that help. That's why I came to say,
22 to speak as I am today because if we are
23 having these hearings that means something,
24 we know something is wrong. We don't have to
25 really figure out what to do to change it.

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2 We've been on this road for a long time.

3 We need to stop criminalizing
4 behavior and really change our own. That is
5 how it will change.

6 CHAIR CAMPBELL: Thank you,
7 Ms. Hylton.

8 MS. HYLTON: Thank you.

9 (Applause.)

10 CHAIR CAMPBELL: Claire Deroche,
11 followed by Leah Horowitz or Vichal Kumar and
12 then Dr. Drucker.

13 Dr. Drucker?

14 MS. HOROWITZ: I'm sorry. I'm
15 actually here, Leah Horowitz.

16 CHAIR CAMPBELL: Oh, good. Thank
17 you.

18 MS. HOROWITZ: I wasn't sure.

19 Good Afternoon. I am Leah Horowitz.
20 I am a criminal defense attorney at the Bronx
21 Defenders. I am also a member of JAC. I
22 will be brief and stand in support of so many
23 of the other advocates have spoken. The main
24 reason why I am here is because I have had so
25 many clients who have been in solitary

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2 confinement, and I have literally watched
3 them unravel before my eyes from visit to
4 visit, from week to week. I have seen my
5 clients be desperate for an out, begging for
6 relief from the torture of confinement and
7 the wide stream and deepening effects that it
8 has on someone's psyche and their experience.

9 There are incredibly troubling part
10 of EHS. One of them, as I see it is criteria
11 number 5, which I believe is incredibly
12 overbroad. My experience has shown me that
13 allowing that sort of overbroad criteria will
14 allow for corrections officers to label
15 people, and people will fall out of favor
16 with a correction officer and it will subject
17 them to placed in this incredibly restrictive
18 unit without any basis or cause.

19 And what is connected to that is the
20 lack of due process. The almost complete
21 lack of due process that we see in this
22 hearing as related to solitary confinement, I
23 believe would all be problematic in this.
24 Without any impartial judge or independent
25 advocates, I don't believe that people who go

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2 through the process have any fair shot in
3 terms of contesting these charges that are
4 against them and are often facing such
5 traumatic and torturous sanctions that there
6 has to be a better process in place.

7 Just to note also, in terms of the
8 contact visits, I have had a client who as
9 desperate as they are in solitary
10 confinement, one of their main concerns is
11 their inability to have contact visits,
12 particularly with their children, and how
13 particularly important it is for a young
14 child to be able to have that interaction
15 with their parent, and the lack of that has
16 such a dramatic effect on the relationship.

17 I also note that I have had so many
18 clients who are in solitary confinement who
19 have absolutely zero access to any sort of
20 stimulation, any sort of books or anything of
21 that nature, which is why I think it is
22 especially important to not limit or restrict
23 further ability for packages and reading
24 materials and that sort of thing to come to
25 people.

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2 And I have so many different
3 concerns with ESH, but those are just a
4 couple of them. I would ask the Board to
5 reject this as just another form of solitary
6 confinement.

7 CHAIR CAMPBELL: Bryanne?

8 JUDGE HAMILL: Thank you so much.

9 As we know, 85 percent of the people
10 out at Rikers are pre-trial detainees so
11 they're awaiting trial.

12 MS. HOROWITZ: Yes.

13 JUDGE HAMILL: My question to you as
14 a criminal defense attorney who represents
15 these inmates who are in pre-trial detention
16 and then transferred to punitive segregation,
17 have you seen that their stay in punitive
18 segregation has affected the inmates ability
19 to aid you in their defense and to assert
20 their right to a trial and presumption of
21 innocence?

22 MS. HOROWITZ: Most certainly. I
23 would say, to begin with, I often I have
24 clients who become, when they are put in
25 solitary confinement, become more concerned

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2 with their placement there than their
3 criminal case and what their potentially
4 facing in terms of that. So it becomes a
5 situation of desperation.

6 I've had clients who have become
7 much more interested in the plea bargains
8 that might send them upstate, that could
9 potentially get them out of solitary at
10 Rikers; everything sort of changes. And I
11 think that that level of desperation that
12 exists completely changes also my clients
13 ability to think clearly and plan accordingly
14 and to work with me in a reasonable and
15 logical way because they're in such an awful
16 desperate situation. And I think it affects
17 them in so many ways.

18 And I would also note that given
19 that the protections, the due process
20 protections that are in place in criminal
21 court are obviously incredibly significant
22 and to not have that when someone is facing
23 something as dramatic as solitary
24 confinement, as I said, which is often more
25 significant to my clients, I think that is

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2 incredibly problematic and should cause us
3 pause.

4 CHAIR CAMPBELL: Thank you
5 Ms. Horowitz.

6 MS. HOROWITZ: Thank you.

7 CHAIR CAMPBELL: Now we will hear
8 from Dr. Drucker, followed by Barry Campbell
9 and Elizabeth Mayers.

10 Dr. Drucker.

11 DR. DRUCKER: Thank you to the Board
12 for the opportunity to speak to the hearing.
13 As I said before, you are in a very important
14 position in this moment in your lives on the
15 issue, and I want to speak to that a bit as a
16 public health professional psychologist.

17 I'm a clinical psychologist licensed
18 in New York. I worked at Montefiore Einstein
19 Hospital for forty years, part of which
20 involved Rikers Island as a program.
21 Dr. Cohen was medical director when I was there,
22 and since then, I'm at John Jay College of
23 Criminal Justice. I am the head of the
24 program called For Punishment to Public
25 Health, which is an attempt to bridge many of

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2 these issues in the wider conception and
3 practice of both public health and criminal
4 justice. We look at issues like violence
5 there and (inaudible).

6 What's going on here is a discussion
7 of an environment that's being created, that
8 has been created, has evolved at Rikers
9 Island over the years that involves both of
10 these things in a way they are trying to put
11 a cap on, but without questioning the
12 commitment to punishment, which is the
13 underlying basis of everything that goes on
14 in a criminal justice system that has
15 abdicated responsibilities around the
16 recovery and rehabilitation, it gets very
17 hard to do that.

18 The violence or the worsening
19 culture of violence, which is the term that's
20 been used in the lawsuit that's being brought
21 by the U.S. Attorney, can be seen in the rise
22 of violence against correctional officers,
23 against inmates; this is very much a shared
24 environment that both corrections officers
25 and the inmates have to live with. And we

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2 know from data, national data, about rates of
3 mental illness and suicide and child problems
4 among correctional officers that they are
5 very much a party to the same environment and
6 the damages those environments cause.

7 So how do we address this culture of
8 violence? Well in a public health model,
9 it's about prevention, not about treatment,
10 and the primary issue of prevention is to
11 make this thing smaller, get it back to the
12 size that other countries in the world have.
13 We have 700 people per hundred thousand in
14 prison in this country compared to the
15 European Union countries which have only
16 about 100 per hundred thousand, and even down
17 to as low as 50. Even though crime has
18 dropped dramatically in this country in the
19 last ten years the prison system maintains
20 itself with more than two million people
21 behind bars, another six or seven million who
22 are hovering in the background, going in and
23 out of prison over their lifetimes; a
24 lifetime effect.

25 And the way to address that is

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2 especially at the young end, begin to raise
3 the age of criminal responsibility. New York
4 is only one or two states, the other being
5 North Carolina, that puts people in prison at
6 the age 16 and 17, and so much of what we are
7 hearing today is about that adolescent
8 population. But the kinds of atrocities that
9 arise in this, the use of torture and the
10 unfortunate use of that word enhanced, which
11 in the normal world means better, but in
12 interrogation techniques means less, and I
13 think in this situation also means less
14 because it means more of the same
15 philosophies that have been shown to fail.

16 Robert Lipton, a great hero of mine
17 who I have studied under, had a piece in The
18 Times the other day about the Nazi doctors
19 and torture, and he makes a very important
20 point, which has nothing to do with Naziism
21 but does have to do with the responsibilities
22 of health and medical professionals. He
23 says, "The trauma of what I call the atrocity
24 producing situations, where policies dictated
25 from above create a psychological environment

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2 in which ordinary people are capable of
3 committing atrocities." And we all to be
4 very, very mindful of that, as we go along
5 with these institutions, as we have for the
6 last 35 years, which have turned into an
7 international disgrace. Everyone in the
8 world understands what's going on in the
9 United States that except the people in the
10 United States and its a source of shame for
11 a country I'm otherwise generally proud of.
12 So let me stop there.

13 Thank you.

14 (Applause.)

15 CHAIR CAMPBELL: The next speaker is
16 Barry Campbell followed by Elizabeth Mayers
17 and then Riley Doyle Evans.

18 Mr. Campbell.

19 MR. CAMPBELL: Good afternoon. My
20 name is Barry Campbell and I am here
21 representing the Fortune Society and the JAC
22 Coalition. I've been associated with the
23 Fortune Society since 1991. I'm also
24 formerly incarcerated. My last vacation on
25 Rikers Island result was in 2003 so I am not

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2 that far removed.

3 I will say this. I am not going to
4 read from my testimony today because
5 everybody has heard all the great points and
6 all of the issues that need to be brought to
7 the table. I will say this much: The people
8 that are being held on Rikers Island, whether
9 they are sentenced or whether they are
10 detained, they are human beings, and that is
11 the first and foremost thing that we need to
12 understand and recognize, is that they're are
13 human beings. And if you take a look at me
14 today, I am not the picture of somebody who
15 should be sitting on Rikers Island. Most
16 people think that when they see me.

17 I do a lot of work with the 16 to
18 26-year-olds after Rikers Island. The threat
19 of danger, the threat of violence is real;
20 make no mistake about it, and I am not trying
21 to down-play that. But, there is a certain
22 level of passion that you bring to the work
23 that I do that cuts through all of that.
24 There is an identification process that cuts
25 through all of that. There is a role

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2 modeling process that cuts through all of
3 that. For them to look at me and know that I
4 am somebody from the million-dollar blocks
5 that fuels the state prison system, to know
6 that I am somebody that committed multiple
7 crimes, I'm a persistent predicate; for them
8 to look at me and know today that I am a tax
9 paying citizen who walks the streets of New
10 York without looking over my shoulder and I
11 have no fear of the police, none whatsoever,
12 because I know that what I am doing is
13 absolutely correct, and I know what the other
14 side of the track looks like.

15 I think the most important thing
16 that people need to remember when they do
17 these enhanced supervision units and
18 segregation is that you are treating a human
19 being like an animal. Ninety percent of us
20 are coming home. When I come home, I am
21 going to come home and behave like an animal
22 because that is all I have known. Then you
23 look at me and you want to condemn me for
24 that behavior. I am not saying it is wrong,
25 but what I am saying is the way you are

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2 treating people is incorrect. You cannot
3 treat a human being like that and expect
4 positive results. It just can't be done. It
5 just can't be done.

6 The only positive results that I got
7 while I was incarcerated were from other
8 inmates. I picked and chose who I wanted to
9 listen to. I knew what garbage was and I
10 knew what bad behavior was. And my time on
11 Rikers Island was spent in bad behavior, and
12 I understand there has to be consequences for
13 your behavior, but this city, this state is
14 ripe right now to sit down at a collective
15 bargaining table with the people that you're
16 talking about, people of color, such as
17 myself, the policymakers, such as yourself,
18 the correction officers, and sit down at the
19 table and figure out a way to handle this
20 problem. 'Cause if there is, one thing that
21 we all know is that society and humanity is
22 better served when we all have a healthy
23 dialogue about something. Not one person
24 saying I have the power and this is the way
25 it is going to be, but a healthy dialogue

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2 about something and that there is compromise.
3 We will come up with a great solution, but
4 that great solution is not going to come from
5 one side of the fence or the other. It has
6 to be done collectively.

7 Thank you for your time.

8 (Applause.)

9 CHAIR CAMPBELL: Thank you,
10 Mr. Campbell.

11 Our next speaker is Ms. Mayers,
12 followed by Riley Doyle Evans and then Nick
13 Malinowski. I think I probably mispronounced
14 it.

15 MS. MAYERS: I guess its good
16 afternoon.

17 CHAIR CAMPBELL: Good afternoon.
18 Absolutely. Good afternoon.

19 MS. MAYERS: My name is Elizabeth
20 Mayers, and I am a member of the Jails Action
21 Coalition.

22 I guess I should do this.

23 The Department of Correction insists
24 that the enhanced supervision housing is
25 non-punitive and the euphemism in its title,

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2 "enhanced," would imply that it is a good
3 thing. I am surprised that the Department
4 would think of using the term "enhanced" at
5 this moment in time as a means of offering
6 safety to incarcerated people and corrections
7 officers. I would submit that it is
8 misguided in many ways and once again leaves
9 unaddressed the use of solitary confinement
10 in the Rikers jails.

11 I have been a visitor to Rikers for
12 40 years since the time when my friend's son,
13 who is mentally ill, was incarcerated at
14 17 years old. He is still there. During
15 that time, he has spent months and months in
16 solitary confinement. I was pleased that for
17 15 months the Board of Correction had been
18 reviewing this issue of solitary,
19 euphemistically known as punitive
20 segregation, with a view to making
21 recommendations for new, more humane rules
22 for related to this practice. However, all
23 of this work went by the wayside when the
24 Department of Correction introduced the
25 enhanced supervision housing units just a

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2 few -- several weeks ago, maybe two months.

3 There are numerous punitive aspects
4 of this new enhancement, which others have
5 and will describe. My experience is as a
6 visitor and I will only speak about the visit
7 restrictions.

8 In his October 22, the second letter
9 to Mr. Gordon Campbell, Commissioner Ponte
10 wrote that "persons incarcerated in the
11 enhanced housing unit will be restricted to
12 non-contact visits." Fortunately, for me, if
13 this young man is placed in the new housing
14 unit I will be permitted to visit him since I
15 do not have a relevant criminal history.
16 However, I would not be allowed to give a hug
17 to my friend's son because I might be
18 carrying contraband. Having been searched
19 three times, including having to shake out my
20 bra and fold down my pants, I think this is
21 highly -- this is not highly likely, nor
22 would it be likely that the mothers and
23 babies I see on the Q100 bus would be
24 carrying contraband unless contraband
25 includes the obvious affection that a hug

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2 conveys.

3 No matter what the history of
4 infractions, I am convinced that a loving
5 embrace has the power to be therapeutic and
6 to remind someone of what he is missing being
7 inside this setting. It is for this reason
8 that I have spoken against this aspect of the
9 visitor restrictions. It seems highly
10 punitive not to allow an incarcerated person
11 to be touched by his mother, baby or, as in
12 my case, a friend who has known him since he
13 was born.

14 I just want to say that I have
15 listened to the explanations for the
16 non-contact visits. On the one hand, people
17 might be hiding scalpels. On the other hand,
18 it's something that will allow you to give
19 people the opportunity to get that when they
20 are acting better. So I don't know how those
21 two things work together. I would suggest
22 that the Department of Correction, in
23 addition to the wonderful addition of video
24 cameras, get some kind of scanning machines
25 that can find if you have scalpels. Because,

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2 as I say, I went through -- I mean, you know
3 it is an hour-and-a-half before you get to
4 see the person you are visiting and yet that
5 doesn't work.

6 So I thank you for this opportunity
7 to talk to all of you.

8 CHAIR CAMPBELL: Thank you,
9 Ms. Mayers.

10 Riley Doyle Evans.

11 I don't believe he is here.

12 CHAIR CAMPBELL: Nick Malinowsky and
13 Professor Alex Reinert, followed by Christine
14 Japley.

15 MR. EVANS: Good afternoon. I just
16 want to start by acknowledging the tremendous
17 courage that it takes to have an incarcerated
18 person come up here and recount their time
19 that they've lived at Rikers Island, federal
20 prison and state prison, and I think it's
21 really tragic that half the Board, more than
22 half the Board has missed some of those
23 important voices.

24 My name is Riley Doyle Evans and I
25 come before before you today to testify on

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2 behalf of the Brooklyn Defender Services and
3 to share some of the stories of the more than
4 6,000 people we represent and who will pass
5 through the city jail system each year. As
6 Jail Services Coordinator for BDS, I work
7 with hundreds of our clients on a whole range
8 of issues from their criminal immigration
9 cases to their conditions of confinement,
10 their safety and their medical and mental
11 health care concerns. These clients come to
12 Rikers Island as innocent New Yorkers under
13 the law, and held there mostly because they
14 are too poor to pay bail.

15 Brooklyn Defender Services shares
16 the concerns of the Department, the Board and
17 others about the violence at Rikers Island.

18 I am often the first person to visit a
19 client after they have been stabbed, slashed
20 or burned by another incarcerated person, or
21 severely beaten by staff. However, our deep
22 concern about the well-being of our clients
23 does not lead us to support the creation of
24 overly inclusive, highly restrictive housing
25 units where our client's rights will be

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2 violated.

3 At its core the proposed the ESH
4 unit is about providing the Department of
5 Correction with more discretion. It has been
6 well documented by this Board and by the
7 Department of Justice, by the City's
8 Department of Investigation and by many
9 others the myriad ways the DOC has already
10 misused discretion and failed to abide by the
11 minimum standards. Others have detailed the
12 grave concerns with the contours of this
13 proposed rule and in my testimony, I would
14 like to offer a few brief stories from
15 clients that I met with at Rikers. The
16 voices of the incarcerated people, I fear,
17 will be inconspicuously under represented in
18 this conversation and not least because
19 notices about this hearing and the rule
20 change were not visibly posted in the jails
21 and the few that went up were only seen this
22 week.

23 Mr. M. Mr. M was housed at OBCC
24 when a guard alleged that he witnessed Mr. M
25 hide something in a body cavity. In

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2 response, Mr. M was the victim of a violent
3 cell search and cell extraction. Despite no
4 contraband being found during the search or
5 in an x-ray, Mr. M was placed in a contraband
6 watch cell where he was supposed to stay for
7 as long as 72 hours. Mr. M was not hiding
8 anything and no contraband was discovered.
9 Mr. M was left in the contraband locked cell,
10 a room the size of a bathroom, with a toilet
11 that could not flush, for eight days. During
12 these eight days, Mr. M was denied access to
13 any and all privileges. He was in a cell
14 with nothing but his own waste for 24 hours a
15 day for more than a week.

16 We were alerted to Mr. M by his
17 mother only because she had not heard from
18 him. He had not called in several days
19 because he had not had access to a phone.
20 Mr. M informed us that there were several
21 other people on the unit who had been in
22 contraband watch cells for weeks.

23 Despite not recovering any
24 contraband from Mr. M., he was found guilty
25 by a hearing officer of disobeying a direct

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2 order and issued 20 days of solitary
3 confinement, a patently unjust abuse of
4 discretion. The eight days that Mr. M spent
5 in a contraband watch cell without a shower
6 did not count toward those 20 days of
7 punitive segregation. During his subsequent
8 sentencing in the CPSU, Mr. M and others
9 state they asked the staff to give them
10 toilet tissue and we are told the response
11 was "Use your hand."

12 Mr. A. Mr. A was housed in
13 protective custody and was harassed
14 throughout his stay at in the PC unit. Mr. A
15 was disliked by a staff member there, who
16 targeted him for searches, physically
17 assaulted him, and eventually made an
18 allegation against Mr. A based on
19 confidential information and issued an
20 infraction against him.

21 Mr. A was moved to the CPSU prior to
22 receiving a hearing for his non-violent
23 infraction. During his escort, staff rushed
24 him through a corridor, causing him to slip
25 and fall and injuring his hip and leg and he

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2 now walks with a cane. Because evidence
3 against Mr. A was confidential, he was unable
4 to mount any significant in his defense. Who
5 could he call as a witness? What documents
6 could he possibly request to make an
7 argument? Naturally, Mr. A was found guilty
8 of his non-violent offense and was issued
9 90 days in punitive segregation.

10 Mr. S. Mr. S is a young person who
11 suffers from schizoaffective disorder and a
12 learning disorder. During his incarceration,
13 Mr. S was the victim of stabbing and slashing
14 attacks and burning attacks when he resisted
15 pressure to join gangs. When staff failed to
16 de-escalate conflicts with Mr. S over things
17 like lost property Mr. S. was issued an
18 infraction for disobeying orders and he was
19 eventually placed in the RHU. The isolation
20 endured by Mr. S. greatly attributed to his
21 decompensation and he began to experience
22 more regular auditory and visual
23 hallucinations. Mr. S became increasingly
24 depressed and hopeless while in the RHU.

25 At one point, he shared his sense of

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2 hopelessness with staff, and in response, he
3 was placed on suicide watch in an empty cell
4 with nothing more than a smock. After coming
5 off suicide watch, Mr. S was denied all
6 out-of-cell time and access to privileges
7 he had earned through program compliance for
8 the next three weeks. In short, staff's
9 response to a perceived suicidal statement
10 was to isolate Mr. S entirely, 24 hours a
11 day, in his cell, for one month. Mr. S.
12 discharged to the community directly from
13 isolation.

14 In an opaque system, these stories
15 are not unique. Rules are ignored, people
16 are abandoned, discretion is abused, and
17 human beings suffer. As you consider whether
18 to give this Department more discretion, I
19 implore you to consider the lived experiences
20 of New Yorkers in city jails; New Yorkers,
21 still innocent in the eyes of the law who are
22 simply too poor to pay bail. Consider not
23 only the stories I've described, think about
24 the daily life of the human beings who will
25 be housed in enhanced supervision housing.

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2 Consider what it means to be escorted with an
3 officer with your hands behind your back in
4 handcuffs anytime you move. Imagine being
5 stripped search by an officer every time you
6 go to see a doctor, or go to social services.

7 CHAIR CAMPBELL: Mr. Evans, I'm
8 going to have to say thank you.

9 MR. EVANS: Last sentence, please.

10 Imagine your only contact with your
11 family being separated by a thick pane of
12 filthy plexiglass. Imagine being locked in
13 your bathroom 17 hours a day.

14 CHAIR CAMPBELL: Thank you.

15 The next speaker is Professor
16 Reinert, followed by Christine Japley,
17 followed by Gayle Weiner.

18 PROF. REINERT: Good afternoon.

19 Thanks for y'all's patience and the patience
20 of everyone else who is still in this room.

21 My name is Alex Reinert. I'm a law
22 professor at the Benjamin N. Cardozo School
23 of Law, where I teach and conduct research
24 in, among other areas, constitutional law and
25 victims rights. I have also been involved

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2 in prison litigation since -- for about 15
3 years now and am currently one of the lawyers
4 in that case involving solitary confinement
5 in this state. So I do not appear as
6 representative of my home institution. My
7 views reflect my own, and I am here to
8 testify in opposition to the proposed
9 amendments to the Board of Correction's
10 minimum standards essentially create a new
11 segregation unit, enhanced supervision
12 housing. And I have provided written
13 testimony, which I will depart from for a
14 bit.

15 I want to make one observation: you
16 are voting on whether or not to put people
17 who are presumptly innocent in a cell for
18 17 hours. This hearing has been going on
19 for, well, almost five hours now; we've lost
20 three of you. We've lost three of you. And
21 you are in a room with contact with people,
22 with stimulation. O.K.? So think about that
23 and maybe ask your colleagues to think about
24 that. I am sure they have things to do. I
25 understand that. I appreciate that. Its a

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2 long day. We are all here for a long haul,
3 but consider that as you consider this
4 proposal.

5 I want to say something about
6 process, big and small. Big: You know, this
7 ESH proposal is a moving target. Two weeks
8 ago, I thought it was one thing; two days
9 ago, I thought it was another thing; this
10 morning when I heard the Department speak it
11 became something else entirely. If you were
12 asked to vote on what was actually proposed
13 it would not be what was described today,
14 this morning. All right? And that's
15 extremely important from a process
16 perspective. We care about process because
17 we think, in the law, process creates better
18 results. We also care about process because
19 it makes people think that there is a
20 legitimately to what is going on. So that is
21 the big point about process.

22 Let me make some small points about
23 process. The premise upon which the
24 Department described the ESH this morning is
25 not reflected in what has been proposed to

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2 the Board or what the Board has proposed.

3 So let's take the first premise,
4 which is that it involves people who are
5 violent. If you look at the ESH, it is not
6 necessarily involved people who are violent.
7 It has extremely vague terms; it allows
8 people to be placed in the ESH for conduct
9 upon any of their incarcerations, prior or
10 current at Rikers. The process by which
11 people are determined to be placed in ESH is
12 frankly rife with potential for abuse. All
13 right? So that is the first premise that was
14 given to us today which is a false premise.

15 The second premise is that there is
16 programming and that this is something like a
17 step-down program. I mean, at one point,
18 someone described it as step-down program and
19 then I think when Judge Hamill asked about
20 that, there was a step-back from whether it
21 was a step-down program. O.K.? So if it is
22 a step-down program, that needs to be
23 specified and it needs to be outlined in
24 advance. We cannot, as others have said,
25 rest on the assurances of the Department,

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2 that it will somehow be transformed into a
3 step-down program.

4 Release. There were assertions made
5 about the prospect of release, again which
6 are not reflected in the proposal. There is
7 no indication as to how anyone will be
8 released from this indefinite detention in
9 this unit.

10 And that relates to the last point
11 which is it has been described as a
12 non-punitive housing unit. Every single
13 aspect of it, every critical aspect of it,
14 except perhaps out-of-cell time is nearly
15 identical, if not worse in some cases, than
16 punitive segregation. So it looks like
17 punitive segregation. The timing of it on
18 the heels of the Board's consideration for a
19 year of making changes to punitive
20 segregation, the hastily sort of enacted
21 proposal because it is changing every day
22 suggests that it is meant to be a substitute
23 for segregation. The fact that it is upon
24 the heels, whether the Department realizes is
25 it is unconstitutional to continue use Old

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2 Bing time suggests that it is a substitute
3 for punitive segregation.

4 So the question is do you trust the
5 Department? And you may or may not trust
6 Commissioner Ponte, but that is different
7 from trusting the Department. And to make
8 sure that there is a basis and that this ESH
9 will not be abusive, you have to build in
10 measures at the front end and at the back
11 end, and none of that is reflected in this
12 proposal, and that's why I urge you to reject
13 it.

14 CHAIR CAMPBELL: Thank you,
15 Professor Reinert.

16 (Applause.)

17 JUDGE HAMILL: Thank you so much.

18 PROF. REINERT: Sure, Judge.

19 JUDGE HAMILL: It's nice to see you
20 again.

21 PROF. REINERT: Nice to see you,
22 too, Judge.

23 JUDGE HAMILL: And I know that
24 during the course of the one-year very
25 methodical, deliberative rule-making we have

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2 been doing on solitary confinement, we've had
3 an opportunity to meet with you with a former
4 executive, Cathy Potler. Since I know you
5 are limited time, I would like to hear from
6 you what you believe those measures are that
7 we should incorporate in the rules, assuming
8 that what you say is true, and it certainly
9 appears to be; the proposal keeps changing --

10 PROF. REINERT: Yes.

11 JUDGE HAMILL: -- during the course
12 of the month that we have heard it.

13 PROF. REINERT: So I think first of
14 all it's not -- I don't see the proposal as
15 currently envisioned as based on actual
16 behavior. There's a way in which the
17 Department describes it as behavioral nature,
18 as if they show good behavior, then they will
19 be given additional privileges. But the
20 trigger for being placed in the ESH is not
21 behavioral. It's not. And so, if that's
22 indeed what the Department proposes to do,
23 then the Department needs to make that clear.

24 And as I read the proposal now and,
25 granted, one, it's subject to multiple

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2 reasonable interpretations; as I read the
3 proposal now, to get into ESH all someone has
4 to do is provide evidence either that you
5 were infracted for one these things at any
6 time, at any time, no matter how long ago or
7 a confidential source or any source that your
8 an SRG leader or any of a number of other
9 very variables. There's involvement in an
10 inmate disturbance, right? What's an inmate
11 disturbance? That can be a political
12 protest.

13 So there's all -- number one, the
14 categories need to be narrowed such that if
15 it's really about current behavior, current
16 behavior that threatens the safety and
17 security of the institution, that's what the
18 determination has to be about, and I don't
19 see that in the current process.

20 Now I'm going to echo everything
21 everyone has said about what protections need
22 to be given. I am not going to repeat it. I
23 have talked about it, others have talked
24 about it, I've put it in my written materials
25 about what kind of procedures should be

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2 provided at the front end to make sure that
3 we're putting -- if indeed we think that this
4 is a good idea, that you are putting in
5 people who actually pose a threat.

6 And then probably the most important
7 thing is the programming aspect and the
8 staffing the aspect. Any corrections expert
9 who you talk to will tell you that in order
10 to have an effective intervention, an
11 effective behavioral intervention, there has
12 to be staffing that's not just adequately
13 trained but that actually is present, that
14 actually is capable of engaging with people
15 in prison or in jail and has been trained to
16 do so and is actually committed to do it.
17 And I am sure there are people in the
18 Department who would be, who would be open to
19 that training and would be committed to doing
20 so, but that's a very granular requirement,
21 that again, if the Commissioner keeps telling
22 you they don't need more training, et cetera,
23 etcetera, we can staff these people with
24 anyone basically, I'm not sure that the
25 Commissioner is incorporating what I think

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2 any corrections expert would tell you about
3 how effective interventions are made.

4 And then, on the back end, on the
5 back end I think there has to be concrete
6 steps that one can take to get out of this
7 unit. On the back end for you, there have to
8 be ways for you all to know and to get
9 reporting on, et cetera, et cetera, what's
10 going on. Now, I don't think you should -- I
11 certainly don't think you should approve it
12 as it is currently proposed to you, and I
13 think that if these changes are made, as
14 someone said earlier, then to be, again, true
15 to the process then we need to have an
16 opportunity to for advocates, et cetera, to
17 process it and to speak to you about it and
18 not that it just be wholesale and imposed
19 after you all retire to your own
20 deliberations.

21 Obviously, that's important but
22 right now, we have a proposal that keeps
23 changing, literally, almost every day, and
24 that's extremely disturbing when you think
25 about how important the protections are that

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2 the Department is asking you to take away
3 from people who are presumptively innocent.

4 (Applause.)

5 CHAIR CAMPBELL: Thank you,
6 Professor Reinert.

7 PROF. REINERT: Sure, you're
8 welcome.

9 CHAIR CAMPBELL: Our next speakers
10 are Christine Japley, Gayle Weiner, Norman
11 Seabrook.

12 Ms. Japley?

13 Ms. Weiner?

14 MS. WEINER: I think it's still good
15 afternoon. My name is Gayle Weiner and I am
16 a private --

17 MALE SPEAKER: Can't hear you.

18 MS. WEINER: Whoops.

19 -- a private, concerned
20 citizen and also a member of the Jails Action
21 Committee -- Coalition.

22 CHAIR CAMPBELL: I'm sorry, what
23 coalition?

24 MS. WEINER: The Jails Action
25 Coalition.

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2 CHAIR CAMPBELL: Thank you.

3 MS. WEINER: I have not personally
4 experienced a family member being detained or
5 incarcerated in the New York City jails, but
6 as a member of JAC I have had the privilege
7 of speaking to many strong, resilient people
8 who have had such experiences. In listening
9 to their personal narratives of pain extreme
10 heartache, I know that but for the grace of
11 whoever or whatever rolls the dice, go I, and
12 I imagine, likewise, those in the position
13 today to make life-defining decisions.

14 I couldn't begin to imagine what it
15 would be like to go through every day or lie
16 in bed at night knowing that a loved one
17 would be locked up in one of the proposed ESH
18 units, being housed there by virtue of vague
19 inflexible criteria without due process,
20 knowing that they will only be allowed out of
21 their cells at best--at best--seven hours a
22 day; although based on accounts and testimony
23 today, we know that time out of cell that is
24 purported to happen is very often not what
25 happens. I can't imagine as a family member

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2 what it would be like to know that a loved
3 one is at the mercy or whim of some
4 correctional staff, who are rarely held
5 accountable for their abuse, and to know that
6 the only thing that you could do to help
7 assuage pain of your, let's say, child,
8 spouse, parent or friend would be to hold
9 that loved one in your arms for a few minutes
10 and let them know that they are loved, that
11 they are valued, while everything and
12 everyone else around them is telling them
13 that they are not.

14 Yet, with the proposed unit, this
15 one simple and powerful gesture that you can
16 offer would be denied.

17 I can't imagine what it would be
18 like to be the one of the detained or
19 incarcerated, feeling unjustly sentenced to
20 an ESH unit indefinitely, without due
21 process, and perhaps relegated to the unit
22 for an incident at Rikers that you were
23 accused of in the distant past also without
24 due process. I can't imagine being forced to
25 have all visits with a child through

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2 plexiglass and to be minimally let out of a
3 cell to journal; I think that's what
4 Commissioner Ponte had mentioned in his -- in
5 the press conference, that that's what the
6 program was going to be.

7 I can, however, imagine feeling very
8 angry, frustrated, degraded, and hopeless.
9 Although the Mayor stated that the desire of
10 the Administration is not to write people
11 off, that is exactly what these units will
12 do. It deprives them of any hope of a
13 positive outcome. It does not take a rocket
14 scientist to understand that if you put
15 people, many of whom are detainees, into
16 severe, unjust, inhumane environments, they
17 will likely respond to severely and
18 inhumanely and then we can sit back and say,
19 See? See how violent they have? But what
20 other recourse do they have?

21 They are not going to be able to
22 earn the ability to earn privileges by being
23 put in such inhumane environments. By
24 placing a myriad of restrictions in this
25 unit, among them the inability to give and

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2 receive hugs from loved ones, is to deny
3 people of their humanity. We are social,
4 tactile beings. There are numerous studies
5 cite the positive effect of human touch. It
6 calms, it soothes and nurtures. The cold,
7 violent environment of a jail is where a
8 physical, loving touch is even more critical.
9 It is a basic need that would be unjustly and
10 cruelly denied.

11 The responsibility of this Board is
12 to ensure that detainees and the incarcerated
13 in the New York City jails are treated
14 humanely. The DOC's proposed ESHUs are
15 inhumane and will continue to define New York
16 City and this Board as a party to cruel and
17 unusual punishment. Thank you.

18 CHAIR CAMPBELL: Thank you.

19 The next speaker is Norman Seabrook,
20 the President of the Correction Officers
21 Benevolent Association, followed by the Elias
22 Husamudeen, followed by Julia Davis.

23 Mr. Seabrook.

24 MR. SEABROOK: Good evening or good
25 afternoon.

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2 CHAIR CAMPBELL: Good afternoon.

3 MR. SEABROOK: You know, I sat here
4 for five hours straight through. I watched
5 someone leave, I watched you have your lunch,
6 and I kind of wonder how serious this is if
7 no one is going to stay and really listen.
8 It affects the men and women of the New York
9 City Department of Correction and the
10 inmates, and I've said publicly on the more
11 than one occasion that inmates deserve to be
12 treated with respect. They're not there to
13 be abused, neither are correction officers.
14 And I've heard a few people testified before
15 you but I didn't hear anyone talk about the
16 inmate that slashes another inmate and gives
17 90 stitches across his face.

18 What do I do with that inmate that
19 douses another inmate with hot water scalding
20 him What do with that inmate that every
21 single day extorts another inmate? What do I
22 do with the inmate that rapes another inmate?

23 Now, you call it solitary
24 confinement. Some call it prison
25 segregation. I call it "shuttin' him down"

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1
2 so that he doesn't threaten the life of other
3 inmates any more. Put him in a place where
4 we can supervise closely. Put him in a place
5 where another inmate is not getting raped
6 tonight. Although, it's only one correction
7 officer, and we have to go back and forth on
8 each side to find out what's going on,
9 there's are 35, 40 inmates on this side, 35,
10 40 inmates on that side. Who's to watch the
11 inmate when he's getting raped in the
12 bathroom?

13 I don't hear anybody talking about the
14 correctional that gets his jaw broken by an
15 inmate. Not yes, we have had correction
16 officers that have crossed the line, and they
17 have been punished for it rightfully so, and
18 it's unacceptable to us; to the union, to the
19 men and women that wear the badge. But at
20 the same time it is unacceptable for us to
21 sit here and listen to people advocate for
22 those that had raped, murdered, remain,
23 robbed, done everything they've done to
24 another inmate, to another human individual
25 and yet nothing's supposed to happen to them.

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2 Now, I'm not saying put the inmate
3 in a cell for 23 hours a day. If you want to
4 let him out, let him out. But there's rules
5 and regulations. If the Justice Department
6 would do their job and the Mental Health
7 Department would do their job and the Social
8 Service Department would do their job, you
9 wouldn't have a job because everybody be
10 doing what they're supposed to do.

11 But we're faced with a problem in the
12 City of New York where even Board of Corrections,
13 you said for yourself, Mr. Cohen, correct? Are you
14 Mr. Cohen?

15 DR. COHEN: Bobby Cohen.

16 MR. SEABROOK: You said yourself you
17 weren't searched, so from now, what I'm going
18 to ask the commissioner to the institute a
19 policy that Board of Correction members get
20 searched -- let me just finish; I didn't
21 interrupt -- get searched from top to bottom,
22 just like everybody else. If the Mayor of
23 the City of New York got to get searched, you
24 got to get searched, too. So that policy
25 should seek immediately, and you should be

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2 the first one to write a letter requesting
3 that all Board of Correction members be
4 searched. I'll look for a copy of that.

5 DR. COHEN: I already asked for it.

6 MR. SEABROOK: Thank you so much, but
7 I'll look forward of a copy of the written
8 letter. Thank you so much.

9 But anyway, I think that is
10 important that we do something. Something
11 has to be done; regardless of whether some
12 people think it's right, wrong or
13 indifferent, something's got to get done
14 because if not, it's only going to get worse.
15 It's only going to become a major problem in
16 the Department of Correction.

17 For 20 years, I've been screaming to
18 the Giuliani Administration, to the Bloomberg
19 Administration, and now, thankfully we have
20 the de Blasio Administration that's doing
21 something.

22 But it's incumbent upon you and your
23 brother and sisters who sit on the Board with
24 you to make a move, that's going to be able
25 to be beneficial to both sides. If you want

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2 Joe Ponte, the Commissioner of the agency,
3 the institute policy and procedure in
4 Writing, give us the policy to do the job and
5 we won't let you down. But we've got to
6 start somewhere. Everything that shines is
7 not gold. We have to do something.

8 There are men and women that are on
9 that island, officers and inmates, depending
10 on what you do. And I would challenge the
11 Board: Come sit down with correction
12 officers the same way you sit down with all
13 of these different organizations, and listen
14 to the concerns of the men and women that
15 have urine and feces thrown on them every
16 single day, on every single tour. Sit down
17 with the men and women who go home with
18 busted lips. Sit down with the men and women
19 who are abused, intimidated by these same
20 gang-bangers, by these same individual, the
21 same individuals that take out razor blades
22 and slash other inmates. Come and sit down,
23 we have an auditorium at Rikers Island. It's
24 in the George Motchan Detention Center.

25 There'll be a ton of officers in

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2 there; hear their grievances as well, because
3 the Board of Correction is challenged by law
4 to represent both sides, not just one. But
5 you have so many members of the Board of
6 Correction that think that they are above
7 everybody else. They think that they're
8 better than everybody else, 'cause there's no
9 way you're gonna tell me that when I signed
10 up that I should have sat here for five
11 hours, and I'm sitting like everybody else
12 and I'm good with that. That's why they say
13 nothing about it. I'm cool. But at the end
14 of the day, treat us the same way that you
15 listen to JAC; listen to the COBA.

16 Thank you very much.

17 CHAIR CAMPBELL: Thank you very
18 much, Mr. Seabrook.

19 JUDGE HAMILL: Mr. Seabrook, I have
20 a couple of questions.

21 MR. SEABROOK: Yes ma'am.

22 JUDGE HAMILL: Mr. Seabrook, thank
23 you so much for coming. I really appreciate
24 it. I know we have common goals, all of us
25 to have safe, secure, humane jails, and these

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2 proposals that DOC propose that the Board of
3 Correction has adopted are measures meant to
4 address the violence.

5 So in light of your position of your
6 extraordinary experience with the
7 correctional officers, I'd like to ask you a
8 couple of questions that might help certainly
9 me and my colleagues to better understand
10 what is going on at Rikers so that we can try
11 to grasp the violence that we know that your
12 staff are absolutely subjected to; there's no
13 doubt about that. So let me just ask a few
14 questions.

15 Do you agree that there is a culture
16 violence at Rikers?

17 MR. SEABROOK: With the inmates?

18 Yes.

19 JUDGE HAMILL: O.K.

20 (Laughter.)

21 JUDGE HAMILL: Do you have an
22 opinion as to what the root causes of
23 violence out at Rikers is?

24 MR. SEABROOK: I think part of the
25 problem is that they don't have anything to

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2 do. I think part of the problem is, and I've
3 said this and I went in to RNDC, you don't
4 sit a 16-year-old, a 17-year-old in a day
5 room watching reruns of Good Times for five,
6 six, seven hours and expect them to be able
7 to function. I think that it's important:
8 Teach them how to be a short-order cook;
9 teach them how to write a resume; teach them
10 how to tie a tie. Give them something to
11 look forward to when they leave so that they
12 don't have to come back.

13 But we're faced with so much
14 mismanagement in the Department of
15 Correction, we're in our ninth Commissioner
16 in 17 years or 18 years. How is that
17 possible?

18 And then the Commissioner comes in
19 with a new policy. I'm not saying that Joe's
20 policy is wrong or right. I'm just giving
21 you the facts of the amount of people.
22 We've had 11 Chiefs of Department. We've 25
23 Assistant Chiefs and Deputy chiefs. We've
24 had 35 Deputy Commissioners. You can't
25 function like that. There's no consistency.

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2 sense to me.

3 Give us the training that we need
4 and we can do the job. Give us the resources
5 that we need and we can do the job. But, if
6 you don't give them to us, we can't function.

7 JUDGE HAMILL: All right. So let me
8 follow up on that 'cause I do spend a lot of
9 time out at Rikers. I've gotten to speak to
10 a lot of the officers and Chief Perino's here
11 and Warden Becky Scott and all the great
12 staff at Rikers that's really bringing about
13 a lot of the reform. What is it -- can you
14 be specific as to what you believe your
15 officers need to be able to be effective in
16 providing the security while reducing the
17 violence at Rikers?

18 MR. SEABROOK: I think that in
19 providing the security and reducing the
20 violence, you have to have a level of law and
21 order. Let me give you an example. If an
22 inmate slashes another inmate or assaults and
23 slashes a correction officer, he or she
24 should be re-arrested, charged with the crime
25 and face the consequences. But since the

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2 inmate doesn't have any punishment, it's not
3 a deterrent for them. So the Bronx District
4 Attorney's Office is not prosecuting them for
5 assaulting other inmates or officers.

6 So what does that mean? I can get
7 away with it. I could punch you in the face,
8 break your jaw; nothing's gonna happen to me.
9 The only thing that can happen to me, 'cause
10 the D.A.'s office is not doing any work is if
11 the Department of Correction wants to put me
12 in punitive segregation but you can't put me
13 in punitive segregation because we're having
14 this conversation about how you're trying to
15 eliminate punitive segregation. So the
16 inmate is in a win-win situation.

17 Now, not all inmates are bad. You've
18 heard me say this publicly. I have a brother
19 doing 25-years-to-life. I feel for my
20 brother. I don't want my brother hurt. But
21 at the end of the day, there has to be law
22 and order in jails as well. There has to be
23 consequences. So if the correction officer
24 has the tools, infractions, policy,
25 procedure, has support from the upper

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2 management, has support from the District
3 Attorney's Office, from different parts of
4 the judicial system, then that inmate is
5 going to say, "I can't get away with this."
6 There's going to be a problem if I do.

7 JUDGE HAMILL: All right. So let me
8 just talk about the other issue. The data
9 seems to suggest that the officer-on-inmate
10 violence levels have been dramatically
11 increasing. Do you have any recommendation
12 as to what should be done with those
13 officers --

14 MR. SEABROOK: Judge.

15 JUDGE HAMILL: -- when we have the
16 officer-on-inmate violence?

17 MR. SEABROOK: Judge, I think that
18 they're mixing apples and oranges sometimes.

19 Let me give you an example. If I
20 touch an inmate, it's a use of force. If I
21 put my hands on an inmate, it's classified as
22 as a use of force. I didn't do anything but
23 guide the inmate from Point A to Point B, but
24 I have to write this Use of Force report.

25 So in order for the prior

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2 administration to be able to justify a lot of
3 things that they were doing before they
4 testified before the City Council, they added
5 up all these numbers.

6 Now, if you told me that the
7 correction officer had a physical
8 altercation, fighting with an inmate, I tell
9 you those numbers are probably going to go
10 down by two-thirds. If you tell me that he
11 touch the inmate, the numbers are probably
12 even going to go higher because you're not --
13 as soon as you put your hands on them.

14 So what I would suggest, and what
15 I've suggested to the correction officers,
16 and I've said this publicly, use whatever
17 force is necessary to terminate the threat.
18 I'm not talking about yelling and screaming
19 back and forth. I'm talking about to prevent
20 this inmate from hurting himself, another
21 inmate or yourself or someone else. Use
22 whatever -- once that force is over, it's
23 over.

24 It's just like I've heard people
25 testify about they have to kiss their love

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2 ones who the bars on the visit floor. We
3 don't have bars on Rikers Island on the visit
4 floor. We don't have that. That doesn't
5 exist. So people think that they're
6 disingenuous. That's not fair.

7 And as far as individuals that are
8 having to have booth visits as opposed to
9 physical visit's, let's look at the history
10 of did that person assault that visitor the
11 last time that they were here, and that's why
12 we're protecting the visitor? Did that
13 person receive contraband from that visitor
14 the last time we were here and that's why
15 we've got them separated? Is there a serious
16 threat level to do that?

17 But people are being this in genuine
18 and it's not fair. It's not fair to destroy
19 the integrity of a correction officer or an
20 inmate when it's not true. And I've said,
21 and I'll say it again: Correction officers
22 that don't do what they're supposed to do,
23 there is no room for them to wear this badge.

24 But, damn, give us a break, too.
25 Come sit down and listen to what we've gotta

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2 go through. Come sit down and find out that
3 we are under a tremendous amount of stress,
4 totally understaffed, and then the people
5 that supposed to be with the Board of
6 Corrections, they walk around like they're
7 than us. They don't want to talk to us, and
8 that's a shame, because we employ them as
9 well. But they won't do that for us, Judge.
10 I'm telling you they won't do that for us,
11 and I'm telling you my name wasn't the last
12 one on this list. But it's all good. I like
13 that type of stuff because it gives me
14 opportunity to listen and thank that man
15 upstairs for the blessings that he gives me.

16 You see, hold -- one more second
17 because the judge is right. What do we do
18 about it now? Do we turn around and just
19 make believe it doesn't exist? Is there a
20 cultural violence that we have to attack?

21 Let's take a look at it. Let's look
22 at -- ask the Department of Correction to
23 give you the numbers on whether or not you
24 touched the inmate or whether or not you had
25 a visible altercation with the inmate, you'll

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2 see the numbers go down.

3 I understand that the Southern
4 District report from the federal courts,
5 they're stepping in, the federal -- the
6 U.S. Attorney is stepping in to do what it is
7 that they have to do. And you know what?
8 It's going to make the Department and the
9 City of New York and everybody else
10 accountable. Welcome, let's go.

11 But at the end of the day, you all
12 gotta to do your job, too.

13 CHAIR CAMPBELL: Bobby.

14 DR. COHEN: Mr. Seabrook --

15 MR. SEABROOK: Just Norman, brother.

16 DR. COHEN: All right. Norman,
17 you've been -- for 20 years you've been
18 president?

19 MR. SEABROOK: Yes, sir.

20 DR. COHEN: But in 1994, there were
21 1,037 slashings in the Department of
22 Correction, and in this year, there have been
23 90 so far, which is too many. It's more than
24 last year when there were 73, it's more than
25 the year before when there were 71, but the

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2 numbers through the 90s were in the a
3 thousand five hundred, four hundred range and
4 then they went down. I can't show this, it's
5 a graph, and I know you're familiar with
6 that.

7 MR. SEABROOK: Yes, sir.

8 DR. COHEN: I wonder if you could
9 help me understand, based on your experience,
10 why the numbers were so high before, but they
11 came down dramatically through -- into the
12 21st Century and then they've gone up over
13 the past five or six years. But the numbers
14 were seven, eight and nine times the size
15 they are now.

16 MR. SEABROOK: You know, in those
17 administrations you're talking about, you're
18 talking about, I think the Kerik
19 Administration is one of them in there, the
20 Horn Administration's -- no, the Dora Schriro
21 Administration is the one in there, Kerik did
22 a lot of searches. Every time you'd turn
23 around, we were searching, searching,
24 searching, searching, keeping inmates safe.
25 So I'd give Bernie his props; we were keeping

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2 inmates safe.

3 Dora on the other hand --

4 Dr. Schriro on the other hand hired a hundred
5 psychoanalysts to tell her, "No, it doesn't
6 work," and the numbers would go north. The
7 use of force went up because of the way that
8 you calculated use of force. You didn't
9 calculate it by real assaults. There are
10 some assaults that take place, whether it's
11 defense of another inmate or themselves or
12 the correction officer. So you've had the
13 style two different commissioners, and that's
14 what would make the numbers change.

15 DR. COHEN: And the use of force
16 which has to do with injuries that you can --
17 that you objectively see, those numbers have
18 also increased, haven't they?

19 MR. SEABROOK: Yes, they have, and
20 it's the reporting that makes all of that
21 take place. You don't -- it's almost like
22 what do you want to report? Who's going to
23 look at the report? It's almost like you
24 have to answer to somebody, someone answers
25 to the Mayor of the City of New York, to the

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2 City Council, to, you know, Elizabeth Crowley
3 who is Chairman of Fire Correction, and you
4 want the numbers to look right.

5 But at the same time, you want to
6 keep your people safe. Look, our job is
7 care, custody and control. We will maintain
8 that. We will keep inmates safe. But we ask
9 that you help keep us safe, too .

10 JUDGE HAMILL: I just have a
11 follow-up question.

12 CHAIR CAMPBELL: Go ahead, Bryanne.

13 JUDGE HAMILL: As you know, in terms
14 of the lock-out, you know our general rule is
15 that inmates have to be locked out 14 hours a
16 day, and we understand that part of the
17 proposal for the enhanced supervision to lock
18 out only seven hours a day and when inquiring
19 about that, it's because there would be 50
20 inmates and they're the most dangerous
21 inmates at Rikers. So only to make it a
22 safer environment, only allow 25 out at one
23 time.

24 Would you agree with these a way to
25 make it the most safe then would be to have

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2 separate units, where there's only 25 inmates
3 per unit with a higher staffing of
4 officer-to-inmate, where they could be locked
5 out --

6 MR. SEABROOK: That's ii. That's it
7 right there.

8 JUDGE HAMILL: -- a more amount of
9 time, with programming?

10 MR. SEABROOK: That's it right
11 there. Give us the amount of staff that we
12 need and you could lock all 50 of them out.
13 But give us the staff members that we need.

14 Judge, when I started this job in
15 1985, I started in what was then called ARDC,
16 which is now RNDC. I worked in the worst
17 housing area in the jail; it was called
18 4 Lola. People used to look at their name on
19 the schedule and then bang in and not want to
20 come to work for a whole week because they
21 had the 4 building. Those were the worst of
22 the worst, all adolescents released from The
23 Bing. But when you have steady officers,
24 when you have steady consistencies, when you
25 have your policies in place for young men to

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2 understand where you're coming from, and with
3 the staff that you have to have and the help
4 that you need from managers in unit
5 management or whatever it is that you want to
6 call it, you're gonna get the job done.
7 You're going to have some kinks in the
8 beginning, but at the end of the day, you're
9 gonna get the job done.

10 Give us the staffing that we need,
11 hold not only the Department but the City and
12 everybody else accountable for what's
13 supposed to take place, and we will prove to
14 you that the corrections officers are the
15 best damn corrections officer in the world.
16 And we won't be targeted by the five -- in
17 the last five years, six years that have been
18 on the front page of the paper for doing
19 something wrong. Let's not talk about that,
20 that's five. Let's talk about the thousands
21 that do what they're supposed to every single
22 day. Right there, somewhere right now, it's
23 20 minutes after two and somebody is not
24 going home because they're getting stuck with
25 another eight hours, but we don't get the

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2 Board to come out there and say, Officer,
3 what's the problem? Officer, how's your
4 bathroom working? Officer, you got heat hot
5 water in this area? Officer, you have this?
6 We don't have it. They walk past us like we
7 don't even exist. And then some of them that
8 do walk around, they think that they, you
9 know, prima donnas, I get it; it's cool.

10 But treat us the same way, respect
11 us the same way and fight for us the same way
12 that you want to fight for an inmate. And I
13 don't have a problem with inmates because you
14 meet the same people on the way up as you
15 could meet on the way down. And I've seen
16 inmates on the street who have offered to buy
17 me a drink. So I can't be that bad.

18 JUDGE HAMILL: And I've just got one
19 follow-up question. I know when I have met
20 with the various union leadership and members
21 of COBA and all, what we hear frequently, and
22 certainly what I've heard in my rule-making
23 committee over the last year is that you all
24 were not really trained and adept at dealing
25 with the mentally ill, and that so many

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2 inmates are mentally ill.

3 Would you agree with me that in
4 light of that that with the enhanced
5 supervision unit that mentally ill inmates
6 should not be placed in there?

7 MR. SEABROOK: I'm not saying
8 that -- well, that takes me back to where I
9 said that Rikers Island is the new dumping
10 ground for the City of New York. We have the
11 mentally ill. We have the innocent. We have
12 the guilty. O.K.? We have them all. And
13 the homeless.

14 But at the end of the day, if the
15 Department of Mental Health did their job and
16 put inmates in -- or not inmates --
17 individuals that have mental health issues in
18 proper health before they come to jail as
19 opposed to dumping them there, we wouldn't be
20 talking about this. So to answer your
21 question even further, give us the training
22 that we need and change the environment, like
23 Joe Ponte wants to do, and let's give it a
24 shot.

25 The only thing that could happen

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2 here is we go back to where we started from.
3 Put something on and say, O.K., Joe, you got
4 a year -- 18 months. I don't know what it
5 is. Two years. I don't know what you're
6 gonna come up with. Either way, correction
7 offices have to do the job anyway. So it
8 doesn't matter -- well, it does matter. You
9 could either do or not do it. At the end of
10 the day, we still gotta do it. You're not
11 going there to do it. You know, we got to do
12 it.

13 So let's do it and do it together.
14 Let's take it and say, You know what? Let's
15 put this policy in place that he wants and
16 speak to the fire and say, If it's not done
17 in 16 months, 18 months, whatever it is,
18 we're going to scratch it. But give us the
19 training. Let a correction officer go learn
20 for 40 hours from a designated certified
21 mental health instructor that gives them a
22 piece of paper like a diploma, whatever you
23 want to call it, that's going to be
24 accredited so that when we go to court and
25 the judge says, Well, what did you do? We

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2 can't say we learned eight hours of training
3 from the ju-jitsu instructor at the academy.
4 That won't work.

5 Give us the training that we need
6 and we'll get the job done.

7 CHAIR CAMPBELL: Thank you,
8 Mr. Seabrook.

9 MR. SEABROOK: Thank you. Have a
10 great holiday. God bless you and your
11 family.

12 CHAIR CAMPBELL: Thank you.

13 FEMALE SPEAKER: I'd like to ask a
14 couple of questions.

15 (Applause.)

16 CHAIR CAMPBELL: The next speaker
17 is -- I'd ask people to hold their applause.

18 The next speaker is Elias
19 Husamudeen, followed Julia Davis, followed by
20 Dr. Siegel.

21 Elias? Elias?

22 CHAIR CAMPBELL: O.K., Thank you.

23 The next speaker is Julia Davis.

24 Thank you.

25 MS. DAVIS: Thank you. Good

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2 afternoon.

3 CHAIR CAMPBELL: Good afternoon.

4 MS. DAVIS: My name is Julia Davis
5 and I'm Staff Attorney with Children's
6 Rights. Thank you for your endurance this
7 afternoon.

8 Children's Rights is a national
9 advocate for youth that are in child welfare
10 systems, and our experience with adolescents
11 and young adults brings us in contact with
12 the juvenile and the adult correction
13 systems. Our clients are disproportionately
14 represented in these settings.

15 According to press reports,
16 48 percent of the 5400 children arrested and
17 detained in 2010 in New York City had
18 previous or current foster care involvement,
19 including more than 300 youth who were living
20 in foster care at the time of their arrest.
21 This is really just an example, and we
22 submitted a more detailed report yesterday to
23 the Board that gives a little bit more
24 context for the overlap in the foster care
25 community and among young people and their

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2 shared experience of trauma and their need
3 for developmentally appropriate services once
4 they come into the custody of the state.

5 We are very concerned about the
6 conditions facing older youth at Rikers
7 Island, including the teenagers and young
8 adults up to age 25. These young people are
9 extremely vulnerable, as you heard today,
10 especially those who've lacked the stability
11 of a terminant family.

12 For more than a generation, national
13 and state child welfare policy has recognized
14 that young people, like those in foster care
15 and in criminal justice systems, require
16 ongoing supports and services through early
17 adulthood. It doesn't end at 17 or 18. This
18 understanding drives our federal policy in
19 child welfare that provides health care
20 services, life skills, support for education
21 and training, case management services for
22 young people through their mid-20s.

23 Children's Rights submitted some more
24 information about this yesterday.

25 The key point is this: Because

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2 youth development does not end at age 18 and
3 we know this from biology, neuroscience,
4 social science, and this context lets us know
5 that the pathways established during
6 adolescence and young adulthood are
7 critically important to brain development.
8 Experiences during this period, and among the
9 populations at Rikers within this age group,
10 shape their future lives as older adults.

11 So with this in mind, we want to
12 tell you this. Solitary confinement, the
13 punitive segregation policy is harmful to
14 older youth up to 25; you've heard that from
15 other colleagues today. We join the Legal
16 Aid Society, we join the New York City Jails
17 Action Coalition and the New York Advisory
18 Committee to the U.S. Commission on Civil
19 Rights in urging the Board to protect young
20 people 18 to 25, as it does for those age for
21 16 and 17. Youth especially the traumatized
22 youth that are within these systems must be
23 free from further trauma, and punitive
24 segregation does the opposite; it inflicts
25 trauma. Solitary confinement, punishment is

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2 an inappropriate discipline strategy for
3 anyone under 25.

4 We also are concerned about the
5 supervision, the enhanced supervision housing
6 as currently proposed, that this was to limit
7 young people's access to visitation, disrupt
8 participation in programming, and that
9 includes educational services.

10 Institutionalized youth, and we know this
11 from our child welfare work, need more
12 contact with trusted adults, more contact
13 with services, not less. So ESH is
14 inconsistent with the research that we know
15 works from serving older youth in child
16 welfare.

17 Finally, we've heard a lot about
18 training today, and I just want to reinforce
19 the point that all adults that are working
20 with young people up to age 25 within these
21 settings have to understand the developmental
22 context that these young people operate
23 within. Professor Yaroshevsky's report
24 really opens the door to some excellent
25 models and essential pieces of information to

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2 drive your rule-making to serve this
3 population and gives you some examples of
4 other models that have worked in other parts
5 of the country. I hope that you all review
6 it closely.

7 CHAIR CAMPBELL: Thank you,
8 Ms. Davis.

9 MS. DAVIS: Thank you.

10 CHAIR CAMPBELL: The next speaker is
11 Irene Seigel, followed by Munir Pujara,
12 followed by Taneshia Rhoe.

13 Let me just see: Irene Seigel,
14 Munir Pujara, Taneshia Rhoe? O.K.

15 MR. PUJARA: I'm Munir Pujara.

16 CHAIR CAMPBELL: The next speaker is
17 Yetzirah Castro? Clarissa Carrington?
18 Latoya Shuford?

19 Yetzirah Castro? Clarissa
20 Carrington? Latoya Shuford? O.K.

21 I'm sorry, did I call your name?

22 MS. PAUL: No.

23 MALE SPEAKER: She's speaking on
24 behalf of Clarissa Carrington.

25 CHAIR CAMPBELL: On behalf of who?

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2 MALE SPEAKER: Yes.

3 MS. PAUL: Clarissa.

4 MALE SPEAKER: Clarissa.

5 CHAIR CAMPBELL: O.K., that's fine.

6 MALE SPEAKER: Thank you.

7 MS. PAUL: Good afternoon. My name
8 is Julia Paul. I'm a member of the JAC,
9 Jails Action Coalition, and President of the
10 Local Social Justice Project. I'm here to
11 testify as to our some of the findings about
12 the investigation of NYC DOC's Commissioner
13 Joseph Ponte, and the real outcome of his
14 program of torture, from Massachusetts to
15 Maine.

16 In response to an email written by a
17 member of the Rikers Action Committee to Judy
18 Garver of the Maine Prisoner Advocate
19 Coalition, MPAC's reply -- oh, sure, thank
20 you.

21 It says, "Hi, Dakem. You may use
22 that quote. Also, I'll ask Joseph Jackson,
23 MPAC's present coordinator, to take a look at
24 your email and add more thoughts if possible.
25 He has first time experience at Maine State

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2 Prison and can give you the name of the new
3 control unit that is being used in very
4 similar way to the special management unit,
5 SMU solitary confinement unit." Signed Judy.

6 In the main media MPAC challenged
7 the policies of Commissioner Ponte's new
8 control units. Judy Garver -- Garvey, excuse
9 me, a member of the Board of Directors for
10 the Maine Prisoner Advocacy Coalition,
11 challenged Ponte's statement. She said, "New
12 control techniques and reductions in
13 programming and privileges have made the
14 prison less safe."

15 Dekem, day after, received an email
16 from the present leadership of MPAC:
17 "Mr. Roberts, my name is Joseph Jackson and I
18 am the present Coordinator of MPAC. I am
19 familiar with the behavioral modification
20 unit Commissioner Ponte is proposing. Ponte
21 instituted such a program in Maine prior to
22 his departure and it's just as you reported.
23 It is very easy to be assigned to the program
24 for any reason a staff officer deems
25 justifiable and very difficult to graduate

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2 from. It includes isolation and sensory
3 deprivation. It is nothing more than another
4 form of solitary confinement" -- I'm sorry --
5 "solitary confinement unit and it is MPAC's
6 opinion that solitary confinement amounts to
7 nothing more than torture. I hope this
8 helps.

9 "If you have any other questions,
10 please feel free, Joseph Jackson, MPAC
11 Coordinator."

12 This last email is from the sister
13 of an 18-year-old boy confined to one of
14 Commissioner's Ponte's sensory deprivation
15 torture chambers. It reads, "My brother went
16 to Walpole around 1980. He was a very young
17 18. I can't remember how long he was there
18 for, but when he left, he had no spirit in
19 his eyes and never got his spirit back.

20 "He always had a twinkle in his eye,
21 and a smile. He had been put in that
22 [expletive] hole for months for know reason
23 except he didn't want to [expletive] some
24 guy's D. They played head games with him all
25 the time, saying he had visitors when he

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2 didn't, not giving him his suit for court and
3 then beating him when he said he had a right
4 to have his clothes for court. He didn't
5 have to go into his jail jumper.

6 "What I want to know is why does
7 this jail still have the DDU, the hole. The
8 whole DDU building is to abuse the prisoners.
9 Why can't we have that building shut down?
10 No other jail has separate building to
11 torture people." Close.

12 We ask that you use your power to
13 make rules them on the copper to declare that
14 torture ends here. Do not allow Commissioner
15 Ponte to introduce his torture chamber into
16 our city or in another state. We believe
17 that the only acceptable resolution is
18 establishing a Community Review Board and
19 instituting the U.N. standards rules for
20 treatment of prisoners. Raise the minimum;
21 do not lower it.

22 CHAIR CAMPBELL: Thank you.

23 (Applause.)

24 CHAIR CAMPBELL: The next speakers
25 are Eric Toulon, Yolanda Canty, and Hazel

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2 Jennings.

3 I think this whole next group are
4 not here.

5 The next is Mark Perrino, Clayton
6 Augustus, Felene Breeland. O.K.

7 And then Michele Clifford, Karen
8 Collins, Edmund Duffy and then Turhan
9 Gumusdere, Pennye Jones, Kenneth Stokes,
10 Victor Vazquez, Ronnie Purvis, William
11 Barnes. O.K.?

12 And I might possibly repeat a name
13 or two. Carl Dix? Mark Steier? Shar- --

14 MR. PUJARA: Sorry. My name was
15 called earlier.

16 CHAIR CAMPBELL: Oh, I apologize.

17 MR. PUJARA: And there was a
18 disruption in the hallway.

19 MR. PUJARA: I came to bring the
20 words of a gentleman who's in solitary right
21 now, so I want to make sure --

22 CHAIR CAMPBELL: Your name is?

23 MR. PUJARA: My name is Munir
24 Pujara.

25 CHAIR CAMPBELL: O.K., thank you

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2 MR. PUJARA: And I'm speaking on
3 behalf of -- I'm reading a statement from
4 Henry Bell, who is currently in the Central
5 Punitive Segregation Unit at OBCC, and he's
6 been there since --

7 DR. COHEN: His last name again was
8 Henry?

9 MR. PUJARA: Sorry?

10 DR. COHEN: Henry.

11 MR. PUJARA: Bell.

12 DR. COHEN: Thank you.

13 MR. PUJARA: He's been in OBCC since
14 November 1st. These are his words: "I was
15 put in 3 South West after a riot in 5 West.
16 I was not involved in the riot. I wasn't
17 participating and ran into my cell. I still
18 got sprayed with mace. People were beat up,
19 injured, their property taken and we weren't
20 able to call our families. The riot started
21 after an officer punched one of the people in
22 5 West in the face.

23 "I was given 70 days for
24 participating in the riot, even though I
25 wasn't involved. In 3 South West, the

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2 Department of Corrections does not do
3 anything they are supposed to do. We get
4 recreation time maybe twice a week. Staff
5 comes around while everyone is asleep to
6 offer yard. When we do go to yard, if the
7 weather is bad, people are left out there in
8 the snow and the rain for hours. People are
9 forced to defecate in the recreation cages in
10 front of other people, which is just not
11 right.

12 "You have some officers who are
13 O.K., who understand what we're going
14 through, but there are other officers who
15 won't take people out to rec, who won't
16 shower certain people, who will give their
17 PIN numbers of certain people so they can" --
18 "to other people so they can't use the phone.
19 People need to get out if their cell; people
20 need to speak to their mothers. It's just
21 not right to deny that.

22 "We have no general library access.
23 Young" -- "The young people get some school
24 but how are the adults supposed to occupy
25 their time. Even when we go to law library,

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2 we have to be in a separate room where
3 nothing works and we can't access the
4 civilian staff to help us. We can only get
5 other books from our families. The chaplain
6 doesn't come to The Box, social services
7 doesn't come; all the people we're supposed
8 to have access to do not come around. The
9 officers don't even let in the suicide
10 prevention aides to do their jobs. When
11 services come to the unit, custody staff try
12 to hide it from us.

13 "The only commissary we have access
14 to is basic soaps and toiletries. At least
15 upstate, you get dictionaries from the
16 commissary and learn something. There are
17 guys who don't even know how to read here.
18 The food is too little and it comes late,
19 it's cold and it's served and they serve
20 rotten food. There's no fruit at all. You
21 always get fruit in general population.

22 "When we do get visitors, staff
23 tells us to get ready in the morning. We
24 have to wait for hours in intake, in a cell
25 with no bed before they are finally" --

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2 before they finally bring it to us, and when
3 our lives get cut short, we only get an hour.

4 "Our mail almost always comes late,
5 sometimes weeks late. When there are family
6 events, we don't get to attend and be with
7 our families."

8 I'll move a little bit further down:

9 "We ask to see mental health but we don't get
10 to talk with anyone. Mental health comes
11 around but don't speak to everyone, even when
12 you call out that you need to speak to
13 someone.

14 "What's it going to take, for me
15 hang up? It might be too late before they
16 come talk to me. I'm lonely. I do not get
17 mail. I do not get visits. I just come" --
18 I just need someone to talk to from time to
19 time. There are times when I just sit in my
20 cell and cry, and I think there can't be any
21 more.

22 "There are days when I want to take
23 my own life when, it's too devastating. I
24 feel like the only time that I'm free is when
25 I write to my mother or my daughter, but when

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2 I write, it ends up taking me back to hell.

3 "When I was housed in 5 West before
4 coming to The Box, the biggest freedom we had
5 was the basketball tournament. The Bloods
6 played, they played against the Crypts and
7 nothing bad happened. No one got hurt
8 because we were doing something we liked to
9 do. If we had something to do with
10 ourselves, there would be much less violence.
11 If they take away things like basketball
12 tournaments, in this place, it's the only
13 thing that would be the outlet for" -- "left
14 for violence" -- "the only outlet left is
15 violence.

16 "We need things to rehabilitate
17 ourselves so we can go home and be better,
18 but this isolation is turning me into more of
19 an animal."

20 From me, I've heard a lot of
21 contempt for people, for a lot of people in
22 prison today. I've heard people mocking,
23 laughing at people speaking, telling their
24 stories. I've heard horrible things being
25 said outside, and these city officials didn't

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2 even bother to stick around or hear.

3 Seabrook's done talking, as soon as he's done
4 talking, he's out the door. They're not
5 listening and they have a genuine contempt
6 for the people that they're talking about.
7 They don't respect the rights that they're
8 asking you to change.

9 The restrictions they have, you can
10 hear it when they're talking that they don't
11 want contact visits. This isn't just about
12 solitary. This isn't just about these
13 people. Its about all people who are
14 incarcerated.

15 Listen to them when they're talking
16 about the law library. Listen to them when
17 they're talking about human contact. This
18 isn't just about an extra means of
19 punishment. This could be the start of
20 something bigger, or at least it is motivated
21 by something that is more than just trying to
22 use the least restrictive means of
23 accomplishing something and deterring
24 violence. What they're doing is
25 short-sighted and motivated by contempt.

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2 CHAIR CAMPBELL: Mr. Pujara, thank
3 you.

4 (Applause.)

5 CHAIR CAMPBELL: Sharon Nelson?
6 Riley Evans? Hazel Jennings? Jorge Torres?
7 Robert Kelly? Julia Paul?

8 Julia Paul has already gone.

9 Dakem Roberts? Susan Goodwillie.

10 MS. GOODWILLIE: Do you mind if I
11 switch with Hadley Fitzgerald? Down the
12 line.

13 CHAIR CAMPBELL: We're actually
14 moving quickly so we could be --

15 MS. GOODWILLIE: Yes, sure.

16 CHAIR CAMPBELL: Did I just call
17 someone? O.K., both of you. Great. Thank
18 you.

19 So you're saying that the two of
20 you --

21 MS. GOODWILLIE: Yes, do you want
22 to do that?

23 CHAIR CAMPBELL: No, that's fine,
24 totally. I didn't understand. Thank you.

25 MS. FITZGERALD: Thank you, Chairman

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2 Campbell. We are both members of the New
3 York City Jails Action Coalition. My name is
4 is Hadley Fitzgerald, and I'm here today as a
5 member of the New York City Jails Action
6 Coalition. I'm thankful to the four Board
7 members remaining here.

8 I'm actually a very nervous public
9 speaker, but I'm always really honored to
10 speak on behalf of JAC because we're truly a
11 grassroots group of activists and many of us
12 are still here in the audience right now, and
13 many of us formerly incarcerated individuals,
14 family members of people who are inside and
15 other community members, like myself, and the
16 Mayor and his administration seems to
17 understand, at least based on election
18 rhetoric about what grassroots mean. And
19 when I say grassroots, I mean, we have our
20 handmade signs and we're out, you know, on
21 the streets trying to drum up public
22 attention to what's going on at Rikers
23 Island, because we want to promote the safety
24 and dignity of people incarcerated there.

25 We have a pin today asking you, the

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2 Board, to be independent an independent
3 Board, don't be in the pocket of the
4 Department of Correction.

5 I was actually second in line this
6 morning, at 7:30, behind another member or
7 JAC member, another concerned public
8 defender. And after 8 a.m., a bus, full of
9 correction officers, came up First Avenue,
10 skipped the line, and went inside as if they
11 didn't also have to wait in the line. And if
12 it wasn't for JAC members protesting that, I
13 think they probably would have just sauntered
14 right in and not be on the line, which is
15 just following rules, and I think, you know,
16 that's been something that's really impressed
17 me about JAC since I've been a member now for
18 over a year.

19 My first -- I've attended many Board
20 of Correction meetings, and my first one, I
21 think, was actually, Chairman Campbell, your
22 first BOC meeting, and it got mentioned that
23 a man had died on September 11th in your
24 discussions and details about the man's death
25 happened behind closed doors, after the

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2 audience was asked to leave. It turns out
3 the man's name was Bradley Ballard, and he
4 died in solitary, he died gruesomely, and his
5 death has been ruled a homicide and JAC
6 members have been protesting the reasons for
7 that man's death monthly in front of the
8 Bronx D.A.'s ever since.

9 So I just want to say it's important
10 so to be here. I thought I was going to be
11 here at this point in time talking about your
12 rule-making regarding solitary confinement
13 because JAC submitted a very thorough and
14 expert petition to you, to the Board, in
15 April of 2013, and by this point I really
16 thought we were going to be there. But
17 instead, I'm here talking about ESH, and, you
18 know, I was part of the meeting, the JAC
19 meeting with the Commissioner last night,
20 didn't remember hearing about the programming
21 which he spoke about this, which is sort of
22 shocking, considering all of these people who
23 are incarcerated on Rikers Island. And
24 Norman Seabrook, I'm listening to today can't
25 even tell you, Judge Hamill, that he believes

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2 the culture of violence that exists on Rikers
3 has anything to do with the brutality on the
4 part of corrections officer, which is
5 unbelievable.

6 I was really supposed to come here
7 to speak to the points of JAC's written
8 testimony, but you have already. I think I
9 just felt like I had to react to what I saw
10 today and what I see today is that there's
11 absolutely no way that this DOC proposal can
12 be accepted as is. Someone from the Fortune
13 Society already spoke that there really has
14 to be more of a public dialogue about what
15 happens next. This is the first big reform
16 proposal that I've heard since Ponte's been
17 in office, and this is just not the right
18 thing at all. This is actually more
19 restrictive and strips away more human rights
20 of people are more incarcerated and that's
21 not O.K.

22 (Applause.)

23 CHAIR CAMPBELL: Thank you.

24 Our next speaker is --

25 MS. GOODWILLIE: Me?

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2 CHAIR CAMPBELL: Yes.

3 MS. GOODWILLIE: Hi. My name is
4 Susan Goodwillie. I'm a social worker at the
5 Urban Justice Center and a member of the
6 Jails Action Coalition. I was also supposed
7 to follow up with Hadley about the second
8 half of JAC's testimony, but once again, you
9 have it so I'll try to be kind of brief.

10 I think incarcerated people,
11 especially young people that scapegoated as
12 the reason for violence in the jails for
13 years, and I think that was really
14 demonstrated a few minutes ago. I think
15 there were -- you know, a lot of --
16 Mr. Seabrook's answers to Judge Hamill's
17 questions indicated that there are points
18 that we can agree on in terms of training and
19 in terms of other things that could make the
20 jails safer. But I thought it was
21 tremendously concerning, as Hadley said, that
22 he was not willing to look at the Department
23 of Correction's participation in the culture
24 of violence.

25 And I also think it's very

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2 disturbing to me that there were so many
3 correction officers here that, frankly, I was
4 very much looking forward to hearing from,
5 and I'm very sad that they all left with him
6 'cause I would like to hear from them and not
7 from him. I would like to hear their
8 stories, and I'm concerned that that is a
9 culture of violence that is -- people don't
10 feel comfortable maybe sharing their own
11 input.

12 The Department of Justice report
13 identified systemic deficiencies that are not
14 only responsible for the excessive and
15 unnecessary use of force by DOC staff but
16 also lead to the high levels of inmate
17 violence. Those inadequacies included
18 failing to report, false reporting about the
19 use of force, inadequate investigations and
20 discipline of staff, an inadequate
21 classification system, problems with the
22 grievance system, and multiple supervision,
23 training and management failures, which I
24 just didn't hear any particularly good
25 answers to today by the President of the

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2 union.

3 With the ESHU proposal, the DOC
4 continues to blame increased violence on
5 people who are incarcerated, and instead of
6 employing interventions that could reduce
7 violence, the Department seeks to develop
8 additional ways to subject detainees to
9 harmful isolation. I mean everything that I
10 was going to say has pretty been said so I
11 just sort of want to close with a quote of
12 one of the Board's own experts: "One of the
13 commonest mistakes made about punishment is
14 that it prevents or deters violence. On the
15 contrary, more than a century of research on
16 the psychology of punishment has made it
17 clear that punishment, far from preventing
18 violence, is the most powerful tool we have
19 yet to created for simulating violence. I do
20 not think that these new units will be
21 particularly effective, especially when the
22 Department is not willing to investigate
23 their own participation in the culture of
24 violence."

25 Thank you so much.

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2 CHAIR CAMPBELL: Thank you very
3 much.

4 (Applause.)

5 CHAIR CAMPBELL: Krystal Forde?
6 Diedre Shore? Amanda Becks?

7 MALE SPEAKER: I think that's Amanda
8 Becker.

9 MS. SHORE: Hi. I'm Deirdre Shore.
10 I'm part of the Jails Action Coalition and
11 I'm going to reading two statements of two
12 young men who are currently incarcerated at
13 Rikers in solitary confinement.

14 "I was 17 the first time I was put
15 in solitary at Rikers. That time I spent
16 eight months in The Box. I'm 19 now. This
17 time they put me in as soon as I got to
18 Rikers for time owed from the last time I was
19 sentenced to The Box. I've been in here for
20 five-and-a-half months and I have 1,700 days
21 left. For two months while in The Box, I had
22 enhanced restraints on, waist shackles and
23 handcuffed. I've never been given any
24 alternatives; it's always just The Box.

25 "Being in there, I just feel so

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2 helpless, helpless and depressed. Even
3 though I was supposed to have rec everyday, I
4 was only allowed out for ten days out of the
5 month. They've been a little better about it
6 lately, but when I go out, I just get put in
7 another small cage alone.

8 "When I was first sent to The Box, I
9 screamed and I shouted to get out. When I
10 couldn't scream anymore, I banged on the
11 wall. Now, I find ways to break the rules,
12 just so I can get out of myself for a little
13 bit.

14 "I've been diagnosed with bipolar
15 disorder, too. I'm supposed to be getting
16 mental health services, but they can't do
17 anything for me. The mental health
18 professionals come by once a day, ask me
19 questions like, 'How are you?' and then
20 leave. Once a week I leave The Box and talk
21 to them for 20 minutes, but we only get to
22 talk for that short period of time. Since
23 I've been in The Box, I just feel so angry
24 and I don't have the patience for anything
25 any more.

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2 "My cell is filthy and they never
3 clean it. The paint is chipping. The food
4 is disgusting; it's always cold because they
5 never bring the meals on time. There's
6 always an excuse for them not to do what
7 they're supposed to be doing.

8 "One time another inmate cut my arm
9 really badly when I walked by his cell. The
10 COs took me to the clinic and put gauze on it
11 I had to wait like that for six hours in
12 another cage while I watch the bus that I
13 left on sit outside for six hours, and I was
14 never explained why it took that long to
15 transfer me to another" -- "to the medical
16 facility to come to my room.

17 "I have cuts and bruises on my
18 wrists from the COs handcuffing my hands very
19 tightly and then putting them as high up as
20 they can. They call it upper body control
21 hold. The cuts on my wrist keep reopening
22 because of it. A few times when the COs
23 wanted me to get out of my cell, five or six
24 of them came in full riot gear and beat me.
25 They said I was resisting, but I wasn't.

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2 "The emergency service unit is the
3 most violent and aggressive. They're
4 supposed to be there for emergencies, but
5 they just go in your cell and throw stuff
6 around because they can.

7 "The last time I was in The Box, I
8 was still in high school. I got the work
9 from my school each week and it looked a
10 vacation package but there was no one there
11 to help me there or to teach me. There was
12 nothing. Because my mom is a corrections
13 officer, the COs say I get special treatment,
14 like showering everyday. I think they resent
15 me for it.

16 "All I want is the minimum
17 standards. I just want them to give us what
18 we're supposed to get."

19 The next statement reads: "I spent
20 124 days in The Box at OBCC in 4 South West.
21 I then went upstate and when I came back to
22 Rikers on a new case, they told me I owed
23 those 124 days and I had to re-serve them.

24 "To get rec while you're in The Box,
25 you have to be by your gate by five or six in

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2 the morning. They don't even announce it. I
3 made it out maybe twice a week. You get way
4 less food, everyone loses weight The Box, and
5 you have to ask out in order to get out
6 sometimes and you have to beg and act out for
7 things like toothpaste and toilet paper.

8 "You spend your days in a filthy
9 cell full of roaches. I start acting out,
10 flooding the cell, blocking the slot,
11 anything just to get out of there. Opening a
12 new segregation unit, whatever you want to
13 call it, whatever name you call it by won't
14 do anything to make the jail safer when there
15 are all these restrictions, like no contact
16 visits, getting your mail read, no
17 commissary, you're going to do whatever you
18 have to do to get out of that unit even if it
19 means going back to The Box.

20 "When you put together a bunch of
21 violent people who are already acting out in
22 the house, in general public" -- "in general
23 population, they're going to get violent to
24 get out of there."

25 I want to thank you for giving me

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2 the opportunity to present these statements
3 and to give a voice to these voiceless.

4 CHAIR CAMPBELL: Thank you.

5 (Applause.)

6 CHAIR CAMPBELL: Amanda Becker?

7 MS. BECKER: Hello. My name is
8 Amanda Becker. I'm with the New York City
9 Jails Coalition. I thank you very much for
10 this opportunity, and thank you to everyone
11 who stuck around to hear what we have to say.

12 First, I'm here to read a testimony
13 on behalf of a friend and then I'd like to
14 take a minute to say a few words my own.

15 So my friend writes, "Hello. My
16 name is Tina Espinal, grandparent of Sean
17 Presley, and this is his story. I'm here
18 today to say to everyone in this place that
19 I'm not looking for sorrys or for pity. I'm
20 just here to tell Sean's story.

21 "John has lived with a number along
22 with his name since he was about 13 years
23 old. Sean is now 20 years old and will be 21
24 in February 2015. Sean has spent most of
25 life in prison and in The Box until today.

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2 He is still incarcerated and is always facing
3 another day to go back into The Box. The Box
4 is his solitary confinement.

5 "The times that he has spent in The
6 Box have affected his physical and mental
7 health very badly. Before Sean went to
8 prison, his blood sugar was border-line
9 diabetic, he need braces in his mouth, and he
10 also needed glasses. Sean has always seen a
11 psychiatrist since he was young.

12 "Since he has been incarcerated, he
13 has never been given the proper health care
14 or mental health care. There have been
15 plenty of times that I've had to write or
16 call many different agencies to get help for
17 Sean because he's never getting the services
18 that he needs.

19 "Sean has also experienced child
20 abuse and has a case against Albany. I've
21 never been able to find out what happened to
22 him, still to this day. No one has ever paid
23 attention to Sean's needs while he is in The
24 Box, and yet he is still being given
25 medications from doctors all over the years

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2 without being monitored while in The Box, and
3 he has always been suicidal while in there
4 but no one has ever been paid attention to
5 him until today. No one's eyes are open."

6 So that's from my friend, Tina,
7 about her grandson. And just before I wrap
8 up, I wanted to take a second to address one
9 of the points that Mr. Seabrook made and
10 impose a question to the Board and to
11 everyone here.

12 What is it that causes an
13 incarcerated person to rape? What is it that
14 causes them to slash, that causes them to
15 extort another person? What is it that causes
16 a corrections officer to smash an inmate's
17 face in?

18 These are the experiences that drive
19 these actions. People are not purely evil.
20 There is not an innate badness that causes
21 them to do these things. It is lived
22 experience, it is lived trauma that is the
23 driving force behind all these things, and
24 that needs to be considered in any policy
25 that has put forth by the Board or any

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2 legislators, if there are any left in the
3 room.

4 What we need is intensive
5 therapeutic rehabilitative programming for
6 people at Rikers Island and for jails and
7 prisons all over the country. We need
8 stricter standards to hold corrections
9 officers to when they are being recruited,
10 when they are being trained, when they are
11 being put into work. I think with those
12 things then you will see a vast reduction in
13 violence. And I think that's obvious, but I
14 feel the need to say it, despite so many
15 people having said it already today. That's
16 why we're all here, is to make sure safety is
17 maintained and safety is improved for
18 everyone. I hope that you will consider that
19 in your rule-making. Thank you.

20 CHAIR CAMPBELL: Thank you,
21 Ms. Becker.

22 Maddy DeLone? Rodney Albury? Myra
23 Hutchinson? Sean Jones? Floyd Minns?

24 MS. HUTCHINSON: Hi, my name is Myra
25 Hutchinson. I'm a family member with a

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2 godson who's in correctional facility right
3 now. I want to react to the Seabrook
4 testimony, and think theres a lesson there,
5 in that he was -- it was humbling for him to
6 have to sit here five hours and hear
7 everyones testimony. I would like to see --
8 what is it, Joe Ponte? -- I would like to
9 have him sit here and be humbled by the
10 testimony, if its possible. Or maybe you
11 can alternate it, but to have these officials
12 come in, speak and then leave and not hear
13 the community, I think is a disservice to us.

14 The other thing is, I'm opposed to
15 this ESHU because if you build it, youre
16 going to fill it. We have not tried anything
17 worthy of corrections in the sense that
18 everything has been punitive. We need to
19 shift and -- I'm not going to even use the
20 five minutes, O.K.? We need to shift
21 attitudes in society. It has to be
22 intervention, and people here, the experts
23 here, have ways that we can intervene so that
24 people do not react in such a violent manner.
25 Thats all I have to say.

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2 CHAIR CAMPBELL: Thank you,
3 Ms. Hutchinson.

4 (Applause.)

5 CHAIR CAMPBELL: Floyd Minns? Karen
6 Collins? Gabriel Kilpatrick?

7 MR. KILPATRICK: Good afternoon,
8 Board members. Id like to thank you for the
9 opportunity for letting me testify. On
10 behalf -- I'm Gabriel Kilpatrick. I'm with
11 the Rikers Action Committee and I'm a student
12 at City College. And on behalf of Rikers
13 Action Committee and the Jails Action
14 Coalition, I would like to introduce a
15 proposal that was announced before, but I
16 want to go into more depth about it, in that
17 we propose a Community Review Board.

18 We insist that this Community Review
19 Board be an independent, accountable, fair
20 oversight agency that builds trust and it
21 shows standards of integrity and decency
22 between the citizens of New York City and the
23 Department of Correction, and that emphasis
24 shall be placed on the fairness. For this
25 review board to be effective, it should not

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2 have any connection with the Department of
3 Correction, City Council or any other
4 government agencies. The review board should
5 operate as a forum for individuals in the
6 community and prisoner populations to voice
7 their concerns about abusive prison
8 practices, as well as reporting and
9 situations of correction officer misconduct
10 that they were involved in or witnessed.

11 And additionally, the Board must
12 have the capacity to recommend and advocate
13 new prison polices that would be beneficial
14 in promoting mutual understanding and
15 cooperation between the prison and inmate
16 population.

17 We believe that we have the
18 authority to get this granted by the city
19 Administrative Procedure Act, Section 1,483,
20 Subdivision (a). By this joint resolution,
21 we petition the Board for the introduction of
22 an ad hoc Community Review Board. I think in
23 order to understand, to properly understand
24 how this Community Review Board will work is
25 that we look at the failures of the current

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2 Police Civilian Complaint Review Board;
3 unfortunately, it's been accused of collusion
4 with NYPD in handling investigations of
5 police misconduct, and there are several
6 reasons for these circumstances and our
7 Community Review Board that we wish to
8 establish must take proper care to avoid
9 these mistakes again.

10 Simply that the candidate nomination
11 process is something that we can change
12 'cause we emphasize independence, and we want
13 people in the community to be on this Board.
14 Its members should be democratically elected
15 and it should be an independent agency that
16 serves the people and inmate population in
17 New York City. I think the appointment
18 process and the nomination process is
19 something we need to focus on. Like I said
20 before, we need to have people on the review
21 board that come from the oppressed and
22 disadvantaged neighborhoods in New York City.
23 You heard before about the Seven
24 Neighborhoods Thesis, basically, again,
25 85 percent of the population in this state

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2 comes from seven distinct neighborhoods in
3 New York City. So it would be logical that
4 if we want a Community Review Board, we want
5 to trust that in the title of that, the
6 people on this review board come from these
7 communities where they have the experiences
8 of and have the knowledge of people and their
9 family members, friends that go, that are at
10 Rikers and are detained there. And I think
11 that the accusation of collusion between the
12 current police review board and the Police
13 Department should be a stark reminder for
14 this future prison review board.

15 I think we have to make sure that
16 the resources are provided again to the
17 independent Community Review Board and its
18 impartial investigators have the ability to
19 investigate situations of misconduct.

20 I just want to end with this story
21 of one of the dark moments in Rikers Island,
22 about a 56-year-old Veteran, Jerome Murdough,
23 he was sent there on a trespassing violation;
24 he was homeless, and he sought refuge from a
25 harsh, cold night. He possessed mental

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2 disabilities, and he was sent to a mental
3 observation unit at Rikers Island. That
4 observation unit in quotations, because,
5 again, this observation unit failed to
6 believe that he was scorched to death in a
7 hundred degree Fahrenheit and there were many
8 reports and there were many complaints by
9 inmates there but none of them were followed
10 through.

11 So we have to ask ourselves as a
12 society, how many more Jerome Murdoughs do we
13 have to have, how many more people have to
14 suffer, how many people have to die for
15 people to act; I think how many times our
16 citizens are denied basic human rights and
17 human dignity, before we as a society
18 denounce this injustice and take effective
19 measures?

20 So this coalition now has assembled
21 members here. We have ways, alternatives to
22 solve this problem in society, and I'd like
23 to remind you that this Community Review
24 Board that we are proposing would not come
25 into fruition by the blessings of officials

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2 and politicians. We would prefer that, but
3 our legitimacy stems from the will of the
4 community, and our mission is to provide
5 concrete support to them and their friends
6 and families. And we will act, and we urge
7 you to do the same, not by necessity but from
8 your own good will. This has to stop.

9 I think, for me, just personally,
10 I've known nobody, I never met anybody like
11 that went to Rikers. Before I got in this
12 coalition, I didn't know any friends, but I
13 think as human beings, you have to denounce
14 cruelty and evil being committed in this
15 city. And there's a great Martin Luther King
16 quote that says, "Injustice anywhere is a
17 threat to justice everywhere," and there's
18 injustice at Rikers and we need to solve
19 that.

20 CHAIR CAMPBELL: Thank you,
21 Mr. Kilpatrick.

22 (Applause.)

23 MR. KILPATRICK: I'd like to -- this
24 is the petition we have. Shall it leave it
25 here?

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2 FEMALE SPEAKER: (Inaudible).

3 CHAIR CAMPBELL: Victoria Phillips,
4 Larry Coldwell.

5 MR. COLDWELL: Yes.

6 CHAIR CAMPBELL: Thank you.

7 And then, Darrell Yates.

8 FEMALE SPEAKER: See if the mic is
9 on.

10 MS. PHILLIPS: Hello. My name is
11 Victoria Phillips and I'm also a member of
12 the Jails Action Coalition. I would like to
13 say --

14 CHAIR CAMPBELL: If you could you
15 just pull the microphone in front of you just
16 a little closer.

17 FEMALE SPEAKER: I think it's off.

18 FEMALE SPEAKER: Yeah.

19 FEMALE SPEAKER: I think it got
20 turned off.

21 FEMALE SPEAKER: It's on the right
22 side.

23 MS. PHILLIPS: It's on.

24 FEMALE SPEAKER: It's on?

25 MS. PHILLIPS: Yes.

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2 FEMALE SPEAKER: We can't hear you.

3 MS. PHILLIPS: You can't hear me?

4 CHAIR CAMPBELL: Sir?

5 MALE SPEAKER: What?

6 CHAIR CAMPBELL: The mic's not
7 working.

8 MALE SPEAKER: Oh, O.K.

9 Another microphone went out.

10 Hello. Hello.

11 I always try to carry an extra
12 battery in my back pocket.

13 MS. PHILLIPS: One of these three?

14 MALE SPEAKER: Well, those three
15 didn't work, so hopefully one of these will
16 work.

17 Hello. Hello. Please work.

18 MS. PHILLIPS: I could use my
19 protestor voice.

20 MALE SPEAKER: Hello, hello.

21 MALE SPEAKER: One mic.

22 MS. PHILLIPS: One mic.

23 Shall I project? I've worked in
24 Rikers, I know how to speak loud.

25 MALE SPEAKER: O.K.

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2 MS. PHILLIPS: O.K. My name is
3 Victoria Phillips and I'm a member of the
4 Jails Action Coalition. The main reason that
5 I actually thought out JAC is because I
6 worked on Rikers as a cognitive behavior
7 facilitator. I also was in charge of the
8 re-entry portion with absolutely no funds to
9 do so.

10 MALE SPEAKER: We'll get another
11 battery and we'll try it again.

12 MS. PHILLIPS: No problem.

13 CHAIR CAMPBELL: We need it for the
14 tape.

15 FEMALE SPEAKER: Yes, the tape is
16 backup.

17 MALE SPEAKER: It's being taped.

18 MS. PHILLIPS: Continue?

19 CHAIR CAMPBELL: Yes.

20 MS. PHILLIPS: O.K. Rikers is where
21 one can confirm the school-to-prison pipeline
22 and observe mentally damaging words and
23 abusive actions inflicted upon our youth.
24 Our city uses broken windows policing to
25 assist in mass incarceration, enslaves them

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2 without substantial educational therapy, and
3 then releases them and demands that they
4 become productive citizens. Who is to blame
5 if the recidivism rate does not drop?

6 At the previous Board of
7 Correction's meeting, I heard several
8 accounts of verbal and physical abuse placed
9 on officers. One mentioned being urinated
10 on, another spoke on incarcerated individuals
11 lying about assaults to make a profit off of
12 the city. Yet, for each account given I
13 could recall an unprovoked account, similar,
14 in which officers were the aggressors, such
15 as spitting on incarcerated individuals or
16 where I heard officers bragging about being
17 awarded tens of thousands for sprained wrists
18 or more for injuries and then buying houses
19 and cars.

20 Having worked in mental health
21 hospitals, MRDD substance abuse, homeless and
22 criminal justice facilities, I am well aware
23 of the dangers that come with these
24 populations. Previously, I, too, have been
25 urinated on, assaulted and threatened.

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2 However, at no time did I act on my feeling
3 to dehumanize or harm any person.

4 Our city has over 40 percent --
5 excuse me, Ponte earlier said 33 percent --
6 of its incarcerated population diagnosed with
7 some form of mental illness, and while some
8 changes have recently been discussed or
9 implemented, much more must occur. Different
10 ways to maintain accountability need to be
11 addressed and DOC first realize and truly
12 accept there is a major problem. There is
13 still discussions of not accepting this new
14 correction policy that a lot of officers like
15 to say, and I personally recall often being
16 met with resistance regarding change. A
17 decompensating should never be called an
18 animal or told to use a socks as toilet
19 tissue because an officer is overworked,
20 annoyed or incompetent.

21 Please hire more appropriate mental
22 health staff, give the proper ratios to
23 address the immediate needs of the
24 populations, and hold all staff accountable.
25 And everybody has come up here and mentioned

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2 this in one way or another, but it doesn't
3 get done at all. And I mean that even with
4 the people that you bring in to do training.
5 don't allow people to force feed you fake
6 data. Yes, the administration failed the
7 Department over many years, but so have the
8 officers who disobey policy while integrating
9 terroristic and bullying behaviors into their
10 profession.

11 When one chooses to be silent while
12 human and civil rights are violated on a
13 consistent basis, they, too, are part of the
14 problem. Their cowardly silence, although it
15 can never be understood sometimes, it can
16 never be respected. And when I say it could
17 be understood, a lot of officers have
18 mentioned that they would speak up, but they
19 are afraid of retaliation. Corruption runs
20 deep in the Department of Correction. I,
21 too, often faced times where I was hesitant
22 on reporting people because I had to come
23 back to work the next day and deal with them.

24 For example, one day in one of the
25 schools, in the main school, they call it in

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1
2 RNDC, I came up some stairs and there was a
3 young man that I had dealt with in The Box,
4 and this is not even part of what I wrote,
5 but every -- there was a young man that I had
6 dealt with in The Box for only two or three
7 days and then they removed us from even
8 giving them any type of therapy in The Box.
9 And several months later, I came up the
10 stairs and I saw him, handcuffed with the
11 white plastic cuffs, face down on the ground
12 and three officers beating him. Now, I had
13 to make a decision that day, and being a
14 single-mother of a young son myself, I could
15 not drive over that bridge and go to sleep
16 and not do anything. And because my mother
17 is buried in a military cemetery right now
18 and I come from a family who fought for our
19 Constitution, I believe that it is our duty
20 to speak up against injustice. So I reported
21 it. But we were told not to go, according to
22 the channels that DOC has in place to report
23 things, go directly to our director. And so
24 I reported it to her. We informed IG. It
25 took, October, November, December, January,

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2 February for IG to even call back and ask me
3 what the young mans name was.

4 There are serious problems going on
5 in Rikers, and you can have the officers come
6 here and tell you everything under the sun --
7 I'll stop in a minute -- you have the
8 officers come here and tell you everything
9 under the sun, but you have to hold them
10 accountable.

11 I saw De Blasio this week, touring
12 RNDC. I guarantee you the areas the areas
13 they took him to, were areas that they just
14 cleaned up and just moved those kids to,
15 because that is what they do. When Schriro
16 Came in in 2012, I believe, and I gave a
17 presentation for her and everything, she a
18 dirty desk; the next day they had the boys
19 painting and doing everything, right? They
20 didn't even keep them in those units.

21 I've seen officers beat -- I have
22 one more thing to say. I'm going to stop. I
23 got one more thing to say. No, this is not
24 funny.

25 I seen an officer -- a young man

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2 up, then the turtles came, which is the
3 responding riot gear officers, came and beat
4 him up also. I ran looking for a captain to
5 try to stop it. The captain wasn't in that
6 area. I ran to the officers and I lied and
7 said the captain is coming for them to stop
8 beating this young man. Nothing was done.
9 No reports were made. It took two days,
10 different tours--think about that--three
11 tours every day, right? It took two days
12 before he was even taken to medical and he
13 had broken arms and ribs.

14 These things go on. don't announce
15 when youre going. Do pop-up visits and hold
16 them accountable.

17 FEMALE SPEAKER: Yes.

18 FEMALE SPEAKER: Yeah.

19 (Applause.)

20 CHAIR CAMPBELL: Thank you,
21 Victoria.

22 First, Larry Coldwell followed by
23 Darrell Yates.

24 MR. COLDWELL: Good afternoon to the
25 Board, good afternoon to the audience, and

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2 matter. Now, I say to us, to the Board, what
3 type of people are we preparing to come back
4 to society to be on the train or on the bus
5 or walking down the street with my mother,
6 with my 20-year-old daughter that the system
7 has motivated and developed into this evil
8 person that wants nothing but revenge?
9 Where am I going with this? I'm saying
10 towards that if we treat people like animals,
11 they will act like animals. We have to
12 change the paradigm of how we are dealing
13 with the prison population.

14 Rikers Island is a problem, but I
15 see problems upstate in the prisons upstate.
16 Things have changed in the world and in
17 America. We care, and no offense to pet
18 owners, but we care more about the dog that's
19 lying in the middle of the street than we
20 care about another human being that's lying
21 in the same spot the dog once lied in. We,
22 as a people, have to wake up. Black, white,
23 yellow, brown, fat, skinny, big and small, we
24 have to wake up and realize that we have to
25 become more compassionate towards the needs

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2 of others, those that are down-trodden, those
3 that are oppressed.

4 We, most of us in America, stand on
5 some level of spirituality. We go to our
6 house of worship. We hear the sermon. It
7 feels good; I sung, I said a prayer and I go
8 back home, and I never do anything to try to
9 uplift humanity.

10 We must start to look at what we are
11 doing to each other because if we don't, and
12 I don't profess to be any prophet, but what
13 I'm seeing is, if we don't we are creating a
14 community that can very well upset all of our
15 Fifth Avenue, sitting out on the restaurant
16 eating a nice dinner on Fifth Avenue and the
17 next thing you know there's this mass
18 explosion in things. We're creating
19 monsters. We're creating mean people, angry,
20 filled with anger and frustration, and when
21 you reach that place where you're filled with
22 anger and frustration, the only thing left is
23 to act out in the most desperate way. And
24 everybody knows we live in a terroristic
25 time. All right. Lets be for real. Lets

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2 keep it for real. We live in a time where
3 tyranny is what most frustrated people use to
4 express themselves.

5 Boston bombing, the school that the
6 guy shot up and kill up, we live in that date
7 and time. We have to rethink how we are
8 dealing with people, be they inmates or just
9 sleeping on the corner of the street. How do
10 we deal with them to bring out the humanity
11 within the individual instead the dog that
12 lies within each and every one of us, if the
13 truth be told? Thank you very much.

14 (Applause.)

15 FEMALE SPEAKER: The next speaker,
16 Darrell Yates.

17 Darrell Yates?

18 Luke Nephew. Luke Nephew.

19 Elder Reginald Owens? Reginald
20 Owens? Followed by Susan Gottesfeld, Terry
21 Hubbard and Five M -- I'm sorry.

22 MR. MUALIMMAK: Don't even try it.
23 Leave it alone.

24 (Laughter.)

25 FEMALE SPEAKER: Are you Reginald

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2 Owens?

3 ELDER OWENS: Good evening,
4 everyone. I greet you in the mighty name of
5 my Lord and Savior, Jesus Christ. There may
6 be people of all faiths, I greet you in the
7 name of our Lord and Savior, who is God.

8 But I've come here today as an Elder
9 of the Body of Christ and as a father who had
10 two sons incarcerated, unfortunately, at
11 Rikers Island, family members, at the very
12 same time as a concerned individual. But
13 more so to let you know that the game that we
14 are playing here, the game that we are
15 participating in, that one day -- this is not
16 a threat. I heard what you said, young man,
17 just who came before me, but all of those who
18 know about the spirit of God will tell you,
19 what we do on this side, and I'm speaking not
20 just to you because all of us are involved in
21 this, regardless of what your decision will
22 be, what we do on this side, what we conclude
23 to do on this side, we will be held
24 responsible for. We will be held accountable
25 for.

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2 There are -- just recently, and I'm
3 not here to come with no bang-bang, but I'm
4 going to tell you the gospel truth, we just
5 had -- was it a month or so ago? -- in the
6 Philippines, we had another tsunami. We just
7 had mud slides in California. we've had
8 natural disasters that are disproportionate
9 happening around us. We had, I think it was
10 in Jersey, a 1.89 earthquake. And I say that
11 to you because theres a spirit that knows
12 all things and Hes watching and He has
13 angels that are dispatched. And I really
14 didn't want to get spiritual with you, but
15 after hearing all that has been said, enough
16 has been said.

17 I've heard it from doctors, and my
18 heart jumped for joy to know that those who
19 are in the society who have been matriculated
20 to the university system, that theyre
21 telling the gospel truth: Something has to
22 change and enough is enough.

23 I heard the young lady just say that
24 something is going to be a -- theres going
25 to be -- I mean, the young man said theres

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2 going to be a response in the streets. He
3 talks about black lives matter, and they do.
4 White lives matter. Incarcerated lives
5 matter. Its time for a change.

6 I say that because, as I, and I'm
7 not ashamed to say that I've marched in the
8 streets, just -- I don't know was it a week
9 or so ago. I thank God that he gave me the
10 strength to march from West Fourth Street to
11 34th Street to East New York to Akai Gurley's
12 home, and as we marched, it made me realize
13 that in the 60s there were black people
14 marching, but now I look and I saw people who
15 were White --

16 AUDIENCE: Yes.

17 ELDER OWENS: -- people who were
18 Asian, people who are older, people who were
19 younger; children were there, because
20 something is very sick, demonic thats going
21 on in our institutions, and Rikers Island
22 happens to be one of them.

23 I Googled the worst prisons in the
24 world and 15 of the worst prisons of the
25 world and one of the, the number one was

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2 Rikers Island.

3 I went there and did volunteer work
4 under Antonio McCou (phonetically), who was
5 over the Volunteer Division at one time. I
6 happened to be a correctional officer and
7 then became a correctional counselor, because
8 I saw the wickedness, the satanic work that
9 was being -- excuse me, excuse me -- the
10 satanic work that was being done in
11 corrections, and the spirit of God moved me
12 to want to work with human souls. Later on
13 in life He called me into the Body of Christ.

14 So I stand here with you looking at
15 Matthew, Chapter 25, and I'm asking you to
16 read for yourselves Matthew 25, Verses 31 to
17 46, talking about concerning judgment. And I
18 want to leave you with something. I want to
19 leave you with something, some peoples names
20 for you to go and do homework. The name is
21 Dr. Donald Ewen Cameron, Dr. Donald Ewen
22 Cameron, E-w-e-n. And I say that name
23 because as I heard about Ponte and whatever
24 he did in Massachusetts, there is a way that
25 sees right to a man and it leads to a path of

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2 destruction.

3 Dr. Ewen Cameron was a leading
4 psychologist and he worked with electroshock
5 therapy, and what he found out is there's
6 chemicals that we have in our body and those
7 chemicals will cause us to go into like a
8 relapse, we go into a type of a sleep, and
9 then the brain can be disordered or
10 rearranged to do -- first of all, what was in
11 the brain is wiped out, it's wiped, the slate
12 is wiped clean. Then what happens is, you
13 can put new information into that brain and
14 you become brainwashed.

15 All I'm trying to said to you in a
16 very simple way is that the ways, what I've
17 heard about Pontes program and what I've
18 heard in corrections, not just New York, but
19 in many in the correctional systems that I
20 worked in, when you are in a shoe, when you
21 are in individual or solitary confinement, as
22 it was my responsibility to work with them.
23 Never lost one. Never lost a suicide case.
24 Never lost the ones who went in there who
25 were detrimental to themselves or others.

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2 They came out better. Because I was with
3 someone who's better than me.

4 I had to train all the correctional
5 staff and then anybody that came in through
6 what the Lord gave me called the cultural
7 sensitivity, awareness training program, and
8 I participated in it at the Department of
9 Corrections at Rikers Island.

10 There has to be a change in the
11 heart, the mind, the soul because once you
12 look at human beings as cardboard and you
13 have the authority and the power to do things
14 to them and place them in places thats
15 detrimental to their well-being, the brain
16 changes, the chemistry of the brain changes,
17 and what happens is a brainwashing takes
18 effect. And what we have is -- this is why
19 we have an increase right now in crime. We
20 say it's not reported in -- we say it has
21 decreased in New York, but much of it is not
22 being reported.

23 Black lives do matter. Many of the
24 lives, all of the lives of the
25 incarcerated -- and I heard what the

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2 gentleman who's the head of the union say
3 about the correctional officers, they need to
4 be trained. All right.

5 But first of all, try and read
6 Matthew 25, Verses 31 to 46, 'cause when we
7 deny people access to spiritual knowledge,
8 when we deny them access to human
9 interaction, when we deny them contact visits
10 and we deny them interaction with society and
11 want them to stay in a place for 15 hours, we
12 are creating hell in that individual. But
13 there is a way, and his name is Jesus.

14 And I have to stop now; I have to be
15 obedient. But all I'm trying to say to you
16 is, is that do not allow yourselves by any
17 other institution aside from your boy, and
18 who I am from, I'm going to bind myself to
19 JAC.

20 Bless you, in the mighty name of
21 Jesus Christ.

22 (Applause.)

23 CHAIR CAMPBELL: Thank you, Elder.

24 Susan Gottesfeld, Terry Hubbard,

25 Mr. Mualimmak.

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2 MS. HUBBARD: My name is Terry
3 Hubbard. I'm a member of the Jails Action
4 Coalition. That was my big brother that
5 spoke. Wow.

6 I heard everything today, its just
7 that my heart is touched. I was back there
8 crying when I heard everyone go up because my
9 son is also incarcerated at Rikers Island. I
10 was going to speak on the visits and this
11 visits list doesn't work. Its under Article
12 109. This disapproved list doesn't work, so
13 I went to through this approved list at
14 Central New York Psychiatric Center. What
15 they do is they ask you to provide names of
16 the loved ones so they can approve the
17 visits.

18 Once the loved ones are approved on
19 a visit, you have to file an application, you
20 must wait 30 days for this approved visit.
21 Once it is approved, the process of
22 elimination begins.

23 They narrow down who's expected to
24 come; although, they were established that
25 they made this their loved ones. They narrow

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2 it down by saying this person can't come
3 after its been established that they are
4 approved. The inmate or the incarcerated
5 individual, as we like to call them, suffers
6 from deprivation when they don't have the
7 contact of a loved one.

8 Sleep deprivation, fatigue, suicidal
9 tendencies begin. When this happens
10 everything, as we say, the human mind, the
11 human psyche goes another route. We have
12 institutionalized most of our inmates with
13 mental disabilities, cognitive disabilities,
14 and the strange thing, not really strange,
15 but the horrifying thing is that we have
16 inmates on Rikers and abroad with autism and
17 developmental disabilities who are being
18 beaten and shattered. We have a form of what
19 we would call another form of torture. Its
20 called incommunicative detention. This is
21 happening all over the country. This is
22 happening at Rikers.

23 This type of detention happens when
24 an inmate, an incarcerated individual is told
25 to pack up. When they told to pack up,

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2 anything can happen. It has happened to my
3 son. Officers, especially the riot squad,
4 better known as the turtles come in and tell
5 the inmate to pack up, and when the inmate
6 says, Why should I pack up? I've done
7 nothing. Their reply is, You're wanted for a
8 fight. This so-called fight is a prelude to
9 the kill.

10 The inmates on Rikers on Island are
11 now sticking together; from OBCC, RNDC, GRVC
12 and abroad, every last one of them will not
13 put their hands behind their backs, because
14 once an inmate puts their hands behind their
15 back on Rikers, that means death. My son
16 once told me, Mom, I will bow down in the
17 streets to a cop and I will stand still, but
18 in Rikers Island we cannot. For the time we
19 put our hands behind our backs, thats when
20 we meet our maker. Thats when we cannot
21 fight back.

22 This type of detention is heinous.
23 Inmates are packed up, sent to states, sent
24 to we call them secret camps, concentration
25 camps outside of New York, outside of the

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2 world. Our inmates are being taken from
3 Rikers Island, upstate New York and shipped
4 to other countries and other states. That's
5 why we lose track of them. I've been doing
6 this study a long time. I don't have my
7 Ph.D. and not even my Masters, but I have it
8 in Streetology. I worked with incarcerated
9 individuals and they told me this is the
10 secret. While thousands of them lay up in
11 Clinton Prison where their brains were opened
12 up and they were sacrificed because the
13 doctors stated they wanted to see how the
14 criminal mind in blacks worked.

15 Well, I come to let you know that we
16 must banish ESHU for the ones, not for just
17 all the inmates, but the ones who they really
18 target: The mentally ill, the ones with
19 autism, the ones with developmental
20 disabilities, the ones with intellectual
21 disabilities. Right now, my son told me he
22 is afraid because he doesn't know when the
23 new recruits come in with the turtles and say
24 pack up, for when they pack up, they take
25 them beside the jails or to other means or to

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2 other facilities within Rikers Island and
3 that's when the beatings commence.

4 I ask you, the Board, to don't --
5 don't establish this and please rule against
6 this ESHU, for I don't want to be like many
7 of mothers that came to Rikers Island for the
8 eight years I've been back and forth as a
9 visitor; I don't want to come back and say, I
10 come to collect my dead sons clothing.

11 (Applause.)

12 CHAIR CAMPBELL: Thank you,
13 Ms. Hubbard.

14 This actually concludes our public
15 hearing on behalf -- oh, I'm sorry. I
16 apologize.

17 MR. MUALIMMAK: I'm going. Cut it
18 out.

19 (Laughter.)

20 MR. MUALIMMAK: How are you doing?

21 CHAIR CAMPBELL: How are you? Good
22 to see you. I apologize.

23 MR. MUALIMMAK: It's O.K. I'm going
24 to have all your students protest your next
25 class.

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2 CHAIR CAMPBELL: I know, exactly.

3 MR. MUALIMMAK: No, really, I am.

4 I'm only joking.

5 (Laughter.)

6 MR. MUALIMMAK: How are you, Judge?

7 JUDGE HAMILL: Very well. How are
8 you, sir?

9 MR. MUALIMMAK: Dr. Cohen, as
10 always.

11 DR. COHEN: Nice to see you.

12 MR. MUALIMMAK: And new member, I'm
13 sorry, what's your name?

14 MS. JONES-AUSTIN: Jennifer
15 Jones-Austin.

16 MR. MUALIMMAK: Yes, it is. I had a
17 long conversation about you last night.

18 (Laughter.)

19 MR. MUALIMMAK: No, I'm not joking.

20 You see, Jennifer is actually the
21 first woman on the Board of Correction of
22 color, ever. You know, me, Angela Davis and
23 Michelle Alexander was having a conversation
24 about the power and the responsibility of
25 women, and their duty. So you might be

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2 having some new visitors soon. I just say
3 that because it is a responsibility. It is a
4 duty. You are, and I'm sorry, I have
5 testimony but, I just decided instead of
6 bringing, like, maybe a hundred thousand
7 people down here today, I'd just come and
8 have a conversation with you.

9 I don't want to disrupt what
10 Dr. Cohen is doing and you are doing
11 progressively as a responsible citizen in
12 charge of overseeing the Department of
13 Correction.

14 Judge, thank you for your veracity
15 and also your dedication to questioning when
16 others don't, you know? It's important.

17 I, myself, have served 12 years
18 incarcerated. Wrongfully convicted I served
19 five years in solitary. I did time in
20 Rikers, of course, in solitary. Until they
21 banned me and then I got banned from Rikers
22 Island. Me and Doc Lemon (phonetically) was
23 just talking about that earlier.

24 I want to have a conversation with
25 you, a few minutes, just a talk to let you

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2 know the world is watching. We've had photos
3 all week, rallies, riots, movements; you've
4 been seeing them, Paris, India, Jamaica, Rio,
5 Japan, Mexico, that's all over the world
6 were saying that lives matter, human lives
7 matter, black lives matter, all right? When
8 we talk about incarceration, were talking
9 about black people. Lets just be honest,
10 were talking about people of color,
11 80 percent so we're talking about people of
12 color.

13 But I wanted to make this statement
14 because everybody is watching you right now.
15 You know, I had lunch with Commissioner Ponte
16 yesterday. After he came from the ACLU, I
17 had a conversation with Amy Fedick
18 (phonetically), she runs the Stop Solitary
19 Program that we have.

20 Oh, for new members, I'm sorry, my
21 name is Five Mualimmak. I'm actually the
22 Director of the Incarcerated Nation
23 Corporation. Its an organization of those
24 previously incarcerated, collectively, to be
25 in a position to speak and teach and educate

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2 those around incarceration. But I'm also a
3 member of the Jails Action Coalition, the New
4 York Campaign for Alternatives to Isolated
5 Confinement, the NYCLU, Solitary Watch, the
6 ACLU, and a numerous amount of groups,
7 including the Campaign to End New Jim Crow
8 and grass roots groups, the National
9 Organization to End Mass Incarceration,
10 Community Division.

11 So I say that to say that
12 everybodys watching right now because the
13 decisions you make, the world is waiting for.
14 There is no comprehensive program that
15 requires isolation. There is none. I mean,
16 I'm sure that you've heard plenty today and
17 doctors, probably annoying you to death, and
18 professors and college graduates and
19 psychiatrists and professionals telling you
20 that there is no evidence of solitary
21 confinement isolation or punishment that
22 actually works in any form, right? But what
23 you don't know about me -- you probably even
24 know my story -- but what you don't know
25 about me is during when I was on Rikers I was

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2 the head of the Inmate Liaison Committee,
3 actually working for Otis and trying to
4 create conditions that would inspire people
5 to behave well through incentive, right? so
6 were in 4 upper, horrible place, four main
7 house of pain, right? Thats where the COs
8 just come and beat you up. That's where
9 Clemens (phonetically) comes and covers up.

10 So, I say that to say that this is
11 doomed to fail and its gonna fall on you.
12 This program is not going to work. I've
13 tried incentives programs which tend to give
14 passes to people who visit. This program was
15 comprehensive. The people were behaving on
16 the units, but when you have a culture that
17 is so abusive that for years we've been
18 taking little kids there to scare them about
19 jail, its not going to change without caring
20 for the next person, without not giving up on
21 people. And were not talking about anybody
22 who's convicted, because everybody is
23 innocent, let's just be honest. We're
24 talking about double punishment, which is
25 Constitutionally illegal, but the structure

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2 of it is saying I give up on you.

3 I had a kid, right, goes to GED
4 class, I'm trying to help him fishing through
5 in The Box to teach him that you need an
6 education, a high school education, every
7 movement of human interaction, if you put me
8 in a cell next to you, I'm gonna talk to you,
9 you next door, you know what I mean? But
10 that is a punishment.

11 Hey, you know what? My wife sends
12 my magazines. Judge, you don't get much
13 mail, here, read that. That's punishment.
14 So when humans react to this punishment and
15 you design the system so that you punish
16 people for reacting to punishment that you're
17 giving them, it's perpetual.

18 I know. I'm sorry.

19 So I say that to say that there's a
20 responsible on you, but there's also a lot of
21 attention. This system is gonna fail that
22 they're trying to attempt. And I'm sorry,
23 their attempt is to take -- and this is
24 crazy, right? -- they're gonna take the most
25 dangerous 250 people, probably enemies of

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2 each other, and put them all in the same
3 unit.

4 FEMALE SPEAKER: Yup, yup.

5 MR. MUALIMMAK: So when they start
6 fighting and stabbing and (inaudible) each
7 other, and this is totally negligent of not
8 having a gang intervention program, because I
9 have met with 17 gang intervention program
10 directors yesterday, last night at a meeting,
11 four who I personally know have tried to get
12 their programs on to Rikers Island. So no
13 gang intervention, you see what I'm saying?
14 No type of program that is going to address
15 the issue but additional punishment.

16 So taking these quote, unquote,
17 250 -- 'cause when they first said that I
18 thought it was a unit for COs. When you said
19 it was 250 of the most violent people at
20 Rikers, I said, Awesome, I hope they put the
21 captain in there, you know what I mean?

22 (Laughter.)

23 MR. MUALIMMAK: So I come from a
24 different era on Rikers when if you're SRG
25 for any reason or any type of attention, you

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2 know, they would just come beat the crap out
3 of you because it was that force, you know,
4 to make that standard.

5 We don't live in those times right
6 now. We need to have change. So treating
7 people like humans, especially our taxpaying
8 citizens, those who can't afford bail -- I
9 just had this conversation with the Mayor a
10 couple weeks ago because hes trying to
11 reform bail now -- because the structure of
12 bail is really the issue, So we're talking
13 about poor people and poor people of color

14 We have literally changed in this country the
15 language of an investment in rehabilitation
16 to blame and punishment. I say that because
17 I lived that, years after years after years I
18 spent in isolation.

19 So please, do understand, I suffer
20 from schizophrenia, I suffer from bipolar
21 disorder, so does my son. When you place a
22 person and restrict their rights, youre
23 talking about restricting religious rights,
24 communal; youre talking about restricting
25 law libraries; youre talking about

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2 restricting visits, family, human contact;
3 youre talking about restricting people, how
4 are we facilitating correction if the only
5 thing youre doing is punishment? Its not
6 going to work. Barry, it's not going to
7 work. Dr. Cohen, its not going to work.

8 This is a plan set up to make you
9 look like youre going to fail. So, yes,
10 Norman Seabrook comes in here, sad to say,
11 after leaving a radio station, comes here
12 with everybody from Rikers, so theres nobody
13 staffing at Rikers today.

14 FEMALE SPEAKER: That's right.

15 MR. MUALIMMAK: You know that,
16 right? It was already intimated that it was
17 understaffed --

18 FEMALE SPEAKER: That's right.

19 MR. MUALIMMAK: -- just to prove a
20 point that he can do that. Just like he held
21 a boycott with citizens going to court,
22 because he can do that. I've seen him call
23 Commissioner Ponte, Commissioner Schriro.
24 I've seen him call Elizabeth Crowley like
25 crazy. You know, this is this man who is a

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2 professional leader of people protecting our
3 citizens, right? But what does he say every
4 day? Rikers is a dumping ground for the
5 mentally ill. It's true. I agree.

6 So we need more therapeutic units,
7 but we need a human response, and if you fail
8 on this, well, the rest of the world will
9 have to look for other solutions, right? But
10 if you do succeed and you do stand your
11 ground and say, no, no, no, this is time for
12 change, this is time to clean house and make
13 a change, you will make New York the model
14 that everyone else will follow. You don't
15 believe me? Call Senator Dick Durbin. Call
16 Ted Cruz. Call U.S. -- Al Franken. They'll
17 tell you the conditions in other states,
18 'cause I've been out there speaking to them
19 at events and testifying on their behalf.

20 One more thing, I'm sorry.

21 CHAIR CAMPBELL: O.K., because we
22 have another speaker.

23 MR. MUALIMMAK: Sorry, brother.

24 MR. GUARINO: That's O.K.

25 MR. MUALIMMAK: I told Assemblyman

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2 Daniel O'Donnell the other day -- well, last
3 week, he was at Albany asking to testify for
4 his legislation, 'cause I support all
5 legislation against torture and solitary, and
6 I told him, you know, there used to be a
7 time, right? Where if you was the
8 commissioner or the head of a department or
9 in a position of authority, and if you was
10 been Mayor, you had to face the people,
11 right? Remember the term like shaking hands
12 and kissing babies; youd have to go out
13 there and listen to the people and listen to
14 their complaints or hear their woes but also
15 hear their grievances. That doesn't exist
16 nowadays. You've got to exhort that. It's
17 wrong.

18 So the voice of the people and the
19 opinion of the people have to wait until
20 last? They have to wait until last; fight
21 with them to get in, and then wait until last
22 to be heard. What youre setting the
23 standards for is setting the standards for
24 this world, because you are the financial
25 capital of the world, we're the fashion

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2 capital of the world, I don't know how, but
3 we're fashion capital of the world, but,
4 were also the torture capital of the world.
5 And whos responsible for that? Out citizens
6 who are the Board of Correction.

7 Thank you.

8 CHAIR CAMPBELL: Thank you, sir.

9 (Applause.)

10 CHAIR CAMPBELL: Our next presenter
11 is Angel Guarino.

12 MR. GUARINO: Angel Guarino. Thank
13 you, sir. Copies, you get the copies?

14 CHAIR CAMPBELL: We actually have
15 one more speaker after Mr. Guarino.

16 MR. GUARINO: How are you doing,
17 sir?

18 CHAIR CAMPBELL: Thank you.

19 MR. GUARINO: I'll try to be very
20 quick.

21 CHAIR CAMPBELL: Thank you.

22 MR. GUARINO: The first thing I want
23 to say is thank you for allowing me this
24 opportunity, and thank all of you wonderful
25 people because I'm coming from an era where

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2 we had no support like this. None. I'm
3 talking about an era where if you put in --
4 if the courts were to supposed -- were to put
5 in an order to break up the gym in Clinton
6 Dannemora, I can guarantee you over a
7 thousand bodies buried under that gym.

8 FEMALE SPEAKER: Yes.

9 MR. GUARINO: That's where I come
10 from. The only reason why I'm standing here
11 before you today alive is because of Sylvia
12 Hong (phonetically) from Prisoners' Legal
13 Service, at the time Assemblyman Hector Diaz
14 who today is the Supreme Court Clerk in the
15 Bronx, Ellen Recambrie (phonetically), Hank
16 Elkin, these were from the Quaker Group;
17 these are the people who used to come to the
18 hospital when I was all bandaged up, O.K., to
19 turn around and make sure that I stood alive.
20 And the most important woman in the world for
21 me, may God keep her in his glory, a little
22 Jewish lady that everyone was afraid of.
23 O.K.? I mean, everyone.

24 Like I said I'm going to try to keep
25 this short. I'm here on behalf of the Bronx

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2 Defenders Office. The Bronx Defenders
3 Organizing Project brings together clients,
4 formerly incarcerated members to fight for
5 justice and fairness.

6 You, guys, have a hard job on your
7 hands. Because right now, either which way
8 you go, it might not seem right. But, I'm a
9 human being, O.K.? I almost died twice.
10 I've been stabbed nine times, not for being a
11 good guy. I'm not going to stand here and
12 tell you that I was a good guy. I did what I
13 had to do. Eighteen years old for a murder
14 that I feel I should've never committed if
15 the cops would have done their job. They
16 didn't even allow the evidence that they had
17 to be used at trial in my behalf, O.K.? And
18 since now they change the laws, I can't even
19 take that evidence and bring it back in to
20 prove a point. But it doesn't matter,
21 because what's done is done.

22 I'm concerned with the kids. Put
23 that age limit from 25 on down. The men, let
24 them deal with it. They -- we made choices;
25 we made decisions. But when you put a young

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2 kid around a pack of wolves who haven't been
3 around a woman, O.K.? And that kid is forced
4 to defend himself, he has just learned how
5 easy it is to bust you upside the head and
6 feel nothing about it. Then you punish him
7 by putting him in The Box for six months,
8 eighteen months. The boy don't know how to
9 read or write, how do you think hes going to
10 come out?

11 You got a hard job on your hands.
12 I'm so sorry that things are the way they
13 are. There has been a lot of progress.
14 Maybe you'll meet some of them progresses
15 here. In Clinton they can't come and pick
16 you up any more and just take you out the
17 cell at the middle of the night because of
18 guys like me and the ones that died that
19 didn't make it.

20 FEMALE SPEAKER: That's right.

21 MR. GUARINO: Now when they come
22 pick you up, they must, by law, bring a
23 camera, for their protection as well as
24 yours. These are the things that were put in
25 place by the courts, but they were put in

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2 place by the courts because the people were
3 supporting, people who took a chance us,
4 people who believed in us.

5 I'm a human being and anybody could
6 change. I was a founder for New Jersey
7 Career Institute, New Jersey Power Careers, I
8 changed. Now, I'm starting a new one,
9 Inner-City Tech. These are all programs
10 geared to meet those guys who are coming
11 home. I'm dealing with an individual right
12 now who had -- who just finished doing 35
13 years. Went in when he was 18-years-old, was
14 forced to do what he did, as a result he
15 wound up getting natural life in prison. I
16 tell him, its a blessing that God opened the
17 doors and youre home. Now you need to do
18 something right about that.

19 With that, thats all I have to say.
20 God bless you all and thank you all for what
21 you're doing.

22 CHAIR CAMPBELL: Thank you,
23 Mr. Guarino.

24 (Applause.)

25 CHAIR CAMPBELL: Susan Gottesfeld.

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2 Ms. Gottesfeld.

3 MS. GOTTESFELD: Hi. Good
4 afternoon, and thank you for letting me speak
5 with you, and especially -- we were here this
6 morning and the room was so packed, we were
7 unable to get in. So I'm glad we were able
8 to come back this afternoon and speak with
9 you.

10 I'm from The Osborne Association,
11 and I'm Associate Executive Director there.
12 I oversee most of our program operations,
13 which includes all of our Rikers Island-based
14 program services for adolescents and adults.
15 We're seeing around a thousand children, you
16 know, you say adolescents but we like to say
17 children and adults every day. And we
18 absolutely support SEEK (phonetically),
19 abdicate strongly the eradication of solitary
20 confinement in the citys jails. I
21 absolutely trust that my colleagues in the
22 field have made that point clear and driven
23 it home relentlessly throughout the day. So
24 I -- I'm going to choose our time this
25 afternoon to bring forth the voice of

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2 children of people who have a parent detained
3 in one of the citys jails and potentially
4 being locked in proposed ESH unit,
5 particularly around the visiting, the
6 non-contact visiting.

7 In this unit, the proposal to reduce
8 visiting days and to make all ESH visits
9 non-contact violates the childs right to be
10 considered when decisions are made about her
11 parent. They also violate the childs right
12 to speak with, see and touch his or her
13 parent. Visiting a parent behind or through
14 glass is traumatic and confusing for
15 children. New York State is considered a
16 national leader in criminal justice and
17 public safety with both incarceration rates
18 and crime going down. It is also out ahead
19 of has many states in offering contact visits
20 as its standard, and we should remain a
21 leader in this area.

22 While some people feel that a parent
23 who commits an act of violence while
24 incarcerated should have their visits
25 suspended, this response disproportionately

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2 punishes their children. There are ways to
3 hold people accountable for their actions
4 that do not punish their children. In fact,
5 children are sometimes the ones to hold their
6 parents the most accountable, asking them
7 direct confrontational question that is
8 painful for parents to answer. Parents
9 should not be given a vacation from parenting
10 as a response to infractions; they should
11 have to face their children who offer them
12 motivations for improving their behavior.

13 Children need access to their
14 parents and that includes multiple visiting
15 days, with after school and weekend visiting
16 hours, and the ability to see, speak and
17 touch their parent. Considering the
18 well-being of children through criminal
19 justice policies does not mean being soft on
20 crime or discipline. It means teaching and
21 modeling that there are consequences for
22 actions, but that these are appropriate,
23 clear and not randomly and unfairly inflicted
24 on the children and family of those in
25 custody.

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2 The Board of Correction and DOC has
3 an opportunity to be part of teaching
4 accountability and responsibility, yet
5 currently, what is more often taught is that
6 punishment is cruel and unnecessary and
7 disrespectful to everyone affected by the
8 criminal justice system.

9 These are the most common messages
10 that children walk away from a DOC facility
11 having learned; that the system, laws and
12 policies are mean and unfair, that people in
13 uniforms are the bad guys, and their parents
14 are the victims.

15 It is possible to take security
16 concerns seriously and to implement policies
17 that reduce the likelihood of contraband and
18 violence while also be mindful of the
19 children and family who care deeply about the
20 people in DOC's custody. The current
21 policies and practices of the criminal
22 justice system, including New York City DOC,
23 convey that sacrificing childrens well-being
24 is the expectable collateral damage of
25 incarceration and that this is the

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2 unavoidable cost of protecting society. This
3 is not true.

4 As the Department works to shift
5 aspects of its culture and public
6 understanding and opinion about officers'
7 responses to people in custody, visiting
8 creates an opportunity to change the negative
9 perceptions that the public and children have
10 of officers in jails. Children often refer
11 correction officers as police and their
12 interactions with correction officers shape
13 how they feel about authority figures and
14 about the law.

15 Every interaction with a child is an
16 opportunity to heal the trauma of the
17 separation and the impossible, negative view
18 of officers. A positive interaction with an
19 officer who cares is incredibly important for
20 children, and there are ways to maintain a
21 high level of safety and security while
22 providing child friendly visiting.

23 We thank the Department and the
24 board for your efforts to end harmful
25 segregation practices, but we urge you not to

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2 create new traumas and harmful consequences
3 as you resolve existing ones. We respect the
4 difficulty and risk of this endeavor, and we
5 hope that the ESH is a stepping stone for
6 further the reduction in the use of
7 segregation, and we're happy to continue to
8 be part of positive solutions within the
9 Department. Thank you.

10 CHAIR CAMPBELL: Thank you,
11 Ms. Gottesfeld.

12 Dr. Cohen?

13 DR. COHEN: Yes, is there anybody
14 else who needs to speak or who would like to
15 speak?

16 I, just as a Board member, I want to
17 simply thank all of you for being here all
18 day, for giving extremely moving testimony.
19 I believe that all of us on the Board who
20 have heard what you had to say were changed
21 by it. I think the fact that we are here
22 today talking about creating an additional
23 segregation unit is beyond distressing, as
24 some of you have said.

25 I hope that the testimony you gave

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2 today will change the attitude of the Board
3 and, more importantly, the attitude of the
4 Mayor. I mean, I think that's what were
5 here about right now, to be supportive of the
6 appropriate political response to a crisis in
7 jails and prisons in this country and the use
8 of solitary confinement. It is not to create
9 more, you know, more segregation.

10 So I think you were amazing today
11 and I'm very proud to be on the Board of
12 Correction to support you and represent you.

13 Thank you.

14 (Applause.)

15 JUDGE HAMILL: I know it's been a
16 very long day for all of us, and in fact, it
17 just seems to me like we just started. I've
18 only been on the Board a year. I think, as
19 many of you know, I'm a retired family court
20 judge, prior career as a prosecutor, child
21 abuse, domestic violence and a psychiatric
22 nurse, and I found it extremely helpful to
23 hear all of the various perspectives from the
24 community that cares so deeply about Rikers.

25 So I'm very pleased that after a

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2 year on the Board, we were able to have this
3 hearing. We will continue the conversations.
4 There's been some great information provided,
5 some great questions asked. Why did the
6 rule-making on solitary stop? Why did the
7 efforts to reform with respect to the youth
8 and young adults, why did that stop?

9 I assure you, those are issues that
10 the Board is taking very seriously, and I
11 personally am trying to move forward. So
12 thank you very much for being here. We
13 appreciate it.

14 (Applause.)

15 MS. JONES-AUSTIN: I will add that I
16 am deeply appreciative of the time that you
17 all gave to this important issue. I'm
18 grateful that I had the opportunity to be
19 here, to hear you from beginning to end, and
20 not only did I hear you, I listened to you.
21 And I think its important for you to know
22 that you weren't just heard; you were
23 listened to.

24 We do have a difficult task ahead of
25 us, and there are a lot of competing

1 Proceedings

2 concerns. There's a lot of balancing that
3 has to be done, but I do want you all to know
4 that we heard and we listened.

5 (Applause.)

6 CHAIR CAMPBELL: I just want to echo
7 my colleagues, but first I want to thank the
8 Department of Health and Mental Hygiene for
9 their hospitality. I want to thank the Board
10 of Correction's staff for really helping us
11 conduct a seamless hearing which is much much
12 appreciated. Thank you.

13 And then, like my colleague, I want
14 to thank each and every one of you, one, for
15 being here for the entire hearing.

16 Two, your respect for the process,
17 and your input was invaluable in terms of
18 shaping our thinking as we head down this
19 very challenging path, but rest assured that
20 your words resonated.

21 And we do have a difficult task in
22 front of us. But this has really helped
23 inform our decision-making, and for that I
24 want to thank you and wish everyone happy
25 holidays.

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Proceedings

Thank you so much.

(Whereupon, the hearing is
adjourned.)

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CERTIFICATE

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

We, LINDA D. DANELCZYK and
KATHLEEN T. KEILTY, a Certified
Shorthand Reporters and Notaries Public
within and for the State of New York,
do hereby certify:

We prepared the foregoing
transcript of proceedings and that the
foregoing transcript is a true record
of such proceedings to the best of our
abilities.

We further certify that we are
not related, by blood or marriage, to
any of the parties in this matter and
that we are in no way interested in the
outcome of this matter.

IN WITNESS WHEREOF, we have
hereunto set our hand this 26th day of
December, 2014.

LINDA D. DANELCZYK KATHLEEN T. KEILTY

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