CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CRIMINAL JUSTICE

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HELD AT: COUNCIL CHAMBERS – CITY HALL

B E F O R E: Sandy Nurse, Chairperson

COUNCIL MEMBERS:
Shaun Abreu
Tiffany Cabán
Shahana Hanif
Christopher Marte
Mercedes Narcisse

A P P E A R A N C E S

Sherrieann Rembert, Assistant Chief of Administration at New York City Department of Correction

James Saunders, Deputy Commissioner of Health Affairs at New York City Department of Correction

Jonathan Levine, Assistant Commissioner of Special Investigations at New York City Department of Correction

Michele Stafford, Executive Director of the Office of Constituent and Grievance Services at New York City Department of Correction

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Jeanette Merrill, Assistant Vice President, Communications and External Affairs of Health and Hospitals/Correction Health Services

Jasmine Georges-Yilla, Executive Director of the New York City Board of Correction

Melissa Cintrón Hernández, General Counsel for New York City Board of Correction

Barbie Melendez, Director of Public Accountability and Oversight of the New York City Board of Correction

Bart Baily, Director of Violence Prevention

A P P E A R A N C E S (CONTINUED)

Rachel Sznadjerman, Correction Specialist at New York County Defender Services

Natalie Fiorenzo, Correction Specialist at New York County Defender Services

Lauren Nakamura, Staff Attorney with the Prisoners' Rights Project at the Legal Aid Society

Michael Klinger, Jail Services Attorney with Brooklyn Defender Services

Darren Mack, Co-Director of Freedom Agenda

Victor Herrera, Member Leader of Freedom Agenda, Treatment Not Jails, and Center for Community Alternatives

Christopher Leon Johnson, self

Alexis Quintero-Brode, Mitigation Specialist in Osborne Association Court Advocacy Services

SERGEANT-AT-ARMS: Check, check. This is a mic check for the Committee on Criminal Justice in the Chambers on the 24th of April, recorded by Patrick Kurzyna.

SERGEANT-AT-ARMS: Good morning and welcome to today's New York City Council hearing for the Committee on Criminal Justice.

At this time, we ask that you silence all cell phones and electronic devices to minimize disruptions throughout the hearing.

If you have testimony you wish to submit for the record, you may do so via email at testimony@council.nyc.gov. Once again, that is testimony@council.nyc.gov.

At any time throughout the hearing, please do not approach the dais.

We thank you for your cooperation.

Chair, we are ready to begin.

CHAIRPERSON NURSE: Thank you, Sergeant. [GAVEL] Good morning. I am Council Member Sandy Nurse, Chair of the Council's Committee on Criminal Justice. Welcome to today's oversight hearing on the Complaint and Grievance Procedures for People in Custody.

I want to recognize my sole Colleague here, Council Member Mercedes Narcisse. Thank you for joining us this morning.

Chaos and violence at Rikers Island makes headlines, and there is no doubt that the conditions there are dangerous for people in custody and staff alike. However, the reason those conditions exist is not fully understood by the public. This Administration has repeatedly fallen back on a convenient rationale that because the people incarcerated there are facing serious accusations, violence on Rikers Island is inevitable. While it's easy to say Rikers is violent because of the people housed there, I have yet to see actual evidence or studies supporting this hypothesis. Research suggests what's actually most critical for maintaining safety and order inside of a jail is legitimacy of the institution and the establishment of procedural justice. In other words, the amount of violence in jail is directly related to how people are treated inside and whether adequate avenues exist to meet basic needs.

That's what we're here to examine today, how the New York City Department of Correction

resolves issues that are brought to their attention and provides care for the people in their custody. DOC's grievance process is the formal way people in custody can request adequate food, clothing, or medical care, or the way they might inform the Department that they have been denied access to school, harassed by staff, or sexually assaulted. The guideposts for the grievance process exists on paper in the form of a DOC directive but, as it is currently designed, the process is unnecessarily convoluted and seems to be rarely actually followed. A streamlined legitimate and responsive process would resolve issues and reduce tension among people in custody. Unfortunately, the system that exists now compounds problems instead of solving them. This failure to follow procedures not only leads to frustration and violence but also allows myriad serious problems to fester until they reach a breaking point. It's recently been reported that accusations of sexual abuse and assault by jail staff were the subject of more than half of the cases filed in State Supreme Court under the Adult Survivors Act. A motion filed by the Legal Aid Society earlier this month alleges young adults in custody are

systematically denied the opportunity to attend school, and there are ongoing lawsuits regarding the environmental conditions at Rikers Island, the denial of medical care, and the extreme high rates of use of force by staff.

The available data on grievances filed by people in custody demonstrates these issues weren't unknown. They've just been unaddressed. Our analysis shows that grievances have been rising over the last four years, especially complaints coming from a vulnerable population housed in mental health observation units. Of the complaints that DOC deemed subject to the grievance process, about 30 percent relate to the provision of medical care. Of the complaints that aren't handled under the formal grievance process, a majority of complaints are against staff, reports of assault or sexual abuse or complaints related to housing and a fear for personal safety today. We hope to learn more about how DOC and CHS uses this information and how they plan to be more proactive in addressing the serious problems the data identifies. We will also hear directly from the Board of Correction, the jail oversight body that both monitors the grievance process itself and also

works independently to ensure minimum standards are met.

If the true goal of this and previous Administrations was to reduce violence and ensure people do not leave City custody worse than when they enter it, we are failing to not only meet that goal, but demonstrate a concerted effort to get there. In design and practice, the DOC's grievance process leaves many vulnerable individuals who have not been convicted of a crime to suffer in an isolated environment without an adequate opportunity to have their voice heard. Today's hearing is about demanding accountability from the people in charge and learning about their concrete plans to change this paradigm.

I do want to warn listeners that we will be touching upon topics of sexual assault and abuse, so please take care as needed.

I will now ask our Committee Counsel to swear in the first panel of Administration witnesses, and I will read the names. I will now introduce our first panel of Administration witnesses and ask the Committee Counsel to swear them in. With us today, we have Sherrieann Rembert, Assistant Chief of Administration; James Saunders, Deputy Commissioner

of Health Affairs; Jonathan Levine, Assistant Commissioner of Special Investigations; Michele Stafford, Executive Director of the Office of Constituent and Grievance Services; Nancy Savasta, Acting General Counsel.

From CHS, we have Jeanette Merrill, Assistant Vice President, Communications and External Affairs of H and H/CHS.

I'll turn it over to you now.

COMMITTEE COUNSEL: Thank you. If you could all please raise your right hands.

Do you affirm to tell the truth, the whole truth, and nothing but the truth before this Committee and respond honestly to Council Member questions?

ADMINISTRATION: (INAUDIBLE)

COMMITTEE COUNSEL: Noting for the record that all witnesses answered affirmatively, you may begin your testimony.

ASSISTANT CHIEF REMBERT: Good morning, Chair Nurse, and Members of the Committee on Criminal Justice. I am Sherrieann Rembert, Assistant Chief at the New York City Department of Correction. I am here today with my colleagues to discuss the Department's

complaint and grievance procedures and the work that is underway to enhance and improve this vital system.

We recognize that a transparent grievance process and timely and meaningful resolution of complaints reinforces a safe and humane environment for all. For several years, the Department has strived to improve the grievance process by using technology, innovation, and streamlining procedures. We remain committed to these efforts. It is our goal to make the grievance process as accessible and clear as possible in order for people in our custody to know they have a meaningful avenue to have complaints heard and address. Individuals in the Department's care have multiple avenues to submit a complaint to DOC, including calling 3-1-1, placing complaint forms in grievance boxes distributed throughout the facility, and speaking directly with departmental staff. In addition, complaints can be submitted directly to the Board of Correction, the Department of Investigation, and other oversight and investigative bodies. The grievance process, including how to submit a complaint, is outlined on posters throughout facilities and in the Individual in Custody Handbook, which is distributed to all

people in custody upon intake and made available on the tablets.

Complaints that are submitted to DOC are managed by the Department Office of Constituent and Grievance Services, referred to as OCGS. OCGS triages, tracks, follows up on individual complaints, and report complaints trends to departmental leadership to ensure systematic issues can be identified and addressed. A team of dedicated OCGS staff tour the facilities regularly to make people in custody aware of the grievance process, replenish complaint forms, collect forms left in grievance boxes, and discuss and investigate complaints that are filed. Members of the public and other third parties can also submit a complaint on behalf of a person in custody by calling 3-1-1 or submitting a grievance form. A centralized team of OCGS staff manage the information phone line and inbox as well as complaints routed from 3-1-1 and ensure that all complaints submitted to the Department are properly recorded in a centralized database and monitored until resolution.

The Department categorizes complaints in one of three different ways to determine how the

complaint will be managed: grievable, non-grievable, or rejected. Grievable complaints are related to conditions of confinement and subsequently addressed by OCGS staff or staff from other units that are based in the facilities. These include complaints related to clothing, law library or commissary to name a few. OCGS staff will work with people in custody to address complaints related to missing items such as linen or toiletries, complaints related to identified services such as religion, program, and visitation will be tasked out to unit or command that oversees the operation for resolution. Grievable issues are expected to be resolved expeditiously. OCGS tracks all complaints for their life cycle, and we send reminders to command leadership, or otherwise escalate as needed, until the complaint has been addressed and subsequently closed out. Once a grievable complaint has been closed out, it is assigned an outcome status, and the person in custody is notified of the outcome.

Non-grievable complaints typically involve an allegation that must undergo an administrative investigative process, complaints that are related to conditions of confinement that cannot

be immediately addressed by OCGS. This includes complaints related to fear for safety, assault, medical or mental healthcare, and disability accommodations to name a few. Complaints that are non-grievable are forwarded to the appropriate unit or provided partners for future investigation and resolution. OCGS continues to track the life cycle of these complaints and is notified when they are addressed but is not made aware of the detail or contents of the investigation. Because OCGS does not manage the investigation or resolution for these matters, OCGS does not provide an outcome status to the person in custody who filed the complaint. People in custody must be notified of the outcome of the complaint by the unit that manages the complaint, depending on the matter.

Complaints that pertain to matters that the Department cannot provide a response to such as a complaint about New York State prisons, external institutions, or a complaint that does not contain enough information to process further are rejected. If a grievable complaint made by a person in custody is rejected, OCGS staff would notify the individual as to the reason the complaint was rejected so that

the matter is addressed or for them to file the complaint with the applicable entity. If a non-grievable complaint is rejected, the person in custody typically would not be notified, either because the complaint does not have enough information to identify the complainant or because the complaint is outside the scope of the Department's work.

Grievable complaints managed directly by OCGS staff can be appealed if an individual in custody is not satisfied with the outcome. Information on how to appeal a grievance outcome is provided on the disposition returned to the person in custody with the grievance outcome. As a first step in the process, people in custody may request that the evidence submitted to support the outcome of their complaint be reviewed by a facility or unit's commanding officer. Upon review, the commanding officer will either affirm the original outcome or provide a different outcome. If the person in custody is still not satisfied with the resolution, they can appeal to the Central Office Review Committee, which is comprised of individuals who are not involved in the initial investigation or resolution process, and

includes the Executive Director of OCGS, a uniformed leader, a non-uniformed leader, and a representative from the Department's Legal Division. At this stage, an independent investigation is conducted by the committee utilizing all evidence, statements, and documents gathered, and a final disposition is provided to the person in custody. This disposition is final and cannot be appealed further. Grievable complaints that are not investigated and addressed by OCGS staff cannot be appealed. However, if OCGS observes continued complaints about a grievable issue tasked out to another unit, they will reach out to the unit leadership to alert them in order for the unit to work towards a resolution. Non-grievable issues cannot be appealed through OCGS as they are governed by regulation and procedures that fall outside the scope of OCGS's work, such as use of force and/or PREA-related matters.

The work of OCGS is critical to ensure that our jails remain safe and humane, and the Department is continuously exploring ways to leverage complaint data and improve the complaint and grievance process. OCGS utilizes data to inform Department leadership about emerging issues and to

drive operational change in areas that can be improved. Reports that capture the rate of incoming complaints and trends in top complaint categories are shared with facility and unit leadership daily so that systematic issues can be identified early and strategically addressed. When facilities are newly commissioned or a new initiative has been implemented, OCGS provides a recurring 30-day complaint trend report to aid leadership in making any needed changes to operation. OCGS also engages in heightened monitoring and reporting during inclement weather and other emergency events that may impact facility operation and people in the Department's care to ensure issues that may impact health or safety can be identified and addressed quickly.

In January of this year, the Department launched a public platform on its site that allows members of the public to check the status or outcome of a complaint they have submitted. On the heels of this initiative, the Department is actively working to develop an application that will allow people in custody to submit grievance via tablets to increase access to the grievance process. We anticipate

launching this new application in the summer of this year.

The goal of the complaint in the grievance processes is to provide a greater voice and support for those in our care so that everyone who lives and works in the jails can return home to their families and communities safely. We appreciate the Council's interest in supporting this very important work and thank you for the opportunity to testify today. My colleagues and I are happy to answer any questions you may have.

ASSISTANT VICE PRESIDENT MERRILL: Good morning, Chair Nurse and Council Member Cabán. I am Jeanette Merrill, Assistant Vice President of Communications and External Affairs for New York City Health and Hospitals/Correctional Health Services, also known as CHS. I appreciate the opportunity to speak about CHS' processes for addressing patient complaints about the healthcare provided in the jails.

CHS was established in 2016 as a new division of New York City Health and Hospitals in order to provide high quality healthcare to people in the custody of the Department of Correction, not as a

contracted service, but as the direct provider of care. To provide a sense of volume within our service, last calendar year, CHS provided or facilitated more than 433,600 scheduled health services to more than 26,000 patients. This includes approximately 223,000 nursing appointments, 18,800 medicine appointments, 105,600 mental health appointments, 42,400 re-entry service appointments, 9,000 dental appointments, 15,500 substance use appointments, 15,500 on-island specialty services appointments, and 3,700 off-island specialty services appointments. Additionally, more than 20,000 clinical intakes were conducted at the point of admission, and there were 50,000 referred visits. CHS also provides non-scheduled health services, including injury evaluations.

In addition to increasing the breadth and quality of healthcare provided in the jails, CHS has endeavored to improve the communication with people in custody, our patients, concerning the health services we provide. We encourage our patients to discuss their healthcare concerns, complaints, and requests directly with their providers during clinical encounters. However, we also recognize the

importance of maintaining other pathways for patients to communicate their needs and concerns. Accordingly, CHS developed and implemented in early 2020, the CHS Health Triage Line to enable our patients to contact CHS directly about their non-emergency health concerns. Using their tablets or the phones in their housing areas, patients can call the Health Triage Line to speak directly and confidentially with the CHS nurse or during off hours to leave a voicemail, all of which are reviewed and appropriately handled. Last calendar year, patients made 48,622 calls to the Health Triage Line, 90 percent of which were answered live. 63 percent of the total calls resulted in the triage nurse scheduling a clinic appointment for a patient, and 37 percent of the calls were handled administratively.

If the patient calls to share a complaint or concern about the healthcare services received in custody, CHS's Patient Relations Department will manage the inquiry. CHS Patient Relations manages requests and complaints from patients, family members, attorneys, and other external parties relating to the healthcare CHS provides. The Patient Relations team receives these inquiries by email or

phone and then determines whether the inquiry is a request for services or a complaint about services provided. Last calendar year, CHS Patient Relations received 12,998 inquiries, including 5,361 requests for health services, 4,643 complaints about health services, and 2,994 requests and complaints concerning DOC, which Patient Relations sends to DOC to address. If the inquiry concerns a request for health services, Patient Relations contacts the clinic in the facility where the patient is housed in order to process the request. If the inquiry concerns a complaint about health services, Patient Relations assigns the case to one of its registered nurse, RN, investigators. Regarding the largest categories of healthcare complaints that Patient Relations received last Calendar Year, 36 percent concerned medication, 33 percent concerned access to care, and 20 percent concerned quality of care. The 4,643 complaints were made by 2,803 unique individuals.

After reviewing the patient's medical chart and relevant CHS policies, the RN investigator sends a preliminary case summary to the clinical and operations teams in the relevant facility to review and to provide feedback and next steps within 48

hours. There, an investigator falls up with the clinical team to ensure CHS has addressed the patient's concerns and to compile a preliminary investigation determination. Following the investigation, preliminarily confirmed complaints are reviewed during Patient Relations' monthly quality improvement committee meetings to make a final determination. During these meetings, an interdisciplinary team that includes staff from medicine, nursing, mental health, pharmacy, and operations reviews the claim, the investigative findings, and the preliminary determination. Examples of recent confirmed complaints include a patient who experienced a delay and receiving eyeglasses because the vendor did not send the order and a patient who did not receive Tylenol despite it being referenced as part of the plan of care because the provider did not submit the medication during the injury encounter.

Last Calendar Year, less than 1 percent of the 4,643 complaints about health services were clinically determined to be valid, meaning that the vast majority of complaints were not supported after a review of the medical record and of the effect on

the patient's care. For example, a patient recently issued a complaint that CHS had denied him access to dental services but, during the investigation process, the RN determined that there was an active referral for dental services and the patient's health record and the appointment was scheduled within the appropriate timeframe. Therefore, no complaint was deemed unconfirmed.

Regardless of whether the Patient Relations team confirms the clinical validity of the complaint, CHS works to address every patient's complaint or concern at the facility level. Each investigation is used to identify opportunities for improvement within CHS.

We recognize we have a profound responsibility and opportunity to care for some of the most marginalized New Yorkers while they're in the City's custody, and CHS is committed to continuing to find ways to improve the quality of the healthcare we provide. The mission-driven professionals who work for CHS work each day on behalf of our patients to provide a community standard of care despite the challenges and restrictions of a jail environment. Thank you.

CHAIRPERSON NURSE: Thank you. I want to recognize Council Member Shahana Hanif is on Zoom. We've been joined by Council Member Tiffany Cabán.

Thank you for your testimony today.

And we've been joined by Council Member Chris Marte.

I'm going to start just with some line of questions around the procedures themselves and then the data so I wanted to start with a yes or no question. Is everyone in custody who raises an issue by filing a grievance form or by calling 3-1-1 entitled to a response from DOC?

EXECUTIVE DIRECTOR STAFFORD: Good morning, I'm Dr. Michelle Stafford, the Executive Director of the Office of Constituent Agreement Services. Yes, all persons in our care have access.

CHAIRPERSON NURSE: Thank you, and the response to that grievance is people are supposed to get a 7102R, the formal resolution disposition form. Is that right?

EXECUTIVE DIRECTOR STAFFORD: Correct. They have the forms in their housing areas and, once a disposition, if grievable, is provided, they do receive a disposition.

CHAIRPERSON NURSE: Okay. According to the directive, everyone who files a grievance is entitled this formal resolution to address their concern, but the reporting that we get and that is provided to the Council should show that an equal number of grievances filed is equal to the number of formal resolutions. That's not really the case in the reporting so what percentage of grievances receive a formal resolution?

EXECUTIVE DIRECTOR STAFFORD: All complaints that are grievable and investigated directly by OCGS staff do receive a formal resolution.

CHAIRPERSON NURSE: Okay.

EXECUTIVE DIRECTOR STAFFORD: Complaints per our policy at this time that are non-grievable do not receive a resolution. We are actively working to provide access to persons in our care where they can receive a resolution.

CHAIRPERSON NURSE: Okay. According to the analysis done by our data team, less than 15 percent of grievances filed within the past four years were resolved at the formal level with this formal resolution and, in fact, in your report that covered

January through March of this year, there were 9,148 grievances filed and exactly one grievance was resolved at the formal level so, off the bat, it's showing me that there's some kind of breakdown here in the system.

EXECUTIVE DIRECTOR STAFFORD: Yes, so all grievable complaints where persons in custody wish to appeal, they can go through that process. That's the only time they would continue to appeal through that formal process. Oftentimes, persons in custody do not continue to appeal.

CHAIRPERSON NURSE: So you're saying that if, I'm not talking about an appeal…

EXECUTIVE DIRECTOR STAFFORD: Right.

CHAIRPERSON NURSE: Even just I filed a grievance…

EXECUTIVE DIRECTOR STAFFORD: Yes.

CHAIRPERSON NURSE: Am I entitled to get a 7102, some kind of response, a formal resolution?

EXECUTIVE DIRECTOR STAFFORD: If the matter is grievable and investigated by OCGS staff, yes, they will receive a disposition. If it is non-grievable per the directive, at this time we do not provide a response. If the matter is addressed by an

internal unit, which is non-grievable, they may not necessarily receive a disposition, but action will be provided.

CHAIRPERSON NURSE: Okay. So as I'm understanding, grievances cannot be filed electronically on tablets, and we've heard repeatedly that calls to 3-1-1 often trigger no action, so the other option that folks have is filling out the grievance form, 7101R, and dropping it into a grievance box, and we see most of the complaints coming in from 3-1-1 calls, which maybe indicates there's potentially a lack of access to grievance boxes or maybe there's an issue, other issues there. So, as of today, is there a grievance box in every housing facility on Rikers Island?

EXECUTIVE DIRECTOR STAFFORD: I'd like to back up at this time. If a grievable complaint is received electronically via 3-1-1, that complaint is tasked to OCGS staff and it is addressed within policy.

There are 50 grievance boxes across the facilities that are in targeted common areas such as the corridor, law library programs, and the clinic.

CHAIRPERSON NURSE: So it's your testimony today that every housing facility has a grievance box?

EXECUTIVE DIRECTOR STAFFORD: I will not say every housing area. They're in targeted common areas. In the facilities, there are 50 boxes.

CHAIRPERSON NURSE: Okay, so we've heard there are no grievance boxes in NIC or West facility. Can you confirm if those are there or not?

EXECUTIVE DIRECTOR STAFFORD: I can confirm that there are grievance boxes in the West facility, and there are grievance boxes in the targeted common areas in the NIC.

CHAIRPERSON NURSE: Okay. Okay, so a grievance box is installed in what you're saying is targeted common areas, but we've also heard that some folks have really had challenges accessing the box because they're sometimes located where people might not really have the ability to visit on a regular basis so how do you make sure grievance boxes are accessible to people in custody?

EXECUTIVE DIRECTOR STAFFORD: It is our goal to ensure that persons in custody have access to the grievance process. OCGS staff tour housing areas

two to three times a week to meet directly with persons in custody. At that time, they can receive the actual paper complaint from the person in custody, and they're also reviewing the boxes.

CHAIRPERSON NURSE: Great. Access is super important since a grievance has to be filed within 10 business days from the date of the incident.

EXECUTIVE DIRECTOR STAFFORD: Absolutely.

CHAIRPERSON NURSE: Is the grievance form 7101R, that one in actual grievance boxes that are available on site, is that available in multiple languages on site?

EXECUTIVE DIRECTOR STAFFORD: Yes, it is. It is available.

CHAIRPERSON NURSE: So if I go to a, how many languages are available?

EXECUTIVE DIRECTOR STAFFORD: I believe there are 13 languages.

CHAIRPERSON NURSE: Okay.

EXECUTIVE DIRECTOR STAFFORD: However, the languages that are readily available in the housing area are both in English and in Spanish. If another language is required, the person in custody can

simply ask OCGS staff, and we work with internal units to determine which languages require.

CHAIRPERSON NURSE: And if someone has a disability, who do they ask to help fill out the form? How do they contact someone?

EXECUTIVE DIRECTOR STAFFORD: Persons in custody, again, when OCGS staff are doing their tours, which they do two to three times a week, they can speak directly to the OCGS staff member or to the officer on post, and we will work with them accordingly.

CHAIRPERSON NURSE: And can you confirm that at least three times per week OCGS staff are visiting punitive segregation, hospital wards, mental observation units, and other special housing areas where a detainee perhaps cannot directly access the grievance box?

EXECUTIVE DIRECTOR STAFFORD: The Department does not operate punitive segregation housing areas. General housing areas will receive a tour from a grievance worker two to three times a week. The specialized housing areas will receive three for sure by OCGS staff.

CHAIRPERSON NURSE: Okay, and just for clarification.

EXECUTIVE DIRECTOR STAFFORD: I'm sorry.

CHAIRPERSON NURSE: Just for clarification. For punitive segregation areas, are you saying their tours are not happening for OCGS staff.

EXECUTIVE DIRECTOR STAFFORD: The Department does not have any housing areas identified for punitive segregation.

CHAIRPERSON NURSE: Okay. Since most of the complaints come through 3-1-1, it's important to have access to the phone or a working tablet. We've heard reports from legal service providers that the phone system, whether it's landlines in housing areas or other phone applications on an individual's tablet, is often arbitrarily shut down so that no calls can be placed. Not only does this limit the ability of people in custody to call 3-1-1 but also to call family members or request urgent medical attention from CHS. In particular, we've heard this frequently happens during lockdowns, which strips people of the opportunity to lodge complaints about deprivations caused by lockdown so in what specific

circumstances and what is the justification for the Department deciding to shut down phone access at certain times?

EXECUTIVE DIRECTOR STAFFORD: Persons in custody are able to place complaints within Departmental policy. The grievance forms are available during the lockdown, which is in the housing areas. However, once the lockdown is lifted, they are able to utilize the phones in the housing area and the tablets. I will defer this question to Assistant Chief Rembert,

CHAIRPERSON NURSE: But just really quickly, so during lockdown, you're saying folks can access the grievance box if they're in a dormitory setting.

EXECUTIVE DIRECTOR STAFFORD: If they’re in a dormitory setting, yes.

ASSISTANT CHIEF REMBERT: Good morning. Assistant Chief Rembert. Can you repeat your question as far as the lockdown portion, please?

CHAIRPERSON NURSE: Yes. So access to the phones very important. It's where most people are making their complaints because most complaints are going through 3-1-1 so we've heard that they're

losing access to phones during lockdowns, particularly during lockdowns so in what specific circumstances and what is the justification for the department to shut down phones or phone access during lockdowns?

ASSISTANT CHIEF REMBERT: If there's an incident that has transpired in the facilities and we need to conduct an investigation or search, the phones are shut down for safety and security. As soon as it’s completed, then the phones will be lifted for them to use their tablets or the phones. In addition, their phones or the tablets are not in use during lock-in, scheduled lock-in, which is at night time.

CHAIRPERSON NURSE: And so, on average, what would you say an average lockdown time period is?

ASSISTANT CHIEF REMBERT: I do not have that response at this time to give you the data on that, but I will circle back with you.

CHAIRPERSON NURSE: Okay, would love that followup.

ASSISTANT CHIEF REMBERT: Yes, ma'am.

CHAIRPERSON NURSE: Okay, so going back to the resolution of grievances, given how the data is

showing that less than 15 percent of grievances filed receive a formal resolution, I want to understand what it means when your reporting shows the overwhelming majority of the grievances filed are deemed accepted, for instance, in the third quarter of FY24, nearly 70 percent of grievances filed were considered accepted. In your directive, there is a definition of when a grievance is considered accepted. It's on page seven. If you have access to it, would you read the definition for the record?

EXECUTIVE DIRECTOR STAFFORD: I don't have access to it at this point.

CHAIRPERSON NURSE: Okay, I have it for you. So the definition of an accepted grievance filed in Directive 3376R, accepted is used when the complaint is being handled by the grievance coordinator and/or tasked to any unit/facility. This does not validate whether a complaint is substantiated or unsubstantiated. Selecting this field also confirms an inmate's requested action is met. So based on this definition, can you explain how the term accepted can be used to describe both when a grievance is being handled and when it's been resolved? As an example, if someone's not getting

clean clothes and they filed a complaint and it gets categorized as accepted, what am I to understand about the status or outcome of that complaint?

EXECUTIVE DIRECTOR STAFFORD: When a complaint is deemed accepted, it means that it falls within the purview of the Department, and we can investigate the Department, whether that's by OCGS staff if it's a grievable matter, if it's by internal unit, grievable but tasked and/or assigned out and non-grievable meaning that it's going to go under another administrative process. Rejected complaints are complaints that do not fall within the Department's scope or fall under external agencies or are part of a return of grievance, a duplicative complaint

CHAIRPERSON NURSE: But you could see how the definition of the word is, the way this is described in the terminology from this directive, you can see it's pretty broad so we're looking at the data, and we're saying accepted, again, is used when a complaint is being handled by the grievance coordinator and/or tasked to any unit/facility, does not validate whether a complaint is substantiated or unsubstantiated, and selecting this field also

confirms an inmate's requested action is met so it's not clear if it's resolved, if they got, in the example I brought out, did they get clean clothes, did they not get clean clothes?

EXECUTIVE DIRECTOR STAFFORD: Yes, I can see how.

CHAIRPERSON NURSE: Yeah, so it would be really helpful if maybe we could work together to resolve that terminology and that definition because right now there's no way of knowing what the status of these complaints are or if they were adequately resolved, and we hear complaints all the time people aren't getting medicine, they're not getting food, they're not getting their clothes, there's heating issues, there's whatever is going on, and this terminology does not lend itself to understand what the conclusion of these outcomes are.

EXECUTIVE DIRECTOR STAFFORD: Thank you. We're actively reviewing our policies and, when it's finalized, we're more than happy to follow up.

CHAIRPERSON NURSE: Okay, so what percentage of dismissed or closed grievances are related to a grievance that was filed too late or not signed?

EXECUTIVE DIRECTOR STAFFORD: I don't have that data with me; however… I'm sorry, can you ask that question again?

CHAIRPERSON NURSE: There's a timeframe in which people have to submit the 710…

EXECUTIVE DIRECTOR STAFFORD: Within 10 days…

CHAIRPERSON NURSE: The grievance form within 10 days. What is the percentage of those grievances filed that are dismissed because they were filed out of the time period or they weren't signed or there was something wrong with the form.

EXECUTIVE DIRECTOR STAFFORD: OCGS staff make every effort to ensure that the dispositions are signed, and I would say it's a small percentage. I don't have that data with me. However, the data that you are reviewing does not include complaints that were rejected. It's only accepted matters.

CHAIRPERSON NURSE: No, I know. That's why I was asking it.

EXECUTIVE DIRECTOR STAFFORD: It's a small percentage. I don't have that with me.

CHAIRPERSON NURSE: Okay. I'd love to request that in the followup.

EXECUTIVE DIRECTOR STAFFORD: Sure.

CHAIRPERSON NURSE: Okay, in an instance when a grievance is filed through 3-1-1, and this is my question because I was really trying to understand the logistics of the procedures of getting this form filled out so, if someone fills out the form or files a grievance via 3-1-1, my understanding is it has to be signed or, even if someone files on behalf of someone, it has to be signed. Is that right?

EXECUTIVE DIRECTOR STAFFORD: Persons in custody, if it's placed through the grievance box, yes, it has to be signed. If a grievable complaint is received electronically and being addressed by grievance staff, they will take the grievable electronic complaint, transfer it to an internal form that we created, and then go and align with the person in custody in which they would sign.

CHAIRPERSON NURSE: And so my understanding from reading the directive is that the employee that goes to the person affected must be a grievance coordinator. Is that correct?

EXECUTIVE DIRECTOR STAFFORD: That is correct.

CHAIRPERSON NURSE: Okay. Are there times or is it a common practice for correction officers to walk that form to the person affected?

EXECUTIVE DIRECTOR STAFFORD: That, I don't have knowledge of that. However, OCGS staff do ensure that these forms are signed by persons in custody. We manage our own legal program.

CHAIRPERSON NURSE: So it's your testimony that you're not sure if, in the instance of bringing this physical form to a person affected, that it's always the case that it's a grievance coordinator. You're not sure that…

EXECUTIVE DIRECTOR STAFFORD: It’s my understanding that it's OCGS staff that are having the form signed.

CHAIRPERSON NURSE: Okay.

EXECUTIVE DIRECTOR STAFFORD: From the person in custody.

CHAIRPERSON NURSE: And so just to continue to clarify, there's grievance coordinators and then there's grievance officers.

EXECUTIVE DIRECTOR STAFFORD: Correct.

CHAIRPERSON NURSE: And the only person in the directive on the policy that can bring that form

and communicate with that person who is affected is the coordinator, but what you're saying is general staff may be the one doing that.

EXECUTIVE DIRECTOR STAFFORD: OCGS staff, correct.

CHAIRPERSON NURSE: Okay. Do you believe if a correction officer, maybe there's a staffing issue for the day, perhaps a CO goes and brings it. Do you believe that it would create a situation where retaliation could occur or grievance might be not moved along further into the process?

EXECUTIVE DIRECTOR STAFFORD: OCGS has both uniform and non-uniform staff so we make every effort to ensure that OCGS staff are serving or providing the disposition so that's all that I can speak to at this time.

CHAIRPERSON NURSE: Okay. If a person files a grievance and the grievance coordinator proposes a solution that a person in custody does not agree with or if the grievance coordinator dismisses the complaint, there are supposed to be three additional layers of appeal. The first is to appeal the decision to the commanding officer. After that, an appeal goes to the division chief and finally to

the Central Office Review Committee. Back in 2019, when this Committee held a hearing on the grievance process, one of the recommendations made by the Board of Correction and other advocates was that DOC simplify the grievances process and, in testimony, BOC said that from start to finish, the appeal process can take more than 10 weeks to complete. What is the rationale for having three layers of appeal before a person is given a final determination about their grievance?

EXECUTIVE DIRECTOR STAFFORD: It is our goal to ensure that we do a thorough investigation for all complaints that we receive. When the complaints go through the appeal process, we believe that it affords an opportunity for each level to conduct an independent investigation where more evidence can be provided in hopes to either substantiate or unsubstantiate whatever the matter is. That's why it would take such time.

CHAIRPERSON NURSE: Okay, and then it seems like after that hearing, there was an additional layer added in. Instead of simplifying it and streamlining it, there was an additional layer, the preliminary evidentiary review, which seems to

make the process a little more complicated for people in custody. Is there a reason for adding that additional layer?

EXECUTIVE DIRECTOR STAFFORD: That additional layer is only utilized if the OCGS staff member identifies that they would like for it to be reviewed. At this time, we have a small percentage that actually utilize that option as we hope to provide a speedy response to the person in custody.

CHAIRPERSON NURSE: Okay, if in the followup you could let us know what that percentage is, that would be really helpful.

Okay, the grievance directive does not really say how many days a detainee has to file an appeal to the commanding officer. Why is that? What is DOC's recommendation and when will it give a clear timeline in the directive?

EXECUTIVE DIRECTOR STAFFORD: We are actively reviewing the policy to see how we can enhance how we provide a speedy response to persons in custody. Internally, we have worked to create a five-day turnaround time for persons in custody to either support whether they're in the housing areas

at the time when we come or to give ourselves time to make sure that we're providing response.

CHAIRPERSON NURSE: Okay. Has DOC eliminated the second layer of appeal that goes to the division chief?

EXECUTIVE DIRECTOR STAFFORD: Yes, we have.

CHAIRPERSON NURSE: Okay. That's great. When will that be reflected in policy?

EXECUTIVE DIRECTOR STAFFORD: We're currently reviewing it and, once the policy is…

CHAIRPERSON NURSE: It sounds like you're doing a big review here of the grievance policy.

EXECUTIVE DIRECTOR STAFFORD: It's our goal to make sure we're transparent.

CHAIRPERSON NURSE: No, I understand, but do you have a sense of timeline on when this process is going to be?

EXECUTIVE DIRECTOR STAFFORD: We're actively reviewing the policy and how we report out our data and, once it is available, we will provide it.

CHAIRPERSON NURSE: Okay. No, I understand. I've heard that it's an active process, just trying to understand if there's a timeline here.

Having a cumbersome grievance process obviously creates serious consequences in terms of access to the justice system. After the passage of the Prison Litigation Reform Act in 1996, a detained person cannot have federal civil rights violations redressed in court unless all administrative remedies are first exhausted. To your knowledge, how many times has the Law Department used non-exhaustion of administrative remedies as a rationale to dismiss lawsuits filed by people in custody?

EXECUTIVE DIRECTOR STAFFORD: I am unable to provide that answer. However, I would defer to Assistant Chief Rembert.

CHAIRPERSON NURSE: Okay. We sent these over on Monday?

COMMITTEE COUNSEL: Yeah.

CHAIRPERSON NURSE: Okay, so we sent these over on Monday. I know it's not the fastest turnaround, I understand, Monday morning, but there's a lot of people work at DOC, and it would be great in the future even if you just give us X amount of days

you need ahead of time and prep for the meeting, because I know we sent these questions over and I think it's a pretty simple set of questions.

ASSISTANT CHIEF REMBERT: Yes, ma'am. Sherrieann Rembert, Assistant Chief, I'm going to defer it to General Counsel.

CHAIRPERSON NURSE: Okay. Thank you.

ACTING GENERAL COUNSEL SAVASTA: Thank you, ma'am. Yes. Nancy Savasta, Acting General Counsel for the Department of Correction. That information is actually not in the possession of the Department of Correction, and we would have to defer to the New York City Law Department for that information.

CHAIRPERSON NURSE: Okay. Helpful. Thank you.

I just have a couple more questions around the data, and then I'm going to touch upon sexual assault, and then I'm going to open it up to other Council Members.

Okay, so just a couple quick questions around compliance with data reporting. The Council passed a Local Law in 2019, which mandated that all complaints and requests made on behalf of a detained

individual get addressed by the Office of Constituent and Grievance Services. We have heard directly from legal service providers that there remains no process for a third-party complaint to be handled through the grievance process. Beyond the assignment of an index number, legal providers who file a grievance on behalf of their clients get no indication that it's been integrated into the grievance system, and they are never presented with a proposed resolution or opportunity to appeal a resolution. Is there a reason the Department appears to be out of compliance with this Local Law?

EXECUTIVE DIRECTOR STAFFORD: Anyone can place a complaint about a person in custody on behalf of the person in custody using 3-1-1 or other avenues. The Department recently implemented a complaint status system in January of this year where anyone, the public, can follow up on the status of their complaint or the outcome of their complaint.

CHAIRPERSON NURSE: Okay, great, but there's no, I get that it's a publicly available database, but there's no actual process if, for example, a legal service provider that's representing someone or supporting someone files a complaint on

behalf, they get the index number, but there's no mechanism within your system that lets them know an outcome or resolution of the case.

EXECUTIVE DIRECTOR STAFFORD: They may utilize the index number that they receive to go through the Department's website where our complaint status system is housed to find the status or the outcome of the complaint.

CHAIRPERSON NURSE: And that's the publicly made available one…

EXECUTIVE DIRECTOR STAFFORD: Correct.

CHAIRPERSON NURSE: Just this January.

EXECUTIVE DIRECTOR STAFFORD: Yes.

CHAIRPERSON NURSE: Great. Okay, another Local Law passed in 2019, sponsored by Deputy Speaker Ayala, created robust quarterly reporting requirements regarding how many grievances are filed and the various ways they get resolved. However, there are some pretty crucial data points required by the law that are missing. For non-grievable complaints, which include serious accusations like sexual assault and abuse, the law requires reporting on where those complaints are referred. That is currently not being reported. The law also requires

reporting on the number of people in custody who submitted grievances. This information would be helpful in understanding how many individuals are filing multiple grievances. When will this issue be resolved in order to bring DOC in compliance with the law?

EXECUTIVE DIRECTOR STAFFORD: We are aware of the reporting structure at this time. We've realized that there are some adjustments that need to be made to the report. It's important to note that the operation and the data has evolved since the grievance since 2019, and we're actively working to address the report.

CHAIRPERSON NURSE: Okay. The Charter also mandates that you provide this report and every other DOC report in a machine-readable format, like a spreadsheet, and I think the Council has repeatedly asked for these reports to be not PDFs. These are numbers and, in a PDF, obviously, if anybody's ever copied and pasted from a PDF into anything knows, it's actually pretty hellish so can you commit to sending these reports in a spreadsheet? It would save us time. It's really burdensome for the Staff we have here, the Data Teams that we have here to go through

all that. Can you commit today to providing a machine-readable format, like a spreadsheet?

EXECUTIVE DIRECTOR STAFFORD: OCGS will provide the data accordingly to our InterGov team, and they will work with you guys accordingly.

CHAIRPERSON NURSE: All right, so you can't commit to providing a spreadsheet?

EXECUTIVE DIRECTOR STAFFORD: We can provide a spreadsheet.

CHAIRPERSON NURSE: That would be really helpful. Thank you. And to be fair, our transcripts for these hearings are in PDF so it's like the PDF is a nightmare for everybody on all fronts so not necessarily just picking on you.

Okay, I'm going to move on to the sexual assault complaints. Last month, the news outlet, Gothamist, published a pretty extensive report that analyzed cases brought under the Adult Survivors Act and found that nearly 60 percent of the civil lawsuits in New York City's State Supreme Courts were filed by people who alleged that they were sexually abused while in custody at Rikers Island. The 719 lawsuits include allegations of DOC staff groping people in custody, coercing them to engage in sex

acts, and acts of rape, and I just want to read the opening of that article to bring the gravity of these allegations fully into the room, and I understand that they are allegations and there's a potential investigation underway.

This is a quote, "Jenny remembers trying to hide under the rough, jail-issued seats when the Rikers Island guards would come for her in the middle of the night. She said she called out the names and ID numbers of women in the room where she slept on a makeshift pillow of bundled clothing then she said the correction officers ordered the women to rise from their beds before leading them down a series of long hallways in silence. 'We just had to be like soldiers, walking to where they were leading us,' she said. 'Once we passed through a door, everything was pitch black.' Jenny said the officers took the women to a dark room with benches, which was illuminated only by the occasional glow of a flashlight. They ordered the women to kneel and be quiet before forcing them to perform oral sex, she said."

The details of these allegations are pretty horrific, and many of the lawsuits claim that jail officials knew or should have known that these

sexual allegations and assaults were occurring on their watch. This is why we're having this hearing, and this is why opportunities to safely file a grievance is so important. Pursuant to guidelines established in the Prison Rape Elimination Act, or PREA, and adopted as BOC minimum standards, the Department is supposed to complete a semi-annual report to evaluate sexual abuse and sexual harassment allegations made within the past six months, and I want to look at the data you produced in the last PREA report and compare it to what was reported in your quarterly reports on filed grievances, and I'm going to read slowly because it's dense numbers. In the PREA reports from July 2022 to December 2022, you listed 132 allegations of sexual abuse and harassment from people in custody while, over the same six-month time period in quarterly grievance reports, you stated that there were 682 grievances filed with a sexual assault or sexual abuse allegation. From January 2023 to June 2023, PREA reports state that there were 114 allegations of sexual assault or sexual harassment, while grievance reports during the same time indicate there were 701 grievances filed with allegations of sexual abuse or sexual assault.

Can you try and explain this discrepancy where the number of allegations of sexual assault and abuse that you list on the PREA reports is significantly lower than the number of grievances filed on this issue.

EXECUTIVE DIRECTOR STAFFORD: I'd like to start by saying we take these matters seriously. When OCGS receives complaints of such nature of sexual misconduct, we task out the complaint to the Special Investigation Unit in which I will defer to AC Levine, who oversees this.

CHAIRPERSON NURSE: Thank you.

ASSISTANT COMMISSIONER LEVINE: Good morning, Council Members. Jonathan Levine. I'm the Assistant Commissioner, PREA, for the New York city Department of Correction and, let me chime in on what Dr. Stafford just said. We share your concern that jails should be safe and any form of behavior involving sexual misconduct, sexual harassment, and sexual abuse is unacceptable.

Getting back to, just repeat the question, I want to make sure I give a firm answer on that.

CHAIRPERSON NURSE: I'll try to summarize it. In the PREA reports, there's two different six-month periods we looked at. You're having significantly lower allegations than what is in the reports on your grievances filed, almost like 500 per term that we're looking at a difference where sexual abuse or sexual assault are both (INAUDIBLE).

ASSISTANT COMMISSIONER LEVINE: Yes. Thank you for clarifying the question for me. What Dr. Stafford gives us, if I can go into the process slightly, Dr. Stafford gets 3-1-1 calls and sends it to my PREA Investigation Team as what they refer to as Task IDs. Those Task IDs are allegations made by persons in custody, whether they be against staff or whether they be against other persons in custody. The other number that you quoted was from the Board of Correction report, the 540 report. Am I correct? Is that what you're looking at?

CHAIRPERSON NURSE: Yes.

ASSISTANT COMMISSIONER LEVINE: The Board of Correction 540 report documents the PREA-reportable cases. There's a difference between a PREA-reportable case and an allegation. This was the total number of allegations that Dr. Stafford's staff

referred to my investigative team and, through our investigation, the number that you gave us was the number that falls into the category of being PREA-reportable and those allegations have to meet certain criteria. Doesn't mean that we do not investigate them and that's why I wanted to bring this back a little bit and let you know that every single complaint that comes to my office is taken seriously and it does get investigated. The categorization of PREA-reportable versus PREA-non-reportable is a difference, and there's a difference between the number of allegations we get as referred to PREA-reportable and PREA-non-reportable and, just for your clarification, anything in Penal Law 130, sex crimes, would be PREA-reportable. Anytime we have a person in custody going to a hospital where a sexual assault evidence collection kit is prepared, PREA-reportable, retaliation, any form of retaliation, PREA-reportable, or repeated sexual harassment. Those are the categories of PREA-reportable. Doesn't mean there are other things that we have is called PREA-non-reportable. Those allegations do get investigated. They are taken seriously, but those are not categorized on the Board of Correction report.

CHAIRPERSON NURSE: Okay. I understand that you're saying there's a threshold for the PREA reporting.

ASSISTANT COMMISSIONER LEVINE: Correct. That threshold is established in the PREA Federal Standards, yes.

CHAIRPERSON NURSE: It's hard to think about it in just a basic definition. I guess I'm just trying to understand the level of threshold that one would just remain on a grievances filed report and one would be up, and I'll have to spend some time understanding that a little bit more, but thank you for clarifying the process.

It's still quite a number of complaints. Like I said, even the two six-month periods that we looked at, we're talking about almost 500 reports differential so it just feels like a stretch that that many 500 would not be reaching a threshold.

ASSISTANT COMMISSIONER LEVINE: If I can just reiterate that we do take every one of the complaints seriously and they do get fully investigated.

CHAIRPERSON NURSE: Okay. Okay, a few more questions and then I'm going to open it up to my Colleagues.

Are all allegations of sexual abuse or sexual assault being referred to the Investigation Division? Are all allegations of sexual abuse or sexual assault being referred to the Investigation Division?

ASSISTANT COMMISSIONER LEVINE: Yes, they do come to my Investigative Unit, but they don't only come through 3-1-1. We are multiple ways an individual in custody, we employ many ways that they can make any of these allegations. 3-1-1 is our most prevalent form, over 80 percent. We do get referrals from our partners in CHS. We do get them from many legal services, attorneys, defender services. We also get them from other correctional facilities or other law enforcement because when somebody may outcry when they go to state prison, federal, any of the other institutions so we do get on a regular basis outcries from persons that those would be in the past, but those are the sources we get. We also get third party. We have people who call us up as third party.

CHAIRPERSON NURSE: You're getting a lot from incoming, and they're being referred to you?

ASSISTANT COMMISSIONER LEVINE: Yes, they are.

CHAIRPERSON NURSE: Thank you. Can you just say how many current pending investigations in ID that are related to allegations of sexual assault by a staff member?

ASSISTANT COMMISSIONER LEVINE: I don't have that.

CHAIRPERSON NURSE: Okay.

ASSISTANT COMMISSIONER LEVINE: What time period are you looking for?

CHAIRPERSON NURSE: Current pending?

ASSISTANT COMMISSIONER LEVINE: I don't have that information with me, but I'd be glad to get back to you.

CHAIRPERSON NURSE: I would love to followup on that.

ASSISTANT COMMISSIONER LEVINE: Yes, I could.

CHAIRPERSON NURSE: Thank you. Just want to touch briefly. I know the Bronx District Attorney's Office has said that they've assembled a

team of prosecutors to start reviewing these allegations. Have you started working with that office at all? Have they reached out to you?

ASSISTANT COMMISSIONER LEVINE: We reach out to the Bronx District Attorney's Office on a daily basis. There is a Rikers Island Prosecution Bureau that's based on Rikers Island. We have a dedicated…

CHAIRPERSON NURSE: But on this issue, are you all starting to collaborate or work together?

ASSISTANT COMMISSIONER LEVINE: She has reached out to our office for certain individual cases, yes.

CHAIRPERSON NURSE: Okay. Can you let us know how you are working with the office already?

ASSISTANT COMMISSIONER LEVINE: Very well. I just don’t, we have a very good, I have and my staff has a very good relationship with the Bronx District Attorney’s Office, and we cooperate fully in anything they need. We will assist them.

CHAIRPERSON NURSE: Okay. Just this morning, the Gothamist published another article detailing a pattern of sexual assault allegations made against jail medical staff. They report that

most of the women who filed lawsuits against medical staff say they were assaulted during examinations, including during health screening and physical examination when a person arrives at Rikers Island. I do have a couple of questions for CHS, and then I'll move on, but would it be typical for a health screening at intake to include an examination of a person's breast or genitalia?

ASSISTANT VICE PRESIDENT MERRILL: Thank you. Part of intake is to connect a health screening. They meet with nursing. They meet with medicine, potentially mental health, but we're really trying to gather basic information as you would at a first visit at a doctor's office. If it were clinically indicated that a patient required a breast exam, anything involving a private area, that would be a followup appointment. That wouldn't be conducted during the medical intake process, and I should note as well, at Rosie's, there is a chaperone policy in place so there should always be a second staff member present outside of emergency medical evaluations and, if there isn't staffing that day, then it would be rescheduled to the appointment.

CHAIRPERSON NURSE: Okay. In one of those allegations, it was reported that a chaperone was present during that so what training do chaperones receive to ensure they're acting as an adequate prevention tool in reporting abusive behavior?

CHAIRPERSON NURSE: Yeah, I should say all of our staff receive PREA training. It's required of all new employees and then every two years so we are mandated reporters under PREA so any allegation or knowledge or reasonable belief that there has been a sexual assault, harassment, abuse, we do report that and then that goes to the Department. We don't engage in the investigation, but all of those cases are reported. If it is against CHS staff, it is also reported to the New York City Department of Investigation as well as the New York City Health and Hospitals Inspector General's Office. We also have multiple pathways for, as I mentioned in my testimony, for patients to communicate any concern to us.

CHAIRPERSON NURSE: All right and, just taking this one example in this story, I'm not asking you to comment specifically on this allegation, but using it as an example, this is a woman who alleged

that a chaperone was present when they were sexually assaulted during a medical exam. They filed a grievance but no one followed up with her. This is a case that predates, obviously, this Administration but, in a situation like that, what is being done to ensure between CHS and the PREA unit within the Department's Investigations Division, an allegation like this is taken seriously, investigated thoroughly and, if substantiated, people are held accountable, and how is it communicated back to an affected person that a process is happening and there has been an outcome.

ASSISTANT VICE PRESIDENT MERRILL: Yeah, so I'll just start by saying, as you mentioned, I can't speak to what happened under Corizon. The article itself is very difficult to read and, when a medical provider abuses a patient, it is especially egregious so we do have these policies and practices in place to protect our patients so, in an instance like that when a complaint is filed, the patient should be brought to the clinic for an evaluation. They would receive referrals to mental health, additional medical care. If there's trauma in consultation with our emergency physicians, they may

go out EMS to the hospital for a forensic examination and, then again, all cases are reported to the Department for investigation, and patients can also call the Health Triage Line to follow up on a case. We have a Sexual Assault Advocacy Team that actually meets with every person in custody, every patient who has made an allegation of sexual abuse, and we offer resources and additional followup appointments.

CHAIRPERSON NURSE: How can it be that when someone files a grievance, they don't hear anything back? Because we don't really have, I think, insight into your grievance process. I think we have more reporting from DOC, but how would, if something happened, they filed agreements, how does that get back to that person?

ASSISTANT VICE PRESIDENT MERRILL: We have a complaint process, just a little bit semantics, not so much grievance but, in that case, it would go through Patient Relations and so Patient Relations would reach out to the Clinical and Operations Team in that facility and then, within 48 hours, they should be addressing the patient complaint. Of course, there's an additional layer for a sexual assault where the patient must be brought to the

clinic and then any investigation would be handled by the Department so we would generally have patients call, they can call the Health Triage Line, they can be brought back to clinic if they want additional information or they could communicate that to the Sexual Assault Advocacy Team that is reaching out directly.

CHAIRPERSON NURSE: My last question, I'm like going down the rabbit hole now, but does CHS do any reporting? Who do you report your grievances to outside of your agency?

ASSISTANT VICE PRESIDENT MERRILL: We do track our complaints. That's not in an official report, but we're happy to provide that more regularly if that is of interest.

CHAIRPERSON NURSE: Okay. Yeah, I think it would be helpful just in the followup, a breakdown of your grievance process because we have it pretty detailed here and it would just be helpful.

ASSISTANT VICE PRESIDENT MERRILL: Sure.

CHAIRPERSON NURSE: Okay, I'm going to turn it over to Members who have questions. Cabán, you have a question? Okay, there's people online.

COUNCIL MEMBER CABÁN: Good morning. Thank you for being here. Thank you, Chair.

I'm going to jump around a little all over the place. Most of my questions are followups to the Chair's questions.

I just want to go back to the steps of the grievance process, those four steps that were articulated. I want to hone in on how long it takes, specifically how many days for a complainant or a petitioner to fully exhaust all four steps in the grievance system, how many days for the complaint, step one, step two, step three, step four.

EXECUTIVE DIRECTOR STAFFORD: It is our goal to make sure we do a thorough investigation, and so with the first resolution that the person in custody receives, they are to receive it within seven days. When it goes to the next appeal, which would be the commanding or unit facility officer, they have five days to provide a response, which will be delivered by the OCGS staff. We no longer have the appeal option to the division chief, and then it goes directly to the CORC, the Central Office Review Committee, in which that is an independent, thorough investigation. While it is our goal to make sure that

the investigation is speedy, sometimes it requires additional time. I can't provide an exact timeframe, but, at least…

COUNCIL MEMBER CABÁN: What about an average and a median?

EXECUTIVE DIRECTOR STAFFORD: Average, I would say 14 to 16 days from the commanding officer's response.

COUNCIL MEMBER CABÁN: And how long would the commanding officer's response (INAUDIBLE)

EXECUTIVE DIRECTOR STAFFORD: They have five days.

COUNCIL MEMBER CABÁN: Five days. Okay. Seven, five, you've cut out that third step, and then you're saying that the average is for 14 to 16 days on that last step. Now, it was testified earlier that a large portion of these never get appealed. How many individuals fully exhaust all of these steps?

EXECUTIVE DIRECTOR STAFFORD: It is a small percentage. I don't have the exact number. We can provide that, but a majority of our persons in custody do not appeal all of their complaints.

COUNCIL MEMBER CABÁN: In your opinion, what do you attribute that to?

EXECUTIVE DIRECTOR STAFFORD: They don't wish to move forward. The option is provided to them on the form. OCGS staff when they're conducting their tours and providing the disposition, they share that they do have access to the appeal process.

COUNCIL MEMBER CABÁN: But there was testimony earlier that petitioners don't get notified in the cases where they're rejected so I don't know how we're like leaping from people just don't want to appeal when I'm not clear how they know to appeal.

EXECUTIVE DIRECTOR STAFFORD: The complaint process is included in the Person in Custody Handbook, and it's also published in the housing areas. When persons in custody do file a grievable complaint or a non-grievable complaint via the paper-based system, they will receive an outcome. If the complaint is rejected, they are notified. If the complaint is non-grievable and submitted electronically, they are notified. They will receive either no response or an action will be implemented so they are very much made aware of the process if the matter is grievable and…

COUNCIL MEMBER CABÁN: I have two things that I want to address on that. One, I think that

we're getting very different communications from incarcerated individuals and their attorneys and advocates as to whether they're actually getting notified of this. I was really blown away to hear that, I'm just going to give a quick example, New York County Defender Services, which, shout out, because I used to work there, has two full-time people working on just these issues and they have virtually never encountered someone in custody that was able to exhaust those steps. They aren't able to do that on behalf of their clients, which I think is actually a problem but, in terms of even the categorization, right, like New York city is an outlier on how they categorize grievable and non-grievable offenses and, to give you an example of just that, it's different from New York State in how they categorize these things. In D.C. and Massachusetts, it's also different. A sample of 1,500 grievances over three years in Massachusetts, only 11 percent of those were rejected as non-grievable so I think there's a fundamental problem with how they're being categorized currently and then, with that larger percentage of cases that are dropping into that non-grievable, that process is so opaque, I have

a series of questions just about what happens when you go down the non-grievable track, but it's not, can I have a couple of extra minutes? Cool. The answer is just not tracking with the lived reality.

I have a question now, you had mentioned that with the new system that came online in January, there was electronic public access to the outcomes of these complaints, but my understanding is that when somebody goes to try to access that, there's no details. It just simply says resolved or pending, which doesn't really leave the person in a position to do the kind of advocacy or understand what's happening to be able to properly take the next steps.

EXECUTIVE DIRECTOR STAFFORD: So the question is?

COUNCIL MEMBER CABÁN: So the question is how do you find that to be a sufficient way of saying, whoa, this is like really open, transparent public access when people get one of two words, resolved or pending, but no information on how it was resolved or like where in the process it is in that pending.

EXECUTIVE DIRECTOR STAFFORD: I'm happy to share that the grievance operation has evolved

greatly since it's been implemented. We do provide the definition of what the status is, whether it's abated, resolved, there's a definition that is provided on the public-facing platform once they input their number. We continue to look through ways to ensure our processes transparent and the outcome is transparent (INAUDIBLE)

COUNCIL MEMBER CABÁN: So what's the definition of resolved?

EXECUTIVE DIRECTOR STAFFORD: I'm sorry.

COUNCIL MEMBER CABÁN: What's the definition of resolved?

EXECUTIVE DIRECTOR STAFFORD: That it was addressed within a departmental policy. That is all the information that we will be able to provide to the public, yes.

COUNCIL MEMBER CABÁN: Okay. I don't find that to be transparent. I appreciate that y'all are thinking about a process for how to change how you do this and, again, New York City Department of Corrections really appears to be an outlier on how other correctional systems handle these things but, in rethinking that process, who are you consulting with outside of DOC?

EXECUTIVE DIRECTOR STAFFORD: At this point, we're consulting with one another internally. We haven't reached out to other (INAUDIBLE)

COUNCIL MEMBER CABÁN: So do you plan on consulting maybe groups of incarcerated individuals on the process? Are you planning on consulting the various public defense organizations in the city on the process? They seem like probably pretty important stakeholders when it comes to making this a system that produces the kinds of justice and results that y'all are trying to achieve.

EXECUTIVE DIRECTOR STAFFORD: We're open to recommendations, and so I will align internally with applicable leadership to see how we can move forward with that.

COUNCIL MEMBER CABÁN: Thank you.

CHAIRPERSON NURSE: Thank you. Council Member Narcisse, you had a question?

COUNCIL MEMBER NARCISSE: Yes.

CHAIRPERSON NURSE: Okay.

COUNCIL MEMBER NARCISSE: Thank you, Chair. Thank you and good morning for being here.

I tried to multitask and listen to you at the same time. For my question, what specific

mechanisms are in place to handle complaints and grievances from individual in custody regarding healthcare services?

EXECUTIVE DIRECTOR STAFFORD: When complaints that related to medical are received by OCGS, we review the complaint and we task it to the Health Affairs Division. I can defer to D.C. Saunders for how the complaint matter is addressed.

DEPUTY COMMISSIONER SAUNDERS: Good morning, Chair and Committee Members. When we receive a 3-1-1 complaint, we review it to determine the type of complaint. Is it purely a CHS matter or is it an instance that involves DOC? So if it's purely a CHS matter, we will send it over to our colleagues in CHS to address. If it's an issue that involves DOC as well, then we will refer not only to CHS but also the local facility leadership to make sure that the issue is investigated.

COUNCIL MEMBER NARCISSE: Do you have statistics on the amount of complaints made regarding healthcare services, whether both?

ASSISTANT VICE PRESIDENT MERRILL: Yes. Hi, Council Member. Complaints that come in specific to healthcare so I referenced in my testimony, so

those would be routed through our Patient Relations Department so I have data on last Calendar Year. We received 4,643 complaints about health services, and so the way that is addressed is that an RN investigator would contact the clinical team, the operations team in the facility where the patient is housed to address within 48 hours the patient's concern. It's also investigated to identify any areas for improvement within CHS.

COUNCIL MEMBER NARCISSE: What is the most common complaint regarding healthcare services?

ASSISTANT VICE PRESIDENT MERRILL: We receive complaints about medication, about access to care, and about quality of care. Those really run the gamut just as any of us in the community, our concerns about healthcare may be the dosage of a prescription. If it's around an access issue, that's something that would be addressed on the local level so the clinical team, operations team would work with DOC leadership, potentially the clinic captain, the tour commander can discuss access that way. You may be aware we produce a call down list every morning to the Department for patients who should be brought to the clinic for routine care and followup care

appointments. That's separate from calls made to the Health Triage Line. Those calls, when a clinic appointment is made, the aim is to see that patient that day or within 24 hours depending on clinical need so, if a patient is experiencing a lot of back pain, that would be that day. If a patient has a rash and no other concerning symptoms, that could be 24 hours. Then there are also triggers as the nurse is putting it into the health record if it is a medical emergency.

COUNCIL MEMBER NARCISSE: Last time upon my visit, the complaint that I was hearing directly, it's when the appointment come, it's just like they don't have no help, no assistant to get to those clinics. Is that how you're working on that? Because I know last hearing, I heard that the effort was going to be made because when we're talking about health, I don't know if you know my background, I'm a registered nurse, so when people are complaining, because the problem that I have the most, let me be honest, when people's health is not being taken care of wherever they are, they're coming back to those communities and some of the communities don't have access to healthcare, period, so it become worse.

It's just we're not spending our dollars wisely because it isn't cost-effective when you come back to the community and you come back worse. It's just not helping anyone so, as a nurse, it bothers me like when folks are in your care and they're not getting access to healthcare because without health, we're nothing and, on top of it, it is not wise to be penny wise in a way like you don't spend the time to give the person the care and when they come out it's a dollar foolish so do we have staff… Chair, can I finish my thought? Do you have enough kind of staff now that encourage it? Because we're going through a time that's different than ever before because we never been to a pandemic and we, my experience, a lot of folks have different issues that prevent them from actually accessing the care. Either they get up in the morning, the mindset is not altogether so do we actually make the effort to get those folks to this appointment?

ASSISTANT VICE PRESIDENT MERRILL: Yeah, so, as a public health person, I definitely appreciate your comments. While we wouldn't consider jail an ideal place to receive medical or mental healthcare, we do view it as an opportunity because

people coming into the City's custody tend to be vulnerable populations. More than half of our patients have mental health needs, many have substance use needs, histories of trauma so we do look at it as an opportunity to provide care and then hopefully the continuity of care once they're back in the community. In terms of access to care, like literal production to the clinic, I'll turn to D.C. Saunders.

DEPUTY COMMISSIONER SAUNDERS: Thank you so much for that question. We agree that all people in custody should have access to high-quality medical care, and we work diligently with our partners in CHS to ensure that people in custody are produced to their clinic encounters if they choose to go. For those that do miss a clinic encounter because there's no officer available to escort them, DOC and CHS work together to produce that individual as quickly as possible, either later in the day or possibly the following day within that 24-hour cycle. I think we've made really good progress in ensuring that staff are available to escort individuals to the clinic. In 2022, there were approximately 6,000 instances of missed clinic encounters due to a lack

of escort out of approximately over 500,000 scheduled encounters, and so that was about 5.2 percent of all non-production. We made great progress in 2023. That number dropped significantly to approximately 3,900 out of over 600,000 or so scheduled clinic encounters, and so that means that the lack of escort issue occurred less than 1 percent of all scheduled clinic encounters for Calendar Year 2023. This year in 2024, the data from January and February shows that our operations continue to improve with approximately 422 missed clinic encounters as a result of lack of escort. Again, that represents less than 1 percent of all scheduled clinic encounters year-to-date so we are making great strides.

COUNCIL MEMBER NARCISSE: I do appreciate that. Continue to be mindful because those are the same folks that coming back to community that underserve and it keep going down and down because you receiving people in a community that's not functional, they sick, and then it comes like a revolving door for all of us, like we in a full cycle of people that's not well, and the city, we have to keep it healthy in order to move forward because if

people are sick in our city, we're all sick so thank you for your time.

DEPUTY COMMISSIONER SAUNDERS: Thank you.

COUNCIL MEMBER NARCISSE: Thank you, Chair.

CHAIRPERSON NURSE: Thank you, Council Member Narcisse. Thank you, Council Member Shaun Abreu, for joining us.

I'm going to back up just a little bit. I actually had a question for you, Mr. Levine. Based on what's available on the Department's website, it looks like DOC has not issued any of the required 540 or PREA reports which are due to the public every six months since 2022. Is that correct, or when will that be updated?

ASSISTANT COMMISSIONER LEVINE: They have been updated. They should be coming very soon. I know they have been completed, they have been reviewed.

CHAIRPERSON NURSE: Is there just a reason why they're not publicly available?

ASSISTANT COMMISSIONER LEVINE: (INAUDIBLE)

CHAIRPERSON NURSE: Okay. Do you know when they will be available?

ASSISTANT COMMISSIONER LEVINE: They are? Oh, I apologize. I'm not a tech person. Okay. I'm told that they have been uploaded, is that the term, to the DOC website.

CHAIRPERSON NURSE: Okay, we'll check. We'll come back.

I want to move on to questions, I do have a few questions around medical and mental health grievances. I know Council Member Narcisse touched on some of them so I'm trying to skip over to some things we haven't touched about. Each month the Council receives a report on missed medical appointments and, in February, the most recent month we have data for, the total number of missed appointments was 11,246. This is a pretty staggering number, and I know the previous Commissioner attributed a lot of this to what he saw as the over-scheduling of medical appointments. However, in February, that's the month that we're talking about for the data, 2,000 people missed medical appointments, and the reason was listed as other and, in your report, other includes instances where someone in custody chooses to instead attend a work assignment, law library, school, religious service,

or commissary when maximum clinic capacity has been reached, when no escort is available, or when movement is limited due to a lockdown, search, or alarm. So can you provide any context for how often clinical capacity is reached?

ASSISTANT VICE PRESIDENT MERRILL: I don't have clinical capacity data so I think in terms of the volume, the services that we schedule, we do schedule a lot of appointments. In my testimony, I mentioned the 433,000 which we do believe are clinically indicated, but we do recognize that this requires close coordination and partnership with the Department because patients do need to be escorted from their housing areas to the clinic outside of some of the care that we provide on the therapeutic housing units so I can follow up on specifics. It is coordination around when our providers are available and when the DOC escorts are available.

CHAIRPERSON NURSE: That would be great just because it's, as a part of the definition, just understanding like how often is clinical capacity reached? That would be really great to have in the followup.

Let's see, in Calendar Year 2023 and so far in 2024, this is for DOC, how many missed medical appointments were due to no escort being available to take someone to the clinic? Even just in a year, how many folks are missing their medical appointments because there is not an escort available to take them to the clinic?

DEPUTY COMMISSIONER SAUNDERS: In 2022, it appears that approximately 6,000 instances of missed clinic encounters were due to lack of escort. In Calendar Year 2023, approximately 3,900 scheduled clinic encounters were missed due to lack of escort, and that's less than 1 percent of all scheduled clinic encounters.

CHAIRPERSON NURSE: Okay. For both of your agencies, do either of you track how often a facility lockdown, search, or alarm results in a missed medical appointment?

DEPUTY COMMISSIONER SAUNDERS: The Department continues to escort individuals to clinic appointments during…

CHAIRPERSON NURSE: I know, I know.

DEPUTY COMMISSIONER SAUNDERS: During lockdowns so…

CHAIRPERSON NURSE: It's just in relationship to tracking specifically when there's a lockdown, if you do collect that data or segregate it out in terms of how many medical appointments are missed due to a search, a lockdown, or an alarm.

DEPUTY COMMISSIONER SAUNDERS: Between January and February of this year, approximately 300 scheduled appointments were missed due to a lockdown and, again, that represents less than 1 percent of the total scheduled appointments and…

CHAIRPERSON NURSE: Noted.

DEPUTY COMMISSIONER SAUNDERS: Only 1 percent of the non-productions.

CHAIRPERSON NURSE: Okay. We hear reports that lockdowns can last days. In fact, in the lead up to a hearing on Education last year, we were told that RNDC, the facility that holds young people on Rikers Island, had been locked down for days, and so it would be extremely concerning if there was no access due to a protracted period of lockdown, and that's why I asked earlier about how long does lockdown happen and what are the justifications for shutting down phone services so if you're in lockdown for 10 days and no one can file a complaint, there's

a medical appointment being missed, or you can't file a complaint through 3-1-1 because the phone access has been shut off for 10 days, using this particular instance, this is a pretty serious violation of people's access to support or whatever life-sustaining services that they need.

ASSISTANT VICE PRESIDENT MERRILL: I would just mention our emergency care will respond on scene if there is a medical emergency, regardless of any lockdown status, but your point is appreciated.

CHAIRPERSON NURSE: Right but, as you know and as we've seen in multiple situations including fatalities, things might not be going according to protocol and certainly, if there's no ability to make a phone call, you're not going to be able to respond to emergency.

Okay. Moving on. The Department and CHS recently gave presentations at BOC meetings to describe the differences between sick call where a person in custody is requesting non-emergency or medical or mental healthcare and other CHS initiated appointments. Can you clarify whether a person in custody can make a sick call request through an officer in their housing unit?

DEPUTY COMMISSIONER SAUNDERS: The answer to that is yes, a person who wishes to go to sick call can simply ask the officer to be taken, and they also have the availability of using house phones to call the Health Triage Line as well to make a scheduled appointment.

CHAIRPERSON NURSE: And if a person makes a request for medical care through the sick call process, how soon can they expect to be seen by a provider?

ASSISTANT VICE PRESIDENT MERRILL: For a sick call, that should be that day provided the Department escorts them to the clinic. For calls I mentioned earlier for the Health Triage Line, the goal is to schedule that day as well so it would be put on the call down list, the nurse would that day or 24 hours for a less urgent medical condition.

CHAIRPERSON NURSE: And do you track any data on the average time between when a request for care is made and when a person is seen?

ASSISTANT VICE PRESIDENT MERRILL: I could get you the time between when this appointment is scheduled. Of course, a patient, for whatever reason,

may not make that first scheduled appointment, but I can see what data is available.

CHAIRPERSON NURSE: Okay. It would be great to know what tracking you all are doing.

Okay, so for DOC and CHS, missed medical appointments seem to continue to be a pretty perpetual problem. In 2022, stemming from a class action lawsuit brought by Brooklyn Defender Services and the Legal Aid Society, DOC was found in contempt of court for its failure to ensure people in custody have access to medical services. I understand there are issues with overscheduling, with lots of automatic and required appointments bloating the numbers. However, has either DOC or CHS made any formal effort to categorize and track types of appointments and make sure that production for urgent medical appointments is prioritized.

DEPUTY COMMISSIONER SAUNDERS: We do track non-production and the reasons for non-production, but I want you to rest assured that any individual in our custody that needs access to urgent medical care is provided that care. They simply need to go to the housing area officer and request to be taken and, if that officer notices that an individual is in

distress, that person is taken to the clinic immediately or, if that person is in extreme distress, they would activate them in a medical emergency in which case our colleagues from CHS would send an emergency medical response team to the site.

CHAIRPERSON NURSE: Okay. I understand what your policy and protocol and intentions are, but obviously that's not actually what's playing out. My question was is there any formal effort been made to categorize and track types of appointments?

ASSISTANT VICE PRESIDENT MERRILL: We do track the types of appointments. You're referencing the production (INAUDIBLE)

CHAIRPERSON NURSE: Production to urgent medical appointments.

ASSISTANT VICE PRESIDENT MERRILL: We schedule routine and followup care according to the community standard of care. The calls that go into Health Triage, those would be that day or within 24 hours, and then emergency care would be addressed immediately.

CHAIRPERSON NURSE: Okay. Our analysis of the available data on grievances showed that proportion of complaints coming from people housed in

mental observation units has been steadily rising since 2020. This is concerning because mental observation units are the least intensive housing option for people who have been diagnosed with serious mental illness and, according to testimony DOC provided in October last year, mental health observation units had the capacity to house 496 people. Of that population, there were over 1,000 grievances filed from January to March of this year so I was wondering if you could break down the nature of both the grievable and non-grievable complaints that are coming from individuals in mental observation units or even just the top three categories of complaints.

EXECUTIVE DIRECTOR STAFFORD: Hi. The complaints fluctuate and, for persons in custody in specialized housing areas, they typically complain about where they are housed so I would say the top three complaints are medical H and H related, environmental, and sexual misconduct.

CHAIRPERSON NURSE: Medical H and H related, environmental, and what was the last one?

EXECUTIVE DIRECTOR STAFFORD: Sexual misconduct.

CHAIRPERSON NURSE: Sexual misconduct. Okay and, to clarify, environmental. Can you break that down a little bit more? We had talked about it in our prep a little bit to wanting to understand.

EXECUTIVE DIRECTOR STAFFORD: Environmental is directly related to facility cleanliness, and so those complaints are tasked out to our Environmental Unit to address whatever facility cleanliness is a concern.

CHAIRPERSON NURSE: Okay. For CHS and DOC, can you provide any examples of concrete actions taken to address these issues identified in grievances filed by people in the MO units?

EXECUTIVE DIRECTOR STAFFORD: Any trend that OCGS sees, we review the data, we identify key issues, and we forward it to the applicable unit to implement appropriate action, and they take their steps accordingly.

CHAIRPERSON NURSE: Okay. Your top three, one of them is sexual abuse or of a sexual allegation nature. How are you all handling that if it's a top three?

EXECUTIVE DIRECTOR STAFFORD: Once OCGS receives the complaint, we notify applicable

leadership of the trends to make them aware and to inform their plans of action. I can defer to A.C. Levine for how that is addressed.

ASSISTANT COMMISSIONER LEVINE: When we get a complaint from, let me just back up. We have a supervisor on duty in my PREA Investigation Unit from 0700 hours to 2200 hours. When we get a complaint routed to us from OCGS through the 3-1-1 system, we look at it and we actually transcribe it. We will then assign two investigators who get dispatched to the facility to interview the victim or the caller. Simultaneously, before they leave our office to go to the facility, my tour commander will call the facility tour commander and let them know that we are going to investigate whatever, (INAUDIBLE) sexual abuse allegation, and we would identify the person in custody and we would request that the facility take the necessary action to remove that individual, and then we would have to go back to the clinic and also make arrangements to rehouse that person so they wouldn't be put back into the same situation with their violator or perpetrator.

CHAIRPERSON NURSE: And what's the time period on that? What's the average turnaround?

ASSISTANT COMMISSIONER LEVINE: I'm going to give you the PREA standards are 72 hours. We respond within 24 hours. If we get something that's serious, we will prioritize it but, in any situation, we will take immediate steps to help ensure the safety of the caller and the person in custody.

CHAIRPERSON NURSE: And for the trends that are emerging, the top three complaints in the mental observation units, is this consistent, are these top three consistent over multiple years or is this a new trend. For example, are allegations involving sexual abuse or assault sustained trends in complaints from these units?

EXECUTIVE DIRECTOR STAFFORD: I would say that the complaints continue to fluctuate. Maybe it would be the top three or the top five, but they do fluctuate for these specialized housing areas.

CHAIRPERSON NURSE: Okay. Yeah, it's just wildly concerning to have top three complaint be sexual assault and abuse, particularly coming from mental observation units, and I haven't heard, I've heard the logistical steps to process a grievance, but I haven't really heard what is the systemic or

operational change that ends the trend in the unit or across the island at large.

I'm going to move on to…

ASSISTANT CHIEF REMBERT: Good morning, ma'am. Chief Remberg. To answer that question, as far as systemic change, is that first of all the agency has a zero-tolerance policy for sexual assault, harassment, or sexual misconduct, and we will prosecute to the fullest extent of the law. That's number one.

Number two, all Departmental staff that eyewitness, is notified, and/or is told of any sexual misconduct, harassment, assault, that person in custody is removed immediately from their dormitory bed or their cell and placed in a secure location and the supervisor will be contacted to escort him or her to the clinic to be evaluated. Once they're in the clinic, we then will immediately notify SIU PREA Unit as well as secure that area for any evidence preservation and also we will remove the person in custody to another unit. With that said, we do take it very seriously, and we do act immediately should, during, a tour any of those actions are happening, eyewitness, told, or informed.

CHAIRPERSON NURSE: Like I said, I appreciate the breakdown of the logistical procedures, but what I'm suggesting is that, in light of over 700 allegations, you've got a trend in your mental observation unit. Also staff, female officers have been assaulted so there is an issue here on the island where sexual assault and abuse is systemic. It is loudly speaking to all of us just in the data and the numbers, and the grievance process, although there are some timely measures in it, is not necessarily, there's not a positive feedback loop here coming to stop a situation that's happening on a systemic level. That's what I'm trying to get at, but I'm going to move on to complaints about DOC staff.

In our review of the data since 2020, nearly a quarter of all non-grievable complaints had to do with a DOC staff member. Depending on the nature of the allegation, complaints related to staff are referred to the investigation division or a facility commanding officer for review. When a person in custody makes a complaint against staff, it's a very sensitive situation, and we've heard a lot of stories of subtle and not so subtle ways in which retaliation occurs. DOC's Grievance Directive states

that no reprisals by staff of any kind shall be taken against an inmate for good faith use of the Grievance and Request Program. However, clearly there's been a breakdown. When a facility commander is informed of a grievance filed that alleges improper behavior by a member of their staff, how are they instructed to handle that investigation and, specifically, how do they ensure that their investigation will not result in a person in custody being identified as having filed that grievance?

ASSISTANT COMMISSIONER LEVINE: I believe when we get these allegations, when they get called into Central Operations Desk, they are called in as just confidential allegations, and the identity of the person making that call, that allegation, is not identified. It is identified to us when we get it. When we get it, we will call back the person calling it in, the tour commander of the facility. They will identify it to us over the phone, and that's how we will, then we will direct them. There's something that we have called a separation order. We will then issue a separation order that will take the violator away from the victim.

CHAIRPERSON NURSE: And has DOC ever imposed any formal or informal discipline against an officer for engaging an act of retaliation against a person in custody who filed a grievance?

ASSISTANT COMMISSIONER LEVINE: I don't have that specific information available but, in the last two years, my unit, we refer acts of misconduct by our officers to our Trials Division. We have 53 cases currently in the Trials Division against officers.

CHAIRPERSON NURSE: Out of how many people?

ASSISTANT COMMISSIONER LEVINE: I don't have the specific breakdown. I do know that the number is 53 from January 1, 2022, to right now in 2024 so there have been 53 cases that we referred to them for different violations of different types of rules and regulations.

CHAIRPERSON NURSE: I think in the followup, it would be good to hear since maybe 2022, data on how many disciplinary actions have been taken, formal and informal, against officers who have engaged in retaliation in the followup. We'll send it over.

ASSISTANT COMMISSIONER LEVINE: Okay, yes.

CHAIRPERSON NURSE: As part of the consent judgment in the Nunez case, the Department was required to develop and implement an early warning system to identify staff members whose conduct warrants corrective action and provide additional guidance and mentorship to those officers. Are grievances filed against staff members reviewed to help determine which staff members might benefit from additional support?

EXECUTIVE DIRECTOR STAFFORD: Once a complaint is received about a staff member, it is forwarded to the Special Investigation Unit to handle accordingly so I will defer to A.C. Levine on how that information is shared internally.

ASSISTANT COMMISSIONER LEVINE: Whenever we get, I also run the misconduct arm, it's called the Intelligence Team. Whether it be a PREA allegation against the member or whether it be any other allegation, our first responsibility is we call the Department of Investigation. There's a DOI Duty Team that works 24 hours a day, seven days a week so anytime we get an allegation against any staff member, whether it be civilian, whether it be

contracted, someone who works there fixing things, someone from CHS, we have a responsibility and we refer that immediately to the Department of Investigations. They will review it and, after they review it, they will either give it back to us or they will take it and give us what they call a stand down order. There is the review process to see if there were, say, recidivist staff members committing these acts.

CHAIRPERSON NURSE: Okay. Do you know how many people are, I don't know how it looks on the backend for you all, but do you know how many let's say staff members are in your early warning system currently.

ASSISTANT COMMISSIONER LEVINE: I don't have that information. That would be something DOI, DOI does keep that form of data so they would be the best people to let you know who their (INAUDIBLE) safe to say recidivists are.

CHAIRPERSON NURSE: I know there's like guidance and mentorship, but can you just explain a little bit more what that looks like? What are you providing? Someone's on an early warning system, maybe they've got a couple of grievances filed

against them. What specifically is being provided to that individual that is course corrective?

ASSISTANT COMMISSIONER LEVINE: Most of that would be done by our Training Unit, but I can let you know that my PREA Compliance Team, we do facility training, we do supervisory training, and when the officers come every two years for, they have to do a PREA refresher, my team are the facilitators of the training so that is what my team does for training offices in this manner.

ASSISTANT CHIEF REMBERT: Yes, ma'am. Chief Rembert. Also we have EISS, the early warning that you were speaking about as well. That unit also handles that as well, any issues concerning that and, what they do, they take the information from the facilities, they review it to make sure that the whatever the member of service is in, make arrangements for the member of service to have a mentor monitor them so that's also available as well.

CHAIRPERSON NURSE: And do you know how long that kind of period of being engaged with this early warning system can go for? Like what's an average, someone who's exhibited signs that triggers

this, like how long are they a part of some kind of program?

ASSISTANT CHIEF REMBERT: I don't have the correct number or the correct data. However, it could be from any of the time that the trials and litigation and that unit comes together and say, the member of service will negotiate plea agreements from here to here and that EISS will handle it to when they start to finish so I don't have the data to tell you exactly how long and it's on a case-by-case basis.

CHAIRPERSON NURSE: Okay. I'm going to open up again for questions. Council Member Cabán has questions.

COUNCIL MEMBER CABÁN: Yes, thank you. Just very quickly, a followup, are accused officers suspended while an investigation is ongoing?

ASSISTANT COMMISSIONER LEVINE: We have suspended officers during, yes, we have done that.

COUNCIL MEMBER CABÁN: Okay, what number or percentage of that over a period of time, and is there a breakdown of how you make that determination, is it based on the nature of the allegation, is it

based on the person's history of being accused of misconduct or abuse, how is that determined?

ASSISTANT COMMISSIONER LEVINE: During our preliminary investigation, if we believe that we have a founded sexual abuse case and usually through the victim statement plus other evidentiary, video, phone call, outcry, other witness interviews, we do witness interviews of other persons in custody who are in the housing area and, if they corroborate, we have suspended people.

COUNCIL MEMBER CABÁN: But based on that, it sounds like it would be a period of time between an accusation and whether you decide at some point in the investigation that an accusation is credible enough that you decide to suspend someone. Is that correct?

ASSISTANT COMMISSIONER LEVINE: That is correct.

ASSISTANT CHIEF REMBERT: Chief Rembert, ma'am. So if it's a preliminary investigation and you cannot make that determination, the member of service can be modified and taken out of the facility in place on modified status.

COUNCIL MEMBER CABÁN: Okay.

ASSISTANT CHIEF REMBERT: And then when the…

COUNCIL MEMBER CABÁN: Modified is different than a suspension, correct?

ASSISTANT CHIEF REMBERT: Correct, ma'am.

COUNCIL MEMBER CABÁN: Okay.

ASSISTANT CHIEF REMBERT: They no longer are assigned to a facility. They're assigned to an area. We just modified officers so it's not, when we have the member service remain in the facilities until a final determination of a final outcome so we will modify the member and suspend or we just will suspend a member and that is determined on a case-by-case basis.

COUNCIL MEMBER CABÁN: And are they suspended with or without pay?

ASSISTANT CHIEF REMBERT: That would be without pay. All right, so when modified, you're still paid, but you're modified until the final determination. If it's the captain, if it's during the week, we have to suspend. We will suspend with pay from, if it's during the week, we have to immediately suspend. A supervisor can be suspended only on a Sunday, 001 hours, seven-day increments so

at times, I do not have the data in front of me. If any of that has transpired as far as the number of supervisors versus captain and thereafter.

COUNCIL MEMBER CABÁN: Can we get that data set? Like I am curious to know out of over the past year, for example, what percentage of accusations resulted in a suspension and what was the average length between that accusation and the moment of suspension? How many times was an accusation determined to be founded and credible but an employee was not suspended and vice versa. There's just a whole data set here that would be really helpful and illuminating about people's experiences.

My last thing is just a comment. I found it really interesting that you mentioned recidivist staff members, and I just feel like that's something that shouldn't exist. I think that if you are a recidivist in abusing the people that you're supposed to be keeping safe and protected in our correctional facilities, you probably shouldn't have that job. Thanks.

CHAIRPERSON NURSE: Thank you, Council Member Cabán.

Okay, we're getting there. I just have a few more questions and then I think we will switch panels, I believe. According to the available data, over the last four years, there has been a significant increase in grievances filed related to commissary operations. In fact, there appears to be a spike in grievances related to the commissary in April 2022 right around the time that the contract began with the Keefe Group to operate the commissary. Commissary grievances post 2022 continue to be higher than they were previously. Along with this alarming grievance data, there was also an investigation conducted by the news outlet, The City, which exposed the high prices and poor service by the Keefe Group and, last month, the Comptroller's Office cited a myriad of problems to justify their decision to reject a contract renewal with Keefe. Despite all this, the DOC recently decided to move ahead in awarding the Keefe Group another 33 million dollars to continue running the commissary. My questions are, we've received a lot of anecdotal information about people receiving expired or incomplete commissary orders with little access to recourse. When a grievance is filed that is related to the commissary,

how does DOC address the problem with the Keefe Group? Do you follow up to ensure the issue is resolved?

EXECUTIVE DIRECTOR STAFFORD: Commissary complaints that are received when any time there's a new operation, it is expected that it takes time for the operation to be familiarized by the persons in custody. Since the relationship with the Keefe vendor, OCGS has monitored the complaint trends, monitored the frequency. We have had initially meetings once a month to discuss some of the concerns of the persons in custody that we were seeing. As it trends downward, we have meetings maybe quarterly to address some of the concerns. Most recently, we saw a trend in expired items or just not having packages delivered. We spoke with leadership of commissary, and they're actively working to address it. This happened within the last 45 days.

CHAIRPERSON NURSE: And when you say you were having those meetings, that was with who, Keefe or with folks in custody?

EXECUTIVE DIRECTOR STAFFORD: The meeting is with the leadership who manage the day-to-day operation of (INAUDIBLE) where the concern is. The

conversation has not been directly with Keefe with OCGS. It's my understanding that our internal leaders that oversee commissary have brought our concerns to the Keefe vendor.

CHAIRPERSON NURSE: Just from my understanding, particularly related to expired food. Is expired food arriving on site expired or is it expiring while being on site? I'm just trying to understand if people who are running the commissary day to day aren't clocking that.

EXECUTIVE DIRECTOR STAFFORD: It is my understanding that deliveries are done in a timely fashion and on the scheduled days. From my experience and what I've observed, it’s when the package is received by the person in custody.

CHAIRPERSON NURSE: Okay. As part of the Comptroller's letter justifying the decision to reject the contract renewal with the Keefe Group, he cited the Department's failure to follow the City's procurement, conduct annual performance reviews, and said this indicates that the vendor's performance when affirming its responsibility. How do you justify renewing this contract when people in custody have

been increasingly raising concerns about how the commissary is being operated?

ASSISTANT CHIEF REMBERT: Good afternoon. We are reviewing that at this time, and we cannot provide a response to that question at this time, but we will circle back with you.

CHAIRPERSON NURSE: And what's a timeline on a response?

ASSISTANT CHIEF REMBERT: Can you give us the close of day when we can provide you a response of that timeline?

CHAIRPERSON NURSE: I'm sorry.

ASSISTANT CHIEF REMBERT: Can we provide you that by close of the day when we can respond?

CHAIRPERSON NURSE: Oh, by close of day.

ASSISTANT CHIEF REMBERT: To your timeline.

CHAIRPERSON NURSE: Okay. Understood.

ASSISTANT CHIEF REMBERT: Not saying that we give a response to your question.

CHAIRPERSON NURSE: No, but at the end of the day, you will let me know when we could get a response.

ASSISTANT CHIEF REMBERT: Correct.

CHAIRPERSON NURSE: Understood. Thank you.

Okay. In the DOC Commissioner's letter to the Comptroller's office, she asserted that DOC has constantly monitored the vendor's performance and DOC maintains the ability to reject or accept the vendor's listed price for commissary items. Can you provide the Committee with an example of actions you've taken on behalf of people in custody to remedy issues with the vendor's performance or request price adjustments?

ASSISTANT CHIEF REMBERT: We'll add that on there as well.

CHAIRPERSON NURSE: At the end of the day.

ASSISTANT CHIEF REMBERT: To provide you a time to respond to the question.

CHAIRPERSON NURSE: A time for a response. Love that. It's a new line.

Okay. Quick question. How many people work at OCGS? What's the head count?

EXECUTIVE DIRECTOR STAFFORD: Currently, we have 27 budgeted lines.

CHAIRPERSON NURSE: Okay, and how many grievance coordinators do you have?

EXECUTIVE DIRECTOR STAFFORD: We have 13 non-uniform staff.

CHAIRPERSON NURSE: Okay, I just have a few more questions related to voting.

EXECUTIVE DIRECTOR STAFFORD: I'm sorry?

CHAIRPERSON NURSE: I have a few more questions related to voting. Are you aware of anyone generally filing a grievance related to not having access to voting?

EXECUTIVE DIRECTOR STAFFORD: I cannot confirm or deny that we've received complaints related to voting. We can circle back with you.

CHAIRPERSON NURSE: Okay. Yeah, it would be helpful to know if there's a clear process for filing a grievance for someone who feels like they've been denied their ability to vote. Obviously, it's a big year, it’s an important year, and so folks who are on Rikers who have the right to vote certainly should have access to the poll and so it would be really important to understand if there's a process for filing a grievance against that.

EXECUTIVE DIRECTOR STAFFORD: Understood.

CHAIRPERSON NURSE: Are people informed of their voting rights while they are in DOC custody?

ASSISTANT CHIEF REMBERT: Yes ma'am.

CHAIRPERSON NURSE: Are you aware of anyone receiving ballots through the mail?

ASSISTANT CHIEF REMBERT: I'm sorry. Can you repeat the question again?

CHAIRPERSON NURSE: Do people in custody, have you heard of people in custody receiving ballots in the mail and being able to vote by mail?

ASSISTANT CHIEF REMBERT: I cannot confirm or deny that, but I will get back with you.

CHAIRPERSON NURSE: Okay. I'm going to turn it over to Council Member Cabán for another round of questions.

COUNCIL MEMBER CABÁN: Yes, thank you. I just wanted to follow up on a couple of the questions around voting. You said people are aware of their right to vote. How do you do that? What does that look like?

ASSISTANT CHIEF REMBERT: The person in custody is of their right to vote. It starts off by when by, it's located during the new admission process, when we have a sign, the sign as far as right to vote is located in the housing areas, right to vote as well as the new, as I stated, new

admission process, a new admission process with them coming into the facilities as well.

COUNCIL MEMBER CABÁN: I know that the Legal Aid Society did a survey of a number of their clients asking them whether they were given materials, saw materials, had access to ballots when it came time to vote, and the results of that survey didn't tell a story of the, not even close to a majority of the folks knowing that they could vote or have access so I think there needs to still be a good deal of work done there. They've repeatedly made requests to have a voting site on Rikers Island. What's DOC's position on that? Would you support there being a voting site on Rikers Island to make voting more accessible?

ASSISTANT CHIEF REMBERT: We will look into that recommendation and get back with you.

COUNCIL MEMBER CABÁN: Okay. Thank you.

CHAIRPERSON NURSE: All right. I think those are all my questions for you all. I think we do have followup items. I don't know if we've actually received followup items from the last, from the Preliminary Budget hearing so we're still waiting for the last followup and hopefully we can get this

followup in a more timely manner. I know you're rolling your eyes, but this is like public information. This is an opportunity for people to understand what's happening in these agencies so sorry to inconvenience everybody, but we do need the followup information, and there are some noncompliance issues that we've discussed and it would be great, can't wait to get those reports in spreadsheet format, love me some Excel, and looking forward to hearing from you by the end of the day from when we will hear about a timeline for some other things. Thank you for being here.

ASSISTANT CHIEF REMBERT: Yes, ma'am. Thank you.

CHAIRPERSON NURSE: I think we're going to take like a 10-minute break and then we'll bring up BOC. Thank you.

Okay, we're going to start our panel from the Board of Correction. I will now just introduce our first panel of Administration witnesses and ask the Committee Counsel to swear them in.

With us we have today, from the Board of Correction, Jasmine Georges-Yilla, I'm so sorry if I'm butchering that, Executive Director; Melissa

Cintrón Hernández, General Counsel; Barbie Melendez, Director of Public Accountability; and Bart Bailey, Director of Violence Prevention, great name, and I will now turn it to the Committee Counsel to swear you in.

COMMITTEE COUNSEL: Okay. If you could all please raise your right hands.

Do you affirm to tell the truth, the whole truth, and nothing but the truth before this Committee and respond honestly to Council Member questions?

ADMINISTRATION: (INAUDIBLE)

COMMITTEE COUNSEL: Okay. Noting for the record, all the witnesses answered affirmatively. You may begin your testimony.

EXECUTIVE DIRECTOR GEORGES-YILLA: Good afternoon, Chair Nurse and Members of the New York City Council Committee on Criminal Justice. I am Jasmine Georges-Yilla, Executive Director of the New York City Board of Correction. I'm joined today by BOC's General Counsel, Melissa Cintrón Hernández; our Director of Public Accountability and Oversight, Barbie Melendez; and our Director of Violence

Prevention, Bart Bailey. Thank you for the opportunity to testify today.

Despite a lack of resources, BOC continues to carry out critical independent oversight of the City's jails. The Board has monitoring staff assigned to each jail, serving as the Board's eyes and ears and identifying systemic issues that impact people in custody and staff. BOC receives complaints directly from individuals in custody and New York City Department of Correction staff through various channels, including phone calls, emails, visits to our website or office, and in person during BOC staff's daily tours in the jails.

Our staff is charged with investigating and resolving issues that are brought to their attention, including issues with the DOC grievance system. My testimony today identifies certain systemic shortcomings in the grievance process. Our goal is to shed light on these issues to prevent their recurrence. A person in custody can file a grievance by filling out a request for grievance slip, completing a grievance statement form that should be available in their housing area, or by writing their grievance on any available piece of

paper. All jails are required to make these forms available to people in custody. However, paper grievance forms are rarely readily available in the housing areas. Furthermore, the locked grievance boxes where these forms are submitted are all often located in restricted areas, making them difficult for people in custody to access independently. Many facilities have only one box, making it inconvenient for submission of a paper grievance.

Alternatively, a person in custody may call 3-1-1 to file their grievance electronically. These grievances are logged by the 3-1-1 operator, bypassing barriers such as needing access to a corridor to reach a grievance box in the jails. Grievances received through 3-1-1 are reviewed by the Department's Office of Constituent and Grievance Services, or OCGS, and forwarded to the staff at the relevant facility for grievance review. Of the 41,079 grievances filed in Calendar Year 2023, 36,669 were electronic, and 4,410 were on paper. This trend continues in 2024. OCGS reports that out of nearly 9,200 grievances filed between January 2024 and March 2024, approximately 78 percent were filed through 3-1-1 while only 10 percent were filed using the

grievance box. This suggests that calling 3-1-1 is a preferred method to file a grievance because it's more efficient than waiting for a grievance officer or coordinator to visit the housing area or the locked grievance box.

If a person in custody is not satisfied with the outcome of an investigation or resolution to a paper-based grievance, they may check off a box on the grievance disposition form requesting to appeal the determination. In contrast, grievances filed electronically through 3-1-1 may not be appealed. Instead, they are solely investigated by the captain or a uniformed staff member at the facility with their resolution determined at that level. However, there are no quiet, confidential spaces for individuals to discuss electronic grievances with department uniformed staff. Instead, discussions often occur in noisy dayrooms. This results in people in custody refusing to provide statements or reduce their electronic grievances to paper form, which precludes their grievance from the grievance appeal process.

The Department's appeals process begins with a preliminary evidentiary review. If the

grievance is not resolved at that level, it must be escalated to a commanding officer. If a person in custody does not accept the commanding officer's disposition, they may appeal the decision to the Central Office Review Committee, or CORC. Once a grievance or request reaches CORC, the Board has five business days to provide a recommendation. The Board reviews grievances that are filed with the Department, whether they're submitted in writing or electronically through 3-1-1. Specifically, BOC staff review data that has been inserted in the Department's Service Desk System, a recordkeeping system used by the Department to track grievances. BOC staff identify areas for discussion with facility leadership regarding recurring issues and facilitate followup processes with grievance coordinators at the relevant facilities. Moreover, the Board hears concerns directly from individuals in custody, either during BOC staff's facility tours or through our toll-free hotline. We also receive emails raising concerns on behalf of people in custody. BOC monitors review the Service Desk System to determine if the Department has already addressed the issue. In most cases, OCGS has not resolved the issue or the

individual's concern has been forwarded to the facility and is awaiting a response.

If an issue does not fall into one of the 26 grievable categories, OCGS staff considers it non-grievable and it becomes a request. Such requests are directed to a separate DOC office where they are not subject to the grievance process outlined in the Department's grievance directive. The Board has found that many non-grievable requests are associated with fear for safety, concerns about DOC staff, interpersonal violence, and sexual abuse. The Board maintains records of all complaints submitted directly to BOC regarding alleged violations of the Board's minimum standards. Once a complaint is received, the Board staff investigate, speak with the impacted person in custody, and follow up with the relevant facility staff to ensure compliance with the Board's minimum standards and make recommendations for practice and policy changes where appropriate. Between January 1, 2023, and March 31, 2024, the Department received over 55,000 grievances, 40,000 of which were considered grievable. Only 261 were formally resolved through the appeal process. In the first quarter of 2024, only two grievances were

resolved via appeal, which is a significant drop from 54 in the previous quarter. Between January 1, 2024, and March 31, 2024, the Enhanced Supervision Housing Unit at the Rose M. Singer Center, or RESH, had the highest rate of grievances filed per 100 people in custody. The grievance rate at RESH was 52.7 percent higher than the systemwide rate, and the top grievance categories include concerns regarding medical care, housing placement, staff conduct, allegations of sexual abuse, and food. Based on BOC staff's observations, the Board recommends that grievances submitted by people in custody through 3-1-1 be handled similarly to a written statement. When an electronic grievance is received, the Department should offer private and confidential areas for the complainant to voice their concerns and provide further details about the cause of their grievance.

Similarly, DOC should simplify and streamline the electronic grievance process, providing clear explanations and educational materials in each housing area on the differences between paper and electronic grievances. DOC should also implement mechanisms for the timely acknowledgement of electronic grievances, separate

from resolution timeframes. Moreover, DOC should establish independent review teams within each facility to examine grievances, identify delays, and monitor trends. This will ensure the identification of recurring systemic issues and will highlight deficiencies, improve conditions, and increase awareness of issues among DOC leadership. The Department should also conduct regular evaluations of the grievance system and implement necessary reforms based on feedback and best practices. Furthermore, it's imperative for the Department to guarantee unrestricted and consistent access to grievance boxes by installing them in each housing area, checking them daily, and rapidly providing receipts, facilitating ease of access, and timely submission of grievances. DOC must also ensure the confidentiality of grievances and protect grievance filers against retaliation or intimidation.

The Board is dedicated to continuously monitoring the complaint and grievance systems and NYC jails. These systems should be procedurally fair, safe, accessible, transparent, responsive, coordinated, and consistent across all facilities. The Board plans to release a report in December that

evaluates DOC's grievance system. The report will incorporate direct feedback from incarcerated individuals and propose recommendations for improvements, including improving the grievance process for vulnerable populations, including people in custody who are lesbian, gay, bisexual, transgender, intersex, and gender non-conforming.

Thank you again for the opportunity to testify today. We're happy to take any questions.

CHAIRPERSON NURSE: Thank you, and thank you so much for your testimony.

We just heard from DOC, and I'm sure there's a lot to comment on, but wanted to start with the comment by Dr. Stafford's statement that most grievances are being handled by non-uniformed OCGS staff and not uniformed officers. I'm wondering if you have any additional commentary around that.

EXECUTIVE DIRECTOR GEORGES-YILLA: Thank you for the question. I'm gonna turn it over to Director Melendez to respond.

DIRECTOR MELENDEZ: Hi, Barbie Melendez, Director of Public Accountability and Oversight. I did take several notes on the comments that DOC made, and one of those that stuck out was the response

regarding who investigates the grievance once it is submitted to the Department of Correction, and I think that the way that it is worded, it can be a little confusing, right? OCGS consist of uniform and non-uniform staff. 3-1-1s being the most common way that people file their grievances, which we call electronic grievances. They are mostly investigated by captains in the facility. When they talk about tasking out grievances to the units or the facility, that means that once a grievance is accepted into the 3-1-1 system, it is tasked out and it is given a Task ID, right, and once it's given the Task ID, an email is sent to the facility and the facility is responsible for responding to the grievance. Facility leadership assigns a captain to investigate the grievance, and what does that look like? Kind of like what Jasmine mentioned in her testimony, it is not a confidential, quiet space where it makes it an environment where people are open to make statements or people are open to elaborate more on their grievances so a captain usually goes into the housing area with a statement form asking a person in custody to make a statement on the grievance that they already submitted. Kinda to your point, Chair Nurse,

when you asked are 3-1-1s going through the same process as a paper-based grievance, right? It is many times intimidating for people in custody to continue with the grievance process because now they are in a housing area with a paper in front of them where the Department, a uniformed staff person, comes to them and says write a statement because of the grievance that you submitted. We know that jail culture doesn't allow for statements to be made freely and people to be comfortable to make those statements. This is why many grievances stop at the captain level in the facilities, which can be, but I don't know for 100 percent, why those numbers as to why we don't have more appealable grievances going through the process have stopped at that level. Now, I will clarify, the grievance coordinator is not the person that always goes to the housing area because I know you asked that question. The grievance officer, another uniformed staff person, goes. Years ago, when grievance was predominantly paper grievances before the merger of the 3-1-1 system with the paper grievances, if someone filed a grievance, there was a more humanistic approach to the transaction, right? Now, it's more about we have a backlog of grievances,

we need to resolve this. Before, a person in custody would come down to a grievance coordinator's office, speak to the grievance coordinator which is a civilian in regular clothing, in their office, and talk about what they put in their grievance statement form, right? That no longer exists within the Department of Correction. The merger of the 3-1-1 system with the IGRP paper-based grievance system has morphed into a, because as you can see, there has been so many grievances that are 3-1-1-based that it has morphed into a system where it's very transactional so this is why you see the increase now.

CHAIRPERSON NURSE: The reason why I had asked that because I was reading the directive and, in the language, it seems to be specific to the grievance coordinator being the one who interacts, but then when I saw the staff numbers of coordinators to grievance officers, it felt like that's impossible given the breadth of grievances and the anecdotes we are hearing that it's actually correction officer or facility leadership going to do this.

DIRECTOR MELENDEZ: You said correction officer, and that's where language matters, right? It's a captain that investigates the grievances.

CHAIRPERSON NURSE: But it's the DOC.

DIRECTOR MELENDEZ: Right, so I think if you said uniform (INAUDIBLE)

CHAIRPERSON NURSE: It’s not OCGS staff.

DIRECTOR MELENDEZ: Yes, exactly.

CHAIRPERSON NURSE: Right.

DIRECTOR MELENDEZ: Yep.

CHAIRPERSON NURSE: I'm looking for clarification anytime…

DIRECTOR MELENDEZ: You gotta be clear.

CHAIRPERSON NURSE: Please feel free to interrupt me because obviously this is a convoluted process and, yes, it seems like the language has allowed DOC to be fuzzy on giving us a concrete answer, and I didn't even think to ask about when someone comes. I just imagine they come to their cell or their housing unit specifically to have the conversation and, in your testimony, you were saying a private confidential space for people to have this conversation, and I'm trying to imagine where that

would actually be in a housing unit. Do you all have any suggestions?

DIRECTOR MELENDEZ: A private confidential space has always been an issue because then that goes back to mental health being able to provide their services in a private confidential space, grievance being able to interview, social service being able to conduct their interviews with the people in custody. A private confidential space is not available in all housing areas. Most of the time, the most private confidential space that can be provided is in a vestibule and I'm not sure if you toured the jails, but it's usually the area between two housing areas that there's an officer in the A post usually that can hear the conversation or anyone passing by as well. That's like the most confidential space that is commonly used.

CHAIRPERSON NURSE: We didn't get a chance to develop a line of questioning of it, although it did come up in our conversation. Are there any instances where a grievance coming in skips OGCS staff in some way, maybe get put through the system, but is tasked out to facility leadership in a way that totally bypasses the OCGS staff besides what

you're saying with the captain, but the tasking out part, is it being interrupted in any way?

DIRECTOR MELENDEZ: What do you mean by interrupted?

CHAIRPERSON NURSE: I think we had in some of the anecdotes that had come our way, it seemed that as a complaint comes in, it goes into the system, but it's being taken up by facility leadership rather than the coordinator or the uniformed staff in that unit.

DIRECTOR MELENDEZ: Most paper-based grievances are handled by the grievance coordinator. Most electronic or what we call 3-1-1, or it could be emails from the public defender's office, it could be that we sent it to them, electronic grievances are tasked to the facility. I know it's confusing because the grievance coordinator is also embedded in the facility so, forgive me, but I will clarify as many times as I need to for you to understand it so that you have it clear because it's important. Grievance coordinators have an office in every jail.

CHAIRPERSON NURSE: Yes.

DIRECTOR MELENDEZ: For the most part, you have at least one and sometimes two grievance

coordinators per facility plus a grievance officer except in some jails that don't have a grievance officer like RNDC where the young adults are currently housed. Big deal. They don't have one. So now you have the emails that come from Dr. Stafford from OCGS to the facility, which used to be called wardens, now they're ACs, so it goes to the AC's office, and that AC is responsible for tasking that out for investigation to a captain. That captain is not an OCGS staff person. They're uniform. They investigate the grievances, and they resolve, unsubstantiate, substantiate, it depends. If they go to the housing area and that person refuses to write a statement, many times they unsubstantiate it and it's done right there. That's where it ends.

CHAIRPERSON NURSE: Right, so I guess what I'm saying is that process, when that's happening, is that violating laws that are in place or policy that is in place?

DIRECTOR MELENDEZ: It's sort of still within the directive, except that it doesn't have that component of being able to appeal like a paper grievance. I know that they said that they're actively revising the policy, but I think that

because things have changed so much since the last directive that was updated in 2018, language has to be clear on what is what. When you have this investigation into the electronic grievances, what is the process to appeal and what happens if that person doesn't want to submit another statement? They already made the statement when they called the 3-1-1 operator and, many times, if they talk about more than one issue in the electronic grievance, unlike a paper grievance where it's specific and on the form it explains to them how they need to go about the grievance process, there are no instructions, there is no educational material so people don't know what they can call 3-1-1 for or not call them for so they call about everything that's going on in their housing area. One of the topics that you brought up in the beginning of your statement was food, clothing, and medical care, right? Those things can be grievable, food and clothing, but medical care is not, right? So if you have medical care being called into 3-1-1, it's possible that people in custody may not know that's not even a grievable topic, right, so it gets taxed out to CHS and then we don't see anything else that happens after that, what you told

them when they were here. Food and clothing, we can see in their system what they're doing with it. Food is a little harder issue, that's a big topic and a big issue right now on Rikers Island but, most of the time, when they bring up these topics to the facility, right, and they say, here you go, for example, AC Nurse, if that was you working in the facility, here are your top three grievances, it's just stats. There's no clear explanation as to look, this is the issue with your clothing in your jail, we know that this is what people are telling us, and this is how you can fix it, or how can we work together? They're treating grievances like individual incidents instead of part of a bigger picture to prevent the grievances from continuing to be called in.

CHAIRPERSON NURSE: Thank you, and thanks for really opening up that explanation.

One of the things they testified today was that they do have grievance boxes at every single housing facility. To your knowledge, is that true?

DIRECTOR MELENDEZ: To my knowledge. They said that they have 50 grievance boxes across the facilities. I would like to know where those boxes

are because many jails just have one box. I know that when West Facility opened, because West Facility is open right now, right, but when AMKC closed, they opened up the West Dorms, which now connects to West Facility so it has a new name. It's no longer West Dorms. It's West Facility Annex. We requested for grievance boxes to be installed at least in the vestibule so two housing areas can have access. I don't know if that's in their numbers because then that would be two per dorm, which you might see a little spike there, but I would ask for a list of where these grievance room boxes, what facility and where are they located?

CHAIRPERSON NURSE: And they said, I think that the terminology they used was targeted common areas as a place where access is so in common areas where people are out in the open and maybe don't feel comfortable walking over to the box and pulling the paper or filling it out. Can you talk a little bit more about the issues with that access?

DIRECTOR MELENDEZ: Right, so throughout the years, the jails on Rikers Island have become more and more restricted movement. You need an escort to go everywhere. Many years ago, when I first

started, AMKC used to, you can get a pass, or OBCC, you can get a pass. That no longer exists. You need to have an escort and a destination everywhere that you go in the jail. Those target areas are usually corridors near where programs used to at one point happen. We know that now most services come to the housing area, and it is very rare for someone to even be in those targeted areas in the corridors unless they are going to the intake or they're getting escorted to the clinic or they just happen to pass by that box or they're going to court, but an everyday person that's not sick, that doesn't have to go to court to go to the intake, that just wants to put their grievance in the grievance box, they're not getting access. There are many times that our staff, while we're touring the facilities, people in custody come to us and say, I don't trust the OC, can you go take my slip to the grievance box? We don't take it, but it's a problem. We'll let the officer know, hey, this person needs to get to the box, but there is a big issue with being able to confidentially place your form in the grievance boxes throughout the jails.

CHAIRPERSON NURSE: Thank you. Chief Rembert testified about how phone lines are cut during emergency lock-ins. Can you talk about the harm caused by this practice and whether you believe there is an adequate security rationale for cutting the phones during lockdowns?

DIRECTOR MELENDEZ: Phones are cut during lockdowns to prevent people from wanting to manipulate their cell doors to go use the phones, right? Many times, it's to also get them to lock in because they're not going to be on the phone. Now, your question about lockdowns and how long lockdowns last, again language matters. People lock in during the shift rotation. When an officer comes back, let's just say, let's start with the morning, right? Phones have to be on during the times that people are waiting in the housing area to go to court. That's like between 4 and 7 a.m., right, and then afterwards, they lock in for count and change of tour and then that's one hour, and then between 8 and 3, they're locked out again. Between 3 and 4, they're locked back in. Between 4 and 9, they're locked back out, right? In your eyes, Chair Nurse, if someone is locked in, between from the night before to the next

day in the afternoon, that's almost a whole day lockdown, right? The Department may not see it that way since the lockdown timeframe is interrupted by those times where they would already be locked in so I would say to take that into account when you're asking that question, but the phones are off and then, when they lift the lockdown, the phones come back on. People have tablets. We don't really rely on tablets as a form of using the phone because there are lots of issues with these tablets so the phone is the primary way to be able to submit their electronic grievances. They have to turn off the phones during lockdowns. It's just a matter of how long these lockdowns are lasting.

CHAIRPERSON NURSE: Thank you. I wanted to turn to the response that Mr. Levine gave about the 540 reports. These are overdue, they're not publicly available. We heard that they posted a report this morning. I'm curious if you all have any preliminary takeaways from any recently published report, and is it true that the report released this morning found that certain allegations of sexual assault that were received via 3-1-1 call last year did not receive an investigation?

EXECUTIVE DIRECTOR GEORGES-YILLA: I'm going to pass it over to Director Bailey for that.

CHAIRPERSON NURSE: Thank you.

DIRECTOR BAILY: Good afternoon, Chair Nurse. Bart Baily, Director of Violence Prevention.

Yes, the 540 that the Department published this morning, their biannual PREA report, it was due in February. They published it this morning. Significant drop in PREA reportable cases, 63 over the last six months of 2023 down from 114 during the first half of 2023. They reported that based on that drop, they conducted an audit and determined that 14 complaints, missed 3-1-1 complaints, allegations of sexual abuse were missed, and they've committed to retraining their entire PREA staff and increasing layers of review of these investigations, which is encouraging. We're also conducting our own independent analysis of the way that these 3-1-1 calls arrive at SIU, Special Investigations Unit, and how they're reviewing them. A. C. Levine had reported that all PREA allegations receive full investigations. They control what is or is not considered a PREA allegation, but not all of these 3-1-1 calls are receiving full investigations.

In fact, most aren't. What they're receiving is a preliminary review, and then at that juncture, they determine whether or not it's PREA reportable. If they consider it's not, they close it out with a documentation known as a facility referral so we're currently closely reviewing a batch of these referrals worksheets to determine the investigative steps that they're taking prior to closing them out.

CHAIRPERSON NURSE: Sorry, just to regurgitate what you said. The 14 3-1-1 calls that somehow weren't properly categorized or was missed, that was out of how many and during what time period? That was the six-month time period.

DIRECTOR BAILY: Yeah. This was a six-month window, second half of 2023. I'll just quote the report, which was published on the website this morning, "upon noting substantial decrease in PREA reportable allegations designated during the current reporting period, PREA SIU conducted an audit of all sexual assault and harassment complaints received via 3-1-1 from July 2023 to December 2023. Calls to 3-1-1 represent the most utilized method for making a complaint of sexual misconduct. Through the review, it was found that 14 complaints were not reported to

the Central Operations Desk, which is the means by which PREA SIU is notified and, because they were not reported, they did not receive a preliminary review."

CHAIRPERSON NURSE: Okay. Thank you for restating that. Just wanted to open it up if there's any additional things you would like the Council to know based on some of the topics we've touched now between the grievance boxes, the sexual assault grievances, the reporting, any additional comments you want to provide

EXECUTIVE DIRECTOR GEORGES-YILLA: I would just say that I'm encouraged to know that the Department has opened up their review of the grievance directive, and I hope that the Board can have a seat at the table of that review so that we can ensure that the recommendations that we've stated already on the record are implemented within it.

CHAIRPERSON NURSE: Yeah, it's unclear what that review looks like or if that's just a statement that is useful to continue to say in response to questions. It sounds like at the end of the day, we might know when there's a potential timeline for a number of things.

I think those are our questions for you.

Are there any specific kinds of grievances that come directly to the Board that are a trend?

DIRECTOR MELENDEZ: Grievances go to the Department of Correction and then we receive complaints. Once we receive a complaint, it gets assigned to the monitor that's in the facility where the person in custody is housed where the complaint came from, and many times our staff will look into the grievance system to see if, one, if it has already been received by the Department, also, is this something that is like a reoccurring issue. One of the top categories that we have seen recently, aside from the, let me look up the stats here. The top five, medical, housing, staff, sexual assault, but then the fifth one would be food, which you also brought up. Food is a big issue right now on Rikers Island separate from the commissary that you brought up. Commissary is something completely different. Not everyone has access to commissary. You need money to buy commissary. That's not something that our staff necessarily investigate because we stress institutional food because that is the right for everyone. Yeah, there are issues with Keefe and their

contract, that's for sure, because we get complaints like that. When we get complaints like that, we send it to the Department of Correction because there are certain complaints that we receive that we have no control over, commissary being one of them, property being one of them, the transferring of property, the only way for our staff to really investigate is to go to each jail and try to find their stuff. That's something that's usually the issue of the facility so we'll send it to them, but we independently investigate every single complaint that comes to us, unless it falls under like these special circumstances where we really can't do anything about it. For example, if someone says that they have an infection because they haven't gone to dental, we have to send that to CHS because our staff can't escort someone to the clinic, but our monitors, we have at least one monitor, sometimes two, assigned to every jail that investigate things independently of the Department while they, at the same time, review the grievance system to see if our trends are matching, and most of the time when we have something come to us, the Department has 10 times that as well.

CHAIRPERSON NURSE: Just for the record, which I think we touched on, but maybe just for my sake, BOC has real-time access to DOC grievances filed and you're able to follow along as it's moving, but for Correctional Health, you all are not able to see any of that, and that's alarming given just that it's the top complaint is related to medical in every single instance, and so how does BOC work with CHS in terms of its grievance system and trying to resolve logistical issues or overall trends.

DIRECTOR MELENDEZ: They mentioned the Healthcare Triage Line. That is something that has also morphed into a very problematic thing, and the reason why I say that is because years ago our monitors can go to the facility and check who signed up for sick call for the day prior, right, because it used to be that each jail, each housing area had a sick call sign-up sheet where the persons in custody would sign up for sick call, and the officer would collect it at the end of the day and the midnight officer would take it to the control room and the control room would hold it and the clinic officer would come the next day, pick up those sheets and they knew who to escort. The system is less

transparent now because we do not know who is signing up for sick call. All we know is that DOC and CHS have a Healthcare Triage Line that once someone calls them, they create a call down list, like they said during their testimony, and that call down list is who they're going to bring down. Not everybody gets brought down, but we don't know how many people actually request a sick call and how many are on the call down list and do those names match and then, after those names match, are they actually getting to the clinic because many times people in custody report that once they call the Healthcare Triage Line, if they don't get taken the next day, they have to call again or sometimes they're not prioritized in the way that they believe that they should be, which also results in an increase in health and medical 3-1-1s because they call 3-1-1 multiple times because they don't hear back from someone in a timely fashion the way that they think it should be prioritized like infections or bleeding or not followup because they have a broken finger or something like that.

CHAIRPERSON NURSE: Right, and I believe I asked them a line of question about their prioritization in that process, like how are they

prioritizing calls on their end as it's coming in, and I don't think we got an actual answer, but hopefully we'll get some followup.

DIRECTOR MELENDEZ: It's a matter of names matching. It's a matter of being able to be transparent as to who is requesting sick call and are those the same people that are getting down there and the people that don't request that line but wake up sick the next day, can they go to the clinic?

CHAIRPERSON NURSE: Yeah. Okay. I don't have any other questions but, if there's anything else you'd like to let the Council know, the floor can be yours. Otherwise, we appreciate the work you all are doing.

EXECUTIVE DIRECTOR GEORGES-YILLA: Thank you.

CHAIRPERSON NURSE: Thank you so much for being here.

Okay. All right, so as BOC transitions, we're going to open up the hearing for public testimonies.

I remind members of the public that this is a government proceeding and that decorum shall be

observed at all times. As such, members of the public shall remain silent at all times.

The witness table is reserved for people who wish to testify. No video recording or photography is allowed from the witness table. Further, members of the public may not present audio or video recordings as testimony but may submit transcripts of such recordings to the Sergeant-at-Arms for inclusion in the hearing record.

If you wish to speak at today's hearing, please fill out an appearance card with the Sergeant-at-Arms in the back and wait to be recognized.

When recognized, you'll have three minutes to speak specifically on the hearing topic, Complaint and Grievance Procedures for People in Custody.

If you have a written statement or additional written testimony you wish to submit for the record, please provide a copy of that testimony to the Sergeant-at-Arms. You may also email written testimony to testimony@council.nyc.gov within 72 hours of this hearing. Audio and video recordings will not be accepted.

For our first panel, we have Michael Klinger, Natalie Fiorenzo, Rachel Sznadjerman, and Lauren Nakamura. Michael Klinger, Natalie Fiorenzo, Rachel Sznadjerman, and Lauren Nakamura. Sorry, (INAUDIBLE). The brain can only do so much.

When you're ready to begin, you can go. Whoever wants to start. Yeah, we could start with you.

You just press the silver button.

RACHEL SZNADJERMAN: Okay. Good afternoon. My name is Rachel Sznadjerman, and I'm a Correction Specialist at New York County Defender Services. We've talked about this a lot this morning, but today I want to highlight how disorganized and convoluted the DOC grievance process can be, especially for those filing complaints that DOC considers not grievable. For non-grievable complaints, to my knowledge, there's no clear procedure for how incarcerated people should report the many issues they face, and this is especially problematic because, according to DOC's own reporting, they received 2,357 non-grievable complaints in the first quarter of 2024 alone. This includes 639 complaints against staff, 304 housing complaints, 225 sexual

abuse complaints, and the list goes on. So in lieu of any meaningful grievance procedure, at NYCDS, we've come up with our own procedures for ensuring that our clients' non-grievable issues are resolved. There's the DOC Legal Division, which we reach out to for housing complaints and facility transfers, there's the Office of Security and Intelligence Unit, or OSIU, which we reach out to for protective custody transfers specifically, instances of sexual abuse or misconduct we report to the PREA Department, whereas all other acts of violence should be reported to the Legal Division, the Correctional Intelligence Bureau, CHS, or OSIU. If we report that DOC staff have violated DOC policy, that must be sent to the Investigation Division or ID but, if those policy violations rise to a criminal level, they're instead investigated by the City's Department of Investigation and, to my knowledge, there's no official process for grieving medical malpractice or insufficient treatment at the hands of Correctional Health Services, but we send those complaints to CHS Patient Relations and, you make a complaint about violence or wanting a housing transfer or being the victim of sexual abuse, the Department of Correction

seems to think it is too much to ask to be notified of the progress of the investigation of that complaint, let alone its outcome and, if you had a hard time following my explanations of these divisions and their various roles and who to reach out to when, imagine trying to navigate the system while incarcerated after being subjected to violence and neglect and any of the other hundreds of obstacles one could face while detained on Rikers Island. I want to use the remainder of my time to share a story because we talked a lot about PREA today. In January of this year, I heard from a client that he had been sexually abused while on Rikers Island. He was jumped by a group of people. He reported that he was feeling suicidal so DOC staff brought him into an intake cell, sprayed him, tackled him to the ground and, while on the ground, unconsensually touched his genitals. I reported this to PREA, OSIU, the Board of Correction, the facility's leadership, CHS and, without ever actually speaking to my client, I got an email from PREA that simply said sex abuse did not occur. I share this story because I hope it can underscore how difficult it is to have your human right violations addressed

while in DOC custody. Thank you for the opportunity to testify.

CHAIRPERSON NURSE: Thank you.

NATALIE FIORENZO: Good morning, everybody. My name is Natalie Fiorenzo. I work alongside Rachel Sznajderman as a Correction Specialist at New York County Defenders. This hearing, a lot has come out today. There is data, but it's been very kind of like hypothetical, more on the outside of the scope so I wanted to bring some real-life examples of what grievances and grievance responses look like. These were submitted to me by a family member of a detainee that I've been working with at Rikers Island who was thoughtful enough to collect the grievances, give them to a family member who then was able to send them to me. I have four here that I'm going to briefly paraphrase the grievance and then the response by DOC.

This grievance describes a brutal beating by another person in custody where the officer did nothing about it, watched and waited basically, then threw the detainee who was beaten, who submitted this grievance, into his cell and said, clean yourself up before the captain comes around to do his rounds, and

the response that DOC gave was that the grievance was not submitted within the 10-day timeframe and no further action would be taken.

This is the second one, and the description of the events taking place in this grievance is a complaint that an officer basically told our client that they were going to put them on a tour, which is when they kind of just house them in different housing areas where they know they may be unsafe and said that this detainee would be dead in three days on this tour, and the response by DOC was that due to the fact that this was a complaint against a staff member, it would be forwarded to an outside agency, and they would not address it further

The third complaint I have here is that the same detainee, sorry, was very badly assaulted, and then left for eight and a half hours in his cell without medical attention. Once someone came by who decided to get him medical attention, he was rushed directly to the hospital where it was found that he had two fractures in his face and that his vision in his left eye would never be the same again. The doctor said that he could have died very easily, and

the complaint was listed as complaint needs to be filed within 10 days. This was filed in 11 days.

Then this is the last one that I have here. This client had returned from the hospital, and the doctor's orders was that he needed to be like on bedrest because of the injuries to his face. He needed to be lying down in his cell. He was instead left in an intake area which is not like a cell, there's not really an area to lie down unless you want to lie on the floor, for 24 hours upon his return from the hospital, and the response by DOC was that although this was submitted in the 10-day timeframe, it did not reach OCGS because the client was in the hospital for a month so that no further action would be taken.

These are just examples of a grievance from one individual on Rikers Island. There were over 9,000 grievances filed in the last quarter. These responses by DOC do not even come close to meeting the threshold of urgency that are listed in these grievances. Where are they going after OCGS denies them? To this day, I know that this specific detainee has, these are unresolved, these are unresolved grievances. I want to clarify just that hopefully

this process, the grievance system is overturned and fixed and made a lot better, but what we're not asking for here is just for everything to become grievable because there is such severe exhaustion procedures when something is grievable. It's rather for everything, the whole system to be fixed in its entirety, because as it stands now, people are going through this with no answer so thank you very much for holding this hearing, and we really hope meaningful action gets taken for our clients going further.

CHAIRPERSON NURSE: Thank you.

LAUREN NAKAMURA: Hi, my name is Lauren Nakamura. I'm a Staff Attorney with the Prisoners' Rights Project at the Legal Aid Society. Thank you for having this hearing about the persistent issues with the grievance process in the city jails. You've heard from the Department how it should work, but the Prisoners' Rights Project would like to share how it actually does work. Every day, the Prisoners' Rights Project receives calls from people in city jails, and we often urge them to file grievances. In response, we're consistently told that grieving is pointless because DOC will not do anything about the problem.

The process is long, confusing, and hard to complete, and filing a grievance makes someone vulnerable to retaliation. The current grievance process requires the completion and submission of a specific grievance form and then filing successive appeals to multiple entities. Only by completing all steps can a complaint be considered exhausted, a threshold requirement for filing suit in federal court. DOC makes exhaustion difficult in multiple ways. The grievance process is time-consuming and there's no way to expedite urgent issues. The list of what is grievable is confusing. Medical care is not grievable. Access to medical care probably is. To the extent that this process is moving towards electronic grievances, that option is not always available when facilities are under lockdown, and there's no way to appeal or exhaust issues through the electronic process. People often get no response to their grievances, putting the burden on them to make a series of time calculations to determine when to file an appeal for each step where they received no response. Besides acting as a barrier to litigation, the utility of the grievance process is questionable. There is no accountability for failures to respond to

people's concerns. It devalues important complaints from safety issues and access to medical care to basic human needs like food and hygiene when every issue requires multiple levels of review. When grievances about crucial issues are lost in the bureaucratic process, it can lead to overall conditions deteriorating, affecting hundreds of people. These consequences are compounded when someone is blocked from seeking relief in court, effectively shielding DOC from accountability. The DOC grievance process must be reformed by simplifying the process and shortening the timeframes for DOC responses. Each grievance should be given a tracking number, and written substantive responses should be mandated for each level of the process. There must be confidentiality to protect those who file complaints from retaliation and strict penalties for staff who retaliate against them. We thank the Council and its staff for its diligent investigation into this issue.

MICHAEL KLINGER: Good afternoon. My name is Michael Klinger. I'm a Jail Services Attorney with Brooklyn Defender Services. Thank you to Chair Nurse and to the Committee and Committee Staff for the opportunity to testify today.

Our written testimony describes the ways in which the people we represent experience the complaint and grievance system. It explains the lack of substantive response to complaints and grievances, the failure of the Department to provide resolutions that are required by its own directives, and its failure to provide an opportunity for the grievant to accept or else to seek to appeal that resolution. In the absence of meaningfully addressing complaints, we believe the Department misses a critical opportunity to improve the conditions for people in custody and reduce tensions in its facilities. Instead, the grievance process becomes one more site of conflict with grievance officers frequently contributing to escalating tensions. They do this by failing to adequately explain the process, failing to tour regularly, failing to respond to inquiries about grievances, failing to provide the required receipt for all filed grievances, but they also do this by failing to speak respectfully to people in custody and by mocking the seriousness of grievances that may not seem important to them. Some of the suggestions the Council will hear today will contribute to better outcomes. Things like better harmonizing third-party

complaints with grievance forms submitted by people in custody or removing at least one level of appellate review for individuals seeking to exhaust the grievance process, although apparently they've done that, but we urge the Council to hold the Administration to a more fundamental reconsideration. Through their complaints, the people we represent express a desire to be heard, seen, and respected. The Department must develop in OCGS a core of specialists who will take pride in their patience and empathy as well as their ability to communicate across boundaries, negotiate in stressful situations, and fundamentally to listen. Such an approach has the potential to serve as a pressure release valve, and this in turn will help to create a culture that prioritizes improving conditions for people in custody, abiding by the Board's minimum standards and other legal requirements and, just as importantly, respects the ability of people in custody to make themselves heard. Happy to answer any questions based on our testimony. Thanks.

CHAIRPERSON NURSE: Thank you. I do have just a few questions for the table and feel free to answer and however it comes to you. I think today

we've very clearly covered why there's just not actually a grievance process. It's just an exhaustive forms situation. I think one of the things that I'm connecting back to now is when I first came into this position, one of the first things we did was go to Rikers to look for specific people because legal service providers were calling us saying there's these alarming issues with a handful of people and they're getting nowhere and they actually need someone to just go put eyes on the facility, right, and that's, of course, that's like a strong action to take is to say can you use your power to go and show up to go find these individuals, and that seems like a last resort situation, but what are the other strategies that are in between having your clients fill out this grievance process or go through this process and ringing the alarm and asking elected officials to go actually put eyes on people. What are other strategies that you're using when individuals are lost in this process if you want to share anything?

MICHAEL KLINGER: I think the way that I can answer for Brooklyn Defender Services is to say that we have a Jail Services Unit that supplements

the efforts of assigned case workers, including attorneys and social workers in an individual case in part so that we're able to focus specifically on the issues in the jails. The staff of Jail Services, which isn't large and I'm part of it, makes trips regularly to the jails, and we identify, based on what we're hearing from our own attorneys and social workers, the folks that have situations or conditions of confinement that require some attention. Based on our conversations with our own clients, we will follow up on grievances that they've already filed. We will ask the Department for updates on those grievances. Those never get responses. We will file our own third-party complaints or grievances through email which, as you heard today, is a way that we can contact them, but it is a fairly one-way process. The information that they receive from us in those instances will be populated eventually on that public-facing website, it will be assigned a number, and we can type in the number and we can get a fairly generic response. It doesn't tell us, as you heard, whether or not there is reason to advise appealing. I mean there is really no opportunity to appeal in that situation. It's not submitted on a written form. It's

not a 3-1-1 complaint by someone in custody which in itself also wouldn't be appealable unless the individual met in a very public space and agreed to fill out a form and then check it that they wanted to appeal and all in good time. I'm not sure that's responsive except to say that we try to follow up on the grievances that our clients let us know they filed or we try to file as close to a grievance as we can by contacting the Department through email.

CHAIRPERSON NURSE: Thank you.

RACHEL SZNAJDERMAN: I would just also add that the only way in our, and I'll speak for NYCDS, in our experience to actually get a response from DOC is to sound the alarm. It's only when we put out loud requests for them to address things, if we testify in BOC meetings or if we testify, for example, in a City Council hearing, that we eventually get a response and, until we've sent email after email after email and each email having to seem more frantic and urgent than the next because these issues are extremely urgent that we get a response from DOC and that things are sometimes addressed.

NATALIE FIORENZO: Just adding on to what Rachel said. In summary, the question you're asking

is what is happening before the point where we ask you to go put eyes on it. It's us trying to do that and seeing if the, because we're coming from like the attorney perspective, so the DOC is going to care the very least about the people in its custody, about what they have to say. What they may care about is what their attorneys have to say because they feel like, oh, like someone else knows about this, maybe we have to make a change. If our eyes on it are not enough, obviously it's a problem no matter what, but that's a really big problem is if us sounding the alarm does not get some movement and that does happen, and those are some of the more severe kind of corrupt situations where not even us, our action is enough to cause some sort of action. Usually, this is when it involves a correction officer. This is when it involves a staff assault or something like that.

CHAIRPERSON NURSE: Just briefly, when you think about your case load as a pie, what percentage of that, how often are you having to go above and beyond with your case work to get things resolved for your clients? Is it a substantial chunk of your time?

NATALIE FIORENZO: I would say almost all of it.

CHAIRPERSON NURSE: Okay, that's what we assumed.

Thank you all for being here and staying through the whole thing and testifying. We appreciate it.

Our next panel will be Victor Herrera, Darren Mack, Jan Hassan-Butera.

Just to call again, in case they're here in the building, Jan Hassan-Butera.

Otherwise, we can start when you are ready to begin.

DARREN MACK: Good afternoon, Chair Nurse. My name is Darren Mack, Co-Director of Freedom Agenda. Thank you for the opportunity to testify today and for holding this hearing to highlight the means incarcerated people should have to make their voices heard and get some form of redress when their rights are violated in the custody of the City of New York. Incarcerated people are dependent on the guards for so many things that those of us on the outside take for granted, including access to meals, medical care, clean laundry, outside time, visits, mail, and even toilet paper, which means guards also have the power to provide or deny those things. Sometimes it's

just neglect and other times it's attentional abuse of power, but so many of these basic human needs are being denied to people in DOC custody on a regular basis. What makes that worse and what allows it to continue is that there's no functioning system for people in custody to voice the complaints and have them addressed. Guards know that and people in custody know that. It breeds frustration, and people end up using the only tools they have available to them, which guards then characterize as evidence of a violent population and try to use that to justify oppressive measures like shackling and solitary confinement that will only breed more frustration. When I was incarcerated at Rikers as a teenager for 19 months, the idea of a real system of addressing grievances was nonexistent. There was a wooden box attached to the wall in the hallway with snitch box written on it to submit paper complaints that few people dared to go near, and I'm sure there was, in theory, some kind of system for filing and hearing complaints. Whatever DOC's official policy was, the reality that I understood and that people inside are still facing now is that DOC can do almost anything they want and there's not much you can do. Research

on this concept of procedural justice in jails shows the single most important factor in a person's decision to follow or not follow rules when they are detained is whether they felt they'd been treated fairly. That was a more important factor than a person's previous history of misconduct. When DOC is asked about violence reduction at Rikers, they have increasingly tried to hide behind an excuse that a greater portion of people in their custody are now facing serious charges. First of all, limiting incarcerations of people facing the most serious charges should not be a surprise or cause for complaint from jail staff. Detaining less people facing lower-level charges is a good thing, a trend that should continue, not be reversed. Second, DOC has no evidence people facing serious charges are any more likely to engage in violence while in custody. Instead of making assumptions about the people in their custody based on charges they haven't even been convicted of, DOC should focus on the commonsense way of creating a common jail environment, make sure people's basic needs are met and, when they aren't, give them a real way to complain, be heard, and get the issue addressed, and that shouldn't be hard. I'll

conclude by saying, from everything we've heard today from DOC, CHS, the Board of Correction and the public adds more evidence that Rikers cannot be fixed or reformed. We may be able to hopefully mitigate some of the harms that's occurring, but the only solution is for Rikers to close. Thank you so much for hearing my testimony.

CHAIRPERSON NURSE: Thank you, and I would just add that even in a new jail system, it seems the procedural challenges around grievances, it still just needs a thorough overhaul as well.

Ready, Victor?

VICTOR HERRERA: Thank you. I might as well just read it off my statement. Good afternoon, Chair Nurse, City Council Committee. My name is Victor Herrera, a Member Leader of Freedom Agenda, Treatment Not Jails, and Center for Community Alternatives. I submit my testimony to the Committee on Criminal Justice, my own personal experience and knowledge of the grievance process, both while detained at Rikers Island under the control of the New York City Department of Corrections and New York State Department of Corrections. While in custody, I chose to pursue academics and employ my abilities to

clerk and type by joining the Grievance Committee as a grievance representative. The Grievance Committee as established and implemented is a First Amendment protected activity that I experienced firsthand was a process that was totally ineffective. It's existed simply to meet minimum standards. My efforts to take on the role of representative for detainees, I was deeply concerned with the Committee's process, the roles taken up by the Department of Corrections staff, the debilitating effect the wardens and commissioners conduct in reviewing and providing the needed due process and the rule of law and New York Department of Corrections practice of obstructing the grievance procedure intended to undermine its purpose. As an experienced litigator, having filed numerous federal actions against the New York City Department of Correction, I learned that the practice served more the liability factors that were clearly part of the City of New York Corporation Counsel, supposedly intended to keep from having any findings that favor detainees that could someday be used as an admittance of liability, the course of which the City ideology was to prohibit and prevent. My advocating for the process to work as intended resulted in New

York City Department of Corrections taking steps under the grievance procedure to remove me as a representative by initiating false disciplinary reports which followed with the finding of (INAUDIBLE) solitary confinement that ultimately met the requirements of removal that was utilized in such a manner as to be official misconduct. I invite the Committee to request the history of assignments, the length of time representatives remain in position, compare them with the statistics related to removal, the disciplinary invocation utilized by New York City DOC, and the ensuing mistreated detainee, on account of the force held by the NYC Department of Corrections over the procedures. The grievance process gives the impression of an unbiased review, but instead it was dominated by DOC staff and their interest with only one grievance representative present versus three DOC staff. The process also lacked necessary protection against retaliation of grievance representatives or people in custody. To create a more fair and balanced process, I recommend the grievance committee and the people present at grievance hearings be expanded to include Board of Correction representative or another external entity

tasked with safeguarding the rights of people in custody and the delivery the minimum standards. To add more, I faced brutal attacks, okay? I even almost lost my life in Attica Correctional Facility because of working and advocating for the grievance process, okay? I did four years of solitary confinement. This is the norm inside the institutions, okay? The grievance process is there just to meet the minimum standards, okay? It's not really there for the detainees and, as I heard, the boxes are marked snitch boxes, okay, to make detainees reluctant to file a grievance. They're afraid of retaliation, they're afraid of being disciplined or being isolated and it's very traumatic. Thank you.

CHAIRPERSON NURSE: Have either of you ever filed a grievance?

VICTOR HERRERA: Have I ever filed a grievance? I've filed grievances, filed over federal litigation in regards to the grievance process, which that's where I actually learned how Corporation Counsel and General Counsel were in cahoots in terms of preventing any form of hearing decisions that basically pose a liability question in regards to admittance of any conduct or misconduct by any of the

staff, which was basically a preventative or prohibitive factor that kept a lot of these grievances from actually being sustained.

CHAIRPERSON NURSE: And, maybe this is overreach, but I'm assuming when you filed a grievance it was through the grievance box or through speaking with someone?

VICTOR HERRERA: There were different methods but, when I was in Rikers Island, there were boxes, okay. That was during the ’80s. When I went back to Rikers Island, I noticed that a lot of the grievances were handed to either correctional officer that was actually part of the grievance procedure or grievance rep, if there was one.

CHAIRPERSON NURSE: Is there anything else you would like the Council to know about any experiences either of you have had with the grievance process?

VICTOR HERRERA: The only experience I've had with the grievance process is being a First Amendment protected activity is that it doesn't work, not the way it's implemented, okay? The Committee, it's a farce, okay? The most dominating factor in terms of grievance process is Department of

Corrections staff, officers. Okay. As you heard testimony earlier, captains are investigating officers. Okay, they're in place to sabotage, okay, the ability of the agreements process to work the way it was intended to work, to protect the detainee's rights, and it doesn't work. My recommendation is that it should be reformed and/or a committee established in a way that outside sources like BOC or an affiliated be part of that Committee to control its aspects and keep the Department of Correction's stranglehold of how the process is intended to work from being sabotaged.

CHAIRPERSON NURSE: Thank you.

VICTOR HERRERA: You're welcome. Thank you.

CHAIRPERSON NURSE: Thank you both. Okay, our next two witnesses are Dionis Fernandez, Christopher Leon Johnson.

CHRISTOPHER LEON JOHNSON: Ready? Good afternoon, Chair Nurse. My name is Christopher Leon Johnson. The record made it clear. I heard a lot of with the panels today about this stuff going on Rikers. The issue is that nobody's never caught the Mayor. The Mayor is the reason this is happening. You

had de Blasio, the last Mayor, did he really do anything about it? All he was doing just performative stuff, but this Mayor, Eric Adams, is totally with the corrections union. That's why when you have the inmates filing complaints trying to get the grievances, nothing go anywhere. The truth is this Mayor is under a lot of heat with these unions and he knows what's happening, but he's not gonna go against them for people that we all know that is guilty before innocent. The problem with this system is once you get arrested in New York City and you go to Rikers, anywhere you're guilty before innocent. Now, none of these public defender associations, Brooklyn Defenders, New York Legal Aid, Queens, they're not going to say a thing about how they treat people that's under indictment in the New York City court system. Once you are arrested, mostly everything falls on the burden of the prosecutor. It all goes at the invention of the prosecutor. That's why nothing ever happens. And once they see you there, they see is a criminal. It's like the thing with the when you're an inmate, they already see you as you're guilty. That's why they treat the inmates like they get treated. No human being should go what they be

going through, but that's the nature of when you under the belly of the beast called Rikers. What need to happen to City Council, I know you care, Sandy, a lot of you members like Alexa Avilés, Tiffany Cabán, a lot of them care. The issue is you have a few Members of City Council, they just don't give a damn like Vickie Paladino, she thinks that everybody in Rikers is guilty before proven innocent. That's when they pass away, she's one of the main ones that tried to defend the correctionals when they're really wrong while throwing the dead under the wolves. Yeah, just because you allegedly committed a crime doesn't mean you're guilty. The thing is there's a lot of reform need to happen. The inmates need a real change in the system, and the problem is, like I said, this Mayor is an issue, you have a few members of the City Council, mainly Vickie Paladino, that's really a big problem with this so like (INAUDIBLE) of you people here need to change this stuff up so that's the facts, the Mayor and Vickie Paladino. That's the main two people that's in the way of this stuff. One Mayor who's more concerned about getting that Republican nomination, just in case Scott Stringer defeats him in the Democratic primary, and then you have one

Council Member who is so over the top with her words and blinded support of the police and blinded support of the Corrections, the Mayor rocks with it so that's all I gotta say. I gotta go. Thank you, Sandy. Thank you.

CHAIRPERSON NURSE: Thank you.

We'll now move to Zoom testimony. For those of you on Zoom, please wait for the Sergeant-at-Arms to unmute you before beginning your testimony.

We have Alexis Quintero-Brode on Zoom. You may begin when the Sergeant calls you.

SERGEANT-AT-ARMS: You may begin.

Thank you, Chair Nurse and Committee Members for the opportunity to testify today.

ALEXIS QUINTERO-BRODE: My name is Alexis Quintero-Brode, and I'm a Mitigation Specialist in Osborne's Court Advocacy Services, CAS unit. As many of you know, Osborne is one of the oldest and largest criminal justice service organizations in the state. We serve 10,000 participants and programs worldwide. from arrest to re-entry. We have offices in Harlem, Brooklyn, Buffalo, Newburgh, White Plains, and Troy, with our headquarters being in the Bronx. We also

have programming in 41 state prisons and on Rikers Island. Through advocacy, direct service, and policy reform, we work to create opportunities for people to heal, grow, and thrive. Osborne Court Advocacy Services develop alternative and community-based sanctions for people convicted of crimes to protect public safety while also allowing people to keep their homes, jobs, stay at school, meet family responsibilities, and address the issues that led to their criminal justice involvement. Today, I'm here to discuss the void my clients and their families are experiencing when they call 3-1-1 to complain of the conditions on Rikers Island. At every facility on the island and adjacent to all the phones, there are signs encouraging people to report issues to the City via 3-1-1. These issues can range from abuse to unsanitary conditions to medical neglect. These calls are usually a last resort. No one is under the impression that a hotline call is going to lead to action faster than asking someone who works in the facility, but individuals call 3-1-1 after all other attempts to get what they need have failed out of desperation to voice their concerns to the City. The Board of Corrections has recently instituted their

own hotline for the incarcerated to voice complaints, but we're not aware of any significant actions or reports that have developed since its inception. BOC does, however, make the handful of calls they receive public in their monthly public hearings and, while these calls are not always representative of an urgent need, often they are. Sometimes they report that someone has missed their last 10 medical appointments and are now struggling with their mental health. Sometimes they report that someone is being threatened in their unit and that their request for safety transfer have been denied with no reasoning over and over again. Sometimes there are reports about an abusive officer from someone concerned about retaliation. Sometimes they're just calls from family members that are really concerned about their incarcerated loved ones well-being. After these individuals have exhausted all other reasonable options on the Island, they and their families turn to the City for help. They know they might not get a response or any action in response to their complaint, but they feel better knowing that they reported it to the City and that hopefully someone will see it and do something. What the callers don't

know is that these reports are routed back to the Department of Corrections, that the data is not public, and that no oversight bodies are looking into the subjects of these calls. We've heard reports of people facing retaliation for 3-1-1 calls and, in one specific instance, of an officer telling one of our clients that your people can stop calling 3-1-1 now. These calls come out of desperation. There are people who are being silenced and abused and feel that they have nowhere to turn. We are concerned that there's a wealth…

SERGEANT-AT-ARMS: Your time is expired.

ALEXIS QUINTERO-BRODE: Of information on the day-to-day problems at Rikers hidden in 3-1-1 transcripts and that these reports are being kept from the public. Other City agencies are required to at least make the public aware of the number of inquiry and complaint 3-1-1 calls that are relevant to them. Why are those not relevant to DOC? Why is someone that's intentionally choosing to make a report outside of the DOC, would it be immediately rerouted back to the DOC with no measurable follow up in response? Incarcerated people deserve a direct safe route for addressing issues, not a circular

process that endangers their safety. They've been calling, making reports, screaming into this void for years, and we believe that this crucial data on Rikers operations comprised of real-time voices of those living there remains absent from the public review. Thank you.

CHAIRPERSON NURSE: Thank you. Thanks for your testimony.

I believe if there's if there's anyone else, there's no one else.

Okay. Thank you so much, and thank you to the Committee Staff for all of your work.

There was someone who signed up, but we haven't seen them. If Alex Stein is on, please make yourself present.

Not hearing you, we will end the public hearing portion of this hearing.

Thank you to everyone who joined today and testified and, again, thank you to the Staff.

We are now closing the hearing. Thank you. [GAVEL]

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.

Date May 15, 2024