

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON FIRE AND CRIMINAL JUSTICE SERVICES

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November 14, 2016
Start: 10:22 a.m.
Recess: 1:10 p.m.

HELD AT: 250 Broadway - Committee Rm.
16th Fl

B E F O R E: ELIZABETH S. CROWLEY
Chairperson

COUNCIL MEMBERS: Mathieu Eugene
Fernando Cabrera
Rory I. Lancman
Paul A. Vallone

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

Joseph Ponte, Commissioner
NYC Department of Correction

Heidi Grossman, Deputy Commissioner
Legal Matters
NYC Department of Correction

Greg Kuczinski, Esquire
Deputy Commissioner
Investigation Division

Jeff Thamkittikasem, Chief of Staff, Deputy
Commissioner, Financial, Facility, and Fleet
Administration, NYC Department of Correction

Errol Toulon, Jr. Deputy Commissioner, Operations
NYC Department of Correction

Winette Saunders, Deputy Commissioner
Youthful Offender Programming

Elias Husamudeen, President
Correction Officers' Benevolent Association, COBA

Marcel Zooby (sic), President
Assistant Deputy Warden's, Deputy Wardens Assoc.

Thomas Farrel, Legislative Chairman
Correction Officers' Benevolent Association, COBA

Mary Lynn Werlwas, Director
Prisoner Rights Project, Legal Aid Society

Victoria Phillips
Jail Action Coalition

Kelly Grace Price
Jail Action Coalition

2 [sound check, pause]

3 CHAIRPERSON CROWLEY: Good morning. My
4 name is Elizabeth Crowley and I am the Chair of the
5 Fire and Criminal Justice Services Committee here at
6 the Council. I'd like to thank you all for being
7 here today. I'd like to acknowledge committee
8 members who have joined us, Council Member Paul
9 Vallone, Council Member Rory Lancman both from
10 Queens. Today we're going to vote on a bill
11 sponsored by the Speaker and many of my colleagues,
12 and after we vote on that bill, then we will have the
13 hearing that is scheduled to have oversight regarding
14 the Department of Correction's landmark settlement in
15 the case of Nunez verse the City of New York. The
16 bill that we're voting on requires the Department of
17 Investigation to focus on issues related to the
18 treatment of inmates in the Department of Correction
19 facilities, and to issue regular reports and
20 recommendations on these issues by establishing a
21 permanent office to monitor on many of these issues.
22 This bill will help ensure the humane treatment of
23 inmates in our City Jail. I fully support the bill,
24 and I am proud that this Council will soon pass this
25 bill into law. This Committee previously held a

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2 hearing on the Department of Justice's investigation
3 into the DOC. Before we go into it, we're going to
4 take the vote?

5 LEGAL COUNSEL: Yes

6 CHAIRPERSON CROWLEY: Okay. So now
7 before we go into today's hearing, we're going to
8 briefly take the vote on the DOI-DOC bill to provide
9 a-an office with the Department of Investigation that
10 will have direct oversight on the Department of
11 Correction, and I vote aye on the bill.

12 LEGAL COUNSEL: I'm going to take it.

13 CHAIRPERSON CROWLEY: Committee roll
14 call?

15 LEGAL COUNSEL: Yes. Committee Clerk
16 Matthew DiStefano, Committee on Fire and Criminal
17 Justice Services. Roll call on Intro 1228-B. Chair.

18 CHAIRPERSON CROWLEY: I vote aye.

19 LEGAL COUNSEL: Lancman.

20 COUNCIL MEMBER LANCMAN: Aye

21 LEGAL COUNSEL: Vallone.

22 COUNCIL MEMBER VALLONE: Aye.

23 LEGAL COUNSEL: By a vote of 3 in the
24 affirmative, 0 in the negative and no abstentions,
25 the item has been adopted.

2 CHAIRPERSON CROWLEY: Thank you. The
3 committee previously held a hearing on the Department
4 of Justice Investigation into the DOC, October 2014
5 in the wake of DOJ's August 2014 report detailing
6 numerous abuses and violations of the rights of
7 inmates in DOC facilities. The report described a
8 culture of violence at DOC that required serious
9 meaningful reform. Just a few months later, the DOJ
10 entered into the Nunez case and filed it as a
11 plaintiff along with Legal Aid Society and the
12 lawsuit they had already filed. A few months later,
13 all parties entered into a settlement that appears to
14 provide planned extensive changes to our city's jails
15 in over a dozen key areas. The settlement has been
16 in effect for just over one year now. By any measure
17 the reforms required by Nunez are significant. From
18 use of force policies to internal investigations to
19 training of staff. The issues addressed in the
20 settlement are critical to the importance of the
21 city, and this Council. The DOC had already been
22 implementing reform in some of these areas prior to
23 Nunez's settlement and in other pieces of Nunez such
24 as the use of punitive segregation that has—which has
25 been addressed by the Board of Corrections, and

2 issues regarding hiring, which have been addressed to
3 a large extent by the Department of Investigation.

4 Nonetheless, the City plans to spend almost \$250
5 million to implement Nunez over five years with \$100
6 million already committed both this year and last.

7 It is clear that many of these key areas of reform
8 are a work in progress. I mentioned it in discussing
9 the Department's progress in these areas, and I
10 appreciate that the Commissioner is here today to
11 discuss the new policies. I look forward to a
12 productive discussion, and I again welcome the
13 Commissioner, and once the Commissioner is ready to
14 begin his testimony, I'd ask that he do. I'm sorry.
15 I—I forgot. We have to swear you—swear you in, too.
16 So I'd ask the Committee Counsel to swear you in.

17 LEGAL COUNSEL: Do you affirm to tell the
18 truth, the whole truth, and nothing but the truth in
19 your testimony before this committee, and to respond
20 honestly to Council Member questions?

21 COMMISSIONER PONTE: Yes, I do. [pause]
22 Okay? Well, good morning. Hopefully, opening
23 remarks will be by our Chief Counsel Heidi Grossman,
24 and then we'll follow up with any questions that you
25 have.

2 DEPUTY COMMISSIONER GROSSMAN: Good

3 morning Chair Crowley and members of the Fire and

4 Criminal Justice Services Committee. I'm Heidi

5 Grossman, the Deputy Commission of Legal Matters for

6 the Department of Correction. The purpose of today's

7 meeting is to exam the implement of the Nunez

8 settlement. The Nunez Consent Judgment was approved

9 by the court just over a year ago with an effective

10 date of November 2015. Since the judgment went into

11 effect, the Independent Monitor has issued two

12 reports detailing the significant progress the

13 Department has made in implementing the Consent

14 Judgment and discussing the Department's level of

15 compliance. Each of these reports, which were

16 released on May 31, 2016 and October 31, 2016 is

17 publicly available. We are pleased to report that

18 the Department has achieved in-compliance rating with

19 the provisions evaluated by the Monitor. While we

20 have a long way to go, we cannot emphasize enough

21 just how proud we are of accomplishments so far. To

22 start, it is important to clarify what Nunez. Nunez

23 is not just about force. It is about all the systems

24 that impact force within the Department. The primary

25 goal of the Consent Judgment are to reduce

2 unnecessary or excessive force by staff against
3 inmates and to reduce inmate violence. Provisions of
4 the Consent Judgment address use of force and inmate
5 violence both directly and indirectly and cover a
6 range of areas from inmate housing plans and
7 classification through use of force policy, training
8 and investigation. As you are all aware, since
9 Commissioner Ponte came to the Department in 2014,
10 the agency has been undergoing a significant
11 transformation. The Consent Judgment went into
12 effect a year and a half into the Commissioner—into
13 Commissioner Ponte’s tenure. So it’s impossible to
14 discuss this judgment and the requirements without
15 discussing the reform efforts that were already
16 underway. The Commissioner began his tenure by
17 conducting a thorough assessment of the Department’s
18 needs including a comprehensive survey of staff.
19 This assessment informed our 14-point Anti-Violence
20 Reform Agenda, which has been discussed in numerous
21 prior hearings. The 14-point plan focuses on
22 reducing violence both directly and through culture
23 change. The initiatives include directly reducing
24 violence enforced by keep contraband out of the jail;
25 expanding camera coverage; redefining our first line

2 incident responses; addressing underlying causes of
3 violence by offering effective programming; improving
4 custody management procedures; creating a new
5 classification and housing strategy; creating a well
6 defined supply distribution process; and raising
7 facilities to state of good repair. In addition,
8 we're—we're defining the Investigation Division. Our
9 14-point plan also supports staff by improving
10 leadership, development and culture; designing
11 recruitment, hiring and staff selection plan.

12 Designing a performance management plan; implementing
13 operational performance metrics and expanding
14 targeted training. These reform efforts are aligned
15 with and reflected throughout the text of Nunez,
16 which directly addresses the 14 specific areas. Use
17 of force policy; use of force reporting and tracking;
18 use of force investigations; and the anonymous
19 reporting system; risk management; safety and
20 supervision of inmates under the age of 19; housing
21 plan for inmates under the age of 18; staff
22 discipline and accountability; staff recruitment and
23 selection; screening and assignment of staff;
24 training, arrest of inmates; inmate discipline and
25 video surveillance. In many instances, the

2 Department's new policies and programs were
3 incorporated into the Consent of Judgment itself. We
4 agreed to this because the policies and programs
5 represent sound correctional practice. Both the 14-
6 Point Plan and the Consent Judgment guide the
7 Department's efforts at reforming culture, restoring
8 trust, and confidence in the Department. I'll now
9 highlight a few of the areas of focus now.

10 Use of Force: A key element of the
11 Reform Agenda was achieved with the development of
12 the re~~fi~~-Revised Use of Force Policy, which is also
13 the overarching goal of the Nunez Consent Judgment.
14 The Department has always had a Use of Force Director
15 governing when officers are permitted to use force,
16 and how use of force incidents should be documented.
17 The Department's goal is always to reduce violence
18 and ensure staff and inmate safety. The overarching
19 principles of the old policy remain in effect. The
20 revised policy provides additional guidance to
21 officers when confronted with a situation where force
22 may be necessary. This revised policy will support
23 appropriate use of force, and also support the
24 objective to resolve situations without physical
25 force whenever possible. Implementing the new Use of

2 Force Policy requires the Department to train staff
3 on the differences between the Nunez policies, and to
4 provide them with the additional physical skills they
5 need in order to implement the new concept. These
6 physical skills will enable officers to restrain
7 violent inmates while at the same time minimizing
8 injuries to themselves, the inmates and the
9 bystanders. Given the importance of properly
10 implementing the new Use of Force Policy, the
11 Department and the monitor agreed that the Consent
12 Judgment's goal would best be accomplished by fully
13 training staff on the policy and on appropriate
14 defensive tactics before the new policy takes effect.
15 The same holds true regarding the revisions to the
16 Disciplinary Guidelines identified in the Consent
17 Judgment. These should go into effect after all
18 staff receive their training. Staff are being
19 trained now. The new policy is scheduled to go into
20 effect on September 27, 2017 with the Disciplinary
21 Guidelines following a month later, by October 27,
22 2017. Even before the Consent Judgment went into
23 effect, the Department was committed to reducing uses
24 of force within our facilities in order to create a
25 safer environment for both staff and inmates. The

2 policy has two goals. First, to reduce the frequency
3 of use of force and second to ensure that when force
4 is required, staff use the least injurious, most
5 effective methods possible to address the situation.
6 Since the beginning of Commissioner Ponte's
7 administration, we have seen positive improvement
8 across the levels of force and violence. For the
9 first time since 2011, overall uses of force and
10 overall assaults on staff are now trending downward.
11 Most importantly, use of force resulting in serious
12 injuries are down 37% from 2015. Assaults on staff
13 overall are down 16%, and assaults on staff resulting
14 in serious injuries are down 34%. These significant
15 decreases have been achieved while reducing the use
16 of punitive segregation by 85%. Use of force must be
17 reported and tracked. Mechanisms are present in the
18 Consent Judgment to make sure that we do. The
19 Department is committed to accurately tracking use of
20 force and other reportable incidents. Officers have
21 always been required to document each use of force
22 they're involved in or witness. This has not changed
23 under the new policy. The Department takes seriously
24 and potential—any potentially unreported use of force
25 incident and fully investigates such allegations when

2 they are brought to our attention. Further, we have
3 made reporting misconduct including excessive use of
4 force or corruption in our facilities easier by
5 creating an anonymous reporting system, which allows
6 staff to anonymously report use of force policy
7 violations to the Investigations Division. Until the
8 new Use of Force Policy goes into effect in September
9 2017, we have implemented a number of measures
10 already such as creating an interim tracking system,
11 expanding the Investigations Division, and increasing
12 the scope of the Investigations Division Incident
13 Reviews. Consistent with the 14-Point Plan and the
14 Consent Judgment, the Department is re-defining the
15 Investigate—the Investigations Division by increasing
16 the speed of information gathering in order to reduce
17 the backlog of open investigations and to ensure
18 protect—professional integrity across the agency.

19 I'd like to now talk a little bit about
20 Risk Management. The Department is committed to
21 developing procedures to better understand and
22 address the type of force officers use. To that end,
23 the Department has developed several new procedures
24 for collecting, understanding and evaluating the use
25 of force, which go beyond specific requirements of

2 the Consent Judgment. This demonstrates our
3 commitment to reform. Risk Management is not just
4 about focusing on use of force, but on various
5 internal and external factors that can impact the
6 performance of the Department's staff. This includes
7 personal and work-related stress, overtime the amount
8 of time spent working with our most challenging
9 inmate population. A comprehensive risk management
10 approach must consider all of these factors, and the
11 many potential solutions in order to support the
12 Department's efforts to bring back—bring about a
13 culture of safety.

14 Now, I'd like to talk a little bit about
15 inmates under the age of 19. One of the most
16 important changes that the Commissioner implemented
17 when coming to the Department was recognizing that
18 different populations need to be managed differently.
19 Effective management strategies must address the
20 population's need especially amongst the young
21 inmates. Previously, the Department managed the
22 different populations in a basically uniform manner
23 regardless of age or other needs. We have moved away
24 from this one-size-fits all approach and now tailor a
25 managing strategy for various inmate populations. By

2 managing inmates appropriate to their needs, we
3 created a safer environment for everyone. With
4 respect to adolescents, the adolescent population of
5 16 and 17-year-olds was one of the first populations
6 identified by Commissioner Ponte of needing a new
7 approach. Soon after coming to the Department, he
8 sent staff around the country to learn best practices
9 from adult and juvenile system and to to implement
10 them here. Within eight months of the Commissioner's
11 tenure, housing area sizes were reduced from 33 to
12 15. Staffing was increased to one officer for every
13 15 inmates. Programming was expanded, punitive
14 segregation was eliminated and replaced with
15 therapeutic alternatives. Again, the Department
16 agreed to incorporate many of the Department's
17 adolescent reforms into Nunez including the staffing
18 ratios, maximum housing size areas, and the
19 elimination of punitive segregation because they
20 represent sound correction practice as to the young
21 adults. As it does with adolescents, Nunez also
22 directly addresses the management of 18-year-olds,
23 but the Department has gone well beyond these
24 requirements. The Department has created a new
25 housing cohort of young adults, those age 18 through

2 21. The Department is voluntarily extending the
3 standards codified by Nunez for the 18-year-olds to
4 the 19, 20 and 21-year-olds. I'd like to now talk a
5 little bit about expanded recruiting and training.
6 Staff are the most important component of the
7 department's success. Since the beginning of
8 Commissioner Ponte's tenure, the Department has
9 developed a recruitment-recruitment, hiring and staff
10 selection plan to attract the most qualified
11 candidates ensuring a steady pipeline of top quality
12 recruits who can be trained and mentored into quality
13 officers. The Department is hiring record numbers of
14 recruits with each recent class larger than the next.
15 The Department graduated 592 recruits in December
16 2015, 618 in May 2016 and 711 just this-just a few
17 weeks ago, November 2016. A record 1,200 recruits
18 are-we hope to have enter the Academy next month. At
19 the same time, we are also providing more training to
20 current staff to give them the best tools possible to
21 do their jobs. From August 2014 through the present,
22 nearly 3,000 correction officers or about one-third
23 of our current officer core completed one or more new
24 training involved in de-escalation techniques. The
25 Department has also provided specialized training for

2 staff working with special populations such as the
3 mentally ill and adolescents and is training officers
4 in state-of-the-art defensive tactics. Several of
5 the new recruit and in-service training curricula
6 being given are incorporated into Nunez including
7 what we call our start training. It's specialized
8 tactics and responsible techniques training, and this
9 includes the use of force policy, and defensive
10 tactics. We have our crisis intervention and
11 conflicts resolution training that's included. Young
12 inmate management training, which includes direct
13 supervision and safe crisis management. We also
14 include approaching tactics and cell extraction. To
15 ensure that all staff get the best training, the
16 Department requires more hours of training than the
17 Consent Judgment actually requires, and it also
18 requires additional training such as PREA Crisis
19 Intervention Training and others that—that are not
20 required by Nunez.

21 Now, moving on to staff recruitment,
22 selection, screening and assignments. Since the
23 beginning of Commissioner Ponte's tenure, we have
24 developed a recruitment to hiring and staff selection
25 plan to attract the most qualified candidates in the

2 Department. We are ensuring a steady pipeline of top
3 quality recruits, recruits who can be trained and
4 mentored into quality officers. For example, we have
5 raised our hiring standards to match those of other
6 law enforcement agencies like the New York Police
7 Department. To ensure that everyone has equal
8 opportunity for promotion and special assignments,
9 the Department is committed to implementing a
10 screening process that applies equally to all staff,
11 and that makes performance standards clear and fair.
12 The new screening process will also consider whether
13 staff has the training necessary for assignment to
14 that certain specialized unit. This ensures both
15 staff and inmate safety by making sure that officers
16 are equipped to deal with the unique needs and
17 challenges associated with some of our most difficult
18 inmate populations.

19 Video Surveillance. Another big focus of
20 our 14-Point Plan has been expanding camera coverage
21 throughout the jail. The additional video
22 surveillance will help make our facilities safer for
23 everyone. Further, the increased video surveillance
24 is already making a difference to the Department's
25 Investigation Division. This year, approximately 69%

2 of use of force incidents were captured in whole or
3 in part in video. Meaning, ID has to—has access to
4 clear objective evidence of incidents under
5 investigation, which in turn leads to faster case
6 closings. The—again, the Department agreed to the
7 terms of—of the Nunez Consent Decree because they
8 aligned with the 14-Point Plan that was already
9 underway. The Consent Decree and the 14-Point Plan
10 are designed to achieve the same goal, ensuring
11 safety, reducing violence, and changing the
12 Department's culture. The Department is early in the
13 reform implementation process. Meaningful reform
14 takes time, but we are seeing the impact of the
15 efforts we have made. There is still significant
16 improvement to be made, but with continued effort of
17 our staff, the Department will succeed to become the
18 leader in Corrections that we strive to be. Thank
19 you for the opportunity to testify today, and for
20 your continued support. We are happy to answer any
21 questions that you may have.

22 CHAIRPERSON CROWLEY: Thank you for your
23 testimony. So, broadly speaking the new Use of Force
24 Protocols appear to encourage staff to use less force

2 than they have in the past. Do you agree with—with
3 that?

4 DEPUTY COMMISSIONER GROSSMAN: Yes.

5 CHAIRPERSON CROWLEY: Okay, and as these
6 new policies have been implemented, we see a
7 concurrent rise in overall violence with the DOC
8 facilities. Would you say that's true?

9 DEPUTY COMMISSIONER GROSSMAN: An overall
10 rise, and I would say that that's not true.

11 CHAIRPERSON CROWLEY: Okay because I have
12 numbers from the Mayor's Management Report that are
13 for the last half of Fiscal Year 2016, which means up
14 until June 30th. Do you have those same numbers?

15 DEPUTY COMMISSIONER GROSSMAN: Well, what
16 I can tell you is that we've a 20--

17 CHAIRPERSON CROWLEY: [interposing] I
18 just want to make sure we're working on the same
19 numbers because I'm going to be looking at these
20 numbers throughout the hearing.

21 DEPUTY COMMISSIONER GROSSMAN: We—we
22 don't—we don't have the Mayor's Management Report
23 numbers here today.

24 CHAIRPERSON CROWLEY: Well, what numbers
25 are you looking at because—because even when the

2 Mayor put out a press release now, the Commissioner
3 is in this same press release that he put out in
4 August where they looked at most recent data, right?
5 And the Mayor states in his own press release that
6 violence is going down, but violence is not going
7 down when you have stabbings and slashings that are
8 up by 66% during that same time period; serious
9 inmate on inmate violence up by 25%, and serious
10 injuries to inmates are up by 8%. Now, doesn't that
11 say violence is going up? Before we go any further,
12 I just want to make sure you get the numbers and
13 we're all looking at the same numbers. Because
14 you're trying to paint a rosy picture and so is the
15 Mayor with the press release that was put out
16 recently and, you know, when an inmate is less safe
17 in the jail where we're putting them because we're
18 saying that we're going to take care of custody and
19 control, but when they become less safe, then you're
20 not reducing violence. And that inmate's civil
21 rights are being violated if we're putting them in
22 there, and we're not keeping them safe.

23 DEPUTY COMMISSIONER GROSSMAN: Well, what
24 we--what we--what we find very encouraging is that the
25 use of force that we have seen, we've seen a very

2 marked decrease in the type of physical force that
3 has been used. So for example, our C use of force
4 incidents, which involve the use of OC spraying. No
5 injuries to our inmates. That has gone up, but our
6 serious force, a use of force has gone significant-
7 gone down significantly, and so has our B use of
8 force, which involves some minor injuries. So what
9 we're seeing is a different—a shift in less hands-on
10 our inmates by our staff.

11 COMMISSIONER PONTE: I'd just like to add
12 that, you know, we—I'm not sure who's trying to paint
13 a rosy picture but, you know, we have a lot of work
14 to do and—and clearly, you know, we all admit to
15 that. I think we have made progress. I still
16 believe that, you know, more progress has—has to be
17 made.

18 CHAIRPERSON CROWLEY: And the Mayor in
19 his first sentence in his press release they say that
20 the Department of Corrections is showing strong
21 results in the first half of 2016, and if I'm an
22 inmate I'm more likely to be hurt seriously during
23 that same time. I'm more likely to be stabbed or
24 slashed, and there's more violence happening at the
25 same time. So—so clearly it doesn't seem that the

2 Mayor is looking at the same numbers that he's
3 providing the City Council, if he's making these
4 statements. And-and Commissioner, you are in these--
5 you're in the same press release that he put out.

6 COMMISSIONER PONTE: [off mic] We are.

7 CHAIRPERSON CROWLEY: Safer environment
8 for inmates and staff alike. It says that. I just
9 want to know how are you safer. If you can just
10 explain that if you're more likely to get hurt
11 seriously, if there's more violence happening amongst
12 the inmates that is serious, and there's more
13 stabbings and slashing. How are you safer?

14 COMMISSIONER PONTE: So we try to take a
15 look at data in different cuts to make sure that we
16 can follow a trend that can be sustained over time.
17 First, the Commissioner focused primarily on those
18 serious injuries and to those points, I think we did
19 a calendar year comparison, January to October from
20 last year to this year. Significant drops in the
21 serious assaults on staff that resulted in any injury,
22 and then uses of force that resulted in serious
23 injury including inmate fights that resulted in
24 serious injury. We do not tend to claim that use of
25 force are overall down. We have a lot of work to do

2 and obviously safety, it has to be maintained is
3 focused on both the officers and the inmates, and we
4 try to take a look at violence indicators across all
5 those spectrums. We'd be happy to meet with you to
6 talk to you through those numbers to make sure you
7 have a full understanding of those.

8 CHAIRPERSON CROWLEY: I have a full
9 understanding of the numbers. I see what-what
10 violence was in fiscal year 12, fiscal year 13,
11 fiscal year 14, fiscal year 16, 15/16 and each year
12 it has gone up steadily, but it has gone up
13 significantly since last fiscal year, and that's not
14 just calendar year. That's not-these are numbers
15 that ended in June, the end of June. So they are the
16 most recently you can get.

17 COMMISSIONER PONTE: I'm reading numbers
18 out from October.

19 CHAIRPERSON CROWLEY: Right, you-you say
20 this every hearing, and every hearing, we're not
21 looking at the data that you're supposed to be
22 looking at.

23 COMMISSIONER PONTE: I think we're
24 looking as much to the up-to-date data as we can
25 grab.

2 CHAIRPERSON CROWLEY: No, when you had
3 this press release in August you were looking at data
4 that ended in June.

5 COMMISSIONER PONTE: In August actually.

6 DEPUTY COMMISSIONER GROSSMAN: Chair, I-I
7 think that the press release that you're referring to
8 is where Mayor de Blasio announced his 45% reduction
9 in serious violence, in serious violent--

10 CHAIRPERSON CROWLEY: No, he's--he's
11 looking--

12 COMMISSIONER PONTE: --repeaters.

13 CHAIRPERSON CROWLEY: --reductions just
14 on use of force when--when officers are getting
15 involved, which is where we're going to go to next--

16 COMMISSIONER PONTE: [interposing] Yes,
17 to the police force.

18 CHAIRPERSON CROWLEY: --because I'm
19 hearing reports from people who are working with the
20 jails that there is more of hands-off approach right
21 now because officers are afraid that whatever happens
22 is going to be used against them, and sort of, you
23 know, when these fights break out, they're not
24 stopped as quickly or right away, you know, they put
25 out chemical agents that--that prevent the fight from

2 going any further, which—which is better than use of
3 force. However, these fights aren't investigated
4 like they're supposed to be investigated as to why
5 they—they came about, and—and then we're hearing
6 reports also from these officers that they're working
7 overtime not just one extra shift, but often they're
8 forced to stay from three concurrent shifts. And
9 then they're—they're oft—often asked to stay over 100
10 hours or more a month, and then it seems as if that
11 their—the morale is down because they made promises
12 to work in certain areas or to monitor and to work
13 extra time, and then that—those promises are—are
14 taken away from them. Can you speak to the level of
15 overtime that's happening?

16 COMMISSIONER PONTE: So, overtime is
17 clearly an issue in the agency. We admit to that.
18 We've graduated additional class sizes, every class
19 so far. The projection is that we'll start a new
20 class in the December of about 1,200. The graduation
21 of this last class we believe will be a daily
22 reduction of about three hours—3,000 hours of
23 overtime per day for our employees. We think that's
24 an improvement, and then the 1,200 in December, which

2 will graduate in May will also substantially reduce
3 the reliance on overtime.

4 CHAIRPERSON CROWLEY: Well, we'll get
5 back to the overtime questions. We have to just as
6 far as the testimony in question as far as the
7 hearing because we have to welcome first Council
8 Member Cabrera, and then I'm going to ask the
9 Committee Clerk to take a roll call for—to continue
10 the roll call.

11 LEGAL COUNSEL: Committee on Fire and
12 Criminal Justice Services, continuation of roll call,
13 Council Member Cabrera.

14 COUNCIL MEMBER CABRERA: Aye.

15 LEGAL COUNSEL: The vote now stands a 4
16 in the affirmative, 0 in the negative, and no
17 abstentions.

18 CHAIRPERSON CROWLEY: Thank you. Now,
19 how frequently—when you're graduating classes, how is
20 our attrition rate? How—how much—if let's say this
21 year you graduated 700 new correction officers, how
22 many have left through attrition to go into
23 retirement or to just work in other fields?

24 COMMISSIONER PONTE: So, we anticipated
25 our attrition rate was about 70 for a month because

2 of the hiring freeze 20 years ago, and the new hiring
3 we thought that would go up. It did not. It
4 actually went down. So our attrition rate re-now is
5 about 30 to 40 per month, which is lower than we
6 anticipated.

7 CHAIRPERSON CROWLEY: So roughly if you
8 graduate, 150 are retiring, about half your--

9 COMMISSIONER PONTE: Yes.

10 CHAIRPERSON CROWLEY: Now, about your Use
11 of Force Policy that has changed. It has--the changes
12 haven't gone into effect, but you're saying that
13 you're seeing less use of force being used?

14 COMMISSIONER PONTE: So the training on
15 the new Use of Force Policy, the New Use of Force
16 Policy is not substantially different than the old
17 Use of Force Policy. The tactics that--that we're
18 teaching staff is new. So, you know, staff, you
19 know, there is a concern of staff on when to use loss
20 force and when not. It's because there's been such a
21 focus of excessive force as you are aware in the
22 agency. I think, you know, we--we support our staff
23 on the use of force. There are many circumstances
24 when that's appropriate. Our Investigations Division
25

2 who was in the—in the facilities both times, also
3 does those reviews as they occur.

4 CHAIRPERSON CROWLEY: So, of all your
5 officers, how many have been trained in the new Use
6 of Force Policy?

7 COMMISSIONER PONTE: About 2,000.

8 CHAIRPERSON CROWLEY: And how long dose
9 that training last for?

10 COMMISSIONER PONTE: So the full, the
11 full training with the—with the tactics there's
12 audio.

13 CHAIRPERSON GIBSON: [interposing] It's
14 about four days. Four days of training.

15 CHAIRPERSON CROWLEY: So—so the
16 curriculum is in place. You haven't developed new—
17 you don't need to develop any more curriculum?

18 COMMISSIONER PONTE: That's correct.

19 CHAIRPERSON CROWLEY: And so—so about 25%
20 or 20% of your entire group of officers have seen—
21 gone through this training?

22 COMMISSIONER PONTE: Most of those were
23 recruits. We just started the in-service how long
24 ago? [background comments, pause] June 20th we
25

2 started the in-service. So most of the 2,000 are
3 recruits.

4 CHAIRPERSON CROWLEY: So, are your--any of
5 your officers wearing body-worn cameras?

6 COMMISSIONER PONTE: So part of Nunez
7 Settlement is that we'll do a trial of 100 officers
8 with body cameras?

9 CHAIRPERSON CROWLEY: And do you have
10 that going on now?

11 COMMISSIONER PONTE: We do not have that
12 in place yet.

13 CHAIRPERSON CROWLEY: Do you--how far are
14 you from having that in place?

15 COMMISSIONER PONTE: I think we're
16 probably several months. We need a good policy first
17 and that's always a concern. It's also a concern of
18 the union. We want to make sure--

19 CHAIRPERSON CROWLEY: [interposing] You
20 need to make sure you have good cameras, too, and a
21 place to store the information. Do you have that
22 technical ability right now within the Department?

23 COMMISSIONER PONTE: We do not--

24 CHAIRPERSON CROWLEY: [interposing] You
25 have cameras going up everywhere--

2 COMMISSIONER PONTE: Right.

3 CHAIRPERSON CROWLEY: --and I'm curious
4 to know like who is keeping that data? Who is
5 keeping a watchful eye on that?

6 COMMISSIONER PONTE: So our--our Chief of
7 Department has the data, and the storage as part of
8 Nunez--Nunez settlement and we do have the ability to
9 store. As we add body cameras, the capacity for
10 storage will have to be increased, but we--we're aware
11 of that.

12 CHAIRPERSON CROWLEY: Now, when an
13 investigation happens, use of force occurs. The
14 policy now is that right away anyone who witnessed
15 the use of force who is working for the Department
16 must file a report, correct.

17 DEPUTY COMMISSIONER GROSSMAN: We'd have
18 to look in the policy, but they are required to make
19 a report.

20 CHAIRPERSON CROWLEY: A written report or
21 electronic report?

22 DEPUTY COMMISSIONER GROSSMAN: A written
23 report.

24 COMMISSIONER PONTE: Right.

2 CHAIRPERSON CROWLEY: And have you
3 changed that to electronic?

4 DEPUTY COMMISSIONER GROSSMAN: Not-not at
5 this point in time. Right now they have to present a
6 written report.

7 CHAIRPERSON CROWLEY: And how quickly
8 does it go to--and where does it go from there, to the
9 Investigations Division or to the Commissioner's
10 Office?

11 DEPUTY COMMISSIONER GROSSMAN: It goes to
12 the investigating process and whoever is going to
13 investigate it. It goes to a channels, and it's
14 supposed to be submitted within 24 hours of the
15 incident occurring.

16 CHAIRPERSON CROWLEY: Now, with all these
17 numbers or incidences of force, and these things must
18 happen everyday.

19 COMMISSIONER PONTE: Yes.

20 CHAIRPERSON CROWLEY: So if I'm an
21 officer--this is, you know, the end of my shift. I'm
22 filling out this form, or I'm filling it out right
23 after we were able to calm down the situation, and
24 drive where the--

2 DEPUTY COMMISSIONER GROSSMAN: [off mic]

3 Yes.

4 CHAIRPERSON CROWLEY: Right after it
5 occurs?

6 DEPUTY COMMISSIONER GROSSMAN: It
7 wouldn't--wait--

8 COMMISSIONER PONTE: Before you go home.
9 Before the end of your shift.

10 CHAIRPERSON CROWLEY: And then how
11 quickly is it investigated?

12 COMMISSIONER PONTE: Greg, you want to
13 talk to that?

14 COMMISSIONER PONTE: Greg, do you want to
15 talk to that?

16 DEPUTY COMMISSIONER KUCZINSKI: Each
17 investigation starts immediately. Under Nunez, we
18 have a preliminary review policy that within two
19 business days we have to look at every single use of
20 force incident. It changed a little bit with the
21 dynamic of how ID used to operate. ID when they
22 traditionally prior to Nunez and I think prior to the
23 14-Point Plan, we would investigate A use of force
24 cases, which are the more serious use of force cases,
25 and they would result in a call-out from ID when--when

2 it came over COD. Since Nunez, we now look at every
3 incident within 72 hours and with the timing from
4 that preliminary review whether—I'm sorry—two days,
5 we determine whether or not that's classified now as
6 an A or an B or some other factor that it requires a
7 full ID investigation as per Nunez criteria. So, and
8 we have teams now currently in every facility, which
9 helps speed up the process. Sometimes we don't get
10 all of the reports right away, but we—we are --

11 CHAIRPERSON CROWLEY: [interposing] So--

12 DEPUTY COMMISSIONER KUCZINSKI: Go
13 ahead.

14 COMMISSIONER PONTE: So within 48 hours
15 you've determined whether it's A, B or C? There's a
16 C?

17 DEPUTY COMMISSIONER KUCZINSKI: I'm
18 sorry.

19 CHAIRPERSON CROWLEY: Use of Force?

20 DEPUTY COMMISSIONER KUCZINSKI: Yes.

21 CHAIRPERSON CROWLEY: So, now if you've
22 determined that the use of force was excessive, is
23 there an officer still working with the inmate? Is
24 that officer that's under investigation still with
25 inmates?

2 DEPUTY COMMISSIONER KUCZINSKI: Okay, it-
3 it-it depends on-just because it's an A, B or C
4 doesn't mean the force was--

5 CHAIRPERSON CROWLEY: [interposing]
6 That's if it was an A. It was--

7 DEPUTY COMMISSIONER KUCZINSKI: Even if
8 it's an A, it doesn't mean whether or not it's
9 excessive or--

10 CHAIRPERSON CROWLEY: [interposing] Okay-
11 -

12 DEPUTY COMMISSIONER KUCZINSKI: --or it
13 violated department policy.

14 CHAIRPERSON CROWLEY: --but within the 48
15 hours are able to get an idea of whether this
16 investigation is going to go a little bit further,
17 and whether the officer was excessive in the use of
18 force.

19 DEPUTY COMMISSIONER KUCZINSKI: So, the-
20 the investigation will go farther anyway. The ID
21 will determine at that point in time early on is this
22 something that the officer needs to be modified for?
23 We may do a no contact with inmates. We may have
24 just removed from the area. All those--

2 CHAIRPERSON CROWLEY: [interposing] How
3 many officers right now are on that modified that are
4 not to be working with inmates because of
5 investigations happening?

6 DEPUTY COMMISSIONER KUCZINSKI: I-I don't
7 know the exact number of how many people are
8 modified, but I can tell you that we—as a result of
9 what we call an Immediate Action Review Committee,
10 which we meet weekly, it's filed (sic) with the
11 action, we have suspended two officers, disciplined
12 five and retrained eight out of 26 incidents that
13 we'll look at.

14 CHAIRPERSON CROWLEY: But your—you—you
15 have to know where your policy is. If there's an
16 officer that is clearly-identified clearly by cameras
17 and witnesses to have used excessive force, you do
18 have a policy. I thought you did. I hope you do--

19 COMMISSIONER PONTE: Right.

20 CHAIRPERSON CROWLEY: --that would take
21 that officer away from working with inmates--

22 COMMISSIONER PONTE: That's correct.

23 CHAIRPERSON CROWLEY: --right-right away.
24
25

2 COMMISSIONER PONTE: If it's—that's
3 something ID would do absolutely. That's correct.
4 That's something ID would do, absolutely.

5 DEPUTY COMMISSIONER KUCZINSKI: That's
6 correct.

7 COMMISSIONER PONTE: Yes.

8 CHAIRPERSON KOO: That's—that—that would
9 happen. That would result in modification and/or
10 suspension.

11 COMMISSIONER PONTE: And if it's a
12 criminal act, the DA would be, say okay like pursue
13 criminal charges.

14 CHAIRPERSON CROWLEY: Now, anonymously
15 reporting. You have a system that you put in place.
16 However, it is your policy, right, and if you are a
17 staff member or if you're an officer and you witness
18 use of force, you, too, have to submit a report.

19 COMMISSIONER PONTE: That's correct.

20 CHAIRPERSON CROWLEY: And then so why do
21 you have this anonymous?

22 COMMISSIONER PONTE: Just in—I'm sorry—

23 DEPUTY COMMISSIONER GROSSMAN: It's just
24 in—

25 COMMISSIONER PONTE: Okay.

2 DEPUTY COMMISSIONER KUCZINSKI: It's just
3 another vehicle to-to have both staff and in its
4 report use of force incidents.

5 CHAIRPERSON CROWLEY: And inmates know
6 about it?

7 COMMISSIONER PONTE: Well, they're posted
8 throughout the facilities.

9 CHAIRPERSON CROWLEY: And how would do
10 this, with their--

11 COMMISSIONER PONTE: It's a telephone
12 number. Yes, it's-it-it-it goes directly to the-the
13 Intel Unit within ID. If you like the telephone
14 number, I can give it to you, but

15 CHAIRPERSON CROWLEY: interposing] How
16 many people use the call?

17 COMMISSIONER PONTE: So far since it
18 started we have had I believe 13 calls, the amount of
19 which were use of force related.

20 CHAIRPERSON CROWLEY: Do people know
21 about the-the system. I mean if only 13 people
22 called?

23 COMMISSIONER PONTE: I-I can tell you
24 that it's posted in the facilities. I--

2 CHAIRPERSON CROWLEY: And DOI also has a
3 line that they've had for some time.

4 DEPUTY COMMISSIONER KUCZINSKI: Yes.

5 CHAIRPERSON CROWLEY: When use of force
6 happens—well, when midnight breaks out, there's a big
7 fight, and then you finally are putting together the
8 documents and the reports of what happened, and you
9 say that there's a lot of this investigation that
10 goes on as to when inmates—when staff has to use the
11 force on these inmates. Do you investigate why
12 fights break out?

13 DEPUTY COMMISSIONER KUCZINSKI: ID does
14 not unless there's a serious injury to the inmate.
15 So that's done at the facility level. Yes, they do.

16 CHAIRPERSON CROWLEY: When Officer
17 Calderon was slashed, I believe he was just coming
18 onto his shift. There was a number of inmates that
19 came after him, and there was a big fight. Did you
20 investigate what happened, why—why that took place?

21 DEPUTY COMMISSIONER KUCZINSKI: Yes, we
22 did.

23 CHAIRPERSON CROWLEY: And what was that?
24
25

2 DEPUTY COMMISSIONER KUCZINSKI: So the
3 attack on Officer Calderon was a--supposedly a payback
4 on the rent that had happened a day before I believe.

5 CHAIRPERSON CROWLEY: Now, did Officer
6 Calderon know that he was coming into a situation
7 where the inmates might be hostile towards him or
8 upset about--

9 DEPUTY COMMISSIONER KUCZINSKI:
10 [interposing] You're absolutely with us. If Calderon
11 knew, I don't know what he knew at the time.

12 CHAIRPERSON CROWLEY: I'm trying to--you
13 know, in--in--in working the Department trying to see
14 how you could prevent situations like that from
15 happening. Yeah, you investigated why it happened.
16 You say, well did one shift let the other shift know
17 what was going on the night before. Clearly, you
18 know, you're working with a population that holds
19 hostility from one day to the next. If they're in
20 lockdown continuously and they're not able to go
21 outside or, you know, they're not able to do the
22 things they were be--because of punishments or because
23 if you have to keep the facility safe, then that
24 frustration often gets taken on each other or on the
25 staff, but is it important to understand why these

2 fights are happening and—and what you could do
3 prevent them. It's—it's one thing to investigate,
4 you know, the use of force, but in order to well, why
5 did this fight break out in the first place, and what
6 can we do as a department to prevent the fights from
7 happening? So do you have any mechanism in place to
8 clearly understand why those inmates would do what
9 they did. There—there has to be reasons for these
10 fights to happen, some of them.

11 DEPUTY COMMISSIONER KUCZINSKI: Right and
12 we—we look at event all the time.

13 CHAIRPERSON CROWLEY: But you don't have
14 a policy in place?

15 DEPUTY COMMISSIONER KUCZINSKI: We have a
16 policy in—in place to investigate incidents that
17 occur in the jail, yes we do.

18 CHAIRPERSON CROWLEY: How frequently—
19 well, how frequently are fights breaking out? Almost
20 every shift? Like how is it--? Am-am I being too
21 optimistic thinking that you could have the
22 capability with in the Department to understand why
23 fights break out, and to at least alert on shift to
24 the next what had happened on the previous shift so
25 that you don't have to—so you can at least give the

2 officers the understanding that inmates may be
3 unhappy and more unpleasant to work with than
4 previously.

5 COMMISSIONER PONTE: Right, there's a
6 half hour overlap in the shifts for that to occur
7 from officer to officer to on post.

8 CHAIRPERSON CROWLEY: They-they go over
9 what happened in the previous shift?

10 COMMISSIONER PONTE: They are required to
11 brief each other of what happened on the previous
12 shifts, yes.

13 CHAIRPERSON CROWLEY: Can you tell me
14 about how you didn't speak much to it. I don't
15 remember hearing about it in your testimony, the 16
16 and 17-year-olds. The DOJ's report asks for the
17 Department to move them off the island. The Mayor
18 made an announcement a few months ago that a facility
19 in the Bronx was found. When-when do you foresee the
20 16 and 17-year-olds no longer being on the island,
21 and being moved to this location in the Bronx?

22 COMMISSIONER PONTE: It will take because
23 of the grilling policies in the City of New York it
24 will take several years. I'm not sure if we have an
25

2 estimate on time. I don't know, Jeff, maybe you
3 know.

4 DEPUTY COMMISSIONER THAMKITTIKASEM: We
5 are currently in the middle of studies on the design
6 of the facility, and as the Commissioner said,
7 because of siting and construction we'll have to do
8 to kind of expand that space, it could take years,
9 but there's no specific time except that the study
10 will be done by next year to kind of have a design
11 for what the facility could look like?

12 CHAIRPERSON CROWLEY: That--that doesn't
13 seem promising that it will happen. How long have
14 you been working on that new facility that you were
15 going to build on Rikers?

16 COMMISSIONER PONTE: Several years prior
17 to me coming on board.

18 CHAIRPERSON CROWLEY: Okay. Is that--is
19 that part of your short-term goals, too?

20 COMMISSIONER PONTE: Well, it's not a
21 short-term goal, but I--I think as we look at the
22 construction and now with the--kind of the movement to
23 close Rikers, all of those things politically have to
24 be taken into consideration. So the 1,500-bed

2 facility on Rikers is still at a—at a—kind of pause
3 right now.

4 CHAIRPERSON CROWLEY: Okay, understood
5 but the—but all hands should be on deck to do
6 whatever you can to get the facility in the Bronx
7 moving as quickly as possible and to understand that
8 you are right now looking at possibly a year before
9 you have renderings of what you do to change the
10 facility. It doesn't seem like it's going to happen,
11 certainly not in this administration. It doesn't
12 seem that way.

13 COMMISSIONER PONTE: But it's a long
14 process, Councilwoman. I mean I mean I'm—I'm not
15 happy either but it is a long process for
16 construction I the city of New York.

17 CHAIRPERSON CROWLEY: There has been
18 construction. The Authority is able to build the
19 schools rapidly, and there are a lot of agencies in
20 the city that are able to do things quickly,
21 certainly more quickly than your plan currently has
22 in place. I'm going to recognize Council Member
23 Vallone for questions.

24 COUNCIL MEMBER VALLONE: Thank you, Madam
25 Chair. I have one question. I had some questions,

2 but you just threw them out the window when you said
3 the facility is on pause. Great, that—that to me I
4 was years on the Board of Corrections. I've been
5 years on this committee. We've been talking about
6 the infrastructural issues on Rikers Island from day
7 one. The plan each year, each budget was to help you
8 fight for that budget to get this situation under
9 control. This temporary structure is one that I will
10 mention we retired 30, 40 years ago, which makes it
11 impossible for your state to properly maintain a
12 level of security for them and for the inmates. Who
13 does that then put it pause? I mean political
14 pressure doesn't exist when we're talking about
15 creating infrastructure that properly should house
16 detainees, inmates and give the proper safety for the
17 staff that's there, and that's my first—first
18 priority. It's really to protect the staff and
19 protect detainees and inmates. We need a complete
20 infrastructure overhaul on the Island without a dream
21 of thinking it's going some place else because
22 there's not a Council Member in the city that's going
23 to say put that facility in our district because we
24 really want it there. It's never going to happen.
25 Never. So what's our plan with infrastructure

2 updates on--on the island? I mean you--you just ended
3 it by saying everything is on pause and I don't
4 whether it is.

5 COMMISSIONER PONTE: Oh, not everything.
6 So we're--we are doing renovations to the facilities
7 we have our capital monies to do that. The new
8 facility because of the--you know, call it a movement
9 but at least they look at how to partially close--
10 close Rikers and I, you know, I agree that it's
11 offsite. Off-island siting would be a--very difficult
12 to do. So it's--it's just a matter of kind of
13 realigning what we--We've done a lot of work on the
14 1,500-bed facility. There have been some--some
15 renovations on the ground. Some structures have been
16 torn down. So we have a good footprint. We've--we've
17 looked at the plan. So, it's--it's just a matter of--
18 of--

19 COUNCIL MEMBER VALLONE: [interposing]
20 Well, that's good. I mean a good footprint and a
21 plan is a lot better telling me everything is on
22 hold. So, it's two different--

23 COMMISSIONER PONTE: Right, well, it--it
24 is at this point on pause so-

2 COUNCIL MEMBER VALLONE: Right, so I
3 think, Madam Chair, I think we have to begin to why
4 things are on pause and what's going on. I think
5 that was promised to us the minute you took over that
6 they were going to make building changes and
7 infrastructural changes, and now somehow it's all on
8 pause. I'm not happy about that. I know we're going
9 to later on a budget hearing on those topics, but I-I
10 think we should—we want to assist on that. I mean
11 our idea is get the budget--

12 COMMISSIONER PONTE: [interposing] And I
13 have to--

14 COUNCIL MEMBER VALLONE: --to reflect to
15 reflect the needs, and I don't—we want to be partners
16 in fighting for the proper budget to handle a lot of
17 how Rikers Island should work tomorrow, five years
18 from now, ten years from now without loud alternate
19 plans maybe in the future for some place else. We
20 know politically it's going to be very, very
21 difficult but that doesn't help the detainees,
22 inmates and the staff that are in there now. I think
23 we have to give them a promise that things are going
24 to be made better. You have some data there about
25 the use of video cameras. Could you give us an

2 update on I guess where we were when you took over
3 with the use of video cameras within there, and where
4 we are today and where we plan to get?

5 COMMISSIONER PONTE: So Jeff will have
6 little better numbers, but we—we hope to be fully
7 cameraed on the island toward the end of this year.
8 Fully cameraed inmate house-inmate areas toward the
9 end of this year. So Nunez—Nunez DOJ settlement
10 really required cameraing in the small parts of the
11 island. We've expanded that to the Mayor's
12 Initiative to all correctional facilities. So we'll
13 be in inmate housing areas fully cameraed by the end
14 of—of calendar year 2016.

15 COUNCIL MEMBER VALLONE: Jut in the
16 housing area or throughout?

17 COMMISSIONER PONTE: Inmate areas. So
18 we're adding, you know, we're trying to get the focus
19 on the most important areas first and then expanding
20 to the other areas after.

21 COUNCIL MEMBER VALLONE: So for the areas
22 that have the cameras now do have you seen any change
23 in the incidents in crime or just the daily rigmarole
24 of life all around?

2 COMMISSIONER PONTE: It's-it's, no it's
3 really helped us a lot both on staff training to show
4 where staff, you know, options are such that you
5 could make different choices of also in-in
6 investigations as far as who did what to who?

7 COUNCIL MEMBER VALLONE: I am a big fan
8 of cameras. I think whether it's a school, whether
9 it's a-it's a block or whether it's Rikers Island. I
10 think a camera doesn't lie, and it also helps both
11 ways.

12 COMMISSIONER PONTE: Yes.

13 COUNCIL MEMBER VALLONE: I think it helps
14 to show what an officer and a staff member has to
15 deal with on a daily basis. It has to show whether a
16 detainee and inmate has to deal with on a daily
17 basis. So that to me is wonderful news. Do you
18 think by the end of the year then we should have
19 full--

20 COMMISSIONER PONTE: On Rikers all
21 coverage in inmate areas, yes

22 COUNCIL MEMBER VALLONE: That's great and
23 what about when there was talk of by the cameras? Is
24 there going to be any use of that?

2 COMMISSIONER PONTE: So part of the Nunez
3 DOJ settlement will have 100—a sampling of 100 body
4 cameras in use for a trial period, and we'll work
5 with the monitor to roll that out and to, you know,
6 see how effective those cameras are.

7 COUNCIL MEMBER VALLONE: Is that
8 something going in the next maybe year or six months?

9 COMMISSIONER PONTE: Yes, before the—
10 before the next fiscal year for year.

11 COUNCIL MEMBER VALLONE: Okay, and the
12 last thing I want to address you had there a little
13 data on the risk management and you had figured that
14 the Nunez settlement requires a development of an
15 early warning system to identify problematic staff
16 early. How is that done, and who determines
17 problematic staff?

18 DEPUTY COMMISSIONER KUCZINSKI: Well,
19 the—the—we actually have a couple of--

20 COUNCIL MEMBER VALLONE: [interposing]
21 Can you just address the title and—and name, please?

22 DEPUTY COMMISSIONER KUCZINSKI: Oh, I'm
23 sorry. Deputy Commission Gregory Kuczinski for
24 Investigations.

25 COUNCIL MEMBER VALLONE: Good morning.

2 DEPUTY COMMISSIONER KUCZINSKI: Good

3 morning. There's—we have a couple of things that we—
4 we do again going back to the preliminary review
5 process that we do where we review literally every
6 use of force incident. We then working with the
7 monitor and—and the—and the commissioner we—we
8 establish criteria, certain criteria where we saw
9 more incidents happening like restraints or things
10 like that, and we would—we—it—it came to be known to
11 as the Commission as 12 and we would meet every—
12 every. ID sends to every facility each warden the
13 use of force incidents from the previous week that
14 were reviewed, and the categories that they fall in
15 so that they can come up with a plan of action that
16 they have to give to the Chief of the Department. I
17 mentioned earlier the Immediate Action Committee.
18 That's another process that we have that again we
19 meet bi-weekly. That consists of ID, the Chief of
20 Department of Legal where we review use of force
21 incidents that we felt were problematic in the sense
22 that they may have violated a policy or something,
23 and from there, as I indicated before, it leads to
24 the retraining and these all steps towards the early
25 one assistance. The—we are working on, you know, and

2 early warning system overall. But these are the
3 steps we have taken in—in the interim to address
4 things on a more timely basis? We've also in ID we
5 created monitoring looks (sic) as well for people
6 that repeat use of force and use of this like that,
7 and we will monitor that literally on a daily basis.

8 DEPUTY COMMISSIONER THAMKITTIKASEM: And
9 Councilor, if I may, we've also hired a use of force
10 monitor per news flash (sic) and their focus will be
11 on the early waring system taking into account kind
12 of areas where which use of force happens, the
13 propensity of use of force in those areas to make
14 assessments department wide and focus on those
15 populations or those housing areas to give our staff
16 and our—our facilities kind of a heads up on where
17 they need to focus their attention, or where there
18 needs to be kind of changes in—in monitoring or
19 training or other things.

20 COUNCIL MEMBER VALLONE: So, I—I think
21 we're all on the same page on it, and nobody wants to
22 protect the bad guys, whoever the bad guys are in any
23 field, in any committee that we have. But there's an
24 element there of if I was identified to be on the
25 early waring system, and I'm a staff member, I don't

2 think I would be too thrilled about that. I also
3 want to know what my steps are to protect myself if
4 it was a one-time incident, if it was a-if it was one
5 of the recidivists that continually harass staff that
6 is now creating life miserable for a particular staff
7 member, and now that person has got a mark on their
8 record that may have been there for 15 years. I'm
9 going the other way. What are the remedies in place?
10 First, is there a hearing? Is there a way for me to
11 have my due process? How-I don't want my career
12 ruined because someone threw me on an early warning
13 assessment because someone was having a bad day on
14 the island and decided to come after me, and I have
15 to protect myself, and now all of a sudden I'm a
16 incident.

17 DEPUTY COMMISSIONER GROSSMAN: Council
18 Member one-one thing that we do is we have the what
19 we call a 5003 process where we identify officers who
20 have been involved in force of virtue of time. Maybe
21 three incidences within a six-month period, and it
22 doesn't mean that the force was unreasonable or
23 excessive, but it's something for us to monitor, and
24 then we have counseling sessions with those officers.
25 So that if there is a conversation with that officer

2 to just let them know that this is—maybe they're in a
3 particularly high volume area where there are very
4 challenging inmates. It's something to just have the
5 conversation in—in formal counseling.

6 COMMISSIONER PONTE: And for it to impact
7 you, you would have had to have been disciplined.
8 You could have been involved in ten uses of forces,
9 all legit and—and

10 COUNCIL MEMBER VALLONE: Okay, so this
11 was something that resulted in disciplinary.

12 COMMISSIONER PONTE: Correct. There may
13 be corrective action for it to impact you.

14 COUNCIL MEMBER VALLONE: Okay.

15 DEPUTY COMMISSIONER KUCZINSKI: It's just
16 to take a—a better look at it, that's all.

17 COUNCIL MEMBER VALLONE: Well that gives
18 me, well that's the type of information that's
19 missing. So that's important because I want to make
20 sure it goes both ways. Do we have anything on the
21 other side? Do we have an early warning system on
22 how we're going to handle the most, as you say,
23 challenging inmate population, and what we're going
24 to do now as a result of Nunez?

2 DEPUTY COMMISSIONER THAMKITTIKASEM: Yes,
3 Council Member. So essentially, as the Commissioner
4 started to say beyond the kind of facility specific
5 reviews we're enhancing our Corrections Intelligence
6 Bureau to focus on with our officer security
7 investigations, combining those in terms of
8 partnership and not necessarily organizationally to
9 take a look at the inmates that are--do have a higher
10 propensity for violence. We did a couple of
11 different. First, of all, we created a new housing
12 and classification system that focused on propensity
13 for violence. Previously, people would come in, and
14 they had high charges where they would just be
15 classified as higher concern inmates. By taking a
16 look at the data--

17 COUNCIL MEMBER VALLONE: [interposing]
18 That's still within general pop. So now you-

19 DEPUTY COMMISSIONER THAMKITTIKASEM:
20 That's right. So essentially what we did is take a
21 look more on the actual factors that may lead to
22 violence, gang membership. Kind of previous actions
23 within the jails, actions that happened outside of
24 the jails to kind of focus in on that population one
25 just from a risk assessment upon entering. Once

2 entering, we have also now focused more on
3 investigative teams and intelligence teams within our
4 interviews post-incident and pre-incident to try to
5 identify and house those populations a bit better.
6 We've been tiers of housing that are more focused on
7 those special populations. We recently under this
8 administration created an enhanced supervision
9 housing that focuses on some of those who have long
10 histories of violence within our jails, and have not
11 been able to be--You know, they may move into punitive
12 saying come out and go back into punitive because the
13 violence is repetitive. So we focus on a longer term
14 housing process, and at the same time, we've also
15 been trying to expand the training so that officers
16 given and better understand the type of things that
17 they should be looking for that they can raise up to
18 the Intelligence Bureau.

19 COUNCIL MEMBER VALLONE: That probably
20 could be a whole set for a hearing, and it just--it
21 just triggered probably a hundred questions on that,
22 but I don't want to get into it right now. I think
23 Chair Crowley's beginning statements about increased
24 statistics on stabbings and some of the crime how can
25 we with this challenge--creation of different tiers of

2 housing is it working? So if incidents are on the
3 rise for the challenging part of the inmate
4 population, are they on the rise in these areas that
5 we've—we've created for the most dangerous setting on
6 the Island?

7 DEPUTY COMMISSIONER THAMKITTIKASEM: So
8 two things. I think to—to counterbalance, I think
9 what we've done is we've tried to focus attention on
10 both sides. One, within our high custody kind of
11 population we also recently started up restart units.
12 Things that we believe could focus in a lot of
13 attention on inmates, improved programming, better
14 facility maintenance without the capital, at least
15 kind of making—fixing the cell doors, ensuring that
16 they're kind of proper working security measures in
17 those areas. Better trained staff, and within those
18 areas roughly around 1,000 inmates are housed now in
19 restarted units. We've had dramatic decreases in
20 instances across the board, and then on the other we
21 start off our enhanced supervision housing, and I'll
22 be very honest. In the initial first couple of
23 months didn't see a lot of headway in the number of
24 instances, but recently with proper inclusion of
25 staff training and better programming, we have

2 started to see changes in those housing areas. The
3 level of infractions are lower than a year ago in
4 February and March when we first started the program,
5 and also the violent instances have also kind of
6 decreased. So, all-

7 COUNCIL MEMBER VALLONE: Has that helped
8 the numbers come down in the general population areas
9 or—because my hope is there—there are folks that we
10 know we're trying to protect that have had to make
11 bail or one time, and also being put in the same
12 world of folks who have been there month after month.
13 And—and we need to protect--

14 DEPUTY COMMISSIONER THAMKITTIKASEM: Yes.

15 COUNCIL MEMBER VALLONE: and so that's
16 why I'm very concerned about that.

17 DEPUTY COMMISSIONER THAMKITTIKASEM:

18 Yeah, we believe we've seen significant kind of
19 impact on kind of the serious injuries, but obviously
20 it hasn't impacted kind of overall use of force at
21 this point broadly, and we also have, you know,
22 openly problems with weapons within our facilities,
23 and we need to kind of figure out collaborative ways
24 to kind of deal with addressing and catching those
25 weapons.

2 COUNCIL MEMBER VALLONE: Well, thank you
3 for that, and I look forward to some of the increased
4 data on the cameras, staffing, and the infrastructure
5 at the next hearing. Thank you.

6 CHAIRPERSON CROWLEY: Can you tell me
7 about the searching of inmates for weapons or
8 contraband? It seems you've recovered—you're
9 recovering 50% more weapons than you were last year,
10 which is a good thing.

11 COMMISSIONER PONTE: Yes.

12 CHAIRPERSON CROWLEY: But your searches
13 are down. However, I wanted to specifically know if—
14 if you got those TSA style machines going?

15 COMMISSIONER PONTE: So, we—we did—we
16 will have the TSA style machines. It's the typical
17 machine that we all go through when we go through the
18 airport--

19 CHAIRPERSON CROWLEY: With—

20 COMMISSIONER PONTE: --it will not—

21 CHAIRPERSON CROWLEY: Yeah, right.

22 COMMISSIONER PONTE: --we—we will soon

23 so—

24 DEPUTY COMMISSIONER THAMKITTIKASEM: Yes.

25 So essentially we have gone through and we're

2 functioning (sic) off the GSA schedule, and we're
3 waiting.

4 CHAIRPERSON CROWLEY: What does that
5 mean?

6 DEPUTY COMMISSIONER THAMKITTIKASEM: The
7 GSA Schedule is federal tracking.

8 COMMISSIONER PONTE: You don't have to
9 reschedule.

10 DEPUTY COMMISSIONER THAMKITTIKASEM:
11 Yeah, we don't have go through that because TSA
12 already has those machines under a GSA Federal
13 Contract Schedule. They work here in New York. We
14 have to go off of that schedule because typically
15 cities haven't and New York City hasn't bought that
16 machine. So we need to go through the federal
17 contract.

18 CHAIRPERSON CROWLEY: Are you aware that,
19 Commissioner, shortly after you became the
20 Commissioner the Department of Investigation arrested
21 some of your employees within the department for
22 brining in contraband, and upon the press release of
23 that announcement that staff was caught bringing in
24 contraband, you agreed two years ago to get those
25 machines. I could bring it up in the press release,

2 but two years ago the Department said through this
3 Department of Investigation press release that you
4 were going to get these TSA style machines. You were
5 also going to increase the number of K9s sniffing and
6 smelling for contraband. Has that happened? Have
7 you had more K9s working?

8 COMMISSIONER PONTE: So we--we--we've
9 greatly expanded our K9 operation both for staff and
10 inmate searches. You know, the--I'm not sure what--

11 CHAIRPERSON CROWLEY: But like from what
12 to what? What was it prior to that? Are you--are you
13 familiar with the press release that I'm talking
14 about?

15 DEPUTY COMMISSIONER THAMKITTIKASEM: So
16 let's talk about the K9s first only because I--

17 CHAIRPERSON CROWLEY: Because that would
18 be--

19 DEPUTY COMMISSIONER THAMKITTIKASEM: --
20 think there is a mistake in--in how we did not know
21 that the TSA machines that are currently used. I
22 think we were referencing the original body scans--

23 COMMISSIONER PONTE: The body scans is
24 one of them.

2 DEPUTY COMMISSIONER THAMKITTIKASEM: --
3 that we wanted to move, but unfortunately New York
4 State doesn't allow us to use that technology. So,
5 let's--let's deal with the K9--

6 CHAIRPERSON CROWLEY: Yeah, what it said
7 is just like that. Was TSA dialed? (sic)

8 DEPUTY COMMISSIONER THAMKITTIKASEM:
9 Because previously TSA had used that radiation body
10 scanner within their--

11 CHAIRPERSON CROWLEY: [interposing] Did
12 you get--so you approved you--

13 DEPUTY COMMISSIONER THAMKITTIKASEM: It
14 would be a little different.

15 CHAIRPERSON CROWLEY: So two years ago
16 you would you had been--you improved your scanners two
17 years ago? After that report--

18 COMMISSIONER PONTE: No.

19 CHAIRPERSON CROWLEY: --was there any
20 improvement of scanners?

21 COMMISSIONER PONTE: No.

22 CHAIRPERSON CROWLEY: Okay, but you do
23 realize--

24 DEPUTY COMMISSIONER THAMKITTIKASEM: We
25 found we cannot use them.

2 CHAIRPERSON CROWLEY: --that--that was in
3 2014.

4 COMMISSIONER PONTE: Correct.

5 DEPUTY COMMISSIONER THAMKITTIKASEM: Yes.

6 COMMISSIONER PONTE: And we--we attempted
7 to file leg--we have filed legislation to change the
8 law so we can use those body scanners that we
9 actually have in place in most of our buildings.

10 CHAIRPERSON CROWLEY: I don't understand
11 why the DOI Commissioner would say that you were
12 going to use them, and then you didn't use them. Two
13 years ago, you said you were going to get more
14 sophisticated scanners whether it be the TSA ones or
15 the ones you were referring to. You still didn't get
16 them, and here we are today, you still do not have
17 them.

18 COMMISSIONER PONTE: The TSA scanners are
19 not as effective as the body scanners are. They
20 won't detect the weapons that we want to detect, and
21 that's one reason that we have not gone to those
22 immediately. [background comments]

23 CHAIRPERSON CROWLEY: You were--the
24 Department are you going to--are you saying to this
25 committee today that you will definitely purchase

2 scanners ones that you don't have right now that will
3 have better technology to detect weapons and other
4 contraband?

5 COMMISSIONER PONTE: The TSA style
6 scanners will not detect the kinds of contraband that
7 we like to detect. They'd be a little better than we
8 currently have, but not the body scanners that we
9 need.

10 CHAIRPERSON CROWLEY: [interposing] And
11 when do you think you'll get those scanners?

12 COMMISSIONER PONTE: It's just a matter
13 or the purchasing process.

14 DEPUTY COMMISSIONER THAMKITTIKASEM: Yes,
15 right after—we'll give you an update after we talk to
16 the GSA on kind of allowing for the purchases.

17 CHAIRPERSON CROWLEY: Okay, because that
18 was a part of the Mayor's press release as well going
19 back to August. So the Mayor was a part of the press
20 release two years ago as well, and so, you know,
21 August was three months ago, but you still do not
22 have--

23 COMMISSIONER PONTE: But the--

24 CHAIRPERSON CROWLEY: [interposing] It
25 doesn't seem like you've made any progress since

2 August. I'm just—it's-it's not even a laughing
3 matter. It's just every single day people are
4 getting stabbed, hurt and officers as well and what
5 bothers me, too, is that what I hear from officers
6 because they've come to the committee and said that
7 an officer could be slashed, and it becomes not a
8 serious assault, it becomes a logbook. And so, why
9 you say oh, well, our assaults are—our assaults are
10 going down, we know the level of violence—of violence
11 is undeniably going on, but then the way it's
12 classified, you have staff questioning the way you
13 classify those assaults. If an officer is stabbed or
14 slashed, is that a serious assault?

15 COMMISSIONER PONTE: No, it's serious.

16 CHAIRPERSON CROWLEY: It is always a
17 serious assault?

18 COMMISSIONER PONTE: Yes.

19 CHAIRPERSON CROWLEY: How about when an
20 officer is punched in the face, and has bruising
21 possibly?

22 DEPUTY COMMISSIONER THAMKITTIKASEM: If
23 it results in injury yes.

24 CHAIRPERSON CROWLEY: Isn't bruising an
25 injury?

2 DEPUTY COMMISSIONER THAMKITTIKASEM: I'm
3 not a medical officer, I just-

4 CHAIRPERSON CROWLEY: [interposing] A
5 black eye, a black eye? Unless something is broken?
6 What-what-when is it's looked at kind of serious?

7 COMMISSIONER PONTE: Well, bruising-
8 bruising-multiple bruising can do it under--under the
9 criteria, that there's obviously stitches, broken
10 bones, a fractured tooth and things like that. So
11 it-it-it's really determined ultimately by the-by the
12 injury report, but yes, if it has any of those, it's
13 absolutely-it would be considered obviously as often
14 said either way--

15 CHAIRPERSON CROWLEY: Right.

16 COMMISSIONER PONTE: -but the injury part
17 if there's a use of force we write a in there. (sic)

18 CHAIRPERSON CROWLEY: So somebody could
19 be sliced with a scaffold and it may not require
20 stitches and that's probably why you would put that
21 in there in the logbook.

22 COMMISSIONER PONTE: No, no, essentially
23 a laceration counts as a serious injury.

24 CHAIRPERSON CROWLEY: So what happens to
25 staff that document the assaults in a way that

2 they're downplaying them into a logbook and not
3 making them serious injuries?

4 COMMISSIONER PONTE: I-I don't know what
5 you're actually referring to, in all due respect-

6 CHAIRPERSON CROWLEY: Yes.

7 COMMISSIONER PONTE: --but I can tell you
8 that we take very seriously any obviously assault on
9 staff and any allegation that something is not being
10 called what it. I'll say it like that, and we take
11 that very seriously.

12 CHAIRPERSON CROWLEY: Good. Okay.

13 COMMISSIONER PONTE: And there's a
14 medical review--

15 CHAIRPERSON CROWLEY: [interposing] I-I
16 will bring one.

17 COMMISSIONER PONTE: And there's a
18 medical review, too. So it's not just what the
19 officer says. It's that they go into medical and
20 seeing where the injuries are, there's a piece of
21 classifying it.

22 CHAIRPERSON CROWLEY: I'd like to
23 recognize Council Member Lancman followed by Council
24 Member Cabrera. Council Member Cabrera first.

2 COUNCIL MEMBER CABRERA: Thank you. Thank
3 you so much. I just have one question. It's in
4 regards to the percentage of—Let me rephrase that.
5 How many inmates command about, let's say 80% of all
6 the assaults, embolism, assault against inmates,
7 officers and vandalizing? [pause]

8 DEPUTY COMMISSIONER THAMKITTIKASEM:

9 Sorry, just to clarify, just to—

10 COUNCIL MEMBER CABRERA: So—so how many--

11 DEPUTY COMMISSIONER THAMKITTIKASEM:

12 [interposing] I'm not sure how many there are.

13 COUNCIL MEMBER CABRERA: --how many

14 inmates.

15 DEPUTY COMMISSIONER THAMKITTIKASEM: I

16 have to--

17 COUNCIL MEMBER CABRERA: Yes, so let me

18 rephrase it.

19 DEPUTY COMMISSIONER THAMKITTIKASEM:

20 Yeah.

21 COUNCIL MEMBER CABRERA: Good. No

22 problem. So how many inmates do you have that are

23 committing about 80% of all the attacks, assaults

24 against another inmate, against another correction--

25

2 against an officer, against—and also destruction
3 property in Rikers?

4 DEPUTY COMMISSIONER THAMKITTIKASEM: I
5 think to be very honest with you, Council Member, I'm
6 not sure if I can answer that question because I
7 haven't looked at it in that breakdown. I know for a
8 while when we did the analysis there were a good 7%
9 of the population that had repeated levels of
10 violence, and that's kind of fights to assaults to
11 staff, but the destruction and the other parts I'm
12 not sure, and I haven't done that analysis. So I
13 can't—can't respond. If—if you want to send it to us
14 I'm certainly happy to take a look a bit more of what
15 that would be.

16 COUNCIL MEMBER CABRERA: Because let's—
17 let's put the destruction of property to the side. I
18 hear that—that you have maybe about around 20 inmates
19 that create most of, you know, assaults and attacks
20 against other inmates, and they're the ones who tend
21 to put their place on the edge, and—and if that is
22 so—let's assume that it's so, what are we doing with
23 these 20 inmates or so?

24 COMMISSIONER PONTE: Well, first off,
25 that's not true. We have probably about 20 or 30

2 inmates that are more problematic that frequently
3 commit a number of assaults.

4 COUNCIL MEMBER CABRERA: Okay.

5 COMMISSIONER PONTE: We have created
6 facilities and our west facility that will be moving
7 to the BLC to ask for a rule change to manage those
8 inmates in a better appropriate setting so they don't
9 recommit these incidents over and over.

10 COUNCIL MEMBER CABRERA: So when is that,
11 Commissioner? When is that slated to happen so we
12 could run more--

13 COMMISSIONER PONTE: [interposing] Well,
14 it's already--in most cases it's already happened.
15 Those inmates are there. We're asking for a rule
16 change fairly soon with the Board of Corrections so
17 we can continue to do it.

18 COUNCIL MEMBER CABRERA: So the rule
19 change essentially will give you permission to--

20 COMMISSIONER PONTE: [interposing] Keep
21 those inmates separate, and manage them individually.

22 COUNCIL MEMBER CABRERA: On a permanent
23 basis?

24 COMMISSIONER PONTE: Yes.
25

2 COUNCIL MEMBER CABRERA: Because right
3 now you only have the power to do it on a temporary
4 basis?

5 COMMISSIONER PONTE: Well, it's only
6 punitive segregation really and then ESA until to
7 where this is more restrictive than any of the
8 housing that we currently have, and it's all
9 individually assigned.

10 COUNCIL MEMBER CABRERA: Okay. I'm happy
11 to hear that. I mean anything to protect the other
12 inmates. I mean if you have, you know, a group of 20
13 or so that are making—it's hard enough being at
14 Rikers, and to make life impossible for other inmates
15 and officers is something that concerns me. And, I'm
16 so glad to hear that you're—you're making positive
17 moves. The—my last question is I—I believe that
18 environment affects how we act. How many of—of the
19 facilities are air conditioned? [background
20 comments]

21 DEPUTY COMMISSIONER GROSSMAN: I—I don't
22 know that I could say all. I mean we have several.
23 I don't—I don't know the exact ones at this time.

24 COUNCIL MEMBER CABRERA: Is it a small
25 number?

2 COMMISSIONER PONTE: A small number, yes.

3 COUNCIL MEMBER CABRERA: A very small
4 number. I mean I'm just thinking about I've been
5 around. Let's say I'm a male. I'm with hundreds and
6 hundreds, locked up, you know, your freedoms have
7 been taken away. We're—we're not judging that piece.
8 It's 100 degrees, and you're inside in the summer,
9 and sometimes it goes for days. I mean what kind of
10 effect does that have on I mean everyone who's
11 working there among inmates, and can you give me a
12 comparison let's say with other municipalities as--as
13 to whether they're—they have facilities that are air
14 conditioned.

15 COMMISSIONER PONTE: So all states are
16 different. For us our facilities are fairly old, and
17 that's a—a big factor. We've looked at air
18 conditioning because there was a—a prior lawsuit and
19 the cost of air conditioning in some of these old
20 buildings would be astronomical. So I mean across
21 the country by state it's different. You know, most
22 states do not air condition jails. Mostly your high-
23 rise jails are air conditioned, but because of the
24 inability to, you know, to ventilate through windows
25 as—as other places. But it's—it's kind of a by

2 chance. I don't know the percentage, but I would
3 say—I would guess a very small percentage of the
4 jails across the country are—are air conditioned.

5 COUNCIL MEMBER CABRERA: What—what do you
6 estimate it would cost to air condition?

7 COMMISSIONER PONTE: We've—I've been down
8 there.

9 DEPUTY COMMISSIONER GROSSMAN: I mean and
10 I don't even know if it's necessarily the cost. It's
11 just the infrastructure is not amenable to making all
12 those changes. I do want to say that I think we have
13 at least four facilities that have air conditioning.
14 I can get you a more specific number. I would also
15 add that there—we have been in compliance with our
16 obligations under Arbitration (sic) and Consent
17 Judgment, which—which govern the air—air conditioning
18 and how we deal with heat sensitive inmates in terms
19 of any time there's a heat sensitive inmate, we have
20 a process in place to make sure that they are placed
21 appropriately in the proper housing.

22 COUNCIL MEMBER CABRERA: I'm just going
23 to give my two cents and I close with this. I—I know
24 what it is when it gets hot, and—and you have freedom
25 to go some—somewhere, and when you're locked up and

2 it's 100 degrees and you're surrounded, a lot of
3 people who are sweating up a storm, it just, you
4 know, it-it-it-this is when people start getting
5 irritable, and frustration begins to set in, and it's
6 just-it makes it, I--I think, a volatile situation
7 because environment I-I do believe affects how we
8 react often. So thank you so much, and--

9 COMMISSIONER PONTE: [interposing] Thank
10 you.

11 COUNCIL MEMBER CABRERA: --Madam Chair,
12 thank you so much.

13 CHAIRPERSON CROWLEY: Thank you. Thank
14 you, Council Member. There are a number of issues
15 that haven't been addressed today that were within
16 the Monitor's Report such as the department using too
17 much of the chemical spray, too many head strikes.
18 Not using handheld video footage when required. And
19 then no systematic identification of patterns and
20 trends, and I think I was getting to that when I was
21 asking about that fight with most of the Officer--
22 Officer Cadro was hurt. So let's--let's just answer
23 those four areas just to highlight it. There must be
24 a correlation with too much use of spray, and what
25

2 you're saying is a—a decrease in force. Do you think
3 that that's true?

4 COMMISSIONER PONTE: That--?

5 CHAIRPERSON CROWLEY: Why—why are there—
6 why are there too much chemical spray being used?

7 COMMISSIONER PONTE: Well, I think too
8 many incidents in general, as you've pointed out.

9 So, you know, in most places the—the volume of
10 incidents for us is very high. So that has to get
11 better. Officers using chemicals or involved in
12 using sprays--

13 CHAIRPERSON CROWLEY: [interposing] But
14 I understand that we had a model for the—the rest of
15 the country so that they—(sic)

16 COMMISSIONER PONTE: Officers using
17 chemical to resolve these incidents are also higher.
18 We believe we can make improvements in both of those
19 areas.

20 CHAIRPERSON CROWLEY: No handheld video
21 footage when required? Where is it? Do you have any
22 cameras that officers can use?

23 COMMISSIONER PONTE: So we've—we added
24 prior to Nunez that officers from proteins. When we
25 dispatch a protein that the handheld would go with

2 the protein. We—we added that. What he's pointing
3 out is there is that sometimes the cameras are, you
4 know, one is deployed that's discipline. Or, if they
5 are deployed, they're not operated correctly. That's
6 also possibly training or discipline, and so we've
7 seen adjustment in the use of these instruments. Of
8 that, you know, we work very hard to train staff, to
9 reinforce the rule of handheld. We believe as we go
10 to the Board examines and obviously the handheld goes
11 along with the requirements.

12 CHAIRPERSON CROWLEY: But the report says
13 no. Did you use it? Have you used it?

14 DEPUTY COMMISSIONER KUCZINSKI: Handheld
15 yeah.

16 COMMISSIONER PONTE: Handheld? Yeah,
17 we've been using them for quite a while. Yeah.

18 CHAIRPERSON CROWLEY: It says you used it
19 from March from March to July.

20 COMMISSIONER PONTE: Yes.

21 DEPUTY COMMISSIONER KUCZINSKI: Yes it's
22 a-like-as the Commissioner said, it's more, usually
23 initiated obviously if it's operated incorrectly or
24 it wasn't working or some other reason. But I—I—if—
25 if I may, so far the categories you mentioned are the

2 very same categories when—when I mentioned the
3 Commissioner's fall(sic) before those categories are
4 in there for the immediate review on a timely basis
5 so that we could see and try to identify patterns as
6 you're getting it.

7 DEPUTY COMMISSIONER GROSSMAN: [off mic]

8 And, Madam Chair, the [on mic] the—the Compliance
9 Report didn't say that—said that there were instances
10 where they were not used. And what we have done is
11 we've revised some of our training. We have made
12 sure we added a quality assurance component where
13 we've done some auditing. And we've also I
14 understand an Investigation Division when they see
15 some violations will issue command discipline is when
16 appropriate.

17 CHAIRPERSON CROWLEY: How have your
18 classifications changed? Classifications, who's
19 housed where to adhere to—to the Nunez Settlement?
20 Have you addressed—you've addressed classification?

21 DEPUTY COMMISSIONER THAMKITTIKASEM: Yes,
22 so I'm not sure and I'll let Heidi talk to how it
23 measures up to the Nunez requirement, but obviously
24 what we've done is we've created the new housing and
25 classification systems I've spoken to before. It

2 focus on the propensity of violence. We've rolled it
3 out particularly within our model and restart units,
4 and also focus on gang balancing within that
5 classification.

6 CHAIRPERSON CROWLEY: How-how do you gang
7 balance? How many different gangs are there and
8 what-?

9 COMMISSIONER PONTE: There's quite a few.
10 So we-

11 CHAIRPERSON CROWLEY: What is that,
12 three, ten?

13 COMMISSIONER PONTE: Probably 20 or 30
14 with different sets. So gang balancing for us is
15 trying to pick a couple sets that aren't actually in
16 conflict at this point in time. Tell them I'm going
17 in. That there's going to be other sets or of rival
18 gang or another gang in that housing unit, and the
19 exploitation is for you guys to get along while you
20 live there, and we've been very successful in that
21 regard. So not-some gangs we could not put together.
22 I mean they would just have problems right away.
23 Other gangs are-are sets of gangs we believe in-
24 emitting where one doesn't dominate the other. We've
25 been reasonably successful.

2 CHAIRPERSON CROWLEY: So you put members
3 of the same gang together?

4 COMMISSIONER PONTE: No. Well, I mean
5 small numbers, but we've put members of an opposite
6 gang together in that same housing unit, and it was
7 part of just analyzing how many? You know, is it
8 five to five, three to three, and then the rest of
9 the unit would be non-SRG, Non-Security Risk--

10 CHAIRPERSON CROWLEY: [interposing]
11 Right, and this is mostly 16 through 19 or 16 through
12 21-year-olds living with--with that gang?

13 COMMISSIONER PONTE: This is--No, these--
14 these are actually adults, not--not the younger
15 population.

16 CHAIRPERSON CROWLEY: The younger
17 population are they divided amongst them?

18 COMMISSIONER PONTE: No. So 16 and 17-
19 year-olds are not. They are less--less or gang
20 disciplined--I mean there's not--not as much involved
21 in gangs at that point in time. They don't identify
22 as much as a 16 or a 17-year-old. Now, at 18 or
23 older, young adults do. So that's an issue for that
24 we've improved also.

2 CHAIRPERSON CROWLEY: So you have the
3 intelligence to know that there are a lot of
4 different gangs. So do you have the intelligence to
5 know who the gang leader is, and is the gang leader
6 telling other gang members to do violent acts?

7 COMMISSIONER PONTE: Yes, and we—we need
8 to do much more in that regard. We're setting up a
9 separate Intel Unit that that will be their full-time
10 job just to gather that info, the stuff that happens
11 on the street as it comes into the jail we'll know
12 that in advance or, you know, we—you know, we have
13 the ability to listen to phone calls. We don't have
14 the staffing in place to listen to as many calls as
15 we believe will be beneficial to us

16 CHAIRPERSON CROWLEY: What of the 16 and
17 17-year-olds, how many do you think are a part of
18 gangs? Percentage? It's not really a problem? It
19 is a problem?

20 COMMISSIONER PONTE: I mean they're
21 affiliated, but just not as—as engrained in the gang
22 culture. Any ideas there?

23 CHAIRPERSON CROWLEY: Yeah, you just have
24 to identify—identify yourself.

2 DEPUTY COMMISSIONER TOULON: Good
3 morning. I'm Errol Toulon, Jr., Deputy Commissioner
4 of Operations. Usually, with the 16 and 17-year-old
5 populations, they are more a recruit. So they will
6 go into certain sets of the street before they
7 migrate into larger populations as we know is the
8 Crypts, the Bloods, the Trinitarios. So, they are a
9 small subset of these—the population that you're
10 describing.

11 CHAIRPERSON CROWLEY: So the three gangs
12 that you said make up the majority of gang members
13 within the jail population?

14 DEPUTY COMMISSIONER TOULON: No, there
15 are a few more. I would say there's about ten
16 primary gangs, if I'm—if I'm recalling correctly, but
17 the—the—there are more crews and subsets, and you
18 have to remember under the gang of the Bloods, there
19 may be ten subsets of those bloods. There may be ten
20 subsets of Crypts or Trinitarians. So it's just not
21 those or an overarching three large gangs—gang—gang
22 sets.

23 CHAIRPERSON CROWLEY: Okay, thank you.
24 So now, part of the Nunez settlement is that there's
25 more monitoring of facilities. I'm curious to know

2 how you're keeping track of staff, monitoring
3 facilities, and also the report. It called for more
4 use of supervisors monitoring. So, a lot is
5 happening. Data gives good information. How-how are
6 you keeping track of what staff is doing and-and how
7 much more are you going to utilize technology in
8 helping you to manage what's happening?

9 DEPUTY COMMISSIONER GROSSMAN: Right,
10 well we are—we are working on a case management
11 system, new development of the case management
12 system, which would allow us to track use of force
13 incidents, use of force investigations, disposition
14 of trial among other things. And so that is
15 something that's—that we're working on, but in the
16 interim there's many-

17 CHAIRPERSON CROWLEY: [interposing] So
18 that's for officers that have disciplinary
19 investigations or actions.

20 DEPUTY COMMISSIONER GROSSMAN: It would
21 be everything to do with use of force, and how at the
22 touch points and what-how we operate. So how it
23 starts with the use of force with an investigation.
24 So then if there's a need—if there's a substantiation
25 of that investigation, and there's a need for it to

2 be referred to trials, then trials will receive it,
3 and there will be a way of tracking that as well all
4 the way to litigation.

5 CHAIRPERSON CROWLEY: But how do you know
6 about staff making the rounds and more frequent
7 rounds that the report was asking to—How are you
8 getting documentation or proof that what Nunez was
9 asking for when it comes to officers? Watching
10 what's happening in facilities and supervisors also
11 just putting a higher level of surveillance? How are
12 you making sure that's happening?

13 DEPUTY COMMISSIONER GROSSMAN: Well, I—

14 COMMISSIONER PONTE: [interposing] So we
15 can, you know, with our camera system we can
16 obviously monitor real time. We do do that. We have
17 several supervisory levels, chiefs and officers that
18 monitor real time cameras and can tell, you know,
19 what people are doing or not doing. Part of state
20 rules requires us to have which is—which is called a
21 watched tour system, which is an electronic system.
22 When the officer makes rounds, they—they have to make
23 the rounds every half hour, and they have to
24 electronically sign in, and that system will allow us
25 to look remotely at rounds, the frequency of rounds

2 and--and make adjustments. So that system is in place
3 at one facility or two facilities at this point.

4 What we need to--

5 CHAIRPERSON CROWLEY: [interposing]

6 That's what they said RNDC.

7 COMMISSIONER PONTE: Right, and we're
8 going to need to roll that out through all
9 facilities.

10 CHAIRPERSON CROWLEY: [interposing] Now,
11 what are--what are the roles of supervisors making
12 rounds there?

13 COMMISSIONER PONTE: Well, supervisors
14 have to sign in the logbook, and those rounds are
15 reviewed by the Tour Commanders, and the Warden and
16 the Deputy Warden.

17 CHAIRPERSON CROWLEY: So how frequently
18 do supervisors have to make rounds on a tour?

19 COMMISSIONER PONTE: Three. They have to
20 make three rounds.

21 CHAIRPERSON CROWLEY: [pause] So your 16
22 and 17-year-olds are no longer with adults, correct?

23 COMMISSIONER PONTE: That's correct.

24 CHAIRPERSON CROWLEY: At any time during
25 the course of--

2 COMMISSIONER PONTE: [interposing] They
3 can be in certain areas under supervision, but they
4 can't be in areas alone with 16 and 17-year-old
5 adults.

6 CHAIRPERSON CROWLEY: But situations have
7 happened, right? They were alone? I heard about a
8 fight that happened in the barber shop where--

9 COMMISSIONER PONTE: [interposing] Yes,
10 that's correct. That did happen. Yes.

11 CHAIRPERSON CROWLEY: So 16 and 17-year-
12 olds were not supervised and there were adults there?

13 COMMISSIONER PONTE: I know the
14 supervisor and I know the fight but there was--there
15 was officers in the--in the shop.

16 CHAIRPERSON CROWLEY: Uh-huh.

17 COMMISSIONER PONTE: So they can be in
18 proximity so long as they're supervised. That's
19 legal.

20 CHAIRPERSON CROWLEY: And there was an
21 adult gang member that told another gang member to do
22 an assault, I guess or something like that happened.

23 COMMISSIONER PONTE: I don't know. Do
24 you know?

2 DEPUTY COMMISSIONER THAMKITTIKASEM: No,
3 I don't.

4 CHAIRPERSON CROWLEY: Can you talk more
5 about this West facility. I've—I've heard more
6 recently about it being used. Has it always been
7 used? Through those facilities how many—how many
8 units or how many people are—are housed in---how many
9 inmates are housed in that facility in that facility?

10 DEPUTY COMMISSIONER THAMKITTIKASEM: So,
11 the West facility had traditionally been built for
12 infectious diseases, and the construct was to have
13 cells that had a cell, and then an attached day room
14 for which inmates could be housed particularly for
15 different infectious diseases. They would not allow
16 them to kind of—allowed them to kind of get services
17 and—and participate, but without having to actually
18 mingle with other inmates or staff. And recently, as
19 we moved toward kind of dealing with it, I think the
20 question was asked about some of our more
21 problematics. We had two subpopulations for which we
22 felt, you know, separating and minimizing how much
23 they mingled during services would be helpful. One,
24 those who are persistently violent, and those who are
25 particularly problematic attacking other inmates and

2 other staff. And then two, a subpopulation of people
3 who are under extensive kind of protective custody
4 for notoriety or media attention. We have several
5 inmates who may have been charged with a kind of—a
6 particular double violence or assault on certain
7 populations of minors and other people for which the
8 reputation goes out and there are automatic, you
9 know, retaliation against those inmates. So we want
10 to separate those inmates as well from the general
11 population because of the fear of danger to the
12 inmate themselves. So these two populations we've
13 housed in the west facility because of the structure
14 that that specific facility built for infectious
15 diseases keeps and prevents kind of this interaction.

16 CHAIRPERSON CROWLEY: [interposing] Does
17 anyone have an infectious disease?

18 DEPUTY COMMISSIONER THAMKITTIKASEM:
19 There are parts of it for—focused on infectious
20 disease, yes.

21 CHAIRPERSON CROWLEY: Do we have any
22 inmates with infectious disease?

23 COMMISSIONER PONTE: [interposing] Well,
24 we're in there as well, and first of all, I don't as
25 if we have any.

2 CHAIRPERSON CROWLEY: So how many inmates
3 are housed at West facility?

4 DEPUTY COMMISSIONER THAMKITTIKASEM: The
5 last count I had was around 27.

6 CHAIRPERSON CROWLEY: Okay. So you have
7 four per unit?

8 DEPUTY COMMISSIONER THAMKITTIKASEM:
9 [interposing] In the-in the protective custody and
10 the violence kind of categories.

11 CHAIRPERSON CROWLEY: And with the
12 inmates are the other ones in Punitive Segregation?

13 DEPUTY COMMISSIONER THAMKITTIKASEM:
14 Well, so they are people who have in the past
15 qualified for punitive segregation, punitive
16 segregation being an immediate response to an action,
17 but given the repetitive nature of some of their
18 violence, they may not qualify for punitive stay
19 within the specific timeframe. Like they may have
20 served their time, but they remain a danger because
21 they've assaulted three times and had multiple
22 actions.

23 COMMISSIONER PONTE: But they didn't go
24 punitive seg. They may have been in punitive seg.

2 They can go to punitive seg from that location, and
3 come back to that location.

4 CHAIRPERSON CROWLEY: Okay, I'm getting
5 to the end of my questions, and I'm going to talk--ask
6 a little bit about your programs because--and the
7 budget because I know that we've committed \$100
8 million just to adhering to the settlement, and we've
9 committed five--2-1/2--\$250 million over five years
10 that we've already spent. We've \$100 million between
11 this budget and my--So, how is that money being spent?
12 Where is the bulk of that money going, and then, tell
13 me--I bet some of it is going to programs, and then
14 we'll go into programs. Whatever you want to start
15 talking about first, the budget or the programs.

16 DEPUTY COMMISSIONER THAMKITTIKASEM:

17 Yeah.

18 COMMISSIONER PONTE: You want to?

19 DEPUTY COMMISSIONER THAMKITTIKASEM:

20 Yeah, overall budget. Obviously as the Commissioner
21 stated, we focused on the 14-Point Agenda. A lot of
22 money has been going not just to training, and
23 equipment, but also in terms of some of these
24 maintenance and changes we've had to make within the
25 facilities with the cameras are a huge part of it not

2 just the actual purchasing of the cameras themselves,
3 but the money we've had to spend to install said
4 cameras. We've expanded out classes and, therefor,
5 hired and kind of paid more for our trainers, set up
6 new houses, focused on enhanced supervision housing
7 with the bulk of money that went in there for
8 staffing and the programming that went into that
9 staffing, the maintenance that went into that, and
10 obviously we've been doing a lot more on programming.
11 So I can at least kind of speak a little bit to the
12 programming efforts there.

13 DEPUTY COMMISSIONER SAUNDERS: Good
14 afternoon. My name is Winette Saunders. I serve as
15 the Deputy Commissioner for Youthful Offender
16 Programming. It's a pleasure to be here with you
17 guys today. I just wanted to talk a little about
18 programming. As you may have heard earlier, we've
19 really dedicated a lot of time to the really develop
20 a comprehensive, multi-faceted approach to the-to
21 working with young people who have unique needs. We
22 want to get rid of this cookie cutter approach that
23 we utilized in the past, and really focus on the
24 individualized needs for this population. Some of
25 the highlights I'd like to just point out is the

2 addition of program counselors who are housed
3 alongside officers to facilitate at minimum three
4 hours of programming with young people on a daily
5 basis, five days a week really. In addition—that
6 also includes weekends. In addition to that, the
7 Department's historic re-entry program that just
8 launched November 1st. In the Department's history,
9 which is 120 years, we have never had re-entry
10 services for 16 and 17-year-olds. So we just
11 recently launched that on November 1st. That was—
12 that program will also expand to include 18 to 21-
13 year-olds. In addition to that, I could talk a
14 little bit about our Workforce Initiative. It really
15 provides a really comprehensive portfolio that
16 focuses on career and technical education that will
17 allow for young people to receive introductory—
18 introductory career and technical education in seven
19 different modules because, as you can all agree, that
20 college may not be for everybody. So we want to give
21 kids an opportunity to be exposed to different areas.
22 So while we push education, we also push learning a
23 trade. So, some of the different programming options
24 will include—right now we have cosmetology,
25 carpentry, plumbing, digital literacy. We have

2 culinary arts coming aboard, and we also have
3 building construction and maintenance coming aboard.
4 In addition to that, we are--

5 CHAIRPERSON CROWLEY: [interposing]

6 That's alright. I don't want to hear that.

7 DEPUTY COMMISSIONER SAUNDERS: Sure.

8 CHAIRPERSON CROWLEY: I might forget all
9 that you're saying. So if I am inmate, and I want to
10 learn the plumbing trade--

11 DEPUTY COMMISSIONER SAUNDERS: Yes.

12 CHAIRPERSON CROWLEY: --the program is
13 available.

14 DEPUTY COMMISSIONER SAUNDERS: The
15 program is available if you are exhibiting positive
16 behavior.

17 COMMISSIONER PONTE: [off mic] With
18 positive behavior or something of that nature.

19 DEPUTY COMMISSIONER SAUNDERS: It's the
20 introductory course. So it's 20 hours introductory
21 course, and then upon discharge you can complete it
22 in the community at five different locations, and we
23 also have a community-based component that is
24 overseen by I think Christopher Otterly (sic) that
25

2 will offer job readiness and the continuation of
3 these courses.

4 CHAIRPERSON CROWLEY: And how long have
5 the courses been in place?

6 DEPUTY COMMISSIONER SAUNDERS: So we
7 launched the industry recognized credentials in June,
8 and which in June we had about 288 certifications
9 earned by 18 to 21--18 to 21-year-old population, and
10 it's now ongoing. So right now for this year at the
11 end of this fiscal year we'll have more than 2,100
12 slots available for these types of programming and
13 over 1,500 for industry recognized credentials.

14 CHAIRPERSON CROWLEY: And if I'm an
15 inmate, and I complete one and I get--

16 DEPUTY COMMISSIONER SAUNDERS:
17 [interposing] You can go for another.

18 CHAIRPERSON CROWLEY: I can go for
19 another.

20 DEPUTY COMMISSIONER SAUNDERS: As long as
21 you're exhibiting good behavior because it's a
22 incentivized approach.

23 CHAIRPERSON CROWLEY: And--and you could
24 be any age to take the program?

2 DEPUTY COMMISSIONER SAUNDERS: Well, at
3 this juncture, we have focused on our 18 to 21-year-
4 olds. However, our-our young ladies 16 to 21 can
5 receive cosmetology at this juncture, and culinary
6 arts.

7 CHAIRPERSON CROWLEY: But if young lady
8 wants to take a plumbing credential it's not
9 available?

10 DEPUTY COMMISSIONER SAUNDERS: Oh, the
11 plumbing. See, what happens right now is by survey
12 we ask young people what their interests are, and we
13 roll out based on need and based on request. So if we
14 have a number of kids that say I want to do XYZ, we
15 roll out what's-what the interests dictates, if you
16 will.

17 CHAIRPERSON CROWLEY: [pause] So how
18 much money is then spent on the various different or
19 allocated to be spent by the end of this fiscal year
20 on those certified programs?

21 DEPUTY COMMISSIONER SAUNDERS: Well,
22 we've been allocated approximately \$20,000-20-sorry,
23 \$20 million for up to the end of the fiscal year, and
24 that also includes training and different things that
25 really support the programming efforts done.

2 CHAIRPERSON CROWLEY: How often do
3 facilities get put down—on lockdown and the inmates
4 are not able to get to the classes, and you able to
5 hold the class because of the lockdown?

6 DEPUTY COMMISSIONER SAUNDERS: I can say
7 that we've been getting a lot better at this. In the
8 event because this is incentive based, in the event
9 that you are exhibiting good behavior and there have
10 been no incident that involves you and that you are
11 currently taking this class, the facility will allow
12 that class to attend, the class even despite the
13 lockdown of the entire facility.

14 DEPUTY COMMISSIONER THAMKITTIKASEM: [off
15 mic] Sorry [on mic] focusing on responses that
16 isolate within housing units so that lockdowns don't
17 necessarily have to happen facility wide, but so much
18 are focused on specific housing of where an incident
19 happens, and I think for further context for what the
20 Deputy Commissioner said, it's important to note at
21 least that before the Commissioner started, we had
22 less than 45 minutes of available programming to each
23 of the inmates, and a massive amount of that
24 commitment has been to expand that. One school went
25 from three houses to five hours. Programming

2 significantly increased not just with the adolescents
3 and the young adults, but also to the adult
4 population, and we've tried to mix both the hiring of
5 program counselors in the jails who are in the
6 housing units so that we have sustainability, but
7 also contracted out programmings who offer some of
8 these skills and trades. So we have kind of tailored
9 approaches to different parts of the population.

10 DEPUTY COMMISSIONER SAUNDERS: And just
11 to mention, we also integrated a few additional
12 partnerships with higher education institutions. So
13 we have Manhattan College, and now we have Saint
14 Johns. Both of those entities offer college courses
15 to young people on Rikers. In addition to that, we
16 also have a partnership with CUNY, most specifically
17 with La Guardia, and Hostos College that provide hard
18 skills and soft skills, and employment. [pause] And
19 we've also had a significant increase in
20 horticultural programming and enhanced (sic)
21 programming.

22 CHAIRPERSON CROWLEY: We—we recently
23 passed a bill that's going to now law ask for real
24 numbers on the programming. So I'm glad to see that
25 you seem to have done a significant amount of work

2 putting these programs together. I—I hope that
3 they're taking advantage of them, and I hope that
4 they're able to be—you know despite what I hear about
5 teachers going and not being able to have class
6 because of lockdown, I'm hoping that that's not the
7 case, and that—that kids are getting this needed
8 programming. So I have—I have no further questions.
9 Neither does Council Member Vallone. We'll be having
10 more hearings soon. I hope that your violence
11 indicators improve, and—and I appreciate that you're
12 here today to testify.

13 DEPUTY COMMISSIONER SAUNDERS: Thank you.

14 COMMISSIONER PONTE: Thank you. Thank
15 you very much.

16 CHAIRPERSON CROWLEY: Next up, we have
17 the President of the Correction Officers Union Elias
18 Husamudeen. [pause] [background comments]

19 ELIAS HUSAMUDEEN: Good morning, good
20 afternoon, good morning. [coughs] First, I would
21 like to say that I've been coming to these hearings
22 for a long time, and I'm actually going to put you
23 guys in Wheaties box on the box of Wheaties.

24 COUNCIL MEMBER VALLONE: [off mic]
25 Wheaties?

2 ELIAS HUSAMUDEEN: Yes because I truly
3 appreciate the homework.

4 COUNCIL MEMBER VALLONE: I need to lose
5 weight if I'm going on the Wheaties box.

6 ELIAS HUSAMUDEEN: That--that [laughter]
7 But I appreciate the homework. I appreciate the line
8 of questioning. Part of my testimony when I wrote it
9 was to say to the committee, you know, to question
10 the committee as to what it is that you guys have
11 done, or what are you doing. The one thing that I
12 really would ask is that today, Madam Chairperson,
13 you--you guys today really asked good questions, and
14 right questions. And as you can see, when you ask
15 the right questions and good questions for whatever
16 reason, a lot of times the agency don't seem to be
17 able to--to have an answer for you. When I read the
18 second--when I read the second report of the Monitor,
19 one thing that to me was he said in his report that
20 violence was continuing to go up. This is what the
21 Monitor said in his second report. So, when you
22 question him about them saying that the violence is
23 going down, and--and the thing is the Monitor gets his
24 statistics from the agency. The Mayor gets his
25 statistics from the agency. We all get our

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2 statistics from the agency, and they're giving us
3 statistics telling us that it's going up. I mean
4 they—they give us statistics saying it's going up,
5 but then they sit in front of us and they do press
6 conferences and press releases saying it's wonderful.
7 You know, you know, it's—it's going down. So, I—I-I
8 really want to thank you. I would also like to if-if
9 it's fine with you, the—the—the President of the
10 Assistant Deputy Warden's, Deputy Wardens Association
11 is here, Marcel Zooby (sp?), if it's okay with you, I
12 would like for him to—to come up and sit with—with
13 the--

14 CHAIRPERSON CROWLEY: Sure. If-if the
15 presidents wants to speak, they just need to fill out
16 a form here and give it to the sergeant-of-arms.

17 ELIAS HUSAMUDEEN: Okay.

18 CHAIRPERSON CROWLEY: Yeah, he--

19 ELIAS HUSAMUDEEN: We're—we're usually on
20 the same page, but I'm not sure what he wants to
21 speak on. Good morning, Chairwoman Crowley and
22 members of the Committee. My name is Elias
23 Husamudeen. I'm the President of the Correction
24 Officers Association ,the second largest law
25 enforcement union in the City of New York, whose

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2 members provide shared custody and control of over
3 9,000 inmates in the nation's second largest jail
4 system. Following the announcement of the Nunez
5 settlement in June of 2015, nearly a year and a half
6 later we are still facing an eruption of jail
7 violence in jail facilities on Rikers Island as well
8 as the borough jails. In fact, the level of jail
9 violence continues to increase even as the inmate
10 population drops to its lowest level in over 30
11 years. As noted in a report from the Comptroller's
12 Office from last year, the Administration keeps
13 pouring money into the problem without seeing any
14 real results or improvements and the COBA couldn't
15 agree more. Since we last testified before this
16 committee in September, numbers correction officers
17 have been viciously assaulted by inmates causing
18 severe injuries, including slashing to the face, the
19 head, broken jaws and trauma to other parts of the
20 body. Also, since our last appearance before this
21 committee, many inmates have been named by other
22 inmates as a result of extremely violent gang related
23 assaults. To illustrate the severity of these
24 incidents, I refer you to the pictures that I brought
25 with me today. I brought pictures with me today.

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2 I'll just hold them up. I didn't bring to actually
3 give out, but these pictures--these are pictures not
4 only of correctional officers, but these are pictures
5 of inmates as well, and these pictures of severe
6 inmates. And basically our message is that--and I'm--
7 I'm straying off for a minute. Basically, our
8 message is that what we say is that no matter what
9 side of the bar your family member is on, everybody
10 deserves to be safe. We're not here to give a--a--a
11 picture that--that--that the world is exploding, but
12 we're also not here to give a picture that we don't
13 have some serious problems that we have to deal with.
14 And to what one of your co-workers said about the
15 2030, it's actually true. Although the Commissioner
16 might say it's not, there is a small population of
17 inmates who are--appear to have the agency and--and by
18 the neck or by their throat, and they don't seem to
19 be able to know what to do with them. Unfortunately,
20 this population is--is--the 16 to 21-year-old actually
21 are--although they're a small part of the population,
22 they're responsible for more than 30% of the--of the
23 violent crime and the crimes on Rikers Island. Out
24 of the last seven correction officers who were
25 assaulted meaning staff, six stitches in the ear,

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2 slashed across the arm. Out of the last seven cases
3 of correction officer's assault, five were done by
4 inmates between the ages of 16 to 21. The other two,
5 one was 27 years old and the other one is 30. And
6 just to go back, these pictures have not been altered
7 or photo shopped. They are quite real, and they were
8 taking immediately after the victims were attacked.
9 There is saying that a picture speaks a thousand
10 words. So, by that measure, these—these pictures
11 speak volumes about how dangerous the city jail are
12 and the danger does not discriminate from threats to
13 staff or threats to inmates, and again like I said,
14 no mater which side of the bars your family is on,
15 they deserve to be safe. We have committed to bring
16 these issues to light in the media to the Board of
17 Corrections and the City Council. We continue to
18 sound the alarm on the epi—the epidemic of violence
19 and we continue to proposed thoughtful policy
20 proposals that if implemented would greatly enhance
21 our war on crime in the city jails. I will touch on
22 those proposals in a minute, but our question today,
23 and like I said in the beginning, you—you pretty much
24 answered that, and all I ask is that you guys just
25 continue to follow up, and—and force them to bring

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2 you the statistics and—and the things that they're
3 saying that is actually happening on the Island. The
4 question on the minds of my members and their
5 families is what has each of you done to make the
6 jails safer for everyone? If you are disturbed or
7 angered by the images I just showed you, the question
8 is what are you doing specifically to address these
9 problems that clearly are not going away any time
10 soon. We are happy to attend these hearings, and
11 outline our members' concern and put a face of the
12 culture of jail violence, but with all due respect,
13 these hearings are quite simply sometimes a waste of
14 time. I don't think it was today, and the concerns
15 expressed at these hearings ring hollow if this body
16 does nothing between now and the next hearing to make
17 the jails safer for both staff and inmates alike. To
18 that end, on behalf of the 9,000 correction officers
19 and their families, I am asking you today, you know,
20 to continue to do what you were doing with it. (sic)
21 And down with the Nunez. The Nunez settlement is a
22 63-page agreement that calls for over a dozen—over a
23 dozen jailed reforms. It is the Department's job to
24 report on the agency implementation of this
25 settlement, and it is our miss—our understanding that

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2 the majority of the reforms proposed it won't be
3 fully implemented until next September. Let's take a
4 look at the recent elimination of punitive
5 segregation for 18 to 21-year-old inmates. As you
6 may or may not be aware, inmates ages 18 to 21 make
7 up 10%, 12% of the city jail population that commits
8 about 30% of the violence. Since the Corrections
9 Department eliminated punitive seg for 16 to 17-year-
10 old inmates a year ago, what have we seen? Slashing
11 and stabbings at the city jails increased 21.3% in
12 Fiscal 2015 to Fiscal 2016, and since this past
13 January over 620 correction officers have been
14 assaulted mostly by inmates between the ages of 21-by
15 inmates age 21 and under. Do any members of this
16 committee honestly believe that eliminating punitive
17 segregation for the other most violent inmate
18 population is really going to reverse these numbers?
19 Are we going to sit idly by and wait for an inmate
20 under 21 and part of a hearing to kill a correction
21 officer or another inmate, or even a visitor before
22 we finally acknowledge that that the Administration
23 is actually contributing to the jail violence
24 epidemic rather than eliminating it? And just to
25 speak basically on what Deputy Commissioner Toulon

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2 said. Basically, he was explaining to you that
3 amongst the 16 to 17-year-olds are not really gang
4 members. Well, whether you want to call them a gang,
5 a crew, a posse, whatever you want to call them,
6 they're a gang at the end of the day. They're gangs,
7 and they're a part of these gangs. Ending punitive
8 segregation is another way of saying it is open
9 season on correction officers and an invitation for
10 inmates to increase their terrorist attacks on
11 correction officers, civilians and other inmates.
12 This administration continues to put their desire to
13 be the first in the nation instead of being the
14 smartest in the nation when it comes to ensuring the
15 safety of staff and inmates alike. The most recent
16 assaults on correction officers were committed by
17 inmates in this age group, and they are routinely
18 assaulted by this population. Maybe other states
19 haven't completely ended punitive segregation. Yet,
20 because they are not in denial about the violence
21 caused by this population, and ending punitive
22 segregation would only cripple our officers' ability
23 to fight crime in the jails and to protect themselves
24 from being assaulted. COBA is acutely aware of the
25 importance of reducing crime, and our members are on

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2 the front lines of crime fighting in the city jail
3 system. In the past year, alone we have intercepted
4 hundreds of weapons from entering our jail
5 facilities, and portrayed the most dangerous inmate
6 gangs, and interceded in vicious inmate on inmate
7 attacks, and many times prevented inmates from
8 literally killing one another, which is something
9 that we do everyday. Just last month two correction
10 officers assigned to OBCC, the Otis Bantum Center one
11 of the largest jails on Rikers were the victims of an
12 inmate attack to assault another inmate. While the
13 inmates involved were protected, ultimately it was
14 the two correction officers who were sent to the
15 emergency room to be treated for their injuries. The
16 incident at OBCC is not an anomaly. In fact, it is
17 quite the norm. Violence is not only a reality, but
18 the dramatic increase in violence has morphed into a
19 full blown crime wave that you of the City Council
20 cannot ignore. Furthermore, while the Administration
21 favors the cherry picking approach of examining a
22 couple of facilities where assaults on staff declined
23 slightly, the reality is that well over 600
24 correction officer were assaulted just within the
25 last year. This is a staggering number, and

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2 certainly not a measurement that reflects that crime
3 is down by any measure in our jails. A 14-Point Plan
4 heavy on programs and light on safety and security
5 will never turn around these numbers, and it will not
6 create the real results that might—that make it into
7 the City Hall media talking appoint. At—at the end
8 of the day, what this union and its members we are—
9 we're definitely not against the programs. We're not
10 against programs. We—we've actually recommended
11 programs, and—and things that we feel can be done to
12 assist the inmates and their re-entry or while
13 they're doing their time. The problem that we have,
14 and this is what we said to the Mayor, this is what
15 we said to the Council and to the Commissioner, any
16 program that does not take into consideration of
17 safety, if safety is not the first priority, then
18 there's a problem with us with the program. Because
19 if the inmates are not safe, the officers are not
20 safe and if civilians who end up getting teeth
21 knocked out and—and—and getting injured to the point
22 where they're never going to come back to work, and
23 they're never going to have a normal life, then we
24 can have as many programs as we want, but if they're
25 not safe, then the numbers are never going to go

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2 down. A 14-Point Plan heavy on programs and light on
3 safety and security will turn around these numbers,
4 and it will—they will not create the real results
5 that might make it into City Hall media talking
6 points. Nor will a 14-Point Plan heal the wounds of
7 officers who were viciously slashed, stabbed and
8 beaten and will likely wear these scars for the rest
9 of their lives. Our members are spread thin and
10 increasingly being called on to do much with—with
11 virtually no support. How does the biggest city in
12 the nation turn its back on over 9,000 men and women,
13 fathers and mothers, sisters and brothers, sons and
14 daughters and ask the to put themselves in harm's way
15 to keep the city safe when the city fails miserably
16 to keep them safe? If there was ever a tale of two
17 cities, it could not be more evident in the two
18 approaches to crime fighting. In one approach with
19 the NYPD, every possible tool is provided to officers
20 to their precinct commanders. Their academies are
21 cutting edge with the latest technology, and new
22 legislation is regularly passed by this Council to
23 give them resources they need to protect themselves
24 in their fight on crime, but that's simply not the
25 reality in the other approach to the city's fight on

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2 crime when it comes to the crime wave we see in the
3 jails. They could not be less adequately equipped,
4 more understaffed, and more poorly trained to deal
5 with the inmates we face each and every day, which
6 again in the Monitor's first report one of the things
7 he said is that their training academy for correction
8 officers was atrocious. I mean his description of
9 the Academy was nothing that I--

10 CHAIRPERSON CROWLEY: [interposing] I
11 couldn't agree with you more. I said that before. I
12 said that. I said that years ago, and I've been
13 pushing every budget to trying to get the monies
14 resourced out. The resources, the monies allocated--

15 ELIAS HUSAMUDEEN: [interposing] Right.

16 CHAIRPERSON CROWLEY: --that you can have
17 a real academy. I'm not proud that to have it in my
18 district because it's just a mess.

19 ELIAS HUSAMUDEEN: It-it really is, and
20 we sit here today--

21 CHAIRPERSON CROWLEY: Yes.

22 ELIAS HUSAMUDEEN: --and this Monitor's
23 Report was done in May--in May and today we sit here
24 and we still have the same academy, and although they
25 just graduated 711 recruits, they're staking them

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2 guess where? In the same academy. The training and
3 the conditions that exist when the Monitor gave his
4 first report is still--they still exist--

5 CHAIRPERSON CROWLEY: [interposing] I
6 heard the academy--

7 ELIAS HUSAMUDEEN: -and they continue to
8 train.

9 CHAIRPERSON CROWLEY: --is operating
10 24/7.

11 ELIAS HUSAMUDEEN: Yes, and actually
12 they've been adding to it. (sic)

13 CHAIRPERSON CROWLEY: [interposing] That
14 there are actually recruits coming and teachers
15 coming in the middle of the night.

16 ELIAS HUSAMUDEEN: Yes.

17 CHAIRPERSON CROWLEY: That's a shame.
18 So, I want to talk a little bit about the overtime
19 and what's happening there because I've heard a lot
20 of complaints that their members are working
21 excessive amounts, and tell me what happens and--and
22 what we can do to prevent such an excessive amount of
23 overtime.

24 ELIAS HUSAMUDEEN: Well, as--as--as when we
25 were before you the last time I think is September,

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2 basically what we said then is what we say now. Part
3 of the problem with the overtime the triple tours,
4 the correction officers work four and twos. We work
5 four days, we're off two days. Right now we work
6 what correction officers call four out four meaning
7 we get stuck 16, 16 and 16 and 16. So a lot of our
8 officers are already working four out four. Some of
9 them are having they're—they're working triples, and
10 some are doing—the Department it went as far we were
11 able to stop it. It was attempting to cancel one of
12 the pass days that they had. The problem with the
13 overtime and the reason for the overtime, which is
14 unfortunately the agency is in denial, is that the
15 agencies have never seen a program that it—that—that
16 it doesn't like. And the problem is they'll create
17 program after program, some of the programs that the
18 Deputy Commissioner mentioned, and they'll continue
19 to create programs, but the staffing level remains
20 the same. So if you take a facility like AMKC, if-if
21 -if the staffing level let's just say it's supposed
22 to be a thousand inmates—a thousand officers, and
23 they only have 750 well, they will still introduce a
24 new program, which requires 50 to 60 officers, which
25 they will take from the 750, which further depletes

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2 the rest of the officers that has to—that have to
3 maintain the safety and security of the jails. One
4 of the things that we've asked the agency and the
5 Commissioner to do is stop. Stop with the programs.
6 Until you can get the amount of officers, the class
7 that's graduating and another class until the jail is
8 properly staffed, then let's stop with the programs
9 because the programs is a big part of what's leading
10 to the overtime problem and then when you have
11 officers who are fatigued, who are driving home and
12 have an accident, and when you have officers who are
13 fatigued in the jail for 16 hours, 16 hours or more,
14 of course, we're going to have use of force. Of
15 course, we're going to have a whole lot of situations
16 going on because they're going to be tired, they're
17 fatigued, they're aggravated, the inmate is
18 aggravated because he or she wants the services that
19 he or she is entitled to in being in jail. So
20 basically, this class just graduated. We expect that
21 it's going to reduce some of the overtime, but it's
22 not going to completely—it's not going to bring it
23 down where it should be. And again the—the agency
24 just spoke to you about programs that they're getting

25

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2 ready to institute with the same staffing level that
3 they already have.

4 DEPUTY COMMISSIONER SAUNDERS: [off mic]

5 Can you speak to this. I asked it-

6 CHAIRPERSON CROWLEY: The Commissioner
7 and DOC staff present about incidents of violence
8 that occur and that those incidents not be documented
9 correctly or the accusations that I've heard from
10 some of your members about the

11 ELIAS HUSAMUDEEN: I've heard from my
12 members already.

13 CHAIRPERSON CROWLEY: Right, and then-
14 then it being put as a logbook. Can you explain what
15 that means to the committee, the classifications?

16 ELIAS HUSAMUDEEN: The-the-the Department
17 has developed new methods of recording incidents, and
18 a log book is something that the agency has and now
19 they have-at one time they would just use slashings
20 as a logbook entry, which we didn't understand that
21 either. If you're a civilian and inmate throws urine
22 and feces on you, it's-it goes down as a criminal
23 offense or a criminal act. If you throw urine and
24 feces on a CO, it goes down as a logbook entry. They
25 do a lot of that just to play games with the numbers

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2 as far as reporting these--these--these concerns. So
3 when you or your committee asks for a report about
4 assault on correction officers, you might not get
5 what goes into the logbook entry. You might only get
6 what goes into what we call--we have a thing called
7 COD, or a 24-hour report. You might get what goes on
8 the 24-hour report or what the COD report, but if
9 it's in the logbook and it's not reported, then
10 you're not going to get that. So the members--the
11 numbers differ and, you know, my members complained
12 about it before--

13 CHAIRPERSON CROWLEY: [interposing] I
14 want to take a closer look at that. So if you could
15 provide me with numbers and incidents I want to
16 compare because--because they were adamant against not
17 classifying the reporting--

18 ELIAS HUSAMUDEEN: Right.

19 CHAIRPERSON CROWLEY: --incidents
20 incorrectly--

21 ELIAS HUSAMUDEEN: Right.

22 CHAIRPERSON CROWLEY: --or down
23 incorrectly.

24 ELIAS HUSAMUDEEN: And this is something
25 that's fairly new with them as far as--as far as some

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2 of the incidents now that they consider or that
3 they've put in a logbook entry. So, definitely.

4 CHAIRPERSON CROWLEY: Just before I
5 recognize Council Member Vallone with a question you
6 may or may not want to answer this, sir. But the
7 report—the Monitor's Report says there was too much
8 use of chemical agents, and then the Department says
9 well that's—that's good. We'll have a good one and
10 find out, but the level of use of force A is going
11 down. So, is there—is there more of a, you know,
12 let's—let's sit back type of not get involved because
13 of the ramifications?

14 ELIAS HUSAMUDEEN: I—I-I definitely know
15 that my members continuously say that their hands
16 have been tied, and yes, my members are deployed and
17 a lot of them are confused as to whether or not to
18 get involved, whether to even get involved. With—
19 with the incidents because exactly what's said here
20 is what's going to happen. For instance, just—just
21 to go back for a second, one of the things that
22 bothers me is this: They said that the numbers are
23 high. So, if we look at 2015. In 2015 New York City
24 correction officers took custody of 68,000 inmates.
25 We took custody. We had in our system 68,000 inmates

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2 for 2015. The use of force for 2015, the numbers
3 given were like 3,300. For me, when I'm looking at
4 68,000 inmates and 3,300 use of forces and most of
5 those use of forces maybe deemed spray or-or a COD
6 use of force. Quite frankly, I pat my officers on
7 the back and I say a good job. A lot of times when
8 people look at these numbers, they're looking at the
9 numbers as if it's based on the maybe 8,000 or 9,000
10 inmates who are in the jail that's right there as
11 opposed to the understanding that we sometimes go up
12 to more 100,000 inmates a year that come through our
13 system, and some of them come through the system and
14 leave, and but are also involved in use of force or
15 assaults against staff. So, I think that that's
16 something that needs to be remembered. The other
17 thing is as far as correction officers are divided.
18 We-we-we do have a lot going on because in the one
19 breath you-they give us OC and they say, use the OC.
20 We use the OC. Now they say, they're using too much
21 OC, or you shouldn't use the OC or you have to be at
22 least--

23 CHAIRPERSON CROWLEY: [interposing]

24 That's the chemical agent.

25 ELIAS HUSAMUDEEN: The chemical agent?

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2 CHAIRPERSON CROWLEY: The chemical
3 agents. Oh, I'm sorry, the chemical agents, or in-in
4 the Monitor's Report it talked about us using it and
5 not being three feet away as if when an inmate comes
6 out of his cell, we want to be able to say wait,
7 wait, don't--wait, hold on. Wait, I got to go back
8 three feet before I spray you. I mean. Some of this
9 stuff is just not--it's not in real time. It's--it's
10 just not very realistic, but they--you know, my--to
11 answer your question, my members are going through a
12 lot of different type of emotions because in--in one
13 breath if you get involved there's a possibility that
14 you can literally be arrested. You can literally be
15 indicted even later on like a lot of my members have
16 been found not guilty or to have a--a grand jury throw
17 the indictment. I mean, so, yeah there is confusion
18 and it is--it is a problem, and it's presented a
19 problem for us. I mean to answer your question.

20 CHAIRPERSON CROWLEY: Okay, thank you.
21 Council Member Vallone.

22 COUNCIL MEMBER VALLONE: Thank you, Chair
23 Crowley and thank you President Husamudeen. I think
24 you can't address these issues without hearing both
25 sides of the story.

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2 ELIAS HUSAMUDEEN: No, you can't.

3 COUNCIL MEMBER VALLONE: And—and s many
4 times there's so little time given to this side of
5 the story, the Public Safety side of the story, but
6 there are a few of us left that do care about that
7 side of the story.

8 ELIAS HUSAMUDEEN: Thank you.

9 COUNCIL MEMBER VALLONE: However,
10 politically the climate of the day always seems to
11 pick the one or two horrific cases and rush to judge
12 and make changes on that without dealing with this
13 side of the story. And all I ever ask at every
14 committee hearing because it always seems to be us,
15 Chair Crowley and myself sitting here opposed to
16 everyone else. What are both sides? Because
17 whatever we do in life we're not safe. We can't do
18 anything going on the street, the neighborhood
19 school, and its' parts of Rikers Island, and I wanted
20 to hear from your side then what resources do you
21 need in the wake of this new rush to remove the tools
22 to keep safety at Rikers Island versus the demand on
23 the offices and the staff to meet these new needs?

24 ELIAS HUSAMUDEEN: One of the things that
25 is the fact they eliminated punitive segregation for

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2 16 to 21-year-olds presents a problem for us because
3 this particular inmate was slashed by another inmate.
4 This officer was slashed by an inmate.

5 COUNCIL MEMBER VALLONE: The attorney
6 side of me says I'd like to move to put that into
7 evidence, assuming I'm on a trial again, but
8 unfortunately we just have copies there.

9 ELIAS HUSAMUDEEN: No, I'll-I'll give a
10 copy. This is the problem. This inmate that did
11 this, he is going to be re-arrested. The department
12 is going to re-arrest him. No problem. Since we had
13 DA Darcel Clark in the Bronx, the attitude of the
14 judges or whatever is happening in the Bronx is
15 changing. So now the inmates are being given bail.
16 They are being remanded. That's just not complete
17 prop-that's not the complete solution because
18 unfortunately, if the inmate who did this is between
19 16 and 21, we're going to bring them back to Rikers.
20 We can't put them in punitive segregation. Punitive
21 segregation for correction officers is a jail within
22 a jail. That's what that is to us. If you assault a
23 police officer, what happens? You go to jail. If
24 you assault a bus driver, a conductor of a train,
25 what happens? You go to jail. You can be a 13-year-

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2 old, if you assault a school teacher, what happens,
3 you're going to be arrested, you're going to jail. If
4 you assault a New York City correction officer, you
5 get a program. It is--

6 COUNCIL MEMBER VALLONE: With what you
7 have to have missed?

8 ELIAS HUSAMUDEEN: --a program where
9 you're going to continue to get visits. You're going
10 to continue to get commissary. You're going to be
11 treated the same way the inmate who is abiding by the
12 rules is being treated. That's a problem. So what
13 we say now is since you eliminated punitive
14 segregation for 16 to 21-year-olds, when we get the--
15 the--the--the--the violent inmates within them from our
16 system, take them. We shouldn't be--we should not
17 have to deal with them. You took away punitive seg.
18 You took away one of the tools, the best tool that we
19 feel that help us, which is a jail within a jail.

20 COUNCIL MEMBER VALLONE: Do we have data
21 now with the--as a result of the takeaway and the--and
22 statistics with the 16 to 21 compared to when you had
23 punitive segregation as compared to now?

24 ELIAS HUSAMUDEEN: No, not yet.

25

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2 COUNCIL MEMBER VALLONE: That would be
3 very helpful.

4 ELIAS HUSAMUDEEN: Well, we'll-we'll-

5 COUNCIL MEMBER VALLONE: [interposing] I
6 think we're going to make the cry.

7 ELIAS HUSAMUDEEN: -definitely. We need
8 to be-as-as correction officers, we already know what
9 it's going to be because we already have these
10 particular populations that may-who tell our members
11 you can't do anything to me. I could cut you and I'm
12 only going to be arrested and I'm going to go there,
13 and I'm going to come back here, and I'm still going
14 to be provided all of the services that everybody
15 else gets. So--

16 COUNCIL MEMBER VALLONE: What are the
17 resources that you do, because I'll just-I mean what
18 we want to do is try to fight for your staff, and
19 your officers. While we rush to implement mental
20 health initiatives, programs, all this falls on the
21 back. It's the same thing I do with the NYPD when it
22 comes to continually putting layers and they can't be
23 cops any more because they have to do everything
24 else. It's the same questions. We have to balance

25

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2 what the needs are of the officers in all of our
3 segments.

4 ELIAS HUSAMUDEEN: One of the things that
5 you use to give us punitive segregation back for that
6 population, but if you can't--

7 COUNCIL MEMBER VALLONE: [interposing] I
8 got that. I got that.

9 ELIAS HUSAMUDEEN: If you can't--

10 COUNCIL MEMBER VALLONE: I was just
11 trying to help you before we run out of time.

12 ELIAS HUSAMUDEEN: But if you can't do
13 that then maybe you could do something to help us as
14 far as removing this population from the Riker's
15 Island and put them in New York City jails because
16 they don't--they don't belong here.

17 COUNCIL MEMBER VALLONE: [interposing]
18 Do you have bulletproof vests yet for all your
19 members?

20 ELIAS HUSAMUDEEN: Say that again.

21 COUNCIL MEMBER VALLONE: Do you have
22 bulletproof vests yet for all your members?

23 ELIAS HUSAMUDEEN: We--we don't wear the
24 bulletproof. We wear slashproof, and not all of

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2 them. Our very similar (sic) are not provided yet,
3 but we—we have a slashproof vest.

4 COUNCIL MEMBER VALLONE: Is that—is that
5 a budgetary concern or is that just by choice that
6 they're not wearing them?

7 ELIAS HUSAMUDEEN: No, that's not by
8 choice. That's a budgetary concern or the
9 mismanagement of the agency.

10 COUNCIL MEMBER VALLONE: Well, that's one
11 of the things that Chair Crowley and I can check
12 then?

13 ELIAS HUSAMUDEEN: Absolutely.

14 COUNCIL MEMBER VALLONE: I have put that
15 bill in back when the NYPD got theirs and the
16 response I got back was it's not necessary to know.

17 ELIAS HUSAMUDEEN: Really?

18 COUNCIL MEMBER VALLONE: How as that not
19 necessary? So it goes to show you the things that
20 goes on behind the scenes.

21 ELIAS HUSAMUDEEN: The—the problem—
22 Brother, the problem that we have is we need the
23 resources to treat a crime that happens in a New York
24 City jail the same way a crime is treated that
25 happens in the streets or in the city of New York.

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2 That's-that's the resources that we need, those are
3 the resources that we need. In order for us to be
4 able to do that, and I-I understand that the ruling
5 has been made with the Board of Corrections who, you
6 know, in most cases are just completely clueless
7 about what goes on in jail. But at the end of the
8 day, the resources that we need is we need our
9 members to be safe, and the only way for our members
10 for our members to be safe is for us to be able to
11 remove this particular population from amongst us
12 since we have no way of controlling.

13 COUNCIL MEMBER VALLONE: And-and I think
14 the separate issues that sometimes get addressed, but
15 there's another protege (sic) hot topic was mental
16 health illness on-on Rikers Island, and the
17 additional layers of burdens that are being placed on
18 our officers with programs. Can you-is there any
19 update as to I guess, you know, the new approach with
20 the-the staggering amount of mental health detainees
21 and inmates you have to deal with versus what the-
22 what the corrections officers have to-are doing with
23 that face-to-face?

24

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2 ELIAS HUSAMUDEEN: Okay, for some
3 clarity, repeat that because Zooby was in my ear at
4 the same time you were talking. [laughs]

5 COUNCIL MEMBER VALLONE: I was just
6 trying to get a handle on what the increased number
7 of mental health detainees and inmates versus the
8 burden now placed on the corrections officers and
9 staff to have to be faced with that? Are you being
10 provided with the proper numbers, staffing and--

11 ELIAS HUSAMUDEEN: No.

12 COUNCIL MEMBER VALLONE: --training to
13 deal with the ever-rising number of mental health.

14 ELIAS HUSAMUDEEN: No, we're not.

15 COUNCIL MEMBER VALLONE: So what's the
16 least that--

17 ELIAS HUSAMUDEEN: Well, again, the
18 staffing problem is an overall problem. The staffing
19 problem affects everything. It affects the services
20 that we provide to the inmates as far as mental
21 health is concerned. If the staff is not there--

22 COUNCIL MEMBER VALLONE: [interposing] So
23 what's the ideal number we need to get to for staff?

24 ELIAS HUSAMUDEEN: Right now, the last
25 number we were short 2,500 correction officers. We

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2 were under by 2,500 correction officers, and one of
3 the things that the--the--the Chairperson pointed out
4 was although this particular class was the biggest
5 class we've had in the history of Corrections, it is
6 true that the Academy itself is four months. So if
7 they bring in 500 correction recruits in four months,
8 we're losing literally 50--40 to 50 correction
9 officers per month to retirement and other--they're
10 just leaving. So, by the time four months is done
11 and that class graduates, 500 really is not 500. 500
12 is--

13 COUNCIL MEMBER VALLONE: [interposing] You
14 get them really on the force also. If you're losing
15 all your veterans--

16 ELIAS HUSAMUDEEN: Yes.

17 COUNCIL MEMBER VALLONE: You're getting
18 very--yes--yes, that's why.

19 ELIAS HUSAMUDEEN: So and the training
20 itself is not--is not as adequate as it should be. I
21 mean you can't give somebody eight hours worth of
22 mental health training and--and--and think that that's
23 enough training for them to go in and be able to deal
24 with the population of inmates since we have such a

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2 high population of mentally ill, which was testified
3 to by the Commissioner himself.

4 COUNCIL MEMBER VALLONE: Well, I think
5 and I think that's why you heard our questioning
6 about infrastructure--

7 ELIAS HUSAMUDEEN: Yes.

8 COUNCIL MEMBER VALLONE: -- and the size
9 on it. It's almost impossible to provide that safety
10 element based on its condition with the existing
11 structures that are left. We never meant for this
12 situation. I mean back when I was on the Board of
13 Corrections, it was over 14,000 inmates a day. Now
14 that number has gone down, but it was--it was a mad
15 house.

16 ELIAS HUSAMUDEEN: Right, and I came on
17 the job in the early 2000s.

18 COUNCIL MEMBER VALLONE: Well, I mean I--
19 I--I appreciate you also giving us some of the
20 numbers. I think you said 68,000 in 2015.

21 ELIAS HUSAMUDEEN: Yes.

22 COUNCIL MEMBER VALLONE: I think I
23 wouldn't have said that. (sic)

24

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2 ELIAS HUSAMUDEEN: And-and I believe
3 we've already can see-I-I think we're far beyond. We
4 might be either at or beyond 68,000 for this year.

5 COUNCIL MEMBER VALLONE: Well, I just
6 invite you to keep-keep the cause going, and I think
7 we, like I said, we always need to hear both sides of
8 the story, and I think Chair Crowley is very good at
9 making sure he second side is there, and if you know
10 that I will do our part, and we will do our part to
11 do that. I think we take the budget when we do our
12 programs, when we're dealing with additional layers
13 that correction officers and staff have to deal with.
14 They make you very cognizant on how that will affect
15 the public safety of everyone that goes on Rikers.
16 So thank you.

17 ELIAS HUSAMUDEEN: Okay. I'm going to
18 turn this.

19 THOMAS FARRELL: Yes, yes. I just want
20 to touch base on two things. You had asked about
21 the--

22 COUNCIL MEMBER VALLONE: Just identify.
23 I know who you are.

24 THOMAS FARRELL: I'm sorry. Thomas
25 Farrel, Legislative Chairman for COBA. I apologize.

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2 Revamp some of the training, and utilize some of the
3 tools that we have in New York City. We've gone out
4 of this city and the state, and went to jails
5 throughout the country, and we saw the way that they
6 deal with correction officers. They'll deal with
7 their mental health people. They'll deal with their
8 department of medical—you know, the medical field,
9 and it's a team. So if an inmate starts scratching
10 his right side, we know we got to maybe give him a
11 candy bar. I'm using that as an example. Certain
12 things, certain—we're not doing that. There's no
13 information shared. Everybody claims the HIPAA Law
14 so the doctors can tell the correction officer. Not
15 the health commissioner can't tell the correction
16 officer. Everything is kept secret. If you're going
17 to change the climate, you've got completely change
18 it. Infrastructure is part of it, sharing
19 information amongst all the agencies that are on
20 Rikers Island, and better training. How about
21 bringing in a clinician to tell them what they need to
22 expect if you're working with mental health inmates,
23 not a correction officer, not a supervisor.

24

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2 COUNCIL MEMBER VALLONE: There's still
3 having issues with sharing of information? That goes
4 back a ways.

5 THOMAS FARRELL: Absolutely. Since—since
6 absolutely.

7 COUNCIL MEMBER VALLONE: When we hand
8 walking folders around the Island, and they didn't
9 have computers.

10 THOMAS FARRELL: They didn't change that,
11 and the other thing I wanted to talk about you—you
12 asked about the love our countries and things like
13 that. Officers are definitely afraid. I had gotten a
14 call, just a random call last Friday. There's two
15 different directives. There's a directive an Op-or
16 on how to handcuff an inmate. Okay, so this is with
17 the departments. The officer was just trained on how
18 to handcuff the inmate. He followed the training
19 that he had just received the week before. An
20 incident occurred. The suspended that correction
21 officer because he violated the yellow order that
22 they had. So it's complete mismanagement, and we
23 spoke about it. I received phone calls. The Chief of
24 Staff received phone calls, spoke to all the way up
25 to the chain of command and they still suspended the

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2 correction officer. So these are the things, and the
3 logbook entries like they--they--they didn't really
4 lie. They--they basically gave you their answer. It
5 was not a serious injury. That officer gets punched
6 and his nose didn't get broken, and he doesn't want
7 to hit the inmate back. It's a logbook entry. The
8 officer gets thrown into the wall, gets knocked to
9 the ground and is nervous to do something because
10 they don't want to get suspended, they don't want to
11 get arrested. They want to go home and take care of
12 their families. It's a logbook entry. So we need to
13 really look at the logbook entry and see exactly what
14 they are, and that's the logbook entries have gone
15 through the roof the way they used to be. So that's
16 the answer to that question, and--and Council Member
17 Vallone, I think those are some of the changes that
18 we--I would suggest. I have 28 years with the
19 department and I've been to probably 15 different
20 states.

21 COUNCIL MEMBER VALLONE: There was a
22 hearing--a hearing that Chair Crowley had last year
23 where one of the staff from the mental health agency
24 came and was in fear for walking down the hallways to
25 get to her cases, an inmates and detainees, and she

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2 was just completely ignored. No one wanted to talk
3 about that. They wanted t talk about everything
4 else.

5 THOMAS FARRELL: No, because they're not
6 interested in that.

7 COUNCIL MEMBER VALLONE: She ran out of
8 the room because she was afraid for herself. So I
9 mean that's what we have to change, but thank you for
10 sharing that viewpoint.

11 THOMAS FARRELL: Thank you.

12 MARCEL ZOOBY: How you doing? My name is
13 Marcel Zooby. I'm President of Assistant Deputy
14 Wardens Deputy Wardens Association. I represent the
15 highest supervisory line at Department of
16 Corrections. It was the questions you asked
17 President Elias what can the--what can the City
18 Council do to help New York City Department of
19 Correction. What I'm going to say is that he's
20 absolutely right in regards to staffing. The
21 staffing that they're looking at is only staffing
22 with regards to correction officers. Now, you have
23 with increased programming, and one of the reports
24 was that how do you ensure increased supervision? If
25 you're not increasing the number of correction

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2 officers legitimately, and captains legitimately and
3 assistant deputy wardens and tour commander
4 legitimately, then you're doing a disservice. You
5 cannot ensure that one person, there's one tour
6 commander assigned to a facility that has to tour in
7 the area the entire jail and has to look over 1,000
8 personnel and maybe a thousand or NKCs (sic)
9 situation, which is the largest facility on Rikers
10 Island with 2,000 inmates. How can one person
11 adequately supervise that? Can go back-

12 COUNCIL MEMBER VALLONE: [interposing]

13 Has that changed over time? Has it been the same
14 wardens?

15 MARCEL ZOOBY: It has not. We've had at
16 one time unit management, and when we had unit
17 management, you can see that the incidents of-of
18 violence in regards to slashings and stabbings-

19 CHAIRPERSON CROWLEY: [interposing] I

20 have a question just to clarify. So what is-what is
21 your span of control? So how many officers are there
22 let's say a captain, and then how many captains on
23 there to a deputy warden and another?

24 MARCEL ZOOBY: It varies by jail and
25 tour. As you--

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2 CHAIRPERSON CROWLEY: [interposing] And
3 there's nothing in the collective bargaining
4 agreement that calls for certain levels of span and
5 control?

6 MARCEL ZOOBY: Mandatory, no, but I think
7 that the City Council needs to look into ensuring
8 that-

9 CHAIRPERSON CROWLEY: You-you-let's meet
10 and-and discuss further and just in-in light of the
11 time right now, it says we have to get out of this
12 hearing-

13 MARCEL ZOOBY: Okay.

14 CHAIRPERSON CROWLEY: --at 1 o'clock. I
15 think is going to be, you know, there's a lot more to
16 talk about when it comes to management--

17 MARCEL ZOOBY: Yes.

18 CHAIRPERSON CROWLEY: --and oversight. I
19 appreciate both unions for being here today. I can
20 only image how difficult it is to work in the
21 circumstances that your members are working in, and
22 so I want you to know I do appreciate the work of our
23 officers in keeping the city safe, and that I'm going
24 to continue hold the-the Commissioner and the agency
25 to task. Thank you.

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2 MARCEL ZOOBY: Well, thank you.

3 CHAIRPERSON CROWLEY: Next, up we have

4 Mary Lynn [background comments] from Legal Aid

5 Society. [background comments, pause]

6 MARY LYNN WERLWAS: Good afternoon. I'm

7 Mary Lynn Werlwas, the Director of the Prisoner

8 Rights Project, Legal Aid Society and Zachary

9 Katznelson, our staff attorney, who works on the

10 Nunez matter as well with me, is here today. I gave

11 you some written testimony. I thought the best use

12 of our limited time here today, but just to highlight

13 our perspective as the Nunez plaintiff's counsel and

14 as the Prisoner's Rights Project. So the entity that

15 daily receives probably some of the most complaints

16 and concerns from family members in the jail of what

17 our perspective is on a few of the topics that have

18 been aired today. So we're just going to hit a few

19 points, but I did want to start out thanking Council

20 Member Crowley and those in the committee for how we

21 opened today, which was bringing to a vote and voting

22 on the bill concerning the Department of

23 Investigation. And I—that's very connected to all

24 that we've been talking about since in our view it

25 seems animated by one its principle concerns that we

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2 come here today, one year into Nunez, and this far
3 into reform with, which is the—a need for
4 transparency. And our concern that historically
5 abuses happen behind the closed doors of jail, and
6 transparency in government will serve to protect all
7 of us. It will ensure that the expenditure of
8 resources--and we are giving an enormous expenditure
9 of resources to these jails—is wisely spent. It can
10 guide policy. It can help us make informed choices
11 of what mid-course corrections we need to make. And
12 if there's one takeaway I would like to leave you and
13 the rest of the Council with today, it would be a
14 strong plea to ensure that the department is required
15 to be more forthcoming with information flows to the
16 public and to oversight agencies including this
17 committee, the Board of Correction, and other
18 entities. There's actually a great amount of
19 information that comes out. You referenced the
20 Mayor's Management Report. There's a stack of data
21 that comes from the Nunez monitor and that's about
22 this thick every six months of the year. There's the
23 monthly reporting to the Department of Correction. I
24 think it's—it behooves the Department to make sure
25 that as many people who are engaged in this

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2 discussion are all working from the same numbers the
3 same information. We have been very constrained in
4 responding to some of the press releases that you
5 brought up. For example, where we see cherry picking
6 of numbers by the department, in responding to that
7 by the constraints that come from a litigation mode
8 where there are things we can talk about, and things
9 we can't according to confidentiality orders. But
10 what it means is that the perspective would look very
11 different if we all at least had the same
12 information. And connected to that—

13 CHAIRPERSON CROWLEY: Just—just I don't
14 want to interrupt you, but I see the different
15 numbers. I see the numbers the Department of
16 Correction puts out, the Board of Corrections and
17 even the Monitor's Report, and none of them show that
18 violence has decreased in any way.

19 MARY LYNN WERLWAS: No, we—our deep
20 concern to us is the many indicators that the use of
21 force remains both at—the volume is way too high.
22 There is simply the—over 4,000 and some use of force
23 incidents in the fiscal year that would have closed,
24 is astonishingly high at a time when the population
25 is, in fact, has—is decreasing. Now, a number is an

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2 indicator. It's never an overall, you know, there's
3 a grade on the system, but objectively speaking, that
4 is way too much reliance upon force as a management
5 tool rather than other more professional management
6 tools. Of course, it's never going to be zero. That
7 doesn't happen in a correctional system, and we—and
8 it would never be our suggestion that it should. But
9 for the year that's post-dated the entry of a
10 historic agreement that the City negotiated and went
11 to court to agree that it had its blessing, its
12 sanction. For that year roughly to see almost a
13 record high number of use of force incidents is
14 deeply distressing, and it tells us that the promises
15 that the agreement essential enshrines our forms that
16 were underway ring hollow. I will say and I want to—
17 we very much want to give credit where it is due. We
18 are heartened by two things: The decline thus far
19 in—in severely injurious forces the decline in the A
20 category, which does not—is not always accurately
21 kept perhaps. But nonetheless, that's heartening.
22 Few serious injuries to staff or to inmates is
23 welcome and is good, but--

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2 CHAIRPERSON CROWLEY: [interposing] But-
3 but at what cost because then at the same time, the
4 serious injuries inmate on inmate has inclined.

5 MARY LYNN WERLWAS: Yes, there's no
6 question that this is one piece of the puzzle, and
7 that we need to really look very, very carefully and
8 see—make sure that the—all the different safety
9 metrics are analyzed together. But we do think that
10 it's—there is—it is important to look at all of these
11 also to get away from the false dichotomy that staff
12 and inmate safety are a zero sum game, and are at
13 odds with other. In our experience in--[coughs]
14 excuse me—working with the correctional system has
15 been that the jails are safer when they're safe for
16 both inmates and staff, and that they very much do
17 tend to go hand-in-hand instead of being at
18 opposition to each other. It does not help the
19 clients we represent to have officers afraid of their
20 safety. It does not help our clients when officers
21 are hurt or are injured. However, the question of
22 what policy responses are going to achieve that goal
23 are something that at a minimum we need proper
24 information to inform those responses and to keep the
25 jails safer for both of our inmates. I want to just

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2 point out, and I'm—in this connection there what
3 seems to be the very discreet issue that was raised
4 about the West facility, and I'm raising that even
5 though we are here today under—for a hearing about
6 the overall system because I think it is bellwether
7 for where we're going in the Department of
8 Correction. West is a tiny facility. The Nunez
9 Monitor's Report-- which is quite long, but I commend
10 to your reading because it's incredibly detailed--
11 points out the highest grade of use of force in the
12 last monitoring period was at West. Now, they were
13 clear to point out that in the small facility, data
14 can be a little bit harder. To a small sample size,
15 rates might be a little bit skewed. There are only
16 30 some inmates housed in that facility.

17 Nonetheless, we are very deeply concerned that the
18 West facility and the Department's use of it is
19 indicative of and very ad hoc, fairly ill-considered
20 and utterly opaque response to violence indicators.
21 West has essentially become an illegal and defector
22 punitive segregation unit being used in a department
23 that claims to have ended punitive segregation, to
24 have ended isolated confinement for a specific
25 population.

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2 CHAIRPERSON CROWLEY: [interposing] What
3 ages go into West? What ages?

4 MARY LYNN WERLWAS: It's—we have not
5 known of any 16 and 17-year-olds, but the information
6 we've been able to get which, of course, is not—
7 that's part of this point is that we have not been
8 provided that information when we have asked for it,
9 but that we have been aware, and since we are the
10 public—the chief public defender, many of our
11 clients—some of our 18-year-old clients have been in
12 West, and some of the other young inmates.

13 CHAIRPERSON CROWLEY: Well, I thank you
14 for coming. You have—I would like to meet with you
15 more when we're not under the time constraints. Do
16 you think that the Commissioner says one thing and
17 then the management does another? Why would this
18 facility be used, and if—if they're not supposed to
19 be using it? It seems like it's worst that punitive
20 segregation.

21 MARY LYNN WERLWAS: I—we have serious
22 concerns that it—and it is—I would say it is worse
23 that punitive segregation in the sense that I have
24 not even seen transparency honestly about what
25 they're doing about it. At least with punitive

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2 segregation, there was a very clear protocol. This
3 is what happens, and then you are going, if this
4 happens to you, you're going to punitive segregation
5 and here's what it takes to get you there, and here
6 are the conditions under which we'll keep you. We
7 can talk about whether those should be met or not.
8 What is happening in places like West, and in this
9 proliferating series of acronyms and alternatives to
10 punitive segregation have been entities and housing
11 units, but West is the most notorious, that do not
12 seem to be operated according to standards. None of
13 us are being told who goes there and why. We are
14 being told that the Department is considering if it
15 is not moving the transgender housing unit to the
16 West facility, which, for which we think it would be
17 extremely poorly suited, and would not improve the
18 safety or protection of those vulnerable inmates. As
19 to whether—who was saying what, it's—I think that
20 the—part of the problem has been whether anyone is
21 saying anything about what they're doing, and it's—
22 part of it is today we're hearing one hearing.
23 Tomorrow there's going to be a Board of Correction
24 hearing where West is going to come up, and are the
25 same things being said to both entities? What we see

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2 as a—I don't quite see so many things I would claim
3 as inaccurate as much as very tiny microscopic pieces
4 of the puzzle being presented and different for us
5 such that one discrete set of data that is perhaps
6 true insofar as it goes is given to one entity and
7 another discrete set of data that also is true
8 insofar as it goes given to another data. And I
9 think what we all need is a little bit more coherent
10 so that we don't have a right hand/left hand problem
11 in city government of what we're learning from what
12 the agency intends to do. It will be—there's a need
13 for innovation. There's no question also that the
14 Department is going to need to experiment with
15 different measures, and I don't think any of us need
16 to stand in the way of that, but I think that at a
17 minimum it—the oversight agencies would—could do the
18 public enormous benefit by insisting that that
19 innovation be (1) lawful and that any of the new
20 units comport with the existing standards of law, and
21 (2) transparent that we know what the Department
22 seeks to do, who it wishes to do it to, and then
23 third we can have the policy debate about the—whether
24 this is what, in fact, they ought to be doing. And I
25 think this is where West is essentially the canary in

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2 the coal mine. I don't think it's the only example
3 of this, but it's the one that most urgently
4 demonstrates the sort of failure of the process thus
5 far of innovation and reform. We will—we remain
6 deeply concerned that about the—not just the numbers
7 of use of force incidents, which we wish to address,
8 but it's about the patterns of the use of force, and
9 I'm not going to go into those because we have other
10 people, you know, we need to hear from today. But we
11 will just simply note that the use of head strikes,
12 for example, and the indiscriminate use of the
13 chemical agents are just two of the examples of
14 patterns of use of force that have long characterized
15 this agency, and that should be under much better
16 control by now. These don't need the new use of
17 force policy. You shouldn't have to have new
18 training to teach this. These are things that should
19 be under control as proper supervision and proper
20 management right now, and they are not. The fact
21 that they are not I think should give us caution and
22 we—I think we would do well to have further hearings
23 on issues of the weaponization of the city jails in
24 efforts to introduce the new technology, the new
25 weapons to the jails in the current culture.

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2 CHAIRPERSON CROWLEY: Oh, that's right.
3 We didn't have a chance to ask that. I remember the
4 Mayor saying that he was going to introduce tasers.
5 Have tasers been introduced?

6 MARY LYNN WERLWAS: Yes, as far as we
7 understanding it, this is addressed in the Nunez
8 Monitor's Report, which has been largely our source
9 of information at the Legal Aid Society about this,
10 is that the tasers have been or are in the process of
11 being provided to a small group of weapons.

12 CHAIRPERSON CROWLEY: But they haven't
13 been in the jails yet?

14 MARY LYNN WERLWAS: I'm not sure, and I
15 think that's a -would be an excellent question, but
16 the last understanding I had was that they were being
17 rolled out just this fall. You know, I think in
18 September I was told not quite yet, but my
19 understanding is that-

20 CHAIRPERSON CROWLEY: [interposing] Well,
21 we'll find that out.

22 MARY LYNN WERLWAS: Yes.

23 CHAIRPERSON CROWLEY: I-I think it was
24 supposed to be right this fall.

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2 MARY LYNN WERLWAS: Yes, it's happening
3 right now.

4 CHAIRPERSON CROWLEY: Alright, well thank
5 you for being here today, and thank you for your
6 advocacy, your work, your legal work, and we'll be
7 more in touch.

8 MARY LYNN WERLWAS: We look forward to
9 it. Thank you.

10 CHAIRPERSON CROWLEY: Okay, thank you.
11 We have two more up from the Jail Action Coalition.
12 We have Victoria Phillips and Kelly—I can't read
13 your—Prim, I think. Oh, okay. Kelly Grace Price.
14 [pause] Okay, I'm ready when you're ready. Who
15 would like to go first?

16 KELLY GRACE PRICE: I just—hi, my name is
17 Kelly Grace Price. I'm a member of the Jails Action
18 Coalition and a survivor of Rikers Island. I mention
19 that I was put there an innocent domestic violence
20 and trafficking survivor because my daughter was
21 working with the police and the district attorney
22 wanted to get him favors. So as an innocent
23 survivor, I ended up on Rikers Island. My big issue
24 is rape and sexual assault on Rikers, which is not
25 what this hearing is about today, but it was

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2 mentioned by Heidi as one of the reforms that is
3 pushing the Department past the Nunez requirements.
4 It was mentioned that this PREA Rule was going to be
5 one of the points that we seal and bring safety to
6 the jails [coughs] and it's true the PREA Rule has
7 been being worked on. I'm very proud to say that the
8 Board of Correction has responded to a lot of
9 community's asks as far as protecting rape and sexual
10 assault survivors. There's a lot of work to be done
11 on it still. I want to bring to the City Council's
12 attention that the rule was just released on Thursday
13 night late, 9:21 p.m. it went out. Friday was a
14 holiday. The community had one business day today to
15 review the 72 odd page final rule that we've working
16 on for over two years. Before it's going to final
17 vote tomorrow morning at 9:00 a.m., I want to bring
18 this up to the City Council because there's a lot of
19 work to be done on it. There's a lot of
20 clarifications. For instance, let's talk about some
21 of the things in it that are supposed to bring in
22 safety cameras. We're not sure if-if videotape will
23 be kept for 90 days or not. We asked for a year. We
24 want five years. This is not explicit in the rule.
25 There are a number of other things. We're not sure

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2 if the trans housing unit will be kept. There's no
3 mention of it in the rules. So we think it's going
4 away, which is

5 CHAIRPERSON CROWLEY: [interposing] I
6 know—I know—everything you're saying is important,
7 and we could meet about it.

8 KELLY GRACE PRICE: So I just—all I
9 wanted to do--

10 CHAIRPERSON CROWLEY: [interposing] If
11 Nunez said they're supposed to keep video footage,
12 but for 90 days. But if it's not explicitly said in--
13 in this rule, then we'll push them to put it in. I'm
14 sure you have—if—if—but I didn't realize that they
15 didn't put out the documents they were voting on with
16 enough time for everyone to review them, and that's
17 not fair. It's not right, and I hope you go there
18 tomorrow and I will also contact them, and—and I
19 think that—I would we could have been in this
20 conversation.

21 KELLY GRACE PRICE: Thank you. I know
22 it's the end of the hearing--

23 CHAIRPERSON CROWLEY: [interposing] Yes.

24 KELLY GRACE PRICE: --but that's really
25 what I wanted to put out there--

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2 CHAIRPERSON CROWLEY: [interposing] Okay.

3 KELLY GRACE PRICE: --because we don't
4 have enough time. We'd like another 30 days. We
5 want the rules enacted, but we'd like 30 days to make
6 sure that the nuts and bolts of our requests are—are
7 woven into it, this one—24 hours is anathema.

8 CHAIRPERSON CROWLEY: Okay.

9 KELLY GRACE PRICE: Thank you.

10 CHAIRPERSON CROWLEY: Appreciate it.

11 VICTORIA PHILLIPS: Hi, I can't go that
12 fast. I'm—I'm still recovering from brain surgery.
13 I'm going to need a few extra seconds.

14 CHAIRPERSON CROWLEY: Okay, no, no, no
15 that wasn't part of the topic of what the hearing is
16 on.

17 VICTORIA PHILLIPS: Okay. So my name is
18 Victoria Phillips. I've testified before you
19 unfortunately before by yourself, and I—I work at the
20 Urban Justice Center in the Mental Health Project as
21 a Community Health and Justice organizer, and I am
22 testifying today because I previously worked on
23 Rikers Island as a Cognitive Behavioral Facilitator,
24 and so often the—the City Council today mentioned
25 Rikers. They often hear one side of the story, and

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2 they're happy to hear the other side of the story.

3 Well, honestly there's more than two sides of the
4 story. There's actually the DOC side, the officers'

5 side and the truth, and as an Army brat working

6 behind the walls, I am—I was privy to a lot

7 information DOC administration will not tell you

8 truthfully ,and officers will not answer truthfully

9 because it will go against other officers. I want to

10 touch briefly on a couple things that were mentioned

11 today. Video cameras, they said that—that money was

12 being allocated to put cameras up and stuff, and I

13 want to--the City Council for—thank you for giving

14 them the money to—to drive DOC forward in how they do

15 care, custody and control, but be mindful they have

16 to have footage, filming in those cameras. Just

17 because the camera is up on the wall, does not mean

18 nothing. In 2013, I was walking through a yard at

19 RNDC, and the security gate swung back, and the

20 barbed wire went through my shoe. I ended up having

21 to have surgery on my right toe and on my shoulder

22 because of that fall with the barbed wired. Not—not

23 one officer—it was two officers assigned to that

24 post. Not one officer made a report. Today it was

25 mentioned that after each incident at the end of the

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2 shift reports are done, that's not always the case.

3 When I asked for the footage at the—right at the

4 security gate, I was told there was no camera

5 recording. So those are issues moving forward that I

6 would like City Council to stay on them about. On

7 training ,quickly, you could go to

8 www.ranseforder.org, the guy who filmed Eric Garner

9 being killed. While he was in OBCC it was even

10 mentioned today while he was in OBCC he—he was on the

11 phone with his wife, and un—unbeknownst to DOC his

12 wife actually recalls the recordings as well. So

13 when we speak about training, and you had a president

14 for the Deputy Wardens here, I would like you to go

15 to www.ramseyorder.org because on their page

16 underneath the blog on that bitch—excuse the curse

17 words—there was a deputy warden you could hear her on

18 the recording. While Ramsey was talking to his wife,

19 she thought he was looking at her, and started

20 cursing him out, and then he actually was responding

21 like I wasn't even looking at you. I was talking to

22 my girl. Like I wasn't paying you no attention, and

23 she escalated the situation. So he started cursing

24 back at her, and she came over like I'm that bitch,

25 which is why the blog is labeled I'm Officer I'm that

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2 bitch. And she came over, You don't know who I am,
3 and I'm that bitch, and so when we talk about
4 trainings and how issues escalate behind the walls,
5 we need to be mindful that officers at times start a
6 lot of their fights and uses of force that are being
7 forced to-to occur in the first place. And-and it
8 was ironic just a few hours after his wife posted
9 that tape and they actually moved him. But that's
10 the whole other issue. Not everyone is aware of the
11 anon-the anonymous line that you asked about, and-
12 and-and even using Ramsey's situation, I want you to
13 be mindful they said that the-the incarcerated
14 individuals are allowed to-that they-they-first of
15 all, they're posted everywhere. That's not true.
16 You just take a walk through the building. I even-
17 I'm on the Advisory Board-the Adolescent and young
18 Adult Advisory Board for DOC. So I'm actually privy
19 every once in awhile to take tours throughout the
20 building. So I look for things like that. They lied.
21 You could take a tour. You will not see signs all
22 over the place saying you can make an anonymous call,
23 and even if the signs were there, how comfortable do
24 you feel as an incarcerated individual with an
25 officer standing next to you calling to snitch on

2 another officer? And then what will be the
3 ramifications behind that. Like the—there's no
4 common sense used with DOC, and I've testified many
5 times at the Board of Corrections about these issues,
6 and I thank you Chairperson Crowley because your
7 fierceness in your questions today was exactly what
8 they need, and I've actually admonished the Board of
9 Corrections and—and reminded them that they're the
10 parent for DOC, and DOC has a direct reflection of
11 their leadership. And they have none because they
12 asked DOC for reports all the time, and DOC continues
13 to come back at meetings and say well, we don't have
14 it or they lawyer up. Something that incarcerated
15 individuals is not privy to do. They don't even have
16 access to the attorneys as much as DOC does at these
17 meetings, and officer made. Okay, I personally
18 witnessed officers start fights. When we say use of
19 force, the—the—the Officers Union was correct. There
20 are different ways in which DOC labels stuff, but a
21 lot of uses of force are mentioned on paperwork
22 without even stating how they began. And a lot of
23 times, for example, because I see you look at me—I
24 need to zero in. For example, I was facilitating a
25 group one day, and the younger man had just came back

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2 from chow-lunch, and his stomach was upset. And so
3 he said—he—he asked the officer could he go to the
4 bathroom said do it in your pants. Wait. So he sat
5 in and I said—you know, I give him a look like don't
6 argue. Just give it a few minutes. Just wait and he
7 did wait, and then he got back up, and he asked the
8 officer I can't hold it. I need to go—I need to go
9 to the bathroom, and the officer mused him the head,
10 and he—and he cut—the boy turned and he said, you
11 see, Ms. V? You see they're always starting, and I
12 said, you know what, just—just give it time. Just—
13 just give it—just give it a few minutes and wait, and
14 the next thing I know the officer had pushed back in
15 his seat and spit on him. And then the boy starting
16 fighting, and then the Internal came, but the story
17 was completely switched. By the time the officers
18 told the other officers what was going on, the boy
19 had been beaten down by that group of officers and
20 the responding Internal officers. And I worked on
21 that Island, I was threatened, my job was threatened
22 because they know that I would always tell. I would
23 call IG and tell, and I started testifying at the
24 Board of Corrections when it took seven months for IG
25 to call me back on a certain case when I witnessed a

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2 young man being beat on the school floor and all the
3 other civilians there was telling me be quiet, you
4 know, mind my business. You know, and that's another
5 thing. If you—you brought up gangs today. A lot of
6 officers are gangs, and when I sit in the Advisory
7 Board meetings and I bring this issue up to
8 Commissioner Ponte, the—the, you know, the Deputy
9 Commissioners, everybody wants to overlook it, glance
10 over it, as if I don't know what I'm talking about.
11 But when you go into recruiting officers the gang
12 component has to be actually in the recruitment
13 process because you have a lot of Bloods, a lot of
14 Crypts walking around with a badge, that's a problem
15 because you want to lower—lower the crime. You want
16 to want to lower the fight, lower the abuses and you
17 have officers starting situations, officers bringing
18 in weapons. You have officers that walk in where I
19 see bottles that says like Lipton Ice Tea with Honey
20 Jack and he didn't see any. There—there are real—
21 there's a real culture of—of crime and corruption
22 going on at DOC and everybody sugar coats it,
23 everybody wants to be politically correct, and I am
24 not for that. I'm an Army brat, and I'm all about
25 the truth and—and real justice, and thank you for not

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2 stopping me, and—and because I'm trying [crying] to
3 throw everything in here. I waited so long--

4 CHAIRPERSON CROWLEY: [off mic] You could
5 always reach me to—[on mic] You could always reach
6 out to the office.

7 VICTORIA PHILLIPS: I have one more thing
8 I want to say on the record today. Sick call because
9 we're talk about staff and mental health. DOC I
10 believe it was two months ago and the Board of
11 Corrections they actually gave the Board of
12 Corrections an example. They was—they were trying to
13 get out of answering about staffing, and the DOC said
14 for an example we had 300 sick calls in one day, and
15 the Board only asked them well how many did you
16 service, and DOC actually answered the Board of
17 Correction and said 18%. And the whole meeting went
18 by, and then finally, you know, I—we probably get to
19 speak, and I had to remind DOC how low out of all
20 your expertise here and—and degrees and education up
21 there, I'm the one who had brain surgery last year,
22 and I even remember to—to wonder about what happened
23 to other 82%. And these are the type of things that—
24 that DOC is able to just skip by the Board of
25 Correction with. So, you're the people who give them

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2 the funding. You're the people that give them the
3 funding, and I-I-I-I-I expect you to hold them
4 accountable. Even the Board of Corrections
5 accountable. Like today, I was-I was very pleased to
6 hear you asking where is the money going? Because
7 these are the same questions I asked about the gang
8 issue. I asked Deputy Commissioner Winette Saunders
9 where is the money going? 16, 17-year-olds, oh, and
10 then-and-and-and-and what is it? Seven-what is-what
11 is name of that? Yes, that is not in this. It just
12 goes by different names. They-they love getting that
13 out there. ESA2 is another form of punitive
14 segregation and-and-and the secure unit is another
15 form of punitive-punitive segregation. They just-
16 they're just all colorful with their words, but it is
17 still punitive segregation, and it hasn't even been
18 started to be implemented for the 18 to 21-year-olds.
19 So, when they come in here and they try to beg you,
20 we need this, we need this, it never went anywhere.
21 Okay, sorry. I thank you. I'll-I'll put everything
22 else in writing.

23 CHAIRPERSON CROWLEY: Okay. No and-and-
24 and we can meet to talk about it even more.

25 VICTORIA PHILLIPS: Yes, please.

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2 CHAIRPERSON CROWLEY: If we get anything.

3 I thank you both for testifying today. Thank you for
4 your dedication and your advocacy, and I want to
5 thank the staff for your work in preparing today's
6 hearing, and all the people that came and stayed.

7 This is the end of the hearing today, but it's not an
8 end of the oversight that we hold the department and
9 the Board accountable. So this concludes the hearing
10 of November 14, 2016 of the Fire and Criminal Justice
11 Services Committee. [gavel]

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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 December 3, 2016