

CITY COUNCIL  
CITY OF NEW YORK

----- X

TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON FIRE AND  
CRIMINAL JUSTICE SERVICES

Jointly with

COMMITTEE ON JUVENILE JUSTICE

----- X

October 8, 2014  
Start: 10:13 a.m.  
Recess: 3:26 p.m.

HELD AT: Council Chambers - City Hall

B E F O R E: Fernando Cabrera  
Chairperson

Elizabeth S. Crowley  
Chairperson

COUNCIL MEMBERS:

Mathieu Eugene  
Rory I. Lancman  
Paul A. Vallone  
Maria Del Carmen Arroyo  
James Vacca  
Inez D. Barron  
Daniel Dromm  
Ydanis Rodriguez  
Stephen T. Levin

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

Joseph Ponte  
Commissioner of New York Department of  
Corrections

Martin Murphy  
Deputy Chief of Staff at New York Department of  
Corrections

Michael Blake  
Deputy Commissioner at New York Department of  
Corrections

Winette Saunders  
Associate Commissioner of Community Partnerships  
and Programs Development

James Perrino  
Warden at Rikers Island

Erik Berliner  
Deputy Commissioner for Strategic Planning and  
Programs

Bryanne Hamill  
Judge on Board of Corrections/Chair of Adolescent  
and Young Adult Committee of the New York City  
Board of Corrections

Thomas Farrell  
Correction Officers' Benevolent Association

Elias Husamudeen  
Fist Vice President of Correction Officers'  
Benevolent Association

William Inman  
First Vice President of Corrections Captain's  
Unit

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

Dave Casellas  
Bronx Defenders

William Gibney  
Legal Aid Society

Nancy Ginsburg  
Legal Aid Society

Ronald Schneider  
Brooklyn Defenders

Nick Malinowski  
Brooklyn Defenders

Barry Campbell  
Fortune Society

Chris Watler  
Harlem Community Justice Center

Jesus Trajada

Donovan Wilkinson

Rukia Lumumba  
Director of Youth Programs at CASES

Stephanie Gendell  
Citizens Committee for Children

Victoria Sammartino  
Juvenile Justice Committee

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

Gabrielle Harowitz-Prisco  
Corrections Association of New York Conditions  
and Confinement Work Group

Megan Crowe-Rothstein  
Jails Action Coalition

Johnny Perez  
Jails Action Coalition

Dakeem  
Jails Action Coalition

Deandra Khan  
Civil Liberties Union

Cameron MacKay  
Juvenile Justice Project at CUNY School of Law  
International Women's Human Rights Clinic

Mabota Gwen [sp?]  
Juvenile Justice Project at CUNY School of Law  
International Women's Human Rights Clinic

2 CHAIRPERSON CROWLEY: Good morning. My  
3 name is Elizabeth Crowley, and I Chair--I am the  
4 Chair of the Committee on Fire and Criminal Justice  
5 Services. This is a joint oversight hearing with the  
6 Committee on Juvenile Justice Chaired by Council  
7 Member Fernando Cabrera. At today's hearing we will  
8 examine the treatment of adolescents in New York City  
9 jails and review the United States Department of  
10 Justice's recent report on the level of violence  
11 among adolescents at Riker's Island. We will also  
12 hear testimony on the Council's resolution to raise  
13 the age of criminal responsibility to 18, which  
14 supports legislation before the New York State  
15 Legislature. I'd like to thank my Co-chair and our  
16 staffs for putting this hearing together. I also  
17 want to thank our Speaker, Melissa Mark-Viverito for  
18 her leadership and recognition of the importance of  
19 this issue as demonstrated by her being here today.  
20 I'd like to acknowledge my colleagues who have joined  
21 us for the hearing, Council Member Mathieu Eugene and  
22 Council Member Daniel Dromm. Correction officers have  
23 one of the toughest jobs in the city of New York.  
24 The vast majority of correction officers act  
25 professionally and take their responsibility

2 seriously. The recent published report by the United  
3 Stated Department of Justice highlights abuses of  
4 power that cannot be tolerated. We are having this  
5 hearing today to discuss the use of excessive force  
6 and to ensure that violent incidents are properly  
7 recorded. This Oversight Hearing and this Oversight  
8 Committee needs assurance that inmates are safe and  
9 that there's no tolerance for abuse of power and that  
10 correction officers are held accountable for their  
11 actions. New York is only one of two states in the  
12 country where 16 and 17 year olds are automatically  
13 treated as adults and placed in adult facilities and  
14 adult jails even while just awaiting trial. And the  
15 DOJ's report serves as a reminder of the shocking and  
16 disturbing reality for adolescent inmates. For many,  
17 the problems on Riker's Island have long been out of  
18 sight and out of mind, but now we face a federal  
19 mandate to address the unacceptable conditions for  
20 adolescents on Rikers. Made up of less than 300  
21 inmates, the adolescent population presents an  
22 opportunity for the city to introduce immediate and  
23 effective reforms within an inmate population of a  
24 very manageable size. That is why I believe in line  
25 with the United States Department of Justice that any

2 plan of action through reform, the Department of  
3 Correction must begin removing all 16 and 17 year  
4 olds off of Riker's Island. The end goal of  
5 effective criminal justice should not be limited to  
6 punishment for a crime, but instead to broadly  
7 improve public safety by taking steps to reduce  
8 recidivism on an individual level, and putting teens  
9 in adult jails only makes them more likely to have a  
10 lifetime of contact with the Criminal Justice System.  
11 Our best opportunity for intervention is with our  
12 adolescent population through education, programming  
13 and proper healthcare. We can give our young  
14 offenders a real chance to get on the right path. As  
15 a city we have a legal duty and a moral  
16 responsibility to administer humane and appropriate  
17 criminal justice. I recognize that Commissioner  
18 Ponte has taken charge of the Department only seven  
19 months ago and was not responsible for the  
20 Department's policies as described in the DOJ report.  
21 I am eager to hear about the reforms that the  
22 Department plans to implement to reduce violence,  
23 including which DOJ recommendations have and will be  
24 adapted, and lastly, how the Department plans to hold  
25 officers who abuse their power accountable for their

2 actions. I'd like to now recognize our Speaker for  
3 her opening remarks and then I will turn the mic to  
4 our co-chair.

5 SPEAKER MARK-VIVERITO: Thank you, Chair  
6 Crowley and Chair Cabrera for organizing this  
7 important hearing. I want to thank everyone that is  
8 also here in the chamber with us today. And I want  
9 to recognize the work that you've done to improve our  
10 Criminal and Juvenile Justice Systems particularly as  
11 it relates to working to improve the conditions for  
12 adolescents in our city jails and decreasing the  
13 level of violence they endure. I want to thank the  
14 Commissioner and all those that are here as well who  
15 we'll be hearing from shortly. I also want to thank  
16 the Department of Justice for conducting its two year  
17 investigation and exposing the serious problems in  
18 our jails and revealing that the civil rights of  
19 adolescents are being violated. I also want to thank  
20 the Department of Justice for proposing a number of  
21 viable steps the city can take to reform the  
22 adolescent's facilities at Rikers. The  
23 Administration needs to take immediate action. I  
24 know it's begun to do some of that, but it needs to  
25 take immediate action to correct these systemic



2 problems and address the Department of Justice  
3 recommendations. Just a few weeks ago, the council  
4 passed a law sponsored by Council Member Dromm, who  
5 has been a leading advocate for jail reform that  
6 requires the Department of Corrections to issue  
7 quarterly reports on its use of punitive segregation.  
8 As that law was being developed and discussed, it  
9 became apparent to me that punitive segregation was  
10 being overused and that we needed to know its impact  
11 on the entire jail population. I don't think we need  
12 any more analysis with regard to the fact that  
13 punitive segregation has to end for adolescents, and  
14 thankfully, Commissioner Ponte has reportedly  
15 committed to ending it by year's end. The Department  
16 of Justice report looked a specific period from 2011  
17 to 2013. As the Chair has indicated, Commissioner  
18 Ponte was appointed in March 11<sup>th</sup> of this year, but  
19 he and Mayor de Blasio have stated their intention to  
20 conduct a top to bottom review of how Rikers is run  
21 and to make the necessary changes to ensure it is run  
22 humanely and professionally. We look forward to  
23 working with them and determining what changes need  
24 to be made and ensuring those changes are implemented  
25 as soon as possible. And I want to be clear, change

2 is urgently needed. Right now, 16 and 17 year old  
3 children are living under the same conditions that  
4 were found in the report, and those conditions are  
5 appalling. It's disserving to know their rights are  
6 being violated on a regular basis and that they are  
7 subject to an excessive level of violence, and while  
8 the vast majority of correction officers work hard  
9 and are professionals, inmates are routinely subject  
10 to violence from each other and at times from the  
11 people who are supposed to make sure they're safe.

12 I'm really concerned that our youth, often poor youth  
13 of color, who've been accused but not convicted of a  
14 crime have been subjected to this level of violence.

15 And to paraphrase the US attorney overseeing this  
16 investigation, and I quote, "Our investigation has  
17 shown for adolescents Rikers Island is a broken  
18 institution. It is a place where brute force is the  
19 first impulse rather than the last resort, where  
20 verbal insults are repaid with physical injuries,  
21 where beating are routine, while accountability is  
22 rare, and where a culture of violence endures even  
23 while a code of silence prevails." We cannot allow  
24 this to continue now that the problems at Rikers have  
25 been so clearly laid out. We all need to immediately

2 work together to address them. The DOJ has  
3 recommended that the adolescent facilities be moved  
4 from Rikers Island, and while I'm anxious to hear  
5 what the Administration thinks about that proposal  
6 and what it will entail, we should all be seriously  
7 considering raising the age of criminal  
8 responsibility to 18, so that many adolescents won't  
9 be sent to adults facilities in the first place. I'm  
10 very anxious to hear the Department's plan of action  
11 and to work with everyone who committed to reforming  
12 our jails. I know the Commissioner will have some  
13 opening remarks. I'm going to turn it back over to  
14 Chair Crowley.

15 CHAIRPERSON CROWLEY: Thank you to our  
16 Speaker. I now like to recognize my Co-Chair  
17 Fernando Cabrera and followed by Fernando Cabrera we  
18 will hear from Council Member Dromm whose resolution  
19 we are considering today. Council Member Cabrera?

20 CHAIRPERSON CABRERA: Thank you so much.  
21 Good morning, excuse me, and welcome to today's  
22 hearing. I am Fernando Cabrera, Chair to the Juvenile  
23 Justice Committee. I would first like to thank Chair  
24 Crowley for holding this hearing today, members of  
25 the Juvenile Justice Committee who are here and I see

2 Council Member Arroyo who has joined us, and of  
3 course, Speaker Melissa Mark-Viverito for her  
4 leadership. As Chair Crowley mentioned, we are here  
5 to examine the treatment of adolescents of New York  
6 City jails and the city's response to the DOJ's  
7 report on the problems with the treatment of  
8 adolescents of Rikers Island. New York remains one  
9 of the two states in the nations whose age of  
10 criminal responsibility, the age of which youth as  
11 treated as adults, is just 16. I also find it  
12 troubling that teenagers who would otherwise be tried  
13 as juveniles in 48 other states are exposed to New  
14 York City's criminal justice system and are trapped  
15 in the culture of violence which is highlighted by  
16 the DOJ's report. As Chair of the Juvenile Justice  
17 Committee, I believe we should be providing the  
18 adolescents the same off-ramps [sic] and preventive  
19 services afforded to New York City's juveniles not  
20 focusing on punishment, abusing the use of force.  
21 The violation of constitutional rights seen in this  
22 report are unacceptable for people of any age. We  
23 have an even greater responsibility to protect our  
24 city's youth. Although the adolescent population is  
25 not currently considered juveniles, it is my hope

2 that sometime in the near future this population will  
3 be viewed as juveniles in the New York State and New  
4 York City. It is in all of our best interest to  
5 ensure young people are given the opportunity to  
6 become productive and successful adults. I would like  
7 to applaud the Department of Corrections' recently  
8 reported decision to cease solitary confinement for  
9 16 and 17 year olds of Rikers Island by the end of  
10 the year. This is a major step towards improving  
11 conditions for adolescents on Rikers, particularly  
12 those with mental illness. I am looking forward to  
13 hearing today's testimony and how the Department of  
14 Corrections plans to address the DOJ's finding on the  
15 treatment of adolescents of Rikers as well as how the  
16 Department intends to provide adolescents with better  
17 services, and how the Department plans to  
18 successfully help integrate these adolescents back  
19 into society upon discharge. I would like now to  
20 turn the microphone back to Chair Crowley, and thank  
21 you all for being here.

22 CHAIRPERSON CROWLEY: Thank you, Co-Chair  
23 Cabrera. I'd now like to Council Member Dromm, whose  
24 resolution we are hearing today.

2 COUNCIL MEMBER DROMM: Thank you, Chair  
3 Crowley and thank you Chair Cabrera for the hearing.  
4 Madam Speaker, thank you for being here with us and  
5 for your statement as well. Simply put, the criminal  
6 justice system in New York City and throughout New  
7 York State is broken and in serious need of reform.  
8 Particularly disturbing is the way that New York  
9 deals with young people accused of crimes. Along  
10 with North Carolina, New York is the only state that  
11 automatically treats 16 and 17 year olds as adults.  
12 In the rest of the country and the civilized world,  
13 these teenagers would not be immediately put in the  
14 system meant for adults, and as an aside, I want to  
15 note the system also fails adults, but that is a  
16 significant topic worth its own hearing. The  
17 universal consensus runs counter to New York, which  
18 disregards the psychological, sociological,  
19 criminological and just about every other sort of  
20 evidence against the practice. The nightmarish story  
21 of Kalif Browder [sp?] highlights the dire need for  
22 Albany to act with all due speed to raise the age of  
23 adult criminal responsibility. He was--when he was a  
24 16 year old sophomore in high school, Kalif was  
25 accused of stealing a backpack. He was arrested and

2 held at Rikers Island for a staggering 33 months  
3 without a trial. Officials on Rikers subjected this  
4 child to torture. There is no other accurate way to  
5 put it. By placing him in extreme isolated  
6 confinement for 800 days, 800 days. The depraved  
7 individuals who showed such cruel indifference to  
8 Kalif's life will probably never be brought to  
9 justice, but at least now, New York City jails have  
10 ended the use of solitary confinement for 16 and 17  
11 year olds. The case against Kalif was flimsy to  
12 begin with. Even after the case started falling  
13 apart and it became blatantly obvious that Kalif's  
14 basic constitutional and human rights were being  
15 violated, the prosecutor pressed ahead. Everybody  
16 from the District Attorney and the Department of  
17 Corrections to the public defender and the judge  
18 utterly failed. I am disgusted by what happened to  
19 Kalif, but I am glad he has stepped forward to tell  
20 his story in the hope of saving others from the  
21 horrific conditions he survived. If you think  
22 Kalif's experience is somewhat wildly desperate  
23 outlier, I will refer you to the US Attorney Preet  
24 Bharara's 79 page report detailing what can only be  
25 described as the routine practice of psychological

2 and physical torture directed at teenagers held on  
3 Rikers Island. We cannot undo the tremendous  
4 injustice down to Kalif Browder and to the countless  
5 others like him, but we can raise our voices as  
6 loudly and clearly as possible and demand that New  
7 York stop treating 16 and 17 year olds as adults  
8 under the criminal law. Thank you very much.

9 CHAIRPERSON CROWLEY: Thank you Council  
10 Member Dromm. Commissioner and all those from the  
11 Administration who plan to testify today, we have to  
12 affirm that you will be telling the truth, and it is  
13 now the council's policy that we swear you in. So I  
14 would ask that you all raise your right hand and  
15 repeat after me, or just understand that we're going  
16 to ask that do you affirm to tell the truth, the  
17 whole truth and nothing but the truth in your  
18 testimony before the committee and to respond  
19 honestly to the Council Member's questions today.

20 Thank you. Now, Commissioner Ponte, I believe you  
21 have testimony. Please begin once you are prepared.

22 COMMISSIONER PONTE: Thank you. Good  
23 morning Speaker Mark-Viverito, Chairs Crowley and  
24 Cabrera and members of the City Council Committee on  
25 Fire and Criminal Justice Services and Juvenile



2 Justice. I am Joe Ponte, Commissioner of the  
3 Department of Corrections. Thank you for letting me  
4 testify before you today. Beside me, our Acting Chief  
5 of the Department Martin Murphy, Mike Blake, Deputy  
6 Commissioner, Earl Toulon and Eric Berliner. They  
7 will all be available for questions after the  
8 testimony. As you know, I joined the Department of  
9 Corrections in April of this year, not quite six  
10 months. I have 40 years of correctional experience.  
11 Most recently I served as Commissioner of the Maine  
12 Department of Corrections where I instituted  
13 substantial reforms that impacted the management of  
14 the correctional system there. Since my testimony  
15 before the City Council six months ago, I've  
16 undertaken a top to bottom review of the Department's  
17 policies, personnel and practices with special  
18 attention to the review of conditions for  
19 adolescents. As I've said repeatedly, the challenge  
20 that faces the DOC will not be resolved in a few  
21 memos, partial calls to revisions and staff meetings.  
22 It will take fundamental change to undo years of  
23 declining conditions, and all of that takes time.  
24 This hearing is specific to the management of  
25 adolescents in our custody and the recent report by

2 the Department of Justice. I am pleased to note that  
3 the management of adolescent population is among the  
4 areas in which we have seen recent improvement. Just  
5 days after I arrived in New York City and before ever  
6 reading the Department of Justice report, it was  
7 clear to me that we needed to rethink the ways in  
8 which we managed this population. I immediately  
9 identified a working group that has spent several  
10 months carefully assessing and implementing changes  
11 to our approach to adolescent inmates. This working  
12 group included RND Warden James Perrino, who was with  
13 us today, Assistant Commissioner Winette Saunders of  
14 our Community Partnerships and Program Development,  
15 uniform and civilian staff of various ranks including  
16 union representatives and staff from DOE and DOHMH.  
17 We are seeking support and partnership in this  
18 planning locally and nationally as we've called in  
19 the highly regarded McKinsey Consulting Group to  
20 conduct an independent outside analysis of our  
21 operation. Additionally this week, Department of  
22 Corrections hosted a brainstorming session on the  
23 future of adolescents and young adult services, which  
24 was attended by national experts, local stakeholders  
25 and city officials from MOCJ, ACS, DOHMH and DOE,

2 including Barry Krisberg, UC Berkley, Ned Loughran,

3 Council of Juvenile Correctional Administrators, and

4 many others. Because of the pending status of the

5 DOJ matter, it is not appropriate for me to speak

6 about our responses to the recommendations. However,

7 I do want to make it clear that we take the DOJ

8 criticism and concerns very seriously. Meaningful

9 and necessary reforms are already underway, and we

10 will take the necessary steps to satisfy the concerns

11 raised in the DOJ report. We believe our reform

12 agenda will systematically address issues concerning

13 recruitment, training, staffing, programming, use of

14 force and investigations. Fundamentally, the

15 program--the problem is that for the last 100 years,

16 adolescent inmates were treated the same way as

17 adults. In recent past we have seen the emergence of

18 brain science that shows that young people's

19 development may continue into their mid 20's, and

20 yet, at DOC we have historically acted as though 16

21 year olds are able to abide by rules and navigate

22 jails as though they were fully fledged adults. As

23 you know, New York is only one of two states to treat

24 16 years olds as adults in the criminal justice

25 system and one of 11 to do so with 17 year olds. And

2 so we're not--there are not many models to study in  
3 the adult system. Instead we focus on reasonably  
4 successfully juvenile justice approaches from across  
5 the country, visiting nearby systems in Maine,  
6 Massachusetts and Connecticut and those as far away  
7 as Washington State. We have seen and learned from  
8 the different approaches these systems take to better  
9 managing their juveniles and have worked to adapt  
10 those principals in our own facilities. The working  
11 group integrates many perspectives, uniformed and  
12 civilian command staff and line staff. They have  
13 been engaged at every rank, ensuring clarity and  
14 commitment about both the mission and the expectation  
15 that we will reform this facility. In addition, the  
16 working group sought participation from key  
17 stakeholders such as unions representing our  
18 workforces, the Department of Health and Mental  
19 Health and Hygiene, and the Department of Education.  
20 The goal is not a short term fix, but a rather  
21 comprehensive solution. Reforms emerging from this  
22 initiative focus on five main areas, staff  
23 recruitment and training, custody management,  
24 educational services, program and re-entry services,  
25 and family engagement. These reforms have resulted

2 in significant reduction in uses of forces and  
3 they're classified A, B, and C at RNDC. In April, we  
4 had 28 use of force, in May 27, in June 15, in July  
5 13, and 18 in August. This represents a significant  
6 reduction from previous years. Our goals are to  
7 foster positive youth development where possible,  
8 reduce violence among adolescents and assist  
9 adolescents in their transformation back home after  
10 they are discharged. We have developed a  
11 questionnaire to identify staff best suited to  
12 working with young inmates such as those who have  
13 experience working with these types of populations  
14 before coming to Department of Corrections. We have  
15 created a new training curriculum focused on youth  
16 brain development, crisis prevention and management,  
17 and trauma informed care for adolescent and young  
18 adults which was integrated into the academy's  
19 curriculum in September. Already, RNDC, the jail in  
20 which our adolescent males are housed feels like a  
21 different place. We reduced inmate to staff ratio in  
22 our housing areas from 33 to 1 to 15 to 1 as of  
23 September 2<sup>nd</sup>. This follows best practice from the  
24 juvenile justice field. The numbers mentioned bear  
25 out--the numbers above bear out our approach is

2 working. We view this as a significant step toward  
3 proving that the approach we are taking to manage the  
4 RNDC differently is having the desired impact, and  
5 that we are going to be able to sustain this change.  
6 In addition to changes in recruitment, training and  
7 staffing, we are revising policy. The use of force  
8 policy is being revised which will serve as a road  
9 map for all future training including changes to the  
10 training curriculum. As I have noted in the Board of  
11 Correction and in other forums, we have made gains in  
12 violence reduction despite a commitment to ending the  
13 use of punitive segregation for adolescent inmates by  
14 the end of this year. In August, the average  
15 adolescent population of punitive seg [sic] was 30,  
16 today it is 20. We are actively working toward no  
17 adolescents in punitive segregation. I believe we  
18 can effectively maintain the good order and security  
19 of our facility without the use of this tool, and  
20 must do so in a way that keeps our staff and inmates  
21 safe. We are evaluating our alternatives and expect  
22 to implement them before the end of this year. We  
23 are also focused on developing programing since  
24 opportunities that reduce inmate idleness have been  
25 shown to reduce incidents and also help prepare

2 inmates to succeed and stay out of custody following  
3 their release. These include case management, a  
4 review of adolescent needs, and the provision of  
5 mentoring services to assist with their successful  
6 transition back to the community. All 16 and 17 year  
7 olds are required to attend school. We have worked  
8 closely with Timothy Lisante DOE District 79  
9 Superintendent and other partners to reshape the  
10 school's schedule for the academic year. Under our  
11 new approach we are able to provide each student  
12 their education while also making additional services  
13 and recreational opportunities available to them. We  
14 are supplementing our education reform with  
15 programming and re-entry services. The ABLE Program  
16 funded by the Social Impact Bond continues to provide  
17 a cognitive behavioral therapy program to all  
18 adolescents each week day and includes additional  
19 opportunities for enhanced recreation to access to  
20 gain room and other movie nights as incentives for  
21 program achievement. Efforts to further expand the  
22 program offering include partnership with the  
23 nonprofit organization, Friends of the Academy--  
24 Friends of Island Academy, excuse me, to develop a  
25 discharge planning model that aims to ensure that

2 every youth that is in the Department's custody  
3 receives a needs assessment and support during  
4 incarceration and upon discharge. Starting in August  
5 of this year, re-entry services have included  
6 collaboration with existing service providers located  
7 on Rikers Island as well as community based  
8 organization. These services begin during  
9 incarceration and continue after release in an effort  
10 to reduce recidivism. We have also partnered with  
11 community based agencies and individuals to develop a  
12 robust program scheduled for adolescents to engage in  
13 positive behaviors and meaningful programs that are  
14 conducive to their overall development during the  
15 summer months as well as throughout the year. The  
16 main tenants [sic] of these initiatives in our  
17 violence intervention and prevention programming,  
18 which became operational in July of 2014. They  
19 include Partnership with Life Camp to introduce  
20 violence intervention and prevention programming,  
21 partnership with two nonprofit organizations, Animal  
22 Care and Control, and instinctive dog behavior and  
23 training as well as DOHMH to train dogs that are at  
24 risk of being euthanized. We also partnered with  
25 Rescue Soldiers to use therapy dogs to encourage pro-



2 social behaviors while [sic] adolescents, and  
3 implemented a one to 15 custody management model for  
4 male inmates ages 16 and 17 at a cost of 4.4 million  
5 annually. Additionally, we implemented a family  
6 engagement model guided by research showing that  
7 inmates who maintain strong family ties are less  
8 likely to return to custody. DOC also implemented a  
9 Next of Kin initiative to increase opportunities to  
10 engage the families of adolescents by contacting  
11 parents, guardians and conduct focus groups with  
12 parents and adolescent inmates aimed at developing a  
13 tool kit to assist families with incarcerated  
14 adolescents. This tool kit will be completed by the  
15 end of the year. This represents just a partial list  
16 of recent accomplishments. We are taking a series of  
17 steps needed to ensure safety and accountability. We  
18 have also a prioritized camera installations at RNDC  
19 in places where blind spots remain such as the  
20 schools and in the clinics. We are revamping our  
21 investigation division to include additional  
22 investigators and new leadership. In fact, beginning  
23 next week, the investigative team consisting of one  
24 supervisor and four investigators will be assigned to  
25 RNDC fulltime to investigate all uses of force and

2 ensure staff integrity. We are also in the process  
3 of implementing a new case management system which  
4 will assist us in developing an early warning system  
5 to improve the Department's ability to manage its  
6 investigation case load and better manage its  
7 workforce. Life in RNDC for 16 and 17 year olds is  
8 different today than it was six months ago. Since  
9 the 18 year olds were pulled from the adolescent  
10 population, the number of adolescents in this  
11 facility has been cut in half. Housing areas are  
12 half the size they used to be. Adolescent days are  
13 scheduled almost completely with schooling and  
14 programming. The facility staff are trained and  
15 dedicated to working with adolescent populations  
16 specifically. Taken together, these reforms form the  
17 base of a better approach to our adolescents, but  
18 perhaps the most important reforms are what we're  
19 making with our culture. We emphasized that managing  
20 adolescents is different than managing adults. We  
21 have made it clear that there is no place in our  
22 organization for the small percentage of staff who  
23 may use excessive force. The majority of my staff  
24 are committed to the Department of Corrections and  
25 perform their duties in a professional manner as such

2 environment and challenges them every day. I have  
3 discussed these problems. I see [sic] openly what my  
4 staff and have asked agency leadership to do the same  
5 with the staff at every rank and every division,  
6 especially as it relates to the general issues of  
7 violence in jails. The Department of Corrections  
8 needs to radically change to be a high functioning  
9 system when we are committed to achieving that goal.  
10 We will not stop until the New York City Department  
11 of Corrections becomes a national leader in the  
12 management of adolescents. I'll be now happy to  
13 answer any questions you may have. Thank you.

14 CHAIRPERSON CROWLEY: Thank you,  
15 Commissioner. Thank you for your thorough testimony,  
16 your commitment to correction, and you have to  
17 understand as the Chair of the committee I have some  
18 skepticism based on previous Commissioners, and we  
19 have a series of questions today, so I want to make  
20 sure I know how you would handle certain situations  
21 differently, and so I'm going to ask questions first  
22 on your investigations internally, be it at the  
23 particular jail facility or within your own  
24 Department of Investigation. Can you take us through  
25 steps of when somebody reports that a correction

2 officer has abused them, if they're an inmate or if a  
3 teacher has put in a claim? Take us through the  
4 steps of a claim and how quickly your department  
5 investigates it, and whether it's internal  
6 investigation and at what level do you send it over  
7 to the District Attorney's office?

8 COMMISSIONER PONTE: So, in a general  
9 way, with the teen now being full time at RNDC, they  
10 will review all uses of force. That a change,  
11 because the investigator unit used to view all class  
12 A's, some class B's, and almost no Class C's. So,  
13 all uses of force at RNDC will be reviewed by the  
14 investigative team as they occur, real time as they  
15 occur. That's a different, much different strategy  
16 than we ever had in place.

17 CHAIRPERSON CROWLEY: Real time, does  
18 that mean a week, a month?

19 COMMISSIONER PONTE: The time lent to the  
20 investigation will be the complications of how, I  
21 guess, violent and complicated the incident. So real  
22 time, meaning I expect that they're looking at  
23 incidents as they occur or the next day. The  
24 investigation stall if they're referred to the  
25 District Attorney or the DOI. They'll take cases.

2 They'll review them and send them back to us, and so  
3 those things delay our ability to investigate, but we  
4 believe, I believe that as it pertains to  
5 adolescents, we'll actually be able to comply with  
6 the 60 day suggestion in the DOJ report, all of those  
7 cases that we refer around.

8 CHAIRPERSON CROWLEY: And DOJ report  
9 highlighted that in a lot of situations it would be  
10 greater than a year and a half before the District  
11 Attorney received information and critical time was  
12 lost as well as video footage or other evidence. So  
13 what you're saying is that will no longer will be the  
14 practice of the Department of Corrections. You will  
15 no longer wait months upon months before you send  
16 over a case that warrants district attorney's  
17 investigation.

18 COMMISSIONER PONTE: As we--as we're  
19 talking about adolescents--

20 CHAIRPERSON CROWLEY: [interposing] If  
21 it's a force--

22 COMMISSIONER PONTE: [interposing] we got  
23 a very specific plan for them. As we look at the  
24 rest of the agency, Deputy Commissioner Blake is  
25 building that investigative team, basically from the

2 ground up, and that would be our focus overall, but  
3 as it pertains to adolescents, I think we have  
4 sufficient staff that those long delays will no  
5 longer occur, and the collection of evidence will  
6 happen at the time of the event and not some time  
7 later.

8 CHAIRPERSON CROWLEY: I'd like to take you  
9 through quickly a specific even that happened last  
10 January according to the DOJ's report. There was an  
11 incident where an inmate who was in MAUI [sic], so an  
12 inmate with a mental health diagnosis in a segregated  
13 area stuck their hand outside of the bars in an area  
14 where their hand could get out into a hallway, and a  
15 captain slammed the port on the inmate's arm. Video  
16 captured this. The inmate filed a claim. It was  
17 reviewed. Then the captain was given a punishment, a  
18 four day penalty, although this particular captain  
19 had at least on three other occasions been  
20 disciplined. Would you do something differently with  
21 that captain as opposed to the previous  
22 administration?

23 COMMISSIONER PONTE: Without knowing the  
24 history, I mean, there are three or four other cases,  
25 whatever they pertain to. So, I think any case of

2 excessive force needs to warrant the most severe  
3 discipline. I don't know the history, so it's very  
4 difficult to respond to a specific case.

5 CHAIRPERSON CROWLEY: Alright, we need to  
6 make sure that we have correction officer and  
7 superior officers working with our 16 and 17 year  
8 olds, especially those who have been diagnosed with a  
9 mental illness or being observed for behavioral  
10 problems, that they have specific training and are  
11 different than the average correction officer. In  
12 the ideal setting, we want every single correction  
13 officer trained as much as they can possibly be  
14 trained, but those that are dealing with this  
15 population, we have to make sure that they know that  
16 they would never do that to somebody who's arm is  
17 outside of the jail, that they don't need to use--you  
18 know, they don't need to hurt them or use force to  
19 show discipline.

20 COMMISSIONER PONTE: I agree, and also  
21 that wouldn't be appropriate with any inmate any day,  
22 so it's not just adolescents.

23 CHAIRPERSON CROWLEY: How would you do  
24 things differently? How are you going to teach what  
25 is excessive force?

2           COMMISSIONER PONTE: Well, we're going to  
3 re--you know, the--how do you manage juveniles or  
4 adolescents is much different. So the training  
5 program that we're looking at is what the state does  
6 with their juvenile system. We looked training in  
7 other juvenile systems. We'll re-write our use of  
8 force policy, which will be much different than the  
9 adult policy. SO we're walking through those steps  
10 to ensure that staff know, one, the limits of force,  
11 but also teach them other techniques. Part of,  
12 historically, here in New York, we've never trained  
13 our staff to do these things, and though we had an  
14 expectation, somehow they would know, hey, how do you  
15 manage a 16 and 17 year old differently than an  
16 adults, when we've never trained them in that manner.  
17 We now are doing that, and that training is  
18 continuing so part of it would be developing the  
19 skills in our staff to make better decisions because  
20 they have better skills. Right now we haven't done  
21 that. We're in the processing of doing that.

22           CHAIRPERSON CROWLEY: Sure, absolutely.  
23 So, if you find that a particular correction officer  
24 abused the use of force, will you immediately take  
25 them out of the facility and make sure that they get



2 remedial training so that they're not abusing their  
3 ability to discipline?

4 COMMISSIONER PONTE: I would say, as the  
5 cases you survived, absolutely, you described  
6 absolutely, yeah.

7 CHAIRPERSON CROWLEY: You have 16  
8 different instances that have been described in the  
9 DOJ's report. I believe you know who those officers  
10 or superior officers are. Do you have them still  
11 working with 16 and 17 year olds?

12 COMMISSIONER PONTE: Without going name  
13 by name I wouldn't know. Most of them are on  
14 modified status. Those are the most severe cases,  
15 yes.

16 CHAIRPERSON CROWLEY: Even in severe  
17 cases, and where investigations have concluded wrong  
18 doing and officer are charged, it seems a lot of  
19 times they go back into the facility and work with  
20 the same population. I, we need to be assured that  
21 the 16 and 17 year olds are safe, that inmates in  
22 every single jail are safe, and then if you find a  
23 correction officer abusing their power that you go in  
24 there and you stop that officer immediately. It  
25 gives the whole entire department a bad name.

2 COMMISSIONER PONTE: I agree.

3 CHAIRPERSON CROWLEY: And when somebody  
4 splashes an officer, does that justify a use of  
5 force?

6 COMMISSIONER PONTE: When somebody slashes  
7 and officer?

8 CHAIRPERSON CROWLEY: Splashes, I guess.  
9 I imagine it would be urine or if an inmate take, you  
10 know, which sometimes is believed to be urine and  
11 splashes an officer, how do you discipline that  
12 particular inmate?

13 COMMISSIONER PONTE: I mean, the officers  
14 are allowed to protect themselves, to keep themselves  
15 safe. If the inmates in a contained place like in a  
16 cell, then there is no need for use of force. If the  
17 inmate's in an area where he could continue the  
18 assault, then policy allows for the use of force for  
19 the officer to protect himself.

20 CHAIRPERSON CROWLEY: And under your  
21 administration there will be zero tolerance for  
22 unjust use of force?

23 COMMISSIONER PONTE: Absolutely.

24 CHAIRPERSON CROWLEY: So when an inmate  
25 is handcuffed it is unjust to abuse an inmate?

2 COMMISSIONER PONTE: Absolutely.

3 CHAIRPERSON CROWLEY: Removing the  
4 inmates of Rikers Island, in your testimony you did  
5 not mention any plan that the Department has to  
6 remove the 16 and 17 years olds. This was chief  
7 among the recommendations that the Department of  
8 Justice reported on. What are your reasons for  
9 keeping the adolescents currently on Rikers at RNDC?

10 COMMISSIONER PONTE: We're not opposed to  
11 that thought. We've looked at the--as you know,  
12 we've looked at the internal ability within the  
13 agency facilities that we have available. They are  
14 not conducive to a better programming. So we'll be  
15 now looking throughout the city, all the city owned  
16 buildings to see if they're appropriate. Any of  
17 these undertakings are long term. So if we did find  
18 facility, obviously you have to appropriate money.  
19 We'd have to do rehab and so there's no quick easy  
20 solution. As of today, where our current buildings  
21 are, our inventory, RNDC's the best place we can have  
22 them within the agency, but we will continue to  
23 explore other buildings and other opportunities as  
24 they become available. We're actively doing that.

2 CHAIRPERSON CROWLEY: Commissioner, I  
3 visited the Brooklyn House of Detention which is  
4 occupied, a good percentage of it, I don't know  
5 whether it's 80 or 90 percent occupied, but it is not  
6 linear. It's multi-leveled, I believe about eight to  
7 12 floors, not sure. But why do you feel that you  
8 need to have a linear jail for 16 and 17 year olds?  
9 Queens House of Detention we visited together, mostly  
10 unoccupied, not utilized, could provide a space, you  
11 know, given a little bit of capital dollars to adjust  
12 for the models that the DOJ has recommended, but why  
13 can't we look at that space, than what we're  
14 currently doing which seems to be no plan to move the  
15 16 and 17 year olds off the island?

16 COMMISSIONER PONTE: I don't agree we have  
17 no plan. I think we looked at our current inventory.  
18 I don't think anybody with a correctional background  
19 would look at either one of those facilities and  
20 think they're suitable, even with renovation. Just  
21 the total design is old prison design. It's actually  
22 built to be indirect supervision where the officer's  
23 actually outside the gate. The tiers are very small.  
24 The space, the common space is very small. So, part  
25 of what we did, I mean, what we did at RNDC, we took

2 space that was for 33 people and are now putting 15  
3 people in it. I agree--

4 CHAIRPERSON CROWLEY: [interposing] How  
5 many people could fit in Queens currently?

6 COMMISSIONER PONTE: About 400, I  
7 believe.

8 CHAIRPERSON CROWLEY: Right. And you have  
9 a population of approximately 250 sixteen and 17 year  
10 olds.

11 COMMISSIONER PONTE: Correct.

12 CHAIRPERSON CROWLEY: You could take a  
13 space that was once capable of housing 500, remove  
14 bars in areas, make it more open, have it be in a  
15 facility where you would have direct supervision and  
16 a greater amount of space for recreation. It's  
17 foreseeable. The reason I push this is when I went  
18 to your Brooklyn House of Detention, I felt that  
19 inmates were safer there. There were less areas  
20 where they could go without cameras or without  
21 supervision from a correction officer or captain. I  
22 believe your level of violence, the incidents of  
23 violence is less in a facility like that where you  
24 have a greater ratio of supervision, and whereby  
25

2 ultimately we want to make sure 16 and 17 year olds  
3 are safe.

4 COMMISSIONER PONTE: Correct.

5 CHAIRPERSON CROWLEY: So, can you look at  
6 Queens House and other facilities and come back to  
7 the committee in a reasonable amount of time within a  
8 few weeks and tell us exactly why we can or cannot or  
9 where you can move them to because we know things are  
10 not quick and easy, and I said earlier, nothing  
11 happens within a few weeks, but a capital plan,  
12 unfortunately, lasts months into years, and we need  
13 to get moving as quickly as possible to bring about  
14 real change and reform and moving the 16 and 17 year  
15 olds off the island.

16 COMMISSIONER PONTE: Yes, I can.

17 CHAIRPERSON CROWLEY: One last question,  
18 then I'm going to give the Speaker an opportunity to  
19 ask a few questions. I would like for you to take the  
20 committee through the day. Sixteen and 17 year olds  
21 on average, how long do they stay on Rikers Island?

22 COMMISSIONER PONTE: I don't have those  
23 numbers. On average with the state--74 days.

24 CHAIRPERSON CROWLEY: Okay. So two and a  
25 half months. Let's--you've taken them in, they have

2 their cell. They woke up from a night of sleeping.  
3 What time is it, and what do they do for the rest of  
4 the day before they go back into the cell to go to  
5 sleep?

6 COMMISSIONER PONTE: You have--we can  
7 give you the program. I just don't want to misquote.  
8 Can you give the program? You got to come up to the  
9 speaker.

10 JAMES PERRINO: Good morning.

11 COMMISSIONER PONTE: Turn it on.

12 CHAIRPERSON CROWLEY: Good morning,  
13 Warden Perrino.

14 JAMES PERRINO: Good morning again.

15 CHAIRPERSON CROWLEY: I would need for you  
16 to be sworn in before you begin your testimony. So  
17 if you could raise your right hand. Do you affirm to  
18 tell the truth, the whole truth, nothing but the  
19 truth in your testimony before the committee today,  
20 and to respond honestly to Council Member questions?

21 JAMES PERRINO: I do.

22 CHAIRPERSON CROWLEY: Warden, if you  
23 could take us through the day.

24 JAMES PERRINO: Okay, so we have a split  
25 session of school this year opposed to what we've

2 done last year. The split session is good because  
3 the adolescent instead of going to school from eight  
4 to two o'clock and having to lock in and then not  
5 doing much for the rest of the day. Half our  
6 adolescents go to school in the morning, and the  
7 other half go to MRT, which is what we saw when we  
8 went outside with Moral Recognition Therapy, and  
9 they'll go for recreation. They have video games  
10 there, and they also sit with counselors and, you  
11 know, talk about how to make their lives better and  
12 how to deal with stress. So let's talk about the  
13 first half that goes to school in the morning. They  
14 wake up. They eat. Approximately eight o'clock,  
15 they're sitting in a classroom. They are in class  
16 for approximately from eight to 12 o'clock, and  
17 they'll go out to eat lunch. And then the other  
18 half, after lunch, they'll go out into the sprung[sic]  
19 [sic] and they'll go to MRT where they'll speak with  
20 counselors, they'll play recreation. They'll go--we  
21 have indoor basketball. We have video games and  
22 pretty much they'll be there until approximately five  
23 o'clock. That--

24 CHAIRPERSON CROWLEY: One to five, sorry.



2 JAMES PERRINO: Approximately four or  
3 five, about five o'clock, yeah.

4 CHAIRPERSON CROWLEY: So, that--

5 JAMES PERRINO: Now that's one half of  
6 the group.

7 CHAIRPERSON CROWLEY: Four hours?

8 JAMES PERRINO: Yes.

9 CHAIRPERSON CROWLEY: For hours.

10 JAMES PERRINO: Right, so that's one half  
11 of the group. So, what happens is they're  
12 programming all day opposed to last year. They're  
13 not locking in for count. They're busy all day.  
14 Now, the second half starts at MRT in the morning,  
15 eight o'clock, and then at 12 o'clock, they'll go out  
16 to eat, and they'll go to school. And they'll go to  
17 school until five o'clock.

18 CHAIRPERSON CROWLEY: And then, I  
19 believe, from reading the report that a lot of times  
20 the violence occurs at nighttime, towards the end of  
21 the day before they go into their cell. So what is  
22 happening after dinner, and what time is dinner?

23 JAMES PERRINO: Alright, what we have  
24 changed as the Department, instead of locking in at  
25 nine o'clock, we lock in at, I mean, 11 o'clock, we

2 now lock in at nine o'clock. So at five o'clock  
3 they'll go back. They'll eat, and then what we'll do  
4 is we'll--we're training officers to facilitate with  
5 our young adolescents. So, with facilitating with  
6 them, we also brought a Assistant Deputy Warden whose  
7 done this a few years ago and is training our  
8 officers to facilitate. It brings the community to  
9 the housing areas. So the adolescents, instead of  
10 feeling like it's a correction officer, they're  
11 sitting and talking to the officers as a group, as a  
12 community and basically they're confiding in the  
13 correction officer as opposed to feeling like that's  
14 the police officer who arrested me. So instead of  
15 running from them, our goal is to have them go to the  
16 correction officer. So, the process is basically  
17 between eating and facilitating and getting  
18 themselves together and making their phone calls,  
19 their day is filled from beginning to end, unlike  
20 last year where after 2:30, pretty much that was it,  
21 and--

22 CHAIRPERSON CROWLEY: So, Warden, from  
23 six to 9:00 p.m. there are small groups where you  
24 have correction officers and inmates congregating  
25 together and interacting?

2 JAMES PERRINO: Correct. That's what  
3 we're building now. We just starting building that  
4 approximately two weeks now. So, what we're going to  
5 do is we're getting, we're finding the correction  
6 officer--the whole thing is the buying [sic] with the  
7 correction officer. Correction officers do a hard  
8 job.

9 CHAIRPERSON CROWLEY: No, and I realize  
10 that, and I appreciate the change in staff ratio,  
11 because now you have one to 15 which seems much more  
12 reasonable than one to 33, which was--

13 JAMES PERRINO: [interposing] Correct.

14 CHAIRPERSON CROWLEY: under the prior  
15 Administration, but even still, you have one to 15  
16 and I'm trying to figure out how you're spending six  
17 to nine o'clock together in which you have a lot of  
18 incidents of violence happening.

19 JAMES PERRINO: Right. That facilitating  
20 is around an hour. So, the facilitating will go say  
21 from six to seven. Those other times are being--  
22 we're taking them out to recreation. We're bringing  
23 them down to the gym. We're taking groups out.  
24 Other groups are on the telephone. So they have a  
25 kind of free time, because they've been work--they've

2 been, you know, in school all day and MRT all day.

3 Some just want to get on the telephone. But our deps

4 in the evening focus on housing there, just to bring

5 them down to recreation. What we do is we bring the

6 whole housing area down to the gym, so it doesn't

7 cost staff. Instead of sitting in a housing area,

8 let's just bring them down to the gym, you know, so

9 we get them in acting. We have two gyms in the

10 facility. So we bring, you know, a house upstairs, a

11 house downstairs, and that's--that fluctuates the

12 groups that we bring. So the answer to question is

13 different days are different things, but the focus is

14 with the--

15 CHAIRPERSON CROWLEY: [interposing] We're

16 going to go back to more questions on the day because

17 I have a lot of them--

18 JAMES PERRINO: [interposing] Okay.

19 CHAIRPERSON CROWLEY: and I want to

20 recognize the Speaker, because I know she has a

21 number of questions and some of my colleagues will

22 come back and talk more about the day. Now, I'd like

23 to recognize our Speaker Melissa Mark-Viverito for

24 questions.

25

2                   SPEAKER MARK-VIVERITO: Thank you, Chair  
3 Crowley, and Commissioner, good to have you here. I  
4 appreciate your testimony, some of the things that  
5 you outlined in terms of actions that are to be  
6 taken. At least I got some insight into that. I did  
7 an unannounced visit on Monday. I want to thank at  
8 least Warden Perrino and Acting Chief Murphy for  
9 basically assisting me, and they did speak to the  
10 staffing ratio. I did go into the punitive  
11 segregation unit. It's very heartbreaking,  
12 obviously, very dehumanizing conditions in general.  
13 Just a prison is obviously not a pleasant place. But  
14 also speaking about the recruitment in terms of staff  
15 recruitment and trying to engage and bring on board  
16 more experience. So some of the stuff that you've  
17 outlined is stuff that at least was shared personally  
18 by the staff that I interacted with. I want to just  
19 touch on a couple of things. The 80 page report,  
20 which Department of Justice issued to the Mayor and  
21 obviously the Administration in general, I just want  
22 to read quickly. It says, "We conclude that there is  
23 a pattern and practice of conduct at Rikers that  
24 violates the constitutional rights of adolescent  
25 inmates." It further states, "Indeed, we find that

2 deep seated culture of violence is pervasive  
3 throughout the adolescent facilities at Rikers, and  
4 Department of Corrections staff routinely utilize  
5 force, not as a last resort, but instead as a means  
6 to control the adolescent population and punish  
7 disorderly or disrespectful behavior." It goes on to  
8 note all these different deficiencies that exist.  
9 It's very, very extensive as you are well aware,  
10 which basically is indicated that there is a systemic  
11 institutional issues at Department of Corrections.  
12 Would you agree with that assessment, that there are  
13 institutional and systemic changes that have to be  
14 implemented in order to turn Department of  
15 Corrections around?

16 COMMISSIONER PONTE: Yeah, I think there  
17 are definitely cultural changes on how we did  
18 business as I've said in my testimony that really is  
19 the longer fix to this so we can leave a long lasting  
20 legacy of doing the right thing. So, there is  
21 cultural issues that have to be addressed, yes.

22 SPEAKER MARK-VIVERITO: I mean, because  
23 you indicated it will take fundamental change to undo  
24 years of declining conditions that takes time,  
25 understanding that any change takes time particularly

2 an organization of culture, it's understood. And I  
3 think that just the use of that wording in your  
4 testimony seems it will take fundamental change I  
5 think is an acknowledgement of a systemic pervasive  
6 problems that exist and I think that has been  
7 somewhat identified in the report. Let me ask you a  
8 question, what are the positions right now of Mr.  
9 William Clemons and Turin Gumusdere? What are their  
10 positions within Department of Corrections?

11 COMMISSIONER PONTE: Mr. Clemons is the  
12 Chief of the agency, and Mr. Gumusdere is a Warden at  
13 AMKC.

14 SPEAKER MARK-VIVERITO: You're aware of  
15 the New York Times report that came out September  
16 21<sup>st</sup> of this year saying it's title, "Report Found  
17 Distorted Data on Jail Fights at Rikers Island?"

18 COMMISSIONER PONTE: Yes.

19 SPEAKER MARK-VIVERITO: Okay. In it, it  
20 says that according to a May 14<sup>th</sup>, 2012 internal  
21 report that was Department of Corrections, Mr.  
22 Clemons said he rarely reviewed reports on daily  
23 inmate fights according to the audit, though the data  
24 was delivered to him electronically. He said he  
25 found the spreadsheets difficult to read on his

2 computer and could not figure out to print them. It  
3 goes on to say that Mr. Gumudere told investigators  
4 that he had difficulty understanding the incident  
5 reports and rarely reviewed them. He said he  
6 delegated this to his subordinates who he described  
7 as incompetent according to the audit. The audit  
8 further says--that was the internal audit of  
9 Department of Corrections. Department of  
10 Investigations further went on to say that they would  
11 not recommend any sort of promotion, particularly to  
12 Chief of Department, according to the DOI. In the  
13 attempts to really turn this agency around and make  
14 the changes systemic changes that need to be made, do  
15 you think it was appropriate decision to not only  
16 keep these individuals on board but to promote them?

17 COMMISSIONER PONTE: Yes.

18 SPEAKER MARK-VIVERITO: And what would  
19 that reason be?

20 COMMISSIONER PONTE: Because I think  
21 they're competent individuals, individually with 30,  
22 Mr. Clemons with 30 years of experience. He's got a  
23 long history of doing good work in the agency, and  
24 Mr. Gumudere of the same.



2 SPEAKER MARK-VIVERITO: The audit's  
3 authors, again, this is a report from September 21 in  
4 the New York Times, the audit's author said that the  
5 testimony of both Mr. Clemons and Mr. Gumusdere, if  
6 I'm pronouncing his name correctly, pointed to a  
7 complete abdication of their obligations as managers,  
8 recommending that both be demoted based on their  
9 admitted lack of attention to critical duties and  
10 responsibilities of jail management. I mean, that is  
11 pretty scathing. I think that, again, one thing is  
12 to keep individuals on board for whatever reasons.  
13 Another is the message that is sent when promoting  
14 individuals that not only internally were asked to be  
15 demoted, but the Department of Investigations said  
16 should not be promoted. I don't know if that sends a  
17 really positive affirming message to us that serious  
18 changes will continue if we have people that are  
19 abdicating their responsibilities or have a history  
20 of that. You don't think that sends a mixed message?

21 COMMISSIONER PONTE: I don't. I mean,  
22 you're reading from a draft report that was never  
23 published. So the published report does not say  
24 that.

2 SPEAKER MARK-VIVERITO: Well, there were  
3 issues with the report in general. That information  
4 was omitted, correct?

5 COMMISSIONER PONTE: There was no  
6 recommendation in the final report that--

7 SPEAKER MARK-VIVERITO: [interposing]  
8 Right, well, in this article it indicates that  
9 Commissioner Shiro [sp?] actually audited and took  
10 out sections of the report that spoke to their lack  
11 of competence. If you're saying that that's the  
12 report you're basing your decision on, that raises  
13 additional questions.

14 COMMISSIONER PONTE: The report that I  
15 reviewed when I promoted them was not the report  
16 you're reading from.

17 SPEAKER MARK-VIVERITO: Understood, but  
18 after that, information was made public that had been  
19 omitted from the report, and in addition you had the  
20 recommendation from the Department of Investigations  
21 that said that they should not be promoted.

22 COMMISSIONER PONTE: The recommendation  
23 from the DOI was based on the original, the final  
24 report that did not have demotion in it. The  
25 Department of Investigation never said to me at any

2 point in time that they had recommended demotion at  
3 any time in the history. So it just didn't occur.  
4 What their recommendation was based on the final  
5 report, which I did read.

6 SPEAKER MARK-VIVERITO: I mean, again, I-  
7 -you know, we've seen the kind of turn around that  
8 has happened at other agencies as a way of trying to  
9 really send a strong message that the changes one  
10 wants to implement and uproot, you know, failures of  
11 the past is being seen in other agencies. I think  
12 that to me, I'll be honest, raises concerns, and that  
13 will continue to be, I guess, an unanswered question.  
14 And so if we could just actually ask a couple  
15 questions regarding--I know you can't speak  
16 specifically to the DOJ findings and recommendations,  
17 but would you--would it be a safe assumption that in  
18 some ways your decisions, and I know you're  
19 implementing changes from day one when you came in,  
20 but are you also being guided by some other  
21 recommendations that are being delineated in the  
22 report?

23 COMMISSIONER PONTE: In the DOJ report?

24 SPEAKER MARK-VIVERITO: Yes.

25 COMMISSIONER PONTE: Absolutely.

2 SPEAKER MARK-VIVERITO: Okay.

3 COMMISSIONER PONTE: There's nothing in  
4 that report I disagree with.

5 SPEAKER MARK-VIVERITO: Okay. Now when  
6 is the response from the Administration going to  
7 happen? When is that going to be submitted?

8 COMMISSIONER PONTE: Well, we're in a  
9 process. We have to negotiate a settlement agreement  
10 with the Department of Justice. So we've had a  
11 couple meetings over--meetings will be ongoing, so  
12 once that's complete, then it'll be a public, you  
13 know, public document.

14 SPEAKER MARK-VIVERITO: Right, but the  
15 Administration was supposed to submit a report within  
16 49 days and they did not do so, correct?

17 COMMISSIONER PONTE: No, we just sent a  
18 letter saying, you know, generally what the things we  
19 were doing, but the actual item by item agreement is  
20 happen, will happen as result of a negotiation that  
21 will probably take several months to complete.

22 SPEAKER MARK-VIVERITO: Okay.

23 COMMISSIONER PONTE: We're not on a time  
24 frame now. We're actually sitting down at the table.  
25 We met this week talking about, you know, specific

2 items in the report and what our responses to those  
3 are.

4 SPEAKER MARK-VIVERITO: Okay. Obviously  
5 we will definitely be interested in seeing those  
6 responses. Now, obviously, one of the findings of  
7 the report is that the investigation division is  
8 overworked and understaffed. Last year, the City  
9 Council approved additional funding of 1.6 million  
10 dollars annually for two actions related to the  
11 Department of Corrections investigations division.  
12 First, we added 100,527 for the creation of a new  
13 Deputy Director position of the Crime Unit, the Crime  
14 Scene Unit, and second, the budget added 1.5 million  
15 for 22 civilian investigators and four Assistant  
16 Deputy Wardens to serve as integrity control  
17 officers. Do you know the status of those hiring's,  
18 if that is being implemented?

19 COMMISSIONER PONTE: All the  
20 investigators have not been hired. We're kind of  
21 looking today as that whole process where we're  
22 recruiting from. The issue for us has been we were  
23 not able to retain the people we were hiring. So we  
24 needed to look at a different approach, and that's  
25 why we've asked Deputy Commissioner Blake with his

2 background and experience to help us do that. The  
3 integrity control officers, there were four of them  
4 in place. We just promoted one of them. So there's  
5 three there now. So they are there. They are in the  
6 more problem facilities. So, we're in the process of  
7 meeting all those.

8 SPEAKER MARK-VIVERITO: Well, then as you  
9 proceed, I think we would love to get updates,  
10 because we did allocate those funds for specific  
11 purpose. So if there's any, you know, deviation from  
12 that, or there's an assessment on your end that says  
13 that you may think something more appropriate is  
14 necessary, we would obviously want to have some level  
15 of engagement and input in that process. The other  
16 thing, just last, and I'll let obviously other  
17 colleagues ask questions. When I went to the  
18 punitive segregation unit and then hearing you say  
19 that, you know, hopefully by the end of this year,  
20 right, is that your goal, that that will no longer be  
21 the case where we are segregating the adolescents?  
22 Is that the goal?

23 COMMISSIONER PONTE: That is my goal,  
24 yes.

2 SPEAKER MARK-VIVERITO: Okay. Because I  
3 was alarmed to find like one young man that was in  
4 there, because you have the sheets on the doors that  
5 tell you how many days they are to be there, one of  
6 them was scheduled to be there for 500 and--I'm  
7 sorry, 375 or so days. I mean, it's--I just can't  
8 even imagine. These cells are tiny. I walked into  
9 some of them that were empty obviously, and very  
10 small, and to think that these kids are in there 23  
11 hours out of the day is just alarming to me. I just  
12 don't understand that, but one of the things that I  
13 understand, I wonder if that's changed. One of the  
14 things that was done with those that were in punitive  
15 segregation is that they would have to take their  
16 classes by a phone. They would not be able to I  
17 guess be in a classroom setting. Is that still the  
18 case with those that are in punitive segregation?

19 COMMISSIONER PONTE: Well, we won't have  
20 inmates, adolescents in punitive seg. As of today,  
21 because we've remove a number of them, as you know,  
22 the number went from 30 to 20, that those inmates who  
23 would normally be in punitive seg and not have access  
24 to classrooms and teachers are getting that access in  
25 intensive supervision units. So a number of those

2 inmates that are now having classroom instruction in  
3 their housing unit. So the remaining inmates that  
4 are in punitive seg, some are on [sic], the lesson  
5 plan, paper lesson plan and individual learning,  
6 which will, again, will by the end of the year will  
7 no longer exist, because we'll no longer have  
8 punitive seg.

9           SPEAKER MARK-VIVERITO: I think if, if I'm  
10 remembering correctly, Warden, you had told me that  
11 individual tutors come and teach the children in  
12 their cells, is that accurate as opposed to doing it  
13 by phone? So I think you--we had specifically about  
14 the pone.

15           COMMISSIONER PONTE: Right, they, anyone  
16 can come up.

17           SPEAKER MARK-VIVERITO: Sure.

18           COMMISSIONER PONTE: They give them paper  
19 lesson plans, and then if the student has a question,  
20 they by phone with a teacher.

21           SPEAKER MARK-VIVERITO: Okay. Alright,  
22 so that's accurate.

23           COMMISSIONER PONTE: Yeah.

24           SPEAKER MARK-VIVERITO: Alright. I may  
25 have questions, but that's my primary set of



2 questions at the moment. Thank you very much  
3 Commissioner.

4 CHAIRPERSON CROWLEY: Before I recognize  
5 Council Member Cabrera for questions, Commissioner, I  
6 just want to clarify. Early you said it takes time  
7 to respond to the DOJ's report. From reading the  
8 report they gave you an imperative. They said you  
9 need to respond within 49 days. Did you go to DOJ  
10 with a response 49 days after they issued their  
11 report?

12 COMMISSIONER PONTE: Yes.

13 CHAIRPERSON CROWLEY: To every single one  
14 of their findings?

15 COMMISSIONER PONTE: Well, the--it  
16 probably wasn't in that detail, but it was  
17 willingness to say that, you know, basically we don't  
18 disagree and it's negotiated. The process is, and  
19 I've worked with other situations just like this, the  
20 process is we negotiate in very minute detail on what  
21 we're going to do and sign an agreement that they're  
22 going to hold us accountable for that sometimes runs  
23 years. So, what we did was say, okay, let's get to  
24 the table and write this agreement, which will take  
25 time to do.

2 CHAIRPERSON CROWLEY: Right around that  
3 time, just past the 49 days, the Department of  
4 Justice was very frustrated because that's when they  
5 only learned about your internal report, audit report  
6 about Mr. Clemons, correct?

7 COMMISSIONER PONTE: That had nothing to  
8 do with the Department of Corrections.

9 CHAIRPERSON CROWLEY: What had nothing to  
10 do?

11 COMMISSIONER PONTE: Those, all the  
12 information that we had available to us was turned  
13 over to the law office, including that report.

14 CHAIRPERSON CROWLEY: Why--

15 COMMISSIONER PONTE: [interposing] When  
16 it was asked for--

17 CHAIRPERSON CROWLEY: [interposing] You  
18 know, we're having an oversight hearing on your day  
19 to day practices as it relates to the adolescents on  
20 Rikers Island and the report that the DOJ issued. Why  
21 is your Chief of the Department not here today? Why  
22 is Mr. Clemons not here?

23 COMMISSIONER PONTE: He's on leave. It  
24 was planned vacation.

2 CHAIRPERSON CROWLEY: So, this committee  
3 and the council should know that you feel assured  
4 that he is capable of handling the duties of Chief of  
5 the Department. That although you've seen a new  
6 report that wasn't washed, you still feel assured  
7 that he is capable of being the Chief of the  
8 Department?

9 COMMISSIONER PONTE: Yes.

10 SPEAKER MARK-VIVERITO: And can I? Just  
11 clarify again, just on the article in the Times. So,  
12 in terms of the report, he was overseeing the adult  
13 adolescent facility, correct? He was responsible?

14 COMMISSIONER PONTE: He was, Clemons was  
15 the Warden of RNDC for seven months during that  
16 period of time, yes.

17 SPEAKER MARK-VIVERITO: During what  
18 period of time? The investigation?

19 COMMISSIONER PONTE: During that period  
20 of time that the investigation was launched as a  
21 result of reduction in fights, reduction in the  
22 number of--

23 SPEAKER MARK-VIVERITO: [interposing]  
24 Commissioner, I mean, I'm sorry. You keep saying  
25 that, but it clearly indicates that information was

2 omitted from this report that you keep referencing.

3 Am I incorrect in that, saying 375 incidents of

4 fights was scrubbed? It was not present in the

5 audit, information, talking about their lack of

6 confidence was omitted by the prior Commissioner? If

7 that was the report you're basing it on, in light of

8 this new information, I do not understand how you

9 stand by that decision. I mean, it's clear. It's

10 known that information was omitted both on the

11 personnel side and on the incident side, and yet, you

12 know, we're having this conversation. It doesn't--to

13 me, it logically does not make sense, and it doesn't'

14 seem to, again, give us any sense, at least me, you

15 know, that you're distancing yourself from

16 individuals that were either clearly incompetent. If

17 they're trying to say that, Oh, they didn't review

18 the reports. They were too busy, or they were too

19 difficult to look at. I mean, in and of itself as an

20 answer is really alarming to me that anybody in a

21 position like that would even admit to saying, well I

22 didn't look at the reports because it just looked too

23 busy or I didn't have time to look at them, whatever

24 it was. You know, so again, I don't understand if

25 you keep referencing that report and it is found that

2 that report clearly had information that was  
3 inaccurate and was left out, now in light of  
4 information being made public that you still stand by  
5 that decision. Again, that's of concern, but we'll  
6 keep coming back to that, I guess. Thank you.

7 CHAIRPERSON CROWLEY: Furthermore,  
8 Commissioner, the council made the Department aware  
9 of this hearing in August, and to allow the Chief of  
10 the Department to take time when such an important  
11 public hearing is happening, the first public hearing  
12 the Department is being subject to since the DOJ  
13 report. How could you let the Chief of the  
14 Department not be here to answer questions? No  
15 answer?

16 COMMISSIONER PONTE: It as this point, it  
17 is what it is. He's on leave.

18 CHAIRPERSON CROWLEY: Council Member  
19 Cabrera?

20 CHAIRPERSON CABRERA: Thank you so much.  
21 Commissioner, wow. Let me ask you about these  
22 cameras. I've very concerned about--are all the  
23 cameras working at this present moment?

24 COMMISSIONER PONTE: Yes.

25 CHAIRPERSON CABRERA: All of them?

2 COMMISSIONER PONTE: Yes.

3 CHAIRPERSON CABRERA: As of when? As of  
4 when? Like, I read the Daily News and in the report  
5 35 percent of the cameras were not working. Was that  
6 correct?

7 COMMISSIONER PONTE: I wasn't there.  
8 Again, I didn't do the investigation. I wasn't there  
9 at the time. I wouldn't know that. All the cameras  
10 are working today, yes.

11 CHAIRPERSON CABRERA: Well, it's alleged  
12 that 35--cameras were fixed, right?

13 COMMISSIONER PONTE: I don't know that  
14 either.

15 CHAIRPERSON CABRERA: Does anybody here--

16 COMMISSIONER PONTE: [interposing] You're  
17 asking me a point in time--

18 CHAIRPERSON CABRERA: [interposing] who  
19 would know?

20 COMMISSIONER PONTE: no knowledge of. We  
21 didn't bring anybody from the camera unit to have  
22 that discussion.

23 CHAIRPERSON CABRERA: Out of the whole  
24 team that you have here, is there anybody that would  
25 know. I mean, this has been out there. This is not

2 something new. This has been out there for weeks on  
3 end. Nobody in your team would know how many cameras  
4 were not working? I mean, this is about safety.

5 This is--this holds everybody accountable, inmates  
6 accountable, the correction officers accountable. I  
7 like working places where there's security cameras,  
8 safe cameras. I demonstrate that in my district. I  
9 put more cameras than any other Council Members,  
10 because cameras, videos don't lie. And so I would  
11 think something this important we would know. I  
12 mean, we have most of the incidents that took place  
13 were in areas ironically the cameras were not  
14 working. I find that odd. What I'm starting to see  
15 here is a pattern based on what I, the questions that  
16 were said before, a pattern for lack of better word,  
17 of sloppiness or lack of attention to detail in a  
18 place that requires detail, in a place where people's  
19 even lives can be at stake based on detail. So, I'm  
20 just a little shocked. Can you give us that? Can  
21 you give us that information?

22 COMMISSIONER PONTE: Are you going to ask  
23 me if all the cameras are working? All the cameras  
24 are working today, yes.

25 CHAIRPERSON CABRERA: But--

2 COMMISSIONER PONTE: [interposing] If  
3 you're asking me what happened in 2011, I can go back  
4 and look at reports, but I mean, the Department of  
5 Justice said a number weren't working. I mean, I  
6 wouldn't disagree with that.

7 CHAIRPERSON CABRERA: The videos that  
8 were missing, can you talk about that? There were  
9 videos that were missing?

10 COMMISSIONER PONTE: Videos are mentioned  
11 in--

12 CHAIRPERSON CABRERA: [interposing]  
13 Videos in the Department of Justice report they were,  
14 it was alleged that video recordings were missing.  
15 Do you know anything about that?

16 COMMISSIONER PONTE: Alright. There's an  
17 allegation that certain videos with certain cases  
18 they looked at were not available or missing or never  
19 recorded. The current system saves for 90 days. So  
20 if an event came to our attention at the 91<sup>st</sup> day,  
21 depending on how active the area would be, that that  
22 video may not be available to us. Now, we could  
23 have--what we normally do in the investigation is  
24 burn the video so its saved there for life, and we'd  
25 keep it and make it part of the investigation, right.



2 DOJ says some of that stuff may not have been saved,  
3 or if it was, it was lost. That's correct. The  
4 other piece of that is on planned uses of force.  
5 It's a handheld video, so it's actually done by hand,  
6 and that video should be uploaded to the system, and  
7 again, that will save it for life. So there were  
8 some of those things missing also.

9 CHAIRPERSON CABRERA: So do you say--so  
10 there is incident, excessive use of force, are those  
11 videos saved permanently?

12 COMMISSIONER PONTE: Yes.

13 CHAIRPERSON CABRERA: And--

14 COMMISSIONER PONTE: [interposing] They  
15 are now, yes.

16 CHAIRPERSON CABRERA: And they are now,  
17 but yet we see that some were missing?

18 COMMISSIONER PONTE: When DOJ did their  
19 investigation for 2011 up to 2013, they say--I mean,  
20 I wasn't here, so I don't know what they saw.

21 CHAIRPERSON CABRERA: Right.

22 COMMISSIONER PONTE: They said a number  
23 of videos and cases they looked at were not there.  
24 Were they lost, misplaced, never existed, I don't  
25 know that.

2 CHAIRPERSON CABRERA: I'm sure you asked  
3 the, you know, the people who oversees, you know,  
4 this department, did they give you an explanation as  
5 to why they were missing?

6 COMMISSIONER PONTE: Again, I didn't ask  
7 them that. I mean, it's part of, you know, for us  
8 moving forward and doing much better, the--you know,  
9 some it may have been sloppy work. It may have been  
10 cases that came up late. I mean, if it came up,  
11 something we learned of something at the 91<sup>st</sup> day,  
12 that video may not have been available to us. And I  
13 just don't know. I mean, I wasn't there. So it's  
14 create what the investigators looked at.

15 CHAIRPERSON CABRERA: Let me move onto  
16 another piece here. Do you have an adolescent  
17 psychiatrist full time, adolescent's psychiatrist on  
18 site?

19 COMMISSIONER PONTE: A what?

20 CHAIRPERSON CABRERA: An adolescent  
21 psychiatrist, do you have a full time adolescent  
22 psychiatrist on site?

23 COMMISSIONER PONTE: Adolescent--

24 : Good morning. The Department of  
25 Health and Mental Hygiene provides the health and

2 mental healthcare. They do have a handful of staff  
3 who have, you know, professional certification in  
4 adolescent psychology. I know it's an area that  
5 they're working to improve as we all work together to  
6 make the adolescent management better.

7 CHAIRPERSON CABRERA: but you didn't  
8 answer my question. The question was--

9 : I don't believe there is an adolescent  
10 psychiatrist.

11 CHAIRPERSON CABRERA: Do you believe that  
12 an adolescent should be on site in light of the fact  
13 that I think--what is the same? Excuse me. Fifty  
14 percent of adolescents that you are working with have  
15 mental health issues?

16 : Yes, it's an area where we would like  
17 to see some improvement.

18 CHAIRPERSON CABRERA: Okay, and has it  
19 been a request from your Department to request for an  
20 adolescent psychiatrist to be on board?

21 : Yeah, we work closely with the Health  
22 Department. They have new mental health leadership  
23 there who began about a month ago or so and that is a  
24 priority that we've discussed with her, yes.

2 CHAIRPERSON CABRERA: So you place, just  
3 to be clear and to be specific, you placed the  
4 request a month ago?

5 : No.

6 CHAIRPERSON CABRERA: Okay. Alright, I'm  
7 sorry--

8 : [interposing] We've been working  
9 together. I have not--we have not sent a letter that  
10 says please provide an adolescent psychiatrist.  
11 We've had regular ongoing conversations about  
12 improving the mental health service particularly at  
13 RNDC and for adolescents, and that has been a part of  
14 our conversation since then.

15 CHAIRPERSON CABRERA: So there's been  
16 conversations, but no official request? I just want  
17 to--I'm very concrete, I'm sorry.

18 : Yes, that's correct.

19 CHAIRPERSON CABRERA: Okay. Do you think  
20 it'll be helpful to put an official request to say,  
21 "Look, we need an adolescent psychiatrist?" I come  
22 from that world. My doctorate's in counseling. I'm  
23 a licensed mental health counselor, and I tell you  
24 working, you know, I've made a couple of visits. I  
25 could tell you that a compilation definitely needs

2 someone who specialized in this field. Any more when  
3 you to a hospital, you have, you know, you have  
4 doctors with special license in areas. So, that's a  
5 recommend--Madam Chair, if we could follow up with  
6 that.

7 CHAIRPERSON CROWLEY: Alright--

8 CHAIRPERSON CABRERA: [interposing] Let  
9 me ask--

10 CHAIRPERSON CROWLEY: [interposing] Just  
11 a point of clarification.

12 ERIK BERLINER: Yes.

13 CHAIRPERSON CROWLEY: I'm not sure if I  
14 heard correctly. Is there no adolescent psychiatrist  
15 on staff for 16 and 17 year olds?

16 ERIK BERLINER: Not that I'm aware.

17 CHAIRPERSON CROWLEY: Shouldn't you be  
18 aware of that if there is one?

19 ERIK BERLINER: No, I mean, I am not--I  
20 don't believe there is one.

21 CHAIRPERSON CROWLEY: There isn't one  
22 because somebody resigned or there isn't one because  
23 there never was?

24 ERIK BERLINER: I don't want to speak for  
25 another agency in totality.

2 CHAIRPERSON CROWLEY: How long have you  
3 been working with the Department of Health?

4 ERIK BERLINER: I'm not at the Department  
5 of Health. I work for the--

6 CHAIRPERSON CROWLEY: But aren't you  
7 their liaison?

8 ERIK BERLINER: Yeah, so--

9 CHAIRPERSON CROWLEY: So, are you a  
10 doctor?

11 ERIK BERLINER: No.

12 CHAIRPERSON CROWLEY: What is your role  
13 within the DOC?

14 ERIK BERLINER: I'm the Deputy  
15 Commissioner for Strategic Planning and Programs,  
16 which includes our liaison to the Department of  
17 Health. The answer to your question is what we've  
18 discussed here is the need to change a longstanding  
19 culture of treating adolescents just like adults, and  
20 that is true at the Health Department as well. It's a  
21 process that we're undertaking together, and it  
22 includes partnerships with adolescent psychology.  
23 It's something that's in the works, but it does not  
24 exist at the moment.

2 CHAIRPERSON CROWLEY: How many of 16 and  
3 17 year olds of that population are prescribed some  
4 type of mental health drug?

5 ERIK BERLINER: We don't know that.  
6 That's a question you'd have to ask the Department of  
7 Health.

8 CHAIRPERSON CABRERA: Let me go on to  
9 your training curriculum that you just started  
10 implementing I believe in September. You have a new  
11 train--let me back up. Do you have a new training  
12 curriculum that was started to be implemented with a  
13 correction officers in this last September? Did I  
14 hear you right?

15 COMMISSIONER PONTE: It just this past  
16 September, yes.

17 CHAIRPERSON CABRERA: Okay, this  
18 curriculum, how do we know that it's effective and  
19 reliable?

20 COMMISSIONER PONTE: Because we talked to  
21 other juvenile systems that have used that for  
22 training their staff, and it's been an effective and  
23 reliable for them.

2 CHAIRPERSON CABRERA: Okay, so there is--  
3 there's research that has been done in this  
4 particular curriculum?

5 COMMISSIONER PONTE: Right.

6 CHAIRPERSON CABRERA: What is that  
7 curriculum called? I'm just curious? Does anybody  
8 know?

9 COMMISSIONER PONTE: Safe Crisis  
10 Management is the name of the program that we're--

11 CHAIRPERSON CABRERA: Safe?

12 COMMISSIONER PONTE: Safe Crisis  
13 Management.

14 CHAIRPERSON CABRERA: Crisis Management,  
15 okay. You mentioned that as the end of, and I'm  
16 sorry if I didn't catch this, but I just didn't hear  
17 it. At the end of December or the end of this year,  
18 no longer are we going to find our young people  
19 placed in isolation. What's going to be, what  
20 discipline actions then will be afforded to the  
21 correction officers to be able to use with the  
22 inmates?

23 COMMISSIONER PONTE: Alright. So most  
24 progressive systems use a host of informal sanctions.  
25 So the issue for adolescents is immediate



2 consequences and not long punishments. So they'd be  
3 things from taking privileges away. Things would be  
4 locked in your room for a couple of hours. So, a  
5 whole host of minor sanctions with punitive seg. So,  
6 there's no disciplinary report. We don't write  
7 inmates up. It would be part of managing, you know,  
8 your housing unit that the officer would have  
9 available. So it'd be a whole host of sanctions.

10 CHAIRPERSON CABRERA: Commissioner, who  
11 else is using that approach across the nation? How  
12 effective they have been?

13 COMMISSIONER PONTE: It's very effective.  
14 So, I know in Maine, I mean, I don't have a lot of  
15 experience in juvenile justice, but in Maine I was in  
16 charge of the juvenile system. They do not have  
17 punitive seg. It's not a sanction. It's not  
18 available to them, and they've done away with it for  
19 it's been probably five or six years. I know other  
20 systems, Massachusetts, other places that we sent  
21 staff to also don't use punitive seg. So there may be  
22 a removing an inmate or an offender from population.  
23 Those are usually done in very short intervals with  
24 some clinical intervention as to what's going on  
25 here.

2 CHAIRPERSON CABRERA: Thank you so much  
3 for that. I mean, that's promising. The last  
4 question that I have, I know the ratio right now if I  
5 heard right was one to 15 right now between  
6 correction officer adolescent inmates.

7 COMMISSIONER PONTE: That's correct.

8 CHAIRPERSON CABRERA: What does the  
9 research show, and feel free if you have any of your  
10 people could address this as well, that shows that  
11 this actually effect, this one to 15 effect. I hear  
12 from the advocates that one to eight is the ideal  
13 number here, especially dealing with adolescents that  
14 have so many issues, and you know, the maturity issue  
15 is always a challenge. So what do you have seen  
16 across the nation?

17 COMMISSIONER PONTE: You're right. I  
18 think nationally you run anywhere from one to eight,  
19 one to ten. One to 15 is probably on the high side,  
20 but much better than what we've done before, but we  
21 also plan on supplementing in those teams. Counselors  
22 are going to be there fulltime working with these  
23 offenders. Different, much different than we've had  
24 before. So we're adding people to the group in order  
25

2 to supplement the staffing ratios that are, you know,  
3 for us it's one to 15.

4 CHAIRPERSON CABRERA: So how much more  
5 would it cost us if we were to bring it down to one  
6 to eight? Which will make it better for the  
7 officers, so they wouldn't be as, you know, stressed  
8 with, you know, huge responsibility that they have,  
9 and it's already proving just like in schools,  
10 smaller class--

11 COMMISSIONER PONTE: [interposing] I'm  
12 guessing another four--I mean, costs us about four  
13 million for us to go to the 115. That was about  
14 halving. So, you're about halving again, so probably  
15 another four million dollars.

16 CHAIRPERSON CABRERA: Do you think--

17 COMMISSIONER PONTE: [interposing]  
18 Annually.

19 CHAIRPERSON CABRERA: I'm sorry.

20 COMMISSIONER PONTE: Annually would cost  
21 us that.

22 CHAIRPERSON CABRERA: Is this something  
23 that you could recommend to the mayor and to everyone  
24 else in the other side that is handling next years'  
25

2 budget to put a force saying the actual [sic] from  
3 here we'll be doing that?

4 COMMISSIONER PONTE: I wouldn't be opposed  
5 to that. I'd like to see the system that we're  
6 currently designing, see how that rolls out and how  
7 effective we are before we take that step. But  
8 you're right, nationally and a lot of juvenile  
9 systems it's one to ten, one to eight in that ratio.

10 CHAIRPERSON CABRERA: Commissioner, I  
11 know you just come in, and I know some of the things  
12 that we're talking about, many of the things we're  
13 talking about came before you came in to the scene,  
14 but I think you already knew what you were coming  
15 into. I'm very hopeful that you will be able to  
16 basically clean house where house needs to be cleaned  
17 to have a structure that has purpose, functionality  
18 and will be effective in helping our young people. I  
19 understand it's not a easy population to work with,  
20 but never the less, it's a challenge before us. Thank  
21 you so much. Madam Co-Chair, thank you.

22 CHAIRPERSON CROWLEY: Thank you, Chair  
23 Cabrera, Commissioner and Deputy Commissioners. The  
24 Department of Justice highlighted that nearly half of  
25 the adolescents have a mental health diagnosis, and

2 sadly, Deputy Commissioner Berliner, you do not know  
3 whether or not there is a psychiatrist on staff. For  
4 the purpose of the committee--

5 COMMISSIONER PONTE: [interposing] Child  
6 psychologist, psychiatrist.

7 CHAIRPERSON CROWLEY: Right, right,  
8 right. Well, look an adult psychiatrist--

9 COMMISSIONER PONTE: [interposing] There  
10 is no psychiatrist.

11 CHAIRPERSON CROWLEY: should not be  
12 prescribing medication to 16 and 17 years olds, and  
13 I'm not a medical health professional. But for the  
14 purpose of the committee there will be a hearing in  
15 November and December to follow up on the June  
16 hearing on the quality of healthcare delivery and the  
17 alarming rate of violence among the mental health  
18 population. So that'll get more focus in the coming  
19 weeks. We're waiting for the Mayor's task force to  
20 release its plan on how best to help this population.  
21 And now I'm going to recognize Council Member Lancman  
22 followed by Council Member Dromm.

23 COUNCIL MEMBER LANCMAN: Good morning,  
24 Commissioner.

25 COMMISSIONER PONTE: Good morning.

2 COUNCIL MEMBER LANCMAN: I want to ask  
3 you just a few questions regarding the access to  
4 legal services and to the courts that the juveniles  
5 at Rikers have. Have you had an opportunity to  
6 examine and consider the impact on these young people  
7 having to go back and forth to court on a regular  
8 basis as it usually works out and what it means for  
9 their education and the programming that they're  
10 receiving on Rikers Island and whether it might make  
11 more sense for them to be housed somewhere else  
12 that's closer to the courts and create less of an  
13 interruption to their daily routine and their  
14 programming?

15 COMMISSIONER PONTE: Obviously we're  
16 looking at sites as result of the recommendation of  
17 the DOJ report as we addressed. Looking for a  
18 suitable site that falls into that category that also  
19 is--we have a neighborhood that's accepting of those  
20 facilities in their area would all be challenges to  
21 that, but not opposed to looking at any of those  
22 things. You know, we've looked within our own system,  
23 and again, I don't believe we have suitable  
24 facilities in our system to do that.

2 COUNCIL MEMBER LANCMAN: DO you know if  
3 there's been any effort through the use of technology  
4 to make it so that these young folks don't need to  
5 physically appear in court and whether or not there  
6 have been conversations with our the Office of Court  
7 Administration, and even going so far as the  
8 possibility, and I'll just throw this out there,  
9 whether or not establishing some kind of court  
10 presence on Rikers for the youth, maybe a youth  
11 adjudication part?

12 COMMISSIONER PONTE: You know, so clearly  
13 the use of video and court is something we would be  
14 in favor of. It's a judge or a court prerogative,  
15 but we'd be very interested to have that conversation  
16 with any of the jurisdictions or any of the boroughs  
17 to talk about making that process video, because we  
18 do some video arraignments and a video hearings, but  
19 it's not a lot. I've seen much more in other  
20 systems.

21 COUNCIL MEMBER LANCMAN: Well, I'd urge  
22 as this goes forward and we intend to help facilitate  
23 that conversation to look at this aspect of the lives  
24 of the juvenile inmates on Rikers and throughout the  
25 system, making that process of interacting with the

2 court a lot more seamless and less disruptive to  
3 their lives. Let me ask you about the process at  
4 Rikers for adjudicated claims of inmate infractions  
5 and for the young people in particular. One of the  
6 things that I think was highlighted in DOJ report is  
7 to put it mildly, false accusations, perjury, misuse  
8 of evidence if not manufacturing evidence against  
9 inmates is rampant. And I understand that Rikers is  
10 very, very dangerous place and it's particularly  
11 dangerous for the guards as well, which is something  
12 that the New York Times editorial board and DOJ  
13 didn't seem to pay much attention to, but that's  
14 serious as well. But in terms of how the complaints  
15 against the inmates are adjudicated, have you given  
16 any consideration to reforming that process to  
17 possibly being open to providing at least the  
18 juvenile inmates access to counsel? Considering that  
19 very substantial rights and liberties are at stake,  
20 and including also whether or not taking the  
21 adjudication of that at some level outside of the  
22 hearing and determination of Department of  
23 Correction's employees.

24 COMMISSIONER PONTE: We're looking at  
25 discipline, the discipline policy and segregation



2 overall, not just for adolescents where we wouldn't  
3 be really infringing on anybody's rights. So, we're  
4 not taking good time away. We're not putting people  
5 in punitive seg any longer. Though the kinds of  
6 infractions that we're--the kinds of corrective  
7 action would be taken would be pretty minor in tone  
8 and not warrant, you know, a due process hearing, but  
9 something that we could talk about how best to do  
10 that, but these are basically, you know, the media  
11 corrective actions to somebody acting out, not  
12 handing out days or months of punitive segregation  
13 time. We just don't do that anymore.

14 COUNCIL MEMBER LANCMAN: I understand  
15 that you're moving away from punitive segregation for  
16 the juveniles, correct?

17 COMMISSIONER PONTE: Correct.

18 COUNCIL MEMBER LANCMAN: But the  
19 disciplinary process can result in consequences which  
20 are, you know, very serious and impactful for these  
21 young people. Would you have any opposition  
22 initially to the idea of providing come counsel to  
23 juveniles, perhaps if we could somehow figure out  
24 which are the more serious infractions that they  
25

2 might face some kind of punitive measure for, even if  
3 it's not punitive segregation?

4 COMMISSIONER PONTE: I mean, as we look  
5 at the new system, we'd be more than happy to have  
6 you included in that conversation to see as it's  
7 designed does it warrant that or is it minor enough  
8 where that's not of interest. I'm not opposed to  
9 that.

10 COUNCIL MEMBER LANCMAN: And the last  
11 question that I have, or really it's just something I  
12 want to bring to your attention, is as we're  
13 introducing new programs for juvenile inmates, it  
14 would be very helpful in their legal proceedings,  
15 potentially, for those programs to be able or at  
16 least to have the means to provide updates to the  
17 court to their, the juvenile's lawyers on their  
18 participation of these programs and their success or  
19 involvement. It could be meaningful for their legal  
20 proceeding and if they do plead out or are convicted,  
21 it could be meaningful to their sentence, and as  
22 these move forward, I would really like that to be  
23 part of the change in culture at Rikers.

24 COMMISSIONER PONTE: It came yesterday in  
25 the brainstorming session that that connection is

2 missing for us, and a lot of the juvenile system,  
3 it's a very active connection. So, something that we  
4 will be pursuing absolutely.

5 COUNCIL MEMBER LANCMAN: Okay. Well,  
6 thank you very much.

7 CHAIRPERSON CROWLEY: Thank you, Council  
8 Member Lancman. Now, we'll recognize Council Member  
9 Dromm.

10 COUNCIL MEMBER DROMM: Thank you, Chair  
11 Crowley and thank you Commissioner for coming in to  
12 speak with us. I want to just follow up and perhaps  
13 reiterate some of the issues that the Speaker brought  
14 up in regard to Mr. Clemons and Mr. Gumusdere, and I  
15 guess my question is about whether or not there will  
16 be any steps that you'll be taking against people  
17 altered the report that were referenced by DOJ.

18 COMMISSIONER PONTE: I don't understand  
19 the question. So what--

20 COUNCIL MEMBER DROMM: [interposing]  
21 Will you be taking any--

22 COMMISSIONER PONTE: [interposing] report  
23 are we talking about?

24 COUNCIL MEMBER DROMM: disciplinary  
25 actions against Mr. Clemons or Mr. Gumusdere?

2 COMMISSIONER PONTE: No.

3 COUNCIL MEMBER DROMM: So you feel  
4 confident that what they did is fine?

5 COMMISSIONER PONTE: I'm not saying it's  
6 fine, but those events happened some time ago.

7 COUNCIL MEMBER DROMM: But they should  
8 not be held accountable? Do you worry about what  
9 type of message that might send to corrections  
10 officers if the leaders of the institution can  
11 themselves alter reports and then get away with it?

12 COMMISSIONER PONTE: I mean, I don't  
13 share your same concern. I mean, I grew up in the  
14 system. I was a correction officers myself. I don't  
15 take anybody without looking at the evidence. I'm  
16 very strong on accountability. Most of our command  
17 staff has changed, about 80 percent, 90 percent of  
18 our wardens have all been replaced. So I feel pretty  
19 strongly that we're going to hold our staff  
20 accountable. I can't help what happened in 2011,  
21 2012.

22 COUNCIL MEMBER DROMM: I really have to  
23 question that type of thinking, and I have to  
24 question that type of thinking, and I have to say  
25 that in order to change a culture of violence, a

2 culture of violence committed by guards as well as by  
3 detainees at Rikers, if you don't do a change at the  
4 top, which is probably the easiest thing to do, then  
5 the message to those who are ranked below them is  
6 going to be a confusing message that you send them.  
7 Who is Heidi Grossman?

8 COMMISSIONER PONTE: She's our Chief  
9 Legal Counsel.

10 COUNCIL MEMBER DROMM: And wasn't she the  
11 Lead Attorney for the Bloomberg Administration in  
12 support of stop and frisk?

13 COMMISSIONER PONTE: I don't know  
14 factually if that's true. She's here. You can ask  
15 her.

16 COUNCIL MEMBER DROMM: She was the lead  
17 attorney for the Bloomberg Administration for the  
18 stop and frisk policies, to keep the stop and frisk  
19 policies, and she was a hire by you, am I right?

20 COMMISSIONER PONTE: She is our Chief  
21 Legal Counsel, yes.

22 COUNCIL MEMBER DROMM: And you hired her?

23 COMMISSIONER PONTE: I did, yes.

24

25

2 COUNCIL MEMBER DROMM: So you don't know  
3 that she was the lead attorney for the stop and frisk  
4 policy?

5 COMMISSIONER PONTE: I don't know if the  
6 lead attorney. I know she worked on that case. You  
7 know, so I aware she worked on that case, but if  
8 she's the lead attorney I'm not positive of that,  
9 but.

10 COUNCIL MEMBER DROMM: So again, I have to  
11 wonder about what type of change, because I do  
12 believe there is a connection between stop and frisk  
13 policies and the way they are implemented and the  
14 culture of violence that exists on Rikers Island.  
15 How are you engaging the Correction Officers  
16 Benevolent Association in the change?

17 COMMISSIONER PONTE: I think they're at  
18 the table for everything we do. They've been at the  
19 table for the changes that we've done at RNDC.  
20 They're on board with the systems that we put in  
21 place. They've been supportive of the changes we've  
22 made.

23 COUNCIL MEMBER DROMM: Now, Norman  
24 Seabrook, the President, has said that he would like  
25

2 to see more solitary rather than less solitary. How  
3 are working to change that belief?

4 COMMISSIONER PONTE: I'm not going to  
5 speak for Norman. He's very able to speak for  
6 himself. So, our progressive program is the use  
7 alternatives to punitive seg, and as it pertains to  
8 adolescents, to eliminate punitive seg.

9 COUNCIL MEMBER DROMM: Well, I see this  
10 is--to change culture, you have to change all of  
11 these things. And I think your unwillingness to  
12 speak to that also is part of the problem. Let me  
13 ask you, are Council Members allowed to visit Rikers  
14 Island without COLBA [sic] escorts?

15 COMMISSIONER PONTE: Sure.

16 COUNCIL MEMBER DROMM: Okay. And that  
17 can be done just by calling Heidi Grossman?

18 COMMISSIONER PONTE: You don't any time.  
19 You don't even need to call, show up any time.

20 COUNCIL MEMBER DROMM: Because it's in  
21 the charter, in the city charter.

22 COMMISSIONER PONTE: Well, we'll welcome  
23 you in any time. I'm not sure if it's the charter,  
24 but show up anytime. We'll make sure you get through  
25 any place you'd want to see.

2 COUNCIL MEMBER DROMM: And Commissioner,  
3 who is in charge of the legislation, my legislation  
4 that we passed for the reporting of solitary? Who's  
5 in charge of that?

6 COMMISSIONER PONTE: Of the legislation  
7 or the data?

8 COUNCIL MEMBER DROMM: The data,  
9 collection of the data.

10 COMMISSIONER PONTE: Would be Eric  
11 Berliner.

12 COUNCIL MEMBER DROMM: And has that  
13 process begun?

14 COMMISSIONER PONTE: Yes.

15 COUNCIL MEMBER DROMM: And who are the  
16 people that physically collect it? How does that  
17 work? How does the collection of that data work?

18 COMMISSIONER PONTE: Some of it was  
19 already electronically and some of it were--

20 : Yeah, some of the data that you,  
21 that's in the bill was already being captured, so  
22 that's already in process. We've developed a new  
23 data capture mechanism and that's been rolled out to  
24 all of the facilities in which are covered by the  
25 reporting bill. We are looking at that data on a



2 weekly basis to make sure that the new system works,  
3 and we are prepared and we'll absolutely meet the  
4 deadline of January 20<sup>th</sup> to report.

5 COUNCIL MEMBER DROMM: And obviously,  
6 there'll be no tampering with that data?

7 : Absolutely not.

8 COUNCIL MEMBER DROMM: Okay, because  
9 we're going to be looking very closely at that and  
10 how that report looks like, especially the first one  
11 which is due in January. Commissioner, I'm curious  
12 to know why you chose McKinsey, McKinsey, excuse me,  
13 as the organization to advise you on reform? From  
14 everything that I understand, they have no experience  
15 in jail reform issues or prison reform issues. Why  
16 did you go with them and what is the hope that you  
17 have that they're going to be--what might they tell  
18 you or what do you expect from them?

19 COMMISSIONER PONTE: I think they were  
20 known to the city. They've done work with the police  
21 department and part of what they do is really look  
22 from the--look at the organization at all the  
23 different layers, what's happening, what are the road  
24 blocks to moving things forward, and so they can do  
25 that in a much more intense down in the weeds fashion

2 than we can could. They are not corrections people,  
3 correct, but they're not advising us on corrections  
4 matters.

5 COUNCIL MEMBER DROMM: So it's my hope  
6 that they will be reaching out to organizations like  
7 Jails Action Coalition, NYC LU, people who have had  
8 experiences and who know firsthand from detainees who  
9 have been at Rikers. Has a provision been made for  
10 them to include in their recommendations suggestions  
11 and discussions with those advocates?

12 COMMISSIONER PONTE: Not specifically. I  
13 mean, it's not in their plan, but I'll ensure you  
14 that that won't happen.

15 COUNCIL MEMBER DROMM: Okay, and you're  
16 willing to ensure us today that they will be included  
17 in this?

18 COMMISSIONER PONTE: Yes.

19 COUNCIL MEMBER DROMM: Okay, very good,  
20 because some of them here in the audience today, and  
21 I think they'll be happy to know about that. I want  
22 to just refer to the DOJ report again, that an  
23 excessive amount of use by force, by staff involved  
24 head shots. Can somebody show me what a head shot  
25 looks like?

2 COMMISSIONER PONTE: You know.

3 COUNCIL MEMBER DROMM: Give me just a  
4 physical example of what, what does a head shot mean.  
5 You know, we have this conflict going on in the city  
6 with chokeholds, for example. What qualifies as a  
7 head shot? I mean, I'm shocked to know that  
8 headshots would be used against adolescents, less  
9 than it's even used against the adult population. It  
10 seems like bullying to me, but I'm curious to know  
11 what, because I've not seen a headshot. What does a  
12 headshot look like?

13 COMMISSIONER PONTE: My assumption is a  
14 punch or use of some other instrument to the head  
15 would be considered a headshot.

16 COUNCIL MEMBER DROMM: So it could be  
17 either a punch or some type of blunt instrument  
18 that's used to hit them in the head?

19 COMMISSIONER PONTE: Baton, yeah.

20 COUNCIL MEMBER DROMM: And what would  
21 qualify that type of force?

22 COMMISSIONER PONTE: What would qualify  
23 it?

2 COUNCIL MEMBER DROMM: Right. Why would  
3 somebody used that type of force? What would be an  
4 acceptable reason for use of that type of force?

5 COMMISSIONER PONTE: I'm not sure if  
6 there's ever an acceptable reason. I don't think if  
7 we're doing those things with intent that that would  
8 be appropriate. Those things if they happen in a  
9 sense of an extreme situation where somebody's  
10 defending themselves, those would be circumstances  
11 where it may well be a last resort.

12 COUNCIL MEMBER DROMM: So it seems really  
13 violent to me for somebody, especially a 16 or 17  
14 year old to get a headshot. I mean, that's really  
15 unbelievable. But would you be willing to commit  
16 today to providing a regulation as does the NYPD  
17 against chokeholds, against headshots in our jails?

18 COMMISSIONER PONTE: We are re-writing  
19 our use of force policy substantially, obviously we  
20 don't specifically say headshots. Any strike to a  
21 vital area is what some of the language we're putting  
22 in our use of force policy.

23 COUNCIL MEMBER DROMM: Well, I think we  
24 need to be clearer about what the violence looks  
25 like, and if we're not clear to the officers about

2 what they can and they can't do, they're going to  
3 continue to do headshots and/or other types of  
4 violence. So my hope that you would immediately  
5 impart, and which I think you can do with your  
6 powers, is to immediately define what is acceptable  
7 force, what's not acceptable force, and whether or  
8 not headshots in particular are acceptable means of  
9 force.

10 COMMISSIONER PONTE: We are re-writing our  
11 policy.

12 COUNCIL MEMBER DROMM: Okay, that's about  
13 it for me for right now. Thank you very much.

14 COMMISSIONER PONTE: Yeah.

15 CHAIRPERSON CROWLEY: Thank you Council  
16 Member Dromm, and before we have another Council  
17 Member recognized for questions I'd like to say that  
18 we've been joined by Council Member Vallone, Council  
19 Member Levin, Council Member Arroyo and we were  
20 briefly joined earlier by Council Member Vacca and  
21 now I'd like to recognize Council Member Arroyo for  
22 questions.

23 COUNCIL MEMBER ARROYO: Thank you, Madam  
24 Chair and your co-chairs for this hearing.  
25 Commissioner, welcome.

2 COMMISSIONER PONTE: Thank you.

3 COUNCIL MEMBER ARROYO: Congratulations  
4 and my condolences. It's not an easy job. I want to  
5 go to your testimony and seek some clarification on  
6 some of the statements that you've made on the  
7 record. First, on page four, you indicated that 18  
8 year olds were pulled out of the adolescent  
9 population, and if I recall, they numbers almost  
10 dropped in half in terms of the population that is  
11 now in the adolescent detention area.

12 COMMISSIONER PONTE: Right, the new  
13 definition of adolescent being 16 and 17 year olds,  
14 correct.

15 COUNCIL MEMBER ARROYO: Okay. So but in,  
16 on page two of your testimony you referenced the  
17 emergence of brain sciences shows that young people's  
18 development may continue to their mid 20's.

19 COMMISSIONER PONTE: Correct, actually  
20 24, 25.

21 COUNCIL MEMBER ARROYO: Okay. So is  
22 pulling the 18 year old population out of that unit a  
23 smart thing to do given--and I'm separating this from  
24 the 16, 17 year old conversation.

25 COMMISSIONER PONTE: Correct.

2 COUNCIL MEMBER ARROYO: As it relates to  
3 a safe place for them to be, whether it's an  
4 appropriate environment for 18 to 20 some odd year  
5 olds to be.

6 COMMISSIONER PONTE: Right. So we  
7 created a sub group of 18 to 21. We didn't include  
8 the 18 to 24 only because our ability to develop  
9 these programs is somewhat limited. So we moved  
10 these inmates to a couple of other facilities in  
11 groups, so the programming that we're designing for  
12 our 16 and 17 year olds will eventually be offered to  
13 that group, including the staff training and other  
14 pieces of it. But it's about 1,200 inmates in  
15 comparison to the less than 300 for the 16 and 17  
16 year olds.

17 COUNCIL MEMBER ARROYO: So the 18 to 21  
18 year old group is in a separate containment area or--

19 COMMISSIONER PONTE: [interposing] There  
20 is--

21 COUNCIL MEMBER ARROYO: detention area?

22 COMMISSIONER PONTE: They're at three,  
23 two facilities in specific areas in those facilities.

24 COUNCIL MEMBER ARROYO: And there are  
25 about 1,200 of those?

2 COMMISSIONER PONTE: That's correct.

3 COUNCIL MEMBER ARROYO: Okay. So can get  
4 some more information about that specific population,  
5 because I don't think something magical happens  
6 between 17 and 18.

7 COMMISSIONER PONTE: Correct.

8 COUNCIL MEMBER ARROYO: We're not that  
9 much smarter. We're not that much wiser as human  
10 beings. So, I think we need to extend the  
11 conversation to deal with the older, younger  
12 population as well, and to see what models are being  
13 considered or already implemented for that population  
14 as well. Of the young people that are in detention in  
15 your system, do we have a sense of how many of those  
16 individuals have a learning disability that has not  
17 been considered in their road to coming back to the  
18 community?

19 COMMISSIONER PONTE: When they come in,  
20 the--well, the Department of Education may already  
21 have testing they've done on these individuals in the  
22 school system, so--

23 COUNCIL MEMBER ARROYO: [interposing]  
24 I'm sorry, I'm having a hard time understanding you.  
25 I didn't--



2 COMMISSIONER PONTE: [interposing] The  
3 Department does testing on individuals coming from  
4 the school systems. A lot of these individuals come  
5 from the schools, so they would have that information  
6 as the inmates come into the system, special needs.

7 COUNCIL MEMBER ARROYO: And is there a  
8 specific plan for their educational needs?

9 COMMISSIONER PONTE: It's run by the  
10 Department of Education, so the answer is yes. The  
11 same plan as any other school.

12 COUNCIL MEMBER ARROYO: So the assumption  
13 is that DOE has done the appropriate evaluations and  
14 established a learning plan for that individual?

15 COMMISSIONER PONTE: Yes.

16 COUNCIL MEMBER ARROYO: And there's no  
17 way to cross reference whether the plan is  
18 appropriate for them.

19 COMMISSIONER PONTE: We don't have  
20 educators on our staff. Most agencies, and we asked  
21 the question about medical and psychiatry. Most  
22 Department of Corrections would have people on our  
23 staff that would have oversight. That's not the case  
24 here. The city school department for the 16 to 17  
25 year olds runs the education program.

2 CHAIRPERSON CROWLEY: Just a point  
3 clarification for Council Member Arroyo and for the  
4 Committee, the DOJ didn't highlight the level of  
5 education, although your questions are on target, the  
6 population at Rikers Island is all considered a  
7 special education population, be it that they are on  
8 Rikers Island and district 79 oversees their level of  
9 education. What is needed is a greater oversight  
10 hearing with the Department of Education here,  
11 evaluating their level. From my visits to Rikers  
12 Island and recently yesterday morning I was in the  
13 classroom, both the English classroom and a math  
14 classroom. I did not feel that the teachers there  
15 were meeting the needs, the educational, the  
16 individual educational needs of the student. The  
17 ratio was far too great. We had students who have  
18 already passed the algebra Regent's study in algebra,  
19 and many different levels of English in one English  
20 class. So there's more we can do as a council to  
21 work with the Department of Corrections and Education  
22 to make sure that our kids are not bored in the  
23 classroom.

24 COUNCIL MEMBER ARROYO: Well, and I look  
25 forward to that conversation. The challenge that we

2 usually confront is that individuals with special  
3 learning needs are not handled appropriately, and you  
4 know, we fight to create services for individuals to  
5 get them ready for the work force, whether they're  
6 coming back home from detention or within the  
7 community, and often the programs are developed for  
8 individuals with pretty much consistent learning  
9 aptitude. And there are many, many individuals who  
10 have learning disabilities, who have not been  
11 appropriately evaluated and intervention provided to  
12 help them succeed in the classroom. So we're sending  
13 individuals to a training program that they're going  
14 to fail at as well. And the continual failure  
15 magnitude adds different levels of issues and  
16 inevitably they're back in detention because they  
17 have failed at everything that they've tried as it  
18 relates to education, frustration, depression and  
19 everything else that comes with that. So, I think  
20 that we have to have a different level of  
21 conversation about how we prepare individuals do  
22 reintegrate into community and those that are already  
23 in the community as well. So, and I can go on  
24 forever, so I'll stop there. On page four of your  
25 testimony you indicated that there's a priority given

2 to camera installations at the facility to deal with  
3 the issue of blind spots. What's the status? How  
4 many have been installed?

5 COMMISSIONER PONTE: We have a little  
6 over 400 cameras there. We have on a plan 200 more.  
7 That doesn't cover everything, but it is a great  
8 improvement, so we're--we have the most cameras in  
9 any facility in RNDC. We've got plans to add about  
10 200 more there and to have every spot in the facility  
11 covered, we need about another 200 beyond those.

12 COUNCIL MEMBER ARROYO: When do you  
13 anticipate the installation to be completed?

14 COMMISSIONER PONTE: I think of the 200,  
15 in about six months or so, six to eight months, and  
16 then for the other two, because you know, we haven't  
17 planned those. They're not in the plan as of yet.  
18 Probably six to eight months beyond that.

19 COUNCIL MEMBER ARROYO: So 200 planned?

20 COMMISSIONER PONTE: Correct.

21 COUNCIL MEMBER ARROYO: How many have  
22 been installed?

23 COMMISSIONER PONTE: 400 and something.  
24 So there's 400 and something cameras installed today.

25 COUNCIL MEMBER ARROYO: Okay.

2 COMMISSIONER PONTE: There's another 200  
3 that we're adding, and then there's another 200  
4 beyond that that we think we need.

5 COUNCIL MEMBER ARROYO: So of the, what  
6 you referenced in your testimony, how many new  
7 cameras have been installed?

8 COMMISSIONER PONTE: A lot of them are  
9 new. I don't have the--

10 COUNCIL MEMBER ARROYO: [interposing] Not  
11 replaced. In the blind spots, how many have been  
12 installed?

13 COMMISSIONER PONTE: I couldn't answer  
14 that specifically. We, you know, we do cover blind  
15 spots, we do. You know, so which ones are covered  
16 and which ones are not, we'd have to give you the  
17 plan to tell you that.

18 COUNCIL MEMBER ARROYO: And can we  
19 monitor once these cameras are installed, whether  
20 they are indeed serving as a deterrent to some kind  
21 of activity or violence or issues that contribute to  
22 the management or difficulty of managing the  
23 population?

24

25

2 COMMISSIONER PONTE: I think cameras are  
3 helpful in every way, both from staff training to  
4 obviously just monitoring performance.

5 COUNCIL MEMBER ARROYO: Yeah, people what  
6 you inspect, not what you expect. On the issue of the  
7 investigative team, what's the process for if that  
8 team uncovers inappropriate behavior on the part of  
9 staff, what's your process for dealing with whatever  
10 that, assuming that investigative team can be  
11 thorough and bring forward a complaint against the  
12 staff, what's your--what's going to be the process  
13 for and what power are they going to have? What  
14 power is this team going to have with--

15 COMMISSIONER PONTE: [interposing] Yeah,  
16 so the investigative team sees something that's  
17 inappropriate, they will and can recommend the what  
18 we call a modified--modifying the work of the  
19 officer, or they could recommend suspension. So at  
20 that point the officer would be taken away from that  
21 duty assignment and they would conduct the  
22 investigation. After they complete the investigation  
23 it goes to the trail division where the officer is  
24 entitled to a hearing, and then that process goes  
25

2 through that way. So, the investigator takes that  
3 investigation and hands it to our trial division.

4 COUNCIL MEMBER ARROYO: And how are you  
5 going to monitor the process and how many cases are  
6 brought before the personnel? I'd hate for us to  
7 spend, invest on resources that are not going to give  
8 us the result that we anticipate.

9 COMMISSIONER PONTE: So we're looking  
10 now, part of our conversation is developing an early  
11 warning system so we can identify problems before  
12 they become bad events. So, part of our overall plan  
13 is that we'll have systems in place to get a handle  
14 on these things before they become, you know,  
15 outrageous. And that's part of our negotiations,  
16 part of what we're planning. We've already met with  
17 the, some of the other agencies to look at what they  
18 do and how they manage those situations.

19 COUNCIL MEMBER ARROYO: So, as a follow-  
20 up to this conversation, Madam Chair, Mr. Chairman,  
21 that we hear from you on how this team has evolved  
22 within the system and what benefits have been derived  
23 from it. I'm not sure that I'd like to see a lot of  
24 cases brought forward because staff is behaving  
25 appropriately and we don't want staff to be

2 prosecuted because of wrong doing. So, but if you  
3 can monitor and bring back to us a report on what  
4 outcomes this team produces and what you're going to  
5 do with that. Thank you, Madam.

6 CHAIRPERSON CROWLEY: Commissioner, did  
7 you say a year and a half before cameras are  
8 installed?

9 COMMISSIONER PONTE: A year and a half  
10 before all. If we were going to add a full 400  
11 cameras, yes, so that would take us--and again, it's  
12 not the only spot in the agency we have cameras being  
13 installed.

14 CHAIRPERSON CROWLEY: Will there be  
15 cameras everywhere but the bathrooms, so that if  
16 somebody is taken into the bathroom one could imagine  
17 that they might--

18 COMMISSIONER PONTE: Right, we're looking  
19 even in those areas as best we can cover.

20 CHAIRPERSON CROWLEY: And what about the  
21 process? Unfortunately, in the past, you lost, not  
22 so much you, but the Department or you've not been  
23 able to locate critical video tape after it's been  
24 saved for investigation. How do you make sure that  
25



2 the chain of custody for that critical information  
3 and evidence does not get lost?

4 COMMISSIONER PONTE: Right. So that's  
5 part of Mr. Blake's assignment here is to develop  
6 systems that do that. I think we were much better at  
7 collecting that, pulling that stuff out the system  
8 earlier, retaining it better than we've ever done  
9 before.

10 CHAIRPERSON CROWLEY: How often do you do  
11 that, put aside video footage? Do you do it when  
12 there's only a claim, or do you keep video footage  
13 for every video recording that you have use of force?

14 COMMISSIONER PONTE: If it's an  
15 investigation, we'll pull it and keep it. If it's  
16 viewed and there was nothing, you know, no event that  
17 was on it, we probably would not. But if it starts  
18 as an investigation as part of the collection of  
19 evidence, so it will be pulled and maintained.

20 CHAIRPERSON CROWLEY: You have--you  
21 clearly need a better way of storing it.

22 COMMISSIONER PONTE: Yes.

23 CHAIRPERSON CROWLEY: And to have  
24 duplications of videos where there's claims is a good  
25 thing. Commissioner, I would like to have an own

2 copy if I was Commissioner, right? Just to keep  
3 track to make sure that the footage does not get  
4 lost. With today's technology it could be quite easy  
5 to do that. Now, there are times when you're  
6 videotaping because you're preparing for an  
7 evacuation, a cell evacuation.

8 COMMISSIONER PONTE: Right.

9 CHAIRPERSON CROWLEY: So you're imagining  
10 that there's probably going to be for some reason or  
11 another a level of force necessary to be used, and I  
12 believe that's why you're videotaping it.

13 COMMISSIONER PONTE: Correct.

14 CHAIRPERSON CROWLEY: To protect from  
15 claims.

16 COMMISSIONER PONTE: Correct.

17 CHAIRPERSON CROWLEY: So then that really  
18 begs a question of what point and what level of force  
19 are you anticipating. Before you go in there, you  
20 say, the Captain says, the officers, maybe the over--  
21 the wardens overseeing this evacuation, you have to  
22 explain to me who's there, who's videotaping and what  
23 level of force is planned to be used in case the  
24 inmate is not cooperating.

2           COMMISSIONER PONTE:  Alright.  So, the  
3 process as an inmate refused to come out of a cell  
4 for a particular reason, the captain would go there,  
5 talk to the inmate.  We also have a clinical or  
6 mental health person come over and talk to the inmate  
7 to see if he or she is willing to come out.  At that  
8 point, the shift supervisor, which is a tour [sic]  
9 commander, would approve a team to go up and bring  
10 the inmate out of the cell using what force is  
11 necessary.  Typically, the--if appropriate on the  
12 application of chemical agent [sic] and then going  
13 into the cell, putting on restraints and then  
14 removing the inmate from the cell.

15           CHAIRPERSON CROWLEY:  How often do you  
16 have a situation like that?

17           COMMISSIONER PONTE:  Not too frequently,  
18 probably if I had to average it, one a week.  I mean  
19 it's not that frequently in this agency.  It doesn't  
20 happen that frequently.

21           CHAIRPERSON CROWLEY:  Why would someone  
22 not want to come out of their cell?

23           COMMISSIONER PONTE:  Could be possession  
24 of contraband.  It could be just refusing, you know.  
25 So it's a whole host of reasons that sometimes

2 doesn't make sense to us, but it's easier on  
3 everybody if we can talk them out rather than use  
4 force to take them out.

5 CHAIRPERSON CROWLEY: And earlier,  
6 Council Member Dromm brought up the blunt force to  
7 one's head. Now, I imagine you go through steps  
8 within the Department's directive of allowable use of  
9 force, and so what type of force is being used if  
10 that person is not being--and the chemical agent's  
11 not working, they're not moving.

12 COMMISSIONER PONTE: Alright. It's what  
13 we call a capture shield. So you go in with a  
14 capture shield. You push the inmate against the  
15 wall. We get a hold of his hands and his legs and  
16 put restraints on him and remove him. So, typically  
17 in those situations there's not a--there's no punches  
18 or batons used because it would be unreasonable to do  
19 that in a cell.

20 CHAIRPERSON CROWLEY: Council Member  
21 Vallone for questions.

22 COUNCIL MEMBER VALLONE: Thank you, Madam  
23 Chair, and I guess good afternoon Commissioner. You  
24 had two hours of testifying. Let me just say, and I  
25 know you mentioned it at the beginning, that as a

2 previous member of the Board of Corrections I'm very  
3 saddened at the passing of the Executive Director,  
4 Cathy Potler. Cathy was a friend and she'll be  
5 missed by all of us and I know her experience here,  
6 she's watching over us. Do you have, I guess, the  
7 information for the year on incidents or infractions  
8 at Rikers Island for the year? Has it been steady?  
9 Has it increased? Has it decreased?

10 COMMISSIONER PONTE: Infractions of?

11 COUNCIL MEMBER VALLONE: Any incidents  
12 maintained or occurred by an inmate or a detainee  
13 while at Rikers Island?

14 COMMISSIONER PONTE: Uses of force?

15 COUNCIL MEMBER VALLONE: Use of force.

16 COMMISSIONER PONTE: Right. So in most  
17 places that's gone up. Incidents of violence has  
18 gone up in most of our facilities.

19 COUNCIL MEMBER VALLONE: Would you say  
20 that's the same for juveniles and non-juveniles?

21 COMMISSIONER PONTE: It's gone down in  
22 the juvenile facilities, as it pertains to 16 and 17  
23 year olds.

24 COUNCIL MEMBER VALLONE: So with the  
25 changes in the--the much needed changes we're talking

2 about today and the revisions on the island, what are  
3 some of the steps that you're going to take while we  
4 have these continuous incidents at the island,  
5 especially for those who are repeat offenders,  
6 because we are talking about a jail here? So for  
7 those who are creating an unsafe condition either for  
8 staff, for inmates, for detainees, for juveniles, for  
9 correction officers, for Department of Health, for  
10 those who continue and have a history of that, what  
11 is the process that the Department's going to put in  
12 place to deal with those?

13           COMMISSIONER PONTE: And so we got a few  
14 initiatives that we're rolling out. One was the 2100  
15 hour lock-in. So we're locking inmates in a bit  
16 earlier now, because we know that a number of violent  
17 incidents were happening after 9:00 p.m. We'll be  
18 putting all of our inmates in uniforms to prevent  
19 smuggling of contraband in clothing, and we'll be  
20 asking for Board of Corrections variants to limit  
21 property coming through visit. So we'll offer other  
22 alternatives on how to do that, other than bringing  
23 property in. So that accounts for a number of  
24 weapons and drugs coming into facility, which that  
25 elevates violence. The fact that those things are

2 there causes more violent incidents. We have a  
3 substantial, and I'm not ready to issue that, but a  
4 substantial number of variances we're asking from the  
5 Board of Corrections that I think will help us manage  
6 our inmate population better and will keep everyone  
7 safe. So those are just some of the initiatives that  
8 we currently have on--

9 COUNCIL MEMBER VALLONE: And those  
10 initiatives apply for both juveniles and non-  
11 juveniles?

12 COMMISSIONER PONTE: For the most part,  
13 most of the work we've done with adolescents is  
14 heading in that direction. Most of the variances  
15 would apply. Some would apply to adolescents. Most  
16 would apply mostly to our adult population.

17 COUNCIL MEMBER VALLONE: So, I guess  
18 then, what would be my, if I was a detainee or an  
19 inmate and I've been an incident of a crime or  
20 assault or something from another detainee, how would  
21 I know I would be safe tomorrow?

22 COMMISSIONER PONTE: Well, I mean, we  
23 make every effort to identify people coming into the  
24 system what their historic history is, so what they  
25 did before, what they've done as a new crimes and

2 house them appropriately in the system. But I mean,  
3 that's--we do that now.

4 COUNCIL MEMBER VALLONE: So is there  
5 going to be any changes to the locations of repeat  
6 offenders, or are they still going to be in general  
7 population?

8 COMMISSIONER PONTE: I think clearly we  
9 want to have safe environments for people who have  
10 committed violent acts before that historically  
11 caused injuries to staff and inmates. So part of  
12 that is in the variances to give us more options in  
13 placement than we currently have today.

14 COUNCIL MEMBER VALLONE: Well, at the  
15 last hearing there was some staff from Department of  
16 Health who testified that they were not safe walking  
17 the hallways and they weren't able to provide their  
18 social services to the inmates or detainees because  
19 they didn't have a safe location to provide those  
20 services or didn't feel safe in providing it. So are  
21 we going to take steps to change the locations and  
22 how their safety can be maintained for the staff?

23 COMMISSIONER PONTE: We have regular  
24 meetings with DOH staff. They're done at the  
25 facility level, looking at all those issues that



2 they've raised, providing solutions for them. So I  
3 think that situation's gotten better. I mean, it's a  
4 jail environment, so there is some danger there, but  
5 we're very cognitive of that and work with them  
6 regularly. In fact, we just had a letter from DOH  
7 talking about the training we've provided the  
8 clinical staff, you know, over the last few months.

9 COUNCIL MEMBER VALLONE: Thank you very  
10 much, Commissioner. Thank you, Madam Chair.

11 CHAIRPERSON CROWLEY: Excuse me. Thank  
12 you, Council Member Vallone. We've been joined by  
13 Council Member Rodriguez, and I now like to recognize  
14 Council Member Levin for questions.

15 COUNCIL MEMBER LEVIN: Thank you very  
16 much, Madam Chair. Thank you, Commissioner. I have  
17 several questions for you. First off, I wanted to  
18 ask explicitly do you agree with the finding in the  
19 Department of Justice's report that "Department of  
20 Corrections has engaged in systemic and pervasive  
21 patterns and practices of utilizing unnecessary and  
22 excessive force against adolescent inmates in  
23 violation of the eighth and 14<sup>th</sup> amendments of the  
24 Constitution." Do you agree with that finding?

2 COMMISSIONER PONTE: Yeah. Without  
3 getting specific, I think clearly there were cultural  
4 issues that need to be addressed in the agency. So--

5 COUNCIL MEMBER LEVIN: [interposing] Do  
6 you agree that--

7 COMMISSIONER PONTE: [interposing] You're  
8 asking me to repeat something that they made a  
9 finding on, I think that clearly--

10 COUNCIL MEMBER LEVIN: [interposing] Do  
11 you agree that the--

12 [cross-talk]

13 COMMISSIONER PONTE: issues that need to  
14 change.

15 COUNCIL MEMBER LEVIN: Do you agree that  
16 the patterns and practices of the Department of  
17 Corrections as found in the DOJ report violate the  
18 Constitutional Rights of adolescent inmates?

19 COMMISSIONER PONTE: I think there's  
20 stuff they pointed out in their reports. Again, I  
21 didn't look at the investigations. They did. If  
22 true, it would clearly meet that standard.

23 COUNCIL MEMBER LEVIN: Okay. So you  
24 agree then that that would be a violation of their  
25 constitutional rights of adolescents then?

2 COMMISSIONER PONTE: If true, yes.

3 COUNCIL MEMBER LEVIN: Okay. Is  
4 Department--and I apologize if you had answered this  
5 previously to another Council Member. Is Department  
6 of Corrections in favor of raising the age in New  
7 York State for juveniles under the age of 18?

8 COMMISSIONER PONTE: I think from where  
9 we stand for and where I come from, in most states 16  
10 year olds are treated as juveniles, and again, most  
11 of the states treat 17 year olds. So, I think my  
12 personal position is yes, I would be in favor of  
13 that.

14 COUNCIL MEMBER LEVIN: Would you be  
15 willing to, or are you planning to go to Albany in  
16 the coming session to lobby the State Legislature to  
17 make those changes?

18 COMMISSIONER PONTE: That gets into the  
19 political world a little bit, but we're definitely on  
20 the committee to raise the age. So, there's actually  
21 an active committee, so we're participating in that.

22 COUNCIL MEMBER LEVIN: Okay, because I  
23 think that New York City can have an important role  
24 in that discussion, obviously, and I believe strongly  
25 that no change will occur on the state level with the

2 State Senate unless New York City is at the forefront  
3 and very vocally calling on that change to be made.

4 So, I look forward to seeing you and other members of  
5 the Administration making that case strongly in the  
6 upcoming session in the State Legislature. Is it the  
7 position of the Department of Corrections that no  
8 youth under the age of 18 should be at Rikers  
9 whatsoever?

10 COMMISSIONER PONTE: That's a legal  
11 question. I mean, it's not--that's kind of, I guess,  
12 to raise the age so.

13 COUNCIL MEMBER LEVIN: Right, no this is  
14 a separate question. It's also a policy question. A  
15 recommendation that has been made is that youth  
16 should be removed entirely from Rikers, anyone under  
17 the age of 18. Is that something that DOC would be  
18 in favor of, or is that not possible unless raise the  
19 age legislation was--

20 COMMISSIONER PONTE: [interposing] No, I  
21 think we're looking at suitable sites. So, we'd be  
22 in favor of that if we could find a suitable site  
23 that met the needs.

24 COUNCIL MEMBER LEVIN: Because then if a  
25 suitable site was available, the city's position

2 would be that youth could be, under the age of 18  
3 could be entirely removed from Rikers and not have to  
4 be at that location whatsoever.

5 COMMISSIONER PONTE: Right, still in  
6 custody of Department of Corrections but in another  
7 location, yes.

8 COUNCIL MEMBER LEVIN: Obviously the DOJ  
9 report details incident of use of force going back to  
10 the previous Administration and nobody's asking you  
11 to be entirely accountable for findings that occurred  
12 before you or took the helm of Department of  
13 Corrections, but we are interested in seeing how  
14 things are moving forward. Can you give us the  
15 number of incidents of use of force involving  
16 adolescents that occurred in the months of August and  
17 September of this year? I apologize if somebody--if  
18 you had answered this previously.

19 COMMISSIONER PONTE: What is it? 19 and  
20 19, 19 and 19.

21 COUNCIL MEMBER LEVIN: Nineteen and nine?

22 COMMISSIONER PONTE: Nineteen and 19, so.

23 COUNCIL MEMBER LEVIN: Nineteen and 19.

24 COMMISSIONER PONTE: Yep.  
25

2 COUNCIL MEMBER LEVIN: And that compares  
3 to numbers in 2013 from those months?

4 COMMISSIONER PONTE: Well, it's a little  
5 difficult because we took the 18 year olds out, so  
6 it's been steadily declining. I think once we took  
7 the 18 years old out, correct me if I'm wrong Warden,  
8 it was about 30 after the 18 year olds left. And  
9 it's gone down since, so.

10 COUNCIL MEMBER LEVIN: Okay. Can you  
11 explain what--has--have any--what are the  
12 disciplinary measures that are taken against officers  
13 that have been found to inappropriately use excessive  
14 force moving forward? So, since you've taken over at  
15 Department of Corrections what are--what is the  
16 disciplinary measures and what are the procedures for  
17 when there's been an accusation of excessive use of  
18 force and when there's been a finding of excessive  
19 use of force?

20 COMMISSIONER PONTE: And so obviously  
21 with any accusation we're going to do an  
22 investigation. Depending on how serious it is, we  
23 would be doing it with our investigative unit or the  
24 DOI City Investigative Unit could do that. And also  
25 the District Attorney could take cases. So there's

2 all levels of use of force. So it could be as simple  
3 as grabbing somebody by the arm that's unnecessary  
4 use of force, or seriously where somebody's seriously  
5 injured. So, in those degrees, if somebody  
6 intentionally seriously injures an inmate, then they  
7 ought to be terminated if it's proven through the  
8 hearing process.

9 COUNCIL MEMBER LEVIN: And the process  
10 for termination is? Can you explain that a little  
11 bit further and more in depth?

12 COMMISSIONER PONTE: It goes through a  
13 trials division. So, they actually in a, I assume, a  
14 semi-public hearing where the inmate--where the  
15 office and the union offer a defense to the  
16 allegations. A judge makes a finding. Then it comes  
17 to the Commissioner's Office for the decision.

18 COUNCIL MEMBER LEVIN: Okay, so the  
19 Commissioner ultimately has the decision of whether  
20 somebody is to be terminated based on the findings of  
21 the judge?

22 COMMISSIONER PONTE: Based on findings,  
23 that's my understanding.

24 COUNCIL MEMBER LEVIN: [off mic] Sure, I  
25 have one more question, Madam Chair. Thank you. The

2 DOJ report says that during the period of time when  
3 the report was looking at 43.7 percent of adolescents  
4 were subject to the use of force at Rikers, which the  
5 DOJ report says that according to their consultant  
6 was the highest that they had, the highest rate that  
7 they had ever seen in any system that they had looked  
8 at. Do you--what is in your estimation--do you  
9 believe that that is too high, that 43.7 percent is  
10 too high, and what do you believe is an appropriate  
11 rate of adolescents who are, who ought to be subject  
12 to the use of force?

13 COMMISSIONER PONTE: So, indeed the 40  
14 something percent is too high. I'm not sure if  
15 there's a, you know. We'd like to get it to zero. I  
16 mean, that'd be ideal, but we're down to 19 from 30  
17 or 40, and we're going to continue to work at keep  
18 those incidents as low as possible. I'm not sure if  
19 there's a national standard that would say is 10  
20 percent okay or five percent.

21 COUNCIL MEMBER LEVIN: What was it in  
22 Maine when you left in Maine?

23 COMMISSIONER PONTE: I don't know  
24 percentage-wise. I mean, we didn't have a lot of  
25 incidents there. Did have some, but didn't have a



2 lot of incidents. So, but much smaller population  
3 than we have.

4 COUNCIL MEMBER LEVIN: But you agree that  
5 43 percent is obviously far too high?

6 COMMISSIONER PONTE: That seems--yeah,  
7 that seems very high.

8 COUNCIL MEMBER LEVIN: Thank you very  
9 much. Thank you Commissioner. Thank you, Madam  
10 Chair.

11 CHAIRPERSON CROWLEY: Thank you, Council  
12 Member. Commissioner, I want to ask you questions  
13 about the Mayor's Management Report from 2011,  
14 because there's been that investigation. The numbers  
15 that we have still reflect a significant decrease in  
16 the level of violence for RNDC during that year. Are  
17 the numbers that we have correct?

18 COMMISSIONER PONTE: During what year?

19 CHAIRPERSON CROWLEY: During the year in  
20 which Mr. Clemons was the warden, and in which  
21 documentation was not--incidents of violence, fights,  
22 assaults was not documented.

23 COMMISSIONER PONTE: Yeah, they did show  
24 decline, but they were back--they went back and put  
25

2 those, that data. They corrected all that data from  
3 all those prior months. So that data--

4 CHAIRPERSON CROWLEY: [interposing] So we  
5 could rest assured that the numbers we have now  
6 currently, because they do reflect a significant  
7 decrease for 2011. That goes up to 20--comes down  
8 from 2010, level of violence goes back up for 2012.  
9 So, just according to the Mayor's Management Report  
10 where you have incidents of A, B, C force, you know,  
11 you have a decline that happens in fiscal year '11.  
12 Is that accurate? Right now, if you look at fiscal  
13 year 2010 and compared to 2011, there's a decrease  
14 that goes back up in 2012. What I would like to know  
15 for sure is if these numbers are accurate. In the  
16 total incidents in 2010 were 148, and then in 2010--  
17 2011 it goes down to 132, and then in 2012 it goes  
18 back up. And you know, if we look at last year it  
19 was 147. So, in 2011, it was 132. It goes up about  
20 15 percent from 2011 to 2013. What I would like to  
21 know is if the numbers that we have, you know, and  
22 we're looking at your numbers that you provided to  
23 the Mayor's Management Report.

24

25

2 COMMISSIONER PONTE: I was not here  
3 during any of that point in time. I'll have Eric  
4 Berliner respond the best he can.

5 ERIC BERLINER: The numbers from the  
6 audit report that you're talking about where specific  
7 to fights and assaults, and those numbers were  
8 updated in, I want to say, 2013. The numbers of uses  
9 of force were not, have not changed and we have every  
10 reason to believe that they're accurate.

11 CHAIRPERSON CROWLEY: This committee  
12 needs to be reassured that when a fight or an assault  
13 happens it's tracked. What--tell me what has changed  
14 since 2011 when you found that a Warden was not  
15 classifying fights and assaults accurately and that  
16 there were 345 fights that were not recorded? Can  
17 you tell me what happened, what happens today to  
18 assure the committee and that the Mayor's Office is  
19 getting the right numbers, so we know whether  
20 violence is increasing or decreasing? Who--does Mr.  
21 Blake have a hand in that, tracking the incidents of  
22 violence?

23 COMMISSIONER PONTE: The initial reports  
24 come from the facility. I think probably what's  
25 different today is much more oversight. We have many

2 more cameras. We're much more active in reviewing  
3 incidents than we ever have. As I've already stated  
4 we have an investigative team. We'll have an  
5 investigative team on the ground, in the facility  
6 that will begin to look at all incidents. So, I--  
7 it's--I think there's much more oversight today back  
8 during the--

9 CHAIRPERSON CROWLEY: [interposing]

10 Right, but just so you know, Commissioner, the  
11 numbers that we received from the Mayor's Management  
12 Report don't appear to be the corrected numbers,  
13 because when you look at calendar 2011, there's 350  
14 uses of force and when you look at calendar year 2012  
15 it shoots up to 700, and that's all A, B and C.

16 COMMISSIONER PONTE: Okay.

17 CHAIRPERSON CROWLEY: And the committee  
18 needs to be reassured that when fights are happening,  
19 that it's being tracked.

20 COMMISSIONER PONTE: Alright.

21 CHAIRPERSON CROWLEY: Council Member  
22 Rodriguez. Sorry, Rodriguez.

23 COUNCIL MEMBER RODRIGUEZ: Thank you.

24 Thank you, Chair, for your leadership on this  
25 important issue, and one thing that I can testify is

2 in my first four years of the Council, like this has  
3 been an important issue for the Chair and this  
4 committee. Unfortunately, all of us fail from those  
5 of us in government to anyone that touch the life of  
6 people in Rikers Island, and especially the  
7 adolescents. Because there has been like an open  
8 secret, that that correctional facility has been  
9 broken, needed to be fixed. I even hope that all  
10 those families put a big lawsuit on all of us on how  
11 we fail, especially to teenagers. My first question  
12 is, in your responsibility, what is the most  
13 difficult challenge you have to reform Rikers Island?

14 COMMISSIONER PONTE: It's a multifaceted.  
15 I think everything we've looked at would show our  
16 needs for improvement.

17 COUNCIL MEMBER RODRIGUEZ: Can you give  
18 me just one, the most difficult one.

19 COMMISSIONER PONTE: I think it all comes  
20 down to staff. How do we retrain? How do we hire  
21 better staff? How do we train better? I mean, all  
22 those pieces. Because at the end of the day it's the  
23 line officer who does the job either well or not, and  
24 so our commitment to hiring and training needs to be  
25 redoubled.

2 COUNCIL MEMBER RODRIGUEZ: How much do we  
3 spend per inmate in Rikers Island?

4 COMMISSIONER PONTE: I'm not sure of that  
5 dollar figure. Do you know? I'm not sure. We can  
6 get you that information.

7 COUNCIL MEMBER RODRIGUEZ: More than how  
8 much you invest per student or less?

9 COMMISSIONER PONTE: I'm not sure.

10 COUNCIL MEMBER RODRIGUEZ: Anyone has  
11 that information?

12 COMMISSIONER PONTE: We don't have that.  
13 We can get that for you. It's high. I mean, it's  
14 expensive.

15 COUNCIL MEMBER RODRIGUEZ: And what  
16 percentage of adolescents at Rikers Island has been  
17 sentenced and what percentage are waiting to go to  
18 trial?

19 COMMISSIONER PONTE: Out of about 11,000,  
20 2,000 have bene sentenced.

21 COUNCIL MEMBER RODRIGUEZ: Two thousand  
22 has been sentenced?

23 COMMISSIONER PONTE: Well, 2,000 are  
24 sentenced, right, out of--

2 COUNCIL MEMBER RODRIGUEZ: [interposing]

3 So what percentage has not been sentenced?

4 COMMISSIONER PONTE: Correct.

5 COUNCIL MEMBER RODRIGUEZ: What  
6 percentage has not been sentenced?

7 COMMISSIONER PONTE: Eighty percent.

8 COUNCIL MEMBER RODRIGUEZ: And what  
9 percentage are at Rikers Island because they are not  
10 being able to pay their bail?

11 COMMISSIONER PONTE: We don't have that  
12 information. We think it's a fairly high number,  
13 it's truly significant.

14 COUNCIL MEMBER RODRIGUEZ: Now, I trust  
15 your leadership. We trust your leadership, and I  
16 know that we are in a new day in this city and in  
17 this Administration, and I know that we had to do a  
18 major reform especially when we look to adolescents.  
19 I used to be a teacher before being elected, for 13  
20 years. So in my 13 years of teaching high school, I  
21 can tell you that I saw many of my formers students  
22 being, getting into CUNY, Ivy league college, and I  
23 saw some of my students going through Rikers Island.  
24 And what we have experienced that minors who go to  
25 Rikers Island, when they are out of Rikers Island

2 they come back, right? What percentage come back to  
3 Rikers Island?

4 COMMISSIONER PONTE: Forty-two percent  
5 return, recidivism.

6 COUNCIL MEMBER RODRIGUEZ: Okay. So,  
7 what I hope is that--too much, 90,000 dollar.

8 COMMISSIONER PONTE: 90,000.

9 COUNCIL MEMBER RODRIGUEZ: Per year.

10 That's how much we invest per inmate in Rikers Island  
11 in some cases. So imagine if we really chose our  
12 assisting, our assisting where minors, adolescent,  
13 they learn from their experience. They get exposed  
14 to educational opportunity. With 90,000 dollar we  
15 should be able, you know, to turn someone who made  
16 minor crimes into the student who is at CUNY, into a  
17 student who is in an Ivy League college. So I just  
18 hope, first of all, that we will take all adolescents  
19 out of Rikers Island. And as you say in your  
20 testimony, New York is one of the two states where we  
21 treat 16 years old as adults. So I hope also that we  
22 as a coalition, the faith community, the politicians,  
23 people in the business community, we should go to  
24 Albany and ask Albany to please don't treat 16 years  
25 old as adults. Thank you.



2 CHAIRPERSON CROWLEY: Thank you, Council  
3 Member Cabrera, we're rapping up with the Department  
4 of Corrections. We'll hear from Council Member  
5 Cabrera and then we should soon conclude.

6 COMMISSIONER PONTE: Are we going to take  
7 a break?

8 CHAIRPERSON CABRERA: Yes, just two more  
9 questions, Commissioner. You're almost there. We  
10 appreciate for being here this long. How many  
11 investigators do we have now that were hired?

12 COMMISSIONER PONTE: Well, again, we've  
13 hired a number, but the turnover rate's been fairly  
14 high. So, what's the total positions?

15 MICHAEL BLAKE: The total office is 66  
16 within the whole investigative unit. We have about  
17 26 openings right now that we're looking to fill.

18 CHAIRPERSON CABRERA: And they started to  
19 be hired when? When did the hiring begin?

20 COMMISSIONER PONTE: It's ongoing. It's  
21 been ongoing.

22 CHAIRPERSON CABRERA: It's been ongoing,  
23 okay. So, from--is that a sufficient number to be  
24 able to keep an accurate assessment of what's taking  
25 place on the ground?

2 COMMISSIONER PONTE: The issue is we've  
3 never been full. So, once we're full, we must have a  
4 better answer to that. We've never had-- City  
5 Council approved 21, 26 positions. We've never had  
6 all those positions full. So, that's a challenge for  
7 us right now.

8 CHAIRPERSON CABRERA: Do you feel-- I  
9 mean, obviously, there was an ask for more because  
10 there was a need for more.

11 COMMISSIONER PONTE: Correct.

12 CHAIRPERSON CABRERA: Because there were  
13 gaps, I would imagine. And so my question is in line  
14 with what Co-Chair Crowley was asking about getting  
15 accurate number. It's possible. There's possibility  
16 that between April and September that there were some  
17 numbers that were missing then, since we didn't have  
18 all the investigators in place, in terms--

19 COMMISSIONER PONTE: [interposing]  
20 Anything's possible. I don't think that's the case,  
21 but it's possible.

22 CHAIRPERSON CABRERA: It's possible,  
23 okay. And my last question is in regards to the  
24 video recording, and I appreciate you sharing that  
25 you able to store them for 90 days, but you know, a

2 lot of young people, and for that matter adults, but  
3 especially young people they don't know their rights.  
4 Do you think that 90 days is sufficient? You know,  
5 it could be you're there four months later and find  
6 out, you know, as a young person, hey, you know, I  
7 didn't know I had this right. And but then the video  
8 is gone. Do you--will you be open to idea of six  
9 months, you know, extending the amount? And again,  
10 this also helps correction officers that are doing  
11 the right thing, because there's nothing worse than  
12 being falsely accused, so I think it helps both  
13 camps.

14 COMMISSIONER PONTE: Absolutely. It's  
15 just the expense of storage. So if we agree six  
16 months is a better number, we'd be more than happy.

17 CHAIRPERSON CABRERA: I think it's more  
18 expensive when we don't have the video recording.

19 COMMISSIONER PONTE: Okay.

20 CHAIRPERSON CABRERA: In both ends. In  
21 both ends. Thank you, Commissioner. I really  
22 appreciate your input.

23 COMMISSIONER PONTE: Thank you.

24 CHAIRPERSON CROWLEY: I thank you to my  
25 Co-Chair Cabrera. Thank you for all the Council

2 Members who asked questions of the DOC.

3 Commissioner, I have no further questions. Just  
4 upset, disappointed that your Chief of Department was  
5 not here. I believe he didn't come today because he  
6 was shying away from questions from the report during  
7 the time of which he was Warden of RNDC, and I  
8 frankly believe that a year and a half to outfit the  
9 facility with cameras is too long, and that I hope  
10 within the coming weeks you could work with this  
11 committee to have a real plan to finally move the 16  
12 and 17 year olds off Rikers Island.

13 COMMISSIONER PONTE: Yeah. And I  
14 apologize for your disappointment the Chief was not  
15 here, but we'll obviously make him available in the  
16 future.

17 CHAIRPERSON CROWLEY: Thank you  
18 Commissioner and members of your staff who are here.  
19 We are now going to hear from members of the public.  
20 Our first member of the public to testify is the  
21 honorable Judge Bryanne Hamill who is a member of the  
22 Board of Correction. And then we will hear from  
23 representatives from the Correction Officers  
24 Benevolent Association. Before the honorable Judge  
25 Bryanne Hamill speaks, I do want to mention how

2 deeply saddened the committee and the council is with  
3 the loss of Cathy Potler who dedicated her entire  
4 career to helping the lives, helping better the lives  
5 of those who are incarcerated. Cathy was the  
6 Executive Director of the Board of Correction and  
7 worked all the while she was sick and only passed a  
8 few weeks ago. Our deepest condolences go out to the  
9 Board members and Cathy's family. We know she is  
10 survived by a son. And Judge, when you are ready,  
11 please begin your testimony.

12                   BRYANNE HAMILL: Okay. Good morning,  
13 Chairs Crowley and Cabrera and members of the  
14 committees and City Council Members. I'm Judge  
15 Hamill, the Chair of the Adolescent and Young Adult  
16 Committee of the New York City Board of Correction. I  
17 am a retired New York City Family Court Judge, former  
18 Assistant District Attorney and a psychiatric nurse.  
19 I want to thank you for the opportunity to testify  
20 today about our incarcerated adolescents in the New  
21 York City jail system and Chair Crowley, I thank you  
22 so much for your condolences. We all are mourning  
23 the loss of our extraordinary Executive Director  
24 Cathy Potler. It's a huge loss to us. The Board of  
25 Correction, as you know, established and ensures

2 compliance with the minimum standards regulating  
3 conditions of confinement and correctional health and  
4 mental health care in the city's correctional  
5 facilities. The Board monitors conditions in the  
6 city's jail, investigates serious incidences,  
7 evaluates the performance of the department and makes  
8 recommendations in critical areas of correctional  
9 planning pursuant to the city charter, section 626 E.  
10 It requires the Board to establish minimum standards  
11 for the care, custody, correction, treatment,  
12 supervision and discipline of all persons held or  
13 confined under the jurisdiction of the department's.  
14 At this time we are in rule making regarding these  
15 standards, including discipline and the imposition of  
16 solitary confinement. We all know that after a  
17 multi-year investigation on August 4<sup>th</sup> of 2014, the  
18 Department of Justice issued a scathing report about  
19 the violence experienced by the adolescents who are  
20 detained there, and during that investigation the  
21 Board of Correction has provided documents, data, and  
22 assistance to the Department of Justice. Through  
23 resolution at our September Board meeting, the Board  
24 of Correction adopted the findings of the Department  
25 of Justice CRIPA [sic] report and we urged the city

2 and continued to urge the city and Department of  
3 Correction to carefully weigh and consider  
4 implementing the remedial measures and the best  
5 practices contained therein as reasonable means to  
6 address the culture of violence and remedy the  
7 pervasive constitutional right violations of our  
8 incarcerated adolescents. Now, the Board of  
9 Correction knows through our own investigations, as  
10 well as through the Department of Justice report,  
11 that the findings regarding the culture of violence  
12 apply to all of Rikers Island, not just RNDC. In  
13 fact, slashing and stabbing incidences system wide  
14 are up for this year, 72 so far this year with three  
15 months left to go, and last year it was a total of  
16 73. In the last seven months there's been seven or  
17 more slashings or stabbings each month, and the last  
18 time there was seven consecutive months with seven or  
19 more stabbings and slashing was back in 1998. The  
20 Department's imposition of a 9:00 p.m. curfew,  
21 locking inmates in the cells for a couple of hours  
22 earlier, nine instead of 11, has not resulted in any  
23 diminution of the violence among the inmates, and in  
24 fact, the numbers continue to climb. The culture of  
25 violence at Rikers, which is most harmful to the

2 youth during their formative years, in our opinion,  
3 continues uninvaded. While the Department of  
4 Correction attempts to reduce this violence, the  
5 youth must be removed from this environment for their  
6 own safety and wellbeing. And just in terms in  
7 general about at Rikers, certainly there's some  
8 solutions to consider reducing the violence overall  
9 that would include decreasing the rates of  
10 incarceration of our people here in New York,  
11 decreasing the use of solitary confinement, which is  
12 certainly thought to breed more violence, having  
13 smaller units with lower number of inmates to manage  
14 with increased staffing, implementing crisis  
15 intervention training for all of the officers, and  
16 certainly more program time including recreation,  
17 education, skills job training and linkage to  
18 Department of Education across the board at Rikers.  
19 I'm here to talk primarily about the adolescents in  
20 RNDC. We know from the Department of Justice report  
21 that they find there's an over-reliance on the  
22 imposition of punitive segregation for the adolescent  
23 population, many of whom are mentally ill, and that  
24 it's extremely harmful to the youth. Even now, last  
25 week, we had 259 inmates age 16 to 18. There's still



2 some 18 year olds at RNDC. Sixty-two of those 259  
3 young people were still in some form of solitary  
4 confinement as punishment for rule infractions,  
5 primarily fighting. I go to Rikers and I'm out there  
6 every few weeks. That's most commonly what the  
7 punitive segregation is utilized for, fighting. Now,  
8 I also want to comment that of those 259 inmates,  
9 nearly 100 of them have been documented to have  
10 special education needs, and as we know, for those  
11 who are in punitive segregation there is no  
12 meaningful access to educational services. Now,  
13 pending the conclusion of our rule-making, which will  
14 be early next year, it is a very lengthy process  
15 which we have to abide by under CAPA [sic]. The  
16 Board of Corrections supports prohibiting solitary  
17 confinement for all incarcerated youth under at least  
18 the age of 19. We're still in rule-making, and we'll  
19 decide exactly where to draw that line, but at least  
20 under the age of 19, and we certainly commend  
21 Commissioner Ponte's plan to end it for adolescents  
22 by the end of the year, certainly the sooner the  
23 better. By nature we all know that the youth have  
24 immature not fully formed brains. They'll less  
25 capable of good impulse control and good reasoning in

2 decision-making. Therefore, they're much more likely  
3 to break the rules. We also know that most of the  
4 youth incarcerated are more likely than not to suffer  
5 a emotional and mental health problems, alcohol and  
6 substance abuse. They have developmental  
7 disabilities. They have histories of trauma and  
8 traumatic brain injury. Some may have been mental  
9 health services. Most have not. And at this time,  
10 they're all primarily in need of some type of mental  
11 health services, but there are simply insufficient  
12 mental health services available to the general  
13 population, even in the specialty housing, the mental  
14 observation units. Now, minor rule infractions result  
15 in solitary confinement, which we all know causes  
16 substantial harm to them developmentally,  
17 emotionally, mentally, educationally, socially and  
18 physically, and will likely result in greater  
19 incidents of self-harm and in fact, violence. I would  
20 also submit that in addition to being subjected to  
21 violence and isolation, the basic needs of many of  
22 our detained adolescents at Rikers are often unmet  
23 during their months and often years of waiting to go  
24 to trial. Now, at this time, I certainly urge the  
25 State of New York to raise the age of criminal

2 responsibility to the age of 18. However, until  
3 then, the adolescents in the adult system are  
4 entitled to and should in fact be treated the same  
5 way as the young people in the juvenile justice  
6 system. Unquestionably, RNDC is now an adult  
7 facility in an adult jail system that houses some  
8 adolescents. Many few are adolescents and many more  
9 adult inmates there. It has a linear layout that  
10 cannot be converted to a juvenile justice model as  
11 recommended by the Department of Justice. The youth  
12 facility should contain small housing units with  
13 large community areas that are conducive to direct  
14 supervision and engagement of clinical and custodial  
15 staff which is community based which grants easy  
16 access to family, friends, programming and education.  
17 Should also say now that such a large number of  
18 adults, federal law, the Prison Rape Elimination Act  
19 is regularly violated at RNDC, when the 16 and 17  
20 year, essentially the Prison Rape Elimination Act  
21 prohibits site and sound contact between 16 and 17  
22 year olds and 18 and above, but in RNDC, because of  
23 the large number of adults there now, there is not  
24 the site and sound barrier with respect to the intake  
25 pens, with respect to the buses, with respect to the

2 Suicide Prevention Aids, and even with respect to  
3 specialty housing where we sometimes have the 18 year  
4 olds in with the 16 and 17, and younger in with the  
5 older. So, as long as adolescents are going to be  
6 housed in the city jails, we would recommend there's  
7 got to be youth appropriate programming with  
8 incentives and a graduated sanctions disciplinary  
9 system. There has to be appropriate educational  
10 services tailored to the needs of the youth,  
11 including special education. There has to be an  
12 expansion of recreation. There has to be a  
13 therapeutic community and a culture of respect that  
14 includes the assignment of steady, committed, and  
15 well trained custodial and clinical staff. There has  
16 to be an expansion of mental health services for  
17 adolescents in general, but the intensive mental  
18 health units should be richly staffed and robust in  
19 specialized. I would submit the mental health  
20 services should employ an adolescent psychiatrist and  
21 that adolescent psychiatrists should be at the head  
22 of the clinical team that's managing the clinical and  
23 therapeutic needs for the adolescents. Only the  
24 adolescent psychiatrist is really skilled and trained  
25 and credentialed to prescribe psychotropic

2 medications for adolescent, which is very different  
3 than for adults. This team should include adolescent  
4 psychologists and psychotherapists who are expert in  
5 assessment, diagnosis and treatment for this  
6 adolescent population. And I do want to say for an  
7 extensive study of best practices for our adolescent  
8 population, I'm incorporating by reference. Cardozo  
9 Law School's Rethinking Rikers Report, which they  
10 prepared for the Board of Correction and attached to  
11 our written testimony today. So, simply put, the  
12 current Rikers facilities are not conducive to the  
13 Department of Justice remedial measures, nor the best  
14 practices, and in fact, the DOC facilities off of the  
15 island, those be in Manhattan and the Brooklyn House  
16 of Detention, which I have personally visited  
17 already, are widely acknowledged to have a much  
18 calmer culture and a much better morale. Officers  
19 tell me because as I go through the facilities I  
20 speak to the inmates, I speak to the officers, I  
21 speak to the clinical staff, and the officers are  
22 telling me that such plumb assignments off the island  
23 would really reward the excellent officers and it  
24 would incentivize others to seek training and the  
25 steady assignments with the adolescents. We simply

2 cannot wait 'til the age of criminal responsibility  
3 is raised. We must create this calmer culture,  
4 therapeutic environments, safe, secure community  
5 based environment that is sensitive to the unique  
6 needs of the adolescents in support of the officers  
7 who work with them. I did want to just mention since  
8 there was a lot of discussion about the facilities,  
9 in my opinion there's currently no facility at Rikers  
10 that would be long term sufficient, especially when  
11 you consider the culture of violence, and part of  
12 what we're trying to do is change the culture of  
13 violence, but in terms of the lay out of the  
14 facilities, there is one facility that does have the  
15 layout that the Department of Justice would be  
16 looking for, but it's currently housing the female  
17 inmates. So there's an 800 annex at Rosie's, where  
18 the female inmates are housed, and that does have the  
19 open dorms, that has the very large day rooms. It  
20 has the classrooms. It has the recreational rooms,  
21 but of course, it's part of the female facility, and  
22 that may pose difficulty in and of its own. So, I  
23 would say that we are certainly very fortunate that  
24 we have a new Administration, new Commissioners, new  
25 Wardens that are committed to reform, but I would

2 also say as the Department of Justice has said, these  
3 reforms must be meaningful, lasting, and enforceable.

4 On a final note, I just wanted to address the issue,  
5 I know a couple of you have asked about the young  
6 adult housing and the 18 year olds in particular.

7 The Department of Justice report includes the 18 year  
8 olds. The investigation was about the 18 year olds,

9 and I've confirmed in my meetings with them, that

10 they are still seeking that the 18 year olds be part

11 of the remedial measures for the youth. Regarding

12 Commissioner Ponte's Young Adult Initiative for

13 housing the 18 to 21 year olds, we generally are in

14 support of and commend this innovative initiative as

15 it's anticipated. It's not implemented yet, although

16 the 18 year olds, most of them have been removed from

17 RNDC. We are concerned, certainly in light of the

18 DOJ report and findings, the facilities that I've

19 been visiting with the 18 year olds are being housed

20 separately, and they're in GMDC and GRVC [sic], and

21 they're being housed at least one unit where there

22 are no cameras. So we recommend cameras be installed

23 wherever inmates really are, but certainly with this

24 18 to 21 year old group. They must have cameras

25 wherever they may be, including their schools, their

2 programming facilities and certainly in their  
3 housings. We also support their need for additional  
4 staffing. We've talked about the adolescents having a  
5 15 to one, that's not being put in place right now  
6 for the young adult, but there's been a request by  
7 the wardens of GMDC and GRVC as well as from staff  
8 and the facilities that they need C officers so that  
9 there's essentially two officers out in the housing  
10 unit. And finally, as informed by psychiatric  
11 experts, during our rule-making, we must be mindful  
12 that the neurobiology of youth and young people under  
13 the age of 25 is such that violence is much more  
14 likely when incarcerated and when their movement is  
15 so severely restricted and extreme idleness. So,  
16 therefore, we need to make sure we include for this  
17 population the extensive programming, education,  
18 recreation and robust mental health services to make  
19 sure that their wellbeing is certainly protected.  
20 I'm happy to be here to testify before you today and  
21 happy to answer any questions you may have.

22 CHAIRPERSON CROWLEY: Thank you, Judge  
23 Hamill. Thank you for your extensive testimony and  
24 for your years of advocacy for those that are  
25 incarcerated and for what you're doing now with the



2 Board. There's going to be a follow-up hearing you  
3 heard earlier. We don't have the date yet, but we'll  
4 be with the Committee on Health and then Committee on  
5 Mental Health and we'll have that before the end of  
6 the year so we can fully examine the psychiatric  
7 support that the 16 and 17 year olds and really the  
8 entire facility has. It's alarming to me that our  
9 liaison from the DOC to the DOH does not even know  
10 whether there is an adolescent psychiatrist, and  
11 that's beyond disappointing. The Deputy Commissioner  
12 should know that, should be--have a relative  
13 understanding of what type of health care is  
14 available and that's just minimum knowing that  
15 there's a doctor who specializes with mental health  
16 when you have a population of nearly half that need a  
17 doctor that specializes in such. You also support  
18 removing the 16 and 17 year olds off the island.  
19 What did you think of the Commissioner's response?  
20 It doesn't appear to me that DOC is moving quickly  
21 enough with that Department of Justice  
22 recommendation.

23 BRYANNE HAMILL: We at the Board of  
24 Correction and I certainly personally believe it's  
25 one of the primary and most prominent recommendations

2 that that has to occur really first, because that's  
3 part of--you know, if you're going to really change a  
4 culture, you have to remove those inmates, and even  
5 those officers I would say in the clinical staff to a  
6 new much smaller facility that's more tailored to  
7 their unique needs. I mean, right now when you go to  
8 RNDC, one of the things we've been advocating for is  
9 having steady officers, steady officers that are  
10 really well trained with managing adolescents with  
11 behavioral problems. There's not, you know, I don't  
12 want to give the exact numbers, but that's still a  
13 problem getting steady officers and they're certainly  
14 not trained. So the whole idea would be to remove  
15 these adolescents from that culture and ensure that  
16 the officers in the clinical staff that we have are  
17 buying into a juvenile justice model and willing to  
18 accommodate the sort of major cultural shift that  
19 will be necessary.

20 CHAIRPERSON CROWLEY: Now, I agree. This  
21 committee has been advocating certainly since I've  
22 been the Chair for reduced number of inmates per  
23 staff. That ratio grew under the Bloomberg years,  
24 and was to the point of where you had only one  
25 officer for 33 inmates at RNDC, which certainly

2 wasn't acceptable. The council has been committed to  
3 that and together with the Mayor we did put more  
4 money in the budget, but certainly as we heard from  
5 the Commissioner earlier, that amount did not go far  
6 enough, and then we're looking and would be committed  
7 to finding more resources to reduce that ratio even  
8 to one to eight, and looking at reducing the ration  
9 in the greater population. I know that Council Member  
10 Cabrera has some questions, so I'd like to recognize  
11 Council Member Cabrera.

12 CHAIRPERSON CABRERA: Thank you so much.  
13 Just a quick question. I, you know, heard  
14 suggestions today by Council Members where a new  
15 facility would be suitable for the young people to go  
16 to, where do you suggest that they should go?

17 BRYANNE HAMILL: You know, I don't know a  
18 facility right now that I could say they should go,  
19 but I am familiar having been a Family Court Judge  
20 when the Department of Justice also issued a scathing  
21 report ensued New York State and the Office of  
22 Children and Family Services that laws were changed  
23 and a lot of money became available and that was the  
24 Close to Home Plan, where we starting moving, and I'm  
25 sure you're very familiar with this, so many of our

2 young people closer to New York in smaller community  
3 based facilities where it's either it's my  
4 understanding facilities were either built or other  
5 buildings were obtained and retrofitted so that they  
6 could accommodate the juvenile justice model that was  
7 envisioned. But I can't tell you right now. You  
8 know, what I can tell you is having gone to the  
9 Manhattan House of Detention, there's certainly  
10 aspects of that facility that would be conducive to  
11 it. They've got the tiers where they have the cells,  
12 but really large day rooms, and the culture was very  
13 different. The morale was very different. The  
14 inmates were engaging with the officers. I didn't  
15 hear all the complaints as I normally hear when I go  
16 to RNDC. The Brooklyn House of Detention, which I've  
17 seen, again that culture is very different, and if  
18 you look at the violence levels there's much less  
19 violence reported in these off islands, but it is  
20 more like you're really institutional setting with  
21 all the bars, and their numbers in terms, not that  
22 that couldn't be changed, of officers per inmate is  
23 very, very high.

24 CHAIRPERSON CABRERA: So let me ask you a  
25 question, is it--let me play the devil's advocate.

2 BRYANNE HAMILL: Yes.

3 CHAIRPERSON CABRERA: I don't like the  
4 devil, but let me play the devil's advocate. If you-  
5 -is it a culture issue or a facilities issue?

6 Because if it's a culture issue, it's the people who  
7 are running the place, or is it a facility issue? Is  
8 it what the place looks like? Is it what, you know,  
9 young people, the youth that re in Rikers Island have  
10 access or don't have access to? So is it how it's  
11 operated or is the fact that people already come with  
12 stereotypes about Rikers Island, or is it that the  
13 people, the same people who are running the adult  
14 unit are being transferred to the youth unit,  
15 juvenile unit and they don't come with the expertise  
16 that they need, or what is it at the end of the day?  
17 Is it both?

18 BRYANNE HAMILL: I actually think it's  
19 both, and I think with respect to the facility, what  
20 the Department of Justice in general, you know,  
21 national best practices say is that it should be a  
22 smaller facility where there's smaller housing units,  
23 there's large day rooms, community spaces where the  
24 officers, custodial clinical staff can have direct  
25 supervision at all times, be able to see them at all

2 time and be able to sort of actively engage with the  
3 youth. The way RNDC is right now with the linear  
4 layout that's not possible. The one facility as I  
5 mentioned that you could do that is in the 800 annex  
6 where, you know, you have the bubble and you have the  
7 one officer and looking all around you can see the  
8 dorm, because you can see all the inmates that way,  
9 all the youth that way, huge day rooms, lots of  
10 classrooms, recreation. So there is one facility,  
11 but I think in terms of the culture you're talking  
12 about, and I should say I do want to commend the  
13 Commissioner and certainly Warden Perrino, I've  
14 worked closely, been out to Rikers and RNDC a lot, I  
15 am certainly starting to see a shift in culture and a  
16 culture of respect. Part of that culture should be  
17 sort of community culture where everybody buys into  
18 making it a better housing unit, and I'm hearing more  
19 and more from the young people that they like the  
20 officer who's working with them and they praise them,  
21 and you can see an interaction and an engagement that  
22 I hadn't really seen before. But I think when we  
23 talk about this pervasive culture of violence, I'm  
24 not confident that that culture can change  
25 sufficiently under the current circumstances if the

2 facility remains the same. And I'll just--I go out  
3 to Rikers every few weeks. I was just out there last  
4 week, and I was in the second chance housing, and  
5 notwithstanding the culture shift I'm starting to  
6 see, and there was the probe team and the alarm went  
7 off, and two young men, 16, 17 year olds were taken  
8 out. I went and spoke with them, and of course they  
9 told a very different story than custodial staff was  
10 reporting, and they're reporting that they've done  
11 their punitive seg time and they're still being held  
12 in some type of administrative segregation beyond  
13 what their box times would have been. So, keep in  
14 mind, even if we eliminate punitive seg there will be  
15 other facilities or other housing units that will be  
16 instituted and from some of the youth I've spoken to,  
17 I don't get the impression that that culture shift is  
18 certainly occurring as rapidly as I think we would  
19 want to see it happen. I should also tell you that  
20 some of the staff tell me that, "Gee, Judge, the best  
21 thing you could do is get--" and these are the  
22 officers, these are supervisory officers, "the best  
23 thing you could do for us is to get us all out of  
24 here where we could really create the model that  
25 these youth serve."

2 CHAIRPERSON CABRERA: So what I hear, and  
3 I'll turn it back to the Chair because I know we have  
4 a lot of people who want to testify, but what I hear  
5 is basically is implementing the Missouri model or  
6 something that resemble the Missouri model, and I  
7 also hear that this will take--I mean, if we're going  
8 to do this right, if we were to do it on those basis,  
9 that it would take some time for it to happen, and  
10 realistically it's not going to happen soon.

11 BRYANNE HAMILL: And I'd like to comment  
12 on that. You know, in preparing for this, I wanted to  
13 see what other board member or staff had ever  
14 testified before the City Council, and in fact, I  
15 learned that a former Executive Director Richard  
16 Wolfe testified back in 1986 to very much the same  
17 problems that we're seeing now. This is decades long.  
18 This is deeply entrenched, and I know this is a  
19 little cliché, but my position would be I want to be  
20 on the right side of history on this one. I think  
21 that we have an incredible opportunity with this  
22 progressive Administration, the City Council, the  
23 Commissioners, the Wardens to get this right. It's  
24 going to take time, and it's going to take money, but  
25 I think we certainly can do it.



2 CHAIRPERSON CABRERA: Thank you much.

3 Madam Chair?

4 CHAIRPERSON CROWLEY: Thank you, Council  
5 Member Cabrera. Council Member Levin for questions.

6 COUNCIL MEMBER LEVIN: Thank you very  
7 much, Madam Chair. Thank you very much, Judge. I  
8 just had a couple of quick questions. So in terms of  
9 the Board of Corrections authority under the rule-  
10 making process, could the Board of Corrections  
11 essentially prohibit 16 and 17 year olds from being  
12 incarcerated on Rikers? Is that within your  
13 jurisdiction?

14 BRYANNE HAMILL: Well, it's very  
15 interesting question. We--I think there's one issue  
16 as to whether we would have the authority to do that,  
17 and since I didn't anticipate the question and  
18 consult with counsel, I don't want to respond to  
19 that, because there is an issue as to exactly what  
20 our role is, what our authority is, how do we ensure  
21 compliance, but certainly we can draft the standards,  
22 and we're in the process of doing that regarding the  
23 care, custody, correction, treatment, supervision and  
24 discipline. I think it would be more of a measure  
25 without commenting on the authority to try to

2 facilitate how that might happen. Certainly we've  
3 been working with the US Attorney's Office. We  
4 certainly work closely with the Departments of  
5 Health, Mental Hygiene, Correction and Department of  
6 Education within there, and I believe that everyone  
7 wants to see what's best for the youth. I don't--I  
8 don't doubt that for a moment. The question is how  
9 to accomplish it.

10 COUNCIL MEMBER LEVIN: Right. Because and  
11 just looking at the DOJ report there are roughly 80  
12 recommendations.

13 BRYANNE HAMILL: Yes.

14 COUNCIL MEMBER LEVIN: And, I mean, just  
15 kind of out of curiosity, I mean is--are you and the  
16 other board members and the staff looking through  
17 those recommendations and determining which ones are  
18 within your jurisdiction?

19 BRYANNE HAMILL: We certainly would. I  
20 can tell you, you know, I've been on the board for  
21 less than a year as of last October, and there had  
22 already been the vote to go into rule making  
23 regarding solitary confinement in light of DOJ and  
24 some other things. We're expanding that in our  
25 legislative agenda which we've announced will allow

2 us to do that. I would say it's something we're  
3 looking at, and I would say too that in talking with  
4 the US Attorney's Office, I mean, we all want to  
5 ensure that whatever we do is meaningful, lasting and  
6 enforceable, right?

7 COUNCIL MEMBER LEVIN: Right.

8 BRYANNE HAMILL: And they've been very  
9 clear on the record about doing that. Is it the case  
10 that we should consider including those reforms that  
11 there's agreement to as rules, and politically, can  
12 we accomplish that?

13 COUNCIL MEMBER LEVIN: Sure.

14 BRYANNE HAMILL: So it's not an easy  
15 answer.

16 COUNCIL MEMBER LEVIN: Right, and  
17 honestly, I mean, the DOJ report also speaks to  
18 constitutional violations that you referred to as  
19 well in your testimony and whether there is recourse  
20 under in the legal means of remedy in terms of  
21 lawsuits by inmates. I don't know how that might--

22 BRYANNE HAMILL: [interposing] So, you  
23 know, with your state and federal laws, we have lots  
24 of confer standing on lots of different lawyer groups  
25 and people to be able to bring appropriate lawsuits

2 in the state and federal courts, and as the US  
3 Attorney's Office is saying, they may in fact bring a  
4 federal civil rights case against the city of New  
5 York and the Mayor. We, the Board of Correction,  
6 have authority to enforce and ensure compliance with  
7 our standards. So questionably, how broad should the  
8 standards be to make it enforceable by the Board of  
9 Correction or by any of the attorney groups that  
10 bring an action citing the rules and regulations of  
11 the Board of Correction as the legal authority?

12 COUNCIL MEMBER LEVIN: In addition to if  
13 they're bringing a federal lawsuit, you know,  
14 constitutional claims as well.

15 BRYANNE HAMILL: And I'm sure all the  
16 lawyers out there are probably thinking of these  
17 various ways.

18 COUNCIL MEMBER LEVIN: Thank you very  
19 much, Judge. I appreciate it. Thank you, Madam  
20 Chair.

21 CHAIRPERSON CROWLEY: Thank you, Judge.  
22 I know you've only been on the board for a number, a  
23 short number of months. How often are you meeting  
24 with the other board members? Is it only in a public  
25 setting or are you meeting with your Committee?

2           BRYANNE HAMILL: So we, we have, you  
3 know, pursuant to the Open Meetings Law, there has to  
4 be notice and a public board meeting before we can  
5 meet. We can work in committee. We can have less than  
6 five board members present at committee meetings. So  
7 we have for rule-making, we have broken into two  
8 committees, my committee which is adolescent and  
9 young adult, and Doctor Cohen chairs the other  
10 committee which is adults and focused on mental  
11 illness. Adolescents are focused on mental illness  
12 as well. So, we are--my committee's meeting this  
13 afternoon. We meet as frequently as we deem it  
14 necessary, but in terms of meeting as a board,  
15 pursuant to the bi-laws, the bi-laws state that there  
16 must be six public board meetings, perhaps that  
17 should be considered to be revised as to whether  
18 there should be more public board meetings, so we  
19 can--

20           CHAIRPERSON CROWLEY: [interposing]  
21 Right.

22           BRYANNE HAMILL: so we can--

23           CHAIRPERSON CROWLEY: [interposing] I  
24 think before Bloomberg there might have been more a  
25 monthly meeting.

2 BRYANNE HAMILL: There was a time where it  
3 was 11 public board meetings, and there was also a  
4 time that there was a much larger board of  
5 correction. We had a staff of close to 30. We had  
6 our own general counsel. The budget was cut so  
7 we've, over the years--

8 CHAIRPERSON CROWLEY: [interposing] What  
9 is the size of the staff today?

10 BRYANNE HAMILL: I believe we're only  
11 about 20 right now, maybe a little bit more. We have  
12 board members are--you know, there's nine of us.  
13 We're short three board members right now and have  
14 been so most of the year. The staff has been reduced  
15 down to about 20. We have nine field  
16 representatives, but they cover the 20 different  
17 jails or the facilities where inmates can be held.  
18 So you can just imagine logistically the difficulty  
19 in actually meeting our own mandates.

20 CHAIRPERSON CROWLEY: Absolutely. Well,  
21 thank you for your advocacy and your leadership, and  
22 I have no further questions. I look forward to  
23 continuing to work together to bring about real  
24 reforms, ones that are lasting.

25 BRYANNE HAMILL: Thank you so much.

2 CHAIRPERSON CROWLEY: Thank you.

3 BRYANNE HAMILL: Thank you.

4 CHAIRPERSON CROWLEY: Now, our first to  
5 testify from the public will be two representatives  
6 from the Correction Officers' Benevolent Association,  
7 Mr. Thomas Farrell and Mr. Elias Husamudeen, and  
8 he'll have to say if I said his name correctly.  
9 Elias, how do you pronounce your last name? My  
10 apologies.

11 ELIAS HUSAMUDEEN: Crowley, it's Hu--

12 CHAIRPERSON CROWLEY: Husamudeen.

13 ELISA HUSAMUDEEN: Husamudeen,  
14 Husamudeen, Husamudeen, yeah, it's Husamudeen. How  
15 you feel, ma'am.

16 CHAIRPERSON CROWLEY: If you can identify  
17 everybody who plans to speak today. Make sure that  
18 we have your name for the record and your title.

19 THOMAS FARRELL: Thomas Farrell,  
20 Legislative Chairman.

21 ELIAS HUSAMUDEEN: Elias Husamudeen,  
22 First Vice President, and sitting next to Tommy is--

23 WILLIAM INMAN: William Inman, First Vice  
24 President, Corrections Captain Unit.

2 CHAIRPERSON CROWLEY: William, can you  
3 just fill out the committee slip? Mr. Farrell, once  
4 you're ready, please begin the testimony.

5 THOMAS FARRELL: First and foremost, I'd  
6 like to thank the members of the City Council and  
7 both Chairwoman Crowley and Chairman Cabrera for  
8 allowing me to submit my testimony on this topic of  
9 great importance to both the City of New York and to  
10 my members who provide care, custody and control of  
11 the nation's second largest municipal jail system. I  
12 deeply apologize for not being able to deliver the  
13 testimony in person since I am away, yet I feel  
14 compelled to continue to do the work that I have been  
15 blessed to do by my organization, the Correction  
16 Officers' Benevolent Association. The COBA has  
17 sounded the alarm for many, many years in regards to  
18 the injustices that the membership, the non-uniform  
19 members and the inmates have been forced to work  
20 under at Rikers Island. We have responsibly dealt  
21 with the various challenges presented by the Board of  
22 Correction, Department of Health, the Office of the  
23 Mayor, Office of the Commissioner, and through it all  
24 we have continued to make safety and security our top  
25 priority. Some of you have criticized us by stating



2 publicly and anonymously in the media that we are the  
3 sole cause of problems that exist on Rikers Island.

4 Let me assure you that we will do everything  
5 necessary to reform the Department of Correction as

6 long as it does not jeopardize the safety and

7 security of correction officers, civilians and

8 inmates as well. I continue to work diligently with

9 the Department of Correction Commissioner Joseph

10 Ponte to ensure that real reform is achieved, which

11 benefits both inmates and staff alike. Some members

12 of this council have suggested that young adults

13 should be removed from Rikers Island and placed in

14 another location. If that happens, do you want the

15 jail built in your community? I think the answer to

16 that is no. The bottom line, jail is jail. Council

17 Members have voted blindly on local legislation that

18 continues to have detrimental impact on the uniform

19 members of the agency, non-uniform members as well as

20 the inmates. What do you do with an inmate that

21 slashes another inmate or a correction officer? You

22 do not want us to put him in punitive segregation.

23 You want us to give him a time out? That's for my

24 granddaughter. She's committed no crime, but yet you

25 seek to employ the same form of medial punishment to

2 convicted murderers and rapists. That is  
3 unacceptable. I am not suggesting that an inmate who  
4 is caught smoking a cigarette be placed in punitive  
5 segregation, or that an inmate who defends him or  
6 herself against the violence that plagues this agency  
7 be placed in punitive segregation, but what I am  
8 suggesting is that the Board of Correction,  
9 Department of Mental Health and Hygiene maintain and  
10 supervise their own areas and allow Commissioner  
11 Ponte to supervise his. I believe that it is  
12 imperative that Mayor de Blasio give correction  
13 officers and the leaders of our agency the same level  
14 of respect that he gives Police Commissioner William  
15 Bratton and all the others in the New York City  
16 Police Department. The Department of Health continues  
17 to mislead the public knowing full well that this is  
18 their responsibility to provide psychological and  
19 medical treatment for those individuals that need it  
20 the most and communities throughout the five  
21 boroughs. But like I have said in the past, Rikers  
22 Island has become the new dumping ground for the City  
23 of New York. We are now responsible for the  
24 homeless. We are no responsible for the mentally  
25 ill. We are now responsible for the innocent that

2 are incarcerated. We are now responsible for those  
3 who have committed horrendous crimes in our  
4 community. Like I have said in the past, I Norman  
5 Seabrook, President of COBA will do everything I can  
6 to correct the injustices and the neglect that have  
7 plagued us for many years, but I will not take  
8 responsibility for the decisions that the council  
9 makes that strips the men and women of the is  
10 organization of their authority or jeopardizes their  
11 safety. There has been in the last three months  
12 hundreds of assault against correction officers that  
13 have occurred in the Department of Correction, yet  
14 all of you with the exception of a few would choose  
15 to vote overwhelmingly to change polices and  
16 procedures while you have never walked in our shoes.  
17 Let me assure you that I will continue to work with  
18 Commissioner Ponte and the members of this agency to  
19 implement reforms that benefit my members and their  
20 families. Finally, Department of Justice has  
21 completed a lengthy report in regards to the New York  
22 City Department of Correction, and has found faults  
23 within the agency. I personally met with United  
24 States Attorney Preet Bharara in his office with  
25 members of his staff and reassured them that we will

2 do all that we can as correction officers to make the  
3 appropriate changes that should have been made many  
4 years ago. I apologize once again for not being here  
5 today, but I thank you for the opportunity to submit  
6 my testimony. There was a question that was brought  
7 up earlier about violence on the island, and I just  
8 want to give you a couple of numbers that just  
9 occurred for the month of September only. One  
10 hundred and seven correction officers were sent to  
11 the emergency room. Eighty-two correction officers  
12 and once civilian were splashed with blood, urine, or  
13 feces, and there were 269 inmate fights. Now, that's  
14 just not adolescents. We can't just worry about  
15 adolescents and the mentally ill. There's 13,000  
16 inmates, 9,000 correction officers and thousands and  
17 thousands of civilians that are working on that  
18 island. We've come to this council many, many times,  
19 many questions have been asked, but until Council  
20 Member Dromm's friend got arrested and was, you know,  
21 placed in punitive segregation, now this has hit the  
22 forefront. It's a shame. Things should have been  
23 talked about, and things should have been done many  
24 years before.

2 CHAIRPERSON CROWLEY: Thank you, Mr.  
3 Farrell for your testimony on behalf of Mr. Norman  
4 Seabrook who could not be here today. First, I am  
5 glad and do very much appreciate that your president  
6 of the union has met with the Department of Justice  
7 and is committing to working together with the DOJ in  
8 regards to their recommended reforms. He's not here,  
9 but ultimately it's telling me that Mr. Seabrook  
10 understands that there are inherent problems that  
11 need to be fixed that have been identified within the  
12 DOJ report. Now, you've brought a host of concerns  
13 that as Chair I have not neglected, I have addressed  
14 year after year. Our hearing today is solely about  
15 the DOJ's report. You know, I understand that your  
16 officers are getting hurt and that Rikers Island  
17 needs to be safe for all who work on Rikers Island,  
18 including the clinical staff or the staff do not wear  
19 a uniform. I know that you have 9,000 officers  
20 within the ranks, Correction Officer, Captain, Deputy  
21 Warden, Warden, and I have a tremendous amount of  
22 respect for the work that your officers do. And like  
23 the NYPD or like any other uniform, when you have  
24 9,000 you're not guaranteed that all 9,000 are going  
25 to uphold the respect that comes with their badge,

2 and there's been 16 that have been identified in the  
3 DOJ report. Even your president has admitted that  
4 there are some correction officers that abuse their  
5 use of force, and what we want to do as a council is  
6 assure that those correction officers that have been  
7 identified that give your union a bad name are taken  
8 out of facilities, that once somebody uses a level of  
9 force that is unacceptable, that that is identified  
10 and corrected, and that it's not a culture within the  
11 Department. I know for many of your officers your  
12 hands are tied, that the ratio of staffing to inmate  
13 is far too great, that you do not receive the  
14 training, nor have you received the training to deal  
15 with the populations, be it--whether it is adolescent  
16 or mental health, and we're committing to you and  
17 your membership that there will be more training. We  
18 will see to it that DOC says that they're going to  
19 train, and we're going to hold them accountable. We  
20 have no tolerance for stabbings, slashings or any  
21 incidents of violence. We want to end violence. We  
22 want to make Rikers Island safe.

23 THOMAS FARRELL: No, we get that. But  
24 that's 16. There's 700 officers. So, 16, that's less  
25 than what, 0.1 percent. So--

2 CHAIRPERSON CROWLEY: [interposing]

3 Right, no, I mean--

4 THOMAS FARRELL: It's--

5 CHAIRPERSON CROWLEY: [interposing] We're  
6 not saying your Department is--

7 THOMAS FARRELL: [interposing] Oh, no,  
8 no, and a lot of blame needs to be placed on the  
9 prosecutors, the judges, Department of Mental Health,  
10 Department of Education. It's a collective thing.  
11 All we have is care, custody and control. We need--  
12 the cameras, they talk about putting cameras up.  
13 Cameras record crimes. They don't prevent it. It's  
14 going to record if I beat somebody up, if you beat  
15 somebody up. It's not going to stop it. What's going  
16 to stop it is better facilities. The newest facility  
17 other than that extension they're talking about is 24  
18 years old. That's the newest facility on Rikers  
19 Island. We're understaffed. Everybody knows that.  
20 We've been saying this for years.

21 WILLIAM INMAN: There's no deterrent--  
22 excuse me. There's no deterrent when an inmate  
23 assaults a civilian or even a officer, or you come to  
24 facility, because what happens is the Judge runs it--  
25 the judge runs the census concurrently. Captain

2 William Inman, First Vice President for the  
3 Corrections Captain's Unit. I represent the  
4 Captains, the Supervisors, and there's no deterrent  
5 because they know when they go to court the census  
6 [sic] is going to run concurrently whoever they have.  
7 So it's no deterrent. They're going to keep. So  
8 they assault you today. Tomorrow, the judge  
9 sentence, other sentence 10 years, it runs with that.  
10 It's not a separate, you do your 10 and then you do  
11 another three years. It runs together. It has to  
12 start there. And with this new Commissioner--

13 CHAIRPERSON CROWLEY: [interposing] There  
14 are problems with the District Attorney's Office.

15 WILLIAM INMAN: Yeah, and with this new  
16 Commissioner--

17 CHAIRPERSON CROWLEY: [interposing] I  
18 supported a measure to--

19 WILLIAM INMAN: [interposing] Yes, you  
20 did.

21 CHAIRPERSON CROWLEY: remove the  
22 jurisdiction--

23 WILLIAM INMAN: [interposing] You did.

24 CHAIRPERSON CROWLEY: Yes, and a number  
25 of my colleagues have supported. The state



2 legislature's supported moving Rikers Island--also  
3 we're waiting for--out of the jurisdiction of the  
4 Bronx into Queens County or whether it be a special  
5 prosecutor where we are hopeful, because not only the  
6 correction officers who've been accused of  
7 infractions or have been accused of abusing force,  
8 inmates as well, are not held accountable on, within  
9 the ranks of the Bronx District Attorney's Office.

10 WILLIAM INMAN: And in think not--

11 CHAIRPERSON CROWLEY: [interposing] But  
12 that's aside and apart what we're hearing today.

13 WILLIAM INMAN: Not only that, me as a  
14 civilian have more rights in the street as a  
15 Correction Supervisor in the jail because the charge  
16 would be more severe in the street. If I were to go  
17 to a precinct and do a 61, in the street file a  
18 police report. So it's a hard--it's hard--

19 CHAIRPERSON CROWLEY: [interposing]  
20 Right, I understand that. I understand.

21 ELIAS HUSAMUDEEN: If I may? Councilman  
22 Crowley, I've been coming to these City Council  
23 hearings for the last 20 years in dealing with  
24 corrections. There's something that everybody needs  
25 to understand. The correction officers are not

2 opposed to what we're hearing from the Commissioner,  
3 from the current Chief. We don't agree with  
4 everything, but we're not opposed to advance. You  
5 said something about training, and the problem is, is  
6 that it goes a little bit beyond training. It goes  
7 beyond training, and this is even dealing with the  
8 adolescents. As I sat here today I'm listening to,  
9 you know, people saying to the Commissioner, "Why  
10 can't you put them in Brooklyn House? Why can't you  
11 put them in Queens? Why can't you?" And I'm sitting  
12 here and I'm saying, obviously the people who are  
13 asking these questions are not familiar with the  
14 infrastructure of Brooklyn House, Queens House and  
15 the other places off of Rikers Islands that they're  
16 suggesting that these adolescents be placed in. Like  
17 Tommy said, the last jail built was 24 years.

18 Currently, and this is just my opinion, RNDC's the  
19 best place for them. It's a huge building. It's a  
20 big building. It needs to be taken care of, the  
21 structure, the infrastructure need, but as far as  
22 some place for them, Brooklyn House don't fit.

23 Queens House don't fit. Places that have tiers where  
24 a 16 year old will throw another 16 year old over a

2 tier, I don't think we need to have them in those  
3 type of facilities to be very honest with you.

4 CHAIRPERSON CROWLEY: In a facility such  
5 as the Brooklyn House of Detention, there's fewer  
6 incidents of crime and the inmates there currently  
7 are more violent--

8 THOMAS FARRELL: No, the inmates that are  
9 there are lower classification. That's--

10 CHAIRPERSON CROWLEY: [interposing]  
11 That's not what I was told. Based on the most recent  
12 statistics from the DOC--

13 ELIAS HUSAMUDEEN: [interposing] Which is  
14 reason why--

15 CHAIRPERSON CROWLEY: [interposing] It  
16 contradicts what you're' saying.

17 ELIAS HUSAMUDEEN: Which is the reason  
18 why when you take these tours, call me, so we can  
19 give you what it really is so that you don't have to  
20 sit down reading statistics as to what something said  
21 about something.

22 CHAIRPERSON CROWLEY: When you have  
23 incidents of violence occurring and you can limit it  
24 to 20 inmates per floor or per section--

2 ELIAS HUSAMUDEEN: [interposing] But now,  
3 what do you do as far classroom space is concerned?  
4 What do you do as far as what the educators is going  
5 to need as far as to facilitate teaching.

6 CHAIRPERSON CROWLEY: You're only  
7 talking--

8 ELIAS HUSAMUDEEN: The Brooklyn House  
9 doesn't fit.

10 CHAIRPERSON CROWLEY: You're talking about  
11 250--

12 ELIAS HUSAMUDEEN: It doesn't matter, it  
13 still doesn't fit. You don't have the type of room.  
14 You don't have the type of space. You don't--it just  
15 doesn't exist. I'm sorry, it just doesn't exist.  
16 I've been a correction officer for 27 years. It does  
17 not exist.

18 CHAIRPERSON CROWLEY: I visited the  
19 facilities yesterday--

20 ELIAS HUSAMUDEEN: [interposing] You were  
21 there yesterday--

22 CHAIRPERSON CROWLEY: [interposing] And  
23 during recreational time, the youth there chose to be  
24 playing video games or sitting at a table rather than  
25 playing basketball or--

2 ELIAS HUSAMUDEEN: [interposing] What  
3 I'm saying to you is--

4 CHAIRPERSON CROWLEY: utilizing the big  
5 facilities.

6 WILLIAM INMAN: In the streets.

7 ELIAS HUSAMUDEEN: What is being proposed  
8 for the adolescents as far as education, as far as  
9 helping them, as far as their mental health is  
10 concerned, as far as helping them when they come back  
11 into the city, into the community's concerned,  
12 Brooklyn House does not fit the bill and neither does  
13 Queens. RNDC fit the bill. The biggest problem that  
14 we're having in instituting a lot of the things that  
15 the Commissioner and the Chief is trying to do is all  
16 these oversight committees. Everybody seems to know  
17 more about correction than the correction officer,  
18 and that's the biggest problem that we're having.  
19 Everybody's talking to everybody, except no one's  
20 talking to the correction officer, and regardless of  
21 what anyone in this room says, it is I who's with  
22 this inmate 24 hours a day, seven days a week. I  
23 don't visit him like you guys once every three weeks,  
24 or I don't visit every two weeks. I'm there with the  
25 inmate every single day, when he gets his visit, I'm

2 with him. When he gets his medication, when he's  
3 sick, we're the ones that's with him. You need to  
4 talk to us if you really, really are interested in  
5 advancing the cause of what everybody's saying as far  
6 as adolescents and improving the jail system. And  
7 then I'm going to stop, after this. Deal with the  
8 judiciary system. They're the ones that's putting  
9 these "kids" as you guys call them, babies,  
10 children's, adolescents in jail. Why are you here  
11 grilling the Department of Correction whose only  
12 responsible because somebody sent them to us, as  
13 opposed to grilling the people and saying, "Why are  
14 you sending an inmate to jail with a 250 dollar bail  
15 because he jumped a turn style in the train station?"  
16 Those are the people that need to be grilled. You  
17 need to call the Assistant District Attorney and the  
18 District Attorneys and make them explain why the  
19 veteran Jerome Murdoch who died in jail, why would  
20 you give him a 2,500 dollar bail when he was arrested  
21 for sleeping trying to find some place to sleep. The  
22 problem is you guys, every time something goes wrong,  
23 it's correction officer. All I've heard here today  
24 with the exception of Cabrera, I believe that's your  
25 name, the only man that asked about what is the

2 alternative to when the inmates assault correction  
3 officers. He's the only one sitting up there who  
4 actually asked the question. What's next? What's  
5 the alternative? After December 31<sup>st</sup> when we no  
6 longer have solitary confinement, which we don't have  
7 Rikers Island, but when we no longer have the option  
8 of punitive seg, what are we going to do with the  
9 inmate that you're aware of named John Doe in JRVC  
10 who does nothing but assault other inmates and  
11 assault officers--

12 CHAIRPERSON CROWLEY: [interposing] When  
13 the Commissioner--

14 ELIAS HUSAMUDEEN: [interposing] What are  
15 we going to do?

16 CHAIRPERSON CROWLEY: testified, the  
17 Commissioner said that a 16 or 17 year old currently  
18 in solitary confinement is in solitary confinement  
19 for 23 hours out of the day.

20 ELIAS HUSAMUDEEN: Liz, we've sat down  
21 with the Board--

22 CHAIRPERSON CROWLEY: What we'll change is  
23 that--

24 [cross-talk]

2 ELIAS HUSAMUDEEN: [interposing] of  
3 Corrections, and we've sat down--

4 CHAIRPERSON CROWLEY: [interposing] Will  
5 still be confined--

6 ELIAS HUSAMUDEEN: with this Council as  
7 well to say--

8 CHAIRPERSON CROWLEY: and punished, but it  
9 will be--

10 ELIAS HUSAMUDEEN: [interposing] What  
11 Tommy said from the beginning--

12 CHAIRPERSON CROWLEY: [interposing] 23  
13 hours of day.

14 ELIAS HUSAMUDEEN: What Tommy said from  
15 the beginning, we're not interested--

16 CHAIRPERSON CROWLEY: You're being  
17 disres--

18 ELIAS HUSAMUDEEN: in having inmates  
19 locked in for 23 hours a day. Everything for us  
20 depends on what they did. So for smoking a cigarette  
21 or talking back, we're not interested in that. But  
22 the deal is--

23 CHAIRPERSON CROWLEY: [interposing] At  
24 the end of the day--



2 ELIAS HUSAMUDEEN: [interposing] what's  
3 the alternative? What do you guys have for us--

4 CHAIRPERSON CROWLEY: [interposing] We  
5 understand that the vast majority--

6 ELIAS HUSAMUDEEN: [interposing] after  
7 January 1<sup>st</sup>--

8 CHAIRPERSON CROWLEY: of your officers--

9 ELIAS HUSAMUDEEN: [interposing] when  
10 this is done?

11 CHAIRPERSON CROWLEY: [interposing] want  
12 Rikers Island to be safe.

13 ELIAS HUSAMUDEEN: Absolutely.

14 CHAIRPERSON CROWLEY: Safe for the  
15 inmates.

16 ELIAS HUSAMUDEEN: Absolutely.

17 CHAIRPERSON CROWLEY: Safe for the staff,  
18 and that DOC is tasked with making sure, ensuring all  
19 New Yorkers that the people who are on Rikers Island  
20 will be safe, and for your information, when you  
21 compare RNDC to any other facility on Rikers Island  
22 or off, the level of violence is out of control.

23 ELIAS HUSAMUDEEN: Liz, there's nothing  
24 that you can tell me--

2 CHAIRPERSON CROWLEY: [interposing] So I  
3 stand by my suggestion--

4 ELIAS HUSAMUDEEN: [interposing] about  
5 jail, just like there's nothing that I'm going to sit  
6 here--

7 CHAIRPERSON CROWLEY: [interposing] to  
8 move the 16 and 17 year olds--

9 ELIAS HUSAMUDEEN: [interposing] and tell  
10 you about this City Council.

11 CHAIRPERSON CROWLEY: off the island.

12 ELIAS HUSAMUDEEN: Jail is what I do for  
13 a living. This is what we do for a living.

14 CHAIRPERSON CROWLEY: We go to Council  
15 Member Cabrera for questions.

16 ELIAS HUSAMUDEEN: Being the council is  
17 what you do for a living. It's not going to work.  
18 Sorry.

19 CHAIRPERSON CABRERA: Thank you, Madam  
20 Chair. That was fun. So, let me--well, I have a few  
21 questions. Thank you for coming. We do want to hear  
22 all sides. Look, if, and let me just say this, I  
23 hope that you're not getting the impression that  
24 we're asking correctional officers to do the mental  
25 health piece. I think that--I think part of the

2 debate as I'm listening, this been a learning  
3 experience for mem, how do we bring the best from the  
4 mental health community from what advocates are  
5 saying from correctional officers who are there like  
6 you said 24/7, how do we come with a plan that is  
7 safe for everyone, that we have a win? For me, it's  
8 about the win, the win for the youth and in doing  
9 away where we have a win for everybody at the end of  
10 the day. So my question to you is, let's say there  
11 was a way to do it outside of Rikers Island. I'm  
12 still--I'll be honest with you, I'm staying here for  
13 the whole thing. I want to hear where we will put  
14 this youth and which community we want to take them  
15 too.

16 ELIAS HUSAMUDEEN: Brooklyn House still  
17 don't want the Brooklyn House of Detention on  
18 Atlantic Avenue.

19 CHAIRPERSON CABRERA: But let's say there  
20 was a way. Let's say there was a way to do it like  
21 the Missouri model. We have in place already, you  
22 know, the homes, some homes that are secure. If  
23 there was a way to do that and the communities were  
24 open to it, and you will have the results that they  
25

2 had in Missouri and in Maine, what will be wrong  
3 about that? What will be the negative about that?

4 ELIAS HUSAMUDEEN: What would be the  
5 negative about removing them from Rikers?

6 CHAIRPERSON CABRERA: Yes. And if you  
7 have them in a secure--

8 ELIAS HUSAMUDEEN: There's no negative  
9 about moving them from Rikers.

10 CHAIRPERSON CABRERA: Okay.

11 ELIAS HUSAMUDEEN: The problem is, the  
12 negative is if you're talking about moving them from  
13 Rikers and putting them in some other facility that  
14 we have. Part of the biggest problem, I've visited  
15 the jails in San Francisco. I've visited the jails  
16 in California. I've visited the jails in Detroit and  
17 Chicago. I've been to Philadelphia. I've been to  
18 North Carolina, South Carolina. What we have in New  
19 York City is ridiculous. When you go to these other  
20 places and you look at the infrastructure, their  
21 jails, and their jails that's built to do the things  
22 that you want the Department of Corrections to do.  
23 Problem is, Mr. Cabrera, we don't have that here.  
24 Now, in all honesty, since Commissioner Ponte came  
25

2 in, since Chief Clem [sic] came in, things are slowly  
3 turning around to be very honest with you.

4 CHAIRPERSON CABRERA: Okay.

5 ELIAS HUSAMUDEEN: RNDC is slowly turning  
6 around. Warden Perrino, and I'm not saying this  
7 because I'm Correction, he's a good Warden. The  
8 Assistant Commissioner that's working with him,  
9 they're trying to do things. The problem is you guys  
10 want--you guys are like the want it in an instant  
11 generation. You want to put it in the microwave and  
12 have popcorn in a minute and a half, and it's not  
13 going to happen.

14 CHAIRPERSON CABRERA: And if I may, I  
15 think I mentioned that to the judge, that I don't--  
16 and this is New York, we like things tomorrow, you  
17 know, yesterday for that matter. I don't foresee--to  
18 do this thing right, it's going to take time. At the  
19 same time there's the fear always that people say  
20 they're going to do something--

21 ELIAS HUSAMUDEEN: [interposing] Right.

22 CHAIRPERSON CABRERA: and then, so in the  
23 future and we're sitting here five years later and  
24 nothing has been done.

2 ELIAS HUSAMUDEEN: Part of the problem,  
3 and I don't mean to cut you off, this is part of the  
4 problem, today I feel like this council is calling  
5 for the head of Chief Clem. That's part of the  
6 problem. That's part of the problem. Every time we  
7 turn around when somebody--let's just say I make a  
8 mistake, one mistake in my 30 year career, but I'm a  
9 hell of a goddamn manager, now you want to get rid of  
10 me. Now, I got to bring somebody else in. Now, I  
11 got to bring in another Commissioner. The problem is  
12 we get nothing done.

13 CHAIRPERSON CROWLEY: Mr. Husamudeen--

14 ELIAS HUSAMUDEEN: In five years we've  
15 seen three Commissioners.

16 CHAIRPERSON CABRERA: Let me ask you  
17 another question. You mentioned--

18 CHAIRPERSON CROWLEY: [interposing]  
19 Cabrera, let--

20 CHAIRPERSON CABRERA: [interposing] If I  
21 may? This is about one of the most exciting hearings  
22 we had all year long. I'm really excited about this.

23 CHAIRPERSON CROWLEY: It's really  
24 interesting when you have the union complementing the  
25

2 Chief of the Department who did not have the backbone  
3 to appear today before the committee.

4 ELIAS HUSAMUDEEN: Everybody's entitled to  
5 a vacation.

6 WILLIAM INMAN: Well, at least he has the  
7 backbone to back his staff there and we've worked  
8 with Chief Gumus for a long time. He stepped up. He  
9 had stepped up--

10 CHAIRPERSON CROWLEY: [interposing] We  
11 would have heard that if he came here today.

12 WILLIAM INMAN: Since he's been there,  
13 he's made things better. The staff feel safer, okay?  
14 And he's a man of his word. I've known him for the  
15 last 30 years. He's a man of his word, and I respect  
16 the Commissioner for making him and standing by him.

17 ELIAS HUSAMUDEEN: And then we got to deal  
18 with what you guys are dealing with the press. Here  
19 it is we got a facility called RNDC. We have a Chief  
20 named Clems, and the Department of Justice does a  
21 study 2011, 2012, 20--so out of three years of the  
22 adolescents that they studied, he sat in the seat for  
23 seven months. We're not even discussing the other 23  
24 months.

2 CHAIRPERSON CABRERA: [interposing] I  
3 have not--

4 ELIAS HUSAMUDEEN: And the deal is--

5 CHAIRPERSON CABRERA: [interposing] I  
6 have not brought out that question. So I have not  
7 brought out that issue. I left it to my colleagues,  
8 the more knowledgeable on that piece. I'm dealing  
9 really with the areas that I'm more common. I was  
10 going to ask you is the 107, you mentioned 107--

11 THOMAS FARRELL: One hundred and seven  
12 for the month of September.

13 CHAIRPERSON CABRERA: Is that, is that  
14 for the juvenile unit?

15 THOMAS FARRELL: No, that's from the  
16 entire. That's from the entire Department.

17 CHAIRPERSON CABRERA: Can you give me  
18 what the juvenile--

19 THOMAS FARRELL: They didn't--we couldn't  
20 get the numbers broken down by facility. We just  
21 added up every correction officer that was sent to  
22 the hospital, meaning that they couldn't get treated  
23 in the facility. They were assaulted by inmates, 107.

24 CHAIRPERSON CABRERA: How come we can't  
25 get that by facility?



2 ELIAS HUSAMUDEEN: We have it.

3 [cross-talk]

4 ELIAS HUSAMUDEEN: For this meeting--

5 CHAIRPERSON CABRERA: [interposing] If  
6 you can give me that number--

7 ELIAS HUSAMUDEEN: We just took the total  
8 number.

9 CHAIRPERSON CABRERA: It would be  
10 helpful. I'd like to do a comparison.

11 THOMAS FARRELL: Absolutely.

12 ELIAS HUSAMUDEEN: Mr. Cabrera, one  
13 issue. You guys talking about moving to Brooklyn and  
14 Queens house and all that. These are kids like we  
15 said, right? So now you're going to wreck them on  
16 the roof and set it in the side of a yard? If they  
17 go to Brooklyn House or Queens House, they're going  
18 to be wrecked on the roof. They can't run. They  
19 can't get out like they do now. So you got to keep  
20 that option in mind also.

21 CHAIRPERSON CABRERA: Look, I tell you,  
22 and I haven't shared what would be my vision if we  
23 had unlimited amount of money. The reality is Rikers  
24 Island is old. It's antiquated. You know, I've  
25 taken a couple of tours and I had said to myself,

2 "Wow, this is like, you know, I feel like we're back  
3 in the 1940's in there." And there--we need new  
4 facility. We need new state of the art facility.  
5 That requires intentionality [sic]. That requires will  
6 from the Administration, because reality, the ones in  
7 the other side of this building, they have the money  
8 to make it happen in the state as well. So, that's  
9 where we need to be knocking for that, but based on  
10 what we do have right now, and what prompted this,  
11 just so you know, is the DOJ's report, okay? It  
12 wasn't that we woke up one morning and we said, you  
13 know, let's go after you guys. It was report, you  
14 know, an independent report with 80 recommendations.  
15 I'm sure--and what I heard you say today was, you  
16 know, we see some things turn around, and I believe  
17 those things turn around because of the report that  
18 came out--

19 ELIAS HUSAMUDEEN: [interposing] I don't  
20 mean to interrupt you. They were turning around  
21 before the report even started.

22 CHAIRPERSON CABRERA: Which is I'm glad  
23 to hear. I'm really excited to hear about that, and  
24 some of us didn't know that. Okay? And we'd like to  
25 know where we want to end up at and what is it that

2 we need to do. My hope is that we'd be realistic with  
3 our plans. Number two, that at the end of the day we  
4 could come up with a plan that we have seen in other  
5 states that protect correction officers, help young  
6 people. We don't want the young people coming in and  
7 out and neither do you.

8 THOMAS FARRELL: This needs to start in  
9 the communities.

10 CHAIRPERSON CABRERA: Neither do you.  
11 Look, I have family members who were in your shoes,  
12 it's what they did for a living, and yet, I come from  
13 the mental health field. I hear both sides, and I  
14 think that there could be a marriage, and that's what  
15 we're doing here, learning how to do it better and I  
16 believe we could do it better.

17 THOMAS FARRELL: You brought up a point,  
18 Chairwoman Crowley, about, you know, the video games  
19 and stuff like that. There's no--nothing going on in  
20 the community, so I look at my nephews and they're in  
21 Long Island. They're playing sports. They're not  
22 doing--they're not really play the video games. In  
23 the city, my nieces and nephews that are here,  
24 they're not going to the parks because they're  
25 worried about the violence. They're worried about

2 the gangs, the gangs that are coming back, and it  
3 needs to start in the community, the boys and girls  
4 clubs, the CYO, the things that were here. I was  
5 born in Brooklyn, raised in Queens, and there were  
6 those things afforded to me, and it's unfortunate  
7 it's not there anymore. And the gang population in  
8 New York City has grown tenfold in my 26 years on  
9 this job. You had a couple of gangs. Now you have  
10 dozens and dozens of gangs. And these kids,  
11 children, are coming in as violent predators. Not  
12 all of them. Ninety-five percent of these inmates  
13 are not causing any problems, and the punitive  
14 segregation, reductions and things you're doing,  
15 Ydanis talked about it that there's going to be  
16 lawsuits, because the 95 percent of the inmates that  
17 don't do anything wrong, that go and they do their  
18 time and go home are going to be assaulted, and when  
19 we have no recourse against the inmates that assault  
20 not just us, but assault the inmates, the lawsuits  
21 are going to pile up on the city and it's going to be  
22 on everyone else's heads.

23 CHAIRPERSON CABRERA: Let me ask a  
24 question, and it's my last question. How much, do  
25 you happen to know, how much it would cost for us to

2 have the type of unit on Rikers Island to make it  
3 happen in a way that it meets all the needs, and if  
4 you don't know, have you asked the Administration for  
5 it?

6 THOMAS FARRELL: There was talk, I think  
7 at the budget times, that they were looking to build  
8 a facility and they were going to do a couple of  
9 things for mental health inmates. Honestly, I don't  
10 know. I don't know what the cost are, you know as far  
11 as labor, as far as materials and things like that,  
12 but if you were going to do, I guess, two different  
13 facilities, you'd have to come up with something to  
14 house the mental health inmates and something to  
15 house the adolescents. So you're probably talking  
16 hundreds of millions. And you know, staffing ratios  
17 are going to have to come up, and again, you know,  
18 cameras, it's great. It records everything. It's  
19 going to show my face and what I did, and everything  
20 else, but it's not going to--that camera is not going  
21 to come off the wall.

22 ELIAS HUSAMUDEEN: And the problem that  
23 you're going to have, I'm sorry, because they've been  
24 discussing building a mental health facility on  
25 Rikers Island, the problem you're going to have is

2 we're going to take our mentally ill inmates, and  
3 we're going to take them there, but we already have  
4 another problem. We have a problem that's called the  
5 Department of Health, Mental Health. We have a  
6 problem, because if you're allowing all of the mental  
7 health facilities in the city to close, to be shut  
8 down, then where else are they going to go? And even  
9 if you build a jail on Rikers Island, to deal with  
10 the mentally ill inmates, you're still going to have  
11 a capacity problem. I mean, we have a problem now.  
12 We just met with some of the other unions where  
13 there's a seven--I'm told by the--there's a 700  
14 backlog of mentally ill inmates who really are  
15 mentally ill and should be in the mentally ill units  
16 and they're not. So, like Norman said, Rikers Island  
17 has become the dumping ground.

18 CHAIRPERSON CROWLEY: Mr. Husamudeen--

19 ELIAS HUSAMUDEEN: [interposing] And  
20 that's the other one that y'all need to call here is  
21 the Department of Mental Health. You need to make  
22 them answer.

23 CHAIRPERSON CROWLEY: We are going to  
24 have a hearing before the end of the year on that  
25 particular population. And I do hope you come back--

2 ELIAS HUSAMUDEEN: [interposing] Stop  
3 them from closing the last two facilities that we  
4 have in the city.

5 CHAIRPERSON CROWLEY: [interposing] to  
6 testify at that hearing, but I thank you all for the  
7 work that you do. I know it's a incredibly difficult  
8 job, and I believe that we both have the same end  
9 goal, to reduce the number of people on the island in  
10 your care and custody and to make the time that  
11 inmates spend there a time where they don't have to  
12 worry about their physical wellbeing as well as  
13 anybody who works on the island, including officers.

14 THOMAS FARRELL: I was wondering if you  
15 guys are going to go as hard against Commissioner  
16 Schiro who was the one that they said actually, you  
17 know, fudged the numbers and things like that. And  
18 what did she get? She got promoted. She's in charge  
19 of the entire state of Connecticut I think it is. SO  
20 I'm just wondering, I mean, if anybody, if you know,  
21 you guys are going to go and talk to the Governor of  
22 Connecticut and the people of Connecticut because  
23 she's the one that caused 90 percent of these  
24 problems; were all under her, under watch.

2 WILLIAM INMAN: Chair, just in closing, I  
3 would like to say correction officers, the  
4 supervisors, we come to work to do a job each and  
5 every day. We don't come to brutalize, no one harm  
6 nobody. Just like, you know, we want to go home the  
7 same way we came in. So the mind set--and someone  
8 called him a guard. We're not no guards. We're  
9 correction officers. We are professionals at what we  
10 do, and we take offense to someone calling us a  
11 guard, okay? That's not what we are, okay? And we  
12 should get the same respect that a cop gets out there  
13 in the street, and even more, we don't have the gun.  
14 We use our mind. We use IP skills. We do a lot more  
15 than that, and start recognizing what we do.

16 CHAIRPERSON CROWLEY: Right. I  
17 appreciate what you do, and I know that some officers  
18 even go above and beyond the call of duty and are  
19 very much involved with changing individuals lives,  
20 especially the young, and we've got to really make  
21 sure that we're getting the right correction officers  
22 that want to work at RNDC or with this population,  
23 because let's face it, some people are better with  
24 kids than others.

25 THOMAS FARRELL: Absolutely.



2 CHAIRPERSON CROWLEY: And that's going to  
3 be a goal of the committee as well. Thank you for  
4 being here today.

5 THOMAS FARRELL: Thank you for the  
6 opportunity to speak.

7 CHAIRPERSON CROWLEY: Look forward to  
8 more dialogue.

9 ELIAS HUSAMUDEEN: It's just one more  
10 thing. I'm just joking [sic].

11 CHAIRPERSON CROWLEY: Okay, now we're  
12 going to hear from a group that--and we welcome five  
13 to come and testify on the same panel, Dave Casellas,  
14 Bronx Defenders, William Gibney, Legal Aid Society,  
15 Nancy Ginsburg, Legal Aid Society, Ron Schneider,  
16 Brooklyn Defenders, and Nick Malinowski, Brooklyn  
17 Defenders.

18 NICK MALINOWSKI: My name is Nick  
19 Malinowski. I'm a social worker at Brooklyn Defender  
20 Services. As we heard earlier more than 75 percent  
21 of people on Rikers Island and in other city jails  
22 are not in custody due to a conviction. They're in  
23 jail on bail sometimes as low as 250 dollars because  
24 they cannot afford to meet this cash obligation.  
25 According to the Criminal Justice Agency, just 12

2 percent of people accused of misdemeanors are able to  
3 post bail at arraignments. Prosecutorial requests  
4 for bail and a choice to insist on cash bail when  
5 other options are legally viable is a matter of  
6 public policy, and so we've decided to place people  
7 accused of the most minor of crimes in jail solely  
8 because they have been locked out of the social and  
9 economic resources and opportunities that would  
10 otherwise enable them to post a couple hundred  
11 dollars as collateral. Every five minutes, another  
12 New Yorker is sent to Rikers Island. What happens to  
13 them there? This is one story that was collected by  
14 our jail service. In August of 2014, one of our  
15 clients, 17 years old at the time was the victim of  
16 an assault. He was further victimized by the  
17 deliberate indifference of correctional officers who  
18 allowed the assault to occur. The results of the  
19 Department of Justice CRIPA report show that the  
20 neglect and brutality exposed in this story are  
21 indeed systemic at Rikers Island, particularly in the  
22 facility that houses many of the city's youngest  
23 jailed population. Our client was in the shower when  
24 another person incarcerated in his unit entered the  
25 shower area and splashed him with a pot of scalding

2 liquid. He called out to staff in the adjacent  
3 hallway, "I am hurt. It's serious." At this time,  
4 the custody officer on duty advised our client to  
5 wait for a Captain. Our client was left in the shower  
6 without staff assistance for more than 45 minutes,  
7 during which time his only relief was to rinse his  
8 wounds with cold water. When a captain and Deputy  
9 Warden finally arrived on the scene their priority  
10 was not to secure medical care for our client.  
11 Instead he was aggressively questioned about the  
12 incident within earshot of others, putting his safety  
13 in even greater jeopardy. When our client was  
14 eventually brought to the medical clinic after his  
15 lengthy interrogation, he waited three hours before  
16 being triaged. He did not speak with a nurse or  
17 other medical staff during this time. In fact, he  
18 continued to be questioned about the incident by a  
19 different custody officer present at the clinic. When  
20 he was finally seen by a doctor he was diagnosed with  
21 second and third degree burns. We cannot continue to  
22 use Rikers Island as a warehouse for people awaiting  
23 trial if the city cannot provide for the safety of  
24 the people under its care. We are deeply concerned  
25 that officers who played a role in this type of abuse

2 and others who work to keep secret the house of  
3 horrors that our city jails have become, have been  
4 promoted within the Department rather than face  
5 disciplinary actions or even terminations. There's  
6 no justification for jailing, let alone abusing  
7 teenagers and we need to end this practice as the  
8 first step to dismantling any aspects of the criminal  
9 justice system that are not constitutional or  
10 responsive to human rights. Thank you.

11 RONALD SCHNEIDER: Thank you members of  
12 the City Council for listening to my testimony today.  
13 My name is Ronald Schneider, and I am the social work  
14 supervisor of the Adolescent Representation Team at  
15 Brooklyn Defender Services. I've worked with  
16 adolescents and people living with disabilities  
17 involved in New York City's judicial system since  
18 1998. I am one of the thousands of voice that implore  
19 you stop the disturbing level of violence inflicted  
20 upon our young people who are incarcerated on Rikers  
21 Island, often for non-violent offenses. It pains me  
22 to listen to my young clients recounting the systemic  
23 level of abuse incurred while detained on Rikers  
24 Island, like the 16 year old boy who attempted  
25 suicide on his fourth day at RNDC by ripping part of

2 a bed sheet to form a noose around his neck. Other  
3 adolescents removed the noose form his neck while  
4 correction officers ignored his please to go to the  
5 clinic. Once at the clinic, a mental health counselor  
6 stated that his suicide attempt was attention  
7 seeking, not that serious, as he had superficial  
8 bruising to his neck and cuts on his wrist. This  
9 young person attempted suicide twice more during his  
10 eight month sentence. Another youth, an 18 year old  
11 boy who was slapped across the face and his head  
12 shoved against the cement floor and a metal gate  
13 after he questioned an officer why he had to be  
14 locked in his cell at 9:00 p.m. This was a new rule  
15 instituted across the island, but was not uniformly  
16 explained to the adolescents. He also attempted  
17 suicide four months into his sentence as he was  
18 placed in solitary confinement fighting with another  
19 youth. And another one of the teens I represent, 17  
20 year old boy from Trinidad and Tobago was dragged  
21 from his cell, suffered scratches and pain to his  
22 five foot ten, 130 pound frame when he refused to  
23 speak to officers who asked him about his immigration  
24 status and robberies in his neighborhood that they  
25 wanted to pin on him. Luckily, he asked for his

2 lawyers and the four officers stopped a barrage of  
3 punches inflicted on his lower back. It is an  
4 absolute shame how the city treats its youth,  
5 especially those of color and those who are indigent.  
6 The overwhelming majority of the young people that I  
7 represent are placed in detention for non-violent  
8 offenses. For example, taking a cell phone or some  
9 other electronic device without the use of a weapon.  
10 They linger on Rikers Island awaiting trial which  
11 could take up to two years or for an alternative  
12 [sic] to incarceration program if they are fortunate,  
13 which can take anywhere up to a year, only because  
14 the families are unable to pay their bail. We pay  
15 hundreds of dollars a day, thousands of dollars per  
16 year to incarcerate a child for a device that costs  
17 less than 500 dollars. Our city cannot afford this.  
18 Our youth do not deserve this. It is common knowledge  
19 that correction officers who commit infractions while  
20 serving at other jails on Rikers Island are sent to  
21 RNDC as punishment for their offenses. This is  
22 outrageous. The best trained officers should serve  
23 out youth at RNDC whose impulsive nature needs  
24 special care, not abuse. RNDC officers incite our  
25 teens in ways that they would never dare with adult

2 detainees. Our youth are our city's future. Instead  
3 of filling out upstate prisons with our most precious  
4 resources, why don't we fill up our city and state  
5 colleges and universities with these kids? We should  
6 be educating our youth, not incarcerating them. It  
7 will cost much less to educate them than arrest them,  
8 and placing obstacles on the future success because  
9 of a criminal record. Incarceration of our youth  
10 increases the risk of physical, sexual and emotional  
11 abuse which leads to behaviors that don't make our  
12 community safer. No 16, 17, or 18 year old should be  
13 detained on Rikers Island. The Department of  
14 Corrections is trained to work with adults. Sixteen,  
15 17, and 18 year olds should be offered programs, not  
16 detention. If detention is required, they should be  
17 in juvenile detention like most other states in this  
18 country. In closing, I have hope with this new  
19 Administration. Commissioner Ponte appears to  
20 understand the issues needed to reform our city's  
21 jails. I implore all of you in power to get our  
22 children off of Rikers Island and back into their  
23 communities. We can use the money we save from not  
24 incarcerating our youth, to educate them and prepare

2 them for the bright future that they and all of us in  
3 the city deserve. Thank you.

4           DAVE CASELLAS: Good afternoon. My name  
5 is Dave Casellas, and I work as a client coordinator  
6 at the Bronx Defenders. In this role, I help Bronx  
7 Defenders clients and their families navigate and  
8 understand the Bronx Criminal Court System. I would  
9 like to thank the Council for the opportunity to  
10 testify. I am here today because I was once held in  
11 solitary confinement. For three months, I endured  
12 the most intense physical and psychological violence  
13 that I have ever experienced. There is no question  
14 in my mind that this inhumane practice has no place  
15 on Rikers Island. I hope that my testimony will  
16 spare others from the torment that I endured. I  
17 represent the voices that are never heard, the people  
18 who, as we speak today, are looking out of the  
19 windows of their cells and into the sky. I was only  
20 20 years old when I went to the box. While  
21 incarcerated at a correctional facility in upstate  
22 New York, I was jumped by four inmates. After  
23 correction officers arrived at the scene I was  
24 brought to the sergeant's office where I was  
25 questioned about why I had been attacked. When the



2 officers decided they did not like my answers to  
3 their questions they began slapping me forcefully and  
4 repeatedly while I was seated in the chair with my  
5 hands in my pockets. The officers then brought me to  
6 the secure housing unit and made me press my head  
7 against the door to the unit so that I tumbled in  
8 face first as soon as the door swung open. For the  
9 next three months I spent approximately 23 hours per  
10 day confined to a small cell. My window often would  
11 not open and the air was stifling. Almost  
12 immediately I could feel the psychological toll of  
13 solitary confinement. My mind was filled with  
14 violent thoughts of hurting others and of hurting  
15 myself. I never received enough food and I lost a  
16 lot of weight as a result. On many occasions I was  
17 unable to go outside for recreation because officers  
18 would avoid taking us to the yard. The behavior of  
19 the correction officers in the secure housing unit  
20 was the worst part of being in solitary confinement.  
21 There are no cameras in the cells, and I lived in  
22 constant fear of being attacked by the people who  
23 were supposed to protect me. On two occasions I was  
24 severely beaten by correction officers. I had  
25 bruises and marks all over my face. I have never

2 been touched that way in my life. Everyone in my  
3 housing area was beaten by correction officers, but  
4 there is no way to report these incidents without  
5 risking retaliation. Once an inmate told his mother  
6 about the abuse and officers trashed his belongings  
7 while he was at a program. Solitary confinement did  
8 not help me, and it is not helping the hundreds of  
9 people on Rikers Island who are held in extreme  
10 isolation each day. It produces only pain and abuse.  
11 As my organization, The Bronx Defenders, revealed in  
12 its report on solitary confinement, the Department of  
13 Corrections use of this practice is rampant,  
14 particularly against young people. Although the  
15 Department has pledged to end the use of solitary  
16 confinement for adolescents, it must go further. It  
17 is time for an end to solitary at Rikers Island.  
18 Thank you.

19 [applause]

20 WILLIAM GIBNEY: I'm William Gibney, I'm  
21 the Director of the Special Litigation Unit at the  
22 Legal Aid Society. The following are a few examples  
23 of complaints about violence that our prisoner's  
24 rights unit has filed with the Department of  
25 Correction in 2013 and the first six months of 2014.

2 There are many more examples in our written  
3 testimony. MM [sic] in RNDC suffered a fractured  
4 nose, a laceration over his lip. He was denied  
5 permission to call his family and he held his hand in  
6 the slot of his door saying he would keep it there  
7 until he was allowed to call his father. A probe  
8 team was called and pushed him on the bed where his  
9 hands were held behind his back and he was punched,  
10 kicked and kneed by the officer in his body and face.  
11 SC at RNDC, hit in the forehead with handcuffs,  
12 suffered a seven millimeter laceration on his  
13 forehead which was closed with Dermabond. Abrasion  
14 and numbness in the wrist was due to the cuffing. SC  
15 threw water a CO who responded by hitting him in the  
16 head with handcuffs. The probe team entered the  
17 cell, handcuffed SC with metal cuffs, bending his  
18 wrists to an extreme angle and banged his head  
19 against the wall. Another inmate, another  
20 adolescents at RNDC was hit by a CO with a chair in  
21 the face. He suffered a jaw fracture. Oral surgery  
22 was required at Bellevue placing a plate and six  
23 screws. He suffered an eye hemorrhage, five  
24 millimeters in diameter. He was attacked by four or  
25 five CO's after he was believed to have taken a pen

2 from school. He returned the pen and the CO's  
3 brought him to the classroom and punched him multiple  
4 times in the face, kicked and maced him. He was not  
5 taken to the clinic until six hours later and was not  
6 taken to Bellevue for another five hours. This is  
7 not a comprehensive list. There are many, many more  
8 examples in our testimony. Our primary  
9 recommendation is that adolescents need to be removed  
10 from Rikers Island and other city jails. I think  
11 Judge Hamill said it well when she said this is all  
12 about culture change, and we need a dramatic change  
13 in the location of the incarceration of these  
14 adolescents if we ever are going to have any hope of  
15 changing that culture which has been deep seeded for  
16 many, many years. The Legal Aid Society has had years  
17 of litigation on the subject of violence. We have  
18 testified before the Council many times. We now have  
19 the added recommendations of the Department of  
20 Justice. We need a dramatic change of culture in  
21 Rikers Island. One point that I just like to respond  
22 to the Commissioner on. The Commissioner said that  
23 they hope to bring the level of punishment down for  
24 adolescents so they could eliminate and reduce due  
25 process protections in the hearings. We think that's

2 the wrong way to go. The DOJ report reports that  
3 there is a rampant false reporting, fabricated  
4 infractions and serious cover ups. So in light of  
5 those findings, we think more rather than less due  
6 process would be appropriate at the disciplinary  
7 hearings. Thank you.

8 NANCY GINSBURG: Good afternoon. My name  
9 is Nancy Ginsburg. I oversee the adolescent practice  
10 at the Legal Aid Society. We represent youth who are  
11 both sent to juvenile detention as juvenile offenders  
12 in the secured detention facilities overseen by ACS  
13 and we represent 16, 17, and 18 year olds who are  
14 sent to Rikers Island. And while we are encouraged  
15 that the Department of Correction and union are going  
16 to other jurisdictions to view best practices, it is  
17 our position that they can go to the Bronx and they  
18 can go to Brooklyn. They can go to our own juvenile  
19 facilities that are being run in this city, and that  
20 there is no reason why this is hard to conceptualize  
21 because we have been doing it for many years. The  
22 set-ups in those facilities are the same as the set-  
23 ups in the facilities that they have been going all  
24 over the country to see. The juvenile system does  
25 not use solitary confinement. Juveniles, many of

2 whom juvenile offenders who commit their crimes are  
3 charged with committing their crimes at age 14 and 15  
4 are often held in secure facilities in New York City  
5 through their 18<sup>th</sup> birthday. They are not--it is not  
6 have ever been necessary to put them in solitary  
7 confinement and those systems have never considered  
8 the use of a 23 hour lockdown with adolescents who  
9 are exactly the same age who committed exactly the  
10 same serious violent felonies as individuals on  
11 Rikers Island. And we have proved positive in New  
12 York City that adolescents even if they are charged  
13 with serious crimes if they are treated as human  
14 beings will act like human beings. And we have proof  
15 positive that when you take adolescents and you treat  
16 them like animals, they will respond in kind. And  
17 the adults around these children need to act like  
18 adults. And that is not what is happening right now  
19 on Rikers Island, and it is true that they need  
20 training and they need much more support, and we are  
21 incredibly encouraged by the new Administration and  
22 how they are taking this seriously, but there needs  
23 to be timelines about how and when this is going to  
24 happen. And we are seriously encouraging the council  
25 to stay on the Department and on the city to provide

2 proof that the things that they have promised today  
3 are happening on a timely basis. It is true that all  
4 of the problems are not going to be solved in the  
5 next six months or in the next year, or probably in  
6 the next five years, but we can't just say it's going  
7 to take a lot of time so we're not going to do  
8 anything. We have been suing the Department of  
9 Corrections for decades, and they only seem to act  
10 when there are eyes on them, and as soon as any  
11 agreement under a lawsuit sunsets, those promises  
12 disappear. So it is important that the government  
13 holds them to their promises and that they do what  
14 they have to do. Rikers Island is filled with  
15 teenagers who have suffered extreme trauma in their  
16 lives and in their communities, and many of the CO's  
17 come from those same communities and have suffered  
18 many, many of the same traumas that the kids have  
19 suffered. And we need supports for all of the people  
20 in those facilities, and the key to changing this  
21 culture is to moving them off that island.

22 CHAIRPERSON CROWLEY: Thank you, Ms.

23 Ginsburg and to all that were here today to testify.  
24 I have a few questions for a few of the people from  
25 the public and then we're going to--I'm going to let

2 Council Member Cabrera ask a few questions. I think  
3 we agree about a lot of the recommendations that the  
4 Department of Justice has called for and by holding  
5 DOC accountable, continuing to follow up makes  
6 absolute sense. Mr. Gibney, I believe you spoke  
7 about the current process of grievances. What would  
8 be an example of an area where we could improve upon  
9 due process?

10 WILLIAM GIBNEY: We actually have a small  
11 unit that represents people who are accused of  
12 violating the rules at Rikers Island, so we're quite  
13 familiar with the way the process works. The rules  
14 right now are often just not followed. So at these  
15 hearings there's a due process right to call a  
16 witness, and when a person asks for a witness to be  
17 called with great frequency right now, the hearing  
18 officer does not call that witness. He says, you  
19 know, not available. We're going to proceed without,  
20 and it ends up being a hearing, but partially a farce  
21 hearing, because what we get is either oral or  
22 written testimony from a correction officer and  
23 that's it. And that--which is almost always believed.  
24 There's really no, what, fair hearing in that  
25 disciplinary process. The right for statements, the



2 right for video, the right to produce the videotape  
3 at the hearing, they're offering--with so many  
4 cameras at Rikers Island, there often are videotapes  
5 of the incident, which the person accused says,  
6 "Bring the videotape. It will show I did not do it."  
7 Another thing I think that should be considered are  
8 maybe--right now the hearing officers are correction  
9 officers. It might make sense to bring in outside  
10 people, outside admini--you know, arbitrator type  
11 people who could--to conduct these hearings in a more  
12 fair and impartial manner.

13 CHAIRPERSON CROWLEY: Your  
14 recommendations make absolute sense. One last  
15 question and then Council Member Cabrera. I don't  
16 know if it was Mr. Schneider, but you spoke on  
17 accounts of inmates you represented that have  
18 attempted suicide within the past four years.

19 RONALD SCHNEIDER: This is actually  
20 within the past year.

21 CHAIRPERSON CROWLEY: Yes. What--when I  
22 look at the Department of Corrections numbers for  
23 adolescent attempted suicide or suicides, bodes  
24 zeros. They're not keeping their records accurately  
25 and we're going to make sure that they're doing

2 reportings, especially when somebody needs to see a  
3 clinician and they're not able to. So it's a serious  
4 problem.

5 RONALD SCHNEIDER: I appreciate that.

6 It's--nothing--the--also, I don't believe any  
7 statistics that Department of Corrections stated  
8 today. Often times, in my adolescents who, usually  
9 it's about 20 percent of my caseload of about 110  
10 kids, are detained on Rikers Island. And 50 percent  
11 of them are within, are in solitary confinement  
12 within a month of their stay there for typical  
13 adolescent behavior. And the majority of the times  
14 that they are injuring themselves, it's not reported  
15 because they are refused attention by Department of  
16 Health, by any of the officers there. They try to go  
17 to the clinic. They are refused. They will wait  
18 overnight until something more drastic happens to  
19 them, until some of the stories that you hear in the  
20 paper actually come out. They are denied a lot of  
21 care. So I believe that the incidents of violence  
22 are much higher than what was reported today, and I  
23 also know that the level of suicide ideation--

24 CHAIRPERSON CROWLEY: [interposing] You

25 know that, I know. I believe you. And what we'll be

2 working on is trying to find a mechanism, probably  
3 electronic mechanism to make sure that when incidents  
4 happen they're immediately entered into some  
5 calculated system that things cannot be erased and  
6 that the public has access to those numbers, real  
7 transparency on all incidents. My last question has  
8 to do with the gentleman who was incarcerated. You  
9 spoke of the time that you were in punitive  
10 segregation. You were 20 years old. Right now the  
11 focus is on adolescents and how to improve upon the  
12 time they spend on Rikers, which the Department has  
13 said that they're going to end punitive segregation  
14 as we know it. There'll still be an area for  
15 discipline. What do you think? You know, as  
16 somebody who has been incarcerated, I'm sure you've  
17 worried about your own safety in respect to other  
18 inmates, and that there are actually some inmates  
19 that prefer to be segregated just to be protected.

20           DAVE CASELLAS: So, I've been to Rikers  
21 Island and I never been in solitary in Rikers Island,  
22 but what I can say is I understand that the  
23 correction officers have a very tough job. I really  
24 do understand that, but then there's lack of cameras,  
25 you know, and there are officers that brag about it.

2 I mean, from the time I was there back in 2011. I  
3 feel like there should be more cameras put around.  
4 Also, I don't care how bad the inmate is, you should  
5 never, you know, put your hands on anybody. That's  
6 the part of the profession, you're not supposed to  
7 put your hands on anybody. What I think they should  
8 do is, to be honest, it's a tough decision to make.  
9 You know, it's a lot going on, but I think the first  
10 thing is cameras, even though it won't be able to  
11 prevent any incidents to happen, but at least people  
12 will have on both sides a defense, at least.

13 CHAIRPERSON CROWLEY: How do you punish  
14 somebody who acts out? You can't put them in  
15 punitive segregation, where do you put them? How do  
16 you change punitive segregation as we know it so that  
17 correction officers can hold inmates accountable for  
18 their actions?

19 DAVE CASELLAS: I feel like respect is  
20 needed to be able to deal with those type of  
21 situation, because if the inmate has no respect for  
22 the officer, nothing's really going to change.  
23 Officers never give any respect at all to inmates. So  
24 I feel like that's a big part of that. And I can't  
25 really say.

2 CHAIRPERSON CROWLEY: Now, I appreciate  
3 you being here today and answering the questions.  
4 Council Member Cabrera has questions.

5 CHAIRPERSON CABRERA: Thank you so much.  
6 Do you think--I have several questions. Do you  
7 think, and this goes for everyone, do you think that  
8 part of the reason the culture is the way it is is  
9 because this is the way correction officers feel that  
10 they will have control over the inmates, so we don't  
11 have pandemonium at Rikers?

12 WILLIAM GIBNEY: I think it is the trad--

13 CHAIRPERSON CABRERA: [interposing]  
14 That's what I hear from--that's what I'm really  
15 hearing from--

16 WILLIAM GIBNEY: I think it is the  
17 traditional way of maintaining control at Rikers.

18 CHAIRPERSON CABRERA: Okay.

19 WILLIAM GIBNEY: So I--there very much  
20 are control elements to it. A part of that culture,  
21 though, is also that the officers who have used  
22 violence in the past have been promoted. So, the  
23 culture is not just at the correction officers level.  
24 It is through the hierarchy and there is not  
25 perception that officers who engage in this behavior

2 should be punished really in any effective way. I  
3 think we heard of punishment for the use of force  
4 about was it four days vacation time or something  
5 like that was the punishment for somebody who got  
6 found guilty. So I think there are many aspects to  
7 the culture throughout the system that does seek to  
8 use this as a way of maintaining control. There are  
9 other ways, other effective--

10 CHAIRPERSON CABRERA: [interposing] So  
11 what are those ways? Because that's what I, you  
12 know, I had written the same question, and to--and  
13 I've been asking this question. I'm sure you heard  
14 me mention this earlier. What kind of discipline? I  
15 mean, what are the leverages that--what leverage can  
16 correction officers have? If two kids get in fight,  
17 for example, or there was a weapon used, somebody got  
18 stabbed, what do we do at that point? I mean, and if  
19 they know it's only going to be two hours time out or  
20 something like that, alright, I'll take my two hours,  
21 you know. A young person could have that kind of  
22 mentality. So what do we do?

23 NANCY GINSBURG: So, I actually think one  
24 of the benefits, one of the many benefits of the DOJ  
25 report is that DOC has been looking at other systems

2 that house juveniles, and there are many systems that  
3 are in use throughout the country and in New York  
4 State. They--when kids believe that they have  
5 something to earn and something to lose, they are  
6 less likely to engage in negative behavior. So if  
7 kids are held in a system where they are rewarded for  
8 good behavior, they often don't want to lose those  
9 rewards, and so that system actually changes much of  
10 the behavior on the front end, and then you do need  
11 to respond, but often you can use OCFS, which is the  
12 upstate facility for juveniles. ACS and DYFJ and the  
13 secure facilities in a number of other systems around  
14 the country use room confinement. There has to be  
15 review of room confinement. So it has to go up to  
16 the, up various levels of administrative review and  
17 it needs to be approved. It can only be for certain  
18 periods of time. If the person has mental illness,  
19 it has to be reviewed by people within that field to  
20 make sure that the child is protected. Good time--  
21 all different things can be taken away. So if kids  
22 are getting points for certain things, if they have  
23 access to certain things in commissary that can be  
24 taken away from them, there are many--just the same  
25 way that you control, you set up systems for your own

2 children in your house, you can do it for children  
3 who are kept in these facilities. The problem  
4 historically is that we have treated these children  
5 as if they are adults, even though that is just a  
6 fallacy, and I think there is recognition that now  
7 if--once you start treating children as children and  
8 you give them the rubric that they actually respond  
9 to, and that's developmentally appropriate for them,  
10 you A, reduce violence to begin with, and they  
11 respond better to those responses that are  
12 developmentally appropriate.

13 CHAIRPERSON CABRERA: So more of a  
14 behavior modification approach using reward and  
15 taking away. That sounds good. So let me ask a  
16 question, at any of these level conversations taking  
17 place with the Commissioner in terms of what's next,  
18 such as suggestions that you have made? Has anybody--  
19 -

20 NANCY GINSBURG: [interposing] It's our  
21 information that the DOC is consulting with national  
22 experts in the juvenile justice field.

23 CHAIRPERSON CABRERA: But they have not  
24 reached out to any of you?



2 NANCY GINSBURG: They have reached out to  
3 a number of advocates, yes they have.

4 CHAIRPERSON CABRERA: Okay. And these  
5 suggestions such as the ones that you have presented  
6 have been given to them?

7 NANCY GINSBURG: They have been given to  
8 them. It would be helpful to us if the Council could  
9 hold them to some type of reporting so that they were  
10 felt like they needed to come up with a plan on a  
11 timely basis.

12 CHAIRPERSON CABRERA: Be more than  
13 willing to help to that end. My other question was  
14 what is it that--you mentioned transferring the youth  
15 to go to Brooklyn or to go to the Bronx facilities  
16 there. What is it that is not happening or should be  
17 happening at Rikers juvenile unit that is happening  
18 in the other ones, and can we duplicate that in the  
19 island?

20 RONALD SCHNEIDER: If I may? What I can  
21 say that it is common--I'm at RNDC and OBCC where the  
22 18 year olds are going now. On a weekly or--weekly  
23 basis, basically, and it is common knowledge amongst  
24 all the officers there, and this has been systemic  
25 over the past 10 years, that if they have an

2 infraction, if there's an officer commits some  
3 offense, they are placed at RNDC as punishment. That  
4 is--hopefully that's changing under Ponte,  
5 Commissioner Ponte, but it's common practice that  
6 nobody wants, none of the officers there want to work  
7 at RNDC because kids are animals, they're the worst  
8 behaved. They are not the worst behaved. They are  
9 impulsive teenagers according to their brain  
10 development. There are a lot of things that happen  
11 in the community. Like if you go to the community  
12 jails, their families have a much easier way to visit  
13 them. So it--my best behaved kids there are visited  
14 often by their family members. Rightfully so, I  
15 mean, I have six foster kids of my own. I have never  
16 visited them when they are on Rikers Island, because  
17 I know that the way that the families get treated  
18 that way. Fortunately, as an advocate I'm able to  
19 visit them other ways, but I tried once to visit one  
20 of my kids at RNDC and it was the most demeaning  
21 experience I've ever experienced in my life. So if  
22 you put them at a facility on Brooklyn House of  
23 Detention or in the Bronx, they, family members do  
24 state that they are treated in a less volatile way  
25 than they are on Rikers Island when they visit their

2 family members. I also feel like Nancy was saying  
3 about we could take the recommendations of ACS--

4 CHAIRPERSON CABRERA: [interposing] But  
5 can that change?

6 RONALD SCHNEIDER: Can that--

7 CHAIRPERSON CABRERA: Seed that can't--  
8 that approach change? So, I know it's harder to get  
9 to Rikers.

10 RONALD SCHNEIDER: Sure.

11 CHAIRPERSON CABRERA: Because you know  
12 you have to take the whole bus and so forth. I've  
13 gone as a citizen. You know, I went as a pastor and  
14 visited. It's a long process, and it's not a fun  
15 process. I agree with you, but if that process were  
16 to change, and the whole accessibility factor were to  
17 be changed and the other things that you're talking--  
18 so maybe what I'm hearing is that we've gotten to the  
19 point of no return, that you don't-- it is that bad  
20 that it cannot change.

21 RONALD SCHNEIDER: I mean, it's systemic.  
22 I mean, it's going to take years, but I personally  
23 don't think that these kids have years to wait  
24 anymore. The damage that is done to kids at RNDC is  
25 lifelong. They come into the facility with major

2 trauma, major trauma. The abuse that they receive on  
3 Rikers Island may have been a continuation, abuse  
4 that they received before, or maybe some of them  
5 haven't been abused before, but they are systemically  
6 abused on Rikers Island. Like I said in my  
7 testimony, the majority of the kids are there for  
8 stealing an electronic device that costs less than  
9 500 dollars. There is some other way that we can  
10 treat these kids in New York City than incarcerating  
11 them. Unfortunately, their families don't have the  
12 money to pay the 2,500 dollars or less bail, and it's  
13 unfortunate.

14 CHAIRPERSON CABRERA: So you're suggesting  
15 that we shouldn't have bail or?

16 RONALD SCHNEIDER: I'm suggesting there  
17 needs to be bail reform, that there is--somebody, and  
18 maybe Nick could speak better about that. But there  
19 is no--there is no--there is nothing that I see on  
20 Rikers Island that these kids deserve for stealing a  
21 500 dollar device. There is community service that  
22 could be done. There are internship. There is  
23 alternative to incarcerations that I get these kids  
24 in. Why can't that be offered to them as their  
25 sentence, like from arraignments? Why can't say they

2 say, "Alright, you stole this, you're going to Exalt  
3 [sic] internship, or you go to Fortune Society for an  
4 internship directly instead of being incarcerated."

5 CHAIRPERSON CABRERA: Because it's not--  
6 they haven't been sentenced yet, so--

7 RONALD SCHNEIDER: [interposing] But as  
8 pre-sentencing. This is pre-sentence. You know,  
9 many of the kids that are on Rikers Island, their  
10 ultimate sentence is time served, or their ultimate  
11 sentence is less than the time that they're serving  
12 waiting for their sentence.

13 CHAIRPERSON CABRERA: I'm curious to know  
14 what percentage of youth are ultimately found guilty  
15 that go to Rikers?

16 RONALD SCHNEIDER: Well, guilt is a  
17 relative term. Many of our--

18 CHAIRPERSON CABRERA: [interposing] Or  
19 settle out of courts. You know, I get it.

20 RONALD SCHNEIDER: Yeah, sure.

21 CHAIRPERSON CABRERA: Settle.

22 NICK MALINOWSKI: Of our group that's  
23 between 13 and 17, at the end of their sentence when  
24 the disposition comes down, only about a third of  
25 them will have jail or prison as part of the

2 sentence. So for two-thirds of them, the only time  
3 that they will spend in a facility in New York City  
4 is when they're waiting for their court to happen. So  
5 either they get time served, their case is dismissed,  
6 ACD, alternative to incarceration, that kind of  
7 thing. I think it--

8 CHAIRPERSON CABRERA: [interposing] So,  
9 I'm sorry. So what, the--the two-third includes  
10 people who were found also guilty, but they already  
11 served the time?

12 NICK MALINOWSKI: Or maybe they might  
13 have pled guilty to something that the final  
14 punishment was not jail or prison.

15 CHAIRPERSON CABRERA: Okay.

16 NICK MALINOWSKI: So maybe they pled  
17 guilty to disorderly conduct and were released on  
18 that day.

19 WILLIAM GIBNEY: A note on bail, the  
20 Washington, D.C. operates a system where the concept  
21 of cash bail has been eliminated for the vast  
22 majority, something like 85, 90 percent of the cases.  
23 And if you think about it, what does the--who does  
24 the requirement of a cash bail discriminated against?  
25 Two kids, one with money and one without money who

2 both commit the same act. The kid without money is  
3 the kid who's going to be incarcerated. The kid  
4 money is going to be free. The kid without money is  
5 in jail with all the pressures to plead guilty just  
6 to get out of Rikers Island. The kid without bail  
7 can fight his case much more fairly just because he's  
8 out. So I think bail reform is a vital  
9 recommendation as part of this problem.

10 CHAIRPERSON CABRERA: Well, thank you so  
11 much, and I commend you all for the work that you do.  
12 Sometimes you might be the only person and the only  
13 organization that these young people actually feel  
14 that they have some hope, and my heart breaks to  
15 hear, you know, when I hear about young people  
16 committing suicide, because they don't see, or  
17 attempting or just, you know, contemplating. It's  
18 just a sense of hopelessness that my life is not  
19 going to get better. So, I commend you for what you  
20 do. Please continue what you're doing because I  
21 believe it's making a difference. And I see a young  
22 man over here who's a model of that. Madam Chair?

23 CHAIRPERSON CROWLEY: Thank you, Council  
24 Member Cabrera. I want to thank our panel for being  
25 here and your advocacy. And I'd like to now call the

2 second panel from the public, which would include  
3 representatives from the Fortune Society,  
4 representatives from CASES, which includes Center for  
5 Court Innovation. We have Chris Walter, Chris  
6 Watler, Barry Campbell from Fortune Society, Amicia  
7 Hoda [sp?] from Fortune Society, Jerry Masinae [sp?],  
8 Fortune Society, Rukia Lumbar--Lumumba from CASES.

9 [off mic]

10 CHAIRPERSON CROWLEY: If you could  
11 testify in not the order that I called you up, but  
12 just in the order that you're sitting, and the  
13 gentleman with the tie, looks like you're prepared to  
14 begin right away. So, if you could identify yourself  
15 for the record and then begin your testimony. Please  
16 do that.

17 CHRIS WATLER: Great. My name is Chris  
18 Watler. I want to thank Chairperson Crowley,  
19 Chairperson Cabrera and members of the committee for  
20 allowing me to speak. I'm the Project Director of  
21 the Harlem Community Justice Center, a project of the  
22 Center for Court Innovation. Under the leadership of  
23 Greg Burman [sp?] and with the active support of the  
24 City Council we are committed to conceiving, planning  
25 and implementing meaningful alternatives to



2 incarceration, and we are committed to engaging New  
3 Yorkers in taking care of their communities and  
4 preventing crime before it happens. We're doing this  
5 out of courthouses in the Bronx and Brooklyn, and we  
6 are doing this in neighborhoods like Jamaica and Red  
7 Hook and Brownsville and the community I represent,  
8 Harlem. New York City Criminal and Family Courts are  
9 overwhelmed by high case loads, many driven by  
10 individuals with serious problems like drugs, mental  
11 illness and homelessness. Conventional courts  
12 typically approach cases by tackling only the legal  
13 issues, failing to adequately address the underlying  
14 problems that lead people into the court system in  
15 the first place. Those who are incarcerated, either  
16 pending trial or a sentence rarely receive services  
17 that address these underlying problems. To the  
18 contrary, confinement all too often contributes to  
19 trauma, behavioral health problems, unemployment,  
20 housing instability and family dysfunction. As a  
21 consequence, many of the persons committed to our  
22 juvenile correctional facilities, adult jails and  
23 prisons are likely to return home far worse off than  
24 when they were initially confined, and recidivism  
25 rates are startling high. The issues are highlighted

2 in Department of Justice report on conditions at  
3 Rikers. Courts and justice systems, stakeholders  
4 must identify safer, less costly and more effective  
5 approaches to addressing the challenges presented by  
6 the people caught up in the justice system. A  
7 particular need among the justice involved population  
8 is for trauma informed services. The vast majority  
9 of youth and adults in the system have expressed some  
10 form, have experienced some form of trauma. The  
11 prevalence of trauma is increasingly a topic of  
12 concern for us at the Center for Court Innovation.  
13 Each year we're providing direct services to tens of  
14 thousands of justice involved individuals in New York  
15 City. Some center programs have reported that up to  
16 70 percent of our clients have had exposure to  
17 significant violence, loss or trauma. Recognizing  
18 this we have sought to expand trauma, focus services  
19 that are age appropriate and informed by extensive  
20 research on adolescent and young adult development.  
21 For example, the center runs alternative to detention  
22 programs in Queens and Staten Island, which combine  
23 youth development programming with supervision and  
24 court monitoring for young people with cases pending  
25 in Family Court. These projects also save tax payers

2 dollars. The average cost of detention is 651  
3 dollars per youth per day. While the center's ATD  
4 programs operate at a fraction of that cost and  
5 produce better results. A rigorous kwazi  
6 experimental evaluation of the center's mental health  
7 services for participants in the Queens Alternative  
8 to Detention Program showed a significant reduction  
9 in reoffending, including felony offenses, compared  
10 to young people in a similar ATD program whose mental  
11 health needs were not addressed. One of the truths  
12 about the criminal justice system that really makes  
13 its way into the newspapers is that three out of four  
14 cases in New York City are misdemeanors, a total of  
15 more than 235,000 cases in 2012. With Brooklyn  
16 Justice Initiative launched in 2013, the Center for  
17 Court Innovation is providing an expanded array of  
18 options for judges in Kings County Criminal Court in  
19 Brooklyn. Brooklyn Justice Initiatives includes a  
20 supervised release program which replaces pre-trial  
21 detention with vigorous monitoring and links to  
22 voluntary services to ensure misdemeanor defendants  
23 return to court while avoiding the negative impact of  
24 detention. The center operates alternative to  
25 incarceration programs in Brooklyn and the Bronx that

2 links low level offenders to community services and  
3 social services. The city of New York credited our  
4 Bronx program with reducing the use of jail by more  
5 than a third from misdemeanor offenders. Independent  
6 evaluators documented that our Red Hook Community  
7 Justice center reduced a number of defendants  
8 receiving jail sentence, and has also reduced  
9 reoffending. Significantly, the research has  
10 documented that Red Hook achieved these goals by  
11 changing the way the justice system treated  
12 individual defendants. Put simply, if you treat  
13 people with dignity and respect, you can change the  
14 way that they perceive the system and encourage them  
15 to be law abiding citizens. Finally, I would be  
16 remiss if I didn't spend just a second on the program  
17 that I run, the Harlem Community Justice Center. We  
18 do a range of different work with justice involved  
19 populations in Harlem, including an innovative re-  
20 entry court that is documented to reduce reoffending  
21 by 19 percent. We also operate the Harlem Justice  
22 Court intensive program for justice involved young  
23 people 18 to 24 seeking employment, education  
24 services, and meaningful opportunities to serve their  
25 community. I will just end by saying it was

2 interesting sitting here all day listening to the  
3 testimony and the questions. The thing that I would  
4 like to leave you all with is that we have a great  
5 community here in New York City of nonprofits,  
6 committed citizens in neighborhoods, committed people  
7 in government who want to do things better, and we  
8 actually have science on our side around what we  
9 should be doing for young people both in communities  
10 and when those moments arise where they need to spend  
11 time away from their homes. And we should be  
12 pursuing our policies based on the evidence. Thank  
13 you.

14 JESUS TAJADA: Good afternoon. My name  
15 is Jesus Tajada [sp?], and I'm 22 years old. I  
16 believe that correction officers need more training  
17 on how to treat youth in jail. If correction  
18 officers don't set a good example and stop the  
19 violence instead of creating it, the jail system will  
20 stay the same. The same goes for police officers.  
21 They are not protecting us, they're arresting us.  
22 They want us in jail. They want to see us in jail.  
23 They do not care about us and what we go through. I  
24 have a personal story I would like to tell that will  
25 illustrate my point. About three months ago I was

2 getting on the train on 145<sup>th</sup> Street on my way to a  
3 job interview. I had no fare. I asked someone for a  
4 swipe. Looking back, I realize it was not the right  
5 thing to do, but what I want to share with you  
6 connects to the treatment of young people in our  
7 neighborhood. I was followed by two police officers  
8 who demanded to see my ID. So before I handed my ID  
9 I explained that I was on my way to a job interview.  
10 I showed them proof of day, time and location. In  
11 this moment, I felt really bad because I thought that  
12 an opportunity to have a better future for myself was  
13 being taken away from me. So, here's what happened.  
14 Luckily, they saw my point at the end and let me go.  
15 I wish that police officers and correction officers  
16 would take time to look at us like fellow human  
17 beings.

18 DONOVAN WILKINSON: So good afternoon.

19 My name is Donovan Wilkinson and I'm from the Fortune  
20 Society, and I'm 19 years old, and I believe that the  
21 youth and my age and younger shouldn't be  
22 incarcerated on Rikers Island. The correction  
23 officers act like most of us are supposed to fail  
24 [sic] them, rather going through the system or going  
25 to a visit. The correctional officers are going to

2 create more violence for no reason. I just ask for  
3 some of you to move all people who are younger than  
4 18 off Rikers Island. Please don't promote the  
5 officers who abuse us. Mostly, most importantly,  
6 treat as people, not like animals. I'm not--I'm  
7 sorry. Most importantly, treat us like people not  
8 animals. I could be your son.

9 BARRY CAMPBELL: Good afternoon. My name  
10 is Barry Campbell. I am here testifying today on  
11 behalf of the Fortune Society, but I would like to  
12 first start by thanking the various Council Members  
13 and committee for convening this important hearing to  
14 examine the treatment of adolescents in New York City  
15 jails and to review the US Department of Justice  
16 report on violence at Rikers Island. I would  
17 especially like to thank the committee for allowing  
18 the Fortune Society to testify today. I've been here  
19 since about a quarter to ten. I'm not going to go  
20 over the whole point of reading my testimony because  
21 there's copies provided for all of you. Let me just  
22 say this, I am what you call a system baby, foster  
23 care, boys home, jail, prison. I've been raised by  
24 the system. I now work at an organization where we  
25 take a look and advocate against the system. I've

2 done time on Rikers Island more than I care to know.  
3 My rap sheet is over 33 pages long. A lot of them  
4 minor arrests for drug addiction. We have a chance  
5 here to invest in our future, because those kids on  
6 Rikers Island are our future, whether you choose to  
7 believe it or not. They are our future, and they  
8 will be coming home. The one question I pose to you  
9 is how would you like those young individuals to come  
10 home? The same way they went in or different? We  
11 need to start putting some programming on the island  
12 more than MRT and education. They need some sort of  
13 trade. They need to get some theater and arts in  
14 there. We need to give these young people hope. If  
15 you go back and you take a look at the reason why  
16 they're in contact with the criminal justice system  
17 in the first place, it's because their community and  
18 their families were lacking the things that they  
19 needed. They needed to have something to occupy their  
20 time and give them hope. New York City does not give  
21 our youth hope. There is not much hope for the youth  
22 across the country, but New York City has always been  
23 a trend setting city, and if we want to be trend  
24 setters, there's no better trend to take up than



2 helping to protect our youth, and with that I'm going  
3 to leave it alone. Thank you for your time.

4 RUKIA LUMUMBA: Good afternoon. I would  
5 just like to say thank you all, especially that last  
6 piece, but all the stories, right? My name is Rukia  
7 Lumumba, and I'm the Director of Youth Programs at  
8 CASES. Thank you Council Members for sitting here,  
9 for holding this hearing and for recognizing the need  
10 to hold another hearing in November, and hopefully  
11 many more hearings where we continue to really  
12 investigate this problem and develop solutions. I  
13 sincerely appreciate it. This is our lives, right?  
14 This is what not only we do for our work, but it's  
15 also what we go home to every day. I have a child. I  
16 have family members that have gone through  
17 incarceration. I have experienced the consequences,  
18 the collateral consequences of those incarcerated  
19 friends and family members of mine, and I work with  
20 young people on a daily basis that go through that.  
21 I also work with staff that have experienced many of  
22 the similar traumas that young people on Rikers  
23 Island have experienced. I have staff that have also  
24 had to learn and understand the importance of being  
25 trauma informed, because as a manager, as a director

2 of an organization it is absolutely my  
3 responsibility, that if anyone comes through our  
4 doors, if anyone is put into and placed into our  
5 custody that we provide adequate and safe services  
6 for them, services that are going to help them become  
7 better human beings in the future, and not just hold  
8 them in a cell or hold them in a place until their  
9 time is up. And so I really thank you for holding  
10 this hearing. There are a number of recommendations  
11 that I offer. Many of them are found in my report.  
12 I will not--I'm sorry, in my testimony. So I will  
13 not go over my report in detail. I look forward to  
14 coming back again for the mental health hearing, but  
15 one thing I will say is that recognizing that nearly  
16 half of teenagers on Rikers Island have mental  
17 illness, we must consider the best ways to help them  
18 understand their mental health needs, their past  
19 traumatic experience, their trauma triggers, how to  
20 control their lives, and prevent additional harms to  
21 others. This unsuitable environment of jail for  
22 teenagers with mental illness cannot enhance their  
23 trauma--only enhances their trauma symptoms and leads  
24 to a cycle of ongoing incarceration. This is what  
25 people have said over and over and over again today,

2 and so with that said I'll talk about  
3 recommendations, right? Recommendations for young  
4 people one, divert young people from prison and place  
5 them in Alternative to Incarceration Programs that  
6 address underlying issues and build upon life skills.  
7 I'm sitting here at the table with Fortune, CASES,  
8 and CCI, organizations that do this. Provide youth  
9 with greater accessibility to alternative to  
10 incarceration programs, meaning place programs on  
11 Rikers where we can actually screen young people  
12 earlier in the process, in the court process. Two  
13 more and then I'll let you go. Equip judges with  
14 knowledge. Hold forums and training opportunities to  
15 explore the theories of youth development, mental  
16 health and alternative to prison solutions. And  
17 lastly, raise the age of criminal responsibility for  
18 all youth no matter the crime. The research has been  
19 proven over and over and over again that  
20 incarceration for young people doubles the likelihood  
21 that they will reoffend. So, in closing, thank you,  
22 and please let's get kids off of Rikers. That's what  
23 needs to happen now. We can't wait until the system  
24 changes. Thank you.

2 CHAIRPERSON CROWLEY: Agreed. Thank you  
3 for all who've come to testify. I really don't have  
4 any question. Council agrees with a lot of the  
5 recommendations. Those who were incarcerated, thank  
6 you for being here today to share your story. I know  
7 that--and the Council knows that alternatives to  
8 incarceration work. We invest funding each and every  
9 year in CASES, Fortune Society, Center for Court  
10 Innovation. It is our hope to grow those programs  
11 and be able to serve more and of course, a lot of  
12 today's hearing was on what we can do to get the 16  
13 and 17 year olds off of Rikers Island. So, we're  
14 fully committed to raising the age of criminality as  
15 well. Thank you for being here and for testifying.

16 RUKIA LUMUMBA: Thank you.

17 CHAIRPERSON CROWLEY: Have a good day.  
18 The next panel I'll call up includes Stephanie  
19 Gendell, Citizens Committee for Children, Victoria  
20 Sammartino, the Juvenile Justice Coalition, Gabrielle  
21 Prisco, the Correction Association of New York,  
22 Elizabeth May, Jails Action Coalition, Megan Crowe-  
23 Rothstein, New York City Jails Action Coalition,  
24 Dakeem [sp?], Jail Action Coalition. Okay, you can  
25 start from right to left.

2                   STEPHANIE GENDELL: Good afternoon. My  
3 name is Stephanie Gendell. I'm the Associate  
4 Executive Director at Citizens Committee for  
5 Children, a multi-issue child advocacy organization.  
6 I want to first thank you for holding this hearing  
7 and for the opportunity to testify and for the  
8 Council's continued commitment to this issue. I'm  
9 just going to state at the start of this testimony,  
10 adolescents, which are children ages 16 and 17 years  
11 old should not be incarcerated on Rikers Island,  
12 period. The facility was not created for children.  
13 The staff are not trained to work with children. The  
14 facility is not developmentally appropriate for  
15 children and children should be treated differently  
16 from adults in part because their brains are not  
17 fully developed. In fact, the Commissioner, when he  
18 was testifying earlier said, "I don't have a lot of  
19 experience in juvenile justice." But this is  
20 juvenile justice. These are juveniles and they need  
21 to be part of a juvenile justice system. The text of  
22 the DOJ report is jarring. I won't go on and on about  
23 it, but it should be a wakeup call to everyone that  
24 we need to get these young people off of Rikers  
25 Island. It was upsetting to hear people from DOC

2 talk today about how they don't know if there is an  
3 adolescent psychiatrist on the island. They don't  
4 know how many of the young people there have mental  
5 health needs. They don't know how many of them are  
6 in special education. How can they serve this  
7 population if they don't know who the population is  
8 and what their needs are? So, we, first of all want  
9 to see the ra--we want to raise the age of criminal  
10 responsibility so all 16 and 17 year olds are treated  
11 as children as they should be. We eagerly await  
12 Governor Cuomo's Commission and the results, and we  
13 hope that if the plan turns out to be in the best  
14 interest of the children that we and the de Blasio  
15 Administration and the City Council can all be  
16 partners in advocating for its passage. In the  
17 meantime, though, we don't need to wait for the state  
18 to pass this law. We need to move the 16 and 17 year  
19 olds out now. We appreciate the Administration's  
20 commitment to ending the use of solitary confinement  
21 by the end of the year, but we think the better  
22 course of action would actually be to remove the  
23 young people from Rikers by the end of the year. The  
24 number of children we're talking about is not huge.  
25 It's at most 300 if you include the young girls. A

2 substantial number of these young people are there  
3 because they could not make bail. It's important to  
4 note that in the Family Court System, we don't have  
5 bail, and so no young people in the juvenile system  
6 are incarcerated because they can't pay bail. We  
7 need to get those young people out of Rikers or any  
8 other incarceration facility, and we also should look  
9 at who is really there, because they have a mental  
10 illness and not because of the alleged crimes, and  
11 serve them through the mental health system. This  
12 would further decrease the number of young people who  
13 actually need to be incarcerated in a new facility to  
14 meet their needs. While DOJ recommended that the  
15 facility be part of the Department of Corrections, we  
16 urge the city to think strongly about considering an  
17 agency that's a child serving agency like the  
18 Administration for Children's Services to supervise  
19 this population. At a minimum, the staff must be  
20 trained in working with youth, but we really think  
21 there's a difference in having professionals who  
22 specialize in working with youth, overseeing the  
23 system. Lastly, we believe that the system at Rikers  
24 should work for all people there, and so once we

2 remove 16 and 17 year olds, we still want the DOJ  
3 recommendations implemented. Thank you.

4 VICTORIA SAMMARTINO: Before I begin I  
5 want to thank the members of both the Committee on  
6 Fire and Criminal Justice Services and the Committee  
7 on Juvenile Justice for convening today's hearing to  
8 discuss this urgent issue. My name is Victoria  
9 Sammartino, and I'm testifying before you today on  
10 behalf of the Juvenile Justice Coalition's Conditions  
11 of Confinement Work Group, of which I am a member.  
12 I'm also the Executive Director of Voices Unbroken,  
13 an arts and youth development organization that makes  
14 creative writing workshops accessible to vulnerable  
15 youth and has worked extensively with young people on  
16 Rikers Island since our inception in 2000. I'm also  
17 a former educator. I use to work at the Girls High  
18 school on Rikers. The Juvenile Justice Coalition is  
19 a network of child advocacy groups, legal service  
20 providers, alternative sentencing programs, and  
21 community based organizations working to make the  
22 justice system in New York more fair and effective  
23 for young people. The Juvenile Justice Coalition is  
24 coordinated by the Correctional Association of New  
25 York, an independent nonprofit organization founded



2 by concerned citizens in 1844 and granted unique  
3 authority by the New York State Legislature to  
4 inspect prisons and report its findings and  
5 recommendations to the legislature, public and the  
6 press. The Coalition's Condition of Confinement Work  
7 Group advocates for improved conditions for youth who  
8 are confined, including reductions and the use of  
9 force and violence, and improvements in programs and  
10 treatment. The following statement reflects the  
11 views of our individual members, but does not  
12 necessarily reflect those of our respective  
13 organizations. We're here today because we're very  
14 concerned about the abuse of conditions of  
15 confinement for youth on Rikers Island that were  
16 described in detail by the recent Department of  
17 Justice report. The Juvenile Justice Coalition wants  
18 to express its support for widespread and urgent  
19 reform for young people who are currently on Rikers  
20 Island. In particular, we want to highlight a few  
21 key points on behalf of the coalition. One, removing  
22 youth from Department of Corrections custody. The  
23 United States Department of Justice obviously  
24 recommends removing youth from Rikers Island. The  
25 Juvenile Justice Coalition believes that rather than

2 transferring youth to a different New York City  
3 Department of Correction operated jail, they should  
4 be transferred to the custody of the New York City's  
5 Youth Justice System, which is better equipped to  
6 account for the unique developmental needs of young  
7 people. There are two populations that were not  
8 mentioned in the Department of Justice report, and I  
9 have not heard mention today, which is very sad to  
10 me. One is adolescent girls and young women. We urge  
11 the City Council to remember that the conditions that  
12 are mentioned in the report also apply to the girls  
13 and young women who are housed at the Rose M. Singer  
14 [sic] Center on Rikers Island. The Council should  
15 work to ensure that young women are safe and receive  
16 the age appropriate gender responsive services and  
17 aren't left behind as they often are. We think it's  
18 especially important for the Council to request  
19 information from the Department of Corrections about  
20 the conditions of confinement and services available  
21 for pregnant girls and young women on Rikers to  
22 include the use of solitary confinement. Those  
23 numbers should be reported separately. In addition,  
24 LGBTQ youth, the Juvenile Justice Coalition supports  
25 the New York City Department of Corrections decision

2 to open a voluntary transgendered housing unit for  
3 transgendered women. I'm going to keep going. This  
4 voluntary option is not however available for 16 and  
5 17 year old transgendered girls or transgendered  
6 boys. We'd like to see the same option extended to  
7 all lesbian, gay, bisexual, transgendered and  
8 questioning youth on Rikers Island. Extending the  
9 availability of this option is likely to increase the  
10 safety of this population who are heightened risk.  
11 The recommendations to focus on these populations, of  
12 course, comes with a reminder that we think they  
13 should be in the juvenile system rather than on  
14 Rikers. And our last recommendation has to do with a  
15 mechanism for non-Department of Correction staff to  
16 report incidents. I say this as a former--my staff  
17 on there, are there right now. The Department of  
18 Justice report recommends that, and I quote, "Non-DOC  
19 staff such as medical personnel and teachers report  
20 any use of force that they witness." And goes on to  
21 emphasize that the New York City Department of  
22 Corrections should clearly communicate this  
23 requirement to all non-DOC staff, emphasizing that  
24 failure to report such incidents or false reporting  
25 related to such incidents may lead to administrative

2 or legal sanctions, but does not acknowledge the  
3 practical and logistical difficulties inherent in  
4 this recommendation. The Juvenile Justice Coalition  
5 believes that clearer and more protective mechanisms  
6 must be developed, implemented, and sufficiently  
7 monitored to make it possible for non-DOC staff who  
8 work on Rikers Island to report incidents of abuse  
9 they witness without fear of retaliation. In  
10 conclusion, on behalf of the Juvenile Justice  
11 Coalition and service providers and community members  
12 like myself who share your genuine concern for the  
13 youth on Rikers Island, I thank you for your  
14 leadership around this issue.

15 GABRIELLE HAROWITZ-PRISCO: Good  
16 afternoon. My name is Gabrielle Harowitz-Prisco. I  
17 direct the Correctional Association of New York.  
18 We're a nonprofit. We also coordinate the Juvenile  
19 Justice Coalition. I want to-- a lot has been said,  
20 and I agree with many of the recommendations that  
21 have been made by my colleagues, the other advocates  
22 and really honor the bravery of the young people who  
23 came here to speak of their stories and form their  
24 hearts. I want to talk a little bit about urgency.  
25 SO I used to work in Family Court and I represented

2 kids in child abuse and neglect cases, and when kids  
3 were being abused or there was a suspicion of abuse,  
4 parents didn't have the option to develop a plan for  
5 better disciplinary measures. If a parent was  
6 overwhelmed with their child's needs and for example,  
7 lock them in the bathroom for 23 hours a day and  
8 shoved food through a hole in the bathroom door and  
9 allowed them out for only an hour a day onto a small  
10 balcony and didn't allow them to go to school, the  
11 Administration for Children Services would remove  
12 that child from that home. They would remove all  
13 children from the home. The parent would be charged  
14 with child abuse in Family Court and likely  
15 criminally prosecuted. What is happening on Rikers  
16 Island is state funded child abuse. We applaud the  
17 new Administration. We applaud the reform history of  
18 Commissioner Ponte and the attention that has been  
19 paid to this matter. However, delay of a day is not  
20 acceptable. And I'll tell you, even this morning, as  
21 I was like taking a shower and getting ready to get  
22 here and putting on lipstick, I was thinking even  
23 doing this is not on the level of response of what is  
24 happening. Tax payer funded child abuse is what we  
25 are talking about. If this was Family Court, there

2 would be an emergency removal of those children from  
3 their home. The children on Rikers Island need to  
4 emergency removed today. Their lives are in danger  
5 today. That has been demonstrated by an independent  
6 federal Department of Justice report that confirms  
7 what has been reported in the media for years. It was  
8 shocking to hear Judge Hamill say in 1986, before  
9 your predecessors, similar testimony was given, in  
10 1986. Not only do children need to be removed from  
11 Rikers Island, they should not be in the custody of  
12 the same agency in the same mindset that created why  
13 we are here. Children belong in a child-serving  
14 agency. This city has a child-serving agency. This  
15 city has a child-serving youth justice system. It is  
16 not perfect. It is however, a far cry from Rikers  
17 Island. You and your colleagues have dedicated  
18 funding and time to improving the youth justice  
19 system in New York. That is where children belong.  
20 If it is a requirement of state law in order to move  
21 children into Administration of Children Services  
22 Custody, children must still be emergency removed  
23 from Rikers Island now while we wait for that longer  
24 reform. The last two things I want to say, I'm  
25 certainly mindful of the bell, is that there's been a

2 lot of discussion about whether the report, this  
3 testimony, the Council is for officers or against  
4 officers. There's discussion bad apples. This is  
5 not about bad apples. It's not about individuals.  
6 It's about what happens when we as a society  
7 brutalize and dehumanize individuals, when we lock  
8 them in cages and in bars where we create an island  
9 literally that is so close but a vast chasm away from  
10 us. When we lock people in cages, what happens both  
11 to them and to the people put in charge of guarding  
12 them? What happens is what happened in Stanford, in  
13 the Stanford prison experiments where college  
14 students became jailors and committed egregious abuse  
15 to fellow college students that led to the kinds of  
16 protections we now have and why certain, why human  
17 subject research can no longer happen in the same  
18 way, because college students put in that position  
19 were brutalizing other college students. What is  
20 required is a fundamental transformation of the  
21 system that takes the humanity of children and adults  
22 as a given and at the starting point. Thank you.

23 MEGAN CROWE-ROTHSTEIN: Good afternoon.

24 My name is Megan Crowe-Rothstein. I am here as a  
25 member of the New York City Jails Action Coalition. I

2 am the Director of Social Work at the Urban Justice  
3 Center's Mental Health Project. I want to second the  
4 urgency and appreciate a lot of the testimony given  
5 today, especially from people who have direct  
6 experience. And the officers spoke about officers  
7 not be included. I consistently see young people not  
8 part of the conversation about young people. So I  
9 really want to honor the bravery of the young people  
10 who spoke today and wanted to read two very quick  
11 statements, or brief statements, rather, by young  
12 people who've been involved in the system themselves.  
13 I've also submitted testimony by Jails Action  
14 Coalition member who's a teacher and writes about a  
15 student of hers who's currently on Rikers as well.  
16 And I urge the Council to read that. So the first  
17 brief statement is a young man, 17 year old, who is  
18 currently on Rikers Island. He writes, "I am 17  
19 years old and I was brought to Rikers on July 16<sup>th</sup>,  
20 2014. I'm in the one lower north at RNDC. I've been  
21 at Rikers for three months. Around the end of July I  
22 saw one large correction officer, a very muscular CO  
23 beat up an inmate because he said something  
24 disrespectful. The CO punched him, knocked him down,  
25 and broke his jaw. The inmate was sent to medical



2 and came back here with his jaw wired. The CO who  
3 broke his jaw still works here. I saw several, maybe  
4 eight CO's beat up another inmate until he was  
5 bleeding. They put him on a stretcher and sent him to  
6 the hospital. That CO that beat him still works  
7 here." And this is a statement by James McClain,  
8 Junior who's 20 years old. He could not be here so  
9 asked that this be read. "I remember when I first  
10 heard the words remanded without bail. My first time  
11 walking through the door with the gates, there  
12 weren't too many other doors, just cells and big  
13 gates. I felt like I was no longer a human being. I  
14 had no keys, no money, and every dream I ever had  
15 went out the window. I was a convict, an inmate who  
16 had let my family down, most my mom and sister. I  
17 couldn't protect them. I began to see things  
18 differently in jail. I had to sleep, eat, talk and  
19 walk only when I was told to do so. I remember my  
20 freedom and it was painful when I had dreams that I  
21 was home and woke up in the cell. I was locked up  
22 with thousands of young men who looked just like me.  
23 I lost trust being around them. I kept my mouth shut  
24 and only expressed my concern during visits with my  
25 mother and sister. Those visits were the best, and

2 yet, the hardest part of my time served. I saw  
3 sadness in their eyes, but I had to be strong for  
4 them. I spent 10 days in the box, and that was by  
5 far the hardest time of my life. I had no TV, no  
6 couch, just me, my mattress and a toilet. The day I  
7 got out of the box I felt like I was back home, but I  
8 was really still in jail. I never got comfortable  
9 with the jail, but I could see myself making a  
10 difference. Most of the guys I was with had just  
11 made mistakes that we all had to suffer for. One guy  
12 told me he didn't do the crime he was accused of, but  
13 was guilty because of the judge's decision. On  
14 February 27<sup>th</sup>, 2013 I came home. The world is mine.  
15 Now I got a felony removed through appeal that was  
16 long but worth it. I don't plan to go back, like  
17 society expects me to, but I won't forget where I  
18 come from, I've been here and where I'm going. Life  
19 is what you make it. You're either going to accept  
20 what people say you are or you're going to be the  
21 person they don't expect you to be. Choose one." So  
22 I really encourage, as again, I appreciate this  
23 hearing very much and encourage that as much as  
24 possible we can make hearings and spaces accessible  
25 to young people and people who have suffered in these

2 systems, and I also wanted to just appreciate Council  
3 Member Cabrera's concern about family members and  
4 visitation because family members also need to heard  
5 in the spaces where it's often not accessible or  
6 comfortable for them. And thank you, Councilman  
7 Crowley.

8           JOHNNY PEREZ: So, my name is Johnny  
9 Perez, I'm with the Jails Action Coalition, and I'm  
10 also the re-entry advocate at the Urban Justice  
11 Center with the mental health project. And I also  
12 have direct experience with, you know, spending time  
13 on Rikers Island. And I had this whole testimony  
14 ready to kind of go, but based on a lot of the  
15 questions that y'all asked today and a lot of the  
16 responses, I feel like I want to speak to a little  
17 bit of that, and just like I probably sound like I'm  
18 all over the place. But, as far as, you know, so you  
19 asked a question earlier, you know, what does a day  
20 on Rikers Island look like. You know, and being on  
21 Rikers Island I have to tell you that it is a second  
22 by second attack on your soul. You're placed in a  
23 space where it's basically like an upside kingdom  
24 where the criminals are actually wearing badges and  
25 uniforms and the people who are victims are actually

2 being detained in their cell. It's a place where  
3 there is no grievance process because the grievance  
4 that you write, you would hand it into the same  
5 officer who you're complaining about. It's a place  
6 where if you receive a misbehavior report you're  
7 going up, you're going to the hearing and the officer  
8 is friends with the person who wrote the ticket in  
9 the first place. They might be drinking buddies.  
10 They might even be related. It's a place where you  
11 can buy drugs from correction officers and they'll  
12 beat you up if you don't have money to pay. It's a  
13 place where they'll put you inside of a cell with  
14 another guy and force y'all to fight while the  
15 officers stand outside of the cell and make bets on  
16 who will win. It's a place where you have to fight  
17 for your food. You have to fight to use a phone to  
18 speak to your family or your attorney. It's a place  
19 where you're charged 25 dollars if you're found  
20 guilty of the infraction, and you know, for some  
21 guys, they might--that's unrealistic. You know?  
22 It's a place where there is no accountability. You  
23 know, Council Member Dromm talked about, you know,  
24 what is accountability, what does a headshot look  
25 like. You know, you asked another question,

2 Councilwoman Crowley, about why would somebody not  
3 want to leave their cell. The reason for that is  
4 because people are scared. You know, anytime you  
5 have an individual who prefers to be inside of a cell  
6 rather than going out tells you about that what's  
7 going on outside of the cell that makes me not want  
8 to go out there. Because it's not natural or normal  
9 to be, to want to be isolated. You know, during--I  
10 spent time in solitary confinement, and you know,  
11 during the time that I was there, you know, my last  
12 meal was at five o'clock. My next meal was at 7  
13 o'clock. That's more than 12 hours without eating.  
14 My only human contact was with the officer who  
15 probably walked by to give me my food which came  
16 through a slot. I didn't use the phone. I had little  
17 if anything to read. So much here. What needs to be  
18 done? What can be done, right? You talk about, okay,  
19 what do you with an inmate who assaults another  
20 inmate. There's a number of different remedies you  
21 can do, as far as taking away privileges like phone,  
22 packages, commissary, recreation, limiting people  
23 visits if that's what needed. And contrary to  
24 popular belief to the people that came from COBRA  
25 [sic], the officers, a lot of those sentences are run

2 actually consecutive. If you go into RNDC there's  
3 signs in every wall that says that you know you get  
4 eight [sic] to 25 if you assault an officer or  
5 another inmate, which is run consecutive. Mind you  
6 that most of the people are detainees. So people are  
7 not going into it like, okay, I might get more time.  
8 People don't even want time in the first place. And  
9 just as an example also about what it is that you're  
10 facing. You know, you guys are in a position of  
11 power. Here you are, you're talking to correction  
12 officers who, you know, fill--they might try to  
13 discount what your title is by calling you by your  
14 first name or so on and so forth. Imagine talking to  
15 an 18 year old, can you imagine the level of even  
16 social communication that's going on there? There's  
17 nothing absolutely. I don't want to hear you. I don't  
18 want to talk to you. It's a place where you go to an  
19 officer and you tell them, you know, I'm facing this,  
20 I'm going through this and the officer tells you to  
21 get away and get a knife like everybody else. I can  
22 go on for like days, but I hope that helps.

23                   DAKEEM: Thank you for this hearing. My  
24 name Dakeem [sic]. I'm a member of The Jail Action  
25 Coalition and the Coalition to End Isolated

2 Confinement. I'm also Secretary General and founder  
3 of the Negation, the organization that seeks to  
4 repeal the 13<sup>th</sup> Amendment to the US Constitution. At  
5 the age of 16 up until about my 17<sup>th</sup> and a half year  
6 I was child prisoner on Rikers Island. I was  
7 ultimately given a life sentence. I serve the  
8 sentence to this day. I sometimes think of it as 37  
9 years a slave. That's what your Constitution says.  
10 Your Constitution says that if you're convicted of a  
11 crime you become a slave of the state, and the reason  
12 why many of the abuses that you see on Rikers Island  
13 and throughout the prison industrial slave complex is  
14 because you have a slave system and because people  
15 are being broken and prepared to produce manufactured  
16 good. It's because you have this type of system in  
17 place. I suffered every type of abuse imaginable from  
18 beat downs to torture. This came from both police  
19 and prisoners. And I admit for the first time in  
20 public that I had to fight off a rape attempt within  
21 the first days of my incarceration. My rapists  
22 weren't successful. Hoorah! [sic] From that point,  
23 I knew to remain safe, I would have to learn to  
24 defend myself, and I did each and every day, pig or  
25 prisoner, take them all. There came a time when I

2 was set up by correction officers to be gang  
3 assaulted by five inmates. Why did they need five  
4 inmates to jump a 16 year old? There are  
5 consequences to defending oneself on Rikers Island.  
6 The duress of solitary was a constant factor. On the  
7 island there were no books. When you're put in  
8 solitary confinement you're put in there with  
9 underwear and the sheets and the bedding, nothing to  
10 do. My salvation was that the upstate prison system  
11 established minimum standards where we could have  
12 books. Without those books I may have lost my mind.  
13 Searches on the island are another form of repression  
14 and control and abuse. These searches are military  
15 operations. When they come into the quads, they come  
16 in with helmets, sticks, chemical agents, shields,  
17 these vests, these--they're military operations.  
18 They isolate you six deep, one man strip you down.  
19 Tell you turn around and crack a smile. That's what  
20 you tell a kid? Bend over and crack a smile? That's  
21 a form of emasculation, and this is what goes on  
22 constantly on the island where kids are degraded.  
23 They're dehumanized, and their manhood is taken one  
24 way or the other. Now, I advise you and my--I'm not  
25 going to be long. I advise you to remove children



2 from the island, offer training, education,  
3 internships. My point is that children can change,  
4 but they can also be destroyed. Remove the kids from  
5 the island, educate, train and place these young  
6 folks in a real work environment. End child  
7 prosecutions. Repeal the slave amendment. Free the  
8 land, free the slaves. That's all I have to say.  
9 Thank you.

10 CHAIRPERSON CROWLEY: Thank you. Thank  
11 you to those who spent time incarcerated for being  
12 here and testifying about your experiences. You  
13 raised some valid points, and the committee will do  
14 what it can to look to make sure that time spent at  
15 Rikers Island is much more meaningful. We'll look to  
16 work with some of the organizations to improve upon  
17 the level of education and to have real programming  
18 so that 16 and 17 year olds are not idle. And  
19 unfortunately, until the State raises the age of  
20 criminality, we cannot step in as the Council, to put  
21 the pressure on the Administration to take the 16 and  
22 17 year olds off. They're allowed to keep them  
23 there. It's legal. But what we're doing here today  
24 is drawing attention to that and we have a resolution  
25 that should be voted on soon as a body to send a

2 message up to Albany and to the Governor that we  
3 believe the age of criminality should be raised to  
4 18. And not to mention, when you do have a population  
5 over 18, that they have rights, and that the  
6 everyday, day to day life on Rikers Island is one at  
7 minimal safe and at best much more productive. So,  
8 thank you. I don't have any questions. We have one  
9 last panel. Deandra Khan, from New York Civil  
10 Liberties Union, Jenna Furparish [sp?] from Urban  
11 Justice Center, Johnny Perez from Urban Justice  
12 Center, Jesus Trajada, just a person from the public.  
13 And the City University School of Law, we have--okay.  
14 Cameron MacKay, Mabu Tasheeko [sic]. If any of the  
15 names are still here, please come up to testify.  
16 Thank you for being here today. If all three of you  
17 plan to testify, I would say from the right to the  
18 left, please begin your testimony.

19 DEANDRA KHAN: Good afternoon and thank  
20 you for this opportunity. My name is Deandra Khan,  
21 and I'm an organizer at the New York Civil Liberties  
22 Union. The NYCLU's mission is to defend and promote  
23 the fundamental principles embodied in the  
24 Constitution, New York Laws and International Human  
25 Rights Law on behalf of all New Yorkers, including

2 those who are in jails and prisons. The Department of  
3 Justice's report that adolescents on Rikers Island  
4 are subject to excessive force and punitive  
5 segregation shows that this city has a fundamental  
6 responsibility to focus on immediate remedies and  
7 alternatives to incarceration. One of the greatest  
8 rehabilitative opportunities an incarcerated person  
9 can be afforded is an education. The link between  
10 education and recidivism is clear. One study found  
11 that on average, incarcerated people who participated  
12 in correctional education programs had a staggering  
13 43 percent lower rate of recidivism than those who  
14 did not, and yet, youth in our jails who are among  
15 the most vulnerable continue to encounter barriers to  
16 a full and equal education mandated by the law. As  
17 we understand it, the minimum hours of instruction a  
18 day required for 16 and 17 year old at East River  
19 Academy on Rikers Island is a full two and a half  
20 hours less than that of traditional public schools.  
21 This discrepancy puts students at a disadvantage.  
22 Many enter the system facing serious educational  
23 challenges, demonstrating that they need more not  
24 less instruction. We therefore recommend that the  
25 minimum standard for education programming at Rikers

2 Island be raised from three hours to at least five  
3 and a half hours for 16 to 21 year olds enrolled in  
4 school. Furthermore, youth in solitary confinement  
5 received inconsistent education services that rely on  
6 students own motivation to complete work. Research  
7 has made clear that solitary confinement increases  
8 depression and risk for harm, and is in no way  
9 conducive to self-teaching and learning. The  
10 Department of Corrections decision to remove 16 and  
11 17 year olds from solitary confinement is a welcomed  
12 change. However, 18 to 21 year olds remain  
13 vulnerable to the deficiencies of in cell education.  
14 We thus recommend that the Department of Corrections  
15 create out of cell educational instruction groups for  
16 youth in punitive segregation. In these settings,  
17 education is as necessary and rehabilitative for  
18 incarcerated youth as mental health services. The  
19 benefits of education in correction settings,  
20 academic and emotional growth, lower recidivism  
21 rates, reintegration into the community and a safer  
22 city are long standing and undeniable. We urge the  
23 city to consider our recommendations and thank the  
24 council for providing this opportunity.

2 MABOTA GWEN: Good afternoon. My name is  
3 Mabota Gwen [sp?] This is my colleague Cameron  
4 McKay. Thank you for this opportunity to testify  
5 today regarding adolescents in New York jails. We're  
6 student attorneys here on behalf of the Juvenile  
7 Justice Project of CUNY School of Law's International  
8 Women's Human Rights Clinic. The project collaborates  
9 with legal, academic and community based  
10 organizations throughout the United States  
11 encouraging compliance with Human Rights Laws and  
12 Standards for youth. Along with the many New York  
13 City community organizations working for rights and  
14 dignity for youth, IWHR believes that minimizing or  
15 phasing out the use of imprisonment and jails and  
16 increasing available educational and developmental  
17 services will best serve young people. Additionally,  
18 this would increase New York's adherence to widely  
19 accepted international human rights standards  
20 regarding youth in conflict with the law. To be  
21 clear, what is happening at Rikers Island clearly  
22 violates international human rights standards. We'll  
23 briefly highlight some of these standards now and  
24 more detail can be found in our written submission.  
25 I will talk about the principle of last resort and

2 Cameron will continue with programming, other  
3 standards and our recommendations. First and  
4 foremost, we wish to emphasize that the guiding  
5 principle in international human rights standards is  
6 that confinement should be used only as a last resort  
7 and for the minimum possible period. Rehabilitation,  
8 restorative justice and social reintegration should  
9 remain central in the Administration of Juvenile  
10 Justice. Repression and retribution have no place.

11 CAMERON MACKAY: Good afternoon. As Mavo  
12 [sic] indicated, my name is Cameron MacKay, also here  
13 with the Juvenile Justice Project at the  
14 International Women's Human Rights Clinic at CUNY  
15 School of Law. International standards make clear  
16 that youth under 18 should never be treated as adults  
17 in the Administration of Juvenile Justice nor in  
18 detention, and they should be held separately from  
19 adults. In addition, international and regional  
20 human rights bodies encourage governments to apply  
21 juvenile justice rules and regulations to persons 18  
22 up to at least 21. When youth are deprived of their  
23 liberty, under human rights standards, conditions of  
24 confinement must serve the unique developmental  
25 needs. Age appropriate special protections such as

2 staff and facilities should ensure rights to  
3 fulfilling education, recreation, nutrition that is  
4 sufficient for growing adolescents, full physical and  
5 mental healthcare and to life and physical integrity.

6 These productions prohibit the use of violence in  
7 solitary confinement and call on governments to  
8 facilitate access to justice for detained people who  
9 suffer abuses. We recommend the City of New York  
10 meet or exceed minimum human rights standards with  
11 regard to youth in conflict with the law, including  
12 by ending reliance in incarceration, by expanding  
13 community based social program alternatives to  
14 incarceration, by improving access to education,  
15 programming, recreation and physical and mental  
16 healthcare for all detained youth, by ensuring full  
17 abolition of solitary confinement immediately rather  
18 than phasing it out by the end of the year. By  
19 facilitating youth's access to justice for abuses  
20 committed against them, and by expanding access to  
21 youth oriented programming and policies for 18 to 21  
22 year olds in conflict with the law. Again, you will  
23 find more detailed information in our written  
24 testimony, and thank you for this opportunity.

2                   CHAIRPERSON CROWLEY:    Thank you all  
3 three of you for being here today to testify. I am  
4 curious if in your project you look at how we compare  
5 to other countries and cities if you have statistics,  
6 that'd be great to share those with the committee.  
7 And also you spoke about the nutrition, and we're  
8 more than interested in taking a closer look at  
9 holding the Department accountable for nutritious  
10 meals. We think that's very important, especially  
11 for 16 and 17 year olds. So, let's continue to work  
12 on that. Whatever data you have please share with us,  
13 and together we'll hold the Administration more  
14 accountable for nutrition. I think we agree upon  
15 almost everything that you stated in your testimony,  
16 and you know, the committee has its work ahead of  
17 itself, and the Department certainly does, and so  
18 we're going to continue to keep the Department  
19 accountable and we're hoping sooner rather than later  
20 we'll see measures put in place for real reform, and  
21 that ultimately Rikers Island will be safer for all  
22 inmates, young or old, and that hopefully soon the 16  
23 and 17 year olds won't even be there. So thank you  
24 for being here. And there is nobody else here today  
25 scheduled to testify. I conclude the Fire and



1 COMMITTEES ON JUVENILE JUSTICE AND FIRE & CRIMINAL JUSTICE SERVICES 265

2 Criminal Justice Committee Hearing for October 8<sup>th</sup>,

3 2014. Thank you.

4 [gavel]

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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 October 15, 2014