

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CRIMINAL JUSTICE

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April 23, 2018
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HELD AT: Committee Room - City Hall

B E F O R E: Keith Powers
Chairperson

COUNCIL MEMBERS:
Alicka Ampry-Samuel
Robert F. Holden
Rory I. Lancman
Carlina Rivera

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

Timothy Farrell
Department of Corrections Deputy Commissioner

Brenda Cooke
Department of Corrections Deputy Chief of Staff

Jeff Thamkittikasem
Department of Corrections Chief of Staff

Hazel Jennings
Department of Corrections Chief of Department

Tricia Lyons
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Stanley Richards
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Emily Turner
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Elias Husamudeen
Correction Officers' Benevolent Association

Kelly Grace Price
Jails Action Coalition

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

Victoria Phillips
Jails Action Coalition

Zachary Katznelson
Legal Aid Society

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3 CHAIRPERSON POWERS: Afternoon, good
4 morning. It's a Monday. My name is Keith Powers.
5 I'm Chair of the Committee on Criminal Justice.
6 This is an oversight hearing on the topic of safety
7 and security in New York City jails. In the past few
8 years, both the public and the Council have
9 increasingly been aware of the issues of safety, of
10 staff and inmates in our City jails, and both the
11 advocates and the officer unions have been very vocal
12 about addressing these unions-- these issues, and
13 we've seen significant attention paid to this issue
14 by the United States Attorney, Board of Corrections,
15 the State Commission on Correction, the media, the
16 City Council, and many more, and the Council has
17 focused on this issue passing laws requiring
18 comprehensive reporting regarding violence against
19 inmates on staff in city jails-- that was in 2016--
20 and holding three hearings on a topic in this last
21 session alone. From news reports along with the
22 Federal Monitor, information published by the Board
23 of Correction and incident reports in the media, we
24 certainly don't have a lack of information on this
25 topic. We wanted to spend some time today drilling

1 down on some of these issues, and of course this
2 hearing is timely in the wake of the report last week
3 from the Federal Monitor. The issue here is not that
4 there is jail violence. I think that's clear, but
5 the issue is what we can do about it. As I begin my
6 Chairmanship of the Committee, I think it's crucial
7 early on that we focused on these issues, and I want
8 to get the Council ahead on this issue in the City as
9 a whole on top of this issue. Unfortunately, despite
10 meaningful efforts by the Administration to keep
11 staff and inmates safe, in many ways our jails seems
12 be growing less safe. And from the administration's
13 own data providing the most recent Mayor's Management
14 Report, we see that the rate of serious injuries to
15 inmates from inmate-to-inmate fights has risen for
16 the last six years. The total number of a fight or
17 assault infractions has risen for six years despite
18 the population decreasing 34 percent during that same
19 time period, and the rate of violent inmate on inmate
20 incidents has risen every year for the last eight
21 years. That's the bad news. And some-- fortunately,
22 there's' some good news. Seriously injuries to staff
23 or inmates has generally gone down, although we had
24 seen some incidents recently, and it's fluctuated
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1 from year to year, and the use of force by staff and
2 inmates with serious injury has also gone down.
3 Moreover, from the most recent Preliminary Mayor's
4 Management Report we have seen small declines on
5 inmate-on-inmate fights and serious injuries from
6 those fights. These numbers are based on a sample
7 size of only four months, but they do show some
8 progress may be possible. We are only a few months
9 into the new Council session, and they view this an
10 opportunity to take a new look at the issues around
11 safety in our city jails, particularly at a moment
12 where we're really discussing what the future of
13 those jails is and moving folks away from Rikers
14 Island to other facilities, some new and some old, or
15 some existing. I know that within this room there
16 are differences of opinion amongst the stakeholders
17 both on what causes violence and what the levels of
18 violence are and what to do about it. But I know
19 that, I think, there's a full agreement in this room
20 that both staff and inmates in the city jails deserve
21 to be safe. From that common ground, I expect and
22 hope that we could all work together on this issue.
23 In particular, I mean, just in discussing with the
24 Department and all stakeholders which of the myriad
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1 of efforts to reduce jail violations have proven to
2 be successful, particularly efforts to increase
3 programing and to reduce idle time. I'm also
4 interested in whether the Department is continuing to
5 pursue the 14-point plan to address violence and
6 whether this plan is having a positive impact and
7 where we can continue to do better. We know that
8 much of this violence is driven by gang activities,
9 and I'm interested to learning how the Department is
10 housing inmates who tried and avoid gang-based
11 violence. In addition to the hearing on safety and
12 violence, we're also hearing three bills today. The
13 first is a required Department of Correction to
14 report on the rate of lock-downs, sponsored by
15 Council Member Dromm, who is here and will give a
16 statement momentarily on the bill; a bill from
17 Speaker Corey Johnson to prohibiting fees for
18 telephone calls from inmates in City jails, an issue
19 I know that's been discussed in the past, and we'd
20 love to hear an update on where the Department is on
21 that; and finally, one sponsored by Council Member
22 Richards to require the Department of Corrections to
23 report on a use of any device used-- any device
24 designed to incapacitate a person to the use of an
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1 electric shock. And if Council Member Richards is
2 here, I'll also let him make a statement on it. I
3 want to note right now we're joined by Council Member
4 Holden and Council Member Dromm. I will-- I wanted
5 to say thank you to the staff, thank you to the
6 Department, and thank you all stakeholders for being
7 here and participating in making this hopefully a
8 successful hearing today. I will stop there, and
9 I'll turn it over to Council Member Dromm.

11 COUNCIL MEMBER DROMM: Thank you, Chair
12 Powers, for taking the mantle of reform as soon you
13 assumed the chairmanship of this committee. You've
14 been doing an excellent job. I look forward to
15 working with you to see through the closure of Rikers
16 and the rethinking of our criminal justice system.
17 Excuse me. One of the things I am particularly
18 interested in is facilitating the access of family
19 members, clergy, and others detained in our city
20 jails. Local Law 85 of 2015 of which I was the chief
21 sponsor has helped us keep better track of visitation
22 issues. There is a related issue, however, that
23 deserves special attention. Visiting a loved on
24 Rikers Island is hard enough, but lock-downs can turn
25 an already arduous journeys into nightmares. On July

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2 26th of last year, a detainee escaped his facility,
3 but was eventually taken back into custody before he
4 managed to leave the island. What ensued was
5 described by witnesses as chaotic, scary, tense,
6 confusing, dangerous, and traumatic. Officers
7 trapped visitors who were on the island in buses for
8 hours without rhyme or reason, and the inexplicably
9 let the buses go. Young people and pregnant women
10 suffered throughout the ordeal. Several individuals
11 required medical attention. From all appearances,
12 the situation was mismanaged by corrections
13 officials, as it seems that people were held for
14 hours unnecessarily and that no procedure exists to
15 handle such situation where bystanders are involved.
16 Of course, the impact extends far beyond visitors as
17 lock-downs have a ripple effect across the island.
18 The myriad out of disruptions at best pose an
19 inconvenience and at worst, impact the health and
20 well-being of those detained. A recent Board of
21 Correction report revealed an 88 percent increase in
22 lock-downs since 2008. This begs the question, with
23 one of the lowest numbers of detainees and the
24 highest numbers of officers, what accounts for the
25 jump in lock-downs? Intro 447 seeks to gather

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information on the scope and magnitude of the problem. My hope is that better tracking of the issue will encourage improved procedures to the benefit of bystanders, staff, and incarcerated individuals. And I thank you, and I also would like to express my support my Speaker Johnson's legislation. That would be Intro Number 741 regarding fees for telephone calls. And it hit me on the way in this morning, that we have kiosks on our street corners where you can make free phone calls. So, we all can make free phone calls, but detainees on Rikers Island cannot. So, just want to state my support for that as well. Thank you.

CHAIRPERSON POWERS: Thank you. So, we will start off by hearing from the Department of Corrections, and I think we'll swear them in first.

COMMITTEE COUNSEL: Please raise your right hand. Do you affirm to tell the truth, the whole truth and nothing but the truth in your testimony before this Committee and to respond to honestly to Council Member questions?

: I do.

2 CHAIRPERSON POWERS: Great. Thank you.
3 Can you-- do you mind starting just by identifying
4 yourselves beginning--

5 DEPUTY COMMISSIONER FARRELL: Sure.

6 CHIEF COOK: Good morning, Brenda Cook,
7 Deputy Chief of Staff.

8 CHIEF THAMKITTIKASEM: Jeff
9 Thamkittikasem, Chief of Staff.

10 DEPUTY COMMISSIONER FARRELL: Timothy
11 Farrell, Senior Deputy Commissioner.

12 CHIEF JENNINGS: Hazel Jennings, Chief of
13 the Department.

14 ASSISTANT COMMISSIONER LYONS: Tricia
15 Lyons, Associate Commissioner.

16 CHAIRPERSON POWERS: Okay, thanks.

17 DEPUTY COMMISSIONER FARRELL: Good
18 morning, Chair Powers and members of the Criminal
19 Justice Committee. I'm Timothy Farrell, the Senior
20 Deputy Commissioner at the Department of Correction.
21 Today's hearing serves two main purposes, to discuss
22 the critical issue of safety and security in
23 Department of Correction facilities and discuss three
24 pieces of legislation recently introduced by the
25 Council. I will start by speaking to the hearing

1 oversight topic of safety and security in the
2 Department of Correction facilities. Without
3 question, maintaining safety and security is the most
4 important responsibility of any correction
5 department. If staff and inmates are not safe, then
6 no other policies or reforms matter. In the last few
7 years, we have made fundamental changes to how we
8 operate as an agency. We have incorporated
9 management models that address the needs of
10 individual populations, have expanded vocational
11 training opportunities. We significantly increased
12 opportunities to participate in meaningful
13 programming. When Commissioner Brann testified
14 before the Council last month, she outlined her
15 vision for the Department. She listed the following
16 priorities: To move the Department forward to come
17 out from under the Nunez consent judgment,
18 demonstrating that we have made and sustained
19 meaningful, necessary changes; To better integrate
20 DOC into the city's Criminal Justice System; To
21 develop a lasting leadership pipelines for uniformed
22 and non-uniformed staff; To provide the necessary
23 tools, such as programming and training, and to
24 ensure meaningful and safe engagement between staff
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1 and those in custody; and most importantly, ensure
2 that our jails are safe for our staff and for those
3 in our care. As the Commissioner stated in March,
4 "no meaningful reform and change can happen, if
5 people involved do not feel safe." The focus on
6 safety is one of the reasons that the Department
7 supports the City's plan to create smaller, safer,
8 fairer criminal justice system, which will include
9 new, state-of-the-art correctional facilities off of
10 Rikers Island, new facilities that are designed to be
11 safer than the antiquated facilities that we
12 currently operate within. The issue is not just that
13 our facilities have fallen into disrepair. The
14 building designs themselves do not support modern
15 correctional best practices. New facilities have
16 better sight lines and incorporate modern technology,
17 all of which make facilities safer and better support
18 staff on post. Modern designs encourage program
19 participation by incorporating programs and services
20 into housing areas. Having the programs in or
21 immediately adjacent to a housing area facilitates
22 access to the programs because individuals do not
23 need to move through the facility. Moving inmates
24 through a facility can be a challenge because it
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2 creates opportunities for individuals who should not
3 commingle to cross paths. Additionally, an incident
4 involving just one person might disrupt services
5 throughout the facility for several hours. If
6 services are brought to the individuals, instead of
7 the other way around, one incident would not affect
8 others' access. New facilities are also designed to
9 reduce stress and tension, which is just as important
10 as improving supervision. Spaces that integrate open
11 space, natural light, noise reduction, and climate
12 control all have calming effects. This in turn
13 reduces incidents. This positive effect is
14 experienced by those who live and work in the
15 facilities. All of these jails-- all of these make
16 jails safer for everyone. A borough-based system
17 also helps strengthen ties to the community and for
18 those in our custody. Easier access to attorneys and
19 to meaningful support systems that alleviates stress,
20 minimizes issues, and create better outcomes. As
21 important as these new borough facilities are, we're
22 not waiting to implement the long-needed changes. We
23 have moved away from a one-size-fits-all management
24 model and created models that are tailored to best
25 serve individual groups. We now manage adolescents

1 with systems based on juvenile justice best
2 practices. We've created young adult systems based
3 on similar philosophies. With Correctional Health
4 Services, we've created clinically-focused
5 environments that offer real care for those who have
6 serious mental illnesses. We have targeted
7 programming and services for our female inmates.
8 Most recently, we have opened a housing unit for
9 veterans, so that those who have served our country
10 can receive tailored care to address their unique
11 needs. And finally, we have created
12 therapeutically-oriented, structured housing units
13 for persistently violent individuals. These units
14 allow us to focus on preventing future incidents of
15 violence, instead of merely reducing violence after
16 the fact. Each of these populations receive
17 specially designed programming and services that best
18 suit their unique needs. Just as importantly, staff
19 who regularly work with these populations receive
20 special training that equips them to work effectively
21 with these groups, thereby creating a safer
22 environment for everyone. For example, the
23 Department of Corrections, Correctional Health
24 Services staff who work with mentally ill populations
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1 attend Crisis Intervention Team training. The two
2 groups train together to best prepare them to work
3 together as a unified team in responding to
4 individuals in crisis. Our reforms have not stopped
5 with just the specialized populations. Our
6 management of our general population has also been
7 redefined in the last few years. We now incorporate
8 programming into inmate management in a way that has
9 never been done before. We offer five hours of
10 programming every day, which provides structure,
11 reduces idle time, and allows individuals to use
12 their time in custody productively. Much of our
13 programming supports development of hard and soft
14 skills critical to the re-entry of offenders. These
15 skills can aide in the employment readiness post-
16 release as well as address underlying issues that
17 might cause negative behavior. If we can address
18 those issues, we can create a safer environment for
19 everyone. Investment in our staff has been a
20 critical part of the Reform Agenda. All staff have
21 received new training in the last few years that
22 gives them better tools to work with the population
23 under their care. The academy recruit training has
24 been extended to 24 weeks and they now spend more
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1 time on-the-job in training before graduating. We've
2 increased in service training for tenured staff
3 members. All uniformed staff receive Special Tactics
4 and Responsible Techniques training, or better known
5 as START. This is a five-day curriculum of the new
6 use of force policy, including defensive tactics and
7 de-escalation techniques. Use of force training was
8 required by the Nunez consent judgment, but the
9 training developed by our academy and provided to our
10 staff goes above and beyond this requirement, to make
11 sure all our staff have the best training possible.
12 The second phase of this training, a refresher on use
13 of force policy plus several days of training on de-
14 escalation techniques, is starting now. The skills
15 taught in these courses enhance the officers' ability
16 to foresee incidents and allow them to intervene and
17 de-escalate situations prior to the need to use
18 force. As the Commissioner described last month, our
19 reforms have yielded significant results, but we
20 still have a long way to go. Between Fiscal Year 14
21 and Fiscal Year 17, the Department of Corrections
22 sustained improvements in incident levels,
23 particularly for more vulnerable and problematic
24 populations. As we continue through Fiscal Year 18,

1 we are encouraged by continued progress the
2 Department has made in preventing certain types of
3 violent incidents, particularly those related to
4 inmate-on-inmate assaults. The Department has
5 reduced the number of fights between inmates by 6.4
6 percent in the first three quarters of Fiscal Year
7 18, compared to the same period in Fiscal Year 17.
8 We have reduced serious injuries to inmates resulting
9 from an assault or fight by 14 percent during the
10 same time frame. And critically, we have reduced
11 slashings and stabbings by 41 percent, also during
12 this same time. During this period, however, we have
13 experienced upticks across other indicators. In
14 particular, overall use of force and assaults on
15 staff have continued to increase. Our use of force
16 numbers are 13 percent higher in Fiscal Year 18
17 during the first three quarters than during the same
18 period of Fiscal Year 17, and assaults on staff are
19 eight percent higher. This has been an increase in
20 incidents involving serious injuries. There has been
21 an increase in incidents involving serious injuries,
22 but, importantly, most incidents do not result in any
23 injury to either inmate or staff member. In Fiscal
24 Year 14, 52 percent of use of force incidents
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1 young adult population and ESH serves both young
2 adults and adults. On average, inmates who are moved
3 into the Secure and ESH Units show decrease in rates
4 of use of force of 49 percent and 15 percent,
5 respectively, and decrease in the rate of assaults on
6 staff of 100 percent in Secure Unit. Additionally,
7 our restarted General Population Housing units
8 continue to be effective. Inmates moved into these
9 units show decreased rates of UOF of 50 percent, AOS
10 40 percent, and slashings down 59 percent. The Nunez
11 monitor's fifth compliance report was released last
12 week. This report found that DOC has achieved
13 substantial or partial compliance in 98 percent of
14 provisions evaluated. This is the highest compliance
15 rate we have attained so far. Importantly, the
16 Department of Corrections has improved from
17 noncompliance to substantial or partial compliance in
18 the following areas: The use of handheld cameras;
19 Timely service of disciplinary charges for use of
20 force violations; Timeliness of Facility Conducted
21 use of force investigations; and develop and
22 implement an age-appropriate classification system
23 for 16- and 17-year-old offenders. The Monitor
24 recognizes the Department's success, noting that we
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2 have reached this level of compliance because we have
3 worked diligently to develop and implement new
4 policies, procedures, and training. The report also
5 highlighted several areas where the Department of
6 Correction is still facing challenges. The overall
7 use of force rate is trending downward, but we still
8 have not met the primary goal of reducing the use of
9 unnecessary and excessive force. There are two main
10 concerns in this area. One is that our use of force
11 numbers are still higher than we or the Monitor wants
12 them to be and increased during the reporting period
13 for those over the age of 18. The other challenge is
14 the use of force incidents are too often avoidable or
15 disproportional. Despite the tremendous progress we
16 have made, which often goes beyond the requirements
17 of the Consent Judgment, we expect to be better and
18 continue to reexamine our policies, procedures, and
19 operations to identify areas of improvement. To that
20 end, we are launching a use of force Improvement
21 Action Plan. This plan includes: Deploying special
22 use of force de-escalation teams. We're boosting our
23 intelligence efforts when it comes to security risk
24 groups or gangs to stop violence before it occurs or
25 triggers a use of force. We're increasing our real-

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2 time video monitoring of housing units. We're
3 revamping the Department's Rapid Review process to
4 more quickly identify and correct unnecessary uses of
5 forces to prevent them from reoccurring. Assigning
6 Mentoring Captains to provide staff with re-training
7 and develop those newer staff. In addition to these
8 important-- this important oversight topic, we are
9 here today to discuss three pieces of legislation
10 currently being considered by the Council, and I will
11 now speak of each of those bills. Intro 779 and
12 Intro 447 report on the Taser use and on lock-downs.
13 Intro 779 and 447 both require the department to
14 regularly report specific data. Department of
15 Corrections appreciates the importance of
16 transparency and we have worked to be as transparent
17 as we can in the last few years. We support the idea
18 of these bills, but we would like to work with the
19 Council to refine some details, such as ensuring that
20 the definitions are consistent with Department of
21 Correction definitions. As we discuss these new
22 requirements, I also invite the Council to sit with
23 us and review existing reporting requirements, to
24 ensure that useful and meaningful information is
25 being shared. NYC Department of Corrections is one

1 of the most transparent law enforcement agencies in
2 the country. We are proud of this transparency. And
3 we would like to ensure, though, that we are sharing
4 meaningful information and our staff resources are
5 used to the most effective way possible. Intro bill
6 741, the elimination of phone call costs. Intro. 741
7 would require that Department of Corrections not
8 accept revenue from phone calls and provide all phone
9 calls at no cost. We appreciate the Council's
10 initiative to relieve the financial burden for those
11 in our custody and their loved ones. Since 2014, the
12 Department has been in a revenue-sharing agreement
13 with a vendor to provide inmate phone services.
14 Revenue generated from these inmate calls is remitted
15 back to the City's general fund and categorized as
16 miscellaneous revenue. We have spoken to City Hall
17 and OMB, and the City is open to reducing or
18 eliminating the revenue and making calls as
19 inexpensive as possible for inmates. We are already
20 assessing what contract change would be necessary to
21 achieve this goal. A new procurement might be
22 required, which would require a longer implementation
23 window than the bill currently includes. We would
24 like to work with Council to figure out how to make
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2 our telephone system as fair as possible, while
3 maintaining the necessary services and safety
4 features the contracts provides. These changes are
5 not for Department of Correction alone to make, but
6 we are happy to participate in these conversations
7 moving forward. It is important to note free phone
8 calls are already provided in several circumstances.
9 Indigent detainees receive three phone calls per week
10 and sentenced inmates receive two phone calls per
11 week. A free local call is provided to all detainees
12 upon admission and phone calls to several specific
13 phone numbers are provided at no cost. Additionally,
14 aside from the phone calls, there are other valuable
15 services the Department requires such as: The
16 Department requires expensive hardened phones, which
17 the company installs, maintains and replaces when
18 damaged; The vendor provides advanced call recording
19 technology, which allows us and our partner law
20 enforcement agencies to effectively analyze
21 conversations to investigate incidents and prevent
22 future incidents of violence or contraband smuggling;
23 The phone software also includes voice identification
24 services, so that we can identify when someone is
25 using someone else's ID or PIN. And with that, I

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2 thank the Council for the opportunity to speak on all
3 of these topics. My colleagues and I are happy to
4 answer any questions that you have.

5 CHAIRPERSON POWERS: Thank you. Thank
6 you for both testimony on the safety. We have a lot
7 of questions to follow up, and then obviously on the
8 bills. We've also been joined by Council Member
9 Richards who's a sponsor of oen of the bills on
10 today's agenda, and Council Member Rivera. Council
11 Member Ritchie, do you have anything you wanted to
12 say? Okay. Since we have the two sponsors here, I
13 was just going to do a very quick starter on the two
14 bills, and then we have-- we'll have a lot on the
15 safety just so that they can get to their next
16 respective meetings. My first one is on-- just very
17 quickly on the 779 and 447 relates around Taser use
18 and lock-downs, the two bills. You noted that you
19 wanted to work with us to refine some details about
20 definitions that are consistent. What are the
21 definition issues? Just so we can--

22 DEPUTY COMMISSIONER FARRELL: For the
23 Taser bill? Like I said, we support the bill as
24 written. However, we would prefer the definition of
25 electronic immobilization device in place of electric

1 shock. That conforms more with what the industry
2 standards refer to it as. So, we would just like to
3 bring that together and be consistent.

4 CHAIRPERSON POWERS: And lock-downs? And
5 then on lock-downs?

6 DEPUTY COMMISSIONER FARRELL: Then the
7 lock-downs, again, we support the bill as written.
8 However, the lock-down, as defined by our agency, is
9 normally for unscheduled events or incidents that
10 require a portion or the entire facility locked down.
11 The term "lock-in" as it's listed in the bill would
12 require reporting all times that inmates are secured.
13 This would include our nightly lock-ins and other
14 scheduled lock-ins for counts. So, we would just
15 like to kind of separate lock-down and lock-in and
16 kind of deal with the unscheduled aspect, which I
17 think is that the intent of the bill may be as
18 opposed to those that are normally scheduled for
19 counts and other matters.

20 CHAIRPERSON POWERS: Got you. Thank you.
21 and on the telephone bill, longer [inaudible] the
22 bill currently includes, because of a procurement
23 process, meaning you need some time to actually do a
24 new procurement which would take a year. It could
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2 take more, but you could-- I don't think anybody
3 thinks a procurement process starting isn't
4 consistent with implementation. Maybe there's debate
5 on that, but the-- but certainly we don't want to see
6 procurement take 18 years to avoid doing it. So, is
7 there a timeline you recommend as an alternate?

8 DEPUTY COMMISSIONER FARRELL: As far as
9 implementing the contract?

10 CHAIRPERSON POWERS: Fully, fully
11 reducing or removing.

12 DEPUTY COMMISSIONER FARRELL: Tricia,
13 Associate Commissioner, Lyons can probably deal with
14 the fiscal aspects.

15 ASSISTANT COMMISSIONER LYONS: Right, so
16 depending on the final outcome of the bill language,
17 it would be either renegotiation with the current
18 vendor, which would result in a contract amendment,
19 which is a shorter window, perhaps four to six
20 months. If we had to do a new request for proposal,
21 that would, like you said, take a year or more. I
22 think your question more. I think your question more
23 is could we implement something while we anticipate
24 the procurement playing itself out. Correct? That--

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2 we'd have to take a look at with the current vendor
3 and the current contract as written.

4 CHAIRPERSON POWERS: Gotcha [sic]. Okay.
5 And we're going through a budgeting process, so
6 perhaps in the next two months or three months we
7 can, you know, be negotiating this. The other
8 question I wanted to ask-- we've also been joined by
9 Council Member Rory Lancman as well from the great
10 borough of Queens. So I wanted to just note on
11 bullet point two, the vendor provides advanced call
12 recording technology to analyze conversation to
13 investigate and prevent future incidents. When are
14 those-- what calls are recorded and under what
15 situation is somebody getting a call recorded?

16 DEPUTY COMMISSIONER FARRELL: Chief
17 Jennings can answer the operational and security end.

18 CHIEF JENNINGS: So, from the vendor
19 there's a percentage of calls in which the vendor has
20 the capability to record. However on the security
21 side, we have the ability to pull calls as we see
22 necessary.

23 CHAIRPERSON POWERS: So, what is-- Just
24 to spend to another second on this, what's the first
25 part, the part where you can listen--

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2 CHIEF JENNINGS: [interposing] So, the
3 vendor--

4 CHAIRPERSON POWERS: They're required to
5 listen to calls?

6 CHIEF JENNINGS: Right. So, the vendor
7 has the ability to pull and monitor. They're
8 monitoring a certain amount, a percentage of all
9 inmate phone calls, and they're giving us any
10 intelligence in which they're receiving from that.

11 CHAIRPERSON POWERS: So, if--

12 DEPUTY COMMISSIONER FARRELL:
13 [interposing] When a--

14 CHAIRPERSON POWERS: I am detained on
15 Rikers Island today, not been found guilty, and not--
16 have not raised a red flag on phone call because I've
17 done something, I'm getting my call recorded under a
18 certain percentage.

19 DEPUTY COMMISSIONER FARRELL: All phone
20 calls are recorded with the exception of those two,
21 attorneys or legal representatives. Those phone
22 number are pre-programmed in, and when the inmate
23 uses that phone to dial their attorney, the recording
24 stops; there is no recording, but all social
25 conversations are recorded.

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2 CHAIRPERSON POWERS: And I if I can pay
3 my bail and go home, I don't have my phone recorded,
4 but if I'm on-- if I can't and I'm being held--
5 that's one scenario. I can get my phone calls
6 recorded?

7 DEPUTY COMMISSIONER FARRELL: If you're in
8 our custody, you're phone will be-- you phone call
9 will be recorded.

10 CHAIRPERSON POWERS: I'll let Council
11 Member Holden--

12 COUNCIL MEMBER HOLDEN: So, I assume that
13 the inmates are not told that they're calls are
14 recorded.

15 UNIDENTIFIED: Yes, they are--

16 COUNCIL MEMBER HOLDEN: They are told?

17 DEPUTY COMMISSIONER FARRELL: There is a
18 notice that goes out on each, it's a pre-recorded
19 notice that the inmate receives and the person that
20 they're calling receives to state that the phone call
21 is being recorded and it's coming from a Department
22 of Correction facility, and then there's a periodic
23 tone that occurs throughout the course of the
24 conversation to remind individuals that the phone
25 call is being recorded.

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2 COUNCIL MEMBER HOLDEN: How much does a--
3 how much are inmates charged for a typical phone
4 call?

5 DEPUTY COMMISSIONER FARRELL: There's a
6 50-cent initial connection fee, and then it's five
7 cents a minute thereafter.

8 COUNCIL MEMBER HOLDEN: And these calls
9 are from a central location inside Rikers, let's say,
10 or the jail?

11 DEPUTY COMMISSIONER FARRELL: Each
12 housing unit has a set number of telephones which are
13 available to the population assigned to that housing
14 unit. In addition, we have phones that are in our
15 intake and other areas to be used [sic].

16 COUNCIL MEMBER HOLDEN: So, let's just
17 say-- let's say the call is being recorded and you
18 find something on there that-- the person didn't go
19 to trial yet, and you're not talking to a lawyer.
20 You use that in court? Could you use that?

21 DEPUTY COMMISSIONER FARRELL: That's part
22 of the investigative process, and I would have to
23 consult with the legal as far as to what extent it
24 issues--

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2 CHIEF THAMKITTIKASEM: [interposing] Yeah,
3 I'm sorry. So, phone calls that are recorded are
4 used both-- sorry. Sorry, about that. Phone calls,
5 as we noted, there are notifications on the phone
6 that the phone call is being recorded. There's
7 signage throughout the facilities to alert people.
8 They are told that they could be used in law
9 enforcement issues. we have used the phone call
10 recordings because as many people know, we have had
11 an increase in kind of the gang-- the percentage of
12 our population that are gang affiliated and using the
13 phone calls to coordinate activities as well. So,
14 the notification is broad to everyone that these are
15 the ways that the phones are being used.

16 COUNCIL MEMBER HOLDEN: Did you say they
17 sign a release, everybody, every inmate signs a
18 release for that? That they understand that these
19 phone calls are recorded and they agree to it?

20 CHIEF THAMKITTIKASEM: So, when they get
21 on the phone, one of the immediate things that comes
22 up on the phone is a notification to them that during
23 this entirety of the phone call it is being recorded.
24 So, they can choose at the-- beyond any entrance into
25 the facility. They can choose on every specific

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COMMITTEE ON CRIMINAL JUSTICE

phone call to either continue that phone call or to hang up.

COUNCIL MEMBER HOLDEN: Okay.

CHAIRPERSON POWERS: We're going to stay on the subject for a couple more questions and then go to the larger topic at hand, but I'll let Council Member Richards jump in on--

COUNCIL MEMBER RICHARDS: [interposing] Sounds like an infringement on people's privacy, though, and I would just-- because some people haven't been found guilty of anything on Rikers. Secondly, the individuals-- so you're saying the individuals who they may call also get that notice as well?

DEPUTY COMMISSIONER FARRELL: Yes.

COUNCIL MEMBER RICHARDS: And I would really suggest we-- because I'm sure when you're making the phone calls there's some levels of anxiety. You know, people may have not heard that specific information. So I would really suggest there being some written notices and maybe that's something that the Chair can look at as people enter unfortunately into Rikers or the barge.

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COMMITTEE ON CRIMINAL JUSTICE

DEPUTY COMMISSIONER FARRELL: There is--
there is signage, Council Member.

COUNCIL MEMBER RICHARDS: A written
notice that they sign?

DEPUTY COMMISSIONER FARRELL: There is
written signage, signage as far as posters that
advise everyone.

COUNCIL MEMBER RICHARDS: But I would
assume there are levels of anxiety. You may miss it.
You may not know how to read. Not everybody can
read. But I would just suggest we take it a little
further. Just a few questions on seven-- may
particular bill. Wanted to know, so can you just
speak to the training that is given to staff members
on the Tasers? How many people-- are all staff
members equipped with Tasers? Can you just speak of
the numbers there?

CHIEF JENNINGS: So, now, all staff
members are not equipped with Tasers. We have
approximately 50 staff members that are, and they are
assigned to our Emergency Service Unit, and it's only
for those staff members in that unit.

COUNCIL MEMBER RICHARDS: And what level
of staff would have access to that?

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2 CHIEF JENNINGS: Well, they're the most
3 highly trained staff that we have--

4 COUNCIL MEMBER RICHARDS: [interposing]
5 Most highly trained.

6 CHIEF JENNINGS: in our department,
7 correct.

8 COUNCIL MEMBER RICHARDS: And can you
9 speak to how many devices have been used--

10 CHIEF JENNINGS: [interposing] We've only
11 had three uses since the implementation.

12 COUNCIL MEMBER RICHARDS: so, three uses.
13 And then can you speak to what recourse people in
14 custody may have if use of force or something of that
15 nature is used? What recourse to file complaints are
16 there. Do they go through CCRB, or let's imagine
17 someone is tased that feels they shouldn't have been
18 tased. What recourse do they have, and where would
19 they go?

20 CHIEF JENNINGS: so, each and every one
21 of our use of force are investigated, and they are
22 looked at with the investigation division as well as
23 the facility.

24 COUNCIL MEMBER RICHARDS: And you said
25 the words-- I think I heard you say there ws an

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2 increase last fiscal year? Yeah, use of force. Can
3 you just speak to that again?

4 CHIEF THAMKITTIKASEM: sure. I think
5 that we have had an increase in use of force to make
6 sure that it's consistent with how they're taking a
7 look at it. I can refer to the Deputy Chief of Staff
8 who has worked closely with the monitoring team on
9 that.

10 COUNCIL MEMBER RICHARDS: And one of those
11 really related to the use of Tasers?

12 DEPUTY CHIEF COOK: With respect, I just
13 would follow up on the Chief of Department's point
14 with respect to the Taser investigations. With
15 respect to each and every use of force, which a Taser
16 use is a use of force, the incident is investigated
17 as part of this investigation. Each inmate involved
18 would have the opportunity to make a statement,
19 written, and also have the opportunity to be
20 interviewed by our Investigations Division Staff or
21 an investigating captain of a facility depending on
22 what level the incident is being investigated. So,
23 in terms of the Department's investigatory process,
24 that's the participation, and then obviously
25 individuals, you know, have an opportunity to seek,

1
2 you know, legal action should they determine that
3 they want to pursue that.

4 COUNCIL MEMBER RICHARDS: And last
5 question, just what would trigger the use of a Taser
6 or something of that nature? Can you speak to what
7 would-- why would you have--

8 CHIEF THAMKITTIKASEM: [interposing] So, I
9 can let the Department speak more specifically, but
10 it is an escalation. Because we focus on the
11 deployment of Tasers with only kind of our ESU, there
12 is a response protocol that would focus first on the
13 house, then the facility, and only if a matter should
14 increase to such a level that they would need to call
15 in the emergency service unit--

16 COUNCIL MEMBER RICHARDS: [interposing]
17 Okay.

18 CHIEF THAMKITTIKASEM: then only, and
19 only then would that be the deployment.

20 CHIEF COOK: And with respect to all use
21 of force and any response, the response to the threat
22 encountered needs to be proportional. So, there's
23 active, passive active, and aggressive resistance.
24 Passive resistance wouldn't be an appropriate use of
25 the Taser. You'd use soft-hand techniques or maybe

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2 even-- depending on if the aggression is getting more
3 active, you would use OC [sic] spray. You would need
4 to have a more active level of resistance in order to
5 be warranted under the Department's policy or use of
6 force to use the Taser.

7 COUNCIL MEMBER RICHARDS: Thank you.

8 Thank you, Chair.

9 CHAIRPERSON POWERS: Do you have any
10 final questions either on the bills or on the-- bill?
11 Okay.

12 CHAIRPERSON DROMM: Thank you very much.

13 Let me just go through some questions about the lock-
14 downs. There was an 88 percent increase in lock-
15 downs since 2008 according to a recent New York City
16 Board of Correction report. From 2016 to 17 there
17 was a 32 percent increase in the total number of
18 lock-downs. Why is that increase happening?

19 CHIEF JENNINGS: So, as a Department we
20 have the ability to utilize lock-downs for several
21 security reasons. However, one of the things that we
22 are very in tuned on is ensuring that during those
23 lock-downs inmates receive their programs and
24 services, medical as well as mental health, and we
25 are even allowing them to receive their visits during

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2 those lock-downs. And so as soon as we can stabilize
3 the facility or an area, we are ensuring that the
4 inmate on all normal activities resume in those
5 areas.

6 CHAIRPERSON DROMM: But my question was
7 why are there that many lock-downs? Why is the
8 increase so large in the number of lock-downs?

9 CHIEF THAMKITTIKASEM: So, Council
10 Member, in terms of the lock-downs, it is actually
11 parse impartial to what the Chief had described. We
12 have increased lock-downs, but we have also magnified
13 kind of the use of the lock-downs so they're more
14 tailored. They're not focused on Department or
15 facility-wide lock-downs. We'll focus on specific
16 areas where either an incident has occurred, or
17 furthermore, because we have had issues with
18 slashings and other weapon and contraband issues, we
19 also then target searches and have lock-downs for
20 specific units because of that. We have seen some
21 success because obviously we've lowered the number of
22 slashing as well and found more contraband. However,
23 it's not panacea. There are still tools that we
24 need. So, while there is an increase, we have worked
25 very diligently within the process and policy of

1 lock-downs to ensure the services, as the Chief said,
2 medical-- only out of over-- I forget the exact
3 number now, but there's a very small percentage of
4 services particularly when related to mental health
5 and medical, and I'll get you the number as I look
6 through it, that are actually impacted, because we
7 have actually said we would do those lock-downs, but
8 allow for the services to continue.

9
10 CHAIRPERSON DROMM: So, you do keep track
11 of the reason for the lock-downs?

12 CHIEF THAMKITTIKASEM: Yes.

13 CHIEF JENNINGS: Yes, we do.

14 CHAIRPERSON DROMM: So, then that
15 information would be easily-- would be easy for us to
16 access according to the requirements of the proposed
17 legislation.

18 CHIEF JENNINGS: So, we are working on a
19 technical solution for this, because it is tedious
20 right now. Each and every lock-down is called into
21 our central operation command, and it's being done
22 manually. So, we're looking for within the next
23 couple of weeks to be able to have a tech solution to
24 it.

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2 CHAIRPERSON DROMM: Okay. So, a follow-
3 up, and you mentioned that, you know, they're more
4 specific. The Otis Bantum Correctional Center was
5 the facility with the most lock-downs in both 2016
6 and 17. In 2017, 21 percent of all lock-downs
7 occurred in Otis Bantum. Why in Otis Bantum?

8 DEPUTY COMMISSIONER FARRELL: Okay, the
9 Otis Bantum facility houses our ESH housing units,
10 which are our housing units that deal with our most
11 problematic inmates. Thereby, those units have more
12 issues based on the type of population that we manage
13 in that facility.

14 CHAIRPERSON DROMM: So, if one detainee--
15 by the way, the detainees, right, they've not been
16 convicted yet in Otis Bantum?

17 DEPUTY COMMISSIONER FARRELL: Correct.

18 CHAIRPERSON DROMM: So, let's use the
19 correct language, okay. They're detainees, not
20 inmates. If they-- if one detainee is-- there's a
21 problem, the whole building gets locked down?

22 DEPUTY COMMISSIONER FARRELL: Not
23 necessarily. It could just be one of the housing
24 units or a couple housing units. It depends on how
25 much staff needs to be redeployed to deal with a

1 particular situation at-hand, and that would
2 determine the level of lock-down that would be
3 needed.

4
5 CHAIRPERSON DROMM: Okay. So, according
6 to the DOC- I mean, to the BOC report, Otis Bantum is
7 the one with the highest number of increases. Can
8 you break that down to where in Otis Bantum those
9 lockdowns are occurring?

10 CHIEF JENNINGS: We would have to
11 manually do it to find out which housing--

12 CHAIRPERSON DROMM: [interposing]
13 Manually, also.

14 CHIEF JENNINGS: Correct.

15 CHAIRPERSON DROMM: Okay. But it could be
16 done.

17 CHIEF JENNINGS: It could be done.

18 CHAIRPERSON DROMM: How has the
19 Department changed its policies regarding lock-downs
20 in order to minimize the impact? And what is the
21 longest duration of a lock-down?

22 CHIEF THAMKITTIKASEM: Sorry, Council
23 Member, sorry. I think I started to address this in
24 the last answer, but we have one, started to break
25 down lock-downs so that they're focused more

1 specifically to the specific-- to the particular area
2 where an incident may occur, limiting, kind of, the
3 time and the distribution of staff going to those
4 Responses. We implemented broader incident command
5 system that trains, specifically trained, officers
6 and captains for specific roles to respond to
7 situations, as the Deputy Chief of Staff also
8 referred. We have levels of incidents that would
9 occur in terms of passive, aggressive, and fuller--
10 that might require fuller ESU response. And
11 furthermore, we have particularly focused on the
12 provision of services during lock-downs so that if
13 they do not impact any of the movement areas, then
14 people are still getting to medical, mental health,
15 other programs.

17 CHAIRPERSON DROMM: I'm being told I have
18 to hurry up. Yep.

19 CHAIRPERSON POWERS: Move to the
20 oversight, so I was going to kind of--

21 CHAIRPERSON DROMM: [interposing]
22 Absolutely. Thank you very much.

23 CHAIRPERSON POWERS: Do you have a final
24 last question?

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2 CHAIRPERSON DROMM: Well, no, I actually
3 had follow-up questions on the telephone, but I don't
4 know if that's appropriate for now? May I ask those
5 questions? So, the telephone thing is a little
6 something I do know something about, because I do
7 have a friend who used to try to communicate with me.
8 Why is that you don't need a subpoena to wire-tap or
9 record a phone call? I mean, and by the way, the
10 wire-tap or recorded phone call of somebody who has
11 not yet been convicted.

12 ASSISTANT COMMISSIONER LYONS: The
13 Department of Correction is able to record the phone
14 calls for custody management and security purposes.
15 When a District Attorney's Office requires or desires
16 to get access to those phone calls, they do have to
17 subpoena them from the Department.

18 CHAIRPERSON DROMM: But by what authority
19 are you allowed to do that for people who have not
20 been convicted? I don't understand that. According
21 to New York State Law, how do you get around that?

22 ASSISTANT COMMISSIONER LYONS: I don't--
23 I don't have the legal authority presently before me,
24 but with respect to custodial security purposes, and
25

1 on notice to both the caller and the receiving party,
2 we record the phone calls for security purposes.

3
4 CHAIRPERSON DROMM: Well, I'm still not
5 certain about how you get around that legal
6 authority. I can understand if the DA has secured a
7 judicial subpoena, but I don't understand how you
8 could just do that for everybody.

9 ASSISTANT COMMISSIONER LYONS: We're not--
10 we're not-- for the Department's purposes, we're not
11 using them for criminal prosecution and enforcement
12 reason, they're for security purposes. If a District
13 Attorney wants access to the phone calls, they do
14 have to request by subpoena and demonstrate the legal
15 authority for--

16 CHAIRPERSON DROMM: [interposing] Still, I
17 don't know how you can do that for security purposes.
18 That's not allowed anywhere else, is it?

19 ASSISTANT COMMISSIONER LYONS: Yes, it
20 is.

21 CHAIRPERSON DROMM: Where is it allowed?

22 ASSISTANT COMMISSIONER LYONS: New York--

23 CHAIRPERSON DROMM: [interposing]
24 Correctional, but I'm talking about if you go outside
25

1
2 of a jail, you know, you're not allowed to record a
3 phone call.

4 ASSISTANT COMMISSIONER LYONS: Correct.
5 It's the security purposes is my understanding.

6 CHAIRPERSON DROMM: I still don't
7 understand that. Anyway. In your testimony, you
8 talk about indigent detainees. What is the
9 definition for indigent?

10 DEPUTY COMMISSIONER FARRELL: That would
11 be a detainee who has no funds currently in their
12 IFCOM [sic] account, basically.

13 CHAIRPERSON DROMM: Who pays for the
14 phone call, the detainee or the family?

15 DEPUTY COMMISSIONER FARRELL: If they're
16 an indigent detainee, the City pays for the phone
17 call.

18 CHAIRPERSON DROMM: So, other inmates,
19 their families pay for it?

20 DEPUTY COMMISSIONER FARRELL: That could
21 be an arrangement. Yes, either the detainee could
22 have funds deducted from their account, or a family
23 member could have funds deducted from an account they
24 set up.

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2 CHAIRPERSON DROMM: How does a family set
3 up an account?

4 CHIEF JENNINGS: So, they can set up the
5 account with the Securis [sic], and what they can do
6 is once they deposit money, they determine who the
7 inmate has the ability to call.

8 CHAIRPERSON DROMM: How do they just set
9 up a deposit?

10 CHIEF JENNINGS: They have to go onto the
11 Securis website to set that up.

12 CHAIRPERSON DROMM: If you don't have
13 access to the website, how do you do it?

14 CHIEF JENNINGS: You can drop money off
15 with any of the machines that we have that collects
16 money in the facilities.

17 CHAIRPERSON DROMM: Where are those
18 locations?

19 CHIEF JENNINGS: They're located in all
20 of the facilities. And at--

21 CHAIRPERSON DROMM: [interposing] So, you
22 have to go out to Rikers to do it?

23 CHIEF JENNINGS: Currently, unless they
24 have a-- have the ability to go online.

2 CHAIRPERSON DROMM: What's the minimum
3 deposit?

4 CHIEF JENNINGS: I don't think there's a
5 minimum amount.

6 CHAIRPERSON DROMM: I think it's at least
7 25 dollars, and especially on a credit card, that's
8 at least 25 or more. Do you know the amount?

9 CHIEF JENNINGS: I don't have that
10 information at this time.

11 CHAIRPERSON DROMM: Does anybody on the
12 panel have that amount?

13 DEPUTY COMMISSIONER FARRELL: No, we
14 don't believe. We can get that--

15 CHAIRPERSON DROMM: [interposing] Alright,
16 I certainly--

17 DEPUTY COMMISSIONER FARRELL: information
18 for you.

19 CHAIRPERSON DROMM: would like to get
20 that amount.

21 CHAIRPERSON POWERS: Can we do a follow-
22 up with the Department? Do you have another-- a last
23 question? [inaudible]

24 CHAIRPERSON DROMM: What is the duration
25 of those free phone calls, the time limit?

1 CHIEF JENNINGS: Six minutes.

2 CHAIRPERSON DROMM: Okay, and that
3 includes the three phone calls and the two, they're
4 both six minutes? Okay. Alright. I have more
5 questions, but--
6

7 CHAIRPERSON POWERS: [interposing] Okay,
8 we'll come back. We'll come back to you, too. We've
9 also been joined by Council Member Ampry-Samuel as
10 well. This is going to be the last questions on the
11 bills, and then we have a topic of the hearing to
12 move onto. Did you have a last question, Council
13 Member Rivera?

14 COUNCIL MEMBER RIVERA: Hello. Hi, thank
15 you so much. Just a quick follow-up. Can someone go
16 to the tombs [sic], for example, and put money into
17 an account for someone who's in Rikers Island?

18 DEPUTY COMMISSIONER FARRELL: Yes.

19 COUNCIL MEMBER RIVERA: Okay. So there
20 is some sort of network set up and it's either in
21 person or it's online, but nothing over the phone?

22 DEPUTY COMMISSIONER FARRELL: As far as
23 if it's over the phone, we'd have to check on that,
24 but you can go to any facility and deposit money to
25 any detainee throughout the system. They don't have

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2 to-- it doesn't have to be the facility to which the
3 detainee is assigned.

4 COUNCIL MEMBER RIVERA: And as for the
5 free calls for the indigent detainees, I know that
6 there's a maximum and there's the six-minute maximum
7 as well. Is there a hesitation in completely
8 eliminating the charges considering that-- and you'll
9 hear from the advocates today, we all know that
10 familial contact is really critical to
11 rehabilitation. So is there a hesitation besides the
12 procurement process, which is a technicality?

13 DEPUTY COMMISSIONER FARRELL: I mean, as I
14 stated in my testimony, the Department is encourage
15 to assist everyone with trying to maintain contact as
16 least financial burden as possible. So, the answer
17 to your question is we don't have a problem with it.

18 COUNCIL MEMBER RIVERA: Okay, and then my
19 last question is on the lock-downs. How often would
20 you say the lock-downs are related to gang-related
21 activity or that, like, inmate-to-inmate violence is
22 related to gang activity, and what are you doing to
23 address gang-related violence?

24 CHIEF JENNINGS: So, most of the lock-
25 downs are of gang or violent activities, because

1 normally that's what it's actually contributed to,
2 and we are working with-- we have a dedicated central
3 intelligence bureau that's working with NYPD on their
4 gangs. We're also having some outside resources
5 where we do have vendors that come in to work with
6 this gang population and a lot of the ESH housing
7 areas.

9 COUNCIL MEMBER RIVERA: So, what is that
10 programming like? What do you mean they're working
11 with them?

12 CHIEF JENNINGS: Interactive programs
13 where they're talking to them. They're also looking
14 to do some other programming where they have like a
15 network on the radio to talk about getting out of
16 gangs and the importance of it, and you know, that
17 type of thing.

18 COUNCIL MEMBER RIVERA: Okay, thank you.

19 CHAIRPERSON POWERS: Thank you. And
20 final question and I want to move on to the larger
21 topic here, and I know members are interested in
22 asking some questions on that. How long do you
23 retain the records for the telephone calls that you
24 make? You record them, and how long do you hold on
25 to them?

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2 DEPUTY COMMISSIONER FARRELL: I'm not
3 sure, but I believe it's 90 days.

4 ASSISTANT COMMISSIONER LYONS: The
5 telephone calls or recordings are maintained for 18
6 months.

7 CHAIRPERSON POWERS: Eighteen months,
8 okay. We're going to hear more on the bills later,
9 and certainly members can jump back in as we talk
10 about that. I wanted to move onto the larger topic
11 at hand which is around safety and security in the
12 jail facilities. And you guys had noted a, in your
13 testimony, a few different goals here. One being the
14 coming out of the-- and being in compliance with the
15 Federal Monitor. And sort of in light of last weeks'
16 report, we wanted to ask some follow-up questions on
17 where we are and for the committee to be able to get
18 a better understanding of where the Department is in
19 compliance and where we're moving. So, the-- I think
20 one of the issues you noted, and you've noted, and
21 everybody's recognized is the ongoing non-compliance
22 around use of force, and something that we've talked
23 about and has been reported on. Can you give us a
24 snapshot of where we are on the use of force under
25 the report, progress that's been made? And also for

1
2 the committee members and others, just define the
3 term use of force and how it's reported and how the
4 monitor evaluates it.

5 DEPUTY CHIEF COOKE: Sure. So our use of
6 force policy that was revised and went into effect
7 September 27th, 2017 contains a clear definition of
8 force which hadn't been the case before. The
9 definition of force is anytime a member of the
10 Department uses their hands, their body, an
11 instrument such as a Taser or a baton or some other
12 object to compel an inmate to act or stop acting in
13 any particular way. Routine application of
14 restraints or escorting is not a use of force. But
15 if during the course of the application of routine
16 restraints or escort, the inmate pulls or tugs or
17 resists in some way, and the officer is compelled to
18 pull the inmate back, that would be under our force
19 policy definition a use of force.

20 CHAIRPERSON POWERS: And ow does that get
21 reported? So, if a-- if it's everything from--
22 something that the term use of force, I think-- it
23 might be misleading in the sense that it's-- we want
24 to make sure we know what interactions occur,
25 although it does, I think, for many of the public

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2 when it gets reported on indicates-- some-- I think
3 gives a perception of something higher than a tug on
4 the wrist or-- is there a way to delineate or do you
5 guys monitor the level of what that force is, and can
6 you give us any data on what might be a reportable
7 action because there was an interaction versus
8 something that would lead to disciplinary sanctions?

9 DEPUTY CHIEF COOKE: So, I think if I'm
10 getting the purpose of your question. We do record
11 the reasons for force, and the reasons for force
12 being inmate fight or resist restraints, or let's
13 see, fails to follow, you know, directions, orders,
14 or procedures. There's many others. And so the
15 reason for force that you're getting at, we have seen
16 an increase in up over 50 percent of our force now is
17 in response to stopping inmate behavior, inmate
18 violence, inmate-on-inmate fights, and the like. And
19 so we-- while that's about as specific right now as
20 we can get, we don't capture which of the force where
21 someone resists restraints or escort procedures or
22 fails to follow orders. We don't have a level of
23 specificity in our tracking that would tell you which
24 were the minor tugs and the pulls in order to compel
25 an inmate to respond versus, you know, something that

1 would have been more aggressive and active
2 resistance. So, that's our current reporting. But
3 like I said, over 50 percent of our force is in
4 response to stopping inmate misbehavior, fights, and
5 violence.
6

7 CHAIRPERSON POWERS: The 50 percent is
8 related to stopping something about related to an
9 inmate-on-inmate, is that-- or inmate--

10 DEPUTY CHIEF COOKE: [interposing] Yeah,
11 at least 50 percent, because again, we track the
12 reasons for force being the primary reason. So we
13 wouldn't track-- you know, you could have secondary
14 reasons that may also be an inmate fight, but if the
15 primary reason for force is in response to those
16 behaviors as opposed to the forces of cell
17 extraction, for example, where we have to, you know,
18 remove someone from a location by force. Like, that
19 would be in the less than 50 percent.

20 CHAIRPERSON POWERS: And how much of that
21 force-- I think you've cited to us that 20 percent is
22 the site that you believe is avoidable or
23 preventable?

24 DEPUTY CHIEF COOKE: Yes, so what the
25 Department has done is self-critical analysis or in

1
2 revising the format and refining our process over the
3 last year and a half or so, but in the last
4 monitoring period, the July to December 2017, as the
5 Monitor reported, the Department provided to the
6 Monitor the self-critical analysis of the instances
7 of force. Approximately 19 percent of that force
8 that occurred in that sixth month period, the
9 Department after review determined those force
10 incidents had avoidable characteristics. It doesn't
11 mean that the force necessarily could have been
12 avoided, but that we identified that there was a
13 possibility of things that we maybe could have done
14 in retrospect that we can learn from going forward to
15 have reduced the number of instance of force event.

16 CHAIRPERSON POWERS: So, what is going
17 to-- can you explain the reasons why those 20 percent
18 might be not being-- within that 20 percent, there is
19 a percentage that you think believe still happen, but
20 can you give us the reasons and the steps this
21 department is taking to prevent avoidable uses of
22 force or identifies potential unavoidable use of
23 force between now and then immediately, but between
24 now and the next report as well.

1
2 DEPUTY CHIEF COOKE: Sure. So, some of
3 the things that have an avoidable characteristic, for
4 example, under our force policy, if a use of force is
5 anticipated, which means you have time and
6 circumstances on your side that would permit to make
7 a reasoned plan for the execution of force, part of
8 that plan is to call a supervisor to the scene. And
9 so while-- I know a force is identified as having an
10 avoidable characteristic because a supervisor wasn't
11 called and then the judgment of the uniformed staff
12 that are doing that review, a supervisor that was--
13 could have been called. We don't know that had the
14 supervisor, you know, appeared and been present that
15 we would have avoided the force, so we don't know
16 what the outcome or how it would have been different,
17 but the characteristic is the supervisor.
18 Similarly,-- so that's a policy, you know, compliance
19 issue. Similarly, we see if a gate or a door, you
20 know, to a pantry or, you know, a cell is left
21 unsecured, that an unsecured gate or door within a
22 housing unit can cause an inmate to access an area
23 and then the officer having to, you know, direct the
24 inmate to, you know, return from the area. They're
25 not supposed to be in that area, but had the gate or

1 door been secured in the first place, you know, the
2 back and forth and the potential use of force that
3 results may not have occurred. So, that's a-- again,
4 it's a security compliance, and so to address those
5 and other avoidable issues, the Department is-- and
6 I'll let the Chief of Department speak to the use of
7 the video, but we're using our own use of force
8 videos with our staff to identify the best practices
9 and the compliance issues that present themselves in
10 our actual avoidable incidents. Plus, we are using
11 our compliance and safety Center that we launched at
12 the end of January, which has a team of staff across
13 two tours, every-- seven days a week, which are
14 monitoring real-time using all of our nearly 10,000
15 stationary cameras that we've installed in the
16 Department, monitoring and looking for these issues
17 of compliance, like I mentioned the cell doors and
18 supervisors on scene. They're listening to the radio
19 and when an alarm response is pulled they're pulling
20 up the cameras and they're viewing it real time.
21 They're calling the staff on the post real time and
22 using it to be real skill building, to identify these
23 procedural and compliance failures that we know can
24 get at that root cause of avoidable force. Going to
25

1
2 CHAIRPERSON POWERS: And I'm going to
3 pre-empt Council Member Holden from asking those
4 questions. So, I apologize. But one of the things
5 we asked at the last hearing that I think has been a
6 priority for a lot of folks is around a training
7 facility for officers. I think that a lot of the
8 officers as I understood it, are-- there's a lot that
9 are under five years on the job. We are not-- it
10 seems that we have the money but don't have a space
11 or a location for a facility. Any-- I don't
12 anticipate you have answer from the last hearing
13 which was a month ago, but certainly any updates on
14 what we're doing to create a-- because some of the
15 video can help curve future behavior, but a lot of
16 it's also, I think, catching what actually happened
17 and being able to identify it. We're concerned about
18 preventing violence, period, and obviously being able
19 to identify why things are happening, but to have--
20 to invest in the Department with money that we've
21 already put aside for it. Can you give us an update
22 on where the training facilities are?

23 CHIEF THAMKITTIKASEM: Yeah, I think the
24 only two updates that we can provide are: one, at
25 least, CPSD study has been completed, at least, and

1 handed off to OMB to review for at least the possible
2 Fort Totten site in terms of coordination with an
3 FDNY training facility. In addition, as a part of
4 our efforts with the broader, safer-- the close
5 Rikers efforts. We're identifying sites that might
6 be possible, as all of you know. We've been taking a
7 look at focusing on the CPSD study that's focused on
8 the sites for new borough-based jails, but we're also
9 taking a look at sites that are possible for the
10 Academy. We have a square footage that's been
11 developed for what that site might need to include,
12 but still haven't kind of located a specific site.
13 We're taking a look at a couple of different things.

14 CHAIRPERSON POWERS: Is that to mean that
15 you are looking at putting an academy with one of the
16 sites for the borough-based facilities? Is that--

17 CHIEF THAMKITTIKASEM: Not with the
18 specific jail. I think we're just taking-- as a part
19 of taking a look at sites, we have also tried to
20 figure out spaces that may be available that meet the
21 criteria in terms of-- we have obviously been
22 focusing a little bit more on city-owned kind of
23 facilities so that we can take a look at make the
24 change to and Academy, easier, faster.
25

1
2 CHAIRPERSON POWERS: Got it. We continue
3 to support, I think locating and funding, you know,
4 something that will make sure that people get
5 adequate training from beginning, and to take people
6 away from what it sound-- actually, I think Council
7 Member Holden's been to the facility-- are
8 inadequate. The-- I wanted to move to
9 classifications around violence. There was a report
10 that the department was reclassifying violent
11 incidents so that they didn't appear in public
12 reports. Daily News reported on this. The Nunez
13 federal monitor examined this issue and disagreed
14 with seven out of ten of those reclassifications.
15 How are you re-- can you give us some more
16 information about that. I mean, that's concerning.
17 You know, how are you reviewing uses of violence,
18 reports of violence, and determining their accuracy?
19 I don't know if it's through video footage, but I
20 mean, the federal monitor seems to disagree with the
21 Department about that.

22 ASSISTANT COMMISSIONER LYONS: Well, I
23 disagree with that, but I'll answer into the
24 question. We'll get there. So, each use of force is
25 classified based on the severity of the injury that

1 results, and that injury is either an injury to a
2 staff member or to the inmate detainee. So, an A
3 injury being the most serious, the B injuries being
4 minor, and C being no injury resulting. So, the
5 initial classification of that injury is made based
6 on medical records and injury treatment
7 documentation. That may also develop over the course
8 of an investigation, additional information about the
9 nature of injuries which might cause the injury
10 classification to be adjusted, that's a very small
11 number of cases. So, the first and the primary basis
12 in which force gets classified is by medical
13 treatment and injury documentation by the medical
14 provider. Through the investigation process, the
15 investigations division does an investigation of
16 every use of force within the first five days of a
17 force incident. They might develop further
18 information regarding the injury and which supports
19 or suggests a reclassification. The monitor reviews
20 every single use of force preliminary review, which
21 is every single force that occurs at the Department.
22 The monitor identifies a handful of use of force in
23 each six month's reporting period where they have
24 questions about the nature of the classification
25

1 being a B instead of a C or a B instead of an A, or
2 something like that. The Department then engages
3 with the monitor, the investigations division, and
4 the Chief of Security engage with the monitor in a
5 discussion about their questions and concerns, and we
6 would come to some resolve where we either agree to
7 change the injury classification or we maintain that
8 the injury classification is proper. So, it's just a
9 handful of times the Department-- each six months the
10 monitor identifies out of, you know, nearly 2,400
11 uses of force, some number less than 10. With
12 respect to the Daily News report, the monitor
13 reviewed every single use of force incident that was
14 alleged there. There actually were incidents that
15 weren't use of force. There were other types of
16 incidents, and then the monitor, I believe it was in
17 their third monitor's report, reiterated that they
18 had no concerns with the respect to the Department's
19 practice of classification or adjustment where
20 appropriate of force classification.
21

22 CHAIRPERSON POWERS: Okay. I wanted to--
23 I'm going to let Council Member Lancman and others
24 ask questions, and I wanted to come to some of the
25 proposals around how to keep from both, I think, the

1
2 Correction Officer's Union and the advocates around
3 different uses around keeping everybody safe within
4 the facilities, so I want to come back to that
5 momentarily. Then I'm going to let Council Member
6 Lancman.

7 COUNCIL MEMBER LANCMAN: Thank you. So,
8 I wasn't here to hear you read your testimony, but I
9 read it, and I think any reasonable conclusion
10 looking at what's going on at the Department of
11 Corrections is it's not good, and I want to focus in
12 particular on assaults on staff, which you indicate
13 in your testimony are up eight percent for the first
14 three quarters of Fiscal Year 18 versus Fiscal Year
15 17, and then I just took an advance read of the
16 Correction Officer's Union's testimony. And they
17 state-- it's another metric. Correction officers in
18 2017 recovered a total of 3,976 weapons, a 69 percent
19 increase from the 2,348 weapons recovered in 2014.
20 So, what I don't see in your testimony, and I don't
21 know when you were speaking you added to what's
22 written here, is any concrete plan for addressing the
23 increase in assaults on staff. So, could you share
24 with me what is your plan and is it a plan is maybe
25 available for us to review? Has it been reduced to

1 writing? Please tell me that there's some, you know,
2 15-point plan for reducing assaults on staff at
3 Rikers Island.
4

5 DEPUTY COMMISSIONER FARRELL: what our
6 plan going forward is that we've identified areas
7 such as our mental health units, our adolescent units
8 where violence has been historically problematic.
9 We've engaged in our new staffing plans. We've
10 introduced programming as other means to reduce
11 violence, and we continue to use this philosophy as
12 we continue with the violence reduction efforts.
13 We've established, as I indicated in my testimony,
14 live-time monitoring units, secure-- out of a central
15 location. These areas monitor our facilities. We
16 communicate directly from the monitoring unit to the
17 areas when situations are observed so we can--
18 basically eyes in the sky and intervene before a
19 situation develops. We're working with our
20 intelligence division, the CIB. We are using the
21 information we received through telephone calls,
22 intercepted kites or information that gets relayed
23 from inmate to inmate, and we use that intelligence
24 to, again, intervene prior to an incident happening
25 so we can take the appropriate actions to manage the

1
2 population. So, these are all steps. We're working
3 with senior staff to act as mentors and work with our
4 younger staff who are new to the agency, and bring
5 them up to speed on methods and philosophies and how
6 to interact, deal, and recognize issues going on
7 within the facilities to better improve and teach
8 them. We're--

9 COUNCIL MEMBER LANCMAN: [interposing]

10 Are-- sorry. Are any of these things things that you
11 were not doing in the first three-quarters of Fiscal
12 Year 2018?

13 DEPUTY COMMISSIONER FARRELL: We have
14 increased a lot of these areas that we spoke on.

15 CHIEF THAMKITTIKASEM: There are a couple
16 of new things-- sorry, Council Member, sorry. There
17 are also a couple of new things that the Senior
18 Deputy Commissioner were referring to. So,
19 obviously, we have changed the make-up of our
20 emergency service unit as well, deploying them
21 specifically into high violence facilities to serve
22 as both a deterrent and as rapid response. That is
23 something that we announced earlier this year,
24 breaking up what was previously kind of a specific
25 compound-based group that would be deployed whenever

1 they would be in response to an incident. We now
2 have them forward deployed into facilities so that
3 they're not just responding. They're also deterring
4 and moving quickly to respond. We have, as has
5 mentioned, we recently expanded. At first, the
6 response protocols were only to have captains with
7 the proper tools within those emergency service
8 units. We have expanded those tools to kind of the
9 entire outfit and expanded their training. We have
10 focused on the gang problem particularly. Not only
11 have we focused on these intelligence gathering.
12 We're coordinating more with NYPD, particularly as
13 arrests of larger gang units outside on the streets
14 are being brought into our facilities. That sharing
15 of information is used to better than separate and
16 classify the gang population so as to avoid conflicts
17 that we, our officers, bravely have to respond to and
18 stop. And in addition to what the Senior Deputy
19 Commissioner was mentioning, we also are focused on
20 as much as we can the other side of things, which we
21 also feel is important in terms of the programming
22 and engagement with the population to try to siphon
23 off some of the violence by providing, as the Chief
24 identified, gang-specific programming. Former gang
25

1
2 members coming in to talk about trying to kind of
3 move out of those organizations. We've also
4 expanded, as you know, the camera coverage, K-9 teams
5 to kind of rove and patrol for contraband and drugs
6 as well, because we know that the actions are still
7 going on in the jails.

8 COUNCIL MEMBER LANCMAN: And to segway
9 from the search for contraband to the increase in
10 weapons that have been seized, what are you doing to
11 stem the tide of weapons finding their way into
12 Rikers Island?

13 CHIEF THAMKITTIKASEM: So--

14 DEPUTY COMMISSIONER FARRELL: First of
15 all, no weapon is good to get into a facility. We
16 find that completely unacceptable, and what we're
17 doing is we're working-- and we've worked with the
18 City Council and I'd like to thank the City Council
19 in drafting the letter to send to Albany to get the
20 law approved to allow us to use the technology--

21 COUNCIL MEMBER LANCMAN: [interposing]
22 Respectfully, I don't want to hear about what
23 Albany's not doing. I know what Albany's not doing,
24 and Albany should do what Albany is supposed to do,
25 but to quote an old Albany hand, "It is what it is."

DEPUTY COMMISSIONER FARRELL: Correct.

COUNCIL MEMBER LANCMAN: So, what are you doing within the construct of the reality that we're living where Albany has not authorized the use of these particular kinds of machines?

DEPUTY COMMISSIONER FARRELL: We have increased our searches. We do more unscheduled searches within our facilities. We have improved our front gates. We have assigned staff that are from our SOD Division to these front gates to ensure we have consistent enforcement of these search procedures going in. As the Chief of Staff indicated, our K-9 operations are being expanded, and I would like to-- Chief could probably elaborate more on the security aspects.

CHIEF JENNINGS: So, with the improvement of the front gate, we've also brought new technology scanners, line scanners. We've actually sent staff out for training for TSA purposes. We know that the DOI report came out, and we have actually taken in most of their recommendations, and we've gone above and beyond with that. We have-- we're rotating the staff on the front entrances so that they're not connected to the facility. In one facility we were

1
2 able to actually put the lockers external to the
3 front entrances so that when all staff go in, they're
4 only going in properly dressed for work. We also
5 have improved methods in which we've increased the
6 contraband fines. We've done away with civilian
7 clothing inside of the facilities, where all inmates
8 are now into uniforms with no pockets. They're now
9 increasing on the searches, and we're improving on
10 the entrances like to go into the courts and the
11 facilities in which people now have access to.

12 COUNCIL MEMBER LANCMAN: Thank you. And
13 my last question or line of questions: The correction
14 officers I thought have tried to be very thoughtful
15 about addressing the issue of violence, and they're
16 going to testify later, I assume. And just-- they
17 have identified their view, the four primary ways to
18 reduce jail violence. One is the issue of punitive
19 segregation, which let's put that aside for a moment.
20 The other is re-arresting inmates who have committed
21 crimes in the jail. Thanks to the Council and
22 District Attorney Darcel Clark, thank you, that's now
23 happening. Charging inmates who commit crimes in the
24 jail with appropriate level of seriousness of the
25 crimes that they're committing, that's happening.

1
2 But the fourth prong in their view is, as they put
3 it, disciplinary sanctions, penalties for inmates
4 where the rules are violated regardless of their age.
5 And they identify, and I'd like to get your thoughts
6 on whether this is correct and whether it would
7 actually be helpful. A series of intermediary
8 sanctions that could be imposed on problematic
9 inmates short of punitive segregation, which we don't
10 like, that I'm told the Department is unable to
11 impose because of Board of Correction rules, things
12 like reducing or-- reducing the number of visits that
13 an inmate may be entitled to, reducing their access
14 to telephones, reducing their access to getting a
15 haircut, reducing their commissary privileges,
16 reducing their recreation privileges. I personally,
17 and I don't speak for the Council, wouldn't want to
18 see anyone's privileges or rights in any of these
19 areas excessive curtailed or inappropriately
20 curtailed recognizing that most of these individuals
21 have not been convicted of a crime yet. But none the
22 less, they are in a jail, and it seems bizarre to me
23 that the Department is limited in its ability to
24 measure out discipline short of, you know, the two
25 extremes. Do you understand the Department to be

1
2 constrained in the ways that the Correction Officers'
3 Union is describing, and what should I know as a
4 Council Member in terms of whether it would be wise
5 or prudent to try to get the Board of Corrections to
6 loosen up those restraints?

7 CHIEF THAMKITTIKASEM: I think, Council
8 Member, just we have had these conversations. I
9 think we are open to these, because I think that it
10 is important to kind of provide the spectrum of
11 response. I think we also internally need to work to
12 build the ability to actually record and track said
13 things so that, to your point, we can use them
14 effectively, and I think we're exploring that right
15 now both with the Board and the City Council, and so
16 we're open to those conversations.

17 COUNCIL MEMBER LANCMAN: Well, I
18 appreciate that. I think I'm going to be meeting
19 with the Commissioner soon, and it's one of the
20 things that I want to talk about, and if it's
21 something that the Department thinks makes sense--

22 CHIEF THAMKITTIKASEM: [interposing] Yeah.

23 COUNCIL MEMBER LANCMAN: you know, I'd
24 love to use whatever political capital and
25

1
2 legislative authority I have to give you those
3 additional tools. Thank you very much.

4 CHAIRPERSON POWERS: Yeah. Thank you for
5 those question. I'll ask a follow-up question. Do
6 you agree with those proposals to--

7 CHIEF THAMKITTIKASEM: [interposing]
8 Broadly, we believe in-- we think that it's kind of a
9 broader kind of sanctions, graduated kind of sanction
10 incentive systems would be an appropriate thing. I
11 think we are trying to figure out the best way to
12 kind of develop that, because I think we all
13 understand that saying it is much different than
14 actually focus on actually whatever changes we would
15 need to make with the rule and then also internally
16 in terms of tracking them and actually using them and
17 applying them. So we knew, to your point, about who
18 was actually getting them, who was not.

19 CHAIRPERSON POWERS: So, which ones do
20 you-- so there's-- I mean, I can re-read some of
21 them, but what areas do you feel like you're
22 constrained by the Department by existing rules or
23 laws that either City Council has passed or the Board
24 has passed? In terms of a-- do we-- you know, in
25

1 terms of the [inaudible] the things that Council
2 Member Lancman mentioned in terms of--

3 COUNCIL MEMBER LANCMAN: [interposing]
4 Visits, telephones--

5 CHAIRPERSON POWERS: [interposing] Visit,
6 yeah, you know.

7 COUNCIL MEMBER LANCMAN: haircuts,
8 commissary, recreation, for instance.

9 DEPUTY CHIEF COOKE: Yes. So, visits,
10 Board of Correction minimum standards and there's
11 constitutional rights to visit. So, there's legal
12 issues and Board of Correction standards. Phone
13 calls, phone calls also have a Board of Correction
14 minimum standard. So, the Department's, you know,
15 reduction or access would have to comport again with
16 the minimum standard. The commissary and the
17 haircuts: commissary, we're required to operate a
18 commissary under our state oversight COC rules, but
19 there's I think flexibility with respect to the
20 frequency of access that the Department can explore.
21 Recreation, I think recreation is also governed by
22 the Board of Correction minimum standard plus the
23 State Commission on Correction standards. So, again,
24 there's probably some room for exploration there as
25

1
2 to how we can respond and possibly modify present
3 levels of access without offending minimum standards
4 in the law.

5 CHAIRPERSON POWERS: And the other-- I
6 mean, there seems to be-- I just admit, there seems
7 to be as I have conversations about sort of why
8 disconnect between different groups in the Department
9 in terms of both-- I mean, certainly both the view of
10 the correctional system at times, but also in terms
11 of how do keep both detainees safe and also how to
12 keep those who are working there safe. And I think
13 one of the suggestions also is to have something of a
14 broader conversation between the different groups to
15 talk about those different issues around how do we--
16 I think one is the recreation, punitive segregation
17 which has been, you know, is controversial and taken
18 away. So perhaps, you know, perhaps that, perhaps
19 not that, but the other issues around how to keep
20 folks safe, everybody. And you know, I get concerned
21 as we look at this chart which you can't see, but is
22 population going from 12,000 in 2008 to under 10,000
23 in 2017 and spikes in violence it's two and a half
24 times in terms of violence. So, first off I would
25 say, what is the receptiveness to have something of a

1 stakeholder engagement where we can go through
2 different proposals. I welcome others to be part of
3 that conversation, of course, the Council Members. A,
4 the engagement, and two-- and then I want to go to
5 the next question which is a bigger one which is
6 what-- why are these numbers at two and a half times
7 the violence where they were. I presume some of it's
8 reporting and other things, but why are we at 6,000
9 incidents on my chart, a fight and assault infraction
10 in 2008, and we're at 14,000+ in 2017?

12 CHIEF THAMKITTIKASEM: Sorry about that.
13 So, Council Member, in terms of the population
14 increase, one, to your first point, I think that we
15 have tried to be open as a department to engaging
16 with as many stakeholders as we can in terms of
17 talking about these issues. I know that we have
18 engaged with both the Board and with the Union and
19 with the Council on at least taking a look at kind of
20 what opportunity is out there. So we continue to
21 welcome that. In terms of the broader question about
22 population reduction and other things, a couple of
23 things to point out, and I'll let my Deputy Chief of
24 Staff also note. The changes in our population also
25 should reflect not just a decline in kind of say an

1 average daily population, but the makeup of that
2 population. I think it's worth noting that the
3 percentage of our population that were gang
4 affiliated were around 10 to 11 percent at the
5 beginning of 2014 are now closer to 16-17 percent.
6 So, one, that make-up has changed dramatically. Two,
7 even though the population is lower, it is worth also
8 noting that the number of high classification kind of
9 inmates also remains relatively stable, and while
10 there has been a general decrease across the entire
11 population-- that population stays relatively high--
12 there are more kind of felony charges, detainees who
13 are in on felony charges than kind of misdemeanor
14 charges, and where we've had particularly strong
15 impact as a city reducing the population has been on
16 misdemeanors. So, there is at least a higher
17 concentration of population that is actually, you
18 know, higher charges or max custody. We also, though,
19 have been doing a lot more in terms of focusing on
20 dealing with different populations, and at that time
21 has also been changing some of our practice and
22 policies in terms of how to address. So, I don't
23 think it would be ever something that we would be
24 afraid of saying. We've also been making changes to
25

1 policy while also implementing new programs and
2 approaches to those who are violent, moving away, say
3 from just punitive segregation as the response. We
4 also have other programs that are focused on
5 engagement, and we also have-- and I'll let the
6 Deputy Chief of Staff talk to that-- different
7 populations that kind of impact force issues
8 differently.

10 CHAIRPERSON POWERS: Can I just jump in?
11 I've never understood that answer, to be frank with
12 you, that the number of people with high
13 classification have stayed stable, but the increase
14 has gone up two and a half percent or more in
15 violence. Like, that is saying that we've taken
16 people that we don't believe are violent or belong in
17 our custody out of our jail system. Those that
18 remained that has stayed stable, and somehow violence
19 has increased. That almost seems to defy logic that
20 the high classification number has stayed the same.
21 We've taken more people out of jail, and yet, that
22 explains why violence has gone up. I mean, doesn't
23 that seem to be contradictory?

24 CHIEF THAMKITTIKASEM: So, two separate
25 things. One, it would be-- as we started to say in

1
2 the very beginning, we do see these issues as two
3 separate things. So, one, in terms of institutional
4 violence where we were talking about fights between
5 inmates, slashings and stabbings, serious injuries
6 that result from inmate altercations, those are all
7 down, particularly within this first kind of period
8 of FY18. We have a separate issue when we talk about
9 use of force, and I think as we are trying to define,
10 there are issues in terms of just the inmate
11 violence, altercations that occur, and then use of
12 force. And I can let the Deputy Chief of Staff talk
13 a little bit more about use of force.

14 DEPUTY CHIEF COOKE: Yeah, and so I think
15 as I discussed earlier, we've seen a shift in the
16 increase in the over 50 percent portion of our force
17 that is now reported as in response to stopping
18 inmate misbehavior, fights, assaults, and alike. So,
19 I think that we have certainly as a department we
20 have committed significant time resources and effort
21 to develop our systems and our databases, and we are
22 moving away from, you know, being a paper-based
23 organization. So, I think you can't underestimate
24 the value of the ability to electronically track and
25 record. Our inmate fight tracking database went

1 online in 2015, I believe, 15. We made enhancements
2 and improvements to that. We have enhanced and
3 improved our incident reporting system database, our
4 case management system which now tracks from the
5 incident level of a use of force all the way through
6 the investigation and the pursuit of discipline.
7 We're tracking things electronically, and again, our
8 installation of more than 10,000 video surveillance
9 cameras, also the clear definition of force, all of
10 those things have increased the reporting and
11 capturing of those events. And so I think it's not
12 insignificant, the effect that those circumstances
13 have had on what you might be looking at in terms of
14 the graph you held up, both the incident reporting
15 over time, the increase in that plus the population
16 decline. I'm not saying it's the answer to all of
17 it, but I think that it certainly plays a role in the
18 mix. And then as the Chief of Staff mentioned, the
19 concentration of the max custody and the gang
20 affiliated inmates in our custody who are prone to
21 and have a higher propensity of violence based on our
22 own data over time, that also plays a part.
23
24
25

1
2 CHAIRPERSON POWERS: Can you give us those
3 numbers again about what the gang violence, the gang
4 population is right now, 16 percent?

5 DEPUTY CHIEF COOK: Yeah, close to 16
6 percent. It was 11 percent back in--

7 CHAIRPERSON POWERS: [interposing] How do
8 you classify? How do you create that classification?

9 CHIEF THAMKITTIKASEM: So, I can let the
10 Chief of Department speak a little bit more to how we
11 identify the gang part.

12 CHAIRPERSON POWERS: And also, how do you
13 handle that population relatively to the rest of the
14 general population?

15 CHIEF JENNINGS: So, most-- when they
16 come in at admit, most of them are self-admitted
17 until CIB or our Central Intelligence Bureau go out
18 and conduct interviews to actually do their
19 assessment and the facilities are currently doing
20 assessments daily in the jails.

21 CHAIRPERSON POWERS: And am I right to
22 say that you changed the housing policies around the
23 gangs in terms of how you--

24 CHIEF THAMKITTIKASEM: [interposing] Yes.

25 CHAIRPERSON POWERS: Can you tell us?

1
2 CHIEF THAMKITTIKASEM: Yes, I think that
3 as the Chief mentioned, we try to focus especially on
4 new admission kind of identification of gang
5 membership and we utilize that within our housing and
6 classification system to broadly try to ensure that
7 no one gang has a majority, you know, population
8 within one housing unit so as to not gain control of
9 an entire housing unit. It is worth noting that
10 while we are working very hard with the NYPD in our
11 own internal correctional intelligence bureau to
12 identify gangs, we do openly admit that a lot of
13 changing nature of gang membership occur pretty
14 quickly, not something that we adopt right away. So
15 you may have people who have changed different sets
16 within a housing unit. They may have both been, just
17 for example, Bloods on one day, but not knowing
18 exactly the sets. That combination of people can
19 lead to violence. So we're working to perfect that,
20 but at the same time things that occur out in the
21 street and things that occur in just kind of flow to
22 each other, and so we are sometimes a little slow to
23 adapt on what intelligence is occurring outside.

24 CHAIRPERSON POWERS: Okay, and I wanted
25 to let my colleagues ask more questions on some of

1
2 these topics, but I wanted to ask just on the
3 prosecution, as my colleague Rory Lancman mentioned,
4 the prosecution and the re-arrest of individuals, can
5 you-- do you believe that is working in terms of
6 preventing violence in Rikers Island and other
7 facilities to do the re-arrest and prosecution, and
8 if so, can you tell us why and give us any data on
9 the amount of prosecutions and the increase?

10 CHIEF JENNINGS: So, I don't have the
11 data with me to talk about how many inmates that have
12 been re-arrested, but I think that it is a vital tool
13 for the incidents that are occurring. One of the
14 other things that's happening is that we work with
15 the criminal justice, the Mayor's Office of Criminal
16 Justice, to now reduce the court processes, because
17 one thing that we found at the beginning about two
18 years ago was that the inmates and the length of stay
19 in which they were staying on Rikers had exceeded 600
20 days or more. So there's been a lot of emphasis
21 that's been put on that population of inmates to now
22 reduce the stay that they're staying on Rikers Island
23 so that we are expediting them through their court
24 processes.

1
2 CHAIRPERSON POWERS: So you believe it's--
3 - you believe it's a deterrent, is that correct? The
4 threat of--

5 CHIEF JENNINGS: [interposing] Yes.

6 CHAIRPERSON POWERS: prosecution, re-
7 arrest. And how-- and how-- what has been the rise,
8 or the increase in prosecutions since the Bronx DA's
9 have taken charge of that, the re-arrest and
10 prosecution?

11 CHIEF JENNINGS: Yes, I would have to get
12 back to you with the actual stats of the re-arrest.

13 CHAIRPERSON POWERS: Okay. I want to let
14 my colleagues ask some questions, and then we'll
15 follow up with some more. Council Member Holden?

16 COUNCIL MEMBER HOLDEN: So, if they are
17 re-arrested-- I missed that, Chief. If they are re-
18 arrested for an attack, let's say like this, on a
19 corrections officer, do they stay at Rikers or it
20 varies?

21 CHIEF JENNINGS: It can vary.

22 COUNCIL MEMBER HOLDEN: So, an attack--
23 now, let's get back to-- I just want to jump to the
24 gang attacks. The incident where I think the four
25

1
2 individuals broke the correction officer's neck, were
3 they part of that one gang?

4 CHIEF JENNINGS: That's correct.

5 COUNCIL MEMBER HOLDEN: They were all
6 together, and--

7 CHIEF JENNINGS: [interposing] All
8 together in one.

9 COUNCIL MEMBER HOLDEN: See, I don't get
10 keeping them together, because they're going to
11 defend one another. They're going to act like a gang
12 against a correction officer. So, I-- I mean, when
13 we were kids, we were separated. The trouble-makers
14 were separated. And it seemed to work, at least in
15 some schools. I just don't get keeping gang members
16 together. I know studies show-- studies show, we
17 hear that. We never see these studies, though.

18 CHIEF JENNINGS: So, I'm not opposed. I
19 am not saying that we're keeping gangs together.
20 However, we are utilizing classification and the heat
21 map to separate these SRG-affiliated inmates as best
22 as possible. However, we do have one gang outnumber
23 most of the other gangs, and sometime it's hard to
24 break those gangs up. We don't have as many housing
25 areas to break them up totally.

1
2 COUNCIL MEMBER HOLDEN: So, you really
3 don't have the space at Rikers to break them up?

4 DEPUTY COMMISSIONER FARRELL: Based on
5 the number of inmates who are affiliated with
6 security risk groups, and the different types of
7 security risk groups, we do not have the space to
8 keep everybody separate from each other. There are--
9 there is-- there will be-- what we do is we try and
10 use a balanced approach so not one gang has a more
11 denominating presence than another gang, but some of
12 those, that was a specialized unit that that incident
13 took place in with Officer Suffrant [sp?]. That was
14 the True [sic] Unit where we place inmates there
15 based on their behavior, not necessarily their gang
16 affiliation. So, behavior drives those types of
17 units to manage those populations.

18 CHIEF THAMKITTIKASEM: Council Member,
19 just for a broad setting expectations. I know that a
20 lot of people will say, especially when you say there
21 isn't enough space, obviously with the facilities
22 that we have, the facilities one, are broken down
23 into kind of both cell units and dorm units. There
24 are specific facilities that are focused on specific
25 populations and others that are more appropriate for

1 secure and high max custody kind of detainees than
2 others. So, we don't look at the entirety of the
3 Department, and it's all facilities as available,
4 because when we focus on gangs, those who are high-
5 class or those who have actually had persistent
6 violent problems, there are only a number of limited
7 facilities for which we actually house those
8 populations. Just when we have that broader
9 discussion.
10

11 COUNCIL MEMBER HOLDEN: Right. But
12 again, in dealing with violence, gang violence,
13 attacks on other inmates or detainees, attacks on
14 correction officers, nothing should be taken off the
15 table, I would think that punitive segregation. You
16 know, for 18 to 21-year-olds, since we're the only
17 one in the nation, we're the only correction facility
18 in the nation that does this, we might want to
19 reconsider that. Because certain people respond to
20 things taken away or even isolation. It may say, if
21 you're going to do this, this is going to happen to
22 you. And then we send also people that attack the
23 correction officers, we send them to state facilities
24 which have punitive segregation. It's-- to me, it's
25 a little odd. But getting back to-- you were-- and

1
2 by the way, you might look at some connection with
3 we're seeing increased violence in our schools with
4 young people. So, you know, you have to look at that
5 as this is what's-- may be coming into the
6 facilities, correction facilities. Have you looked
7 at that all?

8 DEPUTY COMMISSIONER FARRELL: We'd have to
9 check with our intelligence bureau to see exactly
10 what avenues they use and what resources they use.
11 They're in constant communication with various law
12 enforcement agencies from federal, state, and local,
13 and the school resource police may be one of those
14 agencies that they communicate with, but we can-- we
15 will definitely ensure that they are if they're not.

16 COUNCIL MEMBER HOLDEN: Just to follow-
17 up, the Chief was saying that on the use of force,
18 you retrained some of your officers. Where do they
19 go for their retraining? Do they go to the Middle
20 Village facility, or they do it on Rikers?

21 CHIEF JENNINGS: That's both, a
22 combination of both.

23 COUNCIL MEMBER HOLDEN: Because you do
24 have-- do you have empty jails on Rikers? Empty--
25 there's empty jails, I guess, because we used to have

1
2 20,000 detainees. Now we have 9,000. So there are
3 some empty buildings?

4 DEPUTY COMMISSIONER FARRELL: Currently
5 all the facilities are in use. There are areas
6 within some of the facilities that are consolidated
7 or closed.

8 COUNCIL MEMBER HOLDEN: Because there's
9 no--

10 DEPUTY COMMISSIONER FARRELL:
11 [interposing] With the exception of JATC, which is a
12 condemned--

13 COUNCIL MEMBER HOLDEN: [interposing] But
14 in the Middle Village training, there's no jail--
15 there's no like mock training inside a jail. They
16 don't have a physical jail. Do they use it at
17 Rikers? Could they use it at Rikers?

18 DEPUTY COMMISSIONER FARRELL: We do use
19 closed housing units, whether it be over at the
20 Queens House or on the island itself to simulate a
21 real environment in order to conduct the training so
22 staff get the best possible training.

23 COUNCIL MEMBER HOLDEN: Just a couple more
24 questions, and I'm-- in your testimony you said the
25 new borough-based facilities will be open space,

1 natural light, noise reduction, all these great
2 things. Is that realistic if you-- why can't that be
3 done on Rikers, first off all, if you build a new
4 facility right next to a jail? There you have more
5 space. A vertical jail, which is the borough-based,
6 kind of takes away some of those options, because you
7 are in a confined facility and it is vertical. So,
8 I'll let you answer that one.

10 CHIEF THAMKITTIKASEM: No, I think the
11 only answer to that, sir, is just that we're not
12 taking away any options. I think what the City is
13 committed to with the CPSD program is to design the
14 best facilities that actually combine many of those
15 components as possible. I think part of the move is
16 not just to make sure. Right now, I think we can
17 definitely say that the jails on the island right now
18 are too old and not actually befitting kind of the
19 changes that we've made both on a security standpoint
20 and a program standpoint. The CPSD study, and
21 they're taking a look at this, is both kind of the
22 connection to the community, which is a broader
23 philosophy but also in terms of safety and security
24 really focus on having housing areas designed so
25 there'll be less in movement, have clearer sight

1
2 lines and actually provide for both the security
3 functions necessary as well as access to services
4 programs.

5 COUNCIL MEMBER HOLDEN: But the sight
6 lines haven't changed from years ago when we had less
7 violence in the jails. So, the sight lines you could
8 point to, but there has to be something else that's
9 causing this, and we tried-- you know, we're trying
10 to get answers as to why the increase in violence,
11 and the only thing that I think has changed is the
12 punitive segregation. So that needs to be looked at.

13 CHIEF THAMKITTIKASEM: I mean, I think as
14 Deputy Chief of Staff mentioned, I think one, we have
15 done more in terms of reporting. We have added
16 cameras so there's more to be seen and to identify.
17 I think the changing nature of the population is
18 something we continue to take a look at, and also in
19 terms of clear sight lines, I think that there is
20 something to be said for just the changes to
21 engagement that we've also initiated under this
22 Administration.

23 COUNCIL MEMBER HOLDEN: But I was-- by
24 the way, just in talking about brighter and airier,
25 the mental health facility at Rikers is nicer than

1
2 the rest of it, of the-- it looks-- the paint is
3 brighter, at least the facility I was in.

4 CHIEF THAMKITTIKASEM: Oh.

5 COUNCIL MEMBER HOLDEN: It seems nicer.
6 It seems brighter. It seems cleaner. Why-- I mean,
7 just if we can paint the facility and, you know, fix
8 it up a bit in the meantime before the borough-based,
9 why not?

10 DEPUTY COMMISSIONER FARRELL: We do that
11 not only with our specialized unit, the PACE Unit,
12 which you were in at the GRBC facility--

13 COUNCIL MEMBER HOLDEN: [interposing]
14 Right.

15 DEPUTY COMMISSIONER FARRELL: I believe
16 is what you're referring to. But as part of our
17 restart program that we use, painting and
18 infrastructure improvements to make the environment
19 more improved for the detainees and the staff working
20 there, that was a key component in that, and in those
21 units that we did, we have seen improved statistics
22 as far as use of force, and we will-- we continue
23 that process. However, you know, it is a process.
24 There are a lot of housing units within the
25

1 facilities, and we continue to go forward with it,
2 and we do plan to continue that effort.

3 COUNCIL MEMBER HOLDEN: Yeah, because
4 that seems to be a model, that that actually worked,
5 and you have proof of that. So, if you expanded that
6 a little bit--

7 DEPUTY COMMISSIONER FARRELL:
8 [interposing] And we continue to work on that, yes.

9 COUNCIL MEMBER HOLDEN: But there are
10 plans to expand that?

11 DEPUTY COMMISSIONER FARRELL: We
12 continue-- yes, we're going to continue that into
13 other housing units that--

14 COUNCIL MEMBER HOLDEN: [interposing] Can
15 we see how that will-- you know, can we see those
16 plans that-- there's going to be improvements to
17 facilities, certain jails that are experiencing more
18 violence, maybe just changing here and there,
19 bringing more light in, brighter colors, something to
20 that effect might help.

21 DEPUTY COMMISSIONER FARRELL: Sure.

22 COUNCIL MEMBER HOLDEN: The environment,
23 because we all react to our environment. I have some
24 other questions, but I'll hold it over.
25

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2 CHAIRPERSON POWERS: Thank you. And we
3 had the Board of Correction here as well, so they'll
4 be able to talk about some of the changes that are
5 made. The-- and other ones that may be considered.
6 The splashings, which seem to have been increasing.
7 We have numbers that seem to be indicating that
8 they're going up. Unless a few [inaudible]. And I
9 as understand it too, when you talk about the use of
10 force data and it's in the federal monitors report,
11 it doesn't actually-- like, any use of force around
12 splashings isn't accounted for, it was as I
13 understood it that the-- any use-- it was considered
14 an inappropriate use of force if you reacted to a
15 splashing because of the time of this incident. Can
16 you tell us more about that? Can you also talk to us
17 about why splashings are increasing and what the
18 Department's doing to try to-- to reduce? I mean,
19 that's something-- that's a staff who complains
20 about, and rightfully so. I would--

21 DEPUTY CHIEF COOK: [interposing] Sure.
22 I'll defer the latter half of your question on
23 splashings and the Department's efforts to the Chief,
24 but I'll answer your question with respect to the use
25 of force monitor, the Nunez monitor. So, the way

1 that the Department tracks use of force, a subset of
2 use of force is assault on staff, and so the assaults
3 on staff that are captured in the use of force data
4 are the reasons for force or the reasons for force,
5 the reasons that the Department responded to behavior
6 with for was that a staff member was being assaulted.
7 So, that's the capture of assaults on staff within--
8 embedded within the use of force data. To your
9 description, a splashing incident where a staff
10 member is really horrifically splashed with a
11 potentially unknown liquid that contains, you know,
12 bodily fluid, that's a horrible event. If there is
13 no associated use of force in response to the
14 splashing, then that would not be captured in the use
15 of force data. So, therefore, the Nunez monitor use
16 of force is their primary purview, so they're not
17 looking at that issue. I'll let now the Chief respond
18 to the Department's efforts and improvements with the
19 splashing.
20

21 CHIEF JENNINGS: So, we have increased
22 the tracking. One of the other things that we're
23 doing are searching the inmates to ensure that they
24 don't have items that they're utilizing to splash the
25

1
2 staff with, and we're also doing the infractions and
3 the re-arrest for splashings.

4 CHAIRPERSON POWERS: When did you start
5 tracking it? You said one of the things you're doing
6 about it is to start tracking it.

7 CHIEF JENNINGS: We already track the
8 splashings, they're just not tracked-- they're
9 tracked as assault on staff, not use of force.

10 CHAIRPERSON POWERS: And why-- is there
11 an explanation why it's going up?

12 CHIEF JENNINGS: Some of it relates to
13 the lock-downs. So we're trying to make sure that
14 for any lock-down they're not locked in for extended
15 amount of periods and that the services are returned
16 as soon as possible to normal activities.

17 CHAIRPERSON POWERS: And what is the
18 penalty if you-- it's re-arrest if you are splashing?

19 CHIEF JENNINGS: If you-- it could be.

20 CHAIRPERSON POWERS: And if it's not, what
21 is the penalty?

22 CHIEF JENNINGS: they get infracted and
23 they get searched, and they're put on enhanced
24 searches, and the items in which they are using to
25 splash are removed.

1
2 CHAIRPERSON POWERS: The-- and then I
3 just wanted to wrap up and then we'll have the Board
4 of Corrections come up. On the gang violence which
5 seems to be increasing and contributing to a high
6 level of-- I want to take this back. The Department,
7 and I think others, have noted the-- of the large
8 number of folks who come through our jail system on a
9 given year, it's a smaller percentage that seem to be
10 causing violence. Can you restate what your belief
11 is in terms of number or percentage of individuals
12 that are contributing to violence?

13 CHIEF THAMKITTIKASEM: So, the data that
14 we have, basically roughly around 55 to 60,000
15 admissions come into our jails every year. That
16 number is declining slightly, but the percentage of
17 that admission that is actually involved in any type
18 of incident roughly is about four percent. Now, that
19 four percent, obviously, then you've got a long tail
20 of the numbers that they are actually-- a high
21 percentage might have kind of one to two, but then
22 slowly as you get to a smaller number, you have a
23 larger, higher probability of actually-- yeah,
24 frequency by which you are actually involved in
25 incidents. We-- those people also tend to stay

1 longer. They are in for kind of higher charges and
2 therefore stay longer as well. So, they are overly
3 represented, sometimes in some of our specific
4 housing units, like OBCC, that Council Member Dromm
5 kind of mentioned.

7 CHAIRPERSON POWERS: Okay, and then-- on
8 gang violence, particularly, which seems to be
9 something that is I think particularly putting folks
10 at risk, obviously inmate and inmate, but also inmate
11 and staff, what is the plan? I mean, it's one thing
12 to track it, one thing to report it, one thing to
13 recognize it, one thing to see it's going up, but
14 what are we-- is it-- is what we're doing actually
15 working? I mean, it seems like there's been
16 difference in opinion about how to house them in the
17 past, whether to have units dedicated to it or do
18 this, a model around spreading out, no 50 percent.
19 It seems like we have a very good way to sort of
20 track it, but my concern is actually reducing
21 membership in gangs, both while obviously out of your
22 custody for sure, but when you're in it. Is there
23 any-- A, any evidence of success in reducing gang
24 affiliation while in custody? Two is what are we--
25 what are the steps moving forward that the Department

1
2 is considering in terms of evaluating gangs and gang
3 violence, particularly, and C, do we expect that that
4 increase that you've seen over the years is going to
5 continue to grow within it, and is it going to
6 continue to see an increase in gang affiliation as we
7 continue to move off of Rikers Island and beyond?

8 DEPUTY COMMISSIONER FARRELL: Okay, with
9 gang-related incidents, it's an evolving situation.
10 We have-- we mirror what's going on in the streets in
11 the neighborhoods, and we become an extension of
12 those neighborhood once they become incarcerated, and
13 what we're finding is whereas it was easier to
14 identify, you had Bloods, you had Crypts, you had
15 Trinitarians, you had Latin Kings, and you know, you
16 kind of knew where everyone was. What we're finding
17 is we've got intra gang issues going on, so sets
18 within Bloods. So, it's not necessarily now
19 identifying a housing unit and having it balance with
20 Bloods and Crypts and other SRG groups, it's the
21 violence that goes on within the Bloods set. So, now
22 it's another layer that our intelligence team has to
23 work with. So what we've done is we've-- we are
24 beefing up our analytical approach within our
25 Correctional Intelligence Bureau that's able to take

1
2 a deeper look within the various security risk
3 groups, with the goal to develop better housing plans
4 and strategies and train staff and keep staff
5 informed of the evolving changes within the security
6 risk groups, because information and intelligence is
7 fine, but it's no good if we don't share it with our
8 staff. So that's the other component we're doing.
9 We're getting that information out to the staff so
10 they're more aware. Their eyes are on it, and they
11 could be better prepared to deal with it and manage
12 the population. I can let the Chief discuss her
13 plans.

14 CHIEF JENNINGS: SO, going back to the
15 telephones, we have over 8,000 inmates, and we say
16 that all phone calls are recorded. That does not
17 mean that every inmate's phone call is being
18 monitored or listened to. It's only when those
19 inmates-- or they raise those flags that we are
20 listening to their phone calls to work with the other
21 jurisdictions or the District Attorney on them
22 sometimes calling hits out while they're
23 incarcerated. So, we're just trying to share this
24 information with PD and then work on more ways to
25 deal with this particular group.

1
2 CHIEF THAMKITTIKASEM: I'll just add one
3 thing, because I think you cast a little more of a
4 philosophical question, but certainly we are also
5 focused on kind of gang membership. I think that
6 what we have done is try to focus a lot on
7 programming that actually addresses gang membership.
8 We have a program called Cure Violence that we're
9 working within some of our populations that are
10 focused on bringing in former gang members to talk to
11 people. two, we are also trying to address length of
12 stay, because we know that actual recruiting happens
13 in our facilities, so that population isn't just the
14 population that comes in, but the population that is
15 developed while they're in the jails. We're working
16 closely with the Mayor's Office of Criminal Justice.
17 The Chief actually works very closely with them to
18 process people out because the longer they stay the
19 more chance they might have to actually join a gang
20 while in our custody, and also in terms of the
21 intelligence, we're trying to gather as much as
22 possible, share it with the PD and other
23 organizations so that impact can be made before they
24 actually enter in, and then we're going to have to
25 have some commitment from the state because a lot of

1
2 these people move on as well, either back to the
3 streets or up, and so those gang affiliations
4 continue. So, just philosophically, I think those
5 are the things we're attempting, programming,
6 shortening the length of stay, really focusing on
7 other organizations that have the ability to directly
8 impact this, but those are a little more outside of
9 their voluntary programs, their-- the length of stay
10 requires focus on the case itself, and those are a
11 little more minute.

12 CHAIRPERSON POWERS: Gotcha. I'm going
13 to wrap up and then have the Board come up, and I
14 know Council Member Holden want-- yep.

15 COUNCIL MEMBER HOLDEN: Just one-- one or
16 two questions on the gangs because that seems to be--
17 you know, programming is fine and good, but many of
18 them pledge loyalty to one another for survival on
19 the outside, you know, in the public, or in the
20 jails, and that seems to be a hurdle. It's very
21 difficult to overcome with only programming the
22 individuals. That means, I would think, that
23 separation has to be on the table, and I know
24 sometimes it's impossible on Rikers, but it doesn't
25 mean they couldn't be sent to another jail, or at

1
2 least depending on their situation. So, because it
3 seems to me, and correct me if I'm wrong, is much of
4 the violence is from the gangs. So, if that's the
5 problem, programming may take time, and but we are
6 putting staff, correction officers and everyone else,
7 other detainees in harm's way while we do our
8 programming. So, I think separation is probably your
9 best tool to separate the gangs, because then the
10 loyalty, you know, they pledge loyalty to one
11 another, and that's part of being a gang, and they'll
12 go the extra mile to demonstrate that. So, I think
13 separation, if we could figure out a plan, might be
14 the immediate solution, and you'll see maybe a cut in
15 violence then.

16 CHAIRPERSON POWERS: Thank you. So, I
17 think-- thank you for your testimony and the answers.
18 I think that from the Council we may follow up, A: on
19 the fees, the telephone fees; B: the usage around
20 what I think were some of the concerns that folks
21 raised around how the recordings are being used and
22 what information is being shared; Three: some of the
23 proposals that Council Member Lancman raised around
24 other areas to look at. Instead of going to the end
25 of sort of what are the mitigation measures in

1 between that can be looked at. I don't know if I'm
2 doing letters or numbers at this point, but four: I
3 think something of an engagement amongst stakeholders
4 on these-- in these and sort of larger set of issues,
5 and five: I think there are some follow-up questions
6 related to specific questions that we ask that we may
7 have additional information about. I will note that
8 I think we all share in this room a concern around
9 safety and security that goes everything from-- and
10 we didn't get it-- we will not have a chance today to
11 do every single issue, but certainly everything from
12 contraband, and we know we need some of Albany's
13 support for that, to gang affiliation to housing to
14 services, things like that, and I think
15 simultaneously some of the bills that we have today
16 are to provide clarity and provide transparency
17 around when we do have somebody in our custody, how
18 we are treating them, and I think that's one of the
19 things maybe the folks have also spoken around the
20 fees issue because of concern that when we have
21 somebody in our custody that where we're not using
22 them as a revenue source for New York City, there's a
23 general fund of money we can spend that we are
24 treating them appropriately and fairly. On the
25

1 safety and security issues, I think you can hear from
2 the colleagues a concern around our jail facilities
3 now and into in the future, and we will certainly be
4 following up with you on that. I want to thank
5 Council Member Holden and my colleagues who have
6 since left for being here too. We'll take a two
7 second break and then we'll have the Department of
8 Corrections come up followed by folks who submitted
9 their names as well. Thank you.
10

11 [break]

12 CHAIRPERSON POWERS: Thank you. We're
13 going to continue now with the Board of Corrections,
14 and if you don't mind, before you start your
15 testimony, just if you can all introduce yourselves
16 and your role with the Board of Corrections. Thanks.

17 ROBERT COHEN: My name is Bobby Cohen,
18 Doctor Robert Cohen. I'm a member of the Board
19 appointed by the Council in 2009.

20 STANLEY RICHARDS: Stanley Richards,
21 Board of Correction Member appointed by the City
22 Council.

23 EXECUTIVE DIRECTOR KING: Martha King,
24 Executive Director.

1
2 EMILY TURNER: Emily Turner, Deputy
3 Executive Director for Research.

4 CHAIRPERSON POWERS: Thank you for being
5 here today, and you can start your testimony.

6 EXECUTIVE DIRECTOR KING: Good morning,
7 Chair Powers and Members of the Committee on Criminal
8 Justice. My name is Martha King, and I'm the
9 Executive Director of the New York City Board of
10 Correction. Today, I am joined by two of our board
11 members who were appointed by the City Council,
12 Doctor Robert Cohen and Stanley Richards. I am also
13 joined by the Board's Deputy Executive Director for
14 research, Emily Turner. Thank you for inviting us to
15 testify today on safety and security in DOC
16 facilities. The Board of Correction is an
17 independent oversight agency. The City Council
18 enshrined the Board in Local Law in the 1950s, and
19 the City's voters gave the Board greater independence
20 and powers in the Charter revisions of the 1970s.
21 Our role is to regulate, monitor and inspect the
22 City's jails in support of safer, fairer, smaller,
23 and more human jails. The Boards minimum standards
24 govern basic conditions necessary for safe and human
25 incarceration, including access to health and mental

1 health care, showers, mattresses, recreation, defense
2 counsel, and community connections via visiting,
3 telephone and letters. Today, I will focus on changes
4 in the use of punitive segregation and the
5 simultaneous development of new forms of restricted
6 housing in the jails. WE are here today because the
7 levels of violence in the jails is unacceptable, and
8 a fair and effective restrictive housing system is a
9 critical part of keeping people safe. The restrictive
10 housing system shares two purposes: to hold
11 perpetrators of wrong-doing accountable and to take
12 security precautions to prevent future violence. In
13 2015, the Board, with the full support of the Mayor,
14 many Council Members and other elected officials, the
15 Department of Correction, correctional health and
16 many advocacy groups amended the minimum standards to
17 create safe limits on the use of punitive segregation
18 to minimize its harm to individuals and communities.
19 These reforms went through a transparent and publicly
20 informed rule-making process. Over 80 people
21 testified at the public hearing and many more
22 submitted written comment to the Board. Today, the
23 minimum standards prohibit punitive segregation for
24 young people ages 16 through 21 and those with
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2 serious mental illness or serious physical
3 disabilities. The reforms further establish
4 safeguards on how long someone can be held in
5 segregation and for what reasons. They also permit
6 the Department to impose longer sentences for serious
7 assaults on staff, and the flexibility to override
8 sentence limits when someone engages in serious
9 violence. For example, in the first 16 months post-
10 reform the Department used overrides 164 times to
11 return people to segregation after they had committed
12 assaults causing serious injury to others. When the
13 Board created limits on segregation, it based its
14 decision on numerous evidence based studies showing
15 that misused and overused segregation is an effective
16 behavioral management tool, and that isolation of an
17 individual for extended periods of time results in a
18 distinct set of emotional, cognitive, social, and
19 physical pathology, particularly for young people and
20 those with serious mental illness. Before the
21 reforms, close to 20 percent of adolescents in
22 custody were in 23-hour lock-in, and the number of
23 people in isolation had grown 225 percent in 10
24 years. At the peak of its use in 2012, over 850
25 people were held in punitive segregation on any given

1 day. New York City had one of the highest rates of
2 isolation in the nation and was overusing segregation
3 of low-level misconduct. It is not only well-
4 established that punitive segregation causes
5 significant, psychological harm to those who are
6 placed in it for extended periods, but there's also
7 no evidence that it results in safer jails. In fact,
8 during the period when DOC increased the number of
9 people in punitive segregation, violence indicators
10 continue to rise for example: Slashings more than
11 doubled from 35 to 72 from 2011 to 2012. The monthly
12 rate of use of force per 1,000 incarcerated persons
13 grew from 13.5 to 20.6 from 2011 to 2012. The
14 monthly rate of serious injury to staff per 1,000
15 incarcerated percent was 02.7 in 2012 or just above
16 what it was in 2017. And the number of lock-downs in
17 2012 was about the same as in 2017. As the approach
18 to incarceration changes around the country,
19 correctional systems are joining New York City in
20 reforming their use of punitive segregation. This
21 includes jails and prisons at Cooke County Texas,
22 Washington, Colorado, the Federal Bureau of Prisons,
23 and elsewhere. Today, the segregation population in
24 our jails is just a fifth of what it was the year
25

1 before the enactment of the 2015 reform, and a 10th
2 of what it was in 2012 when the segregation
3 population peaked. As part of punitive segregation
4 reform, the Department created enhanced supervision
5 housing, or ESH, which the Board also included in its
6 2015 amendments to the minimum standards. ESH was
7 created as an alternative to long-term segregation to
8 prevent and respond to violence. Adults with a
9 history of jail violence are placed in ESH, while
10 young adults are placed there immediately after
11 commitment of a slashing or other act of violence
12 leading to serious injury. There are three levels of
13 ESH. At its most restrictive level, when people are
14 out of their cell, they are restrained to desks via
15 leg irons. They receive seven hours out of cell per
16 day or half the hours in the general population.
17 They can also be subject to restriction on their
18 visits, correspondence, commissary, recreation, and
19 access to law library. There are currently 129
20 people in ESH, including 19 young adults. A third of
21 the people in ESH are in restraint desks, including
22 nine young adults. Since the reform of punitive
23 segregation, the Department has created other
24 restrictive housing options, particularly for young
25

1
2 people. When the Department sought to establish
3 alternative housing that conflicted with minimum
4 standards, the Board granted variances upon
5 conditions for oversight and reporting. In just the
6 past two years, the Department has requested and the
7 Board has approved 19 separate variances related to
8 restrictive housing. There are now 47 restrictive
9 housing units in the jail system, reflecting 16
10 unique types of restrictive housing. This includes
11 the transitional restorative unit, second chance
12 housing, ESH, secure, clinical alternative to
13 punitive segregation, and others. There are just over
14 450 people housed in these units who may be subject
15 to restrictions on out-of-cell time, co-mingling,
16 movement, visits, recreation, law library,
17 commissary, television, showers, packages, mail,
18 and/or personal property. The Department also still
19 uses punitive segregation as part of its response to
20 violence. There are currently 124 people in punitive
21 segregation, about 1.5 percent of the DOC population.
22 Recent studies by the Board, the Vera Institute of
23 Justice, COBA, and the FCOC [sic] suggest there is
24 still work to do to maintain a disciplinary system
25 that is effective at promoting safety and

1 to create a formal system to do so. The Board also
2 recommends that the Department structure this system
3 so that its impact on violence can be evaluated at
4 both the individuals and system level. Thank you.

5 The Board will continue to monitor, report, and make
6 recommendations on the Department's work in these
7 areas. Last year, we published two reports on ESH.

8 In these reports, the Board found grounds for

9 optimism, including structured approach to

10 programming and multi-disciplinary management. The

11 Board also found several areas where DOC could

12 improve ESH, including policies related to level

13 progression, access to medical care, lock-out, and

14 steady staffing. In recent months, the Department

15 has embraced a number of our recommendations.

16 Ultimately, 76 percent of the people who enter the

17 City's jail system are released directly back to the

18 community. This fact highlights the rationale for

19 punitive segregation reform as well as the urgent

20 need for ongoing work to better prevent and respond

21 to violence in the jails. This work includes the

22 Board's restrictive housing rule-making to ensure

23 restrictive housing reflects the best available evidence

24 to address violence in custody and promote
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1 rehabilitation for successful reintegration into our
2 communities. We look forward to working with the
3 Council, our partners in the Administration, and the
4 many community stakeholders in tackling these
5 challenging issues and improving safety in the jails.
6 Thank you again for the opportunity to testify, and
7 we welcome your questions.

9 CHAIRPERSON POWERS: Thank you. Did--
10 are those all-- okay.

11 ROBERT COHEN: I've prepared a written
12 statement, which I provided to the Council, and I'll
13 try to keep this as short as possible. I support all
14 the bills today. It's important-- I commend the
15 Council for identifying the appropriate and prolonged
16 use of lock-downs, so something that decreases safety
17 in the jails. It unnecessarily increases tension,
18 disrupts essential jail functions, including the
19 access to health and mental health services,
20 telephone calls, denies detainees access to their
21 families and their attorneys. In some instances, the
22 inappropriate use of lock-downs [inaudible] collective
23 punishment. Adding the Council's vigilance to the
24 oversight of the Department makes sense and will
25 improve the management of the jails. I certainly

1 support the telephone plan, and note that it was not
2 always the case, that people had to-- that revenues
3 were generated this way. It was a change in policy
4 and I'm glad that the Department will be reversing
5 that. Finally, I'd like to speak in support of the
6 measure which expands the Council's oversight of the
7 use of dangerous control mechanisms in our jails.
8 The current Administration that was on today can with
9 strong Council support a number of initiatives of
10 national significance: Elimination of solitary for
11 people under 22, reduction of solitary for the rest
12 of the population, the plan to house persons based
13 upon their gender or identity, and the commitment led
14 by the City Council to dramatically reduce the
15 population of detainees. However, there have been
16 initiatives of the Correction Department which have
17 served to reinforce the fundamental culture of
18 violence which continues to characterize New York
19 City's jails. These include the increased use of
20 active German Sheppard K9 surveillance for
21 intimidation of detainees, the prolonged shackling of
22 men in Enhanced Supervision Housing, increased use of
23 chemical agents, and the use and now the commitment
24 by the Department to expand the use of Taser electric
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1 shock weapons throughout the jails. I urged when the
2 Department was considering putting in using Tasers
3 not to do it, because they're dangerous and they have
4 sometimes fatal consequences. I met with the
5 Department and our Committee on violence which our
6 Chair met with the Department to review our concerns,
7 but we were not-- we were not-- Our concerns were not
8 recognized. I am aware of at least three occasions,
9 separate occasions, in which Tasers were used by the
10 Department, all directed against the same person who
11 was being housed in permanent solitary confinement by
12 order of Judge Steven Barrett [sp?] of the Bronx. On
13 at least one occasion, the Taser discharge has failed
14 to achieve their purpose. On one occasion, the Taser
15 use occurred when the detainee was already
16 restrained. Subsequent to oen of the tree episodes,
17 discipline of the ESU Captain who discharged the
18 Taser was recommended based on violence of the
19 Department's Taser policy. I do not know if he was
20 actually disciplined. The Department has now expanded
21 the Taser policy to allow all members of the ESU, not
22 just ESH Captains, and other captains in special
23 areas to discharge Tasers. The Council's concern is
24 justified. Unchecked Taser use results in-- expands
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1 rapidly. It's associated with unnecessary injury and
2 sometimes death. Steve Martin, a former correction
3 officer and-- you know, when he started-- and a
4 correction, you know, Commissioner, stated, and now
5 the Nunez monitor, "Of the hundreds and hundreds of
6 Taser incidents I've reviewed over the years in jails
7 and prisons, I can't count on one hand when it was
8 used appropriately." There is a profound and
9 continuing culture of violence that characterizes the
10 Department. The Department's use of excessive force
11 is dangerous, unconstitutional, and getting worse.
12 As Steve Martin in his fifth report, and I understand
13 the Department has described that report as justify--
14 as being supportive of them, but I've read the
15 report, and that's a difficult statement to make.
16 Mr. Martin stated that given the conditions giving
17 rise to the consent judgement where the result of a
18 long period of mismanagement, limited resources, and
19 antiquated and bureaucratic processes at the
20 Department fully resolving the complex issues
21 involving the improper use of force and inmate
22 violence could not reasonably be achieved in two
23 years. Of course, that's true. But despite the
24 Department's efforts this monitoring period to
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2 achieve compliance, the Department has not yet made
3 any-- has not yet made significance progress towards
4 the primarily goal of reducing the use of unnecessary
5 and excessive force. The use of force has continued
6 to increase rather than diminish, even as the inmate
7 population has decreased. This monitoring period
8 ended with the highest monthly number of use of force
9 incidents during the life of the consent judgement.
10 Of greater concern is the continuing pattern of
11 seriously problematic incidents. And those, he goes
12 on to describe our head strikes, misusing chemical
13 agents, use of prohibitive holds, needlessly painful
14 escort tactics and incidents escalated by staff,
15 including hyper confrontational staff demeanor and an
16 over-reliance of probe responses. I'd like to say--
17 it's not in my written testimony-- that the Board has
18 discussed with the Department in response to one of
19 your last questions, Chair Powers, what-- to
20 establish a sentinel events process specifically to
21 review very serious and terrible incidents like the
22 horrible violence sustained against officer Sufrant
23 [sp?], that a sentinel event committee which would
24 include the Department, the Law Department, COBA, the
25 Board, Health + Hospitals if they're relevant, for

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2 very serious incidents be convened with all the
3 gravitas that such a meeting deserves to review what
4 happened. For example, in this case, in the case of
5 Officer Fronthy [sp?], the person who, you know, who
6 is seen, you know, leading this charge had assaulted
7 a clinical staff a few weeks before, and rather than
8 being placed in secure-- he was a young adult. There
9 is a place called secure which would respond to many
10 of Councilman Holden's concern about separation. I
11 don't know if you've seen that unit, but you can
12 separate people very easily. He was placed in TRU
13 which doesn't have that capacity. Was that-- was
14 that the right thing to do? Maybe it was. Was it
15 the wrong thing to do? So, there are lots of things
16 that have to be considered when these terrible things
17 happen, and I think we can learn a lot from them
18 independent of the gross analysis by concentrating in
19 sentinel event analysis. That would be helpful. I
20 just want to say that I really applaud the Council's
21 engagement in civilian oversight of the jails. Thank
22 you.

23 CHAIRPERSON POWERS: Thank you. Is there
24 any other testimony? You're here to participate.
25 Thank you. We appreciate it. So, the-- I appreciate

1 the testimony and the comments, and I think that one
2 of the reasons we wanted to have the hearing today is
3 to talk about over, you know, overall safety. When
4 you talk about the incident that happened a few
5 months ago which horrified everybody, preventing that
6 from ever happening again, and certainly having the
7 responsive process to it where stakeholders are
8 engaged and discussing what happened, and things like
9 housing and whether they're in one unit or another
10 unit. Have an act-- have you actual oversight and
11 engagement on that. But obviously, first and
12 foremost preventing that from ever happening again to
13 the degree that it's humanly possible. I wanted to
14 go into a couple of questions. So, the first is:
15 The Board's rules from a few years ago to change the
16 treatment of individuals below the age of 21. And
17 the-- it's been a subject of some conversation and
18 Council Member Holden had some questions on it. A
19 lot of evidence around the dangers of a 23 or the
20 risk of a 23-hour lock-up for somebody who's of a
21 certain age, but you guys-- we stopped at 21, and
22 that's raised a question of whether A, it's being
23 balanced differently, meaning on one side folks say
24 you're-- you know, the day you turn 22 you get a
25

1 different level of treatment, than the day-- you know
2 you're 21 and 365-- you know. So I wanted to
3 understand how you came to the decision to make that
4 the cut-off. Because some folks would say, on one
5 side, I guess [inaudible] you're still allowing it,
6 and I know the other folks are saying on the other
7 side the board thinks it's okay, but only if you're
8 age, you know, 21 and lower. So, how do we get to
9 the A, the age cut off of 21? What if-- if it's
10 harmful on determination, why are we continuing to
11 use it? And what is the kind of ongoing evaluation
12 of the use of punitive segregation for everybody?
13 And certainly looking at the effectiveness of it to
14 date in terms of reducing violence in that population
15 that it's been taken away from?

17 ROBERT COHEN: Well, I think-- I was the
18 only one involved during the rule-making there of
19 those of us sitting before you right now. Our
20 decision was based on scientific evidence. We had
21 testimony from psychiatrists and psychologists and
22 correctional experts, and we had the support of
23 Commissioner Ponte who had a similar-- who had an
24 experience in Maine specifically with excessive
25 violence in the young adult population which had been

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2 responded to by increasing and increasing solitary
3 confinement. He then was appointed to run the
4 Department in Maine, eliminated it, and had an
5 excellence response as far as who [inaudible] by
6 eliminating solitary confinement he was able to
7 decrease violence in the prisons. So, the scientific
8 evidence is-- actually goes further than 22. It
9 probably goes up towards 2024, and it's based up an
10 assessment on-- in both psychological testing and
11 physiologic MRI data about the executive function in
12 the brain. I am not an expert in that. I'm a
13 doctor, but I'm-- that's not my area of expertise,
14 but there was a-- we did not find testimony counter
15 to it. We had strong support from Corrections, so
16 that's why it happened, and the number was to extent
17 arbitrary. It could have been 24. That was what was
18 agreed to, and that was why Commissioner Ponte came
19 to New York specifically to implement, I think among
20 other things, but very specifically to implement that
21 problem. No, has it worked? I think the other
22 reason-- I'm sorry-- that I didn't mention is that we
23 wanted to eliminate solitary confinement is that the
24 evidence was that it hurt people, and we can show
25 that people weren't hurt. That would be difficult

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2 for us to do, but there was evidence that people were
3 hurt by prolonged solitary confinement, and we know
4 that when we started these hearings, our rule making,
5 people were-- you know, young adults, 16, 17, 18, 19-
6 year-olds were spending hundreds, 200, 300, 400, 500
7 days in solitary confinement. This was not 15 days.
8 These were just 500 days of the solitary confinement
9 for 16 or 17 year olds. The psychiatrist who-- one
10 of the psychiatrists, Doctor Richard Dudley, who is
11 of New York and is a national expert on juveniles,
12 the effect of incarceration on juveniles, just
13 described to us what it would be like for an
14 adolescents to be-- who was going to become seriously
15 mentally ill to begin that process while in solitary
16 confinement. Can you imagine when you first begin to
17 dissociate, when you first imagine to have
18 hallucinations? That was the kind of information
19 that we were given which directed us to do that.

20 CHAIRPERSON POWERS: And in terms of
21 preventing the-- preventing, you're saying it caused
22 harm. I think part of what you meant is mental
23 health harm for the long-term for the individual, and
24 presumably you meant some harm to incidents of
25 violence or spikes in violence, and I noted that the

1
2 Executive Director had numbers that indicated that
3 the period where we were using it in the City, that
4 violence was on the rise. So, that's suggesting that
5 punitive segregation was causing violence or that-- I
6 don't want to confuse that-- just the coexisting
7 self, not the cause of.

8 EXECUTIVE DIRECTOR KING: There's no--
9 Correct, we're not talking about causation here, I
10 just-- it's-- my point was to show that you can't
11 track the number of violence indicators don't track
12 along the way some of us may have assumed they would.
13 So, there's more people in segregation. There's--
14 violence can still be rising, and that is exactly
15 what was happening when more and more people were
16 being put in segregation, violence was rising and was
17 at point which we-- now it's comparable in some ways
18 to what we have today with many fewer people in
19 segregation. Do you want to say anything about
20 correlation?

21 CHAIRPERSON POWERS: You're point being
22 that it didn't result in a decrease of violence,
23 whether that was the cause or not. The--

24 ROBERT COHEN: [interposing] If I could
25 just add, also in response to your question from

1 before, idleness causes violence in jails and
2 prisons. I mean, gangs cause violence, but idleness
3 does also. So you're right that programs don't
4 effect gangs, and I don't think the Department, if
5 anything, they don't-- but on the other hand, and
6 that was what was done specifically for the 16 and 17
7 and 18-year-olds because of the federal interest, and
8 so those programs did eventually decrease violence
9 within that group.

11 CHAIRPERSON POWERS: And so, let's talk
12 through-- when you take it away, you replace it. And
13 can you talk us through-- you know, you added ESH for
14 the folks that are under 21. Can you tell the
15 different-- what you added in as a replacement to
16 punitive segregation, and I think I asked this
17 earlier, but any level of effectiveness that has been
18 measured or monitored to date in reducing violence,
19 reducing, maybe it's gang affiliation using violence,
20 reducing-- returning back to any jail facility like
21 Rikers Island. How is the Board monitoring and
22 measuring its effectiveness in terms of what's
23 replaced, and can you talk to us a little bit what
24 was the replacement?

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2 EXECUTIVE DIRECTOR KING: Sure, I'll speak
3 a little bit about the replacement or alternatives,
4 and maybe Emily can speak to the research question
5 that you're asking and the impact on violence. So,
6 we still have punitive segregation, let's not forget.
7 So, adults still can go, 22 and older go to
8 segregation. There are limits on why they can go and
9 for how long they can stay, but as I mentioned, the
10 Board's standards include flexibility for the
11 Department to override or make exceptions to the
12 Board's general parameters in an effort to support
13 safety and security. So, adults still go in. Adults
14 also, as I mentioned, are-- can go into other types
15 of restrictive housing, right? I said there are 16
16 different types, 45 different units, 450 people in
17 them. They look differently, depend-- their physical
18 construction can be different. People can be subject
19 to different restrictions, as I discussed in those
20 units. They're def-- they're subject to different
21 levels of surveillance in those units, and then when
22 we come to young adults, there's been the creation
23 over the past three years of many new units for young
24 adults that are also restrictive. People in those
25 units have less commissary, don't have personal

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2 property, don't move around the facilities as much,
3 get their law library inside. They go to recreate in
4 individual cages, things like that. That includes
5 ESH at its most restrictive when people are
6 restrained to desks whenever they're outside of their
7 cell if they're not in the shower or if they're not
8 at recreation in an individual cage.

9 CHAIRPERSON POWERS: Not every-- every
10 individual in ESH is--

11 EXECUTIVE DIRECTOR KING: No, just a
12 third of the people that are in ESH are in restraint
13 desks.

14 CHAIRPERSON POWERS: And how do you end
15 up in the restrained versus the non-restrained
16 sections of ESH, I think it was one, two, and three?
17 How do you end up in one, which is think is when you
18 are restrained versus three?

19 EXECUTIVE DIRECTOR KING: So, it's very
20 clear for young adults where the Board has been
21 granting variances and working with the Department on
22 the parameters at that unit, but young adults, if you
23 seriously injure someone else, you will go into a
24 restraint desk. Slashing someone or somehow other
25 seriously harming someone.

1 CHAIRPERSON POWERS: And then how do you-
2
3 - what is the determination about two versus three?

4 EXECUTIVE DIRECTOR KING: So, you need to
5 progress through the program. You need to not
6 misbehave in other ways or commit any other
7 infractions while in level one. Then you would move
8 onto level two where you would be outside of a
9 restraint desk, but still only outside of your cell
10 seven hours a day. You would again participate in
11 the programming, not do anything wrong, and then
12 you'd progress to level three where you'd have more
13 out-of-cell time and other privileges.

14 STANLEY RICHARDS: And that's been
15 something we've been working with the Department on,
16 trying to clearly define what does it take for people
17 to go from level one to level two, because that
18 really speaks to procedural justice. If people feel
19 there's fairness, clarity, and transparency in the
20 process, and then everybody's held to that process.
21 There's a sort of all buy-into that intervention, and
22 right now we don't necessarily have it. We work with
23 the Department to sort of clarify who goes into level
24 one in ESH. That is not true for the adults, and we
25 need a lot of work that we need to clean up there.

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2 EXECUTIVE DIRECTOR KING: And the
3 restrictive housing rule-making that the Board is now
4 engaged in will address that question as well.

5 CHAIRPERSON POWERS: And then similarly,
6 the question about-- I think-- and I think in order
7 to be, if you're below 21, to go into the housing you
8 have to have done something proact-- you know, it is
9 in response to you having done something, where after
10 22 it is, I think-- what is the standard by which you
11 end up in there after 22? And then why, why again,
12 why the difference between age groups and what the
13 sort of the housing, how you're housed?

14 EMILY TURNER: The standards outline a
15 number of criteria to get into ESH housing and allow
16 for a five-year look-back period. So, a five-year
17 look-back on your prior incarceration history in
18 terms of incidents of violence in custody. It also
19 permits a two-year look-back period if you've
20 committed a serious incident of violence outside of
21 custody, although the Department has never used that
22 to place someone. The criteria includes serious and
23 persistent violence, stabbing or slashing, possession
24 of a scalpel or a similar weapon, or equivalent level
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2 of seriousness, an incident of that level of
3 seriousness in custody.

4 CHAIRPERSON POWERS: So, it does strike
5 me that you're-- I guess the point is is that there's
6 a certain-- there are certain categories by which you
7 say "possession of a weapon" or perhaps other things
8 that might be what you would consider warning sign of
9 something that could happen that at age 22, 23, 24,
10 and older would get you into a supervised housing,
11 but we are reactive only to it. And I think that's
12 been one of the comments and concerns that's been
13 raised to us on the Council side that, you know,
14 absent wanting to bring back something that I think
15 has-- that can damage folks that in-- and I still
16 have always tried to figure out that bal-- that sort
17 of the change between the ages, but that the-- that
18 if there are warning signs at age 23 that might raise
19 somebody to say we should be supervising at age 20,
20 that those are applied differently. So, how is that?
21 What is the--

22 EXECUTIVE DIRECTOR KING: So, ESH does
23 allow for preventative measures through this five-
24 year look-back. I mean, the-- for adults. Now, the
25 Board tried to limit the parameters for young adults

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2 ESH." A lot-- when I've heard when I've toured, one
3 of the things a lot of the guys were saying is, "Why
4 am I here? What did I do? Why am I here?" And when
5 you create that kind of atmosphere, because violence
6 in the jails is not about a decision people make
7 saying I'm going to end up in solitary confinement or
8 not. Violence in jails is situational, what is
9 happening on the ground, the culture of the jails,
10 what's happening at the moment. And so that five-
11 year look-back really creates tension in the jails,
12 tension for the people that are in ESH that we really
13 need to take a look at, and I hope we look at that in
14 our rule-making.

15 CHAIRPERSON POWERS: Is there a-- is
16 there a proposal, you know, at the Board or in
17 response to that concern of a more limited look-back
18 period or another proposal that the Board has looked
19 at?

20 ROBERT COHEN: We do not yet have a draft
21 rule, but that is one of the things that we'll be
22 writing a rule about ESH. Currently, there is no
23 rule which allows for young adults to be in ESH.
24 It's only by variance, because when ESH was first
25 proposed, the Board unanimously did not want to put

1 young adults in ESH. The movement of the rulemaking
2 at that time was to recognize the danger of prolonged
3 solitary confinement and incarceration on young
4 people and wanted to stop that. So, yeah, we're going
5 to be engaging that. I think that the-- you know, it
6 is ar-- it was arbitrary, the 22. Our goal was to
7 decrease harm, and I think the Department is-- you
8 know, the number of people in ESH has increased--
9 Emily knows-- about 25 percent over the past year. I
10 mean, it is being used. And just to say-- this
11 doesn't again raise the young person issue, but the
12 Board approved the ability for the Department to put
13 250 people into ESH. They-- you know, they're now
14 about 150 or something in there. They were only up
15 to 100 recently. We have, you know, allowed
16 substantial capacity, and I think that, even though I
17 don't think it's a good idea, when you have someone
18 in ESH restraint units they are either locked in
19 their shell or restrained to a desk seven hours a
20 day. The only time that they're out-of-cell, if they
21 choose to be, and that's the equivalent of solitary
22 confinement for young adults, I think.

24 EXECUTIVE DIRECTOR KING: I can also
25 respond to the issue of prevention. The Board

1 absolutely agrees there should be more efforts made
2 at prevention, and I think that's something they will
3 look at during restrictive housing rule-making. And
4 just to clarify what I was saying about ESH, that
5 ESH, I think we made this clear, could be used as a
6 preventative housing mechanism. So, it's
7 administrative segregation if you're not going into a
8 desk. If you're just going into those units, it is
9 intended to be-- to prevent violence, not in response
10 to violence like punitive segregation is a reactive
11 system; it is after the fact.

12
13 CHAIRPERSON POWERS: Right, right.

14 EMILY TURNER: [off mic] I will point out
15 just--

16 CHAIRPERSON POWERS: [interposing] Yeah.

17 EMILY TURNER: about the Board's
18 oversight. So, within the actual standards that were
19 promulgated in 2015, the Board included a requirement
20 that we review after two years the efficacy of ESH
21 and how it was being implemented, and to that end, we
22 completed an assessment of ESH for adults, which was
23 released in April 2017 and an assessment of ESH for
24 young adults, which was released in July of 2017. As
25 a result of the findings in both studies, we made

1 significant recommendations to the Department, and we
2 are now seeing the Department start to adapt some of
3 those recommendations. For example, with respect to
4 young adults, as of March 2017 the average length of
5 stay in ESH was six months, and one of the concerns
6 at the report or the assessment raised was about the
7 longer length of stay and lack of progression through
8 the program, and now we are-- the Department has made
9 efforts to increase its review and improve its review
10 process, and as of March 2018, the average length of
11 stay is four and a half months. So we see a decrease
12 in the time in which young adults are spending in
13 this unit and the more progression through.

14
15 CHAIRPERSON POWERS: And one of the
16 earlier topics, I don't know if you folks were here
17 yet, was around restrictions and, you know, sort of
18 not having to resort to something like punitive
19 segregation, but you know, a gradual level of
20 restrictions around-- Council Member Lancman was
21 asking a question around visits, recreation,
22 movement, other privileges, civil, you know,
23 obviously rights and privileges, the law library,
24 commissary, television. Can you tell us today what
25 the level of restriction is provided on those

1
2 different topics or issues related to if one is
3 committing a crime or committing or violating, what
4 level of restrictions are used on them to-- you know,
5 some of it is punitive, some of it's preventative,
6 but what are the restrictions on library recreation,
7 visits, other things that you guys mention in your
8 testimony, out-of-cell time, showers, packages, mail,
9 personal property, what are those restrictions today?
10 And has the Board looked at or evaluated any changes
11 to them?

12 EXECUTIVE DIRECTOR KING: So, the Board
13 has, as I also stated today, in the past has
14 recommended to the Department that they formalize,
15 especially for young adults, a new alternative
16 disciplinary system in light of changes to
17 segregation. I think the Board still supports that
18 position, is supportive of the Department's efforts
19 to do that. In terms of today what the restrictions
20 look like, I was discussing restrictions that someone
21 might be subject to by virtue of living in a housing
22 unit. There's-- the standards outline also a set of
23 restrictions that can be made for an individual
24 outside-- doesn't matter where they live, but it can
25 be based on and issued to an individual based on

1
2 their security risk. A lot of the standards cannot
3 be used as punishment, because there's constitutional
4 issues around that. Certainly standards can be
5 limited on an individualized basis when there are
6 security concerns. Like, so for instance, there's
7 close to 300 people that are restricted to non-
8 contact visits today and on any given day. The Board
9 requires, you know, one six-minute phone call per
10 day, not-- nothing beyond that, the Department gives
11 beyond that. For some years there's been signs in
12 the jails that say, "If you assault an officer you
13 will be restricted to one phone call per day."
14 That's something that doesn't require a Board
15 standard change. The Department could have been
16 implementing all along. There are other changes
17 administratively that the Department can make and if
18 it requires a Board change, I think that the Board
19 has given evidence that it will certainly listen to
20 whatever those proposals are and collaborate with the
21 Department to make sure that it happens in the most
22 safe and effective way.

23 CHAIRPERSON POWERS: And what's the
24 Department's response been in terms of formalizing
25

1
2 always say to me on this issue. It's very hard to
3 come up with graded punishments when you don't have--
4 when there's nothing to take away. And so that's
5 another approach that we would certainly support the
6 Department on. I think would decrease violence and
7 would provide them with the tools and the security
8 staff, the tools that they're looking for.

9 STANLEY RICHARDS: I agree, and the
10 approach is give people the incentive to do well as
11 opposed to the punishment that will come from a
12 particular behavior. As someone who spent time on
13 Rikers Island, I've never-- and I spent time in
14 solitary confinement. I've never spent time in
15 solitary confinement sort of thinking about it, "Oh,
16 this particular thing." It was always something
17 that's happening in the moment in the facility on the
18 ground. And so as we are talking about these reforms
19 at the Department, that would be great if the
20 Department sort of thinks about how do we change the
21 culture and the operating procedures so that we're
22 providing incentives for people to know that, hey, by
23 doing good these things happen, and if you engage in
24 these other things, some things will be taken away.

1
2 CHAIRPERSON POWERS: Got it. I'm going
3 to hand it over to Council Member Holden. It sounds
4 like there's some level of agreement here around some
5 of these topics, and we'd like-- I think we'd
6 probably like to follow up with you on it, but I'll
7 let Council Member Holden take the--

8 COUNCIL MEMBER HOLDEN: [interposing]
9 Yeah, and I think the detainees should know if they
10 do this, this will happen. I think that needs to be
11 published or something given out to them. That just
12 makes perfect sense. I want to talk about Martha
13 King's testimony about there's an average of 13 days
14 before an in-- you know, after the incident then they
15 go into punitive segregation. Why is that?

16 EXECUTIVE DIRECTOR KING: The Department
17 would be best positioned to answer that question. It
18 came out of a study that Vera did out of 2015 data on
19 punitive segregation that there is this lag in
20 between the actual commitment of an incident and then
21 the final separation or segregation of someone.

22 COUNCIL MEMBER HOLDEN: Yeah, but to some
23 other people it could mean that the Department wants
24 to keep their numbers down of punitive segregation.
25 It's almost like there's a-- they're boasting. When-

1
2 - I think there's a waiting list, apparently, also
3 which if you have a long period of disconnect it
4 actually does no good. There is a point where, you
5 know, I don't know why I'm being-- and Stanley, by
6 the way, we went into Level One to visit Rikers, and
7 many of the complaints, "What am I doing here? I
8 didn't get my hearing." There's a disconnect
9 somehow, and maybe that's "I didn't do it" kind of
10 attitude, but there seems to be-- also I have
11 questions as after an incident, when do you get a
12 hearing to, you know,-- and what type of hearing is
13 that? I don't know the structure of it. I'd like to
14 hear maybe Stanley you could--

15 STANLEY RICHARDS: I could tell you, when
16 I was in solitary confinement, this was in '87, it
17 took me months to get in there. I had-- my hearing
18 happened pretty fast, and I was sentenced to solitary
19 confinement, but they didn't have enough cell space,
20 and this is when HDM was open. This was when HDM,
21 the Men's House of Detention was where solitary
22 confinement was. So we waited because there wasn't
23 enough cell space in that particular housing area to
24 get placing. I think that's the same situation now.
25 The other thing I think the Department-- this is a

1 Department question-- is who's in solitary
2 confinement. Because if you use solitary confinement
3 for every infraction, then you're not using your most
4 restrictive tool to really address people who are
5 doing or engaging in violence. So, I think the
6 question to the Department is who's in solitary and
7 why is there a back-log?
8

9 COUNCIL MEMBER HOLDEN: I'll jump back to
10 that for a second, but I just want to ask Doctor
11 Cohen, Tasers, I mean, I always thought Tasers were
12 to prevent physical violence to a person, trying to
13 grab them, throw them down. Tell me, so you don't
14 approve of Tasers at all in the-- or then what else,
15 what would you approve of?

16 ROBERT COHEN: Well, unfortunately they
17 have a lethality associated with them. I mean, and
18 these are not situations where the Department, where
19 they should be-- the problem is adding them to what's
20 being used. And now they're-- first, they were just
21 the ESU Captains. Now it's going to be everybody in
22 ESU, and then it's going to be other captains, and
23 perhaps more, you know. Then the chances of people
24 being very, very seriously hurt. I mean, I'm not an
25 expert on how to take people down. You know, the

1 Department is, and you know, it's the line-level
2 staff who are and the ESU is. They were able to run
3 the jails prior to Tasers. You know, I didn't think
4 that, and I've never heard the Department argue that
5 what they were missing was Tasers. So, to me, it
6 adds a potentially lethal instrument which doesn't
7 give substantial benefit.

9 COUNCIL MEMBER HOLDEN: Well, that may go-
10 - anything could be abused. Any form of restraint
11 could be abused, including shackles. I mean, that
12 could be-- we all know that. Seeing those-- seeing
13 the-- in level one, seeing them shackled was a
14 surprise to me. You know, there--

15 ROBERT COHEN: [interposing] No, anything
16 can be abused.

17 COUNCIL MEMBER HOLDEN: Right, right.

18 ROBERT COHEN: I'll give you an example
19 of that one particularly. There are facilities--
20 there are jurisdictions in this country that hog-tie
21 people with shackles. They put their-- they shackle
22 their hands behind their backs and then their legs,
23 and then their legs to their hands and they put them
24 on gurneys, and there's a-- you want to look at a
25 snuff [sic] video from Houston where someone was sat

1 on when they were brought to the medical area and
2 died on the way to the medical area by policy of the
3 organization. So, that's a case where shackling can
4 cause fatality, but shackling to a desk is not the
5 same thing as Tasing someone. The data on
6 Tasing, is that people can die from it,
7 particularly when it's used when someone is in a very
8 agitated state. There's a policy against using it in
9 that situation, but that is the situation where it's
10 likely to be used. So, I don't think there's a cost-
11 benefit analysis for it, and I think it's very risky.

12 COUNCIL MEMBER HOLDEN: So, do we have--
13 just going, jumping back to the main panel. Do we
14 have-- I mean, punitive segregation, is there a
15 different between that and solitary confinement,
16 because I hear back and forth it's really the same
17 thing, but is there a length of time that it becomes
18 solitary confinement serious? I mean, is there-- are
19 there studies that say ten days is too much, two days
20 is too much? What's the standard here that where
21 people, you can break people?

22 STANLEY RICHARDS: Yeah, I mean, our
23 rules say, you know, 30 days is the limit. And I've
24 heard, you know, there are different perspectives on
25

1
2 how much time is too much, but I don't know if
3 there's universal agreement on how much is too much.
4 What we do know is, prolonged solitary confinement
5 doesn't really change behavior. It doesn't, you
6 know-- two things, right? One, if someone commits an
7 infraction and it takes a long time for that behavior
8 to be addressed, you address it through solitary
9 confinement. They spend a long period of time in
10 solitary confinement. It doesn't address the
11 behavior that went in there. So, we came up with
12 sort of 30 days, and I think it was a negotiated
13 timeframe that 30 days seems to be enough to say that
14 what you did was totally inappropriate, this is a
15 punishment, and you change your behavior you can come
16 out of there.

17 COUNCIL MEMBER HOLDEN: So, solitary, and
18 these are for 21 and over-- 22 and over. And does
19 that include any-- so let's say they're in there for
20 30 days, let's say the max because they really-- an
21 egregious offense was committed. What happens? Are
22 they locked up 23 of the 24 hours a day?

23 ROBERT COHEN: I'll answer that. A
24 little more information. The 30-day is the maximum
25 unless it's an assault on an officer in which case it

1
2 can be 60, and we have a rule that says if the
3 Department believes that someone should not be let
4 out, that they can ask for a-- that they can keep
5 them in. They have to report to us on each
6 individual of those cases. They use it rarely but
7 regularly, and we gave that to the Department as a--
8 it's a 60-day-- you can extend it. I'm sorry, the
9 early part of your question was-- oh, yes. So,
10 people--

11 COUNCIL MEMBER HOLDEN: [interposing] What
12 happens--

13 ROBERT COHEN: are locked up 23 hours a
14 day. They have a constitutional right to recreation
15 one hour a day, and a small percentage of people in
16 solitary confinement take advantage of that. It
17 involves multiple-- and I'm not-- I don't know
18 another approach to this although it discourages
19 people. They have to be searched multiple times and
20 stripped searched in order to get to recreation, and
21 then they can go in individual cells. They're also
22 allowed showers each day. That's the only time
23 they're allowed out.

24 COUNCIL MEMBER HOLDEN: Any counseling
25 during that period?

1 EXECUTIVE DIRECTOR KING: During the 23-
2 hour lock-in, counseling?

3 COUNCIL MEMBER HOLDEN: If you're in
4 solitary,--

5 EXECUTIVE DIRECTOR KING: [interposing]
6 Yeah.

7 COUNCIL MEMBER HOLDEN: let's call it
8 that. If you're in solitary, is there any counseling
9 for those 30 days that you're in there?

10 EXECUTIVE DIRECTOR KING: There's not a
11 general program for them, no.

12 COUNCIL MEMBER HOLDEN: Right. So, but
13 if it doesn't work, you're saying solitary
14 confinement or punitive segregation doesn't work,
15 wouldn't that be the good time to really get somebody
16 one-on-one with these individuals to talk to them and
17 try to reason or just leave them 23 hours a day
18 alone?

19 EXECUTIVE DIRECTOR KING: So, the Board
20 has, I think, agreed that there should be
21 socialization and communication and potentially some
22 type of counseling or programming available and when
23 the Board standards already allow if someone is in
24 there for an extended period of time, I think it's 45
25

1 days, they're required to receive some type of
2 cognitive behavioral therapy which should address the
3 underlying violence or behavioral issues. I also
4 just wanted to point out that the Board came to the
5 30-day standard a few years ago. Obviously, the
6 United Nations uses a 15-day standard for extended
7 confinement as the dividing line, and some studies,
8 some of the most impactful studies show that it's
9 actually 10 days when you can see brain patterns and
10 brain waves change only after being in punitive
11 segregation or 23-hour lock-in for 10 days.

12
13 COUNCIL MEMBER HOLDEN: So, just one final
14 question. What is the Board's stance or at least how
15 are you addressing the gang situation? Are there any
16 recommendations from the Board as to dealing with or
17 studying how to-- how do we separate individuals from
18 the gang. I mean, are there any studies about this?
19 Because this, if it's a problem in our jails, then
20 maybe we should start to get serious with addressing
21 that if we haven't yet.

22 EXECUTIVE DIRECTOR KING: So, I think--
23 and some of our reports on ESH that we have
24 recommended additional interventions in those units
25 directed at gang violence in particular and that the

1 prevention of gang violence including the use of
2 credible messengers and restorative justice and other
3 things that have been proven to work in the street.

4 And in the restrictive housing rule-making, the Board
5 is also going to be including and hopefully requiring
6 that more of those types of programs are occurring in
7 the jails.

8
9 STANLEY RICHARDS: And the Department is
10 facing real challenges with that, because you know,
11 in the communities you have these larger gang sets,
12 and in the jails you have micro gang sets that belong
13 to-- so it gets a little challenging in the
14 classification and management of people associated
15 with gangs, but I think the programming is one part
16 of it, and I think better classification, truly
17 classification is another option.

18 CHAIRPERSON POWERS: Thank you, and it
19 strikes me that like when we have-- we have the
20 Department here, and they often say the Board doesn't
21 let us do x, y, or z, and then we have you guys here
22 and we hear the Department's not doing their jobs,
23 you know, on a, b, and c, and that there is a-- I
24 said this earlier about something else, but almost
25 like a disconnect or a need for some way to arbitrate

1 on these issues, because I suspect it's probably a
2 little bit of column A and column B, and it's not a
3 criticism of the Board, but there seems to be at
4 times the Department expresses either publicly or
5 privately-- I don't want to mischaracterize them, I
6 don't think they're here, but a feeling like their
7 hands are tied by the Board, by the Administrative
8 Code of New York City, by the State, and so forth,
9 and then we hear a number of recommendations that
10 they adopt/they don't adopt, rules, polices they
11 agree with/they don't agree with, or recommendations
12 made. How do-- any recommendations in how we improve
13 that conversation between the-- to avoid-- as we're
14 trying to, you know, decide on these issues, and need
15 more laws to pass governing our criminal justice
16 system how we can improve that process, because there
17 does seem-- I understand, you are a body that
18 oversees them, but I don't know if other Council
19 Members had this take-away, I certainly did, that we
20 hear a difference in terms of sometimes a finger-
21 pointing, and I don't mean that to get in the
22 negative, but a "who's responsible?" How do we--
23 this is just a broad, obviously, conversation. How
24 do we improve the engagement between the two?
25

1 seek to resolve the, "I don't have this, you can't do
2 this" conversation, and get to a place where we could
3 sort of work on solutions. Part of that process is
4 happening through our rule-making, but I think we
5 have to get to a place where it's not one saying one
6 thing and the other saying the other thing, because I
7 think at the end of the day we all want safety. We
8 don't want anybody to get hurt.

10 ROBERT COHEN: I just want to add one
11 other thing. Some of these things really are just
12 operational. I mean, we have a process. I think-- I
13 don't know if Martha gave it in her testimony. I
14 know it's in her notes, the number of variances that
15 we've been asked for and that we have given. I don't
16 think, you know, solitary confinement modification
17 was something we agreed on. You know, the Department
18 asked for variances all the time and we give them
19 almost all the time. sometimes we have conditions
20 and sometimes they find the conditions problematic,
21 and that's a lot of the-- that is when the conflict
22 arises, and one thing that we can both do, but it
23 really requires more effort by the Department is, you
24 know-- sorry, that was consolatory, taking it away at
25 the same time-- is for them to in much advance notice

1
2 as possible say we want a variance on this and to
3 allow the Board and the Department's staff to get
4 together to discuss this thing, not over a weekend,
5 which is what's been happening for the past several
6 years but over weeks or months, because these are not
7 emergency issues. Emergency variances, you just--
8 they're emergencies. These are non-emergency
9 variances. And then we can discuss these things in a
10 calm and productive way. So that is actually a
11 concrete thing that I urge, you know, our staff to
12 try to encourage the detainee to do and certainly we
13 threaten the Department and say you have to give the
14 variances more in advance, but that's something they
15 can do also to facilitate that.

16 STANLEY RICHARDS: And we have examples
17 where we work together, right? One is we had an
18 agreement about not using restraint desk in secure,
19 right? Is this secure? And every month they submit
20 a report. They haven't used restraint desk in secure
21 in a while. Now, we need to sort of look beyond that
22 and say, why, I don't know if it's because the census
23 is down or whatever. The other thing is we worked on
24 the restraint desk in level one for young people. We
25 tighten down who gets in there so the most

1 restrictive piece of the housing should be for those
2 who commit a current act of violence and not for the
3 five-year look-back. So there are times where we
4 work together to try to bring about safety and trying
5 to support the Department in managing the population
6 that they have today.

8 CHAIRPERSON POWERS: Thank you. I want to
9 round it up and let the public obviously have an
10 opportunity to testify, too, and I appreciate all of
11 you being here. One of-- I just wanted to ask a
12 question. One of the-- in the earlier testimony from
13 the Department, I think a number of my colleagues
14 noted this as well, their use of recording and
15 listening to phone calls of folks that are in
16 custody, and I think that was potentially surprising
17 or of concern to some of us around the fact that
18 folks, you know, are having their phone calls
19 recorded, and somebody who potentially can't even--
20 is in our custody because they can't afford bail, for
21 instance, has a different treatment around who gets
22 to listen to their phone calls versus somebody who
23 can't. Has the Board looked at that issue at all?
24 Have you taken a position on it? And or done any
25 sort of evaluation on it?

1
2 ROBERT COHEN: I believe, and I think I
3 was present at some of the meetings. I was not a
4 member of the Board. Around 2006 there was a major
5 standard revision carried out by the Board, almost
6 all of which were at the request of the Department,
7 and it was the Department's request to allow
8 listening into phone calls that became part of our
9 standards. I certainly agree with you that this is
10 something that should be done only under the most
11 restrictive circumstances. I mean, there clearly are
12 times when wire-tapping is an appropriate response to
13 a threatening situation or for an important
14 investigation, but I share your concerns, and we
15 don't have any plans right now, but certainly we
16 could work with the Council towards that if you would
17 like, or you can do it yourself.

18 CHAIRPERSON POWERS: Well, the reason I
19 bring it up is we're talking about safety and
20 security. So I understand that in some cases that's
21 used as a measure to protect safety and security.
22 So, but I think there's concerns about due process
23 and the widespread use of it. What year did you say
24 they instituted it?

1
2 ROBERT COHEN: I'm pretty sure it was--
3 it was around 2007. That was the-- it was 2007.

4 EXECUTIVE DIRECTOR KING: So, the Board
5 Standards allow for this. That's what's Bobby's
6 saying. As long as there is--

7 ROBERT COHEN: [interposing] That was a
8 new standard allowed in 2007.

9 EXECUTIVE DIRECTOR KING: As long as
10 notice is given to prisoner who is being affected,
11 and there has to be legally sufficient notice, but
12 it's--

13 CHAIRPERSON POWERS: And what is-- what
14 qualifies for-- as notice?

15 EXECUTIVE DIRECTOR KING: It's not
16 specified in the standards.

17 CHAIRPERSON POWERS: The little sign that
18 is up near the-- any posted sign qualifies as notice?

19 EXECUTIVE DIRECTOR KING: That's an
20 interpretation question that the Board would have to
21 look at.

22 ROBERT COHEN: I don't know. I'm sorry.
23 We'll follow up, too.

24 CHAIRPERSON POWERS: I would ask-- I
25 won't speak on behalf of the City Council, but I

1
2 certainly would be interested in the Board taking a
3 look at that, or what might even be sufficient
4 notice, because I would be concerned that there are
5 people who are having their-- we talked about four
6 percent of the population that's causing violence.
7 That other 96 percent is still getting surveillance
8 of their phone calls. Presumably it's so that-- and
9 we talked about subpoena for anything that might be
10 used, you know, can't stand at their trial, but
11 still, I think we have con-- I-- that shows some
12 concern that somebody is having all of their phone
13 calls listened to, and I would ask the Board to
14 consider even modifying the minimum for what might,
15 you know, be considered notification, especially for
16 somebody-- folks who are having short stays there I'm
17 not sure are fully aware of their rights there. Do
18 you have any more-- okay? Thank you. Thank you for
19 being here.

20 ROBERT COHEN: Thank you.

21 STANLEY RICHARDS: Thank you.

22 CHAIRPERSON POWERS: Thank you. So, we
23 will now go to our next panel. We have the
24 Correction Officers' Union is up first. We'll take
25 just a one-minute break to allow for everybody to get

1 up and then we'll get started. One minute is up.
2 Thank you. Thank you for being here, and I think
3 that you've submitted your testimony and a report as
4 well, so I think we have copies of it. You're
5 welcome to start whenever you're ready.
6

7 ELISA HUSAMUDEEN: Actually, it's good
8 afternoon now. So, good afternoon Chairman Powers and
9 the distinguished members of the committee. My name
10 is Elias Husamudeen and I am president of the
11 Correction Officers' Benevolent Association, the
12 second-largest law enforcement union in the City of
13 New York. Our members, as you know, provide care,
14 custody, and control of over 9,000 inmates and over
15 55,000 inmates in just last year alone. We are here
16 today to discuss the topic of safety and security in
17 the City, in the New York City Department of
18 Corrections. Before I begin, I would like to express
19 my gratitude to both City Council Speaker Corey
20 Johnson and Committee Chairman Keith Powers, and
21 actually other members of the City Council that I
22 have met with and have spoken to. I want to also
23 thank you for-- thank you guys for signing a letter
24 and sending a letter to the Speaker and to the
25 Assembly in support of the scanners. I'm not going

1
2 to read my entire 20 pages here. I'm just going to--
3 if it's okay with you just make a couple of
4 statements. You have my testimony, you can read it.
5 One thing that I would like to do and say that's a
6 little different is that despite everything that's
7 been said here in this room here today, I think that
8 an injustice is done to New York City correction
9 officers when we don't pay attention to certain
10 facts. I think the fact of the matter is is that for
11 2017 New York City correction officers took custody
12 of 65,000 inmates. And out of that 65,000 inmates we
13 were able to keep the use of force and violence down
14 to under six or seven percent. Most people when they
15 hear that there are 4,800 use of forces are under the
16 impression that that's 4,800 use of forces that had
17 to do with the average daily population of 9,000
18 inmates and in actuality, if that was the case, then
19 everybody should definitely be up in arms. But the
20 fact of the matter is that 4,800 use of force
21 incidents covers an entire year and covers more than
22 65,000 inmates. The other thing that I think is
23 important that should not be overlooked is that I'm
24 here today to say that we as correction officers are
25 looking for help. I think that the fact that we were

1
2 correction officers get enough credit to be very
3 honest with you. And just sitting here today
4 listening to the questions, to the Department of
5 Corrections, the Board of Corrections, and just
6 listening-- looking at the questions. for instance,
7 your colleagues that came in here, Danny Dromm and
8 the other guy, and the only thing they were concerned
9 about was phone calls, inmates getting phone calls.
10 Inmates get phone calls. Most of them get as many
11 phone calls as they want, even though we say they're
12 supposed to get one and six minutes. They want not
13 to record the conversations. We just recently had an
14 inmate who made more than 100,000 dollars by using
15 the phone system in the jails to continue to run his
16 illegal activity, and made enough money to bail
17 himself out. We have inmates who actually put hits
18 on other inmates over the New York City Department of
19 Correction phone system, and to have the City Council
20 members sit here and only be concerned about whether
21 the phones are being recorded or not, that their
22 privacy is being invaded. Are we-- this is not the
23 boys' and girls' club of America where there are
24 phone booths. These are jails, and I encourage you
25 to continue to all the Department of Corrections to

1 record the phone calls. Quite frankly, Correction
2 Officer John Suffant [sp?] who got his neck broken,
3 if we wasn't able to go to the phone call, we would
4 have never known that the inmate assaulted this
5 officer simply because he wrote him an infraction, a
6 ticket, for blocking his window. So, please, be
7 careful as you guys sit around and try to make
8 decisions about jails and about what should and
9 should not go on inside the New York City jail
10 system. If you-- this is what we need and this is
11 what we believe. In my testimony there are five
12 proposals. I have submitted these proposals to you
13 guys individually. I've submitted it to the Council.
14 I've submitted to the Speaker. I've submitted it to
15 the Mayor. I've submitted it to the Department of
16 Corrections. I have submitted to the Board of
17 Corrections. I have submitted it to the State
18 Commission on Corrections. So, it should be no
19 secret to anybody as to what we think would help us
20 in reducing the violence that takes place on Rikers
21 Island and inside the New York City jails. We talk
22 about visits. We talk about recreation. We talk
23 about telephones, haircuts, commissary. There are a
24 lot of things that have been proven to work, and we
25

1 segregation is simply a political-- political dogma.
2 It wasn't done based on facts. It wasn't done based
3 on anything other than somebody's political agenda,
4 political opinion. The other thing that we need
5 besides the sanctions that we believe that will
6 continue to help us in our fight to reduce the
7 violence inside the jails are the things that we ask
8 for, such as individual gas masks, such as
9 smartphones, and the things that other agencies have
10 been provided to help them reduce crime. One of the
11 other things that we asked for was a new Correction
12 Academy. It's something that we've been-- people
13 been blowing smoke at. You know, there was money put
14 in the budget. The money disappeared. We-- you
15 know, there was 100 million dollars put in the budget
16 to build an academy, and it's gone. We need an
17 academy. We need a real academy because part of the
18 other reason for the increase, I believe, in violence
19 in the jails and the assaults against correction
20 officers is because there's-- the training is lacking
21 especially scenario-based training. There are too
22 much classroom training for New York City. We spend
23 too much time in a classroom and not enough time
24 actually being trained to do what it is that we
25

1 supposed to do. We asked for the gas masks. We
2 catch hell one way or the other, Chairman. When we
3 use the gas, they say we use too much gas. Although,
4 when we use the gas there's no injuries to the inmate
5 or the officer. In this booklet that I've provided
6 everybody with I put those numbers. Those numbers
7 are from February 2017 to February 2018. And the
8 fact of the matter is, if we use gas in more than
9 2,200 incidents, which is considered a use of force,
10 then I think again, why are we being demonized? Why
11 are we being villainized when we're using something
12 that actually allows us to reduce the amount of
13 physical, physical harm and damage to people,
14 including ourselves? We still don't have a range.
15 We have one range. I have more than 10,000 officers
16 who have to qualify, requalify with their
17 institutional weapons, with their personal firearms.
18 Our Emergency Service Unit, which was reduced
19 terribly under the previous commissioner, needs to
20 be-- needs unit improvement. And we also need new
21 riot gear. So, just to-- two seconds, and then I'll
22 finish. I have to talk about this. If you look at
23 page nine of the booklet that we passed out, on page
24 nine, I intentionally put a lot of facts on that
25

1 page. On the bottom of the third paragraph it says,
2 "A total of 1,727 use of force involved correction
3 officers breaking up or stopping inmate fights. So
4 when you look at the total number, 4,800 use of
5 forces, although when we hear use of force most of us
6 think there's some type of actual correction officer
7 using force against an inmate. So you have 1,700
8 incidents where the force simply involved my members
9 separating two inmates who are fighting. If you also
10 look in this here, every-- the City Council should be
11 ashamed of this. The Department of Corrections
12 should be ashamed. On page seven, on the bottom it
13 says, "splashing." For this period, 744 correction
14 officers had urine and feces or toilet water thrown
15 on them, 744 correction officers. Under that,
16 spitting, 268 correction officers were spit on. If
17 you look at-- if you look at-- I gave you a sample of
18 what it looks like. Most correction officers when
19 they're spit on by inmates are actually spit on in
20 their face. So, we sit here and we're discussing--
21 everything that's wrong with punitive segregation,
22 everything that's wrong with locking an inmate in.
23 Jim [sic], and here's a hypocrisy for you, and it's
24 in this book. So, the four inmates who assaulted
25

1
2 Correction Officer John Suffant, they were all 18-
3 year-olds. We know from the phone call. We know
4 from the phone call that he assaulted him because he
5 got upset because the officer wrote him an
6 infraction. We say here in New York City we don't
7 believe in punitive segregation. So we sent them to
8 Albany jail system, and guess where they're put? In
9 punitive segregation. So, it's fine. We don't
10 believe in the death penalty, but you know what, send
11 them to New Jersey where they have the death penalty.
12 There's just major, major hypocrisy here. Everyone
13 talks about the-- being concerned about the inmates.
14 Well, what happens when you send these four inmates
15 up to Albany? So, what, does momma have to go to
16 Albany? But we're also concerned about how long it
17 takes them to go to Rikers Island, but we'll send
18 them to Albany. Well send them to Nassau and Suffolk
19 County. There's just a lot of hypocrisy. One of the
20 things, brother, that we are looking for and that we
21 want-- and I'll be finished. We want people be to
22 fair across the board. Be fair. Don't come to these
23 hearings and talk about things that you actually know
24 nothing about. I have people who locked up in jail
25 30 years ago, 30 years ago. Thirty years ago, Rose

1 M. Singer didn't exist on Rikers Island. George R.
2 Vernell [sp?] Center didn't exist on Rikers Island.
3 OBCC, CPSU-- there was at least four jails that
4 didn't even exist on Rikers Island in 1987, and they
5 exist now, and a lot has changed in 30 years despite
6 what people say. We have to be realistic about the
7 job that you ask my people to do. Our job is care,
8 custody, and control. Our job is to maintain some
9 type of order in the jail system, which is what we
10 do, and like I said, we do one hell of a job. Under
11 the circumstances when we have nothing but people
12 attempting to make us look like we are responsible
13 for a culture of violence. Brother, you asked over
14 and over all day, all day you asked, "What do you
15 attribute this increase to violence to?" You asked
16 this question all day, and I sat there for the last
17 four or five hours just watching people tap dance and
18 do like Gregory Hines [sp?], just dance around this
19 question. It's not really that complicated. It's
20 not that complicated. We can't say that, "Oh, crime
21 was down. It was lower when we had 22,000 inmates."
22 We had a different inmate. We also had a different
23 correction officer. The inmates that we have now are
24 not turnstile jumpers. We don't have them. The
25

1 inmates that we are now keeping in our system, even
2 the 16 and 17-year-olds, most of them are there for
3 violence, and I don't care what type of spin anybody
4 put on it, the four inmates who attacked John
5 Suffant, what were there charges? What are they in
6 for? Gun charge, attempted murder, felony assault,
7 these are the four 18-year-olds, and these are the
8 people that we're dealing with, and the fact of the
9 matter is, it's unfair to the other 9,000 inmates in
10 our system for you guys to not pay attention and take
11 a stand. This is in closing: The one thing I found
12 from talking to every one of you, you and your
13 colleagues, and others, you all have a definitive
14 answer when the question is asked about shutting down
15 Rikers Island. You guys don't skip a freaking beat
16 with that question, but every time we ask what do we
17 do with this less than one percent of inmates who are
18 violent, you guys either trip up, pass out,
19 disappear, and that's not fair. If you can be
20 definitive as to why you think Rikers Island should
21 be closed and all of the jails should be located in
22 the boroughs, as if that's going to reduce the
23 violence, then you should be able to be clear about
24 what we do. because if we can send more than 40
25

1 inmates to Nassau and Albany and Suffolk where they
2 have punitive segregation and that's where they're
3 put, where they have stiffer and harsher penalties,
4 and that's what they have to abide by, then what is
5 this "not in my backyard?" It reminds me of a
6 scenario of "wait until your father gets home." I'm
7 not going to beat you. I'm not going to discipline.
8 I'm not going to talk to you. I'm not going to give
9 you a timeout. Wait 'til your father gets home. And
10 that seems to be the attitude of most of the law
11 makers here. We don't want punitive segregation
12 here. Wait until you go to Albany. Wait until you go
13 to Suffolk. Wait until you go to Nassau. So,
14 please, anything that you can do on behalf of
15 correction officers and helping us to get the
16 Department of Corrections and mostly to get the Board
17 of Corrections to actually function and operate as an
18 oversight committee and not somebody who think that
19 they run a jail on a day-to-day basis, and get a
20 Commissioner who can actually commit to doing what it
21 is that she's commissioned to do by the law, I think
22 we'd see even lower numbers when we sit down back in
23 this room. I want to thank you very much for
24 listening.

1
2 CHAIRPERSON POWERS: Thank you. And a
3 couple of questions and follow-up, and I'll also let
4 Council Member Holden jump in. Let's start on
5 punitive segregation because it's obviously the
6 biggest point. Is the-- I mean, I think your point
7 was that it was made on political-- a political
8 calculation. Does that mean you disagree with the
9 findings, the medical findings that state that there
10 are mental health and other health concerns to
11 inmates and young inmates? I just want to be clear.
12 I mean, I think the statement was it's political.
13 Does that mean you disagree with the-- I think 80
14 people testified at the Board of Corrections hearing.
15 Is that a disagreement with the--

16 ELISA HUSAMUDEEN: [interposing] Yes, I am
17 in disagreement. Let me explain something to you.
18 Let me get very personal for a minute. I'm one of
19 seven. I have five brothers, two sisters, and all
20 five of my brothers have been incarcerated. Two of
21 my brothers just left Rikers Island maybe about six
22 months ago. I have a sister who just left Rikers
23 Island not too long ago. I have a baby sister who is
24 a New York City Correction Officer as well as
25 nephews. Let me explain something to you. Do you

1 think I want my sister, my brothers to be locked in a
2 cell somewhere and there's no-- no, I don't. so, I
3 just think that when we start talking to Doctor Cohen
4 and the Department and these people with all of their
5 studies about prisons, about prisons and what
6 happened in prison, and try to compare it to what's
7 happening in a New York City jail system, I think is
8 disingenuous. I think that the New York City
9 Correction Officers, we're not even asking for
10 punitive segregation for anything. We're asking for
11 punitive segregation which is not solitary
12 confinement. No, I am not a doctor or psychiatrist,
13 but I have been in solitary confinement cells. I've
14 visited, like everybody's visiting Rikers Island. I
15 know what a solitary confinement cell look like.
16 Solitary confinement is just what it says, solitary.
17 You're by yourself and you're confined. Punitive
18 segregation is just what it says. It's punitive, and
19 you're being segregated because you just sliced this
20 inmate and he has 22 additional stitches across his
21 face. So we find it necessary, number one, to punish
22 you, and number two, to separate you, and we're
23 separating you with others who are just like you.
24 So, this is not a situation where someone is in a
25

1 cell confined somewhere by himself. They're in a
2 cell right next to somebody else. There's 32 cells
3 in the punitive segregation housing unit, and they
4 talk to each other all day. So, this is not a
5 situation where you have somebody peeping through a
6 hole in a door, waiting for the sun. I think
7 sometimes we watch too much TV, and we're not looking
8 to put anybody in punitive segregation for 100 days.
9 Right now, if you're 21 years old, you can't go in
10 punitive segregation if you sliced inmate Jones
11 across his face, but if you just turned 22 and you
12 sliced inmate Jones across his face right here in New
13 York City on Rikers Island, we could put you in
14 punitive segregation. There's a lot of hypocrisy.
15 There's a lot of hypocrisy, because this is not real.
16 Listen, whether it's-- brother, whether we put an
17 inmate in punitive segregation for 15 days, 10 days,
18 or five days, this is what I'm going to say to you:
19 "Did the New York City Department of Corrections
20 misuse punitive segregation?" You're damn right they
21 did. Was it misused? It was misused. Was it
22 overused? Yes, it was overused. But to say that
23 we're the only-- the first in the nation to eliminate
24 punitive segregation should tell you something,
25

1 because we have jurisdictions that have punitive
2 segregation, never eliminated, but they don't use it,
3 because they don't have to use it because the other
4 things that they put into place to try to control
5 things actually work. So, yes, I disagree, and I
6 believe that we should have punitive segregation. I
7 also believe that if an inmate is in punitive
8 segregation or detainee, whichever you guys want to
9 call them, is in punitive segregation for 10 days, 15
10 days, and he's released from punitive segregation and
11 it did nothing, nothing to curb his behavior, to
12 correct his behavior, to-- if it doesn't work, then
13 what I'm saying to you and everyone is, he should not
14 be with us. Because it works for most of the inmates
15 that we place in punitive segregation. I know they
16 have their data and stats, and data and stats is just
17 what it is. Things could be manipulated to say
18 whatever it is that you want it to say, but at the
19 end of the day, if punitive segregation doesn't work,
20 whether it's 10 days, that person obviously has a
21 problem and he should not be with us. and then you
22 should have the-- you should be able to call the
23 Department of Mental Health, Mrs. Mary Bassett, the
24 Commissioner, and you should be able to call the
25

1 Deputy Mayor Palacio, the Deputy Mayor of Mental
2 Health here and ask them, have them tell you what to
3 do with these inmates that punitive segregation did
4 not work for, because we're not mental health
5 workers.
6

7 CHAIRPERSON POWERS: So the four--

8 ELISA HUSAMUDEEN: [interposing] We're not
9 psychiatrists or social workers.

10 CHAIRPERSON POWERS: You made the point
11 about the four that committed the incident and are
12 now in Albany punitive segregation. Do you believe
13 those four people will never commit another incident
14 or violation because they were in punitive
15 segregation?

16 ELISA HUSAMUDEEN: This is part of what
17 the problem is, they're not connected-- they're not
18 collecting the data of inmates who was in punitive
19 seg and never went back to punitive seg, although
20 they're still in jail. They don't have that data.
21 The only data that they're giving you is the data
22 that says it doesn't work. So, like I said--

23 CHAIRPERSON POWERS: [interposing] You're
24 saying-- let me just clarify that. No, I want--
25 that's a--

ELISA HUSAMUDEEN: [interposing] Go ahead.

CHAIRPERSON POWERS: The point is that they don't collect data from-- if you've been in-- if you've been in repeatedly in punitive segregation, which would be in the one-- one indicator of whether-- not the only indicator, by the way, but one indicator of whether you are continuing to be a repeat offender. But I guess, my-- so, the data can be collected, and that's something we can talk about. My question is actually the question I asked, which is does going into punitive segregation under your-- in your view, because you are-- you're the strongest advocate for it, so I just want to ask a question. Do you believe it is a deterrent, or is it--

ELISA HUSAMUDEEN: [interposing] Yes.

CHAIRPERSON POWERS: From future-- so you think that if we did collect the data that the numbers would say that somebody who spent 15 or whatever the days are do not return?

ELISA HUSAMUDEEN: I--

CHAIRPERSON POWERS: [interposing] Or not--

-

ELISA HUSAMUDEEN: We are of the opinion that once we put them in punitive segregation and

1
2 they come out and it doesn't work, they don't need to
3 go back to punitive segregation. Any intelligent
4 person knows that there's a problem there. Why would
5 I--

6 CHAIRPERSON POWERS: [interposing] What
7 about returning--

8 ELISA HUSAMUDEEN: [interposing] put you
9 in punitive segregation two, three, four times? You
10 have a problem. You need to see somebody, and it's
11 not a correction officer, because obviously it's not
12 working for you. Obviously that is a tool that's not
13 working for you. And yes, we do have inmates that it
14 don't work for. Look, I have the benefit of having
15 been a correction officer who worked punitive
16 segregation for four years in AMKC at a time when we
17 had 22,000 inmates, and yes, I say it work because
18 the average inmate that we put-- 99 percent of the
19 inmates that were put in punitive segregation with
20 me, although they never left jail, never came back go
21 punitive seg, but then there was a percent that we
22 put in over, and over, and over. So in hindsight, in
23 retrospect, we should not continuously put them in
24 punitive seg, because obviously they have a bigger
25 problem, and that's the reason why we have the Deputy

1
2 Mayor of Mental Health or a Commissioner of the
3 Department of Mental Health, and I think that they
4 should be brought to the table, and this way we could
5 stop villainizing and trying to make correction
6 officers look like we're something-- like something's
7 wrong with us when you continue to give us this same
8 classification of inmates it work with. What do they
9 say? They say the definition of insanity is to keep
10 doing the same thing over and over expecting a
11 different result. If you keep giving me this inmate
12 and we put him in punitive seg and it didn't work, we
13 put him in ESH. It didn't work. Everywhere we put
14 him it didn't work. They don't belong with us, but
15 we should also consider the fact that these same
16 inmates when we transfer them to Suffolk County,
17 Nassau and Albany, for some reason their behavior
18 cease. They don't have the same behavior for some
19 reason when we send them out to another jurisdiction.
20 So, that needs to be looked at as well.

21 CHAIRPERSON POWERS: I think to be fair,
22 there's concerns about separating to keep the rest of
23 the population and your folks safe.

24 ELISA HUSAMUDEEN: Absolutely.
25

1
2 CHAIRPERSON POWERS: Then there's the
3 part of when they have to come back and they have to
4 be part of our community to make sure that they are--
5 mental health needs are met.

6 ELISA HUSAMUDEEN: Re-entry.

7 CHAIRPERSON POWERS: That they can re-
8 socialize and everything else, and I think that the
9 concern, I think the reason that it was taken away in
10 the first place is a belief that you can keep -- you
11 can do the safety and at the same time do the
12 rehabilitation.

13 ELISA HUSAMUDEEN: Yes.

14 CHAIRPERSON POWERS: And are you-- it
15 strikes me that we are not doing the right-- I mean,
16 I think Council Member Holden asked a question about
17 services provided while one is in the 23-hour lock-up
18 that it might deserve its own topic, but I think the
19 rebuild-- the point is-- I mean, tell me where I'm
20 wrong here. That the-- you're losing em-- you're
21 losing an opportunity to rehabilitate a person and
22 probably doing more damage. And I think the reason I
23 asked a question about the medical evidence is there
24 seems to be a lot of it that says you could be doing
25 harm. And so perhaps we'll-- so my-- where I'm going

1 with this is, you mentioned other facilities that are
2 opting out of using it, keeping it as an existing
3 thing, but opting out of it, which to me, if you're
4 opting out of it, you're-- you might as well not have
5 it. I mean, it's the same thing.

6 ELISA HUSAMUDEEN: Well--

7 CHAIRPERSON POWERS: [interposing] But
8 the-- so we've just taken the formal role of doing
9 it. But the-- if they're opting out of it, and
10 you're saying they're still controlling crime--

11 ELISA HUSAMUDEEN: [interposing] That's
12 not-- that-- come on, brother.

13 CHAIRPERSON POWERS: So, what-- but what
14 you're-- you made the point. So you made the point
15 that you can still control violence in facilities
16 where they're' opting out of using solitary--
17 actually exercising it, not that it doesn't exist.
18 So what are those things that they're using that
19 we're not doing or that we could be doing to help
20 control violence absent of it?

21 ELISA HUSAMUDEEN: They have exactly what
22 you see in our proposals. For instance, give you an
23 example. Under minimum standards, whether it's
24 coming from the Board of Corrections or the State
25

1 Commission on Corrections, an inmate/detainee is
2 entitled to a visit, but he's not entitled to a
3 contact visit. So, in these other jurisdictions,
4 they will take away a contact visit of a detainee or
5 of a visit. In these other places, they won't get to
6 shop and buy Doritos or Slim Jims or a bag of potato
7 chips. Under these other jurisdictions they have
8 rules that they put in place. The problem that we
9 have here is everything that we attempt to do,
10 everything that this agency attempts to do, we have
11 to then deal with the advocacy groups and the inmate
12 advocacy groups and the Board of Corrections who
13 again seems to think that they are actually the
14 Commissioner in charge of running the agency, and we
15 have to make-- look, we have to make decisions
16 sometimes, and nobody's sitting around trying to go
17 and talk and have conversations with the advocates or
18 the Board of Corrections. We have a job to do, and
19 we're not looking to abuse inmates, and we're not
20 looking to take advantage, and we're not looking to
21 have them psychologically messed up because we kept
22 them locked in a cell for five days and didn't let
23 them out. Those are not the things, but the reason
24 why some of the other jurisdictions don't have to use
25

1
2 punitive segregation or use solitary confinement,
3 although they have it, is because of the other
4 sanctions and the other things that they are allowed
5 to do without outside people breathing down their
6 necks, to be honest with you.

7 CHAIRPERSON POWERS: So, you, I think,
8 just to summarize, believe that a set of proposals
9 that if you're here maybe there's more, could reduce
10 the need-- could reduce behave-- could improve
11 behavior,--

12 ELISA HUSAMUDEEN: [interposing] Yes.

13 CHAIRPERSON POWERS: reduce violence, and
14 absent the use-- I mean, I think the point you made
15 is that other jurisdictions have control without
16 punitive segregation. So you would be okay without
17 punitive segregation if these other measures exist.

18 ELISA HUSAMUDEEN: I'm never going to be
19 okay without punitive segregation as something that's
20 standing there that everybody knows that ultimately
21 if this don't work, I have this. Listen, the reality
22 is-- and see here again, the reality is 99, the
23 majority of inmates or detainees in the New York City
24 jail system don't commit crimes while they're in the
25 system. They don't violate the rules while they're

1
2 in the system, and we seem to be stuck on stupid when
3 it comes to dealing with the less than one percent,
4 and it's not fair to the other 90. Brother, it's not
5 fair that as an inmate I have to be afraid that this
6 inmate, because he knows that he's not going to be
7 punished, he can cut me, he can stab me, he can rape
8 me, he can rob me, he can extort me. It's like you
9 guys-- come on. The other 99 percent of our inmates
10 who actually do what they're supposed to do, they
11 come in here, they leave, they go home. Where is the
12 protection for them? It's not just the New York City
13 correction officer that's having a problem. It's
14 not-- there's 121 civilians who was assaulted and
15 hurt while working in these jails. We have to do
16 something about the small group of people who is
17 making it safe-- unsafe for everybody else.

18 CHAIRPERSON POWERS: Can I ask a follow-
19 up question? On the-- on where the sanction should
20 be placed. You make a point that splashing and
21 spitting incidents is one example where that should
22 result in a further reduction of privileges,
23 services, and what is the threshold by which you're
24 proposing that a-- an individual gets a reduction in-

1
2 ELISA HUSAMUDEEN: [interposing] I have to
3 tell you, in my last contract negotiations, we were
4 forced to negotiate concerning uniforms, replacement
5 of uniforms, and the only reason we were forced to do
6 that is because of the number of officers who are
7 being splashed with urine and feces, and I'm being
8 nice about it-- and toilet water. And sometimes it's
9 water, but being splashed. That's a crime. Now, we
10 have more than 320 cases before the Bronx District
11 Attorney of inmates who are waiting to be sentenced
12 in the Bronx District Attorney's Office for
13 splashing. It's horrible. It's disgusting, and
14 everybody can-- we can all sit in our office or sit
15 around the table and talk about it as if it's not
16 disgusting. It's a crime, and when they do that, I
17 believe whatever the fullest extent of everything
18 that we have as far as sanctions is concerned should
19 be dropped on them. Let me explain something to you.
20 we have more than 10,000 cameras in the New York City
21 Department of-- they're damn near ain't nowhere
22 except the bathroom where they don't have cameras.
23 So it's not hard to see what the officers are doing,
24 whether it's right or wrong, and it's not hard to see
25 what the inmates are doing, whether it's right or

1
2 wrong. So, when this thing happens, to answer you
3 Mr. Chairman, the entire book should be dropped on
4 them, because no one should have urine and feces
5 thrown in their face, in my eyes, in my mouth. Here
6 it is I'm exposed to Hepatitis. I'm exposed to AIDS.
7 I'm exposed to whatever-- I'm exposed to everything
8 when someone's throwing urine and feces on me, in my
9 face. They should have the book dropped on them.

10 CHAIRPERSON POWERS: I'm going to let-- I
11 appreciate that. I-- thank you for the answers. I'm
12 going to let Council Member Holden-- do you have
13 questions?

14 COUNCIL MEMBER HOLDEN: Thank you. And I
15 do agree that punitive segregation should be on the
16 table, and I agree with you, Elias. And I'd rather
17 trust somebody who's on the front lines, obviously,
18 that's been through it and has the experience. I'll
19 defer to that group rather than people who are citing
20 studies that we never get, we never see them, and we
21 don't even know the parameters of these studies.
22 However, one-size-fits-all rarely works for anybody.
23 A deterrent for me might not be one for you. If I'm
24 a member of a gang, I may be trying to prove
25 something, that I could cut this guard, this

1 correction officers, I could splash a correction
2 officers. I could slash another inmate. So, they're
3 all different. We all have it. We have it in
4 society. We have deterrents in society. So, I think
5 we have to act as to what's happening, react as to
6 what's happening now. In 2016, punitive segregation
7 was taken off the table, and I think we have the data
8 now that shows that maybe has to be put back on the
9 table. Maybe it needs to be looked at as a deterrent
10 for some individuals. Others, if they keep doing, if
11 it doesn't work, then what I mentioned earlier to
12 Doctor Cohen, I said well, what about-- these people
13 need therapy. These people need-- instead of 23-hour
14 solitary confinement, they need counseling, and
15 that's a good opportunity to get some counseling. So,
16 again, when I'm hearing the Board, actually, when the
17 Board-- I think the Board doesn't have a bunch of
18 answers, and I think, Elias, you'll agree, that
19 they're making recommendations without experience,
20 just like the use of Tasers with Doctor Cohen saying,
21 "Well, I don't know. I haven't used it. I don't know
22 what." How do you take down somebody, an individual
23 that's attacking you? So, I'll listen to the experts
24 who are on the front lines. So, I appreciate your
25

1 testimony. I think we all need to listen more, not
2 only in the Council, but on the Board and in the
3 Department of Corrections. We have to get us all in
4 a room and let's start to talk more often about this.
5 And I still haven't-- I've been on this Council now
6 almost four months. I still haven't heard has there
7 been a study to rebuild Rikers the right way. I don't
8 think these borough-based facilities, to me it
9 doesn't make sense a vertical jail is safer than
10 something like Rikers where you have plenty of room
11 and you can actually build light airy-- if they're
12 saying light and air are great for behavior, then why
13 not rebuild Rikers. The idea of being closer to your
14 home is relative. Obviously, if I live in East
15 Elmhurst, I'm closer to Rikers than I am in Cue
16 Gardens. I haven't heard how the Queens Borough
17 Detention or jail is going to even house the thousand
18 that it really needs. It only holds 400. So there's
19 a lot of unanswered questions that I have that I'm
20 not hearing, since I've been on the Council I haven't
21 heard. I haven't heard good arguments. I haven't
22 heard reasonable discussion. I hear people just
23 preaching and saying this has to be done, this has to
24 be done, without actual data or without actually
25

1
2 answering questions. So, all we know is more
3 correction officers have been slashed, splashed,
4 attacked, and the only answer is more programs which--
5 -

6 ELISA HUSAMUDEEN: Well, if you-- see,
7 that's the Department's answer to everything, a
8 program. When they eliminated punitive segregation
9 for the 16 to 21-year-olds-- for the 16 to 17-year-
10 olds what they did was-- this is what Commissioner
11 Ponte did. He created programs called TRU, Secure,--
12 some of them you visit-- second chance, a lot of
13 different programs, and the COBA and correction
14 officers we're not against programs. Problem is, when
15 a 16 or 17-year-old commit an infraction and you put
16 them in one of these units and they're not missing
17 anything other than that they're segregated from the
18 general population of 16 and 17-year-olds, you
19 haven't done anything. So, they created these
20 programs and that was their political answer to
21 punitive segregation, which it really wasn't because
22 it was void of any type of disciplinary sanctions for
23 whatever the behavior or whatever the infraction was
24 that got them there, which these are the reasons why
25 they can't bring these numbers down. Look, it's not

1 hard to bring these numbers down, and we don't have
2 to bring them down by beating people to death. That-
3 - it's just not necessary. It's just not necessary,
4 and it's an unfair projection of what correction
5 officers are and what the inmates or detainees that
6 we work with are, because we're not that. We-- this
7 culture of violence that everyone keeps talking
8 about, it's not something that was created,
9 generated, or started on Rikers Island. It starts
10 from the streets because every time you arrest 39
11 gang members and you send them to Rikers Island, well
12 you're arresting them for what? Rape, gang, guns,
13 assault, things of that nature, and where you sending
14 them? Rikers Island. And you also want to be able
15 to get on the phone and continue the terror that they
16 were shooting through the community. So, you send us
17 the terrorists who are terrorists, and then you
18 accuse us of being terrorists. It-- look, it just
19 doesn't make a whole lot of sense. It's a small
20 population. Let's get it together. There's no way
21 why New York City, what, the most "powerful city in
22 the country" is allowed less than 100 people to have
23 them in a chokehold. Let's protect the New York City
24 inmates, detainees, the civilians, and the correction
25

1 officers from these people. We have to protect them,
2 and if that means separating them-- if we have to
3 come up with cute words-- in Suffolk County, Nassau,
4 they don't call it punitive segregation. It's called
5 administrative segregation, and they're locked in for
6 22 hours a day. They come out one hour for
7 recreation and one hour just to be out, but they're
8 locked in for-- those four inmates that did that to
9 this officer are locked in for 22 hours a day where
10 they are right now in Albany. Let's stop playing
11 these games, not in my backyard. Let's protect
12 correction officers, but let's protect the public,
13 and it's not hard to do. We just have to-- all of
14 this political grand-standing and dogma that's going
15 on throughout the City of New York makes no sense
16 because all it's doing is causing people to get hurt.
17 We just had an inmate not too long ago go home. He
18 was in for a real low-level crime, and he went home
19 with 22 stitches across his face, and the 20-year-old
20 that sliced him, we couldn't put him in. We couldn't
21 segregate him. So, this is not something that's just
22 affecting correction officers. I have 30 years. I'm
23 a correction officer. In 30 years, brother, in 30
24 years, there was one or two correction officers who

1
2 ever got cut. In the last four years I have more
3 than 10 correction officers who have been cut and
4 stabbed and slashed. We're dealing with a different
5 population of people than we were 20 or 30 years ago.

6 COUNCIL MEMBER HOLDEN: I just want to--

7 ELISA HUSAMUDEEN: [interposing] I'm
8 sorry, brother.

9 COUNCIL MEMBER HOLDEN: I just want to
10 get to one other point. I do feel correction
11 officers do have the toughest job in the City of New
12 York, period. The fact that they're-- you guys are
13 dealing with on a daily basis people in society, by
14 in large, who have huge problems and have committed a
15 multitude of crimes, but then when I looked at the
16 training facility I-- you do see a genuine lack of
17 respect for the correction officers. You see it in
18 their training facility, the fact that that's been
19 allowed to go on since the 1980s, that facility in
20 Middle Village, my district, and to see how
21 inadequate these facilities are. They're just rooms.
22 They're dimly lit, not ventilation. It's a disgrace.
23 So, what we need to do-- and I've asked the last
24 Chair and I asked the Commissioner, "How much space
25 do you need?" I didn't get an answer. Today I did,

1
2 finally. I went up and asked again, 100,000 square
3 feet at least would do it. So, I think we all as
4 Council Members can look in our district and find a
5 training facility or a site that might be used. The
6 fact that for years it's going on without identifying
7 a site other than Fort Totten, I think shows that
8 lack of respect, and when something happens in our
9 jails, at Rikers,-- I did hear some people say,
10 "Well, it's the use of force." It's blaming the use
11 of force, not what caused the use of force. So, I
12 think we need to really look and start respecting
13 correction officers. I want to thank you for your,
14 you know, for answering or testifying today. But I
15 do think we need-- we have a lot of work to do, at
16 least as the City of New York, on our corrections
17 facilities.

18 ELISA HUSAMUDEEN: We have enough space
19 on Rikers Island to open an academy, but because of
20 the political climate of "Close Rikers/Shut Rikers,"
21 you know, we can open up an Academy on Rikers Island
22 next week, but unfortunately Rikers Island has been
23 slated for other use for something else. So, as we
24 continue to--

1
2 COUNCIL MEMBER HOLDEN: [interposing] I'd
3 like to see the vote on that, by the way, to close
4 Rikers. I haven't seen it.

5 CHAIRPERSON POWERS: Thank you.

6 ELISA HUSAMUDEEN: You're welcome. Thank
7 you.

8 CHAIRPERSON POWERS: We're going to call
9 up a panel, and I suspect you might have different
10 topics, but we'll call you up together and you can
11 testify the following: Victoria Phillips, Kelly
12 Grace Price, and Zachary Katznelson. Thank you.
13 We'll wait for the others, and we're going to have a-
14 - just have a three-minute clock going. Alright,
15 thank you. When you start, just please state your
16 name and who you're with, and we'll start-- we'll go
17 left to right. You're-- you.

18 ZACHARY KATZNELSON: Thank you, Chair
19 Powers. Good afternoon. Afternoon, Councilman. I'm
20 Zachary Katznelson. I'm from the Legal Aid Society's
21 Prisoners' Rights Project. Thank you for holding
22 this hearing. I just want to briefly touch on the
23 bills before I get into the violence. Just very much
24 support the bills that are before the Council. The
25 lock-down issue, I do take-- we have a very different

1 view from people inside about how lock-downs affect
2 people, that people are not getting mental health
3 treatment, people are not getting to their medical
4 appointments. People are not getting legal visits.
5 I've been there a few times in the last few weeks
6 where I've been kept for five hours waiting
7 cumulatively. So two separate visits, two hours,
8 three hours, waiting for folks because of lock-downs.
9 I've been told they can't move to come see me, even
10 though the incident was not in their housing unit.
11 And that's something we see time and again is that
12 the lock-downs, the incident is in one discreet
13 place, but the lock-down goes across facilities, and
14 that breeds a sense of collective punishment, it
15 breeds resentment. And one thing we saw in the Nunez
16 report is that about 36 percent, the monitor found 36
17 percent of the lock-downs are due to uses of force,
18 but so many of those uses of force are not necessary.
19 And so you have unnecessary uses of force that lead
20 to lock-downs that lead to resentment that prevent
21 people from getting services they really need,
22 medical and mental health care particularly, that
23 leads to further violence, and it's a cycle that is
24 avoidable. And that's a thing I think is really
25

1
2 important here, is that so much of the violence that
3 takes place is avoidable. Think about the way that
4 the Department addresses violence, supervisors are
5 almost never held accountable for what happens on
6 their watch. Wardens, Deputy Wardens, Captains,
7 these are folks who set the tone for everything that
8 happens in the facility, and time and again, we see
9 that they're either personally involved where they
10 review incidents and they clear it even though it's
11 cleared from video evidence from all types-- all the
12 reports that something terribly wrong happened. You
13 know, the monitor highlighted once such incident. He
14 said there was a captain who beat someone in the head
15 repeatedly with a canister of mace, sprayed them at
16 least six times. Staff failed to report what
17 actually happened. It's all on video. Yet, when the
18 Warden, the Deputy Warden, the Tour Commander, they
19 all looked at what happened, they all said this ws
20 well within acceptable uses of violence and force.
21 The monitor says-- and the monitor Steve Martin is a
22 very experienced correctional professional. He says
23 absolutely not. He said it's not an isolated
24 incident. It's troubling enough when it happens
25 once. When it happens time and time again, that's

1 the problem, and that sets the tone. Yes, of course,
2 there are gang issues. Yes, of course, there's
3 violence, but you look at the percent of violence,
4 use of force for instance, over 60 percent of the
5 violence-- excuse me, uses of force is against people
6 22 and over. Right? It's not this 21 and under who
7 are excluded from punitive segregation. You look at
8 the rates of violence and what's motivating thing,
9 staff is not being held accountable, and yes, most
10 staff want to the right thing. Most staff have no
11 desire to do anything wrong, but those who do and are
12 allowed to get away with it even when there's video
13 evidence sets the tone that anything goes, sets the
14 tone that anything goes for everybody that's there.
15 And that's really something that needs to be taken
16 into account. Thank you.

18 CHAIRPERSON POWERS: Thank you. We'll
19 ask questions after every-- thanks.

20 KELLY GRACE PRICE: Good afternoon. I'm
21 Kelly Grace Price from the Jails Action Coalition.
22 Thank you for allowing us to testify today. I
23 submitted extensive testimony, and I hope you'll take
24 a chance to read it. I wanted to push this committee
25 in a couple different ways to try to-- not that I

1
2 could assume that I could push this committee by
3 myself with my testimony today. But I have a few
4 different issue. Of course, I'm in support of all
5 three bills. I'm really excited about especially
6 Intro. 741. I applaud the Council. I would like to
7 ask the Council since it was already requested that
8 there be some slight amendments to these bills before
9 they proceed to also consider since the Department
10 themselves said that the current contracts might
11 prohibit and expedited timeframe if you did vote to
12 zero-out cost of detainees and incarcerated [sic] on
13 Rikers Island and in our city jails, that you also
14 look at video calls, because those programs are being
15 laid out right now. So, why screw our-- pardon me--
16 why make things more difficult in the future. I
17 think that might be pressing to add. Thank you for
18 nodding. I like to be contributive. I also wanted to
19 add along those areas of no longer taking money out
20 of our pockets, as a formerly detained person there
21 was a period in my life where I was being arrested
22 multiple times. I don't have anything on my record
23 now, but you probably remember my story briefly from
24 the Four Freedom's Church when I got Cy Vance, his
25 endorsement smack-down, that I was an innocent person

1 who had entanglements with the police and the law
2 enforcement community, because Cy Vance is trying to
3 favor my batterer. So I had multiple arrests. At
4 every one of those arrests my money was taken from my
5 pocket. Now, I'm a person who had been trafficked,
6 and economic abuse was a wholesale part of my
7 situation. I had no way to cash the checks that were
8 given back to me by the Department or by the NYPD,
9 furthering my cycle of poverty and my reliance on
10 people that would abuse me to put money in my pocket
11 to sustain myself. So, please look at other things.
12 Most importantly, and I really want to hammer this
13 home, one of the-- personally, my advocacy platform
14 is to end rape and sexual assault on Rikers. I
15 really want to call your attention to the last part
16 of my testimony where I try and draw conclusions or a
17 comparison between the rampant rape and sexual
18 assault epidemic on Rikers and what's going on with
19 violence. If you don't feel safe, if you don't feel
20 like you won't be maligned and your most private
21 aspects of your physical and mental being are being
22 constantly violated there will be constant unrest.
23 We currently have a zero percent substantiation rate
24 for investigation on Rikers Island. I know you saw
25

1 the report. Please read my comments regarding.
2
3 There is no reason to be pushing for solitary
4 confinement-- I beg your pardon, Councilman Holden--
5 when no one is addressing rape and sexual assault,
6 and no one has cared about it. Commissioner Brann
7 sat in the next room in 2015 and we said, "We have a
8 two-year plan, everything"-- at the point she was
9 Assistant Commissioner. But please read my comments.
10 This is one of the cornerstone issues of violence in
11 the jails. There is such a thing as sort of
12 community trauma, and I believe that's what's
13 happening. Thank you for listening to me.

14 CHAIRPERSON POWERS: Great, thank you.

15 KELLY GRACE PRICE: And I'm with the
16 Jails Action Coalition, by the way.

17 VICTORIA PHILLIPS: [inaudible] Is it on?
18 You can hear me? Is it on already? Good morning.
19 My name is Victoria Philips. I work as a Community
20 Health and Justice Organizer at the Mental Health
21 Project for the Urban Justice Center, and I'm also a
22 Jails Action Coalition member. I joined the Jails
23 Action Coalition after working on Rikers. We want to
24 hear-- Council Member Holden, you said you want to
25 hear people that has actual facts working on the

1 front lines. The reason I joined Jails Action
2 Coalition is because of the barbaric injustices that
3 I witnessed while working and doing cognitive
4 behavioral therapy on the island, and I just want to
5 touch on a few things today. I don't have a written
6 statement, but I want to address several things that
7 I heard being spoken today. First thing is
8 programming. A lot of-- the Department mentioned
9 programming, and I just want the City Council to know
10 that at no time has the Department even reached 100
11 percent of programming for everyone in the housing
12 unit. The last year the highest they ever got was up
13 to 80 percent of programming. So, when they say
14 programming, when they say lock-downs are occurring
15 for long periods of time because they want to make
16 sure that programming is being given to people, hold
17 them accountable on that, because it's not accurate.
18 And I just want to make another point. A lot of
19 things was discussed today about splashing, spitting
20 and disrespect of correction officers and how we
21 don't honor the job that they do. I agree to a
22 certain extent. As an Army brat I do understand
23 people in authority. I do understand the badge. I do
24 understand people in power, but while working behind
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2 the walls I also understood my duty as my mother laid
3 dead in the military cemetery, that I need to stand
4 up for people, people who are often unseen and
5 unheard, human rights that are being violated. So,
6 behind the wall a lot of times uses of force are very
7 much so escalated. I've testified right here in this
8 room at City Council during you to create an
9 independent investigation unit to oversee DOC and
10 their investigation, and it has not been done. City
11 Council gave them money to hire more investigators
12 and I think they hired since then three, but they
13 have not stepped up to the plate on what they're
14 supposed to do. Today, they mentioned uses of force
15 are investigated. When are they investigated? How
16 long does it take for them to start that
17 investigation? Where are the material witnesses that
18 when they start their investigation? There's a lot
19 that has to go, a lot that has to be questioned when
20 they're sitting here in front of you. I don't want to
21 go all over the place. Move-- they're moving the
22 youth in October 1st, right, right into RNDC after
23 spending hundreds of thousands of dollars to rebuild
24 and fix the structure in GMDC. When I ask the new
25 senior Deputy Commissioner Farrell back in February

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2 how long will that process take to one, identify the
3 places that the youth and adolescents-- can I finish,
4 please? To one, identify where the adolescents will
5 go and how long it would take to fix those places and
6 bring them up to par, and how long it would take to
7 implement programming. He did not have an answer.
8 When I asked him who would I have to go to for that
9 answer, he did not have that answer. So, I urge City
10 Council to make them answer that question. I want to
11 talk about inv-- Elias brought a point up. He said
12 he's one of seven, and that he's had five family
13 members incarcerated. So, my next point I want you
14 to listen and I want to listen clearly, because for
15 the last five years I went on the record and saying
16 if you want to lower the violence in Rikers Island,
17 you have to start with the officers who are also gang
18 members. Everybody overlooks that fact, but just
19 using Elias, just his personal story alone, I don't
20 know what his family members was there for, but it's
21 possible for correction officers to be related to
22 gang members while on the island. It's possible for
23 certain hits and certain stories to go on through
24 correction officers. I've physically seen it, but
25 nobody wants to listen to little old me. So I just

1 want you to listen to what the Correction Officer
2 President came and told you himself about five of his
3 siblings being on that island. And when we talk
4 about classification, today it was mentioned that
5 they was working with information shared from NYPD,
6 to classify people coming on the island. Be very
7 careful about that because Broken Windows policing is
8 very real. Racism in NYPD is very real. I don't-- I
9 don't always go against corrupt correction officers,
10 I go against corrupt police officers as well. Three
11 days before Akai Gurley was killed by NYPD I blogged
12 about being illegally searched coming from a client's
13 house in a public housing building. If I had got
14 arrested that day,-- the Bloods run rampant in that
15 neighborhood-- does that mean I would have went to
16 Rosie's labeled as a blood gang member? Be very
17 careful how you accept the answers and what they use
18 to classify people. Over 75 percent of people on
19 Rikers Island have not been convicted of their
20 alleged crimes, and I want to make a very quick
21 point. Council Member Lancman, he said today that we
22 should look for other options, and that removing
23 people's visits whether it's privileges or right--
24 visits are right. Phone calls are human right. I
25

1
2 refer back to when I testified at this City Council
3 about Ramsey Otto [sp?]. If you don't know who his
4 name is, he's the one who filmed the murder of Eric
5 Gardner. I was told-- I bring that up to say I
6 testified of how the captain was caught on his wife's
7 recording threatening to take his phone privileges
8 away just for looking at her, and that was put on his
9 family's website. I encourage you to be reminded of
10 how allegedly his whole housing unit was given rat
11 poison and medical staff didn't report that.
12 Correction officers didn't report that. It was
13 someone sneaking on a visit and giving a piece of the
14 food in the rat poison to their attorney to where it
15 was testified and that story came out. So, please be
16 mindful that you want to respect those in badges, as
17 do I, but those in badges are still corrupt, and the
18 people that work amongst them care more about their
19 mortgages, as you've mentioned with your real estate,
20 on the panel last month for COBRA-- care more about
21 their mortgages than they do about reporting their
22 corrupt colleague. So, when we--

23 CHAIRPERSON POWERS: [interposing] I'm
24 going to stop you there, because we've gone over your
25 time.

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2 VICTORIA PHILLIPS: Okay.

3 CHAIRPERSON POWERS: But I do want to ask
4 a few follow-up questions. The first one being on
5 the Intro. 741 related to the telephone calls and the
6 fees, and I do think there is an issue related to
7 insuring that with the City contracts that we have
8 that we have appropriate time to restructure them and
9 re-procure them, but obviously any issue that is
10 egregious we want to make sure we fix as soon as
11 possible. But my question was on the video visiting,
12 which was that we should extend it to video visiting.
13 Is that to say that today video visiting also costs
14 you a fee and that we should make sure that our
15 definition also covers that or that it could extend
16 in the future to cover that, or I-- could you just
17 clarify the comment about the video visiting?

18 KELLY GRACE PRICE: I know today in New
19 York City that video visiting does not cost the
20 families, that there are different centers and
21 they're run-- there's one at Ethical Culture, there's
22 one at Osborne, and there's a few other. And right
23 now families are not being charged, but in other
24 jurisdictions they absolutely are, and so the model
25 for those companies providing that service is a

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2 predatory model, certainly, and you know, they're not
3 going to just let New York City have freedom forever.

4 CHAIRPERSON POWERS: So we should make
5 sure the definition covers video visitings and other
6 types of updates and modernizations in technology
7 beyond the phone call. Understood. On the question,
8 I wanted to ask if any of you had an opinion on the
9 issue that we raised earlier which goes-- which is an
10 extension of the phone call conversation which is
11 around the monitoring of the phone calls and the
12 recording. And I just raise it. I mean, I think
13 there are instances and reasons why you would want to
14 monitor somebody on the phone when it comes to safety
15 and things like that, but the broad use of it might
16 raise a concern, and do you have any particular
17 experience or anecdotes related to that issue? Or
18 concerns.

19 KELLY GRACE PRICE: This is not my
20 bailiwick. It's definitely the professional lawyers,
21 but I did just email you the case law in the southern
22 district that gives the DOC the permission as long as
23 they give someone notice that they're being-- but you
24 have it in your email docs.

25 CHAIRPERSON POWERS: Okay.

1
2 KELLY GRACE PRICE: Oh, and one other
3 thing, the Department-- the District Attorneys are
4 not getting subpoenas to get that information. I
5 heard that said and that is an outright lie. If you
6 read the People vs. Diaz lawsuit where this
7 particular issue is stewing in the southern district
8 right now, you'll read all kinds of proof and
9 evidence that that absolutely is a blatant lie.

10 ZACHARY KATZNELSON: I would just say, I
11 think Legal Aid would be happy, this is not my-- I'm
12 not a criminal defense lawyer. So I focus on the
13 conditions inside. I think we'd be happy to provide
14 you with information about how it's actually
15 operating, and there is ab-- there's litigation right
16 now about whether or not-- even if people are told
17 they might be listened to, they're not necessarily
18 told it would be used against them in a criminal
19 proceeding. That's a very different thing, and so--
20 and there's no question. Issues that one of the
21 Council Members raise before about literacy, for
22 instance, people won't be able to read the signs.
23 People are under stress. I think those are all
24 critical concerns as well.

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2 CHAIRPERSON POWERS: And to the degree
3 that you're hearing that they're not getting-- we
4 have-- we can substantiate that they're not using any
5 subpoenas, certainly we'd like to know that, and any
6 other-- I think the issue about using it too, also
7 helpful. Thank you for all your testimony, and I
8 don't know if Council Member Holden you had any--
9 okay. Alright, thank you.

10 VICTORIA PHILLIPS: Can I say one more
11 thing?

12 CHAIRPERSON POWERS: Alright.

13 VICTORIA PHILLIPS: I waited a long time.

14 CHAIRPERSON POWERS: Go ahead.

15 VICTORIA PHILLIPS: Thank you. We
16 talking today about implementing TSA security system,
17 and I-- as troubling as it is for people to go
18 through the visiting procedures, I want the Council
19 to be mindful of people like me with invisible
20 disabilities. At TSA, I do not go through them
21 machines after my brain surgery. So, for someone
22 like me visiting the island, what would that process
23 look like? And I want you to make sure you hold DOC
24 accountable for people with disabilities like me
25 coming to the island, because right now DOC would

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basically tell us to turn away if we refuse to go into that-- through those machines. So, be mindful of the changes that are being implemented and the people that have to go through them.

CHAIRPERSON POWERS: Okay. Thank you, and let us know as that's rolling out if any other issues [inaudible]. Thank you everybody. That is, I think, the last testimony for the day. Thank you for sticking with us for the long day, and we will see you next time. Thanks so much.

[gavel]

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COMMITTEE ON CRIMINAL JUSTICE

C E R T I F I C A T E

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



Date May 21, 2018