

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CRIMINAL JUSTICE

Jointly with

COMMITTEE ON THE JUSTICE SYSTEM

and

COMMITTEE ON WOMEN

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September 6, 2018
Start: 10:21 a.m.
Recess: 3:14 p.m.

HELD AT: Council Chambers - City Hall

B E F O R E: Keith Powers
Chairperson

Helen K. Rosenthal
Chairperson

Rory I. Lancman
Chairperson

COUNCIL MEMBERS:

Alicka Ampry-Samuels
Robert F. Holden
Carlina Rivera
Andy Cohen
Alan N. Maisel

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

Council Members: Deborah L. Rose
 Eric A. Ulrich
 Diana Ayala
 Laurie A. Cumbo
 Ben Kallos
 Brad S. Lander

Cynthia Brann
Department of Correction Commissioner

Yolanda Canty
Bureau Chief

Sarena Townsend
Deputy Commissioner of Investigations and Trials

Faye Yelardy
Commissioner of PREA

Zachary Rosner
Chief of Medicine at Health + Hospitals

2 CHAIRPERSON POWERS: Good morning.

3 Welcome back from summer. And we-- this is a joint
4 hearing of the Women's Committee, the Justice
5 Services Committee-- Justice System's Committee, and
6 the Criminal Justice Committee. Before we start
7 today's hearing we're going to vote on one piece of
8 legislation sponsored by Council Member Dromm,
9 relating to the operations of Department of
10 Correction. I want to note that we've been joined by
11 a number of members of the committees and other
12 Council Members, including Council Member Andy Cohen,
13 Council Member Carlina Rivera, Council Member Alicka
14 Ampry-Samuel, Chair of the Women's Issues Committee,
15 Council Member Helen Rosenthal, which I note has two
16 "l's" in her name here, Council Member Rory Lancman,
17 Chair of the Justice Committee, Council Member Dromm,
18 Council Member Bob Holden, and Council Member Ben
19 Kallos. The bill that we are going to vote on would
20 require Intro. 447, would require the Department of
21 Corrections to submit quarterly reports on emergency
22 lock-in's within DOC facilities, including
23 information on the number of such emergency lock-ins,
24 the reason and duration of such emergency lock-ins
25 and the extent to which mandated service to

2 incarcerated individuals who are disrupted during
3 those lock-ins. During lock-ins, incarcerated
4 individuals are not able to access important or
5 necessary services such as attorney or family visits,
6 medical treatment, the law library, showers, or
7 recreation. Reporting on emergency lock-ins will
8 help the Council to monitor the rate at which lock-
9 ins prevent incarcerated individuals from receiving
10 necessary services. This bill would take effect
11 immediately after it becomes law, except that certain
12 provisions relating to reporting of emergency lock-
13 ins, continuous lock-ins by facility, and continuous
14 lock-in exceeding 24 hours would take effect no later
15 than 60 days following the end of the quarter
16 beginning July 1st, 2019. The committee has
17 previously held a hearing on this bill on April 23rd,
18 2018, received testimony from representatives of the
19 Department of Corrections and other advocates, and as
20 well as the unions, the advocates, the Board of
21 Corrections, and other interested members of the
22 public. So, before we start and ask folks to
23 testify, we are going to take a very quick vote for
24 the members of the Criminal Justice Committee. Oh,
25 yeah, sorry. And the sponsor of the bill, Council

2 Member Dromm, is going to make a statement on his
3 bill.

4 COUNCIL MEMBER DROMM: Thank you very
5 much, Chair Powers, for this opportunity to speak on
6 the legislation, on my legislation. Unscheduled
7 lock-ins are disruptive to the functioning of our
8 jails and troubling for their impact on incarcerated
9 individuals and visitors. Gathering information is a
10 critical first step to addressing the problem. I want
11 to express my gratitude to Council Staff Daniel Adais
12 [sp?], Josh Kingsley, and Rob Calandra [sp?], for
13 ensuring that Introduction 447A reflects the
14 strongest language possible. The data that will be
15 collected will be very helpful to us here as well as
16 the advocates closely monitoring the unfolding
17 reforms in our jails. Chair Powers, thank you for
18 your efforts to keep such reform continuing and for
19 your leadership during these hearings. And finally,
20 I want to recognize Speaker Johnson for ensuring that
21 the Council remains the driving force within City
22 Government when it comes to transforming our criminal
23 justice system. Thank you very much.

24 CHAIRPERSON POWERS: Thank you. Can you
25 please call the roll?

2 COUNCIL CLERK: William Martin, Committee
3 Clerk, Roll Call Vote Committee on Criminal Justice,
4 Introduction 447A. Chair Powers?

5 CHAIRPERSON POWERS: Aye.

6 COUNCIL CLERK: Lancman?

7 COUNCIL MEMBER LANCMAN: Aye.

8 COUNCIL CLERK: Ampry-Samuel?

9 COUNCIL MEMBER AMPRY-SAMUEL: Aye.

10 COUNCIL CLERK: Holden?

11 COUNCIL MEMBER HOLDEN: Aye.

12 COUNCIL CLERK: Rivera?

13 COUNCIL MEMBER RIVERA: Aye.

14 COUNCIL CLERK: By a vote of 5 in the
15 affirmative, 0 in the negative and no abstention,
16 item has been adopted by the Committee.

17 CHAIRPERSON POWERS: Great. Thank you.

18 So now we will move on to our joint oversight
19 hearing. I am still Keith Powers and I am still the
20 Chair of the Criminal Justice Committee. This is a
21 joint oversight hearing, as I mentioned, the Criminal
22 Justice, Justice System, and Women's Committees on
23 the important topic of sexual abuse and harassment in
24 New York City jails. I want to thank my co-chairs
25 here, Chair Rosenthal and Chair Lancman, along with

2 all of their staff for holding this hearing today
3 with the members of the Criminal Justice Committee.
4 We believe that we as a city have a duty to make sure
5 that all people, incarcerated or not, are safe from
6 sexual victimization. In the past few years we have
7 seen victim advocates, Department of Justice, the
8 Board of Corrections, and the media raise concerns
9 about the prevalence of sexual abuse in our city
10 jails. Just last week, a lawsuit was filed in Federal
11 Court accusing New York City of fostering a culture
12 of systemic rape at Rikers, and as we look forward to
13 the closure of Rikers Island, we must not only
14 address this issue in front of us, but also ensure
15 that we do not replicate any of these same mistakes
16 in future borough-based facilities. The Department
17 of Correction who is here joining us today issued its
18 first annual report on sexual abuse in jails in
19 March, which revealed that from 2016 to 2017 the
20 number of allegations of sexual abuse has gone up by
21 roughly 40 percent. Even more alarming is the fact
22 that of June the total casework for the Department
23 was 2,275 cases for just 19 investigators. That data
24 show that 94 percent of the cases classified under
25 the Prison Rape Elimination Act, commonly known as

2 PREA, were past their 90-day deadline for being
3 investigated. We know that one cause of past upticks
4 and allegations has to do with increased reporting
5 and it is a good thing, we believe, that more
6 incarcerated are coming forward. we also know that
7 DOC is trying to address this problem in part by
8 hiring more staff to do investigations and to
9 investigate incidents of past sexual abuse in jails,
10 and in fact, a report released last month showed an
11 overall decrease of PREA allegation of sexual abuse
12 by 31 percent comparing the last six months of 2017
13 to the first six months of 2018, but the lag in
14 investigation and continued prevalence of sexual
15 abuse, despite what appears to be a reduction in
16 overall allegations continues to be extremely high,
17 and these results we believe are concerning both to
18 me, to the Council and to the committees-- for the
19 committees here today and for the public. And to
20 note that opinions may differ among stakeholders at
21 how we can eliminate sexual assault and abuse in
22 jails, but we all want incarcerated individuals,
23 those guarding them and their visitors to feel safe
24 and secure in city facilities. I thank and look
25 forward to working with the Department of Corrections

2 and the Board of Corrections who are both here today
3 to figure out how we can reach that goal. In
4 particular, I am interested in exploring how we can
5 resolve the backlog and unresolved cases, discussing
6 how we can better protect transgender individuals and
7 other vulnerable populations in our city jails as
8 well as how we can make sure the right procedures are
9 in place when an investigation is conducted to ensure
10 a timely and fair resolution where everybody feels
11 safe. We will be also hearing two pieces of
12 legislation today. The first is Council Member
13 Cumbo's Introduction 933, a law to amend
14 Administrative Code to require the Department of
15 Corrections to report on sexual abuse. This will
16 help ensure that DOC is held accountable to both the
17 public and the Council in combatting sexual abuse in
18 jails. And the second piece is Council Member
19 Dromm's Introduction 1090 to require the Department
20 of Corrections to report on sexual abuse of visitors.
21 Both these bills are, we believe, extremely important
22 to provide more information to us and to the public,
23 and to ensure better monitoring of those who are
24 inside and visiting our city jails. With that said,
25 I want to thank the Administration, the Department of

2 Corrections, and the Board of Corrections for all
3 being here today. I want to thank the Commissioner
4 for joining us, and my staff, and the staff of all
5 the committees here for helping to put this together,
6 the Chairs for joining us, and all the Council
7 Members in attendance. I also want to welcome our
8 new Counsel here at her first hearing on such an
9 important topic. With that being said, I will pass
10 it along to Chair Rosenthal.

11 CHAIRPERSON ROSENTHAL: Thank you so
12 much, Chair Powers. I'm Helen Rosenthal. I Chair
13 the Committee on Women. Chair Powers outlined the
14 reasons why we are here today. I want to highlight
15 especially the ways in which the status quo is a
16 fundamental failure of gender equity and justice.
17 Sexual violence itself is inextricably linked to
18 questions of gender and power. The crisis of sexual
19 assault in prisons and jails is an especially stark
20 and disturbing manifestation of this dynamic for
21 all those affected, whether they are an incarcerated
22 person, a visitor, or a corrections officer. Among
23 incarcerated individuals, as in society as a whole,
24 women, Trans, and gender non-conforming individuals
25 are disproportionately victimized by sexual violence.

2 According to the Bureau of Justice Statistics 2011
3 and 12 survey, five percent of women reported sexual
4 violence compared to 3.3 percent of men. For Trans
5 and gender non-conforming individuals, the crisis is
6 dramatically more acute. The Bureau of Justice
7 Statistics found that nationally more than 34 percent
8 of incarcerated Trans individuals has experienced
9 sexual victimization. For men, too, sexual violence
10 in jails is inextricably linked to questions of
11 gender. The way in which prison rape is made light
12 of in popular culture is an example of how standards
13 of masculinity and homophobia create additional
14 barriers for sis men who are victimized. In New York
15 City we are confronted with all these issues. The
16 Rose M. Singer Center, which houses the vast majority
17 of women in the custody of the Department of
18 Correction is consistently among the least safe, not
19 just, in-- is among the least safe facilities, not
20 just in New York, but in the country. The Bureau of
21 Justice Statistics most recently conducted a
22 facility-specific review of sexual violence in
23 correctional facilities. At that time, in 2001--
24 2011/12, 8.6 percent of incarcerated individuals at
25 Rose M. Singer Center reported having experienced

2 sexual victimization, either by a staff member or
3 another incarcerated person. This was the highest of
4 any jail in New York City or New York State, and the
5 third highest in the entire country. Based on the
6 available data and based on the stories of survivors,
7 the fundamental dynamic described at the Singer
8 Center has not significantly changed in the year
9 since that national study in 2011. The Department of
10 Corrections' most recent report released in August
11 showed that more complaints of sexual abuse came from
12 those incarcerated at the Singer Center than any
13 other facility. While women make up just six percent
14 of incarcerated individuals, nearly 22 percent of
15 allegations originated from the Singer Center from
16 July 2017 to June 2018. DOC does not publish data on
17 whether allegations were made by Trans or sis gender
18 incarcerated individuals, but every indication is
19 that we are failing to keep them safe as well. In a
20 report issued earlier this year, the Board of
21 Corrections found that 35 percent of applicants to
22 the transgender housing unit reported that they had
23 previously experienced prior harassment, threats,
24 attacks, or abuse in custody, and eight percent were
25 experiencing-- and eight percent were experiencing it

2 at the time of the survey. The implication of this
3 data is clear. We are not doing nearly enough to
4 keep Trans individuals safe at Rikers Island. The
5 Department of Corrections response to this violence
6 has been, bluntly, inadequate. While more than 500
7 complaints were filed from July of 2017 to June of
8 2018, one full year, not a single complaint was
9 deemed fully substantiated. On its face this is an
10 unbelievable finding. What all this adds up to is a
11 continuing crisis of sexual violence for those who
12 are under the custody of the Department of Correction
13 as well as for visitors and for the Corrections
14 officers themselves. As Chair of the Committee on
15 Women, I've made combatting sexual harassment and
16 sexual assault a top priority. Too often, in doing
17 so, I have seen institutions shirk their
18 responsibility to prevent sexual violence choosing to
19 minimize blame rather than accept responsibility.

20 Let me be clear about my expectations for this
21 hearing. I am not interested in playing games with
22 numbers or in hearing bureaucratic excuses. The
23 efforts to implement the Prison Rape Elimination Act
24 standards, or PREA, have been inadequate. In
25 December of 2015, the Department of Correction

2 testified before this very body and announced that it
3 had, "a plan over the next two years to be able to
4 implement PREA across the agency and have our
5 facilities go through audits to become PREA
6 compliant." That was 2015. It's three years later,
7 and plainly, that has not happened. What I want to
8 hear today is a clear acknowledgement of the
9 continuing problem and a specific commitment to real
10 solutions. This is exactly the right time to make
11 such a commitment. We are currently on the momentous
12 path to closing Rikers Island. Closing Rikers has
13 never merely been a matter of facilities. It's about
14 transforming the institution of detention itself,
15 replacing it with something more humane and more
16 just. The process of creating new facilities is an
17 opportunity to take into account some of the larger
18 institutional challenges we face in keeping
19 incarcerated individuals safe. It must include
20 consideration of how to keep incarcerated individuals
21 safe from sexual violence. The design must also
22 ensure that all survivors are able to safely and
23 confidentially file complaints and access support
24 services. The design of the new facilities are just
25 one example of why we must use this moment to

2 confront the horror of sexual violence within the
3 Department of Correction. I look forward to today's
4 hearing as an opportunity to concretely discuss this
5 and other ways in which we can seek to eliminate
6 sexual violence for all those who interact with New
7 York's correction system. With that, I want to thank
8 the staff of the Committee on Women, including
9 Counsel Brenda McKinney [sp?], Policy Analyst Chloe
10 Rivera, Legal Fellow Robby Akasim [sp?], and Finance
11 Analyst Daniel Krup [sp?] for all of their help in
12 preparing for this hearing, as well as my Legislative
13 Director Shawn Fitzpatrick. Thank you.

14 CHAIRPERSON POWERS: Thank you. And I
15 think we're going to hear from Council Member Chair
16 Rory Lancman.

17 CHAIRPERSON LANCMAN: Thank you and good
18 morning. I'm Council Member Rory Lancman, Chair of
19 the Committee on the Justice System, and thank you to
20 Council Member Keith Powers and Council Member Helen
21 Rosenthal for leading this important hearing. The
22 Department of Corrections' annual sexual abuse and
23 sexual harassment assessment report released last
24 month shows that there were a total of 561
25 allegations of sexual victimization from July 2017 to

2 June 2018. Sexual victimization encompasses
3 allegations against both staff and other inmates and
4 includes everything from staff voyeurism to unwanted
5 touching to sexual assault to rape. The Rose M.
6 Singer Center, known as Rosie's, the jail
7 specifically dedicated to women housed at Rikers, had
8 123 of those allegations, the most of any single
9 facility. The women represented only six percent of
10 the Rikers' population in FY18. Women at Rosie's
11 represented at least 22 percent of the allegations.
12 However, this is where our information about sexual
13 victimization of women in the Department of
14 Correction facilities ends. DOC's primary report on
15 sexual assault doesn't break their statistics down by
16 gender. We know that allegations from Rosie's come
17 from women, but what of transgender women who have
18 not historically been housed at Rosie's, or women
19 held at another facility because of a medical
20 condition? Further, it's impossible to say based on
21 the report what kind of allegations women made. The
22 difference between voyeurism and rape is enormous,
23 but we have no idea how many women, or even just
24 those held at Rosie's made allegations of either.
25 What we know, if a full account were given, is that

2 it would demonstrate how dramatically over
3 represented the women of Rosie's are in reported
4 rapes, abuse, and harassment by staff. according to
5 a 2013 Department of Justice study, 5.9 percent of
6 women at Rosie's reported being sexually abused by
7 staff, three times the national average, and I say
8 reported because that is really all we have to go on.
9 In the last year from July 2017 to June 2018, despite
10 there being 561 allegations of sexual abuse and
11 sexual harassment, not one was substantiated. That
12 means there was not one case, not one inappropriate
13 touch, not one assault, not one rape that
14 investigators found was more likely than not to have
15 happened. That is obviously a failure in our
16 investigatory system, because that is simply
17 impossible, and that isn't even getting into the
18 hundreds of allegations from previous years that are
19 backlogged and remain unresolved. It's important not
20 to miss the forest for the trees. We can't talk
21 about sexual violence, specifically Rosie's, without
22 talking about why there are so many women there in
23 the first place. Based on rough estimates, it is
24 likely that in 2017 nearly 1,000 women were held pre-
25 trial for some period of time on a non-violent felony

2 charge. No one should be sitting on Rikers Island
3 just because they cannot make bail, but it is an
4 additional sickening indictment of our bail and pre-
5 trial's release system that women who should not be
6 there in the first place are often being exposed to
7 some of the highest rates of sexual abuse by staff in
8 any jail or prison in the country, and that women
9 remanded on more serious violence felonies serving
10 city sentences or awaiting the resolution of a
11 warrant or parole violation, those who are kept at
12 Rikers by more than just poverty, are not protected
13 from victimization by the very system that also keeps
14 them locked up. So, today's hearing is about
15 specific failures to prevent, investigate, and mea-
16 out justice for the sexual abuse and harassment
17 visited upon the individuals at Rikers, but it also
18 about the general failures of locking people up at
19 Rikers in the first place, and the truth is we must
20 do better on both fronts. Thank you.

21 CHAIRPERSON POWERS: Thank you. And I
22 just note we have the two bill sponsors here. We've
23 also been joined by one of the bill sponsors, Council
24 Member Cumbo. I know Council Member Dromm wanted to
25 make a quick statement on his bill, and then we'll

2 offer an opportunity as well for Council Member
3 Cumbo. Thanks.

4 COUNCIL MEMBER DROMM: Thank you very
5 much, Chair Powers. Imagine being stripped, groped,
6 humiliated, forcibly touched, and even penetrated all
7 in a setting where you are almost completely
8 powerless. According to an extensive investigation
9 by WNYC and the Intercept, this is exactly what many
10 visitors to our jails have to endure to see their
11 loved ones. As of November 2017, the Jails Action
12 Coalition has identified at least 45 women who have
13 filed or are in the process of filing lawsuits that
14 accused the DOC of unlawful strip searches, most of
15 them at Rikers. These strip searches still seem to
16 be happening, now in bathrooms in the Central Visit
17 House, out of sight from surveillance cameras. One
18 of the officers who was accused of sexual abuse has
19 reportedly been promoted to the DOC Investigations
20 Team. Sadly, such incidents simply compound the
21 massive injustices family members, friends and
22 professionals face trying to see detained
23 individuals. Violations by law enforcement,
24 including rape, sexual assault, and sexual harassment
25 are especially traumatizing for victims. There is a

2 massive power imbalance that can facilitate the
3 access of sexual perpetrators to their victims. That
4 same power dynamic can be used to humiliate and
5 silence victims after they are violated. Intro. 1090
6 seeks to gain a better understanding of the problem
7 and what the Department of Correction is doing to
8 prevent it. Sexual assault of jail visitors is so
9 egregious since it combines a terrible crime with the
10 fact that public servants who act in the public trust
11 are perpetrating them. From the complaints in the
12 lawsuits, it seems women are overwhelmingly the
13 targets of assault of searches. Rikers is a toxic
14 environment, and it seems that women identified
15 visitors who are in extremely vulnerable positions
16 are not immune from the horrors. "It's a systematic
17 design to put these women down," said the lawyer of
18 one of the alleged victims, and I agree, it certainly
19 does look that way. Only through a thorough,
20 unbiased investigation can systemic issues be
21 uncovered and addressed, because my perception, and I
22 hope the Department can correct me if I'm wrong as
23 Council Member Rosenthal and Council Member Lancman
24 have alluded to, is that virtually no perpetrators
25 have been brought to justice. My bill attempts to

2 get at the hard evidence of what the Department is
3 doing, which is up to now has been woefully
4 inadequate. The visiting experience should be
5 designed to ensure security for the facility while
6 minimizing trauma to visitors. And I want to
7 highlight something about security, which is often
8 invoked to rationalize harsh visitor screenings. The
9 sad truth is certain correction officers, not
10 visitors, are the source of most contraband. We need
11 to make it easy for people to visit the jails and to
12 file and resolve complaints if a visit goes array.
13 Our efforts today will, I hope, bring our city
14 closure to realizing this goal. Thank you very much.

15 CHAIRPERSON POWERS: Thank you very much,
16 Council Member Dromm. Council Member Cumbo, would
17 you like to make a statement?

18 COUNCIL MEMBER CUMBO: Thank you so much.
19 It is certainly an honor to be here today, because
20 this is an issue that has been swept under the rug
21 for far too long, and in the age of the MeToo
22 movement, it is critical that we make sure that
23 sexual harassment ends in all places, whether it's in
24 Hollywood or within our prisons. We have to make
25 sure that our women are safe. We are confronted on a

2 regular basis with our society's epidemic of sexual
3 violence in the home, in workplace, and in public
4 spaces. Advocates and leaders have worked hard to
5 ensure that this public reckoning does not only
6 achieve justice and uplift the stories of those who
7 are white, rich or famous. I commend their
8 tremendous and longstanding efforts to ensure that
9 the experiences of sexual violence of those at the
10 margins are centered in the fight for dignity and
11 justice. One group, as I stated in particular, whose
12 safety and wellbeing is far too often let out of
13 these conversations is that of individuals who are
14 incarcerated. I applaud my colleagues, Chairs
15 Rosenthal, Powers, and Lancman, for bringing us all
16 here today to make it clear that the lives of those
17 currently residing in our city's jails matter, and
18 that it is our responsibility to do everything that
19 we can to respect and to protect their safety and
20 wellbeing. The rates of sexual violence in our
21 facilities are alarming and above national averages,
22 as was stated. We can and we must do better.
23 Individuals who are incarcerated often come into our
24 facilities having already been victimized. Eighty-
25 six percent of women who are incarcerated have

2 reported experiencing sexual violence in their
3 lifetime, and we know that the LGBTQ individuals
4 experience disturbing rates of violence as well. We
5 cannot allow them to be re-victimized and with
6 impunity under our watch. Our values of equity,
7 fairness and justice as a city must be applied to all
8 New Yorkers. I am proud to bring forth today
9 proposed Intro. 933A with my colleague Council Member
10 Alicka Ampry-Samuel to codify the current Board of
11 Corrections rules on reporting of incidents of sexual
12 abuse and ensure that DOC continues to report on
13 sexual abuse and harassment in jails. I look forward
14 to today's conversation, but more importantly I look
15 forward to action from this hearing. We have to
16 learn more about the DOC's policies, their
17 effectiveness or ineffectiveness and where we need to
18 improve. I thank all of those that are here today to
19 testify for their time, insight, and tremendous work
20 and partnership in this critical effort, and I thank
21 all of you that are here today and found it not
22 robbery in order to come here to speak up for those
23 who have been marginalized and silenced but are so
24 deserving of our respect, our protection, and making

2 sure that we come out with positive outcomes and not
3 simply a hearing. Thank you.

4 CHAIRPERSON POWERS: Thank you. Thanks
5 so much. And so we've been joined here by the
6 Commissioner and team from the Department of
7 Corrections, and we'll be hearing your testimony.
8 Thank you for joining us. I think we have to swear
9 you in first.

10 COUNCIL CLERK: Do you affirm to tell the
11 truth, the whole truth, and nothing but the truth in
12 your testimony before this committee and to respond
13 honestly to Council Member questions?

14 COMMISSIONER BRANN: I do.

15 CHAIRPERSON POWERS: Great. Thank you.

16 COMMISSIONER BRANN: Good morning, Chair
17 Powers, Chair Lancman, Chair Rosenthal, and members
18 of the Criminal Justice System and Women's
19 Committees. I am Cynthia Brann, Commissioner of the
20 Department of Correction. I am joined by Bureau
21 Chief of Security Chief Canty, Deputy Commissioner of
22 Investigations and Trials, Sarena Townsend, Assistant
23 Commissioner of PREA, Faye Yelardy, as well as Doctor
24 Zachary Rosner, Chief of Medicine for Health and
25 Hospitals and Correctional Health Services. In 2015,

2 the Department put in place multiple top-to-bottom
3 reform initiatives simultaneously. In order to
4 address the overall safety and security of everyone
5 in our facilities, these reforms included
6 implementing both the Federal Nunez Consent Decree
7 and PREA standards, as well as many other efforts.

8 In our testimony today, we will focus on the current
9 and planned efforts the Department has undertaken in
10 order to address the issue of sexual abuse and sexual
11 harassment in our facilities. When I first came to
12 the Department three years ago, I took on the role of
13 Deputy Commissioner of Quality Assurance, and by
14 then, the Department had begun targeting this issue
15 from multiple angles, including committing to
16 bringing itself into compliance with the federal
17 Prison Rape Elimination Act, or PREA. Since then, we
18 have worked collaboratively with experts in the
19 field, including advocates, and other City agencies
20 to implement various operational elements, sweeping
21 staff training initiatives, and innovating housing
22 strategies to move towards not only compliance with
23 PREA, but broader, more comprehensive best practices
24 that ensure everyone who enters our facilities, staff
25 and inmates alike, remain safe. It is critically

2 important that the Department take every possible
3 step in keeping people safe from abuse and harassment
4 of any kind. Today, we will focus on the major areas
5 of effort towards reducing and eliminating sexual
6 abuse and sexual harassment while in the Department's
7 care. Assistant Commissioner Yelardy of PREA will
8 provide an overview of PREA and the Department's
9 efforts towards compliance over the past several
10 years, and Deputy Commissioner Townsend will describe
11 many improvements the Department has put in place to
12 meet its investigatory obligations. And just as a
13 note, as a response to Chair's Committees, I want you
14 to know that both as a professional and a woman, this
15 topic, this situation is of the utmost importance to
16 me and my staff, and the women sitting to my left and
17 right were partially selected to fill their roles
18 because they are former prosecutors that prosecuted
19 sex crimes. And so, I hope that instills a sense of
20 confidence in our plan and our abilities to move this
21 agency forward. And I'll turn it over now to
22 Assistant Commissioner Yelardy.

23 COUNCIL CLERK: Do you affirm to tell the
24 truth, the whole truth and nothing but the truth in
25

2 your testimony before this committee and to respond
3 honestly to Council Member questions?

4 ASSISTANT COMMISSIONER YELARDY: I do.

5 Thank you, Commissioner. Good morning, Chair Powers,
6 Chair Lancman and Chair Rosenthal and members of the
7 Criminal Justice, Justice System, and Women

8 Committees. I am Assistant Commissioner Faye

9 Yelardy, the Assistant Commissioner for PREA. The

10 Prison Rape Elimination Act is a federal statute that

11 outlines the essential elements required to prevent

12 the sexual abuse of inmates in correctional

13 facilities. Finalized in 2012, it functions as a

14 baseline for correctional facilities to standardize

15 their approach to improving safety in this regard.

16 The statute provides standards for both prisons and

17 jails, prevention planning, response planning,

18 training and education, screening for risk of sexual

19 victimization and abusiveness, reporting requirements

20 and response protocol, investigations, discipline,

21 medical and mental care, data collection and review,

22 audits and appropriate corrective action, and state

23 compliance. In 2015, the Department of Correction

24 announced it would voluntarily bring itself into

25 compliance and work toward PREA certification for its

2 facilities. Implementation began by working closely
3 with The Moss Group, a nationally recognized expert
4 in PREA, to outline a multi-year plan to bring the
5 Department into compliance. The road to compliance--
6 I'm sorry. The road to implementation is long, but
7 the standards are broad and multi-faceted, and we
8 will achieve compliance in all of the Department's
9 facilities, exclusive of the hospitals. One of the
10 Department's tools as it works towards PREA
11 certification is the use of The Moss Group's mock
12 audits, which are structured similarly to a formal
13 PREA audit and are used to informally assess audit
14 readiness and expectations. Following a mock audit,
15 The Moss Group provides a concise report, listing all
16 of the standards with information about each
17 standard's adequacy, and the report includes
18 recommendations for improvements where needed. While
19 The Moss Group's mock audit process mirrors an actual
20 audit, certification of PREA compliance is conducted
21 by a DOJ-certified auditor. DOC's PREA efforts to
22 date include implementing many reporting mechanisms,
23 including free calls to 311, a fully monitored and
24 anonymous hotline, and contracting with an external
25 victim advocacy organization that provides emotional

2 support to sexual abuse victims. An extensive
3 information campaign to ensure inmates are well-
4 informed of the many reporting avenues went into
5 effect, including posters in all intake areas,
6 housing units, and inmate common areas, and a PREA
7 pamphlet is provided to any inmate entering custody.
8 In the Fiscal Year 17 January Plan, the Department
9 was funded for eight PREA Compliance Managers, which
10 we also call PCMs, and has since hired seven
11 individuals into these positions, who play roles in
12 the intake screening process, staff training, daily
13 inmate orientation for all new admissions, Sexual
14 Abuse Incident Reviews, and housing decisions.
15 Additionally, each facility has designated uniform
16 staff as a PREA Ambassador to work on PREA
17 initiatives, and whose primary responsibilities
18 include assisting with the intake screening, staff
19 training, and supporting the PCMs. PREA Ambassadors
20 function as PCMs in facilities where there are
21 currently no PCMs. Together, these two roles
22 function as the regular faces of PREA, providing
23 inmates with all rules, policies, procedures as it
24 pertains to the Department's zero tolerance policy
25 for sexual abuse and sexual harassment. The

1 Department has successfully trained over 7,300 DOC
2 staff members on PREA, with training provided to all
3 incoming recruits, and there are monthly scheduled
4 trainings for all DOC non-uniform staff, contractors,
5 and volunteers. This four-hour training is designed
6 to be a concise-- to be as concise as possible while
7 including a meaningful discussion that covers key
8 areas of the PREA Standards. The following topics
9 are discussed: What is PREA and Zero Tolerance; PREA
10 Implementation in the New York City Department of
11 Correction; The Right to be Free from Sexual Abuse,
12 Sexual Harassment, the Right to be Free from
13 Retaliation for Reporting Sexual Abuse and Sexual
14 Harassment; Prevention and Detection; Response and
15 Reporting; Professional Boundaries; and Effective and
16 Professional Communication on the Job. While
17 Correctional Health Services has been part of this
18 training effort from the beginning, in February 2018,
19 CHS began conducting a PREA training designed
20 specifically for its health staff in addition to
21 required online specialized training. To date, CHS
22 has trained over 1000 staff members. As part of the
23 PREA standard on responsive services, the Department
24 has posted Coordinated Response Plans, which are
25

2 written plans coordinating the actions taken by
3 facility, PREA Team, medical staff, and in response
4 to an incident of sexual abuse, in every facility.

5 If an allegation of sexual misconduct is made against
6 a DOC staff member, the staff member is immediately
7 separated from the housing unit, and CHS

8 confidentially evaluates the patient to provide

9 appropriate medical treatment and mental health

10 services and a referral for forensic evaluation as

11 warranted. As of February 2018, the Department began

12 using a new screening process, which uses a

13 questionnaire provided at intake to determine an

14 inmate's risk of sexual victimization, as part of the

15 Electronic Screening Tool. The Department uses the

16 responses to the questionnaire to determine the most

17 appropriate housing options for that individual, with

18 the goal of that person's safety, as well as the

19 safety of those around him or her, at the forefront.

20 During medical intake, CHS identifies patients with a

21 history of abuse, and connects them to a sexual abuse

22 advocate to provide appropriate counseling and

23 connection to care and victim services through the

24 Sexual Abuse Advocacy program. CHS has conducted 312

25 initial counseling sessions with patients and 275

2 follow-up sessions. The SAA program is completely
3 voluntary and patient-driven, and patients can
4 request, accept, or decline these services. When
5 patients are discharged from DOC custody, CHS offers
6 referrals to community-based programs upon request.
7 PREA compliance is measured at the individual
8 facility level rather than at the Department level.
9 While DOC has been implemented and implementing the
10 PREA standards across the Department, the audits will
11 be conducted on a facility-by-facility basis. The
12 first facility will be Rose M. Singer, and they will
13 be audited by a DOJ-certified reviewer in the spring
14 of 2019. Pending the results of that audit, any
15 corrective action will be taken immediately, and
16 lessons learned will be incorporated into the next
17 facility's preparation for its audit, tentatively
18 scheduled for fall 2019, until gradually all of the
19 facilities are deemed PREA compliant. The Department
20 has engaged with multiple stakeholders, including its
21 counterparts in CHS, who play a pivotal role in
22 addressing all allegations of sexual abuse and sexual
23 harassment. All CHS employees are expected to
24 immediately report any allegations, actual knowledge
25 of, or reasonable belief concerning sexual abuse or

2 sexual harassment to CHS operators, who in turn are
3 required to notify DOC for investigation. CHS works
4 closely with DOC staff to ensure that all patients
5 receive appropriate health and mental health care in
6 cases of alleged or suspected sexual abuse or sexual
7 harassment, regardless of where such reports are
8 made. Additionally, the Department and CHS have
9 worked closely with the Board of Correction, whose
10 Minimum Standards related to the elimination of
11 sexual abuse and sexual harassment in DOC facilities
12 went into effect in January 2017. These standards
13 have greatly improved the Department's reporting
14 efforts and made the Department more transparent on
15 this issue; many of the Department's reports are now
16 publically available on the Board's website.
17 Finally, as announced in April 2018, the Department
18 is committed to complying with its modified waiver to
19 Executive Order 16, which ensures that individuals
20 can use facilities consistent with their gender
21 identity. The Department will house individuals
22 according to their gender identity and maintain the
23 Transgender Housing Unit, which we also call THU, a
24 unit designed to address the unique needs of
25 transgender individuals in DOC custody. As part of

2 our ongoing efforts, the Department conducted a
3 comprehensive review of the THU's processes and
4 implemented changes to streamline the application
5 process, improve deficiencies, and reduce processing
6 time for housing in the THU. The Department will
7 continue to work with the New York City Commission on
8 Human Rights to align on principles of gender
9 identity. A cornerstone of PREA implementation is a
10 fair and thorough investigative process, and DC
11 Townsend will provide you with additional information
12 on the Department's work there.

13 DEPUTY COMMISSIONER TOWNSEND: Thank you,
14 Assistant Commissioner Yelardy. Do I need to be
15 sworn in?

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

20 DEPUTY COMMISSIONER TOWNSEND: I do.
21 Good morning Chair Powers, Chair Lancman, Chair
22 Rosenthal and members of the Criminal Justice,
23 Justice System, and Women Committees. I am Deputy
24 Commissioner Sarena Townsend, Deputy Commissioner of
25 the Investigation and Trials Division. Upon

2 receiving an allegation of sexual misconduct via one
3 of the previously described reporting mechanisms, the
4 Investigation Division begins the process of
5 investigating the allegation. The Department
6 investigates all sexual harassment and sexual abuse
7 allegations thoroughly within 72 hours of the
8 allegation being reported. In those first 72 hours,
9 PREA investigators will respond to the facility of
10 the alleged incident, and conduct their
11 investigation. This will involve speaking with the
12 inmate who made the allegation and any other
13 potential witnesses, reviewing Genetec video and
14 phone calls, reviewing the inmate and staff
15 backgrounds, collecting any other evidentiary
16 paperwork, and then documenting all of these steps in
17 a report. Critically, this also involves ensuring
18 that the alleged victim is immediately separated from
19 the alleged subject and that the alleged victim
20 inmate receives mental health, victim services, and
21 medical services. Any time an inmate alleges that he
22 or she was sexually abused, the Investigation
23 Division sends that information to the Department of
24 Investigation for clearance to investigate. The
25 Department of Investigation will either clear the

2 case and allow us to investigate, or they will ask
3 the Department to stand down, and they will take the
4 case themselves. If the matter is cleared for our
5 investigation, the Investigation Division assigns it
6 to one of the 24 investigators now assigned to the
7 PREA team. If, during Investigation Division's
8 investigation, criminality is found, we will refer
9 the case back to the Department of Investigation
10 and/or the District Attorney's Office. All sexual
11 abuse and sexual harassment allegations are
12 thoroughly investigated within 72 hours of the
13 allegation being reported; however, as of June 2018,
14 the Department had a backlog of 1,216 PREA-reportable
15 cases that had not yet been formally closed. A PREA-
16 reportable allegation is one that meets the
17 definitions as delineated in the PREA Standard.
18 These reportable allegations include staff on inmate
19 consensual and non-consensual acts, staff on inmate
20 sexual harassment, inmate on inmate non-consensual
21 sex acts, inmate on inmate abusive sexual contact and
22 inmate on inmate sexual harassment. Because the
23 Investigation Division is currently understaffed, and
24 because all of the steps just described take time, it
25 is not unusual for a PREA team investigator to get

2 called out to another allegation before he or she is
3 able to close an investigation. Therefore, despite
4 having conducted the preliminary investigation, and
5 ensuring that the alleged victim is interviewed,
6 separated from the alleged subject, and given all
7 appropriate services, these cases often remain open.
8 As of June 2018, the PREA team was comprised of 19
9 investigators, with each investigator averaging 95
10 cases, and each case taking well beyond the Board
11 standard requiring all cases be closed within 90 days
12 of an allegation being made. Because the team is in
13 the process of hiring additional staff, and because
14 the Investigation Division adheres so firmly to the
15 72-hour rule, PREA investigators have been unable to
16 close their cases in a timely fashion. By
17 implementing new strategies, the Investigation
18 Division has been able to make progress against our
19 backlog. The Department's main strategy is to add
20 investigative and supervisory staff to the
21 Investigation Division's PREA team and structure a
22 workable timeline for the closure of backlogged
23 cases. While the Department interviews candidates,
24 interim solutions were put into place. For example,
25 in order to reduce the amount of time it takes to

2 close out these already-investigated cases, the
3 Department revised the PREA closing memorandum,
4 making it more efficient and streamlined while still
5 containing all relevant information. Streamlining
6 the closing memo has helped reduce the amount of time
7 each investigator must dedicate to the otherwise
8 time-consuming paperwork involved in closing cases.
9 Another interim strategy was to assign a PREA-
10 certified supervisor from the Trials and Litigation
11 Division to close PREA-related cases, which has
12 compounded the time-saving of the new expedited
13 closing memorandum. Over 60 cases were closed in
14 approximately 60 days using this interim strategy.
15 The substantiation rate for PREA-reportable cases at
16 the Department of Correction in 2015 and 2016 was 6.5
17 percent, which is in line with national averages.
18 According to a report by the Federal Bureau of
19 Justice Statistics, substantiation rates for sexual
20 abuse and sexual harassment allegations nationwide
21 dropped from 10 percent substantiated in 2010 to six
22 percent in 2015. Most importantly, neither of our
23 interim strategies affects the quality of the
24 investigations into allegations of sexual misconduct,
25 which the Department is committed to fully

2 investigating and resolving. In fact, allegations
3 involving 16, 17, and 18-year-old inmate victims are
4 overseen also by the Federal Nunez Monitor. The
5 Federal Monitor thoroughly reviews not only all of
6 the Department's Use of Force cases, but also these
7 particular PREA cases for timeliness of closure and
8 appropriateness of our evidentiary conclusions. The
9 Department has prioritized investigating PREA matters
10 involving young inmates, and, of this category of
11 cases, only seven PREA-reportable cases remain open.
12 Also as part of the Federal Nunez Consent Decree, the
13 Department has installed just under 13,000 cameras,
14 with full coverage of all housing units and ancillary
15 areas in which inmates may be. These cameras have
16 proven to be highly effective investigatory tools and
17 may even act as deterrents to engaging in harmful
18 behavior. In the FY2019 Executive Budget, the
19 Department received additional positions for
20 Investigations Division specifically to enable the
21 expansion necessary to support the work needed for
22 both the Nunez Use of Force and PREA investigations.
23 We have recently hired six new investigators
24 specifically for our PREA team, with plans to hire
25 five more by early 2019. Additional supervisory

2 staff will be added to the unit, including four
3 supervising investigators and one deputy director.
4 By early 2019, the PREA team will be comprised of 30
5 investigators, six supervising investigators, a
6 Deputy Director, and a Director. These staffing
7 additions will greatly improve the speed with which
8 the Department is able to close cases. In fact,
9 since adding the six new PREA investigators to the
10 Department in June of 2018, the Investigation
11 Division has been able to close and additional 250
12 cases. The Department is on target to meet its goal
13 of clearing its backlog by early 2019. The
14 Department anticipates that once the backlog is fully
15 cleared, investigators will carry a caseload of
16 approximately 30 cases, allowing the Department to
17 achieve compliance with the Board standards requiring
18 cases be closed within 90 days of an allegation being
19 lodged. Furthermore, the Department remains
20 committed to the regular reporting of investigations-
21 related data, as required by the Board's Minimum
22 Standards. Regarding reporting, the Department would
23 like to take this opportunity to mention two pieces
24 of proposed legislation, Intro 1090 and Intro 933A.
25 For Intro 1090, which proposes an annual report of

2 the number of visitor complaints regarding sexual
3 abuse, the Department supports the intent of this
4 legislation, pending clarification of some of the
5 terms used. For Intro 933A, the Department similarly
6 supports the intent of this legislation; however, we
7 request that the reporting terms more closely align
8 to other similar reporting requirements already in
9 place, such as reporting on the biannual rather than
10 quarterly basis. Finally, I would like to restate
11 that the Department has a zero tolerance policy for
12 anyone, inmate, staff, or third-party, who commits
13 sexual misconduct in its facilities, and those found
14 to have engaged in criminal behavior are subject to
15 the fullest extent of the law in this regard. The
16 Department has undertaken major efforts over the past
17 three years to address the issue of sexual assault
18 and sexual harassment in its facilities, and
19 significant progress can be noted. One assault or
20 harassment is too many, but using the multi-faceted
21 approach we have just described, the Department will
22 continue its efforts to keep everyone who enters its
23 facilities safe. Thank you for the opportunity to
24 testify today, and we are happy to answer any
25 questions you may have.

2 CHAIRPERSON POWERS: Thank you. Thank
3 you for that testimony, and we've also been joined by
4 Council Member Maisel and Council Member Ayala as
5 well. So we will-- I'm going to ask a few questions,
6 and I know my colleagues here are eager to ask many
7 as well. To start with the reporting, which I wanted
8 to start with, what's been reported and which data we
9 are getting and the public's getting access to,
10 because I think that helps us inform what is
11 happening and help us understand how we can be
12 supportive of the work that you need to do. And I
13 appreciate the mentality that zero is the goal, and
14 but I would note that it strikes me that many of the
15 things we're talking about are not preventative, but
16 are responding. More investigators is great. It's
17 ensuring that we close cases out in time, making sure
18 that there are reporting mechanisms is great, but of
19 the course, the goal to get to zero includes much
20 more than letting people report and have ways to
21 report and also to get to-- and to get more
22 investigators. In fact, zero means being
23 preventative and not, of course, not looking at
24 minimum standards, but really how we can ensure that
25 all people are safe at all times. On the-- I just

2 wanted to start because we're going to talk a lot
3 about PREA and non-PREA. I certainly-- you can talk
4 about the differences, but I-- perhaps you guys can--
5 I know you did in your testimony talk about PREA, but
6 you're reporting in your report, I think your
7 biannual report talks about two types, two categories
8 with subcategories. Can you just for everybody's
9 sake here, talk about what's required to be reported
10 and also you just give us the definition difference
11 in terms of PREA and non-PREA?

12 COMMISSIONER YELARDY: So, I want to
13 reiterate that every allegation is taken seriously
14 and investigated. The PREA allegations may differ
15 from non-PREA allegation in that if it's a sexual
16 harassment allegation, for example, if it's not a
17 repeated sexual harassment allegation, then that
18 allegation might be considered a non-PREA allegation,
19 but it's still taken seriously and it's still
20 investigated appropriately.

21 CHAIRPERSON POWERS: Just, but just for
22 clarity's sake, PREA is defined in the federal law,
23 the Prison Rape Elimination Act, non-PREA, those are
24 allegations-- those are one, considered one-time
25 offenses that you're reporting voluntarily.

2 COMMISSIONER YELARDY: Yes.

3 CHAIRPERSON POWERS: Or you're not
4 mandated?

5 COMMISSIONER YELARDY: So we're taking
6 those-- the allegations define, sexual harassment
7 defined in the PREA Standards and sexual abuse as
8 defined in the PREA Standards. Taking those
9 allegations and those definitions and determining
10 whether they're actual PREA cases or non-PREA cases.

11 CHAIRPERSON POWERS: Okay. And so it was
12 mentioned earlier that in the biannual report you
13 report on certain categories of offenses, I think
14 like sexual misconduct, and there's five different
15 categories, but they're not listed by particular--
16 I'm not sure that they're listed by facility, but
17 they're not listed by things, by more specific
18 categories. Is there-- A, is there a reason that
19 they're reported that way, and second, is it possible
20 in these reports to provide more clear information so
21 that the public has a better understanding of what
22 these offenses are.

23 COMMISSIONER YELARDY: Sure. We try to
24 model our reporting requirement based on the federal

2 standards as well as the BOC rule, but if you want us
3 to add additional categories, we can do that.

4 CHAIRPERSON POWERS: Okay. We'll request
5 it, perhaps, in writing so--

6 COMMISSIONER YELARDY: [interposing] Sure.

7 CHAIRPERSON POWERS: we can be clear
8 about it, but I think that that's one of the things
9 in this report is trying to get cleared to what the
10 problems are and what are the actual, the actual
11 issues, and it's hard at times when it's unclear
12 because of the categorization of it. So, the-- you
13 mentioned the different ways that you can-- one can
14 report. Can you just list those for us again, all
15 the different ways that one can report?

16 COMMISSIONER YELARDY: Sure. In place
17 now, we have a confidential hotline that individuals
18 in our custody can call free of charge. That is sent
19 to-- once we get those calls that is sent to the
20 Investigation Division. Individuals can call 311
21 which is also free of charge to report. They-- we
22 have Safe Horizon. We are contracted with Safe
23 Horizon, an independent-- confidential, independent
24 agency that also lets us know if they have received
25 any report. CHS is also working in partnership with

2 us. If they receive any allegations, they
3 immediately send it to their operations, and their
4 operation sends it to us for investigative purposes.

5 CHAIRPERSON POWERS: And then how do you
6 make sure, how do you audit or ensure that all of
7 those calls or complaints or reports end up in the
8 Investigations Unit? Because certainly with that
9 many, you're not saying that-- I'm not saying that
10 more seems to be good. People should certainly will
11 have fears about reporting until maybe one way and
12 can have the other, can have an alternative. But how
13 do we ensure that those end up at the right-- they'll
14 all go to the Investigations Unit directly?

15 COMMISSIONER YELARDY: They all go to the
16 Investigation Unit. For the confidential hotline we
17 do a tracking system, and when we get either the call
18 from somebody on the phone, or if we get an email
19 indicating, a voicemail indicating that they're
20 alleging an allegation, we immediately forward that
21 allegation to the Investigations Division. The 311
22 process, they have a very extensive and intensive
23 tracking mechanism that any time they get an
24 allegation, they send it immediately to the
25 Investigation Division; it doesn't linger.

2 CHAIRPERSON POWERS: Okay, and what's the
3 highest resource that people are using in order to
4 do-- or how-- what's the highest one that you're
5 receiving?

6 DEPUTY COMMISSIONER TOWNSEND: From 311.

7 COMMISSIONER YELARDY: 311.

8 CHAIRPERSON POWERS: From 311?

9 DEPUTY COMMISSIONER TOWNSEND: Yeah.

10 CHAIRPERSON POWERS: So somebody uses a
11 phone where they-- in whatever facility they're used,
12 calls 311 and makes a report?

13 COMMISSIONER BRANN: Absolutely.

14 CHAIRPERSON POWERS: And the-- and are
15 you working on ways to help reduce fears about
16 reporting? Because certainly, to me, it strikes me
17 that a lot of avenues may be helpful to that goal so
18 that if you're fearful of one, you have another
19 option, but certainly reporting itself we've learned
20 is its own challenge for people. how do you-- how do
21 you reduce people's willingness or fear-- and part of
22 that would be things like retribution or things like,
23 you know, ensuring their own safety when they do
24 decide to come forward?

2 COMMISSIONER YELARDY: So, every inmate
3 that comes into our custody, they have an inmate
4 orientation in the new admission house. So as soon
5 as they get to the new admission house, within the 72
6 hours of being in our custody, they have an inmate
7 orientation which dictates to them how you can
8 report, our zero tolerance policy. We also have a
9 mechanism in place that if an allegation is made,
10 that we immediately start monitoring that allegation
11 for at least 90 days. It can be over 90 days, but at
12 least 90 days we monitor that allegation or that
13 inmate. We go and talk to them and whoever reported
14 the allegation to make sure that they're not being
15 retaliated against.

16 CHAIRPERSON POWERS: And then how do you
17 keep them safe once-- you guys talked a little bit
18 about the housing changes, but how do you ensure
19 their safety if they are reporting against staff, for
20 instance, or even somebody who's housed in the same
21 unit as them, there are safety concerns with them.
22 Housing's part of it. I assume there's other parts
23 of it as well. What is the process taken to ensure
24 safety against things like retribution as one of
25 them, which is again, adds to the fear of reporting?

2 So, what are the steps taken to ensure safety?

3 Housing's included, what are other steps?

4 COMMISSIONER YELARDY: So, let me go back
5 also. Family members, we have a third party
6 reporting mechanism in place as well that's on our
7 website, and there are posters up in our visit area,
8 and they also report for family members that might be
9 incarcerated with us. So, once an allegation is made
10 there's a separation order in place. Either a
11 staff/inmate separation or inmate/inmate separation.
12 And once we get that allegation, within, I would say,
13 48 hours, sometimes even before that, these
14 individuals are separated.

15 CHAIRPERSON POWERS: Sure, and how--
16 what's the timeline?

17 COMMISSIONER YELARDY: Within, I would
18 say, at least 48, but sometimes even shorter than
19 that; within 24 hours they are separated.

20 CHAIRPERSON POWERS: And how long does
21 that separation order last?

22 COMMISSIONER YELARDY: Until the
23 investigation is over.

24 CHAIRPERSON POWERS: And then if the
25 investigation's over and they're found, it's

2 unsubstantiated or other or does not meet the
3 threshold, if it's preponderance of evidence, you--
4 that order goes away and they can then be separation
5 orders removed?

6 COMMISSIONER YELARDY: The separation
7 order is removed; however, we look at it on a case by
8 case basis, because those individuals still may not
9 be in the safest environment if put back in--

10 CHAIRPERSON POWERS: [interposing] And how
11 do you ensure a conversation with like the-- if I
12 feel unsafe, how do I report that back to you that
13 I'm going to be housed in a place where I still feel
14 unsafe?

15 COMMISSIONER YELARDY: So, that's part of
16 the retaliation monitoring process of the PCM, the
17 PREA Compliance Manager, and/or the PREA Ambassadors
18 that are in every facility, monitor the retaliation.
19 They go and they speak to the inmate who made the
20 allegation and they determine then whether, you know,
21 if the case is closed. If the investigation is over
22 and they feel like maybe we should monitor
23 retaliation for longer than the 90 days, or maybe
24 these individuals should not be placed back in the
25

2 housing area. We make a determination on a case by
3 case basis.

4 CHAIRPERSON POWERS: And then what
5 happens to staff if there's an allegation made
6 against them? And we understand it's an allegation,
7 and its report has to be investigated, but certainly
8 there's a danger if somebody has an inv-- an open
9 investigation on them. What ha-- what steps are
10 taken around staff if there are open cases being
11 investigated?

12 DEPUTY COMMISSIONER TOWNSEND: I can take
13 that answer. When there's an allegation made against
14 a staff member, like AC Yelardy said, there is
15 separation order between that staff member and the
16 alleged inmate victim. The benefit of the
17 investigation division responding within those first
18 72 hours to do these interviews is that we are able
19 to prioritize and take whatever measures are
20 necessary with respect to that staff member. So, if
21 it appears an allegation of, you know, sexual abuse
22 or any criminality, that incident is referred
23 immediately to the Department of Investigation. So,
24 anytime any criminality is uncovered, that gets--
25 that gets forwarded to the appropriate authorities,

2 the Department of Investigation, the District
3 Attorney's Office, and in certain situations we will
4 not just separate the staff member from the inmate,
5 but we will separate the staff member from all inmate
6 contact.

7 CHAIRPERSON POWERS: So if there's a--
8 what is the threshold for saying that you would say
9 no contact?

10 DEPUTY COMMISSIONER TOWNSEND: It is a
11 case by case basis. It's an analysis that we take,
12 but it would involve a situation where there's an
13 allegation of a high level that appears to
14 potentially be substantiated. Absolutely, if it's a
15 criminal--

16 CHAIRPERSON POWERS: [interposing] And how
17 many of that-- how many separate-- how many staff
18 complete separations were done in 2017?

19 DEPUTY COMMISSIONER TOWNSEND: We've
20 done, I would say, probably 20-something. Currently,
21 we have six people, three with no inmate contact, and
22 that's because the remaining of that 20-- I believe
23 it's about 26-- have either have been disciplined,
24 terminated, or have resigned. So, at this point we
25

2 have a handful of individuals who fall into that
3 category.

4 CHAIRPERSON POWERS: And are presumably
5 are going through a process right now being--

6 DEPUTY COMMISSIONER TOWNSEND:
7 [interposing] Correct.

8 CHAIRPERSON POWERS: investigated. Okay,
9 and just a few more questions, then I'll pass it
10 along to the Chairs. The-- you talked about the
11 measures being taken to correct and to address some
12 of the deficiencies or some of the issues that were
13 raised in the report. I just wanted to go back to
14 the actual numbers, though, that reported in March,
15 which demonstrated a demonstrable difference in
16 change in terms of reports, and because of I think of
17 a backlog in investigating, I think we still don't
18 know today how many are substantiated or not. So,
19 could you just give us an update on open cases and
20 how many have been substantiated from that number
21 last year?

22 DEPUTY COMMISSIONER TOWNSEND: Yes. So,
23 the substantiation rate is interesting, because with
24 this backlog we had not been able in previous years
25 to close out many cases. So, even though it seems

2 substantiation rate or numbers were low, really it's
3 a question of how many cases were actually closed.
4 We had not been closing many cases because of
5 understaffing. SO, we have since been closing many
6 more cases, and our substantiation rate is now
7 aligned with the national average. So, for example--

8 CHAIRPERSON POWERS: [interposing] So,
9 what are the numbers?

10 DEPUTY COMMISSIONER TOWNSEND: in-- so,
11 for example, we've substantiated at this point 44
12 cases.

13 CHAIRPERSON POWERS: Out of?

14 DEPUTY COMMISSIONER TOWNSEND: From 2015
15 allegations. Now, it's important to note that in
16 2015 we only substantiated two allegations, because
17 we weren't closing that many at that time, but every
18 year since then we have increased the amount of cases
19 that we've closed and increased the number of
20 allegations that we substantiated. In 2015--

21 CHAIRPERSON POWERS: [interposing] So, can
22 you just do a number for us?

23 DEPUTY COMMISSIONER TOWNSEND: Gotcha
24 [sic].

2 CHAIRPERSON POWERS: So, 2015, how many
3 cases substantiated?

4 DEPUTY COMMISSIONER TOWNSEND: We
5 substantiated two allegations. In 2016, we
6 substantiated eight allegations. In 2017, we
7 substantiated 15 allegations, and this year so far
8 we've substantiated 19 allegations. So--

9 CHAIRPERSON POWERS: [interposing] Okay.
10 And can you give us the out-- 19 is--

11 DEPUTY COMMISSIONER TOWNSEND:
12 [interposing] Absolutely.

13 CHAIRPERSON POWERS: This year, 19 out of
14 how many?

15 DEPUTY COMMISSIONER TOWNSEND: So,
16 actually I think the better numbers to look at are
17 2015 and 2016 numbers because we were able at this
18 point to close out many of those cases. Whereas,
19 since we're still in 2018, we haven't closed out that
20 many cases.

21 CHAIRPERSON POWERS: How many have you
22 closed from 2018 cases? How many have you closed?
23 Is 19 of 20 cases brought to you in 2018, or are
24 those past cases that have been closed because of new
25 staff?

2 DEPUTY COMMISSIONER TOWNSEND: So, we
3 closed that-- in 2018? Well, let me talk about
4 April, because April when we determined we would be
5 able to have our corrective action plan in place, and
6 in June is when we received additional staffing.
7 Since April we've closed out an additional 316 cases.

8 CHAIRPERSON POWERS: And those are from
9 past years?

10 DEPUTY COMMISSIONER TOWNSEND: Those
11 include cases from past years, exactly. So, if you
12 looked, for example, at the cases that were closed
13 from allegations made in 2015, there were 219 PREA
14 allegations in 2015; 14 of those were closed out as
15 substantiated, and that is a 6.4 percent
16 substantiation rate. Allegations made in 2016, there
17 were 339. We've closed out 22 PREA-reportable cases
18 out of those 399, giving us 6.5 percent
19 substantiation rate. So, the Bureau of Justice
20 Statistics has recently issued a report in July of
21 2018 analyzing data from 2010 to 2015, nationwide,
22 and their substantiation rate in 2010 is
23 approximately 10 percent. In 2012, the allegations
24 rose dramatically because of PREA implementation, and
25 despite the fact that the allegations rose

2 dramatically, the substantiation numbers, although
3 they rose somewhat, the rate dropped, and so in 2015,
4 according to the Federal Bureau of Justice
5 Statistics, the substantiation rate nationwide was at
6 six percent. So, in 2015 in the Department of
7 Correction, our substantiation rate is 6.4 percent
8 for that year. We're in line--

9 CHAIRPERSON POWERS: [interposing] Okay,
10 so you're on-- you're in-- the nation is low [sic],
11 six-- you know. So, the-- but the question, so let's
12 just go to a more specific question.

13 DEPUTY COMMISSIONER TOWNSEND: Sure.

14 CHAIRPERSON POWERS: In 2018, are we
15 investigating cases still from 2015?

16 DEPUTY COMMISSIONER TOWNSEND: We are
17 investigating cases every single day. Every time
18 they--

19 CHAIRPERSON POWERS: [interposing] Yes or-
20 - maybe a yes or no? Yes or no? 2018, are we
21 closing--

22 DEPUTY COMMISSIONER TOWNSEND: We are
23 closing cases from 2015, 2016, 2017, and 2018.

24 CHAIRPERSON POWERS: Okay.

25 DEPUTY COMMISSIONER TOWNSEND: Yes.

2 CHAIRPERSON POWERS: Thank you. And then
3 so, and then when do we anticipate that a case
4 brought in today, a report made today, will get
5 closed?

6 DEPUTY COMMISSIONER TOWNSEND: That
7 depends on the case. As I said earlier--

8 CHAIRPERSON POWERS: [interposing] Sorry,
9 let me ask a more specific question. When do we-- do
10 you think we are in compliance with the 90-day
11 regulation that if somebody brings one in, 90 days to
12 close out?

13 DEPUTY COMMISSIONER TOWNSEND: Okay,
14 that's a fair question. We have a corrective action
15 plan in place that we believe in February of 2019
16 will allow us to close out the backlogged cases that
17 existed when we testified in front of the Board of
18 Correction in June of 2018. That was the 1,200
19 cases. The plan is that once we close out that
20 backlog in February of 2019, we will then address
21 what we call that second wave of smaller backlog from
22 June of 2018 to February of 2019, which is going to
23 be a much smaller backlog, and at that point we will
24 be in substantial compliance because we'll be able to
25 close out going forward cases within the 90 days--

2 CHAIRPERSON POWERS: [interposing] So, we-

3 -

4 DEPUTY COMMISSIONER TOWNSEND: timeline.

5 CHAIRPERSON POWERS: I know you're not
6 going to make a commit-- I doubt you're going to make
7 a commitment to adhere to that, but let's say we are
8 sitting here in March of 2019, and in fact, we just
9 may be. They're will probably be a budget hearing,
10 and we look at the backlog in 20-- March of 2019. We
11 should anticipate moving forward that a report comes
12 in and it will meet its 90-day-- it will be closed
13 out within 90 days.

14 DEPUTY COMMISSIONER TOWNSEND: We expect
15 that by March of 2019 we will be at least well on our
16 way to that goal, because by 2019 in February, we
17 have a plan to have already closed out those 1,200
18 backlogged cases. And so whatever the small backlog
19 is that occurs between the June 2018 and the February
20 2019 numbers, which will only be a three-month period
21 of backlog, we will be able to handle that much more
22 easily because we will have the staffing that we need
23 by then and we will have the mechanism put in place
24 to handle it.

2 CHAIRPERSON POWERS: Okay, and how-- and
3 your staffing of now, you have 19 today?

4 DEPUTY COMMISSIONER TOWNSEND: We
5 actually have 24.

6 CHAIRPERSON POWERS: Twenty-four.

7 DEPUTY COMMISSIONER TOWNSEND: We had 19
8 in June. We hired six. We lost one.

9 CHAIRPERSON POWERS: Okay.

10 DEPUTY COMMISSIONER TOWNSEND: And so we
11 have 24 investigators currently on our PREA team.

12 CHAIRPERSON POWERS: And how many do you
13 need to meet your 90-day goal?

14 DEPUTY COMMISSIONER TOWNSEND: We believe
15 that we will be fully staffed-up for our PREA team if
16 we have 30 investigators, and we also would like to
17 have one or two more supervisory staff put into
18 place, but we're well on our way to making that
19 happen.

20 CHAIRPERSON POWERS: Okay, and I know
21 we've been joined by Council Member Ulrich, as well.
22 And what's the average day? What are the average
23 closing period today?

24 DEPUTY COMMISSIONER TOWNSEND: That is
25 not easy to give an answer to because we are closing

2 cases, like I said, that are backlogged from 2015,
3 and we are closing cases that arose in 2018. So,
4 it's hard to really give an answer to that question.

5 CHAIRPERSON POWERS: But there's an
6 answer to that. It's just an average between if it's
7 three days today and it's 2015, it's 1,200 days,
8 there's an av-- I mean, there is an average. You can
9 do that, I mean. So, how many cases are still open
10 from 2015?

11 DEPUTY COMMISSIONER TOWNSEND: From 2015?
12 Just one moment, I have that for you. Sorry, give me
13 a second.

14 CHAIRPERSON POWERS: I know we've been
15 joined by Council Member Lander, too.

16 DEPUTY COMMISSIONER TOWNSEND: From 2015,
17 we still, we have 241 PREA-reportable allegations
18 open.

19 CHAIRPERSON POWERS: And when do you
20 expect to close those?

21 DEPUTY COMMISSIONER TOWNSEND: I'm sorry.
22 I misspoke. Those are the amount of the cases that
23 we received in 2015. The amount of cases that we
24 have open in 2015, from 2015, are 21.

25 CHAIRPERSON POWERS: Twenty-one, okay.

2 DEPUTY COMMISSIONER TOWNSEND: Yeah.

3 CHAIRPERSON POWERS: Okay, great. I've
4 taken a lot of time, but I will be back. I wanted to
5 pass it along to Council Member Chair Rosenthal.

6 CHAIRPERSON ROSENTHAL: Thank you, Chair
7 Powers. Commissioner, I really appreciate your
8 concern that you expressed at the top of your
9 testimony, and I appreciate your intent, I really do.
10 I have to say that-- two quick things. One, I think
11 the line of questioning that we just heard and the
12 answers reflect that numbers exist, but they-- as a
13 numbers person I had a hard time following what you
14 just said, and it-- but it sounds like you have some
15 information. So, may I ask on behalf of the
16 committee, that you send over the information you do
17 have?

18 DEPUTY COMMISSIONER TOWNSEND: Feel free
19 to ask whatever, whatever you would like from us we
20 can provide to you.

21 CHAIRPERSON ROSENTHAL: Great. We'll
22 send over-- I mean, I don't want to play games. I
23 really do want to move on. Everything you just said
24 that you have some numbers. I want to know those
25

2 numbers. Okay? That's it. I'm asking-- it's
3 public-- how quickly can you get it back?

4 DEPUTY COMMISSIONER TOWNSEND: What
5 numbers are you asking for?

6 CHAIRPERSON ROSENTHAL: Yeah, I'm not
7 going to do this. You just had a very obvious back
8 and forth with the Chair of the Committee. How can
9 you ask me what numbers I'm asking for?

10 COMMISSIONER BRANN: We will be happy to
11 provide you--

12 CHAIRPERSON ROSENTHAL: [interposing]
13 Thank you.

14 COMMISSIONER BRANN: all of the numbers
15 that we have and even have a private meeting with you
16 to discuss them.

17 CHAIRPERSON ROSENTHAL: I do appreciate
18 it. Thank you, Commissioner. What I really want to
19 focus on here today is what the results have been.
20 The bureaucratic questions over the exact
21 investigative process and the federal standard of
22 substantiation, all of this is very important, but I
23 don't want to miss the forest for the trees here.
24 So, what I'd like to start with is if a case is
25 referred to DOI, is it no longer included in the

2 numbers that you report on, and how does it affect
3 your substantiated-- substantiation rate?

4 DEPUTY COMMISSIONER TOWNSEND: It is
5 included. If a case is referred to the Department of
6 Investigation for them to investigate, then we are
7 told to stand down with our investigation, which we
8 do. Any time an individual is found guilty of a
9 crime as a result of the Department of Investigations
10 investigation and the District Attorney's
11 prosecution, that person is terminated from the
12 Department.

13 CHAIRPERSON ROSENTHAL: And so it holds--
14 it moves from pending to substantiated, just to
15 confirm what you just said.

16 DEPUTY COMMISSIONER TOWNSEND: Act-- yes.

17 CHAIRPERSON ROSENTHAL: After a case is
18 referred out?

19 DEPUTY COMMISSIONER TOWNSEND: After a
20 case is referred out--

21 CHAIRPERSON ROSENTHAL: [interposing]
22 Okay.

23 DEPUTY COMMISSIONER TOWNSEND: and the
24 person is found to have committed a crime, yes.

2 CHAIRPERSON ROSENTHAL: Okay. You
3 mentioned that the decision to refer a complainant
4 for a forensic examination is made by Correctional
5 Health Services. In the last year, how many
6 investigations used a rape kit?

7 ZACHARY ROSNER: Thank you. Do I need to
8 be sworn in?

9 COUNCIL CLERK: Do you affirm to tell the
10 whole truth, the truth, the whole truth, and nothing
11 but the truth in your testimony before the committee
12 and to respond honestly to Council Member questions?

13 ZACHARY ROSNER: I do. Good morning to
14 Chairs Powers, Chairs Lancman, Chairs Rosenthal, and
15 members of the Criminal Justice, Justice System, and
16 Women Committee, and also thank you to my colleagues
17 at the Department of Corrections, Council Member
18 Brann, Chief Canty, Deputy Commissioner Townsend, and
19 Assistant Commissioner Yelardy. My name is Zachary
20 Rosner. I'm Chief of Medicine for Correctional Health
21 Services. We oversee the medical care in the jail
22 system. We at Correctional Health Services have a
23 zero tolerance policy for any sexual abuse or
24 harassment in the jails. As caregivers we take this
25 role very seriously. Patient safety is our number

2 one concern, and advocacy for patients is one of the
3 main reasons many of us do this work. The question,
4 I believe, was how many, specifically, rape kits were
5 done in the last year. The number I have is
6 available for 2018. We've referred 27 patients to
7 the hospital in 2018, and I believe the hospital--
8 the forensic evidence collection is completed at
9 Bellevue for men and Elmhurst Hospital for women.
10 There are sexual abuse nurse examiners at those
11 hospitals who are specially trained in evidence
12 collection, and so we have refer-- as I mentioned, we
13 referred 27 patients to the hospital and forensic
14 kits were completed for 12.

15 CHAIRPERSON ROSENTHAL: Okay. How about
16 the year prior. How about in the year 2017, just very
17 succinctly, how many cases went to Bellevue? How
18 many rape kits were performed?

19 ZACHARY ROSNER: I can-- I can get that
20 information to you. I don't have it.

21 CHAIRPERSON ROSENTHAL: I would ask that--
22 - I don't even know how to respond to that.

23 ZACHARY ROSNER: So--

24 CHAIRPERSON ROSENTHAL: [interposing] You
25 don't have--

2 ZACHARY ROSNER: [interposing] So, I ha--

3 CHAIRPERSON ROSENTHAL: 2017 numbers?

4 ZACHARY ROSNER: I have-- the numbers I
5 have are for 2018.

6 CHAIRPERSON ROSENTHAL: Do-- okay.

7 ZACHARY ROSNER: I can-- I can give you
8 the numbers of reports that we've received, if that
9 would be helpful.

10 CHAIRPERSON ROSENTHAL: Sure.

11 ZACHARY ROSNER: Okay. In Calendar Year
12 2017, CHS specifically received 775 sexual abuse
13 reports. In 2016, we received 524, and 2015, 181.

14 CHAIRPERSON ROSENTHAL: Oh, this is
15 helpful. And in 2018, how many reports?

16 ZACHARY ROSNER: I think year to date--

17 CHAIRPERSON ROSENTHAL: [interposing] Yep.

18 ZACHARY ROSNER: the number 493.

19 CHAIRPERSON ROSENTHAL: So you've
20 received over four-- nearly 500, and 27 were sent to
21 the hospital?

22 ZACHARY ROSNER: That's correct. The 493
23 includes harassment and abuse complaints.

24 CHAIRPERSON ROSENTHAL: Okay. Do you
25 know of that how many were raped?

2 ZACHARY ROSNER: So, the terminology we
3 generally use is harassment and abuse. The-- I'm
4 sorry, harassment and assault. We had 221 assault
5 reports to us. That includes any type of unwanted
6 physical touching. So, it may not warrant forensic
7 examination.

8 CHAIRPERSON ROSENTHAL: Okay. Can we see
9 that a closing memo looks like?

10 DEPUTY COMMISSIONER TOWNSEND: Yes, we
11 can provide that to you.

12 CHAIRPERSON ROSENTHAL: Okay, and is it a
13 check-box thing, or is there words?

14 DEPUTY COMMISSIONER TOWNSEND: Both.

15 CHAIRPERSON ROSENTHAL: Okay.

16 DEPUTY COMMISSIONER TOWNSEND: We can
17 provide it to you.

18 CHAIRPERSON ROSENTHAL: Okay. And then
19 your data that we got for the most recent report, and
20 the data was not disaggregated as to whether or not a
21 survivor was Trans or Cisgender. Can you provide
22 that information?

23 DEPUTY COMMISSIONER TOWNSEND: I will look
24 into whether we can provide that information to you.

2 CHAIRPERSON ROSENTHAL: When you
3 mentioned that when someone comes in, there's a--
4 they ascertain the guard or people will ascertain
5 whether or not they need to go into a more protective
6 unit, is it at that time when you might have had the
7 information?

8 COMMISSIONER YELARDY: I'm sorry, which
9 information, whether they're transgender or
10 cisgender?

11 CHAIRPERSON ROSENTHAL: Yes.

12 COMMISSIONER YELARDY: So, depending on
13 the time period that you're asking about, we have
14 implemented an electronic screening tool that
15 indicates whether an individual is part of the
16 LGBTIGNC community, and so depending on when-- what
17 time frame you're asking for, we can give that
18 information.

19 CHAIRPERSON ROSENTHAL: Okay. Let's see.
20 I actually-- I think I'm going to turn it over to my
21 colleagues. Oh, wait, sorry, one quick question.
22 How many cases were referred to the NYPD last year,
23 and how many were referred to the DAs?

24 DEPUTY COMMISSIONER TOWNSEND: I can get
25 you that information, but any time we do an

2 investigation where criminality is uncovered, we will
3 refer the case to the Department of Investigations
4 and/or the Bronx District Attorney's Office.

5 CHAIRPERSON ROSENTHAL: So, do you know--
6 in the information that you can get us, could you get
7 us say starting in 2015 from the time when, you know,
8 there was a real determination to focus on this, the
9 number of cases in each year that were referred to
10 DOI, the number to the DA, and the number to NYPD?
11 Can you give us that information?

12 DEPUTY COMMISSIONER TOWNSEND: Just to
13 clarify--

14 CHAIRPERSON ROSENTHAL: [interposing]
15 Yeah.

16 DEPUTY COMMISSIONER TOWNSEND: every
17 single case, every single allegation that comes
18 through to the Investigation Division that alleges
19 any sort of sexual abuse of any kind is immediately
20 referred to the Department of Investigation, every
21 one of them. And for st-- excuse me, yes, for st--
22 any allegation involving staff on inmate sexual abuse
23 of any kind is immediately referred to the Department
24 of Investigation. They may, and often times usually
25 do, clear us to investigate it, but--

2 CHAIRPERSON ROSENTHAL: [interposing] Got
3 it.

4 DEPUTY COMMISSIONER TOWNSEND: Immediately
5 it is referred to the Department of Investigation.

6 CHAIRPERSON ROSENTHAL: And so it would
7 be a different type of case that you would refer to
8 NYPD or to the DA, not staff on inmate?

9 DEPUTY COMMISSIONER TOWNSEND: No, the
10 depart-- well, the Department of Investigation is the
11 appropriate place to refer these kinds of
12 allegations, yes, and like I said earlier, if they
13 refer it back to us for further investigation and we
14 then uncover criminality of any kind, we will refer
15 it back to, often times, both the Department of
16 Investigation and the District Attorney's office to
17 see if they want to take that case again.

18 CHAIRPERSON ROSENTHAL: Okay, does it do-
19 - cases ever go to the SVD in the PD?

20 DEPUTY COMMISSIONER TOWNSEND: We will
21 work together at any point in time potentially with
22 the NYPD, but our main liaison is the Department of
23 Investigation.

24

25

2 CHAIRPERSON ROSENTHAL: Okay, got it. So
3 you can get us those numbers from 2016, okay. And I
4 mean, 2015 when you began collecting, forward.

5 DEPUTY COMMISSIONER TOWNSEND: Sure.

6 CHAIRPERSON ROSENTHAL: Great, thank you.
7 Thank you, Chair Powers.

8 CHAIRPERSON POWERS: Yes, thank you, and
9 Chair Lancman?

10 CHAIRPERSON LANCMAN: Thank you. So,
11 first, Commissioner, I want to on the record and
12 publicly thank a couple members of your staff who
13 helped me get out of a statistical pickle in the last
14 day or so, Brenda Cook and Alex Ford, who were
15 extremely helpful getting us the data that we really
16 needed yesterday, and I want to make sure that you
17 know that. My place at this hearing is my committee
18 and the Justice System; we oversee MOCJ; we oversee
19 the DAs; we oversee the courts and some others. I
20 want to focus on the issue of referrals to the
21 District Attorneys, the District Attorney in the
22 Bronx in particular, and how that relationship goes.
23 So, but let me understand the investigative process
24 as well as I can. When you have one of these

2 allegations, the first call outside of the Department
3 of Corrections is to the Department of Investigation?

4 DEPUTY COMMISSIONER TOWNSEND: Yes. Do
5 you want me to walk you through the process of how we
6 go through our investigation--

7 CHAIRPERSON LANCMAN: [interposing] Is it
8 different? Is it different from the testimony that
9 you, that you provided?

10 DEPUTY COMMISSIONER TOWNSEND: Only with
11 additional details if you would like.

12 CHAIRPERSON LANCMAN: Yeah, okay.

13 DEPUTY COMMISSIONER TOWNSEND: Yeah, but
14 staff on inmate sexual abuse allegation, we refer to
15 the Department of Investigation first, yeah.

16 CHAIRPERSON LANCMAN: And how long does
17 it take them to decide whether they're going to
18 conduct the investigation or it's going to be the
19 Department's Investigation Division?

20 DEPUTY COMMISSIONER TOWNSEND: It's very
21 fast. We get a response, I would say, certainly
22 within 24 hours, usually within a few hours.

23 CHAIRPERSON LANCMAN: And are you aware
24 of any criteria or guidelines that they use or that
25

2 exist that guide their decision as to who's going to
3 be running this investigation?

4 DEPUTY COMMISSIONER TOWNSEND: I wouldn't
5 want to speak for another agency, but we do refer
6 those cases to them, and we give them the information
7 that we get--

8 CHAIRPERSON LANCMAN: [interposing] I know
9 that's a different--

10 DEPUTY COMMISSIONER TOWNSEND:
11 [interposing] and then they--

12 CHAIRPERSON LANCMAN: [interposing] I
13 understand that's different.

14 DEPUTY COMMISSIONER TOWNSEND: I don't
15 know exactly what--

16 CHAIRPERSON LANCMAN: [interposing] You
17 don't know--

18 DEPUTY COMMISSIONER TOWNSEND:
19 [interposing] their criteria is. But they will ask
20 them to re-refer it back to them if we discover any
21 criminality.

22 CHAIRPERSON LANCMAN: And my colleague,
23 Council Member Rosenthal, asked about referrals to
24 the Police Department. At what point-- well, you
25 can't be responsible for what the Department of

2 Investigation does, I guess, but at what point does
3 the Department of Corrections, if the allegation is
4 being investigated by the Investigations Division,
5 notify the NYPD that there's an allegation of what in
6 all circumstances would amount to some crime?

7 DEPUTY COMMISSIONER TOWNSEND: If we do
8 uncover criminality, our liaison is to the Department
9 of Investigation, and sometimes if there's a
10 situation, if it requires a crime team, for example,
11 we will work in conjunction with NYPD. If there's
12 evidence collected, for example, we will establish
13 chain of custody and provide that to the NYPD so that
14 it can then be subsequently vouchered and sent to the
15 Office of the Chief Medical Examiner for their
16 analysis. So in that way we will liaise with the
17 NYPD.

18 CHAIRPERSON LANCMAN: So, let's drill
19 down on that a little bit. So, give me the
20 circumstances when the Department will or will not
21 let the NYPD know that an allegation has been made?
22 I mean, does it have to be substantiated first, or--

23 DEPUTY COMMISSIONER TOWNSEND:
24 [interposing] It does not have to be substantiated.
25

2 CHAIRPERSON LANCMAN: Wait, just let me
3 finish.

4 DEPUTY COMMISSIONER TOWNSEND: Sure.

5 CHAIRPERSON LANCMAN: Does it have to
6 meet some quantum of evidence that something really
7 did happen or is it defined by the nature of the
8 allegation, like not every allegation of sexual abuse
9 or sexual assault involves forensic evidence or a
10 crime scene, as you put it.

11 DEPUTY COMMISSIONER TOWNSEND: So, a
12 complaint or a 61 will be prepared for an inmate on
13 inmate allegation of sexual abuse, which is referred
14 obviously to the NYPD. The Department of
15 Investigation, however, is--

16 CHAIRPERSON LANCMAN: [interposing] Sorry,
17 let me just stop you there.

18 DEPUTY COMMISSIONER TOWNSEND: Yeah,
19 sure.

20 CHAIRPERSON LANCMAN: Is there any kind
21 of sexual abuse defined by PREA that does not trigger
22 this form 61, like it has to be some certain level
23 within the-- or some certain level of seriousness?

24 DEPUTY COMMISSIONER TOWNSEND: Sexual
25 abuse is a crime. So, if it's an inmate on inmate

2 sexual abuse, then there's a 61 generated.

3 Harassment is not a crime.

4 CHAIRPERSON LANCMAN: Okay. Well,
5 certain kinds of harassment could be.

6 DEPUTY COMMISSIONER TOWNSEND: Aggravated
7 harassment could be a crime, but verbal harassment is
8 a violation under penal law, not a misdemeanor.

9 CHAIRPERSON LANCMAN: So, those kinds of
10 verbal harassment would not generate this form 61?

11 DEPUTY COMMISSIONER TOWNSEND: Correct.

12 CHAIRPERSON LANCMAN: Okay, so let's keep
13 going. There's a 61 that's been generated.

14 DEPUTY COMMISSIONER TOWNSEND: Right.
15 And so those situations would, you know, we would
16 involve the NYPD. Now, if there's a crime team, like
17 I said, that needed to be--

18 CHAIRPERSON LANCMAN: [interposing] Well,
19 wait, let me just stop you. When you say involve, is
20 it the case that every time there is a form 61 which
21 by definition indicates that there's an allegation
22 that a crime was committed--

23 DEPUTY COMMISSIONER TOWNSEND:
24 [interposing] Yes.

2 CHAIRPERSON LANCMAN: that the NYPD is
3 notified.

4 DEPUTY COMMISSIONER TOWNSEND: Yes.

5 CHAIRPERSON LANCMAN: Every case?

6 DEPUTY COMMISSIONER TOWNSEND: I will
7 make sure before speaking out of turn, because I want
8 to make, you know,--

9 CHAIRPERSON LANCMAN: [interposing] At
10 least it's the policy that-- okay, keep going.

11 DEPUTY COMMISSIONER TOWNSEND: So, are we
12 talking about inmate on inmate sexual abuse cases.

13 CHAIRPERSON LANCMAN: The cases where the
14 61 is generated.

15 DEPUTY COMMISSIONER TOWNSEND: Yes, so
16 those are the cases that we would involve the Police
17 Department.

18 CHAIRPERSON LANCMAN: Well, those are the
19 cases you would notify the police.

20 DEPUTY COMMISSIONER TOWNSEND: Correct.

21 CHAIRPERSON LANCMAN: Right. So, let's
22 talk now about involve, which is a different world.

23 DEPUTY COMMISSIONER TOWNSEND: Sure.

24 CHAIRPERSON LANCMAN: In what
25 circumstances will they be involved where they will

2 come, where they will do their own investigation as
3 the Police Department does crime scenes and whatever?

4 DEPUTY COMMISSIONER TOWNSEND: Right, so I
5 can't speak for the NYPD or the District Attorney's
6 Office, but any allegation that arises to the level
7 of criminality will be handled by the Bronx or if it
8 happens in Brooklyn, whichever the relevant District
9 Attorney's Office is. And so we will refer those to
10 the appropriate agencies, and if there is criminality
11 involved, then the appropriate measures are taken.

12 Now, when we--

13 CHAIRPERSON LANCMAN: [interposing] Sorry,
14 I'm just--

15 DEPUTY COMMISSIONER TOWNSEND: When
16 there's other agencies--

17 CHAIRPERSON LANCMAN: [interposing] I'm
18 just a con-- I'm just a little confused.

19 DEPUTY COMMISSIONER TOWNSEND: Sure.

20 CHAIRPERSON LANCMAN: It's me. If you
21 are sending all your 61's or notifying the Police
22 Department of all your-- there's-- hey, there's a 61.
23 Do they come and take a look at it, or do they wait
24 and not do anything beyond that until they hear from
25 you?

2 DEPUTY COMMISSIONER TOWNSEND: No, they
3 will not wait for us to, let's say, substantiate a
4 case or anything of that nature.

5 CHAIRPERSON LANCMAN: We know the
6 substantiations and the issues with that on the
7 Department's behalf and DOI's behalf. Do you know of
8 any circumstance where the PD has been notified via
9 this form 61 or that there is a form 61, and then the
10 NYPD has acted to make an arrest where the Department
11 has not found a substantiation?

12 DEPUTY COMMISSIONER TOWNSEND: If I'm
13 understanding your question, you're asking if the
14 Bronx DA or the NYPD has determined that there's
15 criminality involved, are there any situations that
16 we disagree if that's--

17 CHAIRPERSON LANCMAN: No, I guess, we're
18 getting close.

19 DEPUTY COMMISSIONER TOWNSEND: Okay.

20 CHAIRPERSON LANCMAN: I got to make my
21 question better.

22 DEPUTY COMMISSIONER TOWNSEND: Okay.

23 CHAIRPERSON LANCMAN: This isn't easy on
24 my side either. I want to know if the NYPD ever acts
25 independently of the Department, and is notified, as

2 they are in every circumstance, or at least they're
3 supposed to be if there's a criminal act, do they
4 ever go and effectuate arrest or go and conduct an
5 investigation, or in-- is it the case that in all
6 circumstances they won't act until you have arrived
7 at a decision that an allegation has been
8 substantiated, and then do cops come in?

9 DEPUTY COMMISSIONER TOWNSEND: Okay.

10 First, let me just say that the NYPD does not
11 investigate our allegations; the Department of
12 Investigation does. So, that-- so if we're talking
13 about the Department of Investigation and liaising
14 with the District Attorney's Office, has there ever
15 been a case where they have found or substantiated
16 something where we haven't?

17 CHAIRPERSON LANCMAN: Who's they in that
18 scenario?

19 DEPUTY COMMISSIONER TOWNSEND: I'm sorry,
20 if the Department of Investigation has substantiated
21 an allegation--

22 CHAIRPERSON LANCMAN: [interposing] So,
23 but I think what you're saying is to a certain
24 extent, talking about the NYPD is not even really the
25 right question.

2 DEPUTY COMMISSIONER TOWNSEND: It's a
3 little less relevant than speaking of the Department
4 of Investigations.

5 CHAIRPERSON LANCMAN: Let's say a
6 complaint is substantiated.

7 DEPUTY COMMISSIONER TOWNSEND: Okay.

8 CHAIRPERSON LANCMAN: Alright, and you
9 can see that inmate X sexually assaulted inmate Y,
10 and inmate X is going to be arrested and charged with
11 that crime.

12 DEPUTY COMMISSIONER TOWNSEND: Okay.

13 CHAIRPERSON LANCMAN: It's the correction
14 officers who will effectuate that arrest, right? And
15 then the DA's Office that obviously prosecute. It's
16 not like the NY-- the local NYPD precinct comes on
17 the island and arrests the person, right?

18 DEPUTY COMMISSIONER TOWNSEND: Right.

19 And so with-- and with respect to investigation and
20 discipline, it is my job to discipline correction
21 officers for misconduct of any kind including sexual
22 harassment or sexual abuse. It's the correction
23 officers that end up going through the disciplinary
24 process through the Investigation and Trials
25 Division.

2 CHAIRPERSON LANCMAN: But in terms of the
3 criminal aspect of it, for Rikers Island and any of
4 the DOC facilities, the model that us civilians are
5 used to where crime is committed, the NYPD shows up,
6 does it's investigation, there's some level of
7 coordination with the District Attorney's Office or
8 not, and then a determination is made to arrest that
9 person, and we're talking about conduct that occurs
10 in a Department of Corrections facility; the NYPD
11 isn't involved in that way. It is the--

12 DEPUTY COMMISSIONER TOWNSEND:

13 [interposing] We have the-- we have--

14 CHAIRPERSON LANCMAN: [interposing] It is
15 you have 11,000 or 10,000 correction officers and you
16 have the Department of Investigation, and that kind
17 of NYPD function is, for all practical purposes,
18 fulfilled by some combination of the Corrections
19 Department itself and the Department of
20 Investigation.

21 DEPUTY COMMISSIONER TOWNSEND: Correct,
22 and the District Attorney's Office.

23 CHAIRPERSON LANCMAN: And District
24 Attorney's Office.

2 DEPUTY COMMISSIONER TOWNSEND: We have
3 our Correction Intelligence Bureau handles those
4 types of arrests, and the District Attorney's Office
5 gets involved as well if necessary; they have DA
6 Investigators.

7 CHAIRPERSON LANCMAN: Alright, so my next
8 question, but I want it to be fair. How long have
9 you been in this position?

10 DEPUTY COMMISSIONER TOWNSEND: How long
11 have we been in this particular position?

12 CHAIRPERSON LANCMAN: Yeah.

13 DEPUTY COMMISSIONER TOWNSEND: Two years.

14 CHAIRPERSON LANCMAN: Okay, well that's
15 good.

16 DEPUTY COMMISSIONER TOWNSEND: Well,
17 excuse me, I've been at the Department of Correction
18 for two years. I've been in this particular
19 position-- I was in charge of the Trials and
20 Litigation Unit. I'm a former prosecutor. I served
21 [sic] 10 [sic] years.

22 CHAIRPERSON LANCMAN: No, no, I'm not--
23 I'm not questioning your credentials.

24 DEPUTY COMMISSIONER TOWNSEND: Okay. I
25 can--

2 CHAIRPERSON LANCMAN: [interposing] I just
3 want-

4 DEPUTY COMMISSIONER TOWNSEND: look
5 through my resume if you'd like.

6 CHAIRPERSON LANCMAN: No, I'm sure you're
7 imminently qualified and you're doing a lot better at
8 this than I am. So, my question is--

9 DEPUTY COMMISSIONER TOWNSEND:
10 [interposing] Yes.

11 CHAIRPERSON LANCMAN: Have you noticed a
12 difference in the seriousness in with which these
13 potentially criminal cases have been taken since the
14 Bronx District Attorney, focused on Rikers here, has
15 planted a satellite office on Rikers Island charged
16 with the mandate of taking crimes that are committed
17 like sexual assault more seriously and prosecuting
18 them and not allowing them to just kind of be bundled
19 up into the whole criminal case that a person got
20 originally brought with them to Rikers Island?

21 DEPUTY COMMISSIONER TOWNSEND: I--

22 CHAIRPERSON LANCMAN: Is that having an
23 effect?

24 DEPUTY COMMISSIONER TOWNSEND: I believe
25 that every-- maybe I'm biased as a former prosecutor-

2 - but I believe that every allegation that goes
3 through that District Attorney's Office and any of
4 our city District Attorney's Office are taken
5 extremely seriously.

6 CHAIRPERSON LANCMAN: Okay. I appreciate
7 that, but in terms of R-- you're standing up for the
8 team, that's good. But in terms of on Rikers Island--
9 - and Commissioner, or maybe someone else would be
10 better suited because they've got the before and
11 after view, maybe, but can someone else give me maybe
12 a little more precise answer on whether or not the
13 satellite office on Rikers Island that the DA
14 maintains has had an impact in how seriously and
15 whether or not people are actually getting charged
16 with crimes for sexual assault?

17 COMMISSIONER BRANN: I don't think the
18 seriousness, the sense of seriousness has changed,
19 but what I do believe is we have a very good
20 relationship with the Bronx DA's Office, because they
21 are on the island. And the head of that division was
22 the former head of the Trials Division, so she's
23 intimately aware of the issues that go on at Rikers,
24 the officers, the staff all of that, and so what has
25 helped having them there is expediency and the

2 ability to communicate, not having to set an
3 appointment and wait to get in to see someone at the
4 DA's Office, but actually go over to the trailer,
5 talk to someone face to face; they respond to the
6 facility. So the expediency of how these cases are
7 dealt with through the District Attorney's Office has
8 improved.

9 CHAIRPERSON LANCMAN: You know,
10 unfortunately, just because of scheduling issue, the
11 Bronx DA's Office wasn't able to be here this
12 morning, but Judge Clark is going to provide us--
13 we're going to ask her to provide us with some
14 written response, information, as to how her office
15 is investigating or playing a role in investigating
16 and prosecuting these kinds of cases on Rikers
17 Island. So, but if you could--

18 DEPUTY COMMISSIONER TOWNSEND:
19 [interposing] If I may?

20 CHAIRPERSON LANCMAN: Please.

21 DEPUTY COMMISSIONER TOWNSEND: Our
22 division, the Investigation Division at the
23 Department of Correction regularly liaises with the
24 Rikers Island Bureau, and so the communication lines
25

2 are definitely there and the appreciation for the
3 seriousness of these incidents is clear.

4 CHAIRPERSON LANCMAN: And then let me ask
5 you, and I'll move off of this, just to follow up on
6 Council Member Rosenthal's question if I understood
7 it, but you're not able to tell us how many of these
8 allegations, how many of these form 61 complaints
9 have at some point evolved into an actual criminal
10 charge against someone for one of these sexual
11 offenses?

12 DEPUTY COMMISSIONER TOWNSEND: I can get
13 that--

14 CHAIRPERSON LANCMAN: [interposing] If you
15 can get that for us, because you know, obviously, as
16 people have been saying, the extraordinarily low
17 substantiation numbers and the lack of closure in so
18 many cases obviously is making everybody very
19 concerned that whatever might be done to separate a
20 person from another person where there's an
21 allegation and there are questions there, justice
22 isn't being done in the end, and if justice isn't
23 done, it creates an atmosphere of impunity. So, I
24 would love to see those, those--

2 DEPUTY COMMISSIONER TOWNSEND:

3 [interposing] Sure, and I would reiterate that
4 because we do go out within the first 72 hours to
5 investigate initially these allegations, we are able
6 at that point to prioritize cases, and we're also
7 able to assess whether there appears to be potential
8 criminality involved, at which point we will refer
9 those cases back to the Department of Investigation
10 for further analysis. So, yes, there is a backlog,
11 but all of the cases that are in the backlog have
12 been investigated. The alleged victim has been
13 spoken to and offered all of the potential services
14 that we can offer to that person. The evidence has
15 been collected and preserved, and so it is a matter
16 of clearing this backlog, but those cases have been
17 investigated and anything that arose to a level of
18 criminality is pushed forth to the appropriate
19 authorities.

20 CHAIRPERSON LANCMAN: Thank you. And
21 just for the Commissioner, under the category of
22 "since you're here," Rosie Goldensten [sp?] is
23 reporting in today's Politico that the Department has
24 "reversed course on a once touted effort to house
25 younger detainees separately from older adults three

2 years after a rule is passed requiring the
3 separation." That relates to the 19 through 21-year-
4 olds who we thought were going to be separated and
5 now have been sent back into the general population
6 which is concerning in and of itself, and then one of
7 the reasons for that concern as reported in the
8 article is there are real questions about whether
9 they're-- aside from whatever safety issues that
10 might propose to them-- whether or not they're
11 getting access to services that 19 through 21-year-
12 olds could get. So, I know we're springing on-- or
13 I'm springing that on you a little bit, but if you
14 could tell us about that briefly, I'd really
15 appreciate it. I don't know when we'll see each
16 other again.

17 COMMISSIONER BRANN: We can see each
18 other whenever you'd like to, sir. I'm always
19 available to you to answer questions.

20 CHAIRPERSON LANCMAN: And you have been,
21 and I appreciate that.

22 COMMISSIONER BRANN: Thank you. So, I
23 can't comment on the article because I don't know
24 what it says, but in summary, we did close GMDC in
25 June, and the young adults were moved for the most

2 part to RNDC. So while they are in a jail with adult
3 inmates, they are not part of the general population,
4 for the most part, with the adult inmates. They are
5 separated, and they full access to the programs that
6 we had in place in GMDC, and we're increasing
7 programs to a level that will be equal to what they
8 had in GMD. Some things are still being built. For
9 example, we had the P-Center in GMDC. We had to wait
10 for a COC approval to rebuild that space in RNDC. So
11 some things aren't in place yet, but will be very
12 shortly. But we are committed to the young adult
13 plan, excuse me, and we have no intentions of veering
14 off of that.

15 CHAIRPERSON LANCMAN: Just to clarify,
16 when you say you're committed to the young adult
17 plan, meaning getting to a place where they are
18 physically separate all the time from the general
19 population?

20 COMMISSIONER BRANN: For the most part,
21 unless they're in special housing. So sometimes they
22 are co-mingled because they're in a special unit
23 where there are adults, someone over 22, but for the
24 most part, yes. So, the original plan that we
25 developed we are committed to maintaining.

2 CHAIRPERSON LANCMAN: Well, I'll consult
3 with the Chair of the Committee, but I think it might
4 be helpful for there to be some kind of written plan
5 that we could share with the Council or share with
6 me, and we can evaluate whether we think that's good
7 or bad and talk more about it. But it is very
8 important in my view that these young adults be
9 completely separated and so far as it is, I don't
10 want to say practical. I don't want to say you just-
11 - unless it's impossible from the general population.
12 It was a high priority of corrections reform for a
13 lot of us.

14 COMMISSIONER BRANN: Correct.

15 CHAIRPERSON LANCMAN: Alright. Thank you
16 very much. Thank you.

17 CHAIRPERSON POWERS: Thank you. Thank
18 you Council Member and Chair Lancman. We have
19 members who are here, signed up to ask questions as
20 well. We're I think going to start with Council
21 Member Cumbo, Council Member Dromm to follow, and
22 we'll go through the rest of the list and I think
23 we're going to use the one to two-minute clock for
24 questions. So, thank you.

2 COUNCIL MEMBER CUMBO: Thank you. I had
3 an opportunity to visit the Singer facility, and
4 coming into it it's very-- it's very intensive. You
5 can't have jewelry. You've got to check this.
6 You've got to check that. You got to talk all metal
7 devices off. Everything is a door and a lock
8 situation, and there's so much staffing and cameras
9 everywhere. Going on a tour and then hearing what
10 these numbers are, you can't even fathom that
11 incidents such as these could occur at all. Where
12 exactly within the facility are the majority of these
13 cases or tragic incidences even happening? And with
14 the level of cameras, scrutiny, officers, where are
15 you finding in the facility that the majority of
16 these cases actually happen?

17 COMMISSIONER YELARDY: So without having
18 the actual data in front of me, I would say in the
19 housing areas is where a lot of the incidents are
20 happening. In the shower area is where a lot of the
21 incidents are happening, where the camera is not
22 pointed to the shower area. We can't see in there,
23 and a lot of the numbers reflect sexual harassment,
24 and not necessarily sexual abuse, which we still take
25

2 very seriously, but it's a higher number of sexual
3 harassment allegations and sexual abuse.

4 COUNCIL MEMBER CUMBO: But there are
5 still sexual abuse incidents that are happening--

6 COMMISSIONER YELARDY: [interposing] Yeah.

7 COUNCIL MEMBER CUMBO: and it's showing
8 that it's happening far above the national average.

9 What staff are often involved? Would you say-- do

10 you have direct numbers in terms of is it the

11 correctional facility staffers? Is it food and

12 maintenance? Is it the cleaning staff? Is it

13 doctors, nurses? Where are the majority of the

14 staffing that is actually committing either sexual

15 harassment and/or abuse?

16 COMMISSIONER YELARDY: So, it's hard to
17 say where are the staffers, right? I--

18 COUNCIL MEMBER CUMBO: [interposing] Not
19 where, but which staffers?

20 COMMISSIONER YELARDY: So, a lot of the
21 allegations of sexual abuse come from pat frisks, and

22 they're not inappropriate pat frisks. Once we finish

23 the investigation to determine what happened, we find

24 that it was an actual-- it was a good pat frisk, but

25 a lot of the allegations come from a pat frisk.

2 COUNCIL MEMBER CUMBO: Come from a?

3 COMMISSIONER YELARDY: From a pat frisk
4 allegation. So, if an individual is being pat
5 frisked or searched, then they make an allegation
6 that they were inappropriately touched, and that is a
7 sexual abuse allegation.

8 COUNCIL MEMBER CUMBO: So, you would say
9 that the majority of the cases are from searches and
10 being pat downs?

11 DEPUTY COMMISSIONER TOWNSEND: Not the
12 majority, but we are seeing about 20 percent.

13 COUNCIL MEMBER CUMBO: So, in New York
14 City, they prefer to report it more than any other
15 state? Because if the numbers are higher in New
16 York, are we saying that whatever procedure you're
17 utilizing, people in New York City feel more inclined
18 to report it than not.

19 DEPUTY COMMISSIONER TOWNSEND: I'm not
20 sure if we can make that connection in particular,
21 but we are seeing about 20 percent of the abuse
22 allegations, and we're talking about allegations not
23 necessarily substantiated allegations, but about 20
24 percent of our abuse allegations are coming from
25 searches, legal searches.

2 COUNCIL MEMBER CUMBO: And I know that
3 we're on the clock, so I just want to conclude with
4 one additional question. How many people are fired
5 every year as a result of allegations? I know Council
6 Member Lancman touched on that subject, but over the
7 last five years, how many staff, whether it's
8 doctors, nurses, cleaning and maintenance,
9 correctional officers have actually been fired on an
10 annual basis, year by year for the last five years?

11 DEPUTY COMMISSIONER TOWNSEND: I can get
12 that number to you. It's a specific question, so I
13 can--

14 COUNCIL MEMBER CUMBO: [interposing] Well,
15 that's what the whole hearing is ultimately about.

16 DEPUTY COMMISSIONER TOWNSEND: I will--

17 COUNCIL MEMBER CUMBO: [interposing] So--

18 DEPUTY COMMISSIONER TOWNSEND:
19 [interposing] I will say that this year, for example,
20 we prosecuted a case all the way through trial. We
21 have a zero tolerance policy. So if we find that
22 somebody has sexually-- a staff member has sexually
23 abused an inmate, in the Trials in Litigation Unit,
24 we will not offer anything under either resignation
25 or termination. And so either the person will have

2 to resign under those charges or sign an agreement to
3 resign under those charges, or if they refuse to sign
4 such an agreement, we will take that case to trial
5 and seek termination at OATH. For example, this year
6 we had one such case where we had an individual where
7 we substantiated a sexual abuse. The individual
8 refused to resign, did not want to sign that
9 agreement. We took the case to trial at OATH. The
10 OATH judge agreed that we had proved the case beyond
11 a preponderance of evidence, which is our standard.
12 All of the charges that we put forth, including PREA-
13 related charges. However, the judge determined that
14 although we proved the case and that there was guilt,
15 that the determination for discipline would not be
16 termination, it would be 60 days. We have the
17 ability in the Department of Correction to override
18 that through an action of the Commissioner, and
19 because we have a zero tolerance policy, our
20 Commissioner looked at that evidence and did sign off
21 on an action of the Commissioner to terminate that
22 individual, and that individual has since been
23 terminated.

24 COUNCIL MEMBER CUMBO: So you would say
25 there was one this year?

2 DEPUTY COMMISSIONER TOWNSEND: There ws
3 one case that we had to take to trial, which we won,
4 and we terminated that person as a result.

5 COUNCIL MEMBER CUMBO: So, one person
6 this year, and at September has been terminated.

7 DEPUTY COMMISSIONER TOWNSEND: Well, let
8 me say this, in our Trials and Litigation Unit which
9 is where we prosecute these cases, we only have, I
10 believe, two open cases currently pending. So, we
11 have closed out these cases, and the ones that we've
12 closed out have either been-- have either resulted in
13 resignation, termination or a deferred prosecution.

14 COUNCIL MEMBER CUMBO: And I want to be
15 clear that we're under oath today as well, because
16 this was a very long answer, and I didn't really gain
17 an understanding of what should have been my last
18 final question to get the answer in under the buzzer
19 in about less than 30 seconds. It should have been
20 more they-- 2018, two were fired; 2017 we had three
21 fires, two resignations, one pending; 2016 we had--
22 it should have been more-- because that's really what
23 the hearing is about today. These are reporting
24 bills on cases of sexual assault and harassment, and
25 if we're really serious about this issue, these

2 numbers should be rattled off of everyone's head
3 that's sitting there today because if we're saying
4 this is a serious issue, then people that work within
5 the correctional facility need to know that there are
6 serious repercussions and actions that are going to
7 be taken against anyone that sexually assaults,
8 harasses or any other type of activity that is
9 inappropriate within our correctional facility. The
10 fact that we don't really know these numbers really
11 states that it's not an issue that people understand
12 that there are ramifications behind that are very
13 serious. So, I'll end my line of questioning here
14 and perhaps be able to go for a second round. Thank
15 you.

16 CHAIRPERSON POWERS: Great, thank you,
17 and we're going to hear from Council Member Dromm.

18 COUNCIL MEMBER DROMM: Thank you very
19 much. Let me just start off, I guess we're on the
20 clock so I don't have much time, but I was just
21 curious in the testimony about how you close out
22 cases from 15, 16, and 17 when it's been three years
23 after, but I'm not going to ask that question because
24 I only have a couple of minutes. My questions really
25 are around the pat frisk, actually. So what is the

2 procedure if a visitor is raising suspicion of
3 carrying contraband? Is it that you deny the visit,
4 conduct a pat frisk, or keep the visitor and the
5 inmate separated by a glass partition; are those the
6 three options?

7 COUNCIL CLERK: Do you affirm to tell the
8 truth, the whole truth and nothing but the truth in
9 your testimony before this committee and to respond
10 honestly to Council Member questions?

11 UNIDENTIFIED: I do. So, good morning,
12 Council Member Dromm. In regards to your question
13 about the pat frisk, the visitor is afforded an
14 opportunity to sign a consent form for a pat frisk.

15 COUNCIL MEMBER DROMM: So they always
16 will have to sign a consent form for a pat frisk?

17 UNIDENTIFIED: Yes. Yes.

18 COUNCIL MEMBER DROMM: And what about
19 glass partition visits, what do you do with that?
20 How do you determine that?

21 UNIDENTIFIED: Well, it's on a case by
22 case basis. If the visitor refuses, the visit can be
23 denied or they could be afforded a booth visit.

24 COUNCIL MEMBER DROMM: So, how do you
25 determine who gets the pat frisk and who gets the

2 glass visit? Are there cases where you've suspect
3 people of the higher level of suspicion of bringing
4 contraband?

5 UNIDENTIFIED: Well, we have, with the
6 use of modern technology, we have phone monitoring
7 now, video surveillance, so there's a lot of--

8 COUNCIL MEMBER DROMM: [interposing] But
9 my question is really how do you determine who gets a
10 pat frisk?

11 UNIDENTIFIED: No, it's-- if the person
12 doesn't clear, right? We have--

13 COUNCIL MEMBER DROMM: [interposing] So,
14 you only do a pat frisk after being-- going through
15 metal detectors?

16 UNIDENTIFIED: Yes.

17 COUNCIL MEMBER DROMM: Okay, or some
18 other type of detector.

19 UNIDENTIFIED: Yes.

20 COUNCIL MEMBER DROMM: Okay, I got it.
21 Are visitors able to choose the gender or gender
22 identity of the officers who do the pat frisk?

23 UNIDENTIFIED: The pat frisk is always
24 conducted by same gender.

2 COUNCIL MEMBER DROMM: And how many-- and
3 all the people in the room are the same gender or the
4 gender identity?

5 UNIDENTIFIED: Well, what we currently do
6 is we install cameras in our search areas, and the
7 individual is taken to a search area under the
8 supervision of a captain, same gender, conducts the
9 pat frisk once the consent form is signed.

10 COUNCIL MEMBER DROMM: Okay. Are special
11 rooms ever used to conduct these searches?

12 UNIDENTIFIED: Special rooms?

13 COUNCIL MEMBER DROMM: Right, where do
14 you do the pat frisk?

15 UNIDENTIFIED: We have a-- there's a
16 search area that has video surveillance installed.

17 COUNCIL MEMBER DROMM: Are bathrooms ever
18 used?

19 UNIDENTIFIED: No, we do not use
20 bathrooms.

21 COUNCIL MEMBER DROMM: Is there any way
22 if anybody's in a bathroom and they feel that they're
23 threatened or something that there's a panic button
24 or something to call for help?

2 UNIDENTIFIED: A panic button in the
3 bathroom? And they're threatened--

4 COUNCIL MEMBER DROMM: [interposing]
5 Because some of these allegations, I believe, have
6 been-- have occurred in bathrooms, if I'm not
7 mistaken.

8 UNIDENTIFIED: No, we don't have panic
9 buttons in the bathroom.

10 COUNCIL MEMBER DROMM: So, it's an--

11 UNIDENTIFIED: [interposing] We don't
12 conduct searches in bathrooms.

13 COUNCIL MEMBER DROMM: unprotected area,
14 right?

15 UNIDENTIFIED: We don't conduct searches
16 in bathrooms.

17 COUNCIL MEMBER DROMM: Okay, but
18 sometimes allegations are made that they do happen.
19 You're saying also they happen in showers, in shower
20 areas, where these allegations are coming from.

21 UNIDENTIFIED: You're mixing the visits--

22 COUNCIL MEMBER DROMM: [interposing] With
23 inmates-- with just--

24

25

2 UNIDENTIFIED: You're mixing the visits.
3 So, you're talking about visitors or visits, you
4 know, or inmates?

5 COUNCIL MEMBER DROMM: Okay, let me just
6 stay with the visitors at this point, but so there's
7 no way that a visitor would be in a bathroom with a
8 correction officer?

9 UNIDENTIFIED: No, our policy states no
10 bathrooms.

11 COUNCIL MEMBER DROMM: Are visitors ever
12 taken into a room with no cameras and no recording
13 devices?

14 UNIDENTIFIED: All of our areas in the
15 visits are under video surveillance. We've installed
16 13,000 cameras in the Department.

17 COUNCIL MEMBER DROMM: But they're never
18 searched outside of a camera's view?

19 UNIDENTIFIED: No, they're not searched
20 outside of the cameras.

21 COUNCIL MEMBER DROMM: Would you provide
22 the-- can you just describe the pat frisk procedure
23 in detail? How does that work?

24

25

2 UNIDENTIFIED: So, I have a form here.
3 On the back of the form, on the back of the consent
4 form, is the actual steps of a pat frisk.

5 COUNCIL MEMBER DROMM: Can you tell us
6 that?

7 UNIDENTIFIED: Sure.

8 COUNCIL MEMBER DROMM: You know what, why
9 don't you just get that to us, because I know we're
10 going over time here.

11 UNIDENTIFIED: Okay.

12 COUNCIL MEMBER DROMM: But I do have a
13 whole host of other questions that I hope that the
14 Chair will follow up with the panel as well, because
15 we're running behind. So to be generous I will
16 return it to the Chair.

17 UNIDENTIFIED: Okay, I'll get the copy of
18 this document.

19 COUNCIL MEMBER DROMM: Okay, good. Thank
20 you, Chair.

21 CHAIRPERSON POWERS: Thank you, Council
22 Member Dromm, and we will collect additional
23 questions and follow-up questions to send over in
24 response. I had another round of questions that I
25

2 wanted to go through. The first one is, just to
3 clarify, what's the current backlog today of cases?

4 DEPUTY COMMISSIONER TOWNSEND: Our
5 current PREA-reportable backlog is approximately
6 1,081.

7 CHAIRPERSON POWERS: Eighty-one, okay.
8 Those are PREA only?

9 DEPUTY COMMISSIONER TOWNSEND: Correct.

10 CHAIRPERSON POWERS: How many are non-
11 PREA?

12 DEPUTY COMMISSIONER TOWNSEND: We have--
13 just one moment. And to clarify, I think there was a
14 question earlier about, you know, the distinction
15 between the two. I think the best way to explain
16 that is if an individual makes a one-time lewd
17 comment or inappropriate or obscene comment, that
18 would be considered a non-PREA.

19 CHAIRPERSON POWERS: Okay.

20 DEPUTY COMMISSIONER TOWNSEND: However,
21 we will investigate it and make sure that it is
22 disciplined if substantiated. So, while I'm looking
23 for that number I will at least give you that
24 explanation.

2 CHAIRPERSON POWERS: Okay, I appreciate
3 it.

4 DEPUTY COMMISSIONER TOWNSEND: Sure.

5 CHAIRPERSON POWERS: And again, the
6 question is how many are in your backlog of non--
7 that are non-PREA?

8 DEPUTY COMMISSIONER TOWNSEND: Sure. So,
9 I can give you our total, if you don't mind doing
10 that math. Our total pending currently is 2,084.

11 CHAIRPERSON POWERS: You have a thousand.
12 You have 1,081, right, that are open?

13 DEPUTY COMMISSIONER TOWNSEND: So, it's
14 about-- yes, exactly.

15 CHAIRPERSON POWERS: And a thousand. And
16 do you treat those differently in terms of how you
17 investigate them?

18 DEPUTY COMMISSIONER TOWNSEND: The only
19 thing that's treated differently is whatever evidence
20 we have available to us. So, for a sexual abuse
21 allegation, the only difference in our treatment of
22 that versus a sexual harassment case is there may be
23 additional evidence that we could collect on a sexual
24 abuse case, physical evidence. Our, you know, video
25 evidence might be more robust for a case like that.

2 So, we take every case seriously. We investigate
3 every case, but there's different evidence that
4 arises from different types of--

5 CHAIRPERSON POWERS: [interposing] Got it,
6 and so on evidence, for a second--

7 DEPUTY COMMISSIONER TOWNSEND:
8 [interposing] Yeah.

9 CHAIRPERSON POWERS: If you are closing
10 out a case three years or four years after the fact
11 of it being reported, is there a concern about loss
12 of evidence or evidence being compromised at that
13 point?

14 DEPUTY COMMISSIONER TOWNSEND: So, that
15 is why it is important for me to reiterate that we do
16 go and collect that evidence and preserve that
17 evidence within the first 72 hours of an allegation.

18 CHAIRPERSON POWERS: Is there a concern
19 about any issue with evidence if it's four years
20 later?

21 DEPUTY COMMISSIONER TOWNSEND: Well, I'll
22 say as a former prosecutor, of course I know well and
23 good that the longer the case persists, you know,
24 sometimes you have the issue of the willingness of an
25

2 individuals to go forward or the ability to recall
3 specific details, but as for the--

4 CHAIRPERSON POWERS: [interposing] So, is
5 it-- I want to just keep us on track here. The
6 answer is yes, there is concerns about evidence it
7 sounds like.

8 DEPUTY COMMISSIONER TOWNSEND: Any time
9 we can't close out a case sooner rather than later,
10 the longer it takes, yes, there is--

11 CHAIRPERSON POWERS: [interposing] Okay.
12 I'll take that as a-- I'll take that as a yes. Just
13 respect to time.

14 DEPUTY COMMISSIONER TOWNSEND: Sure.

15 CHAIRPERSON POWERS: Okay, so concerns of
16 evidence, certainly concerns about, I would imagine,
17 people's being able to-- again, I understand you
18 taking immediate--

19 DEPUTY COMMISSIONER TOWNSEND:
20 [interposing] Yeah.

21 CHAIRPERSON POWERS: immediate step to
22 that, but it sounds like to me in 72 hours you guys
23 go out, you talk to the person, you collect evidence,
24 you get some services, but then from there that
25 there's a very long time, and not [sic] within the

2 90-day window. In fact, the 90-day window is probably
3 so important for this particular issues, is making
4 sure that, obviously, justice is served where needed,
5 but also that you can work through this process in
6 the most efficient way. Is it fair to say that--
7 look, is it possible that there's-- there are--
8 there's, for instance, a staff member who's working
9 there in the jail today who has committed a crime
10 three years ago that is still working there and would
11 be found to be substantiated in the near future?

12 DEPUTY COMMISSIONER TOWNSEND: Any time
13 there's an allegation that comes to our Department of
14 criminality and our initial investigation uncovers
15 that criminality, we refer it to the Department of
16 Investigations for their investigation and then
17 eventual prosecution if they substantiate it. During
18 that time we will take measures that we need to take
19 in order to keep the safety intact. So, during that
20 time we have to stand down. We can't interfere in
21 their investigation. So it is possible that a
22 criminal investigation will continue while we have an
23 individual in the Department. However, if--

24 CHAIRPERSON POWERS: [interposing] Or--

2 DEPUTY COMMISSIONER TOWNSEND:

3 [interposing] Yes.

4 CHAIRPERSON POWERS: Or, perhaps, I'm
5 sorry to interrupt you--

6 DEPUTY COMMISSIONER TOWNSEND:

7 [interposing] That's okay.

8 CHAIRPERSON POWERS: But or that if we
9 have not even started the process or we've not
10 started--

11 DEPUTY COMMISSIONER TOWNSEND:

12 [interposing] No, I'm sorry. You can-- I'm sorry.

13 CHAIRPERSON POWERS: No, no, no, go
14 ahead. Correct me.

15 DEPUTY COMMISSIONER TOWNSEND: What I
16 believe you're asking is it possible that we haven't
17 been able to uncover that in years, and therefore
18 we're going to now discover it years later, no.
19 because of the fact that we go out within those first
20 72 hours and we do that initial investigation, and if
21 there's, you know, any indication of criminality we
22 will refer it out to the agency and take the
23 appropriate steps within our Department to preserve
24 the safety of the inmate, no, I don't believe that
25 that is--

2 CHAIRPERSON POWERS: [interposing]

3 Meaning, if you guys believe that that person is
4 guilty, that you will say--

5 DEPUTY COMMISSIONER TOWNSEND:

6 [interposing] If there's any-- if there's any reason--
7 -

8 CHAIRPERSON POWERS: [interposing] Or some
9 indication that--

10 DEPUTY COMMISSIONER TOWNSEND:

11 [interposing] Yes.

12 CHAIRPERSON POWERS: a high level you
13 believe indication.

14 DEPUTY COMMISSIONER TOWNSEND: Correct.

15 CHAIRPERSON POWERS: But there is a
16 possibility that there would be a substantiated
17 complaint against somebody who is working there today
18 that is from 2016 or 2015. I mean, it's possible.

19 DEPUTY COMMISSIONER TOWNSEND: It is
20 possible if the investigation outside of our agency
21 has been continuing since that time and then comes
22 back later with a substantiation to us while we had
23 to hold of our investigation.

24 COMMISSIONER BRANN: But I want to assure
25 the Council, with that staff member, they're not with

2 the inmates. Typically, they're removed, they're
3 modified, and they have non-inmate contact positions.

4 CHAIRPERSON POWERS: In any complaint?

5 COMMISSIONER BRANN: Not in any
6 complaint, but if-- typically, if the case is with
7 DOI and there's criminality that is suspected, and--

8 CHAIRPERSON POWERS: [interposing] You
9 take them out.

10 COMMISSIONER BRANN: will be
11 substantiated, they're modified.

12 CHAIRPERSON POWERS: Okay. And the last
13 thing I wanted to say, and I wanted to get-- I know
14 Council Member Rivera may have a question and others
15 have a questions I know second round. Is the--
16 obviously, the concern I've been-- I'm repeating
17 myself over and over is that I think it is-- I think
18 it is a bad legacy for New York City to have left
19 this open for so long and so potentially people are
20 at risk and in harm, and I understand that we are,
21 and the Board of Corrections, and Department of
22 Corrections, and others are taking corrective
23 measures to do that, but it is-- I think it should be
24 concerning to everybody that there is, you know,
25 years of cases where and a history here, and so

2 beyond-- and I certainly would want to continue the
3 conversation about ensuring that we are adjudicating
4 all of this quickly, but of course, why I go back to
5 the thing I said at the beginning which is this is
6 also about prevention. And are there additional
7 measures that the Department of Corrections is
8 considering to prevent? Do the new jails offer any
9 opportunity to keep more safe, and is there anything
10 that the Council or the Administration can do to be
11 helpful in the effort to prevent entirely to get to
12 a-- to try accomplish a goal of zero, certainly zero
13 substantiated, but obviously a zero all across the
14 board.

15 COMMISSIONER BRANN: So, I agree with
16 you, we would like to get to zero as well. I do want
17 to make one comment about the implication that we are
18 here today and being less than truthful, the reminder
19 that we're under oath was unwarranted. We have
20 always been open and transparent with Council and
21 available to you in providing data that you have
22 asked for. We understand the seriousness of this,
23 and that's why we embarked voluntarily to implement
24 the PREA standards. There are plenty, including
25 ourselves, who don't believe we are where we should

2 be right now, and we're working on that. But I am
3 hoping that this hearing was about much more than how
4 many staff we've fired, that it's about sexual safety
5 in the jails and implementing PREA standards and
6 making this city a safe city regardless of where you
7 are. So, we are using all the tools available to us
8 now. I believe that as we design the new facilities
9 and we have direct supervision in housing areas where
10 you have no hidden areas, that that will provide a
11 better opportunity for staff and inmates and
12 contractors and volunteers to see everything that's
13 going on inside a housing area, and that the sight
14 lines are better, not only in the corridors, but in
15 programs and housing and rec as well. But we are
16 utilizing everything that PREA gives us for tools. I
17 think the Council has been very supportive. OMB has
18 been very supportive in giving us the positions that
19 we need, and we appreciate the support.

20 CHAIRPERSON POWERS: Thank you, and I
21 have one question, but I'll come back to it. Council
22 Member Rivera has rejoined us and has questions.

23 COUNCIL MEMBER RIVERA: Thank you. I had
24 to step out and perform some Land Use duties. Thank
25 you so much for your testimony today, and I

2 appreciate you mentioning being in compliance with
3 the PREA standards which is-- again, I just want to
4 add, and we're going to have a hearing on a federal
5 policy that I think most of the Council disagrees
6 with in a little bit, but I think that as a city and
7 as a city that we claim to be in terms of how
8 progressive and how caring we are about the New
9 Yorkers who live here and the people that are
10 incarcerated and detained, that we have to be better
11 than federal policies. And so I just-- also, though,
12 I want to thank you for your work, and I hope that
13 we're always on that mission. So, clearly, we're all
14 very, very concerned about the length of these
15 investigations, and considering the coordination that
16 you have to do with Department of Investigations and
17 with the District Attorney, I mean, these
18 investigations could long outlast anyone's actual
19 time on Rikers Island. So, I'm wondering about the
20 Correctional Health Services that are provided to the
21 people who experience this kind of trauma, and if you
22 could talk a little bit about how does CHS support
23 victims of sexual abuse or harassment, and
24 specifically, do you use doctors with specific

2 training or special training in relation to this type
3 of trauma?

4 ZACHARY ROSNER: Thank you. For this
5 question, if it's okay to just jump back to Chair
6 Rosenthal's prior point, I was able to get data from
7 2017; I hope it wasn't perceived I was being
8 circumspect about any data. In 2017, we had about
9 775 sexual abuse reports with 29 hospital referrals
10 and 13 forensic kits completed. And again, we can
11 follow up for additional data and details and
12 forensic kit collection. Regarding the health
13 services, I agree completely that we are aiming to be
14 proactive and preventative in our care and response
15 to reports of sexual assault that we receive, and to
16 that measure, we have taken on the PREA standards and
17 are aiming to exceed the bare minimum requirements
18 for PREA. Our staff have been-- are being trained,
19 receiving four-hour courses, first through DOC
20 starting in 2016, and then we also developed our own
21 in-person PREA training starting in 2018, and we've
22 trained over 1,000 staff, the PREA standards. We
23 have very clear reporting rules for when patients
24 come to us with reports of sexual assault or
25 harassment, and we have templates and clear protocols

2 for our staff to follow and to report it to our
3 operations where it's then tracked in a database so
4 that we can track these over time. That database was
5 developed in the last year, and is giving us very
6 good tracking data for the reports that we receive.
7 Regarding prevention, which I think is probably-- is
8 the direction you were pointing out, we also launched
9 sexual abuse advocacy program in January of this
10 year, which proactively identifies patients who have
11 a history of sexual abuse or who may benefit from
12 counseling services. We screen every single person
13 who comes into the jails and has medical intake or a
14 history of sexual abuse, and can then offer services
15 through the sexual abuse advocacy program to those
16 patients, and so that's for both patients who have
17 not explicitly told us that they've experienced abuse
18 in the jails. It's also for patients with a lifetime
19 history of abuse, and so for that the SAA program has
20 been a big step forward for us and we're very happy
21 with the direction it's going in.

22 COUNCIL MEMBER RIVERA: So, just a follow
23 up. So, most of the doctors that are on-site are
24 primary care physicians, or any specifically have
25 training in regards to sexual abuse trauma?

2 ZACHARY ROSNER: So, yes, we all do this
3 PREA training which is above and beyond and includes
4 our own protocols. We also have 24/7 emergency room
5 doctors who are available for consultation for any
6 reason, but they also-- they help during these
7 medical evaluations when primary care doctors are
8 doing it to decide when it's appropriate to refer
9 someone to the hospital for evidence collection,
10 based on their emergency room training. The SAA
11 counselors are specially trained, as I mentioned, and
12 then the hospitals that we refer to, Elmhurst and
13 Bellevue, have sexual assault nurse examiners who are
14 specially trained in evidence collection and
15 preservation. All of our doctors, when they're
16 following our protocols, know to advise patients of
17 the need to preserve evidence. If there is any
18 evidence that needs to go to the nurses at the
19 hospital, they put it in a sealed bag and it goes
20 with the patient. And just jumping back again to the
21 intake process. Every single person who has a
22 medical intake is advised of the reporting
23 requirements of CHS and our medical staff and the
24 resources available for follow up of any reports of
25 sexual assault.

2 COUNCIL MEMBER RIVERA: So, they are
3 nurses, doctors, psychologists, psychiatrists, if
4 needed.

5 ZACHARY ROSNER: Yes, yes. Yeah, we--
6 medical sees everybody, and mental health services
7 are offered to everyone.

8 COUNCIL MEMBER RIVERA: Thank you.

9 CHAIRPERSON POWERS: Okay, and I'm going
10 to just quickly note, and I'll offer an opportunity
11 to do a second round here that we're going to, after
12 this panel, move into the next room because we are
13 long and there is another hearing of the Immigration
14 Committee coming. You? Okay. Okay, thank you. As
15 I noted, we will be-- we'll follow up with some
16 additional questions and additional data points.
17 Thank you for being here. We are now going to hear
18 from the Board of Corrections. I'll also just wanted
19 to congratulate, I know you have a new Chief of Staff
20 who is here as well, sounds like she's been helping
21 Council Member Lancman already, so congratulations to
22 you. Thank you for being here. We will follow up with
23 more questions and information. We are going to take
24 this next door, and all are welcome to join us. It's
25 right into the Committee Room next door. Thank you.

2 [break]

3 [combine with part 2 of 2]

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C E R T I F I C A T E

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



Date September 15, 2018