

SUBCOMMITTEE ON CRIMINAL JUSTICE

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CRIMINAL JUSTICE

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September 6, 2018
Start: 10:20 a.m.
Recess: 3:14 p.m.

HELD AT: Council Chambers - City Hall

B E F O R E: KEITH POWERS
Chairperson

COUNCIL MEMBERS:
ALICKA AMPRY-SAMUEL
ROBERT F. HOLDEN
RORY I. LANCMAN
CARLINA RIVERA

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

Martha King
Executive Director of the New York City Board of
Corrections

Bobby Cohen
Member of the Board of Correction

Emily Turner
Board of Correction's Deputy Executive Director
Of Research

Kiara Montero-Reyes
Clinician with the Still Survivor's Program at
The New York City Anti-Violence Project

Chandra Clark
Survivor of Domestic Violence, Sexual Abuse,
PTSD, Substance Use, Prolonged Incarceration and
Neglected Mental Health Needs

Kelly Grace-Price
Close Rosie's Campaign and the Jails Action
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Julie Davis
Director of Youth Justice and Child Welfare for
The Children's Defense Fund of New York

Kelsey DeAvila
Jail Service Social Worker at Brooklyn Defender
Services

Deborah Lolai
Criminal Defense Attorney at Bronx Defenders,
LGBTQ Client Specialist at Bronx Defenders

Ashley Sawyer
Attorney, Director of Policy at Girls for Gender
Equity, Brooklyn

[gavel]

CHAIRPERSON POWERS: Okay, thank you and welcome back in our... in our new venue. We will be hearing from a few panels now, we'll be starting with the Board of Corrections, again apologies to all and thank you to the board for waiting through a long round of testimony with the Department. We're, we're still here with the two Chairs, Chair Rory Lancman and Chair Helen Rosenthal, we're going to swear you in at the beginning and then we will take your testimony. Thank you so much.

COMMITTEE CLERK: So, I'm going to ask everyone on the panel to raise your right hand and we'll swear you all in together. Do you affirm to tell the truth, the whole truth and nothing but the truth in your testimony before this committee and to respond honestly to Council Member questions?

BOBBY COHEN: Yes.

EMILY TURNER: I do.

CHAIRPERSON POWERS: Great, thank you, you can... [cross-talk]

MARTHA KING: Get started... [cross-talk]

CHAIRPERSON POWERS: ...start... you can get started.

MARTHA KING: Okay. Good afternoon

Chair's Lancman, Powers, and Rosenthal and members of the Committees on Criminal Justice, Women and the Justice System. My name is Martha King and I'm the Executive Director of the New York City Board of Correction, the independent oversight agency for the city's Correctional Facilities. The board promulgates minimum standards which regulate jail conditions, monitors compliance with these standards and provides general oversight for the Department of Correction and Health and Hospitals Correctional Health Services. Today I am joined by a board member who was appointed by the city council, Doctor Robert Cohen and the Board's Deputy Executive Director of Research, Emily Turner. In November of 2016, the Board passed 42 minimum standards that are designed to detect, prevent and respond to sexual abuse and harassment of people who are incarcerated in the New York City jails. The Board standards built from the federal prison rape elimination act regulations and have additional requirements like the 90-day requirement regarding investigations, the provision of rape crisis counseling and advocacy services to victims and the release of bi-annual assessments and

1
2 corrective actions. These standards are
3 groundbreaking because they secure local oversight
4 and enforcement including board monitoring and a
5 private right of action for individuals in custody to
6 pursue if the department or correctional health fails
7 to comply with their obligations. Since September of
8 2017, board staff have reported every six months at
9 the board's public meetings on the progress and
10 challenges in DOCs and correctional health's
11 implementation of these standards. DOC has made
12 progress in a few areas; creating new policies which
13 reflect the board's requirements, training staff,
14 creating ways for people to report abuse and
15 providing education on zero tolerance and reporting.
16 The board's primary concerns have been the high
17 number of allegations of sexual abuse and harassment
18 and DOC's investigations into these allegations.
19 These investigations take too long to complete and
20 often lack all required components, it is therefore
21 not surprising that substantiation rates of these
22 complaints are lower than national averages and that
23 we still have a great deal of work to do to build the
24 accountability necessary to prevent abuse in the
25 near... in New York City's jails. Rates of sexual

1
2 victimization in New York City jails have been higher
3 than national averages since at least 2011. The
4 Bureau of Justice statistics identified a nationwide
5 rate of 8.03 allegations per 1,000 people
6 incarcerated in jails in 2015, this is lower than the
7 New York City jail rates of 12.6 in the last half of,
8 of 2017 and 9.91 for the first half of 2018. Today I
9 will provide updates in three areas of the standards
10 where the board has focused; investigations,
11 screening of people in custody for risk and housing
12 and safety of transgender people in custody. Since
13 the new standards on sexual abuse there's little
14 evidence that the investigations process has improved
15 or become more effective. Timely and comprehensive
16 investigations are central to compliance with board
17 standards, without effective investigations DOC's
18 efforts at prevention, accountability and discipline
19 will also be unsuccessful. Investigations into sexual
20 abuse and harassment allegations are not being
21 completed within 90 days as required, approximately
22 94 percent of 2016 and 2017 investigations are still
23 open and pending. Substantiation rates in New York
24 City are also lower than national averages, this
25 unfortunately is a long-standing trend. In 2016, the

1 Board found that the department's investigations were
2 significantly deficient in terms of timeliness,
3 thoroughness, and objectivity. Following a discussion
4 of violations of the Board's investigation standards
5 at its April 2018 public meeting, DOC developed and
6 presented a corrective action plan at the June public
7 meeting. The plan aims to close the backlog of cases
8 older than 90 days by February of 2019 and to
9 increase staffing and reduce caseloads. The board is
10 monitoring and hopeful about potential progress under
11 this plan, the board will also release an audit of 42
12 DOC investigation files on September 14th and will
13 conduct such an audit annually to assess the adequacy
14 of these investigations. At the foundation of DOC's
15 ability to protect people in their custody from
16 sexual abuse is their ability to accurately assess
17 people for risk of victimization and to use this
18 information to inform housing. The board's standards
19 and PREA require that the Department's intake
20 screening process assess people in custody for their
21 risk of being sexually abused or sexually abusive
22 towards others. The screening must consider many
23 things such as disability status, criminal history,
24 whether the person is or is perceived as gay,
25

1
2 lesbian, bisexual, transgender, intersex, or gender
3 non-conforming; previous experience of sexual
4 victimization and a person's own perception of
5 vulnerability. The Board's September 2017 report
6 noted deficiencies with the Department's method for
7 screening for risk and found that DOC was not meeting
8 these standards because of obstacles to tracking and
9 using information gleaned from a paper-based intake
10 screening. Therefore, the Board unanimously passed a
11 resolution in October 2017 requiring corrective
12 action to quickly implement an electronic method of
13 screening. As a result, in January of 2018, DOC
14 implemented an electronic screening process. This
15 electronic screening allows DOC to track people at
16 risk of sexual victimization to reassess everyone at
17 30 days and to use this information to inform
18 housing, work, education and program assignments.
19 This is important progress that should increase
20 safety and we continue to monitor the impact. The
21 board has also focused its work on increasing the
22 safe housing options for transgender people in
23 custody. National data and the board's own data show
24 transgender people in custody are at higher risk of
25 victimization in jail. When the department announced

1
2 it would close the transgender housing unit, the
3 board was vocal in its opposition. The board believes
4 the unit to be an important option for people who
5 voluntarily apply to be housed there. We also
6 published a study of the transgender housing unit in
7 February of 2018, the report led to an improved
8 management and application system for the unit and in
9 turn an uptick in the number of people placed there.
10 The THU has been further improved because, because
11 DOC moved it from a men's jail to the women's jail
12 where transgender women face less harassment and
13 abuse and are better integrated into services. There
14 are several recommendations from the board's report
15 that DOC should still pursue including a planning
16 task force with community members and additional
17 staff training. The standards prohibit the housing
18 placement of a transgender or intersex person based
19 solely on the person's external genital anatomy and
20 they require DOC to make housing determinations on a
21 case by case basis that considers gender identity.
22 Today, New York City jails still rely on a
23 determination of gender based on a person's
24 anatomical appearance and there's no evidence that
25 DOC is currently considering gender identity or using

1 COMMITTEE ON CRIMINAL JUSTICE

2 a case by case approach. The city's recent
3 announcement that DOC will begin housing by gender
4 identity and the involvement of the commission on
5 human rights should yield significant progress. The
6 board will monitor implementation once this begins
7 and will publish an updated analysis on DOC's
8 approach to housing transgender people in 2019. In
9 the coming months, DOC will be focused on three
10 oversight goals. First, we will continue to drive
11 data transparency and accountability on
12 implementation of the standards. Next week we will
13 release a public compliance dashboard of DOC's and
14 correctional health's PREA related reports and
15 requirements. The board will continue working closely
16 with the Department to develop, use and share the
17 data needed to drive practice and policy improvements
18 that will increase safety in the jails. Second, we
19 will closely monitor the department's corrective
20 action plan to close the backlog of investigations.
21 We will monitor the quality of investigations closely
22 by conducting annual audits. Lastly, we will continue
23 to call on DOC to create an effective post incident
24 review process for... process for cases of sexual
25 abuse. These sexual abuse incident reviews required

1 COMMITTEE ON CRIMINAL JUSTICE

2 by DOCs and federal PREA standards should involve
3 facility staff and leadership in reviewing conditions
4 that contributed to a substantiated or
5 unsubstantiated complaint of sexual abuse. The
6 reviews are intended to identify the steps needed to
7 reduce further risk and incidents. To date the board
8 has only received five reports of sexual abuse
9 incident reviews but the standards require them for
10 all closed investigations unless a complaint is
11 unfounded. In closing, the board supports the
12 council's efforts to increase transparency and reduce
13 sexual abuse and harassment in the jails through the
14 legislation proposed today and looks forward to
15 working with council members on this legislation and
16 other efforts. Thank you for the opportunity to
17 testify today.

18 CHAIRPERSON POWERS: Thank you, are you...
19 are there... is there additional testimony or taking
20 questions?

21 BOBBY COHEN: Why don't we just, just
22 take questions, questions and I, I may have
23 something... [cross-talk]

24 CHAIRPERSON POWERS: You'll add in as we...
25 [cross-talk]

1 COMMITTEE ON CRIMINAL JUSTICE

2 BOBBY COHEN: We'll just have questions
3 first, I may have something to add at the end if it's
4 not covered.

5 CHAIRPERSON POWERS: Okay, thank you and
6 so, you know if you... I know you guys were there for
7 part of and I think most of the, the testimony there,
8 I certainly was concerned about the timelines for
9 investigating and also hopeful but concerned about,
10 you know getting to February 2019 when there is a
11 belief that they will be able to do the 90 day review
12 within the 90 days but also it sounds like they may
13 also have, have... then also take the addition... the,
14 the current ones and then... adjudicate the current
15 ones so... I'm not sure even in February 2019 we are...
16 we are fully there. So, my first question just, just
17 are you... does the board feel that the department is
18 both properly resourced and will be properly
19 resourced and is on pace to meet the goal by February
20 2019 to do a... thank you... to do a, a, a 90-day review
21 of all cases?

22 MARTHA KING: So, we believe that the
23 corrective action plan is significant progress so
24 the... they definitely need to reduce their case loads
25 as they've said and as they intend to move towards so

1 COMMITTEE ON CRIMINAL JUSTICE

2 they need to add more investigators, they need to add
3 more supervisors, they need to also do a better job
4 triaging the simple versus complex cases that come
5 before them and, and do a better supervision job of
6 the cases while they're in process to make sure that
7 all the steps are taken, all the requirements are met
8 and that they're closed in a timely fashion. The
9 department, obviously the plan just came out, the
10 corrective action plan came out in June, they
11 released some data today to you all that we hadn't
12 heard before, they're providing update to the board
13 in September and I think as we monitor the cases that
14 are closed each month we'll have a better sense as to
15 whether or not they're going to meet their target.
16 As, as you mentioned there is a potential that
17 they're still will be sort of a new smaller backlog
18 in March once we get there but I think the board
19 thought it was most pressing that the 2016 and 2017
20 cases be closed immediately because obviously the
21 potential for interviewing people, gathering evidence
22 decreases as time goes on.

23 CHAIRPERSON POWERS: And the... and the...

24 and I was going to ask that question at the... at the...
25 but time, time was not on my side but the... is... what

1 COMMITTEE ON CRIMINAL JUSTICE

2 is the methodology right now by which the department
3 is going through the cases, is it in some time order
4 or is it the... what... you mentioned 2016, 2017 coming
5 first, what is the process by which they are taking
6 the backlog of cases and resolving them, is it... is
7 it... is it based on time?

8 MARTHA KING: I don't know the answer to
9 how they're... [cross-talk]

10 CHAIRPERSON POWERS: Okay... [cross-talk]

11 MARTHA KING: ...triaging... [cross-talk]

12 CHAIRPERSON POWERS: Is there a
13 recommended... [cross-talk]

14 MARTHA KING: ...those cases... [cross-talk]

15 CHAIRPERSON POWERS: ...methodology from
16 the board in terms of how they go through those
17 cases?

18 MARTHA KING: Sorry, ask the question
19 again.

20 CHAIRPERSON POWERS: The, the... I think
21 there was a discussion after we had heard from the
22 Department of Corrections as we were walking in here
23 about whether they should be go... doing the most
24 recent cases first and going backwards or doing the
25 2016 cases first then 2017 then 2018. I think the... I

1 COMMITTEE ON CRIMINAL JUSTICE

2 think... it's not clear, you... I think you, you had just
3 said that you're not clear whether they're taking
4 them in any sort of order, is there a board
5 recommendation about how they should be handling the
6 backlog?

7 BOBBY COHEN: I, I, I don't think we, we
8 know that obviously, the more serious cases should
9 have been handled already, this is almost a... it's an...
10 it's an embarrassment to the city. I think when... I'll
11 just say I was on the initial rule making for, for,
12 for our PREA rule as, as your representative on the...
13 on, on the board and at that time... [cross-talk]

14 CHAIRPERSON POWERS: Can, can you just
15 state your name too, sorry... [cross-talk]

16 BOBBY COHEN: I'm sorry, Bobby Cohen, a
17 member of the Board of Correction. And the, the
18 numbers were extraordinary three years ago when we
19 started looking at it and very, very embarrassing and
20 there were all kinds of reasons given as to why the,
21 the, the process didn't, didn't, didn't work. I... you
22 know I think there, there are, are at least two
23 fundamental issues. One... it's not going to answer
24 specifically your question but they need adequate
25 staff so they, they still have, have positions both

1 COMMITTEE ON CRIMINAL JUSTICE

2 for investigators and for investigator supervisors
3 which have not been hired, they have a plan to hire
4 them by a... by a date... by a date certain but there's
5 a... should be a rush on that, that should be a
6 prioritization, I don't believe that's a cash issue,
7 I don't think there's a need to go to OMB to, to, to
8 ask for that but there, there is a need for, for, for
9 the board and for you to pressure them to hire these
10 people and report regularly on, on their... on their...
11 on their reporting so... and the other is a... is a
12 system issue, I, I think, it's our understanding and
13 perhaps Emily could, you know add to this that the...
14 that the department does, does not at least as far as
15 we're... as far as we know because we ask for the data
16 and can't get it, that the department does not know
17 clearly what it needs to know to prioritize and to...
18 and to... and to push these cases through. There's,
19 there's a lot of investigation that the department is
20 required to do because of lots of problems within the
21 department, this has to do with NUNEZ as well as with
22 PREA and they need well-functioning integrated case
23 management systems which will tell them on any given
24 day, you know given a seriousness of a certain case,
25 where is it in the process, how far is it from 90

1 COMMITTEE ON CRIMINAL JUSTICE

2 days, etcetera and as far as I know that system
3 doesn't exist yet and would answer I think your
4 question about prioritization.

5 CHAIRPERSON POWERS: And, and when you
6 say they don't know what they don't know you... that's
7 predominately about having the correct systems for
8 tracking?

9 BOBBY COHEN: I think so maybe Emily
10 could add to that...

11 EMILY TURNER: Our understanding is that
12 they are engaged in order to track any information
13 that would be required for reporting that is a very
14 manual process, they're the same staff that are doing
15 the investigation activities are the staff that are
16 responsible for updating into sort of an access
17 spreadsheet system to enter different data elements
18 which are regularly tracked in numerous different
19 systems so... whereas for example under NUNEZ they have
20 developed a case management system for a use of force
21 cases that's not being used for PREA investigations
22 so the same system is not being used, there's not a
23 separate module developed to track that information
24 and so the quality of the data as I think we all
25 recognize and have been quite frustrated by is, is

1 COMMITTEE ON CRIMINAL JUSTICE

2 just not there. The, the board requires semi-annual
3 reports not only the public reports that they... that
4 they are required to release every six months but
5 individual leveled data on every single allegation
6 for each six month period as well as updates on prior
7 allegations from prior reporting periods is required
8 to be submitted to the board and to date none of the
9 individual leveled data that we have received we have
10 not been able to reconcile that individual leveled
11 data with any of the public reports that have been
12 released publicly by the department.

13 CHAIRPERSON POWERS: So, you've asked for
14 it they haven't given you...

15 EMILY TURNER: Fast forward, we've met
16 with them in person, we've sent... we've cross walked
17 everything required under the standards with what
18 they've submitted and highlighted all deficiencies,
19 we met with them in person, they've reported to us
20 that they have added data elements which we
21 highlighted were missing, they've added it to their
22 spreadsheet but the last semi-annual individual
23 leveled data was due to the board on August 14th with
24 the release of the public report and we have yet to
25 receive it.

1 COMMITTEE ON CRIMINAL JUSTICE

2 CHAIRPERSON POWERS: Got it and is this
3 information you're asking for required in PREA or is
4 this a board requested information?

5 EMILY TURNER: Required under 540 of the
6 board's PREA standards.

7 CHAIRPERSON POWERS: Got it. What are the
8 penalties under, under PREA for non-compliance?

9 BOBBY COHEN: I'll, I'll address that,
10 they are... they are deaminases I would say and, and,
11 and although the department is committed to getting
12 PREA compliance from the... from the Department of
13 Justice PREA compliance givers that should not be of
14 importance to the council and it's... and it's not
15 important to the board because the law that you're...
16 that you're considering and the rule that we have
17 that we... that we... that we have... that we have passed
18 are, are... require reporting and, and, and practice
19 which would, would not be identified in a PREA
20 compliance audit, there are national concerns about
21 that process, this was... PREA was a... was something
22 that involved 50 states and many, many jurisdictions
23 and got watered down a lot in the process of, of
24 auditing it so, it's very important that a local
25 process as you're doing right now and as... and as we

1 COMMITTEE ON CRIMINAL JUSTICE

2 do be available to assure sexual, you know safety in
3 the... in the... in the jails. So, there's, there's,
4 there... I think the, the penalty for non-compliance is
5 that you have to give back a certain amount of money
6 which the department has received to get PREA
7 compliant.

8 CHAIRPERSON POWERS: So, they give... the
9 federal government gives money to DOJ... [cross-talk]

10 BOBBY COHEN: Federal gave them... you know
11 for, for the Department to hire the moss agency and
12 others train... to train people and to do this audit if
13 you fail compliance then you have to give some part
14 of that money back.

15 MARTHA KING: And for... the reason the
16 public advocate petitions the board to at least copy
17 the federal PREA regulations into local law through
18 the board's standards and then to add onto them and
19 the reason the board passed them was to create an
20 enforcement and monitoring mechanism at the local
21 level which went well beyond what the federal PREA
22 regulations... [cross-talk]

23 CHAIRPERSON POWERS: So, then... [cross-
24 talk]

25 MARTHA KING: ...have... [cross-talk]

1 COMMITTEE ON CRIMINAL JUSTICE

2 CHAIRPERSON POWERS: ...so, then what is
3 the enforcement at the local level if they're be... not
4 being compliant?

5 MARTHA KING: So, the, the enforcement is
6 the same as with any of the of the board's standards,
7 I mean the department is required to follow and
8 comply with the standards, people can bring private
9 rights of action, Article 78s when DOC or
10 Correctional Health failed to comply with their
11 obligations. We have hearings like this, we issue
12 reports about when there is compliance and when there
13 is not compliance, there's corrective action plans
14 and resolutions passed to try to bring the department
15 or Correctional Health into compliance and enforce
16 the standards that way.

17 CHAIRPERSON POWERS: And they are out of
18 compliance today, you agree?

19 MARTHA KING: Generally, on, on the 42
20 standards in this area?

21 CHAIRPERSON POWERS: Yeah.

22 MARTHA KING: So... [cross-talk]

23 CHAIRPERSON POWERS: Do we have... what...
24 which ones are you... how many are they out of
25 compliance with today?

1 COMMITTEE ON CRIMINAL JUSTICE

2 MARTHA KING: That's a great question, so
3 next week there will be a public dashboard that will
4 go through all of the reporting requirements and then
5 subsequently there will be a public dashboard that
6 will go through all 42 substantive components of the
7 standards. So, I, I would... it would be not prudent of
8 me to speak to their compliance on all of the
9 standards... [cross-talk]

10 CHAIRPERSON POWERS: So, so, next...
11 [cross-talk]

12 MARTHA KING: ...today... [cross-talk]

13 CHAIRPERSON POWERS: ...week you'll have a
14 public dashboard on, on your website... [cross-talk]

15 EMILY TURNER: On the reporting
16 requirements... [cross-talk]

17 CHAIRPERSON POWERS: ...that, that will... on
18 reporting requirements?

19 MARTHA KING: Correct, not on each
20 substantive standard. So, next week there is a public
21 board meeting where this will be a topic at the
22 meeting, the... a lot of the focus will be on the
23 compliance with public reporting, this compliance
24 dashboard as well as the audit that we're going to
25 release of the closing memos of 42 files.

1 COMMITTEE ON CRIMINAL JUSTICE

2 CHAIRPERSON POWERS: Okay. I wanted to... I
3 wanted... does not have a question but I, I wanted to
4 pass it over to the chair, I just had... I want to just
5 cover one more topic and I'll come back to some, some
6 of the things... one thing we didn't get to cover
7 previously is visitors who are coming to, to visit a
8 family member or see, see a loved one or whatever,
9 whatever so, that's not covered in any of the
10 reporting requirements; visitor allegations or
11 reporting?

12 MARTHA KING: No, so the abuse of
13 visitors, harassment of visitors would not fall into
14 our standards just like it's not part of PREA ... the
15 federal PREA regulations.

16 CHAIRPERSON POWERS: And so, if... [cross-
17 talk]

18 MARTHA KING: Can I just make one more...
19 [cross-talk]

20 CHAIRPERSON POWERS: Of course, yeah...
21 [cross-talk]

22 MARTHA KING: ...statement, so obviously we
23 do have other standards that touch upon the visiting
24 process at great length but not specifically on the
25 issue of sexual abuse or harassment, there's no

1 COMMITTEE ON CRIMINAL JUSTICE

2 reporting requirements that we have on that, we are
3 supportive of the proposed legislation today. I think
4 we believe it's very important that we all have a
5 much better sense of the magnitude and the details of
6 the issues that we're hearing about in the news and
7 from particular cases and from your work on, on the
8 issue. Generally the board does monitor visits and
9 visit conditions and, and many other areas when we
10 receive complaints of sexual abuse we are required
11 to... by staff required to send that to the Department
12 of Investigation, I think we, we received two such
13 complaints in 2018, those went to DOI and, and anyway
14 we continue to focus on visiting through a monthly
15 report on visits as well as sort of ongoing public
16 discussions at, at meetings and we've given
17 recommendations to the Department about their
18 practice... their visit practices and their directive
19 and we welcome, you know working with Council Members
20 and Council Staff on all of that, those discussions
21 and... [cross-talk]

22 BOBBY COHEN: I would just like to add to
23 that if I can, I think it's important and I, I
24 believe this is not in your proposed rule so far that
25 the... that the information being collected regarding

1 COMMITTEE ON CRIMINAL JUSTICE

2 complaints of, of, of sexual abuse or harassment in
3 the visit process include the specific facility not
4 just the whole, whole department, the time that, that
5 it... that it... that it occurred so that... so that the
6 department will have the advantage of knowing where..
7 if there are hot spots in terms... in terms... [cross-
8 talk]

9 CHAIRPERSON POWERS: Yeah, or patterns
10 may... [cross-talk]

11 BOBBY COHEN: Yes... [cross-talk]

12 CHAIRPERSON POWERS: ...exist, okay. Yeah,
13 I appreciate that. And if... but if you're visiting
14 today and you feel like something improper happened
15 and you can call three... can you still use the same
16 reporting mechanisms if you're a visitor like 3-1-1
17 and the... there's hotlines and staff and things like
18 that? Like you mentioned you have two that came to
19 the board that went to DOI, there's other methods by
20 which someone could say I had a bad interaction here
21 and maybe potentially a criminal and those don't
22 reach you but there is a... they are available and do
23 those go... what... do you know what the process is by
24 how the... once someone reports, it was a visitor, is
25

1 COMMITTEE ON CRIMINAL JUSTICE

2 it the same process as somebody who doesn't... you know
3 that is, is covered by PREA and so forth?

4 EMILY TURNER: So, visitors can certainly
5 call 3-1-1 and then that would be routed back to the
6 department because it would be related to something
7 that happened at the department and then from there
8 that would trigger their PREA reporting, their
9 process of any kind of criminal activity which is the
10 same as... for all city employees to refer it to DOI
11 for investigation. So, if, if a visitor called 3-1-1
12 and complained that they were inappropriately
13 searched for example and it was routed to the
14 department they would then report it to DOI, that's
15 our understanding of the process.

16 CHAIRPERSON POWERS: Okay, have you... has
17 the board considered any, any additional rules or
18 rule making around visitors in terms of report, I
19 mean in addition, we, we obviously have a bill before
20 us today but any, anything around visitors because
21 we've heard, you know leading into the hearing some
22 anecdotes around concerns about, about visitors and,
23 and making sure there's appropriate protections for
24 them as well which I think isn't covered by the... by
25 the federal reporting requirements but certainly a

1 COMMITTEE ON CRIMINAL JUSTICE

2 lot of folks who are... who are coming from the public
3 to visit and, and they also have reported, have you
4 guys considered any, any additional rules around
5 visitors?

6 MARTHA KING: We'd be happy to talk
7 through what that would look like and, and make some
8 consideration of, of that.

9 EMILY TURNER: There has been the, the
10 committee of which... of which we're members and have
11 participated with DOC staff but nothing that would
12 rise to the level of rulemaking action.

13 BOBBY COHEN: I, I believe that the
14 current process of having cameras in the... during the,
15 the frisking process is relatively new and it's
16 something that we... that we... that we supported, it's
17 complex because someone, someone... people do complain
18 to us even that they don't want to be photographed...
19 [cross-talk]

20 CHAIRPERSON POWERS: Yeah, yeah, right...
21 [cross-talk]

22 BOBBY COHEN: When they're... when they're...
23 when they're being patted first so that's a complex...
24 a complex issue...
25

1 COMMITTEE ON CRIMINAL JUSTICE

2 CHAIRPERSON POWERS: Got it and, and, and
3 one question before I, I hand it off, the time
4 requirement for closing out a complaint only today
5 exists for if it's a PREA ... categorized as a PREA
6 complaint, is it... am I correct about that?

7 EMILY TURNER: Under our standards, yes.

8 MARTHA KING: Yes.

9 CHAIRPERSON POWERS: Have, have... has...
10 have you considered including non- PREA into...
11 anything a time requirement to non-PREA complaints?

12 MARTHA KING: The... that was extensively
13 contemplated when the board was developing its rules.

14 CHAIRPERSON POWERS: And what was the...
15 can you... [cross-talk]

16 MARTHA KING: And then... [cross-talk]

17 CHAIRPERSON POWERS: ...inform us more on...
18 [cross-talk]

19 MARTHA KING: And, and then the... [cross-
20 talk]

21 CHAIRPERSON POWERS: ...the discussion...
22 [cross-talk]

23 MARTHA KING: ...board decided to follow
24 more closely the definitions under the federal
25 regulations.

1 COMMITTEE ON CRIMINAL JUSTICE

2 CHAIRPERSON POWERS: And any... [cross-
3 talk]

4 MARTHA KING: Following the PREA ...
5 [cross-talk]

6 CHAIRPERSON POWERS: And why... [cross-
7 talk]

8 MARTHA KING: PREA ... [cross-talk]

9 CHAIRPERSON POWERS: ...was that?

10 BOBBY COHEN: I, I don't recall exactly,
11 I think it... I'm sure it had something to do with the
12 volume, you know that, that, that was... that was at
13 issue there.

14 CHAIRPERSON POWERS: Got it, okay. I
15 think Council Member Rosenthal... she had to step out
16 into the committee so I'll, I'll, I'll keep going,
17 you know I think that we heard about an equal level
18 of thousand open back, backlog of about thousand
19 cases that are PREA categorized and then non-PREA so
20 I, I continue to be concerned that people are getting
21 appropriate... are getting appropriate attention to
22 something that the feel like happened to them and I
23 know we have different categories here but certainly
24 would, would think about considering again maybe,
25 maybe at the point where the backlog is, is, you know

1 COMMITTEE ON CRIMINAL JUSTICE

2 cleared and on pace also thinking through timelines
3 around... for people who have other, other complaints
4 that maybe aren't categorized as PREA.

5 EMILY TURNER: Well one of the concerns
6 we have about the non-PREA again is this definition
7 which you asked about... [cross-talk]

8 CHAIRPERSON POWERS: Yeah... [cross-talk]

9 EMILY TURNER: ...earlier, one of the
10 things that we find problematic with the 540 public
11 report that the department has... the department
12 submitted back in March is this definition of non-
13 PREA incidents to include these onetime gestures but
14 also to include allegations stemming from a proper
15 pat frisk and so it's not clear to us what their
16 triaging process is, at what point are they
17 determining this is non-PREA because this was a
18 proper pat, pat frisk strikes us as requiring some
19 level of investigation to determine that and so
20 auditing and getting to the bottom of what is in this
21 non-PREA category would be important for us to
22 understand if we were to propose rules around the
23 non-PREA cases... [cross-talk]

24

25

1 COMMITTEE ON CRIMINAL JUSTICE

2 CHAIRPERSON POWERS: So, the ability to
3 sort out... sort the, the categories out, is that
4 right?

5 EMILY TURNER: Well we don't understand
6 how they are currently determining something as a
7 proper pat and frisk... [cross-talk]

8 CHAIRPERSON POWERS: Oh, so, so... [cross-
9 talk]

10 EMILY TURNER: ...which is not... [cross-
11 talk]

12 CHAIRPERSON POWERS: ...what, what goes
13 into non... what goes into that category at all?

14 EMILY TURNER: Right, right, we... [cross-
15 talk]

16 MARTHA KING: Right and the board made
17 that clear in their public discussions and I think
18 the staff, the board staff and DOC staff in, in a lot
19 of the discussions around data that are quite
20 detailed are having a discussion about what is
21 counted as a PREA complaint versus a non-PREA
22 reportable complaint and I expect that the board will
23 have a lot more to say on the topic. The board
24 obviously wants to see every complaint investigated
25 in the same serious manner and closed and I think

1 COMMITTEE ON CRIMINAL JUSTICE

2 there is a sense that we cannot determine what is
3 non-PREA reportable versus what is PREA reportable
4 until an investigation is conducted and closed. So,
5 that, that... or there, there is some disagreement I
6 think which we're trying to work through in
7 discussions with the department on those definitions
8 and the process for categorizing.

9 CHAIRPERSON POWERS: Understood and, and
10 you've contemplated rules on that or you're trying to
11 help them figure out kind of... [cross-talk]

12 EMILY TURNER: Its... [cross-talk]

13 CHAIRPERSON POWERS: ...the... [cross-talk]

14 EMILY TURNER: I mean it's possible the
15 majority of these cases would already fall under our
16 existing rules... [cross-talk]

17 CHAIRPERSON POWERS: Right... [cross-talk]

18 EMILY TURNER: We need to do some further
19 investigation to understand how they're categorizing
20 the non-PREA cases.

21 CHAIRPERSON POWERS: Gotcha. You... some...
22 just... can you describe to us more, some of the
23 concerns you had about the quality and the
24 objectiveness of the DOC's investigations into
25 allegations?

1 COMMITTEE ON CRIMINAL JUSTICE

2 BOBBY COHEN: I'm going to start and then
3 Martha's going to... going to add, you know one of the...
4 one of the concerns that we've had from the beginning
5 when we've looked at this and I don't know what more
6 recent analysis will, will show is that there are
7 lots of reasons for delays and, and that the delay
8 means that no... there's no consequences as you pointed
9 out either consequences nor... in terms of, you know
10 responding to someone's, you know injury or
11 discipline within the department and we... you know
12 we're as frustrated as you were in the answers that
13 you got to the questions you were trying to ask about
14 how many people were disciplined, you know we know...
15 we know that in 2015 when we started this process
16 there had been maybe two or three cases that had gone
17 to, to the district attorney out of thousands and we
18 don't know if that's changed and I could not tell
19 because we had not seen a lot of this information
20 before what those... what the numbers today go in terms
21 of things getting to the... to the district attorney
22 but there are issues about... [cross-talk]

23 EMILY TURNER: That is required by our...
24 currently required by our standards but it, it has
25 not been adequately reported to us to date.

1 COMMITTEE ON CRIMINAL JUSTICE

2 CHAIRPERSON POWERS: So, you're... it's
3 required but you're not getting the information you
4 want?

5 BOBBY COHEN: And also, there... I mean
6 among the issues of concern and I don't think... and I
7 don't know that the... I'm not suggesting there be a
8 modification of the rules here because it's quite
9 complicated. For example, if you wanted to interview
10 a correction officer and there has to be... they, they,
11 they legitimately have one of their, their... a union
12 rep, rep... a union lawyer present... [cross-talk]

13 CHAIRPERSON POWERS: Uh-huh... [cross-talk]

14 BOBBY COHEN: ...there are delays that
15 occur, substantial delays that, that occur because of
16 the absence of adequate staff to do... to... you know
17 this, this comes out of NUNEZ all the time and it
18 gets complicated, you know by, by... it doesn't get
19 complicated but it's just as a fact if you're going
20 to investigate these cases in PREA then that requires
21 additional, additional support so lots of delays
22 happen there but those delays are, are extremely
23 problematic as you've described because testimony can
24 change over time, people's stories have lots of time
25 to get organized when there are delays in the... in the

1 COMMITTEE ON CRIMINAL JUSTICE

2 investigation process so I, I, I mean we've, we've
3 tried through the 90 day rule to, to, to make this as
4 good as we can and that's sort of... I think we're,
5 we're confident that that's a reasonable but...
6 approach now.

7 CHAIRPERSON POWERS: Yeah, appreciate
8 that and I share the... I share the comment about the
9 90 days and, and certainly anything we can do to be
10 helpful to, to eliminate delays obviously it's not a
11 staff thing and funding and things like that, I think
12 they'll... we, we'd be supportive of. One of the things
13 we talked about in, in, in the, the previous
14 testimony was, you know we're, we're obviously
15 talking about a lot of corrective measures to take to
16 help reduce backlog, address outstanding complaints
17 and allegations but not talking probably enough about
18 how to actually prevent incidents that are happening
19 and one of the things that we have a... we do have a...
20 we have definitional problems across the board here,
21 we're not getting enough information, we're not...
22 we're not being able to define it because we're not
23 getting cases closed so we don't know how persistent
24 the problem is and I think that we've heard from the
25 Department, you know their belief that the high... the

1 COMMITTEE ON CRIMINAL JUSTICE

2 allegations are high but the substantiation is low
3 but even with the backlog it's hard to make, you know
4 clarity to that. Do you guys have... does the board
5 have recommendations in terms of or, or can you talk
6 to us about any, any sort of ideas that have been
7 discussed around not just addressing backlogs and
8 taking... and taking an approach to reduced... and to
9 increase reporting and things like that but to
10 actually take preventative measures? We hear... we hear
11 from the Department a bit about some belief of how
12 they think the new jails might improve this but, you
13 know across the board how do either in physical
14 design or through lawmaking, rulemaking or, or
15 through the... just through the department how to... how
16 to be... how to improve prevent... how to be more
17 preventative in terms of abuse?

18 MARTHA KING: So, we think that, you know
19 if the 42 standards are adhered to if they're
20 implemented they do cover education, training,
21 prevention, detection, surveillance, cameras, rounds,
22 staffing, I mean it covers plenty of issues that
23 should deal with prevention. I think the board also
24 believes fundamentally that it is critical to
25 prevention that investigations are effective and

1 COMMITTEE ON CRIMINAL JUSTICE

2 closed because if they are not there will not be any
3 accountability and there won't be any potential
4 deterrence of sexual abuse or harassment in the
5 future. So, I think we want to be sure to categorize
6 investigations and the focus on investigations as
7 also contributing to prevention efforts,
8 fundamentally I also think that the... in my testimony
9 speaking to the issue of sexual abuse incident
10 reviews, those are a process that is supposed to look
11 at an event and identify where a policy and practice
12 went wrong and not facility in that incident to make
13 sure that recommendations and steps are taken to
14 prevent anything similar from happening. I think the
15 board, you know believes in that kind of sentinel
16 event review process and, and the value of, of
17 looking at these incidents to make sure that anything
18 similar doesn't happen again. Similarly, the, the
19 work that the board has done on screening and really
20 identifying, classifying and housing people based on
21 their potential risk for abusing other people or for
22 being abused themselves is, is critical. The board
23 has also taken a great interest in the issues related
24 to protective custody and we'll be looking more at
25 that issue in the coming year and that is also

1 COMMITTEE ON CRIMINAL JUSTICE

2 fundamentally about the housing classification of
3 people and keeping people safe and it does relate to
4 all of these sexual abuse and harassment issues as
5 well.

6 CHAIRPERSON POWERS: Thank you and on the
7 screening issue, you noted... you guys noted
8 deficiencies in what... in the... in the... in the
9 department's use of screening, are there places where
10 you recommend further, further either information
11 that's gathered by them at the beginning of it in the
12 screening process, is there... is there other staffing
13 issues there, what are the... what are the... in terms of
14 addressing those deficiencies, in terms of screening
15 appropriately... yeah, go ahead I think... [cross-talk]

16 MARTHA KING: So, the most fundamental
17 deficiency back in October 2017 when this came up was
18 the fact that the only information about someone's
19 risk of sexual victimization was on a piece of paper
20 and that piece of paper was in a file somewhere and
21 the information was not shared in timely fashion with
22 all of the staff or all of the people who needed that
23 information thus the, the department required that
24 that kind of information, the screening around this
25 issue be electronic so that the information could be

1 COMMITTEE ON CRIMINAL JUSTICE

2 adequately kept in the inmate management system and
3 available in real time to people when they need it to
4 make housing programming decisions, that has happened
5 so that is really extremely great progress. The fact
6 that the department can quantify, can identify
7 individuals and can quantify at an aggregate level
8 where people are at risk, where people are at risk of
9 abusing others, they have a much better sense of that
10 right now. So, we're still monitoring what further
11 impacts that will have and whether or not there are
12 additional improvements to the use of the screening
13 tool that, that need to be taken up by the
14 department.

15 CHAIRPERSON POWERS: So, they.. can I just
16 ask a follow up question on that and the paper
17 process, can you tell.. just, just tell me a little
18 bit more about that process, so they, they would..
19 they would screen you on intake, they would have a
20 paper record in terms of categories, risk categories
21 here and that would go.. that would go into a file
22 that was stored away not in an electronic system so
23 if I wanted to.. if I needed to move you to another
24 unit where they then.. how.. what is the process by
25 which they were tracking in terms of a.. it sounds

1 COMMITTEE ON CRIMINAL JUSTICE

2 like they... this was like a process from the 19... pick
3 a decade in the early 1900's... [cross-talk]

4 MARTHA KING: Would be best equipped to
5 answer these questions and particularly I, I believe
6 there... that that piece of paper was kept in a person
7 in custody's general file that would move with them,
8 you know from facility to facility or wherever they
9 were, I mean the board knew this was a problem
10 because of the board's requirements to track the
11 placement of transgender people and so we were
12 attempting to track the placement of transgender
13 people but we're, we're only able... we're, we're sort
14 of given hundreds of pages of screenings of just
15 pages of everyone who is coming into custody, there
16 was no way to separate out who was trans, who was
17 not, who was at sexual... who is at risk of sexual
18 victimization or not and that led to the resolution,
19 the corrective action plan and now thankfully an
20 electronic method for this.

21 BOBBY COHEN: I, I would just... I mean I
22 think your fundamental question is critical and, and
23 I would just... you know the opening statements of this
24 committee reflected a, a very important process in
25 that, I think, you know just recognizing that this is

1 COMMITTEE ON CRIMINAL JUSTICE

2 not to be trivialized, this is not to be.. that sexual
3 abuse in prisons is not be.. to be a joke or to be
4 normal, normalized its really.. its really critical,
5 its rhetorical to say it but it's, it's more than
6 that when the board develops rules and you're here
7 doing, doing things, decreasing the total numbers
8 are, are, are important as, as well, the city's human
9 rights policy on, on trans, transgender I think in..
10 will effect lots of.. lots of things and the fact that
11 it's not okay. I think there is a.. you know we've,
12 we've met as the board with the Bronx DA to talk
13 about the need for them to, to act on this and not
14 to.. not to.. not to be passive and, and that's
15 another.. that's another area that we can work on,
16 yeah.

17 EMILY TURNER: Well merely having it in
18 an electronic format will allow us to measure
19 compliance with not only just the, the screening, the
20 fact that they're doing the screening but where are
21 they housing individuals, are they appropriately
22 separating individuals, that will allow us to
23 understand much more about how they're managing..
24 [cross-talk]

25 BOBBY COHEN: Right.. [cross-talk]

1 COMMITTEE ON CRIMINAL JUSTICE

2 EMILY TURNER: ...different populations who
3 are at risk or potentially at risk.

4 BOBBY COHEN: I just want to add one more
5 thing to that, I do know that, that's very important
6 and what's important in terms with your, your, your
7 laws and our... and our rules is, is less about our
8 monitoring of the process within the department then,
9 then we make rules and you make laws that, that help
10 the department... that the department uses as part of
11 their, their practice not for us to, to, to beat them
12 over the head for failure but rather that the kind of
13 data that you require makes their work better.

14 CHAIRPERSON POWERS: I couldn't have said
15 it better myself, I... and I'll say it very frankly
16 we're... I don't think we are here to shame them...
17 anybody, we're here to actually correct things that
18 we think are mistakes. On the... on transgender
19 housing, I was just reading through your testimony,
20 the stand... there... just noting that you had mentioned
21 standards prohibit housing, the placement of trans or
22 intersex persons based solely on the person's
23 external general anatomy, required DOC to make a
24 housing determination on a case by case basis that
25 considers gender identity, it sounds like they're not

1 COMMITTEE ON CRIMINAL JUSTICE

2 doing that today, can you tell us about their, their,
3 their compliance with that standard and is there any
4 measure that they will... you guys are monitoring it I
5 think in, in public analysis but has there... has the
6 department actually come up with any set of rules to
7 actually become... moving into compliance like with the
8 backlog we've heard, okay, we have a deadline to
9 actually meet compliance here?

10 MARTHA KING: Right, so we believe that
11 the announcement from the city and the involvement of
12 the Commission on Human Rights and DOC's agreement to
13 begin housing by gender identity by October 13th that
14 is the deadline that's been public for some months
15 that they've been aiming towards so when that occurs
16 they will be compliant with our standards.

17 CHAIRPERSON POWERS: And that will be on
18 a case by case basis?

19 MARTHA KING: It... no... everybody should be
20 housed by gender identity unless on a case by case
21 basis there is some security concern... [cross-talk]

22 CHAIRPERSON POWERS: Right, right, got
23 it, got it... [cross-talk]

24

25

1 COMMITTEE ON CRIMINAL JUSTICE

2 MARTHA KING: It, it's broader so the,
3 the commitment from the city and DOC and Commission
4 on Human Rights goes beyond the board standards.

5 CHAIRPERSON POWERS: Right, right, got
6 it...

7 MARTHA KING: But in a good way.

8 CHAIRPERSON POWERS: Okay and, and I want
9 to just go through lastly just because you guys did
10 mention a couple of recommendations that you had
11 made, things like a... and I'm sorry I'm picking them
12 up here... like a... like a task force, a planning task
13 force of the community members, additional staff
14 training, can you go through with us the
15 recommendations that the board had made in terms of
16 housing and, and identity in housing safety and
17 identity, there are several recommendations the board
18 report that DOC should still pursue can you outline
19 those for us?

20 EMILY TURNER: Sure, so the report that
21 the board released in February included a number of
22 detailed recommendations about the application
23 process, some of those recommendations have been
24 addressed through the corrective action in response
25 to the October resolution of improved screening and

1 COMMITTEE ON CRIMINAL JUSTICE

2 improving the application process so where as before
3 people would just sort of happen to get an
4 application if they were lucky enough to talk to the
5 right officer, the screening process now includes an
6 automatic sharing of the THU application so some of
7 those recommendations around the application process
8 for the THU have gone hand in hand with the
9 improvements on the screening process. Other
10 recommendations that came out of the report were for
11 the department to convene a task force that would
12 include trans-focused organizations and the community
13 to provide in, input and as to how the unit could be
14 operating better, what kinds of programming's could
15 be operated. Some... with the movement of the THU to
16 Rosie's some of the recommendations around
17 improvements related to programing and access to
18 commissary, issues that were coming to the board's
19 attention via complaints from people in the THU will
20 be addressed and have already been addressed by
21 moving the THU to Rosie's. Other recommendations were
22 around training of staff and the department is now
23 reporting that all Rosie staff will receive focus on
24 working with the transgender community. So, many of
25 the recommendations that came out of the report are

1 COMMITTEE ON CRIMINAL JUSTICE

2 either already underway or being implemented by the
3 department or will, will soon be implemented.

4 CHAIRPERSON POWERS: Alright and are
5 there other recommendations that have not... are not in
6 the process of meeting the recommendation?

7 EMILY TURNER: So, I mean I think there
8 are still ways the department can improve the
9 application process, I think the form that's now
10 given to everyone to apply to the THU could be
11 further improved so there... they've taken some
12 important key initial steps but I think actually
13 seeing it through and convening that task force, the
14 department hasn't committed to that... doing that
15 publicly yet so that's something that we'll be
16 following up with them at the next board meeting on.

17 MARTHA KING: I think it's the task force
18 in training, I mean I guess they've made a new
19 commitment to training, but I think those would be
20 the areas of focus that are still outstanding from
21 the report.

22 CHAIRPERSON POWERS: Thanks and on a... on
23 a broader topic around training does... did... do you
24 feel that the employees of the Department of
25 Correction today are getting adequate training in

1 COMMITTEE ON CRIMINAL JUSTICE

2 terms of sexual abuse, harassment and just sort of
3 all the issues that we're discussing today, do... have
4 they, they noted the amount of training they're
5 getting but certainly that's, that's... there's also
6 quality of the training as well in terms of the
7 amount of hours they're getting, how often they're
8 getting it, what type of training of course, do you
9 believe they're getting adequate... staff is getting
10 adequate training and that, that includes officers,
11 health staff, anybody whose working there.

12 MARTHA KING: So, we, we think that's a
13 really important question and so in order to answer
14 that we have observed the training and now are in the
15 process of generating what will... sort of... our
16 conclusions from observing a variety... a wide variety
17 of days of training of different levels of staff in
18 different places, we're going to bring that all
19 together and would, would be happy to send you our,
20 our findings about the quality of the training as we
21 also need to send those to DOC.

22 CHAIRPERSON POWERS: And then you'll make
23 a recommendation about how to improve training?

24 MARTHA KING: Sure.
25

1 COMMITTEE ON CRIMINAL JUSTICE

2 CHAIRPERSON POWERS: Is that a yes or a
3 no... [cross-talk]

4 MARTHA KING: Yes... we would... yes, we
5 will... [cross-talk]

6 CHAIRPERSON POWERS: Okay and... [cross-
7 talk]

8 MARTHA KING: ...do that.

9 CHAIRPERSON POWERS: And are they
10 required to adopt those standards or is it... [cross-
11 talk]

12 MARTHA KING: You mean a recommendation?

13 CHAIRPERSON POWERS: If you make a
14 recommendation, yeah sorry.

15 BOBBY COHEN: Yeah but just not just to
16 defend the department, it was... I mean when we talked
17 about training for PREA... [cross-talk]

18 CHAIRPERSON POWERS: Uh-huh... [cross-talk]

19 BOBBY COHEN: We're talking about
20 training 10,000 people... [cross-talk]

21 CHAIRPERSON POWERS: Yeah... [cross-talk]

22 BOBBY COHEN: It's a gigantic process so
23 I think... I think we will... I think our standards
24 require training, I think they... you know I don't know
25 if they require re-training that is maybe something

1 COMMITTEE ON CRIMINAL JUSTICE

2 that we will have to... have to... have to look at over,
3 over, over time but the department has made a
4 dramatic commitment to this process here and I mean
5 I'm, I'm looking forward to seeing... I personally am
6 not in charge of the training.

7 CHAIRPERSON POWERS: Okay. Do you have an
8 answer, okay, I mean we certainly I think would
9 appreciate getting more insights into the feelings
10 around the training and both the availability of it,
11 the timing of it, the frequency of it and, and the
12 quality of it because we certainly would, you know be
13 interested in working with the board and the
14 department on ensuring that the people that are
15 working there are getting appropriate training and,
16 and also how to... obviously how to report if they see
17 something as well that's happening that requires it
18 and any other standards that would improve safety and
19 security because I think it's... I think it's again my...
20 I am certainly... I, I share the belief that having a
21 fair and, and process that's working helps eliminate
22 and prevent but I... but I also feel that, you know we
23 want to... we want to be more... in a focus on the
24 upfront prevention as much as the backlog and the...
25 you know so forth and so on. The last question is, we

1 COMMITTEE ON CRIMINAL JUSTICE

2 ask this at budget hearings, but I like to ask it
3 anyway, what is the... how does the board feel they are
4 properly resourced to do oversight in this area?

5 MARTHA KING: Right now, yes.

6 CHAIRPERSON POWERS: You feel you're
7 properly... [cross-talk]

8 BOBBY COHEN: I'll take this opportunity
9 to compliment the board, I mean it's really a
10 pleasure to be on... to be a member of the board but
11 the staff at the... I mean it's... I think you can hear
12 there's extraordinary amount of work in this area and
13 I haven't heard the request for more staff but, but,
14 but the... but the... but the council has supported, you
15 know the, the substantial experience from the board
16 and I think people are working very hard because
17 there's a lot to cover but... really our, our issues
18 now are getting the data.

19 CHAIRPERSON POWERS: Got it, we share
20 that, we are... we are... we're going to be requesting
21 more data from them and we appreciate it and as
22 always we'll, we'll look forward to working together
23 in terms of clarifying data, improving standards and
24 ensuring that nobody in our custody is, is... feels
25

1 COMMITTEE ON CRIMINAL JUSTICE

2 unsafe at any point and that they get adjudicated
3 appropriately. So, thank you.

4 MARTHA KING: Thank you... [cross-talk]

5 CHAIRPERSON POWERS: Thanks so much...
6 [cross-talk]

7 BOBBY COHEN: Thank you very much.

8 CHAIRPERSON POWERS: Oh, we, we have
9 Council Member Rosenthal coming back if we can... if we
10 can hold and give her an opportunity to ask
11 questions.

12 COUNCIL MEMBER ROSENTHAL: Thank you so
13 much Chair Powers, I apologize for stepping out at
14 the same time we're having a hearing about the, the
15 Committee on Immigration is having a hearing about
16 the incredible need to abolish ICE, I have a
17 resolution calling on the city to be in support of
18 the federal legislation that would do just that so
19 with apologies for stepping away and gratitude for
20 your asking a couple of my questions. I just want to
21 add very quickly, and I didn't hear the answer to one
22 of these so I'm going to ask you to repeat it. So, so
23 you're in support of the new housing unit for people
24 who identify as transgender?

25 MARTHA KING: Yes.

1 COMMITTEE ON CRIMINAL JUSTICE

2 COUNCIL MEMBER ROSENTHAL: Okay and...
3 sorry. Oh, great, thank you. How are incarcerated
4 individuals made aware of this unit, do you know?

5 EMILY TURNER: So, right now the
6 department is as a result of the board's resolution
7 in October 2017, now has implemented an electronic
8 screening tool and then anyone who screens as
9 identifying as transgender or intersex or at risk of
10 sexual victimization would be shared... automatically
11 shared an application to the transgender housing unit
12 and then their... the outcome of that screening is now
13 tracked electronically.

14 COUNCIL MEMBER ROSENTHAL: Do you know if
15 anyone is not moved over for any reason if it's
16 requested?

17 EMILY TURNER: Yes, so there's an
18 individual determination sort of case by case
19 determination based on how they screen on the PREA
20 screening tool as well as other security
21 considerations so there's a number of factors that go
22 into that decision.

23 COUNCIL MEMBER ROSENTHAL: Do you know if
24 there are wait lists to get in?

25

1 COMMITTEE ON CRIMINAL JUSTICE

2 MARTHA KING: We're not aware of any wait
3 lists, I... your line of questioning is reminding me of
4 something also very important, recommendation... we
5 were talking about our THU report and another
6 recommendation that came out of that report was to
7 create a viable appeal process for people... [cross-
8 talk]

9 EMILY TURNER: Yeah... [cross-talk]

10 MARTHA KING: ...so that if they weren't
11 able to get into the unit and they wanted to be in
12 the unit there was a trustworthy, clear, transparent
13 appeal process and that is something that still needs
14 to occur but we're not aware of any wait list and
15 right now the, the department is reporting on... it's,
16 it's sending us each THU application so we can see
17 the determination on, on an individual level as well
18 right now but an appeal process would be very
19 important I think to sort of the issue you're
20 speaking to.

21 COUNCIL MEMBER ROSENTHAL: Can you...
22 [cross-talk]

23 BOBBY COHEN: If I can just add
24 something... [cross-talk]

25

1 COMMITTEE ON CRIMINAL JUSTICE

2 COUNCIL MEMBER ROSENTHAL: Please...

3 [cross-talk]

4 BOBBY COHEN: You know in the... in the... in
5 the past when I visited the unit when it was a... when
6 it was in Manhattan there were serious problems with
7 the steadiness of the staff and the training of the
8 staff and that is something that's being... that we
9 believe, we hope is being addressed when it... when
10 it's in... at Rosie's but that's something that's very
11 important that there be steady staff at this process.
12 Also to note when the department announced that it
13 was going to close the unit, the population went from
14 about 12 or 13 down to seven, the board responded to
15 that as did many other people and the... and then as
16 well as the human rights commission of the city and
17 when that decision was reversed the population went...
18 it went from 12 to seven approximately and now it's
19 back up to 13 so, so I'm sure during that period your
20 concerns were, were absolutely valid, I hope they're
21 not right now. We don't... we don't know that the... that
22 there's any numeric limitation in terms of the
23 capacity of our... of, of our... of Rosie's to... and
24 there, there were at least in the past couple of
25 weeks both trans, trans women both in dormitory and

1 COMMITTEE ON CRIMINAL JUSTICE

2 in a cell setting, right now it's all dormitory, is
3 that right?

4 EMILY TURNER: I believe so. I think also
5 just as Martha mentioned for the appeal process but,
6 but also for the application process, the application
7 process is not being tracked electronically which
8 does require a lot of manual review, the board
9 standards require a report on all transgender
10 placements, we've been receiving those bi-weekly
11 since November since the board sort of drew a line in
12 the sand with the resolution in October so we've been
13 receiving those reports but that is still a very
14 manual paper based review process for the actual
15 application so while it's great that the screening,
16 the outcome of the screening is now electronically
17 captured we don't have the same advantage in terms of
18 analyzing and reviewing the actual application so
19 that would kind of go part in parcel with just
20 broader recommendations of better electronic
21 screening... or better electronic tracking and case
22 management recommendations so not only for
23 investigations case management but also for managing
24 applications in the appeal process so that we can
25 track it and monitor it more closely.. [cross-talk]

1 COMMITTEE ON CRIMINAL JUSTICE

2 MARTHA KING: And verify.

3 EMILY TURNER: Right.

4 COUNCIL MEMBER ROSENTHAL: Have you heard
5 anecdotally stories of people who want to be housed
6 separately who are not?

7 EMILY TURNER: We've heard... the board,
8 you know has staff in each facility and so where,
9 wherever the... wherever the transgender housing unit
10 has been we've... our staff has... have received
11 complaints from people in custody regarding the unit
12 but I think since it's been moved there have been a
13 few issues that have been brought... been brought to
14 our staff's attention but in general what we're
15 hearing from people who are housed in the transgender
16 housing unit is that overall this movement to Rosie's
17 has been a very positive move.

18 COUNCIL MEMBER ROSENTHAL: Okay, so I get
19 the sense you can't quite determine whether or not
20 DOC is compliant but you're asking them to report
21 electronically with more information, so you could
22 determine if they are compliant, am I hearing you
23 right?

24 BOBBY COHEN: Yes.

25 EMILY TURNER: Yes.

1 COMMITTEE ON CRIMINAL JUSTICE

2 COUNCIL MEMBER ROSENTHAL: Okay. So, and,
3 and let me just confirm, the... there is no appeals
4 process currently?

5 MARTHA KING: There isn't an appeal
6 process in the directive that governs the transgender
7 housing unit right now but the appeal committee is
8 essentially the same committee as the admission
9 committee so we made some specific recommendations to
10 try to make it more impartial and objective so we...
11 just changes to that, we... the transgender housing
12 unit directive is under review at, at the department
13 right now for updating and revision so potentially
14 this could be something that they add to their
15 upcoming directive.

16 EMILY TURNER: And we've asked for a copy
17 of their directive prior to it being implemented so
18 that we can review and provide feedback.

19 COUNCIL MEMBER ROSENTHAL: So, have there
20 been any cases of someone who's appealed to the
21 committee who's then reversed themselves, do you
22 know?

23 EMILY TURNER: Where the committee has
24 changed their mind?

25

1 COMMITTEE ON CRIMINAL JUSTICE

2 COUNCIL MEMBER ROSENTHAL: Yeah, I mean
3 does anyone... [cross-talk]

4 EMILY TURNER: So, what was happening...
5 [cross-talk]

6 COUNCIL MEMBER ROSENTHAL: ...then win an
7 appeal?

8 EMILY TURNER: What we found was that
9 there was no appeal process that individuals would
10 just fill out another application so the department
11 was not implementing their own policy and uhm
12 individuals in custody were being left to just
13 repeatedly file applications over and over again
14 rather than actually receive a determination and
15 that's... one of the findings in the report was that
16 the determinations were not being shared back with
17 the individuals... [cross-talk]

18 COUNCIL MEMBER ROSENTHAL: Oh, wow...
19 [cross-talk]

20 EMILY TURNER: ...in custody so they would
21 submit an application and not know why they were or
22 weren't moved, it just... if they were lucky they, they
23 would make it to the THU if not they had no idea and
24 their only recourse was to file another application.

25

1 COMMITTEE ON CRIMINAL JUSTICE

2 COUNCIL MEMBER ROSENTHAL: And just to
3 confirm do you... do they report on any... do they report
4 on the number of people who appeal and the number
5 that they determine to be able to be moved or not?

6 EMILY TURNER: No, but every two weeks
7 they send us information about the movement of any
8 person who's identified as transgender on the
9 screening tool. So, the movement and the initial
10 placement, we receive information about that every
11 two weeks... [cross-talk]

12 COUNCIL MEMBER ROSENTHAL: So... okay, so
13 if somebody identifies and they agreed to write it
14 down in the report which they may or may not do in
15 terms of the report they send to you, they send you
16 the report saying these are the people who identified
17 as trans and we moved them all over?

18 EMILY TURNER: The report is about the
19 movement and the placement itself, we don't know
20 about how many people they... that wanted to be moved
21 that weren't moved.

22 COUNCIL MEMBER ROSENTHAL: Okay. Alright...
23 [cross-talk]

24 EMILY TURNER: And we've never seen DOC
25 documentation of even an appeal form.

1 COMMITTEE ON CRIMINAL JUSTICE

2 COUNCIL MEMBER ROSENTHAL: Okay... [cross-
3 talk]

4 EMILY TURNER: We've never... we don't know
5 that such a form even exists, it doesn't appear to.

6 COUNCIL MEMBER ROSENTHAL: Okay and I'm
7 hearing... oh go ahead.

8 MARTHA KING: I'm just going to add that
9 the... so, the board cares one, about the, the quality
10 and the availability of the transgender housing unit
11 and that's one issue which I guess we're focused on
12 right now and we are not aware of any appeals to... a
13 decision to come into the THU, so... we don't believe
14 there's been any formal appeals... [cross-talk]

15 COUNCIL MEMBER ROSENTHAL: Thank you.

16 MARTHA KING: ...to date and then second,
17 secondarily the board also cares very much about the
18 placement of all transgender people whether or not
19 they're in that THU or if they're in protective
20 custody or any facility, any type of housing and so
21 what we're trying to do is also get very good data
22 and reporting on that broader issue and in 2019 we'll
23 issue an analysis of the approach to housing
24 transgender people generally across everywhere
25 including in the THU but also at a higher level.

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COMMITTEE ON CRIMINAL JUSTICE

EMILY TURNER: And that kind of analysis wasn't previously possible because there was no flag or universal way of identifying people who identified as transgender.

COUNCIL MEMBER ROSENTHAL: I really want to thank you guys for all of your work every day, you are truly the unsung heroes trying to, you know make sure DOC does the right thing. I, I don't envy you, I really thank you for your hard work.

MARTHA KING: Thank you.

CHAIRPERSON POWERS: Thank you, thanks for your testimony, thank you for spending time asking... answering questions and we look forward to continuing to work with you guys, thanks so much.

BOBBY COHEN: Thank, thank you very much.

CHAIRPERSON POWERS: Thank you, we're going to hear from the next panel. I have four folks here and then we have I think two subsequent panels. The first one is Kiara Montero Reyes; Chandra Clark, Tanya Krupat from the Osborne Association and Kelly Grace Price from Close Rosie's JAC. Are those folks all here?

[off mic dialogue]

1 COMMITTEE ON CRIMINAL JUSTICE

2 CHAIRPERSON POWERS: Thank you, are we
3 waiting for one more, we have... we'll get started
4 either way but... so, just before you start just please
5 state your name and the association, organization,
6 affiliation. We're going to have two minutes and then
7 we may have questions for each... for each person to
8 testify please try to stay within the, the two
9 minutes, certainly if you are close to ending you can
10 certainly make note of that and we will then
11 potentially have some follow up questions. Thank you
12 and we'll go... we'll go your right to left so start
13 over here. Thank you.

14 KIARA MONTERO-REYES: Hi, so my name...
15 agency, okay... my name is... sorry... [cross-talk]

16 CHAIRPERSON POWERS: You don't have to...
17 you don't have to do the... only agencies have to do
18 it, thanks.

19 KIARA MONTERO-REYES: Okay, so good
20 morning, my name is Kiara Montero- Reyes, I, she, her
21 pronouns and I'm a clinician with the Still
22 Survivor's Program at the New York City Anti-Violence
23 Project which is an... a crisis organization that
24 serves LGBTQ identified survivors of violence through
25 counseling, legal services and advocacy. Still

1 COMMITTEE ON CRIMINAL JUSTICE

2 Survivors is a program in collaboration with Steps
3 and Family Violence, an agency that has served
4 criminalized survivors of intimate partner violence
5 for over 30 years. In this role I work with survivors
6 of intersecting forms of violence in the community
7 and at Rikers. Thank you to the Committee on Criminal
8 Justice, the Committee on the Justice System and the
9 Committee on Women for the opportunity to testify.

10 Though efforts to tackle sexual violence of
11 incarcerable systems do exist more progress must be
12 made in order to acknowledge, report and hold
13 perpetrators accountable for sexual violence. Through
14 my work with AVP and Steps I provide counseling and
15 advocacy services to LGBTQ survivors of violence
16 whose criminalization and incarceration is linked to
17 their survival of violence. We have seen sexual
18 violence being overlooked when it involves folks
19 who's perceived or disclosed sexual orientation is
20 not heterosexual especially since they are held
21 within facilities of the same gender. Through our
22 work with the community we know that officers and
23 other facility staff have coerced incarcerated people
24 to exchange sexual favors for protection, this
25 particularly happens to trans and gender non-

1 COMMITTEE ON CRIMINAL JUSTICE

2 conforming folks detained within these systems. The
3 National Institute of Corrections reported in it's
4 2013 policy review and development guide on LGBTQI
5 people that incarcerated trans people are 13 times
6 more likely than their sister gender peers to
7 experience sexual assault. Two minutes... so, there are
8 specific policies and procedures that have allowed
9 for mistreatment when responding to reports of sexual
10 violence. More so the theme that we're trying to get
11 at is that when incarcerated people report or want to
12 report sexual violence they've experienced in the
13 jail system they must be able to define what safety
14 looks like for them. Survivors don't experience
15 forced movement within the housing units as
16 protection instead it feels like retaliation. Thank
17 you.

18 CHAIRPERSON POWERS: Thank you, we'll do
19 everybody and then we'll ask questions, thanks. We'll
20 reset to, to two minutes long. Yep, you can go ahead,
21 thanks.

22 CHANDRA CLARK: My name is Chandra Clark.
23 At 33 years old I'm a survivor of domestic violence,
24 sexual abuse, PTSD, substance use, prolonged
25 incarceration and neglected mental health needs. Born

1 COMMITTEE ON CRIMINAL JUSTICE

2 in a small town in Illinois to a home plagued by the
3 same issues, I had little opportunity to observe
4 healthy lifestyle habits. At ten years old drugs and
5 alcohol were the only coping mechanisms available to
6 suppress the symptoms of the trauma I experienced. I
7 was very angry about what had happened to me and
8 didn't know how to respond, I lacked a support system
9 to confide in, I didn't have anyone to coach me on
10 how to overcome my anger, lack of self-worth,
11 depression and constant fear for my safety. As a
12 result, it was only a matter of time before my path
13 led to the criminal justice system. At the age of 15,
14 I was first arrested for a curfew violation, an
15 offense based on my age known as a status offense.
16 Status offenses impact people at a young age but the
17 trauma of the arrest and experience last a lifetime,
18 driving people directly into our carceral system. I
19 spent the next decade cycling in and out of the legal
20 system, battling substance use and experiencing
21 homelessness all while suffering from untreated
22 trauma and mental health needs. In 2010 I spent four
23 months including my 25th birthday detained on Rikers
24 Island before being sentenced and transferred to a
25 New York State correctional facility. The

1 COMMITTEE ON CRIMINAL JUSTICE

2 incarceration practices used on Rikers Island
3 exacerbated my systems of trauma while inflicting
4 additional harm. Each and every night I spent on
5 Rikers I was fearful for my life and my body, it was
6 not the other women I was incarcerated with that I
7 feared, for me it was the male correctional officers
8 who had watched me go to the bathroom through the
9 window in my cell each night or the officers that
10 would use flashlights to watch me for several minutes
11 while I tried to cover my body to lay underneath the
12 sheet sweating in nearly 100 degree cell the size of
13 a closet. It was feeling.. the feeling of being
14 trapped knowing that if I covered window in my cell
15 door with a piece of paper for even a second of
16 privacy I would receive a ticket and be sent to
17 solitary confinement. It was paralyzing fear of going
18 to solitary confinement at an officer's whim, an
19 unimaginable torture that I knew I could not handle,
20 it was the constant exposure to derogatory and sexist
21 comments, harassing remarks and abusive language that
22 fueled the demeaning environment on a daily basis, it
23 was the absolute power that correctional officers
24 particularly male officers held over me and the fact
25 that there was no one there to report the abuse and

1 COMMITTEE ON CRIMINAL JUSTICE

2 neglect to. Unfortunately, my story is not unique, I
3 stand with millions of other women whose stories of
4 violence, abuse and trauma have common threads. As
5 we've discussed here the intersectionality between
6 trauma, sexual assault and incarceration is clearly
7 evident and we have the opportunity to transform our
8 carceral systems and let me skip ahead because this
9 is way longer than two minutes. And today I work at
10 the Fortune Society and I have some recommendations
11 that I would like to offer beginning with the design
12 of the borough based facilities and how they should
13 be responsive to the women that they're serving or
14 the LGBTQAI community that they're serving and that
15 involves programming, space, staffing, oversight; it
16 really runs the whole gambit of it and additional at
17 minimum I feel... [cross-talk]

18 CHAIRPERSON POWERS: And you can... [cross-
19 talk]

20 CHANDRA CLARK: ...all... [cross-talk]

21 CHAIRPERSON POWERS: ...you can slow down
22 too... [cross-talk]

23 CHANDRA CLARK: Okay... [cross-talk]

24 CHAIRPERSON POWERS: But you can... you can
25 keep going but just stay in your time.

1 COMMITTEE ON CRIMINAL JUSTICE

2 CHANDRA CLARK: At minimum all DOC staff
3 should be trained to engage women using trauma
4 informed care and intimate partner violence sensitive
5 practices. Diversion and alternative to incarceration
6 programs must be considered in lieu of incarceration
7 reducing the amount of time women are exposed to
8 Rikers Island, collaboration between DOC and women
9 led non-profit organizations to create an oversight
10 committee to review all sexual assault and harassment
11 allegations. And while I understand the city council
12 cannot reform the New York State bail statute, the
13 council can fund partner organizations to educate
14 judges and district attorneys about the issues
15 impacting violence survivors in an effort to expand
16 the courts use of supportive services in the
17 community rather than setting bail for this
18 population. As a Fortune employee member of Just
19 Leadership and Women's Community Justice Project I'm
20 eager to work alongside the city council to dismantle
21 Rikers Island in a thoughtful way ensuring that the
22 culture of violence, harassment, sexual assault and
23 dehumanization comes to an end for everyone. Thank
24 you today for letting me testify.

1 COMMITTEE ON CRIMINAL JUSTICE

2 CHAIRPERSON POWERS: Thank you, thank you
3 for that.

4 KELLY GRACE-PRICE: Good afternoon, I'm
5 Kelly Grace-Price with the Close Rosie's Campaign and
6 with the Jails Action Coalition and I'd like to thank
7 Chandra Clark for appearing today and giving her
8 brave testimony, it's really nice to hear fresh
9 voices in these rooms. You know my story, I was
10 thrown on Rikers as an innocent survivor, I'm been
11 complaining about SIVANCE for years, had some recent
12 wins actually in federal court, FYI but I'd, I'd like
13 to start my testimony today reading someone else's
14 words from their sexual assault, you may recall that
15 I avoided sexual assault, that I was targeted by a
16 doctor whose now being prosecuted by the Bronx DA but
17 thankfully I avoided that sexual assault while I was
18 on Rikers Island but these are the words of another
19 woman, I was arrested at an anti-war demonstration in
20 New York City, I was imprisoned for, for four days
21 before a judge released me on my own recognizance. In
22 jail all of the orifices in my body including mouth,
23 vagina, and rectum were searched many times by hand,
24 by many persons. I was told the jailers were looking
25 for heroine, my clothes were taken away because I was

1 COMMITTEE ON CRIMINAL JUSTICE

2 wearing pants and a men's sweatshirt. I was given a
3 flimsy robe that had no buttons or hooks, there were...
4 there was no way to close it, my bra, underpants and
5 the sash to the robe were taken away so I wouldn't
6 kill myself. For four days I had nothing else to
7 wear. To see whether I had syphilis I was... I was
8 examined by two male doctors, they never did the
9 blood test for syphilis instead they drew blood from
10 my vagina. The brutal internal examination they
11 forced on me, my first, caused me to bleed for 15
12 days when I finally decided it wasn't my period my
13 family doctor a tact turn man whom I had never seen
14 express emotion even as he treated my mothers heart
15 attacks, strokes, and experimental heart surgery said
16 he had never seen a uterus so bruised or a vagina so
17 ripped, he cried, I was 18. I came out of jail unable
18 to speak, this is a frequent response to sexual abuse
19 but in 1965 no one knew that, sexual abuse wasn't
20 just on... sexual abuse wasn't on anyone's map that day
21 until feminists redrew the map. These words were by a
22 very famous person, Andrea Dworkin, whose testimony
23 in front of the senate page committee in 1966 caused
24 Mayor Lindsay to decry the women's house of detention
25 where we used to house our mothers, our daughters,

1 COMMITTEE ON CRIMINAL JUSTICE

2 our grandmothers, our aunts, our nieces, and our
3 nephews, some of them and in the next year, in 1967
4 Mayor Lindsay broke ground on the CIFW, the
5 Correctional Institute for Women which later became
6 GMDC. When Miss Dworkin died one of the legacies in
7 all of her obituaries was that her testimony helped
8 to tear down the House of D. I can only hope that
9 miss Dworkin lays in peace without hearing the
10 testimony of women like Chandra and of women like me
11 who have experienced firsthand the horrors of Rikers
12 Island. I have a lot of other comments that I've
13 submitted via email, I hope you don't mind, I... I
14 don't have a printer at home but I, I want to
15 emphasize that what I heard from the DOC this morning
16 were blatant lies, I have forwarded you directives
17 that were published in April of 2018 that
18 specifically... and signed by Commissioner Brann and by
19 Hazel Jennings, her Deputy Commissioner that
20 specifically insists that all inmate on inmate
21 complaints of assault, harassment or abuse are
22 investigated by the first line captains right up on
23 the... at the top of that directive and I emailed it I
24 believe at least to all your, your chiefs of staff
25 this morning, at the top of that directive

1 COMMITTEE ON CRIMINAL JUSTICE

2 specifically there's no mention of a 61 form being
3 filled out, the only mention of any investigatory
4 methodology being exerted on inmate on inmate
5 complaints is a 6500A form, there is no referral to
6 the NYPD, there's no referral to the DA's Office,
7 there might be an oath hearing but if you want to
8 know how the department is fairing out PREA versus
9 non-PREA complaints, inmate on inmate complaints are
10 now being marked as non-PREA, they are not being
11 referred to ID, they are not being referred to that
12 NYC DOI, these complaints have literally just fallen
13 into a basket marked non-PREA. And you asked.. I heard
14 Miss Townsend testify this morning that oh, we have
15 fewer complaints now, well we have fewer complaints
16 because they literally just eviscerated 900 of them
17 that fall into the in, inmate on inmate. So, those,
18 those particular complaints aren't even being
19 referred to DOI, they're not, they're being
20 investigated and.. by the captains and if criminal
21 intent is found they're being referred to the.. to the
22 internal OATH trial, the disciplinary trials,
23 they're, they're not being referred to the district
24 attorney's office. This is something that I really
25 want you to, to, to look closely, the documentation

1 COMMITTEE ON CRIMINAL JUSTICE

2 that I'm sending you, the PREA rule itself on page, I
3 believe it's eight of the PREA rule, very
4 specifically says that all complaints of inmate on
5 inmate, harassment, rape, sexual assault will be
6 investigated by NYC DOI or DOC DOI and this is
7 strictly not happening. I, I, I'm tired of the sound
8 of my voice and I've exceeded my time, but I hope
9 that you read my testimony, I specifically give
10 details about problems that we've been having with
11 the DOC as we do this work, about the closing memo.
12 We've spent countless hours trying to get FOIL
13 information back from the department, we wanted to
14 know simple things; are you screening in the... the,
15 the new fabulous technical, technological screening
16 tool, are you including questions about people status
17 as survivors of trafficking or pimping and those
18 questions are not being asked. So, please pay careful
19 attention to my testimony, we did not hear really
20 with certainty anything close to a modicum of truth
21 this morning and I'm sorry to say that I'm fly in the
22 ointment pointing this out again and again and again
23 but please use these tools to go after the DOC. As
24 you said Council Woman Rosenthal, it's a shell game
25 with numbers. Thank you.

1 COMMITTEE ON CRIMINAL JUSTICE

2 CHAIRPERSON POWERS: Great, thank you

3 and, and, and to, to all of you thank you for sharing
4 your experiences and your insights and I, I should
5 note that everything we hear today helps inform us to
6 be able to make and certainly some recommendations
7 that were made to make, you know some, some... to
8 gather insight but also obviously to look at ways
9 that we can improve any process that we feel is
10 broken or, or is missing something that can help at
11 accomplishing this goal. I wanted to, to Miss Reyes
12 and I, I apologize that you lost some of your time
13 here but it, it feels like some of the point... part
14 that you lost was important in terms of policies and
15 procedures and some... and some... maybe, maybe some
16 recommendations in there so I wanted to just follow
17 up with a question and... you, your, your testimony
18 makes note particularly with the trans community
19 about the use... retaliate, retaliation, can you talk
20 more about... can you be more specific in terms of
21 retaliation your testimony, you know affirm... you know
22 talks about solitary confinement as a punishment for
23 those who make allegations, female identified
24 officers searching male identified people, so can you

25

1 COMMITTEE ON CRIMINAL JUSTICE

2 talk more about some of those recommendations that
3 you and... that you were making?

4 KIARA MONTERO-REYES: Absolutely, so in
5 regards to retaliation I think what's important is
6 kind of like what you were saying in the sense that
7 as a way of punishment really what I'm getting at
8 within this testimony is that there's a gas lighting
9 which is a manipulation of psychological means to
10 make people think that their reality isn't true and
11 what it is, is that people are still pretty much
12 being forced into movement into solitary and it's
13 being lamed as protection, right, as a way of, you
14 know monitoring or trying to get them away from
15 whoever causing them harm specifically sexual
16 violence. So, with that being said that's kind of
17 what I mean by the retaliation and how it's masked as
18 protection and then with the... what's that called...
19 yeah, so something... and this is coming from my own
20 comment as having gone through a PREA training last
21 week, is that I learned that female identified
22 officers are allowed to search male identified people
23 and it's not the other way around which completely is
24 stereotypical and disregarding that male identified
25 people can be victims of sexual violence, it

1 COMMITTEE ON CRIMINAL JUSTICE

2 perpetuates that myth and that also they can't... it,
3 it perpetuates further shame and not wanting to
4 report so that could also be huge on where numbers
5 are in the sense of like who's reporting and why it
6 might be decreasing or whatever they were saying this
7 morning or however they're trying to portray that.
8 Yeah, so that... does that make sense?

9 CHAIRPERSON POWERS: Yeah, yeah,
10 absolutely, thank you and, and to Miss Clark, we've
11 also... I don't know if we have a copy of your
12 testimony, we do, okay so we'll, we'll get a copy of
13 it with your recommendations in there as well. The..
14 and I just wanted to, to clarify the comment, the,
15 the last testimony which was to say I think the quote
16 almost directly was, inmate on inmate violence is not
17 considered as part of PREA, is that correct, is... am I
18 clear... but that's the... that's the... [cross-talk]

19 KELLY GRACE-PRICE: The PREA rule does
20 absolutely mandate that all inmate... [cross-talk]

21 CHAIRPERSON POWERS: You're, you're..
22 [cross-talk]

23 KELLY GRACE-PRICE: ...on inmate
24 violations... [cross-talk]

1 COMMITTEE ON CRIMINAL JUSTICE

2 CHAIRPERSON POWERS: ...saying... [cross-
3 talk]

4 KELLY GRACE-PRICE: But there is a
5 directive that was issued April 14th, 2018 that
6 specifically mandates that those complaints are not
7 passed along to ID for investigation and they're not
8 even investigated by PREA.

9 CHAIRPERSON POWERS: There's a DOC that...
10 sorry, that was the... that was the, the door opening
11 from the hearing... [cross-talk]

12 KELLY GRACE-PRICE: Oh, sorry...

13 CHAIRPERSON POWERS: I, I... [cross-talk]

14 KELLY GRACE-PRICE: Yeah...

15 CHAIRPERSON POWERS: Very... outside... I
16 just want to clarify so the... there... the, the, the DOC
17 directive says that inmate on inmate should not be
18 sent to DOI or they should be sent?

19 KELLY GRACE-PRICE: Should not.

20 CHAIRPERSON POWERS: Should not be sent...
21 [cross-talk]

22 KELLY GRACE-PRICE: And it... which is
23 against the grain of what... of our own PREA rule that
24 says that specifically all inmate on inmate
25 complaints will be investigated by an outside

1 COMMITTEE ON CRIMINAL JUSTICE

2 investigator by the... outside of the unit but here in
3 the directive that was issued, and I believe that... I
4 can't, you know open up the brains of the DOC top
5 brass, boy would I love to, I, I imagine that the
6 reasons that, that that directive was issued is so
7 that they could cut down the backlog.

8 CHAIRPERSON POWERS: And, and... or, or and
9 I'm just... I'm just... I'm just... without it... I mean we
10 can... we'll follow up with the department and I, I
11 know there, they're still... they're still here and
12 represented but it sounds like they put in another...
13 is it... is it... is it fair to say they put it in place
14 another mechanism for investigating, it's not DOI so
15 we'll just... we'll look at the, you know adequacy of
16 investigation but there's a third party, is that
17 what... is that... [cross-talk]

18 KELLY GRACE-PRICE: No, it's actually the
19 captain of the unit that investigates so you're
20 asking the people that are tasked with keeping
21 complaint numbers down to, to investigate and these
22 captains haven't even been trained in PREA, you know
23 they haven't. Anyway I, I quoted in footnoted,
24 footnoted it... [cross-talk]

25 CHAIRPERSON POWERS: Okay... [cross-talk]

1 COMMITTEE ON CRIMINAL JUSTICE

2 KELLY GRACE-PRICE: ...all, it's, it's...

3 [cross-talk]

4 CHAIRPERSON POWERS: ...we'll take a look...

5 [cross-talk]

6 KELLY GRACE-PRICE: ...all available for
7 you.

8 CHAIRPERSON POWERS: Yeah, appreciate it,
9 thank you, I'll hand it to Council Member Rosenthal.

10 COUNCIL MEMBER ROSENTHAL: So, it's
11 difficult... thank you for your bravery Chandra, Miss
12 Clark for speaking about what you've encountered...

13 [cross-talk]

14 CHANDRA CLARK: Thank you... [cross-talk]

15 COUNCIL MEMBER ROSENTHAL: ...that kind of
16 information, you know emboldened us to really go to
17 the mat for you and for other people who will
18 undoubtedly be in your... who are in your situation
19 today and I really, really want to thank the
20 advocates who work on this tirelessly. Miss Price you
21 and I met a while back and I want to thank you for
22 that and thank you for your patience in my reaching
23 back to you. I admire your patience very much, you
24 know my conclusion from today's hearing and frankly
25 from the hearing that we had on the NYPD SVU... the

1 COMMITTEE ON CRIMINAL JUSTICE

2 Special Victims Division is that and this may sound
3 unfair but is that rape is... these institutions see
4 rape as an annoyance and they don't feel that it's
5 part of their mission to address these issues and we,
6 we... you know we got to interrupt that and we're
7 interrupting it today by having this hearing,
8 Councilman Powers thank you so much for taking the
9 lead on this but, you know I have to ask questions
10 but you should know I'm a little bit in a state of
11 heartbreaking shock just hearing what you've all
12 dealt with so, thank you. I guess I want to start
13 with the PREA training and whether or not you think
14 there's any element in that of trauma... you know
15 trauma informed survivor centric training abilities
16 on their part in order to... yeah, please...

17 KELLY GRACE-PRICE: Thank you, if you
18 don't mind I've been... I've been on the department to
19 introduce FEDY, I've been handing them documentation
20 from National Victim Centers for years, we've had
21 meetings, Bobby and, and Martha King have organized
22 meetings when I worked at National Organization for
23 Women we had meetings there where we talked about all
24 these things but if, if you hear from the
25 department's own testimony this morning they

1 COMMITTEE ON CRIMINAL JUSTICE

2 mentioned that they try an have all their
3 investigations done within 72 hours of the complaint,
4 now we know, you know, Chandra knows, any victims at...
5 sexual violence victims, advocate knows that you
6 don't even begin a hard core investigation until
7 after 72 hours have expired because of the chemical
8 imbalance in the survivor if they have reported right
9 at the moment or close... [cross-talk]

10 COUNCIL MEMBER ROSENTHAL: Yeah... [cross-
11 talk]

12 KELLY GRACE-PRICE: ...thereafter, their
13 own ability to retain memories doesn't even... isn't
14 even restored until at least after 72 or even
15 further, four days hour... after so right there you
16 have proof from the department's own testimony that
17 they're, they're not following... we've been begging
18 and pleading, we've been on our knees, we had all the
19 now interns at the Board of Correction meeting back
20 in July of, of 2016 going over all the different
21 kinds of victim centric investigative techniques that
22 are out there and we... [cross-talk]

23 COUNCIL MEMBER ROSENTHAL: Of course..
24 [cross-talk]

1 COMMITTEE ON CRIMINAL JUSTICE

2 KELLY GRACE-PRICE: ...I, I beg your pardon
3 you can tell where I'm going, the short answer is no...
4 [cross-talk]

5 COUNCIL MEMBER ROSENTHAL: Right... [cross-
6 talk]

7 KELLY GRACE-PRICE: No, no, not a thing,
8 not a stitch, not a hair.

9 COUNCIL MEMBER ROSENTHAL: Right and
10 obviously it exists, that training is out there, and
11 they could be doing it. I think that's an important
12 distinction, so I really appreciate your knowledge
13 based on that and I think we have to move forward on
14 that idea in particular. Could you... similarly, could
15 you talk a little bit about, you mentioned the
16 diversion and the alternatives to incarceration
17 programs that have to be in consideration, can you
18 expand on that with specific models or
19 recommendations that you all know about?

20 KELLY GRACE-PRICE: Maybe I'll just say
21 something quickly because I know this is more
22 Chandra's bailiwick than mine, I for one am... because
23 I was an innocent person put on Rikers Island and I
24 got all my charges dismissed and sealed, it's, it's a
25 long story I won't bore you, you, you know the, the

1 COMMITTEE ON CRIMINAL JUSTICE

2 basics of it but I'm not about ATI programs, a lot of
3 the ATI... [cross-talk]

4 COUNCIL MEMBER ROSENTHAL: Okay... [cross-
5 talk]

6 KELLY GRACE-PRICE: ...programs you have
7 to, to plead guilty, you have to take a deal to and,
8 and I have a, a big problem with that. I, I do
9 acknowledge that there are a lot of people that
10 they're very helpful for but I see it being a very
11 slippery slope, while there are programs that are
12 really great and they do exist, I don't believe that
13 ATI... especially for women, girls, trans, intersex and
14 non... gender non-conforming persons, I don't believe
15 the ATIs are the solution, I really believe that we
16 should stop putting people in cages, there are all
17 kinds of people there on Rikers for Mishegoss, the
18 crimes that we're accused of are completely different
19 than the crimes that men are in there for an... I could
20 go forever, I promise to be short but I, I, I have
21 foiled that information and people should not even be
22 on Rikers. We... like the... I don't believe that these
23 programs really are useful for more than a fifth of
24 the population, I'll shut up.

1 COMMITTEE ON CRIMINAL JUSTICE

2 COUNCIL MEMBER ROSENTHAL: No, no, no,
3 you, you, you made a distinction that is important
4 that people have to accept a plea deal or admit guilt
5 before that happens, that's not my understanding that
6 there can be... well I guess that is true... I don't
7 know.

8 KELLY GRACE-PRICE: I'd like to know more
9 if this is true... [cross-talk]

10 CHANDRA CLARK: ATI... [cross-talk]

11 COUNCIL MEMBER ROSENTHAL: I mean is
12 there an ATI pre-trial I guess is the... [cross-talk]

13 CHANDRA CLARK: That would be... [cross-
14 talk]

15 COUNCIL MEMBER ROSENTHAL: ...question...
16 [cross-talk]

17 CHANDRA CLARK: ...an ATD, yeah, that would
18 be like an alternative to detention... [cross-talk]

19 COUNCIL MEMBER ROSENTHAL: To detention...
20 [cross-talk]

21 CHANDRA CLARK: Which would be pre-trial
22 where ATI you usually... [cross-talk]

23 COUNCIL MEMBER ROSENTHAL: Right, right...
24 [cross-talk]

25

1 COMMITTEE ON CRIMINAL JUSTICE

2 CHANDRA CLARK: ...have to plead guilty.

3 So, I think... and, and the reason I put AT, ATD and
4 ATI programs in, first and foremost if we ended cash
5 bail 70 percent of the people on Rikers wouldn't be
6 there... [cross-talk]

7 COUNCIL MEMBER ROSENTHAL: Yep... [cross-
8 talk]

9 CHANDRA CLARK: ...so, that would eliminate
10 a lot of the issues right there and we know all the
11 problems around cash bail and you know by telling my
12 story if I would have gotten those, those supportive
13 services before, you know the trauma got to the point
14 where it was or before I engaged in drugs and alcohol
15 at ten maybe then I wouldn't have ever ended up in
16 jail to begin with so obviously we want supportive
17 programs first even before ATD and ATI, I want you to
18 be able to get mental health. I'm still in therapy
19 today and it's only through now understanding trauma
20 that I can even talk about this to people so how
21 could we ever think that correctional officers could,
22 you know keep us safe if they have no understanding
23 of trauma and it's taken years to understand my own
24 trauma so I think going with the supportive programs
25 first, understanding the intersectionality between

1 COMMITTEE ON CRIMINAL JUSTICE

2 the domestic violence, mental health, substance use
3 and what gets you into the criminal justice system to
4 begin with and preventing that and giving them the
5 supportive services but then if we do get to that
6 point and I think of maybe my last conviction, I was
7 facing four felonies and a misdemeanor, I, I did do
8 something wrong, right, it was a, a big case, it
9 wasn't something that was small so in my case we
10 still need to come up with some idea of.. we still
11 have to have.. there still has to be a line, right,
12 the, the world still needs to be safe, people can't
13 be committing crimes so we still need to come up with
14 some kind of, of, you know negotiation and I think
15 that's where ATD and ATI programs could fall into
16 place depending on, you know the, the history of the
17 person, the history of the crime, the extenuating
18 circumstances that went into it and when we talk
19 about women specifically you'll see in my testimony
20 and you guys hit on it a lot and you know 90 percent
21 of women that are inside were sexually abused or
22 physically abused as children almost 90 percent have
23 been abused as an, an... you know into adulthood so
24 these are very specialized issues that we face as
25 women and that should be informed and infused in

1 COMMITTEE ON CRIMINAL JUSTICE

2 everything that... moving forward with DOC; the design,
3 the staffing, the... you know all of the, the new
4 things that are going to go into this facility.

5 COUNCIL MEMBER ROSENTHAL: And I ask you
6 is that part of the intake form?

7 CHANDRA CLARK: Intake form for... [cross-
8 talk]

9 COUNCIL MEMBER ROSENTHAL: Of questions
10 asked as part of the intake form?

11 CHANDRA CLARK: On, on Rikers?

12 COUNCIL MEMBER ROSENTHAL: Yeah.

13 KELLY GRACE-PRICE: We would love... when
14 they give you that intake form I was just going to
15 say let me know, please, please pass it along because
16 they denied FOILS.

17 CHANDRA CLARK: I never completed an
18 intake form, I think the only... and when we did... what
19 was it called, when you're in, in the pens before
20 you're getting sentenced, it's like a probation
21 report or something like that, yeah and they do like
22 a report where some of that information is kept. I
23 remember talking to them about it but I never... Rikers
24 never asked me any of these questions when I went
25 there and I know that was in 2010, I know it's a

1 COMMITTEE ON CRIMINAL JUSTICE

2 little bit different now but I also work, working at
3 the Fortune Society, you know I have women in my
4 program who are in ATI program and I ask them every
5 day, you know did you still have a male officer guard
6 you because the last time I talked to DOC they said
7 oh, it's not a problem anymore because only female
8 officers are over the, the female off... like the
9 female inmates now, the incarcerated people now and
10 so they said that wasn't happening but when I talk to
11 my girls who just came off of Rikers a week ago
12 they're saying it's still happening so I'm way more
13 inclined to believe them who I'm getting real first
14 hand accounts from on a daily basis and according to
15 them the harassment assault hasn't changed. I didn't
16 even know some of the things that DOC was saying
17 about these PREA managers and compliance people, I
18 have never heard of these people, I still have girls
19 that come into our program that don't know what PREA
20 means so if they don't know what the word means then
21 how could DOC possibly be telling them about it, how
22 could there be a pamphlet, how could there be
23 anything if they still don't even know what it means.

24

25

1 COMMITTEE ON CRIMINAL JUSTICE

2 COUNCIL MEMBER ROSENTHAL: Well do they
3 say whether or not they got the pamphlet, I mean they
4 could... [cross-talk]

5 CHANDRA CLARK: This is the first time I
6 ever heard about a pamphlet so this will be my next
7 question of asking them if they receive a pamphlet
8 but I was always just asking them if they knew even
9 what PREA stood for because I, I knew about it but
10 I've never even heard of a pamphlet until today so
11 that'll be my next question for them.

12 COUNCIL MEMBER ROSENTHAL: Right, right
13 and let us know and also whether or not it's multi-
14 lingual.

15 CHANDRA CLARK: Right.

16 COUNCIL MEMBER ROSENTHAL: Right. So... but
17 I want to continue... we don't have to do it now, but
18 I'd like to continue this thread of thinking about
19 alternatives to detention getting the non-violent...
20 you know the women who are at Rikers for non-violent
21 crime, crimes out, you know so they wouldn't even
22 have to get into Rikers... [cross-talk]

23 CHANDRA CLARK: And part of that
24 conversation I think housing is going to be around
25 part of that conversation too. When we talk about ATD

1 COMMITTEE ON CRIMINAL JUSTICE

2 and ATI women need safe supportive housing that they..
3 permanent housing that they're going to be able to go
4 into because that's also a problem. Sometimes we go
5 back to housing, I know for myself I was released
6 from prison into a marriage that I didn't want to be
7 in, into pretty much an unsafe house but because I
8 was on parole there're really not too much that you
9 can do so, you know housing is a big concern because
10 we do I think as women put ourselves in more unsafe
11 positions if we need a, a... you know we still need
12 somewhere to stay we still have housing issues and
13 housing for our children also is going to be an
14 important thing.

15 KIARA MONTERO-REYES: And I'm sorry, if I
16 may add a comment, I also want to open up in... the
17 idea of like yes, let's get definitely non-violent
18 folk out and also... especially considering my program,
19 people sometimes... survivorship looks like violence,
20 right, we work with folks at Steps and AVP with
21 people who have had to resort to violence for
22 survivorship especially if we're talking about
23 intimate partner violence, right and through the 30
24 years that Steps has been working at Rikers
25 specifically Rosie's they have countless testimonies

1 COMMITTEE ON CRIMINAL JUSTICE

2 and stories that unfortunately I can't name because
3 we were trying to figure out confidentiality but
4 anyways they have plenty of experience to talk about
5 what it means when you're labeled as a violent
6 offender instead of a survivor so...

7 CHANDRA CLARK: And to go along with that
8 also, you know one the steps that I have in here that
9 we talk about, there are a lot of women that are
10 inside for killing the partner that was abusing them...

11 [cross-talk]

12 COUNCIL MEMBER ROSENTHAL: Sure, sure...

13 [cross-talk]

14 CHANDRA CLARK: So, that's a violent
15 crime but, you know these are women that we would
16 obviously want out. And going back with the violent
17 crime too, hurt people, hurt people so, I just want
18 you to think that because you were violent at one
19 point means that you're going to be violent your
20 whole life or that, you know that was some natural
21 thing about you, I think it's just hurt people, hurt
22 people and, and we can give the supportive services
23 to rectify those situations and really transform our
24 future, that's really what I want to see is a
25 transformation for not just women and girls and the...

1 COMMITTEE ON CRIMINAL JUSTICE

2 and, you know the LGBTQI community but for all of us,
3 a transformative carceral system, really reimagining
4 what it looks like, who we incarcerate, what we
5 incarcerate for, what programs, what the space looks
6 like, the, the whole gambit of it.

7 KIARA MONTERO-REYES: Not only do hurt
8 people, hurt people but healed people, healed people...
9 [cross-talk]

10 CHANDRA CLARK: Healed people, exactly.

11 COUNCIL MEMBER ROSENTHAL: Thank you for
12 getting that on the record, I appreciate that. Do you
13 have specific... and I'm not necessarily asking you to
14 name these right now but do you have specific
15 recommendations for the facilities that will be built
16 so that there's no place that... where an officer could
17 rape someone in a hidden... in a closet where there's
18 no camera focused on that closet and has somebody
19 asked for those recommendations, do you have a place
20 to channel those recommendations?

21 KELLY GRACE-PRICE: So, at the beginning
22 of the summer I think in May MOCJ asked for
23 recommendations from the community about the design
24 of jails... [cross-talk]

1 COMMITTEE ON CRIMINAL JUSTICE

2 COUNCIL MEMBER ROSENTHAL: Okay... [cross-
3 talk]

4 KELLY GRACE-PRICE: ...and Cathy Morris and
5 I and a couple other girls from Close Rosie's put
6 together our recommendations and got ourselves
7 invited to come... the, the design meetings that were
8 run by Osborne... is she still here... where we
9 interfaced directly with the architects and the
10 designers and there were great sandwiches there but
11 we got about 30 seconds to speak and I brought our
12 brief and specifically a really big ask was we want
13 the investigate... I beg your pardon, investigative
14 spaces camouflaged with program spaces because now if
15 you're going to make a report the staff knows you're
16 going to make a report and you heard this morning
17 they even said that they, they know about complaints
18 because they get an email about a phone call well
19 that's because they're screening, they're telephone
20 screening and that's one thing we don't like, the,
21 the telephone screening picking up complaints is, is
22 a whole other issue but specifically we were asking
23 for architectural camouflage so that it wasn't
24 obvious that you were making a, a report of rape or
25 sexual assault or even violence when you did it so

1 COMMITTEE ON CRIMINAL JUSTICE

2 that you weren't retaliated against and, and often a
3 lot of people will make a, a minor complaint, they'll
4 make a complaint about harassment or they'll make a
5 complaint about another inmate just so they don't get
6 retaliated against but we specifically said, this is
7 our big ask as women and girls that have been
8 invited, invited to these meetings, this is what we
9 want, we want camouflage and we were summarily poo-
10 poed like, like literally we were gaslighted by the
11 designers, they said to us oh, well camouflage is the
12 last thing you want in a jail, right because that's
13 a... and, and they literally wrote us off so if you
14 could somehow push that particular idea I think it's...
15 the... one of the only ones that we have room to say
16 anything about at this point because they're really...
17 they're... at least they're giving us the illusion that
18 they're listening to us but if, if you could back
19 that up a little bit that would be wonderful.

20 CHANDRA CLARK: And I was a little
21 disappointed the environmental scan that came out a
22 few weeks ago that we read, the word, word women
23 weren't mentioned once in it, I know that they still
24 have a lot to do with the designs of the new
25 buildings, but I didn't see any areas for nurseries,

1 COMMITTEE ON CRIMINAL JUSTICE

2 I didn't see visiting rooms that... I just... I, I really
3 want to make sure that people with lived experiences
4 specifically women and, and you know people who are
5 impacted by the justice system are really involved in
6 those meetings and make sure that we can really have
7 a true community center within that... within that
8 jail.

9 COUNCIL MEMBER ROSENTHAL: I was going to
10 ask you that, I mean given... and this will be the last
11 one, I know we have to wrap up but, you know given
12 that right now on Rikers women are physically
13 separated, what is going to happen or what's your
14 recommendation for when there's a jail in every
15 borough, will... would your recommendation be that each
16 of those jails have a separate section for women or
17 would your recommendation be that there still be a
18 single jail for women?

19 CHANDRA CLARK: I mean my recommendation
20 if, if... I mean this is my personal recommendation if
21 we're talking about building communities and getting
22 people closer to their communities... [cross-talk]

23 COUNCIL MEMBER ROSENTHAL: Yeah... [cross-
24 talk]

1 COMMITTEE ON CRIMINAL JUSTICE

2 CHANDRA CLARK: ...then why would men have
3 the, again you know opportunity to have... be in their
4 own communities but then women get all centralized
5 into one, that's still going to create visiting
6 issues for people, it's... I, I still just... I just
7 don't think its community centric, I really was
8 hoping that the women would get their own space in
9 each borough with their own nurseries in each
10 borough, with their own visiting rooms in each
11 borough and if we, you know push all the bail reform
12 and all these ATI and all these other things the, the
13 population could get down so low that I don't think
14 it should be as big of a problem.

15 KELLY GRACE-PRICE: And I, I absolutely
16 agree with Chandra, but I don't believe that building
17 a jail at 80 Center Street is the solution. If you
18 look at the, the zip codes that feed Rosie's from
19 Manhattan all 25 of the top zip codes are uptown so,
20 I, I, I really don't understand why we're building
21 the jail down here at 80 Center Street, is Cy Vance
22 getting an office too, I'm... I don't understand but
23 that's, that's a different hearing.

24 COUNCIL MEMBER ROSENTHAL: Okay, thank
25 you all so much for your patience today and in life.

1 COMMITTEE ON CRIMINAL JUSTICE

2 CHAIRPERSON POWERS: I... and I want to
3 just add... I agree and I, I wanted to note two things;
4 one is I... as I understand it from the recent plans
5 there is a women's facility in all four borough jails
6 rather than one centralized one, I will... we will...
7 [cross-talk]

8 CHANDRA CLARK: But a centralized nursery
9 I think they said.

10 CHAIRPERSON POWERS: And a nursery I
11 believe in Queens but, but I think there's a facility
12 in each one and then I think with the hospital, in
13 Queens... in Queens hospital but it's a good point,
14 we'll clarify it and I think that was a question... and
15 maybe they're... you're... you may be right there may not
16 be four nurseries but I think it was a question that
17 we had when we got the briefing on it, is how are you
18 going to handle populations that have traditionally
19 been held in one... in one place in jails. Thank you.
20 One quick question and then we will move on but an
21 important question I think, is just the, the process
22 for coming forward and the question is, did you see,
23 has it... and see from women to come forward and is
24 there... was... are there any ideas or thoughts or
25 recommendations on how to improve... I'd certainly...

1 COMMITTEE ON CRIMINAL JUSTICE

2 there's some more reporting mechanisms and things but
3 is there other suggestions in terms of how to
4 encourage people to come forward if they believe
5 there's a need for it?

6 KIARA MONTERO-REYES: Do you want to
7 start?

8 CHAIRPERSON POWERS: As we've been
9 briefly joined by our Speaker, Cory Johnson.

10 KIARA MONTERO-REYES: So, I'll definitely
11 let these two take away most of it in the sense of
12 lived experience but something that comes to... from
13 like me bearing witness to this is... I mean definitely
14 there's struggles, I mean you hear it from inside
15 both facilities, your community as fellow people who
16 are incarcerated and you hear it from other people
17 their experience in reporting and feeling like
18 they're the ones being investigated and not receiving
19 the trauma informed or survivor centered response
20 that is going to obviously discourage someone from
21 reporting. Something I was curious about and I put as
22 a recommendation is, is there space for feedback to
23 evaluate these experiences, right, so the same way
24 you would have a training and then there's a feedback
25 for the people who do this, is there feedback from

1 COMMITTEE ON CRIMINAL JUSTICE

2 the people who are reporting about their experience
3 with PREA officers and DO... or whoever it is, you know
4 that... like the staff that's supposed to serve them I
5 should say, you know.

6 KELLY GRACE-PRICE: I would just say the
7 number one thing that you can do to encourage
8 reporting is hire dedicated investigators, the DOC
9 today said they have 24 investigators but they're not
10 all PREA dedicated, they have other responsibilities
11 too. Last year we had 12 now we have 24, we were
12 promised... anyway they've had the money, the number
13 one thing you can do is get rid of the backlog and,
14 and come forward with investigations that reinforce
15 that the survivor will be delivered some modicum of
16 justice and not that the institution will be defended
17 and covered up, that's the number one thing you could
18 do, number one thing and they've had a blank check to
19 hire these investigators and they have denied all
20 kinds of very qualified people interviews... I know a
21 number of smart and savvy nurses that have applied to
22 be investigators and haven't even gotten an interview
23 so for the DOC to say that their, their, their pool
24 is very low this is absolutely untrue, there are
25 retired NYPD police officers that have applied and

1 COMMITTEE ON CRIMINAL JUSTICE

2 they haven't even gotten interviews so the number one
3 thing you can do, more investigate... dedicated
4 investigators.

5 CHANDRA CLARK: And I think from my
6 personal experience because of the trauma I
7 experienced throughout my entire childhood, there was
8 no way in hell I was going to report something to, to
9 Rikers on an officer that did... I mean I was scared to
10 death and I think that having the... I didn't even
11 trust DOC, you know like I... the... those weren't... how
12 could you report something to somebody you don't even
13 trust so I think when we... when she... you know we're
14 talking about the investigators that they're going to
15 hire we have to come up with a better solution too to
16 make the women who are incarcerated actually trust
17 them and engage them because if they still just see
18 them as DOC even if it's an investigator they're
19 still going to worry about the backlash or worry
20 that, you know the trauma is going to be even worse
21 because of their lived experience and what they've
22 already experienced doing that.

23 KELLY GRACE-PRICE: Maybe we need an
24 entirely different agency. Something I proposed to
25 the charter commission is coming up with a new agency

1 COMMITTEE ON CRIMINAL JUSTICE

2 just to investigate rape, sexual assault, sexual
3 harassment by the NYPD, by the DOC, by the Department
4 of Education, any city agency, I, I think it would be
5 a really... we're... the COMMITTEE CLERKRB is trying to...
6 everyone's trying to do the same thing why don't we
7 just have one ubiquitous agency, why can't we create
8 that. I feel like it should be a priority, we have
9 five of the 12 charter review commissioners that are
10 women why can't we get them on board with this, of
11 the mayoral charter revision.

12 CHAIRPERSON POWERS: Yep, great. Thank
13 you, thank you for sharing your testimony,
14 recommendations and we would like to look forward to
15 continuing to work with folks here on, on questions
16 especially around how to ensure that people feel safe
17 in reporting and coming forward and have an adequate
18 process to address their, their complaints and
19 reports so thank you. Thank you so much.

20 KELLY GRACE-PRICE: Thank you.

21 CHAIRPERSON POWERS: Thank you.

22 CHANDRA CLARK: Thank you.

23 CHAIRPERSON POWERS: Thank you. We have...
24 the next panel, we have Julia Davis from Children's
25 Defense Fund; Deborah Lolai from Bronx Defenders;

1 COMMITTEE ON CRIMINAL JUSTICE

2 Kelsey DeAvila from Brooklyn Defenders and Barbara
3 Hamilton from Legal Aid. This is our last panel.
4 Thank you and again we'll start this way going this
5 way and we'll ask you again to just say your name,
6 your affiliation then we'll give you two minutes to
7 testify and follow up with questions and I, I should
8 recognize that we... you guys have all I'm sure been
9 here for a very long time and we appreciate you
10 sitting through a long hearing and so... and apologies
11 for our exhaustive questioning and similar to what I
12 said to the previous panel these really help inform
13 our ability to make, you know decisions and to take
14 action in, in places where we feel there are
15 deficiencies so we look forward to hearing your
16 testimony. Thanks so much, you can start.

17 JULIA DAVIS: Alright. Good afternoon,
18 I'm Julia Davis, I'm the Director of Youth Justice
19 and Child Welfare for the Children's Defense Fund in
20 New York and I want to thank you for the opportunity
21 to come before you today. We are alarmed obviously
22 like many others about the reports of sexual abuse
23 and harassment and we want to emphasize today the
24 focus on young people which hasn't come through in
25 today's discussions but young people in our jails are

1 COMMITTEE ON CRIMINAL JUSTICE

2 especially vulnerable and I mean to include LGBTQ
3 youth as well as young people in general and those
4 young people really face a much higher risk of sexual
5 abuse and sexual assault and harassment. We've talked
6 a lot today about the enormous backlog and I want to
7 highlight a couple of things. In complete
8 investigations put individual victims at risk, they
9 also put the entire community at risk. Until we get
10 to the bottom of what happens between closing the
11 report and bringing that process to completion we
12 don't know that things are okay. Despite the
13 representations today that an investigation may
14 proceed within 72 hours, the conclusion of an
15 investigation and the approval of the investigation
16 is essential for safety. I want to emphasize also
17 some reporting that came out of the NUNEZ monitor's
18 report that we haven't heard about and that
19 specifically related to investigations of 18, 19 and
20 20 year olds, in that report the NUNEZ monitor
21 reported that, that there's evidence of significant
22 structural problems such as the failure to interview
23 key witnesses, long delays to witness interviews and
24 apparent failure to ask effective follow up questions
25 or to collect relative evidence. These types of

1 COMMITTEE ON CRIMINAL JUSTICE

2 processes go way beyond the timeline concerns that
3 you heard about today, these are really about the
4 nuts and bolts of doing thorough investigations to
5 determine what actually happened and the risk that
6 facing everyone in our jails but especially young
7 people and, and LGBT kids in, in particular. This is
8 a critical moment for you and for the board and so we
9 encourage you to continue to collaborate as you are
10 watching their process of remediation going forward,
11 thank you.

12 BARBARA HAMILTON: Should I wait for the
13 clock? Okay. Okay, good afternoon, my name is Barbara
14 Hamilton, I'm an Attorney at the Legal Aid Society, I
15 work for the special litigation unit and I just want
16 to thank the council for their interest in this
17 topic. My role is that for the last... since 2010 I
18 have worked at Rikers Island and I represent almost
19 every detainee held there in challenges against the
20 New York City Department of Correction for solitary
21 confinement and other security related issues. As a
22 result of that I've had extensive contact with the
23 inmate population and part of that contact is
24 becoming counsel on two sex abuse cases and also
25 representing women during DOI investigations and such

1 COMMITTEE ON CRIMINAL JUSTICE

2 issues and I know in two minutes I cannot compress
3 nine years of experience so I would just like to say
4 that Legal Aid has submitted written suggestions and
5 to illustrate that I would like to just share some
6 general experiences of clients. The recent case that
7 was referenced earlier this morning by Council Member
8 Rosenthal, the Jane Doe, I did hand out a few copies
9 of the complaints that was filed last week, that
10 client was not supervised and she was brutally raped
11 and she had no faith in the investigative system
12 there and so she saved DNA evidence and mailed it out
13 herself because she had a made a prior complaint. If
14 I can encompass with the women that I have spoken to
15 and I've spoken to scores of them and women like Miss
16 Clerk, I don't know if she's still here, I commend
17 them because they're the ones that come forward but
18 for the ones that come forward there are hundreds
19 that don't and I hold all of their stories with me
20 and so I'm just trying to think of the best way to
21 express what they would want me to say and I think
22 the number one thing is they want to know why they're
23 not equal, why are they not... why are they so held
24 accountable for things that they've done wrong but
25 the correctional staff is not and that's the big

1 COMMITTEE ON CRIMINAL JUSTICE

2 issue here is accountability, there's very few
3 prosecutions and there's very few administrative
4 terminations where people are terminated, DOC staff
5 who are sexually abusing women at Rose M. Singer. In
6 addition, the mechanisms for reporting, my
7 understanding are still, they are not confidential, I
8 just spoke to women last week, they're pin numbers
9 are being used to make these 3-1-1 calls and also,
10 they don't feel like when they speak to a PREA
11 coordinator at the facility if they have to make a
12 claim that that's confidential. So, for these reasons
13 Legal Aid is recommending an investigative entity
14 that's independent of the Department of Correction,
15 we would like to implement body cameras that are worn
16 so when correction officers are in those areas
17 outside of video surveillance that they are... there's
18 no question about what's going on and that the
19 resources be given to the board or an independent
20 agency to fully implement PREA at the city jails.

21 KELSEY DEAVILA: Hello, my name is Kelsey
22 DeAvila, I'm the Jail Services Social Worker at
23 Brooklyn Defender Services. I just want to say thank
24 you to all of you for your questions today to the
25 Department, I do appreciate it. Just with my time I,

1 COMMITTEE ON CRIMINAL JUSTICE

2 I just want to focus on the investigation piece
3 because I know it's been a huge discussion point
4 today, you know today we learned that... which were
5 new, new numbers for I think all of us that the
6 current backlog is 1,081, you know and, and just to
7 quote Doctor Cohen, you know that this is really
8 embarrassing, it's unacceptable and we know that when
9 DOC fails to conclude these cases what's happening is
10 that DOC staff, they're still employed, you know
11 memories fade, evidence is lost and you know
12 witnesses move and so to conclude those cases the
13 question though it's really difficult and I just want
14 to like share a story very quickly about a client, a,
15 a recent case that happened, we'll call him Mr. W.
16 Mr. W was raped by another incarcerated man on his
17 housing unit, Mr. W took proactive steps and reported
18 the rape to 3-1-1 and his housing officer. Despite
19 his own self advocacy neither he nor the other man
20 were removed, our client continued to report the
21 sexual assault to DOC officers and even a DOC captain
22 yet still he, he was not moved. Mr. W was raped again
23 in the same housing unit by the same man a week
24 later, investigators finally interviewed Mr. W but
25 despite their interaction Mr. W was not separated

1 COMMITTEE ON CRIMINAL JUSTICE

2 from the man. Mr. W was raped again, more than two
3 weeks later our client spit on a DOC officer and only
4 then was he moved to another more restrictive housing
5 unit. He knew that by committing this act on DOC
6 staff he would finally be moved, it was an act of
7 desperation after being repeatedly failed by those in
8 power. We agree with, with Barbara Hamilton in Legal
9 Aid Society that, you know all sex abuse is criminal
10 behavior that should always be referred to and
11 investigated by an independent agency whether that's
12 Department of Investigation and you know in our
13 experience for myself and our jail services division
14 we will report all cases of sexual abuse to the Board
15 of Correction, Department of Investigation and
16 Department of Correction and in our experience most
17 of those cases though referred to the Department of
18 Investigation are kicked back to the Department of
19 Correction to investigate their own staff. We find
20 this unacceptable and we believe it's a conflict of
21 interest and we would appreciate the council's
22 support in encouraging Department of Investigation or
23 an outside agency to take all sexual abuse cases
24 especially those involving DOC staff. So, thank you.

1 COMMITTEE ON CRIMINAL JUSTICE

2 DEBORAH LOLAI: Good afternoon. Thank
3 you, Chair Powers, Chair Rosenthal, I know Chair
4 Lancman is not here, but I thank him too as well, yes
5 and to all the Committee members. My name is Deborah
6 Lolai and I am a Criminal Defense Attorney at the
7 Bronx Defenders, I am also the LGBTQ client
8 specialist at the Bronx Defenders and thank you for
9 the opportunity to testify on this very important
10 matter. The Bronx Defenders is a community based and
11 nationally recognized holistic public defender office
12 dedicated to serving the people of the Bronx. We
13 provide innovative holistic client centered criminal
14 defense, family defense, immigration representation,
15 civil legal services, social work support and other
16 advocacy to indigent people of the Bronx. Our staff
17 of over 300 represents approximately 28,000
18 individuals each year in the Bronx and beyond. The
19 Bronx Defenders promotes criminal justice reform to
20 dismantle the culture of mass incarceration. I'm here
21 today to speak about the set... the experiences of
22 sexual abuse and harassment against transgender women
23 specifically in jail. As part of my role as the LGBTQ
24 client specialist, each year I represent hundreds of
25 transgender people who are facing criminal charges

1 COMMITTEE ON CRIMINAL JUSTICE

2 many of whom are or have been incarcerated pre-trial.

3 I will start by sharing this simple fact, nearly 100

4 percent of our clients who are transgender women are

5 sexually abused or harassed while incarcerated in our

6 city jails. The numbers are so much higher than

7 what's being reported and that's because of a fear of

8 retaliation, not everybody is reporting but they are

9 telling their lawyers, so we have the actual numbers.

10 And this is because they are placed in men's jails.

11 The process of trans... of a transgender women being

12 arrested and incarcerated in New York City is as

13 follows; when I transgender woman is arrested she is

14 placed in a men's holding cell or in a cell by

15 herself by the NYPD, she is then brought to central

16 bookings and is placed in a cell with men or in a

17 cell by herself again while she awaits her, awaits

18 her arraignment. Throughout this process she is the

19 subject of jokes and ridicule about her gender

20 identity by officers, if bail is set or if she is

21 remanded she will go through intake through the

22 Department of Corrections which we've heard a lot

23 about today and this determines where she will be

24 placed. From the initial contact with NYPD through

25 the end of her incarceration the experiences of

1 COMMITTEE ON CRIMINAL JUSTICE

2 transgender women are horrific. In New York City as
3 you've heard today there is a transgender housing
4 unit also known as the THU and the THU is a unit that
5 transgender women could apply to and be placed in
6 during their incarceration. It was created as a
7 result of the disproportionate rate of sexual abuse
8 against incarcerated transgender women. There is a
9 limited number of beds at the THU, applications are
10 regularly rejected, and it can be days even months
11 before an application is processed and a transgender
12 woman is placed there. At best the THU has been
13 managed inadequately and I urge you to read the
14 assessment that the Board of Corrections published,
15 it's, it's truly a good reflection of, of how
16 terribly the THU is being managed. They should always
17 be informed about the option of being placed at the
18 THU but as the assessment report shows they are
19 regularly not informed of this option. In fact, what
20 I hear regularly from my clients is that DOC intake
21 staff discourages our clients from applying to the
22 THU. As a result, transgender women are sent to men's
23 jails either in protective custody or in general
24 population and this is why sexual abuse and
25 harassment occurs at such an alarming rate against

1 COMMITTEE ON CRIMINAL JUSTICE

2 them. The experience of our client's ranges from
3 being called insulting transphobic names to being
4 forced to pull down their bras by male correction
5 officers and having their breasts fondled to being
6 raped. This happened every single day to our trans..
7 to transgender women in our city jails and I will
8 briefly share a couple of stories that I think are
9 important to be told. The first client I'm going to
10 tell you about is a young transgender woman who was
11 incarcerated at a men's... at a men's jail as she was
12 awaiting trial. Prior to her arrest she was homeless
13 because her family rejected her after she came out as
14 transgender. During her incarceration at Rikers
15 Island she was raped by an inmate and severely
16 traumatized. After this she lived every moment of her
17 incarceration with extreme fear, she did not have a
18 criminal record before this arrest and she was not
19 guilty of the crime she was charged with, yet she
20 pled guilty to a felony because pleading guilty meant
21 that she would get out of jail. This is a common
22 experience and occurrence. Another client of mine who
23 was also incarcerated in a men's unit at Rikers
24 Island was placed in general population where she was
25 raped in the shower by another inmate. After

1 COMMITTEE ON CRIMINAL JUSTICE

2 reporting the rape, she was placed in protective
3 custody, yet it was still in the same facility where
4 the first attack occurred. Three days after she was
5 placed in protective custody another inmate was able
6 to get into her cell during count and raped her
7 again. These are stories that need to be told, they
8 need to be told because we are failing to keep
9 incarcerated transgender women safe. The bills before
10 your committees today requiring period public
11 reporting of incidents of sexual abuse among
12 residents of and visitors to the city jails are a
13 small but very important step towards increased
14 transparency in the crucial area overdue... long
15 overdue for reform and we strongly support them all.
16 In addition, we heard about the announcement that by
17 October 13th all inmates should be housed in
18 accordance with their gender identity, the
19 announcement made by the Mayor and the Commission. We
20 are unaware of any significant planning by DOC to
21 make this real and have grave doubt that it will
22 occur. We urge the council to monitor the situation
23 closely and to schedule an oversight hearing before
24 the end of the year. Thank you.

1 COMMITTEE ON CRIMINAL JUSTICE

2 CHAIRPERSON POWERS: Thank you, thank you
3 to, to all four of you for your testimony and
4 recommendations which we will... as we do our sort of
5 post hearing, go through all the recommendations and
6 look for ideas that we feel are, are good ones. The
7 council obviously have recommendations to the
8 administration and others so thank you for all that.
9 I want to just follow up on the THU for a second, in,
10 in... and just... this is... but certainly based on the
11 testimony we just heard, do you find that the clients
12 that are in the THU are experiencing a higher
13 occurrence of abuse than those who are in the general
14 population?

15 DEBORAH LOLAI: No.

16 CHAIRPERSON POWERS: No?

17 DEBORAH LOLAI: No, I think... I think that
18 the reason people... women want to go into the THU is
19 because they're scared of being in general population
20 and, and the reason they're scared is because they're
21 being placed with men and so, so no, I think... I think
22 it's, it's safer in the THU.

23 BARBARA HAMILTON: And I can comment on
24 that as well, I worked at DOC prior to working to
25 working at Legal Aid as a staff member and you would

1 COMMITTEE ON CRIMINAL JUSTICE

2 see trans women coming into the male facilities and
3 you would be terrified for them because there was no
4 place to put them, now the reports are coming back
5 that individuals are much safer in the THU. One
6 caveat here is that I think that something needs to
7 be worked on for those who are methadone maintenance,
8 those trans women are kept in male facilities while
9 they're on maintenance and they're not being
10 transferred to the THU as of now so that's something
11 that the council should be aware of is that just
12 because you're on the maintenance program doesn't
13 mean they should be housed and at risk of harm and
14 sexual assault.

15 DEBORAH LOLAI: And, and let me be clear,
16 the concept of the THU is a great one... [cross-talk]

17 CHAIRPERSON POWERS: Right, right...
18 [cross-talk]

19 DEBORAH LOLAI: ...if it were being run
20 effectively, the problem is that people are being
21 rejected for reasons that are not being disclosed to
22 us, people are being kicked out of the THU for
23 various reasons and sent right back in to the general
24 population in men's facilities and, and it can take
25 like I said days to months for, for an application to

1 COMMITTEE ON CRIMINAL JUSTICE

2 be processed through this completely non-transparent
3 process that DOC has. I have no idea what the
4 criteria are for, for someone to get accepted and
5 every single minute that a transgender woman is in a
6 men's prison is placing her at risk for sexual
7 assault so even if it's just for one day it's, it's
8 a... it's a terrifying thing.

9 CHAIRPERSON POWERS: Yep.

10 KELSEY DEAVILA: And just to add to that,
11 you know we, we had a similar story where a client, a
12 transgender woman had requested THU, she did this on
13 her own before our office got involved and did... on
14 her behalf, she requested it and then it took at...
15 over a month for DOC to even give her... like make a
16 decision, little did we know that they made that
17 decision and didn't even tell her, so she was just
18 waiting while sitting in a men's facility. During
19 that time, she was being sexually harassed and
20 assaulted, abused and you know we had worked, we
21 worked Fay Lardy from DOC, their PREA coordinator to
22 get her moved and it was... I think the help with the
23 Board of Correction to actually get a response, a
24 written response of her denial for THU and then, then
25 it got into questions about how do we appeal, how do

1 COMMITTEE ON CRIMINAL JUSTICE

2 we go about it and unfortunately she ended up taking
3 a plea deal just to get out of the situation and so
4 it was a, a really horrific... [cross-talk]

5 CHAIRPERSON POWERS: Just to follow up
6 with you, is there a timeline by which an individual
7 has to receive their determination? This might be a
8 DOC question but I just... since we're on topic.

9 KELSEY DEAVILA: Yeah, we, we believe
10 it's five days.

11 CHAIRPERSON POWERS: Five days... [cross-
12 talk]

13 BARBARA HAMILTON: Under the DOC rules..
14 [cross-talk]

15 KELSEY DEAVILA: Under, under the... on,
16 under the DOC directive.

17 CHAIRPERSON POWERS: Got it, okay, thank
18 you.

19 KELSEY DEAVILA: But we could double
20 check that.

21 CHAIRPERSON POWERS: Yeah, we'll follow
22 up, thank you. I... Council Member Rosenthal.

23 COUNCIL MEMBER ROSENTHAL: Thank you. Do
24 you know off hand how many beds there are in the THU,
25 I should have asked this morning?

1 COMMITTEE ON CRIMINAL JUSTICE

2 DEBORAH LOLAI: I don't but... okay, I mean
3 just based on the testimony that was given today it
4 seems like the, the capacity is about... they've had
5 approximately at the highest about 13 people there,
6 but I do think that there are more beds than, than
7 13. I also don't know how it's set up now at Rosie's,
8 it might... it might be different because it was very
9 recently transferred to Rosie's perhaps the Board of
10 Corrections of Department of Corrections could answer
11 that better.

12 COUNCIL MEMBER ROSENTHAL: Do you know if
13 when they're at, again these are questions I should
14 have asked DOC so do you just happened to know if
15 when they're at the THU they get the same service,
16 services they would have gotten otherwise, you know
17 methadone treatment or programs?

18 DEBORAH LOLAI: No, they definitely don't
19 get the same services that other inmates have access
20 to, there are some specialized services that, that
21 people in the THU have. For example, someone who
22 works at an LGBTQ specific organization that provides
23 legal or social services may come in once a month or
24 so to talk to the women there however it is a problem
25 because there are a lot of services that people in

1 COMMITTEE ON CRIMINAL JUSTICE

2 general population for example that have access to
3 can engage in that are very helpful for their
4 criminal cases that the... that our clients in the THU
5 don't have access to.

6 COUNCIL MEMBER ROSENTHAL: You know one
7 of our... one of my confusions... one of the reasons that
8 I think we've been asking about whether or not it's
9 safer in the THU is simply from the fact that at
10 Rosie's people are more likely, you know there's a
11 higher incidence of sexual assault and I think part
12 of the question is are the corrections officers
13 there, who are there, who are perpetrating this
14 offense going to now be perpetrating it as well at
15 the THU... [cross-talk]

16 DEBORAH LOLAI: That's a great question
17 and, and frankly one that I have not thought of but,
18 but I will say this, across the board the preference
19 is for transgender women to be housed with women
20 whether it's in the THU or in general population or
21 in protective custody, across the board amongst our
22 clients and the advocates who are working around this
23 issue is that they should be placed in women's
24 facilities.

1 COMMITTEE ON CRIMINAL JUSTICE

2 COUNCIL MEMBER ROSENTHAL: Do you have
3 any idea of a number of the data, you know how many
4 trans women are not placed in... at Rosie's or at the
5 THU or protective custody as you said, I mean it... do
6 you... you know or even a sense of the number, are we
7 talking about 100 people, are we talking about ten
8 people?

9 DEBORAH LOLAI: As, as far as... I, I can
10 only speak to what I know from our clients in the
11 Bronx Defenders, prior to the THU being moved to
12 Rosie's (?) there were no... at first... I've been at the
13 Bronx Defenders for four years and like I said I
14 represent hundreds of transgender people every year
15 and I have never had a trans... a client who was a
16 transgender woman be placed at Rosie's and I still...
17 unless they're at... I have no clients in the THU right
18 now but... and there are no... I have no transgender
19 clients at Rosie's right now so... [cross-talk]

20 COUNCIL MEMBER ROSENTHAL: They're all in
21 the general population... [cross-talk]

22 DEBORAH LOLAI: They're all in men's
23 facilities in general population or protective
24 custody in men's prisons... [cross-talk]

1 COMMITTEE ON CRIMINAL JUSTICE

2 COUNCIL MEMBER ROSENTHAL: And, and as
3 you say it's hundreds of people who you are seeing..
4 [cross-talk]

5 DEBORAH LOLAI: Yeah, not all of my
6 clients are incarcerated, I would say about 20 to 30
7 at once.

8 COUNCIL MEMBER ROSENTHAL: Okay. Anyone
9 else want to add or take a... okay. Thank you, thank
10 you so much for your patience today.

11 DEBORAH LOLAI: Just one more comment to
12 provide you with some clarification about the
13 conversation you were having earlier about ATIs..
14 [cross-talk]

15 COUNCIL MEMBER ROSENTHAL: Yeah... [cross-
16 talk]

17 DEBORAH LOLAI: ...it's true one does need
18 to take a, a guilty plea in order to have access to
19 an ATI and it's actually really problematic
20 especially for our transgender and gender non-
21 conforming clients because there are no ATIs in New
22 York City that are fully culturally competent and
23 have staff working with our clients directly who will
24 work with them in a respectful way and so what
25 happens then is that our clients end up failing those

1 COMMITTEE ON CRIMINAL JUSTICE

2 programs and when you take a plea deal and you take a
3 deal to complete an ATI the understanding and the
4 promise is that if you don't complete it
5 successfully, if you leave, you... there's a jail
6 alternative, right. So, for example, there could be
7 a, a... one or, or five year jail alternative, right
8 and so what we see happen a lot is for our
9 transgender and gender non-conforming clients is that
10 they cannot complete the programs because they're so
11 disrespected and harassed and abused at these
12 programs and, and frankly in, in very similar ways is
13 they are at, at Rikers Island, right and so they
14 leave even when they're not supposed to and end up
15 needing to... have to do an alternative jail sentence.

16 BARBARA HAMILTON: And I just had one
17 more remark regarding the investigative process, I've
18 sat through all the hearings and I just don't think
19 it came out very clearly how the process actually
20 works and its something that I've had to learn
21 extensively through litigation and representing women
22 and it's that when an individual makes a complaint
23 about sexual assaults it can go through many
24 different channels but assuming it goes through one
25 of the channels what happens is, is that and

1 COMMITTEE ON CRIMINAL JUSTICE

2 complaints are generated to the COD unit, it's, it's
3 a centralized operations desk and it's a trailer
4 that's held at Rikers and that unit decides where
5 that complaint is farmed out to. Usually if there's
6 criminal conduct or there's an allegation of criminal
7 conduct DOI will get first crack at the investigative
8 process so when DOC was talking about okay, well DOI
9 refers these cases back to us what happens is, is if
10 DOI says okay, we don't see... [cross-talk]

11 COUNCIL MEMBER ROSENTHAL: Hand on one
12 second... [cross-talk]

13 BARBARA HAMILTON: ...evidence...

14 COUNCIL MEMBER ROSENTHAL: Okay.

15 BARBARA HAMILTON: Evidence of criminal
16 activity we're going to give the case back to the DOC
17 investigative division, what they're mandate says is
18 that they are supposed to investigate for breaking
19 internal rules for DOC rules and they are supposed to
20 prosecute those cases in their trials and litigation
21 case and if during that point they uncover criminal
22 conduct they're supposed to refer the case back to
23 DOI so the investigative process can get confusing
24 who the players are and in fact we had a client... we
25 had a case where the correction officer's case was

1 COMMITTEE ON CRIMINAL JUSTICE

2 referred back to ID and they didn't prosecute him
3 within the statute of limitations and he's still on
4 the payroll after, you know sexually abusing our
5 client. So, this is a common issue and the issue with
6 DOC policing itself, the DOI... I mean... I'm sorry, the
7 ID division employs correction officials, people who
8 are in the same union, these are the majority of
9 their investigator pool maybe this has changed over
10 the last few months that I'm not aware of but I'm not
11 aware of this change and so that's another
12 interesting situation is that people... they can get
13 rid of staff without criminal conduct who are
14 engaging in sexual abuse of detainees through the
15 administrative process but that's being
16 underutilized. Thank you.

17 CHAIRPERSON POWERS: Thank you and thank
18 you for, for all of you for, for lasting till the end
19 with us and of course thank you to both BOC and DOC
20 staff who have stayed here as well...

21 [applause]

22 CHAIRPERSON POWERS: We will as a
23 committee continue to discuss this issue and ways
24 that we can address many of the things we heard
25 today. I got to... I want to give a very big shout out

1 COMMITTEE ON CRIMINAL JUSTICE

2 to my Co-chair here, Council Member Rosenthal and to
3 all the staff here for helping us to prepare for this
4 and certainly sitting through this with us as well.
5 Thank you to everybody who came to testify and with
6 that being said we are adjourned, thank you.

7 COMMITTEE CLERK: There was... yeah, there
8 was supposed to be one last...

9 ASHLEY SAWYER: I know everyone's very
10 tired... I know everyone's very tired, so I'll try to be
11 brief... [cross-talk]

12 CHAIRPERSON POWERS: You have as much
13 time as anybody else and we thank you for, for being
14 here as part of it and my apologies for, for missing
15 you again... [cross-talk]

16 ASHLEY SAWYER: Okay, thanks... [cross-
17 talk]

18 CHAIRPERSON POWERS: ...so why don't you
19 begin, and we'll put you on the clock.

20 ASHLEY SAWYER: Awesome, thank you. My
21 name is Ashley Sawyer, I'm an attorney and I'm...
22 [cross-talk]

23 COUNCIL MEMBER ROSENTHAL: Hold on one
24 second, I'm sorry... [cross-talk]

25 ASHLEY SAWYER: Sorry... [cross-talk]

1 COMMITTEE ON CRIMINAL JUSTICE

2 COUNCIL MEMBER ROSENTHAL: ...could the
3 room be kept quiet, I... sorry, thank you very much.

4 ASHLEY SAWYER: Thank you, my name is
5 Ashley Sawyer, I'm an attorney and I'm the Director
6 of Policy at Girls for Gender Equity, Brooklyn based.
7 Girls for Gender Equity has been doing work around
8 gender-based violence and youth development for close
9 to two decades and we're committed to the social,
10 physical, economic and development and wellbeing of
11 girls and women including transgender people and
12 gender non-conforming young people. I have the unique
13 experience of having years of practice in juvenile
14 justice work and the most recently I was an attorney
15 representing young people ages 16 to 24 who had
16 contact with the criminal system here and I'm one of
17 few attorneys probably who actually has been in the
18 housing areas on Rikers. I spent once a week visiting
19 my young people who were on Rosie's, I also spent,
20 spent some time at RNDC GMDC and EMTC so I wasn't in
21 the legal room, I was in their housing areas where
22 they shower, where they eat and I recognized that the
23 young people who experience sexual violence and
24 sexual abuse at Rikers their stories should be shared
25 but I can also just share my experience as an

1 COMMITTEE ON CRIMINAL JUSTICE

2 attorney who bore witness to the things that they
3 were experiencing. To be very frank I questioned the
4 veracity of some of the statements that DOC made this
5 morning particularly around intake and, and resources
6 that are provided. I've met with dozens of young
7 people particularly girls and gender non-conforming
8 folks on Rosie's and I've never heard of some of the
9 things that were mentioned this morning which is
10 quite disturbing to me. I want to just make sure
11 people really understand the disparate powered
12 dynamic and the ways in which reporting any type of
13 sexual abuse would put a young person at harm because
14 girls, gender non-conforming and people or all the
15 young people at Rikers they are already vulnerable
16 because their brains are not fully developed, they're
17 young people, there's a disparate power dynamic there
18 but also they rely heavily on Department of
19 Correction staff to do everything so you require an
20 escort... I'll briefly conclude but you require...
21 [cross-talk]

22 CHAIRPERSON POWERS: Keep going... keep
23 going.

24 ASHLEY SAWYER: Thank you. They require
25 an escort to take them to get food, to take them to

1 COMMITTEE ON CRIMINAL JUSTICE

2 get their medicine, if they want to visit with family
3 or friends you'll require an escort to get there and
4 if you want to just make your court dates, if the..
5 you don't want that to be a miserable experience you
6 rely heavily on DOC staff. It's really interesting to
7 me because I've done also policy work focused on New
8 York City schools and it would be very untoward for
9 an adult male staff member in a school to be alone in
10 an elevator with a 16 or 17-year-old girl but that
11 happens on Rikers every single day. We can talk about
12 DOC and the promises that they made this morning but
13 it, it seems really impossible for them to meet some
14 of the standards if they are the ones investigating
15 their own staff and young people have to report to
16 the person who they also rely on to take them to get
17 the medicine that they need or to take them to get
18 food or to get to see their loved ones. So, while
19 this reporting bill and these reporting bills are
20 really helpful interim measures I cannot emphasize
21 enough how important it is to not incarcerate young
22 people and I'm hoping that this body will continue to
23 ensure city agencies are fully equipped to implement
24 raise the age and go further just by.. to really,
25 really invest in prevention and invest in methods to

1 COMMITTEE ON CRIMINAL JUSTICE

2 keep young people out of jail, it is not helpful.

3 There is so much research, it doesn't even make sense

4 that we're still doing this because the research is

5 abundantly clear that it is more harmful than it is

6 helpful for young people, it cost our city a great

7 deal of resources and we are really destroying some

8 young people's lives. I've witnessed young women have

9 complete breakdowns on Rosie's with my own eyes and I

10 can say that a lot of that is exacerbated by staff.

11 Two of the young women that I saw have really

12 dramatic episodes because of having to interact with

13 an officer who they had been harmed by in the past,

14 so the separation piece is just absurd to me and I

15 think we also have to recognize that for young people

16 they are less likely to be believed. DOC questions

17 their veracity constantly and often will try to

18 discredit any person but particularly a young person

19 who's accused of a crime if they report any type of

20 violence, so I hope that this body will do a couple

21 of things. One, be very mindful in the language

22 that's considered in Intro 0933 particularly around

23 gender identity just so that we can capture all of

24 the different young people along the gender spectrum

25 who might be reporting so that we can identify trends

1 COMMITTEE ON CRIMINAL JUSTICE

2 and patterns of abuse and reporting. Also, there
3 needs to be a clear process for reporting abuse and
4 that there have to be mechanisms in place to protect
5 people when they report abuse. I have been in all
6 aspects of Rosie's, I've seen all of the different
7 areas and I can say that there is no postage, there's
8 no signage that explains to a person where you can
9 go, who you can talk to. I had no clear understanding
10 of how or with whom a person could report sexual
11 abuse, I've also been in housing units with
12 protective... with girls who are in protective custody
13 in their housing areas, sitting right next to their
14 bed, they had no phone access so this comment about
15 contacting 3-1-1 or contacting a special hotline
16 isn't possible if you don't have phone access. So,
17 young people who are particularly vulnerable are also
18 the young people who don't get access to the
19 resources that could protect them so I think that
20 this body has the ability to monitor those, those
21 things and monitor those next steps and then I also
22 want to just be mindful, I've had colleagues attend
23 the PREA training and I want to note that there were
24 very crude jokes made by DOC staff during that
25 training so I'm concerned about the ability of this

1 COMMITTEE ON CRIMINAL JUSTICE

2 training to correct or remediate the harm that's
3 happening if the folks who are offering the training
4 don't take it seriously. I am very grateful for your
5 time and your attention to this matter; Girls for
6 Gender Equity is committed to ending gender-based
7 violence and we want to make sure that that doesn't
8 end just for folks who are in the community but
9 making sure that it also prioritizes the very
10 vulnerable people who are incarcerated. Thank you
11 again for your time and your patience.

12 CHAIRPERSON POWERS: Thank you and just
13 some quick... thank you...

14 [applause]

15 CHAIRPERSON POWERS: Thank you and a
16 quick question on the bill that you mentioned... you
17 mentioned that you wanted... you had thought that
18 perhaps it didn't capture the full... [cross-talk]

19 ASHLEY SAWYER: Certainly... [cross-talk]

20 CHAIRPERSON POWERS: ...group that... you
21 know the full spectrum here; can you be more specific
22 in... [cross-talk]

23 ASHLEY SAWYER: Sure... [cross-talk]

24 CHAIRPERSON POWERS: ...your
25 recommendation?

1 COMMITTEE ON CRIMINAL JUSTICE

2 ASHLEY SAWYER: In my... you also have my
3 written comments but I think the language in Council
4 Member Cumbo's bill asked for DOC to identify the
5 gender and whether... and identify whether the person
6 reporting is trans which is fantastic and a great
7 first step but also there has to be a way to capture
8 young people who may not identify as transgender but
9 who are... don't... who are identified as non-binary
10 meaning they don't ascribe to a gender or young
11 people who are... and there's... a lot of research shows
12 that a disproportionate number of, of girls... I'll use
13 the terms girls who are incarcerated are masculine of
14 center so gender non-conforming young people who may
15 not identify... who may not call themselves trans just
16 finding ways to make sure that DOC can keep track of
17 the way that those young people are affected.

18 CHAIRPERSON POWERS: Alright, thank you.

19 ASHLEY SAWYER: Thank you.

20 CHAIRPERSON POWERS: Thank you, thank you
21 for your testimony.

22 ASHLEY SAWYER: Thank you.

23 CHAIRPERSON POWERS: Thank you, thank you
24 to everybody... [cross-talk]

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COMMITTEE ON CRIMINAL JUSTICE

COUNCIL MEMBER ROSENTHAL: Thank you...

[cross-talk]

CHAIRPERSON POWERS: And seeing... [cross-talk]

[applause]

CHAIRPERSON POWERS: ...no, no one else
our... we are adjourned, thank you so much.

ASHLEY SAWYER: Thank you.

[gavel]

C E R T I F I C A T E

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



Date

September 12, 2018