

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON CRIMINAL JUSTICE  
JOINTLY WITH JUSTICE SYSTEM

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May 19, 2020  
Start: 12:15 p.m.  
Recess: 7:50 p.m.

HELD AT: Remote Hearing

B E F O R E: Keith Powers  
Chairperson, Criminal Justice  
  
Rory I. Lancman, Justice System

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

Justice System  
Andrew Cohen  
Laurie A. Cumbo  
Rory I. Lancman  
Farah N. Louis  
Alan N. Maisel  
Deborah L. Rose  
Ritchie J. Torres

Kalman Yeger

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

Cynthia Brann  
Commissioner  
New York City Department of Correction

Dr. Patricia Yang  
Senior Vice President  
Correctional Health Services

Deputy Commissioner Patricia Feeney

Hazel Jennings  
Chief of Department

Brenda Cook  
Chief of Staff

Patricia Lyons  
Deputy Commissioner  
Financial, Facilities, and Fleet  
Administration

Dana Kaplan  
Deputy Director  
Mayor's Office of Criminal Justice

Heidi Grossman  
General Counsel

Timothy Farrell  
Senior Deputy Commissioner

Angel Villaloma

First Deputy Commissioner  
Department of Correction

Dr. Ross MacDonald  
Chief Medical Officer  
Correctional Health Services

Ben Farber  
Correctional Health Services

Dana Kaplan  
Deputy Director  
Mayor's Office of Criminal Justice

Margaret Egan  
Executive Director  
Board of Correction

Robert L. Cohen, M.D.  
Board Member  
Board of Correction

Emily Turner  
Deputy Executive Director of Research  
Board of Correction

Elizabeth Glazer  
Director  
Mayor's Office of Criminal Justice

Dana Kaplan  
Deputy Director  
Close Riker's and Justice Initiatives

Eric Cumberbatch  
Deputy Director  
Office of Neighborhood Safety

Deanna Logan  
Deputy Director  
Crime Strategies  
Mayor's Office of Criminal Justice

Michael McMahon  
District Attorney

Bridget Brennan  
Special Prosecutor

Jill Harris  
Director of Policy and Strategy  
Kings County DA

Derek Lynton  
Chief Assistant District Attorney  
Bronx DA

Melinda Katz  
District Attorney  
Queens County

David A. Hansell  
Commissioner  
Administration for Children's Services

Sarah Hemiter  
Acting Deputy Commissioner  
Administration for Children's Services

Dr. Angel Mendoza, Jr.  
Chief Medical Officer  
Administration for Children's Services

Chief Jennifer Gilroy Ruiz

Law Department

Ana Bermudez  
Commissioner  
Department of Probation

Sharun Goodwin  
Deputy Commissioner  
Department of Probation

Delvany Powell

Vidal Guzman

Donna Hilton

Sharon White Harrigan

Brandon Holmes

Dr. Victoria Philips

Jennifer Parish

Kelsey Diabolo

Bianca Tyler

Mary Lynn Whirlwas

Lisa Freeman

Young Mi Li

Zachary Katz Nelson

Elizabeth Fisher

Tahini Dunn

Christopher Boyle

Alex Karishnakova

Amanda Maisel

Tita Theodora Beale

Katie Adaminez

Kelly Grace Price

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2 UNIDENTIFIED: Hello, Chairs. Are you  
3 ready to begin?

4 CHAIRPERSON LANCMAN: Yeah, I'm ready,  
5 thanks.

6 CHAIRPERSON POWERS: I'm ready, thanks.

7 UNIDENTIFIED: Sergeant Polite, if you  
8 could start with your opening statement please.

9 SERGEANT AT ARMS: Good afternoon,  
10 everyone. Welcome to the Committee on Criminal  
11 Justice join with the Justice System. Please place  
12 your cell phones and electronic devices on vibrate.  
13 Any testimony can be sent to  
14 [hearings@council.nyc.gov](mailto:hearings@council.nyc.gov). That's  
15 [hearings@council.nyc.gov](mailto:hearings@council.nyc.gov). Thank you, and we will  
16 begin momentarily.

17 UNIDENTIFIED: We're ready to start.

18 CHAIRPERSON POWERS: OK, thank you.  
19 Thank you to all and thank you, everybody. Welcome  
20 today, ah, I'm gonna gavel in [gavel]. Thank you for  
21 joining our virtual hearing today on the effects of  
22 COVID-19 on the city's jail and juvenile detention  
23 centers. Ah, just want to quickly acknowledge those  
24 that have joined us. In addition to Chair Lancman,  
25 who we'll hear from shortly, we've been joined by

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2 Council Member Cohen, Council Member Louis, Council  
3 Member rose, Council Member Rivera, Council Member  
4 Holden, Council Member Ampry-Samuel, Council Member  
5 Lander, Council Member Yeger, and Council Member  
6 Maisel, and I am sure we will be joined by others  
7 shortly. I'm going to turn it over to our committee  
8 counsel, Alana Civen, to go over some procedural  
9 items.

10 COMMITTEE COUNSEL: Thank you. I'm Alana  
11 Civen, counsel to the Criminal Justice Committee of  
12 the New York City Council. Before we begin I want to  
13 remind everyone that you will be on mute until you  
14 are called on to testify. Then you will be unmuted  
15 by the host. I will be calling on panelists to  
16 testify. Please listen for your name to be called.  
17 I will be periodically announcing who the next  
18 panelists will be. Today we will be hearing from  
19 representatives of six mayoral agencies, including  
20 the Department of Correction, Correctional Health  
21 Services, the Mayor's Office of Criminal Justice, the  
22 Administration for Children's Services, the  
23 Department of Probation, and the Law Department. We  
24 additionally will be hearing from the Board of  
25 Correction, district attorneys, public defenders, and



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2 members of the public. We will be calling agency  
3 representatives and panels and ask that council  
4 members reserve their questions for after each panel  
5 is finished testifying. The first panel will be the  
6 Department of Correction and Correctional Health  
7 Services. The first two panelists to give testimony  
8 will be Cynthia Brann, commissioner of the New York  
9 City Department of Correction, followed by Dr.  
10 Patricia Yang, the senior vice president of  
11 Correctional Health Services. I will call you when  
12 it is your turn to speak. For the question and  
13 answer period only we will also be joined by Patricia  
14 Feeney, chief of the department, by Deputy  
15 Commissioner Patricia Feeney, Chief of the Department  
16 Hazel Jennings, Chief of Staff Brenda Cook, Deputy  
17 Commissioner of Financial, Facilities, and Fleet  
18 Administration Patricia Lyons, General Counsel Heidi  
19 Grossman, Senior Deputy Commissioner Timothy Farrell,  
20 First Deputy Commissioner Angel Villaloma, from the  
21 Department of Correction, and Dr. Ross MacDonald,  
22 Chief Medical Officer from CHS, and Dr. Ben Farber  
23 from CHS. During the hearing if council members  
24 would like to ask a question of the administration or  
25 of a specific panelist after the panel is finished

2 testifying, please use the Zoom raise hand function  
3 and I will call on you in order. Please note that we  
4 have grouped several representatives of the  
5 administration in groups and will not be taking  
6 questions until each group has testified. We will be  
7 limiting council member questions to three minutes,  
8 which includes the time it takes to answer your  
9 questions. Please note that for the ease of this  
10 virtual hearing we will not be allowing a second  
11 round of questions for each panelist. Thank you.  
12 I'll now pass it to Chair Powers to give an opening  
13 statement.

14 CHAIRPERSON POWERS: Thank you. Um, and  
15 just checking quickly to see if we have been joined  
16 by any other folks, but I think we'll be joined by  
17 more shortly. Thank you, Alana [inaudible] get  
18 started. So thank you, good morning everyone and  
19 thank you for all those who have joined us today, to  
20 my colleagues, to the agencies, and all those who are  
21 at home, ah, and watching today. I am City Council  
22 Member Keith Powers, chair of the Committee on  
23 Criminal Justice. I am joined today by Council  
24 Member Rory Lancman, chair of the Committee on  
25 Justice System for tonight, today's joint oversight

2 hearing on COVID-19 in New York City jails and  
3 juvenile detention centers. In the past few months  
4 New Yorkers have had to completely readjust the way  
5 that we operate in order to stop the spread of  
6 coronavirus. We wear masks when we go outside. We  
7 stand six feet apart from each other. We're  
8 encouraged to use hand sanitizer and wash our hands  
9 more than we ever have before, all of that intended  
10 to mean and make sure that we stop the spread of the  
11 virus. For people who are working or in custody in  
12 our jails and prisons, following these guidelines is  
13 at best difficult and at worst impossible.  
14 Everything about a contained environment, like our  
15 city jails, risks the curve going steeply up. Social  
16 distancing is harder when you talk about escorts.  
17 Staying six feet apart is harder when living in  
18 dormitories and beds are, beds are, where beds are  
19 close to each other or common areas that are shared,  
20 and shared space and equipment among staff means that  
21 the spread is even more at risk. And that is not to  
22 say at all to disregard the hard work that I know all  
23 the folks here and on the front lines of CHS and DOC  
24 are doing to ensure that people in custody are safe.  
25 They've done a lot, including releasing people in

2 city custody through the six-day work release  
3 program, temporarily opening EMTC to allow for more  
4 effective social distancing, and to do as much as we  
5 can to making sure that people have access to hand  
6 sanitizer and able to wash their hands, not to  
7 mention the daily efforts by the doctors at CHS and  
8 the officers at DOC to keep people healthy while  
9 trying to preserve their own health and safety and  
10 their own family members' health and safety at the  
11 same time. The information we received thus far  
12 regarding the state of jails has given us reason to  
13 be concerned. According to the Board of Correction's  
14 daily COVID-19 report there are 365 people currently  
15 incarcerated with positive cases of COVID-19. 1344  
16 DOC staff have tested positive for the virus, as have  
17 184, 85, CHS staff, and of course we can assume those  
18 numbers change, ah, on any given day, or go up in any  
19 given, based on any given day. We've lost at least  
20 three people incarcerated to the virus and along  
21 with, ah, the number here says 10, but I believe that  
22 even we lost an individual yesterday, who was an  
23 officer, to this virus. I want to just, if we may,  
24 take a minute to, of silence just for that individual  
25 that we lost yesterday and all those that we've lost,

2 just to take one moment of silence tonight. [moment  
3 of silence] OK, thank you. I want to know, to let  
4 them know that they are certainly in our thoughts and  
5 prayers today. Um, before we go any farther I just  
6 want to, oh, sorry, but we have heard, ah, ah, ah,  
7 and have had, and have continued concerns about jail  
8 conditions. In the Board of Corrections May 11 audit  
9 of correctional facilities they found that only a  
10 small people of custody, 17% of all cases audited,  
11 were, ah, were wearing masks, and 45% of audited  
12 dormitories operating were operating at above 50%  
13 capacity. On May 8 in a letter to the Board of  
14 Corrections public defenders expressed concerns that  
15 people in custody were unable to practice social  
16 distancing in dorms and single-cell units and were  
17 unable to access masks. And we've heard ongoing  
18 concerns from staff about not having access to  
19 equipment, department giving away PPE at a time when  
20 it might have been most necessary, and requiring  
21 work, staff to work 24-hour shifts. Myself and  
22 others have called for there to be a clear and public  
23 and personal from this administration to lead these  
24 efforts to coordinate the various entities that we'll  
25 be hearing from today and others that are not here

2 today, which is not a criticism against any articular  
3 person or agency but to help strengthen the entire  
4 effort and empower those individual agencies to have  
5 what they need, when they need it, and to have a  
6 mechanism to get it if they need it. Um, there's so,  
7 and I just want to mention, there's so much more  
8 information. We don't know, we don't know the amount  
9 of people that are currently incarcerated with COVID-  
10 19, we do know that, but we don't have an idea of how  
11 many people have been infected in total, including  
12 those who have been incarcerated and discharged. We  
13 know how many people have died while they're in,  
14 while they were in custody, but we don't know how  
15 many people have passed away after being infected and  
16 released from our city jails. We don't know how many  
17 CHS, CHS staff members have been quarantined. We  
18 don't know many people have been hospitalized. We  
19 know that jail environments are inherently dangerous  
20 during this time, but we don't have a full picture of  
21 how dangerous. In the midst of all this the need to  
22 monitor jail conditions and to release people in  
23 custody could not be clearer. This is why we're  
24 hearing three bills today that I'm sponsoring, all  
25 relating to the improvement of conditions and the

2 release of people in custody. The first bill would  
3 require the Department of Correction and CHS to  
4 submit to the Speaker of the City Council and make  
5 publicly available on the department's website,  
6 website, a daily report related to the outbreak of  
7 [inaudible] city jails. That report would include  
8 cumulative numbers of individuals diagnosed,  
9 deceased, hospitalized, quarantined, and tested for  
10 COVID-19. The proposed legislation would also  
11 require the Department of Correctional Health  
12 Services and the Department of, and DOH, to provide  
13 regular, in-person updates to people in custody  
14 about the public health emergency and to publish a  
15 timeline of significant events, ensuring that people  
16 have an understanding of what is happening when it  
17 comes to COVID-19. The second bill would ensure that  
18 members of the public to [inaudible] depositing funds  
19 into commissary funds would not be charged a service  
20 fee more than five dollars. During a time when it is  
21 very difficult or sometimes impossible for friends  
22 and family members to make, to deposit money or items  
23 in person it's more crucial that we don't charge  
24 exorbitant fees on such deposits. And while service  
25 fees for kiosks [inaudible] at Riker's Island fall in

2 the guidelines and are capped at three dollars,  
3 transfers made online, ah, or at kiosks off the  
4 island do not. And finally the third bill would  
5 require the mayor to create local conditional release  
6 commission pursuant to Section 271 of the Correction  
7 Law. The commission would determine subject to state  
8 limitation which individuals who are serving city  
9 sentences to be granted early release. This bill in  
10 addition to the 6-A work release program would give  
11 the city an additional tool to release people who do  
12 not need to be incarcerated. Had the commission been  
13 in place prior to the pandemic we would have  
14 decarcerated our jails in a more timely fashion and  
15 been able to, ah, identify those folks for release.  
16 I do still want to recognize that the, this  
17 administration did respond to that call and I'd do  
18 what was in I think in much in their jurisdiction do  
19 to get folks out. Um, Erie County in New York has a  
20 similar commission that has been able to use it to  
21 partner with nonprofit organizations to provide  
22 mental care, health care, addiction treatment, job  
23 training and a variety of other needed services to  
24 help people upon release. And I believe that we can  
25 do the same here in New York City, especially during



2 a pandemic. I want to thank a number of my  
3 colleagues, including Council Member Farah Louis,  
4 Council Member Lander, ah, Public Advocate Jumaane  
5 Williams, Council Member Yeger, and others who have  
6 sponsored not all, but different versions of those  
7 bills and have been, ah, great partners here when it  
8 comes to responding to this, ah, epidemic, this, this  
9 pandemic and, and this crisis. So with that I want  
10 to hand it over to Chair Lancman for his opening  
11 remarks. Oh, and I just, before I, before I do that,  
12 sorry, I do want to recognize all the staff on here,  
13 both my staff and all staff from the City Council.  
14 Having seen how much work goes into these remote  
15 hearings to make sure they work and that people can  
16 get appropriate time to answer questions, things like  
17 that, I am, we're really tremendously grateful to all  
18 the [inaudible] and staff and everyone who is making  
19 us work today. So thank you, and I'll hand it over  
20 to Chair Lancman.

21 CHAIRPERSON LANCMAN: Thank you. Um,  
22 good afternoon, I'm Council Member Rory Lancman,  
23 chair of the Committee on the Justice System and I am  
24 pleased to join Chair Powers and the Committee on  
25 Criminal Justice in this hearing on COVID-19 and the

2 city's adult jails and juvenile detention centers.

3 Since the state of emergency covering the five  
4 boroughs was declared in early March our local jail

5 population was down 30%, and not nearly because

6 overall crime has plummeted. Rather, much of that

7 reduction is the result of deliberate policy

8 decisions and actions aimed at lowering the city's

9 incarceration rate in response to the COVID-19

10 crisis. Jails are exceptionally dangerous places

11 during a pandemic to detainees, officers, and

12 civilian staff alike with an infection many times

13 greater than the population at large. The council

14 has challenged our city and state criminal justice

15 policy and enforcement agencies, our courts, and our

16 independently elected district attorneys to justify

17 the continued detention of every person sitting on

18 Riker's and in the city's other jails. Is there a

19 better way to achieve justice, accountability, and

20 public safety than by locking someone in a cage at

21 enormous risks to their health and expense to the

22 taxpayers? I'm pleased to say that the answer,

23 nearly 2500 times, was yes. That's why our jail

24 population is right now at its lowest since 1946.

25 Those released include over 300 people serving a

2 sentence of less than a year, pursuant to a law that  
3 allows the mayor to alternatively placed those  
4 individuals in a work release program outside the  
5 confines of jail. Over 250 who are awaiting trial on  
6 a misdemeanor charge, nearly 650 who [inaudible]  
7 technical parole violation, like missing an  
8 appointment with a parole officer, and hundreds who  
9 couldn't afford their bail while they awaited trial  
10 for nonviolent or violent felony charges. And some  
11 of these folks left the jail in the ordinary course  
12 of business, but most were released because of the  
13 coronavirus crisis and our city's and state's  
14 response to it. Now it's been reported that about  
15 100 of those released from Riker's have reoffended,  
16 for what appears to be overwhelmingly nonviolent  
17 offenses. Some, like former police commissioner Bill  
18 Bratton, viewed this 95% success rate and call it "a  
19 crime virus." I choose to view this safe, rapid  
20 decarceration as a potentially much-hoped for normal.  
21 And it's important to note that the system was primed  
22 to rapidly decarcerate by the time the coronavirus  
23 gripped New York City. By the previous work of this  
24 council in decriminalizing many low-level offenses,  
25 pressure in the police department to make far fewer

2 arrests for marijuana possession and fare evasion and  
3 expanding alternate, alternative to detention  
4 programs, as well by Albany's new limits on the use  
5 of cash bail and the framework for safely  
6 decarcerating Riker's Island laid out by the  
7 commission, but important question remain. Why are  
8 we still incarcerating nearly 1300 people solely  
9 because they can't afford cash bail, including about  
10 185 people held on nonviolent felonies or misdemeanors,  
11 where their categories of offenses and charges that  
12 were excluded from consideration from release, either  
13 by the city, the district attorneys, or the courts,  
14 and why. Have prosecutors and the courts reduced  
15 their requests for and setting up cash bail during  
16 the pandemic? Why are we not completely isolating  
17 new admissions to Riker's and city jails for at least  
18 10 days to ensure that they're not present, that they  
19 do not present symptoms of COVID-19, and what should  
20 be the easiest question to answer of them all, but  
21 which heretofore we have been unable to get a  
22 response. How many individuals in the custody of the  
23 New York City Department of Corrections tested  
24 positive for COVID-19? I look forward to getting

2 answers at today's hearing. And Chair Powers, thank  
3 you again for leading [inaudible].

4 COMMITTEE COUNSEL: Thank you. We will  
5 now call on the Department of Correction and  
6 Correctional Health Services to transfer. First,  
7 Commissioner Brann of the Department of Correction,  
8 followed by Dr. Yang of Correctional Health Services  
9 will testify. Before we begin, I will administer the  
10 OATH. Commissioner Brann, Dr. Yang, Commissioner  
11 Feeney, Chief Jennings, Chief of Staff Brenda Cook,  
12 Deputy Commissioner Lyons, General Counsel Heidi  
13 Grossman, Senior Deputy Commissioner Timothy Farrell,  
14 First Deputy Commissioner Angel Villaloma, Dr.  
15 MacDonald, and Dr. Farber, I will call on to  
16 administer the oath. I will also call on Dana  
17 Kaplan, deputy director from the Mayor's Office of  
18 Criminal Justice for questions. I will call on each  
19 of you individually for a response. Please raise  
20 your right hands. Do you affirm to tell the truth,  
21 the whole truth, and nothing but the truth before  
22 these committees and to respond honestly to Council  
23 Member questions? Commissioner Brann?

24 COMMISSIONER BRANN: I do.

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2 COMMITTEE COUNSEL: Dr. Yang? Dr. Yang,  
3 I don't believe you're in.

4 DR. YANG: I, I do, yes.

5 COMMITTEE COUNSEL: Thank you. Deputy  
6 Commissioner Feeney.

7 DEPUTY COMMISSIONER FEENEY: I do.

8 COMMITTEE COUNSEL: Chief Jennings.

9 CHIEF JENNINGS: I do.

10 COMMITTEE COUNSEL: Chief of Staff Cook.

11 CHIEF OF STAFF COOK: I do.

12 COMMITTEE COUNSEL: Deputy Commissioner  
13 Lyons?

14 DEPUTY COMMISSIONER LYONS: I do.

15 COMMITTEE COUNSEL: General Counsel  
16 Grossman.

17 GENERAL COUNSEL GROSSMAN: I do.

18 COMMITTEE COUNSEL: Senior Deputy  
19 Commissioner Farrell.

20 SENIOR DEPUTY COMMISSIONER FARRELL: I  
21 do.

22 COMMITTEE COUNSEL: First Deputy  
23 Commissioner Villaloma.

24 FIRST DEPUTY COMMISSIONER VILLALOMA: I  
25 do.

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2 COMMITTEE COUNSEL: Dr. MacDonald.

3 DR. MACDONALD: I do.

4 COMMITTEE COUNSEL: Dr. Farber.

5 DR. FARBER: I do, as Mr. Farber.

6 COMMITTEE COUNSEL: Deputy Director  
7 Kaplan.

8 DEPUTY DIRECTORY KAPLAN: I do.

9 COMMITTEE COUNSEL: Commissioner Brann,  
10 you may begin when you're ready.

11 COMMISSIONER BRANN: Good afternoon,  
12 Chair Powers, Chair Lancman, and members of the  
13 Committee on Criminal Justice and the Committee on  
14 the Justice System. I'm glad to see that you are all  
15 healthy and well. I'm pleased to be joined today by  
16 the dedicated members of my leadership team and our  
17 valuable partners from across [inaudible] criminal  
18 justice agencies. Since the pandemic began the  
19 department has worked around the clock to keep those  
20 working and living in our facilities safe, and I  
21 thank you for the opportunity to discuss our response  
22 for this unprecedented crisis. Before I begin I  
23 would like to take a moment to thank the dedicated  
24 and hard-working employees of the Department of  
25 Correction and Correctional Health Services for their

2 incredible service during this difficult time. They  
3 remain committed to protecting the safety and well-  
4 being of those entrusted to their care at great  
5 personal sacrifice. As commissioner I am proud to  
6 work beside them and want them to know that their  
7 terrific heroic efforts have not gone unnoticed.  
8 Throughout this crisis the department has worked  
9 tirelessly with our partners at CHS to mitigate the  
10 spread of COVID-19 and keep those under our care  
11 safe. As a result of the department's long-standing  
12 emergency preparedness protocols I have considerable  
13 experience in contagious disease management.  
14 Adherence to CDC and DOHMH guidelines and innovative  
15 problem solving we are seeing success. The number of  
16 new positive cases in quarantine housing units across  
17 the facilities is steadily declining, a clear  
18 indication that our containment strategies are  
19 working. Over the past two months there have been  
20 many concerns raised about sanitation procedures, the  
21 availability of help and the provision of personal  
22 protective equipment. Here at the facts. First, the  
23 department established robust sanitation procedures  
24 for housing units, day rooms, transport vehicles, and  
25 other congregate spaces to sanitize on a daily basis.



2 High touched areas are sanitized every two hours, and  
3 showers are sanitized three times per day.

4 Supervisors check these process nine times a day and  
5 the quality assurance and integrity divisions as well  
6 as staff from the bureau chief of facility operations  
7 perform an additional audit. Second, all individuals

8 in custody have access to soap and cleaning supplies  
9 free of charge. And lastly, at every stage of this

10 pandemic the department has provided all staff and  
11 everyone in custody with ample personal protective

12 equipment. We first began providing masks on March  
13 11, nearly a month before medical professionals

14 recommended it. And as our understanding of the  
15 situation progressed, on April 3 we made face

16 coverings a requirement for all staff and those in  
17 custody, nearly two weeks before the state ordered

18 it. Our supply of PPE is sufficient and all staff  
19 and people in custody have direct access to

20 replacement PPE as quickly as desired. As a further  
21 protection mechanism all staff entering the

22 facilities must submit to a temperature and COVID-  
23 like symptom screening prior to entrance. Since the

24 beginning of this crisis the department has worked  
25 closely with our partners to identify individuals

2 eligible for release. As a result of this action,  
3 the number of New Yorkers held in New York City jails  
4 has plummeted, shrinking nearly 30% in just over one  
5 month. The department is currently operating at an  
6 overall occupancy rate of 49%, with more than half of  
7 the beds empty in open units. Significantly, the  
8 overwhelming majority of dorm units are less than  
9 half full. Additionally, we have been in constant  
10 communication with staff and people in custody to  
11 raise awareness and educate them on prevention  
12 practices, including painting cues on chairs and  
13 benches that supports appropriate social distancing.  
14 The department's multilingual COVID-19 awareness  
15 campaign includes conspicuously placed posters, an  
16 informational one-pager, and an informational slide  
17 show displayed at intake. Despite the challenges we  
18 face due to COVID-19's impact on our staff sick rate  
19 and the temporary suspension of congregate  
20 programming, in-person visitation and most in-person  
21 court appearances, April 2020 has been one of the  
22 safest months in recent history. Use of force has  
23 decreased by 47% as compared to March 2020, and by  
24 37% as compared to April 2019. Fights among people  
25 in custody also decreased by 47% as compared to March

2 2020 and by 48% as compared to the same time last  
3 year. Further, in April 2020 the department saw  
4 nearly 50% fewer slashings and stabbings as compared  
5 to the previous month and a 21% reduction in the  
6 total number of assaults on staff in the same period.  
7 These are significant reductions and we are  
8 sustaining this progress in May. The pandemic has  
9 forced many of us to significantly restrict our  
10 contact with others. As commissioner, I understand  
11 how important connections with friends, family, and  
12 legal supports are to those in our custody and the  
13 department has made every effort to afford visits  
14 remotely. For critical communication with attorneys  
15 and the court system the department has expanded its  
16 Skype teleconference group. To ensure contact with  
17 loved ones, over a matter of just days in March the  
18 department created a brand-new family televisit  
19 initiative, enabling video visitation from a personal  
20 electronic device. The department has continued to  
21 provide free telephone calls and is offering three  
22 free stamps or prestamped envelopes to persons in  
23 custody on a weekly basis. For spiritual care and  
24 guidance the department established a hotline for  
25 chaplain services. In addition to focusing program

2 delivery, the department has worked with our contract  
3 service providers to create activity packets with  
4 program-specific materials, established a discharge  
5 planning hotline to assist with reentry, and is  
6 providing tablets with educational resources to all  
7 persons in custody. Throughout this pandemic we have  
8 endeavored to be as transparent as possible to ensure  
9 that the public and our oversight bodies are aware of  
10 our approach and our outcome. Since March 17 we have  
11 provided detailed data from the Board of Correction.  
12 We began posting information publicly as of April 1.  
13 We are in regular communication with elected  
14 officials, defender organizations, and other advocate  
15 groups, and we plan to continue this collaboration.  
16 Our Office of Public Information has responded to  
17 more than 600 media inquiries from across the globe  
18 since the pandemic began. Regarding the  
19 preconsidered legislation that requires reporting of  
20 certain information during public health emergencies,  
21 the department is committed to transparency and  
22 stands ready to discuss the ways we can improve this  
23 effort. The bill as drafted prevents administrative  
24 challenges. However, we look forward to continuing  
25 to discuss this bill with the council. Regarding the

2 preconsidered legislation regarding fees related to  
3 adding money to commissary funds, the department  
4 supports the intent of the bill. We are continuing  
5 to analyze the impact of the legislation and look  
6 forward to continuing to discuss this matter with the  
7 council. Despite this unprecedented crisis and its  
8 many challenges, the department remains committed to  
9 protecting all those working and living within our  
10 facilities. We will continue to collaborate with our  
11 partners to develop [inaudible] practices and  
12 policies to effectively manage this public health  
13 emergency, and we will come out stronger and bolder  
14 as a result. Thank you.

15 COMMITTEE COUNSEL: Thank you,  
16 Commissioner. Next, we'd like to invite Dr. Yang of  
17 Correctional Health Services to testify. Dr. Yang.

18 DR. YANG: Hi, good afternoon,  
19 Chairpersons Powers and Lancman and members of the  
20 Criminal Justice and Justice System Committees, um,  
21 Patsy Yang, senior vice president, Health and  
22 Hospitals for Correctional Health, also known as CHS.  
23 I'm joined here by Dr. Ross MacDonald, our chief  
24 medical officer, and Ben Farber, our chief of staff.  
25 We appreciate the opportunity to update you on

2 actions we've taken so far in the face of this  
3 devastating global pandemic and would like to brief  
4 you on three cornerstones of our approach -  
5 decarceration, containment, and maintenance. When  
6 the novel coronavirus was first confirmed to be in  
7 New York City on March 1 CHS was well positioned to  
8 confront head-on this fast-moving, shape-shifting,  
9 lethal virus. Much of the foundation of our response  
10 has already been built in the four years since we  
11 became the direct provider of health care in the  
12 jails. To minimize the likelihood of transmission of  
13 SARS-CoV-2 virus we've taken aggressive and strategic  
14 steps that are aligned with the best available public  
15 health advice, tailored to the unique environment of  
16 the New York City jails. Most tragically, three  
17 people in custody have succumbed to this plague so  
18 far. Yet because CHS and DOC strove to lock arms and  
19 stay in lockstep throughout this first wave of the  
20 pandemic in order to shield people who are entrusted  
21 in our joint care and custody I'm certain that  
22 together we saved many lives. Decarceration was one  
23 of our key strategies from the outset. CHS focused  
24 on identifying and helping arrange for release from  
25 custody our patients who we determined were most

2 vulnerable to a severe course of disease should they  
3 contract the virus. This effort was built on CHS's  
4 long-standing advocacy work for compassionate release  
5 of patients with serious clinical conditions. The  
6 global pandemic gave, gave strength and purpose and  
7 opportunity for CHS to accelerate this work along  
8 with our partners at DOC, MOCJ, defense attorneys,  
9 district attorneys, courts, the State Office of  
10 Mental Health, the State Department of Correction and  
11 Community, ah, Service, Supervision, sorry. Um, this  
12 work relied on relationships that were built over  
13 months and over years. Between March and May more  
14 than 2000 people were released, including roughly  
15 half of our patients who were age 50 years or older.  
16 To support the safe release of our patients into the  
17 community, CHS's already robust discharge services  
18 were enhanced to respond to the emergency. While our  
19 protocols for discharging patients with mental health  
20 concerns and/or medication needs remained unchanged,  
21 CHS now additionally screens for COVID-like symptoms  
22 every patient who DOC escorts prior to release and we  
23 assist patients in securing accommodations within  
24 which to self-isolate as appropriate. We also  
25 provide information on community testing sites and on

2 supportive services. As before, individuals who need  
3 assistance after release can contact CHS's  
4 established community services, our point of reentry  
5 and transition programs, and our community reentry  
6 assistance network. For patients who are still in  
7 custody, containment was a foundational strategy.  
8 Although we were unique, we are unique actually in  
9 jail, among jails, to have an 88-bed communicable  
10 disease unit, we very quickly realized that this  
11 capacity was insufficient. Together with DOC we  
12 adapted and expanded our concept of therapeutic  
13 housing units to create an entirely new designation  
14 of housing for patients on the COVID spectrum based  
15 on clinical need and status. We separately housed  
16 our most vulnerable asymptomatic patients from  
17 patients with confirmed disease, from patients with  
18 symptoms of the disease, from patients who were  
19 asymptomatic but were known to have exposure to a  
20 confirmed positive individual. Because expansion of  
21 this notion of clinical housing allowed us to  
22 physically separate and shield patients in the face  
23 of what felt like a viral tsunami, we also planned  
24 for surge capacities in each category of housing.  
25 Whether it was reopening an entire facility or



2 repurposing different types of housing, DOC and CHS  
3 together daily balanced the urgent and growing needs  
4 to protectively house our patients against the  
5 shrinking availability of both our staffs, who  
6 themselves were getting sick. The housing plan that  
7 CHS and DOC together implemented involved almost 200  
8 housing units and thousands of beds. During this  
9 current past wave of the outbreak on a given day the  
10 maximum of 278 isolation and 2889 quarantine beds  
11 were occupied. Another key element of our  
12 containment strategy was testing. We instituted an  
13 early and aggressive COVID-19 antigen testing  
14 strategy that exceeds the standards being employed in  
15 the larger community. We test at a rate 4.3 times  
16 higher than the rest of New York City. Our approach  
17 to testing was so much more aggressive for a number  
18 of reasons, ranging from the cognizance of the likely  
19 high toll on our patients who already bear a heavier  
20 burden of underlying conditions that predispose them  
21 to more severe outcomes to the realities that while  
22 congregate settings make physical distancing  
23 difficult a person's COVID status helps inform  
24 housing decisions that are protective. We test  
25 asymptomatic patients, patients who are asymptomatic

2 but highly, we test symptomatic patients as well as  
3 asymptomatic patients who are highly vulnerable, and  
4 universally all patients who are newly admitted into  
5 the system regardless of their symptoms. As of May  
6 15, sorry, um, antigen tests among patients total  
7 1270, of which 537 were positive. We expect to  
8 begin, we are actually beginning antibody testing  
9 among our patients today, um, as our understanding of  
10 the disease has involved, has evolved, so has our  
11 testing strategies. We continue to proactively  
12 pursue all available laboratory resources to take  
13 advantage of rapidly developing technology, because  
14 these will continue to be the key as we prepare for  
15 resurgence of this still-present virus. The third  
16 key strategy for protecting our patients from SARS-  
17 CoV-2 was maintenance of access to healthcare  
18 services despite mandates to minimize person-to-  
19 person contact between patients and between patients  
20 and staff, in waiting rooms, in clinics, and in  
21 transit to and from housing areas. In accordance  
22 with the emergency declarations, many health systems  
23 throughout the city closed or reduced nonessential  
24 services, which resulted affecting us as well and a  
25 curtailment of certain speciality appointments during

2 the high of this last wave of the epidemic. However,  
3 while elective and nonurgent visits had to be  
4 adjusted, access to our medical, nursing, and mental  
5 health services, ongoing substance use treatment, and  
6 medications remained unchanged. We continue to be  
7 present in therapeutic housing units and access to  
8 programs remains largely unchanged. Emergency  
9 response, urgent care, nurse and physician  
10 availability continued around the clock. As before,  
11 we reviewed all miss scheduled visits to prioritize  
12 escorts by DOC's clinic accordingly, and as always  
13 any patient in mental health crisis or in need of  
14 urgent medical attention alerted DOC, who contacted  
15 us. While maintaining these core services we built  
16 new work flows and system given the realities of this  
17 pandemic. This required maintaining adequate PPE  
18 according to the latest guidelines, responsiveness to  
19 the latest clinical guidance, and constant  
20 communication with our staff. We safely managed the  
21 majority of COVID patients who developed the disease  
22 without burdening our overburdened hospital partner,  
23 and aggressively monitored for signs of more severe  
24 disease so that we could escalate care at the  
25 earliest sign of trouble. We incorporate COVID-like

2 screening at every point of contact within the  
3 criminal justice process - at prearrest, at  
4 admission, at every clinical counter, and upon  
5 discharge. We worked with our partner, ACS, to  
6 transfer into our care at the Horizon facility any  
7 youth who were suspected to have or confirmed to have  
8 COVID-19. We balanced the public health imperative  
9 to minimize person-to-person contact with our  
10 unflagging commitment to healthcare access by  
11 spanning our already pioneering use of technology.  
12 Our years of experience and our infrastructure  
13 allowed us to use telehealth video connections to  
14 minimize disruptions in care during this past crisis.  
15 Working with DOC, we were able to establish new  
16 secure telephonic connections for our patients from  
17 any housing area to contact CHS directly, whether it  
18 was to report health concerns like COVID-like  
19 symptoms or to talk through their anxieties about the  
20 disease. These new pathways were important  
21 supplements to the [inaudible] patient communication  
22 channels that existed before the pandemic. Every  
23 evening at precisely 7 o'clock neighborhoods  
24 throughout the city erupt as people stop in the  
25 streets, they throw open their windows, they go out

2 on their roofs, they whistle, they applaud, they  
3 shout, they bang pots, they bang pans, they sound  
4 their car horns. They do this in gratitude for the  
5 healthcare workers who put the very lives of their  
6 patients ahead of that of their own and that of their  
7 families. During every one of these daily tributes I  
8 feel particularly privileged and honored to work  
9 alongside the staff who even among essential workers  
10 face daily challenges that are unique to the jail  
11 environment and they've done so with unflinching  
12 professionalism and dedication. Thanks.

13 COMMITTEE COUNSEL: Thank you. I will  
14 now turn it over to questions from Chair Powers,  
15 followed by Chair Lancman. For these questions we  
16 will additionally be joined by Deputy Commissioner  
17 Feeney, Chief Jennings, Chief of Staff Brenda Cook,  
18 Deputy Commissioner Lyons, General Counsel Grossman,  
19 Senior Deputy Commissioner Farrell, First Deputy  
20 Commissioner Villaloma from the Department of  
21 Correction, and Dr. Ross MacDonald from Correctional  
22 Health Services and Ben Farber, in addition to Deputy  
23 Director Dana Kaplan. Panelists, please stay unmuted  
24 if possible during this question-and-answer period.  
25 Thank you. Chair Powers.

2 CHAIRPERSON POWERS: Thank you, and, and  
3 I, I share, um, CHS, I just want to say thank you to  
4 all, everybody here, thank you to all your staff and,  
5 and particularly the doctors that are, are serving at  
6 a very, very challenging in the city, and when we do  
7 clap I know that in my district people go outside of  
8 Bellevue, they go outside of NYU, but, ah, for many  
9 of us we're, we're [inaudible] all your doctors as  
10 well who, um, are, are putting themselves in a very  
11 challenging environment. Thank you for mentioning  
12 that as well. Um, we're going to go in to a number  
13 of questions, um, related to testing and housing and  
14 things like that. But I just wanted to start, and  
15 this is, you know, for, for both agencies and I'll,  
16 I'll pull this question out for, for others as well,  
17 but, you know, one of the things we are gonna hear  
18 from I think six or seven various agencies today.  
19 We're gonna here from CHS and DOC and MOCJ and ACS  
20 and Department of Probation in addition to, um, ah,  
21 other agencies here that interest with. We have the  
22 DAs, we have the NYPD, we have Board of Correction,  
23 and, you know, one of the things I've been trying to  
24 get clarity round and just make sure we as a public  
25 understand is through the pandemic there is a, ah, a

2 lot of challenges here, everything from the release,  
3 the question about release and who to release.

4 Presumably CHS has ideas around that. DOC has  
5 thoughts on that. MOCJ has thoughts on that.

6 Certainly we know we've heard the NYPD has thoughts  
7 on that. Can you explain, um, I'll open this to

8 either agency, but can you explain to us the, how

9 these decisions are made amongst a group of six, you

10 know, six, seven agencies, some that report directly

11 to the mayor, DAs, DOC, we understand are outside of

12 that. When we talk about, and certainly there's been

13 disagreements amongst the agencies about release, for

14 instance. Um, how, how is this coordinated? How are

15 these decisions made and how, who is making the

16 decision when there is a conflict between agencies

17 when it comes to things like release for, or if

18 there's a disagreement between the agencies that just

19 testified about how to house or quarantine, things

20 like that?

21 COMMISSIONER BRANN: Um, so I will speak

22 for, um, housing decisions and, ah, releases with

23 regard to compassionate release. Every day since

24 this pandemic began we've had calls, daily calls with

25 CHS. Ah, we discuss cases. We discuss any issues

2 that arose the day before. We discuss issues, um,  
3 with any kind of housing disagreement, and we provide  
4 a solution before the, the call is ending. So we  
5 have a minimum of one, one call per day. We have  
6 experienced many days where we have several calls and  
7 we respond immediately to issues that arise. I can  
8 say for DOC and I, I suspect my colleagues at CHS  
9 would, would say the same thing, that the bond, um,  
10 on, between the two agencies during this crisis has  
11 never been stronger, and we have collaborated, we  
12 have become very creative in our solutions and our  
13 efforts to minimize the impact of the spread of this  
14 disease. With regard to broader release across the  
15 city, I'll let, um, Ms. Kaplan speak to that, at the  
16 Mayor's Office of Criminal Justice and how the  
17 Mayor's Office has coordinated amongst all the law  
18 enforcement agencies in the city.

19 DANA KAPLAN: Sure, ah, good afternoon,  
20 Dana Kaplan, Deputy Director of the Mayor's Office of  
21 Criminal Justice. Obviously the releases were by,  
22 ah, via a number of different mechanisms. So some  
23 people were released pretrial. That involved a  
24 coordinated process with the district attorneys, the  
25 defenders, ah, and the courts. For individuals who



2 were released, ah, because there were, ah, holds  
3 lifted by the State Department of Correctional, ah,  
4 the state DOCs. Ah, those were individual decisions  
5 that were shared by, ah, that were made by the state,  
6 ah, as it related to the 6-A City Sentence program,  
7 ah, that was determinations that were made by the  
8 Department of Corrections in consultation with the  
9 mayor's office and we considered a number of  
10 different factors there. So it, ah, looked a little  
11 different for each, ah, type of population. One of  
12 the things that guided the whole process was a  
13 consideration of particular medical vulnerabilities  
14 and, as Correctional Health Services said, ah,  
15 Correctional Health Services was able to help  
16 identify individuals who had some of the five pre-  
17 existing medical conditions that would put them at  
18 particular, ah, vulnerability for exposure to COVID,  
19 and so we were able to make that information  
20 available to all of the different stakeholders so  
21 that their individual decisions on the cases that  
22 they had discretion over could be informed by an  
23 understanding of any health considerations that they  
24 should particularly be aware of during this period.

2 CHAIRPERSON POWERS: OK, and from CHS,  
3 this is back to CHS, are there individuals that you  
4 are, ah, treating or seeing that in custody right now  
5 that you believe should not be in the jail setting at  
6 this time? Based on either a medical issue or based  
7 on underlying conditions.

8 COMMISSIONER BRANN: Ah, yes, I think  
9 there always are. I think, I think the, the jail is,  
10 ah, is not a healthy environment and particularly in  
11 the face of a pandemic such as what we're facing.  
12 Um, what, what we do, continue to do as we did before  
13 the, the pandemic is to look for our most vulnerable  
14 and work to get them, get them compassionate release.  
15 We of course can't speak to the issues of levels of  
16 charges and, and those other factors that, that come  
17 into consideration on whether somebody is released or  
18 not. Um, but we continue to work with everybody  
19 involved, um, to identify our patients who are most  
20 vulnerable due to, um, a severe course of disease.

21 CHAIRPERSON POWERS: And there are, um,  
22 are there categories, for instance, is there an age  
23 group category, a medical condition category, or  
24 other that you see having not been taken out of the  
25 jail setting and either put into another healthcare

2 setting or been released and sent home and, and can  
3 you identify which ones those are?

4 COMMISSIONER BRANN: I don't think there  
5 are broad clinical categories that haven't been,  
6 haven't been looked at and, and efforts been made.  
7 It, it gets really down to the individual patient,  
8 um, and, and what his or her clinical condition is,  
9 what the charges are, um, other circumstances that,  
10 that come into play, um, and I think that Dana was  
11 talking about some of them.

12 CHAIRPERSON POWERS: OK. And, and, but,  
13 but theoretically there is a, there could be an  
14 individual [inaudible] in practice there could be a  
15 individual where you identify because of their  
16 underlying condition, this person should be going  
17 home or going somewhere else, not being in this  
18 setting where either they are contagious or somebody  
19 else, or they have a, their own condition that could  
20 put them at risk. And, but there would be other,  
21 clearly other factors here, um, that would lead to  
22 them not being able to be released. Is that fair to  
23 say?

24 COMMISSIONER BRANN: Ah, yeah it is fair  
25 to say, um, but it, again, I just, I just want to say

2 that, that our work around getting people  
3 compassionately released from jail, um, it, it, it  
4 precedes COVID, it, it is part of our whole, you  
5 know, since, since we came over to Health and  
6 Hospitals and really, really picked this up. Um, our  
7 geriatric [inaudible] care service is very much part  
8 of that, our court advocacy and liaison program, our  
9 discharge planning and reentry support, um, this is,  
10 you know, COVID just gave more strength and, and  
11 impetus to, to the rapidity and, and the volume of  
12 people who could be considered, um, because of the  
13 cognizance of, of the part of the rest of the  
14 criminal justice system of what, what risks were  
15 engendered by remaining in jail during this time.  
16 Um, I think it made everybody more aware of, of each,  
17 the impact of each of their decisions at each point  
18 of the, of the process. We have not stopped. We did  
19 not start with COVID. We did not stop with COVID.  
20 We accelerated through COVID. We continue to this  
21 day, every day, to identify people who we work for  
22 release.

23 CHAIRPERSON POWERS: OK, thank you for  
24 that. Thanks for that answer. Um, we're gonna, I'm  
25 gonna ask a lot of questions here that are both for

2 DOC and for CHS, perhaps MOCJ maybe will have to  
3 answer some. But, um, these, we're just gonna ask  
4 for some data here, some information. I'm gonna try  
5 to do this in, ah, short order so that I can hand it  
6 over to Council Member Lancman and I have a number of  
7 colleagues who I know are trying to get questions. I  
8 want to be respectful of their time. So just if you  
9 can, if you can, ah, give us that, you know, intel  
10 information in, ah, in a concise manner. Um, for  
11 starters, in total what is the cumulative number of  
12 people in custody who have been tested for COVID-19?

13 COMMISSIONER BRANN: Ah, the numbers? So  
14 I gave you the testing numbers, um, the number of  
15 tests that we did in my, in, ah, that was 1270,  
16 right, 1270. Um, like 37 were positive. Those are  
17 tests. Um, as of that same date of May 15, 1154  
18 people, um, tested of which 545 were positive.

19 CHAIRPERSON POWERS: So that sounds like  
20 you've tested people more than, some people you've  
21 tested more than once, is that, is that right?

22 COMMISSIONER BRANN: Sometimes, yes.

23 And, and again, in some of our testing strategy we  
24 have done repeated sweeps, um, and, and again our  
25 strategies continue to change as we understand better

2 the, both the technology and the yield of the, the  
3 laboratory work, as well as the understanding of the  
4 virus.

5 CHAIRPERSON POWERS: OK. Are you testing  
6 every new admission that enters DOC custody?

7 COMMISSIONER BRANN: We are now.

8 CHAIRPERSON POWERS: You are now, OK.  
9 And then so how many tests on average per day are  
10 you, is CHS giving?

11 COMMISSIONER BRANN: Ah, so we only  
12 started, recently started, um, at the end of April on  
13 testing universally all new admissions, um, sorry,  
14 what was the question? How many tests?

15 UNIDENTIFIED: How many tests per day? So  
16 I'm just gonna jump in.

17 COMMISSIONER BRANN: Yes.

18 UNIDENTIFIED: So the tests that we've  
19 actually done per day have been very variable during  
20 the course of this epidemic. Ah, many of the tests  
21 that we do are driven by symptoms of COVID, which in  
22 turn is driven by the prevalence of the disease and  
23 the epidemic curve, and it's important to point out  
24 that the epidemic curve has declined very  
25 dramatically. So, for example, there were times,

2 days, when we saw over 30 fevers in the system  
3 recorded on a given day and most of those would  
4 represent new cases of COVID. Ah, today we're back  
5 down to our baseline level of fevers, which is closer  
6 to zero to five a day. So the number of tests has,  
7 has changed and we're trying to be as strategic as  
8 possible about which populations we, we test and to  
9 go where the most risk is, which right now is in the  
10 new admission population.

11 CHAIRPERSON POWERS: OK. So let's, you,  
12 you touched on this, but what is a specific criteria  
13 used to determine between both staff and an  
14 incarcerated person about who gets tested?

15 UNIDENTIFIED: So symptomatic criteria  
16 have been present throughout, um, and those has  
17 shifted as the guidance from CDC and DOHMH has  
18 shifted, ah, as well as, as Dr. Yang mentioned,  
19 targeted strategies towards, ah, asymptomatic  
20 screening.

21 CHAIRPERSON POWERS: So symptomatic  
22 individuals, but new admissions, too, right? So we  
23 have symptomatic individuals, new admissions getting  
24 tested, and then is there any other categories beyond  
25

2 that? You said somebody asymptomatic, but what and  
3 when an asymptomatic person gets tested?

4 UNIDENTIFIED: Yeah, so again, for  
5 vulnerable populations during the course of, ah, of  
6 the epidemic that we saw, ah, there were different  
7 points in time when we implemented those strategies.

8 CHAIRPERSON POWERS: OK.

9 UNIDENTIFIED: I should just point, if, if  
10 I may, um, also that, that, ah, COVID hit, hit the  
11 jails before testing was actually even available, so  
12 we were working without that, that, that  
13 technological advance assistance. I mean, the minute  
14 laboratory testing was available we, we began to use  
15 it. Um, but, you know, we, Dr. MacDonald and the  
16 team were, were ahead of this, ah, [inaudible]  
17 everybody's looking at, at what data and tools we did  
18 have, which includes monitoring fever and symptoms,  
19 clearly by, you know, 12 weeks later everybody's  
20 understanding is greater in terms of what the, the  
21 meaning of having a symptom or not a symptom, or what  
22 a symptom is, um, continues to change.

23 CHAIRPERSON POWERS: Do you think you  
24 have enough tests today to let, to, ah, accommodate  
25 your testing needs?



2 UNIDENTIFIED: Yes, we do.

3 UNIDENTIFIED: Yes.

4 CHAIRPERSON POWERS: OK. Do you have,  
5 OK, thank you. Are you doing temperature screening,  
6 even absent tests?

7 UNIDENTIFIED: We, we screen, um, for  
8 symptoms, yes, among people who are obviously  
9 asymptomatic and exposed, definitely with DOC. Um, I  
10 think the Commissioner mentioned this, um, together  
11 launched a, a program to screen. Ah, we ask our own  
12 staffs to screen themselves. Um, but we also screen  
13 people before they come into the facilities, DOC does  
14 and with us.

15 CHAIRPERSON POWERS: OK, so if I, if I  
16 have a staff showing up to work I'm getting my  
17 temperature taken and my symptoms evaluated, um, is  
18 it a verbal examination and then I'm also getting my  
19 temperature taken? Is that, is that correct?

20 UNIDENTIFIED: Yeah, I don't know if the  
21 Commissioner wants to say anything, but yes.

22 CHAIRPERSON POWERS: OK. Um, for, for  
23 uniform staff, for instance, if they get, ah, if they  
24 have symptoms and they go quarantine, what is the  
25 criteria by which when they return for, to work and

2 what is the, do they get a follow-up test given to  
3 them to determine whether they still have it? What  
4 happens, what, what is the process for an, an  
5 individual who is a staff member who has symptoms, or  
6 let's say test positively, what is the process by  
7 which they would return to work?

8 COMMISSIONER BRANN: So I would, um,  
9 defer that question to FDC Villaloma, who oversees  
10 our health management division.

11 FIRST DEPUTY COMMISSIONER VILLALOMA:  
12 Hello, um, good afternoon, and thank you, thank you  
13 for the question. So if a staff member, ah, of any  
14 type, whether it be uniform or nonuniform, um, ah,  
15 had, is calling in sick related to COVID-19 they  
16 would call our health management division and, um,  
17 report sick, report their symptoms. We would track  
18 them via our sick codes. There are specific sick  
19 codes based on the symptoms that the staff member is,  
20 ah, exhibiting. At that time they would be told to  
21 stay home and self-quarantine pending them being able  
22 to, ah, either get a, a, um, test performed or for  
23 their symptoms to subside. Ah, the doctors at our  
24 health management division will, um, be guided by  
25 documentation from the employee's primary care

2 physician and, um, they would, um, provide a, the  
3 results of their COVID test if they, ah, ah, were to,  
4 um, receive one.

5 CHAIRPERSON POWERS: Well let's say they  
6 test positive. I test positive. I am, I say to you  
7 I'm not feeling well, I take a test, I come up  
8 positive, I'm an officer or staff member, I test  
9 positive. What happens now, I'm told, I assume I go  
10 home, I quarantine?

11 FIRST DEPUTY COMMISSIONER VILLALOMA:  
12 Right, so I can tell you, um, I tested positive and  
13 so, ah, my interactions and everyone else's  
14 interactions with HMD are that when you receive your  
15 positive test you notify our health management  
16 division. You are assigned to a doctor. That doctor  
17 tracks your symptoms. You, um, are in contact with  
18 that doctor, who tracks your, your progress until the  
19 point that you no longer, um, are exhibiting symptoms  
20 and you are cleared to return to work or receive some  
21 type of medical documentation from your, um,  
22 healthcare provider. Um, those with, ah, that is  
23 documented with HMD and you are given a return to  
24 duty date once you are, ah, free of symptoms for the  
25

2 established, ah, period of time, per medical  
3 guidelines.

4 CHAIRPERSON POWERS: So I need a doctor  
5 to clear me to go back to work?

6 FIRST DEPUTY COMMISSIONER VILLALOMA: Ah,  
7 so there have, not, not in case, right? Just because  
8 there are certain doctors who, ah, we have come  
9 across doctors who refuse to, um, provide a written  
10 note, ah, because they're not physically, as we all  
11 know during this time period, people are using, ah,  
12 I'll go into the telehealth, so it's teledoc or it's  
13 a virtual, so there have been a very limited, ah,  
14 occasions where the staff member reports to, um, HMD  
15 and so in those instances extra precautions have been  
16 taken. But the...

17 CHAIRPERSON POWERS: Is there a minimum  
18 amount of days if I test positive I'm off duty?

19 FIRST DEPUTY COMMISSIONER VILLALOMA: I  
20 believe, um, the, that it's seven days from the  
21 initial symptom or three days without any symptoms  
22 is, are the medical guidelines.

23 CHAIRPERSON POWERS: I thought it was 10,  
24 but, OK. Um, and then do I get a test? I don't get  
25 a test at, I don't, CHS or otherwise, I don't get a

2 test to reconfirm my symptoms, or I mean reconfirm  
3 whether I've cleared the test, cleared the?

4 FIRST DEPUTY COMMISSIONER VILLALOMA: To  
5 my knowledge there is no requirement for a security  
6 test.

7 CHAIRPERSON POWERS: OK. And do those  
8 sick days, are, are sick days used? I assume there's  
9 an allotment of [inaudible] sick days an individual  
10 can have. Ah, does, does that count against their  
11 sick days if you are tested for COVID?

12 FIRST DEPUTY COMMISSIONER VILLALOMA: So  
13 we're, I'll answer the question in two parts. The  
14 first part is uniform staff. Uniform staff, ah, to  
15 have what we like to call in general terms unlimited  
16 sick. So uniform staff, if they test positive or  
17 have their COVID case documented, documented at HMD  
18 those, ah, days will not count towards, ah, the, any  
19 potential sanctions or discipline related to, um,  
20 excessive use of sick leave, and if it's a non-  
21 uniform person who has called in to our health  
22 management division they will not be, ah, their sick  
23 time, which they accumulate, ah, will not be  
24 deducted, ah, based on having reported a COVID, um,  
25 illness.

2 CHAIRPERSON POWERS: OK. I just want to  
3 make sure we are not asking somebody to go back to  
4 work when they, if they feel compelled to go back to  
5 work based on their, um, ah, any policy the city has.  
6 If they are presenting symptoms or feeling sick or  
7 not cleared I, I think it's important that we do not,  
8 we're not having any policy that compels them to go  
9 back to work.

10 FIRST DEPUTY COMMISSIONER VILLALOMA: No,  
11 absolutely not, and I can, and I can say that, if  
12 anything, our health management division is being  
13 extra cautious, um, because if we introduce someone  
14 who is still exhibiting the symptoms we only, ah,  
15 create the potential for more people the contract the  
16 disease, which is absolutely not what we want.

17 CHAIRPERSON POWERS: OK. Um, this may be  
18 DHS. Can you tell us which, which COVID test you're,  
19 you're using right now?

20 UNIDENTIFIED: [inaudible] testing is via  
21 our, ah, long-standing lab contractor, Bioreference.

22 CHAIRPERSON POWERS: OK. Um, and are you  
23 doing antibody tests as well?

24 UNIDENTIFIED: We are starting those  
25 today, ah, yes.

2 CHAIRPERSON POWERS: OK. Um, and, um,  
3 is, are there plans for contact tracing or any other  
4 plans for expanded testing the near future?

5 UNIDENTIFIED: So I think our focus, as we  
6 discussed, is moving towards the new admissions,  
7 where we're seeing the, the largest positivity rate,  
8 um, as well as the antibody testing, which will be an  
9 additional tool that will allow us to have, ah, very  
10 detailed contact tracing as a new normal, as we have  
11 new cases more sporadically in the future.

12 CHAIRPERSON POWERS: And, um, with the  
13 new admissions, what percentage of new admissions  
14 are, ah, testing positive?

15 UNIDENTIFIED: Approximately 7% at last  
16 check.

17 UNIDENTIFIED: We'll, we'll get that for  
18 you.

19 CHAIRPERSON POWERS: Seven percent?  
20 What's the average in the state? It's probably about  
21 1%, right, 2%?

22 UNIDENTIFIED: Yeah.

23 UNIDENTIFIED: It's like 9% so far. But,  
24 again, we've only begun the intakes.

2 UNIDENTIFIED: Yeah, it depends on exactly  
3 what period of time you look, but I, I think it's in  
4 the single digits or thereabouts.

5 CHAIRPERSON POWERS: Well that is a high  
6 number relative to comparatively, is, isn't that fair  
7 to say? Relative to the general population?

8 UNIDENTIFIED: Yes, that's correct, at  
9 this point it is.

10 UNIDENTIFIED: But again, you know, for,  
11 for the concentrated number we're assuming community  
12 transmission, right? Which is why we're focusing on  
13 new admissions. They are the people who are most  
14 likely to be, um, introducing the virus to, to the  
15 people who have been in, in custody for a while. Um,  
16 and, and the fact that we're universally testing  
17 everybody who comes into the jail system is not  
18 something that's being done outside the City of New  
19 York. So, again, our more aggressive testing  
20 strategies, even from the beginning, make it very  
21 hard to make comparisons with the rest of the City of  
22 New York. Um, the rest of the city, it's, it's not  
23 as aggressive testing, it's not universal by any  
24 means. It's not available across the board. It's  
25 not, you know, this is not being offered to every,



2 every 8.5 million people in the city. Um, so, so, so  
3 it's a, I just say that as a cautionary word.

4 CHAIRPERSON POWERS: Oh, I, I totally,  
5 totally understand.

6 UNIDENTIFIED: Yes [inaudible].

7 CHAIRPERSON POWERS: Um, just a few more  
8 questions. Then I want Council Member Lancman, ah,  
9 ah, [inaudible] and other colleagues to have an  
10 opportunity, could you just give us numbers, how many  
11 people in custody are currently hospitalized for  
12 COVID-19?

13 COMMISSIONER BRANN: Ah, let's see,  
14 between, we have an average, on a day we've had in  
15 single digits, less than eight people. Um, between  
16 March 25 and May 15 we had 34 people who were  
17 hospitalized at some point.

18 CHAIRPERSON POWERS: Between 34, between  
19 which dates, March 15?

20 COMMISSIONER BRANN: March 25 and May 15.

21 CHAIRPERSON POWERS: And how many are  
22 there today?

23 COMMISSIONER BRANN: We don't, we'll have  
24 to get, I'll have to get that to you.

2 CHAIRPERSON POWERS: OK. How many people  
3 have, OK, you gave us that number. How many people  
4 in custody are currently on ventilators?

5 COMMISSIONER BRANN: None that I know of.  
6 I don't know. We, we have to check.

7 CHAIRPERSON POWERS: OK, will it be, that  
8 number didn't, no, sorry, go ahead.

9 COMMISSIONER BRANN: Yeah, we need to  
10 check with our, our sister, um, hospital, hospitals  
11 into whose care we transfer people.

12 CHAIRPERSON POWERS: We, we would like to  
13 know maybe, um, since the beginning of the pandemic  
14 how many folks have been put on ventilators, if  
15 that's available. My last question, and then I, I'll  
16 hand it over. Um, just in terms of how, I'm gonna  
17 come back, but just for now, um, just, just walk us  
18 through what happens, and this is for DOC, but when  
19 someone is tested positive, ah, after having already  
20 been in the general population in terms of housing  
21 and testing, where are they sent, how long are they  
22 quarantined for, do they go back to their original  
23 housing, if so how long after they're separated? Can  
24 you just walk us through what happens if, um, I am  
25

2 in, if I was in general population and I tested  
3 positive, what would happen in terms of my housing?

4 UNIDENTIFIED: So I will start for DOC.

5 Ah, I just want you to know that we have a  
6 conversation with DHS when that occurs and then I'll  
7 let Chief Jennings speak to how housing decisions are  
8 made.

9 CHIEF JENNINGS: Hi, good afternoon, how  
10 are you?

11 CHAIRPERSON POWERS: Hi there.

12 CHIEF JENNINGS: Um, good. Um, I would  
13 first like to thank you for the moment of silence for  
14 all of the staff, ah, and persons in custody which we  
15 lost, because I think for all of us who are not  
16 infected we have all been affected by [inaudible].  
17 Um, and so, ah, I think at the onset there was a lot  
18 of collaboration with DHS and to talk about how best  
19 to house. So we worked with them and, um, we  
20 partnered up with MOCJ and also NYPD whereas there  
21 were two community courts that were opened up to  
22 actually have all persons coming through, ah, be  
23 arraigned via video conferencing at one in Red Hook  
24 and one in, um, Manhattan, um, and all of those  
25 persons who were arraigned there and screened they

2 were either brought right into, ah, our web facility  
3 of CDU unit for the facility EMTC in which we opened  
4 up to house, ah, all persons, males, coming into  
5 custody that were either suspected or positive with  
6 the COVID. And so for all the admissions that were  
7 asymptomatic, ah, MDC became the facility in which we  
8 would house all those persons there, um, and so they  
9 were there for approximately 14 days until they were  
10 cleared by, ah, CHS and then they were properly  
11 housed. And so for anyone who were already in our  
12 system, um, in general population or any other  
13 housing, once, ah, CHS made the notification, ah, we  
14 went out and we actually went to the housing areas to  
15 make sure that, ah, the persons in custody as well as  
16 staff were made aware as to what was going on and we  
17 issued personal protective masks, and that person was  
18 either transferred to EMTC or West Facility and then  
19 the house would be placed on quarantine, um, and they  
20 were notified as to what the protocols would be. So  
21 that's how the housing plan came about.

22 CHAIRPERSON POWERS: OK. So the answer  
23 to that is if an individual, ah, just a short,  
24 cutting this a little bit, if an individual was  
25 tested and positive EMTC and West Facilities became

2 the places where those individuals would go, and then  
3 their housing unit would be quarantined, and today  
4 MDC is being used for all new admissions. Is that  
5 correct?

6 CHIEF JENNINGS: Asymptomatic.

7 CHAIRPERSON POWERS: Asymptomatic. If  
8 you're symptomatic and a new admission you go where,  
9 to EMTC and?

10 CHIEF JENNINGS: You go directly to EMTC  
11 or West Facility.

12 CHAIRPERSON POWERS: Right, OK. So the  
13 Manhattan Detention, how many people are in MDC  
14 today?

15 CHIEF JENNINGS: Ah, we have [inaudible]  
16 just, right around 500, 504 [inaudible].

17 CHAIRPERSON POWERS: 504 are the new  
18 admissions, ah, since you've started doing that that  
19 are asymptomatic in the Manhattan Detention?

20 CHIEF JENNINGS: Correct, yes.

21 CHAIRPERSON POWERS: OK.

22 CHIEF JENNINGS: That is correct. Um,  
23 I'm gonna, I'm gonna, um, hand it over to Council  
24 Member Lancman, but [inaudible] to, ah, a question.  
25 I, I just want to touch on one topic which came up

2 before, I have one more question, so I apologize.

3 Um, you know, the mayor had a few weeks ago, you  
4 know, commented on the 24-hour tours, calling them a  
5 mistake. While I, I don't think anybody here is  
6 going to defend that policy, I, I would like to know  
7 if there have been changes to, directives that,  
8 changes or directives that were put in place to  
9 ensure that no individual staff member is being asked  
10 to work 24 hours in the middle of the pandemic. Can  
11 you share with us what changes have been made?

12 COMMISSIONER BRANN: So, um, at the  
13 height of the pandemic we had a, ah, staff out sick  
14 rate of approximately 34%. Unfortunately there,  
15 there were many staff who were working, um, double  
16 tours because, um, we did not consolidate housing  
17 units as would have been not only fiscally prudent,  
18 but also, um, increasing our ability to, ah, put  
19 staff where they needed to be. We kept those housing  
20 units open according to our housing strategy to  
21 minimize the impact of the virus transmission. And  
22 so unfortunately there were sometimes, very few,  
23 where people went into a third tour. That was, um,  
24 uncovered, it was discovered, and it has been  
25 remediated, and since it was brought to light there

2 have been no recurrences of anyone going into a  
3 triple tour. That has been eliminated. And, um, I,  
4 I will agree there's no, there's no one in this room,  
5 there's no one in this agency who will defend that,  
6 um, and, and we are committed to moving forward with  
7 that not ever happening again.

8 CHAIRPERSON POWERS: Thank you. Um, I  
9 mean, it feels unconscionable in the middle of a  
10 pandemic to ask somebody to work three tours, even  
11 if, even a second tour feels difficult, but I  
12 understand that's practiced, but a third tour feels,  
13 ah, unconscionable to, to me. But I, I do appreciate  
14 that, that being changed and uncovered. Um, I'll  
15 hand it over to Council Member Lancman for questions  
16 and then we'll go to members.

17 CHAIRPERSON LANCMAN: Good afternoon,  
18 everyone. Um, Commissioner, I want to understand  
19 the, um, the testing and, and the cumulative, ah,  
20 positive, ah, numbers. So if, if I, if I heard  
21 correctly it's 1270 tests have been administered to,  
22 um, detainees and 537 of those came back positive.  
23 That's, that's the cumulative number. Do I have that  
24 right?

25 UNIDENTIFIED: Are you asking CHS?

2 CHAIRPERSON LANCMAN: Whoever can answer,  
3 that's fine.

4 UNIDENTIFIED: Correct, so as of May 15,  
5 1270 tests, 537 were positive.

6 CHAIRPERSON LANCMAN: So that's a 42%  
7 positive rate. That's an extraordinary number. But  
8 before we get into that can somebody tell me, either  
9 the Commissioner or CHS why it took weeks and weeks  
10 to get us that information? I'm concerned whether or  
11 not you don't have systems in place, know how many,  
12 ah, people in your custody have tested positive for  
13 COVID-19, or was it some effort to, um, ah, conceal  
14 from the council and the public the, ah, number of  
15 people who tested positive, because it would call  
16 into question, um, how good a job the, the department  
17 was doing, ah, in protecting people? Can you tell me  
18 why it took so long to get that simple number?

19 UNIDENTIFIED: Ah, we, we, it's a  
20 Correctional Health number. Um, we have systems. We  
21 are highly data-driven. Um, we track, you know, even  
22 before there was laboratory testing available we used  
23 every tool and, and all our data systems to identify  
24 people who were at risk or were sick and needed  
25 [inaudible] and shielded from COVID. It is not for a



2 lack of data systems. We report daily to the State  
3 Commission of Correction and report daily to the New  
4 York City Board of Correction. The New York City  
5 Board of Correction, we really appreciate their  
6 service to us by posting our data for us, um, so that  
7 the public can see that. Um, there has been concern  
8 and we have said that, we have said to the New York  
9 City Board of Correction and to the State Commission  
10 on Correction, um, with, with, with caution about how  
11 our numbers are interpreted. Again, the more you  
12 test the more you will find. We have an aggressive  
13 testing, 4.3 times more aggressive than the City of  
14 New York. Um, and, and, and there was concern about  
15 the comparative prevalence that people were going to  
16 draw conclusions. But that didn't stop us from  
17 reporting daily data to the Board and to the  
18 Commission, and the Board posted it for us.

19 CHAIRPERSON LANCMAN: Well, I, I don't  
20 want to speak for the Board. They're going to have  
21 an opportunity to, to testify.

22 COMMISSIONER BRANN: Yeah.

23 CHAIRPERSON LANCMAN: But I don't think  
24 I'm out of bounds in saying that they, too, were very  
25 frustrated in not being able to get the cumulative

2 data that, um, we were seeking as well. So I, I, not  
3 to belabor the point and I don't want to spend more  
4 time litigating why it is that we couldn't get data  
5 that we wanted, but you can assure me that you do in  
6 fact know how many people have been tested and how  
7 many people have tested positive and, and you, you've  
8 had the ability to know that for some time?

9 COMMISSIONER BRANN: It's part of our  
10 patient management. It may not be in a format that,  
11 that suits everybody, but it, it allows us to manage  
12 the, the clinical care that we provide.

13 CHAIRPERSON LANCMAN: Let me ask you  
14 about the testing, and I apologize if I'm, if I'm  
15 going over some things that, that, ah, Council Member  
16 Powers may have asked in a, in a different, better  
17 way. Um, the, the current test that you're giving to  
18 new admissions, how long does it take to get a  
19 result?

20 COMMISSIONER BRANN: About 24 hours.

21 CHAIRPERSON LANCMAN: About 24 hours.

22 And, and can you tell me what's your understand of,  
23 of how long a person, um, ah, might take from the  
24 time that they've been exposed to COVID-19 to

2 actually develop enough of, ah, the virus to test  
3 positive, ah, for it?

4 UNIDENTIFIED: Ah, you know, the details  
5 of viral transmission are changing quickly and our  
6 understand thereof. Ah, typically symptom onset can  
7 occur within, within a range of 14 days, most  
8 commonly around five days. Ah, the time to onset of  
9 PCR positivity would be less than that five-day  
10 window in general, ah, usually two to three days, um,  
11 based on the latest data that I've seen.

12 CHAIRPERSON LANCMAN: And during those  
13 two to three days if for, for, if, let's say I, I was  
14 someone who was in the three-day category, I'm  
15 exposed to it and it's not until day three that I  
16 have enough of the virus that a test would, would  
17 test me as positive. During those three days am I,  
18 um, um, capable of infecting other people with the  
19 virus?

20 UNIDENTIFIED: During the days prior to  
21 test positivity after a point of exposure, is that  
22 what you're asking?

23 CHAIRPERSON LANCMAN: [inaudible].

24 UNIDENTIFIED: No, no, that's not our  
25 understanding.

2 CHAIRPERSON LANCMAN: OK. All right.

3 So, um, you test everyone who's coming in, you get  
4 the test results, um, back in, in, in 24 hours, um,  
5 what is the, um, understanding of the, the accuracy  
6 of, of that test?

7 UNIDENTIFIED: The, the PCR-based testing  
8 has fairly good test characteristics. As you know,  
9 no test used in medicine is perfect. Ah, but in  
10 general we quote a sensitivity of approximately 90%.  
11 Ah, there are various estimates in the literature,  
12 ah, but that's generally what we consider in our  
13 minds.

14 CHAIRPERSON LANCMAN: So, um, someone  
15 comes in, they're newly admitted, they will get  
16 tested. If they have, um, COVID positivity, I think  
17 that's the term you, you used, um, you will know  
18 within 24 hours, ah, in, in about 90% of the cases if  
19 someone, um, has been exposed and they are going to  
20 develop, ah, COVID positivity, um, but, but they're  
21 in that one-, two-, tentatively three-day window of  
22 the test, that test is gonna come back negative. Am  
23 I getting that right?

24 UNIDENTIFIED: Yes, I mean, you're raising  
25 an important limitation of PCR-based testing, that

2 it's really only a point in time, and so testing is a  
3 very important part of the strategy, but it can't be  
4 the entirety of a strategy, ah, because we know that,  
5 ah, it only gives you information about that moment.

6 CHAIRPERSON LANCMAN: Excellent. And,  
7 and, um, although I'm not a doctor or a medical  
8 professional, um, I, I did have a very productive  
9 conversation with someone from the Department of  
10 Health who explained all that to me, and so that  
11 Chairman Powers and I, um, arrived at the, the  
12 conclusion that the only way to truly ensure that  
13 somebody who is newly admitted to Riker's is not  
14 going to potentially infect other people at Riker's  
15 is to quarantine, segregate, isolate each new  
16 admission for at least a period of 10 days. I know  
17 that there's a 14-day potential incubation period.  
18 I'm advised by the Department of Health that that's  
19 really the outer limits of, of science, practically a  
20 [inaudible] incubation period. And so can you tell  
21 me are you, um, isolating, segregating, quarantining  
22 new admissions for 10 full days, irrespective of  
23 whether or not their test comes back positive or  
24 negative, because you observed that test is only a  
25 moment in time. Some percentage, some percentage of

2 individuals who test negative in fact will have the  
3 ability, the capacity to infect other, ah, inmates  
4 and staff, ah, for potentially up to ten days.

5 UNIDENTIFIED: So thank you, that's,  
6 that's a great, great question or, or, or, thank you.  
7 Um, I think Chief of Department Jennings, um, and,  
8 and/or Commissioner Brann mentioned this, ah, working  
9 in concert together, the two agencies have created  
10 new admission housing where people who, whose test  
11 results are pending they all, everybody is, is housed  
12 together, in fact quarantined together.

13 CHAIRPERSON LANCMAN: Well that's fine  
14 for the people whose test results are, are pending.  
15 So for a period of 24 hours they are, they are  
16 segregated. But as we just went through, um, unless  
17 I'm getting something wrong, some percentage of new  
18 admissions will test negative even though they are  
19 positive, either because their, um, ah, COVID  
20 positivity, ah, time period has not, has not, ah,  
21 expired or because approximately 10% of those, ah,  
22 negative test results are just flat-out wrong. So  
23 why are we exposing the rest of the population at  
24 Riker's Island and the rest of the population at  
25 whatever units these individuals are sent to after

2 their 24-hour quarantine period, rather than fully  
3 quarantining and isolating them for the full 10 days?

4 UNIDENTIFIED: So I just, I just want to  
5 clarify that we are, we're not using that test to  
6 release them from that new admission housing. So we  
7 do, we do keep them together for longer than that.  
8 Of course, each individual situation has to be  
9 handled on a case-by-case basis, so there are other  
10 considerations, whether they're clinical  
11 considerations such as comorbid mental illness, ah,  
12 that have to be taken into account, ah, but the test  
13 is not used as the sole factor in, ah, moving someone  
14 to general population.

15 CHAIRPERSON LANCMAN: But, but, but let  
16 me understand, let's understand, let me understand,  
17 when you say new admission housing, those are all the  
18 people who are newly admitted after that housing was,  
19 was, was set up, if I'm not mistaken, and, and more  
20 to the point that housing includes people who  
21 themselves have passed through ten days since their  
22 admission, have shown no symptoms, and who are, ah,  
23 virtually certainly not, ah, COVID-19 positive. So  
24 those people are vulnerable to being, um, exposed by  
25 someone who has been admitted, whose COVID positivity

2 is not yet lapsed, or who is in the pool of 10% of,  
3 of negative tests that are, ah, in fact COVID  
4 positive.

5 CHIEF OF STAFF COOK: Chair Lancman, this  
6 is Brenda Cook, chief of staff. Let me see if I can  
7 try and clarify your question and provide  
8 information. So if I understand your question  
9 correctly you could possibly be asking whether or not  
10 we're putting people, why we aren't putting people in  
11 a 24-hour lockdown in a cell situation for 10 days,  
12 is that, is that what you're asking? Because you  
13 want them to have no access to anyone?

14 CHAIRPERSON LANCMAN: No, no, no, and  
15 [inaudible].

16 CHIEF OF STAFF COOK: Because we're not  
17 doing that, and I was going to clarify that we aren't  
18 doing that for a lot of reasons, because [inaudible].

19 CHAIRPERSON LANCMAN: Well, I, that's  
20 not, that's not what I was asking.

21 CHIEF OF STAFF COOK: Yeah.

22 CHAIRPERSON LANCMAN: You asked me if  
23 that what I was asking [inaudible].

24 CHIEF OF STAFF COOK: So, OK, I wanted to  
25 clarify that. So what we are doing is, um, all of



2 the housing units at the Manhattan Detention Center  
3 are adult housing units. So everyone who lives there  
4 has a single-occupancy cell. Um, when people come in  
5 new admission, the new admission, ah, designation,  
6 and there is designated new admission housing for an  
7 extended period of time, beyond the one to three days  
8 that you've been talking about. So those folks will  
9 live in a new admission housing pending testing and  
10 including post, the, the outcome of their testing,  
11 which is what, ah, Dr. MacDonald was referring to.  
12 As a general rule we have been limiting the rehousing  
13 or the movement of anyone in our custody unless  
14 necessary for clinical reasons or for safety and  
15 security reasons throughout this pandemic. And so  
16 those who are living at MDC, when they come in as a  
17 new admission house, into a new admission house with  
18 others who are newly admitted they stay there for an  
19 extended period of time. In fact, we have opened up  
20 additional new admission housing at MDC, including up  
21 to, as of today, because we are opening up new houses  
22 as opposed to continuing to our, what would be our  
23 prior operational practice, which is to have people  
24 in new admission housing for just a handful of days  
25 and then move them in 72 hours and then move them to

2 a different house. So we have modified all of our  
3 operations with the principle of containment, and so  
4 limiting the movement and the exposure of additional  
5 people to, to the new people in custody has  
6 definitely guided our practices with respect to  
7 housing, operations, and guidance from a clinical,  
8 ah, professional [inaudible].

9 CHAIRPERSON LANCMAN: So, so here's,  
10 here's my, my concern and my question. I'm newly  
11 admitted to Riker's. I take my tests, I'm negative.  
12 Ten days pass, 14 days pass, no symptoms. I don't  
13 have COVID-19. I am still in that new admission unit  
14 and another guy is coming in, and he may have COVID-  
15 19. He may expose me to COVID-19 because the test  
16 that you're giving him 10% of the time it's gonna  
17 give a false negative and some percentage of people  
18 coming in, some percentage of the guys coming in  
19 behind me are gonna not be COVID-positive or have  
20 COVID positivity at the time that their test is  
21 taken. So I don't want to make up a statistic,  
22 whether it's 10%, 15%, I don't know what the right  
23 number is. But certainly some percentage of people  
24 who are coming in after 14, 15, 20 days after I came  
25 in are going to be in a position to infect me,

2 because even though I'm a new admission relative to,  
3 to, to the general population, I am still stuck with  
4 potentially COVID-19-positive people because those  
5 people are not being isolated from the 10, 14 days or  
6 really it will take 10 days that would certainly  
7 definitively determine that they're not able to  
8 infect anyone else, including their fellow new  
9 admission housing unit resident.

10 CHIEF OF STAFF COOK: Yeah, I think the,  
11 I think the challenge with your hypothetical, um,  
12 sir, is that, as Dr. MacDonald identified, um, it  
13 presumes, ah, as Dr. MacDonald identified, was not  
14 the proper approach. Ah, your hypothetical presumes  
15 that testing is our only strategy. And so in  
16 addition to, um, testing as a strategy to identify  
17 and, um, minimize and contain, ah, exposure in  
18 [inaudible], you know, we obviously have robust, um,  
19 sanitation protocols, we have, ah, PPE distribution  
20 for both people in custody and our staff. We have,  
21 um, other housing strategies, including the  
22 identification of individuals, um, you know, who's  
23 lived in the house who are in fact asymptomatic, um,  
24 but have been exposed, and then we have additional,  
25 ah, operations with respect to the limitations, ah,

2 for those housing designations that are guided by,  
3 ah, and directed by CHS and only listed, um, at the  
4 direction of CHS. And so it's a multilayered, um,  
5 complex approach, ah, which testing is, is obviously,  
6 as Dr. Yang has described, robust and important, but,  
7 um, but not our singular approach and, and I'm not  
8 gonna, I'm not gonna sit here and tell you that it is  
9 perfect, because obviously, um, you know, absent, you  
10 know, absolute isolation of every person from every  
11 person forever, um, you know, there's always a risk  
12 of, ah, introduction, ah, you know, of a person in  
13 custody or a staff member or, or across each other,  
14 um, to, to a very, very, um, virulent, deadly  
15 disease.

16 CHAIRPERSON LANCMAN: Um, let me just ask  
17 two more questions or categories of questions, but,  
18 but briefly. Um, what, ah, um, accommodations,  
19 mechanisms have been put in place for, ah, ah,  
20 detainees to be able to communicate easily with  
21 their, with their counsel?

22 CHIEF OF STAFF COOK: I'll ask, um, Chief  
23 Jennings to respond to that.

24 CHIEF JENNINGS: Yes, so, um, one of the  
25 things that we've done is that, ah, we have added,

2 ah, additional, ah, units to each facility to be able  
3 to allow persons in custody to, ah, do, visit, ah,  
4 via Skype for their attorneys and/or the courts. And  
5 currently today we have approximately 55 units  
6 totally, ah, operational.

7 CHAIRPERSON LANCMAN: And, and...

8 CHIEF OF STAFF COOK: And we have, and we  
9 have, ah, ah, access to the telephones, um, in  
10 addition to the fact that, ah, personal calls in the  
11 department have been free. Ah, the calls to  
12 attorneys are, are exempted, um, from any phone, ah,  
13 limits and they can call their attorney as frequently  
14 as they like.

15 CHAIRPERSON LANCMAN: And those rooms  
16 are, are, are private and, and confidential and, and,  
17 ah, someone can speak, ah, candidly to their, their  
18 attorney without fear of being overheard?

19 CHIEF OF STAFF COOK: Yes, they are.

20 CHAIRPERSON LANCMAN: My last question.  
21 Um, since you mentioned phone I was gonna just pick  
22 one example from the Board of Corrections, ah, audit  
23 and review that found, um, the problems with, with  
24 the actual implementation of a number of these safety  
25 mechanisms, um, but one, for example, ah, found that

2 across 45 instances of phone use the phone was  
3 cleaned before use only three times. Um, and, and it  
4 was cleaned apparently, ah, with a wipe, ah, of a  
5 cloth or, or a sponge. Um, listen, it's a big  
6 operation, um, thousands of people in a confined  
7 environment. Um, but what, Commissioner, I want to  
8 ask you, you personally 'cause, you know, we haven't  
9 seen a lot of you, um, and you know what, if the  
10 job's getting done I, I don't need you to be out  
11 there and, ah, front and center necessarily. Um, but  
12 can you tell what are you doing, you personally, to  
13 make sure that these operational changes that reach  
14 you at the level of a, of a, of a conference room and  
15 a, or a memo, that they are actually happening? How  
16 you are able to, to, in a hands-on leader way able to  
17 make sure that, that these, these operational changes  
18 are happening?

19 COMMISSIONER BRANN: So, um, I personally  
20 tour the jails. So I'm, I'm not sure what you mean  
21 that you haven't seen me out there, that could be in  
22 front of the press, but I've been busy in the jails  
23 and I tour with my warden and I tour with my deputy  
24 commissioner, and I review audit protocols, I talk  
25 with staff, I've talked with people in our custody to

2 make sure that everyone is aware of, um, how to  
3 protect themselves as much as possible against the  
4 spread of this disease. I find that when I do talk  
5 to folks that, um, that they're not, they're not  
6 concerned that they don't have things available to  
7 them, ah, some of the time they just, they forget to  
8 use it. So I have seen, um, the Virex and the  
9 sponges, the buckets of that available to people in  
10 custody near the phones, so people choose not to use  
11 them. Some people choose to use a sock to cover a  
12 phone or to use a T-shirt, and it's, and that's not  
13 abnormal in a, in a correctional facility. That was  
14 occurring even before this pandemic, um, came through  
15 our jails. Um, with regard to the BOC audit that you  
16 mentioned, that was, um, 12 days in mid April and we  
17 have, um, significantly increased our, our audit  
18 response and our, um, processes. And so as people  
19 become more aware of how they can protect themselves  
20 they're using it better. Um, I frequently see, ah,  
21 people in custody not wearing their masks and I talk  
22 to them about wearing their masks. They have them.  
23 They're around their chins, but they're not wearing  
24 them. And so a lot of it is reinforced education by  
25 staff who are working every day and by when our

2 leaders are walking through the facility to make sure  
3 people know what they have available to them and use  
4 it to their advantage. If you would like, um,  
5 additional information I'll have Deputy Commissioner  
6 Feeney talk about the audits and what's available to  
7 everyone in the housing units.

8 CHAIRPERSON LANCMAN: No, I, I, no thank  
9 you. I just want, and I'll close with this. Um, ah,  
10 you know, you have one of the hardest jobs in, in  
11 government. Um, a thankless job, ah, the situation  
12 in Riker's is so, so fundamentally and inherently bad  
13 that we're, we're, we're shutting it down and  
14 building new jails. Um, and, and I, you know, I just  
15 want to have a level of confidence. I've been  
16 reached out by constituents, family members of the  
17 incarcerated, many correction officers, you know,  
18 they want to know that you're out there, that you're  
19 leading. Um, and it's true, we haven't seen you, as  
20 you put it, out in front in the press and, and, and I  
21 don't, I'm not saying you need to be. Um, I just  
22 want to know that, that, you know, you're handling  
23 this, that you're, that you're, you're leading this  
24 effort in as much as a hands-on way, um, as, as  
25 possible. So, um, so I appreciate your answer and I



2 hope we can all, you know, get through this together.

3 Ah, that's all I have, Keith, thank you.

4 CHAIRPERSON POWERS: Thank you. I think  
5 we're going to move now on to council member  
6 questions. Thank you for everybody's patience with,  
7 ah, with us. We are long-winded collectively, but, I  
8 know I am at least, but, um, thank you, guys. We're  
9 gonna move on to questions and Alana will take it the  
10 order that [inaudible].

11 COMMITTEE COUNSEL: Thank you. I will  
12 now call on council members in the order that they  
13 have used the Zoom raise hand function. If you would  
14 like to ask a question and you have not yet used the  
15 Zoom raise hand function please raise it now.  
16 Council members, please keep your questions to three  
17 minutes. The Sergeant at Arms will keep a timer, and  
18 I will let you know when your time is up. You should  
19 begin once I have called on you and the sergeant has  
20 announced that you may begin before delivering your  
21 testimony. First we'll hear from Council Member  
22 Rivera, followed by Council Member Holden. Council  
23 Member Rivera?

24 SERGEANT AT ARMS: Time starts now.

2 COUNCIL MEMBER RIVERA: OK, thank you.

3 Thank you so much, ah, for allowing me these  
4 questions. Thank you all for being here and for your  
5 service and, um, it's never easy to lose colleagues,  
6 to lose people, New Yorkers, um, so I want to just  
7 thank the chairman for allowing a moment of silence  
8 as well. Um, I, I only have a couple minutes for  
9 questions so I'll keep them very brief. I want to  
10 start with you, ah, Dr. MacDonald. Um, I thought you  
11 made a very [inaudible] and courageous statement with  
12 Twitter. You said you cannot change the fundamental  
13 nature of jail. We cannot socially distance dozens  
14 of elderly men living a dorm and you urged district  
15 attorneys and courts to let out as many people as you  
16 possibly can, and I quote, "Do you think that there  
17 are still additional individuals that could be  
18 released in order to, ah, keep more ah, I would say  
19 members of the DOC and of course people who are  
20 detained and incarcerated safe?"

21 DR. MACDONALD: So I see as a doctor the  
22 medical side of that equation, ah, and what I saw the  
23 city do, um, with many different partners was, ah,  
24 respond to the urgency of the situation. Um, and I,  
25 I think that, as Dr. Yang mentioned, we are certain

2 that we saved many lives through the variety of  
3 efforts and, ah, depopulation of the jail,  
4 decarceration was a critical effort, probably the  
5 most important one. Ah, so I feel very good about  
6 how the city responded to the, to that particular  
7 question.

8 COUNCIL MEMBER RIVERA: And I understand,  
9 I understand that maybe we've asked you a, a couple  
10 times in different ways, but I just feel at this  
11 point our executive leadership has kind of failed in  
12 that way in terms of being able to release people  
13 with kind of a click of a pen. But I will move on  
14 to, ah, some of staff there. So the board has found  
15 relatively low rates of people in custody with PPE  
16 and I just want to make sure that CHS's, ah, what  
17 efforts you've made to provide public health  
18 education to people in custody, to encourage mask use  
19 and social distancing, and what else you've done for  
20 those detained or incarcerated, ah, to stay safe in  
21 terms of PPE?

22 UNIDENTIFIED: I mean, it's, it's part of  
23 our, our, um, patient education and information.  
24 Again, it's, it's, we have, you know, touch points  
25 throughout the criminal justice process from

2 prearrest on intake, ah, at every clinical  
3 encounter, including telephonic, which is a new thing  
4 under, under COVID that we did, um, and on discharge.

5 COUNCIL MEMBER RIVERA: I'm gonna ask you  
6 about telehealth in one second. Um, I just want to  
7 give you two questions, since I have to ask  
8 everything in the three minutes. But, um, I want to  
9 ask how many currently in custody have recovered from  
10 COVID-19. The number currently in custody who have  
11 tested positive includes recovered patients, but we  
12 don't know how many. And then in terms of

13 COMMITTEE COUNSEL: Time expired.

14 COUNCIL MEMBER RIVERA: If I could just  
15 finish my thought, Chairman. Ah, we've heard  
16 complaints about the telehealth number often ringing  
17 with no answer and we've heard this complaint with  
18 regards to both 311 calls and calls to sick call.  
19 There's also the nighttime shift and being  
20 responsive. So can you talk a little bit about the  
21 telehealth and what CHS staff is providing and when  
22 they're expected to answer the telehealth line? And  
23 if you could just give me the, the custody, ah, the  
24 numbers of people in custody who have recovered I

2 would greatly appreciate it and thank you both for  
3 being so gracious with your time.

4 UNIDENTIFIED: Right, um, I will get back  
5 to you on the numbers of people, um, who have  
6 recovered, ah, do some, some calculations. Um, the,  
7 the two lines that we stood up specifically related  
8 to COVID was, um, ah, a telephone line and this is  
9 again the first time that people who can call us  
10 directly from their housing units. Um, that, that is  
11 unprecedented and that has only been possible through  
12 the partnership with DOC. Um, we have a line for  
13 people who are asymptomatic but have known exposures  
14 to COVID to call us, um, to report symptoms that they  
15 may have, the concerns that they may have. We also  
16 established a mental health line for people who are  
17 either symptomatic or confirmed to have COVID to talk  
18 with any of our staff, our, our mental health staff  
19 about some of their concerns or anxieties about the  
20 disease or, or what it means to them. Um, those,  
21 those operate, um, the mental health line operates  
22 from 10:00 a.m. to 2:00 p.m. and asymptomatic  
23 reporting, um, from 10:00 a.m. to 5:00 p.m. Um, we  
24 also, um, have made, made known the [inaudible], ah,  
25 line for people, um, who have been victims of, of,

2 ah, sexual assault. And that runs from 6:00 a.m. to  
3 6:00 p.m.

4 COUNCIL MEMBER RIVERA: Well, thank you.  
5 That's all time I have. Thank you very much.

6 COMMITTEE COUNSEL: Thank you. Next we  
7 have Council Member Holden.

8 SERGEANT AT ARMS: Time starts now.

9 COUNCIL MEMBER HOLDEN: Thank you,  
10 Chairs, and, ah, thank you all. Nice to see you  
11 again virtually, it's not the, it's not the greatest  
12 but, ah, it's all we have. , ah, I guess this  
13 question is for MOCJ. Um, for inmates involved with  
14 the early release, how many have no home to go to?  
15 In other words, what percentage of those who were  
16 granted early releases were ultimately sent to the  
17 homeless shelter system?

18 DEPUTY DIRECTOR KAPLAN: Hi, so we, ah, I  
19 don't offhand have the number of individuals who were  
20 homeless who were granted, ah, the discharge into the  
21 6-A program. But what I can say is that we provided  
22 hotel rooms, ah, for that population. So we have  
23 hotel rooms that are available now for anyone who is  
24 being released from Riker's Island and doesn't have a  
25 place to go, where they can safely quarantine. We

2 have hotel rooms that are available both for people  
3 who are identified as having, ah, coronavirus, where  
4 they can be in one of the specific designated  
5 isolation sites, and then we also have hotel rooms  
6 available for people who are, ah, asymptomatic or who  
7 have not been identified as having COVID-19, where  
8 they can go and have an individual room. And so  
9 actually one of the, this program was started, ah,  
10 around the exact same time as we began the 6-A  
11 program so that any individual who was identified as  
12 being a city-sentenced individual who was being  
13 discharged into the 6-A program would be able to be  
14 placed in a hotel and we have reentry providers on  
15 site as well as those same linkages to the, ah,  
16 medical services that CHS was describing in terms of  
17 the follow-up care.

18 COUNCIL MEMBER HOLDEN: That's, that's  
19 good to know. So nobody was released into the  
20 congregate shelter system. Because that, that would  
21 be like stepping backwards actually.

22 DEPUTY DIRECTOR KAPLAN: Yes, so we have  
23 hotel rooms that are available for everyone. I will  
24 say that when we have, when it has been made aware to  
25 us that someone was released and did not have a place

2 to go after the fact we made sure that we were able  
3 to make a referral point back. So, ah, the mechanism  
4 is in place for that.

5 COUNCIL MEMBER HOLDEN: Thank you so much  
6 for that. Um, I guess this is for the Department of  
7 Correction. Um, with the proposed borough-based  
8 vertical jail model do you see a potential problem  
9 now with the, you know, coronavirus spread, um, that  
10 there might be some issues as apposed to, um, ah,  
11 let's say a rebuilt Riker's, would you have more  
12 indoor and outdoor space?

13 COMMISSIONER BRANN: It would be hard  
14 right now to make a judgment call on, on the inside  
15 of the building design because none of that has been  
16 decided. But I think what we will be doing is using  
17 what we've learned in our housing strategy and how  
18 we've contained this virus so far into those  
19 discussions...

20 COMMITTEE COUNSEL: Time expired.

21 COMMISSIONER BRANN: ...as we look at the  
22 inside of those buildings.

23 COUNCIL MEMBER HOLDEN: Ah, Chairs, can I  
24 just ask one quick question, um, I, um, I believe  
25 that the, ah, correction officers got the masks



2 around April 3. Um, why did the, um, why did COBA  
3 have to sue to get the PPEs?

4 COMMISSIONER BRANN: So they did not have  
5 to sue to get the PPEs. We were delivering, um,  
6 masks in early March. I believe it was March 11,  
7 before it was even, um, recommended, and, um, I can't  
8 speak for why COBA felt the need to go to court, but  
9 we were already distributing PPEs prior to that court  
10 action.

11 COUNCIL MEMBER HOLDEN: OK. Thank you,  
12 Chairs. Thank you, Commissioner.

13 COMMITTEE COUNSEL: Thank you. Next  
14 we'll hear from Council Member Ampry-Samuel, followed  
15 by Council Member Louis.

16 SERGEANT AT ARMS: Time starts now.

17 COUNCIL MEMBER AMPRY-SAMUEL: Hi,  
18 everyone. I don't want to waste anyone's time. Um,  
19 usually by like two hours in we've, um, you know, had  
20 the opportunity to hear from the different agencies  
21 and so I asked, my questions are all related to our  
22 juvenile detention centers and focused, um, directly  
23 to ACS, and so, um, I guess I'll have to hold until  
24 we hear from them, um, and I'll do the.

2 COMMITTEE COUNSEL: Thank you. Next we  
3 will hear from Council Member Louis.

4 SERGEANT AT ARMS: Time starts now.

5 COUNCIL MEMBER LOUIS: Good afternoon  
6 everyone. I want to thank Chairs, um, Powers and  
7 Lancman for, um, organizing this call. So I have two  
8 quick questions. Ah, the first question is for  
9 Angel. On April 9 I reached out to the Department of  
10 Correction. I got a lot of phone calls and emails  
11 from corrections officers, um, that tested positive  
12 for COVID and required to go back to work. They even  
13 emailed me their, um, test results. So I want to  
14 know when did HMD implement the tracking for uniform  
15 and un-uniform staffers that tested positive. And the  
16 second, let me just be quick, because I know the time  
17 is limited. The second question is for DOC, so it  
18 was mentioned that tablets were made available to  
19 those that were incarcerated and 55 units were  
20 designated, um, for rooms for Skype and for home,  
21 home purposes. But I wanted to know how often, um,  
22 will the, ah, incarcerated population be able to  
23 provide, be able to, um, have visits, video visits  
24 with their family members, um, that wasn't answered  
25 in some of the, ah, questions that the chairs

2 mentioned, and what's the plan moving forward? Do  
3 you, are you gonna have, expand capacity, is it gonna  
4 be more than 55 units? What does the technological,  
5 um, aspect of this look like moving forward? Thank  
6 you.

7 FIRST DEPUTY COMMISSIONER VILLALOMA: I  
8 will, I'll answer the first question, this is related  
9 to HMD. We began tracking both uniform and  
10 nonuniform staff at HMD at the very beginning of  
11 March. I believe it was around the 6th of March, but  
12 I could get you the exact date.

13 COUNCIL MEMBER LOUIS: So what happened  
14 with those officers as of April 9 that were still  
15 required to go back to work even though they tested  
16 positive?

17 FIRST DEPUTY COMMISSIONER VILLALOMA: So,  
18 um, without speaking to the specific situations of  
19 the individuals that reached out to you, I can say  
20 that, as I've previously mentioned, every one our  
21 uniform and nonuniform staff, um, whether they test  
22 positive or not are assigned to a doctor, who tracks  
23 their progress and they are, um, cleared to return to  
24 work when they are no longer symptomatic. Ah, and  
25 that is in consultation with their doctor based on

2 the documentation that that employee provides. So,  
3 um, if you have specific names and, um, that you  
4 would like, um, information on we can, um, um, speak  
5 about those, um, separately. But our policy is, as,  
6 um, I just articulated to you and to, ah, previously  
7 Chair Powers.

8 COUNCIL MEMBER LOUIS: Thank you, and to  
9 the Department of Correction regarding capacity for  
10 video conferencing for participation, ah, with family  
11 members and incarcerated?

12 UNIDENTIFIED: [inaudible] um, we have  
13 installed, ah, approximately 74 kiosks, ah,  
14 department-wide, and we've done over, ah, 3400 actual  
15 visits, which are available [inaudible] duration.  
16 Um, one of the things that, um, we looked at and  
17 prior to this pandemic we had always looked at of  
18 ways of increasing our visitation and I think that  
19 our plan all along to do additional, ah, kiosks in  
20 the housing areas, which we're looking to expand that  
21 and even when we go back to, ah, what normality will  
22 look like where we have in-person visitation is  
23 something that I would like to keep and also  
24 encourage, because, um, you know, we're looking to  
25 install additional kiosks in the housing areas so

2 that people in custody can communicate with their  
3 families, because one of the things that we know is  
4 that, um, having that communication really creates a  
5 more positive outcome. Um, we had the liberty of  
6 going away to Norway to look at, ah, the way in which  
7 they are currently doing their processes and when we  
8 talk about the borough-based facilities that one of  
9 the things we would like to see is that for persons  
10 to all have tablets or kiosks in their living area so  
11 that if it's in your cell they will have the  
12 capability of doing, ah, both video visitation as  
13 well as, ah, texting, ah, to the family members,  
14 where they have capabilities of doing short videos or  
15 different, you know, like, ah, ah, activities that's  
16 happening so that they're able to participate in  
17 those, um, as well as doing, um, ah, actual health,  
18 telehealth visits, you know, um, social services,  
19 [inaudible] to be able to do those things from a  
20 tablet. So we're definitely looking, um, at the hose  
21 opportunities to include these services to people and  
22 it's something or vision that I've had all along, so  
23 we're just now taking advantage of that, um, and also  
24 to do the attorney visits, um, so that they will be  
25 able to have more contact, ah, with their attorneys

2 and, um, we've also been able to court arraignment,  
3 um, via the kiosk. So it's something, I think that  
4 we need to take an opportunity of this technology  
5 moving forward so that we will change the way in  
6 which we do business.

7 COUNCIL MEMBER LOUIS: I look forward to  
8 seeing more on that, thank you.

9 UNIDENTIFIED: You're welcome.

10 CHAIRPERSON POWERS: OK, we're gonna keep  
11 moving on, um, and we're gonna [inaudible] I think  
12 Council Member Ampry-Samuel had questions that we're  
13 going to come back to with ACS on, so they'll go  
14 next. I'm sorry about that.

15 COMMITTEE COUNSEL: Thank you. Next we  
16 have Council Member Lander.

17 COUNCIL MEMBER LANDER: Ah, sorry.

18 SERGEANT AT ARMS: Clock starts now.

19 COUNCIL MEMBER LANDER: Um...

20 SERGEANT AT ARMS: Clock starts now.

21 COUNCIL MEMBER LANDER: Good afternoon.

22 Thank you for being here, and thank you, Chairs, for  
23 convening this hearing. Um, I just want to associate  
24 myself with the, um, taking our time to think about  
25 and thank and mourn those that we've lost in, in all

2 your agencies. And, I also really do, to  
3 Correctional Health Services especially, both Ross,  
4 to you, ah, but also Dr. Rachel Bedard, who was one  
5 of the people who really rang the alarm bell earliest  
6 and loudest. For me, pushing me not only to seek out  
7 about, ah, the releases that we need to do and the  
8 changes that needed to make to do as best as  
9 possible, but even to get shut down earlier, ah, out  
10 of a real commitment to saving the lives of patients.  
11 So, ah, I'm grateful for Correctional Health Services  
12 as well as the other agencies, ah, all of you at, at  
13 this time. And I guess I'll say, you know, I wish we  
14 were going, ah, further in all of these ways, having  
15 read that Board of Correction report on the continued  
16 social distancing violations, wanting to think about  
17 who's there that doesn't need to be. We could go  
18 further. We should go further. But I will say by  
19 comparison to what I'm seeing at the state and  
20 federal, ah, correctly systems, ah, I appreciate the  
21 work that is being done to have gotten our numbers  
22 down and to have changed, ah, our systems as well.  
23 Um, I'm going to ask two questions and I'll just go  
24 ahead and ask them now and then, ah, take your  
25 answers. One is about one of the bills. Um, I want

2 to ask some questions about the fees. Um, I know you  
3 gave us a kind of one-line we support in principle,  
4 um, but I really would like to drill down here,  
5 because there was a hearing on this issue back in  
6 2016 and I think we asked then whether you had  
7 explored with DCAS prepayment processing options, um,  
8 that are available for other, can you guys hear me  
9 still?

10 UNIDENTIFIED: Yes.

11 COUNCIL MEMBER LANDER: OK, sorry, I  
12 apologize. Um, um, ah, have you explored with DCAS  
13 prepayment processing options that are available for  
14 many other city payments? If so, what's going on  
15 there? If not, can we set a deadline for getting  
16 that answer? What can you tell us about how many  
17 deposits are made each year and what New Yorkers are  
18 spending on those deposit fees. Um, and are you  
19 aware of the fact that other jurisdictions, ah, even  
20 our current vendors are charging a lot less. I was  
21 surprised to see that a \$40 deposit with JPay costs  
22 \$6 in New York City, but only \$2.75 in Kentucky. So  
23 help us understand what you've done and how we can  
24 get that done quickly, and then I just have a much  
25 larger question. Um, because having gotten the



2 numbers down as far as they are and understanding  
3 what it really means to think about who needs, you  
4 know, who we think we need to incarcerate and hold,  
5 ah, differently in a pandemic. I'm curious like what  
6 you started to think about that you might want to  
7 think about after this pandemic, about what we should  
8 learn, about, you know, how, you know, obviously what  
9 we've heard on the other side, so to speak, from, ah,  
10 the former police commissioner, even the current  
11 police commissioner.

12 COMMITTEE COUNSEL: Time expired.

13 COUNCIL MEMBER LANDER: And just without  
14 much data throwing out the idea that some of the  
15 things that are being done jeopardize public safety.  
16 I really want to learn here. I want to see how, how  
17 new people we can incarcerate. So what are we doing  
18 to learn from what we're doing to get it right going  
19 forward and how are you thinking about building from  
20 this awful, awful pandemic to build a far more humane  
21 and just, ah, criminal justice system, ah, in the  
22 days after the pandemic? Thank you.

23 COMMISSIONER BRANN: So I, I would ask,  
24 um, DC Lyons to, to speak about fees. But before I  
25 ask her to do that I would just like to say that I've

2 spent most of my career in corrections, um, almost 30  
3 years, managing risk in the community. And I think  
4 that the, um, the communication and the collaboration  
5 between all of the criminal justice agencies in the  
6 city now have come together to learn about how to do  
7 that well, that we are taking a proactive and  
8 individualized look at each person who is [inaudible]  
9 to our custody and, um, looking at whether or not  
10 once they're sentenced that they could go back into  
11 the community without much risk, um, and be  
12 productive. With regard to the courts and the DAs,  
13 um, we all have to work together to understand real  
14 risks in the community, risk to self, risk to other,  
15 and risk to public safety. So I think moving forward  
16 we will take these lessons that we've learned, ah,  
17 how successful this program has been and move  
18 forward, um, in collaboration with each other rather  
19 than at odds.

20 COUNCIL MEMBER LANDER: Would you commit  
21 to giving us, making that report and those learnings  
22 public, I guess either as part of the required, ah,  
23 legislation here or separately so that that learning  
24 you guys are doing internally, ah, I guess where you  
25 all agree and where you don't all agree, we can

2 really see that data and have a real understanding of  
3 what we're learning?

4 COMMISSIONER BRANN: Well, I, I'm not  
5 going to speak for MOCJ, but they, because they're  
6 situated out of the mayor's office they have the  
7 ability to gather all of that information, um, and if  
8 they're willing to do that I'm sure that they would  
9 be happy to do that. They're, they're, um, putting  
10 out reports all the time with regard to information  
11 that we gather as a city and how we work together.

12 COUNCIL MEMBER LANDER: Dana, is that,  
13 can you make that commitment?

14 DEPUTY DIRECTOR KAPLAN: Yeah, so and,  
15 and as the Commissioner said, we have been putting  
16 out, ah, regular fact sheets right now. As you  
17 noted, Council Member, the decline that we've seen in  
18 the jail population is something that is, ah,  
19 significant, impressive, the, you know, lowest jail  
20 population since 1946 and we agree that this is a  
21 good thing and that we can learn from this. Ah, you  
22 know, we, there was recently, ah, an analysis and  
23 assessment put out around the 6-A program that some  
24 of the nonprofit providers that are involved in the  
25 supervision component, ah, released, but certainly we

2 will continue to work with the agencies and, ah, can,  
3 you know, continue to share updates on both, um, the,  
4 the data but also, you know, what we plan to do in  
5 the future in terms of sustaining, ah, this progress.

6 COMMISSIONER BRANN: Patricia?

7 DEPUTY COMMISSIONER LYONS: Yes.

8 COMMISSIONER BRANN: If you could handle  
9 the second part?

10 DEPUTY COMMISSIONER LYONS: Sure, thank  
11 you, Commissioner. Thank you, Council Member, for  
12 your question regarding the fees. So we have not  
13 engaged DCAS in those discussions, but I'm happy to  
14 have those conversations with them and explore what  
15 options they have for us, and additionally because  
16 the fees that are collected for the deposits related  
17 to, um, banking with the commissary are outside of  
18 the correction department, meaning there are fees,  
19 you know, allocated to a third-party vendor that we  
20 don't see. I wouldn't necessarily have that  
21 information offhand as to what has been collected,  
22 um, by those vendors. Um, it's certainly a question  
23 we can explore with you. But I think, you know, now  
24 is the time to look forward and, um, in the spirit of  
25 this bill, take a look at all the agreements that we

2 do have right now and see what, um, what  
3 modifications we can make.

4 COUNCIL MEMBER LANDER: I'm, I'm well  
5 over time, but Chair Powers, if you want to follow up  
6 on any of those, ah, items since the bill is yours.  
7 Ah, I hope you will.

8 CHAIRPERSON POWERS: Thank you, will do,  
9 [inaudible], thanks.

10 COMMITTEE COUNSEL: Thank you. Next we  
11 have Council Member Yeger.

12 SERGEANT AT ARMS: Starting time.

13 COUNCIL MEMBER YEGER: Thank you very  
14 much, Mr. Chairman. Um, OK. Ah, I just, ah, my, my  
15 portions are very brief and, ah, Council Member  
16 Lander's questions actually touched on a little bit  
17 of, ah, where I'm coming from. I am, ah,  
18 cosponsoring one of Council Member Powers's bill, ah,  
19 the introduction related to deposits in commissary  
20 accounts, and I view this, um, ah, similar to how I  
21 viewed, ah, a previous bill of Councilman Powers, ah,  
22 Introduction 1199, which he sponsored last year, this  
23 past, ah, and it related to fees on bail. Um, I  
24 believe as a [inaudible] society we have the  
25 unfortunate need for a criminal justice system, ah,

2 to protect the public and, ah, it's unfortunate but  
3 it is necessary. But that also doesn't mean that  
4 government should either profiteer or should sit idly  
5 by, ah, while others profiteer off the incarceration  
6 and frankly off of people's misery. Um, so my  
7 question really is the following. Ah, I've rarely,  
8 if ever, seen an agency come before this council and  
9 say, um, hey folks, that's a fine bill you have  
10 there. You should pass it tomorrow. And, ah, with  
11 respect to this bill you've indicated that the  
12 administration supports the intent of the bill, um,  
13 you look forward to further discussing this with the  
14 council. Ah, the council's here. The prime sponsor  
15 is here. Ah, looks to me like, you know, my time is  
16 gonna run out very soon. Ah, I guess, um, as will  
17 all of our time at some point. But, ah, here we are.  
18 Tell us what's wrong with this bill and what needs to  
19 be done, assuming that Councilman Powers can get in  
20 front of a keyboard today and type in a couple of  
21 syllables or comment here or there. What is it  
22 that's preventing you from saying right now this is a  
23 good bill, you want it to pass today, tomorrow, the  
24 next day, and look forward to its implementation?  
25 What is it? That this is an outside vendor and

2 therefore you don't control it. That's great. Does  
3 that mean that, that the, only an outside vendor can  
4 run this? Can this city not run this program? What  
5 is so complicated about you coming in and saying good  
6 bill, pass the bill, we'll get it done?

7 COMMISSIONER BRANN: DC Lyons?

8 DEPUTY COMMISSIONER LYONS: Ah, yes. So  
9 I think, ah, thank you, Council Member. I think the,  
10 um, we have to take a look at the current agreements  
11 the city has with these vendors to understand the  
12 changes we need to make, um, to ensure we can, um,  
13 achieve a deadline that's reasonable for all. So,  
14 um, we have agreements that are in place with, JPay  
15 was referenced and Western Union and we'd have to  
16 take a look at those in consultation with MOCS and  
17 the Law Department to see how much time it would take  
18 and the effort involved to modify them. That, that's  
19 the reason [inaudible].

20 COUNCIL MEMBER YEGER: Let me, let me ask  
21 you a question, because my clocks ticks away, ah, and  
22 the bill is unforgiving. Um, the, assuming that this  
23 JPay, um, this very great wonderful company that is,  
24 is really, ah, just incredibly onerous in its fees,  
25 ah, is not the right place. Why can't the city just

2 do this on its own? Of all the things that the City  
3 of New York...

4 SERGEANT AT ARMS: Time expired.

5 COUNCIL MEMBER YEGER: ...[inaudible] from  
6 why can't the city just do this? Why can't you tell  
7 us today that you know what you're committed to  
8 doing, you're committed to talking DCAS or talking to  
9 the Department of Finance and setting up a system  
10 where, just like the city can take property tax  
11 payments, just like the city can take parking  
12 violations payments, just like the city can take a  
13 myriad of different kinds of payments and it does it  
14 every day and it's very, very good at taking payments  
15 and figuring out how to apply them, why can't the  
16 city say we're going to do this for people? The idea  
17 that, I mean, how have you, how has the department  
18 never been offended by the notion that somebody can  
19 walk in somewhere and deposit 20 bucks and have to  
20 pay a couple of bucks to do so? I mean, and I'm not  
21 blaming you per se, but I'm saying, you know, I find  
22 this frequently with bills, I apologize, Mr.  
23 Chairman, if I could just have a few more seconds. I  
24 find this frequently with bills that the  
25 administration kind of doesn't even read them before



2 you show up, you write up testimony that says we like  
3 the intent, we look forward to working with it. I,  
4 I've been in the council for two years, four months,  
5 19 days, I can't tell you how many times I've heard  
6 the phrase we like this bill and look forward to  
7 working with the council to make it better, versus we  
8 like this bill, here's how you make it better, pass  
9 it tomorrow. I'm just, I just don't understand it.  
10 Now, I'm not that smart, but I just don't get it.

11 DEPUTY COMMISSIONER LYONS: So, Council  
12 Member, as I had answered the previous question,  
13 we're absolutely open to conversations with DCAS and  
14 Finance to figure out a way to move forward in an  
15 amicable manner, absolutely.

16 COUNCIL MEMBER YEGER: OK. Thank you,  
17 Mr. Chairman.

18 COMMITTEE COUNSEL: Thank you. Next we  
19 will turn it back to Chair Powers.

20 CHAIRPERSON POWERS: Thank you. Thank  
21 you for the confidence and support both from Council  
22 Member Yeger, Council Member Lander, and others, and  
23 I agree we should have no, have no system where we're  
24 profiting and we should have been out of this  
25 business I think a long time ago, but I thank you for

2 echoing, um, ah, support for our bill. Ah, I'm gonna  
3 do a few more questions, but, but as others have  
4 noted we are, ah, ah, a little time limited here.  
5 Um, just a couple of questions. Um, what is, are,  
6 are there, in terms of housing units right now, how  
7 many units are at 50% capacity and how many today, if  
8 any, are at 100% capacity?

9 CHIEF OF STAFF COOK: Thank you for the  
10 question. This is Brenda Cook. Um, there's no units  
11 that, ah, that I'm aware of at, at, ah, 100%, um,  
12 housing capacity. Um, department-wide, as the  
13 Commissioner mentioned in her testimony, we are, ah,  
14 under 50% occupancy in the department, um, and in our  
15 dormitory housing, where the people have, in custody  
16 have the least opportunity to, um, self-isolate in a  
17 single-occupancy, um, ah, cell for, ah, you know,  
18 time during the day and sleep at night. Um, our  
19 dormitory housing is, um, is an average of 37%  
20 occupancy and dropping as our population...

21 CHAIRPERSON POWERS: All right, just,  
22 just, just, I'm sorry to be, I don't want to be rude,  
23 but I just want to stop. You said I'm not aware of  
24 any at 100%. Does that mean it's possible  
25 [inaudible]?

2 CHIEF OF STAFF COOK: [inaudible] and  
3 I'm, and I'm sitting here with the senior deputy  
4 commissioner, Timothy Farrell, who oversees custody  
5 management. I'm sitting here with the chief of the  
6 department, Hazel Jennings. We, there, there are no  
7 housing units occupied at 100%. We've got...

8 CHAIRPERSON POWERS: Right, zero, so the  
9 answer is zero for 100%.

10 CHIEF OF STAFF COOK: Zero.

11 CHAIRPERSON POWERS: How many are at over  
12 50% capacity?

13 CHIEF OF STAFF COOK: Ah, I don't have  
14 that, um, that number sitting here. There are  
15 housing units that are, um, over 50% um, capacity.  
16 Ah, those are the housing units, um, that are, ah,  
17 some of our therapeutic housing units, like DEEP or  
18 CAP. Um, but in fact the, um, you know, those are  
19 smaller housing units to begin with and those housing  
20 units are based on clinical need and so we're not  
21 depriving people of access to, ah, clinical need, um,  
22 housing. Um, those are closely monitored and  
23 managed, um, in partnership with Correctional Health.  
24 Ah, there may also be, um, detox housing or other,  
25 um, again, clinical, um, housing, ah, for those with,

2 ah, um, service, ah service therapeutic needs with  
3 Correctional Health that I'm aware of that has  
4 occupancies that are driven by, again, patient care  
5 and need, not, um, not an arbitrary number of the  
6 number of people who could live in that house. And  
7 so there are some of those housing units I don't  
8 have, I don't have those numbers, um, with, as with,  
9 I believe, stated, ah, earlier, um, or maybe I just  
10 know it, and so I believe it was stated. But there  
11 are, there are more than 230 housing units open  
12 across the department. So I just, I can't recite  
13 from memory sitting here, sitting today, um, all of  
14 those housing units occupancies.

15 CHAIRPERSON POWERS: OK. How many are  
16 over 75%?

17 CHIEF OF STAFF COOK: Ah, I, I don't, as  
18 I said, I don't have, I don't have, I don't have  
19 that, that number, ah, I don't have that number.

20 CHAIRPERSON POWERS: OK. Guys, like  
21 let's get, if you can, if you don't mind getting us  
22 that data, um, to understand how crowded or congested  
23 a particular housing unit might be that would be  
24 helpful and tentatively we'd get that today. Um,  
25 what, what criteria is used to determine if a person

2 in custody has recovered from COVID, such that they  
3 could be rehoused in a regular housing unit, um, and  
4 are they then retested or, or is it a, what's the  
5 criteria? Is it a number of days [inaudible] of  
6 symptoms? Yeah, let's start there.

7 UNIDENTIFIED: So, ah, we generally follow  
8 the CDC non-test-based criteria for the most part,  
9 although it, there is an individual case-by-case  
10 determination depending on where the person is likely  
11 to return to. So, for example, for our vulnerable  
12 populations we've been more conservative, ah, in  
13 terms of the timeframe, ah, but we feel pretty  
14 confident and all the emerging data seems to support  
15 that CDC, ah, test-based criteria, non-test-based  
16 criteria [inaudible].

17 CHAIRPERSON POWERS: You're not testing,  
18 but you're doing a certain amount of days, and how  
19 many days is that?

20 UNIDENTIFIED: Ten. Ah, 10 at least,  
21 depending on symptomatology.

22 CHAIRPERSON POWERS: And so if they're  
23 still presenting symptoms you would not rehouse them,  
24 is that fair to say?

25 UNIDENTIFIED: Correct, ah, correct, yes.

2 CHAIRPERSON POWERS: OK. But then after  
3 a certain period of time somebody is going back to  
4 the housing unit from where they originated? If they  
5 go to the West Facility, for instance, because  
6 they're sick and symptomatic, they are now done, they  
7 go back to, ah, they go back to their housing unit.  
8 And, and, is that fair to say?

9 UNIDENTIFIED: Yes, in general.

10 CHAIRPERSON POWERS: OK, and if they were  
11 a new admission and they came in and they would  
12 normally be going to MDC, but they're not because  
13 they have symptoms, where are they sent after that?  
14 They're not sent to MDC, they're sent to where?

15 UNIDENTIFIED: Either EMTC or West  
16 Facility.

17 CHAIRPERSON POWERS: After, but after  
18 [inaudible] they're kept there after they clear  
19 symptoms?

20 UNIDENTIFIED: So at that point we would,  
21 ah, indicate, we have systems in place to indicate to  
22 DOC that they're, ah, don't need to be in isolation  
23 status any longer and then, ah, DOC would make a  
24 determination where they would be housed, unless they  
25 also had some clinical reason to be housed either in

2 the infirmary or in the mental observation unit, for  
3 example.

4 CHAIRPERSON POWERS: OK. Um, my final  
5 questions here, um, ah, just a few, and they are, by  
6 the way, I think Kalman Yeger can tell me how long  
7 I've been a council member, I actually wrote that  
8 down. But, um, um, we, we heard, I think, I think  
9 Council Member [inaudible] asked the question earlier  
10 about, um, about telephone calls, but I wanted to,  
11 this is, I think, an acid question. You had  
12 previously told, I think our committee staff, that  
13 311 and health calls are not counted towards the  
14 allotment of free telephone minutes to an individual.  
15 Um, we have heard reports of people trying to file  
16 complaints via 311, particularly health complaints,  
17 but being cut off before the complaint is registered.  
18 Can you share with us why that might be in light of  
19 what we've been told by staff and, um, and what  
20 [inaudible]?

21 UNIDENTIFIED: Ah, we, ah, without, ah,  
22 the individual information, ah, ah, you know, to  
23 investigate the specific, um, again, our, it's, it's,  
24 um, it's not the, it's not the phone system. The  
25 phone system is not set up to, ah, utilize, ah, time

2 limits and minutes for those free phone calls and for  
3 the use of 311. So we'd have to, you know, you'd  
4 have to give us the specifics and we can investigate  
5 the specific circumstances. But the, the policy and  
6 the system is, is set up, um, otherwise.

7 CHAIRPERSON POWERS: OK, so just getting  
8 on the record here, 311 and health calls should not  
9 be counted towards the daily allotment of somebody's  
10 telephones, is that?

11 UNIDENTIFIED: Correct.

12 CHAIRPERSON POWERS: OK.

13 UNIDENTIFIED: That's correct.

14 CHAIRPERSON POWERS: Um, and at the  
15 beginning of telehealth calls we've heard that, ah,  
16 individuals are being told that the call is being  
17 recorded and [inaudible] that that's not, the staff  
18 has told us that you do not record these calls. Um,  
19 we just want to confirm. Are those calls record by  
20 either DOC, CHS, or any other agency or entity?

21 UNIDENTIFIED: No.

22 UNIDENTIFIED: No.

23 UNIDENTIFIED: No, the, the telephone  
24 numbers, um, that, ah, CHS uses for those, um, access  
25 to care have all been logged into the, ah, phone



2 system. They were logged prior to the launch of the  
3 phones, ah, for this purpose in March. All those  
4 phone numbers were logged, as, as we logged attorney  
5 numbers or, um, clergy numbers or, um, you know,  
6 medical...

7 UNIDENTIFIED: DOC.

8 UNIDENTIFIED: ...DOC, DOI, they're all  
9 white listed. So those are numbers are not, those  
10 numbers are preset, um, to when a person in custody  
11 calls any of those designated numbers, they're not  
12 recorded by the system.

13 CHAIRPERSON POWERS: OK. Um, do you  
14 believe that individuals understand that, because  
15 that notice alone might prevent somebody from being  
16 forthcoming about their medical conditions or issue?

17 UNIDENTIFIED: I, I...

18 UNIDENTIFIED: We have made sure that the,  
19 um, persons in custody are made aware of that and  
20 we've done that there in the council meetings.

21 CHAIRPERSON POWERS: OK, just want to be,  
22 that would be a concern. And then how do you ensure  
23 that those phone calls are not recorded and stored by  
24 the third-party phone provider?

2 UNIDENTIFIED: Ah, the, as I, as far as,  
3 um, I'm, I'm aware of the, of the system, ah, the  
4 recordings, um, that is hosted by the Department of  
5 Correction and so there is no, um, capacity for those  
6 third-party phone providers to create a record and,  
7 of a recording and store it elsewhere. It's hosted  
8 by the Department of Correction on our, on our  
9 servers.

10 CHAIRPERSON POWERS: And do you have any  
11 agreement, in your agreement with them is there  
12 anything that says that they are prohibited from  
13 [inaudible]?

14 UNIDENTIFIED: Yes.

15 CHAIRPERSON POWERS: There is?

16 UNIDENTIFIED: Yes.

17 UNIDENTIFIED: Yes.

18 CHAIRPERSON POWERS: OK. Um, my last  
19 question, this is just for CHS and DOC. Can you  
20 commit, I, we're gonna hear from the Board of  
21 Correction, I think, ah, can you commit to get us  
22 that information that we have asked for, some of the  
23 data? We'll follow up with what that might be. Can  
24 you get that back to us within the next 24 hours to  
25

2 get us some of the data that we have asked for? The  
3 board as well?

4 UNIDENTIFIED: Is it the housing?

5 UNIDENTIFIED: Are, are you asking about  
6 the, the housing unit censuses? Are you...

7 CHAIRPERSON POWERS: [inaudible] it's  
8 tested, I think there were some questions we had  
9 asked earlier around...

10 UNIDENTIFIED: OK, so, [inaudible] because  
11 I was not aware that you had another data request  
12 oftentimes Department of Correction. That's what I  
13 was concerned.

14 CHAIRPERSON POWERS: Um, OK. Well, we're  
15 gonna have [inaudible] my request so we get that  
16 information back as soon as possible. Can you guys  
17 commit to getting that to us?

18 UNIDENTIFIED: We always, we always  
19 endeavor to...

20 UNIDENTIFIED: Yes.

21 UNIDENTIFIED: ...get you the information  
22 as quick as possible and we'll do the same here.

23 CHAIRPERSON POWERS: OK. I'm gonna move  
24 on, ah, out of, out of respect to everybody's time  
25 and hand it over to, back to Chair Lancman.

2 CHAIRPERSON LANCMAN: Thanks. Um, I, I  
3 want to ask one last question. There are issues in,  
4 um, court proceedings around determining whether or  
5 not bail should be set, whether someone should be  
6 remanded, um, about the safety of Riker's Island.  
7 So, um, could you confirm for me that, that it's fair  
8 to say that despite your best efforts and, and, and  
9 best execution that the environment in Riker's Island  
10 still is one that presents a much greater risk of  
11 infection from COVID-19 and a much greater risk for  
12 someone who might have, um, an underlying medical  
13 vulnerability compared to just being out in, in the  
14 general population in New York City?

15 UNIDENTIFIED: Is that a CHS question?

16 CHAIRPERSON LANCMAN: Probably.

17 UNIDENTIFIED: So I think, ah, it's, it's  
18 a tough question to answer at this point. I think,  
19 you know, as our data shows and as our experience  
20 shows we saw a wave of transmission, ah, that was,  
21 that was very marked and that has declined very  
22 dramatically. Ah, I think that the, the success that  
23 we've seen, though, as we've discussed many times,  
24 ah, did rely on the reduction in the jail population.  
25 And so, ah, we are concerned about new admissions,

2 um, and the risk will remain, absolutely, ah, and we  
3 don't have all the answers about, ah, COVID as a  
4 society. Um, so I think it's, it's a tough question  
5 to answer because clearly things are much better than  
6 they were in our worst days. Ah, but, ah, I would be  
7 concerned about, ah, reintroduction of disease with  
8 continued new admissions and that's where we've, ah,  
9 put a lot of our focus.

10 CHAIRPERSON LANCMAN: So, so you would  
11 agree that, um, intaking new admissions, ah, only  
12 increases the possibility that we will go back where  
13 we were earlier, um, with a high rate of infection  
14 and also that [inaudible] comparing the, the rate of  
15 infection and, and the likelihood of exposure at  
16 Riker's Island to the general public it's much more  
17 significant in the jail setting.

18 UNIDENTIFIED: Again, I think it's, it's a  
19 complex question and it's clearly shifting, um, but I  
20 think that our success which we've achieved, ah,  
21 relied on a lower population.

22 CHAIRPERSON LANCMAN: And if the  
23 population were to, to go back to pre-COVID-19  
24 decarceration levels, um, we might see that the gains  
25

2 that we've made in Riker's Island slip away. Is that  
3 fair?

4 UNIDENTIFIED: I, I think it's, it bears  
5 saying that, you know, I think there's a general  
6 concern as the city, as elsewhere on this planet,  
7 consider, ah, returning to what people dream of as,  
8 ah, normal, um, and it will not be achieved, um, that  
9 as people re-emerge or get more impatient, um, and,  
10 and, and become, begin to, um, comply less with self-  
11 isolation or, or social distancing or hygiene  
12 etiquette and attempt to reach back to what they  
13 believed and remembered as, very fondly, as normal  
14 life, um, the risk to everybody increases. It's  
15 inevitable. The virus is with us. It, it continues  
16 to be a shape-shifter. It's, it's, it's, ah, it's  
17 something to, to have great respect for and, and, and  
18 concern about.

19 CHAIRPERSON LANCMAN: And, and given the  
20 higher rates of, of infection at Riker's is it fair  
21 to say that that risk is much more acute when we're  
22 talking about a jail setting like the city's jails?

23 UNIDENTIFIED: I, I think a congregate  
24 setting, whether it's a jail or a nursing home or  
25 assisted living is, is always a higher risk when,

2 when transmission of the virus, um, requires contact,  
3 close contact, um, and can only be slowed down by  
4 separation. That is true in any congregate setting.  
5 Um, I, and again, I would say that, um, with all due  
6 respect the, the concern about the numbers of people  
7 that we test and the total numbers of tests and the  
8 positive are, need to be handled with caution. We,  
9 we test four times, more than four times more  
10 aggressively than the City of New York. The, the  
11 prevalence can't be comparable. [inaudible] All  
12 right.

13 CHAIRPERSON LANCMAN: Sorry, unless  
14 Correctional Health Services had something to add.

15 UNIDENTIFIED: No.

16 CHAIRPERSON LANCMAN: Thank you.

17 CHAIRPERSON POWERS: Thank you, Chair  
18 Lancman, and thank you to the agencies, and I'm sure  
19 we will have follow-up questions. We are having, as  
20 many know here, a weekly call to discuss these issues  
21 and get data and to provide oversight. Um, we're  
22 gonna move on now to, thank you to everybody and  
23 thank you to everybody at the department who is  
24 working tirelessly to keep people healthy, keep  
25 people safe, and as well putting yourselves at risk

2 of, ah, the same, the same threats. We appreciate  
3 all your time today and, and your work on behalf of  
4 those in New York City. Um, we're gonna move now on  
5 to the Board of Corrections, um, ah, we're gonna, I  
6 think, um, hand it over to Alana to, um, get them  
7 sworn in and get them loaded up.

8 COMMITTEE COUNSEL: Thank you. I will  
9 now call on the members of the Board of Correction to  
10 testify. First I will call on board Executive  
11 Director Meg Egan and board member Dr. Cohen. For  
12 the question and answer period we will be joined by  
13 Deputy Executive Director of Research Emily Turner.  
14 Please raise your hands. Do you affirm to tell the  
15 truth, the whole truth, and nothing but the truth  
16 before these committees and to respond honestly to  
17 council member questions? Executive Director Egan?

18 EXECUTIVE DIRECTOR EGAN: Yes.

19 COMMITTEE COUNSEL: Dr. Cohen?

20 DR. COHEN: Yes.

21 COMMITTEE COUNSEL: Deputy Executive  
22 Director Turner?

23 DEPUTY EXECUTIVE DIRECTOR TURNER: Yes.

24 COMMITTEE COUNSEL: Executive Director  
25 Egan, you may begin.



2 EXECUTIVE DIRECTOR EGAN: Thank you.

3 Good afternoon, Chair Powers, Chair Lancman, and  
4 members of the Criminal Justice and Justice Systems  
5 Committee, Committees, excuse me. My name is  
6 Margaret Egan. I am the executive director of the  
7 New York City Board of Correction. I am joined today  
8 by board member Dr. Robert Cohen and Deputy Executive  
9 Director Emily Turner. Chair Jennifer Jones Austin  
10 sends her regards. She had hoped to join us as well  
11 today but unfortunately was unable. Thank you for  
12 the opportunity to speak to you today about the COVID  
13 response in the New York City jail system. I would  
14 like to speak to you today about the [inaudible]  
15 response and what we are seeing in the jails through  
16 our oversight work. Like all others, the New York  
17 City Board of Correction, the city's independent jail  
18 system oversight agency, has been forced to quickly  
19 adapt to this new normal in response to the COVID-19  
20 public health crisis. The board has redirected its  
21 oversight, setting priorities to both monitor the  
22 Department of Correction and Correctional Health  
23 Services involving COVID-19 response and facility  
24 compliance with agency plans, and DOC and CHS's  
25 general operations in compliance with DOC minimum

2 standards amidst the public health crisis. Our  
3 [inaudible] independently and publicly document the  
4 scope of the public health crisis in the jails and  
5 the criminal justice system's response to understand  
6 the successes and challenges and ultimately ensure  
7 that lessons can be quickly learned. At the  
8 beginning of the crisis the board called on all  
9 criminal justice system stakeholders to reduce the  
10 population of the jail. We believe this is one of  
11 the best tools at our disposal to minimize the  
12 transmission of COVID-19 in the jails. The board has  
13 publicly advocated for district attorneys, defenders,  
14 city officials, the New York State Department of  
15 Corrections and Community Supervision, advocates, and  
16 providers to come together to release as many people  
17 as is safely possible. Since March 16 the population  
18 has been reduced by just over 1600 people. However,  
19 we have seen in our daily analysis that admissions  
20 are beginning to increase again. This is concerning  
21 to us and we will continue to monitor the population  
22 over time. As it has been said, on April 1 the board  
23 began producing daily public reports outlining DOC  
24 and CHS's response to the pandemic. These daily  
25 updates, available on our website, include data on

2 the number of people currently incarcerated who are,  
3 who are confirmed or symptomatic for COVID-19,  
4 exposed but asymptomatic, DOC staff who have been  
5 confirmed, CHS staff who have been confirmed, and the  
6 number of people who have passed away in custody. We  
7 also include a full analysis of the jail population  
8 to show custody status, as well as certain  
9 demographic information. We believe these daily  
10 updates are critical to provide the public defenders,  
11 advocates, policymakers, and families who visit  
12 critical information on what is happening in the  
13 jails. In addition to the daily data reports, the  
14 board has developed a new crisis response of jail  
15 monitoring program. In our very small staff our  
16 approach has been focused on leveraging the board's  
17 access to DOC data systems, surveillance cameras,  
18 grievance tracking system, daily sanitation supply  
19 audits, updated policies, preliminary incident  
20 reports, and complaints the board receives directly  
21 from people in custody, staff, family members, and  
22 advocates. Additionally, board members and staff  
23 have had at least weekly calls with DOC and CHS  
24 leadership. There are certain obvious limitations to  
25 each of these methods, but taken together the board

2 seeks to provide an objective assessment of the  
3 response to the crisis and the function of the jails  
4 during the crisis while also raising issues for  
5 immediate action by DOC and CHS. Based on the  
6 guidance from, ah, based on guidance from the mayor  
7 and DOHMH, board staff have been working remotely  
8 since about mid-March. Um, for the last week,  
9 however, we have begun to slowly, slowly reintroduce  
10 in-jail monitoring, taking a very targeted and  
11 strategic approach. The board will continue to  
12 follow local guidance on agency work conditions and  
13 to reduce the risk of, of spreading COVID-19. Our  
14 oversight in the jails will be guided by the do no  
15 harm principle, meaning the board will prioritize the  
16 safety of DOC staff and the safety of all those who  
17 work and live in the jails while planning jail  
18 inspections. On May 11 of 2020 the board issued a  
19 report on our observation of housing areas designated  
20 for confirmed COVID-19, ah, patients, symptomatic  
21 patients, and those likely exposed but asymptomatic  
22 for adherence to DOC's [inaudible] statements and CHS  
23 items. We reviewed GenoTech surveillance camera  
24 footage, conducting 72 audits in 56 unique housing  
25 areas to monitor social distancing, use of PPE among

2 staff, use of masks among people in custody, phone  
3 access, and cleaning, and DOC [inaudible] practices  
4 in cell units. Our observations found that while the  
5 majority of staff were observed wearing PPE,  
6 including masks and gloves, there were challenges  
7 with people in custody wearing masks. We do not  
8 believe that there are issues with mask availability,  
9 but we recommended that CHS and DOC should identify  
10 and address barriers to the use of PPE for staff and  
11 people in custody and renew their efforts to educate  
12 on the importance and proper use of PPE. Um, DOHMH  
13 has advised that public health communications should  
14 be conducted by non-security staff. Another critical  
15 piece of oversight is to understand COVID-related  
16 complaints submitted to DOC. The board is working  
17 closely with DOC's Office of Constituent Grievance  
18 Services, OCGS, the office responsible for handling  
19 complaints. Board staff review COVID-related  
20 complaints daily, analyze grievance data, and audit  
21 complaint resolutions regularly, providing analysis  
22 and feedback to OCGS. We plan to publish our own  
23 analysis and audit findings in the future. Since  
24 March 5 OCGS has been tracking COVID-related  
25 complaints in three categories - environmental, um,

2 which is the lack of access to PPE and cleaning  
3 supplies, medical, which could be concerns about  
4 COVID-19 exposure, um, safety, and access to medical  
5 care, and staff, um, which could be complaints about  
6 DOC staff from people in custody as well as  
7 complaints made by DOC staff members or their  
8 families regarding staff working conditions. As of  
9 May 5 the department have received 1029 COVID-related  
10 complaints, from early March to May 5, representing  
11 18% of the, ah, 56, just over 5600 complaints  
12 received by DOC since March 5 when the department  
13 began tracking COVID-related complaints. Since March  
14 16 the department's environmental health, health unit  
15 and facilities operations office have conducted daily  
16 audits of a sample of housing areas at each facility  
17 to check for the availability of sanitation supplies  
18 and as of April 8 mask availability for people in  
19 custody and usage. DOC provides the board with its  
20 documentation daily and board staff analyze each  
21 audit. From April 5 through April 18 DOC audited an  
22 average total of 64 areas daily DOC-wide and an  
23 average of six areas per facility each day, ranging  
24 from an average of five areas at AMKC to an average  
25 of 12 areas at BCEC. In general the DOC audit

2 documentation shows high rates of sanitation supply  
3 availability and that work orders are submitted for  
4 inoperable sinks that are identified. Board staff  
5 will seek, seek to independently verify this  
6 documentation through our jail monitoring, GenoTech  
7 review, and other oversight sources. Every day the  
8 board receives complaints directly from people in  
9 custody, staff, family members, defense counsel, and  
10 advocates via phone, email, mail, web form, just as  
11 we did before the crisis. Phone calls from jail to  
12 the board are free and not monitored. Board staff  
13 developed a new complaint protocol to review these  
14 complaints and refer them to the appropriate agency  
15 for response. The board also reviews these  
16 complaints to identify systemic and urgent issues,  
17 which are then escalated to DOC and CHS as  
18 appropriate. From March, sorry, from March 30  
19 through April 30 the board received 370 complaints.  
20 This is a 99% increase from the same period in 2019,  
21 when the board received a total of 186 complaints.  
22 Of the 377 complaints received from March 30 through  
23 April 30 around a third, or 119, were COVID-related.  
24 The board's oversight work has been and will continue  
25 to be critically important in this crisis response.

2 We have and will continue to provide necessary  
3 information to the public, outlining essential data  
4 and independently confirming what is actually  
5 happening in the jails. We will continue to advocate  
6 for a small, for as small a jail system as is safely  
7 possible, and we will continue to recommend that DOC  
8 and CHS provide as much information to people in  
9 custody, staff, families, and the public at large.  
10 As in the community, it is a public health challenge  
11 for trusted messengers to continue to deliver  
12 critical information on how people can protect  
13 themselves and the people around them. While the  
14 jail setting creates unique and increased barriers to  
15 this work and will take a creative, intensive  
16 approach, the importance of communication remains.  
17 The Board of Correction will continue to provide  
18 oversight and we will continue to encourage the city  
19 to further its efforts to engage with people in  
20 custody, staff, and the public to ensure that people  
21 are taking all necessary steps to protect themselves.  
22 The number of people in custody and COVID-confirmed  
23 or symptomatic housing has dropped from a high of 286  
24 people on April 1 to 67 people on May 17. DOC and  
25 CHS leadership and staff, as well as people in



2 custody who work in the jails and have taken measures  
3 to protect themselves should be incredibly proud of  
4 their efforts. However, the pandemic is not over and  
5 the risk of getting sick in the jails is still  
6 significant. Further, as the city carefully  
7 considers when and how it can reopen the jail system  
8 must have clear, safe, and transparent plans for  
9 managing new risks in the coming months. Thank you.  
10 Dr. Cohen now has a short statement and then we are  
11 happy to take your questions.

12 DR. COHEN: Thank you very much. Um,  
13 part of the public health included a response to  
14 COVID-19 has been to decrease population in the jails  
15 by almost 30%. DHS has stated that then this is the  
16 most important factor in their ability to manage the  
17 pandemic, without minimizing the extraordinary  
18 clinical care they have provided. Ah, it has been  
19 the release, particularly the release of older and  
20 medically vulnerable persons. The city did an  
21 amazing job getting many, many people out. Over the  
22 past three weeks, however, the population in the  
23 jails has been going up. We should be concerned.  
24 The population on April 24 was 3869. Yesterday it  
25 was 3954. It is important to look at this data

2 category by category to understand what action to  
3 driving the increase. The number of city-sentenced  
4 persons has decreased over this period, from 134 to  
5 115. This makes sense when the city's criminal  
6 courts are not functioning normally. The number of  
7 persons with technical parole violations incarcerated  
8 on order of DOCCS has also decreased, from 267 to  
9 199. There is a population of persons incarcerated  
10 charged with a technical parole violation, an open  
11 case that I don't have current information on. The  
12 population which is increasing is the pretrial  
13 detainee population. Essentially, these are people  
14 who have been arrested by the New York Police  
15 Department, arraigned before a judge, been remanded  
16 or had bail set, and had been unable to afford bail.  
17 This population was 3316 on April 24 and yesterday it  
18 was 3484, an increase of 168. We do not know if the  
19 increase in the pretrial population represents a  
20 change in police arrest policy, a change in district  
21 attorney practice, or a change in the bail practice  
22 of the city's judges. We live today in the hope of a  
23 better tomorrow, but we live in clear expectation  
24 that there will be a surge in infections and a surge  
25 in deaths later this year. It is vitally important

2 that the jail population not be allowed to increase  
3 to pre-COVID levels. The decrease in population was  
4 intentional, the result of joint action by the city's  
5 agencies, DOC, CHS, MOCJ, the elected DAs, the  
6 defense bar, and the judges. Population increase in  
7 the jail, if it occurs, will also be intentional and  
8 will follow from changes in the city's agencies,  
9 particularly police, the elected district attorneys,  
10 and in the practice of the judges with regard to  
11 bail. Our task is clear. We must intentionally work  
12 to keep the population in our jails as low as  
13 possible, carefully tracking each of these  
14 categories. We must work particularly hard during  
15 this pandemic to release medically vulnerable persons  
16 at increased risk to serious illness and death from  
17 COVID-19. I am very proud to be your representative  
18 on the Board of Correction and I'm very proud of the  
19 extraordinary effort of the Department of Correction  
20 and Correctional Health Services during this  
21 pandemic. I mourn with you those who have died.  
22 Thank you.

23 CHAIRPERSON POWERS: Thank you, and nice  
24 to see all of you. I do hope all you are, are, ah,  
25 doing OK, your families and, and everyone else. And

2 thank you, guys, for that testimony and your work to,  
3 ah, ensure oversight on the, in, in the jails at a  
4 very difficult time. Um, one of the, in the  
5 testimony I, I think you had mentioned that, um, DOC  
6 complaints, there was about a third were COVID-  
7 related, um, and then I had two questions related to  
8 that. One is can you give us more specificity were,  
9 are the type of complaints COVID-related and then for  
10 the other two-third can you give us, um, insight into  
11 what those are related to?

12 EXECUTIVE DIRECTOR EGAN: Sure, um, um,  
13 I'll ask Emily to, to jump in on specifics. I mean,  
14 I, you know, I think that we're getting, we're  
15 hearing from, um, family members and from people in  
16 custody, um, in, at times about lack of  
17 communication, just people from not understanding  
18 what is, what is happening in, in the jails. Um, you  
19 know, I think that's one of the general categories.  
20 Emily, can you speak to, to other specific, um,  
21 issues that we're, we're getting specifically from  
22 people in custody?

23 DEPUTY EXECUTIVE DIRECTOR TURNER: Sure.  
24 So in addition to those that the board, complaints  
25 that the board receives directly. Um, board staff

2 review every, have reviewed every single complaint  
3 that the Department of Corrections has received and  
4 that are handled by the Department of Corrections  
5 Office of Constituent Grievance Services, and we've  
6 done some additional coding of, um, those complaints  
7 to have a better understanding. Um, one of the, um,  
8 main categories of COVID-related complaints, um,  
9 which represent about 37% of those received, um, by,  
10 um, health, include health complaints. So 37% of  
11 those complaints that we've reviewed, um, that were  
12 handled by the department were health-related, so  
13 concerns about, um, a lack of access to care, um, in  
14 terms of being able to communicate and, um, reach  
15 care, um, concerns about exposure safety, so, um,  
16 concerns about who they're being housed with if  
17 someone in their unit had been, um, sick and left the  
18 unit, um, and then concerns about preventive  
19 measures. Um, some of these complaints also were  
20 related to, um, concerns about staff coming in and  
21 out of the facility and potentially exposing, um,  
22 people in the facility. Um, and then a concern about  
23 testing and having the ability to access testing.  
24 Um, and I think, um, as Meg mentioned, um, a lot of  
25 this is, um, related to, um, what is communicated or

2 not being communicated to people in custody and, um,  
3 having a better sense of, um, how the jail is being  
4 managed, um, so we think that is really gonna be, um,  
5 an important part of the response is how people in  
6 custody are educated about how to access care now  
7 under these circumstances and, um, that they have a  
8 better understanding of, um, the steps that the  
9 department is taking to keep them safe, um, and how  
10 those policies are being implemented.

11 CHAIRPERSON POWERS: OK. Um, if there  
12 was a second wave of this pandemic do you feel that  
13 we are prepared for a second wave? If not, do you  
14 have recommendations for how we might be prepared,  
15 better prepared for another, if there was another  
16 wave of this pandemic?

17 EXECUTIVE DIRECTOR EGAN: I mean, I, I  
18 think it's fair to assume that there will be a second  
19 wave, um, and I think that, I think that DOC and CHS  
20 have done an incredible job of, of figuring out how  
21 to respond to this crisis in a very short period of  
22 time. I mean, I think this is, this is a challenge  
23 and everyone around the world has, has had to, to  
24 grapple with and in a jail it's, it's a particularly,  
25 I think, challenging situation. Um, I, I think that,

2 that they are learning as they go, and I think that's  
3 important. I think in the response you want to be,  
4 you want to sort of iterate, um, what is working and  
5 what is not. Um, you know, I think the, the thing  
6 that, that we hear about the most from, um, from  
7 people in custody, from families, from defender  
8 organizations is, um, is a lack of communication.  
9 Um, and so I, I think that, you know, if, and, and we  
10 are certainly, we as the board are certainly happy  
11 to, to help communicate as much as we can. Um, but  
12 I, I do think that's it important for both in the  
13 department and CHS to, um, to communicate more, um,  
14 with people in custody, with staff, um, and with the  
15 public at large.

16 CHAIRPERSON POWERS: OK. And I, I'm  
17 gonna ask one question and then hand it over to Chair  
18 Lancman and that is, um, ah, are there data points  
19 that you think the Board of Correction needs from DOC  
20 today to provide proper oversight, and if so can you  
21 share with us which, what those might be?

22 EXECUTIVE DIRECTOR EGAN: Yeah, I'll let,  
23 I mean, Emily is our data guru so I will let her give  
24 those specifics. What I would generally say is the  
25 more data that, that DOC and CHS can provide us to,

2 to be able to clearly outline what is happening in  
3 the jail system would be incredibly helpful. Um, I  
4 appreciate Dr. Yang's points that we want to be  
5 careful about, about how the numbers tell a story,  
6 but, but I think that we still need the numbers and  
7 we, and we want to, to make sure that we're telling  
8 that story responsibly, but I'll let Emily talk about  
9 the specific data points.

10 CHAIRPERSON POWERS: OK. Thanks, Emily.  
11 Why don't you tell us what you think is helpful?

12 DEPUTY EXECUTIVE DIRECTOR TURNER: Um,  
13 well, um, a lot of the data points, um, that, um, we  
14 think are important are included in the proposed  
15 bill, um, that we're hearing about today, um,  
16 including the total number of, um, confirmed, um,  
17 confirmed positive patients that have been tested and  
18 confirmed while in custody. Um, since the start of  
19 the pandemic, not just those who are currently in.  
20 Um, and we think it's important to also share the  
21 testing numbers so that people understand the testing  
22 strategy, um, the outcome of those, um, test results.  
23 Um, again it can be complicated for people to, to  
24 understand and put this in perspective, but it's  
25 important, um, that we have access to it and that we



2 are able to have this [inaudible]. Um, ah,  
3 hospitalizations, um, important to understand how  
4 many people hospitalized, hospitalized, um, to really  
5 understand the trajectory and the response to the  
6 pandemic. Um, and then a question that Council  
7 Member Rivera asked about recoveries is also  
8 important because the numbers we're currently  
9 reporting on total, um, confirmed COVID patients in  
10 custody now includes a number of people who have  
11 recovered, um, and so, you know, you may look at that  
12 number and, and see over 300, um, 60 people with  
13 confirmed COVID, but a significant portion of those  
14 individuals have recovered, um, and so that's  
15 important context, too.

16 CHAIRPERSON POWERS: OK. Thanks. And  
17 did the BOC support the legislation that's before the  
18 council today?

19 EXECUTIVE DIRECTOR EGAN: Yeah, we do.  
20 Um, and however we can, we can be helpful we're,  
21 we're very happy to. I mean, again, robust  
22 communication is always a good think.

23 CHAIRPERSON POWERS: OK, thank you. I'm  
24 gonna hand it over to Chair Lancman and we'll go on  
25 to, um, council members. Thank you.

2 CHAIRPERSON LANCMAN: Thank you very  
3 much, and good afternoon. Um, I, I want to ask your  
4 opinion on the issue of whether or not, ah, new  
5 admissions should be fully segregated and isolated  
6 from the rest of the population for at least a 10-day  
7 period, if not a 14-day period. Are you satisfied  
8 with the current testing and quarantine protocols  
9 that the Department of Corrections is, ah, employing?

10 EXECUTIVE DIRECTOR EGAN: Yeah, I think  
11 that the, the, the response from DOC and CHS needs to  
12 be whatever will minimize the transmission of this  
13 virus through the jails. And so if based on, you  
14 know, medical and public health expertise the best  
15 way to do that is to test everyone and quarantine,  
16 then I, I'm supportive of that. Um, and, and it  
17 sounds like that, that is a, is a good and smart way  
18 to, to manage, um, the, the vectors of transmission  
19 in the system. Um, in terms of days, you know, it's  
20 not necessarily my area of expertise, but I think  
21 whatever minimizes transmission makes a lot of sense.

22 CHAIRPERSON LANCMAN: Well, based on our  
23 understanding of what the Department of Corrections  
24 is doing do you believe, are you confident that the,  
25 the current protocols is the most they can do to

2 minimize transmission? You, you heard the exchange  
3 that we had back and forth and you know the  
4 Department of Corrections and their operations inside  
5 and out. What do you think?

6 EXECUTIVE DIRECTOR EGAN: Yeah, ah, yeah,  
7 I, I mean, I think, well, yes and no, because it's,  
8 it's hard to, I, it, it makes sense as a, as a going  
9 in strategy. I think this is one of the challenges  
10 of, of not having all of the data. Um, it, you know,  
11 it's hard to see how the virus is actually moving  
12 through the jail system. Um, it looks like, um, most  
13 new cases are coming in as new admissions and so a,  
14 so some period of quarantine does make sense. Um, it  
15 goes into housing strategy as a, as they talked  
16 about, um, and so, so I think it does make some sense  
17 as to, as to how you would minimize the transmission  
18 based on people going in. I also think that it goes  
19 to sort of a tangential issue, which is reducing the  
20 number of admissions into the jail system, as Dr.  
21 Cohen talked about. I mean, we're starting to see  
22 admissions rise and I think we're, we're also  
23 concerned about that, um, bringing the community  
24 spread into, into the system is [inaudible]...

25 CHAIRPERSON LANCMAN: Let me...

2 EXECUTIVE DIRECTOR EGAN: ...concerning.

3 CHAIRPERSON LANCMAN: All right. Let me  
4 ask about the board's access to, to, to data. I  
5 mean, the board plays a very important role in  
6 overseeing and, and regulating to a certain extent  
7 the Department of Corrections. Um, I was very  
8 surprised to learn in certain circumstances that,  
9 that you did not have data that I would have thought  
10 or, or even, even, is even more essential for you to  
11 fulfill your responsibilities than, than even the,  
12 the, the council. Have you anywhere made a list of  
13 all the different types of data that you would want  
14 and feel that you need to do your job that you have  
15 not gotten from the Department of Corrections?

16 EXECUTIVE DIRECTOR EGAN: I mean, in, in  
17 response to this pandemic, um, I, I think Emily just  
18 outlined for, for Chair Powers the, the missing data  
19 elements that we, um, we think are essential to, to  
20 providing the most robust oversight that we can.

21 CHAIRPERSON LANCMAN: Um, so on May 11  
22 last week you, the board published, um, ah, ah, a  
23 report on, um, on what's going on in Riker's with,  
24 with COVID-19, and found a number of shortcomings as  
25 one would expect, um, even in the best of

2 circumstances, um, but given the seriousness of  
3 what's happening and, and the potential for serious  
4 illness and, and death, um, I, I want to know are you  
5 confident that the Department of Corrections is  
6 acting on the five-plus sub parts recommendations  
7 that you make in that report? Have you any  
8 indication that they're taking this report seriously  
9 and that they are actually acting on these  
10 recommendations?

11 EXECUTIVE DIRECTOR EGAN: We do. I mean,  
12 we, we have had a number of, of conversations with  
13 them about the findings in the report and, and issue  
14 that have come up through our oversight, um, in this  
15 process, um, and, and I will give them credit. They  
16 have been incredibly responsive where we have, we  
17 have raised issues. Um, but I think, and you're sort  
18 of, sort of getting to this point, I think it's, it's  
19 an ongoing process and, um, and, and we will continue  
20 to, to monitor their response to this and answer the  
21 general operations in the jail to raise issues with  
22 them when we see them. Um, as I said, we polled the,  
23 the monitoring staff out of the jails in mid-March.  
24 We are starting to, to do, go back in. We're  
25 starting, we restarting our, our, um, in-person

2 monitoring in a really targeted and strategic way in  
3 order to support, um, and supplement the, the  
4 oversight work we're doing through GenoTech, through  
5 the, the grievance audits that Emily talked about,  
6 through these other means. Um, and so when we're  
7 raising both individual and systemic issues I think  
8 the department has been, um, has been responsive.

9 DR. COHEN: Chair, if I, if I, if I could  
10 comment on this. Ah, I first just want to say, I  
11 want to compliment, ah, their, um, the, the chair of  
12 the board, Jennifer, ah, for, for her, for her work  
13 and, and the staff in this very difficult time. But  
14 I, I think that you can make some judgment about the  
15 way this has worked [inaudible], ah, by looking at  
16 the mortality at this point. It's terrible what  
17 [inaudible] but at the same time, um, the, ah, I  
18 think that the effect of the, the effort of the  
19 Department of Correction and, and CHS, ah, can, can  
20 be measured by that and, ah, I, you, you know that,  
21 ah, the, the board's role is to oversee and to, and  
22 to identify problems and help the department to  
23 correct and [inaudible] identifying problems and we  
24 know, as you say, more than anyone what the warts  
25 are, ah, in, in, in the system. Ah, I, I, I have

2 been concerned that we were not provided the kind of  
3 data that, that are in this bill, but which came out  
4 today. Ah, when I heard Commissioner Brann, and she  
5 and I don't often agree on, on things, when I heard  
6 her response today to the board's report I was very  
7 heartened by, um, by not, by not a responsive  
8 criticism, by a responsive of, of agreeing with, with  
9 the, ah, with the, with the observations and I, and  
10 I, and a commitment to do it there. I think these  
11 are very, very hard, as we all do, ah, ah, work  
12 projects, ah, on, on wearing masks, which is a  
13 critical issue, ah, the, the department has to model  
14 that and, and the, and the men and women living in  
15 the jails have to model that behavior to each other.  
16 Imagine wearing a mask for all day long in, in a jail  
17 in, in New York City right now. Ah, it's an  
18 incredible, ah, effort that we're asking of, of  
19 people and I support the, the, the council's efforts  
20 to, to, ah, to instrumentalize the processes that you  
21 have through these, ah, through these goals and to  
22 get the reporting that's necessary going, going  
23 forward. But, ah, um, I think we're, ah, I think we  
24 should very proud of the, ah, the work of New York  
25 City in this moment. Thank you.

2 EXECUTIVE DIRECTOR EGAN: I want to just  
3 add that, um, as we have been doing the monitoring  
4 where we have noted issues we are seeing  
5 improvements. We are seeing, actually seeing more  
6 availability, like through our monitoring of the  
7 supplies to clean phones, um, getting people to  
8 consistently do that cleaning is gonna be a  
9 challenge. Um, again the messaging to staff and  
10 people in custody has to be there. It can't just be  
11 about making things available. Um, but we have seen,  
12 um, improvements in terms of compliance with the use  
13 of PPE and the availability of supplies, um, from  
14 what we have been able to observe remotely. Um, so  
15 we, we do see, um, corrective action and improvement  
16 taking place. Um, but I think the challenge in terms  
17 of looking ahead to the future will be, um,  
18 clarifying the policies, um, making sure that the  
19 board is aware of what the policies are and how the  
20 different units are being managed, and so that if we  
21 can have written guidance we can have a better  
22 understanding of how it's working, um, and there can  
23 be more clarity in that messaging across the board to  
24 staff and people in custody, um, can, can be better  
25 implemented. Um, so I think getting those policies



2 in place and memorializing them and then developing  
3 that communication strategy will be very critical in  
4 terms of preventing another, um, wave or surge in, in  
5 cases in the jails. But it's gonna take, ah,  
6 consistent effort and, um, you know, there's no,  
7 there's no room for complacency in this setting.

8 CHAIRPERSON LANCMAN: All right. Thank  
9 you.

10 COMMITTEE COUNSEL: Thank you. I will  
11 now call on council members in the order that they  
12 have used their Zoom hand functions. Um, if council  
13 members have not used their Zoom hand functions as of  
14 yet please do so now and you will be called on in the  
15 order that you have used your hand function. Seeing  
16 no questions, we will move to the next panel.

17 CHAIRPERSON POWERS: Thank you, thanks to  
18 the board, and I think next we're gonna have up MOCJ.

19 COMMITTEE COUNSEL: Um, we will now hear  
20 from Liz Glazer, director of the Mayor's Office of  
21 Criminal Justice. For the question and answer period  
22 only we will be joined by Dana Kaplan, deputy  
23 director of Close Riker's and Justice Initiatives,  
24 Eric Cumberbatch, deputy director of the Office of  
25 Neighborhood Safety, and Deanna Logan, deputy

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2 director of Crime Strategies from MOCJ. Before we  
3 begin I will administer the oath. I will call on you  
4 each individually for a response. Please raise your  
5 right hand. Do you affirm to tell the truth, the  
6 whole truth, and nothing but the truth before these  
7 committees and to respond honestly to council member  
8 questions?

9 UNIDENTIFIED: I do.

10 COMMITTEE COUNSEL: Director Glazer?

11 DIRECTOR GLAZER: I do.

12 COMMITTEE COUNSEL: Deputy Director  
13 Kaplan?

14 DEPUTY DIRECTOR KAPLAN: I do.

15 COMMITTEE COUNSEL: Deputy Director  
16 Cumberbatch?

17 DEPUTY DIRECTORY CUMBERBATCH: I do.

18 COMMITTEE COUNSEL: Deputy Director  
19 Logan?

20 DEPUTY DIRECTOR LOGAN: I do.

21 COMMITTEE COUNSEL: Director Glazer, you  
22 may begin.

23 DIRECTOR GLAZER: Thank you. Ah, good  
24 afternoon, ah, Chair Lancman and Chair Powers,  
25 members of the Justice System, ah, Committee and

2 Public Safety Committee. My name is Elizabeth Glazer  
3 and I'm the director of the Mayor's Office of  
4 Criminal Justice. I appreciate the opportunity to  
5 testify today regarding the city's response to COVID-  
6 19 in its detention facilities, and I have several of  
7 my MOCJ colleagues with me, ah, available to respond  
8 to questions as well. The Mayor's Office of Criminal  
9 Justice advises the mayor on criminal justice policy  
10 and is the mayor's representative to the courts,  
11 district attorneys, defenders, and state criminal  
12 justice agencies, among others. Ah, MOCJ designs,  
13 deploys, and evaluates citywide strategies to  
14 increase safety, reduce unnecessary arrests and  
15 incarceration, improve fairness, and build the strong  
16 neighborhoods that ensure enduring public safety.  
17 COVID-19 has put our criminal justice partners and  
18 system to a severe test, calling upon us to protect  
19 the people in the city's care and custody, many of  
20 whom are medically vulnerable, ah, and from our  
21 city's poorest neighborhoods, ah, and it's been  
22 called upon to do this as the city has maximized  
23 social distancing and courts have streamlined down to  
24 only the most essential virtual operations. The  
25 city's response was a dramatic acceleration of what

2 already were histologic transformations in the  
3 criminal justice landscape. In the six years before  
4 this crisis the city saw histologic declines in its  
5 jail population, far less crime, and far fewer  
6 arrests, and an emerging model of safety, relying  
7 less on the formal controls of enforcement and  
8 punishment and more on informal structures of family  
9 and neighborhood. COVID-19 has hastened these trends  
10 to warp speed. Indeed, the response to this public  
11 safety emergency by the criminal justice system, our  
12 public health system, and people of the city has been  
13 nothing short of extraordinary. The crisis has  
14 demanded distilling the operations of the justice  
15 system down to what is most essential to sustain the  
16 public safety. Concerns over spread of the disease  
17 in congregate settings has led to concentrated  
18 agencies, ah, concentrated efforts by the agencies  
19 testifying today and the courts, district attorneys,  
20 defenders, State Department of Corrections, nonprofit  
21 providers to drastically reduce the jail population  
22 while maintaining safety. This has resulted in  
23 unprecedented declines in the number of people held  
24 in city jails, particularly those most vulnerable to  
25 the disease. Since March 16, when social distancing

2 began in the city, the jail populations plummeted to  
3 levels not seen since 1946, shrinking by  
4 approximately 30,000, ah, 30% to fewer than 4000  
5 people. City agencies and nonprofit providers have  
6 also joined forces to help ensure those arriving from  
7 jail into a city in quarantine have places to stay,  
8 reentry services, and access to medical care. And we  
9 have seen other dramatic transformations outside the  
10 jails with the crime rate cut by a quarter and  
11 arrests by a third. Our crisis management system and  
12 the mayor's Action Plan for Neighborhood Safety are  
13 continuing their work in the hard-hit communities to  
14 promote collective civilian action and responsibility  
15 for public health and safety. There is so much we  
16 don't know about this disease and how long the city  
17 will battle it. Dr. Yang so eloquently referred to  
18 this formidable enemy as a shape-shifter, and it is  
19 so true. COVID-19 has brought tragedy and hardship,  
20 but also hard-earned, ah, lessons that may advance us  
21 even faster towards a smaller, safer, and fairer  
22 justice system. Our challenge will be to learn from  
23 this experience, both the good and the bad, and  
24 sustain our advances as New York City emerges into  
25 its future. Thank you.

2 COMMITTEE COUNSEL: Thank you. Ah,  
3 Deputy Director Kaplan, you may begin.

4 DEPUTY DIRECTOR KAPLAN: I, ah, don't  
5 have any affirmative testimony. I'm here to answer  
6 questions as they arise.

7 COMMITTEE COUNSEL: Thank you. I will  
8 now turn it over to questions from Chair Powers,  
9 followed by Chair Lancman. Chair Powers, please  
10 begin.

11 CHAIRPERSON POWERS: Thank you for your  
12 testimony. Nice to see you virtually and I hope  
13 you're all doing well and your families as well.

14 DIRECTOR GLAZER: Thank you.

15 CHAIRPERSON POWERS: Yeah, thank, thank  
16 you. Um, ah, on the week of May 3 there was 134 new  
17 admissions to our city jails, compared to [inaudible]  
18 admissions to jail the week of March 29, um,  
19 according to the Board of Correction, which is a 127%  
20 increase in over a month. Can you give us some, can  
21 you give us some insights into that, um, and also let  
22 us know what the city is doing to ensure, you know,  
23 that the jail population does not skyrocket, that the  
24 releases were meant to be, you know, compassionate  
25 releases to make sure that people do not get COVID.

2 Can you share [inaudible] some insights on that and  
3 also what additional efforts the city is taking now  
4 to ensure that our population does not go back to  
5 where it was and that we are not putting extra people  
6 into harm's way?

7 DIRECTOR GLAZER: Sure, so, um, we've  
8 been through an extraordinary period, quite  
9 obviously, and two things happened. One was a very  
10 dramatic drop in admissions, um, largely because of  
11 the conditions, um, in the city, a number of arrests,  
12 much, much smaller, ah, court system that accepted  
13 only the most essential cases. Um, and at the same  
14 time we had a very intentional and dramatic effort  
15 that a number of people have talked about already,  
16 um, to review really every single person who was in  
17 custody, ah, to determine, ah, whether there was a  
18 route to safe release. Um, that very dramatic  
19 discharge where we had discharges really sort of  
20 outpacing admissions in a significant way, um, has  
21 slowed, ah, and I think it slowed for all the reasons  
22 that could imagine, um, partly that people, ah, are,  
23 that that tension between public health and public  
24 safety, ah, is becoming tighter, ah, as the  
25 population has dropped to these low levels. The

2 admissions, um, you know, are a function of a lot of  
3 different things. Um, we are in an artificial  
4 period, um, I think it goes without saying, where all  
5 New York is under stay-at-home orders. Um, I think  
6 we take some hope from, ah, the period that we've  
7 gone through and the kind of way the DAs and judges  
8 and others have done, ah, to determine when an  
9 whether jail is really the necessary, um, solution to  
10 getting people back to court and to ensuring the  
11 city's safety. So I think it's pretty early to tell,  
12 um, what the impacts will be and what the lessons  
13 learned are, but we are intently interested in seeing  
14 how we can hold on to some of the things that we have  
15 learned, and I think that we may see some enduring  
16 effects of, um, behavior among judges and DAs with  
17 respect to, um, how parsimoniously they use jail.

18 CHAIRPERSON POWERS: All right. Um, I'm,  
19 I'm, just, we're gonna hear from the DAs, um, ah, I  
20 think after this in the next panel. In a, in a  
21 letter back in March 29 the six DAs wrote to the  
22 mayor and to Commissioner Brann expressing concern  
23 the city was not providing housing supervision and  
24 support services needs of individuals that were being  
25 released from city jails. Um, can, can you tell us



2 what MOCJ makes of that opinion and, ah, are there  
3 other programs that you've also put in place if, if  
4 that is a concern?

5 DIRECTOR GLAZER: Yeah, I, um, I actually  
6 think one of the heartening things to come out of  
7 this tragedy, um, has been a kind of, ah, ah,  
8 intensified focus on what the kinds of supports are  
9 that are needed to ensure that people meet jail and  
10 are supported and don't come back. Um, there's been  
11 an enormous amount [inaudible] really kind of knit  
12 together what the administration looked like  
13 [inaudible] my office played a role as well. And  
14 Dana, I don't know if you would like to sort of step  
15 in and describe in a little bit of detail what those  
16 kinds of supports look like, which for sure have  
17 evolved, um, and been strengthened, you know, since  
18 the beginning of the pandemic.

19 COMMITTEE COUNSEL: Sure. So as I spoke  
20 about, ah, a little bit earlier, one of the things  
21 that we put in place that is specific, ah, to this  
22 moment has been the setting up of the hotel sites,  
23 and those are hotel sites that are both available for  
24 people who are, have tested positive for coronavirus  
25 or who are, ah, symptomatic, ah, of coronavirus.

2 Those are, ah, operated by the Department of Homeless  
3 Services and Office of Emergency Management, and then  
4 a separate set of hotels for individuals who are  
5 asymptomatic, or not identified as having, ah, having  
6 COVID-19. Ah, on site at these hotels, um,  
7 particularly the ones that Mayor's Office of Criminal  
8 Justice supports, we have reentry providers that are  
9 providing, ah, daily wellness checks. Ah, we're  
10 coordinating to provide medical services, um, at the,  
11 at these sites. Ah, we provide essential supplies,  
12 such as phones, ah, food vouchers or food, um, ah, we  
13 provide, um, access and referrals to benefits  
14 assistance, um, to longer-term housing placements,  
15 ah, and we, and while we have reentry providers that  
16 are on site providing, ah, supplies and doing  
17 wellness checks and making sure that they are  
18 contacting people who are in the hotels, we also are  
19 accessing our ongoing reentry supports, particularly,  
20 the Jails to Jobs service providers. Ah, and all of  
21 those service providers are providing continued  
22 services, um, virtually, ah, doing case management,  
23 um, the same types of referrals, ah, that they have  
24 always done. Those services are of course available

2 not just to people who are in the hotel sites, but to  
3 anyone who is coming out of Riker's Island.

4 CHAIRPERSON POWERS: OK, appreciate that.  
5 But I also wanted [inaudible] the DAs [inaudible],  
6 you know, found that that program, they claim, was a,  
7 was a, this in their words, "It was a seemingly  
8 haphazard process." Do you agree with that  
9 assertion, and why do you believe that is an  
10 assertion that they made?

11 DIRECTOR GLAZER: The process of release  
12 or the process?

13 CHAIRPERSON POWERS: The process of  
14 release. This was a March 29 letter where there was  
15 a concern expressed, ah, by the DAs that the, this  
16 was a seemingly haphazard process.

17 DIRECTOR GLAZER: Yeah, I mean, I would  
18 take issue with that and, um, I'm sure you have my  
19 letter back to them as well. Um, I mean, obviously  
20 this was a moment of great crisis, ah, and 24/7 work  
21 by everybody, by the DAs, defenders, us, um, all our  
22 partners, DOC, um, and I think under the  
23 circumstances the review of every single person in  
24 custody, ah, who had, ah, who was particularly  
25 vulnerable to these, ah, symptoms, ah, it's certainly

2 possible that not every person in the justice system  
3 was happy with the outcomes. Um, but I think the  
4 city did quite a good job, um, with our partners in  
5 order to do that review and to be as responsible as  
6 possible, um, and I think the results, um, speak for  
7 themselves.

8 CHAIRPERSON POWERS: OK, thank you. I'm  
9 gonna get it over, ah, hand it over to, to Chair  
10 Lancman, um, [inaudible] support it, I think both of  
11 us, but I know I supported doing ah, ah, ah more  
12 release of folks that, um, were particularly  
13 vulnerable and, um, are there, one last question, are  
14 there are individuals, I ask this of [inaudible] are  
15 there individuals that are being held in our city  
16 jails today that you think should be, additional  
17 folks that should be [inaudible], you don't have, ah,  
18 the ability to release but are, do you believe there  
19 are additional individuals that should be released  
20 due to either a health condition, underlying health  
21 condition, being vulnerable, or being in any way risk  
22 of the COVID virus?

23 DIRECTOR GLAZER: So I, you know, I think  
24 it's not just one thing. That's what makes this, um,  
25 such a difficult process. It's not only the numerous

2 different decision-makers, but it's both a public  
3 health, um, evaluation and a public safety  
4 evaluation. Um, we're very, ah, fortunate to have a  
5 first-class public health system within our jails.  
6 I, you know, as the corrections commissioner  
7 testified it's now, the jails are now half empty to  
8 permit the kind of social distancing and medical  
9 care. So, obviously, you know, there continued to be  
10 people coming into the system, even though at a much  
11 reduced rate, um, and, ah, you know, we continue to  
12 keep our eye on that ball.

13 CHAIRPERSON POWERS: OK. Yes or no would  
14 have been OK as well, um, I do, I do get concerned  
15 that there may be additional folks that are not. But  
16 anyway, um, I'll hand it over to Chair, to Chair  
17 Lancman. Thank you.

18 CHAIRPERSON LANCMAN: Good afternoon, how  
19 are you?

20 DIRECTOR GLAZER: Good, how are you?

21 CHAIRPERSON LANCMAN: Very good, thank  
22 you. So, um, I wrote in the *Daily News* and I, and I  
23 believe it firmly that while there's more to do the,  
24 the effort to quickly, ah, decarcerate Riker's and  
25 the city jails has been, um, very successful and

2 something that we should all be proud of and I, I, I  
3 hope and understand that the newer [inaudible] crowd,  
4 um, as well. You know, one of the things that sets,  
5 sticks out in my mind, um, we were, of course, told  
6 that if you let all these people out, um, crime will,  
7 will, will rise. There will be, and there will be a,  
8 a, a get out of jail free card for people to go on,  
9 on a crime spree and, and, of course, you know, that  
10 did not come to pass, and just looking at MOCJ's, ah,  
11 weekly, ah, New York City jail population reduction  
12 in the time of COVID-19 update, um, you report that  
13 95% of the people who were released, who, who were  
14 released under the, um, Article 6-A of the State  
15 Correction Law, the people serving a city sentence, a  
16 sentence of, of less than a year, 95% of those people  
17 have not been rearrested while in the program. Put  
18 another way, 5% have. I mean, can you get any, I  
19 guess you could get better than that, it can be 100%.  
20 But that, that, that is, I think it's fair to say,  
21 um, a very safe and effective way to release people  
22 and, and keep them, um, out of harm's way. Would you  
23 agree?

24 DIRECTOR GLAZER: I can answer yes or no  
25 to that, ah, and yes.

2 CHAIRPERSON LANCMAN: You could expand if  
3 you wanted to, but you, you're not required.

4 DIRECTOR GLAZER: Well, yes, I mean, I  
5 think the, when I said that I think there are gonna  
6 be some lessons learned here, um, obviously it's  
7 still early days. Obviously we're living in a very  
8 different city than hopefully we will emerge into,  
9 but we certainly find those results very, very  
10 heartening. Um, and there is something to be learned  
11 there, um, about what the purpose and function of  
12 jail is, um, and I think it is something that, um,  
13 our colleagues across the criminal justice system  
14 have taken very, very seriously in this crisis. Um,  
15 the DAs, the defenders, DOC, CHS, um, have really  
16 grappled with, um, and been respectful of the  
17 different views and issues that go into making a  
18 decision to release. But I think it's a very, um,  
19 it's heartening.

20 CHAIRPERSON LANCMAN: You, you see that  
21 data and you report the data. I got the data from,  
22 from you and you see the data. Um, Commissioner,  
23 former Commissioner Bill Bratton took to Twitter to  
24 write, "As predicted, the crime virus is expanding  
25 rapidly as the jail population is decreasing

2 rapidly." Is it fair to say that you don't share his  
3 view that, that we have unleashed, all of us in our  
4 collective efforts have, have unleashed is a crime  
5 virus?

6 DIRECTOR GLAZER: Look, we always want to  
7 be, ah, keep an eye on crime and what's driving it.  
8 Ah, at least in the early returns right now, ah, it  
9 doesn't seem, from where I sit, um, that the data is  
10 showing that the releases, the COVID-related releases  
11 are driving, um, a crime spike.

12 CHAIRPERSON LANCMAN: Ah, so let's talk  
13 about that process. Ah, because you also have a very  
14 hard job. You've got five elected district  
15 attorneys, a special narcotic prosecutor, the courts,  
16 each individual judge, who many of them are, are, are  
17 themselves independently elected, um, you know, I'm  
18 reminded of the, the, the metaphor that some wise  
19 sage senator said about, about, about being majority  
20 leader of the, the Senate, it's like trying to herd  
21 cats. Can, can you walk us through in some detail  
22 the process for how the people who are going to be  
23 released, um, were identified? Let's start with the  
24 one that, that you probably have the most have the  
25 most control over and that is the, the city sentence



2 folks. Was that you and the, the corrections  
3 commissioner? Who else sitting in the room, going,  
4 going person by person, with certain categories of  
5 offenses eliminated for some consideration right off  
6 the bat. How, how did we get to that number that you  
7 got to?

8 DIRECTOR GLAZER: So I'm fortunate to  
9 have, ah, our deputy director, Deanna Logan, who led  
10 so many of these conversations, um, with me. So let  
11 me, why don't I start and, ah, Deanna, if there is  
12 anything you would like to add that would be  
13 terrific. Um, one of the things that, ah, you know,  
14 we, ah, it sometimes sounds like a joke, but we work  
15 very closely with our partners to determine how  
16 [inaudible], um, and, ah, this crisis has very much  
17 accelerated, ah, that working relationship. I think,  
18 ah, you know, we've already heard mention of that  
19 among many different agencies. Um, but what it did  
20 was really bring together on a daily basis, um, our  
21 court system, our DAs, our defenders, us, our sister  
22 city agencies, um, in a common effort, even though we  
23 sat in different places and had different views, um,  
24 to figure out what could we do in this crisis, um,  
25 to, ah, to slow or halt the spread of the disease in

2 our jails. Um, and there were literally daily calls,  
3 hourly contact, um, with each of those offices, um,  
4 to get input and ideas on, ah, what we should look  
5 at. Um, we were guided very much by CHS, ah, who is  
6 able to, um, to tell us, ah, who were the people who  
7 had, ah, as an aggregate matter, ah, suffered from  
8 the kinds of underlying conditions, ah, that may make  
9 them more vulnerable to the disease. Um, so it was  
10 really a process, um, that, ah, was intense and  
11 daily, um, and, Deanna, I don't know if you'd like to  
12 add to that. Maybe needs to...

13 CHAIRPERSON LANCMAN: Can we, can we  
14 unmute her? Alana? Can we unmute Deanna Logan?  
15 Here we go.

16 DEPUTY DIRECTOR LOGAN: Hi, good  
17 afternoon, yes. So, ah, just echoing what Director  
18 Glazer said, all of the system actors committed an  
19 [inaudible] amount of time, but not only time, but  
20 executive levels, individuals who are actually  
21 decision-makers. So on a daily basis the decision-  
22 makers in all of the offices, members of the court  
23 administration, defense bar, made their personnel  
24 available to review cases and then after doing their  
25 reviews they took action in making sure that cases

2 were calendared very expeditiously to have  
3 individuals brought before court so that cases could  
4 either be expedited for completion and/or bail  
5 reduced in many of the cases that they reviewed for,  
6 um, a number of cases that CHS brought to their  
7 attention, but then ones that, ah, defense bar  
8 brought to DAs' attentions, all of the system players  
9 made sure that they were able to on a daily basis be  
10 available and, and when we say daily we not just  
11 talking about during the week, we're talking about  
12 hours on weekends and nights and, um, pretty much at  
13 the drop of a hat they made themselves available. So  
14 that process meant reviewing people who were pretrial  
15 as well as city sentence going through and getting  
16 the individuals that after balancing health and  
17 public safe concerns the parties believe they could  
18 consent to release.

19 CHAIRPERSON POWERS: Let me ask you about  
20 the, the city sentence. Um, because if I'm not  
21 mistaken that decision is a unilateral one, correct?  
22 That's, that's, that's the city, or to be more  
23 specifically the, the Commission of Corrections,  
24 right, you don't need the district attorneys'

2 approval or courts' approval to put someone into  
3 that, that 6-A program, do you?

4 DEPUTY DIRECTOR LOGAN: We do not need  
5 the DAs' approval or consent on those individuals,  
6 that is correct.

7 CHAIRPERSON LANCMAN: OK. So...

8 DIRECTOR GLAZER: I would say, let me  
9 just jump in for, for one second. Um, I think any  
10 decision-maker, ah, is always grateful for and  
11 welcomes and wants to have, um, information before  
12 they make a decision. So what, um, what we can with  
13 respect to a case or the circumstances of a case, um,  
14 is quite minimal. I, we can see what the charge is.  
15 I, we don't necessarily know whether the charge  
16 describes the conduct. Ah, we really don't, we  
17 meaning the city, um, don't know that. So  
18 consultation as Deanna sort of laid out was and is an  
19 important part of, um, of making those decisions.

20 CHAIRPERSON LANCMAN: Were there any hard  
21 and fast rules? For example, was it necessary for  
22 someone to be considered that they have some kind of  
23 underlying medical condition that made them  
24 particularly vulnerable if they contracted COVID-19?

2 DIRECTOR GLAZER: Our, our focus was, um,  
3 to prioritize those who had an underlying medical  
4 condition or were over 50 years old, um, which were  
5 sort of the two, you know, main, um, main areas of  
6 [inaudible]. Um, but we were also interested in  
7 ensuring that we could, um, make the kind of space,  
8 um, within the jails, um, that would permit DOC and  
9 CHS to do the kind of social distancing and care that  
10 they wanted to do, um, and so if the DAs themselves,  
11 I mean, this wasn't just us, the DAs themselves  
12 worked with the courts, um, with lists of people that  
13 they consented to release, and so I don't think it  
14 was, our priority was to focus on people with those  
15 issues, but our priority was also to make space and  
16 if the days and I agreed there were a number of  
17 different routes to go there.

18 CHAIRPERSON LANCMAN: So in terms of the  
19 city sentence folks if someone didn't have an  
20 underlying condition and over 50 they still might  
21 have been considered? Maybe not in the first round,  
22 maybe not in the first day, but, but they weren't  
23 barred from being considered, is that, is that  
24 correct?

25 DIRECTOR GLAZER: Correct.

2 CHAIRPERSON LANCMAN: Yeah. Um, were  
3 any, ah, just focusing on the city sentence right  
4 because, again, just the things that you control,  
5 even though I understand and it certainly makes sense  
6 to me you'd want to solicit input from a wide range  
7 of sources, sources. But for the city sentence  
8 folks, um, were there any offenses or charges that  
9 were, ah, um, would preclude them from, from, from  
10 being considered for this program? For example, you  
11 know, we're not letting anyone, ah, ah, serving,  
12 serving a sentence for a sex offense, or some other  
13 offense?

14 DIRECTOR GLAZER: Yeah, I mean, I think  
15 there was a particular concern, um, around sex  
16 offenses, ah, [inaudible] conduct and, you know, DV  
17 behavior, um, some kinds of violent offences, ah, so  
18 definitely there were things that, um, that, ah, you  
19 know, seemed to be limiting factors to some degree.  
20 But no hard and fast rules, um, you know, it's a  
21 program that needs flexibility. The commissioner has  
22 to exercise her discretion, ah, and so having  
23 information is important.

24 CHAIRPERSON LANCMAN: Did, um, did at  
25 some point, you had mentioned earlier, ah, the

2 importance of creating enough space at Riker's for  
3 there to be proper social distancing. At, at, at,  
4 was there some, some target number to, to reach after  
5 which, let's just say the kind of intensity that, um,  
6 Ms. Logan described, ah, had and, and OK, we've,  
7 we've cleared out enough people, now they socially  
8 distance, let's move on to other things?

9 DIRECTOR GLAZER: I mean, I think there  
10 was, um, a, a sort of natural and organic, um,  
11 process in which the decisions became harder and  
12 harder. There may be people who have underlying  
13 conditions but the nature of the offense or other  
14 concerns, um, that our partners expressed meant that,  
15 um, that was not going to be a release. So there  
16 was, we never had a quota or particular number we  
17 were, ah, we were aiming for because it was really a  
18 case by case, um, evaluation.

19 CHAIRPERSON LANCMAN: Is that case by  
20 case evaluation still going on or if anyone is in  
21 Riker's now on a city sentence basically they've been  
22 evaluated and it is what it is? They're, they're  
23 gonna serve out their term.

24 DIRECTOR GLAZER: I mean, right now for  
25 the city sentenced, um, we are not because of the

2 nature of what's happening in the court system, we're  
3 not seeing any newly city sentenced people, um, so we  
4 have gone through, ah, that, ah, that evaluation  
5 process, um, again with our partners and again, you  
6 know, taking guidance from, ah, the corrections  
7 commissioner, who, whose discretion is obviously the  
8 one that has to be exercised.

9 CHAIRPERSON LANCMAN: Um, so my  
10 understanding from, from, from the, your data, which  
11 is I could figure it out, um, eliminating the people  
12 who are, ah, pretrial, now moving away from the city  
13 sentence, moving to the pretrial population. The,  
14 um, the, the, not including the people have a, are  
15 remanded or have another warrant or hold, looking at  
16 about 1300 people who were held purely on cash bail,  
17 um, and again people not remanded, people who don't  
18 have some other hold, um, or, or warrant, ah, you  
19 know, a lot of people would think that's, on any, on  
20 any given day it's hard to, to, to swallow that  
21 somebody's incarcerated because they don't have the  
22 money to, to bail themselves out. Um, but  
23 particularly with what's going on with COVID-19 it  
24 seems particularly potentially, ah, tragic, um, is  
25 any, is there any ongoing effort being made to try to



2 figure out a way to get those approximately 1300  
3 people out maybe through some mechanism other than,  
4 than, than cash bail so that they're not sitting in  
5 Riker's during the coronavirus crisis, um, because  
6 they don't have money?

7 DIRECTOR GLAZER: Yeah, so I don't, I  
8 can't confirm that that's right, the 1300. Um, if it  
9 comes more data, great, um, I, so I mean we have done  
10 quite an extensive process, um, ah, but less so about  
11 people coming in right now, um, so obviously the  
12 pretrial population is a more dynamic population.  
13 People are leaving, um, and people are coming in,  
14 though obviously at much reduced rates. Ah, so, you  
15 know, there's a point at which, um, ah, the district  
16 attorneys, the police department, other people, ah,  
17 in the criminal justice system, ah, feel that in  
18 fact, ah, incarceration is the right, ah, the right  
19 place for the individual. Um, and so that's where we  
20 have, that's where we have landed.

21 CHAIRPERSON LANCMAN: Um, I don't think  
22 it would be fruitful for me to ask you to, ah, assess  
23 each of the district attorneys' level of, ah,  
24 cooperation and, and enthusiasm, um, but I'd love to  
25 know it and I certainly wouldn't want to miss the

2 opportunity for you to share it if it's something  
3 that you want to.

4 DIRECTOR GLAZER: I mean, I think the  
5 district attorneys have, are, you know, this has been  
6 an incredibly difficult, ah, crisis for everybody and  
7 for them and their offices as well. They have been  
8 just remarkably dedicated and, ah, at a time when  
9 they were setting up parallel system, ah, to, ah, to,  
10 ah, to carry out their duties, um, really sort of put  
11 their shoulder to the wheel on these issues as well,  
12 um, with a great deal of care and thought. Um, they  
13 obviously have an array of different, ah, views and,  
14 ah, they also have constituents, so, um, so, but I, I  
15 really, ah, I was honored to be able to work with  
16 them, even if we didn't see eye to eye all the time  
17 on every single thing.

18 CHAIRPERSON LANCMAN: But that's good to  
19 hear. So my last question, just like, so we're on  
20 the same page 'cause it's hard to believe in my mind  
21 but apparently it's the case, um, the entire effort  
22 to reduce the population at Riker's Island is, is  
23 driven, is it not, by an understanding that the jail  
24 setting, even in the best of circumstances, is much  
25 more dangerous, much more likely to spread infection,

2 um, than having people at home or, or in some kind of  
3 work release program. I mean, I mean, that's why you  
4 went through all this trouble, isn't it?

5 DIRECTOR GLAZER: So, I mean, I think  
6 that, you know, we've heard from experts about the,  
7 you know, the issue of congregate settings and, you  
8 know, we as the city and our partners took that  
9 seriously, no question. But there are balancing  
10 tests here also. Ah, test makes it too formal, but  
11 there, there is more than one consideration. There's  
12 always more than one consideration, which is why, um,  
13 it wasn't just a flick of a pen.

14 CHAIRPERSON LANCMAN: Oh, I understand  
15 that. And I, I agree with you and appreciate the  
16 amount of thought and effort that you went into, to  
17 balancing those, um, those, those, those  
18 considerations. It's, it's strange to me to hear,  
19 but potentially we're gonna hear later, um, an  
20 assertion that, that the, the, the increased risk at  
21 Riker's Island is not an actual fact and not an  
22 actual consideration, as opposed to it is a fact, it  
23 is a consideration, and of course it has to be  
24 balanced, you know, alongside other considerations,  
25 like public safety, etcetera. Um, listen, I thank

2 you for your testimony. I thank you and your whole  
3 team, ah, for, ah, your very hard work and, um, to a  
4 very significant degree, ah, you're, you're a great  
5 success. I would just respectfully, ah, urge that  
6 you not let up if, ah, you know, we flatten the  
7 curve, if, um, ah, Riker's appears to have more space  
8 now than it did before, um, there are no, we're here  
9 to hear the testimony of the, the people from the  
10 Board of Corrections, um, but they, like everyone  
11 else, we should all be very, very worried about a  
12 return to the, to the population size at, at Riker's  
13 driving the return, ah, in force of a new wave of  
14 the, the coronavirus. So, thank you very much.

15 DIRECTOR GLAZER: Thank you.

16 COMMITTEE COUNSEL: Thank you. I will  
17 now call on council members in the order they have  
18 used the Zoom raise hand function. If you would like  
19 to ask a question and you have not yet used the Zoom  
20 raise hand function please raise it now. Council  
21 members, please keep your questions to three minutes.  
22 The Sergeant at Arms will keep a timer and will let  
23 you know when your time is up. You should begin once  
24 I have called on you and the sergeant has announced  
25 that you may begin before you deliver your, before

2 delivering your testimony. Um, the only hand I see  
3 is Council Member Holden. So, Council Member Holden.

4 SERGEANT AT ARMS: Starting time.

5 COUNCIL MEMBER HOLDEN: Thank you,  
6 Director. I'll just, ah, I want to address the  
7 public safety aspect of it, which, um, I think many  
8 of us are concerned about in the public. I'm, I'm  
9 looking at *Gothamist* article, about a couple of weeks  
10 ago. It said the police say that nearly 110 people  
11 who allegedly reoffended were charged with 190, ah,  
12 arrests, because some are accused of multiple new  
13 crimes. Ah, none was accused of murder, but there  
14 were several charged with major crimes. Do you have  
15 a breakdown of the crimes that individuals were  
16 arrested for after being released? Um, I don't have  
17 that at hand. Um, I would say that, um, you know,  
18 COVID has not ended crime. People leaving jail  
19 committed crimes before and they'll commit crimes  
20 after. Ah, and I think what we have our eye on is,  
21 um, what kinds of crimes, ah, is it more or less than  
22 we might expect in a pre-COVID period, totally  
23 understanding what a strange moment we are at right  
24 now. So we take it seriously. We very much, um, you  
25 know, are, obviously talk to the police department

2 every day about, um, what they're seeing and what  
3 we're seeing.

4 COUNCIL MEMBER HOLDEN: Well, the police  
5 are telling us that they're, they object to about 95%  
6 of the people that were released, and you can't cite,  
7 ah, the crime, ah, breakdown, meaning you should have  
8 that if you're going to assess if this is working or  
9 not, 'cause let's face it, only a small percentage  
10 of, of criminals who commit crime are getting caught.  
11 So we, we can assume that many more crimes are being  
12 committed, they're just not getting caught. Ah, and  
13 also you're, you know, by not knowing the breakdown  
14 you can't assess the situation. So I think there's  
15 a, there's a case where...

16 UNIDENTIFIED: Whoa, whoa, whoa, whoa,  
17 whoa.

18 COUNCIL MEMBER HOLDEN: Well, wait, wait  
19 a minute. There's a case...

20 UNIDENTIFIED: I can play [inaudible].

21 COUNCIL MEMBER HOLDEN: I, I didn't  
22 finish asking my question.

23 UNIDENTIFIED: Yeah, but you can't sort of  
24 say things that are just patently untrue.

2 COUNCIL MEMBER HOLDEN: Well, and you  
3 can, you can answer, you can answer that after I'm  
4 finished. But we are risking the public to a certain  
5 design. How many crimes, how many victims are we  
6 gonna allow by just letting people before they,  
7 they're doing their time. So there, there is a case  
8 here where we're putting the, the, ah, the public at  
9 risk, and we have to take that into consideration.  
10 There was a, there was a man that attempted to rape a  
11 woman he didn't know. He was in the jail, he got  
12 released on a technicality, or, ah, some parole  
13 violation, but you have to look at the greater  
14 picture here. What advantage does the public have in  
15 releasing people who have committed a crime over and  
16 over again and are released into the public?

17 DIRECTOR GLAZER: Yep.

18 SERGEANT AT ARMS: Time expired.

19 DIRECTOR GLAZER: So I would just say  
20 that I, the public safety issue is an important  
21 issue. There is no question that that is absolutely  
22 an important thing in the balance. Ah, I would just  
23 take very strong exception to the notion, um, that  
24 every single crime that's committed is committed  
25 because of these releases. Crime existed before,

2 crime will exist afterwards. We need to take a very,  
3 to really sort of be attentive, ah, to what is  
4 driving, um, whatever the crimes are. But, you know,  
5 I'll note that crime is down.

6 COUNCIL MEMBER HOLDEN: I don't remember  
7 saying that every single crime was committed by early  
8 releases. That was, that's, if I did say that,  
9 that's ridiculous...

10 DIRECTOR GLAZER: That was your...

11 COUNCIL MEMBER HOLDEN: ...but I don't  
12 believe I said that.

13 DIRECTOR GLAZER: That was your  
14 implication.

15 COUNCIL MEMBER HOLDEN: Oh, well you can,  
16 you can read into it, but that wasn't what I, of  
17 course, that's, that's ludicrous to say every single  
18 crime

19 DIRECTOR GLAZER: Yes, absolutely.

20 COUNCIL MEMBER HOLDEN: ...committed in  
21 public is by early releases. Come on.

22 DIRECTOR GLAZER: It is ludicrous,  
23 agreed.



2 COUNCIL MEMBER HOLDEN: Yeah, all right.  
3 I, I agree. But I didn't say that. I didn't even  
4 come close to saying that. OK, Chair, thank you.

5 COMMITTEE COUNSEL: Now back to Chair  
6 Powers for additional questions.

7 CHAIRPERSON POWERS: Thank you. Um,  
8 we're gonna move on, I think, um, out of respect for  
9 everybody's time. Thank you to MOCJ for your time  
10 and testimony. I think you're back at the council, I  
11 think even tomorrow for, ah, a budget hearing. So  
12 [inaudible] questions as well. Thank you, ah, and be  
13 well.

14 DIRECTOR GLAZER: Thank you.

15 CHAIRPERSON POWERS: I think we're gonna  
16 move on now to the district attorneys.

17 COMMITTEE COUNSEL: Thank you. Now we  
18 will call on the district attorneys to testify.  
19 First we will hear from District Attorney McMahon,  
20 followed by Special Prosecutor Bridget Brennan, Jill  
21 Harris, director of policy and strategy for the Kings  
22 County DA, Derek Lynton, Chief Assistant District  
23 Attorney for the Bronx DA, Jennifer Nyberg, Chief  
24 Executive Assistant District Attorney for the Queens  
25 District Attorney. Before we begin I will administer

2 the oath. I will call on each of you individually  
3 for a response. Please raise your hand  
4 [interruption]. Please raise your hand. I believe  
5 one of our district attorneys is having technical  
6 difficulties and if that's the case I will call on  
7 you later to administer the oath and have you, have  
8 you sworn in. Um, I will call on each of you first  
9 right now. Special Prosecutor Bridget Brennan. Oh,  
10 I apologize. Do you affirm to tell the truth, the  
11 whole truth, and nothing but the truth before these  
12 committees and to respond honestly to council member  
13 questions? I will call each of your names. Special  
14 Prosecutor Bridget Brennan?

15 SPECIAL PROSECUTOR BRENNAN: I do.

16 COMMITTEE COUNSEL: Director Jill Harris?

17 DIRECTOR HARRIS: I do.

18 COMMITTEE COUNSEL: Chief Assistant  
19 District Attorney Derek Lynton? Chief Assistant  
20 District Attorney Derek Lynton?

21 CHIEF ASSISTANT DISTRICT ATTORNEY LYNTON:

22 I do.

23 COMMITTEE COUNSEL: Chief Executive  
24 Assistant District Attorney Jennifer Nyberg?

2 CHIEF EXECUTIVE ASSISTANT DISTRICT

3 ATTORNEY NYBERG: I do.

4 COMMITTEE COUNSEL: And I will call on  
5 District Attorney McMahon.

6 DISTRICT ATTORNEY MCMAHON: I do, I do.

7 COMMITTEE COUNSEL: Thank you. Special  
8 Prosecutor Bridget Brennan you may begin.

9 SPECIAL PROSECUTOR BRENNAN: OK. First  
10 of all, I want to thank the chairs for calling this,  
11 ah, calling this committee meeting and inviting me to  
12 testify. I think this is a critical issue for all of  
13 us and it's important to have the opportunity to  
14 discuss our strategies and the process and programs  
15 that we've used to reduce the population of city  
16 jails in response to the COVID crisis. And I want to  
17 say before I go any further how closely we have  
18 worked with MOCJ, which has, ah, demonstrated  
19 tremendous leadership in this area, particularly the  
20 director, Liz Glazer, and our primary contact, Deanna  
21 Logan, have been just extraordinary, and we've worked  
22 closely with the defense bar, with the court system.  
23 Ah, it has really brought us all together and has  
24 taught us a deep respect for each other, ah, and how  
25 to listen to each other, how to listen carefully and

2 try to get us to the best result during this terrible  
3 crisis. Ah, you have heard the statistics on this  
4 crisis from the experts. And I won't go through  
5 those again. But I will tell you about our approach.  
6 The compassionate release of prisoners who are high  
7 risk of serious complications from the virus is a  
8 priority to us, so long as the release will not  
9 jeopardize public safety and as long as we are  
10 confident that those who are released will return to  
11 court. Due to criminal justice reforms which  
12 eliminated bail or remand for the vast majority of  
13 narcotics offenses, relatively few individuals facing  
14 prosecution by our office were confined, and in case  
15 you are not aware of the specific jurisdiction of our  
16 office, we have jurisdiction of felony narcotics  
17 offenses throughout New York City and we focus on the  
18 highest level of offenders. Our goal is to prevent  
19 deaths. So we investigate a lot of cartel-related  
20 cases, um, cases of distribution of narcotics-related  
21 overdose deaths, and public safety is our highest  
22 priority. 73 incarcerated defendants faced charges  
23 brought by our office at the start of this crisis in  
24 mid-March, and most were charged as operating as a  
25 major trafficker or were facing weapons or assault

2 charges. We worked closely with MOCJ to identify  
3 defendants appropriate for release. We continually  
4 track and update information on all incarcerated  
5 defendants, including information from reports or  
6 letters relevant to the defendant's heightened health  
7 risk. This system, in the form of a spreadsheet, is  
8 circulated among our executive staff and used to  
9 initially evaluate requests for release. Each case  
10 is then reviewed by the individual assistant district  
11 attorney assigned to the matter and by the bureau  
12 chief. We're also able to see if defendants whose  
13 release we have agreed to are still incarcerated and  
14 once we have agreed to it and we know that we don't  
15 have any holds because of, ah, the difficulties with  
16 communication within the system, sometimes we could  
17 see that they remained incarcerated, and then we  
18 would follow up with the mayor's office to understand  
19 why that was happening and make sure they knew that  
20 we were, ah, agreeing to release. Over the past two  
21 months 40 defendants have sought review of their  
22 incarceration status in our cases. These reviews  
23 were brought on, ah, in a number of ways, including  
24 requests for review of vulnerable defendants by MOCJ,  
25 writs of habeas corpus, and individual requests and

2 bail applications to release by individual defense  
3 counsel. In addition, recently we were presented  
4 with a request for electronic monitoring, ah, of a  
5 defendant who is currently remanded. Of this 40  
6 defendants approximately 42%, 17, have been released  
7 with our consent as part of our review process. We  
8 have opposed the applications, ah, for bail or writs  
9 of habeas corpus as to 23 defendants. In these cases  
10 our opposition was based on concerns for public  
11 safety or flight, ah, and none of these applications  
12 for release which we have opposed have been  
13 judicially granted. We have also closely analyzed  
14 information provided in individual cases and publicly  
15 available data on the risk to prisoners in custody of  
16 the coronavirus at Riker's, and when we have an  
17 application we do reach out to, ah, the Correctional  
18 Health Services to get as much information as we can  
19 about the health risk to the prisoner. Now, to  
20 demonstrate how we factor in these considerations I'm  
21 going to go through, ah, an application that's  
22 currently pending for a defendant who was indicted on  
23 the crimes of attempt assault in the first degree,  
24 reckless endangerment in the second degree, ah, and  
25 criminal weapons possessions, conspiracy, as well as

2 narcotics charges. Many of these charges stem from  
3 his alleged participation in two shootings, which  
4 were captured on video surveillance, and telephone  
5 calls intercepted on a wire tap. The defendant and  
6 his family members discussed the purchase of bullet-  
7 proof vests which would be sewn into hooded  
8 sweatshirts. Multiple firearms were recovered during  
9 the investigation. Shortly before these incidents  
10 the defendant was released from federal prison,  
11 having serving, ah, served a 20-year sentence for a  
12 conviction of conspiracy to distribute heroin. Under  
13 the current charges as a [inaudible] felon he faces  
14 up to 15 years, ah, of incarceration. In this  
15 application we have argued against release, ah, for  
16 public safety reasons. But we didn't do that without  
17 first doing a thorough review of all available health  
18 records, indicating that the health care he received  
19 while incarcerated did actually protect this  
20 defendant's well-being and it appears that he may  
21 have had better access to appropriate care, ah, while  
22 he was incarcerated than he might have had when he  
23 was at liberty. In his application the defendant  
24 states that his pre-existing health conditions  
25 escalate the risk of serious complications from the

2 virus and support his request for release. We  
3 evaluated his claims using reliable statistical data  
4 and comparing the health risk related to COVID-19 in  
5 city jails to the risks faced by an ordinary New York  
6 citizen. Our review of his medical records indicates  
7 that this particular defendant may have had better  
8 access to virus testing and follow-up care than  
9 available to the ordinary citizen at the time. He  
10 received two COVID-19 tests at a time when most of  
11 New York was unable to obtain a test. Because the  
12 virus was identified through early testing he  
13 immediately received supportive care and was  
14 transferred to a unit dedicated to inmates exposed to  
15 COVID-19 who became ill. This suggests a level of  
16 care that the severely strained city healthcare  
17 system could not have provided during that same  
18 period of time. There is no reason to believe he  
19 will not continue to receive appropriate care while  
20 incarcerated. And we balance all of these factors in  
21 determining whether we should consent to his release.  
22 And in this case, balancing the public safety  
23 concerns and risks against his health status, we have  
24 determined that we should oppose release in the  
25 interest of protecting the people in the city. Our



2 ability to respond is enhanced by the public  
3 reporting of relevant information by the Department  
4 of Corrections. DOCS regularly reports on the number  
5 of inmates under observations, whether they are  
6 symptomatic or not symptomatic, and you've heard all  
7 about this. Ah, their reporting is excellent and  
8 their responsiveness is excellent. Our concern, one  
9 concern we do have, ah, regarding those who have been  
10 released is the inability to supervise them in a  
11 meaningful way while we are in the grips of this  
12 pandemic. Our concern is best exemplified by a  
13 defendant who was released to the community by the  
14 DOCS commissioner under Article 6-A, which pertains  
15 to convicted prisoners, as you know, who are serving  
16 a year or less. This defendant faced a felony charge  
17 and he was allowed to plead to a year. The released  
18 prisoner, ah, had a release date of August 30 for  
19 selling drugs. While we consented to the majority or  
20 agreed with the majority of 6-A releases this was one  
21 of the few where we raised concerns, because this  
22 individual had three prior felony convictions, two of  
23 which were for violent crimes. We were concerned  
24 that he was unlikely to obey the law and the  
25 conditions of release. And almost immediately after

2 his release my office was contacted by the lawyer for  
3 the landlord of the building that he immediately  
4 returned to, and he said that the defendant resumed  
5 drug dealing from his home while he was still wearing  
6 corrections clothes upon his release. And a steady  
7 stream of strangers entered the building to purchase  
8 drugs, putting other residents at great risk. Ah, it  
9 became apparent that at this point in time there  
10 wasn't a great meaningful mechanism in place for  
11 supervising or sanctioning the defendant. The only  
12 suggestion was to conduct an NYPD investigation and  
13 make a new arrest. Ah, this is not possible under  
14 the current circumstances. These are not the kinds  
15 of cases that the NYPD was typically involved in at  
16 the time we received this complaint. And apart from  
17 that we're not really looking to return defendants to  
18 jail. We're really looking for effective means to  
19 keep them out of jail when they, ah, are committing  
20 low-level, nonviolent offenses, as this person was.  
21 However, the lawyer pointed out that the  
22 neighborhoods should not be subject to increased risk  
23 of infection, not to mention the other risks posed by  
24 this early release. I'm in complete agreement that  
25 we want to get away from a system that incarcerates

2 people for nonviolent offenses. But instead of  
3 arrest and incarceration we must have an effective  
4 means of protecting the public. In this instance,  
5 under these unique circumstances of the pandemic it  
6 was clear that the neighbors felt their safety was  
7 compromised solely to benefit the released prisoner  
8 who immediately flouted the law. And there was  
9 little we could do about it. Ah, the current  
10 restrictions on the supervised release program didn't  
11 allow them, ah, you know, a great opportunity to  
12 intervene, ah, and as I say this is not, we're not  
13 looking to return defendants to jail at this time,  
14 but we do need a means, an effective means, of  
15 intervening. So that is one thing that I think we  
16 all should be looking at. If we don't want to keep  
17 this cycle going we need to think of how it is we're  
18 going to satisfy neighbors, satisfy the public that  
19 their safety isn't being compromised. I have one  
20 comment, um, on the proposal to create a local  
21 conditional release commission, ah, designed to  
22 address these same concerns about releasing  
23 defendants who are serving less than a year. My  
24 understanding is that this commission would not take  
25 the place of the DOCS commissioner and the DOCS

2 commissioner would still have authority to release,  
3 ah, defendants, obviously, who would simply amplify  
4 this. But at this time I would view this as  
5 redundant. Um, I believe there are fewer than  
6 probably a hundred defendants who are now serving  
7 sentences of this nature, and of this hundred the  
8 DOCS or the commission would have very limited, much  
9 more limited authority, much more limited than the  
10 DOCS commissioner. Their authority would be  
11 restricted. Ah, and so at this point in time when  
12 the city is facing a financial crisis, to me it  
13 appears unnecessary. Secondly, it didn't appear to  
14 me in looking at the proposal that it would have the  
15 built-in kind of authority to do the type of  
16 supervision that I'm talking about, have the, ah,  
17 ability to intervene in a meaningful way. Um,  
18 finally, I would also remind the council that the  
19 city did have a commission like this, which was  
20 disbanded about 15 years ago after being the subject  
21 of several scandals, um, accusations of releasing  
22 people on the basis of favoritism or, ah, political  
23 connections, and if you are going to, ah, institute  
24 anything like this I would hope that you would build

2 in some kind of protections which would prevent that  
3 from ever happening. Thank you very much.

4 COMMITTEE COUNSEL: Thank you. Next we  
5 have District Attorney McMahon.

6 DISTRICT ATTORNEY MCMAHON: Ah, thank  
7 you, Council. Am I coming through?

8 COMMITTEE COUNSEL: Yes.

9 DISTRICT ATTORNEY MCMAHON: Can you hear  
10 me? Good. Thank you very much. Good afternoon, ah,  
11 Chairpersons Lancman and Powers, ah, and all of the  
12 members of the committee, ah, and all those  
13 interested in this very important, ah, topic that's  
14 brought up by this, ah, hearing today, and Thank you  
15 for allowing me to represent, ah, the people of  
16 Staten Island and the office of the Richmond County  
17 District Attorney with this testimony today. As  
18 district attorney, my primary concerns are to serve  
19 victims of crime, uphold the rule of law, and keep  
20 our community safe by preventing and prosecuting  
21 crime. When the coronavirus pandemic reached our  
22 shores and spread rapidly through all of New York  
23 City, it created an unprecedented emergency for both  
24 public health experts and law enforcement agencies  
25 alike. We have all felt the massive strain this

2 health crisis has placed on the entire system, and my  
3 office has been working diligently with our partners,  
4 including the NYPD, to ensure the coronavirus  
5 pandemic did not cripple law enforcement's ability to  
6 protect and serve the people of the City of New York.  
7 At the same time, we recognized early on how COVID-19  
8 infections could have the potential to overwhelm our  
9 city jails and juvenile detention facilities if  
10 containment efforts were not immediately undertaken.  
11 From the outset we recommended, ah, in a letter from  
12 the city's prosecutors simple measures that should  
13 have been put into place to protect inmates and  
14 correction staff, calling on the city to reopen  
15 shuttered buildings on Riker's Island to allow for  
16 social distancing and better quarantining and care of  
17 the sick. Instead, the administration focused on  
18 releasing as many defendants as possible from Riker's  
19 Island. When this process began we were asked to  
20 consider consenting to the release of those convicted  
21 of nonviolent, non-domestic violence, and non-sexual  
22 abuse-related offenses with a short time remaining on  
23 their sentences. In several instances we were able  
24 to identify individuals who had little time left in  
25 their sentences and posed a minimal risk to public

2 safety and did give our compassionate consent to  
3 early release. In other instances we have been  
4 actively working with defense counsel and the court  
5 to expeditiously connect detainees with treatment  
6 providers who can serve their serious substance use  
7 disorder and mental health needs outside of Riker's,  
8 either as part of a plea or while they await trial.  
9 In our view, the compassionate release of these  
10 defendants would not pose a risk to public safety so  
11 long as the city upheld its promise to closely  
12 monitor them through supervised or work-release  
13 programs. Despite our good faith efforts, misguided  
14 and agenda-driven activists, led by the Legal Aid  
15 Society and other public defender groups, have used  
16 this as an opportunity to demand the total emptying  
17 of our jails. In an egregious example, Legal Aid  
18 attorneys successfully petitioned the court for the  
19 release of a 77-year-old Staten Island defendant who  
20 had tested positive for COVID-19 while at Riker's  
21 Island after being charged with the course of sexual  
22 conduct against a child, for allegedly abusing a  
23 minor on multiple occasions. Over our objections,  
24 but with the blessings of the city, this COVID-  
25 positive defendant was released into a city-run

2 nursing complex on Roosevelt Island, where it was  
3 later reported that over 70 patients had thereafter  
4 become infected with coronavirus. It is unfathomable  
5 that the city would place a COVID-positive inmate in  
6 the same facilities as law-abiding and high-risk New  
7 Yorkers, but sadly this is the state of our current  
8 reality. While our concerns are many, we remain most  
9 dismayed by the utter dismissal the city has shown  
10 toward the victims of crime. Many defendants are  
11 being released equipped with cab fare, cell phones,  
12 and a key to a hotel room, regardless of the crime  
13 they committed or their current health condition.  
14 Ironically, few, if any, of these resources have been  
15 made available to the victims, who are also at risk,  
16 especially domestic violence survivors in women's  
17 shelters or children being cared for in foster homes.  
18 I think it's also been quite clear by the testimony  
19 here today that in many cases those who find  
20 themselves incarcerated in Riker's Island over the  
21 course of this pandemic have had access to more  
22 testing and more health care than the average New  
23 Yorker and certainly, sad to say, that the death  
24 rates on Staten Island, a different island, have been  
25 higher than those of those who find themselves



2 incarcerated on Riker's because of the coronavirus.

3 Again, we have to be compassionate for those who are

4 incarcerated, ah, in our, ah, penal system. But at

5 the same time we cannot use this crisis as a reason,

6 ah, to let those, ah, fulfill their long-standing

7 agendas to decarcerate our society. As long as

8 individuals commit crimes which are acts against

9 individual victims or society, ah, and against the

10 norms of the society, then we have to have a system

11 that provides for their accountability as well as

12 provides for those who are the victims of crimes.

13 The so-called decarceration, or emptying of our

14 jails, does not provide that in any way. One area

15 that I would like to also discuss, ah, is, ah, some

16 proposed legislation, ah, that the council is

17 considering, in particular the local release

18 commission in New York City. I am compelled to

19 express my deep reservations on both practical and

20 constitutional grounds. As is in my written

21 testimony, there is a series of cases that would call

22 into question the constitutional authority that this,

23 ah, commission would have, as it takes away the

24 power, ah, from a sentencing judge to set the

25 sentence of someone who's convicted of a crime. The

2 other problem, as my colleague, Special Prosecutor  
3 Bridget Brennan mentioned, ah, is that the history of  
4 this commission, ah, is, is, is questionable at best.  
5 In fact, I was a member of the City Council back in  
6 2004, ah, when the commission was, ah, alleged and  
7 then proven to have been involved, ah, in conspiracy  
8 and bribery, ah, around the sentence of State Senator  
9 Guy Velella, ah, who had been convicted on numerous  
10 counts of conspiracy, ah, and bribery relating to a  
11 scheme where Velella and his codefendants, ah,  
12 received money over a period of time to allow, ah,  
13 public works construction projects. Ah, the  
14 commission at that time, ah, reduced, ah, a year-long  
15 sentence to 12 weeks, ah, and did not follow its  
16 procedures, ah, and, ah, at that time Mayor Bloomberg  
17 accepted the resignation of all the members of this  
18 commission and allowed it to expire in 2005, and this  
19 was not the only allegation made against this  
20 commission. Given the fact that the jurisdiction of  
21 this commission would be so limited, ah, given the  
22 fact that it calls into question constitutional, ah,  
23 abrogations of the judge's power, ah, I believe that  
24 this, ah, legislation should be, ah, rejected by the  
25 City Council. We've done so much on Staten Island

2 and indeed across our city to make the justice system  
3 more equitable, ah, and sanctions more appropriate  
4 for those who have been convicted of violating our  
5 laws. One need not look further, ah, than the  
6 population of Riker's Island, which is lower than it  
7 has been since the 1940s for proof that our city's  
8 criminal justice apparatus has sought every  
9 opportunity to divert offenders out of the criminal  
10 justice system and into meaningful engagement with  
11 pro-social services. The proliferation of  
12 [inaudible] community providers who offer quality  
13 mental health and drug treatment, batter  
14 intervention, neighborhood place making, and other  
15 programs is evidence that we are continuing to move  
16 beyond incarceration as the only tool to hold  
17 offenders accountable. We must not be so naïve as to  
18 think that there is no need for incarceration and  
19 that cutting short judicial sentences in line with  
20 the laws of our state should be the norm as opposed  
21 to the exception. Any crime committed by someone who  
22 is released before the conclusion of their sentence  
23 represents a failing, not just of that individual but  
24 of the system and the safeguards put in place to  
25 ensure the offender's safe reintegration into the

2 community. So the commission and all the early  
3 releases that are continuing to be considered by the  
4 city unnecessarily creates more opportunities for  
5 such a failing. In conclusion, let me note that we  
6 have seen several serious crimes committed in the  
7 last weeks on Staten Island, including the double  
8 homicide of a pregnant woman and her boyfriend, and  
9 multiple unrelated arrests relating to the possession  
10 of large caches of weapons, including improvised  
11 explosive devices, or IEDs, flame throwers, and yes,  
12 I said flame throwers, and dozens of firearms. At  
13 each arraignment we successfully argued for bail or  
14 remand to be set, and these defendants currently  
15 remain incarcerated pending trial. But based on what  
16 we have seen from the advocates thus far, it would  
17 come as no surprise to see calls for their release  
18 without any accountability as well. The delusional  
19 mission to empty all jails will make us less safe in  
20 the end, especially the victims, whose voices  
21 continued to be ignored throughout this crisis, as  
22 they have been for far too long. As Justice Benjamin  
23 Cardozo said, "Justice, though due to the accused, is  
24 due the accuser also." As we struggle every day to  
25 contain the coronavirus pandemic, our elected leaders

2 need to serve all New Yorkers, not just the loudest  
3 and most extreme. Again, I thank you for your  
4 attention and time. I look forward to any questions  
5 you may have.

6 COMMITTEE COUNSEL: Thank you. Next we  
7 have Director Jill Harris. Director Harris?

8 DIRECTOR HARRIS: Thank you, Chairman  
9 Lancman, Chairman Powers, members of the Committees  
10 on Criminal Justice and the Justice System for this  
11 opportunity to testify regarding COVID-19 in city  
12 jails and juvenile detention facilities. My name is  
13 Jill Harris and I am the chief of policy and strategy  
14 in the office of Brooklyn district attorney, Eric  
15 Gonzalez. When the first cases of COVID-19 were  
16 reported in New York, it became immediately clear to  
17 all of us who work in the criminal justice system  
18 that jails and prisons would be hard hit by the virus  
19 and that it would be essential to reduce the number  
20 of people on Riker's Island to slow the spread of  
21 this deadly disease. From the earliest days of the  
22 health crisis the Brooklyn DA's office has acted  
23 urgently and intentionally to reduce the number of  
24 people from Brooklyn who are detained on Riker's,  
25 where doing so would not create an undue risk of harm

2 to any person or to the public. DA Gonzalez views it  
3 as his solemn responsibility to keep his constituents  
4 safe and he understands that his constituents include  
5 people who are incarcerated. During this public  
6 health emergency, in trying to do our part to reduce  
7 the jail population, our office has had to strike a  
8 balance between protecting the health and safety of  
9 people incarcerated at Riker's and those who work  
10 there by consenting to releases that will reduce the  
11 population and allow for more social distancing, and,  
12 on the other hand, protecting victims of crime and  
13 the public by supporting the continued detention of  
14 individuals who we believe would be likely to commit  
15 further acts of violence if released. Striking this  
16 balance in favor of releasing someone is especially  
17 challenging in Brooklyn because of the work our  
18 office has already done to reduce incarceration.  
19 Before the pandemic we had already taken aggressive  
20 steps to ensure that we were not incarcerating people  
21 on low-level cases, because we view jail and prison  
22 as extraordinary responses that should not be sought  
23 if a non-jail alternative is available that will not  
24 endanger the public. DA Gonzalez changed our  
25 office's bail policy well before last year's changes

2 in the state law, instructing our ADAs to consent to  
3 release said arraignments unless public safety or  
4 risk of flight in serious cases demanded that we seek  
5 bail and remand in a particular case. And of course  
6 we've diverted countless people into services and  
7 programs to address the circumstances in their lives  
8 that contributed to their criminal offenses, rather  
9 than simply seeking to lock them up. So if we ask a  
10 court to incarcerate someone it is because we believe  
11 that public safety requires it. But the pandemic has  
12 forced us to change our calculus and we are  
13 revisiting even those cases in light of the risk of  
14 infection on Riker's Island. We have been going  
15 through our Riker's cases involving individuals who,  
16 because of age or underlying health condition, may be  
17 particularly vulnerable to serious illness if they  
18 contract COVID-19. In some cases we have received  
19 lists of names from the mayor's office or from the  
20 Corrections Health Services. In other cases, defense  
21 attorneys have reached out to us, asking us to  
22 consent to their client's release. Many cases have  
23 been brought as writs. And in others we have simply  
24 asked our ADAs to review their own cases for possible  
25 release in light of the health emergency. DA

2 Gonzalez has put together a small team of senior  
3 executives to help him conduct these reviews. We  
4 have done a case-by-case review to determine what, if  
5 any, conditions would allow us to consent to a  
6 person's release without putting a victim or the  
7 public at undue risk. In many cases this has meant  
8 working with defense counsel and service providers to  
9 provide, to find supportive housing, drug and mental  
10 health treatment, and other services to support the  
11 person released and reduce the danger to the public.  
12 You can imagine how challenging this has been during  
13 this extraordinary situation. Our team has also  
14 considered cases where the person may not have any  
15 special health vulnerability, but in the interest of  
16 reducing the population at Riker's to permit more  
17 opportunity for social distancing we might consent to  
18 their release. And so from March 12 to May 15 the  
19 number of people on Riker's Island from Brooklyn  
20 dropped by 316 people, a decrease of 28%, and our  
21 reviews are ongoing. There have been cases where we  
22 have opposed release, gotten new information, gone  
23 back and reviewed the cases. The cases, as I said,  
24 are ongoing. DA Gonzalez has personally reviewed  
25 every single one of these cases. The decisions were



2 often difficult, but we feel comfortable that we've  
3 been striking the appropriate balance. In cases that  
4 have victims, which is most of these cases, we have  
5 reached out to the victims when we were considering  
6 releasing the person charged with hurting them,  
7 getting their opinions, and, if necessary, helping  
8 them with safety planning, including orders of  
9 protection, getting locks changed, or potentially  
10 relocating. These services are especially critical  
11 in domestic violence cases, as I'm sure you can  
12 appreciate. The individuals we did not consent to  
13 release are charged with very serious, violent  
14 crimes, including armed robberies, rapes, murder,  
15 attempted murder or very brutal domestic violence  
16 assaults. And in these cases we have very strong  
17 evidence. Mindful as we are of the conditions on  
18 Riker's and the health risks to those confined there,  
19 these are not individuals we feel comfortable  
20 releasing into our neighborhoods in Brooklyn. So  
21 here is where we are. Not everyone who is in Riker's  
22 can get out. Some people need to stay there. We  
23 can't free them all because there are people who if  
24 they get out will hurt other people. But as we can  
25 all agree, no one deserves to die of COVID-19 either.

2 And that makes it incumbent on the city and the  
3 agencies you have heard from today to see to the  
4 health and the safety of the people in their charge.  
5 The population of Riker's Island, as you've heard,  
6 once hovered over 20,000 and has now reached an  
7 historic low in the midst of this pandemic. It's now  
8 below 4000. I hope that the steps that our office  
9 and other DAs' offices have taken to reduce those  
10 numbers will make it easier for the Department of  
11 Corrections to implement appropriate sanitation and  
12 social distancing, to keep their staffs and the  
13 remaining inmate population safe. Every life is  
14 valuable and DA Gonzalez stands ready to cooperate  
15 with our city partners and with the council in any  
16 way necessary to ensure that those who must remain in  
17 detention to protect the public can be held there  
18 safely. Thank you for your attention to this  
19 important issue, for giving us the opportunity to  
20 speak with you today. Um, I haven't, um, talked  
21 about any of the bills you're discussing in my  
22 remarks, but happy to answer questions about those or  
23 any other questions you might have.

24

25

2 COMMITTEE COUNSEL: Thank you. Now we  
3 have Chief Assistant District Attorney Lynton. You  
4 may begin.

5 CHIEF ASSISTANT DISTRICT ATTORNEY LYNTON:  
6 Good afternoon, Chairman Lancman and Powers, members  
7 of the Committee on Criminal Justice and the Justice  
8 Committee. I am Derek Lynton, the chief assistant  
9 district attorney for the office of the district  
10 attorney, Darcel D. Clark. I am honored by this  
11 opportunity to address you on behalf of District  
12 Attorney Clark on a topic that is just as important  
13 as it is necessary. The road that led the Bronx  
14 district attorney's office to this moment began in  
15 March 2020 when the impact of COVID-19 forced the  
16 city and state to close its church and school doors,  
17 redefining the way we work and live. We share a  
18 passion for justice and we as prosecutors are  
19 uniquely positioned to administer justice. The Bronx  
20 district attorney's office serves 1.4 million people  
21 in the Bronx, including 3800 people who walk the  
22 halls of Riker's Island jails. They matter, and are  
23 just as important as every New Yorker who shelters in  
24 place throughout the city. DA Clark, in her wisdom  
25 and concern for employees, began the difficult task

2 of reducing the density of our office in early March  
3 before imposing the mandates regarding essential  
4 workers. This was achieved with clear instruction  
5 that social distancing and remote work will not  
6 interfere with our shared commitment to pursue  
7 justice with integrity. Accordingly, when the office  
8 received its first of many lists from the Mayor's  
9 Office of Criminal Justice requesting our assistance  
10 in reducing the population at Riker's Island it was  
11 an understandable but challenging undertaking that  
12 embraced DA Clark's policy of a safer Bronx through  
13 fair justice. I will explain. Since January 2016  
14 the Bronx district attorney's office has performed a  
15 rigorous and intentional approach to case evaluation  
16 that has resulted in historic lows in the population  
17 at Riker's Island. Whether misdemeanor or felony,  
18 every case was purposefully evaluated and subjected  
19 to several tiers of supervisory review with the idea  
20 that freedom from incarceration is the starting  
21 point, along with consideration of available services  
22 to address the wellness and mental health of the  
23 defendants as an alternative to jail or prison. With  
24 this philosophy in mind we began the consuming task  
25 of carefully and methodically reviewing each case on

2 each list. First, we reviewed the newly sentenced  
3 list, which was soon followed by the parolees over 50  
4 years old, then those of 50 years old incarcerated  
5 under \$10,000 bail, and defendants under 50 years old  
6 held by \$10,000 bail. We [inaudible] each and every  
7 case with particular attention to those who were on  
8 the city sentence inmate list, with technical parole  
9 violations, and the cases that were approved by, for  
10 release by the New York Police Department.

11 Thereafter, we evaluated the cases of the 300 inmates  
12 sentences [inaudible] involved the Bronx cases that  
13 were released without consulting the office.

14 Further, there was the list of vulnerable pretrial  
15 detainees, vulnerable youth offenders, and  
16 consideration of those under 50 on the geriatrics and  
17 complex care lists. All of these lists were  
18 evaluated daily and required extensive conversations  
19 with the defense bar. I mention this list of  
20 categories as reminder of all the efforts we made to  
21 consider the public health impact of our Riker's  
22 residents. Our process to case assessment was  
23 intentionally rigorous and requires a thoughtful  
24 analysis of the circumstances of each particular  
25 defendant. We've considered questions such as why

2 has the defendant committed the offense, what is the  
3 criminal record and the nature of her offense? Do we  
4 know enough about the defendant to understand who  
5 he/she is? Does the person have a history of mental  
6 illness or addiction? Have we considered the  
7 collateral effects of incarceration on the family of  
8 this defendant? Will the Bronx community be best  
9 served by incarceration? Is there a suitable  
10 alternative to incarceration? All assistants are  
11 strongly encouraged to engage the defense bar in  
12 meaningful conversations with an eye towards  
13 exploring the possibility of resolving the case at  
14 its earliest stages. Then each case on the lists  
15 were reviewed by the division chief, the alternatives  
16 to incarceration chiefs, and the chief assistant.  
17 Some cases required several conversations with key  
18 stakeholders in the defense bar, along with approval  
19 from the final decider, DA Clark. As we discussed  
20 those who are incarcerated, as we discussed those who  
21 are incarcerated, I must remind you that there are  
22 victims who are impacted by our decisions. Upon  
23 addressing criminal justice reform, we cannot forget  
24 those who continue to suffer from those unspeakable  
25 acts of violence and continue to receive services for

2 their traumas. Accordingly, while we attempt to  
3 reduce the population of people in jails and prisons  
4 for noble and just reasons, we cannot continue to do  
5 so at the risk of neglecting the closure, healing,  
6 safety, and health of the victim. Some of the most  
7 heart-wrenching conversations occur when ADAs must  
8 explain to victims of serious violent crime and  
9 survivors of sexual abuse that the person who caused  
10 their injury is about to be released. You can  
11 understand how this impacts their sense of safety and  
12 security, changing their lives forever. It is  
13 difficult to explain why a man who gouged out a  
14 woman's eye and then attempted to do the same to the  
15 other eye may be released. Or why the man who  
16 wrapped his hands so tightly around his partner's  
17 neck, causing permanent paralysis in one arm, was  
18 considered a candidate for release. In essence, we  
19 must balance this public health crisis presented by a  
20 global pandemic with our understanding of public  
21 safety. As prosecutors we have an important duty to  
22 protect our victims who we serve and keep our  
23 community safe above all else. Herein lies the  
24 important and delicate balance for a prosecutor, in  
25 particular, protecting the life of the convicted and

2 protecting the safety of the community. This is the  
3 life of the prosecutor in the time of COVID. In the  
4 Bronx district attorney's office our compass is  
5 informed by DA Clark's vision. We can proudly  
6 announce that reform began for us way before January  
7 2, 2020. Our bail policies were in place before  
8 criminal justice reform was law. This is why the  
9 process of bail review and writs of habeas have posed  
10 such a challenge. The decision to send someone to  
11 jail is serious. When we were asked to review what  
12 we had already determined was fair and appropriate in  
13 light of our own policy and criminal justice reforms,  
14 we did so with the victims in mind, along with a  
15 desire to address a public health crisis and to save  
16 lives. However, violent conduct cannot be left  
17 unaddressed. Where there is responsibility there  
18 will be accountability meted out with a fair and  
19 measured hand. As to your bill creating a local  
20 conditional release commission, I would like to  
21 briefly highlight a few reasons why DA Clark is  
22 unable to endorse your proposed amendment. Simply  
23 stated, while this bill attempts to cure what it  
24 deems as deficiencies within the parole system, the  
25 commission's goal undercuts the victim's voice. That



2 is the promise of the negotiated sentences made on  
3 behalf of the victim. Further, the proposed bill has  
4 ambiguity and contradictory language. In addition,  
5 it is arbitrary in deciding those who are selected  
6 for the commission, since many with relevant  
7 experience seem to be excluded, namely judges,  
8 justices, and prosecutors. Again, for these reasons  
9 DA Clark does not support this bill. In conclusion,  
10 I would like to thank you for this important  
11 opportunity to speak with you and provide a voice for  
12 fairness, justice, and recognition that the community  
13 as a whole includes the victims of crime and our  
14 Riker's Island residents. I wish you and yours  
15 safety and health as we all work together to navigate  
16 the unprecedented challenge of balancing public  
17 health and public safety during a global pandemic.  
18 Thank you.

19 COMMITTEE COUNSEL: Thank you. Chief  
20 Executive Director, um, District Attorney Nyberg,  
21 you're next.

22 CHIEF EXECUTIVE ASSISTANT DISTRICT

23 ATTORNEY NYBERG: Thank you. Ah, I'd like to thank  
24 Chairperson Lancman and Chairperson Powers for the  
25 opportunity to appear and testify virtually before

2 you today. My name is Jennifer Nyberg and I'm the  
3 chief assistant district attorney for the Office of  
4 the District Attorney, Queens County DA Melinda Katz.  
5 When District Attorney Katz took office on January 1  
6 she immediately went to work to make significant  
7 policy changes to reduce our city's jail population.  
8 She is committed to ultimately ending cash bail and  
9 feels strongly that a person's financial status  
10 should not be a factor in determining whether or not  
11 they are incarcerated pre-trial. Since day one we  
12 closely reviewed each and every request for bail to  
13 make sure that all defendants are treated fairly,  
14 while also maintaining the safety of the residents in  
15 Queens County and the assurance that the defendants  
16 return to court. Before COVID-19 hit we had already  
17 succeeded in lowering the average bail set by nearly  
18 \$5000 less than compared to the same period last  
19 year, 2019. In addition, 75% of those charged with  
20 bail-qualifying offenses were released either on  
21 their own recognizance or with supervision. On  
22 January 1, 2020, when District Attorney Katz took  
23 office, there were 1100 inmates in custody on Queens  
24 County cases. By February 1 that number dropped to  
25 under 900. As of May 14 under 560 inmates remain in

2 custody. That's a 50% reduction in the jail  
3 population of those in Queens cases since District  
4 Attorney Katz took office. Then in early March, when  
5 the coronavirus hit, we ramped up our efforts. We  
6 reviewed multiple lists of vulnerable groups of  
7 inmates, as well as multiple individual requests. We  
8 did and continue to identify those we could consent  
9 to a release by either a resentencing or disposition  
10 that would effectuate release or reduction in bail.  
11 We, just like the other district attorneys have  
12 testified to, established a protocol with multiple  
13 levels of review, with each and every case ultimately  
14 being reviewed by me or the district attorney, in  
15 many instances, herself. We have spoken to DOC and  
16 CHS, the mayor's office, the Department of Probation  
17 about standards of care, about protocols, about  
18 housing and services available. Most importantly, we  
19 look at the circumstances surrounding each inmate's  
20 incarceration, the underlying facts of each  
21 individual case. We, too, speak to the victims, when  
22 appropriate. We look at the inmate's health history  
23 when provided. We look at a discharge plan when  
24 provided. We examine whether a defendant has a, is a  
25 flight risk or has community ties. The interests of

2 justice are best served by these thoughtful, case-  
3 specific resolutions. If an individual remains  
4 incarcerated at this point, rest assured that the  
5 balance of public health and the balance of public  
6 safety were carefully weighed and that this remains  
7 the most appropriate and just decision in light of  
8 all the facts and circumstances surrounding the  
9 crime. Finally, District Attorney Katz would like to  
10 comment on the proposed amendment to the New York  
11 City Charter to create a local conditional release  
12 commission. It is the district attorney's position  
13 that the parole board, the parole board, is uniquely  
14 situated to make the most informed determination for  
15 conditional release. History, as DA McMahon, ah,  
16 commented, has proven that local conditional release  
17 commissions are not the better choice in making these  
18 critical determinations. By all accounts, the city's  
19 previous commission had many problems. On the other  
20 hand, the parole board, a larger body with much  
21 broader and in-depth experience and knowledge, has  
22 aptly handled conditional release decisions since  
23 that time, and at no additional cost to the city, an  
24 important consideration, frankly, given the economic  
25 impact COVID-19 will have on the city budget. To

2 take the decision of early conditional release out of  
3 the hands of the parole board and place it in the  
4 hands of a few appointed members with minimal  
5 relevant background and experience could greatly  
6 jeopardize public safety and would create an  
7 unnecessary expense for an already-overburdened city  
8 budget. On both accounts it is a price that we  
9 simply cannot afford. I want to thank you, ah, for  
10 this opportunity to appear before you today, and I  
11 look forward to working with you and your staff as  
12 we, ah, navigate these challenges, these challenging  
13 times, and, and move forward in the months ahead.  
14 Thank you.

15 COMMITTEE COUNSEL: Thank you. We will  
16 now turn it over to Chair Lancman for questions.

17 CHAIRPERSON LANCMAN: Thank you very  
18 much. Good afternoon to all of you. Ah, I do very  
19 much appreciate your being with us this afternoon,  
20 particularly since tomorrow we will be seeing all of  
21 your offices again. But, ah, I hope you understand,  
22 I know you understand that these are the times that  
23 we, we live in. So what are you going to do? Um, I  
24 want to start with something that's a little big  
25 picture. It's gnawing at me and nothing would make

2 me happier than for each of you to say, Rory, you  
3 don't know what you're talking about, that's not  
4 true. I get the sense from you collectively that  
5 there is a suspicion or, or, or a lack of conviction  
6 that there really is a sense of urgency of getting  
7 people off, off Riker's Island, that the situation at  
8 Riker's Island is, um, not as serious in terms of  
9 the, the negative health consequences as, as we and,  
10 and, and maybe the administration believe as, as  
11 well. Um, Mr. McMahon, in, in your testimony you,  
12 you describe "an outright falsehood that the  
13 infection rate in the city's jails is significantly  
14 higher than the city's general population." And, um,  
15 ah, the special narcotics prosecutor cites  
16 statistics. "DOC reports daily on the number of  
17 inmates who are under observation, either because  
18 they're symptomatic or because they have tested  
19 positive for COVID-19 and that number has steadily  
20 declined from April 1 to May 16, from 286 inmates,  
21 from 286 to 66 inmates." I, I don't want to  
22 mischaracterize your use of that, those statistics.  
23 But the, the, what we've been talking about today is,  
24 is I think the fairer statistic that according to the  
25 Board of Corrections today, or as of Monday, ah,

2 Sunday, May 17, there were 364 inmates at, um, in, in  
3 the Department of Corrections who were, ah, tested  
4 positive for COVID-19. That's a 9.2% infection rate.  
5 That is, um, a fraction of the identified positive  
6 rate for New York City residents at large. Both the  
7 administration, the administration in terms of, um,  
8 ah, I think, I think Liz Glazer and, and, um, CHS  
9 and, and Commissioner Brann, being as diplomatic as  
10 they could, acknowledged that there's a much more  
11 serious risk of people contracting COVID-19 at  
12 Riker's Island, of having a serious, um, ah, ah,  
13 result, and in the letter that the DAs sent, I think  
14 it was, um, the March 29th letter, you wrote, I  
15 believe we'll [inaudible] onto this, just give me a  
16 second. Ah, you expressed concern that the  
17 administration was "creating a public perception that  
18 our city's jails may be incapable of providing  
19 sufficient health care for the remaining population  
20 of inmates" and you go on to say that "we believe  
21 this perception is wrong." So, so, can we, can we  
22 clear the air? Can you please disabuse me of my, my,  
23 my incorrect interpretation? You all do accept that,  
24 that, that, um, there is a serious, serious health  
25 issue at Riker's Island and that, um, the rate of,

2 of, of people testing positive on Riker's Island is  
3 higher than, than the general public and, and, and  
4 that there's some impetus it must be balanced with  
5 other concerns of trying to get people off Riker's  
6 Island if we can. Who wants to go first?

7 DISTRICT ATTORNEY MCMAHON: Sure. Ah,  
8 ah, I'd be glad to. Am I coming through?

9 CHAIRPERSON LANCMAN: Yes, sir.

10 DISTRICT ATTORNEY MCMAHON: Yeah. I'd be  
11 glad to disabuse you of that notion, ah, Chairman,  
12 ah, that we don't take the situation at Riker's  
13 Island seriously. Ah, that is why we, ah, really,  
14 you know, in some ways put the, the health of our  
15 staffs at risk by making them work immediately during  
16 the shutdown so that we could go through the analyses  
17 that my colleagues and their staffs, ah, described  
18 earlier, ah, in going through and making sure that we  
19 can find people who are suitable, ah, for  
20 compassionate release, so we get it. Ah, but I think  
21 you're, to some extent, mixing apples and oranges a  
22 little bit. I think even the, the team from CHS made  
23 quite clear to you that, and to this committee, that  
24 you can't compare infection rates, ah, exactly when  
25 one cohort, namely the people who are Riker's Island,



2 are 100% tested and the general, ah, public, I  
3 believe the overall testing number, um, at one point  
4 was around 10%. I don't know what it is today. Um,  
5 I think if you tested everyone in, in society in New  
6 York City you'd have a much higher infection rate,  
7 but what we're saying is that Riker's Island you have  
8 a population now that has been vetted for  
9 compassionate release. Ah, as you heard, they are at  
10 under 50%, ah, capacity in terms of housing. There's  
11 plenty of room for social distancing. They have  
12 protocols in place, ah, and both DOCS and CHS spoke  
13 to the, ah, care that the, ah, inmates receive there.  
14 Um, I, I would counter by saying that one could get  
15 the impression from what you've been saying and what  
16 members of the committee are saying is that people  
17 who commit crimes and are either awaiting trial for  
18 very serious offenses or have been convicted of those  
19 offenses, ah, with quite often, after taking pleas  
20 with the consultation of victims and the concerns of  
21 victims taking into consideration, ah, that they  
22 should be released just because they should be  
23 released because, ah, there's a, a crisis that  
24 affects the whole society, the whole community. Um,  
25 crimes are being committed and, and, you know, I, I,

2 almost get a kick out of, ah, at one point early on  
3 in the crisis there were the advocates who were  
4 saying there should be a moratorium on arrests, there  
5 should be a moratorium on prosecution, and there  
6 should be a moratorium on incarceration. How about a  
7 moratorium on crime? How about the people who  
8 continue to be robbed, ah, burgled, ah, taken  
9 advantage of through fraud, um, murdered in some  
10 cases. We had a terrible case, a pregnant woman and,  
11 and another man here on Staten Island. These things  
12 are still happening. Shootings are still happening.  
13 Young people are, are, are victims of crime. Old  
14 people are victims, um, elderly are victims of crime.  
15 Um, so to say that you somehow read through our  
16 pronouncements and what we've, our advocacy, ah, that  
17 we don't take the situation there seriously, we take  
18 it seriously everywhere. But in the, in the, ah, the  
19 example that I gave, if you take someone from Riker's  
20 Island who's convicted of a series of sexual assaults  
21 against, ah, a minor and say because they're, ah,  
22 infected with COVID they should go into a city  
23 nursing home and infect all the, ah, civilians in the  
24 nursing home, ah, I don't quite understand that  
25 either. So with all due respect, I think we see this

2 from a, from a different perspective than you do, ah,  
3 Chairman. Ah, but quite honestly I think we all want  
4 the same thing. We want a city that is safe, that is  
5 healthy, ah, and hopefully we can get there, ah, by  
6 some meeting of the minds. And I think you've heard  
7 today from all our offices that we went to great  
8 lengths to reduce that population, ah, at Riker's.  
9 Even Dr. McDonald, ah, who as from his famous tweet,  
10 he was very critical of, of law enforcement, ah, was  
11 of the opinion today that great strides have been  
12 taken, and quite frankly we're quite proud of the  
13 work that we've done.

14 CHAIRPERSON LANCMAN: Thank you. Ms.  
15 Brennan?

16 SPECIAL PROSECUTOR BRENNAN: Yeah. I  
17 don't think that we believe that there is no crisis  
18 at Riker's. I mean, clearly when you have, ah, a  
19 setup as they do at Riker's where people are living  
20 together in such close circumstances there's a higher  
21 chance of infection. Um, I, I think the point that I  
22 was trying to make is, and it was made also by people  
23 from Corrections Health Services, that those at  
24 Riker's are tested at a much higher rate, and so  
25 necessarily they're going to prove to be positive at

2 a much higher rate, as we've seen in the city. As  
3 the test has become more available throughout the  
4 city, the city has tested at a higher rate. But it  
5 doesn't mean that the problem lacks urgency. You  
6 heard, certainly you've heard from us, but you also  
7 heard from Director Glazer. You've heard from others  
8 that we all worked really hard from the beginning of  
9 this crisis to review all the cases that were brought  
10 to us of the people who work in Riker's, the people  
11 who were vulnerable. We reviewed those cases to see  
12 whether or not we felt comfortable consenting to  
13 release. And the, our discomfort was whether those  
14 people would jeopardize public safety. It's a  
15 commitment to the people of the City of New York.  
16 But it wasn't because we didn't value the lives of  
17 those people who are incarcerated. We certainly do.  
18 There's a balance that goes on. That was the point  
19 that I was making.

20 CHAIRPERSON LANCMAN: Thank you. I, I,  
21 I'm glad to have been corrected. Do any of the other  
22 officers want to, offices want to say anything on  
23 that subject or we could move on? Good. Um, can,  
24 can each of you tell me how many defendants you  
25 consented to release, um, whether you want to call it

2 compassionate release or, or whatever you want to  
3 call it, in response to this, this process of trying  
4 to get, um, ah, people released from, from Riker's  
5 Island? Who wants to start first? I [inaudible]  
6 Mr. Lynton, you're, you're, you're flipping through  
7 papers. You look like you're ready to go.

8 CHIEF ASSISTANT DISTRICT ATTORNEY LYNTON:

9 Well, I can say that we, we consented to close to a  
10 hundred, um, inmates. Um, I believe, um, close to,  
11 um, mid-eighties of those people were, were actually  
12 released, um, on our consent. Overall we released  
13 over 140, close to 150, inmates in total. Um, like I  
14 said before, the process of our evaluating, um, the  
15 eligibility of, of those who committed crimes to go  
16 to, to jail started before this, and so we had been  
17 doing this for quite some time. And so, you know,  
18 we, we experienced the same challenges that a number  
19 of offices did when this, um, crisis hit and we were  
20 forced to reevaluate cases of inmates who we had  
21 deemed in prison or in jail for fair and a balanced  
22 evaluation between, um, public safety and, and  
23 health. Um, we were now forced to view this new  
24 category of cases through a different lens, a  
25 different prism, if you will, and that was through

2 the, the prism of COVID-19 and that we did, and to  
3 echo what especially Prosecutor Brennan said, we did  
4 this with the same degree of urgency that, that the  
5 entire world was experiencing, and so there was  
6 nothing lost on how urgent this was, that the  
7 overriding compulsion for us, however, was the  
8 desperate need to maintain public safety. We had a  
9 responsibility to meet the commitment that we had  
10 made to our constituents, those who elected DA Clark  
11 to be in office, that we were going to keep them as  
12 safe as possible, and those who were in jail were  
13 those who had committed some of the most violent and  
14 vicious crimes, and even then in, in consortium with  
15 the defense bar, we did not refuse to evaluate every,  
16 every single case, and some of these cases we  
17 reviewed over and over again. You know, at first and  
18 they came on a list...

19 CHAIRPERSON LANCMAN: The number.

20 CHIEF ASSISTANT DISTRICT ATTORNEY LYNTON:  
21 ...and then they came as a [inaudible]...

22 CHAIRPERSON LANCMAN: Yeah.

23 CHIEF ASSISTANT DISTRICT ATTORNEY LYNTON:  
24 ...and then a habeas...

25 CHAIRPERSON LANCMAN: The number...

2 CHIEF ASSISTANT DISTRICT ATTORNEY LYNTON:  
3 ...[inaudible].

4 CHAIRPERSON LANCMAN: Mr. Lynton, thank  
5 you. So the number from the Bronx is about 140?

6 CHIEF ASSISTANT DISTRICT ATTORNEY LYNTON:  
7 In total. We consented to over 90, close to 100.

8 CHAIRPERSON LANCMAN: So what are the  
9 other 40, ones that were released [inaudible]?

10 CHIEF ASSISTANT DISTRICT ATTORNEY LYNTON:  
11 Well, there were others that were released without  
12 our consent.

13 CHAIRPERSON LANCMAN: OK, so, so  
14 consented to about 90, 90 to 100.

15 CHIEF ASSISTANT DISTRICT ATTORNEY LYNTON:  
16 Yes.

17 CHAIRPERSON LANCMAN: OK. Um, ah, Ms.  
18 Harris from Brooklyn, do you have a number? Alana,  
19 can you unmute Ms. Harris? Alana? Paging Alana?

20 COMMITTEE COUNSEL: [inaudible].

21 CHAIRPERSON LANCMAN: There you are.

22 DIRECTOR HARRIS: Am I, can you hear me?

23 CHAIRPERSON LANCMAN: We can hear you  
24 now.

25

2 DIRECTOR HARRIS: Great. Um, with  
3 respect to your prior question, um, I think I said in  
4 my testimony that we understood immediately, um, the  
5 crisis that we thought was going to unfold even  
6 before it did and we started to take actions to  
7 reduce the population on Riker's. Um, we reviewed  
8 virtually every case of someone incarcerated at  
9 Riker's, nearly a thousand cases. Um, we consented  
10 to the release of 260, um, that's about 27%. We  
11 opposed release of 682, that's about, um, the other  
12 percent, 70. Um, there are another, a third category  
13 of about 34 people, between 30 and 35 people, who,  
14 um, we aren't comfortable consenting to their release  
15 because they're dangerous, um, and they're dangerous  
16 by virtue of mental health issues. They get off  
17 their medications, they become destabilized, they  
18 don't have a place to go, they go, they would be  
19 released to a shelter. Um, and those are people who  
20 in some universe might be appropriate candidates for  
21 release, but because of, um, just because of the  
22 nature of their illness we're just not comfortable  
23 doing that.

24 CHAIRPERSON LANCMAN: Good.



2 DIRECTOR HARRIS: So that's about 30-some  
3 cases.

4 CHAIRPERSON LANCMAN: All right. Don't,  
5 don't anticipate my next question. You've got to  
6 give me something to do here.

7 DIRECTOR HARRIS: OK.

8 CHAIRPERSON LANCMAN: Um, all right,  
9 Queens?

10 DISTRICT ATTORNEY KATZ: Thank you. Ah,  
11 Chairperson Lancman, in Queens County, whether they  
12 have asked specifically, ah, individual requests from  
13 defense attorneys or whether, ah, they were included  
14 on lists by the mayor, ah, that we looked at in the  
15 beginning of the crisis for the first few weeks.  
16 There were 440 inmates who were considered  
17 individually, ah, by senior staff in, in the office.  
18 42 of those inmates we consented to release and 170  
19 of those inmates were released without our objection,  
20 or we remained silent. For example, they were in on  
21 a parole hold and, and we left that, ah, decision up  
22 to Parole.

23 CHAIRPERSON LANCMAN: Do you know, by the  
24 way, how many of those, of the 170 how many were  
25

2 released on your, on your specific objection as  
3 opposed to, you know, your not offering an opinion?

4 DISTRICT ATTORNEY KATZ: Of the 170 we  
5 were, we did not object. Those were 170 released  
6 without our objection specifically.

7 CHAIRPERSON LANCMAN: Oh, sorry.

8 DISTRICT ATTORNEY KATZ: That's OK.

9 CHAIRPERSON LANCMAN: What was the 42  
10 number?

11 DISTRICT ATTORNEY KATZ: Where we  
12 consented. So in other words, with respect to  
13 parolees what we affirmatively consented [inaudible].

14 CHAIRPERSON LANCMAN: Oh, yeah, and the  
15 170 was you didn't, you didn't object?

16 DISTRICT ATTORNEY KATZ: Exactly.

17 CHAIRPERSON LANCMAN: You didn't consent,  
18 but you didn't object.

19 DISTRICT ATTORNEY KATZ: That's exactly  
20 right, because we didn't think, when it came to  
21 parole, that was our, ah, they were better situated,  
22 they were nonqualifying offenses, for example.

23 CHAIRPERSON LANCMAN: Got it.

24 DISTRICT ATTORNEY KATZ: We had pending  
25 here in Queens.

2 CHAIRPERSON LANCMAN: Got it.

3 DISTRICT ATTORNEY KATZ: On, on many of  
4 those cases, many of which ultimately we tried to  
5 resolve through a disposition. We're continuing to  
6 do that.

7 CHAIRPERSON LANCMAN: Got it, got it.

8 OK. Mr. McMahon? Hold on, hold on. There you go.

9 DISTRICT ATTORNEY MCMAHON: I'm good to  
10 go?

11 CHAIRPERSON LANCMAN: Yes, sir.

12 DISTRICT ATTORNEY MCMAHON: Um, as you  
13 know, and has been discussed by my colleagues, um,  
14 there really have been some different silos that  
15 we've been looking at, ah, through this analysis, ah,  
16 because people are on Riker's for a few different  
17 reasons. Ah, there's the group of parole violators,  
18 which, as you know, we DAs and actually the city have  
19 no say over there, a situation that's a state  
20 function, ah, by, um, by the state parole, um, and so  
21 the numbers are always changing a little bit. And  
22 then you also have people who, um, are being released  
23 on a rolling basis if they're at the end of their  
24 sentence. Ah, so the number is changing every day.  
25 But from the original analysis that we were asked to

2 look at, those who were, ah, on Riker's for a, a  
3 sentence a year or less, um, and under certain  
4 charges, there was a list of 30 from Staten Island.  
5 We agreed to seven. Ah, but 30 were, ah, I should  
6 say from the list that they presented us we agreed to  
7 seven. Ah, 30 were released, so, ah, 23 over our  
8 objection. Um, and there's another group, those who  
9 were held as pretrial detainees, ah, and we've been  
10 dealing with a battery of, ah, bail applications, ah,  
11 and writs of, for habeas corpus on a rolling basis  
12 through the courts as well. Ah, the majority of  
13 those we have opposed.

14 CHAIRPERSON LANCMAN: Have you, um,  
15 consented to, to any pretrial releases?

16 DISTRICT ATTORNEY MCMAHON: Ah, I will  
17 get back to you on the exact number of how many have  
18 been made and how many we've, ah, ah, consented to,  
19 but, ah, the number is low, because, again, those are  
20 people, ah, who are charged with serious crimes to  
21 begin with, that's the reason that, ah, they have  
22 qualifying offenses, ah, and, um, they, um, are being  
23 held on either bail or on remand. So in most  
24 instances no. But I'll get back to you with an exact  
25 number.

2 CHAIRPERSON LANCMAN: Thank you. We  
3 appreciate that. Um, Ms. Brennan?

4 SPECIAL PROSECUTOR BRENNAN: Um, I only  
5 have the numbers for those who are held on bail. I  
6 don't have the numbers before me of those who, ah,  
7 whether it was a request for a 6-A release and we  
8 took a position and with regard to parole release.  
9 So that setting aside, ah, we received requests  
10 regarding 40 defendants. Of those 40, 17 were  
11 released with our consent as part of our review  
12 process, and we opposed the applications, ah, with  
13 respect to 23 defendants, ah, and none of those  
14 defendants have been released.

15 CHAIRPERSON LANCMAN: Got it. All right,  
16 um, last question, which, ah, Ms. Harris, ah, ah,  
17 almost, you know, stole from me. Um, but here's an  
18 opportunity for you all to tell us how, how we on, on  
19 our side of the screen could do better, although in  
20 conjunction with you. Um, what programs, services,  
21 systems could have been in place, could be put in  
22 place, that would make, potentially make you more  
23 comfortable and more willing to release more people  
24 in different categories. You know, Ms. Harris was  
25 talking about people with mental health issues. What

2 infrastructure could be, could be, could be in place  
3 that would make it more likely for you to support  
4 these kind, the, the, these kind of decarceration  
5 efforts? Ms. Harris, OK, go ahead.

6 SPECIAL PROSECUTOR BRENNAN: With regard  
7 to our cases, it would be tough. We have, those who  
8 are currently incarcerated, our cases are mostly  
9 charged with operating as a major trafficker.  
10 They're involved in multi-kilo operations where  
11 they're distributing drugs that have resulted in  
12 death, and they have strong foreign connections to  
13 other countries, access to lots of cash, um, and  
14 oftentimes they may have been arrested with a  
15 significant number of weapons. And so those kinds of  
16 defendants, you know, pose a significant public  
17 safety risk. It's hard when you get to that level of  
18 defendant, which I think is what you're gonna hear  
19 from most of us, that's who's kind of, of our  
20 caseload, it's that type of defendant who is left, or  
21 one who's been involved in significant amounts of  
22 violence, or is charged, I should say, with crimes  
23 involving very significant violence, as, as I  
24 discussed, ah, and so that's where you have a, I  
25 mean, on balance, ah, and especially as we look at

2 diminishing now risks posed to the defendants as  
3 Riker's has been cleared out and as the virus is  
4 receding somewhat, obviously we have our, you know,  
5 our mission is to protect the people in the City of  
6 New York. And there's a balancing that goes on. But  
7 when their lives are at risk we're not gonna consent  
8 to release.

9 CHAIRPERSON LANCMAN: I understand. Ms.  
10 Harris?

11 DIRECTOR HARRIS: So in addition to  
12 treatment, um, housing, supported housing is crucial.  
13 Um, and I think one of the biggest needs is our  
14 mental health facilities that are secure. So if you  
15 think about the person who, um, has assaults and  
16 violations of orders of protection against a family  
17 member, you know, and maybe they, you know, they go  
18 back, they get out, they go, they assault them, you  
19 know, they start fires, you know, they do things to  
20 put not only their family members but others in  
21 danger. And it's because they're suffering from a  
22 mental health problem. And the family members in a  
23 lot of those cases don't really want their person to  
24 be in jail. They know they have a mental health  
25 problem and they need help. Um, but they also don't

2 want them to just go somewhere, to a hotel or a  
3 shelter, wherever they would get released to and then  
4 just walk out the door and come home and continue to  
5 assault them. So if there were, um, more secure  
6 mental health facilities where a person would be  
7 getting treatment, um, but would be secure, wouldn't  
8 be able to walk around the streets, they wouldn't  
9 need to be at Riker's Island. Um, but those kind of  
10 places are few and far between, and I know there are  
11 also, you know, sort of legal limitations to the  
12 extent which people can be held, um, for mental  
13 health conditions. But that would be, that would  
14 make us feel a lot more comfortable in many of these  
15 cases where mental health is the biggest issue.

16 DISTRICT ATTORNEY MCMAHON: Yeah, Mr.  
17 Chairman, I, I would second that, um, and, um,  
18 actually both comments. Ah, but, because we, I think  
19 we all agree that, um, there are, for many people who  
20 find themselves in the system, ah, what they need is  
21 the support of programs that we can connect them to,  
22 um, and, ah, with, you know, we just kicked off on  
23 Staten Island Project Reset, ah, and again those are  
24 for misdemeanor, ah, recidivists, ah, who were, was  
25 not addiction-related because, as you know, we have



2 the Hope Program here and, ah, my colleagues have  
3 that as well. Again, diversion early at, upon time  
4 of arrest, ah, ah at prearraignment, and we'd like to  
5 do that with other charges, similar charges as well,  
6 and in fact, ah, thank you and your colleagues at the  
7 council because I think it's a grant from the council  
8 to CCI that's allowing us to do that. Ah, we would  
9 like to have a full-blown community justice center  
10 here on Staten Island so we can do more, um, more  
11 services for those who find themselves, ah, in the  
12 criminal justice system or in the precipice of going  
13 into it. Um, you know, we really, we see, you go  
14 through the arrest reports and you see day after day  
15 those who continue to get arrested for crimes that we  
16 know, ah, and all agree that Riker's Island or any  
17 place an incarceration is not going, is not what  
18 society, ah, should impose, it's not a way to impose  
19 accountability or support so that that cycle breaks.  
20 So, ah, I think there's a lot of room for us to  
21 collaborate in that area. We know that the city's  
22 coming upon tough budgets, um, in the next go-round,  
23 but any way you can help us and, and build out and  
24 create more of those, ah, programs and, and programs

2 I think all of us throughout the city are, are  
3 looking forward to doing that.

4 CHAIRPERSON LANCMAN: Any other office  
5 want to respond to that?

6 DIRECTOR HARRIS: Well, Councilman, um,  
7 since our colleague from Staten Island weighed in on  
8 Project Reset, um, I'd like to also put in a plug for  
9 Project Reset in Brooklyn, which has been a very  
10 successful way that we've kept people out of jail,  
11 um, and we would like to see it continue. We ask  
12 your help in that.

13 UNIDENTIFIED: And I'd also like to add,  
14 something that I stated in my testimony, what we find  
15 is that oftentimes it, you know, defendants reoffend  
16 when they get out. And none of us want to see them  
17 cycling through over and over again, but most of the  
18 supervisory programs that I've seen, ah, focus on,  
19 they don't have a mechanism for intervening. You  
20 know, the only mechanism for intervening is call the  
21 police and have them arrested, which we don't want to  
22 do. But you have to build in some kind of support or  
23 some kind of way to address that, ah, because  
24 otherwise people are going to be clamoring for them  
25 to be arrested again, ah, since they're put at risk,

2 even though we may consider it a low-level,  
3 nonviolent offense. And so we have to consider not  
4 just programs that, that are gonna support and offer  
5 the defendants, ah, ways to change their behavior,  
6 but how do we intervene outside of arrest when they  
7 do, ah, violate laws, if we don't want to get into  
8 this cycle again.

9 CHAIRPERSON LANCMAN: OK. Well, thank  
10 you very much. I'm actually glad that we got a  
11 chance to, to go over this topic, um, here today.  
12 Tomorrow will, I think, um, go more smoothly, not  
13 that this wasn't smooth. But, but, but tomorrow we  
14 can focus on other things. Um, I hand it back to the  
15 committee counsel for my cochairs', ah, questions  
16 and, and other members' questions. Thank you.

17 UNIDENTIFIED: You're welcome.

18 UNIDENTIFIED: Thank you.

19 COMMITTEE COUNSEL: Thank you. Next we  
20 will hear from Chair Powers for questions.

21 CHAIRPERSON POWERS: Thank you. I'm, I'm  
22 gonna keep it fairly limited because you have a lot  
23 of, I have a lot of people from the public who are  
24 hear waiting and we have two more agencies. I want  
25 to say, just say two things. One is thank you for

2 everybody for being here and testifying. Thank you  
3 to, ah, the DA and all the, DA McMahon and all the  
4 [inaudible], ah, and Ms. Brennan and all the other  
5 representatives. I will say I am tremendously  
6 disappointed that the, my, my own district attorney  
7 from Manhattan is not here represented in any fashion  
8 or form, and I disagree with some of the things that  
9 have been said here by some of the DAs and some of  
10 the sentiment. But that's fine. We can have a  
11 disagreement. My, the district attorney from  
12 Manhattan decided not to even be here in the midst of  
13 a crisis to talk about even issues that we might  
14 disagree on or have [inaudible] I just want to  
15 register on the record my, you know, absolutely, um,  
16 ah, disappointment in, in that, and, um, and that's  
17 not a political thing or anything, that is just  
18 somebody from his office should have been here and  
19 should be talking to what's happening here in  
20 Manhattan. Um, anyway, that, moving on, I, I just  
21 want to address one point here, which is, um, in the  
22 letter that, um, you had sent, the district attorneys  
23 collectively had sent to, ah, to, um, Mayor de Blasio  
24 and the DOC commissioner in March you mentioned  
25 creating a public perception that our city's jails

2 may be incapable of providing sufficient health care  
3 for the remaining population of the inmates, and  
4 believed that you, and the collective belief that the  
5 perception is wrong. I, I want to reflect just  
6 something. The, the, the doctor from the DOH  
7 himself, the number two doctor, had said that. That  
8 was the, that was reflecting the, the idea that jails  
9 and particularly the city jails and Riker's Island  
10 are, are not, are incapable of providing sufficient  
11 health care, not from a talent of the health care  
12 professionals, but from an environment of what the  
13 environment, what the environment is there. That,  
14 that's, that's, that's a medical professional giving  
15 us that opinion. And so I would, to be cared here  
16 why the DAs believe that that medical, we, we should  
17 not listen to that medical professional when it comes  
18 to, um, or why you believe you're creating a public  
19 perception that we're incapable of providing  
20 sufficient health care, when they are listening to,  
21 to the number two doctor at CHS?

22 DISTRICT ATTORNEY MCMAHON: Sure. I,  
23 I'll be glad to, to, ah, respond to that, um, Mr.  
24 Chairman. Ah, clearly, ah, in March, ah, the  
25 situation, ah, needed to be addressed, ah, from two

2 directions. First was to look to the roles of people  
3 who were at Riker's to see if, if there could be, ah,  
4 some people who could be released so that you had  
5 less of, ah, a population which would make then the  
6 provision of, ah, good and accepted medical care and,  
7 um, you know, distancing, social distancing, and, and  
8 proper PPE and prevention, um, and that's what we  
9 did. We worked with the city to go through the list  
10 to see if there was some room for compassionate  
11 release. And I think you heard that that was done,  
12 and you not only heard from us but you heard it from,  
13 ah, the medical team from CHS as well as, ah, the  
14 commissioner and her team from DOC. But the point we  
15 were making there was you can't close down Riker's  
16 completely. There is still a need for jails in the  
17 City of New York as long as people commitment crimes.  
18 Um, and there are those who think that we're saying  
19 at the time no, we should have a moratorium on  
20 arrests, on prosecution, and on incarceration. And  
21 you can't have that. You can't have that in, in a  
22 civil society that wants to have some modicum of  
23 order, especially during a crisis like the one that  
24 we've been facing for the last 90 or 100 days. What  
25 we were say was hey, yes, we'll work with you to

2 bring down the population, but get your acts together  
3 on the side of, of using the available space on  
4 Riker's, provide the appropriate medical care, open  
5 in to other buildings, which has been done, um, do  
6 contact tracing, provide the equipment that is needed  
7 and the materials that are needed to keep the, ah,  
8 population safe. And, as you heard, that that has  
9 been done to a great extent. So I think that we  
10 heard the other side and worked with them to decrease  
11 the, to decrease the population, and what I heard  
12 today through the, ah, the testimony was that we were  
13 heard and well and steps were taken to improve  
14 conditions on Riker's, as they should continue to be.  
15 Um, one thing that Riker's provides, Mr. Chairman, is  
16 a lot of space for people to, to, you know, we were  
17 building tents in Central Park, ah, and, ah, building  
18 out spaces at the Javits Center. There was room to  
19 do that, ah, at, at Riker's as well. And that's the  
20 point that we were making. You cannot close the jail  
21 completely, we understand that, and at the same time  
22 we did have to make sure that there was a, a lower  
23 population. Listen, the best way to solve this  
24 problem is no one commits crime anymore. And when  
25 that happens I will join you at Riker's for the

2 closing ceremony and we'll all be happy. But until  
3 that happens or until there's alternatives, we need  
4 to have that facility operating.

5 CHAIRPERSON POWERS: Just, just a point  
6 of rebuttal here. You know, there is a, there is a,  
7 an area between I think the characterization that,  
8 that, you know, I think has been made more than once,  
9 that this is, understood, there are people, there is,  
10 I understand that you're, you're trying to provide a  
11 counterpoint to those who are saying fully, you know,  
12 decarcerate and let folks out. But for, but, I, I  
13 don't believe Mayor de Blasio is saying that. I  
14 don't believe Commissioner Brann was saying that.

15 DISTRICT ATTORNEY MCMAHON: Well, what,  
16 what, they went far, they went way ahead of the list  
17 that, we made agreements, I think, on certain, ah,  
18 individuals, ah, and there was an agreement, yes they  
19 should be released. Ah, and they went further than  
20 we would have and that's where you've seen now a  
21 level of recidivism, ah, from people who were  
22 released that we did not agree with, and yet they're  
23 out committing crimes again, and you're gonna see  
24 that increase as time goes on, and I hope that, ah,  
25 these committees will continue to monitor the level



2 of recidivism from the individuals who received that  
3 compassionate release, either in agreement with the  
4 district attorneys and, and the special prosecutor,  
5 or in the actions of the commissioner through the  
6 mayor, herself and himself. But either way the  
7 public will, ah, will want everyone to be held  
8 accountable, they'll want decision-makers held  
9 accountable, ah, because crimes are being committed  
10 now by those who were released. Again, a balance has  
11 to be found. But, um, you cannot, you cannot argue  
12 the fact that there were many advocates and many in  
13 government who were saying, you know, moratorium on,  
14 on policing and prosecuting. That's not possible as  
15 long as crimes are being committed. Shootings are  
16 actually up in the City of New York right now,  
17 believe it or not, amidst this crisis. I don't  
18 understand, ah, how that, how people engage in that  
19 conduct. It's antisocial, to say the least. But  
20 we've got to keep the people in New York City and in  
21 my case the people of Staten Island safe, and we will  
22 continue to do that.

23 CHAIRPERSON POWERS: I'm gonna, I'm gonna  
24 leave it at that. I, I don't agree with every point.

2 I, I do think there's a little bit of confusion here  
3 between...

4 DISTRICT ATTORNEY MCMAHON: Well, as you  
5 said, we're not going to agree no every point.

6 CHAIRPERSON POWERS: I, I agree with that  
7 and I do, I want to, will mention the Manhattan DA  
8 did send testimony in, but I think, like others,  
9 could have been here to talk about their numbers and  
10 their release and have an opportunity for us to talk  
11 about them. They could have sent anybody. I, I, DA  
12 McMahon, I, I do think there is a, um, in a public  
13 health crisis we have to respond to that. I, I, I  
14 understand what Councilman Lancman was saying about  
15 with the sense of urgency and it's, it's not, um, all  
16 about, you know, the sort of attempt here to fight  
17 the decarceration effort in, um, in New York City  
18 while we're in the middle of a pandemic. It's about  
19 keeping people safe and keeping them....

20 DISTRICT ATTORNEY MCMAHON: Sure.

21 CHAIRPERSON POWERS: ...ah, away from a  
22 virus that has the ability to kill them and, and  
23 so...

2 DISTRICT ATTORNEY MCMAHON: With all due  
3 respect, sir, also to keep them safe from becoming  
4 victims of crime again.

5 CHAIRPERSON POWERS: OK. Um, I'm gonna  
6 leave it at that based on, ah, ah, where we are.  
7 It's 5:15. I want to give the public an opportunity,  
8 too. Thank you again for being here.

9 DISTRICT ATTORNEY MCMAHON: Thanks.

10 CHAIRPERSON POWERS: Thank you for  
11 spending time with us, ah, through a very long  
12 hearing. And I wish you the best to you and your  
13 families.

14 DISTRICT ATTORNEY MCMAHON: Thank you so  
15 much, you too. Stay safe.

16 CHAIRPERSON POWERS: Hold on, I think we  
17 have a, a council member question, ah, from a council  
18 member.

19 COMMITTEE COUNSEL: Once the timer starts  
20 you may begin.

21 SERGEANT AT ARMS: Starting time.

22 COUNCIL MEMBER HOLDEN: Ah, thank you,  
23 can you hear me?

24 UNIDENTIFIED: Yep.  
25

2 COUNCIL MEMBER HOLDEN: OK, while we're  
3 plugging programs I want to plug the Department of  
4 Probation's NeON program in the arts, which is very  
5 successful. I've, I've looked at a number of those,  
6 ah, ah, artwork and I think it's a good outlet for  
7 people who have been previously incarcerated and how  
8 to get into a new life. I just want to plug that.  
9 And, but I also want to mention that New York City  
10 has by far the lowest incarceration rate of any big  
11 city in the US, by far. So I appreciate all the DAs  
12 weighing in on this. Um, certainly, ah, I think the  
13 DAs' opinions on, um, releasing, ah, inmates or, um,  
14 detainees should be paramount. Their opinions, they,  
15 they've dealt with the victims of their crimes,  
16 they've dealt the individuals who are incarcerated.  
17 They know them the best. Um, so I want to thank you  
18 all. Ah, also Special Prosecutor Brennan, you  
19 mentioned that a drug dealer was released and  
20 immediately upon his release started dealing heroin,  
21 ah, out of his apartment. And had it not been for  
22 those residents who called this guy might have still  
23 being doing this and ruining other lives, not only,  
24 you know, the people in the apartment with the COVID  
25 spread but the heroin that has destroyed thousands

2 and thousands of lives across the US, and of course I  
3 think he was dealing also with guns, too, apparently.  
4 But a life of crime is not gonna change when he gets  
5 out. And I think we, it's, we're not gonna play  
6 Russian roulette here with the public and just guess  
7 that this guy is not going to commit crime, and in  
8 many cases they do. And like I mentioned before, and  
9 unfortunately the MOCJ representative couldn't tell  
10 me the breakdown of the crimes that are being  
11 committed, um, which is kind of unusual that they, I  
12 couldn't get a breakdown of the types of crimes that  
13 people were committing upon release, early release.  
14 They should know that like the back of their hand.  
15 And they should, that's how you evaluate a program.  
16 Um, just one thing I just wanted to ask the  
17 assistant, ah, DA, ah, Nyberg, um, I'm not quite, you  
18 know, set on the numbers for Queens. 440 were  
19 considered, um, and 42 you said yes on, 170 you had  
20 no objection. What about the others? Were they  
21 released?

22 CHIEF EXECUTIVE ASSISTANT DISTRICT

23 ATTORNEY NYBERG: Ah, ah, Councilman, no. Ah, of the  
24 440 the others are, ah, still incarcerated.

25 COUNCIL MEMBER HOLDEN: [inaudible].

2 CHIEF EXECUTIVE ASSISTANT DISTRICT

3 ATTORNEY NYBERG: And when we, when we look at, at  
4 the population of the 440 who either were presented  
5 on a list or specifically asked for release, the ones  
6 that remain, ah, in terms of their, their, their  
7 breakdown, what they're charged with, actually almost  
8 25% of those who remain incarcerated are charged with  
9 homicide. Ah, over 50% are still in that are a  
10 combination of the homicide defendants, burglary,  
11 assault, and robbery. So obviously [inaudible] very  
12 serious crimes that, that were not released of those  
13 that asked for consideration.

14 COUNCIL MEMBER HOLDEN: I, I know my time  
15 is up, but I just want to ask...

16 SERGEANT AT ARMS: Time expired.

17 COUNCIL MEMBER HOLDEN: Are, are we  
18 giving them more programs when they get out early?  
19 Are we giving them more counseling? Is, is that, I,  
20 I thought I heard that we're weren't. Is that true?

21 CHIEF EXECUTIVE ASSISTANT DISTRICT

22 ATTORNEY NYBERG: I mean, truthfully that's what, you  
23 know, in response to Chair Lancman's question about  
24 what could we use, ah, what we can use are more  
25 robust alternatives to incarceration, more programs

2 with comprehensive supervised release. We were able  
3 to release someone last week, ah, and it's frankly a  
4 herculean effort on the part of the court and  
5 alternative sentencing providers and, and the  
6 prosecutor and, ah, you know, the defense to all find  
7 a program that in light of the prices can, ah, you  
8 know, monitor someone when they are released.

9 COUNCIL MEMBER HOLDEN: Those are an  
10 additional challenge. Thank you so much for all of  
11 your for your testimony. Thank you.

12 UNIDENTIFIED: Thank you.

13 COUNCIL MEMBER HOLDEN: Thank you,  
14 Chairs.

15 CHIEF EXECUTIVE ASSISTANT DISTRICT  
16 ATTORNEY NYBERG: Thank you.

17 COMMITTEE COUNSEL: Now we will move on  
18 to, if there are no further questions, now we will  
19 move on to testimony from the administration. We  
20 will hear from the Administration for Children's  
21 Services. We will be joined by Commissioner David A.  
22 Hansell for ACS. And for the question and answer  
23 period we will be joined by Acting Deputy  
24 Commissioner Sarah Hemiter and Chief Medical Officer  
25 Dr. Angel Mendoza, Jr. of ACS. We will also be

2 joined for question and answers from Chief Jennifer  
3 Gilroy Ruiz of the law department. I will call on  
4 each of individually for a response, um, as I  
5 administer the oath. Please raise your right hands.  
6 Do you affirm to tell the truth, the whole truth, and  
7 nothing but the truth and before these committees,  
8 and to respond honestly to council member questions?

9 UNIDENTIFIED: I do.

10 UNIDENTIFIED: I do.

11 COMMITTEE COUNSEL: Ah, I have to say  
12 each of your names. Commissioner Hansell?

13 COMMISSIONER HANSELL: I do.

14 COMMITTEE COUNSEL: Deputy Commissioner  
15 Hemiter?

16 DEPUTY COMMISSIONER HEMITER: I do.

17 COMMITTEE COUNSEL: Dr. Mendoza?

18 DR. MENDOZA: I do.

19 COMMITTEE COUNSEL: Chief Gilroy Ruiz?

20 CHIEF GILROY RUIZ: I do.

21 COMMITTEE COUNSEL: Thank you.

22 Commissioner Hansell, you may begin.

23 COMMISSIONER HANSELL: I'm, I'm in it?

24 Yes. Thank you very much. Um, good afternoon, or I  
25 guess I should say good evening, ah, Chair Lancman,



2 Chair Powers, members of the Committees on the  
3 Justice System and Criminal Justice. Ah, I'm David  
4 Hansell, commissioner of the New York City  
5 Administration for Children's Services. And as  
6 you've heard, with me, ah, here are um, Sarah  
7 Hemiter, who is our acting deputy commissioner for  
8 our division of youth and family justice, and Dr.  
9 Angel Mendoza, Jr., who is our chief medical office.  
10 And we're very grateful the opportunity to testify  
11 about how ACS and our partners have responded to the  
12 unprecedented COVID-19 health crisis and the impact  
13 it has had on our juvenile detention programs.  
14 Today's New York City juvenile justice system, thanks  
15 to many years of effort by multiple stakeholders  
16 safely serves youth through a trauma-informed lens in  
17 the community wherever possible and with appropriate  
18 structure and supports in place. During the COVID-19  
19 pandemic our focus has been on maintaining that  
20 progressive approach, keeping young people and staff  
21 protected from new health concerns and supporting the  
22 efforts of MOCJ, Probation, the Law Department, and  
23 the district attorneys to release those youth in  
24 detention who could safely be returned to the  
25 community. ACS does not have the authority to

2 release youth, but our collaboration with our sister  
3 agencies led to the release of over one-third of the  
4 youth in detention, 20 from secure detention and 26  
5 from nonsecure detention at the height of the  
6 pandemic from March 16 through April 9. During the  
7 same time period ACS also discharged 31 youth, or  
8 nearly a third of the young people who were in close-  
9 to-home placements, so that those youth also were at  
10 home and in their communities and in this case  
11 receiving our aftercare services. Despite the many  
12 challenges that COVID-19 presents, we have adapted  
13 ACS's full continuum of juvenile justice programs to  
14 meet the needs of youth and their families. Our  
15 community-based alternatives programs continue to  
16 offer prevention and diversion services to safely  
17 keep youth out of the justice system and supported at  
18 home with their families. Our close-to-home system  
19 of residential placement and aftercare is serving  
20 adjudicated youth and helping them safely transition  
21 back to the community. And as I will now discuss, we  
22 have taken numerous steps to address the health and  
23 safety of the youth and staff in our detention  
24 programs. The health and safety of those youth and  
25 staff in secure detention is our top priority and has

2 been throughout this crisis. For youth in detention  
3 and for the caring, inspirational staff who show up  
4 every day to work with them, we've implemented strict  
5 protocols to minimize health risks. We've continued  
6 to follow the guidance of health officials, including  
7 Department of Health and Mental Hygiene, Health and  
8 Hospitals, the Centers for Disease Control, the  
9 healthcare personnel who work in our detention  
10 programs, Floating Hospital at Crossroads, and  
11 Correctional Health Services of Horizon, and, of  
12 course, our own chief medical officer, Dr. Mendoza.  
13 As health guidance has evolved throughout the course  
14 of the pandemic ACS has adapted and implemented new  
15 protocols as needed and will continue to do so. We  
16 continually update our guidance to staff and to youth  
17 about virus prevention practices, such as hand  
18 washing and social distancing. Our detention  
19 facilities are regularly cleaned and sanitized. And  
20 we've increased the number of cleaning personnel.  
21 We've equipped the facilities with ample hand  
22 sanitizer, soap, gloves, and PPE for staff who are  
23 working with symptomatic youth. Nurses conduct  
24 temperature checks for staff on each shift and our  
25 health partners conduct daily screenings of youth and

2 all staff and youth have been provided with face  
3 coverings. In the early weeks of March after  
4 consultation with medical and public health experts,  
5 we executed a bold plan to minimize the spread of  
6 COVID-19 to preserve scarce personal protective  
7 equipment and to limit the exposure of youth and  
8 staff to the virus. This plan involved consolidating  
9 youth in Crossroads, with the exception of pre-Raise  
10 the Age Youth, who have always been and must be  
11 housed at Horizon, leave the first floor of Horizon  
12 exclusively for youth presenting with COVID-19  
13 symptoms. There the youth would be housed in one  
14 area, receive 24/7 medical care from Correctional  
15 Health Services. More recently we've begun to  
16 implement a plan to safely redistribute our youth  
17 detention population between both facilities, while  
18 maintaining the public health advantages of a  
19 discrete medical isolation space for housing  
20 symptomatic or COVID-positive youth. To date ACS has  
21 moved six youth from Crossroads to Horizon. This has  
22 enabled us to fully utilize our facility space to  
23 safely manage our youth detention population while  
24 maintaining capacity on the first floor of Horizon to  
25 medically isolate any youth in our custody who might

2 develop symptoms or test positive for COVID-19.

3 Infection control practices will continue at Horizon  
4 to prevent the spread of illness among the expanded  
5 youth populations, including strict implementation of  
6 traffic control and staff separation, stricture  
7 separation of transport activities, equipment, and  
8 laundry, strict implementation of cleaning and  
9 disinfection guidelines and practices, and strict  
10 adherence to established PPE conservation and usage  
11 guidelines for appropriate staff and continuing daily  
12 temperature taking for staff. Since the start of the  
13 pandemic we have had a total of seven youth test  
14 positive for COVID-19. Five these youth have fully  
15 recovered. Two youth were more recently diagnosed,  
16 are currently in isolation at Horizon. ACS and our  
17 medical partners tested the other youth with whom  
18 these recently diagnosed youth were in contact and  
19 all of these youth tested negative. Especially  
20 during these trying times it's crucial to provide  
21 structure for youth and maintain our youth-focused  
22 model of care. Youth in detention continue to  
23 receive quality medical and mental health services,  
24 access to education and programming, and they are  
25 maintaining connections to families. We have a full

2 array of on-site medical and mental health providers  
3 serving the youth in our care at Crossroads and  
4 Horizon. As I mentioned, we contract with Floating  
5 Hospital to provide health services at Crossroads and  
6 Correctional Health Services provides health care at  
7 Horizon. We've also worked closely, as we have for  
8 many years, with, ah, Health and Hospitals Bellevue  
9 Health Hospital Center to provide [inaudible]  
10 informed screening and mental health services to  
11 youth in both secure detention facilities as well as  
12 our nonsecure detention continuum. Through its team  
13 of psychiatrists, psychologists, and mental health  
14 clinicians, Bellevue works closely with our youth  
15 development specialist, our case managers, our  
16 program counselors, and our contracted medical  
17 services staff to provide comprehensive care for  
18 youth. And we're very grateful for the hard-working  
19 teams who have been meeting the complex needs of our  
20 youth prior to and throughout this crisis. Education  
21 and programming are critical components of detention  
22 and, of course, they needed to be quickly modified  
23 and adapted due to COVID-19. All youth in detention  
24 have access to remote learning, and I want to thank  
25 the teams at ACS, including our detention program

2 staff and our Office of Information Technology Staff  
3 and, of course, the Department of Education for  
4 quickly providing and adapting to new technology.  
5 Programming is essential to enhancing the therapeutic  
6 environment in detention while helping youth build  
7 self-esteem, take part in positive activities, reduce  
8 idle time, and help youth, ah, and, um, help youth to  
9 connect with role models and credible messengers, as  
10 well as develop skills to redirect their lives in  
11 positive directions. We've implemented new types of  
12 virtual programming to engage youth while adhering to  
13 social distancing protocol. So, for instance, youth  
14 now have access to video games, movies, and books on  
15 their tablets. They're participating in virtual  
16 programming with our various partners, including a  
17 writing challenge through the Kite program, yoga,  
18 individual exercise challenges, and others. Strong  
19 family engagement has always been an essential part  
20 of our model of care and we've adapted to make sure  
21 that youth remain connected. Our case management  
22 staff connect with parents at phone, by phone and  
23 intake, and they call parents weekly to provide  
24 progress updates. One of our earliest, and frankly  
25 most challenging decisions during this crisis was to

2 have to suspend in-person visiting due to health  
3 risks. So we've set up access for youth to do  
4 televisiting by video in addition to increasing their  
5 regular telephone access so they can maintain  
6 connections with their families and with their  
7 attorneys. It has always been the case youth can  
8 write and send unlimited letters to parents and  
9 family members. Through the dedication of our  
10 division of youth and family justice staff, ACS is  
11 making sure that youth in our detention facilities  
12 are well cared for as we continue to navigate these  
13 uncertain times. As the council knows, we created a  
14 new position, youth development specialist, to carry  
15 out our expanded responsibilities under Raise the  
16 Age. Our staff of YDS are now carrying out the  
17 crucial role of working with youth on a daily basis  
18 to provide strength-based supervision, mentorship,  
19 and connection under these particularly challenging  
20 circumstances. From the start of the pandemic we've  
21 deeply appreciated the council's and the community's  
22 close attention to the needs of the vulnerable youth  
23 and the heroic staff who provide them with daily care  
24 and supervision as we work together to keep those  
25 youth, those staff, and our community safe. I'm so



2 proud of all that our ACS DYFJ team has done to  
3 quickly adapt to this challenging time while  
4 providing the highest-quality care and support to our  
5 youth. Thank you, and we're very happy to take your  
6 questions.

7 COMMITTEE COUNSEL: Thank you. We will  
8 now turn it over to Chair Lancman for questions.

9 CHAIRPERSON LANCMAN: Good evening.

10 COMMISSIONER HANSELL: Good evening.

11 CHAIRPERSON LANCMAN: I will, I will be  
12 brief and not give your, ah, the next panel the  
13 opportunity to say good morning.

14 COMMISSIONER HANSELL: [laughs]

15 CHAIRPERSON LANCMAN: Um, and I want to  
16 thank you for staying. Ah, I, I know it's been a  
17 long day. Um, so let's just simply, you've got  
18 Horizon, you've got Crossroads, um, ah, it sounds  
19 like you've got three, now maybe four different units  
20 of population. Who's at, who's at, who's at  
21 Crossroads? Who's at Horizon? And why are you  
22 moving, who are you moving from Horizon, from  
23 Crossroads to Horizon? [inaudible].

24 COMMISSIONER HANSELL: OK. Ah, let me  
25 get the picture and then I'll let, ah, Deputy

2 Commissioner Hemiter, ah, elaborate on that. Um, so,  
3 for starters, um, by state requirement, um, the pre-  
4 Raise the Age population, which at this point is very  
5 small, it's just a [inaudible] of kids, um, they must  
6 remain at Horizon. Um, so they have, they were there  
7 and they have been there before and they will remain  
8 there, ah...

9 CHAIRPERSON LANCMAN: And they're,  
10 they're separate from everyone else?

11 COMMISSIONER HANSELL: That's correct.

12 CHAIRPERSON LANCMAN: That's, that's,  
13 that's one, that's one category, let's say.

14 COMMISSIONER HANSELL: That's one cohort  
15 of, of...

16 CHAIRPERSON LANCMAN: [inaudible].

17 COMMISSIONER HANSELL: ...young people who  
18 are at Horizon. That's correct. Then, second,  
19 beginning in March when the pandemic started, we made  
20 the decision to create a facility at Horizon where we  
21 would be able to medically isolate any staff, any,  
22 I'm sorry, any youth who were COVID, COVID-positive  
23 or, ah, symptomatic for COVID. So we've been doing  
24 that for about the last two months. Ah, currently we  
25 have, ah, many youth, ah, [inaudible] there, um,

2 because we have the two youth who recently tested,  
3 ah, positive. Ah, but that facility remains  
4 available for any youth who, ah, become symptomatic  
5 at Crossroads who would then for that reason be  
6 testified to Horizon.

7 CHAIRPERSON LANCMAN: OK, and the only  
8 reason someone would go from Crossroads to Horizon is  
9 if they tested positive or were symptomatic?

10 COMMISSIONER HANSELL: That was the case  
11 up until recently.

12 CHAIRPERSON LANCMAN: Ahah.

13 COMMISSIONER HANSELL: Um, more recently,  
14 as I mention in the testimony, um, we began to  
15 redistribute the population because of an increase in  
16 population we were experiencing at Crossroads, ah, by  
17 transferring some youth from Crossroads to Horizon.  
18 They continue to be separated from the medical  
19 isolation facility, um, to maintain the infection  
20 control protocol that we've had in place now, which  
21 we think has been very successful, um, and they also  
22 continue to be separated from the pre-Raise the Age  
23 population, which is required under state law and  
24 state regulation.

2 CHAIRPERSON LANCMAN: [inaudible]. So at  
3 Horizon there are three cohorts. There is the Raise  
4 the Age, there's the COVID-19, and there's the, for  
5 want of a better term, ah, Crossroads excess?

6 COMMISSIONER HANSELL: Ah, essentially.  
7 I'm gonna, ah, turn it over to Deputy Commissioner  
8 Hemiter...

9 CHAIRPERSON POWERS: [inaudible].

10 COMMISSIONER HANSELL: ...to elaborate  
11 before I get in deeper than I, than I should.

12 [laughs]

13 DEPUTY COMMISSIONER HEMITER: Yes, but  
14 that is correct. Um, so we do have the pre, pre-  
15 Raise the Age youth at Horizon, ah, the two youth who  
16 are in the medical isolation unit at Horizon, and  
17 then recently testified, ah, adolescent offenders at  
18 Horizon.

19 CHAIRPERSON LANCMAN: How many?

20 DEPUTY COMMISSIONER HEMITER: Ah, the  
21 total count at Horizon right now is 14. So we have  
22 two pre-Raise the Age, two youth in the medical  
23 isolation unit, and 12, ah, other AOs.

24 CHAIRPERSON LANCMAN: Got it. And that  
25 leaves how many at, ah, Crossroads?

2 DEPUTY COMMISSIONER HEMITER: At  
3 Crossroads today there were 67 youth, and that  
4 breakdown is 41 adolescent offenders, um, five  
5 juvenile delinquents, and 21 juvenile offenders.

6 CHAIRPERSON LANCMAN: Um, what was the  
7 reason for the increase in the population at  
8 Crossroads, ah, more kids get in trouble or something  
9 else?

10 DEPUTY COMMISSIONER HEMITER: We've seen,  
11 um, an increase in the number of youth coming into  
12 detention. And as the courts remain closed no youth  
13 are moving out, ah, since that first, um, as the  
14 Commissioner mentioned, those first, those releases  
15 we have not seen, um, kids leaving as quickly as we  
16 have in the past. So our population has, has been  
17 increasing slowly.

18 CHAIRPERSON LANCMAN: Has the office of,  
19 so it's not that more kids have, have gotten  
20 themselves put in so much as fewer kids have been  
21 able to get themselves out?

22 DEPUTY COMMISSIONER HEMITER: It's a  
23 little bit of both.

24 CHAIRPERSON LANCMAN: [inaudible].

25

2 DEPUTY COMMISSIONER HEMITER: We have  
3 seen some police admits, um, coming through, um, and  
4 we've, you know, worked, ah, the, the courts are open  
5 for arraignments and a lot of the cases, at least the  
6 juvenile delinquency cases, they have been, ah, being  
7 diverted and released, um, and the adolescent  
8 offenders that we have seen come through have been  
9 arraigned and have been detained.

10 CHAIRPERSON LANCMAN: Has, has OCA not  
11 set up a process, ah, for these kids to, to have  
12 their, ah, their, their, their opportunity to, ah, be  
13 released, um, heard?

14 DEPUTY COMMISSIONER HEMITER: So my  
15 understand of the process, and I think MOCJ is still  
16 on and might be able to answer this better than I  
17 can, um, but for, so we have the, the youth parts  
18 which are adolescent offenders. Um, they get  
19 arraigned, um, and once, if they are detained, um,  
20 then further court hearings are, have just started  
21 happening, I believe, um, in terms of grand jury and  
22 things like that. I'm not as familiar with that.  
23 MOCJ can answer, you know, what the process is with  
24 respect to that. On the juvenile delinquency side,  
25 um, for the younger youth Family Court is open for

2 arraignments, um, and Probation and the Law  
3 Department have been doing what they can do to divert  
4 those cases. Um, and then the court has, again, the  
5 decision about whether to remand those youth or not.  
6 So we have seen some youth coming through on both  
7 sides, on the adolescent offender side and the  
8 juvenile delinquency side.

9 CHAIRPERSON LANCMAN: Coming in, but not  
10 being able to, to get out?

11 DEPUTY COMMISSIONER HEMITER: Correct.  
12 There, there, there are no hearings other than the  
13 emergency hearings being held.

14 CHAIRPERSON LANCMAN: Right. OK.

15 DEPUTY COMMISSIONER HEMITER: Some cases,  
16 um, when that initial release happened, um, on the  
17 delinquency side, they were placed, um, and so they  
18 did go to our Close to Home facilities.

19 CHAIRPERSON LANCMAN: All right. And,  
20 and, um, just remind me, has, has every, ah, youth  
21 been tested for COVID-19? Or are you, too, waiting  
22 for, ah, symptoms to emerge?

23 DEPUTY COMMISSIONER HEMITER: We have not  
24 been testing every youth, um, only when, when they  
25

2 are symptomatic, according to the, the health  
3 guidelines.

4 CHAIRPERSON LANCMAN: All right. Well,  
5 now that we have rapid tests and now that the  
6 Department of Corrections is testing every new, um,  
7 admission, shouldn't, ah, you guys be doing that  
8 also?

9 DEPUTY COMMISSIONER HEMITER: I, I think  
10 this is something that we're looking into. We, we  
11 don't have a protocol for that yet. I can, ah, Dr.  
12 Mendoza is here, he can speak about the health  
13 aspects of that. Um, but, you know, we, we are  
14 definitely, it is definitely something under  
15 consideration.

16 CHAIRPERSON LANCMAN: All right. Um,  
17 listen, I appreciate our cooperation and, and  
18 communication, it's been very, very, ah, ah,  
19 effective, um, but, you know, on the testing issue  
20 that's been under consideration for a long time and  
21 you have such a small population, ah, and, and the  
22 Department of Corrections is, is doing it. Um, I  
23 don't know, Doctor, do you want to tell us why this,  
24 what possible reason there could be for not at this  
25 point for ACS not doing this?



2 DR. MENDOZA: Well, the biggest reason  
3 and the most major reason is that there is no, um,  
4 health guidance actually coming down. Ah, even  
5 specifically for detention centers, and we've been  
6 monitoring all the health guidance that comes from  
7 the CDC from DOHMH and from DOH. Um, so it still  
8 continues to be a symptom-driven kind of screening  
9 process. But, again, as we said, as we continue to  
10 monitor all of these guidelines and as the, ah,  
11 situation within the city evolves, we'll, we will  
12 change our guidelines accordingly.

13 CHAIRPERSON LANCMAN: Well, I have to  
14 respectfully very strongly urge you to not wait for  
15 some guideline to, to come down. The testing is  
16 available now. The Department of Corrections is, is,  
17 is, is doing it. Um, there's, you have a small and  
18 manageable population, um, it makes little sense to  
19 wait for someone to have symptoms, which means that  
20 they, they are and probably have been infectious for  
21 some period of time, um, and, ah, ah, we, there's no  
22 reason not to, not to test. I mean, if there's some  
23 medical reason I'd, I'd be willing to hear it why  
24 it's a bad idea. But it's so obviously and evidently  
25 a, a, a, a good idea I can't even understand why you

2 wouldn't do it. Also, and, you know, I'm not a  
3 doctor so, ah, I, I may be misstating this, but we're  
4 all reading about this, this new or this newly  
5 understood impact that, that COVID is having on kids,  
6 kind of like a separate side disease or side ailment,  
7 um, I urge you, like don't mess around. You've got  
8 less than a hundred kids. Test them today.

9 DR. MENDOZA: We promise you, we will not  
10 mess around. And we are going to look at everything,  
11 ah, consider every factor that needs to be  
12 considered. Completely understand the concern about  
13 the new syndrome, the MISC, and in fact on the day  
14 that we got information about MISC we immediately,  
15 ah, informed all of our providers, ah, our healthcare  
16 providers and all of our staff about it, and we have  
17 guidelines on how to recognize it. The key with  
18 MISC, of course, is early recognition, because there  
19 is an actually quite effective treatment for it and  
20 so, um, all of our staff are very aware of what they  
21 have to watch for. And, ah, yes, about the testing,  
22 we are, we are going to study it and we'll, we'll  
23 make a decision about it very, very soon.

24 CHAIRPERSON LANCMAN: I hope so. Alana,  
25 are there other of my colleagues have questions?

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2 COMMITTEE COUNSEL: Yes. We will, if, if  
3 you are finished, Council Member, we'll turn it to...

4 CHAIRPERSON LANCMAN: Yeah, thank you.  
5 Please go to them.

6 COMMITTEE COUNSEL: Great. To Chair  
7 Powers.

8 CHAIRPERSON POWERS: Thank you. I'm  
9 gonna actually pass it along both to Council Member  
10 Ampry-Samuel and Council Member Rose, they've been  
11 here for a long time logged in, ah, I think, waiting  
12 to ask a question of ACS. So I'm gonna hand my time  
13 over to them [inaudible].

14 COMMITTEE COUNSEL: Ah, Council Member  
15 Ampry-Samuel, you may begin.

16 SERGEANT AT ARMS: Starting time.

17 COUNCIL MEMBER AMPRY-SAMUEL: I  
18 appreciate that, um, Chair Powers. And, um, Chair  
19 Lancman, thank you so much for those questions,  
20 because that was the line of questions that I had,  
21 um, since several hours ago. I was just like waiting  
22 to, to get those, um, answers. Um, so [inaudible]  
23 else I represent Crossroads in my district and, um,  
24 on March, Wednesday, March 18, I received a frantic  
25 call from a mom of a son who is at Crossroads and I

2 immediately, it was 8 o'clock that night, March 18,  
3 and I called, um, one of the deputy commissioners  
4 and, um, my colleagues to find out what was happening  
5 because her son was sick and, um, visitation had just  
6 stopped that Saturday prior to, and so she was very  
7 concerned, and we all were, and again, this was on  
8 March 18, and so we have been going back and forth  
9 with questioning as to what's happening with the  
10 young people at Crossroads and Horizon, myself,  
11 Council Member Salamanca, and so, um, it's been some  
12 trying times. And so, um, I just wanted to ask a  
13 couple of questions in reference to the video  
14 conferencing, because one of the mothers told me that  
15 she's able to, you know, of course do the visit, the  
16 visit, the video conferencing, um, but it's once a  
17 week and I just wanted to find out, um, is there a  
18 way to do, what's the hours for video conferencing,  
19 that's one of my questions, and is, is there a way to  
20 increase that because of what we're going through,  
21 um, and the mental health piece of it, having to stay  
22 connected and engaged. And then also, um, another  
23 mother text me and said her son is not able to wear a  
24 mask. And so I know that you mentioned in your  
25 testimony that every young people has a mask, but

2 there's, there's one, there's a, there's a mother  
3 right now who has a son at Crossroads and he does not  
4 have a mask and is not allowed to have a mask. And  
5 so I want you to be able to clear that up for me, um,  
6 and I, and I know I'm running out of time. Um, but  
7 also, um, the training and programming in the  
8 facility as well, because we had community-based  
9 organizations that were going in there, like Cure  
10 Violence groups, and really having a, um, like  
11 cultural competent programming with our young people.  
12 And so I want to speak to what are you doing to  
13 continue to connect with the CBOs who were working in  
14 there, because I'm told that they're not able to go  
15 in there and so I don't know who is actually in there  
16 now doing the programming, because I'm told it is not  
17 appropriate or, um, there should be more appropriate  
18 programming and, um, and workshops and sessions. Um,  
19 and, ah, I had another one, I'm trying to rush. Um,  
20 oh, yeah, and the increase in the population. So,  
21 um, I'm told, because I see what's happening here in  
22 Brownsville and we have young people getting locked  
23 up left and right every single day and so, um, can  
24 you speak more to what you're seeing as far as the  
25 increase in the numbers and how many, what's the

2 percentage of the increase since COVID? That would  
3 be helpful to, to get a sense of.

4 SERGEANT AT ARMS: Time expired.

5 DEPUTY COMMISSIONER HEMITER: OK, so I'll  
6 start. Um, I wrote down your things so I'll try to  
7 go through them. Um, with respect to the masks, um,  
8 every youth [inaudible], um, OK, so with respect to  
9 the masks every youth has been, um, given a mask.  
10 Sorry [inaudible] that now. There we go. Um, all  
11 youth have been given masks. Um, and they, they, so  
12 I'm not sure what, what, ah, reports you've been  
13 getting, um, because all youth have been issued  
14 masks. Um, they all have surgical masks. We have  
15 enough surgical masks that if a young person needs a  
16 new one we can give them a new mask. Um, so, so,  
17 that shouldn't be a problem, um, at, at all. All  
18 staff have also been given face coverings as well.  
19 They've given, ah, they've been given, given, um,  
20 cloth face coverings, um, at least two, I think we've  
21 given more than that so that they can wash them and,  
22 ah, ah, reuse them. Um, so both youth and staff have  
23 been given face coverings, um, in detention. Um,  
24 with respect to the televisiting, um, the  
25 televisiting, ah, so this was something that we did

2 have to put up very quickly, um, because we made the  
3 decision early on, as the Commissioner mentioned, ah,  
4 to suspend visits, which was, was a hard thing for us  
5 to do knowing that this was a challenging time for  
6 youth, um, and for their families, um, not knowing  
7 what was going on with them. So we did, we were able  
8 to put, um, five computers, um, at Crossroads, ah,  
9 for young people to do televisiting, um, but that  
10 televisiting is also, ah, being used for, um, visits  
11 with attorneys, ah, visits with parents, and also if,  
12 if there does happen to be a court hearing, um, where  
13 a young person needs to be produced virtually we are  
14 using it for that as well. Um, so it's being used  
15 for a lot of different purposes, um, and we are  
16 looking to see if there's a way to expand that, ah,  
17 that capability, but, but right now, um, we only have  
18 the five, um, five set up in our visiting area. Um,  
19 the hours for the visiting, um, were originally  
20 scheduled, ah, for parents on Monday, Monday through  
21 Wednesday 2:00 to 6:00 and the visit last for an hour  
22 long. Um, but we then, um, realized that that was  
23 not enough because lots of parents want to be in  
24 contact with their kids, obviously, and so we did  
25 expand, ah, the televisiting on Thursdays and Fridays

2 as well, so all five days, ah, are being scheduled  
3 for televisiting with parents. Um, between, ah,  
4 March 30 and May 11, ah, there were 356 televisits,  
5 um, scheduled between youth and their families at, at  
6 both Crossroads and Horizon. So it is definitely  
7 being, ah, being used, um, and, ah, um, that's, you  
8 know, it is being used. Um, with respect to, ah,  
9 programming, um, that has also been a challenge  
10 obviously. Um, as we suspended visits, ah, for  
11 people coming into the facility we also had to  
12 suspend our community-based organizations coming in  
13 as well, um, and had to figure out ways to, um,  
14 establish virtual programming for young people so  
15 that they could continue to be engaged, um, not only  
16 with their school, which we've had to do remote, ah,  
17 learning, um, but also the programming aspect of  
18 things as well. Um, the youth have been issued, um,  
19 tablets, um, and as the Commissioner mentioned there  
20 are, there are games and books and, and other things,  
21 um, loaded onto those, onto those tablets, but we  
22 have also, um, been, ah, we have, um, implemented,  
23 um, other types of programming. There was a, a  
24 writing program, um, through the, ah, writing  
25 challenge through the, through the Kite program. Um,



2 we've, they've been doing yoga on the tablets, um,  
3 and other, um, other opportunities on, on the  
4 tablets. Um, we have been working with, ah, with  
5 some of the community-based providers, um, to figure  
6 out ways to increase programming, um, as well, so  
7 we've been working with CCA, um, and with some of the  
8 other, um, with, um, Carnegie Hall and other programs  
9 to, to work on ways to, um, get more programming in,  
10 in, loaded onto and available for the kids through  
11 the virtual programming. Um, that's, those were the  
12 ones I wrote down.

13 CHAIRPERSON POWERS: Thanks. Um, hey,  
14 for that, I think Council Member Ampry-Samuel had a  
15 follow-up question. I just want to give her and  
16 Council Member Rose an opportunity to ask, ah, just a  
17 small amount over their allotment because they've  
18 been here and, and they've been gracious enough to  
19 wait for their, a very, very, very, very long hearing  
20 and, and mostly on my behalf. So, ah, if you just  
21 [inaudible] offer an opportunity to ask a follow-up  
22 question.

23 COUNCIL MEMBER AMPRY-SAMUEL: I  
24 appreciate that again. Um, just for, um,  
25 clarification because you mentioned the five

2 computers, um, that are set up for the video  
3 conferencing, the reason why the [inaudible] or the  
4 flag for me is because, um, now the city seems to be  
5 finding, um, funding to do 10,000 tablets for seniors  
6 and, you know, we can, you know, find ways to be able  
7 to keep folks connected and then for you to say that  
8 you have, um, five computers and, you know, just  
9 trying to figure a way to be able to increase that,  
10 to me that just sounds, you know, again, like, um,  
11 Chair Lancman stated, this is such a small, um,  
12 population and so, um, the young people and their  
13 families in this setting should be able to get  
14 anything and everything that they need at this  
15 particular time. Um, so that's one thing. Can you  
16 explain to me what the, ah, what the challenges are,  
17 um, related to the video conferencing? And then  
18 also, um, are you able to make sure that the  
19 families, the parents or the guardians, um, have the  
20 technology on their end in order to be able to do the  
21 conferencing with their, um, their, um, children and  
22 then, um, going back to the programming with the  
23 CBOs, when we're talking about, ah, like, Carnegie  
24 Hall or the, the organization that you just mentioned  
25 and I'm sitting here thinking about all of the issues

2 that we see now and the fact that the mayor and the  
3 police commissioner and the district attorneys are  
4 talking about ways to stay engaged and connected and  
5 the increase in funding and programming with our Cure  
6 Violence or crisis management systems, and that's on  
7 the outside, and we knew the importance of them to be  
8 on the inside with our young people and so, um, I  
9 don't understand the reasoning as to how you can  
10 have, um, programming and, and partnerships with  
11 entities that, that are not really relevant right now  
12 to what we're seeing and the increase in our youth  
13 being, you know, going into the system, and so, um,  
14 what are some of the challenges that are causing you  
15 to not be able to connect with the CBOs and have them  
16 inside of the building, because it's not the fact  
17 that they don't want to be there, because they tell  
18 me all the time, the ones that used to be in there,  
19 how can we get inside, because those children need us  
20 and their parents are asking us what happened, and so  
21 I know that there is, um, interest and a desire for  
22 those same groups to go, um, inside. So, um, can you  
23 speak to what your challenges are, again, related to  
24 the CBOs going inside as well as the, um, the  
25 increase in the computers and the technology that's

2 needed in order to have the young people stay engaged  
3 because we all know this is a critical time and, ah,  
4 one mother that I talk to on a consistent basis child  
5 is going through some real serious mental health  
6 issues and he had those same challenges before he got  
7 locked up. And he's going to be in there for a  
8 while. He is not one of the young people that can  
9 actually go home. And so, um, ah, what he needs is  
10 not being provided for in this setting right now, but  
11 he needs to be there. And so, um, I just, I, I hear  
12 the stories all the time about the young people not  
13 at all, like, I heard what you said but that's not  
14 the picture that I see every single day, um, from the  
15 families that reach out to our offices. So can you  
16 just speak to, you know, a little more of what you  
17 were just saying? Thank you. And that's it.

18 DEPUTY COMMISSIONER HEMITER: Oh, thank  
19 you. We appreciate the, the question. Um, so, so  
20 we, um, part of the visiting, issue with visiting is  
21 space within the facility. So we want to create  
22 spaces where, where kids can visit, um, one-on-one  
23 with their parents and so having, finding the space  
24 is, has been one of the challenges. Getting the...

2 COUNCIL MEMBER AMPRY-SAMUEL: [inaudible]

3 I, I go in there all the time. So I know where every  
4 single like room and space is in the building, so  
5 don't say that. Like I, I literally know. I can  
6 tell you right now, what about this place, what about  
7 that space? What about this room? What about that  
8 room? So, let's.

9 DEPUTY COMMISSIONER HEMITER: Well, I  
10 think that's part of it, is the space issue. I mean,  
11 there's, there's also technology in terms of like Wi-  
12 Fi and getting those things kind of set up, ah, for,  
13 for the kids as well, or not the kids but the, the  
14 technology that is needed. Like the laptops and  
15 those kinds of, ah, things, um, we have been able to  
16 get. It's the, the, the building infrastructure as  
17 well and getting that set up for Wi-Fi and things  
18 has, has definitely been, um, a challenge in terms  
19 of, um, making sure that if we have all these  
20 tablets, um, and being, doing the Skype visits and  
21 other things that we have, ah, that they can actually  
22 work. So that's, that's also been, um, part of it.  
23 We, um, you know, as, as the, we had to do things  
24 very quickly, very fast at the beginning and, and now  
25 we're able to take a step back and take a look at, at

2 what we are doing and what else we can add to, um,  
3 the programming and the other things that we have  
4 available for use. So, so definitely we are  
5 connecting with, with the CBOs that, that were, um,  
6 coming into, ah, our facilities. We actually have a  
7 call later this week with some of the advocates as  
8 well. We had a call, ah, a few weeks ago, um, also  
9 where, where we were working with, um, some of the,  
10 the CBOs to try to, to get them, ah, um, more  
11 involved, um, if they can't be in the, in the  
12 facilities physically, um, how do we get them in  
13 virtually so, so that they can assist with, um, with  
14 programming and keeping the kids engaged. Um, we,  
15 um, we're also, one of the big things that we're  
16 looking forward to, um, are the summer programming  
17 and making sure that the kids have the programs for  
18 the summer, um, as summer school is not going to be  
19 available like it was in the past, um, to make sure  
20 that the education and other, other things are  
21 continuing for the kids so that they can continue to  
22 earn their credits, um, that they are, um, going to  
23 be able to be involved in their schooling as well.  
24 Um, so, so, again, you know, we're definitely, um,  
25 working to connect and, and collaborate with, with

2 all the community-based organizations, um, that were  
3 in there before and trying to be creative in terms of  
4 coming up with ways to get them back in.

5 UNIDENTIFIED: [inaudible]

6 COUNCIL MEMBER AMPRY-SAMUEL: Um, thank  
7 you.

8 COMMISSIONER HANSELL: OK, sorry, um, I  
9 wanted to say Council Member Ampry-Samuel before we,  
10 we move on that, ah, you know, we are working, ah,  
11 closely, our case managers work closely with every,  
12 every young person in their family and we realize  
13 every family situation is different, and we want to  
14 do everything we can to encourage as much  
15 communication between parents and children as we can.  
16 So, um, we would be delighted to work with you  
17 offline on any, any concerns you hear from families,  
18 any concerns you hear from constituents. Um, we, we  
19 would very much like to know about and see if we  
20 could work with them and work with you to resolve  
21 them.

22 COUNCIL MEMBER AMPRY-SAMUEL: OK, and I  
23 don't want to go, um, back and forth because I know  
24 that Council Member Rose is right there with me. So

2 I'm gonna thank you and I'll, I look forward to  
3 working with you. OK, thank you. [laughs]

4 COMMISSIONER HANSELL: Thank you.  
5 [laughs]

6 COMMITTEE COUNSEL: Council Member Rose,  
7 you may begin.

8 SERGEANT AT ARMS: Starting time.

9 COUNCIL MEMBER ROSE: I want to thank,  
10 ah, Chair, um, Powers for allowing, um, allowing me  
11 to, to go before him, and it's always a pleasure to  
12 follow, um, Council Member Ampry-Samuel because she  
13 is, is quite, ah, she does a comprehensive, ah, sweep  
14 of the all the information that's needed. And, um,  
15 many of my questions were, um, were in the same vein  
16 as, as hers. So I don't want to belabor the point.  
17 But, um, I, I have to cosign to many of the things  
18 that she said. As the chair of the youth committee  
19 I'm getting reports that, um, that the young people  
20 don't have access to masks, soap, and hand sanitizer.  
21 Um, of course, the youth or the staff, um, and, um,  
22 my other concerns is I'm just gonna throw out my, my  
23 questions and, um, then you can answer them. Um, I'm  
24 also concerned, really, really concerned about, um,  
25 our young people receiving proper educational



2 instruction from DOE because we've been told that  
3 there, there's not, there's not or there's limited  
4 functional Wi-Fi at both, either of these centers.  
5 Um, and so, ah, it makes, ah, distance learning, um,  
6 a, a real challenge. So how you are, um,  
7 transitioning to remote learning and how effective  
8 has it been? Um, and, you know, and that would  
9 translate also in terms of summer programming, um, as  
10 well, and, and since our young people are, you know,  
11 have been isolated from their families, um, you know,  
12 with very limited activities, ah, recreational  
13 programming, and schooling, you know, how are you  
14 helping them to cope with, um, with the toll that  
15 it's taking on them mentally and physically, ah, and,  
16 um, and do they actually have unfettered use of the  
17 phones and, ah, tablets? I know, I know my  
18 colleagues spoke about remote, um, about the, um, the  
19 visits. But I'm talking about the, um, actual access  
20 to the phones and, and the tablets so that they, they  
21 are engaged, they have something to do, especially in  
22 light of the fact that the CBOs are no longer coming  
23 into the facility.

24 COMMISSIONER HANSELL: Ah, yes, ah,  
25 Council Member. Let me, let me start off and then,

2 ah, Deputy Commissioner Hemiter can, can elaborate.

3 Um, very important question. Um, with regard to  
4 education, um, I think, you know, I think what we, we  
5 found initially, just as, you know, we saw with so  
6 many families who are trying to connect their kids  
7 with distance learning at home, um, is that there  
8 was, to use a bad pun, there was a learning curve in  
9 getting up and running with remote learning. It  
10 wasn't easy for anybody. It was a very different way  
11 of operating than any of us was familiar with, and  
12 so, um, it did...

13 SERGEANT AT ARMS: Time.

14 COMMISSIONER HANSELL: ...ah, time for  
15 us, first of all, to make sure that we had the right  
16 equipment from DOE. And they took to some time to  
17 make sure we had the right connectivity in the  
18 facilities so that we could use the equip. Um, and  
19 then, ah, it's been also a process to work with the  
20 young people to make sure they knew how to function  
21 in a very different, you know, style of interaction,  
22 ah, with, with education. Um, so, ah, it was a  
23 process of getting there. Um, we, we, we do have the  
24 equipment. We do have the connectivity, um, and, um,  
25 our staff at our end, they used development

2 specialists, the case managers. The program  
3 counselors are all working with the youth now to make  
4 sure they really can use the technology to engage in  
5 distance learning the way that, ah, that we want them  
6 to make sure that they can full take advantage of the  
7 educational opportunities that DOE is making  
8 available to them. Um, they do also have, as, as I  
9 mentioned in testimony, ah, they have, ah, tablets  
10 that they can use for other kinds of, um, ah, um,  
11 activities like video games and reading books and  
12 watching movies, things like that. Ah, there are  
13 recreational activities and things like that. So  
14 we're doing as much as we can to keep kids engaged,  
15 both in the remote learning activities but also in a  
16 range of other things, um, so that we, ah, make sure  
17 they have as, ah, as much constructive activity and  
18 as little idle time as possible.

19 COUNCIL MEMBER ROSE: So the  
20 infrastructure is now in place. You have Wi-Fi. All  
21 of the infrastructure, um, issues have been resolved  
22 and, um, and they are, um, available now for them to  
23 use. And when was that, and when did you actually  
24 accomplish that? What was that timeline?

2 COMMISSIONER HANSELL: Ah, I don't, I  
3 don't have the detail on that. We can get that to  
4 you. I don't, Sarah, do you have the details on that  
5 [inaudible]?

6 DEPUTY COMMISSIONER HEMITER: I don't,  
7 sorry, I didn't know if I was muted. Um, we, ah, I,  
8 I'd have to get back to you. I know that the  
9 Chromebooks or the tablets that, that the DOE, um,  
10 gave to us to hand out to the kids, there were  
11 definitely challenges with that in the beginning, um,  
12 and we had to pull them back and, and redo things,  
13 and so that definitely was a challenge, um, but they  
14 do all have, um, tablets now that they are, they are  
15 handed out daily, um, for educational and the  
16 programming purposes. Um, if, if, ah, the young  
17 people, you know, the longer they, the, the better  
18 their behavior is the longer they get to keep the  
19 tablets and, and use them, um, as well. We also are,  
20 are, um, as the weather is turning nicer, um, the  
21 kids are going outside also. Um, they've always had  
22 access to the gym and, and the outdoor spaces for the  
23 recreation. Um, you know the kids want to play  
24 basketball which has been a challenge during this  
25 time when we're trying to keep the kids apart and

2 socially distanced, um, so we are working with them  
3 on, um, calisthenics and, and other things in the  
4 outdoor spaces as well to get them up and moving  
5 around, um, so that they aren't just sitting using  
6 the tablets all day as well. So, so we're trying of  
7 mix of different things with the kids to keep them  
8 active and engaged.

9 COUNCIL MEMBER ROSE: But didn't you say  
10 to, um, Council Member Ampry-Samuel that, that there  
11 were some issues with infrastructure and Wi-Fi and  
12 that's why, um, there was some issues in terms of  
13 teleconferencing with their, with their families?

14 DEPUTY COMMISSIONER HEMITER: In the...

15 COUNCIL MEMBER ROSE: [inaudible]

16 DEPUTY COMMISSIONER HEMITER: Sorry. In  
17 the visiting area there has, there have been some  
18 challenges with the Wi-Fi. Um, so, so the areas  
19 where the visiting is taking place, um, we, we have  
20 only been able to put up, ah, five tablets there  
21 because of some challenges with the Wi-Fi. Um,  
22 the...

23 COUNCIL MEMBER ROSE: And so what is  
24 your, um, and what's your timeline in terms of, of  
25

2 correcting that, um, since apparently you do have Wi-  
3 Fi in the building, right?

4 DEPUTY COMMISSIONER HEMITER: There is  
5 Wi-Fi in, in, for the educate, for the tablets and  
6 the education, yes.

7 COUNCIL MEMBER ROSE: And so now, um,  
8 you, you are actively working to get the, the sitting  
9 area or the visiting area, um, wired for Wi-Fi?

10 DEPUTY COMMISSIONER HEMITER: It is, it  
11 is wired for Wi-Fi. Um, we, we had, we have been  
12 having some challenges. Um, there was just an issue  
13 the other day, um, in terms of in the visiting area  
14 for, for that. It, it is, we've had some challenges  
15 with it.

16 COUNCIL MEMBER ROSE: And is that only at  
17 Crossroads, or is that also at Horizon?

18 DEPUTY COMMISSIONER HEMITER: It is at  
19 Crossroads.

20 COUNCIL MEMBER ROSE: It's just at  
21 Crossroads.

22 DEPUTY COMMISSIONER HEMITER: My, my  
23 understanding it's just at Crossroads. Ah, I can  
24 verify that.

2 COUNCIL MEMBER ROSE: OK. Um, I, I want  
3 to thank you for, ah, allowing me to have the time,  
4 Chair Powers and, um, and we really, we really need  
5 for you to make available all, all the resources that  
6 you can to, to make sure that while these young  
7 people are, are suffering through this isolation that  
8 we all are, that, um, their mental health and their  
9 physical health, um, issues are, are taken, are  
10 addressed. Thank you.

11 COMMITTEE COUNSEL: Thank you. Ah, I  
12 believe Chair Lancman has one more question.

13 CHAIRPERSON LANCMAN: Thanks. This is  
14 for the, the Law Department. Are, are you folks  
15 still around? Hi. Can you unmute the Law  
16 Department? There you go. So we heard from MOCJ  
17 earlier about this, ah, intense deliberative, ah,  
18 process for trying to get, um, adults released from  
19 adult detention, and I want to know if there's been  
20 any, ah, comparable process to get juveniles  
21 released, what the Law Department's role has been,  
22 and, ah, how many young people, if any, has Law  
23 Department consented to, ah, to release? At least,  
24 you know, for those who are being prosecuted by the  
25 Law Department.

2 CHIEF GILROY RUIZ: Yes, thank you, um,  
3 Councilman. So there was a, an intentional effort to  
4 this, um, which began actually on March 13, when  
5 Deputy Commissioner Hemiter and I spoke and we were  
6 given lists of the, um, youth who were in detention  
7 and we began to go through the list on a case-by-case  
8 basis, um, reviewing every single case of the youth  
9 in detention. It was a multilayer review by the Law  
10 Department, um, starting at the line level up to the  
11 unit chief, up to the deputy chief of litigation,  
12 including myself. Um, and as a result of that the  
13 initial reduction that had happened with juvenile  
14 [inaudible] the population in secure detention was  
15 decreased by 66% and in nonsecure detention by, um,  
16 53%. As this was happening, ACS also did a similar,  
17 um, review of medical conditions, as we've heard  
18 about in the adult system today. And, um, so we  
19 provided them with a list of 20 youth who may have,  
20 um, conditions that make them more vulnerable to the  
21 virus, um, and so there was, again, an intentional  
22 review. Um, and we believe it was that number  
23 because we had reduced the population so much  
24 previously. So we did do another review of these.  
25 This included all the youth in detention, so it was



2 review of each case by our office as well as, um,  
3 with the assistance of the Department of Probation,  
4 with MOCJ and ACS with input from NYPD as well as the  
5 DAs' offices. And so, um, a group of that youth were  
6 deemed appropriate for release. That has to do with  
7 the number of cases that were in at the time and so  
8 that number of cases, um, ultimately resulted in, um,  
9 in an original list of 53 youth, 32 [inaudible]  
10 released overall. And, as the Commissioner said,  
11 with both reviews there has been a one-third decrease  
12 in the population in detention. Um, a question was  
13 asked by one of the councilwomen with regard to the  
14 cases coming in now to detention, and I, I believe  
15 Commissioner Bermudez may speak of this as well, as  
16 it's a different process than in the district  
17 attorney's office. When, when a case is referred by  
18 the police department it [inaudible] to the  
19 Department of Probation, who then either adjusts the  
20 case or, um, refers the case to the, to the Law  
21 Department, and then we determine the appropriateness  
22 of filing a case. Um, there has been a real  
23 intentional effort between DOP and our office  
24 actually handling these cases at the police precinct  
25 prior to them even being transported down to the

2 court, and as a result of that approximately 80% of  
3 the youth initially in custody have been released  
4 either by the Department of Probation or by the Law  
5 Department, pending a potential filing later one. I  
6 just want to correct one thing that was sad. Um, the  
7 Family Court has not [inaudible], um, at all and so  
8 the hearings that were necessary to accomplish these  
9 releases were done by the Family Court judges. So  
10 once we had come to a conclusion based upon the  
11 supports provided by DOP and ACS and MOCJ through the  
12 alternative to detention programs we then went to the  
13 attorneys for the child who are the defenders and  
14 Family Court and together we negotiated, agreed upon  
15 conditions of release, which were then approved by  
16 the court. Um, so there has been a continued effort  
17 to make sure, um, only those youth who need to be in  
18 detention are in detention, and I would just say that  
19 the standard that we used went above the standard  
20 that is the initial remand standard in Family Court .  
21 That standard is based whether there would be a  
22 further act of delinquency or whether there would be  
23 a nonappearance in court. Instead, we went to the  
24 mission of the Family Court itself in terms of  
25 outcomes and that is a balancing between the needs

2 and best interests of the youth and the need for  
3 protection in the community. And so that was the  
4 standard that was applied to each and every case that  
5 was reviewed at a very high level, um, in the initial  
6 cohort and continues to be reviewed as we go forward.

7 CHAIRPERSON LANCMAN: All right. Thank  
8 you.

9 COMMITTEE COUNSEL: Thank you. If there  
10 are no further questions we'll move to the Department  
11 of Probation. Um, testifying here from the  
12 Department of Probation today we have Commissioner  
13 Ana Bermudez. In addition, we have Deputy  
14 Commissioner Sharun Goodwin of the Department of  
15 Probation, who will be here for questions and  
16 answers. Um, I will call on each of you individually  
17 for a response. Please raise your right hand. Do  
18 you affirm to tell the truth, the whole truth, and  
19 nothing but the truth before these committees and to  
20 respond honestly to council member questions?

21 COMMISSIONER BERMUDEZ: Yes, I do.

22 COMMITTEE COUNSEL: I have to say your  
23 name first.

24 COMMISSIONER BERMUDEZ: Oh, sorry.  
25

1 COMMITTEE ON CRIMINAL JUSTICE  
JOINTLY WITH JUSTICE SYSTEM

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2 COMMITTEE COUNSEL: Commissioner  
3 Bermudez?

4 COMMISSIONER BERMUDEZ: Yes, I do.

5 COMMITTEE COUNSEL: Deputy Commissioner  
6 Goodwin?

7 DEPUTY COMMISSIONER GOODWIN: Yes, I do.

8 COMMITTEE COUNSEL: Thank you.

9 Commissioner, you may begin.

10 COMMISSIONER BERMUDEZ: Thank you, all  
11 right, let's bring this home. Um, good evening,  
12 Chair Powers and Chair Lancman, as well as members of  
13 the criminal justice and justice services committees.  
14 I am Ana Bermudez, commissioner of the New York City  
15 Department of Probation, and with me is Deputy  
16 Commissioner Sharun Goodwin. Thank you for the  
17 opportunity to testify about the important work of  
18 the Department of Probation and the recent bill  
19 introduction to reestablish New York City's local  
20 conditional release commission. As you know,  
21 probation is the largest alternative to incarceration  
22 in New York City and plays a crucial role in keep us  
23 all safe. At DOP we understand that safety is more  
24 than just one's physical well-being, but that it's  
25 the network of trusted relationships built around a

2 person to keep them on track when times are tough.

3 This has never been more apparent and important, and

4 I'm very proud of this agency's ability to be nimble

5 and adapt to the present circumstances. The 17,225

6 people currently under supervision, divided up

7 between 16,000 adults and 12,225 juveniles are being

8 safely supervised by dedicated and professional

9 probation officers through electronic means mostly,

10 like phones, text, videos, and web check-ins, um,

11 similarly to how we expanded intensive community

12 monitoring, or ICM, for youth that would otherwise be

13 detained when we saw the need with Raise the Age. We

14 have adapted to this new now by transitioning our

15 programming online so that clients and other

16 community members can stay engaged with the people

17 and programs they have grown to rely on during this

18 time when they have, when they are needed most. Our

19 ground-breaking, incredible [inaudible] mentoring

20 programs, such as Arches and parent coaches, our

21 unique partnerships, like the Made in New York

22 animation project, NeON arts, thank you, ah, City

23 Council Member Holden, ah and NeON photography as

24 well as our behavioral health specialists, are all

25 available remotely for clients and their families to

2 access. And, touchingly, as I have spoken with  
3 probation officers about their experience with remote  
4 supervision, they often report that clients are  
5 calling to check in on them and to see how they are  
6 doing during this crisis. For those on probation  
7 where regular in-person check-ins are necessary, we  
8 are employing social distancing and other recommended  
9 precautions to keep individuals under supervision,  
10 probation officers, and the public safe. In fact, of  
11 our in-person operation that has increased the most  
12 during the pandemic is our NeON nutrition kitchens,  
13 with which, with the support from the Young Men's  
14 Initiative, have now tripled their capacity. We are  
15 now serving some 12,000 people per week, a more than  
16 sixfold increase of our typical pre-COVID volume.  
17 Though that is a sobering a statistic, it is also an  
18 uplifting one, as it shows the incredible impact the  
19 work of this department is having on the lives of our  
20 clients, their families, and the communities in which  
21 they live. We could not have done this, first and  
22 foremost, without our dedicated staff, who came up  
23 with the Nutrition Kitchen idea in the first place,  
24 as well as our partners, like Why Am I and the Living  
25 Redemption Youth Opportunity hub in Harlem who

2 stepped up to the plate, no pun intended, um, when  
3 our previous location had to close in Harlem. And it  
4 comes to no surprise, as no surprise to us, that the  
5 neighborhoods with the most positive COVID-19 cases  
6 are home to communities of color and, and whose  
7 residents are disproportionately employed in  
8 frontline service. COVID-19 has revealed the racial  
9 and economic inequity that is deeply in our city's  
10 socioeconomic infrastructure. Our NeONs aim to be  
11 the opposite of that, instead serving as engines of  
12 equity by working with neighborhood residents to  
13 develop ground-up solutions for what their community  
14 needs. By being rooted in partnership with both  
15 residents and service providers, the NeON model has  
16 allowed us to invest valuable resources and help to  
17 restore a sense of agency in these communities. We  
18 are, and we are seeing the results pay off, for  
19 despite decades of concentrated disadvantage the  
20 residents of our NeON neighborhoods are successfully  
21 completing probation at a rate of more than four out  
22 of five, the same rate for residents of neighborhoods  
23 that do not have these structural challenges. Though  
24 there is still a lot more work to do, I am proud of  
25 this department's contribution toward ensuring that

2 justice system outcomes are not defined by a person's  
3 ZIP code. Though the local conditional release  
4 commission has not been operating, ah, during my time  
5 as commissioner, I am familiar with its duties and  
6 scope. As commissioner of DOP, I would be an ex  
7 officio and nonvoting member of the commission and  
8 anyone granted conditional release would be  
9 supervised by Probation for a period of one year. An  
10 advantage of the LCRC is that all components of the  
11 process would be housed under one roof within  
12 Probation, ensuring both a consistent programmatic  
13 ethos and seamless integration across the conditional  
14 release continuum from application through community  
15 supervision. The department does not have any  
16 objections to this legislation and would work with  
17 you to not only ensure its implementation, successful  
18 implementation, but to prioritize connecting the work  
19 of the commission with the communities that have  
20 historically been disproportionately represented in  
21 the jail-prison pipeline. Thank you for, um,  
22 allowing me to testify and, um, moreover, thank you,  
23 council members for the incredible and continued  
24 support you have shown this department and the people



2 who serve over the years. I am pleased to answer any  
3 questions that you may have.

4 COMMITTEE COUNSEL: We'll now turn it  
5 over to Chair Powers for questions.

6 CHAIRPERSON POWERS: Thank you, thank you  
7 for bearing with us on a marathon of a day, as we are  
8 now at 6:20. Um, I'm gonna get a couple questions  
9 out and then I'll hand it over to folks. Um, I thank  
10 you on the feedback on the bill that we've got the  
11 local commission, ah, on release. Ah, can you tell  
12 us, um, ah, what staffing for that would look like  
13 if, if we did pass it? Does that require additional  
14 staffing? Do you believe that the department could  
15 staff [inaudible] any ideas on that?

16 COMMISSIONER BERMUDEZ: Yes, um, so in  
17 the past it was staffed by, ah, two probation line,  
18 ah, folks, um, and two administrative support, ah,  
19 staff. And we think that's appropriate, ah, moving  
20 forward. Ah, my understanding is that, and, and the  
21 statute calls for five, ah, commission members. So,  
22 um, it would be a, a separate unit and, and a  
23 distinctive unit within DOP, and we, um, were  
24 confident that we could staff that.

2 CHAIRPERSON POWERS: OK, and, and in  
3 terms of appointees, um, any, any thoughts on, ah,  
4 qualifications or what would be looked for in terms  
5 of an appointee?

6 COMMISSIONER BERMUDEZ: Well, the, the,  
7 ah, state statute is very clear as to the  
8 qualifications, ah, that are required. Um, so, you  
9 know, it would have, it would have to confirm with  
10 that, um, I have, let's see, um, for example, so each  
11 member of the commission has to have, ah, graduated  
12 from an accredited four-year college or university,  
13 at least five years of experience in the field of  
14 criminology, ah, the administration of criminal  
15 justice, law enforcement, probation, parole, law,  
16 social work, social science, psychology, psychiatry,  
17 or corrections. So it's a fairly, you know,  
18 definitive list of criteria that need to be met.

19 CHAIRPERSON POWERS: OK, thank you. Um,  
20 and, um, can you tell how many people are currently  
21 incarcerated due to a probation warrant or violation  
22 or probation?

23 COMMISSIONER BERMUDEZ: There is very,  
24 ah, few of those. There is an issue about the data  
25 there because oftentimes, solely on a violation of

2 probation there's generally nobody on hold, ah, at,  
3 at Riker's. Usually a person who is at Riker's on a  
4 violation of probation is because there's a new case  
5 for which they're being held.

6 CHAIRPERSON POWERS: Do you, and you  
7 don't know how many that there are in that case?

8 COMMISSIONER BERMUDEZ: Not at the  
9 moment. We can, we can, ah, I'm sorry? Um, so, but  
10 we file less than 1% of, ah, violations, right, so,  
11 so, it's very, I'm sure it's very few.

12 CHAIRPERSON POWERS: Got it. And just,  
13 just, you know, on the bill that we have I think  
14 there's that state law, but I, I think that we read  
15 that as maybe, maybe a minimum versus a, a, ah, ah,  
16 of maximum in terms of, ah, stating it out, but we'll  
17 be happy to work with you on terms of, um, hashing  
18 some of those issues out. Um, ah, are check-ins for  
19 juveniles now entirely remote?

20 COMMISSIONER BERMUDEZ: Ah, for the most  
21 part we have, ah, some group of young people that we  
22 go to their homes still. Our ICM, ah, which is our  
23 intensive community monitoring, is our alternative to  
24 detention, ah, ah, intervention both for the youth  
25 part and for family court. Um, we have, ah, we go to

2 the youth's home as, ah, on a regular basis,  
3 following social distancing, etcetera. But nobody  
4 comes to our offices. There's some cases that we go  
5 out, however.

6 CHAIRPERSON POWERS: And is there, is  
7 there any instance where you would provide ah, ah, a  
8 juvenile with a telephone or a tablet so they can  
9 be...

10 COMMISSIONER BERMUDEZ: Yes.

11 CHAIRPERSON POWERS: OK. Do you know how  
12 many instances you've done that?

13 CHAIRPERSON POWERS: Ah, let's see. I  
14 thought I had that. I'm not sure I have that, but we  
15 have done that. I don't have the actual number. I  
16 will get that to you. But every young person, one of  
17 the things that we did when we moved to remote, ah,  
18 work was to ensure that everybody had a device with  
19 which we could communicate. So they either have  
20 laptops or phones, and when they haven't had it we've  
21 provided it for them. We've been able to do that,  
22 yes.

23 CHAIRPERSON POWERS: OK, thank you. Ah,  
24 I'm gonna hand it over to Chair Lancman and then  
25

2 other members as well, they will ask questions as  
3 needed.

4 COMMITTEE COUNSEL: I believe Chair  
5 Lancman does not have any questions.

6 CHAIRPERSON POWERS: OK, I see him wave.  
7 OK. Um, and, um, ah, could I, could I just ask, ah,  
8 just a question in terms of the department itself, I  
9 do not have any data on staff or individuals in terms  
10 of the impact of COVID on the department?

11 COMMISSIONER BERMUDEZ: Yes. So we've  
12 had, ah, 39 confirmed cases, um, 32 in the provision  
13 officer line and, um, seven in the non-provision  
14 officer, um, units, and, ah, yes, that's, that's.

15 CHAIRPERSON POWERS: And, and everybody,  
16 how, how are folks doing? Are they?

17 COMMISSIONER BERMUDEZ: Folks have, ah,  
18 recovered well. We had one confirmed, ah, death, um,  
19 unfortunately, and one, one non-confirmed but  
20 strongly suspected.

21 CHAIRPERSON POWERS: OK. I'm really  
22 sorry to hear that, so send all our best to everybody  
23 at the department and, ah, and their families. Um,  
24 and then just some, just some final questions. Has  
25 there been any requests for equipment or, ah, it

2 could be PPE, it could be other equipment or other  
3 things that the department has been unable to provide  
4 to folks at this time?

5 COMMISSIONER BERMUDEZ: So far we have  
6 been able to provide what we need. We've been  
7 working very closely with our union, the UPOA, and  
8 between them and us we've been, ah, you know, been  
9 able to outfit our staff with what they need to go  
10 out, ah, in, ah, out in the field when needed and to  
11 do the Nutrition Kitchen, ah, food distribution as  
12 well, um, which will also actually providing through  
13 our Nutrition Kitchen food distribution also PPEs for  
14 the public. When they come to get their food they  
15 get their, you know, masks and, and the information  
16 about COVID, etcetera.

17 CHAIRPERSON POWERS: Got it. So, thank  
18 you, thank you for spending so much time with us  
19 today, ah, and, and we send all our best to everybody  
20 at the department and, ah, to their families. Thank  
21 you, and hope you're staying safe and healthy as  
22 well. Do we have any other questions from folks? I  
23 don't see any at this point. OK, thank you, thanks  
24 so much.

25 COMMISSIONER BERMUDEZ: Thank you.

2 COMMITTEE COUNSEL: Thank you. We will  
3 now turn to public testimony. I'd like to remind  
4 everyone that unlike our typical council hearings we  
5 will be calling individuals one by one to testify.  
6 Each panelist will be given three minutes to speak.  
7 Please begin once the sergeant has started the time.  
8 Council members who have questions for a particular  
9 panelist should use the raise hand function in Zoom  
10 and I will call on you after the first group of  
11 panelists has completed their testimony. For  
12 panelists, once your name is called a member of our  
13 staff will unmute you and the Sergeant at Arms will  
14 give you the go ahead to being upon setting the  
15 timer. Please wait for the sergeant to announce that  
16 you may begin before delivering your testimony. I  
17 would now like to welcome Delvany Powell to testify.

18 SERGEANT AT ARMS: Starting time.

19 DELVANY POWELL: Mr. Speaker,  
20 Chairperson, Council Member. My name is Delvany K.  
21 Powell, proud president of more than 800 majority  
22 African female members of the United Probation  
23 Officers Association. For, for more than 33 years  
24 I've worked in adult and family court services as a  
25 probation officer and supervising probation officer.

2 Probation officers since prior to appointment must  
3 minimally, must minimally have a four-year college  
4 degree with related experience, with related  
5 experiences or, or a master's design. As [inaudible]  
6 officers we carry firearms and undergo eight weeks of  
7 training. We are community correction supervision,  
8 the best incarceration alternative. We provide  
9 services to adults and to youth who have been  
10 convicted of a misdemeanor or a felony. Youth can be  
11 placed on probation from six months to two years,  
12 while an adult can be sentenced to probation for as  
13 long as 10 years, probation officers in foster  
14 conditions on probation. Officers' teams interview  
15 potential clients and supervise probation,  
16 probationists/clients for 24 hours a day, seven days  
17 a week after court findings and convictions.  
18 Officers complete mandated [inaudible] investigation  
19 reports. These critical documents include  
20 recommendations include recommendations of community  
21 supervision or incarcerations. Officer make sure,  
22 make sure services are provided to those under our  
23 supervision. The objective is to keep people out of  
24 jail. Every probationer is an individual. We do not  
25 believe in one size fit all. We prepare supervision



2 plans to meet the needs of our clients/probationists.

3 These plans are adjusted accordingly to each goal as

4 each goal is met. Probation's primary objective is

5 community safety and to assist those who we serve to

6 become law-abiding citizens as well as have no

7 [inaudible]. Probation is a second chance. COVID-19

8 has not changed our work. Probation officers and

9 supervisor probation officers are required to make

10 home visits. We are on the streets, essential

11 personnel, protecting our city. Electronic

12 monitoring is now an important tool for our, for many

13 reasons. It allows keeping more people out of city

14 prisons while providing additional safety to the

15 community at large. Whether an adult or youth should

16 be incarcerated or placed in a juvenile facility

17 during COVID, during the COVID pandemic, must be

18 contingent upon public safety risks. Who can, who

19 can effectively provide this oversight? Our trained,

20 experienced probation officers can and will. To the

21 extent that we have to come in direct contact for

22 their safety and for the safety of our members, we

23 will take all, we will have to take all safety

24 recommended precautions. Therefore, therefore, to

25 keep us on the street we need the proper equipment,

2 such as PPEs, larger vehicles, the frequent cleaning  
3 of our offices and our reception areas, as well as  
4 the installation of Plexiglasses in our offices when  
5 we go back to our new now. Thank you for the  
6 opportunity to testify.

7 COMMITTEE COUNSEL: Thank you. Um, if  
8 there are no questions we will move on to the next  
9 group. Thank you for your testimony. I would now  
10 like to welcome Vidal Guzman to testify. After Mr.  
11 Guzman I will be calling on Donna Hilton, Sharon  
12 White, oh, apologies. We have one question from  
13 Council Member Powers, from Chair Powers.

14 CHAIRPERSON POWERS: Hi there, sorry  
15 about that. Um, and thank you for, for, for, ah,  
16 sticking through a long hearing. I just want to say  
17 thank you to everybody who's been on this for, for  
18 seemingly all day now. But, um, just as you talked  
19 about going back to work and all the, um, all of the  
20 things you're going to need include Plexiglas,  
21 equipment, have you been talking to the department  
22 about your needs have they indicated they will be  
23 able to accommodate the needs of your folks whenever  
24 they, they have to go back to work?

2 DELVANY POWELL: Yeah, we continue to  
3 have labor management meetings with the department on  
4 a regular basis. And we have expressed to the  
5 department the needs that, what we're gonna need in  
6 order to do our job more effectively and to keep the  
7 members safe as well as our clients. So [inaudible].

8 CHAIRPERSON POWERS: OK, and right now do  
9 you feel you like have everything that your folks,  
10 everything they need in terms of whether it's  
11 equipment or support right now from the department?

12 DELVANY POWELL: I, like the Commissioner  
13 said, we've given out, um, um, PPEs to the members  
14 and the department's been very helpful with helping  
15 us get it distributed, um, PPEs to the, to our  
16 members. And, like I said, they have been very  
17 cooperative with us in this whole crisis.

18 CHAIRPERSON POWERS: OK, thank you.

19 DELVANY POWELL: And, and [inaudible]  
20 continue.

21 CHAIRPERSON POWERS: OK. Thank you.  
22 Thank you for, for that and, ah, hang in there and  
23 it's nice to see you virtually and, ah, we'll hope to  
24 see you some time in the near future.

2 DELVANY POWELL: I just want to make sure  
3 that we get our Plexiglasses. [laughs]

4 CHAIRPERSON POWERS: We will be, you let  
5 us know and we will be happy to, to help out  
6 [inaudible] for that as well.

7 DELVANY POWELL: Thank you so much. Bye-  
8 bye.

9 CHAIRPERSON POWERS: Absolutely. Thank  
10 you.

11 COMMITTEE COUNSEL: Um, Chair Lancman,  
12 did you have any questions? OK. We will now move to  
13 our next panel. I would like to now welcome Vidal  
14 Guzman to testify. After Ms. Guzman I will be  
15 calling on Donna Hilton, Sharon White Harrigan, and  
16 Brandon Holmes.

17 SERGEANT AT ARMS: Time starts now.

18 VIDAL GUZMAN: How ya doing? Thank you,  
19 everybody, for giving me the opportunity. My name is  
20 Vidal Guzman. I was on Riker's Island and also the  
21 Manhattanville Tombs. I'm also a Harlem resident. I  
22 am the outreach and, ah, engagement organizer for the  
23 Close Riker's Island campaign. And thank you for  
24 hearing from me today. I want to talk about the  
25 conditions on Riker's Island, the culture and the

2 response to COVID-19 and how its people fear for  
3 their life. We hear from people who are on Riker's  
4 Island, they loved ones, through our Free New York  
5 campaign as, as we heard some of the DAs talk about  
6 it. The fear that I can hear and see in family  
7 members' faces and voices tell us that they are  
8 worried about their loved ones. The Department of  
9 Correction was not prepared. We knew they was not  
10 prepared when they gave masks too late to people  
11 detained, from people who was incarcerated on  
12 Riker's, and a woman who was incarcerated  
13 [inaudible]. There's no way to create a floor plan  
14 to allow social distancing in Riker's Island. Ah,  
15 New York City was not prepared to protect Riker's  
16 Island during the, ah, Hurricane Sandies or the swine  
17 flu epic, ah, epic center. Ah, they were slow to  
18 response to this pandemic as well. I went through  
19 Riker's when I was 16 and again at 19 years old. And  
20 I'm gonna tell you that I learnt how, ah, New York  
21 treats people who are incarcerated. We were always  
22 treated as second class when it comes to anything,  
23 right? And I think another thing that I been  
24 hearing, um, because I could also send you my  
25 testimony, was through DAs and everyone, ah, talking

2 about the importance of investing in communities. So  
3 for a lot of people who know that, ah, the Close  
4 Riker's Island campaign created a build community  
5 platform, it's called two point, ah, the build  
6 community platform called 2.0 that talks about every  
7 single issue that every City Council, ah, DAs, or  
8 anyone who actually spoke before us, ah, ah,  
9 concerned, right? Some of these build community  
10 platform talks about the public health, housing,  
11 employment, economic developments, education and  
12 school system, community programs and services,  
13 conflict transformation, attorney accountabilities,  
14 and structures and investments. So when people talk  
15 about answers about what public safety actually  
16 means, public safety has to be defined from the  
17 community side first. And when we talk about as a  
18 organizer, when I talk to people in my community  
19 about what they actually need, well, it's not more  
20 policing or incarcerating people, puts more  
21 investments in our community. This, you know, I  
22 overheard someone even quote, ah, ah, ah, even give a  
23 quote and this is what I have to say. Because this  
24 is in [inaudible] in, in City Hall's, ah, ah, um,  
25 chamber, right? That this nation under gosh, eh,

2 should have a new birth of freedom, that this  
3 government of the people, by the people, for the  
4 people should not perish from the earth. And when we  
5 talk about quotes from Abraham Lincoln that defined  
6 what exactly does our community actually need or what  
7 is, what defines what a society that's healthier and  
8 thriving actually needs...

9 SERGEANT AT ARMS: Time expired.

10 VIDAL GUZMAN: All I have to say that  
11 when it comes to any community investments we have  
12 the answers. It's called the build community 2.0 and  
13 we could send to every single one of ya. Thank you.

14 COMMITTEE COUNSEL: Donna Hilton, you may  
15 begin.

16 SERGEANT AT ARMS: Time starts now.

17 DONNA HILTON: Good evening, thank you.  
18 It's been long waiting, but important. Thank you for  
19 giving me this opportunity to speak. I would like to  
20 say that all the things that I've heard on this  
21 hearing today I, I'm changing my testimony. I have  
22 to bring to light that the, um, the issues that  
23 people have brought up, and I don't see many people  
24 from the DA's office and the like on the call, on the  
25 hearing anymore, ah, I'll continue to talk about

2 those that continue to commit crimes or do, or  
3 misbehave. We don't talk about the thousands upon  
4 thousands that don't. Most people like me and those  
5 that have been waiting to speak to you, and are  
6 working on the front lines, I was in the field this  
7 morning addressing the needs of our communities. And  
8 I am including those on, on Staten Island, those who  
9 continue to be marginalized and discriminated against  
10 because they're poor. Poor, poverty in itself is a  
11 violent, it's a violent situation, it's violent. But  
12 we don't want to recognize that. We treat people  
13 badly because of it. We treat people badly because  
14 they're poor, because they're black, because they're  
15 not educated, but we don't look at the root causes of  
16 these things that want to address it and we have  
17 become a country that wants to incarcerate it. You  
18 incarcerated me as an adolescent who was being raped  
19 and abused by a man who served in World War II, whose  
20 mother was the head of New York State Mental Health.  
21 You treated me less than and you continue to treat  
22 those like me less than instead of facing the issues  
23 that we oftentimes contribute to. If we continue to  
24 talk to people and talk about people like they are  
25 less than, that they are not human beings, that they



2 are not, ah, important, then they will continue to  
3 act in such a way. They should not wait until jail  
4 or incarceration to get the treatment that they need.  
5 Mental health is not, is not treated in jail.  
6 Substance abuse is not treated in jail. It is not.  
7 We see a lot of people still being technically  
8 violated right now, during this time, during this  
9 pandemic, going back to Riker's Island and sitting  
10 there, and getting sick, very sick. And let's be  
11 clear and honest that the medical care in prisons and  
12 in jails on Riker's Island is inadequate, subpar at  
13 best. And when you have, when you're sick and you're  
14 released and you to go to, ah, Elmhurst Hospital  
15 where the treatment is, you don't get treated as well  
16 as everyone else that's not, does not have a NYCID  
17 number or a den number. Let's be very clear on that.  
18 So it's, it's really disheartening right now during  
19 this time of a pandemic when human lives are at  
20 stake, regardless of guilt or innocence, and we must  
21 emphasize a lot of the people on Riker's Island are  
22 held pretrial. They're detained. They're not  
23 convicted of anything. And if they are they're  
24 sentenced to city time. You're talking about bills  
25 that have nothing to do with someone that's going to

2 stay in prison. You're talking about bills that the  
3 city can address, that the council can address.  
4 These are not serious so-called offenses, violent or  
5 otherwise. They would not be doing...

6 SERGEANT AT ARMS: Time expired.

7 DONNA HILTON: ...city time if they were.

8 Thank you for the opportunity. But I also demand  
9 that you start looking at people as human beings and  
10 recognizes the harms that you cause, you cause, and  
11 shame yourselves, shame yourselves. Sharon White  
12 Harrigan, you may begin.

13 SERGEANT AT ARMS: Time starts now.

14 SHARON WHITE HARRIGAN: I would just like  
15 to say thank you so much for this time to both  
16 chairman and the rest of the council's, ah,  
17 committee, committee members. Um, I just, for the  
18 things that I heard, ah, I just don't even have  
19 enough time to even speak on that. But that would be  
20 another day. But I would like to speak to the 6184  
21 bill to amend the administrative code of the City of  
22 New York in relationship to the maximum fee allowed  
23 when transferring money to a person in the custody of  
24 the Department of Correction and so in this time of,  
25 of this pandemic we're already pouring marginalized

2 people, ah, hurting, struggling, and suffering,

3 people have lost their, has lost their employment,

4 their homes, their good health and their loved ones.

5 We have to take time out to address a fee to transfer

6 money to people incarcerated. This is reprehensible.

7 We continuously find ways to target our black and

8 brown communities and so I represent the Women's

9 Community Justice Association, but I'm also here

10 representing the Justice for Women COVID-19 Task

11 Force and when the task force went to place money in

12 their accounts of all the women on Riker's Island it

13 could not give them \$25 each because the fee went to

14 \$6.95 per person, so we had to settle on \$20 at \$3.95

15 per person. For a wife who tries to maintain a

16 household, kids, transportation, just kind of keep

17 things afloat and trying to support her incarcerated

18 husband but could only give him \$15, but after the

19 fee it turns to \$8. We shouldn't just cap the fee.

20 It should be removed. In a time of COVID where

21 everybody, everyone is suffering, come on, I mean,

22 this is not even something that should be up for

23 discussion. We need to stop profiting off the backs

24 of poor people. And lastly we need to do better with

25 our language and categorizing people. It's offensive

2 and anyone here would be offended if we were  
3 stigmatized. So when we know better we should do  
4 better. It's not inmate, it's not, you know, these  
5 are derogatory names. These are men and women who  
6 are detained or incarcerated. Thank you for your  
7 time.

8 CHAIRPERSON POWERS: Thank you, um, and,  
9 ah, I just wanted to just clarify, I think we have,  
10 ah, are in agreement to you, with you, about, um, the  
11 fees and, you know, in this council I've tried to  
12 pass legislation, as long as I've been here in the  
13 chair to, ah, eliminate any sort of, ah, area where,  
14 ah, we think the city is making money off folks who  
15 are incarcerated. It's unconscionable, it's, it's,  
16 it's, um, it's hard to believe at any point that has  
17 been the, the policy of this city. Um, on this  
18 particular one we are, ah, looking at some of the  
19 state laws and how this bill interacts with the state  
20 laws and what we're allowed to do. Of course, I  
21 think if we are able to we would get this to, ah, ah,  
22 to be no fee and I just wanted to share that  
23 intention because as we look at some of the state law  
24 this interacts with, um, but I am very grateful to a  
25 lot of my colleagues and, we've, who have introduced

2 and passed legislation in this council about  
3 telephone calls, we've done on fees on, on bail and  
4 other things and that's where this is intended  
5 [inaudible] so you understand where we're coming from  
6 as well. Um, you [inaudible] and I think Alana we'll  
7 move on to the next one. Thank you.

8 COMMITTEE COUNSEL: Next we have Brandon  
9 Holmes.

10 SERGEANT AT ARMS: Time starts now.

11 BRANDON HOLMES: Good evening. I'm a  
12 lifelong New Yorker whose family has been on the  
13 other side of the bars at Riker's Island and I'm  
14 testifying on behalf of Just Leadership USA and the  
15 Close Riker's campaign, and as a member and supporter  
16 of Jails Action Coalition. Thank you to the City  
17 Council and in all central and member staff who have  
18 shown a commitment over the last two months to  
19 holding this administration and its agencies  
20 accountable to protecting the most vulnerable New  
21 Yorkers during this pandemic. We have a long way to  
22 go to complete the New York City we are fighting to  
23 build and because of this I want to acknowledge the  
24 urgency of the current budget-making process. We  
25 need a council that is going to be relentless. Many

2 of you have participated in the height of a  
3 grassroots movement to end mass incarceration, a  
4 movement to respect black lives, and to invest in the  
5 infrastructure needed to afford housing, education,  
6 and health care as rights for all New Yorkers. The  
7 urgency of your work and our work to shrink the jail  
8 population, demolish facilities on Riker's, and  
9 enforce true culture transformation within the  
10 justice system is directly tied to the urgency of  
11 fully funding and supporting communities, not only in  
12 a time of crisis and pandemic but always. The  
13 mission to close Riker's Island in partnership with  
14 directly impacted communities and advocates is more  
15 urgent than ever. And while this mayor, district  
16 attorneys, and NYPD Commissioner Shea are set on  
17 hoarding resources for law enforcement and punitive  
18 responses during a global pandemic while their cops  
19 have been recorded on multiple occasions assaulting  
20 New Yorkers of color, New York City has to realize we  
21 have faced a deficit before. There is no shortage of  
22 money during this pandemic that we can't overcome.  
23 What we have is a misalignment of priorities which  
24 will dig us deeper into a depression if you do not  
25 fight for budget justice. The Close Riker's campaign

2 and our leaders support the reporting amendment to  
3 improve transparency and oversight of DOC and CHS  
4 pandemic response efforts. We enthusiastically  
5 support the creation of a local condition to release  
6 commission. In April over 1500 New Yorkers were  
7 released through COVID-19 advocacy efforts and many  
8 of these people were reunited with loved ones,  
9 continued education, or receive treatment in their  
10 communities. We've seen that roughly 95% of the  
11 people released have avoided rearrest. Despite fear  
12 mongering and racism from media and law enforcement  
13 [inaudible] there is no increased or crime wave. In  
14 the past several weeks, though, we have seen a slight  
15 increase from the city's low of around 3808, ah,  
16 average daily population to 3943 reported May 18. We  
17 have seen a significant results from the city's more  
18 cost-effective hotel placement programs, too, which  
19 have been done in partnership with nonprofit service  
20 providers who can support people recently released or  
21 people with supervision conditions. The city should  
22 be investing in future resources that will further  
23 the progress we've made towards decarceration and  
24 ending mass incarceration and protecting that and  
25 future generations of New York. This commission

2 should also serve a more transparent and aggressive  
3 role for correcting harmful trends within the justice  
4 system through challenging...

5 SERGEANT AT ARMS: Time expired.

6 BRANDON HOLMES: ...district attorneys and  
7 judicial discretion or enhancing New York City-based  
8 ATV and ATI programs to protect New Yorkers, ah, from  
9 current failures on bail reform. I'll submit the  
10 rest of my testimony, ah, to the record.

11 COMMITTEE COUNSEL: Thank you. Are there  
12 any questions from Chair Powers? Chair Lancman?  
13 Thank you. If there are no questions from any other  
14 council members we will move to the next panel. Next  
15 up is Dr. Victoria Philips, who will be followed by  
16 Jennifer Parish, Kelsey Diabalo, and Bianca Tyler.

17 SERGEANT AT ARMS: Time starts now.

18 DR. VICTORIA PHILIPS: Hello, it's Ms. V  
19 from the Jails Action Coalition and Zero Profits  
20 Coalition, Mental Health Project, and Justice for  
21 Women COVID Task, um, Force. I want you to hear  
22 directly from the inside. Listen to your  
23 constituents, please. [plays recording] I, I just  
24 wanted to hurry up and skip forward 'cause a lot of  
25 things were said today. So, um, it's important, I



2 had this call last night because I know DOC likes to  
3 tell, um, everyone that I reach out to that things  
4 are taken care of, so I had to make sure I got this  
5 call in last night and so please listen. [plays  
6 recording]

7 CHAIRPERSON POWERS: Ms. Philips, we're  
8 gonna have, we're gonna have to move on. I'm sorry I  
9 that I cut you off there. But you can definitely  
10 send that to us, and I would just note to anybody,  
11 for any individual, I mean, I, I, I agree with some  
12 of the sentiment in there, which it seems like we  
13 were very late in terms of, in, in instances of  
14 getting the appropriate, um, resources we needed,  
15 whether it's sanitizer, hand soap, or, or much, or  
16 even release, things like that. Um, we certainly,  
17 our office and, ah, staff here will, will accept any  
18 of those, um, either, whether anonymous or, or if  
19 somebody wants to call us and talk to us about any of  
20 the individual issues. Thank you for testifying.  
21 And I think we'll keep going unless there's  
22 questions. Oh, Council Member Ampry-Samuel, I think  
23 Ampry-Samuel has a, has a question.

24 COUNCIL MEMBER AMPRY-SAMUEL: Um, I just  
25 wanted to say real quick, um, that I appreciate you,

2 sis, for that because, um, when we're conducting  
3 these hearings [inaudible] say that we are making  
4 sure that we hear from the public, hear from our  
5 constituents, and allow people to be able to testify  
6 on whatever the subject matter is, and what we're  
7 never able to do is be able to hear directly from our  
8 brothers and sisters who are detained. And, um, just  
9 like the other sister said, Ms. Hilton, that, um, you  
10 know, we have to remember [inaudible] individuals,  
11 um, that are not [inaudible]. They are detained,  
12 right? And so they, um, you know, our brothers and  
13 sisters are still even able to vote during this time.  
14 And so again I just want to say that I appreciate you  
15 for being able to come in and allow us to hear the  
16 voices because we were not that, that is something  
17 that we didn't, were, were never able to capture.  
18 And so I just wanted to say I appreciate you and  
19 that's all I have to say. Thank you. And we, and we  
20 should figure out a way to be able to hear the voices  
21 of our brothers and sisters, um, so that they can be  
22 able to testify before our hearings as well. That's  
23 it.

24 COMMITTEE COUNSEL: Thank you. Next we  
25 have Jennifer Parish.

2 SERGEANT AT ARMS: Starting time.

3 JENNIFER PARISH: Good evening. Thank  
4 you for the opportunity to testify. My name is  
5 Jennifer Parish. I work at the Urban Justice Center  
6 Mental Health Project and I'm a member of the Jails  
7 Action Coalition. There's still more people in the  
8 jails who should be released. I want to focus on the  
9 199 people incarcerated solely on technical parole  
10 violations. After the governor announced that this  
11 population would be released the State Department of  
12 Corrections and Community Supervision implemented  
13 this directive by categorically excluding from  
14 eligibility for release people with serious mental  
15 health concerns. After this blatant discrimination  
16 against people with mental health disabilities came  
17 to light DOCS said that it would reconsider the  
18 release of people who were initially disqualified.  
19 However, there's been no public reporting on the  
20 outcome of that review. We fear that many of the 199  
21 individuals incarcerated on technical parole  
22 violation may be there due to their mental health  
23 disability. Keep in mind that mental health  
24 disabilities place people at high risk for serious  
25 complications from COVID-19 and there's a reason for

2 their release. Extensive research has established  
3 that serious mental health concerns may [inaudible]  
4 chronic stress, anxiety, or depression compromise the  
5 immune system's ability to defend the body against  
6 viral infections. In addition, people with serious  
7 mental health conditions have higher rates of chronic  
8 medical conditions, such as hypertension, diabetes,  
9 and cardiovascular disease, which increase their  
10 vulnerability to COVID-19. Also, I want to respond  
11 to what Ms. Harris said about the 60 people whom the  
12 Brooklyn DA refused to release because of their  
13 mental health needs. [inaudible] arranged hotels to  
14 house people who would be homeless upon release. The  
15 city should be providing services to make sure that  
16 those people with mental health needs aren't denied  
17 release because of their disabilities. For example,  
18 the city could involve mental health treatment  
19 providers, such as forensic [inaudible] community  
20 treatment teams to provide those services to these  
21 individuals, who could also be placed in the hotels.  
22 This is a clear example of people with mental health  
23 needs being warehoused in jail because there's no  
24 accessible comprehensive services for them in the  
25 community. DAs and judges are content to leave

2 people with disabilities in jail. This is shameful  
3 and the council should not stand for it. You must  
4 ensure that funding for these resources is included  
5 in the city budget. I also want to mention that  
6 we're concerned about the availability of mental  
7 health care and discharge planning for those who  
8 remain in jail. CHS is certainly committed to  
9 providing the care, but given all the competing  
10 interests within the jails many incarcerated  
11 individuals are not having their mental health needs  
12 met. We urge the courts and district attorneys to  
13 reduce the number of people going into jail not only  
14 because of concerns regarding COVID-19, but also  
15 because of the strain on healthcare generally. Thank  
16 you for the opportunity to testify.

17 CHAIRPERSON POWERS: Thank you, and thank  
18 you for waiting for so long to testify to everybody.  
19 Let's, let's have a follow-up conversation after the  
20 hearing, maybe even this week, about some issues you  
21 raised, particularly around 199 folks and we'll have  
22 a chat. Maybe we [inaudible] follow-up. Thank you  
23 for that.

24 COMMITTEE COUNSEL: Next, Kelsey Diabolo.

25 SERGEANT AT ARMS: Starting time.

2 KELSEY DIABOLO: Hello, my name is Kelsey  
3 Diabolo and I work with Brooklyn Defender Services.  
4 Thank you, Chairs, for calling this necessary  
5 hearing. I appreciate the questions that have been  
6 asked, most notably those aimed at the DAs' gross  
7 mischaracterization and disconnect of how jails are  
8 appropriate responses for care and safety. Today we  
9 heard two very different perspectives. Ah, one  
10 narrative is shared by city agencies and largely  
11 reflects policies to describe how things should be.  
12 Ah, the other is described by directly impacted  
13 people who see firsthand how those policies are  
14 failing them. From the advocates before me and in  
15 the panels to come, you're going to be hearing a very  
16 different reality than what you've heard by the  
17 agencies. You're going to continue to hear about  
18 conditions [inaudible] so just due to time I'm just  
19 gonna focus on, ah, issues related to access, the  
20 first being the CHS hotline. Of course we support  
21 additional means of communication. But the  
22 implementation has caused a great deal of confusion  
23 and concern. It wasn't clear that there was a  
24 separate number for mental health. The hours are  
25 limited and even during the set hours people in

2 custody are sometimes met with a voicemail. There's  
3 no confirmation or follow-up. Um, and just to  
4 briefly discuss about the phones and DOC's recent  
5 report, and today board staff said that they did not  
6 find phones, that they did not find phones to be  
7 regularly disinfected, nor were there cleaning agents  
8 within the vicinity of the phone areas. Our office  
9 hears these, these same concerns consistently.  
10 People have resorted to using their own soap and  
11 shampoo in an attempt to sanitize the receiver, or  
12 they cover the phone with their sock. People do this  
13 not because they want to but because they feel those  
14 are their only options of protecting themselves. And  
15 the second piece is about grievances. I know DOC's  
16 Office of Constituent Grievance Services staff are  
17 now primarily working remotely and the new, and their  
18 new protocol is encouraging people in custody to  
19 share their grievances with correction officers, for  
20 them to share it with grievance staff. This fails to  
21 address the very real problem of submitting  
22 complaints to officers in the unit. In some cases  
23 people have no choice but to submit them to a  
24 correction officer, which eliminates any notion of  
25 privacy and endangers people who voice their

2 complaints. Our office has received hundreds of  
3 calls from people in custody, and this is not an  
4 exaggeration. People are terrified. They are  
5 anxious. And these calls are being heard by family  
6 members, their loved ones, and the other defender  
7 offices. We're all hearing the same thing. And I  
8 just want to stress that these issues are not  
9 isolated to just a couple of people, but rather  
10 facility- and island-wide. And I just want to end on  
11 this note, that the chief medical officer said today  
12 that the focus is on new admissions contributing to  
13 the rate of infection in the jail population. The  
14 larger strategy here for containing this virus must  
15 include and address NYP practices and we must  
16 continue decarceration efforts. Thank you.

17 CHAIRPERSON POWERS: Thank you, and thank  
18 you also as, as far, ah, in terms of waiting through  
19 a very long day, and thanks for the testimony. And,  
20 um, you know, similar to what I said earlier is, is  
21 as there are particular [inaudible] coming up, first  
22 of all, I, I did not get to my section of questions  
23 on grievances, I just want to mention that. I had a  
24 number of questions on that and due to timing we'd be  
25 till midnight if I went through all my questions.



2 But, um, the, um, we did have some questions around  
3 that and we'll follow up with. On terms of any, any  
4 particular, if you are hearing of any particular  
5 areas where perhaps there's not proper, um, ah, ah,  
6 [inaudible] now. Um, if, if, um, so I'm gonna keep  
7 going. Um, if there are particular entities that you  
8 think are worth bringing back to us, we have regular,  
9 ah, we are having regular calls with all the agencies  
10 that were on here today to talk about specific issues  
11 and raise them. Our staff who are on here have been  
12 in regular contact with them about particular areas  
13 where we think there's something that needs  
14 attention, and, um, and, of course, it is the Board  
15 of Correction as well, we can raise those to them as  
16 well. And I just raise that because I know, I don't  
17 that everybody understands and knows that we are in a  
18 sort of constant communication with them, bringing  
19 issues and vice versa. So, um, on the very  
20 particulars of any particular housing unit might  
21 need something or if an individual raised something,  
22 those are things worth relaying to us, in addition to  
23 the work you're doing, and we will do our job to make  
24 sure that we follow up with them and get attention on  
25 them. So, thank you.

2 KELSEY DIABOLO: I appreciate that.  
3 Thank you, Chair Powers.

4 CHAIRPERSON POWERS: And, um, I think we  
5 have a copy of your testimony, so thank you.

6 COMMITTEE COUNSEL: Thank you. Next is  
7 Bianca Tyler.

8 SERGEANT AT ARMS: Starting time.

9 BIANCA TYLER: Hey, hello, um, thank you,  
10 is it, um, thank you, ah, for calling this meeting  
11 and for the chairs, um, ah, Chairs Powers and Chairs  
12 Lancman for, um, just your continual work on these  
13 issues. Ah, I want to reinforce why on all the calls  
14 that advocates have been making for obviously  
15 releases from facilities, um, as well as the  
16 conditions, but I also do want to talk really  
17 specifically today about, um, the, um, bill, ah,  
18 around money transfer fees. Um, so I think that  
19 there's a number of things that were raised in the  
20 testimony, um, earlier from, um, some of the  
21 administrators that I think really needs to be honed  
22 in on. Um, so I think the first thing that I, I want  
23 to just sort of, um, address is that this bill, um,  
24 while a really important intention, also just  
25 codifies state law. There is, um, the fact that

2 there is state law that exists and the city has been  
3 getting a waiver, um, from that state law to charge  
4 more, um, is something that kind of hasn't been  
5 raised and the fact there has to be a city law to  
6 simply ensure that like our city agencies, um,  
7 actually abide by state law, um, is, is  
8 reprehensible. It seems absolutely ridiculous, um,  
9 and quite low of a bar, um, and so in saying that it  
10 feels the city should do more than what is required  
11 simply by state law, having to pass that city  
12 ordinance, um, seems a very bizarre, um, sort of  
13 tactic and it feels like we can and should do more.  
14 Um, importantly, there was a question asked, um, to  
15 DOC around whether it has spoken to DAS, um, ah,  
16 sorry, to DCAS about other great opportunities to  
17 make city payments and in fact, um, they had not.  
18 And this exact question was raised by the City  
19 Council back in 2016 when another similar bill was  
20 being considered. Um, and at that time City Council  
21 members had once again asked whether, um, the,  
22 whether DOC had in fact, um, checked with DCAS about  
23 free ways, um, that people would be able to make  
24 money transfers. They had not then and now four  
25 years later they have still not and so it's

2 absolutely imperative that the City Council actually  
3 hold DOC accountable to that. Because we know that  
4 there are actually several other agencies,  
5 jurisdictions around the country, states, and  
6 counties, um, and cities that are actually doing this  
7 themselves, um, where the fees are far lower.  
8 Arkansas, Maine, Montana are all doing that. And now  
9 during COVID, um, this rate is actually really, I  
10 mean, when we're talking about families, um, or  
11 people inside, rather, using their own cleaning  
12 supplies, things that their families bought in the  
13 commissary with that money that was transferred, um,  
14 having to use that money to, ah, pay for these items,  
15 then absolutely these should be free right now. And  
16 when we talked about free phone calls, that cost of  
17 free phone calls, um, you know, was a cost that the  
18 city took on and it feels like this is in that place.

19 SERGEANT AT ARMS: Time expired.

20 KELSEY DIABOLO: More than two, families  
21 are spending two million dollars a year on money  
22 transfer fees, something that obviously, um, they,  
23 they should have never had to pay and now during  
24 COVID, um, certainly they cannot afford. Ah, the  
25 very last point and then I'm gonna stop is just that

2 payment processing fees like just generally do not  
3 top 3% in the free world. There's absolutely no  
4 justifiable reason that JPay, this predatory company,  
5 is charging as much as 35% to make a payment  
6 transfer. Ah, thank you for your time, and we'll be  
7 submitting, ah, written testimony with more on the  
8 technical aspects of this legislation.

9 CHAIRPERSON POWERS: Great, thank you.  
10 We'll, we'll, um, ah, we'll take your written  
11 testimony when you have it, um, and we'll schedule a  
12 follow-up to talk about some of the points you raised  
13 when it comes to the bill, um, and, and we are trying  
14 to address some of it, I think, some of those issues  
15 and, I think you, you know, and, and I appreciate all  
16 your work you've done with the council on this, in  
17 these areas, at least since I've been the chair for  
18 the last two years, um, and I think we share a lot of  
19 the sentiments that you raised and [inaudible] how to  
20 draft and how to work through some of those issues,  
21 but we're happy to [inaudible] have a follow-up  
22 conversation with you to talk through some of the  
23 issues. Thank you. And thanks for your time.

24 KELSEY DIABOLO: Thank you.  
25

2 COMMITTEE COUNSEL: Thank you. Um, if  
3 there, I see no other council member questions. If  
4 there are council member questions please use the  
5 raise hand function. OK, seeing that there are no  
6 council member questions we will move to our next  
7 panel. Next testifying will be Mary Lynn Whirlwas,  
8 Lisa Freeman, Young Mi Li, and Zachary Katz Nelson.  
9 Mary Lynn Whirlwas you may begin.

10 SERGEANT AT ARMS: Starting time.

11 MARY LYNN WHIRLWAS: [inaudible] I'm Mary  
12 Lynn Whirlwas, director of the [inaudible] Project at  
13 the Legal Aid Society. Thank you for giving us this  
14 time and everyone sticking around so that we can all  
15 work together. It's actually been a very informative  
16 day. There are many things I think we've learned.  
17 One thing we've learned today CHS and DOC have the  
18 data about COVID-19, scientific information that  
19 would greatly benefit public policy, and how New  
20 Yorkers understand their [inaudible]. They just  
21 haven't shared it. If we want data-driven policy in  
22 our city we need to the data. So we greatly  
23 appreciate the council's efforts to obtain important  
24 fact data, including [inaudible] infection rates,  
25 testing, housing density in Department of Corrections

2 that we need to guide our response to this challenge  
3 with [inaudible] of legislation, seeking this data  
4 and encourage your steadfast commitment following  
5 [inaudible]. It doesn't slight the efforts of the  
6 hard-working people in CHS or DOC or the city to face  
7 the fact that the city jails of a congregate nature  
8 are not providing the physical separation and  
9 sanitation to stop the [inaudible]. You talk of an  
10 average occupancy in the department. Where's the  
11 reality? That in our city a dozen, three or four  
12 dozen men are confined during this pandemic in the  
13 same room, breathing the same air, using the same  
14 toilet 24 hours a day. That's simply a public health  
15 hazard to them and to all of us. We cannot morally  
16 burden the doctors and nurses who are trying to  
17 control this virus with the added rate of new  
18 admissions to the jail. The city must accelerate its  
19 decarceration work. It hasn't done enough, and work  
20 aggressively to ensure that vulnerable people are out  
21 of harm's way. Ah, very disturbingly today we also  
22 did not hear agency officials [inaudible] knowledge,  
23 let alone deal with many of the facts that people in  
24 custody are not getting what they need. That, and  
25 we've heard about CHS's phone line, but not about the

2 many complaints that the majority are not answered.

3 We've heard about people not wearing masks, but not  
4 about the repeated and futile efforts to get them.

5 We're even hearing insinuations that incarcerated  
6 people must prefer to clean the communal handset

7 that's their only link to a doctor with a sock rather  
8 than a sanitizer. Ah, and other, that's, we've heard

9 about cleaning but not about the workers' tasked with  
10 this critical public health mission, namely

11 incarcerated workers. This is a group of people most  
12 exposed and most likely to expose others as they hand

13 deliver 12,000 meals a day to their brothers and

14 sisters, move from unit to unit. Their risk is

15 astronomical, their bargaining power nonexistent.

16 We, just as we supported [inaudible] at the Legal Aid

17 Society in its efforts to obtain masks and protective

18 gear, so too do we support these workers, and ask the

19 council to intervene and protect them doing this

20 critical public health work. The work is just

21 beginning. It's work for [inaudible] stakes. Thank

22 you for giving us this opportunity to do it all with

23 you and for the council hearing all of us today.

24 CHAIRPERSON POWERS: Thank you, and thank

25 you for your work throughout this, ah, pandemic.



2 Even from the beginning, ah, all your folks to help  
3 raise issues that might be, needed to be addressed  
4 early on when it comes to conditions in there. We  
5 really appreciate, um, that work is ongoing and does  
6 help inform us being able to do more work, and, and  
7 in areas where there are folks who are working that  
8 need [inaudible] support them and we will be happy to  
9 lend our voices to any places where people are not  
10 getting proper treatment or equipment. So just  
11 please stay in touch with us then. Thank you for  
12 waiting and thank you for your testimony.

13 COMMITTEE COUNSEL: Thank you. Next we  
14 have Lisa Freeman.

15 SERGEANT AT ARMS: Starting time.

16 LISA FREEMAN: Hi. My name is Lisa  
17 Freeman. I'm the director of the juvenile rights  
18 special litigation and law firm unit at the Legal Aid  
19 Society. And, um, I would reiterate much of what  
20 Mary Lynn has said, but say that while there were  
21 many problems with the testimony of both with regard  
22 to the adult system, the testimony with regard to the  
23 juvenile system is, is really, frankly, just as  
24 troubling. There is no testing program going on in  
25 the juvenile system. There is no contact tracing

2 going on in the juvenile system. We know kids are  
3 getting infected. They all live in housing areas  
4 that were envisioned to be used only when the kids  
5 were not out of the housing area and at school, but  
6 instead because all school is happening remotely the  
7 kids are locked into the units essentially all day  
8 long except when they are, um, either doing  
9 recreation or they're, or they're eating their meal.  
10 And all of this is happening, happening congregately.  
11 So there's also no reporting whatsoever. So these,  
12 these numbers, we've heard numbers in the past, but  
13 these numbers were the first that we've heard that  
14 were confirmed, because I think in part it's because  
15 there's no testing. So they don't even know what the  
16 scope of the crisis is. Ah, we, we in fact have been  
17 told that there are more than 40 staff who've tested  
18 positive in the juvenile system. So, you know, there  
19 really needs to be, um, there really needs to be a  
20 stepping on the part of ACS and, and, um, we call on  
21 the council to hold their feet to the fire and  
22 mandate reporting and mandate, um, more information  
23 flow. Um, I would also just point out a couple of  
24 other things. There were, there was discussion, um,  
25 from, ah, Council Member, um, Ampry-Samuels and, ah,

2 Rose about things that they've heard about access.  
3 You know, all in-person visits have been stopped.  
4 You can only imagine what a frightening experience  
5 this is for kinds who are incarcerated or for, or for  
6 their families and the, the technological obstacles  
7 that they're talking about, you know, obviously need  
8 to have been addressed by now. We've also have been  
9 told that it was only as of this week that kids are  
10 beginning to get access or supposed to begin to get  
11 access to actual teachers and they've been handed,  
12 you know, ah, packets, often packets, not even  
13 computers, but more recently I think they've been  
14 improving it and getting them access to computers,  
15 but no actual live individuals to assist them with  
16 their school work. So there really needs to be  
17 increased programming, which is not happening. There  
18 is the, ah, improved school access and, um, you know,  
19 one of the key programs for kids in the summer is  
20 kids, even in detention, have access to the Summer  
21 Youth Employment Program, or some do, and we would  
22 really call that, that the council, um, press for  
23 that to be funded so that there is in fact an  
24 opportunity for kids to have some meaningful  
25 experience while they're incarcerated. So thank you

2 to the City Council for holding this hearing and, ah,  
3 we look forward to working with you.

4 COMMITTEE COUNSEL: Thank you. Next is  
5 Young Mi Li.

6 SERGEANT AT ARMS: Starting time.

7 YOUNG MI LI: Good evening. Ah, my name  
8 is Young Mi Li. I'm a supervising attorney at  
9 Brooklyn Defender Services in the criminal defense  
10 practice. I want to thank, ah, the City Council  
11 Committees on Criminal Justice and Justice System,  
12 ah, as well as, ah, the chairs, Powers and Lancman.  
13 Ah, BDS supports Intro 6175, which would create a  
14 local conditional release commission with the power  
15 and duty of determining which persons sentenced  
16 within the City of New York may be released on  
17 conditional release and under what circumstances.  
18 Um, I did hear testimony from the DAs earlier, ah,  
19 voicing their opposition to the reestablishment of  
20 such a commission. However, ah, I think an isolated  
21 incident, ah, which led to the eventual disbandment  
22 of this commission in 2005 should not be the reason  
23 why we do not have, ah, a local conditional, ah,  
24 release commission. The reason why I'm giving this  
25 testimony is that, ah, as BDS has been working so

2 hard through so many writs, including parole writs,  
3 ah, to release people from Riker's Island, um, we are  
4 seeing that parole violations are continuing at an  
5 extremely steady rate. Ah, we see people who are  
6 coming through arraignments, getting ACDs, ah, good  
7 dispositions on their open criminal cases, yet  
8 they're being held, ah, because of parole violations.  
9 And many of these parole violations are based on  
10 really, ah, technical violations, like missing  
11 curfews, missing appointments, ah, and people are  
12 just going back to Riker's Island and it's being  
13 repopulated as we work so hard to try to get as many  
14 people out of Riker's Island. We believe that a  
15 local, um, conditional release commission, ah,  
16 working with the Department of Probation as opposed  
17 to the parole board, ah, will help, ah, depopulate,  
18 decarcerate Riker's Island. We, ah, we strongly  
19 believe that these arbitrary decisions to just, um,  
20 issue and execute parole violations, ah, would not be  
21 as rampant, especially for those people who are  
22 serving city, ah, jail sentences of up to a year.  
23 Um, and for those reasons, ah, if a local conditional  
24 release commission is established, obviously choosing  
25 who will serve on that commission, ah, is extremely

2 important. We would ask that at least one or two,  
3 ah, defender, ah, representatives as well as  
4 advocate, ah, representatives, ah, serve on that  
5 commission, because really, ah, when I hear the, the  
6 testimony, when I heard the testimony from the DAs  
7 earlier, this is not just a question of public  
8 safety, ah, and who is deemed to be dangerous...

9 SERGEANT AT ARMS: Time expired.

10 YOUNG MI LI: It's really about the  
11 humane treatment, um, and providing services for, for  
12 really the most needy people in New York City, ah,  
13 and for those reasons we do support, ah, the  
14 establishment of a local conditional release  
15 commission. Thank you.

16 CHAIRPERSON POWERS: Thank you, thank  
17 you. I, I share a lot of your, your sentiment there  
18 and I just wanted to add my, um, my agreement with  
19 you that I think that the past, the reason that, ah,  
20 it was cited for the past, ah, breakup of that  
21 commission does not seem to me to be relevant to the  
22 need to maybe reestablish one and protect against any  
23 particular situation that may have caused, ah, it, it  
24 to be abolished in the past. So I, I appreciate you  
25 raising that point as well. Um, thank you, and thank

2 you for waiting so long through all of this. I think  
3 we're gonna head to the next spokesperson.

4 COMMITTEE COUNSEL: Next is Zachary Katz  
5 Nelson.

6 SERGEANT AT ARMS: Time begins now.

7 ZACHARY KATZ NELSON: Hi, good evening.  
8 I'm Zachary Katz Nelson. I'm the policy director at  
9 the Lippman Commission, and thank you for holding  
10 this hearing. Thank you for the opportunity to  
11 testify. I want to start out by just saying the  
12 approaches as, as many of you have mentioned, ah, the  
13 council members have mentioned, the approach over the  
14 last several weeks to jail using it incredibly  
15 sparingly or hopefully as, as fairly as possible,  
16 making sure that truly is the last resort, that  
17 should be the new normal moving forward. And we need  
18 to do everything we can in the city to make sure that  
19 that's possible. There's one way, one key way to do  
20 that, is to ensure that there's a robust array of  
21 alternatives to incarceration programs, so when DAs  
22 and judges are looking at a case, looking at an  
23 individual there's a program there that they meet,  
24 meets their security concerns, but also meets the  
25 concerns of the needs of the person who is facing

2 incarceration. And so that's things like the  
3 commission, the conditional release commission being  
4 considered today, which we support. It's things like  
5 making permanent the 6-A program, which the city has  
6 been using to get city sentenced folks out of jail  
7 and it's making sure that supervised release  
8 providers have the resources that they need. And  
9 there are really two through-points for all the  
10 programs. The first is the incredible community of  
11 nonprofit service providers who have stepped up  
12 tremendously during this time to provide services,  
13 wraparound services, that some of the DAs themselves  
14 mentioned earlier as necessary for them to feel  
15 comfortable with releases. But also the provision of  
16 housing. The city really has been tremendous in  
17 providing housing over the past several weeks to  
18 anyone coming out of incarceration, both at the state  
19 level and the city level who needs it. And that  
20 housing matters tremendously. You know, study after  
21 study after study shows the importance of stability,  
22 to people's ability to, to, you know, get back on  
23 their feet and frankly not to commit more crime. And  
24 so we really need to focus on that, and the costs of,  
25 of housing somebody, providing wrap-around services



2 which are critical, it's, it's not cheap on its face.  
3 Obviously, it's 70, 80, sometimes even 90 thousand  
4 dollars depending on the intensity of services. But  
5 compare that to the upwards of \$350,000 a year that  
6 we spend at Riker's Island, and what do we get for  
7 that? We get degradation, we get brutality, we get  
8 violence, we get isolation. And so continuing down  
9 that path is not only morally unacceptable, it is  
10 fiscally irresponsible. And so really this is an  
11 opportunity to shift quite dramatically the way that  
12 we approach incarceration moving forward. And I  
13 would just, I would just note one, one key piece of  
14 this obviously moving forward is the closure of  
15 Riker's itself and to get that done we need to get  
16 borough-based jails built as quickly as possible.  
17 And so over the next fiscal year there needs to be  
18 money there and we could ensure to move forward, that  
19 the planning process moves forward, that the design  
20 and build teams are selected, that procurement moves  
21 forward, so that we can get stakes in the ground as  
22 soon as possible and so the jails are built by 2026  
23 at the very latest, but hopefully sooner than that.  
24 With that, thank you very much for your [inaudible]  
25 time, I appreciate it.

2 COMMITTEE COUNSEL: Thank you. If there  
3 are no council member questions we will move to the  
4 next group. Seeing no questions, I will call on the  
5 next panel. We have Elizabeth Fisher, who will be  
6 followed by Tahani Dunn, and then Christopher Boyle,  
7 and then Alex Karishnakova, and Amanda Maisel.  
8 Elizabeth Fisher, you may begin.

9 SERGEANT AT ARMS: Time begins now.

10 ELIZABETH FISHER: Good evening. I'm the  
11 managing attorney of the criminal defense practice at  
12 the Neighborhood Defender Service of Harlem. Thank  
13 you for holding its hearing, and I want to say off  
14 the bat that we support all three proposed measures  
15 that have been discussed today. But I want to talk,  
16 ah, briefly about something that has only been  
17 mentioned in passing. From when the pandemic first  
18 hit we have been fighting for the release of our  
19 clients from city jails and juvenile detention  
20 centers in order to protect them and those who are  
21 forced to remain in those facilities from this too-  
22 often deadly disease. And amidst these efforts we  
23 were pleased to hear that electronic monitoring had  
24 become available on April 20 to allow for the release  
25 of additional pretrial detainees that judges and DAs

2 had not yet seen fit to release. Upon learning of  
3 this new initiative coordinate by MOCJ and the  
4 sheriff's department our attorneys immediately began  
5 to ask for the release of our clients on electronic  
6 monitoring. And despite these requests a month into  
7 the electronic monitoring program today we have been  
8 unable to get the court to release a single client on  
9 electronic monitoring. Indeed, as of today only  
10 three people have been released on electronic  
11 monitoring across all five boroughs. This initial  
12 failure of electronic monitoring to secure pretrial  
13 detainees' release has two primary causes that we've  
14 seen. One is that the requirements for eligibility,  
15 which are stable housing and a telephone, disqualify  
16 the poorest clients who could benefit from its use  
17 the most. Our cash bail system has already ensured  
18 that whether someone remains incarcerated pending  
19 trial depends mostly on whether they're rich or poor,  
20 and the electronic monitoring eligibility  
21 requirements exacerbate this inequity. Rather than  
22 requiring that clients show they already have access  
23 to stable housing and phone, the city should help  
24 facilitate and coordinate access to these resources  
25 necessary for eligibility, so that no one is declined

2 release by electronic monitoring simply due to  
3 poverty. The other reason that we've seen that  
4 electronic monitoring has not allowed more people to  
5 be released from our city jails is that judges and  
6 prosecutors are simply refusing to use it. Even  
7 though it can mitigate concerns about flight risk,  
8 prosecutors and judges are not agreeing to release  
9 people who could be safely back at home on electronic  
10 monitoring. If prosecutors and judges begin using  
11 pretrial detention only for its intended purpose of  
12 assuring a client's return to court and not as  
13 punishment or as a tool to induce a client to plead  
14 guilty, there are far more than three people across  
15 our city who could be released and could be home and  
16 not in our jails now with the electronic monitoring  
17 program. Thank you.

18 COMMITTEE COUNSEL: Thank you. Next we  
19 have Tahani Dunn.

20 SERGEANT AT ARMS: Time begins.

21 TAHANI DUNN: Good evening. My name is  
22 Tahani Dunn and I am a criminal defense and  
23 prisoners' rights attorney with the Bronx Defenders.  
24 On behalf of the Bronx Defenders and the Bronx  
25 community, I would like to thank you for your

2 attention to these critical matters and for the  
3 opportunity to testify before you today. Our office  
4 has submitted comprehensive written testimony.  
5 However, my testimony today will specifically address  
6 the persistent violations of minimum standards  
7 regarding punitive segregation and issues relating to  
8 access to council. In the course of hundreds of  
9 conversations with our clients and advocates in my  
10 office, it became apparent that every single one of  
11 our clients who has been placed in solitary  
12 confinement reported that it happened without a  
13 hearing. In almost every case our client reported  
14 receiving, not receiving a ticket explaining the  
15 alleged infraction or the disposition stating the  
16 findings and the consequences. Their rights to due  
17 process are being compromised in ways that are  
18 unacceptable no matter what the circumstances may be.  
19 To make matters worse, our clients have reported that  
20 when they inquire into these due process violations  
21 and attempts to assert their rights they are told by  
22 correctional officers that, that the disciplinary  
23 process has been suspended due to COVID-19. To our  
24 knowledge no such suspension was granted by any  
25 governing board, body, or agency. The remedy for

2 addressing these due process violations is to file an  
3 Article 78. However, gathering the necessary  
4 information to write and file this motion requires  
5 the ability to communicate with our clients, which,  
6 as I will explain, has been extremely challenging.  
7 As a result, our clients sit in solitary confinement  
8 for 30 consecutive days without any due process or  
9 legal recourse. Access to counsel has been  
10 significantly limited since the onset of the crisis.  
11 Without in-person visits, video conferences are the  
12 only way for attorneys and advocates to proactively  
13 communicate with our clients in custody. They are  
14 also the only means to conduct virtual court  
15 appearances, competency exams, and now grand jury  
16 proceedings, therefore creating a significant  
17 backlog, requiring requests to be made several weeks  
18 in advance. In addition to the backlog, urgent  
19 issues of confidentiality and technical difficulties  
20 affecting audio occur frequently. Our clients are  
21 rarely in the group at the start time of the video  
22 conference, cutting significantly into the 30-minute  
23 time slot. Thirty-minute video conferences are  
24 inadequate for serious and case-related  
25 conversations, thus impairing our clients' rights to

2 have access to their defense team in a way that could  
3 have devastating effects on the outcome of their  
4 cases. We ask that the City Council inquire into  
5 efforts to increase, expand, and systemize these  
6 video conference capacities, capabilities. We  
7 applaud DOC for providing people in custody with a  
8 round of free stamps and free stamped envelopes at  
9 the beginning of the COVID-19 crisis and are happy to  
10 hear that this will continue. In addition to ongoing  
11 mailing supplies, we request the DOC implement a mail  
12 forwarding process for all mail, but specifically  
13 legal mail. It is frequently reported to us by our  
14 clients that they have not received mail from our  
15 office. This seems to be due in part to the increase  
16 in facility transfers on Riker's Island and NYC  
17 jails. While advocates understand the need to move  
18 people in custody around to keep them and others safe  
19 and healthy, placement in new facilities should not  
20 hinder one's ability to receive their legal mail.  
21 Legal mail...

22 SERGEANT AT ARMS: Time expired.

23  
24 TAHINI DUNN: Legal mail almost always  
25 contains sensitive and confidential information

2 relating to a person's ongoing case, thus the  
3 importance of having mail forwarding system is  
4 essential. In conclusion, we encourage City Council  
5 to consider involving the advocacy community as well  
6 as those directly impacted by incarceration as part  
7 of the commission and urge the council to think  
8 creatively about other ways to reduce barriers to  
9 decarceration. Thank you very much.

10 CHAIRPERSON POWERS: Thank you. If you  
11 can send that over, just to make sure we have it, I,  
12 I've not heard that mail issue, so we can take a look  
13 into it, and obviously [inaudible], ah, [inaudible]  
14 very concerning so if you can share that with us we  
15 can have our staff and maybe the Board take a look  
16 into it [inaudible].

17 TAHINI DUNN: Absolutely. Thank you.

18 CHAIRPERSON POWERS: Thank you, thanks  
19 for your time.

20 COMMITTEE COUNSEL: Thank you. Next is  
21 Christopher Boyle.

22 CHRISTOPHER BOYLE: Ah, can everybody  
23 hear me OK?

24 COMMITTEE COUNSEL: Yes.

25 SERGEANT AT ARMS: Time begins.



2 CHRISTOPHER BOYLE: I want to thank the  
3 chairpersons and the committee for having the, um,  
4 the meeting today and, ah, we really appreciate it.  
5 But I, I want, I've already submitted my testimony.  
6 I'm not gonna read it. I want to go into a bunch of  
7 things that have come up during the, ah, many hours  
8 I've sat and watched the hearings here. The first is  
9 I, I, my understanding is that the governor is  
10 telling, ah, nursing home staff that they have to be  
11 tested, ah, twice a week when they go into the  
12 nursing homes. I don't understand why there  
13 shouldn't be at least two tests a week for Department  
14 of Correction staff personnel, as well as clients and  
15 inmates going into the facility. Ah, I think it's  
16 pretty clear that there is this two- or three-day lag  
17 time at best, ah, and it makes sense to double test  
18 people each, each week. I don't know why that's not  
19 happening. Um, I've been on phone calls with the  
20 Board of, ah, Corrections. They have been helpful,  
21 ah, but one of the things that come up is that, ah,  
22 they've been talking about having different  
23 categories of clients to try to get them released,  
24 and they started with the over-50 population and the  
25 population, ah, that had pre-existing conditions of

2 some type. Ah, we need to expand that. Ah, there,  
3 there are nonviolent offenders that are under the age  
4 of 50 that don't have any pre-existing conditions  
5 that should be getting out so they can physically  
6 separate from the over-50 group that have pre-  
7 existing conditions that are charged with homicides  
8 or violent felonies that we may not get out. Ah, you  
9 need to be able to socially distance these groups.  
10 Ah, we have done a survey and we've asked clients to  
11 answer questions of our survey. Some of the  
12 anecdotes that we have are, ah, one client said the  
13 only way I can socially distance is if I stay in my  
14 bed all the time. Otherwise, I'm around other  
15 people. I stay in my cell most of the time. I  
16 shower at night to avoid the crowds in the bathrooms,  
17 even though we are allowed to. Cleaning supplies are  
18 scarce. I tell officers and captains that there's no  
19 cleaning supplies or rags and they give me the run-  
20 around. 13% of our clients report that DOCS staff  
21 wear masks at all times. 54% state that their masks  
22 are visibly dirty. 77% of individuals have been  
23 reusing the same mask for at least a week. Um, only  
24 18% of clients state that they are able to observe  
25 socially distancing protocols. Ah, we tried to give,

2 ah, PPE material over to a client. We mailed it to  
3 them. Department of Corrections wouldn't accept it.  
4 They mailed it back to us. We sent a FOIA request on  
5 April 24 to the Department of Corrections to get  
6 information from them about, ah, the PPEs and how  
7 they're handing them out. We followed up on May 5.  
8 We followed up on May 14. Ah, so far we've received  
9 no response. I do want to add that we've gotten  
10 about 100 people out and 98%, ah, have not  
11 recidivated. Ah, we've only had two clients that  
12 during that time period got rearrested. So 98% of  
13 our clients are staying out and staying, ah, engaged  
14 with reentry reform. Ah, I would ask, ah, about the,  
15 the, ah, electronic monitoring is a major problem.  
16 Ah, the fact is that this, this has been going on for  
17 about three weeks. Ah, and we all thought that the,  
18 the 50 electronic monitors for the five boroughs  
19 would be...

20 SERGEANT AT ARMS: Time expired.

21 CHRISTOPHER BOYLE: ...would be out and,  
22 ah, we wouldn't have anybody getting them, and so far  
23 at three weeks we've only had three. I don't know  
24 why that's happening. Ah, I just want to say thank  
25 you for having the hearing.

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2 COMMITTEE COUNSEL: Thank you. Next we  
3 have Alex Karishnakova.

4 SERGEANT AT ARMS: Time begins.

5 ALEX KARISHNAKOVA: Can you hear me?

6 COMMITTEE COUNSEL: Yes.

7 ALEX KARISHNAKOVA: Thank you for hosting  
8 the hearing today. My name is Alex Karishnakova and  
9 I'm one of the organizers of the Emergency Release  
10 Fund. We are a grassroots bail fund for LGBTQ  
11 individuals in New York City and COVID-19 bail-out  
12 community response. We believe that cash bail is an  
13 unjust system that punishes people in poverty with  
14 jail time and should be ended. It is unfairly being  
15 used even during the epidemic to keep medically  
16 vulnerable and marginalized communities in unsafe  
17 conditions in detention. Since the mayor and  
18 governor refuse to release people during this  
19 pandemic, especially medically vulnerable  
20 individuals, we are using cash to get people out of  
21 jails fast. [inaudible] pandemic in New York City we  
22 have bailed out over 160 medically vulnerable and  
23 LGBTQ individuals from Riker's. We have sent over 40  
24 volunteers to bail windows at each borough and have  
25 faced a number of issues when paying cash bail. This

2 testimony discusses the need for an easier bail  
3 payment system at all times, but especially given the  
4 current pandemic as have many initiatives [inaudible]  
5 city processes remotely, um, bail payment appears to  
6 be left behind and in turn people behind bars have  
7 been left out. Like Local Law 6184, we request the  
8 city provide an alternative to in-person bail  
9 payments during the public health crisis. We also  
10 request that you ensure bail refunds continue to be  
11 processed and returned to individuals while the court  
12 is on a reduced schedule. Historically and at  
13 present the process of paying cash bail in New York  
14 City requires going to physical locations to retrieve  
15 cash or a cashier's check, often taking public  
16 transportation to get to bail windows, interacting  
17 with DOC staff, and other sureties in a, in a private  
18 payment area. Each step of the process creates risk  
19 of exposure to COVID-19 for both the person paying  
20 bail and everyone they interact with at each stage.  
21 For example, with reduced bank hours and locations we  
22 have spent over an average of two hours a day in  
23 lines at the bank to get cash or cashier's checks to  
24 pay bail. State rules restrict bail payments by one  
25 individual to no more than two bail payments per

2 month, hence why we had to put over 40 volunteers to  
3 bail windows. We've gone to bail windows only to  
4 find that no staff had been reported on duty or had  
5 been reassigned to work at bail windows, making the  
6 wait time for us to pay bail even longer. Bail  
7 windows are small and it's impossible to be a part,  
8 so our volunteers and other sureties have been forced  
9 to wait outside for hours, even in the rain. I spent  
10 over eight hours to pay bail once. Um, and thus in  
11 turn these people behind bars are forced to wait even  
12 longer to finally be released. Creating a process  
13 for taking bail payments over the phone and online  
14 would be a simple and powerful solution. This  
15 [inaudible] both families paying bail and the city  
16 civil servants who accept it. The city contracts  
17 with GovPay to accept virtual payments for cash bail,  
18 but with the burdensome [inaudible] service fee of  
19 7%. We talked before about local law for the  
20 commissary and 7% for a \$25,000 fee is huge, um,  
21 especially for marginalized communities to pay. Um,  
22 so we're asking for all service fees to be waived and  
23 for GovPay to be included, um, for all bail payments.  
24 Thank you for your time.

2 CHAIRPERSON POWERS: OK, thank you. I, I  
3 think you are, but I think just, you know, with the  
4 [inaudible] I think you're staying in regular contact  
5 with some of the staff here, but, ah, it sounds like  
6 there's some issues for us to take a look into, so  
7 once you have the testimony send it over and also I  
8 know a lot of others will be in contact with you to  
9 address any issues if there are, and I hear you.  
10 Thank you for the work you're doing and I understand  
11 there are difficulties to doing that. We want to,  
12 especially [inaudible] pandemic, we want to, we want  
13 to take a look at that. So thank, thank you, and  
14 thank you for waiting for so long.

15 COMMITTEE COUNSEL: Thank you. Next is  
16 Amanda Maisel.

17 SERGEANT AT ARMS: Starting time.

18 AMANDA MAISEL: Hi. Um, my name is  
19 Amanda Maisel. I'm also a volunteer with the  
20 Emergency Release Fund and I, um, thank you for the  
21 time to make a comment today. Um, there's a lot that  
22 could be said, but I want to, um, limit my comment to  
23 some very specific issues that we've had with paying  
24 bail and with being able to support those who've we  
25 released on bail. Um, I would like to emphasize, um,

2 Alex's point that we are demanding that bail, um, be  
3 online, available for all, um, bail payments during  
4 this epidemic and that the, um, the 7% and, um,  
5 credit card fee and the online fees be suspended for  
6 all bail payments. But I'd also like to bring  
7 attention to the, um, the lack of predictability and  
8 extreme wait times that we've been experiencing, um,  
9 for releases after we post bail. Ah, we have been  
10 seeing multiple instances where people are meant to  
11 be released in the morning and are being released at  
12 all hours of the night. Um, we're seeing multiple  
13 instances in which people are released, um, like more  
14 than 10 hours after the time that they were meant to  
15 be released, and this is causing a huge issue during  
16 the pandemic, um, for individuals who, um, are going  
17 to help with release and help transfer, um, those  
18 people to safe places to quarantine and to homes.  
19 We've had a number of people who are medically  
20 vulnerable, stranded, um, at night because they were  
21 released hours after we expected, um, and volunteers  
22 have been unable to communicate with them to, um,  
23 meet up with people to take them to quarantine, um,  
24 if that is what they are doing, or to take them home  
25 to be with relatives. So we ask that there be set



2 release times, schedules that are adhered to so that  
3 we can make sure that people who are, um, leaving,  
4 who need rides, um, are able to meet up with family  
5 members or loved ones or volunteers that are  
6 assisting them. Ah, we think this is an important  
7 matter for public safety as well. We don't want  
8 people who are released from a place with  
9 astronomically high rates of infection to have to  
10 take public transportation or walk. Um, and we also  
11 ask that everyone who is released have access to a  
12 non-compulsory, um, test so that they are not at risk  
13 of unknowingly infecting, um, their family members or  
14 loved ones or others that they are staying with. Um,  
15 so in addition to having set times, ah, we ask that  
16 there be a test optional upon release and that people  
17 are not in the process of being released, shuffled to  
18 multiple different facilities, um, where they are at  
19 risk for exposure, um, and they are coming into  
20 contact with people who they wouldn't...

21 SERGEANT AT ARMS: Time expired.

22 AMANDA MAISEL: ...[inaudible] contact  
23 with. Thank you.

24 COMMITTEE COUNSEL: Thank you. Not  
25 seeing any council member hands. We'll move onto the

2 next group. We have, it looks like three people  
3 left. Ah, we'll first have Tita Theodora Beale,  
4 followed by Katie Adaminez, and Kelly Grace Price.  
5 Um, Tita Theodora Beale, you may begin once the time  
6 is called.

7 SERGEANT AT ARMS: Starting time.

8 TITA THEODORA BEALE: Thank you very  
9 much, and thanks for your stamina. Ah, I am here  
10 with New York City Jails Advocacy Coalition for fair  
11 treatment of Riker's detainees. I do not work in the  
12 legal system, but I knew an innocent man who waited  
13 for trial in Riker's in 7 Main for 14 months. Ah, so  
14 I hope you will pass, ah, the T226175, ah, for the  
15 conditional release commission. Um, not just for  
16 today's COVID time, but also for any future flooding  
17 with hurricanes, fires, terror attacks, chemical  
18 explosions, whatever you can imagine. The commission  
19 would have the time to do what somebody said earlier,  
20 look at the bill, suggest improvements, and pass it.  
21 Some needed positions can be made and action taken,  
22 um, before COVID spreads too much, when one or two  
23 cases can turn into a hundred quickly. Today I have  
24 heard a lot of either/or thinking. Um, a commission  
25 would have the expertise to move people charged with

2 violence and repeat offenders to COVID-free areas and  
3 send nonviolent offenders home with ankle bracelet  
4 trackers. It's not either we protect the public or  
5 we take care of prisoners. Some people seem to set  
6 up that dichotomy. Um, I have three main reasons for  
7 supporting the commission - innocence, income, and  
8 race. One of the foundations of our legal system  
9 are, is that people are innocent until proven guilty.  
10 Today some people talk as if all detainees in Riker's  
11 are guilty. Phrases like don't, don't commit crimes  
12 and we won't have a problem. Ah, a lot of people are  
13 waiting for trial. The man I knew in Riker's for 14  
14 months was charged with violence, but refused plea  
15 deals, insisting he was innocent. No record, but not  
16 given bail because of the charges, and maybe because  
17 his complexion is brown. He's Muslim and he's not  
18 American, while his accuser was a wealthy white New  
19 York businessman. Unlike many people in Riker's, the  
20 defendant had the money to hire, ah, lawyers and an  
21 investigator who uncovered strong evidence of  
22 innocence and the reasons for false accusations. Few  
23 detainees in Riker's have that kind of money. A jury  
24 acquitted him 100%, but today he would be, while, if  
25 he were waiting for trial he would be at risk of

2 disease and death, maybe never make it to trial. And  
3 think about, I hope the people just dismissing the  
4 commission and calling everybody criminals will think  
5 about that. Ah, how many people are really, are  
6 innocent or, or, well, the next issue is income. Um,  
7 I thought maybe my person was an exception. His  
8 lawyer saw so many black and brown people in Riker's  
9 who were only there because they couldn't afford a  
10 lawyer to check evidence, people...

11 SERGEANT AT ARMS: Time expired.

12 TITA THEODORA BEALE: And the last one is  
13 race. My white kids would get calls from lawyers,  
14 from police warning them, ah, call me and warn me.  
15 Their black and brown friends ended up in Riker's for  
16 same, you know, open carry beer or cigarettes or  
17 fighting or whatever. So I think, I hope you can  
18 make sure people think about that when they think  
19 about the commission.

20 COMMITTEE COUNSEL: Thank you. Next is  
21 Katie Adaminez. You may begin once the timer starts.

22 SERGEANT AT ARMS: Starting time.

23 KATIE ADAMINEZ: Thank you for having me.  
24 I know this has been such a long day for everyone.  
25 My name is Katie Adaminez. I am the New York State

2 director for the Fines and Fees Justice Center. I  
3 submitted testimony in writing. I won't read it. I  
4 believe the council is familiar with the Fines and  
5 Fees Justice Center and we thank you for introducing  
6 a bill that, um, would limit money transfer fees and  
7 we support the bill, um, and while limiting money  
8 transfer is an important first step, we do need  
9 stronger fines and fees reforms for New Yorkers. Um,  
10 especially now, these fines and fees are causing,  
11 they're exacerbating the already disproportionate  
12 harm to low-income communities and communities of  
13 color that already preexisted COVID-19, but in the  
14 wake of COVID-19 we're seeing the exact very same  
15 communities harmed by both the public health crisis  
16 and the fines and fees at the same time. So we knew  
17 that these practices were wrong before COVID-19 and  
18 they are even more egregious now. Um, so, for  
19 example, um, with JPay, um, it, they, they continue  
20 to extract millions of dollars from people in city  
21 jails and their loved ones, and often even if the fee  
22 is just five dollars it's still like 20% of the  
23 deposit. And, and we are concerned that companies  
24 can still, um, for example, limit the amount of the  
25 deposit to keep that percentage even higher than it

2 is right now. Um, our position is that fees should  
3 be abolished, especially now, but we understand that  
4 the city, um, may not end money transfer fees. So if  
5 the city does not end money transfer fees entirely,  
6 and only lowers existing fees, um, it must do so in a  
7 way that stops the worst forms of price gouging for  
8 people who are supporting the basic needs of their  
9 loved ones behind bars. So we would like to see the  
10 law prohibit vendors like JPay from reducing the  
11 current allowable deposit amount, um, and rather than  
12 a stand-alone flat fee cap, um, we would like to see  
13 percentage cap up to a maximum of five dollars, so  
14 that we know that this price gouging by percentage  
15 wouldn't be possible. Um, we, we also think that  
16 there needs to be more data publicly available and  
17 easily accessible about what these companies collect,  
18 and we want to see those contracts publicly made  
19 available so that these things are easy to track and  
20 easy to reform when they're, when they're harming our  
21 communities of color and our low-income communities.  
22 And, ah, we'd also like to encourage council to take  
23 up the other fines and fees issues that are harming  
24 people. We're so grateful to see that, that these  
25 issues are moving in New York City, um, but there are

2 still so many, especially access to diversion right  
3 now. Diversion allows people to make money, continue  
4 to work, continue to see their families, and continue  
5 to practice physical distancing, rather than being  
6 behind bars where on top of all the other harms that  
7 had already caused people...

8 SERGEANT AT ARMS: Time expired.

9 KATIE ADAMINEZ: ...there's also increased  
10 risk of exposure to COVID-19. Thank you so much for  
11 letting me speak.

12 COMMITTEE COUNSEL: Thank you. And last  
13 we have Kelly Grace Price. Once the timer begins you  
14 may begin.

15 SERGEANT AT ARMS: Starting time.

16 KELLY GRACE PRICE: Hi. I'm just, um,  
17 I'm going to turn in my written testimony. I'm so  
18 tired after this eight-hour hearing. But I, I didn't  
19 hear anything about furloughs mentioned, and I want  
20 to ask, please, Councilman Powers, Alana, and  
21 Councilman Lancman, please look into the  
22 qualifications for these furloughs, because we've  
23 heard specifically from a press release on April 23  
24 from Court Innovation and also in a little bit in the  
25 intercepts that quoted someone from MOCJ saying that

2 300 people have been released on these stay-at-home  
3 furloughs and there's [inaudible] supervision. What  
4 are the qualifications? Who's being released  
5 [inaudible] be used to [inaudible] turn in testimony.  
6 Thank you for a really great hearing, Councilman  
7 Powers.

8 COMMITTEE COUNSEL: Thank you.

9 KELLY GRACE PRICE: I'm done. Thank you.

10 COMMITTEE COUNSEL: Um, thank you. If we  
11 have inadvertently missed anyone that is registered  
12 to testify today, also assuming if there are no  
13 questions. OK, there are no questions. Um, if we  
14 have inadvertently missed anyone that has registered  
15 to testify today and has yet to be called please use  
16 the Zoom hand function and you will be called in the  
17 order that your hand has been raised. Seeing none, I  
18 will now turn it over to Chair Powers for closing  
19 remarks. Chair Powers.

20 CHAIRPERSON POWERS: Thank you. Thank  
21 you, Alana. I want to thank everybody, ah, I see so  
22 many folks who signed in right at the beginning and  
23 have been through this entire hearing. Ah, I know  
24 some probably came and went, but we are deeply  
25 appreciative of everybody who has spent this



2 seemingly, ah, entire day with us here to talk about  
3 what is a really important, essential, ah, ah,  
4 hearing here, and we talked about the COVID crisis  
5 and the bills that we are working today, the three  
6 that I carry, to get more data, to, to set up a  
7 release commission, and to talk about the fees I  
8 think are incredibly important for us to pass and  
9 pass very soon to make sure that we all, ah, both  
10 City Council members and those who are doing the work  
11 out in the field have the appropriate amount of  
12 information, have the appropriate amount of data, and  
13 are able to do our jobs and also make sure that  
14 people that are inside of our city jails are being  
15 treated appropriately at this particularly very  
16 difficult time. We're not gonna stop advocating for  
17 release. We're not gonna stop [inaudible] the work  
18 that we have been doing since the beginning of this  
19 pandemic, but these bills, I think, help us bring us  
20 along the way. Um, and I do want to offer one thing,  
21 which is I know that sometimes that these, these  
22 hearings go on for very long and I know that  
23 sometimes many of you wait through many of this, but  
24 the public testimony is perhaps the most important  
25 part of all these hearings. We listen to all of it,

2 we take all of it, I take notes, the staff take  
3 notes, and, um, we copiously go through them at the  
4 very end to look for issue that, in the legislation,  
5 issues to raise with the agencies, and of course  
6 other ideas for legislation, other issues we should  
7 be focusing on. So I mean that very seriously when I  
8 said you should follow up with us, you should talk to  
9 us, and, um, and thank you for spending that time  
10 with us because it helps us do our jobs even better.  
11 Um, I'm not sure that we set a record, but we  
12 certainly came close when it comes to at least a  
13 virtual hearing. I want to thank Chair Lancman. I  
14 want to thank all the staff. I see Council Member  
15 Holden. I know Council Member Cohen had been on  
16 since the very, very beginning and, and listening  
17 and, and, ah, paying attention. So thank you to them  
18 as well and any others I might have missed. Um, and  
19 I am exhausted, so I'm going to leave you there. But  
20 I'll hand it over to Council Member Lancman and a  
21 very gracious to all of you for spending so much time  
22 with today. Thank you.

23 CHAIRPERSON LANCMAN: Keith, thank you.  
24 Um, thank you everyone who testified today,  
25 particularly to the members of public who stuck it

2 out to the very end and, and to my colleagues. Ah,  
3 this is one of the most important issues that we are  
4 trying to deal with in this coronavirus crisis. It's  
5 been said, and I don't think it's an overstatement  
6 that at least in New York and maybe in the United  
7 States that Riker's Island is the epicenter of this  
8 crisis. I think everybody, um, on this panel, the  
9 staff, and all the witnesses can take a lot of pride  
10 in having moved the ball forward very considerably,  
11 um, from where we were just two months ago. But, as  
12 people have testified to, there's still work to be  
13 done. So let's keep doing it. Ah, Keith, thank you  
14 very much. Thank you to the staff that, that made  
15 the mechanics of this whole day work and, um, look  
16 forward to continuing working with everyone. Thank  
17 you.

18 COMMITTEE COUNSEL: Thank you, and we'll  
19 have the chair close us out.

20 CHAIRPERSON POWERS: Thank you,  
21 everybody. We are closed here. I'm going to gavel  
22 out. Thanks so much and have a great night. Talk to  
23 you soon, and Jack, you have great, you have  
24 wonderful, beautiful kids. [laughs] [gavel]

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C E R T I F I C A T E

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



Date June 25, 2020