

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CRIMINAL JUSTICE

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December 11, 2020

Start: 10:46 a.m.

Recess: 3:20 p.m.

HELD AT: REMOTE HEARING (VIRTUAL ROOM 3)

B E F O R E: Keith Powers,  
Chairperson

Jumaane Williams,  
Public Advocate

COUNCIL MEMBERS:

Alicka Ampry-Samuel  
D. Diaz  
Robert F. Holden  
Carlina Rivera  
Daniel Dromm  
Jimmy Van Bramer  
Helen Rosenthal  
Stephen Levin

A P P E A R A N C E S

Cynthia Brann  
Commissioner

Hazel Jennings  
Chief of Department

Heidi Grossman  
Deputy Commissioner for Legal Matters

Brenda Cooke  
Chief of Staff

Margaret Egan  
Executive Director of the New York City Board of  
Correction

Bobby Cohen  
Physician and a Council appointee to the New York  
City Board of Corrections

Emily Turner  
Interim Deputy Executive Director of the Board

Benny Boscio  
President of the Correction Officers' Benevolent  
Association

Correction Officer 1  
Four years as a Correction Officer

Correction Officer 2  
Three years as a Corrections Officer

Correction Officer 3  
Six years as a Corrections Officer

Correction Officer 4  
5 years as a Corrections Officer

COMMITTEE ON CRIMINAL JUSTICE

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A P P E A R A N C E S (CONT.)

1  
2  
3 Correction Officer 5  
4 Three and a half years as a Corrections Officer

5 Correction Officer 6  
6 Five years as a Correction Officer

7 Kelsey De Avila  
8 Brooklyn Defender Services

9 Julia Solomons  
10 Criminal Defense Social Worker with the Bronx  
11 Defenders

12 Kayla Simpson  
13 Attorney at the Legal Aid Society's Prisoners'  
14 Rights Project

15 Sergio De La Pava  
16 Legal Director of New York County Defender  
17 Services

18 Mik Kinkead  
19 White transgender man and an Attorney in New York  
20 City

21 Janos Marton  
22 Civil Rights Attorney running for Manhattan DA

23 Jennifer Parish

24 Darren Mack

25 Zachary Katznelson  
Policy Director at the Lippman Commission

Scott Paltrowitz

Daniele Gerard  
Senior Staff Attorney at Children's Rights

COMMITTEE ON CRIMINAL JUSTICE

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A P P E A R A N C E S (CONT.)

1  
2  
3 Anthony Dixon  
4 Director of Community Engagement at the Parole  
5 Preparation Project

6 Corey Brinson  
7 Policy Associate with the Legal Action Center

8 Eliel Cruz  
9 Director of Communications at the New York City  
10 Anti-Violence Project

11 Mateo Guerrero  
12 TGNCIQ Lead Organizer at Make the Road

13 Sammie Werkheiser  
14 Member of the Justice for Women Task Force

15 Melania Brown  
16 Layleen Polanco's Sister

17 Kelly Grace Price

18 Natasha White  
19 Member of Freedom Agenda and a Former Leader in  
20 the Close Rikers Campaign

21 Victor Herrera  
22 Leader of Freedom Agenda Campaign

23 Andrea Bowen  
24 Consultant for the Sex Workers Project at the  
25 Urban Justice Center

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SERGEANT CASTRO: We are live.

SERGEANT BRADLEY: Thank you. Sergeants, will you start your recordings.

SERGEANT MARTINEZ: PC recording is going.

SERGEANT LEONARDO: Cloud recording is going.

SERGEANT Perez: Back up is rolling.

SERGEANT BRADLEY: Thank you. Sergeant Martinez, you may begin.

SERGEANT MARTINEZ: Good morning and welcome to today's remote New York City Council Hearing of the Committee on Criminal Justice.

To minimize disruption, please silence your electronic devices. If you wish to submit testimony, you may do so via email at the following address [testimony@council.nyc.gov](mailto:testimony@council.nyc.gov). Once again, that's [testimony@council.nyc.gov](mailto:testimony@council.nyc.gov). Thank you for your cooperation. We are ready to begin.

CHAIRPERSON POWERS: Good morning. Thank you everybody for being here today. My name is City Council Member Keith Powers, I am the Chair of the Criminal Justice Committee here at the City Council and I am glad that everyone could join us remotely for today's hearing on Ending Solitary Confinement in New York City Jails.

1  
2 I want to first hope and wish that everybody is  
3 safe and healthy in their families as well and happy  
4 holidays to everybody celebrating. We are here today  
5 to discuss the use of solitary confinement in City  
6 jails specifically the use of punitive segregation as  
7 we approach the Board of Corrections rule making on  
8 the topic. In October of last year, the Board of  
9 Correction proposed a set of comprehensive rules to  
10 reform restrictive housing in our city jails. These  
11 proposed rules came just four months after the death  
12 of Layleen Polanco, a transgender woman of color who  
13 lost her life after being placed in restrictive  
14 housing.

15 In the wake of Layleen's death, many of my  
16 colleagues and I publicly called for action to change  
17 the practices inside of our City jails and we are  
18 joined by many people who we will hear from today as  
19 well and just as many people know, over the summer of  
20 this year Mayor de Blasio announced a formation of a  
21 working group that was tasked with creating a plan  
22 for ending punitive segregation which has been  
23 needing over the last few months. And the working  
24 groups recommendations will ultimately inform the  
25 Board of Corrections rule making.

1  
2 We have been waiting the results of those efforts  
3 over the summer and today we are hoping to get an  
4 update on their work and we look forward to working  
5 groups findings being released and recognizing the  
6 urgency of the issue, we ask them to do that as soon  
7 as possible.

8 We also recognize the urgency of keeping people  
9 safe. We have multiple challenges that face our City  
10 jails at this present time, whether it is ensuring  
11 that we do rely on practices that could exasperate  
12 existing issues for an individual. To providing the  
13 safety and security of those who work inside of our  
14 jails. On both accounts, we have to ask large  
15 questions, here today and in the rule making of  
16 whether existing practices are serving those goals.

17 And today, we will be hearing legislation  
18 introduced by my colleague Council Member Danny  
19 Dromm, who I believe is joining us and will give a  
20 statement shortly on the topic of ending solitary  
21 confinement. His bill will end solitary confinement  
22 by mandating the individuals in restrictive housing  
23 at access to least 10 hours of out of cell time each  
24 day. All other individuals would be required to have  
25 access to at least 14 hours of cell time each day and

1  
2 the bill also allows for legal council over  
3 disciplinary hearings regulates the use of restraints  
4 and sets limits on the use of emergency lock ins and  
5 I will give him an opportunity to speak about his  
6 legislation here today.

7 I want to thank all of the Committee Staff. Oh,  
8 I am sorry, I should say, we are going to look  
9 forward to hearing testimony later from all  
10 stakeholders regarding the bill that is before this  
11 Committee and about the issue at large. I believe we  
12 will be hearing from Department of Corrections, Board  
13 of Corrections and many others.

14 I am going to thank all the Committee staff for  
15 helping to put together this hearing and I want to  
16 thank all the Council Members in attendance here. I  
17 am just going to shortly recognize those that I see  
18 here. That are here. I think Council Member Dromm  
19 is joining us. I am not sure if we have been joined  
20 by others yet, but I will give them - oh, okay, I  
21 see, sorry, I apologize. I see Council Member Ampry-  
22 Samuel, Council Member Darma Diaz as a new member of  
23 the Committee who just joined the Council, welcome.  
24 Council Member Danny Dromm, here to speak about his  
25 legislation. Council Member Bob Holden, Council



1  
2 Member Carlina Rivera and Council Member Jimmy Van  
3 Bramer who I believe is also just joining us on this  
4 Committee. So, I welcome them all and thank you for  
5 taking time with us today to speak about such an  
6 important topic.

7 I am now going to turn it over to – oh and I  
8 believe we are also being joined by the Public  
9 Advocate Jumaane Williams who has with myself worked  
10 on this issue.

11 So, I want to now turn it over to our colleague  
12 and Finance Chair Council Member Danny Dromm by the  
13 introduction of his bill here today to make a  
14 statement and then we will hear from the Public  
15 Advocate Jumaane Williams. Thanks.

16 COUNCIL MEMBER DROMM: Thank you very much Mr.  
17 Chairman. We are here to tell the families of those  
18 who did not survive that your suffering was not in  
19 vain. We are here to tell the survivors that we have  
20 heard your anguish cries. We would not be here if it  
21 were not for you have endured the endurable, survive  
22 the unsurvivable and come out on the other side to  
23 tell us what should already be apparent. That  
24 solitary is torture and has no place in our City, no  
25 place in our state and no place in our country.

1  
2 History will not be kind to us if we turn back  
3 now from the clarion call. Solitary confinement must  
4 end now. I could go on extensively about how there  
5 is no evidence that solitary saves money, aids in  
6 rehabilitation or enhances the management of  
7 facilities. I could list the way the evidence  
8 pointing in the opposite direction. I could recount  
9 the horror stories I have heard throughout the long  
10 and a time lonely journey I have taken to reach this  
11 point today.

12 Rather, I would like to direct my comments to the  
13 Corrections Officers who are also hurt by solitary  
14 confinement. Solitary confinement is not just a  
15 violation of basic human rights or the individual  
16 subjected to it. It is a horrific practice whose  
17 negative impact reverberates throughout our entire  
18 society.

19 Corrections officers and their supervisors are  
20 forced to dehumanize their charges as they  
21 desensitize themselves to facilitate their  
22 participation as frontline individuals, all the while  
23 making work conditions more dangerous. There surely  
24 are violent individuals held in our jails but is the  
25 solution driving them to the point of insanity and

1  
2 then releasing them to face Corrections Officers,  
3 other incarcerated individuals and eventually the  
4 rest of the world. This is just not good criminal  
5 justice policy period.

6 I challenge the leadership to quit advocating  
7 against your own membership and join the call of  
8 corrections officers current and former, criminal  
9 justice experts, civil rights pioneers, human rights  
10 advocates and elected officials. Let this be the  
11 moment we all unite to say enough is enough.

12 Let this be the beginning of the end of solitary  
13 confinement across the United States of America.

14 Thank you very much.

15 CHAIRPERSON POWERS: Thank you Council Member  
16 Dromm. We have also been joined by Public Advocate  
17 Jumaane Williams. I am going to call to make a few  
18 statements as well. I want to thank him for his  
19 partnership with myself at looking at this issue and  
20 talking about ways to reform it.

21 Public Advocate Jumaane Williams to make a  
22 statement as well.

23 PUBLIC ADVOCATE WILLIAMS: Thank you Chair Powers  
24 very much for your leadership on this. Thanks  
25 Committee on Criminal Justice for holding this

1  
2 important hearing on a timely hearing. I want to  
3 thank again you, the Speaker and of course Council  
4 Member Dromm for being so vocal and calling on the  
5 Board of Corrections to change its standards on  
6 punitive segregation and in solitary confinement. As  
7 mentioned, solitary confinement is torture, whether  
8 we call it restrictive housing, punitive segregation  
9 or separation status, at the end of the day it is a  
10 form of torture that causes trauma, long-term mental,  
11 physical and social harm.

12       Needless to say a ban on this harmful practice is  
13 long overdue. At the end of June, the Mayor called  
14 for an end to solitary confinement and promise to  
15 create a working group that will present a report on  
16 how to stop this process. A report that was supposed  
17 to be released this fall. He also expanded a list of  
18 pre-existing conditions that will prohibit MH from  
19 being placed in solitary confinement. So it now  
20 includes asthma, seizure, diabetes, heart disease,  
21 physical disabilities among several others.

22       While this was the right move for the City to  
23 make, it is coming very late in the game. Why did  
24 the Mayor not expand this list of exceptions years  
25 ago. If he had, members of our community like

1  
2 Layleen Polanco, a transgender woman who died while  
3 in solitary confinement at Rikers due to epileptic  
4 seizure would still be alive today. I know her  
5 sister Melania Brown is with us today and I thank her  
6 for joining us yesterday in my office as well.

7 Second, the Administration needs to update us on  
8 the status of this working group that the Mayor  
9 planned to put together and when this report will be  
10 released. We need to know that findings and  
11 recommendations as to when and how this practice will  
12 finally end. Instead of waiting on the Mayor to take  
13 affirmative action in sitting in solitary confinement,  
14 I along with my colleagues in the City Council are  
15 confronting this task head on.

16 Intro. 2173 would ban the use of solitary  
17 confinement in City jails. As a co-prime sponsor of  
18 this bill, I applaud Council Member Danny Dromm for  
19 leading this effort.

20 I want to take some notice today to raise  
21 concerns that I and many criminal justice advocates  
22 have about the bill in hopes that we can continue to  
23 work collaboratively to get this done the right way.  
24 While the bill prohibits the use of solitary  
25 confinement, a state that the practice may be used to

1  
2 deescalate immediate conflict in a said situation,  
3 the individual cannot be placed in such confinement  
4 for longer than four hours.

5 I understand that escalatory incidents may arise  
6 with separation may be needed to mitigate the  
7 situation. At the same time, there is a difference  
8 between separation and isolation. To isolate an  
9 individual is to put them in an environment by  
10 themselves. This practice does not serve a purpose  
11 and has a severe negative effect on many people.

12 Advocates have also raised to my office at the  
13 definition of each term and the bill is either too  
14 vague or too specific. Such as the definition of  
15 restricted housing. As the bill allows DOC to define  
16 restrictive housing without stricter guidelines.

17 A person can remain in restrictive housing with a  
18 review every 15 days. This can basically mean  
19 solitary confinement just by a different name.

20 Another concern is a phrasing of emergency lock  
21 in. I am concerned that definition is not strict  
22 enough to ensure all other options have been  
23 considered and there is a periodic aridly review by  
24 the Chief of Department used.

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I also share the concerns held by many advocates who I know who will be testifying later today about the out of cell time policies established in the bill. The bill mandates that all incarcerated individuals have access to at least 14 hours of time outside of their cells every day. Except the individuals placed in this restrictive housing and those placed in aforementioned for solitary confinement to deescalate immediate conflict.

Those individuals would have access to at least ten hours of time outside of their cells. Activists who have advocated to ban solitary confinement or calling for 14 hours out of cell date each across the board. But only allowing certain individuals to be out of cell for 10 hours. This provision leave 4 additional hours in which someone can be locked in the cell. Therefore, I tend to be in support of community advocates calls to change their provision in this bill to show all incarcerated individuals have 14 hours out of their cell every day.

I want to make clear that there are differences between what I mentioned, isolation and separation. And also, be clear that we understand we have the need for consequences for poor behavior. One of

1  
2 those consequences being separation. But isolation  
3 is a consequence or a punishment that causes  
4 significant harmful physical and psychological impact  
5 on many incarcerated individuals.

6 One example of nonharmful complicates is the  
7 Clinical Alternative to Punitive Segregation unit,  
8 also known as CAPS. This program started in 2013 as  
9 a new treatment unit developed by the New York City  
10 jail system, individuals with serious mental illness.  
11 But I believe this can be expanded to include people  
12 with less serious mental illness or no mental illness  
13 at all. CAPS were designed to offer full range of  
14 therapy to activities and interventions for  
15 participants such as individual and group therapy,  
16 art therapy, counseling and community meetings.

17 In fact, this program proved to be more effective  
18 in reducing self-harm and injury than restrictive  
19 housing. CAPS is just one of many examples and  
20 programs we need to consider as a consequence for bad  
21 behavior rather than resorting to things like  
22 solitary confinement.

23 The time for New York City to end solitary  
24 confinement is now. If the tragic deaths of Layleen  
25 Polanco and Kalief Browder tell us anything it is



1  
2 that the unsafe disciplinary practice is not the  
3 answer.

4 This method of punishment does more harm than  
5 good and does not address the underlying causes of  
6 problematic behavior. I do want to just mention as  
7 my colleague Council Member Dromm did, that this is  
8 not only for the people who housed and incarcerated.  
9 It is also for the people who work there, including  
10 the men and women of the corrections unit.

11 By the way, this is the only law enforcement unit  
12 that is treated in the way that they are and I  
13 believe it is because they are Black and Brown. At  
14 the beginning of this pandemic, they were forced to  
15 work without PPE's, social distancing and I believe  
16 if they were not Black and Brown primarily women,  
17 they wouldn't be put in these situations.

18 The fact of the matter is, Rikers and many jails  
19 across the country and nation are set up to continue  
20 circles of violence. We want everyone to be safe,  
21 including the men and women who go to work and whose  
22 family want them to come home the same way they went  
23 to work.

24 So, we ask them to join us in a conversation  
25 where we understand that there has to be separation

1  
2 in time and there has to be consequences for behavior  
3 but not isolation and torture and that we work  
4 together to put in systems that actually change  
5 behavior to the type of constructive behavior we want  
6 to see.

7 So, I thank the Committee on Criminal Justice for  
8 giving me this opportunity to speak today and I look  
9 forward to this hearing. Thank you.

10 CHAIRPERSON POWERS: Thank you and thank you for  
11 those powerful comments and your work on this issues  
12 in your office as well.

13 I am now going – I acknowledge our colleagues. I  
14 don't think we have been joined by any more. So, I  
15 am now going to turn it over to our Committee Counsel  
16 to go over some procedure items before we start  
17 testimony. Thanks so much.

18 COMMITTEE COUNSEL: Thank you. I am Agatha  
19 Mayropoulos, Counsel to the City Council's Committee  
20 on Criminal Justice. Before we begin, I want to  
21 remind everyone that you will be mute until you are  
22 called on to testify. When it is your turn to  
23 testify, you will receive a prompt to unmute. Please  
24 listen for your name to be called as I will  
25 periodically announce who the next panelist will be.

1  
2 We will first hear testimony from the Department  
3 of Correction and the Board of Correction followed by  
4 a period of question and answer from the committee  
5 members to the Administration. We will then hear  
6 testimony from members of the public. During the  
7 hearing, if Council Members would like to ask a  
8 question, please use the Zoom raise hand function and  
9 I will call on you in order.

10 Chair's will have 10 minutes each and committee  
11 members will be limited to 5 minutes including  
12 responses.

13 I will now administer the oath to all members of  
14 the Administration. After I say the oath, please  
15 wait for me to call your name and respond one by one.  
16 Please raise your right hand.

17 Do you affirm to tell the truth, the whole truth  
18 and nothing but the truth before these committee's  
19 and to respond honestly to Council Member questions?

20 CYNTHIA BRANN: I do.

21 COMMITTEE COUNSEL: Hazel Jennings?

22 HAZEL JENNINGS: I do.

23 COMMITTEE COUNSEL: Brenda Cooke?

24 BRENDA COOKE: I do.

25 COMMITTEE COUNSEL: Heidi Grossman?

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HEIDI GROSSMAN: I do.

COMMITTEE COUNSEL: Meg Egan?

MEG EGAN: I do.

COMMITTEE COUNSEL: Emily Turner?

EMILY TURNER: I do.

COMMITTEE COUNSEL: Bobby Cohen?

BOBBY COHEN: I do.

COMMITTEE COUNSEL: Thank you. We will now proceed with testimony from Commissioner Cynthia Brann from the Department of Correction followed by Executive Director Meg Egan and Board member Bobby Cohen from the Board of Correction. Commissioner Brann, you may begin when ready.

CYNTHIA BRANN: Thank you. Good Morning, Chair Powers and members of the Committee on Criminal Justice. I am Commissioner Cynthia Brann and I am joined by my colleagues Chief of Department, Hazel Jennings, Deputy Commissioner for Legal Matters, Heidi Grossman and Chief of Staff Brenda Cooke. Thank you for the opportunity to testify about the Department's role in eliminating punitive segregation for all individuals within New York City correctional facilities.

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2 Over the past six years, the Department has been  
3 a national trailblazer in its pursuit and  
4 implementation of profound changes in the management  
5 of individuals in our custody that balance the need  
6 for safety and security in an environment that  
7 fosters engagement rather than isolation.

8 We remain committed to continually assessing our  
9 practices and instituting further changes in the  
10 promotion of safety, engagement and rehabilitation  
11 for those in our custody. Rooted in understanding  
12 that age and health are important considerations in  
13 the disciplinary housing placement process, the  
14 Department developed housing strategies that provided  
15 meaningful disciplinary consequences for young adults  
16 and people with serious mental illness who have  
17 infringed without placement in punitive segregation.

18 Our commitment to reforming this disciplinary  
19 practice resulted in unprecedented changes to  
20 punitive segregation in both the application and  
21 duration of sentences imposed, including the  
22 development of a tiered system of infractions and  
23 reducing the maximum length of punitive segregation  
24 to 30 days for nearly all infractions.  
25

1  
2 In evaluating further changes to the Department's  
3 disciplinary housing system, we cannot forget how far  
4 this agency has come. Just six years ago, punitive  
5 segregation was essentially the Department's primary  
6 response to infractions, with 90-day sentences often  
7 imposed for these infractions.

8 Today, punitive segregation sentences are focused  
9 mostly on violent offenses, with penalties that  
10 directly proportional to the offense committed. The  
11 transformation to punitive segregation alternatives  
12 was not made overnight but was the result of several  
13 years of careful planning both internally and through  
14 conversations with Board of Corrections, Correctional  
15 Health Services and the State Commission on  
16 Correction. And in recognition of the crucial need  
17 to gain the trust and acceptance from Department  
18 staff who worked on the front line to keep everyone  
19 who works and lives in our facilities safe.

20 Instead of relying upon punitive segregation, the  
21 Department thoughtfully addressed the needs of this  
22 population and created several different alternative  
23 approaches. This includes establishing the Secure  
24 Unit and the Enhanced Supervision Housing ESH, which  
25 are designed to focus on rehabilitating individual's

1  
2 violent behavior, addressing root causes of violence,  
3 and minimizing idleness.

4 Similarly, the Department created the  
5 Transitional Restorative Unit or TRU aimed at  
6 managing adolescents and young adults involved in  
7 violent acts. TRU provides close supervision with  
8 individualized support plans, treatment and  
9 incentives to encourage positive behavior.

10 In addition, the Department established the  
11 Clinical Alternatives to Punitive Segregation or CAPS  
12 to foster collaboration between clinical and  
13 correctional staff in treating the needs of those  
14 with a serious mental illness who engage in violent  
15 behavior. The Program to Accelerate Clinical  
16 Effectiveness or PACE was also established to support  
17 the needs of those with serious mental illness who  
18 have not engaged in violent behavior but who can  
19 benefit from a more therapeutic mental health  
20 setting.

21 Our commitment to reform has continued in recent  
22 years. In June 2019, the Department increased out of  
23 cell time in punitive segregation from 1 hour to 4  
24 hours, affording individuals in this setting  
25

1  
2 additional opportunities for recreation and  
3 instituting a congregate television hour.

4       In August of this year, the Department partnered  
5 with Correctional Health Services to ensure that  
6 individuals with certain health conditions are no  
7 longer placed in highly restrictive settings. As a  
8 result of these reforms, there has been a dramatic  
9 reduction in the use of punitive segregation. The  
10 creation of alternative and supportive housing units  
11 has enabled the Department to successfully divert  
12 hundreds of individuals from punitive segregation  
13 placement.

14       As of December 2nd, there were just 72  
15 individuals serving sentences in punitive segregation  
16 and 22 individuals placed in the Restrictive Housing  
17 Unit, also known as RHU. These numbers stand in  
18 stark contrast to the average range of between 500  
19 and 600 people per day in punitive segregation at the  
20 time we began instituting reforms in 2014. This  
21 reduction of over 80 percent in disciplinary housing  
22 placements is a clear indication of this Department's  
23 commitment to reform and our dedication to the  
24 reduction of punitive segregation wherever possible.



1  
2       In furtherance of this commitment, since June of  
3 this year, the Department has worked hand in hand  
4 with other members of the Mayor's working group to  
5 develop a proposal on how we can safely end punitive  
6 segregation in New York City's jails. After months  
7 of thoughtful consideration, the working group is in  
8 the final process of finalizing our recommendations,  
9 which will carefully balance the creation of a more  
10 humane system with the very real need to keep  
11 everyone, including our staff, safe from harm while  
12 in our facilities.

13       While I do not have specific details to share at  
14 this time, I look forward to sharing more information  
15 with you on these recommendations soon. With regards  
16 to the preconsidered legislation attached to today's  
17 hearing, we share the Council's goals to using the  
18 least restrictive means when applying disciplinary  
19 action toward violent offenders in custody.

20       However, the reduction and elimination of  
21 punitive segregation requires careful and considerate  
22 balancing to ensure the safety of staff and people in  
23 custody. Any policy changes to this practice must be  
24 informed by correctional experts in order to ensure  
25 any decisions made do not result in dangerous and

1  
2 unintended consequences. We believe the best results  
3 will come from allowing the working group, which  
4 includes critical representation from our partners at  
5 the Board, the formerly incarcerated community and  
6 the labor and advocacy realm, to finalize its  
7 recommendations and for those to be reflected in  
8 forthcoming Board rules.

9 Thank you for the opportunity to testify before  
10 you this morning. My colleagues and I are happy to  
11 answer any questions you may have.

12 CHAIRPERSON POWERS: Thank you. I think we are  
13 going to actually do questions for the Department of  
14 Corrections, if I am correct and then head over to  
15 the Board. Just checking with Committee Counsel if  
16 that is correct. I think so. Okay, I am going to go  
17 ahead.

18 Thank you for the testimony and thank you for  
19 giving us a bit of an update. Just a few sort of  
20 housekeeping things here and then I want to ask some  
21 larger questions on landscape and things like that  
22 but just I know you are not here today to deliver  
23 actual updates on the task force, so we do hope we  
24 get those soon and the Board and we will ask the  
25 Board this but do you have a sense of timing here?

1  
2 Lots of urgency to this issue but also, we are going  
3 to hear from lots of folks here today. I think we  
4 have been waiting since, I believe it was June when  
5 the Mayor announced this to see the findings of  
6 those, that working group and then to see the role  
7 making. Can you give us any sense of what the timing  
8 is on that?

9 CYNTHIA BRANN: So what I can tell you because I  
10 don't have a specific date. The Board of Corrections  
11 and City Hall received those recommendations and they  
12 are at work incorporating those recommendations into  
13 a draft rule and so, I don't have a final date. They  
14 are working diligently. We all understand the  
15 urgency behind this and the critical need to make  
16 reforms. So, I can't give you a date certain.

17 CHAIRPERSON POWERS: We will ask the Board but  
18 thank you. Okay, so just on the leg- beyond the  
19 legislation, I want to talk about the legislation  
20 again because you just mentioned at the end of your  
21 testimony on the feeling that perhaps it should get  
22 four level which is what I heard but on the top- on  
23 some of the topics on the topic, let's just say Legal  
24 Council for individuals going through disciplinary  
25 hearings, user restraint desks, restricting lock ins.

1  
2 I am just remember the pieces, the other pieces here  
3 of Council Member Dromm's bill. Do you have opinions  
4 on those and does the Department have opinions on  
5 those issues.

6 So, if you just want to take those one at a time.  
7 Disciplinary hearings, having legal counsel for  
8 those. Further restrictions on lock ins and user  
9 restraint desks and Council Member Dromm will ask  
10 some questions as well if I missed anything.

11 CYNTHIA BRANN: So, we share the Council's goals  
12 of using the least restrictive measures to manage  
13 dangerous and violent behaviors and I believe that  
14 the recommendations of the working group, which  
15 incorporates a balanced approach to the management of  
16 violent or dangerous behavior, takes into account the  
17 operational experience of folks in corrections and  
18 all of our interested justice stakeholders and for  
19 the specifics regarding let's say, let's talk about  
20 the access to legal. I have asked that our Legal  
21 Counsel, Deputy Commissioner Grossman address that  
22 specifically.

23 CHAIRPERSON POWERS: Sure.

24 HEIDI GROSSMAN: Good morning. The department  
25 has concerns regarding this provision that we are

1  
2 working through but I do want to talk a little bit  
3 about the process. We do hearings about rule  
4 violations, not about – it is not a criminal  
5 proceeding. These are hearings for rule violations  
6 of the department. They are informal administrative  
7 hearings.

8       So, from a procedural justice standpoint, we  
9 believe that our process is transparent and fair.  
10 The matter is investigated by an uninvolved member of  
11 the department. A simple camera coverage as you know  
12 a lot is known about many of the incidents that  
13 occur. The incarcerated person is given notice of  
14 charges at least 24 hours before a hearing is  
15 scheduled and that gives that person a chance to  
16 prepare for a hearing and in then the incarcerated  
17 person also has an opportunity to talk with his own  
18 or her own counsel. All calls are free.

19       So, the individual has a chance to be heard and  
20 to explain what happened from his or her perspective.  
21 The incarcerated person also has a chance to ask for  
22 a hearing facilitator. A hearing facilitator is not  
23 a lawyer but that individual can also explain the  
24 process if someone doesn't understand or has  
25 questions. An individual also has the ability to ask

1  
2 for an interpreter. If someone who is appearing for  
3 a hearing wants the hearing officer to speak with  
4 other witnesses, that's also something that can be  
5 requested and the hearing officer will go and speak  
6 with another individual and interview those people.

7 Basically, the Department of Corrections  
8 Adjudication Captain is serving as a fact finder in  
9 this process. They are in a separate unit and a  
10 separate organizational structure from the facility  
11 where an incident occurred and they are in a  
12 different chain of command from who is investigating  
13 and who is involved in the incidents.

14 So, Department of Correction, when they make  
15 decisions, they serve. The Adjudication Captains  
16 arrange to have the decision served on the individual  
17 and that's where an individual will be able to learn  
18 about the reason behind a decision. All hearings are  
19 recorded and every individual has a right to appeal  
20 and to challenge the decision in court before a  
21 neutral judge. And at that time, an individual can  
22 also have legal representation which is often the  
23 case. So, this is an uncomplicated process that we  
24 believe works.

1  
2 CHAIRPERSON POWERS: Could I just – but your  
3 first sentence was, we have concerns. So, can you  
4 just tell me what those concerns are?

5 HEIDI GROSSMAN: These are concerns that we  
6 believe this is an uncomplicated process that would  
7 be rendered more complicated by this proposal but we  
8 have concerns that we think warrant further  
9 discussion with the Council.

10 CHAIRPERSON POWERS: Can you elaborate? We are  
11 the Council, so can you just elaborate on some of  
12 what those might be? I just, I want to hear them in  
13 case Council Member Dromm or others who are here can  
14 address any of those with their questions.

15 HEIDI GROSSMAN: Well, I think the explanation of  
16 the entire process that I just provided, I think when  
17 you propose language in the bill, doesn't take into  
18 account all that is working in our process.

19 CHAIRPERSON POWERS: Okay.

20 HEIDI GROSSMAN: I think that this would over  
21 complicate what is a very simple process right now.

22 CHAIRPERSON POWERS: And how do you address the  
23 obvious, what I think would be the obvious rebuttal  
24 to this which is, somebody who is going through a  
25 process at a disciplinary hearing that will

1  
2 potentially put them into a form of isolated housing.  
3 Has counsel helping them and wants access to that  
4 individual to be able to provide a rebuttal to the  
5 allegations of the offense before they go into  
6 punitive segregation. Want the right and want to be  
7 afforded the ability to have somebody represent them  
8 or at least you know guide them through that process.  
9 Why should that not be allowed?

10 HEIDI GROSSMAN: This process is an informal  
11 process. This is not a criminal trial where you have  
12 these very strict rules of evidence. These are -  
13 this is all about an individual being able to tell  
14 their story to the hearing officer and it is at that  
15 moment that the hearing officer. Like I said, we  
16 have full camera coverage and if you - and much of  
17 the information is known and it is giving people an  
18 opportunity to be heard. It is a fact finding  
19 determination where we don't have these rules of  
20 evidence where you need to sort of [INAUDIBLE 32:14]  
21 etc. It is a simple process where people are really  
22 getting to the facts of the case.

23 CHAIRPERSON POWERS: Okay. I am going to move  
24 on, I mean I do think we would like to hear more  
25 elaborate concerns here because this has been an



1  
2 issue that's been raised in the past and you know,  
3 obviously part of legislation. I want to go back to  
4 Commissioner just on the general topic. Does the  
5 department agree with the Mayor's assessment to end  
6 punitive segregation?

7 CYNTHIA BRANN: So, yes, we agreed that we could  
8 find a safe alternative to ending punitive  
9 segregation and we worked very hard on that both in  
10 internal meetings, separate from the working group  
11 but also me as a participate of the working group and  
12 we believe that we have come up with a very balanced  
13 and safe approach.

14 CHAIRPERSON POWER: Got it and you are going to  
15 give us details I guess sometimes soon in the near  
16 future but can you share with us what you think a  
17 safe alternative looks like, personally in your sort  
18 of expertise here as a professional?

19 CYNTHIA BRANN: Sure and just so you know  
20 personally as the Commissioner and professionally as  
21 a Corrections expert with over 30 years' experience,  
22 I would never sign onto a policy, a practice or a  
23 program that would put staff or people in custody at  
24 greater risk and so, that's what I went into the  
25 discussions with.

1  
2           So, an alternative system that balances risk  
3 management in the facilities but also ensure personal  
4 accountability for behavior is a fundamental piece of  
5 eliminating isolation. And so, we have a system  
6 right now in the enhanced supervision housing that  
7 does just that. You move through levels. There is  
8 programming that is based on an individual's  
9 criminogenic risk and their needs and it's based on  
10 what they need to get to the thinking behind the  
11 behavior that they engaged in.

12           And so, as they progress through those levels and  
13 they behave more appropriately with regard to rules  
14 and regulations and prosocial behavior, they move  
15 through those levels and back out to general  
16 population.

17           So, it's a combination of stopping the behavior,  
18 getting a risk assessment, understanding what those  
19 needs are and mitigating those risks by putting in  
20 programs that help that individual change the  
21 thinking behind violence and engaging in that type of  
22 behavior.

23           CHAIRPERSON POWERS: And what is the response  
24 from the Department and the Task Force, the concerns  
25 that this is going to lead to a – you know, you are

1  
2 removing, you know, a disincentive or consequence and  
3 it will lead to increased and further violence. And  
4 I guess a second part of that question is, what do  
5 you feel the Department needs in terms of make  
6 something like that successful?

7 CYNTHIA BRANN: So again, I would just reiterate,  
8 I would not sign on to anything that creates a  
9 greater danger for my staff or anybody in custody.  
10 So, the foundation of the recommendations firmly  
11 keeps that in place and what the department needs is  
12 the trust in staff and those in our custody and the  
13 trust of the Council and the Board and all of our  
14 justice stakeholders that the combined thoughtfulness  
15 of all different areas of the criminal justice world  
16 with advocates and formerly incarcerated and  
17 correctional experts and labor, all came together  
18 with the right solution.

19 CHAIRPERSON POWERS: Got it and we are mostly  
20 talking about punitive segregation but obviously  
21 there are other forms here of restricted housing and  
22 isolation and housing that you know, has limitations  
23 in terms of freedom of movement, time out of cell, so  
24 forth. Is the rule making that you are talking about  
25 aimed at punitive segregation or are we talking about

1  
2 other forms of housing that would limit your time out  
3 of cell and would - I mean, are you guys focusing on  
4 punitive segregation as the focus here? Or are we  
5 talking about other forms of housing that you know,  
6 there are other forms of restricted housing and there  
7 are other forms of you know isolation. And I think  
8 the concern that many folks have is that we, any of  
9 us, might only focus on punitive segregation versus  
10 focusing on other forms of restricted housing or  
11 practices that will isolate individuals.

12 Can you speak to what your focus is and you know  
13 some of the isolation housing practices outside of  
14 punitive segregation?

15 CYNTHIA BRANN: So, what I can tell you is that  
16 the plan focuses on removing isolation. People being  
17 isolating and that is the critical and most  
18 concerning area of punitive segregation as to what  
19 being behind a solid door for extended periods of  
20 time does to the human psyche. And so, the working  
21 group focused on changing that isolation.

22 CHAIRPERSON POWERS: Okay, so the answer is yes  
23 to the working group is looking at isolation beyond  
24 punitive segregation.

25

1  
2 CYNTHIA BRANN: Your question was a bit  
3 confusing.

4 CHAIRPERSON POWERS: Sorry, you know, I think one  
5 of the concerns is that you know beyond punitive  
6 segregation there are practices in housing units that  
7 are being used to isolate individuals that would not  
8 be you know deemed punitive segregation and whether  
9 the Board and the working group are ending that  
10 entirely. Versus just focusing on punitive  
11 segregation.

12 CYNTHIA BRANN: So, I don't believe any of our  
13 other alternatives actually focus on isolation at  
14 all. In fact, in enhanced housing, in true and  
15 secure people congregate together. They may be in  
16 smaller day rooms. They may be lesser time out of  
17 cell than general population but they are not  
18 isolated from each other.

19 CHAIRPERSON POWERS: What are you as a  
20 professional feel like is the appropriate amount of  
21 out of cell time for an individual?

22 CYNTHIA BRANN: Well, we have 14 hours out of  
23 cell time for general population for all of those  
24 folks who follow the rules in engaging prosocial  
25 behavior. I believe the system that we have set up

1  
2 now in our enhanced supervision housing in true and  
3 secure are appropriate hours out of cell time.

4 It is all based on individual needs, the offence  
5 that was committed, the ability of the person to  
6 engage appropriately with others. And so, there is  
7 not one set answer for anyway to deal with people who  
8 are engaged in violent behavior. I can't give you  
9 one number.

10 CHAIRPERSON POWERS: Well, I guess, I mean like,  
11 you know, I think you and I would agree that one hour  
12 out of cell time is inhumane and it is both not  
13 allowed anymore but also we feel - is there a minimum  
14 hour that you feel like is a minimum standard that  
15 should be inside of our city jails in terms of out of  
16 cell time?

17 CYNTHIA BRANN: Well, I think I just spoke to the  
18 14 hours out of cell time for everyone in general  
19 population. It reduces down if you are in  
20 alternatives to punitive segregation but there is  
21 still a lot of time out of cell and yes, I agree that  
22 the one hour out of cell was not enough and we were  
23 able to successfully transition from one hour to four  
24 hours without much problem because we had already had  
25 the practice of allowing more than one hour out of

1  
2 cell time for those who were in punitive segregation.  
3 Because they got minimum services. They got  
4 visitation, they went to clinic, they had law  
5 library, they had showers, they had access to phone.

6 So, those in punitive segregation for the longest  
7 time have already had more than one hour out of cell.

8 CHAIRPERSON POWERS: Yeah and what is the minimum  
9 right now?

10 CYNTHIA BRANN: Four hours.

11 CHAIRPERSON POWERS: Four hours. So, there are  
12 individuals right now who are earned four hours. Is  
13 that fair to say?

14 CYNTHIA BRANN: Minimum of four hours, yes.

15 CHAIRPERSON POWERS: Oh sorry, I guess my  
16 question is really, what is the most hours out of  
17 cell in the individual who is held in our city jails  
18 is receiving today?

19 CYNTHIA BRANN: 14 hours.

20 CHAIRPERSON POWERS: I am sorry. There are  
21 individuals who are getting 4 hours out of maximum  
22 today, is that fair to say?

23 CYNTHIA BRANN: Yes.

24 CHAIRPERSON POWERS: In our city jails, okay. Do  
25 you have an opinion about the 15 day placement

1  
2 review? Do you feel like that's a reasonable  
3 standard? It should be more? It should be less?

4 CYNTHIA BRANN: So, it depends on where the  
5 person is in the system. I think the research tells  
6 that in order to change a behavior, it takes 28 days  
7 of practice. We have based some of our initial  
8 reviews in a lower level alternative housing to 30  
9 days and then we decreased the time between reviews.

10 And so, depending upon where you are in the  
11 system and what the charge is against you for the  
12 infraction and what the behavior is and how you  
13 continue to behave once you have been separated from  
14 general population, it determines I think what the  
15 review period should be.

16 We worked very closely with the Board of  
17 Correction on shortening up the time between reviews  
18 as we improved our enhanced supervision housing  
19 program. And so, we have gone from 30 days to 15  
20 days to 7 days, depending on where you are in the  
21 system.

22 CHAIRPERSON POWERS: Got it and just in terms of  
23 tools of reducing violence. This is going to be a  
24 concern we are going to hear about during this  
25 hearing. I think at the Board of Corrections and in



1  
2 public discourse here which is, the impact on  
3 punitive segregation and housing and confinement  
4 related to strategies to reduce violence within the  
5 jails and I am just going to state what I have heard  
6 is the concern is that the sort of – we have had  
7 hearings on this but steady increase of violence  
8 inside of our city jails.

9       You know, inadequacy unable to manage that and  
10 the tools for how to manage that and you know, we  
11 have seen year after year that number can continue to  
12 go and sort of categories going the wrong direction  
13 and so, we have had I think at least two hearings as  
14 I have been the Chair on that topic and conversations  
15 about it throughout. What are the tools that you  
16 feel like are missing right now in terms of being  
17 able to address fines and also, what is your – I  
18 understand that you wouldn't sign your name on to  
19 something that would lead to violence. But there is  
20 a state concern here that will lead to increase in  
21 violence and I would be curious to hear what you feel  
22 or anybody in the department feels like are the tools  
23 that are needed. The tools that are being  
24 underutilized or other strategies here that we can  
25 take to address those concerns or frankly, if you

1  
2 don't agree with them, what your opinion is on those  
3 stated concerns.

4 CYNTHIA BRANN: So, one has to understand that  
5 while our population has decreased, the folks who are  
6 in our custody are the most violent and are more  
7 prone to engage in violent acts.

8 And so, yes, there has been an increase in  
9 violent acts but I think it stands to reason given  
10 the population that we are now charged with.

11 With regard to tools, one of the tools that's  
12 necessary for an operations to work effectively is  
13 flexibility to change practice when we see that  
14 something is not working. Or to enhance practices  
15 when we see that it is working very well.

16 So, having the ability to be flexible is critical  
17 as we further reform punitive segregation. We saw  
18 that when we eliminated the need for punitive  
19 segregation for young adults and we gave up something  
20 but then had to create something at the same time.  
21 We have had the experience of doing that and so, we  
22 have learned from that. We have taken the lessons  
23 learned and now we will be able to incorporate those  
24 lessons into eliminating punitive segregation all  
25 together in the city jails.

1  
2 I would just reiterate again and as you said, I  
3 would not sign on to something that would bring more  
4 danger to our staff or those in custody. And so,  
5 when you talk about tools, it is not necessarily  
6 things that you have. It is the way you work with  
7 people.

8 So, its incentivizing good behavior and those  
9 incentives have to meaningful to the people that you  
10 want to take advantage of them. That combined with  
11 the appropriate programs and treatment that an  
12 individual needs to change their thinking and it's  
13 the thinking that you have to get to that changes the  
14 behavior. Punitive segregation stops the behavior  
15 temporarily but we have not been very effective at  
16 working with those in punitive segregation and giving  
17 them the programs necessary.

18 We believe that this change in punitive  
19 segregation reform will get all of those things.

20 CHAIRPERSON POWERS: What programs or services  
21 are available to somebody who is in punitive  
22 segregation right now?

23 CYNTHIA BRANN: So, right now, we are not  
24 delivering many programs at all to people who are in  
25 punitive segregation.

1  
2 CHAIRPERSON POWERS: Got it and a program across  
3 the board. We have had this debate or discussion or  
4 dialogue about the need to increase it. What is the  
5 amount of programming we can provide average to an  
6 individual inside of our city jails towards hours per  
7 day?

8 CYNTHIA BRANN: So, right now because of COVID,  
9 that has been severely restricted and most programs  
10 developed and delivered on paper. We had just  
11 started bringing our counselors back when we started  
12 to see an increase COVID cases. And so, we have  
13 slowed that down a bit.

14 So, it has been difficult over the past 9 months  
15 to be able to deliver that in the way that we want to  
16 and that we are expected to. The requirement is for  
17 five hours of programming and we are doing our best  
18 to do that in a modified delivery service.

19 CHAIRPERSON POWERS: Okay, I want to just give -  
20 I want to not take so much time up but I will come  
21 back. I am going to hand it over to colleagues to be  
22 able to have an opportunity to ask questions. I  
23 think we are going to start with Council Member  
24 Dromm, who has introduced the bill here today and  
25 then to Council Member Holden in addition to others.

1  
2           So, I will come back afterwards but we will give  
3 them an opportunity to ask questions as well. So, if  
4 you guys can please unmute Council Member Dromm.

5           COUNCIL MEMBER DROMM: Thank you very much Chair  
6 Powers. I really appreciate your line of  
7 questioning. Good morning Commissioner, good to see  
8 you. I have to say I am very surprised and maybe  
9 more shocked at some of your testimony and your  
10 defense of current practices within the Department of  
11 Correction.

12           Actually, much of what the change is – many of  
13 the changes that you talk about occurred not because  
14 of no willingness or the departments willingness. It  
15 was because of legislation that I passed and the work  
16 that the Council has done and the advocates who have  
17 been very vocal about solitary confinement. Without  
18 that, I don't know.

19           I mean, I remember the day when time owed was  
20 still a practice within the department and that was  
21 changed at our urging. You know, I remember a time  
22 when speaking at the Board of Correction wasn't even  
23 allowed. The public couldn't speak and nor could  
24 even Council Members address the Board of Correction.

1  
2           So, you know, I have been around a long time.  
3 This has been an issue for me for 11 years. So, this  
4 is not being rushed through in any way shape or form.  
5 I am surprised also about your testimony on punitive  
6 segregation. You are constantly asking for variances  
7 on punitive segregation and that's happening all the  
8 time.

9           The issue of 4 hours out of punitive segregation,  
10 I just want to ask theoretically, have you ever tried  
11 to sit in your bathroom for 20 hours and not leave?  
12 You know, that would be - you know, that alone and  
13 then you got to get out at some point. But the folks  
14 that are in punitive segregation don't even know if  
15 they are going to get out and a bathroom may even be  
16 larger than the cell that I have seen. Or even in  
17 restrictive housing, where they are there for 7  
18 hours.

19           I mean, I was glad to hear your support of  
20 programming. I think programming is the key here.  
21 My legislation addresses that and I think we are  
22 going to address that further because we do need more  
23 and its really unfortunate that because of COVID,  
24 there is no programming right now for folks.

1  
2       So, those folks that are in punitive segregation  
3 could be released at any time and they have had no  
4 programming or no help to get them together before  
5 they have to go out into the street. I think that's  
6 really key here also. The majority of these folks  
7 have not been convicted of a crime. And you are  
8 talking about putting people in solitary confinement  
9 who have not been convicted of a crime.

10       I mean, it gets to the point of being bazaar when  
11 your legal representation says that you know, it's  
12 only a hearing. That's a statement. Only a fool  
13 represents himself. So, I mean, the question that  
14 begs to be answered and I don't expect an answer  
15 right now because I have other questions, is how many  
16 of those decisions when they have the hearing are  
17 overturned? I bet you that almost none of them are  
18 overturned.

19       Anyway, I want to go onto some questions that I  
20 have and there are so many questions but I only have  
21 5 minutes. So, my questions are really about the  
22 cost. How much does it cost the City to place  
23 someone in punitive segregation and please describe  
24 the personnel services and OTPS services costs.  
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CYNTHIA BRANN: So, thank you. Before I let Chief of Staff Cooke respond to that and I do want her to talk about those cases that have been overturned. I want to remind you that no, they have not been convicted of a crime. That they are charged with for getting into our custody. Not all of them. Some people who have been sentenced go to punitive segregation as well and they are not being charged with a crime before they go to punitive segregation.

They are being charged with a violation of rule, an infraction. And so, their hearing is about a violation -

COUNCIL MEMBER DROMM: Commissioner, they had not been convicted of a crime outside of the jail. How do you justify taking people who are unconvicted, who are detainees. Okay, just detainees and putting them into solitary confinement, which is torture? Do you agree that solitary confinement is torture?

CYNTHIA BRANN: Well, let me answer your questions sir. So, it is a judge, a court of law who determines who comes into our custody. We don't have that choice. They may not be convicted of a crime but we have to have rules in place to keep everybody safe. And so, when you violate those rules -



1  
2 COUNCIL MEMBER DROMM: Commissioner, when you put  
3 people into solitary confinement, punitive  
4 segregation, you are not keeping them safe, you are  
5 harming them. Do you understand that?

6 CYNTHIA BRANN: So sir, if -

7 COUNCIL MEMBER DROMM: Psychologically there is  
8 not a doctor or a psychiatrist in the world who will  
9 not tell you that punitive segregation is harmful to  
10 individuals.

11 SERGEANT AT ARMS: Time expired.

12 COUNCIL MEMBER DROMM: There is not a  
13 psychiatrist in the world, do you think that solitary  
14 confinement is torture?

15 CYNTHIA BRANN: I am going to defer to Chief of  
16 Staff Cooke to answer the question.

17 COUNCIL MEMBER DROMM: Could you answer that  
18 question for me please first? Do you believe that  
19 solitary confinement is torture?

20 CYNTHIA BRANN: We don't use solitary confinement  
21 sir.

22 COUNCIL MEMBER DROMM: Punitive segregation, same  
23 view.

24 CYNTHIA BRANN: I would not use the word torture  
25 to define punitive segregation.

1  
2 COUNCIL MEMBER DROMM: Wow, wow. So, you agree  
3 with all the medical experts and all the  
4 psychiatrists and all the social workers that it is  
5 not torture? Can you hear me?

6 CYNTHIA BRANN: I can hear you. I answered your  
7 question sir. I would not use torture to define  
8 punitive segregation.

9 COUNCIL MEMBER DROMM: And you still haven't  
10 answered my question about the cost. Let's go to the  
11 cost.

12 CYNTHIA BRANN: Chief of Staff Cooke will answer  
13 that question for you.

14 BRENDA COOKE: So, with respect to the cost, I  
15 don't have a specific number to provide you. I can  
16 tell you and Chief Jennings can provide additional  
17 detail. We have two punitive segregation housing  
18 units in the department. Those housing units operate  
19 at a staffing level that is not unfamiliar with other  
20 GP or other special housing units in our department.  
21 There is several staff assigned to that housing unit  
22 across tours and I can't calculate for you right now  
23 the cost of those staff members as you reflected and  
24 requested from an OT maps perspective. But we do  
25 have a staffing level that's appropriate for the

1  
2 number of persons to live in that unit and the type  
3 of services that those folks receive, whether or not  
4 it be Recreation Officers, Clinic Officers who escort  
5 folks to and from appointments, visits, etc.

6 And so, it's - I wouldn't have an ability to  
7 answer a dollar figure for you today but it is not a  
8 staffing level that is unique just because it's  
9 punitive segregation. We have many housing units  
10 that have a pretty high dedicated staff to the  
11 population that they serve.

12 COUNCIL MEMBER DROMM: What is the staffing model  
13 for a punitive segregation unit or restrictive  
14 housing?

15 HAZEL JENNINGS: So, good morning, I am Chief  
16 Hazel Jennings. So, with the punitive segregation  
17 model, there is a dedicated captain to the housing  
18 areas at a minimum of 2 floor officers with 2  
19 additional escort officers and there is also a  
20 recreation staff of a captain and approximately 6  
21 officers that are assigned to do recreation and then  
22 you have - they have their own mini-clinic and you  
23 have staff assigned to that clinic to be there when  
24 people are taken to be seen by a doctor.

1  
2 But what I will say is that out of all of our  
3 housing areas, there are only two punitive  
4 segregation housing areas and we have many more  
5 housing areas in the department. And so, I would  
6 feel that just by staffing levels and the number of  
7 housing areas that we have for general population and  
8 ESH and the plethora of other housing areas that we  
9 have, the cost would be less than running everything  
10 else.

11 COUNCIL MEMBER DROMM: Is there overtime costs  
12 involved in these restricted housing units or in  
13 punitive segregation?

14 HAZEL JENNINGS: So, there is overtime costs in  
15 every housing area that we have sir.

16 COUNCIL MEMBER DROMM: And what are those?

17 HAZEL JENNINGS: So, it really depends on the  
18 day. You know, right now, this year has been very  
19 hard with COVID and so, we have had a lot of staff  
20 members who have called in sick and who weren't  
21 feeling well that had the ability to call in sick and  
22 so, overtime has been an issue. Although we have or  
23 we are trending down on reducing our footprint in  
24 facilities.

1  
2 COUNCIL MEMBER DROMM: Just to go back to the  
3 question that you were addressing about staff. Are  
4 there dedicated staff and supervisors to the  
5 particular unit that they are responding to? Are  
6 they there the same daily folks always there?

7 HAZEL JENNINGS: Most of our staff are steadily  
8 assigned sir.

9 COUNCIL MEMBER DROMM: Okay and have you ever  
10 analyzed any potential savings from ending punitive  
11 segregation and restrictive housing units?

12 HAZEL JENNINGS: So, I have not but again, what I  
13 will say is that there are only two of those housing  
14 areas compared to the amount of housing areas that we  
15 have in the department and we have other housing  
16 areas that have more staffing assigned than punitive  
17 segregation.

18 COUNCIL MEMBER DROMM: Does the department have a  
19 plan for reallocating resources from punitive  
20 segregation to other programs or punitive segregation  
21 alternatives?

22 HAZEL JENNINGS: So, when we open up any housing  
23 area, one of the things that we do do with our  
24 department of finance here at the agency is to work  
25 with our partners and CHS, depending on what type of

1  
2 housing area it is and then we come up with what we  
3 think is an appropriate staffing level.

4 COUNCIL MEMBER DROMM: Okay, so I am going to  
5 follow up on those questions and I am going to ask  
6 the Chair in his response to you to answer some of  
7 those more specifically, so we can get some idea for  
8 the cost. But Mr. Chair, I know you have been  
9 generous with your time.

10 I just have a couple of follow ups here.

11 CHAIRPERSON POWERS: [INAUDIBLE 59:35].

12 COUNCIL MEMBER DROMM: Thank you. According to  
13 the Annual Claims Report for Fiscal '19 issued by the  
14 Comptroller, the total amount of settlements paid by  
15 the Department of Correction between Fiscal 2010 and  
16 Fiscal 2019 was approximately \$266 million. The  
17 Annual Claims Report also states that in Fiscal 2019,  
18 there were 3,750 claims filed regarding correctional  
19 facilities. How much of these settlements went to  
20 cases involving solitary confinement, punitive  
21 segregation or any form of restrictive housing?

22 HEIDI GROSSMAN: We would have to get back to you  
23 Council Member Dromm. We would have to get back to  
24 you. I know most of the cases are not – most of the  
25 cases that I am aware of on an anecdotal level, are

1  
2 not related to claims brought by people who have  
3 served time in punitive segregation. But we would  
4 have to get back to you on that.

5 COUNCIL MEMBER DROMM: Well, what happened to  
6 Layleen Polanco is unforgiveable. So, I mean,  
7 Chairman let me stop here. Maybe if we get a second  
8 round I will have follow up questions and certainly,  
9 there is a lot of questions about who goes into  
10 solitary, who goes into restrictive housing based on  
11 race, sex, gender identity, LGBT status as well and  
12 hopefully we can get to some of that. If in fact you  
13 even collect that data.

14 I know it wasn't included in my reporting bills  
15 but I am thinking about amending that as well, so we  
16 can get a better feel for what is actually happening  
17 on the Island. Thank you very much Mr. Chair.

18 CHAIRPERSON POWERS: Thank you Council Member  
19 Dromm and we are going to move on. I will let the  
20 Committee Counsel call on members. We are going to  
21 give I think 3 minutes for each but I wanted to give  
22 Council Member Dromm an opportunity based on his  
23 legislation to ask some further questions.

24 So, we will move on and Agatha, you can call the  
25 next one please.

1  
2 COMMITTEE COUNSEL: Next, we will hear from  
3 Council Member Holden followed by Council Member  
4 Rosenthal.

5 SERGEANT AT ARMS: Starting time.

6 COUNCIL MEMBER HOLDEN: Yes, thanks Commissioner.  
7 I get 3 minutes Chair. Is that the rule? Do we have  
8 a second round?

9 CHAIRPERSON POWERS: We may.

10 COUNCIL MEMBER HOLDEN: I was anticipating 5  
11 minutes, that's the regular on Committee's but -

12 CHAIRPERSON POWERS: Okay, we will give you 5  
13 minutes. Go ahead Council Member Holden.

14 COUNCIL MEMBER HOLDEN: Alright. Commissioner,  
15 nice to see you again.

16 CYNTHIA BRANN: You to.

17 COUNCIL MEMBER HOLDEN: Even though we are on  
18 Zoom. We are almost like we are all kind of in  
19 punitive segregation aren't we during the pandemic  
20 but I just want to you know, question some of the  
21 things that were said.

22 You know, according to the Mayor's Management  
23 Report, there was a near 50 percent increase in  
24 violence in the jails from 2014 when Mayor de Blasio  
25 took office to 2017, which was the last recorded year



1  
2 of the MMR. Even though there was an appropriate  
3 decrease or approximate decrease of 18 percent in the  
4 inmate count, like you mentioned before. And in  
5 December 2014, Mayor de Blasio prohibited punitive  
6 segregation for 16 to 17-year-olds. And then in  
7 November of 2015, the Mayor announced the new use of  
8 force restrictions for Correction Officers.

9 Then in June and October of 2016, the Mayor  
10 brought in the prohibition of punitive segregation  
11 for inmates 18 to 21. Is there any consideration  
12 here? Do you attribute this increase of violence  
13 because you said they were a more violent population  
14 and we have to figure why that is but could it be  
15 that the increase in violence was due to maybe the  
16 use of force restrictions or a ban on punitive  
17 segregation. Is that possible?

18 CYNTHIA BRANN: So, I think there is a lot of  
19 different components to this atrium I am about to  
20 give you. First of all, in 2014, we didn't have the  
21 tracking systems for data that we have now. We also  
22 did not have full camera coverage in our facilities.  
23 We have 14,000 cameras now.

24 There is absolutely nothing that is not captured  
25 on video and so, we have a much clearer understanding

1  
2 of what goes on in our jails every single day. We  
3 have a different population over time. Yes, it has  
4 decreased but through efforts of the Police  
5 Department and only arresting those who most violent  
6 go before the court and the court with bail reform  
7 has rightly made the determination that the most  
8 violent people should be taken out of the community.

9 I think all of that plays into it. With regard  
10 to the ability to use force. We have not been  
11 restricted in the ability to use force. Our force  
12 policy says we have the right to use force when it is  
13 necessary and reasonable. And so, we don't have the  
14 right to use unnecessary force, we never have.

15 So what the Nunez Consent Degree did was to  
16 clarify our use of force policies, so that staff had  
17 a better understanding of when they could and when  
18 they could not use force.

19 COUNCIL MEMBER HOLDEN: Alright but - we do -  
20 let's just go back to the dangerous population, the  
21 more dangerous population. What age group is the  
22 most dangerous in the jails today?

23 CYNTHIA BRANN: I believe our young adults. The  
24 most impulsive and the most act to engage in  
25 violence.

1  
2 COUNCIL MEMBER HOLDEN: And we removed the  
3 punitive seg from that population, right?

4 CYNTHIA BRANN: Correct.

5 COUNCIL MEMBER HOLDEN: Okay, so you know, so you  
6 are seeing the population that obviously they are  
7 younger, you know, younger people tend to do  
8 sometimes you know, they don't think. Obviously, you  
9 are young, you may just act out with some violence in  
10 a way that is spur of the moment and yet we remove  
11 some of the consequences to their actions. And  
12 hopefully we can educate them in counseling which is  
13 what I had proposed and I do have a bill that's  
14 proposing, rather than use punitive seg or at least  
15 the length of time, is give the detainee an option  
16 for counseling.

17 That means if you agree to a certain amount of  
18 hours of counseling, that you will then not go into  
19 punitive seg for as long or at least into punitive  
20 segregation housing, which I think to what I saw at  
21 Rikers, the punitive and I don't know if it is called  
22 punitive segregation but it was housing. It is  
23 restricted housing, I think you called it which is,  
24 it has 3 levels. I thought that worked and you know,  
25

1  
2 if you couple that with counseling, I think that's an  
3 alternative.

4 So, we hear people say that they are calling it  
5 solitary confinement. I agree, we don't have  
6 solitary confinement anymore in New York City jails,  
7 do we?

8 CYNTHIA BRANN: No, we do not.

9 COUNCIL MEMBER HOLDEN: Yeah, but that's what I  
10 think people have been referring to that today.  
11 Because I didn't see that.

12 SERGEANT AT ARMS: Time expired.

13 COUNCIL MEMBER HOLDEN: So, I think we need to  
14 redefine what people are calling this in the bill,  
15 calling it solitary confinement because it is not.  
16 You are not put in a hole for an extended period of  
17 time. You are in a housing unit and there has got to  
18 be consequences Commissioner to actions. If you  
19 attack another detainee, if you attack a correction  
20 officer, there has to be consequences. There has to  
21 be some punishment and I agree but where I think we  
22 could do better possibly is if they want to get out  
23 of any kind of segregated housing unit from the  
24 population, general population, then they should  
25

1  
2 agree to a certain amount of counseling and there has  
3 got to be some tradeoffs.

4 I don't know if maybe Bobby Cohen might want to  
5 weigh in because we did talk about this a few years  
6 ago but I think we need to redefine what punitive  
7 segregation is and the steps that we need to take.  
8 And just talking about, I would rather wait until we  
9 hear from the Board of Correction before introducing  
10 bills that you know, I would want to hear from the  
11 experts. Thank you Commissioner. Thank you Chair.

12 COMMITTEE COUNSEL: Next, we will hear from  
13 Council Member Rosenthal followed by Council Member  
14 Rivera.

15 SERGEANT AT ARMS: Starting time.

16 COUNCIL MEMBER ROSENTHAL: Great, thank you so  
17 much. Great to see you Commissioner. I appreciate  
18 your time and your work.

19 I would like to follow up on some of Council  
20 Member Dromm's questions in terms of reporting  
21 requirements and Grace Price actually sent some  
22 information out this morning. So, Grace if I get  
23 this wrong I apologize. I am trying to nail your  
24 question because I think it is such a good one and it  
25 has to do with the reporting categories and the

1  
2 notice that you have a big other category that  
3 includes Latinx people. Can you separate those  
4 people out? Or Danny, can you require in your – I  
5 don't know who I am asking but the recommendation is  
6 that Latinx people be separated out.

7 And similarly, that transwomen in particular be  
8 separated out as well because reporting does not do  
9 that. Am I correct about that Commissioner?

10 CYNTHIA BRANN: I am not exactly sure which  
11 report you are referencing.

12 COUNCIL MEMBER ROSENTHAL: The ones that have to  
13 do with how many and how much time people are in  
14 solitary or solitary like confinement.

15 CYNTHIA BRANN: So, we do our best to report  
16 accurately if we are not capturing that data and are  
17 able to, then we would be happy to add that. We have  
18 to remember that people also self-identify. And so,  
19 we just capture the information that people provide  
20 to us.

21 COUNCIL MEMBER ROSENTHAL: Sure but right now you  
22 have Asian, Black, other and unknown. I mean, just  
23 for example in this particular or let me go to the  
24 one about women, which is the area that I pay  
25 attention to most.

1  
2 Women, girls in the wing, I think this is 2018.  
3 Asian 9, Black 370, other 153, unknown White, unknown  
4 1 and White 83. Surely the other category can be -  
5 you could call out. I would ask, would it be  
6 possible for you to try harder to even have a Latinx  
7 category. That doesn't exist, so we don't even know.

8 CYNTHIA BRANN: So, I would defer to my Deputy  
9 Commissioner of IT and she I not with us today but I  
10 will send her that question and get back to you.

11 COUNCIL MEMBER ROSENTHAL: Thank you and then  
12 only because shortness of time, also, it looks like  
13 the data gets messaged by going from one year to the  
14 next and this is 2018 data versus 2019. In '18 your  
15 have broad data, 2019 you have sort of a line graph  
16 and the line graph numbers do not match, for 2018  
17 don't match with the raw numbers in 2018.

18 So, this reporting is just so important.

19 SERGEANT AT ARMS: Time expired.

20 COUNCIL MEMBER ROSENTHAL: So is there, if you  
21 could get back to the Committee about why numbers  
22 change over time. In this particular situation it  
23 was reporting about young adults and went from a  
24 total of let's see if I have it. It was for young  
25 adults reporting, it changed from shoot. I am not

1  
2 seeing it exactly but the difference, the delta it  
3 was like 70 people and it basically made you know, a  
4 change of 70 people reflects on how the department is  
5 doing or what the department is doing and it is a  
6 pretty big delta between the 2018 reported data, raw  
7 data and the 2019 graph.

8       What would make such a big change of 70 people  
9 like that? Like upon reflection it wasn't 300, it  
10 was 270. Like, what could happen to make those  
11 totals change that much, swing that much?

12       CYNTHIA BRANN: I am not sure. I don't know  
13 exactly what you are looking at, so I will check and  
14 I will get back to you. And so, I don't want to  
15 guess at an answer for you. I want to be specific  
16 and correct. So, we will have IT look into that and  
17 get back to you as soon as possible.

18       COUNCIL MEMBER ROSENTHAL: You know, the concern  
19 is that were these people actually placed in adult,  
20 not youth solitary. That's the concern.

21       CYNTHIA BRANN: And it may just be data entry  
22 error that was corrected but I don't want to guess at  
23 the answer for you. I want to make sure I have the  
24 correct information.



1  
2 COUNCIL MEMBER ROSENTHAL: Yeah, here it is. BOC  
3 Board of Corrections October 2018, Young Adults  
4 Monthly Housing Report says there were 299 young  
5 adults ages 16 to 21 in the youth only housing. But  
6 the July 2019 BOC graphic in the new data report  
7 shows only around 210 youth in the youth only housing  
8 for October 2018. That's a big shift.

9 CYNTHIA BRANN: It is. It may account for the  
10 Raise the Age legislation as well. It's when we got  
11 adolescents off the island, so that could be.

12 COUNCIL MEMBER ROSENTHAL: That was a monthly  
13 report, so numbers can't change. I mean, if there is  
14 point and time where Raise the Age went into effect,  
15 that wouldn't change the data of how many people are  
16 in the youth adult, in the young adult space, right.  
17 It's a one point and time.

18 CYNTHIA BRANN: But if you moved those  
19 adolescents off the island in that particular month,  
20 yes, it would change. So, because I can't see what  
21 you are looking at, I would rather have you send us  
22 that data you are looking at and we will get you the  
23 answer.

24 COUNCIL MEMBER ROSENTHAL: Yeah, happy to do so.  
25 Thank you. Thank you for the extended time Chair. I

1  
2 just want to align myself with Council Member Dromm's  
3 questions and concerns and I support what he is  
4 trying to get at here. Thank you.

5 CHAIRPERSON POWERS: Great, thank you Council  
6 Member Rosenthal.

7 COMMITTEE COUNSEL: Next, we will hear from  
8 Council Member Rivera.

9 SERGEANT AT ARMS: Starting time.

10 COUNCIL MEMBER RIVERA: Thank you so much Mr.  
11 Chair. I just want to thank Council Member Dromm.  
12 You are probably the first legislature today I have  
13 heard to make the call to end this - to end solitary  
14 confinement. So, I want to thank you for your  
15 leadership.

16 I just want to quick clarify and question. I  
17 understand there are technical terms and certain  
18 labels for housing. Are you - and I want to thank  
19 you for your testimony and for being here. Are you  
20 just, are you denying that solitary confinement  
21 exists at Rikers Island? And I also just want to  
22 ask, your position is that solitary confinement where  
23 it does exist is not torture contrary to all of the  
24 research papers and the things that I have read, is  
25 that the position that you are taking?

1  
2 CYNTHIA BRANN: So, there is two questions there.  
3 We do not have solitary confinement. Under the  
4 definition of solitary confinement, one is confined  
5 alone in a cell for 24 hours a day with potentially 1  
6 hour out of cell for recreation.

7 And there agencies in this country who do utilize  
8 solitary confinement. We have a housing unit that is  
9 deemed punitive segregation and folks who have  
10 committed very violent acts are taken out of general  
11 population and after a due process hearing, have been  
12 determined to have committed a serious infraction.  
13 And they are placed in a cell, yes by themselves,  
14 without access to others for extended periods of time  
15 because of their violent behavior.

16 But they are allowed a minimum of 4 hours out of  
17 cell to engage in activities that you would get in  
18 general population.

19 COUNCIL MEMBER RIVERA: I understand, I just, I  
20 don't have a lot of time. So, I just want that  
21 clarifying question. From what I understand being  
22 kept inside by yourself solitarily for 20 hours and  
23 then you are out for maybe medical or for the  
24 cafeteria.

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Anyway, I just want to get to my next question. I am the Chair of the Committee on Hospitals. I just want to know how many people in punitive and again, I think we are going to respectfully disagree on the solitary confinement issue. I want to know how many people in punitive segregation had medical visits missed or a specialist appointment missed or rescheduled and did they attend the rescheduled appointment?

CYNTHIA BRANN: That would be a question for CHS. They are not on this hearing today but I will pose that question to them and have them respond to you.

COUNCIL MEMBER RIVERA: I appreciate that. Thank you so much. How many people engaged – how many people in punitive segregation in 2020 engaged in acts of self-harm? What percentage of people who engaged in self-harm in the city jails did so in punitive segregation?

CYNTHIA BRANN: I will defer to my colleagues in the conference room if they have that answer.

SERGEANT AT ARMS: Time expired.

CYNTHIA BRANN: I don't have that answer with me at this point and time but if we don't have it, we can get back to you.

1  
2 COUNCIL MEMBER RIVERA: Do you know what  
3 percentage of the total jail population are in  
4 punitive segregation today? Forgive me if you have  
5 mentioned that already.

6 CYNTHIA BRANN: There is 62 -

7 HAZEL JENNINGS: So, yes, hi -

8 CYNTHIA BRANN: Go ahead Chief.

9 HAZEL JENNINGS: Okay, I am sorry. Currently, we  
10 have 62 males in punitive segregation and no females.

11 COUNCIL MEMBER RIVERA: Okay, how often do people  
12 who are in enhanced supervision housing and other  
13 restrictive housing units have restraints on when  
14 they are out of the cell?

15 HAZEL JENNINGS: So, for our level 1 ESH housing,  
16 people have restraints on and programming desks and  
17 they are allowed time out of cell, 7 hours out with  
18 an additional 3 hours for the young adults who go to  
19 school.

20 And punitive segregation, anytime a person is  
21 moved from the cell to the shower, they are in  
22 handcuffs and once they are placed into the shower,  
23 the restraints are removed and when they go to  
24 recreation, they go out in restraints and once they  
25 get into the recreation area they are removed and

1  
2 when they come out for their time out of cell, their  
3 handcuffs are removed and they have leg irons on  
4 while in the congregate area with other persons.

5 COUNCIL MEMBER RIVERA: So, most of the time.  
6 Maybe not in the shower, maybe not in -

7 HAZEL JENNINGS: So, it's not - I wouldn't say  
8 most of the time. It's about going to and from the  
9 service.

10 COUNCIL MEMBER RIVERA: Understood. Well, I will  
11 just say, I understand again about respectfully  
12 disagreeing. We are legislatures, I think we do have  
13 as much of a right to determine what constitutes  
14 solitary confinements since we do write the laws.

15 So, I just want to add that in. If you can get  
16 back to me on the some of the things that I asked  
17 that you were unable to answer about the missed  
18 medical visits and also, I did ask about self-harm  
19 while in punitive segregation. I know you gave me  
20 somewhat of an answer. I am out of time and the  
21 Chair has been gracious enough to allow me to ask  
22 these additional questions.

23 So, I do look forward to those answers and I  
24 thank you for testifying.

25 HAZEL JENNINGS: Thank you.

1  
2 COMMITTEE COUNSEL: Next, we will hear from  
3 Council Member Levin.

4 SERGEANT AT ARMS: Starting time.

5 COUNCIL MEMBER LEVIN: Thank you very much Chair  
6 and I apologize I don't have my video on. I am on  
7 dad duty here so, probably for the best.

8 So, I wanted to ask, what jurisdictions around  
9 the country have done away with punitive segregation  
10 in their systems, in their jail systems?

11 CYNTHIA BRANN: So, to my knowledge sir, no  
12 jurisdiction has completely done away with punitive  
13 segregation in their systems. Some have modified it;  
14 some have called it different things but we would be  
15 the first.

16 So, when you guys went to Scandinavia last year,  
17 how were they addressing issues around, did they have  
18 punitive segregation there.

19 CYNTHIA BRANN: So, I saw a unit in Norway, in  
20 one of their prisons. They didn't call it punitive  
21 segregation, they called it something else which I  
22 don't recall the name but people were kept in that  
23 housing for up to I believe 3 days without authority  
24 from a higher level. They had a bed on the floor,  
25 toilets were built into the floor. They were fed

1  
2 through a food slot on the floor and officers checked  
3 on them routinely from a window above their cell.

4 And so, I was taken back by that kind of unit in  
5 a system that professes to be the most humane in the  
6 world.

7 Now, in the general population yes. They have  
8 made significant changes and we have taken some of  
9 those changes and are incorporating it into our  
10 system and using those changes to design the new  
11 borough based jails. But they do use punitive  
12 segregation in Norway.

13 COUNCIL MEMBER LEVIN: Okay, Commissioner what  
14 percentage of detainees in the system are in a  
15 restrictive housing unit?

16 CYNTHIA BRANN: I will defer to Chief Jennings on  
17 that statistic if she has that.

18 HAZEL JENNINGS: Yes, so good morning. So,  
19 today, our census is 4,827. We currently have I  
20 would say 400— no, let me see. We have 62 people in  
21 punitive seg, we have 3 people in punitive seg light.  
22 RHU we have 25. Two females out of the 25, so there  
23 is about and I can break it down but there is only  
24 about 231 people in restrictive housing out of the  
25 4,827.



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SERGEANT AT ARMS: Time expired.

COUNCIL MEMBER LEVIN: I am sorry Chair, last question. So, last year I went to Rosie's with you all and we went to a restrictive housing unit. I believe it was the same unit that Layleen Polanco died. I was taking it back to see that the women that were there and there were maybe two or trans women. They were actually handcuffed I believe to a table. So, they were out of their cells but they were handcuffed to the tables, they were given coloring books to color and they didn't have, so this was their time out of their cell. They were you know, talking, you know but not given any meaningful activity to do. Nothing of any kind of mental stimulation and had to you know, had to be for reasons unknown, handcuffed to a table.

They were you know; they had maybe gotten into a verbal altercation with another detainee. I don't think either of these women that I was talking to had any type of violent altercation and I think you all know who I am talking about because we talked about it afterwards.

So, breakdown that situation for me. Why would somebody be handcuffed to a table for the 4 hours out

1  
2 of the 24 hour day that they are allowed out of their  
3 cell for getting into a verbal altercation.

4 HAZEL JENNINGS: So, sir, this is Chief Jennings  
5 again. I was not with you on that tour, so I am not  
6 quite sure as to whom you are talking about. But the  
7 one thing that I do want to state is that we do not  
8 put anyone in punitive segregation.

9 COUNCIL MEMBER LEVIN: This is restrictive  
10 housing. I don't think it was punitive segregation,  
11 I think it was restrictive housing.

12 HAZEL JENNINGS: Right, I don't know which  
13 restrictive housing you went to and -

14 COUNCIL MEMBER LEVIN: The one, it was the one  
15 that Layleen Polanco died. I know that because they  
16 talked about it.

17 HAZEL JENNINGS: Okay and I want to explain that  
18 people only go to punitive segregation or RHU for  
19 grade 1 offenses. So, a grade 1 offense does not -  
20 the criteria for a grade 1 offense is not an  
21 argument. We don't put people in punitive seg or  
22 punitive seg light which is a grade 2 offense. None  
23 of those persons for a simple argument are placed in  
24 punitive segregation or in any restrictive housing  
25 whatsoever.

1  
2 COUNCIL MEMBER LEVIN: I don't think either of  
3 these women got into the type of altercation that's  
4 been referenced here which is a serious physical  
5 altercation. I mean and I mean it was - I think that  
6 that was kind of acknowledged in my conversations  
7 afterwards. I am dubious that it is not used. My  
8 concern is that restrictive housing is used as a tool  
9 to keep people you know compliant to the wills of DOC  
10 outside of any violent behavior but just if they are  
11 difficult. If they don't follow instructions. If  
12 they talk about, if they curse. If they don't you  
13 know, are not doing exactly what is expected of them  
14 or what is told of them to do. Then it could be used  
15 as a tool of retribution or you know, a tool to try  
16 to get them to be more compliant with directions and  
17 you know, again the two of them that I spoke to were  
18 not getting into heavy altercations with people.  
19 That was not - I mean, you know, I spent an hour with  
20 them and its nonsense.

21 And so, that's my concern, that's my concern  
22 here. So, I will leave you with that. Obviously I  
23 mean, you are saying, I guess my last question would  
24 be are you saying that there is never an instance  
25

1  
2 where somebody is put into restrictive housing  
3 without some kind of serious physical altercation.

4 HAZEL JENNINGS: That's what I am saying. I am  
5 saying that we have people who if they break rules,  
6 they can be written up for an infraction. That  
7 infraction is heard by a hearings officer. However,  
8 we have a criteria as to who could be placed in  
9 punitive segregation and it is only for grade 1 -

10 COUNCIL MEMBER LEVIN: I am sorry. I am talking  
11 about restrictive housing. You are talking about  
12 punitive segregation, are those interchangeable?

13 HAZEL JENNINGS: So, if you could clarify because  
14 when we talked about restrictive housing, we have  
15 punitive segregation. We have P. seg light, we have  
16 ESH, our women do not go to enhanced supervision  
17 housing. They do not go to secure. The only time  
18 that they can go for grade 1 a fraction is to  
19 punitive segregation or RHU. We do have CAPS and we  
20 have PACE for women.

21 They do not go in any other sort of restrictive  
22 housing area.

23 COUNCIL MEMBER LEVIN: Well, where was Layleen  
24 Polanco because that's where I was?

1  
2 CHAIRPERSON POWERS: Just in the interest of  
3 time, Council Member Levin, I just need you to you  
4 know -

5 COUNCIL MEMBER LEVIN: Yeah but my point in all  
6 of this is that there were grown women chained to  
7 tables on their time out of their cell with coloring  
8 books and that's what was given to them, coloring  
9 books and they were there for long periods of time.  
10 I think you know, so this is the reality of what we  
11 are seeing and they are not there for serious  
12 physical altercation.

13 So, I will leave it with that but I saw with my  
14 own two eyes, so.

15 BRENDA COOKE: So, I will just, this is Chief of  
16 Staff. I will round off the discussion with the  
17 following information. I believe the coloring books  
18 that you continue to refer to, I believe that was an  
19 art therapy program and that there was a counselor  
20 present with the women on the unit when you visited  
21 and that was part of an art therapy program, using  
22 the coloring books. And the second thing is that all  
23 of the placements in punitive segregation with  
24 respect to the Departments decision making and the  
25 underlying paperwork as well as the paperwork related

1  
2 to RHU or enhanced supervision housing or a secure  
3 unit that all of that information at the department  
4 reports, has significant reporting obligations to the  
5 Board of Correction as frequently as a monthly basis.  
6 There are quarterly reports, there are Council  
7 reports and so, certainly the transparency of who is  
8 being adjudicated and on the basis of criteria,  
9 qualifying criteria being placed in any of the  
10 housing units is widely available at a minimum to the  
11 Board of Correction.. And widely reported by the  
12 department and required reporting to the public,  
13 including the Board of Correction.

14 And so, I just, the transparency over an  
15 oversight over the department and our use of these  
16 variety of housing tools is - there is significant  
17 transparency and I just wanted to add that.

18 CHAIRPERSON POWERS: Okay thank you. I have some  
19 follow up questions. I just wanted to state, you  
20 know, I am trying to ask questions to help you know,  
21 sort of talk about the plan ahead but you know, I  
22 don't want us to debate semantics here but I do sort  
23 of recognize that I think for lots of folks here,  
24 whether we want to call it solitary confinement or  
25 whether we want to compare it to other jurisdictions

1  
2 that the 4 hours out of cell while being isolated,  
3 being solitary and being confined for that amount of  
4 time would define, would count as a definition for  
5 solitary confinement. It may not reflect what the  
6 other practices are or our former practices but I  
7 think it feels very much like solitary confinement  
8 particularly when some of those hours are just to go  
9 take a shower or something as basic as that.

10 But moving on from that debate there, can you  
11 just tell us and maybe in calendar year 2019 and  
12 certainly calendar year 2020, what was the longest  
13 amount of time that - what was the longest amount of  
14 time to hold somebody in a restricted house setting  
15 and which setting was that?

16 BRENDA COOKE: So, the time periods - this is  
17 Chief of Staff Brenda, the time periods of sentences  
18 for a period of segregation are capped at 30 days  
19 consecutive, 60 days in a 6 month period and punitive  
20 segregation.

21 So, it could be no more than that. The 60 days  
22 and 6 months. With respect to the other housing  
23 units and the Commissioner spoke at length earlier  
24 with you about the time period of review and the  
25 criteria of progression and then if there is you

1  
2 know, violent act in the enhanced supervision housing  
3 in level 2 for example, then you may regress to level  
4 1. And so, those time periods of placement in an  
5 enhanced supervision housing program vary. I do know  
6 that we do regular reporting again to the Board of  
7 Correction and the Board of Correction does regular  
8 reporting analysis as well and I know that we  
9 certainly have information on the average length of  
10 stay in those various levels and the times of the  
11 media and the overall lengths of periods.

12 Off the top of my head, I can't give you the  
13 specifics but I do know that we, and the Board of  
14 Correction has reported as well in their reports that  
15 the fidelity of that program has improved  
16 significantly over the years we have been operating  
17 it and in fact, the speed of progression of folks  
18 through those units has increased and their overall  
19 length of stay and any of the levels of EHS housing  
20 has overall decreased. We are getting people through  
21 that program. They are holding themselves  
22 accountable for behavior and engaging in behavior  
23 that warrants their return to general population.

24 So, that information is reported, I just don't  
25 have specifics today.



1  
2 CHAIRPERSON POWERS: Okay, I guess my question,  
3 I just want to rephrase my question and then we can  
4 answer it to the best of our abilities here. 2020  
5 and 2019, the last two years and previous fiscal  
6 year, what is the longest amount of time that any  
7 individual was held in restricted. And not just  
8 punitive segregation but any restricted housing? And  
9 then can you tell us what setting that was. The  
10 maximum amount of days, maybe whether through a  
11 waiver or through some other form of housing and what  
12 was the setting?

13 BRENDA COOKE: Well, I don't, again, I don't have  
14 - it would not be punitive segregation because of the  
15 sentence limits and the caps that we talk about and  
16 the Chief can give you some specifics about the  
17 nature of an override that would even permit someone  
18 to spend those 60 days in a 6 month period as a  
19 consecutive stay as opposed to, we have a 7 day out  
20 in between the two 30 day periods.

21 And so, it is not punitive segregation is the  
22 answer to your question. It would likely be someone  
23 in our enhanced supervision housing unit. I don't  
24 have the specific person with the specific date that  
25 but in a calendar year -

1  
2 CHAIRPERSON POWERS: Nobody needs a name, right.  
3 Nobody needs to know -

4 BRENDA COOKE: No, but I mean but I don't even  
5 have, I don't even have the -

6 CHAIRPERSON POWERS: It's a basic question right.  
7 We are at a hearing on punitive segregation and  
8 restricted housing and the question, we are talking  
9 about the amount of time out of cell. The amount of  
10 time in and -

11 BRENDA COOKE: I can tell you that from my  
12 understanding and my recollection based on all of the  
13 reports that I read, although I don't have them  
14 before me, that the enhanced supervision housing  
15 units that the average length of stay for the folks  
16 in those units is about I believe 80 days in total.

17 And so, that's yeah, so that could be someone who  
18 moved through three levels and so, that's 80 days  
19 across three levels.

20 CHAIRPERSON POWERS: I am sorry, that's the  
21 average stay or that's the total?

22 BRENDA COOKE: The total. The average length of  
23 stay for any time in any level, the total time they  
24 spent in enhanced supervision housing is about 80  
25 days on average.

1  
2 CHAIRPERSON POWERS: And that is by rule or that  
3 is by practice?

4 BRENDA COOKE: No, that's by how they conducted  
5 themselves in the performance during the reviews that  
6 warranted the progression through that unit.

7 CHAIRPERSON POWERS: So, I just want to refine  
8 everything. Does anybody at ESH spend more than 80  
9 days in there?

10 BRENDA COOKE: Yes, yes, because that's an  
11 average and so.

12 CHAIRPERSON POWERS: That's an average, okay.  
13 What's the max? What's the maximum amount?

14 BRENDA COOKE: I don't have the specifics but it  
15 is not — I have an understanding based on my  
16 awareness of the departments operations and again,  
17 reading earlier reports etc., that it would not be  
18 unusual that someone may have spent you know, six  
19 months in enhanced supervision housing through a  
20 variety of means because like I said, we have violent  
21 events. We have stabbings and slashings and a series  
22 of assaults causing injury to staff and people in  
23 custody that occur in that enhanced supervision  
24 housing unit, in those levels.

1  
2           And so, if a violent event occurred and someone  
3 had moved through to level 2, they would be eligible  
4 for a return to a level 1 placement and then you  
5 know, start the movement through levels all over  
6 again.

7           CHAIRPERSON POWERS: And have you in the last, I  
8 am using two years. But in the last two years asked  
9 for an override beyond what is currently allowed at  
10 the Board for the Board rules for punitive  
11 segregation.

12           HAZEL JENNINGS: So, this is Chief Jennings. So,  
13 yes, so what happens is, is that I am the only one  
14 who could override. And so, if we want to just go  
15 from 12-9 of 2019 to 12-9 of 2020, we have had 17, 60  
16 day overrides request. Out of the 17, from that time  
17 period, I have only approved five and I have denied  
18 11. Seven day waivers, meaning that people will stay  
19 in without having a 7 day break coming out. I have  
20 had zero requests and I have approved zero.

21           Our 60 day sentence request for assaults on  
22 staff, we have had 12 and I have approved 12. So, I  
23 am looking at every piece of evidence. I am looking  
24 at the most restrictive way to handle a person. We  
25 are also engaging this person and for my young adults

1  
2 predominantly, we have even done interventions with  
3 their parents to see if we can get family members to  
4 help persuade their behavior.

5 So, this has been used in the least most  
6 restrictive manner to get people out and to return  
7 them back into general population.

8 CHAIRPERSON POWERS: And for the 5 that you did  
9 grant an override on and thank you for giving us  
10 those numbers for the last calendar year, what was  
11 the longest stay or maybe it is ongoing but was the  
12 longest stay beyond what is allowed by the Board  
13 rules?

14 HAZEL JENNINGS: Well, 60 days is what it is.

15 CHAIRPERSON POWERS: Oh.

16 HAZEL JENNINGS: So, there is 30 and there is 60  
17 days and if I give an override for the 5, they can  
18 only do up to 60 days predominantly.

19 CHAIRPERSON POWERS: Gotcha, okay, okay. And the  
20 question has been raised here whether showers or  
21 access to services like the library service should be  
22 part of that allotment of time when it comes to time  
23 out of cell. Does the Board or does the Department  
24 believe that we should change that? I mean if feels  
25 a bit unfair to count a shower against somebodies out

1  
2 of time cell. I mean that's sort of a basic. You  
3 are not getting programming around that time. You  
4 are not getting services during that time. That is  
5 sort of a basic need of a human being and offering  
6 that as your - you know as a big part of your time  
7 out of cell feels like - you know an advocacy of  
8 duty to an individual which is to provide them with  
9 out of cell time that's meaningful beyond basic  
10 services or just perhaps using that time.

11 Is there any discussion or plan about out of cell  
12 time particular relative for things like library  
13 service and showers?

14 HAZEL JENNINGS: So, I just want to say that the  
15 4 hours is the minimum amount of time out of cell, it  
16 is not the maximum. So, perhaps you know, if you get  
17 two hours of recreation, an hour of TV time. You get  
18 to shower; you could go to the visits. You could go  
19 to law library, you could go to the clinic, you could  
20 go to court.

21 A person could hypothetically be out of there  
22 cell mostly all day if that occurred on any one day.

23 CHAIRPERSON POWERS: How often does that occur on  
24 any one day?

25

1  
2 HAZEL JENNINGS: Well, right now because of  
3 COVID, we don't have court proceedings but the person  
4 will get -

5 CHAIRPERSON POWERS: But I guess, I mean like  
6 court proceedings are not - I mean, like, I guess  
7 what we are trying to say court proceeding are  
8 counted out of cell time either.

9 HAZEL JENNINGS: Well, a person could get a  
10 minimum of 4 hours out. That's a minimum. That's  
11 not a maximum. So, if a person went to law library,  
12 if they got to 2 hours of recreation, 1 hour out of  
13 time for television plus to shower or excluding, if  
14 you want to exclude the shower, they could still be  
15 out for more than 4 hours in any given day. And  
16 because now of this year with COVID, it has slowed  
17 down some of the movement that has taken place  
18 because of the co-mingling and bringing people in and  
19 to stop the spread and then visits.

20 So, we still have people going out to video  
21 visitation even now because that's something that we  
22 implemented during COVID, so that we know that it's  
23 important for people to be able to be with their  
24 family members and have some contact. So, we did  
25 implement video visitation. So, they are coming out

1  
2 for video visitation and the person could register  
3 and as long as there are available slots, they could  
4 register a person every day that a person may have  
5 visits for.

6 CHAIRPERSON POWERS: Okay, we are going to ask  
7 for some data on a lot of stuff to follow up but I  
8 want to – just out of respect as follow up questions  
9 but in respect of time because we have so many folks  
10 here testifying Board of Corrections, I just want to  
11 go through a few more questions.

12 Just about lockdowns, just because this topic has  
13 come up. Can you tell us how many facility-wide  
14 lockdowns happened in 2020?

15 CYNTHIA BRANN: I am not sure Council Member  
16 Powers that we have that with us today but we can  
17 certainly get that quickly to you.

18 CHAIRPERSON POWERS: Okay and then what access do  
19 people have to I think Council Member may have  
20 touched upon this but access do people have to health  
21 services during a lockdown? If I have to go to CHS  
22 am I missing an appointment? I mean I think the  
23 answer is yes but what access do I have if I need  
24 medical care or I need to go to CHS during a  
25 lockdown?



1  
2 HAZEL JENNINGS: So, during the lockdown, if a  
3 person has to attend any medical service rather, it's  
4 a mental health appointment or a dentist appointment  
5 or a specialty clinic, they are still allowed to go  
6 during the lockdown.

7 One important thing that I want to notice that we  
8 changed our lockdown policy and so, we have where  
9 during the first hour of the lockdown, we added in a  
10 certain step so that this way we could have the Chief  
11 notify and contact the facility to talk about the  
12 lockdown. What was the lockdown, to try to get the  
13 house locked out as quickly as possible. So  
14 lockdowns have been used very different than what  
15 they were previously.

16 CHAIRPERSON POWERS: Okay and just going through  
17 a couple more questions here. Oh, on terms of  
18 disciplinary hearings and this is part of the bill  
19 that Council Member Dromm has introduced. Do you  
20 have - can you tell us the percentage of people that  
21 refuse the right to attend their disciplinary hearing  
22 and if that's documented or how that's documented?

23 HEIDI GROSSMAN: We would need to get back to you  
24 on that. I am not sure how, if we track that. We  
25 would have to get back to you on that.

1  
2           CHAIRPERSON POWERS: Okay and I am going to stop  
3 my questions there. I am going to let Council Member  
4 Holden ask you know, one or two more questions but I  
5 think in respect of time here, I do want to, Council  
6 Member I am going to give you an opportunity but I do  
7 want to make sure we get to the Board and then to  
8 other folks here as well. I will let you ask one or  
9 two more questions to DOC and then I think we should  
10 move on.

11           So, thank you for your testimony. We have lots  
12 of more questions and I see Council Member has one  
13 more to but we will give you one more round but I  
14 want us to be able to move on quickly. Thank you to  
15 the Department. I just – you know, I want to close  
16 this section to say we are going to have a lot more  
17 follow up questions, I think a lot more dialogue in  
18 particular as it goes to the Board. Dialogue about  
19 what I think is you know, some support here at the  
20 Council for doing things a little bit differently  
21 than I think the Board may proposed but to have that  
22 dialogue but you know, I think it is really, really  
23 important that we have access to some of the  
24 information including longest time held, lockdowns  
25 and things like that because we are, you know, we are

1  
2 engaging in what I think is a very serious  
3 conversation here about. A very serious practice  
4 inside our city jails. I think very important we  
5 have a wholesale picture of what is happening inside  
6 the City jails. Particularly for members of Council  
7 who are sort of beginning to engage on this topic.

8 But I thank you guys for being here and your  
9 participation of the task force. I will hand it over  
10 to quickly, very quickly to Council Member Holden and  
11 Council Member Rivera.

12 SERGEANT AT ARMS: Starting time.

13 COUNCIL MEMBER HOLDEN: Thank you Chair. Thank  
14 you for the second round. Commissioner, if Intro.  
15 2173 were to pass, how would your department deal  
16 with violence in the jails?

17 CYNTHIA BRANN: We would continue to manage  
18 violence in the best way possible. It would take  
19 very creative thinking on how to house people safely.

20 COUNCIL MEMBER HOLDEN: Right, right and you said  
21 that we have the most violent, we have a  
22 concentration of the most violent people probably in  
23 New York City currently in our jails because fewer  
24 detainees but many of them are violent. And you just  
25 can't just look the other way because Correction

1  
2 Officers are getting attacked right. Staff and  
3 certainly other detainees are getting attacked.

4 So, you have to deal with that and not to offer  
5 another alternative. Yeah, counseling is fine but  
6 you have to separate with people that are causing the  
7 problems right?

8 CYNTHIA BRANN: That's correct.

9 COUNCIL MEMBER HOLDEN: And so, it is simple and  
10 I just don't know, you know, we're not hearing about  
11 the victims of this violence so much today. Which I  
12 would really like to hear more of and all of the  
13 people and all types of injuries they had.

14 So, I mean, I fear that a blanket ban on a  
15 punitive segregation could involve in violent inmates  
16 and lead to further increased jail violence and I  
17 think that's commonsense. Just a question about,  
18 Commissioner, how often does your department meet  
19 with the correction officers union to discuss issues  
20 related to their work like this?

21 CYNTHIA BRANN: So, there are monthly labor  
22 management meetings held across the agency in  
23 different divisions. I have an open relationship  
24 with the president of COBA and he frequently contacts  
25 me to discuss issues. And each member of the

1  
2 executive board is assigned a member of my executive  
3 team to discuss issues at a lower level. And so, I  
4 believe we have a very open dialogue and the ability  
5 to discuss issues whenever they arise.

6 COUNCIL MEMBER HOLDEN: Are they, you know, like  
7 let's say like a legislation like this is being  
8 introduced and you know it is coming. Do you call  
9 the correction officers in, the union to talk about  
10 this?

11 CYNTHIA BRANN: I have spoken, I have spoken  
12 personally with the president of COBA to talk about  
13 upcoming legislation particularly, yes.

14 COUNCIL MEMBER HOLDEN: Alright that's good.  
15 Just one other question, quick one. We house like in  
16 Rikers right, we house the same gang members in the  
17 same unit. Has there been some discussion on  
18 changing that because I could see how gang members of  
19 the same gang would protect let's say, they could  
20 gang up on a Correction Officer.

21 SERGEANT AT ARMS: Time expired.

22 COUNCIL MEMBER HOLDEN: If something came up. Do  
23 you ever think about not doing that about separating  
24 them? I mean we have plenty of space at Rikers now.

1  
2 CYNTHIA BRANN: So, as a matter of practice, we  
3 do not intentionally house same members of the same  
4 gang or set together. It's not as simple as just  
5 saying, let's spread them all out. There are  
6 overarching gangs that are umbrella names so to speak  
7 and so, let's use the Bloods for example. There is  
8 many sets underneath the Bloods.

9 So, you could have 10 different members of the  
10 Bloods but 10 different members of 10 different sets.  
11 And because of different classification levels,  
12 different risk levels, keep separate orders from the  
13 court and incidents that might happen and moves that  
14 are made within the facility, sometimes we have an  
15 uneven number of affiliated gang members in a house.  
16 But we are working to change that and we know that  
17 that can be dangerous.

18 COUNCIL MEMBER HOLDEN: So, it's complicated.  
19 Thank you, thank you Commissioner. Thank you Chair.

20 BRENDA COOKE: Chair Powers, it's Brenda Cooke  
21 the Chief of Staff, I just wanted to answer your  
22 lockdown question if you would indulge me.

23 CHAIRPERSON POWERS: Yes, please.

24 BRENDA COOKE: So, we have the reports are  
25 located on our Department website that we are

1  
2 obligated to report out in. So, on your question  
3 about department-wide lockdowns. There have been  
4 none. I just checked the last 5 reports, so that's  
5 all of Fiscal '20 and the first quarter of Fiscal  
6 '21. There are no department with lockdowns.

7 And in that same 5 quarters, so that's 1 year and  
8 3 months. We have facility-wide lockdowns each  
9 quarter, 2 in each of 4 of the quarters and 3 in the  
10 5<sup>th</sup> quarter.

11 So, we have very few department, well no  
12 department-wide lockdowns and very, very few  
13 facility, entire facility lockdowns as the Chief  
14 mentioned, we several years ago refined our lockdown  
15 data tracking process and the process and operations  
16 at the facility and we endeavor to utilize the most  
17 discreet scope of the lockdown necessary and in  
18 response to the incident that warrants it and I think  
19 annual reporting on our lockdown by the Board of  
20 Correction that's probably on their website, has  
21 noted the departments improved of these more narrow  
22 lockdowns and fewer interruptions in services over  
23 the years as well.

24 CHAIRPERSON POWERS: Okay, well we may have some  
25 follow up questions just on that after the hearing

1  
2 but thank you for getting back to us on that and we  
3 will go to Council Member Rivera.

4 SERGEANT AT ARMS: Starting time.

5 COUNCIL MEMBER RIVERA: Thank you Chair Powers.  
6 Do you think the hearing process for placement in  
7 punitive segregation or restrictive housing is truly  
8 fair to incarcerated individuals?

9 Do you think that incarcerated individuals  
10 deserve legal representation at every disciplinary  
11 hearing?

12 HEIDI GROSSMAN: We believe that process that we  
13 have outlined earlier in the testimony is a process  
14 that's fair. It is consistent with processes like  
15 this throughout the country. Where administrative  
16 hearings are held in prisons and jails where  
17 individuals don't have legal representation at these  
18 proceedings. So, we do feel that given all the  
19 transparency that we have fair process.

20 COUNCIL MEMBER RIVERA: Well, I think in all of  
21 our legal proceeding spaces. The people most likely  
22 do not have representation are the same people who  
23 are incarcerated. And I think that's an  
24 intersectional problem that's rooted in racism and  
25 classism but I am going to move onto how many



1  
2 incarcerated individuals overturn the decisions that  
3 are made in those hearings.

4 HEIDI GROSSMAN: I would say that infractions, I  
5 understand that the determinations that are made with  
6 respect to a determination after a hearing, where  
7 individuals have been found not to have followed the  
8 rules. In addition to dismissals before anyone even  
9 gets to a hearing for reasons like due process  
10 violations, overarching [INAUDIBLE 1:56:35] I would  
11 have to get back to you with more specific  
12 information but it could be up to 20 percent of the  
13 total number of infractions that don't end in a  
14 finding that someone should be placed in punitive  
15 segregation.

16 So, it's not like there is this rubber stamp  
17 process. That's what I think we can -- we would have  
18 to follow up with the specifics on that but that's  
19 anecdotally what I understand.

20 CHAIRPERSON RIVERA: I would appreciate a follow  
21 up on the specifics and I will add that the question  
22 that I asked about medical visits that Chair Powers  
23 asked again, we don't have CHS here and we received a  
24 couple comments from you all that you will get back  
25 to us. I do feel like there is a little bit of a -- I

1  
2 am underwhelmed by the preparation I feel that was  
3 taken by the Administration in anticipation of this  
4 hearing.

5 I will just add that you know, there are new  
6 charges that some of these incarcerated individuals  
7 receive while in custody and we want them to have a  
8 fair disciplinary process. I think you know the  
9 access to grievance forms and just overall the  
10 grievance process.

11 SERGEANT AT ARMS: Time expired.

12 COUNCIL MEMBER RIVERA: You know the [INAUDIBLE  
13 1:57:47] that we can't quite know for sure because  
14 there is no data or we are going to get the specifics  
15 you know later in time is troubling. But regardless  
16 I just want to I guess thank you for being here. I  
17 am looking forward to the follow up on some of these  
18 answers and I want to thank Council Member Dromm for  
19 his leadership and Chair Powers, thank you for  
20 allowing me to ask further questions.

21 CHAIRPERSON POWERS: Thank you and I just want to  
22 note and I just want this to educate where we are  
23 going. Thank you Council Member Rivera and your  
24 Christmas tree looks fantastic.

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I just want to add you know, just to remind us all that in the Mayor's announcement on this and in punitive segregation, you did use the word specifically solitary confinement as a way to define it and I just want to remind us that because I think as we, we have debated a little bit the terminology. I know that that's not the terminology used in the department. That is the terminology used for the Mayor in his announcement for this.

So, I just want to offer that clarity to all of us. I am going to leave it there and I think we are now going to call on the Board of Corrections. Thank you to the Department of Corrections and the Commissioner for being here and we will certainly, if we have follow up questions, we will send them along.

BRENDA COOKE: Thank you.

CHAIRPERSON POWERS: Thank you.

COMMITTEE COUNSEL: Thank you. We will now hear from the Board of Corrections. Executive Director Egan, you may begin when you are ready.

MARGARET EGAN: Thank you. Good morning Chair Powers and members of the Criminal Justice Committee. I hope that you and your families are safe and

1  
2 healthy. Thank you for holding this important  
3 hearing today.

4 My name is Margaret Egan and I am the Executive  
5 Director of the New York City Board of Correction. I  
6 am joined today by Board Member Dr. Robert Cohen and  
7 my colleague Emily Turner, Interim Deputy Executive  
8 Director of the Board.

9 We are here today to talk about the ending of  
10 solitary confinement in the New York City Jail  
11 System. The Board of Correction has been developing  
12 rules on restrictive housing broadly and solitary  
13 confinement specifically for the better part of the  
14 last four years. In that time, the Board consulted  
15 with experts, advocates and city officials to  
16 understand the leading research and practice and  
17 ultimately developed a proposed rule that governed  
18 all forms of restrictive housing in the jail system.

19 Last fall, the Board approved preliminary rules.  
20 Through the winter, the Board received public comment  
21 on the proposed rule. That public comment from many  
22 stakeholders, especially the testimony from people  
23 with lived experience was moving and transformative.  
24 As a result, our Board Chair, Jennifer Jones Austin  
25 shortly after becoming Board Chair in March of this

1  
2 year, joined with Mayor Bill DeBlasio in June to call  
3 for an end to punitive segregation or solitary  
4 confinement. Punitive segregation has been proven  
5 over and over to be an inhumane practice resulting in  
6 debilitating trauma that endures, often for the  
7 remainder of a person's lifetime. It has also been  
8 shown to not be an effective tool for reducing  
9 violence in correctional facilities.

10 The Board believes this practice must end. We  
11 believe it should be replaced with an alternative  
12 means of accountability with a focus on safety for  
13 both staff and detained persons, mental health,  
14 effective and robust programming and education, and  
15 investment in training and the well-being of  
16 employees.

17 Ending punitive segregation represents a  
18 significant change that requires careful  
19 consideration to ensure a system of accountability  
20 that is fair and safe for all. The Mayor and Chair  
21 Jones Austin convened a working group to develop a  
22 system of accountability that thoroughly considers  
23 and addresses the critical operational issues  
24 attendant to dismantling punitive segregation and the  
25

1  
2 implementation of a more effective and humane  
3 accountability system.

4       The working group has been led by our Vice Chair  
5 Stanley Richards and included Commissioner Brann and  
6 Just Leadership USA President and CEO DeAnna Hoskins.  
7 COBA President Boscio was also included and has been  
8 participating in working group discussions. The  
9 group was charged with developing recommendations for  
10 a system that replaces solitary confinement with a  
11 system that prioritizes safety, accountability,  
12 transparency, and support for all, staff and people  
13 in custody. It was critical to receive input from  
14 all perspectives. The Department leadership and  
15 officers, as well as persons with lived experience to  
16 ensure that the model would be progressive and  
17 practical.

18       The group worked diligently through the summer  
19 and early fall developing a broad model for ending  
20 solitary confinement. The Board's rulemaking  
21 committee has taken those recommendations and begun  
22 redrafting a rule that will govern restrictive  
23 housing in the jail system. The committee has nearly  
24 completed its work and we believe will propose its  
25 rule in the coming days, initiating the CAPA process

1  
2 for a final vote to occur in early 2021. This work  
3 has taken longer than we all desired but the Board  
4 takes seriously the complicated issues that arise in  
5 making these reforms.

6       Ultimately the rule that the Board proposes will  
7 seek to prioritize safety, accountability,  
8 transparency and support. These are the key  
9 principles informing and driving our work and  
10 discussions with respect to the system that will  
11 replace punitive segregation. Paramount in our  
12 planning is safety. Safety for all. People in  
13 custody and staff.

14       First, we believe that separating someone after a  
15 violent incident is critical. It is critical for the  
16 victim, the person who committed the violent incident  
17 and for the staff. However, this separation should  
18 not be indefinite. The best research tells us that a  
19 short period of separation, along with an  
20 individualized assessment of the core drivers of the  
21 behavior and an attendant care plan to are essential  
22 to changing behavior.

23       Accountability. The jail system must be able to  
24 hold people accountable for serious incidents. We  
25 believe that providing accountability is a critical

1  
2 tool for staff and people in custody to increase and  
3 improve safety in the jails. A new system of  
4 accountability must be based on swift, certain and  
5 fair principles. People should be provided with due  
6 process before being placed in any system of  
7 accountability. Their punishment, including the  
8 amount of time, should be defined and expectations  
9 should be clear and achievable.

10 Support. Any model that replaces punitive  
11 segregation must be centered on support for the  
12 individual. All who enter a new system should be  
13 immediately provided with an individualized support  
14 plan based on a validated assessment to identify the  
15 appropriate programming and therapeutic supports for  
16 that individual. This plan should be centered on  
17 addressing the root cause of violence and behavior  
18 and all the requisite services should be provided so  
19 that person can be successful in their care plan.

20 Transparency. For any system to be successful,  
21 all must understand and buy into the core principles  
22 of that system. It will be important that management  
23 clearly articulates, trains and manages both uniform  
24 and non-uniform staff, to the model's goals and  
25 principles. It will also be critical for the goals,



1  
2 principles and expectations to be clearly  
3 communicated to people in custody, both before and  
4 after any incident. In order for people to be  
5 successful in the model, they will have to understand  
6 the expectations and have an opportunity to meet  
7 them. And when they do, they must be rewarded  
8 accordingly.

9 Finally, the Board's oversight responsibility is  
10 also essential to transparency. Requiring the  
11 Department and Correctional Health Services to track  
12 and report information necessary to monitor  
13 compliance with the rules will promote transparency  
14 and compliance. Our ability to independently assess  
15 and publicly report on the Department's fidelity to  
16 the rule will be essential to providing transparency  
17 for all of the people in the model, both people in  
18 custody and staff.

19 We also believe the City should conduct an  
20 external evaluation to ascertain the impact of the  
21 model on individual behavior and health as well as  
22 the systemic impact on infractions and violence.  
23 Such an evaluation can provide the City with valuable  
24 information on the impact of this new model and other  
25 jurisdictions with critical information on a new,

1  
2 innovative, humane approach to safety and  
3 accountability.

4       The Board would agree that this process has taken  
5 significantly longer than desired. Having heard from  
6 the public last winter, it was clear that the  
7 proposed rule required that more be done to end  
8 punitive segregation. The Board's rule making  
9 committee has been working diligently, meeting  
10 regularly to address the complicated issues that have  
11 arisen as we have develop this new model. We have  
12 been working closely with City leaders and continued  
13 to seek advice and counsel from experts, including  
14 people with lived experience and correctional  
15 management and oversight expertise from across the  
16 country.

17       We believe that the Board's final rule will  
18 evidence a shared desire to reform punitive  
19 segregation in a way that achieves our goals of more  
20 humane treatment, accountability and safety for all.

21       Thank you and we are happy to take your  
22 questions.

23       CHAIRPERSON POWERS: Thank you. Thanks for the  
24 testimony. I have a number of questions. First, as  
25 you just mentioned that you are, I think you believed

1  
2 you are going to start the rule making process in a  
3 matter of a few days.

4 So, can you just give us an update on timing of  
5 your rule making and then timing overall and process  
6 so and so for, so at this hearing I understand what  
7 the next process is on the Board regulations on this?

8 MARGARET EGAN: Sure, so we are finalizing our  
9 internal board discussions and then we will send our  
10 proposed rule to the Law Department and the City and  
11 that rule, that proposed rule will then be certified  
12 and the Board will vote on the proposed rule. I  
13 should back up and say this is essential restarting  
14 the CAPA process.

15 So, the Board will vote on the proposed rule, we  
16 will open public comment. So, we will have 30 days  
17 for public comment. We will hold public hearings to  
18 hear comment on this rule and then move to finalize  
19 which requires going back to the Law Department to  
20 finalize the final rule and a vote by the board. And  
21 so, we are hoping for early 2021 to -

22 CHAIRPERSON POWERS: To take a vote.

23 MARGARET EGAN: To take a vote.

24 CHAIRPERSON POWERS: And you had started this, I  
25 mean I testified and we had engaged in a dialogue

1  
2 about this last year with the Speaker. What is  
3 different between now and last year in terms of rule  
4 making around this and it seemed like the Board  
5 stalled some point here in terms of doing their rule  
6 making process and the Mayor then made an  
7 announcement and now you are back. So, what has  
8 changed in terms of either, well, I would say two  
9 things. One is the thinking around it and also in  
10 terms of procedural differences between doing it now  
11 versus having done it a year ago.

12 MARGARET EGAN: Yeah, so the big change is that  
13 the rule that we would propose would end punitive  
14 segregation. The proposed rule that was proposed in  
15 October of 2019 did not end punitive segregation.  
16 And so, that is the major change and as I said, that  
17 came from the incredibly moving and transformative  
18 testimony that the board heard in public hearings and  
19 in written public comment through last winter and our  
20 new, relatively new Board Chair Jennifer Jones Austin  
21 took that very seriously and you know, we have  
22 engaged in this process of figuring out how to end  
23 punitive segregation and it was, I should say it was  
24 also important to us to take into account the  
25

1  
2 operational issues that arise in developing a new  
3 system and so we wanted to work through those.

4 CHAIRPERSON POWERS: Can you talk, what are the  
5 operational issues that come up when you talk about  
6 it. I assume you are talking about agency related  
7 implementation but what are those challenges?

8 MARGARET EGAN: I mean, I think it's physical  
9 location. It's ensuring that the Department is  
10 prepared to provide the programming that we are  
11 talking about. You know, we are talking about the  
12 importance of doing an individualized assessment at  
13 the beginning of this process and providing the  
14 services and care that people need to be successful  
15 in their care plan.

16 And so, I think there are a number of issues, of  
17 operational issues that arise in making sure that the  
18 Department is ready and able to implement this new  
19 system, so that it is effective.

20 CHAIRPERSON POWERS: So, do you think that if,  
21 after you pass a rule making, the agency still needs  
22 time in order to be able to change operations in  
23 order to implement it or what is your feeling of the  
24 level of readiness to be able to make a change?

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2 MARGARET EGAN: I think they probably will need  
3 some time but it can't be an amount of years  
4 certainly. I think that the Department is preparing  
5 and should be prepared to implement this new system  
6 within months.

7 CHAIRPERSON POWERS: Do you believe that current  
8 practices can't amount to solitary confinement?

9 MARGARET EGAN: Yes, I do.

10 CHAIRPERSON POWERS: And did you have comments on  
11 the proposed legislation here today that Danny Dromm,  
12 Council Member Dromm has introduced? Yeah, you  
13 didn't comment on the bill.

14 MARGARET EGAN: We certainly share the goals of  
15 the bill and absolutely appreciate Council Member  
16 Dromm's leadership on this issue. You know, as I  
17 said, we are working through the specifics of a new  
18 system of accountability in our rule and continue to  
19 - and are looking forward to continuing to work with  
20 the Council and of course the Administration on  
21 moving this forward.

22 CHAIRPERSON POWERS: Are there any concerns you  
23 have with the legislation?

24 MARGARET EGAN: You know, I think that we are  
25 working through any number of issues through the

1  
2 course of rule but I think we are generally aligned  
3 on the bill and the rule.

4 CHAIRPERSON POWERS: And the concerns that we  
5 have heard and we discussed earlier and I think we  
6 will discuss later is, you know, impact, you know,  
7 cultural shift including you know, leveling up  
8 services or programming or you know, maybe even  
9 changing strategies around housing to be able to  
10 address any sort of increases in violence that have  
11 happened.

12 The Commissioner testified I think three or four  
13 times that you know, she feels confident or we are in  
14 a process that would lead to changes and any sort of  
15 violence or risk factor to folks who are working  
16 inside the jails and I think that's a big topic. Do  
17 you have concerns around that? What do you think you  
18 know, besides what you have discussed are steps that  
19 the agency needs to take?

20 Also, you know, with borough based jails, are  
21 opportunities in those to be able to address any of  
22 those issues?

23 MARGARET EGAN: Yeah, I mean I think safety, as I  
24 said, safety in the jail system is our paramount  
25 concern and that concern of course extends to people

1  
2 in custody and staff, everyone who is in the jails.  
3 I think reducing violence is not just an issue of  
4 punitive segregation or solitary confinement. I  
5 think reducing violence is a departmentwide city,  
6 sorry, systemwide issue and takes a management  
7 approach from the Department to address. And so, I  
8 think there are cultural change opportunities within  
9 the Department and it takes a comprehensive approach.  
10 You know discipline and accountability is one piece  
11 of that but it is one piece of that.

12 And in terms of the borough based jails, I think  
13 there is an incredible opportunity with the new  
14 facilities and thinking about the philosophy behind  
15 those new facilities to be more centered on  
16 programming services and therapeutic care for people  
17 who are coming through the system at large but also  
18 in a restrictive housing setting.

19 CHAIRPERSON POWERS: Does the Board have thoughts  
20 and I know we are going to hear from a Board Member  
21 Bobby Cohen as well but do we – and so maybe I will  
22 just save some for him as well but does the Board  
23 have an opinion on the disciplinary hearings and the  
24 right for some legal council to be part of that  
25 process?



1  
2 MARGARET EGAN: Yeah, I mean, we as I said due  
3 process is a key component of this and we are  
4 continuing to work through the access to attorney  
5 issues. But I think broadly, due process is an  
6 essential pieces of this system.

7 CHAIRPERSON POWERS: Okay, I am going to offer an  
8 opportunity for I think Bobby Cohen to maybe testify  
9 to. I have a few more questions but I think they  
10 would be, like we could have an opportunity then if  
11 members have questions to, we will ask both of them.  
12 So, if we can call on Bobby Cohen who is just saw on  
13 my screen.

14 BOBBY COHEN: Thank you very much Chairman  
15 Powers, Council Members Ampry-Samuel, Diaz, Holden,  
16 Rivera, Danny Dromm, you have been so critical for  
17 this effort. Public Advocate Williams, Lander,  
18 Reynoso and Rivera who sponsored this bill.

19 My name is Bobby Cohen, I am a physician. I have  
20 been a Council appointee to the New York City Board  
21 of Corrections since 2009. I hope you and your  
22 families and loved ones are well in this terrible  
23 moment.

24 More than six years ago, the Board of Correction  
25 ended solitary confinement for those between 16 and

1  
2 21. Prior to that bill, close to 25 percent of young  
3 adults were kept in solitary confinement by the  
4 Department of Correction. We also ended the option  
5 of placing seriously mentally ill person and those  
6 with serious medical conditions in solitary. But  
7 solitary confinement exists today on Rikers Island.

8 I had hoped that the Board of Correction would  
9 have passed its restrictive housing rule by now.  
10 Since we have not passed our rule though, we are very  
11 hopeful and that will [INAUDIBLE 2:17:26] away.

12 We will cover very similar ground to the Council  
13 bill. I appreciate the Council's commitment and  
14 continued leadership to ending solitary and I support  
15 this bill.

16 This action by New York City is long overdue.  
17 The Board of Correction resumed rule making last  
18 winter because of the Council and community concern  
19 that our initial rule did not end solitary. This  
20 limited to 15 days. We resumed rule making to end  
21 solitary with the support of the Mayor this year but  
22 our timetable kept getting pushed back. We have not  
23 yet published our rule, although I am confident that  
24 we will and we will provide the support asked for in  
25

1  
2 the Council's legislation. We must end solitary  
3 confinement as soon as possible.

4 During the years of the Boards restrictive  
5 housing rule making, thousands have suffered in  
6 solitary and were humiliated and punished by being  
7 shackled in chains. These practices continue today.  
8 They must end.

9 Your bill will end these torturous practices.  
10 The Boards Rule will also end solitary and routine  
11 punitive shackling. I know that there are many  
12 advocates here today who have comments and  
13 suggestions about the Council's bill and I look  
14 forward to hearing them.

15 We appreciate the working groups input but there  
16 work is done. The Restrictive Housing rule is a  
17 Board process now. We will shortly send our  
18 proposed rule to the Law Department for certification  
19 and we hope and urge that the Law Department will  
20 certify promptly.

21 I urge the Council and others to focus their  
22 efforts on getting the Board to submit its rule and  
23 for the Law Department to certify it quickly.

24 As the Council's Representative on the Board of  
25 Correction, one of the Council's Representatives and

1  
2 as a New Yorkers, I am very proud to endorse your  
3 effort to end solitary. I honor you for your  
4 proposal.

5 Chair Powers, I know this is not on the agenda  
6 and there is so much to talk about but I would  
7 briefly like to just make some urgent comments  
8 regarding COVID-19 in the jails today.

9 CHAIRPERSON POWERS: Sure, go ahead.

10 BOBBY COHEN: So, I am very concerned that the  
11 Department continues to pursue policy in severe  
12 overcrowding. Over 35 open dormitory housing areas  
13 in 75 capacity this week. That increased from the  
14 week before. I toured VCBC last month and saw and  
15 was in dormitories filled in 98 percent capacity.

16 To date, the City has failed to take action to  
17 decrease the population and in fact, it grows daily  
18 because of actions by the Police Department, the  
19 States Judges, District Attorneys, the Parole Board  
20 and you know, I think the Mayor's program can do  
21 more. The population is 4,854, 20 percent greater  
22 than the 3,832 it was last April. It is time to take  
23 action on this.

24 Only if dormitories are under 50 percent can  
25 people have 6 feet of density and also, it is very

1  
2 important that everybody who works and lives in the  
3 jails have access to COVID-19 vaccines when they are  
4 available. They already deserve because of the  
5 extreme risk they share. Thank you.

6 CHAIRPERSON POWERS: Thank you and thank you for  
7 that last section. Something we are concerned about  
8 and pass legislation to that degree, a bill I had to  
9 help with any COVID related releases earlier this  
10 year and also, I will call on the Mayor to actually  
11 point people to that.

12 And also, share their concerns and we have had a  
13 couple hearing but I think we are trying to keep a  
14 careful eye on it and I know others here as well.  
15 But I want to just briefly on the topic at hand, do  
16 you see any conflicts between the work? This is for  
17 either one of you. Any conflicts between the work  
18 that the Board is doing right now and either the  
19 Council legislation or the Council effort?

20 BOBBY COHEN: I don't see any conflict. There  
21 are some differences in the number of errors. People  
22 are out of cell in the different periods. I think  
23 those can be worked out between the Council and we  
24 have asked the Board to take a major role in terms of  
25 creating the policies for implementing the program.

1  
2           So, basically we are in the same line, limiting  
3 the amount of time that people are in restrictive  
4 housing. Making sure that there is due process,  
5 making sure that they get out.

6           CHAIRPERSON POWERS: Got it and do you believe,  
7 should there be a cap on numbers of days a person can  
8 spend in restrictive housing and so, what should that  
9 cap be? Should the Department be able to ask for a  
10 waiver from that? What circumstances you think would  
11 lead to a waiver?

12           BOBBY COHEN: The Board, I think has not yet come  
13 up but it will in the next few minutes, with its  
14 number on that although it probably would be  
15 something very close to what is in your bill. And I  
16 think when it comes to situations where that cannot  
17 be handled, within the restrictive housing process,  
18 the Department has other mechanisms. Not in terms of  
19 restrictive housing but in terms of appeal to the  
20 courts as it does already.

21           We should not design a system that replaces those  
22 very rare moments when the Department has to go  
23 outside of the Boards rule and we should always  
24 remember that's it is not the Departments  
25 responsibility to punish. It is just to provide

1  
2 safety and security for the community and within the  
3 institution.

4 Every person who is sent to punitive segregation  
5 and to ESH1 is being charged with a serious crime.  
6 Is being prosecuted by the Bronx District Attorney.  
7 That is not our concern to develop a punishment  
8 matrix. It is our concern to provide safety and  
9 support and programming that can be helpful.

10 CHAIRPERSON POWERS: And just a follow up to a  
11 question that I asked the Department earlier and  
12 maybe the Board can provide this information if you  
13 have it. My question was basically, what's the  
14 longest that they have held someone in restricted  
15 housing setting?

16 I asked for the last, this is going back to 2019,  
17 just as a limited time frame to use our recent  
18 timeframe to use and what setting was it? Do you  
19 have any information related to that question?

20 BOBBY COHEN: Someone - I am sorry Meg, you  
21 wanted to.

22 MARGARET EGAN: Oh, I was going to ask Emily to  
23 jump in here, the keeper of our data.

24 CHAIRPERSON POWERS: Thank you.  
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EMILY TURNER: Yeah, so I think again, we keep coming back to restrictive housing and how we are defining it and including more than just punitive segregation which the Department pointed out. Our existing rules have limits to how long people can stay in P. seg. I think to answer your question, we need to think more broadly about the population that's been in P. seg, that's then moving into another restrictive setting or perhaps traveling back and forth between those settings.

So, in terms of the overrides, the 60-day period for P. seg specifically, the Chief mentioned that there have been five in 2020 and that's correct. So, only five people receiving an override to stay longer than those 60 days.

When we look at ESH, in the existing public reporting on this on length of stay has been limited to the Boards reports. That's something that our proposed rule would address, so that there is more transparency about exactly how long people are staying in ESH. And so overall, total length of stay but also you know, for people who are currently in but also people who have left, which looks different



1  
2 because you can see that some people who are still  
3 there may have been extended amount of time.

4       So, our reporting conditions will address some of  
5 the transparency issues around this length of stay  
6 issue. When we first looked at this back in 2017 for  
7 adults, the average was 114 days for adults. When we  
8 first looked at this and the median was 77 days with  
9 one person staying 636 days. Obviously, since that  
10 adult report came out, we then issued a report  
11 looking at the young adult population. We found that  
12 for young adults the sort of, for those when we were  
13 looking – when we did that report, we saw 180-40's  
14 for young adults and 192 for those who are still in  
15 and then lower lengths of stay of 74-40's and 50 days  
16 for those who had gotten out.

17       But since then, the Department and the Board have  
18 been working closely putting in guardrails to reduce  
19 that length of stay. So, since those public reports  
20 came out, we have seen at least for the young adult  
21 population, we have seen sort of median time in ESH  
22 for young adults down to 85 days with many staying  
23 much shorter and we have seen them moving through the  
24 system. We have also seen, rather than people just  
25 leaving ESH and being discharged from custody, we

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have been seeing people progress and move out of the system.

So, we have seen a lot of progress there with the Board and the Department working together on that issue but in terms of like regular tracking and reporting on the adult population, that's something that the proposed reporting conditions in the rule that we are going to put forth would address, so we have a clear understanding for all of these populations what we are talking about in terms of length of stay.

But I did want to flag that there are other restrictive settings that wouldn't fall into P. seg and ESH such as structurally restrictive housing which the proposed rule would also address and we do know that there are some people who will end up spending very, very long periods of time in structurally restrictive housing, which the Department does not consider - it doesn't consider restrictive housing, it doesn't consider punitive segregation.

CHAIRPERSON POWERS: Yeah, thank you. You just think your rule making will address that?

BOBBY COHEN: Yes.

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EMILY TURNER: Yes.

CHAIRPERSON POWERS: Okay. Thank you. I am going to keep questions limited. We do look forward to continued dialogue with the Board in your upcoming rule making which sounds like its eminent and thank you for your continued partnership on this issue. I don't see any colleagues questions, so I think we will move on to the next panel. But thank you and happy holidays and please stay safe and healthy.

BOBBY COHEN: Thank you.

MARGARET EGAN: Thank you, same to you.

BOBBY COHEN: Thank you very much.

COMMITTEE COUNSEL: We will now turn to testimony from members of the public. Please listen for your name, as I will be calling individuals one by one and we will also announce the person who is next. Once your name is called, please accept the prompt to unmute yourself and the Sergeant at Arms will set the timer and announce that you may begin.

Our first panelist is Benny Boscio followed by Correction Officer 1 and then Correction Officer 2. You may begin.

SERGEANT AT ARMS: Time -

1  
2 BENNY BOSCIO: Good morning Chairman Powers and  
3 the distinguished members of your committee. My name  
4 is Benny Boscio and I am the President of the  
5 Correction Officers' Benevolent Association, the  
6 second-largest law enforcement union in the City of  
7 New York. Our members, as you know, provide care,  
8 custody and control of over 4,800 inmates daily in  
9 our city's jails.

10 Today's hearing focuses on a discussion of one of  
11 the most reckless and dangerous pieces of legislation  
12 to ever come before this committee, a proposed ban on  
13 punitive segregation. With the limited time I have,  
14 I want to set the record straight on the false  
15 narrative about what you and your colleagues refer to  
16 as solitary confinement and what Correction Officers  
17 and Correction professionals around the nation refer  
18 to as Punitive Segregation. Solitary confinement  
19 implies that inmates in our custody are kept in a  
20 window-less cell for 24 hours a day, are fed bread  
21 and water and are deprived of having access to the  
22 law library, medical clinic or recreation time.

23 Despite what the Legal Aid Society proclaims and  
24 despite what inmate advocacy groups tell you when you  
25 meet with them, we do not have solitary confinement

1  
2 in our jails. We are a jail system not a prison  
3 system. The section in the Administrative Code in  
4 the City's Charter, which this bill is seeking to  
5 amend, doesn't even reference solitary confinement.  
6 It references punitive segregation. This bill would  
7 insert a false definition into law based solely on  
8 the narratives driven by inmate advocates and the  
9 Close Rikers movement.

10 So what exactly is punitive segregation?

11 Punitive segregation is simply a jail within a jail.  
12 It enables Correction Officers to physically separate  
13 assaultive inmates from non-violent inmates. Inmates  
14 in punitive segregation are in fact housed in housing  
15 areas with windows, with access to the same food as  
16 everyone else, with access to the law library and  
17 recreation time and the medical clinic.

18 How do we know punitive segregation works?

19 Historically, when punitive segregation was employed  
20 for all assaultive inmates regardless of age, we were  
21 able to keep the violence low. In 2016, when Mayor  
22 de Blasio unilaterally ended punitive segregation for  
23 inmates 21 and under, we saw a major spike in  
24 violence. That violence continues today. I would  
25 hope that as members of the Committee on Criminal

1  
2 Justice, each of you would take the time to review  
3 the jail violence indicators contained in the annual  
4 Mayor's Management Report. If you haven't, the report  
5 reveals a steady increase in jail violence year after  
6 year since 2014. In the most recent report alone,  
7 published in September of this year, stabbings and  
8 slashings are up 16 percent, assaults on Correction  
9 Officers are up 15 percent and inmate on inmate  
10 violence is up a staggering 284 percent.

11 Do these figures bother you? Do these figures  
12 perhaps illustrate the intensity of the violence my  
13 members face every day? Have any of you even taken  
14 the time to visit a punitive segregation unit?  
15 Because before you vote on this sweeping legislation,  
16 you should do your homework. You should examine the  
17 impact this will have on the safety and security of  
18 our jails. It will have an enormous impact on the  
19 lives of many officers who live with their families  
20 in your council districts.

21 Some of you have not even taken the time to meet  
22 with us to seek our input on how this legislation  
23 would affect literally thousands of lives in our  
24 jails. Some of you will vote to pass this bill to  
25 satisfy the inmate advocacy groups, who come in and

1  
2 out of your offices like a revolving door, while we  
3 can't even set foot in the door. We took an oath to  
4 serve and protect this city but who on the City  
5 Council is protecting us? I have asked to meet with  
6 Speaker Corey Johnson and he refuses to acknowledge  
7 my request. He is the second-most powerful official  
8 in the City of New York and yet he refuses to meet  
9 with the leader of New York City's second largest law  
10 enforcement union.

11 I can't help but think if I were a White union  
12 leader and if my members were mostly White instead of  
13 Black and Hispanic, that we would be at least  
14 afforded a single meeting. That we would at least be  
15 acknowledged as being one of the most important  
16 stakeholders in the City's criminal justice system.  
17 So on behalf of the Correction Officer who was  
18 slashed across his arm on Thanksgiving, on behalf of  
19 the female Correction Officer who was stabbed in the  
20 hand a month before that, on behalf of the Correction  
21 Officer who had his nose and eye socket broken before  
22 that and on behalf of the thousands of Correction  
23 Officers assaulted and splashed in the face by  
24 inmates with urine, feces and blood, I ask you and  
25 your colleagues in the Council, as well as the

1  
2 Speaker, if you remove this tool to protect us and  
3 nonviolent inmates from violent offenders, what do  
4 you intend to replace it with?

5 SERGEANT AT ARMS: Time expired.

6 BENNY BOSCIO: What consequences should remain in  
7 place when officers and inmates are attacked with  
8 impunity. A time out? No Game Boy use for a few  
9 hours? 20 hours outside of their cells?

10 Our use of punitive segregation has been so  
11 diminished already, which is why you see such a steep  
12 rise in assaults on our members. To remove this  
13 completely will significantly increase the risks of  
14 someone getting killed at the hands of an inmate. Is  
15 that a risk you are willing to take? This bill is  
16 unacceptable to us, it should be unacceptable to  
17 every New Yorker who believes in protecting the  
18 victims of the predators we have in our jails.

19 Instead of rushing to pass this along to the full  
20 City Council, I ask you to meet with us. Take a tour  
21 with us. Speak to the Officers who have been  
22 victimized by assaultive inmates. Some of them are  
23 testifying today. Do your due diligence. The safety  
24 of your constituents, no matter which side of the  
25 bars they're on, should always come first.



1  
2 With that said, I'm happy to answer any questions  
3 you may have.

4 COMMITTEE COUNSEL: Thank you. I would like to  
5 now welcome Correction Officer 1 to testify followed  
6 by Correction Officer 2, then Correction Officer 3.

7 SERGEANT AT ARMS: Starting time.

8 CORRECTION OFFICER 1: Good afternoon Chairman  
9 Powers and the members of your committee. I am a New  
10 York City Correction Officer Number 1, with 4 years  
11 on the job. I have never testified at a City Council  
12 hearing but the issue at hand is far too important to  
13 remain silent.

14 Several months ago, while working at a jail on  
15 Rikers Island, an inmate melee began to erupt in a  
16 housing area. Within a matter of seconds, I quickly  
17 intervened to break up the fight. I was surrounded  
18 by 15-20 inmates, all of whom were members of the  
19 same gang. I ended up getting stabbed in my left  
20 hand with a long, sharp weapon which had to be  
21 removed by doctors. I have not been back to work  
22 since this happened but I have been in and out of  
23 physical therapy and still can't fully use my hand.

24 I am also seeing a therapist to deal with the  
25 continued mental and emotional trauma this attack has

1  
2 caused me. I am here today to ask each one of you,  
3 as well as Council Speaker Corey Johnson and Council  
4 Member Dromm and the other sponsors of this  
5 legislation, what they plan to do with violent  
6 inmates like the one who stabbed me?

7 Do you and your colleagues believe it is humane  
8 to keep violent inmates in the same housing areas as  
9 non-violent inmates? How many Correction Officers  
10 did you speak with prior to this hearing? Before  
11 voting on this legislation, I ask you to consider my  
12 story and the stories of so many Correction Officers  
13 like me, who have endured vicious assaults by  
14 inmates, sometimes more than once. I'm asking you to  
15 oppose this ban on punitive segregation and to  
16 instead, support us and protect us if you expect us  
17 to be able to protect the inmates. Thank you.

18 COMMITTEE COUNSEL: Thank you. I would now like  
19 to welcome Correction Officer 2 to testify followed  
20 by Correction Officer 3, then Correction Officer 4.

21 SERGEANT AT ARMS: Starting time.

22 CORRECTION OFFICER 2: Good morning Chairman  
23 Powers and the members of your committee. I am a New  
24 York City Correction Officer with 3 years on the job.

1  
2 Last May, while working at a jail on Rikers  
3 Island, I was sexually assaulted by an inmate who was  
4 in jail on an attempted rape charge. I had simply  
5 instructed the inmate to report to the medical clinic  
6 to receive his medications. He refused. Instead, he  
7 told me "I'd rather stay here with you." Within  
8 minutes he grabbed me from behind, slammed me up  
9 against the wall using his body to pin me down while  
10 he aggressively grabbed my breasts and vagina.

11 To this day I remain traumatized from this  
12 incident. I am seeing a therapist to deal with the  
13 continued mental and emotional trauma this attack has  
14 caused me. I am here today to inform you that the  
15 inmate who assaulted me and every inmate who assaults  
16 my fellow officers belongs in punitive segregation.  
17 Many of you think punitive segregation is some form  
18 of torture. It is not. It's a tool we use to  
19 separate violent predators from the rest of the  
20 population. You don't believe there should be any  
21 consequences for inmates who commit crimes behind  
22 bars.

23 You believe that officers who have been attacked  
24 and even inmates who have been attacked should  
25 continue to be exposed to their assailants. Isn't

1  
2 that some form of torture? Before voting on this  
3 legislation, I ask you to consider my story and the  
4 stories of so many Correction Officers like me, who  
5 remain traumatized from these attacks and will wear  
6 the mental scars from these incidents for the rest of  
7 our lives. I'm asking you to oppose this ban on  
8 punitive segregation and to help us keep the city's  
9 jails safe for everyone. Thank you.

10 SERGEANT AT ARMS: Time expired.

11 COMMITTEE COUNSEL: Thank you. I would like to  
12 now welcome Correction Officer 3 to testify followed  
13 by Correction Officer 4, then Correction Officer 5.

14 SERGEANT AT ARMS: Starting time.

15 CORRECTIONS OFFICER 3: Good morning Chairman  
16 Powers and the members of your committee. I am a New  
17 York City Correction Officer Number 3, with 6 years  
18 on the job.

19 In the last 17-months, I was assaulted twice by  
20 two different inmates. In 2019, an inmate strangled  
21 me and attempted to rape me as well. This year, an  
22 inmate punched me in the face. I am here today to  
23 inform you that the inmates who assaulted me belong  
24 in punitive segregation. This isn't about torture.  
25 This isn't about inhumane treatment to a group being

1  
2 victimized. I'm the victim. My attackers should  
3 face consequences for attacking me. If they  
4 attempted to rape me or punch me on the street, every  
5 one of you would agree they should be arrested  
6 immediately. But when they commit the very same  
7 crimes behind bars, you don't want them to face any  
8 consequences. That's outrageous and they need to be  
9 held accountable for their actions.

10 Before voting on this legislation, I ask you to  
11 consider my story. I ask you to seriously consider  
12 the consequences of your vote. Will you accept  
13 responsibility if I get assaulted a third time? Will  
14 Council Member Dromm accept responsibility? Will  
15 Speaker Johnson accept responsibility?

16 In closing, I'm asking you to oppose this ban on  
17 punitive segregation and to help us keep the city's  
18 jails safe for everyone. The lives of Correction  
19 Officers and those in our custody are at stake.  
20 Thank you.

21 COMMITTEE COUNSEL: Thank you. I would like to  
22 now welcome Correction Officer 4 to testify followed  
23 by Correction Officer 5, then Correction Officer 6.

24 SERGEANT AT ARMS: Starting time.  
25

1  
2 CORRECTION OFFICER 4: Good afternoon Chairman  
3 Powers and the members of your committee. I am a  
4 Correction Officer Number 4 with 5 years on the job.

5 A few years ago, a couple inmates refused my  
6 instructions to leave a housing area. A fight began,  
7 and I intervened to break up the fight and while this  
8 was happening, an inmate came from behind me and  
9 slashed me in my ear. I am here today to inform you  
10 that this inmate that assaulted me belong in punitive  
11 segregation.

12 What kind of message do you think it sends to  
13 these assaultive inmates when they learn punitive  
14 segregation is banned? When they learn that they  
15 will face virtually no consequences for their crimes.  
16 Do the rights of me or my fellow Correction Officer  
17 matter? Does our safety matter to you?

18 Before voting on this legislation, I ask you to  
19 consider my story. I ask you to consider seriously  
20 the consequences of your vote. Many of your  
21 colleagues here on the Council have never stepped one  
22 day in our jails, yet they will consider this vote  
23 based upon misguided information and very little  
24 facts.

1  
2 In closing, I ask that you listen to the facts  
3 from us. Our lives matter. I'm asking you to oppose  
4 this bill and ban punitive segregation and help us  
5 keep the city's jails safe for everyone. The lives  
6 of the Officers and those who are in our custody.  
7 Thank you.

8 COMMITTEE COUNSEL: Thank you. I would now like  
9 to now welcome Correction Officer 5 to testify  
10 followed by Correction Officer 6.

11 SERGEANT AT ARMS: Starting time.

12 CORRECTION OFFICER 5: Good morning Chairman  
13 Powers and the members of your committee. I am a New  
14 York City Correction Officer Number 5, with 3 1/2  
15 years on the job. Last month, I was working a  
16 housing area and I tried to bring an inmate up to the  
17 dayroom in my jail.

18 As I opened the gate to allow the inmate to pass,  
19 I was jumped from behind by another inmate who  
20 suddenly smacked my head and face into the iron gate  
21 twice and then started choking me. One of my eyes  
22 was cut open and I sustained additional injuries to  
23 my throat and neck and my knee. I am still have  
24 difficulty swallowing and I walk with a limp.

1  
2 I am here today to inform you that inmates like  
3 the one who assaulted me belong in punitive  
4 segregation. We must have the ability to physically  
5 separate violent inmates who commit these types of  
6 assault. I know you are hearing today from some of  
7 my fellow officers who have also been assaulted. But  
8 the reality is there are literally thousands of  
9 stories of Correction Officers who have been  
10 viciously assaulted. I have yet to see a piece of  
11 legislation from this Council that seeks to protect  
12 our safety.

13 Before voting on this legislation, I ask you to  
14 consider my story. I ask you to seriously consider  
15 the consequences of your vote. At the end of the day,  
16 when more officers get assaulted after the ban is in  
17 place, what will you do then? Are we just supposed  
18 to be the sacrificial lambs in this politically  
19 driven legislation? I would argue that every Council  
20 member who votes in favor of this bill should explain  
21 to us why the rush to pass this bill and why now?

22 In closing, I'm here to tell you that facts  
23 matter. Our lives matter. I am asking you to oppose  
24 this proposed ban on punitive segregation and help us  
25 keep the city's jails safe for everyone. The lives



1  
2 of me and my fellow Correction Officers and those in  
3 our custody are at stake. Thank you for your time.  
4 Have a good morning.

5 COMMITTEE COUNSEL: Thank you. I would now like  
6 to welcome Correction Officer 6 to testify.

7 SERGEANT AT ARMS: Starting time.

8 CORRECTION OFFICER 6: Good morning Chairman  
9 Powers and the members of your committee. I am a New  
10 York City Correction Officer Number 6 with 5 years on  
11 the job.

12 Last May, I was relieving another officer so he  
13 could have a meal. At one point an inmate requested  
14 that I remove the garbage from his cell. As soon as  
15 I complied with this request, three inmates rushed me  
16 and jumped me from behind and began hitting me. One  
17 of my teeth was knocked out and I sustained a  
18 laceration to my arm requiring five stitches. If not  
19 for another Correction Officer rushing to my aid, my  
20 injuries could have been far worse.

21 I am here today to inform you that inmates like  
22 the ones who assaulted me belong in punitive  
23 segregation. If you truly care about our safety and  
24 the safety of those in our custody, you will not  
25 support this proposed ban on punitive segregation.

1  
2 We must have the ability to physically separate  
3 violent inmates who commit these types of assaults.  
4 If we are unable to do so, how do you expect us to  
5 deal with inmates who prey on us and on the non-  
6 violent inmates? I didn't take this job to get rich  
7 but I also didn't sign up to have my life threatened  
8 on a daily basis. My safety should matter to you,  
9 but it seems you are only concerned with protecting  
10 those who commit violence against Correction Officers  
11 and other inmates.

12 What will it take for you to start taking our  
13 lives seriously? Before voting on this legislation, I  
14 ask you to consider my story. I ask you to seriously  
15 consider the consequences of your vote. Thank you  
16 for your time.

17 COMMITTEE COUNSEL: Thank you. I will now turn  
18 it over to questions from Chair Powers.

19 CHAIRPERSON POWERS: Thank you and thank you  
20 everybody for testifying and sharing your stories and  
21 you know, I think its an obvious statement but I  
22 think I know for all of us, those stories are you  
23 know, not acceptable. It is not acceptable to go to  
24 your job and be hurt or assaulted or have any sort of  
25 actions like that taken.

1  
2 I am going to ask a few questions. I see some  
3 hands up from colleagues, so I am going to let them  
4 have an opportunity to weigh in. This is just for  
5 just a couple questions here. Do you think the  
6 current system is working when it comes to reducing  
7 violence in the City jails? This is for the head  
8 COBA, sorry.

9 BENNY BOSCIO: No, no its not working.

10 CHAIRPERSON POWERS: Okay and why not?

11 BENNY BOSCIO: Well, for so many reasons. I mean  
12 the Department has decided to house inmates by gang  
13 affiliation and they have created army's in these  
14 housing areas and taken the power away from us to run  
15 the housing areas effectively.

16 You got 35 Bloods in a house that holds 40  
17 inmates, 50 inmates, how can you effectively control  
18 the house. You know, when punitive segregation was  
19 banned in 2016 for the young adults, the violence has  
20 gone up systematically every year. Every year and  
21 the data doesn't support what it is that the Council  
22 is trying to do.

23 CHAIRPERSON POWERS: Okay and on the housing  
24 question, I think Council Member Holden asked this to  
25 the Commissioner earlier about housing based on

1  
2 similar affiliation when it comes to gangs. The  
3 Commissioner had said, I think, he tried to explain  
4 that it was you know, more complicated because of  
5 different affiliations within, being Blood or so  
6 forth and that it was not their housing strategy.  
7 Are you saying that's not your experience or that's  
8 not the experience inside the jails?

9 BENNY BOSCIO: Absolutely not. They are housing  
10 by gang affiliation on purpose, because they thought  
11 that by putting the same gangs together they would  
12 reduce inmate on inmate violence and we see that that  
13 is not the case. We are put in an unfortunate  
14 circumstance. You know, they want us to be perfect  
15 in an unperfect environment and they have not allowed  
16 us to succeed. They put us in a disadvantage right  
17 out the gate.

18 CHAIRPERSON POWERS: Okay, so - I am going to  
19 follow up on that in a second but do you have  
20 concerns, I mean, I think the stated concern here for  
21 repealing punitive segregation when they did it a few  
22 years ago, a continued concern that plenty of folks  
23 have is the effective isolation on any individual  
24 whether it is once you take them out of punitive  
25 segregation and their return back including your

1  
2 members or when they return back to their communities  
3 have to deal with the impact or the effect of that.

4 Do you have concerns about, I am not even talking  
5 about the existing practice but just any housing  
6 practice when it comes to the long term impact on an  
7 individual? If you put an individual in long term  
8 isolation, whether that is 23 hours or 20 hours?

9 BENNY BOSCIO: Well, Chairman Powers, if an  
10 inmate cuts you across your face and give you 25  
11 stitches, what should happen to that inmate? Because  
12 you guys want to do away with a practice that will  
13 not allow us to separate violent inmates from other  
14 inmates. Why don't I hear anybody advocating for the  
15 nonviolent inmates? For the people that are on the  
16 other end of that attack? It seems like we just want  
17 to do away with crime. I mean look, when a crime is  
18 committed in New York City, it should be treated no  
19 different than a crime committed behind the bars in  
20 jail.

21 CHAIRPERSON POWERS: Okay, so but I guess I just,  
22 do you have a concern on the wellbeing of an  
23 individual if they are locked into a long term  
24 housing with no access to resources, programming and  
25

1  
2 done out of a long term and long term you know, with  
3 minimal hours out of cell?

4 BENNY BOSCIO: Chairman Powers, I have concerns  
5 for my members that have been assaulted with impunity  
6 by violent inmates. You know, I don't understand  
7 what's this rush to do away with something to try and  
8 be first in the country to do something that no one  
9 has done across the country. And you know the  
10 violence just continues to soar, so I ask you, what  
11 is the data that proves that you know, what you are  
12 doing is going to work? The violence has gone up  
13 since we have diminished punitive segregation as it  
14 is. It is watered down. There are no consequences  
15 for inmates that assault us with impunity.

16 CHAIRPERSON POWERS: But I guess and with  
17 respect, I guess that's kind of the question I am  
18 asking, which is, I think at the same - I am hearing  
19 two things at the same time. One is you know, keep  
20 the system in place but also that the system doesn't  
21 work and I guess I am trying reconcile those two  
22 things. Because if you are feeling here as the  
23 violence has skyrocketed under the current system,  
24 why would we not seek to try - I understand your  
25 concern that taking something away here may further

1  
2 exasperate that but you now, it feels like you know,  
3 in addition to that there should be other tools put  
4 in place here to help actually address the issue. I  
5 guess my question is, I think the feeling here is we  
6 should keep the status quo but I also hear the status  
7 quo doesn't work when it comes to reducing violence  
8 and I am trying to reconcile those two ideas.

9 BENNY BOSCIO: Well Chairman Powers, if you don't  
10 commit a crime in jail, you don't end up in punitive  
11 segregation. If you don't assault Correction  
12 Officers or other inmates, you don't end up in  
13 punitive segregation. You come to do your time and  
14 you go home when your time is up.

15 CHAIRPERSON POWERS: Is there evidence that  
16 punitive segregation is a disincentive to committing  
17 violence?

18 BENNY BOSCIO: I'm sorry?

19 CHAIRPERSON POWERS: Is there evidence that the  
20 existence of punitive segregation or the existence of  
21 punitive segregation in some form you know, like in  
22 certain form is a disincentive to acts of violence?

23 BENNY BOSCIO: Well yes, if there is no  
24 consequences and like I said, the data doesn't  
25 support what you are trying to do. If you look at

1  
2 2016 when it was ended for young adults, the violence  
3 skyrocketed.

4       So, if inmates know that there are no  
5 consequences for their actions, guess what's going to  
6 continue to happen? They are going to continue to  
7 assault. They are going to continue to make crimes  
8 because there is no consequences happening. The  
9 rearrest process for inmates is a joke. Nothing is  
10 being done when inmates throw urine and feces and  
11 blood in your face. You know, this is what  
12 Correction Officers – this is the reality of what's  
13 happening in the jails. And I ask anyone of you, if  
14 someone did that to you in the streets of New York,  
15 what would happen to them? Should they be allowed to  
16 stay in New York City? Can somebody on the Council  
17 answer me that question?

18       CHAIRPERSON POWERS: Okay, this is –

19       BENNY BOSCIO: If someone cuts you in your face  
20 Chairman Powers, should they be allowed to walk the  
21 streets of New York freely? Because that's what it  
22 is that you guys want to do inside of our jails.  
23 There has to be consequences.

24       CHAIRPERSON POWERS: Okay, so I want to ask about  
25 disincentives towards violence. So, what



1  
2 disincentives behavior that could be violent behavior  
3 and I am asking if there is evidence of that being a  
4 disincentive. I understand taking somebody away from  
5 housing you know, where many of your members are and  
6 putting them away somewhere might lead to the desired  
7 outcome here but there is a consequence to that. I  
8 mean, I think that's what we are debating here today  
9 is I am not at all trying to be disrespectful and any  
10 member here but I guess what we are talking about is  
11 we are talking about two things, disincentive and  
12 consequences on punitive segregation.

13 I think I believe and I think many believe and we  
14 could debate where those parameters lay but that some  
15 form of long term isolated housing is damaging to an  
16 individual and in this case, we are talking about  
17 folks that are going to return to our community or  
18 continue to live inside of your city jails or go  
19 somewhere else and I think what we are trying to do  
20 is desire for better outcomes.

21 Just to be fair, I mean you do and I have heard  
22 from prior to that they think the system doesn't  
23 work. I understand, I recognize that you know, maybe  
24 taking it away very quickly you know without doing  
25 anything else may not solve the problem around

1  
2 violence but what I am asking, so let me ask you a  
3 different question. Besides the punitive  
4 segregation, what are other tools here that you  
5 think, the housing when you talked about the gang  
6 affiliation, what are other recommendations that you  
7 think are not in place right now that would help  
8 address issues around safety for people working  
9 inside the City jails today?

10 BENNY BOSCIO: Well, like I said Chairman Powers,  
11 we are all for jail reform. We have no issue but  
12 there is not a balance when it comes to jail reform  
13 because it is so lopsided and every one is arguing  
14 for the inmate population and no one is arguing  
15 besides the union and myself about the Correction  
16 Officer's wellbeing.

17 You know, inmates have game boys, tablets and a  
18 Correction Officer can't even get their own gas  
19 masks. And this is the lopsided way that the  
20 mentality of the Council, like, you know, these are  
21 people that are committing violent crimes inside.  
22 Yeah, take away commissary. You know take away their  
23 ability to visit but then you guys don't want to do  
24 that because of all the minimum standards that you  
25 have.

1  
2 Like I said, the consequences are watered down as  
3 they are and this is why we have a more embolden  
4 inmate and yes, based on bail reform, we have a more  
5 violent inmate that we are dealing with.

6 I mean, think about it, there is 4,800 inmates in  
7 our system now but the violence is skyrocketing  
8 because of some of it, I am sorry and no disrespect  
9 to the Department but some of it has to do with gross  
10 mismanagement of the agency. And we are pleading for  
11 your help because unfortunately you guys don't only  
12 represent inmates but you adhere to the Board of  
13 Corrections. You adhere the Council and it seems  
14 like the only people you want to represent here are  
15 inmates. What about us? Who is protecting us? We  
16 didn't take - you know, some people feel like it is  
17 our job, so we should be doused with urine and feces  
18 because we took this job. We should be assaulted  
19 with impunity because we decided to take this job.

20 No, we decided to protect and serve our City.  
21 Alright but we are asking you guys for help because  
22 we need protections to. It can't be just about the  
23 wellbeing of inmates.

24 CHAIRPERSON POWERS: I understand that but I  
25 mean, first of all, no, it's not acceptable. I just

1  
2 want to be very clear. I will say it if it needs to  
3 be said, it is not acceptable for your members to  
4 have any of that happen to them and we do need to  
5 repeat that. I guess, but I guess you are here. I  
6 mean you are here at the City Council right now,  
7 right. If I am behind – if I am at Rikers Island  
8 right now, I can't testify before the City Council.  
9 That is why there are groups who are doing it for  
10 people. You are representing your members here. I  
11 am asking you a question, what are other  
12 recommendations. You are going to go to the Board,  
13 you are at the Council. You have the Sponsor of the  
14 Bill here; you have the Chair. You know, I guess my  
15 question is, I believe that if you are going to make  
16 changes to restricted housing, punitive segregation,  
17 you also need to level up in other places as well.  
18 You need to change other practices at the Department.  
19 You have talked about mismanagement.

20       So, I am just asking because I think this is a  
21 public hearing for the opportunity to state this. If  
22 you feel like it's part of the dialogue that is  
23 necessary, what are the other tools that you think  
24 that the mismanagement that you think the Department  
25 needs or is undergoing that needs to be addressed?

1  
2 BENNY BOSCIO: Break up the gang houses, lower  
3 the inmate to officer ratio. Right now it is 1  
4 Officer per 50 inmates. Why? When we have 85,  
5 approximately 8,500 Officers and 4,800 inmates. You  
6 could lower the inmate population to have less  
7 inmates in each housing area. And like it was  
8 brought up here, the Department isn't even social  
9 distancing when it comes to COVID-19 and we fought  
10 and pleaded with the Department to put less inmates  
11 in a housing area to allow social distancing.

12 So, yeah, it has a lot to do with mismanagement  
13 but once again, if we can't have the ability to  
14 separate violent inmates, the violence is just going  
15 to continue to rise.

16 CHAIRPERSON POWERS: Okay. I am going to stop  
17 there. I am going to let members ask questions. I  
18 think we have a couple of members who have their  
19 hands up. Thanks.

20 COMMITTEE COUNSEL: Thank you, we will hear from  
21 Council Member Holden followed by Council Member  
22 Dromm.

23 SERGEANT AT ARMS: Starting time.

24 COUNCIL MEMBER HOLDEN: Thank you and thank you  
25 to all of the Correction Officers who testified today

1  
2 because we have to hear your side and I am glad that  
3 we finally did because I agree with certainly the  
4 COBA President Boscio that your side is not  
5 represented. And it's just like I don't think you  
6 were consulted for this bill.

7 Commissioner Brann stated by the way, COBA  
8 President Boscio, Commissioner Brann stated that if  
9 Intro.'s 2173 were to pass, they would have to think  
10 outside the box on how to punish violent inmates or  
11 detainees. That's kind of a little scary isn't it on  
12 your side? Because you are in with the most  
13 dangerous individuals in the City of New York or  
14 maybe even in the country.

15 Commissioner Brann said that we have a high  
16 concentration. She explained the violence saying  
17 that we have less detainees but they are more  
18 violent. I mean, I would like to know why that is.  
19 Why are they more violent?

20 BENNY BOSCIIO: Well, I mean, they are more  
21 violent because they have been embolden by the way  
22 the Department has decided to house inmates. If you  
23 like I said, if you put 35 Bloods in the same house,  
24 if you put 35 Crips in the same house and the Officer  
25 that's working in that housing area needs assistance,

1  
2 when the prob team comes, that whole house is now  
3 ready to jump the prob team that's coming to assist  
4 that Officer. This is part of the disadvantage that  
5 the Department has put us in.

6 COUNCIL MEMBER HOLDEN: But Commissioner Brann,  
7 really kind of, when I asked her that question, she  
8 said they are not housing the gangs in the same unit  
9 and you are saying something very different than I am  
10 hearing.

11 BENNY BOSCIO: That's absolutely false and you  
12 guys can see the data for yourself. Ask for the  
13 housing area reports, so you can see the SRG  
14 affiliations of how many security risk group members  
15 which is our terminology for gangs. How many of the  
16 same gangs in each housing area. Ask for the data.  
17 The data doesn't lie. When you can walk into a  
18 facility and the Correction Officers can tell you oh,  
19 yeah, that's a Blood house, that's a Crip house,  
20 that's because of what the Department has decided to  
21 do about housing based on the Nunez litigation, the  
22 Nunez Consent Degree. This is what we are dealing  
23 with because they want so desperately to try and  
24 lower the violence and they are trying to do it at  
25 all calls but it is not working.

1  
2 COUNCIL MEMBER HOLDEN: Alright, I have a bill,  
3 some Council Members are listening by the way to COBA  
4 and really feel for your plague because it is a – not  
5 only its more dangerous in the pandemic obviously in  
6 the jails but for everyone. But now the increased  
7 violence against Correction Officers and we heard  
8 from many of your officers how they have been  
9 attacked.

10 SERGEANT AT ARMS: Time expired.

11 COUNCIL MEMBER HOLDEN: And I have a bill, it's  
12 Into. 1753 which would require that the Department of  
13 Corrections separate gang members from the same  
14 units. You think obviously, that would be a good  
15 idea because we do have the space right?

16 BENNY BOSCIO: Absolutely and if you mix them up  
17 and put five for instance, of each different gang.  
18 The focus will be on each other. It will be a little  
19 violent in the beginning but they will learn to live  
20 with one another like they did in the past.

21 You know, this was a reckless decision to decide  
22 to house inmates according to their gang affiliation.  
23 Yes, that would be a much needed bill Council Member  
24 Holden.



1  
2 COUNCIL MEMBER HOLDEN: Thank you so much. Thank  
3 you Chair.

4 BENNY BOSCIO: Thank you.

5 COMMITTEE COUNSEL: Next, we will turn to Council  
6 Member Dromm.

7 SERGEANT AT ARMS: Starting time.

8 COUNCIL MEMBER DROMM: Thank you very much and  
9 let me start off by saying how my heart goes out to  
10 those Corrections Officers who were attacked.  
11 Nobody, as the Chair has stated, wants to see that  
12 happen to people who are serving the City of New  
13 York. You know but my argument is that actually by  
14 you know, reducing the use or eliminating the use of  
15 punitive segregation, you are going to decrease those  
16 types of violence and certainly, the Commissioner  
17 pointed to the fact that with the lowering of  
18 punitive segregation, the numbers there and the  
19 increased use of programming, they have seen success.  
20 And I mentioned this to your former leader Norman  
21 Seabrook, way back in 2014 when we were touring  
22 Rikers Island and I have been there in Rikers Island  
23 at least six times in the time that I have been in  
24 the City Council.

1  
2 And even the facilities themselves, the  
3 facilities are in horrible, horrible shape and you  
4 know, I fought for better facilities just for the  
5 environment that you know, folks have to work in.  
6 The physical environment that folks have to work in  
7 but I do take objection to a number of the statements  
8 that you made Mr. Boscio about not having any  
9 resources.

10 In one hand you are saying that you don't have  
11 any resources but on the other hand you are saying  
12 you want to keep punitive segregation. So, I don't  
13 understand that.

14 You are saying that you know, many of them are  
15 thrown into solitary for violent acts but I know for  
16 sure that on many occasions, folks are put into  
17 solitary for nonviolent acts and that has been a  
18 history of what's happened here. Look at what  
19 happened to Layleen Polanco. Why was Layleen Polanco  
20 put into solitary? Can you answer that?

21 BENNY BOSCIO: Council Member Dromm, again you  
22 keep using the terminology solitary and we do not  
23 have that.

24 COUNCIL MEMBER DROMM: Yes, you do it's  
25 synonymous, it's synonymous.

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BENNY BOSCIO: Sir.

COUNCIL MEMBER DROMM: Mr. Boscio, hold up please.

BENNY BOSCIO: And when you ask, look -

COUNCIL MEMBER DROMM: Mr. Boscio, I am a Council Member here to ask you questions.

BENNY BOSCIO: Right and I am telling you -

COUNCIL MEMBER DROMM: The words punitive segregation and solitary are synonymous. When you put somebody inside a cell for 20 hours, that is solitary confinement. It used to be 24 hours, so we have pushed back on that in your union, under the leadership of Norman Seabrook, who is on his way to jail by the way, okay. I hope he doesn't have to go into solitary, that's what I hope. God forbid he goes into solitary, then we might see some change but you know, it's the same thing.

20 hours, have you spent 20 hours in a bathroom?

BENNY BOSCIO: [INAUDIBLE 3:07:09].

COUNCIL MEMBER DROMM: Mr. Boscio, have you spent 20 hours in a bathroom?

BENNY BOSCIO: No, I have not.

COUNCIL MEMBER DROMM: Well, try it, okay and see how you feel when you come out and see if it doesn't

1  
2 have psychological effect on you. 20 hours in a cell  
3 alone locked up has tremendous negative effects on  
4 people.

5 You say that officers don't have gas masks, I  
6 know that's not true. I know that the gas masks we  
7 use in classrooms against kids who were chained to  
8 their desks, okay. It was the teachers who didn't  
9 have gas masks. That situation has now been turned  
10 around but it was not the Corrections Officers and  
11 they are the one's who fire the tear gas to begin  
12 with, okay.

13 So, if they don't want to get tear gassed, tell  
14 them not to fire tear gas at kids. Gassing kids is  
15 an abomination. You talk about bail reform without  
16 any evidence. What is your evidence about bail  
17 reform having anything to do with increased violence  
18 in Rikers Island? There is no evidence of that.

19 You know, look, I find it very hard to take COBA  
20 seriously because of it's long record of corruption  
21 and you know, it's just, I don't believe that using  
22 torture to cure violence is a way to end violence.  
23 It just doesn't happen that way.

24 So, you know, and then you are talking about you  
25 know, the way we house inmates. This hearing is not

1  
2 about the way we house inmates. I feel bad, maybe  
3 you are right about the gangs, I don't know. I don't  
4 know enough about the gangs to be honest with you to  
5 answer that.

6 BENNY BOSCIO: I was talking about what's going  
7 on in jail.

8 COUNCIL MEMBER DROMM: I know enough sir and I  
9 have oversight over your jails and I can go to your  
10 jails anytime without you following me around like  
11 your former leader did, okay.

12 BENNY BOSCIO: I invite you to tour any time you  
13 want Council Member Dromm.

14 COUNCIL MEMBER DROMM: Or your television ads or  
15 whatever you want to do.

16 BENNY BOSCIO: I invite you to tour with me  
17 anytime you like, unannounced of course.

18 COUNCIL MEMBER DROMM: I don't listen to thugs.  
19 You can be as much of a thug as you want to be but  
20 you don't bother me, okay. You don't bother me. I  
21 am here to help people, unfortunately you don't see  
22 the benefits of that and I wish that you did. If you  
23 did, you would serve your members okay. But it is  
24 time to change. Remember the people that have died  
25 under your supervision sir and the people you have

1  
2 harmed sir by your insistence on punitive  
3 segregation, which is actually solitary confinement,  
4 which is torture. Thank you very much.

5 BENNY BOSCIO: You and me can have a different  
6 opinion but like I said, slashings are up 16 percent.  
7 Assaults on Correction Officers are up 15 percent and  
8 inmate on inmate violence is up a staggering 284  
9 percent and those numbers don't lie.

10 COUNCIL MEMBER DROMM: So, your officers are  
11 doing something wrong. That's got to be the reason.

12 BENNY BOSCIO: Oh, that's your ideology I guess.

13 COUNCIL MEMBER DROMM: Yeah, something is going  
14 wrong.

15 CHAIRPERSON POWERS: Alright, we are going to  
16 leave it at that. Thank you, thank you for the  
17 testimony and the questions. I am going to have the  
18 Committee Counsel - thank you for your testimony of  
19 your members as well. I am going to have Committee  
20 Counsel call to the next panel. Thank you.

21 COMMITTEE COUNSEL: Thank you. I would like to  
22 now welcome Kelsey De Avila to testify, followed by  
23 Julia Solomons then Kayla Simpson.

24 SERGEANT AT ARMS: Starting time.  
25

1  
2 CHAIRPERSON POWERS: Thank you, go ahead. Thank  
3 you for the wait.

4 KELSEY DE AVILA: Sorry, can you guys hear me?

5 CHAIRPERSON POWERS: We can hear you, yeah.

6 KELSEY DE AVILA: Hi, my name is Kelsey De Avila,  
7 I am with Brooklyn Defender Services. Thank you  
8 Chair Powers and a huge thank you to Council Member  
9 Dromm for pushing back on the lies we heard today  
10 from the Department.

11 Commissioner Brann couldn't say it but solitary  
12 confinement is torture and it does in fact exist in  
13 New York City jails. It just goes by another name.  
14 Punitive segregation, enhanced supervision housing  
15 and other classifications that don't have an official  
16 name at. People have been advocating not in an  
17 effort to end the term solitary but rather to end the  
18 inhumane practice and the lifetime of trauma solitary  
19 represents.

20 DOC is notorious for creating isolation units  
21 that have no directives or oversight. For example,  
22 people are routinely placed in what's termed  
23 deadlock. It is not a housing unit, it's not even  
24 used necessarily for disciplinary reasons, yet people  
25 are locked in their cells for 23, 24 hours a day.

1  
2 Not provided with any due process and completely  
3 denied all meaningful contact with others. Deadlock  
4 is a prime example why policies and reforms cannot  
5 target a specific term or housing unit.

6 DOC has and will continue to create nearly  
7 identical units using a different name. We must  
8 define solitary by the way people are treated and the  
9 restrictions they face. We must require that all  
10 people in DOC custody are treated with basic human  
11 dignity, starting with requiring all housing units or  
12 statuses to afford at minimum 14 hours out of cell  
13 with meaningful contact. It is the humane standard  
14 and anything less is restrictive and torturous.

15 This Committee and the Council have an  
16 opportunity to do something extraordinary by ending  
17 this horrific practice but despite the intent,  
18 unfortunately this bill as written does lack  
19 specificity and creates multiple loopholes, which  
20 based on experience we can expect the Department to  
21 use perpetuate harm against people in custody.

22 And just due to time, I direct you to my written  
23 testimony which is much more detailed with our  
24 concerns. And I will end with this, we absolutely  
25 can address safety without resorting to torture and



1  
2 aiding in the trauma that is already present within  
3 the criminal legal system. We need not just the  
4 courage to say the words but the political will to  
5 ensure this torture ends.

6 SERGEANT AT ARMS: Time expired.

7 KELSEY DE AVILA: We urge you in the strongest  
8 possible terms to be leaders in ensuring an end to  
9 the torture in our City's jails. Thank you.

10 COMMITTEE COUNSEL: I would like to now welcome  
11 Julia Solomons to testify followed by Kayla Simpson,  
12 then Sergio De La Pava.

13 SERGEANT AT ARMS: Starting time.

14 JULIA SOLOMONS: Thank you. Good morning Chair  
15 Powers and Committee Members. My name is Julia  
16 Solomons and I am a Criminal Defense Social Worker  
17 with the Bronx Defenders as well as a Member of the  
18 Jails Action Coalition.

19 While we are grateful to be speaking to you  
20 today, this hearing is one of many opportunities for  
21 public comment on the use of solitary confinement in  
22 recent years. Survivors of solitary have been  
23 reliving the trauma they have experienced for years  
24 now at public hearings as the Board of Correction  
25 deliberated about how to end this torturous practice.

1  
2           It has taken the City too long to fix the broken  
3 disciplinary system in our jails. Lives have been  
4 lost because of that delay. We must ensure a true  
5 definitive end to solitary confinement immediately  
6 and for that reason, today we ask the City Council to  
7 adopt the amended version of Intro. 6908 submitted by  
8 the Jails Action Coalition and Solitary Campaign.  
9 This would guarantee access to Council as a starting  
10 point for representation in disciplinary proceedings,  
11 require true out of cell time, making it impossible  
12 for the Department of Correction to create solitary  
13 confinement by another name and begin to shift the  
14 punitive mentality in jails that aims towards one of  
15 healing and rehabilitation.

16           We believe that the bill will not have its  
17 intended outcome as it is written currently. We  
18 strongly encourage the Council to amend the bill  
19 before passing it.

20           DOC represented today that their disciplinary  
21 process is uncomplicated and working well and that's  
22 statement stands an unbelievably stark contrast with  
23 our clients reports. People in custody currently  
24 have absolutely no true mechanism to meaningfully  
25 defend themselves before being placed in isolation.

1  
2 We hear often that our clients spend days in  
3 punitive segregation without the opportunity to  
4 attend the hearing. In jurisdictions such as  
5 Washington DC and Massachusetts, access to Council in  
6 disciplinary hearings has been the standard practice  
7 for decades.

8 For those who have an attorney of record in an  
9 ongoing legal matter, that attorney must be notified  
10 48 hours in advance of a hearing, so that they or a  
11 representative have a meaningful opportunity to  
12 attend the hearing. Before which the person cannot  
13 be placed in any form of restrictive housing. Our  
14 clients often report that they were never informed of  
15 their hearing in situations where DOC claimed that  
16 they refused the opportunity to attend and thus, any  
17 refusal must be video taped to ensure true access to  
18 due process.

19 SERGEANT AT ARMS: Time expired.

20 JULIA SOLOMONS: As others have shared, DOC  
21 repeatedly creates new housing units that are not  
22 labeled solitary but nonetheless continue to isolate  
23 and torture people.

24 As such, the bill must be specific in detailing  
25 the practices that are permitted when a person is

1 convicted of an infraction. Offering people in  
2 custody critical support and engagement to address  
3 their mental and emotional needs is the only way we  
4 will actually rates of violence in our jails decrease  
5 and I would direct you to our written testimony as  
6 well for further comments. Thank you so much.

8 COMMITTEE COUNSEL: I would now like to welcome  
9 Kayla Simpson to testify followed by Sergio De La  
10 Pava then Mik Kinhead.

11 SERGEANT AT ARMS: Starting time.

12 KAYLA SIMPSON: Good afternoon. My name is Kayla  
13 Simpson, I am an Attorney at the Legal Aid Society's  
14 Prisoners' Rights Project. Thank you Chairman  
15 Powers, Public Advocate Williams, members and staff  
16 of the Committee for this opportunity to address  
17 human rights abuses in the City jails.

18 And we applaud Council Member Dromm's leadership,  
19 the Committee members, Public Advocate Williams for  
20 recognizing the enduring unnecessary harm that  
21 isolated confinement poses to the health and safety  
22 of New Yorkers in custody. But one of the things I  
23 think we have to take from the Correction Officers  
24 who testified today is that the Departments long  
25 standing fundamentally punitive attitude towards

1  
2 people in custody does not work. It does not make  
3 anyone safe including them. Neither the Board of  
4 Corrections piecemeal rules about restrictive housing  
5 up to this point. There were years of reports from a  
6 federal Nunez monitor critiquing deep seated  
7 hostility the Department directs that the people  
8 incarcerates, nor the testimony of many survivors of  
9 solitary confinement have curbed this reflexively  
10 punitive approach.

11       Instead, the Department has replaced the monolith  
12 of punitive segregation and solitary confinement with  
13 a plethora of alternative isolating measures imposed  
14 without the same due process, however imperfect is  
15 was for punitive segregation. And the names have  
16 changed, enhanced supervision housing, secure second  
17 chance solo, closed custody, MDC 9 South Separation  
18 Status, all of them are forms of isolation and  
19 deprivation with the potential for serious harm and  
20 there is no evidence that they actually address the  
21 issues of violence raised today.

22       And the Department will not solve this problem on  
23 its own, as is clear from their testimony today.  
24 They don't believe they are even using solitary.  
25 They are worried that due process protections will

1  
2 result in complications to their ability to impose  
3 restrictions they want to impose. When they asked  
4 you for flexibility today, what they are asking for  
5 is discretion that history shows you they will use to  
6 default to isolation and deprivation.

7 That is the direction discretion goes in this  
8 Department which is why clear standards in any bill  
9 or regulation are essential.

10 SERGEANT AT ARMS: Time expired.

11 KAYLA SIMPSON: And we have given written  
12 testimony. I know my time is up. It is extensive  
13 there but I just want to reiterate the need for  
14 clarity in any bill that's passed to strengthen the  
15 goals that we know that this legislation intends. We  
16 look forward with you to working on that bill  
17 language. We appreciate you leadership which is what  
18 these times demand. Thank you.

19 COMMITTEE COUNSEL: I would like to now welcome  
20 Sergio De La Pava to testify followed by Mik Kinhead.

21 SERGEANT AT ARMS: Starting time.

22 SERGIO DE LA PAVA: Thank you. Good afternoon, I  
23 am the Legal Director of New York County Defender  
24 Services and we thank you for the opportunity to be  
25 heard on such a critical issue.

1  
2 I have testified here quite a few times on the  
3 various nuances and possible impacts of legislation  
4 being considered but never before has the proposed  
5 change carried such a clear ethical mandate. Our  
6 history is littered with discredited practices that  
7 we later look on with shame and wonder how a right  
8 thinking society could have encountered in such  
9 widespread harm to the powerless.

10 My 25 year career as a public defender has given  
11 me a close view of one such instance in mass  
12 incarceration. Today, we consider it a blay, a  
13 criminal justice world where Rikers averaged about  
14 15,000 inmates to today's less than 5,000. What kind  
15 of social sickness had taken hold and powerfully  
16 victimized our most vulnerable citizens. We now feel  
17 shame about mass incarceration and are scrambling to  
18 rectify its severe injustices.

19 I predict that our current common place used of  
20 solitary confinement will likewise one day produce a  
21 similar phenomenon because we can use all the crafty  
22 euphemisms we like, administrative segregation,  
23 lockdown, punitive isolation, the hole, the ben. We  
24 cannot change the essence of what we are talking  
25 about today.

1  
2 State sanctioned and state imposed psychological  
3 torture on individuals whose human rights have been  
4 stripped away by force. Our written testimony sets  
5 forth just some of the vast psychosocial and  
6 neuroscientific literature on the inherent cruelty of  
7 this illegitimate practice.

8 The studies confirm what we surely know  
9 intuitively. The intentional infliction of mental  
10 and psychological injuries like Post Traumatic Stress  
11 Syndrome, is deeply immoral. The only real solution  
12 is to immediately and entirely discontinue the  
13 practice.

14 Of course, I am moved by the account of officers  
15 who have been subjected to violence at penal  
16 institutions. It is always painful to contemplate  
17 human beings being intentionally harmful to each  
18 other and I understand the visceral desire for  
19 retribution but a society has to be more civilized in  
20 the worst acts of its citizens.

21 SERGEANT AT ARMS: Time expired.

22 SERGIO DE LA PAVA: Encountering physical with  
23 extreme and during psychological violence reduces the  
24 moral authority of our society. It is also  
25 ineffective.



1  
2 We must ask ourselves what kind of individuals we  
3 want returning to our society for following  
4 incarceration. Do we want people who have been  
5 subject to psychological damage trying to reform  
6 their lives and contribute as members of society? I  
7 have spoken to many such people who decades later  
8 described battling disruptive symptoms stemming from  
9 even limited confinement.

10 So, any step in this bill is welcome but only a  
11 complete ban could match our moral imperative on this  
12 subject. Thank you.

13 COMMITTEE COUNSEL: I would like to now welcome  
14 Mik Kinkead to testify.

15 SERGEANT AT ARMS: Starting time.

16 MIK KINKEAD: Thank you. My name is Mik Kinkead.  
17 I use he, him pronouns. I am a White transgender man  
18 and an Attorney in New York City. Until the  
19 pandemic, I taught classes at RMSC twice a week  
20 rotating between the General Population Unit and the  
21 Special Consideration Unit, which is a unit at RMSC  
22 where transgender people are often housed. In  
23 particular transgender women.

24 This is the same place where Ms. Polanco was  
25 held. Where she was denied proper care. Where she

1  
2 eventually died and then was laughed at by the  
3 Department of Corrections.

4 I am testifying today only in my individual  
5 capacity but I am an individual who both goes into  
6 the jails as a civilian and also could potentially  
7 one day be held in the City jails. And so, I am  
8 thinking about this from multiple different angles.

9 I fully support 217-32020 and the full ending of  
10 solitary confinement. It was promised by the Mayor  
11 in July. I had hearings where I testified last year  
12 before the Board of Corrections and I brought  
13 statements from at the time 6 incarcerated  
14 transgender women to talk about their experiences in  
15 any kind of restrictive housing.

16 So, we have mentioned the language game a few  
17 times but the issue of whether it is restrictive  
18 housing, protective custody which also is included  
19 here, solitary confinement or anything else that the  
20 Department chooses to call it. Any kind of  
21 separation, isolation and denial to access to  
22 meaningful services, is a form of torture.

23 I am really, I want to share what Council Member  
24 Rivera said about the lack of preparation from the  
25 Department of Corrections. The inability for them to

1  
2 talk about the number of incidences of self-harm or  
3 suicide attempts was really unforgiveable knowing  
4 that they had just recently had someone die on their  
5 hands for who better work with medical could have  
6 prevented such a death.

7 We also have heard from Council Member Holden  
8 that we haven't heard from the victims.

9 SERGEANT AT ARMS: Time expired.

10 MIK KINKEAD: But you have heard from the victims  
11 because people who survive solitary confinement are  
12 victims. And those of us who then go onto work with  
13 folks who come home from solitary confinement in our  
14 neighborhoods, in our churches, wherever it is that  
15 we work with them, we also carry that secondary  
16 trauma that last for the rest of life. Thank you.

17 COMMITTEE COUNSEL: Thank you. I will now turn  
18 it over to questions from Chair Powers.

19 CHAIRPERSON POWERS: Thank you. A number of  
20 great testimonies, so I don't want to call anybody  
21 out by names to answer this question but you know, I  
22 think we heard a couple things just about legislation  
23 specifically and obviously the Board is considering  
24 this. They are going to be looking at these  
25 questions to around leaving definitions such that

1  
2 practice and operations can undermine intention.  
3 Does anyone want to speak a little bit more about  
4 that, about that concern in terms of – I share, I  
5 think we discussed earlier which is that we have  
6 practices that are solitary confinement in name, I  
7 mean maybe not in name but in practice. But I wanted  
8 to just ask the question related to you know,  
9 defining or writing, rulemaking or legislation such  
10 that you leave gaps in the operations of the jails  
11 that would allow for continued practice that is  
12 contrary to the intention here.

13 I think some of the earlier folks who testified  
14 might be able to speak to that because I think they  
15 had raised it.

16 JULIA SIMPSON: I can speak to one example that I  
17 was going to include, which is just around out of  
18 cell time. So, we hear from clients frequently that  
19 officers will open the cells before dawn, sort of in  
20 the middle of the night to start out of cell time but  
21 without announcing themselves or waking up any of the  
22 incarcerated people and of course, they don't have  
23 alarm clocks or any mechanism to wake themselves up  
24 unless they are out of cell time is cut into  
25 significantly while they are still asleep.

1  
2           So, just when 4 hours is the stated rule, they  
3 may only actually get 1 hour or 2 hours. So, for  
4 that reason, we are pushing for 14 hours to guarantee  
5 that they actually get true out of cell time.

6           CHAIRPERSON POWERS: I don't think anybody else  
7 wanted to add to that. I also would just ask on the  
8 disciplinary hearings for anybody that's worked in  
9 that area or has any sort of experience here, it  
10 feels like the process described is sort of fairly  
11 uncomplicated and somewhat self-explanatory to a  
12 person going through it. Does anybody have any  
13 experience related to that, that can share any  
14 feedback on those feelings that were shared by the  
15 Department of Corrections earlier?

16           KAYLA SIMPSON: Well, first I just wanted to  
17 address your first question also Council Member.

18           CHAIRPERSON POWERS: Sure, sure.

19           KAYLA SIMPSON: So, you know, one of the reasons  
20 that we have advocated for a definition, not just of  
21 punitive segregation or solitary but restrictive  
22 housing more broadly to be a functional one, not just  
23 what a unit is called or what the department says  
24 that the purpose is. Is because there are many, many  
25 units that don't even have names within the

1  
2 department that are restrictive and are deprivations  
3 and I can give you one example of that. MDC9 South,  
4 I think I referenced it. It doesn't have a name like  
5 enhanced supervision housing. It is incredibly  
6 isolating. It is cell housing where the day room is  
7 just a bigger cage outside of each 2 cells.

8       So, you can't interact with anymore than one  
9 person, even in the time that you are locked out of  
10 your cell and what's really disturbing about that  
11 unit is that it houses primarily people who are  
12 excluded from punitive segregation because of  
13 evidence based reasons like mental health, because  
14 they have already been maxed out. The amount of time  
15 they could be in punitive segregation but the  
16 department views them as problematic, as a challenge  
17 and the way that they chose to address that challenge  
18 is to put them in that setting.

19       And there is no process to get in. There is no  
20 process to get out. People are just held there at  
21 infinite and we hear from them all the time and we  
22 also hear that there is a really heavy emergency  
23 services unit present there where they are subject to  
24 daily abuses. Like strip searches every time they  
25 even want to leave for a counsel visit.

1  
2           So, it's really serious and when we advocate for  
3 a functional definition, that's why because we want  
4 to define restriction based on the experience of the  
5 person living there, not just what the department  
6 says that that unit is.

7           So I just wanted to -

8           CHAIRPERSON POWERS: I think we agree with that  
9 which is visit practice not the name and I think even  
10 the debate over what we call stuff that we were  
11 having earlier, is sort of part of that debate. That  
12 you can call something anything you want but really  
13 what we care about is the standards and the practice  
14 of it.

15           Did anybody want to - did you want to add to the  
16 disciplinary part of that? I am sorry to interrupt  
17 you.

18           KAYLA SIMPSON: Oh, no, no, no, it's a welcome  
19 interruption. No, I think it's - the reason we are  
20 having a hard time answering this in some ways is  
21 because I do not thin it is uncomplicated. It might  
22 be uncomplicated for the entities seeking to impose  
23 restriction and I am sure that they would like to  
24 streamline that process and not present a lot of due  
25 process barriers that would pose difficulties and

1  
2 then being able to impose whatever restrictions they  
3 want to impose but I think it's complicated. I think  
4 people have a really hard time navigating it. The  
5 directive is not easy to understand even for people  
6 who have law degrees and some of these units don't  
7 even have directives that govern any process.

8       And then the other thing I wanted to reference  
9 and make sure I hit on is, a lot of times we hear  
10 from people in custody that DOC staff are saying that  
11 they refused a hearing or they refused a medical  
12 visit or they refused a counsel visit when they  
13 weren't even offered those things. Or when they  
14 said, can you give me a minute and that was marked as  
15 a refusal. And so, that's one of the reasons in our  
16 written comments, we emphasize the importance of  
17 ensuring evidence of a meaningful refusal and that is  
18 not just that someone says they don't want to come  
19 but they have been instructed of the consequences if  
20 they don't come.

21       So, I think that's just one of many things that  
22 you know, and I don't think anyone should accept the  
23 role of a DOC hearing facilitator as the kind of  
24 advocate necessary to guide someone through this  
25



1  
2 complicated process. I don't think that those goals  
3 are aligned.

4 I don't know if anybody else wants to add.

5 SERGIO DE LA PAVA: I would just very briefly  
6 also like to add that you know, push back against  
7 this that some of the panelists need to create  
8 between the use of segregation and no consequences  
9 for criminal action behind bars. You know, the penal  
10 law is not suspended on Rikers Island. If an inmate  
11 commits a crime, they are charged with it and often  
12 charged with violent felonies and brought to court  
13 and face a lot more exposure to potential sentencing.

14 So, there is not this you know, kind of thought  
15 that you know, if you do away with these kind of  
16 practices, then suddenly there are no consequences  
17 for assaulting corrections officers, is plainly  
18 false.

19 KELSEY DE AVILA: Yeah and I would also like to  
20 add you know, I know the bill talks about having  
21 Counsel present or also expanding that to a legal  
22 advocate, a social worker or a paralegal. I know  
23 from BDS, we have experienced, it was mentioned that  
24 we had a young woman who she was told by a Correction  
25 Officer during a hearing, say, hey, look if you just

1  
2 plead guilty, no big deal. You know, we won't give  
3 you red ID status but we will just give you a couple  
4 of days. We won't give you the full days of  
5 solitary. You know and she said okay and she plead  
6 guilty and DOC turned around and they filed charges  
7 against her and without an advocate, without someone  
8 there to be there with her, this may have had a  
9 different outcome. But also having an advocate  
10 council there, it also provides you know, some  
11 accountability on the Department to actually hold a  
12 hearing because like my colleague Kayla Simpson said,  
13 they are not happening.

14 I met with two people just this week via video  
15 who said they did not have a hearing and they have  
16 been in solitary for well over a week.

17 CHAIRPERSON POWERS: Got it, thank you. I am  
18 going to hand it over to Council Member Dromm who has  
19 his hand up and who has questions.

20 SERGEANT AT ARMS: Starting time.

21 COUNCIL MEMBER DROMM: There we go. Thank you  
22 very much. It's more of an observation. Thank you,  
23 you speak much more eloquently. These attorneys that  
24 have just spoken then I do. You know, I get  
25 emotional because I have had family members in

1  
2 solitary and I know the negative consequences on  
3 people's lives and one of the last witnesses I  
4 believe spoke about protective custody as well. Can  
5 you explain for us why protective custody is solitary  
6 as well? Is our last witness, are you still with us?

7 I guess not, but anyway -

8 MIK KINKEAD: No, I am.

9 COUNCIL MEMBER DROMM: Oh okay, sorry.

10 MIK KINKEAD: Sorry, I wasn't able to unmute  
11 myself. Yeah, so the practice of protective custody  
12 where individuals are kept away from a general  
13 population and without the same level and intensity  
14 of access to programming and often having transferred  
15 jails. So, that means that they may have lost  
16 contact with whatever programming they were involved  
17 in has the same kinds of ongoing effects and has very  
18 little positive. I think one of the questions that  
19 was asked earlier, is there proof that solitary  
20 confinement helps to reduce acts of violence?

21 And I think likewise, we can ask the question of  
22 whether or not protective custody help to keep people  
23 safe. I worked with a young transgender woman who  
24 was immediately raped upon coming into protective  
25 custody. And so, no, it did not keep her safe and

1  
2 the lack of actual having civilians in those areas.  
3 The lack of having more ongoing access to outside  
4 resources means that such as that can happen with  
5 very little witnesses and very little consequences.

6 COUNCIL MEMBER DROMM: Thank you.

7 CHAIRPERSON POWERS: Great, I think that was it?  
8 Okay, thank you Council Member. Thank you to all the  
9 folks here testifying and appreciate your comments  
10 and recommendations related to legislation. I know  
11 Council Member Dromm who has a bill appreciates those  
12 as well.

13 So, thank you and please continue to safe and  
14 healthy. We will call our next panel. Thanks.

15 COMMITTEE COUNSEL: I would like to now welcome  
16 Janos Marton to testify.

17 SERGEANT AT ARMS: Starting time.

18 CHAIRPERSON POWERS: I think we have to unmute  
19 Janos here. There he is.

20 JANOS MARTON: There we go. Thank you all so  
21 much. So, my name is Janos Marton and I am a Civil  
22 Rights Attorney running for Manhattan DA and I am  
23 really happy to be here for this important  
24 conversation. I thank all my colleagues who have  
25 testified and thank especially Chairman Powers for

1  
2 putting this together and to Council Member Danny  
3 Dromm who has been such an outspoken leader on  
4 conditions on Rikers. Prior to my current run for  
5 DA, I ran the Close Rikers Campaign 2016 and 2018 and  
6 Council Member Dromm was the first Council Member to  
7 publicly call for the closure of Rikers and has been  
8 on this beat for a long time.

9 It was during that campaign that I was able to  
10 visit the units that we are talking about today and  
11 it was part of the Mayor's tour of Rikers, the  
12 advocates, suggesting that maybe Rikers could be  
13 reformed instead of closed.

14 I have to say that that tour did more to assure  
15 me that we need to close Rikers and that in fact  
16 today's conversation has assured all of us, I would  
17 hope that we need to close Rikers faster not slower  
18 and it was seeing these units that definitely put me  
19 over the top. There is no way to do solitary in a  
20 humane way. These units were some of most dreadful  
21 places I have ever seen in my life. I would  
22 certainly not have the composure to last there more  
23 than a couple of days let alone weeks and what  
24 Council Member Levin alluded to earlier is absolutely  
25 correct. That even the common out of cell areas in

1  
2 these units are equally bleak. They are tiny,  
3 cramped, winded, you know air and light and hardly  
4 better than the place where people are trapped for  
5 the most part.

6 So, I think it's important to remember when we  
7 get lost in these clinical conversation about number  
8 of hours and processes that when an ideas moral time  
9 has come, we just need to move forward with it as a  
10 City and then work on policies from there. I think  
11 we have long come to the conclusion as a City that  
12 solitary confinement is not in line with our values  
13 as New Yorkers and it is time to do something clean  
14 and simple, like pass Council Member Dromm's  
15 legislation.

16 I have also as DA that I will not prosecute  
17 anyone being tortured under solitary but I hope that  
18 my policies are rendered unnecessary because of the  
19 work of the City Council or the Board of Correction  
20 which ever does it work quickest. Thank you.

21 CHAIRPERSON POWERS: Thank you. I appreciate  
22 your testimony. Thank you for waiting as well. I  
23 know this has been a long hearing and your work on  
24 the Close Rikers Campaign which was important and  
25 historical to organize around that. So, thank you

1  
2 for being here and thank you for waiting through  
3 this.

4 I am going to have the Committee Counsel call the  
5 next panel and just call a few names at a time, just  
6 so people have an opportunity to know when they are  
7 coming up.

8 COMMITTEE COUNSEL: I would like to now welcome  
9 Jennifer Parish to testify followed by Darren Mack  
10 then Zachary Katznelson.

11 SERGEANT AT ARMS: Starting time.

12 JENNIFER PARISH: Good afternoon. Thank you  
13 Council Member Dromm for putting forth a plan for  
14 ending solitary confinement. In the last five years  
15 we have learned much about the challenges of bringing  
16 about meaningful change to DOC practices. After the  
17 Board of Correction adopted rules prohibiting the use  
18 of solitary for 16 to 21 year old's. DOC developed  
19 other forms of restrictive, degrading, dehumanizing  
20 units. For example, they place young adults in a  
21 restrictive unit where they are shackled and  
22 restraint at desks for the 7 hours they are allowed  
23 out of their cell.

24 Because of this and other efforts to circumvent  
25 meaningful change. The Council's legislation must

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clearly define what is prohibited and what is required. For this bill to succeed, we need some essential revisions identified by the Solitary Campaign and the Jails Action Coalition. In particular, its essential that DOC not be allowed to restrict out of cell time in any units created to separate individuals. Limiting out of cell time creates a punitive environment and we know that punishment doesn't work. The Correction Officers union objects to ending solitary confinement because it is a tool they believe they need to ensure order in the facility and punish those who engage in violent conduct.

This objection is coming from a workforce and department that have perpetuated a culture of brutality within the jail for decades. Despite being under a court order to reduce excessive use of force brutality has only increased. The federal monitor attributes this hyper confrontational staff behaviors and overreliance on jail riot squads. Clearly the punitive approach is not working. In fact, Dr. James Gilligan who researches violence has written far from preventing violence punishment is the most powerful



1  
2 stimulus to violent behavior that we have yet  
3 discovered.

4 This Council's legislation must require a new  
5 approach in talking about the solitary reforms that  
6 Colorado has implemented, advocates with lived  
7 experience of solitary who have observed those units  
8 there and talked to incarcerated people -

9 SERGEANT AT ARMS: Time expired.

10 JENNIFER PARISH: Comment on the way Correction  
11 staff interact with incarcerated people. The respect  
12 they showed people, not inmates, addressing them by  
13 name, recognizing their humanity. They have not only  
14 limited the use of solitary but transformed culture.  
15 That's what we need here. This bill can be the  
16 beginning of addressing the most egregious DOC  
17 practices and fully implementing it will require the  
18 Department to move away from the punishment paradigm  
19 and begin treating people in custody, even those who  
20 are engaging in problematic behavior with dignity and  
21 respect. Thank you.

22 COMMITTEE COUNSEL: I would now like to welcome  
23 Darren Mack to testify followed by Zachary Katznelson  
24 then Scott Paltrowitz.

25 SERGEANT AT ARMS: Starting time.

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2           DARREN MACK: Thank you so much everyone. Thank  
3 you so much City Council Members. City Council  
4 Member Powers for putting together and Council Member  
5 Dromm for your years of work on this issue.

6           My name is Darren Mack, I am a Co-Director of  
7 Freedom Agenda, which is a member led project  
8 dedicated to organizing people and communities  
9 impacted by incarceration to achieve decarceration  
10 and system transformation.

11           I am also a survivor of Rikers Island and  
12 solitary confinement. In the words of Nelsen  
13 Mandela, a nation should not be judged by how it  
14 treats its highest citizen but its lowest ones.

15           We are not here today because DOC or COBA brought  
16 this issue to the table. It was advocates, directly  
17 impacted people and their allies who raised the issue  
18 of solitary confinement and other issues to end the  
19 torture and brutality of this system which Bryan  
20 Stevenson brutally stated treat you better if you are  
21 rich and guilty than if you are poor and innocent.

22           There is one thing that COBA union president said  
23 himself that I agree with and that is DOC is a mess  
24 and COBA hired agents of this mess who has  
25

1  
2 perpetuated this violence with its code of silence  
3 over the abuses of incarcerated people.

4 My experience in solitary confinement, walking  
5 into the unit, I observed one cell which was the only  
6 cell covered in plexiglass. The plexiglass was  
7 smeared with so much feces from the inside, you could  
8 barely see the person in the cell. Clearly there was  
9 a person experiencing serious mental health issues in  
10 that cell.

11 People with serious mental health issues in  
12 solitary confinement was a normal practice by DOC. A  
13 few months ago, I participated in advocating for the  
14 in the solitary confinement and I heard Kate  
15 Andirshel[SP?], Founder and Executive Director of  
16 GLITZ[SP?]. A transgender woman describe how  
17 transgender women are subjected to solitary  
18 confinement -

19 SERGEANT AT ARMS: Time expired.

20 DARREN MACK: To effectively end solitary, there  
21 should be no carve outs. Every incarcerated person  
22 must have a minimum of 14 hours out of the cell in  
23 light of the current minimum standard of people in  
24 jail to generate.

1  
2           Lastly, I encourage the City Council to support  
3 and pass legislation with the highest standards which  
4 is reflected in the blueprint but end this solitary  
5 confinement in New York City jails submitted by the  
6 New York City Jails Action Coalition and the HALT  
7 Solitary Campaign. Thank you.

8           COMMITTEE COUNSEL: I would now like to welcome  
9 Zachary Katznelson to testify followed by Scott  
10 Paltrowitz and then Minister Dr. Victoria Phillips.

11           SERGEANT AT ARMS: Starting time.

12           ZACHARY KATZNELSON: Good afternoon. I am  
13 Zachary Katznelson, Policy Director at the Lippman  
14 Commission. Thanks for the chance to testify. We  
15 are very appreciative that alongside the Board of  
16 Corrections, City Council is tackling solitary.  
17 Everyone's attention to this issue is critical. We  
18 need consensus to ensure that whatever follows after  
19 solitary is fully and faithfully implemented.

20           I have worked for 20 years in jails and prisons.  
21 During that time, I met with hundreds and hundreds of  
22 people in solitary. I have seen the damage it  
23 inflicts. It breaks people and there are much  
24 better, smarter, more humane ways to hold people  
25 accountable and reduce violence.

1  
2 Solitary in all its forms with the answer to  
3 violence in our jails, it would remarkably safe  
4 places already. But of course unfortunately that's  
5 not the case at all. Please remember also that when  
6 the Nunez case started, almost a decade ago, 2011,  
7 the jails were already marked then by levels of  
8 violence so egregious that they violated the US  
9 Constitution.

10 So, violence has not been low at Rikers for a  
11 long, long time. Maybe not ever and if changes to  
12 solitary were to blame, recent changes in the last  
13 few years. If that were the problem then we would  
14 see similar spikes in violence, similar rise in  
15 violence in Chicago and Colorado and other places  
16 that have taken on these same type of reforms but  
17 there, the levels of violence have dropped  
18 significantly when solitary has been restricted.

19 Because it seems like the real problem here is  
20 how our jails, New York City jails, are operated and  
21 run, how they managed. And so, while we absolutely  
22 believe that solitary needs to be tackled, this is  
23 critical. This is one piece of the puzzle and that  
24 what we really need is for everybody to look at how  
25 the Department is run. Can we think of a way as

1  
2 people said out of this mess because it is  
3 unacceptable that it continues, it can't wait for  
4 Rikers to be closed and as we all know, changing  
5 what's on paper will not actually change what happens  
6 on the ground. We have got to change mindset and  
7 with real accountability. Thank you so much.

8 COMMITTEE COUNSEL: I would like to now welcome  
9 Scott Paltrowitz to testify followed by Minister Dr.  
10 Victoria Phillips then Daniele Gerard.

11 SERGEANT AT ARMS: Starting time.

12 SCOTT PALTROWITZ: Thank you for the opportunity  
13 to testify and thank you Council Member Dromm for  
14 being a longstanding champion for ending solitary  
15 confinement. Let us be clear, what we are talking  
16 about today is a systematic government program of  
17 torture that is predominantly inflicted on Black and  
18 Brown New Yorkers and too often transgender and  
19 gender nonconforming people.

20 And this system of torture has been going on for  
21 years and decades in full and plain view that we are  
22 all aware of. It is a system that has damaged and  
23 destroyed countless minds and bodies that has  
24 increased violence and harm in jails and in our  
25

1  
2 outside communities and has directly caused the  
3 deaths of far too many people.

4 Solitary causes people to engage in self-  
5 mutilation. It causes heart disease, it causes  
6 anxiety, depression, psychosis. It leads people to  
7 deteriorate mentally, physically, behaviorally. It  
8 makes jails and outside communities less safe.

9 Solitary confinement should have ended so long ago.  
10 It must end now and it must fully end.

11 Let us also be clear that when we are talking  
12 about people incarcerated in New York City jails, we  
13 are speaking about human beings. Again, mostly Black  
14 and Brown and poor people being forcibly removed from  
15 their families, their jobs, their neighborhoods,  
16 their communities, their loved ones. We are speaking  
17 about human beings even a part from solitary  
18 confinement being put in cages and boxes, subject to  
19 brutality and strip searches and a system that  
20 attempts to strip them of their agency and their  
21 humanity. Which is why it is so imperative that at  
22 the very least to effectively end solitary  
23 confinement, the basic minimum standards that already  
24 apply to people generally in the City jails must  
25 apply to everyone in the City jails.

1  
2 Those minimum standards that already exist, say  
3 that people should have access to at least 14 hours  
4 out of cell per day. And so, as long as people are  
5 held in New York City's jails, that standard must  
6 apply to all people in City jails. There must be no  
7 carve outs to this basic minimum standard.

8 SERGEANT AT ARMS: Time expired.

9 SCOTT PALTROWITZ: And there should be no  
10 loopholes that provide the opportunity to place  
11 people in what amounts to solitary by another name.

12 I know I am out of time but I just would say that  
13 the City Council has an historic opportunity. This  
14 is a moment where you as law makers have the  
15 opportunity to rise to the occasion, do what is right  
16 and finally and fully end this practice that has  
17 destroyed far too many minds and taken far too many  
18 lives. An opportunity like this may not come along  
19 for a long time, so I urge you, I appeal you to  
20 marshal your best selves and to do what is right.  
21 End solitary now and end it fully. Thank you.

22 COMMITTEE COUNSEL: I would now like to welcome  
23 Minister Dr. Victoria Phillips to testify followed by  
24 Daniele Gerard then Anthony Dixon.

25 SERGEANT AT ARMS: Starting time.



1  
2           MINISTER DR. VICTORIA PHILLIPS: Peace and  
3 blessings everyone. I am Dr. Phillips; everyone  
4 knows me as Ms. V. and I have been a long standing  
5 member of the Jails Action Coalition because of what  
6 I directly witnessed while working behind the  
7 Correction walls. And I have been working behind the  
8 walls of Rikers and DOC facilities for at least the  
9 last decade in various different positions. My last  
10 time physically being on Rikers was in March doing  
11 monitoring for Brad H.

12           So, let me clear, having worked in nursing and  
13 mental health and criminal league system for over 20  
14 years, in various different situations, I know how to  
15 address or respond to all populations in society  
16 without creating harm. And I just want to point out  
17 some things today.

18           Commissioner Brann said over 14,000 cameras are  
19 on the Island right now but no one asked her how many  
20 are working or how many cover all the blind spots.  
21 Please find that data out.

22           She also mentioned 28 or 29 days to change a  
23 behavior. Yeah, it's been about five years of Nunez  
24 reports coming in and DOC has yet to change their  
25

1  
2 culture or their behavior. Please hold them  
3 accountable for that.

4 She also mentioned that one of the most dangerous  
5 populations is the young adults yet being on the  
6 advisory board for the Department of Corrections,  
7 adolescents and young adults and the adults for at  
8 least the past six and a half years, I know for a  
9 fact Commissioner Brann has never met with us. I  
10 have even asked DOC directly for her to attend the  
11 meetings and I know for a fact that DOC has never  
12 outreached any of us on that Board this entire year  
13 on pandemic.

14 So, hold her accountable because that's the most  
15 dangerous population. Why is she not reaching out to  
16 the Advisory Board to push things further and make  
17 things happen?

18 I also want to point out that Chief Jennings has  
19 also testified to BOC that 40 PPE masks are brought  
20 to each unit but many units have 48 to 49 people, so  
21 how is everyone being protected during this COVID  
22 pandemic? Make it make sense.

23 I also want to point out, last year 911 received  
24 over 200,000 calls concerning mental health crisis.

1  
2 DOC has a population right now of over 50 percent of  
3 people in their custody who have had a mental -

4 SERGEANT AT ARMS: Time expired.

5 MINISTER DR. VICTORIA PHILLIPS: Contact with a  
6 mental health professional. Follow up on that  
7 because many of those people end up in solitary  
8 confinement because of the lack of training around  
9 DOC officers to understand when someone is  
10 decompensating or needing medical attention. There  
11 is so much more I can say. People are missing  
12 medications, missing their appointments. DOC, even  
13 the Board of Corrections is losing their funding and  
14 losing their staff to follow up with what DOC is  
15 doing. Make sure you pass a bill, pass a law, free  
16 of all loopholes that will hold them accountable.

17 Council Member Dromm, I have been riding with you  
18 since we released the youth for 16 to 21 year old's.  
19 Everyone is saying this is rushed, this is not  
20 rushed. I respect it. I thank you for bringing this  
21 bill. I thank you for holding DOC and COBA  
22 accountable and I am going to stand with you as long  
23 as your mission does not change and that you agree to  
24 end torture. You all stay blessed.

1  
2 COMMITTEE COUNSEL: I would like to now welcome  
3 Daniele Gerard to testified followed by Anthony  
4 Dixon, then Corey Brinson.

5 SERGEANT AT ARMS: Starting time.

6 DANIELE GERARD: Council Member Powers, committee  
7 members, I am Daniele Gerard, a Senior Staff Attorney  
8 at Children's Rights. Since 1995, Children's Rights  
9 has been a national advocate for youth and state  
10 systems. We remain deeply concerned with the current  
11 bills omission of safeguards for young adults.  
12 Solitary confinement is torture. It should be  
13 abolished outright, no matter the euphemism. As a  
14 member of the New York City Jails Action Coalition,  
15 Children's Rights supports the coalition and HALT  
16 Solitary campaigns blueprint to end this barbaric  
17 practice. We have several specific concerns with the  
18 bill first. No one incarcerated in New York City's  
19 jails should have less than 14 hours out of cell time  
20 per day. Young adults should never be placed in any  
21 form of restrictive housing, not enhanced supervision  
22 housing, not secure unit, not separation status  
23 housing.

24 Second, the bill allows incarcerated persons to  
25 remain in restrictive housing for 15 days at a time

1  
2 and up to 4 months in a year. This does not abolish  
3 solitary confinement but codified it into law.

4 Third, for any separation from the general jail  
5 population, there must be narrowly defined criteria  
6 for what conduct can result in placement into  
7 isolation, restrictive housing and emergency lock in.  
8 There must be specific uniform due process and  
9 procedural safeguards including access to council.  
10 This is particularly true for the separation of young  
11 adults for de-escalation purposes.

12 Fourth, all Department of Correction personnel,  
13 not just staff in restrictive housing units should be  
14 trained in de-escalation techniques, conflict  
15 resolution, use of force and related topics to  
16 address the needs of all incarcerated persons,  
17 including young adults, especially given that more  
18 than half of incarcerated persons have symptoms of  
19 mental illness.

20 We urge the Committee to reinstate the 14 hours  
21 minimum out of cell time. Provide uniform and  
22 adequate due process provisions and narrowly define  
23 terms like emergency lock in to avoid their arbitrary  
24 use to perpetuate solitary confinement. People  
25 incarcerated in New York City jails -

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SERGEANT AT ARMS: Time expired.

DANIELE GERARD: And if I could just add one sentence, I think we all know the definition of insanity, continuing to do the same thing expecting a different outcome and unfortunately, this is what is going on on Rikers and in the City jails today. Thank you.

COMMITTEE COUNSEL: I would now like to welcome Anthony Dixon to testify followed by Corey Brinson, then Eliel Cruz.

SERGEANT AT ARMS: Starting time.

ANTHONY DIXON: Honorable members of this Committee, thank you for the opportunity to testify on the Civil Rights issue of our day. I am the Director of Community Engagement at the Parole Preparation Project. I am tasked with the responsibility to interface with policy makers on punitive incarceration bill, train attorney's to prepare individuals for successful parole interviews and help individuals released from incarceration make a successful transition.

Without deconstructing the term punitive segregation, solitary confinement can be summarized as having three components. A racial component in

1  
2 the era of Black Lives Matter, solitary confinement  
3 cannot be divorced from this discussion.

4 A recent investigation found that generally non-  
5 White incarcerated people are punished twice as often  
6 as Whites, placing solitary confinement twice as  
7 often and are held there for longer periods of time.  
8 And they are also subject to the use of brutal force  
9 by Correctional guards.

10 Analysts to the punitive paradigm in our legal  
11 system, there is a racial bias in the practice of  
12 solitary confinement when it comes to people of color  
13 in correctional settings. Consistent with that  
14 finding, it appears that when Black people commit  
15 violent acts, they are demonized as thugs, sociopaths  
16 and placed in isolated dog like cages and given  
17 drugs. When Whites commit violent acts, they are  
18 deemed sick and in need of therapy.

19 An economic component, it is common knowledge  
20 that traditionally solitary confinement environments  
21 are seen as economically viable. With the prospect  
22 of prison guards and prison unions, a lockdown  
23 environment –

24 SERGEANT AT ARMS: Time expired.  
25

1  
2 ANTHONY DIXON: Is a perfect cash flow for  
3 working labor. I would lastly say that mounting  
4 studies show that solitary confinement leaves people  
5 worse, more hostile than how they entered. I would  
6 ask that this Committee at this day and time, look at  
7 the evidence that solitary confinement has no proof  
8 to curve violence. No proof that it addresses the  
9 underlying issues and no proof that it can help  
10 someone become prosocial and that dogs are given more  
11 time out of their setting and treated better than  
12 human beings are treated inside our facilities.  
13 Thank you.

14 COMMITTEE COUNSEL: I would like to now welcome  
15 Corey Brinson to testify followed by Eliel Cruz then  
16 Mateo Guerrero.

17 SERGEANT AT ARMS: Starting time.

18 COREY BRINSON: Hello, my name is Corey Brinson.  
19 I am a Policy Associate with the Legal Action Center.  
20 The Legal Action Center uses legal and policy  
21 strategies to fight discrimination, build health  
22 equity and restore opportunity for people with  
23 arrests and conviction records, substance use  
24 disorders and HIV or AIDs.  
25



1  
2 I am testifying in favor of eliminating the  
3 practice of solitary confinement in New York City  
4 jails. I have endured difficult times in my  
5 lifetime. I have endured the high crime out of city  
6 neighborhood, was stationed in Saudi Arabia with the  
7 United States Airforce on September 11, 2001 and I  
8 reacted to the alarms indicating that we were at war.

9 But the most difficult experience I have ever  
10 endured is being held in solitary confinement for  
11 several days. That experience of living in a cell,  
12 which was a size of a large closet, with no clock,  
13 lights that went off at midnight, no privacy for  
14 sleeping, showering and being fed through a slot in  
15 my door, was psychological torture.

16 It would tell a lot about a country by how it  
17 treats the people incarcerated. Placing people in  
18 solitary confinement for any extended period of time,  
19 is immoral, unethical and should be unlawful. People  
20 need meaningful social interactions with other people  
21 to maintain their mental health. People in prison  
22 already isolated from society, isolated from the  
23 communities and their families and when they are  
24 placed in solitary confinement, they are essentially  
25 buried alive.

1  
2 Placing people in that setting says more about us  
3 as a society, as lawmakers, as community than what it  
4 says about the people behind those walls. I  
5 acknowledge that we have made strides to reduce the  
6 number of people being subjected to this practice but  
7 one person in solitary confinement is one too many.

8 In this law, we treat animals better than people  
9 in prison. Under New York Law Section 356, a person  
10 who has impounded or confined an animal and refuses  
11 to provide that animal with a good supply of  
12 wholesome [LOST AUDIO 3:59:35] by prison.

13 SERGEANT AT ARMS: Time expired.

14 COREY BRINSON: [LOST AUDIO 3:59:40- 3:59:49] a  
15 day. We cannot count this a law that treats people  
16 worse than they treat animals. Solitary confinement  
17 does just that for too many people.

18 There is an argument that this bill is moving too  
19 fast through the legislative process. For people who  
20 are cut off from any meaningful for other people,  
21 this bill is already too late. The Legal Action  
22 Center encourages you to immediately end solitary  
23 confinement in New York City jails.

24 COMMITTEE COUNSEL: I would like to now welcome  
25 Eliel Cruz to testify followed by Mateo Guerrero.

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SERGEANT AT ARMS: Starting time.

ELIEL CRUZ: Good afternoon Chair Powers and the entire Committee on Criminal Justice. My name is Eliel Cruz, I am the Director of Communications at the New York City Anti-Violence Project. I am here to urge you all to end solitary confinement for all. Without any carve outs with a minimum of 14 hours outside of cell time.

I have some longer written testimony that I will submit but for today, I would like to get this across. Solitary confinement is torture. You will hear this repeated again and again because it causes human suffering, it causes devastating and irreparable mental, physical and emotional harm. And those facing the brunt of this violence are Black, Latinx, transgender and gender non-conforming people. These are the facts but today I really want to urge you to listen to the survivors in solitary confinement in the victims families. Really sit with the pain in their voices as you listen to their experiences.

For over the last year, I have worked in my professional capacity to support the family of Layleen Polanco and telling her story on the national

1  
2 stage. I combed through every egregious detail of  
3 her arrest, incarceration and death. I have watched  
4 footage of Correctional Officers pass by the cell  
5 without adequately checking for signs of life. And I  
6 have pride over watching them open her cell doors and  
7 hunch over in laughter just moments before she was  
8 pronounced dead. No one deserves that. To be  
9 isolated and ignored, that is not a humane treatment  
10 of a fellow human being and jails routinely use  
11 solitary confinement under the guise of protective  
12 custody for trans people. But isolation is not  
13 safety, it's violence. Even the transgender housing  
14 unit which Layleen was in, separating survivors is  
15 violent when community isn't safety outside of jails  
16 and it is not safety inside of jail.

17 If it doesn't end now fully, I am certain we will  
18 all be back here in a few years, wishing we had acted  
19 sooner. The Council has the opportunity to make  
20 history today. It is time to end solitary  
21 confinement. Thank you.

22 COMMITTEE COUNSEL: I would like to now welcome  
23 Mateo Guerrero to testify.

24 SERGEANT AT ARMS: Starting time.

25

1  
2 MATEO GUERRERO: Hi, good afternoon. My name is  
3 Mateo, the TGNCIQ Lead Organizer at Make the Road. I  
4 am a transgender man but today I am here to read the  
5 testimony from Norma Retto[SP?] who is one of our  
6 members.

7 So, she says, Good morning. Thanks to all the  
8 City Council Members for holding this hearing. My  
9 name is Norma Retto, I am a leader with the Trans  
10 Immigrant Project at Make the Road New York. I am  
11 here to share my experience in the mistreatment that  
12 happened to me and to many of us as transgender  
13 communities when we are put in solitary confinement.

14 And on the importance of eliminating this  
15 practices of torture without any carve outs in our  
16 city.

17 In 2015, I was unjustly arrested and transferred  
18 to Rikers Island where I was put in the men's jail  
19 and later I was put in solitary confinement  
20 completely separated from the population. The excuse  
21 that they said to me is that in order to protect me  
22 they had to put me away from other people because I  
23 had breast and I had a feminine figure.

24 However, the reality that instead of protecting  
25 me, they traumatized me and this is a form of state

1  
2 violence. They locked me out for all day and for  
3 weeks on a schedule that was almost 24/7 in a very  
4 small cell that looked like a hole.

5 The cell was very cold and it was a punishment  
6 cell. The treatment was completely inhumane. I told  
7 them that I didn't want to be there. I begged them  
8 to take me out of the cells but they never listen me.  
9 It was as if I didn't exist.

10 Even when I asked them for medical attention,  
11 they never listened to me. They never gave me my  
12 hormonal treatment or respected my gender identity.  
13 What the officers would do was make fun of me all day  
14 long. There also did not let me call my family  
15 members or the LGBTQ organization. This form of  
16 isolation was not only physical but it was also  
17 mental and emotional.

18 This mistreatment and form of violence has caused  
19 many consequences on my body and when I was picked up  
20 by ICE and transferred to a detention center, my  
21 health worsened and I ended up in the hospital with  
22 pneumonia.

23 My story is not the only one here. I made it out  
24 alive.

25 SERGEANT AT ARMS: Time expired.

1  
2 MATEO GUERRERO: Layleen Polanco was a Latina  
3 transwoman who died in solitary confinement while  
4 being mocked by police officers. It is time for New  
5 York City to completely eliminate these practices of  
6 torture and solitary confinement without creating any  
7 exceptions or carve outs. And we need to make sure  
8 that stories like mine and Layleen's stories do not  
9 happen again. We need to protect trans and queer  
10 communities. Thank you.

11 COMMITTEE COUNSEL: I would like to now welcome  
12 Sammie Werkheiser to testify followed by Kelly Grace  
13 Price then Natasha White.

14 SERGEANT AT ARMS: Starting time.

15 SAMMIE WERKHEISER: Layleen Polanco, Layleen  
16 Polanco, Layleen Polanco, Layleen Polanco, that's  
17 Melania's sister. Layleen Polanco. I apologize  
18 Melania on behalf of all human beings who care that  
19 those Correction Officers who laughed about your  
20 sister. I apologize for them. I apologize for them  
21 as a human being and I think you should have been the  
22 first person to testify today.

23 Melania is here today. Since Commissioner does  
24 not consider solitary torture, please Ms.  
25 Commissioner, I am asking for you to prove that

1  
2 theory. I demand this year from December 23 to the  
3 30<sup>th</sup> for you and your entire family to house in  
4 solitary or punitive segregation, the cute little  
5 politically correct name all of you seem to use to  
6 make it sound better.

7 Mid-week, I request a Zoom live for you to check  
8 in your family and see how they are doing, see what's  
9 up with their wellbeing. Ms. Commissioner, I just  
10 really look forward to this project.

11 For the Council, for anyone watching, if you see  
12 solitary confinement as a Black problem, look at me.  
13 It is a human problem. I am hoping that I look like  
14 your niece. I am hoping that you pay attention.

15 For the Corrections Officers who complain about  
16 getting hurt, my solution to that, don't be a  
17 Corrections Officer. Also, to this Council, stop  
18 referring to people as inmates. They are just as  
19 impacted or incarcerated men and women.

20 My name is Sammie Werkheiser, I am a member of  
21 the Justice for Women Task Force, a Speaker for New  
22 York Campaign for Alternative to Isolated Confinement  
23 and an advocate for citizen action of Southern Tier  
24 New York Chapter. A Member of the NAACP and a Member  
25 of the Human Rights Campaign.



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I did a total of 54 months of incarceration.

SERGEANT AT ARMS: Time expired.

SAMMIE WERKHEISER: [LOST AUDIO 4:07:28] in my incarceration. Now, now, I will have you know there are lots of vacancies at my hotel tonight. I didn't get it. What hotel was this captain speaking of? Then I got it, he was referring to the segregated housing unit. The acronym for SHU or S-H-U. If the extent of your knowledge of hard time is a few viewings of Shashank Redemption, then you may have thought it was spelled S-H-O-E but no, now you know.

Anyways, that captain was joking of course but what stuck with me more was his jovial lackadaisical attitude. And almost pleasure throwing another incarcerated woman into SHU. He was making jokes. Friends, I did a total of 8 months in solitary. I tell people, think of your worst enemy. In your mind, place them in a cell the size of VW Beetle.

Okay, now, after four days of knowing that your worst enemy is still in the cell, probably you might peek around the corner to check to make sure that that enemy is you know, kind of alive and what not.

Well, that little check in exists because you are not evil. Maybe you want your worst enemy to suffer

1  
2 a little bit but I ask you, do you want that person  
3 to die? I feel like you don't. While in solitary,  
4 due to being placed in protective custody, I gave  
5 birth to my daughter at five months pregnant. Her  
6 twin brother survived but she lived only 22 minutes  
7 on my chest.

8 I am asking you not as a formerly incarcerated  
9 person but as a human being, please completely and  
10 totally eradicate solitary confinement. I survived  
11 solitary but these little footprints, my baby girl,  
12 Decenterain[SP?] did not.

13 Please put people in counseling. Let them heal.  
14 Use open dorm settings for the naughty kids. Put my  
15 incarcerated brothers and sisters in group therapy,  
16 painting classes, let them listen to music while they  
17 are blowing bubbles and let the puppies behind bars  
18 visit them.

19 This will heal our people. They can become  
20 better, not just bitter. Now, New York is a leader,  
21 you have all the power. I am not on the New York  
22 City Council but you are. It is Christmas, you can  
23 give the gift of humanity by changing policy. Even  
24 the Corrections Officers are traumatized by this

1  
2 practice. They have guilt. They are telling you  
3 this.

4 Stop solitary now and lastly, I want to give the  
5 Commissioner this crayon and this coloring sheet.  
6 This concludes my testimony.

7 COMMITTEE COUNSEL: Thank you. Per request of  
8 Chair Powers, we are actually going to ask Melania  
9 Brown to testify now if you are ready.

10 CHAIRPERSON POWERS: And before we start, I just  
11 want to, I agree and I apologize that if I know that  
12 Ms. Brown was here, I would have had her testify at  
13 the beginning of the hearing to talk about her sister  
14 Layleen Polanco, which is the large reason why we are  
15 here today and why myself and the speaker called for  
16 action last year at the Board because of what we saw  
17 as the continued harmful practices where you lose  
18 site of individuals when you don't have, when you put  
19 them into restricted housing and you lose very  
20 critical attention services and socialization.

21 So, I just want to apologize because that's an  
22 hour and we should have had Melania spoke at the  
23 beginning but I am glad she is here and I am glad to  
24 offer her - to get her the opportunity now.

1  
2           So, with that we will offer an opportunity here  
3 to testify.

4           MELANIA BROWN: Thank you so much guys for having  
5 me. I truly appreciate the space. My name is  
6 Melania Brown, my sister Layleen Polanco, she passed  
7 away last year in solitary confinement while being  
8 held in Rikers Island.

9           I am putting this picture up, so you guys can  
10 really look at the pain that I am left with. I use  
11 to once hold my sister in my hands and now I carry  
12 around her ashes. I became so crazy with it that I  
13 carry her with me to every family function, even for  
14 Thanksgiving she came with me all the way to North  
15 Carolina.

16           I refuse to let my sister go and for Danny, I  
17 hope you are listening. You are making a scene like  
18 your Correctional Officers are victim, but have you  
19 ever heard that a riot is the language of the  
20 unheard? How long do you think you are going to  
21 continue; you guys are going to continue to hurt  
22 individuals? Correctional Officers are going to  
23 continue to get away with what they do and think that  
24 people are not going to react to it. Think that they  
25 are going to just lay there and continue to die, get

1  
2 abused, get raped, get thrown in there simply for  
3 their gender identity.

4 My sister wasn't violent. I am going to go back,  
5 I had a whole speech written down but after hearing a  
6 lot of the people talk, saying that they only throw  
7 people in there that are violent. My sister wasn't  
8 violent. My sister was placed there simply for her  
9 gender identity, that was it. It wasn't because she  
10 was violent okay. So please rephrase that when you  
11 do address the public, okay. You guys use solitary  
12 confinement to your own advantage.

13 If someone is not listening to you, if someone  
14 doesn't go throw out the garbage on time, you throw  
15 them in solitary confinement. Solitary confinement  
16 is pure torture and it needs to end. Please, I  
17 really want to know, what do you guys think you get  
18 out of it? You throw humans in solitary confinement;  
19 they are alone all day and then you think you can le  
20 them out to society. Even to the own prison and  
21 think that they are going to be mentally okay?

22 SERGEANT AT ARMS: Time expired.

23 MELANIA BROWN: To continue to carry on through  
24 the day. No, it does not work like that and no, my  
25 time is not up. I am going to continue to talk and I

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want you guys to listen to me. My sister died. Those Correctional Officers only got a vacation okay. My sister is dead. I walk around with my sister around and chained of ashes with her ashes in it. It is not okay.

How many other people got to suffer? How many other people go to go through what they go through? How many other families got to face this painful life sentence that I am facing? These Correctional Officers, they come and testify today and they stand and they say what happened to them but can we hear what you did to them. Can we hear what you did to these individuals in prison? Come on, let's not play victim here. My sister was a victim. My sister wasn't violent. My sister was 5'2. She was not violent. We owe the world, the whole world seen how they opened that cell and laughed at her while she was dying.

That's inhumane, yet you sit here Danny and you tell me that your Correctional Officers are not wrong. You sit here and say that nobody is paying attention to them. What about my sister? What about all the other humans in the world that right now, they are losing a family member or a family member

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passed? What about individuals right now banging their head on the wall because they can't get out of that box?

You can't even throw an animal in a box and expect that animal to come out and be okay. Oh, I learned my lesson. It does not work like that. That causes further mental issues. You guys need to get it together because as long as you guys don't see what you are doing and how you are hurting the world and hurting these individuals because you hurt in the world. When you treat people the way you treat them and throw them in solitary confinement and then release them to the world, the world gets hurt and then they are set up to end up right back into the money making system.

Because that's what it is. It is just a chain. It's a chain. These are not, again, these are not chickens, these are not animals you guys to have in there. These are human beings. Place yourself, I want all of you right now that said, Danny, you number one. I want you to go home and go in your closet and please do me the favor of sitting there for 20 hours okay, alone. A matter of fact make it 23 alone, okay. Have your wife or your children

1  
2 bring your food okay to your closet and give it to  
3 you like you are an animal and then walk away and  
4 lock you again for another 23 hours.

5 Now you tell me mentally how you are going to  
6 come out of that? Okay, my sister did not deserve  
7 this and I am going to continue to fight and I am  
8 going to continue to push forward and I am not going  
9 to give up. I am not and that was not a threat at  
10 all. It is a promise that I am going to stand  
11 grounded and I am going to make sure my sister gets  
12 the justice that she deserves. My sister is the  
13 prime example of the torture that goes on in solitary  
14 confinement. She won the highest lawsuit okay, in  
15 New York City which clearly, it states that you guys  
16 were wrong okay.

17 Enough is enough. Enough is enough. Enough is  
18 enough. You guys need to end this now. Please do  
19 not have another family member suffer the way I am  
20 suffering. I can't sleep, I see my sister in my  
21 dreams. I want to hold her; I can't catch her. It  
22 is not okay. You guys need to end this. How about  
23 if it was your family member? How about if you, that  
24 picture right there was your sibling you are holding  
25 in hands? Someone that you was born with. Someone



1  
2 that you are used to talking to every day. Someone  
3 that you told your deepest secrets to and then you  
4 get a call that she was treated like an animal, less  
5 than an animal and guards watched her die.

6 You know how hard it was for me to watch that  
7 video of those guards laughing at my sister when they  
8 could have went in there and helped her. But you  
9 tell me that these Correctional Officers, they need  
10 to be protected. Protected, no, they need to be  
11 thrown in solitary confinement as well. They need to  
12 get locked up. They need to go to jail. These are  
13 real criminals okay. Real criminals are the ones  
14 that kick those that cannot defend themselves. They  
15 cannot defend – they are in there defensive. They  
16 cannot defend themselves. Those are real criminals.

17 You go in there, you know you got a little power,  
18 you walk around with a little stick and a little  
19 taser, whatever they give you and you think you are  
20 boss. You are walking through these cells hurting  
21 people. You are the real criminal. You deserve to  
22 be in jail. You deserve to be in solitary  
23 confinement, you. Thank you.

24 CHAIRPERSON POWERS: Thank you and I just want to  
25 add, I can't even imagine what your family has been

1  
2 going through but that's a reason we are here today  
3 and I think the Board should have taken this up last  
4 year when we had asked them to and we are acting here  
5 as a Council to be responsive to that and make sure  
6 there is no more loss of life. And I want to  
7 acknowledge, I mean, I know I think, some of the  
8 comments are aimed at Council Member Dromm but just  
9 for the correction here that he is the sponsor of the  
10 bill here and I know cares deeply about this issue as  
11 well and Council Member Dromm, I see your hand up. I  
12 don't know if you wanted to add in a comment or  
13 question as well.

14 SERGEANT AT ARMS: Starting time.

15 COUNCIL MEMBER DROMM: I just think Melania meant  
16 somebody else not me. I am hoping because I am on  
17 the other side of the issue, I am with you. I am  
18 with you 100 percent and I have been fighting for  
19 Layleen for you know for a long period of time. So,  
20 I am hoping it was another Council Member.

21 MELANIA BROWN: I am sorry, I am not talking about  
22 you. Hold on, hold on, I am going to tell you  
23 exactly who I am talking about. I am sorry Danny,  
24 not you. I am talking about Benny, Benny Boscio.

25

1  
2 Whatever his name is. That's who I am talking about,  
3 I am sorry, not you.

4 CHAIRPERSON POWERS: Thank you. I think we all  
5 knew that Danny was not the intended person but we,  
6 and we appreciate his efforts here and thank you for  
7 your testimony and I apologize again. I wish we  
8 would have had you gone earlier because I know how  
9 important your story is and it is powerful and your  
10 testimonies are powerful. I apologize, we should  
11 have done that earlier but thank you.

12 We are going to I think call on the next person  
13 to testify as well, the next group.

14 COMMITTEE COUNSEL: Yes, I would like to now  
15 welcome Kelly Grace Price to testify followed by  
16 Natasha White then Victor Herrera.

17 SERGEANT AT ARMS: Starting time.

18 KELLY GRACE PRICE: Hi, my name is Kelly Grace  
19 Price and I would like to thank you for Melania for  
20 your testimony. I wish that I had an advocate like  
21 you in my family that fought for me. I want to thank  
22 you for your testimony. I am sorry, I don't usually  
23 lose my composure.

24 I want to talk to you today about the reporting  
25 requirements in Intro. Number 2173. I have already

1  
2 submitted my written testimony which is efficacious  
3 and includes my usual data analysis of current  
4 solitary and punitive conditions for women on  
5 Rosie's. I briefly go on to elucidate a second point  
6 where I discuss lessons learned from past DOC  
7 restrictive housing rulemaking and City Council  
8 legislative attempts at DOC oversight, rough Local  
9 Law 21. And then I also add some further suggested  
10 reporting requirements for Intro. Number 2173. I  
11 absolutely agree with Kelsey and with other advocates  
12 who have explained that the DOC will do absolutely  
13 everything to dodge reporting requirements and to  
14 fudge transparency.

15       The number one example that I discuss in my  
16 testimony Council Member Rosenthal brought up this  
17 morning and what she was referring to was a report  
18 that I produced to the Board of Correction in  
19 December of 29 and I refer to in my testimony that  
20 elucidates that the Department had been fudging co-  
21 mingling data for about four or five years.

22       They were only counting people in co-mingled  
23 units that were youth placed in adult units. They  
24 were not counting co-mingle units that were adults  
25 placed in youth units. And I brought this up in my

1  
2 testimony and Councilwoman Rosenthal was right to  
3 bring it up because this is the kind of dog and pony  
4 show that we always are faced with when we get data.

5 SERGEANT AT ARMS: Time expired.

6 KELLY GRACE PRICE: I would like you to pay very  
7 careful attention to my testimony. I would also  
8 like, please be very careful when you are asking for  
9 the Department to report on 4 hours or more in  
10 solitary. You are going to get the Department  
11 putting people in solitary or solitary like  
12 conditions for 3 hours and 50 minutes, removing them  
13 for 5 minutes into the hallway and then replacing  
14 them again.

15 So, please be very careful about your reporting  
16 requirements and make them sufficiently broad so that  
17 there can be no funny business. Again, I have  
18 submitted my testimony already, my written testimony  
19 and I thank you for allowing me to testify.

20 COMMITTEE COUNSEL: I would like to now welcome  
21 Natasha White to testify followed by Victor Herrera  
22 then Andrea Bowen.

23 SERGEANT AT ARMS: Starting time.

24 NATASHA WHITE: Good afternoon. My name is  
25 Natasha White and a I am a member of Freedom Agenda

1  
2 and a Former Leader in the Close Rikers Campaign. I  
3 would like to first thank Council Member Dromm,  
4 Council Member Powers and the Sponsors of this bill  
5 for stepping in to make sure New York City actually  
6 ends solitary confinement, also known as segregated  
7 housing months after the Mayor's promise.

8       Since last week, winter and before, people have  
9 been joining Board of Corrections meetings to tell  
10 them about their experiences in solitary confinement.  
11 The Board said they are committed to ending solitary  
12 but New York City is still subjecting people to that  
13 torture. It s beyond time that this Board vote to  
14 end solitary confinement and implement the blueprint  
15 developed by the Jails Action Coalition and the CAIC.

16       Today, I want to remind you that solitary  
17 confinement is torture and has long term mental  
18 effects. I am not only a survivor of solitary but  
19 also a woman who had to deal with what solitary  
20 confinement can do to our loved ones.

21       Jails and prisons justify solitary confinement by  
22 saying it is supposed to teach you something. It is  
23 used as punishment for breaking the rules of prison  
24 or for getting on an officers bad side. However,

1  
2 when a person goes into solitary, remember they are  
3 handcuffed and transported with nothing.

4 No books, paper, pen, or anything else for that  
5 matter. They are likely in a cell with no windows,  
6 no sunlight. The door has no windows, so you cannot  
7 see anyone that is passing. No outside interactions,  
8 phone calls, basically you have put a person in a  
9 metal box.

10 Every hour and every day in that box, you hear  
11 the same sounds and smell the same smells. There is  
12 nothing corrective or rehabilitating about that kind  
13 of isolation.

14 The effects of solitary confinement also reach  
15 outside the prison walls. In December of 2018, my  
16 husband was released after serving a 20 year  
17 sentence. 12 years of which he served in solitary  
18 confinement. The only thing solitary taught my  
19 husband was how to live alone in isolation and it did  
20 long term damage. For a man who had read more than  
21 2,000 books.

22 SERGEANT AT ARMS: Time expired.

23 NATASHA WHITE: Minor things as simple as a  
24 delayed train makes him furious. For the first year,  
25 I had no idea of the real effects it had on him but

1  
2 one day during an argument between us, he snapped  
3 breaking everything he got his hands on in our  
4 apartment including my heart.

5 Because of the severity of this incident, I  
6 relocated having to leave everything behind. A  
7 little over a year later, I am still putting the  
8 pieces together. My husband's time in solitary did  
9 nothing to rehabilitate him and actually made it  
10 harder for him to deal with other people.

11 Now is the time to fully end solitary  
12 confinement, not to cut it back and leave small  
13 traces or a few hours of it but to once and for all  
14 do away with the idea that isolating someone does  
15 anything to address the causes of their behavior. If  
16 the Department of Corrections doesn't know how to  
17 address the root causes of violent behavior, that  
18 means we need new people to manage the jails.

19 It doesn't mean we need to keep torturing people  
20 and thinking they will get better. If we want safer  
21 jails and safer communities, solitary cannot be a  
22 part of that.

23 I also want to say, the first problem with how  
24 Corrections deals with their job is that  
25 automatically a person stops being a person and



1  
2 becomes an inmate when they enter a jail. These are  
3 people you are talking about. We are not inmate  
4 advocates. We are formerly incarcerated human beings  
5 that know first hand that the biggest gang is the  
6 Correction Officers. That know first hand that  
7 nobody slices an officer for no reason. Simple  
8 things as a lack of communication between an officer  
9 and a person incarcerated can turn into a bunch of  
10 officers beating on somebody.

11 I have witnessed first hand the type of crime  
12 Corrections commits. So, stop it, stop it. Melania,  
13 my condolences to you and your whole family. My  
14 condolences to how people no longer care about human  
15 beings. Who are you to judge? Thank you.

16 COMMITTEE COUNSEL: I would like to now welcome  
17 Victor Herrera to testify followed by Andrea Bowen.

18 SERGEANT AT ARMS: Starting time.

19 VICTOR HERRERA: Hi, my name is Victor Herrera, a  
20 Member, a Leader of Freedom Agenda Campaign and a  
21 directly impacted and formerly incarcerated  
22 individual who has had direct experience with  
23 solitary confinement on Rikers Island on numerous  
24 occasions and honestly, most of the periods of  
25 isolation were for concerns related to my internal

1  
2 advocacy while detained and preparing for my own  
3 defense. The City of New York Department of  
4 Corrections has used against me at every turn or  
5 forced punitive isolation. The Mayor has promised to  
6 end solitary confinement. I am here to stand to hold  
7 them accountable to that promise in hopes that the  
8 Committee here today will follow with the proposals  
9 as set out by the Jails Action Coalition of October  
10 2019.

11 I have had my share of experience in the 80's and  
12 the 90's. Was forced punitive solitary confinement  
13 solely for the purpose of personal animus against me  
14 on charges ranging from physically resisting staff to  
15 disobeying a direct order. All stemming from the  
16 Department of Corrections staff due to abuses and  
17 fragrant violations of their own rules or part of  
18 pattern and practice and demonstrating authority over  
19 the detained.

20 I can count the times I have spent in isolation  
21 and most unlawfully on account of verbal disputes  
22 that were a product of abuses occurring within the  
23 ranks that follow the Correction Officers.

24 Ending solitary and removing the discretion  
25 authority from Corrections to use punitive isolation

1  
2 will promote the best approach to reducing violence  
3 and promote the safety necessary for all concerned.  
4 Staff and detainees alike. Removing exceptions that  
5 presently exist in the Board of Corrections minimum  
6 standards that permit corrections to enforce  
7 indiscriminately a policy that will severely impact  
8 the health of detainees is necessary. It is not a  
9 day that goes by that my own segregation during my  
10 pretrial detention in 4 harsh years of solitary  
11 confinement does not affect me today.

12 At times, even during lockdowns, Correction  
13 Officers and personnel will extend the period of  
14 lockdown just to the benefit of not having to deal  
15 with the detained being out of their cells. This  
16 clearly come from all occasions when the lockdown  
17 could be cleared but extended solely for the  
18 convenience, not taking into account the emotional  
19 impact on those individuals, unnecessarily locked  
20 into their cells. Out of site out of mind.

21 The Council for the Department of Corrections -  
22 SERGEANT AT ARMS: Time expired.

23 VICTOR HERRERA: Were disciplinary process exists  
24 is not true or supported by the facts. The  
25 disciplinary process better knows as the kangaroo

1  
2 court. Okay, where is the union boss now? He  
3 doesn't want to hear those who are impacted. Along  
4 with Melania's voice for her sister, we are the voice  
5 of Layleen Polanco and the many other individuals  
6 whose voice was silenced by the brutality. Thank  
7 you.

8 COMMITTEE COUNSEL: I would like to now welcome  
9 Andrea Bowen to testify.

10 SERGEANT AT ARMS: Starting time.

11 ANDREA BOWEN: Hello, my name is Andy Bowen, I am  
12 a Consultant for the Sex Workers Project at the Urban  
13 Justice Center, which provides client centered legal  
14 services to individuals who engage in sex work  
15 regardless of whether they do so by choice,  
16 circumstance or coercion.

17 Thank you Chair Powers, Council Members and staff  
18 supporting the Committee on Criminal Justice for this  
19 hearing and thank you to Council Member Dromm for  
20 introducing Intro. 2173 and for you and your  
21 colleagues in support of ending solitary confinement,  
22 as this is an urgent Human Rights issue.

23 We at the Sex Workers Project agree with you  
24 Council Member Dromm and our many allies today that  
25 solitary confinement is torture. Last week we

1 testified in support of Council's Resolution  
2 regarding the Walking While Trans Ban and Intro. 2173  
3 is in that spirit. Making sure the city and state do  
4 all they can to save those victimized by the carceral  
5 system, which disproportionately includes Black and  
6 Latinx transgender sex workers.  
7

8 With all respect to Council's good faith effort  
9 to stop solitary, Intro. 2173 must be strengthened to  
10 end solitary confinement in all forms. Quoting from  
11 our colleagues, the Solitary Campaign, Layleen  
12 Polanco was held in what was supposed to be an  
13 alternative to solitary and at the time she died, she  
14 had only been locked in her cell for 2 hours.

15 We fully support HALT Solitary's full outline of  
16 concerns about this legislation. It should also be  
17 noted that this conversation integrately includes the  
18 need to eliminate the NYPD Vice Squad. A greater  
19 than \$18 million drain on the city's budget and moral  
20 standing. A Vice arrest was a major event leading to  
21 Layleen Polanco's death.

22 As this weeks public Expose revealed, even  
23 members of Vice a need to defund it. Vice is a part  
24 of irredeemable system that deprives people of their  
25

1  
2 human rights to bodily autonomy, health and so much  
3 more.

4 Thank you so much for your attention to these  
5 issues, holding these hearings and constantly being  
6 in conversation with marginalized communities to  
7 address long standing and ongoing injustice. Thanks  
8 so much.

9 COMMITTEE COUNSEL: Thank you. This concludes  
10 the public testimony. If we had inadvertently  
11 forgotten to call on someone to testify, if that  
12 person could please raise their hand using the Zoom  
13 raise hand function, we will try to hear from you  
14 now.

15 Okay, seeing no hands, I will now turn it over to  
16 Chair Powers to close the hearing.

17 CHAIRPERSON POWERS: Thank you. I just want to  
18 say a very big thank you to everybody who spent a  
19 very long day with us but on an absolutely important  
20 and essential topic and we have a lot of work in  
21 front of us right now both at the City Council and in  
22 the City at the Board of Corrections Department of  
23 Correction to end these inhumane practices and  
24 replace it with a model that is much more humane but  
25

1  
2 also much more focused on actually addressing the  
3 issues that we have discussed here today.

4 I really want to thank Council Member Dromm for  
5 his efforts here and staying with us through this  
6 hearing and asking questions throughout. Thank you  
7 everybody who has come and shared a story or  
8 testified or been part of this hearing and I want to  
9 let you know this is not just about a hearing, this  
10 is about an effort and an effort to end practices  
11 that I think no longer has a place here in New York  
12 City. Now far out dated and don't provide the type  
13 of support I think we need in side of our City  
14 facilities for people that are there.

15 So, I want to thank everybody, all the members of  
16 the Committee and everybody who is here. And of  
17 course, I want to again, recognize Layleen Polanco,  
18 her family who are so powerful as part of this story  
19 that we are having here today. And so, I want to say  
20 thank you and I am sure that in the coming weeks we  
21 will be joining together again to talk at the Board  
22 of Corrections and other places and continue this  
23 dialogue here.

24 But I want to say that as we do that, we need to  
25 act with urgency to make that this doesn't happen

1  
2 again. And so, with that, I want to thank everyone  
3 for their efforts, advocacy, testimony and we will  
4 all continue to work together on these issues. So,  
5 thank you. Thanks so much.

6 And that will conclude the hearing.

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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 December 31, 2020