

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CRIMINAL JUSTICE

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September 28, 2022

Start: 11:26 a.m.

Recess: 6:00 p.m.

HELD AT: Council Chambers - City Hall

B E F O R E: Carlina Rivera
Chairperson

COUNCIL MEMBERS:

Shaun Abreu
David M. Carr
Shahana K. Hanif
Mercedes Narcisse
Lincoln Restler
Lynn C. Schulman
Althea V. Stevens

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

Adrienne Adams
Speaker

Jumaane Williams
Public Advocate

Louis Molina
Department of Correction Commissioner

Paul Shechtman
Department of Correction General Counsel

James Austin
Department of Correction Doctor

Jeanette Merrill
Health + Hospitals Correctional Health Services

Carlos Castellanos
Health + Hospitals Correctional Health Services

Melania Brown
Sister of Layleen Polanco

Akeem Browder
Brother of Kalief Browder

Tamara Carter
Freedom Agenda

Gina Pondexter

Madeline Feliciano

Doctor Robert Cohen

Alyson Silkowski
Comptroller's Office Policy Director

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

Benny Boscio
Correction Officer Benevolent Association

Keisha Williams
Correction Officer Benevolent Association

Ashaki Antoine
Correction Officer Benevolent Association

Patrick Ferraiuolo

Lasha Mayo [sp?]
Correction Officer

Gilsey Antigua [sp?]
Correction Officer

Stephanie Tines [sp?]
Correction Officer

Joseph Russo
ADW/DW Association

Audrey Johnson

Donna Hilton

Rabbi Margo Hughes-Robinson
Organizer at T'ruah

Eileen Maher
Vocal New York

Darlene McDay
Mother of Dante Taylor

Daiana Griffith
Bronx Defenders

Jared Trujillo
NYC Civil Liberties Union

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

Natalie Fiorenzo
New York County Defender Services

Lucas Marquez
Brooklyn Defenders

Mary Lynne Werlwas
Legal Aid Society

Wayne Byun
Campaign Zero

Daniele Gerard
Children's Rights

Lexy Aviles
Women's Community Justice Association

Anthony Dixon

Victoria A. Phillips
Chaplain / NYC DOC Young Adult Taskforce

Andre Ward
Fortune Society

Five Mualimm-ak

Robert O'Connor [sp?]
Exodus Transitional Community

Reverend Sharon White-Harrigan
Women's Community Justice Association

Mik Kincaid

Mon Yuck Yu
Policy Director of Borough President Reynoso

Jeanette Bocanegra
Justice for Families

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

Marco Barrios
Urban Justice Center

Richenda Kramer
American Friends Service Committee Prison Project

Fran Geteles
Psychologist

Vidal Guzman
Fix The 13th NY Campaign

Alice Sturm Sutter
Uptown Progressive Action

Natasha White
Interfaith Action for Human Rights

Andrea Lamberti
American Institute of Architects New York

Kelly Grace Price
Close Rosie's

Sarita Daftary
Freedom Agenda

Jennifer Parish
Urban Justice Center Mental Health Project

Fleming Smith
Urban Justice Center Mental Health Project

Darren Mack
Freedom Agenda

Christopher Boyle
New York County Defender Services

Kami Lee [sp?]

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

Kimberly Blair
National Alliance on Mental Illness NYC

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2 CHAIRPERSON RIVERA: Good morning. I am
3 Council Member Carlina Rivera. I am Chair of the
4 Council's Criminal Justice Committee. I'd like to
5 welcome everyone who is here today, and of course,
6 those joining us remotely to discuss this important
7 legislation. I want to thank Speaker Adrienne Adams
8 for scheduling this critical hearing and supporting
9 this legislation, and I also want to make sure that I
10 set the tone in this space. We will allow people to
11 testify, share their experiences and be respectful.
12 What transpired outside in many cases was
13 unacceptable. There are people to share their
14 stories, whether they are incarcerated, officers,
15 everyone will get a chance to speak and we will be
16 respectful. We are in the people's house. We are in
17 the Chambers of the New York City Council and we will
18 conduct this hearing with respect and dignity. Intro
19 Number 549, which I introduced with Public Advocate
20 Williams, and is supported by a clear majority of our
21 Council colleagues bans solitary confinement and
22 modifies other forms of restrictive housing in our
23 city jails. And I want to recognize my colleagues
24 who are here: Council Members Borelli, Farías,
25 Abreu, Krishnan, Narcisse, Public Advocate Williams,

1 Schulman, Hanif, Ayala, Nurse, Carr, Holden, Ariola,
2 Restler, Paladino, and of course, Speaker Adrienne
3 Adams. Solitary confinement which often keeps
4 incarcerated individuals isolated in a cell barely
5 large enough to hold a bed and toilet for 23 hours a
6 day for months on end has devastating consequences
7 and dramatically increases incidences of self-harm
8 including fatal self-harm for those who are forced to
9 endure it. We know that solitary can cause
10 hallucinations, panic attacks, and paranoia. We also
11 know that too many people-- and I do not invoke these
12 names lightly-- Layleen Polanco, Jason Ichavadia
13 [sp?], Bradley Ballard [sp?], Kalief Browder are
14 among those who might be alive today if the City of
15 New York had not put them in solitary. I want to
16 acknowledge their suffering, the suffering of their
17 families and friends, as well as the countless others
18 who have endured the brutal and intolerable practice
19 of solitary confinement over the many decades it has
20 been used in our city jails. I additionally want to
21 thank the advocates that have worked tirelessly for
22 years to draw attention to this crisis and help
23 develop the legislation we are hearing today.
24 Solitary confinement does not keep anyone safe. It
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2 exacerbates mental illness and de-stabilizes people
3 in a way that increases the likelihood of violence
4 which undoubtedly runs counter to all of our goals.
5 Safety is not a zero-sum game. Treating people in
6 detention with dignity and care does not inherently
7 mean exposing others to harm, but rather the data
8 shows it keeps everyone safer. Nearly half of people
9 on Rikers Island receive treatment for mental
10 illness. Subjecting them to solitary confinement
11 which has shown time and time again to further harm
12 people with pre-existing mental illness, and then
13 releasing them back to their communities is not a
14 sound public safety strategy. The risks to mental and
15 physical health persists long after solitary
16 confinement ends. A study of more than 200,000
17 people released from prison found that those who
18 spent any time in solitary were 78 percent more
19 likely to die from suicide within the first year of
20 release compared to people who had been incarcerated
21 but not placed in solitary. Further proving the
22 beneficial impact on all people in any given jail
23 system ending or reducing the use of solitary
24 confinement has had a hugely positive impact on
25 people in detention and people who work in the jails.

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2 An American Journal of Public Health 2015 study of
3 solitary confinement found that working in solitary
4 units is a stressful and demoralizing experience that
5 can breed distrust, frustration, anger, psychological
6 damage, and sometimes violence on the part of both
7 incarcerated people and officers. In a 2019 op-ed
8 for the Washington Post, Cook County Sheriff Tom Dart
9 looked back three year after Cook County eliminated
10 solitary confinement in its jail. He described the
11 hugely positive impact eliminating solitary
12 confinement has had on everyone, stating that, "These
13 new practices have not just benefitted our detainees,
14 they have also improved our working conditions.
15 Since we introduced this model to our jail, detainee
16 on detainee assaults have dropped significant and
17 assaults on staff plummeted." It's important to note
18 that New York City will not be the first major city
19 to end the use if solitary confinement in its jails.
20 Chicago and San Francisco moved away from solitary
21 confinement years ago, and while the decision to do
22 so was met with skepticism and anger by correctional
23 staff, ultimately new protocols reduced violent
24 incidents and made the jail safer for everyone. At a
25 national level, key correctional experts have deemed

1 solitary cruel and ineffective. Intro 549 would
2 implement concrete and evidence-based practices by
3 ensuring access to appropriate programs and services.
4 New York City-based organizations such as the Fortune
5 Society are doing this work, have the data to prove
6 it. People in city jails who engage with services
7 provided by the Fortune Society and are then
8 discharged into the community are five times more
9 likely to continue to engage with the Fortune Society
10 after being released than are people who did not
11 access such services while in jail. This supports
12 the point that access to programming and services
13 while in jail has an important impact on people's
14 continued engagement with services once they've
15 returned to their communities. Such access should be
16 encouraged, not denied as presently happens when
17 people are held in the functional equivalent of
18 solitary confinement. I want to acknowledge the
19 efforts of the Correction Officers, Deputy Wardens,
20 Wardens, and others that have dedicated their working
21 lives to providing for the safety and security of
22 those who work and live in our jails. At the same
23 time, I must note that the Department of Correction
24 leadership, despite some improvements over the course
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1 of time, has failed in their efforts to provide for
2 safety and security for incarcerated individuals and
3 corrections staff alike in a humane manner that
4 offers treatment to incarcerated people instead of
5 exacerbating harm through the trauma of prolonged
6 isolation. I also want to recognize and I want to
7 thank former Council Member Danny Dromm who worked
8 very hard to develop prior versions of this bill and
9 whose efforts have undoubtedly brought us here today.
10 Finally, I want to thank the staff of the Committee
11 for their incredible work in organizing this hearing.
12 Thank you. We will be hearing from those impacted by
13 solitary confinement and the loved ones of those that
14 can tragically no longer testify for themselves. We
15 will hear from the Department of Correction, the
16 Board of Correction, Correction Union Representatives
17 and those that have advocated for long overdue change
18 in the true and unambiguous ends to solitary
19 confinement, recognizing plainly and simply that
20 solitary confinement in any form is torture and has
21 no place in our city, our state, and our country.
22 Before we begin to take testimony, Speaker Adams has
23 some opening remarks followed by Public Advocate
24 Williams. Speaker Adams?
25

SPEAKER ADAMS: thank you, Chair Rivera.

Good morning everyone. I am Speaker Adrienne Adams, and once again I'd like to thank Chair Carlina Rivera for convening this hearing today on Introduction 549 which would ban solitary confinement in city jails.

I'd like to acknowledge my colleagues and everyone here today participating in this hearing, including families and individuals who have been affected by solitary confinement, the workers and officers in our jail system, advocates, and the general public. I want to acknowledge that I know this is a very emotional and difficult topic for many, but respect must be maintained in this chamber. Our goal must be to ensure everyone in our jail system is safe, those who are detained and those who work in the jails every single day. We all should have a shared objective of safety and our focus should be on achieving it for all. The abusive use of solitary confinement has been showed by data in study after study to be ineffective at both reducing violence by individuals and increasing safety across correctional facilities. The practice also has negative impacts on a person's health, creating and exacerbating mental health conditions which we have all too often

1 seen lead to devastating and deadly outcomes. This
2 only undermines safety within our jail system and
3 outside of it when individuals are released back into
4 their communities. As Chair Rivera stated, in
5 Illinois Cook County Jail where the use of solitary
6 confinement was eliminated in place of alternative
7 solutions, assaults on people in custody and staff
8 plummeted. Other states that have moved away from
9 solitary confinement such as Colorado, Mississippi
10 and Maine have seen corresponding in assaults and
11 other violent behavior. We have to move towards
12 practices that help make everyone in our jails safer,
13 and we have to do that together with safety as our
14 driving motivation, one that should bring us together
15 in agreement towards this shared outcome. This
16 cannot be about demonizing or punishing people on
17 either side, but rather keeping everyone safe. We
18 must realize that there are solutions that serve
19 everyone's best interest, and there are best
20 practices that should be abridged. We don't want to
21 see anyone harmed, and I know families throughout our
22 city share that sentiment. As the daughter of a
23 former Department of Correction Officer, I care
24 equally for the workers and officers in our system
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1 and those who are detained within it. I learned that
2 from my mother who modeled it for me. Despite her no
3 longer being here with me, with us, the commitment
4 remains with me. The abusive use of solitary
5 confinement is a false solution and a
6 counterproductive practice. That does not mean that
7 when there is violence in our jails we sit idly by
8 and allow harm to continue. We have to hold people
9 accountable for harm and violence and enact solutions
10 that reduce violence in the first place by taking
11 proven rehabilitative approaches. Our goal is to
12 move our city towards policies and practices that are
13 in the best interest of all New Yorkers. We must
14 always maintain a focus on safety and be driven by it
15 with a parallel commitment to our laws and the
16 mission of the Department of Correction. These are
17 not in conflict. The Department of Correction's
18 stated mission to create a safe and supportive
19 environment while providing individuals in its care
20 with a path to successfully re-enter their
21 communities is a demonstration of that reality. We
22 know there is much work to do on this front, and
23 we're prepared to contribute to solutions, working
24 together with all committed stakeholders. When we're
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1 guided by safeguarding the fundamental rights
2 deserved for every person and their safety, excluding
3 no one, we can succeed. The abusive use of solitary
4 confinement does everyone in jail systems and outside
5 of them a disservice. New York State recognized the
6 traumatic impact of solitary confinement in 2021 and
7 passed the Humane Alternatives to Long-term Solitary
8 Confinement Act, or HALT, which limited the use of
9 segregated confinement and restricted the amount of
10 time that an individual could be placed in solitary
11 confinement. Similarly, the New York City Board of
12 Correction has also recognized the need for changes.
13 The Department of Correction itself has undergone
14 changes to these practices throughout the years which
15 certainly have not been without their challenges. We
16 have an opportunity to move forward in a way that is
17 responsible and serves all New Yorkers, the families
18 of people who work in our system and those detained
19 within the system who at the end of the day simply
20 want to see their loved ones return home healthy and
21 safe. As the city moves to close Rikers by 2027, it
22 is important that we end practices that fail to keep
23 people healthy and safe and undermine rehabilitation
24 and severely threaten successful re-entry into

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2 communities. Instead, we must be enacting policies
3 and practices that fulfil those goals. As I said
4 when announcing my support for the need for New York
5 City to pass a law on solitary confinement, we're
6 seeking to facilitate a comprehensive and sensible
7 legislative process that gathers input from all
8 stakeholders and is guided by data, evidence, and
9 best practices. This hearing is the first step in
10 that process, and I welcome all who will testify
11 before this committee today. I look forward to
12 hearing from all stakeholders today, seeking broad
13 expertise and remaining engaged in this process.
14 Thank you all once again for being here today, for
15 your participation in this important, very, very
16 important hearing. Thank you, Chair Rivera, and
17 thank you, Committee.

18 CHAIRPERSON RIVERA: Thank you, Speaker
19 Adams. Public Advocate Williams?

20 PUBLIC ADVOCATE WILLIAMS: Thank you,
21 Madam Chair and the Speaker. Before I go to my
22 prepared remarks, I just want to say something. I
23 know that some folks either don't believe me or
24 haven't heard me say it, so I want to make sure I say
25 it clearly. To the Correction Officer and to COBA, I

1 see you. I know that there is real harm being done
2 to you, and there's real cause for concern, which is
3 why you are here. I have heard of officers who have
4 had heart attack while on the job. I've heard of
5 officers who have committed suicide. I know there
6 are female officers who are being sexually assaulted
7 on a regular basis. While there is misinformation
8 being sent around about my bill, I know that the harm
9 is real, and I want to make sure that I lift that up,
10 and it's important that we remember that on both
11 sides of those bars, most of those folks look like
12 me. It is primarily black and brown people, and they
13 generally come from the same communities, and in just
14 a few differences of circumstances, the role [sic]
15 could be on the other foot. It's important that it's
16 pointed out because I know the job is tough. I know I
17 don't work there on a regular basis, and I understand
18 that there has to be accountability. I want it
19 always when an officer harms someone who's
20 incarcerated, and when someone who's incarcerated
21 harms an officer. There has to be accountability.
22 There has to be a way to keep people safe, but what I
23 want to be clear is that cannot be based in torture,
24 and that is all that this bill is saying. We have to
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2 find a way where we're producing safety for everyone
3 who's on that island, an island that is not safe to
4 be produced. But I want you to know that I see you
5 and I hear you, and I know that the pain is very
6 real. I also want to make sure it's clear that this
7 bill will not solve the problems on Rikers Island. I
8 want to be clear about that, but it is dealing with
9 one particular issue that is also very real, and that
10 is the torture of people that we have to prevent.
11 And when it comes to solitary-- going to be my
12 prepared statements right now. Also, we have to make
13 sure that we're humanizing everyone, because when we
14 dehumanize people things-- bad things happen. I
15 don't want to dehumanize our Correction Officers. I
16 also don't want to dehumanize people who are accused
17 of a crime. Our society is going to be based on how
18 much we do or don't dehumanize people, even people
19 who are accused of committing harm. So I want to
20 begin my prepared statements by saying solitary is
21 torture. It is cruel. It is inhumane. It can ruin
22 people's lives, and too many do not survive it. We
23 know that people try to mask the isolation that is
24 solitary with euphemistic names and that these names
25 are used interchangeably, but prolonged isolation

1 that looks like, feels like, and acts like solitary
2 confinement is solitary confinement. Physical
3 isolation coupled with the lack of meaningful social
4 interaction causes or exacerbates already existing
5 trauma or creates other ones as well as other mental
6 health issues. Solitary confinement does not only
7 impact the individual. Entire communities mourn the
8 loss of their parents, siblings, children, and
9 friends. We've already lost 16 people in the jail on
10 Rikers so far, and I'm committed to doing everything
11 in my power to end this crisis. People who
12 experience isolation in jails and prisons suffer
13 socially, mentally, emotionally, and financially both
14 while incarcerated and after their release. No one
15 leaves solitary confinement whole. They struggle
16 with the lasting effects of trauma and are
17 disproportionately more likely to die by suicide or
18 homicide. They're also at increased risk for
19 homelessness and substance abuse. 2019 North
20 Carolina study found that survivors of solitary
21 confinement were 127 times more likely to die from an
22 opiate overdose within two weeks of their release.
23 That's why I introduced this legislation which should
24 and would ban the use of solitary confinement in City
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2 jails as implemented by the Department of
3 Corrections, as well as provide individuals in DOC
4 custody due process. I want to thank Speaker Adams,
5 the Chair, and all my colleagues for supporting the
6 bill, and I'm urging the Mayor to do the same, to re-
7 evaluate the position on solitary confinement.

8 Ending this practice in our jails is not silly, as
9 was expressed. It is life-saving. It is needed, and
10 it is very long overdue. What we are trying to do is
11 create a system of jails that doesn't exist. I want
12 to be clear about that. And every time we try to re-
13 change how we deal with safety, we hear the same
14 arguments over and over and over again. We have to
15 take the time to create a safety that's not based on
16 torture or oppressive policies. Under the
17 legislation, DOC shall not place an incarcerated
18 individual in cell other than night for sleep for
19 more than eight hours in any 24-hour period or during
20 the day for more than two hours in any 24-hour
21 period, unless such confinement is necessary to de-
22 escalate immediate conflict that has caused injury or
23 possesses an immediate danger to a person's safety.

24 We should be agreeing on a few things. All of us
25 should be agreeing that we cannot lock up human

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2 beings for 20, 23, 24 hours a day on a prolonged
3 basis, even as accountability. That causes harm. We
4 should also agree that we have to be able to separate
5 people to help others be safe, and the discussion
6 should be about how we do that and making sure that
7 there are due processes in place. To be clear, this
8 bill ends the harmful practice of solitary
9 confinement. If solitary confinement is not no
10 longer being done, then there should be no reason to
11 oppose this bill. We should just be discussing how
12 we can humanely separate people when needed and
13 provide the services that are needed. It does not
14 ban separation when it is necessary to protect
15 incarcerated individuals and staff. This bill
16 outlines a simple process: separate, de-escalate, and
17 investigate. This bill not be an instant solution
18 for the increased violence and self-harm and suicide.
19 And I want to be clear, I know the pictures that I
20 saw out there are real, and there are real people who
21 want to get back home to their families the same way
22 they came to work, but those pictures were no created
23 because of this bill. They are created with what
24 already exists, and what already exists is not
25 keeping that island safe, so we have to change it.

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2 Like many things we once thought kept us safe,
3 solitary confinement increases problems and violence
4 both inside our jails and outside in the community.
5 There's an obligation to keep New Yorkers safe on
6 both sides of the bars, and we must continue to move
7 away from outdated practices that just create more
8 harm. I think everybody would agree that more harm is
9 being created. Solitary confinement is implemented
10 by the DOC-- is at odds with the ultimate goal of
11 reform and rehabilitation and falls under the
12 definition of torture by the United Nations. As
13 Lawyer and Activist Brian Stephenson [sp?] once said,
14 "The true measure of our character is how we treat
15 the poor, the dis-favored, the accused, the
16 incarcerated, and the condemned." We are failing on
17 almost all of those accounts all across the city in
18 this country. We're all implicated when we allow
19 other people to be mistreated. I look forward to
20 working with all of you in creating a more safe and
21 just city. I look forward to speaking with all of
22 you, including Corrections, like I continually do,
23 even though other folks saying that I'm not. I want
24 to hear from all sides, because all harm is valid.
25 We came to this with lived experiences. I'm looking

1 forward to hearing those lived experiences and
2 figuring out how we can make this bill actually keep
3 people safe, hold people accountable while not
4 torturing them. Thank you.

6 COMMITTEE COUNSEL: Good morning. Alex
7 Polonf [sp?] Senior Counsel. I'll now swear in
8 representatives from the Administration who have
9 signed up to testify today. From the Department of
10 Correction we have Commissioner Louis Molina, Paul
11 Shechtman, and Doctor James Austin, from New York
12 City Health + Hospitals Correctional Health Services
13 we have Jeanette Merrill, and Carlos Castellanos.
14 Would you please raise your hands? Do you swear or
15 affirm to tell the truth, the whole truth and nothing
16 but the truth in your testimony today and to respond
17 honestly to Council Member questions? Thank you.
18 You may begin when ready.

19 COMMISSIONER MOLINA: Good morning, Chair
20 Rivera, Speaker Adams, Public Advocate Williams,
21 members of the Committee on Criminal Justice and
22 other Council Members joining us this morning. I am
23 Louis Molina, Commissioner of the Department of
24 Correction. I am joined today by the Department's
25 General Counsel Paul Shechtman and a renowned

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2 correctional expert, Dr. James Austin, who was
3 recommended to the Department by the Federal Monitor
4 in the Nunez case to develop additional measures to
5 protect incarcerated individuals and our correction
6 officers from violence. I want to thank you for
7 giving me the opportunity to testify today on
8 Introduction Number 549, which is described as a bill
9 to ban solitary confinement in City jails. This
10 legislation is extraordinarily important to the
11 Department as we work to implement the Nunez Action
12 Plan and unravel the legacy of decades of
13 mismanagement that have led to an environment of
14 violence and fear within our jails. As I hope to
15 explain, if enacted, Intro. 549 would have grave
16 consequences. It would make the job of running a
17 humane and safe jail system far more difficult. Let
18 me begin by saying that we fundamentally agree on a
19 very important point. Our jails should be humane,
20 and solitary confinement is inhumane. For too long,
21 it was accepted correctional practice to lock
22 individuals in small cells for 23 hours a day, for
23 months or years at a time, without any contact with
24 other human beings. That practice was wrong. Let me
25 be clear again, I strongly oppose solitary

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2 confinement. Not only is it inhumane, it does not
3 make our jails safe. It will not permit-- I will not
4 permit anything like it on my watch. I think we can
5 also fundamentally agree that our jails must be safe.
6 Humane treatment and safety are not two separate
7 goals or parallel tracks; they are inextricably
8 linked. When we talk about humane jails, we are
9 talking about safe jails. A jail cannot be humane if
10 it is not safe. Likewise, providing people with an
11 environment that is safe, that is not overrun with
12 fear and violence, that is stable and ordered, is
13 humane. That principle has guided our work over the
14 course of the past nine months, and it will continue
15 to guide our work in the months to come. If this bill
16 solely banned solitary confinement, it would have my
17 total, unwavering support. But that is not what this
18 bill is about. It does much, much more. The
19 consequences of this bill, if enacted, are profound
20 and benefit neither people in custody, nor staff, nor
21 the public at large. That is what I want to address
22 this morning. I'd like to tell you my understanding
23 of the bill and its consequences. If I get something
24 wrong, I hope that you will correct me. First, the
25 bill seems to allow for some form of restrictive

1 housing that is more restrictive than general
2 population. But I don't think that it actually does.
3 The bill states that incarcerated individuals must
4 have access to at least 14-out-of-cell hours every
5 day except for individuals placed in confinement for
6 de-escalation and emergency lock-in. Individuals
7 housed in general population in our facilities
8 currently have 14 hours out-of-cell every day. Thus,
9 under the bill, individuals in so-called restrictive
10 housing would be out-of-cell for the same length of
11 time as those in general population. Second, under
12 the bill, individuals placed in restrictive housing
13 must have comparable interaction with other
14 individuals and access to comparable congregate
15 programming and comparable amenities to those housed
16 outside restrictive housing. That means they must be
17 treated no differently from those in general
18 population. Under the bill, the Department would be
19 prohibited from placing limitations on commissary or
20 other privileges. If you take both of these points
21 together, that individuals in restrictive housing
22 must have 14 hours out-of-cell and that they must
23 have comparable amenities, then restrictive housing
24 under this bill is not restrictive at all. It is
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2 general population. To put it bluntly, Intro. 549
3 would make it impossible for the Department to impose
4 any sanction or measure of accountability on an
5 incarcerated individual who has committed a violent
6 act against another incarcerated individual or
7 against our staff. It would not be possible to
8 manage a jail under such constraints; no one could
9 work there or live there safely. Yet the bill goes
10 further. Third, the bill states that the Department
11 must use positive incentives to encourage good
12 behavior in restrictive housing and may use
13 disciplinary sanctions only as a last resort. If I am
14 right that restrictive housing under the bill is no
15 different than general population, same time out of
16 cell, same amenities, then a requirement to provide
17 positive incentives to those in restrictive housing
18 means restrictive housing areas would actually be
19 better, more desirable places to be housed in than
20 general population. In essence, the bill would
21 incentivize individuals in our custody to commit
22 violent acts in order to be placed in a more
23 desirable setting. That makes no sense. Fourth, the
24 bill would prohibit pre-hearing detention. Pre-
25 hearing detention refers to a practice in which a

1 perpetrator of a violent act is removed from general
2 population and placed in restrictive housing
3 immediately following the act, pending the outcome of
4 an adjudication hearing. This is done for the safety
5 of staff and other people in custody, including the
6 victim of the attack. Intro. 549 states that the
7 Department cannot place an incarcerated individual in
8 restrictive housing until a hearing is held and the
9 individual is found guilty of committing a violent
10 offense. Further, the bill states that the
11 incarcerated individual has a right to counsel at the
12 hearing and to a reasonable adjournment, which can
13 easily mean delays of seven to 10 days, or more. Let
14 me tell you in plain language what that means. The
15 Department would have no ability to meaningfully
16 separate perpetrators of violent acts from the rest
17 of the population prior to a hearing. Every person
18 working with that individual, uniform staff, non-
19 uniform staff, external providers, medical providers,
20 mental health providers, and every person housed with
21 that individual would be forced to share congregate
22 space with them, to share a recreation yard with
23 them, or a visit floor, knowing they had just
24 committed a violent offense, one that they could do
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2 again. Our hands would be tied for possibly 10 days
3 or more. With bail reform, our facilities house a
4 high concentration of individuals charged with
5 violent crimes. Here are the statistics: As the chart
6 shows, roughly 30 percent of the individuals in our
7 custody are awaiting trial on charges of murder,
8 attempted murder, or manslaughter. A great many are
9 gang affiliated. They are capable of extreme acts of
10 violence. Let me underscore the point with these
11 short videos of recent incidences in our facilities.
12 This incident occurred in RNDC in our young adult
13 general population housing unit. The victim of this
14 incident was another person in custody as he was
15 slashed and gang assaulted by a number of members
16 that are affiliated with the violent Bloods gang.
17 This second incident occurred in GRVC in our adult
18 general population housing unit. The victim was a
19 Correction Officer, assaulted brutally, kicked to the
20 head and face, and the perpetrator, the detainee,
21 took the officer's pepper spray, his chemical agent.
22 This detainee was a member of the violent Crips gang
23 and is in our custody for felony assault that he
24 committed in our communities. This third video
25 occurred at MDC which is now closed, but it was in

1
2 our adult general population housing unit. The
3 victim, a female Correction Officer whose lip was
4 lacerated. She suffered a slash to the face with a
5 six-inch metal plate. The detainee that did this
6 violent act had been in our custody after committing
7 violent felony assault in the first degree in our
8 community. This fourth incident occurred in AMKC in
9 our adult general population unit. The victim, a
10 mental health discharge planner, one of our non-
11 uniformed staff, punched in the face, kicked to the
12 body while she lay on the floor helpless. The
13 detainee that did this act had committed felony
14 assault in the second degree in our community. To
15 repeat, as drafted, the bill would not allow the
16 Department to take any action against any of these
17 individuals until after a hearing with counsel. Until
18 then, they would remain in general population. In
19 addition to these videos, I would like to direct you
20 to the photos behind me so you can get a sense of the
21 violence that our officers in the facilities endure.
22 These officers were seriously injured by people in
23 custody during the course of their regular duties at
24 work. The first image, female officer, lips
25 significant lacerated. Second image, male Correction

1
2 Officer laying and being loaded into an ambulance
3 after a serious violent assault. Third photograph is
4 of a female Correction Officer's hand which is
5 impaled by a jail-made knife. The detainee that did
6 this act was in our custody because he committed
7 murder in the second degree in our community. And
8 the fourth photograph is of a male Correction Officer
9 slashed by an individual in custody, and this
10 individual was in our custody because they had
11 committed felony assault on a police officer with a
12 deadly weapon in our community. The perpetrators of
13 such egregious acts must be held accountable, not in
14 solitary confinement, but in some form of restrictive
15 housing that sends a clear message that their conduct
16 is unacceptable and aims to prevent future
17 occurrences. As you undoubtedly know, in June of
18 2021, the Board of Correction promulgated a rule
19 requiring the Department to implement a Risk
20 Management and Accountability System, also known as
21 RMAS. The chart on the screen compares RMAS to the
22 current bill. Under RMAS, pre-hearing was
23 permissible. Under the bill, it would not be
24 permissible. RMAS out-of-cell time for restrictive
25 housing was 10 to 12 hours. Under the bill, it

1 would be 14 hours, the same as general population.

2 In their June 2022 report, the Federal Monitor wrote

3 this about RMAS, and I quote, "The Monitoring Team's

4 collective 100 years of experience in correctional

5 management, expertise in the development of credible

6 programs serving as alternatives to punitive

7 segregation, and deep knowledge of the Department has

8 led to a consensus that proceeding with RMAS is not

9 prudent and poses significant safety concerns.

10 Accordingly, the Monitoring Team does not, at this

11 juncture, approve the implementation of RMAS." If

12 the Federal Monitor concluded that RMAS posed

13 significant safety concerns, it is a certainty that

14 he would be opposed to this bill as well. As with

15 RMAS, he would find that the bill puts people in

16 custody and correction officers at greater risk of

17 serious harm. This bill also undermines the

18 authority of the Federal Court, which has directed

19 that the Department develop a new restrictive housing

20 system that adheres to best correctional practices,

21 subject to the Monitor's approval. For the last nine

22 months, my team and I have been working tirelessly to

23 improve conditions in our jails, and we have seen

24 successes. However, during that time, we have also

1 seen tragedy. There have been sixteen deaths. One
2 death is one too many. Obviously, we still have work
3 ahead of us. Our goal is the same as yours: our
4 jails must be humane. The only way to make them
5 humane is to ensure that they are safe. This bill,
6 if enacted, would make our facilities far less safe
7 for every person that enters to do their jobs, and it
8 would endanger every person in our custody, and I
9 urge you not to endorse it. Thank you for the
10 opportunity to speak today. Doctor Austin has brief
11 testimony, and then we are available to answer any
12 questions that you may have.

14 DOCTOR AUSTIN: good morning. My name is
15 Doctor James Austin, and I am pleased to testify
16 before you today. I have been retained by the
17 Department to consult on the creation of a housing
18 model in response to the level of violence at Rikers
19 Island as required by the Nunez Action Plan. In
20 doing so, I have been reviewing the current DOC
21 policies and practices as well as analyzing patterns
22 of assaults and stabbings and slashings. During this
23 time I've also been consulting with both the Monitor
24 and the Deputy Monitor, Steve Martin and Ana
25 Friedberg, to gain their perspective. Based on this

1 work, a plan is being readied for implementation that
2 will create a more effective restrictive housing
3 model. The single goal of this plan is to quickly
4 reduce the unacceptable level of violence that is
5 occurring on a regular basis at Rikers, but this plan
6 will only be successful with the assistance of the
7 Federal Judge overseeing the Consent Decree, the
8 Criminal Courts-- and I want to come back to that
9 topic, why they're important-- and of course, the
10 Board of Correction and the City Council. It cannot
11 be successfully implemented by the Department alone.
12 In terms of my background, I'm a Criminologist who
13 began my work in the Illinois Department of
14 Corrections where I worked at the Joliet and
15 Stateville Maximum Security Prisons. I actually
16 worked in one of the first restrictive housing
17 programs in the country. Since then I've earned my
18 PHD in Sociology from the University of California
19 and have directed several research and policy
20 development organizations. I have designed and
21 evaluated restrictive housing programs in many
22 correctional systems for both plaintiffs and
23 defendants, including the Federal Bureau of Prisons
24 in the states of Ohio, Illinois, Mississippi,
25

1 Colorado, which have been referenced already today,
2 California and New Mexico, Kentucky. I'm currently
3 involved at the request of the Federal Judge in Rhode
4 Island and local California jails including
5 Sacramento, Santa Clara and Alameda Counties. The
6 goal of this work that I've been involved with has
7 been to eliminate solitary confinement which has
8 occurred in all these locations. It's also to
9 increase out-of-cell time, increase access to
10 rehabilitative programs, reduce the number of people
11 assigned to restrictive housing, and I think most
12 importantly reduce the level of violence in these
13 systems. So, these projects I've been involved with
14 have worked. My history with the Department began
15 last year when I was-- when I designed and installed
16 the jail classification system. The classification
17 system is designed to determine the custody level,
18 and it's very important that that be functioning
19 properly so we can get people separated properly.
20 I'm currently-- that system is currently being used
21 to balance housing within units across the
22 Department. Most recently, at the direction of the
23 Federal Monitor and the Judge, the Department asked
24 me to develop a restrictive housing plan and strategy
25

1 to address the extreme level of violence at Rikers.

2 So let's first talk about the level of violence

3 that's occurring. The Department's population is

4 about 5,800. In 2015, the population was over

5 10,000. So we've gone from 10,000 to 5,800. This

6 significant reduction in the jail population has been

7 largely driven by a dramatic decline in jail

8 admissions. If you look at table one, you'll see

9 that 2015 there were 5,181 monthly bookings. That's

10 been reduced to 1,605. The population has dropped by

11 nearly 50 percent. And most importantly, the length

12 of stay, the average length of stay has increased

13 from 58 days to 108 days. That 108 days is being

14 driven in part in the change of the attributes of the

15 population that's now in the jail. They are

16 increasingly-- as the Commissioner says, they are

17 increasingly charged with violent crimes which take

18 longer to dispose of. But I do want to add that that

19 108 days is approximately three to four times the

20 national average, and that's why I mentioned the

21 Criminal Courts. We do have a big problem in people

22 staying in the jail for excessive periods of time in

23 pre-trial detention, and the Criminal Courts need to

24 help us reduce that length of stay. I point this out

1 because the reduction in jail population has several
2 important management implementations. Current
3 population largely consists of people charged with
4 violent crimes. A large percentage, at least half,
5 will be convicted and sentenced to state prison. So
6 even though if you look at that 5,800 today, and
7 they're pre-trial, we know that about half of them
8 will eventually be sentenced to state prison. The
9 other portion largely will be sentenced to credit for
10 time served or some other sentence, but that will
11 happen after spending months or years of
12 incarceration in pre-trial status. Number three, the
13 jail population requires higher levels of custody
14 consistent with their more severe disciplinary and
15 criminal history. The most significant challenge is
16 the excessive rate of violence that permeates each
17 jail at Rikers. As shown in the figure below, the
18 current rate of assaults at the Department grossly
19 exceeds other correctional systems. I really want
20 you to absorb this chart. These are rates of
21 assaults, inmate on inmate, inmate on staff. In
22 three jurisdictions, all of which I've been involved
23 with now, Los Angeles County, New York City
24 Department of Corrections, and the New York State
25

1 Department of Corrections. That orange bar is
2 Rikers. So the inmate on inmate staff rate is 47 per
3 100 inmate population, as opposed to three in LA and
4 New York State. Inmate on inmate is 114 versus 18
5 and 3. And the total is 163 per 100 population
6 versus 21 and 3. This is such an excessive rate of
7 violence. It's unheard of in any correctional system
8 in the world. Table two looks at the level of
9 violence that's occurred at Rikers in 2022 to date.
10 At this rate, if you look at table two, there will be
11 an estimated 6,000 serious assaults that'll occur
12 this year, 6,000. There'll be 500 slashings and
13 stabbings. I can safely say, and I shouldn't use that
14 word safely, that there is no other jail or prison
15 system in the United States that's even close through
16 experiencing this level of violence on a daily basis
17 this is a crisis this city needs to deal with
18 immediately. Who is involved in these violent act?
19 Well, fortunately, it's a minority of the jail
20 population. Most of the jail populations in the
21 general population and they are classified as minimum
22 or medium. But there is a group that we can identify
23 that is involved in these very serious violent acts
24 either repeatedly-- often repeatedly. Table 3 shows
25

1 that on August 24th we took a snapshot of the jail
2 population. There are 766 people who had been
3 involved in at least one slashing, stabbing, or one
4 use of force assault in the six months prior to that
5 date of August 2th. So we looked at who's in custody
6 and we said let's find the people who are involved in
7 these assaults that have occurred in the last six
8 months. A majority of these people are individuals
9 committing these violent acts are males who are 30
10 years or younger, associated with a gang, classified
11 as maximum custody and have been incarcerated to date
12 for about a year. However, and this is the key
13 point, only 130 were in the enhanced supervision
14 housing program, which is the restrictive housing
15 program. The rest of them are in the general
16 population and they should be in the general
17 population because of what they've done. They are
18 out of their cells, as the Commissioner said, 14
19 hours per day, seven days per weeks and allowed to
20 congregate with one another. Essentially, the
21 individuals who are causing the violence are being
22 properly identified. We know who they are and
23 they're properly classified, but they're in the
24 general population. Clearly, the challenge is to
25

1 expand and modify, not reduce the capacity of the
2 current restrictive housing program. So what does
3 the proposed model look like that we've been working
4 on? It's designed to meet the following standards:
5 Number one, it forbids the use of solitary
6 confinement. It complies with the New York State
7 HALT solitary confinement acct. it complies with the
8 Consent Decree, and lastly, it applies the best
9 practices that have worked in other correctional
10 systems that will reduce the violence in the
11 correctional facilities. So this plan will work. It
12 will reduce the violence. It incorporates the
13 following key components: Placement limited to
14 people who have recently been involved in violent
15 behavior toward other incarcerated people or
16 correctional staff. There is a structured referral
17 and review process that will be fully transparent and
18 consistent with due process guidelines. It will
19 consisted of two program levels in a single facility
20 that will allow the individuals to progress through
21 the program in a timely manner based on compliance
22 with an individualized case plan that's been
23 developed for them and allows for structured and safe
24 periods of daily out-of-cell time. The
25

1 individualized case plan will list the positive
2 behavior and violence reduction programs the
3 individual must complete before being released to the
4 general population. And lastly, the staff-- and this
5 is on their Department-- the staff will have to sign
6 people to this unit that have received specialized
7 training in the management of this population.

8 Detailed data will be collected and reported on who's
9 being admitted to the restricted housing units, the
10 types of services being provided to them, their
11 length of stay in the program and their subsequent
12 disciplinary behavior after they've been released.

13 So we can see is the program working. But the most
14 important statistics would be the monthly rate of
15 violence that is occurring within each facility as
16 this is the indication of the program's
17 effectiveness. Looking at the risk management and
18 accountability system, I reviewed that, a restrictive
19 housing model that was designed by the Board of
20 Corrections. I concluded that RMAS as designed should
21 not be implemented. There were good aspects about
22 the proposed RMAS, but there are also some serious
23 design flaws. Among its issues, RMAS did not require
24 individuals to participate in the programming as a
25

1
2 condition of progression, and allowed one to be
3 released to general population within their 30 days.
4 This meant that effectively RMAS was not a behavior
5 change model. It was a model of brief segregation
6 from the general population as a consequence of an
7 act of violence. As indicated above, the people that
8 would be admitted to RMAS have recently committed
9 very violent and often life-threatening assaults and
10 stabbings. Expecting them to change their violent
11 behavior within 30 days with no requirement to
12 participate in any form of rehabilitative program or
13 exhibit positive conduct is unrealistic. But RMAS
14 would have allowed an individual to move quickly
15 through the system, having never once engage in
16 programming and be forced to be placed back in the
17 general population in 30 days. Intro 539 proposes a
18 model for restrictive housing that is even less
19 restrictive than RMAS. That is, in fact, not
20 restrictive at all. The stated goal of Intro 549 is
21 to eliminate solitary confinement, again, a goal that
22 the Department and I agree with, but eliminating
23 solitary confinement should not also mean eliminating
24 the core societal principle of holding people
25 accountable for their dangerous behavior, especially

1 those who have repeatedly assaulted and stabbed
2 others. Further, a core duty of the Department is to
3 protect the vast majority of the jails population who
4 are not management problems and are not violent to
5 others. This is done by identifying and managing
6 those who are violent in separate and secure housing
7 units. Under Intro. 549, people who have attempted to
8 assault or murder other residents must be allowed to
9 be out of their cells for at least 14 hours a day
10 with large numbers of other people who have also
11 tried to murder or harm others. I know of no other
12 restrictive housing program in the United States,
13 including those agreed to by prisoner rights groups
14 that would allow for people who have just assaulted,
15 stabbed or slashed another person to be out of their
16 cells for 14 hours a day, seven days a week. The 14
17 hours per day is what well-behaved detainees in
18 general population receive, and this is the current
19 problem. This is what we have now, people who commit
20 violent crimes against others are not being placed in
21 restrictive housing programs, and violence is the
22 projected result. So, under 549, as presently
23 constituted, there would be no significant
24 consequences for violent behavior. Incarcerated
25

1 individuals would have not motive to participate in
2 rehabilitative programs to mitigate the probability
3 of future violence. If this is allowed to happen,
4 there would be more not less violence occurring at
5 Rikers. I cannot emphasize enough that passing this
6 bill as constituted is likely to increase violence at
7 Rikers Island. It would create a serious safety
8 concern for the Department and simply is not sound
9 correctional practice. Correctional systems that
10 have significantly lowered their rates of violence
11 and have banned solitary confinement would never
12 adopt such a policy. I would ask you to allow the
13 department to implement the plan that we've been
14 working on so we can show you that we can reduce the
15 violence in a logical, realistic manner. Thank you
16 for your time today. I'm available for any questions
17 you might have.

18
19 CHAIRPERSON RIVERA: Thank you very much.
20 I'm going to turn to our Speaker Adrienne Adams for a
21 couple questions.

22 SPEAKER ADAMS: Thank you very much,
23 Madam Chair. Thank you all once again very much for
24 being here this morning. Let's just stay on the
25

1 enhanced supervision housing piece a bit. How many
2 young adults are currently in ESH?
3

4 COMMISSIONER MOLINA: None.

5 SPEAKER ADAMS: Zero?

6 COMMISSIONER MOLINA: Yes, ma'am.

7 SPEAKER ADAMS: Okay. What would the
8 current average length of stay be in ESH?

9 COMMISSIONER MOLINA: The current average
10 length of stay with those that have been ESH have
11 been-- in ESH has been 53 days.

12 SPEAKER ADAMS: What's the minimum lock-
13 out for each level of ESH?

14 COMMISSIONER MOLINA: Seven hours.

15 SPEAKER ADAMS: Okay. And under what if
16 any circumstances would individuals in ESH receive
17 less than minimum lock-out?

18 COMMISSIONER MOLINA: There may be a
19 possibility that someone in ESH while they're in
20 their out-of-cell lock-out congregate setting
21 possibly would attack another detainee or possibly
22 attack a staff member. In that incident they would be
23 removed from ESH in housing unit for that moment, and
24 they would likely be-- they'd be taken to our de-
25 escalation housing unit where we can keep them there

1
2 locked in for up to six hours to determine the
3 appropriate housing setting that will come next.

4 SPEAKER ADAMS: Okay.

5 DOCTOR AUSTIN: Could I add something to
6 that? Which is-- because I've been through the
7 units, through there yesterday and several times
8 before. At any given time you'll see are the ones
9 that are out or can be out, I'd say maybe a third of
10 them are in their cells voluntarily. They do not
11 want to be out in general population. This is very
12 common in restrictive housing units. A lot of the
13 people there prefer to be in their cells for periods
14 of time because of the tension and issues that can
15 happen in the congregating with other people.

16 SPEAKER ADAMS: What does that-- I mean,
17 I visited a few times the facilities. Can you just
18 tell us broadly what that space looks like? What is
19 comprised in that space? And in addition to that,
20 what is the time spent look like for the detainee
21 within that space.

22 COMMISSIONER MOLINA: Sure. Thank you
23 for your question. So, while the detainee is-- has
24 his out-of-cell time in restrictive housing in the
25 seven-hour lock out, we have removed all restraint

1 desks. So when I got to the Department there were
2 restraint desks that people were restrained to when
3 they were out of their cell. We eliminated that
4 practice. Individuals are-- the census in level one
5 is capped out at 20 individuals in that housing unit,
6 and they ultimately lock out for seven hours, 10 at a
7 time if they elect to do so. They still have access
8 to be able to buy hygiene commissary products if they
9 choose. They have five hours of programming for
10 targeting their behavior so that we can help them
11 resolve issues of conflict without violence. They
12 have one hour of TV time during non-programmatic
13 times and they have regular weekly engagements where
14 we review their cases to determine if they're ready
15 to move on to the next level and to be released back
16 to general population.

18 DOCTOR AUSTIN: I'd like to add also that
19 on the plan that we're developing, I think it's fair
20 to say that the structured programming has been
21 lacking in the units.

22 SPEAKER ADAMS: That's where I was going.

23 DOCTOR AUSTIN: Pardon?

24 SPEAKER ADAMS: That's where I was going.

1
2 DOCTOR AUSTIN: Yeah, and in my
3 testimony, what we are doing, we're going to require
4 an individual case plan be established for each
5 person. That case plan requires interactions or
6 sessions with program people in private settings.
7 So, we're looking at the units to modify what we call
8 the day room areas, and there's other rooms in the
9 unit that we can modify, because we recognize that
10 the programs to work have to be done in a
11 professional manner. You just can't be out, you know,
12 playing chess or something like that or card games.
13 You have to have a serious period of time, and it's
14 got to be happening regularly, like on a weekly basis
15 or biweekly basis. So, I think that's one of the
16 benefits of the new plan, it's really going to ramp
17 up the services that they will be experiencing.

18 SPEAKER ADAMS: So, Doctor Austin, I
19 mean, you just hit on something that I-- the place
20 exactly where I was going with this, and that comes
21 to the time spent, the value of the time spent, the
22 semantics around solitary confinement, punitive
23 segregation, something that I would like to see
24 changed to rehabilitative something. So, the current
25

1 programming is what you're saying is not effective
2 programming. Who are the program--

3 DOCTOR AUSTIN: [interposing] Well, the
4 delivery.

5 SPEAKER ADAMS: The delivery of the
6 program.

7 DOCTOR AUSTIN: The programs would work,
8 but they're not being delivered properly.

9 SPEAKER ADAMS: Who are the programming
10 people and what does that program look like?

11 DOCTOR AUSTIN: Well, the programs vary.
12 I mean, I'm not a psychologist.

13 SPEAKER ADAMS: No, I just--

14 DOCTOR AUSTIN: [interposing] That's not
15 my thing.

16 SPEAKER ADAMS: want to know who is in--
17 who's in there delivering the services to the
18 detainees and what types of services are being
19 delivered to the detainees that are in?

20 DOCTOR AUSTIN: They would be a
21 combination of individual and small group sessions
22 that are targeting, you know, anger management
23 classes, impulse control classes, things like that.
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COMMITTEE ON CRIMINAL JUSTICE

SERGEANT AT ARMS: Are they social workers--

DOCTOR AUSTIN: [interposing] My recommendation--

SPEAKER ADAMS: [interposing] Are they psychologists? Are they psychiatrists, social workers, who? Are they PHD's?

COMMISSIONER MOLINA: Madam Speaker, just so I could just let you know what's currently taking place. Each unit has a program counselor providing approximately six hours of program activities available to the detainee if they so choose to want to participate. We are assigning social-- we assign social workers one-on-one so they can be engaging with the population to address issues. We have Associate Correctional Counselors who provide jail-based social services. They continue to have access to minimum standards like legal coordinators to assist them with their law library issues. We've also have brought in like animal therapy. So dog therapy has been utilized in the service, as well as faith-based ministerial services have also been brought in.

1
2 SPEAKER ADAMS: That's good. And how
3 many hours is this again for the time that they're--

4 COMMISSIONER MOLINA: Well, we program--
5 we have programming available for five or six hours
6 during the seven hours of lock-out time that is
7 available every day for those that are in restrictive
8 housing.

9 SPEAKER ADAMS: And I think Doctor Austin
10 was just alluding to perhaps extending that or
11 expanding that programming or that time frame for
12 that programming?

13 COMMISSIONER MOLINA: I don't think that
14 was Doctor Austin's position.

15 DOCTOR AUSTIN: I'm sorry, what'd you
16 say?

17 SPEAKER ADAMS: I thought that you were
18 referencing modifying that, the programming or
19 extending it or something along the--

20 DOCTOR AUSTIN: [interposing] No, it's the
21 delivery of the service.

22 SPEAKER ADAMS: The delivery.

23 DOCTOR AUSTIN: Yeah, so for these
24 services as he's described, we have to have to have
25 semi-private or private settings for that to happen.

1
2 Like, if you're doing a counseling session with
3 someone talking about their anger management issues,
4 you can't do that effectively in open area where
5 other people are congregating or can hear what's
6 going on. It has to be a private or semi-private
7 setting. So we have to-- we have to bump that up.

8 SPEAKER ADAMS: Sure. And Commissioner,
9 how many people are involved in the programming
10 aspect, do you know?

11 COMMISSIONER MOLINA: Well, we have
12 hundreds of people involved in programming. So we
13 have a blended model of programming. We have
14 programmatic staff that actually works directly for
15 the Department in our Programs Division throughout
16 all of our facilities. In addition to, we have
17 contracted providers. Some of those providers are
18 nonprofit. Some of them are faith-based providers
19 that come in also to do programming activities, not
20 only in our restrictive housing units, but also in
21 our general population units and other housing units.

22 SPEAKER ADAMS: Under your current-- I
23 guess, under your current folks that are in there
24 working have you seen any substantial behavior
25

1
2 modification as a result of this programming and the
3 folks that are currently used.

4 COMMISSIONER MOLINA: Well, given that
5 our length of stay has reduced during my tenure there
6 of individuals inside restrictive housing, the length
7 of stay was in the 70-day timeframe. [inaudible]
8 we're having impact, because we're doing regular
9 weekly evaluations. That evaluation is chaired and
10 driven by our Programs Division so that we have the
11 right subject matter experts evaluating individuals'
12 progression, as well as input from our officers that
13 work in those housing units, of behaviors that they
14 may want to share with the program providers so that
15 they can address them with those individuals. We
16 also do have sections within the housing unit that
17 can serve for private moments between a provider and
18 a single individual to have one-on-one. We also have
19 expanded the use of violence interrupters. We've had
20 a lot of success with credible messengers, and we're
21 looking to adopt credible messengers even within our
22 restrictive housing units.

23 SPEAKER ADAMS: That's good. I just want
24 to touch on one thing and I'll pass it back on to my
25 colleagues. You mentioned the aspect of this bill in

1
2 its current state, speaking about a hearing and
3 speaking about timeframe for a hearing which we get
4 that. A hearing is required presently, correct?

5 COMMISSIONER MOLINA: That is correct.

6 SPEAKER ADAMS: Is that being followed
7 up?

8 COMMISSIONER MOLINA: Yeah, so an
9 individual is placed in what I would categorize as
10 pre-hearing detention. So immediately following a
11 violent-- an act of violence, we would place that
12 person in advanced supervisory housing in our
13 restrictive housing. Within five days of that, a
14 hearing occurs, and within seven days of that
15 incident happening, a determination would be made if
16 the person was guilty or innocent.

17 SPEAKER ADAMS: So, is the person put in
18 restrictive housing prior to the hearing as-is, or
19 no?

20 COMMISSIONER MOLINA: Yes.

21 SPEAKER ADAMS: Yes, they're put into--
22 and they're still awaiting a hearing, but they're put
23 into--

24 COMMISSIONER MOLINA: They're put into
25 restrictive housing because the goal of that is-- and

1
2 it's called pre-hearing detention within restrictive
3 housing, because we have to remove that violent
4 individual from the general population so that others
5 can be safe.

6 SPEAKER ADAMS: Got it. Okay, thank you.
7 Chair?

8 CHAIRPERSON RIVERA: I just want to
9 acknowledge we've been joined by Council Members
10 Stevens and De La Rosa. And these questions are
11 really for the Commissioner since you are the manager
12 of these jails. So, Doctor Austin, thank you for your
13 testimony. I'll let you know if I need you to chime
14 in. At the meeting of the Board of Corrections Jails
15 Oversight Body on Tuesday, July 12th, you and your
16 leadership team did not dispute that in multiple
17 units you continue to lock people alone 23 hours a
18 day indefinitely without due process or any
19 information on when or how they can get out. And at
20 that meeting, Board Member Felipe Franco described
21 how people including young adults in Northern
22 Infirmary Command Units 3B and 3C as well as West
23 facility were being locked in their cell area 23
24 hours a day without human contact, without leaving
25 their cell area, and without group programming and

1
2 were being held in these units indefinitely without
3 any due process and without any knowledge of when or
4 how to get out of the units. Board Member Franco
5 called these awful spaces and described how he met
6 young people who were decompensating and would be
7 worse off than when they went into these units. You
8 and other DOC administrators admitted that dozens of
9 people are being locked in these units in these
10 conditions. Now, evidence indicates that the social
11 isolation of locking someone in such conditions can
12 have devastating physical and psychological effects
13 on people, and mental health experts have said this
14 is solitary confinement and causes the same harm as
15 other forms of solitary confinement. In your
16 testimony you said that it was indeed inhumane. Do
17 you agree that people should not be locked in the
18 conditions such as what I described?

19 COMMISSIONER MOLINA: Yes, I do agree,
20 and those are not the conditions that the individuals
21 are being held in. Those individuals are in
22 involuntary protective custody. The current number
23 of individuals that are in that setting is 27. Those
24 individuals get 14 hours out-of-cell time in a
25 personalized day room which has access to television,

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2 telephone, commissary privileges. They get outside
3 recreation. They can communicate with others that
4 are in that same tier of that housing unit. So they
5 are not locked in for 23 hours a day with no human
6 contact.

7 CHAIRPERSON RIVERA: They're not?

8 COMMISSIONER MOLINA: No.

9 CHAIRPERSON RIVERA: Locking people up
10 for that long is in direct violation of many
11 components of the binding state HALT solitary law,
12 including the 15-day limit on solitary for all
13 people, the ban on special populations in solitary
14 and the due process requirements for being placed in
15 solitary, the out-of-cell and programming
16 requirements for people while in solitary, the
17 congregate programming requirements, and any
18 alternatives to solitary. Has the Department been
19 blatantly violating the HALT Solitary Law? Are those
20 due process hearings actually happening?

21 COMMISSIONER MOLINA: Due process
22 hearings are happening for those that are placed in
23 restrictive housing. Involuntary protective custody,
24 which these individuals are in because they're very
25 violent-- they're violent individuals, that if we put

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2 them in general population there would be a
3 significant risk of retaliatory acts, and those
4 individuals are not in solitary confinement. They
5 get out-of-cell time and private day rooms for up to
6 14 hours a day if they choose, with all the amenities
7 of general population, to include outside recreation.

8 CHAIRPERSON RIVERA: In previous
9 testimony, you yourself have stated that those very
10 units do not provide actual or meaningful out-of-cell
11 time. In early 2022, you urged patience and more time
12 to implement to the Board of Corrections rules
13 related to RMAS until July 1 so that people have
14 actual out-of-cell time in a group setting, and I
15 know Doctor Austin is assisting with some sort of new
16 restrictive housing model of which we have no
17 timeline, but why have you continued to place young
18 adults and other people in these units at NIC?

19 COMMISSIONER MOLINA: Like I stated
20 earlier, it's an involuntary protective custody
21 housing unit. These are very violent individuals
22 that have conducted very violent acts of other
23 persons, and if we would have placed them back in
24 general population, their own safety would be at
25 significant risk. There-- it is not solitary

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2 confinement. They have 14 hours out-of-cell and a
3 private day room with access to the amenities that
4 individuals in general population have. It is my
5 duty to keep individuals there safe, and that's what
6 I'm doing.

7 CHAIRPERSON RIVERA: What is the longest
8 total time that a person has been in one of those
9 units at West facility this year?

10 COMMISSIONER MOLINA: The average length
11 of stay in total for those that have been in that
12 unit and out of that unit has been 25 days.

13 CHAIRPERSON RIVERA: That's average. Do
14 you know the longest time?

15 COMMISSIONER MOLINA: I'd have to follow
16 up with you to let you know what that is.

17 CHAIRPERSON RIVERA: Okay, please do so.
18 How many people in DOC custody today are in a unit
19 where they do not have seven hours of actual out-of-
20 cell time in a shared space with other people?

21 COMMISSIONER MOLINA: Well, as I stated
22 before, our restrictive housing model provides for
23 seven hours out-of-cell. Like Doctor Austin has
24 stated, some individuals elect to stay in their cell.
25 We don't force individuals to come out of their cell

1 if they do not want to. There's nobody that's there
2 under 23 hours of solitary confinement. It does not
3 exist.
4

5 CHAIRPERSON RIVERA: Do you know how many
6 people?

7 COMMISSIONER MOLINA: None.

8 CHAIRPERSON RIVERA: How many people are
9 in DOC custody in a unit where they do not have
10 access to the Board's minimum standard of at least 14
11 hours out-of-cell per day?

12 COMMISSIONER MOLINA: We have
13 approximately 117 individuals that are in restrictive
14 housing, and those individuals get seven hours out-
15 of-cell time under the restrictive housing rules.

16 CHAIRPERSON RIVERA: So, Commissioner
17 Molina, you actually have stated a commitment to
18 operationalizing sustainable criminal justice reform
19 practices in advancing the principles of social
20 justice by implementing meaningful change through the
21 introduction of integral programs that aid and
22 navigate vulnerable populations. You've also stated
23 that you believe that in order to improve the
24 criminal justice system and enhance the impact of
25 social services, these systems need strategic

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2 disruption in how they are managed. Evidence has
3 shown that alternatives to solitary confinement and
4 other forms of separation that involve full days of
5 out-of-cell group programming and activities reduce
6 violence, reduce self-harm and improve people's
7 wellbeing. And you've testified at previous hearings
8 that you agree with this evidence and that providing
9 people with real out-of-cell programming
10 opportunities and engagement helps to reduce
11 violence. Is that still your belief and vision?

12 COMMISSIONER MOLINA: Oh, absolutely it
13 is my belief. And you had referenced Cook County and
14 what Sheriff Dart did in Cook County, and I will tell
15 you I went to Cook County, and our restrictive
16 housing is significantly less restrictive in Cook
17 County. In Cook County, their restrictive housing
18 out-of-cell time is four hours and ours is seven
19 hours.

20 CHAIRPERSON RIVERA: Can you tell us more
21 about what you think the benefits are of having
22 people-- of people having out-of-cell programming and
23 activities? If you have, like, examples of where
24 you've seen out-of-cell group programming and
25

1
2 activities help people's mental health and wellbeing
3 and improved safety?

4 COMMISSIONER MOLINA: Well, I've seen it
5 and we've used it in our violence reduction plan at
6 RNDC. I'll remind this body that RNDC, our young
7 adult facility, was our leading most violent facility
8 when I took over as Commissioner of the Department of
9 Corrections. And what we implemented there at RNDC
10 in our violence reduction plan touched in four areas:
11 security practices with tactical search operations,
12 embedding credible messengers in that facility,
13 programming education, and having faith-based leaders
14 engage with these individuals. In many cases,
15 sometimes one-on-one, and others, group activities.
16 And it is our officers that do many of these group
17 activities while individuals are out-of-cell for 14
18 hours in that young adult facility. And what we've
19 seen over the last few months in our young adult
20 facility at RNDC has been remarkable. If you compare
21 August, where we were in August to where we were in
22 March, we had an 83 percent reduction in slashings
23 and stabbings at the facility. We have seen declines
24 in slashings and stabbings and violence to include
25 use of force t that facility because of exactly the

1 things that you have just stated regarding group
2 programming, educational opportunities to include
3 career technical education, and it has turned that
4 facility around. And what we are doing now is
5 expanding that same strategy in our other facilities,
6 at GRVC and AMKC.

8 CHAIRPERSON RIVERA: So in San Francisco,
9 the Resolve to Stop the Violence Project, RSVP,
10 reduced violence and recidivism by replacing solitary
11 confinement with programming to teach people non-
12 violent conflict resolution skills, and one study
13 found that RSVP participants were re-arrested on
14 violent charges at nearly half the rate of non-
15 participants. Commissioner Molina, could you please
16 speak to your professional experience when you
17 implemented RSVP within the Westchester County
18 Department of Correction?

19 COMMISSIONER MOLINA: Absolutely. It was
20 a very successful program in Westchester County. The
21 difference is that individuals in RSVP were not in
22 RSVP after committing a very violent act where they
23 assaulted another person in custody or officer. The
24 individuals in RSVP were individuals that were
25 charged with very violent crimes. They were mandated

1
2 to participate in programmings. They had significant
3 out-of-cell time to do group as well as individual
4 programming, but that is a different issue than
5 restrictive housing.

6 CHAIRPERSON RIVERA: Earlier you said that
7 the NIC population was 27 two months ago, and you
8 said you were working to get it zero. What do you do
9 to document a person who refuses to leave the cell,
10 and how close are you to your goals?

11 COMMISSIONER MOLINA: We engage with the
12 population on a regular basis, both our uniformed and
13 non-uniform staff, our contract providers. As Doctor
14 Austin has stated and as many members of this
15 committee know, as well as the Board of Corrections,
16 none of the programs that we offer are mandated. We
17 cannot force any of these individuals to participate
18 in them. Now, we engage with the population and we
19 try to gain their buy-in, so that they can unlearn
20 responding to issues of conflict using violence. It
21 takes a lot of hard work, but I could tell you that
22 our officers and our non-uniform staff are committed
23 to doing that work, and that's why we've seen
24 slashings and stabbings significantly come down to
25 where they were.

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2 CHAIRPERSON RIVERA: I appreciate you
3 emphasizing programming, and we saw a very detailed
4 presentation on the excessive violence that is
5 transpiring within the jails, and we certainly do not
6 want that culture, that environment to continue. I
7 think all my colleagues have been very clear that
8 this is about safety for everyone. So I just want to
9 ask about-- you are asking for time to implement a
10 new model. You are saying you will be more
11 transparent, that you are going to communicate, and
12 even Doctor Austin listed all the partners, including
13 the City Council that are going to be required to get
14 this right and to be successful ultimately. And I
15 want to believe that this is truly your mission and
16 your belief, so I have to ask, the New York Times
17 reported yesterday that there was a cover-up to avoid
18 scrutiny for another death in custody by telling
19 staff to make sure that Elmore Robert Pondexter [sp?]
20 was off the Department's count. Why was the death
21 not reported to the BOC or the public?

22 COMMISSIONER MOLINA: That New York Times
23 paints a very inaccurate picture of what we were
24 doing to be very compassionate to that individual
25 that was transitioning, and the vernacular used in my

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2 email was sent to a group of individuals, and it is
3 Correction vernacular, so that it ensured that that
4 gentleman could have the privacy and dignity with his
5 family and loved ones as he transitioned from his
6 health ailment. And I believe in compassionate
7 release for those that are suffering from very
8 serious illnesses that are looked very unlikely to
9 make it.

10 CHAIRPERSON RIVERA: We agree,
11 compassionate release is important. There are other
12 tools and mechanisms and strategies that we can
13 certainly implement to reduce the overall population,
14 and I hope that it is also our goal to close Rikers
15 and reduce the population just generally. I do want
16 to turn it over to my colleagues. There are many of
17 them that have questions. I'll return for follow-up.
18 I'm going to go to the Public Advocate Jumaane
19 Williams. Thank you for your answers.

20 COMMISSIONER MOLINA: Thank you, Ma'am.

21 PUBLIC ADVOCATE WILLIAMS: Thank you so
22 much, and thank you Commissioner. Sometimes we're
23 using interchangeable terms, and so I just want to--
24 so I understand what is your definition of solitary
25 confinement?

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2 COMMISSIONER MOLINA: My definition of
3 solitary confinement is similar to United Nations.
4 It is keeping an individual in a very small cell for
5 23 hours a day with very to little no human contact
6 with other persons, and at best, maybe you will get
7 one hour a day out of that cell for hygiene.

8 PUBLIC ADVOCATE WILLIAMS: Okay. And so
9 isolation is a big part of that. I just want to make
10 sure because we have restrictive housing, enhanced
11 supervision, punitive segregation, and I think these
12 things are sometimes being used interchangeably and
13 they're always not. So I want to make sure. This--
14 what the bill did actually tried to define people's
15 experiences and not use the terminology, because
16 they're getting confused. I also wanted to make clear
17 from-- I want to make sure we are agreeing on what
18 we're disagreeing about. And from when I'm listening
19 to people you and-- I'm sorry--

20 DOCTOR AUSTIN: [interposing] Doctor
21 Austin.

22 PUBLIC ADVOCATE WILLIAMS: Yes. There is
23 a lot of agreement. Some of that agreement means
24 that there shouldn't be as much pushback on this bill
25 that we have. So want to try to make sure that we

1
2 are understanding what it is that we're agreeing
3 about, disagreeing about. There's an agreement that
4 we should not have solitary, if I'm correct. There's
5 also an agreement that we may need to separate people
6 to keep people safe. There's also an agreement that
7 there has to be meaningful programming, which didn't
8 exist in some of the other models. I also want to
9 point out that some of the horrific things that were
10 shown there, and they truly are horrific, and even
11 the data and the charts were the mind-blowing of how
12 violent Riker is to other places happened before this
13 bill. So this bill has nothing to do with all of the
14 violence that's occurring right now. If I'm not
15 mistaken, there is agreement on all of those things.
16 Also, length of time is also a huge problem that we
17 do have to address. I'm interested-- I don't even--
18 you don't need to say now, but the people who
19 committed those crimes, I'd be interested to know how
20 long they were in Rikers, because are being held in
21 Rikers for far too long and I think everyone agrees
22 that that increase the likely of violent-- as
23 everybody agrees that lack of minimum standards are
24 also helping with the violence that's going on.
25 Those all the things that there's a lot of agreement

1 on. So I do want to get some of the points where
2 there are disagreement, because I'm looking at this
3 chart and some of it seems like there's a
4 disagreement of how many hours as opposed to the
5 theme [sic]. So, I've been very clear, and I'm going
6 to be clear again, my understanding of the bill and
7 what I intend for this bill is that you can isolate
8 someone pre-trial to de-escalate. As you mention
9 here, it would go from six hours to four hours.
10 That's a difference of two hours. You can also put
11 someone in a non-general population that you may
12 define as restrictive housing before there is a
13 trial. What we're saying is that trial has to happen
14 within seven days to make sure people need to stay in
15 there. That is what-- you're [inaudible], but that
16 is what our intent is, my intent is, and that's what
17 we believe this bill does. So, given, if we can get
18 to the point where those two things are agreed upon--
19 what we're arguing now is a couple of hours on de-
20 escalation and how many hours people should be out-
21 of-cell when they're in some sort of restrictive
22 housing. That's a conversation that I think can
23 happen in a very calm way without some of the back
24 and forth that we're having. I think there's a lot of

1 misinformation that is occurring right now. So, just
2 want to pause. Is there anything that I said there
3 that there's a disagreement on?
4

5 COMMISSIONER MOLINA: Yes.

6 PUBLIC ADVOCATE WILLIAMS: Okay.

7 COMMISSIONER MOLINA: Just a couple of
8 technical points. You are correct, if someone
9 commits a violent act, and we have that today, we can
10 bring that individual to a de-escalation housing
11 unit. Currently under the BOC standards, that time
12 frame is six hours, and there's active touring
13 supervision in the de-escalation housing units by
14 uniformed officers every 15 minutes. That de-
15 escalation housing unit, under the language of this
16 bill, is only four hours and is the only opportunity
17 that that individual can be removed from general
18 population and put into the de-escalation unit.
19 Because we cannot have a-- again, pre-hearing
20 detention is not allowed under the bill. Yes, the
21 bill does call for there to be a hearing for
22 individuals and that is something that we support,
23 but that hearing--

24 PUBLIC ADVOCATE WILLIAMS: [interposing]

25 When you're saying pre-trial detention, are you

1 talking about putting someone in something that's
2 other than general population?

3 COMMISSIONER MOLINA: Yes.

4 PUBLIC ADVOCATE WILLIAMS: Well, I'm
5 saying the intent is to be allowed to do that for
6 several days, as long as the hearing occurs within
7 seven days.

8 COMMISSIONER MOLINA: The language of the
9 bill,--

10 PUBLIC ADVOCATE WILLIAMS: [interposing]
11 Got it. I got it. I heard what the language is
12 saying. I'm saying this is the intent of the bill.
13 So, assuming that we can get that clear, what we are
14 actually arguing about is a few hours in de-
15 escalation and in some kind of restrictive housing.
16 Because right now-- and when I visited, it was-- I
17 think you saying seven hours, but I saw some that was
18 10 and some that was 12 hours, and we're saying 14.
19 So, again, there it's just a difference of a few
20 hours that we're arguing about.

21 COMMISSIONER MOLINA: I would also like
22 to add that the bill language also require that
23 medical clinicians tour in the de-escalation housing
24 unit for the violent primary aggressor every 15
25

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2 minutes. I can let Correctional Health Services
3 speak to that point, but for the staffing that would
4 be required to be able to do every 15 minute rounding
5 in de-escalation, I don't know if they have the
6 capacity to do that.

7 PUBLIC ADVOCATE WILLIAMS: Okay. I just
8 want to stick to the thing that's out in the public a
9 lot, which is where we're trying to prevent people
10 from being able to separate people because of safety.
11 That's just not a true thing, and I want to make sure
12 that we have that out in the public, and I want to
13 make sure that we're understanding and have listened
14 to what people are saying about being safe. That's
15 why I want us to try to agree on what it is we're
16 disagreeing about so we can have a conversation on
17 that, because there's an understanding that we may
18 have to separate people. All we're saying is we
19 don't want to torture them. and all we are we are
20 saying is the same thing that seems to be said, we
21 have to make sure people have a humane amount of out-
22 of-cell time, and very true services, things that
23 weren't occur-- that were not occurring. That's
24 agreement, what we agree on. And the rest is what we
25 should be having a discussion about, but we seem to

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2 be having a lot of discussion about things that we
3 actually agree on. And that's what I wanted to
4 emphasize, because there are very real human beings
5 that have trauma happening to them. This bill is
6 about solitary is happening, trauma is happening to
7 incarcerated people. But I can see the trauma that's
8 happening on our Correction Officers, and I don't
9 want to have misinformation further that trauma. I'd
10 rather us have a discussion about what it is that
11 we're disagreeing about. That's very important.
12 Also, I heard bail reform mentioned a lot of times,
13 but my understanding, even without bail reform those
14 same people who are accused of violent crimes would
15 still be on the island. So I'm not sure how
16 necessarily bail reform would have changed that. So,
17 if you want to tell me how that would have changed, I
18 would like to better understand that.

19 COMMISSIONER MOLINA: Well, I think what
20 we have with bail reform is a high concentration of
21 very violent individuals in one place. Now, when
22 Rikers had times when we had 15,000 and 20,000
23 individuals, I agree there were a lot of individuals
24 that should not have been there, but the number of
25 individuals that were non-violent offenders mixed in

1 with that violent population allowed there to be
2 some, for lack of a better way of putting it, diluted
3 the violent individuals that were there. And now
4 what we have--

6 PUBLIC ADVOCATE WILLIAMS: [interposing]

7 So, what you're saying is--

8 COMMISSIONER MOLINA: is a high
9 concentration of violent individuals in custody.

10 PUBLIC ADVOCATE WILLIAMS: when we were
11 10, 15, even 20,000 at Rikers, there wasn't violence?

12 COMMISSIONER MOLINA: No, there was
13 violence. What I was saying is that the level of
14 violence was not so concentrated, because the
15 population of non-violent offenders that over-diluted
16 the violent population. I'm not saying I want us to
17 be in those days again, because I don't think non-
18 violent offenders should have to suffer that.

19 PUBLIC ADVOCATE WILLIAMS: I got it. I
20 will say I would love to see the numbers,
21 particularly in the 90s, because I remember a very
22 violent Rikers Island that was full of people who
23 shouldn't have been there, but also had some of these
24 folks as well. I think [inaudible] my last point.
25 Oh, yes, the other point was that we are not allowing

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2 any type of restrictive housing. As you mentioned as
3 way the current bill says, there is a similarity
4 between how many people are out-of-cell general
5 population and [inaudible] restrictive housing.

6 That's what the bill-- you are correct about that.

7 But it doesn't-- you are allowed-- there are other
8 certain changes that could happen like commissary.

9 So, are you saying that commissary is not a good way
10 to deal with some of these things? Because when I
11 saw the level one, the level two's that you had, some
12 of the differences weren't in-- some of the
13 differences weren't necessarily the hours I heard
14 people complain about. I heard about-- complaint
15 about commissary. So that was a thing that was
16 effective in my opinion.

17 COMMISSIONER MOLINA: Yes. So if these
18 that are restrictive housing based on the reading of
19 the bill have the same amenities, and we're not
20 talking about minimum standards. We're talking about
21 other amenities and privileges that are in general
22 population, then there are no differences. And
23 currently in our restrictive housing models, we do
24 have max spending caps for individuals that are in
25

1
2 restrictive housing if they want to buy commissary
3 products.

4 PUBLIC ADVOCATE WILLIAMS: Okay. Like I
5 said, I think there's lot of agreement here. I also
6 do want to say, when I visited in last September on
7 the brink of-- it was just pure-- It was-- I don't
8 even know the right word is for what I saw. When I
9 went back this-- I hate to say that it was better,
10 because what was experienced, I don't to validate
11 what I saw in September. But I'd have to say, even
12 when I went back this August, you may not be able to
13 publicly say that there were people who were in the
14 cells for at least 24 hours a day. It was at least
15 one person we saw who was waiting for medical, they
16 were saying that they were in that cell for more than
17 a day, and there were some people who were still-- I
18 know you don't want to use the cell within a cell
19 process that was being there, so I applaud that. But
20 there were still people in that cell within a cell,
21 although they were much less. And we're getting news
22 of people still being kept in showers for a long
23 time. So you may not be to say yes, but I did witness
24 at least some of those things while I was there. So
25 even while we're saying we don't want to keep folks

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2 in cell for 24 hours, that kind of thing is still
3 happening. We're also hearing that even some of the
4 trail that should be happening in a timely fashion.
5 Under the current rules-- forget our bills-- are
6 actually not happening. So those are some of the
7 things that we really have to adjust as we try to
8 move forward. I do have some additional questions.
9 I'll wait for the next round, but did want to just
10 get a basis of where I think we're agreeing and we're
11 still arguing about that, and I don't want to argue
12 about that. I'd rather argue about what it is that
13 we actually disagree on. Thank you.

14 COMMISSIONER MOLINA: Well, I thank you
15 for your visit as always, and I think you categorized
16 it correctly. What I walked into on January 1st of
17 this year was a Department on the brink of collapse,
18 and while we have had some successes over the last
19 nine months, we still have a lot of work to do given
20 the level of just mismanagement that had occurred in
21 this department for so long. So thank you for coming
22 and visiting.

23 CHAIRPERSON RIVERA: Thank you, Public
24 Advocate Williams. I just-- Commissioner, I feel
25 like you keep saying the bill doesn't allow for de-

1 escalation, and there is language in the bill for de-
2 escalation.
3

4 COMMISSIONER MOLINA: Yeah, let me just--
5 if I was misunderstood. The bill does allow for de-
6 escalation to be used at a maximum of four hours, but
7 after that four-hour time period, what the bill does
8 not allow is for us to place someone in restrictive
9 housing after that.

10 CHAIRPERSON RIVERA: I just-- you know,
11 I'm-- you want to have time to implement RMAS and I
12 know there's a restrictive housing model. Are you
13 planning on having firm caps on the replacement for
14 RMAS, 15 days, 30 days, etcetera? I'm trying to nail
15 down whether you're currently providing a system that
16 gives representation at the due process hearing.

17 COMMISSIONER MOLINA: So, you mention
18 caps, I don't know what that-- if you're talking
19 about days or if you're--

20 CHAIRPERSON RIVERA: [interposing] Days.

21 COMMISSIONER MOLINA: talking about
22 people. Okay, so our average length of stay like I
23 said earlier in enhanced supervisory hearing has been
24 around in the 50-day mark. So people are progressing
25 through the levels and having a-- providing a pathway

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2 with engagement with programming back to general
3 population. As we are currently still developing
4 what needs to be approved by the Federal Monitor
5 regarding our restrictive housing model as directed
6 by the Federal Court, the finality of what those
7 details are, we do not have just yet, but we will
8 have in the coming weeks.

9 CHAIRPERSON RIVERA: One of the
10 criticism, I guess, the Monitor has said in term--
11 regarding RMAS was that they did not feel the
12 Department was ready to meet the needs of a system
13 that provided representation. So, I know that you're
14 still figuring out details and you have Doctor Austin
15 as your consultant, so we'll look forward to hearing
16 about that I guess in the next few questions from my
17 colleagues, as well. I don't to get to the list.
18 There are a number of my colleagues signed up to
19 speak, so please colleagues be cognizant of the time.
20 I'm going to-- the first four on deck, we have Cabán,
21 Krishnan, Hanif, and Carr. Council Member Cabán?

22 COUNCIL MEMBER CABÁN: Thank you very
23 much. Commissioner, you testified that if you get
24 something wrong, I hope you will correct me. So I am
25 happy to. I think I'll start with you testified that

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2 you will not permit anything like it on my watch
3 referring to solitary confinement. I can say that I
4 have witnessed the facilities on multiple visits and
5 have seen the functional [sic] equivalent of solitary
6 confinement in various ESH units. I think the Public
7 Advocate similarly witnessed the same. In addition to
8 that, you also testified that it wouldn't be possible
9 to manage a jail under such constraints, and I'm here
10 to say that jails around the country and in fact
11 robust empirical evidence says otherwise. And then
12 finally, before I get into some of my questions, you
13 also testified that it would make the job of running
14 a humane and safe jail system far more difficult, but
15 these practices are-- it's disprove, right? It shows
16 that, you know, it is a more effective alternative to
17 reduce violence and increase safety if you increase
18 meaningful out-of-cell time, you add access to
19 medical, mental, and physical healthcare, which by
20 the way I know that the Legal Aid Society has issued--
21 - has a current lawsuit because the Department is
22 failing to provide anywhere near an adequate level of
23 healthcare and mental health care to the folks that
24 are incarcerated on Rikers Island. And so I think
25 that it's important to note that one of the things

1
2 that often gets asked is what do we do with the
3 violent people on Rikers, and it is fundamentally the
4 wrong question, and I would say it's also a lazy, a
5 negligent-- and it's what we have seen, a deadly
6 approach to this problem, and most importantly it's
7 DOC leadership in the administration skirting
8 responsibility that is owed to both incarcerated
9 people and your staff. Instead of doing the hard work
10 of asking and solving these questions of why is the
11 violence occurring in the first place. Why are people
12 resorting to violence? Is it mental health? Is it
13 retaliation? Is it gang violence? Is it
14 transphobia? Is it extreme stress? Is it hunger?
15 Is it lack of healthcare? And taking the time and
16 care to identify and address those roots? Because I
17 can say that you can list off all of the programming
18 that you would like, but what we see every day when
19 we talk to incarcerated folks is that they're not
20 getting it. And so I know that I'm running out of
21 time, but I'm going to ask you for some quick
22 statistics, so hopefully our partners in the
23 community can use it. And I will start by asking how
24 many people are currently in CAPS? How many people
25 are currently in PACE? Why haven't you increased

1
2 that number of units as was planned before you became
3 commissioner? And the context for this is that, you
4 know, with those programs there's been a 72 percent
5 decrease in assault on staff in CAPS, a 63 percent
6 decrease in assaults on staff in PACE, and so why
7 aren't we addressing the expansion of those units to
8 start?

9 COMMISSIONER MOLINA: Okay, so thank you
10 for your question, and we are doing the hard work.
11 That's why many are applauding Cook County and how
12 they manage restrictive housing, but our housing is
13 far less restrictive. In Cook County, restrictive
14 housing is four hours and Department of Correction
15 it's seven. We can follow up with you regarding the
16 census counts of individuals that are in CAPS and
17 PACE, unless my colleague from Correctional Health
18 Services has those numbers available.

19 COUNCIL MEMBER CABÁN: And I think you
20 are the only person equipped to answer the question
21 of why haven't you increased the number of those
22 units as was planned before you became Commissioner?

23 COMMISSIONER MOLINA: I have the number of
24 units of CAPS and PACE that we have the operational
25 bandwidth to manage. I'm not against increasing

1
2 access to services, be they medical, physical, or
3 mental health services. Medical services and mental
4 health services are managed by an independent body,
5 Correctional Health Services, and I would work with
6 Correctional Health Services or any medical provider
7 in order to be able to provide those services.

8 CHAIRPERSON RIVERA: Thank you Council
9 Member Cabán. Did you want to wrap up, because I
10 have to get to Council Member Krishnan?

11 COUNCIL MEMBER CABÁN: Yes, absolutely.
12 Thank you. Just some basic data questions. I know
13 you said there are no young adults in ESH, but how
14 many people are currently in ESH Level one and two?
15 What's the standard for continuing placement in ESH,
16 and what percentage of people are receiving timely
17 reviews, and then finally, how are refusals of
18 services documented? Are they required to be
19 videotaped? Which refusals of which services require
20 video tape and how long is that tape preserved?

21 CHAIRPERSON RIVERA: Thank you, Council
22 Member.

23 COMMISSIONER MOLINA: Thank you for your
24 question. So, the current population in ESH is 117
25 individuals. That's less than two percent of our

1
2 average daily population. We have 45 individuals in
3 level one, and 72 individuals in level two, and
4 individuals like I said during the length of stay of
5 approximately about 50 days. Persons are journeying
6 through the different levels so that they can find
7 their ways back to general population.

8 COUNCIL MEMBER CABÁN: But what
9 percentage are actually receiving timely review?

10 COMMISSIONER MOLINA: Timely review? So,
11 all the members at ESH are receiving weekly review
12 that's shared by our programmatic staff. So that's
13 happening every week with all the individuals that
14 are in ESH.

15 CHAIRPERSON RIVERA: I have to move on
16 Council Member Cabán.

17 COUNCIL MEMBER CABÁN: Thank you.

18 CHAIRPERSON RIVERA: Thank you. Council
19 Member Krishnan?

20 COUNCIL MEMBER KRISHNAN: Thank you so
21 much Madam Speaker and Chair Rivera for hosting
22 today's crucial hearing. It couldn't come soon
23 enough. Thank you so much for bringing attention to
24 this important issue. My first question, I'd like to
25 focus Commissioner on the case of Mr. Pondexter.

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2 Your testimony is that is release was compassionate
3 release, right? But in an email-- is that correct?

4 COMMISSIONER MOLINA: I think any time
5 that we can provide families and loved ones with
6 privacy while someone is transitioning is
7 compassionate.

8 COUNCIL MEMBER KRISHNAN: Thank you. But
9 in your email you stated that the goal was to get him
10 off the Department's count, which frankly doesn't
11 sound compassionate to me but calculating. Why did
12 not report his death to the Board of Corrections?

13 COMMISSIONER MOLINA: Deaths of persons
14 that are in custody and on our count, which means
15 that they are in the custodial control of the
16 Department of Corrections are reported not only to
17 the media, Department of Investigations, the State
18 Attorney General's Office, and the New York State
19 Commission on Corrections. If someone that is no
20 longer on our count or our custodial control-- and
21 again, I want to emphasize that that email was sent
22 to small members of my team. So we speak very
23 plainly--

24 COUNCIL MEMBER KRISHNAN: [interposing]
25 Thank you.

1
2 COMMISSIONER MOLINA: in Correctional
3 vernacular so that we can allow Mr. Poindexter and
4 his family to have privacy and not be surrounded by
5 Correction Officers or him cuffed to a bed while he
6 transitioned.

7 COUNCIL MEMBER KRISHNAN: Thank you.
8 There were 16 prior deaths at Rikers Island. Did you
9 advocate for compassionate release for any of them?

10 COMMISSIONER MOLINA: Well, I have
11 advocated for compassionate release on a number of
12 occasions.

13 COUNCIL MEMBER KRISHNAN: Okay. I mean--

14 COMMISSIONER MOLINA: [interposing]
15 Depending on the time frame of when somebody might
16 have left--

17 COUNCIL MEMBER KRISHNAN: [interposing]
18 Just yes or no for the prior 16, did you advocate for
19 compassionate release?

20 COMMISSIONER MOLINA: Yes.

21 COUNCIL MEMBER KRISHNAN: Okay. How many
22 times in total would you say this year that you
23 advocated for compassionate release?

24 COMMISSIONER MOLINA: I couldn't give you
25 an exact number, but we probably don't do it enough.

1
2 COUNCIL MEMBER KRISHNAN: Okay. And
3 there's an article that came out in Gothamist today
4 that urged the public to read about an August
5 preservation by the Board of Corrections at the
6 Manhattan DA's Office regarding horrific conditions
7 at Rikers Island. One of the excerpts from that
8 article in Gothamist say that the conditions included
9 in the areas of solitary confinement "fire singed
10 security doors and flooded corridors with trash."
11 You would agree that that should not be conditions
12 that should exist at Rikers Island, much less in
13 solitary confinement space, right?

14 COMMISSIONER MOLINA: Well, I have not
15 read the article, but that was a condition of the
16 Department I inherited in January and rectified many
17 of the issues in those photos that were there.

18 COUNCIL MEMBER KRISHNAN: But you would
19 agree those conditions--

20 COMMISSIONER MOLINA: [interposing] Maybe
21 if the Board of Corrections came to the Department of
22 Corrections and visited the years of 2020 and 2021
23 and did their responsibilities ad an oversight body,
24 I would not have inherited the Department in that
25 level of distress and collapse.

1
2 COUNCIL MEMBER KRISHNAN: My question is
3 just that you agree that those conditions shouldn't
4 exist at Rikers Island, right?

5 COMMISSIONER MOLINA: And I corrected
6 them.

7 COUNCIL MEMBER KRISHNAN: I'll take that
8 a yes you agree. And you agree also that we
9 shouldn't have suicides occurring which have occurred
10 in solitary confinement. You would agree that
11 shouldn't be happening either, right?

12 COMMISSIONER MOLINA: I don't-- i-- we do
13 everything we can to prevent individuals from doing
14 self-harm, whether in general population or any type
15 of other restrictive housing that we have. And
16 again, I want to just remind you, we do not have
17 solitary confinement at the Department of
18 Corrections.

19 COUNCIL MEMBER KRISHNAN: Right. And I
20 think, and I'm just going to conclude by saying I
21 think your solution-- what your testimony today is
22 that the solution would be RMAS, but I'd also like to
23 point out for the record that the Federal Monitor
24 recently expressed serious doubts as Chair Rivera
25 noted, about RMAS and also said that in the past six

1 years his monitoring team has seen a pattern of
2 "hastily ill-planned implementation of these types of
3 critical programs that will inevitably fail." I
4 would just want to conclude by saying and just
5 putting on the record that you began your testimony,
6 Commissioner, by saying that passage of this
7 legislation will result in managing a jail-- or would
8 result in the inability to manage a jail under "such
9 constraints." But the video that I see today show a
10 jail that is deeply mismanaged by this Department.
11 the horrific conditions that we hear about in report
12 after report show years of mismanagement, and the
13 fact that this complex is under federal litigation
14 with the Federal Consent Decree, where a Federal
15 Monitor questions the very program that you propose
16 to implement as an alternative to solitary
17 confinement-- to ending solitary confinement shows me
18 that the issue really is that Department of
19 Corrections cannot manage this facility and that this
20 legislation is needed crucially and urgently to end
21 solitary confinement in this city, and frankly it
22 raises serious questions about our federal takeover
23 of this facility as well. Thank you. No further
24 questions.
25

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2 CHAIRPERSON RIVERA: Thank you, Council
3 Member Krishnan.

4 COMMISSIONER MOLINA: And just for
5 correction, Madam Chair, the Monitor objected to the
6 implementation of RMAS because it was drafted in not
7 in sound correctional practices.

8 CHAIRPERSON RIVERA: Thank you. Council
9 Member Hanif?

10 COUNCIL MEMBER HANIF: Thank you. I'll
11 start by saying I wholeheartedly support Intro. 549
12 and commend Public Advocate Williams, Chair Rivera,
13 and Speaker Adams for their leadership in moving this
14 bill forward, and I also want to add that as a Muslim
15 Council Member, committed to abolition, I want to
16 affirm our commitment, our community's commitment, in
17 banning solitary confinement once and for all. And I
18 want to say that solitary confinement as a faith
19 activist and advocate is haram. So, I want to know
20 how many people were locked in a decontamination
21 shower in 2022?

22 COMMISSIONER MOLINA: Individuals should
23 not be locked in a decontamination shower.

24 COUNCIL MEMBER HANIF: How many were
25 locked in a decontamination shower?

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2 COMMISSIONER MOLINA: And I don't have a
3 number of that. If anybody was locked in a
4 decontamination shower, then that would be under
5 investigation by our Investigations Division.

6 COUNCIL MEMBER HANIF: How many people
7 were locked in a decontamination shower in 2021?

8 COMMISSIONER MOLINA: I couldn't tell you
9 off the top of my head. If that ever occurred--

10 COUNCIL MEMBER HANIF: [interposing] Can
11 you tell me how many people in the last 10 years?

12 COMMISSIONER MOLINA: Well, I haven't
13 been there for the last 10 years.

14 COUNCIL MEMBER HANIF: So you don't know
15 how many people in your custody were locked in a--
16 what is a medieval cage?

17 COMMISSIONER MOLINA: We do not allow
18 individuals to be locked in decontamination showers,
19 and if that occurs--

20 COUNCIL MEMBER HANIF: [interposing] Could
21 you repeat that one more time?

22 COMMISSIONER MOLINA: it is investigated
23 and appropriate disciplinary action would be taken.

24 COUNCIL MEMBER HANIF: One of the many
25 reasons we need to pass this bill is to reform how

1
2 DOC de-escalates immediate conflict that poses an
3 imminent threat to safety. The bill specifies basic
4 standards that must be met in circumstances when
5 people need to be separated from the general
6 population including medical rounds, mental health
7 evaluations, and caps on time spent confined to a
8 cell. And I'm highlighting this deeply disturbing
9 and inhumane practice where these standards are
10 clearly not being met, the use of so-called
11 decontamination showers, or shower cages as
12 confinement cells for extended periods of times.
13 Brandon Rodriguez died inside of one of these cages,
14 and Elijah Muhammad [sp?] was locked in one prior to
15 his death. So, again, you don't have the number of
16 how many people are locked in a decontamination
17 shower in this year.

18 COMMISSIONER MOLINA: And what I-- I'll
19 repeat what I said earlier, those incidents are under
20 investigation.

21 COUNCIL MEMBER HANIF: In the last BOC
22 meeting your staff finally said that they would
23 remove the cages around these showers, but did not
24 give a timeline. Have the shower cages been removed,
25

1
2 and if not, what is the timeline for removing them,
3 and which facilities still have the shower cages?

4 COMMISSIONER MOLINA: So, the EMTC shower
5 that you're referring to is not being utilized for
6 the purpose of decontamination.

7 COUNCIL MEMBER HANIF: Thank you.

8 CHAIRPERSON RIVERA: Thank you very much,
9 Council Member. We're going to hear from Carr,
10 Ariola, Holden, Nurse, Council Member Carr?

11 COUNCIL MEMBER CARR: Thank you, Chair
12 Rivera. Commissioner, it's good to see you. I want
13 to say to you and to the staff of the Corrections
14 Department and Correctional Health Services something
15 that I think they don't often hear enough which is
16 thank you. Thank you for the work that they do day-
17 in and day-out under extremely difficult conditions.
18 They do a job few can do, and I think even fewer
19 people choose to do, and I appreciate the work that
20 they do every day. I think that one of the few ways
21 that folks can create safe and orderly conditions in
22 a jail is for there to be consequences, and how do
23 you create consequences for people who are already
24 incarcerated. And to me, this housing program you
25 have is essential to maintain discipline and order

1 and safety in Rikers, not only for those who work
2 there and serve there, but for those who are also
3 incarcerated there. So I'm extremely dubious and
4 opposed to this legislation, and so I think we have
5 to really be focusing on the terrible conditions that
6 you inherited when you started as Commissioner, and
7 principally that is about the capital neglect that
8 occurred at Rikers Island over a number of years in
9 the course of the number of Administrations. And so
10 my first question to you is, you know, we heard
11 during the budget hearings that the crumbling
12 conditions at Rikers, individuals were able to
13 convert crumbling infrastructure to weapons. Is that
14 something that it still going on, and what have you
15 been doing to address that problem?

17 COMMISSIONER MOLINA: Thank you for the
18 question and for your statement on behalf of my staff
19 and CHS. I will tell you that we have resumed going
20 back to practical-- best practices in corrections. We
21 have increased tactical search operations that were
22 non-existent under the prior Administration. And
23 with tactical search operations and other search
24 operations being done, a lot of the ailing
25 infrastructure that was used as contraband weaponry,

1 we have seized over 4,000 contraband weapons in nine
2 months, in addition to seizing over 700 drug
3 paraphernalia in our facilities over the last nine
4 months, has been significant. From an infrastructure
5 standpoint, as you pointed out, for many, many years,
6 going back to I think fiscal year 19, there has been
7 little infrastructure investment made in the
8 Department of Corrections. We have been not only
9 repairing or replacing cell doors to make sure that
10 we have cell doors that lock. We have been
11 installing polymer mesh over our Plexiglas windows of
12 housing living units so that they're not broken and
13 being made into shrapnel, sharp items in order to
14 stab and assault not only other people in custody,
15 but our staff.

17 COUNCIL MEMBER CARR: And my 1st question
18 is, do you know of any other correctional
19 jurisdictions that do not have some form of
20 restrictive housing in place, and if so, is it
21 successful.

22 COMMISSIONER MOLINA: No, every
23 jurisdiction that I have worked with or have seen has
24 some form of restrictive housing available. Cook
25 County was mentioned by the Chair, and their

1 restrictive housing only allows for four hours of
2 out-of-cell time, and we allow for seven hours.

3
4 COUNCIL MEMBER CARR: Thank you. Thank
5 you, Chair.

6 CHAIRPERSON RIVERA: Thank you, Council
7 Member. Council Member Ariola?

8 COUNCIL MEMBER ARIOLA: Thank you, Chair.
9 I want to put on the record that I also strongly
10 oppose this legislation as it is written. What we
11 saw here today on those videos and in these pictures
12 is not mismanagement. What it is are violent
13 criminals who perpetrated violent crimes who have
14 been incarcerated who are now attacking members of
15 staff and members of service and other inmates
16 because they can, and we cannot allow that to
17 continue to happen. There must be consequences,
18 because without consequences there's chaos, and that
19 is not something that we can have within our criminal
20 justice system and at Rikers Island. So,
21 commissioner, Mayor de Blasio issued an order in
22 October of 2016 banning punitive segregation for all
23 inmates 21 and under. All the data tracking jail
24 violence in the Mayors Management Report shows jails'
25 violence spiking right after that ban and increasing

1
2 year after year for the past eight years. Do you see
3 the connection?

4 COMMISSIONER MOLINA: That's why it's
5 important for us have to a restrictive housing model
6 that not only helps from a programmatic standpoint.
7 Individuals unlearn responding to conflicts with
8 violence, but we also need to do the other practical
9 things in corrections like having locking mechanisms
10 that work. Putting polymer mesh up against windows
11 so that individuals are not breaking glass,
12 Plexiglas, and stabbing and hurting other
13 individuals. Restrictive housing is one tool amongst
14 many tools in order to have a humane jail system.

15 COUNCIL MEMBER ARIOLA: Thank you. And
16 do you have any serious concerns about how this bill
17 would impact the levels of jail violence we are
18 currently dealing with?

19 COMMISSIONER MOLINA: They would probably
20 exponentially increase, because there would be no
21 way, under the way the bill is currently written, for
22 us to remove an individual from general population.
23 It allows us-- it would allow us only four hours to
24 de-escalate that person in that time, but because of
25 the current language related to how pre-hearing

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2 detention is not allowed, we'd have to put that
3 violent individual back in general population to
4 highly possibly assault someone else again.

5 COUNCIL MEMBER ARIOLA: Right. And I
6 know this was answered before, but I think it's worth
7 hearing again. How many inmates are currently in
8 punitive segregation of the nearly 6,000 you
9 currently have?

10 COMMISSIONER MOLINA: So, ma'am, I'll
11 just say that punitive segregation is when
12 individuals are only given out-of-cell time which is
13 four hours. So we don't even have punitive
14 segregation in the Department of Corrections. What we
15 have is enhanced supervision, restrictive housing;
16 117 individuals are currently in restrictive housing,
17 and that's less than two percent of our average daily
18 population.

19 COUNCIL MEMBER ARIOLA: Thank you.

20 COMMISSIONER MOLINA: Thank you, Ma'am.

21 CHAIRPERSON RIVERA: Council Member
22 Holden?

23 COUNCIL MEMBER HOLDEN: Thank you, Chair,
24 and thank you, Commissioner, again for your service,
25 and I want to echo what Council Member Carr said

1
2 about your men and women doing a great job under
3 stressful, let's say-- that's an understatement--
4 conditions, and horrific conditions that I've seen.
5 I just don't know we're stuck with calling it
6 solitary confinement, because I don't know when the
7 last time solitary confinement was used on Rikers. Do
8 you?

9 COMMISSIONER MOLINA: If it occurred, it
10 was many, many years ago. We do not have solitary
11 confinement.

12 COUNCIL MEMBER HOLDEN: Right, but people
13 are-- they call it that, and I witnessed what that
14 is. I witnessed the restrictive housing. It had
15 three levels under the de Blasio Administration. Am
16 I correct? Does that still exist?

17 COMMISSIONER MOLINA: we have two levels
18 now, level one and level two.

19 COUNCIL MEMBER HOLDEN: Okay, so and when
20 I went there, it was a number of years ago, a couple
21 of years ago-- I've been back since. The person was
22 handcuffed to a table, a metal table. This was
23 before your time. You said you eliminated that.

24 COMMISSIONER MOLINA: That's correct.
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COUNCIL MEMBER HOLDEN: We have restrictive housing. It's called punitive segregation, and not solitary, because they're not alone. They're with other, you know, members right, inmate or if you want to call them-- or detainees. They are with others, right?

COMMISSIONER MOLINA: That's correct. They're in a congregate setting for seven hours interacting with each other if they so choose.

COUNCIL MEMBER HOLDEN: Okay. So, but you have to separate them, and to not separate them-- for instance you said something about the four-hour, you know, it seems reasonable that you would have to lock-down a house or a unit to conduct a search after an incident or address some other security concerns. This bill would limit the time for a lock-in to four hours. What would-- what's the ramifications of that?

COMMISSIONER MOLINA: So, lock-ins are a method to reduce violence and initiate-- to address issues such as investigating a serious incident like a slashing or stabbing, avoid a serious incident if we have intelligence that maybe that there may be a violent incident in a particular housing unit. Like

1
2 you stated, to conduct search operations, like our
3 tactical search operations to move weapons or other
4 narcotics that may be in a housing unit, and most
5 importantly to restore order or safety. So limiting
6 emergency lock-ins to four hours-- on average our
7 lock-ins are about six hours would significantly
8 hamper our ability to do that.

9 COUNCIL MEMBER HOLDEN: So I'm just
10 curious as I'm sitting here. Were you consulted on
11 intro 549? Did you have any input on this
12 whatsoever or give feedback?

13 COMMISSIONER MOLINA: I did not give any
14 feedback or provide any input during its authorship.
15 I have since been released, have had a number of
16 conversations with Public Advocate Williams and
17 others about it.

18 COUNCIL MEMBER HOLDEN: Okay. But so you
19 did say that, you know, we don't practice solitary
20 confinement. Yet, I think the committee report kind
21 of says they're the same thing, solitary confinement
22 and punitive seg are the same thing. They're not the
23 same thig, am I correct?

24

25

1
2 COMMISSIONER MOLINA: They're not the
3 same thing and we do not have solitary confinement at
4 the Department of Correction.

5 COUNCIL MEMBER HOLDEN: Okay, thank you.

6 COMMISSIONER MOLINA: thank you, sir.

7 CHAIRPERSON RIVERA: thank you. We're
8 going to hear from Council Member Nurse followed by
9 Narcisse, Paladino, Stevens, Restler, and De La Rosa.
10 Council Member Nurse?

11 COUNCIL MEMBER NURSE: Thank you, Chair.
12 Commissioner, a lot of this is a discussion about
13 safety. Can you tell me how many Correction Officers
14 are at work today?

15 COMMISSIONER MOLINA: I can't give you an
16 exact number, but we have thousands of people that
17 come to work on a regular basis.

18 COUNCIL MEMBER NURSE: How about
19 yesterday? When was the last-- what's the last day
20 you can say you know how many people were at work.

21 COMMISSIONER MOLINA: we have hundreds of
22 people that come into work every day. To give you an
23 exact number of everyone that came in on a day-- I
24 wouldn't have that number.

1
2 COUNCIL MEMBER NURSE: How many people do
3 you need to be staffed to have safer conditions in
4 the facilities?

5 COMMISSIONER MOLINA: Well, we have
6 allocated 6,000 lines that are funded to have
7 Correction Officers work, and have suffered
8 significant attrition since 2019, and over the last
9 year alone we have lost through attrition almost a
10 thousand Correction Officers. So we need every
11 officer that we can in order to carry out our very
12 serious work.

13 COUNCIL MEMBER NURSE: Can you-- so a
14 couple times, the couple times I've went there we
15 heard from a lot of folks in general population that
16 they had come from other floors where they hadn't
17 seen a Correction Officer except for maybe once a
18 week. And the first time I went in January, there
19 were folks who said they had not seen an officer on
20 the floor and there was a lot of violence. So do you
21 have a sense of an update on the staffing shortages
22 at Rikers right now?

23 COMMISSIONER MOLINA: Yes, I do. I do
24 have-- I can provide an update. So when I came into
25 the Department, we upwards of over 2,600 individual

1 staff that were out. Today, that number has been
2 significantly reduced. On average of about 800 or so
3 officers that may be out sick. It's a very, very
4 tough job, and like any organization, people get sick
5 or--

6
7 COUNCIL MEMBER NURSE: [interposing] Just
8 in terms of numbers, that would be helpful.

9 COMMISSIONER MOLINA: [inaudible] we've
10 had over 1,500 officers since January come back to
11 work.

12 COUNCIL MEMBER NURSE: Okay. Okay. I
13 just have a couple questions. How many people are
14 currently held in non-infirmary units on-- of NIC on
15 the second and third floors?

16 COMMISSIONER MOLINA: The number I
17 provided earlier was 27.

18 COUNCIL MEMBER NURSE: Thank you. Those
19 non-infirmary units on the second and third floor
20 have attached cages.

21 COMMISSIONER MOLINA: What they have is
22 private day room space for the individuals in their
23 to utilize with all of the amenities that are
24 available in the general population.

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2 COUNCIL MEMBER NURSE: Right, yeah. I
3 visited them. You actually showed them to us. Do
4 you consider that out-of-cell time in that attached
5 extended cage?

6 COMMISSIONER MOLINA: It's 14 hours of
7 out-of-cell time based on--

8 COUNCIL MEMBER NURSE: [interposing] In
9 that area?

10 COMMISSIONER MOLINA: the standard in the
11 SCOC [sic] and the Board of Corrections.

12 COUNCIL MEMBER NURSE: Okay. How many
13 people are held at West facility for reasons other
14 than medical reasons or infectious disease?

15 COMMISSIONER MOLINA: I'd have to follow
16 up with you to tell you what the count is at West
17 facility.

18 COUNCIL MEMBER NURSE: I would love to
19 get those numbers. Will the Department commit to
20 removing people from NIC second and third floors and
21 to stop using West for anything other than medical
22 reasons, including infectious disease control?

23 COMMISSIONER MOLINA: My goal is that
24 individuals that are appropriately interacting with
25 individuals and not committing violence be allowed to

1
2 flur-- to be allowed to be successful in engaging in
3 programming within general population.

4 COUNCIL MEMBER NURSE: Okay, so you--

5 COMMISSIONER MOLINA: [interposing] And in
6 some instances, we have individuals--

7 COUNCIL MEMBER NURSE: [interposing] you
8 will allow that--

9 COMMISSIONER MOLINA: that have to be
10 placed in restrictive housing because of the violent
11 acts they commit on others.

12 COUNCIL MEMBER NURSE: So you will allow
13 folks to be in those facilities other than for
14 medical reasons.

15 COMMISSIONER MOLINA: We need those
16 facilities to put individuals that are in voluntary
17 protective custody in order for their own safety and
18 the safety of others.

19 COUNCIL MEMBER NURSE: Thank you.

20 CHAIRPERSON RIVERA: Thank you very much.
21 Council Member Narcisse?

22 COUNCIL MEMBER NARCISSE: Good afternoon.
23 Thank you for being here. And I will tell you one of
24 the thing that strike me when I met you a couple of
25 times is just like I-- I truly believe that you're

1 trying to get something done and I appreciate that.

2 According to the Mayor's own report 52 percent of

3 folks at Rikers Island have mental illness, right?

4 So, let me come back. The reason that we are here,

5 solitary confinement is destructive, mentally,

6 emotionally, in all aspects, right, to incarcerated

7 folks. And it can cause irreparable harm. You agree

8 that is cruel. So something got to be done. I'm

9 sure in agreement. We're in agreement with that,

10 right? Another thing that I want to find out, is

11 there data on the percentage of individuals housed in

12 solitary confinement with mental illness? Do you

13 have that data?

14
15 COMMISSIONER MOLINA: So, I will tell you

16 that we have an exclusion list that's provided by our

17 independent health provider, Correctional Health

18 Services, and those suffering from serious mental

19 illness or Correctional Health Services advises us

20 that an individual isn't fit to be in restrictive

21 housing, and again, we do not have solitary

22 confinement. Then that person is not placed in

23 restrictive housing. I don't know if Correctional

24 Health Services has anything else to add.

25

1
2 JEANETTE MERRILL: Hi, this is Jeanette
3 Merrill. I'm with Correctional Health Services which
4 is the division of New York City Health + Hospitals
5 that provides care in the City's jails. As the
6 Commissioner mentioned, people with serious mental
7 illness are not housed in the restrictive housing
8 unit. There's also a list of medical exclusions that
9 the New York City Health + Hospitals put forth in
10 June of 2020. There's general criteria. Broadly
11 speaking, anyone pregnant, seriously mentally ill,
12 anyone with asthma, seizures, diabetes, heart
13 disease, lung disease, liver disease, kidney disease,
14 transplant status treatment with blood thinners, and
15 certain disabilities broadly speaking. There are
16 more specific definitions, but those would all be
17 excluded from restrictive housing.

18 COUNCIL MEMBER NARCISSE: Thank you. But
19 the reason that myself personally, I've been a nurse
20 for re-entry program, and I see the harm caused by
21 incarcerating folks. When they come out, they're not
22 functional. We have a society that we are
23 responsible. We are legislators, and we have to come
24 up. We have to strike the balance. We have to make
25 sure-- saying things are destructive to our people,

1
2 to our-- I mean, people in the City, we have to do
3 something about it, and I'm counting on you. There's
4 certain things you said in the bill that you're in a
5 disagreement. So, we are reasonable folks, but both
6 parts-- because I have seen the officers. I have
7 officer friends, Correction Officers. It's tough for
8 them, and we are aware of that. But one thing we
9 cannot sit down in peace knowing all the destruction
10 that can happen for us to not do anything about it.
11 So I'm look forward, and I see Jumaane, the Public
12 Advocate, is willing, too. We understand both party,
13 both parts, because we have now-- I can ask you.
14 There's so many people that died while being
15 incarcerated. But how many Correction Officer that
16 passed? Yes, there is destruction, both parts, but
17 we cannot ignore the fact that people are dying while
18 we supposed to be responsible for them. So that's
19 what I can say on that. So, thank you for your
20 cooperation, for continued support.

21 COMMISSIONER MOLINA: Thank you.

22 CHAIRPERSON RIVERA: thank you Council
23 Member Narcisse. Council Member Paladino?

24 COUNCIL MEMBER PALADINO: Good afternoon,
25 and I too want to thank you for being here today. I

1 want to thank you for your bravery. I want to thank
2 you for standing up for what you know is right and
3 trying to do the best job that could possibly do
4 under the worst conditions. I have several
5 statements I want to make. You know, I'm wondering
6 what kind of alternate universe we live in. When we
7 start to put on trial the very people who are trying
8 to help straighten things out. They face danger
9 every single day, and yet we're a little tipsy here.
10 You see, there are violent criminals in this jail.
11 There are violent criminals in this facility and they
12 are doing the best they can with them. We have
13 restrictive housing, okay. Where-- they are working
14 on something. I will not stand by 549 so long as it
15 goes against our Correction Officers. This is
16 ridiculous. This is a city who have turned criminals
17 into heroes, and that's enough.

19 SERGEANT AT ARMS: Quiet please.

20 COUNCIL MEMBER PALADINO: When we put
21 these people on trial, what we should be cond-- what
22 we should be asking is about the conditions of the
23 facility that they are being housed in. Because
24 they're not there because they stole a car or robbed
25 a piece of bread to feed their families. They are

1
2 there because they murdered or did worse. And this
3 is the way it goes. You-- there are consequences to
4 crime, and this city has gone on long enough where
5 there has been no consequences, and I feel really bad
6 for these City Council Members that are on this bill
7 without discussing things with these officers and who
8 continually hold people like them on trial. Have you
9 ever visited Rikers Island yourselves? I suggest
10 you--

11 UNIDENTIFIED: [interposing] We have.

12 COUNCIL MEMBER PALADINO: Good for you.
13 That's great. I-- hold on a minute. I suggest-- let
14 me make one more suggestion. I suggest you don a
15 uniform. Put a uniform on and do their job. Do
16 their job. You got a big mouth. There's a lot-- I
17 am sorry. This is-- you put on a uniform--

18 CHAIRPERSON RIVERA: [interposing] Council
19 Member Paladino-- Council Member Paladino--

20 COUNCIL MEMBER PALADINO: [interposing]
21 and walk a mile in their shoes. Okay.

22 CHAIRPERSON RIVERA: [interposing] Are you
23 going to ask a question? I don't need your sympathy

24 COUNCIL MEMBER PALADINO: [interposing]
25 Yes, I will ask a question.

1
2 CHAIRPERSON RIVERA: I'm proudly on this
3 bill.

4 COUNCIL MEMBER PALADINO: Are you ready?
5 Are you ready? I know you are. And I have to say
6 you're handling it beautifully, but the idea that--

7 CHAIRPERSON RIVERA: [interposing] Just
8 ask your question, because you are addressing the
9 Council Members and we could address you in the
10 members lounge after this. I want you to ask
11 questions of the Administration so we can get to the
12 point at hand.

13 COUNCIL MEMBER PALADINO: Okay. Okay,
14 fine. Ready? Okay. Council Members time is up?
15 Next, good.

16 CHAIRPERSON RIVERA: Council Member
17 Stevens?

18 COUNCIL MEMBER STEVENS: So, I just want
19 to start off by saying, part of this we have to
20 remember that we're all in this together, and we're
21 trying to fix a system that's broken which is part of
22 the problem, and that's what we should be focused on.
23 I loved that the Public Advocate started off saying
24 that we should be talking-- we have more in common in
25 this bill than we have disagreement, and that's where

1 the focus needs to be and continue to be, right?
2
3 Because we're all talking about human lives, whether
4 they did a crime or not, they are still humans and
5 they deserve dignity, just like the officers deserve
6 dignity. So we're not saying any of those things.
7 So I want us to make sure that we're focusing on
8 that. I do not have a lot of questions. I have one
9 question. Commissioner, you mentioned multiple times
10 that as the bills written, you have many concerns.
11 But can you talk about like what are your glaring
12 issues? Because like the advocate pointed out in
13 the beginning, a lot of the things that you're saying
14 that you're doing or working on, you agree with us
15 on. So I'm just trying to understand what are some
16 of the glaring issues that you have? Because the
17 things that you're saying that you're doing is what
18 we're trying to do in the bill. So, I'm just trying
19 to make sure that we're focused on that.

20 COMMISSIONER MOLINA: Sure. Thank you
21 for your question. I think there a couple of
22 technical issues in the bill which I have stated
23 previously. Prehearing detention is one of them. We
24 need a mechanism in place to remove a violent
25 individual who has just committed a violent act

1
2 either against someone in custody or a staff member,
3 and be able to remove them from general population
4 immediately. Now, de-escalation in the bill as it's
5 currently drafted allows for that, but only allows
6 for it for four hours. After that four hours,
7 because we could not put on a hearing instantly, that
8 individual would have to be placed in another general
9 population housing unit where they can commit and
10 have the opportunity to commit another act of
11 violence again on another incarcerated person or
12 staff. Having legal counsel for individuals during
13 the pre-hearing time before we can place someone in
14 will add significant delays, I think, in the process.
15 We would end up having an individual when general
16 population who has shown a propensity for violence,
17 putting other people at serious risk.

18 COUNCIL MEMBER STEVENS: So, I'm sorry,
19 my time is running out. So I just had another
20 question really quickly. So how long would you
21 actually need if four hours isn't enough? What would
22 the ideal time for you be if you're saying that four
23 hours is too short of a time for the de-escalation?

24 COMMISSIONER MOLINA: Well, the de-
25 escalation currently is six hours, but the real crux

1
2 of the issue is not so much the de-escalation, but
3 that we would not have the ability to place someone
4 after de-escalation in restrictive housing. We would
5 have to put them back to general population.

6 COUNCIL MEMBER STEVENS: And so what your
7 solution is that you want to put them in restrictive
8 housing after de-escalation.

9 COMMISSIONER MOLINA: As it's currently
10 placed right now, we put individuals in restrictive
11 housing. They would get a hearing within five days,
12 and I think [inaudible] versus in restrictive
13 housing, their out-of-cell time should be-- should
14 not exceed seven hours.

15 COUNCIL MEMBER STEVENS: Thank you,
16 Chair, and thank you, Commissioner.

17 CHAIRPERSON RIVERA: Thank you, Council
18 Member. Council Member De La Rosa?

19 COUNCIL MEMBER DE LA ROSA: Thank you so
20 much. Well, Commissioner, I want to thank you for
21 stating on the record that you do agree with us that
22 solitary confinement is inhumane, and it is for those
23 reasons that I was proud as a member of the New York
24 State Assembly when I served there to vote in favor
25 of the HALT Solitary bill. It's the same reason why

1
2 I'm in favor of Intro 549, because torture by any
3 other name is still torture. Death by any other name
4 is still death. You've seen the pictures. We've
5 seen the pictures of the officers. You've heard our
6 Public Advocate say, I think eloquently and with
7 decency, that we do not support anyone behind prison
8 walls no matter on which side to be hurt, to be
9 abused, to be killed. I want to state that for the
10 record. That is not our goal here. But the reality
11 of the matter is that there are people dying behind
12 prison walls every single day, and we hang our head
13 in shame every time one of those articles come out,
14 because those deaths are preventable. Well, what I
15 wanted to ask you about in Doctor Austin's report, he
16 showed a comparison of inmate to inmate, incarcerated
17 people-- we do not call them inmates-- and inmate on
18 staff annual assault rates per 100 prison population.
19 There's a chart here that compares the incidents. Is
20 there a chart that speaks to incarcerated people who
21 have been harmed in prisons? Do you have that data?
22 Do you track it?

23 COMMISSIONER MOLINA: Thank you for your
24 question and for your service in the Assembly, and I
25 will tell you that we can follow up with you

1
2 regarding detainee on detainee violence and get you
3 that information. I will tell you that we--

4 COUNCIL MEMBER STEVENS: [interposing]
5 That's already here. I'm asking when your officers
6 respond and there is injury to an incarcerated
7 person, is that data reported?

8 COMMISSIONER MOLINA: It is reported, and
9 we can provide you with that information in follow-
10 up, but I just want to also reassure you that we
11 exceed the requirements of the HALT Act which you
12 helped pass in the Assembly, and that's something
13 that we're in compliance with. This bill as it is
14 presently written is even less restrictive than the
15 HALT Act and would not allow us to manage a violent
16 individuals after they've done a violent act to
17 someone in custody or a staff member.

18 COUNCIL MEMBER STEVENS: I'm aware of
19 what the bill says and also what your opinions on
20 there are. I do have a question about mental health.
21 So, when a person is put in restrictive housing, is
22 there an exam that is being done to see if the
23 person's mental health would-- if the person is
24 suffering from mental illness or from a physical
25 illness. Is there an exam that is performed?

1
2 COMMISSIONER MOLINA: So, I will give
3 time for CHS to answer that question, but like I
4 stated earlier, the Correctional Health Services does
5 provide an exclusionary list, and if they voice to us
6 from a medical and mental health standpoint that the
7 individuals is unfit to be in restrictive housing,
8 then we would not place them there.

9 COUNCIL MEMBER STEVENS: And if the
10 person is in restrictive housing and decompensates,
11 what is the process for ending that restrictive
12 housing? I also want to say that I have visited
13 Rikers Island. I have visited many prisons across the
14 state, and punitive segregation, solitary
15 confinement, bathroom cages, they are being used.
16 We've seen them being used. We've seen during this
17 pandemic how solitary confinement was used to isolate
18 people who were sick of COVID. And so, as I said,
19 torture by any other name is still torture. Solitary
20 confinement by any other name is still solitary
21 confinement. If a person is not able to come out of
22 their cell in order to receive the treatments
23 necessary, then they are confined, and that is
24 inhumane in my definition. So I would love to hear
25

1
2 the response on the mental health and the
3 evaluations.

4 JEANETTE MERRILL: Sure. So any medical
5 or mental health evaluation would happen at intake,
6 and then there could be a referral for more
7 comprehensive mental health evaluation after the
8 intake process. So this would all happen in advance
9 of any use of restrictive housing. In terms of
10 access to care for people in those housing units, it
11 is protocol for the Department of Correction to bring
12 a patient to the clinic to receive treatment to get
13 medical or mental health. And they are trained to
14 identify particular signs that would indicate that an
15 individual would need to go to clinic independent of
16 scheduled medical services.

17 COUNCIL MEMBER STEVENS: When they are
18 already inside? So, if they're in restrictive
19 housing and they decompensate, there is an
20 additional-- if they're exhibiting behavior of
21 decompensation, is there an additional test that is
22 run? Thankyou.

23 JEANETTE MERRILL: Yeah, so officers are
24 trained to identify, you know, if a patient is
25 talking to themselves, if he's self-injuring, that

1
2 would be a sign for an officer to bring that patient
3 to clinic where he can be treated by our mental
4 health team.

5 COUNCIL MEMBER STEVENS: And you're
6 tracking that as a Department. You have stats on
7 when that occurs?

8 JEANETTE MERRILL: We have health access
9 reports. So the Department would track the
10 production or escorting of patients to clinic and
11 then we have our completed medical appointments.

12 CHAIRPERSON RIVERA: Thank you, Council
13 Member. We're going to hear from Council Member
14 Restler and then Schulman.

15 COUNCIL MEMBER RESTLER: Thank you very
16 much, Chair Rivera, for your leadership and Public
17 Advocate Williams, to you both for this great
18 legislation I strongly support, and I also want to
19 thank Speaker Adams for her support and leadership
20 here. It's good to see you, Commissioner Molina, and
21 congratulations, Deputy Commissioner Shechtman on
22 your appointment. Good to see such a distinguished
23 public servant at DOC. Firstly, I'd just like to ask
24 about the compliance with HALT. Has DOC been fully
25

1
2 compliant with HALT since its implementation date of
3 March 22?

4 COMMISSIONER MOLINA: Yes.

5 COUNCIL MEMBER RESTLER: so, no
6 individual in DOC custody has spent more than 15 days
7 in a row in solitary?

8 COMMISSIONER MOLINA: We do not have
9 solitary confinement, so nobody has spent 15 days in
10 solitary confinement. We don't have it.

11 COUNCIL MEMBER RESTLER: So, based on the
12 definition of punitive segregation in the HALT Act,
13 no individual has spent more than 15 consecutive days
14 in that, in those conditions?

15 COMMISSIONER MOLINA: No, sir.

16 COUNCIL MEMBER RESTLER: And no
17 individual has spent more than 20 days out of 60-day
18 period in those conditions?

19 COMMISSIONER MOLINA: No, sir.

20 COUNCIL MEMBER RESTLER: And the Act also
21 requires that individuals be provided with a hearing
22 before being placed in segregated confinement. Has
23 that been afforded to each individual as well?

24 COMMISSIONER MOLINA: We do not have
25 punitive segregated confinement. We have restrictive

1 housing because our individuals that are placed in
2 restrictive housing have seven hours of out-of-cell
3 time.

4
5 COUNCIL MEMBER RESTLER: Has any oversight
6 body confirmed DOC's self-identified compliance, SCOC
7 Monitor?

8 COMMISSIONER MOLINA: Well, I don't-- I
9 can't speak for the SCOC. The SCOC has oversight
10 responsibilities. Whatever information they ask us
11 to provide, we provide it, as well as--

12 COUNCIL MEMBER RESTLER: [interposing] But
13 as far as you know, has any oversight--

14 COMMISSIONER MOLINA: [interposing] the
15 Board of Corrections.

16 COUNCIL MEMBER RESTLER: entity confirmed
17 your compliance with the HALT Act over the six-month
18 period?

19 COMMISSIONER MOLINA: Nobody has confirmed
20 that we are noncompliant.

21 COUNCIL MEMBER RESTLER: Could remind us
22 of the number of PACE and CAP units at DOC today?

23 COMMISSIONER MOLINA: We have 175 PACE
24 Units. I'd had to follow up with you with the number
25 of CAPS units, unless CHS has it.

1
2 JEANETTE MERRILL: Sure. So there are 10
3 PACE units and two CAPS units, and actually I was
4 able to find the census data. There are five
5 individuals currently in CAPS and then 214 in PACE.

6 COUNCIL MEMBER RESTLER: And is that all
7 the individuals who you would like to have housed in
8 those units?

9 JEANETTE MERRILL: So we think that based
10 on--

11 COUNCIL MEMBER RESTLER: [interposing] Are
12 there other individuals who would be well-served or
13 eligible for that type of housing unit that are not
14 able to access it today?

15 JEANETTE MERRILL: It is an effective
16 model. It's part of our--

17 COUNCIL MEMBER RESTLER: [interposing]
18 Just yes or no on that one.

19 JEANETTE MERRILL: I think that would be
20 a conversation with the Department for potential to
21 expand.

22 COUNCIL MEMBER RESTLER: Why are you not
23 able to meet the need in housing as many people as
24 are needed in PACE and CAP units, where we have more-

1
2 - where we better serve people with serious mental
3 illness and other folks with serious challenges?

4 JEANETTE MERRILL: I think to ensure the
5 integrity of the model, we need to ensure that
6 there's enough staffing.

7 COUNCIL MEMBER RESTLER: It's staff,
8 right? And we continue to have chronic absenteeism
9 in the Department of Correction, and if we had
10 additional staffing showing up every day to work, we
11 would be able to better meet the needs of individuals
12 with housing units such as PACE and CAPS that better
13 serve the needs of people with serious mental
14 illness.

15 COMMISSIONER MOLINA: so, we have had
16 over 1,500 officers come back to work. Our staff
17 deficiencies have significantly improved from when I
18 started there in January, and we have also, though,
19 suffered significant attrition. When I got there, we
20 had already lost over 2,000 officers, and since I've
21 been there almost 1,000 officers have either resigned
22 and retired.

23 COUNCIL MEMBER RESTLER: Well, I just
24 want to say this. I appreciate that there's been
25 some progress, but not nearly enough, and we have far

1 higher rates of absenteeism at DOC than any other
2 agency in the City and it is a critical issues that
3 we have to address and address swiftly. I know it's a
4 priority of yours, but there is so much further for
5 us to go. I think research studies have shown
6 clearly that punitive segregation does not improve
7 safety in our jails. It does increase the likelihood
8 of self-harm by detainees. So there are serious
9 detrimental effects to the people who are
10 incarcerated when we impose this practice, and it is
11 a moral imperative for us all to end it once and for
12 all with the passage of Intro. 549. Thank you very
13 much.

14
15 CHAIRPERSON RIVERA: Thank you, Council
16 Member Restler. Council Member Schulman?

17 COUNCIL MEMBER SCHULMAN: Thank you very
18 much. I want to thank the Chair Carlina Rivera and
19 the Public Advocate Williams. Thank you and the
20 Speaker. I want to thank-- Commissioner Molina I want
21 to thank you. I've heard from advocates, criminal
22 justice advocates in my district that in your
23 previous position you did a really good job. I mean,
24 clearly there's a lot more that needs to be done
25 there, and we're going to provide oversight of that.

1
2 So we want you to work with us as the Council and
3 everybody else. But I also want to mention, my late
4 partner worked for the Fortune Society which-- and
5 I've done a lot of work with the Fortune Society and
6 so this issue is very important to me. So here's my
7 question. I want to pick up a little bit where
8 Council Member Narcisse and Council Member De La
9 Rosa came in in terms of mental health. So, the
10 individuals that committed the acts, the violent acts
11 that you spoke about today, two things. One is do we
12 know if any of them had mental health issues that
13 were identified, that could have been prevented from
14 these actions happening. That's one. The second is
15 that there seems to be a disconnect of-- I understand
16 that there's an intake process and everything else,
17 but are we doing anything to see who can maybe
18 perhaps have some violent tendencies. I have family
19 members who have had mental illness, who have been
20 violent when they're not on their medication. So I
21 just want to know if-- there has to be a connection
22 there to help some of these individuals to prevent
23 them maybe from these kinds of things happening.

24 COMMISSIONER MOLINA: Thank you for your
25 question, and I appreciate your partner and your work

1 with the Fortune Society. They're a critical partner
2 of ours. As Commissioner, I've utilized Program 6A,
3 and Fortune has been a good partner in that respect,
4 but we can do a continuum of care for re-entry for
5 those that have experienced incarceration. To your
6 question regarding the mental health of the
7 individuals involved in the samples of violence that
8 I shared, I don't know off the top of my head their
9 medical history. I would not want to share that in a
10 public forum, because there are HIPAA privacy rights
11 that I want to respect for those individuals, but
12 like I stated earlier, individuals with serious
13 mental illness are excluded from being put in
14 restrictive housing, and if there are other physical
15 or mental health ailments that Correctional Health
16 Services has concerns about, about a particular
17 individual and they do not recommend that that
18 individual be placed in restrictive housing, then we
19 do not place them there.

21 COUNCIL MEMBER SCHULMAN: Right, I'm not
22 asking about the restrictive housing aspect of it.
23 I'm asking about making an identification of an
24 individual that has the propensity to maybe do
25 something violent and getting them at that beginning

1
2 point and helping them with their mental health
3 issues so they don't commit the violence that has
4 been committed.

5 COMMISSIONER MOLINA: Yeah, so I'll--
6 CHS, do you want to add to that?

7 JEANETTE MERRILL: So, I think there's a
8 difference between behavioral interventions for
9 people, you know, potentially displaying violence and
10 then people who may have mental health needs. So we
11 do offer, you know, a spectrum of mental health
12 services in the jails. We have the equivalent of
13 outpatient services where people can come to clinic
14 for treatment and medication. There are also, as
15 you're familiar with, our mental health therapeutic
16 housing units, the PACE and CAPS unit, our mental
17 observation units where we provide individual
18 counseling, group therapy, and other services as-
19 needed. But I think that is different concern or
20 intervention than addressing a violent act.

21 COUNCIL MEMBER SCHULMAN: So I just-- I'm
22 just going to make one comment, because I know my
23 time is up, but I think that the Correctional
24 Health needs to work much closer with the Department
25 of Corrections on this issue so that we can help

1
2 maybe to prevent some violent moving forward. Thank
3 you.

4 CHAIRPERSON RIVERA: Thank you, Council
5 Member. We have many people signed up to testify, so
6 we will not be doing a second round for Council
7 Members. I do just want to ask, and I think Council
8 Member-- Public Advocate Williams I know you had a
9 follow-up question. Commissioner, can you clarify
10 what DOC is doing to document people who are refusing
11 to leave their cell? And I ask, because if we get
12 reports that someone has been confined 23 hours a day
13 for a week and they believe it's because they refuse
14 to leave the cell, how does DOC document or prove
15 that, and do you record the refusal?

16 COMMISSIONER MOLINA: So, we do that a
17 number of ways. One is we have our weekly review
18 meetings, especially for restrictive housing, if
19 someone does not leave their cell voluntarily, and
20 officers as well as our programmatic providers can do
21 mental health referrals so that CHS can follow up
22 with that individual. In addition to that, we have
23 our security stationary video cameras that we can
24 review to see interactions that persons in custody
25 are having with staff and other persons in custody to

1 see if someone were to come out of his cell. We have
2 instituted the use of body-worn cameras. All
3 officers are now outfitted with body-worn cameras,
4 and we've instructed them to record these engagements
5 with individuals in custody, especially if they're
6 going to refuse to come out of their cell, so that we
7 would have that on record for reference later.

8
9 CHAIRPERSON RIVERA: Can you clarify
10 whether you consider an attached area outside of
11 former punitive segregation cells as really out-of-
12 cell?

13 COMMISSIONER MOLINA: Yes, it is out-of-
14 cell. It is significantly larger than the individual
15 cell. They are afforded all of the amenities that
16 anyone would have in general population for 14 hours
17 a day to include outside recreation periods to spend
18 time outside as well.

19 CHAIRPERSON RIVERA: They are attached,
20 though.

21 COMMISSIONER MOLINA: they are part of
22 the infrastructure of the building, yes.

23 CHAIRPERSON RIVERA: They're attached.

24 COMMISSIONER MOLINA: Yes.
25

1
2 CHAIRPERSON RIVERA: Just a follow-up on
3 a question I asked earlier. Do you believe there
4 needs to be any limit to how long someone could be--
5 can be held in a de-escalation unit? If there aren't
6 limits, what is in place to prevent this unit from
7 being utilized for punitive purposes and becoming
8 solitary by another name?

9 COMMISSIONER MOLINA: Well, there are
10 limits, and those limits based on Board of
11 Corrections rules are six hours.

12 CHAIRPERSON RIVERA: Can you explain why
13 DOC is confident the new model, court requested, will
14 be effective in reducing instances of violence when
15 restrictive housing clearly has not stemmed violence
16 over the past few years?

17 COMMISSIONER MOLINA: Well, one is I
18 think that the Department has really never engaged at
19 this level with correctional professional of Dr.
20 Austin's expertise. I think the Federal Court made a
21 good decision in inserting the Federal Monitor to be
22 the arbiter of determining what restrictive housing
23 model the Department should use based on sound
24 correctional practices, and based on our Action Plan
25 we have infused members with hundreds of years of

1
2 best practices in corrections into the organizational
3 structure of this Department so that we will-- this
4 Department will never be mismanaged again.

5 CHAIRPERSON RIVERA: You know those-- you
6 said that there's a body-worn camera, you document
7 things. If someone refuses, would you share that
8 video with the Board of Corrections?

9 COMMISSIONER MOLINA: If the Board of
10 Corrections asked for such video, I don't see myself
11 objecting to it. I mean, they have oversight
12 authority. They, I believe, have access to body-worn
13 camera footage now. So I've never objected to
14 providing them with that level of footage before.

15 CHAIRPERSON RIVERA: Okay. The Board of
16 Corrections has many requests, and honestly they're
17 very frustrated with your partnership, so we're going
18 to assist them the best we can. Correctional Health
19 Services, from your perspective, can you please
20 comment on the negative impact that clinical-- the
21 negative clinical impact solitary presents for people
22 in custody?

23 JEANETTE MERRILL: So, as has been
24 mentioned, the use of restrictive housing is purely a
25 security-based decision, a form of custody management

1
2 by the Department. There's no health benefits, only
3 potentially clinical risks. So, in terms of
4 commenting on the practice, the Department really is
5 best to speak to that, but you know, as has been
6 noted, there aren't any health benefits to the
7 practice.

8 COMMISSIONER MOLINA: I think there's
9 some health benefits to the victims that are
10 attacked. We have--

11 CHAIRPERSON RIVERA: [interposing] I was
12 talking to Correctional Health Services,
13 Commissioner. I have a question for you, though.

14 COMMISSIONER MOLINA: Sure.

15 CHAIRPERSON RIVERA: Regarding HALT, to
16 clarify, are you saying you do everything HALT
17 requires like having a hearing with counsel prior to
18 isolation, or are you saying because you don't plan
19 to restrict anyone beyond seven hours that HALT
20 doesn't apply?

21 COMMISSIONER MOLINA: HALT does not apply
22 because we do not have punitive segregation, and
23 those requirements under HALT are for punitive
24 segregation confinement, which we do not do. Our
25 restrictive housing allows for seven hours of out-of-

1
2 cell time. So the HALT-- those HALT requirements are
3 not applicable.

4 CHAIRPERSON RIVERA: I'm going to turn
5 over to the Public Advocate. I know you had a couple
6 of follow-up before we go to public testimony. I
7 want to thank the public for their patience. I know
8 you've been here many hours, and you-- we're going to
9 get to your time in a second.

10 PUBLIC ADVOCATE WILLIAMS: Thank you so
11 much, Madam Chair. First, I did want to say it was
12 slightly amusing to hear some of the folks who were
13 giving accolades to COBA, not because they may not
14 deserve it, but I mean I know that I'm not a fan
15 favorite in that union, but I do know that for years
16 COBA which is prominently black and brown law
17 enforcement has been treated much differently than
18 other law enforcement, and I've heard people lift
19 that up. I do know that they actually have been
20 raising issues of the devolving jail for many, many
21 years. They're actually the ones that told me about
22 the minimum standards not being met to people who are
23 housed there. And even during COVID, they were
24 treated much differently than ever law enforcements,
25 and I heard no one say anything. So I just wanted to

1 point that out. But also, just really quick because
2 the Chair mentioned something that was interesting.
3 I just want to be clear, Commissioner, what I think
4 the Chair was asking about, the cell within a cell.
5 You support the cell within a cell system? So you--
6 that small cell and they come out into a slightly
7 bigger cell, you consider that out-of-cell time?

9 COMMISSIONER MOLINA: Yes.

10 PUBLIC ADVOCATE WILLIAMS: Okay. That's
11 just a huge problem. There's no way-- and I'm going
12 to make it clear even as we're trying to discuss--
13 there is no way that that can be considered out-of-
14 cell time, period. And that might be the crux of the
15 problem. We do have to make sure we get to a point
16 where we agree, and I think we can, but that ain't
17 going to be it. That cell within a cell that I saw,
18 it is literally a cell. They step out a few feet
19 into another cell. There may be a time that people
20 have to remain in there for their safety or as we're
21 going through things, but it's going to be very hard
22 to consider that out-of-cell when there's still
23 another cell. So I just wanted to be clear about
24 that.

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2 COMMISSIONER MOLINA: And if I could just
3 thank you for your remarks regarding our Department
4 which is majority minority black and brown like
5 you've referenced. For many, many years there was
6 not an organizational health strategy to support the
7 men and women, both uniform and non-uniform that work
8 for this Department, and we've done a lot of work in
9 that endeavor to support the people that work in our
10 Department that have the toughest job managing the
11 most vulnerable population of this city that's in the
12 Department of Corrections custody. So thank you for
13 your supportive words.

14 CHAIRPERSON RIVERA: Council Member--
15 Public Advocate--

16 PUBLIC ADVOCATE WILLIAMS: [interposing]
17 It's okay.

18 CHAIRPERSON RIVERA: No, you're going to
19 continue. I am just saying I have to just step out
20 for a quick, just a few minute break, and Council
21 Member Narcisse is going to take over. I'll be right
22 back. Okay?

23 PUBLIC ADVOCATE WILLIAMS: Thank you.
24 And while I agree 100 percent that what I saw in
25 September was remarkably different than what I saw in

1 August, as noted, there have been more people that I
2 have died in Rikers now than did last year. And so
3 there's still some form of crisis there. As was
4 mentioned, we have some of the highest violence in
5 Rikers than we do in other facilities across the
6 country. We also do have some of the highest staff
7 ratios than in most places. So I'm not understanding
8 why those two things are going together. But I do
9 also agree that staffing may be an issue here. So, I
10 did want to ask if part of the problem is does DOC
11 feel it doesn't or does have enough staff to comply
12 with the procedures that are put in this bill?

14 COMMISSIONER MOLINA: I think until the
15 technical language is finalized on the bill, it's
16 hard to answer that question. I think the requirement
17 of medical clinicians to round every 15 minutes
18 either in de-escalation housing or in-- during an
19 emergency lock-in would-- I would say Correctional
20 Health Services, I don't want to speak for them. I
21 would presume they would need significant staffing
22 resources in order to manage that as well as the
23 other responsibilities that they have.

24 PUBLIC ADVOCATE WILLIAMS: One of the
25 reasons that we want to make sure there's medical

1 facility-- medical people who are visiting is because
2 people have actually died, and people did not
3 correctly assess whether someone need medical
4 intervention. So that's one of the reasons that that
5 is there. And I do want to make clear, I know there's
6 a difference here, but our intent-- my intent is not
7 to prevent us from being able to separate someone and
8 putting them some place other than general population
9 that may be defined-- because we're using terms all
10 over-- as restrictive housing for a set time. So, I
11 just want to be clear about that, but there is a
12 problem of how long that can be and of due process. I
13 just to be clear also what I think I heard you Chair--
14 - maybe it as Council Member Stevens. So, you're
15 saying you would need to be able to put someone in
16 some kind of non-general population housing for five
17 days, is that what you said?

19 COMMISSIONER MOLINA: [inaudible] Sorry. I
20 would need to be able to immediately put someone who
21 just committed a violent act in restrictive housing,
22 pending their hearing determination if whether or not
23 they were--

24 PUBLIC ADVOCATE WILLIAMS: [interposing]
25 And for how long?

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2 COMMISSIONER MOLINA: Well, an average
3 now, we have it done within five days, and within
4 seven days a person's giving a determination.

5 PUBLIC ADVOCATE WILLIAMS: Okay. Because
6 [inaudible] have seven day. So your' saying five
7 days is even better. And I do want to mention, I
8 know, there was a question about having needed legal
9 services during that due process. There has to be
10 someone there that has the incarcerated person's
11 interest at hand as well. Right now, it is my
12 understanding they capped on someone higher of the
13 Correction Officers that are actually doing the
14 adjudication. That doesn't sound like a fair
15 process, so we have to change that process so we can
16 make sure that when adjudication happens that someone
17 who has their interest in mind is actually there.

18 COMMISSIONER MOLINA: Well, facilitators
19 are provided to persons in custody during that
20 process, that hearing determination if the person
21 wants that. And the significant majority of all
22 these hearings are captured on video, these violent
23 acts. So, it's beyond--

24 PUBLIC ADVOCATE WILLIAMS: [interposing]
25 Yeah.

1
2 COMMISSIONER MOLINA: proven that the
3 violent act occurred.

4 PUBLIC ADVOCATE WILLIAMS: I got it. I
5 still think it's good to have-- if we're going to try
6 to-- and I think what we're seeing here, everybody is
7 seeing here, we're trying to create something that
8 doesn't exist, something that's better than what we
9 have now because there's a lot of violence here. And
10 I think in that something we want to make sure that
11 everyone's interest is being heard, and we know that
12 legal representation does that. But again, I just
13 want to be clear because it keeps being repeated.
14 The intent is not to prevent anyone from being de-
15 escalated or being put in some kind of housing, but
16 we need a hearing to happen very quickly. We hear
17 that it is not actually happening very quickly, and
18 we want to make sure that there's due process there
19 that protects everyone. And I do have to repeat, I
20 know you're saying it doesn't happen. Whether it's
21 happening as a par for the course or accidentally,
22 there is forms of solitary that is happening now. It
23 has decreased thankfully, but we have to make sure
24 that we ban that and create something that helps keep
25 everyone safe. And I've heard a lot of-- I want to

1
2 be careful when we talk about-- I heard a lot of talk
3 about there are violent criminals there. Most of the
4 time those words are used before we begin to
5 dehumanize people and bad things happen. So I do
6 want to be clear that most of the people there
7 haven't been found guilty of something. I do also
8 want to say, if they have been found guilty of
9 something, if I was on the other end of that or my
10 family was, I want to make sure there's
11 accountability. I want to make sure there's some
12 kind of consequences for that. We also to have to
13 make sure that I don't ask you torture them, because
14 in my head I might ask for that because I'm in so
15 much pain, but we have to create a society that
16 doesn't allow that to happen, and that's what it is
17 that I think we're trying to prevent. And it is a
18 delicate balance, but these things are happening
19 there, and we have to do our best to try to prevent
20 it. Also, consequences versus trying to stop the
21 violent behavior from happening. We have to be clear
22 that that is not always the same thing. And so I am
23 clear that I want to make sure there are consequences
24 to people's actions on all sides. My biggest thing
25 is to try to make the violence stop. And so when I

1
2 hear people saying there has to be consequences, they
3 drive that home because it is part of the
4 dehumanization of certain communities, that all they
5 need is a whooping, all they need is some consequence
6 and things would change. But these communities
7 haven't changed in decades. So I'm hoping we can
8 really try, and it's a wasted opportunity to come out
9 of a pandemic and not try something new. That's
10 frustrating to me. We have to really try to stop the
11 behavior from happening, and if that's not what we're
12 all focused on, we're all going to focus only on
13 consequences, we're not going to bring those numbers
14 down. And Commissioner, I think you agree with most
15 of what I'm saying, and it is important that we
16 refocus that, because those pictures are real. So
17 are the pictures of the people who were being held up
18 over there who died in custody. And I know Mr.
19 Boscio [sp?] has mentioned that I'm a Public Advocate
20 for criminals previously, but I'm actually not. I'll
21 know he'll be up here. Mr. Boscio's main role is to
22 try to move things that are best for his members.
23 That is the focus. My job as Public Advocate is to
24 encapsulate everybody and make sure that everybody is
25 safe, including the Correction Officers, including

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2 the people who are housed there, including all New
3 Yorkers. This bill, by the way, is not going to
4 solve that, but right now we're just trying to figure
5 out how to keep people safe and not torture them. I
6 just have to keep repeating that because there is
7 agreement here. But I thank you for the opportunity.
8 I thank you for your comments and answering these
9 questions.

10 COMMISSIONER MOLINA: And I thank you for--
11 - I think there are a lot of shared points of
12 agreement that we have. I will tell you that as
13 Commissioner it is my responsibility to keep my staff
14 safe, as well as the people that are entrusted into
15 my custodial care. You have a Commissioner in me that
16 has-- whose family members have been housed on Rikers
17 as adolescents. So I know what the impact of having
18 a family member in incarceration and that feeling of
19 hopelessness. So I will share with this body that I
20 bring that lens to this work as we try to rebuild
21 this Department to make sure that we have a humane
22 jail system in this city.

23 PUBLIC ADVOCATE WILLIAMS: Thank you.
24 I'm sorry, one more question and comment. The first
25 one, Council Member Rosa-- De La Rosa said to ask--

1
2 and I think you answered. Right now, if someone is
3 found not to be fit to be in restrictive housing, you
4 would not put them in restrictive housing, is that
5 correct?

6 COMMISSIONER MOLINA: That is correct.
7 There's an exclusion list and we're guided by
8 Correctional Health Services input on who is not fit
9 to be in restrictive housing.

10 PUBLIC ADVOCATE WILLIAMS: So, assuming
11 you're saying this is what you need to keep people
12 safe, where do you then put them?

13 COMMISSIONER MOLINA: Well, there are a
14 number of unit. I mean, CHS can share with PACE and
15 CAPS and others.

16 JEANETTE MERRILL: Sure. So individuals
17 with mental illness who cannot be placed into
18 restrictive housing, they can go into part of our
19 mental health therapeutic housing unit continuums.
20 So that would be the CAPS units. Those are
21 individual.

22 PUBLIC ADVOCATE WILLIAMS: And those are
23 working?

24 JEANETTE MERRILL: Our-- it is a
25 successful model, yes, that--

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2 PUBLIC ADVOCATE WILLIAMS: [interposing]
3 So why don't we try to do that more in the first
4 place?

5 JEANETTE MERRILL: Those are tailored to
6 the clinical needs of individuals in custody. So if
7 they have identified mental health needs,
8 intellectual disabilities-- it's independent of
9 particular infractions or behavioral concerns.

10 PUBLIC ADVOCATE WILLIAMS: Okay. I don't
11 want to dive in, but there may be opportunities there
12 that actually can work for other people who are
13 showing behaviors that we think are contrary what
14 should be-- should be having. The last thing I
15 wanted to say, I just wanted to point out, because
16 people are saying or mentioning RNDC violence is
17 going down which may be true. There was a concern
18 that there's an overuse of emergency lock-downs which
19 could constitute the type of solitary we're talking
20 about. So I just wanted to make sure and mention
21 that and flag that. Thank you so much.

22 COUNCIL MEMBER NARCISSE: Thank you
23 Public Advocate. And one thing I have to say, we are
24 really in a civilized nation. Thank you for your
25 patience and your understanding despite outside, so

1
2 thank you and we're moving forward to hear from some
3 other members.

4 COMMITTEE COUNSEL: We'll now move to the
5 public testimony portion of the hearing. Each
6 panelists will be given two minutes to speak. For
7 panelists who are testifying in person, please come
8 to the dais--

9 SERGEANT AT ARMS: [interposing] Quiet on
10 the floor please.

11 COUNCIL MEMBER NARCISSE: Quiet.
12 Completely. Thank you. Appreciate you.
13 Civilization.

14 COMMITTEE COUNSEL: Thank you. For
15 panelists who are testifying remotely, once your name
16 is called, a member of our staff will--

17 COUNCIL MEMBER NARCISSE: [interposing]
18 [inaudible] I mean I wish I can encourage-- I would
19 encourage the Commissioner to stay, but if you have
20 to go so I understand. So we have to move forward.
21 Oh, some members of the Administration is still here.
22 Thank you. Yes, they are here. I see this young lady
23 when I went visit, that she was there supporting us.
24 Thank you.

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COMMITTEE ON CRIMINAL JUSTICE

COMMITTEE COUNSEL: So, each panelist will be given two minutes to speak. For panelists testifying in-person, please come to the dais as soon as your name is called and wait for your turn to speak. For panelists who are testifying remotely, once your name is called a member of our staff will unmute you and the Sergeant at Arms will give you the go-ahead to begin. Please wait for the Sergeant to announce that you may begin before delivering your testimony. First, I would like to call Melania Brown to testify on Zoom, followed Akeem Browder, Tamara Carter, and Candy [sp?] who are here in person. Feel free to come to the dais if your name was called, and we'll begin with Melania Brown as soon as the Sergeants unmute you.

MELANIA BROWN: Good afternoon everyone. Do you guys hear me clear?

COUNCIL MEMBER NARCISSE: Yes, we can hear you.

MELANIA BROWN: Okay. My name is Melania Brown. I'm a community advocate and I am the sister of Layleen Polanco. I took a step back because I was dealing with mental health issues. Mental health issues that are left with families that lost loved

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2 ones in the tragic way, the way that I did. Council
3 Member Paladino, it is clear that you are the-- one
4 of the reasons why our system is very broken. You
5 didn't even get-- take a chance [inaudible] and
6 they're innocent until proven guilty. My baby sister
7 was not a criminal. My baby sister was place in
8 Rikers Island because of an injustice that she had in
9 this world as a transgender woman. My sister
10 couldn't get a job, okay? She was turned away from
11 every door, and she turned to sex work to survive in
12 this cold world. My sister was not a criminal. She
13 was not a criminal. My sister worked. My sister
14 worked, and whether that is not a job that Uncle Sam
15 was getting taxes on, my sister was a human. My
16 sister was an aunt. My sister was-- my sister was
17 the love of my life, and my sister's no longer with
18 me. Yet, another holiday is here and I have my-- my
19 sister's not here with me. I got my sister around my
20 neck in ashes because that's how she was given back
21 to me. You didn't [inaudible] chance to even ask
22 questions. It's very clear that this is why our
23 system is so broken, because of individuals and
24 people with power such as Council Member Paladino.
25 And let me reassure you, Madam, that I will take a

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2 Correctional Officer application and I will fill it
3 out, and I would like for you to hire me, because I
4 want to show you how you treat people in a humane
5 way. Okay? My sister was treated in an inhumane
6 way. My sister wasn't treated like human. There was
7 notes of actual Correction Officers stating that she
8 needed to evaluate because of her mental health
9 issues, and everything was disregarded. I'm not
10 saying--

11 SERGEANT AT ARMS: [interposing] Time has
12 expired.

13 MELANIA BROWN: that every Correctional
14 Officer-- I'm not saying that every Correctional
15 Officer out there is unfair. My best friend just
16 became a Correction Officer and she has incarcerated
17 people that come up to her and talk to her. A
18 majority of them are there to inflict pain, and as
19 long I'm living I will fight depression, and I will
20 keep coming back, because thank you so much Council
21 Member Paladino. Thank you so much, because you
22 reminded me why it's so important for me to show up.
23 Thank you for your time.

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2 COMMITTEE COUNSEL: Thank you. Next we
3 will hear from Akeem Browder followed by Candy and
4 Tamara Carter [sp?].

5 SERGEANT AT ARMS: Time has begun.

6 AKEEM BROWDER: Akeem Browder. I just
7 wanted to say one, I think it's extremely unfair that
8 representatives that was for the Department of
9 Corrections are not here, not all of them, and not
10 our people. In fact, I want to make clear that the
11 confusion of what we're wanting to get done with this
12 bill isn't just for the detainees, it's for both
13 parties. On that note, one, I don't know why we're
14 fighting each other. This is-- this should be a done
15 deal. Human rights for-- or humanity should be
16 exempted for all people, not just officers and not
17 just detainees. However, one, my brother-- if I
18 could speak for my mother, which I wouldn't really
19 want to but my mother isn't here because of the
20 trauma that happened through Rikers Island, through
21 Department of Corrections, and the justice system
22 while using solitary confinement on my brother. This
23 took my family's life away, and what it did was also
24 destroy communities. You guys want to fight for the
25 rights to continue to torture people, and yet we've

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2 heard inexplicable facts, proof, statistics,
3 analytics that this does not work, and yet why are we
4 fighting each other. We don't want you sliced up,
5 but your officers also are bringing weapons for them
6 to get-- to be used against inmates and Correction
7 Officers, but yet we're fighting to say that we
8 should continue to harm the people that are in there
9 because they are accused of a crime. You could be
10 the same shoes. You just took a different route.
11 However, that being said, my brother should-- my
12 brother took his life because of the trauma that
13 happened and occurred to him on Rikers. And yet, for
14 this to still happen-- he passed in 2015. He was
15 there in 2010, and we're still fighting for this.
16 The city has an obligation to do what's right not
17 just to people on the streets but the people on
18 Rikers as well. Detainees, not inmates. They are
19 not inmates, technically. Please, listen, my mother's
20 not here to speak to y'all, but y'all are black and
21 brown people just like we are. We come from the same
22 communities and yes, they did crime or they're
23 accused of a crime. That does not mean we should
24 harm them and treat them less humane. They are human
25 beings and your brothers and sisters, and guess what,

1 the lieutenants and captains that are not here that
2 order y'all around, y'all still subordinates to them,
3 too. You're no better. You're not better and you're
4 not in a better position than them, but yet we're
5 fighting each other and then you go back to your
6 communities. You think they live in your
7 communities? No.

9 CHAIRPERSON RIVERA: Thank you.

10 COMMITTEE COUNSEL: Thank you. Next
11 we'll hear from Candy and Tamara Carter and then
12 William Wagstaff.

13 CANDY: Hello, my name is Candy.

14 CHAIRPERSON RIVERA: Make sure your
15 microphone is on. Thank you.

16 CANDY: hello, my name is Candy, aka
17 Solitary Survivor, and I use the alias Solitary
18 Survivor because I spent over three years
19 consecutively in solitary confinement. I can't tell
20 you about prison. I can't tell you about Rikers, but
21 I can tell you about solitary confinement and what I
22 saw behind the doors of solitary and that little
23 window, and it was absolute torture. Whenever
24 someone asked me to describe solitary confinement, I
25 tell them it's torture. I was denied showers. I was

1 denied recreation. I was denied food, and when I did
2 get food I was food poisoned. So sometimes it was a
3 blessing that I was starved. And it's a miracle that
4 I'm here now because I tried to commit suicide every
5 day I was in there by cutting myself with water I can
6 find, breaking the light fixture. One time they put
7 me in a cell, and the cell already had glass in it,
8 and I said it's glass in there, and they said, "You
9 know what, just don't cut yourself." And guess what,
10 that's exactly what I did. I cut myself. I saved my
11 pills, and I swallowed pills and I passed out in my
12 cell and the officers would walk past and say things
13 like, "We have eight hours until the body gets cold."
14 And they they did the same thing to Layleen Polanco.
15 That's why I had these two pictures up, because they
16 touch my heart. Kalief and Layleen, it's like I'm
17 telling their story. They can't tell you what goes
18 on and the torture that goes on, so I'm here to speak
19 to them. They're in a better place now. They don't
20 have to go through the nightmares. That's why people
21 commit suicide when they're in there and when they go
22 home because they tortured in there. I was sexually
23 abused by a captain, the officers. They would say
24 they're putting my handcuffs on and they're fondling
25

1
2 my butt, fondling my breasts, but what can I do if I
3 wear cuffs to the back. And then they say the
4 officers are being abused, but the officers are the
5 biggest gang in the neighborhood. I had officers in
6 there that was claiming they were Blood and claiming
7 they're a Crip on this inmate side [inaudible]

8 SERGEANT AT ARMS: Time expired.

9 CANDY: having inmates fight with each
10 other. Solitary confinement is absolute torture, and
11 I just want to say one thing, out of 10 officers
12 there's at least three nice ones and seven mean ones.
13 So they're not all evil, like Dep. Johnson. Dep.
14 Johnson made sure I got showers and Dep. Johnson made
15 sure I got sanitary napkins, because he came to my
16 cell and I had blood all over the cell, and he
17 thought I had cut myself again, and I said, "No, I've
18 been asking for sanitary napkins for six days because
19 I bleed for six days." I said they have not given me
20 one, nor a shower, and he made sure I got sanitary
21 napkins and a shower that day. So they're not all
22 bad. I just think they need to end solitary. It did
23 nothing but give me nightmares. I haven't sleep in
24 two days because I'm afraid to go to sleep because of
25 the nightmares. It's been over seven years and I've

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been telling my story and it seems like a broken record, but no one's listen to me. I'm begging to please end solitary. Save lives. Thank you.

CHAIRPERSON RIVERA: Thank you. Next we'll hear from Tamara Carter. Then William Wagstaff, and then--

WILLIAM WAGSTAFF: [interposing] [inaudible] to speak--

CHAIRPERSON RIVERA: [interposing] Just put on-- just make sure the red light is on.

WILLIAM WAGSTAFF: Chair Rivera, if I may. I'm counsel to Ms. Carter. I'm supposed to speak second. If you would allow me to yield my time to her, so you can hear from her for four minutes instead of two, please?

CHAIRPERSON RIVERA: Are you signed up to testify?

WILLIAM WAGSTAFF: Yes, right after.

CHAIRPERSON RIVERA: Okay.

WILLIAM WAGSTAFF: Thank you.

TAMARA CARTER: Hello, my name is Tamara Carter. I'm the mother of Brandon Rodriguez, and I'm also a Freedom Agenda member. I'm a little nervous, so. And I haven't slept. I'm a little bit angry

1 because I wrote this statement two weeks ago, and the
2 Commissioner came very unprepared for your questions,
3 but I came prepared. It has been a year since I last
4 testified, and nothing has changed but more death.
5 Humans are dying. PETA protects animals better than
6 we do. The humans on Rikers are screaming for help.
7 How many more-- how many times does a mother have to
8 testify and be in pain until you do something? I'm
9 begging you to please stop solitary confinement. I'm
10 sick of hearing sorry for your loss. If you're so
11 sorry, do something to help. And as I'm reading
12 this, in the front is a picture of my son. I'm
13 holding all of you accountable for my son's death.
14 You've seen the report. Brandon yelled for hours he
15 was going to kill himself, screaming for help, and he
16 was ignored, and now he's dead. I came here in peace
17 today and we were met by CO's, COBA, very
18 disrespectfully. They were barbaric, and I think
19 that shows you how they act on the Island.

20
21 UNIDENTIFIED: Yes.

22 UNIDENTIFIED: Yes.

23 TAMARA CARTER: Okay? My son died in the
24 shower cell.

25 UNIDENTIFIED: He was killed.

1
2 TAMARA CARTER: Absolutely, he was
3 murdered. He talked to eight to nine different
4 officers and asked for help. Other detainees heard
5 him screaming that he was going to kill himself.
6 They did nothing about it. That lady that was for
7 the Health Services, she sat here and lied to you
8 about intake and how they do their intake for the
9 mental health. My son was emotionally disturbed. He
10 had multiple sclerosis and he was not helped, and now
11 he's gone. I will never be a grandmother from him,
12 never. When I'm old, who's going to take care of me?
13 Yeah, I have other kids, but Brandon was that one.
14 Mom, you need help getting up? Because I have
15 issues. He always helped me. Now I don't have that.
16 And I'm sorry for the ones that are for the bill or
17 not for the bill. I hold you all accountable for my
18 son's death. I hold the CO's accountable for my son's
19 death, 'cause when Kalief Browder died, you had the
20 chance to change it and you didn't do anything. When
21 Layleen Polanco died, you had another chance to
22 change it and you did nothing, and now my baby is
23 gone, so please I beg you, do something about it now,
24 and have them destroy the shower cells that my son
25 died in. Thank you.

CHAIRPERSON RIVERA: Thank you.

COMMITTEE COUNSEL: Thank you. Next we'll hear from Gina Pondexter followed by Madeline Feliciano.

CHAIRPERSON RIVERA: Thank you. Thank you so much to all of you for your testimony.

GINA PONDEXTER: Good afternoon ladies and gentleman. My name is Gina Pondexter, and I am the sister of the 16th victim of Rikers Island, Elmore Robert Pondexter. I came here with all this written stuff to say, but after listening I have to just change what I'm going to say. I'm past the point of being appalled. I'm past the point of being mortified. I am actually sitting here right now feeling very disrespected. These people, they didn't even have the courtesy to sit and listen to our voices and what we have to say about our family members. I want to read the words of Mr. Louis Molina who couldn't stand here and listen. His words in this leaked email about my brother, "Do whatever you can to get this man off my count." He's going to sit here and tell you that he gave us that compassionate release for my brother because it was in the benefit of my family and us having access to my brother. I

1 was in the hospital for four days and had complete
2 access to my brother before that proposal was brought
3 to me. They did not deny me any entrance or access
4 to my brother. They came to me when we were
5 vulnerable, grieving, and made this proposal. I just
6 wanted my family member to die with a little bit of
7 dignity. It does not relinquish the Department of
8 Corrections for the condition that my brother was in
9 and what has happened to him. They didn't even have
10 the respect to call my family and tell us our brother
11 was in health issue or health crisis. Two days before
12 I was notified, and notified by the hospital, not the
13 Department of Corrections. My brother was a
14 fantastic human being. He was a father, a uncle, a
15 son. He was my best friend and my protector, and I
16 feel the need to sit here and advocate for him. He
17 had mental illness that was not addressed. He had
18 physical ailments that were not addressed, and every
19 time he asked for help, just like so many people in
20 here, he was ignored and looked over. For this woman
21 right here that's sitting at the desk, there's no
22 such thing as being a criminal until you have been
23 trialed by a jury of your peers. My brother was being
24 detained and he-- as any other United States citizen
25

1
2 is innocent, innocent until proven guilty, and how
3 dare you say otherwise.

4 CHAIRPERSON RIVERA: Let me just-- I just
5 want to let you know, we just need you to wrap up
6 your testimony.

7 GINA PONDEXTER: Yes.

8 CHAIRPERSON RIVERA: And we hear you. I
9 believe the Council Members in agreement with that
10 last bit, and if you could please wrap up because we
11 do have many, many people here to speak, okay?

12 GINA PONDEXTER: I will not stop fighting
13 and talking about this until I see some change. I
14 don't want my brother's death to be in vain. I want
15 someone held accountable and to answer. Thank you
16 for letting me have this time.

17 CHAIRPERSON RIVERA: Thank you, and the
18 City does owe you that. Thank you.

19 COMMITTEE COUNSEL: Thank you. Next
20 we'll hear from Madeline Feliciano on Zoom followed
21 by Doctor Robert Cohen and then Alyson Silkowski.

22 MADELINE FELICIANO: Hi, everybody. My
23 name is Madeline Feliciano and I'm the grandmother of
24 Nicholas Feliciano. Back in November 27, 2019, my
25 grandson Nicholas, he was put in a holding tent by

1
2 himself for six hours. Earlier that day there was a
3 fight and instead of Department of Corrections
4 getting him the medical attention that he needed,
5 they put him in a holding tent, knowing that he
6 suffered from mental illness and suicidal ideations.
7 There was four officers at that post and they left
8 him hanging for seven minutes and 51 seconds. They
9 did not intervene. They didn't help my grandson. An
10 investigation was done by the Board of Corrections,
11 and it concluded that the attempt suicide of Nicholas
12 highlights many aspects of New York City jails. I'm
13 sorry, I'm just very emotional. Relating to young
14 adults, mental health treatment, self-harm, and
15 dangerous intake conditions persist today. It is the
16 Board's hope that the public of DOC and CHS can learn
17 from our findings and agencies can implement the
18 recommendations to prevent future tragedies. The
19 last mayor had promised to end solitary, but nothing
20 has changed. They just continue to put people in
21 solitary confinement or other forms of names. Knowing
22 the crisis at Rikers Island is just making it worse.
23 It worsens people's safety. It causes harm to a
24 person's mental and physical health. It causes
25 anxiety, depression, hopelessness. It deprives a

1 person's life. There needs to be a growth [sic].
2
3 The conditions are inhumane. It took away my
4 grandson's civil rights.

5 SERGEANT AT ARMS: Time has expired.

6 MADELINE FELICIANO: Intro 549 needs to
7 be implemented so no more lives will be lost, not
8 more torture. The City needs to end all forms of
9 solitary confinement. Solitary confinement has
10 killed several lives, Kalief Browder, Layleen
11 Polanco, Brandon Rodriguez, Elijah Muhammad [sp?],
12 and many others. Changes need to be implemented, and
13 you are innocent until you're proven guilty. No one
14 deserves the right to be labeled or have their lives
15 taken away. Accountability needs to be done. People
16 continue to die today. It's an ongoing problem.
17 Intro 549 will end solitary confinement in all forms
18 to better enhance safety, health, and wellbeings of
19 an incarcerated person. Changes need to be done.
20 Thank you.

21 CHAIRPERSON RIVERA: Thank you very much.

22 COMMITTEE COUNSEL: Thank you. Next
23 we'll hear from Doctor Robert Cohen followed by
24 Alyson Silkowski.

1
2 ROBERT COHEN: Thank you very much. It's
3 very hard to speak after what we just heard. I had
4 prepared remarks. I don't know if they'll make much
5 sense at this point. I want to congratulate and
6 endorse your bill. I want to-- Public Advocate
7 Williams, the area you were talking about in NIC is
8 not habitable, and Commissioner Molina told me so.
9 He was there. He knows that it's not habitable, and
10 he just changed his mind for the purposes of this--
11 of this hearing. It's-- there's no-- there's
12 essentially no human contact there. You know, the
13 Board of Correction, I'm on the Board of Correction
14 for many years as your representative of the City
15 Council, and I spent 17 years on a national
16 commission. I was a federally appointed monitor in
17 New York, Ohio, Florida, Michigan. It's time to end
18 solitary confinement. The restrictive housing on
19 Rikers Island is a serious problem right now. The
20 restrictive housing that's used for just six hours is
21 generally used for more than six hours. We were told
22 about this after the fact that they asked-- the
23 Department asked for variances that after they had
24 kept people in there for more than six hours.
25 They're dangerous. They're harmful, and they

1
2 increase the risk of self-harm and suicide, as was
3 mentioned. Elijah Muhammad died on July 10th during
4 an emergency lock-down, and the B officer assigned to
5 make rounds within the housing area was not on his
6 post for the 90 minutes before Mr. Muhammad's death.
7 And the Board was informed that the B post officer
8 noticed that Mr. Muhammad seemed incoherent and
9 sluggish, but no medical evaluation occurred. That's
10 what you're talking about in terms of having medical
11 evaluation of all the people in special housing. I
12 strongly support Intro 549. The Mayor has suspended
13 by continuing emergency Executive Order the Board of
14 Corrections rule ending solitary confinement and
15 limiting restrictive housing. The City Council
16 action will prevent harm and saves lives. It will
17 make the jails safer for all the people who live and
18 work there. And I look forward to helping you
19 implement this. Thank you very much.

20 CHAIRPERSON RIVERA: Thank you, Doctor
21 Cohen for your years of service on the Board. We
22 appreciate you.

23 COMMITTEE COUNSEL: thank you. next
24 we'll hear from Alyson Silkowski followed by Benny
25 Boscio, Keisha Williams, Ashaki Antoine, Masha Mayo

1 [sp?], Stephanie Tines [sp?] and Gilsee Antiqua
2 [sp?].
3

4 ALYSON SILKOWSKI: Thank you. Alyson
5 Silkowski, Policy Director with the Comptroller's
6 Office. Sorry, I'm just going to take a minute,
7 because I'm a mom as well.

8 CHAIRPERSON RIVERA: Is your mic on?

9 ALYSON SILKOWSKI: Oh, is it?

10 CHAIRPERSON RIVERA: Bring it a little
11 closer to you.

12 ALYSON SILKOWSKI: Is it on now?

13 CHAIRPERSON RIVERA: Just try to speak up
14 a little bit, because you know.

15 ALYSON SILKOWSKI: Sorry. I was just
16 saying I was going to take a moment to pause, because
17 I'm a mom as well. I appreciate the testimony. Thank
18 you, Chair Rivera and Public Advocate Williams, and
19 the Speaker and the members of the Committee on
20 Criminal Justice for convening this hearing and for
21 providing the opportunity to testify today. On
22 behalf of New York City Comptroller Brad Lander, I'm
23 Alyson Silkowski, Policy Director and Senior Advisor
24 on Family Economic Security in his office. As we
25 convene today with the shared aim of eliminating all

1 forms of solitary confinement in New York City's jail
2 system, I think it's worth taking stock of how we got
3 here. Over many years, the efforts of criminal
4 justice reform advocates and stakeholders as well as
5 the survivors of solitary confinement and loved ones
6 of those in custody compelled us to end this practice
7 and to imagine alternative humane forms of housing.
8 Last June, the Board of Corrections approved rules
9 establishing RMAS, which we discussed today, which
10 set minimum hours of out-of-cell time among other
11 requirements. The implementation date, November 1st,
12 2021, has long come and gone. In the intervening
13 months, the HALT Solitary Confinement Act which
14 limits segregated confinement to 15 days also went
15 into effect. And yet, despite past good faith efforts
16 both to legislate and to regulate an end to solitary
17 confinement, RMAS has not been put into practice.
18 And the Comptroller's Office continues to hear
19 reports of people in custody being held indefinitely
20 in environments that the letter of the law and any
21 casual observer would consider segregated
22 confinement. On a visit to Rikers Island on August
23 29th, during with the Comptroller toured four
24 facilities, Comptroller Lander observed seven
25

1 individuals in protective custody who, as he reported
2 last month to the Board of Corrections, were being
3 held in dark, double-vestibule cells not much larger
4 than their beds. This has been covered at length
5 already today, but they had no access to meaningful
6 engagement with other people or to congregate
7 programming, and there was not deadline or end in
8 sight, confined well beyond 15 days for weeks on end.
9 We cannot allow this to continue. We know that
10 prolonged isolation does significant physiological
11 and psychological harm, and we also know that
12 alternatives are possible. Housing models such as
13 RSVP in San Francisco show the benefits of a
14 programming-rich, non-punitive approach. So the
15 Comptroller commends the Council for advancing
16 legislation that accepts nothing short of the
17 elimination of all forms of solitary confinement. In
18 particular, we are glad to see that several provision
19 of Intro 549 exceed the minimum requirements that
20 were established in Chapter Six of the Board of
21 Corrections rules. Importantly, the bill require that
22 all people in custody have 14 hours of out-of-cell
23 time, consistent with the existing minimum standard,
24 and defines out-of-cell time as time spent in a space
25

1
2 conducive to meaningful social interaction. This
3 would explicitly prohibit the use of cells like those
4 the Comptroller observed last month. Additionally,
5 the Comptroller supports restricting de-escalation
6 and emergency lock-ins to a maximum of four hours
7 with regular rounding and mental health checks
8 required. The bill also codifies vital protections
9 with respect to due process, including the
10 requirement that individuals be placed in restrictive
11 housing are afforded a hearing at which they're
12 entitled to have legal representation and that
13 refusals to attend hearings be videotaped. The
14 Comptroller, who remains deeply committed to
15 increasing public transparency of DOC operations and
16 recently released data dashboard to track key metrics
17 within the jails, also welcomes the reporting
18 requirements in the bill. It is critical that any
19 legislation purporting to end solitary confinement in
20 New York City include these minimum requirements.
21 Our office remains committed to thoughtful ongoing
22 oversight to ensure the final legislation once
23 enacted is actualized.

24 CHAIRPERSON RIVERA: Thank you.
25

1
2 COMMITTEE COUNSEL: Thank you. For our
3 next panel we'll start with Benny Boscio followed by
4 Keisha Williams, Ashaki Antoine, Rasha Mayo [sp?],
5 Stephanie Tines [sp?], and Gilsee Antiqua [sp?].

6 BENNY BOSCIO: Good morning Chairwoman
7 Rivera and members of the Criminal Justice Committee.
8 My name is Benny Boscio. I am the President of the
9 Correction Officers Benevolent Association. New York
10 City Correction Officers are essential first
11 responders who provide care, custody, and control of
12 nearly 6,000 inmates in our custody. As you are well
13 aware, the gross mismanagement and epic failures of
14 the previous Administration have created one of the
15 worst crisis our jails has ever faced. At the core
16 of this crisis lies an epidemic of jail violence
17 fueled by the previous Administration's failure to
18 restore safety and security in our jails. If there
19 are any meaningful lessons learned from the failures
20 of the past is that prioritizing a political ideology
21 over safety and security and governing by activism
22 instead of pragmatism has failed everyone in our
23 jails. And yet, here we are before you today as this
24 Council led by 36 of its members are pushing forward
25 with a piece of legislation that is driven solely by

1 a political ideology rather than by data and hard
2 facts. I am here today to talk about the hard facts
3 that this committee, the Council Speaker Adrienne
4 Adams and the Public Advocate Jumaane Williams simply
5 choose to ignore. A report issued by the City
6 Comptroller last year analyzed jail violence
7 indicators going back to 2011. The report provides a
8 glimpse into the steady rise in violence every year.
9 The rate of inmate fights nearly quadrupled since
10 2011 with an 18 percent increase in Fiscal Year 21.
11 Assaults on staff more than quintupled since 2011
12 with an increase of 24 percent last year. In
13 addition there were 247 stabbings or slashings in
14 Fiscal Year 21, up from 123 the previous year, and
15 only until recently has the Department of Corrections
16 started tracking sexual assaults on Correction
17 Officers, approximately 35 of which occurred since
18 January of 21. Fast forward to this year and since
19 January there has been over 1,100 Correction Officers
20 assaulted by violent inmates. Slashings and
21 stabbings were also up 99 percent in Fiscal Year 22
22 over Fiscal Year 21, according to the most recent
23 Mayor's Management report. I have brought with me
24 today victims and pictures of these brutal assaults.
25

1
2 Not one of you has ever taken the time to speak to
3 oen of our officers who have been physically or
4 sexually assaulted or slashed with a weapon. Not one
5 of you has had to rush to the emergency room and
6 witness the pain and anguish on a family member's
7 face seeing what their relative went through. And
8 yet, have the nerve to push through a bill that will
9 only lead to more carnage in our jails just so you
10 can score political points with the progressive
11 activists that continue to hold you and many of your
12 fellow Council Members hostage. Despite your
13 unwillingness to hear our pleas for help or to
14 understand the catastrophe you are causing, you
15 continue to justify your support of banning punitive
16 segregation by falsely labeling it as solitary
17 confinement and torture.

18 CHAIRPERSON RIVERA: Can you wrap up,
19 please?

20 BENNY BOSCIO: For the record, we do not
21 have a Hollywood depiction of solitary confinement in
22 our jails where inmates waste away in window-less
23 cells, are fed a loaf of bread or a cup of water.
24 Punitive segregation is simply a jail within a jail
25 that exists solely for violent offenders who attack

1
2 our officers and non-violent inmates. The cells in
3 punitive segregation are the same cells that other
4 inmates are in. Inmates in punitive segregation--

5 CHAIRPERSON RIVERA: [interposing] If you
6 could wrap up.

7 BENNY BOSCIO: are given-- please, allow
8 me more time.

9 CHAIRPERSON RIVERA: [interposing] I did
10 give you more time.

11 BENNY BOSCIO: Other inmates that are
12 still have family visits via video-- please. The
13 fact is--

14 CHAIRPERSON RIVERA: [interposing] And we
15 have questions, too.

16 BENNY BOSCIO: the non-violent-- the fact
17 is that non-violent inmates who never attack anyone
18 else and simply serve their time never end up in
19 punitive segregation, which is why of the
20 approximately 6,000 in our custody, only
21 approximately 160 currently belong in punitive
22 segregation. That's roughly two percent of the total
23 inmate population.

24 CHAIRPERSON RIVERA: I can cut off the
25 mic, but I'm giving you 30 seconds to wrap up so we

1
2 can get to the other people. I've handled this
3 hearing this far.

4 BENNY BOSCIO: When violent inmates rape,
5 murder, stab, cut, and assault innocent people on the
6 streets of the New York, each of you supports having
7 that perpetrator immediately arrested and removed
8 from our neighborhoods. Yet, when they commit the
9 very same violent crimes in jail, you believe that
10 they should get an eight-hour timeout and then return
11 to the scene of their crimes? That's not just
12 hypocrisy; that's plain reckless.

13 CHAIRPERSON RIVERA: Wrap up.

14 BENNY BOSCIO: I ask each and every one of
15 you that are sponsors of this bill, what do we do
16 with the individuals in our custody who continue to
17 cut, stab, sexually assault, and brutally assault our
18 officers and non-violent inmates?

19 CHAIRPERSON RIVERA: Okay. I'm going to
20 get to the other people in the panel. Next.

21 COMMITTEE COUNSEL: Next up is Keisha
22 Williams.

23 KEISHA WILLIAMS: Good afternoon everyone
24 and thank you for giving me the opportunity to
25 testify. My name is Keisha Williams, and I'm the

1
2 third Vice President of the Correction Officers
3 Benevolent Association. I've heard today many
4 heartfelt testimonies. Now, I'm going to give mine.
5 As a Correction Officer assigned to the Eric M.
6 Taylor Center on Rikers Island, in 2016 I was
7 performing my duties when an inmate suddenly
8 assaulted me by forcibly touching my breasts.
9 Immediately I felt violated, I felt ashamed, and I
10 felt humiliated. I was in a total state of shock.
11 Asking myself, why did this happen to me, and how
12 could this happen to me. And the weeks and months
13 that followed, I experienced nightmares, anxiety,
14 guilt, and other forms of PTSD. My assailant was
15 given a slap on the wrist and even discharged the
16 very next day while never being fully charged with an
17 actual sexual assault, while I on the other hand, I
18 have been forced to relive the burden of that trauma
19 every single day of my life. My story is-- so many,
20 many other stories of sexual assault and sexual
21 harassment that have become all too common and all
22 too familiar day after day, week after week, month
23 after month, year after year in our city's jails. On
24 any given day, our Correction Officers are subjected
25 to confront disgusting verbal sexual harassment, lewd

1 gestures, inmates literally masturbating in front of
2 them, throwing semen on them, to extreme violent
3 sexual assault including attempted rape, and not
4 forgetting broken eye sockets and broken noses.
5 Failure to hold these sexual predators and violent
6 inmates accountable only embolden these individuals
7 to continue to assault us with impunity. These
8 sexual predators and violent inmates need to be
9 separated from general population because of their
10 deviant behavior. Those who are against punitive
11 segregation should want non-violent incarcerated
12 inmates protected as well as Correction Officers and
13 civilians. Safety should always be first for
14 everyone, everyone. Punitive segregation is a
15 necessary tool for inmates to correct their behavior
16 and reduce violence in the jails. And I will close
17 with this, punitive segregation is for all staff and
18 incarcerated individuals' safety. Without this form
19 of deterrent, the behavior of violent inmates and
20 sexual predators in our City's jails will become a
21 vicious cycle, everyone, that will truly never, never
22 end. Thank you very, very much.

24 COMMITTEE COUNSEL: thank you. Next we'll
25 hear from Ashaki Antoine.

1
2 ASHAKI ANTOINE: Good afternoon. My name
3 is Ashaki Antoine. I'm the First Citywide Trustee of
4 the Correction Officers Benevolent Association.
5 Thank you for the opportunity to testify before you
6 today. by ending-- by voting to end punitive
7 segregation in the City's jails, you, the City
8 Council, send a clear message to every sexual
9 predator and violent offender detained in the City's
10 jails that you, the City Council, condone their
11 deviant behaviors, and that you, the City Council,
12 have aligned yourself with the abuse, and also that
13 you, the City Council, agree with the normalizing of
14 sexual assault such as groping and fondling of a
15 woman's breast, vagina, buttocks, and penises. Yes,
16 male officers that are sexually assaulted as well.
17 You send a clear message to every inmate that
18 physically assault a Correction Officer resulting in
19 permanent disfigurement that your actions and that
20 your actions are acceptable by you, the City Council.
21 This is disgraceful and unacceptable, and that is the
22 definition of torture. The same way you put your
23 activism in ending punitive segregation, is the same
24 activism needed for protecting women in the jails who
25 are sexually assaulted and sexually harassed daily,

1
2 who I may add, look just like me. The same activism
3 that's needed in protecting non-violent inmates who
4 become victims of assault daily, and most
5 importantly, the same activism is needed to protect
6 Correction Officers from physical assaults by
7 inmates. It is essential that all sexual predators
8 and violent inmates are separated from non-violent
9 inmates and that they are held accountable for their
10 violent behavior while detained. This tool will be
11 the pathway to safer jails for everyone. And I'll
12 close with this, the right to work free from
13 violence, especially sexual violence towards our
14 female officers in the jails, should never be one-
15 sided, and in this case, politically driven.

16 CHAIRPERSON RIVERA: thank you.

17 ASHAKI ANTOINE: Emotional intelligence
18 is the key and most importantly, we must practice
19 morals over politics. Thank you.

20 CHAIRPERSON RIVERA: I hear you. I hear
21 you. I think we share your goal in making sure every
22 woman has a safe workplace environment they deserve,
23 that's why we do need legislation that follows the
24 evidence and considers--

1
2 ASHAKI ANTOINE: [interposing] Our women
3 are not safe. Our women are not safe.

4 CHAIRPERSON RIVERA: Thank you very much.
5 Mr. Ferraiuolo?

6 PATRICK FERRAIUOLO: Yes, thank you very
7 much. I had submitted written--

8 CHAIRPERSON RIVERA: [interposing] Just
9 make sure your microphone is on, the red light.

10 PATRICK FERRAIUOLO: Thank you. I have
11 submitted written testimony to Council. I'm going to
12 speak from my heart. If you're interested in reading
13 it, everybody has a copy of it. I've been serving
14 the Department since 1982. I served in Otis Banting
15 [sp?] Correctional Facility. I was a punitive
16 segregation Captain. I've seen punitive segregation
17 at its worst. Today, everybody keeps mentioning
18 punitive segregation. Commissioner Molina did not
19 stand up here, sit down here, and say that he
20 endorses punitive segregation or any form of it.
21 We're talking about restrictive housing. We're
22 talking about taking whatever you want to call them,
23 inmates, you want to call them-- whatever you want.
24 But we're talking about individuals that cannot live
25 in the general population. Now, to Jumaane Williams,

1 Public Advocate, the question was posed about the
2 1990s. I lived the 1990s on Rikers Island. I could
3 tell you, with 22,000 inmates from the Dinkins
4 Administration up until the Giuliani Administration,
5 I never went into a building and didn't feel safe.
6 The violence that occurs today against Correction
7 Officers and other inmates is far surpassed the
8 1990s. Statistically, I could prove that to you.
9 There's not a Correction Officer that worked then
10 will ever tell you that they felt threatened when
11 they went into the facilities. So, what I'm asking
12 is this, I'm asking to work with you. I'm asking to
13 curtail this bill, that we could all be safe. I'm
14 asking for everybody here to acknowledge that
15 Correction Officers and my Captains work the toughest
16 jails in all of the country and they deserve
17 accolades, not you know, people talking about how
18 they do terrible things. They go to work with one
19 intention, that is to take care of their families and
20 care, custody, and control of inmates.

22 CHAIRPERSON RIVERA: Thank you very much.

23 I know we have your written testimony, correct?

24 PATRICK FERRAIUOLO: I know you do. And
25 just let me end by saying this. We all watch TV. We

1 watch the violence and all of the horrible things
2 that have been happening in the City of New York.
3 What do you think happens when those individuals wind
4 up on Rikers Island? We're dealing with a very
5 violent population of inmates. Thank you.

6
7 CHAIRPERSON RIVERA: Thank you. We have
8 a couple of questions from the Council Members, if
9 you'd like to stay and answer them. Council Members,
10 I have many, many people signed up to testify, so I'm
11 going to ask you-- brevity is key here. However, we
12 got Public Advocate Williams, Council Member Nurse,
13 Cabán, and Holden.

14 PUBLIC ADVOCATE WILLIAMS: Thank you so
15 much. Thank you everybody for the testimony, and
16 thank you for sharing your personal stories. First,
17 I do want to say, Benny, you know that I have spoken
18 Correction Officers including those who have been
19 harmed, and I continue to try to make sure I'm
20 hearing their stories, and I've also tried to help
21 when people have reached out to me about Correction
22 Officers who weren't being treated the way they
23 should be. I did-- I do want to understand, because
24 we are throwing away a lot of names. What is your
25 definition of punitive segregation?

1
2 BENNY BOSCIO: It's restrictive housing.
3 Anybody that commits a crime or violates rules and
4 assaults somebody, cuts somebody has to be segregated
5 and taken away from general population.

6 PUBLIC ADVOCATE WILLIAMS: Okay. It's
7 important because I think there is agreement. And
8 you could tell me, do you believe that we should be
9 locking up people 20, 23, 24 hours a day for long
10 time periods?

11 BENNY BOSCIO: We're not doing that in
12 Rikers.

13 PUBLIC ADVOCATE WILLIAMS: Okay.

14 BENNY BOSCIO: We're not doing that.

15 PUBLIC ADVOCATE WILLIAMS: Then there's
16 agreement that that's what we should not be doing.
17 There's also agreement that we do have to find a way
18 to separate people. so I just want to be clear on
19 what it is that we are actually disagreeing about,
20 because the terms are being thrown out, whether you
21 call it punitive seg, or restrictive seg, whatever it
22 is, there's agreement that we should not be locking
23 people up 23, 24 hours a day on a regular basis, and
24 there's also an agreement that we have to separate
25 people to keep folks safe. That is important. I

1
2 also just want to lift up black women who are
3 speaking about sexual assault. Thank you for
4 bringing that up. It's something I've been hearing
5 about for a long time, and I'm hoping that the media
6 covers it because I think it is a real issue, and I
7 do think people need to be charged when it is
8 happening. I don't want it just washed under the
9 rug. But I want to be clear, I don't think solitary
10 confinement or torture is going to prevent that from
11 happening. I think everybody there would agree with
12 me, even the folks that we kind of want to dismiss
13 are not better off after they've been locked up for a
14 long time period, 23, 24 hours a day. That is not
15 going to be the thing that keeps us safe.

16 BENNY BOSCIO: One of-- is it not
17 torture?

18 PUBLIC ADVOCATE WILLIAMS: But I'm not--

19 BENNY BOSCIO: [interposing] Are there
20 faces, are those scars, or when women--

21 PUBLIC ADVOCATE WILLIAMS: [interposing]
22 I'm agreeing--

23 BENNY BOSCIO: Or when women are raped or
24 sexually assaulted, is that not? No.

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2 PUBLIC ADVOCATE WILLIAMS: I'm agreeing
3 with you that that--

4 BENNY BOSCIO: [interposing] So, the
5 victims-- there should be no consequences. So--

6 PUBLIC ADVOCATE WILLIAMS: [interposing] I
7 want to be clear--

8 BENNY BOSCIO: [interposing] But it's
9 almost like you're saying that if you commit a crime
10 and you rape somebody or kill somebody that you
11 should go to jail for eight hours and then be able to
12 return to the scene of the crime?

13 PUBLIC ADVOCATE WILLIAMS: So, I just
14 want to be clear--

15 CHAIRPERSON RIVERA: [interposing] I'm
16 going to just ask the public-- just please wrap,
17 Public Advocate Williams--

18 PATRICK FERRAIUOLO: [interposing] Benny,
19 let me just address one thing.

20 CHAIRPERSON RIVERA: they're going to
21 give their answers, and then--

22 PUBLIC ADVOCATE WILLIAMS: [interposing]
23 My time-- my time is up. I just want to say I want to
24 be 100 percent clear, because I repeated it. That is
25 unacceptable. That cannot be happening.

1 PATRICK FERRAIUOLO: But--

2 PUBLIC ADVOCATE WILLIAMS: [interposing]

3 That has to have accountability and consequences.

4 PATRICK FERRAIUOLO: In the bill. In the
5 bill.

6 PUBLIC ADVOCATE WILLIAMS: None of those
7 things can be solitary confinement.

8 PATRICK FERRAIUOLO: So, we talk about--

9 PUBLIC ADVOCATE WILLIAMS: [interposing]
10 There can be and must be separation, and I believe
11 some of that separation has to occur immediately--

12 BENNY BOSCIO: But I believe that you are
13 trying to make the public depict solitary confinement
14 that we're putting people in holes--

15 PUBLIC ADVOCATE WILLIAMS: [interposing]
16 we're not.

17 BENNY BOSCIO: and we're throwing down a
18 bucket of water and tossing bread. That's not what's
19 happening. It's the same cell--

20 PUBLIC ADVOCATE WILLIAMS: [interposing]
21 Not at all.

22 BENNY BOSCIO: That's not what we're
23 doing.
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COMMITTEE ON CRIMINAL JUSTICE

PUBLIC ADVOCATE WILLIAMS: I know my time is up, so thank you.

CHAIRPERSON RIVERA: So let me just get to--

BENNY BOSCIO: This is not the show-- like, this is not the movies.

PUBLIC ADVOCATE WILLIAMS: I never said it was.

BENNY BOSCIO: Yeah, you've been to Rikers. You toured and you saw and inmate--

CHAIRPERSON RIVERA: [interposing] Hold on.

BENNY BOSCIO: A shank fall out of an inmate's pocket.

PUBLIC ADVOCATE WILLIAMS: Absolutely.

BENNY BOSCIO: Right when you were touring with me.

PUBLIC ADVOCATE WILLIAMS: That's correct.

BENNY BOSCIO: That's okay?

PUBLIC ADVOCATE WILLIAMS: That's correct.

BENNY BOSCIO: That's not okay.

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2 PUBLIC ADVOCATE WILLIAMS: I'm agreeing
3 with you.

4 BENNY BOSCIIO: Yeah, but you didn't come
5 to speak to any of us before you submitted this bill
6 to the Council. None of these Council Members had
7 conversations with the union before this bill was--

8 PUBLIC ADVOCATE WILLIAMS: [interposing]
9 I've never had conversation with the union?

10 BENNY BOSCIIO: sponsored. So, it's--

11 CHAIRPERSON RIVERA: [interposing] And
12 we're here to discuss the--

13 BENNY BOSCIIO: [interposing] But this is
14 why we feel that this is--

15 CHAIRPERSON RIVERA: [interposing] the
16 legislation.

17 BENNY BOSCIIO: very one-sided. Because
18 even your tone, Council Member Rivera, when you set
19 off this hearing, with all due respect--

20 CHAIRPERSON RIVERA: [interposing] Let me--
21 - let me-- let me correct you. No, no, no, that's
22 not respectful.

23 BENNY BOSCIIO: It's very one-sided. It's
24 very one-sided.

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2 CHAIRPERSON RIVERA: Let me tell you
3 right now, just because you pre-empt something with
4 all due respect doesn't mean you're being respectful
5 to me.

6 BENNY BOSCIO: I am being respectful.

7 CHAIRPERSON RIVERA: And in this chamber
8 while I am chairing this committee hearing, I am
9 going to facilitate as best I can. So here's what
10 I'm going to say, Mr. Public Advocate thank you for
11 your questions. Thank you for those answers. I
12 guess that's what we're going to call them for right
13 now. And now I'm going to move on to my Council
14 colleagues.

15 BENNY BOSCIO: Can I just--

16 CHAIRPERSON RIVERA: [interposing] No,
17 sir. No, sir.

18 BENNY BOSCIO: Could I just--

19 CHAIRPERSON RIVERA: No, sir.

20 BENNY BOSCIO: I want to just finish the
21 question.

22 CHAIRPERSON RIVERA: Here is what I'm
23 going to say, for the members of the public, if you
24 wish to testify you could fill out a sheet of paper.
25 You could get in the que with the other people that

1
2 have been waiting hours to have their voices and
3 experiences heard.

4 BENNY BOSCIO: but there was a question
5 asked about--

6 CHAIRPERSON RIVERA: [interposing] No,
7 sir.

8 BENNY BOSCIO: how we could work on this
9 bill, right?

10 CHAIRPERSON RIVERA: And we will probably
11 get to asking you that specifically at some point,
12 but for now we're going to go to Council Member
13 Nurse.

14 BENNY BOSCIO: And all I'm saying is why
15 didn't we have the conversation--

16 CHAIRPERSON RIVERA: [interposing] Mr.--

17 BENNY BOSCIO: before the bill was
18 sponsored, right? We could have had all those
19 conversations, Councilwoman Rivera

20 CHAIRPERSON RIVERA: This is-- and here's
21 what I'm going to tell you--

22 COUNCIL MEMBER NURSE: [interposing] Can I
23 start?

24 CHAIRPERSON RIVERA: You have my phone
25 number. You can call me. This is a hearing to

1 discuss this legislation. If you don't agree with
2 the timeline on which we arrive to this moment, then
3 that's your prerogative, but right now my Council
4 Members on are stack to ask questions. Council
5 Member Nurse?

7 COUNCIL MEMBER NURSE: Thank you. I just
8 want to put on the table that I am also someone who
9 has been sexually assaulted and fondled and
10 physically assaulted by a person wearing a uniform.
11 So I want to lay that vulnerability that we share an
12 experience, and it's not okay, and it's not
13 acceptable. The idea that personally, I stand by any
14 policy that tries to excuse that behavior or create
15 anybody to escape from that kind of accountability, I
16 personally reject, and I just want to share that.
17 But I would be curious-- I would love for you to
18 share a little bit about what are the conversations
19 that you all have with each other and among your
20 union officers about safety and about showing up to
21 work and protecting each other in the situation where
22 you have a lot of people out? I would like to know.
23 I have talked to Correction Officers in my community
24 who live in my community, but I would just love to
25 hear a little bit more about how you all talk with

1
2 each other about solidarity and safety when you have
3 folks who are on the floor, maybe one person on the
4 floor, or don't want to go to the floor because
5 there's not enough people at work to protect each
6 other--

7 PATRICK FERRAIUOLO: [interposing] May I
8 address that?

9 COUNCIL MEMBER NURSE: Yeah, I'm--

10 PATRICK FERRAIUOLO: [interposing] Yeah,
11 sure. Okay, so--

12 COUNCIL MEMBER NURSE: [interposing] Thank
13 you.

14 PATRICK FERRAIUOLO: So when Commissioner
15 Schiraldi became the Commissioner of the Department
16 of Corrections, myself and President Boscio went to
17 see him and we asked him because we had 3,000
18 Correction Officers plus captains out sick, and we
19 asked him to work collectively with us to do Town
20 Hall meetings, send out correspondence with all our
21 names on them assuring their safety, assuring that
22 we'd work together with the Administration and with
23 the Union to get men and women to try to come back to
24 work. You had COVID. You had assaults, and you had
25 people just simply afraid to come to work. Okay?

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2 There was a lot of things going on. He refused to do
3 that. When Commissioner Molina came, we came to him
4 with the same suggestions, and we did that together,
5 collectively. And we had a Town Hall meeting and we
6 had almost 700 Correction Officers, plus captains,
7 attend that were out sick, that were given the day to
8 come and listen to the ideas that we had. With that,
9 we are at 11 percent out sick from almost 40 percent
10 out sick, because they heard what we had to say. At
11 every union meeting and as we walked the facilities,
12 we talk to our members and we tell them what to do
13 and what no to do as far as how to treat inmates,
14 give them their programs. Actually, if you read
15 this, if you read my testimony it's in here, okay?
16 So we advocate that on a regular basis, but it is
17 very hard when you tell somebody give an inmate a
18 program, make sure they get what they have coming to
19 them, and all of a sudden this happens to them. You
20 know, they're only human, okay? It's not easy. It's
21 a horrible job, and but we work on it. So, yeah,
22 there's been plans put in motion and we've done a lot
23 in the last six months since Molina's been in office.

24 BENNY BOSCIO: And also, Council Member
25 Nurse, we just don't have a regular job where if you

1
2 get assaulted and you get cut like that, if you get a
3 torn shoulder, a broken limb, we're not coming to
4 work the next day. And when there's no consequences
5 for inmate actions, then the inmates become more
6 emboldened and the assaults are on a rise. 1,100 of
7 us have been assaulted since January of this year
8 alone. You think the sick rate is not going to be
9 through the roof? No other city agency is treated
10 the way we are treated, and no other city agency is
11 dealing with the amount of assaults that we have to
12 do with on an everyday basis, and I think that each
13 of you need to understand that. We come from the
14 same communities. We look just like you and just
15 like the inmates in our custody, and we're not
16 looking to treat anybody any different than we want
17 to be treated.

18 COUNCIL MEMBER NURSE: I understand that.
19 I understand that. There's also, I believe, Rikers
20 has the most amount of officers on payroll than any
21 other facility in this country, is that correct?

22 BENNY BOSCIO: We're down to 6,000.

23 COUNCIL MEMBER NURSE: Right, but add
24 that--

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2 BENNY BOSCIO: [interposing] So, it's
3 one-to-one, and not everybody's at work on the same
4 time.

5 COUNCIL MEMBER NURSE: Okay. I just
6 wanted to--

7 BENNY BOSCIO: [interposing] We have to
8 provide--

9 COUNCIL MEMBER NURSE: [interposing]
10 [inaudible]

11 BENNY BOSCIO: It's all these inmate
12 programs require additional correctional staff that
13 you guys denied us from getting. So I don't
14 understand how is it that you would deny us to get
15 staff so that we can provide more programming for the
16 inmates? Like, that doesn't make sense.

17 UNIDENTIFIED: [inaudible]

18 BENNY BOSCIO: You think we--

19 COUNCIL MEMBER NURSE: [interposing] we
20 hear you.

21 BENNY BOSCIO: want to run unmanned
22 areas? We run unmanned areas because we don't have a
23 Correction Officer to put in that housing area.

24 CHAIRPERSON RIVERA: [interposing] And we
25 have--

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2 PATRICK FERRAIUOLO: I've lost 400
3 captains through attrition.

4 CHAIRPERSON RIVERA: and we understand
5 about the staffing crisis, and we have covered that
6 in other hearings and we've mentioned that today. So
7 we fully acknowledge that, and again, it's safety for
8 all. Council Member Cabán?

9 COUNCIL MEMBER CABÁN: Thank you. I
10 would like to point out that during the budget
11 hearings, the Department of Corrections showed up and
12 had no answers to any of our questions and then asked
13 for money, and so you know, that's-- that's a fair
14 question to ask. And I also want to echo the thing
15 that the Public Advocate said, because you said none
16 of us have spoken to y'all. We have had more than
17 one meeting. I have met with other Correction
18 Officers, not to mention the fact that I have been to
19 the facilities over four times since taking office
20 and spend countless hours as a public defender making
21 attorney visits and representing over 1,000 clients
22 on the island. But you talked about political
23 ideology, data, hard facts, activism versus
24 pragmatism, and you know, the numbers that I'm seeing
25 here are horrific. We shouldn't be seeing violence

1 on any side, but what you are showing us are outcomes
2 and what is behind this legislation is changing the
3 conditions to get better and different outcomes,
4 because what we are doing is not working. And so, in
5 fact, you have a piece of legislation that has been
6 drafted using decades of empirical evidence, data,
7 and research to support these changes to get better
8 outcomes for your people and the people who are
9 caged. So, you know, my question is-- and this one
10 is a little bit rhetorical is-- do you care about
11 outcomes? Because either you care about the outcomes
12 or you don't. You care more about the individual
13 punishment, not caring whether it works or not. But
14 these are the actual questions I have for you.
15 Thirty-two people have died in city jails since early
16 2021, including 16 people far exceeds the horrific
17 death toll last year. I just want to ask you, do you
18 believe that having fewer people incarcerated would
19 ease the burden on the system and ensure people who
20 are in the jails could get the services, treatment
21 and protection they need? There was a lot of
22 agreement even from the Department of Corrections
23 that a lot of the programming that has been disrupted
24 and hasn't been robust enough is proven to reduce
25

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2 violence. Would you agree that having fewer people
3 or de-carcerating would ease the burden? And you
4 know, because the number of people serving
5 [inaudible] sentences at Rikers, which are
6 misdemeanors, have increased 180 percent since last
7 year, do you support using things like 6A to reduce
8 the population to ease the burden on your staff and
9 better be able to deliver the services that are
10 scientifically, empirically, data-proven to reduce
11 violence.

12 BENNY BOSCIO: Well, Council Member
13 Rivera, you sound like you want to live in a society
14 where there are no consequences. I mean, Cabán.

15 COUNCIL MEMBER CABÁN: I didn't say that.

16 BENNY BOSCIO: There are no consequences
17 for inmate actions--

18 COUNCIL MEMBER CABÁN: [interposing] But
19 can you answer my question. I didn't say that.

20 BENNY BOSCIO: or for crime. Did you see--

21 COUNCIL MEMBER CABÁN: [interposing] I
22 actually said I want to live in a society--

23 BENNY BOSCIO: [interposing] Did you see
24 the--

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COUNCIL MEMBER CABÁN: where we're implementing strategies that get us different outcomes than that.

BENNY BOSCIO: Well, you're-- is not working. What you're--

COUNCIL MEMBER CABÁN: [interposing] We haven't done it yet.

BENNY BOSCIO: The data is not working. Violence has steadily--

COUNCIL MEMBER CABÁN: [interposing] What do you mean? We haven't done it yet.

BENNY BOSCIO: risen. There has to-- we have to live in a society where there's consequences. Did-- so do you think the individual that kicked the woman in the Howard Beach Train Station, threw her up against a wall and kicked her to the face repeatedly, or kicked the officer that you saw in the video that the--

COUNCIL MEMBER CABÁN: [interposing] Mr. Boscio--

BENNY BOSCIO: No consequences should--

COUNCIL MEMBER CABÁN: [interposing] Mr. Boscio, are you going to answer my question?

BENNY BOSCIO: happen to that?

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PATRICK FERRAIUOLO: May I answer it?

COUNCIL MEMBER CABÁN: Mr.--

BENNY BOSCIO: [interposing] Like, we don't dictate how many-- we don't dictate how many--

COUNCIL MEMBER CABÁN: [interposing] Mr. Bosico, are you going to answer my question?

BENNY BOSCIO: inmates are in our custody.

PATRICK FERRAIUOLO: Let me answer the question. The answer-- let me answer the question.

COUNCIL MEMBER CABÁN: Do you believe that having fewer--

CHAIRPERSON RIVERA: [interposing] Can you-- can you-- can you both hold on. I'm going to ask the public-- we are going to get through this panel and get onto the next panel, if you could just give us a minute.

PATRICK FERRAIUOLO: Yes.

CHAIRPERSON RIVERA: And here's what I'm going to say to the panel. I'm going to ask you to answer the question, and then we're going to wrap up and Council Member Holden's on deck. Please, a 30 second response. Thank you.

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2 PATRICK FERRAIUOLO: Yes, so the answer
3 to your question is no. And--

4 CHAIRPERSON RIVERA: [interposing] I--

5 PATRICK FERRAIUOLO: The answer--

6 [audience noise]

7 PATRICK FERRAIUOLO: Okay.

8 CHAIRPERSON RIVERA: I know, sir.

9 [audience noise]

10 CHAIRPERSON RIVERA: Thank you for being
11 here. Thank-- they're not going to lock you up, sir.

12 PATRICK FERRAIUOLO: So, your question
13 was do you think that less incarceration--

14 CHAIRPERSON RIVERA: [interposing] And can
15 you answer it briefly, please.

16 BENNY BOSCIO: No.

17 PATRICK FERRAIUOLO: I have been. Okay,
18 so the answer to your question is no, I do not
19 believe that, and I'll tell you why. Number one, we
20 have more crime in the City of New York, so you're
21 going to have more incarceration. Number two, the
22 problem is that the City through budget cuts over the
23 last 20 years has closed mental institutions. The
24 problem is we have mental observation inmates, guys
25 that need psychiatrist care, mixed in with the

1
2 general population. Until you fix that problem,
3 until you have real state-of-the-art mental
4 institutions and you get every mental observation off
5 of Rikers Island, it's not going to work, okay? I
6 hope you agree with that. So, really, no. You still
7 need to incarcerate individuals that are committing
8 crimes, because we need the cities of New York safe,
9 okay? But you can't run it the way it's been being
10 run.

11 CHAIRPERSON RIVERA: That's why we're
12 here to discuss the legislation today. Council
13 Member Holden?

14 COUNCIL MEMBER HOLDEN: Thank you, and
15 thank you panel. And I just want to ask a general
16 question. After-- and anybody can answer this.
17 After you're assaulted in jail, a Correction Officer
18 or anybody else, what happens? Tell me what happens.
19 Does the DA come in? Is there-- are there charges?
20 And if this bill passes, if 549 passes and there's no
21 restrictive housing, what happens to the individual?

22 ASHAKI ANTOINE: So--

23 COUNCIL MEMBER HOLDEN: [interposing] Two
24 questions there.

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2 ASHAKI ANTOINE: right now, when the
3 inmate sexually assaults or physically assaults an
4 officer, they're removed temporarily out of the
5 housing area. They get rearrested, and they come
6 back to the same housing area to repeat the same
7 behavior. So in essence, there is no accountability,
8 no immediate accountability for their behavior.

9 COUNCIL MEMBER HOLDEN: And how do you
10 feel when the person who just assaulted you is back
11 two or three days later and you have to deal with
12 that person.

13 ASHAKI ANTOINE: It's disgusting. It's
14 disgusting.

15 [audience noise]

16 ASHAKI ANTOINE: It should not be. Right?
17 They should be held accountable. Everyone should be
18 held accountable, but they should be held
19 accountable. It's a form of torture, because women
20 that are sexually assaulted in jails, our male
21 officers that's physically-- and females physically
22 assaulted, there is PTSD that comes behind that.
23 There is mental breakdown and physical breakdown.
24 It's not just that you get assaulted on Monday and
25 you come back to work on Tuesday. It is unrealistic

1
2 for you guys to even think that way. It's
3 unrealistic.

4 PATRICK FERRAIUOLO: Councilman Holden,
5 the second part of your question was the arrest. So
6 we do have an Arrest Unit on Rikers Island. Many
7 times when one of my Captains are assaulted on Rikers
8 Island, I have to push for the arrest, okay? Because
9 the answer is, "Well, you know what, the DA's just
10 going to drop it anyways." And it happens quite
11 often. Yes, there are rearrests on Rikers Island.
12 Another issue becomes does it run concurrent or does
13 it run consecutive, okay? And that's a major issue
14 and it's always been a major issue. So, yeah, there's
15 rearrests, but many times we have to push for that,
16 and many times when it gets down to the Bronx
17 District Attorney the charges get dropped.

18 BENNY BOSCIO: Nothing happens. They
19 have 800 backlog cases of rearrests that they're-- so
20 what would give an incentive to change behavior when
21 they're not even really facing any additional time
22 for the crimes they're committing?

23 CHAIRPERSON RIVERA: Alright, thank you
24 very much.

1
2 COUNCIL MEMBER HOLDEN: Thank you. Thank
3 you, Chair.

4 CHAIRPERSON RIVERA: Thank you, Council
5 Member.

6 COMMITTEE COUNSEL: Thank you. Next
7 we'll hear from Lasha Mayo [sp?] followed by
8 Stephanie Tines [sp?], Gilsey Antiqua [sp?], and
9 Joseph Russo.

10 CHAIRPERSON RIVERA: Feel free to begin.

11 COMMITTEE COUNSEL: Lasha Mayo [sp?], you
12 can begin when ready.

13 LASHA MAYO: Good afternoon. My name is
14 Officer Mayo, and I am a Correction Officer with the
15 New York Department of Corrections. On June 9th,
16 2021 I was brutally assaulted by an inmate on Rikers
17 Island. This day started off as any other day.
18 After working 16 hours the day before, I woke up,
19 said a prayer, got dressed and began my commute to
20 Rikers Island. Upon arrival, I was immediately-- I
21 immediately took my post, excuse me, which was
22 located in AMKC. Hours later at approximately 10:15
23 a.m. or so, an inmate walked passed me and began to
24 argue with my partner in a very aggressive manner. He
25 then went to the housing area hot pod and filled an

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2 institutional green cup full of hot water and threw
3 it at the door toward my partner. I gave him clear
4 and direct instructions to stop, to calm down, and
5 have a seat on his bed, to which he did not comply.
6 He then-- I then attempted to utilize IPC skills to
7 talk to him and ask him what the issue was, but he
8 didn't want to hear any of that. His anger
9 immediately turned toward me. I activated my body
10 camera and told my partner to contact my area
11 supervisor, because it was clear that he was not
12 responding to me in any sort of manner that was
13 positive. He had his fist clinched and continued to
14 make threats while demanding me to sit down, to which
15 I refused. When I refused to sit down as he had
16 ordered me to, he seemed to become even more irate
17 and began walking towards me. As is stood there,
18 5'5", 125 pounds, faced with approximately 6'3", 230
19 pound inmate, I immediately began to fear for my life
20 as my chest began to pound so tight. I tried
21 everything in my power to remain calm, but I couldn't
22 help but to wonder if I would make it home this
23 night. I'm somebody's daughter. I'm somebody's
24 mother. So I began to think of all sort of ways that
25 I could survive. I created a safe distance between

1
2 myself and the inmate. I put my back against the wall
3 and tried to remember every directive I ever read,
4 every tactical training I ever took. I began to
5 allow my eyes to wonder around the housing area in
6 search for ways to escape his rage, but there was no
7 escaping his rage. He continued to approach me in an
8 aggressive manner saying that he was going to kill
9 me, until eventually he did strike. Eventually his
10 fist hit my face so hard that I thought every bone in
11 my face was crushed. The blood trickled down my
12 face. I was on the floor with this inmate straddled
13 over me, begging and pleading for someone to help me.
14 So as we sit here and we think about what should be
15 the consequences of these inmates or individuals that
16 are incarcerated face, we need to think about the
17 Correction Officers that don the uniform every day.
18 We are not what the media portrays. We are not
19 people who are there to assault people. We are not
20 looking to harm anyone. We come to provide for our
21 families and that's all we want to do. We want to
22 come to work and go home safely. So I'm asking, when
23 you make your decision think about me. I am
24 somebody's' child. I have a child. And when I went
25 home with my face crushed with stitches in my face,

1 two swollen eye sockets, my child could not look at
2 my face. So, that is what I want you to think about.
3 We are not here to hurt officers. We do our job and
4 even spite of the situations we face daily we still
5 show up. We still show up. So, please consider me.
6 Consider my pruners. We matter. It's not okay to
7 assault us. We didn't come here for that. Thank
8 you.

9
10 CHAIRPERSON RIVERA: Thank you. Thank
11 you very much.

12 GILSEY ANTIGUA: good afternoon. My name
13 is Antigua. I've been a Correction Officers for 10
14 years in the New York City. December 31st, 2020 is a
15 day I will never forget, not because it was New
16 Year's Eve, but because it was a day when I thought I
17 was going to be killed at work. On this dreadful day,
18 I was brutally assaulted by the inmate only because I
19 was performing my job duties as a Correction Officer,
20 and did not open a janitor closet when asked to do
21 so. This inmate without warning, provocation or
22 cause, intentionally and aggressively punched me
23 multiple times in the face with the closed fist
24 punch. That day, I sustained multiple physical and
25 psychological injuries that resulted in my being out

1
2 of work for six months. No actions, no charges were
3 lodged against the violent recidivist offender who
4 without remorse scarred for life. Today, I'm asking
5 for justice against my perpetrator. I'm asking for
6 consecutive sentences. I'm asking to fix the poor
7 and defective policy within our agency. I'm asking
8 for accountability of violent acts committed while
9 confined to DOC custody. It's not okay to assault a
10 Correction Officers. Correction Officers are not
11 expendable. We are human beings, too. Thank you.

12 STEPHANIE TINES: Good afternoon. My
13 name is Officer Tines. November 6th, 2022-- 2021,
14 I'm sorry. I was sexually assaulted by multiple
15 inmates. I was conducting my tour, and as I'm
16 walking back out of the housing area, one of the
17 inmates, he came behind me and started grabbing on my
18 head, another inmate also started doing that, and
19 they started slapping me on my buttocks, and then
20 groping my breasts. If it wasn't for my partner who
21 pulled me out of the housing area, I felt like I
22 could have been raped. Since then they have been
23 rearrested but nothing has come about. Every day, I
24 take medication just to go to work. And I'm asking
25 y'all, something has to be done. They're still in

1 jail and nothing has happened to them. So I'm just
2 asking y'all to consider us as officers, captains,
3 whomever, the civilians who walk the jails to
4 understand what we go through every day. That's just
5 what I have to say.

7 CHAIRPERSON RIVERA: Thank you very much,
8 and I just want to be clear that we are trying to do
9 our best to acknowledge, focus, and absolutely
10 reiterate the humanity in this crisis and in this
11 situation. So I just want to thank you for sharing
12 your story, for doing that publicly. I know that
13 wasn't easy, and for being here for your testimony.
14 Thank you. Oh, okay, I'm sorry. I'm sorry, ladies--
15 would you answer a couple of questions, is that okay?
16 Alright, we're going to go Paladino and then
17 Williams.

18 COUNCIL MEMBER PALADINO: Good afternoon
19 ladies, and thank you very, very much. That was very
20 strong testimony. You got me on the steps. You got
21 me now. And I just want to ask you, when you return
22 to work-- and being in your situation, are you faced
23 with these people again and again, day in and day
24 out, those that assaulted you?

1
2 LASHA MAYO: In my case, the individual
3 was rearrested and recharged. He's now upstate, so I
4 don't have to see him again at this present moment.

5 COUNCIL MEMBER PALADINO: But are they
6 removed from Rikers? Are they removed from the
7 island, or are they left to go?

8 LASHA MAYO: They remain on--

9 COUNCIL MEMBER PALADINO: [interposing]
10 they stay there?

11 LASHA MAYO: They remain on Rikers
12 Island where you have to see them every day.

13 COUNCIL MEMBER PALADINO: Explain to what
14 hap-- like, if you could explain what happens in a
15 typical situation. When you're assaulted and you go
16 back to work-- brutally assaulted, and you go back to
17 work. What happens from that point going forward,
18 when you have to see that assailant again?

19 LASHA MAYO: So, let's be honest, right?
20 We would like to think that when these things
21 transpire that swift actions is taken, that these
22 inmates are quickly removed and that they are
23 prosecuted to the fullest extent, but that's not what
24 happens. As we stated earlier, it's a constant fight
25 for them to be-- for them to face any consequences

1
2 for what they do. And the fact of the matter is that
3 they know that. So you will have an inmate assault
4 you and tell you that nothing's going to happen, and
5 they were right. I wish that you guys had an
6 opportunity to listen to my body cam, because if you
7 did, you would hear the inmate even in my situation
8 say, "Oh, you going to use your chemical agents? Oh,
9 they're going to see that as you're antagonizing me."
10 I'm antagonizing you when you've been telling me
11 you're going to kill me for over 20 minutes and I've
12 been taking multiple steps back trying to resolve the
13 issue, not engage with you, just letting you have
14 your way, and you still assaulted me. And even after
15 you assaulted me, nothing happens. You know what did
16 happen? They brought him right back to the housing
17 area where he was given a Gameboy and a tablet and
18 said, "Have a good day."

19 COUNCIL MEMBER PALADINO: There you go.

20 LASHA MAYO: While I went out in an
21 ambulance.

22 COUNCIL MEMBER PALADINO: There you go.

23 LASHA MAYO: that is what we're talking
24 about. That is the reality.

1
2 COUNCIL MEMBER PALADINO: The other
3 question I have is, how are you allowed to retaliate?
4 Are you allowed to defend yourselves?

5 LASHA MAYO: Absolutely not.

6 COUNCIL MEMBER PALADINO: Absolutely not.
7 So you got to take a beating and you got to take a
8 brutal, brutal sexual assault, and you are in no way,
9 shape, or form allowed to defend yourselves against
10 these violent criminals who are already in jail for
11 creating-- for having violent crimes out on the
12 street. They're there for a reason.

13 CHAIRPERSON RIVERA: Thank you, Council
14 Member.

15 COUNCIL MEMBER PALADINO: And you are not
16 allowed to defend yourselves, is that correct?

17 CHAIRPERSON RIVERA: Thank you, Council
18 Member. I think she's asking also if there's a
19 grievance process, and I'm going to cut it there.

20 STEPHANIE TINES: No, there's no
21 grievance process. We have to go back to work right
22 away and deal with the same individuals, and look us
23 in our face every day.

24 ASHAKI ANTOINE: There is no
25 accountability, no swift accountability. So in

1 essence, they come back to the housing area. They
2 may be transferred to another facility within Rikers
3 Island to repeat the same behavior. That is the
4 issue. The behavior is repetitive. They beat on us.
5 They touch us. They grope us with no accountability.
6 That-- no consequences, not accountability, and they
7 tell you, "I can do it because I can. Nothing is
8 going to happen." That is a smack in the face. That
9 is insult to injury.

11 COUNCIL MEMBER PALADINO: so 549--

12 CHAIRPERSON RIVERA: [interposing] Thank
13 you, Council Member.

14 COUNCIL MEMBER PALADINO: will perpetuate
15 this even further, correct?

16 ASHAKI ANTOINE: Correct.

17 COUNCIL MEMBER PALADINO: Thank you.
18 Let's make that very clear to the 37 individuals who
19 signed onto this bill. Thank you.

20 CHAIRPERSON RIVERA: Public Advocate
21 Williams?

22 PUBLIC ADVOCATE WILLIAMS: thank you so
23 much and thank you for sharing your story. I think
24 it's really important even as I'm talking about
25 humanizing folks. I do know that sometimes a uniform

1 prevents that, and so I'm happy that you have come
2 today, and I know it must be hard. So I just want to
3 say thank you. And if anything I'm saying causes any
4 kind of re-traumatization or is not honoring your
5 story, please just tell me to stop, and I apologize.
6 What I've heard-- what I'm hearing repeatedly in the
7 story is a lack of accountability and that nothing is
8 happening, and I just want to say that that is a
9 problem, and if there is a way to fix that the union
10 or others have-- that can bring, I actually want to
11 hear it. The thing that I want to point out is that
12 with this bill or without this bill, it doesn't
13 address that issue. It doesn't address the issue of
14 why people aren't being re-arrested and why they
15 aren't being charged. So, I don't have an answer for
16 that. Hopefully we can come up with one together
17 that deals with the accountability that should be
18 happening and also deals with trying to change the
19 behavior. All this bill is trying to do is make sure
20 that we're not doing something-- everybody's telling
21 me we're not doing anything-- and trying to find a
22 way to change this behavior that doesn't include the
23 type of torture that we're saying is with solitary.
24 This is not dismissing any torture that you're
25

1 enduring or any kind of trauma that you're enduring,
2 because both things can be real at the same time.
3 and so I just want to be clear about that, because
4 when they're listening it sounded like our bill
5 somehow is going to prevent something from happening,
6 that our bill just doesn't address at all, and there
7 needs to be something that addressees that, because
8 it's a problem. And as I look at you and see black
9 and brown women, like my mom, like my wife, I would
10 be horrified and everybody should be horrified about
11 what you endured. And I'll end with saying I keep
12 seeing back and brown people arguing and fighting
13 with each other. When I think there's a systemic
14 problem that continues a cycle of violence that I'm
15 hoping we can all work on to address.

17 CHAIRPERSON RIVERA: Thank you, Mr.
18 Public Advocate. Council Member Cabán?

19 COUNCIL MEMBER CABÁN: Yes, thank you.
20 First of all, I just to thank you for sharing your
21 stories again. I know that that must have been very,
22 very difficult. And my question is related to the
23 questions that the Public Advocate were asking,
24 right? These horrific things have happened with the
25 jail in the conditions, procedures, strategies that

1
2 are in-place in this moment. So I think that there's
3 agreement that it cannot continue in the same way.
4 And my question for you is-- and it is a very
5 earnest, genuine question, is I want to see those
6 numbers change. I want to see that there are
7 additional people with stories like yours or that you
8 are not re-victimized in any way. And so, you know,
9 what we think about outside of this legislation are
10 like what are things that we can implement that will
11 prevent these acts, that will change-- that will
12 actually change people's behavior and exploring what
13 empirical evidence there is to support different
14 kinds of strategies. And so my question for you is,
15 is there-- you know, do have any thoughts on there?
16 Is there an openness or willingness to say well,
17 things are not okay as they are, can we try some
18 different things, and in implement and try things
19 that we haven't done before that we have reason to
20 believe could work to prevent the same thing that
21 happened to you from happening to somebody else, or
22 the same thing that happened to either of you to
23 happen to somebody--

24 ASHAKI ANTOINE: [interposing] Ms. Cabán?
25

1
2 COUNCIL MEMBER CABÁN: happen to somebody
3 else.

4 ASHAKI ANTOINE: While we play trial and
5 error, officers are being assaulted every day. While
6 we do this trial and error thing, officers are being
7 sexually assaulted every day. So it's not about can
8 we try this and can we try that. They have to be
9 separated. Violent inmate must be separated from
10 Correction Officers and non-violent inmates, bottom
11 line. This trial error, lives is on the line. Look
12 at her face. Look at her. Look at my partner.

13 COUNCIL MEMBER CABÁN: And what I'm
14 asking-- again, very respectfully, what I'm asking
15 is, is that something that there is a desire for, to
16 implement different things or different conditions in
17 the jail that could help reduce violence, that we'd
18 use a multifaceted approach so that these things are
19 happening less and less and less, with the goal being
20 to eventually one day eradicate them?

21 ASHAKI ANTOINE: You guys speak about
22 programming, and we're not against programming, but
23 what hap-- what do you do with an individual who
24 basically not receptive to programming? What? What
25 do you do with them? I ask you. I ask you, what do

1
2 you do with an inmate, incarcerated individual, who
3 is not receptive? They've gotten six months of
4 programming and their behavior has not changed.
5 Actually, they may have escalated. What do you do
6 with that individual? What?

7 COUNCIL MEMBER CABÁN: So, I won't take
8 up any more of the time, because I want to be
9 respectful of it, but happy to have-- happy to have
10 that conversation again. You know, what we're
11 hearing is that there is a disruption in programming,
12 which I'm assuming that the violence is contributing
13 to the disruption of service provision. But again,
14 simply was just a question on like is there a desire
15 to change physical conditions and policies, if it
16 means that there's, like, a likelihood or a good
17 chance that it would reduce violence, that something
18 would give.

19 CHAIRPERSON RIVERA: Thank you, Council
20 Member.

21 COUNCIL MEMBER CABÁN: Thank you.

22 COMMITTEE COUNSEL: Thank you to the
23 panel. Next, we'll hear from Donna Hilton [sp?]
24 followed by Audrey Johnson [sp?].
25

1
2 CHAIRPERSON RIVERA: Alright. Hold-- we
3 just-- he was-- we called him, he's just-- I'm going
4 to call you a straggler [sic], because that's where
5 you're at right now. But you got two minutes, okay?
6 And then the panel that we just called, you are up
7 right after this gentleman. We called his name. He
8 is here. He is testifying. Please begin.

9 JOSEPH RUSSO: Good afternoon, City
10 Council. I'm Joseph Russo. I'm the President of the
11 Union that represents the Assistant Deputy Wardens,
12 Deputy Wardens, and Deputy Wardens in command on
13 Rikers Island. Thank you for giving me a chance to
14 speak. I heard for the past several hours about all
15 the problems on Ri-- many of the problems on Rikers
16 Island. I hear about it on TV regularly. I see it on
17 TV and I hear and see about it up close and personal
18 because I'm there and have been for the past 26
19 years. And I've also seen in the past 10 years,
20 approximately, how the changes that have been
21 enforced on us have made our working conditions
22 consistently worse and worse. You have take-- not
23 you, but the changes that came through the previous
24 Administration have diminished our authority more and
25 more over the years, and you've taken away tools that

1
2 are necessary for us to maintain safety and control
3 over our inmates, and without that the inmates are
4 not safe, and certainly we're not safe, and we've had
5 a number of problems because of this on a regular
6 basis. Politics, unfortunately, has driven this
7 change, and I ask, you see the conditions we're
8 working in. you heard from the people that have been
9 directly affected. The inmates and the families
10 representing them here today have told about stories,
11 terrible stories, disturbing stories. I was here and
12 so-- there are many people here today that have been
13 around at a time when we had positive control. And
14 when you take away-- if you were to give us back our
15 authority and our ability to control the inmate
16 population, and that includes restrictive housing,
17 things were much safer, much more so in control. And
18 I'll say this-- I realize the clock rang for me. I
19 concede. I do not normally speak for the inmates.
20 I'm not an inmate advocate. However, there is no
21 group--

22 CHAIRPERSON RIVERA: [interposing] Please
23 wrap up.

24 JOSEPH RUSSO: more affected by these
25 changes, including what you're suggesting here today

1
2 Mr. Williams-- there's no bigger group than the
3 inmates that are on Rikers Island that are not
4 violent and not problematic, they are preyed upon
5 more so than anybody else. If you truly mean you are
6 for, and I believe you and I believe you have good
7 intentions, but if you're truly for safety for all,
8 we need restrictive housing.

9 CHAIRPERSON RIVERA: Thank you so much.
10 I just want to-- there are people that have been
11 waiting nearly five hours to testify. This is a
12 hearing about Intro. 549, so while I appreciate
13 everyone's testimony, please let's try to stay as
14 focused as possible. Mr. Public Advocate, did you
15 want to ask a question? There are people waiting
16 nearly five hours to testify.

17 PUBLIC ADVOCATE WILLIAMS: Yeah, thank
18 you. I'll just say-- and I do have to leave, so I
19 apologize. But I-- there's an issue that was raised
20 which is the million-dollar question, which is what
21 happens to repeat offenders. And what we know is that
22 if there's a repeat offender, there is probably an
23 issue there. Locking them up 24 hours a day is not
24 going to help. That is also the same with people who
25 have mental health crisis, and we should agree with

1 where we agree. We have to separate people for
2 safety at times. And I keep hearing the same words
3 being repeated, restrictive housing, punitive seg,
4 solitary-- just to be clear again, there's an
5 agreement that we at times need to separate people.
6 There should be an agreement that that cannot be
7 locking someone up 20, 23, 24 hours a day for a long
8 time. So that's it.

10 JOSEPH RUSSO: [interposing] Mr.--

11 PUBLIC ADVOCATE WILLIAMS: [interposing]

12 And I appreciate it.

13 CHAIRPERSON RIVERA: Thank you very much.

14 JOSEPH RUSSO: Mr. Williams, if I may
15 just address that. And that may be true that it's
16 not healthy to lock them up 23 hours a day, but what
17 is the priority here? What about the person they
18 viciously attacked that has to still engage with the
19 person? What about that factor?

20 COUNCIL MEMBER WILLIAMS: [off mic]

21 That's why there's separation.

22 CHAIRPERSON RIVERA: I'm going to end it
23 there, because it's-- thank you so much for your
24 testimony. Thank you for waiting this long. We're
25 going to call up those four names that we said

1 earlier. Can you please come up to the panel? There
2 are four following it, and-- go ahead and read--

3 COMMITTEE COUNSEL: Yep, sure. So it's
4 Donna Hilton, Audrey Johnson, Rabbi Margo Hughes-
5 Robinson and Eileen Maher is the first panel. And
6 then the next one, you're on deck, is Natalie
7 Fiorenzo, Daiana Griffith, Lucas Marquez, and Jared
8 Trujillo.
9

10 CHAIRPERSON RIVERA: Please begin.

11 AUDREY JOHNSON: Good evening everyone.
12 My name is Audrey Johnson. I'm a formerly
13 incarcerated woman. I'm from one of the 1980s. I've
14 been home 24 years, but I tell you what's been
15 happening today was happening then. It just got
16 worse. What I'm recognizing as well today is that we
17 both in agreeance with everything and I see your
18 common denominator which is the safety. When we get
19 personal, when we get too personal and we want to
20 look at the "I" instead of the "we," this is where
21 the conflict come in. So I'm here to like speak on
22 behalf, my personal experience. I was denied
23 medication. We talk about sexual abuse. I was denied
24 medication because I wouldn't have sexual act with a
25 female officer. So we can go back and forth about

1
2 what happened to you and I could tell you what
3 happened to me. But like Public Advocate Williams
4 said, the underlying issue is come to medium right
5 here, and let's make an amendment. Let's come to
6 some type of common ground, because we can sit here
7 all day long, every day and come to every hearing and
8 continue to talk about all the abuse that not only
9 Correctional Officers went through, but how about
10 other staff members? How about the detainees?
11 Because I'm not going to say inmates. We all been
12 harmed here, and at some point-- at some point can we
13 sit at the table? Can we sit at the table for the
14 safety of everyone? Because we want everybody to
15 come home the way they went to work, and yes, there's
16 a lot of violent people. I'm-- I have a brother
17 who's in there now, 25 years to life. I had a
18 brother that just came home. They are violent
19 people, but guess what? They had to do the time. I'm
20 not here to say release them. I'm not going to call
21 them a monster, but I am going to call him violent.
22 There are consequences for people with violent
23 crimes, there are, but like everyone said here, let's
24 separate the difference. Let's separate here.
25 Because there's a lot of people like myself. When I

1
2 was incarcerated I went in there because I had a drug
3 addiction, not because I wanted to be a drug dealer,
4 not because I wanted to run the streets and harm the
5 citizens here. I had a problem. And we talking
6 about programming? There was no programming, none.
7 And there's programming today, but guess what, it's
8 nothing enforced. I heard one of the Correction
9 Officers said, "What do we do when they don't want to
10 go?" But how about-- I'ma [sic] give a suggestion
11 here on the table. How about we talk about mandatory
12 programming, and there's consequences behind people
13 not doing the programming. Because when I was
14 upstate, it was mandatory that I did ace [sic] it.
15 It's mandatory when you get on state grounds that you
16 do these programs. You could be held back and not go
17 home.

18 CHAIRPERSON RIVERA: Thank you.

19 AUDREY JOHNSON: So, there's the
20 consequences behind it, and we could come together
21 collectively if we just put our-- both our heads
22 together. Thank you.

23 CHAIRPERSON RIVERA: Thank you.

24 : Good afternoon. My name is Donna
25 Hilton. You know, I've been home 10 years, and since

1 I walked out the prison gates I've been at these
2 hearings, these conversations, and nothing's changed.
3 First of all, I'm tired of us being last. I'm tired
4 of those of us that-- with the lived experience and
5 really impacted being last because you that have
6 titles and roles need to be first. But the Bible
7 says the last will be first and the first will be
8 last. So that's your day of reckoning. But I want
9 to say I was an adolescent on Rikers Island in 1985.
10 Half the room wasn't working corrections, because you
11 weren't even born in 1985. So that's how long this
12 issue has been going on. This humane crisis--
13 inhumane crisis has been going on. I was an
14 adolescent who was approached, approached by a
15 captain for sexual favors, sexual favors, and because
16 I didn't even understand, because I've never been in
17 the prison system-- in the system-- I didn't know
18 what was going on, and so she took that-- I don't
19 know who took that as a refusal. When I went to
20 court I was set-up, allegedly. I still haven't seen
21 the evidence of a shank, a razor, all kinds of
22 things. I've told all kinds of things. Nothing was
23 ever introduced as evidence, but guess what, because
24 I was-- I was a high-profile case and place in
25

1 involuntary-protective custody-- not a violent
2 person, didn't do anything violent on Rikers Island--
3 had no recourse. Could not come out of that
4 situation. Told I had to go to court to do that.
5 Court didn't even understand what was going on, and
6 then I was forced to take mental medication which
7 I've never taken in my life because I was having
8 nightmares, because it was the first time being in
9 the system, and I was an adolescent, and I was raped.
10 And because no one wanted to do anything, they kept
11 me in voluntary protective custody for my own
12 betterment. I was forced to drink toilet water
13 because nobody would bring me something to drink,
14 because you forced me to take mental medication. So
15 I hear all this stuff about sexual abuse, sexual
16 harassment, violence, but what about when it happens
17 to us? When do our lives matter? I sympathize with
18 those Correction Officers that sat here and those
19 that didn't speak up because you're human beings.
20 That's what I see first, and that's what we see
21 first, human beings. When are we seen as human
22 beings? Stop the rhetoric and stop the BS. Treat us
23 like human beings. Come to the table. I personally
24 asked a whole bunch of Correction Officers to come to
25

1
2 the table to have conversations about certain
3 legislation that we were writing. You have yet to
4 come. You have yet to come. But you tell stories to
5 have people to believe that we are the monsters, but
6 when I walked into City Hall this morning, I didn't
7 try to attack you, you tried to attack me.

8 CHAIRPERSON RIVERA: Thank you.

9 RABBI MARGO HUGHES-ROBINSON: My name is
10 Rabbi Margo Hughes-Robinson, and I'm grateful for the
11 opportunity to testify today before this committee.
12 I'm the New York Organizer at T'ruah, the Rabbinic
13 Call for Human Rights. We're a member of the HALT
14 Solitary Coalition. I organize hundreds of Jewish
15 clergy all over the City as well as over 2,300 Jewish
16 clergy nationwide, and our most urgent priorities
17 include the ending of the use of solitary
18 confinement. It is not only a violation of human
19 rights of the New Yorkers in DOC custody, it is
20 torture. Early in the book of Genesis we read that it
21 is not good for a human being to be alone. Solitary
22 confinement destroys souls and bodies, leading not
23 only to anxiety, depression, and psychosis in many
24 individuals, but also self-mutilation and heart
25 disease. It leads to both jail conditions and

1 outside communities who are less safe. Our long-term
2 partnerships with NYK [sic], Jails Action Coalition,
3 and other groups led by the New Yorkers most directly
4 affected by these issues, also demand that we follow
5 the biblical injunction of Leviticus 19:16, "Do not
6 stand idly by the blood of your neighbor." Solitary
7 confinement is predominantly inflicted, we know, upon
8 our black and Latina neighbors and has stolen too
9 many people from their families including Kalief
10 Browder and Layleen Polanco. In the Mishnah, a
11 foundational text in the Jewish tradition, we learned
12 that whoever destroys a single life, it is as if they
13 have destroyed an entire world. Through its use of
14 solitary, New York has destroyed countless worlds,
15 and then promised again and again in their names to
16 end this practice that still continues. I implore
17 you on the Council to consider the weight of each of
18 these loses and the inhumanity that surrounded their
19 deaths. This practice of isolated confinement also
20 includes the shower cages so small a person cannot
21 sit down. Brandon Rodriguez died in August 2021
22 after he was locked in solitary in a shower cage.
23 City jails locked Elijah Muhammad in solitary in
24 those same shower cages until the point he was found
25

1 with a ligature around his neck, and then they placed
2 him in another form of solitary confinement which led
3 to his death this summer. It's been a part of a
4 broader humanitarian crisis that we've already
5 discussed of abuse and brutality that has killed 16
6 people this year and 32 people since early 2021.
7 That is 32 worlds destroyed. I will end with sharing
8 the enumerable Jewish sources insist that when an
9 opportunity to do the right thing arises, we must not
10 delay. The time to pass Intro 549 and end all forms
11 of solitary confinement in New York City jails is
12 now. I'm so grateful to be in this conversation
13 with you about the ways we can seek justice in this
14 city and move towards a place of real de-carceration
15 that supports the safety, dignity, and wellbeing of
16 every New Yorker.

18 CHAIRPERSON RIVERA: Thank you.

19 EILEEN MAHER: Good afternoon. My name
20 is Eileen Maher. I'm a social worker, community
21 activist and a civil rights union leader from Vocal
22 New York. I am a woman who was formerly incarcerated
23 and a survivor of both New York City and New York
24 State Department of Corrections. I am woman who was
25 a criminalized survivor of domestic violence. In

1
2 2021 the use of solitary confinement in any and all
3 jails and prisons in New York State was officially
4 and legally banned. However, we are here today
5 because rather than acknowledge the law, New York
6 City has-- New York City DOCs has decided to double-
7 down and demand to be exempt from such a law, and
8 would even like to increase their use of this
9 tortuous practice. Thank God above that the City
10 Council has seen the voice of reason, and today we
11 are here to discuss Intro. 549. Over the past 10
12 months, 16 people have died on Rikers Island., most
13 of which who had not been convicted of a crime, and
14 all who had not been sentenced to anything, much less
15 the death penalty, which is really what they
16 received. Most of those individuals were in some kind
17 of illegal solitary or solo setting for hours upon
18 hours, sometimes days or weeks. For example, Layleen
19 Polanco was illegally placed in solitary confinement
20 as-- despite her medically documented and long-
21 standing epilepsy diagnosis. This diagnosis alone
22 should have legally exempt her from the tortuous
23 practice. It did not. She was left alone in such
24 confinement and is what ended up causing her
25 unnecessary and untimely death. She had a seizure

1
2 alone which was not noticed or treated by those
3 entrusted to maintain her safety and she died,
4 murder. Last year, I lost a dear friend. He was
5 also formerly incarcerated. His name was Michael.
6 He spent 12 mind and spirit-crushing years of
7 solitary confinement, which for him began in the Bing
8 on Rikers. It was in that Bing where he was
9 repeatedly raped by male Correction Officers and a
10 Dep. There had been no other reason to place him in
11 solitary other than for their entertainment. Years
12 after his release from incarceration that time in
13 solitary confinement continuously reared its ugly
14 head causing post-traumatic stress disorder ripe with
15 nightmares, psychiatric illnesses, self-medication,
16 and a myriad of other physical and psychiatric
17 problems. He died as a result of the trauma caused by
18 solitary confinement. And if you really want to get
19 down to it, he too was murdered by New York City DOCs
20 and New York State who chose to torture him and
21 thousands of others like him. The moniker [sic]
22 Correction Officer would indicate that they are there
23 to aid in helping the individual who was incarcerated
24 improve and begin to learn coping skills or whatever
25 they need to help them so they can survive on the

1
2 outside. However, DOC always chooses the opposite,
3 torture. Michael used to say, and I'm paraphrasing,
4 what kind of sense does it make to take a person who
5 is supposed to be in some kind of treatment or
6 program for whatever their alleged infraction is,
7 rather than making sure they continue with and go to
8 that program or be treated, they remove the person
9 and lock them in a box, not only without treatment,
10 but an environment that exacerbates their issues or
11 illnesses, and ultimately makes the person's problems
12 worse. That is not correction

13 CHAIRPERSON RIVERA: IF you can just wrap
14 up, please. We have a lot of people waiting to go.

15 EILEEN MAHER: As you see solitary
16 confinement is not only the torture for the
17 individual who is placed in settings, in this
18 setting, it is torture for those who love and care
19 for he or she. Mothers are left without children.
20 The universe are left without creative and unique
21 souls prematurely. And I-- and I'm being a little
22 selfish here-- I'm left without a dear friend, the
23 only other person in the world who understood my own
24 PTSD also caused by DOC, and when it would catch the
25 better of me and I would have anxiety attack, he was

1
2 the-- he was someone who had been damaged and
3 dehumanized just as I was, albeit more and for
4 longer, but he still made it his mission that it
5 would not let it get the best of me.

6 CHAIRPERSON RIVERA: Alright, thank you.

7 EILEEN MAHER: that's not a criminal or a
8 monster.

9 CHAIRPERSON RIVERA: thank you. Thank
10 you very much. Thank you to this panel.

11 COMMITTEE COUNSEL: Thank you. Next we
12 will hear from Natalie Fiorenzo, Daiana Griffith,
13 Lucas Marquez, Jared Trujillo, and Darlene McDay.

14 CHAIRPERSON RIVERA: And if anyone is in
15 need of Spanish translation, we have someone
16 available via Zoom. Our next panel will be via Zoom,
17 and I want to thank everyone for being in the
18 Chambers in this moment. We can get an extra chair
19 for anyone that needs one. Thank you, Ralph. Can we
20 start with Darlene McDay, please? Thank you for
21 waiting.

22 DARLENE MCDAY: Hi. My name is Darlene
23 McDay. I'm here today to testify. When we were
24 outside we were met with a lot of aggression. It
25 made me sick to see my friend Tamara Carter couldn't

1
2 even speak about what happened to her son without the
3 Correction Officers screaming and yelling over her.
4 And myself being a mother that lost their son, I felt
5 for her, and I went over and sked who was in charged,
6 and I begged them to stop yelling over a grieving
7 mother, but they didn't care. They didn't even look
8 at me. My son, Dante, in 2017 was violently beaten
9 by several Correction Officers in Wende Correctional
10 Facility. He was beaten so badly that he had blunt-
11 force trauma all over his entire body. His head and
12 face were completely deformed by the beating. He
13 couldn't eat. He couldn't see, and he could barely
14 sign his name. And after that beating, they threw
15 him in a solitary cell and claimed that he killed
16 himself. I only knew what happened because people
17 there, a person that was incarcerated called me and
18 told me about the beating way before I ever got the
19 call from the Department of Correction. I called
20 them. They gave me the runaround, and hours later I
21 finally got a call from a priest saying, "Sit down."
22 Their own agency found that the officers lied on
23 official documents, that they actually assaulted my
24 son, that the report was substantiated, and that the
25 officers falsified documents, but what was their

1
2 punishment? Nothing. They continued to keep their
3 jobs. The sergeant continued to make overtime,
4 \$250,000 a year, after beating my son. That was five
5 years ago. He was 22 years old. Unidentifiable by
6 that beating, and there were no consequences. So
7 when we talk about consequences, yes, there need to
8 be consequences. There needs to be consequences on
9 both sides, and I think one of the problems here that
10 people are forgetting is that for a long time the
11 Department of Correction was in disarray. There were
12 many, many problems that were ignored for way too
13 long, and now people are very angry. And I understand
14 that the Correction Officers have a difficult job,
15 but when you let people be abused and do nothing, and
16 there's no recourse for that abuse, it makes people
17 enraged. My son was 22 years old and lost his life.
18 He was my only child. To this day, five years later,
19 there has not been one ounce of accountability.
20 There has not been one ounce of transparency. And I
21 feel for every single person, every single family of
22 someone that lost their life t Rikers Island. But
23 we've seen it happen over and over and over again,
24 and what have we done? Last year, 16. This year, 14,
25 15-- I don't know. I've lost count at this point.

1
2 And while they're trying to figure things out, what
3 have we done? And the last thing I want to say
4 because I heard Benny Boscio say this so many times--
5 every time someone dies, Louis Molina, Benny Boscio
6 say that they feel for the families and all of this
7 stuff. Benny Boscio always says, "But, but." I don't
8 want to hear "but" anymore. "But" does not do
9 anything for those people that are going to continue
10 to lose their lives and nothing is being done. We
11 are begging and begging, and as families, I can tell
12 you for any family, I could speak for all of them I'm
13 sure, that what we want is for this problem to be
14 fixed. That was my only child. I don't have other
15 children. I will never have grandchildren. But we
16 want that problem to be fixed so our children haven't
17 died in vain. That's all we could possibly ask for,
18 because even if there's a civil judgement in the end,
19 that's not going to bring my son back. The fact that
20 they substantiated what happened to him and did
21 nothing, did nothing-- these people got more money.
22 That is disgusting that that could keep happening,
23 and I think one of the major problems is the union
24 protecting people no matter what they do. No one
25 should be protected. People that harm officers

1 should not be protected if they harm an officer. They
2 should be punished for that appropriately, but
3 officers that harm people need to be punished. They
4 need to be fired. It shouldn't be so hard to fire an
5 officer. I feel like these officers are not working
6 for Department of Corrections; they're working for
7 the union. They are holding the City hostage. The
8 fact that we have all these officers on the payroll
9 and they choose not to come to work-- I know I need
10 to wrap up, so I just want to say this. I am a nurse
11 practitioner. I have to deal with people with
12 psychiatric issues that have problems. I have to de-
13 escalate. I've never punched someone, hit someone,
14 knocked someone down. I would make sure that I'm
15 protected. My colleagues make sure they're protected.
16 I don't need to torture someone. I don't tie people
17 to beds. People with dementia, they don't know what
18 they're doing, and they could be very violent, but I
19 don't tie them to a bed. I figure out other ways to
20 help them, and that's what we need to do, help people
21 in other ways to protect everyone.

22
23 CHAIRPERSON RIVERA: Thank you.

24 DARLENE MCDAY: Thank you.
25

1
2 DAIANA GRIFFITH: Good afternoon. My name
3 is Daiana Griffith, and I'm testifying on behalf of
4 the Prisoner's Rights Project at the Bronx Defenders.
5 Survivors of solitary, impacted family members and
6 other advocates have been speaking out about the
7 harms of this practice in New York City for years.
8 The solitary confinement continues to exist, causing
9 irreparable harm in our communities. The experience
10 of Bronx Defenders former client who I will call "M"
11 is an indisputable example of the harms of isolation
12 and the ripple effect of those harms. He was
13 incarcerated at Rikers from age 18 through 21 and
14 spent about 90 percent of that time in restrictive
15 housing. "M" was placed in punitive segregation even
16 though he was categorically ineligible due to his
17 age. He spent nearly two months in what was then
18 referred to as the Box despite his legal team's
19 repeated attempts to correct the error by sharing his
20 birth certificate. He was moved to enhanced
21 supervision housing which was for young adults at the
22 time, and then to the units at NIC. DOC does not
23 label those NIC units as restrictive, call them
24 general population, but they are simply solitary by
25 another name. He would spend the better part of that

1
2 year in a cage. During this time, "M" shared with
3 his social worker the following: "Me being in that
4 cage 24/7 is starting to take a toll. I wake up
5 there. I sleep there. I want to move around, but I
6 don't know how to operate." After his release from
7 Rikers, "M" struggled to engage with people and was a
8 muted, disorganized version of himself. If "M" was
9 able to enjoy a personalized day room and amenities
10 as described by DOC, his mental health would not have
11 suffered so greatly. Another important part of this
12 bill is access to counsel during disciplinary
13 hearings. Access to counsel is going to help
14 preserve a client's most basic, yet most critical
15 rights. One of our clients loss access to video
16 conferring [sic] privileges after a video
17 teleconference coordinator decided to impose the
18 discretionary measure before the client was even
19 served with an infraction ticket. This means our
20 client was being punished before his adjudication
21 hearing took place. Our client is now unable to
22 communicate with his legal team, and a robust check
23 on DOC's power to restrict, isolate, fine, and
24 reprimand people in custody in the form of right to
25 counsel in disciplinary proceedings would send a

1
2 clear message that abuses of this power will not be
3 tolerated.

4 CHAIRPERSON RIVERA: If you could just
5 please wrap up.

6 DAIANA GRIFFITH: Any disciplinary system
7 created in response to the seemingly intractable
8 violence of Rikers Island must include the person in
9 custody's legal team. Thank you.

10 CHAIRPERSON RIVERA: Thank you.

11 JARED TRUJILLO: Good afternoon. My name
12 is Jared Trujillo. I'm Policy Counsel at the New York
13 Civil Liberties Union and we will be submitting
14 written testimony that really extols the virtues of
15 this bill and also addresses some of the comments
16 that we've heard from COBA and from DOC. But I just
17 briefly want to talk about what the history of
18 solitary confinement looks like in this country. We
19 have known that solitary's been torture. It has been
20 documented that solitary confinement is torture since
21 the 1800s, since the mid-1800s. The Supreme Court of
22 the United States noted how harmful, how
23 psychological harmful solitary confinement is, dating
24 back all the way to 1890. In the early 1900s
25 solitary confinement wasn't complete eradicated, but

1 the use of it was very rare, and it was very rare
2 because people knew that it didn't work, people knew
3 that it tortured people. People knew that once
4 people left carceral [sic] facilities, they were
5 worse off because they were put in solitary
6 confinement. That was a policy choice. Solitary
7 confinement really ramped up in this country and in
8 this state around the same time as the Rockefeller
9 drug laws, as the same time we were calling black
10 kids super-predators for merely having the audacity
11 to exist. It really ramped up in this country when
12 we determined that black and brown folks were enemies
13 and that we should cage them, and that was a policy
14 choice. Solitary confinement persists today in this
15 city despite the fact that rates of violence-- I'm
16 not talking about incarcerated person versus
17 incarcerated person violence. I'm talking about
18 guard violence against incarcerated people, when
19 those rates of violence are eight times higher than
20 at similar jails in this country. Solitary
21 confinement is a policy choice. When we know that
22 CAPS works better, when we can look at San Francisco
23 and see that the RSVP program works better to
24 actually support people for once they're released
25

1 from-- once they're released. And I see my time is
2 over. I'll just note that we speak about the bill
3 and address COBA's comments in our written testimony.
4 I'll just end in saying this is a policy choice that
5 we don't have to make. It is-- solitary confinement
6 is not something that's always existed and it is
7 something that has never worked. We have more
8 information now than we had in the 1800s when people
9 first knew that solitary confinement was problematic.
10 New York City needs to eradicate this. Thank you.

11
12 CHAIRPERSON RIVERA: Thank you.

13 NATALIE FIORENZO: Hi, everyone. Good
14 afternoon. My name is Natalie Fiorenzo. I'm a
15 Corrections Specialist at New York County Defender
16 Services. I just wanted to start off by saying that
17 DOC made it very clear earlier how dangerous their
18 jails are now and how what is happening isn't
19 working, yet their proposed plan that they've been
20 working on to comply with the monitor and comply with
21 everything else that the BOC has been asking for is
22 exactly ESH, the two tier system of the so-claimed
23 15-day intervals. No, that isn't working. It's
24 what's not working now, and it's what's going to
25 continue to not work. In my position, it is really

1
2 customary that if we find out someone who is in a
3 solitary setting, we'll set up a wellness check on
4 them because we know how deadly and how torturous
5 that setting can be for them. So we know firsthand
6 what, you know, from our clients what that looks
7 like. Intro 549 will absolutely save lives, no doubt
8 about that. It'll make solitary settings in all
9 circumstances illegal. The 117 people in ESH are not
10 the only people on Rikers Island who are in
11 restrictive housing settings. The cages at NIC were
12 mentioned earlier, West facility involuntary PC,
13 those aren't even all of them. There's also
14 involuntary lock-ins that are used in non-punitive
15 settings. DOC staff have the discretion to impose
16 lock-ins due to an incident because they don't have
17 adequate staff to post or just because they feel like
18 it sometimes, our client have told us. And during
19 these lock-ins food is not provided for hours,
20 sometimes for days. Family members fear the worse
21 because their kids and their siblings have no access
22 to the phones. They can't reach them for days on end.
23 Medical and mental health emergencies go completely
24 ignored. This past July we had a young adult client
25 housed in a mental observation unit in Rose M. Singer

1 center where she was locked in her cell for 24 hours
2 a day, not permitted to shower, no recreation, no
3 programming for weeks, and she ended up attempting
4 suicide after those conditions. She thankfully
5 survived that attempt, but this happened actually
6 just a week after Michael Lopez killed himself in
7 those same exact conditions. The opponents of 549
8 will scream "safe jails now" outside in our faces,
9 but 32 people have died in the past two years not
10 even. So what about that is safe? That's not safe.
11 This is deadly. This is deadly for our clients, for
12 our loved ones. Please make this a thing of the
13 past. Honor the lives of Brad M. Rodriguez [sp?],
14 Layleen Polanco, Elijah Muhammad, and all of the
15 others who have been killed by solitary confinement
16 by passing Intro 549. Thank you.

18 CHAIRPERSON RIVERA: Thank you to this
19 panel, and thank you for your partnership over the
20 years. I know, one more.

21 LUCAS MARQUEZ: Good afternoon. My name
22 is Lucas Marquez and I'm the Associate Director of
23 Civil Rights and Law Reform at Brooklyn Defender
24 Services. We've submitted some written testimony
25 that sets forth why we support this bill so strongly

1 and some recommendations. There is a dire urgency
2 now for concrete change. We are seeing the continued
3 inability of DOC to ensure the safety of people in
4 its custody with record-breaking loss of life, 32
5 people in just under two years. The Department and
6 COBA demonizes people in its custody to try to bully
7 the board and the public into allowing the Department
8 to continue ignoring existing rules, laws, and basic
9 standards of human decency. Despite the vast evidence
10 that has been repeated throughout the course of the
11 testimony that solitary confinement exacerbates
12 conditions in jails, does not curb violence and does
13 not promote safety. Despite these realities, DOC
14 maintains a complex of sprawling network of solitary
15 confinement units, and each time one unit is
16 shuttered or limited by the Council or the Board,
17 another version replaces it, and that is one reason
18 why this bill which contains functional definitions
19 of solitary confinement is so important. Because we
20 have seen people held in isolation, in solitary
21 confinement, where DOC would not admit that that's
22 restrictive housing outside of ESH. We've seen
23 people locked in shower cells in isolation, and also
24 entire general population units that were in lock-
25

1 down. We've seen these lock-downs of entire units
2 last sometimes multiple days in a row, around a week
3 or more. During this time there's no access to
4 showers, hygiene, commissary, phone or counsel visits
5 or medical treatment, and there's not always a
6 correlation between these lock-downs and use of-- and
7 increased violence. There's not always a correlation
8 between these lock-downs and incidents of violence,
9 the timing, frequency and length of these lock-downs.
10 Brandon Rodriguez and Elijah Muhammad who recently
11 died after being held in solitary confinement were
12 held in areas that DOC does not recognize as
13 restrictive housing, but under this bill would
14 rightfully qualify as solitary confinement. And just
15 to finish, you know, we represent people along with
16 their family, friends, and advocates who have all
17 been severely impacted by the serious trauma caused
18 by the Department restrictive housing policies. And
19 we also urge the council to put pressure and call for
20 de-carceration, and really put stakeholders including
21 the Mayor, District Attorney and judges to work
22 together to release people, to use 6A and to stop
23 sending people into Rikers.
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25

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2 CHAIRPERSON RIVERA: thank you Lucas also
3 for the recommendations to strengthen the
4 legislation. Thank you again to this panel. Thank
5 you.

6 COMMITTEE COUNSEL: The next panelists
7 will be on Zoom. First we'll hear from Mary Lynne
8 Werlwas, then Wayne Byun, followed by Daniele Gerard,
9 and Lexy Aviles. Ms. Werlwas, you may begin when the
10 Sergeants announce the timer.

11 SERGEANT AT ARMS: Time has begun.

12 MARY LYNNE WERLWAS: I'm Mary Lynne
13 Werlwas of the Legal Aid Society's Prisoner's Rights
14 Project where for 51 years we've been litigating
15 these abuses in the jails from the closing of the
16 Tomes [sic] through to Nunez, and we have seen how
17 the Department over-relies on isolation as its
18 primary and its often exclusive response to
19 misconduct in the jails. The Legal Aid Society
20 applauds the Council and the Public Advocate, the
21 Committee for your moral leadership in recognizing
22 that solitary confinement is a human rights abuse
23 that stains the soul of this city and can no longer
24 be sanctioned. Despite changing labels on such
25 confinement such as rebranding punitive segregation

1 as enhanced supervision housing, the fundamental
2 practice stays the same: lock people up and ignore
3 the predictable harm that results. The testimony
4 today showed the City clinging to this reflexibly
5 [sic] violent and blatantly racist past, unwilling
6 and unable to undertake the harder work of preventing
7 violence through other means. It was shocking how
8 Commissioner Molina and Doctor Austin spoke today
9 about violence in a vacuum, divorced from the impact
10 of exorbitant use of force rates and violence by
11 staff, gross incompetence in basic correctional
12 practices, the inability to provide food or medical
13 care. Instead the City posited a binary choice,
14 isolation or safety, and that's a false choice.
15 Isolation has not worked. The record is clear. It
16 has not made our jails safer. The Department does
17 not follow its own rules about isolation. The Nunez
18 Monitor has decried the Department's abysmal failure
19 to operate units like ESH with fidelity and
20 integrity. And nothing we heard today offers a
21 reason to expect the next iteration will be
22 different. There are numerous interventions in a
23 well-managed jail system to respond to individuals
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2 There is little to no evidence that the use of
3 solitary confinement actually helps to stem
4 institutional violence or disorder, nor has it been
5 shown to deter subsequent violations or lower post-
6 release recidivism. Grounded in these truths, we
7 commend and support Introduction 549 for advancing
8 important slivers of humanity and fairness in what is
9 otherwise a broken jail system. We particularly
10 applaud the overall clarity of the ban on solitary
11 confinement by ensuring that all incarcerated
12 individuals have access to at least 14 hours of out-
13 of-cell time. We also applaud the bill's provision
14 of due process and legal representation in placement
15 hearings which is an utter rarity in restrictive
16 housing policies across the rest of the country. We
17 also applaud that the bill requires that the out-of-
18 cell time for those in restrictive housing must be
19 social in nature, taking place in congregate
20 settings. This is also a rarity in the national
21 context, where out-of-cell time in restrictive
22 housing often means an hour of recreation in a
23 slightly bigger cage. If there is an area of
24 feedback, it has to do with the programming during
25 placement in restrictive housing. As we understand

1
2 the intent of the bill, restrictive housing need not
3 be a form of punishment but can be an opportunity for
4 rehabilitation for those most in need. Yet, the bill
5 has little to say about the types of programming that
6 can and should be offered. In response, we
7 respectfully suggest that the bill at least includes
8 a requirement of a detailed evidence-based
9 programming plan to be developed with input from the
10 community and discussed at a public hearing before
11 the law goes into effect. Such a plan should include
12 a regular public reporting requirement and/or is
13 passed with the commitment from the Council to
14 ensure--

15 SERGEANT AT ARMS: [interposing] Time has
16 expired.

17 WAYNE BYUN: such programming is
18 adequately resourced and actually received by those
19 placed in restrictive housing. Just in closing,
20 while we have no illusion that the current bill alter
21 the utter dysfunction and neglect of the Department
22 of Correction in Rikers Island, Intro 549 represents
23 the critical step to reducing the harm that eh
24 current system poses. Thank you for the opportunity
25 to testify.

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COMMITTEE ON CRIMINAL JUSTICE

COMMITTEE COUNSEL: Thank you. Next we'll hear from Daniele Gerard followed by Lexi Aviles [sp?].

SERGEANT AT ARMS: Time has begun.

DANIELE GERARD: [inaudible] which we support [inaudible]

COMMITTEE COUNSEL: We can hear you now.

DANIELE GERARD: Can you hear me?

COMMITTEE COUNSEL: We hear you now.

DANIELE GERARD: I'm getting a notification that you just unmuted. Can you-- have you heard me this whole time?

COMMITTEE COUNSEL: No, we're just hearing you now.

DANIELE GERARD: Alright, I'm going to start again, if you could please start my clock. I'm Danielle Gerard, a Senior Staff Attorney at Children's Rights, a national advocate for youth in state systems. We are a member of the Jails Action Coalition and the Young Adult Taskforce and advocate on behalf of young adults on Rikers. We would like to thank Public Advocate Williams, Chair Rivera, Speaker Adams and all the co-sponsors for Intro 549, which we support. Solitary confinement is torture.

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2 It should be abolished outright no matter the
3 euphemism, ESH, secure units, separation status, or
4 lengthy restrictive housing. Today's testimony from
5 Mr. Austin, the DOC, and COBA illustrate the very
6 definition of insanity, doing the same thing over and
7 over an expecting different results. Clamoring
8 against this bill and for punitive segregation
9 perpetuates this system that has proven specifically
10 not to reduce violence or danger to anyone on the
11 island, incarcerated persons and DOC staff alike. We
12 have heard the DOC complies with HALT, and shortly
13 after that, that HALT does not apply in certain
14 circumstances. This too does not make sense. More
15 than 70 state legislators have said DOC's current
16 plan violates HALT and have urged Council action. A
17 few other points. First, while incarcerated, every
18 young adult deserves 14 hours out-of-cell time each
19 and every day. Second, it defies math and logic that
20 not all correctional staff posts are filled, because
21 this means there aren't enough officers to enable the
22 provision of programming, education and mental and
23 medical health services to young adults and others on
24 the island in the requisite sufficiency, quantity,
25 and duration universally acknowledged to reduce

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2 violence. Third, our elected officials have a
3 responsibility to spend tax payer money wisely
4 instead of half a million dollars per year to
5 incarcerate someone on Rikers, to prop up a penal
6 colony, the majority of whose residents suffer with
7 mental illness and nearly all of whom are people of
8 color who have not even been tried. Urge the City
9 Council--

10 SERGEANT AT ARMS: [interposing] Time has
11 expired.

12 DANIELE GERARD: to pass this-- we urge
13 the City Council to pass this bill. People
14 incarcerated in the City's jails and the tax payers
15 deserve no less. Thank you.

16 COMMITTEE COUNSEL: thank you. Next
17 we'll hear from Lexy Aviles, and then we'll have an
18 in-person panel consisting of Anthony Dixon, Doctor
19 Victoria Phillips, Andre Ward, Robert O'Connor, and
20 Five Mualimm-ak. Lexy Aviles, you may begin when the
21 Sergeants announce the time.

22 SERGEANT AT ARMS: Time has begun.

23 LEXY AVILES: Chair Rivera, good
24 afternoon to you and your constituents. My name is
25 Lexy Aviles, I was detained at the Rose M. Singer

1
2 Center from 2018 to 2019 and now I advocate with the
3 Women's Community Justice Association for the women
4 and gender-expansive people at Rosie's. I've seen
5 firsthand the cruelty from solitary confinement and
6 profoundly support Intro into the ban of 549, to ban
7 the inhumane practices. I was a Suicide Prevention
8 Aid while working in the Bing at Rose M. Singer
9 Center and worked in the solitary unit for several
10 months. All of this had a long-term effect on me.
11 Layleen Polanco, I overheard recently that the New
12 York Correctional Health Services young lady was
13 making reference to Layleen Polanco and just the
14 standards in which prevented people from going into
15 that unit, and Layleen Polanco certainly fit that
16 bill. She had several health complications, and I'll
17 never forget the time that we spent together. No one
18 actually listened to me when I aired my concerns due
19 to the fact that she had several medical conditions
20 that she should not be in solitary confinement. Her
21 birthday is coming up in October and she would have
22 been 30 years old, and she should still be here with
23 us today. You might hear that some sort of form of
24 solitary confinement is necessary for safety. I don't
25 believe it's true whatsoever. It really serves no

1
2 purpose but to further traumatize people and leave
3 them worse off than when they got to Rose M. Singer
4 Center. There should be a therapeutic environment
5 that connects people with the help that they need.
6 Getting more women and gender-expensive people out of
7 Rosie's and connecting them with community-based
8 support is what the City really should be focused on.
9 I did so many stents in Rosie's because I had bi-
10 polar disorder that was undiagnosed. When I finally
11 got treatment and housing I was able to rebuild a
12 stable life. There are 350 women and gender-
13 expansive people at Rosie's right now--

14 SERGEANT AT ARMS: [interposing] Time has
15 expired.

16 LEXY AVILES: and that is not okay. We
17 need to safely return them to our communities with
18 the resources that I was fortunate to finally get to
19 change my life. There needs to be a women's center
20 for justice and healing in Lincoln that is run by
21 nonprofits and provides a therapeutic setting that
22 reduces instead of worsens harm. Thank you very
23 much.

24 COMMITTEE COUNSEL: Thank you. This next
25 panel again is Anthony Dixon, Victoria Phillips,

1 Andre Ward, Robert O'Connor, and Five Mualimm-ak.

2 Mr. Dixon, you may begin.

3 ANTHONY DIXON: thank you. Dear members
4 of New York City Council, Committee on Criminal
5 Justice, I'm honored to provide testimony to you
6 today. Today I stand as part of the growing movement
7 that is looking to see this bill passed today. Let
8 me first say, I was incarcerated for 32 years, and
9 for several of those years I was in solitary
10 confinement, that you guys call solitary confinement.
11 We call it the box, the Bing, the hole. My testimony
12 before you today summarize three things that I
13 learned from the box. It's immoral. Mounting
14 studies, you already know. I personally witnessed
15 the box kill people. My best friend was 17 years
16 old. After three weeks of being inside there he
17 committed suicide after he was let out. I know
18 another individual that I was placed next to, a young
19 man who had a violent past, because the pressure of
20 not having a family and being let down so many times
21 he was cutting himself in the box, and I didn't find
22 out that after he had almost mutilated his arm, and I
23 talked him out of it. Second thing I learned about
24 the box, as the Director of Community Engagement, I
25

1
2 come in direct contact with people that come home
3 from long-term incarceration. These individuals are
4 permanently damaged by the box. They're not better.
5 They're worse than how they went in. In terms of a
6 having a healthy, qualitative life is zero.
7 Employment is difficult for them. repeatedly I have
8 talked to homeless people and find out that over 60
9 percent of them have been incarcerated, and while I
10 was there, a high percentage of them tell me they was
11 in the box. We are manufacturing homelessness and
12 unemployment and damaging people for lives. That's
13 what we are talking about today. The third thing
14 that I learned about the box, it has a lock-step
15 implication of profound racism. There's a scourge of
16 racial bias in the use of solitary confinement when
17 it comes to people of color, black and brown in New
18 York City Jails. It is well-documented [sic] that
19 racial bias against people of color and in favor of
20 white people in New York State has a strong effect on
21 who is arrested, prosecuted, convicted, and issued
22 longer sentences. In a city that is home to the
23 statue of Liberty, our jails have become filled with
24 the poorest, most marginalized, most powerless
25 American citizens in the country. rather than become

1
2 principled in redeeming human lives and investing in
3 under-represented communities and restoring broken
4 families, and in modeling leadership to the rest of
5 the nation. We are here today because some New
6 Yorkers want others to be rolled back into a hole of
7 hopelessness, a hole that we have already learned
8 failed us for decades, and they're here as gate
9 keepers to keep us in that same culture of
10 punishment. The only solution they have for us today
11 is punishment. I am in line with consequences, but
12 let me tell you something, consequences are not
13 always negative. They can be positive consequences.
14 Consequences it not always lock them up. There can
15 be learning consequences. Separating people do them
16 no good if you're not also trying to heal them.

17 CHAIRPERSON RIVERA: Thank you.

18 ANTHONY DIXON: Thank you.

19 CHAIRPERSON RIVERA: Thank you very much.

20 VICTORIA PHILLIPS: You can hear me?

21 CHAIRPERSON RIVERA: Yes, ma'am.

22 VICTORIA PHILLIPS: Please and blessing
23 everyone. It's Chaplain Doctor Victoria A. Phillips,
24 and I say that because I also carry a badge, but I'm
25 not a bully with my badge, and I want to say that on

1 the record. And I just-- you know, I'm a member of
2 Jails Action Coalition and Justice for Women
3 Taskforce, and many, many coalition. I don't want
4 to waste time eating up. But I just want to point
5 out several things. I had something written, but
6 with the nonsense today, you have to point out what
7 you hear. And so I just want to first highlight that
8 the commissioner, you know, we had a first in-person
9 this month for Board of Corrections. First out of
10 the whole year, out of his whole time as being
11 Commissioner, and he was too busy to attend. And I
12 want to highlight that on the record because he has
13 not missed on New York City parade yet, and you can
14 go to his social media to check that out. And so
15 where is his concern for what is going on under
16 leadership? And I point that out because as former
17 Federal Monitor, and any Council Members who aren't
18 aware that he used to be the former Federal Monitor
19 over Rikers, look him up and look what he wrote about
20 Rikers, and look what is continuing in 2022 under his
21 leadership. Nothing has changed. And I want to point
22 out that today DOC, the unions and the Commissioner,
23 his staff would have you think that the most absolute
24 barbaric humans go behind walls, and at times that
25

1
2 might be true. But here's the thing, they all have a
3 heartbeat and they're all behind detention walls, not
4 prisons. He brought an expert of prisons, and I was
5 waiting to hear-- well, he was an expert of jails
6 across the nation about. But he brought an expert of
7 prisons, right? And prisons you usually are
8 convicted, whether rightfully or not, you're
9 convicted. But in Rikers and New York City
10 Department of Corrections, majority of people are
11 still waiting their day in court. And I wish the
12 Council Member was here that made comments earlier,
13 but I approached her outside in the hallway, Vickie--
14 I don't know her last name. Don't want to be
15 disrespectful on the record, but I want to highlight
16 her. And so when she was speaking today everything
17 was about criminal, criminal, criminals. And working
18 behind the walls, I know that's not always the case,
19 and working behind the walls with a mother buried in
20 military cemetery for us all to have human rights on
21 domestic soil, it is my duty to make sure that anyone
22 sitting in a seat don't bring bigotry. They make
23 sure they're looking out for all the constituents.
24 And really quickly, I just want to say, you know,
25 Commissioner Molina, I actually told-- I am the Co-

1 chair for the New York City Department of Corrections
2 Young Adult Taskforce. And I actually told DOC
3 earlier this year, they need to bring back the
4 Suicide Prevention Taskforce. Guess what? A month
5 and a half later, Mr. Carter died. And I want to
6 point out to this City Council, how many other
7 individuals have died in specialized units since Mr.
8 Carter's death this year alone? And so former-- the
9 Commissioner, he always like to attack the former
10 Administration, "Oh well, we-- I took over and we
11 doing this." And I just want to point out this
12 Commissioner has had 16 deaths lone on his watch.
13 Last year, 16 people died in New York City Department
14 of Corrections custody. We had two Commissioners.
15 Now we have the former Federal Monitor being the
16 Commissioner, and the culture has just shift, and I
17 say that because last month there was a unit with two
18 officers, one Captain, and they was on video allowing
19 a constituent to bleed out before offering help. And
20 so the culture has not shifted. So I am scared to
21 even allow y'all to tell him that he has more time to
22 come up with any type of plan. His plans are faulty.
23 He does not utilize the experts that he has at his
24 hand right here today. And PREA, last thing. Last
25

1 year, y'all had a hearing on Corrections, right?
2 Criminal Justice. And the entire hearing, you
3 allowed the officers to take up and complain
4 [inaudible] right, yes, but they have unions for
5 this. We advocate for those who don't have unions.
6

7 CHAIRPERSON RIVERA: Just wrap up.

8 VICTORIA PHILLIPS: Okay.

9 CHAIRPERSON RIVERA: We got to get to
10 your colleagues.

11 VICTORIA PHILLIPS: Okay, three Council
12 Members spoke and questioned three women and one man,
13 all-- the whole entire hearing around officers being
14 assaulted. We have yet to hear any PREA results. The
15 Commissioner fired three chiefs that were trained on
16 this. who has he replaced that are trained-- to make
17 sure his officers adhere to PREA standards, and I'm
18 still waiting for the DA's office to submit the over
19 560 sexual assaults that occurred in 2019 that she
20 testified at the last in-person hearing at BOC before
21 the pandemic shutdown. Sixty percent of those sexual
22 assaults was against officers. So it goes both ways
23 behind the walls and everybody needs to be protected.

24 CHAIRPERSON RIVERA: Thank you. She's
25 right [sic].

1
2 ANDRE WARD: Good afternoon, Council,
3 Committee Chair Rivera. I just want to thank you for
4 your tireless efforts, right, for advancing these
5 issues and continuing to amplify them and keep them
6 in existence, as well as you, Council Member Cabán,
7 who stayed all this time. I know your colleagues,
8 some of them had to leave. My name is Andre Ward.
9 I'm the Associate Vice President of the David
10 Rothenberg Center for Public Policy at the Fortune
11 Society, 55-year-old organization that's been around
12 doing this work, and we believe in the power of
13 people to change, building lives through service
14 programs shaped by the experience of the people that
15 we serve, and changing lives through education,
16 advocacy and promoting fair, humane, and truly
17 rehabilitative criminal justice system. Just want to
18 talk briefly. Everything that was said here by my
19 communities and my partners is in my testimony, so
20 I'm just going to like touch on a couple of things.
21 But solitary confinement is simply torture by another
22 name. I'm a person that's directly impacted. I was
23 on Rikers Island over 30 years ago. The conditions
24 that existed then are still-- they're existing now.
25 And as someone who served 16 years in prison, has

1
2 been home 15 years, I understand all too well what
3 the conditions are like in prison and in jail. But
4 solitary confinement is simply torture by another
5 name and it's well-documented. And in the context of
6 committing humanitarian [sic] crisis in our city jails,
7 as with Mr. Rodriguez and Mr. Muhammad, solitary
8 confinement is deadly. Banning solitary confinement
9 as proposed by this important bill, Intro 549 is
10 critical to save lives. And I'll touch on this brief
11 thing, one of the things that is well-documented,
12 that before this committee in a Board of Corrections
13 hearings, federal court proceedings and reports about
14 the deaths of 14 people who have been held at Rikers
15 Island, the culture of neglect and dysfunction in our
16 city jail has reached what should be an unthinkable
17 level. Third is reflected in the continuing crisis of
18 uninformed staff and uniformed staff not reporting to
19 work. And I'll close with saying this, we urge this
20 committee to file the facts and not fear and baseless
21 claims that solitary is necessary for maintaining
22 order in a disordered system. In addition, as
23 described above, simply ensuring that uniformed staff
24 are at their assigned post, performing their assigned
25 duties in an obvious and critical first step to

1 monitoring order is important. Opponents of this
2 bill may claim that DOC needs more staff and more
3 financial resources, but that is simply not the case,
4 and after the last month, 12 percent of DOC staff
5 were out for medical reasons, that is double the
6 percentage who were out for nearly the entire year
7 before the pandemic, and eight percent of staff have
8 been designated as unable to work directly with
9 people in custody. And this is no disrespect for
10 officers who are actually unable to work due to
11 illness or injury but the abuse of overly generous
12 sick leave has been well-documented. For all those
13 reasons, we support this legislation, and thank you
14 for this time.

16 CHAIRPERSON RIVERA: Thank you.

17 FIVE MUALIMM-AK: I want to thank you,
18 Madam Council Member, for hosting this, Tiffany for
19 staying. You know, it's probably been like 12 years
20 I've been coming back and forth to this room now.
21 Every time I've been here it reminds me of government
22 of the people, by the people, for the people. I have
23 a new film out called The Box. I hope that you take
24 some time to look at it. It's about solitary
25 confinement. Also want to thank some of the officers

1 that were here today who were screaming-- well, we've
2 been screaming for 10 years inhumane conditions,
3 treatment. Some of them I used to work for. Some, a
4 lot of us survivors had physical relationships with,
5 going to be honest. It's not just that solitary
6 confinement is something that started in 1650 when
7 Alexander Riker created a slave-catching plantation
8 to actually catch people who was coming to New York
9 to be free. So people would pass the statue of
10 liberty seeing independence, seeing liberty, seeing
11 freedom get captured because of the color of their
12 skin, held into confinement and then sold back into
13 slavery. This is the island that we uphold and
14 defend, 400 acres of real estate in a county and a
15 state where we go against United Nations
16 recommendations. I happen to be a consultant for OPAT
17 [sic], the Optical Protocol Against Torture. If you
18 Google it, you watch the video, you can see about my
19 case as well. But it's also that we are faced with
20 ending a tradition that had started in America here.
21 Before we built Auburn [sic], we had Rikers Island.
22 My testimony which will include some documents from
23 the Board of Corrections. I want to thank Amanda
24 Mastiss [sp?] for being able to get these
25

1 documentations for me, because pre-hearing detention
2 and my sentences landed me in solitary which was
3 because I got stabbed. I also want to talk about the
4 officer who wrote the report that said the process is
5 that the people who stabbed me are now the victims
6 and witnesses of my injury, and they were allowed to
7 testify by some of the people who were captains and
8 now depts and wardens who I seen today, some I sold
9 cigarettes for, who literally charged me for being
10 the victim. Of course it took two days and another
11 two days for the BC to look into it, another two days
12 for me to get the ticket. So for about a week, the
13 entire tier was in solitary pre-hearing detention.
14 Everybody go to the box and we'll figure it out later
15 on. The members of the old correctional staff who
16 were here, I would love for you to look up Killing
17 Rikers which is a report that myself and Stanley
18 Richards and Dart did which included his own officers
19 speaking on video about the brutality that they would
20 issue out. And so when we're speaking about ending
21 torture, this is a perpetual punishment. I still
22 live with solitary confinement impact in my life.
23 I've created the supportive housing I live in. I'm
24 the first case of person who was legally disabled
25

1 because of solitary in the state from Social
2 Security. But we've been doing this for years. I
3 don't know what else to do. I done did everything. I
4 done built cells outside. I like have a personal
5 relationship with the Sergeant of Arms. Like, this
6 is you know, this is my life here. And we have an
7 opportunity to hold those accountable who are showing
8 many methods and many ways evidence-based that they
9 are incapable of care, custody, and control. I spent
10 a lot of my time on Rikers, probably in every
11 buildings including MDC. Then I was banned from
12 Rikers. I got banned from every building, because
13 once again, I was stabbed. This is how we address
14 victimization and this is how we address pain and
15 punishment with more pain and punishment. I also
16 want to remain the council that incarceration is the
17 punishment. Me being away from my kids, me being
18 detained because I couldn't afford bail was the
19 punishment. It is not the duty to enact additional
20 punishments and tortures. And finally, I just want
21 to remind everyone that we do have a Governor who
22 signed a bill about language that I fought for about
23 eight, ten years, and the fact that we still list
24 human beings as inmates-- language is the first step
25

1 to dehumanization. And so I thank you for your time.
2 I'm actually tired of coming here, to be honest, and
3 I'm tired of building new organizations and new
4 projects to address these issues, but we have to
5 because if we don't-- if the government of the people
6 doesn't do their duty, then who will protect those,
7 especially those laws that protect the people made by
8 the people for the people. Thank you.

9
10 CHAIRPERSON RIVERA: Thank you. Thank
11 you to this panel.

12 ROBERT O'CONNOR: Hi, my name is Robert
13 O'Connor and I'm on the Policy Advocacy Team at
14 Exodus Transitional Community. And this has been a
15 heartbreaking day for me. I don't know anyone in the
16 room whose heart has not been broken today by the
17 testimony we've heard from all sides. And it's a sad
18 commentary that Commissioner Molina left the room,
19 and that the room is so empty now. But if we could
20 put that in a bottle and maybe if Commissioner Molina
21 leaves Rikers, it could empty out the same way. This
22 is about what's right. It's not about who's right.
23 Okay? I've heard people, you know, from both saying,
24 oh, you want this bad thing to happen to the other
25 person. You know, from all sides. But I haven't

1
2 heard one person say, "I want bad things to happen to
3 people." We have something innate in us that wants
4 good, okay, on both sides. That's where we have to
5 go. Rikers right now has a culture, a way of doing
6 things, okay? Just like this room in City Hall has a
7 way of doing things, the way things go. The only
8 thing that's going to stop this ban on solitary
9 confinement is Rikers. It's the culture in Rikers.
10 It's not-- it's not the policy. It's the management
11 of Rikers that is having people who assault people be
12 with them in the same block right afterwards. It's
13 not-- that's not a problem that has anything to do
14 with solitary confinement. If we can't integrate
15 people in a prison, in a highly-controlled
16 environment, if we can't integrate people into that
17 environment, what hope do we have to integrate people
18 into the community? We need to have the resolve to
19 get this bill passed. If we don't, we're just going
20 to go backwards and backwards and backwards. All the
21 things that has been brought up, all the things we've
22 been seeing, you know, are the results of past
23 policies. We need new policies. We hear about
24 cover-ups, right? But I didn't hear anyone today
25 talk about the over 2,000 cases of excessive force

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that Commissioner Molina wanted to disappear. Nobody else has asked for things to disappear. Right? So, with that, everybody have a good evening, and I hope your heart's healed before you go to sleep tonight.

CHAIRPERSON RIVERA: I wish you all the very same. Thank you very much for being here. Thank you to this panel.

COMMITTEE COUNSEL: Thank you. Next, we'll do a Zoom panel consisting of Sharon White-Harrigan, Mik Kincaid, Mon Yuck Yu, Jeanette Bocanegra, and Supit Gakaw [sp?]. After that we'll have a live panel of Marco Barrios, Richenda Kramer, Douglas Powell, Vidal Guzman, Barat Elman [sp?], and Alice Sutter. To Sharon White-Harrigan, you may begin with the Sergeants call time.

SERGEANT AT ARMS: time has begun.

SHARON WHITE-HARRIGAN: Thank you. Thank you so much. Thank you, Chairwoman Rivera, thank you so much, and to everyone else. I am the Reverend Sharon White-Harrigan and I am the Executive Director of the Women's Community Justice Association, also known as WCJA, and I also want to highlight the disgusting display of behavior that happened this morning where, you know, people came like, you know,

1 the mob. Right? And so when we talk about
2 violence, who are the real violent ones here. That
3 was really appalling, right? Especially when I have
4 staff that's there as well that comes in peace. So,
5 you know, as a person who has a system affiliation I
6 speak from personal and professional experience when
7 I say that solitary confinement is harmful. It's
8 harmful to everyone, but in particular to women. The
9 City Council must pass Intro. 549 to end the harms
10 that this isolation causes to our mothers, our
11 daughters, our sisters, and our brothers and
12 siblings. You know, our hearts go out to all of the
13 families who have lost loved ones at Rikers. Over
14 three years ago Layleen Polanco died at Rosie's after
15 being placed in solitary confinement or the Bing,
16 right, as we call it. Layleen should have never been
17 at Rosie's in the first place. She was there because
18 she couldn't afford a bail of \$501. She should have
19 been released to the community and given resources.
20 Instead, Layleen was placed in a solitary cell, even
21 though a doctor warned against it, because she had a
22 history of epilepsy. Her death never should have
23 happened. She should be alive celebrating her 30th
24 birthday next month. And big ups to her sister
25

1
2 Melania that has been a tireless advocate and making
3 sure that Layleen--

4 SERGEANT AT ARMS: [interposing] Time
5 expired.

6 SHARON WHITE-HARRIGAN: has never been
7 forgotten. So women and gender-expansive people
8 arrive at Rosie's with unique traumas that are made
9 exacerbated by solitary. The women and gender-
10 expansive people are coming to Rosie's having already
11 been through so much neglect, abuse and trauma.
12 Solitary disrupts treatment, healing, and services
13 and strains connections to their children and family.
14 Keeping them in isolation compounds harm and leaves
15 people worse off than when they already alive. We
16 shouldn't diminish harm on either side. However, we
17 should elevate healing and safety for all. Come on.
18 Let's end solitary confinement now. Thank you.

19 CHAIRPERSON RIVERA: Thank you.

20 COMMITTEE COUNSEL: Next we will hear
21 from Meek Kincaid.

22 SERGEANT AT ARMS: Time has begun.

23 MIK KINCAID: Hi, I'm-- my name is Meek
24 Kincaid. I use he/him pronouns and a member of Jack
25 and Cake [sp?] and I'm a transgender man with a

1 history of advocacy work in the City jails. I'm
2 speaking as an individual today. So many good
3 points. So many important stories have been raised.
4 I'm just going to raise a few more. I know
5 Commissioner Molina emphasized that he's only been in
6 charge for a short period of time. However, he is one
7 in a long line of very short stints of Commissioners
8 at Rikers. Anything that he says he's implementing
9 within the Department can easily be unimplemented by
10 the next Commissioner, and our history with
11 Commissioners is a very short timeline as political
12 winds blow. One of the reasons why Intro. 549 is so
13 important is that it would codify some of these
14 issues, and it wouldn't be based upon the individual
15 whims of whomever's in charge. Commissioner Molina's
16 already changed a lot at Rikers. I used to teach a
17 week once-- I used to teach a class once a week at
18 the special considerations unit at RMSC. I'm, as far
19 as I know, the only person who was offering
20 consistent trans-specific classes and Know Your
21 Rights training. I have since been told by some of
22 my former students that all of the tablets at RMSC
23 have been taken away. I believe this has happened at
24 other units, but I don't know because my volunteer
25

1
2 pass still hasn't been restored. So the fact that
3 all the materials, all of the diversions, all of the
4 resources that are available on the tablets, not to
5 mention all the ways people have to anonymously
6 connect to resources like PREA, resources like the
7 LGBTQI initiatives have all been taken away, and the
8 fact that my pass has not been renewed, and so these
9 classes can't continue. It sends the message that
10 TGNC NBI [sic] people's issues and needs do not
11 matter. And the reason why I raise this in a hearing
12 on solitary confinement, because all the stuff
13 trickles down to issues of violence and control, when
14 you're literally left alone in a cell for hours with
15 nothing, and no resources, and no way to reach out,
16 it is incredibly dangerous not just for you own
17 mental health and wellbeing, but also for your life.
18 And we know this because--

19 SERGEANT AT ARMS: [interposing] Time has
20 expired.

21 MIK KINCAID: [inaudible] time and time
22 again. I was going to read out some of the names. I
23 know you all already known them, but Mr. Pegan [sp?],
24 Mr. Diaz, Mr. Youngblood [sp?], they were all carried
25 out of their cells by other incarcerated people, not

1
2 by officers. So people are in solitary-like
3 conditions. It is more and more likely that they
4 won't have their own other incarcerated people to
5 save them the way that these three individuals had--
6 incarcerated individuals-- come to the rescue,
7 ultimately not successfully, but officers should have
8 been there. They weren't there. And if we put
9 people in more restrictive housing, again, it puts
10 the onus back on the officers who have been showing
11 us time and time again they cannot do this. So, I
12 support the passage, and thank you.

13 CHAIRPERSON RIVERA: Thank you. Next we
14 will hear from Mon Yuck Yu.

15 SERGEANT AT ARMS: Time has begun.

16 MON YUCK YU: Thank you, Chair Rivera for
17 the opportunity to speak today in support of ending
18 solitary confinement in our city's jails. I want to
19 thank you, Public Advocate Jumaane Williams and
20 Speaker Adams for bringing the issue forward. I am
21 here to testify today as Policy Director with
22 Brooklyn Borough President Antonio Reynoso, and I
23 will speak on his behalf today. You've heard it over
24 and over today, but it can't be said enough, solitary
25 confinement is torture, and it's long past time for

1
2 us to ban it. Keeping people isolated exacerbates
3 exiting mental health issues and triggers new ones,
4 including anxiety, depression, and psychosis and has
5 left people to self-harm and tragically, suicide.
6 Five people have taken their own lives in City jails
7 just this year. For those who do get out, studies
8 have shown that having spent time in solitary
9 increases the likelihood of death by suicide,
10 homicide, and overdose as well as recidivism. My
11 office hears often from New Yorkers who have loved
12 ones in Rikers or other city jails and they're
13 scared. They see the news reports. Detainees locked
14 in shower stalls for hours, which you've heard about
15 today. People with health conditions held in de-
16 escalation units for much longer than allowed, forced
17 to go without necessary medical care or
18 prescriptions. Just this summer, Department of
19 Corrections Oversight Board found people locked in
20 solitary for 23 hours a day in violation of state
21 law. Often, these are the same populations most at
22 risk from confinement and isolation. It's part of a
23 larger humanitarian crisis in our city's jails and we
24 need to fix it now. It's important to say that we
25 can't just end solitary confinement by giving it a

1
2 different name. Despite recent changes in state law,
3 proposed city-level reforms, these abuses keep
4 happening. Decontamination showers, de-escalation
5 units, structurally restrictive housing, whatever
6 they call it, it all has to go. [interposing] pass
7 intro 549 because it sets reasonable standards for
8 out-of-cell time, legislates access to education and
9 programming, limits the use of--

10 SERGEANT AT ARMS: [interposing] Time has
11 expired.

12 MON YUCK YU: [inaudible] and requires
13 staff be trained in de-escalation and conflict
14 resolution. And more importantly, it requires
15 detailed incident reporting that will create an
16 accountability structure that is currently missing
17 from the system. And finally, by allowing for
18 separation without isolation in order to de-escalate
19 violence or potentially violent situations, it will
20 make-- it would actually make our jails safer. Thank
21 you again for your time and for the Council's strong
22 advocacy on this effort. And I want to thank
23 specifically all the advocates, especially those who
24 have experienced the horrors of solitary firsthand
25 for coming out today to share their experience, and

1 we look forward to seeing this bill pass quickly, and
2 you can count on our office for any help that you may
3 need from us. Thank you.

4 CHAIRPERSON RIVERA: Thank you.

5 COMMITTEE COUNSEL: Thank you. Next,
6 we'll hear from Jeanette Bocanegra.

7 SERGEANT AT ARMS: Time has begun.

8 JEANETTE BOCANEGRA: Thank you. My name
9 is Jeanette Bocanegra. I am the Executive Director
10 of Justice for Families, a national organization that
11 works with families that have been directly by the
12 juvenile justice system. The last time I spoke at
13 City Council was many-- couple of years ago when we
14 were talking about raise the age of criminal
15 responsibility. In 2010 my youngest son introduced me
16 to the juvenile justice system. I'm a mother of six.
17 But I couldn't really understand how horrible the
18 system was. I learned that they were putting young
19 people in solitary confinement. And we have to sign
20 this bill. I want to thank Honorable Rivera, Speaker
21 Adams, Honorable Williams. I see Correction
22 Officers, too. I see the harm that this-- these
23 policies on Rikers have created. I worked on a
24 national research project where I focused on New
25

1
2 York. And it's appalling that for far too long and
3 for those who have been talking about working at
4 Rikers since 1980, it's time to go. You've been part
5 of these problems. How dare the Commissioner, he
6 couldn't--he don't believe what he read. These
7 policies have been hurting us for far too long. We
8 still trying to recover from generational trauma that
9 Rikers and these prisons have created. So whether
10 they name it a special housing unit, restrictive
11 unit, punitive unit, the box, the whole, its solitary
12 confinement and it's breaking our families apart. If
13 you don't go in with mental health issues, you're
14 going to come out with them. for far too long-- even
15 those who are working in there-- I also understand
16 you come from communities that have been impacted by
17 these horrible policies and systems, but you also
18 have a job that brings financial stability and you
19 can fall back on a little cushion, but you're
20 creating trauma, and not for only yourself, but for
21 the community. We're talking about what's happening
22 inside. They show videos of all these horrible
23 things that are happening to our loved ones as well,
24 because I break bread with Correction Officers. We
25 have them in our family.

SERGEANT AT ARMS: Time has expired.

JEANETTE BOCANEGRA: But it's not okay.

September 14, a young person went to visit a loved one at Rikers and he got assaulted. Look for that video. Show the community that video of how aggressively officers act with our loved ones. So, please, I strongly encourage not only as a mom doing work here in New York City, but as a national expert on family and community engagement of what incarceration has done to our families. Please sign that bill. The 549 has to be signed. We cannot continue these policies to hurt and destroy our families. My son also tried to commit suicide at Rikers. He didn't succeed. Seven years later I'm putting those pieces back together, because communities are not resourced to heal members of the family that have been touched by these horrible systems and policies. Change them. They have to be changed. The practices have to be changed. The culture and environment has to be changed. And Molina don't yuck [sic] Vinnie Schiraldi. He did a lot of community work. You talked about the credible messenger, that came from Vinnie Schiraldi leadership.

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2 CHAIRPERSON RIVERA: Thank you.

3 JEANETTE BOCANEGRA: So let's continue
4 working and be transparent about how your system is
5 continuing to harsh [sic] our families, and don't
6 flatter yourself nationally. I do national work,
7 too. And you're not a better system consultant
8 because your outcomes here in New York are not
9 glorifying. So as a family member who's still
10 dealing with communities that are broken and dealing
11 with generational trauma, this has to be changed.
12 It's hurting both, those who are working because of
13 their financial stability and their little cushion
14 [sic], workers comp, medical coverage. We're all in
15 this same boat together. We want to heal. There's
16 alternative ways of working with our young people and
17 our families, not a hammer any longer. That hammer
18 became a sledge hammer. There's other ways to build
19 communities.

20 CHAIRPERSON RIVERA: Thank you.

21 JEANETTE BOCANEGRA: You have other
22 tools. So, thank you. I'm really honored and thank
23 you so much.

24 CHAIRPERSON RIVERA: Thank you. Thank
25 you.

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2 COMMITTEE COUNSEL: thank you. Next
3 we'll hear from Marco Barrios.

4 SERGEANT AT ARMS: Time has begun.

5 MARCO BARRIOS: Thank you, Chair Rivera
6 and others. My name is Marco Barrios. I'm a
7 Criminal Justice Advocate with the Urban Justice
8 Center Mental Health Project and member of Freedom
9 Agenda. Back in '91 I was a combat medical
10 specialist serving in Desert Storm working at the POW
11 Camp. Before we arrived we received these booklets
12 about the Geneva Convention and how to treat
13 prisoners, and it definitely talked about not
14 torturing them. Now, we have here on our soil,
15 American soil, people being tortured, and I just
16 can't believe it. Now, after I served, I did have an
17 undiagnosed PTSD and was self-medicating myself, and
18 I ended up doing 24 years and six months for a crime.
19 Now, I would say that I am fortunate to say that I
20 never endured the horror of solitary confinement.
21 The ability to stay away from this inhumane practice
22 from the Department of Corrections had to do with a
23 combination of luck, avoiding self-destructive
24 activities, and utilizing my time for growth and
25 healing with the help of God. What I wanted to share

1 with you is simply my lived experience in
2 correctional facilities witnessing individuals going
3 into solitary confinement and its effects. During my
4 incarceration, many of the individuals I witnessed
5 going to the box had either mental health issues,
6 drug addiction or both. Some did have behavioral
7 problems. What I find hard to believe is the
8 inconceivable notion that the use of solitary
9 confinement kept people safe, deterred individuals
10 from committing misbehavior or in any way address the
11 issues that caused that behavior. Often what I
12 witnessed when there were physical altercations was
13 the individuals that went to the box and come out
14 were much more bitter and mentally unstable and at
15 times even more violent. This certainly did not make
16 me feel safer, and I wonder if the correctional staff
17 felt the same. The fact that certain individuals
18 kept going to the box convinced me that this was the
19 wrong way of going about correcting behavior, making
20 the facility--

22 SERGEANT AT ARMS: [interposing] Time has
23 expired.

24 MARCO BARRIOS: safer and certainly
25 treating the individual as human beings. I just want

1
2 to say, you know, we've been going back and forth
3 with this for years about solitary confinement, and I
4 can't see what the evidence shown where the Chair
5 spoke about it. Why can't we come to an agreement
6 that we want to make everyone safer? And I just want
7 to say I do find promising possibilities for the
8 culture change in the jail system. Back in 19--
9 2019, I was part of-- member of the Mayor's Office of
10 Criminal Justice Implementation Taskforce for the
11 Subcommittee for Programming, and I think it could be
12 done. And I urge-- and I beg the council to pass
13 Intro 549 without delay. Thank you.

14 CHAIRPERSON RIVERA: Thank you.

15 COMMITTEE COUNSEL: Thank you. Next,
16 we'll hear from an in-person panel consisting of
17 Richenda Kramer, Francis Geteles, Donna Gould [sp?],
18 Vidal Guzman, Barat Elmen [sp?], and Alice Sutter.

19 CHAIRPERSON RIVERA: Thank you--

20 RICHENDA KRAMER: [interposing] My name--

21 CHAIRPERSON RIVERA: [interposing] Yes--

22 RICHENDA KRAMER: My name's Richenda
23 Kramer and I've been working on-- I worked with the
24 HALT bill for 10 years, and I work for Prison Project
25 for the American Friends Service Committee. The DOC

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2 claims that the HALT Act does not apply as they have
3 real alternatives to end solitary, but building a
4 cage which extends two feet in the corridor in front
5 of the cell door with only a small backless stool to
6 sit on, and changing the name of solitary are
7 heartless tricks to maintain the status quo. If you
8 think this is justified, I would ask you to visit one
9 of the places where DOC has already put this into
10 practice. We're always-- sorry. We're always
11 hearing that the need to contain people in prison,
12 that if they're treated like caged animals, that is
13 how they will behave. Can you imagine even spending
14 a few hours in a place the size of a bathroom with no
15 phone, no social contact, nothing to do and often no
16 window, and can you imagine that for weeks, months,
17 years? When released Kalief Browder committed
18 suicide after spending three years in solitary
19 because he would not plea bargain when the NYPD
20 falsely accused him of stealing his own backpack, a
21 case that was dismissed in minutes when he finally
22 got to court. There is no oversight for solitary
23 confinement, and COs can put people there without any
24 justification. It is easy to get in, hard to get out.
25 Please sponsor and vote Int. 549. And also, I think

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2 representative there and she kept saying the same
3 thing, and every time the people on the Board of
4 Corrections would say to her, "Then why not get rid
5 of it?" She would say, "We're not going to use it
6 for decontamination anymore." And then they would
7 say it again, and again she would say that. Finally,
8 about the fifth time that she was questioned, she
9 actually said, "Okay, we will get rid of it." But
10 when I was in the elevator later with the woman who
11 kept asking those questions from the Board, the staff
12 of the Board, she said, "We've talked to her many
13 times. We've talked to them many times, and they
14 finally did promise to get rid of it, and they still
15 haven't done anything." Now, in my mind, what that
16 says is that-- well, it raises serious questions when
17 Commissioner Molina says to you he seriously agrees
18 with the need to get rid of solitary confinement. It
19 seems to me by saying we're going to keep that cage,
20 it tends to suggest that there's an element of
21 untruth to what he's saying. Okay. Now getting back
22 to what I was going to talk about. We've had some
23 discussion today about programs that work. One is
24 the RSVP program out in California. Another here is
25 the CAPS program which focuses on people with mental

1 health problems, but there's one program that has not
2 yet been mentioned that I wanted to bring to your
3 attention. That's the Merle Cooper Program at the
4 Clinton Annex Prison upstate. And one of the key
5 things that was said about that program was that the
6 staff that was working, that was leading the program,
7 fostered maturity, empathy, and self-respect, rather
8 than feelings of deprivation and degradation. Now,
9 it seems to me that particular concept has been
10 missing from all the discussion here today about
11 useful programming. What we heard was oh, it's got
12 to be professional. Well, what we've learned from
13 both the Merle Cooper Program and also from another
14 program called MAN--

15
16 CHAIRPERSON RIVERA: [interposing] If you
17 could just wrap up.

18 FRAN GETELES: which basically I think is
19 mobile-- I forget the word, but essentially it's a
20 program that focuses on peer counseling. The
21 interaction of people who are incarcerated with other
22 people who are incarcerated. And one of the things
23 that--

24 CHAIRPERSON RIVERA: [interposing] If you
25 could just wrap up, because we're [inaudible].

1
2 FRAN GETELES: Yeah, will do. One
3 sentence. Is that the-- when the expert gave his
4 opinion and he talked about the need for
5 professionalism, what he left out is that like many
6 of the people I've spoke to who have been formerly
7 incarcerated, they say that the programs were often
8 not that helpful. Where they were able to grow and
9 change was from the counseling and advice that they
10 got from other incarcerated people, and I think we
11 need to keep that in mind as well. Thank you.

12 CHAIRPERSON RIVERA: Thank you.

13 VIDAL GUZMAN: Hey, how you doing? My
14 name is Vidal Guzman. I am one of the founders for
15 the Fix The 13th NY campaign that works to make sure
16 people are not coerced and forced against their will,
17 and I'm also a part of a national movement to end
18 legal slavery in this country. Right now there is
19 five states with slavery on their ballot, and I'm
20 going to compare it to why it's important for us to
21 talk about that. On November 8th, voters in Alabama,
22 Louisiana, Oregon, Tennessee, and Vermont will be
23 voting to eliminate the slavery cloth [sic] off their
24 State Constitution. And a lot of times what happens
25 is-- I heard a lot of people talk about programs,

1 what happens if people don't want to take programs.
2 There's a very important flaw [sic] that we need to
3 actually talk about. ACLU just came out with a
4 report said that their 800,000 detainees that had
5 reported that they were coerced and forced against
6 their labor, and what happens is a majority of times
7 as we're talking about solitary confinement in the
8 state in New York is that, you know, solitary
9 confinement is used for power struggle. You know,
10 I'm an individual who, you know, I have two minutes
11 to fit in years of solitary confinement, but also I
12 have seen other programs as in turn violent-- turn
13 into violent program that help people to understand
14 critical conditions, critical conversations. And I
15 also was an individual who was a high-ranking member
16 of the Bloods. A lot of people in this city know
17 that I was a very active part of the gang lifestyle
18 and the gang culture. But one thing that I
19 understood even being still gang-related when I was
20 facilitator with the AVP program, was that people
21 need resources. People needed exposure to feeling
22 like that had something, they had something to come
23 home, and how solitary confinement is being used now--
24 - if we don't end this now, we'll keep talking about
25

1
2 how many other people we have lost. We'll keep
3 having more family members up here. And the last
4 thing I'll say, it's a very important time for us to
5 really figure out what is our legacy, and our legacy
6 has to begin by ending the issue about that solitary
7 creates. And I think one thing that I really care
8 about this bill is because it address the issue from
9 happening, right, from violence happening. And I--
10 and one thing that I'm very happy about that Cure
11 Violence is in the jails, because that was something
12 I said two and a half years, three years ago, and a
13 lot of directly impacted people said, because we
14 understand that to attack violence we got to attack
15 it from a health crisis. So thank you.

16 CHAIRPERSON RIVERA: Thank you. Thank
17 you.

18 ALICE STURM SUTTER: I'm Alice Sturm
19 Sutter. I'm a retired Family Nurse Practitioner and
20 Nurse, and I'm also a member of Uptown Progressive
21 Action, which is one of the chapters of New York
22 State Progressive Action, and they asked me to
23 represent them as well. Yeah, it's been kind of a
24 traumatic day with the testimonies we got, and I'm--
25 I've seen a lot, but I'm really shaken by the

1 attitudes of the people who work in the prisons and
2 the police officers, because they're the people who
3 basically have our lives in their hands, and they
4 have the people in prisons lives in their hands, and
5 they were threatening the City Council. They were
6 threatening people outside. They were threatening
7 Jumaane, and it's really wrong and it's really scary.
8 So I'll give what I can of my testimony. I handed it
9 in. So we call on the City Council to pass Intro.
10 549. The bill calls for an immediate end to the forms
11 of solitary confinement and to instead use when
12 necessary other forms of separation that don't cause
13 trauma and dehumanization. The bill calls for at
14 least 14 hours of real time out of the cell every day
15 with at least seven hours of activities with other
16 people. These activities would include participation
17 in programs which help people to be together in
18 positive ways. We strongly favor these changes,
19 because through our experience working closely with
20 the NYC CAIC, that's the HALT solitary members.
21 We've learned that solitary confinement brings
22 unbearable trauma to those enduring it and to their
23 loved ones. This trauma brings about multiple mental
24 and physical illnesses which cause irreversible
25

1 damage, making us all less healthy and safe as a
2 society. Furthermore, the majority of people who
3 endure solitary confinement are black and Latinx. Our
4 most vulnerable communities are being harmed even
5 more. Too many people have already died after
6 enduring solitary confinement. Some died while
7 inside due to negligence. Others were so traumatized
8 that they later committed suicide. Solitary
9 confinement contributes to the sickening brutality of
10 all of our city jails, and as New York tax payers, we
11 watch with horror knowing that we are responsible for
12 the deaths in our city jails no occurring on a
13 regular basis. We do not need to continue this way.
14 There are examples of programs that work, such as the
15 CAPS program in New York City, the Marie Cooper
16 program in New York State, and the RSVP program in
17 San Francisco. There's data on the successes of
18 these programs. Safety is increased for both staff
19 and the people in prison. Violence is decreased.
20 These programs can help people turn their lives
21 around. So we ask only that we start acting with
22 humanity and with practicality and pass Intro. 549.
23 Hey, I made it.
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COMMITTEE ON CRIMINAL JUSTICE

CHAIRPERSON RIVERA: Thank you. Thank you very much.

FRAN GETELES: I just wanted to say the MAN program is called Mentoring and Nurturance. And those are [inaudible].

CHAIRPERSON RIVERA: Thank you. Thank you very much.

COMMITTEE COUNSEL: Thank you to the panel. Next we're going to have another Zoom panel consisting of Andrea Lamberti, Kimberly Blair, Ramos Gaston [sp?], Natasha White, Kelly Grace Price, and then Victor Pate. Andrea Lamberti, you may begin when the Sergeants announce the timer.

SERGEANT AT ARMS: Time has begun. Time has begun.

COMMITTEE COUNSEL: We'll come back to Andrea Lamberti. Next we'll hear from Kimberly Blair.

SERGEANT AT ARMS: Time has begun.

COMMITTEE COUNSEL: We'll come back to Ms. Blair. Next, we'll hear from Ramos Gaston.

SERGEANT AT ARMS: Time has begun.

COMMITTEE COUNSEL: Okay, next we'll hear from Natasha White.

1 SERGEANT AT ARMS: Time has begun.

2 NATASHA WHITE: Hello? Can you hear me?

3 COMMITTEE COUNSEL: Yes, we hear you.

4 NATASHA WHITE: Hi, good afternoon. Good
5 evening. My name is Natasha White. I am a former
6 organizer for the HALT solitary campaign, a former
7 leader of the Close Rikers Campaign, and the current
8 Director of Community Engagement at Interfaith Action
9 for Human Rights serving the DMV area. But most
10 importantly, I'm a survivor of solitary confinement.
11 And you know, I listened to a lot of what everybody
12 said today. I realize that people keep talking about
13 violence. I was in Rikers Island 26 times, and I've
14 never seen a woman with a razor blade, and I've never
15 seen a woman stab a Correction Officer, but I have
16 seen women held in solitary for so long that they
17 begin to spit on themselves and other people, end up
18 wearing masks over their faces, going to court in
19 front of their children looking like animals because
20 you have been treating them as such since they've
21 been there. It also is very funny that Department of
22 Corrections has all the video footage of incarcerated
23 individuals harming an officer, yet when they attack
24 an incarcerated individual, the camera doesn't work.
25

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2 I'm trying to figure out why I relocated from New
3 York after passing the HALT solitary bill a year ago
4 and we're still having this conversation. What if it
5 was your child? What if it was your wife? People
6 come home and never are the same again, if they make
7 it. Self-mutilizing [sic]-- mutilizing [sic]
8 themselves just to get a trip to the infirmary or
9 just to see a doctor. This does not work. It does
10 not work and you cannot say that you are even human
11 to think that this okay. I am happy that at this
12 time I was not on the steps of City Hall when
13 Correction Officers who are people that are supposed
14 to uphold the law are acting violent and vulgar
15 towards freedom fighters. We truly care.

16 SERGEANT AT ARMS: Time has expired.

17 NATASHA WHITE: [inaudible] Please pass
18 Intro. 549. This has been going on way too long.
19 Enough is enough. Thank you.

20 CHAIRPERSON RIVERA: Thank you. Thank
21 you.

22 COMMITTEE COUNSEL: Thank you. We're
23 going to try Andrea Lamberti again. We see that she
24 is now back on.

25 SERGEANT AT ARMS: Time has begun.

1
2 ANDREA LAMBERTI: Thank you. Thank you to
3 City Council and Committee Chair for holding this
4 hearing today. My name is Andrea Lamberti and I
5 represent the American Institute of Architects New
6 York as 2022 Board President. We represent the City's
7 architects who are employed throughout professional
8 service firms, government agencies and academia.
9 Some of our members are employed in the design of
10 criminal justice facilities including jails in New
11 York City and other areas. Many of our members have
12 spoken out against the design for spaces of
13 incarceration. Others, when called to design such
14 spaces, have advocated for revising traditional
15 designs to consider the mental health of occupants.
16 For years AIA has taken strong positions both locally
17 and nationally against the design and construction of
18 spaces for solitary confinement. AIA New York
19 strongly supports Intro. 549's prohibition of
20 solitary confinement in City jails. Solitary
21 confinement is not an effective strategy for the
22 reduction of violence in detention facilities.
23 Spaces for solitary confinement are designed to be
24 punitive to detainees. Those we have seen in New
25 York City are usually windowless boxes or cages

1
2 crafted to be oppressive environments that are
3 intended to harm occupant's psychological wellbeing.
4 This is particularly troubling, considering that a
5 majority of detainees in New York suffer from mental
6 illness. It is cruel and poor policy to further
7 strain the mental health of those who are already
8 suffering. In fact, forcing mentally ill detainees
9 into solitary confinement further aggravates their
10 wellbeing, making them even more likely to resort to
11 violence and putting guards and their fellow
12 detainees in greater danger. Nevertheless, we
13 recognize detainees should have an option to spend
14 time alone for safety and comfort. It is important
15 to allow for individual living quarters. Justice
16 facility design standards in Local Law 194-2019
17 mandate individual occupancy housing units for
18 detainees. Few jails legally require individual
19 living quarters. There is no need for solitary
20 confinement as a safety measure at all.

21 SERGEANT AT ARMS: Time has expired.

22 ANDREA LAMBERTI: Consensus of architects
23 is that design and construction of spaces for
24 solitary confinement is a bad policy. We need laws
25 that reflect the best architectural practices. We

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believe our City can serve as the bellwether for the country on this issue. We ask you to pass Intro 549. Thank you.

COMMITTEE COUNSEL: Thank you.

CHAIRPERSON RIVERA: Thank you.

COMMITTEE COUNSEL: Next, we'll hear from Kimberly Blair.

SERGEANT AT ARMS: Time has begun.

COMMITTEE COUNSEL: Okay, we'll move to Kelly Grace Price.

SERGEANT AT ARMS: Time has begun.

KELLY GRACE PRICE: Hi, good afternoon. It's Kelly Grace Prices from Close Rosie's. Thank you so much, Council Member Rivera, for this hearing today. I'll turn in my written testimony. I'm not going to read it all, but I do just want to add-- I only heard one person say that a reporting requirement should be added to the Intro 549. I always ask for reporting requirements from the Council. I specifically always advocate for a template to be passed along and mandated in the bill. I want to just quickly give you a little bit of data, because we never get any data about solitary on Rosie's. Over the last 10 years-- and this is from

1
2 2011 to 2020. I have not FOIL'd the new DOC, but I
3 will. The old DOC I was able to eek [sic] out a
4 little bit of data about women being on Rosie's.
5 From 2011 to 2020, 1,524 people on Rosie's were put
6 in the Bing. Of them, one woman was 117 years old. I
7 cannot imagine that this is a typo from the DOC.
8 Maybe it is. I doubt it, though. Of that, women
9 that are under 18, girls, they're 78 of them. Three
10 of them were 15 years old, 15 years old in the Bing,
11 and the average amount of time for girls in the Bing
12 under the age of 18, all 78 of them was 23 days. I
13 could go on. The data is horrifying. Please take a
14 moment to read it. Council Member Rivera, I know you
15 always read my testimony. I'm very grateful for
16 that. We definitely need this kind of data coming
17 out of whatever reporting bill gets-- reporting
18 amendment gets stuck onto this bill. Thank you so
19 much for hearing from me. That's all I have to say
20 verbally. Please read my written testimony. Thank
21 you so much.

22 CHAIRPERSON RIVERA: Thank you.

23 COMMITTEE COUNSEL: Thank you. Next
24 we'll hear from Victor Pate.

25 SERGEANT AT ARMS: Time has begun.

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COMMITTEE ON CRIMINAL JUSTICE

COMMITTEE COUNSEL: Alright. Next we will hear from Ramos Gaston [sp?].

SERGEANT AT ARMS: Time has begun.

UNIDENTIFIED: [inaudible]

CHAIRPERSON RIVERA: [interposing] Mr. Pate? I hope I'm pronouncing it correctly. Victor? Victor, you-- Victor?

VICTOR PATE: [inaudible]

CHAIRPERSON RIVERA: We're hoping you can testify at this time if you are available.

VICTOR PATE: [inaudible]

CHAIRPERSON RIVERA: Okay, maybe not right now.

COMMITTEE COUNSEL: Okay, we're going to move to Kimberly Blair.

SERGEANT AT ARMS: Time has begun.

COMMITTEE COUNSEL: Alright, we'll try to return to these folks after our next in-person panel. Next up we'll have Scott Paultruitz [sp?], followed by David Dulancy [sp?], Fleming Smith, Jennifer Parish, and Mercedes Gillum [sp?]. And if you're still here, Sarita Daftary, Darren Mack, Christopher Boyle, Carmen Pinnaro [sp?], Carney Lee [sp?], and Kul Joo [sp?]. You guys are on deck. And then

1
2 there's a couple more, Lori Maestri [sp?], Douglas
3 Powell [sp?], Barat Elman [sp?], and Donna Gould
4 [sp?]. I think that's everybody.

5 CHAIRPERSON RIVERA: Just, we're going to
6 go through the names one more time for anybody that's
7 left in these chambers right now. Scott Paltruitz
8 [sp?], David Delancy [sp?], Fleming Smith, Jennifer
9 Parish, Mercedes Gillium [sp?], Sarita Daf-- Sarita,
10 I'm sorry, I know your name. I just like-- I'm so
11 sorry. Today, it's just been six and a half hours.
12 Thank you Sarita for your graciousness. Darren Mack,
13 Christopher Boyle, Carmen Pinnaro [sp?], Carney Lee
14 [sp?], Koo Lee Joo [sp?], K H U L I J O U, and then
15 just in case, Lauren Mester [sp?]--- Douglas Powell
16 could not stay, he's from Vocal New York, and I thank
17 him. Barrett Elman [sp?], Donna Gould. And we will
18 go back to the people on Zoom for one last call.
19 Okay, we are going to start with Sarita.

20 SARITA DAFTARY: Thank you. Thank you.
21 I know it's been a long day, and I'm going to share
22 words from one of our members who couldn't be here,
23 and I promise that I would make sure that they were
24 heard aloud in this hearing. So, I am Co-Director of
25 Freedom Agenda. We're members of the Jails Action

1 Coalition, and our members have lived through
2 solitary confinement and seen its effects on their
3 loved ones, and they believe that this passing this
4 legislation is urgent. I'm sharing testimony on
5 behalf of one of our members whose son is currently
6 on Rikers. She asked to be identified only as Ms.
7 Gomez to avoid further endangering her son. I'll
8 begin her words now: "Solitary confinement is a
9 violation of human rights. It is torture. My son is
10 a 22-year-old. He's been held at Rikers since he was
11 18. The last time he was in solitary confinement was
12 a month ago. He spent almost three months there
13 where he caught a stomach infection for being placed
14 in a cell with a broken toilet. Due to the harmful
15 punishment he's received there, he's experienced
16 visual and auditory hallucinations, insomnia,
17 paranoia, back pain, neck pain, weightless, and many
18 more uncontrollable feelings like fear and anxiety.
19 He feels the whole atmosphere is closing in. It's
20 such a horrendous feeling. The fact that being
21 isolated from people is just so traumatic, degrading,
22 and humiliating. To only get an hour of recreation
23 in a cage is just so insane. There's a lack of
24 mental healthcare in the facilities and a lack of
25

1 educational programs. The law library is closed most
2 of the time. Besides being restricted from the rest
3 of the population residing inside, the people in
4 solitary are also restricted from hygiene supplies
5 like toilet paper and sometimes food. He was also
6 restricted from tele-visits, and in-person visits and
7 phone calls for four months. The effects of solitary
8 confinement on mental health can be lethal. The
9 irreparable damage caused by solitary confinement is
10 unjustifiable. Most of the time he's been in
11 solitary it's just for fighting for his rights.
12 While DOC says they do not have solitary confinement
13 right now, only punitive segregation, it is in
14 practice the same punishment. There is enough proof
15 that solitary confinement doesn't help anyone.
16 Solitary confinement can cause permanent
17 psychological damage and may lead to self-harm,
18 psychosis and suicide, and I don't want my son to be
19 the next." I'll end there with her words and just
20 emphasize, I can't imagine having to write that
21 sentence that she wrote about my loved one and how
22 she must feel and how worried she is. And so we
23 cannot-- we cannot do enough fast enough, and this is
24 one of the things we must do. Thank you.
25

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2 JENNIFER PARISH: Good evening. My name's
3 Jennifer Parish and I'm the Director of Criminal
4 Justice Advocacy at the Urban Justice Center in our
5 Mental Health Project and a member of the HALT
6 Campaign and the Jails Action Coalition. Thank you
7 so much for giving me an opportunity to testify in
8 support of this bill and for having this hearing and
9 for staying so late. This is a critical piece of
10 legislation that needs to be passed right away. The
11 horrible pain that solitary confinement inflicts
12 while a person is subjected to it, and the scars of
13 trauma it leaves afterwards are well-documented.
14 You've heard it here. And the research backs that
15 up, too. We know that from studies in the New York
16 City jails that people are seven times more likely to
17 harm themselves or attempt suicide if they've been in
18 solitary confinement. Given that the crisis of
19 suicides in the jails right now, it seems like ending
20 solitary confinement should be of the utmost concern
21 for everybody in the city. Intro 549 bans solitary
22 confinement completely, but it also puts limits on
23 de-escalation, emergency lock-ins and any other type
24 of restriction that the Department develops. These
25 limits are so critical because the Department has a

1 history of responding to any sort of limit on
2 solitary by creating something else, something else
3 that is degrading and dehumanizing like locking young
4 adults in shackles to restraint desks. And we know
5 that this commissioner is no different. His
6 testimony demonstrates exactly why this bill needs to
7 define out-of-cell. He sat here and told you under
8 oath there is no solitary in the city jails. He went
9 through this word play of involuntary protective
10 custody and private day rooms. It was not until you
11 and Public Advocate Williams questioned him again and
12 again about-- oh, you mean the cage outside the cage,
13 you're saying that's not solitary confinement?
14 That's when he finally had to say, "Oh, that's what I
15 mean." And stopped using these euphemisms, and it
16 shows you exactly why we need to define what solitary
17 confinement is. and I'll just end by saying, you
18 know, solitary-- like the Public Advocate said,
19 solitary is just one part of this dysfunctional
20 system, but it's a place where this Council can have
21 meaningful impact. By passing Intro 549 and
22 requiring this Department to stop using solitary
23 confinement in all its forms by whatever name. The
24 Council can compel this department to turn away from
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1 barbaric practices that rely on use of force and
2 isolation to control incarcerated people, and instead
3 move toward a more effective, humane approach for
4 everyone both people confined in jails and those who
5 work there. Thank you.

7 FLEMING SMITH: Good evening. My name is
8 Fleming Smith and I'm a legal intern with the Urban
9 Justice Center's Mental Health Project. I'm here to
10 share testimony from a person incarcerated on Rikers
11 Island. It includes discussions of self-harm. "I was
12 in solitary in GRVC for three months this winter. I
13 did 30 days in solitary, and a little over two months
14 in enhanced supervision housing. But ESH, to be
15 honest with you, is the same thing as the box. It's
16 mentally draining. It's physical torture. I wasn't
17 allowed outside my cell. Sometimes we get showers.
18 Some days we don't. The only time I was let out of
19 cell was for the shower or for recreation, and they
20 barely called rec. I remember there was a time where
21 I went two months without having any rec, just
22 because the officers would say they were short on
23 staff, or they take our list for rec at six o'clock
24 in the morning when nobody's up. A lot of times the
25 offices don't want to do their job. They'll just do

1 a round so that the camera can see them, but rec is
2 mandatory and everyone is supposed to be entitled to
3 one hour of rec a day. Even at AMKC I'm out of ESH
4 and I'm out of the box, but they don't even call rec
5 every day here. The last time I had rec was a week
6 ago. Staffing is the main excuse. They say we're
7 short on staff, especially when I was in the box,
8 they always said they were short of staff. I was in a
9 cell where the windows didn't open and it was
10 constantly hot. I was there in the winter so it was
11 cold and they had the heat running but my window
12 didn't open, and the heat was blasting so hot that I
13 couldn't wear clothes in my cell. At night, I
14 sweated myself to sleep. It would be so hot that I
15 couldn't sleep. I would complain, but no one would
16 say they could do anything. They tried to see if
17 they could put me in a cell where the window opens,
18 but the box was always full. My time in the box
19 started after I was blamed for something someone else
20 did. I and one other person went to the box for it
21 even though other people were involved. Our tickets
22 were written by the same officer, but they said
23 different things. Mine said that I alone did it, and
24 his ticket said that he alone did it. I told the
25

1 hearing officer about the tickets, but they found me
2 guilty. I appealed that over five months ago, but I
3 haven't heard anything from anybody. No one answered
4 my appeal. They put me in ESH after I did 30 days in
5 the box. I was supposed to have an ESH hearing to
6 explain why they put me there, but I never had a
7 hearing. ESH is no different from the box because you
8 don't get out of your cell at all. I was in ESH for
9 over 60 days. In total I did almost 100 days
10 confined to a cell. The captain said the reason I
11 didn't have a hearing was because my house was
12 asymptomatic for COVID-19, but they never did any
13 adjournment. They just never gave me a hearing. Two
14 months after the incident I was just given a
15 disposition that I was guilty, but I had never been
16 to a hearing. I appealed but haven't heard anything
17 back. How do you find me guilty if you never gave me
18 a hearing? I grieved both dispositions, but never
19 heard anything back. On Rikers Island they're saying
20 the most time you can be put in the box is 30 days,
21 but what they're actually doing is putting people in
22 ESH, making you do more time confined. So you're
23 going to do the max of 30 days, but they're going to
24 put you in ESH and you could be in that ESH for
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1
2 months. My mental health was affected by not being
3 able to leave my cell, being cramped in small
4 quarters for weeks at a time. I have a bad history
5 where I try not to indulge in hurting myself, but I
6 did before. I've cut my wrist before, and I've had
7 episodes where I really tried to hurt myself badly.
8 I always try to talk to people and I take my
9 medication. I've been diagnosed with anxiety, PTSD,
10 and depression. AMKC is much better than the box or
11 ESH because I actually see mental health
12 professionals there. When I was in solitary in ESH I
13 didn't see anybody. Nobody came to see me. I always
14 thought that mental health would come check on me and
15 all the other people here, but they didn't come to
16 see me at all. In AMKC I go to see them every three
17 weeks. We all know about so many people who killed
18 themselves on Rikers last year. A lot of those
19 deaths were people going through something mentally
20 where they felt like they weren't getting the help. I
21 think if they were getting the help that they needed,
22 a lot of these deaths wouldn't have happened. Rikers
23 is a horror. People aren't getting the very basic
24 necessities that they need. In the box, there's
25 people going days without showering. It's hard for

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2 people to use the phone. Guys aren't getting the rec
3 they're entitled to. People don't even want to come
4 here to visit a person. That puts a person in a
5 messed up space when your loved one doesn't even want
6 to come see you because they will be treated like an
7 inmate just because they want to come visit you. I
8 know they are talking about shutting it down. I hope
9 it really happens. I just pray that I can make it
10 home safely, because I know that this can be very
11 traumatic on anybody. It is sad that people lost
12 their lives by coming here, but it just goes to show
13 that Rikers Island should be shut down." This ends
14 the testimony. Thank you for listening.

15 CHAIRPERSON RIVERA: Thank you. Just
16 click the little button so we can hear you loud and
17 clear.

18 DARREN MACK: Thank you Chair and
19 Committee Members for this hearing today. My name is
20 Darren Mack, Co-Director at Freedom Agenda and member
21 of the Jails Action Coalition and a survivor of
22 solitary confinement. I want to share a quote from a
23 jail guard speaking about violence on Rikers Island.
24 They said, "Today, these guys are younger, more
25 vicious, and they don't listen to nobody, and they

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2 make weapons out of anything." While that statement
3 sounds just like what we heard from COBA today, that
4 statement was made in 1994, quoted in New York
5 Magazine, a few months after I was detained on Rikers
6 Island for 19 months as a 17-year-old when the
7 population was over 20,000 people. I can verify that
8 Rikers was a wildly violent place as it is now, and
9 like they are now, COBA is gas lighting us by trying
10 to blame everyone but themselves and trying to
11 convince us that somehow the guards are the victims,
12 not the people being tortured in solitary confinement
13 who rely on those guards for everything from a breath
14 of fresh air to court transport. Today, you heard
15 Benny Boscio make several statements. I hope this
16 Council is informed enough to see through the lies,
17 but if you have any doubt, let me remind you that in
18 1994 they were making the same excuses for their
19 neglect, indifference, and violence. It seems COBA
20 would only be satisfied if they had complete impunity
21 to abuse incarcerated people in whatever way they
22 want. The same article noted that in 1994 when
23 there were almost no restrictions on solitary, "CO's
24 would like to see inmates kept in their cells 24
25 hours a day." Instead of getting out to shower and

1 use the law library. But what they never seem to see
2 is that even if they have that, it could not end the
3 violence on Rikers Island. This Council knows that
4 ending solitary confinement is the right thing to do
5 for human rights and for safety. COBA are doing
6 their members a disservice by clinging to a "Make
7 Rikers Great Again" fantasy, and insisting that they
8 cannot catch up with the rest of the civilized world
9 and learn new approaches that focus on de-escalation
10 and addressing root causes of violence. New York
11 City has committed to closing Rikers Island, and that
12 must mean leaving behind its most brutal practices
13 like solitary confinement, and I urge the Council to
14 pass the legislation without delay. Thank you.

16 UNIDENTIFIED: Thank you, Chair and
17 everyone. You can get lost in a long day of
18 testimony, but this is so urgent. Every day that
19 goes by is a day like today where people are being
20 tortured by our government and facing the risk of
21 death. It has been seven and a half years since
22 Kalief Browder died because of solitary confinement.
23 It has been three and a half years since solitary
24 killed Layleen Polanco. And instead of heading the
25 cry of countless New Yorkers demanding an end to this

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2 practice, the city jails continue to inflict this
3 torture by various names in various units, but they
4 continue. They even lock people in shower cages and
5 try to defend that. They killed Brandon Rodriguez in
6 a shower cage last August. When there was massive
7 public outcry, did they stop using the shower cages?
8 No, they kept using them, and they locked Elijah
9 Muhammad in the shower cages and who knows how many
10 other people, because they wouldn't even give numbers
11 on it, and they killed Elijah Muhammad. What is it
12 going to take? It's going to take this City Council
13 to step in and say no more. You all have the awesome
14 power and the awesome responsibility to step up to
15 the plate and end this practice once and for all, by
16 all names, no matter what it's called, no matter what
17 unit it is, solitary confinement has to end fully and
18 finally in New York City jails. And we know from the
19 evidence, and you know Chair Rivera, that the exact
20 opposite of solitary is not only what will keep
21 people better healthy and well, but also improve
22 safety for everyone involved. And so I ask you
23 urgently, have committee vote. Let's have a vote of
24 the full Council. Let's pass this bill. The mayor
25 must sign it into law, and do what your predecessors

1 failed to do to finally and fully end solitary
2 confinement, to save lives, to stop torture, to may
3 everyone healthier and safer, and to put this dark
4 history behind us. Thank you.

6 CHRISTOPHER BOYLE: My name is
7 Christopher Boyle. I'm the Director of Data Research
8 and Policy at New York County Defender Services. My
9 office handles thousands of cases for indigent
10 clients charged with criminal cases each year. Many
11 of those clients have spent a considerable amount of
12 time in Rikers Island and have been held in some form
13 of solitary confinement, whether that's referred to
14 as enhanced segregation or solitary confinement by
15 some other name. Thank you for having this hearing
16 related to these issues. In December of 2021, myself
17 and members of the other Defender organizations were
18 in meetings with the Mayor's Office of Criminal
19 Justice and the Department of Corrections about the
20 implementation of the changes to the minimum
21 standards that had been duly passed by the Board of
22 Corrections. Specifically, these changes known as
23 the Risk Management Accountability System or RMAS.
24 This sought to end the use of solitary confinement
25 and to endure due process at disciplinary hearings on

1 Rikers Island. A major component of the new system
2 was the right to counsel in any disciplinary
3 proceeding that could result in placement in
4 segregated housing. Defender organizations were, of
5 course, to play a critical role of implementing this
6 hugely important component of the new law, and it was
7 this role that Defender organizations met with MOCJ
8 to discuss. As such, disciplinary hearings at Rikers
9 have never involved the right to legal representation
10 before, so not a lot of details of the hearings were
11 known by the Defender community prior to December of
12 2021. When asked about the volume of the hearings,
13 DOC reported to the Defenders that they were
14 currently conducting thousands of disciplinary
15 hearings at Rikers, which basically meant that each
16 hearing lasted about 10 to 15 minutes. The picture
17 of the current state of affairs that this evoked was
18 shocking. They were churning through hearings at
19 such a rate that you would hardly consider that due
20 process. It was clear implementing a new right to
21 counsel made that would be more important than
22 imagined. Yet, so much remained unknown to the
23 Defender community and how it was going to be carried
24 out. The understanding at the time is that we were
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1 going to get information concerning the following:
2 how we would be alerting to how-- when our clients
3 were being charged with the infraction, getting the
4 paperwork for that charge, getting the discovery,
5 specifically the video footage, where the hearing
6 itself would take place, and whether it would be in
7 person or virtual, and access to the actual list of
8 the rules and charges and the penalty grades. I
9 believe at the time we went to two meetings prior to
10 January 1st, and none of this information was
11 conveyed or resolved. We then spent the next
12 approximately six months in limbo. We were told in
13 late June that we would have additional meetings for
14 a start-up time of July 1st of 2022. The one or two
15 meetings that did occur during that time period were
16 even worse than the December meetings. Instead of
17 feeling like the meeting was a way for the Department
18 of Corrections to slow-walk the initiative, it was
19 clear now they didn't want it. They were actually
20 openly hostile and obstructionist during the
21 meetings. We were asked about-- asking about the
22 information. We were told that we would have to FOIL
23 it. We asked about the video footage. We were told
24 [inaudible] shown when we were actually doing the
25

1 hearing. We were also actually told we couldn't
2 actually talk to our clients until the hearing was
3 happening and maybe we'd have a discussion then. In
4 other words, the plain intent of DOC appeared to be
5 that these hearings under the new rules would provide
6 just a scant nod to due practice as they always had.
7 Those on this Council should know that besides the
8 obvious psychological damage that solitary does to
9 our clients. Those infractions are used against our
10 clients in multiple ways. First our clients are
11 being produced for in-counsel [sic] visits on video
12 conferences. One DOC places the clients in enhanced
13 segregation, many officers are needed to escort the
14 client wherever they need to be, but because DOC has
15 a short staff, this inevitably leaves the client
16 missing court, counsel visits, or medical
17 appointments. Second, at least here in Manhattan on
18 many occasions the District Attorney gains access to
19 this infraction information and makes real-time
20 decisions on offers and sentencing recommendations
21 based upon the infraction that our clients are found
22 guilty of without any representation or due process.
23 This leads our clients to have ramifications that go
24 above and beyond the immediate segregation into the
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1 housing decisions. Lastly, these infractions follow
2 the clients if they end up in upstate prison, and
3 most assuredly have an effect on the parole releases
4 and program access. It's vitally important that
5 representation at these hearings is not just a rule,
6 but a legal requirement. Otherwise, DOC will never
7 do it. Thank you.

9 CHAIRPERSON RIVERA: Thank you very,
10 very much to this panel. Thank you for being here
11 and for what many of you experienced this morning
12 which was absolutely unacceptable and for your
13 testimony, and I really value our partnership. Thank
14 you.

15 COMMITTEE COUNSEL: Looks like we have
16 one more live panelist.

17 CHAIRPERSON RIVERA: OH, okay, yes,
18 please. Of course. I'm so sorry we missed you. And
19 while you're getting settled, I'm just going to make
20 the call to our folks on Zoom. We're going to make
21 one more call after this. Make sure we get everyone.
22 Please begin. Thank you.

23 KAMI LEE: Greetings. Good evening to
24 everyone. Please allow me to thank Chair Rivera and
25 each and every member who sits on this imperative

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2 committee. My name is Kami Lee [sp?]. I am a New
3 Yorker who uses the voice that I have been given to
4 bring awareness and attention to diverse injustices.
5 Why should intro 549 be signed and passed in this
6 City of New York? The vital necessity to provide a
7 legal safeguard for our fellow New Yorkers who are
8 incarcerated creates a plan of action that will
9 mandate the New York City Department of Corrections
10 to enforce an to act in accordance with. Many of us
11 comprehend the fact that human isolation is torture.
12 As we know, torture is prohibited in the US by public
13 officials. The City of New York allows the
14 Department of Corrections to carry out human torture
15 to the men and women who reside in the custody of
16 corrections. New Yorkers are released daily from the
17 custody of corrections suffering from ailments that
18 they never suffered from upon entry into the custody
19 of Corrections, while living out the aftermath of
20 fatal restrictions caused by solitary confinement.
21 The use of torture destroys people, corrodes the rule
22 of law, undermines the criminal justice system and
23 erodes public trust and public platforms. In the
24 state that they represent, it causes severe pain and
25 suffering to victims which continue long after the

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2 act of torture stopped. Furthermore, the passing of
3 Intro 549 will offer not only safeness and protection
4 for the human lives that are now placed inside of
5 solitary confinement. Intro 549 also establishes an
6 armor of protection for our New Yorkers who live with
7 mental illness. We cannot as a city continue to talk
8 about those affected by mental illness until we do
9 more to provide and protect them. In closing, as
10 diverse as New York City is, the truth is everyone in
11 our city is not granted the option of humanity. If
12 so, then we as a city would not continue the practice
13 of the deplorable act as solitary confinement and
14 resume the horrific journey of the death sentences.
15 My last quote. The system of constant separation,
16 even when administered with the utmost humanity
17 produces many causes of insanity and of death as to
18 indicate most clearly that its general tendency is to
19 enfeeble [sic] the body and the mind. Thank you, and
20 I respectfully yield back. Thank you Madam Chair.

21 CHAIRPERSON RIVERA: Thank you. Thank
22 you for being with us this long.

23 COMMITTEE COUNSEL: Thank you. We're
24 going to try one more time on the Zoom for Kimberly

1 Blair. Kimberly Blair, you may begin when the
2 Sergeants announce the time.

3 SERGEANT AT ARMS: Time has begun.

4 KIMBERLY BLAIR: Can you hear me now?

5 CHAIRPERSON RIVERA: Yes, we can hear
6 you, yes.

7 KIMBERLY BLAIR: Yay. Okay, here we go.
8 Good afternoon, Chair, and I don't think anyone's
9 left, but the members who heard us today. My name is
10 Kimberly Blair and I'm the Director of Public Policy
11 and Advocacy for the National Alliance on Mental
12 Illness of New York City, and I'm here to emphasize
13 the dire need to vote favorably upon Intro 549, as-
14 is, as-written, in order to prioritize the health and
15 the safety of people who are incarcerated, especially
16 those with underlying mental health conditions. NAMI
17 NYC and our umbrella organization NAMI both staunchly
18 oppose the use of solitary confinement and the
19 equivalent forms of administrative segregation.
20 Ample evidence shows that solitary confinement and
21 isolation as punishment has particularly devastating
22 impacts on causing new or worsening pre-existing
23 mental-- symptoms of mental illness. Immediate
24 psychological consequences include increased anxiety,
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1 depression and hallucination. Such is evident in
2 correctional facilities across the US where people in
3 solitary confinement account for approximately half
4 of individuals who die by suicide each year, and such
5 is evident in our city as heard by advocates today.
6 However, the risk of premature death does not end
7 when someone leaves the correctional facility. To
8 the contrary, new data released during the pandemic
9 shows that solitary confinement increases risk of
10 premature death even after release. Specifically,
11 people with one placement in solitary are 55 times
12 more likely to die by suicide, especially within the
13 first year of their release. Furthermore,
14 individuals with multiple placements in solitary are
15 129 times more likely to die by suicide after
16 release. We place special emphasis on the data here
17 so that this committee understands that continuing
18 the practice of solitary confinement in New York City
19 jails is equivalent at this point to imposing the
20 death penalty on individuals. Moreover, NAMI NYC has
21 extra concern due to the disparity of people already
22 living with mental--
23

24 SERGEANT AT ARMS: [interposing] Time has
25 expired.

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2 KIMBERLY BLAIR: Well, I will submit the
3 rest as written. I just want to say that we have been
4 helping Elijah Muhammad family with mental health
5 services due to the tragedy that has been imposed on
6 him, and I hope that you all will read their written
7 testimony when they submit it this week. Thank you.

8 COMMITTEE COUNSEL: Thank you. And we're
9 going to call one more time for Ramos Gaston [sp?].
10 If you are available, you may begin when the
11 Sergeants call time.

12 CHAIRPERSON RIVERA: If there's any
13 members of the public left who wish to testify, we're
14 just going to give you a couple more seconds. That
15 concludes public testimony. Thank you so much to
16 everyone who is still here. I want to thank all of
17 the Committee Staff, everyone at the City Council for
18 staying with us. Today's Committee on Criminal
19 Justice, this hearing has been years in the making
20 and almost entirely thanks to the advocates who have
21 led the way. The crisis within our jails is a stain
22 on this Administration and it has cost New Yorkers
23 their lives. While there is nothing we can do to
24 bring back the lives lost as a result of solitary, we
25 can prevent this inhumane practice from harming

1
2 others. DOC owes it to incarcerated individuals as
3 well as their rank and file Correction Officers to
4 end this dangerous and fundamentally ineffective
5 practice. Solitary confinement does not keep anyone
6 safe inside or outside of City jails. Continuing to
7 subject New Yorkers to a torturous practice that has
8 proven time and time again to produce devastating
9 consequences for people's physical and mental health,
10 and then releasing them back to their communities is
11 not a sound public safety strategy. Intro 549 will
12 ban solitary confinement under any and all
13 definitions by following evidence, not rhetoric, and
14 reinstating due process for anyone placed into some
15 form of restrictive housing while incarcerated.
16 Contrary to threats we heard today of violence
17 without consequences, this bill does not prevent
18 separation when there is an imminent threat. It does
19 however ensure that all incarcerated individuals have
20 access to at least 14 out-of-cell hours every day as
21 well as regular assessment by medical staff and
22 access to appropriate services and programming and we
23 do take the recommendations to strengthen the
24 legislation seriously from all who testified today.
25 Thank you for that. As the Chair of the Committee on

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2 Criminal Justice, I'm honored to have had the
3 opportunity to hold this hearing and I thank all of
4 you who remained here through the challenges we saw,
5 especially those of this morning, which I want to
6 reiterate were completely unacceptable. Alongside
7 Speaker Adams, Public Advocate Williams, and a
8 majority of my colleagues, we are now one significant
9 step closer to passing the legislation that will
10 finally end solitary confinement in our city. Thank
11 you, and with that I adjourn this hearing.

12 [gavel]

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COMMITTEE ON CRIMINAL JUSTICE

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COMMITTEE ON CRIMINAL JUSTICE

C E R T I F I C A T E

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



Date October 12, 2022