

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

JOINT COMMITTEES ON FIRE & CRIMINAL JUSTICE
AND SUBCOMMITTEE ON JUVENILE JUSTICE

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February 23, 2009
Start: 10:22 am
Recess: 12:52 pm

HELD AT: Council Chambers
City Hall

B E F O R E:
MIGUEL MARTINEZ
Chairperson, Fire and Criminal
Justice

SARA GONZALEZ
Chairperson, Juvenile Justice

COUNCIL MEMBERS:
Tony Avella
Maria de Carmen Arroyo
Mathieu Eugene
Vincent J. Gentile
Alan J. Gerson
Eric N. Gioia
Letitia James
Eric Gioia
Darlene Mealy
Helen Sears

A P P E A R A N C E S [CONTINUED]

Lisette Camilio
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Nancy Ginsberg
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The Legal Aid Society

Mary Dougherty
Rights for Imprisoned Persons

Lisa Ortega
Rights for Imprisoned Persons

A P P E A R A N C E S [CONTINUED]

Mishi Faruqee
Director
Youth Justice Program
Children's Defense Fund, New York

Mary Lynne Werlwas
Prisoner's Rights Project
The Legal Aid Society

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2 CHAIRPERSON MARTINEZ: I'm going to
3 call the Oversight Hearing of the Joint Hearing of
4 the Fire and Criminal Justice Services and the
5 Juvenile Justice Committee to order. Before I do
6 that I want to recognize my colleagues who are
7 here with me, member of the Committee, Council
8 Member Jimmy Vacca from the Bronx and Council
9 Member Letitia James who is the prime sponsor of
10 several pieces of legislation that we will be
11 going over today.

12 Good morning, my name is Miguel
13 Martinez. I am the Chair of the Fire and Criminal
14 Justice Committee. I want to thank Chair Gonzalez
15 and our staff for putting together this important
16 hearing and for co-sponsoring legislation that we
17 are going to be hearing today. I also want to
18 thank Council Member James, as I mentioned
19 earlier, for being the prime sponsor of these
20 pieces of legislation.

21 Although the State law considers
22 16, 17 and 18-year olds who are accused of
23 committing crime as adult, they are in fact
24 children who still, who are still developing and
25 learning and whom will have a better chance of

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2 preventing recidivism than those who are older.
3 While 754 adolescents are currently being housed
4 at Rikers Island and make up a small portion of
5 the City's jail population which had 107,516
6 admission and an average daily population of
7 13,850 in the last Fiscal Year, they are
8 particularly impressionable, vulnerable and in
9 need of guidance and protection.

10 On October 20, 2008 Christopher
11 Robinson, an 18-year old being detained at Rikers
12 Island was found dead in his jail cell. I want to
13 express my condolences to his family and to let
14 them know that we are committed to ensuring that
15 this tragic death will bring about a chance will
16 prevent others from jail violence and suffering.

17 On January 2009, January 22, 2009,
18 Bronx District Attorney Robert Johnson and the New
19 York City Department of Investigation Commissioner
20 Rose Jill Hearn, announced a grand jury had
21 indicted three of New York City Correction
22 Officers and 12 adolescent inmates on charges
23 including manslaughter, conspiracy and corruption
24 and other offenses from the investigation into the
25 death of Mr. Robinson. The four month

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2 investigation into the fatal beating of Mr.
3 Robinson uncovered numerous other alleged criminal
4 acts against adolescent inmates including assault,
5 acts of coherence (sic) and larceny and extortion.
6 The crimes charged in the indictment involved nine
7 different victims on nine separate occasions
8 between July 10th, 2008 and October 18th, 2008.

9 It is alleged that two Correction
10 Officers acted as managers for an organized,
11 organization referred as The Program, that operate
12 within the facility in which Mr. Robinson was
13 killed. These officers allegedly gave inmates
14 known as The Team who they personally selected,
15 responsibly for maintaining order, maintaining
16 order in the jail unit. The exchange for
17 maintaining order of these officers allegedly
18 authorized The Team to extort personal property
19 from their victims and in a variety of ways.

20 Other reports...

21 [Pause]

22 CHAIRPERSON MARTINEZ: Oh okay.

23 Other reports indicate that as far as February
24 2008, other Correction Officers were, was accused
25 of using Team inmates to target other inmates in

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2 the City jails. While many indicators of violence
3 and other jail data regarding the City's
4 correctional facility continue to reflect
5 decreases, such as report of reduction in serious
6 injuries to inmates from 209 in 2007 to 177 in
7 2008, and the fact that there were only 19
8 stabbing and slashing reported in the last Fiscal
9 Year, some indicators have increased and are a
10 concern to this Committee.

11 Before I continue I just need to
12 acknowledge several of my colleagues who need to
13 go back to other hearings that we're having at the
14 same time. I need to acknowledge Council Member
15 Avella, Council Member Sears and Council Member
16 Eric Joya who has joined us. And I know that
17 there are several hearings happening at the same
18 time which members will be going in and out.

19 Commissioner Hearn, excuse me,
20 Commissioner Horn recently reported that there was
21 a steady growth in what are called B use of force
22 from 2004 to 2007. In an increase of 13,000 in
23 2007, excuse me, 1,300 in 2007 to approximately
24 1,600 in 2008. I also understand that while A use
25 of force was dramatically decreased over the past

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2 several years, as early of 2008 the Department of
3 Corrections was reporting a rate of A use of force
4 was 55% higher than the prior year.

5 While I leave it to the
6 Commissioner to describe the difference between a
7 B and an A use of force, it is the simplest term,
8 A use of force is when an officer use force that
9 results in serious injury to inmate or staff, and
10 B use of force are those that result in less
11 serious or no injury.

12 The Commissioner also reported that
13 inmate assault on staff increased from 406 in 2007
14 to 458 in 2008. And that the rate of adolescents
15 being seriously injured during fights is 4 times
16 higher than the rate of adults while others have
17 calculated that the rate as being 5 times higher.
18 I also understand that the Commissioner reported
19 that the Department of Corrections did not have a
20 historical data by which to determine whether the
21 much higher rate among adolescent inmates was a
22 recent development.

23 Finally the Commissioner also
24 indicated that from August 2008 to January 2009
25 there have been 722 lockdowns with an average

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2 duration of 2 hours and 3 minutes. I understand
3 the Commissioner has noted many reasons for these
4 increases. I look forward to the discussion on
5 these reasons with him in this hearing.

6 The Committee has been in, and
7 remains concerned with the safety and the well
8 being of adolescents at Rikers Island. The
9 Department, the death of Christopher Robinson and
10 the ensuing indictment of the Correction Officers
11 and adolescents in jail inmates, as well as a
12 prior indictment of violence are deeply troubling
13 to the Committee.

14 The Committee wants to ensure that
15 there are systems in place to quickly identify any
16 increase in violence. That all allegations of
17 violence are thoroughly investigated, that the
18 Correction Officers are appropriately screened,
19 trained and supervised, and held to the highest
20 standards of conduct and that all appropriate
21 measures to reduce violence are being undertaken.
22 The Committees are concerned with the rate of
23 fights resulting in serious injuries among
24 adolescents when compared to the rest of the jail
25 population and want to have a better understanding

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2 of why the disparity exists and what is being done
3 to address it.

4 The Committees want to have
5 specific data on violence and other indicators
6 regarding adolescent jail population on a regular
7 basis so that we can better monitor any notable
8 changes and again I want to thank Council Member
9 James and Gonzalez for proposing legislation which
10 I'm co-sponsoring that will require this data to
11 be reported monthly.

12 While I understand the Commissioner
13 is limited in what he can say about the death of
14 Mr. Robinson and the pending cases as a result of
15 the investigation of his death, I want to have a
16 better understanding as to whether there were--
17 where there were opportunities if any allegation
18 is proven true, to have uncovered these type of
19 activities and more importantly I know that the
20 changes have been and will be made to prevent
21 incidents like those alleged from reoccurring in
22 the future.

23 There are several items from our
24 Joint Oversight Hearing in November regarding the
25 special needs for adolescents in New York City's

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2 correctional facilities that I want to follow up
3 on. It is my understanding that there have been
4 some recent changes to the ratio of Correction
5 Officers to adolescent inmates which the
6 Committee, along with many advocates, have long
7 called for at the, I believe is a step in the
8 right direction. And I want to make sure that
9 those changes are in fact in place and permanent.

10 I also want to make sure that the
11 Correction Officers responsible for working with
12 adolescents have been receiving additional
13 training and want to know the nature of the
14 training, as well as how many officers have
15 received it. Finally I want to ensure that the
16 additional training becomes a permanent
17 requirement for all Correction Officers working
18 with adolescents.

19 I want to thank the Commissioner
20 and his staff for addressing the adolescent jail
21 violence. I will also ask the Commissioner to
22 make an opening remark momentarily. But first I
23 want to call on Co-Chair Sara Gonzalez for her
24 opening remarks. And I believe that following
25 her, Council Member James has some opening remarks

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2 as regards to the legislation that's being
3 proposed today.

4 CHAIRPERSON GONZALEZ: Thank you
5 Chair Martinez. Good morning ladies and gentlemen
6 and welcome to today's Oversight Hearing on
7 violence against adolescents at Rikers Island. My
8 name is Sara M. Gonzalez and I'm the Chair of the
9 Juvenile Justice Committee. I would like to thank
10 everyone for attending today's hearing to discuss
11 this very important issue facing the City's youth
12 population within the Department of Corrections.

13 As previously stated by Chair
14 Martinez, our Committees, along with the Committee
15 on Youth Services, held an Oversight Hearing in
16 November regarding special needs of adolescents in
17 New York City correctional facilities. We
18 discussed many issues during that hearing
19 including the issue of safety. We heard from
20 advocates and former inmates who testified about
21 the dangerous conditions that they or their
22 clients experienced at Rikers.

23 Our concern today is to learn from
24 their experience and move forward. As today's
25 hearing is a follow-up from our November hearing,

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2 we would like to hear from the Administration
3 about what steps they have taken to make sure that
4 the violent events do not happen again at Rikers.

5 As someone who has worked with this
6 population for many years, I am greatly concerned
7 for youth involved in the Justice System. I have
8 a responsibility to ensure that our adolescents
9 are safe and that their needs are properly taken
10 care of when they fall into the hands of the
11 Criminal Justice System. Today we will be hearing
12 a bill that I am cosponsoring along with Council
13 Member Tish James and Miguel Martinez, Council
14 Member Martinez.

15 I would like to thank both of them,
16 especially Tish James in respect to her leadership
17 and in exploring and in having the insight to move
18 forward a bill that will improve the services that
19 are provided in our prisons and to this
20 population. This bill pertains to DOC regularly
21 reporting information to the Council regarding
22 census data. Violent incidents and restricted
23 placement involving adolescents in City jails. I
24 believe that this bill will allow greater
25 transparency of DOC to the Council and will

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enhance the effectiveness of our oversight.

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Currently the DOC does not regularly report to the Council regarding violence and other related jail indicators pertaining to adolescents under their jurisdiction. This bill requires that Department of Correction give us information concerning how many adolescents are admitted into their facility, specifically how many are girls, how many are boys and how old they are. Furthermore this bill requires information concerning whether or not these adolescents have been previously admitted to a facility run by DOC or the Department of Juvenile Justice.

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The Council needs to know this basic information. Who are these kids? Who and where, in order to perform effective oversight and to make sure that they are getting their needs met. This bill helps us to do that.

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I also would like to thank our Council staff, Lisette Camilio, Rob and also, am I missing someone? Will. Thank you.

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Through the DOC reports, information regarding violent incidents at Rikers, this information for adolescents is not dis-

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2 aggregated from that data. I understand that
3 numbers are low overall but this population is
4 different than the general population at large.

5 Our bill requires that the
6 Department of Correction to regularly report on
7 the number of violent incidents that occur within
8 the adolescent units, including the number of
9 stabbings, slashings, fights, incidents involving
10 gang members and any physical injuries that result
11 from these occurrences. Furthermore the bill
12 requires information concerning assaults on staff,
13 as well as use of force by staff against an
14 inmate.

15 This information is extremely
16 important because it will allow the Council to get
17 a better sense of what is going on in these jails
18 and to help identify any trends or problems. This
19 bill will help us exercise our oversight
20 jurisdiction to keep our children safe when they
21 are incarcerated in an adult facility.

22 Finally this bill requires
23 information regarding a child placed in
24 restrictive placement. Currently the DOC is not
25 requires to provide the Council with any

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2 information concerning these occurrences. As the
3 name implies, such placement further limits a
4 child's freedom. And regardless of why they were
5 placed there, whether for their own safety or for
6 the safety of others, the Council needs to see
7 this information in order to be fully apprised of
8 what's going on in our jails.

9 Again I would like to thank you all
10 for being here today. And I would now like to
11 turn the floor back to my colleague, Chair
12 Martinez. Thank you.

13 CHAIRPERSON MARTINEZ: Council
14 Member James.

15 COUNCIL MEMBER JAMES: Thank you.
16 Thank you Chair Martinez and Chair Gonzalez for
17 this opportunity and to the Committee and to
18 Commissioner Horn and to your staff. Good
19 morning. First to the Robinson family, and to his
20 friends, my hearts and prayers are with your
21 family at this point in time. May he rest in
22 peace and may his death not go in vain.

23 The Committees and myself have
24 been, and remain, very concerned as well as with
25 the Department, with the safety and wellbeing of

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2 adolescents at Rikers Island. The death of
3 Christopher and the ensuing indictments of
4 Correction Officers and adolescent inmates as well
5 as prior incidents of violence are deeply
6 troubling to me and to this Committee, as well as
7 to the Commissioner.

8 This Committee and I are very much
9 concerned about the rate of fighting among
10 adolescents when compared to the rest of the
11 population and want to have a better understanding
12 of why the disparity exists and what is being done
13 to address it. The Committees would like to have
14 specific data on violence and other indicators
15 regarding the adolescent populations so that they
16 can better monitor any notable changes.

17 Let me also go on to say that this
18 was prompted by the November 2008 hearing of the
19 Council's Fire and Criminal Justice Services
20 Committee and the Juvenile Justice, Youth Services
21 Committee, where I was deeply concerned about the
22 evidence that I heard and particularly regarding
23 the special needs of the adolescents in our City
24 jails. It became apparent that not only was
25 information pertaining to adolescents in City

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2 jails being collected by the Department, but that
3 the Committees would benefit, but the Committees
4 could and should benefit from having it.

5 The Committees, in fact, cannot
6 develop any accurate understanding of the
7 conditions in which adolescents in City jails are
8 being--are living in without having that
9 information. The Committees therefore determined
10 that it would be beneficial to modify and expand
11 the indicators on which DOC's reports; two,
12 require reports to be submitted to the Council on
13 a monthly basis; and three, require their
14 percentage change for each indicator from the
15 prior month and prior years' average being
16 included in the monthly reports.

17 The hearing also revealed that
18 information regarding an adolescent's gender and
19 previous history of incarceration was being
20 collected and collated but not included in any
21 public reporting. And it is my opinion that we
22 really need to have disclosure and more
23 transparency. In accordance with that, I've
24 drafted three pieces of legislation which we will
25 hear this morning.

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2 One, it would require the
3 Department of Corrections to develop a discharge
4 plan for adolescents leaving City jails. Two, it
5 would require the Commissioner of the Department
6 of Corrections to give a monthly report to the
7 council regarding census data and violent
8 incidents involving adolescents in City jail. And
9 three is a resolution calling upon the State
10 legislature to sign legislation amending the
11 Family Court Act by changing the juvenile status
12 age to include 16, 17 and 18-year olds, and this
13 was an attempt to treat 16 and 17 and 18-year olds
14 as the juveniles that they are.

15 I look forward to the testimony and
16 I thank the two Chairs for this opportunity.

17 CHAIRPERSON MARTINEZ: Thank you
18 Council Member. At this time we'll hear testimony
19 from the Commissioner.

20 COMMISSIONER MARTIN F. HORN: Thank
21 you Chairman Martinez, Chair Gonzalez and members
22 of the Council.

23 When I appeared before you three
24 months ago, it was against the tragic backdrop of
25 the death of Christopher Robinson, and I testified

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2 in detail about the challenges presented by
3 adolescents in our jails and the numerous steps we
4 had already taken to keep them safe.

5 These included: launching the
6 Institute for Inner Development; video camera
7 installation; classification procedures; creating
8 a variety of new housing areas to enhance our
9 ability to separate vulnerable from predatory
10 inmates; gaining the authority to listen to inmate
11 phone calls; requiring all people in custody to
12 wear department-issued sneakers; enhancing
13 supervision of commissary, and the use of
14 telephones and television; investigating all
15 fights and serious injuries; and investigating any
16 and every allegation of staff wrongdoing.

17 I also told you that we encourage
18 inmates and family and friends to report concerns
19 and provide numerous avenues for them to do so,
20 and that we hold monthly meetings with the
21 Department of Investigation to review incidents
22 and discern patterns. I described some of the
23 programs we provide to address the special needs
24 of adolescents, and I reviewed, as well, some of
25 the newest efforts that are underway.

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2 Members of the Council, it should
3 be clear that we have been moving aggressively to
4 improve operations and safety at RNDC. But we
5 have never sat idly by. Telephone and
6 correspondence controls are tools we sought, and
7 won, to help us identify staff misconduct as well
8 as inmate on inmate violence. As early as 2005 we
9 sought amendments to the City's Minimum Standards
10 in order to listen to outgoing phone calls to
11 obtain critically needed intelligence information
12 and evidence, and the Board of Correction amended
13 their standards last year.

14 As I stated to the Board of
15 Correction in April 2007, "Most of the time, the
16 victim of a fight won't testify against his or her
17 assailant." Phone monitoring helps us "to learn
18 who is smuggling contraband and how; to prove,
19 often after the fact, who among our staff might
20 have compromised the safety of their brother and
21 sister staff by smuggling contraband or have
22 engaged in prohibited contact." And I might add
23 that it was this capacity that gave the
24 prosecutors one of the leads they followed in
25 making the case to indict the alleged Christopher

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Robinson killers.

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Since we last met, we have made considerable progress, and I will report on that today. Also since then, and with the full cooperation and participation of this Administration, the Bronx District Attorney announced on January 22nd the indictment of 12 inmates and 3 members of service in the October 18, 2008 homicide of Christopher Robinson.

Never before in my almost 40 years in this field have I seen allegations like these, where Correction Officers are charged with going to such extraordinary lengths to violate their oaths, abrogate their duties, corrupt inmates and prevent detection of their actions.

When faced with misconduct by our own staff, we have always taken aggressive action. Indeed, in 2007 an officer at RNDC was indicted as a result of suspicion of complicity in inmate extortion. The Deputy Warden at RNDC brought this case to the attention of the Department of Investigation. Moreover three other officers were terminated as a result of our investigations into their performance on the job in a separate though

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similar incident.

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In each of these cases the Department and its management staff have demonstrated zero tolerance for these kinds of behaviors. We do not hesitate to bring criminal wrongdoing to DOI when we suspect it, and we bring departmental charges and prosecute them vigorously at the Office of Administrative Trials and Hearings when the charges do not rise to the level of criminal activity.

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The Department's record at oath clearly reflects the efforts we make to hold our staff accountable for their performance. We work hard to train our officers; we impress upon them the importance of maintaining their integrity and being prepared for the ways in which inmates will try to compromise them. We prepare them for the difficult work they do and the countless important decisions they have to make during every shift. We also supervise them, to teach them to be better at their jobs, to detect improper behavior or corruption, and to investigate every hint of such behavior.

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We continue to reevaluate our

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2 policies, procedures, training and supervision
3 protocols to build upon what we have learned from
4 our analysis and the District Attorney's
5 investigation of the Robinson homicide.

6 Recognizing the challenges we face, we have
7 revised the training curriculum at our Academy to
8 ensure that the issue of integrity is fully and
9 adequately addressed, both separately and as a
10 component of every training program being
11 delivered.

12 We are working harder than ever to
13 ensure that our staff consistently meets our
14 standards for job skills, judgment and integrity.
15 New lesson plans on bullying and intimidation and
16 on intelligence gathering have been developed and
17 added to our recruit training, starting with the
18 class currently in our Academy, and this
19 information has been incorporated into in-service
20 block training and pre-promotional curricula for
21 staff already on the job. By July 1st, an expanded
22 adolescent specific lesson plan will be introduced
23 to all officers at RNDC.

24 While legal settlements had
25 mandated the installation of approximately 800

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2 surveillance cameras in our jails, we have
3 installed nearly 3,000 cameras throughout our
4 system, including adolescent areas of RNDC. We
5 also have expanded our use of a watch tour
6 program, which uses electronic systems to verify
7 that officers are making their required rounds of
8 inspections.

9 We are implementing an operational
10 change that will distinguish us from any other
11 jail in the State and probably in the nation,
12 since we are one of the only States that
13 incarcerate adolescents as adults. We have
14 created a new housing and security classification
15 system for adolescents based on two factors: age
16 and security risk.

17 Whereas in the past, like other
18 jails, we grouped 16 to 18-year olds together
19 without regard to age, we will effectively create
20 six new classifications for adolescents: high and
21 low security classes for 16-year olds, 17-year
22 olds and 18-year olds. Given the vast differences
23 in maturity levels between a recently turned 16-
24 year old and a young man about to turn 19, we
25 think this change will significantly reduce

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violence and bullying.

We continue to work with the Department of Juvenile Justice in order to obtain information to classify those adolescents who have been in their custody. A recent data match revealed that 19% of 16 to 19-year old admissions over the past year had a history with the Department of Juvenile Justice.

Younger or older, those in custody make constant efforts to circumvent our control. We learned in the Christopher Robinson investigation that as a result of our ordering physical examinations any time we observed injuries, inmates began to attack their victims in the midsection of their bodies, where their clothing would hide telltale bruises. So we began to require all adolescents to stand for a visual no-shirt inspection of their torsos during every major change of shifts. Signs of suspected injury are immediately investigated.

We have also assigned officers of our Intelligence Unit specifically to monitor the adolescent population. They will employ an ongoing series of random inmate interviews and

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other intelligence strategies.

In this time of austerity it is difficult to find ways to add staff. Nonetheless, we have identified the most difficult housing areas in RNDC, those which house the most intractable inmates and we have added an additional officer in those units, providing backup and an additional set of eyes and ears to deal with the challenges I have described to you.

That means that on the two day shifts, 7:00 to 3:00 p.m. and 3:00 p.m. to 11:00, when there is the most activity in the housing area, the ratio of staff to inmates in those dorms is 1 officer to 25 inmates. And in the RNDC cellblocks that hold 33 inmates, and which are equally difficult to supervise because of their physical layout and sightlines, we have likewise added an additional officer on the two daytime shifts for an effective ratio of 1 to 17.

Teenagers fight. They fight in jail just as they do in the street. To assist our officers in April 2007 we sought and subsequently obtained permission from the State Commission of Correction to make better use of the pepper spray

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2 carried by all of our officers. This change
3 allows the spray to be better aimed and more
4 effectively used, enabling our officers to
5 intervene in fights sooner and with greater
6 likelihood of success without resort to physical
7 force.

8 We did this because we recognized,
9 long before October 2008, that we needed to
10 empower our officers to take more vigorous action
11 to control the bullying and extortion we were
12 seeing. What we have seen with the enhanced
13 staffing ratio is that the extra officer has been
14 helpful on post in the dayroom: reinforcing
15 control, identifying problems earlier,
16 discouraging fights and defusing those that do
17 occur much quicker and with pepper spray, thus
18 preventing more serious injuries to the inmates.

19 These are just some of the most
20 significant security measures we have implemented.
21 I would also like to tell you about measures we
22 have taken and are planning in an effort to change
23 the adolescent inmates themselves or at least
24 their behaviors while in our custody.

25 While almost 75% of them are in our

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2 custody on charges of serious violent crimes, they
3 are nonetheless charged but not convicted and they
4 are young men on the brink of adulthood with the
5 possibility to change the course of their lives.

6 Jails are a microcosm of the
7 communities the persons in our custody come from.
8 These adolescents bring into jail all the
9 maladaptive, antisocial behaviors we are
10 struggling with on the streets and in our schools.
11 Bullying and gang behavior doesn't begin in jail.
12 In jail, however, it is concentrated in one place.

13 Numerous research studies have
14 demonstrated that a very high percentage of
15 adolescents in correctional or congregate care
16 facilities suffer from a persistent pattern of
17 behavior in which they violate age appropriate
18 social norms or rules and the basic rights of
19 others. Experts have found that incarcerating
20 these adolescents often exacerbates their
21 behavioral issues. That is why at the Department
22 of Probation we have worked so hard to find
23 alternatives to placement for juvenile
24 delinquents.

25 Still, as long as New York State

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2 law treats adolescents as adult defendants, we
3 must continue to find new and more effective ways
4 to provide for their care, custody and control in
5 jail. When we last met I described our
6 revitalization of the program known as the
7 Institute for Inner Development, which seeks to
8 imbue adolescents with the skills and the desire
9 to change their patterns of destructive behavior,
10 and utilizes Correction Officers trained to serve
11 as mentors and coaches.

12 104 officers have been trained for
13 the IID, 89 for assignment to RNDC. By year's
14 end, all officers assigned to RNDC adolescent
15 housing areas will be trained for the IID. Going
16 forward, the orientation of new admission inmates
17 will be restructured for the adolescent population
18 and will serve as a natural channel into the IID.

19 Inmates participating in the IID
20 are assigned to separate housing areas, where they
21 can support one another. Two new libraries have
22 been opened and are available for all adolescents
23 participating in the IID. We have been looking
24 for ways to bring the parents of these adolescents
25 into the jails to see for themselves who we are

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and what we do.

 Last week, we held the first of our community provider fairs for adolescents. We invited about 200 inmates and their families to attend together. Similar to a school or health fair, the provider fairs expose adolescent detainees and their parents to community based organizations that can assist them upon their return to the community. We are gratified that nearly one half the parents attended, meeting with their sons and a broad range of community groups.

 Looking forward, in April we are planning a pilot of a new parent orientation session that will bring parents of adolescents newly admitted to RNDC to discuss programs and security. We are trying, with the resources available to us, to expand in-jail programming during the time that adolescents are not in school sessions, including sports and participation in several well-established programs designed to help young people turn their lives around. Despite extremely tight budgets, we are soliciting private and foundation funds to support the expansion of after-jail programs for adolescents.

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2 Another step we have taken since
3 October to strengthen adolescent safety is an
4 Enhanced Adolescent Mental Observation Unit,
5 giving us more options for separating and housing
6 inmates according to their abilities to get along
7 without violence. We also have created a new
8 response to misbehavior, focused on behavior
9 modification as much as it is on the immediate
10 control of violence. In all of our efforts we
11 work with the Department of Education to ensure
12 the continuation of adolescent education programs.

13 These efforts follow those similar
14 system-wide changes that we discussed at our last
15 meeting, which are already playing a role in
16 improving inmate safety throughout our entire
17 system. The result of our previous efforts was
18 that total inmate on inmate fights in RNDC dropped
19 from 943 in 2006 to 894 in 2007 to 749 last year.
20 That is while the inmate population grew or
21 remained constant. It has not dropped. And there
22 still has not been a stabbing or slashing
23 involving an adolescent since July 2007.

24 Since January we monitor and track
25 violence statistics and security issues for the

1
2 adolescent housing areas separate from the older
3 adult areas of RNDC. Going forward this will
4 obviously equip us to better monitor conditions
5 there.

6 Let me now briefly address the two
7 bills before you today. The first would require
8 the Department to provide monthly reports to the
9 Council regarding adolescent-related data. This
10 Department tries to be as transparent as possible,
11 and we are always working to become more so.

12 As you may know, many of our
13 policies and procedures are posted on the
14 Department's website, and security data is made
15 available to the public through the MMR, the
16 Citywide Performance Report and in a separate
17 statistics report on the Department website. In
18 view of the Council's interest, and our discussion
19 with Council staff, we are giving serious
20 consideration to expanding the data we make
21 available to the public, including breaking it
22 down by adolescent and older adult.

23 But it is important that the data
24 that is shared, the frequency of reporting and the
25 method by which the information is shared must all

1
2 be meaningful and not overly burdensome, so that
3 we can continue to focus our resources on using
4 the data to manage the agency. We look forward to
5 continuing our discussions with the Council on
6 this issue.

7 The second bill would require the
8 Department to develop a Discharge Plan for every
9 sentenced adolescent leaving city jail that would
10 serve ten days or more after sentencing. While no
11 one is more committed to Discharge Planning than
12 we are, the Department is opposed to this bill.

13 From Fiscal year 2006 through
14 Fiscal year 2008, with funding and support from
15 the Council, the Department launched the
16 Adolescent Reentry Initiative in partnership with
17 the Vera Institute.

18 In its first full year of
19 operation, just as the program was beginning to
20 show promise, but before we could evaluate it,
21 funding for ARI was eliminated from the budget
22 adopted by the Council. Since July 2008 we have
23 aggressively sought replacement funding for the
24 program, thus far to no avail.

25 As the Council recognized when it

1
2 passed the original discharge planning
3 legislation, this field is still a work in
4 progress, an experiment that has not yet been
5 proven in the jail setting. For that reason
6 alone, while we must make every effort to continue
7 our efforts in this area, discharge planning
8 services should not be mandated. Moreover,
9 millions of dollars would be required to implement
10 this bill. These are among our objections to
11 passage of the proposed legislation.

12 We ask that the Council instead
13 join us in restoring funding for ARI because the
14 progress we were making and what we were learning
15 from that initiative is significant and holds
16 promise.

17 Members of the Council, the list of
18 changes that we have made to the way we supervise
19 and care for adolescents, in recent years, and
20 particularly in recent months goes on and on. The
21 measures we have taken and the steps we are
22 working on will improve the safety of those in our
23 custody. In fact, I think they already have.

24 But I must caution you today, as I
25 did in November, that keeping persons in custody

1
2 safe, especially adolescents-is a difficult
3 challenge faced by jail managers throughout the
4 country. As the data from the Federal Bureau of
5 Justice Statistics indicate, none of us succeeds
6 completely, but New York City succeeds better than
7 most.

8 Our custody of adolescents is
9 affected by another factor, the physical plant on
10 Rikers Island. Rikers Island is an isolating
11 place that discourages outside visitors. That is
12 why I believe so strongly that it is vitally
13 important to the transparency of our jails that we
14 confine more of our inmates closer to their homes,
15 their families, and the services that can help
16 them stay out of jail upon release.

17 Let me make one request. Most
18 people, thankfully, are unfamiliar with the
19 reality of incarceration. They have not been
20 arrested and detained, and cannot know or even
21 picture, other than from the stereotypes of the
22 entertainment industry, how jails operate.

23 I once again ask all of you to
24 visit Rikers Island to see first hand the
25 strengths and weaknesses of our facilities and the

1
2 challenges they present, to visit the areas in
3 which we house and teach the adolescents in our
4 custody, and to observe the program expansions and
5 other measures we have taken to maintain their
6 safety.

7 With me today, and seated to my
8 left is Warden Edmond Duffy, the Warden of RNDC,
9 and to his left, Kathleen Coughlin, Deputy
10 Commissioner for Programs and Discharge Planning,
11 and we look forward to answering any questions the
12 Council may have.

13 CHAIRPERSON MARTINEZ: Thank you
14 Commissioner. I just want to recognize, before we
15 proceed, Council Member Mathieu Eugene, member of
16 the Committee, Council Member Maria Avella, Carmen
17 Arroyo, Council Member Carmen Arroyo, and Council
18 Member Darlene Mealy who was here earlier.

19 I also want to ask my colleagues so
20 that we could have a--there are two very important
21 issues that we're discussing today. One is our
22 oversight topic and then the other are the two
23 important bills that are being presented today.
24 So I want to ask my colleagues, if we could focus
25 our first part of the discussion on the oversight

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2 topic. And then we could come back and discuss in
3 detail the proposed legislation. I just don't
4 want it to mix in with the discussion.

5 Commissioner, one, I want to thank
6 you for your testimony and also for a lot of the
7 work that you've described since the last time we
8 met to discuss the issue of violence particularly
9 among our adolescent population. I just have a
10 couple of questions and then I want to turn it
11 over to my Co-Chair.

12 With regards to, I understand last
13 month that, at the Board of Correction meeting you
14 reported some data to the Board regarding both the
15 population at large and the adolescent population.
16 And while I recognize that many indicators reflect
17 decrease, I'd like to ask about some of the
18 increases.

19 And I see, if you could elaborate
20 on some of the reasons why you believe the
21 increase exists. For example, before I asked the
22 question though I also want to go over some
23 terminology.

24 What's the difference between A use
25 of force, and B use of force? And I know I made

1
2 some reference to it in my opening remarks but if
3 you could just elaborate on that, if you can.

4 COMMISSIONER HORN: Certainly
5 Chairman. First of all, we have a very broad
6 definition of use of force. Essentially we
7 consider it a use of force any time an officer
8 makes physical contact with an inmate in any sort
9 of confrontational situation other than simply
10 reasserting control during an escort or applying
11 mechanical restraints, including the use of
12 chemical agents, we consider that a use of force.
13 So it's a very broad definition.

14 The difference between an A use of
15 force and a B use of force, first of all the
16 difference between an A and a B use of force
17 depends upon the level of injury to one of the
18 parties. It doesn't necessarily apply only to
19 injuries to an inmate. If an officer is injured
20 in the course of a use of force, we will
21 categorize it as an A or a B, okay.

22 Essentially A uses of force are
23 those uses of force that require medical care over
24 and above that which is provided in the course of
25 normal first aid treatment in the jail. Anything

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2 that requires sutures, anything that constitutes a
3 fracture, anything that requires a trip to the
4 emergency room is considered an A use of force.
5 Even those things that we can handle on Rikers
6 Island with stitches for example will be
7 considered an A use of force.

8 So a B use of force is a contusion,
9 a simple bruise, perhaps a sprain. What we have
10 found, first of all, is that with respect to A
11 uses of force, the growth, even the overall use of
12 force has remained very low and if you look at the
13 data and I'd be happy to provide--and I have
14 provided in the past, the actual data, year by
15 year, it is very low for A uses of force
16 generally. But to the extent that there is any
17 growth, it is entirely attributable to the
18 increase in injuries to officers rather than to
19 injuries to staff. The officers are getting
20 injured quite frankly now more often than they
21 were before.

22 The growth in the B's I think is
23 attributable to several factors. I think, first
24 of all we can't ignore the change in our jails
25 attributable to the installation of 3,000 video

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2 surveillance cameras. As I said there were only
3 800 that were requires as a result of settlements
4 that we made in legal cases. We've gone far
5 beyond that.

6 We now have a visual record of
7 every--a far more, not of every, but of far more
8 of the inmate/staff interactions. And oftentimes
9 our staff who are required to review them
10 periodically will observe what they consider a use
11 of force even though the officer involved might
12 not have considered it and might not have reported
13 it, a use of force.

14 So we are finding more uses of
15 force. And as I say, we take a very, very
16 conservative approach. We over report. We--any
17 time it looks like it could be a use of force we
18 report it as use of force. So you can't ignore
19 the fact that with 3,000 cameras we're observing
20 things that we weren't observing before. And I
21 think we should all consider that a good thing.

22 Use of force is not necessarily
23 bad. In a jail, it's just part of the fact of
24 life. Unfortunately sometimes we have to use
25 force to protect people from others, to protect

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2 themselves, and sometimes to protect ourselves or
3 to ensure that our rules are followed.

4 Also as I have previously
5 testified, and I testified in November, for some
6 time now, every time an inmate is injured, we, and
7 has a serious injury, we do an investigation to
8 determine whether or not the injury occurred as it
9 was first described to us. It has not been
10 uncommon and as recently as last week we had a
11 case of an individual who reported slipping and
12 falling in the shower and fracturing something. I
13 forget if it was the jaw or what.

14 When we investigated, we found that
15 that injury as it was originally described to us
16 by the inmate did not occur as the inmate
17 described it to us. And so we now look into
18 everything. And sometimes it was a use of force,
19 sometimes it was an inmate on inmate. But we look
20 at every injury.

21 The other thing that we have done
22 is we have encouraged our officers to make greater
23 use of the pepper spray that they are equipped
24 with. Officers who are not properly equipped in
25 the past, it would not be inappropriate for them,

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2 if there was a fight between two inmates, to step
3 back, sound an alarm and wait for additional staff
4 to arrive on the scene.

5 What we now encourage officers to
6 do when two other--two inmates are fighting is to
7 intervene more quickly and to use pepper spray
8 where it's appropriate. That will increase the
9 numbers of uses of force. And again, it's not a
10 bad thing that we are asking officers to intervene
11 more quickly. We hope that by intervening the
12 degree of harm that will result from the fight
13 will be mitigated by their swift intervention.

14 CHAIRPERSON MARTINEZ: Correct. And
15 you, my, I understand that you reported that in
16 the B use of force, there had been an increase
17 from 2004 through 2007 from 1,300 in 2007 to
18 approximately 1,600 in 2008--

19 COMMISSIONER HORN: [Interposing]
20 Yes.

21 CHAIRPERSON MARTINEZ: --correct?

22 COMMISSIONER HORN: Yes.

23 CHAIRPERSON MARTINEZ: And as you
24 mentioned the use of the B force is when you had
25 the intervention of the officer, either

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2 intervening in a fight, correct?

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COMMISSIONER HORN: That would constitute a B use of force--

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CHAIRPERSON MARTINEZ:
[Interposing] Correct.

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COMMISSIONER HORN: --if there were serious injuries.

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CHAIRPERSON MARTINEZ: And therefore if there is an increase in the intervention, obviously there has to be also, there are more violent acts taking place 'cause the officer has to intervene.

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COMMISSIONER HORN: Not necessarily. There might be the same number of fights, but the officers are intervening more swiftly than they were in the past. So the number of fights wouldn't necessarily have changed.

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CHAIRPERSON MARTINEZ: But, but I understand and I don't understand. In other words, if I have to intervene and I have 100 officers, and of the 100 officers, they're intervening--we have 200 B use of force because they're intervening 200 times; there were 200 incidents of violence or fights, correct?

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2 COMMISSIONER HORN: Well. Not
3 every intervention is the result of a fight.
4 Officer might use force if an inmate--

5 CHAIRPERSON MARTINEZ:
6 [Interposing] Um-hum.

7 COMMISSIONER HORN: --is refusing
8 to follow the rules. If an inmate refuses to
9 submit to a search or to give up property there
10 might be a use of force. So there are lots of
11 reasons why there might be uses of force. I
12 think, the point is this, let's just take one
13 fight. There are a couple of possible outcomes.
14 If the officer stands by or asks or calls for
15 help, the fight might just peter out by itself
16 with no intervention or no use of force by the
17 officer, in which case it would simply be recorded
18 as a fight, with no use of force. But there might
19 be a serious injury to an inmate.

20 If on the other hand the officer
21 intervened, for example, using pepper spray, and
22 because the officer intervened, the fight ended
23 faster without a serious injury to an inmate, it
24 would be used as a B use of force.

25 CHAIRPERSON MARTINEZ: I understand

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2 that. But notwithstanding though, the impact, the
3 factors you mentioned may have an increase in
4 these figures. So the fact that it may be pepper
5 spray, the fact that it may be a search, sometimes
6 those are considered the B. And what percentage
7 of the increases do you believe are simply as a
8 result of more activity requiring the use of
9 force?

10 COMMISSIONER HORN: Well I do
11 think, I don't--I can't say with precision what
12 percentage. I don't think that we'll ever have
13 information that enables us to accurately know
14 that. I do think that as we, you know, we're on
15 the horns of a dilemma. On the one hand, we are
16 saying we want to supervise inmates closely and
17 protect them from each other, protect inmates from
18 fighting with each other, from being harmed at the
19 hands of other inmates, from extorting them. And
20 on the other hand we're questioning why there's an
21 increase in the use of force.

22 If officers are going to intervene
23 to protect inmates, there's going to be an
24 increase in use of force. Thankfully the increase
25 is in the B level uses of force where there is no

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2 serious injury.

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CHAIRPERSON MARTINEZ: Um-hum.

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Let's focus then on the increase in the A use of

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force. I also understand that while the A use of

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force has dramatically decreased over the past

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several years--

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COMMISSIONER HORN: [Interposing]

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Um-hum.

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CHAIRPERSON MARTINEZ: --in that

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case, as of early December 2008, the Department of

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Corrections was reporting a rate of A use of force

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that was 55% higher than the prior years. Do you

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have the, do you have the 2007-2008 figures for

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the use of A force?

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COMMISSIONER HORN: I don't think I

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have them in front of me. But I can speak to the

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issue generally. So what's--

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CHAIRPERSON MARTINEZ:

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[Interposing] Yeah.

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COMMISSIONER HORN: --the question?

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CHAIRPERSON MARTINEZ: Do you have,

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do you have the--

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COMMISSIONER HORN: [Interposing] I

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mean we have it, I don't have it with me--

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CHAIRPERSON MARTINEZ:

[Interposing] Yeah. You said you--

COMMISSIONER HORN: --but we can provide--

CHAIRPERSON MARTINEZ: --speak, all right. So what do you attribute the dramatic increase in the A use of force?

COMMISSIONER HORN: The increase in A uses of force, first of all the growth is primarily attributable to more injuries to officers rather than injuries to inmates.

CHAIRPERSON MARTINEZ: Um-hum.

COMMISSIONER HORN: Also this was a year in which we had a lot of contact with inmates around a lot of issues. Let me name two of them in particular.

One is that in December or January... December, we changed the footwear for all 13,000 of our detainee inmates. We went through an exchange. We took away their personal footwear and gave them Department issued footwear. This was something that we have sought to do for a long time because we found that inmates were fighting over their sneakers. A lot of inmates didn't want

1
2 to give up their footwear and so we had some
3 increase in uses of force in order to enforce that
4 new rule.

5 Secondly, one of the things that we
6 have done is that we have identified those inmates
7 who are most predatory and moved them to housing
8 areas where we can more closely supervise them.
9 And in many of those cases it requires that the
10 inmate be escorted everywhere the inmate goes.
11 And the inmates don't like being escorted and they
12 resist those escorts. And it is not uncommon for
13 those, the resistance to those escorts, to result
14 in the application of force by the officer.

15 As I say, every A use of force is
16 investigated by our Internal Affairs Unit. And
17 where the officers use force outside our rules, we
18 take action, either criminal action or
19 administrative action.

20 CHAIRPERSON MARTINEZ: Let me try
21 and narrow it down though. And I understand that
22 the changes in terms of the minimum standards.
23 But to what degree does the increase simply a
24 reflection of an increase in the incidents
25 requiring the use of force? Taking away some of

1
2 the incidents you just described and the changes
3 in terms of policy.

4 COMMISSIONER HORN: Well again,
5 keep in mind that we're working off a very small
6 base. So the number of A uses of force to begin
7 with has historically been low and coming down.
8 And I'm not prepared to concede that this change
9 over a three to six month period constitutes a
10 trend as compared to what really has been a four
11 or five year coming down.

12 I certainly, you, if there is an
13 increase, there had to have been more instances in
14 which the level of force required that. But, you
15 know, the distinction of an A use of force and a B
16 use of force, really depends upon how the use of
17 force occurs.

18 Two incidents can occur, the
19 officers can respond the same way, but in one
20 case, someone, an officer or an inmate, their head
21 hits against the wall and a jaw gets broken and it
22 becomes an A. In the exact same circumstance
23 arising out of the same motivation on the part of
24 everybody involved ends without somebody hitting
25 their head against the wall, it's not an A use of

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2 force.

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So it's very hard to--nobody sets out to have an A use of force. We don't enter into a use of force saying oh this is going to be an A, we intend to use that level of force. It depends upon when it happens, where it happens, who the inmate is, how quickly the inmate is subdued.

It depends upon the number of officers who are present, the skill of the individual officers. It depends upon the location where it occurs. If it occurs in an area where there are sharp edges, where there's metal that a person can bang their head against, it's more likely to result in injury. So without more analysis I can't give you a better answer.

CHAIRPERSON MARTINEZ: And speaking of, I know you said this earlier in terms of the description being vague in terms of not being specific in terms of what's A, what's B, and so forth, but is there any written directive in terms of what's A, what's B and how--what's reported and how it's reported?

COMMISSIONER HORN: Yes. And I

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2

don't want to concede the point that the

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distinction between the A and a B is vague. I

4

think it's very clear. I think it is clear that--

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CHAIRPERSON MARTINEZ:

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[Interposing] No I just wanted--

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COMMISSIONER HORN: --yeah, we have

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a directive--

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CHAIRPERSON MARTINEZ: --you

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answered those--

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COMMISSIONER HORN: --and it very

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clearly I think describes, we'd be happy to make

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it available--

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CHAIRPERSON MARTINEZ:

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[Interposing] Yeah, can you share that with the--

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COMMISSIONER HORN: [Interposing]

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Sure.

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CHAIRPERSON MARTINEZ: --Committee,

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please?

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COMMISSIONER HORN: In fact I

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believe it's available on our public website.

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CHAIRPERSON MARTINEZ: Okay. It's

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not, by the way, counsel's telling us

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Commissioner--

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COMMISSIONER HORN: No it's not?

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2 CHAIRPERSON MARTINEZ: And before--
3 my last question before I turn to my Co-Chair.
4 How frequently are officers trained to use force
5 in the appropriate manner and what's the nature of
6 their training?

7 COMMISSIONER HORN: All right.
8 First of all, every officer receives 15 weeks of
9 Academy training before assignment to the jails.
10 That is more than any other jail in the State and
11 probably more than just about every jail system in
12 the country I would venture.

13 Thereafter every officer--and
14 training in the use of force is a critical part,
15 several hours of that training. In addition the
16 officers must demonstrate that they have the
17 ability, that they have the ability to use force
18 in the way in which they've been trained in order
19 to satisfactorily complete their initial Academy
20 training.

21 Thereafter every officer receives
22 40 hours a year of what we refer to as Block
23 Training, and included within that are several
24 hours of training in the use of force annually.
25 And again every time they go through that they

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2 must demonstrate proficiency.

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CHAIRPERSON MARTINEZ: Thank you
4 Commissioner. I'm going to turn it over to my Co-
5 Chair, Sally Gonzalez.

4

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6

CHAIRPERSON GONZALEZ: Thank you
7 Chair. Thank you Commissioner for your testimony.
8 I'm going to sort of go on with the training part
9 of it because my question is related to, you say
10 here that by July 1st an expanded adolescent
11 specific lesson plan will be introduced to all
12 officers. Could you talk to me a little bit about
13 that?

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COMMISSIONER HORN: Yes. Our
15 Training Academy has been working for the last
16 several months to develop a training program that
17 helps the officers to understand the differences
18 between the adolescents and the adults in terms of
19 their needs, in terms of their behaviors, in terms
20 of their responses to direction, and to teach them
21 alternative ways of dealing with that adolescent
22 behavior without neglecting to hold individuals
23 accountable for their behavior and simultaneously
24 ensuring that they follow our rules to keep
25 everybody safe.

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[Pause]

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CHAIRPERSON GONZALEZ: I was just wondering. I was thinking here to myself a little. In respect to the issue with the gangs, is there any possibility that in that expanded training the officers receive anything in respect to identifying or understanding the gang?

COMMISSIONER HORN: Well let me say a couple of things about that. First of all I think that the notion of gangs and the use of the term gangs in this context is potentially misleading. We know, for a long time the New York City's Corrections Department has offered training to all of its officers in gang identification. We have a very, very aggressive and vigorous intelligence unit. And every inmate that we receive into the system is assessed for gang membership in the terms that we normally understand the word gang.

What we are finding as we've looked more closely, and there's no question that we've taken a closer look at the adolescent population in recent months, what we've learned is that the behavior in the jail is not along the lines of

1
2 your typical Bloods versus Crypts versus Latin
3 Kings kind of gang membership. What we find is
4 two things.

5 One is that a lot of these
6 youngsters are shopping around and their
7 allegiances change from week to week or month to
8 month. And as with adolescents generally, there
9 is a strong proclivity to join cliques, to join
10 groups. And those cliques or groups may refer to
11 themselves as gangs but we can't discern that they
12 are in any way connected to organized or semi-
13 organized or identifiable gangs in the community.
14 There are some but that's not the issue.

15 And what we believe happens is that
16 within any housing unit, some group of inmates is
17 going to attempt to be dominant. Some individual
18 is going to attempt to be dominant and dominate
19 other individuals. And that domination is going
20 to take the form of extortion, taking peoples'
21 property, stealing their property. If one
22 individual has a wealthier family and has better
23 sneakers or better blue jeans or a nicer
24 sweatshirt, some other juvenile is going to try
25 and take it from them.

1
2 If one individual has money in
3 their commissary account and purchases more
4 commissary, a stronger, more aggressive individual
5 is going to try and take it from them. And
6 sometimes they will get together with other
7 inmates and prey upon the weaker inmates. And
8 they will call themselves a gang. They will call
9 themselves The Team as they are alleged to have
10 done in the Robinson case. But we don't believe,
11 and we've seen no evidence that it is connected to
12 our common understanding of gangs.

13 CHAIRPERSON GONZALEZ: So
14 Commissioner would you say that even the young
15 people that are detained and only stay there for a
16 short period of time, that they too begin to just
17 sort of practice the new dynamics of where they
18 are and they no longer associate themselves with
19 let's say the Bloods or whatever it is. You're
20 saying that that's what you have gathered?

21 COMMISSIONER HORN: As I said
22 there's a mix. There are probably are some
23 individuals who come into our custody who had an
24 association with a group on the street that might
25 have called themselves Bloods or called themselves

1
2 Crypts or called themselves Latin King. But the
3 vast majority of the adolescents, we're talking
4 about the adolescents that come in, have not
5 formed that link yet, and they'll form a new link.

6 And if you take two housing units
7 and they may call themselves Bloods. So there'll
8 be a group of inmates in Housing Area A and
9 they'll call themselves Bloods. And there might
10 be a group of inmates in Housing Area B, and
11 they'll call themselves Bloods. If you put the
12 two together they'll fight with each other.
13 There's no link between the two.

14 I mean in some ways they're
15 adopting the terminology of sort of popular
16 culture.

17 CHAIRPERSON GONZALEZ: So I guess
18 from hearing what you're saying, you feel that
19 there's no need to even implement any kind of
20 training for officers in respect to--and I just
21 want to say before you step in, from my own
22 experience with working with gangs in the 70's,
23 70's, the Police Department, you know, needed to
24 really understand when they were out there in the
25 communities the dynamics of all these different

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2 gangs, so. And it worked better because they were
3 able to--

4 COMMISSIONER HORN: [Interposing]

5 Well. Let me, let me correct a misconception.

6 It's not at all what I said. In fact we have a
7 very aggressive gang intervention unit. And gang
8 identification and breaking up gang behavior is a
9 very, very big part of our training curriculum and
10 a big part of what we do through our intelligence
11 gathering. What I am suggesting is that among the
12 adolescents, at least, it's a more nuanced
13 phenomenon. It is not strictly speaking
14 transferable, the gangs in the community to what
15 becomes in the jail.

16 An inmate who, it's entirely
17 possible and certainly we've seen it, an
18 individual, an adolescent in our jails who has had
19 no gang affiliation in the community can live in
20 the housing unit and if he chooses to become the
21 dominant person and has the ability to dominate
22 the other individuals in that housing unit and
23 surrounds himself with acolytes if you will, they
24 will call themselves a gang. They may well adopt
25 a name, but it's not the same as what we see in

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2 the community nor is it the same as what we see in
3 the adult jails.

4 CHAIRPERSON GONZALEZ: Okay so
5 moving on. I have another question in respect to..

6 {Pause}

7 CHAIRPERSON GONZALEZ: Give me a
8 minute here. On page number 2 here on your
9 statement, you put something about cameras
10 installation, approximately 800 surveillance
11 cameras, is it right? I might--okay.

12 COMMISSIONER HORN: 3,000.

13 CHAIRPERSON GONZALEZ: 3,000, okay.
14 Okay I want to make sure. Okay my question is how
15 often, you or anyone, who does go and look at
16 what's on those cameras, how often does that
17 happen?

18 COMMISSIONER HORN: Obviously with
19 that many cameras, over--

20 CHAIRPERSON GONZALEZ:
21 [Interposing] I know--

22 COMMISSIONER HORN: --the course of
23 a day, it's physically impossible to watch all of
24 them, all of the time. Primarily they create an
25 after the fact record so that if there has been an

1
2 injury, if there has been an allegation made, if
3 we know that there has been a use of force, we can
4 go back, after the fact, and have a video record
5 of what occurred. However we also require our
6 management staff, Wardens and Deputy Wardens, to
7 periodically look at videos at random.

8 And I will tell you that we have
9 the capacity and I indeed have the capacity to
10 view these videos on my desktop computer. And I
11 will sit at my office during the day and
12 unbeknownst to the facility staff I can look into
13 some of these jails and just watch what's going on
14 and get a feel for what's going on.

15 But primarily we use these videos
16 after the fact to determine what actually
17 happened. And by the way, 3,000 is where we're at
18 today. Our plan is to grow well beyond that.

19 CHAIRPERSON GONZALEZ: Now I do
20 understand that there have been areas that there
21 are blind spots in the adolescent units. And
22 would you say that there would--that cameras would
23 be valuable in these areas or--

24 COMMISSIONER HORN: [Interposing]
25 Of course.

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CHAIRPERSON GONZALEZ: Okay.

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[Pause]

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CHAIRPERSON GONZALEZ: In the future, they're going to be installed, in the near future?

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COMMISSIONER HORN: We are moving, you know, again, we're, we are constrained by the monies available to us--

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CHAIRPERSON GONZALEZ:

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[Interposing] I understand.

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COMMISSIONER HORN: And we are constrained by the physical time it takes just to lay the cable and install the cameras. These cameras are all in secure housings and so on. But it is certainly our goal to have as many cameras in as many critical areas of the jails as we can, as quickly as possible.

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CHAIRPERSON GONZALEZ: And one more question, in respect to when you work with the Department of Juvenile Justice and you stated here that 19% of 16 to 19-year old admissions over the past year have had a history with that Department, is there any collaboration or gathering of information or, you know, that you speak to each

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other in some way in respect to some possible records or histories of?

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COMMISSIONER HORN: We are very

hopeful that we're going to be able to obtain

information from them that we think will be

helpful to us. As you can well imagine they are

dealing with concerns they have over the

confidentiality of juvenile data. And that is a

matter that we continue to struggle with.

CHAIRPERSON GONZALEZ: But--so

that's something that you would say that there's

always possibilities in the future.

COMMISSIONER HORN: We remain--

CHAIRPERSON GONZALEZ:

[Interposing] Of that.

COMMISSIONER HORN: --hopeful.

CHAIRPERSON GONZALEZ: We certainly

do remain hopeful. I would say so. Thank you

Commissioner. I believe that Council Member Mealy

has a question.

COUNCIL MEMBER MEALY: Good

morning. And I want to give my condolences to the

Robinson family. And I want to thank my

Chairpersons for this hearing. And I want to

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2 thank Commissioner Horn. I'm kind of glad to see
3 you again 'cause I took it upon myself when I
4 first was elected to get a tour of Rikers Island.
5 And I must say your effort for the women's,
6 toddler, is very excellent. I have to commend you
7 on that.

8

COMMISSIONER HORN: Thank you.

9

COUNCIL MEMBER MEALY: And I kind
10 of commend you on taking away the sneakers 'cause
11 that will alleviate some fighting and killing that
12 can go on in jails. But what I did hear you say
13 with yourself, could you tell me when did you
14 install the new cameras?

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COMMISSIONER HORN: Well it's been
an on--it--

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COUNCIL MEMBER MEALY:

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[Interposing] It's been--

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COMMISSIONER HORN: --wasn't as if
it happened on one day.

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COUNCIL MEMBER MEALY: Right.

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COMMISSIONER HORN: We began
installing cameras--

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COUNCIL MEMBER MEALY:

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[Interposing] I'll say, um-hum.

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2 COMMISSIONER HORN: --many years
3 ago. I would say that the bulk of the
4 installation has occurred over the last 24 months
5 and it continues.

6 COUNCIL MEMBER MEALY: It
7 continues. Okay. And you said that to help turn
8 the lives around of these youth, how is their
9 education? Have you been advocating to get
10 education back in for them to get their GED? Have
11 you worked with Board of Education or any--

12 COMMISSIONER HORN: [Interposing]
13 Well yeah--I mean--

14 COUNCIL MEMBER MEALY: --outside
15 programs?

16 COMMISSIONER HORN: As a matter of
17 fact the Department of Education has two full
18 schools in Rikers Island, including one at the
19 adolescent facility at RNDC. And I think the
20 enrollment in that school is over 500, over 550
21 students. They have always--

22 COUNCIL MEMBER MEALY:
23 [Interposing] Do you know how many--

24 COMMISSIONER HORN: --been there.

25 COUNCIL MEMBER MEALY: --get--

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receive their GED?

COMMISSIONER HORN: Do we know, on an annual basis?

MS. KATHLEEN COUGHLIN: I don't have the number but the issue is whether--how--

COUNCIL MEMBER MEALY:
[Interposing] Got it, hit the mic.

MS. COUGHLIN: Oh I'm sorry. The issue is how close they are when they come in. Because, you know, our average length of stay is pretty short--

COUNCIL MEMBER MEALY:
[Interposing] 40 days.

MS. COUGHLIN: --so the idea is to make sure they're engaged in school while they're there and then if they take the predictor and are not ready to take the test, to get them connected on the outside so that they can take it.

COUNCIL MEMBER MEALY: 'Cause what I have found out, some of our young men and women are ready, almost at the borderline to getting their high school diploma then they drop out. So when they do come into your system, if they take the test right away, we would know, we would get,

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maybe, at least about--

COMMISSIONER HORN: [Interposing]

Yes.

COUNCIL MEMBER MEALY: --10%--

COMMISSIONER HORN: [Interposing]

Yeah.

COUNCIL MEMBER MEALY: --with their

GED, once they do return. Yes.

COMMISSIONER HORN: Every inmate

who is admitted is evaluated by the City

Department of Education. It is a full school. It

is run not by the Department, but by the DOE, with

DOE teachers, with a principal and an assistant

principal. And every student who is received is

assessed and is moved into an educational track

appropriate to them. And if they are ready to

take the GED they are tracked for a GED program.

And we're very aggressive about pursuing that.

And we agree completely. And in

fact let me just also say that one of the things--

and I've testified about this previously, one of

the things that we've done, you know, education is

mandatory for all persons in our custody up to the

age of 18 who don't have a high school diploma.

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2 After they are 18 years of age, they are not
3 required to attend school.

4 We discovered that we were not
5 paying inmates who attended school as much as we
6 were paying inmates who chose to mop the floor.
7 So with money from the Mayor's Commission on
8 Economic Opportunity, beginning last year, we
9 started to offer incentive pay to inmates over the
10 age of 18 who are not mandatory school students to
11 encourage them. And as a result there has been an
12 increase in the number of students attending our
13 school.

14 We are also in the process of
15 building a new building to house the school at
16 RNDC. The Department is spending Department
17 money, not DOE money, about \$5,000,000 addition to
18 the building which will increase the capacity of
19 our school by about an additional 140 seats. We
20 are very committed to education. And it's--for
21 these, you know, let me say this. This is an
22 opportunity for me to say something that is on my
23 mind.

24 The big issue for me among these
25 adolescents, remember, they are standing accused

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2 of crime. They haven't been convicted. We are a
3 jail not a prison. So we don't offer the kinds of
4 work programs that the prisons offer.

5 Our average length of stay for
6 these youngsters is 45 days. And if you come to
7 our jails you see, the predominant reality of our
8 jails is boredom. And with adolescents, boredom
9 is the worst thing. So at least for the five days
10 a week that school's in session, they're going to
11 school.

12 After school is out, on weekends,
13 on holidays, for that week that school's not in
14 session, and it's not as if these kids are great
15 readers, they don't, you know, there's on
16 television set in a housing unit for 50 kids or 33
17 kids. It's not as if there's a lot for them to
18 do. And so getting them to--if I had my druthers
19 I'd keep them in school until 6:00 o'clock at
20 night.

21 COUNCIL MEMBER MEALY: [Chuckles]
22 Okay. So this, after the Youth, Parent, Provider
23 Fair.

24 COMMISSIONER HORN: Yes.

25 COUNCIL MEMBER MEALY: Will you

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2 feel you will continue doing this?

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COMMISSIONER HORN: Yes. This is something we are very excited about. And I think this is something very unique in the country. We've decided that we want to invite the parents of--this is mostly focused on the young men. We have about 34 to 40 young women adolescents in custody and most of the issues we're talking about, we're not going to forget about them, but let's keep in mind that the problems that we've been dealing with are the young men.

But their parents, they might come and see them in the visiting room but they never actually get to go inside the jail. They never get to meet the officers and the supervisors and the managers who run the jail. They never get to hear from us in the first person about what our values are and what we believe and develop a relationship with us where they feel comfortable picking up the phone and calling us if there's a problem.

And so we have determined to bring the parents right into the jail building. And so beginning in April we're going to start having an

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2 orientation so that when an adolescent male is
3 newly admitted to RNDC, we're going to set up
4 opportunities, kind of like open school night, for
5 the parents to come out to the jail, to see the
6 physical building where their son is being held,
7 to meet some of the officers and the managers and
8 the supervisors who are involved in their custody,
9 to hear from us, our expectations for how we want
10 these young men to behave in our custody, to speak
11 to them frankly about the dangers that might arise
12 while they are in our custody, and to encourage
13 them to work with us to make the jail safer.

14 COUNCIL MEMBER MEALY: Okay. I
15 understand that. I don't know how far we can talk
16 about it. The same way that the parents would
17 want to feel that their children--even though they
18 did create and do a crime, that's why they're
19 there. But to have the people who are supposed to
20 be protecting them, to get into certain other
21 little program things, how do you feel the parents
22 feel about, when they do call and they don't get
23 the right information, even talking about the
24 incident that just happened. I don't know if we
25 can really speak about it. The Robinson...

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2 COMMISSIONER HORN: Well look. We
3 endeavor to give accurate information. So I would
4 imagine, in general, that any parent who feels
5 that their concerns have not been given due
6 consideration is going to be unhappy with that.

7 COUNCIL MEMBER MEALY: But could
8 you tell me if, you know, I hear that you do
9 listen to their telephone conversations. If an
10 inmate called home and kind of hint to the parent
11 that they're being abused, what actions do you
12 take when you got--suspect that they hear, they're
13 saying that maybe the Correction Officer is doing
14 something, not an inmate.

15 COMMISSIONER HORN: We would--

16 COUNCIL MEMBER MEALY:

17 [Interposing] What is the proced--

18 COMMISSIONER HORN: [Interposing]
19 Okay.

20 COUNCIL MEMBER MEALY: Give me some
21 of the procedures that you would--

22 COMMISSIONER HORN: [Interposing]
23 We would immediately investigate it. The first
24 thing we would do is we would check to ensure that
25 the inmate is physically okay, just a medical sort

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of physical examination--

COUNCIL MEMBER MEALY:

[Interposing] Do you keep those statistics?

COMMISSIONER HORN: --are there any
bruises? Excuse me?

COUNCIL MEMBER MEALY: You do keep
those statistics.

COMMISSIONER HORN: We keep records
on every investigation, yes. We might ask one of
the officers from our Intelligence Unit from
outside the jail to take the inmate aside and to
say, you know, we heard you express some concerns
on the phone the other day. Are you all right?
Is there something you want to tell us?

COUNCIL MEMBER MEALY: What's the
ratio of that? Do they really tell you?

COMMISSIONER HORN: Not often
enough.

COUNCIL MEMBER MEALY: Not often
enough. Okay. I just hope that that procedure
can be built up 'cause maybe if they know if they
can tell someone, something would happen right
away, to take them out of that environment and
maybe out somewhere else, maybe a lot more people

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would--or our young people would tell.

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COMMISSIONER HORN: I agree. And

we try and create as many opportunities as

possible. There are many avenues for a person who

is being victimized in our jails to report it.

Certainly they can report it to their lawyers,

many of them do. Their lawyers bring it to our

attention. Certainly they can report it,

confidentially, on a toll-free number to the

Department of Investigation, confidentially. Our

Wardens have Warden's hotlines they can refer to.

There are many avenues. The Board

of Corrections has their own inspectors in our

jails. And one of the things that we've done in

recent months is we've asked and the Board of

Corrections has stepped up to the plate and

increased their presence in the adolescent jail so

that there are more people who don't work for us

that they can talk to.

COUNCIL MEMBER MEALY: Thank you so

much.

CHAIRPERSON GONZALEZ: Council

Member James.

COUNCIL MEMBER JAMES: Thank you.

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2 We've discussed and there's been much back and
3 forth with regards to the inmates. I want to talk
4 a little bit about the Correction Officers. What
5 changes, if any, have been implemented subsequent
6 to the death of Christopher Robinson to protect
7 adolescents since it appears that there were some
8 Correction Officers who were involved in his
9 death.

10 COMMISSIONER HORN: Well first of
11 all I think that it's worth saying than the
12 officers are as entitled to the presumption of
13 innocence as anyone else accused before the law.
14 We, as I said in my testimony, take a backseat to
15 no one with respect to the aggressiveness with
16 which we pursue and take action against
17 wrongdoing. In fact if one were to go back
18 historically and read the archives, for examples,
19 of the Civil Service Chief, you would see union
20 leaders criticizing me for the vigor and the
21 aggressiveness that we have shown in prosecuting
22 cases against our officers.

23 COUNCIL MEMBER JAMES: So let me
24 ask you this question. How many cases have you
25 prosecuted against Correction Officers?

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2 COMMISSIONER HORN: Literally
3 hundreds.

4 COUNCIL MEMBER JAMES: Literally
5 hundred? Okay. And subsequent to the death of
6 Christopher Robinson, what changes, if any, have
7 been made with respect to the procedure and/or any
8 reforms that you have put in place to prevent this
9 from happening again?

10 COMMISSIONER HORN: Well. First of
11 all, we have improved, I think enhanced, enlarged
12 upon the concept of integrity in our training
13 program. Because at the end of the day nothing
14 protects us except the integrity of our individual
15 officers. And so rather treating integrity as one
16 3 or 5 hour block of training, we include the
17 concept of integrity in every module of our 15
18 week training program.

19 So whether you're talking about how
20 to serve an inmate's meals, how to run recreation,
21 the concept of integrity is emphasized to a
22 greater degree than ever before.

23 Secondly we have created a separate
24 section, I believe it's a three hour section on
25 bullying and intimidation that inmates engage in,

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2 in order that our officers better know how to
3 identify it when it is occurring and better
4 understand their obligation to break it up and not
5 to participate in it.

6 Thirdly, as I say, you cannot
7 ignore the installation of 3,000 cameras which
8 have enabled us and in fact have, we have brought
9 cases against officers who we have observed on
10 camera doing things that are against the rules.

11 Fourthly, is the telephone
12 monitoring. We are more aggressively looking at--
13 listening to the phone calls. And where there is
14 any hint of wrongdoing on the part of our officers
15 initiating an investigation.

16 COUNCIL MEMBER JAMES: So listening
17 to the phone calls of officers?

18 COMMISSIONER HORN: Of inmates.
19 And we are looking, we are looking as well, for
20 instances in which--because we also look at
21 matches between the phone numbers, if we identify
22 that an inmate is calling an officer at home, they
23 may be collusion. So we now cross tabulate the
24 inmate phone calls against known phone numbers of
25 our Correction Officers.

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2 COUNCIL MEMBER JAMES: And has the
3 union objected to that practice?

4 COMMISSIONER HORN: We have a very
5 robust labor management--

6 COUNCIL MEMBER JAMES:
7 [Interposing] I've heard. I've--

8 COMMISSIONER HORN: --relationship
9 with the COBA--

10 COUNCIL MEMBER JAMES:
11 [Interposing] I've heard.

12 COMMISSIONER HORN: --I--let me say
13 this. I believe, very deeply.

14 COUNCIL MEMBER JAMES: Um-hum.

15 COMMISSIONER HORN: That the COBA
16 and its President, Norman Seabrook, know the
17 difference between right and wrong.

18 COUNCIL MEMBER JAMES: Um-hum.

19 COMMISSIONER HORN: And do not--and
20 I have heard them speak very, very soundly and
21 very emphatically to their members--

22 COUNCIL MEMBER JAMES:
23 [Interposing] Um-hum.

24 COMMISSIONER HORN: --about their
25 expectations for them. And they expect their

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2 officers to do the right thing. They tell them to
3 do the right thing. They have an obligation to
4 defend their officers. And we respect that.

5 COUNCIL MEMBER JAMES: I recognize
6 that there are conversations between counsel and
7 client which is privileged, is it not privileged
8 communication, is not the concept of privilege
9 does not that extend to a Correction Officer. And
10 what authority do you have to tape the phone call
11 of a Correction Officer?

12 COMMISSIONER HORN: We're not
13 taping the phone calls of a Correction Officer.
14 We're taping--phone call, we're monitoring, we're
15 recording the outgoing conversations of inmates,
16 except those that are made to privileged parties.

17 COUNCIL MEMBER JAMES: And the--
18 okay. Now let me just talk to you a little bit--
19 so the extent is the phone call, the monitoring of
20 outgoing phone calls to individuals who are not,
21 to those that are not privileged. Training. That
22 is the extent of the reforms that you have
23 implemented in the aftermath of the Robinson case.

24 COMMISSIONER HORN: No I wouldn't
25 say that.

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2 COUNCIL MEMBER JAMES: Is there
3 anything I left out?

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COMMISSIONER HORN: Yeah.

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COUNCIL MEMBER JAMES: Go ahead.

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COMMISSIONER HORN: Well we talked
7 a lot about the aggressive prosecution of our
8 cases. Certainly training is a big part of it--

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COUNCIL MEMBER JAMES:

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[Interposing] Um-hum.

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COMMISSIONER HORN: --the camera
12 surveillance.

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COUNCIL MEMBER JAMES: Now okay.

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Let me ask you a little bit about--I want to talk
15 a little bit about the population. I believe
16 someone testified or I heard that the vast
17 majority of the adolescent inmates are--have been
18 arrested for violent offenses, is that true?

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COMMISSIONER HORN: Yes it is.

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COUNCIL MEMBER JAMES: Okay. And
21 are they, they are arrested but not convicted,
22 yes?

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COMMISSIONER HORN: Yes they are.

24

That's correct.

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COUNCIL MEMBER JAMES: And are they

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2 State charges? Are they City? Are they being--is
3 it--are they State charges?

4 COMMISSIONER HORN: The crimes in
5 the Penal Code are State charges. I think there
6 are very few who are locked up on Administrative
7 Code violations.

8 COUNCIL MEMBER JAMES: But the
9 average stay is, I believe someone testified is, I
10 believe you said 45 days, if I'm not mistaken?

11 COMMISSIONER HORN: Yes.

12 COUNCIL MEMBER JAMES: So most of
13 the--so they were overcharged and the cases were
14 then pleaded down to misdemeanors and they are
15 basically there for 45 days, is that pretty much?

16 COMMISSIONER HORN: I--I,
17 Councilwoman, I can't answer that question. I
18 just don't know how their cases got disposed of.
19 They may well have made bail and their charges may
20 be pending.

21 COUNCIL MEMBER JAMES: Okay.

22 COMMISSIONER HORN: They could have
23 been released on recognizance and their charges
24 are still pending.

25 COUNCIL MEMBER JAMES: But the vast

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2 majority that are currently under your supervision
3 are there for, for the most part, 45 days or less.

4 COMMISSIONER HORN: On average.

5 COUNCIL MEMBER JAMES: On average.

6 And you testified that the--one of the causes as
7 to why there's so much violence is because there's
8 boredom and you don't have supportive services for
9 these individuals, is that true? One of the
10 reasons, one of the factors.

11 COMMISSIONER HORN: Sure.

12 COUNCIL MEMBER JAMES: And part of
13 the reason why you do not have supportive services
14 is because we are currently now in austere times
15 and in the past we've had--we've not had enough
16 revenue or enough funds to provide for supportive
17 services.

18 COMMISSIONER HORN: No that's not
19 the case.

20 COUNCIL MEMBER JAMES: Okay. Why
21 do we not have--

22 COMMISSIONER HORN: [Interposing]
23 The City has never provided services for detainees
24 other than education.

25 [Pause]

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2 COUNCIL MEMBER JAMES: And is it
3 your position, do you support the City providing
4 additional services to inmates?

5 COMMISSIONER HORN: I think I made
6 it very clear that I would like to keep inmates
7 busy throughout the day. I would like to keep
8 them busy on productive and meaningful things
9 rather than unproductive and unmeaningful things.

10 COUNCIL MEMBER JAMES: And what is
11 productive and meaningful things? Give me an
12 example.

13 COMMISSIONER HORN: Education,
14 programs that facilitate their growth, their
15 understanding of their responsibilities of
16 citizenship, and what it means to be a member of a
17 civil society.

18 COUNCIL MEMBER JAMES: When was the
19 first time you became aware of accusations that
20 Correction Officers were using teen inmates to
21 target other inmates?

22 COMMISSIONER HORN: Could you
23 restate that question again?

24 COUNCIL MEMBER JAMES: When was the
25 first time you became aware that Correction

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2 Officers were using teen inmates.

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4 COMMISSIONER HORN: Teen, did you
5 say teen or team?

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6 COUNCIL MEMBER JAMES: Teen.

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7 COMMISSIONER HORN: Teen?

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8 COUNCIL MEMBER JAMES: Adolescent
9 inmates.

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10 COMMISSIONER HORN: I, I think...

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11 COUNCIL MEMBER JAMES: When did you
12 first become aware?

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13 COMMISSIONER HORN: You know, it's
14 so hard to answer that question. We have been
15 aware, I've been aware, certainly, throughout my
16 career of the possibility of officers colluding
17 with inmates, adult or teen, to engage in
18 wrongdoing. That is something that we are always
19 concerned about and on the alert for.

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20 COUNCIL MEMBER JAMES: So that was
21 an ongoing investigation?

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22 COMMISSIONER HORN: An ongoing
23 investigation of what?

22

23

24 COUNCIL MEMBER JAMES: You just
25 said you'd be-- you were aware there was a
possibility--

24

25

1

COMMISSIONER HORN: [Interposing]

2

That's right.

3

COUNCIL MEMBER JAMES: --so if you,

4

if it was possible, the question was were you

5

looking into it? And if you were looking into it,

6

was it in the form of an investigation?

7

COMMISSIONER HORN: We're always on

8

the lookout for it.

9

COUNCIL MEMBER JAMES: So--

10

COMMISSIONER HORN: [Interposing]

11

There was no specific investigation. There are

12

investigations of individual acts and individual

13

incidents. I did say that going back as far as

14

2005, for the very reason that we have this

15

concern, we have sought the tools to ascertain

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when it is occurring.

17

COUNCIL MEMBER JAMES: So the

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answer to the question is there was no formal

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investigation.

20

COMMISSIONER HORN: There have been

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investigations of individual incidents.

22

COUNCIL MEMBER JAMES: But in terms

23

of the possibilities that you believe were

24

occurring there was no formal investigation.

25

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2 COMMISSIONER HORN: Investigation
3 per se? No.

4 COUNCIL MEMBER JAMES: Okay.

5 COMMISSIONER HORN: Of a conspiracy
6 or an ongoing enterprise, no.

7 COUNCIL MEMBER JAMES: When was the
8 first time you heard the term, The Program, or The
9 Team?

10 [Pause]

11 COUNCIL MEMBER JAMES: Were you
12 aware of The Program or The Team or was--

13 COMMISSIONER HORN: [Interposing]
14 Yeah, I'm advised by counsel that this is--this
15 matter is subject to litigation. I'm really not
16 at liberty to answer your questions.

17 COUNCIL MEMBER JAMES: It's my
18 understanding that in February 2008, Correction
19 Officer Nicholson was indicted on charges of gang
20 assault. My question to you was in fact, what
21 actions were taken by the Department to weed out
22 or to monitor the actions of Correction Officer
23 Nicholson, if any?

24 COMMISSIONER HORN: Well for the
25 record, that matter--Officer Nicholson has been

1
2 indicted. He has not been yet convicted. And he
3 is as entitled as any other person before the bar
4 of justice to the presumption of innocence.

5 COUNCIL MEMBER JAMES: Okay.

6 COMMISSIONER HORN: Secondly--

7 COUNCIL MEMBER JAMES:

8 [Interposing] Um-hum.

9 COMMISSIONER HORN: --let me state
10 for the record that it was as the result of action
11 by the Deputy Warden at RNDC that those case--that
12 that information that led to his indictment was
13 brought to the attention of the Department of
14 Investigation which led to his indictment.

15 COUNCIL MEMBER JAMES: So an
16 officer who was indicted and/or the subject of
17 investigation is it--basically what you're saying
18 is that they would be reassigned back into general
19 population or at a desk at an adolescent housing
20 facilities without any monitoring or greater
21 supervision?

22 COMMISSIONER HORN: No--

23 COUNCIL MEMBER JAMES:

24 [Interposing] Okay.

25 COMMISSIONER HORN: --he was

1

2 suspended without pay--

3

COUNCIL MEMBER JAMES:

4

[Interposing] Okay.

5

COMMISSIONER HORN: --and remains

6

suspended without pay.

7

COUNCIL MEMBER JAMES: So let me

8

ask you this question. If in fact there's an

9

officer who was brought up on conduct, either by

10

the Department and/or under investigation, would

11

there be any additional supervision or monitoring

12

of that Correction Officer's conduct?

13

COMMISSIONER HORN: Yes.

14

COUNCIL MEMBER JAMES: Okay. By

15

who?

16

COMMISSIONER HORN: By our

17

managers.

18

COUNCIL MEMBER JAMES: By your

19

managers? And is this a new procedure or practice

20

or it was ongoing?

21

COMMISSIONER HORN: Ongoing.

22

COUNCIL MEMBER JAMES: Okay.

23

[Pause]

24

COUNCIL MEMBER JAMES: And were

25

there any, as far as you know, was there any

1
2 efforts to monitor inmate conversations to
3 determine if there were any ongoing related
4 behavior or, let me not ask that question.

5 [Pause]

6 COUNCIL MEMBER JAMES: Officer
7 Nicholson, the other officers that were involved
8 in that incident, you had just--you had stated
9 earlier that there was some possibility that there
10 might be some ongoing concerns that you have with
11 some Correction Officers. And so I guess what my
12 question was, was there any supervision of
13 conversations with inmates and Officer Nicholson
14 and/or the other officers who were working with
15 him prior to his indictment.

16 COMMISSIONER HORN: Ma'am, that
17 matter is facing--he faces criminal charges in
18 Bronx County and I'm not going to comment on that
19 case in any way.

20 COUNCIL MEMBER JAMES: Okay. Is
21 there anything that you think you could have done
22 in between the time of the Nicholson indictment
23 and the allegations subject to the current
24 indictments related to the death of Mr. Robinson
25 which would have uncovered the wrongdoing of the

1

2

Correction Officers?

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6

COMMISSIONER HORN: Well again, in so far as there is litigation against the City with respect to that very issue, I'm really not at liberty to answer that question.

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COUNCIL MEMBER JAMES: Let's talk a little bit about staffing ratios. You said in your testimony, you talked about, you said you changed staffing ratios, but given the fact that these were austere times you were somewhat limited. So can you discuss a little bit about staffing ratios and how we have addressed staffing ratios to prevent a similar type of incident from happening in the future?

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COMMISSIONER HORN: You know, first I have to say that I'm not convinced that there is a direct relationship between the wrongdoing that is alleged in the Robinson indictment and staffing ratios. I think there is a relationship to inmate safety and staffing ratios. But you could have a one to one relationship, if the officer compromises his or her integrity it doesn't matter what your staffing ratio is, correct?

25

COUNCIL MEMBER JAMES: Correct.

1
2 COMMISSIONER HORN: However, we do
3 believe that officers who feel safe in doing their
4 job, who have sufficient backup are less likely to
5 be compromised. We do believe that they are more
6 likely to intervene swiftly when there is a fight.
7 And for that reason we identified those housing
8 units among the adolescents in RNDC that were the
9 most troublesome and that were having the most
10 difficulties with inmate on inmate violence. And
11 we have assigned on the two day shifts, 7:00 A.M.
12 to 3:00 P.M. and 3:00 P.M. to 11:00 P.M., an
13 additional officer. We have done that by using
14 overtime to fund that additional post. And we've
15 attempted to fund it by reducing overtime
16 expenditures in other possibly less critical
17 positions.

18 We believe that the ratios are
19 driven in some respect by the size of the housing
20 units. You know, one of the things that people
21 don't understand is that most of the inmates in
22 our custody live in open dormitories. And in an
23 open dormitory there are 50 young people living
24 side by side, cheek by jowl, sleeping, eating,
25 entertaining themselves together, literally 24

1
2 hours a day, 7 days a week. And it's not as if
3 they're locked in cells.

4 So you've got 50 inmates. We've
5 not got on those 2 shifts, 2 officers for those 50
6 inmates which creates an effective staff to inmate
7 ratio of 1 to 25. In the cell blocks there are
8 only 33 cells. So by putting 2 officers in those
9 cell blocks we have an effective ratio of 1 to 17.

10 I understand that in the Department of Juvenile
11 Justice, some of their dormitories house 24
12 individuals and there's 1 Juvenile Detention
13 person assigned, and on some shifts there's an
14 additional Social Worker, but that Social Worker
15 typically works 5 days a week and a single shift.

16 So I would argue that our staffing
17 ratios are comparable to those. Now it is true
18 that in the Department of Juvenile Justice some of
19 the housing units were built to house as few as 8
20 individuals. And that's a good thing. They were
21 built for that purpose. And so if they've got 1
22 officer assigned or one detention aid assigned,
23 then they're going to have a ratio of 1 to 8.

24 If I could afford to put 3 or 4
25 officers in those dormitories that house 50

1
2 inmates, I certainly would. But we have to be
3 reasonable with our resource allocations.

4 COUNCIL MEMBER JAMES: You testi--I
5 mean in your testimony you talked a little bit
6 about new lesson plans, new lesson plans on
7 bullying and intimidation and on intelligence
8 gathering. On July 1st an expanded adolescent
9 specific lesson plan will be introduced. And last
10 but not least you talked about the six new
11 classifications for adolescents. Is it possible
12 that you can provide this Committee a copy of your
13 new lesson plan on bullying an intimidation and--

14 COMMISSIONER HORN: [Interposing]
15 Yes.

16 COUNCIL MEMBER JAMES: --
17 intelligence gathering? And may you also provide
18 this Committee a copy of your expanded adolescent
19 specific lesson plan? And could you expound a
20 little on your expanded adolescent specific lesson
21 plan. What does that mean?

22 COMMISSIONER HORN: Well we
23 certainly can provide copies of the bullying and
24 the intelligence gathering lesson plans, those are
25 complete. They are in use. And we will be happy

1
2 to provide copies to the Committee. The
3 adolescent specific lesson plan is not yet
4 complete. As I indicated, it will be complete and
5 delivered effective July 1st and when it is
6 complete we will be more than happy to provide a
7 copy. I am not a trainer.

8 COUNCIL MEMBER JAMES: Um-hum.

9 COMMISSIONER HORN: And I am not
10 the person who is writing it but I do know from
11 conversations with the people who are that the
12 purpose of it is to help our officers understand
13 the way in which adolescents are different from
14 adults; the way in which they respond to each
15 other; their needs; the way in which they learn;
16 the way in which they relate to each other; the
17 way in which they respond to authority; and to
18 teach them techniques that will obtain better
19 results in helping these adolescents respond to
20 the coercive custodial situation in which they
21 find themselves. I don't know Ed or Kathy if
22 you've been more directly involved. If you want
23 to add to this?

24 MS. COUGHLIN: No I think that's
25 it. It's just make sure--

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COUNCIL MEMBER JAMES:

2

[Interposing] Could you please state your name for
the record--

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4

5

COMMISSIONER HORN: [Interposing] I
introduced Kathy Coughlin.

6

7

MS. COUGHLIN: Yeah. Kathy

8

Coughlin, Deputy Commissioner for Programs and

9

Discharge Planning. It's really an attempt to

10

understand adolescent development. That they're

11

not grown up adults, even if they've done

12

something or are alleged to have done something,

13

they're still in development, and how you deal

14

with them. Many of these officers know this from

15

dealing with their own kids but haven't yet

16

transferred it to dealing with our adolescents.

17

COUNCIL MEMBER JAMES: So can you

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give me a--I know you can't provide a copy of the

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training manual 'cause it's not yet been

20

developed, but can you give me a thought process

21

with regards to what this training would consist

22

of? Some ideas.

23

MS. COUGHLIN: I would expect just

24

from knowing how we do training that it's a

25

combination of didactic information, this is what

1
2 we know about adolescent development and
3 interaction among the groups so that you can
4 expect what the reaction of an adolescent might be
5 and how you would deal with it in a different way
6 to diffuse the situation.

7 COUNCIL MEMBER JAMES: And so this
8 training manual will be used in place of some uses
9 of force or an attempt to, you know--

10 COMMISSIONER HORN: [Interposing]
11 No.

12 COUNCIL MEMBER JAMES: --deescalate
13 the situation?

14 COMMISSIONER HORN: No. I mean,
15 this training curriculum--

16 COUNCIL MEMBER JAMES:
17 [Interposing] Yes.

18 COMMISSIONER HORN: --not manual,
19 will be delivered to all officers who work with
20 adolescents at the time they're assigned to work
21 with the adolescents or for those who are already
22 on the job, we'll catch up and ensure that they
23 all have it. Hopefully it will improve the way in
24 which we obtain compliance and civil behavior,
25 normative behavior from the adolescents in our

1

2 custody that will avoid the need to use force.

2

3

4 But again I want to say that
5 sometimes using force in a correctional situation
6 is necessary and appropriate.

4

5

6

7 COUNCIL MEMBER JAMES: No I
8 recognize that. But this is an attempt to, I
9 guess, engage in some sort of communication,
10 improve communication.

7

8

9

10

11 COMMISSIONER HORN: Precisely.

11

12

13 COUNCIL MEMBER JAMES: Okay. Now
14 can you talk to me a little bit about enhancing
15 the integrity training? What's the atmosphere so
16 that if an officer wishes to discuss with a
17 supervisor the fact, some information, provide
18 some information that may assist you in preventing
19 another situation from happening, what is the
20 environment like? Is there a place where officers
21 can go to confide with your staff confidentially?

14

15

16

17

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19

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21 COMMISSIONER HORN: Yes.

21

22

23 COUNCIL MEMBER JAMES: Okay. And
24 how--what's that, what are the mechanisms?

23

24

25

26 COMMISSIONER HORN: There are a
27 variety of opportunities for an officer who has a
28 concern about the integrity of another officer.

1

2 They can report it to the Warden's confidential
3 hotline. They can refer it, and they are
4 encouraged to refer wrongdoing pursuant to the
5 Mayor's Executive Order 16, to the Department of
6 Investigation, confidentially and anonymously if
7 need be. They may ask to speak to a supervisor or
8 to the Warden in private in which case they will
9 be seen in private. They could ask to speak to
10 our Internal Affairs people in private.

11

12 And you know what? I even tell the
13 officers that they should speak to their union
14 delegate because I know that the union knows
15 what's right and what's wrong and that they want
16 our workforce to be as full of integrity as we do
17 and that they will counsel them to bring it to the
18 attention of the appropriate authorities. There
19 are--my point is there are many avenues for an
20 officer who wishes to report wrongdoing to do so.

21

22 COUNCIL MEMBER JAMES: Last two
23 questions. Have many officers taken advantage of
24 this?

25

COMMISSIONER HORN: Define many.

26

COUNCIL MEMBER JAMES: [Chuckling]

27

I don't know. Have any?

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COMMISSIONER HORN: Yes.

COUNCIL MEMBER JAMES: How many?

COMMISSIONER HORN: I can't give you an exact number because sometimes they report it to DOI confidentially. But it is a fair number. We, in fact, the record is very clear that we have made cases that have been brought to our attention--

COUNCIL MEMBER JAMES:

[Interposing] With the cooperation?

COMMISSIONER HORN: --with the cooperation of officers.

COUNCIL MEMBER JAMES: Last question is regarding the 6 new classifications for adolescents, high and low security classes for 16-year olds, 17-year olds and 18-year olds. Can you perhaps expound a little further on these 6 new classifications and how one determines what classification--

COMMISSIONER HORN: [Interposing] Sure.

COUNCIL MEMBER JAMES: --an inmate would be--

COMMISSIONER HORN: [Interposing]

1

2 Sure.

3 COUNCIL MEMBER JAMES: --assigned.

4 COMMISSIONER HORN: [Interposing]

5 Historically in New York City and we did a little
6 checking, it is common practice throughout New
7 York where other jails hold adolescents as we do,
8 to house 16 to 19-years olds in housing units
9 together. And typically we have a classification
10 instrument that we have used that very well serves
11 us in identifying those individuals who are
12 predatory from those who are vulnerable.

13 And it consists of a series of
14 questions, I believe we've previously provided a
15 copy of the 239 form to this Committee which is
16 the basic data collection that we use in arriving
17 at that classification and it's behaviorally
18 based. The best predictor of a person's future
19 behavior is their past behavior.

20 So where we know that an individual
21 has been aggressive, has been a bully, or has been
22 a victim, we use that in distinguishing between
23 those who are high risk and those who are low
24 risk.

25 Historically we would have housed

1
2 the 16 to 19-year old low risk individuals
3 together and the 16 to 19 high risk individuals
4 together. What we are now realizing is that even
5 within a group of low, so called low risk
6 individuals, there is still a continuum of risk.

7 Some are more--and what we find is
8 that larger, older, a 19-year old, a person who is
9 about to turn 19 is very developmentally different
10 from a person who has just turned 16. And so we
11 believe that creating these more granular
12 distinctions so that we have high and low
13 designations within each age group will further
14 serve to reduce violence.

15 It's a hypothesis. It's as yet
16 untested.

17 COUNCIL MEMBER JAMES:

18 Commissioner, I'm sorry, I apologize. I misspoke.
19 But from what I understand the population that you
20 serve, 70% to 80% of the inmates have some form of
21 an addiction; 20% require detoxification; 32% are
22 illiterate; and 40% require some form of mental
23 health service. Is there a classification for,
24 particularly those who suffer from mental health
25 challenges, those who require detox? I mean I

1

2 would imagine--

3 COMMISSIONER HORN: [Interposing]

4 Yes.

5 COUNCIL MEMBER JAMES: --that

6 they're a little bit more volatile.

7 COMMISSIONER HORN: Yes. We don't
8 find among the adolescents a very high number who
9 require detoxification. But as a matter of fact
10 we are a national leader in providing
11 detoxification services to individuals who need
12 it. Additionally every individual who comes into
13 our custody is evaluated with respect to their
14 mental health status within the first 24 hours in
15 custody. And as I stated in my opening remarks--

16 COUNCIL MEMBER JAMES:

17 [Interposing] And are they provided service?

18 COMMISSIONER HORN: Absolutely.

19 COUNCIL MEMBER JAMES: Okay. So,
20 and I guess you would also include into your
21 equation the type--the arrest, what they are
22 arrested for, I would assume.

23 COMMISSIONER HORN: Clearly.

24 COUNCIL MEMBER JAMES: Last

25 question is on page 5 of your testimony you talked

1
2 about you created a new response to misbehavior
3 focused on behavior modification as much as it is
4 on the immediate control of violence. What is
5 behavior modification consist of?

6 COMMISSIONER HORN: Well I'm going
7 to ask Warden Duffy and Kathy Coughlin to address
8 that in greater specificity but let me simply say
9 that in the past our reaction to inmate
10 misbehavior has been punitive, okay? And this
11 represents a change and Warden Duffy and
12 Commissioner Coughlin have been instrumental in
13 putting this together. So I'm going to let them
14 address it.

15 WARDEN EDMUND DUFFY: Good morning.
16 What we're going to create in March is a new
17 punitive area but it's an alternate to the
18 existing punitive lockdown system where they
19 effectively spend 23 hours locked in per day.
20 We're looking to, rather than have them release
21 guys that have the--inmates that have the
22 potential of being worse than when they were first
23 entered in, we're looking to make it a more
24 constructive program where during the days they're
25 going to be receiving constructive programming.

1
2 We are still writing a curriculum
3 on it. We are going to IID train the officers who
4 will administer it. It's a work in progress but
5 we're looking to get the ball rolling and get this
6 effective in March, early March.

7 COUNCIL MEMBER JAMES: That assumes
8 that you receive some funding for these--

9 CHAIRPERSON GONZALEZ:
10 [Interposing] For purposes of recording Warden,
11 would you please state your name for the record.
12 And I know that the Commissioner stated her name
13 but it is important, thank you.

14 WARDEN DUFFY: Warden Edmund Duffy.

15 COUNCIL MEMBER JAMES: You talked,
16 Warden, you said constructive programs. What
17 constructive programs do you envision given these
18 austere times and it appears that the only program
19 that you provide is based--educational.

20 WARDEN DUFFY: Well Board of
21 Education services will be provided within the
22 housing area but in addition to that we're looking
23 at life skills and also a structured program as to
24 what makes these guys tick. We have a design
25 program that we're looking to implement in the

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2

area which focuses on cycles of destructive

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behavior, of what caused me to get into the mess

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I'm in in the first place.

5

And if we can get these adolescents

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to recognize what--where they went wrong and what

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behaviors they need to modify in themselves, we

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believe we can truly have an impact on these young

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men.

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COUNCIL MEMBER JAMES: you

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anticipate additional staff for this program?

12

WARDEN DUFFY: We're going to

13

utilize the--

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COUNCIL MEMBER JAMES:

15

[Interposing] Existing?

16

WARDEN DUFFY: --train the housing

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area staff. And we will try--we will actually

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utilize the existing staff and train them in how

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to implement these programs. And we're also going

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to rely on community based volunteers that have

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already agreed, after we presented it to them, to

22

assist us in this endeavor.

23

COUNCIL MEMBER JAMES: Thank you.

24

Thank you Madam Chair.

25

CHAIR GONZALES: Okay. I have one

1
2 more question Commissioner, then we're going to go
3 on to Councilman Gerson who has been waiting there
4 very patiently. Thank you.

5 In respect to the Institute for
6 Inner Development, the question that I have is
7 that something that will be a permanent expansion
8 as far as what you can tell us today?

9 COMMISSIONER HORN: Certainly it is
10 as far as I'm concerned, yes.

11 CHAIRPERSON GONZALEZ: Okay. Thank
12 you. Councilman Gerson.

13 COUNCIL MEMBER GERSON: Thank you
14 very much Madam Chair. And let me take the
15 opportunity to thank you for your leadership in
16 addressing the needs of a vulnerable part of our
17 very needy youth population which are really has
18 directed this Council and inspires us all.

19 Good afternoon Commissioner.

20 COMMISSIONER HORN: Good afternoon
21 Mr. Gerson.

22 COUNCIL MEMBER GERSON: Does
23 Department policy currently forbid without
24 exception the use of inmates to in any way
25 supervise any adolescent inmate?

1
2 COMMISSIONER HORN: Absolutely,
3 yes.

4 COUNCIL MEMBER GERSON: And this
5 policy is clear and known and widespread among the
6 entire force and anticipating your answer to that,
7 what would be the response by the Department to a
8 violation by an officer of that policy?

9 COMMISSIONER HORN: I think our
10 record is clear. Where we have found it we have
11 brought charges. We have, where it rises to a
12 serious level, sought termination. We have on
13 some cases obtained termination. And where it
14 crosses the threshold of criminal behavior we've
15 referred it for prosecution.

16 COUNCIL MEMBER GERSON: And just to
17 be clear, my question was directed not just to any
18 enterprise where there was an exchange of
19 consideration but any delegation of supervisory
20 responsibility whatsoever, the assignment of an
21 inmate to act, for example, as a monitor over
22 another inmate, that is covered by what is
23 forbidden under--

24 COMMISSIONER HORN: [Interposing]
25 Absolutely true, yes.

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[Pause]

2

WARDEN DUFFY: Very clear...

3

{speaking off mic}

4

COMMISSIONER HORN: No we use

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inmates as what we call suicide prevention aids

6

and we may have spoken about that but their job is

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to observe and report. They have no supervisory

8

authority over other inmates. My staff is

9

concerned that I wasn't sufficiently specific.

10

Which is why I asked my staff not to interrupt

11

while I'm speaking.

12

COUNCIL MEMBER GERSON: Well you

13

have an--but okay. So there's a suicide

14

observation--

15

COMMISSIONER HORN: [Interposing]

16

Suicide prevention aid but their job is to

17

supplement an officer's ability to observe--

18

COUNCIL MEMBER GERSON:

19

[Interposing] Right.

20

COMMISSIONER HORN: --and we've

21

talked about this before. So in a housing unit,

22

new admission housing unit, medical observation

23

unit, there will be an inmate, a paid inmate from

24

another housing unit assigned to walk around and

25

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2

the job description and the expectations are very clear, if that inmate sees something amiss, he or she is to report it. Simply that, nothing more.

3

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COUNCIL MEMBER GERSON: And is that inmate, the inmate selected for that responsibility, does that inmate undergo any training?

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COMMISSIONER HORN: Yes.

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COUNCIL MEMBER GERSON: Is there any other role or position where an inmate is asked to monitor, observe or report on any other inmates?

12

13

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COMMISSIONER HORN: Not to monitor or observe but we do--yeah, with inmates who are disabled, we do pay other inmates to assist them. For example with pushing a wheelchair.

15

16

COUNCIL MEMBER GERSON: Okay.

17

18

COMMISSIONER HORN: And again those inmates are carefully selected. They're paid for the service and they are trained.

19

20

COUNCIL MEMBER GERSON: Okay. So

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22

we have the assistance of inmates with disabilities, we have suicide observation, anything else?

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24

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COMMISSIONER HORN: No.

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COUNCIL MEMBER GERSON: Okay.

3

Commissioner, I thought earlier in your testimony
you came up or you mentioned, you know, a
brilliant idea which is not unusual for you, but
that is keeping these young people involved in
school until 6:00 o'clock. Now we have schools in
the communities which have expanded days. Would,
could we leaving this hearing agree to go
collectively, the Department and the Council to
the Department of Education and ask the Department
to come up with an expanded day program for your
population?

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COMMISSIONER HORN: I would be

15

happy to join you.

16

COUNCIL MEMBER GERSON: Okay.

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COMMISSIONER HORN: At some risk to

18

my reputation with OMB but I would be happy to
join you.

19

20

COUNCIL MEMBER GERSON: Well if we

21

do it together and I think part of the--

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COMMISSIONER HORN: [Interposing]

23

Give me some cover, would you?

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COUNCIL MEMBER GERSON: That is--

25

1
2 we'll give each other cover and more importantly
3 we'll work together to come up with the funding.
4 But it certainly makes sense if we do that with
5 increasing frequency in the communities and I
6 think there's a need, a population which has that
7 need.

8 Now just to be clear, when we've
9 been referring to adolescents as 16 to 19-year
10 olds. Typically the public school system upper
11 age limit is 17 sometimes 18. Is there any group
12 of 18, 19 or even 17, 18, or 19-year olds who are
13 not enrolled at all in a school program because
14 they have completed the normal sequence?

15 COMMISSIONER HORN: An individual
16 who has completed their high school diploma and
17 whose record indicates such with the Department of
18 Education is not required to go to school.

19 COUNCIL MEMBER GERSON: But do you
20 have a significant number of such inmates?

21 COMMISSIONER HORN: No. I don't
22 believe so. No.

23 COUNCIL MEMBER GERSON: 'Cause I
24 would be very concerned over a 17, 18, 19-year old
25 who in addition to, you know, does not even have

1

2 the school time responsibility.

3

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COMMISSIONER HORN: No we mandate school up to age 18 if they do not have a high school diploma. And--

6

7

COUNCIL MEMBER GERSON:
[Interposing] Well--

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COMMISSIONER HORN: --and we pay them, and even if they're over 18 and are not legally required to attend, we pay them in order to encourage them to attend if they have not completed their high school diploma.

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COUNCIL MEMBER GERSON:
Commissioner you testified that if you had the resources you would expand the ratio of officers to adolescents even more. If we were to add one additional officer for each of the shifts, seven days a week, to each of the adolescent units, what would the cost be?

20

21

22

COMMISSIONER HORN: Oh I'd have to do some figuring and ask my financial people but we--

23

24

COUNCIL MEMBER GERSON:
[Interposing] Could you give us an estimate? Or?

25

COMMISSIONER HORN: Hold on. Let

1

2 me think. So--

3

COUNCIL MEMBER GERSON:

4

[Interposing] You're a quick calculator.

5

COMMISSIONER HORN: Wait a minute.

6

So one additional person per shift on two shifts,

7

help me out here Eddie.

8

COUNCIL MEMBER GERSON: Uh-huh.

9

COMMISSIONER HORN: Two shifts,

10

seven days a week... oh no, just two shifts, per

11

housing unit. I'd have to figure--I really--

12

COUNCIL MEMBER GERSON:

13

[Interposing] All right. Could you get back, I

14

mean--

15

COMMISSIONER HORN: [Interposing]

16

Sure, yeah.

17

COUNCIL MEMBER GERSON: --obviously

18

we're about to undergo, I mean the--

19

WARDEN DUFFY: [Interposing] In

20

rough numbers we're talking about--

21

COUNCIL MEMBER GERSON:

22

[Interposing] Can you use the mic Warden? No, no,

23

just pull it in front of you. Go ahead.

24

WARDEN DUFFY: I had to turn it on.

25

COUNCIL MEMBER GERSON: There you

1

2 go. Oh that helps.

3

4

5

WARDEN DUFFY: Just rough numbers with 17 housing areas, we're talking about, it would be a pretty large number. It's--

6

COUNCIL MEMBER GERSON:

7

[Interposing] A couple of million dollars.

8

WARDEN DUFFY: --just roughly--

9

COUNCIL MEMBER GERSON:

10

[Interposing] A couple of million dollars.

11

WARDEN DUFFY: --if we just did a

12

guestimate at \$50,000 per officer, we're talking

13

about a significant dollar value--

14

COUNCIL MEMBER GERSON:

15

[Interposing] \$2,000,000 to \$3,000,000.

16

COMMISSIONER HORN: Let us get

17

back--

18

COUNCIL MEMBER GERSON:

19

[Interposing] Okay.

20

COMMISSIONER HORN: --to you.

21

We'll get back--

22

COUNCIL MEMBER GERSON:

23

[Interposing] It sounds like--

24

COMMISSIONER HORN: --with a

25

precise calculation, using the way in which we

1

2 deal with this with OMB.

2

3

COUNCIL MEMBER GERSON: Now in--and
4 I look forward to that because in recent testimony
5 that you delivered to the Board of Corrections--

4

5

6

COMMISSIONER HORN: [Interposing]
7 Um-hum.

7

8

COUNCIL MEMBER GERSON: --if our
9 reports are correct, you indicated that the amount
10 of fighting, of all physical altercations among
11 the adolescents is five times the rate of that for
12 adults, is that a correct report?

10

11

12

13

COMMISSIONER HORN: I would, you
14 know, without being precise, there's no question
15 but that it is a substantially higher rate, five
16 may well be accurate.

14

15

16

17

COUNCIL MEMBER GERSON: And the
18 number of lockdowns presumably as a result is also
19 commensurately greater?

18

19

20

COMMISSIONER HORN: Yes.

21

22

COUNCIL MEMBER GERSON: If you had
22 the funding to expand the ratio, do you think
23 those numbers would go down from your experience?

23

24

COMMISSIONER HORN: I think if
25 there are--if there's more adult supervision, more

25

1
2 responsible adult supervision, and they know we
3 are watching, there will be fewer fights. I think
4 too that if we can do something to relieve the
5 boredom that that too will contribute to a
6 decrease in fights--

7 COUNCIL MEMBER GERSON:

8 [Interposing] So it sounds like we have a two
9 prong strategy. We're already going to go to the
10 Department of Education to deal with part of the
11 latter. Let me ask you this, is there any non-
12 uniformed person, Guidance Counselor, Social
13 Worker, Psychologist, to whom an inmate is
14 assigned and told they will have access to that
15 person to meet with, speak with, you know,
16 confidentially and who has at least one meeting
17 with each inmate for the purpose of getting to
18 know them and beginning a process of social work,
19 guidance counseling?

20 COMMISSIONER HORN: Well we have
21 Correction Counselors assigned to each of the
22 jails. And while they're--

23 COUNCIL MEMBER GERSON:

24 [Interposing] So what is--who is a Correction
25 Counselor?

1
2 COMMISSIONER HORN: They are
3 civilian trained counselor, I don't know offhand,
4 they meet the Civil Service requirements to be a
5 counselor. I don't know offhand. I'm sure they
6 have a college degree, perhaps a Master's degree,
7 I don't know for sure--

8 COUNCIL MEMBER GERSON:
9 [Interposing] They're specifically assigned to the
10 adolescents?

11 COMMISSIONER HORN: There are.
12 There are counselors who are assigned to the
13 adolescents. My point is that at this point in
14 time the staffing ratios are so high that I cannot
15 tell you that one is assigned to each individual.

16 COUNCIL MEMBER GERSON: Do you know
17 if the school has a Guidance Counselor assigned to
18 each--

19 COMMISSIONER HORN: [Interposing]
20 Yes.

21 COUNCIL MEMBER GERSON: --enrollee
22 who serves that purpose?

23 COMMISSIONER HORN: I know that the
24 school has Guidance Counselors assigned. I don't
25 know what their ratio is, you'd have to ask that

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2 of DOE.

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COUNCIL MEMBER GERSON: so let me make a suggestion. If we're talking, you know, I heard that your testimony about the new efforts and, you know, what it is called, the new response to misbehavior, but you also testified that virtually every adolescent that comes into your care comes with issues that are disproportionate to the normal adolescent issues.

COMMISSIONER HORN: Yes.

COUNCIL MEMBER GERSON: And it seems to me that it would make sense for every adolescent in your care to have contact with a Guidance Counselor, Social Worker, Psychologist to initiate a process of working with that inmate that could also continue after discharge. Does that make sense to you?

COMMISSIONER HORN: It certainly does.

COUNCIL MEMBER GERSON: Well I think we should add that to our--

COMMISSIONER HORN: [Interposing]
Our shopping list?

COUNCIL MEMBER GERSON: --our

1 shopping list. But you know what? In the scheme
2 of things, even in austere times, it sounds to me
3 that, you know, making use of available resources
4 such as Guidance Counselors or School
5 Psychologists within the Department of Education
6 assigned, and enhancing them somewhat compared to
7 the benefit we would obtain, even in austere
8 times, would still be extraordinarily cost
9 effective. So I'm certainly going to follow up
10 aggressively on each of these three items. And I
11 hope you will join us in doing so.

12
13 COMMISSIONER HORN: I look forward
14 to the conversation Councilman.

15 COUNCIL MEMBER GERSON: Okay.
16 Madam Chair.

17 CHAIRPERSON GONZALEZ: That's it?
18 Council Member?

19 COUNCIL MEMBER GERSON: Yeah, one
20 last area but briefly. Bullying--oh and by the
21 way I must say in our last hearing we did talk
22 about the age separation advantage. And I'm very
23 gladdened to see that that is now being
24 implemented. So we--

25 COMMISSIONER HORN: [Interposing]

1
2 And let me say as a result of your suggestions we
3 took a look at the Department of Education's
4 bullying materials and have extracted from it that
5 which was useful and looked at our own, and it has
6 informed our training program.

7 COUNCIL MEMBER GERSON: So you
8 preempted my next question. So let me then jump
9 to what I hope will be the final one. Do we have
10 a zero tolerance policy for bullying and fighting
11 within the system, meaning that any inmate who
12 initiates a fight or an act of bullying will
13 expect a response from the system, corrective
14 and/or punitive?

15 COMMISSIONER HORN: Yes. And I
16 think the important distinction is that where
17 before our response was primarily punitive, we are
18 trying to, as Warden Duffy explained, make it more
19 of an opportunity for behavior modification to
20 extinguish the behaviors that led to it.

21 COUNCIL MEMBER GERSON: All right
22 well Madam Chair I look forward to working with
23 you and with the Commissioner on following up on
24 the three specific areas of follow-up we just
25 discussed as well as the other areas that have

1
2 come up in the course of this hearing. Thank you
3 very much.

4 CHAIRPERSON GONZALEZ: Thank you.
5 Thank you Council Member. Well Commissioner thank
6 you so much for your testimony. Thank you too,
7 and your staff. Today's hearing in respect to the
8 issue that we've been dealing with, violence
9 against adolescents at Rikers Island, is an issue
10 that is of significance to us and to the entire
11 City.

12 But today's Committee is also as
13 you spoke earlier and we spoke considering two
14 bills and a resolution. We heard some of your
15 comments on it. And we will continue to hear and
16 work with you as we go along. I strongly look
17 forward to it and the Committee looks forward to
18 it.

19 Okay it looks like Council Member
20 Tish has some questions on the bill. So.

21 COUNCIL MEMBER JAMES: Just wanted
22 to know the position of the Department with
23 respect to each of these bills and why there is
24 opposition, if any, to these bills?

25 COMMISSIONER HORN: I think I

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stated that in my statement.

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COUNCIL MEMBER JAMES: So if you could just elaborate on why there's opposition. You oppose a mandate on a Discharge Plan for adolescents leaving City jails. And I believe you indicated in your testimony part of it has to do with the lack of resources, is that true?

COMMISSIONER HORN: Absolutely true.

COUNCIL MEMBER JAMES: Okay. And other than the lack of resources do you have a philosophical opposition to a Discharge Plan for inmates who are leaving City jail?

COMMISSIONER HORN: In general no, in fact we are very strong supporters of discharge planning. I think that we must keep two things in mind. One we have to be prudent with respect to our resource allocation and decide the appropriate point in time at which to intervene and so the ten day cutoff that is proposed in the bill may be much too soon.

Secondly we do have to recognize that as strenuously as we have supported and advocated for discharge planning, in all candor,

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2 we have to admit that its efficacy is as yet
3 unproven. And we question why the Council would
4 move forward with something as ambitious as this
5 bill without allowing us to reinstate the
6 Adolescent Reentry Initiative which the Council
7 funded but which was taken out of last year's
8 adopted budget without seeing a few years of
9 evidence to see how well that works.

10 COUNCIL MEMBER JAMES: Have you
11 sought resources from the Mayor with regards to--

12 COMMISSIONER HORN: [Interposing]
13 Yes.

14 COUNCIL MEMBER JAMES: --this end?
15 And his response?

16 COMMISSIONER HORN: This was
17 negotiated with the Council. I don't discuss my
18 discussions with the Mayor or OMB.

19 COUNCIL MEMBER JAMES: Do you know
20 whether or not the Mayor is supportive of this
21 program?

22 COMMISSIONER HORN: The Mayor has
23 been supportive of discharge planning.

24 COUNCIL MEMBER JAMES: Is it not
25 true that the Mayor on his own could implement

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2 this plan?

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COMMISSIONER HORN: I don't know what you mean by that.

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COUNCIL MEMBER JAMES: On the second--

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COMMISSIONER HORN: [Interposing] We have a budget process and this matter was in the budget and it was taken out of the budget adopted by this Council.

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COUNCIL MEMBER JAMES: And I urge your further negotiations and discussions with the Mayor of the City of New York. In regards to the second bill, reporting, regarding census data and violent incidents. What is your--are you opposed to this bill?

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COMMISSIONER HORN: I don't think we state that we have opposition to this bill. We think that the bill can be improved upon.

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COUNCIL MEMBER JAMES: Okay. So in the absence of a position, you're open to this bill. And with respect to the resolution, do you have a position on the resolution?

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COMMISSIONER HORN: I have not seen the resolution.

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2 COUNCIL MEMBER JAMES: You have
3 any... at this point in time what are your thoughts
4 with regards to the New York State legislature
5 enacting and passing legislation which would
6 change the juvenile status age to include 16, 17
7 and 18-year olds?

8 COMMISSIONER HORN: I think the
9 legislature has much to consider.

10 COUNCIL MEMBER JAMES: And not
11 withstanding the legislature, what is your
12 position?

13 COMMISSIONER HORN: Again I can't
14 take a position without knowing the specific
15 language.

16 COUNCIL MEMBER JAMES: Basically
17 16, 17 and 18-year olds will be handled in Family
18 Court.

19 COMMISSIONER HORN: I think there
20 are a lot of variables that have to be taken into
21 consideration. You know, in the adult court an
22 individual who stands accused has the right to be
23 arraigned within 24 hours. Under the Family Court
24 Act than individual would not be brought before a
25 judge for up to 72 hours. So I think that's one

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2 consideration.

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I have concern that matters in the Family Court tend to be adjourned longer and take longer to dispose of than matters in the adult court. And I also think, given what we know about 18-year olds, certainly, and perhaps some of the 17-year olds, I think that thought needs to be given to the impact their presence would have on the juvenile detention facilities. So I'm just not going to hazard a position on that matter.

COUNCIL MEMBER JAMES: Just going back to talk, just--I just have a question which I did not get to ask earlier. And that is the number, the amount of violence which is currently being committed in the facility, is there more inmate on inmate violence or is it more violence involving an officer?

COMMISSIONER HORN: Undoubtedly most of the violence is inmate on inmate--

COUNCIL MEMBER JAMES:
[Interposing] Is there an increase?

COMMISSIONER HORN: Well again--

COUNCIL MEMBER JAMES:
[Interposing] The adolescent--

1
2 COMMISSIONER HORN: --because we
3 did not--

4 COUNCIL MEMBER JAMES:
5 [Interposing] Primarily adolescent--

6 COMMISSIONER HORN: --collecting
7 adolescent information until January, we are only
8 now beginning to have a baseline on which to
9 answer that question.

10 COUNCIL MEMBER JAMES: So at the
11 end of the year you'll have a better picture?

12 COMMISSIONER HORN: Yes.

13 COUNCIL MEMBER JAMES: Okay. Thank
14 you.

15 CHAIRPERSON GONZALEZ: Thank you
16 Council Member. Well Commissioner I would say
17 that, you know, again, in respect to these two
18 bills and the resolution, we have heard your
19 concerns and we also know that we will continue to
20 work with the staffs and we look forward to it.

21 It is significant to us and to me I
22 can say and this Committee that we do get numbers
23 and stats that we can understand exactly what's
24 going on. I clearly understand that there is some
25 question or maybe some concern in respect to how

1
2 we get them or what we get at this point but we
3 hopefully will move forward in the interests of
4 this population.

5 I mean after all they've been
6 entrusted to the City and to you and to your staff
7 so for us it is important in order for us to have
8 appropriate oversight. So I thank you today and
9 your staff for your testimony. I look forward to
10 it. Thank you.

11 [Pause]

12 CHAIRPERSON GONZALEZ: Mishi
13 Faruqee, Children's Defense Fund, please step
14 forward. Lisa Ortega from Rights for Imprisoned,
15 Nancy Ginsburg, Legal Aid Society, Mary Dougherty,
16 Rights for Imprisoned People. I think I got it
17 right. That's it?

18 [Pause]

19 CHAIRPERSON GONZALEZ: When you're
20 ready, please state your name for the record and
21 proceed. Thank you.

22 [Pause]

23 MS. NANCY GINSBERG: For the Legal
24 Aid Society, Nancy Ginsberg. Good afternoon.

25 Thank you for the opportunity to

1
2 testify concerning violence against adolescents in
3 the New York City adult jails. I am Nancy
4 Ginsburg, and I supervise the adolescent practice
5 of the criminal trial offices of Legal Aid's
6 Criminal Defense Practice.

7 The Legal Aid Society is the
8 nation's largest and oldest provider of legal
9 services to poor families and individuals. Our
10 Prisoners' Rights Project has successfully brought
11 litigation challenging a variety of practices in
12 the New York City jails. In addition, each week
13 our office receives as many as 200 letters or
14 phone calls requesting assistance from inmates in
15 the New York City jails and state prisons. We
16 attempt to remedy these problems by intervening
17 administratively with the Department of Correction
18 and other appropriate agencies.

19 This daily contact with inmates and
20 their families has given our office a firsthand
21 view of many of the problems confronting inmates.
22 It is on that basis of our direct contact over the
23 past several years with literally thousands of
24 prisoners and their family members that we offer
25 these comments and recommendations to the City

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Council.

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We submit this testimony on behalf of the Legal Aid Society, and thank Chairs Gonzalez and Martinez and the Committees on Fire and Criminal Justice Services and on Juvenile Justice for inviting our thoughts on these issues.

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On November 24, 2008, we provided extensive written testimony addressing our concerns about the culture of violence to which adolescents are exposed on Rikers Island. We append that testimony submitted in November to today's submission for your complete review.

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Today, we hope to address some of the recent assertions of the Department of Correction and to provide comments on the laudable legislation proposed by the Council members.

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The Department of Correction has actual knowledge of violent conditions at RNDC. The Department of Correction maintains that it has limited access to intelligence concerning the conditions on Rikers Island. This stems from what they claim is reluctance of the teenagers to report incidents of violence. Despite DOC assertions that they "take appropriate action to

1
2 ensure adolescents' safety", there is no way to
3 test this assertion.

4 We urge the Council to request that
5 the Department of Correction produce to your
6 Committees copies of the records of the complaints
7 filed about violence perpetrated by staff or where
8 there is an allegation of staff complicity. We
9 also urge that you request the records reflecting
10 the investigations of these complaints and the
11 outcome of the investigations.

12 We make this recommendation because
13 the Legal Aid Society's Prisoners' Rights Project
14 has repeatedly reported incidents of violence to
15 the Department of Correction. These reports have
16 included incidents where staff assaulted and
17 bullied adolescents on Rikers Island. The reports
18 also included instances of staff complicity, with
19 reference to The Program that was addressed in the
20 recent indictments in the Bronx and has been
21 widely covered in recent media reports.

22 We believe that despite their
23 protestations to the contrary, the Department of
24 Correction has had knowledge of the existence of
25 The Program and of the existence of staff

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2 complicity in violence among the adolescents, and
3 simply has not done enough to address it.

4 We provide some examples to support
5 this assertion. On February 3, 2009, as reported
6 by the New York Times in an article entitled
7 Lawsuits Suggest Pattern of Rikers Guards Looking
8 Other Way, the Legal Aid Society, together with
9 outside counsel, filed an action in Federal Court
10 seeking damages for injuries sustained by a former
11 RNDC inmate who had been badly beaten by another
12 inmate in March, 2007 because he had sat in a
13 chair in the dayroom without "permission" from the
14 inmates who controlled the housing area.

15 Our client suffered multiple facial
16 fractures and was obviously injured. He was
17 denied access to the clinic for two days before a
18 Captain recognized him, because the boy's mother
19 used to work in the building, and took him to the
20 clinic. He was thereafter moved to protective
21 custody in RNDC, where he was beaten again, by an
22 officer, suffering additional facial fractures.

23 On April 20, 2007, almost two years
24 ago, Legal Aid Society staff contacted the
25 administrative offices of the DOC on behalf of an

1
2 inmate whose cell had been unlocked, after lock
3 in, and who was then viciously assaulted by a
4 group of armed inmates. This inmate was
5 transferred out of City custody within days of
6 Legal Aid's contact with the Department.

7 In our communication, we requested
8 that staff assigned to the housing area be
9 questioned about what had transpired. We know
10 that this inmate, through private counsel, has
11 sued the City, and we are not in a position to
12 state what the Department's investigation
13 disclosed, or what, if anything, they did about
14 this incident. We do know that he had told RNDC
15 staff that he was at risk from gang members in
16 that jail and that he was housed there anyway.

17 A year before Christopher
18 Robinson's death, in September of 2007, our office
19 contacted the DOC on behalf of another adolescent
20 inmate beaten in RNDC after his cell was unlocked
21 and he was assaulted by a group of prisoners.
22 This assault followed his answering no when asked
23 by these inmates whether he was with it. This
24 inmate told us that staff took no steps to stop
25 the assault in the cell. When he was seen in the

1
2 clinic for his injuries, he reported that he had
3 injured himself because of his fears of
4 retaliation. Two days later, he was moved to
5 close custody.

6 In July, 2008, the Society
7 contacted the DOC on behalf of another inmate who
8 had been transferred out of One Upper in RNDC who
9 two months earlier, following several physical
10 altercations with gang members, was transferred
11 back to the jail and assigned to the very same
12 housing area he had been moved from. This inmate
13 told us that he is specifically warned by an
14 inmate worker that he was at risk of assault, and
15 in fact he was attacked the very next morning in
16 front of, he said, a Captain, who did nothing.

17 He alleged that he was then
18 assaulted by staff members in an isolated area of
19 the jail, suffering a fractured nose among other
20 injuries. After being treated at Elmhurst
21 Hospital, he was returned to the jail where, he
22 stated, he was warned by a jail supervisor that he
23 should "leave this right here."

24 In September 19th, 2008, a month
25 before Christopher Robinson was beaten to death,

1
2 the Legal Aid Society contacted the Department of
3 Correction and the Department of Investigation
4 with specific allegations from an inmate in RNDC
5 that he had been asked by inmates in his housing
6 area if he was "with the program," and then asked
7 for his PIN number and booking case number. When
8 he refused to give the information, he alleged, he
9 was assaulted by the inmates, then struck by an
10 officer after being told to place his hands on his
11 head.

12 This boy had visible injuries-as
13 witnessed by a Legal Aid staff person with whom he
14 spoke but was denied medical attention by staff.
15 He was also warned by inmates in the housing area
16 "he's going to get you." In other words, not to
17 snitch on the officer.

18 Even after the publicity
19 surrounding Mr. Robinson's death, and the
20 indictments in the Bronx, the Legal Aid Society
21 continues to receive similar allegations. On
22 January 29th, 2009, just days after the
23 indictments, an RNDC inmate contacted the Society
24 to report that he was assaulted by a Correction
25 Officer after he refused the officer's demand that

1
2 he turn over his commissary. The inmate said he
3 was denied access to the clinic until the
4 following morning, after which he was transferred
5 to another building.

6 Several weeks ago, we received
7 complaints from inmates in another housing area in
8 RNDC that certain inmates are being afforded
9 access to contraband and cell phones and are
10 allowed to run the phones and control access to
11 the dayroom.

12 According to the inmates with whom
13 our staff spoke, officers signal the inmates when
14 supervisors are en route to the housing area, and
15 when searches are about to be conducted. All of
16 these allegations have been communicated to law
17 enforcement. We maintain that the assertion by
18 the Department of Correction that the Department
19 is doing everything it can to address the problem
20 of violence in RNDC cannot and should not be
21 credited.

22 Even after the death of Christopher
23 Robinson, acts of staff complicity in violent
24 incidents have been reported. A culture of
25 violence has developed and has been allowed to

1
2 continue in RNDC. Such a problem cannot be
3 addressed on a case by case basis and the
4 responsibility for notifying the DOC cannot fall
5 on the teenagers who are victims of the culture.

6 The Department of Corrections has
7 been on notice and certainly is on notice now.
8 There is clearly more that could have, in the
9 past, and currently, can be done, and the Council
10 must continue to demand accountability.

11 It is our understanding that the
12 Department of Correction has increased the number
13 of cameras placed in RNDC. We support this
14 advancement, but pose the following questions: do
15 all the cameras record, or only some? Are the
16 recordings stored? Where are the recordings
17 stored? Who has the responsibility for the
18 storage and safekeeping of the recordings? Who
19 has access to the recordings? And how long are
20 the recordings preserved? Are facility
21 supervisors who are responsible for investigating
22 incidents in the jail adequately trained in
23 downloading and viewing video recordings?

24 We urge the Council to pose these
25 questions in order to ensure that the efforts to

1
2 record occurrences are meaningful and that the DOC
3 is held accountable.

4 We understand that the DOC has
5 increased the ratio from the time of the last
6 hearing when it was 1 officer per 50 inmates to 2
7 officers per 50 inmates. We support such an
8 effort, but request that the Council continue to
9 ask the DOC to do more. Many teenagers in custody
10 are held in large dorms where kids have easy
11 access to each others' belongings and the
12 environment lends itself to constant conflict.

13 Smaller housing units lend
14 themselves to improved supervision and reduced
15 conflict. Adolescents, aged 16 to 18,
16 experiencing the stress of incarceration and
17 separation from their families and communities
18 should have supervision that approaches the 1 to 8
19 ratio that the Department of Juvenile Justice
20 provides to 15-year olds.

21 We applaud the Committees for
22 proposing legislation to increase the
23 accountability of the DOC to City government. We
24 believe this will lead to greater transparency
25 and, hopefully, safer conditions for the teenagers

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2 on Rikers Island.

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Despite the recent legislative and media focus on conditions for teenage boys at RNDC, it is important not to forget the teenage girls in this ongoing inquiry. Teenage girls are held at the Rose M. Singer Center. We request that your efforts to collect information about teenagers in DOC custody specifically include the girls and that this information be disaggregated from the information concerning the boys.

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We have just a few comments concerning the language of the proposal to amend Section 9-129 of the Administrative Code of the City of New York. As to the proposed language for Section 9-129(b)(2), we suggest that reports from the Department of Correction should not be limited to those involving serious injuries as a result of fights or assaults or uses of force because serious injury is left undefined in this section.

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In order to have an accurate picture of what is occurring, we urge you to request the actual incident reports, so that you can make your own assessments of the number and severity of the injuries; how, when and where

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2 these incidents arise; how they are reported; and
3 the adequacy of the investigation.

4 Further, we suggest that section 9-
5 129(b)(3) be amended to read as follows:

6 Restrictive placement. The report shall include:

7 (1) the total number of adolescents housed apart
8 from general population (a) for their own
9 protection, (b) as disciplined for infractions,
10 (c) because of their psychiatric condition or
11 mental observation and for any other purposed
12 designated by the Department of Correction.

13 And the average length of stay of
14 inmates in each category in subdivision 1 and 3
15 disaggregated providing the number and percentage
16 of inmates placed into protective custody at the
17 inmates' request and those placed there
18 involuntarily by the Department of Correction.

19 Before I get to my recommendations--

20 CHAIRPERSON GONZALEZ:

21 [Interposing] Okay. Before we move on, in the
22 interest of time, we do have your recommendations.
23 We will take them for the record. I do have a
24 question I'd like to ask you--

25 MS. GINSBERG: [Interposing] Sure.

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2 CHAIRPERSON GONZALEZ: Before we
3 move on. What has been the response of DOC in
4 respect to the reports that you mentioned in your
5 testimony?

6 MS. GINSBERG: Well as Commissioner
7 Horn indicated, they appear to investigate each
8 individually or they claim they do. They're not
9 required to turn over documents to us. We simply
10 report the incidents as they come to our
11 attention. It's our position that it's the
12 Department is hard pressed to claim that they
13 don't see a pattern.

14 CHAIRPERSON GONZALEZ: Okay. We
15 have your testimony and so we'll move on. These
16 are the recommendations. We certainly welcome
17 anything that you have here in respect to our
18 legislation.

19 MS. GINSBERG: I would just like to
20 make one comment as to Commissioner Horn's
21 statement as to the enhanced services that they're
22 going to provide to the mentally ill adolescents.
23 We obviously support taking those adolescents out
24 of close custody. We believe that it's inhumane
25 to place mentally ill teenagers in a 23 hour

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2 lockdown. However I would urge the Council to
3 request specific information about these civilian
4 volunteers who are going to be providing services
5 to these adolescents; what the specific services
6 are; whether or not those services are going to be
7 overseen by mental health professionals; by the
8 health providers in or outside of the facilities.

9 CHAIRPERSON GONZALEZ: Okay. Thank
10 you. And it definitely will be taken into
11 consideration, I'll request it. Tish?

12 COUNCIL MEMBER JAMES: I see
13 another piece of legislation specifically as it
14 relates to the adolescents who unfortunately
15 suffer from mental illness. So there will be
16 another round of legislation that I'll be
17 sponsoring.

18 Is there someone here from
19 Department of Corrections? You have the testimony
20 of Legal Aid? Would you like a copy? Okay. I'm
21 going to be providing copies of your testimony to
22 the representatives from the Department of
23 Corrections. And hopefully, and I'm sure, will
24 urge the Chairs to follow up with the Department
25 of Corrections on all of the incidents that are

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2 cited in here.

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But I recognize, as you stated, it's not case by case. It should be really more systematic. And so it's troubling that they have not gotten back with you with respect to all of the cases that you have referred to them.

If you could, if there's more information that you could provide to my office, I would appreciate that. Again I'm going to urge the Chairs, I know--and if the Chairs do not join me, I will be urging a meeting to follow up on all of these matters. And we'll be getting back to you. Thank you.

MS. GINSBERG: Thank you very much.

CHAIRPERSON GONZALEZ: I've heard you and in the interests of time, thank you. State your name for the record.

MS. MISHI FARUQEE: Good afternoon. My name is Mishi Faruqee, I am the Director of the Youth Justice Program at the Children's Defense Fund New York.

And I know that we're out of time so I'm not going to read my testimony. I just wanted to make a few comments. You know, as Nancy

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2 I think very, very clearly testified that we know
3 that the Christopher Robinson case is not an
4 aberration. I know that the Commissioner said he
5 was shocked by the allegations when the indictment
6 came out on the Correctional Officers. But those
7 allegations are very, very common allegations that
8 we've been hearing for years and years from young
9 people who have been on Rikers, and it in no way
10 was an aberration, as Nancy said, there really is
11 a culture of violence at RNDC.

12 And so we are heartened to hear
13 that the Department of Correction has recently
14 started taking steps to address it. So I just
15 want to talk about some of the things that have
16 happened over the last few weeks and few months in
17 response to very serious, serious problems at
18 Rikers and particular RNDC.

19 The staffing levels, we are happy
20 to hear that the Department of Correction is
21 increasing staffing in some of the adolescent
22 units at Rikers, particularly in the high
23 classification dormitory units and in some of the
24 cell units on some of the shifts. But we feel
25 strongly that this higher staffing level should be

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2 implemented in all of the adolescent units on all
3 shifts.

4 The Commissioner spoke about the
5 Department of Juvenile Justice and he said that,
6 you know, the Department of Juvenile Justice
7 sometimes has a 1 to 8 staffing ratio. The
8 reality is that the Department of Juvenile Justice
9 has a mandated staffing ratio of 1 staff to 8
10 young people. It's mandated by law and there's
11 always that staffing ratio for the Department of
12 Juvenile Justice. It's not, you know, an
13 occasional or a sometimes situation. That's what
14 the staffing ratio is. And so we believe strongly
15 that if the Department of Correction can't get to
16 a 1 to 8 ratio to try to get as close to possible
17 to a 1 to 8 ratio on all of the units at all
18 times.

19 Regarding the Institute for Inner
20 Development, we are also happy to hear that the
21 Department is planning to expand that program. I
22 did have the opportunity to go visit the Institute
23 of Inner Development, one of the units, at RNDC,
24 and I was very impressed with that unit.

25 We, when we went to go visit the

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2 unit there was one Correctional Officer and 50
3 young people, but the Correctional Officer was
4 very, very engaged with the young people. The
5 young people were in a group and they were talking
6 about what is manhood. And they were very, very
7 engaged and they clearly--there clearly was a
8 difference on that unit from the other adolescent
9 units on Rikers.

10 And when we came in we asked the
11 young people what made this Correctional Officer
12 different than the other Correctional Officers
13 that they had come in contact with. And they had--
14 they gave a very simple answer. They all, all of
15 them said pretty much the same thing.

16 They said that this Correctional
17 Officer actually cares about us. You know, which
18 was such a basic thing and it, for me, it was also
19 just really striking that that's what made him
20 stand out as a Correctional Officer is that he
21 stood--that he actually cared about the young
22 people on the unit. And the young people knew
23 that. And because they knew that, they actually,
24 they felt safe on that unit and they felt like
25 this wasn't a place where they needed to fight to

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protect themselves.

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And so it's not really about, you know, enhancing the Correctional Officer's use of pepper spray or anything about--it's really just basically about the Correctional Officer's interactions with the young people. And I think that was very clear from the Institute for Inner Development and from what we saw in that unit.

And so I really, really recommend that the City Council keep the pressure on the Department of Correction to not only expand that program but also to, you know, provide the training that you asked for in terms of the module on adolescent development. I think that that training if it's implemented well and if the Correctional Officers really do understand what it means to be an adolescent and the developmental differences with adolescents, that that training can make a difference. But it's really--it's very important that the City Council keep the pressure on the Department of Correction in this regard.

And then the last thing that I just wanted to point out was that the Commissioner, you know, talked about the City has, you know,

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2 expanded alternative to incarceration programs for
3 young people. And there have been a lot of
4 improvements in this area but really nothing in
5 terms of expanding alternative to incarceration
6 for 16, 17, 18-year olds who are now incarcerated
7 at Rikers Island. And there really needs to be
8 more programs put in place to divert young people
9 from Rikers Island.

10 I do agree with the Commissioner, I
11 think most people agree that Rikers is not a place
12 for anybody, but it's definitely not a place for
13 adolescents. And so as, you know, as we look at
14 expanding the--raising the age to 16 and 17-year
15 olds and expanding the jurisdiction of Family
16 Court which I think is an important thing for us
17 to do but in the short term, the City really needs
18 to put much more emphasis on expanding
19 alternatives for young people to be on Rikers
20 Island. Thank you.

21 CHAIRPERSON GONZALEZ: Thank you
22 Mishi so much for your testimony. I just want to
23 say that throughout the years you've been
24 instrumental in respect to our Committee on
25 Juvenile Justice and we certainly hear your

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2 experience and the work that you do is very
3 significant to us in moving forward.

4 And I do agree with you that it is
5 important that our 16, 17 and 18-year olds receive
6 the services necessary to be able to exit at some
7 point and exit in a successful way. So I thank
8 you. Thank you for your testimony. And on behalf
9 of Council Member Martinez who had to leave, and
10 myself, Council Member Gonzalez, I adjourn the
11 meeting today. And I thank you all for attending.


12 [Gavel banging]

13 CHAIRPERSON GONZALEZ: Thank you to
14 the staff.

15 [END TAPE 1002]
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C E R T I F I C A T E

I, Laura L. Springate certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

A handwritten signature in cursive script that reads "Laura L. Springate". The signature is written in black ink on a light-colored background.

Signature Laura L. Springate

Date March 3, 2009