

CITY COUNCIL  
CITY OF NEW YORK

----- X

TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CRIMINAL JUSTICE  
JOINTLY WITH THE COMMITTEE ON  
OVERSIGHT AND INVESTIGATIONS

----- X

May 30, 2023  
Start: 10:12 A.M.  
Recess: 12:48 P.M.

HELD AT: COUNCIL CHAMBERS - CITY HALL

B E F O R E: Carlina Rivera,  
Chairperson for Committee on  
Criminal Justice

Gale A. Brewer,  
Chairperson for Committee on  
Oversight and Investigations

COUNCIL MEMBERS:

Shaun Abreu  
David M. Carr  
Shahana K. Hanif  
Mercedes Narcisse  
Lincoln Restler  
Lynn C. Schulman  
Althea V. Stevens  
Diana Ayala  
Rita Joseph  
Nantasha Williams

## COUNCIL MEMBERS: (CONTINUED)

Kalman Yeger

Shekar Krishnan

Rafael Salamanca

Marjorie Velázquez

## A P P E A R A N C E S

Paul Shechtman  
General Counsel for the New York City Department  
of Correction

Chai Park Messina  
Deputy Executive Director of Monitoring &  
Research at the New York City Board of Correction

Marva Brown  
Lawyer with the Legal Aid Society

Conrad Blackburn  
Public Defender and Policy Counsel for Criminal  
Defense Practice at the Bronx Defenders

Joshua White  
Public Defender with the New York County Defender  
Services

Celia Joyce  
Senior Data Analyst at New York County Defender  
Services

Alyssa Briody  
Senior Attorney in the Civil Rights and Law  
Reform Unit at Brooklyn Defender Services

Zachary Katznelson  
Executive Director of the Lippman Commission

Ashley Conrad  
Community Organizer with Freedom Agenda

Tanya Krupat  
Vice President of Policy and Advocacy at the  
Osborne Center for Justice

Eileen Maher  
Civil Rights Union Leader from Vocal New York

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

Dr. Victoria A Phillips  
Action Coalition Member

Kelly Grace Price  
Close Rosie's

Darren Mack  
Co-Director at Freedom Agenda and a member of the  
Jails Action Coalition

1 COMMITTEE ON CRIMINAL JUSTICE JOINTLY WITH THE  
2 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS 5

3 SERGEANT AT ARMS: Good morning, this is a  
4 microphone check for the Committee on Criminal  
5 Justice jointly with Oversight and Investigations.  
6 Today's date is May 30, 2023 located in the Chambers.  
7 Recording done by Pedro Lugo.

8 SERGEANT AT ARMS: Good morning and welcome to  
9 the New York City Hearing of the Committees on  
10 Criminal Justice jointly with Oversight and  
11 Investigation. At this time, can everyone please  
12 silence your cell phones. If you wish to testify,  
13 you can submit your testimony to  
14 [testimony@council.nyc.gov](mailto:testimony@council.nyc.gov). Again, that is  
15 [testimony@council.nyc.gov](mailto:testimony@council.nyc.gov). Thank you for your  
16 cooperation. Chairs, we are ready to begin.

17 CHAIRPERSON RIVERA: [GAVEL] Good morning.  
18 Council Member Carlina Rivera, Chair of the – I just  
19 want to make sure we're all set to go right? Okay,  
20 sorry, lets start that over.

21 Good morning everyone. I'm Council Member  
22 Carlina Rivera, I'm Chair of the Councils Committee  
23 on Criminal Justice. I'd like to welcome everyone  
24 here today and those joining us remotely to discuss  
25 the Department of Corrections transportation of  
detained individuals to court.

1 COMMITTEE ON CRIMINAL JUSTICE JOINTLY WITH THE  
2 COMMITTEE ON OVERSIGHT AND INVESTIGATION 6

3 Ensuring people in custody are brought to their  
4 court appearances safely and on time is at the  
5 intersection of many fundamental issues that are  
6 focused on as Chair of the Criminal Justice  
7 Committee. At Rikers Island right now there are over  
8 5,000 people who have been separated from their  
9 families and their communities and placed in  
10 dangerous and even deadly conditions because the  
11 tension on the Island has been deemed necessary for  
12 them to ensure they attend court proceedings.

13 Each one of these people is presumed innocent and  
14 has the right to participate in their own defense but  
15 far too many of these incarcerated individuals are  
16 not making it to their scheduled court appearances.  
17 A violation of their rights that can have devastating  
18 and far-reaching consequences.

19 Today's hearing comes as the latest Federal  
20 Monitor Report reveals violent life altering  
21 incidents the last two weeks at Rikers but we all  
22 know the history on the Island and in the system  
23 itself.

24 After our preliminary investigation into this  
25 issue done in coordination with Chair Brewer and the  
Oversight and Investigations Committee, here is

3 reason to believe that individuals in custody are  
4 about as likely to attend court as criminal  
5 defendants who are released pending trial. This is  
6 simply unacceptable. Even short stays on Rikers have  
7 lifechanging consequences. Missed court dates drag  
8 out the legal process.

9 According to data compiled by the Nunez Monitor,  
10 pretrial detainees generally spend close to four  
11 months at Rikers Island and rate four times the  
12 national average. 87 percent of those incarcerated  
13 on Rikers are there pretrial. Nearly a quarter of  
14 the individuals at Rikers have been in custody for  
15 over a year and you'll hear about hundreds of  
16 individuals who have been there over two years.

17 Rikers Island is located in the middle of the  
18 East River to attend court people in DOC custody are  
19 often woken up between four and five a.m. to be  
20 searched and loaded onto buses for the trip to the  
21 courthouse in the borough where their alleged offense  
22 occurred. On this day, they forego visits,  
23 programming, phone calls and other basic human needs  
24 to sit in a pen with other justifiably frustrated  
25 individuals for hours awaiting their court  
appearance, only to endure the same long and arduous

3 journey in reverse at the end of the day.

4 Undoubtedly, some people refuse to attend court  
5 appearances and we must acknowledge this issue and  
6 acknowledge that it is related also to the conditions  
7 of the city's jail system. We must ensure that we  
8 close Rikers by 2027 and transition to a system that  
9 is more humane with people and services located near  
10 courthouses, significantly reducing the time and  
11 resources needed to ferry individuals to and from the  
12 courts, lowering transportation costs, improving  
13 court production rates and easing the impact on  
14 people in custody in DOC staff.

15 In our work, we have repeatedly heard from  
16 criminal defense attorney's that despite being told  
17 their clients refuse to go to court, their clients  
18 later say they were never offered a ride. A recent  
19 survey conducted by the New York County Defender  
20 services indicates that 58 percent of attorney  
21 respondents stated that on at least one occasion in  
22 the past two months, their client disputed the DOC  
23 claim that they refused production for a court  
24 appearance. The Department will say that all  
25 refusals are captured on video.

3 This may be true but given that the Board of  
4 Correction has had its access to video content  
5 restricted. They are inhibited to conduct oversight  
6 on whether these videos exist and whether there  
7 refusals are legitimate. Today we are hearing  
8 legislation I've introduced alongside Chair Brewer to  
9 codify the requirement that DOC record interactions  
10 where a person in custody refuses to attend a court  
11 appearance. Our bill also requires the Commissioner  
12 to appoint a court production liaison who would  
13 ensure defense attorneys receive access to the  
14 refusal videos, establish a system to resolve  
15 complaints and make recommendations for improving  
16 court production processes. To monitor DOCs  
17 progress, the bill includes a monthly report on court  
18 production rates including alleged refusals.

19 Today's hearing will cover the City Council's  
20 oversight and investigations division field work,  
21 data issues and concerns, information gaps,  
22 discrepancies between data and more. The situation  
23 on Rikers Island is grave is the pace of change at  
24 Rikers has been unacceptably slow. The current state  
25 of affairs remains deeply troubling.

1 COMMITTEE ON CRIMINAL JUSTICE JOINTLY WITH THE  
2 COMMITTEE ON OVERSIGHT AND INVESTIGATION 10

3 I look forward to today's hearing and continuing  
4 the work in coalition to create a more just and  
5 humane criminal legal system. And with that, I will  
6 turn it over to Chair Brewer.

7 CHAIRPERSON BREWER: Thank you Chair Rivera. I  
8 am Gale Brewer, Chair of the Councils Oversight and  
9 Investigations Committee. I want to thank all of our  
10 witnesses and members of the public for attending  
11 today. As you know in person and remotely and I want  
12 to thank the Department of Correction because I know  
13 that some of our staff from Investigations went to  
14 witness and to get information about the  
15 transportation and I want to thank DOC for working  
16 with them to effectuate that.

17 I also want to thank Council Member Ayala for  
18 being here. Corrections, Department of Corrections  
19 challenges maintaining a functional environment on  
20 Rikers Island have been widely known for decades now  
21 and as the former Manhattan Borough President, I'm  
22 quite familiar with them because I did sign off in a  
23 borough-based system. But what this hearing will  
24 show is that questions remain about whether the  
25 Department is fulfilling a core function of our legal  
system. Getting defendants to court on time so they

3 have a fair and speedy trial. Data reviewed by  
4 Council staff, conversations with defense attorneys  
5 and site visits, as I indicated earlier, by our  
6 oversight and investigation division suggests reason  
7 to doubt Commissioner Molina's testimony earlier this  
8 year that the Department of Correction is meeting  
9 this most basic obligation.

10 In testimony, the Commissioner said trouble with  
11 getting defendants to court was largely the fault of  
12 the defendants themselves, whom he claimed refused to  
13 attend their appearances in greater numbers than in  
14 the past. But when our investigators visited Rikers  
15 earlier this month, they witnessed a refusal that  
16 wasn't video taped as required. Correction staff  
17 didn't fully explain the reasons for the defendants  
18 refusal on their form. The unnoting that it was  
19 religious in nature, nor what their any apparent  
20 effort to make sure a rescheduled appearance wouldn't  
21 run into the same problem again.

22 We definitely need a better explanation for why  
23 refusals have risen and whether every failure to  
24 produce a defendant for court is indeed the result of  
25 refusals as claimed because attorney's for the  
defendants often have other reasons.

3 Defense attorney's tell us that DOC frequently  
4 fails to bring their clients to court, while chalking  
5 these absences up to refusals. But the attorneys  
6 have an enormously difficult time accessing proof  
7 that their clients refuse to come to court. They  
8 also have evidence of what DOC staff claim are  
9 refusals to appear maybe more like mistakes on their  
10 part, we don't know.

11 Also, the process of getting defendants to court  
12 seems to be a disincentive in itself to appearing.  
13 Our team found that buses often make their way from  
14 Rikers to court at a snails pace. It might be  
15 traffic but might be other things. And they sit  
16 behind one another at building entrances and exits.  
17 That was particular true in Queens. There's a  
18 shortage of drivers and defendants spend more time in  
19 uncomfortable restraints and in holding pins when  
20 they have to go to court.

21 It's difficult to get a handle on just how hard  
22 it has become for the Department of Corrections to  
23 get defendants to court because different agencies  
24 have different statistics, documenting how many  
25 people in DOC custody actually make their appearances  
each month.

3 Commissioner Molina has cited DOC's own figures,  
4 maintaining that the agency successfully produces  
5 more than 90 percent of defendants. But our own  
6 review show DOC only got more than 90 percent of  
7 defendants to court buildings in a handful of months  
8 over the past year. That's very different than being  
9 in the courtroom. At the same time, the States  
10 Office of Court Administration, OCA has its own set  
11 of figures, tracking how many people in Rikers  
12 actually make their court dates and OCA's numbers  
13 paint a starkly less functional picture than the  
14 Department of Correction. We need the data.

15 In some months, the two entities accounting for  
16 what portion of defendants made their appearances  
17 could be as far as 20 percentage points apart. This  
18 discrepancy must be explained and the wide variance  
19 from month-to-month remedy. Transportation to court  
20 is clearly an important bottleneck in the overall  
21 criminal justice process.

22 Our obligation to close Rikers by 2027 compels us  
23 to ask why so many defendants are failing to make the  
24 essential journey from jail to court. The lack of  
25 transparency into the process and conflicting  
accounts of how many defendants actually make their

3 court dates inhibits the city's ability to run the  
4 jails properly contributing to rising numbers of  
5 inmates at a time when Rikers is supposed to be  
6 shrinking. Detainees not inmates.

7 These delays not only hold defendants in  
8 difficult jail conditions, they are a disservice to  
9 both defendants and victims of crimes who must wait  
10 years for justice in court and I say all of this  
11 because I feel strongly that we need to have the data  
12 as somebody who authored the Open Data Bill. Data is  
13 what can drive information and drive transparency.  
14 Thank you very much.

15 Now, we're going to have the wonderful attorney  
16 swear in the city.

17 Thank you Chair Brewer. With us today from the  
18 Department of Correction, we have Paul Shechtman,  
19 General Counsel. Mr. Shechtman, if you can please  
20 raise your right hand. Do you affirm to tell the  
21 truth, the whole truth and nothing but the truth  
22 before this Committee and respond honestly to Council  
23 Member questions? You may begin your testimony.

24 PAUL SHECHTMAN: I can begin my testimony again.  
25 Can you hear me? Good morning. Good morning Chairs  
Rivera and Brewer and members of the Committee on

3 Criminal Justice and Committee on Oversight and  
4 Investigation. As was said, I am Paul Shechtman,  
5 General Counsel for the New York City Department of  
6 Correction. I am here today to discuss the  
7 Department's transportation of individuals to court  
8 but is often called court production and I will keep  
9 my prepared remarks short.

10 The Department and the Office of Court  
11 Administration coordinate closely to ensure that all  
12 individuals in the Department's custody who are  
13 scheduled for a court appearance, appear for it.  
14 Each day, the Department receives a list of scheduled  
15 court appearances from OCA, which is used to create a  
16 manifest for court production the next morning.  
17 Individuals scheduled to appear in court are awakened  
18 at 5 p.m., 5 a.m., I apologize are provided a meal,  
19 escorted to search area, and then taken to the intake  
20 area and to their assigned vehicle. Once they arrive  
21 at the court facility, individuals are transferred to  
22 OCA custody to be escorted to court parts.

23 We were pleased that two members of Chair  
24 Brewer's staff, Kevin Frick and Zachary Meher, joined  
25 us on May 12, 2023, at 5:30 a.m. to observe court  
production from beginning to end. They asked

3 meaningful questions, followed a bus to court, and  
4 saw the process through.

5 With this as background, the good news is that  
6 court production has improved significantly. Until  
7 recently, it has not been the departments strong suit  
8 but that is no longer the case. This month, as the  
9 chart below, the chart in my testimony shows, the  
10 Department has produced 96 percent of individuals to  
11 their required court appearances.

12 And the testimony has a chart. You will see  
13 there was 6,293 scheduled court appointments. That's  
14 the information we get from OCA. That's roughly 350  
15 a day. That number can be as high as 600 on some  
16 days. The total produced was 6,050. That is 96.1  
17 percent. My testimony also shows the reasons for the  
18 other 3.9 percent, 146 of them were court refusals  
19 and the others are much smaller categories that total  
20 to the 3.9 percent. Let me state what's obvious. We  
21 are committed to maintaining that number and  
22 improving on it to the extent possible. Getting  
23 individuals from jail to court is a core function of  
24 the Department of Correction. As Commissioner Molina  
25 testified at the May 19, 2023 Executive Budget  
Hearing, reporting on the Department's success is not

3 always fashionable. But thanks to the leadership of  
4 Warden Joseph Caputo, who sits behind me, and others,  
5 court production is now an area where we are doing  
6 much, much better.

7 I thank you for the opportunity to testify today  
8 and look forward to answering your questions.

9 CHAIRPERSON BREWER: We've been joined by Council  
10 Member Carr.

11 CHAIRPERSON RIVERA: Thank you so much for your  
12 brief testimony. We'll call it concise but we'll get  
13 to that in a minute. Alright, so, uh again thank you  
14 for describing a little bit of what it's like and  
15 your coordination with OCA. In previous testimony  
16 before this Committee, Commissioner Molina projected  
17 the jail population will be over 7,000 people by fall  
18 2024. However, the jail population has been  
19 relatively flat around 6,000 people throughout 2023  
20 and clearly we're working to reduce that population.  
21 Has DOC updated its projections? What information do  
22 you use to inform your jail population projections  
23 and do you believe that DOC ability to produce people  
24 to court impacts the jail population?

25 PAUL SHECHTMAN: Chair Rivera, I'm not sure I  
understand the last part of that question.

3 CHAIRPERSON RIVERA: Do you believe that DOC's  
4 ability to produce people to court impacts the jail  
5 population?

6 PAUL SHECHTMAN: I don't. I've seen the  
7 projections. I'm not a statistician and I don't know  
8 their basis. What you say is correct, that number  
9 for at least this year has hovered around 6,000. I  
10 think it's like 6,050 at the moment. People say that  
11 bail reform may result in an increase. I don't know  
12 enough to say that. I know the bill but I don't know  
13 peoples predictions based on it.

14 The most important part of your question is the  
15 last one, which is or last part, which is doesn't our  
16 transportation effect population. And I would say, I  
17 said no to that and the reason I said that is because  
18 of the current numbers and what we're doing. I will  
19 say this, as you said in your testimony, we have  
20 people on Rikers Island for a year and some of them  
21 there for two years. That is not a transportation  
22 problem. That is not a DOC problem. That is a court  
23 system that processes these cases in my view too  
24 slowly.  
25

3 None of these cases are that complicated. You're  
4 talking to a former federal prosecutor, former  
5 defense attorney, these are not RECO cases.

6 CHAIRPERSON RIVERA: I understand.

7 PAUL SHECHTMAN: And the fact that we have people  
8 there for two years does increase our population and  
9 it's something that needs to be addressed.

10 CHAIRPERSON RIVERA: Right, so I just wanted to  
11 be clear about that because you said no at first but  
12 I think we could all say that processing cases  
13 quickly is absolutely critical to the population,  
14 court production, absolutely impacts the jail  
15 population. This court date leads to delays in cases  
16 and leaves people to languish on the island. If they  
17 miss a court date, they can be there additional weeks  
18 or months at a time. Is that not true?

19 PAUL SHECHTMAN: I'm not sure particularly now  
20 it's a court production problem. I do think it's a  
21 court problem and I do think it needs to be  
22 addressed. We process cases too slowly and as a  
23 result people are on Rikers Island for too long. And  
24 if one is going to bring population down, which I  
25 know is critical to you, one of the steps has to be

3 advancing those cases in the court room more  
4 speedily.

5 CHAIRPERSON RIVERA: Drilling down into the  
6 numbers a bit between January and March of this year,  
7 the most recent three months that your office  
8 provided statistics. The DOC court production rate  
9 was 85 percent. By comparison, according to criminal  
10 justice agency, in 2019, 84 percent of people with a  
11 criminal case who were not detained at Rikers  
12 pretrial attended all of their court appearances.  
13 You'd agree that pretrial detentions primary purpose  
14 is ensuring individuals attend court, correct?

15 PAUL SHECHTMAN: I agree it is essential is  
16 you're a pretrial detainee that you attend court  
17 proceedings.

18 CHAIRPERSON RIVERA: So, then all things being  
19 equal, if individuals attend court appearances at  
20 approximately the same rate when permitted to remain  
21 in their communities versus when detained at Rikers,  
22 would you agree that our jail system is failing to  
23 achieve one of its core functions?

24 PAUL SHECHTMAN: You'll be surprised that I don't  
25 agree and let me tell you why. I looked at the  
statistics and Chair Brewer asked for them and here's

3 what one learns. That beginning in November of 2020  
4 and I apologize for the length of this answer but I  
5 think it's important. Beginning in 2022, in November  
6 of 2022, one saw a spike in refusals. So, refusal  
7 numbers that were at 20 a month or 98 a month in  
8 September and October, jumped to 467, 638, 873, 871  
9 and in March 1,176. So, we had an 87 percent  
10 reduction rate in March and 1,176 refusals.

11 That number is now down to 146, which is why we  
12 are at a 96.1 percent production rate. I'm happy to  
13 tell you why it's been reduced so dramatically but  
14 1,176 refusals in my view, is a recipe for delay and  
15 I for one, was not allowed to continue.

16 CHAIRPERSON RIVERA: Well I will just say that  
17 you know we have your numbers here and the number  
18 that continuously is mentioned at the 96 percent. I  
19 mean, that was one good month. At best a couple of  
20 good months. At best a couple of good months. I  
21 have your numbers right here in your very short  
22 testimony. So, I just and I appreciate that. I just  
23 want to, the refusals right now are unverifiable,  
24 which is why we have the piece of legislation in  
25 front of us sponsored by Chair Brewer and myself.

3 PAUL SHECHTMAN: The refusals are not  
4 unverifiable. They are videos of each of each of  
5 them and we could provide all 146 to the Council.  
6 They're not and if you want to know why that number  
7 has dropped -

8 CHAIPRERSON RIVERA: We have heard from Criminal  
9 Defense Attorneys for years that despite being told  
10 their clients refuse to go to court. The clients  
11 would later say they were never provided an escort or  
12 transportation to court and you heard this in my  
13 testimony that New York County Defenders said 58  
14 percent of their attorneys said that in the past two  
15 years one of their clients disputed the DOC claim  
16 that they refused production. That's 58 percent of  
17 their attorneys saying that that has happened. So,  
18 do you believe your staff ever misclassifies  
19 information on these forms as refusals rather than  
20 another production issue?

21 PAUL SHECHTMAN: What I know and I know with  
22 confidence is that number is now 146 and if you ask  
23 me to explain why it has dropped so dramatically from  
24 1,176, right which was an epidemic of refusals to 146  
25 and why I am confident that it remain low, I'm happy  
to do it.

3 CHAIRPERSON RIVERA: In terms of the videos, who  
4 gets the videos? Because recently there was  
5 restrictions placed on access to the Board of  
6 Correction.

7 PAUL SHECHTMAN: No, the Board of Corrections can  
8 access all of them. The restrictions have really  
9 been on where they can review it, not if they can  
10 review it. If they were to say today, give us the  
11 146 refusals, they would have it by the end of the  
12 week, maybe even tomorrow. I've looked at them right  
13 and they are available to defense council by subpoena  
14 at the moment. I think a better practice is I don't  
15 know why we need subpoenas for defense councils. If  
16 they ask for it, they should get it and I'm happy to  
17 change the procedure so they can't.

18 CHAIRPERSON RIVERA: That's great to hear. We're  
19 going to hear from the Board of Correction about  
20 their access later on in the hearing. Commissioner  
21 Molina testified that in addition to filling out the  
22 undelivered defendant notification form, all alleged  
23 refusals to attend a court appearance are recorded on  
24 video. So, does the department currently have enough  
25 body worn or handheld cameras to ensure that all  
alleged refusals are being recorded? And after a

3 video of an alleged refusal is captured by Department  
4 staff, where is it stored?

5 PAUL SHECHTMAN: Yes, we have enough video. If  
6 you ask me what drive it's stored on, I'm sad to say  
7 you're asking the wrong person. But they're  
8 available. I've asked to see some of them and  
9 they've been made readily available to me. I know if  
10 anybody subpoenas them they're readily available. If  
11 you want, I can find out what drive they're on but if  
12 they're available.

13 CHAIRPERSON RIVERA: Well, I mean I don't think  
14 I'm going to have access to your M-drive but it's  
15 clear that to archive the videos that that's a legal  
16 mandate. So, in what circumstances will the  
17 Department grant access to view video of an alleged  
18 refusal?

19 PAUL SHECHTMAN: Defense Council ask for it, they  
20 will get it. Court asks for it; they always get it  
21 as well. Prosecutors rarely ask for it but if they  
22 do, they get it. As I say for prosecutors and  
23 defense council, the current practice is a subpoena.  
24 I don't think it's necessary. They should have  
25 access to it.

1 COMMITTEE ON CRIMINAL JUSTICE JOINTLY WITH THE  
2 COMMITTEE ON OVERSIGHT AND INVESTIGATION 25

3 CHAIRPERSON RIVERA: Does the Department ever  
4 audit these videos to ensure that incarcerated  
5 individuals are actually refusing to attend court  
6 appearances.

7 PAUL SHECHTMAN: Oh, I don't know whether our  
8 auditors look at them and how often they do. I can  
9 tell you I've looked at I would say about 15 and they  
10 are refusals. They were refusals. As I say, our  
11 practice has changed and changed because that number  
12 hit 1,176.

13 CHAIRPERSON RIVERA: Do you support the bill  
14 that's introduced today?

15 PAUL SHECHTMAN: Uhm, I've been told that  
16 supporting or opposing is beyond my pay grade but let  
17 me say this about it.

18 CHAIRPERSON RIVERA: Have you read it? Because  
19 you're going to say something about it, I just want  
20 to make sure you read it.

21 PAUL SHECHTMAN: You would be surprised but I  
22 thought if I was going to testify, I should read it  
23 and I did carefully and I read it both Saturday and  
24 again this morning and well, I don't want to take a  
25 position on it because it's not my job, I will say

3 this. I don't think it's necessary given the current  
4 state of affairs, that's one.

5 I do see some problems in it. I mean look,  
6 Council can pass an unnecessary bill. If it were me,  
7 I would say 96 percent is pretty good. Let's wait  
8 and see if that's aberrant or if that's what's going  
9 on because if that's what's going on, then you don't  
10 have very many refusals at all.

11 My concerns about the bill are one, it has the  
12 phrase that people we should report on, people  
13 reporting "to their, I think it is the time of their  
14 scheduled court appearance." And for most of these  
15 cases, other than the trial cases, there's not a time  
16 of a scheduled court appearance. So, for criminal  
17 court for example, and I know this from my own days  
18 as a defense attorney, that court is open. Judges  
19 typically get on the bench around 10 and stay till  
20 4:30. If you get there at 11, which I sometimes did  
21 with my clients, you'll be heard before lunch. If  
22 you get there at one, you'll be heard after lunch.

23 So, the phrase a scheduled appointment time, I  
24 don't think is one that is uhm, uhm, used by  
25 practitioners. The real question would be how many  
people that we produce get a court appearance that

3 day? That's what matters to you and to me. And that  
4 is very hard for us to know because we don't have the  
5 OCA data but I would be very, very surprised in jail  
6 cases if someone was in the building even if they  
7 were in the building by 1:00 that they didn't get a  
8 court appearance. So, that's my first concern about  
9 the bill is just the vagueness of that language.

10 CHAIRPERSON RIVERA: We can always make technical  
11 changes to the bill to improve it but I just want to  
12 make sure that, so you do support direct access to  
13 videos and additional reporting requirements, if at  
14 the least, you keep your numbers high?

15 PAUL SHECHTMAN: I don't think that direct access  
16 is available and as I say it will be more available  
17 because I don't think subpoenas are necessary. I  
18 think the reporting requirement is not necessary. If  
19 you want the data as Chair Brewer knows, we will get  
20 it for you. The other thing that concerns me is a  
21 notion that defense attorneys, prosecutors, should  
22 call Warden Caputo directly. I don't think that's a  
23 good practice. I think they should call our legal  
24 division; we'll get them information. But I don't  
25 like either defense attorney's or prosecutors talking  
to a non-attorney on the island.

3 CHAIRPERSON RIVERA: Alright, I'm going to just  
4 ask one more question and we've been joined by  
5 Council Member Abreu and Council Member Velázquez.  
6 Okay, so I'm just going to ask the last question  
7 before I turn it over to Chair Brewer. In 2021, Joe  
8 Russo, President of the Assistant Deputy Warden's,  
9 Deputy Warden's Association, attributed DOC's failure  
10 to produce individuals to court to staff shortages.  
11 And according to Russo, jail officials had to use the  
12 Departments centralized buffering system to transport  
13 detainees around Rikers Island or to the hospital  
14 instead of to court due to a lack of staff.

15 Has DOC's inability to staff an escort ever  
16 caused someone to miss court in the past year or so,  
17 yes or no?

18 PAUL SHECHTMAN: Well, I don't know about the  
19 past year. I've only been at the Department I guess  
20 since August and there was no doubt that during COVID  
21 we had a serious staffing crisis. What I can tell  
22 you is that Warden Caputo has sufficient staff. He  
23 is not asking for more staff and anyone who is not  
24 produced to court in the last, this calendar year is  
25 not a result of lack of staffing.

1 COMMITTEE ON CRIMINAL JUSTICE JOINTLY WITH THE  
2 COMMITTEE ON OVERSIGHT AND INVESTIGATION 29

3 CHAIRPERSON RIVERA: So, you're saying staffing  
4 issues do not cause people to miss court?

5 PAUL SHECHTMAN: No.

6 CHAIRPERSON RIVERA: You have enough staff.  
7 Okay, well, I have a couple more questions but I want  
8 to turn it over to Chair Brewer. Madam Chair.

9 CHAIRPERSON BREWER: Thank you. So, my question  
10 has to do with this video because my understanding is  
11 that the staff that attended did see one individual  
12 who refused for religious reasons. Maybe that's  
13 legitimate. We don't know because there was no video  
14 of that particular incident.

15 So, I'm wondering like, do you have either today  
16 or could get for us the refusal videos for March  
17 2023. I think you said there were 146.

18 PAUL SHECHTMAN: No, unfortunately for March,  
19 there were 1,176. Respectfully, I don't think you  
20 want those but I can get you and your staff can come  
21 meet us. I can get you I think all 146. Let me say  
22 this about the one individual who your staff saw.  
23 There was a refusal for religious reasons.

24 CHAIRPERSON BREWER: Correct.

25 PAUL SHECHTMAN: We don't video those. Maybe we  
should but we don't. We honor it. If the person

3 says it's a religious observance, we honor it. What  
4 I plan to do, this hearing has the advantage that all  
5 hearings has is that it focuses the mind. I plan to  
6 call the court and the chief judge because we had 20  
7 religious refusals so far this month.

8 CHAIRPERSON BREWER: I see it on your material  
9 here.

10 PAUL SHECHTMAN: That means and almost invariably  
11 those are court appearances scheduled on a Friday.  
12 And that shouldn't happen if someone has a religious  
13 belief that prevents them from being in court on a  
14 Friday and it should be easy. It should simply be a  
15 question of is there are a religious reason you can't  
16 be here? And if the judges will always ask that  
17 question before a Friday appearance, it'll help us.

18 CHAIRPERSON BREWER: Okay, so the Friday issue is  
19 understandable.

20 PAUL SHECHTMAN: But the person who you saw was  
21 Friday. It was a religious observance reasons. We  
22 honor it, we don't ask questions and we don't video.

23 CHAIRPERSON BREWER: Okay, the other question is  
24 about the dashboard. Can you explain the dashboard?  
25 That is obviously the communication between the OCA,  
Department of Correction and why the information is

3 not shared with the attorneys for those who are  
4 coming from Rikers.

5 PAUL SHECHTMAN: Good question. The dashboard is  
6 just that. It used to be this was like most things  
7 on Rikers Island and unfortunately the court as well,  
8 this was all paper and spread sheets and emails.

9 CHAIRPERSON BREWER: I understand that.

10 PAUL SHECHTMAN: The dashboard tells us who is  
11 required to be in court the next day. Now, it's not  
12 perfect because there tend to be the next morning  
13 some add-ons but it's awfully good and it gets us a  
14 start and from that dashboard, starting around 10  
15 p.m., we prepare the manifest for the next day.

16 That dashboard shows the court who is on the way,  
17 who is there and one of the things that Worden Caputo  
18 has talked to the court about is, is there a way to  
19 share that with the defense attorney?

20 CHAIRPERSON BREWER: Why wouldn't that be  
21 possible, it's just the technology?

22 PAUL SHECHTMAN: Yes and no I think. I'm going  
23 to say this, yes but a little more sophisticated than  
24 I thought. You have to - first of all you have to  
25 make sure it is the defense attorney, right but they  
should be able to do that.

3 Second of all, he can only have access or she can  
4 only have access to their own clients information.

5 CHAIRPERSON BREWER: Correct.

6 PAUL SHECHTMAN: Right? So, that's the  
7 technology that you need. Somehow the person has to  
8 plug in but its doable.

9 CHAIRPERSON BREWER: I was going to say if  
10 somebody wants help doing that, I'm sure I could find  
11 somebody or even I could do it.

12 PAUL SHECHTMAN: I think we can to.

13 CHAIRPERSON BREWER: It needs to be done.

14 PAUL SHECHTMAN: It needs to be done but I think  
15 it needs to be done on OCA's.

16 CHAIRPERSON BREWER: Okay, but I think all of us  
17 need to work together to solve these problems.  
18 You're going to work on the Friday issue, you're  
19 going to work on the subpoena issue but I think we  
20 also need to work on this issue because in order to  
21 address this transportation, all of these issues have  
22 to be addressed.

23 PAUL SHECHTMAN: I agree and now, this one is  
24 less severe given our numbers. The strong  
25 presumption now is if you're client is scheduled for  
court, he'll be there but you should be able to

3 track. It's hard to be a legal aid and lawyer  
4 because you're in all different court parts.

5 CHAIRPERSON BREWER: Because people have  
6 different information about why somebody is not there  
7 if they don't have the information.

8 PAUL SHECHTMAN: You also need to know, I mean  
9 take the Friday refusals right, if you are a defense  
10 attorney, you may show up in the part but your client  
11 won't. That's not a good thing, so you should have -

12 CHAIRPERSON BREWER: The other question I have  
13 just about this wonderful 96 percent. There has been  
14 indication; I don't know if it is true but its  
15 certainly been an indication that clients get to the  
16 court building but not necessarily to the court room.  
17 So, does this 96.1 percent when you say produced,  
18 produced where?

19 PAUL SHECHTMAN: Produced to the court and turned  
20 over to OCA.

21 CHAIRPERSON BREWER: But that's where there may  
22 be a problem. In other words -

23 PAUL SHECHTMAN: I don't think so.

24 CHAIRPERSON BREWER: Okay, but others are stating  
25 something else.

3 PAUL SHECHTMAN: Maybe but my own sense is that  
4 if that person is in the building and turned over to  
5 OCA and the judge knows it, the judge will see the  
6 person. So, I don't think we have a in the  
7 courthouse problem. There is on occasion refusals to  
8 get off the bus, right? And that's something that  
9 we're dealing with as well.

10 CHAIRPERSON BREWER: Okay, but I just want to let  
11 you know that others feel that there is a discrepancy  
12 between the building and the actual courtroom itself  
13 and that, if you had a good dashboard, somebody would  
14 know that. That's why you need the technology  
15 between the defense attorney, then the court and you  
16 that information could be shared.

17 PAUL SHECHTMAN: I don't disagree.

18 CHAIRPERSON BREWER: Okay, I'm a big believer in  
19 technology. The other question I have is the process  
20 of getting people up in the morning. Breakfast being  
21 not something that they want to eat necessarily and  
22 then not having water or food all day. How do you  
23 address that? Because people may not want to go for  
24 the obvious reasons and second, how do you act as a  
25 you know somebody who is being grilled and you have

3 eaten and you haven't had any water and you're in bad  
4 shape? Why is that not addressed?

5 PAUL SHECHTMAN: Uhm, I say this not to be cute,  
6 I don't think anyone in these court parts unless  
7 you're on trial is being grilled but I agree  
8 completely.

9 CHAIRPERSON BREWER: You got to be able to  
10 present.

11 PAUL SHECHTMAN: Well, I don't even think they  
12 present because I don't think their lawyers let them  
13 but they certainly have to be alert.

14 CHAIRPERSON BREWER: It's somebody who feels like  
15 they should be provided food and water.

16 PAUL SHECHTMAN: They certainly have to be alert  
17 and ready for that court appearance.

18 CHAIRPERSON BREWER: Alert is fine.

19 PAUL SHECHTMAN: They are provided food.

20 CHAIRPERSON BREWER: Okay, there's a feeling  
21 again, information different from what you're  
22 stating.

23 PAUL SHECHTMAN: No, if your two staff members;  
24 it's an OCA issue but if you want to come in the  
25 building and see, I'm not saying it's the best  
26 sandwich but they are provided food. Getting up at

3 5:00 and going to court is not a happy experience.  
4 My clients who are mostly in federal custody hated  
5 court appearance dates and they hated it for a couple  
6 of reasons. One of which is you have to get up  
7 early. We're trying to get people on that bus by  
8 6:30 and the second reason is, often times when you  
9 get the courthouse, not much happens. The case gets  
10 adjourned.

11 So, it's not something that people relish, which  
12 I think is one of the reasons our refusal numbers  
13 were high but we don't have an alternative to get  
14 people up at 5 if we're going to get them to court.

15 CHAIRPERSON BREWER: Okay, let me ask you about  
16 staffing. Obviously, according to our material, \$32  
17 million, 314 staff members, you've got vans, you've  
18 got buses. Is there a staffing issue in getting  
19 people to court and if so, how is it being addressed?

20 PAUL SHECHTMAN: There is not currently a  
21 staffing issue and I attribute the ability to use the  
22 staff he has to Warden Caputo who has done a superb  
23 job here and I have gone; your staff got there  
24 earlier than me. I got there at 6 but I've seen it  
25 and there is not a staffing shortage issue.

3 CHAIRPERSON BREWER: Okay, and then the other  
4 issue of course is, is there forced – I'm not saying  
5 this is a good thing but is force being used to get  
6 people to court and if so, when? And under what  
7 circumstances? I'm not saying if its good or bad.  
8 I'm just trying to get information.

9 PAUL SHECHTMAN: No, no, that goes back to a  
10 question that Chair Rivera and I discussed.

11 CHAIRPERSON BREWER: Correct.

12 PAUL SHECHTMAN: When that number hit 1,176 in  
13 March, 1,176 refusals I made a recommendation to the  
14 Commissioner, which he accepted that we be allowed to  
15 use what is called soft hands force, which is to say  
16 we could take someone by the arm and put them on the  
17 bus. No chemicals used, no other force but the  
18 reason those numbers have dropped so dramatically I  
19 think in the last two months; remember we're at 146  
20 now, is that staff is allowed to use and videotape  
21 soft hand force.

22 Now, I'm not going to, wasn't going to let the  
23 numbers stay at 1,176 alright. As you say, people  
24 have reasons for not wanting to get to court and I  
25 can discuss them more with you. But I said, I think  
it is acceptable to take somebody by the arm and put

3 them on the bus. What Warden Caputo said to me was,  
4 we had a policy that said you have a right to refuse.  
5 I don't think you have a right to refuse. I think  
6 you have an obligation to be in court. I don't think  
7 one wants to use any unnecessary force, any excessive  
8 force but saying to people, which we now do, get on  
9 the bus right? Most of what is used here is just  
10 that. It is saying firmly, you got to get on the  
11 bus.

12 CHAIRPERSON BREWER: Do you know how many people  
13 are soft hands force versus voluntarily going to -

14 PAUL SHECHTMAN: Yes, I do.

15 CHAIRPERSON BREWER: In your current statistics  
16 that you have here?

17 PAUL SHECHTMAN: I do and they are in May, they  
18 are three times. One on May 16<sup>th</sup>, one on May 18<sup>th</sup>,  
19 one on May 22<sup>nd</sup>. All recorded and what you learn  
20 which is not surprising is, if you say to people, get  
21 on the bus and if they know you're going to grab them  
22 by the arm and put them on the bus, they go on the  
23 bus and you don't have to use force.

24 CHAIRPERSON BREWER: Okay and how does the  
25 attorney for that individual know that that's how the

3 person got on the bus? Is there some relaying of  
4 that information?

5 PAUL SHECHTMAN: Unless it comes from the client  
6 to the attorney, we don't provide it but as I say,  
7 that force is so minor on three occasions. I'm not  
8 sure we need a policy that says we have to broadcast  
9 it and clients talk to their lawyers.

10 CHAIRPERSON BREWER: Well, my understanding, I  
11 could be wrong but if any other kind of force was  
12 used, it would have to go back to the judge to  
13 determine.

14 PAUL SHECHTMAN: That's right and uhm -

15 CHAIRPERSON BREWER: Has that every happened in  
16 this 146 number?

17 PAUL SHECHTMAN: No.

18 CHAIRPERSON BREWER: Okay.

19 CHAIRPERSON RIVERA: Chair Brewer, can I go -

20 CHAIRPERSON BREWER: Yeah, go ahead and then  
21 we'll go the colleagues.

22 CHAIRPERSON RIVERA: I just want a point of  
23 clarification because the spike in refusals. There  
24 was a spike in refusals you mentioned and then there  
25 was a decrease from the 1176. So, you're saying that

3 do you attribute that in terms of your insight to the  
4 soft hands approach?

5 PAUL SHECHTMAN: I do. Three occasions right and  
6 also saying to people firmly get on the bus. What we  
7 said before during that period when it went from 467  
8 to 1176 was, you have a right to refuse, fine. We  
9 treated it as if it was a religious refusal and we  
10 don't anymore.

11 CHAIRPERSON RIVERA: Alright, I'll be interested  
12 to hear from other people testifying on some of those  
13 interactions. And just for the record, you - I  
14 wanted to just ask, what do you actually define as a  
15 refusal? Pursuant to what? Like, what is your  
16 directive on video recordings?

17 PAUL SHECHTMAN: Anyone who refuses almost  
18 anything on Rikers Island, we have video. So, if you  
19 refuse a medical appointment, we will visit video and  
20 record it. If you are at RIT court, which is on the  
21 Island, there's no transportation. If you say I'm  
22 not going, we video it. So, a refusal is just that.  
23 It is someone saying thanks, but I'm not going when  
24 they have a court appearance that we believe they're  
25 obliged to go to.

1 COMMITTEE ON CRIMINAL JUSTICE JOINTLY WITH THE  
2 COMMITTEE ON OVERSIGHT AND INVESTIGATION 41

3 CHAIRPERSON BREWER: Council Member Joseph is  
4 here also. Thank you.

5 CHAIRPERSON RIVERA: Thank you so much and we're  
6 going to turn it over to Council Member Restler for  
7 questions.

8 COUNCIL MEMBER RESTLER: Thank you very much  
9 Deputy Commissioner Shechtman. It's good to see you.

10 PAUL SHECHTMAN: Good to see you sir.

11 COUNCIL MEMBER RESTLER: And I will say, your job  
12 is one of the hardest to recruit for in city  
13 government.

14 PAUL SHECHTMAN: My friends say the same thing  
15 and ask why I took it but I'm happy that I did.

16 COUNCIL MEMBER RESTLER: Look, you deserve credit  
17 for taking it but it's one of the hardest jobs to  
18 recruit for in city government because we all know  
19 well just how profoundly problematic the engrained  
20 practices have been at the Department of Correction  
21 for so long and as the General Counsel and the  
22 defender of the agency in so many different legal  
23 fronts, on many different legal fronts, it's a  
24 challenging task. But appreciate your service and  
25 commitment to the city. Unfortunately -

3 PAUL SHECHTMAN: Would you tell that to  
4 Commissioner Molina?

5 COUNCIL MEMBER RESTLER: I think I have but I'll  
6 say it again if he ever wants to hear from me. I  
7 don't know, I think Commissioner Molina isn't so  
8 happy with me anymore these days but that being said,  
9 I am deeply, deeply disturbed by the latest monitors  
10 report and the incessant violence on Rikers and the  
11 lack of transparency and accountability that  
12 accompanies it is worse than ever, which is really  
13 saying something considering just how deeply  
14 problematic Rikers Island has always been. It must  
15 close. It must close immediately. I'm terribly  
16 disappointed by the delays of this Administration  
17 that it seems clear has no real commitment to close  
18 Rikers Island but I've come to the conclusion that we  
19 need independent immediate oversight of Rikers Island  
20 now. And that's why I am supportive of receivership.  
21 The Federal Monitor has been a place for many years,  
22 for nearly a decade, for a better part of a decade  
23 and the improvement is just not there.

24 And even the lack of communication and  
25 information being shared with the monitor is  
unacceptable. So, I just wanted to say that at the

3 jump because I imagine like many in this room, we  
4 were just horrified by the latest monitors report and  
5 the status quo is unacceptable. Our most basic  
6 responsibility as public servants are to keep the  
7 people in our custody and responsibility safe and too  
8 many are dying on Rikers Island. Too many are ending  
9 up on the receiving end of brutal violence. But I  
10 just wanted to start on the core production side. We  
11 went from the PMMR showing 72 percent of people being  
12 taken to court by DOC on time, provided in court on  
13 time to according to the data you shared for the  
14 first three weeks in May 96 percent, which is quite a  
15 remarkable turnaround almost, it's hard to believe.

16 CHAIRPERSON BREWER: Your question.

17 COUNCIL MEMBER RESTLER: What is the - Chair,  
18 you're not interested in my opining? Alright, well,  
19 I think the context is important here. So, always  
20 interested in your perspective though. The - how do  
21 you explain such an extraordinary improvement in just  
22 a few months' time?

23 PAUL SHECHTMAN: Well, I did which is to say, if  
24 you look at the numbers right? We saw a dramatic  
25 spike when the policy was and I can tell you why the  
policy changed. When the policy was that people have

3 a right to refuse and it went to 1,176 in March and I  
4 think that a report of the Mayor's Preliminary Report  
5 goes through that period and obviously doesn't  
6 include anything more.

7 So, if you tell people they have a right to  
8 refuse and if going to court is not a happy  
9 experience and I don't know how much criminal defense  
10 work you have done but too often when you go to  
11 court, the answer is adjourned. And so, given an  
12 opportunity to refuse people did in very large  
13 numbers, right? You may criticize me for making a  
14 policy decision that said people don't have a right  
15 to refuse. If you are off the island, you don't have  
16 a right not to go to court. If you're on the island,  
17 you have an obligation to go to court.

18 COUNCIL MEMBER RESTLER: When did the offer of  
19 the right to refuse start as new policy at DOC?

20 PAUL SHECHTMAN: Say it again.

21 COUNCIL MEMBER RESTLER: When did the offer the  
22 right to refuse start as new policy at DOC?

23 PAUL SHECHTMAN: Say it again.

24 COUNCIL MEMBER RESTLER: When did DOC beginning  
25 offering detainees the choice to refuse?

1 COMMITTEE ON CRIMINAL JUSTICE JOINTLY WITH THE  
2 COMMITTEE ON OVERSIGHT AND INVESTIGATION 45

3 PAUL SHECHTMAN: I can be pretty precise about  
4 it, which was I think late October of 2022.

5 COUNCIL MEMBER RESTLER: Late October of 2022.  
6 Do you know the reason for the change of policy?

7 PAUL SHECHTMAN: I do. A very fine federal  
8 judge, I don't know if you Paul Engelmayer but he is  
9 among the best, issued an opinion in a summary  
10 judgement case criticizing us for using chemical  
11 spray to get someone on a bus. An individual for  
12 whom chemical spray was contraindicated and at least  
13 in summary judgement, he said that's wrong and that  
14 case should proceed to trial. I think I wasn't  
15 involved. I think we overread the case and took it  
16 for the proposition that no force can be used and  
17 people have a right to refuse. And so, if you look  
18 at the numbers, coming into September, October, we  
19 were at 29 refusals, 98 refusals, and once you say  
20 people have a right to refuse, those numbers spiked.  
21 And again, I made the recommendation. The  
22 Commissioner accepted it that we can't use chemical  
23 spray.

24 First of all, if you use chemical spray, you have  
25 to decontaminate someone, you slow down the bus,  
right? But that you can first of all tell people you

3 do not have a right to refuse. You have to get on  
4 the bus. And second of all, if they disagree with  
5 that, to take them by the arm and put them on the  
6 bus. And we are doing that and what Warden Caputo  
7 told me and what's proven to be true is once that  
8 message gets out, you do not have to use force. And  
9 we're not but we are prepared to use soft hand  
10 techniques if we have to. And so, this is one where  
11 the data tells the story. You see it dramatically  
12 increase and you see it dramatically decline.

13 COUNCIL MEMBER RESTLER: And do you know the  
14 average number of days between court appearances for  
15 people in DOC custody?

16 PAUL SHECHTMAN: I don't. For my own clients, it  
17 could be as much as six weeks. Now, these are jail  
18 cases and they tend to be quicker but I think  
19 typically the answer is and I tried to look some.  
20 Typically the answer is a month. And so, what that  
21 means is, and we saw this. If you have two or three  
22 success of refusals, you can be slowing down a case  
23 five months.

24 COUNCIL MEMBER RESTLER: The data we saw from  
25 December showed that the average time between court  
appearances for people in DOC custody was 57 days and

3 that only a quarter of people on the island actually  
4 had a court appearance scheduled within the next  
5 month.

6 PAUL SHECHTMAN: Not on us right?

7 COUNCIL MEMBER RESTER: No of course that  
8 associates failures but and there's an absolute need  
9 to speed up trials but we are concerned that delays  
10 in providing people to court over the previous months  
11 and the year have contributed negatively to those  
12 numbers.

13 PAUL SHECHTMAN: I couldn't agree more. When I  
14 learned that we were, I think I learned it sometime  
15 when we were at 871 that 871 people were refusing, I  
16 thought this isn't, you can't tolerate this, right?  
17 Because - and the courts view was three times we'll  
18 give you a force order that says you can use all  
19 necessary force, right? Well, I don't like force  
20 orders because of that language and I don't like  
21 waiting three times because as you say, that can be  
22 five months in those situations.

23 So, you're totally right here, these delays,  
24 these failures to produce which were rampant were not  
25 helpful to a problem that's serious.

CHAIRPERSON BREWER: Thank you.

3 CHAIRPERSON RIVERA: Thank you.

4 COUNCIL MEMBER RESTLER: Thank you very much.

5 CHAIRPERSON BREWER: We have Williams and  
6 Krishnan and next is Joseph.

7 CHAIRPERSON RIVERA: We're going to hear from  
8 Council Member Joseph followed by Williams.

9 COUNCIL MEMBER JOSEPH: Good morning. Thank you  
10 Chairs. Just two questions. What steps are taken to  
11 accommodate any special needs of disabilities of  
12 detained individuals during transportation to court?

13 PAUL SHECHTMAN: It's a good question and we have  
14 three wheelchair buses that are available and we have  
15 vans that are available besides the wheelchair buses  
16 and the regular buses. So, we're sensitive to the  
17 issue and are trying to make sure that disabilities  
18 don't prevent production.

19 COUNCIL MEMBER JOSEPH: Okay, thank you. How  
20 does DOC adjust complaints or concerns related to  
21 transportation of detained individuals to court?

22 PAUL SHECHTMAN: God, I think we address them  
23 like we do any other. There is a grievance  
24 committee, a grievance unit. There aren't that many  
25 grievances about production. The grievances tend to  
be about the long delays in the courthouse and the

3 fact that the sandwich isn't the best sandwich. So,  
4 they tend to be more about conditions in the  
5 courthouse and delay in the courthouse than they  
6 happen to be about the production process. I think  
7 I'm right on that. I haven't looked at the  
8 grievances but that's what I've been told.

9 COUNCIL MEMBER JOSEPH: I was about to ask the  
10 follow up, well, how many did you get to this year  
11 but you don't know. You'll be able to report back to  
12 the Committee on the numbers of how many complaints  
13 you've gotten?

14 PAUL SHECHTMAN: Certainly and I'll try to  
15 categorize them for you.

16 COUNCIL MEMBER JOSEPH: Okay and are there any  
17 specific procedures in place to handle medical  
18 emergencies or other unforeseen incidents or in  
19 transportation to courts?

20 PAUL SHECHTMAN: Yes, look if there's and it  
21 doesn't happen. It's a rare instance. If there's  
22 any incident on that bus, we will pull over in a safe  
23 location, call the department, call NYPD and handle  
24 it. In the courthouse, there are occasionally  
25 medical emergencies. I should say and I don't think  
I testified to this. Before anyone is brought to the

3 intake area and put on a bus, if they have medical  
4 needs, we have people who have daily requirements of  
5 medicine, they are taken to the clinic and given that  
6 medicine. And if anyone says, I can't go to court  
7 for medical reasons and CHS confirms that they don't  
8 go to court. Those numbers are in my testimony.  
9 They're not large but anyone that CHS says should not  
10 be in the court is not brought to court. There are  
11 occasionally times when someone in the court has a  
12 medical emergency. We don't have - CHS doesn't staff  
13 the court parts but we call EMS and we try to respond  
14 appropriately.

15 COUNCIL MEMBER JOSEPH: Because some folks have  
16 time released medication and I'm looking at the time  
17 span you pick up a detainee from 5 a.m. and sometimes  
18 they don't get to court or 4 p.m., how is someone  
19 prepared to provide care for that person?

20 PAUL SHECHTMAN: I don't know and I can try to  
21 find an answer. I do know that they're taken to the  
22 clinic before and I know that CHS must be sensitive  
23 to that issue. I don't know how they deal with it.

24 COUNCIL MEMBER JOSEPH: Thank you Chairs.

25 CHAIRPERSON BREWER: I just want to ask one  
question because I know it's like DOC, OCA. So, are

3 there ongoing discussions? Are there meetings with  
4 OCA, the DA's Correction, MOCJ, Defense Council etc.?

5 Are there such meetings to try to iron out?

6 Obviously this hearing will try to propel such  
7 discussions but have there been such discussions in  
8 the past or are there ongoing discussions?

9 PAUL SHECHTMAN: I can tell you that Warden  
10 Caputo meets regularly with the Chief Judges in each  
11 borough and this is unsurprisingly a major topic.

12 I've spoken to the chief judge recently in Manhattan  
13 and she confirms verbally what the statistics show  
14 that we are much better. There's not a regular  
15 meeting with legal aid. The Commissioner does meet  
16 with the Legal Aid lawyers on the island.

17 CHAIRPERSON BREWER: It just seems to me that at  
18 this crunch time, it makes sense. Food is an issue,  
19 medicine is the issue, timing is of the issue. There  
20 are things that could be addressed, so something to  
21 consider.

22 PAUL SHECHTMAN: Understood and I should say the  
23 meetings that Warden Caputo has with Legal Aid tend  
24 to evolve around parole cases.  
25

1 COMMITTEE ON CRIMINAL JUSTICE JOINTLY WITH THE  
2 COMMITTEE ON OVERSIGHT AND INVESTIGATION 52

3 CHAIRPERSON BREWER: I understand that. That  
4 we're looking at the transportation as an example of  
5 what could be addressed. Transportation plus.

6 PAUL SHECHTMAN: And those parole cases can  
7 present a transportation issue for us.

8 CHAIRPERSON RIVERA: Thank you for that. I just,  
9 I want to call on Council Member Williams.

10 COUNCIL MEMBER WILLIAMS: Thank you so much  
11 Chair. Hello.

12 PAUL SHECHTMAN: How are you?

13 COUNCIL MEMBER WILLIAMS: Good, how are you?

14 PAUL SHECHTMAN: Is the question, did I wish I  
15 could extend my Memorial Day Weekend?

16 COUNCIL MEMBER WILLIAMS: I understand. Well  
17 thanks for your patience. So, I have a question  
18 about DOC and how you define refusal to attend court  
19 when a person in custody has a mental illness. Is  
20 there a different way that you define refusal if  
21 someone is having or is dealing with a mental  
22 illness?

23 PAUL SHECHTMAN: No, in other words, look no one  
24 is punished for refusing. And so, those statistics  
25 right, if that was a person with a mental illness and  
they refused before the last few months, that refusal

3 was honored. Now, mental illness or not, our view is  
4 it should be before the court. Indeed it may be more  
5 important that you be before the court if some recent  
6 events show. So, we are trying to get those people  
7 and we can typically do it with persuasion of just  
8 saying, please get on the bus, it's in your interest  
9 but we don't define it differently.

10 COUNCIL MEMBER WILLIAMS: Okay, thank you. Is  
11 there a process to identify the individuals who are  
12 missing court most frequently and resolve the  
13 underlying issues?

14 PAUL SHECHTMAN: I can tell you this. I may not  
15 be addressing your question directly. When I got  
16 there, I asked for and received a list of people who  
17 are on the island for more than two years, who had  
18 slashed people four times, right? It would be good  
19 if those cases were resolved properly and I wrote a  
20 letter to the chief judge and said could you push  
21 these cases forward? Right, I wasn't that  
22 successful. Cases seem to move at their own pace but  
23 we know when people have refusal after refusal, the  
24 DA's know and typically in those cases in the past,  
25 the DA's would get force orders that said, use all  
necessary force. I don't like that and so, what

3 we've said now is get on the bus. Please get on the  
4 bus. Okay, I'm taking you on the bus.

5 COUNCIL MEMBER WILLIAMS: Okay, so you do have a  
6 list of individuals who are frequently missing court.

7 PAUL SHECHTMAN: If you said to me, go back to  
8 pick a date. Go back to -

9 COUNCIL MEMBER WILLIAMS: No, if I said to you  
10 like, tell me the top ten individuals, you know list  
11 their names, who miss court five or more times, can  
12 you pull a list of every one who missed court five or  
13 more times?

14 PAUL SHECHTMAN: In the last year, I probably  
15 could do that.

16 COUNCIL MEMBER WILLIAMS: So, there's a process  
17 for which you have to like aggregate the data  
18 yourself.

19 PAUL SHECHTMAN: Yeah.

20 COUNCIL MEMBER WILLIAMS: Okay, so there's no  
21 streamline process. You would have to look at the  
22 data and then aggregate the data based off of all the  
23 folks who said or all the folks who missed court.

24 PAUL SHECHTMAN: Yeah, look the other way I can  
25 do it and I have done it is to ask those cases where  
there's a force order. And that typically happens

3 after three refusals. So, that's easy to get your  
4 three refusals, five is going to take a little work.

5 COUNCIL MEMBER WILLIAMS: So, something gets  
6 triggered if a person in custody refuses three times?

7 PAUL SHECHTMAN: Usually the prosecutor triggers.

8 COUNCIL MEMBER WILLIAMS: Usually, so when would  
9 it not be triggered?

10 PAUL SHECHTMAN: The judge can trigger on his or  
11 her own.

12 COUNCIL MEMBER WILLIAMS: Okay, last but not  
13 least question, when are people in courthouse pen  
14 said? Is it by request by how they've been there or  
15 is there a scheduled lunch when everyone is fed?

16 PAUL SHECHTMAN: They get lunch at a scheduled  
17 time. I don't know what it is.

18 COUNCIL MEMBER WILLIAMS: So, lets say someone is  
19 actually in the court room at this designated time.  
20 Who in the DOC court commence staff is responsible  
21 for making sure people are fed?

22 PAUL SHECHTMAN: Well DOC staff isn't because  
23 they're then in OCA custody.

24 COUNCIL MEMBER WILLIAMS: So, who provides the  
25 meals DOC or OCA?

1 COMMITTEE ON CRIMINAL JUSTICE JOINTLY WITH THE  
2 COMMITTEE ON OVERSIGHT AND INVESTIGATION 56

3 PAUL SHECHTMAN: I think OCA, right. We provide  
4 the food.

5 COUNCIL MEMBER WILLIAMS: So if someone's in the  
6 court?

7 PAUL SHECHTMAN: They get it as soon as they get  
8 back.

9 CHAIRPERSON BREWER: Council Member, we asked  
10 about this earlier and this is why we need meetings.  
11 You're absolutely right. We need the meetings  
12 between OCA and DOC.

13 COUNCIL MEMBER WILLIAMS: Okay, somebody told me  
14 you didn't answer, ask this question but okay, if  
15 they already asked it already, they still seemed to  
16 be confused about the answer though.

17 PAUL SHECHTMAN: And I think uhm, uh, Chair  
18 Brewer's staff saw the sandwiches.

19 COUNCIL MEMBER WILLIAMS: Yeah and the same staff  
20 actually are the folks who tell me to ask you this  
21 question, so I think that there's still some lack of  
22 clarity around when people are fed, if they're  
23 leaving at 5 a.m. and then there until 4 p.m. and -

24 PAUL SHECHTMAN: No, no, people can be there for  
25 a long time but they are all fed.

3 COUNCIL MEMBER WILLIAMS: Okay, thank you so  
4 much.

5 PAUL SHECHTMAN: Yeap.

6 CHAIRPERSON RIVERA: I want to thank Council  
7 Member Williams because it's important that you know  
8 we highlight and underline issues. I mean, we, we  
9 have advocates, attorney's have told us over and over  
10 again that people are being - are getting to court,  
11 are not getting to court. Either way, they're  
12 complaining of being hungry, of not receiving sort of  
13 essential - getting their essential needs met. So, I  
14 just want to thank you for your line of questioning.

15 I just want to quickly recognize this delegation  
16 of students from the Cavallaro School in Bensonhurst,  
17 IS 281. Thank you so much for being here. I hope  
18 that you enjoy your time in City Hall and that  
19 hopefully you see maybe a path to being a public  
20 servant yourself.

21 Okay, with that we do have Council Member  
22 Krishnan for questions.

23 CHAIRPERSON BREWER: And Council Member Stevens  
24 is here.

25 COUNCIL MEMBER KRISHNAN: Thank you so much  
Chairs Rivera and Brewer for today's hearing. Good

3 to see you again. I just had a few questions given  
4 the gravity of the issues we're hearing today. I  
5 mean, the fact of the matter is, there are  
6 differences between OCA's report and the data they're  
7 showing of production and you all claiming that there  
8 aren't any issues. So, just a couple questions that  
9 I've got.

10 First would be how many individuals are  
11 transported on each bus at a time and how many buses  
12 are on the fleet?

13 PAUL SHECHTMAN: I can give you that if you'll  
14 give me one second. We have 18, 20-seat buses.

15 COUNCIL MEMBER KRISHNAN: Sorry, I couldn't hear  
16 that.

17 PAUL SHECHTMAN: We have 18, 28-seat buses. We  
18 have 12, 20-seat buses. We have one 18-seat buses.  
19 We have three wheelchair buses, 1 court van, uhm,  
20 actually 5 court vans. It turns out and this is a I  
21 mean, you said there are issues and one of our issues  
22 is one of the advantages of borough-based jails  
23 obviously is - I don't want to put Warden Caputo out  
24 of business but they have the advantage that for  
25 those people who are in those jails, there's no real  
transportation cost and that's how it used to be in

3 this city. But in the interim, what has happened at  
4 these facilities is, with construction the Sally  
5 Ports have been narrowed. And so, for Brooklyn  
6 Criminal Court for example, we actually have to park  
7 that bus at the Supreme Court and then we take I  
8 don't know what the right word is like speedboats and  
9 transport people from the Supreme Court to the  
10 Criminal Court. I think that will - it's happening  
11 at Queens as well that the Sally Ports have been  
12 narrowed. It beyond our control but it does slow  
13 down production. And Chair Rivera, one of the  
14 reasons I'm reluctant to measure our success on some  
15 arbitrary you know, did you get them to court on time  
16 as opposed to, did they get before the judge, is I  
17 think as construction increases, we're going to have  
18 more Sally Port issues. We'll solve them but it  
19 doesn't help when you have to take someone to  
20 Brooklyn Criminal Court and you have to stop at the  
21 Supreme Court which I guess is on Jay Street and then  
22 take a special vehicle. But that's the number of  
23 vehicles we have. It's adequate.

24 COUNCIL MEMBER KRISHNAN: And are those vehicles  
25 always full? How many individuals are being  
transported at any given time to a court?

3 PAUL SHECHTMAN: They're not always full. For  
4 example, we try to get out trial bus as a priority  
5 and it may be that we don't have x-number of people  
6 to fill the trial bus but for the most part, we're  
7 sending full buses.

8 COUNCIL MEMBER KRISHNAN: Thank you and you  
9 touched upon this before but it is a concern that  
10 advocates keep raising as well, about ensuring that  
11 the correct individuals are transported to court.  
12 That there are instances in the past that has not  
13 been the case. So, what exactly is, one instance of  
14 the wrong production is one too many in my opinion.  
15 So, how exactly do you ensure that that error does  
16 not happen?

17 PAUL SHECHTMAN: My opinion as well Councilman.  
18 We get the lists from the court. Uhm, the list has  
19 identifiers on it. We get some add-ons in the  
20 morning before anybody is put on a bus, information  
21 is checked. It's literally a piece of paper that  
22 goes with each person to make sure we have the right  
23 person. I don't - look, your staff was there.  
24 Getting people on those buses for five different  
25 boroughs can be chaotic some mornings. So, I can't  
tell you that no mistakes are made but I think our

3 record of getting the right people to the right place  
4 is now very good.

5 COUNCIL MEMBER KRISHNAN: And just two more  
6 questions. One on that point, the concern that I  
7 have whether there's production of the wrong  
8 individuals or incarcerated, delays in production, is  
9 that this raises serious questions about the  
10 potential for procedural due process violations.  
11 Having practiced in court, representing tenants in  
12 housing court but it's very similar in criminal court  
13 too, the lengthy delays in court proceedings when  
14 production is delayed, it sets back the entire  
15 schedule. The courts cases are already backlogged.  
16 The caseloads are heavy for the judges, so any delays  
17 could really be the difference between individuals  
18 having an opportunity to speak with their Council, as  
19 is their constitutional right and their ability to  
20 have meaningful, procedural due process.

21 And so, I wonder how you all address the issue of  
22 DOC not actually infringing upon individuals  
23 procedural due process rights given these repeated  
24 delays.

25 PAUL SHECHTMAN: I may be the first person to  
answer your question by saying so stipulated but I

3 agree with everything you said and it is a priority  
4 to us to get people to court. The result of not  
5 getting people to court as Councilman Restler said  
6 is, you can delay a case for a long time and delay is  
7 not in the public interest and it's not in our  
8 interest.

9 COUNCIL MEMBER KRISHNAN: Well, I appreciate that  
10 and I do as again I think -

11 PAUL SHECHTMAN: I should add what's obvious it's  
12 now there are times when it may be in the defendants'  
13 interest but as a general matter, I think people want  
14 to go to court.

15 COUNCIL MEMBER KRISHNAN: Well, I think that it's  
16 good that you share that concern as Council for DOC  
17 and want to ensure that the Constitutional Rights are  
18 respected. I do want to close by calling attention  
19 to a really shocking special report that came out  
20 maybe about a week and a half ago at this point and  
21 there were things noted in there really where the  
22 Federal Monitor raised and I want to read a couple  
23 excerpts to address the larger issues in particular  
24 at Rikers. That there is "significant cause for  
25 concern about the imminent risk of harm to people in  
custody. And the monitor also noted that the DOC

1  
2 Commissioners defense of the accusations, "raises  
3 significant concerns about whether the Commission and  
4 the Department fully appreciate the gravity of the  
5 issues at hand and the importance of transparency and  
6 oversight." And I read both those into the record  
7 because whether it's the issues of attacks, harm,  
8 life threatening attacks at Rikers Island. Whether  
9 it's the issue of delays in core production and  
10 ensuring that individuals constitutional rights to  
11 due process are protected, there's a difference  
12 between hearing these concerns, working to address  
13 them and what is actually happening on the ground and  
14 my big concern is, is the Department appreciating,  
15 because the department seems to be the only one,  
16 including with the federal monitor saying that things  
17 are being addressed, that production time is better.  
18 That we're responding to federal monitors orders. If  
19 the monitor itself is issuing scathing reports about  
20 the departments compliance with these issues.  
21 There's no doubt that the issues at Rikers Island  
22 goes back decades frankly but it's the response to  
23 these issues that are raised and actually addressing  
24 them that is becoming a larger and larger red flag  
25 for this Council. So, in light of that report

3 whether it's this issue or the larger issues at  
4 Rikers, it seems to me that there needs to be serious  
5 conversations and examination within the Department  
6 of how it is responding to its own federal monitors  
7 serious concerns about compliance with the issues  
8 that are being raised. Thank you.

9 CHAIRPERSON BREWER: I just want to bring up;  
10 first of all, thank you for your honest answer but  
11 I'm a big believer in the unit of appropriations and  
12 my question is, obviously what I would love to see is  
13 a distinct unit of appropriation for court  
14 transportation in correction budget because it would  
15 help for me and I think for the public to ensure that  
16 the Departments expenses toward the core mission of  
17 getting people to court efficiently would be reported  
18 transparently.

19 So, I want to know if you can commit to working  
20 with OMB and the Council to include a distinct unit  
21 of appropriation for court transportation for the 24  
22 adopted budget?

23 PAUL SHECHTMAN: Chair Brewer, I'll just say  
24 this. It makes sense. I can confidently say you're  
25 not talking to a budget person. OMB may have its own

3 views but I understand yours and I understand where  
4 they're coming from.

5 CHAIRPERSON BREWER: So, general counsel, you  
6 think it's a great idea.

7 PAUL SHECHTMAN: I was told that any interchange  
8 with you would be interesting.

9 CHAIRPERSON BREWER: Okay.

10 PAUL SHECHTMAN: And uhm, I take it this is part  
11 of that.

12 CHAIRPERSON BREWER: The other question I say is  
13 whether it's food, whether it's some of the other  
14 issues that have been addressed today, I am urging  
15 but also will hopefully mandate some discussion on an  
16 ongoing basis between all the stakeholders. Because  
17 we all need to solve this. These are solvable  
18 problems you know creating some of the other issues  
19 might be harder. Closing Rikers is difficult, I'm  
20 very supportive but this needs to be addressed.  
21 Thank you.

22 CHAIRPERSON RIVERA: And I would say that I  
23 appreciate that you as an attorney have said that a  
24 certain level of detail is absolutely necessary.  
25 When it comes to something as serious as documenting  
a waiver of a constitutional right. So, I appreciate

3 your testimony today. I just want to reiterate you  
4 know the monitor. I think all of us here and I think  
5 you agree that expeditiously processing court cases  
6 is important to reducing the jail population. I  
7 think it's important that people have their day in  
8 court and that it's done as proficiently as possible.  
9 And with that, I know we're going to hear from a  
10 number of advocates. I know your team is here to  
11 hear from them and to ensure that we're all working  
12 collaboratively.

13 So, with that, I want to thank you for your  
14 testimony and for your honest answers and we look  
15 forward to working with you in partnership.

16 PAUL SHECHTMAN: Same. Thank you.

17 CHAIRPERSON BREWER: Thank you.

18 CHAIRPERSON RIVERA: We are going to hear from  
19 the Board of Correction next. Chai Park Messina is  
20 here to testify. Thank you Chair. Thank you.  
21 Deputy Director of Monitoring and Research.

22 COMMITTEE COUNSEL: Ms. Park Messina, if you  
23 could raise your right hand. Do you affirm to tell  
24 the truth, the whole truth, and nothing but the truth  
25 before this Committee and respond honestly to Council  
Member questions?

1 COMMITTEE ON CRIMINAL JUSTICE JOINTLY WITH THE  
2 COMMITTEE ON OVERSIGHT AND INVESTIGATION 67

3 CHAI PARK MESSINA: I do.

4 COMMITTEE COUNSEL: Thank you. You can begin  
5 your testimony.

6 CHAI PARK MESSINA: Good morning Chairs Brewer  
7 and Rivera and members of the New York City Council  
8 Committees on Criminal Justice and Oversight and  
9 Investigations. I am Chai Park Messina, Deputy  
10 Executive Director of Monitoring & Research at the  
11 New York City Board of Correction. I thank the  
12 Council for the opportunity to testify today about  
13 the Department of Corrections transportation of  
14 detained individuals to court.

15 I will begin my testimony by providing a brief  
16 background on BOC's mission and work followed by some  
17 information on our current monitoring efforts around  
18 court production.

19 BOC is a nine-member independent oversight board  
20 charged with ensuring that the Department of  
21 Correction and Correctional Health Services meet the  
22 Minimum Standards set forth by the Board, regulating  
23 conditions of confinement and correctional health and  
24 mental health care in all city jails. The minimum  
25 standards established a baseline for DOC and CHS and  
their meeting this baseline is critical as the city

3 endeavors to move towards a more humane correctional  
4 system. Accordingly at BOC, our role is to  
5 promulgate and enforce regulations and carry out  
6 independent oversight of jail operations. To that  
7 end, BOC remains committed to operating with  
8 transparency in our evaluation and reporting of  
9 systemic jail issues.

10 The Board of Correction recognizes the broad  
11 impact that a potentially ineffective or inefficient  
12 court production system can have on the rights of  
13 people in custody, the City's Criminal Justice system  
14 and on the jail census. Accordingly, Section 1-08 of  
15 the Minimum Standards covers court production, and  
16 requires DOC, in part, to provide timely  
17 transportation of people in custody to their  
18 scheduled court appearances. However, as we  
19 testified during our March 2023 Preliminary Budget  
20 Hearing, the Board lacks the headcount necessary to  
21 monitor and enforce the full range of our regulation  
22 including Section 1-08. As it stands, our 12  
23 monitoring staff members are responsible for carrying  
24 out oversight activities at the eight New York City  
25 jails that are currently open, seven on Rikers Island  
and one in the Bronx: courthouse holding pens across

3 the five boroughs, and two hospital prison wards, one  
4 in Queens and the other in Manhattan.

5 Despite our limited staffing, our monitoring  
6 staff periodically visit the courthouse holding pens  
7 across all five boroughs to monitor court production.

8 Our staff also have received and followed up on  
9 complaints from people in custody regarding court  
10 production. Moreover, to inform our understanding of  
11 the issues and court production, our staff recently  
12 reviewed body worn and handheld video footage of  
13 court refusals that is, instances where DOC has  
14 represented that nonproduction was due to the person  
15 in custody's refusal to be transported to court.

16 The Board of Correction recognizes that court  
17 production is complex, and that problems may arise  
18 throughout the process, from escorting people to  
19 intake for transfer to buses leaving for court,  
20 usually between 4:00 a.m. to 7:00 a.m. to the  
21 availability of appropriate vehicles, to the actual  
22 production of individuals in courtrooms, even after  
23 they have been brought to the courthouse. There also  
24 may be inefficiencies in the court return process,  
25 itself, whereby people in custody sometimes wait for  
hours on the bus after returning from court, in

3 restraints and without access to toilets,  
4 medications, or food, before they are let off the bus  
5 and returned to their housing areas, sometimes late  
6 at night. These factors sometimes discourage people  
7 in custody from going to court, but the magnitude of  
8 their impact on the volume of court refusals is yet  
9 unclear.

10 Ideally, with increased staffing, we would be  
11 better positioned to monitor timely court production  
12 consistently, and BOC would have more capacity to  
13 produce reporting on this important subject.

14 Thank you again for the opportunity to testify  
15 today. We look forward to partnering with the City  
16 Council to ensure that the Minimum Standards,  
17 including those pertaining to court production are  
18 met. At this time, I am happy to take any questions.

19 CHAIRPERSON RIVERA: Thank you for your testimony  
20 and you know I know you mentioned here your limited  
21 staffing and trying to do everything you can to  
22 periodically visit and to ensure that you're holding  
23 all stakeholders and people involved accountable.  
24 So, you mentioned you know the BOC Minimum Standards  
25 on timely transportation to court appearances. I  
think we can all agree on that. When a person in

3 custody refuses to appear in court, DOC is supposed  
4 to have the individual sign what is called an  
5 undelivered defendant notification form in front of a  
6 witness. Does the Board receive these forms?

7 CHAI PARK MESSINA: Yes, we received scanned  
8 copies of the completed undelivered defendant forms  
9 daily.

10 CHAIRPERSON RIVERA: And they're signed uh, would  
11 you say that the forms are probably signed by the  
12 person in custody?

13 CHAI PARK MESSINA: I can only speak to the forms  
14 that we reviewed recently and that would be from  
15 Monday May 15 through Friday May 19<sup>th</sup> and in that  
16 period, we received 43 completed undelivered  
17 defendant forms. Of the 43, 5 were signed by people  
18 in custody, so 11.6 percent.

19 CHAIRPERSON RIVERA: Okay, uhm, if a person in  
20 custody refuses to appear in court and refuses to  
21 sign the undelivered defendant notification form, it  
22 is DOC policy to capture the refusal on video. Has  
23 the Board tried to access these videos? And when we  
24 receive news that they were curtailing access. They  
25 were putting their restrictions in. Has the impacted

3 the Boards ability to monitor the conditions in court  
4 production?

5 CHAI PARK MESSINA: Yes it has. In the past, we  
6 used to have direct access to the folder on the  
7 Department of Corrections systems where the facility  
8 save their hand-held video footage but our direct  
9 access to that folder was curtailed around the same  
10 time that the Department restricted our access to  
11 Genentech, the surveillance system.

12 In the past, we also had direct access to DOC's  
13 body worn camera system but that too was restricted  
14 at around the same time. Now, to your earlier  
15 question on whether the board has tried to access  
16 these videos recently. The answer is yes. Most  
17 recently in the April of this year, on April 5<sup>th</sup> of  
18 this year, we requested all court refusal videos for  
19 the day before, so for April 4<sup>th</sup>.

20 DOC had informed Board staff that 72 court  
21 refusals were captured on hand held or body worn  
22 video – such footage existed and that they would be  
23 made available to us. Ultimately though despite  
24 three separate attempts to access through separate  
25 dates to access those videos we were provided only  
with 11 videos, so that's 11 of the 72.

3 CHAIRPERSON RIVERA: I'm sorry to hear that, so  
4 11 out of 72. You just mentioned five forms had been  
5 signed out of 43. Clearly huge discrepancies and no  
6 sort of reflection of what should be a partnership in  
7 terms of accountability and collaboration. And I'm  
8 sorry to hear that we're going to try to not only  
9 ensure that you have the access that you need but to  
10 follow up on some of these requests that have not  
11 been fulfilled to the satisfaction or I should say  
12 the minimum standards. Chair Brewer.

13 CHAIRPERSON BREWER: Yeah, we're also trying to  
14 get you more money. I just want you to know that. I  
15 feel very strongly about it. You and Department of  
16 Investigation need money.

17 The question I have is, I assume that this  
18 transportation issue, which we are focused on today,  
19 is part of BOC's minimum standards and therefore you  
20 are paying close attention to it. So, my question  
21 is, we heard today that there are certain refusals  
22 that are not videotaped, not to mention that you  
23 can't get all the video tapes. That's a different  
24 topic but do you think that all refusals should be  
25 video taped and obviously, could you be more explicit

3 as to how having that on a more accessible basis  
4 could help you do your job?

5 CHAI PARK MESSINA: Well, in the first instance  
6 with respect to whether all refusals should be  
7 videotaped. To be certain, there are two relevant  
8 DOC policies on that actually and I think the General  
9 Counsel did speak to one of them and that is the DOC  
10 directive on hand held recording equipment and  
11 electronic evidence, which actually requires that all  
12 court production refusals be recorded on hand held  
13 video.

14 There's also the DOC Operations Order on body  
15 worn cameras which in essence requires DOC to record  
16 all interactions with people in custody, which  
17 necessarily would include court refusals on body worn  
18 cameras. And so, previously when we did have access  
19 to the folders where DOC saves the hand-held videos  
20 and where we had direct access to the body worn  
21 camera system to get those restored certainly would  
22 allow us to monitor those refusals more effectively.

23 CHAIRPERSON BREWER: Do you also think that some  
24 discussion between, I mean they are - the Correction  
25 is blaming it seems to me OCA for almost everything.  
For the food, timing, for the Sally Port issues, for

1  
2 the timing issues and we don't even know if  
3 individuals get to the courthouse. Do they also get  
4 to the court room, which is a big difference. So, I  
5 was just wondering if that's something that you also  
6 monitor and how do you think these horrific issues in  
7 my opinion need to be addressed?

8 CHAI PARK MESSINA: Well, on the issue of or the  
9 question pertaining to access to the courtroom itself  
10 once they're brought to the courthouse. It is  
11 interesting that you raise that because of the  
12 complaints that were received this year. A fair  
13 number of them were on that issue specifically. In  
14 one of the complaints that we received from a person  
15 in custody, he alleged that DOC had transported him  
16 to the courthouse six times but that he was never  
17 actually produced before a judge and was as said, was  
18 forced to wait in the courthouse pen all day and only  
19 to be taken back to the jail facility at the end of  
20 the day without ever having step foot in the  
21 courtroom.

22 Similarly, we received another complaint this  
23 year regarding an individual who alleged that he  
24 missed three court appearances. Court appearances  
25

3 that he missed because he was never produced in the  
4 courtroom, although he was in the courthouse.

5 Now, in that complaint, the client further stated  
6 that his family was in the courtroom on those three  
7 occasions and alleged that when his case was called  
8 by the court on each of those three dates, the court  
9 was informed that he was not in the courthouse.

10 CHAIRPERSON BREWER: With all due respect to the  
11 General Counsel, we have had heard these same  
12 complaints and he did not address that when he has  
13 his 96 percent number. It doesn't address the real  
14 issue. Did you see a judge? Or were you in a  
15 courtroom, not just a courthouse? So, that number  
16 needs to be examined very, very carefully, which is  
17 why I suggested that this dashboard be something that  
18 is actually helpful to the you know specifics, not  
19 just what it's doing. And that's where you need to  
20 have in my opinion, the court needs to make sure that  
21 the attorney for the defendant is involved because  
22 that person can say whether that person is or is not  
23 in the courtroom. It might change that 96 percentile  
24 dramatically. Thank you.  
25

3 CHAIRPERSON RIVERA: And you do get complaints  
4 form the individuals on court production clearly.  
5 Can you verify those complaints without video?

6 CHAI PARK MESSINA: There are other ways of  
7 tracking whether an individual or I'm sorry, how the  
8 individual moves. Like whether the person has  
9 selected a facility or whether that person was  
10 brought to the courthouse. So, indeed there are  
11 other ways of tracking how or I'm sorry where -  
12 whether the person actually made it to the  
13 courthouse. Now, whether the person actually made it  
14 to the courtroom, that is an issue that OCA is in a  
15 better position to address.

16 CHAIRPERSON BREWER: Council Member Yeger is here  
17 too. Thank you.

18 CHAIRPERSON RIVERA: Well, again, we're going to  
19 continue to work with you on this issue. That's why  
20 there is legislation being presented today to codify  
21 what we think should be minimum standards in terms of  
22 transparency, documentation, and what we need to  
23 ensure the people are getting to court and ultimately  
24 reduce the population. So, thank you for everything.  
25 Thank you for your service. Thank you for your

3 testimony and with that, we will move on to the next  
4 panel. Thank you very much.

5 CHAI PARK MESSINA: Thank you for your time.

6 CHAIRPERSON BREWER: Thank you, we're going to  
7 work on your money.

8 CHAI PARK MESSINA: Thank you.

9 COMMITTEE COUNSEL: Okay, I'm going to call up  
10 the next panel. Marva Brown, Conrad Blackburn,  
11 Joshua White and Celia Joyce. And on this panel  
12 we'll also hear from Alyssa Briody.

13 CHAIRPERSON BREWER: Whomever would like to  
14 start, go ahead. We're ready.

15 MARVA BROWN: Good morning. My name is Marva  
16 Brown, I am a Lawyer with the Legal Aid Society. I  
17 practice in our special litigation and law reform  
18 unit of our criminal defense practice. I've been a  
19 public defender for more than 16 years and I'm  
20 honored to be back in front of the Council to offer  
21 comments on the New York City Department of  
22 Corrections failure to produce clients to court on  
23 scheduled court dates. I represented many clients  
24 where at arraignments, bail was set and the New York  
25 City Department of Corrections was charged with  
ensuring the clients return to court. Unfortunately

3 however, there are too many occasions when as a  
4 defense attorney, I've sat in court on a scheduled  
5 court appearance date waiting for hours on end for an  
6 incarcerated client who is simply not produced to  
7 court.

8 There is little that a defense attorney can do in  
9 these situations except inquire to court staff and  
10 the Department of Correction Staff to try and locate  
11 the client, ask if he is going to be produced at all  
12 and if not, adjourn the case. This leads to delays  
13 in the criminal process, wasted time for loved ones  
14 and witnesses and increased periods of incarceration  
15 on matters that would otherwise be resolved had the  
16 client been produced to court.

17 In October 2021, my colleagues in the Prisoners  
18 Rights Practice and the Special Litigation and Law  
19 Reform Unit brought a lawsuit Agnew at Al V New York  
20 City DOC demanding that DOC provide everyone in  
21 custody access to medical care because DOC was and  
22 still is failing repeatedly to bring people in the  
23 jails to medical, mental health, dental, and outside  
24 specialists appointments. DOC has already been found  
25 in contempt of the courts order to provide people in  
custody access to medical and mental health care.

3 Court production failures are harder to track  
4 however, because it is largely up to individual  
5 attorney's to triage production failures. They work  
6 with supervisors in our office to make calls to try  
7 and get the client produced to court as soon as  
8 possible but our case tracking system, which is  
9 populated by the Department of Corrections only  
10 indicates incarceration status, not production  
11 statistics. Without data from the Department of  
12 Corrections, there is no way to know how pervasive  
13 the problem is.

14 We sent out a survey to our attorney's in our  
15 trial office in all five boroughs to see if there  
16 were any common themes to be revealed in terms of  
17 court productions. The overarching message from  
18 respondents was that court productions have always  
19 been a problem. They got decidedly worse during the  
20 height of the pandemic as DOC frequently did not  
21 produce clients to court claiming that the clients  
22 were in COVID isolation.

23 But often times clients would call their  
24 attorney's asking why they weren't brought to court  
25 as they did not have COVID and were not in fact in  
isolation.

3 In recent months, the message from DOC has been  
4 that clients are refusing to come to court. These  
5 assertions are often revealed to be untrue because  
6 once attorney's speak with their clients on the  
7 phone, they find out the clients did not refuse.

8 Furthermore, the benefit of the Agnew case has  
9 been that the body worn cameras that became common  
10 placed at Rikers in 2015 started being used to  
11 provide evidence of refusals. However, in several  
12 situations where attorney's requested refusal videos  
13 from DOC, the client was miraculously produced to  
14 court on the next bus from the island. This happened  
15 in the case of client Mr. M. in Queens. Mr. M. had  
16 been continuously incarcerated for six and a half  
17 years pending retrial on an appeal and the court  
18 appearance Mr. M. was alleged to have refused was for  
19 a bail application. His lawyer absolutely knew that  
20 he would not have refused and he did not. When she  
21 requested the video, he was produced in court.

22 Other problems that arise with court productions  
23 is extreme delay. Court typically starts at 9:30  
24 a.m. and the informal expectation is that  
25 incarcerated clients will be produced to court by  
10:30 or 11:00 a.m. Attorney's reported that they

3 were told their clients were in transit but when they  
4 spoke to the Department of Corrections staff  
5 directly, they learned that their clients had not yet  
6 left the island. Now, attorneys are not allowed to  
7 call corrections directly to get this information.

8 Additionally, many attorney's are reporting that  
9 clients are not getting to court until 2:15 or 3:00.  
10 Late arrivals to court prevent litigation from moving  
11 forward as trial parts are designated on a first  
12 come, first serve basis.

13 When a case is on for hearings and the arrival  
14 time of an incarcerated client is uncertain,  
15 witnesses may be released from court to go about  
16 their business. Jury pools are sent to courtrooms on  
17 a first come first served basis as well. Where  
18 incarcerated clients are late, there may not be  
19 enough or any jurors at all available to start jury  
20 selection. The case must be adjourned and the  
21 process of waiting for the client to be produced  
22 starts all over again. These delays in production  
23 causes cases to linger on the courts docket even  
24 longer and increase periods of incarceration Rikers  
25 Island which is riddled with human rights violations.

3 A remnant of COVID-19 is the hot sheet or  
4 dashboard placement for clients or DOC due to  
5 staffing issues would only produce incarcerated  
6 clients to their court appearances when they were  
7 placed on a secondary list. This circumvents the  
8 court dates as agreed upon by the parties and causes  
9 unnecessary delay. Sometimes we've heard that there  
10 are no buses. That a client was taken to the wrong  
11 courthouse and that there was no excuse given as to  
12 why the client was produced. There were occasions  
13 where DOC faxed undelivered defendant forms to the  
14 court only for the client to say that that was not  
15 his signature on the form.

16 After arraignment where bail was set, the  
17 district attorney's office must secure an indictment  
18 within five days, not including holidays or weekends.  
19 But where DOC fails to produce a client, judges often  
20 grant good cause extensions, which in all actuality  
21 gives DA's more time to secure their indictment.

22 Overall, court productions by DOC are unreliable  
23 and inconsistent. This Council should require that  
24 the Department of Corrections record all alleged  
25 refusals and provide recordings to defense counsel  
via email as soon as the refusal is given. The

3 Department of Correction should facilitate a method  
4 by which defense counsel can communicate with their  
5 incarcerated client via phone and/or video conference  
6 where defense counsel can discuss court production  
7 with their client. Ultimately, however, DOC  
8 willfully fails to produce clients to their court  
9 appearances thereby delaying the judicial process.  
10 Resources would be better spent on decarceration  
11 methods of supervised release, electronic monitoring,  
12 emergency reentry units and supportive housing so  
13 that we are not reliant upon the DOC to bring people  
14 to court. Thank you.

14 JOSHUA WHITE: Good afternoon or good morning  
15 Council Members. My name is Joshua White. I am a  
16 public defender with the New York County Defender  
17 Services and not as seasoned as my colleague. I've  
18 only been at this for about a couple of years. I am  
19 privileged of course to represent New Yorkers who are  
20 charged with crimes here in the Borough of Manhattan.

21 I wanted to start with just a brief story of one  
22 of my first experiences right down the street at 100  
23 Center Street. I had a client who was charged with a  
24 misdemeanor at arraignment. It was his first arrest.  
25 He was recommended for release by the CJA. Bail was

3 set on this client at an impossibly high amount and  
4 he was given a return date back to court for a month  
5 later. I immediately moved to advance the case to  
6 have another judge make a determination about bail.  
7 So, he was scheduled to be brought back to court.  
8 Two days later, he was not brought back to court.  
9 That day he was not brought back to court. The next  
10 day or the day after. It was several attempts  
11 requiring DOC to bring my client to court before he  
12 was finally brought to court. Now, when he was not  
13 produced, the assumption that was made by the court  
14 and by many officers was that my client was refusing.  
15 This is the assumption that's made quite often and I  
16 know that it's not true because quite often our  
17 clients know that they are going home once they're  
18 brought to court. They had absolutely no incentive  
19 not to come when they're calling us every single day  
20 asking us what it's going to take to get them out of  
21 Rikers. And we tell them, we just need to bring you  
22 to court. We have an agreement; we have an  
23 arrangement. The judge is going to remove bail.  
24 There's a deal that you can take that's going to  
25 resolve this case in a noncriminal manner. They have  
absolutely every reason to come to court and so, when

3 I'm told that they're refusing, I know it's simply  
4 not true. Now, there was a statement that DOC  
5 Council made, which is that clients are being brought  
6 to court for all of their required appearances and I  
7 think that this Council should really inquire as to  
8 what a required appearance is. Because when I make  
9 the point to the court, that bail was set on my  
10 client to ensure that what's happening today doesn't  
11 happen. That they are actually brought to court.  
12 The response that's given to me is well, this isn't a  
13 required court appearance. This is just an  
14 appearance that has been moved up so that you can  
15 potentially get your client out.

16 Well, the same Council for DOC is saying that we  
17 need to be working hard to advance these cases to get  
18 clients out. Well when we advance cases, when we try  
19 to get our clients in the court so that we can get  
20 them out of Rikers, quite often they're not brought  
21 to court. Just a couple of weeks ago, a judge  
22 illegally set bail on one of my clients. I advanced  
23 the court uh, the case, so that another judge could  
24 look at this illegally set bail and remove it and  
25 that did happen. But it took six days for my client  
to be brought to court because there's no mechanism

3 to ensure that our clients are brought to 100 Center  
4 Street if it's not on as Council for DOC as suggested  
5 a required court date. Well, when someone is being  
6 unlawfully detained at Rikers or someone is being  
7 unnecessarily detained at Rikers. There needs to be  
8 a process to ensure that we can get them to court as  
9 soon as possible so that they can be released.

10 And so, thank you for your time and I appreciate  
11 the opportunity to speak with you.

12 CONRAD BLACKBURN: Chairs and Council Members, my  
13 name is Conrad Blackburn and I am a Public Defender  
14 and Policy Counsel for Criminal Defense Practice at  
15 the Bronx Defenders. I want to thank you guys for  
16 the opportunity to testify here today and for your  
17 interest in this very important matter.

18 My testimony today focuses on the continued  
19 failures of the New York City Department of  
20 Corrections or DOC to ensure that people held in DOC  
21 custody at Rikers Island and other city correctional  
22 facilities are brought to court for all court  
23 appearances and that they have a meaningful ability  
24 to participate in their own defense.

25 Since the passage of New York States bail laws in  
1971, the sole purpose of pretrial detention has been

3 to ensure individuals return to court. This  
4 fundamental principle is rooted in the presumption of  
5 innocence and a recognition that pretrial detention  
6 and poses punishment prior to conviction of any  
7 crime. Thus, when someone is committed to DOC  
8 custody and caged at Rikers Island while awaiting  
9 trial, the sole purpose of that detention is to  
10 ensure that they are produced for their court dates.  
11 All of the horrific conditions that exist are endured  
12 in services of that single purpose. That means DOCs  
13 entire existence is premised on their ability to  
14 produce the individuals to court. In the respect,  
15 they are failing miserably.

16 In Fiscal Year 2022, individuals in DOC custody  
17 made only 79.1 percent of their court dates. During  
18 the first quarter of Fiscal Year 2023, only 72.2  
19 percent of individuals were produced for their court  
20 dates. Meanwhile, the right of return for people who  
21 are released and therefore not in DOC custody, was 85  
22 percent in 2019, 92 percent in 2020 and 91 percent  
23 through the first nine months of 2021.

24 Thus, individuals who are incarcerated pretrial  
25 are substantially less likely to make it to their

3 court dates, defeating the entire purpose of their  
4 incarceration. This is unacceptable.

5 Now, there are myriad reasons why DOC fails to  
6 ensure that people are brought to court for their  
7 court appearances but one key reason is that the  
8 system used by DOC is completely antiquated. The  
9 department relies on old-fashioned pen and paper  
10 methods to track when people are next due in court,  
11 to record bail amounts set by judges and to note when  
12 critical requests are made of the department, such as  
13 requests for medical attention or requests for  
14 protective custody.

15 This is a problem but outdated systems are just  
16 one reason for DOC's failures. Staff absenteeism and  
17 staff mismanagement continue to effect the  
18 departments ability to produce people to court. DOC  
19 often cites lack of escorts and or captain escorts  
20 for failures to produce. This reason is frequently  
21 given for incarcerated individuals in mental  
22 observation units, restrictive housing settings and  
23 people with high security classifications.

24 The logistical obstacles these scenarios cause is  
25 only exacerbated by DOC's overuse of restrictive  
housing and security designations as well as the

3 subpar mental health and de escalation training they  
4 receive.

5 Lastly, "refusals" where DOC alleges an  
6 individual has refused to come to court have long  
7 been a source of contention for people in custody and  
8 their legal counsel. It is virtually impossible to  
9 challenge the legitimacy of a refusal. Request for  
10 proof of a refusal are usually ignored or met with  
11 dismissive and unhelpful responses, leaving us  
12 advocates and our clients with little to no recourse.  
13 For this reason, we support the legislation to  
14 require meaningful recordings of alleged refusals and  
15 reporting of court productions, such as the bill  
16 carried by Council Members Rivera and Brewer.

17 However, we believe to ensure accountability and  
18 maximize transparency. Officers should be required  
19 to turn their body cameras on when they are  
20 approaching an incarcerated person so that the entire  
21 interaction is recorded.

22 Additionally, the reporting requirement for  
23 production should include all court dates. As my  
24 esteemed colleague here pointed out, often times DOC  
25 cites a court case not be a required court date and  
our clients tell us that all the time. When they try

3 to get on the bus, they're told they don't actually  
4 have court that day, when they in fact do.

5 Now, currently DOC limits their reports to  
6 appearances scheduled for hearing and trial, thus  
7 creating skew data that makes it impossible to  
8 appreciate and understand the magnitude of DOC's  
9 failure to fulfill their primary purpose, ensure that  
10 people in custody are produced to court.

11 They must record all court dates. Thank you.

12 CHAIRPERSON BREWER: I just want to mention that  
13 Council Member Salamanca has joined us. Thank you.

14 CELIA JOYCE: Hello, my name is Celia Joyce, I am  
15 the Senior Data Analyst at New York County Defender  
16 Services. As my colleague Joshua mentioned, we are a  
17 public defender organization in Manhattan.

18 We urge you to vote yes on the bill you are  
19 discussing today. Over the past two weeks, the NYCDS  
20 Data Research Unit surveyed attorney's, social  
21 workers and correction specialists on their  
22 experiences with DOC's transportation of incarcerated  
23 clients. 66 percent of our attorneys report that in  
24 the past two months, at least one of their clients  
25 has disputed an alleged refusal to be transported for  
a court appearance.

3 Attorneys estimate that clients dispute over 60  
4 percent of the court transportation refusals reported  
5 by DOC. DOC will often claim that a client refused  
6 transportation without providing copies of the  
7 required documentation or will provide refusal  
8 paperwork stating that our client "refused to sign"  
9 without including any additional information.

10 It is our understanding that the bill discussed  
11 today will address this significant problem. The  
12 Department of Correction not only fails to transport  
13 clients to court appearances, they have also not  
14 transported clients to other important events.

15 Our staff estimate that clients in DOC custody  
16 miss over 20 percent of their scheduled video  
17 conferences. 49 percent of staff indicated that in  
18 the past two months at least one of their clients has  
19 disputed an alleged refusal to be transported to a  
20 video conference.

21 We estimate that clients dispute 67 percent of  
22 the video conference refusals reported by DOC. 42  
23 percent of surveyed staff report issues with DOC's  
24 transportation of clients to medical appointments, 40  
25 percent of respondents report issues with  
transportation of clients to mental health

3 appointments and 32 percent report issues with  
4 transportation to psychological evaluations. Our  
5 survey shows that DOC transportation of incarcerated  
6 clients remains a significant problem and highlights  
7 the inability and negligence of DOC in fulfilling our  
8 clients rights to be present at and fully informed  
9 for their court appearances.

10 Our clients have indicated that they are  
11 frequently misinformed of where they are being  
12 transported and as a result may unwittingly refuse  
13 transportation in those situations. This bill should  
14 require DOC to record a comprehensive discussion with  
15 the detainee as to precisely where they are going to  
16 be transported and if and why they are refusing  
17 transportation. This recording should include  
18 precise details of what proceeding the detainee is  
19 allegedly being transported to.

20 Again, we urge you to pass this bill and thank  
21 you.

22 COMMITTEE COUNSEL: Thank you. Next, we'll hear  
23 from Alyssa Briody.

24 CHAIRPERSON BREWER: Don't get up yet. She's on  
25 Zoom.

26 ALYSSA BRIODY: Hi, can you hear me?

3 COMMITTEE COUNSEL: Yes.

4 ALYSSA BRIODY: Great, my name is Alyssa Briody,  
5 I am a Senior Attorney in the Civil Rights and Law  
6 Reform Unit at Brooklyn Defender Services. Prior to  
7 that, I worked in our criminal practice for six  
8 years. Thank you so much for the opportunity to  
9 testify today.

10 In New York, the only permissible purpose for  
11 incarcerating a person pretrial is to ensure that  
12 they will return to court. Yet in our experience,  
13 pretrial detention is less likely than release to  
14 result in a persons reliable appearance for court  
15 dates.

16 Attorneys frequently wait all day in court for  
17 their clients in DOC custody to be produced, only to  
18 be told that their client is not being produced or  
19 refused to come to court. After a missed appearance,  
20 we will talk to our clients and in many cases, we  
21 hear that people were prepared for court but that no  
22 correction officer came to their housing unit or they  
23 were taken to intake to wait for hours for a bus that  
24 never came.

25 DOC is required to record video of any refusals  
to come to court but they don't always comply with

3 this requirement. We have asked DOC legal for video  
4 and been told that none exists. And DOC generally  
5 requires a judicial subpoena to provide the video so  
6 we're not able to get the video as quickly as we  
7 often need it. We have also obtained refusal videos  
8 that make it clear that our client did not actually  
9 refuse.

10 For example, we received a video that was  
11 described as a refusal video but the video just  
12 showed our client stating that he did not refuse to  
13 come to court and the bus left without him. Parents,  
14 children and other loved ones may too be waiting all  
15 day in court for their family member to be produced.  
16 A court date is often a rare opportunity to see a  
17 loved one face to face and many people take hours off  
18 work or days off of school to come to court to see a  
19 person without the trip to Rikers.

20 The too, may wait all day, only to learn their  
21 loved one was not transported. There are many  
22 occasions where a clients nonproduction significant  
23 prejudices their case and results in more time in  
24 jail. DOC has failed to produce clients on days that  
25 they are scheduled to take an advantageous plea deal,

3 be released to a treatment program or finally get to  
4 tell their side of the story in the grand jury.

5 These are not the kind of court dates that  
6 someone would refuse to go to. But even outside of  
7 these pivotal court dates, each time a client is not  
8 produced, they are denied the opportunity to stand  
9 before a judge and hear first hand what is happening.  
10 In a criminal case that is depriving them of their  
11 liberty and confining them in deplorable conditions.  
12 And that is unacceptable.

13 Counsel for DOC suggested that people frequently  
14 just don't want to go to their court dates but that  
15 is not our experience. DOC must ensure people are  
16 produced and the Council must hold them accountable  
17 to this responsibility. We ask that the Council  
18 require DOC to report production figures for all  
19 court dates -

20 SERGEANT AT ARMS: Time is expired.

21 ALYSSA BRIODY: Not just hearing - uh, just one  
22 more thing. It's also essential that video footage  
23 of alleged refusals be easily available to defense  
24 attorney's without a judicial subpoena so that DOC  
25 can't falsely blame our clients for their  
nonproduction. Thank you for your time.

3 CHAIRPERSON BREWER: Thank you. I have one quick  
4 question for those here, which is the dashboard  
5 communication etc.. So, you have no access to any of  
6 the technology that OCA and DOC are going back and  
7 forth? How would that be helpful to you? If not,  
8 what is it that you would like to see in terms of the  
9 dashboard or communication? Anybody who would like  
10 to respond.

11 MARVA BROWN: We don't have access to it first of  
12 all.

13 CHAIRPERSON BREWER: We heard that from the  
14 General Counsel.

15 MARVA BROWN: Right, I think in terms of our law  
16 reform and special litigation unit, we might be able  
17 to use it to effectuate larger scale change if we  
18 have access to that data, so yes we would appreciate  
19 access.

20 CHAIRPERSON BREWER: Everybody agrees?

21 PANEL: Yeah.

22 CHAIRPERSON BREWER: Okay, thank you.

23 CHAIRPERSON RIVERA: Council Member Williams, you  
24 have a question?  
25

3 COUNCIL MEMBER WILLIAMS: Thank you so much  
4 Chair. You asked about – what did she ask about,  
5 dashboard?

6 CHAIRPERSON RIVERA: She just did ask about –

7 COUNCIL MEMBER WILLIAMS: Okay, uhm, so you said  
8 something about 60 percent? I couldn't hear.

9 ALYSSA BRIODY: Yes, which – I noted a few  
10 statistics.

11 COUNCIL MEMBER WILLIAMS: You said something  
12 about 60 percent of attorney's reported that –

13 ALYSSA BRIODY: Yes, 66 percent of our attorney's  
14 report that in the past two months, at least one of  
15 their clients has disputed an alleged refusal to be  
16 transported for a court appearance.

17 COUNCIL MEMBER WILLIAMS: Okay, and then you  
18 mentioned something about required court dates. So,  
19 are you saying that they're not recording when folks  
20 who are incarcerated are not going to court if it's  
21 not a required court date. They're only noting the  
22 times where it was required and they did not appear  
23 in court.

24 JOSHUA WHITE: Yeah, I found the language to be  
25 particularly precise when Council for the DOC noted  
that large statistic of folks being brought to court

3 on required court dates because he also noted the  
4 importance of advancing cases, moving cases along  
5 more quickly. And as Council for folks who are at  
6 Rikers, I'm quite often told that they're not  
7 required to be brought to court if it's not for  
8 hearings or for trial. And so, even if they're being  
9 brought to court is necessary for their release, it's  
10 not a required court date. And so, we make requests  
11 for production and our clients are not brought to  
12 court on these dates that are not considered required  
13 court dates.

14 COUNCIL MEMBER WILLIAMS: What are those type of  
15 court dates, titles as? Like you said, like when you  
16 asked the judge to review the bail, like what is  
17 that? It's not a hearing. What is it called?

18 JOSHUA WHITE: So, typically those types of  
19 hearings are, they're called bail reviews and they're  
20 very important. A large number of my clients who are  
21 sent to Rikers with impossible bail, the only way for  
22 me to have that bail amount reviewed is through the  
23 hearing that's just known as a bail review, and so I  
24 need them brought to court because a lot of times  
25 judges will not feel comfortable releasing a client  
from Rikers if they can't inform that client when

3 their next court appearances are what particular  
4 conditions are released, they are being released on.  
5 And so, I'll show up for a hearing, the prosecutor  
6 will be there as well. The judge is there and I'm  
7 told, well, we're not going to conduct this hearing  
8 if the client is not here.

9 And so, it does create a lot of challenges and I  
10 mean there have been times where my clients are  
11 brought to court but they're not produced within the  
12 courtroom, because logistically DOC just can't figure  
13 out how to move my client from one part of the court  
14 to another part of the court. And so, even though  
15 they've actually been brought to court, the hearing  
16 that I need my client to be a participant in, can't  
17 actually be conducted.

18 COUNCIL MEMBER WILLIAMS: So, where is this list  
19 of like the criteria for something to be a required  
20 court date. Like is that -

21 MARVA BROWN: There is no such thing and that's  
22 the problem with their assertion that's a required,  
23 they can only be produced for a required court  
24 appearance. Department of Correction should not be  
25 making a determination as to what is a required court  
appearance. It's the judge. It's the Defense

3 Council, the prosecutor, right. We know what's going  
4 to happen in the courtroom. Department of  
5 corrections is not apprised of any particular  
6 proceeding, unless it is you know the file is marked  
7 for trial so the incarcerated person has to be in  
8 trial clothes or something like that but they don't  
9 know all of the multiple proceedings that happen  
10 before trial. And it's not a decision that they  
11 should be able to make.

12 JOSHUA WHITE: And yes, just to piggyback off of  
13 that, it's not just that DOC is not producing people  
14 for these - for court dates that are not "required."  
15 It's also that they limit their reporting to those  
16 court dates that are for hearings and trial. So,  
17 it's a double edge sword there. And I'll just add  
18 that in the Bronx, at least what I have seen, judges  
19 are aware of the fact that DOC has problems producing  
20 people for court. And so, they'll specifically say  
21 on the record, "I'm marking this case for trial. I'm  
22 marking this case for hearings." So, that DOC gets  
23 the memo that our client needs to be produced for the  
24 next court date.

25 COUNCIL MEMBER WILLIAMS: But there's nothing  
official anywhere that delineates what, there's no

3 criteria, there's nothing written anywhere. They're  
4 making arbitrary decisions in real time or what they  
5 deem required by way of - okay.

6 So, essentially you're disputing this like 96  
7 percent because you feel like the data is only skewed  
8 to reflect what they deem as required court dates  
9 versus overall, all types of court dates and cases  
10 and hearings that a person would need to appear  
11 before a judge. Thank you.

12 CHAIRPERSON RIVERA: And I appreciate that  
13 Council Member because I think discretion is the  
14 problem here right, so we're trying to actually  
15 legislate, codify what is required. I appreciate  
16 your suggestions in terms of how to improve the  
17 language of the bill and in terms of their reporting  
18 and how limited it is, hopefully we can get that into  
19 the language to be strong and to be able to document  
20 everything. And I agree earlier, the physical  
21 logistical challenges when you actually do get  
22 someone they can't quite track the person. They  
23 can't find the person even when they are in the  
24 building. It's completely unacceptable. And so,  
25 your mention here on all court dates should be  
included. We're definitely going to take all of that

3 into account and I just want to thank you for sharing  
4 your experiences and doing this day in and day out  
5 despite everything in your way and in your clients  
6 way in terms of receiving what they're due. Thank  
7 you. Thank you.

8 CHAIRPERSON BREWER: Thank you very much and it's  
9 very fortunate. Thank you.

10 CHAIRPERSON RIVERA: Absolutely. I'm going to  
11 recognize another school, PS 169 from the Bay Chester  
12 Academy in Council Member Riley's district. Thank  
13 you for being here. Hope you are enjoying City Hall.

14 [APPLAUSE]

15 It's been an exciting day. I hope you can see  
16 this is a public service in action, so if you have  
17 any questions for us, you know I hope you'll let us  
18 know. We hope that some of you consider public  
19 service or even being a City Council Member one day,  
20 okay.

21 CHAIRPERSON BREWER: Ask Council Member Riley.

22 CHAIRPERSON RIVERA: Yup, great Council Member  
23 right there. Alright, we're going to go to our last  
24 panel. It's going to include people in-person and  
25 then we're going to mention the names that are also  
joining us via Zoom, so we can make sure we have

3 everybody on stack and here from all participants.  
4 Jeremy.

5 COMMITTEE COUNSEL: Okay, the next panel we'll  
6 hear from Zachary Katznelson, Ashley Conrad, Tanya  
7 Krupat, Eileen Maher. And on Zoom, we'll hear from  
8 Chaplain Dr. Victoria A. Phillips, and Kelly Grace  
9 Price.

10 CHAIRPERSON BREWER: Someone can begin, go ahead.

11 ASHLEY CONRAD: Good morning Committee Members.  
12 Thank you for allowing me to testify this morning.  
13 My name is Ashley Conrad, I am a Community Organizer  
14 with Freedom Agenda and the Aunt to a 21-year-old who  
15 has been sitting on Rikers Island for the past two  
16 years. During this time, my family and I have  
17 attended over a dozen court hearings that are often  
18 disappointing and come with many layers of  
19 dysfunction. Stemming from both the Department of  
20 Corrections and the courts, particularly Queens.  
21 These failures are both Department of Corrections and  
22 the court system have a profound impact not only on  
23 my nephews case by prolonging it but also on the  
24 lives of low-income families like my own, who are  
25 forced to bear the burden of waiting in court all day  
often with no resolution or progress.

3 For my nephew coming to court means waking up as  
4 earlier as 5 a.m. with the expectation of being  
5 chained for the entire day. After getting something  
6 that barely for breakfast on Rikers, he must wait all  
7 day in a cell at the courthouse without knowing when  
8 he can use the bathroom or have anything to eat and  
9 drink. And he doesn't get back into the Island until  
10 the evening.

11 This take an immense toll on my nephew who is  
12 autistic. His mental state is already compromised  
13 because of the state of violence he lives in and  
14 preparing for court appearances bring so much stress  
15 and anxiety.

16 Days at court are a constant let down, when  
17 instead of getting progress and resolution, he  
18 continues to get reminders that this system sees his  
19 time as worthless and his life as disposable. And  
20 that's on the days that DOC does get him to court.  
21 At one court appearance that my family attended, they  
22 cannot find my nephew in the building. Finally, we  
23 figured out where he was. He was still on Rikers  
24 Island because we got a call from him while sitting  
25 in the courthouse. His case was then adjourned for  
more weeks, another four, three weeks. This has been

3 the process over and over again stretching on for  
4 more than two years now.

5 Thousands of families are suffering through this  
6 along with their loved ones. My family and I have  
7 taken days off from work, had to find child care  
8 multiple times, hoping that something will come from  
9 the day and yet nothing happened. We have even got  
10 to the point where sometimes we just hope it will be  
11 an additional opportunity to see my nephew, even if  
12 just for a moment. Something my nephew looks forward  
13 to as well and we often do not.

14 They leave him downstairs in a cell as they make  
15 decisions about his life, disregarding the efforts it  
16 took to be in the building. On one occasion, a judge  
17 even had to send out an email blast to the entire  
18 courthouse trying to find my nephews paperwork, which  
19 they did not find. And this resulted in him not  
20 being produced and in a court case being adjourned  
21 for another three or four weeks. These short comings  
22 demonstrate systemic flaws that need to be addressed.  
23 It is crucial for the Department of Corrections and  
24 the court system to prioritize timely and efficient  
25 court productions, providing individuals with  
opportunity to have their cases heard without undo

3 delays. This requires improved communication,  
4 coordination and accountability and by doing so, we  
5 can work towards a system that respects the rights of  
6 individuals and upholds the principles of fairness  
7 and timeliness and minimizes the undue burden placed  
8 on incarcerated individuals and their families who  
9 are already facing significant challenges.

10 The entire justification for my nephew to be held  
11 in a jail where he has not even been convicted is to  
12 ensure he makes his court date but the Department of  
13 Corrections is so often failing to produce him and  
14 when he is there, the courts operate with a level of  
15 unprofessionalism that further undermines their  
16 authority. On top of the incredible risk of harm  
17 that my nephew and everyone else who is sitting on  
18 Rikers Island is subjected to every day the rampant  
19 issues with our court productions are another reasons  
20 judges should be releasing more people to spare them  
21 from the brutality of Rikers and give them a real  
22 chance at due process. Thank you.

23 EILEEN MAHER: Hi, my name is Eileen Maher, I'm a  
24 Civil Rights Union Leader from Vocal New York, a  
25 social worker and a survivor of New York State and  
New York City DOC, which includes over 420 days on

3 Rikers. DOC Counsel testified today that the very  
4 minimal amount of detainees not making court dates  
5 are a result of the detaining refusing. I call bull.

6 As a detainee and as a directly impacted family  
7 member, I have seen via first hand knowledge and  
8 experience that DOC staff will resort to using  
9 unprovoked physical violence in order to produce a  
10 detainee for court.

11 We were repeatedly told that if any detainee  
12 refuses, the Department would be sanctioned and  
13 fined, as long as there is staff. The transportation  
14 CO's have one job and one job only, to drive the  
15 detainees to and from court. However, if they aren't  
16 there, then they cannot do their job. So, like the  
17 CO's on the Island and the boat, if they are  
18 purposely staging mass callouts, sick outs, no call,  
19 no shows, that equals less or sometimes no  
20 transportation CO's available. That means missed  
21 court dates. Unless DOC provides uncoerced video  
22 evidence that a detainee does not or is refusing  
23 court. I call bull on that as well.

24 For decades, if not a century, New York City  
25 DOC has relished the undeniable fact that they have  
26 been able to use unprovoked force and abuse against

3 detainees. Than rather than own up to this or the  
4 officers abusing, sexually abusing, medically  
5 abusing, verbally abusing and trafficking in fentanyl  
6 saturated narcotics into the facilities and using  
7 solitary confinement, despite it being illegal, they  
8 double down and despite verifiable and tangible proof  
9 deny any problems, which leads me and all of my  
10 comrades in this fight to end mass incarceration to  
11 believe that DOC is again waxing those same false  
12 tales when it comes to failed court dates. We have  
13 no reason to believe anything they report.

14 And that little song and dance that the DOC  
15 Council just did as far as using soft force, if  
16 cracking someone's skull, relatedly kicking them,  
17 body slamming indoor using pepper spray as soft  
18 force, then what is strong force?

19 If refusing to give a detainee his or her  
20 methadone before court or just to watch that person  
21 become physically ill for entertainments purpose, are  
22 part of the CO's job, when they bother to show up for  
23 work but are appropriate job practices, please  
24 correct me. But we all know that that's not the  
25 case. Thank you.

3 Thank you for the opportunity to testify today  
4 and for holding this hearing on this critically  
5 important topic. My name Tanya Krupat, I'm the Vice  
6 President of Policy and Advocacy at the Osborne  
7 Center for Justice across generations. The topic of  
8 today's hearing is an area of concern for us at  
9 Osborne as everyone here today. We had actually  
10 began tracking the problems arising with DOC bringing  
11 people to their court dates as we were hearing more  
12 and more concerning experiences and growing  
13 frustration among those in DOC custody.

14 It goes without saying that transporting people  
15 to court is critically important for so many reasons  
16 including moving court cases along and ensuring  
17 people spend the least amount of time possible  
18 pretrial and on Rikers.

19 There are now approximately 5,411 people awaiting  
20 trial on Rikers, more than 1,200 have been there for  
21 one year and 488 of these people have been there for  
22 more than two years. The Federal Monitors Report  
23 this past Friday highlighted the dangerous and deadly  
24 nature of Rikers in addition to moving expeditiously  
25 to close Rikers, we also need to ensure that people  
are there for a short as time as possible.

3 And the issue today is not only getting people to  
4 court but as has been said, making sure they see a  
5 judge once in court and also really closely examining  
6 what people are experiencing during this whole  
7 process. And I'd like to highlight some challenges  
8 and worrisome even dangerous situations that we've  
9 become aware of.

10 Refusals has been talked about a lot today and  
11 according to one of our staff, what I see most often  
12 are refusals where a court officer will tell the  
13 judge the person refused to come, say there's a video  
14 of the refusal and no video ever surfaces. The  
15 client often has no idea someone came to get them at  
16 all. Sometimes they just ask to go to the bathroom  
17 or change first and planned on coming. This can then  
18 prejudice the judge and DA to hear that the person is  
19 refusing, especially when DOC says they have it on  
20 video.

21 The issue of people refusing should be unpacked  
22 and each refusal should have documentation that  
23 indeed the individual chose not to go to court.  
24 Also, health and mental health issues should be  
25 related as people sometimes don't want to go because  
in their prior court, transportation, they weren't

3 given adequate medication or food with sometimes dire  
4 consequences. For example, for people with diabetes  
5 are on medically assisted treatment, going to court  
6 can prove dangerous or painful. Our staff described  
7 how people will intentionally take less insulin in  
8 the morning before court because they don't know if  
9 or when they will be fed at all and they have no  
10 access to their insulin while in court custody.

11 In addition to coordination between DOC and CHS  
12 being critical, there's a need for better systems to  
13 ensure the correct person is brought to court and  
14 they are not transported with or at all exposed to  
15 their codefendants, which can be dangerous and also  
16 influence the outcome of their court hearing or case.

17 One of our staff at DOC bringing the wrong person  
18 who shared the same name to court twice. The process  
19 can also be triggering for people with trauma  
20 histories, which is most people on Rikers. People  
21 are in hand restraints and leg chains on the bus  
22 sometimes for hours. The conditions of the buses and  
23 pens can be difficult for anyone.

24 We just want to finally highlight; our staff  
25 shared several instances where people were influenced  
to take pleas they did not want to take. One woman

3 had not been able to have her psychiatric meds before  
4 court and although she wanted to go to trial with her  
5 case without being stable on medication, she took a  
6 plea.

7 I just want to highlight as you have mentioned  
8 Chair Brewer, these are solvable issues and require  
9 interagency coordination among other things. Thank  
10 you.

11 ZACHARY KATZNELSON: Hi, I'm Zachary Katznelson,  
12 I'm the Executive Director of the Lippman Commission.  
13 Thank you Chair Brewer, thank you Chair Rivera for  
14 holding this hearing for the chance to testify. I  
15 think it's pretty clear that first of all, the data  
16 that we're getting from a variety, it's very  
17 difficult to discern what's actually happening inside  
18 the Department of Correction, inside the courthouse.  
19 Obviously getting someone on a bus to Rikers, the  
20 jobs not done there. Getting them to the courthouse,  
21 the job is not done there. Are they actually getting  
22 in front of a judge? That's the critical question  
23 and Department of Correction wasn't able to answer  
24 that today, whether that actually happens. And so,  
25 the legislation like you proposed is critical. I  
think the oversight of staff by Council Staff

3 actually going and seeing, having the Board of  
4 Correction able to go and see that matter is  
5 tremendously - first of all, the Department of  
6 Correction changes how they operate when people are  
7 watching but also, it really helps people understand  
8 what's really happening behind the scenes. So, it's  
9 essential.

10 So, as much as that can happen, please continue  
11 the work forward. You know, computerization, the  
12 department still relies on paper so much for this  
13 process. That should not be happening at this stage.  
14 The Council for instance perhaps could mandate a date  
15 by which they have to computerize this system. And  
16 then, think about the population review legislation  
17 that just passed recently. That is looking at an  
18 issue that needs to be solved, having pulling all the  
19 players together to do it. What if something could  
20 be done similar for court production? Get the people  
21 and the right people in the room as we've been  
22 talking about today. It is as you've said Chair  
23 Brewer, this is solvable, right? But the right  
24 people have to be in the room to do it.

25 I think progress has been made in incremental  
fits and starts over the years but not in a way that

3 is necessary and I think the food issue, for  
4 instance, is essential. I mean, for years that's  
5 been a problem. Years and years of people not  
6 getting adequate food throughout what can be an  
7 incredibly long, long, long day, right? And that  
8 leads to all kinds of trouble in all kinds of ways.

9 And I think I just want to note a few stats.  
10 One, it was mentioned earlier, the average time  
11 between court dates was last time we got the data  
12 from the courts was 57 days, 57 days between people  
13 court appearances on average. So, if you miss a  
14 court date you may not be getting back before a judge  
15 for months.

16 That is essential and that obviously artificially  
17 inflates the population at Rikers. And the pace of  
18 cases in New York City, the average person on trial,  
19 waiting for a trial at Rikers, has been waiting there  
20 for 273 days. For personal and mental illness that's  
21 330 days and counting for both those groups of  
22 people. If we can bring that number down to even 180  
23 days, six months, which is still an incredibly long  
24 period of time but that's the states goal for all  
25 felony cases. They should be done within 180 days.  
If New York City catches up with what the rest of New

3 York State is doing, we would have 1,400 fewer people  
4 in jail today. That's a quarter of a population  
5 almost and that's just about ensuring that there  
6 actually is such a thing as a speedy trial in our  
7 city. So, we have incredible room for progress and  
8 really look forward to working together to try and  
9 make sure we can make that happen. Thank you.

10 CHAIRPERSON RIVERA: Thank you very much. I'm  
11 going to go to our friends that are on Zoom. We're  
12 going to hear from Darren Mack, Kelly Grace Price,  
13 and Dr. V.

14 SERGEANT AT ARMS: Time starts now.

15 DARREN MACK: Thank you so much. Yeah, my name  
16 is Darren Mack, I'm Co Director at Freedom Agenda and  
17 a member of the Jails Action Coalition. I'm also a  
18 survivor of Rikers Island. Thank you Chair Rivera  
19 and Chair Brewer and Committee Members. You know, I  
20 just want to thank you know the Council Member Rivera  
21 and Council Member Brewer for introducing this  
22 legislation to improve the transparency around this  
23 issue. This is a necessary step. You know we have  
24 seen that DOC will not provide any accurate  
25 information on their own and it is to deliver on  
every one of their basic responsibilities. You know

3 that includes you know getting people to court and  
4 also keep people in their custody alive and safe.

5 And I want to thank you know the DOC Deputy

6 Commissioner who testified today because I sense that

7 he genuinely wants to resolve these issues. You know

8 I want to just share my experience you know with

9 being transported you know to court. And this was

10 decades ago when the population was over 20,000

11 people detained there. You know waking up at 4 a.m.,

12 being shackled, a strict frisk, shackled, to

13 handcuffed and shackled to my waste and then you know

14 a leg shackle to another person. You know 6 a.m. and

15 moving on the bus you know to the city, and sometimes

16 unfortunately there was times when I was told that I

17 had a court date and then would be in court all day

18 going through this audience process and not see

19 anyone and then there was times when I knew that I

20 had a court date but it wasn't produced. And to see

21 like decades later, this is still a problem. It's

22 unacceptable.

23 You know there was a lot of things that was said

24 today. We know it's a lot of issues and I'm

25 definitely looking forward for all parties to like

come together and work on these issues. You know

3 bring perhaps bring in retired judges you know to  
4 take on cases. You know open up more spaces for  
5 hearings. You know expand in the virtual courts.  
6 But definitely like city officials need to utilize  
7 the supervised release more. You know mental health  
8 courts is not being utilized enough and I think  
9 that's something that need to be a sense of urgency  
10 for the most vulnerable people who are detained you  
11 know within the New York City jail system because  
12 there's no reason why a person was you know with  
13 mental health issues, serious you know diagnosis,  
14 should be incarcerated in the first place. And I  
15 just appreciate you know to the Council Members and  
16 this Committee for taking action because it's drastic  
17 and people are suffering and too many lives have  
18 already been lost.

19 So, thank you and yeah, thank you so much for  
20 this legislation that we support.

21 COMMITTEE COUNSEL: Next, we'll hear from Kelly  
22 Grace Price.

23 SERGEANT AT ARMS: Time starts now.

24 COMMITTEE COUNSEL: We'll go back to Kelly Grace  
25 Price. Uhm, we'll turn to Chaplain Dr. Victoria A.  
Phillips.

1 COMMITTEE ON CRIMINAL JUSTICE JOINTLY WITH THE  
2 COMMITTEE ON OVERSIGHT AND INVESTIGATION 119

3 SERGEANT AT ARMS: Time starts now.

4 DR. VICTORIA A PHILLIPS: Can you hear me now?

5 Okay, peace and blessings everyone. Chairs Rivera  
6 and Brewer, I'm happy to see you all. I'm Chaplain  
7 Dr. Victoria A Phillips, everyone calls me Dr. V. and  
8 as a decade-long Action Coalition member who wears  
9 many professional hats, I am fully aware of the  
10 failures and deadly things of New York City  
11 Department of Correction.

12 I have gone on the record multiple times over the  
13 past decade, consistently reporting incidents where I  
14 have personally observed DOC uniformed staff abusing  
15 my community members and their various on domestic  
16 [02:21:33].

17 New York City must close Rikers Island now. With  
18 over 51 percent of DOC population having a mental  
19 health concern, New York must recognize the public  
20 health crisis and past treatment not jail statewide.  
21 Chairs, thank you for this bill and this hearing.  
22 Accountability and transparency is at an all-time  
23 low. My community now has lead representation in the  
24 Commissioner and Mayor's Office, yet an historic  
25 stain of the most deaths in custody.

3 I get daily calls from individuals and sometimes  
4 from entire housing units wanting to speak their  
5 truth or have me reach out their families or  
6 attorneys regarding a form of injustice or lack of  
7 minimum standards received. I must also note that  
8 not all calls come from the detained. Over the past  
9 two decades with various positions, I have built a  
10 solid rapport with staff across all areas as well.  
11 Previously I've testified to observing someone, a  
12 formal officer, no one came to get him from court and  
13 she said, oh, well, they were walking down the court  
14 laughing with a fellow male officer, about the  
15 detained male whining.

16 I have also testified on the record of  
17 individuals having medical mobility concerns or in  
18 need of transporting devices such as medical support  
19 pillows or wheelchairs. One individual I had called  
20 BOC and 311 almost every week for follow up care  
21 after surgery. They became ill and even  
22 transportation was almost nonexistent to get them to  
23 the ER.

24 Another wasn't taken to court for months. I also  
25 had them call BOC and 311, then I actually questioned  
the then BOC Chair why in five months of me

3 testifying on the record regarding this one case, no  
4 one had taken time to follow up. Why not one person  
5 seemed concerned that the motion he attempted to mail  
6 were returned only because they weren't certified  
7 mail. He didn't have any money on his books. DOC  
8 would not send it out for him and he had no way to  
9 contact his lawyer. And he was not seeing anyone  
10 because he was not being produced to court.

11 I say this because I've also put on the record  
12 how someone was removed from Rikers because they kept  
13 having other people call me because of the injustice  
14 was being done and their punishment was to be  
15 transferred to the boat. When I followed up on why  
16 they weren't going to court or going to medical  
17 appointment, the excuse I was given was, it had  
18 rained on the boat and the elevators were out.

19 Several times, myself or colleagues at the Mental  
20 Health Project Urban Justice Center had had to take  
21 it further and recount to hire ups for immediate  
22 assistance and care. In my previous testimonies, I  
23 have mentioned that many times people go without food  
24 and medication.

25 SERGEANT AT ARMS: Time expired.

3 DR. VICTORIA A PHILLIPS: All day and many go  
4 without – give me one second. Without access to  
5 water not only in their housing unit but during the  
6 late spring and summer months but also in route to  
7 and from court. And I'll just get passed and say, I  
8 just want to lastly say, where is our moral compass?  
9 Where is the justice that our soldiers served under  
10 the for the allusion for?

11 And I say that because DOC Commissioner and I  
12 personally discussed using video to record referrals  
13 in spring of 2022 and I actually begged advocates to  
14 give him a fair chance last year and not judge him  
15 due to his political and personal connection.

16 CHAIRPERSON BREWER: Can you wrap up?

17 DR. VICTORIA A PHILLIPS: Huh?

18 CHAIRPERSON BREWER: Can you wrap up? Thank you.

19 DR. VICTORIA A PHILLIPS: Okay. Yet it didn't  
20 take long for me to realize my own actions and I say  
21 that because there's a few things but he didn't want  
22 wardens to speak to me anymore and I just want to put  
23 – lastly, I just want to say that I don't think it's  
24 wise for us to assume the Commissioner will act in  
25 good faith. And I mention that because I've asked  
repeatedly and DOC has gotten money for budget, money

3 for more officers when they were working three shifts  
4 and money for programming and DOI expansion. And  
5 they sell at moving forward with all of those areas  
6 after receiving funding.

7 CHAIRPERSON BREWER: Okay, thank you very much.  
8 Thank you very much. Thank you.

9 COMMITTEE COUNSEL: Thank you. We'll return to  
10 Kelly Grace Price.

11 SERGEANT AT ARMS: Time starts now.

12 KELLY GRACE PRICE: Hi, it's Kelly Grace Price  
13 from Close Rosie's. I'm sorry, I don't have a great  
14 internet connection, so I'll keep it quick. I  
15 appreciate the Council always listens to the data  
16 that I present and of course I'll present written  
17 testimony with data. I want to focus on what DOC  
18 General Counsel Shechtman said today about the number  
19 of vehicles available to the DOC.

20 I didn't know that they literally only had 21  
21 vehicles in play to move people to courthouses. I  
22 can't believe that he gave us that data so handily  
23 but please ask him how many of those 12, 20 seat  
24 buses, the one 18 seat bus, 3 wheelchair buses and 5  
25 court vans are actually in operational condition  
currently from 2012 to 2021, the DOC settled almost

3 \$11 million in transportation litigation lawsuits  
4 from people on visitor buses within the jails on  
5 Rikers Island suing for transportation incidences and  
6 also for people in custody being transported to  
7 courthouses being injured on those buses. That's a  
8 lot of money if we only have a fleet of 21 vehicles.  
9 And if I count the number of people available to have  
10 their butts in those seats on those buses, it's  
11 literally only under 180 people a day. Do the math.  
12 12, 20-seat buses, 1 18-seat bus, 3 wheelchair buses.  
13 Look at the data. There's another reason we're not  
14 getting people to court. We don't have enough seats  
15 to more their butts. Sorry, I resisted the  
16 temptation to curse.

17 I also want to talk about the number of staff. I  
18 think that the City Council is aware because I've  
19 sent it to Jeremy and it was also published in a city  
20 and state column last week. And I have a data chart  
21 of DOC staff members, the roster from the first day  
22 that Molina took office, versus a roster that I had  
23 to pry out of the DOC records officers hands from  
24 April of this year. And in early January, DOC had  
25 278 uniformed officers in the transportation  
division, which is a lot of officers for 21 vehicles

3 but that's another story and they had 34 civilian  
4 people in the transportation division. And as of  
5 April this year, they're down 65 people. So, I don't  
6 believe as Shechtman's response that they're  
7 adequately staffed. They're down to 248 uniformed  
8 and 8 civilian people in transportation.

9 So, I was really looking forward to hearing  
10 Shechtman's testimony because as a lawyer, I knew he  
11 was going to dribble out little excuses for the DOC  
12 not producing people and of course we did hear his  
13 dribbles and his dances. Please ask for video  
14 recordings of people that not only refuse when they  
15 leave the island but also, as we learned today  
16 apparently the alleged refusal when people reach the  
17 court -

18 SERGEANT AT ARMS: Time expired.

19 KELLY GRACE PRICE: I'll just wrap up. We, under  
20 the PRIA law, we're supposed to have cameras by now  
21 in every bus, so it shouldn't be hard. It's not just  
22 handheld that we should be able to record those  
23 refusals. This business about the Sally Port, this  
24 is something to explore as well. Thank you, I won't  
25 take up more of your time - in my data. Kelly Grace  
Price from Close Rosie's.

3 CHAIRPERSON BREWER: Okay, I just want to mention  
4 that - thank you. I just want to mention that the  
5 unit of appropriation which we will ask for will  
6 address all of your concerns buses, seats, staffing  
7 etc., so thank you for bringing that up but the unit  
8 of appropriation is what we need.

9 CHAIRPERSON RIVERA: And we'll continue to ask on  
10 the record because as we have learned through  
11 history, sometimes answers change and that's  
12 unacceptable when there is a consistency when  
13 interagency accountability and collaboration is  
14 important.

15 I want to recognize students from Ethical Culture  
16 Fieldstone School who are working on a criminal  
17 justice project. Appreciate you all being here. I  
18 hope you enjoy your visit and of course, Council  
19 Member Stevens, she's the best.

20 And I want to thank this panel. I want to thank  
21 you - oh, and Council Member Williams actually has a  
22 question, if that's okay.

23 COUNCIL MEMBER WILLIAMS: Yeah, I mean I guess  
24 you all, as you can imagine, like we heard this  
25 testimony from DOC and we're like you're on the  
record. You got to be telling the truth and then we

3 hear different testimonies and it really just seems  
4 like things are in contrast and maybe flat out like  
5 lies almost when we asked about the meal thing. He  
6 said they get a meal. They get meals if they want  
7 meals and then you testified and said they're not  
8 getting meals. And so, is there anything  
9 specifically where you would say like, that's not  
10 accurate that they said? Do you like have specific  
11 things that you can point to that say like, that's  
12 not accurate? Because you have your own, I always  
13 say that people with lived experience is also  
14 experience. We can't just look at data. Like if you  
15 were experiencing something, it just says your  
16 experience is just as valid as a piece of data that  
17 says something did or did not happen.

18 And so, like from your lived experience like, how  
19 like genuinely do you feel about the testimony after  
20 hearing that testimony? And anyone can answer.

21 TANYA KRUPAT: I'll go quickly. There's nothing  
22 specific to his testimony, just because as a family  
23 member I can't you know travel with my nephew or be  
24 downstairs with him, so I can't speak to specifics.  
25 What I will say is I do believe there is a time where  
food is given but I think it's at like the very

3 beginning of their day. I'm assuming its those  
4 sandwiches. And just talking about my nephew in  
5 particular who is autistic and talking about  
6 different people with mental health issues.

7 Like for example, my nephew texture, certain  
8 clothing, like things irritate him or over stimulate  
9 him, so just like a general sandwich, he may not eat  
10 that and I'm sure that may be the case for many  
11 people. So, in that regard, I don't think food is  
12 being given to them or I would confidently say and  
13 so, they get back on Rikers Island, which is maybe 4,  
14 5, 6:00 in the evening when court adjourns.

15 One thing though too that I did want to address,  
16 which is not disputing what he said but maybe just  
17 giving a little more clarification on why in my  
18 opinion it happens is when he talked about like  
19 people missing court but also the correlation between  
20 slashings that they're having as well.

21 In my opinion that's the result of the system we  
22 have people languishing on Rikers for so long in such  
23 a violent environment. That kind of outcome becomes  
24 inevitable and it does accumulate people who are on  
25 Rikers who have multiple charges, even though they

3 are still trying to overcome the first charge that  
4 they got when arriving to Rikers.

5 So, I hope that answered something, sorry.

6 COUNCIL MEMBER WILLIAMS: Thank you yeah and  
7 before anyone else answers. I have a question for  
8 you. You said that something should be computerized.  
9 If you could just say again what you felt should be  
10 computerized?

11 DARREN MACK: Sure, so a lot of the system DOC  
12 operates on these paper slips that follow people as  
13 they go through the court production process with  
14 their name and information on it and there is some  
15 elements that are computerized but many of it is just  
16 the paper that follows somebody physically throughout  
17 the system and those papers get lost sometimes, they  
18 get mixed up sometimes. They don't get entered into  
19 a computer properly once somebody arrives at court.  
20 There are lots of different pieces to this where  
21 inside the court production process itself, it's  
22 paper-based still and it feels like the way, like how  
23 to track somebody and the fact that people tend to  
24 get lost so to speak in the system, in the  
25 courthouse, that DOC is not sure even if the person  
is there or if they're still at Rikers or if they're

1 COMMITTEE ON CRIMINAL JUSTICE JOINTLY WITH THE  
2 COMMITTEE ON OVERSIGHT AND INVESTIGATION 130

3 on the bus. A lot of that is because the system is  
4 still paper based.

5 COUNCIL MEMBER WILLIAMS: Okay, but the dashboard  
6 system is supposed to address that but it's not  
7 expansive, right?

8 DARREN MACK: Well, the dashboard is also only as  
9 good as what gets entered into it unfortunately. And  
10 a lot of that is based on the paper.

11 COUNCIL MEMBER WILLIAMS: Got it. Okay.

12 EILEEN MAHER: When I was on the Island I was the  
13 "feeder" for my unit. So, they would drop off the  
14 breakfast at like 3:00 in the morning and we would  
15 get everybody up or the officer was supposed to get  
16 everybody up by 4:30 so they could eat but sometimes  
17 in the middle of breakfast, the officer will come to  
18 get people, so they wouldn't be able to finish their  
19 breakfast. Inside of that time, they not only have  
20 to eat but they have to shower. They have to get  
21 everything together. Get paperwork together if  
22 they're bringing anything and it's you know sometimes  
23 you just can't get absolutely everything done.

24 The other thing was, that I wanted to mention was  
25 that I hated going to court, absolutely hated it not  
only because of the time you had to wake up in the

3 morning but because you were shoved into what would  
4 be a one-person cell but there would be three or four  
5 people in there.

6 Putting aside the food issues, there were times  
7 we were finished. Everyone was finished. Say, I was  
8 in Manhattan, we were finished with court by like 2,  
9 3:00 in the afternoon. We weren't taken back to the  
10 Island until after 9, 10, 11:00 at night. One time  
11 it was 2:00 in morning when we got back and we were  
12 just sitting around most of that time. But  
13 regardless of all of that, there was always that  
14 glimmer of hope that you could go home when you went  
15 to court. So, if I could have walked there barefoot  
16 in the winter time, I would have if it meant going  
17 home.

18 So, I have a hard time believing that people are  
19 just refusing for just because it's a random Tuesday.  
20 I just don't believe that at all. If there's even a  
21 little iota of chance that you could go home,  
22 someone's going to grab it. Thank you.

23 ASHLEY CONRAD: If I could just add, I would just  
24 say it was maybe more what he didn't say and the fact  
25 that he didn't address the very short testimony and  
the whole, you know he only talked about getting

1  
2 people to the building, not getting to people in  
3 front of the judge, as has been talked about and then  
4 the experience, the whole human side of it. I mean  
5 most people have health issues, over 50 percent have  
6 mental health issues. There's over 800 people  
7 waiting trial who are older. So, there's one bologna  
8 sandwich as I am told you know at whatever hour you  
9 get it, that's it. You don't have access to water.  
10 You might get a little juice and sometimes you can't  
11 eat that. So, there's just no attention to the  
12 details. That is what is being human. Never meant  
13 also there's like co-defendants. We've been told  
14 numerous times, people who are not supposed to be on  
15 the same bus threatening people. You know there's so  
16 many safety issues, so this is again why digitizing,  
17 this is so solvable in this digital age. You should  
18 have lists of people who shouldn't be mixing. They  
19 shouldn't be on the same bus. So, there's so much  
20 that actually should have gone into this that it was  
21 disappointing not to hear about. Thank you.

22 CHAIRPERSON BREWER: We want to thank you for  
23 your testimony and to say that this is not only  
24 fixable, we will fix it and we appreciate everyone

3 here who has made the time to give us the suggestions  
4 as to how to do that. Thank you very much.

5 CHAIRPERSON RIVERA: Yes, thanks everybody that  
6 was here with us. With the majority of people on  
7 Rikers pretrial, DOC's existence is premise on their  
8 ability to produce individuals to court. We know  
9 that will reduce the population.

10 So, thank you for your testimony. We will follow  
11 up with legislative action and take your suggestions  
12 to make the bill strong. And with that, we adjourn  
13 this hearing. [GAVEL]

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

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



Date JUNE 15, 2023