

BOARD OF CORRECTION
CITY OF NEW YORK

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Board of Correction Meeting
Held on June 14, 2007

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ONE CENTRE STREET
NEW YORK, NEW YORK 10007

BOARD OF CORRECTION

MEMBERS PRESENT

Hildy J. Simmons, Chair
Stanley Kreitman
Rosemarie Maldonado, Esq.
Richard Nahman, O.S.A.
Alexander Rovt
Paul A. Vallone, Esq.

Excused absences were noted for Vice Chair Michael J. Regan and Members Milton L. Williams, Jr. Esq. and Gwen Zornberg, M.D.

DEPARTMENT OF CORRECTION

Stephen Morello, Deputy Commissioner for Public Information
Mark Cranston, Deputy Chief of Staff
Ron Greenberg, Director, Office of Policy and Compliance (OPC)
Sam Orlan, Intern
Vaughn Crandall, Special Assistant
Winter Drayton, Project Analyst

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Louise Cohen, Deputy Commissioner
Jason Hershberger, Assistant Commissioner
George Axelrod, Director of Risk Management

Carole Ludwig
Transcription Services
141 East Third Street #3E
New York, New York 10009
Phone: (212) 420-0771
Fax: (212) 420-6007

OTHERS IN ATTENDANCE

Harold Appel, M.D., Contract Administrator, Doctors Council
Gabriel Arkles, Esq., Sylvia Rivera Law Project
Olga Akselrod, Staff Attorney, Innocence Project
Allen Blake, Corresponding Secretary, COBA
John Boston, Esq., Project Director, Legal Aid Society (LAS),
Prisoners' Rights Project (PRP)
Bobby Cohen, M.D., PLC
Joe Goldstein Brayer, Intern, PRP
Rebecca Brown, Policy Analyst, Innocence Project
Robert Calandra, Esq., Committee on Fire & Criminal Justice
Services, City Council
Barry Campbell, Fortune Society
Jonathan Chasan, Esq., PRP
Maddy deLone, Executive Director, Innocence Project
Shauneida DePeizi Saldnha, Intern, PRP
Kenta Darley, LAMBDA Legal
Carole Eady, Board member, Center for Community Alternatives
Thomas Farrell, Acting Legislative Chairman, COBA
Jane Fox, Intern, PRP
Ariel Herrera, Amnesty International USA
Darcy Hirsh, Cardoza PRAC
Adrienne Holder, Esq., Attorney-in-Charge, Civil Practice, LAS
Elias Husamudeen, Treasurer, COBA
DeAvery Irons, Project Associate, Juvenile Justice Project,
Correctional Association
Martha Kashickey, Public Education Associate, Innocence
Project
Dori Lewis, Supervising Staff Attorney, PRP
Felicia Lin, Intern, PRP
Amanda Lockshin, Legal Aid Society
Dora Manning, Correctional Association
Samantha Marks, Intern, PRP
Miguel Martinez, Chair, Committee on Fire & Criminal Justice
Services, City Council
Michael B. Mushlin, Esq., PACE University Law School
Trevor Parks, M.D., Medical Director, Prison Health Services
Graham Rayman, *Village Voice*
Jewell Robinson, Trinity Partners
Diana Sands, Amnesty International
Hannah Sadtler, Correctional Association
Kate Skolnick, Intern, PRP
Corey Stoughton, Esq., New York Civil Liberties Union
Baxter Thomas, Divine Consults
MaryLynne Werlwas, Esq., PRP
Dale Wilker, Esq., PRP
Eisha Williams, Legislative Financial Analyst, Finance
Division, City Council
Milton Zelermyer, Esq., PRP

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(tape 1, side A)

HILDY SIMMONS: I'd like to call the meeting to order, and the first item on our agenda is the approval of the minutes from the May 10 meeting. Is there a motion?

STANLEY KREITMAN: Second.

FEMALE VOICE: We can't hear you.

SIMMONS: Sorry. I'll just try to speak loudly. The meeting is called to order, and the first item on the agenda is the approval of the minutes from the May 10 meeting. Is there a motion to approve the minutes?

BOARD MEMBER: Moved.

SIMMONS: Second. All in favor?

BOARD MEMBERS: Aye.

SIMMONS: Opposed? The minutes are approved.

**RESOLVED, the minutes of the May 10,
2007 meeting are approved.**

SIMMONS: The next item is the Report of the Chair which I will make quite brief, but I want to use this to thank all of you who have joined us today. As we decided at our last meeting, we have invited representatives from Legal Aid and the Coalition To Improve Minimum Standards. I'm sorry if I don't have the name quite right, I apologize. To have a discussion with us. This is not a public hearing. I want to be clear to

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2 everybody who might be in the room but not understand
3 that. This is a regular meeting of the Board where we
4 have invited representatives who both publicly testified
5 and provided written comments to share some of their
6 thoughts and engage in a conversation with the Board
7 Members. Unfortunately, a few of our members were unable
8 to be here, but we do have a quorum, so this is a formal
9 meeting.

10 So I'd like to just set the ground rules so
11 everybody understands what we're going to do. As soon as
12 I finish my Chair's report, we will invite the
13 representatives we've invited to come join us at the
14 table, and we will, with the help of Stanley Kreitman, who
15 has chaired the process for reviewing the minimum
16 standards, try to facilitate a conversation where all of
17 the participating Board Members will ask questions.

18 We would ask those of you who have been invited
19 and who are representing the organizations, we do not want
20 written statements, I mean we don't want you to make a
21 speech to us. That's not the point of this. You've had
22 your opportunity to do that in a variety of settings.
23 You've had your opportunity to submit written comment to
24 us, and we appreciate that very much. The point of this
25 is a conversation. So if you have prepared remarks,

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please put them in your pocket and either submit them separately. The comment period extends through the end of this month, so we can still take written comments, but we really want to try to make this as reasonable as possible in conversation.

It's awkward to have a conversation. It's kind of like having a dinner party with a bunch of people sitting in the rafters, and it doesn't make me particularly comfortable to think about it that way, but it's the best solution we've come up with at this moment in order to comply with all the various things that we need to comply with. So I would ask the rest of you who are observing this to please give us the opportunity to have this conversation.

The other thing that I want to just mention is that we have this room till noon. Most of my colleagues are prepared to be here that long if need be, but no one can be here after that. If, in fact, we go that long and we have to leave, I don't want anyone to take that as a sign that we're not interested or that we're somehow not listening. It is really the constraints of our professional time and also actually the constraints and availability of this space.

The public comment period, again, I would remind

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you all, is open through the end of this month which really takes it to the --

WOLF: July 2.

SIMMONS: -- July 2. So should you still have something you want to put in writing for us to hear or see, I would encourage you to do that.

And the only other item that I want to make clear for in terms of Board business is that our July meeting, the plan for the July meeting is to be at Rikers and that Richard and, with the work of Mark Cranston from the Department and others, we will put together some sort of plans and time frame, and we'll get back to everybody on that well before the time of the meeting. So I just want to make sure that everybody from our end knows that that's what the plan is for July.

And I think that concludes my - oh, excuse me, one other thing. Just as we had discussed before, after the comment period is over, after this conversation and any other conversations, whatever, the staff will be compiling the summaries of the comments, and we'll all have a document that we can all work from that cross-references all the various things that have come in. Is that correct?

WOLF: That is correct.

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SIMMONS: We will have that before the end of the summer.

WOLF: Right.

SIMMONS: And I think that concludes my comments. So the next item on the agenda is the conversation - actually should we do item 4? Excuse me, we're going to just reverse the order of the agenda, and we will, since we have one regular item of business which is to renew existing variances with the Department, I'd like to request that.

CRANSTON: Yes. Request renewal of all existing variances.

SIMMONS: Is there a motion?

BOARD MEMBER: Motion.

SIMMONS: So moved. All in favor?

BOARD MEMBERS: Aye.

SIMMONS: Opposed? Okay, the renewal is approved. Thank you.

**RESOLVED, the renewal of existing
variances with the Department is
approved.**

SIMMONS: So we'll now go to the conversation, and could I ask the representatives from Legal Aid and the Coalition to join us at this table. Thank you. Maybe

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2 right before we start, we could just ask everybody to
3 identify themselves. It'll be helpful for us.

4 JOHN BOSTON: I'm John Boston from the Legal Aid
5 Society.

6 GABRIEL ARKLES: I'm Gabriel Arkles from the
7 Silvia Rivera Law Project and the Coalition To Raise
8 Minimum Standards.

9 COREY STOUGHTON: Corey Stoughton from the New
10 York Civil Liberties Union and Coalition.

11 DORA MANNING: Dora Manning, Correctional
12 Association.

13 BARRY CAMPBELL: Barry Campbell, Fortune
14 Society, Coalition To Raise the Minimum Standards.

15 MADDY DELONE: Maddy deLone, from the Innocence
16 Project and from the Coalition.

17 RICHARD NAHMAN: There are microphones if you
18 would take one.

19 WOLF: Including, if you have any trouble with
20 those, you can use the wireless one that you have, Miss
21 Manning.

22 SIMMONS: Maybe we can just - John, why don't
23 you move down a little bit. We don't need to have the
24 artificial separation.

25 KREITMAN: Again, everyone should know that

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2 there are no decisions have been made on any changes from
3 any Minimum Standards. We've gone through the process
4 very carefully. We all learned a lot from the public
5 hearings. I personally changed my mind on certain things.
6 I learned a little from all the speakers, and that's good,
7 and that's how the process is supposed to be. And
8 hopefully during this conversation, if anyone from the
9 Coalition has thoughtful suggestions, we're certainly
10 going to consider them.

11 The Board will then compile all of what we've
12 gone through for the several months, and we will then vote
13 on them on a line-by-line, item-by-item basis. And,
14 again, my feeling is even if there are some changes to
15 minimum standards, before they're implemented, the
16 Department will have to come up with a protocol of how
17 they'll be implemented and so it'll be subject to that
18 protocol no matter what we do.

19 So whatever, Madame Chair, if you want to have
20 everyone, we'll answer any questions, and we'll debate as
21 much as we want to debate.

22 SIMMONS: Well, since we have five
23 representatives from the Coalition, then we'll start with
24 the Coalition, how's that? No disrespect, John. But
25 since you're also part of the Coalition. Whoever would

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2 like to start. Again, we're not looking for speeches.
3 We're looking for you to tell us, there are particular
4 issues that you want to speak to, you're concerned about,
5 or you'd like us to think about differently, then here's
6 your chance to tell us.

7 And I would ask my colleagues on the board,
8 because I'm going to try to be very quiet after I finish
9 this statement, to not interrupt you, but if they're
10 unsure about what you're saying or to ask you a question
11 or to engage in something, hopefully throughout the
12 conversation.

13 CAMPBELL: My name is Barry Campbell. I'm from
14 the Fortune Society. One of the major issues coming out
15 of my organization and the Coalition is the overcrowding
16 and changing it from 50 to 60 individuals in a dorm.

17 We think, and first let me say this, I am someone
18 who spent quite a bit of my life on Rikers Island. I'm 40
19 years old, 41 now. I'm 41 years old, and I was in and out
20 of Rikers Island up to the age of about 27. There's
21 something different about living in a dorm with 50 people.
22 Everyone's fighting a case, everyone has tension, there's
23 stress. You're deprived of what you consider to be the
24 little luxuries in life. So it kind of makes tension
25 very, very high.

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2 Currently, there are 50 people in a dorm with
3 some variances where they have 60 individuals in a dorm.
4 In the summertime especially, tensions really get high.
5 The conditions that are there for 50 people, and when they
6 change it to 60, it kind of elevates the tension and the
7 stress. I myself, I have problems just living with my
8 significant other. So, you know, when I think about 50
9 people in a dorm and I can remember back to my Rikers
10 Island, and most currently I was there in 2003, so I'm not
11 talking about 1990, 1989. My other current stint was in
12 2003.

13 And we believe that it's a situation that should
14 not be brought about. I mean just the sheer fact of
15 living with 50 people is rough enough, and then you add 10
16 more people to the equation, it's very difficult to do.
17 It is very difficult to do.

18 The other piece that we actually look about is
19 the piece about having uniform clothing for everyone. If
20 you take a tour of Rikers Island and you go into the
21 housing unit and you walk into the day room, what you're
22 going to see is all of the chairs in the back of the room
23 is actually lined with people's clothing that they're
24 washing, that they're washing in the bathroom sinks and
25 hanging over. When you think about taking away their

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2 personal clothes and no real system set up that is going
3 to clean the uniforms and make sure that they're set.

4 And the other piece about it is that whenever a
5 person leaves to go to court, whether it's a pre-trial
6 hearing or whether it's trial, they should be afforded the
7 luxury of wearing their personal clothing. There's an
8 issue about when you walk into a courtroom with shackles
9 and a jumpsuit, you're automatically thought of as guilty.
10 Regardless of what people think about it, you're
11 automatically looked at as someone who's committed a
12 crime, and you're guilty.

13 KREITMAN: Can we respond?

14 SIMMONS: Absolutely.

15 KREITMAN: I thank you very much for your
16 remarks. They were very good, and I understand everything
17 you're saying. And we'll certainly take that into
18 consideration. Your issue about cleanliness of the
19 uniforms, etc. is really part of what I said before, that
20 if, if we implement it, there will have to be a protocol
21 from the Department of -

22 (inaudible section -- static on tape)

23 -- exactly how they are to be cleaned.

24 (inaudible section -- static on tape)

25 -- you've also correctly thought about that, and

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2 that's a very important consideration that people going to
3 court shouldn't be in jumpsuits when they're detainees. I
4 understand that. I think everyone on the Board
5 understands that, and I thank you for your comments.

6 ROVT: I totally agree with my colleague about
7 the clothing because until the Correction is not ready to
8 do something what we cannot change, maybe we will not
9 (inaudible).

10 But I disagree with you on the 60/50 people
11 because when we're talking about (inaudible), and I'm not
12 saying anything else. And I think to change from 50 to 60
13 doesn't make a big change. I wasn't there, but I know a
14 lot of people who were there, and this will give maybe
15 some savings what we can turn to other things where we
16 have to improve. Because you know how much cost the whole
17 Rikers Island, the whole system. I think that to change
18 from 50 to 60 not otherwise will not (inaudible) unless we
19 know where we can put the place, chair, a bed, and it's
20 not too tight. The place has to be perfect for this.

21 So in this case I will not agree with your
22 comments. Thank you.

23 CAMPBELL: I don't think it's a point of whether
24 someone should agree or disagree with it. I think it's
25 just the mere fact is that once you've actually been in a

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2 house with 50 or 60 people, you're talking about adding 50
3 or 60 different attitudes. The Department of Corrections
4 right now has a rough time with only having two Correction
5 officers in the house which would be the A and the B
6 officer. So you're talking about adding ten more people
7 to that equation, and you're also talking about ten more
8 people on each side of the house.

9 So what you're doing is you're creating a
10 situation where you're instituting ten more attitudes, ten
11 more personalities, and ten more bits of tension into
12 what's already a hectic situation. And I understand that
13 the Department of Correction needs to looks for savings,
14 but I think they need to look elsewhere for them. There
15 are other areas where they can save in the Department of
16 Correction other than crowding people in from 50 to 60.

17 NAHMAN: From your perspective, I hear it also
18 from the Corrections officers' perspective. I mean
19 there's no one on the scene that thinks it's a good idea.
20 The Corrections officers see it as a security, you see it
21 as a human dignity situation. So I would hear and agree
22 with what you're saying.

23 VALLONE: I think for some, you know, in this
24 type of setting, we actually have a chance to talk to each
25 other, and we also have our individual thoughts, and as

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you can see, especially Alex and I will disagree on that point. If it's any consolation, I think that particular standard that we're talking about probably the least likely to go forward.

So based on the overwhelming type of testimony that's been presented here at the council hearing, that's been submitted in writing, what Richard Nahman just said is pretty summary of what we have seen.

The only time that we had ever passed, from when I was on the Board, a variance to allow that type of situation was in the extreme heat in the summer and the limited amount of air-conditioning. So what we had done was given a variance for that particular month or couple of months to allow additional detainees and inmates to benefit from the limited air-conditioning. But I don't want to, I think it was stated before that we had granted this and that we should continue to grant this.

That's not a true statement. The only time we had done that was for air-conditioning purposes. Hopefully, they'll be more of those type of facilities. But personally and speaking with many of our board members, that is hopefully for today maybe not an amendment we spent too much time on because I'm pretty confident to say that one's not going to be going forward.

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2 But, again, I speak individually.

3 There are other standards I think we can have
4 some pretty good dialogue on, maybe assist us like we did
5 with that one because you guys pretty much covered that
6 from personal perspective, like you said, and from
7 professional perspective from the Correction officers and
8 everyone else that's been associated. When we go to see,
9 it's quite obvious when you go to the dorm settings, you
10 just, I would put 60 of my friends in a room, it would be
11 difficult to try to keep them in hand, let alone 60
12 gentlemen who are in a frightening situation, or 60 women.
13 So I thank you for your comments.

14 DELONE: Can I just add two things just on that
15 very briefly? I'm glad to hear that you've heard us on
16 that. One thing is just that historically there have been
17 variances in times of overcrowding, and one of the things
18 that occurs to me is that if you ever have another
19 situation of overcrowding, and populations have changed,
20 that if you start at a standard of 50, you have to
21 overcrowd at a standard for some emergency which is even
22 smaller. And I think that should be of concern.

23 The other thing that I think hasn't been raised,
24 and I'll just put it out there, is that the American
25 Public Health Association does have standards about

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2 crowding. The standard of space is 60 square feet, 70
3 square feet per person if you're keeping people in the
4 space together for more than ten hours at a time. That
5 standard was developed in 1976 and is still the standard
6 today. We ratified the Environmental Health Section of
7 the ADHA in 2002. And it's sort of I think further fuel
8 in support for what a standard that addresses both the
9 psychological, safety, and public health disease
10 transmission, you know, concerns should be.

11 So I just, I will leave you with a section of the
12 standards just for your own review in your deliberations.

13 MANNING: Can I say something? I lived in the
14 dorm, and if you were to add ten more people is like
15 really crazy because 50 is already overcrowding. For me
16 to lay in my bed, and I'm able to touch the next person in
17 their bed, that tells you right there there's not enough
18 room.

19 There's 50 different attitudes. Everybody's in
20 there for different reasons. She uptight, she uptight,
21 I'm uptight, we fighting because there's not enough space.
22 If she want her friend to come over and visit her, she's
23 in your space and my space. I can't get no sleep because
24 you all want to talk. And it's unsafe. If she got a
25 cold, everybody got to get a cold because we're so close

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to each other.

The officer that's in the (inaudible) she can't see the whole dorm. She cannot see the whole dorm. It's impossible. And for me to live like that, you know, it was like something I never imagined. It was like unbearable, you stayed fighting. Everybody fighting for their own space. When you don't even have your own space. And that's just going to keep everybody more uptight. It's going to be more fighting breaking out.

One officer can't control all of that, and she definitely can't see who did what when and where. Because if you already got 50 people in a dorm, you talking about adding 10, and you can't even see 25 of us as it is. And those were the worse conditions I've ever lived in. I see people in the shelter live better than that.

SIMMONS: Okay, well, we appreciate all of the (inaudible). Is there another --

BOSTON: I'd like to make one very brief comment on that subject. I appreciate hearing that this is not likely to pass, but the vote hasn't been taken yet.

It should be kept firmly in mind that there are two parts to the crowding standard. One is the space requirement and one is the sheer number in the dormitory, and it would be a mistake in your further consideration to

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believe that one of those could be traded off against the other.

There is a sheer issue of how much space people have to live in, which is an important issue which I think has been expressed. There's also an issue of how many people are thrown together in a single, undivided space, the issue of the other, both Mr. Campbell and Miss Manning have referred to, in terms of the interactions among people. Having to deal with so many different personalities, so many different attitudes, all in the same space, strangers, people you do not chose to be with in an atmosphere of no privacy at all, that is something that responds to the number of people and to the amount of stuff.

So we ought to do as the Board Member said and to defeat the proposed amendment here and to defeat both aspects of it, both the 50 square feet and the 60 person aspect of the proposal.

NAHMAN: I didn't know - you said epidemiologically the public health system says 70 square feet.

DELONE: The American Health Public Health Assocaition, which has had health standards since 1976, says 60 square feet in normal dormitory settings, but if

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you're in a system which keeps people in the housing areas for more than ten hours a day, then they recommend 70 square feet of space per person. I'm happy to pass this out.

VALLONE: Mady, I agree with you. I think if there's an emergency situation or something, that's why we have a variance. So if there was a situation where there was overcrowding or air-conditioning issue, that's why we have this variance process that can come to us, and we can grant it on a limited basis. I'm not comfortable granting it on a permanent basis.

But that information right now at 60, public health is saying it should be 70, it goes down to 50 -

SIMMONS: Public Health is saying 70 if you're keeping people confined to that space for ten hours a day, which we are not, so let's be clear that we're not mixing different standards here. But really we appreciate the comments in the sense that certainly board members have been hearing you, and I think maybe we should go to another item given the time constraints that we all have.

ARKLES: Gabriel Arkles from the Silvia Rivera Law Project and the Coalition. As I'm sure you know, one of the other issues that is of very great concern to us is the change to the lock-in standard. And our concern here

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2 is that the change would permit people who are put in
3 close custody simply for their own protection, vulnerable
4 inmates, and I'm talking about it because this
5 particularly impacts transgender people, gay people, other
6 people who are likely to be targeted for violence in the
7 general population, this change would permit those people
8 to be put into basically solitary confinement, 23-hour
9 lock-in a day if they're placed in close custody for their
10 own protection. That's not necessary, that's not safe,
11 and that's not fair. It ends up basically punishing
12 people simply because they're at a risk of violence in
13 general population.

14 Twenty-three-hour lock-in has been shown to have
15 devastating consequences on people's mental health, and
16 there's just no reason to require it here. People who are
17 vulnerable from violence in jails, including transgender
18 people, deserve better than 23-hour lock-in a day. I'd be
19 interested to hear on where the Board is on that issue
20 right now.

21 KREITMAN: Are you talking about lock-ins for
22 people there for their own protection or are you referring
23 to inmates that cause problems for others and disobey
24 regulations and just antisocial? Which group are you
25 referring to?

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ARKLES: I'm talking about people who are placed there for their own protection. The change would specifically say that people who are placed there for protective custody purposes are allowed to be locked in for 23 hours of the day, which really would permit people to be faced with a choice between facing terrible violence in general population or facing the terrible mental health consequences of --

KREITMAN: Assuming your -
(cross-talk)

KREITMAN: What would you suggest we do with someone who's put there for their own protection?

SIMMONS: Let's be clear, these are people who have chosen, in essence, you know, to be there. They've asked for, you know, the custody at the moment, they're about 30 inmates that fall into this category in the entire system.

ARKLES: I hear that there are not very many right now, but, of course, in the future that could always change. The current Department practices aren't set in stone. And also I certainly do know that there are some people, well, I hope that most people are there to their own accord. I've heard of at least one person recently who was put there against her will.

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2 And I believe the current screening processes for
3 a general population escort, which is another type of
4 classification, is that your first placed in close custody
5 for two days to evaluate whether you can go to general
6 population escort. I mean correct me if I'm wrong, but I
7 believe that that is the current practice. So, therefore,
8 people who are maybe saying I want to be placed in general
9 population escort, which is not 23-hour lock-in, are
10 placed in close custody for two days to evaluate whether
11 that's going to work for them. So not everybody is there
12 because they want to be there, and it's still unacceptable
13 choice.

14 KREITMAN: Well, what would your suggestion for
15 those inmates that the Department feels are at risk of
16 their own safety? What would be your suggestion rather
17 than lock them down?

18 ARKLES: I'm sorry, Mady, go ahead.

19 DELONE: Mady deLone, Innocence Project. One of
20 the comments, I think it was a Legal Aid comment, which
21 looks at the State protective custody system and says that
22 in the State there are at least there hours of lock-out
23 provided to people who are in protective custody.

24 And so I think the question is, I mean we think
25 you should afford people more time out, the time in is

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harmful. Complete time in is harmful and that you could use staffing and close supervision in small groups to let people out. Particularly for the Department at this point, if there are only 30 people in this category, it should be possible to figure out who is not dangerous to each other and allow people to recreate or lock out at the same time.

And I think this point about the standards are really forever, and good Department practices may well be in place right now, but they cannot be (inaudible), and the Board standards really have to protect people in the times when administrations are bad. And that's the job of the board, and the (inaudible), you know, good exercise, creativity, and do the job well. But if anybody should be able to figure out how to do this in a more humane way, it may be the current Department, and they shouldn't have, they shouldn't change the rules so that later people can make it that much worse.

If the State can figure out with all of its people in protective custody how to let people out three hours a day, it seems to me that at the very least the Board should be able, should impose that on the Department, and the Department should be able to figure out how to do that.

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2 SIMMONS: We know that the Department actually
3 is already working on that very point. I think so that it
4 may well be by the time these standards are approved or
5 not, we will have a practice that we can point to that can
6 be the exemplar of what we would hope to have happen.

7 I think, frankly, my concern is that we are all
8 concerned about the safety of inmates and staff and that
9 we have to err on the side of safety. So even keeping
10 somebody isolated for two days until there's a
11 determination whether or not escort is the better
12 approach, I'd rather err on the side of safety than put
13 somebody in general population or have them have more
14 access and have an opportunity for something to happen.

15 So I think our goal is to find - we understand
16 that these are complicated, difficult choices to make, and
17 it's not anybody's intention to penalize someone more by
18 being kept in some kind of closer confinement. The
19 question is how do we best assure the safety responsibly
20 within the physical constraints that we have, given the
21 nature of the physical plant, given the staffing resources
22 that are available, and given the options that are
23 available to ensure that someone who essentially asks for
24 protection gets the protection that they need.

25 So it's very helpful, and, Mady, your comments

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2 are helpful. We, again, will be looking at practice and
3 seeing what legitimately can happen. But the broader
4 point, and I would hope we're not setting standards to
5 anticipate bad administrations, frankly, I don't think
6 that's a good policy either. I think we want to set
7 standards that respect the need for safety and security
8 and that we come up with something that any future
9 administration would be able to live with. But these are
10 also, as we now know, no standard is forever. It may have
11 been 30 years since we've looked at these, but I would
12 anticipate that future Boards going forward will be
13 looking at things over time as well.

14 DELONE: If I could make another couple of
15 points. I think that --

16 VALLONE: Before you get to those points, maybe
17 a little bit of history. Richard, your extensive
18 knowledge in this would be helpful at this point. Getting
19 to today's point from where we were in the past, could you
20 explain to us the previous voluntary lock-in day as
21 opposed to how we got to where it is today where it's 23
22 hours. I believe it's been by a current variance that's
23 been continually renewed.

24 WOLF: The past practice had been that people
25 who were in protective custody were segregated from the

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2 general population in a housing area that was specially
3 designated as protective custody or whatever terminology
4 that the Department was using at the time, and that those
5 people, more often than not, those would be cell settings,
6 although not exclusively, and what would happen is that
7 those inmates would be kept apart from the general
8 population but were permitted to mingle among themselves
9 so that, for instance, if there was a day room at the end
10 of one corridor of a chevron housing area, they would be
11 allowed to lock out in the same fashion that people in
12 general population would do so. But the point is they
13 would only be with people who similarly were in protective
14 custody.

15 And then the general notion of getting them to
16 services and programs would be followed with special extra
17 escorting of people. They wouldn't just go with passes
18 the way other inmates in general population would go. The
19 would be accompanied by staff to make sure that they were
20 as best could be kept separate from general population as
21 they traveled throughout the jail.

22 VALLONE: And for how long was that process?

23 WOLF: You mean how long --

24 VALLONE: In years-wise, how long has that been,
25 prior to our current standard?

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WOLF: I can't answer that other than to say my recollection which, you know, fades as I get older, is --

VALLONE: Which is better than ours.

WOLF: -- that was the practice for the time that I was at the Board until the recent changes.

BOARD MEMBER: And when was the change begun?

WOLF: Somebody help me. I'm not sure. Cathy, do you know?

POTLER: Like a year and a half ago.

WOLF: Is that close to right? About a year and a half ago - the Department representative is nodding his head yes.

VALLONE: One of the things that --

MALDONADO: Let's finish that because that's important.

MALDONADO: Right, I wanted to follow up on this. And what precipitated this change? Being a new board member, I'm not exactly sure.

VALLONE: Is there a representative from the Department who can --

SIMMONS: I don't know that Mark is in a position to necessarily speak on behalf of the Department at this point. So I think if we have a question, we should reserve that question. Go back to our minutes and

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2 ask the Department for a response.

3 VALLONE: Well, I think that most of the
4 criticism we hear or want as to why we're not at the past
5 system, other than maybe the Department had asked for a
6 simpler way of managing this process, I think most of our
7 concerns are on that same group, the voluntary group who
8 have asked for protection. I'm not happy with the amount
9 of time that they have to stay there before their process
10 is reviewed again and they be let back out into general
11 population. I think there's a big difference between the
12 involuntary and the voluntary.

13 But like the Chair mentioned, there's a very
14 small group of people that this affects, but that doesn't
15 mean we shouldn't look at this anyway. I tend to like
16 past history, and I thought it worked well. I'm not too
17 thrilled with how it got to where it is now, and I think
18 maybe we should examine that, and that's why I was asking
19 for Richard's advice on that because there are a lot of
20 new Board Members. So a history lesson as well.

21 BOSTON: One of the things I still can't wrap my
22 mind around, a person asks for physical protection.
23 They're giving the option, okay, you have physical
24 protection to the jeopardy of your mental health. And it
25 seems that all the evidence seems the way it is now,

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2 whether it's called post-custody segregation, protective
3 custody, 23-hour lock-out is jeopardous and injurious to a
4 person's mental health. So something has to be done.
5 This is not to me an acceptable answer to the need that it
6 has for protective custody.

7 MANNING: Dora Manning, Correctional
8 Association, you said that changes went into effect a year
9 and a half ago. I don't see how that's possible. When I
10 was on Rikers Island in 2000, and the inmates who was in
11 protective custody was in the bing with me and I was in
12 the bing for punishment --

13 SIMMONS: No, we're talking about two different
14 things, and I just want to clarify. There's punitive
15 protective, I mean there's - Mark, I'm not using the right
16 terms. Punitive segregation, when there's an infraction
17 or some abuse of something, and somebody is moved.

18 What we're talking about, so we should not
19 confuse the two, are inmates who have self-identified or
20 have been identified through the classification process
21 for being at risk for being in general population for
22 whatever combination of reasons that might. And in most
23 cases, almost overwhelmingly, it's inmates who have said I
24 want to be apart from everyone else. There has to be an
25 assessment. We've worked with the Health Department and

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mental health people. I mean there are lots of things that are involved here.

And as Stanley points out when he asks you the question, you know, this is complicated to figure out what's the right balance that ultimately protects the safety of the individual but not without abrogating certain opportunities for them to not be isolated as much as possible. So we're all working through a very complicated process, but these are people, at the moment there are about 30 who are self-identified as saying they want to be for their own perceived safety away from the general population.

CAMPBELL: But we understand, we understand that you're talking about individuals that are requesting safety, but when you look at the whole situation of punitive segregation, it's a form of punishment. And I'm not saying that the system is something that needs to stand pat. I'm saying that we need to find another way, whether it's more conversations like this or a conversation with the Department of Corrections is besides the point.

What I'm saying is that punitive segregation is a form of punishment. So now if somebody comes to you and they say I fear for my safety, I fear for my life. So

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2 what my response to them is, okay, you fear for your life,
3 let me lock you up like I do people with I punish them for
4 infractions. And when you set that as a standard, what
5 are you saying to somebody? That if you want to be safe
6 and if you want to be well taken care of, I have to treat
7 you like I treat the individuals that I am punishing.

8 I don't have the answer for it, I really don't.
9 I wish I did but I don't. But what I'm saying is that we
10 have to find a better way to deal with the situation of
11 protective custody. I understand that they have the
12 escort service, but locking people up in 23-hour lockdown
13 is not the way that you treat an individual that says I am
14 scared, I need help. You don't punish them like you do
15 other people that have infractions. And, again, I don't
16 have the answers.

17 SIMMONS: Well -

18 CAMPBELL: But that's clearly not the way to do
19 it.

20 SIMMONS: I think the intent is to find the
21 least restrictive way of accommodating people, and in the
22 end, because we don't have good solutions yet, there are
23 30 who end up in the most extreme of the least restrictive
24 opportunity. But even within that group, and it's
25 something I was out there in Rikers within the last month

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and a half viewing this first hand, that the Department has been working to figure out within the constraints of space and other things like that ways to get people out of their cells and into other settings during the course of the day so that they are not spending 24 hours locked in a cell.

But, again, the goal is to have, for most people, the least restrictive piece of that. I completely agree with you, no one should be punished further, the question of how best within the fact that we're running a jail system and not, you know, the nursery school, you know, where there are lots of options, how do we protect people, and that's the challenge I think. You raise a very good point, and I appreciate it.

MANNING: Dora Manning of Correction Association. Like I had stated before, I know the difference between somebody who wants to be protected and somebody who's being punished. I've seen with my own eyes where they took a protective custody inmate and placed her in the bing and had her locked down, not even 23 hours. She was locked down for 24 hours and she was a witness to a case. And like you said, they did have a special unit that was in PC, but they also started locking them up in the bing with people who was in there for being punished

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2 for things that they did that they shouldn't have done.

3 WOLF: Miss Manning, when you raised this
4 before, you referred to the time period being about the
5 year 2000, right?

6 MANNING: Right.

7 WOLF: Okay, the only thing I could say in
8 response to that is what we're talking about in terms,
9 what we're talking about is when the Department officially
10 implemented a new policy dealing with protective custody
11 and created close custody, and that happened about a year
12 and a half ago. I don't know the particulars of the
13 individual case you cited, and I'm not challenging. All
14 I'm saying is that the time frame that we were talking
15 about has to do with when the Department formally changed
16 its practice and created new directives and all the
17 paperwork and the bureaucracy implemented what they
18 implemented. That's when it officially - I don't know the
19 particulars of the case you're talking about though.
20 Okay? Just so we understand that we're talking about.

21 MANNING: But, see, this is the thing that you
22 all fail to realize. Saying the Department is doing this
23 and they doing that, you have to be on Rikers Island
24 because all these changes you all talking about you all
25 want to do now, they been being done already. This isn't

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2 nothing that's just starting. A lot of things we're here
3 fighting is being done on Rikers Island. There isn't
4 nothing that they trying to change now. It's being done.

5 BOSTON: Let me make a comment on the history of
6 this and on the use of these units. We understand that
7 there's a very small number of people in this situation
8 now, and we also understand that the Department is looking
9 for different approaches to the problem.

10 Last year, before all of this external attention
11 began to be focused on the problem, we had received a
12 number of complaints from people who were in close
13 custody, a number of whom were adolescent prisoners with
14 mental health histories who were supposedly there for
15 their own protection. And they were kept, in our view,
16 completely inappropriately in that setting, quite often in
17 the same units, by the way, as adult offenders of very
18 serious charges. We complained to the Department of
19 Correction about the situation, and I believe a number of
20 people were moved out of close custody in response to our
21 complaints, and we appreciate it.

22 But my point here is that not only is there a
23 future prospect that the close custody housing or its
24 equivalent under another name will be used differently and
25 less cautiously than is the case today, but there is also

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a track record of that happening with this Department and this Administration. So I cannot stress too strongly the need for this practice to be put under fairly strong and explicit curbs and further, that it is something as to which the Board of Correction needs going forward to monitor the implementation of.

I think we can all agree that safety has to be the first concern here, but there are a variety of different kinds of threats to safety, and there has already been one suicide, as you know, in the close custody units I believe of an individual who was there voluntarily for protection, and this is a case where the cure can be as bad as the disease.

ARKLES: I also want to add that obviously safety is absolute top concern for all of us, and that having the option for safety involving 23-hour lock-in is actually a huge disincentive to people requesting it, even if they do need protection. And I have worked with a number of people in a variety of correction settings who've decided, even if their condition in general population is a vulnerable and exploitive one, where they might actually get beaten up or sexually assaulted, that is preferable to being locked up for 23 hours a day for an extended period of time.

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So to the extent we really want to protect people, this particular choice is not actually accomplishing that because it's a huge disincentive to report assaults and to report risks of violence, if that is the option and it is being posed to people as the only way that they can be protected.

But I also appreciate everything about the history. I also wondered, the Department has apparently needed work, someone in the past for extended periods of time to have people locked up for more than 23 hours a day, for more than one hour a day. And in the State system it's been working as well. I'm not sure why this is the one system where now we need, we can see 23-hour lock-in as the only possibility for people who need protection.

DELONE: I'd also just suggest that the term close custody, if you're going to use it in the standards, should be defined because it not a term of art internationally or nationally and could change, and you wouldn't want things that you don't intend to be able to slip into that category which is particular to this Department.

The other - I just have another point on lock-in/lockout. It's in Section D actually on the schedule.

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You said you have to have a schedule and post it. I think it would be worth adding to that standard that it must also be followed because that has historically been a terrible problem. You can have a schedule, but if, in fact, no one's doing it, that is a problem, and it wouldn't be terrible to add that it should be followed.

The other thought I had on the exercise periods, particularly if you're going to allow close custody, you're going to add close custody into this section, would be that the recreation time must come during regular daylight hours because right now we had a client who was in close custody last summer, and his option for lockout was 5 o'clock in the morning, and that's in some ways not really an option. It doesn't really give you an option to leave. So in other systems, I think in the State system, lockout times are between 7 a.m. and I don't know if it's 8 p.m., but there are other, define that period so it becomes a viable option.

I think that we all do agree with the concerns about security. It is a very difficult question. I would ask that people, Board Members considering holding off on the vote to accept this until there's been a more careful conversation and that the intent of what you really expect to have happen is clearly articulated in the standards.

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2 So that if you expect it to happen, if you expect
3 it to happen very rarely, if you expect screening to
4 happen for two days, you imagine that it'll be used for
5 very narrow category of prisoners and only when all other,
6 you know, options have been exhausted, whatever the
7 parameters are, that those actually be spelled out. The
8 standards says that the Department must have rules that
9 very narrowly use this in only the most exceptional
10 circumstance, and they be subject to some review and that
11 there's some specificity in it so that the intent of your
12 standard, which seems totally fine, is, in fact,
13 articulated in the standards so that when you're not here
14 in two years or four years, if you aren't - maybe you will
15 be. Others have served for 30 years. You may all be
16 here. But if you're not here to explain what you
17 intended, that the language of the standard is very clear.

18 I'll just say that one of my past lives, I worked
19 for the Board of Correction. Earlier in this life
20 actually. And one of the things that gave lots of trouble
21 was the lack of clarity in some of the standards, some of
22 which I know you're clearing up here, and I'm happy to go
23 through those clarifications later. But a lot of time is
24 spent with prisoners in the jail arguing with the staff
25 about what their right is under the standards, with staff

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in the jail arguing with wardens about it, and people writing to the Board of Correction, Legal Aid Society, Prisoners Rights Project, trying to say this is what the - (tape 1, side B)

-- make sure that what you mean to say and what you intend to have happen is actually covered by the standard that's written.

SIMMONS: Thank you for that.

ARKLES: I'm sorry, one last thing. I just also want to say this is obviously a huge issue for vulnerable populations in all different facilities. But one of the reasons why it hits transgender people so hard is because right now, which I'll be really concerned because there are women who are being locked in men's jails. There are transgender women who are being locked in men's jails right now, and it's a set up for extremely unsafe situations, people who identify and live their lives as women and who are very easily perceived as feminine. And people who live their lives as women are being placed in men's jails which is an extremely unsafe situation. Another measure that would increase safety would be to place transgender people in men's or women's facilities based on safety concerns, taking into account people's gender identity which is consistent with practice in other

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city agencies.

VALLONE: Well, based on what was said, would you agree that the policy that the Department did before was preferential to what's being proposed now?

SIMMONS: I'm sorry, Paul, I couldn't hear the question.

VALLONE: Sorry. Based on what Richard's history lesson and what we learned that the Department had provided prior to this current variance where it's 23 hours, where there was a separate facility and they were let out together as a group and had their own area separate and apart from the rest of the inmates and detainees, is that prior system a better system, since we're looking for going forward, than what is currently being implemented and being proposed? Would you agree with that?

ARKLES: Well, certainly between the choice of 23-hour lock-in or general population, I certainly think that the gay unit was preferable to that. The Department of Correction currently has general population escort which is also I think better than just 23-hour lock-in for general population, but I still think that it's not enough to actually protect people's safety in an appropriate way.

I actually think that transgender people should

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2 be placed in facilities on an individualized basis based
3 on safety and gender identity that leaves open the
4 possibility of transgender women being placed in women's
5 facilities. Within that, there are a lot of community
6 members that feel that transunits are a safer way to go or
7 trans and gay units are a much safer way to go.

8 I think there are a lot of different solutions
9 that can be worked out, and I think that we need a lot
10 more ongoing conversations about what the best solutions
11 are. I certainly don't think that changing the standards
12 having 23-hour lock-in and having no additional
13 protections or standards regarding transgender inmates is
14 the way to go at all.

15 SIMMONS: Can I ask you a question? Do you know
16 of any jurisdiction in this country, do any of you know, I
17 mean to the point of where transgender inmates are housed?
18 It's my understanding the Department follows gender
19 identity by anatomy. And I don't know of any jurisdiction
20 that doesn't have that same standard, but I'm wondering if
21 you know of something somewhere in the country where
22 that's not the case because I'd be interested in knowing.

23 ARKLES: Well, in the corrections context --

24 SIMMONS: In the corrections context, only in
25 the context of jail. We're only talking about corrections

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context.

ARKLES: Washington has a county that now has --

SIMMONS: Washington State?

ARKLES: Washington State, it's actually Kings
County in Washington State has a policy that -

DELONE: Seattle area --

ARKLES: It's Kings County, yes. Has a policy
that involves a multifactor analysis of where transgender
people should be placed that includes identity and also
includes gender and other factors and safety. I don't
know it's an policy, but it is certainly different and
better than what is happening here right now. And there,
I mean in other countries, in Spain, they don't go by
genitals anymore.

But I think this is an area where people are
really starting to look at and examine and trying to
figure out the best policies and it's where New York City
could be a leader.

NAHMAN: I wonder, a transgendered female placed
in a female facility, how the females in that facility
would feel. I would really need to know that. You got to
be either with the males or the females, you (inaudible)
with the males, but how one would value also the females.

ARKLES: Right, it's always an issue that

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2 wherever transgendered people or any other member of
3 marginalized people are going to be placed, there may still
4 be issues of harassment or violence. Generally,
5 transgendered women are safer when placed with other women
6 than when they're placed with men, but that doesn't mean
7 there aren't issues, it doesn't mean there's safety, it
8 doesn't mean there aren't lots of (inaudible).

9 I mean there have been some transgendered women
10 who have been placed in women's facilities, I mean I've
11 heard of it happening on a sort of ad hoc basis, not as a
12 course of a general policy, but I've even heard of it
13 happened within New York State, Pennsylvania, and Maine,
14 of people who have not had surgery and also there are more
15 people who have had genital surgery who are placed in
16 women's facilities, and sometimes there has been
17 harassment from the other women inmates and sometimes
18 there hasn't been, and people have gotten along fine.
19 There are always going to be some type of issues that will
20 need to be addressed, but in general it seems to be a much
21 better solution than blanket placing all transgender women
22 in men's facilities.

23 BOSTON: I wonder if I could comment briefly on
24 the member's question a minute ago about the old system
25 versus the new system.

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2 I would say that the old system was preferable to
3 a 23-hour lock-in system. There were problems with the
4 old system. Certainly as we heard those problems from the
5 prisoners, a lot of them had to do with administration and
6 supervision because people were allowed to come into
7 protective custody units who didn't really need protection
8 and who are allowed to prey on other people and because
9 the level of staff supervision that was given to those
10 units was not adequate to prevent that kind of conduct
11 from happening. We think the notion that you must have
12 23-hour lock-in to some extent is the Department of
13 Correction, you know, almost blaming the victims for the
14 inadequacy of its own past practices in supervising
15 inmates that do present supervision problems and need to
16 be watched more closely.

17 Locking somebody in a cell and walking away is
18 very easy to do. Supervising a group of people who need
19 supervision and doing that consistently is a much better
20 way to treat people, both for their sake and for the
21 system's sake.

22 VALLONE : Jack, could I ask, if we
23 hypothetically go back to that system, for everybody, not
24 just transgender or gay, but for anyone who says I fear
25 for a particular reason. Another concern I have is if we

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2 establish that type of standard where the past is
3 continued, if I was in that situation, I would obviously
4 chose that type of environment versus general population,
5 and I think that's where the Department of Correction was
6 leaning as to this is just too beneficial of a situation.
7 We can't manage it. Most people would rather choose to be
8 there because it's just safer in general.

9 So one criterion of standards we have to
10 establish or create in order for someone to meet that
11 particular custody where it's not just say, okay, you,
12 yes, you have a good argument, you don't have a good
13 argument.

14 BOSTON: Well, I don't think there is any
15 substitute for an assessment of the actual need. If
16 people say I want to go into protective custody, you need
17 to find out why. Who do you need to be protected from?
18 Is this because you're the kind of person that everybody
19 picks on? And there are people who are just generally
20 vulnerable by the way they present themselves, and the
21 Department has acknowledged that, and, in fact, it's now
22 reflected in their intake classification system. There
23 are also people who will say I'm a witness against so and
24 so, and he has friends throughout the jails. or, you
25 know, I'm in trouble with the XYZ gang and they're all

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2 over here. And there are different kinds of reasons that
3 people need protection.

4 I would also not say that in every case that
5 protection has to be done in a setting that's sets
6 identical general population. That really never has been
7 the case. Even in the old system, many people who needed
8 protection for something more than just general
9 vulnerability were placed in higher security units such as
10 the North Infirmity Command formerly at the Brooklyn
11 Detection Center. But we are suggesting that any kind of
12 presumption that the need for protection means 23-hour
13 lock-in is inappropriate, and it's really an abdication of
14 the responsibility of the people running the system to
15 make rational judgments and to provide appropriate
16 supervision on a consistent basis.

17 VALLONE: I'm agreeing with you on that point.
18 I'm just trying to find now the next fallback point as to
19 where to go from here. So that's why I was - if we agree,
20 consensus, well, you and I anyway, that the 23-hour
21 lockdown is not the most ideal situation for of us, we
22 then need to take the next step. And my fear is just
23 saying I don't have the answer is not good enough at this
24 point because we then may be faced with no decisions,
25 either make a yes or a no vote, but I can't tell you which

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way that's going to go.

BOSTON: That's fair enough. I think maybe this is an issue that we should consider in light of this discussion, and we may have some supplementary comments before the end of the period or not.

SIMMONS: Certainly if you do you should --

VALLONE: That's not limited, that's every one who's here.

DELONE: I think one more, Barry's comment, that we just shouldn't, as a city, as a society treat people who need protection the same way we treat people who decided to punish is a very important principle that I think really should be articulated by the Board. One practical thought and this is not a Coalition position, in fact, the Coalition has very few unified substantive positions because we haven't had the time to figure out exactly what we would do if we were you, is to continue to the extent we need to give a variance on this issue while you work on a standard which more adequately and appropriately and fully reflects your collective sense and our collective sense perhaps of how to handle this very difficult problem in a way that's decent and respectful of people and not harmful. That would be a recommendation.

BOSTON: I would also suggest on that subject,

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2 you've indicated that the Department of Correction is, at
3 least to some degree, going back to the drawing board on
4 this problem. It may be that one way to approach this is
5 to see what the Department of Correction comes up with and
6 then for us to react to that. Because on some level, if
7 they are moving away from the present proposal and we're
8 still reacting to the present proposal, that's not much of
9 a conversation.

10 SIMMONS: Duly noted as well. Thank you. Other
11 people who haven't spoken or other comments?

12 STOUGHTON: This is Cory Stoughton again from
13 the New York Civil Liberties Union and the Coalition, and
14 really I'm here to speak about the censorship business, so
15 maybe we can shift --

16 VALLONE: I didn't quite hear you.

17 STOUGHTON: I'm here to speak about the
18 surveillance and censorship provisions really
19 predominantly so. Unless there's more on lock-in, why
20 don't we shift to that.

21 VALLONE: Any other comments on the lock-in?
22 Okay thanks.

23 STOUGHTON: I'd like to begin -there's been a
24 lot of discussion I think about the telephone surveillance
25 provision, and I am eager to talk about that, but I'd

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2 actually like to jump to some of the surveillance and
3 censorship provisions that haven't been given as much
4 attention and I fear might fall through the cracks. And
5 one of them is the limitation, the grant of the Department
6 authority to limit correspondence rights altogether for
7 prisoners and also limit the right to send and receive
8 packages.

9 There's really two themes that I see running
10 through all of the surveillance provisions, and by these
11 provisions I mean both the telephone surveillance
12 provision, the provision I just motioned about limiting
13 package rights and correspondence rights, the provision
14 that lowers the standard for the Department to read
15 correspondence, and then the censorship provision which
16 allows them to restrict more correspondence than they've
17 been permitted to, or more publications than they've
18 permitted to restrict in the past.

19 And the two themes I see running through both
20 these are a lack of a compelling reason to lower those
21 standards, and then even if there were a compelling reason
22 and the Board were to decide to lower those standards, a
23 lack of safeguards to ensure that whatever mission has
24 been articulated, safety missions, security mission, has
25 been articulated to justify increasing the Department's

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2 authority in these areas is done in a way that minimizes
3 the impact on the privacy rights and the civil liberties
4 really of both the prisoners and the people with whom they
5 correspond and communicate of course, their family
6 members, husbands, wives, and children, as well as
7 privileged communicators and communicatees such as
8 attorneys, clergy, treating medical professionals, and, of
9 course, oversight agencies that they might be
10 corresponding or communicating with.

11 And so jumping to the limitation on
12 correspondence and sending and receiving packages, you
13 know, currently the Department is permitted to search
14 correspondence and packages for any kind of contraband,
15 and the ability to prohibit prisoners from engaging in
16 correspondence and sending and receiving packages
17 altogether wherever they determine that there's some
18 belief that there's a public safety or facility order and
19 security issue - that's the kind of language as I remember
20 it from the standard - there isn't a reason to move to
21 grant that additional authority. The current minimum
22 standard recognizes that prisoners have a fundamental
23 right to correspond with whomever they chose. And if the
24 issue is contraband, that seems like it's already taken
25 care of by the ability to search that mail.

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What reason the Department has for reading or completely limiting and reading correspondence really hasn't been articulated, and I've been eager, and I've been combing through the Department's comments since these proposed standards came out, and I haven't been able to find anything that really articulates that reason for lowering those standards.

And there's really in this provision particularly no even articulated aspiration to protect privileged correspondence. So if, for example, there was a reason to, that someone in the prison decided there was a reason to restrict correspondence rights, there's no recognition that privileged correspondence between an attorney and the client under no circumstances could be restricted. That I think would present serious Sixth Amendment problem.

So there reflect in those two themes a lack of justification and a lack of thoughtfulness in terms of ensuring that if the standard is put in place, that it is limited in appropriate ways to protect privileged correspondence and to ensure that it's not being abused. Those are just a few examples. I could keep talking. There's not been any questions.

Another example I think of a lack of safeguards in that particular provision is that there's a lot of

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2 discretion in those provision which creates that kind of
3 possibility of overreaching, and it's something that Mady
4 said earlier that really echo for me with regard to these
5 provisions which is that you want to be very clear what
6 authority you grant the jail officials the right to do.
7 And the standards that are articulated, you know, things
8 like a reasonable belief that a limitation is necessary to
9 protect public safety or security, there really ought to
10 be some meat on those bones. We know from decades and
11 decades of constitutional litigation over things like
12 proper cause and reasonable suspicion that these are kind
13 of just words.

14 And without really restricting those and making
15 sure that the standards are clear, there's a possibility
16 for abuse, and particularly where certain provisions grant
17 the authority to restrict communications rights and to
18 censor publications very broadly.

19 Some of the provisions, particularly the
20 provision allowing jail officials to read correspondence,
21 restrict that right to the warden of the facility. But
22 then other provisions, including the provision to limit
23 correspondence rights, limit package rights and censor
24 publications don't contain that limitation. So it's a
25 recognition that when you generally grant broad authority

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2 and disburse it among jail officials, that creates a
3 potential for abuse when the standards are not,
4 particularly when the standards are not very clearly
5 articulated.

6 So those are a few things on the provisions, and
7 we submitted written comments that go into much more
8 detail about our concerns with the specific nature of the
9 standards, and I don't want to belabor all of that here.
10 So let me speak also a little bit about the telephone
11 surveillance provisions, unless there are other
12 (inaudible).

13 The telephone surveillance provisions also I
14 think reflect those two themes that I mentioned earlier -
15 the lack of dislocation and the lack of safeguards, and
16 particularly on both of these. I've heard some
17 justifications for, I mean let me be clear, the telephone
18 surveillance provision is a dramatic departure from
19 current Department (inaudible). Currently they have to
20 have a warrant to listen to prisoner telephone calls, the
21 change would allow the Department to implement a suspicion
22 list, standard list, universal telephone surveillance
23 program. And to make a dramatic change like this it seems
24 to be kind of uncontroversial that there ought to be a
25 compelling reason for that. And the reasons that I've

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2 heard articulated don't seem to go far enough to justify
3 such a broad sweeping program.

4 One of them that's been articulated and that I
5 read in Mr. Horn's *Law Journal* piece the other day is the
6 need to restrict contraband, that there is a reality
7 probably, I believe, that the prisoners are using
8 telephones to coordinate illegal activity in bringing in
9 contraband. But what's missing from the articulation of
10 that is a reason why the current Department, that a
11 warrant is obtained when there's reason to believe that's
12 happening, is inadequate to the task. Or a reason to
13 believe that other, less restrictive alternatives, can
14 accomplish the goal.

15 For example, I've heard that part of the problem
16 is that they're using telephones to coordinate with staff
17 members as a conduit to bring in contraband items, but
18 there is no reason, for example, that there couldn't be
19 particular restrictions on telephone calls to the numbers
20 of staff members, for example. Rather than going to far
21 as to have a universal surveillance program. Because on
22 the other side of the coin of the universal surveillance
23 program, is a real impact on the lives and human and civil
24 rights of prisoners and (inaudible) that become their
25 friends and their family members, and a risk to privileged

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communications.

And I want to talk specifically about the lack of a system to protect privileged communications, but even in the abstract, if a prisoner knows that all telephone calls are subject to surveillance, that creates a real risk of their ability to discuss their case with their lawyer even if there was assumed a place to protect those calls is chilled in some way. You would be very reluctant, and it's just a matter of common sense, to have a frank conversation on a telephone system that is wired for monitoring 24 hours a day, 100 percent of the time.

In addition, discussions about a prisoner's case, keeping in mind that the particular population (inaudible) are people whose cases are ongoing and just beginning. These people often have a reason to contact witnesses, you know, public defenders do a great job but their case loads are incredibly high, and particularly, you know, in New York City and in New York State there's a lot of work in preparing a case that the prisoner, him or herself, ends up doing, including contacting witnesses. And those conversations would be monitored, which inhibits the prisoner's ability to prepare a defense to their case.

And then, of course, there is the entire category of conversations with a person's family when they've been

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locked up. And knowing that those conversations are being monitored by prison officials is a real and enormous cost to prisoners and to their lives and their quality of life, and quite frankly, to their human right of privacy, which is not evaporated simply because they've been arrested and haven't been able to make bail.

So before going so far as to do this dramatic surveillance program, I really urge the board to both think yourselves, and then demand of the Department a real specific articulation of what the need is here and a consideration of whether there are other ways to address that need that wouldn't have this collateral impact on innocent, possibly protected and privileged conversations.

And then the last thing I really wanted to say about this is again the lack of safeguards. There is an aspiration in the standard, the telephone surveillance standard, as it's currently written, to protect privileged communications. But I think, and I appreciated the comment earlier that before these standards, that the Board anticipates before these standards were implemented that there would be protocols that the Department would be required to put in place, and I'm going to assume that you would also, that that would apply here and you would expect the Department to come up with some explanation.

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2 But I think that even in the event that the Board
3 decided that this broad surveillance program was required,
4 that something more specific in that regard should be put
5 into the standard. And the reason for that is that like
6 Maddy has said earlier, these standards last forever. And
7 the paramount importance of protecting privileged phone
8 calls in this situation really demands a specific program
9 and guarantee in the standards, themselves, that these
10 conversations will be protected. And without that, I
11 think that there should be no movement towards a complete
12 suspicion list surveillance program.

13 SIMMONS: Do you have language that you would
14 suggest that would offer that protection that you just
15 requested?

16 STOUGHTON: Well, I see, I think the language
17 would have to be specific. I have to understand more
18 about the technology that the Department would want to use
19 to surveil the telephone calls. And I think that without
20 understanding how that is going to operate, it's difficult
21 to construct language that would insure that those
22 conversations are exempted from surveillance.

23 SIMMONS: It would be important, recognizing to
24 your point and to Maddy's that these standards could be
25 (inaudible), the technology will change inevitably. So I

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2 wouldn't want a standard that speaks to a specific
3 technology because that would make a mistake, as well. So
4 I would ask you, seriously, recognizing your concern about
5 that, but if you sort of --

6 STOUGHTON: Let me give you an example. I read
7 the standards for the first time when you proposed those
8 changes. You know, at NYCLU, we are a prisoners' rights
9 organization, so we're not as immersed in these issues,
10 and I noticed in the original standards that there are a
11 lot of provisions, I made this comment actually in the
12 written comments I summated in April, there are a lot of
13 provisions in the minimum standards that were implemented
14 in the '70s that were conditioned upon the Department
15 presenting a plan expressly, and this provision is not
16 conditioned in that way. And I think it would be a good
17 step in the right direction to condition the authority to
18 implement a surveillance program upon a demonstrated
19 program that satisfactorily proves to you that privileged
20 communications were protected

21 Now I can't let that comment go without
22 reiterating that I do, before we jump to that point, that
23 I do think there is still no (inaudible), and I think the
24 chilling effect on privileged communications of such a
25 program in the abstract even is something that really

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2 ought to be considered, even if there is a program in
3 place, it really will have a dramatic effect on
4 communications. Especially given something I've learned
5 recently which is that phone calls even between attorneys
6 and clients, are limited to six minutes.

7 I have never had a meeting with a client that
8 lasted six minutes and accomplished anything. And to have
9 to have a careful conversation with a client because your
10 client is pussyfooting around an issue because they're
11 nervous, because they know that telephone calls are
12 monitored and they fear that this one is being monitored
13 as well, really, really hampers the attorney/client
14 relationship which is one of the most important
15 relationships that that person at that moment in their
16 life has.

17 KREITMAN: Let me, first of all, the lawyer/client
18 privilege should be observed. As I said before, whatever
19 is changed in these standards, there has to be a protocol
20 for how you are going to do it for the next (inaudible).

21 Let me present to you part of the dilemma. We
22 have got communications from at least four or five
23 district attorneys, police, law enforcement, that there
24 are hits being ordered on the telephone, witnesses are
25 being intimidated on phone calls. There is a National

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2 Security Area, they picked up terrorist threats coming
3 from jails that have been picked up on court ordered
4 monitoring, and they feel that it's in the safety of most
5 to monitor phone calls, that witnesses wouldn't be
6 intimidated, hits wouldn't be ordered from jail.

7 So I appreciate what you're saying but there is
8 another side to the coin that has to be thought out.

9 STOUGHTON: Yes, absolutely, and I think in the
10 comment, I think the fact that a lot of these things are
11 being picked up on court ordered surveillance really goes
12 to the question of, well, then what's being missed. And I
13 have not seen any reason to believe that there is a
14 substantial amount of illegal activity that's being missed
15 that couldn't be gotten with a warrant, with reasons to
16 believe that if you have a reason to believe that someone
17 is going to be intimidating a witness.

18 KREITMAN: You and I aren't privilege that those
19 type of statistics, the people that are privileged seem to
20 think there is a lot that are being missed and they
21 wouldn't be missed if they were monitored. So I just pose
22 that to you, we're not deciding anything now, but I just
23 pose to you the other side of the coin. The law
24 enforcement people think there is a lot being missed.

25 ROVT: (inaudible)

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2 VALLONE: I think this is one of those areas,
3 this variance, and probably the laundry, requirement for
4 facilities to provide particular jumpsuits that might be
5 in where we've been starting to talk about tightening the
6 language because those were proposed. And as we see these
7 areas and hear your comments, there is probably a need to
8 tighten or change some of the existing proposed amendments
9 to reflect that. And that's one of the things that we're
10 going to ask Richard and his staff to do over the summer
11 as they analyze this.

12 And then the other comment was something I was
13 also echoing about the conditional precedent. I think
14 those are important, they had a place in the past and I
15 think they have a place now. It's tough to rule on
16 something that there is no current format. So I think
17 that type of precedent needs to be, to address your
18 concerns and exactly what Stanley just said, it was also
19 very moving testimony from the District Attorney in Nassau
20 County and Queens County about the domestic abuse
21 situations between husbands and wives and as an attorney,
22 like yourself, I see that on a daily basis.

23 So that's one of, these are one of those issues
24 where it can be weighted.

25 STOUGHTON: Absolutely, and, you know, on the

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2 domestic violence question, it's something I take very
3 seriously, we take very seriously. But again, you can
4 think about ways maybe to more narrowly draw a rule.
5 Maybe there should be a different rule for people charged
6 with domestic violence crimes. That might, you know, this
7 is an issue I haven't looked at very carefully, but it
8 immediately jumps to mind that if that is a particular
9 case that requires a different rule, then that rule, there
10 is no reason, just because that is a problem, to extend,
11 to implicate the privacy of other prisoners who are not
12 necessarily charged with that kind of crime and don't
13 raise those particular problems.

14 And, you know, the other thing, you are
15 absolutely right, we haven't seen those statistics, but I
16 would urge you to look at it. Because before you
17 implement a standard like this, there definitely are two
18 competing considerations here. It would be ridiculous to
19 ignore that. But when deciding how to balance them, it
20 matters what actually will be accomplished by expanding
21 the surveillance authority.

22 So I think it would be, I would encourage you to
23 actually look at those statistics and try to have a very
24 clear understanding of what will be accomplished and then
25 weigh that, against, like you said, the other side of the

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coin, that, which, of course, are the privacy considerations. And then come to an understanding. If it appears that surveillance is something that is necessary, then make sure that it's implemented with the kind of safeguards, for example, for privileged communications.

And then also, you know, there are other ways to insure that going forward that the system operates in a minimally impactful way on civil liberties and human rights, which is part of the Board's continuing oversight responsibilities. So I would encourage the Board also to think of maybe putting in a recording requirement. This standard is a very broad and bold step of increased authority, so --

VALLONE: Let me just, you had started off, and I think this will help us, because if you actually, and not everyone has it in front of them, but after for today to come back to us, in Section 1-11 where we're proposing these telephone calls, in H, it says supervision of telephone calls, this entire last 15 minutes is based on that conversation. But you started off by, one, that there may be surveillance, but you left out the two conditions precedent that we put in that are in sub I and sub 2, in order for them to do that. And the area that I'm talking about and we're asking about, or Hildy asked

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for additional comment, maybe there can be a 3 or maybe there can be a determination.

But I think we need to read what 1 and 2 are so that the people in the audience and everyone understands that this is not just an open-ended you can tap the phone calls. One says "this determination must be based on specific acts committed by the prisoner during the exercise of telephone rights that demonstrates such a threat or abuse. Prior to any determination, a prisoner must be provided with written notification or specific charges and the names or statements of the charging parties and be afforded opportunity to" --

SIMMONS: This is actually about access to using telephone rights, this is different than listening --

STOUGHTON: Yes, there is no limitation like that in the surveillance --

VALLONE: But where I was going is these types of conditions are things that I would like to see also on the other side. I think these are the type of steps that there is good language in here that maybe we can mirror image and put in --

STOUGHTON: Well that proposition would be basically a middle ground between the power that the Board, that the standard would give the Department and the

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power that the Department currently has. Currently they have to have a warrant, and what you're suggesting would be a warrant is not required but some level of individualized suspicion is required before you can actually listen to a prisoner's telephone calls.

And I think that would be a vast improvement over the current standard and again would alter that balance in terms of really it should be incumbent upon the Department to show that having an individualized suspicion standard, that could be made by prison officials in, you know, in the circumstances on the ground without necessarily having to get a warrant as they are currently required would accomplish whatever it is that is not being accomplished or they are not able to accomplish right now because of the requirement of getting a warrant. And that would be like a middle group between the current proposal and the current reality.

BOSTON: Let me also suggest on this subject that there are other things that can be done of an intermediate nature rather than confer the certain sweeping powers on the Department. For example, in the domestic violence cases, which I don't think anyone disputes is a serious and difficult problem, if the concern is that the complaining witness and others will be

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2 intimidated, then there is no reason at all that at the
3 request at that person, perhaps assisted by the District
4 Attorney, you could simply say that Mr. Smith will not be
5 allowed to call these numbers. Well that's no good,
6 because Mr. Smith will get Mr. Jones to convey the threat.
7 So a person can say I want no telephone calls from the
8 Department of Correction system to my number or to my cell
9 phone and simply block those numbers. I see no reason why
10 that is not feasible in a modern telephone system. And I
11 am sure that there can be further (inaudible) as well, but
12 this other thing can happen. And then we can have further
13 discussion of ways that that can be blocked.

14 My concern here is that that kind of thinking is
15 not what is reflected in the current proposal and it seems
16 to me that before doing anything sweeping, it's really
17 incumbent on the Board to say, number one, for the
18 particular problem that we're concerned, first can we have
19 a special rule for that problem that will not implicate
20 the privacy of everyone in the system and all of those
21 outside that might be caught in the system. And number
22 two, when there is a narrow concern, is there a way to
23 serve that concern that is less broad, and I just sketched
24 out an approach to domestic violence cases which I think
25 would be quite viable, it would require a little more

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thought than simply saying we're going to listen to everybody's conversations.

But, frankly, I have considerable doubt as to what the practical effect of listening to everybody's conversations is. So you have, you know, 14,000 people in the system, using the telephone all day, and, you know, who is going to do that surveillance, who is going to decide what needs to be surveilled. It seems to me that that's a kind of over breadth in the operation of the system that on some level will gather up more information than anyone is capable of assimilating and working with. So I wonder if this is not only a proposal that is more intrusive than it needs to be, but is impractical and inefficient in terms of its own stated purpose. And I don't think anybody has really addressed that concern yet in this process.

STOUGHTON: The last thing I would like to say about this, whenever you have a surveillance system there also need to be protocols in place for what happens to the recordings. And missing also from this standard is any protections, protocols for disposing of and storage of these recorded conversations and assurances that the recordings will only be used for legitimate legal purposes. And so, you know, there are pages and pages of

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2 such protocols that federal and state law enforcement
3 authorities have to follow when they conduct surveillance
4 which they have to do pursuant to a warrant. Just because
5 there is no warrant requirement under the proposed
6 standards doesn't mean that those protocols shouldn't also
7 be in place.

8 So again, as John was saying, it kind of
9 reflects, the current as currently drafted reflects that
10 broad range of authority without, it seems to me, a clear
11 thinking through of the procedural protections that must
12 be in place whenever such broad surveillance authority is
13 given to any government facility.

14 BOSTON: Let me just make another observation on
15 procedural protection. Setting aside the surveillance
16 issue, there are also issues of stopping communications,
17 stopping correspondence, stopping telephone calls,
18 stopping publications. And even though the necessity for
19 some sort of procedural protection, and I include in that
20 the specificity of rules that allow the obstruction in the
21 first place, even though the problems are all essentially
22 of the same nature, the procedural protections that are
23 provided in the proposed rules are an absolute patchwork,
24 they are completely inconsistent, for purposes of deciding
25 if someone should be forbidden to correspond with another

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2 person or whether a particular publication is too
3 dangerous to allow prisoners to read it, or that a
4 particular person should not be allowed to have telephone
5 conversations with another person.

6 If you take all the procedural protections that
7 are floating around in these different provisions and make
8 sure that all the provisions that appear anywhere apply to
9 all of them, then you will have something like a uniform
10 system that will approach a reasonable system of
11 protection. So it seems like no one has thought through
12 the problem of pursuing (inaudible) in a systematic way
13 for all three of these things and put the pieces together.
14 We pointed out some of those inconsistencies in our
15 written testimony.

16 STOUGHTON: And not just procedural protection,
17 but also for the basic standards, themselves. They found
18 it kind of bizarre that there was a different standard for
19 when you could restrict communications rights than when
20 you could read correspondence and a different standard for
21 when correspondence could be banned as a privilege and
22 then what particular publications could be restricted.
23 There really ought to be a uniform standard across the
24 board on those things, and the reason for that is that it
25 really is an aid to the jail officials who are

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2 implementing those decisions. Because if there is a
3 consistent standard, however that standard is defined,
4 then, you know, a uniform body of thought about what's
5 appropriate, what triggers, you know, the ability to
6 restrict a prisoner's right to communicate, what triggers
7 the ability to read correspondence, it's just an easier
8 way to develop, you know, this is when we do it, this is
9 when we don't, as opposed to there are different
10 standards.

11 You, as a jail official, are left to parse, well,
12 it might be okay to restrict re-correspondence in some
13 situations, but, you know, it might not be okay to, you
14 know, investigate packages in another situation. And so
15 making sure that those provisions are consistent across
16 the board. You know, in some situations, for example,
17 some of the provisions require the reason for restricting
18 the privilege be put in writing, and others don't. And,
19 you know, it's kind of a conflicting signal to people who
20 are in charge of making decisions about when it's
21 appropriate and what circumstances and how seriously to
22 take that decision when there are provisions like that in
23 some standards and not in others.

24 BOSTON: I have one more thing to say on this
25 issue which I think is not completely redundant. The

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2 substantive standards for censorship and intrusion need to
3 be as explicit as possible. Phrases like reasonable
4 belief and that there is a threat to safety or security
5 really are not good enough because they invite abuse, and
6 sometimes they invite paranoia in good faith, but
7 nonetheless, overbroad censorship. And sometimes there is
8 a sense that, well, we don't know what's going to happen,
9 so how can we make this more specific; that really isn't
10 true.

11 What we have done, what Legal Aid has done in its
12 written comments is we've reproduced the so-called media
13 review rules of the Department of Correctional Services
14 just as an example of how specific you can be about what
15 it is you're afraid of when you sit down and actually make
16 the effort. And I would suggest to you that if you are
17 talking about the censorship of publications, the
18 censorship of mail, the prohibition of correspondence, any
19 of those subjects, that it is possible to be equally
20 explicit and you should be equally explicit in setting out
21 the triggering criteria or concerns that would allow the
22 Department to engage in either type of interference with
23 correspondence.

24 KREITMAN: Well again, the Department has to
25 come up with a protocol and there is a difference in a lot

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2 of things that you said. There's a difference in
3 publication as opposed to mail, as opposed to packages,
4 and there has to be a protocol (inaudible). Publication,
5 I can agree on one set of standards, but contraband is
6 another issue.

7 BOSTON: Well, physical contraband certainly
8 presents different issues, but when you are talking about
9 written or oral communications, you are really generally
10 talking about the same categories of things. You don't
11 want information to come in about how people can do bad
12 things, you know, you don't want people out to get, you
13 know, "Lock Picking Made Easy." You don't want people to
14 engage in correspondence from somebody who says, hey, I
15 used to work for Folger Adams and I can tell you how you
16 can get around some of these things. You know, whether
17 it's me writing a letter to an individual or whether it's
18 a book that's published and is available to the general
19 population, the issue is the same.

20 Similarly, if the concern is that information is
21 being passed that, you know, a particular person has been
22 covertly cooperating with law enforcement, information
23 which in a confinement setting can be very dangerous,
24 whether that's in a publication, a letter, a telephone
25 conversation, it is the same problem that you're concerned

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about and the same risk you are concerned about preventing. So even though the protocols for physically handling the problems may be different, the underlying problems of what it is you are trying to stop are more similar than different for all the different types of communication.

KREITMAN: Well, let me have the last word on this. I certainly have a lot of feelings about censorship, but I also have feelings about intimidation of witnesses by telephone and ordering hits out of jail, and national security issues, and terrorist threats being made, so those are very separate issues that we have to deal with.

DELONE: I just wanted to add another point. I just wanted to add also that if this does happen, that mental health professionals also have to have access to privileged conversations. Thank you. And then also, (inaudible) confidential calls, people have to be able, I just think it should be listed that access has to be something that is quick, it's not something you can set up a week from today. When we people are calling us about things they are experiencing in jail, we need to know that they'll be able to do that quickly.

Also, I just wanted to add into the mix with the

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2 censorship of publications, one of the changes is adding a
3 catchall privilege in about security reasons. And I agree
4 with John that anything specific far better, partly
5 because in other systems that do not have minimum
6 standards, like the ones that have (inaudible) here, I
7 know that can be abused. And one of the things that can
8 happen is that people will censor publications that are
9 related to transgender or gay issues that there is no
10 legitimate security risk. But people will use those like
11 a catchall in abusive ways, so I think the more specific
12 provisions possible, the better.

13 And I just also want to throw into the mix that
14 balancing that there are people badly here experiencing
15 abuse also from the correction officers. So the conflict
16 of having correction officers listening in on every call
17 you're making to your friends or your family seeking
18 support is one that, you know, it's pretty devastating to
19 people, just to throw that into the balance that we're
20 trying to strike, that's another thing that exists,
21 another form of abuse that people need to be aware of.

22 MANNING: Dora Manning, Correctional Associates.
23 I don't, you know, from my experiences, I know the
24 telephone and writing letters, a lot of inmates
25 (inaudible) officers. And if you got a officer listening

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2 to your conversation (inaudible) that is going to create a
3 hostile environment between you and the officers, that's
4 going to cause being beaten by officers, that's going to
5 cause you to be locked down by officers. So therefore, if
6 you know that your conversations and your letters is being
7 monitored, ain't nobody going to tell on these officers
8 and they're going to get away with everything that they're
9 doing right now. That was our only way of communicating a
10 officer did something wrong to us.

11 And most times, when they felt that you was gonna
12 write them up, they would go in the mailbox and take your
13 letters.

14 BOSTON: Many of the complaints that Legal Aid
15 receives about staff misconduct come not directly from the
16 prisoner to the Legal Aid Society, but by way of the
17 prisoner's family or friends, maybe because they don't
18 know the Legal Aid Society is there. So I think what she
19 says is a significant problem, just protecting privileged
20 communication, we will not assist with that.

21 SIMMONS: Any other --

22 STOUGHTON: Well we wanted to talk about the
23 language provisions. We have been concerned, there has
24 been a lot of, at least in my own mind there's been a lot
25 of confusion about --

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2 SIMMONS: Can I just clarify this, you have
3 concerns and I know there were issues about protocol or
4 whatever, but I want to be very clear, I thought I was at
5 the last meeting, but I want to say it again, I'll keep
6 saying it, it was never the intention of anyone on this
7 Board to diminish the Spanish language interpretation.
8 The only intent, and it may be unartfully have been
9 worded, and we're looking at wording that would clarify
10 that, we didn't anticipate the reaction and confusion that
11 seemed to emerge, was that in 2007 as opposed to 1978 or
12 whatever it was, there are infinitely more languages
13 spoken among people who are housed in the city jails.

14 (Tape 2, Side A)

15 SIMMONS: -- to interpretive services so they
16 would never be in a situation where they didn't know what
17 they were being told or what was happening to them. And
18 that by singling out any one of them, which even if
19 Spanish is the most dominant of the other languages, it
20 was inappropriate to give some special status at this
21 point in time to one language relative to the thirty-some
22 or forty or whatever the number is now, languages that the
23 department finds inmates coming in at any moment in time.

24 So if you have substantive comments about wording
25 or issues related to that, but please, it was never

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anybody's intention, and we don't need to have a conversation about excluding Spanish and not recognizing others, because that was never our intention, okay?

STOUGHTON: I think that's been made clear I think as things have progressed. I think what we would suggest is that you don't change the current standard and then just add on to it.

SIMMONS: The point is we didn't way to add, say Spanish and, you know, Farsi, and whatever, whatever, whatever, because, again, to your point that these standards last for a long time, for all I know there will be 20 more languages. So we wanted to make the point that anybody who needed language interpretation would have access to it, rather than trying to specify specific languages, which in fact could then lead to a point of somebody then coming in, speaking some language that isn't on that list, and somebody saying, well, you are not entitled to interpretive services.

DELONE: I guess our feeling, I think it's pretty much the feeling of most of the people in the coalition is since last we heard numbers, 33% of the Department of Correction population, the prisoners are, in fact, Hispanic. Many of them, although not all, monolingual, and many of them have Spanish as their first

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2 language. It is absolutely appropriate and right to have
3 the different kind of standard for them. Because if you
4 had no Spanish speaking staff in an of the jails you might
5 have on any given day the need for thousands of
6 interpreters to get you through the day, particularly if
7 you extend the translation requirement from just
8 directives of communication about rules and regulations
9 and policies, to the translation services to allow people
10 to participate in programs.

11 And we think you should do that in the second
12 part that you have now added for additional language. We
13 think there should be slightly more specific and broader
14 in where translation services should be available. We
15 think that you should add that policies should address the
16 confidential needs of those interpretive services where
17 appropriate, certainly in medical care and mental health
18 care, and discussion of legal problems, perhaps there are
19 other issues, I don't know them all, so that should be
20 broader. But that the requirement that there be Spanish
21 speaking staff in every facility is really a necessity
22 because we don't believe that you can simply (inaudible)
23 that the same kind of translation services address the
24 need of such a large population. It is totally reasonable
25 and really required we think in this day and age in New

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2 York City, and has been for a while, and if it changes,
3 maybe this is one of the standards that gets reviewed
4 before the next 30 years, we will come back and change it.
5 But we don't see the Spanish population doing anything but
6 increasing in New York so the projections suggest that
7 that will be true. We assume that that will be reflected
8 also in the city jails and it is absolutely reasonable and
9 appropriate to have a different kind of standard for such
10 a large population in a facility.

11 Although I wholeheartedly agree, a sign language
12 interpreter, you know, Russian, every other language, it
13 is devastating to be in those places, as you recognize by
14 your addition as a standard, and not be able to
15 communicate. So we just think it is, and we would ask you
16 to maintain the standards, one for Spanish speaking people
17 and one for, you know, everybody else, which includes
18 them, but also recognizes that they are just in a
19 different volume and number in the jails. And that is
20 appropriate and right, that's our sense.

21 SIMMONS: Thank you for your comments. Any other
22 topics that you all want to raise? Be mindful that it's
23 about 11:25.

24 NAHMAN: One of the things I would like to ask
25 the people, what you have said so far is what has been in

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2 the standards and ought not to be. What is not in the
3 standards as presented, and ought to be? What issues
4 should be addressed, what have we missed?

5 BOSTON: Well if you ask me where you should
6 start doing a real comprehensive review of the standards,
7 first I would say you should have the conversation with a
8 much broader range of people that are represented in, you
9 know, at this table or in this room. But I would say that
10 a couple of good places to start would be with the
11 treatment of visitors who try to go to the jail to see
12 their loved ones, which we receive many complaints are
13 often treated arbitrarily and abusively. And the conduct
14 of searches in the Department of Corrections jails, which
15 despite paper policies that say that searches shall be
16 conducted in an orderly and safe way, and people's persons
17 and property will be treated with respect, in fact, we
18 receive complaint after complaint that that is not the
19 case. That on a good day, that the people's property is
20 strewn all over the place, and on a bad day people are
21 physically pushed around and abused.

22 Searches of housing areas are one of the flash
23 points of physical violence between staff and inmates in
24 this system. And frankly, I think that that's external
25 attention and scrutiny, both in the form of standards and

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the form of monitoring by the board of what actually happens, that would be an urgent priority. So those are a couple of examples.

Other examples, and when we cited these in our written comments, the grievance process, which on a theoretical level are sort of a fundamental element of maintaining a fair and humane jail system, is in large part dead in the water it appears, even though the Board of Correction is the largest -- the Board of Correction represents the final appellate level in the grievance system. I understand that it's been several years since you had a grievance appeal to decide and in recent years you did have a few, it was always a few. And I think we can all agree that that is not because everybody in the jails is happy and doesn't have any complaints, nor is it because everybody in the jails gets their complaints solves in the short run without having to go any further.

What we hear from our clients is that I can't get to grievance. Apparently some of the jails you have to physically go there to file a grievance. We hear from our clients, we go there and they won't take my grievance, they say it's not grievable, even though the thing they are talking to us about clearly is grievable. I filed a grievance and I never got an answer. That makes probably

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the (inaudible) that we hear.

We also hear, by the way, with some frequency, I went to grievance and the guy was really helpful. That doesn't mean the grievance (inaudible) in the appropriate way, but we hear over and over again that the grievance system is not functioning in the manner that the rules spell out, and in many cases it seems to be functioning just to suppress and divert people's complaints.

I can go on about different things you could be doing for a long time, but let's let somebody else have an opportunity.

DELONE: I guess I had suggested that there are some comments about other standards that we didn't touch on, and maybe I'll go through some of them and people can elaborate or even ask questions, and I'll give the sections under your new numbers.

103D-2, personal hygiene, restricting showers. I think that there is some concern that this could be forever and that there should be some more formalized review for how long the standard can be invoked. And that the level of infraction that revokes shower privileges should actually be a serious infraction, and that should be specified in the standard.

We also think that there should be an explicit

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statement that the denial of showers, even to people (inaudible) segregation, cannot be used when temperature is exceeding 85 degrees outside and when otherwise emergency provisions must go into effect. That even people who have committed serious infractions should not have their health and wellbeing jeopardized in those circumstances.

SIMMONS: Are many of these things (inaudible).

DELONE: This is not in written comments, certainly not that I have provided. I also don't spend my day doing (inaudible) work so I'm not sure that they'll all be good, but I will try to do what I can.

In the hot water for shaving, we just recommend that everywhere you talk about hot water and its appropriate addition to the standards, that you consider adding the standard of 100 to 120 degrees for purposes of being clear what you mean by hot, and also that there is a public safety and public health reason to stop to say 120 degrees is the top.

We bring forth, I think it is a written comment, that you don't take "with care and comfort," out of the standard on shaving.

On personal clothing, just one other thing to consider, and I think there are so many barriers to

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2 actually implementing a uniform proposal that it may be a
3 long time before you could even imagine getting there.
4 two things, one is that in the American Public Health
5 Association Standards there are standards about laundry,
6 and if you look at them, and to the extent you find any of
7 those standards appropriate, consider adopting them in
8 your prerequisites about cleaning.

9 The other thing is that there was a lot of
10 discussion in the public hearings about the visit time and
11 what it does to a person's family and particularly their
12 children and having people come to visit in jumpsuits.
13 And if you are going to ever get to --

14 SIMMONS: By the way, there is no determination
15 that it's a jumpsuit, so --

16 DELONE: Right, and so what we would like to
17 suggest is that if you are going to go to a uniform
18 standard, currently visits are done in jumpsuits, but if
19 you are going to go to a uniform standard, that you
20 consider a uniform standard that is not like a convicts,
21 that is, in fact, respectful, that has some personality,
22 that perhaps has some variation to try and reinforce the
23 notion of innocent till proven guilty and (inaudible).

24 (cross talk)

25 BOSTON: Just to add to what Maddy said, I think

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this is what she meant, but let me make it explicit, if you're going to make a change in clothing, then the jumpsuits at visiting should go, is that what you were saying?

DELONE: Or even if you don't make a change in clothing, we should ask the Department to let the jumpsuits (inaudible). The children's testimony, the young people's testimony is very compelling. And whether or not there is a change in clothing standards, I would ask that people have access to under garments that match their gender.

SIMMONS: The clothing is usually sensitive to those issues of gender identity in general.

DELONE: I mean I can't emphasize how incredibly important it is to people, people who have gone through so many things that I have heard in prisons, are attempting suicide because they can't get access to the clothing they need in a variety of systems. But it is so devastating to a person's dignity and mental health not to be able to at least wear underwear that matches their gender.

MANNING: Dora Manning, Correctional Association. Why should I be dressed the same as a person who's been convicted and I'm not convicted? And not only that, those uniforms they give you, they are soiled,

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2 (inaudible) soiled, used, and they give them to you and
3 they tell you that you have to wear them. I felt I
4 shouldn't have to wear something like that. Who wants to
5 wear soiled uniforms? And they have a laundry in there
6 that they claim, the same way they do personal sheets and
7 blankets and all that, I don't feel I should have to wear,
8 if you are convicted and you have to wear a uniform and
9 I'm not convicted, why should I have to wear a uniform? I
10 really don't see, you know, the purpose in that.

11 DELONE: On the recreation standards, we would
12 encourage the Board to either develop on its own or the
13 Department develop a definition of inclement, since the
14 issue of, I don't think it's ever happened and there are
15 in fact times when it is too cold or too wet to go outside
16 and the standards should be clear so that there can be a
17 discussion when, in fact, people should be afforded an
18 opportunity for indoor recreation.

19 We think that the level of seriousness of the
20 infraction and consecutive deprivation should not be
21 allowed on recreation, and you should look more carefully
22 at putting some limits on when you would allow restricting
23 recreation to people.

24 I think the concerns about a broad discretion on
25 the definition of religion and religious congregation ha

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already been raised. We heard some comments what it is, I echo, again, with the coalition.

Attorney visit, there are no proposals on access to courts and legal services. There were no proposals made, but it may be consistent even within this guideline that there should be time standards imposed on the timeliness of attorney visits. And I would suggest within one hour arriving at a facility or one hour of arriving at a central area or 45 minutes of arriving at a facility, or one hour everywhere that lawyers and their clients get to meet. It will encourage lawyers to visit their clients on Riker's Island or in the jails. It is currently the Department's practice, it had been court ordered, it seems a reasonable standard, and did encourage increased attorney visiting, which I think in the long run suggests this is a good thing.

VALLONE: Where was that specific to?

DELONE: That's in 108, I think it's C3 on attorney visits, we'd be adding a timeframe, a standard for that timeframe.

VALLONE: Thank you.

DELONE: We would also ask in the law library areas there may be a couple of changes, people made comments of either adding time or people in special

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2 populations not taking time away from people, from general
3 population to give more library time to people who need
4 it. I think Legal Aid had a recommendation of five
5 additional hours per week per facility respective housing,
6 that should be looked at. And I would also encourage the
7 Board not to eliminate its requirement that the Board get
8 periodic reports on what materials are supposed to be in
9 the law libraries.

10 The quality of material in the law libraries is
11 extremely important, Corey talked about it earlier, for
12 people to do some (inaudible) work on their cases and the
13 Innocence Project people use law libraries to find out
14 what their statutory rights are and to makes plans of
15 innocence or (inaudible) conviction. We just encourage
16 that monitoring provision to remain, it suggestion
17 omission, and perhaps that the standard of materials, add
18 that materials must be in good condition.

19 We ask you to consider the possibility adding
20 people to have access to computers, that is separate from
21 the internet, but to move away from the typewriter
22 standard which has been there since 1978. Just that it
23 would be easier and actually cheaper to repair and replace
24 computers these days than it is typewriters.

25 One thing that we didn't talk about today but we

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2 would ask that you not vote to restrict visits within the
3 first 24 hours to non-contact, you allow those visits to
4 be contact. There are, in fact, very few visits within
5 the first 24 hours, we're not sure that there has been any
6 incident where there has been a problem, particularly for
7 family members and young people, people with mental health
8 frailty, having some contact and the ability to touch
9 someone in that early days. It seems very important to us
10 and there hasn't been any compelling reason that we have
11 heard articulated to disallow that and we would ask you to
12 reconsider that proposal.

13 There is a proposal about having at visits having
14 visitors give their property and put them in lockers. We
15 will assume that will come with the requirement that the
16 Department have such facilities for storage, which is a
17 big improvement, it would be terrific, in the city jails.
18 We assume you don't mean the removal of religious medals
19 or wedding rings, and if you don't mean that, if you'd
20 please amend the standard to make that clear so that
21 people can continue to wear religious items or wedding
22 bands.

23 I think, unless I have forgotten something, those
24 are specific additional comments that we had, and I'd be
25 happy to answer questions or other people who probably

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2 would, too. Is there anything I have forgotten here?

3 BOSTON: I would just add on closing, in
4 addition to the concerns that have been expressed, there
5 is a very serious problem in the Department of Correction
6 with temperature control. This is one of the issues that
7 we are still litigating about, I regret to say, and it is
8 too cold in the winter, it is too hot in the summer, and
9 sometimes it's even too hot in the winter, I don't
10 understand this. But we have the recurrent problem that
11 some housing areas have temperatures in the 90s in the
12 winter.

13 And the relevance of that to clothing is this.
14 At present, people are able to obtain from families long
15 underwear, shorts, clothing that is adaptable to
16 temperatures that are not well controlled. And if you do
17 make a change in the clothing standard, it seems to me
18 that you must make some sort of change to provide
19 prisoners with a sufficiently wide array of clothing that
20 is responsive not only to changes in the season, but also
21 to the deficiencies in the temperature control in the
22 jails.

23 And I -- go ahead.

24 DELONE: I have two other (inaudible), one in, I
25 think we followed your rules and tried to stick to

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2 substance, so just one moment of apology, which is just
3 that I am going to give to you for filing of comments a
4 petition signed by over 900 people which references the
5 overcrowding, the 23 (inaudible) law, and makes the
6 Spanish language issues, contacted within the first 24
7 hours, and the enhanced surveillance procedures
8 (inaudible) a concern of the nine people that are here.

9 So just on behalf of the folks who are here, the
10 other 25 organizations in the coalition, and lots of
11 individuals who have concerns, I'm sure if you wanted to
12 have additional discussions about any of these, if you
13 have any additional questions, you know, talk specifically
14 about language, if there are answers you didn't have today
15 or things you didn't hear from us, we are available for
16 ongoing discussion. And I think, in general, we would ask
17 that, for the exception of those standards which are very
18 clearly articulated which we have expressed absolute
19 support, we would really ask you to consider not adopting
20 them now and to have a longer and more thorough discussion
21 which a much broader community as we go forward and that
22 is really a request of you. But that if you have to vote
23 on most of these proposals now, we would ask you on most
24 of them to vote no.

25 SIMMONS: Thank you very much, is there anything

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else --

NAHMAN: Well I would ask things that are not there, do any of you think something addressing education, or what about the witnesses that are hearing the rights of children of prisoners, or something within the idea of is the process of discharge planning, and maybe a lot of the consent decrees that have come down.

CAMPBELL: I just recently visited Rikers Island, and I think in the form of programming, in general, there is a great need, you know, after taking the tour of Rikers Island, you know, Joann Paige, who is the President and CEO of Fortune Society, described it as "punishment by boredom."

So many people are just laying in their bunks. I mean if you want to say to yourself discharge planning is one great way of setting an individual to go out, but you have to give an individual the tools that are necessary to keep them from coming back into the system, education, programming, answering the point of addiction and substance abuse. You know, there were issues raised that a person's stay there may only be 45 days, well that may be true, but there are a lot of individuals that are there for much longer. And I think programming is a major piece about it.

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2 You have to get into the business of saying
3 what's bringing you here and what do we need to do to make
4 sure that you don't come back. I mean punishment is one
5 form for, you know, taking care of an individual who's
6 committed a crime, but as a society and public safety
7 issue, you want to make sure that individuals are not
8 going out and recommitting these crimes. And one of the
9 ways that you do it is you provide a level of programming
10 that addresses those issues, and it is not being done
11 right now in the city institutions. It's being done on
12 the state level, but it is not being done on the city
13 level.

14 BOSTON: I think in addition to those concerns,
15 Legal Aid has set forth in its comments a number of areas
16 where we believe that standards ought to be promulgated.
17 That's at the end of our longer set of written comments.
18 And in addition to the areas that I've mentioned earlier,
19 grievances and search practices, and the treatment of
20 visitors, there are time limits for intake processing,
21 which used to be the subject of a court order and are not,
22 there is the confinement in cells without working sinks
23 and toilets, another matter which used to be the subject
24 of a court order, but is not, and we believe continues to
25 be an occasional problem in the system.

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2 There are both the attorney visits, the delays in
3 both attorney visits and social visits. We have had court
4 orders on those subjects in the past and since the social
5 visit court order was terminated there has been a very
6 substantial deterioration in performance. The standards
7 used to be one hour from the time you arrived at Rikers
8 Island to the time that you saw your visitor, and while
9 they didn't conform to it all the time it came pretty
10 close after the order and (inaudible), and they worked out
11 the procedures, and that is apparently sadly deteriorated,
12 but it's been shown that it can be done.

13 Similarly, with the attorney visiting standards,
14 what Maddy described, was a court order, it was achieved,
15 it's been terminated, it should be preserved. There is a
16 substantial problem with delays in court transportation,
17 people languish for hours sometimes after court
18 appearances that can be very brief before they can be
19 brought back to the jails. Sometimes this can happen day
20 after day, an individual is on trial, and that can have a
21 substantial impact on a person's ability to participate in
22 a trial if they're in court until five o'clock and then
23 they wait several hours before they get back to jail and
24 they have to get up at the very early hours and people are
25 awakened. I think that's a very serious problem, it's a

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practice that the Department of Correction needs to clean up and make more efficient and hasn't for a number of years, although they are now better at actually getting people to court. And that is an appropriate subject for a standard.

Education, you mentioned (inaudible), and that is part of our list, that the rights of education that are embodied in state law, and that we have been prosecuting in federal litigation are a fit subject and necessary subject for this body to deal with.

Issues of cross gender surveillance, which is somewhat related to the conduct of searches, need to be dealt with. And beyond the discrimination discussion that we've had, the language provisions, there needs to be substantial thought to adding additional categories, most notably transgender persons and gender identity and sexual orientation, and disability, which nobody really thought much about in 1978. And I think that beyond simply adding new categories to the list, thought needs to be given, and I'm not in the position to elaborate on it at the moment, to making sure that some of these guarantees are actually carried out.

I can tell you, you have heard this from Gabriel, but I can (inaudible) relay this experience, as well, the

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treatment of transgender people in the jails has at times been beyond shameful, people have almost been put on display like animals, and something needs to be done about that. It is (inaudible) but it is an intensely abusive treatment that some (inaudible) have got to go through.

And the issue of the abusive treatment of people with disabilities and accessibility is an issue (inaudible) for many years and the problem is far from solved, and into the systematic retention, and in addition to adding the category of disability (inaudible) to a national standard.

DELONE: Isn't that one of the recommendations, and maybe Silvia Rivera has made it in their comments, but on the issue of disability and on gender identification, the place to look, first place to look at the specific language is the New York City Human rights -
(cross-talk)

SIMMONS: And I thank you, John, for your comments. I want to distinguish, however, there may be endless issues of operational difficulties or concerns that you and we have in terms of execution of programs or practices that's different than what gets embodied in the standards in my mind. So, you know, I appreciate what you're saying, so to the extent that there are operational

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2 concerns, that there is a procedure or standard in place
3 in the Department for whatever set of reasons, is not
4 meeting that because operationally they are having
5 difficulty, that is an issue that we should be concerned
6 about, as well. But I see that as distinctive from
7 thinking in the context of what we codify with regards to
8 standards, our job is not to day to day manage the
9 Department, our job is to provide oversight.

10 So all of the concerns that many of you have
11 raised around particular instances, we have field staff
12 that are on Rikers all the time, we want to hear those
13 things, if we don't hear it, we can't respond to it, but I
14 do want to distinguish between those issues and the ones
15 that relate specifically to --

16 BOSTON: I take your point and I don't disagree
17 with it in the abstract, but I think there are many areas
18 where the operational problems in the field really inform
19 what the Board should do in terms of regulation. Because
20 frankly if the Department does not seem able or willing to
21 carry out a general directive, then you may have to give
22 them a more specific directive in order to make sure it
23 works and make sure it happens.

24 DELONE: Can I ask a question about your July
25 meeting which is a public meeting on Rikers --

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SIMMONS: It's not a meeting.

SIMMONS: It's not a meeting.

: It's a tour and inspection.

DELONE: Okay.

WOLF: Can I move that we adjourn, I think that we've accomplished what we want --

VALLONE: Before we adjourn, I think we need to just take a look, since we don't really have an opportunity to do that, July we're going to be at Rikers Island, August we don't have a meeting, September is the next time we get together as a board, do we want to suggest possibly a forecast for September, October, November, December?

SIMMONS: I'm not very good at forecasting. What I want to be able to say is we're going to have our inspection in July, by the end of August the staff will produce the documents that we have asked for in terms of gathering all various commentary, like it's the mid rush or something, I don't know how to think about what they're doing, but they'll have the various commentary related to the particular standards and all the other comments that have come in in some clear form. I mean we all have the original text and then we will have this document that we can all work from that will be a summary prepared by the

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2 staff, the staff will not be doing anything this summer by
3 doing this obviously. But by the end of August I expect,
4 you know, by Labor Day or whatever, I expect we will all
5 have that in our hands and I would like to feel that we,
6 from my perspective, anyway, and if you have it before
7 Labor Day, all the better, so, you know, my goal would be
8 to have it August 15th, but I'll defer to the staff in
9 terms of their ability to generate this and we'll send
10 out, make sure by July we'll know when to expect this.

11 And then we should talk at our meeting, you an
12 agenda item obviously in September will be how much more
13 time, other questioning, whatever Board members feel that
14 they need before we move to a point where we actually want
15 to formally vote on any of these or whether we want to
16 look at new language, I just don't want to, you know,
17 that's part of the conversation we'll have in September,
18 and if we need to have that conversation beyond September,
19 so be it.

20 VALLONE: I think that's the important step, I
21 think for us in September to realize there will be an
22 opportunity for our individual comments and review, maybe
23 we set some type of additional subcommittee hearing for
24 the minimum, otherwise we'll just keep talking amongst
25 ourselves so that we don't say, okay, October we're

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voting.

I think based on the tremendous information that's been given to us, I personally want to thank everyone for coming and I'm sure everyone has the same feeling, this is the type of meeting where we learn more in two hours than going through, you know, when you're studying for a final and you choose which textbooks you are going to look at, it's impossible to look at each one of these. But now the challenge is what to do with it, and that's what I just wanted to, so everyone understood, September will be our first attempt then to dissect this and go through this.

SIMMONS: And presumably, during the course of the summer, as well, despite the summary document that the staff is going to be preparing, we have all the comments and everybody on the Board has an affirmative obligation to be reviewing and reading all of that, the testimony from the hearing and I know several of you testified at a City Council hearing, although that wasn't our hearing, we have several copies of that testimony, as well, anyone who wasn't there wants to read that, so that we all, you know, we get, our affirmative obligation as Board members, our job now is to digest this. The commentary isn't over, there's still a few more weeks and there may be more

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things coming in, but that was the whole point of the process was to put things out there, to receive comment, and then for us to be able to individually digest it and form new opinions, change opinions or reinforce our opinions, whichever it is, and then to have a conversation with ourselves.

But again, on behalf of certainly myself, and for everyone else it's been very helpful and we appreciate the efforts to be a part of this process. Thank you.

VALLONE: Move to adjourn.

SIMMONS: All in favor.

ALL BOARD MEMBERS: Aye.

SIMMONS: Adjourned.

(Whereupon the meeting is closed at 11:50 a.m.)

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C E R T I F I C A T E

I, Carole Ludwig, certify that the foregoing transcript of proceedings in the Board Meeting regarding Proposed Amendments of the New York City Board of Correction, was prepared using mechanical transcription equipment and is a true and accurate record of the proceedings.

Tape 1, sides A and B

Tape 2, side A

Signature_____

CAROLE LUDWIG

Date: June 23, 2007