

MINIMUM STANDARDS SUBCOMMITTEE
OF THE
NEW YORK CITY BOARD OF CORRECTION
PUBLIC HEARING
MONDAY, JUNE 27, 1977

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A Public Hearing of the Minimum Standards
Subcommittee of the New York City Board of
Correction was held on June 27, 1977 at City
Hall, Board of Estimates at 10:00 A.M. Peter
Tufo, Chairman, presiding.

Seated at the dais were:

Peggy C. Davis, Esq.

Angelo Giordani

Rev. Samuel R. Holder

John R. Horan, Esq.

Dan Pochoda

Marc Rosen

David A. Schulte

Rose M. Singer

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CHAIRMAN TUFO: Good morning. My name is Peter Tufo. I'm Chairman of the New York City Board of Correction. On behalf of the Board, I want to welcome you here to the first day of our second set of hearings on minimum standards for New York City's prison system.

These hearings and those that we held last year are part of a process that began last November when the voters of New York City overwhelmingly approved revisions in the City Charter, greatly strengthening the powers of the Board of Correction.

Most significant among those changes are substantial expansion of the Board's investigatory authority and additions to its assigned responsibility. Now the Board is responsible for, first, the establishment of a grievance procedure for both inmates and Department of Correction employees, and second, and the subject of today's hearing, the development of minimum standards for, and I quote from the City Charter, "the care, custody, correction, treatment, supervision and discipline" of those held in the City's jails.

The promulgation of such standards for the

1
2 New York City correction system is for us an
3 awesome responsibility. Over 7,000 inmates are
4 currently held in our City's jails. There are over
5 60,000 men and women who go through the system
6 every year. They are housed at an annual cost to
7 the City of \$140 million. They are housed in eight
8 major prison facilities plus several hospital
9 prison wards and work release centers.

10 Three other prisons are part of the system
11 but they are currently closed because of the
12 budget crisis and Federal Court orders.

13 The Department of Correction staff comprises
14 over 3,200 uniformed and 600 civilian employees.
15 These men and women are required to supervise each
16 of these institutions.

17 It is for this mammoth and complex prison
18 system that minimum standards must now be developed.
19 Standards which will take into account not only
20 the recent orders of Federal Courts for Constitu-
21 tionally acceptable conditions of confinement,
22 but also the realities of the City's fiscal situa-
23 tion, the public's demand for safety and security,
24 and the need of correction officers to be safe and
25 secure in the institutions.

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2 Nor can we forget when drafting minimum
3 standards that the majority of those confined in
4 our prisons, some 4,500 prisoners at present, are
5 not convicts. They are detainees. Legally
6 innocent, entitled to incarceration under the
7 least onerous conditions possible consistent with
8 the primary aim of insuring their appearance in
9 court. These people for the most part are there
10 solely because they are too poor to be able to
11 make bail.

12 We must accomplish all of this in a system
13 where most of the institutions have been built as
14 maximum security facilities. Obviously developing
15 minimum standards in the face of these divergent
16 and perhaps irreconcilable demands will be an
17 extraordinarily difficult task. It is one, however,
18 which we must undertake because the voters of this
19 City have required that we do so.

20 I have been Chairman of the Board of
21 Correction for about two years. Since that time
22 I have had to participate in the settling of
23 strikes and disturbances in our City's jails a
24 number of times. Fortunately, during that time no
25 lives have been lost or serious injuries sustained

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2 by officers or inmates. However, the threat of
3 violence is smothering all those involved in the
4 system everyday.

5 We cannot of course be sure that the involve-
6 ment of the Board and promulgation of minimum
7 standards for the decent and humane treatment of
8 those held in our City jails and the creation of
9 decent working conditions for correction officers
10 will mean an end to serious prison disturbances.
11 We can be sure, however, that unless something
12 like this effort is made more disturbances, strikes
13 or riots are inevitable.

14 Here in New York City the voters have decided
15 that it is our job, and we are going to do it. We
16 have taken our responsibility extremely seriously.
17 Preliminary hearings were held last June to take
18 testimony from a large variety of witnesses in-
19 cluding State and Federal officials, inmates,
20 correction officers, representatives of prisoners'
21 rights groups and correctional experts, those
22 responsible for managing our prison system and
23 those critical of the way it is run, in order to
24 lay the groundwork for the drafting of minimum
25 standards.

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2 Since January 1, 1977, the effective date
3 of the Charter revision, the Board has hired
4 staff for its Minimum Standards Project under the
5 direction of Dan Pochoda. This Unit works under
6 the direction of the Minimum Standards Subcommittee
7 of the Board, headed by the Board's Vice-Chairwoman,
8 Peggy Cooper Davis, and includes John Horan,
9 Wilbert Kirby and Peter Tufo, ex-officio. The law
10 firm of Willkie, Farr & Gallagher has taken on the
11 legal work necessary for the Board's Charter im-
12 plementation efforts as a project of Lawyers in the
13 Public Interest of the Association of the Bar of
14 the City of New York.

15 The Minimum Standards staff initially con-
16 centrated on gathering information. The relevant
17 State and local regulations, as well as court de-
18 cisions and transcripts, were studied. Correctional
19 standards from throughout the country, and the
20 world, were collected, and correctional practices
21 in other jurisdictions were analyzed. Most
22 importantly, the views of the relevant constituen-
23 cies in the New York City system, including
24 Commissioner Malcolm and his staff, all of the
25 wardens, the leadership of the unions, and prisoners

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2 and their representatives, were solicited.
3 Finally, standards were drafted and submitted to
4 the Subcommittee for revision and approval.

5 Two months ago, some 500 copies of the draft
6 standards and commentary were circulated. The
7 aim was to receive the widest possible input, and
8 public officials, community groups, religious and
9 educational leaders and private citizens were
10 contacted.

11 Special attention was paid to persons
12 directly involved in the correction system. The
13 inputs of individual correction officers as well
14 as prisoners were individually solicited. Exten-
15 sive meetings over a number of days have been
16 held with the administrators of the Department of
17 Correction.

18 Based on what we learn from written input
19 and the present sessions, the Board's staff will
20 revise the proposed standards for submission to
21 the full Board for adoption. At that point they
22 will be circulated to the Mayor and Commissioner
23 for final comment before adoption by the Board.
24 Thereafter, the standards will be implemented
25 according to a timetable to be worked out by the

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2 Board and other officials responsible for the
3 prisons.

4 As important as today's and Thursday's
5 testimony will be in helping prepare those mandates,
6 there is another equally essential ingredient, the
7 contribution of an informed public, for we, the
8 Board of Correction, are a board of citizens un-
9 paid and selected by the Mayor for six year terms,
10 as representative of the men and women of the City,
11 to bring the light of public scrutiny and concern
12 to the dark corners of our jail system.

13 By involving the public in our work at every
14 stage, we hope that many who listen or view these
15 hearings will be stimulated to contribute their
16 thoughts on what our prison system should be and
17 work with us in making our visions a reality.

18 Before we begin with the first witness, I
19 would like to introduce the members of the Board
20 that are with us this morning:

21 David Schulte,

22 Rose Singer,

23 John Horan,

24 Angelo Giordani,

25 Executive Director, Marc Rosen,

1
2 and Director of the Minimum Standards
3 Proposals, Dan Pochoda, to my right.

4 Congressman Badillo had to go to Washington.
5 I am informed he will be back this afternoon and
6 will testify later.

7 Our first witness will be the distinguished
8 District Attorney for Kings County, Eugene Gold.

9 Mr. Gold, I want to welcome you here and
10 thank you for appearing.

11 I know you have spent a considerable amount
12 of time over the past working within the prison
13 system in New York City and look forward to your
14 testimony.

15 MR. EUGENE GOLD: Thank you very much Mr.
16 Chairman, Members of the Board. I am grateful for
17 this opportunity to express some very short views
18 concerning the proposals that have been made.

19 First, I think it's fair to say that the
20 emphasis for correctional reform has come directly
21 from the Charter revisions and this Board and un-
22 fortunately the need to have this kind of emphasis
23 directed at us by the Federal Court. I am firmly
24 convinced that without the intervention of both of
25 those the probability is that we would not be here

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today.

The primary objective of penal institutions, or correctional institutions as we call it in New York City, considering the fact that the inmates of those institutions basically are pre-trial detainees, must be to insure that first they are treated humanely, and second, that basic fundamental human rights are afforded to each of those detainees. It seems to me that if these two objectives are achieved, there is an overwhelming probability that within the institutions themselves the lives and lots of the correction officers would be made much easier and we would have a better sense of justice within the entire City.

I, of course, am not an expert on all of the various things that go into making up a viable correctional institution within the City of New York, but it does appear that there are certain parts of any correction program within the City which must receive emphasis from the Department of Correction and, therefore, from the City of New York as a whole.

One of the critical factors that confront a prisoner is the frustration, and sometimes even the

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2 anger, of being incarcerated, although the cause
3 of incarceration may well be his own conduct, and
4 too often the inability to receive a speedy trial.
5 At the bottom it provides alleviating this within
6 the institutions but that the reaction of these
7 prisoners in this area is very real and, therefore,
8 it appears to me that there are a variety of steps
9 which should be supported which have been proposed
10 by the Board to alleviate this condition.

11 First is the concept of recreation. It's
12 not only inhumane but also dangerous to keep a
13 prisoner locked in a cell day in and day out with-
14 out any relief, without any fresh air, without the
15 ability to socialize as best he can with other
16 inmates. Therefore, the proposal concerning
17 recreation, it seems to me, by this Board is of
18 extreme importance. Time and again we hear that
19 if there is to be such a thing as rehabilitation
20 there is a need to maintain a direct relation
21 between the inmates on the inside and those members
22 of his family and friends on the outside. It's
23 within that framework that both telephone calls and
24 correspondence are of critical importance.

25 At the present time there are, of course,

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2 facilities within the various institutions within
3 New York, although I understand there are some
4 problems at Rikers Island for the inmates to make
5 outside telephone calls. The proposals of the
6 Board concerning telephone calls, it seems to me
7 are absolutely appropriate and should be adopted
8 immediately.

9 In terms of correspondence, the fundamentals
10 provide an uncensored press and uncensored mail.
11 Therefore, I would strongly urge that mail going
12 to institutions and coming out of institutions be
13 uncensored. Now, of course there will be exceptions
14 as need arises where security is a very real
15 consideration. Under those very limited circum-
16 stances, there are appropriate channels through
17 the District Attorney and courts to authorize the
18 opening of mail but that should be a rare occurrence
19 indeed. We have recently been witness to that kind
20 of mail watch by other agencies of the Government,
21 the Federal Government indeed, which shook the
22 conscience, in my judgement, of all Americans and,
23 therefore, it's extremely critical that their mail
24 be uncensored both entering the institutions of
25 this City and also leaving it.

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2 One of the large frustrations that confront
3 a prisoner deals with access to the courts. The
4 preparations which have been made by this Board it
5 seems to me are more than appropriate but they
6 are essential. We must do all we can to facilitate
7 access to these institutions and to the prisoners
8 by attorneys for the defendant. I recognize the
9 difficulty in lawyers coming into institutions
10 without having identification and notice of
11 appearance.

12 Indeed, if I may, the Board has a very long
13 history. I was a defense lawyer for 19 years before
14 becoming D.A. and I can remember when the rule
15 requiring notice of appearance was instituted. The
16 reason for it, during that period of history, was
17 to prevent lawyers on the street from coming into
18 correctional institutions within the City for the
19 purpose of soliciting clients. At that time the
20 rule was a valid one and it was proper because, in
21 fact, the problem did exist. There were lawyers
22 who, much too often, entered correctional institu-
23 tions for the purpose of soliciting business. That
24 very real concern, it seems to me under the present
25 condition is outweighed by the need to provide free

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2 access of counsel to clients within correctional
3 institutions within the City. There should be
4 no need for a Court order. There can be, it
5 appears to me, an affirmative procedural measure
6 adopted which would eliminate the possibility of
7 lawyers shopping for clients within a correctional
8 institution and, therefore, I would support strong-
9 ly the changes recommended.

10 The same, of course, would apply to visitation
11 generally. Again, I repeat the relation between
12 the inmates and outside world is something which
13 we hear about time and again in terms of rehabili-
14 tation is an important one and, therefore, it's
15 essential in helping the inmates to maintain that
16 contact with the outside world that the broadest
17 kind of visitation be permitted consistent with
18 the security needs of the various institutions
19 within the City.

20 Over the years a large amount of time has
21 been devoted to the problems of overcrowding. We
22 don't like overcrowding housing on the streets of
23 the City of New York and, therefore, it appears to
24 me that we should not condone overcrowding in our
25 correctional institutions.

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2 Now, I am sure the argument will be made
3 that to adopt some of these proposals, if not all
4 of them, will cost a great deal of money and that
5 the City of New York at the present time is
6 strapped for funds and cannot provide the resources
7 to make these and some of the other changes the
8 Board has recommended possible. It appears to me,
9 however, that before one can give credence to that
10 argument there is the critical need to examine,
11 from a management viewpoint, the operation of the
12 Department of Correction for the purpose of deter-
13 mining whether the \$140 million they now have to
14 run the Department of Correction is being properly
15 used. I am absolutely convinced that there is
16 room within that kind of massive budget to make
17 management changes which will save the City of New
18 York money and make possible some of the proposals
19 before this Board.

20 CHAIRMAN TUFO: Thank you very much Mr. Gold.
21 I have one question for you, if I may.

22 Based on your experience as a defense attorney,
23 as well as District Attorney for Kings County for
24 many years, do you believe that the recommendations
25 regarding visitation, access to counsel in Court,

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2 telephone calls and correspondence could aid in
3 the development of speedier trials?

4 MR. GOLD: I surely do. It could help
5 tremendously in accelerating the trial process
6 within the City of New York. Fundamentally, I
7 think all of us recognize the need for speedier
8 trials, not only for the defendant but for the
9 community at large, and that would be a measurable
10 benefit in achieving that objective.

11 CHAIRMAN TUFO: You have mentioned the pro-
12 posals regarding telephone calls, correspondence
13 and visitation and said in your experience you
14 felt these were necessary changes. In your ex-
15 perience, would these kind of changes increase the
16 threat to security at the institutions beyond a
17 point that should be able to be dealt with by the
18 institutions?

19 MR. GOLD: They would not.

20 CHAIRMAN TUFO: Any Board members have any
21 questions for the District Attorney? Thank you
22 very much.

23 Our next witness is Professor Haywood Burns,
24 New York University School of Law. Professor Burns
25 is a professor of criminal law and has worked with

1
2 the Board in the past.

3 Professor, we are pleased to have you here
4 today as a witness regarding the Minimal Standards
5 Proposals.

6 PROFESSOR HAYWOOD BURNS: Thank you very
7 much Mr. Chairman, Members of the Board, I, too,
8 am very pleased to be here today and thank you for
9 this opportunity to address you.

10 I am Associate Professor of Law at New York
11 University where, among other things, I teach
12 criminal law. I am presently serving on the
13 Standards and Goals Task Force of the Division of
14 Criminal Justice Services where we are trying the
15 development area of correction. In the past, I
16 have served on Governor Carey's Law Enforcement
17 Task Force and have been Chairman of the Subcommittee
18 of the New York Committee of the United States Civil
19 Rights Commission. It is from these various per-
20 spectives and experiences that I would like to
21 speak today in general support and promulgation of
22 your efforts and standards I have proposed. I think
23 it would be most effective to focus upon these
24 standards which I think are of crucial importance
25 to the objectives that you seek to achieve.

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2 My experience in correction has been not
3 only from a point of view of a professional in-
4 volved in the field but I have had extensive con-
5 tact, particularly as a black lawyer, with the
6 inmates and the minority community of the City.
7 I believe this is particularly relevant, as we
8 all know, that most of the people we are talking
9 about in our City prison system are poor and non-
10 white.

11 I would like to share with you some of the
12 concerns that come as much from the people on this
13 side of the wall as from the people inside. The
14 critical issue, because one of the areas that the
15 Standards speak to, and I think speak to quite
16 well, is the question of how we break down this
17 lack of communication and how we deal with the
18 problem of dislocation that has taken place. We
19 have, for one reason or another, built one of the
20 largest penal colonies in the world, exile people
21 by the thousands to islands. Now, we are faced
22 with the question of why are there so many problems.
23 Of course, one of the key issues is the fact that
24 if there isn't communication and there isn't access
25 and exile in penal colonies you are bound to have

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2 people in these colonies who are defiant, angry
3 and frustrated. I believe your standards will do
4 a lot, not all that needs to be done, but will
5 do a lot to remedy the situation.

6 I want to focus on access in terms of, first,
7 visitation. I believe that the standards as pro-
8 posed are a proper step in terms of having the
9 number and amount of visits that should be appro-
10 priate under existing standards, legal and in-
11 stitutional standards. Three hours per person
12 per week seems to me to be within what the law has
13 recently required. I would like to stress to this
14 Board, however, that the standards, I believe,
15 should not be what is minimally required by the
16 Constitution or by the Court but we can best do
17 consistent with the emphasis and objective of
18 justice and humane treatment. It seems to me that
19 although there are various ways to explain the
20 difference we will be instructed if we look at the
21 State's system where after all we are dealing with
22 convicted persons and we are dealing with persons
23 who are not convicted. I think that if you can
24 look at the State's system, which finds it possible
25 to allow six hours everyday for visits, we will

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2 find that we are moving in the right direction in
3 three hours per person per week but still have a
4 long way to go in terms of the amount of visitation
5 that would be appropriate. We have to begin to
6 break down these kind of barriers because what we
7 have done by punishing people is to reverse the
8 presumption of innocence, at least to the poor.

9 I support and roundly applaud any attempts
10 by this Board to allow visitation by persons under
11 16 years of age. I think that is important given
12 the fact that there are, and have been, attempts to
13 put limitations on access of young people to
14 friends and relatives, close associates, family
15 members. It is very important that there not be
16 unrealistic limitations by sex, by persons under
17 16.

18 I bring to the Board's attention the
19 practice in the State of allowing packages into
20 institutions and I support the proposals made under
21 these Minimum Standards for packages coming into
22 the City's institutions. Once again this is a
23 way to break down some of the isolation, to in-
24 crease the flow of information of contact of human
25 feelings between people inside and people outside.

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The excuses and the reasons in the past with respect to why packages are kept out seem to be totally inappropriate. We cannot have a system where we are not going to allow you to have packages because we haven't cleaned up the vermin; where there are too many rats and roaches; when in the first instance, we are to run a clean and sanitary facility. So, it seems to me that this Board is to be commended for the attempt it is trying to make towards these packaging regulations.

I echo a word of distain within respect to phone calls and their importance. I would suggest, however, and this is just a minor change, that the five minutes you have in the proposed regulations might be a little too short. My experience has been as a defense counsel and as a person who has studied the State situation system that five minutes will sometimes be interrupted. At least part of that will include making the call, the conditions at that time and getting the right person on the phone. The person might not be there just kind of increases the circumstances that might make five minutes a little too short. You might investigate perhaps doubling that to ten minutes.

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2 I will not belabor a point that has already
3 been made except to add my surprise to the
4 District Attorney's point with respect to access
5 by counsel. There is no need that a lawyer,
6 member of the Bar of the State of New York, has to
7 go to get a notice from the Warden and/or Court
8 before having access to the institutions. No one
9 is going out to break down doors to try and drum
10 business these days. The progressive change would
11 be to allow counsel free access under these re-
12 gulations.

13 In terms of conditions from the inside I
14 have talked a lot about community perspective and
15 how people feel about relatives of theirs, fathers,
16 mothers, sisters, brothers, in prison. There is
17 just one observation I would like to make on these
18 particular standards with respect to the conditions
19 inside. While they are laudible and meritorius,
20 I really don't think that they go to the heart of
21 the matter. I think the heart of the matter really
22 has to do, in large measure, with the fundamental
23 decision that we have made about housing this
24 many people together pre-trial. I really don't
25 think it is necessary given the fact that I believe

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2 40 percent of the people are in the system for
3 less than ten days. I think that what we have to
4 do is think in terms of doing away with the small
5 cell that we have now. They were not built for
6 long-term incarceration. I know that your
7 standards are being proposed based on a decision
8 not to make any major revisions. It is not to make
9 any major renovations of the physical structure.
10 So, taking into account that you are not going
11 to make any major renovations or changes of that
12 type, I would urge reappraisal possibly of the
13 conditions as they exist, conditions which have
14 people overcrowded in tiny cells perhaps of being
15 locked in for a large portion of the day.

16 I do support whole heartedly your recommenda-
17 tions with respect to lock-in and lock-out. I
18 notice that the proposed regulations leave a blank
19 space with respect to the amount of time that
20 people should be locked in. I think that blank
21 should be filled in with the smallest amount of
22 time possible. Being locked in their cells eight
23 hours a night seems to be the most that we should
24 require under the circumstances. The recreation
25 of everyday as opposed to currently five days a

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week seems to be the bare minimum.

These are some of the observations that I had after review of the proposed standards.

I would like to add a note to what was said with respect to the costs involved. When we talk about costs, first of all we don't know how much these standards will cost. I certainly have not been able to attain one. I don't think the Board has that.

CHAIRMAN TUFO: That figure is being developed as part of these hearings.

PROFESSOR BURNS: I think we need a review of our management practices to see how our money is being spent. Beyond that, I think we now have to develop procedures to do away with overcrowding which, of course, would cut into the kind of cost factors that we have.

I would like to make one affirmative suggestion over and beyond what has already been set forth in the proposed standards. It seems to me that the problem of access is so great and the way in which we isolate people is so great that there is an affirmative obligation on the part of the City and upon the Department of Correction to provide

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2 transportation for families to Rikers Island. It
3 seems to me that given the fact that on 150th
4 Street you are probably ten minutes away by direct
5 route and in fact that it takes one hour and a
6 half by public transportation, then, it is all
7 wrong. It seems to me that if we are going to
8 make a decision to make prisons so inaccessible
9 that there is an alternative obligation on the
10 part of the Department of Correction to provide
11 some access to these persons who have been cut off.

12 CHAIRMAN TUFO: In the course of your work
13 at the University Law School, have you had an
14 opportunity to review correction practices else-
15 where in the United States?

16 PROFESSOR BURNS: To some degree I would say,
17 yes, I am familiar.

18 CHAIRMAN TUFO: You are generally familiar
19 with the practices of the Federal prisons in
20 larger cities and states in the country?

21 PROFESSOR BURNS: Yes, I am.

22 CHAIRMAN TUFO: You have had an opportunity
23 to review the standards which are before us that
24 have been proposed by the Minimum Standards
25 Committee in some detail?

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PROFESSOR BURNS: Yes, I have.

CHAIRMAN TUFO: Is it your opinion that these standards go beyond accepted practices elsewhere in the United States?

PROFESSOR BURNS: Yes, they do.

CHAIRMAN TUFO: Do they go beyond, in some respects, practices that are in effect in other institutions in the United States?

PROFESSOR BURNS: I think you will find examples where they may have gone further. I think the standards proposed here certainly will be in keeping with what the law minimally requires and in some cases, go further.

CHAIRMAN TUFO: You say "in keeping with what the law minimally requires." You mean the decision of the Federal Court?

PROFESSOR BURNS: Yes, I do.

MR. POCHODA: Professor Burns, for the record, you focused on a few of the standards for more detailed discussion. Do you support all of the standards or were there any standards that should not be adopted or do you feel that they are all constructive or, in any way, a great problem?

PROFESSOR BURNS: No, as I said when I began

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2 my remarks, I come here in support of the
3 standards. I focused on some which I think are of
4 particular significance with respect to my own
5 experience dealing with committees on the outside
6 and some of the work that I have done in review-
7 ing the problems of access.

8 MR. POCHODA: Just briefly, could you in-
9 dicate your experience in terms of access as a
10 lawyer?

11 PROFESSOR BURNS: Well, both as defense
12 counsel and as a member of various Federal and
13 other Governmental bodies, I have gone into the
14 system, and the State system is much freer in terms
15 of access; you don't need a Court order. You come
16 and present yourself as a member of the Bar, State
17 of New York, which I am, and you are permitted
18 access.

19 CHAIRMAN TUFO: Thank you very much. Are
20 there any further questions?

21 I am very pleased that the next witness is
22 the Honorable City Councilman of New York, Council-
23 man Samuel..

24 HON. FREDERICK E. SAMUEL: Good morning Mr.
25 Chairman, Members of the Board, my name is Frederick

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2 Samuel. I am City Councilman representing the
3 Harlem and Manhattan communities. I am very
4 pleased for the opportunity to appear before you
5 and to share some of my thoughts with you. I am,
6 as you mentioned, Mr. Chairman, the Chairman of
7 the City Council Committee on Public Safety and it
8 is that committee which pursuant to the recently
9 revised City Charter, has the jurisdiction and
10 authority and obligations to review, oversee and,
11 in effect, become a watchdog over the performance
12 of some of the agencies in the City Government,
13 including the Department of Correction. Since the
14 facilities which are the subject matter in today's
15 discussions, are primarily housed by blacks and
16 Hispanics, my interests are perhaps more naturally
17 and more intense than they otherwise might be.

18 I have made three visits to Rikers Island
19 in the past year and a half and some of the con-
20 ditions that I saw and witnessed prompted me to
21 communicate my concerns to the Mayor of our City.
22 I have consistently been an advocate for reform
23 to the practices and procedures in these facilities
24 because, as a lawyer and as a member of the Harlem
25 community, I know of my own knowledge the deep

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2 bitterness which many who are accused and ulti-
3 mately freed after trial or a hearing bring back
4 to that community and that community becomes the
5 victim of that bitterness. So I applaud and
6 commend and thank you as a subcommittee for the
7 very forthright and meaningful proposals which are
8 contained in your preliminary report.

9 I have read this report with a great deal of
10 interest and generally I find this report to be
11 both thoughtful, sober, pragmatic, and forward
12 looking. I believe you have adequately addressed
13 most of the problems raised by judicial and ex-
14 pressed by inmates themselves. I particularly
15 commend the subcommittee for its' rather forthright
16 expression of the many diverse and inhumane prac-
17 tices which have caused so much anger and frustra-
18 tion and times of violent outbursts as inmates
19 react to some of these practices. It's regretable,
20 however, that many of the reforms which have al-
21 ready taken place were prompted, not by a humane
22 and natural instinct for fair play or decency, but
23 by judicial and by an aggressive and fearless advo-
24 cacy of lawyers and inmates themselves.

25 Your treatment of the peculiar problems which

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2 confronts the Spanish speaking inmates I submit
3 in my judgement is quite vague and, in my opinion,
4 incomplete and requires further attention. So is
5 your attention to the critically important problem
6 of the involuntary overtime by your officers. I
7 seriously recommend further study and more defini-
8 tive recommendations in those two respects.

9 I particularly commend the subcommittee for
10 its' progressive and enlightened expression of the
11 expanded hours of visitation, particularly nights
12 and weekends, considering as you must have, that
13 many of the relatives and friends of these inmates
14 are people who are gainfully employed and, hence,
15 would not be able to make those visitations during
16 other hours.

17 I vigorously support your recommendations with
18 respect to the elimination of any age barrier. For
19 the inmates, a visit from a wife is important; a
20 visit from a young son or a young friend is of
21 equal importance.

22 I was puzzled, Mr. Chairman, by the absence
23 of any real or serious references to the probable
24 causes which prompted the frequency of suicide and
25 attempted suicide in these facilities and again

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2 would recommend for your consideration some
3 further study in this regard.

4 I was likewise disappointed by the omission
5 of any references to the matter of the bureaucracy
6 which characterizes in the prisoner and, they have
7 said to me personally and in letters, the difficul-
8 ty is in obtaining adequate and speedy medical
9 attention. Again, I respectfully submit that this
10 might profitably be an area of further study. I
11 know that does not fall within your jurisdiction
12 but it's a matter that my committee, the City
13 Council, is even now pursuing and this has been
14 consistently raised with us by inmates. It is a
15 matter of representation by legal aid lawyers. I
16 think some reference in your report ought, at
17 least, to be made to that important area.

18 There is another omission and, I believe,
19 that was highlighted by recent revelations that
20 many of the inmates have been paying moneys for
21 bringing in to these facilities food from outside.
22 I am wondering whether or not the kind of meals
23 that are provided are a factor which prompted this
24 kind of criminality on the part of those from the
25 outside. I would suggest that this, too, might be

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2 subject for your examination. I am likewise
3 puzzled that there has been no attention given to
4 the reported tension which exists between Black
5 and Hispanic inmates. That has been totally
6 omitted from your report and I express the hope
7 that this subject matter will ultimately be
8 studied and addressed.

9 Your report generally reflects a seemingly
10 genuine desire to direct some pressing and urgent
11 problems, however basic, and to a necessary pre-
12 requisite of the fruitful and ultimate implementation
13 of your proposals must be a complete overhaul of
14 the regulations, laws and statutes which character-
15 izes the so-called criminal justice system and,
16 again, this is a subject matter which our sub-
17 committee has given attention to. Let me just
18 conclude by emphasizing that a complete total
19 abandonment of some basic fundamental humane
20 and constitutionally protected rights by inmates
21 who are merely accused and not yet convicted, or
22 sometimes never to be convicted, I think these ought
23 not to be abandoned because of pretense or under a
24 cloak of some fiscal crisis.

25 I think, Mr. Chairman, that you have made a

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2 good beginning and I wait anxiously your further
3 report and express the hope that your Board will
4 accept an invitation by the Public Safety Committee
5 so that together we might deliberate with respect
6 to all of the important issues which, I believe,
7 you very aggressively addressed and I want to
8 commend those who have been in pursuit of justice
9 and fair play for those who have been accused and
10 not yet tried.

11 CHAIRMAN TUFO: Councilman Samuel, we accept
12 your invitation and particularly thank you for the
13 obvious careful study you made of these lengthy
14 proposals. I appreciate the articulation with
15 which you addressed them and appreciate the support
16 you gave to the Committee and Board's efforts. I
17 would like to point out a couple of things in
18 response to what you said.

19 First, these are the only standards we have
20 under consideration at this time and we attempted
21 to address some of the most pressing and obvious
22 problems confronting the correction system. However,
23 the City Charter does not limit us to consider
24 these areas and those that you have mentioned are
25 some of those that we have under consideration as

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2 the best possible area for Minimal Standards.
3 With the particular reference to your mention of
4 suicide, we have been closely involved in the
5 problem of suicide in the prisons, at least for
6 the three and a half years I have served on the
7 Board, and I know the Board was heavily involved
8 before I arrived. It's one of our primary hopes
9 that the changes in attitude and environment and
10 conditions that these standards, or standards like
11 these, could bring about within themselves as a
12 whole to prevent the despair and disgrace that leads
13 to suicide in our prisons which is obviously the
14 most tragic thing we observe on a day to day basis.
15 Some of the things you mention may not be within
16 our jurisdiction, but we will give careful con-
17 sideration to each of them and we will keep you
18 informed as we progress.

19 Are there any other questions for Councilman
20 Samuel?

21 MR. POCHODA: Mr. Samuel, I want to make sure
22 I understand your remarks concerning two areas.
23 One, I take it that you feel strongly that there is
24 a serious problem in the lives of the Hispanic and
25 Spanish speaking prisoners inside the system and

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2 you would like the Board to be even stronger in
3 their standards.

4 COUNCILMAN SAMUEL: You see the Hispanic
5 prisoner along with the other problem of poverty,
6 but he is particularly overwhelmed by language
7 barriers which I don't know what the answer is, but
8 I believe, for example, the staff might very
9 properly reflect Hispanic speaking publication or
10 issues might very properly be likewise published
11 in Spanish because it's a terrible barrier to over-
12 come.

13 MR. POCHODA: The other one that you feel
14 should be reviewed in the area of overtime. Again,
15 you feel it's a serious problem and should be
16 studied further.

17 COUNCILMAN SAMUEL: I think an officer -- and
18 I have had some rather lengthy discussions with them,
19 the motive is not one to make overtime money. He
20 is an officer who has a home and family and who
21 has certain social obligations. I think it cracks
22 his frame of mind. It bothers his attitude and
23 this whole area of attitude of officers to inmates,
24 I think is very crucial in their relationship. It
25 should not be an adversary. A guy who comes into a

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2 facility feeling frustrated because of working
3 24 hours or 16 hours, I think it's a natural kind
4 of thing for him to give vent to that frustration
5 to the person with whom he comes into contact.

6 CHAIRMAN TUFO: Councilman, I take it you
7 are aware that this Standard Part 7 does address
8 the problem of overtime and makes provisions for
9 restricting involuntary overtime, consecutive hours
10 of work, and provided adequate turn around time.

11 COUNCILMAN SAMUEL: I do but except I am
12 not convinced that this is sufficient. It might
13 even be, and we do have some testimony that it
14 might be, physically better for the City of New
15 York to hire more officers rather than to spend
16 additional overtime on the officers who become
17 physically overwhelmed and accompanying this mental
18 attitude which is not conducive to the kind of
19 good relationship between the officers and the
20 inmates. He is placed in an adversary kind of role.

21 CHAIRMAN TUFO: Any further questions? Thank
22 you very much. That is most helpful.

23 We are honored to have the distinguished
24 Harlem lawyer, Mr. Wallace Ford.

25 Mr. Ford, welcome.

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2 MR. WALLACE L. FORD: Good morning, my name
3 is Wallace Ford. I am president of the Harlem
4 Lawyers Association. I have a few brief comments
5 that I would like to read with respect to the
6 Minimum Standards proposed at these proceedings.

7 I would like to take the opportunity of these
8 hearings to express my general support for the
9 proposed minimum standards now under consideration
10 by the New York City Board of Correction. The New
11 York City Department of Corrections now has control
12 over 7,000 prisoners and has a budget of approxi-
13 mately \$140 million. That such a huge operation,
14 dealing with the sensitive problem of the detention
15 of large numbers of individuals before trial, in-
16 dividuals who have not been adjudged guilty of any
17 crime, would not have a tradition of minimum
18 standards is unfortunate to say the least.

19 It is unfortunate because the absence of even
20 minimum standards of treatment for people supposedly
21 protected by a wide range of constitutionally
22 established rights reflects a very dangerous attitude.
23 It reflects an attitude that the predominantly
24 Black and Hispanic population that makes up the
25 detention facilities of which we speak is not

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2 entitled to the same constitutional safeguards as
3 every other citizen. It reflects an attitude
4 of prejudgment with respect to the guilt or
5 innocence of these individuals, when the Con-
6 stitution of the United States and the State of New
7 York clearly states that such an ascertainment
8 cannot be made without appropriate judicial pro-
9 ceedings. It reflects an attitude that because of
10 economic and social factors totally unrelated to
11 the issue of guilt or innocence, an individual
12 will be treated like a convicted prisoner instead
13 of a pre-trial detainee.

14 Upon reviewing the draft minimum standards as
15 prepared by the Minimum Standards Subcommittee of
16 the New York City Board of Correction, I was slight-
17 ly astounded that in the third century of this
18 country's history there would be room for serious
19 discussion as to whether a pre-trial detainee would
20 have the right to daily showers or 75 square feet of
21 space in a cell or evenhanded access to counsel and
22 to visitors. Yet, such is the case, and such is
23 the cause that we are called to discuss at these
24 proceedings today.

25 I would hope that as we consider these

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2 standards we keep firmly in mind the fact that
3 most of the individuals who are housed in these
4 detention facilities have not been convicted of
5 any crime for which they are serving a sentence
6 at these facilities. We should keep in mind the
7 fact that many, if not most, of the individuals in
8 these facilities are there because of economic
9 factors, specifically not being able to afford bail.

10 I would not consider this the proper forum to
11 discuss the entire issue of bail reform at this
12 time, but let it suffice to say that at present,
13 the bail system in the City of New York is being
14 used as a partial preventive detention process.
15 There may be merits to such a concept in view of
16 the rise in violent crime in many of our communities,
17 but it is a concept which should be discussed open-
18 ly and should not be allowed to be enacted surrep-
19 titiously, with the unsuspecting poor and uneducated
20 people unfortunate enough to run afoul of the law
21 learning of its existence through experience.

22 If there is one point which I would like to
23 emphasize this morning, it is that the New York City
24 Board of Correction and the Minimum Standards Sub-
25 committee should be commended for their efforts to

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2 address a long-neglected problem in our City.
3 Namely, the innate injustice that is a part of
4 our present pre-trial detention facility process.
5 It is hoped that the promulgation of the proposed
6 minimum standards will be an important first step
7 in the bringing of principles of justice and equity
8 into all aspects of the criminal justice system.

9 I would like also to point out that with
10 respect to this, this past fall, I testified before
11 the New York State Assembly Code Committee on
12 Bail Reform on the entire preventive detention
13 question. I would again state obviously that this
14 is not the proper time to get into a very deep
15 discussion on that particular point although I
16 would point out that under the present usage of
17 our bail procedures that we have in the City of
18 New York that preventive detention is, in fact, a
19 reality for too large a number of people.

20 At this point in time, I would also like to
21 make a comment with respect to the entire question
22 of who is being arrested and who is actually appear-
23 ing in these pre-trial detention facilities that we
24 have. I mention that point because I think that at
25 some point in time, either in this form or any

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2 other appropriate form, we are going to have to
3 start talking about a better use of our law en-
4 forcement facilities and resources so that in-
5 dividuals who pose a clear and present danger to
6 the physical well being of the many people in our
7 City as opposed to individuals who are engaging
8 in what is essentially victimless activities
9 which are considered to be crimes pursuant to
10 moral standards as opposed to any standards or the
11 well being within the community.

12 Finally, I would like to say that any way
13 the Harlem Lawyers Association can assist, either
14 now or in the future, to any extent possible, we
15 stand ready to serve in that regard.

16 I would like to thank you for the opportunity
17 to make these comments here today.

18 CHAIRMAN TUFO: Mr. Ford, we accept that in-
19 vitation and will continue to work closely with
20 you. I want to make one comment in fairness of
21 the facts of a particular standard in these pro-
22 posals. Does it suggest that the practice is not
23 now a practice of the Department of Corrections?

24 MR. FORD: Some of the things included are
25 practices; some are not. Part of the description of

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2 the standards is to insure consistency through
3 changes in the administration so that we can be
4 assured that minimal institutional and humane
5 conditions are maintained in the facility for
6 people to come.

7 CHAIRMAN TUFO: Are there any questions for
8 Mr. Ford? Thank you very much.

9 Is Mr. McKeithan of the Correctional Guard-
10 ians Association here? We will then proceed to
11 the next witness, Chaplains Association for the
12 New York City Department of Correction.

13 BROTHER TIMOTHY MacDONALD: Thank you Mr.
14 Chairman and Members of the Board of Corrections
15 for the kindness that you have extended in allowing
16 me to appear before you.

17 My name is Brother Timothy MacDonald. I'm
18 a member of the Franciscan Friars of the Atonement
19 and I am presently assigned as Chaplain at the
20 Adoloscent Reception Detention Center on Rikers
21 Island.

22 I believe that a Chaplain has a significantly
23 important and unique function in Corrections. With-
24 out question the Chaplain is the one person on
25 the prison staff who commands the trust and, yes,

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2 even the affection of the inmates to whom he has
3 been called to serve. It is to this commitment
4 of trust to the young men at the New York City
5 Adolescent Reception Detention Center on Rikers
6 Island that I address you today.

7 The present population of the Adolescent
8 Reception Detention Center is approximately 1,200
9 young men between the ages of 16 to 20 awaiting
10 trial. It has been noted that the recidivism
11 rate is over 70 percent. These disturbing statis-
12 tics of recidivism demonstrate that our correction-
13 al institutions have little deterrent effect. Under
14 our Constitution a person is presumed innocent
15 until proven guilty. Yet, we find hundreds of our
16 young citizens spending many months awaiting trial
17 in jail with extremely high bail or no bail at all.
18 We may well wonder just how much value the legal
19 presumption of innocence really means to them.

20 Some recommendations that I would like to
21 suggest to you this morning are:

22 1) All inmates should be given the regulations
23 of the institution in writing and in a language they
24 understand. For the 40 percent who cannot read or
25 write, the regulations should be read to them in a

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2 language they understand.

3 2) Elementary and secondary education and
4 vocational training should be made available to all
5 who wish to take advantage of these opportunities.
6 This would include evening classes as well as
7 weekend classes. This would help to eliminate the
8 long, idle hours from Friday evening to Monday
9 morning.

10 3) Orientation classes should be given to
11 new admissions by the Warden or a senior ranking
12 officer appointed by the Warden, other orietation
13 personnel, social worker, the Chaplian, Legal Aid
14 and the Programs Assignment officer.

15 4) All future correctional facilities to be
16 built should have input by the rank and file who
17 will be responsible for the everyday running of
18 the institution.

19 5) All inmates must be afforded protection
20 against assaults against their person both sexual
21 and otherwise.

22 6) First offenders should be separated from
23 repeaters. The emotionally disturbed should be
24 treated in a hospital designed for this purpose.

25 7) Forced overtime for correction officers

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2 should be eliminated both for the safety of the
3 institution and for the sake of a healthy family
4 life for the correction officers.

5 8) Classes in race relations are a must both
6 for the inmates as well as the custodial staff.

7 9) All work to which an inmate is assigned
8 should be worthwhile and compatible with the
9 dignity of a human being.

10 In conclusion, it should be remembered that
11 the present confined offenders or accused are our
12 fellow human beings, most of whom one day will
13 again move freely in our midst. At present I
14 believe they will be the worse for their prison
15 experience and society will pay the price. I
16 believe these hearings are definite proof that you
17 are concerned and interested in the welfare of the
18 young people. I believe that everyone who is indeed
19 serious in regard to the efforts of improving our
20 criminal justice system and to strengthen correc-
21 tional institutions as places where human dignity
22 will be protected and innovative programs directed
23 to rehabilitation.

24 In closing, I would like to point out that
25 all your efforts are doomed to failure if the

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2 problems of the correction officers are not con-
3 sidered. These heroic men and women who staff
4 our correctional institutions must and should be
5 heard. Their frustrations must be aired and
6 realistic provisions for their safety and security
7 in the performance of their duties must be met.
8 It is the feeling among many of the correction
9 officers that the only function of the Board of
10 Directors is to coddle criminals and to harass
11 administrators of our correctional institutions.

12 On behalf of my brother Chaplains, thank you
13 for extending this invitation to appear before
14 you.

15 CHAIRMAN TUFO: Brother Timothy, thank you
16 and I also thank you on behalf of the Board for
17 the hard work you have done over the past years.
18 We are proud of the work you have done on a one-to-
19 one basis and for your consent overall. I par-
20 ticularly appreciate that you made specific re-
21 commendations for other areas for us to look into.

22 I would like to ask you whether you have had
23 an opportunity to review the Minimum Standards that
24 have been proposed?

25 BROTHER TIMOTHY: I did but not in the depth

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2 I would like. I feel, at this time, that I could
3 hardly approve of them as I see them written,
4 especially in line of the regulations. In taking
5 in view, I think one particular problem that
6 many of the people in charge of the custody of
7 these is will this bring a danger to their person.
8 I think with proper dialogue between the custodial
9 staff and this Board these problems can be met.

10 CHAIRMAN TUFO: I would like to direct your
11 attention to Part 9 regarding religion. Have you
12 had an opportunity to review that?

13 BROTHER TIMOTHY: I deliberately kept away
14 from that subject because I know one of the other
15 Chaplains is going to address on that point.

16 CHAIRMAN TUFO: Could you introduce that
17 person?

18 BROTHER TIMOTHY: The President of the
19 Chaplains Association, Reverend Henry Griffen.

20 CHAIRMAN TUFO: Are there any other questions
21 from the Board?

22 MR. SCHULTE: Yes, I would like you to elicit
23 a little on the statement you made of 40 percent
24 illiteracy. Do you mean in English or total
25 illiteracy?

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2 BROTHER TIMOTHY: It says that there is 40
3 percent within the Adolescent Reception Detention
4 Center, C-74, on Rikers Island. That is the
5 statistics, the number, that they gave me.

6 MR. SCHULTE: You mean people that can read
7 neither Spanish or English?

8 BROTHER TIMOTHY: Right, they can neither
9 read nor write and if they are able to read, it is
10 perhaps closest to the second and third grade level.

11 MR. SCHULTE: Thank you.

12 CHAIRMAN TUFO: Reverend Griffen, we welcome
13 you here today and again thank you for the work you
14 have done in the prisons over the past years and
15 look forward to your remarks.

16 REVEREND HENRY R. GRIFFEN: Thank you very
17 kindly. For the past 15 years I have been a
18 Chaplain assigned to Rikers Island correctional
19 complex. I have served in all the capacities as
20 Chaplain with the exception of the House of
21 Detention for Women. This includes sentenced pri-
22 soners, the adolescents division, and hospital,
23 the mentally retarded, the adolescents division. I
24 know the sights, the sounds, the smells, the
25 frustrations, the hostilities and finally the fears

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2 which are incarcerated within the walls of
3 these institutions which we classify as correction-
4 al institutions. Not only is this in the breasts
5 of the inmates, but it's also transmitted to the
6 correction officers, to the administration, to
7 the civilian employees.

8 Society has declared those who have become
9 involved with the law, set them aside; we don't
10 wish to see them; we don't want to hear about them;
11 build a wall around them, whether it be water,
12 concrete or steel. Their fear which is generated
13 by this classification of our society, against
14 our fellow human beings, brings about a kind of
15 antagonism that can only be looked upon as some-
16 thing that must be dealt with in a very realistic
17 way.

18 The church has not failed. As it has been
19 pointed out there are at the present time the rate
20 of population of some 7,000 inmates. The Chaplains
21 in the City's Department of Correction, we have
22 eighteen Chaplains assigned of the three major
23 facilities to the religious services of 7,000 per-
24 sons. Now, there are only at the present time,
25 three full time Chaplains. We have another 15 part

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2 time Chaplains.

3 As Brother Timothy had pointed out, in the
4 institution, he is one man. He is the only
5 Chaplain assigned to this institution. He is a
6 part time Chaplain and, yet, Brother Timothy, to
7 my knowledge, puts in from eight to ten hours a
8 day -- not five, not six -- but seven days a week.

9 We can find the same thing, the same kind of
10 devotion, the same kind of dedication, the Chap-
11 lain devotes to the inmates as well as the per-
12 sonnel. What are we taking to this man, to this
13 woman? The world says we don't want you; you are
14 no good; you are a failure; you are the flukes;
15 you are the ones that can't make it. We come in
16 to say somebody cares, we care. There is a power
17 and authority above that cares and is concerned.
18 There is a value standard in life which can lift
19 you above and beyond any condition or circumstance
20 which befall your life and it works and it's true
21 and we care; that's why we are here.

22 When those values and standards are changed
23 and transformed through a religious experience,
24 that man and that woman, for most part, will not
25 return. The rate of recidivism outside of religious

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2 experiences, 70, 80 percent, perhaps even more,
3 but those who have had a religious experience
4 have been transformed and changed by the changing
5 value standard. Ladies and gentleman, let me tell
6 you something, eight out of ten do not return.
7 This is a national statistic that can be proven.
8 Now, is it worthwhile? Does it work? Yes, it does.

9 However, when I joined the Department of
10 Correction, we were paid a salary of \$3,000. per
11 year until five years ago. The salary was in-
12 creased to \$4,000. per year. Now, this is for the
13 part time Chaplain. The full time Chaplain
14 receives \$9,000. a year. The minimum standards as
15 far as the Chaplain application is concerned is
16 simply this: He must have a Bachelor Degree in
17 either Liberal Arts or Science. There must be
18 three years of seminary training with another
19 graduate degree. There must be one year of clinical
20 training in an accredited school. This equates out
21 to approximately four and a half years beyond the
22 graduate level.

23 You are asking for men and women to come into
24 an institution, to devote their lives, to support
25 their family on \$9,000. a year. * Up to only five

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2 years ago we served with no fringe benefits. It's
3 essential, absolutely essential, that qualified
4 men and women come into the institution. We are
5 dealing with all sorts of frustrations and
6 anxieties. We are dealing with men who have
7 hostilities; we are dealing with men and women who
8 have anxieties that are beyond their own control.
9 We are dealing with psychopaths. We are dealing
10 with socialpaths. We are dealing with other psy-
11 chological areas that cannot be explained through
12 mere words. What can be done? Does it work? This
13 is the answer; that is the question. The church,
14 is it a viable working institution? Yes, it is.
15 It does work. We are asking only that you give us
16 the opportunity to come into the institution to
17 bring hope, to bring inspiration and to show them
18 that their lives can be transformed and changed.
19 We know it can; we are living witnesses of this
20 testimony of the power of God, whatever the
21 religious experience may be, it can transform lives;
22 it works now.

23 Ladies and gentlemen, I am asking you, I am
24 deeply concerned and convinced on this particular
25 point in this position, give us the tools with

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2 which to work; give the incentive to attract men
3 and women into these institutions with the power
4 to transform lives. Not only of yourselves but
5 value standards which I know that you must under-
6 stand that punitive action punishment across his-
7 tory proves that it does not work. As Brother
8 Timothy has pointed out, these men and these women,
9 these fellows and these girls, are going to return;
10 they are coming back. Rehabilitation is the only
11 answer and it can work and it does work.

12 I have seen in my own experience bitter,
13 hostile, violent men transformed and changed. When
14 there is a religious experience this transforms an
15 individual in the institution. He becomes a force
16 within the institution to help to calm and to bring
17 about reconciliation where there was once dissention.
18 It has been spoken of the special differences
19 between Hispanics and Blacks. I have seen one man
20 whose life was transformed by the power of God.
21 Transformed a whole squad in an adolescent division.
22 Where he once fought, he now brought down to church,
23 to the services, to the Bible classes, ten, twelve,
24 fifteen, twenty. They, in turn, brought about a
25 calming influence within the whole institution.

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2 CHAIRMAN TUFO: May I ask if there are any
3 other representatives of the Chaplains Association
4 here today who would like to comment on the
5 religion proposal. I see Father Repole.

6 REVEREND GRIFFEN: I believe there is one more.

7 In conclusion may I state once again, if you
8 will stop to consider that were it not for the
9 volunteers, it would be absolutely impossible in
10 the area in which I am now the Chaplain, the House
11 of Detention. There are to this day, as we sit,
12 1,600 men. Each one of them would like to have
13 some religious expression to one degree or another;
14 someone to talk to; someone that they understand.
15 I can't possibly do it. With the volunteers that
16 I have, we can't reach them. I am only one man.
17 We have in the institution only two full time
18 Chaplains, one Protestant and one Roman Catholic.
19 If we include C-72 and the hospital this brings
20 the population over 2,000 men.

21 Ladies and gentlemen, I beseech you, I
22 humbly request that you would consider your reli-
23 gious input, the church. Remember all of the social,
24 all of the legal, all of the rehabilitation services
25 came out of the church in your religious experience.

1
2 The church and Chaplain is an appendage of the
3 Social Service. The foundation gives us that
4 chance, give us the tools that we need. We don't
5 have them now.

6 I want to point out this one thing. Brother
7 Timothy and myself have no direct telephone. We
8 cannot be reached. We have to go through the
9 switchboard. I have tried to reach Brother Timothy.
10 It has taken me from one to two hours to reach him
11 from the House of Detention over to the House of
12 Detention for Adolescents. It has taken hours to
13 reach one institution from the other. We have no
14 secretary. I don't have a typewriter. I don't
15 have the facilities. I don't have a secretary. I
16 have no one to do my correspondence. The commu-
17 nication is broken down. Investment in the church
18 within the prison institutions will pay dividends
19 that will be far, far more than you can reach in
20 any other area. The church is the heart of a re-
21 habilitation center. Thank you.

22 CHAIRMAN TUFO: Thank you very much, Reverend
23 Griffen.

24 Are there any questions from any Board members?
25 Father, did you want to speak on behalf of the

1
2 Chaplains Association?

3 FATHER CHARLES REPOLE: I am Father Repole.
4 Chaplain of the Women's House of Detention on
5 Rikers Island. We have, as you know, sentenced and
6 detainees. I have been in the prison system for
7 about 12 years. I am also the Vice-President of
8 the American Catholic Correctional Association in
9 the United States of the Eastern Region, from
10 Maine to West Virginia. I visited over 35 prisons,
11 maybe 50, Federal, State and City. I talked to
12 wardens. I have an in depth knowledge of what is
13 going on in prisons and some institutions. In
14 general, I have read your standards. I have read
15 the commentary of our Department of Correction. I
16 have studied them, especially the part about
17 religion and I want to make a few comments.

18 First of all, my knowledge and visits
19 throughout the whole United States, Chaplain
20 Services in New York City is bottom rung. Federal,
21 and State have greater privileges, greater salaries,
22 greater accommodations and greater cooperation. I
23 have been with the women for 12 years at Rikers
24 Island. In general we are a family. Somebody
25 mentioned about the Hispanics and Blacks. I was

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2 the only Spanish speaking Chaplain. It comes from
3 my background as a missionary for 20 years in
4 Central America. So, I could say my institution
5 has not neglected to have bilingual services. I
6 was an interpreter for many years. Some of my
7 suggestions are these. They are very brief because
8 Reverend Griffen and Brother Timothy stressed some
9 of them. I notice by omission nothing in the
10 Minimum Standards about the role of the Chaplain and
11 what the inmates have.

12 Number 2, we should have full time Chaplains
13 in all our institutions, for many years I was the
14 only full time paid Chaplain in the City of New York.
15 I did what Brother Timothy is doing now as part
16 time Chaplain. As Reverend Griffen said, after
17 giving six, seven days a week, I was finally made
18 full time. For many years, I was the only full
19 time and after a short time, Reverend Griffen was
20 made full time and Father Anderson of the House of
21 Detention.

22 Number 3, a just and adequate salary to full
23 time Chaplains.

24 Number 4, the Chaplain should have the
25 necessary equipment to perform his duties. I have a

1
2 direct phone, but had to fight for it. Anyhow,
3 he should have an office. He should have a tele-
4 phone. He should have stationery and postage. He
5 should have a typewriter, things to make his job
6 passable to work as Chaplain.

7 Number 5, the Chaplain should be considered
8 a distinct entity and not part of the Social
9 Services.

10 Number 6, one of your standards is that the
11 inmates should be allowed to attend more than one
12 congregate service, I don't think it's right. Why?
13 First of all, in the Bronx House of Detention you
14 haven't got enough room; and number 2, they might
15 cause disturbances, that is a chance to sell their
16 stuff, cigarettes, whatever. It may become a meet-
17 ing place for friends to meet. I am of the opinion
18 that when they register or have their docket card
19 they should state whether they are Protestant,
20 Catholic or Jewish. They should stick to that unless
21 they want to change. Then they speak to their so
22 called Chaplain.

23 Number 7, my last one is that we should have
24 a distinct place for religious services as those in
25 State and Federal prisons, for movies, for shows,

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2 for meeting houses, and I think we should have a
3 distinct place for our services.

4 CHAIRMAN TUFO: Thank you very much. We
5 have under particular consideration the comments
6 you made regarding permission to attend more than
7 one congregate service and we are considering that
8 question at this time.

9 I appreciate your recommendation regarding
10 having a distinct place of worship for each
11 religious group.

12 Insofar as the comments made by all the
13 representatives of the Chaplains Association re-
14 garding salary and budget. These are really most
15 probably addressed to the Department of Correction
16 but the Board of Correction does not have any
17 jurisdiction. I am totally sympathetic with what
18 has been stated about the inadequacy, about the
19 provisions that have been made. Thank you very
20 much.

21 RABBI ASCHER M. YAGER: I am Chaplain part
22 time at the Bronx House of Detention. Fortunately
23 I do not depend upon the income from the City of
24 New York for my livelihood. In fact, it's turned
25 over to the New York Board of Rabbies. Fortunately

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2 also, there are not too many Jewish residents or
3 inmates at the Bronx House of Detention. At the
4 present time I have two, excuse me, three. However,
5 Father Repole made some remarks about the chapel.
6 The Bronx House of Detention has a very beautiful
7 chapel wherein there were some extraordinary
8 beautiful murals painted this past year by an inmate.
9 It really is a beautiful chapel but it's alongside
10 of the hospital, rather the doctors' offices, the
11 dentist and doctors, and when I come to visit my
12 people I find sitting there a goodly number of
13 inmates waiting for their chance to see the doctor
14 or the dentist or the nurse. As I pass and stop
15 to talk to them I become a sounding board for many
16 of their frustrations, many of their complaints and,
17 even though I am not of their faith, they confide
18 in me.

19 I would like to underline something that
20 Professor Burns mentioned earlier and it's one of
21 the greatest frustrations for the inmates and,
22 particularly at Rikers Island, the problem of
23 visitation. The problem of the length of time that
24 it takes to get to the institution. The difficulty
25 of coming from the outer gate where they have to

1
2 take a bus, I am talking about Rikers Island, a
3 bus for that trip of about a mile and a quarter or
4 maybe less and this takes up so much time that I
5 wonder if they really have time to visit with
6 their dear ones, their loved ones, who are in-
7 carcerated there.

8 We have a lesser problem in the matter of
9 visitation at the Bronx House of Detention. There
10 from time to time they must wait outside and, you
11 will have to believe me when I make the observation,
12 that the weather isn't always as nice as it is now,
13 and sometimes it does rain and sometimes it does
14 snow and sometimes the weather is not comfortable
15 and they must wait outside for their chance to get
16 in. A complaint was made at a meeting of the
17 Chaplains last Monday in regard to searching of the
18 visitors and the important observation was made that
19 whether it's a question between religious practices,
20 between visitation and security, security must
21 prevail and we understand that.

22 Mr. Chairman, thank you for listening to me.

23 CHAIRMAN TUFO: Thank you, Rabbi. Are there
24 any questions from any Board members?

25 MR. SCHULTE: I thank you, Rabbi, for coming.

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2 CHAIRMAN TUFO: The next witness is Mr.
3 Harold Wildstein, Director of Classification and
4 Treatment at Correctional Institution for Men on
5 Rikers Island. Welcome, Mr. Wildstein.

6 MR. HAROLD S. WILDSTEIN: My name is Harold
7 Wildstein. I have been employed by the New York
8 City Department of Correction over a span of twenty-
9 four years, less two years served in the armed
10 forces. During this period of time I have been in
11 the Rehabilitation Division exclusively, primarily
12 in the sentenced institutions as they have moved
13 about Rikers Island. During this span of time,
14 specifically for 20 years, I have been also with
15 the Department of Correction Academy teaching and
16 instructing such varied topics as history of
17 correction in New York State and in this department
18 as well as different methods of rehabilitation and
19 problems that we are encountering in this field.
20 My professional training, I am an sociologist and
21 criminologist, and also instruct these fields for
22 about 11 years as a professor outside.

23 What I would like to do today is to first
24 address myself to some specific problems that in
25 good faith and in conscience I must take respectful

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2 exception to and share these differences with you
3 for honest debate or, at least, discussion. In the
4 first place, one has got to be familiar with what
5 we prefer to call profession reality today. It's
6 very volatile, a very dynamic ongoing crisis, inter-
7 vening court mandated into reality and we are
8 running from pillar to post to make ends meet. I
9 work primarily in the sentenced institutions and
10 most of the respected speakers with you this morn-
11 ing have addressed their comments to detainees;
12 people who are innocent until proven guilty. The
13 total reality is that we have a good number of
14 inmates, it may number 2,000, who are sentenced and
15 given rulings and purports different precedents
16 that must take effect.

17 CHAIRMAN TUFO: Just for the record, could
18 you tell us what is the average length at sentencing
19 of the men in your institution?

20 MR. WILDSTEIN: I would say about four months
21 or shorter. When you take jail time and good time
22 into consideration I would say in between three and
23 four months. Alright most of the men have shorter
24 sentences now in as much as they earn ten days a
25 month good time, very considerable time spending on

1
2 what we call jail time. There is considerable in-
3 action between inmates and the court. We also
4 review about 100 infractions a week and this is
5 court mandated with certain due process. We had
6 numerous loss of staff about 13 years ago. We
7 had a staff of 21. Over the years through direc-
8 tions, Department layoffs, we were down to one at
9 one time, yours truly. Through the efforts of
10 the warden and our Department we were able to
11 solicit some of the efforts of correction officers
12 and social workers to compliment our staff, other-
13 wise being here would be impossible. We received
14 a plethora of outside telephone calls today, I would
15 say an average of 100, making inquiries insofar
16 as emergencies, crises, etc. To top it off, we
17 received about 100 to 200 in-visit slip requests
18 from inmates which we honor within a few days. We
19 also rely to a very large extent on inmates'
20 clerical help to do our obvious non-confident
21 clerical work. This has been a very crude and rough
22 kind of overview of realities, the nuts and bolts,
23 the every day give and take in correction.

24 What I would like to do this morning in the
25 interest of time is to address myself specifically

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2 to these proposals which should remain relevant to
3 the every day services. Part 6 of your proposals,
4 ladies and gentlemen, is entitled "Access to the
5 courts." Section 6.1 specifically reads "Prisoners,"
6 and you do not qualify whether they are detainees
7 or sentenced, "are entitled to access to court,
8 attorneys, paraprofessionals, legal assistants,
9 jail house lawyers, and legal materials." In my
10 humble estimation, if we are going to raise
11 standards, let's exclude jail house lawyers and
12 under no circumstances should they become as
13 official as lawyers. Obviously we can, and we will,
14 never prevent inmates from enacting or talking to
15 one another, but to give office complaints to jail
16 house lawyers means that other inmates know that
17 there is a jail house lawyer in Dorm 6 and they will
18 solicit his service, as well as inmates in other
19 dorms. What are we to do then to abide by these
20 proposed standards? Arranging special increases so
21 that we don't deny them the right to counsel. In
22 fact, any institution, including jail house lawyers,
23 lowers the standards on my staff, I would never
24 recommend a jail house lawyer. In fact we do better
25 in our Department. We have a law library, the one

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2 that has book value at over \$25,000. We have
3 correction officers who are trained to answer
4 questions. We also have a law library. We also
5 have Legal Aid Society, the post-conviction unit.
6 In other words we can do better and I would respect-
7 fully recommend that the concept or the worth of
8 the expression "Jail house lawyer" be excluded.

9 Part 8 of your proposal refers to classifica-
10 tion and I quote, it's very brief and it doesn't
11 take very long. You stated in your Minimum Standards
12 prior to classification "All entering prisoners
13 should be presumed to be general population." This
14 honestly, ladies and gentlemen, is totally wrong in
15 terms of the entire development and history of
16 classification in its' growth direction. This
17 is what is better prior to classification, prisoners
18 should be allowed in separate quarters and not
19 mingled with general population because, obviously,
20 they have not been as yet classified. In addition,
21 the concept, "joint population" is too vague insofar
22 as classification terminology is concerned. More
23 specific terminology is in order and I would respect-
24 fully approve such standard works as Manual of
25 Correctional Standards, such as in criminology

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2 Vernon Fox's Introduction to Corrections. Elmer
3 Johnson's classical standard text, Crime, Correc-
4 tion and Society which the City of New York saw fit
5 to use as an official bibliography on its' list for
6 promotional comings and from correction officers to
7 captain, and from captain to assistant deputy warden.
8 Certainly the City of New York can require it's
9 custodial personnel to read these classical text-
10 books. This is standard and I certainly think the
11 Board of Correction should consider that.

12 Section 8.5 of your Part 8 of classification
13 states, and I quote, "There shall be at least two
14 categories, "general population" or an equivalent
15 and "maximum security" or an equivalent." This is
16 too ambiguous of the standard literature indicates
17 more specific terms and categories. Again, I
18 consult the Manual of Correctional Standards. I
19 would suggest either more exact categories and
20 leave out general population for your own interest.
21 Gentlemen and ladies, I think you should know that
22 at this time there is a Dean of Corrections. There
23 is a Detentions Classification Committee not operat-
24 ing in the Department working out a system of
25 categories and I would suggest to you, wait until

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2 they have come up with some category and then
3 perhaps at that time it may be wiser to assess and
4 criticize what they have done.

5 CHAIRMAN TUFO: May I ask you a question about
6 that? We held hearings regarding the Tombs in
7 1974. At that time the Department testified that
8 it had under preparation a system of classification
9 for the institutions. Can you tell me what the
10 present status of the Department's system of
11 classification is?

12 MR. WILDSTEIN: Well, you must qualify in the
13 two categories, 1, for sentenced inmates, 2, for
14 detainees.

15 CHAIRMAN TUFO: I would like to hear both
16 categories.

17 MR. WILDSTEIN: I certainly will be glad to
18 answer that. The detainees after the 1971 riots
19 in the Tombs, the then Deputy Birnbaum met with
20 several teams in the Department, including myself,
21 at that time we were in the process of devising
22 detention classification which would take in some of
23 these very things I am now discussing. We discussed
24 it elaborately and we heard no more of it. Very
25 recently Deputy Commissioner Gaskin, we began further

1
2 discussions, in fact we are presently involved in
3 that right now. We don't have any target dates
4 but I would imagine by the summer we will have
5 something.

6 CHAIRMAN TUFO: How long have you been
7 Director of Classification?

8 MR. WILDSTEIN: Since 1953 less two years in
9 the service. Now, I answered one part of your
10 question. The second part is for sentenced men in
11 1964 at the New York City Correction Institution
12 for Men, commonly known as C-64, what is normally
13 called the New York City Department of Classifica-
14 tion and Reception Center for Men, and then Francis
15 R. Buono was head of the institution and we did
16 have a classification program. To a very large
17 extent it was modeled after the one at Elmira and
18 that classification orientation and psychological
19 testing and classification board processes for
20 rehabilitation. Now, why did it stop? Through no
21 fault of our own. We lost staff through various
22 reasons, no fault of our own, and the old cut off I
23 had 21 at that time and over the years I lost 10.
24 Obviously, I can't do it all by myself. The
25 functions of that institution have changed and it's

1
2 now primarily rendering short term counseling to
3 a sentenced institution.

4 CHAIRMAN TUFO: Is there a classification
5 presently in existence for detention units?

6 MR. WILDSTEIN: Yes, but it's not actually
7 completed.

8 CHAIRMAN TUFO: Is it in practice?

9 MR. WILDSTEIN: No, if there is anything in
10 practice, I would be first to concede that.

11 CHAIRMAN TUFO: Is it reduced to writing?

12 MR. WILDSTEIN: No, not right now.

13 CHAIRMAN TUFO: Is this classification pro-
14 cedure in the Correctional Institution for Men?

15 MR. WILDSTEIN: Yes, they are given a physical.
16 They are asked various questions. If psychologically
17 disturbed here, then, for example, maybe psychotic.

18 CHAIRMAN TUFO: Does the absence of staff
19 make it impossible to have a man classified?

20 MR. WILDSTEIN: Sir?

21 CHAIRMAN TUFO: If I may just pursue that,
22 does the absence of staff make it impossible to have
23 a man classified?

24 MR. WILDSTEIN: Yes, to a very large degree,
25 shades of gray. I would say, yes, to a very large

1
2 degree, to answer your question, without staff.

3 CHAIRMAN TUFO: Could you explain that?

4 MR. WILDSTEIN: For example, if you had
5 staff you could have psychologists or mental health
6 workers and as men come in off the plan and they
7 are exhibiting hard core behavior then he would be
8 right there. Naturally, with the shortage of staff,
9 he is not there.

10 CHAIRMAN TUFO: Perhaps I have not made myself
11 clear. If you have the staff available, would
12 there be a plan that you could put in effect to
13 utilize that staff?

14 MR. WILDSTEIN: Yes.

15 CHAIRMAN TUFO: Do you have a copy of that
16 plan?

17 MR. WILDSTEIN: No, I don't have it written.
18 No, wait we have, in fact, general institutional
19 orders in our Department.

20 CHAIRMAN TUFO: They are called classifications?

21 MR. WILDSTEIN: Right, we are institutional
22 ordered.

23 CHAIRMAN TUFO: Will you please provide this
24 Board with a copy of it?

25 MR. WILDSTEIN: I don't have them with me.

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CHAIRMAN TUFO: At your convenience.

MR. WILDSTEIN: Section 8.5 of classifications states reclassification of the prisoner to maximum security from general population should only occur upon showing that he or she constitutes a serious danger to the safety of the officers or inmates or serious threat to escape. This showing must be based upon acts committed by the prisoner while in custody under the present charge or sentence. I must take respectful exception to that for these reasons. These standards show a complete disregard for all prior information that is known to the Department such as the niceties sheet or sheet of record. Let's say from the New York State Intelligence and Identification System. It ignores any intelligence information that we may receive. It ignores any past performances. It ignores the whole concept of modus operandi in criminology. It ignores any prognosis that you may give of what behavior might occur. Any admission of this, would be objected to because it's a variance.

MR. POCHODA: I think there may be a misunderstanding and it may well be the barrier of language. The draft was not clear and we have had

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2 a discussion at length with Department personnel
3 about this. The proposals written, do not preclude
4 the Department from using past information in
5 making all initial classifications.

6 MR. WILDSTEIN: Then I would respectfully
7 suggest that they should be unequivocally stated
8 in the proposals, so we don't have undue bickering
9 and arguments back and forth.

10 MR. POCHODA: Let me say again, the object
11 of the Subcommittee in this area was for the most
12 part to allow that committee of the Department,
13 which we have heard is operating, to come up with a
14 security classification plan within certain peri-
15 meters but as you can read from the proposals it's
16 to come up with a plan to submit to the Board for
17 approval and the Board's Subcommittee did not
18 attempt to set out a fully completed classification
19 scheme. That is one reason why the language is
20 vague. It may be misleading at times but it is
21 kept vague to allow for a greater number of op-
22 tions. In other words, we said at least two
23 categories and so forth as opposed mandating three
24 categories because we wanted to leave the most
25 options for terms of plans they are preparing now.

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2 MR. WILDSTEIN: It may just have been an
3 accident because that term general population, when
4 it is used, would be more applicable to the inmates
5 or detainees after they have been classified, be-
6 cause the very purpose of the classification is to
7 put these that could go through those that should,
8 and you would be isolating the very thing that you
9 were trying to do in the beginning.

10 Section 8.5 of classification states, namely,
11 "Classification should provide mechanism for up-
12 ward reclassification at intervals not exceeding
13 three weeks for unconvicted prisoners and six weeks
14 for sentenced prisoners." Now that is pretty
15 specific but I think it's a straight jacket to
16 professional discretion of the Board. I think there
17 should be greater leeway. I think three weeks is
18 too short and why should we only assume that it be
19 upward reclassification. I believe more objective
20 terminology should be used because you must allow
21 for yourselves, that behavior also deteriorates
22 and, therefore, downward reclassification.

23 MR. POCHODA: We meant upward. The reason
24 that it was in there is because someone is moved
25 from a lesser security to a greater, it does not

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2 preclude the Department in any way from reviewing
3 every day someone who is in maximum security and
4 moving that person to minimum.

5 MR. WILDSTEIN: I respectfully submit the
6 word "Upward" is very misleading.

7 In the area of religion, Part 9. Section 9.1

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2 State and Church as mandated by the Constitution
3 which prohibits the use of public funds for that
4 purpose and any action between people who are not
5 Government employees who are using that portion
6 for that purpose.

7 MR. WILDSTEIN: Would the Board respectfully
8 consider leaving out inmates?

9 CHAIRMAN TUFO: We do have that under con-
10 sideration. I am just pointing out the difference
11 between the employees and the people who find them-
12 selves in the same institution.

13 MR. WILDSTEIN: Section 9.6, changing of
14 religion, "A prisoner shall be permitted to change
15 his or her religious affiliation. The prisoner shall
16 notify the institution of such change. Notwith-
17 standing, a prisoner may attend the congregate ser-
18 vices of more than one religion."

19 Again, the third sentence negates the second
20 sentence.

21 CHAIRMAN TUFO: As we mentioned here, that
22 provision is also under consideration and has been
23 discussed with the Board.

24 MR. WILDSTEIN: Part 10, visitation. Section
25 10.3.

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2 Visitation discussed should reflect both
3 detention and sentenced institutions insofar as
4 time is concerned. At the present time with 2,000
5 or more inmates and consistent with available
6 physical space, it's recommended that the Board of
7 Correction respectfully consider this instead of
8 what it now has. That there only be two, one hour
9 visits per week. In addition to the one, children's
10 visits. For example, an inmate at New York City
11 Correctional Institution of Men should be permitted
12 one visit on Saturday and one visit on Sunday and
13 a third visit let's say on Monday, only for child-
14 ren's visits.

15 Your first question is why should this be?
16 Let me explain. We just don't have officers and
17 if the Board of Correction cannot in its' Minimum
18 Standards, get money for more officers then it
19 would be impossible to promulgate.

20 CHAIRMAN TUFO: Sir, are you speaking for the
21 Department or for yourself?

22 MR. WILDSTEIN: I am speaking for myself. The
23 point we recommend, at least I could for myself. I
24 work at the institution and I handle visits that
25 are assigned during the week in terms of who gets

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2 on the list, specific visits, emergency visits and
3 we are doing quite a bit now with visits to add to
4 this and to give more time we would stretch our-
5 selves so thin.

6 CHAIRMAN TUFO: I don't know if you were
7 present but every witness who has testified, in-
8 cluding the District Attorney of Kings County, has
9 testified in behalf of expanding the visiting hours.

10 MR. WILDSTEIN: If this is done to supply
11 the officers so that the security and safety of
12 all concerned is had. If you don't, then we
13 get into the overtime. Then we get into a speech
14 that was made earlier that an officer is stretched
15 from his family.

16 May I turn myself now to Section 10, 3B?
17 It states in general, visitors should have an hour's
18 visit and officers in charge should not be given
19 the task of deciding what visitor should have the
20 longest visit during the particular period, to make
21 room for the next group of visitors. Through lack
22 of space the problem arises if several people come
23 at the same time. You may have arguments and con-
24 frontation so I would suggest a more careful review
25 of that standard.

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2 Section 10, 3E. "Prisoners should be per-
3 mitted to visit with at least three visitors at
4 the same time, with the maximum number to be deter-
5 mined by the institution." Let's assume three.
6 You must consider the physical plan, the physical
7 existing cubical for one, just picture. Where you
8 have one, you have three; where you have two, you
9 have six; where you have three, you have nine; just
10 picture people talking across telling others to be
11 quiet. But, you must reraise that. The nuts and
12 bolts level, that is the level that I am operating
13 at, these are the complaints that I would hear the
14 next day from visitors or from inmates that I
15 couldn't talk to my girl or my wife in quiet or in
16 peace because it was congested.

17 CHAIRMAN TUFO: We have the mathematical
18 formula under consideration.

19 MR. WILDSTEIN: Section 10.4A. "Each
20 prisoner shall be entitled to receive a visit with-
21 in 24 hours after his or her admission to the in-
22 stitution." I respectfully recommend that the
23 Board qualify the word "Prisoner", we have detainees
24 where this should be applicable. We have sentenced
25 inmates who are just detained from H.D.M. I feel

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2 that should not apply to sentenced institutions as
3 most detainees have been receiving visits in the
4 sentenced institutions. This would become so
5 overwhelming on a daily basis that it would pre-
6 clude that they don't get visits that very weekend.
7 Therefore, I would qualify that to read, each de-
8 tainee should be entitled to receive a visit within
9 24 hours.

10 CHAIRMAN TUFO: On this general subject I
11 am interested in the question of whether there
12 should be effort throughout this standard to
13 distinguish between detainees and those misdeamants
14 convicted of crimes for which they are sentenced
15 to less than one year. As someone who has worked
16 with misdeamants for a period of time, do you feel
17 that it would be wise or justifiable to make a
18 distinction between the two?

19 MR. WILDSTEIN: Yes, sir, for legal reasons,
20 for rehabilitative reasons and for basic philosophy
21 over what we are trying to do. The detainee is
22 innocent until proven guilty. I feel you would be
23 much better with our Department because at the
24 institution we have detainees and we have sentenced
25 inmates.

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2 MR. POCHODA: There was a decision by the
3 Subcommittee when they use the word "Prisoner" to
4 mean all those points where they felt they should
5 be different, sentenced and detainees. So it's felt
6 by the Subcommittee that unless there was a specific
7 reason to treat one or another differently, we did.

8 MR. WILDSTEIN: In other words, the Sub-
9 committee did agree that Section 10.4A that all
10 prisoners in the Department of Correction, both
11 sentenced and detainees should get a visit within
12 24 hours after his or her admission.

13 MR. POCHODA: That was an initial assessment.
14 We had further input on that Section A which may
15 require a modification; but for the greater majority,
16 when the Subcommittee said all prisoners, they
17 meant all prisoners.

18 CHAIRMAN TUFO: I am sure you are aware that
19 your comment that most people who are sentenced have
20 just been detainees and so are entitled to be out
21 on bail and have never been in prison before in
22 their life. They would be on admission for the
23 first time, be in a prison situation, thus the
24 situation regarding their visits might be different
25 than one in detention.

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2 MR. WILDSTEIN: No question about that. I
3 certainly stand to be corrected. You are right.
4 However at the same time, the application, the idea
5 sounds beautiful.

6 CHAIRMAN TUFO: I think you know that the
7 staff and Board members and I have spent a con-
8 siderable amount of time in the prisons and in
9 discussions with the Department and with various
10 interested parties before making these recommenda-
11 tions. We will certainly consider everything you
12 said quite seriously. None of these recommendations,
13 to my knowledge have been made based on lack of
14 knowledge of practicalities of the prison system.

15 MR. WILDSTEIN: If I may address myself to
16 Part 10.4, Section A?

17 MR. SCHULTE: Could I say one question. Is
18 it your intention, Mr. Wildstein, you would like to
19 see that sentence changed to read each prisoner
20 should be entitled to receive a visit within 24
21 hours after his or her admission to the institution
22 except if they come from another institution in
23 the Department?

24 MR. WILDSTEIN: This is what I would say it
25 should read. Now, I haven't addressed myself, in

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2 all fairness, to the needs, more deliberation and
3 more thought about the sentenced inmate who is on
4 bail and is coming to the institution just off the
5 street, whether that specific type of person
6 should get a visit within 24 hours, I have not given
7 that careful thought and I just want to shoot from
8 the shoulder. I think it deserves more careful
9 consideration. In other words, I haven't made up
10 my mind on that.

11 MR. POCHODA: Are you generally familiar
12 with the visit practices of the State prisons? Have
13 you observed them?

14 MR. WILDSTEIN: I don't know them in detail.

15 MR. POCHODA: I take it your opposition to
16 the increased number of visitors has to do with
17 inadequate visit plans. It has to do with facilities
18 in terms of programs of the inmates who are involved
19 in the programs. There is an enormous program
20 problem if he gets visits two or three times a week,
21 he won't and he can't be in two places at the same
22 time. Do you feel that that is the maximum that
23 the sentenced person should have?

24 MR. WILDSTEIN: That's right, and counseling
25 and social intervention.

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2 MR. POCHODA: Are you aware that the State
3 prison system for a convicted person can get up
4 to 20 to 40 hours per week of visitation? You
5 would be against that?

6 MR. WILDSTEIN: I think the State's system
7 is a bit different. I think they get men for a
8 longer period of time.

9 MR. POCHODA: What is the relevancy of that?
10 They still have classes for people during the day
11 in State prisons.

12 MR. WILDSTEIN: The time is so short and he
13 would have to maximize every objective and have to
14 make it limited as it is with the various programs
15 that are in effect. It can be done if you had the
16 staff and officers that would be depleted at a
17 moments notice to any area of Rikers Island.

18 MR. POCHODA: What are the hours at your
19 institution?

20 MR. WILDSTEIN: Usually from 8:30 to 3:00.

21 MR. POCHODA: What if the visitation were from
22 4:00 to 10:00 each day?

23 MR. WILDSTEIN: That could be done, we are
24 recommending that it be done in the evening. We
25 also have evening school programs and we have high

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2 school programs. We have junior college programs.
3 We have many programs in the evening to cater to
4 those inmates who are not there during the day. For
5 the short-term person in terms of behavior or
6 getting something done in a short period of time,
7 it's not that I am advocating that we have less
8 visits, that I am harnessing this with other
9 services and other values. The value of getting him
10 into a remedial program so he can read or write or
11 learn how to read or write in a short period of
12 time, not that he get interrupted two or three
13 times to go for a visit. I don't know if the
14 State's system pursues that at the grass roots
15 level. I am not here to testify on that. I am
16 here to give you the feeling of realities, at
17 least at sentenced institutions where men are em-
18 ployed all over the Island.

19 MR. POCHODA: Isn't it true that the major
20 programs for men in your institution is employment
21 at various menial jobs throughout the Island? Isn't
22 that so, the greater percentage is employed in that
23 capacity?

24 MR. WILDSTEIN: We have a thousand men, we
25 sometimes have anywhere from a thousand up. On

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2 holding means the men have been put on lists the
3 day before to be scheduled for the following day,
4 morning or afternoon, for services. This includes
5 P.S. 189 manpower training and it includes full
6 time programs. It includes legal aid. It is not
7 a hero type service where he is locked up all by
8 himself in a cell. There is a staff going to
9 patrol the cross fire.

10 MR. POCHODA: Maybe it would be helpful if
11 you can provide the Board with a list of just how
12 many inmates you have at the facility who are in-
13 volved with specific activities and the hours they
14 are involved in those?

15 MR. WILDSTEIN: Sure, it can be done.

16 MR. HORAN: Did you have further specifica-
17 tions on telephone calls?

18 MR. WILDSTEIN: At the present time the policy
19 is that for good conduct the inmates now use the
20 phone. We use it as an aid in counseling. We put
21 an inmate on the phone in case of death. If it's
22 a critical call, in case of unusual behavior,
23 attempted suicide. In fact, we would encourage
24 the inmate to go on the phone. They are logged in
25 so they can be subject to review by the staff. What

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2 we don't do is to get our service into a situation
3 where any inmate, at the present time, can approach
4 us and everybody has to hop, skip and jump to get
5 him that phone call. What I am suggesting is
6 Section 11.4, that sentenced prisoners should be
7 permitted to make a minimum of two phone calls each
8 week. I respectfully state that that proposal
9 should not be promulgated until telephones are
10 installed in day housing areas. At the present time,
11 if you were to promulgate that Standard using the
12 current telephones that we have, you would be
13 relegating all our time. We would have to be
14 telephone clerks all day long. We also recommend
15 that they pay for their telephone calls.

16 Section 11.7 of telephone states "Prisoners
17 should be permitted to receive incoming and out-
18 going telephone calls of an emergency nature, at
19 any reasonable time if it is determined that the
20 call involves an emergency situation." As I read
21 and understand it, he is not at the telephone at
22 all times and, further, we find in many cases
23 that the nature of the call coupled with being in-
24 carcerated it may be best to have the counsel
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2 handle the case first with the person on the phone.
3 Then that counsel, in turn, in a more kindly way,
4 a more softer way, and more gentle way can relate
5 the news to the inmate. To just say to an inmate
6 a phone call is coming here and it's very frighten-
7 ing and traumatic. Therefore, I would not re-
8 commend that it be left to the discretion of the
9 staff concerned.

10 Now, Section 11.8, on incoming telephone
11 calls. It states, "Prisoners may receive and
12 also that the messages may be taken and be given
13 very promptly." Right now, we do this with more
14 important matters. Who decides the importance? We
15 do. That would not be important is to tell him I
16 may come up this weekend or where is the red under-
17 wear. This means that the staff, with an enormous
18 amount of clerical work has to prove that we took
19 the message and gave it to him. This gives the
20 staff unnecessary clerical work.

21 MR. HORAN: We have been discussing with the
22 Department these practicalities which we are raising
23 and we are aware of some of the difficulties that
24 you mentioned.

25 Do you have any further specifics?

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2 MR. WILDSTEIN: I would state that all the
3 standards which you are proposing that the next
4 time there is an expenditure of additional staff
5 and related equipment or more space should be
6 deferred until these are available because what
7 may happen is a question of inmate morale. If the
8 inmates know certain standards and programs are
9 available and they can't get those standards be-
10 cause there is no money available, this lowers
11 morale, increases tension, and I do not think this
12 is right at all.

13 I believe that the Board should review very
14 carefully what the New York State Commissioner has
15 stated to see if the language is the same. If it's
16 not, then what may very well happen is that inmates
17 may play one against the other and appeal to either
18 one. In other words, use the most liberal standards
19 which would tie your colleagues up as well as us
20 in unnecessary work. We lost staff through the
21 direction of work logging.

22 I do hope that your efforts and dignity and
23 respect that your Board has given to the whole
24 situation can also be used to get us more correction
25 officers, more counselors, and more social workers.

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2 More people to give social intervention and not
3 just be concerned with setting up standards all
4 day long; to give them money; to give them the
5 staff, physical space and equipment to carry out
6 that. If you can't then, I would suggest that you
7 postpone the standards until finances are available.
8 Thank you.

9 MR. HORAN: You have covered a lot of points
10 in considerable detail and we thank you for that.
11 May we encourage you, if your are able to, to
12 submit in writing some, or all, of the details
13 which you brought up for us today. I saw, in large
14 part, you were reading from a statement. It could
15 help us, even though, we have a transcript, if we
16 could have your comments in writing.

17 MR. WILDSTEIN: Certainly, I would be glad to
18 do that.

19 MR. HORAN: We greatly appreciate your time.
20 It would be helpful if you had the number of inmates
21 involved in programs as well as, if you have, any
22 written departmental records of whatever you may
23 have been referring to. We have carefully looked
24 over all available literature, but it's possible
25 that we missed something.

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2 Our next witness is a member of the Board of
3 Correction, Mr. Frederick McKeithan.

4 MR. FREDERICK McKEITHAN: My name is Frederick
5 McKeithan and I am a member of the Correctional
6 Guardians Association. I am assigned to the New
7 York City House of Detention for me and the
8 comments that I address to you are representative
9 of the feelings of the officers that I represent.

10 I stand before you at a distinct disadvantage
11 because I am aware of the closed door discussions
12 that go on. I have heard you address the prior
13 speaker that you have taken in advisement and you
14 have discussions, so on and so forth. So, right
15 now I kind of feel that a lot of the things that I
16 can bring you, I am capable to say and think, but
17 I am going to proceed anyway. Particularly, I
18 would like to say, in theory, what I have read from
19 your Minimum Standards proposals are very sound. I
20 respectfully have taken issue with only a few things.
21 I feel that the key is more than power. I am sure
22 that you considered this.

23 Section 7.2, dealing with involuntary overtime.
24 It states that "Correction officers in any institu-
25 tion operated by the Department should not work

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2 more than eight hours overtime during any work
3 week unless he or she consents to do so." Opera-
4 tionally this is unsound. As I stated earlier, I
5 feel that you have taken this under advisement after
6 you initially wrote this. With the amount of over-
7 time that we have in the House of Detention for
8 Men presently, I can envision you having to fill
9 a post and having an officer tell you that I already
10 have my eight hours of overtime in. Again, you do
11 not make allowances for emergency situations. And
12 what constitutes an emergency? In my mind, since
13 we are charged with having a man for each post with-
14 in our institution, anytime we don't have a man to
15 fill that post, that's an emergency. I am not
16 dealing with the obvious emergencies, such as roits,
17 escapes, assaults or any general disturbances. If
18 you don't have a man for a post, you have an
19 emergency situation. Again, if we had officers for
20 this, it would be beautiful, from my opinion; since,
21 as Captain, I have the responsibility to tell these
22 individuals that they will have to work, when I
23 know they don't want to -- on Christmas Eve and
24 Fathers Day and so on and so forth. If you can
25 get officers I would love to see it where we never

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2 have to tell a man that he has to work any overtime
3 at all.

4 Section 8.5 was covered. It deals with
5 security classification.

6 MR. POCHODA: Mr. McKeithan, can I ask you
7 a question, please? Would you know now how many
8 times, if at all, you were forced to use a correc-
9 tion office for two-week shifts involuntarily? Do
10 you know if that is a problem? If this standard
11 was in effect which allows one involuntary shift
12 per week -- it allows as much voluntary time as
13 possible -- do you know how many times, the
14 statistical number or percentage, you are forced
15 now to use a man involuntarily?

16 MR. McKEITHAN: No, I don't have the statistics.
17 I have not done that research much but operationally
18 I can tell you that it comes up more often than I
19 would like to see. First, of all, let me give you
20 a little background on that and provide you with
21 what is called a "Stick list." You have individuals
22 who are on last; they have pass days. You may have
23 two, three, four -- for example, you have a list of
24 names, if necessary a second, third and so forth.
25 If you run into a situation where you utilize your

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2 last bank in the first day, that is the beginning
3 of the work weel. He may end up with six hours.
4 He may end up stuck again the next time, which is
5 possible on this end because he has two days off.

6 MR. POCHODA: We have been trying to get
7 actual statistics. If this proposal was in effect
8 today, how much would it effect departmental
9 operations?

10 MR. McKEITHAN: Impossible, we will implement
11 this, it would not work operationally.

12 MR. POCHODA: Do you know per week, do you
13 know how many men per week have to work involuntar-
14 ily?

15 MR. McKEITHAN: No, I didn't do that sort
16 of homework.

17 MR. HORAN: He is saying that it happens
18 frequently enough for you to say it can work?

19 MR. McKEITHAN: I will state that it will not
20 work in the House of Detention for Men. If you
21 charge me with the responsibility, I will provide
22 you with the statistics.

23 MR. POCHODA: If you have them, we would like
24 them.

25 MR. HORAN: It would certainly help your cause

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2 if you can furnish us with hard facts although your
3 word as an operating officer is very valuable.

4 MR. McKEITHAN: I will do the necessary
5 research this evening. I want you to have this
6 because I cannot imagine myself to say, "Well, I
7 got my eight hours in." If you want to look at
8 it from a clerical aspect, the amount of work that
9 the personal officers would have to do in order
10 to provide me, or whoever is working the post, with
11 all this information, we just don't have the offi-
12 cers to implement this.

13 Section 8.5 was dealt with -- and it was
14 professionally -- which I stated that you have
15 already taken this under advisement so I won't
16 even deal with that.

17 I was also going to deal with Section 11.8,
18 incoming telephone calls but not from the aspect
19 of the sentenced inmates. I would like you to
20 take a look at this in dealing with tried inmates
21 and specifically, the House of Detention for Men.
22 I am sure that you could envision an impossible
23 situation. When you state "Prisoners may receive
24 nonemergency incoming phone calls at the discretion
25 of the institution." Fine, no problem. "If such

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2 calls are denied, telephone messages for prisoners
3 reasonable in length and number should be received
4 during business hours and delivered promptly."

5 Here is the problem. I am sure you are aware of the
6 inmates at the House of Detention for Men and I am
7 sure you are aware of the facilities we have for
8 receiving incoming telephone calls. I don't think
9 I really have to dwell on that. I think it's some-
10 thing that should be under consideration right now.

11 The other thing I would like to deal with
12 and this is really a sore point with me, personally,
13 Section 1.4. Inspection of incoming correspondence.
14 "Other incoming correspondence should only be opened
15 in the presence of the prisoner addressee or in the
16 presence of a postal observer acceptable to both
17 the Inmate Council and the Department."

18 Section 3 goes on to read, "The postal
19 observer should determine that no letters are read,
20 and should witness any discovery of contraband and
21 he or she should sign, as a witness, a daily state-
22 ment by the mailroom officers listing items of
23 alleged contraband found in the mail, or that
24 there is none if that is the case." Now this
25 presumes a lack of integrity on the part of the

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2 mailroom officers that we have right now. I know
3 what can happen after inmates are given an idea
4 why this proposal was made. The inmates will claim
5 that a letter states that stamps were enclosed,
6 pictures, and lo and behold they are not there.
7 There have been occasions where inmates' visitors
8 have said, "You know the stamps I told you about,
9 I forgot to enclose them." These things do happen.
10 I do not feel that the integrity of any mailroom
11 officers has to be questioned by a proposal where
12 you want to insert a postal observer with no
13 qualifications. You only state that he will be
14 acceptable to the Inmate Council and Department of
15 Correction and it stands to reason that if they
16 are already objecting to officers to be in the
17 mailroom, they are going to want another officer
18 to watch an officer. I can not understand the
19 Federal Government getting involved and inserting
20 a postal inspector into mailrooms of the Department.

21 One other thing that I had in mind that I
22 did not list also deals with the contraband that
23 is found in the item or in the package, whatever.
24 It states in there, I don't have it verbatim here,
25 that anything that is deemed to be contraband the

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2 inmate has a right to appeal to the Board of
3 Correction to determine whether this is contraband.
4 Am I correct in that?

5 MR. POCHODA: Something like that.

6 MR. McKEITHAN: I don't have it down here
7 verbatim. I feel, or our organization feels that
8 heads of institutions should have a right to
9 determine what is contraband or what is not con-
10 traband in his institution and he should so state
11 what falls into that category. The right of appeal
12 takes away the powers that should be his.

13 CHAIRMAN TUFO: If I could just state that I
14 take very seriously what you said but the existence
15 of this kind of regulation arises from the charac-
16 terization that there is no total confidence in
17 the detain population, particularly that the
18 procedures followed in the mailroom have been
19 appropriate. It may well be that there is nothing
20 inappropriate going on in the mailroom procedure.
21 The thought was, and it may not be correct, that
22 nonetheless including this provision that by doing
23 so it would give credibility to the Department for
24 doing what it already was doing. Thus, lessening
25 the tension of inmates making allegations that

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2 might not be found at all. If these proposals were
3 in effect, any allegations that the mail was not
4 properly distributed, was being read, or articles
5 were being removed, could effectively be rebutted
6 by having an objective person that the inmates
7 perceive as an objective person, whether it be a
8 civilian employee or an officer who they felt
9 confidence in or an outside person of some sort.
10 I appreciate you may be exactly right, the present
11 procedure may be good, valid and in keeping with
12 this standard. Nonetheless, we have to consider
13 that there is doubt in the minds of some and one
14 of the potential advantages has to be weighed.

15 MR. McKEITHAN: Well, my question to you is,
16 do you believe that no matter who you insert, or
17 the person that you insert, in there, it is going to
18 destroy or is going to eliminate the mistrust that
19 the inmates have at this time in the present mail
20 system. We are still going to have this same
21 situation. It's going to happen and there is not
22 going to be any satisfaction, I feel with my
23 experience I won't care who you put in there and I
24 take issue -- what I really take issue with is
25 presumption of the lack of integrity on the part

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2 of the correction officers and with this whole
3 thing.

4 CHAIRMAN TUFO: As far as I know I don't
5 think that was the Committee's presumption, of
6 the fact that there was a lack of confidence in the
7 procedure. The Committee did not make any judgment
8 itself as to whether or not there was a lack of
9 integrity in the mailroom operation. It was try-
10 ing to tell the area that is causing considerable
11 tension and a lot of disagreement and sometimes
12 fights and unnecessary disturbances at the in-
13 stitution. Perhaps this is not the best way to
14 deal with it, but the attempt was not to indict
15 anyone working in the mailroom whether it's justi-
16 fied as a problem or not.

17 MR. McKEITHAN: I can appreciate your
18 objective as this indicates, but the way it reads
19 there is no other way for us to accept that. When
20 you say you must have someone to watch the officers
21 that we charge as responsible, it's dealing with
22 this. That tells us that somebody feels that he
23 can't be trusted, that he must have somebody watch
24 him.

25 CHAIRMAN TUFO: That feeling has come to us

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2 from people who have been in the institution. It
3 doesn't mean that the feeling is justified.

4 MR. McKEITHAN: That is all I have.

5 MR. ROSEN: You indicated you are concerned
6 about the appeal on the contraband issue to the
7 Board. Did you or your organization have any
8 problem with the items which are to be contraband,
9 whether by the Department or by the inmates?

10 MR. McKEITHAN: Absolutely. I think the
11 inmates should be aware of what is or what is not
12 contraband. If you don't make him aware, how can
13 you charge him with possession of contraband.

14 MR. ROSEN: Do you see any difficulty in
15 putting this together?

16 MR. McKEITHAN: The only thing that I can
17 say is that the head of the institution should
18 determine what is or what is not contraband in his
19 operation. If you want to go beyond that, he could
20 list what is contraband and present it to the Board.

21 MR. POCHODA: That is what is in the proposal.
22 The proposal in a different section says that the
23 Department should make a list of what is contraband
24 and present it to the Board.

25 MR. McKEITHAN: But the inmate has the right

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of appeal.

MR. POCHODA: Once the Board decides that the list is okay, if it gets an appeal and the particular item appears on the list, the appeal would be denied.

MR. McKEITHAN: Doesn't it put you in the position of dealing with unnecessary paper work?

MR. POCHODA: I don't believe so.

MR. McKEITHAN: If it's on the list and it's considered contraband, why should he appeal? He has already been notified.

CHAIRMAN TUFO: There would be no appeal because it would be well-known to everybody involved.

Have you had an opportunity to review the sections other than those you have commented on?

MR. McKEITHAN: Yes, I have reviewed all of them.

CHAIRMAN TUFO: Other than those objectives that you made, can you state some general support or opposition to the remainder of the section?

MR. McKEITHAN: Theoretically everything is sound; it can be implemented. The major setback that we have within the Department of Correction is

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2 manpower on facilities. Manpower is the key,
3 especially if dealing with visitation.

4 CHAIRMAN TUFO: Thank you very much.

5 MR. SCHULTE: On the question of the postal
6 observer, if you were to be an inmate, how would
7 you feel about that?

8 MR. McKEITHAN: I don't think were you in
9 my position you would want to accept an inmate
10 who is charged with the responsibility of making
11 sure that you do your job.

12 MR. SCHULTE: Is there another answer to
13 this problem?

14 MR. McKEITHAN: The only answer I would
15 suggest to you, and I would assume you have, is
16 that a member of your Board review the operational
17 procedures that we have and I think that you
18 should get further feedback. I don't know where
19 you got your feedback. I don't know who you spoke
20 to. I don't know whether the majority were inmates,
21 whether the majority were custodial staff, but
22 from what I have seen in the mailroom itself, no-
23 body is going to jeopardize their position. I
24 feel by reading an inmate's mail, which is not only
25 a violation of institutional rules but a violation

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2 of Federal regulations. This man has no right to
3 do this and I feel that the officers we have there
4 -- we don't just grab anybody and say you are
5 going to work in the mailroom. The man who is
6 put in the mailroom, he is reviewed and he is
7 selected because it's felt that he has qualities to
8 be a mailroom officer and these are very necessary.
9 For the Board to propose that he needs somebody
10 to watch him is an affront to his character. There
11 is no other way to accept it.

12 CHAIRMAN TUFO: I hope you took serious as
13 to what the intention was.

14 MR. McKEITHAN: I understand the intention
15 but you had the advantage to understand what I
16 said.

17 CHAIRMAN TUFO: Nowhere does it say that
18 there is a lack of confidence in the officers.

19 MR. McKEITHAN: Well, Mr. Chairman, it's the
20 interpretation that we have.

21 CHAIRMAN TUFO: I understand that. You should
22 also understand that the Board at no time, nor its'
23 staff, nor any Minimum Standards that the Board
24 will put into effect, the Board would not have the
25 authority to tell any officers or warden of

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2 what they could do or what they could not do. If
3 there were a postal observer, he would not be
4 telling the officer how to do a job. He or she
5 would be observing what took place and report
6 that. It would not be assuming to direct from any
7 outside individuals.

8 MR. McKEITHAN: Can I ask you one more
9 question? Have you looked beyond the insertion of
10 a postal observer? In other words, if you inserted
11 a postal observer and you still receive the same
12 complaints that prompted you to insert him in the
13 first place, what is your next move?

14 CHAIRMAN TUFO: As you know, these are drafts.
15 They are not final proposals.

16 REVEREND HOLDER: I just have one question.
17 Could you comment a little bit on the statement you
18 made about manpower.

19 MR. McKEITHAN: In reference to what specifi-
20 cally?

21 REVEREND HOLDER: To implement the Minimum
22 Standards. I would like to hear a little more.

23 MR. McKEITHAN: When I am talking about man-
24 power, everything that you put in here is beautiful
25 from an operational standpoint because anything that

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2 I can do, or that we can do, to make the inmates'
3 stay more comfortable, more pleasant, has to make
4 our job easier. That is why I would be all for
5 anything that goes towards this. In its' being
6 put down and it cannot be implemented operationally
7 without manpower. Then, it frightens us because
8 we know after these hearings, it's coming out in
9 final form. It's common knowledge that the
10 Department has been charged with the responsibility
11 of implementing certain things by the court that
12 have been impossible that the Chairman has been
13 charged with. I don't know exactly, what failure
14 to comply, whatever words the court uses and he
15 has been constantly battling with them saying that
16 we can't do them because we don't have the facili-
17 ties. If you, as a Board could get manpower, I
18 think the actions which have been raised would be
19 eliminated.

20 We are only dealing with one facility on
21 Rikers Island to deal with these visits. I don't
22 recall specifically that an inmate can have a
23 total time provided that there is no one else
24 waiting to visit. If someone else shows up, then
25 the person who has been there the longest will have

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to leave. I don't know what you had in mind. It is something similar to a supermarket where individuals take a ticket and one by one the number is up. You say, number 95, your time is up. He leaves and then another person takes his seat. I think that it's meant to be vague because it's all open to discussion. You don't want to come out with specifications now. When we read I am interpreting from a management point of view. I don't know what you had in mind whether it was written. I stated earlier I don't know what has been discussed since the initial writing, but if we had manpower and facilities, all of these things could be done and should be done, because if the inmate has a good day, I feel like I had a good day.

CHAIRMAN TUFO: Well, Captain, I think we are very aware that new funds would have to be found to implement some of these proposals. We would have the responsibility to make a case as to why those funds are appropriate and that is a two edge sword. Those funds might be found by looking in the Department management structure and determine whether it's being managed as efficiently

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2 as possible or they might require additional funds
3 from the City Government or State Government or
4 Federal. Whatever the source is, we understand
5 your responsibility to assist in the effort of
6 making funds available but nonetheless, the voters
7 of the City have given us the responsibility to
8 enforce these standards and we take that responsi-
9 bility very serious.

10 Thank you very much for the comments you
11 made because they are going to help us bring that
12 to that end.

13 MR. McKEITHAN: Thank you very much.

14 CHAIRMAN TUFO: I think we will adjourn at
15 this point until 2:00 o'clock.

16 (Whereupon, the meeting was adjourned at
17 1:00 o'clock p.m. for lunch.)

18 (The meeting was reconvened at 2:15 p.m.)

19 MS. PEGGY C. DAVIS: Ladies and gentlemen,
20 good afternoon, we will resume the hearing on draft
21 Minimum Standards to be promulgated by New York City
22 Board of Correction. Our next witness will be
23 Ms. Dee Cunningham, who is Coordinator of Prison
24 Families Anonymous.

25 MS. DEE CUNNINGHAM: Good afternoon, my name is

1
2 Dee Cunningham, Coordinator of Prison Families
3 Anonymous. PFA is a non-profit, self-help
4 organization composed of family and friends of
5 those involved in the Criminal or Juvenile Justice
6 System.

7 Though we are based in Nassau County, New
8 York, many of the families we are in contact with
9 have now, or at one time had someone detained or
10 serving time in New York City facilities. What
11 happens to that person while incarcerated very much
12 affects their family or friends.

13 As an organization representing all, who
14 are considered, in a broad sense, "family", we have
15 been made aware of the inconsistencies and lack of
16 standards in New York City facilities. These in-
17 consistencies not only cause tension and confusion,
18 but reinforce already existing anger and bitterness
19 at the system. These existing conditions and
20 confusions are not conducive to an optimal work
21 atmosphere for the correction officers and staff.
22 It sometimes appears that the right hand doesn't
23 know what the left hand is doing, and, realistically
24 so.

25 When a detainee, who is presumed innocent

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2 until proven guilty, receives worse treatment and
3 must exist under less dignified conditions than
4 those convicted and sentenced, one begins to
5 wonder are they, in reality, guilty until proven
6 innocent, or more guilty than those convicted.

7 PFA commends the Board of Corrections for
8 its' efforts to standardize and humanize New York
9 City facilities. Bringing these in line with State
10 standards and upholding recent court decisions is
11 a first step in the right direction.

12 The fact that outside-the-Department
13 organizations working in the criminal justice field
14 have been asked for their views and opinions on
15 these standards shows a strong willingness on the
16 part of the Department for more openness and sharing
17 in an area of common concern to all. PFA is pleased
18 at the opportunity to share what we have learned
19 through our own experiences and those of the
20 families with whom we are in contact.

21 As a whole, we feel the standards are a
22 positive beginning, but there are several areas
23 that concern us.

24 The recurring phrases "sufficient", "adequate",
25 "constituting a threat to the safety and security

1
2 of the facility", are vague and discretionary.
3 This lack of definition may contribute to the
4 continuance of some present conditions. PFA re-
5 commends that the Board seek to develop more
6 clarity in those areas so as to avoid potential
7 confusion and resentment, which will necessitate
8 additional time and funds to correct the resulting
9 difficulties.

10 The sections on lock-in, recreation and
11 access to courts where minimum hours, guidelines
12 and standards for classification are not spelled
13 out, should be clearly formulated as soon as
14 possible.

15 We strongly support the standard that
16 prisoners not be restricted in their communication
17 with lawyers, court or pre-trial service organiza-
18 tions. This will ensure that a defendant be
19 afforded complete and thorough legal representation
20 and information to facilitate release on bail, or
21 appeal as soon as possible.

22 Existing arrangement for transportation of
23 prisoners to court cause attorneys and families to
24 wait hours before the prisoner appears. Nonappear-
25 ance at specified times result in adjournments,

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2 postponements, court congestion and annoyance on
3 the part of the Judge and all concerned. Frustra-
4 tion and anger are felt by the family who might
5 have travelled miles to court, filled with fear
6 and confusion. Their frustration is heightened by
7 the fact that they had to, perhaps, incur expenses
8 for babysitters, or loss of a day's pay, causing
9 unnecessary hardship on another set of innocent
10 victims. We feel sure that if Section 6.2B is
11 enforced, many of the existing situations will be
12 alleviated.

13 We commend the Board for its' insight and
14 its' recognition of the need for corrections per-
15 sonnel who are not forcibly overworked and under-
16 paid. In fact, with more personnel available to
17 implement many of the standards, a more constructive
18 and amenable atmosphere will be felt by all, pri-
19 soners, correctional staff and family.

20 Our greatest objection to the suggested
21 standards involves the section on visitation. More
22 realistic scheduling must be formulated to include
23 less waiting time, with more time allowed per visit.
24 The time involved in a visit to Rikers Island is
25 cruel and inhuman treatment for families, who often

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2 spend an entire day away from other responsibilities
3 for a twenty minute booth visit or a one hour
4 contact visit. The cost for a family coming from
5 Nassau or Suffolk counties, and outlying areas of
6 New York City and the time involved in waiting, and
7 often the disappointment when a visit is so short
8 or when a family gets there and cannot visit, is
9 absolutely abominable. A system must be instituted
10 that will involve less hassle and confusion for all
11 involved.

12 PFA strongly recommends that serious thought
13 be given before allowing a child under 16 to visit
14 an incarcerated parent with only a written note
15 from his or her parent or legal guardian. The
16 parent or agency responsible for the child may
17 strongly object to a visit with a parent who in the
18 past may have exerted a negative influence. This
19 valid objection must be respected and adhered to.
20 Otherwise, the Board is negating the right of the
21 parent or legal guardian to decide what is best for
22 that child. When there are extenuating circumstances,
23 this could be worked out through the social services
24 department of the facility, in conjunction with the
25 parent or legal guardian. No verbal permission

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should be permitted at any time.

We recommend that a standard be incorporated to include that wedding rings and religious medals be permitted to be worn during visits. Many times a wedding ring or religious medal has never been removed until the visitor enters a prison. The emotional significance attached to these objects should and must be recognized and accepted, especially since they entail a minimal security risk.

There is no standard suggested in the draft recognizing that a prisoner in lock-in or administrative segregation has a right to have visits. We recommend one be incorporated.

Our last recommendation involves a booklet of rules and regulations to be given to all prisoners. With the prisoner's permission, a list of visiting rules and procedures, as well as packages and mail regulations and restrictions should be sent to designated family or friends. This can prevent much of the misunderstanding and aggravation families experience.

We understand that the focus of these standards are to benefit the resident and correction-

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2 al staff, but we must again emphasize the under-
3 lying affect on the family. Tension caused by
4 these conditions are transmitted to the inmate,
5 who in turn directs his frustration at the
6 correctional staff creating a negative cycle.

7 Rehabilitation must be a shared responsibil-
8 ity. We, the families, have a vested interest in
9 our correctional facilities to ensure the protection
10 and care of those we love.

11 Thank you.

12 CHAIRMAN TUFO: Thank you very much. Are
13 there any questions?

14 MR. SCHULTE: I have a question. I am inter-
15 ested, Ms. Cunningham, in your comment on under 16
16 visits, I am not quite sure I understood. Are you
17 against allowing persons under 16 to visit an inmate?

18 MS. CUNNINGHAM: Not without being accompanied
19 by a parent or legal guardian.

20 MR. SCHULTE: You are against a visit by
21 children under 16 alone?

22 MS. CUNNINGHAM: Yes.

23 MR. SCHULTE: May I ask why?

24 MS. CUNNINGHAM: A parent on the outside or a
25 legal guardian has the responsibility for that child

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2 to decide what is in his or her best interest.
3 We feel that is negated if the child is just per-
4 mitted to go by himself.

5 MR. SCHULTE: You feel that a negative
6 result might occur towards that child if he is
7 allowed to visit?

8 MS. CUNNINGHAM: It can happen; it many not.

9 MR. SCHULTE: There are those who disagree.
10 Do you believe that a child under 16 should visit?

11 MS. CUNNINGHAM: With his parent, yes.

12 MR. SCHULTE: How do you propose the Depart-
13 ment of Correction ascertain whether that adult is
14 the parent or not?

15 MS. CUNNINGHAM: I am not sure, but I think
16 that a way should be formulated to insure and safe-
17 guard that child. It has to be in his best inter-
18 est.

19 MR. SCHULTE: Thank you.

20 MR. POCHODA: I understand what your feeling
21 is and the reason for rules. I guess the concern
22 is, what if? The problem, if you will, is not
23 the parent on the inside but the parent on the out-
24 side. I take it that you believe that the parent
25 on the inside has been a bad influence on that child

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2 and you are concerned that that 15 year-old visits
3 that person without the consent of the parent on
4 the outside. But, if we are talking about a pre-
5 trial situation you are requiring before the visit
6 can be made the parent on the outside must give
7 permission which precludes the possibility of that
8 child seeing the parent on the inside.

9 MS. CUNNINGHAM: There is that chance. I
10 think there are more situations where the parent
11 on the outside would give permission and be more
12 than willing to accompany him or her. I don't
13 think that there are as many incidents where the
14 parents would not be thinking of the best interest
15 of the child. Perhaps I am idealistic but because
16 of the families we have been in contact with, this
17 is the way they feel. I have asked many of them.

18 MR. POCHODA: Is the concern mainly that the
19 15 year old child will be in the company of a
20 parent who may be a bad influence on this person;
21 is that the main concern?

22 MS. CUNNINGHAM: You mean inside the facili-
23 ties?

24 MR. POCHODA: Yes.

25 MS. CUNNINGHAM: I think it would have a

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2 negative influence on the child. It may not; it
3 may be good for the child, but you are still
4 neglecting the fact that there is a parent on the
5 outside who has the right to decide what that child
6 can or can't do.

7 MR. POCHODA: I guess another side is whether
8 there should be differences -- again we are just
9 talking about pre-trial -- in freedom for a 15
10 year-old to see a parent or those who are charged
11 with a crime and are in jail because he or she can-
12 not make bail. This parent is on the outside, I
13 take it there is no rule with respect for the
14 other parent that says an individual 15 years old
15 can't see a parent charged with a crime.

16 The question is should the Board have a rule
17 that prevents absolutely 15 year-olds from seeing
18 a pre-trial person who can't make bail because that
19 person is inside?

20 MS. CUNNINGHAM: I don't know. I think the
21 Board needs to work on it. This is not a suggestion
22 that can be implemented then perhaps the Board needs
23 to work on something that can be. It needs a lot
24 of thought.

25 MR. POCHODA: Is it more that you are

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2 concerned that a 15 year-old might suffer negative-
3 ly because of just being inside an institution or
4 more the concern that a 15 year-old will suffer
5 negatively from being in the company of a parent
6 of bad influence?

7 MS. CUNNINGHAM: He is suffering from being
8 in the company. He may have been in the company of
9 that parent in the past who has not been a positive
10 image to that child and by him going into his
11 visits, it's just enforcing that.

12 MS. BARBARA ALLAN: I think it's a little
13 frightening being up here.

14 MR. POCHODA: It's just to get as much in-
15 formation that your experience can provide, not to
16 challenge your suggestion.

17 MS. ALLAN: I don't think we want any child-
18 ren under 16 to visit but on the outside there is
19 protection. If the father or mother has been a bad
20 influence there are courts. I don't think this is
21 the situation of some if a person is in prison.

22 MR. POCHODA: You can still get a Court order
23 saying that a 15 year-old child cannot see his
24 father because he has been a bad influence.

25 MS. ALLAN: You could. That would apply?

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2 MR. POCHODA: Any Court order would take
3 precedents.

4 MS. ALLAN: Also we would hope that in
5 extenuating circumstances the parent on the out-
6 side might be a negative influence that prepara-
7 tion through a social worker in the facility that
8 can be worked out; not a hard and fast rule for
9 everybody, but with people taken into consideration.
10 It has been known that youngsters have forged
11 parent's signatures. Our function is to keep
12 families together, not to separate them. There
13 should be some kind of safeguard to that child.

14 MS. DAVIS: I think that is very useful and,
15 of course, there are middle grounds. There might
16 be a procedure whereby a parent might make known to
17 the facilities that such a situation exists and
18 there might be a procedure for controlling visits
19 when particularly solutions have been made, but we
20 are very happy to have heard your perspectives on
21 this issue because it's an insight we don't here
22 as often as we hear the insights of the inmates and
23 the correction officers and it's extremely useful.

24 MR. SCHULTE: I have one more question. Do
25 you have any comment at all within your experience

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2 about a person under 16 visiting a juvenile who is
3 incarcerated who is not a relative?

4 MS. ALLAN: I don't think it's necessary as
5 a mother.

6 MR. SCHULTE: Well, do you have a position
7 on it?

8 MS. ALLAN: No, we do not have a position as
9 an organization. Personally, as a mother and some-
10 one who has a husband who has spent a great deal of
11 time in the correction system, I don't think it's
12 something I want my youngsters to see. I think
13 youngsters are too impressionable.

14 MR. POCHODA: You mentioned that you objected
15 to the Board's proposal in the area of visiting
16 hours. I am not sure if I missed that. Do you
17 feel that it wasn't adequate or too far or what?

18 MS. CUNNINGHAM: I don't know if you are
19 referring to the Board's proposal or the present
20 situation in City institutions in terms of hours
21 of visiting and days of visiting. I think what is
22 in the standards is a bit confusing. I had to read
23 it several times before I could understand what you
24 were discussing in those standards. I think some-
25 thing has to be more organized, perhaps give an

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2 inmate and his family more time to visit, maybe
3 less often but more time. As I explained the
4 results of so many, like for instance, where
5 families can go, I believe it's twice a week, but
6 still they must wait at least two to four hours
7 before they can get inside to visit and the con-
8 fusion involved is unbelievable.

9 MS. DAVIS: I take it that there are serious
10 problems regarding the visiting question that we
11 have not addressed to do with waiting time, with
12 access, with the problem of spending all this
13 time travelling only to discover you are not able
14 to visit and not being able to anticipate that kind
15 of thing. When a family member visits Rikers
16 Island, I believe it was suggested that they be
17 allowed more visiting days. They were going to in
18 the rules increase visiting days and so many of
19 our families feel almost compelled to visit every
20 opportunity they can. If you have, and instead of
21 having more days of visits, I would rather see a
22 two day program but when you get there to have a
23 longer visit. The frustration that is felt by us
24 is definitely transmitted to whomever we are visit-
25 ing. It's just a whole negative thing happening.

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2 MS. DAVIS: What would you say is the
3 average travelling time of families you work with
4 to Rikers Island?

5 MS. CUNNINGHAM: It vacillates.

6 MS. ALLAN: I just had a call for a preg-
7 nant girl who lives at Stony Brook in Suffolk
8 County and she said it took her 16 hours to travel
9 in by train to visit her husband and to come home.
10 She had to wait four hours to visit him.

11 I drove someone to visit as far as I could
12 go before the bridge, dropped her off then I went
13 to someone's house to await her so so I could
14 pick her up. After about two and a half hours I
15 got a call saying she was unable to visit. This
16 took us at least five and a half hours without being
17 able to complete her visit.

18 MR. HORAN: In your experience what sort of
19 reasons are given for not being able to visit.

20 MS. ALLAN: I don't recall. I believe they
21 said it wasn't her day to visit, as I think he was
22 in the hospital.

23 MR. HORAN: What you are saying is that you
24 don't get clear enough signals from the institution
25 itself so that as a family person you can't plan on

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a definite time.

MS. ALLAN: Even Court cases the family is not notified.

MR. HORAN: Very often the inmate is not notified either.

MS. ALLAN: A family can visit on those dates. This happens time and again in every institution and there could be some means of a quick phone call right before they leave to say don't go.

MR. HORAN: Did I understand you also to say that you would prefer to have more frequent days available, even one or two days?

MS. ALLAN: Or longer.

MR. HORAN: For longer periods within that day?

MS. ALLAN: Yes.

MS. DAVIS: Thank you very much.

Is Mr. Hoffarth here, please?

Mr. Kenneth Hoffarth is our next witness, welcome.

MR. KENNETH HOFFARTH: Mr. Chairman and members of the New York City Board of Correction, the Prison Apostolate is a division of Family and

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2 Community Services of Catholic Charities of the
3 Archdiocese of New York. Basic to our philosophy
4 is the belief that all are created in the image
5 and likeness of God. Whether it be good or ill
6 done, "As often as you did it to one of my least
7 brothers, you did it to me." Matt. 25:30.

8 Officially established in 1973 in response
9 to the concern expressed by Prison Chaplains, and
10 in keeping with Scripture tenets and the traditional
11 social teachings of the Church, the Prison
12 Apostolate has served over 1,100 prisoners and
13 their families.

14 On the cross Jesus gave us the model for
15 reconciliation, "Father, forgive them, they know
16 not what they do." and to the thief, "Today you
17 will be with me in Paradise."

18 The American Bishops in a 1973 statement on
19 The Reform of the Correctional Institution in the
20 1970's wrote: "Confined offenders are fellow human
21 beings most of whom will one day move freely in our
22 midst, either better or worse for their prison
23 experience. If worse, they have failed themselves
24 or we have failed both them and ourselves. If
25 better, we have acted in righteousness before God

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2 and man and we have also made an important,
3 essentially positive contribution to safety and
4 tranquility in society."

5 First, let us address ourselves to the issue
6 of religion and the correctional chaplaincy in our
7 City institutions. In the commentary accompanying
8 the standards, the assumption is made that "most
9 institutions have staff Chaplains or volunteers who
10 conduct religious services regularly while pro-
11 viding social services."

12 The Board is well aware of the state of
13 religious withon our facilities. The Clergy
14 Volunteer Program, run by the Board for several
15 years, which attracted several hundred volunteers,
16 has been disseminated and recently transferred to
17 the Department. Since February, when the Department
18 assumed control of the program, it has valiently
19 tried to revitalize it to perform a sorely-needed
20 service. However, due to mismanagement and lack of
21 support by the Board, this program has failed to
22 exist for the last year. Secondly, the paid
23 Chaplain within the Department has all but been
24 eliminated with the recent budget cuts. The
25 minimum standards speak to the rights of the inmates

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2 regarding religion as they should, but set no
3 standards for Chaplains.

4 In New York City, Catholic Chaplains service
5 all major facilities under extremely difficult
6 circumstances. The function of the Chaplain is to
7 symbolize the presence and concern of the Church
8 for those who have come to the attention of the
9 law. Their role was conceived as a part of the
10 rehabilitation services of the correctional
11 community. However, some question the place of
12 religion and role of the Chaplain in corrections.
13 The religious community has a place, but it must
14 not be in isolation or relegated to what has been
15 designated a religious program. The morality of
16 prison ministry must encompass the totality of the
17 system, leading to a recognition of all disciplines
18 if they are to be effective in rehabilitation. Our
19 plea is that we must build a realistic approach
20 free from the vagueness of the past and build upon
21 the Judiac Christian ethic espousing the dignity
22 and worth of every human being in God's right.

23 It is nothing short of tragic that the role
24 of the Chaplain has been denigrated to a low
25 priority within the correctional system. It would

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2 appear that the administration, from the Board to
3 the correction officer, view the Chaplain only as
4 a necessary evil. We would hasten to add that the
5 inadequate salary scale, the virtual ignoring of
6 the valuable contribution, the inherent risk of
7 position certainly warrant a reappraisal of the
8 Chaplains' role. The ever mounting penal statistics,
9 the complexity of the current crime syndrome, the
10 demands for meaningful skills in rehabilitation
11 suggest that the means be found whereby the more
12 highly trained and the adequate staffing of the
13 Chaplains services be addressed.

14 The Chaplain is or should be a highly trained
15 professional on par with those that render physical
16 and mental services to inmates. It is imperative
17 that attitudinal changes occur within the
18 correctional structure and this recognition must
19 be accompanied with commensurate compensation
20 reflective of the training, skill and dignity of
21 the Chaplains' office.

22 We further recommend that immediate steps
23 be taken to upgrade the Ecumenical Center on Rikers
24 so as to provide the setting for the on-going train-
25 ing of Chaplains and the training for future

1
2 Chaplains for the Department.

3 Lastly, we commend the Board for the
4 standards on religion and request that they be
5 enforced immediately. However, we see difficulty
6 in allowing inmates to attend all services in the
7 institution if they desire. Possibly, it might
8 be more practical for an inmate to attend the
9 service of whatever religious body he belongs to.

10 Next we would like to call the Board's
11 attention to the subject of visitation. We
12 strongly support all the standards called for
13 by the Board, but would like to discuss the idea
14 of visitation that occurs before a family member
15 actually sees his relation and one which is not
16 addressed in the standards.

17 We feel that visitors are subjected to a
18 degree of inconvenience which amounts to actual
19 hardship, especially at Rikers Island.

20 On a given day, visitors arriving by car at
21 the entrance to the bridge must park their vehicle
22 in a lot and wait for the Steinway Street bus to
23 take them across at the cost of \$.50 each way. The
24 bus comes every half hour which means that the wait
25 even at this point may be considerable. There is

1
2 no shelter; not even a bench. Although some try
3 to wait in cars in the lot in cold weather, this
4 is impractical since one risks missing the bus.
5 Others are dropped off by friends at a bridge
6 entrance with no option but to stand at the bus
7 stop in snow, rain, cold and heat.

8 We feel that some form of shelter should be
9 provided at the entrance to the bridge and that a
10 shuttle service be provided by the Department.
11 Visitors should not be obliged to pay the \$1.00
12 round-trip fare since it really represents an ad-
13 mission fee to the island. That this payment
14 should be a requirement for reaching a public
15 institution is a violation of one's rights.

16 Once the visitor has reached the Control
17 Building on the Island, the amount of time waiting
18 for a half-hour visit is unconscionable long.
19 Larger institutions have limited facilities causing
20 first and second visits. Those who fail to make the
21 first visit may have their waiting time increased
22 by one hour or more. As a bus pulls in front of
23 the Control Building, visitors push and shove to
24 get a low number to insure a first visit. Older
25 people are virtually knocked to the ground in this

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dash for low numbers.

In the Control Building nothing is provided for the visitors' comfort besides a water fountain. There are no vending machines for food or beverages. Since most visitors must travel long distances by public transportation and may have to wait several more hours before they are admitted, the absence of refreshments makes the trip very trying. We, therefore, suggest that provisions be made for light food and beverage as is the State policy.

In view of the tension and fatigue which the majority of visitors experience because of the foregoing circumstances, correction officers who deal with visitors should be especially chosen for their sensitivity to the need for courtesy and patience. Visitors tend to be treated as second-class citizens. Many times a visitor is told by an officer to return to the other side of the bridge because they are too early.

Prospective visitors should be able to find out the visiting hours easily and quicker than now. Many times an individual may call a detention switchboard only to be given wrong information. A

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2 special number should be set up to provide this
3 information to family members in both English and
4 Spanish.

5 Visiting procedures at institutions in
6 Queens and Brooklyn are intolerable. Both keep
7 visitors waiting outside on the pavement until
8 visiting hours officially begin no matter what
9 the weather. It is our opinion that the poor
10 quality of the present arrangements is an indirect
11 cause of much of the tension that exists in our
12 City institutions. Those who wish to visit an
13 inmate know only too well that the average visit
14 requires the better part of the day. As a result,
15 many reduce the frequency or simply stop altogether.
16 The resultant disappointment and sense of isolation
17 of the inmates inevitably increase tension levels
18 within the institutions.

19 The subject of classification is one which
20 we are extremely interested in and one which the
21 standards have glossed over lightly. We agree
22 totally that inmates should be separated as it
23 relates to age, sex and whether they are unsentenced
24 or sentenced. Reference is made to the existing
25 State law and regulation regarding this subject.

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2 Both the State Correctional Law and the Commis-
3 sion's standards require age and status classifica-
4 tion set forth. The Administrative Code of the
5 City of New York requires only that the Department
6 classify prisoners as far as practical. According
7 to the commentary, the Department is presently
8 in compliance with these requirements and there
9 have been few complaints in this area.

10 We strongly disagree with that statement
11 and urge the Board go far beyond these standards
12 and urge tighter controls. Consideration should be
13 given to the individuals' offense and his frequency
14 in prison. First offenders should not be placed
15 with career criminals. Individuals arrested and
16 being held for such crimes as theft of service,
17 trespassing, intoxication should not be housed with
18 murderers, rapists and professional criminals. There
19 should be some consideration given to these factors
20 when a classification determination is made for
21 a particular inmate.

22 On two occasions, requests were made by this
23 office to officials at the Adolescent Reception-
24 Detention Center to remove inmates assigned to
25 housing areas because they could not exist due to

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other inmates.

On one occasion, it involved an inmate who was a first offender charged with petty larceny. He was epileptic, brain injured and paralyzed in one arm. Upon arrest and process by the Department, he was assigned to a general population area. After three days, he was beaten up twice, sodomized and never received his food because of his frailty. The Department did nothing to remedy this situation until pressure was brought to bear. At that point, he was placed in a gay housing area for his own protection.

On another occasion, a young first offender was housed at the Adolescent Reception-Detention Center who was illiterate in both Spanish and English. He could not communicate effectively in either language and had no family. For over nine months, he stayed until a Chaplain Associate spotted him and provided him with assistance.

In both cases, neither of these two inmates should have been placed in the general population. Consideration should be given to a new type of classification that takes into account other factors than age, sex and status of case.

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2 When we look at the City Correctional
3 System, our interest is focused on the inmate and
4 his family but never of the real victim, the
5 officer. The Board in its' implementation and
6 promulgation of these standards should give
7 serious thought to the individuals that staff our
8 prisons. We strongly support the standard regard-
9 ing overtime and agree entirely with the accompany-
10 ing commentary. However, we would expect that the
11 Board not only look at overtime but explore issues
12 such as productivity, training, job descriptions,
13 entry level requirements, conditions associated
14 with the role of the correction officer. If the
15 standards are to address the entire operation of
16 the Department, the real providers of service
17 should be considered along with the rights of the
18 inmates. We would hope future standards will
19 evaluate these areas.

20 Lastly, we would like to speak to the issue
21 of overcrowding. Double-celling of inmates in all
22 institutions should be eliminated immediately and
23 strictly enforced by the Board. We strongly dis-
24 agree with the concept of double-cell occupancy and
25 request that the Board drop section 3.2 number four

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2 calling for double-celling for not more than thirty
3 days. All double-cell occupancy should be eliminat-
4 ed and plans should be designed to use vacant
5 areas of the Women's House if all cell space is
6 being used for male confinement.

7 Dormitory type celling of inmates should not
8 be used as a remedy for the Department's over-
9 crowding. This type of housing offers the resident
10 less privacy and affords him the better chance
11 of being attacked physically and sexually and
12 having his possessions robbed by fellow inmates.
13 Single room accommodations should be provided and
14 bunk-bed dormitory facilities eliminated. In any
15 new construction, single rooms should be built
16 providing the inmate 90 square feet.

17 The Board should implement Section 3.2 B num-
18 ber 3 requiring a locker or drawer that can be
19 closed. It is necessary for the storage of
20 clothing and possessions but more importantly to
21 keep his possessions in tack and less apt to be
22 robbed by staff or residents contrary to the belief
23 that rodents will eat them up.

24 The task of correction, therefore, includes
25 building or rebuilding solid ties between the

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2 offender and the community, integrating or re-
3 integrating the offender with community life.
4 This requires not only efforts directed toward
5 changing the individual offender and efforts
6 toward determining minimum standards of humane
7 living conditions, but also the necessary suppor-
8 tive services not addressed in the proposed minimum
9 standards.

10 The greatest crime of some individuals is
11 the crime of being homeless, family-less and
12 penniless. At the present time, it is virtually
13 impossible for these individuals to receive pro-
14 fessional or para-professional family or employment
15 counselling or assistance immediately prior to
16 or upon release.

17 Included in any minimum standards for the
18 "care, custody, correction, treatment, supervision
19 and discipline" of inmates should be the proper
20 sufficient standards of after care social services.

21 We endorse the minimum standards and strongly
22 urge the expansion of those standards and their
23 immediate implementation.

24 Lastly, realizing that society has the re-
25 sponsibility to better the condition of people who

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2 have been judged unworthy to remain in society,
3 we request that a citizen watch-dog committee be
4 established to monitor the adherence of these
5 standards by the Department in all facilities.

6 CHAIRMAN TUFO: Thank you for your testimony
7 and I particularly appreciate you took the trouble
8 of making a written statement and having it avail-
9 able to us. We will give it careful consideration.

10 Your last comment requesting a watch-dog
11 committee be established to monitor the adherence
12 of the standards by the Department in all facilities,
13 I think has been addressed by the Board and we
14 have applied for Federal funds and have received
15 funds to establish a committee unit which will per-
16 mit monitoring of the standards once they are in
17 place. As I am sure you know this Board, itself,
18 is a City watch-dog committee. It's made up of
19 nine individuals who are unpaid and represent the
20 Board of Corrections. People will do their best
21 to continue to do whatever the standards are and
22 to see they are closely monitored.

23 I would just like to make one more comment,
24 before asking other Board members, about your
25 statement on the subject of classification. The

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2 subject of classification is one that has been
3 under consideration for a number of years, one
4 which they have not yet been able to come up with
5 a satisfactory standard for themselves. However,
6 we felt that since they ultimately must run the
7 prison that in the first standard we would give
8 them one further chance to come up with a classifica-
9 tion system by leaving the statement broad in the
10 proposals. The idea of the Committee was to per-
11 mit them to come up with a system if it was accept-
12 able to the Board and to others that were interest-
13 ed, and this system would be adopted. The Board
14 still has continuing power to issue Minimum
15 Standards but I am glad you raised the issue.

16 Any other members of the Board have any
17 other questions?

18 MR. POCHODA: I think it's quite clear but I
19 want to get your input. In terms of the Chaplains,
20 I think that the pay scale is too low. The question
21 I have is, do you feel that the employment if you
22 will and pay should come from the Department of
23 Correction itself? Does that, in any way, create
24 a conflict for you or do you feel that it has not
25 been a problem?

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2 MR. HOFFARTH: Within the Archdiocese of
3 New York we have talked about in dealing with the
4 statements and very lightly in talking with a
5 preacher service contracts whereby we would enter
6 an agreement with the Department to cover X amount
7 of facilities. It has worked very limited on the
8 State level. We will more than likely expand and
9 we are the individual who gets the check. Some-
10 times it does cause a problem.

11 CHAIRMAN TUFO: Mr. Robbins of the Community
12 Service Society of New York.

13 MR. HARVEY ROBBINS: Mr. Chairman, good
14 afternoon, I am Harvey Robbins. I represent the
15 Committee on Youth and Correction of the Community
16 Service Society, the oldest non-profit, nonsectarian
17 social service agency in the United States. CSS
18 has a nearly 130-year history of concern and work
19 directed toward effecting social change in behalf
20 of the poor and the disadvantaged. Today over
21 350 CSS employees and approximately the same number
22 of citizen volunteers dedicate themselves to the
23 Society's quest for social justice, especially for
24 the urban poor. The CSS Committee on Youth and
25 Correction has been in the forefront of most of the

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2 important reforms which have taken place in
3 relation to New York's criminal and juvenile
4 justice system over the past 100 years.

5 In recent years there has been growing
6 concern over the conditions existing in local
7 jails. Nationally, this concern has been reflected
8 in the new judicial desire to review the conditions
9 and rules of even the smallest detention facili-
10 ty and in the proposal of standards for such
11 facilities by states. Locally, this concern has
12 been reflected by the increase of Federal Court
13 intervention in the management of various New York
14 City institutions.

15 The Community Service Society enthusiastically
16 supports these suggested standards. We, additional-
17 ly, believe that the Board of Correction should be
18 commended for both the draft standards and the
19 process used to develop them.

20 Following the mandate received under the
21 NYC charter revision, the Board designated several
22 persons to the Minimum Standars Project. Under the
23 leadership of Dan Pochoda, staff collected correc-
24 tional standards from across the country, studied
25 relevant state and local regulations and court

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2 rulings, and sought input from correctional ad-
3 ministrators, correctional officers' representatives
4 and inmate spokesmen. The working group then set
5 about drafting the initial standards. Early drafts
6 were circulated to interested parties; and these
7 very hearings, held prior to final consideration for
8 adoption by the entire Board of Correction, provide
9 for and encourage public input and comment. We
10 compliment the Board for adopting this procedure
11 which we view as both time-effective and cost-
12 effective. We see the results as having produced
13 constitutional, progressive minimum standards that
14 are designed to meet demonstrated local needs.
15 These standards represent a distillation of some
16 of the best thinking in the field of corrections
17 and are tailored to meet the conditions presently
18 existing in New York City.

19 According to our reading and understanding
20 of these initial minimum standards, the emphasis
21 has been placed on 1) the improvement of basic
22 living conditions within the facilities; 2) the
23 improved access to the institutions by the
24 community, mail, visits, legal representation, given
25 the need for such access due to the high proportion

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2 of pretrial detainees; and 3) the improved working
3 conditions of the correctional staff specifically
4 related to the problem of overtime and its' re-
5 sulting effects on morale.

6 We believe that these standards represent
7 an excellent foundation upon which the Department
8 of Correction can develop administrative capabili-
9 ties to fulfill its' mandated obligations. We
10 are especially pleased to note a standard dealing
11 with the working conditions of the correctional
12 staff and would support additional standards pro-
13 moting the health and welfare of staff. Guarantee-
14 ing the well-being of staff is the first step
15 towards enforcement of the new minimum standards,
16 since it is staff who will be charged with im-
17 plementation.

18 While CSS would advocate further changes,
19 such as increased visitation hours and improved
20 services to Hispanic prisoners, we are aware that
21 the draft standards are only minimum standards. We
22 cannot imagine, given the minimal nature of the
23 standards, how their implementation could be post-
24 poned.

25 CSS, after careful study of the proposed

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2 standards, would like to comment on several specific
3 items.

4 Number 1, non-discriminatory treatment. We
5 believe that section 2.3a might well be too vague.
6 "Each institution shall have on its staff a
7 sufficient number of employees fluent in the
8 Spanish language to assist Hispanic prisoners in
9 understanding, and participating in, the various
10 institutional programs and activities, as well as
11 applications, if any, to a parole board." We are
12 well aware of the constraints upon the Department
13 of Correction in terms of civil service hiring
14 procedures for correctional officers. However, we
15 believe the need of Spanish-speaking prisoners to
16 have ready access to institutional employees who
17 are fluent in the Spanish language requires that
18 this guideline be strengthened. We suggest that
19 this section include a mandate to the Board to
20 devise a formula which would guarantee that a
21 certain ratio be maintained between Hispanic staff
22 and Hispanic prison population. We suggest that
23 this standard may then be met by including other
24 Spanish-speaking staff or volunteers to fulfill
25 the ratio requirement.

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2 Number 2, access to courts. Section 6.2b
3 states that "timely" transportation shall be
4 provided to prisoners scheduled to appear before
5 courts or administrative agencies in proceedings
6 involving such prisoners. Prisoner transportation
7 in New York City has consistently been plagued by
8 difficulties. Perhaps of necessity, this standard
9 must remain vague for the present. However, CSS
10 suggests that this is an area which needs further
11 study. Current transportation problems might be
12 solved by additional buses, additional drivers, more
13 efficient scheduling or a combination. This area
14 is deserving of further attention; we trust the
15 Board will be active in proposing some solutions.

16 Number 3, visitation. We note that the
17 standard regarding visitation has called for
18 greatly expanded visiting hours, with guaranteed
19 public access both during evenings and on weekends.
20 We affirm this standard as a step in the right
21 direction although we would urge further expansion
22 in the future, if administratively possible.
23 Isolation from family and community is one of the
24 most harmful aspects of imprisonment. Maintaining
25 ties with family and friends makes it much less

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2 difficult for inmates eventually to return to
3 their communities and integrate peacefully into
4 society. Visitation is particularly important
5 for pre-trial detainees. The period of detention
6 prior to trial is necessarily tense and little in
7 the way of program is provided to occupy those
8 awaiting trial. Visitation reduces the tension and
9 promotes a cooperative attitude on the part of all
10 inmates.

11 Section 10.7a states that all prisoners,
12 prior and subsequent to each visit, may be searched
13 solely to ensure that they possess no contraband.
14 We strongly suggest that this standard address the
15 problem of strip searches, even if it is the in-
16 tention of the Board to develop a separate standard
17 on the subject, and that these be prohibited unless
18 there is overwhelming suspicion that such a search
19 is necessary and then that it be conducted only in
20 the presence of medical personnel.

21 We mentioned transportation of prisoners to
22 court earlier in our testimony. CSS would like to
23 note regarding this standard, that transportation
24 to the New York City institutions on Rikers Island
25 is a major problem for visitors and legal

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2 representatives. Thought might be given to in-
3 cluding a mandate to the Department of Correction
4 to provide express bus transportation from a
5 central point in Manhattan, perhaps a location on
6 East 125th Street, to Rikers Island. Such trans-
7 portation would facilitate travel to the island by
8 visitors and staff alike, a worthy improvement.

9 We note that more standards will be forth-
10 coming, and understand that some work is already
11 being done in preparation for addressing additional
12 topics.

13 CSS believes that minimum standards must also
14 be adopted as to facility design, health care, food
15 services, disciplinary procedures, training for
16 correctional personnel and the broad subject of
17 programs, activities and rehabilitative services,
18 including guidelines for increased citizen partici-
19 pation.

20 The draft standards which we are considering
21 today are indeed an admirable beginning for a
22 worthy project. However, they are just a beginning
23 and must be viewed as such. The project cannot
24 stop here. It is imperative that the job of draft-
25 ing standards in many other areas which need to be

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2 addressed not be impeded by a lack of funding.
3 Continued adequate funding is a necessity if this
4 project is to be carried forth as speedily and
5 efficiently as it should. This project is
6 essential and worthwhile; necessary funds must be
7 guaranteed so that it can do its job.

8 We urge that these minimum standards be
9 adopted completely. While we recognize that these
10 standards are a minimum and much more needs to be
11 done, they are nevertheless a good first step, one
12 that is long overdue. We believe they should be
13 quickly adopted.

14 Attempts to weaken these standards should be
15 resisted since the further postponement of their
16 adoption will only serve to prolong the intolerable
17 living and working conditions which exist for
18 inmates and staff alike in the City's institutions.
19 Further, the real test of their impact can only be
20 measured once they have been adopted, implemented
21 and evaluated. Only then can we begin to measure
22 achievement and establish benchmarks to judge
23 progress.

24 Thank you.

25 CHAIRMAN TUFO: I have one question in

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2 consideration of the strong support you have given
3 to the standards as proposed by the Minimum
4 Standards Committee. Do you have any recommenda-
5 tions as to how further, either support or
6 opposition, could be developed in the community to
7 ensure that it is also a broad basis of City
8 activity in the promulgation of these standards and
9 once adopted for the City's continued support or
10 their funding.

11 MR. ROBBINS: It's from my background, my
12 initial responsibility may be that the various
13 ex-offenders have community based programs, might
14 be the point in which an education process might
15 take place in the community and with their en-
16 listment, not only in understanding what the
17 standards are; but their presence for adoptions
18 and community based programs that service ex-
19 offenders. They are well aware of the conditions
20 in the prisons and it might be a good beginning
21 for educating the community at large.

22 CHAIRMAN TUFO: Any further questions from
23 the Board?

24 REVEREND HOLDER: You stated that the
25 Spanish speaking prisoners ought to have access to

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2 institutional employees who are fluent in the
3 Spanish language and also in further discussion
4 you suggest that this section include a mandate
5 which would guarantee that a certain ratio be
6 maintained between the Hispanic staff and the
7 Hispanic prisoner population. Could you expand
8 on that last part?

9 MR. ROBBINS: I should state that between
10 1967 and 1973 I worked for then Deputy Commissioner
11 of Correction of New York City, Deputy Commissioner
12 Birnbaum. I am well aware of what the civil
13 service requirements are in terms of hiring
14 practices. The Community Service Society felt that
15 given what the restrictions are within the existing
16 civil service system to improve representation in
17 terms of correctional staff that would be Hispanic
18 or Hispanic speaking that another way of addressing
19 or improving communications with the Spanish
20 speaking segments of the inmate population might be
21 through the various programs that are not civil
22 service and through the Criminal Justice Coordinating
23 Council, which funds many of the programs, or
24 through the Institutê of Justice, it might have
25 programs in the prisons that pay particular

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2 attention and are sensitive in terms of ratio or
3 proportions. We suggest the disproportionate
4 number in order to compensate for the lack of
5 Hispanic correctional officers. The primary reason
6 for this is that communication is critical and it's
7 another way of alleviating tension and misunder-
8 standings, that the more people that can speak
9 Spanish and have access to the respective cells
10 and to the respective services that are being
11 provided in the institutions that might begin to
12 address communication problems, which has existed
13 since my work there four or five years ago.

14 CHAIRMAN TUFO: Thank you. If Mr. Young
15 does not mind, we will go to our next witness,
16 Adam McQuillan, who is Executive Director of the
17 Correctional Association of New York and former
18 warden in the New York City Department of Correction
19 as well.

20 MR. ADAM McQUILLAN: Mr. Tufo, members of the
21 Board, ladies and gentlemen, for over 130 years
22 the Correctional Association of New York has been in
23 the forefront of progressive penology. We laud the
24 Board of Correction for their efforts to bring as
25 an area for discussion the draft of the first 16

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2 minimum standards for New York City correctional
3 facilities. In sum, we believe that these standards
4 on the whole are good and sensible but need more
5 thought; other rights must be discussed that were
6 not included.

7 As important as physical housing conditions,
8 perhaps even more so, is the total environment of
9 an inmate. An inmate is entitled to speedy and
10 effective medical treatment, psychiatric and social
11 counseling. An inmate is entitled to some sort of
12 rehabilitative counseling, either educational or
13 vocational training. These areas are sorely lack-
14 ing in the detention-type prisons. It is felt that
15 assistance in setting up these types of programs
16 will enable the inmate to break out of the revolving
17 door justice system. The unions, public and pri-
18 vate sector agencies must be goaded to do their
19 share. A strong prison visiting program utilizing
20 volunteers could greatly help to develop job
21 opportunities.

22 Included in any minimum standards should be
23 adequate plans for the type and scope of training
24 for correctional personnel. Orientation of new
25 employees, and the continuous training of experienced

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2 ones, are necessary if the standards are to be
3 understood and enforced. The early training
4 period should be the time to shape desirable
5 attitudes on the part of prison employees, to
6 interpret to the new employee the rationale and
7 necessity for minimum standards. One area that is
8 in definite need of revision is a new rule book
9 for employees. The present one is archaic, being
10 promulgated in 1956. It is senseless to expect
11 the correctional employees to carry out the
12 provisions of the minimum standards when they are
13 in desperate need of a new book of guidelines.

14 It is hoped that not only will the 16
15 minimum standards drafted be established with
16 slight modification. It is also hoped that pro-
17 visions regarding commissary, health and psychiatric
18 care, activities of civic organizations, and
19 treatment of drug and alcoholic offenders will be
20 given consideration in the future.

21 I have prepared some technical questioning
22 of the Minimum Standards which I will forward under
23 separate cover to the members of the Board.

24 CHAIRMAN TUFO: Thank you very much.

25 MR. McQUILLAN: One thing, I would like to

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2 question page 31 Section 9.9 which states where
3 anybody can tell whether a prisoner's belief is
4 deeply and sincerely held. I think it should be
5 if a prisoner chooses that belief that should be
6 enough. I don't think that anybody, including
7 our Chaplain, can really say whether that man has
8 a deep and sincere belief in his religion that he
9 professes.

10 CHAIRMAN TUFO: Is that the conclusion of
11 your testimony?

12 MR. McQUILLAN: Yes.

13 CHAIRMAN TUFO: You know that subparagraph
14 D you referred to only applies to subparagraph
15 C where a prisoner requests to exercise the beliefs
16 of a religious group, not previously recognized.
17 So, that would be limited to that occurrence and
18 would not subject anyone to questioning by any
19 religious group.

20 Secondly, I would like to ask you a specific
21 question. You may not be prepared to answer it
22 today or you may want to answer it in your remarks
23 you will submit to us on part four regarding lock-
24 in and lock-out.

25 First, lock-in and lock-out schedules because

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2 of the fair amount of conversation as to how much
3 time is necessary to the administrative staff to
4 keep a prisoner lock in after meals. The amount of
5 time for lock-in was left blank in those sections.
6 From your long experience in the Department of
7 Correction, would you have any specific recommenda-
8 tions as to whether the 14 or 16 hours of locking
9 in is necessary and whether lock-in is necessary
10 for cleaning preparation or court and meals?

11 MR. McQUILLAN: I believe in most of your
12 detention institutions, it's necessary to lock
13 people in or put them into a day room area to feed
14 them.

15 CHAIRMAN TUFO: You are speaking about lock-
16 in and cells?

17 MR. McQUILLAN: Lock them in their cells or
18 their day room; put them in a room where they can
19 partake conveniently of their meals and relax. However,
20 I believe lock-in and lock-out is kind of -- I had
21 difficulty understanding the terminology there and
22 when I write, I will put it in my notes. I would
23 rather see lock-out, which in common vernacular
24 that is what people refer to. I also think that
25 the minimum amount of time that a person is locked

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2 in a cell the least amount of trouble you have with
3 that person, including the very fact that people
4 do commit suicide in your penal facilities and
5 this is one way to reduce the amount of melancholy,
6 the amount of depression, that is found in all
7 penal institutions. The intermingling an eating
8 with other people has alot to do with changes in
9 a person's attitude at times and is a good type
10 of theory. So, I believe that the more lock-out
11 time that you can provide in any institution within
12 realistic security provisions for only those who
13 should be locked in is absolutely necessary the
14 better.

15 I also believe that anyone who is under
16 treatment, psychiatric, should be in a dormitory
17 setting. I think that should be a prerequisite for
18 avoiding incidents of attempted or actual suicides.

19 CHAIRMAN TUFO: Mr. McQuillan, the Department
20 has contended that it's necessary to lock prisoners
21 in their cells when the cleaning is underway. Yet,
22 the cleaning goes on in the dormitory settings, of
23 course, whether no one is locked to their beds and
24 this seems to be carried out adequately. Do you
25 feel that it's necessary to lock-in for purposes of

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cleaning?

MR. McQUILLAN: Absolutely not. Just step aside while the cleaners are doing their job. It's a normal occurrence. The Sanitation Department doesn't let you get off the street while they are cleaning the streets.

CHAIRMAN TUFO: What about for the purpose of taking a count?

MR. McQUILLAN: Taking a count happens to be a different matter. I believe in several ways of taking a count but the normal count when changing a shift should be a lock-in. It helps to control the situation. Informal counts which happen during the day, sometimes as many times as the warden or his staff or rule book calls for, can be done by a whistle or just lining up or counting by two's, four's, fifty's. For man counts, those which are done on the changing of the shifts, should be done with a person locked in his cell.

CHAIRMAN TUFO: Are there any questions?

MR. GIORDANI: Do you believe there is a Hispanic problem in the prison system today?

MR. McQUILLAN: There are Spanish people that are incarcerated so I imagine there would be a

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2 Spanish problem. There are alot of Spanish
3 people that are incarcerated in our system, but
4 no more than other people in the general population.
5 When you say a problem, I feel that Spanish pri-
6 soners are a problem.

7 MR. GIORDANI: I am more interested in know-
8 ing whether you believe that they are being
9 serviced properly?

10 MR. McQUILLAN: In my experience, a great
11 deal of them have a problem with education. They
12 have a problem with understanding the culture. I
13 think they have problems with understanding the
14 very language. I think we have attracted in the
15 New York City Department of Correction quite a few
16 Spanish correction officers and other people that
17 work, school teachers and civilian workers, in the
18 penal institutions. I think we need more of them.
19 I think we need an uplifting of educational process,
20 especially in the detention area, and I think that
21 we could always stand to improve our system.

22 I want to see the New York City Department of
23 Correction be the greatest system in the United
24 States. I believe it's pretty close. If it strives
25 and continues, it will achieve that.

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2 CHAIRMAN TUFO: Sir, do you believe that
3 the adoption of standards similar to these could
4 assist the Department in achieving that greatness?

5 MR. McQUILLAN: The adoption not only of
6 these standards would greatly help the Department
7 of Correction in their endeavors; but I think that
8 these are minimum standards and I feel that we
9 need some other standards that are not exactly
10 minimum. I think there are other areas where we
11 have to have maximum standards. The areas that
12 I would think are in need are medical care of
13 people who are incarcerated, the psychiatric care.
14 When the gentleman spoke about Spanish inmates'
15 culture barrier and cultural problem whether a man
16 has led to many attempted suicides because of
17 shame of being in prison, these things that have
18 to be done in a maximum manner rather than in a
19 minimum manner. As far as medical treatment,
20 psychiatric treatment, I don't think we can exhaust
21 enough to keep people who are incarcerated with
22 proper treatment.

23 CHAIRMAN TUFO: Thank you very much for your
24 very thoughtful comments.

25 Mr. Young, thank you for your patience.

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2 MR. MICHAEL YOUNG: Although I am listed
3 as a representative of the Task Force on Criminal
4 Justice Standards that group is pretty embryonic
5 at this point. However, I think I can bring a few
6 perspectives which would be of value to the Board.
7 I purport to represent the standards that they
8 have.

9 CHAIRMAN TUFO: You are employed by the
10 Criminal Justice Services?

11 MR. YOUNG: I am a member of the Task Force
12 on Criminal Justice. My vocation is a private
13 defense and that is one of the reasons I am here
14 today.

15 As a private defense attorney, it is
16 critically important to me that my clients, those
17 people who are housed in your institutions, have
18 adequate access to me and to potential witnesses
19 and other sources of evidence for their defense.
20 It is not mere coincidence that studies have
21 established that persons out on bail have a much
22 better chance of successfully defending themselves
23 in criminal proceedings than persons who are
24 confined. Along this line it is important that the
25 institution in which my client is housed provide,

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2 at least, for his basic human needs. It is
3 crippling to my defense of a client at trial and,
4 indeed, violative of his Sixth Amendment fair
5 trial rights if he is falling asleep at the trial
6 because of the conditions in his institution or
7 the manner by which he is transported to and from
8 Court is so inadequate that he can't get a
9 reasonable night's sleep. He is so tired that he
10 can't stay awake during the Court proceedings or
11 he is so distracted by inadequate visiting facili-
12 ties and loss of contact with his family that he
13 can't concentrate on the preparation of his defense
14 or, if conditions in his institution are so onerous
15 that he fears for his physical well-being.

16 Secondly, I come before you today as a
17 taxpayer with a reasonable income. I pay my fair
18 share to the City, State and Federal Government --
19 having just paid my June withholding taxes, I am all
20 too painfully aware of that. As such, I want to be
21 certain that the money that comes out of my pocket
22 and into your budget is put to better use than the
23 mere warehousing of human beings.

24 Thirdly, as a citizen in what purports to be
25 the most civilized city in the most civilized

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2 country in the world, I want to be certain that
3 the conditions in our correctional institutions
4 are not conveniently overlooked by those who make
5 that claim. The history of the Tombs and the
6 footdragging operation we have engaged in regarding
7 litigation as to conditions in our other institu-
8 tions can only be described as an embarrassment.
9 This City should be at the head of prison reform.
10 At the present time, we appear to be forming the
11 extreme hindparts of that movement.

12 I want to take the time allocated to me to
13 call to the Board's attention to a few problems I
14 have with the proposed standards you are considering.
15 In order that these criticisms not be interpreted
16 as being unduly negative, I want to preface my
17 comments by saying that I enthusiastically endorse
18 these standards as a whole. They are clearly the
19 product of a searching and balanced evaluation of
20 the need of both the corrections department and the
21 persons in their custody. In particular, I found
22 the sections on Personal Hygiene, non-discriminatory
23 treatment, overcrowding, overtime and correspondence
24 to be generally excellent. The adoption of these
25 standards would constitute a major step in

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2 initiating the development of acceptable environ-
3 ments in our City facilities.

4 Personal Hygiene as I said, I found this
5 section to be a top quality product, particularly
6 because of the specificity of the enumerated
7 standards. Over twenty years ago, the United
8 Nations, containing many countries that make no
9 claim to being as civilized as ours, first articulat-
10 ed the standard that pre-trial detainees should be
11 permitted to wear their own clothing. I am there-
12 fore particularly pleased that this standard had
13 been incorporated, perhaps somewhat belatedly, as
14 one of the standards proposed in this draft. I
15 must admit, however, that I am totally at a loss as
16 to why the Minimum Standards Project, having quite
17 properly adopted this standard for pre-trial
18 detainees, then inconsistently provides at
19 Section 1.7(b) that sentenced prisoners may be
20 required to wear department issued clothing. If
21 such clothing requirements are not necessary to the
22 security of pre-trial units, it is inconcievable
23 to me that they should suddenly become obligatory
24 to the security of units housing sentenced inmates.
25 Allowing sentenced prisoners to wear their own

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2 clothing is one of the few amenities which the
3 Corrections Department could provide to detainees
4 and sentenced inmates alike at absolutely no
5 expense to the City. Although the importance of
6 personalized clothing to an individual's self-image
7 should be obvious even to the layman, any lingering
8 doubts on this subject are laid to rest by the
9 wealth of expert testimony advocating personalized
10 clothing in previous prison conditions litigation.
11 Whether or not personalized clothing is a right
12 of constitutional dimension, it is certainly a
13 matter of major importance on which this board is
14 empowered to act. I urge you to confer the right
15 to wear personal clothing on all inmates, not just
16 pre-trial detainees.

17 Secondly, I do not believe that the proposed
18 standards go far enough on the issue of clean
19 bedding. Section 1.9(b)-(d) as I read them provide
20 only that blankets shall be cleaned at least once
21 every six months and mattresses should be con-
22 structed of materials which will permit them to
23 be easily sanitized at unspecified intervals.
24 Various cases, including Moore V. Janing, Marion
25 County Jail Inmates v. Broderick, Goldsby v.

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2 Carnes, Miller v. Carson, Bay County Jail Inmates
3 v. Commissioners and even Jones v. Wittenberg, have
4 required that mattresses and/or blankets be
5 sterilized before every re-issuance. This board
6 should impose no less stringent standards on
7 City institutions.

8 Turning to the section on Non-Discriminatory
9 Treatment, again, I would like to state that I am
10 in overwhelming agreement with the provisions in
11 this section, as far as they go. The plight of a
12 person held in custody by persons who do not even
13 speak his language is particularly pathetic.

14 In light of the specificity of the preceeding
15 section on personal hygiene, I was somewhat sur-
16 prised by the lack of specificity as to the pro-
17 vision of interpreters in this section. Specificial-
18 ly, I urge the Board to require that at least one
19 Spanish speaking staff member be present at all
20 time in units housing non-English speaking His-
21 panic inmates. For non-English speaking inmates of
22 other nationalities, provisions should be made for
23 prompt access to translation services, particularly
24 at the time of initial intake, transfer, dis-
25 ciplinary proceedings, or family or personal

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2 emergencies.

3 Overcrowding, again, a very good section.

4 I have three brief suggestions here:

5 (1) The reliance on "rated" capacity in
6 sections 3.2 and 3.3 should be changed to "design"
7 capacity. As Judge Frankel wisely explained in his
8 partial summary judgment in the Wolfish case, the
9 pivotal question is not how many persons a prison
10 administrator decided he could put in a given room,
11 but how many persons the architect designed that
12 space and provided facilities for that space to
13 hold.

14 (2) Section 3.2(a) (1) provides for the use
15 of double celling for persons certified as suicide
16 risks. I would suggest that the psychiatrist making
17 that determination also be required to determine
18 that the individual is not a risk to others before
19 permitting double celling. Clearly a person who is
20 a suicide risk and also dangerous should be held
21 under close supervision by psychiatric experts
22 rather than thrust upon another in a double-celling
23 situation.

24 (3) Section 3.3, dormitory housing. Given
25 the complete deprivation of privacy, I would suggest

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2 that to the extent possible, this form of housing
3 only be employed upon the consent of the in-
4 dividuals so housed.

5 CHAIRMAN TUFO: Mr. Young, if I may. You
6 are probably aware that the newest facility con-
7 structed by the Department of Correction is entire-
8 ly a dormitory facility.

9 MR. YOUNG: Well, then I stand by what I
10 just said.

11 Recreation: I think this is an excellent
12 section, fully supported by virtually all existing
13 correctional standards and judicial precedents.
14 Particular care should be given to the provisions
15 as to recreation for prisoners in segregation,
16 where the need for recreation takes on a greater
17 importance to the inmate at precisely the same time
18 that denial of recreational opportunities becomes
19 more pervasive.

20 Access to Courts: Section 6.2, providing
21 that prisoners should be provided with timely
22 transportation to and from courts and other pro-
23 ceedings should be more specific. The hours spent
24 in transit and in holding pens are frankly the
25 single greatest impediment to a defendant's Sixth

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Amendment fair trial rights.

Under Section 6.3, I see no reason for requiring a prisoner's written consent before he visits with an attorney. If the prisoner wants to visit, let him visit. There is no need for yet one more additional form in a department which is already drowning in such forms.

I assume that Section 6.5, regarding legal services, is intended to provide for actual physical access to a law library, as opposed to a lending library type of system. If not, it should be reworded to that effect.

Finally, Section 6.6 should also include a provision for the duplication of an inmate's legal papers.

Because of my status as a defense attorney this is an area of particular importance to me.

Here again, we get to the matter of the defendant getting four or five hours sleep because he is woken up in the middle of the night; because he lingers in the detention cells of the Courts; he has problems getting his meals; certainly has problems unwinding from a Court day and must get a full night's sleep to be rested for the next day's

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Court proceeding.

The sections on overtime, classification and religion are in conformity with existing standards and should be enacted essentially as worded.

Visitation: I was surprised at the section on visiting. As one of the most fundamental constitutional rights, any restrictions on visitation must be justified by compelling necessity. Although the provisions in the proposed standards are somewhat more expansive than Judge Lasker's ruling in Rhem, with all due respect for that Judicial leader in this field, many correctional experts and other courts feel that he substantially missed the mark on this issue. Indeed, as one who recently briefed this issue, I believe that the provisions contained herein border on unconstitutionality. Visiting and the maintenance of ties with family and friends on the outside is universally recognized to be of primary importance to the incarcerated individual. I strongly urge a reexamination of this section, with an eye to substantial expansion of visiting hours, the number of visits an inmate may have each week, opportunities for an inmate to visit in private as opposed to a crowded visiting room,

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2 provisions for inmates to visit with co-defendants,
3 and the elimination of strip searches. The latter
4 is particularly important, in that it is so un-
5 necessary and has such a degrading effect on the
6 inmate who has just enjoyed a brief reunion with
7 his loved one.

8 Telephones: This section is somewhat far
9 more limited than necessary for people who are
10 incarcerated. I feel that this may be helped to
11 a certain extent by the City's proposal and
12 consideration of installing pay telephones.

13 The demand for improvement in the conditions
14 in detention facilities is growing. I am confident
15 that the demands will come to represent prevailing
16 public opinion. This City should lead in the
17 reform movement in prison conditions. It should
18 not be where it is now, a most repressive range of
19 that movement. The adoption of these standards
20 will be a long awaited step to right correction.

21 CHAIRMAN TUFO: Thank you very much, Mr.
22 Young, particularly on the question of visiting.
23 I would like to explore this with you a little
24 further. Virtually, no one we talked with opposed
25 the concept of visiting. The two observations that

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2 are raised are the cost of staff and the security
3 problem. The security problem appears to be the
4 ones that are dealt with every day. They are not
5 overwhelming as long as you have sufficient staff.

6 Insofar as the Minimum Standards are con-
7 cerned, the Committee recommended these as minimal
8 standards and by no means, should it be said they
9 are maximum. I think you should understand that.

10 The question that I would put to you is both
11 as a practicing attorney within the constraints
12 of the detention system and as one who has had
13 a chance to review the standards. Do you feel
14 there are other things which we have covered that
15 are not as important as expenditure of public funds
16 that might be sacrificed in an effort to further
17 expand visiting requirements. Or, do you see all
18 of these Minimum Standards as being something just
19 by itself?

20 MR. YOUNG: First of all, my concern is
21 whether or not I would give priority to visitation
22 over the issue of articulation. As I indicated,
23 I think visiting is of primary importance to the
24 incarcerated, must more important than some other
25 issues. Although, it would be hard for me, if I

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2 was an inmate, to decide whether I wanted a
3 sterilized mattress or longer visiting hours
4 and I would assume it would be hard for you.

5 My point is that I believe in the very near
6 future, if not already, Courts are coming down say-
7 ing that prisons are unconstitutionally restrictive.

8 CHAIRMAN TUFO: Are you speaking of detainees
9 or all inmates?

10 MR. YOUNG: All inmates. The one case is
11 the Wolfish case in which Judge Frankel in his
12 preliminary injunction, said it is the conditions
13 which are essentially the same ones as proposed
14 in these standards and indicated the need to
15 justify any restrictions in visitation.

16 MR. POCHODA: What facility is the Wolfish
17 case?

18 MR. YOUNG: Metropolitan, the new Federal
19 directly behind the United States Courthouse here
20 in Manhattan about two hundred yards away.

21 MR. POCHODA: I take it this is the case
22 you just referred to.

23 MR. YOUNG: Yes, I was the attorney in this
24 case. As I said, in his preliminary injunction,
25 he severely criticized provisions. I noticed there

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2 was some reliance on the proposed standards. There
3 are many expert men and many Courts that are in
4 disagreement with Judge Lasker's ruling.

5 MR. POCHODA: At the moment these proposed
6 standards are now codified in the Federal Court
7 decision in that area.

8 MR. YOUNG: Well, I am pleased to hear that.
9 Frankly, since we filed a 440 page brief, I have
10 stayed away from litigation as much as possible.
11 But my point is that it is a matter of primary
12 importance to the inmates, it's something I think
13 you should think more carefully about. I don't
14 think these standards go nearly far enough.

15 MS. DAVIS: I would like to go back to the
16 Federal litigation that you were involved in
17 because it occurs that in several areas you might
18 profit by looking at the examples of what was
19 required in this Federal injunction, if anything,
20 with regard to visiting.

21 MR. YOUNG: At that time the Metropolitan
22 Correctional Center had essentially the provisions
23 you have of three visits a week, supposedly a
24 minimum of one hour per visit. Scheduled visiting
25 hours were three hours a day for seven days a week

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2 for each housing unit. At that time immediately
3 after the amended petition was filed in that case,
4 the institution moved to become more reflective
5 in their visiting. Frankel ordered them not to do
6 so. As you understand the law, the preliminary
7 injunction just stays pending final adjudication;
8 but in his decision ordering conditions were not to
9 be made worse than the ones you are now proposing.
10 He states that it is up to prison officials and it
11 would be the obvious solution to overcrowding.

12 Problems that were currently being encountered
13 by the inmates in visiting that had prompted them
14 to make that issue in the litigation would probably
15 have to be solved by expanding visiting hours of
16 your post-trial memorandum. In the case of expert
17 testimony we are not only advocating expanded visit-
18 ing rooms, we are advocating private visits. We
19 feel the inmate has a right to visit in private
20 with dignity with members of his family even if
21 such visits take in sexual relations.

22 MS. DAVIS: You talked about restriction on
23 visiting. It brings to mind classification re-
24 strictions. Do you have an indication as to how
25 this litigation might prohibit visiting?

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2 MR. YOUNG: We have taken a position,
3 essentially security, problems relating to visiting
4 can only be eliminated by increasing security in
5 the room or in case of repeated offenders by
6 eliminating him on the visiting list. I don't
7 really think it's proper because a person is
8 considered a high risk or is there for a serious
9 crime that his rights to contact with his family
10 or loved ones or his friends should be any more
11 limited than the right of other persons in the
12 institution.

13 MS. DAVIS: Am I right in understanding that
14 restrictions were threatened after this litigation
15 began having to do with classification?

16 MR. YOUNG: No, they were institutionalizing
17 conditions.

18 MS. DAVIS: Already existing?

19 MR. YOUNG: No, they were proposed.

20 MS. DAVIS: So the injunction which preserved
21 the status question with regard to visiting requires
22 that everyone, regardless of classification be per-
23 mitted visits, is that right?

24 MR. YOUNG: Yes.

25 MS. DAVIS: What about contact visits?

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2 MR. YOUNG: They were all contact visits as
3 the Judge indicated in his preliminary injunction,
4 that in the end it might well require substantial
5 expansion of visiting opportunities.

6 MS. DAVIS: I recall that there was an issue
7 -- is there an issue under litigation having to do
8 with lock-out time?

9 MR. YOUNG: To a limited extension. The
10 Metropolitan Correctional Center only locks inmates
11 into their facility during the nighttime, which is
12 approximately eight hours long and, I believe, for
13 two or three counts during the day.

14 MS. DAVIS: Can you tell me how long the
15 count takes?

16 MR. YOUNG: It depends on whether or not the
17 count clears. It may take only 15 minutes or as
18 long as an hour.

19 MS. DAVIS: In addition at the beginning of
20 the litigation they also lock dormitory people in
21 there.

22 MR. YOUNG: During meals so that you had to
23 eat in your dormitory unit which meant sitting on
24 your bed. The dormitory at the present time is
25 250 percent at its' design capacity. The only time

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2 they requir the dormitory residents to be locked
3 in their individual dormitory rooms was while
4 they were to be cleaned. Particularly because of
5 overcrowding, the dormitory has created the im-
6 possible situation in that there were 25 people in
7 a room designed for 10. It was an impossible
8 situation and during the litigation those lock-out
9 periods were eliminated.

10 MS. DAVIS: Speaking of dormitories, I want
11 to ask you a question about something that I just
12 didn't understand or perhaps didn't hear fully with
13 regard to the relationship capacity. Could you
14 explain to me what your recommendation is?

15 MR. YOUNG: I feel strongly that when you are
16 looking to how many people should be housed in a
17 unit, whether it's an individual room or dormitory
18 unit, that you should look at the design capacity
19 rather than a rated capacity, a very flexible num-
20 ber. In other words, when an institution first
21 opens and prisoner officials don't have any inmates,
22 this is a single room and that dormitory can house
23 nine people, as the number of inmates increases, he
24 feels pressure to take more people into his
25 facility. He can very easily change the rate of

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2 capacity. And all of a sudden the rate of capacity
3 becomes two instead of one or the rate of capacity
4 of a dormitory becomes twenty, instead of ten.
5 By increasing the rate of capacity of the room
6 that have been articulately designed for one person
7 and housing two people instead created impossible
8 situations. The sentenced person was housed in
9 front of cold air vents. There was only one shelf
10 for people to put their belongings on; one person
11 had to use the toilet in the presence of others.
12 You should stick with what the architect designed
13 them for unless there are compelling reasons to
14 vary that design capacity to accommodate the needs
15 of increased population.

16 MS. DAVIS: You think that is important,
17 square footage requirements?

18 MR. YOUNG: Yes, here again, you can have a
19 very small dormitory room opening into a hugh area.
20 Under Judge Lasker's formula in his preliminary
21 injunction, square footage that you essentially
22 crowd people into a room like sardines where they
23 might be locked for substantial periods of time
24 every day. It's only if you have a square footage
25 for dormitory room itself, which is what I read your

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2 standards as being. That square footage is accepted
3 in my view.

4 MS. DAVIS: I understand.

5 REVEREND HOLDER: I have a few questions I
6 would like to ask you. First of all, do you see
7 any differences in Minimum Standards for sentenced
8 prisoners and unsentenced inmates?

9 MR. YOUNG: Yes, but I see not so much be-
10 cause I advocate a right to punish because I see
11 certain need of sentenced inmates being substantial-
12 ly different from the pre-sentenced inmates. I
13 feel our correctional institution should be designed
14 for rehabilitation or incapacitation not for
15 punishment to the degree that we deny such things
16 as the right to wear one's own clothing as a form
17 of punishment, rather than a form of rehabilitation.
18 I am opposed to a restriction as that.

19 REVEREND HOLDER: This is a very important
20 question and I think that I would be interested in
21 your comment at a future date. As a lawyer and
22 defense lawyer, which you said, do you think it's
23 right for a sentenced prisoner and an unsentenced
24 prisoner to be in the same facility?

25 MR. YOUNG: I think it acceptable in the same

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2 facility, certainly not in the same unit. I believe
3 that where a person sleeps should be carefully
4 segregated according to the pre-trial or convict
5 status. They should also be segregated as to an
6 adult, juvenile offenders and I do not think there
7 are problems with sentenced and unsentenced prisoners
8 in the law library or recreation facilities. I
9 think the danger comes in the sleeping area.

10 MR. POCHODA: Mr. Young, going back to the
11 MCC for a second, you talked about the rate of
12 capacity, what was the situation in terms of
13 furniture that exists in a cell that is designed
14 for one person at MCC?

15 MR. YOUNG: Furniture that exists or that
16 existed before double cells began at MCC was a single
17 bed with draws attached to the bottom of the bed, a
18 single shelf for personal articles and a single
19 shelf for other hygiene and articles which was
20 next to the sink, a toilet and desk and chair.
21 What happened when double celling was instituted?
22 They took out these beds, put in bunk beds, had no
23 shelf or had cardboard boxes loosely scattered
24 around the room to put their personal belongings.
25 The shelf became overloaded and both people had to

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2 share one shelf. The space which was adequate
3 for the use of one person became inadequate for
4 the needs of two people. They had one lamp which
5 had to be shared between two beds and the toilet
6 had to be used by both individuals.

7 MR. POCHODA: What would be available for
8 an individual?

9 MR. YOUNG: This is what was important during
10 the course of litigation. There were eight each
11 with individual lamps that could be turned on or
12 off depending on whether a person wants to stay up
13 to read at night or go to sleep. With the increase
14 in population, MCC removed those beds and put in
15 20 bunk beds, thereby increasing the capacity. They
16 totally eliminated reading lights. It overcrowded
17 the bathroom. There is a separate bathroom con-
18 sisting of one urinal, one shower, two sinks and
19 one commode. That is adequate for the population
20 of nine. It was totally inadequate for the
21 population of twenty. They also had cabinets which
22 were put in during the course of litigation, which
23 ordinarily was the same as the storage area in the
24 double-celled room; namely, cardboard boxes under
25 the pressure of litigation, they are essentially

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2 hospital room cabinets with a latch on them that
3 the inmate can put his personal belongings in
4 and have some sense of security. Although, we are
5 still pushing for locks on those individual cabinets.
6 At least the person now has some place that is his
7 own.

8 MR. POCHODA: You talked about the inadequa-
9 cies of the hygiene proposal in terms of bedding,
10 mattress and laundry service.

11 MR. YOUNG: The MCC has an institutionalized
12 laundry service. I believe they send the laundry
13 up to Danbury, where it is laundered and then
14 return it here. In addition, they have individual
15 washers and dryers in each housing area that are
16 available for the inmates. As far as the bedding
17 goes, this is one of the areas which we are looking
18 at very seriously. The inmates have the option of
19 washing their bedding in the individual washing
20 machines, although I am not sure about the blankets
21 being washed. They have no methods for cleaning the
22 mattresses. They are not cleaned or sterilized
23 between uses. This is an area that I would like
24 to push very hard on litigation. There have been
25 complaints about body-lice being passed on, stains

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2 on the mattresses, etc. I think all you have to do
3 is take a minute and imagine yourself coming into
4 an institution and being forced to use a mattress
5 and blanket somebody you didn't know had been using
6 and think how disgusting that would be to you.

7 MR. SCHULTE: I have a brief question. You
8 mentioned earlier that you were in favor of un-
9 supervised contact visits.

10 MR. YOUNG: Yes.

11 MR. SCHULTE: You also said that you were
12 against strip searches of the inmates after such
13 a visit. How do you propose to keep contraband out
14 of the institution?

15 MR. YOUNG: I will qualify it. I will serious-
16 ly evaluate strip search in context to private visits.

17 MR. SCHULTE: I misunderstood, you are in favor
18 of strip search?

19 MR. YOUNG: Let me put it this way, I haven't
20 really had a chance to evaluate that question. I
21 know that strip searches are one of the most common
22 complaints of the inmates. I would certainly find
23 a more compelling reason for using such search if
24 private visits were allowed. I find no justification
25 for it in the presently supervised contact or non-

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2 contact situation.

3 CHAIRMAN TUFO: Some of your remarks seem
4 to assume that this Board has a responsibility for
5 running the prison in New York City. Perhaps that
6 is a misconception or perhaps I misunderstood you.
7 You should know that this is a Board of unpaid
8 citizens who do not have the responsibility for
9 running the institutions; but we are doing our best
10 to put together Minimum Standards, which are re-
11 quired by the voter and the City Charter.

12 MR. YOUNG: If I misled anybody on that, I
13 certainly apologize. Number one, I deeply appreciate
14 what you are doing.

15 MS. SINGER: Did I understand you to say that
16 a lawyer could come in at anytime without any kind
17 of screening?

18 MR. YOUNG: My position is that you should
19 not require an inmate's written consent before a
20 lawyer can visit him. I agree completely with the
21 need for lawyers to prove that they are lawyers
22 before being afforded an attorney visit. But I
23 find it totally unnecessary to require written forms
24 from the inmates before he receives a visit. There
25 are occasions where the inmate has proceedings

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2 pending both civil and criminal. To require forms
3 to be filled out by inmates for each of those
4 visits is totally unnecessary, particular because
5 the inmate upon hearing who is his visitor can
6 say, "I don't want to visit with him."

7 MS. SINGER: But there has to be a con-
8 firmation?

9 MR. YOUNG: Yes.

10 CHAIRMAN:TUFO: The next witness is Dr.
11 Jon Regier.

12 DR. JON REGIER: My name is Jon Regier.
13 Our participation and concern in prison in New York
14 State is historic. We have coordinated the work of
15 28 Protestant denominations, 12 Christian orthodox
16 communities and have been assisting both in terms of
17 work at the State level, in terms of legislation
18 and in terms of prisoners themselves has provided
19 the aggregation of the Chaplain in all State in-
20 stitutions, including the prisons. Most recently,
21 we have been instrumental in fighting for right for
22 Moslems to have their religion made real. The
23 American to have their Indians and persons and their
24 chiefs to visit them as religious leaders in their
25 community. In that context, we came to fight for

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2 the rights of all people. We became a major force
3 in the New York State Coalition for Criminal
4 Justice which brings together about 213 organiza-
5 tions across this Country and a good number from
6 the Metropolitan New York City area who are
7 struggling to make the system more humane.

8 I must say on the first reading of the
9 standards I saw how those are really much different
10 and in some cases were less than your current
11 standards in New York City's plan. Why is it
12 essential to bring forth this minimum set of
13 standards? Then I quickly became reminded of the
14 fact that though there is attention to Federal
15 and State penitentiaries, at many level there is
16 very little citizen concern about our prisons. I
17 commend your system for taking your time to do this.
18 I commend you for having the courage to stand up
19 and say, these are forgotten people whose needs
20 have to be cared for. I remind you that the bulk,
21 by your own statistics, who by the laws of the land,
22 are presumed innocent until they are found guilty.
23 You figure 5,000 of the human beings we are talking
24 about have not been found guilty for reasons by
25 which they are currently incarcerated. I will work

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2 through your staff and my staff in terms of putting
3 some specific points together.

4 I would like to make several points. First,
5 I would urge that you really give serious con-
6 sideration to fighting the hard battle to make
7 a prison a more humane place to be. I commend you
8 for the progress you have made so far. To do
9 this, I think means really maximizing contact and
10 I know there are problems around that. But especial-
11 ly for first offenders, especially for people who
12 are in for misdemeanors or on pre-trial situations,
13 the contact with the community is fundamental to
14 keeping these persons out of the Criminal Justice
15 chain. Your courage in standing up and being count-
16 ed at that point could be a fundamental turning
17 point in the Criminal Justice revolving door we have
18 heard about all day. Especially for the first
19 offenders and persons who are in for misdemeanors.
20 Visiting hours compared to State's seem minimal
21 in terms of budget costs and supervising with the
22 hard pressed problem that New York City has they
23 probably have to hold. Contact with family, contact
24 with lawyers, contact with press I believe is
25 critical.

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2 As to the section on religion I commend
3 you for your standard in that area and I would also
4 like to speak to the staff persons' question about
5 payment. I don't know how we get out of the problem
6 of State or County or City paying for Chaplain
7 services. But it's my contention, an increasing
8 contention, of our constituency that Chaplaincy
9 on the staff of the Government is a less competent
10 Chaplaincy than is paid for by the religious
11 community. I realize that by putting us at the
12 State level, it is putting a multimillion dollar
13 question on my desk.

14 CHAIRMAN TUFO: We encourage you to address
15 that problem very seriously. It is a problem we
16 have been dealing with for many years.

17 DR. REGIER: We don't know the answer but
18 we will see where we can go with it. We are in-
19 creasingly worried that minority persons do not
20 often have their own religious persuasion. You ask
21 whether they are Baptist but are they Baptist from
22 where the person is from. In those religious
23 experiences and background to have the right to
24 seek a minister, we believe is less than adequate.
25 As long as we are citizens paying for that service

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2 we would urge that to be dealt with.

3 Recreation for an hour a day seems minimal
4 for pre-trial detainees. I have a feeling that
5 greater recreation may be essential. We would
6 certainly stress that more be done with trans-
7 portation problems. In speaking with families, in
8 speaking with prisoners, the problems of trans-
9 portation around the prisoners, especially around
10 Rikers Island, are horrendous and it's the
11 Department's problem and we feel that something
12 must be done. We recognize that there are probably
13 additional costs, in these minimal standards my
14 analyses indicates that all these costs are not
15 optional, they are primarily court cases, legislative
16 decisions, that we have no basic choice. So,
17 you say, "Mr. Taxpayer, how do we pay for it?" I
18 would be responsible if I didn't make some sugges-
19 tions. I don't think we begin to figure the costs
20 of incarceration. In the hard drug laws for
21 possession of three joints a man earning \$12,000.
22 a year in our community was sentenced to five years
23 in Attica. His wife, his children, his mother-in-
24 law and his mother are all now on welfare. I
25 realize I am talking about marijuana. I realize

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2 I am talking State law; I realize I am talking at
3 that level. I would suggest especially in
4 pre-trial we might seriously look at how we can
5 reduce our prison problems by dealing with a bail
6 question. On misdemeanors, especially to get
7 rid of a cash bail, and by reducing the cost of
8 the number of persons incarcerated, is it not
9 then possible that we might be able to have suffi-
10 cient dollars by transferring them from one bed to
11 another to make that possible. I would suggest,
12 secondly, that we might begin to become innovative
13 regarding post-trial incarcerated. We are one of
14 the few countries in this world that requires
15 people for certain kinds of crime or offenses and
16 that is what we are talking about. We are talking
17 about post-trial incarceration in County and City
18 level to be required that they be in jail full
19 time. Reducing population through work relation
20 programs, can reduce the welfare costs, can in-
21 crease the productivity of a human, give them
22 greater self-worth and reduce the number of persons
23 that are in the cells in our country jails and in
24 our City.

25 MR. POCHODA: You are referring to

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2 misdemeanants?

3 DR. REGIER: Yes. I am not referring to
4 felons. I am not referring to somebody who has
5 shot somebody dead. So in summary I would like
6 to remind you that in some areas, we will give you
7 a few written concerns that we have; but basically
8 I have come down from Syracuse to call on you
9 people to stand tall. To call on you people to
10 have the courage to challenge some of the assump-
11 tions of the past, as you already have. To call
12 on you people to hold firm to these minimum
13 standards and really make life challenging to all
14 by translating some of them to maximum standards.

15 MS. DAVIS: Thank you. Are there any questions?

16 MR. POCHODA: Dr. Regier, you mentioned that
17 you come down from Syracuse of the objection or
18 feeling that this subject had in drafting this is
19 that they might be helpful in other urban communi-
20 ties. Let me ask whether Buffalo or Rochester
21 has anything similar in the way of standard setting
22 bodies, other than the correctional authorities
23 themselves that cover their local jail.

24 DR. REGIER: The only standards that I know
25 of are put forth by the State Commissioner of

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2 Corrections. As far as I know, I would like to
3 check this out; but I think you are unique in
4 the State in terms of making the step at this time.

5 MR. POCHODA: I don't know if this is
6 possible to answer. Do you feel there would be
7 an effect one way or another on the upstate urban
8 areas if New York City did adopt a set of standards
9 that began with these proposals?

10 DR. REGIER: Absolutely. I have been in the
11 State only for four years. I got old and tired
12 and wanted to take on something that I could handle.
13 the great shock that I learned in New York State
14 is that we destroy more good things by playing off
15 New York City against the rest of the State or
16 playing the rest of the State against the City,
17 increasing the major contest. Five counties up-
18 state are beginning to realize that we hang together
19 and I am confident that if there was a major reform
20 to the City prison systems here, it would be State
21 wide. I think it would also have an impact on
22 the State system as well. I am advised of that.

23 REVEREND HOLDER: Good to see you. I was
24 particularly interested to see you here. I am very
25 glad that you came. I want to ask one question

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2 that maybe we can work something out, as far as
3 Chaplaincy goes, of course, it's a very serious
4 problem, especially financially. I know we are
5 supplying someone in the near future to work in
6 the prison and we will pay for this person's
7 salary. I wonder if in the State Division of the
8 Council of Lawyers if there is such a kind of
9 movement or any kind of negotiations whereby some
10 Protestant Chaplain could be hired within the
11 correctional facility?

12 DR. REGIER: I think the potential for that is
13 in direct relation to the creativity of the Depart-
14 ment of State and City Governments in terms of
15 moving away from the overdependency of incarceration.
16 I do not see the religious community supporting
17 Chaplains to maintain a high dependency on in-
18 carceration as we now have. If there were efforts
19 to move away from heavy incarceration and find
20 other community based or community owned and
21 operated and church operated facilities to handle
22 some of the reform problems. I think you would
23 increase cooperation to pay for the Chaplaincy
24 question. But to simply provide Chaplains for
25 warehousing of human beings is beginning to make

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2 to make the church culpable with the State and with
3 the City in the warehousing of people. So you
4 really face a moral question on the part of
5 religious communities. So, getting away from
6 warehousing, this is a fundamental first step that
7 has to happen before the church can give serious
8 thought to that.

9 MS. DAVIS: Are there any questions? In
10 that case, we thank you Reverend Regier.

11 REVEREND CHARLES YERKES: Thank you for
12 having me here. My name is Charles Yerkes and I
13 have come to speak on behalf of the Interfaith
14 Coalition for Equal Justice in New York City which
15 is a coalition of more than 30 religious organiza-
16 tion, all of which have some proposals for opera-
17 tion of serving inmates or at work on legislative
18 programs, having to do with criminal justice here
19 in the City and State.

20 Let me say from the top that I want to
21 eliminate about half of what I came prepared to
22 say. It has been a long day and not to be too
23 repetitious I curtailed these remarks. In coming
24 directly to the point which concerns me most or
25 on behalf of the people that I represent today.

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2 That is the presence and representation of the
3 community inside the institutions. I found no
4 place for any organized elements of community
5 inside the institutions in these Minimum Standards.
6 As individual members of the family, to be sure,
7 individual lawyers, yes, otherwise only the re-
8 presentatives of the system, itself, and correction
9 persons, courts and so forth. But no guarantees
10 for access to organized elements of the community
11 which are not, themselves, the system. As I
12 recall the history of the programs, that have been
13 inside the institution since 1971. They really
14 came out, and you can correct me, but they came
15 out in 1971 in the House of Detention in New York
16 City. This was Board was revitalized as a result
17 of that rebellion and in our houses of detention
18 and then it was City fathers and mothers who took
19 count as to how the community might be best re-
20 presented inside the institutions since one of the
21 main complaints that was heard from inmates in
22 those days was that we feel ultimately cut off.
23 Various people were considered as the right ones
24 to send to the institutions for reasons best known
25 to the Board at that time, It was the clergy that

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2 was decided should go inside the institution and
3 represent the community to the inmates and also
4 to represent the inmates to the community. These
5 men and women in the institutions whatever becomes
6 of them remain members of communities from which
7 they come. Our presence in the institutions helps
8 both to remind them very often to apprise them of
9 some new aspects of the community that they can
10 live with and work with as they come out rather
11 than fight with and struggle against as may have
12 been the case and the kind of case that brought
13 them into the House of Detention in the first place.
14 So my word to the Minimum Standards staff, besides
15 grateful and thank you for all the work done, these
16 Minimum Standards which an inmate coalition is
17 grateful for. We would like you also to consider
18 the guarantee of access for organized elements of
19 the community inside the House of Detention. The
20 kind of access that the clergy has enjoyed since
21 1971 and now the Chaplains Association let that be
22 guaranteed of my word to the Board in general would
23 be pleased to continue to be headquarters for the
24 rest of the community, that is not the Criminal
25 Justice establishment. Please continue to help us

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2 be monitors for those members of the community
3 who have now entered upon the system. I think
4 the rest of the community is asking the Board, at
5 this point, although we know that these Minimum
6 Standard if enforced will cost more money or re-
7 shuffling of resources in the Department and that
8 there surely will be a departmental complaint if
9 in the name of kindness and in the forces of the
10 community to redeem people, don't back down. If
11 it's a money problem close down before you back
12 down; but don't back down.

13 MS. DAVIS. Are there questions?

14 MR. POCHODA: I would just like to say we
15 appreciate your efforts, Reverend Yerkes. We
16 certainly do not mean to foreclose anything. If
17 you want to submit anything further, we are open
18 for phone calls.

19 Secondly, on your main comment I think there
20 was an understanding of the importance of that
21 aspect of the community involvement on a systematic
22 basis, particularly in pre-trial facilities. We
23 are very much concerned and are now working on this.
24 Ms. Singer has been very concerned about different
25 types of services and others are in the middle of

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2 trying to figure out how to phrase that and
3 specific people like yourself who have experience
4 in that area.

5 MS. DAVIS: It would be helpful in that
6 process to know whether you have had or you know
7 of people who have had problems in gaining access
8 or whether you are urging simply that we encourage
9 organized community segments to maintain presence
10 in the institutions?

11 REVEREND YERKES: There are possibly a lot
12 of people who have problems gaining access because
13 I know access was provided for clergy. For a time
14 you had to be an ordained clergy person to gain
15 access to the program. Then that program was en-
16 larged so that other people and various groups have
17 been able to come in under that aegis and others
18 who have been asked to come. As long as there is
19 some accountability on their part, we are asking
20 that they have entre to the people who, as we all
21 know, very often have come to the bottom of the
22 roller coaster. They have time to sit there and
23 think. All those things that immediately appeared
24 to me, so be advised that I had to ask before why
25 they didn't appear in the Minimum Standards draft

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2 that we have. Of course those things have to be
3 attended to. Of course, these services have to be
4 guaranteed for people who are detained in our
5 institutions. Therefore I recollect that this is
6 one of several sets of standards and I am assuming
7 that these services will be covered in your other
8 set of standards.

9 MS. DAVIS: You are quite right and we all
10 thank you.

11 Is Mr. Rosenbaum here?

12 MR. RICHARD ROSENBAUM: Good afternoon, my
13 name is Richard Rosenbaum and I am Secretary of
14 the New York Criminal Bar Association. The New
15 York Bar Association is a organization of defense
16 lawyers and includes among its' members many former
17 prosecutors, State attorneys, assistant district
18 attorneys and formal legal aid lawyers. I am here
19 because to testify concerning a Notice to the Warden
20 and basically a Notice to the Warden is what an
21 attorney must get if he wants to see his client is
22 incarcerated within the New York City Correctional
23 system. Anytime that attorney wants to go see his
24 client either in Rikers Island or any other correc-
25 tional facility, he must go up to the clerk's

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2 office and obtain a Notice to the Warden. Now,
3 originally the Notice to the Warden requirement was
4 instituted to stop business hungry lawyers from
5 soliciting clients in the Tombs. At the time that
6 this rule went into effect almost everything was a
7 label. For example, ten or twelve years ago, you
8 could get arrested on an obscenity charge for
9 selling so called obscene books, which is a mis-
10 demeanor and have to post a thousand dollars bail.
11 Today the situation is entirely different. There
12 is absolutely no motivation for any lawyer to
13 solicit clients but still a lawyer must obtain
14 his Notice to the Warden and that could often
15 create a great deal of inconvenience. If a lawyer
16 gets a phone call on Friday night that perspective
17 client has been arrested and wants to see him that
18 morning on Rikers Island, he can't do it because
19 I can't get Notice to the Warden. He can't go to
20 court because they are closed. So, he is denied
21 access to his client. If the lawyer has a client
22 and he is located in the Bronx, in order to see
23 that client he has to travel up the the Bronx to
24 get a Notice to the Warden. This is costing the
25 taxpayer money because if the lawyer is assigned he

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2 bills the State or County Treasury for the time
3 that it took for him to get the Notice to the
4 Warden. On some occasions you can't get a Notice
5 to the Warden at all. For example, if the file
6 is not in the clerk's office, for some reason, the
7 lawyer is very often denied a Notice to the Warden
8 by the clerk.

9 This Notice to the Warden should be abolished
10 completely and substituted by some other form of
11 identification. For example, laminated identifica-
12 tion case with a picture of the lawyer. It
13 should be noted that a Federal correctional facility,
14 MCC, as we call it, requires that you only present
15 your business card when you want to visit a client.
16 Many of the defendants incarcerated at MCC are
17 very well to do and very affluent and yet, there is
18 no requirement that you have to get Notice to the
19 Warden. I ask that you, as the Board of Correction,
20 do all within your power to see that this antiquated
21 system is abolished completely. Thank you.

22 CHAIRMAN TUFO: Thank you very much, sir.

23 MS. DAVIS: Do you believe that our stand
24 on access to court as presently drafted will
25 resolve this problem?

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MR. ROSENBAUM: I am sorry but I haven't seen the draft.

MS. DAVIS: It permits any properly identified attorney to visit and have an attorney visit with an inmate including, but not including own counsel of record.

MR. ROSENBAUM: How does that work exactly? He just presents his business car?

MS. DAVIS: We have left it to the Department to decide what is proper identification programs. We should be more specific in this regard, but it certainly does not involve presentation of Notice to the Warden.

MR. ROSENBAUM: The only thing I can say is that I am all for it and I only urge that you would specify and given them some guidelines so that they don't come back with something else.

MS. DAVIS: Would we, in your opinion, be in conjection with the provision of another agency to promulgate this situation?

MR. ROSENBAUM: Which agency?

MS. DAVIS: With a valid registration of another agency.

MR. ROSENBAUM: I strongly doubt it. In fact

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2 many social workers in the drug programs, get
3 regular visits to Rikers Island and they have their
4 own identification card. Sometimes it's easier
5 for them than the lawyer to get into Rikers Island.
6 So I can't see any conflict.

7 CHAIRMAN TUFO: Thank you very much.

8 Next is Mr. Sheldon Ashley, representing
9 the New York State Grand Jurors Association.

10 Mr. Ashley are you speaking for the Associa-
11 tion or for yourself?

12 MR. SHELDON ASHLEY: To a great degree I am
13 speaking for the Association. The nature of this
14 hearing was rather short for our purpose as being
15 able to contact everyone in detail but a cross
16 section has been polled and I think my remarks will
17 be adequate profile of those. In any instance I
18 don't think any of my remarks will be that extra-
19 ordinary or that combative that a question will
20 arise. If they are, please stop me short.

21 May I say firstly, we do appreciate the
22 opportunity to address you gentlemen today on the
23 subject, that is of course, of great interest to
24 us as it is to all residents of this State and I
25 presume, of course, other states.

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2 In going through the draft of the Minimum
3 Standards, some objections do come to mind. How-
4 ever firstly, probably the most trouble in some
5 things here is that we get a general feeling that
6 onus is on the public and on public officials at
7 this time. I just wondered whether or not there
8 really should be any onus on anyone. The text
9 that we see, a draft that we see continues to
10 present the detainee and the convicts and person
11 that has been convicted as an extraordinarily
12 abused and extraordinarily used person. We have
13 reservations on that. In the absence of complete
14 facts, I don't know and I don't know whether or
15 not the public is that abusive in not providing
16 extraordinary facilities that perhaps have not
17 existed before for these gentlemen.

18 CHAIRMAN TUFO: Is there any specific
19 language in the standards that you would out to us
20 as suggesting that the detainees are abused?

21 MR. ASHLEY: Yes, sir. I think I can
22 probably find in every and any category.

23 CHAIRMAN TUFO: Can you give me an example?

24 MR. ASHLEY: I was listening to the good
25 Reverend before and, of course, I must admit that

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2 it would be very nice, indeed, if religious
3 counsel was available to everyone. I just wonder
4 whether or not we are reflecting to the detainee,
5 whether we are reflecting to the inmates the same
6 amount or more of an amount in the facility than
7 he would avail himself of on the outside. If we
8 are providing the existing facility programs, we
9 are wasting particular resources, wasting particular
10 funds. I could certainly see where on call if a
11 facility was asked for what is provided but to
12 be possibly overpowering in a category like this
13 is perhaps wasteful.

14 CHAIRMAN TUFO: The religion category you are
15 speaking of?

16 MR. ASHLEY: Yes, sir. I am talking about
17 in a matter of recreation of course, it would be
18 wonderful if we could provide most extraordinary
19 facilities. If we provided stadiums for each and
20 every person, then we are going on and I don't
21 think this was called for and I don't think the
22 City budget will allow it.

23 On the matter of telephone calls, of course,
24 I can certainly see where a person who is a detainee
25 or inmate had to talk with his lawyer, had to talk

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2 with a person at home. Again, I just wonder
3 whether or not generally it borders on that. At
4 least, to his attorney and unlimited phone calls
5 to his family.

6 CHAIRMAN TUFO: Are you aware that this is
7 the present practice of the Department of Correction?

8 MR. ASHLEY: Yes, sir, I understand, that is
9 why I am directing that. In all of this, I did
10 want to mention as an example -- once again, I
11 am not a lawyer, so forgive me if I use your
12 legal citations -- in Bell v. Wolf and due process
13 means that pre-trial detainees cannot be subjected
14 to hardship other than those which are necessary
15 for their confinement. What reasoning is this.
16 It's a realization that there are some hardships
17 that are necessary when a person is detained or
18 when a person is convicted. Now this is not my
19 language. This is the language of the court.
20 Those suggested hardships other than those which
21 are necessary for their confinement. Now, the
22 public at large does not really know very much
23 of what you ladies and gentlemen do here. The
24 public at large does not know very much about what
25 goes on inside of an institution of the type we are

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2 referring to here. But the public is having their
3 own hard economic time. There is somewhat of a
4 resentment afoot when the public is not being asked
5 to support and finance additional liberal facilities,
6 but they are being directed to do this. I fully
7 realize that alot of expression does come as a
8 result of the word of the Federal Court. I
9 certainly realize that it's refreshing to me that
10 in the one area the Federal Court has eroded on
11 places like New York and have told us what we can
12 do and what cannot be done. In other areas of
13 current input, in other ways of importance, in the
14 matter of abortion, etc., in a lot of instances,
15 the Federal Courts have told the State that they
16 can do as they see fit. I do not understand, as
17 a layman, why in this one area the courts are that
18 stringent with us.

19 CHAIRMAN TUFO: It appears the courts feel
20 they are infringing on basic constitutional rights.

21 MR. ASHLEY: We are concerned with the time
22 where the court will eventually say that if you
23 want to have them promulgated very good grandiose
24 rules for the operation of these institutions, the
25 court will say that if you cannot incarcerate those

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2 people according to these rules, you cannot
3 incarcerate them. We understand that this is
4 certainly a possibility and the public is not
5 particularly keen on seeing a person, a detainee
6 or a convict, loose on the street solely because
7 there is no adequate quote "Country club" facilities
8 to accommodate him and to accommodate his every
9 whim and fancy. I think the public is certainly
10 deserving of the consideration on this as well as
11 the person who is presumed to have done wrong or
12 actually acclaimed to have done wrong. The public
13 is not getting a fair look in these matters and the
14 public --

15 CHAIRMAN TUFO: Who is that presumed to have
16 done wrong?

17 MR. ASHLEY: I am presuming that when you
18 are detaining a person naturally, he is innocent
19 until proven guilty, we understand this, but never-
20 theless he is being detained until the matter can
21 be clarified. There is a reason for his detainment.
22 Now, alot of this is also manifested in other ways.
23 I find it very difficult, indeed, to understand
24 the rationality why packages, why correspondence
25 within limitation cannot be subject to adequate

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2 pursual and stopped when it seems to be necessary.
3 I don't have here in my plan of what the procedure
4 is, what that procedure will be, but certainly
5 for the safety of the people in your institutions
6 as well as for the general matter of law and order;
7 for the general matter of avoiding trafficking in
8 questionable circumstances. I would think that
9 would certainly be wise.

10 MR. POCHODA: That is permitted under the
11 proposal. All incoming letters and packages can
12 be opened and inspected for dangerous materials
13 and so forth.

14 MR. ASHLEY: I think that is very constructive.
15 What does concern us also is the matter of staffing.
16 your facilities and whether or not there will be
17 adequate funds available for additional staff. It
18 would be our presumption that this is one area
19 where you do need additional resources.

20 In the matter of structure it's interesting,
21 indeed, that one quasi-legal organization will say
22 70 square feet that is necessary for cells, another
23 one will say 75, another one says 80 and I see
24 another one says 90. When they are talking about
25 the possibility of spending millions of dollars for

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2 additional structures for additional institutions
3 of all kinds, that the basis of call this expendi-
4 ture is general subjective reasoning. I don't
5 think we know what the necessary space is for a
6 person that is being held in one of your institutions.
7 I think by the very fact it's unwarranted and that
8 you are missing intent to submit business on the
9 basis of variables. I we had to, we could present
10 argument. I don't know but until that is clarified
11 I think each and every institution coming up with
12 their own figures is rather silly. I wouldn't
13 trouble you any longer on these details except to
14 say the public is concerned, of course. There
15 isn't enough contact certainly with the institution
16 and with your Board. We look forward to such
17 contacts. The public is not inclined to create a
18 super fear. The purpose in detaining a person is
19 to eventually get him out of there and back into
20 a community. This is one thing that should be kept
21 in mind.

22 CHAIRMAN TUFO: Thank you very much.

23 MR. POCHODA: May I make a clarification,
24 Mr. Ashley. In testimony of size, the Subcommittee
25 did not, at this point in time, set a minimum size

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2 on the cells, the individual cells, because of
3 problems in construction. Even though the Department
4 will admit that the size they have presently in
5 most of the cells, which are somewhere between
6 42 and 48 square feet, is quite a bit below any
7 accepted standard. The one size that is in the
8 dormitories, because there are specific Court orders
9 orders in New York City that says it's an in-
10 stitutional minimum for people in dormitories there
11 should be 75 square feet of space.

12 MR. ASHLEY: Correct me if I am wrong, but
13 I do believe that there was no standard in the
14 draft for detainees. I think what you are talking
15 about are convicts.

16 MR. POCHODA: No, there is a Federal Court
17 order.

18 MR. ASHLEY: On detainees?

19 MR. POCHODA: Yes.

20 MR. ASHLEY: I stand corrected.

21 CHAIRMAN TUFO: Thank you, sir, for your
22 testimony.

23 John Gmelch, speaker for Kings County Grand
24 Jurors Association.

25 MR. JOHN GMELCH: My name is John Gmelch,

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2 I am President of Kings County Grand Jurors
3 Association.

4 I have objection to alot of these Minimum
5 Standards because they fall in some specific areas.
6 I know what your job is. It's quite difficult and
7 the second thing is that you have to balance your
8 support for prisoners and to the people of the
9 City of New York and to the taxpayers and your
10 guards and people who work in your prisoners. You
11 can't ignore anyone of them in reaching your
12 decision. You can't escape that responsibility.

13 CHAIRMAN TUFO: You may be aware that our
14 lead off witness was your attorney, Eugene Gold.
15 I point out to you that we are soliciting points
16 of view from all segments of the community.

17 MR. GMELCH: I have your Minimum Standards
18 and I want to go over it section by section with
19 you on behalf of the citizens of New York City.

20 CHAIRMAN TUFO: I don't want to be rude but
21 we have to be out of the room by 5:00 o'clock and
22 it's now 18 minutes to 5.

23 MR. GMELCH: Prisoners may be required to
24 wear departmental clothing. If I were your boss
25 and you were my personnel manager you would be

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2 bounced if you came in with the word "May" Either
3 must or must not, that's all. That's all there is
4 to it. The decision you are passing on to someone
5 else and I went through a lifetime of this, if you
6 don't make up your mind and if anything goes wrong
7 the word is must. For instance, the prisoner may be
8 engaged in outdoor activity and specific clothes
9 should be provided, baseball shoes. Hard helmet
10 for football, sneakers for ball. Don't tell me
11 now, somebody wrote this up and somebody has got
12 enough sense to read what that says. It says out-
13 door recreation specific clothing should be pro-
14 vided. That is what I am objecting to. Things
15 like that.

16 CHAIRMAN TUFO: I think the intention of
17 that was provided.

18 MR. GMELCH: It says, so you wrote it.

19 CHAIRMAN TUFO: I didn't write it. I don't
20 mean to argue. I am trying to explain to you.

21 MR. GMELCH: The intent to provide for what?
22 For rain or cold. If the intention was so written,
23 it's so.

24 MR. POCHODA: That will be written in the
25 commentary.

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2 MR. GMELCH: Let's go further 1.12 -- sink
3 with hot and cold water. The YMCA gives life in
4 a room that is no more than 75 square feet. They
5 haven't broken a law in their lives they are all
6 taxpayers who are poor.

7 CHAIRMAN TUFO: I would point out that is in
8 every correctional facility built in New York City
9 in the last seven years has a sink with hot and
10 cold water.

11 MR. GMELCH: Your treatment of the prisoners
12 is not much better, believe it or not. Next I
13 am pointing out to you that there is a loosely
14 written bunch of rules with no background or no
15 thought background, I can forgive you, but not
16 too much. I want to get into 2.22 prisoners should
17 be afforded equal protection and equal opportunity
18 in all institutions including etc., etc., etc., etc.,
19 that the prisoner's rights should be transported
20 to the warden or to the people if charged by a
21 social worker in the organization and should be
22 a burden upon the prisoner. But there are a lot
23 of prisoners that can't express themselves carefully
24 and correctly and social workers should represent
25 him on these things that have to do with housing

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2 assignments, etc., etc., etc.

3 Now, to get down to 5.2 you got recreation
4 specifications. This is a lawyer's holiday. You
5 need a court of the United States to decide what
6 is sufficient space. That's all I can say. 5.3
7 says that the playground should be used to the
8 maximum, indoors and outdoor, is that right? Pro-
9 vided the City of New York which is bouncing along
10 on its' bottom has enough guards to prevent these
11 people from escaping, it indoor - outdoor. This
12 is all right with these guys. I tell you about
13 a prisoner but let that guy walk up Eastern Parkway
14 today and tomorrow morning he is lucky if he can
15 say anything. This is the situation in New York.
16 They are driving people out, the corporations out.
17 On the responsibility to provide decent housing
18 for these prisoners and also to provide safety
19 to the citizens of New York and to the businesses
20 in New York. Now, I have gone down to 6.1, jail
21 house lawyers to create a dynasty. You read it, it's
22 in the movies, you don't believe it, but here it
23 is. A jail house lawyer should represent a prisoner
24 in the social service when lawyers are fighting to
25 get in without going to the warden.

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2 CHAIRMAN TUFO: I don't believe that there
3 was any suggestion that anyone would represent
4 the prisoners.

5 MR. GMELCH: It says so, you wrote it.

6 CHAIRMAN TUFO: It doesn't say that, sir.

7 MR. GMELCH: Prisoners are entitled to legal
8 assistance and jail house lawyers. What is a jail
9 house lawyer?

10 CHAIRMAN TUFO: It says access, not repre-
11 sentation.

12 MR. GMELCH: A jail house lawyer? I would be
13 if I was in jail. So, therefore, that should be
14 out, shouldn't be in your thinking. A jail house
15 lawyer is a criminal and he is going to victimize
16 another criminal. You have to think. Alright, let's
17 go.

18 MR. POCHODA: That follows two Supreme Court
19 cases.

20 MR. GMELCH: 6.6 first a fellow comes into
21 jail he had clothing, had this and that; but his
22 legal material cannot be seized or confiscated
23 except that it must come from the outside and it
24 surely should be examined for contraband unless it's
25 come from his attorney. But if his grandmother

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2 brings it down, you don't know if there is a file
3 in it or not. I am telling you that is your
4 responsibility and you cannot escape that.

5 CHAIRMAN TUFO: I don't know that anyone
6 has commented on the responsibility of having files
7 brought in, particularly if Brooklyn.

8 MR. GMELCH: I want more on 2.2. You use
9 the word "Unduly" the clause of 9.6, a man can
10 change his religion but can attend the service of
11 both. He ought to make up his mind. Then he said
12 he can wear the hats and clothing, medallions and
13 crucifixes hanging around his neck, it is murder
14 if the wrong guy gets it. Think of who you are
15 dealing with. You are not dealing with people;
16 you are dealing with animals.

17 CHAIRMAN TUFO: I don't agree with you. I
18 wish you would confine your remarks to the Minimum
19 Standards if you would like to continue, I suggest
20 that you address your remarks to the Minimum
21 Standards.

22 MR. GMELCH: I am not talking about mis-
23 demeanants, I am not talking about bad check bouncers.
24 I think we have enough felonious criminals to win
25 some sort of a record, that's for sure. Alright,

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2 now in 9.9 you have research that if a fellow of
3 a religion tells the warden and he researches
4 and finds out. It's a very simple thing to solve.
5 If a man is of simple religion he can supply the
6 warden with the name of his pastor, with the
7 request to tell the pastor to visit his parishion-
8 er, who he probably knows by his first name, who is
9 confined. It says a very simple sentence. Visit-
10 ing should be for the visiting period, no visitor
11 should begin to wait. Lack of time if such a person
12 is waiting, visitors who have been there the
13 longest during a particular visiting period should
14 leave. That, of course, means they may argue and
15 discuss more than people who are sound and stable.
16 When you just speak to them they will just get up
17 and walk out. I think I made my point on it. 10.5
18 I don't like at all. Visiting log should be con-
19 fidential. Why? This gives me great concern. Why
20 don't I know who visits him? What is there to
21 hide about visits that you don't want to get out?
22 Why? Just a curiosity. Don't tell me. If you
23 fring a 12 year old visitor down, 12 to 18 year
24 old relative but you have a person -- and if you
25 must know, that the heroin and the pills are being

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2 moved by 12 year olds from automobile to buyer.
3 So, in case the kid gets picked up, he is a
4 juvenile and nothing can happen. Is it the 12
5 year old you want to visit with the 18 year old?
6 Visitors should not be stopped unless they pose
7 a serious threat. What does the word "Serious"
8 mean? To me it don't mean anything, to somebody
9 you blow the wind and it is serious. Take out
10 the words "Serious" and "Threat" is sufficient.
11 Then the acts have to be of his present incarcera-
12 tion. In other words, the warden has to be an
13 absolute dumbbell not to know what is going on.
14 He wouldn't be able to tie his shoes if he didn't
15 go on the past experience. So, why is past ex-
16 perience so bad now?

17 Free phone calls, the City may be giving
18 them out. But the question is can the City afford
19 this luxury of free phone calls?

20 CHAIRMAN TUFO: The recommendation is that
21 they provide for emergency calls for prisoners.
22 The word "free" is not in there.

23 MR. GMELCH: On 12.1 about the incoming mail.
24 If a prisoner is unable to read or write and he
25 receives a letter, including he gets assistance,
including but not limited to institutional employees

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2 and prisoners who are in the institution too. In
3 other words, he is allowed to call up his people
4 and then come in to read the letter to him, is
5 that what you want or can he go to anybody. You
6 know this prisoner and gets it. In other words,
7 do you have to get his family or the next thing
8 you have to pay the carfare to go down there and
9 visit.

10 On 12.3 I will tell you something that one
11 time I researched contraband in connection with
12 the war. There is nobody in this room, there is
13 nobody in this City, there is no one person in the
14 United States who can make up a list of what is
15 so-called contraband in the army. It's anything
16 that may comfort and aid its employees. When you
17 say to the Department, you make up a list of what
18 you consider contraband, there is no body in the
19 whole Committee among all the people you got, nobody
20 can do it. I bet you a nickel on it. So therefore,
21 it very simple. You decide it item by item. To
22 me a pen might not be dangerous. I would probably
23 learn to write in due course. But to somebody else
24 a pen, could become a weapon, because he won't
25 know how to write anyway.

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2 Now, to the postal observer. I was just
3 wondering who was thinging of the prisoners when
4 you see contraband. I see it, I write down in
5 the little book, "I saw contraband come in that
6 package of mail.", he walks out to get killed.
7 Whoever thought of that postal observer, a prisoner.

8 CHAIRMAN TUFPP: It doesn't say anything about
9 the prisoners it says a postal observer should be
10 selected who is acceptable to the Department and
11 Inmates Council. It could be a civilian or a
12 correction officer.

13 MR. GMELCH: Wait a minute. He isn't a
14 postal observer, he is a correction officer, the
15 man who opens up the package.

16 CHAIRMAN TUFO: Could be or he could be a
17 civilian.

18 MR. GMELCH: In other words the postal
19 observer is not a prisoner?

20 CHAIRMAN TUFO: It could be a prisoner or
21 could not be a prisoner.

22 MR. GMELCH: Is he a prisoner?

23 CHAIRMAN TUFO: It's somebody that acceptable
24 to the Department.

25 MR. GMELCH: Okay, he is a prisoner.

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CHAIRMAN TUFO: I understand the point you are trying to make.

MR. GMELCH: A postal observer has to have the courage to stand up and say this happened and you are not going to find him period. As far as character check and things like that, let me make a little suggestion, that you wait ten days after the item clears before you begin to pay it out. That is all, just a little discussion.

CHAIRMAN TUFO: Thank you for attending.

Do any Board members have any comments? If not, we will adjourn this hearing until 10:00 o'clock on Thursday.

(Whereupon, the hearing was adjourned at 5:00 o'clock p.m.)