

NEW YORK CITY
BOARD OF CORRECTIONS

PUBLIC HEARING
PREA MEETING

Public Hearing
2nd Floor Auditorium
125 Worth Street, NYC
July 26, 2016
1:00 P.M. - 3:30 P.M.

July 26, 2016

MEMBERS PRESENT:

Stan Brezenhoff, Chair

Martha King, Executive Director

Bobby Cohen

Gerard Bryant

Stanley Richards

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2 (The public board meeting commenced at 1:01 P.M.)

3 MR. STAN BREZENOFF: Now we will move to
4 the public comment on the proposed PREA rule. You
5 will note that we have in the interests of
6 assuring that everyone has an opportunity to be
7 heard and that people will hear them, we are
8 limiting the time of the actual testimony to four
9 minutes. That is no way a limit on what can be
10 submitted in writing to the Board. And those -- I
11 can assure you that those letters and comments,
12 some of which we've already received are read and
13 reviewed and discussed quite diligently by the
14 Board Members. The first speaker is from the
15 Office of the Public Advocate, Amanda Masters.

16 MS. AMANDA MASTERS: Good afternoon. The
17 Public Advocate commends the Board of Corrections
18 for holding this hearing. This is an important
19 first step toward making our jails a place with
20 zero tolerance for sexual abuse. In April of
21 2015, the Public Advocate formally petitioned the
22 Board of Corrections to promulgate comprehensive
23 rules to implement the Federal Prison Rape
24 Elimination Act of 2003. She submitted complete

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2 draft regulatory language to the BOC in April of
3 2015, as is required by the City's Administrative
4 Procedures Act, CAPA. In September of 2015, our
5 staff met with the BOC and Corporation Counsel to
6 strongly urge the BOC to exercise its authority
7 to make rules in all of the areas that PREA
8 covers.

9 This spring our staff met with
10 stakeholders and the BOC to give feedback on the
11 rule. And we found the BOC open to comments from
12 all interested parties during a robust fact-
13 finding phase. We are pleased that these rules
14 have finally come to a hearing today and will be
15 voted into law soon. And we are very pleased to
16 see that the rules are as comprehensive and cover
17 as many topics as the Public Advocate originally
18 suggested. None of these sections should be
19 removed or weakened during the final round of
20 this process.

21 Importantly, the Board of Corrections
22 adopted parts of the Public Advocate's petition,
23 which called for recognizing the unique needs of
24 inmates in New York City. The rules go beyond the

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2 minimum requirements outlines in PREA and require
3 putting rape crisis centers, staffed with
4 advocates inside the facilities where people are
5 housed. This is unprecedented and if implemented
6 correctly and promptly, this will profoundly
7 improve conditions in our jails, particularly for
8 the women who are detained at Rose M. Singer
9 Center. It will be important for BOC to demand
10 that DOC actually meet deadlines for benchmarks
11 that are set along the way to full
12 implementation.

13 We raise only four points today. Number
14 one: The victims should be affirmatively offered
15 the rape crisis counseling services. As currently
16 written, Section 510D puts the onus on the victim
17 to request a victim advocate to accompany and
18 support them. The language should be revised so
19 that the agency is mandated to offer a victim
20 advocate. The presumptive default should be to
21 provide the advocate and if the victim does not
22 want the report, they can turn it down.

23 Number two: The health service should be
24 responsible for the rape crisis centers. As

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2 currently written, the rule does not specify
3 which agency will be responsible for establishing
4 the rape crisis centers, which are referred to as
5 the Initiative in Sections 510E.

6 The responsible agency should be Health
7 and Hospitals Corporation, H&H; not the
8 Department of Correction. H&H has a deep and
9 decades long experience in this area. H&H already
10 operates sexual assault response teams, which
11 include rape crisis counselors in the following
12 hospitals in New York City: Kings County
13 Hospital, Woodhull Hospital, Coney Island
14 Hospital, Bellevue Hospital, Harlem Hospital,
15 Metropolitan Hospital, Queens Hospital, Elmhurst
16 Hospital, Lincoln Hospital, North Central Bronx
17 Hospital and Jacobi Hospitals.

18 Inmates must have access to the same
19 type of care in jail that they would receive
20 walking into any of these City hospitals. A
21 number of laws, such as Title 6 of the Civil
22 Rights Act of 1964, the Public Health Service Act
23 also known as the Hill-Burton Act and regulations
24 promulgated under that Act; the New York State

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2 Patient's Bill of Rights, the New York City Human
3 Rights Law and others protect against
4 discrimination based on source of payment or race
5 or ethnicity. Policies or practices that have a
6 disparate impact on people of color are suspect
7 under law.

8 H&H provides rape crisis centers at all
9 of its hospitals but not at the clinics in the
10 City jails. This may have a disparate impact on
11 people of color, as the vast majority of H&H
12 patients who are in our City jails are people of
13 color. H&H has a moral and a legal duty to
14 provide these services to patients who are
15 incarcerated and H&H has the experience. DOC has
16 no experience, nor any expertise in establishing
17 rape crisis centers. The rule should clearly
18 state that the Health Service, H&H will be
19 responsible for establishing and overseeing the
20 rape crisis centers.

21 Number three: Transportation should be
22 covered by the rule. As currently drafted, this
23 BOC rule mimics a flaw in the PREA rules that has
24 been identified by the scholars involved in

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2 drafting those Federal rules. The rules fail to
3 clearly cover transportation and this mistake
4 should be fixed.

5 The definition of facilities in Section
6 501 does not include transportation in the
7 vehicles that travel between jail buildings or to
8 and from court. The definition should be
9 broadened to explicitly include the DOC vehicles
10 that transport inmates. Without this change, the
11 compliance monitor, the supervision, the
12 monitoring, the video cameras, the agency
13 reporting duties, the investigations and other
14 sections of the rule which specifically refer to
15 facilities will not be applied to transportation.

16 Likewise, Section 508 states that the
17 DOC shall not hire or promote anyone who has
18 engaged in sex abuse "in a prison, jail, lockup,
19 community confinement facility, juvenile facility
20 or other institution" but does not yet include
21 transportation. Finally, separation between the
22 alleged abuser and the victim should be ensured
23 not just in housing but also during
24 transportation and all other programming.

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2 Number four: future rulemaking. We
3 encourage the BOC to encourage down this path,
4 continue an active rulemaking agenda and exercise
5 the authority to enforce the rules. When the
6 Board finishes promulgating this rule, we
7 recommend further study through a CAPA rulemaking
8 process of what additional trauma-informed
9 programming should be provided in jails to
10 improve outcomes and safety. Many of the inmates
11 held in our City jails have histories of
12 experiencing trauma before they came to jail:
13 rape, child abuse or neglect, sexual abuse as
14 children or young adults, exposure to violence
15 and drug and alcohol problems.

16 Riker's should have more specialized
17 programming, particularly with trauma-informed
18 practices to mitigate the harm that is
19 exacerbated by detention. Rape crisis centers are
20 a very important first step in that direction.
21 But we must remember that during the Giuliani era
22 overall resources for jail programming were
23 decimated. Bringing rehabilitation back into the
24 picture with increased programming is long

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2 overdue. In conclusion, the Public Advocate is
3 supportive of the new rules. She is also
4 supportive of the constructive critiques offered
5 by the advocacy community to strengthen the rule.
6 Thank you.

7 MR. BRESENOFF: Thanks. Terri Chung?

8 MS. TERRI CHUNG: Good afternoon. My
9 name is Terri Chung and I am delivering these
10 comments on behalf of Daniel Dromm, the New York
11 City Council Member representing Jackson Heights
12 and Elmhurst in Queens. We are currently
13 submitting the lengthier written comments. And
14 we'll use this opportunity to highlight some of
15 the key points.

16 I thank the Board of Corrections for
17 taking up the issue of sexual abuse and
18 harassment in Department of Correction facilities
19 and encourage you to strengthen the proposed
20 rules by adding provisions critical to reform
21 efforts. The Prison Rape Elimination Act
22 standards are an important basis for reform but
23 they are just that -- a basis. The Federal
24 statute and its implementing regulations are an

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2 outline, a floor if you will, below which prison
3 and jail facilities should not go.

4 I ask that the Board of Corrections
5 develop its own detailed regulations that use
6 PREA as a starting point, rather than adopting
7 PREA language wholesale without solutions
8 tailored to DOC facilities. I've submitted
9 comments that stress the need for the BOC and DOC
10 to work with experts in the field to address the
11 issue. A key point that I want to stress is that
12 victims of sexual violence in our jails should be
13 treated according to best practices that these
14 experts have developed.

15 Finally, I want to take the opportunity
16 to highlight sexual abuse and harassment aimed at
17 lesbian, gay, bisexual and especially transgender
18 individuals who are particularly vulnerable.
19 While there have been great strides in society at
20 large, there remain discrimination and violence
21 against LGBT individuals. This carries over into
22 our jails, where vulnerabilities are exploited by
23 both staff and incarcerated individuals.

24 I ask that the BOC pay special attention

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2 to this concern by adopting rules that make the
3 DOC facilities a national model in the prevention
4 of and response to sexual violence and harassment
5 against LGBT individuals. Thank you for the
6 opportunity speak today.

7 MR. BRESENOFF: Thank you. From the
8 Department of Correction, Deputy Commissioner
9 Brann.

10 COMMISSIONER BRANN: Good afternoon. We
11 will be submitting additional comments through
12 your website, which will detail specific progress
13 that the Department has made in five distinct
14 categories of PREA implementation. But I want to
15 start today with saying that safe jails are our
16 number one priority. The New York City Department
17 of Correction has zero tolerance for sexual abuse
18 and sexual harassment and is absolutely committed
19 to implemented the Federal standards in achieving
20 PREA compliance. To this end, the Department has
21 been moving forward with all of its reforms,
22 which will result in a safe environment for both
23 staff and inmates.

24 While we are generally supportive of a

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2 rule codifying Federal PREA requirements and
3 believe that documenting our commitment is a fine
4 goal, the rules as written goes beyond the
5 Federal standards in the following areas.

6 First, it contains aggressive and
7 potential unachievable timeframes. There are 28
8 sections of the rule for which deadlines are
9 conferred, that vary between three and 29 months
10 of the effective date. These timelines are
11 arbitrary, more restrictive than the Federal
12 standards, complicated to track and difficult to
13 manage alongside implementation of all the PREA
14 standards.

15 Imposing overarching deadlines that do
16 not take into account the facility by facility
17 process in which the Department has agreed to
18 become PREA compliant is not conducive to
19 imbedding and sustaining the culture and practice
20 change necessary within the agency.

21 Setting up reasonable, achievable and
22 flexible deadlines are essential if the
23 Department is expected to meet its goals.
24 Arbitrary timelines only place the Department in

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2 a position to create an unbalanced set of
3 priorities. The Department should have the
4 discretion and maximum flexibility to meet its
5 obligations without the imposition of deadlines
6 which are not balanced against all competing
7 priorities and would interfere with the ability
8 to achieve the goal of having safe jails.

9 Additionally, each segment of the rule
10 whether effective immediately or within an
11 extended timeline will be applicable agency-wide.
12 We, however, are moving the facilities through
13 implementation and audits in groupings of three
14 at a time. Those who are in the second or third
15 grouping will have equal responsibility and
16 accountability without having the benefit of
17 training, support for leadership and staff and a
18 thoughtful of implementation that the others were
19 afforded.

20 Secondly, there are overly prescriptive
21 investigations requirements. The Department wants
22 to achieve timely reform. As the Nunez monitor
23 noted in his first report, this desire must be
24 balanced with and understanding that implementing

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2 well-reasoned, enduring and sustainable reforms
3 will take time and that implementation must
4 progress in a reasonable and responsible manner
5 to ensure that the acculturation and
6 sustainability of such reforms.

7 Also described in the first report, the
8 monitor recommended that the Department needed
9 additional time to implement certain reforms. For
10 example, the judgment requires the Department to
11 conduct a preliminary investigation for each use
12 of force incident within two business days of a
13 use of force incident. As noted in the first
14 report, the monitor anticipates that he will be
15 recommending an extension of the time permitted
16 for conducting a preliminary review to ensure the
17 preliminary reviewers have sufficient time to
18 conduct a quality investigation without
19 compromising the overall goals of the consent
20 judgment.

21 And finally, the rule creates burdensome
22 reporting requirements. There is a multitude of
23 additional reporting mandates that are not only
24 labor intensive but several require significant

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2 in depth analysis in many focus areas. Our
3 current ability to collect and retrieve
4 information or run reports electronically for
5 much of the data requested is extremely limited
6 Therefore the compressed timelines contained with
7 the rules simply do not provide the time
8 necessary to gather data, conduct a thoughtful
9 review and produce a report to you on findings,
10 outcomes and our conclusions and will result in
11 our noncompliance.

12 Although PREA was signed into law in
13 2003, the standards did not take effect until
14 2012. The Department under a previous
15 Administration applied and received its first
16 Federal grant during that year. That award of
17 this grant eventually allowed the agency under a
18 new Administration to contract with the Moss
19 Group in late 2014. In January of 2015, the
20 consultants began a comprehensive sexual safety
21 readiness assessment in seven facilities and
22 submitted their report and recommendation to
23 Commissioner Ponte in May 2015, one month after
24 the Public Advocate, Letitia James petitioned the

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2 Board to adopt rules consistent with PREA.

3 Under the Commissioner's leadership,
4 implementation began moving forward in earnest
5 even while the agency was undergoing broader and
6 substantial efforts under the 14-point anti-
7 violence reform agenda; as well as commitments
8 agreed to under the Nunez Consent Decree. With
9 few exceptions, DOC has been and continues to
10 follow the timelines, the strategies constructed
11 by the Moss Group, all of which are defined in
12 both our Federal grant awards and City contracts.

13 Within 60 days of receiving the Moss
14 Group report, the Department began a multiagency
15 system-wide effort to institutionalize policies
16 and practices that support and sustain PREA
17 compliance and the prevention of inmate sexual
18 abuses and harassment. In fact, DOC developed an
19 internal schedule to safely and effectively
20 implement PREA across its facility. It is a
21 thoughtful and balanced plan that takes into
22 account the many aspects of all our encompassing
23 reforms.

24 As the Department continues to advance

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2 and effect real change, it must balance all
3 competing obligations in a manner that is
4 designed to achieve the overall goal of safety.
5 The constraints of working within arbitrary and
6 capricious timelines and the additional
7 burdensome reporting requirements places the
8 Department's progress at risk and could
9 potentially cause regression.

10 PREA standards in attaining compliance
11 certification by the Federal government is an
12 arduous process. It requires absolute commitment,
13 adequate resources and sufficient time to change
14 culture and practice. In order to even be
15 considered for an audit, each facility must show
16 a demonstrated record of sustained compliance or
17 proof of practice for the 12 months preceding a
18 scheduled audit.

19 We recognize the Board would like the
20 Department to reach full compliance as
21 expeditiously as possible. We have been and
22 continue to move forward and will use lessons
23 learned from the facilities that go through the
24 audits first to improve operational practices

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2 agency-wide and increase the speed at which we
3 move the remaining facilities through the
4 process.

5 We would like to remind the Board
6 however that we are currently stretching the
7 capacity of each facility's ability to release
8 staff for training and still maintain safety and
9 security given our high vacancy rates, the Nunez
10 staff training and related obligations over the
11 next 15 months; as well as other ongoing and
12 equally important reform initiatives. Through our
13 work with the Federal court monitors and their
14 team of experts in Nunez over the past year, we
15 learned the importance of balance and how the
16 imposition of inflexible timelines can interfere
17 with progress in setting up appropriate and
18 sustainable systems.

19 Having the flexibility to modify
20 timelines is of critical importance as the
21 Department develops these systems. Promulgating
22 rules that include inflexible timelines would be
23 detrimental to our efforts and progress in
24 achieving PREA compliance. The following

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2 assertion is contained with the Board's statement
3 of basis and purpose of proposed rules: In
4 recognition of the unique characteristics of
5 individual correctional agencies, facilities and
6 inmate populations nationwide, the PREA standards
7 afford discretion and flexibility to agencies in
8 combating sexual violence.

9 We ask the Board to follow the Federal
10 government's lead in acknowledging the need for
11 flexibility and discretion in achieving PREA
12 compliance. As you contemplate the final form of
13 the rule, please consider these legitimate
14 concerns raised by the Department and amend the
15 rule in a way that eliminates arbitrary or
16 conflicting deadlines; requires the Department to
17 provide the Board with scheduled, detailed
18 reports on the progress with the Moss Group
19 Implementation Plan and allows us to do this work
20 and to do it well. Thank you.

21 MR. BRESENOFF: Thank you. So this is a
22 public hearing and we wish to hear from all
23 interested parties. So, we're not going to engage
24 in back and forth debate. But we will allow

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2 questions from the Board and efforts to get
3 clarification but no debate, as much as I feel
4 the need myself.

5 MR. BOBBY COHEN: One of the reasons the
6 Board believes that it's important to have
7 timelines is because our review of past practice
8 regarding certain elements of the response to
9 sexual abuse on Riker's Island demonstrated no
10 action by the Department over extended periods of
11 time. We've been told by the Department you are
12 now working closer to rule in terms of what PREA
13 expects. But could you let me know -- could you
14 tell the Board currently for example in the past
15 six months; we asked you for data and you told us
16 there were 250 staff-on-inmate allegations in the
17 six-month period from January 1st to June 30th
18 and only 24 of them have been -- have had
19 completed investigations so far.

20 So why should we provide extended
21 timelines when we're dealing with critical issues
22 of investigation for example that not -- that
23 extending timelines means that people's
24 allegations are not responded to? I understood

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2 that the Department said that it was acting in
3 terms of its investigations according to the
4 expectations of our rule and of PREA as well.

5 But yet as of right now, less than ten
6 percent of those over the past six months and I
7 understand that half of those probably occurred
8 in the last three months but that would still be
9 less than 20 percent of the cases. So I want to
10 know why we're going to be -- you're going to be
11 responding to substantial allegations of sexual
12 violence on Riker's Island if you're asking for
13 more and more time on it? Because from my
14 perspective it looks like you're not responding
15 and continue to not respond.

16 COMMISSIONER BRANN: A new division
17 order has been implemented within the ID
18 Division. That was done within the last 30 days.
19 I can tell you that it is now staffed with a
20 Deputy Director, two supervisors and eight
21 specialized investigators. Every allegation of
22 sexual abuse is responded to within 24 hours.
23 Just because as an investigation has not been
24 closed per se does not mean that there is not an

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2 ongoing investigation and it has not been
3 responded to.

4 MR. COHEN: What's your expectation of
5 -- okay, that's fine.

6 MR. BRESENOFF: I think we've heard your
7 comments. We appreciate them. Thank you very
8 much.

9 COMMISSIONER BRANN: Thank you.

10 MR. COHEN: I just want to just object
11 to the form, Chair, but I'll go along with it
12 right now. It is traditional that we have a
13 chance to talk with -- to ask questions of people
14 who are testifying in front of us. And if we have
15 more one questions about their response, usually
16 the Board has been able to ask those questions.
17 But if that's your ruling right now, I'm not
18 going to object.

19 MR. BRESENOFF: The ruling was
20 particularly focused on contentions with
21 submission of the Department. We have had a lot
22 of opportunity to debate that -- those things
23 with the Department. We'll have more
24 opportunities to debate them. What I will allow

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2 from the body is questions but not debate with
3 the public -- with the speakers. And I appreciate
4 the impulse, believe me I do, based on what was
5 submitted as testimony. But questions are what we
6 want.

7 MS. JENNIFER JONES AUSTIN: One
8 question. Would the Board -- the Department of
9 Correction have the opportunity to provide a
10 statement concerning what they think is more
11 peaceful concerning flexibility for timeline?

12 MR. BRESENOFF: They certainly have that
13 opportunity. As I noted --

14 MS. AUSTIN: Specifics?

15 MR. BRESENOFF: We've had a lot of back
16 and forth on the timing questions. Yes, for the
17 public record, we've had a lot of debate with the
18 Department. Kelsey De Avila?

19 MS. KELSEY DAVILA: My name is Kelsey De
20 Avila. I'm the General Services Social Worker at
21 Brooklyn Defender Services. And first off, I'd
22 just like to thank you for this opportunity. And
23 BDS also echoes what the Legal Aid Society's
24 Prisoner's Rights Project submitted, much more

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2 detailed testimony. And we also submitted a
3 longer version of our testimony today.

4 So our testimony today will be focusing
5 on our client stories and the people who are
6 directly affected. So unlike a State prison
7 system where the population is relatively static
8 and predictable in its changes, New York City
9 jails are characterized by short stays and
10 frequent re-incarceration. In light of these
11 facts, the Board's rule should include protocols
12 for people to report sex abuse after discharge.
13 With the full range of investigatory action and
14 referrals for prosecution; as well as an
15 obligation for DOC and H&H to facilitate
16 referrals, to rape crisis counseling and
17 advocacy. Additionally, the Board's rule should
18 provide for separation between people who have
19 been sexually abused and their alleged
20 perpetrators with other involved parties, should
21 they discharge and return to custody.

22 So, Mr. C was referred to me by an
23 attorney after learning he was being denied food
24 by a male officer. And when I met with Mr. C, he

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2 disclosed and said the officer denying him food
3 was the same officer who a couple of years ago
4 during a separate incarceration watched and
5 encouraged the rape of Mr. C by other men.

6 Mr. C was brutally raped by three men
7 inside the bathroom of his dorm while the male
8 officer watched. Mr. C has since undergone
9 surgery to repair the tissue damage done to him
10 that night and has made multiple suicide attempts
11 by swallowing razors. Two years later, Mr. C was
12 in the custody of the same male officer. The
13 officer remembered Mr. C and shared with other
14 residents of the unit that Mr. C was raped
15 repeatedly and would only address him as pussy
16 and fagot. Not only did this male officer
17 humiliate Mr. C and make it impossible for him to
18 be safe, this male officer continued to work
19 under DOC for a number of years, where his
20 actions were not secret or hidden behind closed
21 doors but in the open.

22 Jail systems are tasked with
23 significantly more transportation
24 responsibilities than our state prison systems.

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2 Riker's Island with its remote location presents
3 a unique set of challenges which come with
4 significant risk.

5 We encourage the Board to address its
6 rules and the unique qualities of the New York
7 City jails to ensure that all areas in which
8 people are held, including in transport, are
9 adequately supervised, monitored by a video
10 surveillance and that staff in these areas
11 receive appropriate training. Getting to and from
12 court involves long bus rides, typically with two
13 officers present and no supervisory staff on
14 board. These vehicles present a tremendous risk
15 to the safety of people in transit. And there
16 have been documented cases of rape by
17 correctional staff on correction buses.

18 The Board must require that buses be
19 monitored by video surveillance and that
20 protocols be established to determine notion of
21 scheduling. An attack may occur off vehicle
22 itself, so there should be some method by which
23 to track unscheduled delays, stops or other
24 activity; which could alert supervisors to

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2 possible issues.

3 On the day Ms. A was raped, she had
4 appeared in court earlier with her lawyer. After
5 her appearance she had requested to leave on the
6 3:00 P.M. bus back to Riker's. And it was while
7 she was in transit that our client was raped by a
8 male officer on the back of the bus in a parking
9 lot on Riker's Island; all while the driver of
10 that bus sat and watched. When she reported, the
11 bruises on her wrists and thighs were clearly
12 visible. These two officers held Ms. A against
13 her will and tortured her without anyone noticing
14 or questioning the missing bus, the missing
15 officers, the missing woman or why it took almost
16 12 hours for Ms. A to travel from court to her
17 housing unit.

18 We reiterate the concerns raised in
19 others' testimony about access to in-person
20 reporting channels and rape crisis intervention
21 services that are not part of the DOC chain of
22 command. The vast majority of people on Riker's
23 Island are held there for pretrial detention
24 because they cannot afford bail. An individual

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2 with an open case may be appropriately cautious
3 about interacting with law enforcement. Fears
4 about reporting officer misconduct or other
5 safety issues in the jail are commonly based on
6 their reasonable fear that making reports may
7 lead to retaliation, cutting off the individual
8 from their court appointed advocates. It is
9 absolutely necessary that people have access to
10 civilians who can accept the report safely and
11 confidentially.

12 Finally, we encourage the Board to
13 consider this opportunity in rulemaking to
14 require DOC and H&H to at a minimum develop
15 policies and procedures to identify, accommodate
16 and ensure safety for people with developmental
17 disabilities and intellectual impairments.

18 Mr. D is a young man with moderate
19 mental retardation, as well as mental health
20 issues. During his incarceration he was
21 frequently the target of extortion and
22 harassment. Mr. D had trouble following the rules
23 and was disliked by many correction officers. As
24 a result, he never felt comfortable asking for

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2 their help even in the most extreme of
3 circumstances.

4 Mr. D learned to tolerate the abuse he
5 suffered while incarcerated until he finally told
6 us that what he had described as horseplay had
7 gone too far. He was being forced to endure
8 sexual abuse by another person in his dorm,
9 ignored or undetected by staff. And fortunately,
10 he informed us and we were able to secure Mr. D's
11 transfer to another unit and eventually out of
12 custody.

13 So once again I'd like to thank you for
14 this opportunity to testify in front of you. And
15 we hope that the experts you have heard from
16 today and previously help shape your final rules
17 in a way that encourages greater accountability
18 and most importantly will protect our neighbors
19 in City jails from the horrors of sexual abuse.
20 Thank you.

21 MR. BREZENOFF: Thank you.

22 MR. COHEN: Thank you.

23 MR. BREZENOFF: Sonia Ossorio?

24 MS. JEAN BUCARIA: Hello, thank you.

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2 Just to correct the record: I am Jean Bucaria,
3 the Deputy Director at the National Organization
4 for Women, New York City. I work with Sonia. And
5 thank you for the opportunity to speak today.

6 As a women's rights organization with a
7 50-year history of advocating for survivors of
8 rape and sexual assault, we are here today to
9 urge you to take rape seriously and fulfill your
10 charge of ensuring the safety and fair treatment
11 of all individual in the Department of
12 Correction's custody, by strengthening the
13 proposed rules to meet and exceed the
14 requirements of the Federal 2003 Prison Rape
15 Elimination Act.

16 The failure to adequately address sexual
17 assault in our City jails has been well
18 documented and the rate of staff sexual abuse of
19 women and other detainees is unquestionably
20 alarming. In 2014 alone there were 116 reports of
21 sexual assault and rape at Riker's. Of these,
22 more than half were allegations made against
23 corrections officers. Only two of these
24 complaints were reported to the NYPD.

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2 Rape and sexual assault are violent
3 crimes that can strip a victim of their sense of
4 autonomy and control. For those who are detained
5 or incarcerated, these injustices are
6 immeasurably magnified. This is a human rights
7 violation that we cannot allow to continue to
8 happen on our watch.

9 We urge you to strengthen the proposed
10 rules considering the following: First and
11 foremost, victims must be treated within a
12 framework that begins with believing. This means
13 that reports of sexual assault are taken
14 seriously, measures to separate victims from
15 alleged assailants are immediately put into place
16 and investigations are comprehensive and
17 unbiased. This clear and unambiguous starting
18 point ensures that resources are prioritized for
19 investigating claims and protecting victims;
20 changes that must be made to truly put an end to
21 sexual abuse behind bars.

22 Sexual assault complaints must be
23 investigated in a timely and comprehensive manner
24 by an external independent body to ensure a fair

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2 process that protects the confidentiality of the
3 victim and helps prevent retaliation.

4 Third, systems must be established to
5 support strong investigations and the
6 preservation of evidence by increasing the number
7 and placement of cameras and maintaining security
8 footage for a minimum of five years. In fact,
9 because it can take so much time for a victim to
10 feel that they are able to safely make a claim or
11 report, we recommend that footage be maintained
12 indefinitely; as long as sexual abuse remains a
13 clear problem.

14 Last, perpetrators must be held
15 accountable to the fullest extent of the law.
16 Otherwise, we're sending a message that we do not
17 care enough about these individuals. No one,
18 regardless of circumstance, no one deserves to be
19 sexually assaulted. No one deserves to be raped.
20 If perpetrators never face punishment, this will
21 continue to happen unabated.

22 The 2003 Prison Rape Elimination Act set
23 out to end sexual assault in jails more than
24 decade ago. In that time, countless women,

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2 transgender individuals and men have been
3 violated in New York City jails without recourse.

4 I urge you that you have this incredible
5 opportunity to make lasting change to an
6 unacceptable culture of violence. We hope that
7 you will strengthen the proposed rules to ensure
8 effective and real enforcement toward ending rape
9 and sexual assault in New York City jails. And we
10 will be submitted a further detailed testimony
11 along with this verbal statement. Thank you.

12 MR. BREZENOFF: Thank you.

13 MR. COHEN: Thank you.

14 MR. BREZENOFF: Kristen Park?

15 MS. KRISTEN PARK: Hi, my name is
16 Kristen. And I'm going to be speaking on behalf
17 of Jane Doe who was at Riker's and this is an
18 excerpt from her testimony. So, Corrections
19 Officer Santiago repeatedly raped and sexually
20 abused Jane Doe while she was retained at
21 Riker's. After this had been going on for months,
22 Santiago and other corrections officers
23 encouraged inmates to threaten and bully her
24 because they believed that she had reported him.

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2 So on May 7, 2013, the corrections
3 officers and inmates refused to allow Jane Doe
4 out of her cell to perform basic functions, like
5 eating or showering. On May 9, Jane Doe told
6 Correction Officer Anderson that she was suicidal
7 and was escorted to the mental health department.
8 At mental health, Jane Doe broke down crying and
9 told Linda Morrow, a mental health clinician,
10 about Santiago's sexual abuse. Ms. Morrow told
11 Jane Doe that there was nothing that she could do
12 and she was escorted back. Staff continued to
13 deny her food and the opportunity to shower for
14 the remainder of the day.

15 The next day on May 10th after
16 approximately 48 hours without food and after
17 being subjected to continued harassment by the
18 other inmates, Jane Doe told Captain Cox once
19 again that she was suicidal and again she was
20 escorted to mental health. This time she
21 tearfully told a medical doctor, Mary Divizen
22 [PHONETIC], about Santiago's rapes and sexual
23 abuse. The doctor examined her but told her that
24 she couldn't do anything.

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2 Two inspectors came from the NYC
3 Department of Investigation, from the Inspector
4 General's Office and they spoke with her. She
5 told the agents about the rape and other abuse
6 that she had suffered at the hands of Santiago
7 over the previous months. Nevertheless, now more
8 than two years later, Jane Doe has not received a
9 written determination of her complaint.

10 Shortly after speaking with the
11 inspectors, Jane Doe discovered that the other
12 corrections officers already knew that she had
13 reported Santiago's abuse. The corrections
14 officers called her a snitch and though she was
15 finally able to eat after more than 48 hours,
16 they refused to open her cell door to allow her
17 out. On several occasions, corrections officers
18 stood outside her cell and berated her and
19 multiple officers told her that she was wrong for
20 reporting Santiago. Corrections Officer Smalls
21 asked Jane Doe why she had reported him and told
22 her that all the corrections officers were angry
23 with her.

24 The City failed to take any action to

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2 protect Jane Doe from the continued retaliation
3 by the Riker's corrections officers. Thank you.

4 MR. BREZENOFF: Thank you. Hanna
5 McGovern?

6 MS. HANNA MCGOVERN: Hi. I'm going to
7 read a statement about Title 9. The women and
8 girls of New York City hereby seek response and
9 redress under Title 4 of the Civil Rights Act.
10 This includes but is not limited to Title 9 of
11 the Higher Education Act applicable to the Board
12 of Corrections and City jails. Starting today and
13 continuing throughout the process up to and
14 including all appeals and final determinations,
15 we expressly seek response and redress only under
16 the substantive and procedural requirements of
17 Title 4 and/or Title 9 applicable to the redress
18 of matters covered by both Title 4 and of the
19 Civil Rights Act.

20 Under no circumstances do we submit to
21 or accept response and redress under the Federal
22 Campus Safe Act, the Federal Violence Against
23 Women Act or any state law or school-based policy
24 or procedure. We choose response and redress

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2 solely under the Title 9 and/or Title 4 because
3 we have suffered severe or pervasive harm on the
4 basis of sex and it has interfered with our
5 access to educational programs that will allow us
6 to reenter society and enjoy a just and fair
7 society.

8 We understand that response and redress
9 exclusively under Title 9 and Title 4 ensures
10 that relevant oversight agencies, such as the
11 Office for Civil Rights and the Department of
12 Education will have jurisdiction and authority to
13 prove recourse in the event of noncompliance,
14 which is not possible if redress occurs under any
15 other law or policy. Thank you.

16 MR. BREZENOFF: Thank you. Sara
17 Treaster?

18 MS. SARA TREASTER: Hi. My name is Sara.
19 I will be reading testimony from a survivor on
20 Riker's, also a victim of Corrections Officer
21 Santiago. During Jane Doe One's detention at
22 RMSC, Santiago regularly raped her, at times as
23 many as four times a week. When Joe Doe One tried
24 to resist, Santiago would often roughly grab her

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2 and tell her that she "knew better."

3 On several occasions when Jane Doe One
4 disobeyed Santiago or when Santiago was
5 displeased by something Jane Doe One had done, he
6 would punish her by anally raping her. Santiago
7 knew where Jane Doe One's mother lived and would
8 park his car outside of her home, observe Jane
9 Doe One's family and later report his
10 observations to Jane Doe One, reminding her to
11 "make the right decision" and implicitly threaten
12 her family.

13 Santiago also kept Jane Doe One from
14 resisting or reporting his sexual abuse by
15 threatening that after she was released, she
16 would live with him, keep his house clean and
17 "never go anywhere." Santiago told Jane Doe One
18 that he "wanted her to be his." Jane Doe One
19 attempted to walk away but Santiago forcefully
20 restrained her by grabbing her arm, hurting her
21 and telling her "I am not done talking to you."
22 When Jane Doe One told Santiago that he was
23 hurting her arm, Santiago tightened his grip.

24 He informed Jane Doe One that he would

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2 be working an overnight shift that evening and
3 instructed her to meet him in the day room after
4 the Captain's rounds. She obeyed because she
5 believed that she would be subject to physical
6 and other retaliation if she did not acquiesce to
7 Santiago's demands.

8 That night Santiago raped Jane Doe One
9 for the first time. From this time until Jane Doe
10 One's release from RMSC in the summer of 2009,
11 Santiago regularly and repeatedly raped Jane Doe
12 One. Jane Doe One met Santiago in the day room
13 when instructed, believing she had no choice.
14 Santiago frequently demanded that Jane Doe One
15 perform oral sex on him and would then rape her.
16 While raping Jane Doe One, Santiago would often
17 pull at her hair, grab her shoulders and choke
18 her. Often Santiago tried to prevent Jane Doe One
19 from getting to her feet after he raped her.

20 Santiago regularly reiterated that Jane
21 Doe One should not tell anyone about his abuse.
22 As a result, Jane Doe One felt trapped and under
23 constant threat of physical and other retaliation
24 by Santiago. Jane Doe One was afraid that

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2 Santiago would retaliate against her if she
3 resisted. She knew that as a corrections officer
4 he could easily find her at RMSC and she would be
5 unable to avoid him.

6 Santiago regularly and repeatedly raped
7 Jane Doe One in this manner until late 2012. As
8 before, Santiago was rough with Jane Doe One;
9 forcibly maneuvering her and hurting her as he
10 raped her. Frequently, when Jane Doe One started
11 to walk away from him, Santiago would grab her
12 arm and pull her back. When Santiago was aware
13 that she spoke to or even made eye contact with
14 other correction officers, he would get angry and
15 tell her that she would live at his house after
16 being released from Riker's.

17 On several occasions when Santiago was
18 displeased by something Jane Doe One had done, he
19 would punish her by anally raping her. On at
20 least one occasion, Santiago punished Jane Doe
21 One for ceasing to perform oral sex on him by
22 anally raping her. In addition, Jane Doe One was
23 concerned about sexually transmitted diseases and
24 asked Santiago to use a condom. He refused and

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2 continued to have sexual intercourse with her
3 without a condom. After Jane Doe One requested
4 that he use a condom the first time, Santiago
5 anally raped Jane Doe One as punishment. Thank
6 you for your time.

7 MR. BREZENOFF: Thank you. Alyssa
8 Canizzaro?

9 MS. ALYSSA CANIZZARO: Good afternoon.
10 My name is Alyssa Canizzaro and I work at the
11 National Organization for Women in New York City.
12 I'm here today with my colleagues and fellow
13 activists of the Jails Action Coalition to tell
14 the Board of Corrections to take rape seriously
15 and ensure safety and dignity for all those in
16 custody. I'm honored to read the testimony on
17 behalf of a survivor of sexual assault on
18 Riker's, Kathy Morse, who could not be here
19 today. Here are her words.

20 When I was incarcerated, the word hope
21 became my mantra. I hope this is all a nightmare.
22 I hope that the judge gives me bail. I hope that
23 I do not get assaulted or raped while
24 incarcerated. I hope I do not lose my mind. I

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2 hope that I do not get sick and have to be
3 treated by the medical staff at a correctional
4 facility. I hope that I have a home to go home
5 to. I hope that I'm able to find a job when I'm
6 released. I hope I survive this.

7 I was both assaulted and raped. I will
8 not go into the details, as it is very personal
9 and private and something that to this day I
10 continue to still grapple with. I remember laying
11 in my cot after being raped, trying to figure out
12 how to ease the pain, how to get up; but most
13 importantly how to stop the bleeding without
14 anyone finding out, to hide the bruising. I
15 recall being so scared and afraid to go to
16 medical, to tell anyone. I covered myself up as
17 best as I could, stayed away from others and
18 isolated myself. I was not going to allow them to
19 get the best of me.

20 I remember each court trip I had,
21 begging my attorney to get me out; to get the
22 judge to grant me bail, that I couldn't go back
23 to Riker's; that I did not want to spend one more
24 second in that holding cell in the courthouse

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2 watching the roaches crawl on the floor and walls
3 around me, to not have to board that inmate
4 transport bus for the return trip back to Riker's
5 to what became my private hell.

6 I had hoped that one day this nightmare
7 would end, that I would survive, that no one
8 would do anything else to me. No matter how bad
9 the ache in my chest was, no matter how much my
10 stomach hurt or how I could not eat, I never lost
11 hope. I kept going despite the nightmares and
12 panic attacks, which continue to this day; the
13 sleepless nights, the isolation, the fear I still
14 had and continued to have hope. Thank you.

15 MR. BREZENOFF: Stephanie Lim? Alright,
16 look, this is a public hearing for the Board of
17 Correction; so we can hear and we listen very,
18 very intently and we will review the entire
19 record of testimony. That's what this meeting is
20 all about. So please direct your attention and
21 your comments to us. We have the task of
22 finalizing the rules and your testimony is very
23 important in informing us, in helping us to focus
24 on what needs to be focused on. So let's all stay

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2 focused on that. Thank you. Please.

3 MR. STEPHANIE LIM: I'm here to talk
4 about the You Have Options Program and the 20
5 strategies that all law enforcement services
6 should adopt in order to encourage survivors of
7 sexual assault to speak up. A huge concern for
8 survivors is the fear of not being believed or
9 have their confidentiality violated, which
10 oftentimes prevents them from speaking out. The
11 You Have Options Program was created to
12 counteract this issue, giving survivors control
13 over every aspect of investigation.

14 First, the victim shall be three options
15 when reporting: One, a report without an
16 investigation; a partial investigation; or a
17 complete investigation. The person reporting can
18 also choose to remain anonymous, should know
19 about their options before making a report and
20 receive a clear explanation on any part of the
21 process.

22 When making a report, he or she should
23 have control over who they want to report and
24 how. This means they can use an online form or

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2 ask an advocate to report on their behalf.

3 When meeting with law enforcement, he or
4 she should have complete control over location
5 and the time of the report and also have the
6 option to disclose as much or as little
7 information as possible. They should also be
8 allowed to stay with an advocate for the
9 remaining of the process and end the interview at
10 any time for any reason.

11 After making the report, the survivor
12 should remain in control; should not be pressured
13 to participate in an investigation. Law
14 enforcement officers should be responsible for
15 the victim's comfort by understanding the
16 victim's unique situation and addressing any
17 barriers preventing him or her to provide any
18 information during the reporting process and the
19 investigation.

20 An investigation should be focused on
21 the suspects and how to be less made vulnerable
22 and accessible in order to prevent the victim
23 from feeling guilty. He or she should remain in
24 control, setting the pace of the investigation

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2 and requesting for any steps to not be conducted
3 and stopping the investigation at any time
4 without an explanation. Police departments of
5 this program saw an increase in sexual assault
6 reporting and it shows that more services should
7 adopt these elements in order to encourage the
8 victims from speaking out more. Thank you.

9 MR. COHEN: I have a question

10 [unintelligible] [00:52:23]

11 MS. LIM: There are eight metropolitan

12 [unintelligible] [00:52:29] currently

13 [unintelligible] [00:52:38].

14 MR. COHEN: Thank you very much.

15 MR. BREZENOFF: Judy Yu?

16 MS. JULY YU: Good afternoon. My name is

17 Judy Yu and I'm the Director of the Juvenile

18 Justice Project at the Correctional Association

19 of New York. One of the things we do is to

20 coordinate the Juvenile Justice Coalition, which

21 is a network of child advocacy groups, legal

22 service providers, alternate sentencing programs

23 and community based organizations working to make

24 the juvenile justice system in New York State

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2 more fair and effective.

3 We have a working group that focuses on
4 LGBTQ issues. And I am speaking on behalf of the
5 coalition today. I wanted to excerpt some written
6 testimony that we prepared, which was sent to
7 you, to focus specifically on 16 and 17-year-old
8 transgender youth in the custody of the
9 Department of Correction. Based on our collective
10 experience and expertise on LGBTQ justice system
11 impacted youth, we want to focus on the fact that
12 transgender youth are at risk for sexual abuse
13 and are currently unable to access the Department
14 of Correction's Voluntary Housing Unit for
15 transgender women ages 18 and up.

16 New York is one of only two states, as
17 I'm sure you know, where youth are automatically
18 treated as adults in the criminal justice system
19 at age 16, regardless of the severity of the
20 alleged offense. And as a result, we do have 16
21 and 17-year-olds at Riker's. While there is a
22 plan in place to move 16 and 17-year-olds that
23 was recently announced, this will take many
24 years. And in the interim BOC must take immediate

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2 steps to ensure that the vulnerable population of
3 transgender youth are protected from well-
4 documented risks of sexual abuse.

5 There are studies that show transgender
6 women face an extremely high risk of sexual abuse
7 while incarcerated or detained. The American
8 Academy of Child and Adolescent Psychiatry also
9 has research that shows the particular risks for
10 transgender youth for sexual assault, as well as
11 suicide attempts due to mistreatment. For these
12 reasons there are real particular challenges that
13 our transgender youth at Riker's currently face.

14 We appreciate the Board of Correction's
15 decision not to incorporate PREA Standards
16 115.42G, which could negatively impact the
17 operation of the transgender housing unit or a
18 similar voluntary housing dedicated to
19 transgender people in custody. However, it's our
20 understanding that the unit is on the brink of
21 closure even without the explicit incorporation
22 of this provision.

23 This alternative housing is critically
24 important for the women it serves and we just

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2 wish to make a comment that it is also a single
3 option that's not able to meet the housing needs
4 of all transgender people. Youth are one such
5 population, due to the sight and sound separation
6 of adults and adolescents in DOC custody.

7 We support the continuation of the trans
8 housing unit for all transgender women who
9 volunteer to be housed in the unit. But we also
10 urge the Board of Corrections to consider the
11 best practice of placing individuals based on
12 self-identified gender identity. So we have
13 several recommendations, which I'm just going to
14 spell out here: We recommend that all transgender
15 youth are placed in housing units by the gender
16 identity unless the young person objects to such
17 a placement. The PREA Standard requires that the
18 placement decision be made on a case-by-case
19 basis with consideration for the individual's
20 health and safety and so this is why we support
21 that.

22 We also want to note that isolating
23 youth is not an appropriate alternative to
24 placing youth based on the gender identity and

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2 should not be relied upon to safely house
3 transgender youth. Research shows that isolation
4 is extremely harmful to the well-being of
5 adolescents, who suffer greater physical,
6 emotional and psychological harm from being
7 placed in isolation. And again I want to
8 emphasize that the views of the individual should
9 always be of prime consideration in terms of
10 housing decisions.

11 We also want to note that the Board of
12 Corrections should consider and adopt the New
13 York City Administration for Children's Services
14 LGBT anti-discrimination policies and best
15 practices and ensure that 16 and 17-year-olds in
16 DOC custody are placed in facilities based on
17 their gender identity and preferred housing
18 arrangement. So we already have a City agency
19 working with a similar population of youth
20 involved in the justice system. And their policy
21 and practice is to place youth in facilities
22 based on their gender identity and to assess the
23 youths' views of their own safety.

24 Youth are not automatically placed

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2 according to gender identity, although ACS
3 acknowledges this is generally the best practice
4 but they consider youths' own views.

5 The Board of Corrections should also
6 adopt policy and practices that are consistent
7 with the spirit of the New York City Human Rights
8 Law and Mayor de Blasio's Executive Order
9 ensuring that transgender people are able to use
10 facilities in accordance with their gender
11 identity. Even if correctional facilities are not
12 covered by New York City Human Rights Law,
13 although we believe that they are and should be;
14 as citizens of New York City, 16 and 17-year-olds
15 have the expectation that they won't be
16 discriminated against by City government.

17 Discrimination at facilities on account
18 of gender identity is contrary to the spirit of
19 the New York City Human Rights Law. And Mayor de
20 Blasio's recent Executive Order and the
21 accompanying extensive media campaign has made it
22 clear to all New Yorkers that transgender people
23 have the right and expectation that their
24 identity will be honored and respected while

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2 using bathrooms and other facilities in City-
3 owned buildings. Transgender youth in City-owned
4 correctional facilities should have no less
5 expectation of full respect for their identity.

6 And last but not least, we recommend
7 that the Board of Corrections should adopt
8 policies and practices that are consistent with
9 the recommendations of all mainstream child
10 welfare and social science organizations; that
11 protection from discrimination and an affirmation
12 of identity are essential to transgender youths'
13 well-being.

14 Transgender 16 and 17-year-old youth do
15 not currently have a safe alternative for housing
16 at Riker's and are particularly vulnerable to
17 sexual abuse and mistreatment. Youth detained in
18 the juvenile justice system in New York City are
19 protected by State law and ACS's LGBTQ non-
20 discrimination policies. We urge the Board of
21 Corrections to adopt ACS's LGBT anti-
22 discrimination policies and best practices.
23 Sixteen and 17-year-olds in DOC custody should be
24 housed based on their gender identity and the

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2 safety needs and views of each transgender youth
3 must be prioritized. Thank you.

4 MR. BREZENOFF: Thank you. Don Lewis?

5 MS. DORI LEWIS: Actually, that was Dori
6 Lewis and I'm from the Legal Aid Society
7 Prisoners' Rights Project. We urge the Board to
8 adopt its proposed rules. There's no question
9 that they set an important framework. But at the
10 same time any argument that the requirements of
11 the National Standards are enough, that they're
12 extremely burdensome to implement or that the
13 timeframes required by the proposed rules are too
14 stringent is simply wrong. As the Department of
15 Justice itself said the National Standards only
16 set the floor. Here, given the Department's
17 longstanding history of violence and culture of
18 indifference to these kinds of complaints,
19 clearly more is necessary.

20 Last winter I met a gay man who told me
21 he'd been repeatedly sexually abused while in
22 protective custody. The abuse escalated from
23 sexual comments to telling the man to undress and
24 the officer watching him naked in his cell and in

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2 the shower to touching the man in his buttocks,
3 legs and penis to masturbating this man several
4 times.

5 The man didn't report the abuse right
6 away. There were lots of reasons for the delay.
7 He didn't want to talk to DOC staff about being
8 gay. He was embarrassed. He was scared. The
9 officer had made clear he had the power to remove
10 him from protective custody. And he didn't think
11 he had anyone he could tell who would believe
12 him. After all, he'd been previously convicted of
13 a felony. He had no physical proof. There were no
14 cameras in the area. So, it would be his word
15 against that of an officer. Eventually he did
16 report. Months later he has no idea of the
17 results of the investigation.

18 So what are a few of the many things
19 that experiences like this tell you about what
20 the proposed rules need to require? It tells you
21 that stronger rules regarding supervision are
22 needed. According to this man, there were almost
23 never supervisors present. He said that at most a
24 captain showed up twice per shift for rounds that

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2 lasted less than five minutes at a time and that
3 the captain never talked to prisoners on the
4 unit.

5 Once the captain left, the officer knew
6 that he was on his own; that captain probably
7 wouldn't come back and that certainly he wouldn't
8 be back any time soon. He said that rounds didn't
9 matter much anyway because the officers knew when
10 the captains were coming because there were calls
11 that came from other officers. He knew that these
12 calls came from other officers telling them that
13 supervisors were coming because when the officers
14 got these calls, they would tell prisoners to do
15 things like take down a curtain, close a gate,
16 put out a cigarette.

17 So impact the extent of abuse the
18 proposed rules, the requirements need to be more
19 explicit than even those that you propose in the
20 rules. You need to require that to the extent
21 possible, supervisors be present in housing areas
22 and program areas and that at a minimum, two
23 rounds per shift be conducted; sometimes close
24 together in time so that no staff person can

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2 assume that they're safe from scrutiny.

3 You also have to make explicit the
4 calling ahead to alert staff that supervisors are
5 coming will be taken seriously and that then
6 discipline will be imposed when it happens. It
7 tells you that cameras need to be required
8 throughout and certainly where sexual abuse has
9 been alleged to have occurred. Cameras could have
10 deterred this abuse and even if they didn't, they
11 could have corroborated this man's allegations.
12 It tells you that footage needs to be maintained
13 for as long as possible but that 90 days, as you
14 seem to be proposing, isn't enough given the
15 obstacles to reporting. This man only reported
16 because he was desperate and there's common for
17 there to be substantial delays in reporting.

18 It tells you that if you want people to
19 report abuse, they have to have confidence that
20 they won't end up worse off than before. At a
21 minimum they need to know that if they complain,
22 they won't be disciplined for coming forward with
23 the report. The Department staff had already
24 betrayed this man's trust. Do you really expect

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2 him or other persons in his situation to turn
3 around and trust the Department to make a fair
4 and reasoned judgment about whether his complaint
5 was made in good faith?

6 It tells you that there needs to be a
7 rule requiring that repeated or prior allegations
8 of abuse by staff that show a pattern of
9 misconduct need to be given substantial
10 evidentiary weight. This man suspected that this
11 officer was sexually abusing other prisoners but
12 he couldn't and didn't know for sure. But there
13 were other allegations of abuse involving this
14 officer. By chance we even one in our own
15 office's records.

16 Patterns of misconduct are important
17 evidence in these kinds of cases. Prior
18 allegations of abuse, including of uncharged
19 crimes, are admissible in New York State criminal
20 prosecutions and they're admissible as evidence
21 of propensity in federal, civil and criminal
22 cases. Sexual abuse often comes down to: he said,
23 she said; or like in this case: he said, he said.
24 If this kind of misconduct is to be stopped,

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2 there needs to be a rule making clear the
3 relevance of this kind of evidence.

4 And finally, it tells you that if an
5 officer is permitted to guard prisoners after a
6 credible allegation or repeated complaints or
7 sexual abuse, that the need for additional
8 supervisor of that particular staff person needs
9 to be considered. In this case, without footage
10 and without DNA, even though I found this man to
11 be one of the most credible I have ever
12 interviewed in my years of doing this work; he
13 was probably right and he won't be believed.
14 Without DNA and without camera footage, it's
15 likely that he complaint won't be substantiated
16 at the investigative level or certainly that the
17 officer won't be terminated at a disciplinary
18 hearing.

19 And there are going to be lots of cases
20 like this, where an investigator or an Oath judge
21 will decide the allegations can't be proven by a
22 preponderance of the evidence. But that doesn't
23 mean that the abuse didn't happen and it doesn't
24 mean that the officer doesn't present a real

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2 risk. You require consideration of additional
3 supervision in locations where abuse has been
4 alleged to take place. You likewise need to
5 require and assessment of whether particular
6 staff needs to be reassigned or more closely
7 supervised. The Board has an opportunity to make
8 a real difference. We urge you to take it. Thank
9 you.

10 MR. BREZENOFF: Thank you.

11 MR. COHEN: Thank you.

12 MR. BREZENOFF: Please.

13 MR. COHEN: In some of your
14 recommendations, I think the second one stated
15 that all allegations of sexual abuse need to be
16 referred to an investigative agency external to
17 DOC; so that investigations could be unbiased and
18 thorough. Could you provide the Board with some
19 possible alternatives that you think would work?

20 MS. LEWIS: In terms of referrals to
21 outside investigative agencies?

22 MR. COHEN: Yes, like what kind of
23 agency, what agency? How do we do this?

24 MS. LEWIS: Either the Department of

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2 Investigation or Law Enforcement is what we're
3 talking about; that they should automatically --
4 all allegations of staff sexual abuse, not
5 necessarily harassment but of staff sexual abuse
6 should be referred to Law Enforcement. We think
7 they should be investigated by Law Enforcement.
8 But we understand the Board doesn't have power to
9 require that. We do suggest that the Board have
10 some kind of hearing or follow up with the
11 Department of Investigation to get some kind of
12 clarity from the Department of Investigation
13 about what allegations they are kicking back.

14 Also with respect to inmate on inmate
15 sexual abuse, as we read the Department of
16 Correction's new directive, which concededly is a
17 bit unclear in this area; we understood it to say
18 that inmate on inmate rapes should be referred to
19 the Department of Investigation and only inmate
20 on inmate rapes. That term is not defined in the
21 directive; so I don't know what they mean. But I
22 do know that from talking with large numbers of
23 inmates over the years, most inmate-inmate
24 allegations also contain some allegation if you

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2 probe at all, some allegation of facilitation if
3 not direct encouragement by staff. And that there
4 should be some investigation conducted at least
5 preliminarily to see whether there is a conflict
6 in having the Department investigate itself in
7 those instances.

8 MR. COHEN: Thank you.

9 MS. LEWIS: Surely.

10 MR. BREZENOFF: Thank you. Veronica
11 Vela?

12 MS. VERONICA VELA: Good afternoon. I am
13 also with the Prisoners' Rights Project of the
14 Legal Aid Society. And I wanted to talk a little
15 more about the risks that transgender prisoners
16 face in custody and agree with a lot of what the
17 previous speakers have said. The Board now has
18 the opportunity to make a big difference in this
19 area and I think they can only do so if they not
20 only adopt rules that they've proposed but
21 strengthen them further.

22 It's been well documented that
23 transgender prisoners face a substantial risk of
24 sexual harassment and assault in jails and

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2 prisons. And it's especially true for transgender
3 women who are housed in male facilities.

4 Some of the stories we've heard in our
5 work as advocates are detailed in our written
6 testimony. They involve women in DOC custody who
7 have been repeatedly placed at risk by being
8 housed alongside male prisoners, even after those
9 prisoners have expressly threatened the women
10 prisoners. As a result, they have experienced
11 repeated assaults at the hands of both prisoners
12 and staff who either commit the abuse or allow it
13 to happen. Given how frequently individuals
14 continue to be housed based entirely on their
15 genitalia, these stories are shocking but not
16 surprising.

17 The most important way to address and
18 lessen this risk is to treat everybody consistent
19 with their own gender identity. In the prison-
20 jail context, this is especially important when
21 it comes to housing. Specifically, this means no
22 longer housing incarcerated people based entirely
23 on their genitalia.

24 Now PREA and the rules that the BOC has

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2 proposed do provide that there must be a case by
3 case evaluation of how to house transgender
4 persons and that serious consideration should be
5 given to a transgender person's own view with
6 respect to his or her own safety.

7 This is a very good step. But we propose
8 language that makes a clear presumption that
9 persons will be housed consistent with their
10 gender identity. Under this rule, unless
11 officials can clearly establish that to do so
12 would present a danger to the person or other
13 persons in custody, transgender men should be
14 housed in men's facilities and transgender women
15 in women's facilities. And where people cannot be
16 housed consistent with their gender identity,
17 then the only reasonable alternative we propose
18 is to house transgender women in units with other
19 women who are housed in the men's facility.

20 The staff in these women's units within
21 men's facilities should be appropriately trained
22 on issues concerning the health and safety needs
23 of transgender and gender nonconforming persons
24 in custody. And it is important to note that

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2 wherever transgender people are housed they must
3 have access to the same programs and services as
4 all prisoners in that facility. We believe that
5 strengthening the rules in this way would make a
6 real difference and we urge the Board to seize
7 this opportunity. Thank you.

8 MR. BREZENOFF: Thank you. Erin Harris?

9 MS. ERIN BETH HARRIS: Good afternoon.

10 My name is Erin Beth Harris and I'm a senior
11 staff attorney with the New York Civil Liberties
12 Union. The New York Civil Liberties Union
13 welcomes the Board's efforts to adopt the
14 standards promulgated under the Prison Rape
15 Elimination Act. But to echo the Public Advocate,
16 the adoption of these regulations is an important
17 first step but it is important to recognize that
18 the PREA regulations set a national baseline for
19 preventing and addressing sexual abuse and
20 violence.

21 The Board must ensure that the final
22 rules are implemented in a manner that reflects
23 and fully considers the particular structure of
24 DOC facilities, how staff and inmates interact

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2 within those facilities and existing policies and
3 procedures.

4 Specifically, the New York Civil
5 Liberties Union urges improvements to the
6 proposed data collection and reporting rules. We
7 testify in support of the Board's position that
8 it should retain the transgender housing unit and
9 urges modifications to the proposed rules to
10 protect LGBT gender nonconforming and intersex
11 prisoners. And we strongly endorse consistent
12 with the written testimony of the Legal Aid
13 Society amendments to the proposed regulations to
14 ensure that the investigation of sexual abuse
15 allegations is independent and fair and does not
16 penalize the victim.

17 First, I'd like to talk a little bit
18 about our recommendations in the area of data
19 collection and reporting. We strongly support
20 proposed Rule Section 540, which requires
21 semiannual reporting and the public availability
22 of that reporting on the Department's website.
23 However, we do strongly urge the inclusion of
24 additional categories of information in order to

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2 ensure that there is a full picture of where
3 improvements and changes are needed, taking into
4 account those specific areas where the data has
5 traditionally under-inclusive.

6 So in addition to gender, which is
7 already included in the rule, we would propose
8 that the Board should add: race, ethnicity, age,
9 disability, immigration status, sexual
10 orientation and gender identity, if those are
11 known. Data relating to the number of
12 substantiated, unsubstantiated and unfounded
13 allegations should be disaggregated by the above
14 listed categories of identity. The data should be
15 reported on a number of staff who have reported
16 observed sexual abuse and those who have been
17 disciplined for failing to make such reports.
18 This is essential to ensure that staff training
19 on reporting sexual abuse is implemented and
20 effective.

21 And finally, the Department should also
22 be required to report on the number of staff who
23 are alleged to have engaged in sexual abuse and
24 the number of staff who have been the subject of

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2 one or more sexual abuse allegations. This is
3 essential to help identify officers who require
4 discipline.

5 In the area of LGBT and gender
6 nonconforming and intersex prisoners in DOC
7 custody, we strongly support the proposed rules
8 that implement PREA standards to provide this
9 group of people, this particularly vulnerable
10 group of people with additional protections.
11 However, to echo some of what my colleagues at
12 the Legal Aid Society have said and others
13 earlier today, the final rules should make it
14 explicit that transgender people should be housed
15 consistent with their gender identity. This is
16 both consistent with PREA guidelines and is
17 required by the principles of equality and
18 dignity that we have enshrined in our State and
19 our City Human Rights Law. Exceptions should be
20 made where an individual feels they will not be
21 safe within the facility consistent with their
22 gender identity.

23 Nevertheless, given the current reality
24 of where many trans people are currently housed,

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2 we support the continued use of the voluntary
3 housing area for transgender prisoners confined
4 in male facilities. We do not believe that this
5 violates PREA. This is a voluntary decision by
6 people to be there. It is not simply: You are
7 transgender. We're putting you into this
8 facility. And it also simply can be viewed as a
9 female unit within a male facility.

10 So we believe that regardless of the
11 PREA Standard 115.42 requires that the THU should
12 be retained; it is simply an essential option for
13 transgender women, most of whom would be
14 subjected to the threat of severe harassment and
15 violence if they were housed in facilities with
16 men. So we believe that an affirmative statement
17 mandating the existence of the THU should be
18 added, along with requirements for training THU
19 staff on how to address the needs of transgender
20 prisoners and ensuring that people in the THU
21 have access to the same programming as other
22 people who are incarcerated in those facilities.

23 And finally and we will submit more
24 detailed written comments, I just want to echo

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2 what my colleague Dori Lewis said of the Legal
3 Aid Society, that the Department cannot
4 consistent with concepts of fundamental fairness
5 investigate allegations of sexual abuse brought
6 against its own employees or staff or simply
7 involving its own staff. An independent agency
8 must investigate those allegations. Thank you so
9 much for your time.

10 MR. BREZENOFF: Thank you.

11 MR. GERARD BRYANT: Erin, just real
12 quick.

13 MS. HARRIS: Yes.

14 MR. BRYANT: You suggested that you're
15 going to submit written copy?

16 MS. HARRIS: We will be submitting. We
17 have not as of yet.

18 MR. BRYANT: Okay.

19 MS. HARRIS: But we will be.

20 MR. BRYANT: Okay, thank you.

21 MR. HARRIS: Thank you so much.

22 MR. BREZENOFF: Angel Castro?

23 MR. ANGEL CASTRO: Good afternoon

24 Members of the Board. Thank you for holding this

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2 hearing. On behalf of COBA, I appreciate the
3 opportunity to address this rulemaking process.
4 The Board proposes to create a new chapter of its
5 rule containing minimum standards that are
6 designed to detect, prevent and respond to sexual
7 abuse and sexual harassment of persons
8 incarcerated in jails and other facilities
9 operated by the Department.

10 COBA applauds the Board for finally
11 making the Department comply with national
12 standards; just as COBA forced the Department to
13 meet responsibilities under the State's Workplace
14 Violence Law. While COBA will be submitting
15 written comments on this complex issue, we have
16 two points for the Board to think about in
17 adopting standards about sexual abuse and
18 harassment of those who find themselves in the
19 City's jails.

20 While the Board addresses this problem,
21 it can also set right a long-running problem that
22 afflicts workers in the Department. You may not
23 know this but close to 60 percent of the members
24 of COBA are women. They are mothers, daughters,

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2 sisters. So imagine one of your relatives in what
3 I'm saying in the next couple of minutes at the
4 podium.

5 What has long gone missing in this
6 discussion is the sexual harassment and physical
7 assault and even attempt at rape by inmates of
8 female staff in the jails. Make no mistake, most
9 of these violent incidents and acts of harassment
10 are targeted at women because of their gender.
11 This does not only concern correction officers
12 but the emboldened population of inmates who face
13 almost no repercussions for their actions. Just
14 today the Truth Newspaper had an article about an
15 incident where an inmate assaulted a female
16 captain. A few weeks ago an inmate attempted to
17 rape a female correction officer. And daily, the
18 inmates shower the female staff with lewd and
19 degrading comments directed at them based on
20 their gender. Again, while the jails are filled
21 with former convicted offenders of violence
22 against women and convicted sexual predators.

23 If the Board is finally addressing
24 sexual harassment and worse in the City's jails,

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2 it should also take the opportunity to address
3 this serious matter in terms of how female staff
4 are treated by the inmate population. This should
5 include not merely punitive sanctions but also
6 sensitive training and other programs.

7 The second point is very simple: due
8 process. The proposed rules are not only an
9 adaptation of the principles of PREA; those
10 principles are value neutral and protect a very
11 sensitive and fragile population. However, the
12 process of investigating and disciplining staff
13 runs afoul of the collective bargaining law. The
14 City of New York through rulemaking cannot change
15 the terms and conditions of bargaining law; the
16 City of New York through the conditions of the
17 employment of 9,000 men and women doing good work
18 for the City without bargaining discipline
19 related rules.

20 Inmates get more process than these
21 proposed rules give the workers in your jails.
22 This is not going to work. We strongly urge the
23 Board to compare the investigation process
24 proposed here with the proposed rules to the

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2 process already in use at the Department and
3 tailor them accordingly. Thank you for your time.
4 And as I said in my opening, we will be
5 submitting more detailed written comments. Thank
6 you.

7 MR. BREZENOFF: Thank you.

8 MR. COHEN: Thank you very much.

9 MR. BREZENOFF: Charlotte Pope?

10 MS. CHARLOTTE POPE: Hi. My name is
11 Charlotte Pope. I'm from the Children's Defense
12 Fund New York. Thank you for the opportunity to
13 testify. Our comments also focus on the placement
14 needs of transgender youth under age 18 in New
15 York City jails and we support what has already
16 been said here. While DOC currently operates the
17 transgender housing unit, or THU, due to sight
18 and sound restrictions the THU option is not an
19 appropriate resource for 16 and 17-year-olds in
20 DOC custody.

21 For those young adults in New York City
22 jails who volunteer, we strongly support the
23 continued utilization of THU or a similar unit.
24 It is critical that the lack of access for 16 and

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2 17-year-olds to THU not lead to the isolation or
3 segregation of transgender youth, which is never
4 an acceptable alternative to a lack of safe
5 housing.

6 Confining youth in adult facilities
7 already impedes access to age appropriate
8 programming and services; many of which are
9 available to those similarly aged who reside in
10 ACS facilities, as was mentioned in previous
11 testimony. We urge the Board to include
12 assurances that 16 and 17-year-olds in DOC
13 custody be housed based on their gender identity
14 if that is their preference for placement and
15 that serious consideration and respect be shown
16 to youths' understanding of their own safety.

17 Lastly, we would appreciate further
18 clarity on how the Board will define and monitor
19 whether the placement would present management or
20 security problems as listed in Section 518,
21 titled: Use of screening information; to ensure
22 that transgender youth and young adults are not
23 being unjustly denied their basic human dignity.
24 Thank you again.

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2 MR. BREZENOFF: Thank you.

3 MR. COHEN: Thank you.

4 MR. BREZENOFF: Mik Kinkead?

5 MS. MIK KINKEAD: Hi. I'm from the
6 Sylvia Rivera Law Project and I'm a member of the
7 Jails Action Coalition. We are attempting to
8 submit our comments now. So, you'll get them
9 hopefully by the end of today. In order to sort
10 of place my comments, I just want to share that
11 the Sylvia Rivera Law Project is an organization
12 that works with transgender, gender nonconforming
13 and intersex New Yorkers. We work with people who
14 are incarcerated in the New York City jails and
15 with people who are incarcerated in New York
16 State.

17 Staff from SRLP provide legal and
18 cultural programming twice a month to individuals
19 who are housed in the transgender housing unit,
20 in addition to providing them with direct legal
21 services. Since August of last year, we estimate
22 that we've worked with about 50 transgender
23 people in the New York City jail system. I'm just
24 going to only comment specifically around

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2 transgender housing concerns; although our
3 comments when you get them will be more
4 significant.

5 I do want to start by saying that we
6 have concerns about the rulemaking process. We
7 were able to visit individuals on the transgender
8 housing unit on July 8th and 22nd. And in order
9 to enter the transgender housing unit, we need to
10 go through the Counsel Visit at MDC, through
11 security, past medical, up an elevator, across a
12 passageway, up another elevator, through a
13 hallway and into the unit. At no time along that
14 entire passage, either time that we visited --
15 July 8th or July 22nd did we see a single mention
16 of this public hearing. There was also no mention
17 in the unit itself.

18 Now the people who are in the
19 transgender housing unit are technically in
20 general population. However, they never leave the
21 unit without an escort. They don't go to the law
22 library without an escort. They don't go to
23 recreation without an escort. They don't go to a
24 program without an escort. Most people do not

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2 ever leave the transgender housing unit.

3 They had no information that this
4 hearing was happening. We provided them with
5 significant information and they have submitted
6 testimonies which will be read by some Sylvia
7 Rivera Law Project staff members later. But no
8 one who was actually inside, who is going to be
9 significantly affected by this, had notice. And
10 that's really concerning because they're the
11 people who are most able to tell you what they
12 need to feel safe.

13 That said, I think that it's really
14 important to note that SRLP maintains that the
15 national PREA standards do actually allow for a
16 voluntary transgender housing unit. I'm aware the
17 Department of Justice is saying that they don't
18 but that's not how they read. And it's
19 inconceivable that something that we know is
20 ending prison rape should not be allowed because
21 of the Prison Rape Elimination Act. That doesn't
22 make any sense.

23 We have had no reports from people who
24 are actually inside the transgender housing unit

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2 of sexual violence while they're housed in the
3 transgender housing unit. Every single person who
4 was housed outside the transgender housing unit,
5 who is a transgender identified individual, has
6 reported sexual violence to us. So, we know it is
7 stopping rape and sexual violence for people in
8 the transgender housing unit. There is no
9 question of that.

10 What's also very important to note is
11 that we know that the staff who are the steady
12 officers in the transgender housing unit undergo
13 very intensive training around pronoun usage,
14 around pat frisks, around inappropriate questions
15 to ask people. And we know that those things do
16 not happen for people who are outside the
17 transgender housing unit. And we know that those
18 things do not happen when the steady officers
19 leave the transgender unit and a replacement
20 officer comes in.

21 We consistently hear from people in the
22 transgender housing unit that when the steady
23 officers are not happen, they get called the
24 wrong pronoun. They get pat frisked

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2 inappropriately. They get asked questions like:
3 What do you have in your pants? They get called
4 really derogatory names. And these are warning
5 signs of sexual violence.

6 And I think that's one of the very
7 important things that we talk about when we talk
8 about the Prison Rape Elimination Act is that
9 we're talking about eliminating it, not
10 necessarily after the fact. So we're talking
11 about addressing a culture where people are seen
12 as being disposable, where people are seen as not
13 mattering and where people's basic human rights
14 and dignity are completely done away with.

15 And I just want to echo what has been
16 said by many individuals here that it is
17 inconceivable that your gender identity, that the
18 New York City Commission on Human Rights
19 recognizes as being an inherent part of your
20 dignity outside the jail would all of a sudden
21 stop because you've been accused of a crime.
22 You're not even convicted yet. So, it would bring
23 the Department of Corrections into moral and
24 ethical standards with the City. Thank you.

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2 MR. BREZENOFF: Thank you.

3 MS. MARTHA KING: Mik, I just want to
4 respond on the issues you discussed in terms of
5 posting in the jails. So everything should have
6 been posted by July 22nd. In addition, we created
7 and entirely new method for people who can't
8 leave the jails to come here and attend this
9 hearing, to leave messages which we transcribe
10 automatically, which will then be a part of the
11 public comments. So that's never been done before
12 by the Board and we think that'll be a really
13 efficient way to hear from people who can't
14 attend in person here.

15 MS. KINKEAD: How are they informed of
16 that?

17 MS. KING: They're informed of that in
18 these postings that are supposed to be all over
19 the jails. It's also why we extended the public
20 comment period until August 31st.

21 MR. RICHARDS: We ensure that folks have
22 access to that number; so as you're visiting the
23 law libraries, you can share that information as
24 well.

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2 MS. KING: Yeah, luckily it is our same
3 number and now there's just a new prompt; where
4 you can choose two and then you leave a message
5 regarding PREA and we transcribe it automatically
6 as a part of the public record. And it's
7 announced when you call that you'll be leaving a
8 message that will be entered into the public
9 record.

10 MR. BREZENOFF: Juana Peralta? Susan
11 Beaty?

12 MS. SUSAN BEATY: Hi, thanks. I just to
13 say quick, there's a lot of heavy and
14 traumatizing stuff being said and I want to say
15 to the survivors in the room, the survivors of
16 sexual violence, the survivors of incarceration,
17 which we know is another form of violence and the
18 survivors of both: that we see you. Even though
19 the DOC is in here, we see you and we hear you.
20 So my name's Susan. I'm a legal intern, also with
21 the Sylvia Rivera Law Project. And several of us
22 are going to read testimonies that were mailed to
23 SRLP by transwomen who are currently incarcerated
24 in the New York State prison system and who have

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2 spent time, who have gone through the New York
3 City jails.

4 We think it's important to hear from
5 people who will be directly affected by the
6 proposed rules, who know best how to prevent
7 sexual violence in jail and who cannot be here
8 with us today. And some of them include
9 experiences that happened in the New York City
10 prisons but we know that they speak to problems
11 and a culture that our members know is pervasive
12 across those systems.

13 So this is testimony from a women named
14 Alisha Cohen, who's a white, 27-year-old
15 transwoman: I've been incarcerated in New York
16 since 2008. And the treatment of transgender
17 prisoners has gotten better but we still do not
18 have full, equal rights. The biggest thing is the
19 use of the double-edged sword of PREA. PREA's
20 being used to make transgender prisoners' time
21 harder than it already its. I was raped by three
22 other inmates in 2011. After that moment, I
23 suppressed what happened to me until four years
24 later when I was in a support group and I

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2 remembered what happened. I became very depressed
3 and I relapsed into addiction.

4 Last year in 2015, I had a disciplinary
5 hearing for drug use. I told the hearing officer
6 what happened to me. I had never reported the
7 rape but the hearing officer did report it
8 because of PREA. Later that week, I was on a
9 transfer bus. They pulled me off the bus. They
10 sat me in a room, where I was questioned for an
11 hour about the rape. It was like I was the
12 criminal, that I had done something wrong. Then I
13 was placed back on the bus. They took no
14 consideration for my feelings or my feeling. And
15 if someone's going to do an investigation, they
16 should be trained on how to deal with victims of
17 sexual abuse.

18 The reality of prison life for
19 transgender women is this: When you come into
20 prison, you're forced to find a man or become
21 used or passed around or even sell yourself if
22 you know how to. When you come into prison, as
23 soon as you get off the bus, the word has already
24 spread the new girl has come in. Inevitably boys

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2 start to make their moves and you have a choice.
3 You can pick a man, hopefully one that will treat
4 you right and more importantly keep others away;
5 or you cannot pick anybody and that leaves you
6 open to sexual abuse.

7 Of course, there's the protective
8 custody route but that is the same thing as being
9 in solitary. You sign in to be locked down for
10 24-hours-a-day for at least 90 days and then go
11 on to the next facility where it starts all over
12 again. Also being in PC prevents you from going
13 to your programs, both mandatory and volunteer;
14 so that when you go to the Parole Board, there's
15 nothing to help you get out.

16 Most transwomen, including myself,
17 choose a man to protect us and take care of us.
18 And because of this you get slips dropped on you,
19 which are notes to the administration about
20 illegal activity. Once the slip is dropped saying
21 that you have a sexual relationship, there is an
22 investigation because of PREA. Most likely the
23 administration won't find anything but for your
24 safety, you'll have to go into PC. They use PREA

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2 to force us into IPC, to PC and the SHU.

3 And what's the solution? One is to have
4 LGBTQ housing that allow people to do everything
5 that the general population does; also to have
6 support groups, to help build self-esteem and a
7 safe place for LGBTQ people to talk, so they
8 don't feel like they have to resort to drugs or
9 sex as a coping mechanism. Also, there's the
10 harassment and discrimination that happens every
11 day. There is not enough paper to describe what
12 staff do to us every day. If you write up a staff
13 member, it only leads to more harassment. I think
14 all staff members should have to take LGBTQ
15 sensitive training taught by a professional, not
16 someone who knows nothing about LGBTQ people and
17 just read from a manual. Thank you.

18 MR. BREZENOFF: Thank you. Anya Morgan?

19 MS. ANYA MORGAN: Hi, I'm Anya. I'm also
20 an intern at the Sylvia Rivera Law Project and
21 I'll be reading two more pieces of testimony from
22 currently incarcerated transwomen. The first is
23 by Asha Dia [PHONETIC], who is a 27-year-old
24 transwoman: Here the prisons are very out of

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2 control. We are not liked by the COs. They have
3 it out for us just because we're trans or gay.
4 The COs here are racist and all they want to do
5 is put their hands on us. They try to make us
6 theirs but my girls that I spend time with in the
7 yard, we stand with each other. That's what you
8 ladies have to do because you really just have
9 you and your sisters.

10 These officers will disrespect your
11 preferred gender pronouns. They will put you in a
12 house where you can get dumped. It's a set up.
13 Those officers don't care. You only have a few of
14 them that try to help us out in Riker's, mostly
15 the females. They try their best to help the
16 girls out. Not all of them, but most of them. The
17 NYC jails need training on how to handle us
18 because they have no idea. Well, some do but they
19 don't give a fuck because they don't get in
20 trouble. That's why they do it.

21 The COs are not here for us. We are on
22 our own. That's why we stick with our family,
23 which is the LGBT. Some of us are making an LGBT
24 organization family in jail or prison to keep us

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2 safe. The help we get, it's only from places like
3 Sylvia Rivera Law Project and New Alternatives.

4 I would like for the NYC jails to
5 respect our preferred gender pronouns. I would
6 also like for them to search us not in front of
7 all the inmates. We're trans. We should not be
8 undressing in front of inmates or other COs. I'm
9 here at Attica and they do that a lot to us. And
10 I would like for them to stop calling us faggots.
11 We have a name and faggot is not it. And they
12 need to help us more with getting our bras and
13 underwear and hormones.

14 The next testimony is by Sasha
15 Augustine, who's a black and Hispanic transwoman
16 surviving in the New York prison system: The way
17 we transgender women are treated in prison is
18 wrong and cruel. Not only do we deal with being
19 raped by other inmates but the correction
20 officers too. We are seen as sexual objects, not
21 people with feelings. From experience, I've been
22 sexually assaulted by a sergeant and a CO. I did
23 not know how to react because they have the power
24 to ruin my bid by setting me up with a weapon.

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2 All I could do was endure the abuse, physically
3 and verbally. And without physical evidence, it's
4 their word against mine.

5 I've never been raped but I have been
6 molested by a sergeant and an officer and I felt
7 disgusted and also weak because I'm a minority in
8 prison. I believe that prisons need to have a
9 facility where transwomen can be placed without
10 putting us in SHU or PC. To be around male
11 officers and inmates is cruel and unusual
12 punishment because we are females. Facilities
13 need to offer programs for LGBTQ inmates; so that
14 we can discuss issues amongst ourselves.

15 I know that NYC prisons don't allow
16 transwomen to receive feminine articles: bras,
17 makeup, panties, etc. through packages or
18 commissary. We should be allowed that. We
19 identify as females and that's how we need to be
20 treated, not like sexual objects.

21 I have personally be through all kinds
22 of abuse from rude and derogatory comments to
23 being sexually molested. It's a crime how many of
24 us transwomen are raped or harassed. And if we

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2 say something, we are segregated and placed in
3 SHU. So that's why we don't say anything. We just
4 endure it.

5 I've been discriminated against
6 receiving a job I wanted or a facility I felt
7 more comfortable being placed in. I have been
8 violated by a CO and a sergeant. They grabbed,
9 hit and touched me. And it's even more difficult
10 because I'm the only transwoman in some of the
11 prisons I've been in. I think that it's best that
12 we have trans housing on Riker's and in New York
13 State prisons. It's a benefit for us transwomen
14 to be around each other and not isolated. Some of
15 us who don't have family during incarceration,
16 our trans community helps one another. I would
17 also like the medical departments to be more
18 respectful and helpful with our medical
19 treatment, including HRT. Thank you.

20 MR. BREZENOFF: Thank you. Cleo Jones?

21 MS. CLEO JONES: Good afternoon. I turn
22 around and I look at the Board and I think the
23 shame of it is it would be nice; see I'm from the
24 generation where we were actually called

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2 transvestites, drag queens and degraded when you
3 went to jail or prison. And the thing what I say
4 about this hearing: It's good that you have this
5 hearing. And even the people that I hear
6 testimony, I see most of the women from these
7 organizations and one particular guy that
8 advocated more or less for the women. But I will
9 say within this system, this whole correction
10 system, this has been going on for over 400
11 years.

12 Now it's getting to the point the way I
13 see things now with all the killing and all this
14 that's going on in the world; it's going to come
15 to a boil. I mean, I'm from the generation where
16 Attica and all of that blew up. And it's going to
17 say a lot about this society in terms of the
18 Presidents that we're getting in this
19 administration now coming after Obama steps out.
20 And it's going to say a lot about this particular
21 county. And I will say in terms of this here, I
22 think that the justice system has to be revamped.
23 It has to be because this has been going on for
24 so long.

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2 And again I will say it like here, the
3 tragedy of it is we don't actually see any of the
4 victims here. None of them. You see other people
5 from organizations testifying, which is good. So
6 that's basically should tell you something as the
7 Board within themselves, something to think
8 about. Because trust and believe, all of this is
9 just a matter of time before the pressure really
10 explodes and what would this country look like?
11 Thank you. Have a good day.

12 MR. BREZENOFF: Thank you.

13 MR. COHEN: Thank you. Carolina Rivas?

14 MS. CAROLINA RIVAS: Hi. My name is
15 Carolina Rivas. I'm also an intern at the Sylvia
16 Rivera Law Project. And I'll be reading two
17 testimonies. The first one is Teriana
18 Witherspoon. She is a 33-year-old mixed race
19 transwoman, who is incarcerated in the New York
20 City prison system and has been in New York City
21 jails. This is her testimony:

22 I want my testimony to be shared because
23 I am a strong transwoman of color; who believes
24 in taking a stand for transwomen all over. I

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2 believe in sisterhood and in brotherhood and that
3 we should stick together as one.

4 The treatment of transgender people in
5 New York prisons and jails is extremely horrible
6 on so many levels. The correctional officers,
7 both male and female, refer to us transwomen
8 using he/him and not she/her pronouns. The State
9 trains officers to address transgender inmates
10 according to their gender identities. But
11 officers totally disregard what they have been
12 taught. I feel as though the prison systems are
13 aware of the population of the transgender
14 community that is incarcerated but ignore the
15 fact that we have rights when it comes to the
16 system doing anything about retraining these
17 officers to be more open minded and to not look
18 down on transgender inmates.

19 The facility needs more than just
20 retraining. It needs to stop ostracizing and
21 discriminating against trans people. As a
22 transwoman in the prison system, I have
23 experienced being harassed, discriminated against
24 and ostracized while being incarcerated; not just

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2 by the COs but by the inmates as well. I feel
3 that the COs are not doing their job to prevent
4 any kind of punishment to the inmates that are
5 committing these hateful acts.

6 In closing I want to say that the prison
7 system needs to reach out to the transgender
8 inmates on a regular basis to find out ways to
9 get the officers and staff to use the correct
10 gender markers. I feel that all prisons should
11 have a housing unit for trans people, as well as
12 products available so that transwomen can keep up
13 their feminine appearance.

14 And this testimony is by Diamond. She is
15 an African American transwomen who's 40-years-
16 old. She's incarcerated in the New York State
17 prison system and has spent in New York City
18 jails and has been in the transgender housing
19 unit:

20 In some jails trans people are
21 discriminated against. The program committee will
22 give a trans person a job but staff will not call
23 them to work or will tell them: Oh, we don't need
24 you. I was raped while I was in protective

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2 custody by a person in the general population. I
3 reported it and he was written a misbehavior
4 report but it was dismissed, even though DNA
5 evidence was collected. Nothing was done to him
6 and I never saw a therapist about it.

7 The ID was very disrespectful and they
8 did not believe me. I feel like it sends a
9 message that it's alright to get raped and
10 reporting crimes is pointless. Staff should not
11 discriminate against trans and gay people and we
12 should be allowed to work anywhere in the jail.
13 If a sexual assault is reported and evidence is
14 collected, then everything should be done to
15 prosecute the perpetrator. Just because they have
16 a good disciplinary record does not mean that
17 they are not capable of rape. Also, people who
18 report rape should receive counseling, as well as
19 advocacy. Last, female COs should be the only
20 ones who conduct pat frisks on trans people with
21 breasts. Thank you.

22 MR. BREZENOFF: I know it's been a long
23 afternoon but really quite fruitful and valuable
24 to the Board. I've been asked by one of the

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2 remaining speakers -- there are about six or
3 seven left -- if they could move up because they
4 have to leave. I'm going to call the names of the
5 five people who are in front of that individual.
6 And if any of them object or need to leave
7 themselves, I will call them first.

8 So here are the names. The next would be
9 Barbara Hamilton, followed by Jennifer Parish,
10 Rachel Weiner, Kaitlin Hanson. And I'll give the
11 last name of the next individual, I think it's
12 Baramdik [PHONETIC]. I can't really make out the
13 first name. If it's alright with you, that group
14 that I just mentioned, I would call the next
15 person and allow her to speak for her four
16 minutes and then go back to the order. But it's
17 really up to you. If there's no objection, that's
18 what I'm going to do. We're a very flexible body
19 here. Alright, then I'm going to let -- I
20 appreciate that, thank you. Britney Knapp?

21 MS. BRITNEY KNAPP: Hello. Good
22 afternoon. Thank you for allowing to speak. My
23 name is Britney Knapp and I'm a member of the
24 Jails Action Coalition; an artist for the

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2 movement; an art therapist who works with
3 formerly incarcerated individuals and a survivor
4 of institutional sexual abuse as an adolescent.

5 For years society has accepted rape as a
6 fact of life in jails and women are especially at
7 risk. We know that a staggering number of
8 incarcerated women have experienced sexual abuse
9 as children and as adults prior to incarceration.
10 The prison environment leaves women especially
11 vulnerable to staff sexual abuse, as they rely on
12 them to meet their basic needs. Many women will
13 not report due to fear of retaliation and as a
14 result of feelings of learned helplessness from a
15 lifetime of abuse.

16 Safe and effective methods of reporting
17 abuse have not been provided for them, as well as
18 the same, appropriate interventions and
19 treatments available to survivors outside of
20 jails. Incarcerated women are perceived as bad or
21 the other by society and by failing to provide
22 them with safety preventative measures,
23 interventions, resources and justice; we send the
24 message that their bodies do not have the same

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2 integrity and worth of women outside of jails.

3 We invalid the significance of their
4 painful experience and allow an already
5 vulnerable population to be re-victimized. Of all
6 of my painful experiences while incarcerated, my
7 rape by a staff person was the most difficult to
8 overcome because the social and judicial systems
9 do not respond and validate my experience,
10 leading to self-blame, shame, a decreased sense
11 of self-worth and depression and suicidality.

12 Really the investigation and the
13 interrogation and the lack of accountability on
14 the part of the staff that abused me as a
15 juvenile in the juvenile justice system was
16 really a second rape in its own way and has
17 really made it difficult to heal even as an adult
18 and as a therapist and a clinician now.

19 I urge the Board to do everything in
20 their power to ensure the prevention,
21 intervention and response to sexual abuse in New
22 York City jails and protect the at risk
23 population and acknowledge the integrity and
24 value of an incarcerated woman's body

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2 experiences. Thank you.

3 MR. BREZENOFF: Thank you. Barbara
4 Hamilton?

5 MS. BARBARA HAMILTON: Hi. Good
6 afternoon to the Members of the Board. I'm
7 Barbara Hamilton from the Legal Aid Society. And
8 I'm here to testify on behalf of NB, a woman
9 who's incarcerated at Rose M. Singer. I should
10 also note for the Board that I'm also counsel to
11 Jane Doe One and Jane Doe Two, whose excerpts
12 were read here today:

13 I cannot be here today because I'm
14 locked up right now. But I wanted to share my
15 story, so I can try to do my part to help end the
16 sexual abuse and harassment that the women at RMC
17 constantly experience. I also asked Barbara to
18 keep my name private while I'm locked up because
19 I'm afraid of being labeled as a snitch. I think
20 the Board should pass rules to prevent sex abuse
21 and harassment of inmates at Riker's. The Board
22 has to help the women at Rosie's and Riker's
23 because we are treated very bad here.

24 I've been locked up at Rosie's a lot of

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2 times because of drug abuse and parole
3 violations. I also have severe mental health
4 issues. At Rosie's, they treat the women very
5 badly, especially if you have mental health
6 problems. Here, you're just considered another
7 MO. And it's hard to complain about the stuff
8 that goes on, especially sex abuse.

9 For me, I can barely read or write and
10 have a hard time getting anyone to help me file
11 anything. Not that I think it would do much good.
12 When I was locked up in 2015, I complained about
13 a officer sexually harassing me. And everyone in
14 the jail found out and called me a snitch and a
15 crackhead and nothing happened to the officer as
16 far as I know. I was the one treated like I did
17 something wrong for complaining. I never heard
18 anything about my complaint from the people who
19 came to investigate and that was over a year ago.

20 I was eight months pregnant and an
21 officer used to insist that I show him my breasts
22 and my private areas when I was locked in my
23 cell. He would come to my cell all of the time
24 and tell me things like "you know what time it

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2 is." "You used to have a fat ass." I tried to
3 even cover my cell window and the officer
4 complained to the area captain. I didn't want to
5 get in trouble and be sent to the bing eight
6 months' pregnant; so I took the paper off my cell
7 window.

8 It got to the point where the CO was
9 coming to my cell sometimes three to four times a
10 night. He gave me a bottle of lotion once because
11 he said that my skin was "ashy." I was worried
12 that things might get even more out of hand with
13 the CO, so I complained. It made things worse for
14 me in the jail. I was labeled as a snitch for
15 trying to tell on the officer.

16 During other times I was at Rosie's, I
17 know the other female inmates were messing with
18 officers to get drugs if they were addicts. Some
19 women were so desperate for stuff like food and
20 sanitary items, they would also mess with
21 officers to get it. I messed with officers
22 sometimes too because I had nothing and no one to
23 send me commissary items. It is normal for jail
24 that these things go on. And the officers have

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2 all of the power and we inmates aren't even
3 treated like we are human.

4 Another time I was at Riker's years ago,
5 I was able to get on the inmate work detail where
6 you get to clean up outside the jail. I did this
7 because I was able to pick up cigarette butts
8 from the ground and keep them to smoke. Because
9 in exchange I gave oral sex to an officer in
10 charge of the work detail. I know some of the
11 other women were doing the same thing too with
12 the officers, so they could go outside and get
13 cigarette butts to smoke.

14 I want the BOC to help pass rules and
15 make changes. We should not be treated that way
16 and should at least be treated like human beings.
17 I do not want to feel like I have to get on my
18 knees and do sexual favors for COs because it's
19 the only way to survive in jail. People should
20 take our complaints seriously and not call us
21 snitches for not wanting to be harassed or
22 sexually abused by the CO or surviving in jail
23 the only way that you can there. Thank you.

24 MR. COHEN: [Unintelligible] [01:52:58]

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2 the client could have been protected and this
3 snitch issue. I mean, Legal Aid mentioned
4 supervision. Do you have any thoughts on what
5 mechanisms could be established to protect people
6 when they make complaints that are not on the
7 rules that we have now?

8 MS. HAMILTON: I believe my colleague
9 has testified on behalf of Legal Aid. So
10 therefore I cannot extensively comment. I can say
11 specific to this situation that the investigation
12 was done out in the open and that the
13 investigators went to the housing area and
14 started openly asking questions in addition to
15 the beauty shop. There was nothing done to
16 protect this individual's privacy. And so what
17 was not in this statement and that I'm able, you
18 know, to tell her story and share is that when
19 she went to the beauty shop, she was threatened
20 by other inmates and they basically told her: You
21 have these white crackers in here to snitch on
22 our black male officers.

23 So, mechanisms that I would suggest
24 based on this or that I think this individual,

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2 NB, would be very interested in is take into
3 account privacy; do a thorough investigation.
4 Don't just go ask several questions and then drop
5 the person as not credible. Follow up with them.
6 Let them know what's going on. Do a follow up
7 interview. None of these things were done here.
8 Thank you.

9 MR. BREZENOFF: Jennifer Parish?

10 MS. JENNIFER PARISH: Good afternoon. My
11 name is Jennifer Parish. I'm the Director of
12 Criminal Justice Advocacy at the Urban Justice
13 Center Mental Health Project and I'm a member of
14 the Jails Action Coalition. The Jails Action
15 Coalition will be submitting to the Board our
16 recommendations for strengthening the proposed
17 rules. We appreciate that you've engaged in this
18 rulemaking process and that you have gone farther
19 in some areas in PREA and we think that the rules
20 could be further strengthened. So we will be
21 submitting those recommendations to you.

22 Our recommendations are signed onto by
23 over 40 organizations and dozens of individuals.
24 And I want spend time going through those

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2 recommendations because many of them have already
3 been spoken of by my colleagues.

4 But I do want to highlight my concern by
5 the Department of Correction's presentation to
6 you; specifically that they would say that your
7 timeframes are too accelerated. Quite frankly,
8 when I read the proposed rule, I thought they
9 were quite extended, given the fact that it's
10 taken us more than a year and three months to get
11 to this position; since the Public Advocate made
12 her petition and we didn't have these hearings
13 until today.

14 So they have known that this is an issue
15 that needs to be addressed for quite some time.
16 They had the Moss Group report more than a year
17 ago. So the thought that this needs to be put off
18 and somehow will be an unbalanced set of
19 priorities I think is very concerning that
20 they're not taking this issue more seriously;
21 especially considering all the information that's
22 been presented today.

23 So I hope you will remain firm in your
24 timeframes and also that you will remain firm in

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2 the reporting requirements because that's
3 essential that the Department of Correction
4 report in all the areas that you've outlined in
5 the proposed rules. Thank you.

6 MR. BREZENOFF: Thank you.

7 MR. COHEN: Thank you.

8 MR. BREZENOFF: Rachel Weiner?

9 MS. RACHEL WEINER: Good afternoon. My
10 name is Rachel Weiner and I'm Co-President of the
11 Fordham Law Advocates for the Incarcerated, a
12 legal intern at the Urban Justice Center and a
13 member of the Jails Action Coalition. Before
14 attending law school, I was an investigator for
15 the Department of Correction's Investigation
16 Division for two years. While at ID, I had
17 investigated many instances of inmate on inmate
18 and occasionally staff on inmates sexual assaults
19 and harassment. And I'd like to speak today about
20 the inefficiencies of the current investigative
21 process and changes I hope the Board will
22 consider before enacting their proposed rules.

23 First, the training procedure at ID
24 needs to be overhauled and updated. Compared to

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2 the 40-hour victim assistance training course
3 required by New York State, my ID training
4 consisted of watching a four-hour-long video of
5 an apathetically presented talk by the Moss Group
6 on investigating instances of rape, which was
7 devoid of any practical application to DOC.

8 This video is still the standard
9 training at ID, this four-hour video. And it's
10 completely unacceptable. Training should be
11 provided by a Board-approved outside agency,
12 consistent with other law enforcement agency
13 standards and should include topics like
14 effective and sensitive victim interviewing and
15 the official protocol of DOC and its relation to
16 outside agencies. If DOC can provide shotgun
17 training for its correction officers, it can
18 certainly provide a basic rape crisis training to
19 its investigators.

20 Secondly, if investigations are not
21 referred to an outside agency, only civilian
22 investigators who have received this requisite
23 training should respond to and investigate claims
24 of sexual abuse. And this is for two reasons:

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2 First, the individual making the allegation must
3 be protected from the perpetrator and their
4 contacts. There's always a risk that a correction
5 officer investigator or a COI will have a
6 relationship with the officer against whom the
7 allegation is made.

8 Second, those making the allegations
9 must be treated with respect and their complaints
10 presumed true until an investigation concludes
11 otherwise. While there are some perfectly
12 respectful COIs, I've seen how challenging it is
13 for uniformed members of staff to remove their
14 biases when it comes to allegations of sexual
15 assault. I have seen COIs text on their phones
16 throughout their interviews, roll their eyes in
17 disbelief to the complainant's face and refer to
18 a transgender woman as it during the entire
19 interview and continue to make transphobic jokes
20 about her to other COs in the area.

21 In fact, I was once assigned to respond
22 to an allegation of inmate on inmate sexual
23 abuse. The allegation had an uncertain timeline
24 and was a relatively innocuous complaint. The COI

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2 I responded to the case with immediately scoffed
3 in disbelief. But after spending a total of four
4 straight days looking at video, weeks' worth of
5 video, I found a trend of severe sexual abuse
6 that the complainant was exposed to while he was
7 unconscious and therefore was unaware of. My COI,
8 my co-investigator, it's safe to say would not
9 have done the same thorough investigation. This
10 disrespect, carelessness and potential for
11 retaliation cannot be risked by insisting COIs
12 investigate these claims of abuse.

13 Third, I commend the Board's necessary
14 insistence of higher standards for investigating
15 sexual assault allegations. And the Board should
16 allow these standards to be upheld by ensuring
17 that DOC has enough investigators to carry the
18 added load. There are currently five civilian
19 investigators, three COIs on the PREA team, as
20 it's known. ID intends to expand that number from
21 eight investigators to 12. But this is still
22 severely inefficient to meet the investigative
23 standards set by the Board.

24 Compared to the 302 complaints received

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2 by ID in 2015, so far in 2016 in just six months,
3 ID has received over 400 complaints. While
4 receiving three cases a month and insisting their
5 closure within 90 days is reasonable, it's really
6 impossible to ask this on top of the 20 to 30
7 cases investigators are already backlogged with.

8 DOC's staffing plan must include the
9 staffing of a sufficient number of civilian
10 investigators to investigate these allegations
11 and they should be hired as quickly as possible.
12 The number of positions should be determined with
13 consideration to the number of allegations
14 received, the number of open investigators and
15 the average time it takes to conclude them. If
16 DOC can fund \$1.2 million of investment for
17 military grade weaponry, they can afford to hire
18 a few more civilian investigators and provide
19 victims with the treatment they deserve.

20 Again, I thank the Board for proposing
21 these rule changes. The Department has the
22 opportunity to set the standard for City jails
23 throughout the nation. It's imperative this
24 opportunity is not squandered by ignoring the

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2 details necessary to make the change. Thank you
3 very much.

4 MR. RICHARDS: [Unintelligible]

5 [02:01:21] who was in the Department. Would you
6 talk to a certain culture of the Investigative
7 Department, investigative body, as to the culture
8 around this kind of investigation of sexual
9 assault? And will the rules that we are proposing
10 address that aspect of it?

11 MS. WEINER: I mean, I would argue with
12 the proposed asks that I just suggested. Maybe it
13 would change the culture. Like I mentioned just
14 now, I think COIs generally are more or less the
15 problems of most of the issues I have with the
16 investigative process. I think a lot of them can
17 be a little bit I'll say cold is a nice word to
18 put it; dismissive of a lot of complaints and
19 allegations, which again breeds a lot of issues.
20 And I like I mentioned already think that COIs do
21 have some connection, whether or not it's spoken
22 about or not, with the officers that are the
23 subject of these allegations. I really do think
24 change needs to be made.

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2 Civilian investigators I have seen more
3 often than not are significantly more respectful,
4 more sensitive to ways the victims should be
5 spoken to, treated, things like that, yeah. And
6 also, I mean, the investigators weren't
7 effectively trained for how to deal with these
8 cases. I've undergone twice actually this 40-hour
9 victim assistance training. I'm a licensed victim
10 advocate for rape and sexual assault. And as
11 someone who is interested in this topic, this
12 four-hour training video left me bored and
13 confused. So I can only imagine someone who
14 doesn't care about these issues looking at that
15 training and what they would have taken away if
16 anything from it.

17 MR. BREZENOFF: Thank you.

18 MS. HARRIS: No problem.

19 MR. BREZENOFF: Did you have a question?

20 MR. COHEN: Yeah. We thought about
21 training and I can't remember what we ended with.
22 We were concerned and wanted some standard that
23 was equivalent to training of others. Do you have
24 any experience in terms of investigations ending

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2 prior to determinations relative to an officer
3 quitting the job for example or being offered
4 some negotiation in the process, rather than
5 completing investigations?

6 MS. WEINER: Well, ID generally doesn't
7 field as many of the staff on inmate allegations;
8 so I can't really speak as much to that. I have
9 no experience -- I have one actually that I can
10 think of where an inmate recanted an allegation
11 but that's really all I can think of.

12 MR. COHEN: No, I meant where
13 investigation of an officer was ended --

14 MS. WEINER: Yeah. No, that I'm not
15 familiar with.

16 MR. MICHAEL KEEGAN: That's probably a
17 better question for DOI.

18 MS. WEINER: Yeah.

19 MR. COHEN: Yeah. No, I agree. Thank
20 you.

21 MR. BREZENOFF: Thank you.

22 MS. HARRIS: Thank you very much.

23 MR. BREZENOFF: Kaitlin Hanson?

24 MS. KAITLIN HANSON: Good afternoon. I

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2 am a legal advocate at the Urban Justice Center's
3 Mental Health Project and also a member of the
4 Jails Action Coalition. I am here today because I
5 was asked to read a letter from Mr. Larry McNair,
6 who is the man who was previously incarcerated on
7 Riker's:

8 On February 19, 2015 while being
9 processed at the Anna M. Cross Center intake, I
10 was sodomized by three officers that claimed a
11 body X-ray machine exhibited contraband in my
12 rectum. They never found any contraband to
13 support that claim but sodomized me in an attempt
14 to disclose contraband with their dirty ungloved
15 fingers; where I contracted the sexual disease
16 known as syphilis. This matter is pending in the
17 Southern District Court.

18 As if that was not enough cruel and
19 unusual punishment, when I protested they used
20 undue and unnecessary excessive use of force,
21 knocking two teeth out of my mouth. These
22 officers still have their jobs and no one has
23 been reprimanded and/or criminally charged with
24 rape. They have not made any attempts to

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2 compensate me for my physical, emotional or moral
3 injuries.

4 The New York City Board of Corrections
5 needs to make severe penalties on officers that
6 conduct themselves in cavity searches that
7 warrant the supervision of captains and deputy
8 wardens of the facility. Because I was only being
9 charged with a misdemeanor at that time, I was
10 not supposed to be strip searched nor was I an
11 immediate threat to the function of the facility
12 by disturbance or otherwise.

13 Who is going to do anything now that you
14 know you can obtain my Second Amendment complaint
15 via District Court with all medical exhibits in
16 support of my claims? The officer refuses to turn
17 over his medical records to determine if he has
18 syphilis. My hope is to go to trial and expose
19 this type of inhumane treatment of myself and
20 future detainees. My hope is that the Board of
21 Corrections comes to my aid in recovery of this
22 heinous act that no human should have to endure.

23 Those officers need to register as sex
24 offenders for this type of misconduct. Medical

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2 records will reveal that there is truth in my
3 allegations and the nightmares still haunt me and
4 have affected my ability to trust correction
5 officers who break the law themselves.

6 I am going to need mental health therapy
7 for the rest of my life to remain emotionally
8 stable. I honestly do appreciate the Board
9 hearing my claims in hopes that you will create a
10 policy that deters this type of behavior by your
11 staff members. There should be criminal charges
12 brought against officers that sexually assault
13 and abuse inmates.

14 I would like to thank you for hearing my
15 voice and hope that this message will secure the
16 safety of all inmates who are victims of sexual
17 abuse in our jail system. You should implement
18 the use of body cameras during intake searches to
19 protect inmates who have not or have been
20 convicted of a crime. If you cannot truly
21 comprehend the seriousness of my message and my
22 experience, just imagine someone who is supposed
23 to protect you holds you down when someone other
24 than a medical doctor sticks their dirty,

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2 ungloved, contaminated fingers in your rectum
3 against your will. I anticipate and await your
4 help as a victim of sexual assault. Thank you and
5 God bless all of you. I remain sincerely yours,
6 Larry McNair.

7 MR. BREZENOFF: I think the name of the
8 next speaker, the last name is Baramdik
9 [PHONETIC]. Do I have that right?

10 MS. KING: I read it Grandichelli.

11 MR. BREZENOFF: She reads better than I
12 do.

13 MS. KING: Tell us also the
14 pronunciation of the last name.

15 MS. XENA GRANDICHELLI: Grandichelli.
16 I'm with Sylvia Rivera Law Project as a prisoner
17 advisory committee member and movement building
18 team member, as well as one of the movement
19 building team leaders. I also work with Jails
20 Action Coalition and I am a survivor of sexual
21 assault and rape on Riker's Island. I've spoke in
22 front of this Board before. And we're just
23 getting to the part where Corrections decides
24 that they're now going to implement the PREA Act

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2 from 2003.

3 I was one of the ones instrumental in
4 adding and helping get trans people and trans
5 women added to the PREA Act, as well as more in
6 depth coverage on the Prison Rape Elimination
7 Act. What I'm finding now is that they blatantly
8 violated federal law and federal rules when that
9 came out in 2003. Because the Attorney General of
10 the United States back then specifically said
11 that all county, city and federal jails had
12 exactly one year from the time it come out and
13 became law in 2003 to comply.

14 It is now 2015 and they're still coming
15 out with in my opinion and pardon my French when
16 I say this: half-assed PREA rules. I think that
17 what they've come out with nowhere in depth
18 covers what the federal PREA Act covers. It
19 didn't protect me in 2014 through 2015. If they
20 had implemented it when they should have it could
21 have. But as they all say: if was a fifth. It
22 didn't protect me. I still live with those
23 memories. And I know every survivor that was read
24 here, whose testimony was read here today, still

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2 lives with those not only memories but
3 nightmares.

4 As far as trusting correction officers
5 to do an investigation, not me, from firsthand
6 experience. If it wasn't for one good security at
7 another facility because they wanted to get me
8 out of the one that I was in to avoid the
9 investigation, it would have never got reported.
10 They would have covered it up. That's how it goes
11 on the Island. You talk, you get retaliated
12 against. You get assaulted. You get thrown in
13 solitaire. It's a game to them. It's a game that
14 causes us trauma for the rest of our lives. It's
15 a game that should have never been started, let
16 alone playing and still being played out. Not
17 with just transwomen on the Island, women on the
18 Island, men on the Island; but the visitors that
19 come on the Island.

20 It's ridiculous that we're supposed to
21 sit here and abide by the comments that I heard
22 the Board of Corrections make. And then they want
23 to come to these meetings but they don't want to
24 sit through the full meeting to hear from a

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2 survivor if they're in the room or hear the
3 testimony of survivors. They want to just get up
4 and walk out because they can't take the stories.

5 They give you excuse in my book of why
6 they haven't complied and why can't we have a
7 deadline. Deadlines are way past for them. They
8 had a year to do it and they didn't do it.
9 Outside agencies are the ones that should be
10 doing the investigation, the evidence collecting
11 and rape counselors from external should be
12 allowed on the Island to talk to us. I came off
13 the Island with no rape counselor. I had to get
14 my rape counseling when I came off the Island.
15 You know what that feels like? Neither do those
16 correction officials. All they've had is nothing
17 but excuses.

18 And I'm asking the Board to make sure
19 that these PREA rules are extensive. Not just
20 what you've heard today but also completely
21 across the board, what federal standards say they
22 should be. Don't allow Riker's investigators to
23 collect the evidence. IG's Office should be
24 involved. DOI and Law Enforcement officials

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2 outside. Thank you.

3 MR. BREZENOFF: Thank you. Barbara
4 McLean?

5 MS. BARBARA McLEAN: Good afternoon. My
6 name is Barbara McLean and I am a RAINN speaker,
7 as well as the Founder and Executive Director of
8 VIA Community Services. I'm also a trained rape
9 trauma advocate. It's time for us to end the
10 hypocrisy. There is a clear mandate before us. It
11 is time to make vital changes to the system at
12 Riker's Island and throughout the criminal
13 justice system.

14 When society deems it necessary to
15 incarcerate people for the way their actions
16 adversely affected others but refuses to punish
17 others who harm them, it sends the wrong message.
18 There should be no doubt that the time has come
19 for a complete overhaul in the criminal justice
20 system, but especially in the way that cases of
21 sexual assault are processed.

22 There are factors that need to be
23 acknowledged in every single rape case. First,
24 the survivor must be believed. The days where

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2 it's acceptable practice to think that a survivor
3 let it happen or cried rape in order to get
4 attention; that must end.

5 Second, it's time that the medical field
6 and law enforcement recognizes that a survivor's
7 body is an active crime scene and that time and
8 procedures that are taken to perform the rape kit
9 also cause residual trauma. A tertiary reason
10 that law enforcement sees declining crime rates
11 as a positive sign but actually higher rates of
12 reporting sexual assault and increased outcomes
13 such as convictions are actually strong and
14 positive benchmarks.

15 Finally, it's imperative to assign
16 trained advocates to assist survivors in
17 navigating the combined medical, law enforcement
18 and judicial systems and reduce the anxiety
19 concerning the combined processes. It's time that
20 law enforcement as a whole recognized the
21 findings presented in a Human Rights Watch
22 Report, which details the importance of
23 acknowledging that emotion trauma is injurious to
24 the brain.

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2 This information could really change how
3 survivors are seen, as well as contributing to
4 the increased and positive outcome for survivors.
5 If survivors are allowed one to three sleep
6 cycles before they give a formal statement to law
7 enforcement, this may seem like it prolongs the
8 process; however, in cities like Philadelphia,
9 Grand Rapids, Kansas City and San Diego, the
10 opposite has proven true.

11 Let's begin with compassion. Let's
12 support the accusers. This can markedly change
13 the way survivors interact with law enforcement.
14 And let's give survivors, especially incarcerated
15 survivors, the necessary time and respect to
16 process their trauma before being forced to make
17 a formal statement. It's more likely to result in
18 a greater degree of trust in law enforcement and
19 the correction officers and the criminal justice
20 system at large and their ability to contribute
21 to justice long-term.

22 And it's not always routine that a
23 prisoner is sexually assaulted. But it's
24 important to acknowledge that factors such as the

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2 collection of DNA and the weight assigned to the
3 content of a rape kit often mean that the
4 statement of the survivor can be an afterthought.

5 Law enforcement must work with victims
6 and survivors regardless of their circumstances.
7 If the police work with every victim, offering
8 them respect and deference and each survivor
9 receives the assistance of an advocate; this will
10 create the safe, nonjudgmental environment that
11 needs to be created. Survivors can give their
12 statement and speak their truth. And then and
13 only then will the stigma of intimate partner
14 violence and rape be reduced.

15 These policies are not part of current
16 practice in New York City. Although many
17 advocates are certain that the findings of the
18 Human Rights Watch Report should be adopted; many
19 advocates have already adopted these practices in
20 New York City hospitals. And it should be noticed
21 that the practice is gaining strength in some
22 boroughs more rapidly than others. And the
23 findings which are based on data combined by the
24 Cognitive Neuroscience Society looked at how the

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2 brain was impacted by trauma. And it must rest
3 for at least 24 if not 72 hours before it is
4 exposed to additional trauma, as to mirror the
5 current concussion protocol.

6 And beyond that, it's time that New York
7 City revisits its current treatment of sexual
8 assaults. We should harken back to a time when
9 New York City established the very standards of
10 how sexual assault was treated and adjudicated in
11 the United States. These standards should be
12 extended to all of its citizens, especially those
13 who are most vulnerable due to incarceration and
14 detention. Thank you.

15 MR. BREZENOFF: Thank you. Pastor Kabrew
16 [PHONETIC], I think that is? Okay. Robin Miller?

17 MS. KING: People can give us written
18 testimony also.

19 MR. BREZENOFF: Melissa Quesinberry? I
20 think I have that right.

21 MS. MELISSA QUESINBERRY: Hi. Thank you
22 for letting me speak today. My name is Melissa
23 Quesinberry. I'm here representing the National
24 Organization for Women. I am a trained rape

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2 crisis counselor at Wyckoff Heights Hospital. I'm
3 also a gender violence specialist. I've done a
4 lot of qualitative research in the area. I am
5 myself a survivor of rape, incest and domestic
6 violence.

7 For those of you that are familiar, to
8 build on the topic about trauma and how it
9 affects your brain; for those of you that aren't
10 familiar with the Adverse Childhood Experiences
11 Study; it was done by Dr. Vincent Felitti. It
12 began in 1975. He studied over 18,000 subjects to
13 understand the neurological effects on the brain:
14 what trauma does to your brain. So, the
15 information we have is based on his studies. I
16 would like to read an excerpt from the United
17 States Department of Justice Report that was put
18 out by the National Institute of Justice called
19 Sexual Assault Kits, Using Science to Find
20 Solutions:

21 What happens to the brain and body
22 during a sexual assault? Sexual trauma directly
23 affects parts of the brain that control memory,
24 cognition and emotional processing. Because the

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2 brain detects a threat, it activates a flood of
3 hormones. The brain is highly sensitive to these
4 chemicals and hormones. They impair rational
5 thought and memory consolidation. They reduce
6 energy and cause what's called toxic immobility,
7 a temporary muscular paralysis, which I will
8 discuss more in a minute.

9 Victims may experience what's known as a
10 flat effect, where they show little emotion or
11 they have emotional responses that seem
12 inappropriate or unusual given the circumstances,
13 such as laughing or smiling. As a trained
14 advocate, I will tell you that's one thing you're
15 told immediately to not judge the person's
16 reaction. Trauma affects everyone and shock
17 affects everyone in different ways. Sometimes the
18 person seems very upset and cries. Sometimes the
19 person seems very calm. Sometimes the person is
20 kind of laughing and lighthearted. This is
21 because a person is in shock.

22 Having a basic understanding that there
23 is a wide range of reactions to a traumatic event
24 may not seem typical and the body's attempt to

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2 defend itself from a threat can affect these
3 reactions. This is important for every criminal
4 justice professional to understand.

5 Let me just go through the basic biology
6 really quick. We were hoping to have a little
7 slide for you but unfortunately that didn't work
8 out. So basically your brain, the main part of
9 your brain, the front part is the cortex. It's
10 basically the computer of the brain. It processes
11 information that comes in and it makes sense and
12 order out of it. The part of your brain that
13 processes your senses is called the thalamus. It
14 transmits the sensory information; what you see,
15 smell, hear to other parts of your brain. The
16 part of your brain that regulates fear and the
17 fear response is known as the amygdala; it is
18 known as what controls your fight or flight
19 instinct. There's also the third [sic], that's
20 the freeze, which is the toxic immobility I
21 mentioned.

22 So your brain can respond to fear and a
23 fearful threatening situation in two ways. It can
24 take the high road, where the cortex will

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2 actually think and process the information; or it
3 can take the low road, with the amygdala. Now,
4 the whole animal instinct survival thing is about
5 our amygdala. It actually works faster than the
6 cortex of your brain. It's instantaneous with no
7 cortex processing whatsoever. It perceives a
8 threat and it immediately kicks into action and
9 it releases chemicals; your body releases
10 chemicals and adrenalin to deal with the threat.

11 Traumatized brains react to fear with
12 their amygdala. They have no cortical control.
13 The trauma actually changes your brain. Your
14 amygdala becomes highly sensitive, hyperactive.
15 It sees a threat and immediately your heartrate
16 will start to beat faster. Your breathing will
17 start to escalate. There's no actual control of
18 the person. It's just your body responding.

19 So the hippocampus of your brain is the
20 part that processes memory formation. And it
21 builds these neural networks, these bridges that
22 connects to different parts of your brain and for
23 memories. The trauma actually affects LTPs of
24 your brain and inhibits the production of these

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2 important chemicals. And it's literally called
3 death for the hippocampus.

4 The part of your brain that processes
5 memory literally shrinks from being exposed to
6 trauma repeatedly because of the effect of all
7 these bombardment of these chemicals constantly
8 on your body: the adrenalin and the other
9 chemicals that your body releases. And this is
10 your natural response. This is what your body
11 does when you're in a fearful situation. These
12 chemicals are released to impair your thought,
13 your rational thinking to reduce your energy and
14 it prevents memory formation.

15 The reason basically it's doing this is
16 your body is diverting all of your energy to your
17 limbs, the other parts of your body in case
18 you're going to run, to flee; to give you some
19 extraordinary strength. That's we know as like
20 the adrenalin rush. So when your body releases
21 these adrenalin, there are other chemicals that
22 come into play to control the adrenalin rush and
23 that's what leads to toxic immobility -- tonic
24 immobility, excuse me. The body literally just is

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2 like in a paralysis.

3 This condition can be very confusing and
4 lead to some misunderstanding on professionals
5 that don't understand the neurological actual
6 physical side effects of trauma and how it
7 affects your body. So because of that, a normal
8 non-traumatic memory recalls lots of details. A
9 traumatized person has a very fragmented memory
10 because the hippocampus, the part of your brain
11 that processes this, literally shrinks and is
12 inhibited, will not form a concrete memory. If
13 there is alcohol involved, as we know with a lot
14 of rapes; alcohol also prohibits your body from
15 collectively processing your memory correctly.
16 And so you get a fragmented memory.

17 So the whole point of this conversation
18 is that this interaction of these parts of your
19 brain, it's called the HPA Axis; it's elevated
20 for a 96-hour period. So after a trauma or even
21 after a triggering event, such as discussing this
22 trauma again; the chemicals of the body are
23 reacting: the heart rate, the breathing. This is
24 all just a biological response. So, you're not

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2 going to be having clear, rational thoughts.
3 You're not going to put things contextually: like
4 the time, the place. Those things might be a
5 little jumbled in your mind. That's normal.
6 That's actually biologically proven,
7 scientifically proven.

8 So shock and trauma affects everyone in
9 similar but various ways. But to all, to
10 everyone, the memory is impaired and affected.
11 There is a hyperactive amygdala that continues
12 throughout your life cycle; so you will have a
13 heightened sense of fear. That's why if you know
14 anyone, like say for a instance a Vietnam
15 Veteran, the sound of a helicopter is extremely
16 triggering to them. It's not because helicopters
17 are so scary. It's because that's connecting to a
18 memory for them. You actually store memory with
19 your senses through trauma much more so than your
20 cortex because that part of your brain is closer
21 to your amygdala. You're also going to have
22 emotional swings, like laughing and crying or
23 seeming cold and distant.

24 So, to go back to the Report from the

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2 National Institute of Justice. It suggests using
3 a victim-centered and trauma-informed method to
4 dealing with survivors. Recognizing that what may
5 seem like a sketchy or unbelievable story or that
6 their story fluctuates and changes; that's
7 actually quite normal to your body's response.
8 It's scientifically proven. Dr. Vincent Felitti
9 has greatly advanced the thought on and the
10 understanding of this and I suggest you read more
11 about the Adverse Childhood Experiences Study if
12 you like.

13 Two-thirds of the population shows at
14 least one category and these are all things like:
15 being exposed to domestic violence as a child;
16 being sexually abused as a child; having a parent
17 that's not present in the home, whether that
18 parent died or is in prison. So these are all
19 impacting this population that we're here today
20 discussing. And I implore you all to use more
21 sensitivity and understanding in not only why the
22 people are there but why they're reacting to the
23 things that are going on there. And thank you
24 very much.

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2 MR. BREZENOFF: Thank you.

3 MR. COHEN: Thank you.

4 MR. BREZENOFF: Stephanie Li [PHONETIC]?
5 I think the next speaker that is on the list has
6 already spoken. Eunice Cleopatra? No? Grace
7 Price? That'll be the last speaker.

8 MS. KELLY GRACE PRICE: So, I'm Kelly
9 Grace Price. I'm a very proud member of the Jails
10 Action Coalition and I'm the policy apprentice
11 for Sonia Ossorio at the National Organization
12 for Women. I'll only take a couple minutes
13 because the things that I wanted to say here were
14 presented by specialists and by interns that
15 represented the voices of the survivors on the
16 Island and in our City jails.

17 I want to encourage you to pay special
18 attention to the report that both Barbara and
19 Melissa referenced: the Human Rights Watch
20 Report. And we'll be submitting that with our
21 testimony when NOW files probably right on August
22 31st at the deadline. I also would encourage you
23 to familiarize themselves with Joanne Archibald's
24 incredible: It Starts With Believing Campaign.

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2 She formulated the End Violence Against
3 International Organization, with a boatload of
4 money from the federal government.

5 And she has put on her website training
6 modules for free that can be gone over at
7 anyone's leisure, that describe specific
8 language, specific investigatory techniques,
9 specific report writing techniques for
10 investigators to follow. All of this information
11 in the webinars are free, did I mention? -- at no
12 cost to the Department of Correction. Joanne
13 Archibald ran the Special Victims Unit in San
14 Diego for over 35 years before she left to start
15 her organization. And I feel that she has no
16 small amount of enormous contributions to make to
17 the work that we're doing here.

18 I also want to add that as a survivor of
19 rape and I've mentioned this before to the Board,
20 that was marked as a fabricator by the police;
21 this issue of believability and establishing a
22 pathway for justice is paramount in a survivor's
23 recovery. And I want to thank the Board. I will
24 conclude my comments because I wanted to make

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2 them short.

3 But I want to thank the Board for having
4 the patience to listen to the technical
5 presentations here today. And I very much
6 encourage you to embrace the evidence-based
7 methodologies that have been described to you. As
8 you've heard, there are not ubiquitous in all the
9 boroughs in New York City. That is something we
10 have discovered in our organizing and have been
11 horrified to find that it is literally better to
12 be raped in certain boroughs in New York City
13 than in others because certain techniques are
14 being employed in Manhattan, in Brooklyn, in
15 parts of Queens by SAVI specialists like Barbara
16 and by Lynn Frederick-Hawley at Mount Sinai.

17 Those techniques if employed by the
18 Board of Corrections would actually lead the way
19 for the NYPD to potentially ubiquitously employ
20 these same techniques. So here you have a chance
21 finally for the Department of Correction to one-
22 up the NYPD. And I highly encourage you to seize
23 the day and to take that opportunity. Thank you
24 again for listening to us. And we plan of course

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on being here again in September. Enjoy your vacations.

MR. BREZENOFF: So on that note, on behalf of the Board of Corrections, thank you all. And some have of necessity left but the testimony, the submitted testimony of the record will all be carefully looked at and considered and we thank you very much for your time and your contribution.

(The public hearing concluded at 3:30 P.M.)

CERTIFICATE OF ACCURACY

I, Lea Simmons, certify that the foregoing transcript of NYC Board of Corrections PREA Hearing on July 26, 2016 was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By



Date: August 3, 2016

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