

NEW YORK CITY
BOARD OF CORRECTION

CAPA HEARING RE RESTRICTIVE HOUSING PROPOSED RULE

Public Hearing
125 Worth Street
New York, NY 10013
December 16, 2019
5:30 p.m. - 8:00 p.m.

December 16, 2019

MEMBERS PRESENT:

Jacqueline Sherman, Interim Chair

Stanley Richards, Vice-Chair

Felipe Franco

Michael J. Regan

Tino Hernandez

Jennifer Jones Austin

Michele Ovesey, Acting Executive Director

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2 (The public board meeting commenced at 5:58
3 p.m.)

4 MS. JACQUELINE SHERMAN: Good evening
5 and welcome to the second special public hearing
6 on the Board's proposed rules on restrictive
7 housing, re- restrictive housing. We scheduled
8 this hearing to begin at 5:30 p.m. to accommodate
9 a public request that we hold a hearing after
10 work hours. We are grateful for the public
11 comment we have received so far, including the 30
12 people who spoke at our first public hearing
13 earlier this month. We continue to learn from
14 all of you and the restrictive housing rules will
15 be improved by your input.

16 The proposed rules, which were publicly
17 posted on October 29th, are designed to ensure
18 that people in the Department's custody are
19 placed in restrictive housing in accordance with
20 due process and procedural justice principles and
21 are confined in the least restrictive setting and
22 for the least amount of time necessary to address
23 the specific reasons for their placement and to
24 ensure their own safety as well as the safety of

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2 staff and other people in custody.

3 To encourage input from people in
4 custody, correction officers and other facility
5 staff, the Board worked with the Department to
6 post fliers in the jails announcing the proposed
7 rules and explaining how to obtain a copy and
8 submit comments. The Department posted fliers in
9 each jail's staff locker room, law library, visit
10 area and clinic. The Department is keeping a
11 copy of the proposed rule and related materials,
12 which includes the statement of basis and
13 purpose, in each facility's law library and
14 office of the Deputy Warden of administration.

15 The Board thanks the Department for its
16 assistance in this important outreach effort.
17 Additionally, if people in custody, correction
18 officers or other jail staff call the Board and
19 request a copy of the proposed rule package, we
20 will mail them a copy. We also have created a
21 voice mailbox so that anyone, including people in
22 custody and people who work in the jails, can
23 call and leave comments via voicemail.

24 The Board recognizes the importance of

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2 capturing the voices of people in custody and
3 uniformed staff about what it's like to reside in
4 restrictive housing and what it's like to work
5 there. Thus at the request of the Board's ad-hoc
6 rulemaking committee, Board staff interviewed
7 correction officers and people in custody in
8 various restrictive housing units as part of the
9 fact-finding and rules development process. The
10 Board is grateful to the correction officers and
11 people in custody who shared their experiences
12 with Board staff, as well as Board staff's
13 dedicated work in this regard.

14 The Board also encourages jail staff and
15 people in custody to make their views known
16 during the CAPA process. The Board will review
17 all comments, including comments submitted
18 anonymously via phone or in writing.

19 Finally we recognize that not all people
20 who want to provide input on the rules wish to
21 present public testimony or submit written
22 testimony. If you or someone you know would like
23 to comment, but the methods we've set up don't
24 work for you, please reach out to Board staff and

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2 we will work with you to find a way to best
3 receive your comment. You can contact the Board
4 by calling 212-669-7900 or e-mailing at
5 . We are also exploring
6 additional ways to expand avenues for comment,
7 such as soliciting feedback from correction
8 officers and people in custody onsite at Rikers
9 Island.

10 Today we will hear testimony from the
11 public and we will continue to welcome written
12 testimony via mail, e-mail, fax or posting to the
13 city's rulemaking web page through January 3,
14 2020.

15 The Board will carefully consider all
16 comments made at the hearings and submitted in
17 writing or voice mail and determine whether
18 revisions should be made to the proposed rules.
19 The Board will submit final rules for
20 certification by the Law Department in time for a
21 final Board vote at a future public meeting.
22 Under CAPA, any rules adopted by the Board will
23 take effect 30 days after the Board vote.

24 Before we begin our public comment

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2 tonight, I must make two difficult announcements.
3 The first is that the Board is deeply concerned
4 about the attempted suicide of Nicholas
5 Feliciano, a young man who is in DOC custody. We
6 send our thoughts to Nicholas and his family at
7 this difficult time. The system also must
8 urgently learn from this tragedy. Self-harm and
9 suicide are public health issues in jails and
10 prisons across the country.

11 The Board's new minimum standards
12 regarding serious injury reporting requires new
13 monthly public reports on self-harm. We will
14 begin publishing these on our website soon. The
15 Board has begun its investigation into this
16 suicide attempt using a sentinel events model
17 that impartially reviews the incident to identify
18 policy and practice improvements needed to
19 prevent future acts of self-harm or suicide.

20 While our investigation has just begun,
21 it is clear that we will need to review how the
22 Department and CHS respond to acts of self-harm
23 and suicide. Each act of self-harm must be
24 treated seriously and has the potential to cause

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2 death or lifelong injury.

3 The second announcement concerns a
4 recent death in custody. It is our practice to
5 announce each death, including the date, facility
6 and age of the deceased. On November 23, 2019 a
7 55-year old man in the Department's custody died
8 at Elmhurst Hospital after being transported
9 there from AMKC. The Board is reviewing this
10 death as we do all deaths in custody.

11 We will now turn to today's agenda to
12 hear public comment on the restrictive housing
13 proposed rule. I will call three speakers at a
14 time. While the first speaker is providing
15 testimony the other two people can sit in the
16 front row. Speakers will be limited to four
17 minutes and the iPad on the stage will tell you
18 how much time you have left. First, I'm going to
19 call Council Member Daniel Dromm, Council Member,
20 good evening.

21 COUNCIL MEMBER DANIEL DROMM: Good
22 evening. First, I want to express my gratitude
23 to the Board members and the staff for your work
24 on this issue. The proposed rules show a

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2 concerted effort to incorporate the concerns that
3 many individuals and entities, including my,
4 myself, have expressed over the years. I would
5 however encourage the Board to go a much needed
6 step further by adopting the following basic
7 premises.

8 First, recognize that solitary
9 confinement or whatever name the DOC decides to
10 brand it is a complete and utter failure and must
11 end. Second, seize the opportunity to replace
12 the existing system and its attendant culture of
13 brutality and violence, just as the physical
14 facilities are being replaced with smaller ones
15 focused on reentry. Almost all individuals in
16 custody will at some point return to their
17 communities, our communities. And is incumbent
18 upon us to instill the tools these individuals
19 need to manage stress and conflict as positively
20 as possible.

21 Specifically, I ask that the rules be
22 amended to end restrictive housing for non-
23 criminal infractions and instead implement
24 restorative measures wherever possible. In no

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2 case should any placement exceed 15 days, based
3 on the U.N. standard. And reserve restrictive
4 housing for temporary separation needed to secure
5 facilities when facing imminent documentable
6 threats. Facilities should rely on therapeutic
7 alternatives that minimize punitive aspects for
8 those with a wide range of mental health issues.
9 There is precedent for this approach, namely the
10 CAPS units.

11 I also want to talk about the need for
12 procedural reforms, which are critical given the
13 widely documented abuses of power in DOC
14 facilities. The rules should, among other
15 things, ensure lawyers are present for all
16 proceedings and that truly independent
17 adjudicators make the critical decisions and
18 ensure that rights are read to individuals where
19 there is any possibility of a future criminal
20 prosecution based on the incident in question.

21 Finally, there should never be placement
22 in restrictive housing unless there is a clear
23 path to release into a less restrictive unit.
24 I applaud the Board's, the Board's stated goal in

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2 accordance with the Mandela rules of placing
3 restrictions on people in custody that are
4 limited to those required to achieve the
5 appropriate objectives for which the restrictions
6 are imposed.

7 However the DOC has long struggled to
8 respect the basic human rights of individuals in
9 its custody. As this process has been underway,
10 the New York Times reported, as you have
11 mentioned yourself, Madam Chairperson that COs
12 stood idly by while teenager Nicholas Feliciano
13 tried to hang himself. An intensive level of
14 oversight is absolutely necessary, given the
15 tragic history of our jails.

16 I have worked closely with and
17 befriended several survivors of this government
18 sanctioned torture. I pray that this Board will
19 hear their cries and also remember those who have
20 not survived and end the practice of solitary
21 confinement once and for all. Thank you.

22 [APPLAUSE]

23 MS. SHERMAN: Thank you, Council Member.
24 Council Member Keith Powers. Good evening,

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2 Council Member.

3 COUNCIL MEMBER KEITH POWERS: Good
4 evening, thank you and good evening everybody and
5 thank you everybody who's here tonight. I'm City
6 Council Member Keith Powers, chair of the New
7 York City Council's Committee on Criminal
8 Justice. Before I start my testimony, I just
9 want to thank the Board for holding an evening
10 meeting and holding multiple hearings, because I
11 do think there are many individuals who want to
12 be here and are impacted either because of their
13 workday or not being able to make it on a
14 specific day, so I want to thank you for holding
15 multiple hearings and at both morning and at
16 night.

17 In June I joined Speaker Corey Johnson
18 in a letter to the Board requesting for you to
19 take up rulemaking on this issue. So, I'm
20 encouraged that the Board of Correction is here
21 today and has started this process to update
22 restrictive housing rules in our city jails. New
23 York City has been a leader in a number of issues
24 related to the criminal justice system, but most

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2 notably our reduction in solitary confinement and
3 restrictive housing.

4 And I do want to note, I just off, off,
5 off testimony today, I do think it's important to
6 remind ourselves about our leadership in terms of
7 this issue and where we are today relative to
8 many other jurisdictions. And I appreciate the
9 Board's effort to create a clear set of
10 guidelines to limit the use of solitary
11 confinement or restrictive housing, however you
12 want to call it, a practice which has been
13 condemned by international bodies, like the
14 United Nations, for its psychological effects and
15 failure to address underlying causes of violence
16 or to prevent recidivism.

17 I've submitted longer testimony, which
18 you have that highlights many of the concerns
19 that folks have about restrictive housing and
20 you're going to hear from many my colleagues,
21 just as you have, including the speaker of the
22 City Council about the dangers of restrictive
23 housing particularly solitary confinement.

24 I'm going to focus my testimony on

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2 specific parts of the proposal that I hope the
3 Board will consider as it moves forward with
4 rulemaking and the proposal you have before you
5 today. First, the Board should clarify
6 qualifications for punitive segregation and
7 strengthen the exclusions. Throughout the Board
8 rules, as I was reading them even today, it
9 references grade-one violent infractions as the
10 standard for placement in punitive segregation
11 without a clear definition of what rule, of the
12 rules on what constitutes a grade-one violent
13 infraction. In fact, the definition of a grade-
14 one violent infraction that I saw defines it as
15 an infraction that plays an individual, pla-
16 ces an individual into punitive segregation.
17 It is not, does not seem there is a clear
18 definition or a clear outlining in the actual
19 rulemaking of what are the infractions that would
20 put you in there.

21 Second, I would hope that the Board will
22 also clearly delineate what constitutes -- sorry,
23 additionally people with, in, in -- there are
24 exclusions for people in punitive segregation

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2 level two that include people with serious
3 medical conditions, intellectual disabilities,
4 elderly individuals and pregnant women. They
5 obviously should not be placed in punitive
6 segregation and we hope that those will also be
7 reflected in punitive segregation one as well.

8 Second, Council Member Dromm mentioned
9 it, but individuals sent to punitive segregation
10 should also be allowed to have legal
11 representation at their hearing. In the
12 conversations I've had with folks, stakeholders,
13 I understand there are some immediate challenges
14 to doing that. But the minimum, the DOC and the
15 BOC you should explore pilot program immediately
16 to be able to provide representation in our city
17 jails.

18 Sort of third to that is there should be
19 also be an appeals process for placement in
20 punitive segregation and, and timely reviews that
21 include program and clinical staff as well.

22 Fourth, there's policies here around
23 lock-in with a maximum time for lock-ins before
24 approval is required by the Board. I think there

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2 are many of us who aspire to assure that lock-ins
3 are not used as an alternative method for
4 isolating individuals and would like to see some
5 of the policies strengthened about lock-ins to
6 both time and process for lock-ins.

7 Fifth, the Board should explicitly
8 require congregate programming, individualized
9 needs assessments in restrictive housing units
10 that address root causes of violent behavior.
11 That will be re-, crucial to creating real
12 rehabilitation and that program should include
13 therapeutic and restorative justice programs.

14 Finally, there is an end to restraint
15 desks, however I think two years is a long time
16 frame for implementation of that and would ask
17 that the Board end those restrictive on a faster
18 timeline or at least provide us a clear
19 justification for why that's not possible. You
20 know, I just want to say, I, I, you know, since
21 we've done this letter asking for the Board to
22 take it up, I've met with many individuals who
23 have been placed in solitary confinement as well
24 as those from the Department, the Board, the

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2 correctional officers and advocates for criminal
3 justice reform. And I do believe that we have to
4 pro-, you know, approach this issue carefully and
5 comprehensively. You're going to hear from many
6 people today about the dangers, of the harms that
7 could be caused by long term, especially long-
8 term solitary confinement. I've tried to make
9 some recommendations that are, you know,
10 implementable today. But I, I do want to
11 recognize practical considerations in our
12 implementation of those and I do, as we've had
13 this conversation and you'll hear today as well,
14 do actually, you know, do agree that the safety
15 of all individuals who work in our city jails is,
16 is, is very important. It's important that we
17 have an environment and rules and rulemaking and
18 laws that keep both the staff and incarcerated
19 individuals safe and I, I do ask the Board to
20 consider that as well.

21 The op-, you know, but the opportunity
22 here to institute sweeping reforms to restrictive
23 housing practices at DOC does not co- come often,
24 and we know through this process that it is

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2 difficult to come to. So, it's crucial that we
3 get it right. And as the city and the state are
4 moving towards landmark re-, landmark reforms to
5 our correctional system we should ensure these
6 re- reforms uphold this city's commitment to a
7 fair and more humane justice system and I believe
8 this rulemaking is a crucial step towards that
9 goal. Thank you.

10 MS. SHERMAN: Thank You, Council Member.

11 [APPLAUSE]

12 MS. SHERMAN: Council Member Carlina
13 Rivera. Good evening, Council Member.

14 COUNCIL MEMBER CARLINA RIVERA: Hi.

15 Good evening, everyone. Thank you. Thank you
16 for hosting this after work, being very inclusive
17 in trying to create a process that I know
18 includes, has included heated argument and debate
19 and a lot of passion. And I just want to thank
20 everyone for their time.

21 Thank you for the opportunity to submit
22 testimony this evening. I'm here once again to
23 call on the Board to abolish solitary confinement
24 in all forms in city jails. The Board of

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2 Correction must seek alternatives that respect
3 the safety and humanity of all incarcerated
4 people instead of the piecemeal reforms before us
5 today that will not protect the lives of every
6 New Yorker. Fifteen days of solitary confinement
7 is 15 days too many and the Board needs to remove
8 exceptions to the standards for solitary.

9 We all know the unnecessary tragedy that
10 someone whose names I don't typically invoke
11 because I try to respect that human experience
12 and their families but this one particular
13 example of Layleen Polanco and her experience
14 during the last nine days of her life in solitary
15 confinement, I am unable to shake and where she
16 ultimately died from complications that could
17 have been prevented.

18 Should that appalling and tragic example
19 not be sufficient for our case, you might
20 consider studies that have shown solitary to be
21 unjust and inhumane. The New York Times analyzed
22 nearly 60,000 disciplinary cases in New York and
23 found that black inmates were 65 percent more
24 likely to be sent to solitary confinement

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2 compared to white inmates. Solitary cannot
3 continue in any form, given the widespread
4 evidence that it causes severe and long-lasting
5 psychological, emotional and physical harm.

6 We heard of its devastating impact loud
7 and clear at the last hearing from formerly
8 incarcerated people, family members of currently
9 incarcerated people, legal experts, faith leaders
10 and community members. I would also like to note
11 the absence of the Department of Correction at
12 the previous hearing on December 2nd and that
13 failure to engage, because that is why we are
14 here, engagement, and not isolation, that absence
15 leaves me with serious concerns about intentions
16 to carefully consider the proposed changes and
17 the lived experiences of survivors of solitary.

18 As a city that aspires to uphold
19 progressive and inclusive ideals, New York City
20 must honor the rights of all people who are
21 incarcerated. Policy alternatives to the BOC's
22 proposal already exist. I strongly urge the
23 Board of Correction to adopt the HALT Solitary
24 Campaign's blueprint to end the practice. The

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2 evidence against its continued use is simply too
3 compelling, compelling and the stakes are too
4 high.

5 Therefore, we must pursue the
6 alternatives before this system experiences
7 another tragedy. Thank you very, very much for
8 allowing me to speak today.

9 MS. SHERMAN: Thank you.

10 [APPLAUSE]

11 MS. SHERMAN: Brenda Cooke from the
12 Department of Correction, the Chief of Staff,
13 good evening.

14 MS. BRENDA COOKE: Good evening and
15 thank you for letting me have the opportunity to
16 speak. I'm encouraged by the Board's commitment
17 to meaningful corrections reform in the City of
18 New York. We at the Department of Correction are
19 very encouraged by the productive dialogue
20 between our agencies in the formulation of the
21 proposed restrictive housing rules published by
22 the Board that we're here talking about today.

23 As you're aware, the New York City
24 Department of Correction in collaboration with

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2 the Board has implemented some of the most
3 progressive restrictive housing reforms in the
4 nation over the past six years, many of which
5 have been highlighted here today. As an agency
6 the Department is not new to significant and
7 systemat- systematic reform and the hard work
8 such progress requires.

9 In 2013, we eliminated the use of
10 punitive segregation for all seriously mentally
11 ill individuals in custody. In 2014, we
12 eliminated the use of punitive segregation for
13 adolescents aged 16 to 17. In 2015, the use of
14 punitive segregation for adults in Department's,
15 the Department's custody was fundamentally
16 transformed by the creation of a tiered system of
17 proportional responses and long term management
18 alternatives. Previously, punitive segregation
19 had been the only proposed response to all
20 infractions. In 2015, punitive segregation two
21 was created in response to nonviolent or grade-
22 two infractions. Punitive segregation two
23 individuals receive seven hours out of cell each
24 day. With the addition of this unit, punitive

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2 segregation now narrowly applies to only violent
3 grade-one infractions. In June 2016, the
4 Department led the nation in the elimination of
5 punitive segregation for all 18-year-olds. The
6 Department further led the elimination of
7 punitive segregation nationwide for the remaining
8 young adult population 19 to 21-year-olds in
9 October of 2016.

10 We thank the Board for the support that
11 the Department received in implementing these
12 tremendous reforms. The Department has further
13 implemented some of the most progressive punitive
14 segregation sentencing reforms in the nation.
15 For example, all nonviolent refra-, all violent
16 infractions, with the exception of assaults on
17 staff that cause serious injury, currently
18 results in a maximum penalty of 30 days. Most
19 violent infractions however result in penalties
20 of fewer than 30 days and take the individual's
21 infraction history into account during
22 sentencing. Further infractions from previous
23 incarcerations are no longer applied to an
24 individual's current incarceration.

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2 This practice differs vastly from the
3 practices of many correction departments across
4 the country where indefinite punitive segregation
5 sentence lengths are imposed in response to non-
6 serious or nonviolent behavior.

7 In June 2019, the Department implemented
8 an out of cell structure in punitive segregation
9 that affords all individuals a minimum of four
10 hours out of cell each day, including three hours
11 for engagement and outdoor recreation and
12 congregate activities, where additional hours may
13 be provided for mandated services. As of June
14 2019, the Department no longer operates punitive
15 segregation units with 22 hours of lock-in.

16 This differentiates the Department's
17 punitive segregation units from those defined as
18 solitary confinement under the United Nations
19 Mandela rules. We're incredibly proud of these
20 achievements and the Department's place as a
21 national champion of restricted housing reform
22 and must recognize the work and dedication from
23 staff that has proven so integral to implementing
24 these changes. We're incredibly thankful to our

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2 partners at the Correctional Health Service,
3 whose creativity and passion for this important
4 work has led to the creation and co-management of
5 clinical alternatives to punitive segregation,
6 otherwise known as CAPS units.

7 CAPS units provide standard general
8 population lockout time 24/7, on unit clinical
9 support for individuals with serious men-
10 serious mental illness who commit violent
11 infractions and previously would have qualified
12 for punitive segregation placement prior to the
13 aforementioned reforms.

14 The Department staff have also worked
15 incredibly hard to create alternatives to
16 punitive segregation for young adults, such as
17 enhanced supervision housing and the secure unit.
18 These units provide for the safe management of
19 young adults with the most violent behavior in
20 custody, while ensuring access to rehabilitative
21 programming designed to address root causes of
22 violent behavior and criminogenic risk factors.

23 The Department, in collaboration with
24 the Board, has made significant improvements to

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2 these units in order to ensure consistent access
3 to meaningful services and a clear pathway for
4 level or phase progression and re-entry into
5 general population.

6 The Department frequently receives
7 visits from correctional leaders representing
8 agencies from across the country who are
9 interested in replicating these reforms and
10 punitive segregation alternatives in their own
11 jurisdictions. All of these achievements and the
12 dedication from staff that make them a reality
13 have resulted in fundamental changes to the
14 operation of punitive segregation units and a
15 landmark reduction in the use of punitive
16 segregation. The Department has approximately
17 eighty percent fewer people in punitive
18 segregation today than we had five years ago.

19 We're not the same department that we
20 were just a few years ago. With these
21 achievements, they represent significant progress
22 but we recognize the need to go further. We are
23 eager to continue building upon these reforms and
24 we support many of the proposed rules made by the

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2 Board, including the elimination of the automatic
3 \$25 fine imposed on guilty infractions; the
4 further limitation of punitive segregation
5 sentence lengths while maintaining a maximum of
6 60 days for individuals who cause serious harm to
7 DOC, CHS or program provider staff and
8 volunteers; the increase in the frequency of
9 reviews for individual in the most restrictive
10 levels of ESH, thereby potentially reducing the
11 time a person spends in a program desk; further
12 changes to the use of program desks during
13 lockout in facility housing units; and the
14 provision of additional levels of review and
15 support for the due process around restrictive
16 housing placements.

17 While we support these reforms and the
18 rulemaking process, we acknowledge there are
19 still areas of proposed rulemaking where
20 additional discussions is needed in order to
21 ensure the Department is able to safely and
22 effectively operationalize the final rules.
23 These include, for example, the potential for
24 individuals who commit multiple serious

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2 infractions within the same few months to go
3 without meaningful disciplinary action for each
4 act, due to the proposed limits to the punitive
5 segregation backlog and the six months sentence
6 limit; reduced incentives for level progression
7 in ESH, the regulation of de-escalation protocols
8 which are a security operation, and not a form of
9 restrictive housing; restrictions on strategies
10 for managing individuals who have persistently
11 engaged in serious violence; and the requirement
12 to videotape various due process refusals which
13 will duplicate current mechanisms for accurate
14 recording while requiring substantial spending
15 that may otherwise be utilized for expanded
16 programming and services.

17 While these latter impacts require
18 further discussion in the coming weeks, we
19 acknowledge that the rulemaking process is
20 important and fair. We are confident this
21 process will produce a set of proposed rules that
22 will ensure that individuals who commit serious
23 violence while in the Department's care receive
24 an appropriate consequence that imposes the least

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2 restrictive possible and maintains safety for
3 everyone.

4 We are committed to upholding values of
5 rehabilitative and procedural justice and we
6 believe these rules are aligned with that
7 commitment. The safety of all people who stay
8 and work in our facilities remains our ultimate
9 concern and we look forward to continuing our
10 discussions with you, the Board, and as we work
11 to finalize rules that are safe and further
12 affirm the Department's place as a national and
13 global leader on restrictive housing reform.
14 Thank you very much.

15 MS. SHERMAN: Thank you. I'll now call
16 Ben Farber from Correctional Health Service.
17 Good evening.

18 MR. BEN FARBER: Good evening, Ben
19 Farber, Correctional Health. We applaud the
20 Board's Correction, the Board of Correction's
21 intent to set parameters in an effort to ensure
22 that punitive segregation is used judiciously and
23 to establish explicit restrictions in order to
24 help mitigate the detrimental effects of

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2 confinement. CHS is grateful to the Board for
3 its partnership in this endeavor and for
4 reflecting CHS's input in the proposal. The
5 proposed rules include provisions to expand the
6 mental health and medical exclusions for punitive
7 segregation, exclusions for punitive seg one
8 would expand to include pregnant individuals,
9 individuals within eight weeks of pregnancy
10 outcome, individuals caring for a child in the
11 Department of Corrections' nursery program and
12 individuals aged 55 and older. The mental health
13 exclusion for individuals diagnosed with serious
14 mental illness would broaden to include those
15 diagnosed with an intellectual disability,
16 conforming with CHS current practice.

17 The proposal underscores a separate
18 exclusion for individuals with serious medical
19 conditions from punitive segregation one and two.
20 Although this exclusion already exists in the BOC
21 minimum standards, the term serious medical
22 conditions has never been clinically defined. As
23 a result, the exclusion has proven to be
24 challenging to implement and monitor. To address

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2 this and help ensure implementation of this
3 medical exclusion moving forward, the Board has
4 requested CHS to identify certain medical
5 conditions and corresponding markers of acuity
6 and advancement of disease for which separation
7 could present a higher level of risk.

8 For CHS to clinically define, subject to
9 the Board approval exclusionary medical
10 conditions for punitive segregation is
11 groundbreaking. Although the Board's intentions
12 are to exclude individuals at elevated risk in
13 punitive segregation, there is no body of medical
14 literature that reliably guides the assignment of
15 health risk to any individual. There are
16 conditions that are risk factors for outcomes
17 that are worse than baseline harm, but the
18 absolute risk of harm of punitive segregation to
19 an individual is unknowable and cannot be
20 predicted. Moreover, the possibility of risk of
21 worse than baseline harm is present for all
22 persons, regardless of clinical condition.

23 The Board's request of CHS to define
24 serious medical conditions for this purpose is

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2 innovative and CHS can only attempt to identify
3 health risk. Because the Board is the sole
4 entity that can weigh the health risk against any
5 security benefit, CHS appreciates that the Board
6 will approve this list of conditions and markers
7 and all future modifications to it.

8 We are grateful to the Board for
9 providing Correctional Health this opportunity to
10 share additional input on the Board's proposed
11 restrictive housing rules and thank you for your
12 time and consideration.

13 MS. SHERMAN: Thank you very much. I'll
14 now call Alana Sivin from Council Speaker Corey
15 Johnson's office. And Asher Freeman and Rama
16 Issa-Ibrahim, you can make your way to the front
17 as well. Good evening.

18 MS. ALANA SIVIN: Good evening members
19 of the Board. My name is Alana Sivin. I'm the
20 senior counsel within speaker Corey Johnson's
21 legislative division. I'll be delivering
22 comments on his behalf today and we will submit
23 written comments as well in the next few days.

24 As speaker of the City Council, I have

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2 been actively engaged in all the issues
3 surrounding our city jails. I visited Rikers
4 Island multiple times, including the punitive
5 segregation unit just two months ago. I
6 repeatedly said that we need to do more than
7 close Rikers if we are going to truly change the
8 culture of the Department of Correction.

9 I have also said repeatedly and publicly
10 that solitary confinement is cruel and unusual.
11 It is torture, it is degrading, it is sick and
12 unacceptable. I said it on March 24, 2015. I
13 said it on May 9, 2016, May 26, 2016 and just two
14 months ago, on October 17, 2019. And I am here
15 to say today unequivocally that we must ban
16 solitary confinement all together. And when I
17 say that we should ban solitary confinement, I
18 don't mean that we should introduce new solitary
19 units and call them something else, like
20 separation status. I don't mean that we should
21 continue to shackle teenagers or anyone else to
22 their desks, while they are out of their cells
23 for the next two years, or that we should allow
24 for the existence of units where rec time means

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2 being let out into a small cage.

3 I mean that we should get rid of
4 punitive segregation, punitive segregation two,
5 restricted housing units and anything else that
6 looks and feels like solitary confinement.
7 Because we know that the impacts of solitary
8 confinement are devastating. Dr. Homer Venters
9 concluded that people in solitary are seven times
10 more likely to engage in self-harm and six times
11 more likely to engage in fatal self-harm.
12 Psychiatrist Stuart Grassian concluded that
13 solitary can cause hallucinations, panic attacks
14 and paranoia. Layleen Polanco, Jason Echeverria
15 Bradley Ballard and Kalief Browder, may they rest
16 in peace, might have been alive today if we
17 hadn't put them in solitary.

18 But solitary is not just deeply and
19 morally wrong. It also doesn't work. There is
20 no proof that solitary has any significant effect
21 on reducing violence. A study by the National
22 Institute of Justice in 2016 stated that there is
23 little evidence that administrative segregation
24 has had effects on overall levels of violence

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2 within individual institutions or across
3 correctional systems. Studies of new super max
4 prisons, which only have solitary units in
5 Minnesota, Illinois and Arizona showed no
6 significant difference in violence after their
7 opening.

8 And here in New York City, though some
9 claim that solitary is necessary to keep people
10 safe, the indi-, the data indicates that the
11 Department's drastic cuts in its use of solitary
12 in 2015 did not impact the rates of violence or
13 the use of force in our jails. Sadly, many of
14 those rates rose steadily before 2015 and have
15 continued to rise ever since. In Colorado, where
16 they decreased the use of solitary by 85 percent
17 in 2012, studies showed that assaults on staff
18 assaults between people in custody and use of
19 force all declined in the four years after their
20 changes went into effect.

21 And the impact of solitary goes beyond
22 the walls of a jail. Studies from states like
23 Florida and Washington show that recidi-
24 recidivism rates are dramatically higher for

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2 those who are incarcerated in solitary
3 confinement. We can do better. In San
4 Francisco, where they provide people with some of
5 the most violent histories with targeted group
6 programming through the Resolve to Stop Violence
7 Program, recidivism for program recipients is
8 down 46.3 percent. And the number of violent
9 incidents per year within units with this program
10 went down from 24 to one.

11 Meaningful alternatives to solitary
12 confinement exist not only across the country,
13 but right here in New York City. Just look at
14 the success of the CAPS units. The people in
15 those units, but for a diagnosis with an SMI
16 would be housed in some form of solitary
17 confinement. But instead we've chosen to give
18 them treatment, group therapy and constant
19 programming and what is the result? A 50 percent
20 increase in medication adherence, a 25 percent
21 decrease in both self-injury and injuries
22 sustained as a result of fights and a reduction
23 in 30-day re-hospitalization rates. And
24 according to the last quarterly report, zero

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2 incidents of Class A use of force or recovery of
3 contraband. Compare that to the thirty-seven
4 instances of contraband found in ESH in the last
5 quarter or the five instances of Class A use of
6 force.

7 I visited a solitary confinement unit
8 this year and I was horrified. These cells are a
9 stain on our city and I refuse to believe that we
10 cannot do better. Members of the Board, I am
11 asking you to listen, not just to me, but to the
12 cries for help of the people who are living in
13 solitary and to the advocates and the survivors
14 of colli-, solitary confinement who have come to
15 board hearings time and time again to relive the
16 trauma of their experiences, hoping that we will
17 move to the right side of history. We can get
18 there. You can change the rules, change the sol-
19 , the cap on solitary confinement from 15 days to
20 zero, no exceptions. Mandate truly therapeutic
21 and treatment based units that give people at
22 least 14 hours out of their cells with at least
23 seven hours of congregate programming and do not
24 allow one more day to go by where we continue to

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2 use enhanced restraints.

3 I am proud of the work that this Board
4 has done to better the lives of people in jail
5 custody. These rules are a good start and I am
6 in support of many of their provisions. The
7 elimination of \$25 fines is important to ensure
8 that we are not furthering, further impoverishing
9 people who are already too poor to pay bail. And
10 requiring the DOC to provide the Board with a
11 written comprehensive implementation plan is
12 necessary to ensure that the Department doesn't
13 open new solitary units and disguise them with
14 another name. These are good things.

15 But I am asking you to go further. The
16 people in our city's jails need you to go further
17 to end solitary confinement once and for all.
18 Thank you.

19 MS. SHERMAN: Thank you.

20 [APPLAUSE]

21 MS. SHERMAN: Thank you. Good evening.

22 MR. ASHER FREEMAN: Good evening
23 everyone, my name is Asher Freeman. I'm the
24 legislative director for Council Member Antonio

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2 Reynoso and will be delivering remarks on his
3 behalf.

4 I want to thank the Board of Corrections
5 for holding this important hearing today and
6 beginning a discussion around the practice of
7 solitary confinement. The BOC has an incredible
8 opportunity to make history on criminal justice
9 reform in, in New York City with this process.
10 Since its inception, the criminal justice system
11 in the United States has been based on
12 vindictiveness and revenge, often crossing the
13 line into cruel and unusual punishment.
14 Furthermore, our system has unjustly targeted
15 people of color throughout its history making it
16 difficult to assert that there's any justice at
17 all present within the institution.

18 Things are changing though and while
19 democratic systems often move slowly when we are
20 talking about people's human rights, it is
21 critical that we act with the necessary level of
22 urgency. Each member of this Doard has the power
23 to not only move our city forward but to restore
24 dignity and humanity within our criminal justice

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2 system.

3 We're here today to talk about a
4 proposed rule on the use of solitary confinement
5 by the Department of Corrections. As someone who
6 believes that solitary confinement is torture,
7 I'm saddened that we are having a conversation
8 like this. You can't make rules around torture.
9 How can we take any, how can we take any human
10 being and completely cut them off from human
11 contact for any period of time? How can we do
12 this to folks who are dealing with layers of
13 trauma and often suffer from mental illness?

14 We must take a stand on this issue. We
15 must show that New York is a leader on human
16 rights and that we have moved forward towards a
17 justice system that reflects the values our city
18 represents. Running a jail is not easy and
19 addressing violence within a facility is, is a
20 complex and fraught task. However if we are
21 going to deprive people of their liberty, it is
22 our, it is our collective responsibility to
23 ensure that these individuals are treated with a
24 level of dignity that reflects their status as a

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2 human being. This begins with enacting the
3 blueprint to end solitary put forth by HALT
4 Solitary in the Jails Action Coalition.

5 I want to appeal to the members of this
6 Board to do what you know to be right. We must
7 ban solitary confinement once and for all. No
8 rules that we place around the use of torture
9 negates the fact that we are engaging in torture.
10 For once, let us take bold action. Let's not
11 take a piecemeal approach to ending a practice
12 that we know to be indefensible. I want to thank
13 the members of the Board for their time and I
14 again urge you to seize this historic opportunity
15 and end the practice of solitary confinement in
16 New York City once and for all. Thank you.

17 MS. SHERMAN: Thank you.

18 [APPLAUSE]

19 MS. SHERMAN: Good evening.

20 MS. RAMA ISSA-IBRAHIM: Good evening.

21 My name is Rama Issa-Ibrahim and I serve as a
22 deputy public advocate for justice, health and
23 safety in the Office of Public Advocate Jumaane
24 Williams. As public advocate, Jumaane Williams

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2 testified at this Board's hearing on December
3 2nd, our office unequivocally supports ending the
4 torturous practice of solitary confinement and
5 urges the Board to revise its proposed rule on
6 restrictive housing to reflect this moral
7 imperative.

8 I would like to use this opportunity to
9 raise concerns that our office has around this
10 rulemaking process. At the December 2nd hearing,
11 many members of the public, including many who
12 had personally experienced solitary confinement
13 raised numerous shortcomings present in the rule
14 before us today. In response to these
15 testimonies, Board Member Robert Cohen stated, a
16 lot of the things you're asking for should be in
17 the rule. I hope they end up back in the rule.
18 Some of it just disappeared.

19 The natural question that follows is how
20 are critical human rights protections simply
21 disappearing as this process progresses? It is
22 the understanding of our office that the Board
23 had previously intended on the following
24 provisions being included in the rule but they

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2 were ultimately removed.

3 In addition to supporting the complete
4 end to solitary confinement, the public
5 advocate's office calls on these provisions to be
6 included in the rule. One, increase due process
7 protections in disciplinary hearings, including
8 the right to counsel or an advocate. Two,
9 clearer mechanisms and time limits for getting
10 out of restrictive housing. Three, the immediate
11 end to the use of restraint desks. Four, a pilot
12 program for introducing restorative justice
13 principles into disciplinary cases including
14 staff trainings and usage of peacemaking
15 practices. And five, the codification of a five-
16 hour requirement for programming as a minimum
17 standard.

18 In this context, the repeated delays
19 around the introduction of this rule and the
20 mayor's unprecedented decision not to renew the
21 term of Commissioner Bryanne Hamill, who had
22 worked extensively on restricting solitary
23 confinement, appear to be a product of deliberate
24 efforts by external parties to interfere with

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2 this Board's vital work on this issue and water
3 down the rule before us today.

4 The Board of Correction is intended to
5 function as an independent body that advances
6 improvement and change towards safer, fairer
7 smaller and more humane New York City jails. The
8 office of the Public Advocate implores the Board
9 to fulfill this function by passing rules that
10 will end solitary confinement in New York City
11 once and for all. The comprehensive blueprint
12 put forward by the New York City Jails Action
13 Coalition and the HALT Solitary Campaign makes it
14 clear that the Board has the ability to make this
15 happen through this rulemaking process. The
16 reforms that are needed here are not radical.
17 They will simply expand existing standards and
18 programs like CAPS, the Clinical Alternative to
19 Punitive Segregation, that have a proven track
20 record of success in New York City jails.

21 Further, in allowing for clearly
22 regulated separation in cases of serious
23 behavioral disruption, but prohibiting punitive
24 isolation, these reforms prioritize the safety of

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2 those in DOC facilities without violating basic
3 human rights, endangering health and exacerbating
4 behavioral issues. The Office of the Public
5 Advocate urges the Board to adopt the
6 recommendations made in the blueprint and improve
7 the rules before us today accordingly. Thank
8 you.

9 MS. SHERMAN: Thank you very much.

10 [APPLAUSE]

11 MS. SHERMAN: And before I call up the
12 next three people to testify, I did want to note
13 that Board Member Bobby Cohen very much wanted to
14 be here this evening in person. He is unable to
15 attend this meeting in person. He is however
16 tuning in to hear the testimony from where he is,
17 so he very much wanted me to let everyone know
18 that he was unable to attend this evening.

19 And now I will call Zachary Katznelson
20 from the Independent Commission on New York City
21 Criminal Justice and Incarceration Reform, Elias
22 Husamudeen from the Correction Officers'
23 Benevolent Association and Mary Lynne Werlwas
24 from the Legal Aid Society Prisoners' Rights

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2 Project.

3 MR. ZACHARY KATZNELSON: Good evening
4 everyone. I'm Zachary Katznelson.

5 MS. SHERMAN: Good evening.

6 MR. KATZNESLON: I'm the policy director
7 at the Independent Commission on New York City
8 Criminal Justice and Incarceration Reform,
9 commonly known as the Lippman Commission. As we
10 continue down the path to shut the Rikers Island
11 jails and move towards a much smaller system in
12 our city, something our Commission has espoused
13 and fought for over the past three years,
14 alongside so many people in this room, we must
15 immediately begin to implement a new vision for
16 how that system will operate.

17 Restrictions on solitary are one place
18 to start. I speak today based on my decade-and-
19 a-half working in jails and prisons around the
20 world, either representing people directly or
21 investigating conditions in the facilities. I
22 have toured numerous solitary confinement units
23 and sat down with easily over a thousand people
24 who've been held in solitary confinement, from

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2 death row to Guantanamo Bay to Rikers Island.
3 Unquestionably, we need accountability within
4 jails. Acts of violence must have consequences,
5 but solitary breaks people.

6 After just a couple days in solitary,
7 people start to suffer from headaches, vertigo,
8 heart palpitations, insomnia, memory loss and
9 inability to maintain a coherent flow of thoughts
10 and disorientation in time and space follow.
11 Anxiety, paranoia and even hallucinations and
12 psychosis develop. In the end, many of the
13 people I met with were no longer able to properly
14 assist me with their defense, even if they'd been
15 fully capable of doing so before they were
16 subjected to solitary.

17 It does not take long for the harms to
18 begin. A study out of Norway found that almost
19 half of people started to suffer from the harms
20 of solitary after fewer than 40 hours. A review
21 of 200 people in solitary by Dr. Grassian who Ms.
22 Sivin referred to earlier, was a psychiatrist at
23 Harvard, found that just after a few days in
24 solitary EEGs demonstrated brain patterns

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2 consistent with stupor and delirium. For so many
3 people, the pain and trauma of solitary is too
4 much. You heard the stat earlier from the st-
5 study by Homer Venters and others at Rikers,
6 people in solitary are six times more likely to
7 commit self-harm.

8 Solitary also puts correction officers
9 at increased risk. Dr. Grassian found that
10 almost half the people who spent time in solitary
11 had uncontrollable thoughts of revenge, torture
12 and even mutilation of correction officers. And
13 the same proportion had loss of impulse control,
14 resulting in random violence. This harms
15 everyone. And solitaire has serious
16 ramifications after people are released.

17 A Florida study of recidivism found
18 people who had been in solitary were 20 percent
19 more likely to commit violent crimes, even after
20 controlling for criminal history and regardless
21 of how long the people spent in solitary or how
22 long ago it had been. Researchers in North
23 Carolina tracked over 200,000 people after their
24 release from prison. They found that people who

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2 had been held in solitary had a 78 percent higher
3 chance of suicide and a 127 percent higher chance
4 of death by opioid overdose.

5 These proposed rules are certainly an
6 improvement on the current system. I'm glad to
7 see New York catching up with places like North
8 Dakota and Colorado, but we need to do more. We
9 should envision the day when solitary would no
10 longer be used in our jails and do everything we
11 can to achieve it.

12 The Cook County Jail, where over 5,000
13 people are incarcerated eliminate, eliminated
14 solitary in 2016. Assaults there, including on
15 staff, have declined significantly. At minimum,
16 the proposed rules must be improved. For
17 instance, DOC should be required to develop
18 behavior and programming plans for people in
19 punitive segregation also and provide programming
20 during the four hours people there get out of
21 cells. When steady staff who were trained to
22 work in discipli- disciplinary units are
23 unavailable, replacement staff must also have
24 such training. And there's no legitimate reason

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2 to provide two years for DOC to eliminate the
3 blanket chaining of people to desks.

4 The proposed rules are a positive start,
5 but we can do even better. We look forward to
6 working together to make that happen. Thank you
7 so much.

8 MS. SHERMAN: Thank you.

9 [APPLAUSE]

10 MS. SHERMAN: Good evening.

11 MR. ELIAS HUSAMUDEEN: Good evening, how
12 are you guys doing? Did the clock just started
13 working all of a sudden? I've been sitting here
14 for about an hour, and it wasn't working. It's
15 working now. Good evening. There are so many
16 things that, first of all my name is Elias
17 Husamudeen. I'm the president of the Correction
18 Officers' Benevolent Association and there are so
19 many things to be said and to address. But I'll
20 try to stay focused on a few.

21 One thing I will say is, can you imagine
22 if the Speaker Corey Johnson and the rest of the
23 council people who come up here to speak would
24 put the type of energy and resources in keeping

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2 people out of jail as they're putting in

3 concerning and talking about punitive seg. I

4 mean if they did their jobs and there was job

5 programs and job training and educational

6 programs, then we probably wouldn't be here.

7 Here's the reality. Currently we have

8 approximately 6,400 inmates / detainees in

9 custody, 6,400. Out of the 6,400 inmates we have

10 in custody, there's about 100 in punitive

11 segregation and the 100 that's in punitive

12 segregation is responsible for this. This is

13 what they're in for. They're not in because

14 their cell wasn't clean, they're not in because

15 they called the CO a bitch, they're not --

16 they're in because of violent crime. The reason

17 I did this here and guess what you're looking at,

18 in case you didn't read it. These are correction

19 offices, inmates and civilians. And they're all

20 what? A victim of a crime. And all I can hear

21 the City Council speak and the rest of the City

22 Council members talking about is the people who

23 perpetrated this crime against those people in

24 jail. And that's sad.

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2 The reality is out of 6,400, 100 inmates
3 in punitive segregation, should say a lot to you
4 those of you in this room. We have answers and
5 we have solution as correction officers as to
6 what we think can and should be done in order to
7 help this situation. The reality is punitive
8 segregation is a jail within the jail. If you go
9 outside this building right now and someone
10 assaults you, and the police come and they arrest
11 them they're going to do what? Put them in jail.
12 Isn't that punitive? Aren't you removing them
13 from their family? Aren't you removing them
14 from, from, from their neighborhood and the
15 community? Yes, that's what you're doing. So
16 when this same crime happens inside of jail,
17 guess what we do? We have what's called punitive
18 segregation, besides the inmate being rearrested
19 and other things, this is one of the things that
20 we do.

21 And contrary to what people are saying
22 up here, when they're in punitive segregation
23 there is therapeutic treatment for them. When
24 they're in punitive segregation, they are being

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2 seen by the Health and Hospital Corporation, they
3 are being seen by this Correctional Health
4 Services. They are being seen. So, you know,
5 this show that the City, the City Council and the
6 City Council Speaker want us to come up here and
7 try to act as if correction offices are creating
8 some type of culture of violence, it's shameful.
9 And he should be ashamed of himself.

10 And anybody, anybody that knows me know
11 that I have family who are on this job and I have
12 family who are locked in, locked up in this job.
13 And quite frankly, I don't want nothing to happen
14 to either one of them. I don't want either one
15 of them to be injured. I don't want either one
16 of them to be attacked. I don't want my mother
17 to get a call because my sister, who's a
18 correction officer, has been attacked. I also
19 don't want to get a call that my brother, who's
20 an inmate, has been attacked.

21 So correction officers are not the
22 responsible for this culture of violence. We're
23 basically stuck with the people that you give us.
24 You gave us the 12 people who murdered Julian

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2 Guzman in the Bronx, you gave them to us. They
3 were violent when they came to us.

4 In closing I would just like to say to
5 the Board, please vote no. Vote no as far as
6 these changes is concerned as far as punitive
7 segregation. I don't think it should be changed.
8 I think it actually should stay just the way it
9 is. But again, like some of the people are
10 saying we do need to do more as far as programs
11 as far as trying to figure out what it is.

12 I have one inmate and then I'll stop.
13 He's been in our custody, since he's been in our
14 custody, he's been rearrested 29 times. He's
15 been in the punitive segregation unit 15 times.
16 Do you think punitive segregation is working for
17 him? Because we don't think so, but the reality
18 is what is it that we can do because the Board is
19 not addressing what we should do with these
20 inmates or detainees who are responsible of
21 committing crimes while they're incarcerated.

22 The Board is only voting on what should
23 not be done to them but they're not paying any
24 attention to the victims of their crimes and,

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2 and, and that needs to change and we need to
3 change that. Thank you very much.

4 MS. SHERMAN: Thank you. Good evening.

5 MS. MARY LYNNE WERLWAS: Good evening
6 I'm Mary Lynn Werlwas of the Legal Aid Society's
7 Prisoners' Rights Project. They were violent
8 when they came to us. That says a lot to me of
9 that this is what we are hearing. That it's
10 they, that's they were violent who came to us.
11 This is what we are dealing with, the view that a
12 person who was incarcerated in our city jails is,
13 comes in wanting to hurt other people there, with
14 absolutely no recognition of what the conditions
15 they're being held in and how we treat them
16 causes them to react.

17 The question of whether violence is in
18 fact at times reactive to the conditions in which
19 people are placed. So, as astonished as I am to
20 hear that view so vividly put, we, this evening
21 wanted to also call out the hypocrisy of the
22 administration that in some rooms professes to be
23 ending solitary, that promises reforms, that
24 talks about culture change. And yet in other

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2 rooms, and in this room, is asking you to codify
3 in essence its worst practices.

4 And I know that the Department has stood
5 up and said we want reform and you adopted the
6 rhetoric around these roles, which is, if it were
7 backed up by the reality would be important. But
8 what we're also hearing with some vitriol and
9 rhetoric from some corners, but with the
10 bureaucratic language of exceptions, the
11 talismanic muttering of well security, is we are
12 hearing the Department as well want to work in
13 here the same views that the union president just
14 articulated, which is that you can have these
15 rules but there is a certain core of people,
16 there are certain exceptions that we have to
17 have.

18 Of course you need operational
19 flexibility, complex agencies need that. We all
20 work within them. That however, in these, is not
21 the same as simply saying there's a security out.
22 We need the discretion to do, continue the
23 incompetence and violence that has caused so many
24 problems in our jails.

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2 We are going to be, when we, in our
3 written comments to the rules, pointing out some
4 of the ones in which the draft that was
5 promulgated in far too many areas and in far too
6 many ways, has the exceptions that swallow the
7 rule. The Board has worked very hard on drafting
8 rules to be comprehensive and rules that will be
9 effective. But there are many ways in which in
10 seeking to put in flexibility, they undermine
11 their purposes and I believe, there are two other
12 areas in which we think the same dynamic is at
13 work where the rules are not achieving their
14 intended purposes and I would just flag them
15 here. One is with respect to our youngest
16 incarcerated people. This Board, which has some
17 of the best known child advocates in this city,
18 has overseen the, the betrayal of the young adult
19 plan and the dismantling of protections for our
20 youngest people. There are protections for them
21 in the proposed rules, they need to be
22 strengthened. This is where we start now.

23 And the last is this Board cannot put
24 its stamp of approval on a view that New York

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2 City cannot do any better than shackling black
3 men in order to control their behavior. That's
4 what your restraint desk grace period is. And
5 it's refusing to acknowledge there are far better
6 ways and far more imaginative ways than the
7 administration has professed here to address
8 these problems with our city. Thank you.

9 MS. SHERMAN: Thank you.

10 [APPLAUSE]

11 MS. SHERMAN: The next three speakers
12 will be Martha Grieco, Jack J. Davis and Julia
13 Kerbs. Good evening.

14 MS. MARTHA GRIECO: Good evening. My
15 name is Martha Grieco. I'm an attorney with the
16 Bronx Defenders. At the Bronx Defenders, we urge
17 you to adopt the Jails Action Coalition blueprint
18 for ending solitary confinement and to give our
19 clients access to true procedural due process. I
20 have represented incarcerated, incarcerated people
21 as a criminal defense attorney for ten years, so
22 my testimony is going to focus on due process.

23 We recently formed a small unit at the
24 Bronx Defenders to take referrals and track

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2 stories of disciplinary restrictions. Our
3 project has been operating for several months now
4 and what we have seen over and over and over
5 again is that our clients are not getting
6 hearings. The law requires that they have a
7 hearing before placement in solitary, before ESH,
8 before giving them mitts to wear out of the cell.
9 But they do not get these hearings.

10 Instead, this is what they tell us. I'm
11 in solitary confinement I'm locked down all day,
12 I'm 19 years old. DOC won't believe me because
13 my birth certificate is blurry, no hearing. I
14 was infracted and lost good time because I
15 stripped myself naked after having a hot flash
16 due to a new psychotropic medication I was
17 taking, no hearing. I showed up to my hearing
18 with all my witnesses, but the officer said if I
19 insisted on having the hearing, he would sentence
20 me to 30 days in solitary, but if I refuse the
21 hearing he would give me 5 to 10 days. So, I
22 refused the hearing.

23 And of course the vast majority of our
24 clients in solitary report that they weren't even

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2 offered hearing. DOC lied and said that they
3 refused it. DOC is wholesale ignoring the law,
4 denying our clients due process and this is
5 happening on your watch. Board, do something
6 about it. What can you do? Let people's
7 attorneys onto the island. The earlier version
8 of the proposed rule allowed this and the
9 provision was wiped out in the new rule. Dr.
10 Cohen mentioned at the last hearing that this was
11 due to cost.

12 I want to be clear we're not asking you
13 to create a right to appointed counsel, we're not
14 asking for the city to give people lawyers at
15 these hearings. They already have lawyers.
16 Every single person in the jails already has a
17 lawyer, why can't their advocates represent them
18 in this collateral process? At my office and at
19 probably every public defender office in the
20 city, lawyers already follow their clients to
21 ancillary hearings, hearings at the DMV, hearings
22 at OATH, hearings at TLC. We don't get paid
23 extra for this. It's the very definition of our
24 holistic model at the Bronx Defenders that we

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2 fight for our clients in every arena.

3 We have advocates at our office who are
4 not lawyers, who represent our clients in
5 hearings at the Human Resources Administration,
6 at NYCHA and at meetings with ACS. It
7 strengthens our relationship with our clients and
8 ultimately helps us solve their problems
9 holistically.

10 On this issue, New York is completely
11 backwards. Counsel is permitted at disciplinary
12 hearings in Massachusetts, Colorado, Washington
13 State and a pilot program is being developed in
14 L.A. The public defender in Washington, D.C.
15 represents clients in disciplinary hearings.
16 They have a whole unit of their office devoted to
17 it and they meet regularly with the Commissioner
18 of DOC in a friendly exchange of information.
19 It's not so novel.

20 I commend the Board for requiring
21 videotaping of all hearing refusals, as this will
22 do a lot to protect our clients and for requiring
23 DOC to notify the person's attorney that they
24 received a ticket. But this won't stop the

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2 practice of coercing clients to give up their
3 rights and it won't help clients who don't
4 deserve to be infracted in the first place. If
5 you allow the person in custody's advocate to
6 come to the jail to do what they do, advocate,
7 the jails would be safer and a more humane place
8 for everyone.

9 Denying incarcerated people due process
10 is unacceptable, outrageous and
11 counterproductive. You're allowing this agency
12 you regulate to impose torture, 23-hour isolation
13 and our clients rarely understand why. They're
14 shackled to a desk and they don't understand why.
15 They're wearing mitts 14 hours a day and they
16 don't understand why. They can't explain their
17 side of things to anyone. No wonder there's
18 violence. No wonder there's anger. People feel
19 completely ignored there and that's because they
20 are. Shine a light. Let us in. Thank you.

21 [APPLAUSE]

22 MS. SHERMAN: Thank you.

23 MS. JULIA KERBS: Good evening. My name
24 is Julia Kerbs and I'm a correction specialist at

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2 New York County Defender Services, a public
3 defender office in Manhattan. I am here to
4 comment on proposed changes to restrictive
5 housing regulations.

6 NYCDS opposes solitary confinement in
7 all forms. Isolated confinement constitutes
8 torture and wholly undermines rehabilitation.
9 The practice should be abolished, but at a
10 minimum this Board should institute due process
11 protections for people facing transfers to
12 restrictive housing. For the past six months the
13 Corrections Specialist Unit at NYCDS has
14 monitored, collected data and conducted wellness
15 checks with every one of our clients in solitary
16 confinement.

17 On a given day we have anywhere between
18 one and nine clients in solitary confinement. In
19 total, 39 of our clients have spent a collective
20 774 days in solitary since July 9th of this year.
21 When we visit our clients in restrictive housing
22 units and ask about conditions within punitive
23 segregation, the majority report that they never
24 received a hearing.

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2 We demand that people in jail be given
3 the right to an advocate at mandatory
4 disciplinary hearings that determine whether they
5 are placed in solitary confinement. This
6 advocate could be the client's attorney, social
7 worker or other office staff familiar with the
8 individual and his or her case. Solitary
9 confinement is an extremely serious punishment,
10 so incarcerated people must be given a chance to
11 meaningfully defend themselves. Many are not
12 familiar with the system or are unable to fully
13 articulate themselves due to mental health
14 issues, language barriers or a host of other
15 reasons.

16 Just as we do not expect individuals to
17 represent themselves unassisted in a courtroom,
18 we should not obligate people to advocate for
19 themselves without assistance in this vital
20 context. A requirement that an advocate be
21 notified of an upcoming disciplinary hearing
22 would also guarantee that such hearings actually
23 occur, something that does not appear to be
24 happening consistently, despite the DOC mandate.

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2 Collection of data is also crucial to
3 ensuring that existing rules are being followed.
4 Only with the assistance of advocates can we be
5 certain that hearings are held, witnesses called,
6 evidence collected and appeals considered. We
7 would know how often incarcerated people win or
8 lose hearings, what types of charges are filed
9 against them and the nature of the proof normally
10 provided to support charges. In sum, we could
11 play our role in strengthening due process rights
12 for our most vulnerable population citywide. We
13 insist on the primacy of due process,
14 transparency and accountability in these
15 disciplinary proceedings, proceedings that
16 threaten such immediate and significant harm to
17 our incarcerated population. Permitting the
18 inclusion of an advocate at these proceedings is
19 one crucial step toward that goal and one that
20 respects the basic human rights of all people.
21 The change is long overdue. Thank you for your
22 consideration.

23 MS. SHERMAN: Thank you.

24 [APPLAUSE]

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2 MR. JACK J. DAVIS: Hello, my name is
3 Jack Davis.

4 MS. SHERMAN: Good evening.

5 MR. DAVIS: And I'm a victim, but before
6 I go any further, I would like to ask the Board,
7 right, how many people have died in the
8 Department of Correction since y'all have been
9 members of the Board. That's my first question.
10 And my second question to the Board is why are we
11 here? And my third question to the Board is
12 this, why is it so hard to make a wrong into a
13 right when you're just letting a right -- a wrong
14 stay wrong over a right. You just told us that a
15 person died in prison, two persons died, on your
16 watch.

17 Now when I was last here, we talked
18 about [unintelligible] [01:36:59]. Y'all was
19 standing up here talking on the Board that this
20 was supposed to happen and this was gonna happen
21 and this was gonna. And nothing has happened.
22 Y'all keep telling us about all these felonious
23 rules and everything that go. We -- those that's
24 been in prison know what's gonna happen. The

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2 rule is gonna be ignored, the guy's gonna go to
3 prison or the girls gonna go to prison, or the
4 LGBTBT is gonna go to the box. What I'm asking
5 y'all is that when we gonna get it right?

6 Don't stand up there and look at me like
7 you're surprised because that's not the answer.
8 The answer is this. You just said two more
9 people died. Are we waiting for another to die?
10 Or are we waiting for three more to die, so you
11 can come back here and tell us, well, you know,
12 we feel sorry for this person that died this day
13 for this.

14 What I want to know from the Board is
15 this. Why? Don't stand up there and look at me
16 and be surprised. Because we have a problem and
17 our number one problem is you, you, you, you, you
18 and you. You're our number one problem because
19 you want to know why? Because every time we come
20 here, we come here to advocate about a problem.
21 And what y'all do is escalate the problem,
22 because you know what, you do nothing about the
23 problem. You just told us again, two more just
24 died. What y'all want again? What do y'all

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2 want? Tell us. What do we have to do to
3 convince you to forget it, let solitary go, shut
4 it down. What do we have to do? We got to come
5 in here thousands and thousands of packs, right,
6 so y'all can see that yeah, we're strong? No, we
7 ain't got to do that. We want y'all to use your
8 integrity, your morals and think about human
9 life. And just don't say to yourself, oh well I,
10 I, I listen to Corrections and Corrections told
11 me and I listened to the officers.

12 We understand all that, but you, we also
13 want you to understand the same people you talked
14 about that died, look at their families. We also
15 want you to talk about the guy that comes home
16 that's mental health from being in the box and
17 upsets his own family, upsets his community,
18 upsets his neighborhood because his neighborhood
19 and community don't know what to do with him, or
20 her. Because you know why? Because you let it
21 go on. You stood up here at the same time as you
22 was a correctional member or board, and told us
23 well, we're looking at it, we're making slight
24 changes.

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2 But come on, what do you want from us?
3 I just asked y'all three questions. Nobody said
4 nothing. All y'all did was look. Nobody said
5 nothing. I asked y'all three questions. How
6 many people died? In the last 20 years, 374 in
7 the last 20 years, right. Why are we here? We
8 got -- look at all the advocates that's here,
9 fighting to shut something down. Y'all ain't
10 said nothing. And I ask y'all again why it's so
11 hard to make a wrong into a right? And you know
12 what y'all doing? Y'all just standing looking at
13 me. You don't want me to tell you how I feel,
14 because then y'all say I'm being disrespectful.
15 But I'm asking y'all again, what got, what we got
16 to do? What do the advocates got to do to get
17 y'all to really understand what solitary
18 confinement, the hole or the box is really about.
19 What we gotta do, ladies and gentlemen? Don't
20 just look at me.

21 MS. JENNIFER JONES AUSTIN: Just so you
22 know, I'll interject you know I'll tell you that
23 I sit here and I listen and I listen intensely
24 and intently. And when you ask the questions I

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2 was listening and respecting you and, and
3 listening to you ask those questions. I saw them
4 in part as rhetorical, that you were making a
5 point. I didn't think that I needed to respond
6 point by point by point. I'm listening to you.
7 I'm listening to everybody that has been here,
8 at, at the first hearing and at the second
9 hearing. And we will take into consideration all
10 of the points that be-, are be being made.

11 Judge us after you've heard the rules
12 that come out. Don't judge us in the moment and
13 honestly you don't know what it's like to sit
14 here. You can't judge me, because you don't know
15 me.

16 MR. DAVIS: [unintelligible] [01:41:53].

17 MS. AUSTIN: No, no, no, no, let me just

18 --

19 MR. DAVIS: [unintelligible] [01:41:55].

20 MS. AUSTIN: No, no, no, you asked me to
21 respond. You wanted it --

22 MR. DAVIS: [unintelligible] [01:41:58].

23 MS. AUSTIN: You wanted a response. You
24 -- did you not -- did you not want a response?

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2 Did you not want a response?

3 MR. DAVIS: [unintelligible] [01:42:12].

4 MS. AUSTIN: Did you not want a -- okay,
5 good deal. You wanted a response, but then you
6 don't like the response when it's given to you.

7 MR. DAVIS: Thank you. I'm just telling
8 you when you do that [unintelligible] [01:42:19].

9 MS. AUSTIN: You did not want a
10 response.

11 UNIDENTIFIED FEMALE: [Unintelligible]
12 [01:42:23].

13 MS. AUSTIN: I'm sorry?

14 UNIDENTIFIED FEMALE: [Unintelligible]
15 [01:42:28]

16 MS. AUSTIN: I don't know. Look, we're
17 here, trying to listen, trying to lean in --

18 MS. SHERMAN: And we'll continue.

19 MS. AUSTIN: -- trying to understand, so
20 that we can then respond in the best way
21 possible.

22 MR. DAVIS: [unintelligible] [01:42:46].

23 MS. AUSTIN: I understand that. We
24 understand that. That's why we're here. We

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2 don't get paid to do this work. We do this
3 because -- let me finish please, we are here
4 because we care. You may not like every decision
5 but we do care and we're here, just as you,
6 volunteering our time and our attention, because
7 we care. You don't know what our day jobs are.
8 You don't know what our lives are like. But you
9 come and you chastise when we're trying to do the
10 best that we can. So, we're here this evening
11 because we care. Thank you.

12 MS. SHERMAN: Thank you.

13 MR. STANLEY RICHARDS: And the only way,
14 the only way that we're gonna get to where we all
15 want to go is we've got to respect each other.

16 MS. AUSTIN: Yes.

17 MR. RICHARDS: We might not agree with
18 every decision, we might not agree with every
19 point of view, but the starting point has to be
20 we have to respect each other. That, that has to
21 be the basic that we afford each other we need to
22 stop demonizing, because nobody, nobody in --

23 MR. DAVIS: What you just said was very
24 disrespectful.

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2 MS. AUSTIN: What was disrespectful?

3 Tell me what was disrespect.

4 MR. DAVIS: [unintelligible] [01:43:49].

5 MS. AUSTIN: Good deal. Thanks for
6 that.

7 MR. RICHARDS: Yes. I think we, we have
8 to, we can't demonize each other

9 MR. AUSTIN: No.

10 MR. RICHARDS: And we have to work
11 together. We're not always gonna agree. But if
12 we want to figure out a way forward we have to
13 start by respecting each other.

14 [CROSSTALK] [01:42:11]

15 UNIDENTIFIED FEMALE: [unintelligible]
16 [01:43:45].

17 MR. RICHARDS: Yeah, no, no I know that.

18 UNIDENTIFIED FEMALE: Many of us have
19 been coming here for years saying the same thing
20 and nothing has been done. And that's
21 [unintelligible] [01:44:34].

22 MR. RICHARDS: And thank goodness for
23 y'all sticking in there and continuing to talk
24 because, because change doesn't happen overnight,

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2 right. And, and --

3 UNIDENTIFIED FEMALE: [Unintelligible]
4 [01:44:47].

5 MS. SHERMAN: What I'm gonna -- excuse
6 me. I am gonna -- we are all here. I think we,
7 you, you have the attention of this Board and
8 we're going to move through the remaining
9 speakers, okay. I'm going to call the next three
10 speakers Mik Kincaid, Nikki Tourigny, and Ms. V.

11 MR. MIK KINKEAD: Good evening. My name
12 is Mick Kincaid, and I'm testifying today as a
13 member of the Jails Action Coalition and I'm
14 going be reading two statements from people who
15 are currently inside the city jails. And I do
16 want to say that I think as people who have city
17 held positions, whether that's something like
18 being an attorney for people or whether that's
19 being a city council member or whether it's
20 sitting on the Board of Corrections, we have to
21 be able to hear when people who've been through
22 extreme trauma are telling us that what they want
23 us to do better. And I hear that from my clients
24 all the time and I often disagree with them or

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2 often wish they had said it in a different way to
3 me, but that doesn't mean that's part of my job
4 to sit there and to listen to it and then think
5 about it. I can always be doing better and I, I
6 think all of us can and when we hold a position
7 of such responsibility, it's very important to,
8 to hear it. And I think it's very important to
9 remember when people have been through
10 extraordinary trauma and they're still coming
11 forward to tell their stories.

12 So, my first statement is from Ms.
13 Baker, who is a transgender woman inside Rose M.
14 Singer. And she says, my memories are of the
15 unfairness of even how the hearing was presented.
16 There were lies written on the report and I asked
17 for witnesses from other incarcerated people, but
18 they were too scared to say anything because they
19 felt that they were going to be retaliated
20 against by the staff, so at that point they did
21 not want to get involved anymore. When there is
22 a ticket of a real seriousness, they should have
23 a lawyer to help represent them. Even within the
24 holding box in the SHU, even before the hearings

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2 you should have cameras that watch the unit
3 because there's an mistreatment in the past where
4 they turn on all the cold air in order to keep us
5 quiet. That's from Ms. Baker.

6 And then the other statement is from Ms.
7 Brooks, who is also a transgender woman currently
8 at Rose M. Singer. And I wanted to say that both
9 of these were voluntarily given to me by them and
10 they both said that they didn't see any of the
11 postings, so I'm sure the postings did go up but
12 they, neither of them saw them in the clinic or
13 the law library.

14 So, Miss Brooks says, on November 27th
15 2019 I was housed in Rose M. Singer Center,
16 building number six. According to staff this is
17 the house that is the reception unit for the
18 transgender male-to-female inmates upon entering
19 this housing unit, I noticed how unkept it was,
20 how filthy it was. I was the only person in
21 building number six, not only are most of the
22 cells down, meaning uninhabitable to live in, but
23 the running water was brown and incredibly cold.
24 I complained about the infestation of rodents,

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2 who were running around in and out of my cell at
3 all times and even got into my bed a few times.
4 While I was in there, I made several complaints
5 and they continued to house me in building number
6 six all by myself from 11/27 to 12/1.

7 It was Officer Lodge who was assigned to
8 work the 7:00 a.m. to 3:00 p.m. shift who took it
9 upon herself to take one, take me to the main
10 intake, because she felt the conditions in there
11 were not livable. She also did not want to be
12 there herself. If it wasn't for this officer, I
13 would have had to have another shower and brush
14 my teeth in that dirty, filthy water that was
15 incredibly cold. I'm so grateful for Officer
16 Lodge who took me out of there. I'm ever so
17 grateful to now be housed with other women, as I
18 should have been from the start. Thank you in
19 advance for your assistance.

20 And I wanted to point out because we've
21 been talking about restrictive housing and we
22 often default to talking about disciplinary, but
23 protective custody and other kinds of isolation
24 also should be part of this discussion because

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2 when people are default isolated that also causes
3 incredible harm. Thank you.

4 MS. SHERMAN: Thank you.

5 [APPLAUSE]

6 MS. NIKKI TOURIGNY: Good evening, Board
7 members and thank you for making space for this
8 tonight. My name is Nikki Tourigny and I'm
9 actually here representing a group of students
10 from Hunter College School of Social Work who are
11 advocating for the blueprint to end solitary
12 confinement.

13 Just to be clear, we chose social work
14 as a profession because we believe that people
15 and communities can lift each other up. We
16 promote social justice with and on behalf of the
17 people who are most vulnerable and we focus our
18 attention on the environmental forces that
19 create, contribute to and address individual and
20 systemic problems. In layman's terms, when we
21 see someone who is struggling to thrive, we don't
22 ask what they did to deserve it, we wonder what
23 happened that led to their struggle. We chose
24 CUNY because we want to believe that public

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2 institutions can work. We want to believe that
3 our city can create and maintain effective
4 systems that educate, heal and govern our
5 communities. But our experience in this room has
6 brought that faith into question.

7 As interns, we're here to advocate for
8 justice while learning about the process of
9 policymaking. And aside from incredible
10 mentorship, our one privilege as interns is that
11 for two full years we get to be rookies. We get
12 to ask -- we get to look at everything with an,
13 an inquisitive eye and ask seemingly naive
14 questions about circumstances that we might
15 normalize over time. Questions like, one, why is
16 it that board members are excused from attending
17 monthly meetings and public hearings? The
18 community of lawyers social workers and advocates
19 that regularly fill this room are here to
20 represent your constituents, people who can't be
21 here because they're stuck behind bars. We
22 recognize that you also have full-time jobs, but
23 we are here. Is it not the responsibility of
24 each member of this Board to engage in dialogue

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2 with the people whom they represent?

3 And two, why is it that people talk
4 about alternatives to isolation as though they
5 are not an acceptable response to violence? Mr.
6 Husamudeen, if he were here I would ask, when we
7 advocate for rehabilitation, instead of punitive
8 segregation we're not suggesting that people
9 avoid responsibility for their actions. Anyone
10 who's been through good mental health therapy
11 knows that the process of recognizing trauma,
12 undoing harm and developing healthy coping skills
13 is hard work. They also know that taking
14 accountability is core to this work and it cannot
15 be done alone.

16 As social workers we promote the
17 responsive- responsiveness of institutions to
18 individual needs and social problems. This is
19 one of our, part of our code of ethics. And so
20 to this point, mission integrity is really
21 important to us, as we hope it is for those of
22 you who represent organizations that employ our
23 profession.

24 For example, Mr. Richards, as Vice

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2 President of Fortune Society, you might, "imagine
3 a world where all who are incarcerated or
4 formerly incarcerated will thrive as positive
5 contributing members of society." How does
6 solitary confinement fit into this world you've
7 imagined? How does trauma of isolation prepare
8 people to navigate family and community and the
9 workplace when they return home?

10 And Ms. Jones Austin, as CEO of FPWA,
11 you've promised to "advocate for groundbreaking
12 policy change that improves the lives of millions
13 of New Yorkers." Can you explain to us what's so
14 groundbreaking about a solitary sentence four
15 times greater than the U.N.'s definition of
16 torture?

17 I don't know if Dr. Safyer is still on
18 the Board because I never see him here, but if he
19 were here, I would remind him that he earned the
20 nickname Dr. Social Justice by leading a medical
21 system that cares for people regardless of who
22 they are and trains the next generation of
23 healthcare professionals. Yet the proposed rule
24 allows someone to be locked to a restraint desk

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2 unable to move freely during their few hours out
3 of cell. What does this teach young
4 professionals about a person's basic human right
5 to healthcare?

6 And finally, Ms. Sherman and Mr. Franco,
7 you've spent your entire careers as promoting the
8 welfare of young people and their families.
9 Thank you for that, but in what other
10 circumstance would you permit a young person to
11 live without access to educational programming or
12 to be locked in a room for 14 hours a day?

13 We recognize that this process isn't
14 easy. It's incredibly complicated and this is
15 really hard for us to believe that this Board
16 right here could write the current proposed rules
17 on restrictive housing. The Board is supposed to
18 be an independent body, not loyal to the
19 Department or to City Hall. It's supposed to be
20 loyal to the people of New York City. Any of us
21 are at risk of incarceration, some more than
22 others. And given the current rules that you
23 proposed, we're also at risk of being restrained,
24 locked down or confined to a cell.

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2 As social workers, we will not be
3 monitors for human suffering now or in the years
4 to come. We support the blueprint to end
5 solitary confinement and the more than 60
6 organizations that have signed on to it. That's
7 60 organizations that this next generation of
8 social workers will look to support after we
9 graduate.

10 We urge you to recognize this
11 opportunity for a groundbreaking policy change
12 that will improve the lives of New Yorkers and we
13 urge you to enact rules consistent with the
14 blueprint to promote alternatives to violence and
15 to truly end solitary confinement in New York.
16 Thank you.

17 [APPLAUSE]

18 MS. SHERMAN: Thank you.

19 MS. AUSTIN: Thank you for your
20 testimony. I want to ask you, just so that I'm
21 certain. Were, were those rhetorical questions
22 or do you want a response?

23 MS. TOURIGNY: Do you want me to come
24 back to the stand?

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2 MS. AUSTIN: No, I'm just curious. Just
3 ans-, --

4 MS. TOURIGNY: [Unintelligible]
5 [01:54:22]

6 MS. AUSTIN: Okay. Well I'll just tell
7 you that when we would put forth the rules into
8 the CAPA process, what was stated here in this
9 room and I expressly stated it, that it was a
10 beginning in a starting point. And that we want
11 to hear from all of you, so that we can make sure
12 that we promulgate the best rules possible. So,
13 with respect to, you know, your question about me
14 and groundbreaking, that is the work that I do
15 and I have done it in other spaces and I'm
16 looking at it here as well. Thank you.

17 MS. SHERMAN: Thank you.

18 DR. VICTORIA A. PHILLIPS: Members of
19 the Board of Correction, good evening. I'm
20 Minister Dr. Victoria A. Phillips, Ms. V.
21 founder of Visionary V and longstanding member of
22 the Jails Action Coalition and have sat on the
23 adolescent and young adult advisory board for the
24 last five to six years. Tonight, I want you all

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2 to remember that everything that settles ends up
3 on the bottom.

4 For the past nine years, I have
5 testified relentlessly regarding one injustice
6 barbaric action or inhumane display of authority
7 after another to this Board and City Council. I
8 thank you for honoring our request to have
9 individuals who often are unable to attend BOC
10 monthly hearings the opportunity to go on the
11 record is evening.

12 Since 2014, this great city has heard
13 the mayor's office and DOC, DOC speak of criminal
14 justice reform, new initiatives, policies,
15 revamping of investigations and many other
16 culture shifting tactics. In fact, that was the
17 same year City Council voted to in solitary for
18 16 to 21-year-olds in New York City facilities.
19 Yet in 2015, this oversight Board voted to allow
20 DOC to open ESH, meaning this Board decided to
21 settle.

22 As a black spiritual woman in America, I
23 understand all too well how settling can give one
24 the illusion of doing what is best for all.

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2 Since opening ESH, this oversight Board has
3 chosen to settle for mediocre, untimely responses
4 from DOC, late reporting if things are even
5 reported at all, corruption and a consistent lack
6 of accountability for officers' illegal actions.

7 In 2018, over 60 percent of all sexual
8 assault reports were reported against officers.
9 This was reported via the Bronx DA herself at
10 your April 2019 hearing. In addition to the
11 Eighth Nunez Report released this past October
12 clearly stating in its 302 pages, how in 2019 DOC
13 remains undertrained, unsupervised and
14 unprofessional across all levels of management.

15 When leadership settles, systems fall
16 apart, when this oversight Board settles, the
17 ones in DOC custody suffer the most. Just ask
18 the families of Kalief, Layleen and even now,
19 Nicholas. I demand that you all enact rules of
20 con-, that are consistent with the Jails Action
21 Coalition and HALT Solitary's blueprint released
22 October 2019 on how to end solitary confinement
23 in this city.

24 Number three of our blueprint states,

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2 end punitive segregation and make ESH and any
3 other alternative unit actually about safety,
4 rehabilitation and prevention of violence. That
5 starts with upholding those who are in control of
6 those in custody accountable. Solitary units are
7 torture. Having worked behind the walls,
8 correctional walls, doing CBT, I believe solitary
9 confinement is the mental Holocaust and any one
10 placed in this unit is forever changed and
11 mentally scarred.

12 Solitary should not be a part of DOC
13 culture, even the Federal Monitor reports on page
14 26 from the Eighth Report, that since 2016 there
15 has been a 92 increase in the uses of the force.
16 It also states on the same page, how DOC does not
17 have effective strategies for managing young
18 people in custody. Page 4 also mentions DOC
19 failure to properly and timely document uses of
20 force incidents, pages 9 through 10 gives you the
21 okay to truly set boundaries when it states how
22 the Department needs a foundation in place that
23 can sustain and focus on compliance.

24 Then it goes on to state, the Department

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2 has tried several initiatives to train staff
3 which has not been effective. Page 11 speaks
4 volumes on DOC's lack of investigations and
5 disciplinary backlog, all things that I have
6 testified previously on.

7 Several years ago, I sat in City Council
8 requesting that DOC be given funding to expand
9 its poorly ran investigation unit. Yet with
10 additional funds, we have yet to see any real
11 change or timely accountability. Yet this Board
12 has voted again and again to extend ESH, all the
13 way officers are being reported by the Federal
14 Monitor for falsifying records, abusing their
15 authority and mishandling incarceration,
16 incarcerated individuals from top brass on down
17 the line.

18 DOC is a paramilitary agency and as an
19 army brat, I know all too well how
20 insubordination is unacceptable and not
21 tolerated. Yet outside of the military, law
22 enforcement agencies such as DOC are allowed to
23 inhumanely house individuals on domestic soil
24 based on alleged behavior, all while never being

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2 held accountable in real time for their own. We
3 tell our incarcerated youth and young adults to
4 do better while beating them to a pulp. We tell
5 them to respect their elders all the while we
6 ignore their own cries for help. Did you hear
7 the cries in the pages of the Federal Monitor's
8 report? Did you hear the cries of those with
9 invisible disabilities after Layleen died? Have
10 you heard the cries of those with mental health
11 concerns, such as Nicholas, who was viewed
12 exactly as, as I have reported to you all
13 previously, as less than human.

14 I am concerned with the path that this
15 new DOC administration is headed on. They lack
16 the very structure and leadership needed to
17 create long-lasting change. I was told recently
18 that I at times get up here and I speak as if I'm
19 threatening the Board, when I speak of organizing
20 around your lack of accountability. But I point
21 out that the one who made such a statement is
22 still an active member of DOC and is not here
23 tonight.

24 Well, I believe DOC needs to be defunded

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2 and de-, dismantled. And while I refuse to
3 settled until lives are no longer on the line.
4 I, I refuse to settle until every individual that
5 requests a call or is in need of medical care
6 receives it. I refuse to settle until every desk
7 shackle in DOC is removed and outlawed.

8 In 2019, City Council made yet another
9 historic vote, a vote to close Rikers Island, now
10 the ball is in your court. Will you continue to
11 condone torture? It will en- en- enable abuses
12 to misuse and abuse their authority under the
13 disguise of safety for staff in facilities, or
14 will you say no more, not on my watch, solitary
15 ends today. Do your job.

16 MS. SHERMAN: Thank you, Ms. V. The
17 next three speakers are Ryan Brown, Eli Dreyfus
18 and Eie Litwok.

19 MR. RYAN BROWN: Hi. My name is Ryan
20 Brown. I am coordinator for the Brooklyn Chapter
21 of Amnesty International, also known as Amnesty
22 International Brooklyn Local Group 27. If you
23 don't know, Amnesty International is the largest
24 human rights organization in the world with

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2 millions of dues paying members around the globe.
3 Two of the major human rights violations that
4 Amnesty fights in this country are the death
5 penalty and torture by solitary confinement.
6 Well, we have the death penalty in New York
7 State. It's called death by incarceration. A
8 thousand people have died in our prisons and
9 jails while Governor Cuomo has been in office and
10 we have death in, by incarceration and we will
11 continue to have it unless we end our broken
12 parole system, and end the egregious practice of
13 life without parole sentences.

14 But we also have solitary confinement.
15 Amnesty International has said about solitary
16 confinement, the callous and dehumanizing
17 practice of holding people in prolonged solitary
18 confinement amounts to cruel, inhuman, degrading
19 treatment and is in violation of international
20 law. So, I think we like to consider New York an
21 international city, but how can we do so if we
22 are in violation of international law?

23 We shouldn't consider ourselves
24 international just because we indulge a lot of

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2 wealthy international investment. We should be
3 international because we uphold basic principles
4 of treating our fellow human beings with respect
5 and humaneness, no matter who they are or where
6 they come from.

7 One of the cases that Amnesty
8 International has worked on is the case of Albert
9 Woodfox. He was held in solitary confinement for
10 over 40 years in Louisiana and he has said of
11 solitary confinement and these are his words, the
12 sole purpose of solitary confinement is to
13 destroy human spirit. So, what I would ask you
14 today is what possible justification can you give
15 the people in this room, what possible
16 justification can you give the people of New York
17 City not to end a sadistic form of torture whose
18 sole purpose is to destroy human spirit? And you
19 may answer that question if you'd like.

20 And it was mentioned earlier today, that
21 we have to respect one another to find a way
22 forward. But we have the way forward. We've
23 been giving you the way forward for months now.
24 You've got the blueprint to end solitary

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2 confinement. What more is there to talk about?
3 You have the solution. Please just use it and
4 just end this. Just end it.

5 [APPLAUSE]

6 MS. SHERMAN: Thank you. I'd, I'd like
7 to remind folks who are testifying and have
8 written remarks that they're reading, that you
9 should submit those written remarks so that they
10 can, we can make them a part of the record.
11 Thank you

12 MR. ELI DREYFUS: Good evening. My name
13 is Eli Dreyfus and I work for Robert F. Kennedy
14 Human Rights. Robert F. Kennedy Human Rights is
15 an international human rights organization
16 dedicated to realizing Robert Kennedy's vision of
17 a more just and peaceful world. In the United
18 States, we advocate for an end to mass
19 incarceration including the elimination of unjust
20 pretrial detention practices that
21 disproportionately impacts the poor and
22 communities of color.

23 We appear before you today in solidarity
24 with community activists, faith leaders and

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2 elected officials to urge the complete abolition
3 of solitary confinement in New York City jails.
4 The DOC's practice of solitary confinement
5 routinely amounts to cruel inhuman or degrading
6 treatment and even torture, in violation of
7 international human rights law and the tenets of
8 basic human dignity. The Board of Corrections
9 bears the responsibility of ensuring that no
10 person in DOC custody is subjected to torture.
11 According to the United Nations Special
12 Rapporteur on torture "solitary confinement when
13 used for the purpose of punishment cannot be
14 justified for any reason, precisely because it
15 imposes severe mental pain and suffering beyond
16 any reasonable retribution for criminal
17 behavior."

18 In line with this principle, the
19 blueprint proposed by our allies eliminates all
20 forms of punitive segregation in New York City
21 jails. It requires that any other form of
22 segregation such, EHS, ESH is only used as a last
23 resort for as short a time as possible and with
24 effective judicial oversight. Additionally, the

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2 UN standard minimum rules for the treatment of
3 prisoners, also known as the Mandela Rules
4 explicitly prohibit indefinite and prolonged
5 solitary confinement, defining prolonged solitary
6 confinement as anything longer than 15 days.

7 The Board's proposed rule allows for
8 solitary confinement for up to 60 days. This is
9 out of step with international law and in
10 violation of basic human rights. Seventy-five
11 percent of people detained in New York City jails
12 are awaiting trial. This should be of particular
13 concern for this body, because solitary
14 confinement in the pre-trial context is
15 associated with additional danger and harm.
16 According to the UN Special Rapporteur "the
17 practice of solitary confinement during pretrial
18 detention creates a de facto situation of
19 psychological pressure."

20 This can influence individuals to plead
21 guilty to an offense that they did not commit
22 simply to end the suffering of solitary.
23 Therefore we urge the adoption of the blueprint
24 for ending solitary confinement in New York City

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2 jails drafted by the NYC Jails Action Coalition
3 and the HALT Solitary Campaign.

4 Punitive segregation must be eliminated.
5 All other forms of segregation must be re-
6 imagined to provide actual therapeutic,
7 restorative programming. DOC's use of lock-ins
8 and lockdowns must be curtailed to allow
9 necessary programming to continue. This could
10 result in decreased trauma, increased continuity
11 of care and the opportunity for relationship
12 building within our jails and with loved ones on
13 the outside.

14 We at Robert F. Kennedy Human Rights
15 believe this is a once in a generation
16 opportunity for New York City to again take the
17 lead on meaningful criminal justice reform.
18 Please seize that opportunity. Adopt the
19 blueprint. Thank you for your time.

20 MS. SHERMAN: Thank you

21 [APPLAUSE].

22 MS. SHERMAN: Good evening.

23 MS. EVIE LITWOK: Good evening. One
24 second, short people have to adjust. Okay, my

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2 name is Evie Litwok. I'm the Executive Director
3 of Witness to Mass Incarceration and a formerly
4 incarcerated Jewish lesbian. I was placed in
5 solitary for writing an article about poor
6 medical care. In the facility I was in, all
7 1,300 women were seen by one physician's
8 assistant and whether you had cancer, a cyst, a
9 broken foot or a headache his diagnosis was the
10 same, you're fat, walk on the track and drink
11 water.

12 So when Miriam Hernandez walked in
13 looking like she was going to die, he gave her
14 the fat speech and two weeks later, she died when
15 her gallbladder burst. He could have performed
16 a, a blood test, he could have done anything to
17 test her situation but he didn't. And, and I
18 wrote an article about this. An hour after it
19 was posted, I was arrested, shackled and told I
20 would stay in solitary for as long as they wanted
21 to keep me which could have been years, because I
22 wrote about an officer.

23 Solitary is a prison within a prison and
24 no matter what laws you think you're writing or

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2 what rules you think you're writing, it's run by
3 a few people and they do whatever they want to do
4 and that's true across this country. I was kept
5 in solitary for seven weeks, a month past my
6 release date. I have never recovered physically,
7 mentally or emotionally from that experience. I
8 was strip searched, given a t-shirt, shorts
9 underwear, a jumpsuit and a thin blanket. It
10 was, the temperature was kept freezing. I had to
11 wear all my clothes all the time, including the
12 blanket. And when I asked the guard for a second
13 blanket, I was 64 years old at the time I was in
14 solitary. They knew I suffered from anemia. The
15 answer was no, no blanket.

16 To understand the gravity of the
17 situation, I want each of you to imagine you
18 being in your own bathroom at home, lock the
19 door. All you have is the toilet and where your
20 bath or shower is a metal bed and there is no, no
21 books, no computers, nothing for you to do, no
22 lap-, no telephone, no television nothing. You
23 have three choices in your bathroom. You can
24 stand up, you can sit on the toilet or you can

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2 lie on your metal bed and get crippled. The
3 question I have for each of you is do you really
4 think you could sit in your own bathroom for 24
5 hours with -- and I think the answer as I cross
6 this country and ask that question I get maybe
7 three people who are wise guys who say I want to
8 try it and I say sure then I want to talk to you
9 afterwards.

10 I suffered from high blood pressure,
11 vertigo and migraines the day after I was put in
12 solitary due to the fluorescent lights that are
13 kept on all the time it was two weeks before they
14 took my blood pressure, in spite of the fact that
15 I had a history of heart disease and then on both
16 sides of my family, my relatives have died from
17 heart disease. So, my blood pressure two weeks
18 after I begged for it to be taken, was 200 over
19 100 and when I asked the guard I said is it time
20 I have a problem, like I could go into cardiac
21 arrest he laughed and he said we get \$75,000 on a
22 life insurance policy if you die in prison.

23 What you can't understand and what the
24 rules will never show you is the, when you have

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2 people in a position of power with people who are
3 not in a position of power, people abuse the
4 power. It's historically correct, it's, it's
5 everywhere. So, when I was given my first roll
6 of toilet paper and I asked for a second one the
7 guard looked at me and said wipe yourself. I'm a
8 human being. I'm 64 years old. That's not an
9 answer. But that's the things you don't see in
10 your rules and the torture that you don't
11 understand. The list of what I can tell you is
12 long. I heard 60 women screaming 24 hours a day
13 get me the fuck out of here and it wasn't done
14 together. So, all it was was loud noise. Many
15 women tried to commit suicide. I heard them die,
16 those who were successful.

17 And frankly I didn't want to kill
18 myself, but I, because of being in solitary I
19 looked up at God and I said I've had a good life
20 it would be okay with me if I didn't wake up
21 tomorrow. And the truth was I didn't want to
22 wake up. I could not take what was being done to
23 me and it's not only 16 and 17 and 18 year-olds
24 who suffer. I'm 64 years old. I'm a senior with

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2 medical issues and you can't even begin to
3 understand the consequences of those medical
4 issues.

5 I was released five years ago. I did
6 not know at the time of my release that I, that
7 the time I spent in solitary would impact the
8 rest of my life. A very crowded subway, an
9 airplane, an elevator caused me to stop
10 breathing. Small spaces caused me to suffer
11 severe panic attacks which leads to my
12 hospitalization and I've suffered numerous mini
13 strokes. My doctor fears that the next panic
14 attack will be my last stroke. I also can't be
15 in a loud space, because it's reminiscent of the
16 60 women screaming. I continued to suffer from
17 vertigo for weeks at a time, an illness I did not
18 have before prison, which renders me unable to
19 leave my bed. And when you come out of prison,
20 you're poor and you have to leave your bed in
21 order to pay your bills.

22 So, the consequences of your economic
23 security and the mental illness and the physical
24 illness that you suffer from solitary combined

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2 leads you to maybe I don't want to be here
3 anymore. It's inconceivable-, -- solitary
4 confinement is a way to permanently destroy a
5 person's mental health, if you have no concern
6 for that human being.

7 It's inconceivable to me that in spite
8 of the number of people testifying about the
9 impact of solitary, the number of printed
10 articles detailing the horrors, the body of
11 research showing the harm it causes that we're
12 even sitting here discussing it. I testified
13 before you four years ago in 2015, about solitary
14 and its impact on my life. Four years later
15 nothing much has happened. There's a lot of
16 conversations. I hold you and this oversight
17 committee responsible for the damage done to
18 every person placed in solitary confinement.
19 What's it going to take for you to abolish
20 solitary? How many more deaths, suicides, mental
21 breakdowns will have to occur before it was
22 eliminated?

23 If it were up to me, I'd put you in
24 solitary because only one of two things can

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2 happen if you were in solitary, which is you
3 would have to see how well your rules were
4 working, and I wrote these notes while speaking
5 so bear with me. You would have to see how your
6 rules are working and I guarantee you you would
7 understand the despair we feel. And I highly
8 recommend that you put yourselves in solitary for
9 a week, honestly. Because I don't think you get
10 it I don't want your prayers and thoughts just
11 like whenever there's a mass shooting, I don't
12 want to hear the prayers and thoughts for the
13 people that died in solitary. I want you to do
14 something. I've been here, you made a comment so
15 that we are at the beginning of the process.
16 This process is decades late in responding. You
17 cannot be at the beginning of the process. Four
18 years ago, you were at the beginning of the
19 process. It's too late for you to be at the
20 beginning, because history is not going to view
21 your actions and responses kindly as more and
22 more people like me who've been in solitary come
23 out and talk and testify about what you allowed
24 to happen. Thank you for your time.

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2 MS. SHERMAN: Thank you.

3 [APPLAUSE]

4 MS. SHERMAN: The next three speakers
5 are Jennifer Parish, Cynthia Tucker and Anna
6 Arkin-Gallagher.

7 MS. JENNIFER PARISH: Good evening. My
8 name is Jennifer Parish. I'm the Director of
9 Criminal Justice Advocacy at the Urban Justice
10 Center Mental Health Project and a member of both
11 the Jails Action Coalition and the HALT Solitary
12 Campaign. Thank you for this opportunity to
13 testify and for having this additional hearing.

14 Fundamentally, the rules regarding
15 restrictive housing must ensure humane treatment
16 for everyone incarcerated in the city jails. The
17 Board sets the minimum standards for how people
18 in custody must be treated and that minimum
19 should respect the human dignity and inherent
20 value of each person regardless of the charges
21 against them or the crime for which they've been
22 convicted. Overwhelmingly, the testimony at
23 these hearings has shown that isolation is not
24 humane treatment. You have heard from people,

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2 who though now released from jail, still bear the
3 scars of solitary confinement. For the Board to
4 continue to sanction treatment that includes such
5 pain and has such long-lasting effects is
6 unconscionable.

7 Instead, the Board should end the use of
8 solitary confinement in the city jails, make ESH
9 and other alternative units about safety,
10 rehabilitation and the prevention of violence
11 without restrictions on out-of-cell time; adopt
12 specific mechanisms and time limits for moving
13 people out of ESH and other alternative units;
14 create minimum standards for emergency individual
15 lock-ins and lockdowns; and dramatically limit
16 the use of restraints with a strong presumption
17 against their use.

18 The blueprint for ending solitary
19 confinement in New York City jails spells out
20 this vision and our proposed rules submitted to
21 the Board in October specify how the standards
22 should be changed to achieve that vision. We are
23 asking the Board to require the Department to
24 change its approach from a punitive one that

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2 relies on isolation, restriction and restraints
3 to an approach that separates individuals from
4 the general jail, jail population and affords
5 them services and programs, programming in a
6 supportive, non-punitive environment

7 I'm going to focus on our recommendation
8 for replacing solitary confinement. For the
9 alternative units we take ESH as a starting
10 place, because the current rules describe what it
11 should be, housing to protect the safety and
12 security of persons in custody while promoting
13 rehabilitation, good behavior and the
14 psychological and physical wellbeing of persons
15 in custody, that separate people from general
16 population when they propose, when they, when
17 they pose the greatest threat to safety, but
18 promote rehabilitation by incentivizing good
19 behavior and providing the programs necessary and
20 therapeutic resour- resources.

21 But ESH has never realized those
22 objectives, because although they espouse these,
23 these purposes, the Board's current standards
24 allow for lockout time to be cut in half from 14

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2 hours down to seven hours, and a schedule that
3 shifts that lockout time from seven hours in the
4 morning one day to seven hours out in the evening
5 the next, so that there are 24 hours people are
6 locked down every other day. They also allow for
7 out of cell time to be spent shackled to a desk
8 or in a recreation cage when outdoors. This
9 infusion of restrictions prevented those units
10 from accomplishing the stated purpose.

11 Instead, our proposed standards add the
12 elements that we believe would make these units
13 truly rehabilitative. This includes congregate
14 human interaction, congregate recreation and
15 seven hours of quality programming, including
16 programming that's effective and successful at
17 reducing violence. We ask for steady staff to
18 promote consistency and predictability and
19 community in the unit and staff that are trained
20 annually in the skills needed to operate the unit
21 as a rehabilitative setting. We recommend that
22 50 percent be civilian staff or officers with
23 social work degrees and on each unit the
24 individual, each person should have an individual

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2 rehabilitation plan that provides clear guidance
3 on what they will be offered and what they need
4 to achieve to advance through the unit, with the
5 presumption that they will advance and, and be
6 released after four months at a maximum. We also
7 call for a fair process on being placed in that
8 unit, including the right to representation at
9 the hearing, a neutral decision maker and the
10 right to an appeal.

11 Personally, I'm stunned that the Board
12 proposed rules that will permit indiscriminate
13 use of shackling for more than two years and even
14 still permit individualized use of restraint
15 desks indefinitely without any process or
16 protections.

17 Finally, we join the Children's Rights
18 and Children's Defense Fund and others who have
19 called for the Board not to eliminate the
20 requirement that young adults be afforded
21 developmentally appropriate treatment separate
22 from adults. The city generally recognizes that
23 services for young adults must be tailored to
24 their needs. The Board should not roll back its

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2 requirements for this population. Thank you.

3 MS. SHERMAN: Thank you.

4 [APPLAUSE]

5 MS. SHERMAN: Good evening.

6 MS. CYNTHIA TUCKER: Good evening. My
7 name is Cynthia Tucker and I am a mother, I am a
8 mother of my son being incarcerated, I am a
9 sister, I'm a niece of whoever you want to call.
10 Well, I wanted to let y'all know, your nephew is
11 in jail. He's been incarcerated, he's been
12 shackled, he's been in the box. They didn't want
13 to feed him, they put him in the box. He got in
14 a fight, they put him in the box. And why they
15 put him in the box, because he wouldn't testify
16 against who had to fight with him, because he
17 would have been in problems, he would have had
18 trouble being signified out that if he did tell
19 he'd be in trouble. So, he considers staying in
20 the box.

21 It's unfair that we have to go through
22 this. All of y'all up there wear glasses just
23 like I do. I hope that you can go to a jail and
24 sit down see how it's being really treated

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2 because we are unjustly unfair. You can make a
3 difference. I don't know how to come to you.
4 I've came to you before when the director, she
5 left. But I'm seeing the same faces and being
6 mass incarcerated, it's not good. It's not good
7 at all. They crying out. My son called me the
8 other night. He said, ma, I need help 'cuz I
9 understand I need to talk to somebody. You can't
10 talk to no one incarcerated. The officers are
11 not going to talk to you, they're not gonna let
12 you see your counselor. He had to go do medical,
13 they had not let him see medical yet because the
14 fight caused him to be deaf and they told him he
15 LC30, but he's really LC20, meaning he's
16 definitely deaf in the ear and he's not getting
17 help, but being put in the SHU without anybody
18 coming or hearing you. Could you imagine that?

19 Mr. Regan, can you imagine that? Not at
20 all. So, he's your nephew. You need to vote on
21 it. I don't know what that officer was talking
22 about no. No, we say yes. We need you to say
23 yes. Hope is here for us to fight with you, not
24 against you. But we need you. We need y'all to

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2 come together. We need you to hear. I am a
3 mother. I am somebody's sister. I have opened
4 my phone out to people that are in jail I don't
5 even know, because they need us. They really
6 need us. Well, we need y'all. I need you. My
7 son needs you. Your nephew, I gave him to y'all
8 just now. He needs you along with everybody else
9 who's standing here testifying and coming to you
10 and pleading. But if you feel that I'm begging,
11 then I'm begging. But I feel that I'm asking and
12 I'm reaching. Because in our United States, who
13 do we stand with? Are we standing with each
14 other or we're standing against us?

15 It's just like, I have a cat. My cat
16 was in the closet. When the cat come out the
17 closet, he came out crazy. But that's what the
18 SHU does. It makes you crazy and it's unfair.
19 The ASPCA take care of their animals. We, as a
20 people, that's what they do. They do create an
21 animal and we are not that type of people. How
22 can we collectively come together, because I'm
23 coming to you pleading a case and I know you have
24 a heart because your heart beat like my heart.

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2 We are of the same color. I don't care what
3 color we are because if you cut me, my skin won't
4 be white. But if you cut me, we all gonna bleed
5 blood, the same.

6 We all are the same. We are God's
7 creatures. Could we come together? Could we
8 come to a solution could you stop the hole
9 because it's not good for nobody. My heart went
10 out to her when she's telling me 64 years old and
11 you in the SHU, it can't be. Come on, she's
12 somebody mother, somebody's sister, she's my
13 momma right about now, and she got me by four
14 years and I just turned 60. Come on, please.

15 We need you to hear us. We've been
16 here. This is my second time before y'all.
17 They've been here and I, I don't see the change.
18 I see y'all looking, but I need to feel it
19 because y'all know what? God forgave and Jesus
20 saved, all right. Thank you, thank you so much
21 thank you.

22 MS. SHERMAN: Thank you.

23 [APPLAUSE]

24 MS. ANNA ARKIN-GALLAHER: Thank you for

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2 the opportunity to speak this evening. My name
3 is Anna Arkin-Gallagher and I'm a senior staff
4 attorney in the education practice at Brooklyn
5 Defender Services. In this role, I work with our
6 clients to help them achieve their educational
7 goals. For young people who are in DOC custody,
8 that means helping them to navigate a system that
9 often seems expressly designed to limit their
10 access to educational services.

11 I echo many of the concerns of those who
12 have testified already. Others and most of all,
13 those who have experienced solitary confinement
14 have spoken bravely and eloquently about the
15 trauma of solitary and have raised compelling
16 arguments as to why these rules provide an
17 insufficient safeguard against the harms to which
18 this practice gives rise and the inhumanity of
19 the practice of holding people in solitary
20 confinement full stop.

21 As an education attorney, I'm here to
22 express a set of specific concerns related to the
23 educational rights of young people who are placed
24 into so-called restrictive housing units which

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2 are barely referenced in the proposed rules. In
3 New York City, young people have the right to
4 receive an education through the school year in
5 which they turn 21. Despite this unequivocal
6 right, we hear all too often from our clients on
7 Rikers Island, both inside and outside the
8 restrictive housing units, that they encounter
9 great difficulty in accessing educational
10 services. But the problem is especially serious
11 in the restrictive housing units.

12 The July 2018 monitoring report from the
13 Hansberry litigation specifically called out the
14 restrictive hous- housing units as being perhaps
15 the least compliant in terms of making sure young
16 people could go to school, failing to ensure that
17 those students in custody receives the minimum
18 requirement, minimal as it is, of at least three
19 hours of school daily. The findings of the
20 monitoring report echo what we continue to hear
21 from the people we serve on a regular basis. A
22 young adult recently represented by our office
23 was eager to work towards getting his high school
24 equivalency credential while on Rikers Island.

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2 While in a general population unit, he wasn't
3 being brought school on a regular basis. But
4 after some advocacy, he told us he'd started
5 being brought to school regularly and happily
6 reported he was making progress towards earning
7 that high school equivalency credential.

8 Unfortunately, shortly thereafter he was
9 transferred to a secure unit. While there, his
10 school attendance was spotty at best. Many days,
11 no one came to bring him to school and he
12 received no school work. As a result of his time
13 in secure, he lost much of the momentum he'd
14 built up going to school.

15 Another young person we worked with,
16 also working to earn his high school equivalency,
17 spent a significant amount of time in TRU. He
18 reported he received no educational services
19 while there. Once he came out of restrictive
20 housing, he told us he was giving up trying to go
21 to school on Rikers at all. It just wasn't worth
22 it because it was nearly impossible to ever get
23 to school.

24 The proposed rules state that one of

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2 their core principles is the idea of promoting
3 rehabilitation, which includes "providing
4 necessary programming." But the rules make
5 essentially no mention of educational services
6 and provide virtually nothing in the way of a
7 firm guarantee. While I appreciate that the
8 Board has included some requirements to report on
9 the provision of educational services and
10 programming more generally, I would urge the
11 Board to make sure the rules include a clear
12 recognition of the right of all young adults to
13 receive educational services, alongside concrete
14 provisions aimed at ensuring young people have
15 every opportunity to realize that right. Thank
16 you.

17 MS. SHERMAN: Thank you.

18 [APPLAUSE]

19 MS. SHERMAN: Brandon Holmes, Brooke
20 Menschel and Alison Dowdle.

21 MR. BRANDON HOLMES: Good evening.

22 MS. SHERMAN: Good evening.

23 MR. HOLMES: My name is Brendan Holmes.

24 I'm here as a member of the Jails Action

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2 Coalition in support of this Board using the
3 blueprint as defined by HALT Solitary, CAIC and
4 Jails Action Coalition to end solitary in New
5 York City. I've testified in the last hearing,
6 but I wanted to read testimony from one of our
7 partners and a transgender woman currently at
8 RMSC named Jenna, that was provided on December
9 6, 2019.

10 My experience with protective custody
11 was like any other men's facility, because they
12 do put us in a men's facility when we asked for
13 protective custody. This makes no sense. So, if
14 I have an issue with someone, I must be subject
15 to being treated as a man due to asking for help
16 and risk isolation. Protective custody in a
17 men's facility is just like in general
18 population. There's always a fight in the units
19 and a lot of discrimination. You still deal with
20 lockdowns, special searches and sexual
21 harassment. Why don't they have real protective
22 custody for us here? Why don't we have any cell
23 blocks to live in?

24 The last expe-, my last experience in

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2 the box or solitary confinement was horrible.
3 They served one hot meal and that was lunch.
4 Breakfast was cold cereal and dinner was baloney
5 on bread. This was at OBCC. We were locked in
6 for 23 hours a day with one hour of recreation.
7 Phone usage was limited to one time per month and
8 most times that they ran rec- recreation, it was
9 so early that you never got to go. They never
10 let me out, due to me being a woman.

11 MS. SHERMAN: Thank you.

12 [APPLAUSE]

13 MR. MICHAEL REGAN: Excuse me, excuse me.
14 Hi, was that give it to you anonymously?

15 MR. HOLMES: No, Jenna.

16 MR. REGAN: Can you send that to me?

17 MR. HOLMES: Yes.

18 MR. REGAN: Thank you.

19 MS. BROOKE MENSCHER: Good evening. My
20 name is Brooke Menschel. I'm the Civil Rights
21 Counsel at Brooklyn Defender Services. Thank you
22 to the Board for hearing our thoughts this
23 evening. Over the past few weeks, you've heard
24 numerous responses to the proposed rules and

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2 suggestions on how to minimize the use of
3 restrictive housing, especially when it's
4 punitive in nature and to ensure robust due
5 process protections for people detained in city
6 custody. All of the suggestions and
7 recommendations have been incredibly important.
8 Many of the comments come from lawyers, like me
9 who work on issues related to our jails. Others
10 come from social workers and community advocates
11 who provide invaluable services to the people
12 detained in city custody. Most importantly
13 though directly impacted people have shared their
14 voices persuasively and compellingly on the
15 Board's proposed rules.

16 The common thread of these comments is
17 that they all seek to ensure that the voice of
18 directly impacted people informs the Board's
19 process as you consider how and when to impose
20 solitary confinement in our jails. Yet far too
21 often, the voices of those very people are absent
22 during the disciplinary process when the
23 Department considers whether to sentence a person
24 to days, weeks or months locked alone in a cell.

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2 At the December 2nd hearing, we heard
3 that the Board previously considered a provision
4 that would allow people to bring an advocate to
5 their disciplinary hearings. BDS and many other
6 organizations have called on the Board to adopt
7 that type of, of a provision and we were
8 disappointed that it was not included in the
9 initial proposed rules. We hope that moving
10 forward, that will be rectified. Allowing for an
11 advocate in the process would be an important
12 step to providing due process protections
13 guaranteed by the Constitution.

14 Outside the jail setting, this concept
15 is hardly novel. In employment disputes, civil
16 actions and all types of administrative hearings,
17 parties are regularly represented by advocates,
18 legal or otherwise. And as we know corrections
19 officers receive this type of representation when
20 they face disciplinary charges. Certainly,
21 incarcerated people deserve the same opportunity
22 for their advocates to represent them. This type
23 of representation helps amplify, amplify the
24 voice of people whose rights are implicated. As

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2 a society, we recognize that such representation
3 is appropriate when our livelihood or financial
4 health will be affected. Surely we should allow
5 for such representation when the stakes go far
6 beyond bank accounts or employment, but are
7 likely to result in long-term physical, mental
8 and emotional harm.

9 We urge the Board to require the
10 Department to develop a system that allows people
11 to bring a representative or advocate to
12 disciplinary hearings. Such a system will
13 improve transparency and enhance accountability
14 in the disciplinary process. Most importantly,
15 it will ensure that impacted people are able to
16 mount a defense before being sanctioned to time
17 and isolation.

18 You heard tonight that the legal service
19 providers that are here are ready to work with
20 the Board and the Department to develop such a
21 system and to ensure that the people we represent
22 are able to tell their truths throughout the
23 disciplinary process. We hope you'll heed that
24 invitation. Thank you.

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2 MS. SHERMAN: Thank you.

3 [APPLAUSE]

4 MS. SHERMAN: Good evening.

5 MS. ALISON DOWDLE: Good evening. Hello,
6 my name is Alison Dowdle and I am a social work
7 intern in the jail services unit at Brooklyn
8 Defender Services. My specific role is to
9 advocate for the rights and welfare of those
10 incarcerated in our city jails. In addition to
11 working as an intern with BDS, I am also a
12 licensed emergenc- emergency medical technician,
13 where I work to ensure the safety of people who
14 are in a state of emergency. My role is to keep
15 my patients safe, treat any immediate life
16 threats and provide adequate care to people in a
17 state of extreme vulnerability.

18 Although I don't provide treatment to
19 people in our city jails, I regularly hear
20 stories of people in need of medical and/or
21 mental health attention regularly as a part of my
22 internship with BDS. As an EMT, I see the
23 significant gaps within the system to request for
24 any form of care and sadly enough, I often learn

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2 that there are serious barriers to receiving
3 necessary treatment for people incarcerated in
4 all jails. A major issue that our office
5 encounters is that the Department has the
6 ultimate veto when it comes to a person in need
7 of medical or mental health care. Correctional
8 officers serve in many respects as gatekeepers,
9 without the requisite knowledge or training. The
10 system is rife with opportunities for abuse or
11 human error.

12 For instance, to access medical care in
13 a DOC facility, an individual must submit a sick
14 call request to officers in their housing unit
15 who are responsible for forwarding requests to
16 medical staff. Far too often correctional staff
17 can and do fail to forward sick call requests to
18 the medical staff or falsely claim that an
19 individual refused to be brought to their
20 appointment as a tool of control or punishment.

21 While these situations threaten the
22 health and wellbeing of all people in custody,
23 they are especially dangerous for those isolated
24 in restrictive housing units and I want to share

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2 two examples of the harm that can result, both of
3 which BDS has previously brought to the Board's
4 attention.

5 Mr. R had a diagnosed seizure, seizure
6 disorder. Following a fight, he was given a
7 maximum time in solitary confinement, despite
8 written notification from medical staff outlining
9 the specifical, specific medical dangers should
10 he be placed alone in a cell. DOC ignored
11 concerns and kept him isolated and alone in a
12 cell for 23 hours a day. Unsurprisingly, his
13 isolation only exacerbated his medical condition,
14 resulting in more regular seizures and him
15 seriously injuring himself during a fall.

16 Nonetheless and despite repeated
17 advocacy, DOC denied his transfer to an open
18 dorm. Instead, and despite repeated -- oh,
19 sorry, instead the Department opted to keep him
20 inside a solitary cell and assigned a DOC officer
21 to provide check-ins and unfortunately the
22 officer was regularly absent or asleep.

23 And Mr. A's case is equally troubling.
24 Mr. A entered DOC custody confined to a

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2 wheelchair and in need of round, and in need of
3 round-the-clock medical care and full-time
4 assistance with basic activities. Nevertheless,
5 Mr. A was sent to solitary confinement for an
6 alleged rules violation, where he was isolated
7 from medical staff. When our office learned of
8 his isolation from his wife, we raised our
9 concerns with the Department and the Board.
10 While the Board, especially former Executive
11 Director Martha King was able to advocate for Mr.
12 A's release to a more medically appropriate
13 housing assign- assignment, his health had
14 already decompensated by the time he was re-
15 housed.

16 In both of these cases, Department staff
17 who were not trained medical clinicians,
18 dictating housing conditions that have a direct
19 impact on people's healthcare. This is
20 incredibly troubling. While Mr. R and Mr. A both
21 have advocates who were willing to intervene on
22 their behalf and bring attention to their
23 situation, these types of situations are often
24 overlooked.

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2 DOC's impact on medical treatment
3 requires serious oversight by the Board and for
4 people housed in restrictive custody, we urge you
5 to incorporate guidelines and accountability
6 measures into the rules. As written, we fear
7 that the proposed rules grant the Department a
8 license to continue the culture of DOC as
9 gatekeeper to medical care. Instead, we must
10 bolster CHS's authority and role in decision
11 making to ensure people in State custody have
12 access to care that they need. Thank you.

13 MS. SHERMAN: Thank you.

14 [APPLAUSE]

15 MS. SHERMAN: The next three speakers
16 are Kelsey De Avila, Brooke Taylor and Fran
17 Geteles.

18 MS. KELSEY DE AVILA: Hello, my name is
19 Kelsey De Avila, I'm with Brooklyn Defender
20 Services and I echo the comments made by those
21 who are directly impacted and the advocates who
22 have spoken here this evening and the many, and I
23 want to thank the many elected officials who are
24 calling for an end to solitary and who have

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2 endorsed the HALT and Jails Action Coalition
3 blueprint to ending solitary confinement in New
4 York City jails.

5 So, I want to use this time to elaborate
6 on the comments made by my colleague, Alison who
7 just spoke, who spoke about the access and
8 barriers to healthcare while in restrictive
9 housing. Over the last four years, we have
10 frequently told this Coard and City Council that
11 DOC serves as a gatekeeper to acc-, to accessing
12 care. The proposed rules by the Board of
13 Correction fail to address this flaw in the
14 system and continue a practice that we know isn't
15 working. Correctional Health Services must have
16 the ultimate authority to remove a person from
17 restrictive housing any time there is a threat to
18 the person's physical or mental health.

19 To ensure this option is a practical
20 reality and not merely illusory, CHS must be
21 notified immediately any time someone is
22 transferred to any type of restrictive housing.
23 Further, in order, in order to recognize signs of
24 decompensa- decompensation, CHS must be allowed

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2 the mandate, resources and access to provide
3 constant and continuous rounding.

4 By its nature, corrections is punitive.
5 The Department staff serves to fulfill the
6 Department's punitive mission. Department staff
7 are not medically trained to recognize
8 contraindications to restrictive housing
9 placement and the cases of the people that our
10 office represents, including those that my
11 colleague Allison described, demonstrate that
12 it's not possible nor appropriate for Department
13 staff to make housing decisions when input from
14 healthcare staff is ignored.

15 And earlier today, CHS came up here and
16 that they are the sole entity to override DOC
17 security, but as it's already been described,
18 that's not exactly what happens in practice. BDS
19 and other organizations are privileged that when
20 we advocate for people in our jails, we are able
21 to call the Board of Correction and DOC
22 leadership directly to ensure immediate action,
23 often in the case, as in Mr. A's case, within
24 hours.

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2 Now there are, there are many people in
3 jail who do not have BDS or Legal Aid or Bronx
4 Defenders or the other organizations who are
5 being represented here. And even for those who
6 do we often do not know that medical input is
7 ignored until it is too late. CHS staff are, are
8 our on-the-ground advocates that people rely on
9 and it is up to the Board to ensure that their
10 input is heard and followed. The rules should
11 address the gaps in care and prohibit DOC from
12 making medical decisions that can, that have and
13 will continue to directly harm individuals.

14 And I want to take this time to also
15 mention one former BDS client, whose name we have
16 all learned tragically in the last week.
17 Nicholas Feliciano is a young man whose story
18 should horrify us all. We will undoubtedly learn
19 more as the investigations go forward, but what
20 seems clear at this point is that Mr. Feliciano,
21 a young man with a significant history of mental
22 health needs and suicidal ideation did not
23 receive proper attention or treatment by DOC or
24 CHS. We don't know the reasons but we know the

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2 results.

3 Without requiring CHS input and
4 mandating that DOC cannot override a CHS
5 decision, we fear that the proposed rules will
6 only codify the practice we know leads to
7 tragedy. BDS, as well as many of our allies
8 here, will be submitting additional written
9 comments in the weeks to come. And we urge you
10 to seriously consider each and every point that
11 has been raised and address them as you revise
12 the rules. What is now merely words on paper
13 will have an enormous impact on the wellbeing of
14 people in city's care. For many, like Nicholas
15 Feliciano, like Layleen Polanco and many names
16 we've all been talking about, your decisions are
17 truly a life and death matter. Thank you.

18 MS. SHERMAN: Thank you.

19 [APPLAUSE]

20 MS. BROOKE TAYLOR: Hi, my name is
21 Brooke Taylor and I'm a social worker at the
22 Urban Justice Center Mental Health Project and I
23 regularly work with individuals whose mental
24 health conditions have been negatively impacted

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2 by their time spent in solitary confinement
3 specifically. And I assist them with applying
4 for disability benefits, due to their mental
5 health conditions, they're not able to work.
6 But, and I'm very supportive of the
7 implementation of the blueprint by the Jails
8 Action Coalition and the HALT Solitary Campaign
9 but here, I'm here today to read a comment from
10 someone who's currently incarcerated at MDC, so
11 these are this person's words.

12 To change solitary confinement, you need
13 to change the culture of the jails, the officers
14 and the individuals who work here. You need to
15 have a culture where people actually treat each
16 other like people. This environment breeds hate.
17 When I go to the box, I build a wall around
18 myself. I read, I try to get my time through
19 sleep. The box is bad. It does something to me.
20 Every time, it makes me worse than I am, worse
21 than when I went in. I'm always coming out of it
22 with a vengeance, especially if I didn't do
23 something. I'm not a violent guy but I can
24 become extremely violent if I feel like my safety

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2 and life is at risk. My parents taught me to
3 defend myself but not to the level of violence
4 that I feel. When you were put in a cell, you
5 get angry and then you have nothing but time to
6 think about how you're going to fight back.

7 September 12, 2004 was the night I had
8 my jaw broke. I was a kid in a fight with
9 another kid, an officer pushed me to the ground,
10 punched my face and broke my jaw. They took me
11 to Bellevue, I had surgery and my jaw was wired
12 shut. That night changed me forever. Every
13 officer is a threat to me now. When I came back
14 to Rikers in 2005, I came back fighting for my
15 life. I've been in and out of solitary during
16 incarceration. The first time I was ever in the
17 box was 2005 at OBCC. I was 17, 24 hours a day I
18 was locked-in. In the city you aren't supposed
19 to be in for long periods of time, but if they
20 get a security override for the seven days out
21 you can stay in the box for months without a
22 break.

23 This April, at GRVC was the last time I
24 was in the box. I got into a fight with another

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2 inmate and then a verbal alterca- altercation
3 with a CO. I noticed he favored a certain group
4 of inmates, Trinitarios. I picked a bone with
5 him about that. He looked at me, touched his bat
6 and said I'm untouchable. That night, I was sent
7 to the box.

8 Officers pick a side. If they don't
9 like you, they can mess with your solitary
10 sentence. All they have to do is change the
11 number in the computer to say 45 days instead of
12 30. Officers steal and starve people. When you
13 lock someone in a cage, all the mistreatment
14 breaks you down even if you're good when you go
15 in. I have PTSD and I have certain triggers.
16 Because of my mom and aunt, if an African-
17 American woman disrespects me, it really gets to
18 me I freak out. And if I get upset, I get stuck
19 in the box and if they are angry at me, I don't
20 get fed, don't get a shower. They feed us like
21 savages in the box, especially if they are angry
22 at you. They walk around and ask you if you want
23 food, but if they don't want to feed you they
24 don't wait for you to say yea or nay.

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2 And the box is disgust- disgusting.
3 It's never cleaned properly and the slot in the
4 door and the cage around that slot are not clean,
5 so you get a small amount of disgusting, dirty
6 food and you have to eat it because you need to
7 survive and that's all you have. Sometimes the
8 lights, water and toilets don't work and there's
9 no communication. Everything you hear is
10 screaming. You have to yell, but you have 40
11 people screaming around you, so you can't
12 actually get attention if you need it. Officers
13 are supposed to make their rounds but they don't.
14 Once when I was in the box, the man next to me
15 almost died. I had to yell and yell.

16 In city jails, you got a six minute
17 phone call every day when you are in P seg, six
18 minutes so you call your lawyer quickly and then
19 you try to talk to your dad and sister but you
20 can't really, so then you get upset. How can you
21 not get upset? This gets depressing just
22 thinking about it. I can't help but think that
23 this could be the rest of my life.

24 Think about what's happening here. You

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2 have people who are super violent and negative
3 operating this place. You have officers that
4 live out in Brooklyn commute all the way here and
5 work however many hours in a row. It's a
6 thankless job. These people come in angry too,
7 because they're mistreated by COBA and then they
8 bring that anger to us. I see it when new
9 officers start. You have someone, you have some
10 who started out strictly pro officer. They're
11 the ones who think I don't care if you're right,
12 you're wrong. And you have others who want to be
13 good, who do mean well but then they get jaded
14 and angry and they don't have the mental health
15 screenings that they should be getting either.
16 They say it's a necessary evil, the violence that
17 comes from the officers keeping this thing going
18 around and around. It's never about COs,
19 inmates, cops. We are all human here. If you
20 were a fly on the wall in this place, you would
21 morph back into a human just to do something
22 about it. Solitary does things to you, this
23 place breeds hate. Thank you.

24 MS. SHERMAN: Thank you.

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2 [APPLAUSE]

3 MS. SHERMAN: Good evening.

4 MS. FRANCES GETELES: Good evening. I'm
5 Dr. Fran Geteles, and I'm an active member of
6 CAIC and the HALT Solitary Campaign and working
7 with the people from JAC, who with us have put
8 together the blueprint that we are asking you to
9 implement. One of the core principles that you
10 state in your new regs is that people should not
11 be dehumanized and should not be demeaned. Well,
12 the testimony that you've just heard and all the
13 testimony prior to that about the effects of
14 solitary confinement show that no matter what
15 you're doing, if you don't end solitary
16 confinement, you are not keeping up with your
17 concept that people should not be demeaned and
18 dehumanized. That's exactly what you are doing
19 to them. I want to address three particular
20 items in, in the new regs. The first one is the
21 one I spoke to you about the last time I was here
22 a couple of weeks ago and I raised the question
23 of the fact that you have a time limit on
24 solitary and then you were constantly granting

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2 waivers so that the, the limit was 30 days then a
3 person had to be put out for seven days and then
4 could go back into solitary. You were granting
5 waivers that the seven days weren't needed. And
6 in the process, of course, you were potentially
7 granting indefinite solitary confinement.

8 Now your new rule says 15 days and then
9 you can let some, must let someone out for seven
10 days, but now you're codifying the waiver so that
11 the people in charge won't even have to come to
12 you to ask for permission, they simply can waive
13 the seven days on their own. That's horrendous.
14 I don't understand why you're doing it and how
15 you would even begin to think that that is going
16 to improve things, how you would even begin to
17 think that they're not going to take advantage of
18 the situation and constantly waive that
19 requirement.

20 My second point has to do with the fact
21 that we hear all the time about how solitary
22 confinement is a measure that is used for safety
23 and yet your own document talks about the fact
24 that there are over 800 people who've been

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2 sentenced to solitary who are sitting in general
3 population waiting to their term to go to
4 solitary. Now, if you think about that it makes
5 no sense whatsoever. If it's safe enough to keep
6 them in general population during that waiting
7 period, then they don't need to be put in
8 solitary confinement. There's no logical reason.

9 The other thing I wanted to address was
10 in the introduction to what you had to say about
11 youth services and specifically out of cell time
12 for youths, you quote from several other studies
13 that have been doing more progressive action with
14 youth in other prison systems. And you described
15 some of what they talk about as parts of the
16 program. It prior- prioritizes family
17 engagement, self-expression, peer support,
18 personal growth and development, education and
19 career readiness.

20 The young adults in, for another study
21 are out of cell and unrestrained, free to be in
22 common space, a dedicated outdoor area or one of
23 many converted cells within the unit that serve
24 as a library, study room, meeting room and quiet

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2 space. That's fine. I believe that those things
3 are necessities for youth.

4 I would also argue that that's precisely
5 what you need to be doing for all the adults in
6 your custody. If you truly are dedicated to some
7 kind of rehabilitation, then isolation -- we know
8 for example that one of the reasons solitary
9 confinement is so deadly psychologically is
10 because of the idleness.

11 And you could see that in the example
12 that's been given to people saying sit in your
13 bathroom with nothing to do for 24 hours and
14 imagine what that would do to your head. Well,
15 idleness is one of the destructive components of
16 solitary confinement. And something that says
17 there needs to be some kind of active
18 programming, active education, active
19 rehabilitation efforts, that's what you should be
20 doing not throwing people in a cell and torturing
21 them. Thank you.

22 MS. SHERMAN: Thank you.

23 [APPLAUSE]

24 MS. SHERMAN: The, the final person who

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2 has signed up to testify is Candie. Good
3 evening.

4 MS. CANDIE HAILEY: Good evening. Hi
5 my name is Candie. I'm a member of the Jails
6 Action Coalition and I'm also a solitary
7 survivor. I use the alias solitary survivor
8 because the approximately three years that I
9 spent in solitary confinement was absolute
10 torture. I was denied rec, showers, food,
11 sanitary napkins and even though it's been four
12 years that I've been out of solitary confinement,
13 I still suffer from the nightmares.

14 People say Kalief Browder committed
15 suicide, but I'm here to tell you he didn't
16 commit suicide. He was killed by the police and
17 by the Department of Corrections. One thing you
18 cannot erase -- I, I, I was given not I was not
19 given food, I was denied religious services, but
20 one thing that I could -- there's no cure for
21 nightmares. I always have these nightmares that
22 this, that this is a dream that I'm speaking in
23 front of you and that I'm going wake up and be in
24 solitary. What, what kind of treatment is there

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2 to erase nightmares? The only treatment is
3 death. I spend most of my time thinking of a way
4 to commit suicide to get away from the nightmares
5 or that. So, I don't sleep at all. I go days
6 without sleeping, because I'm afraid to go to
7 sleep. How would you feel if it was your loved
8 one stuck inside of an elevator and you had no
9 way of contacting them because you could not get
10 the telephone? The telephone is out of order or
11 you have six people ahead of you or someone broke
12 the phone. I couldn't even make phone calls.

13 Before I was incarcerated I was
14 outgoing. I liked going to parties I liked going
15 to sweet sixteens, I liked going to bridal
16 showers, I liked going to weddings. Now I don't
17 like going anywhere. I hate the world. I'm
18 afraid that if I go outside, I'm going to be
19 abused and put in solitary again. I'm afraid to
20 be intimate with anyone. As a result, my husband
21 committed suicide. He thought I didn't love him.
22 I do love him I'm just afraid of being in love
23 with him and then I have a nightmare flashback,
24 that he's Captain Morgan on top of me, or officer

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2 Terry.

3 I'm here and I'm begging you to end
4 solitary confinement. Solitary is absolute
5 torture. There is no way of alternating it. The
6 only way to alternate it is to destroy it,
7 demolish it, end it. It ended -- I'm here
8 physically, but spiritually and emotionally, I'm
9 gone. I sat in my cell and I never told anyone
10 because some people would think I'm crazy, but I
11 don't care what the atheists think. I'm, I'm, I
12 was here for a reason and I said God if you're
13 real, turn the light off. And if you're a
14 believer you know that light went off in my cell.
15 And I questioned it. I said no maybe it's a
16 electrical outage or no. I even thought it was a
17 bug in my brain and they thought -- they were
18 listening to me. Then I said if you're really,
19 God, turn the light off again and the light went
20 off again. And I'm banging on the door banging
21 on the door and I'm like who's gonna believe me?
22 What am I banging for and I laid back down.

23 And four years later I realized the
24 reason why that light went off was for God to

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2 show me why he put me there. He put me to tell
3 you all that solitary is torture. Look at my
4 arms I tried to kill myself every day in there.
5 It wasn't an act. If I was dead, I wouldn't be
6 here to testify but there was a reason why I
7 swallow all those pills and I survived. I, I, I
8 tied jumpers around my neck and hung from light
9 fixtures and I survived. I tied sheets around my
10 neck and I, I, I survived. I swallowed
11 industrialized detergent, Nair. I'm not making
12 this up. And I survived.

13 And I'm here today to beg you to end
14 solitary. It's absolute torture put people in a
15 program where they could learn how to paint,
16 learn how to, learn how to fix the toilet, learn
17 how to unclog the sink. It's people in solitary
18 that don't even know how to read and write.
19 Instead of having them sit in a cell destroying
20 their, their, their lives, put them in a program
21 where they can learn to read and write. And when
22 they come out, they could be a better person than
23 they were when they came in. Thank you so much
24 for listening to me. I wish I had more time to

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2 speak. Thank you.

3 [APPLAUSE]

4 MS. SHERMAN: Thank you. Thank you very
5 much. And that concludes the, the testimony this
6 evening. I want to thank everyone again who's
7 provided comment today, on December 2nd and in
8 writing. We appreciate your sharing your
9 experience, your expertise and your views with
10 us. It is an honor to be part of such an engaged
11 and thoughtful community of people working
12 towards safer, fair, smaller and more humane
13 jails.

14 We take our responsibilities here very
15 seriously and are committed to enacting rules
16 designed to ensure that people in the
17 Department's custody are placed in restrictive
18 housing in accordance with due process and
19 procedural justice principles and that people are
20 confined in the least restrictive setting and for
21 the least amount of time needed to address
22 specific reasons for placement and to ensure
23 their safety and the safety of staff and other
24 people in custody.

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2 As I said at the beginning of the
3 meeting, we will continue to welcome written
4 testimony via mail, e-mail, fax or posting to the
5 city's rulemaking web page through January 3rd
6 2020. The Board will carefully consider all
7 comments made at the hearings and submitted
8 otherwise and determine whether revisions should
9 be made to the proposed rules. The Board will
10 submit final rules for certification by the Law
11 Department in time for a final Board vote at a
12 future meeting. Under CAPA, any rules adopted by
13 the Board will take effect 30 days after the
14 Board vote. The Board's next regularly scheduled
15 public meeting is on January 14, 2020 at 9:00
16 a.m., back in this auditorium. I hope you all
17 have safe and happy holidays, and we'll see you
18 early next year. Thank you.

19 MR. RICHARDS: And, and echo what Jackie
20 said. We really do appreciate -- you look, look
21 in the room. I look at the faces that are out
22 there. Y'all have been coming meeting after
23 meeting and we really do appreciate it. But let
24 me, let me just articulate the five things that I

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2 feel the urgency as a Board member that we need
3 to tackle as a result of your testimony, and not
4 just tonight, just your testimony overall. It's
5 been very passionate, it's been very clear and I
6 really appreciate it.

7 I do think the time is now to end
8 punitive seg and we have to be bold as a city to
9 be able to do it. We need to look at and end the
10 restraint desk. Our system needs to be filled
11 with, as a foundation, restorative justice. That
12 has to be the principles of how we work. We need
13 to have a vision and plan for how we deal with
14 our young folks. We need to make sure that the
15 due process that we laid out, that there is fair
16 representation and support for people as they go
17 through the process. And, and this is something
18 that really crystallized for me when we went and
19 met with the Jails Action Coalition, is that
20 right now we do have a system that when we had
21 Commission Ponte, he said that the ESH was the
22 new way of handling behaviors on the island.

23 And we need to fix it. It's not, it's
24 not perfect. It's not what we want it to be and

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2 need it to be. We need to fix it. But it is a
3 tool that if done right could make a difference
4 and make jails safer for the officers, for the
5 people who visit and for people who are detained.

6 And so, I just want to close by thanking
7 y'all. We heard you. I have -- this is really
8 crystallizing for me about this moment we're in
9 and I have confidence that every one of the Board
10 members up here have heard you and will take this
11 really seriously to try to bring about the change
12 we need in this moment. So, thank y'all.

13 MS. SHERMAN: Thank you.

14 [APPLAUSE]

15 (The public board meeting concluded at
16 8:00 p.m.)

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CERTIFICATE OF ACCURACY

I, Devin Turpin, certify that the foregoing transcript of CAPA Hearing re Restrictive Housing Proposed Rule on December 16, 2019 was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By



Date: January 10, 2020

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