

NEW YORK CITY
BOARD OF CORRECTIONS BOARD MEETING

CAPA HEARING
RESTRICTIVE HOUSING PROPOSAL RULE

Public Hearing
125 Worth Street
New York, NY 10013
December 2, 2019
9:00 a.m. - 12:00 p.m.

December 2, 2019

MEMBERS PRESENT:

Jacqueline Sherman, Interim Chair

Stanley Richards, Vice Chair

Jennifer Jones Austin, Member

Robert Cohen, Member

Filipe Franco, Member

Michele Ovesey, Acting Executive Director

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2 (The public hearing commenced at 9:00 a.m.)

3 MS. JACQUELINE SHERMAN: Good morning.
4 We're going get started. And I'd like to begin
5 this morning by welcoming our newest board
6 member, Felipe Franco who's joining us for the
7 first time today. Felipe is the senior fellow
8 for young adult practice at the Jim Casey Youth
9 Opportunities Initiative at the Annie E. Casey
10 Foundation, where he focuses on identifying and
11 supporting best practices to support system
12 involved young adults in their transition to
13 adulthood. Felipe's career demonstrates a deep
14 commitment to promoting and providing services to
15 transform the lives of young people involved in
16 the justice system. Previously, he served as the
17 deputy commissioner of the Division of Youth and
18 Family Justice at ACS, and before that he was the
19 deputy commissioner of the Division of Juvenile
20 Justice and Opportunities for Youth at the New
21 York State Office of Children and Family Services
22 where he oversaw the full continuum of juvenile
23 justice services. Welcome, Felipe.

24 And this morning I'd like to welcome all

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2 of you to the first public hearing on the board's
3 proposed rulemaking on restrictive housing. The
4 second public hearing will also be held in this
5 auditorium, at 125 Worth Street, on December 16,
6 2019. It will start at 5:00 p.m. to accommodate
7 a public request that we schedule a second
8 hearing after work hours. We hope this will
9 encourage correction officers, other people who
10 work in the jails and the public to have their
11 voices heard at the hearing.

12 The proposed rules, which were publicly
13 posted on October 29, 2019 are designed to ensure
14 that people in the department's custody are
15 placed in restrictive housing in accordance with
16 due process and procedural justice principles and
17 are confined in the least restrictive setting and
18 for the least amount of time necessary to address
19 the specific reasons for their placement and to
20 ensure their own safety, as well as the safety of
21 staff and other people in custody.

22 To encourage input from people in
23 custody, correction officers and other facility
24 staff, the board worked with the Department to

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2 post fliers in the jails announcing the proposed
3 rules and explaining how to obtain a copy and
4 submit comments. The Department posted fliers in
5 each jail staff locker room, law library, visit
6 area and clinic. The Department is keeping a
7 copy of the proposed rule and retains the rule
8 package, which includes the statement of basis
9 and purpose in each facility's law library and
10 office of the Deputy Warden of Administration.

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

20 The Board recognizes the importance of
21 capturing the voices of people in custody and
22 uniformed staff about what it's like to reside in
23 restrictive housing and what it's like to work
24 there. Thus, at the request of the Board's ad-

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2 hoc rulemaking committee, Board staff spoke with
3 correction officers and people in custody in
4 various restrictive housing units as part of the
5 fact finding and rules development process.

6 The Board is grateful to the correction
7 officers and people in custody who shared their
8 experiences with Board staff, as well as Board
9 staff's dedicated work in this regard. The Board
10 also encourages jail staff and people in custody
11 to make their views known during the CAPA
12 process.

13 The Board will review all comments,
14 including comments submitted anonymously via
15 phone or in writing. Today and on December 16th
16 we will hear testimony from the public and we
17 will continue to welcome written testimony via
18 mail, e-mail, fax or posting to the city's
19 rulemaking web page through January 3, 2020.

20 The Board will carefully consider all
21 comments made at the hearings and submitted in
22 writing and determine whether revisions should be
23 made to the proposed rules. The Board will
24 submit final rules for certification by the Law

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2 Department in time for a final Board vote at a
3 future public meeting.

4 Under CAPA, any rules adopted by the
5 Board will take effect 30 days after the Board
6 vote. We will now invite testimony from the
7 public on the proposed rules. Speakers will be
8 limited to four minutes. The iPad on the stage
9 will tell you how much time you have left. I'm
10 going to call up three speakers at a time. While
11 the first speaker is providing testimony, the
12 other two people can sit in the front row. And
13 now I'll call the first three people. Alex
14 Abell, Francis Geteles Danielle Gerard. Good
15 morning.

16 MR. ALEX ABELL: Hi, good morning. My
17 name's Alex Abell. I'm with the Mental Health
18 Project of the Urban Justice Center and I'm also
19 a member of the Jails Action Coalition. So, I
20 wanted to speak today specifically about the
21 housing rules as they pertain to restrictive
22 housing that doesn't seem to fall exactly under
23 the traditional form, idea of restrictive
24 housing. I'm speaking specifically about housing

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2 areas at NIC and about in Nine South and MDC.
3 These are housing areas, that for my take on the,
4 on the, on the proposed rules, aren't really
5 excluded from or, or they don't fall under the
6 mandate of the restrictive housing rules and yet
7 they are extremely restrictive housing areas.

8 I think a lot of you have been there
9 before but I know that at NIC in particular, it's
10 like, you know, people in the individual cells
11 the lockout time is, is in, in, in one or two,
12 one or two people at a time in like a smaller
13 caged area. There's very little light. It's,
14 it's like I was there once. It's a horrible
15 place to be. And I don't think that these
16 restrictive housing rule actually address those
17 housing rules.

18 And so I'm really concerned that what
19 we're going have, what's going happen is
20 basically a situation what happened with, with
21 West facility, a few years ago where it, the, the
22 Department just kind of shifted the goalposts a
23 little bit and kept going and kept people in
24 restrictive housing, even though it wasn't

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2 technically restrictive housing because it didn't
3 fall under some of those rules. And so I'm
4 really concerned about that and I wanted to speak
5 more generally about what that says about the
6 Department's culture and about what your role as
7 a board, as an oversight board is.

8 And I think that in general within the
9 Department, you know, at every level, every rank
10 the idea is that punishment is the only way to
11 deter and to stop violence. And I think that
12 that is it, it obviously that misses the bigger
13 picture, but I, I, I do understand it to some
14 extent. I work in the jails a couple days a
15 week. I speak to officers, I listen to their
16 conversations. I know that they have -- they,
17 they, they're traumatized. People see violence
18 every day, they're traumatized and it's scary.
19 It's scary to be out there.

20 Sometimes, I myself, you know I meet
21 with people one-on-one. Sometimes I feel a
22 little bit of relief myself, for example, when
23 I'm meeting with someone not in an open setting.
24 But I bring my prejudice to, to, to that space

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2 and I, and I am, am relieved sometimes when
3 there's like Plexiglas between us, for example,
4 those, those, on those rare occasions.

5 But I think that that is why, why your
6 job is so important, is because these, these
7 human reactions that officers and the people have
8 in the jail to blame violence on individuals and
9 not see the larger picture, that's why your job
10 is so important. That's why you have, you have
11 to be the leaders in seeing that when we have an
12 epidemic of violence, you don't treat an epidemic
13 by treating the individual. You treat the
14 environment, you treat the entire system that,
15 that, that's at play.

16 And that is why your role in this
17 rulemaking is so important and that's why the
18 conversation -- this is a very important
19 conversation obviously, making, you know, getting
20 human beings to be treated as human beings.
21 That's so important.

22 But why aren't -- I wish that we were
23 talking more about what is being done to prevent
24 the violence and why there isn't being more done

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2 to build up a community inside the jail, because
3 it is a community, where people are accountable
4 for each other and where the, the, the response
5 to violence is not more violence. And violence
6 is not prevented by being, by dehumanizing
7 people, by being violent to them.

8 I think that your role is -- like, for
9 example, I go into a lot of housing. There's
10 more programming now than there ever has. I've
11 been there for five years, been working there for
12 five years. There's more programming now than
13 there has ever been. And yet I go into so many
14 housing areas and people are just sitting around,
15 just depressed and there's like some job
16 training, there's things to do, but there's not
17 that kind of, that work that's being done to
18 create a fabric of a community inside there that
19 would actually prevent the violence in the first
20 place. And so I think that's your job is to, to
21 make that happen. Thank you.

22 MS. SHERMAN: Thank you very much.

23 [APPLAUSE]

24 MS. SHERMAN: Just as a point of

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2 clarification, the subchapter on structurally
3 restrictive housing in the proposed rules is
4 intended to cover the housing areas referenced in
5 the testimony. Thank you. Frances Geteles.
6 Good morning.

7 MS. FRANCES GETELES: Good morning. I'm
8 a clinical psychologist and I'm also part of the
9 HALT Solitary Campaign with CAIC. I'm only
10 tangentially going to address these new
11 regulations. I think what we are asking for is
12 that you do away with solitary confine-
13 confinement completely. And because you know
14 that it is torture and because you know that it
15 makes people worse, it increases violence, it
16 doesn't decrease violence. Now, in that context
17 though, I have to say that when I come to these
18 meetings I always get very disturbed because you
19 have rules and some of the rules are decent in
20 some ways. And yet the people from the jails
21 come to you and say we need your permission to
22 break the rules.

23 So, last time I was here or you had a, a
24 rule which says somebody is kept in solitary for

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2 30 days and then has to be released for seven
3 days and they asked for a ver-, a, a waiver of
4 that rule. So, you all agreed to it. What does
5 that mean? It means that solitary can go on
6 indefinitely, that there is no limit. And that
7 in fact you are agreeing to allow them to torture
8 people.

9 Now, the question then in my mind is
10 what are you really here for? What -- if you
11 didn't grant the waiver and they said, well
12 we're, we're going go ahead with what we want to
13 do anyway what happens? I don't think anything
14 is happening. You are just letting the p-
15 prisons continue to torture people and there's no
16 action on your behalf. So, what you're doing
17 doesn't make much sense to me.

18 And I think if you're going make these
19 new rules you have to have a commitment to
20 enforce the rules. Otherwise you might as well
21 just go, resign positions and go home because
22 you're not doing what you're supposed to be doing
23 as an oversight board. Thank you.

24 MS. SHERMAN: Thank you Ms. Geteles.

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2 [APPLAUSE]

3 MS. SHERMAN: Danielle Gerard. Good
4 morning.

5 MS. DANIELLE GERARD: Good morning.
6 Interim Chair Sherman and Board members, I'm
7 Danielle Gerard, a staff attorney at Children's
8 Rights. Thank you for the opportunity to comment
9 publicly on the proposed rules. In 2014, the
10 Board approved standards that required the DOC to
11 house young adults separately and apart from
12 adults and provide them with age-appropriate
13 programming.

14 Since then, the Department has
15 repeatedly requested and the Board has granted
16 variances from those minimum standards. Five
17 years on, the Board's proposed rules eliminate
18 those requirements altogether and codify
19 additional practices widely acknowledged to be
20 harmful to young adults. Social science and
21 neurological research that guide best practices
22 for working with older youth show that their
23 development does not end at age 18. Young people
24 continue to mature well into their mid-20s,

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2 making them uniquely vulnerable and
3 impressionable. This is especially true for
4 young adults in child welfare and criminal
5 justice systems. These young people require
6 supports that respond to these needs. The
7 proposed rules do not require the Department to
8 provide these supports.

9 Children's Rights urges the board to
10 amend the proposed rules to mandate that the
11 Department meet and strengthen its obligations to
12 incarcerated young adults. The proposed rules
13 should require that the Department house young
14 adults aged 18 to 21 separately and provide
15 access to programming and services for all young
16 adults. There is no evidence that reductions in
17 violence are caused by the practice of
18 commingling. Instead, research shows that there
19 are more effective long-term methods to reduce
20 violence including more age-appropriate
21 programming, more services and continued better
22 training for officers.

23 We also know from experience that
24 placing young adults in co-mingled housing units

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2 effectively cuts off their regular access to key
3 programs and services. For example, only the
4 young adults housed at RNDC can use the Peace
5 Center. We urge the Board to shift the
6 Department's emphasis regarding young adult
7 housing areas from being for compliant youth to
8 supportive age-appropriate settings that can
9 respond properly and effectively to predictable
10 conflict and violence among young people who are
11 being detained.

12 During this critical period of
13 development, the opportunity to interact with
14 supportive adults and practice reasoning,
15 decision making and self-regulating skills
16 strengthens young people's ability to function in
17 the years ahead. Youth have better outcomes if
18 their unique needs are addressed. We urge the
19 Board to shift the Department's emphasis
20 regarding programming. We believe programming
21 should be made available for all incarcerated
22 youth and should not be used as a reward system.

23 Young adults should have 14 hours of
24 lockout time, not ten. Ten hours is not enough

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2 for adults and it's is certainly not enough for
3 young adults. Excessive isolation is
4 incompatible with current research and policy for
5 older youth.

6 The proposed rules should require the
7 Department to abolish first the use of restraint
8 desks. There is no reason to wait more than two
9 years to end this cruel and inhumane practice.
10 Second, solitary confinement, this is torture.

11 In conclusion, Children's Rights would
12 like to say that the proposed rules violate the
13 Board's stated recognition that young adults have
14 unique needs and require a distinct management
15 ap- approach the proposed rules as currently
16 drafted codify variances that children's rights
17 has repeatedly advocated against.

18 Despite the repeated granting of these
19 variances however the Department's management of
20 the jails has not improved. The Nunez Monitor's
21 recent report shows that the use of force rate is
22 the highest since the settlement agreement went
23 into effect, especially for incarcerated youth.
24 The proposed rules do not show that either the

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2 Board or the Department has a plan for allocating
3 resources for management, officers' training
4 programming and schools for this vulnerable
5 population.

6 We call on the Board of Correction to
7 make amendments to the proposed rules to renew
8 the Department's commitment to the young adult
9 plan. Young people incarcerated in our jails
10 deserve no less.

11 MS. SHERMAN: Thank you.

12 [APPLAUSE]

13 DR. ROBERT COHEN: Do you have any idea
14 why do you think the Department changed its
15 position on young adult housing from the way it,
16 the way I understood it to be initially?

17 MS. GERARD: No.

18 DR. COHEN: Okay. Thank you.

19 MS. SHERMAN: So, I'll now call the next
20 three speakers Chaplain Kim Eliano, Rabbi Barat
21 Ellman and Trent Taylor.

22 CHAPLAIN KIM ELIANO: Good morning.

23 MS. SHERMAN: Good morning.

24 CHAPLAIN ELIANO: Once again, my name is

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2 Chaplain Kim Eliano I am a CAIC supporter. I'm a
3 humanitarian and I'm a fierce faith leader for
4 the injustices that plague humanity in this
5 country.

6 MS. JENNIFER JONES AUSTIN: Could you
7 please repeat, you said that you are a CAIC
8 member?

9 CHAPLAIN ELIANO: My name is Chaplain
10 Kim Eliano. I am a member of the CAIC campaign.
11 I'm a humanitarian and I'm a fierce faith leader,
12 who stands strongly and fights against the
13 injustices that plague humanity here in this
14 country. Amen.

15 First I'd like to address the blueprint,
16 the blueprint that states that the Board of
17 Corrections must create minimum standards not
18 only for those who are in general population who
19 are lodged in city jails, but also we need to
20 remove the exceptions of those who are lodged in
21 punitive segregation units, as well as enhance
22 supervision housing. Why? Because they're human
23 beings. Isolation, solitary confinement is
24 inhumane and ineffective. It does not

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2 rehabilitate people. It only causes more damage
3 to the human psyche, whereby once they're sent
4 back into general population, it is unsafe for
5 all who are lodged in general population. It's
6 unsafe for correctional officers. Why? Because
7 people become more angry, they become more
8 damaged and there is no healing in that process.
9 It's also unsafe for those in, in, in the
10 communities that they come back to. Why?
11 Because they have not been rehabilitated. You're
12 causing more harm to those who already harmed in
13 many ways.

14 The words of the late Dr. Martin Luther
15 King says an injustice anywhere is a threat, my
16 God, to injustice everywhere. I'd like to give
17 you a small testimony of a, a woman named Laura
18 Rovner, who is a human rights advocate and an
19 attorney. Solitary confinement is inhu-, is
20 human torture. It disproportionately impacts
21 people of color. According to Laura Rovner, who
22 spoke of the devastations of solitary
23 confinement, she says that people who are caged
24 in solitary confinement doubt whether they have a

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2 self or even exist due to the lack of human
3 contact or interaction or connection with the
4 outside world.

5 Laura went on to say that people lodged
6 in solitary confinement are stuck in suspended
7 animation who are not part of a world that
8 exists. They have been reduced to cutting
9 themselves, talking through cracks in walls to
10 connect with someone just to maintain their
11 humanity, throwing feces out of anger and at
12 times many are led to no other alternative, but
13 to take their own lives all because of the
14 emotional devastations of isolation.

15 Do you remember Kalief Browder? He's a
16 prime example of what solitary confinement does
17 to people. Solitary confinement is an endemic
18 human rights concern that needs to be addressed
19 not now but when?

20 AUDIENCE: Right now.

21 CHAPLAIN ELIANO: Not now. But when?

22 AUDIENCE: Right now.

23 CHAPLAIN ELIANO: Not now. But when?

24 AUDIENCE: Right now.

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2 CHAPLAIN ELIANO: Solitary confinement
3 is torture. It needs to end right now. Amen.
4 Thank you.

5 [APPLAUSE]

6 MS. SHERMAN: Thank you.

7 RABBI BARAT ELLMAN: Good morning.

8 MS. SHERMAN: Good morning.

9 RABBI ELLMAN: My name is Rabbi Barat
10 Ellman. I am with the T'ruah, the rabbinic voice
11 for human rights. I'm also a professor who
12 teaches with the Bard Prison Initiative, which is
13 a college degree granting program in New York
14 State prisons.

15 I'm going to give my remark, my remarks
16 and if I have time, I have a couple extra things
17 I want to add based on what some people have
18 said. Solitary confinement is immoral. As is
19 written in the Torah, the Hebrew Bible, in the
20 book of Genesis [Hebrew phrase], it is not good
21 for man to be alone. But it is also in my
22 experience as teaching at the New York, in New
23 York State correctional facilities with the Bard
24 Prison Initiative, debilitating and

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2 counterproductive.

3 There are many obstacles to getting an
4 education behind bars and solitary confinement is
5 a, one of the most disruptive, preventing
6 students from completing coursework and sometimes
7 forcing them to drop out of programs altogether.
8 Add to this the lasting scars on the psyche, fear
9 of closed spaces, social anxiety, depression and
10 even psychosis, it is clear that solitary
11 confinement sets incarcerated people back making
12 it harder for them to emerge from behind bars as
13 responsible citizens.

14 I asked my students at Bard to share
15 with me their experiences in solitary so that I
16 could share them with you today and I'm going to
17 bring some quotes, just some excerpts from what
18 they wrote to me.

19 The SHU is living death, 360 days in the
20 SHU for a false positive from poppy seeds on a
21 breadstick, it's a nightmare, the correctional
22 officers who resent our education know a
23 misbehavior report can derail my education and so
24 for the most insignificant things, involuntarily

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2 crossing a yellow line at the mess hall can put
3 me in the SHU. When you get confined they
4 continue to degrade you and mess with your
5 mentality. My time of confinement can be
6 extended at the whim of an officer. Solitary
7 confinement seems to strip me of my humanity, it
8 is sensory deprivation for periods of six months
9 or more. Food is scarce in the box. We are
10 reduced to the bare minimum portions. Solitary
11 confinement eliminates the social interactions
12 and causes antisocial behavior, more aggression,
13 more harm than good. You adapt to the
14 animalistic situation that you're in, losing a
15 grip on sanity. Confinement causes mental
16 breakdown, psychotic behavior, insomnia.

17 The men who shared these words with me
18 are extraordinary and like all the alumni of the
19 Bard Prison Initiative and like all other such
20 programs, are poised to make substantial
21 meaningful contributions to society. We mess
22 them up at our peril. But not just them. All
23 people in jails and prisons deserve to be treated
24 humanely and they do not deserve to endure the

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2 conditions that will traumatize them, that will
3 further damage their, and further, further damage
4 them, rendering them dysfunctional antisocial and
5 most likely to fail upon release.

6 The part of the blueprint that really
7 scares me are words like the least amount
8 possible, the minimum, only as much as. I'm
9 paraphrasing obviously. Language that has a
10 slippery slope, that allows us to say we're not
11 going have confinement except when we really have
12 to, or only for the very least amount of, that
13 for the least amount of time necessary. These
14 are dangerous terms, because these are the terms
15 that make a wedge, that open up the possibility
16 for situations like one of my students who is,
17 who was in solitary from 2001 to 2004, three
18 years. That's, that's inhuman, that's
19 totalitarian.

20 We're seeing that happen in China with
21 Uyghurs. You cannot have this happen. It is
22 immoral. It is wrong. It doesn't work. That's
23 it.

24 MS. SHERMAN: Thank you.

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2 [APPLAUSE]

3 MR. TRENT TAYLOR: Good morning.

4 MS. SHERMAN: Good morning.

5 MR. TAYLOR: My name is Trent Taylor. I
6 was incarcerated for 16-and-a-half years for a
7 crime I didn't do. And while the time I was on
8 Rikers Island fighting this case, I was on Rikers
9 Island for two-and-a-half years, and during those
10 two-and-a-half years, 18 months of that time, I
11 was in solitary confinement. I goes into the
12 housing system and its shows that you down with
13 the program. I'm like what you talking about,
14 what program. They said you'll find out the hard
15 way. I said I'm here to try to deal with my case
16 I had nothing to do with, I just want to go home.
17 So, as I'm laying down, all of a sudden, they
18 standing over me, and I'm like why you standing
19 on me, they said you going to be down with the
20 program and you're going get it the hard way. So
21 I said, well I'm not down with no program. They
22 said yes you are, I said no, I'm not. So, they
23 just started beating on me. I'm like what you
24 beating on me for, you said you got to be down

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2 with the program. I said I'm not down with no
3 program. Then all of a sudden, they said we got
4 some for you. In the middle of the night they
5 just take me out and put me in the SHU. I'm like
6 where am I going in, you ain't down with the
7 program. They said we found the, we found a
8 weapon. I said you didn't find no weapon.

9 As I'm standing here, is this medication
10 I take up to today from getting beat in SHU.
11 This is for dizziness. They constantly beated
12 me, beated me 'cuz I wasn't down with the
13 program. Every movement I made, they made sure
14 wherever I went, they made sure that, that they
15 said he's coming over there. I had hell, I have
16 torture, hell. My family was coming up and was
17 they, they, they couldn't even see me because
18 they told them they had moved me to another jail,
19 to another housing unit, but it wasn't.

20 When they finally did get to see me, my
21 eyes were swollen. The time they didn't want to
22 take me to the pharmacy -- they had, I had
23 shitted on myself. They didn't give me no
24 tissue. They said you still going to be down

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2 with the -- I said I'm not down with no program.
3 I wind up taking 16-and-a-half years for a crime
4 I didn't do, just to get off that alley. And
5 that hurts. It really hurts. No one understands
6 that feeling until they go through it.

7 Now I'm opening up a wound that's
8 hurting me as I'm speaking to you today for the
9 rest of my life, I'm, I'm dizzy. Here goes the
10 medication right here. I'm taking it. It hurts.
11 It hurts. Just understand that solitary
12 confinement is no place for no one. It's really
13 hurting the days I could walk, I could just fall.
14 I'm taking these three times a day, morning
15 afternoon, at night. This what happened in
16 solitary confinement, this right here.

17 I think no one should have to go through
18 this. I'm standing up here crying because it's
19 hurting, what I went through. And I wouldn't
20 want no one to go through this. As y'all right
21 now, it's in y'all hands to stop all of this.

22 As I got to say, now that you have heard
23 my experience, I ask you to take responsibility
24 as the Board of Correction to finally end this

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2 torture. Advocates have provided you with a
3 blueprint to end solitary confinement. You just
4 have, you just have heard the courage, you just
5 have to have the courage to put into practice.
6 Thank you. This is what I'm going through. Any
7 minute, I could walk and just pass out because of
8 solitary confinement. I went in as a normal
9 person. I'm coming, I came home to this. I
10 don't think no one should go through this and it
11 is in your decision. That's my story.

12 MS. SHERMAN: Thank you sir, thank you.

13 [APPLAUSE]

14 MS. SHERMAN: I'll now call the next
15 three speakers, Marvin Mayfield, Brandon Holmes
16 and Vidal Guzman. Good morning.

17 MR. MARVIN MAYFIELD: Good morning, good
18 morning. My name is Marvin Mayfield. I'm an
19 organizer with Just Leadership USA, but more
20 importantly I'm a person, a, a survivor of Rikers
21 Island and a survivor of solitary confinement.
22 It's a very, I mean, an, an emotional thing for
23 me to bring up sometimes. And just this morning,
24 I was reminded of something because I woke up

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2 this morning with a little pain in my mouth, a, a
3 slight toothache, nothing really bad. But I
4 remember being in solitary confinement, I
5 remember being in Rikers Island, at C-95 and this
6 is some years ago when you wouldn't get out for
7 an hour, you wouldn't be out for any period of
8 time for when you were in solitary confinement.

9 My particular circumstances was that I
10 was at the time, diagnosed as dep-, having
11 depression and in the course of self-medicating,
12 I ended up in Rikers Island with a misdemeanor
13 drug, drug possession charge. When I went in, I
14 was, I guess unresponsive. I wouldn't talk to
15 the medical staff I wouldn't talk to anyone and
16 they put me in what they call the MO, right, the
17 med- med-, the mental observation unit. And at
18 that point in time, if you were not cooperating,
19 you would go into solitary confinement. I don't
20 care what you call it mental observation, segre-,
21 pu- punitive segregation, if you're in that cell
22 by yourself for 24 hours a day with nobody to, to
23 look at you, or to speak to you, it's solitary
24 confinement.

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2 And make no mistakes about it solitary
3 confinement is torture. I was tortured in there
4 for three months, three months, just coming into
5 Rikers Island in the summer months when it was so
6 hot that the walls sweat and I heard somebody
7 else testify this morning that said, outside,
8 said that they laid on the floor to get air
9 underneath the door. I did that. And I, at that
10 point in time, I thought I was alone in trying to
11 su-, trying to survive and save my life, just to
12 get a little bit of air underneath the door.

13 And I'm not trying to say that
14 correction officers are all heartless. But after
15 seeing so much trauma, seeing so much abuse,
16 seeing so much hardship that they become
17 desensitized to, to what happens to people, to
18 what happens to human beings in solitary
19 confinement. And every time I complained, right,
20 every time I complained about my conditions or
21 what was, they would say oh well you're just
22 playing a role. Nobody believes you. Nobody
23 believes you when you're suffering.

24 And I talked about that toothache this

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2 morning. I remember sitting in, being in
3 solitary confinement and having a toothache and
4 complaining about it. And it was one of the
5 worst things you can imagine. I mean, I mean
6 these are everyday occurs is that people can
7 relate to, but to be in a position where you
8 can't get help, where you can't get anything,
9 where you're suffocating. People have died from
10 heat exposure and overheating in these cells.
11 People are still losing their lives and I have
12 seen where people have been dragged out and, and,
13 and, and car- carried out feet first from cells
14 in Rikers Island, from solitary confinement.

15 We can do something better than what
16 we've been doing. I know it's not an easy task,
17 but together I believe that we can come to a
18 conclusion to make our, our jails safer, more
19 humane because solitary confinement is torture.
20 And I have been there and experienced it. And
21 I'm sure there were people who will give you the
22 facts and the figures and the data and everything
23 else. But I want to drive home the human element
24 and what it costs a person because from that day

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2 I have never been the same. I can't even go in
3 the elevator without feeling, feeling
4 claustrophobic. I go in a subway -- up until
5 that point in time, I didn't have these issues.
6 Solitary causes more trauma than what a person
7 has, has went in with. So, I'm asking this
8 Board, for the second time to testify before you,
9 to seriously, seriously commit yourselves to
10 ending solitary confinement. Thank you.

11 MS. SHERMAN: Thank you.

12 [APPLAUSE]

13 MR. BRANDON HOLMES: Good morning.

14 MS. SHERMAN: Good morning.

15 MR. HOLMES: My name's Brandon Holmes.
16 I'm testifying on behalf of Just Leadership USA
17 and specifically the Close Rikers Campaign. My
18 family, cousins, aunts, uncles have survived
19 Rikers Island and two of them are currently
20 surviving a federal facility in New York State
21 and a state facility.

22 The Close Rikers Campaign counted a
23 substantial victory many weeks ago when City
24 Council voted to shrink the jail system by 75

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2 percent and improve conditions for anyone still
3 detained in New York City jails. And this is a
4 part of that fight to improve those conditions, a
5 part of that fight that cannot wait until we have
6 new facilities or until we have a smaller DOC
7 staff ratio.

8 Our leaders who have lived the hell of
9 Rikers Island and other city jails and many other
10 advocates in this room have always said that new
11 buildings will not be sufficient to achieve the
12 massive culture transformation that is urgently
13 needed in New York City jails, nor will they come
14 soon enough to save tens of thousands or more
15 people from abuse at the hands of the Department
16 of Corrections.

17 This Board's role as a strong and
18 independent oversight body is and will be
19 essential to achieve real transformation. It
20 will require each of you to have the courage to
21 break and disrupt your old patterns of the
22 exceptions, of the massive heaps of variances
23 because those patterns have resulted in countless
24 trauma, injury and the loss of lives at the hands

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2 of the Department of Corrections for decades.

3 Today, we're demanding that the Board of
4 Corrections take this oversight role very
5 seriously and implement the blueprint to end
6 solitary confinement. The question should not be
7 whether or not we must end solitary confinement.
8 This form of torture clearly has no place in our
9 city. The question should be why the Board has
10 allowed it to continue for so long, why was swift
11 action not taken after the death of Jason
12 Echevarria or Kalief Browder or Bradley Ballard,
13 Layleen Polanco? If that action had been taken
14 would Layleen Polanco have lost her life? We all
15 know the answer.

16 This is also not an argument about
17 whether or not safety matters. Of course it
18 does. We care about the safety of everyone
19 behind those walls. But solitary confinement
20 does not create safety, because it does not
21 address the root cause of the violence. In fact
22 it creates more violence, a form of torture
23 through mental and physical damage that it
24 inflicts.

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2 People who have endured solitary and
3 their families, mental health, legal and human
4 rights experts and advocates with the New York
5 City Jails Action Coalition and HALT Solitary
6 Campaign, have developed a very detailed plan to
7 create safety through the type of deep engagement
8 that can actually prevent this violence in the
9 first place. That's what you should be passing.

10 The blueprint asks the Board to do five
11 core things. One, to ensure the Board of
12 Correction minimum standards for out of cell time
13 apply to all people in city jails, other than in
14 specified emergencies, by removing exceptions to
15 those standards for punitive segregation and
16 enhanced supervision housing units.

17 Two, create minimum standards for
18 emergency individual lock-ins and emergency
19 lockdowns. Three, end punitive segregation and
20 make ES- ESH and other alternative units actually
21 about safety, rehabilitation and preventing
22 violence in the first place. Four, adopting
23 specific mechanisms and time limits for getting
24 out of ESH and other alternative units. And

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2 lastly, dramatically limit the use of restraints
3 with a strong presumption against their use in
4 the first place.

5 We believe that every one of these
6 things are reforms that New York city can and
7 must implement now. This conversation about
8 restrictive housing, rule-, and rulemaking must
9 also put in the context of on-, be put in the
10 context of ongoing and well-documented failures
11 of this Department of Corrections that address
12 the deep-seated culture of abuse, violence and
13 corruption in New York City jails.

14 I submitted testimony before, and I will
15 submit again, this testimony that has specific
16 anecdotes from the eighth report of the Nunez
17 Independent Monitor Report from Monday, October
18 28th, that has proven quote, "the Department has
19 not shown itself capable of devising and
20 implementing effective strategies to fully
21 institutionalize the use of force reforms
22 required by the consent judgment and in the past
23 three years that use of force has increased
24 ninety-eight percent."

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2 I want to ask this board, as you
3 consider changes to restrictive housing rules, is
4 this a department that you really believe can and
5 will exercise good judgment to determine if
6 someone should be kept in isolation, knowing the
7 deadly consequences that can come from doing
8 that, knowing their failed decades of overseeing
9 New York City jails? If you take your role
10 seriously, you know the answer is no.

11 MS. SHERMAN: Thank you.

12 [APPLAUSE]

13 MS. SHERMAN: Dr., Dr. Cohen, sir
14 there's a question.

15 DR. COHEN: Okay. Thank you for your
16 testimony, thank everybody. Could there, could
17 you elaborate a, a little bit on, on, on two of
18 the points of the five point proposal,
19 specifically individual status for lo-, for
20 lockdown and then a mechanism, and someone has
21 said, appropriately, that, you know, that best
22 efforts or minimum, you know, the minimum
23 required is, is potentially a slippery slope.
24 It's not always, it's -- on the other hand, it's

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2 the only way to write rules. But in this case,
3 what, on restraints, what are the conditions that
4 you would do. And before that, the
5 individualized lockdown plans that you described
6 if you could.

7 MR. HOLMES: Yeah, so that first one was
8 individual lockdown plans, creating the minimum
9 standards, there needs to be transparency and
10 there needs to be a clear set of those minimum
11 standards. I'm not unfortunately, as an
12 organizer, not a position to determine what those
13 minimum standards should be. And we would all
14 continue to mobilize and be here to see what you
15 propose, but we need transparency. We need to be
16 very clear what those standards are going to be
17 so that we know what we're holding people
18 accountable to.

19 DR. COHEN: You were talking about an
20 individualized response.

21 MR. STANLEY RICHARDS: That would be
22 taking somebody out of the situation, instead of
23 solitary confinement. Could you like describe --

24 MS. AUSTIN: I think what I'm

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2 appreciating is, and I don't want to speak for
3 you, but you're raising, you know, you're opening
4 up the issue and saying we need to take a look at
5 this you may not have any specific definitive
6 ways of doing it at this point, but you want us
7 to really explore this. Is that correct?

8 MR. HOLMES: Yes, explore that and also
9 the, which we'll also be submitting with our
10 testimony, the blueprint to end solitary from
11 HALT Solitary and New York City Jails Action
12 Coalition will have more details about that. But
13 specifically, we want to see action on that.

14 MS. SHERMAN: Thank you.

15 MS. AUSTIN: If I may ask there, there's
16 a transcript, this is recorded. But if you have
17 today, written testimony that you are willing to
18 hand over to us, please provide that so we have
19 that sooner rather than later and we don't have
20 to wait on the transcript, so we can look at some
21 of the particulars sooner rather than later.
22 That would be helpful.

23 MR. HOLMES: Yeah, we can do that. And
24 sorry, Commissioner Cohen you had another

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2 question?

3 DR. COHEN: I'll, I'll, I'll wait for
4 that.

5 MR. HOLMES: Okay.

6 MS. SHERMAN: Thank you.

7 DR. COHEN: If someone else wants to
8 address those particular questions. Thank you.

9 [APPLAUSE]

10 MR. VIDAL GUZMAN: Good morning. My
11 name is Vidal Guzman. First, I want to talk
12 about I was incarcerated for seven years. The
13 first time I was incarcerated I was 16, 17 years
14 old. I did two years on Rikers Island awaiting
15 trial, came home when I was 18 and this one, the
16 life changing, or my life kind of changed. My
17 neighborhood was beefing for the last 17 years,
18 my block and a different block. And as a high-,
19 I was at that point at a, a high-ranking member
20 of the Bloods and we had actually beefing with
21 the neighborhood that I grew up in, right. My
22 brother was locked up for 16 years and when I got
23 re-incarcerated again at eight-, 19 years old,
24 that beef from that neighborhood followed, right.

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2 I heard correction officers talking
3 about violence and people carrying weapons. Well
4 I was one of those. I was one of the individuals
5 that carried a weapon, knowing that my life was
6 in danger every single day, not because it was a
7 fight or, or, or, or a scuffle that happens when
8 we when we see each other, right. Because all I
9 know, even problems from certain neighborhoods
10 follow you to prisons and jails, right, for
11 anyone who's actually been incarcerated.

12 So for me, I was in GMDC already doing
13 time and I heard that some people from the
14 neighborhood that I was beefing with actually
15 landed in there. One of the things for me was
16 how to make a weapon, when I'm gonna do it and
17 how long it's going take me to do it. I was at
18 any case, was going use it, right, because I knew
19 my life was endangered, I knew my life -- had, I
20 had to do something. So, for the past year-and-
21 a-half, when I was in Rikers, fights between
22 neighborhoods even this other neighbor I was
23 beefing with was still Blood at the same time,
24 right.

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2 When I landed into upstate Greene
3 Correctional Facility, I was involved with a
4 program called AVP. AVP got more involved, AVP
5 is Alternative to Violence program that's
6 facilitated by people inside. And this is where
7 I come to the point, certain point. People in
8 the prison itself knew that it was time for
9 people to create peace, right. So, elders from,
10 that was actually inside the facility, sat me
11 down and certain people from the neighborhood and
12 figured out where was a meeting point at about
13 how do we actually start creating peace between
14 each other. And for that time me being there, a,
15 a beef that was a 17-year-old beef ended because
16 of the Alternative to Violence program.

17 There's abilities when we hear
18 correctional officers talking about how someone,
19 pulling someone in solitary confinement stops
20 issues. No, it don't. If you put me in a room
21 and I know my life is in danger, I'm gonna make a
22 weapon out of anything because my life is in
23 danger. When you in danger, if you've ever been
24 in danger, that means your life is in danger and

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2 that means you're going do anything it means to
3 survive.

4 So, I know, being in solitary
5 confinement for 912 days, I was in solitary
6 confinement two-and-a-half years, a lot of y'all
7 do the count, is 912 days. I know what it means
8 to be there and I also know what it means to see
9 stories and hear people's voices and hear people
10 cry at night. I also knows what, what it means
11 to take a birdbath. I also know what it means,
12 what land people are a part of that gang culture
13 in that facility or, or in solitary confinement.
14 You putting someone in solitary confinement, no
15 matter gang culture, or, or because you feel like
16 putting them starts or confinement stops them
17 from any violence. It doesn't, right. You can
18 put me in solitary confinement. If I know once I
19 leave out these walls or out this, out, out this
20 cell that I have beef with someone, then I'm
21 going do whatever it means to survive. I've been
22 through situations. I know a lot of people
23 who've been in solitary confinement, as myself
24 and was a part of that gang culture, would do

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2 anything means necessary.

3 Like what we need to really think about
4 and I'm a finish this with 20 seconds, is the
5 ability to how do we make sure that we get to the
6 root cause of violence. And how do we make sure
7 that people don't carry weapons in the first
8 place. And there's a real certain part, as, as a
9 collective, of us saying ending solitary
10 confinement is, is the ability to think farther
11 about how do we implement programs that talks
12 about how do we make sure that this person
13 doesn't carry a weapon, how do we make sure that
14 we have conversation around peace and, and around
15 feeling safe? Because through my own experience
16 and being in the gang culture and also being a
17 part of a member of the Bloods, is that one of
18 the things that I learned, ending solitary has to
19 be done. But we also have to think about
20 programs are being created, programs that I went
21 through that created real safety in my
22 neighborhood.

23 And you asked me right now, this is the
24 last thing I want to end. My neighborhood and

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2 the neighborhood we was beefing with, we've been
3 at three years of peace three-and-a-half years of
4 peace. And that was because of the entire AVP
5 program that actually sat us down as adults and
6 said what happened, how can we help you out and
7 how can we stop y'all from going to solitary
8 confinement. So, we can end solitary confinement
9 and I really want to say that from my story. And
10 I know I shocked you saying carrying weapons, but
11 have you ever been incarcerated and you was a
12 part of that gang culture you would do anything
13 that means necessary to survive. I mean, I've
14 seen people get poked, slapped and everything.
15 But I know what can happen if someone have
16 programs that don't leave them there so I want to
17 end like that. Thank you.

18 [APPLAUSE]

19 MS. SHERMAN: Thank you Mr. Guzman. I'm
20 going call the next three speakers Gina
21 Farinaccio, Herbert Murray and Harvey Murphy.
22 Good morning.

23 MS. GINA FARINACCIO: Good morning.
24 Hello, how are you all? My name is Gina

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2 Farinaccio. I'm a social work intern at Brooklyn
3 Defender Services working on jail policy. We
4 applaud the Board for undertaking this rulemaking
5 process, but urge you to ensure the rule is
6 comprehensive and addresses the entire scope of
7 restrictive housing tactics used by the
8 Department before finalizing the rule in the
9 coming months.

10 Before I go on, I just want to take a
11 moment of respect for all the people here who've
12 experienced solitary confinement and come here to
13 share their stories today. So, thank all of you.

14 One of the most common tactics that the
15 DOC uses to isolate and segregate people is
16 restrictive classifications, yet as written, the
17 proposed rules contain no mention of these
18 restrictive classifications that are a major form
19 of restrictive housing. The restrictive
20 classifications have a significant harmful impact
21 that undermines any rehabilitative purpose that
22 the Department allegedly seeks to serve. For
23 instance, restrictive classifications allow DOC
24 to deny broad groups of people access to

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2 important programs that support people with
3 substance use disorders. The justification is
4 that these people are classified as high security
5 by, by DOC or are the subject of unsubstantiated
6 gang allegations, based on no standard of
7 evidence and with no meaningful opportunity to
8 appeal.

9 Yet the impact of these classifications
10 is to deny access to some of the people who need
11 these programs the most. In a recent case, one
12 BDS criminal defense attorney successfully
13 advocated that her client, who had a history of
14 sub- substance abuse, would serve reduced jail
15 time if he participated in a program for people
16 struggling with addiction. Despite the agreement
17 from the client's parole officer and the District
18 Attorney, the attorney learned that the
19 correctional health services, that the client was
20 denied entry into the program because of his high
21 security classification which was a result of a
22 more than decade old incarceration where DOC
23 identified him as gang affiliated. Although the
24 client was not in a gang and was fully committed

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2 to participating in the program and turning his
3 life around, he was not able to move forward with
4 the agreement because of his outdated restrictive
5 classification.

6 These classifications prevent people
7 from bettering themselves and working towards a
8 new life. Not only do they render rehabilitative
9 efforts ineffective, they actually obstruct the
10 goal of creating a safe and secure environment.
11 These classifications severely limit access to
12 programming, mental health services, law library
13 and council visits, either because these services
14 are not provided or because there is an excessive
15 wait time for the single escort assigned to the
16 unit. Once someone is placed in these
17 classifications, problems with access to care and
18 programming are exacerbated. Officers have even
19 more control over access to sick call and other
20 services and securing escorts to and from high
21 security u- units is extremely difficult.

22 Another BDS client described moving from
23 GP to a high classification housing unit. In his
24 new unit, he was no longer sleeping in a dorm but

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2 rather confined to a single cell by himself
3 during lock-in, a situation he said he "could not
4 handle." His access to mental health services
5 was severely reduced, as he had no choice but to
6 rely on the single escort to bring him to
7 appointments. For this client instead of seeing
8 mental health services every day, it became more
9 like once every three weeks. Since his move, his
10 mental health has decompensated dramatically as
11 despondence and suicidal ideation has become the
12 norm.

13 It is essential that BOC address
14 restrictive classifications in the rules around
15 restrictive housing. Currently, the Department
16 does not provide any due process when designating
17 people one of these restrictive classifications
18 or address any duration conditions or terms for
19 being removed from these classifications. DOC
20 has shown time and again, that given the
21 opportunity they will find loopholes in the
22 minimum standards to maintain the most harmful
23 practices.

24 In conclusion, I want to reiterate that

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2 BOC, the Board of Corrections, you guys, should
3 address the restrictive classifications alongside
4 restrictive housing in this rulemaking. I echo
5 and support the comments by my colleagues at
6 Legal Aid Society, UJC, JACK [phonetic] and HALT
7 Solitary Confinement, and I ask you and I implore
8 you to implement the blueprint to end solitary
9 confinement. Thank you

10 MS. SHERMAN: Thank you.

11 [APPLAUSE]

12 MS. SHERMAN: There's a question, Dr.
13 Cohen.

14 DR. COHEN: So, you're, you're, you're
15 not talking about red ID or enhan-, or enhanced
16 restraint housing. You're talking about a
17 classification?

18 MS. FARINACCIO: Yeah, the restrictive
19 classifications for restrictive housing.

20 DR. COHEN: Maximum medium you're
21 talking about? I mean, I --

22 MS. FARINACCIO: Yeah.

23 MR. RICHARDS: You mean like when people
24 go in, you give them a classification?

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2 MS. FARINACCIO: Right, yeah.

3 MR. RICHARDS: Which means they can go
4 into [unintelligible] [01:13:07] --

5 DR. COHEN: And, and the housing in dorm
6 versus, versus, versus cell, I mean there, there,
7 there are different kinds, you know, obviously
8 for all, for different classifications.

9 MS. FARINACCIO: Right. We're talking
10 about specific rules for restrictive --

11 DR. COHEN: And what facility were you
12 dis-, were you referencing?

13 MS. FARINACCIO: All of them.

14 DR. COHEN: Well, the one you gave
15 examples of individuals, I'm sorry.

16 MS. FARINACCIO: Oh, the BDS clients?

17 DR. COHEN: Yeah.

18 MS. FARINACCIO: Those were -- what?

19 UNIDENTIFIED FEMALE: AMKC.

20 DR. COHEN: AMKC? Okay.

21 MS. FARINACCIO: Thank you.

22 MS. SHERMAN: Thank You. Mr. Murray.

23 Good morning.

24 MR. HERBERT MURRAY: Good morning.

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2 First and foremost, I appreciate y'all having
3 this conversation with us, those and especially
4 those who've been impacted, because it is very
5 critical that we eliminate solitary confinement.
6 My name is Herbert Murray. When I was 21 years
7 old, I was arrested for a murder I didn't commit.
8 But after two years and two trials, I was found
9 guilty and sentenced to 15 years to life.
10 Subsequently, I did 29 years in prison. Between
11 Brooklyn House of Detention, Rikers Island and
12 Upstate Correction Facility, I did approximately
13 ten years in solitary confinement.

14 I used to become so angry because of my
15 being alone and isolated. I still talk to myself
16 because of not having no one to talk to for so
17 many years of being isolated. I remember my
18 anger became so threatened to myself and others,
19 I started drinking sleeping medication so I
20 wouldn't harm myself or others. When former
21 Governor George Pataki came into office, he built
22 special housing units, S blocks, that required
23 two people, not one person, but two people in a
24 cell in solitary confinement. And I heard those

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2 stories, how people'd been raped, assaulted and
3 some cases murdered but it was covered. On one
4 occasion, they placed me, they placed a mentally
5 disturbed person in the same cell with me. Every
6 time I woke up, he will be standing over me just
7 smiling. And as I mentioned, the stories that I
8 heard from people in S blocks was unbelievable.

9 I've been home 12 years and the effects
10 of solitary confinement still haunt me when it
11 comes to family and relationship. I tried living
12 with a female on two different an occasion but
13 each time I moved out, because I want to be
14 alone. I did not adjust. I don't think a person
15 could ever adjust being locked in a cage like an
16 animal. It just haunts you on and on and on
17 because but when those lights are cut off, your
18 mind start thinking. And the worst thing that
19 you can imagine come to you and you've tried to
20 overcome it and you can't.

21 I am just beginning to really get a grip
22 on my anger from being isolated so many years.
23 No form of being in jail, within a jail cell
24 that's not equipped for a dog will promote good

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2 behavior. Under no circumstances, you cannot,
3 cannot do it. And DOC are very abusive. And
4 who's going make those decisions when we sitting
5 before the committee, and, and he give us 90 days
6 and then he supposedly only gave us ten days.
7 Who's watching? Who's really watching?

8 Solitary confinement is torture. It has
9 caused physical, psychological and emotional
10 harm. New York City must take immediate action
11 to finally end solitary confinement in its
12 entirety and develop effective program that will
13 assist in the growth of the individual, as
14 opposed to causing more harm to the person.

15 In closing, adopt the blueprint that
16 Just Leadership USA has formulated so that, to
17 halt solitary confinement in its entirety. Thank
18 you.

19 MS. SHERMAN: Thank you very much.

20 [APPLAUSE]

21 MS. SHERMAN: Good morning.

22 MR. HARVEY MURPHY: Good morning. Good
23 morning, good morning. My name is Harvey Murphy.
24 I'm from Just Leadership USA. I just want to, I

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2 just want to give a shout out to my individuals
3 that get up here and speak about these stories.
4 And honestly, just hearing their stories is
5 triggering, is very, very triggering at me,
6 knowing I had to deal with the -- I dealt with
7 solitary confinement, I just I just want to paint
8 this picture to you guys, right.

9 Just try to imagine right, you walking
10 up on a cage with a stick and a dog is inside the
11 cage. And you take the stick and you keep poking
12 at the dog, you keep poking at the dog, just keep
13 poking at this dog. Eventually, this dog is
14 going have a attitude, this dog is going be
15 upset. I'm a little upset at, I'm, I'm a little
16 upset right now. But it, it, it's honestly an
17 honor to be up here to speak about the
18 indifferences, because people is dealing with
19 solitary confinement as we speak. Just that
20 picture of a dog in a cage and somebody just
21 poking at it and just keep poking at it. I was
22 the animal that was in cell 22. It was don't
23 feed cell 22, give cell 22 the loaf. He's a
24 animal.

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2 You know, I had a whole song and a
3 dance, I had a whole speech up here, but when I
4 sit down and I hear these stories, I -- it, it,
5 it's just real triggering. It's triggering
6 because I was that animal in cell 22. I was
7 chained to a desk as a kid. How do we expect to
8 learn when you're being called an animal, you're
9 being treated like an animal. I was chained to a
10 desk to take a midterm when I was incarcerated on
11 Rikers Island. I couldn't even function right
12 because the CO just put the cuffs just a little
13 too tight on my ankle. I asked the teacher, I
14 complained about it. Nobody did nothing.

15 I just wanted to say it's, like it's a
16 pleasure and it's an honor to hear my comrades
17 speak about the in-depths because it hurts man,
18 it hurts. And it takes a lot of courage man.
19 Honestly I don't even have the courage to stand
20 up here. I had a whole speech. But again,
21 hearing my comrades speak about the in-depths and
22 then think about the situation that I dealt with,
23 I'm not an animal y'all. I'm a highly respected
24 member of my community. I go to church. I'm,

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2 I'm a community organizer for Just Leadership
3 USA. I met this man in Fortune Society. I'm not
4 no animal y'all. I'm a human being. So, I ask
5 that we treat people like human being. I just
6 want to say I thank you, y'all.

7 MS. SHERMAN: Thank you, thank you very
8 much for your words.

9 [APPLAUSE]

10 MS. SHERMAN: I'm going call the next
11 three people to testify. Irene Cedano, Simone
12 Spirig and Julia Solomons.

13 MS. IRENE CEDANO: Good morning um my
14 name is Irene Cedano. I'm a jail services
15 advocate at Brooklyn Defender Services. I echo
16 the comments this morning made by my colleagues
17 at the Legal Aid Society, the Urban Justice
18 Center, the New York City Jails Action Co-
19 Coalition and the HALT Solitary Campaign.

20 My comments this morning will focus on
21 the need to define out of cell time, the
22 importance of meaningful and qualitative programs
23 and exist- existing barriers to meaningful out of
24 cell time that must be addressed, as we move

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2 forward in rulemaking. I visit incarcerated
3 people in New York City jails every week and
4 advocate for their welfare and basic human
5 rights. Time and again, I hear commonalities
6 amongst people, especially young people housed in
7 special units, special units, who are not
8 afforded basic information about their unit,
9 including how much out of cell time they get or
10 what it should look like. When these people, or
11 my colleagues and I as their advocates, reach out
12 to the Department, we're met with a semantic
13 battle over the term restrictive housing, rather
14 than a meaningful plan to provide necessary
15 services.

16 No one can question the critical role
17 meaningful out of cell time plays in preventing
18 decompensation and ensuring the most basic level
19 of safety for people who are isolated in
20 restrictive housing. Medical professionals,
21 security experts, human rights scholars and
22 advocates have all stressed that people in
23 isolation must have access to out of cell time
24 and that that time must be meaningful. Despite

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2 near universal agreement on the importance of
3 meaningful out of cell time, the Department fails
4 time and again to provide appropriate and
5 sufficient out of cell time for people in their
6 custody.

7 The Board is well aware of this
8 deficiency. In your report on ESH in 27-, 2017,
9 Board staff recognized that people aren't
10 afforded the requ- requisite time out of cell,
11 requisite time out of cell due to staff shortages
12 and staff running late to their post.
13 Nonetheless, the proposed rules ignores the sys-
14 systemic shortcoming by failing to define
15 meaningful out of cell time and forgoing
16 necessary safeguards.

17 What should out of cell time look like?
18 The concept that out of cell time should be
19 meaningful stems from the Mandela rules adopted
20 by the United Nations. Those rules relied on the
21 concept of meaningful human contact to define
22 isolation. The United Nation recognized that
23 human beings require mental, physical and
24 emotional contact to survive. The American Bar

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2 Association has similarly recognized that all
3 people, including those in segregation be
4 provided meaningful forms of mental, physical and
5 social stimulation. Inherent in those concepts
6 is a reality that incidental or obligatory
7 contact is insufficient. Out of cell time is
8 compromised -- if out of cell time is compromised
9 of walking handcuffed through a corridor,
10 listening to commands of an officer, ICS course
11 due to an appointment or answering a medical
12 provider's questions through a door, the whole
13 purpose of out of cell time is undermined.

14 Instead, people must have engaging face-
15 to-face interaction with other human beings.
16 Equally important, people must not be forced to
17 choose between basic health or legal obligations
18 and the opportunity to participate in meaningful,
19 engaging programming. If legal visits, showers
20 or medical appointments count as out of cell
21 time, the notion of mental physical and social
22 stimulation is completely lost. These concepts
23 must be inherent in these rules and we urge the
24 board to define adequate out of cell time that is

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2 meaningful and not merely compromise of
3 incidental or obligatory contact.

4 The reality for many of our clients is
5 that out of cell time is exactly the type of
6 incidental contact that the United Nations and
7 the American Bar Association have sought to
8 exclude. People in our jails regularly wait
9 hours for escorts to bring them to visits,
10 appointments and programs. Just a week ago, I
11 waited over two hours to meet with a person
12 housed in TRU, a form of restrictive housing at
13 RNDC while the man I was meeting sat in a
14 dayroom, confused and anxious as he waited for an
15 escort. After our visits, the same man waited
16 over an hour before DOC arrived to take him back
17 to his housing area.

18 While the man was technically out of his
19 cell for approximately four hours for a legal
20 visit, none of it was a type of meaningful
21 engagement that the United Nations and the
22 American Bar Association recognized as critical.
23 Even if the time the man spent in the actual
24 meeting were to count towards out of cell time,

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2 more than three-quarters of his out of cell time
3 did not include mental, physical or social
4 stimulation at all, as he waited for an escort.

5 This is not unique to counsel visits nor
6 to people in TRU. The amount people, the amount
7 of time people wait due to lack of escorts by the
8 Department is staggering. The Department must
9 not allow to, must not be allowed to rely on
10 inadequate staffing or insufficient management to
11 further isolate people during time physically
12 outside of their cells. Contrary to Commissioner
13 Brann's suggestion, legal visits court
14 appearances, medical appointments and basic
15 hygiene should be seen, should not be seen as
16 amenities, but rather a necessity.

17 Equally problematic, certain units by
18 design, prevent people from any meaningful,
19 meaningful human out of cell time. Units
20 designed so that when a person leaves their,
21 leaves their cage of a cell, they only enter into
22 another cage, violate the entire concept and
23 spirit of meaningful out of cell time.

24 We recently represented a young man who

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2 was held in a restraint unit in NIC. Anytime he
3 was allowed to leave his cell, presumably for
4 mandated out of cell time, he was only allowed to
5 go a few to go a few, to go a few feet out of his
6 physical cell, but remain literally caged alone
7 and isolated. These units provide none of the
8 meaningful stimulation that is critical to
9 counteracting at least some of the torture of
10 these units. I urge the board to ensure that
11 meaningful out of cell time is just that,
12 meaningful and out of a cell. Thank you.

13 MS. SHERMAN: Thank you.

14 [APPLAUSE]

15 MS. SIMONE SPIRIG: Good morning, my
16 name is Simone Spirig and I'm the jail services
17 social worker at Brooklyn Defender Services.
18 Each week, I visit people from across New York
19 who are incarcerated in our city's jails and I've
20 repeatedly seen the Department create new units
21 to isolate people under the guise of security
22 concerns. Each time, they do so without
23 transparency or accountability for the novel
24 approach.

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2 Housing and security designations,
3 including separation status and deadlock, are
4 forms of extreme isolation used by DOC that deny
5 people's basic human necessities with no
6 meaningful way to appeal and without any imposed
7 time limitations. The Board should no longer be
8 complicit in the torture of people in our city's
9 jails.

10 In the past month alone, I met with
11 three people who have been subjected to deadlock
12 status. While on deadlock, my clients were
13 denied access to all services, including phone,
14 showers, rec and law library. All three were
15 subjected to 24 hours locked inside their
16 individual cell in a general population housing
17 unit. This extreme restriction in what are
18 supposed to be regular, general population units
19 highlights the lack of oversight by the Board and
20 demonstrates how the Department can and does
21 regularly bypass minimum standards designed to
22 protect people who are incarcerated.

23 I'd like to share the words of a person
24 I met recently who was held on deadlock status.

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2 I'm already an inmate. The little
3 freedoms I had access to without a warning are
4 suddenly denied. I'm reduced to a mere pet on
5 the top tier that the COs are reluctant to do the
6 bare minimum for, such as feeding me and I was
7 lucky to even get that. Food is slid under the
8 bottom of a dirty, filthy, dusty cell door. I
9 didn't have access to a shower or a phone call.
10 There's barely any communication at all. I felt
11 like a leper, like I was ostracized. All I'm
12 told, if I'm told anything at all, is that it's a
13 security issue.

14 Stage one is anxiety, which is the first
15 to start kicking in. My Nana had just recently
16 passed. I 'm going back and forth to criminal and
17 family court and now I'm deadlocked. The DOC is
18 dragging their feet to get me down to medical.
19 After a while, my rationale becomes that the DOC
20 is trying to kill me. Days go by and still
21 nothing. I'm able to tell the time that has
22 passed and the days, based on my meal time, if my
23 meals even come. Sometimes, people in the house
24 would slide snacks or food under door for me to

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2 eat, but without my cell door getting open how am
3 I getting hot water to make the soup.

4 Stage two is depression. I'm reduced to
5 a state of something subhuman. I still haven't
6 received a shower or a phone call going on a few
7 days now. Slowly, I start becoming sullen and
8 withdrawn. To use the word inhumane still
9 wouldn't accurately describe the way I was being
10 handled or how I just had to deal with it. I
11 wasn't even afforded my religious services. And
12 in situations like this, faith is definitely
13 needed. But in my case, I'm just a number of a
14 cell.

15 Stage three is suicidal thoughts. It
16 wasn't really like I was trying to kill myself,
17 but more so I just wanted out of the cell bad
18 enough I'm ready to run headfirst into the walls.
19 It's like Zora Neale Hurston said, if you are
20 silent about your pain, they'll kill you and say
21 you enjoyed it.

22 I urge the Board to go further during
23 this rulemaking process. If we're serious about
24 treating those be incarcerate like human beings,

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2 the rules need to be comprehensive and eliminate
3 any possibility of violating the minimum
4 standards. The Board must not rubber stand the
5 Department's requests to continuously and
6 indefinitely isolate people in our city's jails.
7 The Board needs to demand transparency. We need
8 to address these concerning conditions and have
9 meaningful protocols in place for all forms of
10 isolation, not just some.

11 And I just want to add quickly that I
12 think it's pretty shameful that none of the
13 Department is here today to listen to our
14 testimony and be part of this process. Thank you
15 for your consideration.

16 MS. SHERMAN: Thank you.

17 [APPLAUSE]

18 MS. SHERMAN: And thank you for bringing
19 deadlock status to, to our attention.

20 DR. COHEN: We're going follow up on
21 the, on the deadlock issue. I, I, I am
22 embarrassed that I was not aware of this. I mean
23 terrible things happen on Rikers Island. There's
24 certainly no policy called deadlock. Any officer

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2 who does it should, should, you know, should not
3 be able to do it. If the Department is aware of
4 it, that's unacceptable. It doesn't mean there
5 are a million other unacceptable things here.
6 But I've never even heard the word deadlock
7 before. And, and I promise you that the Board
8 will, will invest-, will, will, will investigate
9 this. And, and if and if you could provide the
10 names of individuals who would agree to be
11 interviewed about this, I'll be on Rikers on
12 Thursday.

13 MR. RICHARDS: And the facility. And
14 the facility as well.

15 MS. SHERMAN: Names and facility would
16 be helpful.

17 MS. SPIRIG: [unintelligible]

18 [01:33:08].

19 MS. SHERMAN: Thank you.

20 DR. COHEN: Thank you.

21 MS. SHERMAN: We'll follow up, thank
22 you.

23 MS. JULIA SOLOMONS: Good morning,
24 Chair Sherman.

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2 MS. SHERMAN: Good morning.

3 MS. SOLOMONS: And members of the Board.

4 My name is Julia Solomons. I'm a social worker
5 and policy advocate with the Bronx Defenders.
6 I'm also a member of the Jails Action Coalition.
7 I'm here today both to commend the Board in
8 taking this long-awaited step in proposing a new
9 rule with regard to restrictive housing as well
10 as to express our grave concern that this rule
11 will not achieve the desired results, especially
12 with regard to due process and procedural justice
13 for people in custody. As public defenders we
14 know how critical the right to due process is.
15 And the only way to ensure true due process is to
16 grant our clients and all people in custody the
17 right to legal representation in the disciplinary
18 process.

19 It's very likely that the number of
20 people sanctioned to restrictive housing would be
21 greatly reduced if there was true due process and
22 every hearing and that would change this
23 conversation entirely. While we support the
24 Board's requirement of videotaping refusals for

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2 disciplinary hearings in the proposed rule, we do
3 not believe it suffices if we truly aim to
4 achieve procedural justice. No one should ever
5 receive an infraction that has an accompanying,
6 accompanying consequence without a fair hearing.
7 And a hearing cannot truly be fair without the
8 right to have an attorney or advocate present at
9 that hearing.

10 Our clients regularly report that they
11 are not produced for their disciplinary hearings.
12 Twice in the past two weeks, we've received
13 reports that our clients were sentenced to time
14 in punitive segregation without being present at
15 the hearing. The Department documented it as a
16 refusal, but our clients were never notified.

17 Our clients perceive this process as
18 stacked against them and believe that the
19 hearings exist in name only so often do not even
20 try to fight for themselves because they believe
21 that their efforts are fruitless. The power
22 dynamic in an incarcerated setting is such that
23 there is no true procedural justice without the
24 right to an advocate. We see that especially

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2 when infractions pertain to an interaction with
3 an officer, our clients' rights are compromised.
4 They are retaliated against by the Department in
5 the form of denial of videoconferences, their one
6 hour of rec time and sometimes incidents as
7 egregious as glass in their food.

8 Defense attorneys and advocates, as a
9 matter of course, follow our clients to
10 collateral hearings at the DMV and Family Court
11 and elsewhere. Allowing an advocate to be
12 present at these disciplinary hearings would not
13 require additional resources on the part of the
14 Department but simply a notification to defense
15 counsel.

16 Additionally, we believe that seven days
17 is far too long to hold someone in prehearing
18 detention, defined as such in the proposed rule.
19 From arrest to arraignment, in the five boroughs
20 24 hours is a standard wait time and requires far
21 more coordination amongst more parties than a
22 disciplinary hearing requires within the jail.
23 There is no reason someone should serve half of
24 the United Nations standard of torture, 15 days,

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2 before any opportunity to prove their innocence.

3 Unfortunately, four minutes is not long
4 enough for me to detail the horror stories that
5 we hear from our clients that are experiencing
6 isolation in all of its forms. But we will
7 provide more detail in that regard in our written
8 submission.

9 I do want to briefly highlight the
10 positive feedback that we hear about the CAPS
11 unit the Clinical Alternatives to Puni- Punitive
12 Segregation. We have actually seen our clients
13 make real positive changes while on that unit and
14 this is because true support and addressing of
15 individual needs is what actually changes
16 behavior. We see absolutely no reason that the
17 CAPS model cannot be applied univers- university,
18 universally to all people in custody. For this
19 reason and many others, we along with many
20 advocates that have already testified here today
21 as well as elected officials, strongly support
22 and believe in the blueprint to end solitary
23 confinement created by the Jail's Action
24 Coalition and the HALT Solitary Campaign. This

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2 is absolutely our clearest road forward towards
3 providing people in custody with real avenues for
4 transformative change and thus creating true
5 culture change and increased safety within our
6 city jails. We implore you, the Board as an
7 oversight body to please take real undiluted
8 action on this issue. Thank you.

9 MS. SHERMAN: Thank you.

10 [APPLAUSE]

11 MS. SHERMAN: Dr. Cohen.

12 DR. COHEN: Yeah, I have two, two
13 questions. The issue of representation, we've
14 discussed this with, this was something that was
15 considered and, and, and not present in the in
16 the final version of the rule. One of the
17 responses was the cost to the city of, of the, of
18 having counter representation, which I think is a
19 legitimate question. And I wonder if you had any
20 comment on that.

21 And the second, I mean and then I'm
22 concerned about people -- since the, it's now the
23 Department's policy to arrest people for, for
24 infractions, not, not, not in all cases, but as

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2 a, but as a particular -- it's the Department's
3 policy and it's the Bronx DA's policy. This is,
4 this is a way that that she in, in the -- that
5 the Commissioner and the Bronx DA are committed
6 to addressing violence is by is by arresting
7 people for, you know, for infractions, then do
8 you have a comment on the sort of the problem of
9 giving testimony in a, in a, in a infraction
10 hearing, when someone is facing state time in, in
11 the, in the Bronx?

12 MS. SOLOMONS: Right. Yes, thank you
13 for bringing that up. I think that's one of the
14 reasons why we think it's critical to have
15 defense counsel at those hearings and because it
16 is true that if someone says something on the
17 record at one of those hearings it can be used
18 against them in a criminal court proceeding.
19 And, and so, for that reason, their defense
20 attorney should absolutely be present. As to
21 your first question, I think we can sort of lay
22 out a more comprehensive plan for how access to
23 counsel could work in disciplinary hearings. But
24 I think we, if we were notified that our clients

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2 had a disciplinary hearing, at least I can speak
3 for the Bronx Defenders, we would do everything
4 in our power to send an advocate. And it
5 wouldn't necessarily need to be an attorney, but
6 just an advocate to be present with them at that
7 hearing to create some sense of balance.

8 DR. COHEN: Thank you very much.

9 MS. SHERMAN: Thank you.

10 [APPLAUSE]

11 MS. SHERMAN: I'm going call on Public
12 Advocate Jumaane Williams. After the Public
13 Advocate gives his testimony, we are going to
14 take a very, very brief break. We're going take
15 a five-minute break after the Public Advocate
16 gives his testimony.

17 MR. JUMAANE WILLIAMS: Good morning,
18 everyone. My name is Jumaane Williams. I'm the
19 public advocate for the City of New York. I just
20 want to thank everybody for being here and for
21 you allowing this testimony. As the City's
22 watchdog, it is my duty to protect the rights of
23 all New Yorkers including the roughly 7,000 New
24 Yorkers who are housed in the Department of

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2 Correction DOC facilities. Again, I would like
3 to thank the Board for holding this hearing and
4 giving the public an opportunity to have their
5 voices heard on this critically important
6 proposed rule.

7 A member of my team testified at the
8 Board's October 22nd meeting. Restrictive
9 housing, punitive segregation, separation status,
10 whatever we call it, solitary confinement is a
11 torturous punishment that causes deep and
12 permanent psych- psychological, physical and
13 social harm. It is been proven to be
14 ineffective, counterproductive and unsafe
15 disciplinary practice that fails to address the
16 underlying cause of problematic behavior. We
17 must end solitary confinement in the City of New
18 York now.

19 The Board's rule must be revised to
20 reflect this moral imperative, 15 days in
21 solitary confinement is 15 days too long.
22 Through this rulemaking process, New York City
23 has an opportunity to serve as a model for the
24 nation in defending basic human rights. I call

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2 on the Board to fully end solitary confinement in
3 New York City by adopting the comprehensive
4 blueprint put forward by the New York City Jails
5 Action Coalition and the HALT Solitary Campaign,
6 as this blueprint makes clear ending solitary
7 confinement does not require a radical overhaul
8 of existing protocols.

9 In order to end this shameful chapter in
10 our city's history, we need to strengthen
11 existing standards and follow the example of
12 previous efforts that have successfully replaced
13 punitive segregation with alternatives that
14 prioritize rehabilitation, health, safety and
15 basic human rights. One specific example that I
16 have, I want to raise is the Clinical Alternative
17 to Punitive Segregation or CAPS program that has
18 already been implemented in New York City jails
19 for those living with serious mental illness.

20 Instead of placing folks in solitary
21 units that only exacerbate existing behavioral
22 problems, the program provides intense program,
23 programming, out of cell time, therapy and
24 recreational activities. This has resulted in

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2 improving outcomes and safety, including a
3 significant decrease in self harm and injury.
4 The success of CAPS should not be confined to
5 those serious mental illness, for those with
6 serious mental illness.

7 This approach can and should be applied
8 for all New Yorkers in DOC facilities. I'll end
9 by saying that the stakes are too high here for
10 this city to be taking half measures and
11 exporting bureaucratic loopholes that continue
12 the practice of solitary confinement. Passing
13 emergency variances for so-called separation
14 status, issuing substitution orders to send young
15 New York City residents to sit in solitary cells
16 upstate and capitulating to watered-down rules
17 like the ones before us today are how we end up
18 with more tragedies like the preventable deaths
19 of Layleen Polanco and Kalief Browder.

20 We can and we must end solitary
21 confinement New York City and I implore the Board
22 to revise and pass rules that will make this
23 happen. Thank you for your time consideration.
24 I do want to say it took me a while to get to

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2 this position. I was not automatically there.
3 My staff will tell you, through many
4 conversations so I can fully understand. And
5 what came to me is that we haven't had a
6 discussion in confusing separation with
7 isolation. And I think most folks understand if
8 there is problematic behavior or a problem, we do
9 need to separate someone to get that corrected.
10 But that does not mean we have to isolate them,
11 and that is where the torturous behavior becomes.
12 So, I think there are programs that are in place
13 that can get what we need to get without the
14 isolation that we know not only caused damage to
15 the person, but if it was a problem-solver I
16 think the problems would have been solved already
17 and I just keep hearing about more violence that
18 is occurring, not less. Thank you so much.

19 MS. SHERMAN: Thank you. Thank you very
20 much for coming today.

21 [APPLAUSE]

22 MS. SHERMAN: As stated we're going to
23 take a very brief break. We will return in five
24 minutes.

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2 [OFF THE RECORD]

3 [ON THE RECORD]

4 MS. SHERMAN: Now, I'm going call the
5 next three speakers. Julia Davis, Claudia
6 Forrester and Jessica Young. Okay, Mik Kincaid.
7 Good morning.

8 MS. JULIA DAVIS: Good morning. My name
9 is Julia Davis and I'm with the Children's
10 Defense Fund. It's nice to see all of you again
11 today. I want to acknowledge that the Department
12 is not here and I think it's an important fact as
13 we think about the work going forward and we
14 think about the types of ideas and questions and
15 comments that have come from the community and
16 have come from the Board itself that remain
17 unanswered.

18 And while the advocates who have been so
19 engaged in this process , you know, been
20 described as anonymous, as influencing this
21 process in ways that suggest that we are somehow
22 acting in an untoward manner, we are the ones
23 here today testifying publicly on the record
24 about where this work needs to go.

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2 I want to start with the young adult
3 plan and the fact that the language in the
4 current proposal actually strikes the duty to
5 provide programming to young people. Not only
6 have we seen a retreat from this programmatically
7 in the jails, which I know that you're aware of,
8 but what we see in these proposed rules is
9 language that actually strikes that obligation
10 all together. While there's a duty to report on
11 the young adult plan, there's actually no duty
12 there to provide those services. We also think
13 that the language in that section around the
14 young adults needs to clarify that all young
15 adults need to have access to programming and
16 services regardless of what housing area they are
17 ultimately placed in.

18 With regard to the young adult housing
19 areas, the proposal also changes the duty around
20 that. Young adults, since this Board initiated
21 the reforms to end solitary confinement, were
22 intentionally seen as a group that has unique
23 needs. You know that. The housing areas are
24 supposed to meet those needs and to address what

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2 we know is inevitable, which is conflict and
3 violence among young people. So, the proposal,
4 which actually short circuits that and sends
5 young people involved in violence or conflict
6 outside of those settings is really
7 counterproductive. And it doesn't make sense
8 with the obligations that you've set forth that
9 the Department create a reasonable disci-
10 discipline plan for young people, one that
11 actually incorporates concepts of restorative
12 justice. So, while there will be inevitably
13 temporary times when young people have to come
14 out of these settings, they must be returned and
15 there has to be a process for them to return.
16 Because we know that these settings are actually
17 created for their benefit and that's where they
18 get services. So, you'll see in my written
19 comment that we've submitted some detailed
20 suggestions around those types of provisions.

21 Let's talk about the discipline. The
22 absence of a operative discipline program in the
23 jails is something that the Nunez Monitor
24 highlighted as a major contributor to the

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2 violence and the abuses of young people. The
3 Department offered no insight on that at the last
4 meeting. And currently, your proposal requires
5 the Department to first seek and obtain approval
6 by the Nunez Monitor before they even submit a
7 plan to you. And that's absolutely unacceptable.
8 You are an independent body. You have the
9 opportunity to review and approve an appropriate
10 discipline plan. You've set forth the boundaries
11 of that plan in your proposal. You know what you
12 need. The Department should have to prepare one,
13 submit it to you and implement it. We cannot
14 wait for the Nunez Monitor.

15 The shackling of young people is
16 outrageous. We have to end it immediately. The
17 Department is already operating at Horizon
18 without shackling young people. They've been
19 doing it for a year. It's incredibly frustrating
20 that they have convinced you that they need more
21 time to phase out that process when they've
22 already been doing it. That needs to stop
23 immediately, not only in individualized use, but
24 in for generalized use, for any kind of use.

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2 It's simply inappropriate and it's
3 counterproductive to the types of reforms you
4 want to see.

5 With regard to punitive segregation,
6 I'll just say that what we have proposed will not
7 work. Putting young people and by that I mean
8 people over the age of 21 and under the age of 25
9 or any people on the island in this type of
10 isolation for sustained periods will not reduce
11 the violence. What we have to do is consider an
12 alternative approach that responds to the needs
13 of people, that capitalizes on the works of CAPS,
14 that capitalizes on what we know actually
15 promotes safety. And that's the direction this
16 board must go in. Thank you.

17 [APPLAUSE]

18 MS. SHERMAN: Thank you. Good morning.

19 MS. CLAUDIA FORRESTER: Good morning.

20 My name is Claudia Forrester and I'm a jail
21 services advocate at Brooklyn Defender Services
22 and I visit people incarcerated on Rikers Island
23 on a weekly basis. Thank you for the opportunity
24 to testify this morning. I want to echo the

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2 recommendations raised by formerly and currently
3 incarcerated people, who have direct experience
4 with the horrors of isolation, as well as the
5 advocates here today.

6 My comments will focus on the exclusions
7 for the various restrictive housing units and the
8 shameful lack of time limits on most forms of
9 restrictive housing. I stand with the blueprint
10 for ending solitary in New York jails, to ensure
11 that the Board of Correction minimum standards
12 for out of cell time apply to all people in city
13 jails, by removing exceptions to those standards
14 for punitive segregation and ESH units.

15 In the proposed rules and in countless
16 comments made in the Board's meetings, the Board
17 implicitly acknowledges time and again how
18 dangerous these units are for all people. Yet
19 the rules themselves don't go far enough to limit
20 these harms. While the proposed rules increase
21 required out of cell time and punitive
22 segregation, four out of, four hours out of cell
23 is simply not enough to ensure that people are
24 safe mentally and physically. The rules

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2 themselves acknowledge this reality in the
3 exclusions.

4 While it is justified to recognize that
5 the conditions in ESH and PSEG1 are not
6 appropriate for pregnant women, young adults and
7 other vulnerable populations, social and medical
8 science demonstrates that such conditions are not
9 humane for anyone. Even more troubling though,
10 is the arbitrary nature of the different levels
11 of exclusions for the different restrictive
12 housings. If it is dangerous for pregnant people
13 and people over the age of 50 to be subjected to
14 PSEG1, why is it okay for them to be in PSEG2?

15 Isolation is dangerous for anyone and
16 allowing these vulnerable people to be caged
17 alone in a cell for 17 hours a day in PSEG2 as
18 opposed to 20 hours a day in PSEG1 is careless at
19 best and willful blindness to the dangers at
20 worst, not to mention that the proposed rules
21 provide no time limit for incarceration in PSEG2,
22 meaning 17 hour a day lock-in could be
23 indefinite.

24 Subjecting a pregnant person to any

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2 level of restrictive housing is barbaric. In
3 2015, the Correctional Association of New York
4 released a report stating that solitary is
5 especially dangerous for pregnant women, because
6 it impedes access to critical OB care and
7 prevents women from getting the regular exercise
8 and movement that are vital for a healthy
9 pregnancy. High levels of stress are hazardous
10 for preg- pregnant women, lowering their ability
11 to fight infection and increasing the risk of
12 preterm labor, miscarriage and low birth weight
13 in babies.

14 Restrictive housing almost guarantees
15 that incarcerated people will leave isolation as
16 less healthy individuals. This is even more true
17 for individuals over the age of 50. 2018, Yale
18 University's research on solitary confinement
19 recognized that when subjected to a lack of
20 physical exercise and loneliness, older adults
21 have an elevated risk for the early, earlier
22 onset of dementia physical deconditioning that
23 results in a heightened risk of falls, vitamin D
24 deficiency and cardiovascular disease.

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2 Equally disturbing, these propo-
3 proposed rules allowed DOC to isolate young
4 people, despite data that confirms that
5 restrictive housing causes permanent
6 developmental damage. Back in 2015, the Mayor
7 announced the elimination of solitary confinement
8 for adolescents and young adults because of this
9 reality. Yet today we are discussing rules which
10 allow young people to be placed in restrictive
11 housing, again without time limits. Rather than
12 representing bold progress that is warranted
13 after the deaths of too many New Yorkers,
14 including Kalief Browder and Layleen Polanco,
15 these proposed rules only codify years' worth of
16 variances requested by the Department. In 2014,
17 this board voted to exclude young adults from
18 ESH, but now the proposed rules that you
19 released, would subject young people, whose
20 brains are still developing to torturous
21 conditions of restrictive housing all without a
22 clear path to advance out of the unit or strict
23 time limits that would prevent the indefinite
24 placement in such units.

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2 This is a shameful step backwards. No
3 one should be subjected to the dangerous
4 conditions of restricted housing, but at the very
5 least, the Board should exclude those individuals
6 most at risk from all levels of restrictive
7 housing.

8 For our young people and our older
9 people, for pregnant people and for all people,
10 it is ironic that the reasoning behind
11 restrictive housing is always safety. Yet the
12 research and data unanimously shows that when we
13 isolate people and treat them as less deserving,
14 we actually make our jails and our communities
15 unsafe. We urge the board to extend the
16 exclusions and to impose strict and set time
17 limits for each and every form of restrictive
18 housing. To truly meet the security goal, we
19 must invest in the strategies that uplift people
20 and decrease violence, rather than signing on to
21 torture people indefinitely. Thank you.

22 MS. SHERMAN: Thank you.

23 [APPLAUSE]

24 MS. SHERMAN: Good morning.

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2 MR. MIK KINKEAD: Good morning. Hi, so
3 the last time I testified before you all, I was
4 with a Sylvia Rivera Law Project. I'm now with
5 Legal Aid Society. My testimony today is going
6 to focus on the reentry services that I provide.
7 And then I also have two short statements from
8 transgender women currently within the city jails
9 that I'm going to read at the end.

10 So, in my new position I am at EMTC
11 every Friday and RMSC every Thursday and I still
12 do my two classes between the trans housing unit
13 on Four South A and the general population trans
14 unit in Three South A. The services I provide
15 are general civil legal services, so anything
16 from eviction prevention to benefit support to
17 getting your IDs back, to correcting your name,
18 these are the services that I offer.

19 And the way the client meets with me is
20 that they have to be escorted from their housing
21 unit to the Support Center where I sit with the
22 other benefits workers, who do things like turn
23 on your Medicaid and turn on your food stamps.
24 When I first got this position, I thought was

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2 interesting that there were so many civilian
3 workers who were doing this Medicaid and food
4 stamp position, because I had hardly ever had a
5 client come home with their Medicaid turned on
6 and with their food stamps turned on. That
7 almost always was something we had to do
8 afterwards. And so, I was excited and interested
9 to hear there were so many folks in the city
10 jails doing this.

11 And one of the reasons I've now found
12 out that so few of my clients in the past have
13 come home with their benefits on is because,
14 generally speaking, if you're in restrictive
15 housing you do not get these services.

16 So, on average, my, my weekly calendar
17 is between ten to 12 people to meet with and I
18 actually meet with seven to eight people. And
19 the reason that these folks don't come down to
20 meet with me is because of restrictive housing.
21 I'm not, I'm never told the specifics, like I've
22 never told this person is in TRU, or this person
23 is in P block, I don't know that stuff. But I
24 know the general reasons.

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2 So, here are some examples. There's a
3 transgender woman in protective custody at EMTC
4 could not be brought down when any male
5 identified individuals were using the Support
6 Center. Now at EMTC, the Support Center includes
7 the video court, video court, and it includes
8 parole and it includes the Office of Child
9 Support Services, it includes CUCS benefits and
10 it includes me. So, anyone using those five
11 services would have to have left in order for her
12 to come see me. Not surprisingly, those services
13 are all busy. I didn't see her for over two
14 weeks. That meant that we had over two weeks
15 delay in a housing application, so when she came
16 home a week later, that housing application was
17 still pending, rather than her coming home
18 directly to housing.

19 There was a cisgender man at EMTC. He
20 was in a gang affiliated restrictive housing unit
21 and so he could not be in the Support Center
22 until everyone else had been seen. Again, there
23 are five different services in the Support
24 Center. He never got called down to see me and

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2 he ended up being discharged and I never got to
3 offer him any services. That also means he
4 didn't access any of the other services down
5 there, so if he had questions about his child
6 support, he had questions about benefits, he
7 didn't get to answer any of those questions.

8 On average, I see more people in some
9 form of isolated or restricted custody at RMSC
10 than at EMTC. And the majority of people I see
11 in some form of restricted housing identify as
12 transgender. I know this could be because I am
13 known among transgender populations on Rikers and
14 so it could be that transgender people, in some
15 form of isolated confinement ask for me more than
16 cisgender people do. I don't know. It could
17 also be because transgender people are more often
18 in isolated confinement than cisgender people
19 are.

20 And I just want to talk about the
21 physicality of this, for those of us who have not
22 had to witness it on our own bodies. My clients
23 come in with a chain around their waist and their
24 hands are shackled to that chain in the back.

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2 They then have them, their hands repositioned to
3 the front, where they are shackled again. Their
4 hands are covered in what looks like large black
5 foam cups. They completely cover the fingers and
6 most of the wrists.

7 The first time I ever saw a client like
8 this I actually thought it was a medical
9 apparatus. Because I met with so many people in
10 solitary confinement in the upstate prisons who
11 have never had their hands completely covered
12 before I couldn't figure out what it was. I
13 thought my client was injured, but no they were
14 just having their entire hands covered. Every
15 single time I have to ask them to sign a document
16 or to read something I have to ask the captain
17 who is staring and making eye contact with my
18 client the entire time, to come in and undo the
19 cups so that they can hold a document to read it
20 or so they can sign a document. Any time I give
21 them legal documents, it goes into a folder,
22 which I then hand to the captain. So, they don't
23 even hold their own legal documents. And, yes,
24 and again, again, like the captain makes direct

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2 eye contact with my client the entire time I am
3 meeting. So, anything that is of a sensitive
4 nature would be very, very difficult to discuss.

5 I really urge you to actually see these
6 different types of restriction that people have
7 to wear when they're leaving restrictive housing
8 because there is a very sort of innate reaction
9 when you see it, where you think, oh this is
10 wrong, this is -- we cannot do this to people.
11 And I think when we're sort of sitting here and
12 we don't have that visual, it's easy to forget
13 how intense it is.

14 And I also just want to echo what
15 everyone has been saying already about how
16 intense the medical and mental health aspects of
17 solitary are. So, I'm meeting with someone to
18 talk about something like a name change and we
19 have to sit for maybe 20 minutes and talk about
20 like how I'm not going to hurt them for them to
21 believe me that I will help them with a name
22 change, because the paranoia and the, you know,
23 sometimes the hallucinations, and all the
24 different things that come up when someone has

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2 been isolated can make it very, very hard for
3 them to engage in any kind of reentry services.

4 There have not been very good studies on
5 this but there was a study recently in North
6 Carolina. And they found that a quarter of
7 people who came home directly from solitary
8 confinement to the streets committed suicide.
9 So, I mean there's not enough studies on this,
10 it's very hard to say concretely these are the
11 facts. But, we know this already from all the
12 stories today, we know this already from the
13 people we love having gone through this that
14 it's, you know, I'm really honored that I get to
15 provide the services I provide. But my services
16 are meaningless if the person I'm mee-, meeting
17 with is so distraught and so upset that they
18 cannot even remember my name two seconds after
19 I've said it, which is often the case that people
20 can't remember who I am or what I did or what we
21 talked about.

22 So, that's my testimony and I will
23 submit that in writing as well. And then I
24 wanted to read a statement.

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2 My name is Venus. I'm a transgender
3 woman currently in the city jails. What everyone
4 on the Board of Corrections needs to know is that
5 solitary breaks you down. No matter how big or
6 small the cell, you can't walk out and you can
7 get fresh air. You can't walk away from a
8 problem. They tell you to walk away from it, but
9 you can't. You feel like an animal, like you're
10 losing touch with yourself. It's bad enough,
11 you're already losing touch with your family but
12 then this is worse. You're losing touch with
13 everything. They call them forget-me-nots cells.
14 They throw you in there and they forget you.

15 Being transgender once an officer put a
16 dead rat on a plate of food. They would stand in
17 front of the door and they would tell me that
18 unless I started to touch myself, I wouldn't get
19 toilet paper or food. Who would I tell about
20 this? They control my letters, they monitor my
21 visits. I have felt like nothing and I have felt
22 forgotten.

23 And this is the second one. This woman
24 wanted to be anonymous, but she's also a

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2 transgender woman currently inside the city
3 jails.

4 I want you to know that trans women are
5 treated differently even at RMSC. I invite the
6 Board -- I'm sorry. I am told you'll go to a
7 men's jail all the time. You know they don't say
8 that to the other women. We are handcuffed to
9 the tables because they won't place us in with us
10 the cis women. We are denied razors in
11 restrictive housing. Do you know what it feels
12 like to have something happening to your body
13 that is so deeply wrong? I'm already isolated
14 and I'm already different. And then I'm made to
15 have facial hair too.

16 I would complain but no one does rounds.
17 I know this because I'm there. I invite the
18 Board to only shower once every three days, I
19 invite the Board to have taken away from them
20 something of value to you that could not be
21 valuable to another person, like a photograph or
22 a letter. Thank you.

23 MS. SHERMAN: Thank you.

24 [APPLAUSE]

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2 MS. SHERMAN: Ruthie Lazenby, Ms. V and
3 Susanna Eckblad.

4 MS. RUTHIE LAZENBY: Good morning.

5 MS. SHERMAN: Good morning.

6 MS. LAZENBY: My name is Ruthie Lazenby.
7 I'm a legal fellow with New York Lawyers for the
8 Public Interest. New York Lawyers for the Public
9 Interest is a civil rights organization that
10 advocates for people with disabilities for equal
11 access to healthcare and for environmental
12 justice for low-income communities of color. I'm
13 also a person with a family member who was beaten
14 and mistreated and deprived of necessary
15 healthcare while incarcerated on Rikers Island
16 after an arrest due to an episode of severe
17 mental illness.

18 We call on the New York City Board of
19 Correction to end solitary confinement in all its
20 forms and to adopt humane, effective and safe
21 alternatives. Solitary confinement is
22 counterproductive to the aims of the justice
23 system, always harmful to the people subjected to
24 it and often violates international law.

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2 In 2011, the United Nations Special
3 Rapporteur on torture remarked, that solitary
4 confinement is contrary to one of the essential
5 aims of the penitentiary system, which is to
6 rehabilitate offenders and facilitate their
7 reintegration into society. He urged the
8 abolition of all punitive use of solitary
9 confinement.

10 Just this year, a new study published in
11 the Journal of the American Medical Association
12 confirmed his statements, finding that of
13 hundreds of thousands of people released from
14 prison over a 15 year period, people who had
15 spent time in solitary confinement were
16 significantly more likely to die including by
17 suicide, homicide and overdose and to be
18 reincarnated after release with the risks
19 increasing as the time and solitary increased.

20 The impact of solitary confinement on
21 psychological wellbeing has been well documented.
22 Psychological effects of solitary confinement
23 include anxiety, depression, anger, cognitive
24 disturbances, perceptual distortions, obsessive

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2 thoughts, paranoia and psychosis. The use of
3 solitary can spark a vicious cycle in which an
4 incarcerated person's mental health deteriorates
5 and they engage in acts of desperation, resulting
6 in further punitive measures.

7 Solitary confinement is wrong
8 unequivocally and should be ended. To the extent
9 that New York City continues the practice of
10 isolating people in solitary confinement at all,
11 the proposed rule presents a number of major
12 shortcomings. Critically, the rule provides for
13 exceptions that would allow solitary confinement
14 for torturous lengths of time in the
15 violation of international law, and fails
16 to provide adequate due process for individuals
17 in disciplinary hearings that
18 could result in solitary confinement.

19 First, not only does the proposed rule
20 allow for solitary confinement, it does so for
21 torturous lengths of time, in violation of
22 international law. In 2011 the then current U.N.
23 Special Rapporteur on torture, Juan Mendez
24 released a report concluding that the application

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2 of solitary confinement for more than 15 days in
3 and of itself constitutes prolonged solitary
4 confinement and cruel, inhuman and degrading
5 treatment or even torture in violation of Article
6 Seven of the International Covenant on Civil and
7 Political Rights, and Article One of the
8 convention against torture or cruel, inhuman or
9 degrading punishment, which the United States has
10 notably both signed and ratified.

11 The proposed rule is out of step with
12 this imperative. The proposed rule allows people
13 to be sentenced for sixty days in solitary
14 confinement for alleged assaults on staff, four
15 times the 15-day limitation under inter-, under
16 international law.

17 Additionally, the proposed rule would
18 still allow for unlimited time in solitary
19 because it would create exceptions to both the
20 requirement of seven days out of solitary after
21 serving 15 days and to limit, and to the limit of
22 60 total days in solitary in a six-month period.
23 The International Mandela rules unequivocally
24 prohibit indefinite solitary confinement. These

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2 loopholes must be closed to ensure that people
3 are not tortured while in DOC custody.

4 Second, the rule fails to provide
5 adequate due process for people charged with
6 violating the DOC's disciplinary rules. The
7 potential harm associated with solitary
8 confinement is enormous. Compared with
9 individuals who had been incarcerated but were
10 not placed in a restrictive setting, people who
11 had spent time in restrictive settings were 78
12 percent more likely to die by suicide and 127
13 percent more likely to die of an opioid overdose
14 in the first two weeks after their release.

15 Despite these severe consequences, the
16 BOC's proposed rule provides no mechanism for
17 individuals to be represented by a lawyer or any
18 other advocate at a disciplinary hearing. The
19 rule's requirement that an individual's criminal
20 defense attorney be notified when the individual
21 is charged with an infraction that could result
22 in solitary confinement is important, but far
23 from sufficient given the severity of the pot-
24 potential consequences. The rule should be

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2 changed to mandate that individuals be
3 represented during these crucial hearings.

4 We look forward to continuing to work
5 with the BOC to ensure that its rules are in line
6 with international standards and that people with
7 disabilities receive the care they need and the
8 due process justice requires. Thank you.

9 MS. SHERMAN: Thank you.

10 [APPLAUSE]

11 MS. SHERMAN: Good morning.

12 MS. VICTORIA PHILLIPS: Good morning.

13 I'm Ms. V. I'm a community health and justice
14 organizer at the Mental Health Project Urban
15 Justice Center. I'm also member the Jails Action
16 Coalition, and I've been a member since working
17 on Rikers and I joined back in 2012. I've
18 testified before this Board for the last eight
19 years begging many, many of you, all of you,
20 different faces of you in different times and
21 seasons to do the right thing.

22 I wasn't actually going to testify
23 today, but I always feel compelled when I hear
24 individuals who speak their own truth. And one

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2 of the main reasons I came forward years ago is
3 because so often people in position to make
4 change in power do not often actually believe
5 individuals and their direct truth. And so as
6 being a civilian worker doing cognitive
7 behavioral therapy on Rikers and in DOC
8 facilities, I felt it was very important to stand
9 with those formerly incarcerated when they come
10 before you and tell you their truth.

11 I think that very, it's important right
12 now, as when you start thinking about these rules
13 and these minimums to really dig into the
14 Monitors Report. This is the eighth report. If
15 change was going to happen, change would have
16 started to occur. The eighth report, to me is
17 like one of the worst reports, and it's left up
18 to you, the, the independent oversight, to
19 actually initiate change. So, we cannot talk
20 anymore about what we want to see. We have to
21 make it happen.

22 See one of the reasons, Akeem Browder,
23 Kalief Browder's brother actually respects me
24 because I worked on the Island with his brother.

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2 And I told him, when we was back in the day
3 talking about shut down Rikers, I told him, you
4 know, I'm in it for the long haul. I'm not going
5 nowhere I will help get your brother's truth out
6 and I did not disappear. In 2015, I had
7 emergency brain surgery. The very next week, I
8 could barely get my name out when I had my neuro
9 ICU nurse calling in to the advisory board
10 because I wanted DOC to know I wasn't going
11 anywhere. And I say that often to you, because I
12 want you to know how dedicated I am in his fight.

13 At the last meeting, I gave you a whole
14 list of stats and facts for you to go follow up
15 on, so I'm not going do that this time. Rerun
16 the tape if you missed it. But what I do want to
17 tell you is, is that everything you heard today
18 is true. Vidal spoke about programming. For
19 years, I was one of the people at City Council
20 fighting for DOC to get an extension in funds to
21 put these programs in place. Now they have the
22 programs, but individuals aren't being brought to
23 them. They make excuses all the way around the
24 Board. When we talk about solitary confinement,

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2 we can't talk about putting anyone in any type of
3 punishment without actually holding DOC
4 accountable. The Federal Monitor has clearly
5 told you DOC should not in any way be responsible
6 for young adults.

7 Now, Deecy Tulsie [phonetic] has been
8 terminated by the DOC and now, he was running
9 the, the, the advisory board, now he was
10 replaced. The person that's replacing him is
11 slowly dismantling the advisory board. Anything
12 that the Commissioner has come up here to talk
13 about that occurred over the last five years, has
14 occurred while that board was in place.

15 You cannot talk about moving forward
16 without dealing with directly impacted people,
17 without speaking to experts on how to move
18 forward. So why is that board being dismantled?
19 Why is it not being brought to any of you that
20 it's being dismantled? Why is the entire
21 department, ACS got the one, I don't know your
22 name, what's your name? Franco? I'm sorry. I
23 think that you should now really have the Board
24 focus on why is the young adults now being

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2 blended into just adults. DOC see still has
3 access to Horizons, DOC still has individuals
4 that qualify for being between ages of 16 to 21.

5 There is no reason at all that any type
6 of punishment should be voted forward with
7 anything without that advisory board being spoken
8 to, without experts being brought in, because
9 that's a different population. Their brains are
10 still not properly developed. And it's just
11 another example of how DOC will sweep things
12 under the rug, do sneaky things behind your back
13 and don't have to answer to you, because they do
14 not respect you.

15 Please do your job this year. 2020, I
16 want y'all to have 20/20 vision and I want y'all
17 to understand, they told me years ago when I said
18 we was going close down Rikers, oh, Ms. V, you
19 crazy, that'll never happen. And guess what
20 happened in 2019? Guess what happened? They
21 voted to close down Rikers in 20- 2013. I said
22 we trying to in solitary confinement for 16 to 21
23 year olds. In 2014, guess what happened? The
24 City Council passed that bill. In 2015, y'all

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2 allowed them to open up ESH and act like we
3 didn't pass that bill to in solitary confinement
4 for 16 to 21 year olds.

5 Now, I'm asking you on the record please
6 do your job. I'm not threatening you. I'm just
7 basing -- because some, one of your members last,
8 last meeting said I, I come across like a threat.
9 I'm not coming off like a threat I'm coming off
10 as an American citizen who was standing here
11 speaking for those unseen and unheard who do not
12 have the voice or ability to come before you
13 today and let you know lives are on the line.
14 Stop playing with people's lives. We have to do
15 our jobs. We all have a position. I'll
16 organize, we get people here to speak their
17 truth. It's up to you to listen to that. And if
18 you need help organizing on how to make it
19 happen, call me up. I'm just an e-mail away. I
20 show up for the city. I do it for the people.
21 Now do your job for the people as well. Have a
22 blessed day.

23 [APPLAUSE]

24 MS. SHERMAN: Thank you, thank you very

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2 much. Good morning.

3 MS. SUSANNA ECKBLAD: Good morning. My
4 name is Susanna Eckblad and I'm a social work
5 supervisor in the criminal defense practice at
6 Brooklyn Defender Services. I've been a criminal
7 defense social worker for over ten years
8 advocating on behalf of clients incarcerated at
9 Rikers Island. In my current position, I visit
10 my clients regularly at Rikers every month, both
11 to gather information to help advocate on their
12 cases, but also should discuss their experiences
13 of daily life in jail.

14 I'll focus my comments today on the
15 Department's lack of transparency and
16 communication during disciplinary hearings and
17 housing placements to people incarcerated in our
18 city jails. Common issues I hear from people I
19 visit include the lack of information and
20 documentation provided by the Department and the
21 lack of willingness or urgency by the Department
22 to provide information upon request.

23 When people are written up for
24 infractions, the Department is supposed to

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2 provide a written notice of the upcoming hearing.
3 Far too often, people report to our office that
4 they didn't know they received a ticket or they
5 didn't know about a disciplinary hearing or that
6 a decision was made. In these situations, when
7 our office advocates in our client's behalf, DOC
8 claims the person refused but the proof we are
9 provided is typically a copy of the notice
10 showing an officer's note that the person
11 refused, rather than the signature of our client.

12 The Board's proposal requiring the
13 Department to video record these interactions is
14 a step in the right direction, but we urge the
15 Board to go further. One, if the person in
16 custody is out of the facility for court a
17 medical appointment or on a legal or other
18 professional visit, when called for the
19 disciplinary hearing, the Department must
20 reschedule the hearing, rather than proceed in
21 absentia. Two, defense attorneys should
22 immediately be notified when a person is given an
23 infraction and three, all people in custody must
24 be provided easy access to Department policies

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2 and procedures, along with the Board of
3 Correction's minimum standards.

4 Both should be provided and easily
5 accessible in housing units and law libraries and
6 upon request by a person in custody. We hear
7 regularly that people do not have access to DOC's
8 policies and procedures and many do not even know
9 that the Department maintains written directives
10 or that the Board exists or mandates minimum
11 standards. Ensuring that people have a clear
12 sense of the expectations, their rights and what
13 steps they can take will defuse tension, decrease
14 violence and make our jails safer.

15 A recent example illustrates the
16 importance of clear expectations and
17 communication. Our office represented a man
18 housed in a restricted unit who was unsure why he
19 was placed there or when he'd be allowed to
20 return to general population. As anyone would he
21 asked a steady officer, who was unfortunately
22 unable to answer our client's questions. This
23 tension grew and resulted in aggressive behavior
24 by both our client and Department staff, which

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2 eventually led to additional time in restrictive
3 housing. Our client was understandably
4 frustrated, as was the Department staff who were
5 unable to answer questions or give clear
6 information and expectations for his placement in
7 restrictive housing.

8 All of this could have been avoided had
9 staff clearly communicated with our client. This
10 is not a unique example, but rather a situation
11 that happens regularly and one the Department
12 repeatedly fails to address. The Department
13 already has prepared materials on the rules of
14 the jails namely the, the DOC Handbook and the
15 DOC Rulebook. Although these materials are
16 supposed to be provided to people at intake,
17 along with their Bill of Rights and the
18 Connections Reentry Guide published by New York
19 Public Library, that is rarely the case. Almost
20 all of my clients report that they were never
21 provided with such materials.

22 Equally troubling, while many of the
23 rules and standards have changed some of these
24 materials haven't been updated since 2007. The

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2 Board should require the Department to regularly
3 update the rulebook and handbook and to
4 incorporate information about the Board's purpose
5 and how people can educate themselves about the
6 Board and access current minimum standards and
7 policies.

8 As we all know, the potential
9 repercussions of being placed in solitary
10 confinement are very serious. Experiences in
11 solitary can result in long lasting or permanent
12 psychological damage and, as we have seen
13 tragically and repeatedly here on Rikers Island,
14 even death. We are extremely troubled by the
15 fact that people are systematically denied
16 information on rules, rights, services and
17 reentry that would help them navigate and even
18 avoid solitary confinement. This secrecy and
19 lack of transparency disempowers people. It's
20 critical that the Board and DOC adopt a
21 transparent system that embodies clear
22 communication and expectations.

23 This Board has an opportunity to truly
24 transform the way we treat people in custody

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2 provide them with information and in return
3 reduce the violence that stems from the lack of
4 transparency that currently exists for people
5 inside our jails. Thank you.

6 MS. SHERMAN: Thank you.

7 [APPLAUSE]

8 MS. SHERMAN: I now call Kayla Simpson,
9 Olga Delgado and Isabelle Jackson. Good morning.

10 MS. KAYLA SIMPSON: Good morning. My
11 name is Kayla Simpson. Welcome, Mr. Franco, nice
12 to see you on the Board. I am a staff attorney
13 at the Prisoners' Rights Project for the Legal
14 Aid Society. I'm also co-counsel for the
15 plaintiff class on Nunez and nothing I could say
16 is more powerful than the words of the people who
17 have come here, who have survived isolation and
18 literally had the courage to show us all the pain
19 in their voices and reopen wounds so that we can
20 understand what it's like to be in isolation.
21 And I'm humbled by you, so thank you so much.

22 [APPLAUSE]

23 And I think - I hope that applause is
24 for you and not for me.

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2 I think that to walk this path, we sort
3 of need to understand the landscape. And I don't
4 think that there is a better survey of the
5 landscape than the most recent Nunez Monitors
6 Report that so many people have invoked today.
7 And I think it's right to invoke it. I talked to
8 you last time I was here about the horrible use
9 of force numbers, the high levels of violence,
10 the insubordination, the, the findings of de-
11 dehumanization and toxic culture that the
12 monitoring team laid forth in really compelling
13 language. And again, I urge you to read it. I
14 know it's long.

15 But I think important to highlight again
16 is the findings that the monitoring team makes
17 about the Department's inability to implement
18 systems with fidelity, its inability to use its
19 discretion in a way that complies with the
20 court's order. And you see that in the areas of
21 non-compliance investigation, discipline, the
22 inability to treat the young adult population in
23 a way that is compliant with the court order and
24 the, the skyrocketing use of force numbers. And

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2 the other common refrain that you see is how
3 often the monitoring team has to say only after
4 significant pressure from the monitoring team did
5 this basic thing happen. Right?

6 And I think that current history of
7 operational failure, and it couldn't be more
8 clear, is the thing that you must consider as you
9 think about what the language of these proposed
10 rules should say. Because a lot of it, and I
11 said this last time, invokes the Department to
12 utilize meaningful discretion in how it treats
13 people, how it isolates people, how it restricts
14 people and when it removes them from those
15 deprivations. And they've demonstrated to you
16 that they cannot exercise that discretion.

17 It's the same department that the
18 Monitor says cannot recognize at all levels when
19 a use of force is excessive, when it is
20 problematic, when it's unconstitutional. Right?
21 And those are the people who are asking you to
22 allow them to do seven-day waivers, to allow them
23 to keep people in separation status, to create
24 dangerously amorphous housing categories like

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2 solo housing which is nowhere in the rules, like
3 de-escalation housing which is a slippery slope.
4 And it has mountains of catch-all security
5 exceptions that permit that same abuse of
6 discretion to flourish.

7 And it all comes back to the touchstone
8 I think of safety, and, and everyone here has
9 said isolation isn't safety. And I think Jumaane
10 Williams made an important point about how we can
11 separate people without isolating them. I think
12 that's critical and we should talk about where
13 the rubber meets the road on how, what a rule
14 should look like that says that.

15 But the Board staff rightfully noted in
16 its first report on ESH, that human beings as a
17 general rule, not just in a correctional context,
18 are more likely to respond well to discipline, to
19 respond well to systems in general, when they
20 perceive that the process that got them to that
21 point is fair. And I think that's why the due
22 process section is particularly important in the
23 rules. And I just think the fundamental thing is
24 this, the Department's and even some of the

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2 premise of the substance of the rules, the
3 Department's default response is deprivation.
4 When there is a problem deprivation is the
5 default.

6 But what if we rejected that premise?
7 What if we listened to Vidal Guzman when he talks
8 about the Alternative to Violence programs? What
9 if, when we looked at the words of the rules, the
10 subchapters, the, the standards that we saw the
11 face of Harvey and we saw the face of Layleen
12 Polanco? Because, and I think I said this
13 before, reform happens here. Reform happens in
14 these subchapters. Reform happens when we think
15 about what medical care is adequate for people in
16 isolation, when we think about Layleen. When we
17 talk about how much discretion to give the
18 Department, hear Harvey's words, don't feed cell
19 22.

20 Those are the things that the standards
21 must capture. Those are the things that they
22 must address. And I think that's why not only
23 the words themselves matter, but why the
24 reporting requirements matter. Because that's

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2 what enables you going forward to be able to
3 ensure that the Department, who isn't here today,
4 implements those systems with fidelity, gives you
5 the data you need to hold them accountable. And
6 frankly, the data we all need to hold them
7 accountable. And so as we consider them, I, I
8 hope that we all see the faces of the survivors,
9 of the faces of the people behind those walls so
10 that we can ensure that the very noble and
11 laudable goals that you articulated in the
12 statement of basis and purpose are reflected in
13 the letter of those standards. Thank you so
14 much.

15 MS. SHERMAN: Thank you.

16 [APPLAUSE]

17 MS. SHERMAN: Olga Delgado. Good
18 morning.

19 MS. OLGA DELGADO: Good morning my name
20 is Olga Delgado. And I am with Just Leadership
21 USA and I am here on behalf of my son, Ricardo
22 Delgado. He's incarcerated and he's in the box
23 right now for nine months. He was two-and-a-half
24 years in Rikers. And while he was there, he was

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2 one-and-a-half year in the box, solitary
3 confinement. They took him out every day with
4 handcuffs and chains to his waist down to his
5 feet, to be attached to the table all day long.
6 He moves will cut his wrists and his feet,
7 ankles. His, his back was hurting also.

8 On Mother's Day they couldn't hug or
9 kiss him. They are humans. And also, another
10 time he was walking in the hall with two
11 officers, one in front, one in the back. Two
12 others officers were walking towards them with a
13 German Shepherd dog and dog jump on top of my
14 son. He put his handcuffs to his stomach so he,
15 so the top teeth of the dog didn't go through his
16 clothes, but the bottom teeth did scratch him.
17 And the officers were laughing and my son was
18 very scared and asked to be seen a nurse because
19 of the bite. This happened at 5:30, he didn't
20 see the nurse until 11:00 p.m. and were making
21 jokes about him.

22 This is a big progressive city and the
23 government needs to stop solitary confinement, so
24 it doesn't happen what happens to Kalief Browder

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2 that end up killing himself. It was wrong, 800
3 days in the box. They are humans. For this
4 reason, I want the Board to implement the
5 blueprint to end solitary confinement, that
6 advocates development. Also showers are eight
7 minutes and very little water. It is very
8 difficult to rush when there is not enough water
9 to go out in the yard when it's very, it's
10 winter, very cold. They are not allowed to wear
11 therm- thermals under their uniform which is very
12 thin, or when it's very hot and it's extremely
13 90, 100 degrees very hot, no air conditioner.
14 And that's why the reason I'm here to ask the
15 blueprint to end solitary confinement. Thank you
16 very much.

17 DR. COHEN: Chair.

18 MS. SHERMAN: Thank you. Dr. Cohen.

19 DR. COHEN: Yeah, I just want, I just
20 want to thank you, Ms. Delgado and, and I'm not
21 asking a question but I just feel this is a very
22 important for the Board to hear this. You know,
23 we sit here all the time and there were comments
24 in the morning, the first thing before and we,

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2 and we listen. We never talk together because we

3 have no capacity as a group to talk except in for

4 people and that only happens on the phone pretty

5 much, or on a very specific subject. So I really

6 hope that as we go forward with this project

7 that, that we will have a meeting of the Board,

8 where we -- where you listen to us if you want to

9 come -- but where we will talk together like the

10 City Council talk together when they debated the

11 closing of Rikers Island, that the Board can meet

12 together not with, you know, City Hall

13 overlooking everybody who didn't come in any

14 significant number today, not with the Commission

15 being present in the meeting, although I mean the

16 Department, although they had no interest in

17 coming, in coming, in coming today. And not with

18 dogs present, the way your son had to, had, had,

19 had to put up with it, and with the recognition

20 of the -- I'm sorry to give a speech on this, but

21 the recognition of the, of the Nunez report where

22 the Department could not give enough of any

23 consideration to the horror that that report

24 described and then sent it, you know, sent the

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2 response to a junior assistant attorney in the,
3 in the Department rather than speaking directly.

4 We're going to talk about that again,
5 but, but this is, we have a lot of work to do. A
6 lot of things that you're asking for should be in
7 the rule. I hope they end up back in the, back
8 in the rule and some of it, we didn't think about
9 and some of it just disappeared somehow. So, I
10 just want to thank you for, for being here and
11 how important it is. We have a few more people
12 I'm sure to speak, and the presence on next week
13 will be important as well, when we meet again
14 next week. Thank you.

15 MS. SHERMAN: Thank you, Dr. Cohen.

16 [APPLAUSE]

17 Ms. AUSTIN: I appreciate, I think it's
18 important since we are creating a public record
19 to, to make it clear that there's a lot of work
20 that has been done here. There are a lot of
21 points that have been made today that resonate
22 with many of us on the Board, and will be taken
23 into serious consideration. We appreciate all
24 the testimony that has been presented. It is

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2 important to note that this rule, the draft rule
3 was not created without any conversation among
4 Board members. There has been extensive
5 conversation, there's been a lot of back and
6 forth. I am not at all suggesting that it is the
7 most definitive and complete and best rule. I am
8 not suggesting that at all. It is a beginning;
9 it is a working document.

10 What you've done today has given us
11 significant pause for consideration and for much
12 more work to be done. But I do think it's
13 important for the record, for it to be noted that
14 there has been extensive conversation among Board
15 members.

16 MS. SHERMAN: Thank you. Good morning.

17 MS. ISABELLE JACKSON: My name is
18 Isabelle Jackson and I'm sharing testimony today
19 on behalf of Council Member Carlina Rivera.
20 Thank you, members of the Board for accepting my
21 testimony this morning. As the co-chair of the
22 New York City Council's Women's Caucus and a
23 member of the Council's Progressive Caucus, I
24 continue to urge the city to end solitary

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2 confinement in all its forms.

3 The Board of Corrections proposed rule
4 changes, which still allow solitary confinement
5 for up to 15 days merely reduce the torturous
6 practice rather, than fully eliminate it. On
7 June 26, 2019 the Progressive and Women's
8 Caucuses of New York City Council sent a letter
9 to the Department of Correction, the Board of
10 Correction and the mayor demanding an immediate
11 end to solitary.

12 Our call to end solitary came in
13 response to the death of a 27-year-old trans
14 woman of color at Rikers, Layleen Polanco spent
15 the last nine days of her life in solitary
16 confinement, until she was discovered unconscious
17 in her cell on June 7th. I have since joined the
18 HALT Solitary Campaign in supporting their
19 blueprint to end solitary in New York City, which
20 the Board should be considering instead of the
21 plan before you.

22 These proposed changes come after months
23 of delays and the Mayor's unprecedented decision
24 to not reappoint Commissioner Bryanne Hamill, who

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2 had worked for years on a comprehensive proposal
3 to restrict solitary confinement. With such high
4 stakes, the lack of transparency offered by the
5 Mayor's office regarding this decision and these
6 rules is concerning. The proposed rule changes
7 also inaccurately attempt to draw a balance
8 between "rehabilitation" and "order" by including
9 the provision of up to 60 days of sentencing in
10 solitary confinement for alleged assaults on
11 staff.

12 However, multiple studies including a
13 2015 examination from the University of Texas at
14 Dallas, found that those who were disciplined
15 with time in solitary were no more or less
16 violent after the punishment. Moreover, the rule
17 changes were publicly released just one day after
18 a report by the federal monitor charged with
19 overseeing the city jail system found that,
20 "staff are often hyper-confrontational and
21 respond to incidents in a manner that is hasty,
22 hurried, thoughtless, reckless, careless or in
23 disregard." It is unacceptable that still, in
24 2019, New York City jails continue to employ this

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2 inhumane practice

3 In consideration of the City Council's
4 recent vote to close Rikers Island, it's
5 imperative that New York City embrace evidence-
6 based incarceration policies that are smart and
7 progressive moving forward. New York City should
8 continue to be a leader in reforming the criminal
9 justice system and ensuring the humanity and
10 dignity of every person. I strongly urge the
11 Board of Correction to adopt safe alternatives to
12 solitary confinement. Until then, my office will
13 continue to advocate for an end to this harmful
14 practice. Thank you.

15 MS. SHERMAN: Thank you.

16 [APPLAUSE]

17 MS. SHERMAN: The next three speakers
18 are Marco Barrios, Joanna Weiss and Grace Price.

19 MR. MARCO BARRIOS: Good afternoon.
20 Thank you for this opportunity. My name is Marco
21 Barrios, a member and leader in Just Leadership
22 USA. As a former incarcerated individual,
23 throughout my 24 years and six months, I am
24 fortunate to say that I never endured the horror

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2 and trauma of solitary confinement. The ability
3 of staying away from this inhumane practice by
4 Department of Corrections had to do with a
5 combination of luck, avoiding self-destructive
6 activities and utilizing my time for growth and
7 healing with the help of God.

8 Members of the Board, what I want to
9 share with you is simply my lived experiences in
10 correctional facilities in the witnessing the
11 individuals going to solitary confinement and its
12 effects. During my incarceration, many of the
13 individuals I witnessed going to the box had
14 either mental health issues, drug addiction or
15 both. Some did have behavioral health issues.
16 However, what I find hard to believe is the
17 inconceivable notion that the uses of solitary
18 confinement kept people safe, deters individuals
19 from committing misbehaviors, or in any way
20 addresses the issues that caused their behavior.

21 Often, what I witnessed when there were
22 physical altercations, the individuals that went
23 to the box and came out were much more bitter and
24 mentally unstable, at times even more violent.

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2 This certainly did not make me feel more safer
3 and I wonder if the correctional staff felt the
4 same. The fact that certain individuals kept
5 going to the box, it convinced me that there was
6 a, that this was the wrong way of going about
7 making people in the facility safer, correcting
8 someone's behavior and certainly in treating
9 individuals as human beings.

10 As you're aware there are numerous
11 articles and reports about solitary confinement.
12 All of them, or the ones I read, shared the
13 damaging effects of spending time in solitary
14 confinement. And just as important, there
15 blueprints on alternatives to such practices
16 including the blue- blueprint to end solitary
17 confinement that the Jails Action Coalition
18 developed.

19 Now, I know it's difficult to, to make
20 changes in a system that has been in place for
21 such a long time. But it's time to get rid of a
22 type of punishment that is cruel, inhumane and
23 counterproductive. And make no mistake, even if
24 the Board considers shortening the length of time

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2 a person has to do in solitary confinement, it
3 only keeps in place an ineffective jail-based
4 punishment instead of going in a different
5 direction as many States has done.

6 Now, this is a important historical
7 moment such as we have seen by New York City's
8 commitment to close Rikers Island, shrink the
9 jail system to four borough-based facilities and
10 build communities. And as a proud member of the
11 Programming subcommittee to the Mayor's Office of
12 Criminal Justice Task Force, I do see promising
13 reform and cultural change in the jail's system.

14 Finally, my testimony today is not based
15 on any academic credentials but on the sole
16 evidence, solely on evidence of my lived
17 experience in a jail and prison setting. I want
18 to just share with you a situation I went through
19 years ago. There was a guy next to me, next to
20 my cell and he was self-mutilating himself.
21 Thankfully, the, there was a sergeant that
22 decided to treat him as a human being by not
23 calling in a special unit. Usually, they're
24 called, go in and do whatever they have to do to

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2 take you out. He was training the officers but

3 eventually he was giving up because the more he

4 waited the more the individual was self-

5 mutilating himself. So, I looked at him and I

6 told him can I come in, I mean can I go and speak

7 to him. The individual didn't speak English, so

8 I was able to speak to him in Spanish.

9 Eventually, I was able to convince him to

10 relinquish his weapon and give it to the officer.

11 He also told me, the officer told him, told me to

12 tell him well he's not going go to the box.

13 We're going to send him to MSU, we're going to

14 take him to the hospital treat him, send him to

15 MSU, put them in a room and eventually he'll get

16 mental health treatment. And they actually,

17 that's what they did. But I, that was the only

18 time I ever seen something like that.

19 So, your question to how we can work by,

20 you know, alternative to solitary confinement

21 that's one of the ways we can do it by de-

22 escalation, treatment, reha- rehabilitative

23 treatment and avoid people going to a solitary

24 confinement. That's it.

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2 MS. SHERMAN: Thank you. Thank you.

3 [APPLAUSE]

4 MS. SHERMAN: Johanna Weiss? Ms. Price.
5 Good morning.

6 MS. KELLY GRACE PRICE: Hi, good
7 morning. I will actually turn in my testimony
8 today. I know I threatened the last time I spoke
9 and I will include that testimony from early
10 October in my 16-page tome that I'll turn in
11 today. I'm Kelly Grace Price, the founder of the
12 Close Rosie's advocacy group and I'd like to
13 speak about three main points this morning.
14 They're a bit administrative and one of them, Ms.
15 Ovesey, I'm going to especially apologize to you
16 about -- you'll understand.

17 I'd like to talk about data in solitary
18 confinement. As you know I've spent no small
19 amount of, enormous time digging into the data
20 that I've wrestled away from the DOC via FOIL to
21 learn so that we could have some kind of baseline
22 to understand what was going on, on Rosie's
23 because nobody not even [unintelligible]
24 [02:51:17] had bothered to publish any kind of

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2 data about what was going on.

3 And one of the things that I found is
4 that over the last five years, the majority of
5 people on Rosie's that were going into punitive
6 seg like conditions were white women, which
7 doesn't make any sense. Or maybe it does make
8 sense, but I just thought I'd throw that out
9 there. It seems odd because that's the smallest
10 population of people, one of the smallest
11 population of people on Rosie's and also youth.

12 There's an egregious amount of youth
13 going in, still into the punitive seg and those
14 stats are at the beginning of my testimony, with
15 really nice graphs, graphics actually.

16 And I also wanted to talk about some
17 lessons learned from the last couple of
18 rulemaking processes that I have witnessed. Of
19 course, the first being ESH, back in 2014-2015
20 and the second being PREA back in 2016 and
21 ongoing. I mentioned during my last testimony
22 that there are egregious problems with the data
23 being unhanded on blended units. And of course,
24 that data was a promise of the ESH

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2 implementation. Remember, that these reports are
3 not being honored and the data being handed o-,
4 handed over that is part of the rulemaking
5 process, is corrupt. And we really need rigorous
6 people and consistency in the Board staff for,
7 for adequate oversight.

8 Regarding PREA, PREA is a litmus test
9 for all changes. There was a, an article in the
10 *Daily News* yesterday where the Department tried
11 to pass off to an ingénue *Daily News* reporter
12 that they'd solved all PREA issues. The reporter
13 didn't even know that the mock audit that the
14 Department was trying to get her to swallow was
15 an audit of the federal standards. She didn't
16 even understand that there were local standards.
17 And luckily, I was able to intercede and get a
18 little pull quote in that article.

19 But instead of actually doing the PREA
20 work and following the standards of
21 implementation, they're, all they're effort is
22 going into this smokescreen and this pretend PR
23 campaign where Sarena [phonetic] gets up with her
24 hair and makeup done in front of the cameras and

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2 pretends that she's saved the day and implemented
3 PREA. Now, we have to be very careful because
4 that's a rule that the community came together to
5 work on that is still unimplement, unimplemented,
6 but instead of putting effort into actual
7 implementation the Department is putting effort
8 into PR bluster.

9 The fourth thing I want to talk about is
10 that I filed a lawsuit against the Board of
11 Correction this morning, because it appears that
12 the Board of Correction appointments are not
13 being made as to the City charter standards. If
14 you read the City Charter, the BOC's charter it
15 says that appointments should be made on a
16 rotating basis, as vacancies occur. But as you
17 know, the Mayor has been disingenuously plucking
18 members that I assume he feels will not vote
19 according to the way that he wants, witness
20 Honorable Bryanne Hamill being removed and then
21 replacing them but he has no right to
22 automatically replace the vacancies. The vacancy
23 has to be reappointed by the next rotating, by
24 the rotating appointment Authority.

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2 In this case, I believe the City Council
3 should have had the pick as to who was going to
4 get the vacancy. And the Mayor, I'm sorry Mr.
5 Franco, but the Mayor I believe, or it was Mr.
6 Hernandez that was -- I get confused. But
7 regardless, the City Council has only had three
8 appointment opportunities in the last six years
9 when there have been 14 board appointments. Now,
10 the City Council should have at least had four of
11 those appointments, maybe five of those
12 appointments. And the overall effect of this is
13 that we don't have an efficacious Coard.

14 I'm sorry Ms. Ovesey, I filed a demand
15 for declar- declaratory and injunctive relief.
16 I'm just waiting for my index number, and you'll
17 be served that, I expect within the next couple
18 of days. We're going to ask for no further votes
19 from this Board until this issue comes to its
20 fruition. Thank you, as always.

21 MS. SHERMAN: Thank you. We're going
22 move to the next two speakers Candi and Darlene
23 Jackson.

24 MS. CANDI: Hello, my name is Candi. I

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2 use the alias Solitary Survivor, because being a

3 solitary, it's nothing but survival of the

4 fitness. And when I was in solitary confinement,

5 it was absolute torture. I had a little speech

6 but listening to people's testimonies, I'm just

7 going be a little bit off-track right now,

8 because Mr. Kim said earlier about a constituent

9 that he had who had mitts on and waist chains and

10 shackles. And I concurred so many infractions

11 for AOS, assaulting staff, and destroying

12 property, but just as he said that the person

13 couldn't even sign a piece of paper, so how could

14 I break a chair if I can't even sign a piece of

15 paper or how can I swing at an officer if I'm

16 shackled and cuffed? Those black mitts are for

17 people that use weapons. I never had a weapon.

18 I was always inside of a cell for 24 hours a day.

19 And if I did have a weapon, I would try to commit

20 suicide by cutting myself, hanging myself in my

21 cell, swallowing detergent, swallowing pills.

22 They don't watch you take your psych medication

23 like they say they do. You could just throw it

24 on the floor and, and save them. So, I've

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2 swallowed pills, I've done it all.

3 And I try not to mix religion with
4 politics, but too bad I'm --

5 [SOMEONE SNEEZED]

6 MS. CANDI: Bless you. Today I'm going
7 have to do that because that's why I'm here
8 today. I used to wonder why I was put in
9 solitary. I don't commit crimes. I'm not a, a
10 bad person. I don't go around fighting. I had a
11 master's degree before I was incarcerated and I
12 was still in college. I missed my graduation, I
13 missed it all.

14 But the reason why I was put there was
15 because God put me there so I could see exactly
16 what goes on. People asked me about prison,
17 people ask me about jail. I can't tell you about
18 prison. I can't tell you about jail. But I can
19 tell you everything about solitary from that one
20 little window that I was able to look out 24
21 hours a day, and yes 24. It's not 23, it's 24
22 because if that officer does not want you to go
23 to rec, you're not going go to recreation. If
24 you don't get, if, if you are female and you're

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2 asking for sanitary napkins, guess what you won't
3 get any sanitary napkins. You better try to stop
4 the bleeding the best way you can and don't use a
5 DOC jumper because you will get an infraction for
6 destroying DOC property.

7 I apologize if I sound like a broken
8 record, but it seems like I thought by now God
9 would bless this earth and they would end
10 solitary confinement. And my husband committed
11 suicide as a result of this, because it doesn't
12 just affect the inmate it affects the family too.
13 My husband wanted to get back together and get
14 intimate but every time, I try to get intimate
15 all I see is Captain Morgan on top of me, Officer
16 Terry touching me. I was sexually abused in
17 there. I was dehumanized. I'll never be the
18 same. I might look normal to the average person,
19 but I'm not. I have nightmares every single day
20 I have to go to the restroom every two minutes
21 because I can't hold my urine, because if you're
22 cuffed like this for 14 hours 16 hours you can't
23 use the restroom you have to hold it. So, I
24 destroyed my bladder.

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2 I'm begging you to please end solitary
3 confinement. My days on this earth are not
4 numbered I'm going to be another Kalief Browder
5 one day. I'm just asking you from my heart to
6 your heart to God's ears to please end solitary
7 confinement as soon as possible. Thank you.

8 MS. SHERMAN: Thank you.

9 [APPLAUSE]

10 MS. SHERMAN: Thank you for being here
11 today, thank you for your words.

12 MS. DARLENE JACKSON: I'm sorry, I have
13 to take a minute. So, my name is Darlene -- I'm
14 so sorry. My name is Darlene Jackson I'm a
15 project coordinator at the Woman's Community
16 Justice Association that's leading the, that's
17 leading the Beyond Rosie's 2020 Campaign, an
18 effort to close the Rose M. Singer Center on
19 Rikers Island by 2020 and replacing it with a
20 standalone centralized facility in Manhattan, for
21 less than 100 women that includes the LGBTQ
22 community. I'm here today with our coalitions, I'm
23 here today with our coalition partners, many in
24 the room this morning to support the blueprint to

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2 end solitary confinement in New York City jails.
3 the Beyond Rosie's 2020 Campaign advocates for
4 the removal of the Department of Corrections to
5 be the main operators of any city jail as data
6 have shown that law enforcement is not the
7 appropriate city agency trained, trained in
8 trauma-informed care and gender responsive
9 services, therapeutic crisis intervention and/or
10 de-esc- de-escalation.

11 We support the Department of Mental
12 Health and Mental Hygiene being the primary
13 caretakers of New York City jails but DOC merely
14 providing safety and security, but DOC currently
15 operates our city jails. This Board has an
16 oppor-, the responsibility to provide oversight
17 and accountability and ensure the safety for
18 everyone. In addition, the Beyond Rosie's
19 Campaign advocates the remove of all people
20 suffering from serious mental illness and
21 pregnant women out of city jails and into
22 specialized ATI programs. As the city is
23 approaching the implementation process to replace
24 Rikers Island with borough-based facilities that

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2 entails programming and design, this Board has
3 the opportunity now to shift from a torture,
4 punitive system that only serves to destroy human
5 beings to a model that is solely based
6 restorative justice and rehabil- rehabilitation
7 to restore humanity and re-imagine justice,
8 dignity and safety.

9 Any- anything other than what's outlined
10 in the blueprint to end solitary confinement in
11 the New York City jails is an atrocity. The
12 culture of violence ends by the political will of
13 this Board. I witnessed this board listen to
14 more than a dozen of testimonies from survivors
15 of solitary confinement, the impact on families
16 and their communities and service providers that
17 work in barbaric conditions all calling for an
18 end of solitary confinement.

19 The time is now to do what is right and
20 now it is easy. Thank you.

21 [APPLAUSE]

22 MS. SHERMAN: Thank you. That concludes
23 the testimony for today and we will, we will
24 close the hearing for today. Before doing so, I

1 December 2, 2019

2 did want to say we deeply echo the words of
3 several of my fellow Board members that we really
4 appreciate your presence today, the courage it
5 has taken to share your experiences and your
6 determination to be a part of this rulemaking
7 process. We have heard you and we'll carefully
8 consider your words as we move forward with the
9 rulemaking process. Wherever possible, please do
10 submit written statements they will be
11 distributed to Board members. We will read them,
12 we will review them, we will consider them. And
13 we will return for another hearing starting at
14 5:30 p.m. in this room on December 16th. Thank
15 you very much again for being here today.

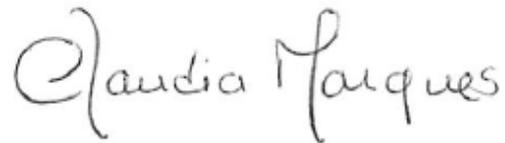
16 (The public board meeting concluded at
17 12:03 p.m.)

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CERTIFICATE OF ACCURACY

I, Claudia Marques, certify that the foregoing transcript of CAPA Hearing, Restrictive Housing Proposed Rule on December 2, 2019 was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By



Date: December 23, 2019

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