

BOARD OF CORRECTION  
CITY OF NEW YORK

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PUBLIC HEARING ON PROPOSED AMENDMENTS  
TO MINIMUM STANDARDS FOR NEW YORK CITY  
CORRECTIONAL FACILITIES

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HELD APRIL 17, 2007

22 READE STREET  
NEW YORK, NEW YORK 10007

BOARD MEMBERS PRESENT:

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MICHAEL REGAN, VICE CHAIR  
STANLEY KREITMAN  
ROSEMARIE MALDONADO, ESQ.  
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(tape 1, side A)

MS. HILDY SIMMONS: There are some seats in the front of the room for you who are in the back. And there are a couple of chairs it looks like behind the screen. So if you're able to move them around for people who want to sit, please take advantage of that.

I think we're ready, good morning. My name is Hildy Simmons, and it's my privilege to serve as the Chair of the New York City Board of Correction. Also present this morning are my board colleagues, at least many of them. Vice-Chair, Mike Regan; Stanley Kreitman who was Chair of the Board's Minimum Standards Review Committee; Rosemarie Maldonado; Paul Vallone; Father Richard Nahman. And we are expected to be joined by another Board colleague before today's hearings are over.

We welcome all of you here, and I want to reiterate the fact that we're convened for the purpose of hearing oral comments on the Board's proposals to amend the minimum standards for the New York City Correctional Facilities.

City Charter Section 626, subsection e, requires that the Board establish minimum standards for the care, custody, correction, treatment, supervision, and discipline of all persons held or confined under the

1 jurisdiction of the Department. The minimums standards  
2 were approved by the Board of Correction in February 1978.  
3 The original 16 standards represented the Board's view of  
4 the basic elements necessary to promote safe, secure, and  
5 humane jail environments. The standards provision sought  
6 to ensure non-discriminatory treatment of prisoners and  
7 regulated classification, personal hygiene, overcrowding,  
8 lock-in, access to recreation, practice of religion,  
9 access to courts, visiting, telephone calls,  
10 correspondence, packages, publications, and access to the  
11 media.  
12

13 In 1985, the Board promulgated three important  
14 amendments to sections regulating overcrowding, law  
15 libraries, and the variance process. But for these, the  
16 original standards have remained substantially unchanged.

17 The comprehensive reexamination that we are  
18 engaged in, and I want to stress that we are still engaged  
19 in this process, has I think, all parties would agree,  
20 been long overdue.

21 So briefly, let me say that, to make sure that  
22 everybody is clear, this process began in June 2005 when  
23 we reconstituted the Minimum Standards Committee. The  
24 Chair Stan Kreitman with Michael Regan, Milt Williams, and  
25 myself as an ex-officio member began to meet with

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assistance from the Board staff and do a systematic section-by-section review of the minimum standards which took more than a year of substantial work. The Committee then presented its recommendations to the full Board at our public meeting on September 14, 2006, and the Board voted to publish them.

We then began what is called a formal rulemaking process set out in Chapter 45 of the City Charter known as the City Administrative Procedure Act. We submitted the recommendations to the Law Department, which after a very lengthy review granted preliminary approval. On January 19 of this year, the proposals, together with a notice of public hearing and an opportunity to comment, were published in the City Record. Simultaneously, we complied with another Charter requirement by distributing copies of the notice and proposed amendments to a wide variety of public officials, civic organizations, media, and other interested parties.

The Charter requires that an agency conduct a public hearing no sooner than 30 days following such publication. Given the large numbers of proposed amendments and the importance of the minimum standards to the operations of the City jails, the Board decided to extend this comment period so that everyone would have

1 ample time to prepare both oral and written comments.  
2 Today's hearing is 88 days following the publication of  
3 this document in the City Record, and I want to note and  
4 emphasize again that today's hearing is not the end of the  
5 public comment period. Written comments have already been  
6 received and written comments will be accepted through the  
7 close of business May 21. So there's another full month  
8 of time for written comments. The comment period then  
9 will be 122 days long, more than four times the length  
10 required by the Charter.  
11

12 Our goal today is to gather information that will  
13 help the Board's decisions on proposed amendments. It's  
14 not our purpose, and I want to make this very clear as  
15 well, to respond to questions nor will we engage in a  
16 debate about these proposals at today's hearing. We want  
17 to listen at the public meeting. After the close of the  
18 comment period, all the Board members who have  
19 participated in today's hearing, who've read all the  
20 comments, hopefully the entire nine-member Board, will, in  
21 fact, have an opportunity to review all the oral and  
22 written comments that were received, and then we will  
23 discuss and debate, and, again, all of our meetings are  
24 public meetings as well, each proposed amendment and vote  
25 on each one, item by item.

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So this is very much still the middle of this process. There's a long way to go before this process is over, and I want to emphasize that to everyone.

Speakers today are invited to present comments on a first-come-first-served basis. If you haven't already done so, please make sure that you've signed up on the sheet provided outside for that purpose. We're asking, given the large numbers of people, that you limit your comments to ten minutes. We're tape-recording today's sessions and proceedings. A transcript will be made, so speakers should please, when you begin, identify yourself, and if you have an affiliation with an organization or association, please make reference to that as well.

Also, I would remind my colleagues on the Board, should you have a question to ask a speaker, make sure you identify yourself as well so that for the transcript we know at all times who's speaking.

The transcript will be available for review beginning May 1 at the Board of Correction offices for anyone who would like to review that. Again, as a reminder, if you don't know, that's 51 Chambers Street, Room 923. Written comments are also available for all to see at the Board offices, and, again, we will continue to receive written comments through May 21.

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2           In closing, let me express my thanks in advance  
3 to all of you who have submitted both written comments and  
4 those of you who are prepared to testify today. I'm  
5 mindful that some people have expressed concern about this  
6 process, and I just, again, want to emphasize, I think  
7 probably for the third time in my remarks which will  
8 probably be the last time you'll hear me speaking other  
9 than calling on people, to say that this process is very  
10 much still underway. And the purpose of gathering the  
11 information, hearing from all of you, reading the written  
12 comments that have come in, is to help us in ultimately  
13 constructing what we hope will be revisions to the minimum  
14 standards that will best serve all who are concerned and  
15 involved with the City's jail system.

16           So this is still - we're in the process. That's  
17 why we're all here, and I want to make sure that everybody  
18 understands that.

19           This is an extraordinarily important endeavor.  
20 My colleagues on the Board understand that fully and have  
21 worked very hard over now nearly two years to get us to  
22 this particular point. So I think I can speak for all of  
23 them, at least I hope I can, by saying that we expect to  
24 be enhanced and enriched in terms of the information that  
25 we have by this process, by today's hearing, and by all

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the comments that you will be submitting. Thank you all very much, and with that, I'm prepared to call the first person to testify. And the first person is Barry Kamins, President of the New York City Bar Association.

MR. BARRY KAMINS: Good morning. As you said, my name is Barry Kamins, President of the City Bar Association. And the Association welcomes this opportunity to comment about proposed revisions to the Board of Corrections Minimum Standards for New York City Correctional Facilities. The issues raised are, as you say, vitally important.

We understand that many other groups and individuals plan to testify or comment about and submit objections to specific proposed revisions to the Minimum Standards and to oppose their adoption. We share many of their concerns, particularly with respect to proposed revisions that would alter the standards for overcrowding, lock-in, telephone calls, and correspondence, personal hygiene, interpreters, and access to courts and legal services.

The Association urges the Board to reject nearly all of the proposed revisions and will be submitting written objections detailing our objections to specific proposals in the near future. My comments today will

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2 focus instead on the process that led to the proposed  
3 revisions and their overall effect.

4           The Association generally opposes the proposed  
5 revisions for four basic reasons. First, these revisions  
6 signify a major deviation from the Board's historic  
7 appointed role as an independent watchdog over the New  
8 York City Department of Correction. Second, the process  
9 by which these revisions were created was not sufficiently  
10 open and we believe lacked the consensus necessary to  
11 promote equitable standards.

12           Third, the revisions codify variances that were  
13 enacted solely for reasons of administrative convenience  
14 and standards that benefit the Department of Correction,  
15 and we are concerned that the standards do not include any  
16 real proposals for standards that would benefit inmates  
17 and their families or promote successful rehabilitation.  
18 Finally, the proposed amendments provide for the granting  
19 of variances with little or not opportunity for outside  
20 review.

21           Just let me explain briefly some of these  
22 concerns.

23           The Board of Correction, created in 1957, was  
24 entrusted to inspect Department of Correction facilities,  
25 evaluate the Department's performance, assist in

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coordinating the activities of the Department with probation and parole agencies, and make recommendations. New York City Charter amendments in 1975 granted the Board the power, as well as charged it with a duty, to set minimum standards for City correctional facilities. The amendments also require the Department to permit open inspection of its facilities and access to its records.

With the powers granted by the later amendments, the Board became an independent watchdog agency with true regulatory authority over the Department of Correction. The Board's watchdog role, firmly anchored in the City's Charter for more than three decades, depends in no small part on its independence from the municipal government.

While the Board should be exercising its authority to make sure that humane standards are in place, we are troubled that the Board's proposed standards do not reflect any attempt to create more humane treatment or living conditions for inmates, address concerns raised by their families, or encourage rehabilitative initiatives. The revisions appear to be drafted primarily to meet the concerns of the Department of Correction.

We recognize that the City Charter allows for a certain relationship between the Board and the Department, and that the Board must consult with the Commissioner

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2 prior to making changes in standards. Nonetheless, we do  
3 not believe the standards reflect an appropriate distance  
4 that should be kept between the Department and a Board  
5 that has the authority to oversee the Department's  
6 operation of the prisons.

7           The proposed revisions appear to have been  
8 written with little or no input from entities other than  
9 the Department of Correction and the Board itself. This  
10 process runs counter to the principle of open government.  
11 The Board of Correction meets on a monthly basis. Its  
12 meetings are open to the general public. The fact that  
13 the board was considering whether to revise the existing  
14 minimum standards was raised at numerous meetings over the  
15 last two years. However, the actual substance of the  
16 proposed changes now under consideration was never  
17 discussed, debated, nor revealed to anyone other than the  
18 Department despite requests by various organizations and  
19 community stakeholders. There was, thus, no opportunity  
20 for input from persons affected by or working within the  
21 correctional system and no attempt made to seek such  
22 input.

23           We do not believe that the public comment period  
24 now offered, some two years after the proposals were first  
25 considered and well after the revision committee of the

1  
2 Board deliberated about the changes, is adequate to  
3 transform this into an open or fair standard-setting  
4 process. There will be no opportunity for meaningful  
5 dialogue between the Board and interested parties about  
6 the need for revisions of the appropriate balance of  
7 security concerns and inmates' rights. To my knowledge,  
8 there is no follow-up public meeting scheduled for  
9 discussion of a new draft that takes public comments into  
10 consideration. There is no realistic expectation that a  
11 one day devoted to hearings plus written comments will  
12 have a significant impact on determinations that have been  
13 reached in a private setting. This fundamental flaw, we  
14 believe, taints the proposed revisions.

15           The Board itself acknowledges that many of its  
16 proposed revisions simply codify existing practices. The  
17 fact that certain methods of operation and management are  
18 presently in use, however, does not necessarily make them  
19 reliable or beneficial or especially worthy of  
20 codification. Few of the proposed minimum standards have  
21 the necessary flexibility to address rapidly changing  
22 circumstances beyond the Department's control.

23           The Board justifies many of the revisions by  
24 referring to jail conditions current only this and last  
25 year. This is not a pragmatic approach. Standards are

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written for the broad landscape and with an eye towards the future, and they should comment on both historic highs in jail population and service utilization as well as periods of downsizing where resource strain is reduced.

The Board justifies several of its proposed revisions by indicating a desire to parallel common correctional practices in other localities within and outside New York State. This belies the very real differences between New York City and those localities in terms of demographics, correction law, government structure, and notions of justice. The Board should not dilute the minimum standards for New York City solely because such practices are the trend or the practice in other jurisdictions.

New York City has long served as a model for standard setting and humane treatment of inmates in that its minimum standards far exceed those set for New York State prisons. In proposing to lower the City's minimum standards to those of the state correctional system or of other cities such as Los Angeles or Houston, the Board fails to demonstrate why the standards that have proven effective for more than two decades in the rarefied and unique setting of New York City should be dismantled.

SIMMONS: You have one minute left. I don't

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mean to interrupt you, but your time is running for the ten minutes.

KAMINS: I didn't realize -

SIMMONS: Sorry, I just want to make sure that we have time to hear everybody.

KAMINS: Sure. I appreciate that. Well, I'll submit some of the - I just wanted to conclude.

It is the Association's view that proper minimum standards should represent neither ceiling nor floor and must be developed by means of a collaborative process and confirmed on a foundation of common agreement. The proposed revisions to the Board standards, however, frequently reflect a floor, do not reveal common agreement, and do not come as a result of collaborative process.

The proposed revisions compromise the Board's role as an independent watchdog. Because they were created apparently with neither input nor comment from persons or organizations other than the Department of Correction, they reflect the squandering of a historic opportunity to revise standards to reflect demographic and societal realities and aspirations. The proposed revisions set dangerous new standards for the granting of variances, significantly weakening the minimum standards

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themselves.

For these reasons and because many of them reflect an unnecessary dilution of the existing standards, the proposed revisions should be rejected in their entirety. Thank you for allowing me to testify.

SIMMONS: Thank you. The next person who's on the list here is Corey Stoughton.

MS. COREY STOUGHTON: Can I stand here, is that all right?

SIMMONS: Wherever you'd like.

STOUGHTON: Thank you very much. My name is Corey Stoughton. I'm here on behalf of the New York Civil Liberties Union. We're testifying here today because we believe that many of the proposals and the amendments unnecessarily restrict the rights and privileges of the incarcerated, particularly in light of the fact that the majority of the City jail population is pre-trial detainees who have not been convicted or ever pled guilty to any crime and are incarcerated often solely because they cannot afford to pay bail.

In particular, we believe that the Board has demonstrated no compelling reason for abandoning the requirement of a warrant before conducting telephone surveillance and reading prisoner mail and has created an

1  
2 unwise and unnecessary threat to the civil liberties of  
3 prisoners as well as those who wish to communicate with  
4 them by granting the Department greater discretion to  
5 conduct such surveillance as well as limit prisoners'  
6 correspondence rights and censor publications received by  
7 prisoners.

8           We also believe, as Mr. Kamins said, that the  
9 Board erred when, in reviewing and reconsidering the  
10 minimum standards for the first time in 30 years, it  
11 undertook a process apparently dominated by the interests  
12 of the Department of Correction and failed to fulfill its  
13 function as an independent oversight organization, with  
14 not merely the administrative and security interests of  
15 the Department at heart but also the interests of jail  
16 populations and the communities that they come from.

17           We also believe the Board overlooked an important  
18 opportunity to propose amendments to the standards that  
19 not only enhance safety and efficiency but also improve  
20 conditions of confinement and protect prisoners.

21           In light of these many flaws in the proposed  
22 amendments and the failure to examine perspectives from  
23 outside the Department earlier in the process, we  
24 respectfully suggest that the Board return to the drawing  
25 board and undertake a renewed and well-rounded effort to

1  
2 review and improve the minimum standards.

3           In our written comments, we explain in greater  
4 detail our objections to the proposals, but so as not to  
5 take up too much time today in light of the time limits,  
6 I'd like to focus particularly on the censorship and  
7 surveillance provisions and, if there's time, the  
8 provisions regarding Spanish language staff in the  
9 prisons. But we do echo the concerns about twenty-three-  
10 hour lock-in, especially for those in close custody, and  
11 overcrowding provisions.

12           So, first, let me turn to the telephone  
13 surveillance issues. This amendment would allow the  
14 Department to eavesdrop and record prisoner telephone  
15 calls for any reason whatsoever. Under current policy,  
16 the Department must obtain a warrant for monitoring  
17 telephone calls. This proposed change expands the  
18 Department's surveillance authority in a manner that is  
19 unnecessary and potentially unlawful.

20           The first point we'd like to make is that the  
21 Board has not stated, the Board or the Department, has not  
22 stated any convincing rationale for allowing the  
23 Department to monitor calls with no limiting principle,  
24 let alone any rationale for creating the authority for a  
25 universal suspicionless surveillance program. The notice

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of hearing simply states that heightened security concerns justify the rule, but there's no identification of what the cause for these heightened concerns are and no explanation of how suspicionless surveillance will address those concerns.

Warrants are readily obtainable in New York Courts, and there's no reason to believe that the warrant requirement hinders the Department's ability to conduct necessary surveillance. In light of the Board's oversight role, the Board should demand and the Department should provide substantiation of the purported need to alter the rule.

Second, the amendment does not contain adequate protection for privileged phone calls, including calls to attorneys, clergy, physicians, and monitoring and oversight agencies. Although the proposed standard recognizes that such calls cannot be monitored, there's no procedure for ensuring that they are not monitored. The absence of a procedure raises troubling questions about how such calls can feasibly be identified and isolated from the Department's proposed surveillance scheme, particularly if the Department takes advantage of its new authority and the rule to institute a blanket universal surveillance program.

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Although we oppose this amendment categorically on legal grounds, the Board should in no event approve this amendment until and unless there's an effective program in place to protect privileged calls.

Third, the amendment does not contain adequate procedures for notifying detainees that their calls may be listened to and recorded. Consistent with relevant legal precedent, notice is putatively required by the standard, but the amendment provides no definition of what constitutes notice and, thus, no guarantee of a meaningful effort to ensure that notice is actually and effectively communicated. At a minimum, the Board should take affirmative steps to ensure that notice is, in fact, given to each prisoner.

Finally, in the event the Board adopts this amendment nonetheless and permits the Department to implement a universal suspicionless telephone surveillance operation, the Board should require the Department to submit reports regarding the program to the Board. Such reports should identify the scope of the program, how the program is enhancing prison safety or security, how calls are monitored and reviewed, how notice is delivered to prisoners, how privileged conversations are protected, what happens to any recordings and transcripts of

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2 conversations, and how surveillance is used against  
3 prisoners, whether in disciplinary proceedings, for law  
4 enforcement purposes, or otherwise.

5           Based upon these reports, the Board should ensure  
6 that the appropriate safeguards are in place and  
7 continually evaluate whether such a drastic surveillance  
8 program correctly balances institutional security with the  
9 rights of prisoners.

10           I'd like also to turn to the limits on  
11 correspondence and rights to send and receive packages.  
12 These amendments would allow the Department to deny the  
13 prisoner's right to correspond or send and receive  
14 packages where there's a reasonable belief that the  
15 limitation is necessary to protect public safety or  
16 maintain facility order and security.

17           The current standard simply states that prisoners  
18 are entitled to correspond with any person. These  
19 amendments present several problems. First, the proposed  
20 standards do not contain any exemption for privileged  
21 correspondence. The omission of this exemption is  
22 notable, especially when it's expressly made in the other  
23 provisions regarding surveillance of such communications.  
24 So that suggests that the Department would be granted  
25 authority to bar prisoner mail to and from oversight

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agencies, physicians and clergy, even attorneys under some circumstances.

        Giving the Department authority to take away a prisoner's ability to contact oversight agencies is unwise and unnecessary. Taking away the right to communicate with attorneys is potentially unlawful. And access to clergy and treating physicians should not be proscribed except in extraordinary circumstances.

        Second, the proposed standards, again, in contrast to the provision for reading prisoner correspondence, contain no requirement that the Department's basis from barring a prisoner from engaging in correspondence or sending and receiving packages be documented in a written form. The failure to mandate creation of a written record increases the chances for abuse of authority and unnecessarily undermines the ability to appeal denials of correspondence privileges by either the prisoner or the outside correspondent.

        Third, the standard articulated in the proposed amendment is too vague. Standards must provide meaningful guidance to the Department in determining whether correspondence and packages may be barred, beyond restating the unremarkable proposition as the rules state, that correspondence is not a threat simply because it

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criticizes the facility, the staff, or the correctional system, or contains unpopular ideas.

Without specific guidance as to what affirmatively constitutes a reasonable belief that the limitation is necessary to protect safety or facility order and security, there's no assurance that any decision to ban or limit a prisoner's ability to send and receive mail and packages is rationally related to a legitimate penological interest rather than merely an overbroad and unnecessary limitation on a core right of prisoners.

This is especially so given that the authority to limit these rights is, again, unlike the provision for surveillance of correspondence, not vested solely in the warden but dispersed broadly throughout the Department. In upholding mail and publication restrictions, the Supreme Court has emphasized the importance of lodging authority in a central figure to ensure consistent and reviewable application of the policy.

Finally, as I've stated with regard to the telephone provisions, the Board does not identify in the notice of hearing any specific events or reasonably anticipated problems that justify increased limitations in prisoners' right to correspond and exchange packages with whomever they chose. Packages and correspondence are

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already routinely monitored for contraband and already existing rules limit prisoners' ability to receive non-approved items in packages. In light of these rules, there doesn't seem to be any compelling justification for watering down the current rule.

Finally, I'd like to talk about censorship of publications very briefly. These proposed amendments would authorize the Department to censor any publication that it determines may compromise safety or security in the facility, whereas the current rule prohibits only those publications that "contain specific instructions on the manufacture or use of dangerous weapons or explosives or plans for escape."

This proposed standard, again, is excessively vague and susceptible to overbroad interpretation by the Department and the wide variety of personnel who are charged with carrying that authority to censor publications. Again, a ban must be tailored to a legitimate penological interest, and where prisons and jails lack clear standards for determining what publications may be censored, it's, in fact, then the ACLU's experience that often ACLU publications themselves get banned, as happened recently in a case in Indiana.

Notably, again, this provision does not contain

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the language in the proposed provision governing censorship of correspondence that establishing that a threat to safety or security does not arise solely because the material is critical of the Department or the facility or espouses unpopular ideas, which very, very concerningly suggests that the provision actually authorizes censorship of provisions and publications that contain such material. This is a serious First Amendment concern.

Again, as with the proposed power to limit correspondence and package rights, the dissemination of decision-making authority in this amendment magnifies the risks that the vague standard will be misapplied. The proposed standards' broadly delegated authority, accompanied by a relatively vague standard of safety and security, stands in sharp contrast to the limited decision-making authority and much more clear standards articulated in court decisions upholding such limits.

The Board appears to have recognized this in the provision, the proposed amendments governing surveillance of prisoner correspondence which provides that only the warden may authorize such surveillance and only by written order and sets forth specific criteria for that.

Finally, as has been repeated in prior sections, the Board offers only the conclusory statement that

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heightened security concerns justify the proposed amendment without any meaningful explication of what those concerns are and how the proposed amendment would address those concerns. Given the lack of justification and the myriad of implementation problems, this proposed standard should be rejected.

Finally, with regard to process, which we go into much more detail in our written comments, I'd just like to make two points. We appreciate the fact that the Board today has indicated that this is not the end of the process, but because the process has been ongoing for more than two years, the ability of the Department to set the agenda of these amendments creates a serious obstacle to meaningful input by outside groups. The Department having already put together a set of proposals and the Board already having put together those set of proposals makes it very difficult for outside groups to then ask for amendments or alterations to those proposals, especially given the comments this morning that seem to indicate that the only process remaining is an up or down vote on each of the amendments.

The second point I'd like to make is that in excluding other groups from the process until now, the Board missed a serious opportunity to raise amendments

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2 that would have enhanced prisoner, that would have focused  
3 more on prisoners' rights and other areas that are ripe  
4 for reform. Examples of such issues include the failure  
5 to include disability discrimination in the standards  
6 statement of non-discrimination and the resulting  
7 challenges faced by prisoners in City jails who are  
8 disabled, the unique problems faced by transgender  
9 prisoners including abuse by prisoners and staff, housing  
10 and clothing issues, and the procedural problems with the  
11 prisoner grievance process that prevent meaningful review  
12 of prisoner complaints.

13 More examples I'm sure will be raised by other  
14 parties and written comments, but those are the ones we'd  
15 like to identify.

16 SIMMONS: Your time is -

17 STOUGHTON: Thank you very much. I'm actually  
18 at the end of my comments, but thank you.

19 SIMMONS: Thank you very much for your comments.

20 MR. PAUL VALLONE: Hi, good morning. This is  
21 Paul Vallone. Ma'am, if you could for one second. You  
22 concluded with the enhancements, and at the written  
23 documents submitted, just kind of conclusory mention what  
24 those what might be. Is there a chance where you may  
25 actually submit what some proposed enhancements you would

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suggest?

STOUGHTON: There is a chance we could do that. Unfortunately, we haven't had the time institutionally to develop specific proposals. I'd be happy to take that back to the organization.

I know one that we have, one area we have particularly worked on substantively, and I think that we would be able to provide some substantive comments, is in the area of protections for transgender prisoners. I know that the Sylvia Rivera Law Project has also submitted some substantive comments on that. But we will look into that, and if we have additional comments, perhaps we will submit them before the May deadline for additional -

VALLONE: That would be helpful.

STOUGHTON: You're welcome. Thank you.

VALLONE: And Barry Kamins, when you, you had suggested that you'll be providing written documentation, since this was just your verbal presentation, when can we expect those?

KAMINS: (inaudible)

VALLONE: Thank you.

SIMMONS: The next person is Elizabeth Gaynes.

MS. ELIZABETH GAYNES: Good morning. I'm Liz Gaynes from the Osborne Association. We're an 80-year-old

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criminal justice, non-profit organization that has offices in the Bronx, Brooklyn, and Beacon, and 17 prisons and Rikers Island. We offer a wide-range of programs for people affected by incarceration.

Our services at Rikers Island include discharge planning at EMTC as part of the RIDE Initiative; Fresh Start, an initiative begun years ago by Bobby Margolis, which is a jail reentry program; and most recently, Family Works at Rikers which a parenting and visitation program for children to EMTC.

At the state level we have transitional services at maximum, medium, and minimum security prisons, 17 of them. We offer, we have operated for years collect call hotline for people in prison and a toll-free hot line for people in families to advise them about rules.

I mention this so that you understand that I'm not a guy in a diner on this subject and that we are well grounded in the day-to-day operation of facilities. Also, I've personally been working in prisons and jails since 1971 when I was a law student at Syracuse University. I worked in a clinical program that represented people in prison and ultimately was involved in the defense of men charged with respect to the Attica Prison rebellion in 1971 and later went to Albany Law School to teach a

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clinical program in prisoners' rights.

So starting as early as 1973, I was visiting Erie County, Monroe Country, and Onondaga County jails and penitentiaries, and over the course of my 35 years in corrections and criminal justice, I visited and worked in prisons and jails in ten states, Canada, England, Switzerland, France, Sweden, and Ethiopia.

I have a clear memory of the creation of the Board of Correction's Minimum Standards which sprang directly nearly from what we learned or should have learned from Attica, and its awful conclusion on September 13, 1971, which led to an event being called the most deadly one-day encounter between Americans since the Civil War. The creation of Minimum Standards represented five years post-Attica what has been called in other contexts and what courts now refer to as evolving standards of decency.

At that time, with the world watching, we all got to see what happens when prisons are overcrowded, when people who inhabit them are subjected to degrading conditions, including non-contact visits, restricted access to books and information, being forbidden to write or receive letters in Spanish, extended time in isolation, and many other practices that for some people they do not

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remember.

Since that time, court cases, accreditation, the American Correctional Association, and improved professionalism among corrections field have eliminated some of these egregious deprivations, but the standards of decency continue to evolve in modern times, and these evolving standards of decency recently led to things like ending the execution of juveniles which existed nowhere else in the global north.

But as civilization evolves, so should our standards. In fact, their evolution typically implies raising standards, not lowering them. So you can imagine my surprise at learning that the Board of Correction wanted to implement new standards that were actually lower than current standards and are apparently based on standards followed by upstate jails and prisons in terms of fewer square feet per person and fewer rights and privileges now accorded to men and women detained in and sentenced to New York's jails.

I appreciate that our standards are higher than that, and that's why I live here and not in Texas, and that is also why we probably have a lower crime rate, falling prison populations, and safe and secure facilities. So why would the Board now tempt fate by

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2 moving backwards? Why would we chose to ignore the lesson  
3 of Attica that crowding too many people into too little  
4 space, that keeping people locked up for too many hours of  
5 the day in the absence of overwhelming necessity and due  
6 process of law leads to ruin? You don't need to worry  
7 that this would make us have the highest standards in the  
8 world. If you visit jails and prisons in Europe, Sweden  
9 in particular, which I highly recommend, you will discover  
10 that we are nowhere near hitting the ceiling.

11           I'm especially concerned that standards are being  
12 modernized or lowered based on assumptions about the  
13 current operation of the jails and the high regard that  
14 you probably have and I share with the current  
15 Administration. The reality is that standards remain on  
16 the books, as you've pointed out, for a very long time.  
17 They will outlive me, some of you, and Commissioner Horn,  
18 and most people here today. So they need to be viewed  
19 from the perspective of restraining a future  
20 Administration from a return to darker times, including  
21 the darker times currently in place at many upstate and  
22 out-of-state facilities.

23           With regard to specific standards, my written  
24 comments has a couple of them, I want to focus on  
25 visitation. You didn't go backwards. I urge you to go

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forwards, and two young people from our initiative on children with incarcerated parents will testify, and we have proposed an alternative standard.

Space. We have a dorm at Rikers. We're very grateful that the Department provides us with the ability to work with people in a dorm. If I had to be there with ten more beds in that dorm, I would slit my wrists in three days, and I strongly recommend that before you change that, you spend 24 hours straight in one of those dorms and tell me where you're going to put ten more people.

For me the most important thing has to do with close custody. The most frightening change in the standards is one that would permit people to be placed in 23-hour lockup as a classification decision and not based on actual current behavior violations. You can call it the box, the bing, the hole, isolation, segregation, special housing unit, this is a practice that should not be permitted in a civilized country in the absence of disciplinary hearings and lots and lots of protections.

We have a serious problem of mentally ill people having been taken out of mental institutions and finding their way into our jails. To allow people to be housed 23 hours in lockup which will promote suicide, mental

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breakdown, and the inability to effectively work with their lawyers is completely unnecessary. Evolving standards of decency go in the other direction not toward it.

SIMMONS: Time is -

GAYNES: Okay. I just want to say that there is no standard in here about discharge planning, and I just want to say that this Administration has enthusiastically and energetically embraced discharge planning for men and women completing sentences at Rikers Island. A next Administration might not feel that way. And this city has the best practice with respect to preparing people for release and reentry in the country. It may not be all that we would like it to be, but it is exactly the kind of thing that a minimum standard could address to make sure that over time New York continues to be an evolving civilization with improved standards of decency for all of its citizens. Thank you.

VALLONE: Thank you. Ma'am, once again, you mentioned a standard that you were going to provide an alternative for. It's Paul Vallone again. Do you have that discharge planning standard with you?

GAYNES: I don't have a discharge planning standard, which I will provide. The alternative standard

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on visitation is going to be provided by the young people from our New York City Initiative, and they have it with them, and it's provided in the testimony.

VALLONE: Again, for yourself and anyone who's going to mention written documents and would like us to review those, if we're not handed those or given those within the due time requirements, we will be unable to look at those the way they should be looked at. So the quicker you can get those to me, that would be great, and all of us.

GAYNES: My statement and their standard was submitted today with our testimony. Thank you.

VALLONE: Thank you.

SIMMONS: Makeba Lavan.

GAYNES: Can you reverse that order?

SIMMONS: I guess Kareem Sharperson.

MR. KAREEM SHARPERSON: Good morning. My name is Kareem Sharperson. I am one of the Youth Ambassadors at the Osborne Association. As a Youth Ambassador I network with other organizations, outreach to youth who our services, and I coordinate and co-facilitate a Saturday arts program for youth who have or have had incarcerated parents.

I also work with as a youth advisor to the NYC

1  
2 Initiative for Children of Incarcerated Parents located  
3 within the Osborne Association. The mission of the NYC  
4 Initiative for Children of Incarcerated Parents is to  
5 support and improve the well-being of children impacted by  
6 their parents' incarceration. The goal of the  
7 Initiative's efforts is to support the fulfillment of  
8 every young person's promise rather than to increase the  
9 risk that they will become a negative statistic. The  
10 Initiative provides training and technical assistance and  
11 works on a variety of system reform projects with the goal  
12 of reforming policy and practice to minimize the impact a  
13 parent's incarceration has on the children and support the  
14 parent-child relationships in spite of incarceration.

15 I am here today to let the BOC know that we  
16 appreciate the fact that the visiting standards have not  
17 been significantly changed or reduced. However, it is not  
18 enough to keep the minimum the same if it does not reflect  
19 the best policy it could be. I would like for the  
20 standards to be more youth-friendly and to abide by the  
21 Bill of Rights for Children of Incarcerated Parents. The  
22 Bill includes eight rights that protect the children and  
23 do not inflict punishment on us for our parents' actions.

24 I am able to speak on these standards from a  
25 personal and professional standpoint. My qualifications

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are that I have personally experienced - I've had personal experiences with these standards and with a parent who is incarcerated, and also with youth who have experienced difficulties with these standards. I'd like to see changes with the current standards but also that these be implemented.

Some of the standards you have in effect right now are not being implemented on a daily basis. The issues and standards I am really concerned with are your clothing standards, monitoring phone calls, and visiting procedures. I have a problem with these standards because I see that all the things that go with the standard are not being implemented and do not cater to the needs and wants of the youth who have to deal with their parent being incarcerated. In other words, in addition to facing the challenges of living with a parent behind bars and away from you and the stigma that comes with this, we children also have to deal with a treatment from correctional staff that is less than your own minimum standards.

We are here - I'm sorry. We all know that detainees have to wear certain colors to identify themselves, but why can't they wear clothes that are decent and are not too big or small and are something they

1  
2 would like to wear? I am not trying to say that they  
3 should wear bandanas, baggy jeans, baseball caps, and  
4 jerseys, but I would like to see them wear more casual  
5 clean clothes that fit them on visits for the child's  
6 sake. The image a child has of his or her parent is very  
7 important to maintain. The image of your parent in an  
8 oversized jumpsuit may alarm or may cause confusion for a  
9 young person. We are used to seeing our parents in  
10 ordinary clothes, not seeing our parent, we are used to  
11 seeing our parents the way we've seen them every day  
12 before they were incarcerated.

13 I would like to just say like a personal thing  
14 that I know because I remember when I used to visit my  
15 stepfather in Sing Sing, he used to wear polo button  
16 shirt, slacks, and shoes, and I'm used to seeing him like  
17 that. So when I was on my visit, it made me more  
18 comfortable seeing him like that. But recently I visited  
19 my own biological father in Rikers, and he was wearing a  
20 baggy jumpsuit and it didn't fit him, and I was kind of  
21 concerned for his health because I thought he wasn't  
22 eating right or he wasn't being provided enough meals  
23 because he's not a big guy. You know, so it kind of  
24 alarmed me in a way.

25 Also, we are used to seeing our parents in

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ordinary clothes. Sorry, I kind of lost myself, but that's basically - all right. I remember I had to visit - I'm sorry. I remember I had visited my stepfather when I was small at Green Haven Correctional Facility. When I saw him, he was wearing a polo shirt. Sorry, I went back.

All right, I'm going to move onto the phone calls, sorry. Phone calls are one of the main two ways for children and their family members to keep in contact with a parent who is in prison. During some of these phone calls to home, some detainees or prisoners might hear information or find some things out that they don't want everyone hearing or they do not want to get misunderstood or used against them. We strongly request that the standards do not allow staff to work in the housing areas - no, we don't want the same staff who work in the housing areas to monitor these phone calls.

The reason we feel this is so important, that personal information should not be used against a detainee, and children and family members have a right to privacy. For example, if a child tells his father I got raped or I'm gay over the phone, the detainee does not want to have to get into an argument with a correction officer who then throws this information back in his face because that information is private to the child. His

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information should not be thrown out there, out of proportion to another person. And that's my main concerns with the phone calls, that the child's private information should not be overheard or used against their parent.

Also, visiting procedures are not as easy as the standard state. The standard says visits shall last at least one hour. This time period shall not be begin until the prisoner and visitor meets in the visiting room. This is not true at all. Every time I have visited my father at Rikers Island, I have never had a full hour visit. My visit card was stamped when I arrived into the visiting room and my visit started at the time and ended an hour after the time my card was stamped, not when my father and I came together. Most of the time it took my father 15 minutes to get downstairs to start the visit.

Also, it is a hassle getting to the houses where the actual visit is. The average time I spent visiting my father was between five to six hours. That is a very long time to wait with an average of two hours before and two hours after the visit. Some people have babies going through these visits which makes it even more difficult and unfair to the baby. The visit standards that are in place need to be implemented so that the youth and their families can have a good comfortable visit. Almost every

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young person I have met who has been to Rikers Island has told me that they hate going because of the nonsense that goes on there.

Once standards that take children and their families into consideration are set, we will like to see you implement and carry out these standards on a daily basis. Also, BOC needs to hire trained professionals to make sure that these standards are being upheld at all times. That is one of the main reasons why the standards are not upheld in the first place because there aren't any consequences for those who do not uphold or those who violate the standards. If the standards are upheld and are youth-friendly, fewer people would have a problem with more incarceration issues.

Thank you for your time for me to present my testimony. It means a lot to me. I hope you understand what this is about, children and youths' lives, and I look forward to seeing the standards revised to be more youth-friendly and to see more consistency with upholding the improved standards. One way to achieve this is to involve and listen to the youth like myself who have lived and directly experienced the standards. Thank you again.

Also, I would like to read the eight Bill of Rights. The Bill of Rights are:

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I have the right to be kept safe and informed at the time of my parent's arrest. I have the right to be heard when decisions are made about me. I have the right to be considered when decisions are made about my parent. I have the right to be well cared for -

(side B)

I have the right to speak with, see, and touch my parent. I have the right to support as I face my parent's incarceration. I have the right not to be judged, blamed, or labeled because of my parent's incarceration. And I have the right to a lifelong relationship with my parent.

SIMMONS: Thank you very much. It means a lot to us that you came to speak. Thank you.

(applause)

VALLONE: Kareem, those words were touching. I echo Madame Chairperson's words. Thank you for your personal touch. Those mean more to us to actually hear from the youth, and your title as an ambassador and what you've done, that's first-hand knowledge and it's very important, and we will consider what you had to say. Thank you.

SHARPERSON: Thank you.

SIMMONS: Makeba Lavan.

MS. MAKEBA LAVAN: Good morning. My name is

1  
2 Makeba Lavan, and I'm also a Youth Ambassador at the  
3 Osborne Association. I co-facilitate a Saturday arts  
4 workshop for children of incarcerated parents, and I also  
5 provide mentorship to children impacted by their parents'  
6 incarceration. I also spend my Sundays working in the  
7 children's center at Sing Sing Correctional Facility.  
8 Here, I interact with the families of incarcerated men,  
9 many including children.

10           Seeing their anguish when they're separated gives  
11 me the passion to advocate for children's rights. I can  
12 relate to their feelings because my greatest experience  
13 with this issue is actually the personal experience of my  
14 mother's incarceration. The foundation of my advocacy  
15 today and every day is the Bill of Rights for Children of  
16 Incarcerated Parents, as Kareem just read, which I believe  
17 can be a tool towards developing not only minimum  
18 standards but best practice standards.

19           I'm here today to express gratitude to the Board  
20 of Correction that the visiting standard hasn't been  
21 significantly changed. When policies are developed and  
22 revised, their impact on children should be considered.  
23 However, this rarely happens.

24           Additionally, standards are only as good as their  
25 implementation. Monitoring standards are critical. For

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2 example, the standard may require that the visiting area  
3 be clean and supplied with adequate items, but when  
4 children and their escorts go into the bathroom, they find  
5 that floor tiles are missing, dirty paper towel holders,  
6 and that stall doors don't close. While this may seem  
7 trivial, it sends a powerful and damaging message to  
8 children - this is what you deserve and, really, you don't  
9 matter. And not only you don't matter, but we wouldn't  
10 really like to see you here.

11 Children walk out of the visit feeling that they  
12 do not deserve to be in a clean and safe environment.  
13 They've done nothing wrong, but their experience feels and  
14 looks like punishment.

15 As we address the Board of Correction's proposed  
16 minimum standards today, we would like to recommend a new  
17 approach, that these standards be checked against the  
18 children of incarcerated parents Bill of Rights. If the  
19 standards do not violate these rights and do not send  
20 damaging messages to children about the kind of world they  
21 live in, then the standard can remain.

22 These rights are basic human rights, but they are  
23 not currently being upheld. Of the almost 14,000 people  
24 who are incarcerated on Rikers Island, most are parents.  
25 Many of the close to 1,600 visitors a day are children.

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Acknowledging the well-being of children through criminal justice policies does not mean being soft on crime or discipline. It means teaching and modeling that there are consequences for actions but that these are appropriate, clear, and not randomly and unfairly inflicted on the children and family of those in custody.

The Board of Correction and Department of Correction have an opportunity to be part of teaching, accountability, and responsibility, yet currently, what is more often taught is that punishment is cruel and unnecessary, disrespectful, mean, and unfair. These are the more common messages that children walk away from at the Department of Correction facility having learned - that the system, laws, and policies are mean and unfair, that people in uniforms are the bad guys, and that their parents are the victims.

Among the youth that I work with, I've never heard a positive story about a visit to Rikers Island or any jail or prison for that matter. Children already have a lot to face if their parent is incarcerated. Negative visiting experiences shouldn't add to their pain.

My personal memories of visiting my mother in prison are not any better. When my mom was first incarcerated, I wasn't even notified. I don't even know

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if anyone took the time to find out if my mother had children. Prior to my visit, I had not seen her in three years, and I didn't know if she were alive or dead.

Because of this, I couldn't help wondering what she would look when I finally saw her. My mother has always been a very feminine woman. When I finally saw her, she was barely recognizable. My mother's hair was corn-rolled straight back like a man's, and it was very unflattering to her round and youthful face. It was very disturbing to me, and she was wearing construction boots and a dark green pant-shirt set, and she told me that this was standard procedure for visits. The way she looked didn't correspond with the mental picture I had of my mother, and it made it very hard to warm up to her during visit time.

As she sat down and we began to talk, my eyes continually wandered back to the guards because their scornful gazes practically burned holes into my mother and me. They were clearly judging us. Their eyes asked mom how she could have gotten herself locked up, and they asked me how I could visit my guilty mother in jail. What they never figured out was that I had done nothing wrong. Also, I love my mom and have the right to maintain our mother-daughter bond even through incarceration.

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2 I feel that a lot of people just judge prisoners,  
3 saying that they should have thought about that while they  
4 were committing their crime. I can't disagree. However,  
5 every situation is different. Why should the family,  
6 particularly children, be sentenced for a family member's  
7 crime? When did a person become judged solely on one's  
8 actions? I'm sure we've all done something we're not  
9 proud of, but what a relief that we don't have to spend  
10 our entire lives judged by that sole indiscretion alone.  
11 Why then are formerly incarcerated people always known as  
12 ex-cons or convicted felons? When did a human being make  
13 a mistake, as all humans do, and then be punished for that  
14 mistake for the entire lives, and not just them but their  
15 family and children as well?

16 It doesn't have to be this way. It is possible  
17 to take security concerns seriously and to implement  
18 policies that reduce the likelihood of contraband and  
19 violence while also being mindful of the children and  
20 families who care deeply about the people in the  
21 Department of Correction's custody.

22 The current policies and practices of the  
23 criminal justice system, including the New York City  
24 Department of Correction, convey that sacrificing  
25 children's well-being is the acceptable collateral damage

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2 of incarceration, that this is the unavoidable cost of  
3 protecting society. In revising the minimum standards,  
4 the Board of Correction has an opportunity to take a stand  
5 that this will no longer be so, that we will no longer  
6 sacrifice children's well-beings and bright futures in  
7 exchange for holding their parents accountable. We will  
8 no longer accept that negative and damaging messages,  
9 inconsiderate treatment, and painful experiences for  
10 children whose parents are in the Department of  
11 Correction's custody are an inevitable side effect of  
12 carrying out the mandate of corrections.

13           Speaking as a child of an incarcerated parent and  
14 a Youth Ambassador who's worked with many children whose  
15 parents were or are incarcerated, I recommend an audit of  
16 the proposed minimum standards that checks each items  
17 against the children's Bill of Rights.

18           We recognize the important of maintaining  
19 security and agree that people should be held accountable  
20 for their actions. Yet we also believe that there is a  
21 way to develop correctional policies that consider a  
22 child's perspective and achieve penal goals while also  
23 safeguarding the next generation. We owe it to the 2.4  
24 million children in this country who are on any given day  
25 have a parent who is in jail or prison.

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The Board of Correction must consider the well-being of children as within its purview. The number of children affected are too great and children are too important not to. Thank you very much.

(applause)

SIMMONS: Thank you very much. The next speaker is John Brickman.

MR. JOHN BRICKMAN: Good morning, Ms. Simmons and members of the Board. I am John Brickman, and I am Chairman of the Board of Directors of the Correctional Association of New York, and I am pleased to speak to you today on behalf of the Correctional Association and to offer our views on the proposed changes to your minimum standards.

But I have another voice, one that I hope gives particular resonance to my statement today. From 1971 to 1975 I served as your first Executive Director, and my appointment in 1971 followed the revitalization of the Board in the aftermath of the riots that paralyzed facilities in Queens and Manhattan and the Bronx and Rikers Island. And that revitalization of the Board and for the first time the appointment of its staff really marked the beginning of the Board's function as an independent monitor with the intention of opening the

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2 jails to outside scrutiny in the hope of staving off  
3 further disorder.

4           This, of course, was before the City Charter gave  
5 the Board the right and empowered the Board to set minimum  
6 standards for the Department. And as a consequence of  
7 what the Board and staff observed during those initial  
8 years of the Board's activity and our conclusion that the  
9 Board's historic monitoring role needed something more,  
10 needed teeth, we conceived the proposal to amend the City  
11 Charter to empower the Board to set minimum standards.  
12 Perhaps in the buzz words of today, we looked to go beyond  
13 transparency and to reach accountability as well.

14           The inclusion of the standards in the 1975  
15 Charter revision referendum was a direct result of the  
16 Board's request to the Charter Revision Commission, our  
17 considerable lobbying efforts, and consequent voter  
18 approval.

19           In terms of my other hat, at the Correctional  
20 Association of New York, our history is even much more  
21 considerable. It dates back to 1844, and since 1846, by  
22 legislative mandate, we've enjoyed the right to visit the  
23 New York State prison facilities, and for more than 160  
24 years, we've done just that, reporting to the public, to  
25 the prison administrators, and to the State Legislature,

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2 and we like to think that we are, at the Correctional  
3 Association, in every respect a paradigm of the civilian  
4 prison oversight agency.

5           And I think it's no stretch to suggest that when  
6 the City created the Board of Correction during Mayor  
7 Wagner's Administration, the monitoring activities of the  
8 Correctional Association stood as a prime example that  
9 drove the establishment of the Board as an independent  
10 force in the City's criminal justice system.

11           Now in our nearly two centuries of prison work at  
12 the CA, we've learned a key lesson, one I think that was  
13 reinforced by my four and a half years as your Executive  
14 Director, and that is that there is an inevitable tension  
15 between the prison administrator and those charged with  
16 civilian oversight. That tension is both necessary and  
17 healthy; indeed, it is in our view no less than vital.  
18 Without that independence, without plenty of daylight, you  
19 simply aren't doing your job. When the watcher and the  
20 watched become too close, when they share not simply  
21 common goals but too much in the way of common activity,  
22 the oversight agency no longer acts independently, and it  
23 fails of its purpose.

24           With regret, I believe, and the Correctional  
25 Association believes that your proposals to revise the

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2 minimum standards reflect your loss of independence and,  
3 accordingly, your failure to fulfill the purpose for which  
4 the board was created some 50 years, and failure to follow  
5 the example created by the Board during the years in which  
6 it had its most sustained impact on the operation of the  
7 Department of Correction. Here, you give the appearance  
8 of a behind-the-scenes partnership with the Department of  
9 Correction to the exclusion of other stakeholders, and in  
10 the process you seem to depart, in appearance and in fact,  
11 from the principal requiring distance.

12           The Board is a civilian, and I stress the word  
13 independent, agency. The Department is only one agency to  
14 which you should go for counsel, and, of course, you  
15 should to go there to consult, whether or not the Charter  
16 says so. You represent in every respect the presence and  
17 conscience of the community in our jails and prisons. The  
18 community can't enter and leave the jails; you can. Yet  
19 where was any consultation with any community groups or  
20 representatives in the formulation of these proposals?

21           Yes, you, of course, are an agency of the City  
22 government, but your watchdog role depends in no small  
23 measure on your independence from the agency whose  
24 performance you are charged with monitoring and evaluating  
25 and whose activities must meet your requirements. You are

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independent of the Department; indeed, you are independent of the Mayor and the Administration as evidenced by the fact that a majority of you are selected by others. The fact that two-thirds owe your appointments to the courts or to the City Council reaffirms the proposition that your loyalty must be to the City and not to any incumbent Administration.

Now the suggestion has been raised that because these standards are 30 years old they require revision. Review, certainly, but revision? To use the hackneyed phrase, if it ain't broke, why are we fixing it? Where is the proof that anything is broken? If, in 1978, 60 square feet per inmate was the appropriate statement of the minimum space that our community would allow to someone whom we'd decided to deprive of liberty, what has happened since then to shrink the minimum acceptable area to 50 feet?

Throughout the proposed amendments, you offer examples of practices in other jurisdictions. While I know that others will speak to this with more detail, I cannot accept the proposition that the Los Angeles County jail is a model for what we should have in New York City when we lock up our citizens. But more to the point, the effort to reduce minimum rights seems to abandon best

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practices, the most desirable goals, for the least we can get away with, what the Legal Aid Society aptly calls the race to the bottom. The proposed standards have the effect of relinquishing the leadership role of New York City in promoting enlightened corrections practices. Does this Board really want to be the first in three decades to go there? I would think and hope not.

Two? Thank you.

The issue is not what the law requires. As Justice Anthony Kennedy has suggested, because the Supreme Court says that the Constitution may not require something doesn't mean that it isn't enlightened correctional practice, nevertheless, to insist on it. The issue should be what is good, what is sensible, and what is humane beyond whatever constitutional minimums may be out there. To put it a bit differently, what do we in this City exercising our role as national leaders see as the best practices?

I want to make an important point, and that is that our issue is not - I'm sorry, I should say it differently. Our issue is with the performance of your duties as an independent monitor and rule-maker. It's not about how this Department of Correction or this commissioner conduct themselves. In fact, at the CA we

1  
2 have considerable admiration for the administration of the  
3 Department, and personally I'm a big fan of Marty Horn's.  
4 But as Liz Gaynes pointed out, none of us is here forever,  
5 and it has to be the role of this Board to look beyond  
6 individual commissioners or particular mayors or their  
7 administrations.

8           Let me conclude by saying that more than 35 years  
9 ago the Board of Correction remarked on the relevance to  
10 prisons and jails of von Heisenberg's uncertainty  
11 principle, and that's the rule of physics that says that  
12 certain atomic reactions happen very differently simply  
13 because someone is observing them. There is no area of  
14 government we believe to which von Heisenberg's rule  
15 applies better than the closed and hidden world of our  
16 jails and prisons. And 30 years ago we gave you the power  
17 to go beyond the observers' role and to compel the system  
18 to do the right thing. Please don't roll back three  
19 decades of progress and squander that right. Thank you  
20 for listening to me.

21           SIMMONS: Thank you. The next speaker is Leo  
22 McKinnis.

23           MR. LEO McKINNIS: Good morning. My name's Leo  
24 McKinnis. I was incarcerated at Rikers Island in 1988.  
25 And one of the problems there was overcrowding and

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2 increasing that. Overcrowding creates a tense atmosphere  
3 between inmates and correctional facilities, and one of  
4 the problems was phone time. During phone time, you have  
5 certain groups that run the house, and they're somewhat  
6 intimidated, the Corrections are somewhat intimidated by  
7 them because you usually have like two or three correction  
8 officers in each block, and they have to compromise their  
9 authority for their own safety.

10           So like you have phone slots and you have a list,  
11 and each inmate should get 15 minutes. I think it's 10 or  
12 15 minutes at that time. But because of this  
13 intimidation, most inmates doesn't get the phone calls.  
14 Then that's another problem. Older inmates, over 50 I  
15 would say, should be a different housing unit for them  
16 because they're brutalized by younger inmates, and you  
17 have the sick, the same problem, say an AIDS patient or  
18 someone with mental illness.

19           A CO should not be allowed, he shouldn't be  
20 allowed to a be CO with a GED. Even if you have a high  
21 school diploma, he should be given some training in human  
22 behavior and diversity of culture to understand human  
23 behavior (unintelligible) so wouldn't be brutalized and  
24 put in isolation. They should be housed in a different  
25 unit. And going to the yard. You can't go to the yard

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2 unless you're going to get into trouble or get stabbed.

3           What I find most disturbing is that inmates -  
4 everything I hear today sound good, but what I notice is a  
5 lot of naïve proposals being put forth because they're  
6 based on theory, not on experience. And if you haven't  
7 been there, it's difficult to implement the plans that's  
8 going to be successful, I feel in a way, you know. And I  
9 feel that - I heard something about telephone calls being  
10 monitored, and if a telephone call is monitored, the  
11 inmates should have the right to know, but that endangers  
12 a certain part of the population. So say a person's been  
13 there for a crime, you have a witness outside. If he's  
14 allowed to make that phone call and he knows it's being  
15 monitored, he's not going to say what he want to say, and  
16 he could just have things done to people outside or  
17 inside. It happens all the time. I know that happens.

18           And there should be some type of education  
19 because I think in the City jails, I personally came out  
20 with a college education. I think 94 percent didn't go  
21 back in 1990, but the ones that didn't have a college  
22 education, it was 80 percent recidivism rate. So I think  
23 that it should be mandated that people go to school while  
24 they're in jail because it's like a domino effect, it  
25 affects us all. If a person come out, he has no skills,

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2 what do you think he's going to do? Because, you know,  
3 like the rewards of doing adverse things is greater than  
4 the rewards in the mainstream society in a lot of cases.  
5 So that has a lot to do with it. And I feel that there  
6 should be some people that's been incarcerated with  
7 experience involved in this decision process for it to  
8 have a more authentic outcome. Thank you.

9           SIMMONS: Thank you very much.

10           (applause)

11           SIMMONS: Carolyn Hsu.

12           MS. CAROLYN HSU: Hsu.

13           SIMMONS: Hsu, okay, sorry.

14 (tape 2, side A)

15           HSU: Good morning. My name is Carolyn Hsu, and  
16 I am currently a student at the Fordham University School  
17 of Law. I lead a student group at the law school that is  
18 interested in prison issues. I came to law school valuing  
19 fairness and proportionality between crime and punishment,  
20 and people are innocent until proven guilty.

21           With that in mind, I speak today in opposition to  
22 the adoption of the proposed amendments to the minimum  
23 standards for New York City jails. My opposition arises  
24 out of concern, both for how the proposed amendments were  
25 promulgated and for the consequences of the substantive

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amendments themselves.

As I said, I lead a student group at the law school that has been looking into the justifications and desirability of the amendments. During the past few months, my colleagues and I have interviewed a number of formerly incarcerated individuals, some of whom have, we have submitted statements on their behalf, and you have received some of those. And the stories and opinions that we heard during this process have left a deep impression on us.

What we heard persuaded us that the overcrowding standard should not be amended to allow either less space per inmate or more inmates per dorm. Every single person we talked to was deeply concerned that implementing a lower standard would add to an already mentally exhausting intense atmosphere. Our formal research on the subject reinforced the point and convinced us that adopting the overcrowding amendment would increase tensions and violence in the dormitories which several of the people we interviewed described as making them feel already like animals. Putting more people in the dorms would only exacerbate that.

Secondly, I wanted to talk briefly about the amendments to clothing, in particular the amendment that

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2 would require detainees to wear uniforms instead of their  
3 civilian clothing. We are concerned that the Department  
4 will not be able to provide adequate uniforms. From the  
5 interviews that we conducted, it appears to be, it seems  
6 that the sentenced inmate who already do wear uniforms are  
7 not even being provided with uniforms of the correct size.  
8 Often the uniforms are much too small for the people who  
9 are wearing them. Moreover, the uniforms are not warm  
10 enough. During the winter, the inmates that we spoke, the  
11 prisoners that we spoke to indicated they had to rely on  
12 clothing sent from family members, blankets and quilts  
13 sent from family members to stay warm. We are concerned  
14 that by amending the standard to require detainees to also  
15 wear uniforms, the Department will not be able to  
16 appropriately accommodate the inmates' interest in warm  
17 clothing to prevent them from getting sick.

18           We are also concerned about the effect of  
19 requiring detainees to wear uniforms in that the language,  
20 while it does, while the language specifies that detainees  
21 would be provided their civil clothing for trial  
22 appearances, the language does not specify whether or not  
23 civilian clothing would be provided for other court  
24 appearances. We feel the prejudicial effect of having a  
25 detainee appearing in court in a jail uniform before he is

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2 presumed guilty is not acceptable. Moreover, several of  
3 the women we spoke to expressed a concern about whether  
4 they would be required to wear uniforms to Family Court.  
5 This was a particular concern voiced by several of the  
6 women. They felt their children should not have to see  
7 them in such a way and that the prejudicial effect of this  
8 spilling into the Family Court arena would certainly,  
9 certainly very, certainly not be acceptable for them or I  
10 think for myself.

11           And lastly, I want to speak shortly about the  
12 recreation amendment. While we understand the recreation  
13 amendment states that a prisoner's access to recreation  
14 may be denied for misconduct to, from, or during  
15 recreation, while certainly I understand the need to  
16 maintain facility discipline, two aspects of the new  
17 language concern me. First, there's no indication of how  
18 the serious the conduct has to be in order for the  
19 recreation privilege to be taken away. This leaves open  
20 the possibility the prisoners will be barred from  
21 recreation for the most trivial of conduct. Second, the  
22 language may be interpreted to permit consecutive five-day  
23 denials of recreation ad infinitum, raising the  
24 possibility that a person could be denied recreation for  
25 their entire stay at Rikers. It's not acceptable. I

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think the Board has acknowledged the importance of recreation in the minimum standards as essential to good health and contributing to reducing tensions in the facility. So I ask that you reject that amendment as well.

In closing, I just want to say that I'm from California, and when I moved to New York City and I started working with prison issues, I thought it was really fantastic that the City had set up the Board, certainly innovative. And the potential of having such an oversight agency I think is invaluable. I come today to ask you to embrace that rule as an oversight watchdog agency to assure that our jails fit the notions of justice and the standards that I believe as a community in New York City have decided that we want for our jails. And so I ask you not to adopt the amendments that have been proposed to the minimum standards. Thank you for your time.

(applause)

SIMMONS: Thank you. I too come from Los Angeles, so I'm always glad to meet someone else who was smart enough to move to New York. Jesse Lainer. By the way, before you start, when you finish, we're going to take a five-minute break, and then we'll resume, if that's

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all right with everyone.

MS. KATE RUBIN: Good morning. There's actually three of us from the Bronx Defenders who are going to testify together.

MS. PORSHA VENABLE: Hi, I'm Porsha Chiffon Venable, and I'm a licensed social worker at the Bronx Defenders Office.

MS. JESSE LAINER: My name is Jesse Lainer Voss, I'm a licensed social worker and client advocate at the Bronx Defenders.

RUBIN: Hi, I'm Kate Rubin. I coordinate the Reentry Net Project at the Bronx Defenders. We're submitting this testimony --

SIMMONS: You coordinate the?

RUBIN: Reentry Net Project at the Bronx Defenders, and we're submitting this testimony on the proposed amendments to the minimum standards on behalf of the Bronx Defenders, and we thank the Board for the opportunity.

The Bronx Defenders is a community-based public defenders office that provides fully integrated criminal defense, civil legal services, and social services to indigent public charged with crimes in the Bronx. We view clients not as cases but as whole people - caring parents,

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hard workers, recent immigrants, native New Yorkers, and students with hopes for the future.

We ask that the Board of Correction withdraw the proposed amendments to the minimum standards for New York City correctional facilities and reformulate its proposals based on input from us and other advocates, family members, and individuals who've directly experienced incarceration in New York City's jails and who can speak to the human needs of people who'll be most directly affected by the proposed changes.

LANIER: The worst thing we can do to our clients who are indigent, stigmatized, and in too many cases battling mental health and substance abuse issues is to rob them of social contacts. For too many of our clients, these contacts and connections to families, friends, and social networks are the most important things they have. Indeed, they are crucial to our clients' identities. They are crucial stabilizing forces in our clients' lives, especially in times of crisis, like the crisis that is brought on every time a person becomes involved with the criminal justice system.

Too many of these proposals will limit our clients social contacts or limit the quality and extent of that contact. Denying contact visits in the first 24

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hours after arrest effectively denies a person the chance for a single, stabilizing interaction with a family member or other support person while they're in crisis. Family members frequently have information about medicine or need information about details of real life - an employer's phone number, a location of a lease - these details that can mitigate collateral consequences and effects down the road.

We see this as particularly crucial for adolescents and others who are experiencing incarceration for the first time. We represented a 16-year-old, HIV-positive client who was incarcerated for the first time. He didn't know the names and the dosage of his medication. His life depended on a visit with his aunt who was able to tell him during this first visit exactly what medication he needed to ask for and to answer questions about his treatment.

We also represented an adolescent who suffers from borderline mental retardation. He did not understand his arraignment and criminal processing. When he arrived at Rikers Island, he had no idea where he was or why he was there. A phone conversation with his mother would not have been sufficient to calm him and help him begin to understand the situation.

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2 By the same token, our clients need to be able to  
3 talk openly and honestly with their loved ones while  
4 they're incarcerated. As you well know, many of the  
5 people who will be affected by these standards are pre-  
6 trial detainees. They have open cases and have not yet  
7 been convicted of any crime. Surveillance of their phone  
8 calls not only increases the likelihood that confidential  
9 information about their cases will be overheard, it also  
10 limits their comfort talking about sensitive topics -  
11 mental health, substance abuse, or simply emotional  
12 issues. Furthermore, as others have pointed out, no plan  
13 is currently in place to ensure confidentiality of calls  
14 with attorneys and social service providers.

15 Finally, decreasing the availability of Spanish  
16 language interpretation will serve to further isolate  
17 Spanish-speaking clients. Jail is a scary, confusing, and  
18 dangerous place. Every individual has the most basic  
19 right to know what is happening to her, to understand the  
20 instructions she is given, and other important information  
21 about the place where she effectively lives. Our fear is  
22 that without sufficient staff of qualified neutral  
23 translators, correctional officers and other inmates will  
24 be relied on to translate. This runs the risk of  
25 violating confidentiality, first and foremost, but also of

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miscommunication. My name is Jesse Lainer Voss.

VENABLE: Hi, my name is Porsha Chiffon Venable again. I'm going to talk about lock-in. The standards presently require lock-in in celled areas to be kept to a minimum and set limits on lock-in time for all prisoners, except for those in punitive segregation who are kept locked in for 23 hours per day.

As we understand, close custody is not a punitive measure. It exists so that advocates and individuals who request, because they felt their own safety was threatened. This includes people who have been accused, not convicted, of high profile crimes, people with severe developmental or physical disabilities, transgender people, or simply people who are physically small and at personal risk. These individuals should not be punished or forced to suffer because of their unique situations, especially because we know that 23-hour lock-in will place those in close custody in greater jeopardy, as it's well known that isolated confinement increases risk of suicide and has several mental health consequences.

In fact, 23-hour lock-in is especially detrimental for mentally ill clients. Without this confinements, these clients are already vulnerable to decompensation after the trauma of arrest, displacement,

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and jail. We have seen first hand the effects that this has had on our clients.

We represent a man in his 40's with chronic mental illness, previous suicide attempts, and psychotic symptoms. After being placed in 23-hour lock-in, we have witnessed an increase in the magnitude of his symptoms. His thoughts are more disorganized, his depression has worsened, and he has more suicidal thoughts.

Many clients do not identify upon admission as having mental health issues for fear of stigma or because they simply do not know. A general population unit that is overcrowded with the increased threats of violence and theft of personal belongings will effectively nurture symptoms of clients with psychiatric disabilities. In turn, these clients will be more likely than ever to end up in 23-hour lock-in, further intensifying these same issues.

I just want to talk briefly after overcrowding. People who are incarcerated undergo a tremendous adjustment to maintain functionality in a chaotic environment. Most of our clients go into survival mode in order to acclimate to jail life. Many feel that they must be ready to fight to protect themselves and their personal property. They also feel that correction staff rarely

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does enough to protect them or to maintain peace and safety. Holding 50 inmates with 60 square feet per person, the dorms are already overcrowded and undermonitored. Our clients feel a constant threat to their safety.

The proposed amendments would increase the number of people per dorm from 50 to 60, a 20 percent increase, with no increase in staffing or dorm size. This will only increase the sense of danger and chaos that our clients feel. Thank you.

RUBIN: Just to conclude, we urge the Board to consider that many of the people affected by the standards have not been convicted of any crime, and as others have pointed out, many are frequently detained because they can't afford to pay bail, and that's most of our clients.

SIMMONS: Can you just state your name again?

RUBIN: Kate Rubin. But that, moreover, every inmate in Department of Correction custody has the right to personal safety and humane conditions, as you well know. The Board should be working to reduce crowding in City jails if at all possible, not signing off on increasing it. And in formulating minimum standards, please keep in mind the needs and concerns of the most vulnerable individuals.

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2           The organizations here today represent many of  
3 the people in DOC custody and offer a wealth of knowledge,  
4 and we ask that the Board of Correction redraft proposals  
5 for changes taking this testimony and those of other  
6 organizations into account. We don't have specific  
7 proposals for improved standards, but we ask that future  
8 proposals include some changes that would make the lives  
9 of inmates and detainees less oppressive, that would  
10 actually promote successful reintegration after  
11 incarceration, and would benefit members of the community  
12 in dealing with the jail system.

13           We ask that you consider amendments that would  
14 reduce waiting time for visits to Rikers Island. We ask  
15 that you consider measures that would ensure the right to  
16 basic high school education for adolescents. We ask for  
17 proposals that would protect inmates and detainees from  
18 abusive search practices. We ask for meaningful standards  
19 with regard for safety for transgender prisoners. We ask  
20 that you not only maintain access to Spanish language  
21 interpreters but add interpreters for other languages that  
22 are commonly spoken, such as Arabic and French. We thank  
23 you again for your time, and we look forward to a new set  
24 of proposals.

25           SIMMONS: Thank you. We will have a five-minute

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break.

(applause)

(break)

SIMMONS: -- 12:30, and then we're going to take a lunch break, and I'm hoping that the lunch break, at least from our side, will be no more than 15 minutes or so, 20 at the most. And then we'll reconvene again after we eat, but we can't not eat, I'm afraid, and all of you should too if you can.

I want to say two other things as we get started again. First, on behalf of all the Board members, I want to make clear that we certainly have heard the concerns that many of the morning speakers so far have raised about the procedures. We hear you, we understand the points that you're making, and we certainly will take all of those under advisement.

Secondly, in the interest of time and given the large numbers of people who have signed up so far to speak and in anticipation that there are other people who are coming in the afternoon also who want to speak, I would just ask, being mindful of not trying to keep anyone from speaking and we want to hear everybody who's come and signed up, that although I started at the beginning saying ten minutes because we thought that would be fair and

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2 reasonable and I still believe that it is, for those of  
3 you who are at the same time you're speaking submitting  
4 your written testimony at that moment here and giving it  
5 to us, perhaps you would consider limiting your speaking  
6 time to five to seven minutes to ensure that people who  
7 have signed up who are not today submitting their written  
8 testimony at the same time they're here have an  
9 opportunity to be heard as well. I don't want to cut off  
10 anybody speaking, but I also want to ensure that in the  
11 course of the day that we've allocated for this, that  
12 everybody who wants to have a chance to speak can. So if  
13 you're giving us written testimony of your remarks at the  
14 same time that you're speaking, perhaps you will consider  
15 reducing your speaking time to five to seven minutes, and  
16 I'll give you a little wave or a signal when we get to the  
17 five-minute mark, so that we can make sure that we have to  
18 hear everybody. Thank you. The next speaker is Ghita  
19 Schwartz.

20 MS. GHITA SCHWARTZ: Good morning. My name is  
21 Ghita Schwartz, and I am Associate Counsel at the Puerto  
22 Rican Legal Defense and Education Fund or PRLDEF. Since  
23 1972 PRLDEF has been a leading force in the fight for  
24 civil rights for Latinos. Using the power of the law as  
25 well as education and advocacy, PRLDEF protects the

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opportunities of Latinos to succeed in work and in school and to sustain their families and their communities.

PRLDEF strongly opposes the proposed amendments to the minimum standards. While we object to any reduction in the minimum standards, I will confine my remarks today to the amendments that affect language access for Spanish-speaking prisoners.

Since 1978 Section 101 of the Minimum Standards, titled "Non-Discriminatory Treatment," has required that every facility have a sufficient number of employees and volunteers who are fluent in Spanish. Bilingual staff facilitate access to confidential health care, help inmates understand crucial rules and procedures, and provide numerous forms of assistance to Spanish-speaking prisoners. For almost 30 years, New York City has recognized that without regular and stable access to Spanish-speaking staff, prisoners who are not fluent in English face enormous barriers to equal treatment.

The proposed amendments in Section 101 would eliminate the requirement for a sufficient number of Spanish-speaking staff. Instead, a new provision states that procedures will be employed to ensure that non-English-speaking prisoners understand all written and oral communications from facility staff members. While this

1  
2 provision articulates a laudable goal that PRLDEF  
3 supports, it should be in addition to not a substitute for  
4 adequate bilingual staffing. Further, the amendments do  
5 not specify what procedures will be implemented or how  
6 they will guarantee that prisoners' needs are met.

7 Adequate language access means that an ill  
8 prisoner can have privacy and communications with a  
9 medical care provider or that a new inmate can properly  
10 understand the disciplinary rules of the facility.  
11 Reducing Spanish-speaking staff increases the chances that  
12 patient confidentiality will be violated when, for  
13 example, an inmate facing a medical emergency is forced to  
14 use another inmate as an interpreter, thus, causing the  
15 facility to run afoul of health privacy laws. Reducing  
16 Spanish-speaking staff increases the risk of disruption  
17 when an inmate does not understand a directive from  
18 monolingual English-speaking staff.

19 In proposing these amendments, the Board of  
20 Correction has offered no evidence that Spanish-speaking  
21 staff are less necessary now than in 1978 nor has it  
22 provided any other justification for the reduction of  
23 bilingual services to prisoners. In fact, relaxing  
24 Spanish-speaking requirements makes no sense. A  
25 sufficient number of competent Spanish-speaking staff is

1  
2 crucial to prisoner well-being as well as to the orderly  
3 operation of a correctional facility. If implemented,  
4 these amendments will harm both inmates and the correction  
5 system as a whole. We urge you to withdraw them. Thank  
6 you.

7 (applause)

8 MR. MICHAEL REGAN: Hi, excuse me, I have a  
9 question. Hi, I'm Michael Regan. Are you going to submit  
10 language that could help us strengthen to do what it is  
11 that you said that we should be doing?

12 SCHWARTZ: At this point, we have submitted the  
13 written version of my oral statement, but we are planning  
14 to submit further written commentary to the Board.

15 REGAN: I think that could help us. Thank you.

16 SCHWARTZ: Thanks.

17 SIMMONS: The next speaker, Mark Goldsmith.

18 MR. MARK GOLDSMITH: Good morning. I founded an  
19 organization called Getting Out and Staying Out  
20 approximately three years ago, the object of which  
21 naturally is to reduce the recidivism rate at Rikers  
22 Island. We've had a modicum of success - 250 of our guys  
23 are in the community today and only 6 have been returned  
24 on new charges. It has to do with education and  
25 employment.

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I work through an alternative high school called the Horizon Academy. This is a school on Rikers Island that serves 18 to 21 years old, moving to 18 to 24 in the fall because of the Mayor's new CEO initiative. The school has the highest graduation rate of any school in the prison system of New York State of young men who take and pass the GED, no small accomplishment.

Many more people have spoken today, they're far more experienced than I am in corrections, so I just wanted to deal with one issue and suggest a little creativity with respect to what the detainees wear when they're at Rikers Island, and this might be a little divergent point of view from most of my contemporaries.

I spend a minimum of three days a week at Rikers Island, and I can tell you that the young men detained at Rikers Island are not very well dressed. In fact, they're pretty poorly dressed for a lot of reasons - lack of funds, lack of family to support clothing - and to me perception is extremely important. What you see when you look at a group of young people is important.

So my suggestion is that you consider, if corrections is hell bent to get guys into uniforms, why not a little creativity. I mean we are in the fashion capital of the world, this is New York City, right? Why

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not have the guys design something for themselves, a simple white tee-shirt or maybe a long-sleeve white shirt in the wintertime, somebody mentioned warmth, chinos, maybe jeans, but something that befits somebody who is entitled to look the best possible way.

Corrections has mentioned safety. I believe in making recommendations that are solution-oriented. So if safety is the big issue, they would be in uniforms, but they would not be anything like the green, baggy uniforms worn by sentenced people. At the same time, there's no reason why that uniform couldn't be changed also.

And so it's just a small solution for something that is extremely important. As we told the guys when they're out on job interviews, you're only allowed one bad hair day, and then the do-rag has to go. That's not the way you get a job in this City, and it's not the way we talk to the guys when we first come to Rikers Island, when they're going to continue upstate. So, once again, just a small solution to something that clothes are very important to young people, and if you're going to take away their regular clothes, you better give them back something that they can be proud to wear. Thank you.

SIMMONS: Thank you.

(applause)

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SIMMONS: The next speaker is Michael Mushlin.

MR. MICHAEL MUSHLIN: Good morning. My name is Michael Mushlin, and I am the James D. Hopkins Professor of Law at Pace Law School, where, among other things, I teach the law of prisoners' rights. I've been long involved in prison reform work. I'm the author of a book, a three-volume treatise on the rights of prisoners. I'm a member of the American Bar Association's task force on the legal status of prisoners. I'm a Board member and I'm a former Chair of the Correctional Association of New York whom you've heard from already. I also served and chaired the Committee of Corrections of the New York City Bar Association, and I chair the Osborne Association you've also heard from.

For seven years during the same period that the Board's Minimum Standards were first promulgated, I was staff counsel and then the project director of the Prisoners' Rights Project of the Legal Aid Society.

Two other things I want to mention. I've been a co-organizer of two national conferences that I think are relevant to your work. The first conference was entitled "Prison Reform Revisited," and it was held at Pace Law School in 2003. It was attended by over 124 specially invited leaders in the field, and at that conference I

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think it was concluded that judicial oversight was on the wane, and there was a critical role for agencies such as yours. The conference and its papers note the need for vigilance if the rule of law and simple dignity is to prevail in American prisons.

The second conference I think is even more relevant. That took place last year in Austin, Texas. It was sponsored by Pace Law School and by the University of Texas. It took place at the LBJ School, and it was entitled "Opening a Closed World: What Constitutes Effective Oversight of Prisons." That conference addressed the critical need for effective oversight of American prisons. And there was a remarkable consensus that was developed at that conference that it is imperative to strengthen and expand prison and jail oversight in this country.

Now I'm appearing before you not as a representative of any organization but as someone who cares deeply about these issues. I want to just - I know I don't have a lot of time and I'm going to stay with it, but I want to address two issues with you. First, I'm very concerned about the process that got you to this point. You did not consult, from my discussions with other people and from a review of the record, with people

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who are knowledgeable about conditions in New York City jails before going public today. This I contend is the fundamental error that I believe you just simply have to correct, and I trust and I hope that you will.

I urge you to rescind or suspend further efforts to promulgate the proposed standards to the minimum standards and immediately initiate a process of consultation with all relevant parties interested in New York City jails, not just the Department of Correction.

And the second thing I want to do in the brief time I have is I just want to point out one example of what have happened and what I think will happen when you consult. We won't have proposed standard 105 which would allow for the confinement of many detainees under conditions that have been condemned by courts and by international bodies concerned with the treatment of prisoners. Let me briefly address both these things.

One is that I think the standards should be withdrawn. New York is a leader in prison oversight, and because it is a leader, when we organized the conference in Texas, we invited Richard Wolf who is your Executive Director to serve as a panelist. We did so because we believe that the Board of Correction could be a model for the nation. That event drew experts, as I said, from all

1  
2 around the world including 20 percent of the nation's  
3 corrections commissioners, including Marty Horn, and what  
4 was echoed over and over again at that conference by  
5 almost every participant is the need for effective,  
6 independent oversight. Prisons are what Justice Brennan  
7 called a closed world. Without oversight in these closed  
8 places, abuses of fundamental rights can occur.

9           Now one of the speakers at the conference, as I  
10 just mentioned, was Richard, Richard Wolf, your Executive  
11 Director. And I just would like if I can to quote from a  
12 paper that he gave at the conference, and the paper is  
13 entitled "Reflections on a Governmental Model of  
14 Correctional Oversight." Richard stressed in that talk  
15 the importance of independence. Let me just give you his  
16 words because I think they're eloquent.

17           "The fact that correctional facilities are closed  
18 worlds," he said, "is the compelling argument," and here's  
19 what he said, "for outside independent scrutiny." Richard  
20 then elaborated on what he meant by independence, and here  
21 is what he said. He said that "it's a critical aspect of  
22 independence," I see I have five minutes, and I'm going to  
23 stay to it. I know you're going to make me. "A critical  
24 aspect of independence is that the oversight body," and  
25 would you listen to these words, "must formally establish

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and maintain an arm's length relationship between itself and the Department of Corrections." Richard's powerful testimony of the importance of independent oversight finds support in the National Commission of Safety and Abuse which also called for independent oversight.

Now the key to effective oversight is independence. There are other aspects of monitoring, as you know, including setting standards, but the sine qua non is independence. Without that, none of the aspects, other aspects of oversight can be achieved. This concept is easy to understand, but it's very difficult to obtain and to achieve.

Another way of just saying what independence is is that the oversight body must operate in a manner that demonstrates that it is not a captive of the very agency it's supposed to monitor. I want to be clear here, I'm not saying you shouldn't consult with the Department of Correction, I think you should. What I'm saying is that it mocks the idea of independence to solely consult with them and to seek informal advice and counsel from the Department.

New York is blessed, as you've seen today, with persons who've devoted their talents and skills to prison reform, and they should be consulted informally, and their

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advice would be very valuable. Many of these people are national leaders. Let me just mention a few.

The Legal Aid Society Prisoners' Rights Project led by John Boston has an unblemished record of providing the highest quality of legal services to inmates. It's a national model. Their victories have led to such things as ridding this City of the blight on its dignity and reputation of The Tombs. The lawyers from that office are among the best in the nation. Not only are they knowledgeable, but they're respectful.

The Correctional Association, who you heard from today, is also very knowledgeable, but they were not asked for their views. The Fortune Society headed by Joanne Page, no one could be more forthcoming with her ideas, and she was available to you, but she wasn't consulted. Now was the ACLU or the Innocence Project or the Human Rights Watch or the Osborne Association. I could go on and on, but I've made my point. The inescapable truth is that so far you have actively consulted only one party, and that party's the very agency you've been established to monitor.

It's not too late to correct this deficiency, and here's what I think you should do, and I respectfully urge you to do it. You should rescind these standards and

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2 return this matter to informal consultation. Having a  
3 formal hearing is not enough. I believe it is essential  
4 to your independence and effectiveness that you suspend  
5 these hearings, you engage in informal consultation with  
6 all relevant parties. I hope very much you do this. By  
7 doing so, you would signal that you have the courage to  
8 return to your critical role of being an independent  
9 monitor of New York City correction system. Thank you.  
10 (applause)

11 SIMMONS: The next speaker is Maddy deLone.

12 MS. MADDY DELONE: Good morning. Thank you for  
13 the opportunity to be here. My name is Maddy deLone. I'm  
14 currently the Executive Director of the Innocence Project  
15 affiliated with Cardozo Law School at Yeshiva University.  
16 At any one time, the Project represents hundreds of  
17 prisoners across the country who have claims of innocence  
18 that can be demonstrated with DNA evidence. We are  
19 screening cases of thousands of others. In New York there  
20 have been 24 DNA exonerations. We currently represent  
21 dozens of other prisoners who are innocent in the City  
22 jails and the State prisons, and we receive requests from  
23 thousands of others.

24 I make these remarks on behalf of the Innocents  
25 Project partly because all of us at the Project have

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dedicated our lives to the reform of criminal justice and partly on behalf of our clients. Each and every one of them has spent enormous amounts of time, an average of 12 years, in prisons and jails in this country for crimes they did not commit. And their quest and their request of us is to do something about the way that people are treated, and I am here today in that capacity to ask you to help them and help us do something.

I am also here because before I became the Executive Director of the Innocence Project in 2004, I spent much of my prior 20 years, professional years, working in and around the New York City jails. I've spent all of my professional life, most of my professional weekends and evenings, and early this morning dedicated to the conditions of people in prisons and jails. I came to New York to work at the Department of Juvenile Justice in 1984, planning and overseeing health care. I worked as a health care administrator at Rikers Island.

I went to law school to work for the Prisoners Rights Project and eventually had a chance to do that, but, most importantly, from 1988 to 1991 I was the Deputy Director of the Board of Correction where I worked on all of the standards issues but was responsible in large part for developing the health care standards, and I hope that

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at some point we'll be able to visit those with a different process at some point.

I'm also the Editor of the Third Edition of the American Public Health Standards for Health Services for Correctional Institutions, and I would refer you particularly in this context to Chapter 10 of those standards that address in some details the environmental health standards that should be in place to ensure safe and healthy living conditions. I will refer to a few of them in my comments.

It was exciting to hear that the Board had conducted the first comprehensive reexamination of the Minimum Standards since 1978. The process of this review, unfortunately, as you have heard, was very troubling and the outcome depressing. Almost 30 years later the proposed revisions seem to be almost without exception an opportunity to lower the standards. They provided fewer protections for prisoners and they decreased the oversight role of the Board.

Equally as troubling was the lack of new standards. It was as if the Board had learned nothing in these 30 years, and there were no new issues, there was nothing that the standards had failed to address. There was nothing that we had learned. Aspects of daily lives

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in the jails, which are clearly covered by the standards in other jurisdictions and by national bodies, were not added.

Examples of such new standards were mentioned today, and I will name but a few: Ventilation, lighting, attorney visiting, visiting, and specific sanitation requirements for visiting areas. Discharge planning, treatment of transgendered prisoners, non-discrimination for the disabled, education, provision of social services as areas of need that need to be able to be put in place.

I appreciate the request today, in my understanding for the first time, by people on the Board for specific standards. We would ask not that we have the next three or four weeks to provide with those specifics, but real consultation, consultation we understand the Department had, back and forth conversation drawing on the thousands of years of experience of the people in this room who are committed in their entire being to seeing that people are well treated. The people of New York City and the people who are detained in these jails deserve no less.

Make it clear that my comments are directed to the Board and its obligation as an oversight body. There are some, there are many, in fact, who have suggested that

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these comments will offend Commissioner Horn. He is clearly not on the Board of Correction. As a member of the Board staff, I understand that distinction. Few others do. And there is reason.

Many people consider Marty Horn as one of the finest commissioners this City has ever seen, and that may well be true. I mean no offense to him. There is reason, however, that people are confused. The vast majority of these changes came as the result of changes requested by the Department. No one would think that the Board on its own or after consultation with the people in this room could review the current standards and decide what we really need in New York City is people in dormitories with less space, additional categories of prisoners in isolation under conditions we know are harmful and destructive, that would help to remove the requirement of Spanish-speaking staff from the jails, that more warrantless searching of mail, packages, and phone calls would be beneficial to anyone. It is certainly the Department's prerogative to ask. In my estimation it is the Board's responsibility to say no.

The Board has the mechanism for allowing good commissioners in good times with functioning administrations the ability to deviate from standards when

1  
2 appropriate and necessary. The mechanism is variances.  
3 With those variances, the Board retains the obligation to  
4 monitor conditions more closely and to quickly turn back  
5 the variance when it turns out that prisoners are not  
6 being adequately protected. Granting variances is one  
7 thing. Lowering standards is another.

8           Standards are written to protect prisoners,  
9 particularly in bleak times when populations are high and  
10 administrators are bad or worse. Those of us in this room  
11 who have lived through those times in the City jails, only  
12 23 years for me, 30 and 40 for others who are and probably  
13 more beyond that, and many of us personally have seen  
14 those worse times. The standards and the Board staff and  
15 the Board are there to protect prisoners when it wasn't  
16 popular to do so and when fiscal and public priorities  
17 would not have protected them. These were proud times for  
18 the Board, the times when the Board could step up and  
19 protect people in the face of pressure. No doubt there  
20 will be bad times ahead. Census will climb, budget will  
21 be tighter. New, less talented, compassionate  
22 commissioners will return, and the Board and its standards  
23 will need to be there.

24           I have a couple of very brief comments, and I  
25 wasn't going to submit written comments because I thought

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I would have enough time to say what I need to say, but I'll just say a few things about a few of the standards, and now I will feel compelled to write more.

I would just ask, again, that when you address the clothing standard, and I think the comments today were fantastic about having people dress in clothes that are, in fact, respectful, I would ask, particularly if you're going to make exceptions, if you're going to have a standard that relegates people to one kind of clothing in the jails, that you look very carefully to the kind of clothing people wear when they go to court. If I showed up in court wearing a green jumpsuit for any kind of court appearance, my lawyer would send me home, and so would yours. There is a presumption of innocence, and people do not get it, and people who come from Rikers Island in orange jumpsuits or green jumpsuits are not presumed innocent, they are presumed guilty.

(applause)

I ask you to look at the proposal that the first 24 hours not be a contact visit for any prisoner, and I speak both as someone who knows how important contact is for maintaining families when they're imprisoned, I also think of that standard in the context of my own 16-year-old child who could be put on Rikers Island. And if I got

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out there, furious as I might be that she had been arrested and was out there, I would want to touch her and I would want her to be able to touch me. And I ask that you not take away that right from families.

I refer you to the APHA standards on space requirements which have, since at least 1986 and I believe in their first edition, 1976, required 60 square feet of space for every person living in a dormitory. I refer you to their standards on fixtures which are much more in line with the current Board standards and not the decreased standards that are provided in order to accommodate 60 prisoners in a housing area.

The lock-in provisions will be talked about by others. There's nothing good about 23-hour lockdown. One of our clients who can't be here today but spent four weeks on Rikers in close custody last fall will write to you about his experience of being protected in 23-hour lockdown. It was miserable. Eventually, he asked to get out of it. And his one hour a day, it's twenty-three-hour lockdown with one hour for recreation, his one hour a day was offered to him at 5 o'clock in the morning. This, in fact, is 24-hour lockdown.

We have concerns about religion and who gets to decide what a real religion is. History has shown us it's

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not always the Department that has the interest of people with their religious worship. That's a very sensitive subject. I'd ask you to be more careful about it.

I know an enormous amount of time has gone into this process, but with my colleagues and with others I ask you to stop the process, put it on hold. The standards have been the standards for 30 years. If they are the standard for 32 years, no one will suffer. Take advantage of those people in the room, have an opportunity for real discussions, continue to make New York City standards a model for the country. For good times and for bad, the City of New York and the people of New York and the people that are confined, none of us deserve any less. I thank you.

(applause)

VALLONE: Maddy, once again, will you be providing those additional written comments?

DELONE: Yes, but, once again, I would really love more time than the next three or four weeks to develop them. Thank you.

VALLONE: We have seen probably, all of us, some faces at our Board meetings, but not all. So those who are interested in stating they haven't had a chance, we have open monthly meetings, as our Madame Chairperson has

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stated, and we would love any input at those meetings.  
Not just showing up today. Thank you.

SIMMONS: John Boston.

MR. JOHN BOSTON: Good morning. My name is John Boston. I am the Director of the Prisoners' Rights Project of the Legal Aid Society. We defend the legal rights of prisoners through litigation and in administrative forums such as this. And in view of the time pressures, I will be as brief and blunt as I can. This Board should take the proposed amendments, tear them up, and start over. I'm far from the first person to say that, but I want to say it as forcefully as anyone in this room.

The proposals that the Board has put forth are the product of a completely one-sided process in which only the Department of Correction was heard and no one who might speak for prisoners or for prisoners' families was admitted to the process. This was a railroad, ladies and gentlemen, this was a steamroller. It is not a fair and open process.

You can see this not just - you can see this from the Board's own minutes, that they show how early on in the process members of the Board and the prior chair referred to reaching out to interested constituencies and

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seeking input from interested parties such as the unions that work in the jails, such as the Legal Aid Society and others. You also see that there are references to having a debate, a public debate, discussion of the proposed standard in the Board itself. Well, neither of those things ever happened under the present leadership of the Board.

The Board's minutes show how the focus changed from the Board's review of the standards early on to the review of the Department's proposals in the later stages. And the results I think reveal -

(side B)

-- of the process, we have proposals that even though the Board chair initially said at the beginning of the process that the standards were in pretty good order and required only minor adjustments, we have proposals that strike at the heart of some of the most important protections that the minimum standards have provided prisoners and their families for decades. They are changes that would enhance the prerogatives and the convenience for the Department of Correction and do nothing for prisoners and their families. They would make life more oppressive, more intrusive, more regimented for prisoners.

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This is a case where, in the common phrase, the watchdog has become the lapdog. There is no more polite way to say it than that. And for those reasons, I say that you have betrayed the regulatory responsibility and the public trust that have been conferred on you by the City Charter. And the only honest and decent thing that you can do is stop, turn back, start over.

And I am not suggesting, and, in fact, I strongly suggest to the contrary, this is not damage that you can repair between now and May 21 by just inviting people to send you more letters. This process is fundamentally and absolutely flawed, and it simply must be discarded and started again.

And let me comment a little bit about the methodology and the reasoning that appear to underlie some of these proposals. There is almost nothing in the rationale for any of the proposals that gives any affirmative reason why they should be adopted, except for, you know, conclusory and boilerplate phrases like enhanced security concerns.

What concerns? Enhanced by what? Well, as far as I can tell, enhanced by the fashion of post-9/11 thinking by which people who, with authoritarian tendencies, seem to have been empowered in every aspect of

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American life, but fashion is one thing, regulation is something else, and I suggest that when you rely on that kind of general notion in the air to perform your responsibilities, you are not performing your responsibilities.

Further, many of the proposed amendments are justified, again, not in terms of any positive merit that they may have, but simply because they are consistent with the practices in certain other jails. Well, what are those jails? Let's take a look at them.

You take a look at them and you discover that many of those jails are in a state of crisis, in many cases a protracted crisis that's been going on for years. You've cited the Philadelphia jails. Well, in Philadelphia jails prisoners are tripled celled, you know, they have plastic cots that people sleep on. There was a new federal court order entered only a few months ago to do away with the same kind of grotesque overcrowding of stacking people in receiving rooms and other intake areas that New York City, thank God, got rid of in the early 1990's.

The Los Angeles jails have been grotesquely overcrowded for decades, and they dissolved into uncontrollable violence for weeks last year. The Chicago

1  
2 jails routinely have hundreds and hundreds of people  
3 sleeping on the floors, and it's been that way for years.  
4 The Phoenix jail, Maricopa County, Arizona, that presents  
5 a particularly interesting case. That's one of the few  
6 American jails that has its own report from Amnesty  
7 International. It's run by the famous sheriff Joe Arpaio  
8 who bills himself as the toughest sheriff in America and  
9 has put forth such management initiatives as chain gangs  
10 for juveniles, serving two meals a day, and, by the way,  
11 denial of salt and pepper, you know, stout leadership  
12 there. Putting prisoners in striped uniforms and pink  
13 underwear, housing them in tent cities, and installing web  
14 cameras to display the prisoners' daily doings over the  
15 internet to anybody who happens to look in on them, a  
16 practice which persisted until it was struck down as  
17 unconstitutional by a federal court, though I should add  
18 not before some footage of women using the toilet had  
19 shown up on internet pornography sites.

20           These are the models that you put forth as what  
21 New York City should be taking guidance from and  
22 emulating? What are you people thinking? Is this your  
23 idea of oversight, this race to the bottom, this reference  
24 to the dregs of the most appalling political pandering  
25 about correction in the United States of America?

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I hope that question answers itself, and I hope that you will see that the only thing you can do in the face of this kind of utter default is to turn back from the brink, go back, erase everything you have done, and start over.

(applause)

BOSTON: With respect to the specifics of the standards, of course, we have submitted extensive written comments, and I certainly am not going to try to go through all or even a fraction of those. I will focus on the issue of overcrowding. Who? Excuse me?

SIMMONS: You're at seven minutes.

BOSTON: Who would have thought that anyone would have thought that what the New York City jails need is more overcrowding - a 20 percent increase in the number of people in dormitories. One of the more oppressive aspects of life in jail, I think you can find out from anybody who's been in jail or you can make your own observations walking around in them, which I hope you do with some frequency, is the sheer overcrowding pressure of other people around you. And that's especially true in dormitory housing areas, big open bays full of beds where everybody is in everybody's face, and there's no place to hide. And the idea that you are proposing more

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overcrowding in those settings at a time when there is no crisis in population in New York City - there are jails standing empty and housing units standing empty in jail that are open - it really boggles the mind.

I'll tell you what you already know, you should already know, certainly what others who deal with these issues know, that it's pretty obvious that crowding makes life in jails worse, increases friction and tension among the prisoners and between prisoners and staff. It makes it harder for the staff to supervise, harder for the staff to even know what is going on in order to supervise it. It worsens the wear and tear on all aspects of physical plant, it makes it harder to maintain adequate sanitation, a subject which you may recall we have a federal court order - the present standards are unconstitutional, and I cannot say that the Department of Correction has successfully escaped that situation.

There is very substantial evidence that crowding is a significant factor fostering violence among prisoners. There is academic research evidence, and there are also the observations of prison managers and staff, and I should tell you, as is mentioned in our comments, that when we litigated this issue many years ago in one jail, the conclusion of the judge was that the researchers

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2 argued both ways, but the people who said that crowding  
3 was a significant cause of violence were those whose  
4 observations were more consistent with the commonsense  
5 observations of the people who lived in jails, worked in  
6 jails, and ran jails. And you can deny that all you want,  
7 you can try to work around it, but it is really, it is not  
8 credible that you do so.

9           You've said that you note that the Department of  
10 Correction has reduced stabbings and slashings. Well,  
11 that's true. If you look only at stabbings and slashings,  
12 then things don't look so bad, but that's because the  
13 Department of Correction, to its credit, rigorously  
14 searches for contraband, and they remove the things that  
15 people stab and slash with. However, violence is not  
16 dependent on the implement. This is a violent system, and  
17 it is a system that is getting more violent.

18           The data that you have before you, that we have  
19 obtained from you under the Freedom of Information law,  
20 about the levels of violence in the jails show that in the  
21 areas where you have granted variances to allow more  
22 crowding, there is more violence and, furthermore, that  
23 there is more in the jails as a whole, both among inmates  
24 and between inmates and staff. So the idea that you're  
25 proposing more crowding when it is clear that violence is

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not under the control of the jail administration is to me nothing less than appalling.

If it was a situation --

SIMMONS: (inaudible)

BOSTON: If it's a situation of need, we could have a different discussion, but there is no need, no justification. Thank you.

(applause)

SIMMONS: Mr. Zelermyer.

MR. MILTON ZELERMER: Thank you, Madame Chair, and the Board. Thank you for convening this hearing and for extending the comment period as long as you have, but I'd have to say that the hearing itself, which is, there's a lot of active participation here obviously, it's been a success in that respect, but this process so far is not a substitute for the kind of consultation that's been called for by others.

The minimum standards have been on the books for almost 30 years, with the exception of a few amendments that you've noted, in 1985. It's easy to say that the 30-year-old standards are outdated, but when you really take a hard look at them, they have served remarkably well. They do not, even now, deprive the Department of the tools it needs for the management of the jails.

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Some of the standards may need change because conditions have changed, but the Board has taken essentially a regressive, backwards approach in the amendment proposals. The Board is retreating from its role to provide independent oversight of the Department's operation of the jails and from its mission through its standards to ensure safe and humane conditions in the jails.

Just a couple of words about process that haven't been mentioned before. The Board, as required by the City charter, has rules and procedures. I've looked at those rules and procedures. The rules and procedures do not say anything about how the Board will conduct itself when it is changing its standards, amending the standards, creating new standards, or going through a formal rulemaking process. I would say that the Board ought to amend its rules and procedures in order to inform itself and the public as to how it's going to conduct these proceedings.

There's also a requirement under the City Charter that every City agency publish a regulatory agenda annually. This Board does not, at least in recent years, this Board has not issued a regulatory agenda. There's also a requirement under the City Charter, when rulemaking

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is engaged in, that the rulemaking notice, if a regulatory agenda does not mention a particular rulemaking in advance, that the rulemaking notice actually state the reasons why the rulemaking change was not anticipated.

In this rulemaking procedure with this rulemaking notice, the notice simply said that this was not anticipated at the time the regulatory agenda was to be published. Well, the regulatory agenda was never published, but this rulemaking, these changes in the rules, these changes in the standards have been anticipated for several years now. So there's a slight deception there in the way that was characterized in the rulemaking notice. I would urge you to go back, look at the City Charter, and study the provision that requires you to publish a regulatory agenda annually and do it.

I'm going to just touch on a few of the areas that are addressed here in our written comments, but I just want to elaborate on a few of them.

First, the lock-in, of which it would be new Section 1-05. This amendment, if approved, would exempt close custody prisoners from the lock-in standard. As you know, close custody was a creation in 2005 by the Department. This was done without the approval of the Board. Prior to that, there was a variance request, and

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actually a request from the Department for amendment of the standard, the lock-in standard, related to inmates in protective custody. That request was later withdrawn by the Department without any explanation. Perhaps you know what the agenda was, but we as members of the public certainly don't. When that was withdrawn, the Department went back and drew up its plans for close custody which it then implemented unilaterally.

The effect of this change to the standard would allow the Department to keep close custody prisoners locked in their cells 23 hours a day. The effects of such intensive confinement are well documented. Elizabeth Gaynes has covered much of this in her comments, and others have commented on it as well.

In our written comments, we've cited historical and legal and research sources, recounting the observations that solitary confinement or segregation can cause a range of several problems from wasting away to substantial psychological damage to psychological trauma in reaction to extreme social isolation and severely restricted environmental isolation in special housing units, to suicide. It's noteworthy that the studies, the literature, the expert testimony, the cases cited on the subject of the adverse consequences of isolation focus on

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segregation practiced for control of disciplinary problems. They don't examine the phenomenon of isolation for those prisoners in some special custody status who are put there for their own protection such as close custody.

Perhaps this is due to the infrequent use of 23-hour lockup for this purpose. It occurred to me that if for some reason this standard is rejected by the Board, then it might sneak in through the back door as a so-called correctional best practice at some time in the future. We'll get to correctional best practices with regard to the variance process in a minute, time permitting.

It's said that suicides occur with disproportionate frequency among prisoners in isolation or segregation compared to prisoners in the general population. We've given the example of at least one suicide in close custody. We don't have any more details about this suicide. We know the inmate's name, and we know that he was only there for a few days in this status when he did kill himself. Surely, the Board and the staff have access to a lot more information about this particular incident, and I would ask and urge that you examine that carefully as you're considering this amendment, just to get a look at the impacts of this type

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of housing.

One other problem perhaps not considered by the Board that may arise as a result of the adoption of the lock-in standard allowing 23-hour lock-in for close custody is that this unnecessary, inappropriate, and harsh condition could deter someone truly in need of protection from voluntarily requesting protection, and this would put this prisoner in very serious jeopardy.

On the visitation standard, the proposed amendment restricts initial visit within 24 hours of admission to a non-contact visit. We've heard other testimony about this and some first-hand accounts of what this would be like, or what deprivation of contact visits would lead to.

The Board's explanation is that during the first 24 hours of custody the Department must determine prisoners' security risk and classification, and health providers must evaluate a prisoner's health status, including whether a prisoner may have a contagious disease. There's really no justification for treating every new admission as if he had some contagious disease.

The standard requiring that visiting by contact visit be permitted within the first 24 hours of admission has been in effect for almost three decades, and the Board

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cites no real problem that has ever been caused by allowing prisons to visit in this fashion during the initial period. The proposed amendment appears to be a completely gratuitous restriction on prisoners and their visitors. In view of the harm that will be caused by this, we urge the Board to withdraw this proposal because there's absolutely no justification for it.

There's another proposed amendment affecting visits, and this would allow the Department to require visitors to secure personal property in a lockable locker and would repeal the language allowing visitors to wear wedding rings, religious medals and religious clothing, and other personal effects. The purpose of this change is quite unclear. There's no explanation for it in the Board's statement of purpose. If this change is actually intended to mean that the Department will require all visitors to take off their wedding rings, their religious medals, their religious clothing, it's excessive and of doubtful validity under a variety of legal authorities that we've cited in our comments. The Board should reconsider - yes?

SIMMONS: (inaudible)

ZELERMYER: The Board should not repeal this language about visits wearing wedding rings, religious

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clothing, religious medals, etc.

The amendment to the standard regarding language. There are two amendments that are under consideration here. One would repeal the current standard that applies to assistance for Spanish-speaking prisoners and requires the Department to have a sufficient number of Spanish-speaking employees and volunteers - nobody's mentioned volunteers here - to help out --

SIMMONS: You're at the ten minutes.

ZELERMYER: At the ten minute? Then I realize I'm on at a great time right before lunch. We do urge the Board to not repeal the section about Spanish-speaking inmates, and the additional amendment regarding procedures is not a replacement for this, it doesn't take the place of this special standard for Spanish-speaking inmates, particularly given the large percentage of the population that is Spanish-speaking. I think this has been disregarded. The Department has not provided any information about the demographics at all.

SIMMONS: You're at the end of your time.

ZELERMYER: I will just say then in conclusion that I know Richard Wolf has been quoted already today, but I want to repeat what he has said at a Board meeting, that the favorable comparison of the City jails to other

1  
2 jurisdictions in due in no small measure to the Board and  
3 to its minimum standards. We urge the Board to heed that  
4 ammunition as it considers changing the standards. Thank  
5 you.

6 (applause)

7 MR. RICHARD NAHMAN: Pardon me. Excuse me, do  
8 you represent an organization? I'm Dick Nahman, and do  
9 you represent an organization?

10 ZELERMYER: I'm Milton Zelermyer from the Legal  
11 Aid Society, Prisoners Rights project.

12 NAHMAN: Thank you.

13 SIMMONS: Scott Kessler.

14 MR. SCOTT KESSLER: Good afternoon. I've sat  
15 here and heard the last 16 speakers --

16 SIMMONS: You need to -

17 KESSLER: Sure, my name is Scott Kessler, and I  
18 work at the District Attorney's Office, Queens County.  
19 I'm the Bureau Chief of the Domestic Violence Bureau  
20 there, and I've been the Bureau Chief of Domestic Violence  
21 Bureau for the past ten years. And I am responsible for  
22 protecting the approximately one million women in Queens  
23 County a year. We have approximately 5,000 arrests of  
24 domestic violence in Queens County a year. The City of  
25 New York has approximately 25,000 arrests of domestic

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violence a year.

Why this is relevant in connection with this hearing is why I'm here. I am aware that there is on the agenda about the recording of pre-trial detainees' telephone conversations, and it relates to domestic violence in an important way. I could tell you, after handling for the last ten years approximately 50,000 domestic violence cases I've supervised in my bureau, that often a sole witness in connection with a domestic violence case is the women who is there alone at home often with the batterer, and what often happens is these women are burned, they are stabbed, they are slashed, they are beaten to a pulp. And oftentimes the defendants are arrested and incarcerated.

What happens at that moment in time is, once the defendants are arrested and incarcerated, they realize that the person responsible for putting them there is the woman who they had just previously beaten, burned, or slashed, and what happens on almost all occasions is a phone call is made to her. It's an important part of understanding that phone call comes in various aspects. Oftentimes it is threatening. Oftentimes they hold the woman accountable for putting him, that batterer in prison. They are calling sometimes non-stop. They know

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the victims' cell phone numbers, they know the victims' home numbers, they know their family, they know their friends, they know when they're at work, they know when they're at school.

They are often given an order of protection when they appear before the judge, but that order of protection, I stand here and assure you, is not stopping these defendants from calling these victims non-stop.

The difficulty is, after the threats are made and oftentimes influence is done on them, they refuse to cooperate with the prosecution, even telling us what was said during the phone calls or how they were threatened. Obviously, the purpose of a threat, telling them not to cooperate, is not about to bring these people in telling us exactly what was said or what was done in that phone call.

I have spoken to my colleagues at various DA's offices as well. This is a recurring problem with the women of New York City - they are getting written to, they are getting phone calls, they are getting threatened, and the people that are doing it are in Rikers Island.

I have a case that's on this week that gives you a pretty good example of what's going on. A young woman in Queens County was walking down the street with her 18-

1  
2 month-old child when the defendant who was her husband  
3 took out a razorblade and basically slashed her face so  
4 badly that her eye popped out of one of its sockets. When  
5 the police responded, her 18-month-old child was gone, and  
6 there was a level 1 mobilization in Queens County to try  
7 to recover that child. It was freezing cold temperatures,  
8 the temperature was dropping below 30 degrees. She had  
9 told the police, ACS, and everyone that her husband had  
10 slashed her. The photos are some of the most gruesome  
11 photos I've ever seen.

12           That woman came to our office, I had spoken to  
13 her and my staff spoke to her, and told us that her  
14 husband had done this to her. He was gone for about six  
15 days, and we could not find him. When we finally arrested  
16 him, some two weeks later, she came to our office and  
17 changed her mind and said that no longer, she didn't think  
18 it was the defendant who slashed her, but it maybe had  
19 been two strangers. We found out that between the time  
20 that he was incarcerated and the time that she came to our  
21 office, 76 phone calls were made by the defendant to this  
22 woman, six visits were done, all in violations of orders  
23 of protection, but by that time it was too late. We have  
24 no monitoring of those phone calls, we don't know what was  
25 said, I can only imagine.

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She's now going to be appearing in court this week asking for his release and trying to get bail for him. This occurs on a daily basis in the City of New York.

I think it's important for you to realize that when you're deciding these issues, especially with regard to the monitoring of phone calls. Oftentimes these women are here, sometimes illegally, and the defendants are responsible for their immigration status, they're economically dependent on these gentlemen who have beaten and slashed them.

I have seen transcripts where we luckily have found out where the people who are the batterers who have, on one occasion a gentleman took a hammer and smashed his wife to the point where she had 300 stitches to her head. While he was in jail, he hired what he believed to be a hit man in an attempt to kill her. The problem was he had no money, so he tried to use her PIN number. He told the hit man that he wanted to force the PIN number out of her and then use her own PIN number and her bank account to use the money for the hit. Fortunately, that hit man was a member of the Queens County Detectives Bureau, and that transcript of that tape and the only reason we have a transcript of that man hiring a hit man was because our

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detective consented to the recording of it.

He had been trying numerous other times to hire other hit men, and that's how we got information from the Rikers Island. If an inmate from Rikers had not contacted us, the defendant would have hired a hit man, and this woman would be dead, and we'd have no transcript or anything of what was said to anyone in connection with this woman's death.

I have seen myself, and, you know, I understand coming in here today there's been a lot of people speaking in direct contradiction of some of the guidelines, and I knew that coming in that there may be 50 people speaking in the exact opposite position I'm taking, but I felt it was my obligation to come here and speak to you.

I know I don't have too much time, so I want to move on as soon as I can. The transcripts that we have gotten, and there's been at least, in my recollection, at least half a dozen contracts on women that I know of throughout the City by inmates who have tried to kill them. Fortunately, a lot of those were intercepted. Some were not.

And I think that when we're talking about prisoners' rights, I want to make it very clear, I'm perfectly in favor of prisoners having adequate space,

1 recreation, education, I think that's all well and good.  
2 But I think that the victims and the residents of Queens  
3 County have a right to be safe in their homes as well.  
4 And the women of Queens County and the women of the City  
5 of New York have a right to be safe, free of harassment,  
6 and not being, when someone is charged with trying to kill  
7 them or burn them or murder them, they have a right to be  
8 free in their homes from not getting phone calls from  
9 these prisoners non-stop at all hours of the day. That  
10 occurs constantly. I have hundreds of cases, I could tell  
11 you, where defendants make hundreds of phone calls. Mr.  
12 Regan, you had a question.

14 REGAN: Several people have come before us this  
15 morning and suggested that you and the other district  
16 attorneys could get a warrant. Why would that not be  
17 sufficient?

18 KESSLER: I think I wrote in a letter to Mr.  
19 Wolf the logistics nightmare of a warrant. The problem is  
20 finding out what cell - the phones aren't - if I had a  
21 personal phone the defendant was given at Rikers, I could  
22 clearly get a warrant to tape record that phone. What  
23 would happen is I'd have to get every phone at Rikers  
24 Island and the cell block its in, record all those  
25 conversations and only try and alleviate the certain

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conversations. It's a logistical nightmare.

I have no intention of trying to get information on who has certain diseases, who doesn't. I'm merely trying to save some people's lives in connection with my getting information on who is threatening the witnesses. I assure you it is not our intention to get into the personal lives of inmates in connection with it. That's not my job and my responsibility.

You know, we take our jobs very seriously. I've seen first hand at a crime scene, you know, a woman's body in one room and her children's heads in different rooms as a result of domestic violence.

There are just countless number of times I could tell you that I've seen prisoner phone records where these prisoners just do not stop harassing, and a point in time where I've had women come in with every dollar they have in order to bail them out after he's contacted her and told her everything will be fine.

I think the tools that Nassau County has been able to use, which is our neighboring county, in connection with the monitoring of the phone calls, you know, in terms of notice, clearly in Nassau what they do is they have a messages board up explaining that the tape-recording will be occurring. They have a message at the

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2 beginning of the phone call and a message at the end. The  
3 person at the other end understands that the tape-  
4 recording is going to occur. But I can't urge you enough  
5 to say it's a necessary tool in connection with the cases,  
6 especially when it comes to protecting victims.

7 VALLONE: Do you find that the notice works?

8 KESSLER: We have found that the defendants will  
9 disregard the notice on occasion and still make  
10 threatening phone calls even though they notice the notice  
11 is there. So when you say the notice will work, there  
12 have been - I think you'll find and it's hard to exactly  
13 number the number of times that people who had notice have  
14 not contacted people. I can tell you that right now, if  
15 you look through my case load in my county, you'll find  
16 that on most of the incarcerated defendants, if you will  
17 order their phone records, they have had attempted, even  
18 if we block their phone, to get contact with the victims.

19 So, in fact, if I can't find a witness, for  
20 example, and I'm looking for somebody, the trick of the  
21 trade is just order the defendant's phone calls and find  
22 cell and toll number and you'll find where the victim is.

23 VALLONE: So if we were to provide a notice  
24 requirement, you're saying that's not hindering the  
25 ability (inaudible)?

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2           KESSLER:    I'm saying I don't think it's going to  
3 stop most of these defendants in terms of contacting them.  
4 And if you're concerned about their rights, I certainly,  
5 you know, I'm not here to try and violate anyone's rights  
6 in connection with it, but I think it's important that if  
7 you do give them notice, I think you'll still find that  
8 they're still going to, you know, feel that no one's going  
9 to bother to listening to a call. I think they find that  
10 in Nassau as well and other counties.

11           SIMMONS:    (inaudible)

12           KESSLER:    I'm sorry, I'm at my ten --

13           SIMMONS:    (inaudible)

14           KESSLER:    Okay, I don't want to keep anyone.  
15 You know, if there are other questions, I'll surely answer  
16 it. I just would like to say that from the beginning I've  
17 heard a lot of speakers talk about a lot of the issues  
18 involving education and the rights of the prisoners. I'm  
19 not here to try denying any of those things to them. I  
20 think that everyone deserves to be free, safe, free of  
21 fear, and I think those same rights deserves to be victims  
22 who are outside in terms of contact with the defendants.  
23 I thank you for your time. If there's other questions,  
24 you can always call me. My number is on the contact  
25 sheet.

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(tape 3, side A)

SIMMONS: Okay. I think we're ready to reconvene. Again, for those of you who have arrived now and weren't here this morning, my name is Hildy Simmons, and I'm the Chair of the Board of Correction. All of our names are on everybody's name card here.

We're going to start again, reminding people who were not here perhaps in the first part that at an absolute outside limit of ten minutes per set of remarks. If you're submitting written remarks, given the large numbers that are still remaining to be heard this afternoon, please try to limit your remarks to five to seven minutes if possible, so that we can make sure that we hear everybody.

The hearing was scheduled to run until three o'clock, or 3:30, sorry. Excuse me, 3:30. We certainly will do that. It may be that one or two members of the Board will have to excuse themselves before that time, given other commitments. Please do not take that as a sign of disrespect or lack of courtesy. It really has to do with scheduling conflicts.

But I certainly will be here, as will most of the other members of the Board. And if we need to go slightly beyond 3:30 because we still have a few people who have

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signed up and haven't had a chance to speak, we will make every attempt to do that as well. So I don't want anyone to feel that we're either trying to rush things or not get through and hear everyone who has something to say.

So with that I will call Sid Schwartzbaum, Norman Seabrook, and Ronald Whitfield, who I gather all are going to come up at the same time. And also, gentlemen, if you, please, when you start speaking, if you'll mention your name before you speak and your affiliation. Thank you.

MR. SID SCHWARTZBAUM: There's three of us here, so I'll try to be brief. Madame Chair Simmons, Executive Director Wolf, Board members, my name is Sidney Schwartzbaum. I'm President of the Assistant Deputy Wardens Union. I'm here today with Ronald Whitfield, the President of the Correction Captains, and Norman Seabrook, the President of the Correction Officer Benevolent Association.

I personally testify to you today as a 28-year veteran. I've been 19 years in the position of Warden Level One, commonly referred to as Assistant Deputy Warden. I'm commenting on a proposed amendment to the minimum standards. After scrutinizing their contents, their immediate implications, and the potential ramifications if ratified, I will focus my testimony on

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three proposed amendments, two of which I support and one of which I am vehemently opposed to. Thank you for affording me the opportunity to speak.

The first amendment is the overcrowding amendment, Proposal 104(c). I oppose any adjustment to increasing the number of detainees that the Department of Correction can confine to its dormitory housing areas, by minimizing the number of square feet from 60 feet to 50 feet per inmate. Increasing the number of detainees by ten for each side of the dormitories increases the level of tension amongst inmates and staff and delays access to telephones and personal hygiene units. In addition, it also increases the number of inmates mandated to be searched upon entering and exiting these housing areas, further delaying access to programs and support areas.

Officers assigned to these housing areas must be alert for specific tell-tale indicators as to changes in an inmate's mental health status. Increasing the number of inmates under custodial staff supervision diminishes that very quality of supervision.

Also, something that nobody has spoke about, increasing the number of inmates into a reduced living space also increases the likelihood of spreading airborne diseases such as tuberculosis. Let us not forget that the

1  
2 conditions of overcrowding were the major contributing  
3 factor in the 1970's riots, and it was these disturbances  
4 that led to the much needed reforms brought about by these  
5 minimum standards that we're discussing today.

6           I support the requirements that detainee  
7 prisoners must wear institutional clothing because it  
8 enhances security by expediting the living area searches,  
9 reducing the inmate-on-inmate thefts, and minimizes the  
10 flying of gang colors, reducing the personal concealment  
11 of contraband and quickly identifying inmates attempting  
12 to escape from custody.

13           The requirement for institutional clothing would  
14 also eliminate a legal catch-22 situation for promoting  
15 prison contraband. Currently, when civilian visitors who  
16 come to visit inmates leave packages of clothing in which  
17 contraband drugs and weapons are secreted, are detained  
18 and placed under arrest by the Department of Correction  
19 staff. However, the various district attorneys inevitably  
20 decline to prosecute these individuals, citing  
21 insufficient evidence to prove complicity because there's  
22 no change between the people.

23           Thus, the whole arrest process regarding to  
24 leaving property in which contraband is concealed is a  
25 waste of the taxpayers' money, a transparent façade in the

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prevention of dangerous contraband into our correctional facilities.

The last issue I'd like to speak about is the inmate telephone calls. I support the proposed amendment that will allow the Department, with notice to the inmate, to listen and monitor inmate telephone calls. I believe that this monitoring will be a viable tool in thwarting criminal activity within correctional facilities, with the smuggling of contraband, escape plots, and inmate insurrections, along with conspiracy to commit criminal activity outside of that environment, such as witness tampering, domestic violence threats as the D.A. testified prior to lunch, and murder conspiracies.

One of the most infamous murders in this city's history was plotted over the inmate telephone located on the tenth floor maximum security B wing of the Brooklyn House of Detention for Men during the crack-fueled reign of lawlessness of the 80's. The events that set this tragedy in motion began in Queens in 1988 when a resident by the name of Arjoon complained to police about the brazen and open crack cocaine sales outside their home by a 20-member drug gang run by Lorenzo Fat Cat Nichols and his underling Howard Pappy Mason.

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When Mason was arrested he was placed in the maximum security area at Brooklyn HDM. Using the inmate telephone, he communicated with Nichols, and they conspired together to murder a cop, any cop, to send a message. Two days later members of the drug gang snuck up on the patrol car of Officer Edward Byrne, a 22-year-old rookie fresh out of the academy, who was guarding the home of the citizen who made the complaint. David McClary then pumped five bullets into Byrne's head.

His murder was a watershed event in changing public and government reaction to the drug wars. Today Howard Pappy Mason is serving life in prison for ordering the murder of police officer Edward Byrne. Perhaps if inmate telephone calls were monitored back then this cold-blooded slaying may not have occurred.

MR. NORMAN SEABROOK: Good afternoon, ladies and gentlemen. I hope you all had a good lunch. Right? You ready to do some more work? You got a lot of work ahead of you.

Good afternoon, Mr. Wolf, Chairwoman Simmons, and members of the Board of Correction. First and foremost, I'd like to thank you for the opportunity to testify before you today and to convey my concerns regarding the proposed amendments to the minimum standards for the New

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York City Correctional Facilities. As many of you may know -

SIMMONS: May I ask you to state your name before you go any further? Even though we know who you are.

SEABROOK: As many of you may know, my name is Norman Seabrook, and I am the President of the New York City Correction Officers Benevolent Association, representing one of the most important law enforcement jobs in the world, maintaining both safety and security to the public, as well as providing the care, custody, and control over thousands of detainees within the City's jail system.

I am pleased to be joined with President, Assistant Deputy Wardens, Deputy Wardens Association, Sid Schwartzbaum, and Correction Captains Association President, Ronald Whitfield. Along with each of our union's executive boards, we have carefully reviewed the proposed amendments to the original minimum standards which were adopted by the Board of Correction nearly 30 years ago.

Today, you will hear testimony from the Department of Correction, various inmate advocacy groups, and the public. But it is the thousands of men and women

1  
2 from our organizations who are literally at the front  
3 lines of the City's correctional facilities and who will  
4 be directly affected by whatever amendments this Board  
5 ultimately adopts. Therefore, let me address the number  
6 of concerns we have with some of the proposed changes.

7           My first concern is with Section 1-01, which  
8 relates to the requirement that facilities have a  
9 sufficient number of employees and volunteers fluent in  
10 Spanish. When this procedure is changed, two procedures  
11 must be employed to ensure that non-English-speaking  
12 prisoners understand all written and oral communications  
13 from the facility's staff members, I became concerned.

14           Confusion on the parts of inmates caused anxiety,  
15 and anxiety can lead to frustration and disruptive  
16 conducted which impacts the safety of the officers. It is  
17 important that all communications to inmates who do not  
18 speak English be as clear as possible. The Hispanic  
19 population in New York City has grown geometrically in the  
20 recent years, and Hispanic inmates have been accommodated  
21 in such a way to ensure the safety of the jails.

22           My second concern is the proposed repeal of  
23 Section 1-03, which relates to overtime for correction  
24 officers. The Board of Correction is considering the  
25 Department of Correction's proposal to eliminate Section

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1-03(a) through (d), which states policy. Involuntary correctional officer overtime shall be limited and adequate time between shifts provided.

Involuntary overtime. (b), a correctional officer shall not work more than one full shift of overtime during any work week unless he or she consents to do so. And consecutive hours, which is (c), a correctional officer shall not work more than two consecutive shifts. Upon the completion of two consecutive shifts of work at least one of which is involuntary, a correction officer must be afforded at least ten hours before returning to duty unless he or she consents to return after one shift.

The C.O.B.A. strongly believes that it is imperative that Section 1-03(a) through (d) remain exactly in its current state, as is currently stated. There is a direct correlation between an officer's ability to receive adequate rest between his or her shifts and their safety and security of the officers' facility.

As you may recall, following the jail riots that occurred in the 1980's, it is determined that correction officers were overworked, and the lack of sufficient rest that they received between their shifts diminished their

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alertness and thus impeded their ability to perform their duties at optimal levels.

The bottom line is that proposal repeal of Section 1-03 is not good for the safety and security of the officers and not effective for providing the utmost care, custody, and control of the inmates.

Regarding Section 1-04, this union has a very serious problem with the variance related to the number of square feet available for each inmate housed in dormitories. Changing the number of square feet available from 60 square feet to 50 square feet per inmate adds 10 inmates to each dormitory. This means that there will be 60 inmates in each dormitory. It also means that there will be 120 inmates in paired modular dormitories. Adding 10 additional inmates to each side is significant.

It is totally inappropriate to compare New York City to other jurisdictions which have the same or less square footage per inmate. For example, in Los Angeles the inmates are locked in all the time. Correction officers do not often have contact with inmates and do not enter and move among the inmates in dormitories. And Los Angeles does not have contact visits. There is an entirely different environment and housing system in Los

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Angeles, and it is a difference in Chicago and also Philadelphia.

With all the activity and movement, contact visits, law library, outside recreation, etc., there are many, many more opportunities for inmates to acquire weapons or to victimize other inmates or cause other problems for correction officers in New York City's jails. It is unsafe to change the number of inmates permitted in the dormitories

Finally, the C.O.B.A. has serious problems with Section 1-15 concerning variances. We understand the need to simplify the process under which Department of Correction seeks variances. However, best practice is a very broad term. In addition, pilot is a very broad term.

The union desires to be notified and informed and given an opportunity to discuss requested variances with the Board. The union has a legitimate concern regarding safety, and the union has a legitimate need to provide input to the Board regarding the safety of the jails.

If anyone knows when there is an unsafe condition or when changes might create danger, it is the correction officers who work in the jails every day of the year, 24 hours a day, seven days a week. Making the change is more streamlined way of making sense, but when this union wants

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to be notified of variances, applications, and the Board should really want the union's input to prevent potential blunders, they should also apply, this should also apply if the change is to be part of the practice or the pilot project.

I would like now to highlight a few of the proposed amendments which this union firmly supports. The first, placing inmates in uniforms as proposed in Section 1-03, is a good idea. We can also expect sentenced inmates, detainees will have different colored uniforms so that officers can recognize the highly security risk typically posed by the detention population. This is particularly important in view of the other proposed changes which will often permit sentenced and detainee inmates to be housed together.

Secondly, we support the proposed amendment Section 1-10 which would authorize the Department of Correction to listen and to monitor prisoner telephone calls. This new security measure will enhance our officers' ability to potentially identify and prevent any inmate plans for illegal activity.

And, finally, the Board of Correction has proposed a new subdivision H be added to Section 1-07, entitled Limitation of Access to Recreation, which would

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authorize the Department of Correction to deny recreation for up to five days for prisoner's misconduct on the way to, from, or at recreation.

No such limitation currently exists in the current standards. While we support this proposal, we believe that the recreation should be denied for a minimum of five days going to twenty days for prisoner's misconduct on the way to, from, or at recreation.

Moving forward, when the Board of Correction votes on the proposed amendments, I strongly urge each of you to carefully consider these issues we have raised and our reasons for raising them. The safety and security of our members, the inmates, and the City of New York are at stake.

At this time I am happy to answer any questions after Mr. Whitfield, President Whitfield, finishes his statements. Thank you.

MR. RONALD WHITFIELD: Good afternoon, Ms. Simmons, Mr. Wolf. My name is Ronald Whitfield. I'm the President of Correction Captains Association. In a joint effort between, with the President Norman Seabrook and Sidney Schwartzbaum, Presidents of their various unions, we concur and agree with all stated statements that was just made.

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The only thing that we have to look forward to, that I wanted to talk about, talk about 20 years ago or 30 years ago when the minimum standards was put into place. I stand before you with the 29 years knowing how the minimum standards helped correction at the time. Now you want to change and add 50 feet, take 50 feet for housing, which put crowding back in, as minimum standards tried to avoid the last time.

What happens is this, there'll be inadequate supervision as far as the captains are concerned, it's because it's going to be more difficult for the officers to supervise the inmates, to have care, custody, and control. One reason why is because the staffing level has went down. So, therefore, you want us to have more inmates to supervise but less staff to do the job. You want us to be able to maintain control, whereas now it's going to be even a little bit impossible.

We support the Department when they state that they want to put inmates in jumpsuits because this helps us with identification. It helps us be able to make sure that no gang affiliations will be able to be singled out or we can single out everybody. You have to excuse me, this is my first hearing.

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But the point of the matter is this, we're here to discuss what is best for the Department and what is best for the care and custody, control of the inmates. That's what the minimum standards was meant for - to protect them, but also to protect us.

We're asking that you do not impose the 50-foot requirement because it will put added stress on our members. We're asking that, yes, we'd like for you to allow them, the Department, to place them in jumpsuits, the inmates, for identification purpose, to stop smuggling, to stop inmates stealing from each other. A person comes in now, a detainee comes in, and another detainee might want to rob him. It will cut that down.

The other thing that we have to worry about is that we are opposed to the Department wanting to eliminate the turnaround, as we call it, the ten hours in between tours. It's not only for the safety of our officers and our members, it's for the safety of the inmates also because you need to have staff that's going to be effective and alert.

And take one other point also. It's also the safety of the public, because a lot of our members do not, have to drive let's say approximately 45 minutes to an hour each way. So, therefore, they're putting the public

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in danger because of their tiredness. That's one reason why that we want that.

The last thing that I'd like to talk to you about before I turn it over would be we are not opposed to limiting or monitoring the inmate phone calls. I was in facilities where phone calls, communications was being conducted by a certain individual, and he was still running his gang. And we couldn't stop them. But this is the way that it can stop. So we'd like for you to look into that and to - we are in support of the Department in monitoring all telephone communications. Thank you.

SCHWARTZBAUM: Are there any questions?

SIMMONS: No, I don't think so. We thank all three of you for your appearance here today.

SCHWARTZBAUM: Well, thank you very much, ladies and gentlemen.

SIMMONS: Might I say, there are still some empty seats here. There are people in the back who don't have seats. There are some of you who are sitting behind us. You would be much happier if you were sitting in front of us. We don't like the idea that you're only seeing our backs. So if you'd like to move -

FEMALE VOICE: Actually, I think the hallway is crowded with others waiting to come in.

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SIMMONS: I just want to make sure that we -  
there are more chairs around there if you want to - and  
maybe we could just - maybe we could - it's kind of -

(cross-talk)

SIMMONS: Well, I wouldn't mind if you wanted to  
take your chair, if we could move the chairs over there,  
just because I think - yeah, that would be fine if you  
don't mind doing that. Or just somewhere, just because  
it's very, you know, I feel rude having you only looking  
at my back.

The next speaker is Mishi Faruquee. I hope - I  
apologize if I've mispronounced your name.

MS. MISHI FARUQUEE: Good afternoon. My name is  
Mishi Faruquee. I'm the Director of the Juvenile Justice  
Project at the Correctional Association of New York. And  
you already heard from our Board Chair, John Brickman, so  
you know that the Correctional Association of New York was  
founded in 1844. For over 160 years our organization has  
been visiting prisons in New York State and making  
recommendations on how to improve conditions of  
confinement inside the state prisons. The Correctional  
Association of New York is also a member of the Coalition  
to Raise the Minimum Standards. We're a proud member of  
that Coalition.

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The Juvenile Justice Project seeks to create more fair and humane effective policies for young people in the juvenile justice system, and we coordinate the Juvenile Justice Coalition, which is a coalition of organizations that work with young people who are involved in the court system. We also run a youth leadership program for young people coming out of jail and prison. I thank you for this opportunity to testify today.

I want to focus my comments on the - and there's been discussion on this - on the proposed amendment regarding overcrowding. We are very concerned about the proposal to reduce the square footage per inmate and to allow the Department of Correction to confine as many as 60 detainees in the dormitories.

The Board has said that they believe that these, you believe that these amendments would not adversely affect the safety and security in the detention facilities. We strongly disagree with this conclusion.

We've talked to dozens of young people who have been incarcerated on Rikers Island, and the young people have consistently described troubling levels of violence in the adolescent housing areas, particularly at the Robert N. Davoren Center, formerly known as the Adolescent

1  
2 Reception and Detention Center, which confines the 16 to  
3 18 year old male detainees.

4           The young people who've been at Rikers describe  
5 an atmosphere characterized by daily fights, power  
6 struggles, and intimidation. One young person sums up the  
7 experience in the adolescent housing units in the  
8 following terms. It's like a battle camp for kids - the  
9 survival of the fittest.

10           The overarching concern reported to us is the  
11 failure of correctional officers to prevent or effectively  
12 respond to violence in the adolescent housing areas. The  
13 youth consistently report that staff instigate,  
14 perpetuate, sanction, or ignore much of the violence in  
15 the dormitories. Because there is only one correctional  
16 officer patrolling each dormitory containing up to 50  
17 prisoners, the staff members rely on the cooperation of  
18 the prisoners to maintain some semblance of order in the  
19 housing areas.

20           In the adolescent units this dynamic takes on a  
21 particularly insidious form. We have received dozens of  
22 independent accounts from young people that staff, in  
23 effect, appoint a few youth to serve as "teams" that  
24 maintain control of the dormitory. Youth reported to us  
25 that staff members allow certain young people, often the

1  
2 young people with the toughest reputations for fighting,  
3 to maintain control of other prisoners in the dormitories.  
4 Young people describe how certain prisoners control of  
5 every aspect of life in the dormitories, including the  
6 distribution of food, interactions in the day room, and  
7 the exercise of telephone privileges.

8           J.V., a 19-year-old from the Bronx described to  
9 us his experience in a Rikers dormitory. "You had to join  
10 a gang so you could live. If not, in every house they  
11 want to take your food, your phone call. If you want to  
12 be by yourself, you don't want to live in Rikers. If  
13 you're 16, 17, 18, it's like hell."

14           Jeffrey, also 19, from the Bronx, told us,  
15 "Somebody's always getting violated, punched, choked out,  
16 all through the house until you go to sleep. You have to  
17 fight to win, or you're going to wind up hanging yourself  
18 with a towel."

19           Given these descriptions of the conditions in the  
20 adolescent units, it is extremely troubling that the Board  
21 is considering an amendment that would exacerbate violence  
22 in the dormitories.

23           We urge the Board, and I know that today you've  
24 asked us for, you know, for language for proposed  
25 amendments, and we don't have that today. But we do urge

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you to propose, you know, to reject the proposed amendment to increase the number of prisoners in the dormitories.

And we also ask you, to urge you to explore promoting new standards to increase safety and security in the housing areas, particularly regarding the needs of adolescents. And I, you know, I think you're aware of this, but I think it's important to point out that New York is one of only three states that treats, automatically treats, all 16-year-olds as adults. And we know, all of us know, that 16 and 17-year-olds are not adults. They are still developing as, you know, as individuals. And adolescence, as we know, is a critical transition phase from childhood to adulthood.

The conditions inside Rikers Island for adolescents is antithetical to helping adolescents develop into healthy, productive, law-abiding adults. We ask the Board to consider best practices for adolescents who are incarcerated, you know, to explore best practices such as training in adolescent development for staff, structured youth programming, particularly in the after-school and evening hours when young people are not in school, and also to look at creating more availability of counseling and mental health services for adolescents. Again, I'd like to thank you for the opportunity to testify today.

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(applause)

SIMMONS: Thank you very much. The next speaker is Sandra McCoy.

MS. SANDRA McCOY: Greeting, Madame Chairwoman, Mr. Wolf, and my respective audience. I bring you greetings from Howard T. Hart Pre-Advocate Center. My name is Sandra McCoy. I'm not a law student. I'm not an L.S.W. I have credentials as an ex-offender.

I come to talk to you - there's a lot to be said when you have 60 people at the medication cart, and everybody is receiving the same medication because they have the same diagnosis. It's a lot to be said being incarcerated and mentally ill, it's not easy. The struggle is even harder upon release because you have been improperly diagnosed and improperly medicated.

You talk about minimum standards. You want to talk about colors. You want to talk about monitoring phone calls. I could tell you about overcrowding. Yes, the dorms are overcrowded. They're so overcrowded, you have 120 people, A and B side. In the winter time there's no heat. There's no hot water. There's no air conditioner. You get a bucket of ice, and if the officer's in a bad mood, they dump the ice, so you sweat, 100 degrees in the dorm.

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I could tell you about overcrowding. Our family sent us long johns. They deny them because they're the wrong color. Who cares what you sleep in? We're trying to stay warm, so we sleep fully clothed.

I could tell you about overcrowding. When we don't have enough to eat, so they give us frozen cold cuts. They give us frozen potato salad, frozen baloney. I could tell you about overcrowding. When the meal's in at 2:30 instead of 1 o'clock.

I could tell you about sleeping in the gym for new admissions. You have one bathroom. One is for the staff. One is for the inmates. There are fights. There's stealing. People are unhappy. I could talk so much about overcrowding. Overcrowding is not working, and I don't think changing the rules fit people more, to fit more people into less space makes any sense.

The serious problem we have, you don't want to talk about the correction officers, okay? These are people, the content of their conversation is so cruel and degrading. And you ask about safety. Safety has respect. All right? Respect has safety. Because we're inmates does that make us inhuman? Does mean that you have to subdue us with your feet? Does that mean that we have to be paraded down the hall from our housing unit to the

1  
2 receiving room in our bra and panties with a male escort  
3 by the goon squads? Is that what we're talking about  
4 here?

5           How about minimum standards? I could tell you  
6 many things about overcrowding, about being inhuman, and  
7 because we're inmates, we don't have any rights. About  
8 how the C.O. come in on a Friday and take the phones until  
9 Monday morning. There are no phone calls. I could tell  
10 you about how the C.O. don't feel like making rounds, all  
11 right, so everybody has to sit there and knock on the  
12 bubble for toilet tissue. And their response is, if you  
13 was using toilet tissue in New York, you wouldn't be here.  
14 Okay?

15           I could tell you about taking a shower where the  
16 bubble, the female bubble, the female showers faces the  
17 bubble, and we have male officers and no curtain. So we  
18 got to come out of the shower with no clothes on, exposed.

19           And I could tell you about talking to the  
20 captain. I could tell you about writing it up. But we  
21 was in New York, if you wouldn't be here, you wouldn't  
22 have to worry about coming out naked.

23           You want to talk about colors. What about our  
24 rights as inmates? Because we're inmates doesn't mean  
25 that we're guilty. We haven't been proven guilty. You'll

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2 go undercover on the streets and put somebody in jail, but  
3 not one of you will go undercover in jail and live in any  
4 housing area, male or female or adolescent and find out  
5 what's really going on in the jails.

6           I could tell you about being in SHU, with nothing  
7 on, stripped down to your panties, on a camera, laying on  
8 a mat. I could tell you about being shackled to go from  
9 one place to another and how the officer stuck his feet  
10 out and you fall over the shackles and scar your face up  
11 before you get from one place to another.

12           You want minimum standards? The minimum  
13 standards are human rights. We're human beings. We're  
14 inmates, we made mistakes, but we're still human beings.  
15 The things you do, the colors what we wear, monitoring  
16 phone calls. Who cares whether you wear green, white,  
17 blue or black? Half the time you don't know what you got  
18 on or what you're going to do. They may decide to take  
19 that.

20           You want to talk about proper training of your  
21 officers? That's where it starts. Okay? Everybody has  
22 to play a part. You can't sit back with your feet up on  
23 your desk making decisions about somebody else's life if  
24 you haven't been there. You can't read a piece of paper  
25 and believe that that's what's really going on. You want

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2 to really talk about human rights and minimum standards,  
3 then you got to put away the Chinese food, take your feet  
4 off the desk, and go be a part of it. Not sit here in a  
5 meeting and have this kind of meeting and want to know  
6 what everybody feels, and these are our minimum standards,  
7 and every ten years we change them. Every ten years you  
8 have more people incarcerated. You have more lives lost.  
9 You're not just jeopardizing our safety, but you're  
10 jeopardizing the officers' safety too.

11           As soon as something happens and everybody want  
12 to stand up and be accounted for and be heard. But all  
13 this can be prevented.

14           I could tell you about minimum standards. The  
15 minimum standards are, you as Board members must revise  
16 all of this stuff about colors and phone calls and really  
17 get to what's the real issue, the rights of a person,  
18 we're guilty until proven innocent. But we're all God's  
19 children. You're not judges. You're not juries.

20           You don't have the right to subdue us and treat  
21 us like inhumans and then ask us to respect you, follow  
22 your rules. And you're worried about somebody putting a  
23 hit out on somebody on the streets. We're just trying to  
24 make it from one day to another. Thank you.

25           (applause)

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SIMMONS: Thank you. Mariah Lopez.

MS. MARIAH LOPEZ: Good afternoon. My name is Mariah Lopez. I am an activist and the Transgender Service Coordinator at People of Color in Crisis in Brooklyn. Before I even start to talk about the proposed amendments, concerning me most is that on the second page of the minimum standards it seems to list a group of people that are supposed to be protected against discrimination. And looking deeper into it I see that it seems to me, or the Human Rights Commission, a list of people except conveniently, like most municipalities, it overlooks transgender people who are now protected under the New York City Human Rights Ordinance.

So the first question - it's a question that you don't have to answer now. I understand there's no exchange. Why aren't transgendered protected in this local entity like we are throughout the rest of the City? That's my first question. And even if we weren't, a state court ruled last year that the sex, the state law protecting people against discrimination that applies to sex applies to transgender people as well. So even if we did not have the amendment called Local Law Three that was proposed in 2002, we would still be protected.

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And my point in that is that the guidelines connected with that law are very, very specific, and everything I'm about to say that happens to transgendered people will not happen. Simply by amending this to add gender identity, you'd protect thousands of New Yorkers against discrimination and abuse.

And so before I go on, I'd like - there's an individual in the audience - can you stand up? I and her are transgender, and so before I go on, I'd like to ask anyone in this room if it makes any sense to put me or her in a facility with thousands of men. You want to talk about a security risk, put me and her in a facility, an overcrowded facility with thousands of possibly potentially angry, violent men, then what will happen? You can sit down.

So I'm going to go on now. There's a couple things. First of all, I've been in Rikers Island. I was there last year, and I'm probably one of the only people that spoke today besides the young lady that just spoke.

Let me explain to you what happens to a transgender person when they get to Rikers Island. First of all, since from the second you are committed, because I'm not protected in this little thing here, the officers can talk to me whatever way they want on the way over.

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They put me in a cage on a bus, first, so that 30 other inmates have to pass me and spit on me and throw urine on me while they're walking past me. Again, I'm not protected against discrimination.

I get to the facility, and despite having the right to a confidential medical screening, I have a guard two feet from me. So if I had any issues with my medical treatment or issues around HIV-AIDS, I have to discuss that information in front of the guard. Then, for my own safety, according to the Department of Correction, I'm put in 23-hour lockdown until they decide to have a hearing, until they decide to release me.

Now, again, I don't really care what Department of Correction puts on a piece of paper, but let me explain to you what happened last year so that they could deceive my judge in Criminal Court. They told the judge I was being put in general population escort, and they were going to forego the initial screening process that every inmate goes through when they're in close custody. They would not put me in 23-hour lockdown and put me straight in general population escort.

While I was taken to close custody, the camera was turned on. I was escorted into close custody, taken inside, the cell was closed. They turned back on the

1  
2 camera as if I was put in close custody. They turned off  
3 the camera and took me out and, to make it seem like I was  
4 being brought out and brought me right back in. They gave  
5 me an identification card that read I was in N.I.C. when I  
6 was in C-74. I looked like a raving fool when I told the  
7 judge in four days that I was not being housed where I was  
8 supposed to be and that I was still in 23-hour lockdown.

9           At the time I had a pending litigation against  
10 them, three deputy wardens visited me while I was in close  
11 custody and told me I don't care if a federal magistrate  
12 ordered it, you're staying in here because it's easy for  
13 us to keep our eyes on you there. So that's one thing.  
14 And again, excuse me, I didn't prepare a statement.

15           In terms of the clothing, now, I actually,  
16 believe it or not, I'm not for the uniforms, but I'd say  
17 one thing. It is not my understanding that Department of  
18 Corrections, according to anything that I've researched,  
19 had ever received a variance for, in terms of washing.  
20 There was a directive to have them launder and repair all  
21 inmates clothing at least once a week. That has never  
22 happened. You are given a powder chlorine solution to  
23 wash with your bare hands the clothes that you came into  
24 the facility on your back, and that's it.

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Transgender inmates are forced to remove their male clothing even though we're protected as a class of people that have a disability. Over and over again, courts ruled that transgender people are people with a treatable condition. Just like an inmate that came in with schizophrenia or bipolar disorder, they have a right to diagnosis and treatment.

But do you understand - I get what's going on here. See, what happens is, if Department of Corrections was forced to actually look at us as a group of people with disabilities, then that would change everything. Then they couldn't call us men or he or by my given first name intentionally to hurt my feelings because that would be discrimination. They couldn't not listen to the psychiatrist that told them you need to call her she while she's here because she's a female. They couldn't interrupt my hormone replacement therapy as a prescribed treatment. They couldn't just not let me wear female clothing in accordance to the treatment by my doctors because that would be discriminatory.

The easiest way for the - first of all, and I echo some of the people's sentiments. Let me - most inmates, this is their Bible. They look to the Board of Corrections for salvation. They expect the Board of

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Corrections to be, they expect, to be completely independent. But most of the belief is that you guys are an extension of the Board of Corrections, that they have you in their pockets.

So the corrections officers will look at them and go, you know what, we'll just get a - if anyone complains about grieving an issue of a minimum standards, we'll get a variance. We probably already have a variance. By lowering the standard for getting a variance, you're conceding everything the inmates are saying. They're saying you're in the pocket of the Department of Correction and you do as they ask.

They already don't follow the minimum standards as it is. Half of things they do in practice, they don't actually have variances for, but they're allowed to do them. Why? You are enabling the Department of Corrections by, one, not adding transgender people to this list of people that are protected, and by one, allowing, to get an easier variance, you are enabling them to discriminate against people. You are enabling them to abuse people.

Specifically, again, this is not the forum to address a lot of the issues around transgender people because a lot of the standards do not directly address

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2 most of my issues. But I would just like - again, the  
3 easiest way to protect thousands of New Yorkers, and it  
4 has nothing to do with the proposed standards, amend this  
5 first page. Add us, so that Department of Corrections  
6 will be forced to follow the Human Rights Commission.

7 I mean, who has authority over discrimination if  
8 it's not the Human Rights Commission? The State Human  
9 Rights Commission is going to defer any inmate to the  
10 local Human Rights Commission, and the local Human Rights  
11 Commission is going to say you're not listed as protected  
12 in the minimum standards, and, therefore, they're going to  
13 wiggle out of it.

14 If you guys have any questions, that's it, but  
15 I'm basically done.

16 (applause)

17 SIMMONS: The next speaker is Dori Lewis.

18 MS. DORI LEWIS: Good afternoon. My name is  
19 Dori Lewis. I'm an attorney at the Prisoners Rights  
20 Project of Legal Aid. And I actually had no intention of  
21 speaking today since John and Milton from my office have  
22 already spoken, but there were just a couple of things  
23 that have been mentioned today that seemed to me worthy of  
24 note and some of the ways this process has been handled  
25 that are also worthy of note.

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2           Reference has been made to the public being aware  
3 of this for a couple of years. That's an unmitigated lie.  
4 The fact is that the public has been aware, meaning the  
5 Legal Aid Society and a couple of the other people  
6 directly involved in this, that proposals for change were  
7 being considered by the Board of Correction. But none of  
8 us were ever told what those proposals for change were.  
9 We went to meeting after meeting and were told they're  
10 being considered for change, but we won't tell you what  
11 they are.

12           I tried to reach out to the community before  
13 January when there was, these proposals for change were  
14 set in the public record. It's really hard to reach out  
15 to people and say, be concerned, but I don't know about  
16 what because, gee whiz, we can't be told what they are  
17 because it's a deep dark secret.

18           There's been three months for consideration by  
19 the public at best. And even that, the fact of the matter  
20 is, you now are saying that you want to hear about  
21 proposals for progressive changes. Well, that isn't the  
22 way that you asked for comments. You asked for comments  
23 to the revisions that you suggested. You didn't ask  
24 people to propose progressive changes, be it for  
25 transgendered persons or disabled persons or how education

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2 should be provided in the City jails. There are a myriad  
3 of areas where the Board of Correction standards should be  
4 changed.

5           If you want to have a meaningful open dialogue  
6 with the people in the City of New York, ask for people to  
7 submit comments about how the Board of Corrections  
8 standards should be changed to provide a humane and  
9 reasonable environment in the City jails. Don't just meet  
10 behind closed doors for two years with D.O.C. or by  
11 yourselves and then give people three months, with no  
12 meaningful notice, to submit comments for change.

13           It's great that you now are asking people to  
14 propose language for positive changes, but the fact is  
15 people can't do it in 30 days, nor are most people who are  
16 even interested actually here. If you wanted proposals  
17 for change on education, Horizon Academy started because  
18 of litigation our office did. My co-counsel and I have  
19 worked for years -

20           (tape 3, side B)

21           LEWIS: - to be provided. The Department of  
22 Education would probably want to give input. The  
23 Department of Correction would want to have input on  
24 education. We can't just sit here and write provide  
25 education in a meaningful way to everybody as required by

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state law or as required by federal law. That's not a meaningful proposal if you want to actually consider how things should be run in D.O.C., actually have meaningful input.

A couple other things about how this is run. I don't know why a public hearing has to be limited to one day. I don't know why it has to end at 3:30. I don't have any understanding of why comments on the myriad of changes you folks are proposing are limited to ten minutes absolutely.

If you really want to have a meaningful dialogue with people, and since this is the first time that you're hearing from people in the community, I would think you would allow people to speak for as long as they feel they have something to say. An arbitrary limit of ten minutes is not an opportunity for the public to be heard.

You also have people, throughout the day, people who haven't been able to get into this room. And, yeah, there's a speaker outside, but it's not the same. It's really hard to stay here when you can't really see what's going on. People have been deterred. This hearing is being held during business hours. If you want to have working people come, then you should have had this hearing

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at a time that all people could come. You chose not to do that.

For all the reasons that people have said before, and for these reasons, I think you should start over, you should ask for input from the community about how the jails should be run, and then you should listen to not just the Department of Correction, but actually all the people of the City of New York. Thank you.

(applause)

SIMMONS: Thank you. Gabriel Arkles.

MR. GABRIEL ARKLES: Hello. My name is Gabriel Arkles, and I'm a staff attorney at the Sylvia Rivera Law Project. The Sylvia Rivera Law Project provides free legal services to low income people and people of color who are transgender, intersex, or gender non-conforming. My position focuses on prisoners rights issues in these communities.

I'm here today because standards for New York City jails are of vital importance to transgender communities. I am asking the Board to withdraw the proposed amendments and instead initiate a full, fair, and open process that includes the communities most affected by the minimum standards to consider any future revisions to them.

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Transgender people are disproportionately poor because of the severe and pervasive discrimination they face in all aspects of life. Trans-people can be kicked out of their families' homes, expelled from schools, turned down from jobs, and denied access to housing programs and benefits simply because of their gender.

This makes transgender people more likely to have to commit survival crimes and crimes of poverty, and transgender people, particularly transgender women of color, are also routinely profiled and falsely arrested by police because of stereotypes about transgender people and people of color as criminals. Therefore, transgender people disproportionately end up in jail and unable to make bail.

We are deeply troubled by the proposed amendments to the minimum standards for New York City correctional facilities. To my knowledge transgender people in communities, as well as other communities disproportionately impacted by New York City jails, were not made of the, were not made a part of the process to develop these proposed amendments, even to the slightest extent.

Moreover, these proposed amendments are patently one-sided, designed to accommodate the convenience of the

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Department of Correction, and raise grave doubts about whether the Board of Correction is abdicating its role and its very purpose as a truly independent body for oversight of the Board of Correction.

Even some of the more minor proposed amendments show a lack of serious concerns for the right, safety, well being or dignity of prisoners and their communities. For example, in what is now Section 1-04(c)(2) about personal hygiene, the language stating that hot water sufficient to enable prisoners to shave with care and comfort shall be provided has been changed to remove the terms with care and comfort.

I find it hard to believe that the Board has actually taken upon itself to propose a formal amendment to the minimum standards for New York City correctional facilities in order to let the Department of Correction for no reason deprive prisoners of comfortable shaves. That it is so important to the Board that prisoners may be made uncomfortable while shaving and not be able to shave with care, that an amendment to this language has actually gotten this far in the process. I mean this type of proposal seems like simple pettiness and meanness, a gratuitous gesture for no other apparent reason than to show contempt for prisoners.

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I'm spending time talking about this proposal not because of the importance of its substance so much as the importance of the attitude that it seems to reveal, regardless of its intent.

The situation for transgender people in jail is terrible and terrifying, far too often involving verbal, physical, and sexual assaults from both inmates and officers, and destructive departmental policies around clothing, strip searches, and housing that prevent transgender people from expressing their gender or maintaining their dignity. The proposed amendments would worsen the already dire circumstances for transgender people in New York City jails and would take no positive steps to improve the conditions.

Because of well-grounded fears for their own safety in general population, some transgender people on Rikers request placement in close custody and others are placed there against their will.

The proposed amendments to lock-in provisions would place no limitations on the ability of the Department of Correction to keep people in close custody in their small cells, alone, in near total isolation day and night with only one hour possibly for recreation. Transgender people and other prisoners should not be

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2 punished with the brutal and psychologically hazardous  
3 conditions of solitary confinement simply because they are  
4 likely to be targeted for violence in general population.

5           This amendment is unacceptable and would  
6 disproportionately harm transgender and gender non-  
7 conforming prisoners. It must be withdrawn.

8           Transgender women in New York City jails  
9 consistently report being forced to strip and turn over  
10 their intimate clothing, such as bras and panties, to  
11 correction officers. Some women have even been physically  
12 attacked and had these clothes, such as bras, forcibly  
13 ripped from their bodies. Transgender women have also  
14 been prohibited from wearing blouses or certain shirts or  
15 have had their own jackets confiscated because they were  
16 "too feminine."

17           The laundry facilities for sanitation of clothing  
18 are nowhere near adequate as they are. Instead of making  
19 amendments to try to address some of these problems, the  
20 Board has proposed amendments to require uniforms, which  
21 would only give the Department of Correction more power  
22 over the clothing that people can wear.

23           The Board should withdraw this amendment and  
24 should instead focus on trying to deal with the problems  
25 of enforcement of gender stereotypes through assaults and

1  
2 confiscation of clothing that is targeted at transgender  
3 and gender non-conforming people.

4           Transgender people have been groped and otherwise  
5 inappropriately sexually touched during searches and  
6 searched over and over and over again for no purpose other  
7 than the sexual arousal of the officers and/or the  
8 exhibition, humiliation, and degradation of the prisoners.  
9 Transgender prisoners are also often given highly unsafe  
10 and gender inappropriate housing placements. For example,  
11 transgender women are routinely inappropriately placed  
12 with men. Correction staff also routinely refer to  
13 transgender people with inappropriate gender terms, such  
14 as calling a transgender woman a man or he and with trans-  
15 phobic and homophobic epithets such as faggot.

16           Given these realities, it is deeply disturbing to  
17 us that the proposed amendments to the minimum standards  
18 incorporate nothing to limit inappropriate searches,  
19 address sexual assaults, or insure that transgender  
20 prisoners and visitors are housed, addressed, and treated  
21 appropriately and with acknowledgement to their gender  
22 identity, dignity, need for safety, and basic humanity.

23           It is also particularly striking that the Board  
24 has not proposed amending the non-discriminatory treatment  
25 policy to include gender identity, gender expression, or

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disability, even though discrimination on these bases are already prohibited under City law.

Amendments to the minimum standards that address these concerns must be developed in the course of a full and meaningfully inclusive process following the withdrawal of the current proposed amendments.

I've only had time to discuss a few of the aspects of the minimum standards today. There are many other proposed amendments that would deeply damage transgender and other prisoners and visitors and many other gaps that the Board could have addressed with proposed amendments and did not. I generally join with the comments of many of those who have gone before me, including the Legal Aid Society, the Puerto Rican Legal Defense and Education Fund, and Bronx Defenders, as well as Mariah Lopez.

I submit on behalf of the Sylvia Rivera Law Project, again, that none of these proposed amendments should be adopted at this time. Instead, the Board should withdraw its proposal and initiate a full, fair, and open process to examine and improve the current standards. This process must centralize the participation of prisoners and their communities, including transgender prisoners and communities, and it must be initiated by a

1  
2 Board that is fully committed to providing genuine  
3 oversight to the Department of Correction. Thank you.

4 (applause)

5 SIMMONS: Thank you. James Rogers.

6 MR. JAMES ROGERS: Good afternoon. My name is  
7 Jim Rogers. I am the President of the Association of  
8 Legal Aid Attorneys, that is U.A.W. local 2325. We  
9 represent the approximately 850 lawyers at the Legal Aid  
10 Society, the Federal Defenders of New York, and the Public  
11 Defenders of Orange County, but primarily we represent all  
12 the attorneys here at Legal Aid.

13 It does appear to me that there doesn't seem to  
14 be much to lose by reversing course. I mean already in  
15 one day's work, we have consensus between advocates for  
16 inmates and corrections officers who think that going down  
17 to 50 square feet would be a horrendous idea. Think about  
18 where we could get if we actually had an open process, an  
19 open consensus process, we might actually come up with a  
20 plan that everybody could agree upon that made sense, and  
21 the adversarial nature of these proceedings wouldn't be -  
22 we really have nothing to lose by doing that.

23 I would like to say that the Association of Legal  
24 Aid Attorneys has spent most of its time since its  
25 inception in 1969 working collectively, taking collective

1  
2 action to ensure the rights of the poorest people in New  
3 York City. And as a public defender myself, ten years  
4 with Legal Aid in Bronx County, I do want to kind of  
5 illustrate one thread that runs through a lot of what  
6 you've heard today. That is the thread that applies to  
7 how the state interacts with the youth in New York City,  
8 how the government and the police, and then ultimately the  
9 Department of Corrections interact with youth and what  
10 happens.

11           And if you follow that thread, starting with the  
12 stop and frisk, the commonality of stop and frisk in many,  
13 many, many poor communities in New York City, what you  
14 hear around the dinner tables in these communities, people  
15 aren't necessarily talking about what happened at the  
16 basketball game or what happened in math class. What  
17 they're talking about is how the police stopped them and  
18 everyone had to get up against the wall and everybody got  
19 searched and, you know, so and so had to go down to the  
20 precinct and their parents got them out, but I didn't have  
21 to go down, so I'm here for dinner on time.

22           And the most disturbing part of all this, the  
23 most disturbing part of all this is the regularity, the  
24 commonality. When kids come home and tell these stories  
25 to their parents at the dinner table, it isn't like it's a

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huge deal any more. It happens so often and is so regular.

Follow that thread a little bit further with the New York Police Department in the schools. Uniformed police officers in the New York City schools making arrests, calling in - you know, when I was growing up, if a couple of kids got into a fight, you know, the parents came in, the principal came in, and something was worked out. Maybe there was a suspension, maybe there wasn't a suspension. If a fight happens in any poor neighborhood in New York City, the New York Police Department is there, and these kids are all going to jail.

And they're going to be - it might take 24 hours, it might take 36 hours before they see a judge. And then ultimately what happens, if they are arrested and they are incarcerated pre-trial at Rikers Island, the cumulative net effect of all this is a removal of our youth from civil society, a belief by the youth of New York City that they don't belong to civil society, that this is not for them. And we often wonder why the youth of New York City perhaps isn't as engaged as they could be in participating in civil society, in making their communities better. And the reason is, I just laid out for you.

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It is the fact that when I was growing up or in most communities below 96th Street, if there's a fight in the school, folks aren't going to jail. It just doesn't happen. When I was growing up, and currently below 96th Street, kids aren't being lined up against the wall and frisked on a daily basis. That's not a regular topic of conversation.

So how does this apply to the proposed changes here today? What we need to do and what we want to do is decrease the amount of time that people, especially the youth of New York, feel other than, feel different than, feel like this society isn't for them. And I think that these changes to the minimum standards actually do the opposite.

The uniforms, for instance, creates the - when somebody in a uniform comes to court now - people have talked about how that effects the presumption of justice, how the judge looks at that person, but really how it applies, how does it make that person feel who hasn't been convicted of any crime, who merely stands accused, who's 16 years old, and standing in public and being other than, being different than, being labeled, having the scarlet letter.

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When you take that factor and put it together with the other factors that marginalize the youth of New York City, we can't really sit and scratch our heads and wonder what's going on with the youth in poor sections of New York City. We just can't do that.

I had a client, first arrest, 16 years old, was put on remand status at arraignments. Despite three writs of habeas corpus, he remained on remand status for 14 months until he had his trial where he was acquitted of all charges. He was a great student, he taught Sunday School, he was very, very particular about how he dressed. And when his ex-pastor came down from Rochester, because he had moved, the pastor had moved to Rochester, and told the jury about how meticulous he was in his daily habits and in his dress and what that meant to him, and the effect that that had on the jury was palpable.

And what I mean to say is, this person, who I will label as G.T., barely made it the 14 months before his vindication. Barely made it. Meaning that defending himself, combined with thoughts of suicide, combined with feelings that maybe he was a criminal after all. He had been stopped and frisked a number of times but never been arrested. Had he had to go into uniform, had he had to be put on daily display with a scarlet letter, that final

1  
2 piece of his dignity, that final piece of carving out,  
3 carving him out of civil society, I'm not so sure he would  
4 have made it to his acquittal date. And I ought to say,  
5 when he did exit the jail, he was dressed so fine. And  
6 that was what was important to him.

7           Obviously, the space situation is obvious. I  
8 won't go into that. And finally, the phones and the mail  
9 situation is particularly disturbing in this regard  
10 because for a young person accused of a crime who is not  
11 yet convicted, being denied a fundamental right that they  
12 recognize and are certainly being taught in their schools,  
13 that is a fundamental right that is so important to all  
14 Americans - by virtue of being American, you get to have  
15 your privacy in your papers and you get to have your  
16 privacy in your phone calls. This is finally a statement  
17 to them that they are not part of our society.

18           Of course, there are situations where we have to  
19 listen in to phone calls, I understand that. That is what  
20 warrants are created for. And actually it is kind of  
21 funny, everybody getting up here and talking about how  
22 unbelievably difficult warrants are to get. Not my  
23 experience as a public defender, ever. I've never seen a  
24 warrant denied for any reason. We should be aware of  
25 that.

1  
2           But when the Assistant District Attorney got up  
3 here to talk about, you know, why couldn't he just get a  
4 warrant, he came up with a list of, that it would be a  
5 logistical nightmare. And I'm not exactly sure that's  
6 accurate. Every inmate has a P.I.N. number. If the  
7 warrant applied to that P.I.N. number, and it was based on  
8 probable cause, you could solve the problem right there  
9 without creating a situation where we were adding to the  
10 numerous factors that were making the youth of New York  
11 City feel that they weren't citizens, that they shouldn't  
12 and ought not participate in our civil society.

13           That is my primary concern. I have a strong  
14 feeling that we could do so much better, that it is your  
15 desire to do the best possible job you can, that it is the  
16 desire of the advocates to do the best possible job that  
17 we can. And if we suffer a few weeks, a few months, even  
18 a few years together in a deliberative process that will  
19 generate a consensus on how we should make our prisons and  
20 our jails the best that they can be, with our values  
21 clearly identified, that seems to be a minor price to pay  
22 in this time. So I do appreciate your time on this  
23 matter.

24           (applause)

25           SIMMONS: The next speaker is Dellarene Brown.

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MS. DELLARENE BROWN: Good afternoon, everyone. My name is Dellarene Brown, and I work for Howie the Harp Peer Advocacy Center in Harlem. And what we do is, we are a training program that trains consumers with Axis-1 diagnosis to become counselors and advocates for people just like themselves. And for everybody, anybody that doesn't know what a Axis-1 diagnosis is, that's a mental illness.

Sometime when people hear mental illness, they think crazy, but that's not always the case. But I've heard a lot of horror stories from the women that I work with. Also, Howie the Harp, seven years ago, they implemented another program, which is the Star Project, and that's steps to a renewed reality, and that's our re-entry program for consumers with Axis-1 diagnosis and histories of incarceration because it's almost horrible for them to get a job, you know, I mean, in the human services with the fingerprinting law.

I'm really here to speak for my consumers. I heard horror stories from women about the 23-hour lock-in. I have consumers who were in the SHU and experienced the SHU. Every time a consumer talks about it, a female, she cries.

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One girl with serious mental illness would keep flooding the toilets. Each time they beat her down, stripped her from every piece of clothes, and then they fed her the loaf. Anybody don't know what the loaf is, it's like a bread, cabbage, and beans all baked up into one, and if you don't eat that, you don't eat.

Excuse me. These changes are going to impact people with attempted suicides. I mean, and I've also heard stories, you know, there's been times when you have a mentally ill person, I mean, with schizophrenic or schizophrenic disorder, bipolar, you can't lock them in like that. And what happens is these people go to jail for minor crimes, misdemeanors, but while in there they end up with these State bids because they're acting out and they're acting out because they're mentally ill with no medication.

You know, the CO's, the captains, these people are not psychologists, therapists, or psychiatrists, and the psychologists that the jails do claim to have, I mean nobody has any real documentation. There is not any really adequate medical treatment.

People are not taking their medications because the medication line, everybody knows, you know, what they're taking, and in jail, I mean people want drugs, you

1  
2 know, I mean any kind of drugs. And if they can get  
3 valium or whatever from a mentally ill person, all they  
4 have to do is wait down at the corner for them, you know,  
5 they make them sneak their medication out to them or their  
6 - you know. And it's really horrible.

7           We went to Albany to boot the SHU for consumers  
8 with mental illnesses. Don't get me wrong. I went from a  
9 consumer to a provider. I've met people in my lifetime  
10 that I thank God there's penitentiaries, you know, but  
11 certain people with mental illnesses, they really can't  
12 handle it.

13           In overseeing D.O.C. you would have the power to  
14 make changes that will really affect the lives of people  
15 in jail and give them a chance to succeed upon release. A  
16 little dignity goes a long way. Thank you.

17           (applause)

18           (tape 4, side A)

19           MS. DARCY HIRSCH: Good afternoon. My name is  
20 Darcy Hirsh, and I'm Co-chair of Prisoners Rights Advocacy  
21 at Cardozo School of Law. The proposed changes to the  
22 minimum standards fail to ensure the safety, security and  
23 humanity of City detainees. I'm here to encourage you to  
24 withdraw the proposed changes and reconsider the minimum  
25 standards in light of their impact upon current and former

1  
2 inmates and recommendations from local re-entry and  
3 advocacy agencies.

4 I'm going to describe some of the results of a  
5 group interview with 17 young men, both English and  
6 Spanish speakers, who are currently participating in a  
7 full-time alternative to incarceration program at the  
8 Fortune Society. The full details of this interview will  
9 be submitted in writing.

10 These clients, the majority of whom are in their  
11 early 20's, have all been incarcerated at a facility on  
12 Rikers Island within the past two years. In the interview  
13 we discussed the participants' experiences at Rikers  
14 Island, focusing on the topics addressed in the proposed  
15 changes to the minimum standards, as well as positive  
16 changes that could be added.

17 In terms of overcrowding, the participants  
18 remember having only two guards for 50 people and that the  
19 guards already had trouble controlling the inmates and  
20 often cannot stop violent incidents. Many of the clients  
21 asserted that the guards let inmates run the show. There  
22 would be little chance of controlling ten more inmates  
23 without additional staffing.

24 Regarding the denial of personal clothing, the  
25 participants said that even though inmates do fight over

1  
2 their personal clothing, that uniforms would not solve  
3 this problem because inmates will always find something to  
4 fight about. Someone will either have a uniform that fits  
5 better or looks better. They are also concerned that the  
6 uniforms would be uncomfortable in varying temperatures,  
7 will not fit, and will not be cleaned. They stated that  
8 being able to wear their personal clothing helps with  
9 confidence and comfort, and it is unfair to be forced to  
10 wear identical uniforms.

11           Regarding the Spanish-speaking staff, the  
12 participants all agreed that a lack of Spanish-speaking  
13 staff would lead to more violent incidents in the  
14 facilities. The Spanish-speaking participants also said  
15 that when inmates could speak Spanish and English, they  
16 did not help the Spanish speakers, sometimes pretending  
17 that they did not understand. They said that fellow  
18 prisoners are not allowed to speak up for or translate for  
19 non-English speakers. One boy reported a guard once said  
20 to him learn English and then hit him.

21           We also discussed some positive changes that  
22 could be made to the minimum standards. We asked the  
23 participants what in their view were the most important  
24 issues at Rikers Island. Hygiene, food, and education  
25 ranked the highest for a majority of the participants.

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As mentioned, the participants expressed a significant level of dissatisfaction with the hygiene and sanitation levels at the facilities. Towels and bed linens were not regularly washed. Showers often did not function properly. The facilities frequently ran out of soap. The deodorant available at the commissary was unsatisfactory. The toilets were not cleaned regularly, and the dormitories were infested with water bugs.

The participants were overwhelmingly dissatisfied with the meal services at the facilities, particularly the food quantity and meal times. They complained of constant hunger and the long wait between dinner and breakfast, from 5:30 p.m. to 8:00 a.m. This hunger was often a source of violence in the facilities.

Finally, many of the participants complained about the lack of educational opportunities and opportunities to visit the prison library. One participant was only able to visit the library three times in thirteen months. The men, who were able to visit the library, recalled that the books were outdated and many were in poor condition.

I would like to conclude in saying that these men's experiences are testament to the lack of humane, safe conditions available for incarcerated youth and for

1  
2 the correctional officers hired to guard them. Statements  
3 like, nobody follows the rules, everybody makes up their  
4 own rules, and once you're in here nobody cares about you,  
5 you're on your own, and there's nothing working in the  
6 jail system, were repeated again and again throughout the  
7 course of the interview. These sentiments demand a new  
8 coherent set of standards. Thank you.

9 (applause)

10 SIMMONS: Thank you. Barry Campbell.

11 MR. BARRY CAMPBELL: Good afternoon. My name is  
12 Barry Campbell, and I work for the Fortune Society. I  
13 work directly for JoAnne Page. JoAnne couldn't be here  
14 today, so she asked me to do this alone.

15 I came here today with 60 former residents of  
16 Rikers Island. One of the things that a lot of people  
17 have talked about here today are about the standards being  
18 changed. I'd like to point out that the standards that  
19 you're reviewing and proposing to change really affect the  
20 human side, and the human side of it is that I personally  
21 was on Rikers Island in 2003, I was released just after  
22 the blackout. And one of the things that I experienced is  
23 that there are a lot of things going on in a dormitory.  
24 There are 50 people in a dormitory, there is extortion,  
25 there is robbery, there is sexual abuse, and it's all

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2 inmate on inmate. We're not even talking about what the  
3 guards condone. But it's all inmate on inmate.

4           And one of the reasons is, it's because of  
5 overcrowding. Fifty people in a dorm, you're dealing with  
6 50 personalities. Everybody's got their own legal  
7 problems, everybody's got stress, and they're taking it  
8 out on each other. And if you're proposing to add ten  
9 more people to that mix, you're victimizing ten more  
10 people. And what you're doing to them is you're creating  
11 an atmosphere of stress on top of stress on top of stress.

12           The other point that I would like to point out is  
13 that the changing of the uniforms. Someone pointed out  
14 that all inmates are washing their own clothes as is. I  
15 don't think the Department of Corrections is equipped to  
16 wash and take care of these uniforms because they can't  
17 even do it with an individual's personal clothing.

18           And, you know, someone brought up the point about  
19 there will always be fighting on Rikers Island. Yes,  
20 there will. But I think the purpose of this Board was  
21 created so that the individuals that are being housed on  
22 Rikers Island will be treated like human beings. For my  
23 population, inhumane treatment is the norm, and after a  
24 while, if you were like I was, a career criminal, you  
25 begin to accept it.

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Since I've come out and I've changed my life around, I no longer accept it. I think everyone deserves the right to be treated like a human being regardless of what, because that's what they are, and these proposed changes takes that component away from them. And if you do that, then you're sanctioning that, yes, they are animals, when they're not.

You are not the worst thing that you've ever done in your life. That is not you. That does not define you. So then why would you play along and say that it does? Because it doesn't.

People deserve the right to be treated like human beings. People have their right to privacy. And Rikers Island really does not provide that. I think Mr. Boston made a valid point when he said you need to tear this up, go back to the table. You have years and decades on top of knowledge of advocacy groups at your fingertips. Why are you not using them? You need to utilize them. Thank you very much.

(applause)

SIMMONS: Thank you. Anthony Davis.

MR. ANTHONY DAVIS: Good afternoon. My name is Anthony Davis. I'm a client at the Fortune Society. My name is Anthony Davis. I am 20 years old. I spent a year

1  
2 and four months in the Adolescent Reception and Detention  
3 Center. I don't think it's a good idea to put more people  
4 in the same dorm space, especially without increasing the  
5 number of - sorry, I'm a little nervous.

6 SIMMONS: Take your time.

7 DAVIS: I don't think it's a good idea to put  
8 more people into the same space, especially without  
9 increasing the number of security officers conducting at  
10 the A.R.D.C. where - I don't want to read this, I'm sorry.  
11 I'm just going to speak from what I want to speak about.

12 SIMMONS: If you want to submit the written part  
13 to us separately, we are happy to take it.

14 DAVIS: Yes. Okay. What I'm here to say is  
15 that I spent a year and four months on Rikers Island, and  
16 it has like its ups and downs, And most of the time it's  
17 because of the fighting and the education.

18 Now, I'm a big person of education because I went  
19 to school there, and the teachers don't want to teach  
20 anything to us. They don't say anything. Most of the  
21 time the only comment that you get out of them is  
22 basically I get paid whether you learn or not. And it's  
23 been going on for a period of time now.

24 I see that without education you can't do  
25 basically nothing in life, especially without computer

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2 skills. They don't give us computers in jail for the  
3 reason that they think that we'll go outside, and we'll  
4 use it to get in contact with outside people. But the way  
5 I see it is people need to learn basic computer skills.  
6 They need to learn how to function as well as inside the  
7 prison, outside the prison, so when they come out for  
8 rehabilitation, they are comfortable in going to seek for  
9 jobs.

10           You can't even get a McDonald's job without a  
11 GED. It's a fact now. And it's sad to see the people  
12 that I'm around fall because of lack of education and to  
13 fight every day in jail. Every day in jail is a struggle.  
14 I fought most of my time there. I spent time in the box,  
15 and you know about most of the time that I was there, it  
16 was kind of like crazy because everybody's around a whole  
17 bunch of chaos. You actually have people that sick,  
18 that's sleeping next to you, people that have HIV that  
19 we're fighting with, and blood hits, blood, and refuse,  
20 now I have it. And it's not a good thing.

21           I think that certain people with illnesses and  
22 diseases should be separated from the normal population.  
23 And to put people in 23-hour lockdown is absurd because,  
24 unfortunately, what time do they have to their self? They  
25 have all the time to their self actually because they're

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2 in there 24/7. I would like to at least walk around.  
3 They're not hostages. You shouldn't keep them in one  
4 place for a certain amount of time and make them - you  
5 make them feel like they're in jail, and they're not even  
6 guilty yet.

7           That's the point of Rikers Island, to just keep  
8 custody of the people until proven guilty. And  
9 technically they're not proven guilty until they leave  
10 there, until they hit upstate, or wherever the case may  
11 be. But, fortunately, I just think that's absurd.

12           And then we have this big yard, we have a  
13 beautiful big yard, but there's nothing in it. So now  
14 we're forced to just wander around in circles doing  
15 nothing, when I believe that we should, it should be  
16 something built there. We have no balls to play with. We  
17 have no type of activities we can do. That stops people  
18 from doing everything that they're supposed to do, because  
19 they figure, well, if we have nothing to occupy our time,  
20 we're going to occupy our time with each other, and we're  
21 going to fight. We're going to fight, we're going to have  
22 fun, and that's the way we, that's the way it is.

23           During my time there, I done seen people get  
24 stripped butt naked and dance with each other, two men.  
25 And people, what they used to, what they call a Ramadan,

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2 they call it Ramadan because they intend to starve people.  
3 Because the inmates is the ones that give out the food.  
4 So if you're not liked by the person in your house, they  
5 will not feed you. And if you go to commissary, they want  
6 to take your commissary. Your phone calls, you don't have  
7 no phone calls because they're taking it. And the  
8 officers is condoning of all of this.

9           What I want to do is I want to put a stop to this  
10 today, and hopefully you all consider thinking about this  
11 twice and maybe focus on the youth's future in the United  
12 States and make us believe that we do have a right to be  
13 here, and we have a right to a society. Thank you.

14           (applause)

15           SIMMONS: Thank you very much. John Horan.

16           MR. JOHN HORAN: Madame Chair, members of the  
17 Board, former colleagues. I am addressing you today as a  
18 former member of the Board and Vice-Chair from 1978 to the  
19 end of 2005, during which time I participated in the  
20 drafting of the minimum standards and the later-  
21 promulgated health standards. These standards set the  
22 standard for the United States for sensible and humane  
23 regulations in the jails, affecting inmates and correction  
24 officers equally.

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During my long tenure as a Board member I witnessed several commissioners manage the jails and manage relations with this Board. With few exceptions that relationship was managed successfully, and the system of variances that grew up during that period is itself testimony to the relationship of constructive oversight that the Board has cultivated.

Now I fear that this Board has decided in presenting the proposed changes at this hearing to acquiesce in the demands of the Department in so many important particulars that there will be little power of oversight left to it once these proposed amendments are adopted. There is no other body in the governing agencies of the City with the power to regulate the City's jails, and the inmates clearly have no political constituency that cares to call attention to their concerns. All that is left is the Legal Aid Society and other concerned legal groups you have heard so eloquently today, and that would include those who have spent time in Rikers who have been particularly eloquent.

But the power to regulate day to day is what this Board has. Its present standards represent responsible regulation subject to variances under the right circumstances. If these proposals are adopted, the

1  
2 minimum standards will be re-set for a long time. Only  
3 the most drastic circumstances would call for their  
4 further amendment.

5           If, for example, the 50-square-foot standard is  
6 adopted after so many years of accepting 60 square feet,  
7 which has worked well and is the better measure, and does  
8 not prove out, going back to 60 will be very difficult.  
9 Tightening is always easier than loosening.

10           I disagree with most of the proposals presented  
11 on the merits, but I recognize that many are debatable.  
12 What I wish is that members of this Board would think  
13 about is how you are, in essence, acquiescing to the  
14 pressure of the Department to be more cost effective.  
15 What is driving most of these amendments is cost concerns  
16 of the Department as well as concerns for absolute  
17 control.

18           This may be a benign Commissioner. He is much  
19 praised, and I personally regard him as one of the best  
20 I've seen. But a not so benign commissioner may come in  
21 the future and find these amendments which convey great  
22 authority to the Department with oversight relegated to  
23 the bleachers to his or her liking.

24           This Board has always had an outstanding staff.  
25 Our executive directors have uniformly been outstanding,

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2 as have our counsels and support staff. They are imbued  
3 to a remarkable extent with a sense of mission, which is  
4 to have these difficult places run properly and humanely,  
5 and with as much sunlight and scrutiny as they can bear.  
6 With these proposed amendments I cannot imagine a talented  
7 staff being much interested in this work. Applying to  
8 work for the Board will not be for the energetic and  
9 imaginative sort that we have had to date.

10           For me as a former member a rather bittersweet  
11 irony is that the Board was usually not very tough on the  
12 Department, certainly not in the view of the Legal Aid  
13 Society's Prisoners Rights Project. We delayed, we  
14 temporized, we sought to make arrangements with  
15 commissioners with which we differed.

16           But now the Board has evidently decided to remove  
17 the one really potent oversight lever it has, the  
18 variance. Not that we often looked closely at whether a  
19 variance should be discontinued or continued, but we could  
20 have, and on a few occasions we actually did use that  
21 power to effect modest adjustments and changes in approach  
22 by the Department.

23           With desired changes always subject to the  
24 variance procedure, the Department always had to justify  
25 its proposals for change. The staff, working with the

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Department, thus had the power potentially of its Board's discretion on a particular variance to use to obtain a better result. Now with all that the Department wants locked into the proposed amendments, and the transfer of power almost complete, there will be little strength to the staff's work inside the Department.

One of the truly unheralded facts of the Board's existence during my tenure was that our staff, led by our executive director, was able to negotiate and effectuate important small and large changes in the administration of the jails, often without claiming credit or actually giving credit to the Department where it was not quite due. This Board, by these changes, many of them in my view wholly unwarranted, is giving up the staff's leverage as well as its own.

In conclusion, I ask each of you to consider what your duty of oversight means. What is the pressing need for these proposals other than the Department's desire to have them? What will you have left to oversee if you adopt these proposals?

The existing standards have done well for many years. The system of variances has kept the right tension between the Department and the Board. If you adopt these proposals in the face of the serious and knowledgeable

1  
2 views of those you have heard here today, will you have  
3 rendered yourself superfluous and have betrayed the trust  
4 placed in you by the City Charter? Thank you.

5 (applause)

6 SIMMONS: Thank you. The next speaker - Linnie?  
7 Is that - I hope I'm not, that I can read this properly,  
8 Egles?

9 MS. LYNN EGYES: Lynly.

10 SIMMONS: Linnless (phonetic). Sorry.

11 EGLES: That's okay.

12 SIMMONS: I apologize.

13 EGYES: My handwriting isn't very good. My name  
14 is Lynly Egles, and I'm a legal intern at the Sylvia  
15 Rivera Law Project. In consideration of time I will only  
16 discuss some of my objections to the proposed amendments  
17 to the minimum standards.

18 The safety and security of both the inmates and  
19 the staff should be one of the Board of Correction's top  
20 priorities when creating new standards. Reducing the  
21 already substandard amount of space between, excuse me,  
22 per person in the dormitory housing units may produce more  
23 conflict between inmates due to the lack of space and  
24 increased problems with maintenance. The ability for

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staff to keep inmates as well as themselves safe will be stifled.

Another source of contention is the amendment that would repeal the requirement that the jails have satisfactory Spanish-speaking staff to assist Spanish-speaking inmates. Communication is key to keeping all people safe and the lack of that, the lack of the new standards do not articulate procedural requirements to insure adequate means for communication for all people is unacceptable.

A key way to increase the safety and security of all prisoners and staff and increase communication between prisoners and staff would be to treat all prisoners with dignity. The minimum standards should require that transgender prisoners are addressed using appropriate names and pronouns.

The last issue I will address today is the proposed amendment to keep prisoners separated from the general population for reasons other than their own misconduct. Confined for 23 hours a day is imprudent and unsafe.

Many prisoners, including transgender and gender non-conforming people, are placed in close custody simply because they fear their safety in the general population

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2 and not because they've broken any rules or have hurt  
3 anyone. In effect, prisoners could be punished simply for  
4 being transgender or otherwise vulnerable. It is well  
5 known that 23-hour confinement can have severe  
6 consequences for mental health and may present a  
7 substantial risk of suicide. If the idea is to keep  
8 prisoners safe, the amendment seems to achieve the  
9 opposite effect.

10 I think a lot of people here have said some  
11 really amazing things today, and I think it is so  
12 important for people really to take the time and listen to  
13 what people have said and to maybe throw out all of these  
14 amendments and kind of come up with something new,  
15 something that's going to really help the people in  
16 prisons. That's all I have. Thank you.

17 (applause)

18 SIMMONS: Thank you. June Brown.

19 MS. JUNE BROWN: Hi. From what I had heard,  
20 there had been quite a bit of repetition, and just for the  
21 purpose of time, for the sake of time, I'll keep this as  
22 short as possible.

23 My name is June Brown. I'm here on behalf of the  
24 Sylvia Rivera Law Project. I have to first thank the  
25 Board of Corrections for allowing a public forum such as

1  
2 this hearing for those with comments and concerns in  
3 regards to the change of the minimum standards to be  
4 heard.

5           As an employee of an organization that provides  
6 services and advocates for low income, transgender, gender  
7 non-conforming and intersex clients of color, some of whom  
8 are or have been incarcerated in Rikers or other City  
9 jails, I'm aware of some issues that are faced by our  
10 clients while they are in the prison system.

11           Our clients' experiences are often traumatic due  
12 to the extremely insensitive atmosphere of the prison  
13 system to the needs of transgender prisoners. As  
14 transgender women in men's prisons, many of our clients  
15 have been the targets of violence, rape, constant verbal  
16 abuse, harassment, and even death threats. And though  
17 transgender prisoners are able to request closed  
18 confinement for their protection, they are currently still  
19 able to leave their small closed confinement cells for  
20 limited amounts of time if they choose.

21           However, one of the proposed changes to this  
22 standard would be 23-hour confinement with no breaks in  
23 between the 23-hour time period. This change to close  
24 custody standards would be immensely unjust to those in  
25 need of this protection. It would be inhumane punishment

1  
2 for a prisoner who may otherwise face the risk of  
3 countless rape, violence, and/or murder.

4           The 23-hour close custody proposal is not the  
5 only change that deeply alarms our organization. Sadly,  
6 many transgender women in the City prison system are  
7 ostracized from their families as well. With the  
8 combination of mistreatment in the prison system due to  
9 trans-phobia, along with being shunned to a small cell for  
10 23 hours and being rejected by family, a visit from  
11 lawyers, friends, or in some cases children, are welcome  
12 diversions for prisoners already suffering conditions that  
13 are no doubt physically, mentally, and emotionally  
14 distressing and scarring.

15           However, the change to these standard visits will  
16 be limiting them as well. For the first 24 hours in jail  
17 prisoners would not be permitted any physical contact with  
18 their visitors. Not a hug, a kiss on the cheek, a  
19 handshake, a hand squeeze, nothing.

20           These are the conditions that are being proposed  
21 to be put into effect for City jails. Our City jails are  
22 institutions of detention for people awaiting trial or for  
23 those who have been convicted of a misdemeanor and are  
24 serving a sentence of less than one year. Those who

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inhabit these jails will eventually be released back into society.

Now, with the proposed minimum standards and the repercussions such standards would have on a prisoner's rehabilitative efforts and mental and emotional well-being while in prison, there is no way that implementing such standards will produce eager, strong-minded contributors to society. Instead, the proposed standards, especially those isolating prisoners in need of protective custody for 23 hours, along with limiting and monitoring of standard visits will produce broken, pessimistic, distrusting people who will then be released onto the public.

Do you want that? Do you want to break people's spirits who are already in a situation where they may be stigmatized due to their prison records and drive them insane? Do you want to continue to see suicides like the one that had recently been committed in close custody in Rikers? Or perhaps the idea of releasing depressed people who have been tortured mentally onto others sounds appealing.

I and my co-workers at the Sylvia Rivera Law Project ask that you not follow through with your minimum standards changes. Not doing so would not only benefit

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the prisoners but it would benefit our society as a whole upon their release.

As well, you can be satisfied knowing that you helped in assuring that a prisoner's transition from incarceration will be one that will allow them to be well-functioning individuals amidst the rest of us. Thank you.

(applause)

SIMMONS: Thank you. Rebecca Brown.

MS. REBECCA BROWN: Hello. My name is Rebecca Brown. I'm a policy analyst with the Innocence Project and also a member of the Coalition To Raise Minimum Standards.

The Coalition To Raise Minimum Standards was formed after the Board of Corrections first published the proposed standards revisions in January of 2007, and it consists of former prisoners, current and former prisoners' families, and members of the following prisoners rights and social justice organizations working in New York City and across the country:

Bronx Defenders, Center for Constitutional Rights, Correctional Association, Fordham Law Amnesty International, Fordham Law Prisoners Rights Advocates, Innocence Project affiliated with Cardozo Law School, Interfaith Coalition of Advocates for Reentry and

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2 Employment, Legal Aid Society, National Lawyers Guild New  
3 York City Chapter, New York City Antiviolence Project, New  
4 York Civil Liberties Union, October 22 Coalition, Office  
5 of the Appellate Defender, Prison Legal News, Prisoners  
6 Rights Advocacy at Cardozo Law School, Reentry Net, Stop  
7 Prisoner Rape, Society for Immigrant and Refugee Rights at  
8 the Columbia University School of Law, Sylvia Rivera Law  
9 Project, Urban Justice Center, and William Moses Kunstler  
10 Fund for Racial Justice.

11 I'd like to echo the concerns already raised by  
12 members of the coalition and others from overcrowding to  
13 23-hour confinement, but I'd also really just like to talk  
14 about the process or lack thereof.

15 Between us my colleague and I attended each Board  
16 of Correction meeting leading up to the creation and  
17 dissemination of the proposed amendments. And while open  
18 to the public, these meetings were not conducive to  
19 discussion about the proposed changes. There was a very  
20 small room. The public never was called upon or asked for  
21 comment. And my colleague actually recalls having  
22 attended a meeting in which Mr. Boston from Legal Aid's  
23 Prisoners Rights Project attempted to address the  
24 amendments and was told to wait for the comment period.

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That time is upon us. We have reached the comment period, and we've only now been asked to comment on standards relating to hygiene, overcrowding, food, meal times, medical treatment, visits, education, phones, mail, issues relating to mental health, transgender people, youth, women, violence, vermin, recreation, translation services, and personal clothing.

How can this responsibly be achieved in this time period? Neither this hearing nor a short public commentary period is sufficient to address standards that affect prisoners, many of whom are presumed innocent, their families, and the public at large. We urge a full, fair, and open process. Thank you.

(applause)

SIMMONS: Thank you. Sarah Kuntsler.

MS. SARAH KUNTSLER: Hi. Good afternoon. I'm Sarah Kuntsler with the National Lawyers Guild, New York City Chapter, and I'm here with Gideon Oliver who is the Vice-President of our Executive Committee. This is a little high for me.

For the past 70 years the National Lawyers Guild has been dedicated to the need for basic and progressive change in the structures of our political and economic

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system, toward the end that human rights shall be regarded as more sacred than property interests.

As part of that mission, the Guild's New York City Chapter is proud to join in and amplify those critiques of the Board of Correction's proposed amendments to its minimum standards, the New York City correctional facilities, others have presented and will present today. And as others have stated before us, we are a member of the Coalition To Raise Minimum Standards in New York City Jails or at New York City Jails.

I don't want to restate a lot of what people have said so eloquently before me, but I think one of our main concerns at the National Lawyers Guild, New York City Chapter is that this is a real opportunity we have before us to figure out ways that we can all collectively humanize the experience of being a pre-trial detainee in the New York City jail system.

In the early 1970's there was a group of social scientists at Stanford University who did this mock prison experiment. Volunteers were chosen to play guards and inmates, and the purpose of the experiment was to try to find out why prisons are such nasty places. The questions they were asking were are the prisons inherently nasty environments and they make the people inside them nasty or

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is it that prisons are filled with nasty people and that's why it's such a terrible place to be?

The experiment was supposed to run for I think two weeks. Within one day of starting the experiment, the volunteer guards had begun treating the volunteer inmates with extreme cruelty. As the days progressed, the guards got systematically crueler and more sadistic. Some of the volunteer inmates reported that they completely had lost their sense of self. They were in uniforms, and they were each assigned a number, and some of them had even forgotten their own names. The experiment was supposed to run for two weeks. It was called off after six days.

And I think what this experiment tells us is that there are situations that are so powerful that they can overwhelm our predispositions, and that our job as advocates and that your job and the Board is to figure out how to make these regulations ensure that situations like this don't happen or happen less.

You know, these - I find this example so compelling because, you know, at the National Lawyers Guild we feel like, you know, and as people have said here today, you know, these are pre-trial detainees. These are people accused of a crime. They're not people who have been convicted of a crime. They should have the same

1  
2 basic rights as the rest of us who, as free people. And  
3 this experiment was free people attacking free people just  
4 because they were dressed as inmates.

5           Our concern about many of the proposed amendments  
6 is that they don't take into account the inherent  
7 dehumanizing effect of being incarcerated. The  
8 regulations, in particular the regulations requiring  
9 prison uniforms and preventing detainees from wearing  
10 their own clothing, is the type of regulation that helps  
11 transform a human being into a number and a pre-trial  
12 detainee awaiting disposition of their case into someone  
13 who is perceived as a criminal.

14           Humanity and human rights are real issues here.  
15 They are important enough issues to make us all stop here  
16 and pause and not push this through.

17           Last week, many of you probably were aware that  
18 there were a number of guards indicted at M.D.C., the  
19 Metropolitan Detention Center in Brooklyn, for abusing  
20 detainees who were in their care. These abuses happen.  
21 They happen in federal jail, they happen in New York City  
22 jails. New York City jails are not immune from abuse,  
23 torture, and degradation.

24           It has been said that societies are measure by  
25 their treatment of prisoners, and we now remind the Board

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that the detainees and prisoners enjoy the same human rights as those of us who live at liberty.

As an association of lawyers, legal workers and jailhouse lawyers, we strongly oppose the proposed amendments because they authorize broad restrictions on fundamental rights to speech, freedom, association, and humane treatment that will cause irreparable harm, including by chilling and otherwise undermining these rights. Thank you.

(applause)

SIMMONS: Thank you. The next speaker is Martin Horn.

MALE VOICE: Richard, could you just -

SIMMONS: Is he here?

FEMALE VOICE: I don't think so.

SIMMONS: Well, he has a minute to arrive.

MALE VOICE: It's at the other end of the hall -

MR. MARTIN HORN: Good afternoon. Madame Chairperson, members of the Board of Correction, I want to begin by commending -

MALE VOICE: People have been saying nice things about you behind your back.

HORN: Well, I'm going to say some nice things about you.

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MALE VOICE: Welcome.

HORN: I hear some nice things need to be said.

SIMMONS: Make sure you identify yourself.

HORN: I'm Martin Horn, and I'm the Commissioner of Correction. I want to commend this Board for undertaking the thankless task of considering amendments to the Board's minimum standards which were promulgated 30 years ago and are in need of review.

I appreciate the thoughtfulness and care that your subcommittee, led ably by Stanley Kreitman, has brought to the task, and while we at the Department don't agree with all your proposed amendments, I believe the process has been a deliberate and a careful one. Thank you.

Rather than taking your time this afternoon with detailed line by line analysis of the proposed amendments and what we like or don't like about each, I will be submitting a letter to the Board, as everyone can, detailing our thoughts on each of the proposed amendments. Instead, today I'd like to speak in some broad strokes to some of the underlying operational issues that caused the Department to support most of the proposed amendments.

The most important issue we all face is keeping staff and inmates safe. I believe deeply that the most

1  
2 fundamental requirement for a jail is that it be a safe  
3 environment. We recognize the unfortunate reality that we  
4 are confining people to a place they don't want to be and  
5 that the potential exists for people to get hurt.  
6 Experience teaches us that in jails bullying sometimes  
7 occurs.

8           This is even truer when drugs are involved. A  
9 corrections institution that is not drug-free or dedicated  
10 to being drug-free is undeserving of the name correction.  
11 Drugs corrupt our mission. They corrupt our staff, and  
12 they give the lie to any pretense of rehabilitation and  
13 make persons in custody unsafe.

14           In New York City the men and women of the  
15 Department of Correction have done a remarkable job making  
16 the jails safer. In 1995 there were over 1,000 stabbings  
17 and slashings in our City jails. Last fiscal year there  
18 were only 37. And there were only 88 instances where use  
19 of force resulted in serious injury to either the inmate  
20 or staff member.

21           While it is true we have fewer individuals in  
22 custody today than we had in 1995, nonetheless, this  
23 record of making the jails safer reflects not only the  
24 City's reduction in crime but also an improvement in jail  
25 safety that exceeds the drop in population. This

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reduction in violence began before I arrived, but I am proud to say we have improved further on what was already an impressive accomplishment.

That said, more remains to be done. We now look at every inmate fight and every serious injury to an inmate in an attempt to discern what the causative factors are in order to take action against predatory individuals and to prevent such things from happening in the future.

We have learned that most of these fights and assaults committed by inmates upon inmates are the result of gang identification, drugs, tobacco, and extortion. Most of the time the victim won't testify against his or her assailant.

I want to make clear that in New York City we don't have the gang problem that other jurisdictions are experiencing. Ours is a much different phenomenon. We have one of the most aggressive gang interdiction programs in the nation, and our gang intelligence unit is sought out by other jurisdictions for training and advice.

In our jails what we see is groups of individuals in different housing areas in different jails self-identifying as a gang for purposes of exercising control over scarcity in the housing units.

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Jail is an artificial world. We apportion access to telephones and food. We prohibit sexual contact, tobacco, and drug use. These things then become precious, and stronger individuals or groups of individuals may prey on the weakest to obtain what they want.

Our most difficult challenge is to balance the rights and needs of the individuals in our custody with the right of every other individual in our custody to be safe and to be left alone. We take this challenge seriously every day and seek to keep those interests in balance at all times. We believe that the Board's proposed standards will better enable us to maintain safety and security in an environment that also respects individual rights. We ask this Board to give us the tools to do this.

The Board's minimum standards dating to 1978 shackle us in our attempt to run safe jails in ways no other jail in the State of New York is restrained. We are asking for three key things to help us in our effort.

First, we are asking for the ability to obtain the intelligence information needed to determine who the bullies are in a housing unit, to learn who is smuggling contraband and how, to prove, often after the fact, who among our staff might have compromised the safety of their

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brother and sister staff by smuggling contraband or have engaged in prohibited contact, sometimes sexual contact, with persons in custody.

These are tools that every jail in the state has available to it and that most use. The ability, upon notice and with safeguards to protect privileged communication, to record and monitor phone calls made from inside our jails by persons in our custody. It does not compromise the privilege of attorney-client communication elsewhere in the state, and it won't in New York City.

Second, we are seeking the Board's approval to better search for and limit the introduction of contraband and to keep inmates safe by reducing the issues they fight about.

Today, persons committed to our custody enter jail with the clothes on their back, often clothes they have been wearing for several days on the street, soiled and in disrepair. Only the most fortunate individuals are able to obtain new clothing from family and friends. The least fortunate have to settle for what's available at the facility clothes box. Individuals who do have nice clothes are at risk of having them taken.

Clothing with many pockets and seams, clothing brought to the jail in packages from family and friends

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are often found to contain contraband. Such clothing often includes small buttons, metal zippers, and other articles that diminish our ability to properly search inmates utilizing walk-through magnetometers or other electronic devices. This requires staff to perform pat frisks or strip searches when the less intrusive electronic search could have sufficed.

Allowing us to provide clean uniform clothing to all detainees in our custody and requiring us to provide a means to launder the clothing on a reasonable and regular basis is one of the most necessary and fundamental changes we seek. Putting detainees in uniform clothing, clothing that is clean and need not be demeaning, will promote public safety, contribute to the healthy environment of the jails, and assist in the fight against violence and drug use in the jails.

There is a reason every other jail in the state does it. Please don't deny us this valuable and proven tool.

Third, we support your proposed amendment to the standards that will recognize practice pursuant to current standards that allow sentenced inmates to be housed in dormitories of up to 60 persons. Current practice. There is no evidence to demonstrate this is a problem.

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You now permit us to house up to 60 detained inmates in a limited number of dormitories with 50 square feet per inmate rather than 60. This has been permitted for two years pursuant to a variance you gave us, and there have been no problems with it.

The proposed change will allow us to continue to maximize the number of inmates in air-conditioned housing and also will enable us, as we move forward with our plan, to reduce the capacity of the jail system to move greater numbers of inmates off Rikers Island. This proposal is consistent with the standards followed by other counties throughout the state, and I am aware of no evidence that it has been deleterious to good jail operation or the welfare of persons confined in our adjacent counties.

And I want to digress from my prepared remarks to make two observations. I am aware that much has been said today about the proposal to change the square footage from 60 to 50, and I think it is proof that this process is an open one, and I am confident that the Board has heard the concerns that many people, including members of my own staff, have about this. And reasonable people can differ, and I have every confidence that this Board will take those concerns into consideration as you move forward.

1  
2 I also want to say that I've paid some attention  
3 to the concerns that have been expressed with respect to  
4 the change with respect to having special services and  
5 interpreting services for Spanish-speaking inmate. I want  
6 to make very clear that I don't read those as in any way  
7 diminishing our obligation to provide translation services  
8 and interpretive services for Spanish-speaking inmates.  
9 Rather I view it as an attempt by your Committee that  
10 drafted the standards to actually recognize that we live  
11 in a far more diverse City than we lived in in 1978, and  
12 that Spanish is not the only language whose speakers we  
13 have an obligation to interpret and translate for. And I  
14 want to comment the Board for taking cognizance of that.

15 That said, I appreciate the time and the effort  
16 that all of you have put in to refresh these rules that  
17 are so important to every New Yorker, and I'd be happy to  
18 answer any questions you might have.

19 SIMMONS: Thank you very much, Commissioner.

20 HORN: Thank you.

21 (applause)

22 SIMMONS: All right. We have one final  
23 presentation that's been requested. Alison Brill and  
24 Carole Eady.

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MS. ALISON BRILL: Hi. My name is Alison Brill. I'm Co-Chair of the Reentry Committee of the Coalition for Women Prisoners, and I'm here with Carole Eady, one of our committee members.

MS. CAROLE EADY: Hi.

BRILL: We're a committee of formerly incarcerated women and advocates. We're a committee of formerly incarcerated women and advocates, and we are here to encourage you to consider the proposed amendments to the minimum standards from the broader perspective of prisoner reentry.

(tape 4, side B)

BRILL: - and reduce reliance on incarceration.

We know from our work that humane treatment is a person's right and goes a long way in helping people break the cycle of recidivism and related problems such as drug addiction, mental illness, and chronic homelessness.

In this vein, the proposed changes to the minimum standards are counter to humane treatment, don't reduce the likelihood of criminal activity inside or outside the jail system, and don't increase the likelihood that individuals involved in the criminal justice system will alter or modify their behavior to reduce criminality. They only make the Department of Correction's job easier.

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In speaking with women who have been incarcerated, the Reentry Committee has come to understand the concept of reentry as something that happens from the first day that somebody enters a facility. How people are treated and how they feel while they are incarcerated directly impacts how they will behave and how they will function once they are released.

Strengthening reentry services and opportunities is the stated goal of the D.O.C. and as well as many community organizations that work inside the facilities, and the RIDE program, Rikers Island Discharge Enhancement, speaks to the changed goal to helping people function on the outside as a goal of the incarceration process.

EADY: My name is Carole Eady, and I'd like to propose that there be more rehabilitation treatment programs for people who are incarcerated. I myself received an A.T.I. while I was in treatment. I got myself together after recycling in and out of prison for 15 years.

I was initially sentenced to three and a half to seven years for selling \$10 worth of drugs to an undercover cop. And I was allowed to go to treatment, and I've been clean and drug free for the last nine years.

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There are many women and men like myself who are convicted of nonviolent crimes that just have a problem with drugs. And I believe that if they were, while they were serving their time, they were subjected to treatment, that they would come out and stop the recidivism rate.

I just got my B.A. and my M.A. from John Jay College last year, and I've never relapsed because my addiction was addressed.

BRILL: Just to put some statistics on the population of people inside Rikers that really is cycling in and out, of the 14,000 inmates the docs reported in 2003, there were over 100,000 admissions, and the numbers show that the same people are going in and out of Rikers, and the services that are provided are not helping them function once they're released.

In addition, roughly 70 percent of the population are detainees that will be recycling in and out. And we hope that along with the other amendments that people have been rejecting today, that some positive changes to the standards will provide real services that will really help the population at Rikers Island. Thank you.

(applause)

SIMMONS: Thank you. That completes the list of people who have signed up to speak, so I'm going to bring

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this portion of this process to a close. I think I can speak on behalf of all of my Board colleagues in, first, thanking everyone who participated today for joining us, for speaking, and for sharing your thoughts.

I want to remind you that the comment period runs through May 21st. Please, if you have written comments, please submit them to the Board. Similarly, if you're interested in reviewing the testimony that was made today, that will be available in complete form as of May 1st at the Board office. And if you want to read any comments that people have submitted that are not the ones that you submitted, all of those comments are available as well, and I would urge anyone who's interested to please do that.

Let me repeat, again, something that I repeated I guess earlier this morning, maybe before lunch. I've lost track of the time already. Which is to, again, acknowledge to all of you who have been here that we have heard the concerns that you've expressed, both about the process and about the proposals. We will take all of this under advisement, as is our obligation to do.

And I, finally, just personally want to thank my colleagues on the Board, all of whom worked very hard in working to get us to this point today. I want to thank

1  
2 the staff of the Board. But particularly in light of the  
3 testimony that we've heard today, I want to at least  
4 personally and I think the rest of you would join me in  
5 thanking the young people and those who have formerly  
6 spent time in the City's jail system who have come and  
7 shared their voices and concerns with us, because we know  
8 that that's not always necessarily the easiest thing to  
9 do, to come into one of these hearings. And we really  
10 applaud and appreciate the fact that you've shared your  
11 concerns and made the time available. So thank you very  
12 much particularly to those folks.

13               With that I would declare that this hearing is  
14 over. Thank you.

15                               (Whereupon the hearing is closed.)

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C E R T I F I C A T E

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

Tape 1, sides A and B

Tape 2, sides A and B

Tape 3, sides A and B

Tape 4, sides A and B

Signature\_\_\_\_\_

CAROLE LUDWIG

Date: April 22, 2007